

THE CONGRESSIONAL GLOBE:

CONTAINING

THE DEBATES AND PROCEEDINGS

OF

THE FIRST SESSION

OF

THE THIRTY-NINTH CONGRESS.

BY F. & J. RIVES.

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petent to decide, and although the Committee of Claims may be somewhat more competent in that respect, I venture to say they would rather have it referred to the law officers of the Government.

Mr. SPALDING. Being a member of the Committee on Appropriations, I desire to say in addition to what has fallen from the chairman of the committee, [Mr. STEVENS,] that my friend from Illinois [Mr. WASHBURNE] is mistaken in regard to this joint resolution. The subject-matter of this resolution is not a proper subject of investigation for the Committee of Claims. It is simply a legal, a judicial question, and the Committee on Appropriations did not themselves seek to solve it. If it should be referred to any committee of this body, it would properly go to the Committee on the Judiciary. But the resolution simply directs that the Secretary of the Treasury shall, under the legal advice of the Attorney General of the United States, give a construction and interpretation to the contract entered into with these parties.

Mr. WASHBURNE, of Illinois. I desire to know how this joint resolution comes before the House.

Mr. SPALDING. It was sent to us by the Senate.

Mr. WASHBURNE, of Illinois. I understand that.

Mr. SPALDING. And the House sent it to the Committee on Appropriations. I suppose the gentleman understands that also.

Mr. WASHBURNE, of Illinois. Yes, I understand that; but have the Committee on Appropriations been called upon for reports this morning?

The SPEAKER. They have not.

Mr. WASHBURNE, of Illinois. Then how did this resolution come to be reported by them?

The SPEAKER. They are authorized to report at any time.

Mr. WASHBURNE, of Illinois. I take it that even the Committee on Appropriations cannot report such a bill as this except for reference to a proper committee.

The SPEAKER. When the House proceeded to consider and debate the measure the rule was waived.

Mr. WASHBURNE, of Illinois. The Committee on Appropriations have no jurisdiction over such subjects as this.

Mr. SPALDING. The House referred it to that committee for consideration.

Mr. WASHBURNE, of Illinois. I know that; but the House frequently sends bills to committees that do not properly have jurisdiction of them. I know that the Committee on Commerce, when subjects are sent to them that do not properly come within their jurisdiction, report them back to the House, ask to be discharged from their further consideration, and move their reference to the committees which are properly charged with their consideration.

It was but yesterday that the Committee on Appropriations reported a bill in regard to certain claims of the State of Missouri, of which they certainly had no jurisdiction, and which certainly should have been referred to the Committee of Claims. I think, notwithstanding what the gentleman from Ohio [Mr. SPALDING] has said, that the Committee of Claims is the proper committee to examine and consider this subject.

And now I desire to call the attention of this House to the language of this joint resolution, so that they may judge whether more information is not needed by them before they confer this power upon the Secretary of the Treasury. What does this joint resolution provide? It authorizes the Secretary of the Treasury to cause the accounts of Beals & Dixon, for deliveries of materials after the 1st of May, 1861, under their contract with the United States, to be adjusted and paid, and to allow to them such additional prices as in his opinion they may be entitled to under the provisions of their supplemental contract dated January 1, 1857; provided that in the opinion of the Attorney General said Beals & Dixon have

a lawful claim upon the United States for an increase of price under their contract.

Mr. WRIGHT. I would ask the gentleman from Illinois [Mr. WASHBURNE] if a supplemental contract was made.

Mr. WASHBURNE, of Illinois. Yes, sir. Mr. WRIGHT. And is not the United States bound by that contract?

Mr. WASHBURNE, of Illinois. Certainly. But the point I make against this joint resolution is that you are taking from the House the authority to adjust this matter and putting it into the hands of the Secretary of the Treasury.

I therefore move that this joint resolution be referred to the Committee of Claims, and upon that motion I call the previous question.

The previous question was seconded, and the main question ordered, which was upon the motion to refer the joint resolution to the Committee of Claims.

On agreeing to the motion, there were—ayes 46, noes 16; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. PIKE, and Mr. WASHBURNE of Illinois.

The House divided; and the tellers reported—ayes sixty, noes not counted.

So the motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was referred to the Committee of Claims; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LAND GRANT TO MINNESOTA.

The next business on the Speaker's table was Senate bill no 156, entitled "An act making an additional grant of land to the State of Minnesota, in alternate sections, to aid in the construction of a railroad in said State;" which was read a first and second time, and referred to the Committee on Public Lands.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAYMENT OF KANSAS WAR CLAIM.

The last business on the Speaker's table was Senate bill No. 259, entitled "An act to authorize the Secretary of War to settle the claims of the State of Kansas for services of the militia called out by the Governor of that State upon the requisition of Major General Curtis, the commander of the United States forces in that State;" which was read a first and second time, and referred to the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DESTITUTE PEOPLE OF THE DISTRICT.

The SPEAKER. The next business in order is a joint resolution (S. No. 49) for the temporary relief of destitute people in the District of Columbia. This resolution was made a special order for to-day after the morning hour. The question is on ordering the resolution to be read the third time.

Mr. INGERSOLL. The other day, when this measure was before the House, I had read a statement of A. C. Richards, superintendent of police, setting forth the necessity for this appropriation. I now call for the previous question.

Mr. ROGERS. Will not the gentleman yield to allow me to offer an amendment?

Mr. INGERSOLL. I will hear what the amendment is.

Mr. ROGERS. I desire to propose an amendment providing that this money shall be appropriated without distinction of race or color.

Mr. INGERSOLL. That is already provided for. We have no class legislation on our side.

Mr. ROGERS. I propose further to provide that this money shall be expended by the authorities of Washington, instead of the officers

of the Freedmen's Bureau, who will expend it for the benefit of the colored people only.

Mr. INGERSOLL. I cannot yield for that amendment. It is unnecessary.

Mr. SHANKLIN. Will the gentleman from Illinois yield to me?

Mr. INGERSOLL. For what purpose?

Mr. SHANKLIN. I desire to discuss the merits of this proposition.

Mr. INGERSOLL. So far as I personally am concerned, I should be glad to afford the gentleman the opportunity to make a speech; but I must be governed by the will of the House. If the House desires to hear the gentleman, it will refuse to sustain the demand for the previous question.

On seconding the demand for the previous question, there were—ayes 44, noes 27; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. INGERSOLL and SHANKLIN.

The House divided; and the tellers reported—ayes 60, noes 36.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the joint resolution was ordered to a third reading, and read the third time.

The question being on the passage of the bill, Mr. INGERSOLL demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. ROGERS. I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—ayes 101, nays 21, not voting 61; as follows:

YEAS.—Messrs. Alley, Allison, Delos B. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Brundage, Broomall, Buckland, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Darling, Davis, Dawes, Delano, Deming, Dixon, Driggs, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Grinnell, Hale, Hayes, Henderson, Higby, Hill, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Kelley, Kelson, Ketcham, Ladin, Latham, William Lawrence, Longyear, Lynch, Marvin, McClurg, McKee, McRuer, Mercer, Miller, Morrill, Morris, Munton, Myers, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Platts, Price, Raymond, John H. Rice, Rollins, Schenck, Scofield, Smith, Spaulding, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Windom, and Woodbridge—101.

NAYS.—Messrs. Ancona, Bergen, Coffroth, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Harris, Edwin N. Hubbell, Marshall, Niblack, Nicholson, Ritter, Rogers, Shanklin, Taber, Thornton, Trimble, and Wright—21.

NOT VOTING.—Messrs. Ames, Anderson, Blow, Boyer, Brownell, Bundy, Conkling, Cullom, Culver, DeForest, Dodge, Donnelly, Dumont, Farnsworth, Grider, Griswold, Aaron Harding, Abner C. Harding, Hart, Hogan, Dora Hubbard, John H. Hubbard, James Humphrey, James M. Humphrey, Jenckes, Johnson, Jones, Julian, Kasson, Kerr, Kaykendall, George V. Lawrence, Le Blond, Loan, Marston, McCullough, McClintock, Moorhead, Newell, Neill, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Ross, Rousseau, Sawyer, Shellabarger, Sitgreaves, Sloan, Starr, Stilwell, Strouse, Taylor, John L. Thomas, Robert T. Van Horn, Ward, Wentworth, Stephen F. Wilson, and Winfield—61.

So the joint resolution was passed.

During the call of the roll,

Mr. COBB stated that Mr. McINDOE was detained from the House by serious illness.

Mr. DARLING stated that Mr. J. HUMPHREY had been called home on account of sickness in his family.

The result was announced as above stated.

Mr. INGERSOLL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EVENING SESSION.

At the suggestion of the SPEAKER, by unanimous consent, the evening session was dispensed with.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House

that it had concurred in the amendments of the House to Senate bill No. 31, to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion; and Senate bill No. 199, to establish the collection district of Port Huron, the collection district of Michigan, and to extend the collection district of Puget Sound.

Also, that it had passed the following bills, in which he was directed to ask the concurrence of the House:

An act (S. No. 255) to remit and refund certain duties;

An act (S. No. 243) to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse bay, in the State of Michigan, and for the completion of said road; and

An act (S. No. 122) for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas.

Also, that it had passed bills of the House of the following titles:

An act (H. R. No. 150) for the relief of Almon W. Babbitt, late secretary of Utah; and

An act (H. R. No. 471) to provide that the "Soldier's Individual Memorial" shall be carried through the mails at the usual rate of printed matter.

And also, that it had adopted the following resolution:

Resolved, That the Secretary of the Senate be directed to inform the House of Representatives that the Senate, having listened to eulogies on the character and public services of Hon. Solomon Foot, a Senator from the State of Vermont, lately deceased, out of respect to his memory have voted to adjourn.

DEATH OF SENATOR FOOT.

The SPEAKER laid before the House the message from the Senate concerning the death of Senator Foot.

Mr. WOODBRIDGE. Mr. Speaker, but a few weeks ago the distinguished Senator whom we now mourn arose from his seat in the Senate and pronounced a most eloquent and impressive eulogy upon his colleague, who had been gathered to his fathers in the fullness of his years, crowned with private worth and public honor. And now, before the cypress leaf is wilted, or the first gushing tear is dried, we are called, in the providence of God, to a fresher grief for him who so freely mingled his tears with ours at the death of Judge Collamer, whom none knew but to honor and love.

At that time Mr. Foot was apparently in perfect health. His constitution was unimpaired by any exposure or excess, and his splendid and almost unrivaled physical development gave promise of many years of vigorous and active life, for he possessed—

"A combination and a form, indeed,
Where every god did seem to set his seal,
To give the world assurance of a man."

In speaking of the life and character of Mr. Foot, I shall simply attempt to do justice. Unqualified praise of the dead is never either in good taste or truthful. Human character is never perfect; at best it is only good in parts.

Mr. Foot was born in Cornwall, in the State of Vermont, in 1802. He graduated at Middlebury College with distinguished honor in 1826, and the same year became principal of the seminary at Castleton. He was tutor in the University of Vermont in 1827; and again, from 1828 to 1831, principal of Castleton Seminary, and by his earnest efforts and marked executive ability gave such an impulse and character to the institution that it ranked for many years among the first of the classical schools of Vermont. In the midst of his faithful and arduous labors as a teacher he devoted the time usually given to recreation and the refined pleasures of social life to the study of the law, and in 1831 was admitted to the bar in Rutland, and immediately commenced the practice of his profession. For five years he

was a member of the Legislature of Vermont, and for three years Speaker of the House of Representatives. From 1836 to 1842 he was prosecuting attorney for the county of Rutland. He was a member of the constitutional convention which established the Senate as a coördinate branch of the Legislature of Vermont, in which body he actively cooperated with his late colleague, Judge Collamer. From 1843 to 1847 he was a member of this body, and declined a third election. In 1850 he was elected Senator of the United States, and occupied the position until the day of his death.

Such is a brief recital of the public and official positions occupied by Senator Foot, embracing a period of nearly a third of a century. Born of highly respectable but comparatively poor parents, he was by force of circumstances thrown upon his own resources, and early in life acquired independent habits of thought and action. Without any of the adventitious surroundings of wealth or station or patronage, without any of that extreme brilliancy of genius which now and then startles and dazzles the world, he looked upon life as a great reality and upon success as the reward of labor. He was rather solid than showy. He lacked genius, but possessed talent and judgment. His qualities did not shine forth like the greater lights in the heavens, but there was in them a proportion and harmony which gave a moral grandeur to the man. Hence Senator Foot was what we call a self-made man. I do not attribute to him any particular credit for that. The term "self-made man" is a much-abused one. There is no royal road to greatness. Every man who comes to be a power reaches it through personal effort. The scholar is self-made, and becomes a scholar through patient and exhausting labor and reflection. The professional man is self-made, and so is the merchant and the artisan. That Senator Foot succeeded where a weak will would have failed is doubtless true, and hence the greater honor to the man. As a lawyer, Mr. Foot was not learned. As a statesman, he never seized upon new theories or ventured upon untried paths. As a political economist, he never originated new ideas or developed old ones with extraordinary power; and yet, without question, he was one of the safest statesmen and most judicious legislators of the age.

He did not resemble the mountain, towering to the skies, barren and useless from its height, but rather the lesser eminence, whose summit is covered with the forest, and whose slopes wave with the yellow grain. He did not resemble the terrific shower which destroys by its violence, so much as the gentle rain which the earth drinks and then dresses herself in new life and beauty.

God granted Mr. Foot one of the greatest of earthly blessings, a loving, praying, pious mother, who early instilled into his mind principles of reverence toward God, obedience to authority, and love of truth; and through a long public life the great leading characteristic of his mind, and perhaps the highest power of his character, was his devotion to truth; that high ethical truth which is grounded in the moral being and the fitness of things, lying back of and deeper than refinements or popularities, reaching down to the inner nature and elevating the moral forces.

"His word was as good as his bond." No social or political combination or influence; no sycophantic flatterer; no dastardly and cunning insinuator; no expectation of reward or place or power ever shook the truthfulness of SOLOMON FOOT.

"Among innumerable false, unmoved,
Unshaken, unseduced, unterrified,
His loyalty he kept, his love, his zeal;
Nor number nor example with him wrought
To swerve from truth or change his constant mind,
Though single."

Senator Foot was a patriotic man.

"He loved his land because it was his own
And scorned to give aught other reason why."

He cherished the principles of the Declaration of Independence. He believed that all

men were created free and equal; and yet subordinated his acts and theories to the Constitution of the land. Constitutional liberty was his watchword, and when by force of law all men became absolutely free he was the earnest and fearless advocate of those measures designed to protect the freedman in all his civil rights.

But, sir, when the first gun was fired at Fort Sumter, and the cry "To arms!" echoed from peak to peak of the mountains of his native State, then the nobleness, the patriotism, the generosity of SOLOMON FOOT shone forth like a star. Calmly and serenely he met the issue, and everywhere infused into the people his own heroic and enthusiastic nature. And when at times during the progress of the rebellion the clouds seemed to lower about us, his faith in God and liberty never faltered. He trusted in the right. He met and performed every obligation of duty without fear and without reproach. The highest and proudest encomium which a public man can ever receive is justly his. Popular at home beyond description; elevated by the people to almost every office within their gift; beloved, honored, and trusted, he always and everywhere proved himself an honest man—the noblest work of God.

He loved his native State. To him there was no air so pure as that which swept about her mountains; no water so sweet as that which bubbled from her crystal springs; no grass so green as that which clothed her valleys; and he now lies beneath the shadow of her hills, where the wind sings his requiem and the solemn old pines stand as sentinels over his dust.

During the long and bloody rebellion, when suffering and death entered almost every household, no wounded soldier, no weeping sister, no heart-broken wife or mother ever called upon Senator Foot in vain. Their wants were his wants. Their suffering was his suffering. In sunshine and in rain, in sickness and in health, by tender and sympathizing counsel, and by active and efficient effort, he labored for their relief; and we may truthfully say for him, "When the eyes saw me then it blessed me. When the ear heard me it gave witness to me, for I delivered the poor that cried, the fatherless, and him that had none to help him. The blessing of him that was ready to perish came upon me, and I caused the widow's heart to sing for joy."

Mr. Speaker, it is a glorious thing to live in this world. When its Creator launched it forth in the perfection of its beauty, the morning stars sang together for joy. It was made for man, the last exercise of creative power, for man made in the image God, into whose nostrils he breathed the breath of life. It is noble to live for the development of the soul. It is beautiful to appreciate and enjoy all the works of God, and all the endearing relations with which we are surrounded. It is glorious

"To have
Attentive and believing faculties;
To go abroad rejoicing in the joy
Of beautiful and well-created things;
To love the voice of waters and the sheen
Of silver fountains leaping to the sea;
To thrill with the rich melody of birds
Living their life of music; to be glad
In the gay sunshine, reverent in the storm;
To see a beauty in the stirring leaf;
To find calm thoughts beneath the whispering tree;
To see and hear and breathe the evidence
Of God's deep wisdom in the natural world."

But more beautiful than life is the death of the Christian.

Mr. Foot from the commencement of his sickness seemed to feel that he would die, and when the final summons came he was ready.

His last thought was for his country, and his last desire to look out upon the beautiful sunlight and this noble edifice, where he had labored so long and where he believed the future safety of the Republic rested; and then, as if fully satisfied, with eyes full of celestial radiance, he exclaimed, "I see it! I see it! The gates are wide open! Beautiful! Beautiful!" and the plastic form was stilled; the casket was broken, and SOLOMON FOOT entered upon eternal rest.

Mr. Speaker, the life of a good man like that

of him we mourn is not confined to its immediate and most apparent results. Its influence lives on, inspiring other men to lives of nobleness and duty. It is the pillar of fire by night and cloud by day that safely guides us in our weary wanderings. Let us mark it well, so that when to us the last dread summons comes we each may—

"Go, not like the quarry slave at night
Scourged to his dungeon, but sustained and soothed
By an unfaltering trust, approach our graves
Like one who wraps the drapery of his couch
About him and lies down to pleasant dreams."

I submit the following resolution:

Resolved, That, as a further mark of respect for the deceased, the House do now adjourn.

Mr. BANKS then pronounced a eulogy on Senator Foor. [It will be published in the Appendix.]

Mr. WASHBURN, of Illinois. Mr. Speaker, on becoming a member of the House of Representatives in the Thirty-Third Congress in the month of December, 1853, I first made the acquaintance of SOLOMON FOOR, then a Senator in the Congress of the United States from the State of Vermont. I had known something of his previous political history and was aware that he had enjoyed, in a high degree, the respect and confidence of the people of his native State. To possess the confidence and receive the support of the citizens of Vermont is no meager or indifferent compliment. No State has ever guarded more carefully the selection of its representatives in the national councils; for within my recollection no man in either branch of Congress from that State has ever proved faithless to liberty, or has ever had the stain of dishonor or venality upon his garments.

It is in the Green Mountain State that there is to be found the type of the truest democracy, resting upon the immutable basis of universal intelligence and public virtue. In no State can be found a loftier patriotism, a more ardent love of liberty, and a more undying hatred of slavery than among the constituents of the late distinguished Senator from Vermont. When mad-dened treason raised its parrietal hand to tear down the fabric of our Government, and the torch of civil war was lighted, the people of no State rallied with greater alacrity and enthusiasm than the people of the State of Vermont. Her brave and hardy sons filled all her highways and by-ways; they came forth from her hills and valleys, and from all the gorges of her ever-green mountains, and marched with the rapidity of the eagle to the defense of their imperiled country, and to vindicate the honor and the glory and the unity of the Republic.

I say, sir, to have been honored and trusted by such a people to the extent that Mr. Foor was honored and trusted, is one of the highest compliments that could have been paid to a public man. As has been stated, he entered the Senate in 1850, and being twice reelected, served continuously till the time of his death. Hence, he served through the most exciting and turbulent period of our whole legislative history, and was a participant in the revolutionary scenes which, to the philosophic observer, were the omens of that terrible civil war that has drenched our country in blood. I saw him in the Senate in the Thirty-Third Congress, one of the little band of courageous and patriotic men who resisted with unsurpassed ability and eloquence the repeal of the Missouri compromise.

I saw him when the slaveholders, in the pride and insolence of their power, undertook to "crush out" in the Senate every aspiration for liberty and every noble and elevated sentiment of freedom; when treason, upheld by a perfidious and treacherous Executive, stalked through the Senate Hall with brazen impudence, and when the galleries howled their applause of traitors. Undaunted and undismayed, while all the political elements were lashed into fury around him, he bore himself in a manner becoming an American Senator, and courageously vindicated his own opinions

and the sentiments and convictions of his own liberty-loving constituents.

From his long association and thorough acquaintance with the southern Senators, Mr. Foor early fathomed their wicked designs and their treasonable purposes, and from the moment those purposes found an utterance in the hostile cannon that opened upon Fort Sumter, his heart and soul, his thoughts, and his energies were all given to his country. With a loyalty so devoted and uncompromising, with a love of country amounting to a passion, he everywhere denounced treason and its aiders and abettors with the most vehement indignation.

At the time of his death he was the oldest member of the Senate in consecutive service. Every year increased his reputation and confirmed his character as a steadfast friend to his country, an enlightened statesman, and a wise and incorruptible legislator. He was a man of education and intelligence, of a vigorous intellect and an enlightened understanding; of giant strength and an imposing presence, he was a genuine specimen of a Vermonter. As Presiding Officer of the Senate for a long period he distinguished himself by his promptness, dignity, urbanity, and fairness. He brought to the discharge of all his duties a conscientious devotion to the best interests of the nation. Active, industrious, vigilant, no duty to his constituents and the country was ever left unperformed, and so prompt and regular was he in attendance upon the daily sessions of the Senate that it could be said of him as the historian says of the younger Cato, "he was always first at the Senate and went out last."

Mr. Foor bore a prominent part in all our legislation during the war for the Union, and his influence and vote were always given to the most energetic measures, and those best calculated to strengthen the hands of the Government in its gigantic task of saving the country. To the Administration of Mr. Lincoln he gave a warm and even an enthusiastic support. I had occasion to know of the strength of his attachment to that distinguished man, and to know how gratefully his friendship was reciprocated. Mr. Lincoln had not, in the whole length and breadth of the land, a more earnest and sincere friend; and no man stood by him, through all the perils and difficulties of his Administration, with more unflinching devotion; and the people of Illinois will cherish this remembrance with gratitude.

And when the time came for the representatives of a great and heartstricken people to pay the last tribute of respect and affection to the memory of their martyr President, it was fitting and proper that Mr. Foor, the *Pater Senatus*, should, as the chairman of the joint committee of the two Houses, be charged with the management of the proceedings. Profoundly anxious that the ceremonies should be worthy the august occasion, he entered on his duties with zeal and enthusiasm.

He devoted himself with untiring energy to the accomplishment of the purpose. No man understood better than he did what belonged to such an occasion, and he gave his personal attention to all the details and saw for himself that nothing which was necessary to be done was left undone. The day was cold, stormy, cheerless. At an early hour Mr. Foor's duties commenced. The crowd was great and the pressure for admittance was tremendous, and he had to exert himself to the utmost to see that order was preserved and that the arrangements were properly carried out. And all who were present know how admirably and satisfactorily everything passed off.

Though it was my fortune to be associated with him in that duty, it is but just to say that all the credit of the successful management of the ceremonies belonged to him. After the proceedings were over, exhausted and overcome with fatigue, Mr. Foor went to his lodgings, and that night was attacked with the disease which terminated his life. I saw him at his rooms two days after he was taken sick, and he then believed himself so far recovered

that he would be enabled to go with me the next morning to call on the distinguished citizen who delivered the eulogy and to convey to him the resolution of Congress requesting a copy of the same for publication. He was not, however, able to go, but sent his colleague in the Senate, Judge POLAND, in his place.

On the next day, Friday the 16th day of February, the late Senator from Vermont appeared in the Senate for the last time and made his final report as chairman of the joint committee of arrangements, and his last motion was, that "the report and accompanying papers be printed." He continued to take a deep interest in the publication of the Eulogy and the proceedings connected therewith, and the last official act of his life was to approve a portrait of Mr. Lincoln, which is to be the frontispiece to the volume of the published proceedings.

Mr. Speaker, when we contemplate the great changes that have taken place among the public men who were associated with Mr. Foor when he first entered the Senate, and since the time when you and I first entered these Halls, we are admonished how fleeting and evanescent are all things human. How few are left to struggle on but yet a little longer, to buffet the waves and encounter the storms and the tempests of political life:

"Apparent rari nantes in gurgite vasto."

Vermont mourns the loss of her faithful and devoted public servant, and the nation shares in her grief. He followed, alas! too soon, him who had so lately been his colleague. The mournful accents of eulogy pronounced in this Chamber upon the illustrious Collamer had scarcely died away before we were called upon to follow to the grave his companion, adviser, friend, so long associated with him in the service of the country.

These two great American Senators, both alike eminent for their Christian virtues, their eminent statesmanship, their devoted patriotism, their long and useful public services, and their unsullied integrity, have passed away, and the places on earth that have known them will know them no more forever. They have gone, but they have left to the country the richest legacy in the recollection of their well-spent and honored lives.

Mr. DAWSON. I rise, Mr. Speaker, to second the resolution of the gentleman from Vermont.

In the discharge of public duty the paths of the Senator and the Representative of necessity lie measurably apart. Most of Mr. Foor's political convictions were not mine. With such obstacles in the way of intimate relations, either private or official, I cannot, of course, reveal those finer and higher qualities of his nature, which great spirits like his never parade before the world, and display only upon impulse to the most sincere and affectionate of friends. But I know of him what all men knew of him, and I esteem it a privilege, which any just man might seek, to add my voice to the universal exclamations of sorrow which his death has wrung from every part of the land.

It is unnecessary to repeat here Mr. Foor's long and arduous services in public place. The country is familiar with his record. It is enough that his own State kept him so long in the Senate that at the close of his life he was regarded as the father of the body—the oldest of all in continuous service. He mingled in those debates of the Senate which the common judgment of mankind assigns a place beside the grandest specimens of classic oratory, when they were conducted by statesmen who were the rivals of Chatham, Burke, and Fox.

He sat under the impetuous eloquence of Clay, the terse and severe logic of Calhoun, the rich and luminous periods of Webster. He was there amid those portentous scenes which preceded the late civil war, when all hearts were oppressed with the deep dread of coming disaster, when the friends of free institutions

in the Old World, and many in the New, feared that the American Union was crumbling into fragments. It was the mightiest conflict that ever shook the earth. He saw from that high theater as well of contention as of observation the rise, career, and downfall of several political parties. Of such long experience, full of years and full of honors, wise and prudent, pure and upright, brave but philosophic, surely Solomon Foot was the Nestor among his official peers.

Few men's opinions were ever sought with more respect or received with more reverence than his. In the midst of a revolution second only to the "reign of terror" which drenched France with blood, and filled her beautiful cities and gardens with the graves of her people, when all our fiercest passions were aroused, his counsels to the ends of moderation and justice, soothing and subduing the vengeful feelings of the time, fell like the voice of that "old man eloquent" under the gates of Troy.

Though he was gifted with remarkable firmness of purpose, and his mind had a sort of Roman vigor, he was eminently a good and eminently a mild man. It may be said that he combined the modesty of a woman with the constant integrity of Cato. Of Mr. Foot's moral character I need only say that it was without and above reproach. He was fearless and determined in the assertion of a right, but he was equally careful of the rights of others. No lure and no force could seduce or drive him to the perpetration of that which he knew to be wrong. He had that judicial cast of mind which constrains its possessor to analyze thoroughly with patience and perseverance whatever is submitted for decision, and to eliminate with unerring precision all the elements of evil. If he had not been a great Senator he would have been a great judge.

The circumstances of Mr. Foot's departure from this life were of too sacred and hallowed a nature to be detailed here. Conscious that dissolution was rapidly approaching he showed the high qualities of his character in the religious fervor and the steadfast hope which grew warmer and stronger as he died. To the very latest moment he shed upon all who entered his presence the inspirations of a large and enlightened soul.

The last parting glance of the expiring Senator was turned to the dome of this Capitol. He begged to be lifted that he might see it once more—the scene of his long labors, the spot where he had well earned the veneration of his countrymen—and then closed his eyes on the earth forever. It was the exhibition of the same patriotic fervor so eloquently expressed by Webster in his reply to Hayne. He rejoiced to see that the flag was still there, "full high advanced," the emblem of our nationality and the Union of the States.

Mr. Foot has gone to his grave in the same soil with that other pure and honored Senator of Vermont who preceded him but a few months. It is said that amid the mighty mountains freedom loves to rear her brave and sturdy children. But no mountains on the globe, not even those of Scotland which overlook the grave of Bruce, or those of Switzerland which cast their shadows over that of William Tell, have ever kept sentry over the tombs of two nobler men or harder patriots than do the Green mountains of Vermont.

Mr. GRINNELL. Mr. Speaker, the words of affection are few, and only those shall I utter.

It is a pleasing reflection that my early years were spent near the mountain home of the lamented Senator. He gave me assurance of his friendship, and that he cherished the memory of my dearest deceased kindred furnishes me an occasion to pay a brief and sorrowful tribute to his character and virtues.

That biography which follows the eulogistic sketches in the forum will place the deceased in the front rank of our truly Americanized gentlemen and statesmen, the measure of whose success should be unseparated from the associations and means by which it was attained.

The grave Senator ever with emotion and pride spoke of the rural town of Cornwall, Vermont, where he was born. Its population is not a thousand souls, and less than at the beginning of this century, yet has the distinguishing honor, in addition to an intelligent yeomanry, that of furnishing thirty-six educated clergymen, eighteen lawyers, twenty-three physicians, and fourteen professional teachers. Its town institutions were the church, the lyceum, and the school. In the church young Solomon was baptized; at the lyceum he spoke to give promise of future eminence; and the school he left to become a teacher and college graduate, later tutor, and founder and head of an institution of learning. He honored the vocation of the schoolmaster and never wearied in giving this humble profession credit for its devotion to a refined civilization and the general welfare. With truly American simplicity he taught our youth self-reliance, and for himself, who owed nothing to wealth, the partiality of friends, or the issue of campaigns, he regarded it as fortunate that he was called in discipline to tread the hard, rough paths of life. He was proud of his origin; and that filial affection of a fatherless boy for a doting and devoted mother was an augury of future fidelity and devotion to the national weal most fortunately realized in more than a quarter of a century of service, and ending with one of the most glorious tributes on record to the worth of parental instruction and the reality and value of the Christian religion.

As husband and father he was doting and beloved; a scholar without pedantry; a gentleman free from the arts of the courtier; brave in action without bravado; matchless in volume and sweetness of voice; persuasive in eloquence, yet abstemious in speech; genial as a companion, unwavering in friendship; in society "Pliant as reeds where streams of freedom glide;"

A Senator and statesman,

"Firm as the hills to stem oppression's tide."

Wheeling in eddies on life's stream, he could not prevent the gaze of the multitude, and ever in the presence of the claims of honor, mercy, and justice, his noble heart was so moved that this is its fitting accord and representation:

"His life was gentle, and the elements
So mixed in him, that Nature might stand up
And say to all the world, this was a man!"

Bereaved and gallant people of Vermont, millions are in mourning with you to-day. Memorable in history and conspicuous by the service of your public servants, it has been your fortune to furnish a noble exemplar for the nation, reflecting in character the grandeur of your ever-green mountains and the clear waters distilled in the rugged cliffs by the purity and beneficence of his memorable life now ended.

In the shadow of the shaft of the purest marble which will be reared to commemorate his virtues in the chosen place of his burial, he shall sleep with more than the honors of a martial hero, for here he met a mightier than earth's mailed soldier, the "king of terrors," and with a smile. With a premonition of an early dissolution, he was raised from his pillow to gaze once more upon this Capitol, and then, with mortal vision ended, to behold in its brightness the city of the living God, the home of the ransomed soul.

Mr. Speaker, the effort to enforce the lessons of such a life illumined by divine smiles would be almost a profane attempt. It has more than the award of the gods. *Sol crescentes decedens duplicat umbras*, and by so far as eternity is unmeasured by time, will his setting sun add to the lengthened shadows. I would accept it as a high honor to have recognized the proffer of the service, which I would make, by the thousands in the West who claim paterinity with the sons of the mountains who have left the old house-tree, in being their honored servant in bearing the flowers of affection from the prairies, the valley, and the mountains, moistened with their tears in memory of a friend who now sleeps in sepulture among the people whom he faithfully served, and by whom he was so ardently loved.

Mr. MORRILL. Mr. Speaker, never before in the history of our Government has a State been called upon to mourn the loss of both its Senators at a single session of Congress. Vermont weeps, for her Senators are not. Only a few days since and our tributes of sorrow bedewed the grave and wreathed the memory of greatly respected Senator Collamer, whose unblemished career had conferred honor, not only upon his State, but upon our whole country. Then the Senator whose decease we now mourn spoke, in unbroken health and strength, of the life and many virtues of his late illustrious associate in terms of great fullness and rare beauty; but how remote from him was the suspicion that in so brief a time his survivors would be called upon to delineate his own character, his private worth and public services, not less conspicuous, and though much unlike, moving in orbits widely apart, equally meritorious. Seldom has any State been represented by the same Senators for so long a time, and still more seldom so fittingly represented by those of so much eminence and unquestioned integrity and ability.

My colleague [Mr. WOODBRIDGE] has so happily and eloquently portrayed the history of Senator Foot, while others have so generously acknowledged his worth, that little more remains for me to contribute. Like many men who have risen to distinction in after life, (to copy his own language applied to another,) "he owed nothing at all to the factitious aids or the accidental circumstances of birth or fortune or family patronage." Having lost his father at the early age of seven years, he was indebted to an excellent and pious mother for his early training and instruction, and for the foundation of those high-toned principles of honor and integrity which always guided him as a private citizen and distinguished him as a public man. Not born to affluence, he was while yet a boy taught the lesson of earning his bread by the sweat of his brow. An incident at this time shows that his ambition had early been touched by the ethereal fire.

A man with whom he lived for a short time, when about fourteen years of age, sent him with a team to "drag" in some seed sown the previous day. Along in the middle of the forenoon the team was discovered without a driver, and the work accomplished appeared very inconsiderable. At last young Foot was found in a corner of the fence lying flat on the grass. To the question as to what he was doing there he replied, "I am thinking what I shall say when I get to be a member of Congress." Thus "the child is the father of the man." If any of these field thoughts ever found utterance in Congress, they had not to wait much longer than those said to have been conceived in the early morning on the ramparts of Quebec, and which many years after embellished one of the most memorable speeches of Daniel Webster.

While yet a young man, Mr. Foot often represented Rutland, the place of his residence, in the Legislature of Vermont, and nearly as often was made Speaker of the House of Representatives; and here he first displayed his extraordinary aptitude for the discharge of the duties of a presiding officer over a legislative assembly. This faculty was soon discovered and early recognized in the Senate of the United States, where he was repeatedly elected to the office of President *pro tempore*, and where he was perhaps more frequently called to the duties of the chair than any other Senator. It is just to say that much of the dignity ascribed as well as properly pertaining to that branch of Congress may be credited, for the last fifteen years, to Senator Foot's high example of decorum, order, and thorough knowledge of parliamentary routine. He dispatched business with admirable promptness, with equal fairness and grace; and he held at all times both Senate and the galleries under complete control by his commanding presence and his most unmistakable emphasis. His call to order, like the sound of a trumpet, was heard and heeded. From his decisions of parliamentary law there was no appeal asked or desired. His dignified

bearing and urbanity during his service in the chair, as well as in the faithful discharge of all other senatorial duties, his massive features and courtly manners, will cause him to be associated with and long remembered as a prominent figure—a representative man—of the Senate of the United States. He will also be remembered as one of the last of those who entered the field of statesmen while the great men of the last generation—Webster, Clay, and Calhoun—yet lingered on the stage.

His speeches while in this House on the Mexican war, in 1846 and 1847, were able and fearless expositions of its origin and character, and received the hearty approval of a large proportion of the northern people. In the Senate not all of his speeches have been reported in the Globe; certainly one of his best never appeared, for the reason that he retained the report for revision until it was too late to be inserted. His patriotism infolded his whole country, and bidding defiance to all party ties, when the honor and glory of his country seemed imperiled, he roused all the energies of his impassioned nature and rushed to the rescue. This temper appeared in his speech, in 1856, on the Central American question, when England exhibited her traditional ambition for universal empire, by her pretensions connected with Honduras. He said:

"Standing in opposition as I do to the present national Administration; differing from it as I do most widely and radically upon almost every question of domestic policy, I am the more happy in being able to accord to it the tribute, worthless though it may be, of my sincere and entire approval of the position it has taken upon this question. However we may be divided among ourselves, however we may contend and wrangle upon questions of domestic interest and of local policy, yet, when it comes to a question with a foreign Power, wherein our national honor and our national interest are concerned, as in the present instance, let us exhibit to the world the beautiful and sublime spectacle of a great, a united, a harmonious people; a people having one mind, one heart, and one purpose."

Among the speeches reported, that upon the Kansas constitution, better known as the "Le-compton Swindle," was one of his best, and of marked excellence. The plot to force a pro-slavery constitution upon a free people was shown up with all its revolting features. Not a frequent speaker in the Senate, he was yet always listened to with attention when he did speak upon any subject; and upon those subjects immediately confided to his charge he possessed its entire confidence. His recent eulogy upon his deceased colleague was not only worthy of the occasion, but was a good specimen of the Senator's matter and manner, and when delivered awakened responsive chords in the hearts of all hearers by its impressive eloquence and chastened beauty.

As a public speaker before a public audience Mr. Foot occupied no mean rank. His noble figure and full-toned voice at once arrested attention. Never begrudging preliminary preparation, his speeches were clear, forcible, and well-sustained to the end. His style never lacked elevation, and without being ornate, was affluent and scholarly. Though admirable in temper, he could yet employ invective at times with crushing effect, and declaimed with the daring impetuosity of a master who felt able to both ride and guide the storm he was creating. But his great strength lay in his absolute earnestness. His voice gave forth no uncertain sound. No man ever heard him speak and went away in doubt as to his meaning or as to which side of the argument he had espoused. Having satisfied his own judgment that he was right, he embarked his whole soul and strained every nerve in the effort to bring his audience to the same conclusions with himself. He was both sincere and positive, and utterly incapable of guile or double-dealing. His integrity, moral and political, was as firmly fixed as the mountains beneath whose shadow he was born, and there was never any doubt or speculation upon any question as to where he would be found. When he spoke, therefore, he brought to bear, not only cogent argument, but the influence of a true man, the weight of an experienced legislator.

As chairman of the Committee on Public Buildings he had for a long period taken a deep interest in the work of the Capitol extension. His ideas were liberal—coextensive with the grandeur of the nation—and he would build well and for all time. He felt a pride in the splendors of the structure, fondly contemplated the time of its completion in all its parts, when all the vacant niches as well as the old Hall of the House of Representatives should be filled with the statues of our fathers, when the surrounding grounds should be enlarged, and believed in the end the world would not be able to show Government buildings and grounds more imposing or so appropriately magnificent. It was the Capitol of a nation of freemen! What wonder, then, that he should in his last hour close the drama by wishing to be so raised in his bed that his eyes might once more behold the rays of the morning sun glittering upon the majestic dome and illumining those Halls wherein he had long been so noted an actor.

He was a modest man and obeyed the Gospel precept, "not to think of himself more highly than he ought to think," and esteemed "others" better than himself. Few men who spoke so well have been able to content themselves with speaking so unfrequently. He always appeared to underrate his own performances, and never, I believe, circulated any of his speeches in pamphlet form, but he was generous and hearty in his appreciation and circulation of those made by others.

He was a man of courage. When he served in this House, belonging to the old Whig party, the great radical abolitionist from the Ohio Ashtabula district was also a member. Anti-slavery sentiments in those days found little favor anywhere, and here encountered fiercest hate and frequent violence on the part of slaveholding Representatives. Mr. Giddings once told me that upon one occasion, when he had uttered some unwelcome truth about the institution of barbarous memory, one of these chivalric Representatives rushed toward him evidently bent on mischief, and that Foot at once sprang to his side ready to meet the aggressor. The promptness of this action and the firm port of Mr. Foot awed the would-be assassin and he retired to his seat. Nobody, said Mr. Giddings, could doubt the meaning of the one or the other.

The delicate as well as difficult duty of making up of the various committees of the Senate frequently fell to his lot, and it was always performed with great discretion and fairness. Here his modesty was apparent, for he never so carved as to leave the choicest parts to himself.

Mr. Foot was industrious, methodical, punctual to all appointments, and never postponed the work of to-day for the greater leisure of to-morrow. Whatever he aimed to do, he aimed to do well. He was proud of Vermont, loved her history, and wore her honors worthily. But he was not too proud to labor for the humblest of his constituents, and by his labors he added luster to his State and honor to the nation.

If it be that God loves those who are ready for His coming "in such an hour as ye think not," or those He takes while yet in the full enjoyment of all their strength and hopes, with mind and reputation as well as faith in the grace of God undimmed, then was Senator Foot fortunate as he was happy in the time of his death. Life was at its acme, and he filled as large a space in the world as his highest ambition had ever coveted. He had not tired himself, nor was the world tired by his presence, but he seemed to see, as with a heavenly vision, a welcome awaiting him in the new world to which he was hastening, and exclaimed, "I see it! I see it! The gates are wide open! Beautiful! Beautiful!"

Senator Foot was preëminently a large-hearted man, nursing no ill-natured jealousies in himself nor in others; far less did he indulge in any malice, and was the readiest man I have ever known to forget and forgive a seem-

ing neglect or actual injury. Opponents never found his tongue lubricated by the serpent's poison, nor did friends ever find themselves "damned by faint praise," for he was lukewarm in nothing, but distributed praise and blame openly, manfully, and with a most refreshing unction. For his friends he was ready to make any sacrifices, and he obeyed their behests with a cordial alacrity never to be forgotten by those whom his position, official or other, enabled him to assist. Our volunteer soldiers and officers, so suddenly called from industrial avocations to put down the great rebellion, received his homage and tenderest solicitude. Of these he felt that the dead were all martyrs, the living all heroes, and his gratitude was unbounded. In his own State no public man ever possessed more of the affection of the people, as was sufficiently shown by his almost unanimous election by the Vermont Legislature for a third term to the Senate of the United States. He always met his colleagues with the most cordial salutations; no ill-wind ever rippled over the surface of their intercourse, and the most genial and affectionate relations were maintained up to the latest moments of his life. His loss to his family is irreparable, and so profound is their grief as to find no solace save in the contemplation of the sublimity of the dying Senator's Christian faith. The last utterances of great men are often treasured up and serve to prove the strength of some ruling, possibly petty, passion of the deceased, but rarely have the last words of any man been so fit to be reported to the world, or such as to be more likely to be forever engraven on the hearts of his friends, than those of the lamented Senator Foot. Without an enemy in the world, loving God and glowing with affection for all, and especially for those who visited him in his last hours, with eyes still beaming with all their wonted brilliancy, his unimpassioned words, so clearly articulated, so lovingly tendered, were well calculated to touch every heart by their wonderful pathos.

Honored Senator! true patriot! faithful friend! farewell!

The resolution was adopted; and the House accordingly (at four o'clock and forty minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BAXTER: The petition of H. Miller, and 40 others, citizens of Westfield, Orleans county, Vermont, praying for an increased duty on foreign wool. Also, the petition of Stephen L. Leavitt, and 39 others, citizens of Albany, Orleans county, Vermont, praying for an increased duty on wool.

Also, the memorial of P. T. Lunt, and 9 others, of Burlington, Vermont, asking relief from unreasonable taxation on iron manufactures.

By Mr. DARLING: The petition of brewers, for reduction in duty on barley imported from Canada.

By Mr. DAVIS: The petition of John Crause, Jaycox Grier, and 70 others, citizens of Onondaga county, New York, asking legislation to regulate inter-State insurance.

By Mr. DONNELLY: The petition of certain citizens of the State of Minnesota, asking for an increase of the tariff upon wool.

By Mr. DRIGGS: The petition of Hon. N. B. Bradley, and 55 others, citizens of Bay City, Michigan, for a law regulating insurance in the States.

By Mr. FARQUHAR: The petition of John W. Keely, and others, of Brookville, Indiana, praying the enactment of just and equal laws for the regulation of inter-State insurances of all kinds.

By Mr. GARFIELD: The petition of Cleveland and Mahoning railroad, and citizens of Pittsburg, asking Congress to restore the right to build that portion of the Cleveland and Mahoning railroad within the State of Pennsylvania, which right had been taken away by legislation of the State of Pennsylvania, thus impairing vested rights of the citizens of the State of Ohio.

Also, the petition of J. H. Chamberlain, and 171 others, citizens of Mahoning county, Ohio, praying for an increased protective tariff.

By Mr. HOTCHKISS: The petition of citizens of Schuyler county, New York, for additional duties upon foreign wools.

By Mr. HUBBELL, of Ohio: The petition of Norman Penfit, and 77 others, citizens and wool-growers of Delaware county, Ohio, praying for increased duties on foreign wools.

Also, the petition of D. H. Peters, and 62 others, citizens of Delaware county, Ohio, praying for increased duties on foreign wools.

Also, the petition of John Johnson, and 30 others,

citizens and wool-growers of Union county, Ohio, praying for increased duties upon foreign wools.

By Mr. INGERSOLL: The petition of citizens of Stark county, Illinois, for a tax on dogs.

Also, the petition of citizens of Stark county, Illinois, for an increased duty on foreign wool.

By Mr. LAWRENCE, of Ohio: Three petitions of soldiers of Logan, Auglaize, and Darke counties, in Ohio, in favor of an equalization of bounties.

By Mr. LYNCH: The petition of trustees of Gosham Seminary, for grant of land to aid in providing for the education of children of soldiers and sailors who have died or become disabled in the service of the country.

By Mr. MORRIS: The petition of J. S. Beecher, Esq., and a large number of others, asking for an increase of duty on foreign wool.

By Mr. MOULTON: The petition of the United States assessor of the tenth district of Illinois, praying for increased compensation for services.

By Mr. ROLLINS: The petition of J. B. Walker, and others, officers of the New Hampshire Savings Bank, in Concord, praying that all savings institutions having no capital stock, &c., be released from the tax of five per cent. now imposed upon their dividends.

By Mr. SCOTFIELD: The petition of the members of the bar of Clearfield county, Pennsylvania, asking that the pay of United States district judges be increased.

By Mr. WARD: The petition of G. W. Frank, C. W. Bailey, and others, prominent citizens of Wyoming county, New York, in favor of increasing the duty on wool.

By Mr. WASHBURN, of Illinois: The petition of a large number of Illinois volunteer soldiers, in favor of an equalization of bounties.

By Mr. WENTWORTH: The petition of citizens of Chicago, and others, for legislation respecting inter-State insurances.

By Mr. WILLIAMS: The memorial of wool-growers of Armstrong county, Pennsylvania, praying for an increase of duty on foreign wools.

IN SENATE.

FRIDAY, April 13, 1866.

Prayer by Rev. RICHARD S. JAMES, of New Jersey.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Treasury, transmitting, in answer to a resolution of the Senate of the 3d instant, information in relation to the appointment of persons to office in that Department without taking the oath prescribed by law; which, on motion of Mr. SUMNER, was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* also laid before the Senate a message from the President of the United States, transmitting, in compliance with a resolution of the Senate of the 27th ultimo, a report of the Secretary of State in relation to the seizure and detention at New York of the steamship Meteor; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislature of Wisconsin, asking Congress to assent to the route of the land-grant railroad from Portage to Bayfield, and thence to Superior; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of Wisconsin, asking Congress for a grant of lands to aid in the construction of so much of the Portage and Superior railroad as extends from Fond du Lac to Ripon, in that State; which was referred to the Committee on Public Lands, and ordered to be printed.

He also presented a memorial of the Legislature of Wisconsin, for the establishment of a mail route from Sumner Post Office to Menomonee, in that State; which was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. NORTON presented a memorial of citizens of Mankato, Minnesota, praying for the enactment of just and equal laws for the regulation of inter-State insurances of all kinds; which was referred to the Committee on Commerce.

Mr. DOOLITTLE presented a petition of citizens of Spring Prairie, Wisconsin, praying for an increase of the duty on foreign wools; which was referred to the Committee on Finance.

Mr. DOOLITTLE. I desire to present a joint resolution of the Legislature of Wisconsin, instructing the Senators and requesting the members of Congress from that State to procure the necessary legislation to change the route of a land-grant railroad from Portage to Superior. I present, also, another joint resolution of the Legislature of Wisconsin, in favor of a grant of land to aid in the construction of the section of the Portage and Superior railroad from Fond du Lac to Ripon. I ask to have these resolutions printed and referred to the Committee on Public Lands. I desire to call the attention of the members of the Committee on Public Lands to the subject. As the land-grant bill for the State of Wisconsin passed Congress it designated alternatively three or four different points of departure, and that led to some difficulties in our State in disposing of the grant by the Legislature. The Legislature, however, have passed a law disposing of the grant, but in order to carry into effect the action of our Legislature it is necessary that Congress should grant them the privilege of making a deviation from the straight line. I call the attention of the gentlemen of the Committee on Public Lands to these resolutions, and hope that we shall get an early and favorable report on the subject.

The resolutions were referred to the Committee on Public Lands, and ordered to be printed.

Mr. HOWE presented a petition of citizens of Wisconsin, praying for the enactment of just and equal laws for the regulation of inter-State insurances of all kinds; which was referred to the Committee on Commerce.

Mr. NYE presented the petition of George E. Payne, of the parish of St. Charles, Louisiana, praying for compensation for losses sustained in the occupation and damage of his plantation by United States officers, and pay for property taken by troops under the command of General Butler; which was referred to the Committee on Claims.

He also presented the petition of William H. Allen, late colonel of the first and one hundred and forty-fifth regiments of New York volunteers, praying for the payment of expenses incurred by him in raising those regiments, and for compensation for services while in command of the latter; which was referred to the Committee on Military Affairs and the Militia.

REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of Mrs. Catharine Ferguson, praying for compensation for injuries occasioned to her son, John Ferguson, on the 18th of November, 1863, in Alexandria, Virginia, by being run over by a United States military train, submitted an adverse report thereon; which was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 19, 1853, and for other purposes, reported it with an amendment.

Mr. KIRKWOOD, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, reported it with amendments.

Mr. NORTON, from the Committee on Claims, to whom was referred a bill (S. No. 149) for the relief of Daniel Winslow, reported it without amendment.

NAVAL APPROPRIATION BILL.

Mr. GRIMES submitted the following report: The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) making appropriations for the

naval service for the year ending 30th June, 1867, having met, after free and full conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered one, five, six, ten, and eleven, and agree to the same.

That the Senate recede from their fourth amendment.

That the Senate recede from their disagreement to the amendment of the House to the third amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the seventh amendment of the Senate and agree to the same with an amendment, as follows: strike out all of said amendment, and also the clause of the bill to which it was attached, and insert the following in lieu thereof:

For the preservation and necessary repairs of the property of the United States at the Pensacola navy-yard, \$50,000, or so much thereof as may be necessary.

That the House agree to so much of the amendment of the House to the eighth amendment of the Senate as proposes to strike out of said amendment the following words: "the same as those rates received at Boston, New York, and Washington," and agree to the matter proposed to be inserted by the House, and the House agree to the same as so modified.

That the House recede from so much of their amendment to the ninth amendment of the Senate as proposes to strike out the second clause of said amendment; and that the Senate agree to so much of the amendment of the House to said Senate amendment as proposes to strike out the words, "foundry and," in the fourth clause of said amendment.

That the Senate recede from their disagreement to the amendment of the House to the twelfth amendment of the Senate and agree to the same.

That the House recede from their amendment to the sixth section of the bill in the following words: "if approved by the Secretary of the Navy,"

JAMES W. GRIMES,
E. D. MORGAN,
THOMAS A. HENDRICKS,
Managers on the part of the Senate.
N. P. BANKS,
J. F. FARNSWORTH,
CHARLES E. PHELPS,
Managers on the part of the House.

Mr. GRIMES. I will state to the Senate that the bill as agreed upon by the committees of conference is substantially as it passed the Senate, with the exception of two particulars. These are, first, an appropriation of \$5,000 that was inserted by the House of Representatives, at the instance of the Navy Department, for the purpose of testing petroleum as a fuel, to which the committee of conference on the part of the Senate agree; and the other is the fourth amendment of the Senate, in regard to the purchase of Oakman & Eldridge's wharves, at Charlestown, Massachusetts, for which the Senate proposed to pay the sum of \$105,000. From this amendment the committee of conference have recommended the Senate to recede. I desire to say in justice to myself and my colleagues on the committee, that we were unanimous in the conviction that the public interests really require that this purchase should be made. For myself I may say that I have not only examined the subject so far as it could be examined here in the Senate upon several former occasions, but I have personally examined the ground. I concur fully in the statement that was made the other day by the Senator from Kentucky [Mr. GUTHRIE] and by the Senator from Maine, [Mr. FESSENDEN,] that the purchase ought to be made. Such is the opinion of the Secretary of the Navy, the chief of the Bureau of Yards and Docks, and of every Navy officer, so far as I know or am informed, who has been stationed at the Charlestown navy-yard during the last five years. The eminent officer now in command of that yard is very decided and emphatic on this behalf, and has never hesitated in expressing his conviction that the best interests of the service require that the purchase be at once made.

I believe that if an attempt shall be made to improve the yard, as it is proposed by those who oppose this purchase that it shall be improved, by building wharves out at the lower end of the ground now owned by the Government, which is near the delta created by the confluence of the waters of the Mystic and Charles rivers, it will have a tendency to destroy the harbor of Boston; and not only that, but it will cause the sediment to settle above those wharves, and destroy the only good landing or wharves we now have. But from the fact that a portion of the people of Charlestown are severely hostile to the purchase, and that

the committee on the part of the House of Representatives, at the head of whom was the immediate representative of that locality, were unwilling to agree to it, the Senate committee thought that it was better not to jeopardize the passage of this bill on account of this purchase alone. All I have to say now is, that so far as I am concerned, if the people of Charlestown, or of Massachusetts, are not disposed to allow the Government to own the ground that it is necessary for it to have in order to carry on the public business, and to establish such a yard as the necessities of a great commercial and maritime nation require, I shall be willing, and shall recommend to the Senate, upon some future occasion, to remove the yard, to dispose of the property there, and to establish a yard at some point where we can get the necessary facilities.

The report was concurred in.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 264) to grant certain privileges to the Alexandria and Washington Railroad Company, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 265) to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. ANTHONY asked, and by unanimous consent obtained, leave to introduce joint resolution (S. R. No. 63) to authorize the Secretary of the Interior to exchange or dispose of certain odd volumes of congressional documents, and other odd volumes; which was read twice by its title, and referred to the Committee on Printing.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. MOORE, his Secretary, announced that the President had approved and signed on the 10th instant the following acts:

An act (S. No. 105) to grant the right of way to the Cascade Railroad Company through a military reserve in Washington Territory;

An act (S. No. 115) for the relief of Jane W. Nethaway;

An act (S. No. 117) for the relief of F. A. Patterson, late captain of the third Virginia cavalry; and

An act (S. No. 181) for the relief of Emma J. Hall.

DOCUMENTS TO JUDGES.

The PRESIDENT *pro tempore*. If there be no further morning business, the Chair will proceed to the order of the day, which is the business reported from the Committee on Pensions.

Mr. ANTHONY. Is that the order of the day for the morning hour?

The PRESIDENT *pro tempore*. Not during the morning hour, but if no other business intervenes the Chair will proceed with the special order.

Mr. ANTHONY. I ask the Senate to take up Senate bill No. 172.

Mr. LANE, of Indiana. If it will lead to debate, I must object to it.

Mr. ANTHONY. I do not think it will lead to debate.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 172) authorizing certain public documents to be distributed to the district and territorial judges of the United States.

The Committee on Printing reported the bill with two amendments. The first amendment was in section one, line seven, after the word "Globe" to strike out the words, "and one copy of all books and documents on subjects of a general nature which may be printed by order of Congress, or of either House thereof,"

and to insert the words "hereafter printed;" so that the section will read:

That in addition to the books and documents now required by law to be furnished to the district judges and the judges of the territorial courts of the United States, the Secretary of the Interior shall mail, free of postage, to each of them one copy of the Congressional Globe hereafter printed.

Mr. FESSENDEN. I should like to hear some explanation of this bill.

Mr. ANTHONY. I will explain it. It is a bill to distribute to the district judges and judges of the territorial courts a copy of the Congressional Globe to be kept among the books and papers of their offices.

Mr. FESSENDEN. Why should that be done?

Mr. ANTHONY. So that the judges in administering the laws may have all the light that may be thrown upon them by the debates in Congress. It seems to me there is no class—

Mr. SHERMAN. I will ask my friend if the Delegates from the Territories do not get their portion of the Congressional Globe.

Mr. ANTHONY. Yes, sir.

Mr. SHERMAN. That is generally a very large number in proportion to their population.

Mr. ANTHONY. This is not merely for the territorial judges, but for the district judges. The district judges have not, by any provision of law, in the libraries belonging to them the Congressional Globe. The bill originally as it was referred to the committee provided for the furnishing to these judges a copy of all the books and documents of a general nature printed by Congress; but the committee have amended it by restricting it to the Congressional Globe.

Mr. FESSENDEN. I do not see what is the use of giving them that.

Mr. ANTHONY. I do not see of what use the Congressional Globe is to anybody, if it is not of use to the judges of the courts; and as the Congressional Globe has been printed lately, as I understand, with a number of speeches omitted and others altered, I do not know that there is a great deal of use in printing it at all. But if it is of use to anybody it is of use to the judges.

Mr. CONNESS. The Congressional Globe is an accessible book. There are a great many of them published, and I suppose they get such a distribution by all Senators and members of Congress that it is one of the most accessible books in all the libraries. I suppose there is scarcely a leading library in the country that does not contain it. In my State, young as it is, I have a list of fifty-three libraries, which run into nearly all the villages of the State, and I serve that list first, giving each a copy of the Congressional Globe, before I send it to anybody else. I apprehend that some such distribution is made, if not by all Senators, by some, and members of Congress; so that there is no book more easily obtained by the judges than the Congressional Globe. The State library of my State, which is located at the capital and is accessible to the courts, always contains more than one copy of it; and really I do not see the necessity for this bill.

Mr. ANTHONY. Undoubtedly the Globe is distributed to almost all the judges, but the copy they now receive belongs to them individually, and is not transmitted with the papers of their offices to their successors. The case is a very simple one. I have no desire about the matter.

Mr. WILLIAMS. I hope this bill will pass. I remember when I was one of the territorial judges of the Territory of Oregon that questions arose there under the donation law to that Territory, and it was necessary, in order to understand that law, to refer to the Congressional Globe and the debates that occurred upon the passage of the law, and at that time there was but one copy of the Congressional Globe in the Territory, and that was in the possession of the widow of the late Mr. Thurston, formerly a Delegate from that Territory to Congress. The necessity of having the Congress-

sional Globe there at that time became evident, and I think the same necessity exists in all the Territories. If there is any officer of the Government who needs a copy of the Congressional Globe it seems to me it is the judge of the United States district court or of a court of a Territory, because in the interpretation of the laws passed by Congress it is necessary and advisable to refer to the debates which were had at the time the laws were passed. I think the judge should be furnished with a copy so that he can have it as a part of his library. The practice has been heretofore to send to these territorial judges large boxes of public documents, executive documents, Senate documents, and House documents that are of little or no value to him. One copy of the Congressional Globe would be of more value to a judge of a court than all the other public documents that are sent to him relating to the proceedings of Congress. I know from my own experience that a copy of the Congressional Globe will be of value to a judge in a Territory, and I hope that the bill will be adopted. It certainly will not involve any considerable expense, and I am sure it will be a great convenience to those who have the laws to administer.

The PRESIDENT *pro tempore*. The question is on the amendment of the Committee on Printing to strike out the first section of the bill.

The amendment was agreed to.

The next amendment of the committee was in section two, line one, to strike out the words "and documents;" so that the section will read:

Sec. 2. And be it further enacted, That said books shall be the property of the United States, for the use of said judges and their successors.

Mr. FESSENDEN. I do not see any more propriety in furnishing the Congressional Globe to the district judges than I do of furnishing any law-book. They usually purchase their own libraries, and they can very easily purchase the Globes—there are plenty of them in the States—at a small expense if they want them. This idea of furnishing libraries, or giving books of any kind to the district judges, it strikes me is the beginning of a system—I do not suppose it would amount to much now—that may be abused and that ought not to be commenced. I have distributed large numbers of the Globe since I have been in Congress. I do not know whether I gave it to the district judge or not. If he wanted one he could have had it by intimating to me that he desired it. This proposition, like all others of the same sort, is merely an attempt to send something out, and we shall have to buy these copies at the public expense of the publisher. If you are going to begin this system, you might as well go back and do the whole thing at once, for the Globe does not cover a very large portion of the laws, and take the Annals of Congress, Gales & Seaton's Register, and then the Congressional Globe, and give them the whole, so that they may have them all from the commencement. If you intend to commence this system you might as well put them all in. I doubt very much the expediency or the propriety of it. I shall vote against it myself.

Mr. ANTHONY. I think the Senator misapprehends the bill in one respect. The bill, as it is amended, only proposes to give them the Congressional Globe hereafter printed. It is not intended to give them full sets.

Mr. FESSENDEN. If they want the Globes hereafter printed, each Senator receives something like ninety copies every session—

Mr. CONNESS. Ninety-four.

Mr. FESSENDEN. Each Senator receives ninety-four copies, and each Representative gets twenty or thirty copies—

Mr. SHERMAN. Twenty-four.

Mr. FESSENDEN. And it is perfectly easy for members of Congress to furnish both the territorial and district judges with all the copies of the Globe that may be wanted. They will be glad to find somebody that will take them.

Mr. ANTHONY. I will not object to hav-

ing the bill so amended as to deduct the amount furnished the judges from the copies furnished the Senate. I think it is desirable that these Globes should be in the offices of the district judges, to be transmitted to their successors. Undoubtedly, every judge gets the Globe, but when he goes out of his office he takes that with him, with the rest of his private documents. However, if the bill does not meet the approbation of the Senate, I will not press it.

Mr. FESSENDEN. That object may be secured by giving these copies to the district court library; but I do not see any necessity for buying so large a number for them when we have so many to throw away.

Mr. WILLIAMS. I do not see why it is not just as reasonable to furnish the judges—I am speaking particularly at this time on behalf of the territorial judges—a copy of the Congressional Globe as it is to furnish them with copies of the other public documents, and with a copy of the Decisions of the Supreme Court of the United States. These are all furnished to the judges free of expense. The public documents that are sent to the judges are of very little value. The reports of the Supreme Court of course are of value; but there is no public document of a legislative nature that will be of so much value to the judges of these courts as a copy of the Congressional Globe, because it is frequently necessary to consult the Globe in discussing questions of law. I understand that Delegates from the Territories are furnished like members with a distributive share of the Congressional Globe, but I am confident that very few of them ever reach the Territories; and there is no probability, unless some particular provision is made, that these judges will be furnished with the Globe. I think an expenditure of money could not be more wisely made than to supply judges with the Globe.

Mr. ANTHONY. If there is any serious objection to this bill I will consent to its going over, and I will prepare an amendment that the Globes furnished to the district judges shall be deducted from the quota furnished the Senate. I move that the further consideration of the bill be postponed until to-morrow.

The motion was agreed to.

ELISHA W. DUNN.

Mr. CRAGIN. I move to take up Senate bill No. 202, for the relief of Elisha W. Dunn, a paymaster in the United States Navy.

Mr. LANE, of Indiana. I call for the regular order of the day if the morning business is over.

The PRESIDENT *pro tempore*. After the morning hour has expired the business referred to by the Senator from Indiana will come up; but in the opinion of the Chair matters of this sort are in order, subject, of course, to the vote of the Senate, until one o'clock.

The motion of Mr. CRAGIN was agreed to; and the bill (S. No. 202) for the relief of Elisha W. Dunn, a paymaster in the United States Navy, was read a second time, and considered as in Committee of the Whole. It proposes to direct the proper accounting officers of the Treasury in the settlement of the accounts of Elisha W. Dunn, a paymaster in the United States Navy, to receive and allow, where the proper vouchers cannot be obtained, statements verified by his oath, or such other satisfactory evidence as he may present, of all expenditures made by him for the Government, or losses sustained by him in consequence of the destruction by fire of the money, papers, and property of the United States in his charge on board of the United States naval wharf-boat at Mound City, Illinois, at the burning of that vessel on the 1st of June, 1864.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the following bill and joint resolutions of the Senate:

A bill (S. No. 229) to authorize the Presi-

dent of the United States to transfer a gunboat to the Government of the republic of Liberia;

A joint resolution (S. No. 45) protesting against pardons by foreign Governments of persons convicted of infamous offenses on condition of emigration to the United States; and

A joint resolution (S. R. No. 49) for the temporary relief of the destitute people in the District of Columbia.

The message further announced that the House of Representatives had passed the joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 184) to authorize the sale of marine hospitals and of revenue cutters.

The message further announced that the House of Representatives had passed the concurrent resolution of the Senate, prohibiting the sale of spirituous and other intoxicating liquors about the Capitol building and grounds, with an amendment, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed a joint resolution (H. R. No. 46) for the relief of Martha McCook, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 199) to establish the collection district of Port Huron, the collection district of Michigan, the collection district of Montana and Idaho, and to change the name of the collection district of Penobscot;

A bill (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion;

A bill (S. No. 229) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia;

A bill (H. R. No. 150) for the relief of the administrators and securities of Almon W. Babbitt, late secretary of Utah;

A bill (H. R. No. 471) to provide that the "Soldier's Individual Memorial" shall be carried through the mails at the usual rate of printed matter;

A joint resolution (S. R. No. 45) protesting against pardons by foreign Governments of persons convicted of infamous offenses on condition of emigration to the United States; and

A joint resolution (S. R. No. 49) for the temporary relief of destitute people in the District of Columbia.

ABSENCE OF TERRITORIAL OFFICERS.

Mr. WILLIAMS. I move to proceed to the consideration of Senate bill No. 32.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 32) to prevent the absence of territorial officers from their official duties. It provides that no person in any Territory now in office, or who may hereafter be in office by appointment of the President, after he enters upon the discharge of his official duties, shall be absent from the Territory of which he is an officer for more than thirty days at any one time, and no leave of absence shall be necessary or granted to any such officer. No officer absent for a longer time is to be entitled to any salary during his absence, and it is to be the duty of the President, upon

a willful violation of this law by any such officer, to remove him forthwith from office.

Mr. JOHNSON. Does that come from a committee? It appears to me to be very stringent legislation that no leave of absence shall be granted.

Mr. BROWN. Does it come from the Judiciary Committee?

Mr. JOHNSON. From the Committee on Territories, I understand.

Mr. ANTHONY. Willful absence is punishable—

Mr. GRIMES. Here it is:

That no person in any Territory now in office, or who may hereafter be in office by appointment of the President, after he enters upon the discharge of his official duties, shall be absent from the Territory of which he is an officer for more than thirty days at any one time, and no leave of absence shall be necessary or granted to any such officer.

Mr. JOHNSON. That is independent of the cause of the absence; the illness of his family may cause him to remain away from his post. It appears to me to be rather stringent legislation.

Mr. WILLIAMS. The object of this bill is to prevent officers of the Territories from absenting themselves from the performance of their official duties. I do not know how it may be with the Territories on this side of the Rocky mountains, but on the Pacific coast I know that this has grown into a very great abuse, and in most of the Territories there a very large portion of the territorial officers are absent from their duties. Sometimes the Governor is away, with the secretary, and several of the judges; and in two or three of those Territories they have not been able to have any courts for a year at a time on account of the absence of the judges; and it becomes necessary that the law should require them to remain there where they can attend to the duties of their respective offices.

The first section provides that an officer may be absent from the Territory for thirty days, and it shall not be necessary for him to obtain any leave in order to be absent during that time. It further provides that no leave of absence shall be granted to any officer; and the object of that provision is to prevent these territorial officers from obtaining a leave upon some excuse which may be made to the Department. Now the practice is to send a telegram to some one of the Departments here or to the President asking for leave of absence for six months, generally with the object of visiting Washington or the eastern States, and so far as I know, that leave of absence is generally granted. Some, however, leave and come here and obtain this leave of absence after they arrive here; they come without any leave, and then after they arrive here they apply for a leave of absence, and as a general thing it is granted.

I do not see why if a person accepts an office in a Territory—and the applicants are numerous and clamorous for these places—he should not remain there and discharge his duty; but the practice has become almost universal now that as soon as an officer obtains the appointment and enters upon the discharge of the duties of his office and the salary begins to accrue to him, then finding it unpleasant, perhaps, to remain there, he takes occasion to leave to visit Washington, to visit the States and be absent six months or a year from the Territory, and so the people are without any organized government in many cases. This is a particular hardship when the judges of the courts are absent. I do not wish to mention particular Territories or the names of persons, but it is within my knowledge that in several Territories there has been practically no territorial government on account of the absence of territorial officers, and the object of this bill is to require them to remain there.

Mr. JOHNSON. Suppose they do not remain, what is to be done?

Mr. WILLIAMS. Then they are to be removed from office by the terms of this bill. If an officer of a Territory is willfully absent from the discharge of his duties for more than thirty days at any one time, it is made the duty of

the President to remove him forthwith from office. He is permitted under this bill to go away and be absent thirty days at any one time, to make a visit anywhere he pleases, and extend the visit for thirty days; but it is impossible for justice to be administered by the judges of these Territories or the business of the territorial governments to be conducted if the officers there are allowed whenever they see proper to leave and come here to Washington or to the States, because it takes six months or a year generally to perform that journey, and during that time the people are left without any officers to discharge the duties necessary to be discharged for the interest of the people. I am not particular about the phraseology of the bill or about its terms, but I think it is desirable that some such law as this should be passed in order to abolish and remove this abuse.

Mr. GRIMES. I do not know that I understand this bill, but if I do understand it the result will be that if an officer of one of the Territories is now in this city or in New York, or elsewhere outside of the Territory upon business, under a permit or a leave granted by a superior officer in this city, and if he has been here thirty days, he is to be turned out of office. It is retrospective.

Mr. WILLIAMS. I think not.

Mr. JOHNSON. Or he is to be turned out if he does not get home in thirty days.

Mr. GRIMES. I have no doubt that something ought to be done on this subject. I am as conscious as the Senator from Oregon is that great injustice has been done to the people of the Territories by the absence of the territorial officers. I have been informed of cases where the judges have been absent nine months out of the twelve. But it seems to me that this is rather a sweeping law. Suppose the secretary of the Territory of Idaho is instructed by the General Assembly of that Territory to procure the laws of the General Assembly to be printed at the end of the session. He cannot print them in Idaho; he must necessarily come to some of the States. He must supervise the matter, attend to making a critical index, and seeing that the printing of the laws is done correctly.

Mr. HENDRICKS. Then he is not absent from his duties.

Mr. GRIMES. He is absent from the Territory, and the provision of the bill refers to absence from the Territory and not to absence from duty. In that case he must be put out of office at once.

Mr. NESMITH. As my colleague has already stated, a very great abuse has grown up on account of the absence of officers from the Territories. I think, however, it is mostly confined to judicial officers. I know that judges in Washington and Idaho—and I have heard similar complaints from Montana—have been absent a good deal. But I think the provisions of this bill are a little too stringent. It sometimes becomes necessary that territorial officers should visit Washington city. I know that a few days ago a dispatch was sent to an officer in Idaho requiring his presence in this city, not on private business but on business connected with the Indian department in relation to treaties. Under this bill, however, notwithstanding the fact that he has been telegraphed for to come to Washington in the discharge of his official duty, he is liable to be dismissed for complying with the order of his superior. I prefer that the bill should limit leaves of absence in some way, and I think that power is tolerably safe where it is lodged now, with the President and heads of Departments. I know they have recently become very stringent in the exercise of the power of granting permission, and have refused leave of absence in several cases. But if this bill is passed in its present form, if an officer is ordered here on duty—and it frequently becomes necessary to order officers of the Indian department here from the Territories—he is not only liable to lose his salary but to be dismissed from his office. I have no objection to the bill if it be confined

to judicial officers; but if it is to extend to all territorial officers, I should be glad to see some modification of it, though I admit there has been much cause of complaint on account of the absence of territorial officers from their Territories.

Mr. GRIMES. I hope the bill will be laid over.

Mr. WILLIAMS. I am not particular, as I before stated, as to the phraseology employed in this bill, but I am satisfied that if the bill provides that leave of absence may be granted as it is now granted by the President or by the heads of the different Departments, the bill will be of little or no value. I do not object to any exception that may be made where an exception may be supposed to be necessary; but so far as I know the applications that are made by these officers are universally granted. There may have been an application denied, but not to my knowledge, and I know that in very many cases officers leave their positions in the Territories and come here to Washington, and then solicit their friends and those whom they suppose to have influence with the proper Department to apply for leave of absence, and upon application and by importunity this leave of absence is obtained. I think that there ought to be some restriction upon that, so that an officer sending a telegram here to Washington containing some representation that his absence is necessary shall not thereupon obtain leave of absence, because the President or the head of a Department may not be advised as to the necessity of his presence in the Territory. The object of the bill is to reach that mischief as well as the other, and I concur in what my colleague says that great evil has grown out of the absence of judicial officers from the Territories.

As to the suggestion made by the Senator from Iowa that the secretary might necessarily be absent to attend to the printing of the laws, let me say that may be done, without the presence of the secretary, and is generally done outside of the Territory without his presence to supervise the printing. I am willing if it is desired, that the bill shall go over, and that some amendments shall be proposed or suggested if Senators are not satisfied with the bill in its present form.

Mr. CONNESS. From one point of view the proposition now before the Senate interests me considerably; it calls my attention to the fact that to a very considerable extent the Territories of the United States are governed by appointees selected in the East from superannuated politicians, men either found unfit at home to fill high public station, or who have been in public station and cut no considerable or creditable figure in it. Such men have been very commonly selected and sent as a plague upon the people of the Territories of the United States—a people as a general rule the most virtuous, the most courageous, the most useful in the Republic. They go out frequently from comfortable and compensating industries inspired by the spirit of adventure and by the hope of making new homes in regions offering better inducements for success. They reduce the forest and the wilderness to civilization and use. They are generally men of marked intelligence, fine types of the American character, the men who have taken empire westward and who are now rolling back civilization upon the East, and the very highest type of moral and political philosophy reduced to practice, from the ocean that bounds this continent on the west.

The President *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the order of the day, being bills reported from the Committee on Pensions, assigned by special order for this day.

Mr. CONNESS. If there is no haste in calling up those bills, I should like to proceed for a few moments.

Mr. LANE, of Indiana. I desire to pass all those bills to-day; there are a great many of them.

Mr. CONNESS. I will say to the Senator that I will not occupy five minutes.

The President *pro tempore*. The Senator from California may proceed by unanimous consent of the Senate.

Mr. CONNESS. I have more than once called attention in the Senate to this practice. The abuses which result from it, and which are sought to be corrected by the bill now before us, arise in a great measure from the fact that the parties selected to govern and hold the high places in the Territories are not selected, as they should be, from the body of those courageous men whom I have described, that go out and pioneer that country and undertake its reduction to civilized purposes. I do not expect by anything that I shall say here to be able to correct this general, as I think, perversion of power and misuse of power; but it is clear that if the selections were made with more care and with more regard to the persons to be governed, namely, the inhabitants of the Territories, the persons in these places would be at home, they would not be running into the cities of the East; they would not be coming back to see their friends, and to exhibit themselves as returned Governors and judges, to be feasted and toasted, and exhibiting rich specimens selected from the ores of those new Territories, talking often very learnedly and very deceptively to the eastern people and the eastern mind about the riches of those countries of which they know little; of which practically, they know nothing.

These, and many abuses like them, would have an end if care was observed in selecting the men who are to govern these people and the men who are to administer the laws among them from themselves. It is not, Mr. President, for the want of talent there that their Governors and administrators of the laws among them are selected elsewhere. We have a case now in point; I think it is worthy of attention. We have sent a soldier out very recently to fill the office of secretary of a Territory in the West. He finally, as the law provides, fills the office of Governor *pro tempore* during the absence of that functionary. He has given new administration in that Territory; he by his acts has released from confinement men guilty of high crimes and misdemeanors, and the population, maddened at the absurd pretensions and assumptions, have followed a criminal and hung him to the next tree. This is the administration of law that is now going on in one of the Territories!

I hope without extending these remarks, which if time permitted I would do, that some measure of this kind carefully prepared will pass and become a law, and that these gentlemen selected and sent out into these places of honor, and to them frequently of profit, (for some of them go further than legitimate ends in reaching profit,) will be required to make their domicile at least, or yield the offices that in many instances they so discreditably fill.

Mr. POMEROY. Mr. President, if this bill is to pass—I do not know whether the vote is to be taken this morning—

Mr. LANE, of Indiana. I must object to further discussion of the bill, and call for the order of the day.

The President *pro tempore*. The order of the day is now in order, and any further discussion can only be had by unanimous consent.

Mr. POMEROY. I had an amendment to propose to meet the very case submitted by the Senator from California.

Mr. LANE, of Indiana. I hope it will go over.

The President *pro tempore*. Bills reported from the Committee on Pensions are the special order of the day. The Chair will, however, first dispose of some business on his table, by the indulgence of the Senate.

POST OFFICE FUNDS.

The amendment of the House of Representatives to the joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department

to the general salary account of that Department, was referred to the Committee on Post Offices and Post Roads.

LIQUOR IN THE CAPITOL.

The PRESIDENT *pro tempore* laid before the Senate the amendment of the House of Representatives to the concurrent resolution of the Senate prohibiting the sale of spirituous and other liquors in the Capitol building and grounds; the amendment being to insert the words "and other public buildings" after the word "building" where it occurs in the resolution.

Mr. SHERMAN. The provision ought to be limited certainly to Washington, for there are public buildings and grounds in various parts of the country which would be covered unless some limitation were made.

Mr. CONNESS. In addition to that, I beg to suggest that the resolution as it now stands extends the jurisdiction of the President of the Senate and Speaker of the House of Representatives over other public buildings beside the Capitol, evidently with impropriety. I suggest that the amendment had better be referred to a committee.

Mr. ANTHONY. And it applies not only here but to all public buildings all over the country. Is it expected that the President of the Senate and Speaker of the House of Representatives are to make a journey of investigation on the subject?

The PRESIDENT *pro tempore*. To what committee does the Senator from California propose to refer the amendment?

Mr. SHERMAN. I suggest that the better way is just to disagree to the amendment of the House of Representatives. Then if they ask for a committee of conference the matter can be arranged.

Mr. SUMNER. I agree with the Senator from Ohio: the better way is to send it back.

The PRESIDENT *pro tempore*. The question is on concurring in the amendment of the House of Representatives, and the Chair will put the question affirmatively.

Mr. SUMNER. My colleague, who introduced the resolution, is now absent, and I hope nothing will be done by which the resolution shall suffer. I agree, therefore, with my friend from Ohio that we had better disagree to the House amendment and send the resolution back.

Mr. POMEROY. Would it be in order to disagree with the amendment of the House of Representatives with an amendment?

The PRESIDENT *pro tempore*. The question will be put affirmatively, Will the Senate concur? A negative vote amounts to a non-concurrence.

Mr. POMEROY. I think we ought to apply the principle of the confiscation act to this liquor traffic. It is a public enemy, and we ought to have the principle of search, seizure, and confiscation applied to it; but I shall not undertake to move an amendment now.

The question being put, the amendment of the House of Representatives was non-concurred in.

PENSION LAWS.

Mr. LANE, of Indiana. I propose first to take up the bill (S. No. 22) supplementary to the several acts relating to pensions.

The PRESIDENT *pro tempore*. That is the first in order on the Calendar of the bills reported from the Committee on Pensions.

Mr. LANE, of Indiana. In that case there is an adverse report, and in order to get the bill off the Calendar I move that it be indefinitely postponed.

The motion was agreed to.

RATE OF PENSION.

On motion of Mr. LANE, of Indiana, the bill (S. No. 131) supplementary to the several acts in relation to pensions was read the second time, and considered as in Committee of the Whole.

It is provided by the bill that from and after its passage every non-commissioned officer,

musician, artificer, or private of the Army, including regulars, volunteers, and militia, and every warrant or petty officer, musician, seaman, ordinary seaman, flotilla-man, marine, clerk, landsman, pilot, or other person in the Navy or Marine corps, who has been disabled by reason of any wound received or disease contracted while in the service of the United States and in the line of his duty, or who may hereafter be disabled in such service, and who is not now entitled by law to a greater sum, shall, upon making due proof according to such forms and regulations as are or may be required by or in pursuance of law, be placed upon the list of invalid pensions of the United States, at the rate of twelve dollars per month, to be governed by the same limitations and restrictions as are now prescribed by an act entitled "An act to grant pensions," approved July 14, 1862.

Mr. LANE, of Indiana. The subject-matter of this bill is embraced in a general bill from the House of Representatives with this difference: that this bill proposes a general increase of pensions from eight dollars to twelve dollars a month, while the other bill proposes to increase the pension for greater disabilities and to leave the pension as it is for ordinary pensions. I propose to take up the general House bill, and I move, therefore, that this bill lie on the table for the present.

The motion was agreed to.

CHARLES YOULY.

Mr. LANE, of Indiana. I move next to take up House bill No. 218.

The motion was agreed to; and the bill (H. R. No. 218) for the relief of Charles Youldy was considered as in Committee of the Whole.

It provides for the payment to Charles Youldy, of Dunkirk, Chautauqua county, New York, late private of company D, seventy-second regiment New York volunteers, of \$135 33 $\frac{1}{3}$, being at the rate of five dollars per month, from the 25th day of November, 1862, to the 27th day of February, 1865.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ANN HETH.

Mr. LANE, of Indiana. I move next to take up the bill (S. No. 201) for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. Its purpose is to direct the Secretary of the Interior to place the name of Ann Heth, widow of William Heth, of Harrison county, in the State of Indiana, who was killed by the rebel Morgan's men, while resisting their advance upon Corydon, Indiana, upon the pension-roll, at the rate of eight dollars per month, to commence on the 9th day of July, 1863, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RESTRICTIONS UPON PENSION PAYMENTS.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 46) removing the restrictions upon the payment of pensions to certain persons while in the service of the United States, which had been reported upon adversely by the Committee on Pensions.

The resolution provides that the act entitled "An act supplementary to the several acts relating to pensions," approved March 3, 1865, shall not hereafter be so construed as to deprive invalid pensioners, or the widows or heirs of any persons who have served in the Army or Navy during the late war, of the pension to which they are entitled by reason of holding any office under the Government, in cases where the compensation received from the United States as pay or salary does not exceed \$800 per annum.

Mr. LANE, of Indiana. The subject-matter

of this joint resolution is already contained in a general bill pending before the Senate, and I therefore move that the joint resolution be indefinitely postponed.

The motion was agreed to.

ALBERT NEVINS.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 268) for the relief of Albert Nevins. By its terms the Secretary of the Interior will be directed to place the name of Albert Nevins, late a private in company K, ninety-second regiment New York State volunteers, upon the list of pensioners at the rate of twenty-five dollars per month, in lieu of eight dollars per month heretofore allowed him; to commence on the passage of the act and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CORDELIA MURRAY.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 216) for the relief of Cordelia Murray. The bill proposes to direct the Secretary of the Interior to pay to Cordelia Murray, widow of George W. Murray, the pension granted to George W. Murray by an act of Congress approved December 20, 1864, entitled "An act for the relief of George W. Murray."

Mr. FESSENDEN. I should like to know whether there is a report in this case.

Mr. LANE, of Indiana. There are reports in all these cases. A House or Senate report accompanies every bill.

Mr. FESSENDEN. I remember that formerly when we used to fall on a day like this somebody who guarded the Treasury pretty well would insist upon the reading of the report in each case.

Mr. LANE, of Indiana. I have no objection to that. There is a report in every case.

Mr. FESSENDEN. So that we might see whether they were right or not. It was found to be pretty difficult to get a good many of these bills through when they were understood. I do not feel inclined to take that office, but I wish to ask my friend from Indiana whether all these cases which he is calling up have been very critically and carefully examined in the committee of which he is the chairman.

Mr. LANE, of Indiana. We have examined every case and every voucher and every paper, and the whole committee have reported upon them. We have been some two or three weeks trying to get these bills all right and in ship-shape.

Mr. FESSENDEN. I suppose, as these are special acts granting pensions, that the cases do not come under any general law.

Mr. LANE, of Indiana. They do not come under any general law; otherwise, they would not be here at all. I will ask the Secretary to read the report in this case.

Mr. FESSENDEN. I should like to hear the report. Has it been printed?

Mr. LANE, of Indiana. No, sir.

Mr. FESSENDEN. All these reports ought to be printed and laid on our tables, so that we may have a chance to read them.

Mr. LANE, of Indiana. That has been done, I think, in every single instance with regard to Senate bills. This is a House report, and I do not know whether it was ordered to be printed or not. I do not think it was.

Mr. FESSENDEN. I have noticed that some of these reports in these pension cases have been laid on our tables. Has that been followed as a general rule?

Mr. LANE, of Indiana. Yes, sir, always.

Mr. FESSENDEN. I should like to hear the report in this case.

The Secretary read the report made by the Committee on Invalid Pensions in the House of Representatives, from which it appears that by an act of Congress entitled "An act for the relief of George W. Murray," approved Decem-

ber 2, 1864, the Commissioner of Pensions was directed to pay to him the pension to which he was entitled by the act of Congress approved March 3, 1837, entitled "An act for the more equitable administration of the Navy pension fund." After the passage of that act by the House, and while it was pending in the Senate, Mr. Murray died, leaving a widow and several children in destitute circumstances. The committee therefore report a bill granting to Mrs. Murray the pension which her husband would have drawn had he lived until the passage of the act referred to.

Mr. FESSENDEN. I should like to hear the bill read again.

The Secretary read it.

Mr. FESSENDEN. As the bill stands it might continue this pension indefinitely. I should think it hardly safe to pass the bill in its present form. If it is only intended to give her what he would have been entitled to receive up to the time of his death, had the bill passed before, it seems to me the bill does not carry out that idea.

Mr. LANE, of Indiana. I will send for the act referred to in the report and see exactly what the terms of that act are. I think, under the circumstances, the widow and children of this George W. Murray ought to have the benefit of this pension. The bill can be postponed for the present.

Mr. FESSENDEN. This is one of those cases where we can learn nothing from having the bill read.

Mr. LANE, of Indiana. I ask that the bill may lie over until I can get the act for the benefit of this Mr. Murray and see what the terms of that act were.

The PRESIDENT *pro tempore*. The bill will be laid aside by common consent.

CATHERINE MOCK.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 219) for the relief of Catherine Mock.

The bill provides for placing upon the pension-roll the name of Catherine Mock, of the city of Baltimore, widow of William H. Mock, who was ordnance sergeant, and died, at or near Fort Mifflin, in 1837, at the rate of eight dollars per month, to commence from and after the passage of this act and continue during her natural life.

The Committee on Pensions proposed to amend the bill by striking out the words "from and after the passage of this act" and inserting "from the 1st day of May, 1865."

Mr. FESSENDEN. I should like to hear the report in that case.

The Secretary read the following report, submitted by Mr. Stockton from the Committee on Pensions on the 23d of March last:

The Committee on Pensions, to whom was referred House bill No. 219, entitled "An act for the relief of Catherine Mock," respectfully report:

That it appears from the evidence before the committee that Catherine Mock is the widow of Mr. William H. Mock, who served with fidelity as a private soldier during the Florida war; that he reenlisted and was made ordnance sergeant at Fort Mifflin, on the Delaware, in 1836; that in November, 1837, he was drowned while attempting to cross the river to obtain supplies for the post. It further appears that said widow is now more than seventy years of age, afflicted, helpless, and destitute of all means of support; that it is barely possible she will live three months to enjoy the pension provided by the bill.

The committee think that the pension should be granted from the date when the claim came prominently before Congress. They therefore report the bill back with the following amendment: strike out in line nine, after the word "from," the words "and after the passage of this act," and insert the following words in place thereof, "the 1st day of May, 1865."

The committee recommend the passage of the bill as amended.

Mr. LANE, of Indiana. That amendment is simply this: the bill as it passed the House granted a pension to Mrs. Mock from and after the passage of this act; but it was thought by our committee—the report was made by Mr. Stockton—that the pension should commence from the time she filed her papers claiming the pension.

Mr. FESSENDEN. I should like to inquire

why she is not entitled to a pension under the general law with reference to pensions? Why does she not come within that law?

Mr. LANE, of Indiana. He was not killed in battle, as the Senator would have noticed if he had listened to the reading of the report.

Mr. FESSENDEN. I noticed that. Must they be killed in battle?

Mr. LANE, of Indiana. This man was drowned. A person must be killed in battle or die from wounds or disease contracted in the line of his duty in order to be entitled to a pension under the general pension law.

The amendment was agreed to.

Mr. FESSENDEN. Unless we are to establish a new principle that is to apply to all these cases, the other reason in the report is hardly one that can be given; and that is, that she is aged and infirm and needs this pension. That would take out of the Treasury in all cases money for those who happen to be infirm and aged. I should like to know of the chairman if the committee have established the principle that in all cases where the widows of soldiers are left in needy circumstances they are to receive a pension.

Mr. LANE, of Indiana. The committee have established no such principle; but they have established in this bill this principle: that if a man is drowned while he is in the service, and in the discharge of his duty, he is entitled to a pension, as much so as though he had been shot down in the face of the enemy.

Mr. FESSENDEN. Have you confined your bills to cases of that description?

Mr. LANE, of Indiana. Certainly we do. We do not go into general charities at all.

Mr. FESSENDEN. I will not object to it; but I think the last reason given in the report ought to be omitted, because it might make a bad precedent.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to a third reading, read the third time, and passed.

MRS. MARTHA STEVENS.

On motion of Mr. LANE, of Indiana, the bill (S. No. 237) granting a pension to Mrs. Martha Stevens, was read a second time and considered as in Committee of the Whole. The Secretary of the Interior, according to the bill, is to place the name of Mrs. Martha Stevens, widow of John F. Stevens, late deputy provost marshal of the fourth congressional district of the State of Indiana, on the pension-roll, at the rate of twenty dollars per month, to commence from the 10th day of June, 1863, and to continue during her widowhood.

Mr. LANE, of Indiana. There is a report in that case. Let it be read.

The Secretary read the following report, made by Mr. LANE, of Indiana, from the Committee on Pensions, on the 2d of April:

The Committee on Pensions, to whom was referred the petition of Martha Stevens, widow of the late John F. Stevens, of Greensburg, Indiana, having had the same under consideration, beg leave to report:

That John F. Stevens, late of Greensburg, Indiana, (the husband of the petitioner,) was in the month of June, 1863, in the employ of the Government as deputy provost marshal of Decatur county, in the fourth congressional district of said State; that he, as said deputy provost marshal, was ordered to proceed to Rush county, in said district, in command of a small detachment of troops to enforce the enrollment in said county, where there had been threatened resistance to its execution. On the 10th day of June, 1863, he proceeded to the execution of his orders, and while in the performance of his duties was fired upon by parties concealed in a wheat-field and instantly killed.

Under the above circumstances the committee believe that the petitioner should be placed on the roll of pensioners, and therefore report a bill for her relief.

Mr. LANE, of Indiana. The reason of this special legislation is that provost marshals were not embraced in any of our pension laws. It was an office unknown at the time they were enacted. This man was killed in the discharge of his duties, and one of his murderers died in jail. The proof of all the circumstances is very clear.

Mr. HENDRICKS. I feel a sympathy for this case, and shall vote for this bill, but I am not satisfied with the statement made by my

colleague. I was attorney for the parties who were arrested on the charge of this murder, and I think I am justified in saying that my colleague is mistaken in saying that they were the murderers. Who the murderers were is a thing entirely unknown in that community, and if the case had come to trial I expected most confidently the acquittal of the parties who were accused.

Mr. LANE, of Indiana. Of course I receive that explanation; the Senator lives in the immediate neighborhood; but there is no doubt about the facts in the case.

Mr. HENDRICKS. There is no doubt about the fact that Mr. Stevens, while in the discharge of his duty as provost marshal in that district, was shot, without any justification whatever. He was a kind man, and I never heard that he abused the powers of his office.

Mr. FESSENDEN. What is the rate of the pension to be given his widow?

Mr. LANE, of Indiana. His rank in the Army Register is that of captain, and we propose to give the widow the pension of a captain.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. AMARILLA COOK.

On motion of Mr. LANE, of Indiana, the bill (S. No. 238) granting a pension to Mrs. Amarilla Cook, was read a second time, and considered as in Committee of the Whole.

The name of Mrs. Amarilla Cook, widow of John B. Cook, late deputy provost marshal of the sixteenth congressional district of the State of Ohio, is by this bill to be placed on the pension-roll, at the rate of twenty dollars per month, to commence from the 5th day of March, 1865, and to continue during her widowhood.

Mr. JOHNSON. What is that for?

Mr. LANE, of Indiana. The circumstances in this case are very similar to the circumstances in the case just passed. Mr. Cook was a provost marshal, and was assassinated at his own door, and two of his murderers have since been hanged for his murder. The proof is all clear, and the committee thought that his widow was entitled to a pension. The pension is the pension of a captain.

Mr. FESSENDEN. Is there a report?

Mr. LANE, of Indiana. Yes, sir.

Mr. FESSENDEN. I should like to hear it read.

The Secretary then read the following report, made by Mr. LANE, of Indiana, from the Committee on Pensions, on the 2d of April:

The Committee on Pensions, to whom was referred the petition of citizens of Cambridge, Guernsey county, Ohio, praying that a pension be granted to Mrs. Amarilla Cook, having had the same under consideration, beg leave to report:

That Mrs. Amarilla Cook is the widow of John B. Cook, who was a deputy provost marshal of the sixteenth congressional district of the State of Ohio, and who was murdered at Cambridge, Ohio, on the 5th day of March, 1865, by Hiram Oliver and John W. Hartup, two deserters from the military service of the United States, whom he had attempted to arrest, and who went to his house and shot him down almost in the presence of his family, for which crime they were convicted and executed at Camp Chase on the 5th day of September, 1863.

The committee, believing that no more meritorious case has come before them, therefore report a bill for her relief.

Mr. FESSENDEN. He was not in the execution of his duty at the time he was murdered. The report states that these parties went to his house and shot him.

Mr. LANE, of Indiana. The report states, if the Senator noticed it, that he had undertaken to arrest two deserters but had not succeeded in making the arrest, and they subsequently proceeded to his house and shot him down, shortly after dark. The fact of his being in the discharge of his duty was surely the cause of his death, for he had gone there for the purpose of arresting them. We thought that he was clearly in the line of his duty, and that his widow ought to receive a pension.

Mr. FESSENDEN. I really think it is carrying the matter to a very considerable extent to grant pensions in any of these cases. Pro-

vost marshals can hardly be considered in the military service. They are civil officers to a very great degree. Here was a man who, being an officer, and perhaps because he was an officer, was murdered, but not while he was attempting to discharge his duties. Perhaps he was murdered to prevent his attempting it at some future time. This is establishing something of a precedent. We have not given pensions, in any case that I know of, for civil service. I should like to know exactly how these provost marshals stood. Were they mustered into the service as military officers?

Mr. LANE, of Indiana. Provost marshals, under the conscription act, were mustered into the military service of the United States, with the rank of captain, always wore the uniform, were always subject to orders, and they were charged with the execution of this conscription law. That was a part of their peculiar duties. It was also made their duty to arrest all deserters. Mr. Cook had gone from this village of Cambridge, I think, to arrest two deserters, but had not succeeded in their arrest. I believe they resisted the arrest. He had returned to his house, and shortly afterward they followed him there and shot him down at his own door, and were afterward hanged for the murder. I do not think any clearer case of merit will ever be presented to the Senate. I think his death was clearly occasioned by the discharge of his duty.

Mr. FESSENDEN. I am not disputing that; but I will ask the Senator how many of these cases he has got.

Mr. LANE, of Indiana. These are the only two that I know of in the United States. They were the only two brought before us, and are almost identical in character.

Mr. FESSENDEN. You say that this man was mustered into the military service?

Mr. LANE, of Indiana. Yes, sir; and they were charged expressly with the execution of this law. That was their express duty.

Mr. FESSENDEN. I make no objection to it.

Mr. LANE, of Indiana. I may be incorrect in the fact that they were actually mustered, but they were commissioned and ordered to report to the nearest military commander.

Mr. FESSENDEN. Then I suppose they are to be considered as in the discharge of military duty.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time; and passed.

MRS. ALTAZERA L. WILLCOX.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 264) granting a pension to Mrs. Altazera L. Willcox, of Chenango county, in the State of New York.

The bill provides for placing the name of Altazera L. Willcox, of Chenango county, in the State of New York, widow of William Willcox, late a private in company B, in the one hundred and fourteenth regiment New York volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from and after the passage of the act, and to continue during her widowhood.

Mr. FESSENDEN. I should like to hear the report in that case.

The Secretary read the report made by the Committee on Invalid Pensions in the House of Representatives, from which it appears that William Willcox, the late husband of the petitioner, enlisted in the one hundred and fourteenth regiment New York infantry volunteers, and was regularly mustered into the service of the United States on the 11th of August, 1862, to serve three years or during the war, in the town of Norwich, Chenango county, New York. He served with his regiment until some time in the spring of 1864, when he was sent to the general hospital at the barracks near New Orleans in consequence of chronic diarrhoea, which disease was contracted while in the line of duty. On the 23d of May, 1864, he received a sick

furlough, and embarked the same day on the Government steamer Pocahontas for his home in New York. On the night of June 1, 1864, the steamer Pocahontas collided with the steamer City of Bath off the coast of New Jersey, and sunk, carrying down with her some forty persons, among whom was William Willcox. It also appears that the petitioner and William Willcox were married to each other on the 12th of September, 1848. In view of these facts the committee recommend the passage of a bill granting a pension to the petitioner at the rate of eight dollars per month to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

JOHN HOFFMAN.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 265) granting a pension to John Hoffman. By its provisions John Hoffman is to be placed on the pension-roll; at the rate of eight dollars per month, to commence from and after the passage of the act, and to continue during his natural life.

Mr. FESSENDEN. Let us hear the report in that case.

The Secretary read the report made by the Committee on Invalid Pensions in the House of Representatives. It appears from the evidence that the petitioner enlisted in the United States marine service at Philadelphia on the 16th day of August, 1827, and was placed on board the United States schooner Grampus, which vessel sailed soon after for the Gulf of Mexico. While serving on the Grampus at Pensacola the petitioner appears to have been taken to the hospital on two occasions for disease contracted in the line of his duty, and was finally discharged at New York on the 6th day of May, 1830, upon the recommendation of his commanding officer. It is alleged, and well established by the testimony of respectable persons who have known him for a long time, that he never recovered from the disease contracted on ship-board. The petitioner is aged and in very destitute circumstances. The committee therefore report a bill for his relief and recommend its passage.

Mr. GRIMES. Do you not propose to pay him this pension out of the naval pension fund?

Mr. LANE, of Indiana. No, sir; the bill merely directs the Secretary of the Interior to place his name on the pension-rolls, and he is to be paid out of the general fund.

Mr. GRIMES. We are very much obliged to the Senator. There is about eleven or twelve million dollars in the naval pension fund, and it could well afford to pay this pension.

Mr. LANE, of Indiana. I have no doubt about that, but the difficulty we had on the subject was that he is not now in the naval service.

Mr. GRIMES. I thought he was on board the Grampus?

Mr. LANE, of Indiana. He had been discharged for a great many years from the Navy, and was not in the Navy when he made his application, and I supposed we ought to put it on the general fund. I have no objection to letting it be paid out of the naval fund if the Senator will move that amendment.

Mr. GRIMES. How long ago did he contract this disease?

Mr. LANE, of Indiana. Some thirty years ago.

Mr. GRIMES. What was the disease?

Mr. LANE, of Indiana. The report will show.

Mr. GRIMES. It does not state what it was. I ask for the reading of that portion of the report again.

The Secretary read, as follows:

"While serving on the Grampus at Pensacola, the petitioner appears to have been admitted to the hospital on two occasions of diseases contracted while in the line of his duty."

Mr. JOHNSON. That does not state what the disease was.

Mr. LANE, of Indiana. The papers in the case state it. It was not a very genteel disease, but a very disagreeable one. We did not think it necessary to specify it in the report.

Mr. GRIMES. Was it contracted in the line of his duty?

Mr. LANE, of Indiana. Yes, sir; when changing the cables.

Mr. FESSENDEN. I really think this bill ought not to pass. It is a very old affair.

Mr. LANE, of Indiana. There seems to be some difficulty about the bill, and I move that it be laid aside for the present until I get one of the New York Senators to look into it, and shall call it up some other time.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed.

The motion was agreed to.

AGNES W. LAUGHLIN.

Mr. LANE, of Indiana. I move now to take up for consideration Senate bill No. 241.

The motion was agreed to; and the bill (S. No. 241) directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner, was read the second time and considered as in Committee of the Whole. It proposes to direct the Commissioner of Pensions to enroll Agnes W. Laughlin, widow of William Laughlin, deceased, late a private in company C, third Indiana cavalry, as entitled to a pension from the 1st of January, 1865.

Mr. LANE, of Indiana. Let the Secretary read the report.

The Secretary read the report made by Mr. DAVIS, from the Committee on Pensions, by which it appears that William Laughlin was a private in company C of the third Indiana cavalry; in December, 1864, he was in actual service and sick in hospital at New Orleans, and was ordered to be transferred to a hospital in Indiana. A short furlough was granted him, and he went on board the United States vessel North America, to proceed to New York city. There were about seven hundred soldiers on board of this steamer for this trip; but before she reached her destined port she sunk, and most of the soldiers, including Laughlin, perished. His widow, under these circumstances, applies for a pension, and the committee think the case meritorious.

Mr. GRIMES. Is not the Secretary of the Interior the officer whom we direct to pay pensions?

Mr. LANE, of Indiana. Yes, sir.

Mr. GRIMES. I see that the bill is directed to the Commissioner of Pensions.

Mr. LANE, of Indiana. I move to amend the bill by substituting "the Secretary of the Interior" instead of "the Commissioner of Pensions."

The amendment was agreed to.

Mr. LANE, of Indiana. I observe that by an oversight the bill contains no limitation as to the duration of the pension. I move to amend the bill by adding the words "to continue during her widowhood."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

ISABELLA FOGG.

Mr. LANE, of Indiana. I move now to take up for consideration the bill (H. R. No. 266) granting a pension to Isabella Fogg, of the State of Maine.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Mrs. Isabella Fogg on the pension-roll, at the rate of eight dollars per month, to commence from and after the passage of the act and to continue for her natural life, she having been totally disabled while acting as nurse on board the United States hospital boat near Louisville, in the State of Kentucky.

Mr. JOHNSON. Has there been any limitation in the bills we have been passing confining the pensions to the widowhood of the pensioners?

Mr. LANE, of Indiana. There is that limitation in the bills generally; but it is not applicable to this case. The case is an exceedingly meritorious one. This lady nursed through the whole war without compensation, and her health was entirely broken down. She has letters from General Grant, General Sherman, General Meade, and all the commanding officers, recommending her as a most estimable lady of the highest character. The report of physicians is that she will probably not draw the pension six months.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. EMERANCE GOULER.

Mr. LANE, of Indiana. I move that the Senate now proceed to the consideration of the bill (S. No. 260) granting a pension to Mrs. Emerance Gouler.

The motion was agreed to; and the bill was read the second time and considered as in Committee of the Whole. By its provisions the Secretary of the Interior will be directed to place the name of Mrs. Emerance Gouler, widow of Charles Gouler, late a private in company F, ninth New Hampshire volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the passage of the bill and to continue during her widowhood.

Mr. JOHNSON. I ask for the reading of the report in that case.

The Secretary read the following report, which was made by Mr. LANE, of Indiana, on the 10th instant:

The Committee on Pensions, to whom were referred the petition and papers of Emerance Gouler, have had the same under consideration, and report:

It appears from the evidence in this case that Charles Gouler, the husband of the petitioner, was a private in company F, ninth regiment New Hampshire volunteers, and was admitted to Satterlee United States general hospital, Pennsylvania, on the 28th of May, 1864, suffering from fever. That on the 8th of October following he received a pass from said hospital to leave the premises for a few hours, and that no information was afterward received concerning him until November 29, 1864, when it was stated by soldiers that he had been drowned. Upon an investigation by a coroner over the body of a soldier found in the Delaware river at Pine street wharf, Philadelphia, Pennsylvania, October 14, 1864, he was identified by the pass and other papers found on the body.

The committee are of opinion that this is a meritorious case, and that under the circumstances the petitioner should receive a pension. They therefore report a bill for her relief.

Mr. JOHNSON. How came he to be drowned?

Mr. LANE, of Indiana. He was in hospital and received a sick leave to go out a few hours into the city, and never was heard of any more until he was found in the Delaware river and identified by the passes on his person. Nobody can tell how he came into the river.

Mr. GRIMES. What was the verdict of the coroner's jury?

Mr. LANE, of Indiana. The verdict of the coroner's jury identified the body as that of the soldier who had left the hospital, and gave his name. He was identified by the passes on his person.

Mr. JOHNSON. He was not drowned because he was a soldier.

Mr. LANE, of Indiana. He was not drowned because he was a soldier, but he had received his furlough from his commanding officer, in hospital, to go away for a few hours on sick leave. He was clearly in the service of the country; for we have always regarded men on furlough as continuing in the service. These are the facts of the case. The Senate can do with the bill just as they choose.

Mr. FESSENDEN. This bill ought not to be passed, I think.

Mr. LANE, of Indiana. This is a pension to the widow; we think the man was drowned in the line of his duty.

Mr. FESSENDEN. He might have committed suicide, and in that way deprived the Government willfully of his services.

• Mr. LANE, of Indiana. He was in the service of the country until he was discharged. While he was on furlough he was in the service.

Mr. FESSENDEN. He might have got drunk while on furlough.

Mr. LANE, of Indiana. That may be true. These facts can never be explained further than the report goes. I think it a clear case for a pension. The committee were unanimous, and I believe the committee of the House have also agreed to report a bill in this case.

Mr. VAN WINKLE. I believe that by law where a soldier absent on sick leave or on furlough comes to his death his widow is entitled to a pension. This case differs from that. It was not a case of sick leave or furlough, but it was a mere permission for a convalescent to leave the hospital for a few hours. He did so and did not return. Some eight or ten days after his body was found floating in the Delaware river. The pass and other papers in his possession fully identified him as the man. There were no signs of violence on his body, and it may have been a case of accidental drowning.

Mr. FESSENDEN. Does the Senator from Indiana insist on pushing the bill?

Mr. LANE, of Indiana. I think it is right. I have no interest in pushing it; I do not know any of the parties; but it struck the committee as being a fair case. A soldier is in the service of the country until he is properly discharged. A sick leave or a furlough never discharges the soldier from the service. This man came to his death accidentally by drowning. He was a sick soldier and may have fallen into the water accidentally. We cannot tell how that was. At all events he was a soldier in the service of his country, and we think his widow entitled to a pension. His sickness was in the line of his duty; he had been in the hospital several days. The manner of his drowning can never be proved any more than it is now.

The bill was reported to the Senate, ordered to be engrossed for a third reading, and was read the third time.

Mr. FESSENDEN. I hope the Senate will not pass the bill.

The bill was passed.

SARAH E. WILSON.

Mr. LANE, of Indiana. I move now to take up the bill (S. No. 252) granting a pension to Mrs. Sarah E. Wilson.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole.

It provides for placing the name of Mrs. Sarah E. Wilson, widow of William H. Wilson, late acting surgeon United States volunteers, on the pension-roll, at the rate of seventeen dollars per month, to commence from the passage of the bill and to continue during her widowhood.

Mr. GRIMES. I should like to hear the report in that case.

The Secretary read the report made by Mr. KIRKWOOD on the 6th instant, as follows:

The Committee on Pensions, to whom was referred the application of Sarah E. Wilson, have had the same under consideration, and ask leave to submit the following report:

William H. Wilson, the husband of the applicant, was sergeant of company I, eighty-second regiment New York volunteers; that he was a practicing physician and surgeon of good standing in his profession; that at the battle of Bull Run, July 21, 1861, he was detailed to act in his professional capacity on the field; that while so acting he was taken prisoner by the enemy; that he remained in the hands of the enemy as a prisoner until the fall of that year, when he was paroled and returned to his home; that at the battle of Antietam, being still unexchanged, he reported to the proper authorities at Washington in his professional capacity, and was sent to the battlefield to assist in caring for the wounded; that he discharged that duty faithfully and well, and while in the discharge thereof contracted the disease whereof he died March 22, 1863.

The committee report the accompanying bill and recommend its passage.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

W. H. TINKER AND J. P. McELROY.

Mr. LANE, of Indiana. I move next to take up the bill (S. No. 76) to grant pensions to Walter H. Tinker and John P. McElroy, of Missouri.

The motion was agreed to.

Mr. LANE, of Indiana. The Committee on Pensions made an adverse report in the case, because it is covered by the provisions of the general law. I move that the bill be indefinitely postponed.

The motion was agreed to.

NICHOLAS HIBNER.

Mr. LANE, of Indiana. I move to take up the bill (S. No. 446) for the relief of Nicholas Hibner, late a private in the sixth regiment Missouri State militia.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

It is to direct the Secretary of the Interior to place the name of Nicholas Hibner, of Caldwell county, Missouri, and late a private in the sixth regiment (cavalry) Missouri State militia, commanded by Colonel Catherwood, upon the list of pensioners at the rate of eight dollars per month, to commence on the passage of this act, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

SARAH E. PICKELL.

Mr. LANE, of Indiana. I move to take up House bill No. 458, granting a pension to Sarah E. Pickell.

The motion was agreed to.

Mr. LANE, of Indiana. That bill was reported adversely, and I move that it be indefinitely postponed.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

Mr. GRIMES. I move that when the Senate adjourn to-day, it be to meet on Monday next.

Mr. MORRILL. On that motion I desire to read a communication upon which I may base a motion. I have had addressed to me a communication from certain persons who sign themselves an executive committee of the colored Union League in this city. I have been very much troubled to know what to do with it, but the Senator's motion offers me an opportunity to read it to the Senate, and then I propose to base a motion upon it. It is:

Whereas the 16th of April will be the anniversary of the abolition of slavery in the District of Columbia; and whereas colored citizens of the District are desirous of commemorating the great triumph of free and Christian principles over the wicked power of slavery and treason: Therefore,

Resolved, That we celebrate the said day with appropriate ceremonies.

Resolved, That looking to Congress as the sincere defenders of free and Christian principles, and as our true friends and protector in the trials and dangers with which we are surrounded, we respectfully ask that body to participate in the celebration of the anniversary of our emancipation.

Resolved, That a copy of these resolutions be presented to both branches of Congress.

We leave it to your honorable body to decide in what way and manner the said day shall be celebrated.

Very respectfully, J. L. HICKMAN,

Executive Committee of the Colored Union League.

The 16th of April coming on Monday, I propose to amend the motion of the Senator from Iowa, so that when the Senate adjourns to-day it adjourn to meet on Tuesday next. I submit that amendment in order to test the sense of the Senate on the communication which I have felt it my duty to read to the Senate. I simply bring the communication to the consideration of the Senate in this way with a view to taking the sense of the Senate on the subject. I do not wish to press it unnecessarily.

Several SENATORS. Do not press that.

Mr. MORRILL. Very well; I withdraw my amendment.

The PRESIDENT *pro tempore*. The amendment being withdrawn the question is on the motion of the Senator from Iowa, that when the Senate adjourn to-day it be to meet on Monday next.

The motion was agreed to.

ANNIVERSARY OF THE ABOLITION OF SLAVERY.

Mr. MORRILL. I now present to the Senate the communication which I have just read, and I move that it be referred to the Committee on the District of Columbia.

The motion was agreed to.

DISTRICT SUFFRAGE.

Mr. SPRAGUE. Mr. President, I ask the consent of the Senate, and the indulgence of the honorable chairman of the Committee on the District of Columbia, to elicit an answer to the following question: when is it his intention to press upon the attention of the Senate the bill conferring the right to vote upon the colored men in the District of Columbia? I believe, sir, that in this question there is a solution of the problem of reconstruction, if favorably considered by the Senate. I am in favor of voting, with no restrictions or reservations except the qualification of honest manhood. Educational qualifications may draw to the support of the question the weak and the timid. I am not, I hope, of that class.

While I am absorbed with the conviction that the bonded-warehouse system is detrimental to the interests of the country, and while I know that the delay in relieving the industry of the country from the burden of taxation now embarrasses every trade and our many agricultural and manufacturing interests, I yet am profoundly convinced that this subject is paramount in importance to all others. I therefore hope that the Senator from Maine will without delay ask the attention of the Senate to the House bill granting suffrage to the colored men of the District of Columbia. I shall be glad if he can at this time designate a day when he will move the Senate to the consideration of this important national question, and that he and the Senate will support the House bill granting the right of suffrage to the colored citizens of the District without reservation or restriction of any kind.

When that question is brought before the Senate I shall take an opportunity to show that upon the granting of the privilege of voting to the colored citizens in the southern States depends the maintenance of the Union, the power of the country, and the permanence of a republican form of government.

Mr. MORRILL. It will be remembered, perhaps, that the Committee on the District of Columbia reported the bill to which allusion is made some weeks ago, and at that time an attempt was made to bring the measure before the Senate, but there were several other measures considered of such importance as to justify, in the judgment of the Senate, their consideration at that time, which necessarily excluded the consideration of this bill. It has been my purpose from that time to the present to embrace the first opportunity to present the subject anew to the Senate, and I will say to my honorable friend from Rhode Island that at an early day I shall endeavor to call up the measure and press it on the consideration of the Senate.

VIRGINIA K. V. MOORE.

Mr. LANE, of Indiana. I move now to take up for consideration the bill (H. R. No. 267) granting a pension to Virginia K. V. Moore.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Virginia K. V. Moore, daughter of Richard D. Moore, deceased, late of company K, seventy-second regiment Illinois volunteers, on the list of invalid pensioners, and pay to her, or her legally appointed guardian, the sum of eight dollars per month from December 3, 1863, the date of the death of Richard D. Moore, until she shall have attained the age of sixteen years.

Mr. FESSENDEN. I should like to know what the precedent is for that.

Mr. LANE, of Indiana. Let the report be read.

The Secretary read the report made by the Committee on Invalid Pensions of the House of Representatives, by which it appeared that

Richard D. Moore entered the service of the United States in 1862, and that he was discharged on the 18th of August, 1863, on the certificate of an Army surgeon, for disability. The certificate sets forth that Moore had disease of the lungs, and that, in the surgeon's opinion, he had that disease at the time he entered the service. Private Moore died at the Sisters of Mercy hospital in Chicago, December 3, 1863, leaving no wife, but one minor child. Virginia K. V. Moore, aged about seven years and five months. By the certificate of Lieutenant Allison, commanding the company of the deceased, it is shown that at the time of entering the service he was in good health, but on or about the 30th of July, 1862, he was taken sick, while in the line of his duty, with chronic diarrhoea, and placed in hospital, and he was discharged in 1863 on account of that sickness for which he went to the hospital in Chicago. By the affidavit of the attending physician of that hospital, it appears that he died of chronic diarrhoea contracted while in the service of the United States, and that he had no other disease at the time of his death. The committee being of the opinion that he died from sickness contracted while in the line of his duty, recommend the passage of the bill granting a pension to his daughter.

Mr. FESSENDEN. Is there any precedent for such an allowance?

Mr. VAN WINKLE. I will explain the case in a moment. It comes to Congress on account of what is undoubtedly a false or mistaken report made by a medical officer of the Army. My own impression, after a very attentive examination of all the evidence in the case, is that it was a mistake on the part of that surgeon, who is since dead, calling this man's disease consumption, or *phthisis pulmonaris*, as he expressed it, and he said the man was so disabled when he came into the Army. There is a mass of evidence to the contrary. His commanding officer certifies that he was a well man; his neighbors certify that he was a well man. There is a letter written by him while on the march to Vicksburg, which succeeded in the taking of that place, enumerating the hardships which the Army encountered in getting there; and there were some most cruel hardships to which they were subjected. In that letter he says that when he joined the Army his weight was one hundred and sixty-eight pounds, which is a heavy weight, I should suppose, for a man afflicted with consumption, and that it had by that time been reduced to one hundred and forty-seven pounds. He acquitted himself most nobly at the siege of Vicksburg, as the testimony of his commanding officer shows; but at that time he was attacked with a disease that is mentioned in the papers. He continued there for some time, still suffering from that disease, and was then removed to the Mercy hospital, at Chicago, where he remained until he died. There are among the papers letters from himself, written from that point, in which, although he does not speak directly of his disease, he describes it, so that evidently it was not consumption, but the disease mentioned in the report. The surgeon attending the patients in the hospital of the Sisters of Mercy makes a very distinct affidavit that the man suffered while there, and died, finally, of that disease—chronic diarrhoea.

It seems, from all this testimony, that the Army surgeon, as I have already stated, must have been mistaken. Perhaps it resulted from some confusion about the man. It is that point alone which prevented the Commissioner of Pensions from granting the pension in this case; and I believe there is in the papers a letter from the Commissioner of Pensions recommending the case to the consideration of Congress. They are very strict and very technical at the Pension Office, and we have had before our committee numerous cases where pensions have been refused merely upon a technicality. This is one such, or you may call it a case of conflict of evidence, if you please; but I think that in the absence of a certificate from the surgeon of the corps to which he belonged the

testimony of his commanding officer ought to be taken. He has not only that, but he has the confirmation of the other surgeon of whom I have spoken, and the testimony of his neighbors and friends; and lastly, there is a letter from a gentleman who conversed with the Sisters of Mercy, in charge of the hospital, who told him that that was the disease with which he was afflicted and of which he died.

Mr. FESSENDEN. My question did not go to the matter of the disease. I asked whether there were precedents for granting pensions to children.

Mr. VAN WINKLE. Yes, sir.

Mr. LANE, of Indiana. Under the pension law, pensions are continued to minor children under sixteen years of age.

Mr. FESSENDEN. Is that the general law?

Mr. LANE, of Indiana. It is.

Mr. VAN WINKLE. Where there is no widow.

Mr. LANE, of Indiana. There is no widow here; the proof shows that.

Mr. FESSENDEN. Are they granted to the children of all who are killed or die of disease contracted in the service?

Mr. LANE, of Indiana. Yes, sir; where there is no widow, to minor children up to sixteen years of age. Then the pension stops.

Mr. VAN WINKLE. The pension is divided among them. This man was a remarkably intelligent man; his letters show it; he was for a time a war correspondent of the New York Herald. His wife died before the war, and he seems from the time of her death to have been leading a wandering life.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

LEWIS W. DIETRICH.

Mr. LANE, of Indiana. I move now to take up the bill (H. R. No. 444) granting pension to Lewis W. Dietrich.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

It directs the Secretary of the Interior to place the name of Lewis W. Dietrich, late a second lieutenant of company E, thirtieth regiment United States colored troops, on the pension-list, and to pay him a pension at the rate of fifteen dollars per month.

Mr. LANE, of Indiana. Let the report in this case be read; I have forgotten the circumstances.

The Secretary read the report made by the House Committee on Invalid Pensions, by which it appeared that Lieutenant Dietrich, while on duty in the field in front of Petersburg, and while in the act of cleaning his pistol, on the 11th of October, 1864, was severely wounded in the hand by its accidental discharge, and that subsequently, from the nature of the wound, it became necessary to submit to an amputation of his hand, and by reason of disability he was honorably discharged the service. The committee, believing that the wound of Lieutenant Dietrich was an incident of the service in which he was engaged, regarded him as entitled to a pension.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ELIZABETH YORK.

On motion of Mr. LANE, of Indiana, the bill (H. R. No. 443) granting a pension to Mrs. Elizabeth York, widow of Shubal York, late surgeon in the fifty-fourth regiment Illinois infantry volunteers, was considered as in Committee of the Whole.

The bill provides for placing the name of Elizabeth York, widow of Shubal York, late a surgeon in the fifty-fourth regiment Illinois volunteer infantry, on the pension-rolls, at the rate of twenty-five dollars per month, to commence from and after the passage of this act, and to continue during her widowhood.

Mr. GRIMES. Let the report be read.

The Secretary read the report made by the Committee on Invalid Pensions of the House

of Representatives, from which it appeared that during Surgeon York's service, on the 28th of March, 1864, he was shot and killed at Charlestown, Coles county, Illinois, by disloyal citizens of that vicinity, he being at the time on a journey from his home to rejoin his regiment, he being in no respect in fault, but his death being caused by a wanton and unprovoked attack upon him and other soldiers by rebel citizens in that locality.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

BETSEY NASH.

On motion of Mr. LANE, of Indiana, the bill (H. R. No. 445) for the relief of the legal representatives of Betsey Nash, was considered as in Committee of the Whole.

The bill proposes to extend the provisions of the act of Congress, approved March 3, 1857, for the relief of Betsey Nash, to her legal representatives, and the amount appropriated by that act is directed to be paid to them; but the sum paid by virtue of this act is not to exceed the amount due Betsey Nash at the time of her death.

Mr. FESSENDEN. I understand that there have been adverse reports in this case.

Mr. LANE, of Indiana. The bill comes from the House of Representatives; I do not know that it has ever been in the Senate.

Mr. FESSENDEN. I understand that it has been reported on adversely heretofore.

Mr. GRIMES. I do not see any reason why the pension should be extended to the legal representatives.

Mr. LANE, of Indiana. If there is any objection to the bill I am willing to let it lie over.

Mr. FESSENDEN. I think it had better lie over.

Mr. LANE, of Indiana. The committee thought that the report made in the House of Representatives was satisfactory.

Mr. VAN WINKLE. It does not appear that there has been any adverse report.

Mr. LANE, of Indiana. I move that the bill be postponed for the present.

The motion was agreed to.

THOMAS HURLY.

Mr. LANE, of Indiana. I move to take up the bill (H. R. No. 25) for the relief of Thomas Hurly.

The motion was agreed to; and the bill was considered as in Committee of the Whole.

The Secretary of the Interior is directed by the bill to place the name of Thomas Hurly, late a private of company K, eighth Tennessee cavalry, upon the pension-rolls, at the rate of twenty dollars per month, from and after the passage of this act, and to continue during his natural life.

Mr. GRIMES. Let the report be read.

The Secretary read the report of the House Committee on Invalid Pensions, by which it appeared that Thomas Hurly while in the line of his duty was taken prisoner by the enemy at Bull's Gap, East Tennessee, was paroled and sent to Camp Chase, Ohio, from which place a furlough of thirty days was granted him to visit his home at Binghamton, New York. He was very weak and feeble from starvation and confinement at Danville prison. While on the Cleveland and Erie railroad being unable to obtain a seat he felt faint and went upon the platform of the car to get some fresh air, when feeling still faint and attempting to sit down he fell from the platform and was run over by the cars, in consequence of which accident his legs were amputated, March 7, 1865, and he was mustered out of service July 17, 1865. The committee deem his case an eminently just one, and report a bill for his relief.

Mr. FESSENDEN. I shall not make any opposition to the bill; I do not wish to do so; but I have always understood that the rule was imperative not to grant pensions to soldiers or officers who met with an accident while away

on a visit. I know of a case in my own State where an officer, and a very meritorious one, had leave of absence to go to New Orleans, and on the way he was drowned; the vessel was blown up or burst her boilers or something of that kind; and a pension was denied. I suppose that must be the general rule, and for that reason this special bill is introduced.

Mr. LANE, of Indiana. Yes, sir.

Mr. FESSENDEN. If this is to be passed, I suppose there will be a great many other cases of a similar description. I know that was a very severe case because the man left a family.

Mr. LANE, of Indiana. We have a bill which the Senator from West Virginia will call up in a few minutes to apply to all cases of a furlough, so that we shall have no more special legislation on this subject, but a general law.

Mr. FESSENDEN. Why not let this case and all others of this description come under that general law?

Mr. LANE, of Indiana. This bill has already passed the House of Representatives and will go into operation sooner.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANN SHEEHY.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 461) granting a pension to Ann Sheehy.

By the bill the Secretary of the Interior is directed to place the name of Ann Sheehy, of Boston, Massachusetts, on the roll of invalid pensions, and pay or cause to be paid to her the sum of eight dollars per month during her widowhood; and the proper accounting officers of the Treasury are directed to settle and adjust the accounts of John Sheehy, late a private in company D, twenty-eighth Massachusetts volunteers, and pay to Ann Sheehy the amount that may be found to have been due him on the 3d day of July, 1863, the date of his death.

The Secretary read the report of the House Committee on Invalid Pensions, from which it appears that Ann Sheehy is the step-mother of John Sheehy, late a private of company D, twenty-eighth Massachusetts volunteers. Ann married the father of John in 1850, at which time John was but six years of age, when she took charge of him and discharged all the duties to him of a mother. In 1857 the father of John died, leaving him entirely dependent on his step-mother for support. On the 22d of November, 1861, he enlisted in the twenty-eighth Massachusetts volunteers, and about this time the step-mother and all the family became dependent on the son. On July 3, 1863, he was killed while in the line of duty at the battle of Gettysburg, Pennsylvania, leaving no relative in this country. The committee believe that the duties performed by Ann Sheehy of a mother come within the reason of the law granting pensions to mothers dependent upon sons killed in service, and therefore recommend the passage of the bill.

Mr. FESSENDEN. I ask if the committee design to extend all these cases to the step-mother. Has that been usual?

Mr. LANE, of Indiana. It has never been done before; it is a departure from the rule; but the circumstances appeared so peculiar that we thought it an appropriate case.

Mr. FESSENDEN. There are a great many other peculiar circumstances.

Mr. LANE, of Indiana. She took this boy when he was six years old and raised and supported him until he got large enough to go into the Army. He went into the Army and was killed. Before his entering the Army her health failed entirely, and he supported her up to the time he entered the service. He was killed in the service; and although she is a step-mother I do not see why the law should not be made to apply to her. She performed all the duties of a mother for some fifteen years in raising him. The papers show him to have been a good young man; he supported her when her

health failed until he was killed, and the simple question is, whether we shall put a step-mother on the same footing that his real mother would have been put. His real mother would have been embraced, but the step-mother is not, in the present law.

Mr. SHERMAN. I do not want to reject one of these cases, but this is extending the principle very far, and the argument would apply just as strongly in case this woman had been an aunt or even a person not connected by blood or marriage. We have never extended pensions so far as this and I am disinclined to enter on this principle.

Mr. FESSENDEN. I think the bill had better be passed over and settled in a full Senate. We can settle it better then than now, at any rate.

Mr. LANE, of Indiana. I move that the bill be laid aside for the present. It does introduce a new principle, no doubt.

The motion was agreed to.

MRS. ANNA G. GASTON.

On motion of Mr. LANE, of Indiana, the bill (S. No. 261) for the relief of Mrs. Anna G. Gaston was read the second time, and considered as in Committee of the Whole.

It directs the Secretary of the Interior to place upon the pension-roll the name of Mrs. Anna G. Gaston, of the city of Washington, widow of Albert G. Gaston, deceased, late a lieutenant in the sixteenth regiment of Virginia volunteers, from the date of the discharge of her husband from the military service of the United States on account of disability arising from disease contracted in the service until the date of his death, namely, from the 5th of May, 1863, to the 7th of February, 1865, and to cause to be paid to her a pension at the rate of seventeen dollars per month for that term, without prejudice to the pension heretofore allowed her by the Commissioner of Pensions.

Mr. GRIMES. Let the report be read.

The Secretary read the following report, made by Mr. VAN WINKLE, from the Committee on Pensions, on the 11th of April:

The Committee on Pensions, to whom was referred the petition of Mrs. Anna G. Gaston, of the city of Washington, District of Columbia, widow of Albert G. Gaston, late a lieutenant in the sixteenth regiment of Virginia volunteers, respectfully report:

That the petitioner has been placed upon the pension-roll, and has drawn and is still drawing a pension of seventeen dollars per month since the 17th day of February, in the year 1865, but that her husband was honorably discharged on the 5th day of May, 1863, for disability arising from severe disease contracted in the service and in the line of duty, and the petitioner prays that she may be allowed a pension at the above rate from the time of her husband's discharge until his death. The tenth section of the supplementary pension act of 1864 provides, in substance, that if any person entitled to an invalid pension under the act of 1862 shall die while his application for such pension is pending, leaving a widow entitled to receive a pension by reason of his service and death, the pension to such widow shall commence from the date at which the decedent's invalid pension would have commenced had he survived.

It appears from the testimony filed with the petition that the decedent, from the time of his discharge until his death, remained at his home in this city in a low and almost helpless state, but that he nevertheless initiated measures to obtain his pension by the employment of an agent to prepare the necessary papers and bring them to him for his signature, and as he was growing worse from day to day, manifested great solicitude and anxiety on the subject. The papers were not prepared by the agent, and consequently no application for his pension was made by the decedent.

The committee, believing that this case is clearly within the spirit, if not the letter, of the said tenth section of the act of 1864, inasmuch as the decedent's preparations to make his application were in progress at the time of his death, and he unable, from the rapid progress of his disease, to give the matter his personal superintendence, or otherwise hasten it, respectfully recommend the passage of the accompanying bill.

Mr. FESSENDEN. I think the Senator from Indiana had better consent to lay that bill aside. It also establishes a new rule entirely.

Mr. VAN WINKLE. During my connection with the Pension Committee there have certainly been all the time cases where a party has been deprived of a pension simply by some technicality, or because as in this case for some reason he was not just in time. This man was in the service and contracted a disease from

lying on the ground and exposure, and lay an invalid on his bed. During the interval that elapsed from his being honorably discharged from the service as disabled and the time of his death, he was very sick indeed, scarcely able to help himself. During that time, however, he endeavored to have an application made to the Pension Office. He employed an agent to prepare his papers, but that agent it seems moved away, or for some reason could not be found. He was greatly solicitous about it, and sent his wife and others to find the agent. They could not learn where he went except that he had gone to the State of Connecticut; they did not know to what particular place. The party was doing all he could to have his application entered at the Pension Office, and perhaps if he had lived three days longer the application might have been filed there, and then the widow would have been entitled to the pension for the whole time. The case is very clear. The Commissioner of Pensions has allowed the widow a pension dating from his death, and the law as quoted in the report is express that where the application is pending at the time of the death the pension relates back to the time of the disability. If, as we consider, this is a debt which we owe to these soldiers, we ought not to take advantage of what could not have been their negligence under the circumstances.

Mr. FESSENDEN. How much time does it cover?

Mr. GRIMES. I understand the Senator to lay down the rule that this is justice to all. Then why not change your law and make it so? Why say that this particular woman shall be entitled to a pension for these two years that elapsed before the application was actually perfected, when you do not make the same allowance to soldiers who happen to be remote from this place, and who have greater disadvantages in securing pensions than these people?

Mr. VAN WINKLE. The Senator does not understand the case. This widow applied for a pension and received it from the date of her husband's death. If he had made the application during his lifetime, the law would have made her pension commence from the date of his disability. If the agent had done his duty he might have filed the papers in ten days. They are perfectly clear, so that the pension was at once granted by the Commissioner upon them. The proof of marriage and everything else is complete.

Mr. GRIMES. I have no doubt there are ten thousand cases, and more too, in the United States, where there is more or less time, one year or two or three years, between the period when the person who rendered the service dies and the time when the widow or surviving heirs make their application. As I understand it, we settle, in this instance, if we pass this bill, a rule by which we are to be governed in the future, that in such cases as that we shall pay pension between the time at which the parties might have applied and the time at which they did actually apply and secure the pension.

Mr. VAN WINKLE. There is a law that in certain cases an application must be made within three years, or otherwise the pension commences only from the time the proof is completed. That is intended, of course, as a safeguard to induce people to come forward at the proper time. But here the party endeavored to make his application. He was a poor sick man, lying on his bed, utterly helpless. He brought his case so near completion that a day or two might have completed it, or it might have been done if this agent had returned to the city before his death. If, as I said before, we consider that this is at all a debt which we owe to these men—and I consider it so to whatever extent the law gives it to them—I do not think we ought to take advantage of a little lapse of time in this way, when the party himself was not and could not have been in fault. If it had been a case of voluntary delay; if he had made no effort to have his application

presented, then I should have nothing to say in favor of the claim.

Mr. GRIMES. I am not speaking now in regard to this case particularly; but if we are to be governed by those humane motives to which the Senator from West Virginia alludes, I want to have the principle apply to other cases as well as this particular one, and I want the Senator, as a member of the Committee on Pensions, to allow other soldiers or the widows of other soldiers to recover their pensions between the time that they may claim that they attempted to secure their pensions and the time they actually did secure them. We give to this woman three or four hundred dollars, as I understand it, by this bill; that is a mere bagatelle; but we settle a principle that we must be governed by in the future, contrary to the precedent that has hitherto existed and by which we have been governed before. I do not understand that the Senator from West Virginia controverts that fact; but simply upon the ground that this deceased soldier made an attempt to secure his pension but was unsuccessful, we are to make the allowance. Is the Senator prepared to say that whenever a case shall be presented here where the widow claims that her deceased husband has attempted to secure a pension and has failed in being able to do it, she shall be allowed, as in this instance? Here is a man from my State; he applies; he has not got the requisite testimony; he has just as meritorious a case as this; a man who has suffered and bled in the service; he employs an agent; the agent is not competent to transact the business; he sends on his papers, and the papers are found to be defective; whose fault is it? Does not that present just as much merit as this case? While they are making that effort to secure a pension, but are refused, the man dies. If we settle this rule for this case in the way that it is proposed by the Committee on Pensions to settle it, would not that person from my State be entitled to a pension between the time that the man made the abortive attempt to secure the pension and the time his widow actually did secure it? Certainly, according to the principle contended for here.

Mr. VAN WINKLE. The cases are not similar. In this case a particular application is made for which the proofs must be perfected or no pension will be allowed. The widow subsequently makes application, the proofs are perfected, and the pension allowed, showing that this man most certainly would have got his pension if his application had been made and he had survived until it was disposed of at the Pension Office. The Senator is also mistaken in supposing that I put this upon humane grounds. There are such cases that come before us occasionally, and I am happy to know that they have been responded to when they come distinctly on that ground. But I mentioned the sickness of the man as showing his inability to do more than he did do; that while he was taking steps to have his application made, and was prevented giving it his personal supervision, he died, and simply because he died a few days sooner his widow is to lose the compensation that the law intended for her, as I think. If every case was to be decided, when it comes here, strictly according to law, there would be nothing that I know of for the Pension Committee to do. All, or pretty much all, the cases that come before us are exceptional cases, and we have to examine the testimony, and generally speaking, where we believe there has been no *laches*, no neglect, no misconduct, nothing wrong on the part of the applicant, but there is only a technical difficulty or something of this kind, where the time has expired a little too soon, the committee have been in the habit of reporting and both Houses of passing such bills. I think this addresses itself not to the humanity, but to the sense of justice of the Senate.

Mr. GRIMES. I think the Senator is mistaken in saying that the Senate has been in the habit of passing such bills. I served for some year on the Committee on Pensions, and

I never knew any such bill as this to pass, and I think I could with safety appeal to the President of the body, who was chairman of that committee, to say that no such bill ever did pass founded on such a principle.

Mr. VAN WINKLE. I mean to say that they propose bills where the party does not bring himself quite within the law, so that the Commissioner can grant a pension.

Mr. GRIMES. Of course I agree with the Senator from West Virginia that if we adhered strictly to the law there would be no necessity for the Committee on Pensions; but then there are certain rules by which that committee has been governed, and one of those rules is that pensions shall not be allowed between the time when the party makes application for a pension and the time when it shall be granted.

Mr. VAN WINKLE. This bill is founded on a law precisely contrary to what the Senator now states. The law provides that if the application is made at a certain time, the pension shall relate back to the time of the disability. This bill is to give the benefit of that provision to this widow.

Mr. GRIMES. I am quite well satisfied that this bill establishes too important a principle for us to pass it now in so thin a Senate, a principle that, as I understand it, will involve the taking of millions of dollars out of the Treasury. I desire that the bill be laid over until we can examine it more fully.

Mr. LANE, of Indiana. You will bear me witness, Mr. President, that the rule of the Pension Committee, and in both Houses of Congress, has been variable. Sometimes the pension under special law is made to revert back to the time of disability, and sometimes only to the passage of the act. We have, during this session, in our committees, resolved to make the pensions always commence from the passage of the act, and not go back. But under the present law, where a pension is applied for in the Pension Office, and it is granted, it relates back to the filing of the application. This is a very peculiar case. The man was sick, unable to attend to his business, utterly prostrate, dying; and in that condition he sent his wife to employ an agent to file his claim for a pension. He had his neighbors running to try to get up his papers, he lying prostrate, sick all the time, worrying about his papers; and before he could get the papers presented by the agent, he died.

The Commissioner of Pensions, in a letter to the committee, recommends this as an especially meritorious case, coming within the spirit but not the letter of the law. He was unable to make his application from disease and sickness. The case the gentleman from Iowa puts might be a little different; the neglect might have been voluntary; there might have been no good reason for it; but I am free to say that when the delay is explained satisfactorily to my mind, as the delay in this case, I shall, without the slightest hesitation, vote for the pension.

Mr. FESSENDEN. I think the Senator had better let this go over if he has other bills, because the Senate is very thin now.

Mr. LANE, of Indiana. I move that this bill be laid aside for the present.

The motion was agreed to.

MARINE HOSPITALS AND REVENUE CUTTERS.

Mr. CHANDLER. I submit the following report from a committee of conference, and ask that it may be acted upon now:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 184) to authorize the sale of marine hospitals and of revenue cutters having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate recede from their first, second, and third amendments.

That the House of Representatives recede from their disagreement to the fourth amendment to the Senate and agree to the same with an amendment, as follows:

Strike out all after the word "provided," in line twelve of said bill, down to the word "where," in line seventeen, and insert the following:

"That the hospitals at Cleveland, Ohio, and Port-

land, Maine, shall not be sold or leased, nor shall any hospital be sold or leased."

Z. CHANDLER,
JOHN SHERMAN,
Managers on the part of the Senate.
E. B. WASHBURN,
B. EGGLESTON,
J. M. HUMPHREY,
Managers on the part of the House.

The report was concurred in.

OBITUARY ADDRESSES ON SENATOR FOOT.

Mr. POLAND submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That there be published, in pamphlet form, for the use of the Senate, six thousand copies of the addresses made by members of the Senate and members of the House of Representatives upon the occasion of the announcement of the death of Hon. Solomon Foot, and that Rev. Dr. Sunderland be requested to furnish a copy of the sermon delivered by him at the funeral of Senator Foot, to be published with said addresses.

CATTLE PLAGUE.

Mr. POLAND. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Interior be requested to inform the Senate whether he has any information that the rinderpest or cattle plague, which has been so destructive on the eastern continent, has appeared in any part of the United States, and whether in his judgment any further measures can be adopted to prevent the introduction or spread of such disease in this country, and if he has information what remedies and what course of treatment are advisable.

There being no objection, the Senate proceeded to consider the resolution.

Mr. GRIMES. It seems to me that should be addressed to the chief of the Bureau of Agriculture.

Mr. POLAND. I understand that the Bureau of Agriculture is a part of the Department of the Interior.

Mr. GRIMES. No, sir; it is a perfectly independent Department.

Mr. POLAND. The resolution in the first place was directed to that Department; but I supposed it was more appropriate to have it directed to the Department of the Interior. I will modify the resolution so as to direct it to the Commissioner of the Department of Agriculture.

The PRESIDENT *pro tempore*. The resolution will be so modified, if there be no objection.

Mr. POLAND. I understand that some information on this subject is in the possession of the Department which ought to go before the country.

The resolution, as modified, was adopted.

HOUSE BILL REFERRED.

The joint resolution from the House of Representatives (H. R. No. 46) for the relief of Martha McCook, was read twice by its title, and referred to the Committee on Pensions.

AMENDMENT OF PENSION LAWS.

On motion of Mr. VAN WINKLE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 363) supplementary to the several acts relating to pensions.

The first section of this bill proposed to repeal section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, and section three of an act entitled "An act supplementary to the several acts relating to pensions," approved March 3, 1865, and to substitute the following in lieu thereof:

That from and after the passage of this act all persons now by law entitled to a less pension than hereinafter specified, who shall have lost the sight of both eyes, or who shall have lost both hands, or been permanently and totally disabled in the same, in the military or naval service and in the line of duty, shall be entitled to a pension of twenty-five dollars per month; and all persons who, under like circumstances, shall have lost both feet, or one hand and one foot, or been totally and permanently disabled in the same, shall be entitled to a pension of twenty dollars per month; and all persons who, under like circumstances, shall have lost one hand or one foot, or been totally and permanently disabled in the same, shall be entitled to a pension of fifteen dollars per month.

The second section of the bill declares that any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any

pension which has been, or may hereafter be granted, shall be void and of no effect; and any person acting as attorney to receive and receipt for money for and in behalf of any person entitled to a pension shall, before receiving the money, take and subscribe an oath, to be filed with the pension agent, and by him to be transmitted, with the vouchers now required by law, to the proper accounting officer of the Treasury, that he has no interest in the money by any pledge, mortgage, sale, assignment, or transfer, and that he does not know or believe that the same has been so disposed of to any person; and any person who shall falsely take this oath shall be guilty of perjury, and on conviction, shall be liable to the pains and penalties of perjury.

The third section provides that any person who shall present or cause to be presented at any pension agency any power of attorney or other paper required as a voucher in drawing a pension, which paper shall bear a date subsequently to that on which it was actually signed or executed, shall be deemed guilty of high misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding \$500, or by imprisonment for a term not exceeding three years, or by both, at the discretion of the court before whom the conviction shall be had.

The fourth section repeals section one of an act entitled "An act supplementary to the several acts relating to pensions," approved March 3, 1865.

The fifth section provides that if any person entitled to an invalid pension has died since March 4, 1861, or shall hereafter die while an application for such pension is pending, and after the proof has been completed, leaving no widow and no minor child under sixteen years of age, his heirs or legal representatives shall be entitled to receive the accrued pension to which the applicant would have been entitled had the certificate been issued before his death.

The sixth section provides that in all cases when a commission shall have been regularly issued to any person in the military or naval service who shall have died or been disabled while in the line of duty, after the date of the commission, and before being mustered, such officer or other person entitled to a pension for such death or disability by existing laws shall receive a pension corresponding to his rank, as determined by such commission, the same as if he had been mustered; but this section is not to apply to any officer who shall have willfully neglected or refused to be so mustered.

According to the seventh section, officers absent on sick leave, and enlisted men absent on sick furlough, are to be regarded in the administration of the pension laws in the same manner as if they were in the field or hospital.

The eighth section provides that the period of service of all persons entitled to the benefits of the pension laws, or on account of whose death any person may become entitled to a pension, shall be construed to extend to the time of disbanding the organization to which such persons belonged, or until their actual discharge for other cause than the expiration of the service of such organization.

The ninth section declares that enlisted men employed as teamsters, wagoners, artificers, hospital stewards, farriers, saddlers, and all other enlisted men, however employed in the service of the Army or Navy, not specifically mentioned in the first section of an act entitled "An act to grant pensions," approved July 14, 1862, shall be regarded, in the administration of the pension laws, as non-commissioned officers or privates.

The tenth section provides that if any officer, soldier, or seaman shall have died of wounds received or of disease contracted in the line of duty in the military or naval service of the United States, leaving a widow and a child or child under the age of sixteen years, and it shall be duly certified under seal, by any court having probate jurisdiction, that satisfactory evidence has been produced before such court that the widow has abandoned the care of such

child or children, or is an unsuitable person by reason of immoral conduct to have the custody of the same, then no pension shall be allowed to such widow until the minor child or children shall have become sixteen years of age, any previous enactment to the contrary notwithstanding; and the minor child or children shall be pensioned in the same manner as if no widow had survived the officer, soldier, or seaman, and such pension may be paid to the regularly authorized guardian of such minor or minors.

The Committee on Pensions reported the bill with various amendments. The first amendment of the committee was in section one, line twelve, after the word "persons," to strike out the word "now;" and in line twelve, after the word "who," to insert "while in the military or naval service and in the line of duty."

Mr. VAN WINKLE. The word "now" is proposed to be stricken out as superfluous; at any rate, if laws are hereafter passed including another class of persons in the pension laws, we should have to reenact all these provisions with reference to them. The amendment in line twelve, to insert the words "while in the military or naval service, and in the line of duty," is a mere transposition of words, which depends upon the next amendment in the fifteenth and sixteenth lines, striking out the same words. It may be passed by, therefore, until the next amendment is considered.

I will state to the Senate that the sections of acts proposed to be repealed are those which grant to a man who has lost both feet a pension of twenty dollars a month; where he has lost both hands or both eyes, twenty-five dollars a month; and where he has lost one hand and one foot, twenty dollars a month. The provisions in relation to those disabilities are incorporated in this bill in perhaps a better form. The committee of the Senate has gone further, and placed in the same classes other disabilities which are equal to the disabilities named. I ask the Secretary to read the next amendment with reference to the words that are transposed.

The Secretary read the amendment, in section one, line fifteen, to strike out the words "in the military or naval service, and in the line of duty," and to insert "or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the constant personal aid and attendance of another."

Mr. VAN WINKLE. Various petitions have been presented to Congress asking that particular provision might be made for those who lost one hand or one arm. This brought the subject to the consideration of the committee, and they came to the conclusion that there were disabilities which were equal to even the severest of those now mentioned in the present law as it now stands, which ought to be included. For instance, a case was related to us by a member of the committee who sits on the opposite side of the Chamber of a soldier now in hospital at Louisville. He was shot through the throat, or somewhere in that region, and is unable to swallow anything but liquids, and is also unable to feed himself. We thought that was a case, as presented to us, certainly equal to the loss of both hands or both legs.

The provisions of this section, including the amendments of the Senate committee, are offered in lieu of propositions that have been made to increase the rate of pensions generally. The committees of both Houses, and I believe with the approbation of the Commissioner of Pensions and the Secretary of the Interior, have thought that this was the best way to do justice to all. I ask the attention of the Senate to this subject. They will perceive that we come to a second class of disabilities who receive a lower rate of pension, and that there are included in that class those whose disability goes to a certain extent; and so of a third class. By our rules I presume we are required to take up each amendment as it stands. I propose, therefore, to take the vote on the amendment just read, which, as the

Senate will perceive, transposes the words which otherwise need not be inserted.

I will say further that the committee had a correspondence with the Pension Bureau on this subject, and a classification and gradation of pensions was made out, and I had the honor to report a bill prepared at the Pension Bureau for that purpose to the Senate; but after the House bill came to us we supposed that we could incorporate the valuable provisions of the Senate bill in this bill, and adopt their bill generally as it stands. I think the Senate can have no doubt that there are disabilities as gross as those of the loss of both hands, or both legs, or both eyes. There are numerous such cases. There are those who are suffering from disease by which they are perfectly and entirely helpless, so that, as one of the amendments states, they need the constant personal aid and attendance of another person. Those we put with the highest class. Those who are incapacitated for performing any manual labor, but not so much so as to require constant personal aid and attention, are placed in the second class, and those otherwise so disabled as to materially interfere with the performance of manual labor without wholly incapacitating them therefor are made a third class, including those who lost one hand, and so on, while the fourth class is composed of those who receive the regular pension of privates, eight dollars per month.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee.

The amendment was agreed to.

Mr. VAN WINKLE. The amendment just agreed to is on transposing those words, I suppose.

The PRESIDENT *pro tempore*. The first amendment that was read, striking out the word "now" is the one on which the Senate has just voted. The next amendment in order will be read.

The Secretary read the next amendment, which was in section one, line twelve, after the word "who" to insert "while in the military or naval service and in the line of duty."

The amendment was agreed to.

The next amendment was in section one, line fifteen after the word "same" to strike out the words "in the military or naval service; and in the line of duty," and to insert:

Or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the constant personal aid and attendance of another person.

The amendment was agreed to.

The next amendment was in section one, line twenty-three, after the word "same," to insert the words:

Or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much so as to require constant personal aid and attention.

The amendment was agreed to.

The next amendment was in section one, line twenty-eight, after the word "same," to insert the words "or otherwise so disabled as to materially interfere with the performance of manual labor, without wholly incapacitating them therefor."

The amendment was agreed to.

The first section of the bill as amended reads as follows:

That section five of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, and section three of an act entitled "An act supplementary to the several acts relating to pensions," approved March 3, 1865, be, and the same are hereby, repealed, and the following shall stand in lieu thereof. That from and after the passage of this act all persons by law entitled to a less pension than hereinafter specified, who, while in the military or naval service and in the line of duty, shall have lost the sight of both eyes, or who shall have lost both hands, or been permanently and totally disabled in the same, [in the military or naval service and in the line of duty,] or otherwise so permanently and totally disabled as to render them utterly helpless, or so nearly so as to require the constant personal aid and attendance of another person, shall be entitled to a pension of twenty-five dollars per month; and all persons who, under like circumstances, shall have lost both feet, or one hand and one foot, or been

totally and permanently disabled in the same, or otherwise so disabled as to be incapacitated for performing any manual labor, but not so much so as to require constant personal aid and attention, shall be entitled to a pension of twenty dollars per month; and all persons who, under like circumstances, shall have lost one hand or one foot, or been totally or permanently disabled in the same, or otherwise so disabled as to materially interfere with the performance of manual labor, without wholly incapacitating them therefor, shall be entitled to a pension of fifteen dollars per month.

The next amendment was to insert as an additional section the following:

Sec. 11. *And be it further enacted*, That nothing in this or any other act shall be so construed as to repeal or modify the sixth section of an act entitled "An act supplementary to an act to grant pensions approved July 14, 1862," approved July 4, 1864, or to entitle a person to receive more than one pension at the same time.

Mr. VAN WINKLE. In reference to that amendment, I send to the Secretary a letter from the Secretary of the Interior, which he will please read down to the pencil marks on the third page.

The Secretary read, as follows:

DEPARTMENT OF THE INTERIOR,
WASHINGTON, D. C., April 4, 1866.

SIR: I notice that the bill supplemental to the existing laws in relation to pensions has passed the House of Representatives and been reported to the Senate.

I have the honor to invite your attention to the accompanying draft of two additional sections. A few words will suffice to explain their nature and object.

The fourth section of the act of 1865 was drawn up in this Department and was designed to define more clearly the rights of the children of a soldier, sailor, or officer who dies leaving a widow. Serious doubts were entertained whether under the preëxisting law the children were entitled to a pension if he left a widow, although she died or remarried before the children attained the age of sixteen years. The words "if there be no widow" were construed to refer to the period of the soldier's death. The section was therefore incorporated in the bill and is a substantial reenactment of a corresponding provision of the act of 1862, making only such changes as were required to determine with more precision and clearness the rights of the children where there was a widow, or in the event of her subsequent marriage or death. It was not intended to affect the sixth section of the act of 1864, which is justly regarded by the Pension Bureau as a salutary provision. It may, however, have such effect, and the first section of the draft was prepared to obviate that construction.

It also declares that no person shall receive more than one pension at the same time; the act of 1862 contains such a provision, but it is sometimes contended that it relates only to pensions authorized by that act. The words in the draft are sufficiently broad and comprehensive to relieve the question from all doubt.

The amendment was agreed to.

The next amendment of the committee was to insert as an additional section the following:

Sec. 12. *And be it further enacted*, That so much of the fourth section of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, as authorizes and empowers the Commissioner of Pensions to detail clerks in his office be, and the same is hereby, repealed, and the Secretary of the Interior shall hereafter detail clerks in the Department, or in one of the bureaus thereof, for the purposes in said section mentioned, or to secure the more effectual execution of the pension laws and the rights of pensioners; but clerks so detailed shall not for any special service be entitled to additional compensation beyond the customary *per diem* and mileage.

Mr. VAN WINKLE. I ask the Secretary to read the balance of the letter that I sent to the desk.

The Secretary read, as follows:

You will perceive that the remaining section repeals a part of the fourth section of the act of July 4, 1864, and substitutes another provision. It is not proposed to repeal the whole section, as that would revive the twelfth section of the act of 1863, which was found in practice to be objectionable. The provision which is substituted confers upon the Secretary of the Interior, who, as you are aware, has the supervisory control over the Pension Bureau, the power to detail clerks, which that section confers, for certain specific purposes, upon the Commissioner of Pensions. This power should, in my opinion, be exercised by the head of the Department; and I am not aware of another instance in our legislation where it has been withdrawn from him and vested in a bureau office. The power to detail clerks to examine and report in regard to any branch of the public service, under the charge of a Department, may justly be considered as incidental to the authority vested by law in the head of such Department, and I respectfully submit that such power should not be lodged elsewhere. The first clause of the second section of the draft repealing in part the fourth section of the act of 1864, might perhaps accomplish the purpose, but it may be proper that the power of the Secretary to detail a clerk for the purposes mentioned in the draft should be unequivocally recognized by Con-

gress. The concluding portion of the draft excludes the claim of such clerk to any additional compensation for such special service, and allows him nothing beyond his traveling and other incidental expenses. In that respect it conforms to the existing usage of the Department.

I recommend the adoption of these two sections.

I am, sir, very respectfully, your obedient servant,
JAMES HARLAN,
Secretary.

Hon. HENRY S. LANE, Chairman Committee on Pensions, United States Senate.

Mr. VAN WINKLE. This amendment and the preceding one were brought to the notice of the committee after they had agreed to report this bill, and a majority of the committee assented to them and ordered them to be reported with the bill. I was one of those so assenting. As there was no discussion, or not much discussion of the matter in committee, I cannot repeat the views of the other members of the committee who are here to speak for themselves. But since I gave my assent to this amendment I have reflected somewhat on the subject, and, while I cannot say I have come to a different conclusion, I think there are some doubts as to the propriety of this change. Previous to the act of 1862 relating to pensions, these agents were clerks appointed by the Commissioner of Pensions. The act of 1862 provided for the appointment of special agents where frauds were suspected upon the pension laws to go and examine into them; and as the Secretary of the Interior states in his letter, and as I have been assured by the Commissioner of Pensions, it was found not to work well. These special agents having no familiarity with the business of the office, with the papers, or anything else connected with it, were not able to discharge the duties as efficiently as those who were better acquainted with the office, or to make as intelligent a report as the service of the office required. Accordingly, at the instance of the Pension Bureau, I believe a section was added in the law of 1864, placing the thing back where it had stood previously, without any law, and authorizing the Commissioner of Pensions to detail clerks in his Department to go and inspect the various pension offices if he should think there was occasion for it.

The Secretary of the Interior in his letter asks that this be changed, and that the appointment or designation of those clerks for this purpose may be given to him instead of the Commissioner of Pensions, and if I recollect rightly, he places it on the ground that being the head of the Department he ought to have that power and it ought not to be exercised by one of his subordinates. The doubt that has arisen in my mind arises from the peculiar construction of the Interior Department. In the Treasury, Post Office, and other Departments, all the actions of the various bureaus are converging to one point as it were; but in the Interior Department it seems to be different. The Pension Office, the Patent Office, the Land Office, and perhaps others, seem to be almost separate and independent offices. It appears to me that in those cases where the head of the bureau is charged with the administration, as it were, of the whole law in relation to a given subject, such as pensions, patents, or lands, where there is a peculiar responsibility devolving upon him, particularly in relation to the detection of frauds, he should have the power of appointment. Without saying that I have fully come to the conclusion that this change should not be made, that is the present tendency of my mind, and I should like to hear the views of those who are more experienced, or at any rate that the subject should receive the consideration of the Senate before the amendment is adopted.

Mr. GUTHRIE. I am satisfied that the Secretary of the Interior should have the authority that this amendment provides for. I cannot conceive of a Department being properly carried on where there is independent action on the part of one bureau of the others and of the Secretary. It is perfectly easy for the Commissioner to consult the Secretary, and to hear any objections that he may have. Where this is done, where the heads of the

bureaus act under the superintendence of the Secretary, all goes on right, and there is no trouble; but where they act independent of him, there is room for complaint. There must be one man at the head of every one of these Departments to wield control over it and all the bureaus in it.

Mr. LANE, of Indiana. The nature of this amendment is just this: for the first fifty years under the administration of the Pension Bureau the Commissioner of Pensions had a right to appoint special agents to investigate frauds. Some two years ago that right was given to the Secretary of the Interior. Last year that was repealed and it was placed back again in the hands of the Commissioner of Pensions. Now, this is a proposition to place the power to appoint these agents in the hands of the Secretary of the Interior. That is the amendment founded upon the letter of the Secretary of the Interior. I myself think these appointments should be made by the head of the bureau. He is more familiar with the character and qualifications of his own clerks than any one else can be. If frauds are perpetrated in the bureau, he, and no one else, is responsible for those frauds. Another reason is that the clerks in that bureau are familiar with the details of that office and more efficient than any one detailed from the whole of the Interior Department could possibly be. Without having any feeling about it, my impression is that the amendment should not be adopted. It was reported by the committee simply to get the sense of the Senate as to whether this power should be given to the Secretary of the Interior or remain with the Commissioner of Pensions.

Mr. POMEROY. I think the amendment as it was reported from the committee is right. This idea of allowing heads of bureaus to send off agents, independent of the Secretary, may work very well when we have good heads of bureaus; but all these heads of bureaus have to report to the Secretary; he is the real head, and responsible for the transaction of the whole business of the department.

Mr. JOHNSON. How is it now?

Mr. POMEROY. As the law now stands, the heads of the different bureaus may send out their clerks without consulting the Secretary of the Interior. As the law is to be, if this amendment should be adopted, the Secretary of the Interior will send them out. Of course he is the man that ought to do it, as he is responsible for the whole Department, and ought to be allowed to send out such clerks as he may choose. I think the amendment is clearly right.

Mr. HENDRICKS. I will ask the Senator from Kansas whether there has been any abuse during the last year that requires a change of the law.

Mr. POMEROY. I do not know that there has been any abuse; but this amendment, giving the Secretary of the Interior charge over this subject, makes the Interior Department in harmony with the other Departments of the Government. In the Treasury Department no particular bureau sends off a man to investigate a fraud, but the Secretary of the Treasury does it. He details clerks from the Department; and why the Secretary of the Interior should not have the same right that the other heads of Departments of the Government have I cannot understand. I recollect that two years ago we passed a law giving this power to the Secretary of the Interior. Subsequently, in some way or other, that law was repealed, and it was given to the Commissioner of Pensions. Now, the proposition is to restore it again to the Secretary of the Interior, and I think that is where it should be.

Mr. HENDRICKS. I will ask the Senator if in the Treasury Department the heads of the National Currency Bureau and the Internal Revenue Bureau do not conduct their own affairs and make their own appointments.

Mr. POMEROY. I think not; only through the Secretary of the Treasury.

Mr. HENDRICKS. Are you sure of that?

Mr. POMEROY. That is the way I under-

stand it. I know that is so with regard to the Internal Revenue Bureau, and I suppose it is true of the others.

Mr. HENDRICKS. My point is this: I cannot see any necessity for changing a law against which there is no complaint. I am perfectly willing to give this power to the Secretary of the Interior; but to take it away from the Commissioner, who has special charge of this business, would seem to be a reflection upon him, and I should be reluctant to change a little matter of this sort when there is no complaint of the law as it now stands.

Mr. POMEROY. I suppose the Secretary of the Interior did not consider it a reflection on him when it was taken away from him by the law passed two years ago. I know of no reason why it should be so considered.

Mr. VAN WINKLE. The Senator from Kansas is mistaken in saying that the power has been taken away from the Secretary of the Interior. Previous to the act of 1862 it was a mere usage which had grown up in the Department, and it is not proposed to change what was then done, except as to the mode of appointment. But in 1864, as I have already stated, a law was passed authorizing the appointment of special agents for this purpose; but, as stated by the Secretary of the Interior and the Commissioner of Pensions, it was found not to operate well in practice, and then they returned to the old usage, but under the sanction of law. It is no reflection in that way. The Commissioner of Pensions is now by law authorized to appoint examining surgeons and other officers connected with the details of his office; and it appears to me, as has been already suggested, that this is a matter that is entirely within the proper duties of the Pension Office. It is not like sending Treasury agents to go South and investigate cotton sales and things of that kind, but it is the overseeing of the various pension agents throughout the country, and that devolves, it appears to me, especially upon the Commissioner of Pensions, he being in fact the responsible man for all that is done. In that view I am inclined to think that he should have the selection of these agents.

Mr. GUTHRIE. I have already said that in my judgment it is proper that this amendment should be adopted, and that the Secretary of the Interior should be recognized as the chief officer of that Department, without whose sanction nothing could be done. This idea of setting out independent bureaus here and giving them authority independent of the Secretary of the Interior will lead to no good, but must necessarily lead to harm. Ambitious individuals will draw to themselves the patronage which the chief of the Department ought to have. I can say for myself, that there never was a time, when I was in the Treasury, where I had a good officer that I did not consult him upon the propriety of all selections of this sort. At that time officers were appointed to examine the various ports of the country, to investigate frauds, to investigate the coinage, and everything of that kind, and while I was in the Department all this was done under my sanction, but not without consultation with the individual who had charge of that particular branch of the Department. It worked well, and it ought so to work. No man in any of our Departments should feel himself in any respect independent of the head of that Department. You cannot have one of the Departments governed well unless it is under the control of the man who is at the head of it. You hold him responsible, and he ought to be held responsible, and he ought to know everything that is done in the office, who is sent out and who is not sent out, and what the qualifications of the persons sent out are. It is proper that he should know it, and in order that everything may be done right, it is necessary that he should know it.

Mr. FESSENDEN called for the yeas and nays on the amendment, and they were ordered; and being taken resulted—yeas 18, nays 11; as follows:

YEAS—Messrs. Brown, Chandler, Clark, Cragin,

Fessenden, Guthrie, Howard, Johnson, Kirkwood, Morrill, Norton, Pomeroy, Ranney, Sprague, Stewart, Trumbull, Wiley, and Williams—18.

NAYS—Messrs. Anthony, Backalew, Cowan, Foster, Grimes, Hendricks, Lane of Indiana, Morgan, Van Winkle, Wade, and Yates—11.

ABSENT—Messrs. Connors, Creswell, Davis, Dixon, Doolittle, Edmunds, Harris, Henderson, Howe, Lane of Kansas, McDougall, Nesmith, Nye, Poland, Riddle, Saulsbury, Sherman, Sumner, Wilson, and Wright—20.

So the amendment was agreed to.

Mr. VAN WINKLE. I offer, not on behalf of the committee, an amendment which I send to the Chair, to insert as an additional section the following:

*And be it further enacted, That the fourteenth section of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 14, 1864, be, and the same is hereby, repealed, and that the widows and children of colored soldiers and sailors who have been, or may be hereafter, killed, or who have died, or may hereafter die, of wounds received in battle, or of disease contracted in the military or naval service of the United States and in the line of duty, shall be entitled to receive the pensions provided by law without other evidence of marriage than proof satisfactory to the Commissioner of Pensions that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, not less than two years next preceding the enlistment of the man; and the children born of any marriage so proved shall be deemed and taken to be the children of the soldier or sailor and the party thereto: *Provided, however,* That if any such soldier or sailor and the woman alleged to be his widow, resided, previously to the enlistment of the former, in any State in which the marriage between them might have been legally solemnized, the usual evidence of marriage shall be required.*

My attention was called to this subject by a proposition introduced by the junior Senator from Massachusetts [Mr. Wilson] the other day in reference to the bounties of colored soldiers. I had in fact shown him this amendment, which I believe met his approbation. The necessity for it arises from several considerations. Some change in the nature of things was required since the original provision on this subject was passed. Perhaps I can more shortly explain it to the Senate by stating wherein this amendment differs from the law that was passed in 1864; and, with the permission of the Senate, I will state a little history of that provision.

A bill came from the House of Representatives, I think, containing a provision in reference to these marriages. There was a third committee of conference on the bill, of which I was a member, and the Senator from Vermont who died recently [Mr. Foot] was the chairman or leading manager on the part of the Senate. There was a great difference of opinion among the managers when they came together. I went into an explanation of the nature of these marriages, and of the way these people lived together. The Senator from Vermont seized upon the idea and prepared the section upon which not only that committee unanimously agreed, although it included some of those who were supposed to be inimical to these soldiers, but it met the immediate approval of the Senate and the House. I remember it was about midnight when we went into committee.

I propose, as one change, to introduce into this act sailors as well as soldiers. I propose, also, to confine the time to the period of two years next preceding the enlistment of the man; and I do that upon this consideration: by the accidents of the war many of these people were driven from their homes, and probably driven into States where their marriages might have been legally solemnized; but, under the circumstances, it was hardly to be expected that their attention would be called to it. Again, I think it is very probable, although they have been taken in charge now by others, and have been free for some time, that those marriages have not been solemnized as rapidly, perhaps, as they should have been. This is therefore drawn to meet that case, that if they lived previous to the enlistment in any place where the marriage might have been solemnized, then this proof will not be sufficient.

I have also introduced a provision that the children born of any marriage so proved shall be deemed and taken to be the children of the

soldier and the party thereto. That does not clearly appear in the section drawn up by the Senator from Vermont, and it may arise in cases where there is no widow or where the wife is dead; so that it would let in the same kind of proof of marriage in the case of the children applying for a pension to which they would be entitled under the law, as in the case of the widow.

It will be observed that the proviso declares:

That if any such soldier or sailor and the woman alleged to be his widow resided previously to the enlistment of the former in any State in which the marriage between them might have been legally solemnized the usual evidence of marriage shall be required.

I have there introduced the words "previously to the enlistment," which I explained a moment since.

Mr. JOHNSON. Permit me to ask whether that is to be evidence that there is no other wife entitled to claim a pension.

Mr. VAN WINKLE. The section of the law as it now stands provides that it is to be proved by the affidavits of credible witnesses, which would necessarily imply two witnesses. I have changed that in this amendment, so as to make it proof satisfactory to the Commissioner of Pensions. If the man and woman have lived together for two years next preceding the enlistment of the man, and recognized each other as man and wife, that is to be received as sufficient proof of marriage when that fact is established.

Mr. JOHNSON. But what I want to know, with the indulgence of my friend from West Virginia, is, whether that is to be considered as evidence that there is no other wife. It is only evidence that she was the last wife; but these people—because of the condition in which they have been placed in the past, not knowing there was any immorality in it, and being prohibited to some extent from marrying at all—were in the habit of having some four or five wives. As they were sold from master to master, or went from State to State, they contracted, according to their mode of contracting, a marriage. Many of these men I suppose really have wives, in the sense in which the term is used in this amendment, in half a dozen of the States. I wanted to know whether the amendment provides that it is to be the last only who is to receive the pension, so as to exclude antecedent ones.

Mr. VAN WINKLE. Yes, sir. The Senator from Maryland is well aware, I presume, though many Senators may not be, that in the State of Virginia, for instance, there was no law prohibiting the marriage of slaves, but the common law would not recognize a contract made by a slave, either of marriage or anything else. They were, while slaves, in the habit of going through the forms of marriage. Some other negro would perhaps read from the printed ceremonies of one of the churches, and they acknowledged one another as man and wife, and, if virtuously inclined, lived together as man and wife, and conducted themselves seemly in that regard. They had, as the Senator from Maryland says, the idea that when they changed their location they could take another wife; and they have been doing it not very far from here, even since the war commenced. They are now getting the knowledge that the ceremony must be solemnized between them, or they will not be recognized; and that great evil of the system of slavery will, of course, cease. It would be hard, where a man and woman have lived together, considering themselves as man and wife, raising children and recognizing them as their children, that this woman, who was a wife in everything except the legal ceremony, and the children who, if that marriage could be recognized, were legitimate children, should be cut off from the benefit of the pension laws on account of this want of formality in the marriage of the parents.

Mr. JOHNSON. The Senator does not understand me. I do not want to cut them off at all. I only want to know whether more than one woman can receive a pension for the services of one man.

Mr. VAN WINKLE. Certainly not, only the woman with whom he lived a definite period, at least two years next preceding his enlistment. Those provisions are in the law already. I merely want to expand them a little so as to apply them a little further. As Senators are getting impatient, and as this subject may be one, looking at the source from which it comes, that should receive further investigation, I will move that the further consideration of the bill be postponed until Monday next, and that in the meanwhile this amendment be printed.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. BROWN. I move that the Senate do now adjourn.

Mr. RAMSEY. I hope not. I ask the Senator to withdraw the motion. It is very important that we should have an executive session for a few moments, and if the Senator from Missouri will withdraw the motion to adjourn, I will make that motion.

Mr. BROWN. I withdraw it.

Mr. RAMSEY. Then I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 13, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

STEAMER DIANA.

Mr. DENNY, by unanimous consent, introduced a bill to issue an American register to the steamer Diana; which was read a first and second time, and referred to the Committee on Commerce.

CHOLERA.

Mr. WASHBURN, of Illinois, by unanimous consent, moved that the Committee on Commerce be instructed to inquire what legislation, if any, is necessary to prevent the introduction of the cholera into the ports of the United States.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. ASHLEY, of Ohio. As I am somewhat unwell, I ask leave of absence for one week.

There was no objection, and it was granted accordingly.

COMMITTEE ON TERRITORIES.

Mr. ASHLEY, of Ohio. I was absent yesterday when the Committee on Territories was called. I ask now that it shall have two morning hours week after next.

Mr. WASHBURN, of Illinois. I object to two morning hours, as it has already had one.

Mr. ASHLEY, of Ohio. It will displace no other committee.

Mr. WASHBURN, of Illinois. I leave that matter to be decided when it comes up.

Mr. ASHLEY, of Ohio. Say Thursday week.

Mr. STEVENS. Suppose they are not called, will they come in?

The SPEAKER. The committee is now being called; it will come in again next Tuesday. The Chair hears no objection, and the committee will have next Thursday week.

PERSONAL EXPLANATION.

Mr. SCOFIELD. I ask leave to make a personal explanation.

The SPEAKER. The gentleman from Pennsylvania [Mr. SCOFIELD] asks unanimous consent to make a personal explanation. The Chair hears no objection.

Mr. SCOFIELD. I find in the Titusville Herald of April 9, 1866, a report signed by J. T. Sawyer and E. W. Matthews, a committee, so styling themselves, of the oil producers of western Pennsylvania. They state in that

report that they came to Washington on the 12th of February, and remained here until the 24th of March, using their best endeavors to secure the repeal of the tax on crude petroleum. In another part of their report it is stated that they found on the part of the Representatives from western Pennsylvania entire indifference to the petroleum interest, and they conclude thus:

"Thus it appears that the producers of petroleum in Pennsylvania are not represented by men from their own vicinity, not even by men from their own State, but they are almost exclusively dependent for the protection of their interests in Congress upon the courtesy of Representatives from other States, among whom General JAMES A. GARFIELD, of Ohio, is particularly deserving of the gratitude of every inhabitant of this section of country, since whatever prospects there may be for the repeal of this burdensome tax, they are due to his faithful and persistent efforts, and from present appearances he is the only advocate of this measure through whom any relief may be expected in the future."

I wish to say, in relation to this, that prior to the 12th day of February, when this committee say they came here, upon consultation with the chairman of the Committee of Ways and Means, I was informed that the entire tax upon crude petroleum would be removed by the committee. The chairman said that that was his own opinion, and from his consultation with the other members of the committee he was sure that it would be agreed to.

I never saw Mr. Matthews to my recollection, and Mr. Sawyer only once, and then he called me out during the session of the House. I gave him then the information which I had derived from the chairman of the Committee of Ways and Means. I never saw him again, and as it was unnecessary for him to remain, I supposed he had gone home. This charge of negligence against the Representatives of western Pennsylvania, (I can speak not only for myself, but my colleagues also) is entirely groundless. I have frequently consulted with them upon the subject, and all agreed in pressing the removal of the tax on crude petroleum. I wish now to ask the chairman of the Committee of Ways and Means, who knows something of what I have done in relation to this subject, whether I have, either at this session or during the last Congress, neglected in any way the interest of the oil producers, and whether I have not on all occasions, in season and out of season, beset them to remove this tax on crude petroleum as well as reduce that on refined.

Mr. MORRILL. Those members who were present whenever this subject has been acted upon heretofore will all bear witness to the zeal of the gentleman from Pennsylvania [Mr. SCOFIELD] in endeavoring to remove or to reduce the tax upon petroleum. Early in the present session he was several times at my desk in relation to this subject, and I gave him distinctly to understand that it was in my opinion the intention of the Committee of Ways and Means to entirely remove the tax on crude petroleum, and he need therefore have no anxiety on the subject.

Mr. SCOFIELD. I ask the chairman of the Committee of Ways and Means of the last Congress [Mr. STEVENS] a similar question.

Mr. STEVENS. We all recollect—all the members of the committee—that during the last Congress we were, I will not say importuned, but very much visited by the gentleman from the Erie district [Mr. SCOFIELD] upon this subject, protesting against the tax we were then about to put upon crude petroleum. The committee, however, agreed to the tax finally fixed, and it may be within the recollection of others than myself that the gentleman from Pennsylvania [Mr. SCOFIELD] made not only a persistent but some of us thought unreasonable effort to have the tax reduced or taken off. And I will say further, although he may not think it much in his praise, that when he did not succeed he became somewhat offended, and by several subsequent motions which were made sought to retaliate upon those who went against him on the taxing of petroleum. I thought for one that he was too persistent in his efforts in favor of that interest.

Mr. GRINNELL. Let me say that at the last session I denominated the gentleman from the Erie district [Mr. SCOFIELD] the "free-light man," and I think he deserved the honor.

Mr. SCOFIELD. I yield now for a few moments to my colleague, [Mr. LAWRENCE.]

Mr. LAWRENCE, of Pennsylvania. I desire to say for myself that on more than one occasion I have called on the chairman of the Committee of Ways and Means on this very subject, and have submitted a memorial on the subject to that committee. I have conversed, also, with General GARFIELD, of Ohio, on the subject.

Intelligent gentlemen from my district have been here, and have been at my room over and over again. I gave them the same assurance that my colleague from the Erie district says he gave these gentlemen who have misrepresented the action of the Representatives from western Pennsylvania. I have talked with all of them, and it is the universal opinion of the delegation that this tax should be reduced or perhaps entirely abrogated. These gentlemen have done injustice, and I presume intentional injustice, to the members from western Pennsylvania.

Mr. SCOFIELD. I now yield for a few moments to my colleague from the Pittsburg district, [Mr. MOORHEAD.]

Mr. MOORHEAD. I want to say a word upon this subject, but not for the purpose of excusing myself for anything I have done or failed to do. At the last session of Congress when the question of taxing petroleum crude was before the House I was in favor of the tax and advocated it strongly, and know that in so doing, I incurred the displeasure of the gentlemen who have made this report and the persons they represent. I thought then that this petroleum interest should contribute something toward the payment of the interest on our debt. I was in favor of the tax for that reason. I have found that in practice it works badly and operates very unfavorably on small wells and small dealers. I think the taxation should be laid on the large wells only, and I would like to see something of that kind done. I do not see, however, how it can well be done.

The gentlemen who have made this report through the newspapers, when they were here called on me, and I gave them the same assurances which my colleague from the Erie district gave them; I told them that, from my intercourse with other members of the Committee of Ways and Means, I had reason to believe that the tax would be repealed. I told them that I was in favor of taking it off, and that I had no doubt the Committee of Ways and Means would so report. I can only say that I am astonished that they should have made such a report as they have. The gentleman from the Erie district talked with me very frequently on this subject, urging the taking off of the tax, even before he had any knowledge of this committee being here; and he had assurances from me and from other members of the Committee of Ways and Means that we believed it would be taken off.

Mr. SCOFIELD. I have only to say further that I do not wish in any way to detract from the credit given to the gentleman from Ohio, [Mr. GARFIELD.] He deserves, perhaps, all that is said of him, and the delegation from western Pennsylvania deserve none of the slander that is heaped upon them.

Mr. GARFIELD. Will the gentleman from New York allow me to say a word?

Mr. TAYLOR. I yield to the gentleman.

Mr. GARFIELD. I desire to say in regard to this matter, that I knew of no such report as this being in the newspapers until the gentleman from Pennsylvania [Mr. SCOFIELD] read it this morning. As a member of the committee this subject was in part referred to me, and two delegations came on here from Pennsylvania, some of the members of which were personally known to me, and they came to me. I assisted them in getting facts from the internal revenue department, as I would have done any other committee, and I assured them also that

I had looked into the subject and believed that crude petroleum ought to be exempted from duty.

I am surprised at these statements made reflecting on the members from Pennsylvania, because I know that three of them have spoken to me several times upon the subject.

I suppose the chief reason why these parties came to me was in consequence of a previous acquaintance, and also for the reason that the Representative of the oil region proper [Mr. CULVER] has hardly been in his seat this session.

Mr. SCHENCK. I call for the regular order.

The SPEAKER. The first business in order is the call of committees for bills of a private nature, commencing with the Committee on Invalid Pensions, where the call rested on last Friday.

JOSEPH BRAGDON, JR.

On motion of Mr. SPALDING, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of the petition of Joseph Bragdon, jr.; and the same was referred to the Committee of Ways and Means.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 31) entitled "An act to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion;" when the Speaker signed the same.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; which were thereupon signed by the Speaker:

An act (H. R. No. 150) for the relief of the administrators and securities of Almon W. Babbitt, late secretary of Utah; and

An act (H. R. No. 471) to provide that the "Soldier's Individual Memorial" shall be carried through the mails at the usual rate of printed matter.

MRS. MARTHA MCCOOK.

Mr. TAYLOR, from the Committee on Invalid Pensions, reported back House joint resolution No. 46, for the relief of Martha McCook, with an amendment in the nature of a substitute.

The joint resolution was read. It provides a pension of \$300 per annum to Mrs. Martha McCook, of Jefferson county, Ohio, during her natural life, on account of the loss of her unmarried sons, Charles M. McCook and Brigadier General Robert L. McCook.

The substitute proposes to give Mrs. Martha McCook an annuity during her natural life of \$250 per annum, to be paid semi-annually, in consideration of the services of her husband and eight sons in the late war, four of whom have died of wounds received in service.

The question was upon agreeing to the substitute.

Mr. TAYLOR. Mr. Speaker, in submitting this resolution it seems proper that I should state briefly the reasons which have actuated the committee in recommending to the House its favorable consideration.

The resolution proposes to grant to Mrs. Martha McCook an annuity of \$250 per annum during life. The distinguished services of the McCook family and their sacrifices are familiar to every reader who has kept pace with the rapid events which have passed in such quick succession during the past five years, yet I deem it not out of place, as it is the base upon which this resolution stands, to recapitulate what may be, and I have no doubt is, familiar to every member of this House.

At the commencement of the recent war, when the unity and perpetuation of our Government were threatened by the rebellion of the so-called confederate States, nine of this family, all of its male members, with that patriotic impulse which characterized the uprising of the people of the loyal States, promptly entered the

service, and by their long and distinguished services and many sacrifices proved their earnestness and enduring devotion to the Union cause.

Major Daniel McCook, the lamented husband of Mrs. Martha McCook, was mortally wounded at the battle of Buffington Island, Ohio, and died July 21, 1863.

Captain John James McCook served on General Crittenden's staff, and was severely injured in the neck by the effects of a large shot.

Major Latimore A. McCook, acting assistant surgeon of the thirty-fifth Illinois volunteers, was wounded twice.

Colonel George W. McCook, ninety-sixth Ohio volunteers, organized five regiments, and took the field himself.

Major General Alexander McDowell McCook commanded the right wing of the army of the Cumberland, and is still in the service.

Brevet Brigadier General Edwin Stanton McCook was wounded three times, and while engaged before Vicksburg was stricken down with sunstroke, from the effects of which he will never recover. This officer was engaged in thirty-eight battles.

Private Charles Morris McCook, company F, second Ohio volunteers, was mortally wounded at the first battle of Bull Run, July 21, 1861, and died two days after, he at the time being but seventeen years of age.

Brigadier General Robert L. McCook, when sick and on his way to a hospital, was captured in his ambulance and savagely murdered by his captors August 6, 1862, he having been engaged in many battles.

Brigadier General Daniel McCook was mortally wounded at Kenesaw Mountain June 27, 1864, and died July 18, 1864.

Midshipman J. J. McCook died on board the flagship Delaware, March 30, 1842.

Including the last named we have ten out of one single family who have been actually engaged in the military and naval service of the country, four of whom were killed or died from wounds received in action, one died from sickness, three severely injured or wounded in the service, and but two of the ten escaping unharmed from the casualties of war.

Mr. Speaker, this is a record of which a nation may well feel proud. I do not know that in the history of the world there is a parallel case, none I am certain in the history of our own country, where so many of one family have rendered such distinguished service, and so many, by their own merit, bravery, and gallant conduct on the field, entitled themselves to the high and elevated rank which many of them attained.

The object of this resolution is that the nation should, in a substantial and fitting way, acknowledge the unparalleled services of a single family to the country in the hour of its peril, and to express its gratitude to a lady who gave birth to so many children, and to console with her in her bereavement for the loss of husband and sons whose lives have been given that their country might live.

Mr. Speaker, I have heard of but one objection to the passage of this resolution, and that is its tendency to open the way for admitting applicants for annuities for like services and sacrifices. This objection may in truth be well founded. Of this, however, I have many doubts; but if it be so, I shall be thankful and rejoice to know it, and will take great pleasure in doing what I can to recognize their services in as public and as substantial a manner as this resolution proposes to recognize the proud record of the family of the McCooks.

Now, unless some gentleman desires to speak upon this joint resolution, I will call the previous question.

Mr. PERHAM. I trust the gentleman from New York [Mr. TAYLOR] will not call the previous question until the minority of the committee have been heard.

Mr. TAYLOR. I withdraw the call for the previous question for the present.

Mr. PERHAM. I desire to submit a minority report, which I ask to have read.

The report was read. It states that while the minority of the Committee on Invalid Pensions recognize fully the distinguished services of the McCook family, they are unable to see why, from all the widows and mothers who have given their husbands and sons to their country's cause, this one should be selected to receive this compliment and substantial aid. The precedent would be a dangerous one, and if followed and a similar gratuity given to all who might as reasonably claim it, the draft upon the national Treasury would be very large. Many thousands of fathers and mothers who have given all their sons to the service will feel that their claims are as good as this. Some have already applied for pensions, and their applications must be responded to favorably or they will feel that injustice has been done them. Mrs. McCook is now in the receipt of a pension of \$300 per annum, to which she is entitled by the death of her husband in the service. The minority of the committee therefore recommend that Mrs. McCook be allowed to take, instead of the amount she now receives, a pension for the loss of her son, Brigadier General Robert L. McCook, which would be \$360 per annum; and report an amendment to that effect.

The amendment of the minority was read. It directs the Secretary of the Interior to place upon the pension-roll the name of Mrs. Martha McCook, the widow of Daniel McCook and the mother of Robert L. McCook, at the rate of thirty dollars per month during her widowhood, in lieu of the pension she now receives of twenty-five dollars per month.

Mr. PERHAM. I was one of the minority committee who were unable to come to the same conclusion to which the majority of the Committee on Invalid Pensions arrived in regard to this subject. I have no reason to detract at all from the just meed of praise that is due to this McCook family. I am willing to grant all that is claimed in that respect.

But the question arises whether this country, in its present financial embarrassment, is in a condition to allow this class of stipends to all the mothers and fathers who have given their sons to the service of their country. There are thousands of instances of poor mothers who have been left, it may be, with a large family of small children on their hands for support, who are receiving pensions of but eight dollars per month, yet who have given to the country all they had to give. Many of them have lost sons in the service, and the minority of the committee are unwilling to select this one case, this one lady, this one mother, however worthy she may be, and give to her this stipend of the Government while others are excluded. The committee already have submitted to them for consideration one case very similar to this in regard to which they have presented an adverse report. They have now before them the case of a father who claims that he has given to the service seven sons and one grandson, and he asks that some consideration of this kind be granted to him. The minority of the committee fear the precedent which would be established by the passage of the bill now under consideration, and therefore they object to its passage.

Mr. THAYER. Does the gentleman mean to say that in the instance he referred to the seven sons and a grandson were killed in the service?

Mr. PERHAM. They were not killed but were in the service.

Mr. THAYER. That is a very material difference; and that distinguishes very decidedly the case which he puts from the case now under consideration.

Mr. PERHAM. The gentleman will bear in mind that all the sons of Mrs. McCook were not killed.

Mr. THAYER. Four of them were killed in addition to her husband.

Mr. PERHAM. The minority of the committee desire that this question shall be presented distinctly, and shall be decided by the House with a full understanding of the prece-

dent which will be established by the passage of this bill. The action of the House on this case may be regarded as an instruction to the committee in similar cases which we now have before us, and others which must come before us.

The minority of the committee propose that the pension which Mrs. McCook is now receiving shall be increased from twenty-five to thirty dollars per month, thus giving her the pension to which she would be entitled in consequence of the death of her son, who was a brigadier general, instead of the pension for the death of her husband, who was a major.

Mr. EGGLESTON. It is very seldom, Mr. Speaker, that I attempt to say anything in this House; but on a question of this kind, in relation to which I have some knowledge of the facts of the case, I cannot remain silent and hear gentlemen on this floor depreciate the services of the brave and noble family to whom allusion has been made. The McCook family are, in Ohio, truly called the "fighting family."

Mrs. McCook has lost four sons in this war; and last of all, by a dispensation of divine Providence, her husband was taken while trying to stay the ravages of that desperado Morgan, who marched through the State of Indiana, and nearly through the State of Ohio.

I say that this House should indorse the report of the majority of the committee, and thus signify our appreciation of the patriotism of this family. The majority propose that we shall give this widow \$250 per annum, in addition to the twenty-five dollars per month which she is now receiving; and this proposition should receive the approval of the House. There need be no fear that any other case like this will ever come before this Congress. The records of this war may be searched in vain to find another family like the McCook family. I for one, as a Representative from Ohio, shall take pleasure in voting for the proposition submitted by the majority of the committee; and if any gentleman in this House can present any similar case or cases I am ready to vote for a like appropriation in such cases.

Mr. GRINNELL. Mr. Speaker, I believe that I have the credit, whether I deserve it or not, of being very liberal in my votes in this House, and I desire to be so on this occasion. But before I vote, I desire to inquire in regard to another very large class for whom I do not see any immediate prospect of provision being made. I wish to inquire in regard to the poor widows and mothers of private soldiers and maimed men with large families receiving eight dollars per month. Here is the case of a noted woman, honored in being the mother of a numerous, brave family. She is now receiving something like \$300 a year from the Government. That is well. But when it is proposed to double this pension because this lady had the honor to be the mother of such sons, one of whom now enjoys a lucrative foreign mission, while there are so many others who are deserving and absolutely indigent, I cannot see the propriety of supporting such a proposition; certainly when it sets a precedent which may involve the expenditure of millions of dollars.

Now, sir, I wish to state a fact in regard to my own State in connection with this proposed liberality. When we were raising troops one thousand brave men of our State, mainly above forty-five years of age, some of whom had sons, and even grandsons in the service of the country, were willing to enlist for the war. They supposed, of course, that they would receive the same treatment in reference to bounty, &c., as other troops. So far did this understanding extend that even the paymaster gave them a portion of their bounties. But when they were mustered out of service, one third and more of their number having died or become unfit for duty, the bounty which they had received was deducted from their pay, being at once a mortification and a hardship.

By a bill we have sought to redress this wrong to the sacrificing "grey-beards" of the war above forty-five years of age, many of whom went home, or the place they left as home, to

find their houses burned in some instances, and their property gone, thus left poor, dependent upon their relatives, or thrown back years financially. Now, the Government has not the charity or the justice even to give back to these men a part of the bounty.

Now, sir, before I vote this to the mother or the father of any major general, I shall ask justice to be done to these "grey-beards," men, though above forty years of age, doing their duty well. I tell you there are poor men now dependent upon scanty means we should first look to. I tell you they were brave men, and deserve something from the Government if we have charities to bestow. But here is the difference in this case. It is for the private soldier, for the poor, that we are called to legislate. Let us do that before we double the pensions of those who are now already well to do in this world, and who can rest upon their honors until families in absolute want are provided for.

I ask the Clerk to read what I send up.

Mr. MOULTON. It is a case from Illinois, and I want her to be heard from.

The Clerk read, as follows:

ASSESSOR'S OFFICE,
UNITED STATES INTERNAL REVENUE,
SEVENTH DISTRICT OF ILLINOIS,
PARIS, March 8, 1886.

MY DEAR FRIEND: I see by the papers that some gentleman of your House has been introducing some resolution of thanks or compliments to some gentleman that had five sons in the Union Army. Now, I wish to put in your hands this case: Mrs. Imogene Buckingham, of this county, had eight sons and three grandsons in the Union Army, two were killed at Shiloh, the other six lived through, and were all honorably discharged. One of her grandsons was badly wounded at Kennesaw. The names of these sons are as follows, namely:

Samuel Buckingham, company A, seventh regiment Illinois cavalry; Edson Buckingham, in a California regiment; John Buckingham, in a Missouri regiment; Joseph Buckingham, in an Iowa regiment; Benjamin Buckingham, in a twentieth Illinois regiment, dead; Charles M. Buckingham, in a twenty-ninth Illinois regiment, dead; Jacob Buckingham, in a twenty-ninth Illinois regiment; Elijah Buckingham, in a twenty-ninth Illinois regiment.

She is a widow, and has been for sixteen years, and in abject poverty; is sixty-seven years old; a woman of fine native sense; was born in Fairfield county, town of Brookfield, Connecticut; her maiden name was Imogene Campbell; married 3d of August, 1817, in Brookfield, Connecticut, to Philip Buckingham.

She is now living all alone, about five miles from this place; has lived in this county about twenty-five years.

The reason I have been thus particular and minute is to enable you if possible to procure her a special pension, as all of those that died had heirs of their own. These facts are all as I have stated them. See what can be done. She does not own one foot of land. The case is now with you.

Hoping that something may be done for this noble old Yankee mother, I am, with respect, your obedient servant,

O. W. RIVES,

Assessor Seventh District Illinois.

Hon. S. W. MOULTON, Washington, D. C.

I indorse the above statement as true to the best of my knowledge and belief. T. C. W. SALE.

Mr. GRINNELL. I have had cases presented to my consideration where there were six, and in one case seven, in one family who have served as privates, when the family itself was poor. Should I not appeal in vain to this House for money for them? I choose to consider the claim of our "grey-beards" and those with unequal bounties and the most needy first.

Mr. TAYLOR. I yield to the gentleman from New Jersey.

Mr. ROGERS. Mr. Speaker, this case, which strikes me as an extraordinary one, is in my judgment just; and it will give me great pleasure to vote for the report of the majority of the committee, and I think the time has now come in the affairs of the country when we should turn our attention to those who have labored in defense of the Union when our Government was sorely imperiled.

I am told, sir, that this family of McCook, consisting of ten, had all of its male members engaged in this war. I believe that it is a sacred trust confided to us to reward the widows and orphans our brave soldiers have left behind them. It is our duty to do so for the invaluable services the soldiers have rendered the country. We are spending millions of dollars for purposes not half so humane, not half so

charitable, as that which is here proposed to those who have shown so much bravery as this McCook family. It was proposed that the Government should be put to an expense of over fifty million dollars annually to keep up a Freedmen's Bureau for the support of a class of persons who are unwilling to earn their own living. The gentleman from Iowa who preceded me was willing to vote that, while he is unwilling to vote for this small stipend to a family whose members have behaved so gallantly in defense of the Union. I am not only not afraid to vote for this proposition for this poor woman, but I am willing to support the widows and orphans left behind by our brave soldiers. I am willing also to grant bounty, so far as the financial condition of the country will allow, to all of our brave soldiers who have periled their lives during the war while other men were sitting at their ease in safe places.

Mr. SCHENCK. And when "copperheads" were assailing them in the rear.

Mr. ROGERS. It is immaterial to me whether these parties are "copperheads" or not, so long as they did their duty gallantly. I do not care in these cases what a man's politics may be. I understand the father of this family, although too old to be enlisted, lost his life while in service against one of Morgan's raids, while many who were better able to bear arms shirked their responsibility. I hope no man on either side of the House will have the meanness to record his vote against this brave family which has done its duty to the country so well.

Mr. SCHENCK. I said these men were fighting the rebels in front while copperheads were attacking them in the rear. I did not call the soldiers "copperheads."

Mr. ROGERS. I understand this old man McCook served in the Army although he could not be drafted, when those who oppose this measure were safe at home in palatial residences.

Mr. TAYLOR. I yield to the gentleman from West Virginia, [Mr. WHALEY.]

Mr. WHALEY. I rise to indorse what has been said by the gentleman from Ohio, [Mr. EGLESTON,] and I wish to say that I for one am willing to vote to tax the people to the utmost extent in behalf of the suffering widows and mothers of our brave soldiers. And I regret to see that members on this floor are opposed to granting relief to this old lady. I am not here to speak in praise of the McCooks. Their history is too well known. Their bravery is shown by the fact that there were ten sons in the Army, three of whom were generals, all of whom, I believe, rose from the ranks. Such a remarkable family in that respect, perhaps, was never known in history.

I would not oppose this increase of pension to this lady on the ground that she may not need it. The fact is she does need it, otherwise there would have been no application to Congress for it.

Mr. TAYLOR. I yield for five minutes to the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. BENJAMIN. As one of the members of the Committee on Invalid Pensions, I was unable to agree with the majority of the committee who reported this bill. Here is a proposition that is very unusual in its character in the legislation of this country. Mrs. McCook is already in the enjoyment of a pension of \$300 a year, granted to her by the Department in consequence of the death of her husband.

It is said that this is a celebrated family. In regard to that I am not going to take issue with any one. But for that they should receive the same consideration that every other celebrated family is entitled to, no more and no less.

It is said that this is a fighting family. For that they are entitled to the same consideration that the hundred thousand other fighting families of this country are entitled to.

It is said that this family suffered greatly during the war. That is undoubtedly true;

but gentlemen must recollect that there are a hundred thousand other families that have suffered just as much consequent upon this rebellion.

It is said that the McCook family have contributed the entire male portion of it to the Army of the United States. I can tell gentlemen that there are thousands of families that have done the same thing in various parts of the country. I can point to families of constituents of mine every male member of which has laid down his life for his country in this war, and those who survive are in the greatest penury, and yet not one of them can obtain relief under the pension laws. And not only have they suffered in this way, but they have lost every vestige of property that they had. All has been destroyed, and perhaps a weeping mother is left in penury and want. Before I vote for this bill I wish to see these other thousands who are in need provided for by the Government of the United States.

There is no pretense that the McCook family are in destitute circumstances. One of them is now occupying a high position in the United States Army, an officer of high rank. Certainly one, and I do not know but more than one. There is no pretense that Mrs. McCook is in want at all. For that reason, if for no other, I am opposed to setting aside the thousands who are in actual want and providing for this particular case.

I am not disposed to detract anything from the merits of this family. They are entitled to all the credit that is accorded to them; but they are no more meritorious than many another family that has done as much and suffered as much during the war as this.

Then, again, I am opposed to setting a precedent in the passage of this bill, which proposes to grant an annuity, not a pension. I am not aware that there is a case in the history of this Government of the character here proposed.

Mr. TAYLOR. I will yield now to the gentleman from Ohio, [Mr. BINGHAM.]

Mr. BINGHAM. I desire to address the House for a few minutes only upon this question. It was my good fortune to represent for years the district in which this family resided and in which all the sons of this lady were born and raised. I have been acquainted with this family from my boyhood. I never was associated with them politically. I come before the House to-day, as I trust I shall come before the House upon all occasions upon questions of this sort, to insist that something like equal justice be done by this Government in granting special pensions. I do not see the distinction, and I do not think the people of this country will see the distinction, that is attempted to be made here between widows who are to have special pensions for services rendered by their husbands and sons during the war and their loss by battle. If gentlemen have any trouble on the subject of the word "annuity" in this bill, let it be stricken out and the word "pension" substituted. The words are convertible terms, and amount to one and the same thing. But there are gentlemen here who object to this bill because of the word "annuity," simply because they claim that the grant of annuities is a departure from the general rule in granting the pensions. It is further objected that the grant of a special pension is a dangerous departure from the general policy of the country and a bad precedent. If gentlemen will refer to the records of the Congress of the United States they will find that special pensions have frequently been granted, and that even in the last Congress this very departure from the general law was made in three instances: in the case of General Baker, who had been a colonel and was a brigadier general by brevet, which he never accepted; in the case of General Berry, and in the case of General Whipple. The last Congress allowed a pension of \$600 annually to the widows or families of each of these officers. I would like to know why this discrim-

ination is to be made in this case against this lady. Do gentlemen say that the wife of a fallen hero is entitled to more consideration than the mother who bore him?

Gentlemen talk here about remembering the poor. I trust they will remember the poor, and that the American people will remember the poor among the survivors of the heroes of this war for the life of the Republic.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the naval appropriation bill.

The message further informed the House that the Senate had passed a bill for the relief of Elisha W. Dunn, a paymaster in the United States Navy, in which the concurrence of the House was requested.

MRS. MARTHA M'COOK—AGAIN.

Mr. BINGHAM. Mr. Speaker, this lady—and it is certainly not to her discredit to say it—was left, when her husband fell upon the field, without any property of any kind, and dependent exclusively upon the affection which might be shown her by her surviving children.

It is but justice that I should further say that one of her sons, as I was informed by her daughter, protested against his mother accepting any pension from the Government, and claimed the privilege of being himself her protector and supporter when he took her, in her widowhood, to the shelter of his own roof-tree, where she is to-day.

But, sir, there is a peculiar reason why it is that this additional pension is asked by this old lady at the hands of the American Congress. It is this: she has not only lost her husband and her three sons, all of whom either fell in battle or perished of honorable wounds received in battle, but she has cast upon her care and keeping to-day another of those heroic sons, who, after going through thirty-eight battles in the late war for the Union, and being twice wounded nigh unto death, was brought home to her shattered in every nerve of his organization, and as helpless as a child.

Mr. PERHAM. Has not he a pension?

Mr. BINGHAM. Not that I know of. I have never inquired. I know that this lady had received no pension from the Government, and no proposition was made to grant her any until within the last ninety or hundred days, after I introduced this bill for her relief. Her sands of life are well-nigh run, and I want to know of gentlemen who voted to give \$600 a year to the widow of General Baker, and the same pension to the widows of General Berry and General Whipple, how they can go before the American people dickering about the difference between \$250 and \$60 a year. That is the question, and the only question, now before the House on the reports of the committee. The Committee on Pensions, both the majority and minority, report in favor of an increase of pension. The majority report in favor of an increase of \$250 annually of this lady's pension, and the minority report in favor of increasing it only sixty dollars annually; the whole committee, therefore, agree that there ought to be an increase of her pension.

The simple question, therefore, is, whether or not we shall adopt the suggestion of the minority of the Committee on Invalid Pensions, and thereby save the sum of \$190 annually and no more, on account of this increased pension proposed by the majority. That is the only question before us. With all respect, it seems to me that to reject the majority report in order to save annually the sum of \$190 by withholding it from this lady is not a wise economy.

Now, in regard to the services of this family. I beg leave to say that I was here in my place in the discharge of my public duty when the first battle was fought in Virginia in the great struggle for the preservation of the Republic.

This old man, Major McCook, the husband of this lady, without belonging to any company whatever, rushed to the front upon his own account and upon his own responsibility, and participated in the battle of the 21st of July, 1861, from its beginning to its close. Upon the retreat, when near Centreville, his young son Charley, aged seventeen, who had volunteered from his school-room at Gambier, Knox county, Ohio, to fight for the Union, was overtaken by the pursuing rebels and ordered to surrender. His father called to him, "Charley, surrender." The boy's voice was heard to respond, "Father, I can never surrender to traitors." And he fell, pierced with the bullets of the enemy, one of the first martyrs of the Republic. I went with his stricken-hearted mother to lay his mangled body in its last resting-place in the Congressional burying-ground.

From that day forward to the end of the struggle, every male member of this household was found in the ranks of the defenders of the country; being the surviving seven brothers and the father. Three of them have also fallen in battle, and one is now at home in the care of his mother, his constitution shattered, a miserable wreck, never again to enjoy health and comfort in this life.

And yet members here urge the importance of saving \$190 per annum in this case. It may be so; but for myself I will say, that whenever a like case is presented here from any quarter by any one of a whole family having rendered such service in the late war for the Union, the half of them having been killed outright, I will gladly vote for a like pension or annuity, and will not falter whatever word may be employed in the bill to designate the compensation.

I trust, however, that the gentleman from New York [Mr. TAYLOR] will consent to strike out the word "annuity" and insert the word "pension" in its place, for the purpose of removing the scruples of gentlemen.

Mr. WASHBURNE, of Illinois. Will the gentleman from New York yield to me for a few moments?

Mr. TAYLOR. How long does the gentleman desire?

Mr. WASHBURNE, of Illinois. But a few minutes. The gentleman can resume the floor whenever he desires.

Mr. TAYLOR. I will yield to the gentleman for five minutes.

Mr. WASHBURNE, of Illinois. Mr. Speaker, it is not necessary, I trust, while opposing this bill, for any gentleman on this floor to say that he does not fail to bear full and ample testimony to the courage of this McCook family, or of any member of it. For one, I most cheerfully bear my testimony to that effect. I knew the father of these children who fought so bravely and so well. I knew some of the children; one of them was the colonel of an Illinois regiment, and distinguished himself on all the fields where he served.

But this is a question that rises somewhat above these personal considerations; and I trust the House will understand this matter before they establish the precedent here recommended.

My friend from Ohio [Mr. BINGHAM] is a little mistaken, I perceive, in one particular. I have before me the joint resolution introduced by him; it is in his own handwriting. It is not like the one to which he referred as forming a precedent for the passage of this joint resolution. His joint resolution provides that there shall be paid to Mrs. Martha McCook a pension to the amount of \$300 per annum, not on account of the services of her husband, who, it is alleged, fell in the service, but on account of the loss of two unmarried sons, therein named, who fell in the war against the rebellion. That is the joint resolution introduced by the gentleman from Ohio. I say it is entirely exceptional, and that no such bill has ever, to my knowledge, been passed by Congress.

The Committee on Invalid Pensions have reported a substitute which the House is now called upon to pass, which substitute is also exceptional.

Mr. BENJAMIN. Will the gentleman from Illinois [Mr. WASHBURNE] allow me to say a word right here?

Mr. WASHBURNE, of Illinois. Certainly.

Mr. BENJAMIN. When the joint resolution was introduced to which the gentleman from Illinois has referred, Mrs. McCook was drawing no pension, as the gentleman from Ohio [Mr. BINGHAM] has already stated. That joint resolution was intended to provide her a pension. Since then she has obtained the pension the joint resolution asked for, and the substitute of the majority now proposes to give her \$250 per annum in addition.

Mr. WASHBURNE, of Illinois. Then the object of my friend from Ohio has already been accomplished.

Mr. BINGHAM. Not at all; she never got the pension asked for. The joint resolution asked for a pension for the loss of her sons.

Mr. WASHBURNE, of Illinois. Then the gentleman from Ohio wants a double pension?

Mr. BINGHAM. Certainly I do.

Mr. WASHBURNE, of Illinois. Then we come to the substitute reported by the majority of the committee. I say it is exceptional, and if the House establishes that precedent I do not know what point we may ultimately reach.

Mr. Speaker, whatever I might be disposed to do for Mrs. McCook in the way of voting a sum of money absolutely, as a testimonial from Congress in consideration of the bravery of her sons, I must object to the passage of any such bill as this. I would be willing to vote in favor of giving Mrs. McCook a sum of money absolutely. Such a proposition would be much preferable to this.

Mr. BINGHAM. All that I desire is that justice shall be done in this matter; and I am willing to move an amendment providing that there be paid to Mrs. McCook a gratuity of \$1,500, instead of the yearly sum here proposed.

The SPEAKER. That amendment would not be in order now. There is pending a substitute, to which an amendment has been offered.

Mr. WASHBURNE, of Illinois. The amendment might be received by unanimous consent.

Mr. CONKLING. Such a proposition as that could not receive unanimous consent. I must object, for one.

Mr. HARDING, of Kentucky. Will the gentleman from New York [Mr. TAYLOR] now yield to me?

Mr. TAYLOR. I would be glad to yield to the gentleman, but he wishes to advocate the amendment emanating from the minority of the committee. I have already given two gentlemen of the minority an opportunity to advocate their views, and I must decline to yield further.

Mr. HARDING, of Kentucky. Let me ask the gentleman whether it is his intention to call the previous question and cut off debate on the minority report. As a member of the committee, I claim the right to say something upon that minority report.

Mr. TAYLOR. I think that there has been full opportunity afforded for the presentation of the views of the minority, and I decline to yield further. There are scarcely fifteen minutes of the morning hour remaining.

Mr. HARDING, of Kentucky. I hope that the previous question will not be sustained.

Mr. TAYLOR. The gentleman from Missouri [Mr. BENJAMIN] and the gentleman from Illinois [Mr. WASHBURNE] have said that there is no precedent for the action proposed in this bill. Those gentlemen are at fault in their knowledge of the legislation of the country. It will be found that in 1814, a gratuity of \$200 a year during life was granted to Mrs. Mary Cheever, on account of the distinguished services of her two sons, who were seamen on board the frigate Constitution, and were killed in the capture of the British frigate Java. This, so far as I know, is the only case exactly in point. In the course of the discussion of that case in Congress, it was proposed to make it a

pension; but that word was rejected for the express purpose of making that a case distinct from all others, precisely what this joint resolution proposes with reference to this McCook family.

I cite also the case of the widow of Commodore Perry, who, in 1821, was granted an annuity of \$400 a year during life, and also an annuity of \$150 for each of four children. That also is a case analogous to this. Gentlemen, therefore, need not urge the objection that the passage of this joint resolution will establish a precedent, because the precedent has already been established years ago.

I desire also to call the attention of the House to the fact that no longer ago than the last session of Congress, pensions of \$600 each were granted to the widows of three distinguished generals—Generals Baker, Berry, and Whipple. The annuity of \$250 which this resolution proposes to give Mrs. McCook will, with the pension which she is already receiving, make \$550—fifty dollars less than the annuity granted in similar cases by the last Congress.

Mr. Speaker, I now demand the previous question.

Mr. HARDING, of Kentucky. I appeal to the gentleman to withdraw the call for the previous question, so that the whole case may be heard.

Mr. TAYLOR. But a few minutes of the morning hour remain, and I must insist on the previous question.

On seconding the previous question, there were—ayes 49, noes 26; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. TAYLOR and PERHAM.

The House divided; and the tellers reported—ayes sixty-three, noes not counted.

So the previous question was seconded.

The main question was ordered, which was upon the amendment of Mr. PERHAM to the substitute reported by the committee.

Mr. HARDING, of Kentucky, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 48, nays 69, not voting 66; as follows:

YEAS—Messrs. Allison, Baker, Baldwin, Baxter, Beaman, Benjamin, Boutwell, Brandegee, Cobb, Conkling, Cook, Deftoe, Farnsworth, Ferry, Grider, Grinnell, Hale, Aaron Harding, Abner C. Harding, Henderson, Holmes, Edwin N. Hubbell, Ketcham, Laffin, Latham, Longyear, Lynch, Marvin, McKee, Mercur, Moulton, Paine, Perham, Pike, Price, John H. Rice, Ritter, Rollins, Shanklin, Smith, Stevens, T. Woodbridge, Unson, Elihu B. Washburne, William B. Washburn, Williams, James F. Wilson, and Windom—48.

NAYS—Messrs. Ancona, Barker, Bidwell, Bingham, Boyer, Buckland, Bundy, Chanler, Reader W. Clarke, Coffroth, Davis, Dawson, Delano, Deming, Denison, Donnelly, Eckley, Eggleston, Eldridge, Eliot, Farquhar, Finck, Glossbrenner, Goodyear, Hayes, Hill, Hogan, Hotchkiss, Asabel W. Hubbard, Chester D. Hubbard, James M. Humphrey, Kelley, Kelso, George V. Lawrence, Loan, Marshall, McCullough, McKuer, Miller, Moorhead, Morris, Myers, Niblack, O'Neill, Orth, Phelps, Samuel J. Randall, Raymond, Rogers, Ross, Rousseau, Scofield, Shellabarger, Spalding, Sülwell, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, Welker, and Whaley—69.

NOT VOTING—Messrs. Alley, Ames, Anderson, Delos R. Ashley, James M. Ashley, Banks, Bergen, Blaine, Blow, Bromwell, Broomall, Sidney Clarke, Culton, Culver, Darling, Daves, Dixon, Dodge, Driggs, Dumont, Garfield, Griswold, Harris, Hart, Higby, Hooper, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kasson, Kerr, Kuykendall, William Lawrence, Le Bond, Marston, McCullough, McIndoe, Morrill, Newell, Nicholson, Noel, Patterson, Plants, Pomeroy, Radford, William H. Randall, Alexander H. Rice, Sawyer, Schenck, Sitgreaves, Sloan, Starr, Strouse, Trimble, Wentworth, Stephen F. Wilson, Winfield, Woodbridge, and Wright—66.

So the substitute of the minority was disagreed to.

During the vote,

Mr. HALE stated that Mr. Woodbridge was detained from the House by illness.

The vote was then announced as above recorded.

The substitute of the majority of the committee was adopted.

The joint resolution as amended was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. TAYLOR demanded the previous question on the passage of the joint resolution.

The previous question was seconded, and the main question ordered.

Mr. SMITH demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 42, not voting 68; as follows:

YEAS—Messrs. Ancona, Barker, Bidwell, Bingham, Boyer, Bromwell Buckland, Bundy, Chanler, Reader W. Clarke, Coffroth, Cook, Davis, Dawson, Delano, Deming, Denison, Donnelly, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Finck, Glossbrenner, Hayes, Henderson, Hogan, Hotchkiss, Asahel W. Hubbard, Chester H. Hubbard, James M. Humphrey, Kelley, Keiso, Latham, George V. Lawrence, Loan, Longyear, Lynch, Marshall, McClurg, McKuer, Miller, Moore, Paul, Pike, Samuel J. Randall, Orth, Paine, Phelps, Pike, Samuel J. Randall, Raymond, Rogers, Ross, Rousseau, Scofield, Shellabarger, Spalding, Stillwell, Taber, Taylor, Thayer, Thornton, Van Aernam, Durt Van Horn, Robert T. Van Horn, Ward, Warner, Welker, and Whaley—73.

NAYS—Messrs. Baker, Baldwin, Baxter, Beaman, Benjamin, Boutwell, Brandegee, Cobb, Conkling, Deftrees, Ferry, Goodyear, Grinnell, Hale, Aaron Harding, Abner C. Harding, Harris, Hill, Holmes, Edwin N. Hubbell, Ketcham, Marvin, McKee, Mercer, Patterson, Perham, Plants, Price, Ritter, Rollins, Shanklin, Smith, Stevens, Trowbridge, Upson, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Williams, James F. Wilson, and Windom—42.

NOT VOTING—Messrs. Alley Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Banks, Bergen, Blaine, Blow, Broomall, Sidney Clarke, Culom, Culver, Darling, Daves, Dixon, Dodge, Driggs, Dumont, Garfield, Grider, Griswold, Hart, Higby, Hooper, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Johnson, Jones, Julian, Kasson, Kerr, Kuykendall, Ladin, William Lawrence, Le Blond, Marston, McCullough, McIndoe, Morrill, Moulton, Newell, Nicholson, Noell, Pomeroy, Radford, William H. Randall, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Sitgreaves, Sloan, Starr, Strouse, Francis Thomas, John L. Thomas, Trimble, Stephen F. Wilson, Winfield, Woodbridge, and Wright—68.

So the joint resolution was passed.

Mr. TAYLOR moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NAVAL APPROPRIATION BILL.

Mr. FARNSWORTH. I rise to a privileged question. I desire to make a report from the committee of conference on the disagreeing votes of the two Houses on the naval appropriation bill. I ask that it be read.

The Clerk read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments to the bill (H. R. No. 122) making appropriations for the naval service for the year ending June 30, 1867, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives recede from their disagreement to the amendments of the Senate numbered one, five, six, ten, and eleven, and agree to the same.

That the Senate recede from their fourth amendment.

That the Senate recede from their disagreement to the amendment of the House to the third amendment of the Senate, and agree to the same.

That the House recede from their disagreement to the seventh amendment of the Senate, and agree to the same with an amendment, as follows:

Strike out all of said amendment and also the clause of the bill to which it was attached, and insert the following in lieu thereof: "For the preservation and necessary repairs of the property of the United States at the Pensacola navy-yard, \$30,000, or so much thereof as may be necessary."

That the Senate agree to so much of the amendment of the House to the eighth amendment of the Senate as proposes to strike out of said amendment the following words: "the same as those rates received at Boston, New York, and Washington;" and agree to the matter proposed to be inserted by the House, and that the House agree to the same as so modified.

That the House recede from so much of their amendment to the ninth amendment of the Senate as proposes to strike out the second clause of said amendment; and that the Senate agree to so much of the amendment of the House to said Senate amendment as proposes to strike out the words "foundry and," in the fourth clause of said amendment.

That the Senate recede from their disagreement to

the amendment of the House to the twelfth amendment of the Senate and agree to the same.

That the House recede from their amendment to the sixth section of the bill in the following words:

"If approved by the Secretary of the Navy,"

JAMES W. GRIMES,

E. D. MORGAN,

T. A. HENDRICKS,

Managers on the part of the Senate.

N. P. BANKS,

J. F. FARNSWORTH,

CHARLES E. PHELPS,

Managers on the part of the House.

Mr. FARNSWORTH. My colleague on the committee of conference, the gentleman from Massachusetts, [Mr. BANKS,] being sick and unable to attend the session of the House today, has sent me the papers and requested me to make the report. That is the reason why I make the report instead of the chairman of the committee of conference on the part of the House.

The principal differences between the House and the Senate were in regard to the purchase of the Oakman & Eldridge wharf, at the Charlestown navy-yard, and the proposition for the purchase of additional grounds adjoining the Naval School at Annapolis.

One of the members of the committee on the part of the Senate, Mr. GRIMES, who had made a personal examination of the grounds at Annapolis, was of opinion that this purchase should be made, and that the price at which it is offered to the Government is very cheap.

In reference to the purchase of Oakman & Eldridge's wharf, the Senate recede from their amendment.

These were the principal points of difference; the House receded in reference to the Annapolis appropriation, and the Senate receded in reference to the wharf purchase.

The other amendments were in the main merely verbal.

Mr. CHANLER. I did not distinctly hear what are the provisions made by the report in reference to the navy-yard on the Gulf. I would therefore ask the gentleman what appropriations are now made by the bill for the navy-yard at Pensacola.

Mr. FARNSWORTH. There is an appropriation of \$50,000 for the necessary repairs for preserving the navy-yard at Pensacola, but there is no appropriation for rebuilding the navy-yard at that point.

I do not think further discussion is necessary; and I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the report of the committee of conference was agreed to.

Mr. FARNSWORTH moved to reconsider the vote by which the report of the committee of conference was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

QUARANTINE STATION, NEW YORK.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in compliance with a resolution of the House of the 14th of March last, stating that he has no data by which to form an opinion as to the effect that the erection of a quarantine station will have upon the navigable waters of New York harbor; which was laid upon the table, and ordered to be printed.

THE ASSASSINATION REWARDS.

The SPEAKER, by unanimous consent, laid before the House a communication from the Secretary of War, in reply to a resolution of the House of the 10th instant, in regard to the findings of the commissions in the case of the rewards for the capture of J. Wilkes Booth and David E. Harold; which was laid upon the table, and ordered to be printed.

ILLINOIS CENTRAL RAILROAD.

On motion of Mr. FARNSWORTH, by unanimous consent, the Committee on Appropriations was discharged from the further consideration of a letter from the Secretary of War stating the amounts paid to, and still claimed, by the Illinois Central Railroad Com-

pany for transportation, &c., for the Government, and the same was referred to the Committee on the Judiciary.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. WILLIAM G. MOORE, his Secretary.

Also, informing the House that he had approved and signed bills and a joint resolution of the following titles, namely:

An act (H. R. No. 207) to amend an act to provide ways and means to support the Government, approved March 3, 1865;

An act (H. R. No. 223) to amend an act to incorporate the Mutual Fire Insurance Company of the District of Columbia;

An act (H. R. No. 60) to reimburse the State of Pennsylvania for moneys advanced Government for war purposes;

An act (H. R. No. 364) to confirm unto Augustin Amiot, his legal assigns and representatives, a certain lot of ground in the city of St. Louis, in the State of Missouri;

An act (H. R. No. 349) for the relief of the estate of E. W. Eddy; and

Joint resolution (H. R. No. 105) giving construction to the law in relation to bounties payable to soldiers discharged for wounds.

ARMY BILL.

The SPEAKER stated that the next business before the House was the consideration of the special order, being the bill to reorganize and establish the Army of the United States, reported by the Committee on Military Affairs.

Mr. CONKLING. I would inquire if the question before the House is not upon the substitute reported by the committee for the Senate bill.

Mr. SCHENCK. There is no Senate bill before the House.

Mr. CONKLING. Is not this a substitute for the Senate bill?

Mr. SCHENCK. Oh, no; it is a House bill.

The SPEAKER. The Senate bill is not now before the House. This is a House bill reported back with an amendment in the nature of a substitute.

The Chair will state that if there is no objection it will greatly facilitate business to have the substitute treated as an original bill reported by the committee; if treated as a substitute, but one amendment can be offered at a time.

Mr. SCHENCK. I was about to make that very suggestion. This bill which the committee report is in fact an original bill.

The SPEAKER. If, then, there be no objection it will be treated as an original bill, and an amendment and an amendment to an amendment will be entertained.

No objection was made.

Mr. RAYMOND. I would like to inquire of the Chair to what subject the message just received from the President of the United States relates.

The SPEAKER. It has not yet been journalized by the Journal Clerk, but it is in regard to the fisheries.

Mr. RAYMOND. If it is not too long, I would like to have it read.

Mr. SCHENCK. I must object to that, as the Army bill is the special order for to-day.

The SPEAKER. Then the gentleman from New York can move to proceed to the business on the Speaker's table, and that will take the gentleman from Ohio off the floor.

Mr. SCHENCK. Does the gentleman only want it read?

Mr. RAYMOND. That is all.

Mr. SCHENCK. I object to its being taken up for the mere purpose of reading. If a motion is made to take it up for action and I cannot resist that motion I must of course give way. I have no feeling about the matter, but the Army bill was made the special order for to-day, and it should not be shoved aside now.

Mr. RAYMOND. I will not press my request.

Mr. SCHENCK. I desire to suggest to the House, in behalf of the Committee on Military Affairs, a mode of procedure in regard to the

consideration of this bill which I trust will be satisfactory to all sides.

I propose that the bill, important as it is admitted upon all sides to be, shall first be read through, and then read section by section for amendment, as though in Committee of the Whole. When it shall have been read I shall ask the attention of the House for, I think, not more than fifteen or twenty minutes, in order that I may give the House some idea of the general features of the bill, of the line of legislation that the House committee has thought proper to pursue, as contradistinguished in some points from that which we find in the bill which has been sent to us from the Senate, and which has also been referred to the Committee on Military Affairs; and, as I do not mean to be interrupted during that fifteen minutes by anybody, I trust no gentleman will consider me discourteous if I do not yield the floor to him. But in order that every one may have a fair opportunity I propose not to call the previous question on the bill, but that it shall be considered section by section, so as to give gentlemen an opportunity to bring forward their amendments and present their views to the House. That, I think, is but fair.

I propose, however, that the debate shall be limited by general consent to ten-minute speeches, for five minutes is scarcely long enough. And I will not call the previous question except it be upon some particular section, the previous question to apply only to that particular section, if the discussion seems to run to an unreasonable length upon it, just as in Committee of the Whole the motion is made that the committee rise for the purpose of closing debate on a particular section.

My object is to secure a fair consideration to this bill, and upon the part of the Committee on Military Affairs to invite the aid of members of the House on all sides to perfect the bill and put it in such a shape as will secure the best organization for this great arm of the public defense. I will ask that this may be the general understanding.

Mr. THAYER, Mr. DAVIS, and Mr. CHANLER objected.

Mr. SCHENCK. Very well; then if it shall become necessary, where it appears that this bill is made a peg to hang long speeches upon, I shall be compelled to call the previous question on the entire bill.

Mr. CHANLER. I desire to submit a suggestion to the gentleman from Ohio, [Mr. SCHENCK.] There may be more persons on this side of the House who by the arrangement he proposes may be cut off.

The SPEAKER. If objection is made to the suggestion of the gentleman from Ohio, [Mr. SCHENCK,] it cannot be adopted.

Mr. CHANLER. I only desire to have the arrangement fully understood before it is completed. And therefore I would suggest to the gentleman from Ohio before this arrangement is made—

Mr. CONKLING. I appeal to my colleague [Mr. CHANLER] to withdraw his objection.

Mr. CHANLER. Well, I was about to do so without any appeal.

Mr. CONKLING. If my colleague will allow, I will say that it seems to me that the suggestion made by the chairman of the Committee on Military Affairs is a very fair one. If my colleague across the way [Mr. CHANLER] and my colleague nearer to me [Mr. DAVIS] wish to make remarks to an extent greater than ten minutes they can make them now, and agree afterward to the suggestion of the chairman of the Committee on Military Affairs, and then we can go on and consider the bill.

Mr. CHANLER. I am very much obliged to my colleague [Mr. CONKLING] for his usual courtesy and kindness in taking the very words out of my mouth while I am upon the floor. I was about to make exactly the same suggestion. The only object I had in rising was to make the very suggestion, and in the very words that he has just made. I do not wish to debate the bill at large, but if any gentleman desires to debate it at large I propose

that he shall have an opportunity to do so before the proposed arrangement shall be entered into. Then the gentleman from Ohio can bring forward his ten-minute limitation, and have the bill debated under that rule.

Mr. THAYER. I will withdraw my objection to the arrangement proposed by the gentleman from Ohio, if he will agree to have speeches limited to fifteen minutes instead of ten minutes.

Mr. SCHENCK. I thought that when I was willing to limit myself to fifteen minutes in the general explanation of the bill, ten minutes upon each amendment would be enough for members. My desire is to economize the time of the House, and to make this a business debate. It is not the desire of the committee, and certainly it is not my desire, that this Army bill shall be made a peg upon which to hang long speeches upon general subjects. And I do not think my friend from Pennsylvania has any desire to indulge in any such debate. If he thinks that ten minutes upon each amendment is not enough, then I will consent to the limitation of fifteen minutes.

Mr. ELDRIDGE. I suggest to the gentleman from Ohio [Mr. SCHENCK] that we first hear the bill read through. We can then ascertain whether there is any desire for any general debate longer than the time which he has proposed.

Mr. SCHENCK. That was my proposition, that the bill be first read through, then I would make a brief explanation of the general character and object of the bill. After which the bill will be read section by section for amendment, during which time debate shall be limited to speeches of ten minutes each.

Mr. ELDRIDGE. Let the bill be read through before that arrangement is made.

Mr. SCHENCK. Then I give notice that I will submit that proposition to the House as soon as the bill shall have been read.

The bill was then read at length.

The SPEAKER. The gentleman from Ohio has suggested that the bill be read by sections for amendment, and that debate be limited to fifteen minutes. Is there any objection?

There was no objection.

Mr. SCHENCK. Mr. Speaker, it is not necessary for me to speak of the importance of the bill which we have now before us for consideration. It relates to the great arm of the public defense, to the number, classification, and condition of the troops necessary to constitute that arm as it shall hereafter be preserved for the public defense. This bill, embodying after much investigation and consideration the views of the Committee on Military Affairs, has been brought by them before the House with a request, heretofore made to the House and which I now repeat, that we shall have, as we progress with the bill, the aid of the Representatives here assembled in putting the bill, by any requisite amendments, in such a shape as will best accomplish its great objects and the good of the country, for which it is intended.

I have very little to say in regard to the general features of the bill except as they shall disclose themselves as we proceed in its consideration section by section, as the House has resolved to do. I will make, however, the general remark that this bill is framed in conformity to the views of the Lieutenant General of the Army, sanctioned by the Secretary of War, in so far as it regards the number of the standing Army proposed to be provided for the future protection of the country. According to the recommendations of those officers, it provides for an Army which shall consist of fifty thousand men, but with an organization capable of expansion to eighty-two thousand six hundred. Gentlemen may differ with each other and with the committee in regard to what should now be the number of the standing Army of these United States. I confess that the impression which has been upon my mind for many months, and which is not yet entirely removed, is that we ought to preserve an Army of at least one hundred thousand men. I, how-

ever, yield my own opinion upon that subject to the high authority of the Lieutenant General, whose view is concurred in by the Secretary of War in his report, and sanctioned, I believe, by the President in communicating to us that report. I have been willing to take the standard which they propose, and which has been embodied as one of the general features of this bill.

Some gentlemen, taking a different view, will doubtless claim that there ought to be either no standing army at all, or a very small one, perhaps not larger than that which existed before the war for the suppression of the rebellion, to serve only as a nucleus for expansion into such force as may be needed by the addition of the militia and volunteer forces of the country that may be called out in any emergency.

Without going into a detailed statement of the reasons which led to the conclusion arrived at by the Lieutenant General, by the Secretary of War, and by the committee, it will, in my opinion, be found that, in view of the vast extent of our sea-coast, requiring garrisons at different points, not only upon the Atlantic but also upon the Pacific, including the whole coast of California; considering also the numerous interior posts of the country, and the probable necessity, owing to the disturbed condition of the country, of keeping up here and there the nucleus of a force to be mobilized if occasion should require in the southern districts of this country, the general number agreed upon is by no means too great. Taking in view all these elements of calculation, bearing in mind the garrisons that will be necessary for all our military posts and for the Indian frontier, and the force that will be required for the various expeditions which must from time to time be undertaken, and the troops that may be requisite in different parts of the country for securing and preserving the public peace, the aggregate cannot properly be less than that which the committee have made the basis of their bill.

The bill which has been passed by the Senate, and which is now before the Committee on Military Affairs, does provide for a smaller number, but only in this one particular: the Senate proposes fifty as the number of infantry regiments, while we have provided for fifty-five, the latter being in accordance with the bill as originally proposed in the Senate, and in accordance with the recommendations of the Lieutenant General and the Secretary of War, this reduction of five regiments being apparently for the purpose of crowding out and getting rid of the Veteran Reserve corps. We retained the fifty-five regiments, using ten of them for the Veteran Reserve corps. They would have but fifty regiments, and have the whole fifty to the exclusion of that corps, or in providing for new officers outside of that corps hereafter to be retained in the service of the country.

Then as to the cost of the Army we propose, any gentleman who has looked at the public documents laid before the House is familiar with the fact that the appropriation made for the support of the Army and forces in the field during the last year of the rebellion was \$516,000,000. The estimate, subject, however, to some small deductions for the reduction of officers made in our bill—the estimate submitted for an army to be retained such as we propose now by the bill before the House—was \$33,000,000 in the aggregate, being about the sixteenth part of what it cost the country to retain the Army during the last year of the war.

Another feature in this bill, in which there is a slight difference, (and gentlemen have requested me to state the differences between this and the bill which passed the Senate,) is in the number of colored troops retained. The Senate propose eight regiments of colored troops. The House proposes eight regiments of colored troops so far as infantry are concerned. Two regiments, of the twelve regiments of cavalry provided for in both bills, in the Senate bill it is provided shall be col-

ored cavalry. We have no such provision in the bill before the House.

The bill, as I have already intimated, reserves for use in the service of the country a body called the Veteran Reserve corps, made up of ten of the fifty-five regiments of infantry, eight others of the fifty-five being colored. I am aware there will be objection made in some quarters to this preservation of that organization, to this provision for its being continued. I will not now, but will in the course of the debate on the section, go into any argument in respect to the retention of that corps. I will but say that this corps, which sprung from the necessities of the war, which had its birth in the exigencies of that struggle, consisted of twenty-four regiments. It is proposed by the House bill, the features of which gentlemen desire to understand, to continue the Veteran Reserve corps, not to the number of twenty-four regiments, as provided for until the men were discharged on their election, but of ten regiments only, the officers to be taken from these regiments, not exclusively those who were officers of the twenty-four regiments which heretofore existed, but to be selected, by examination, from those officers and from all other wounded volunteer officers who may have the requisite qualifications; the corps to have among its members, so far as the enlisted men are concerned, such enlisted men as may be found fit for light or garrison duty of any kind to be assigned for the purpose in this corps, together with such others as may be required to make up the whole corps, and who would be rejected on medical inspection without any such provision of law.

Another feature of the bill is the preservation, as a distinct bureau, of the Provost Marshal General's office, the Provost Marshal General, and his assistants. That section is one which will be the subject of objections by gentlemen. It will be for consideration when we come to that section whether it shall be retained or not as a part of the bill. I only pause to say in regard to it now, as it will be fully discussed hereafter, that this was a great means for recruiting and keeping up the Army, and the committee thought some such bureau was necessary for the purpose of recruiting, as the mode of procedure heretofore in the Army has been for the most part a decided failure.

It will be observed that the committee has departed from another general feature as exhibited in the bill which the Senate has laid upon our table. I am only doing justice by saying that in the last modification to the bill which passed that branch the Senate introduced the same thing proposed by the Committee on Military Affairs of the House. We have not confined the selections of officers to be appointed to fill up original vacancies in the various arms of the service to volunteer officers as was originally done, but it is proposed to extend them to all volunteers, whether officers or soldiers, who can by examination prove themselves possessed of the requisite qualifications, having regard to services in connection with those qualifications.

There is another feature in the Senate bill differing very much from that contained in the substitute. There is a provision contained in one section of the Senate bill in regard to selections for the filling up of the officers of these newly organized regiments, that where two thirds shall be taken from the volunteer officers and soldiers, and the other third shall be selected at the discretion of the President from the regular Army and elsewhere, all the regular Army officers who have during the war commanded volunteer troops shall be counted either as regular Army officers or as volunteers. It struck the committee of the House that here was a provision by which it might be possible, though I do not say it was so, for the regular Army officers who had not been in command of volunteer troops during the war, to carry away the first third of the prizes, and then remit to the enjoyment of the other two thirds these regular Army officers who had commanded volunteer troops.

We do not adopt any such feature in the bill now proposed. And to avoid all possible mistake we have inserted in lieu of it a section providing that no officer of the regular Army who has commanded volunteer forces during the war, shall on that account be held to be a volunteer.

There is another provision that is new—a provision for revising the whole Army list, as it now stands, in order to determine what officers may properly be retained in the service. This may be thought very radical. It may be thought that men who have enjoyed the advantage of their commissions in the regular Army, whether appointed from the Military Academy, or from civil life, or from volunteers since the war began, should, by reason of being found now in the Army, continue there until regularly dismissed by court-martial, and in that manner alone.

The committee have thought otherwise, and that now, in this transition period, when we are establishing a new army as it were, taking the old Army and expanding and solidifying it, one mode of making the Army serviceable would be to have a general revision of all those who now constitute its officers, in order to determine whether they should all, or only a part of them, be retained. Accordingly we have introduced a provision which will not by any possibility interfere with many of the officers, and which may not interfere with any. And it is not a star-chamber mode of procedure, but a fair mode by which every Army service shall be represented in a general council of officers, who shall allow the whole Army list to be retained; certainly all against whom there is no objection. Then, in regard to others, they are to report, not that a particular officer shall be dismissed or deprived of his commission, but simply that he shall come before the board and have his whole case fairly examined, after which the board shall resolve whether he shall continue in the Army or not.

[Here the hammer fell.]

Mr. HALE. I move that the time of the gentleman be extended.

Mr. SCHENCK. Upon the whole, I prefer to withhold any further explanation now, and to make it upon the sections as they are reported.

The SPEAKER. The gentleman will be entitled to the floor on each section.

The first section was reported, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That the military peace establishment of the United States shall hereafter consist of five regiments of artillery, twelve regiments of cavalry, fifty-five regiments of infantry, the professors and corps cadets of the United States Military Academy, and such other forces as shall be provided for by this act, to be known as the Army of the United States.

Mr. DAVIS. Mr. Speaker, this bill creates an army of fifty-five regiments of infantry. The bill that passed the Senate on the 6th of March last provided for the organization of fifty such regiments, and I have understood from officers of the Army that that number is deemed sufficient for the purposes of the country.

I have taken the trouble to ascertain what additional amount of expense this Government will be subjected to by reason of the increase from fifty to fifty-five infantry regiments. If you look at the pay proper of these five regiments alone, without regard to subsistence, clothing, and equipment, or to anything else, the number of men being limited to fifty in each company, as it is proposed to limit it by this bill, then the annual additional expense will be \$828,869 90.

Then there are a great many contingencies connected with that service which have not gone into this computation, such as equipment, rations, forage, and everything of that nature.

Now, sir, if these five regiments proposed by this bill are not necessary for the country, I for one feel desirous that it should be relieved from this additional expense.

I have made this computation upon the basis of the minimum number provided by this bill.

But if the regiments are filled up to the maximum it will add \$400,000 more for pay alone, making the whole amount upwards of one million two hundred and fifty thousand dollars for the additional five regiments, besides the expense of supporting them and keeping them in the field.

I am told, I do not know whether it be true or not, that this increase of regiments is in reference to the organization of the Veteran Reserve corps, and that it is designed to be the means of furnishing employment and subsistence to men in that corps. I submit that when it is known, as I believe every gentleman when he comes to reflect upon it will see and know, that this Veteran Reserve corps is composed of men who have been disqualified for active service in the field, and who are pronounced to be unfit for anything but light duty in fortifications, it will be seen that it will be wisdom on the part of the Government to increase the pensions of these men rather than to incur this additional expense for the purpose of putting men into the field who are not competent for the duties of the field.

I have no desire whatever to do any injustice to any man who has served under this Government during this war. But I wish to see the Army of the United States efficient, whether at post or in the field. And therefore I believe public policy demands that we should pension those who have been unfortunate, and keep up the most efficient organization it is possible for us to do in the field.

This bill contemplates that this Reserve corps shall be kept on post duty. Of course the officers of the regular Army are to be sent off into the field, where they will have no opportunities for the ordinary recreations or enjoyments which they may occasionally have under the present system of service. Now, this thing should be equalized; regiments which have been stationed in hot climates or at sickly posts in one season should be transferred to other posts as has been the practice of the Department heretofore, and thus we should have uniformity and fairness in the disposition of the Army.

These are the only remarks I desire to make on this section. I will move to strike out "fifty-five" and insert the word "fifty" before the words "regiments of infantry."

Mr. BLAINE. Without debating all the points raised by the gentleman from New York, [Mr. DAVIS,] I would suggest to him to observe that this first section is rather a preamble to the bill, as it may be termed, than a part of the bill itself. The point at which he aims is entirely embraced in the fifth section of this bill; the question in regard to retaining the Veteran Reserve corps in service comes up directly in the consideration of that fifth section. And therefore I suggest to him to waive his motion to amend this first section, and make it when the fifth section shall be up for consideration. If his amendment shall be adopted there, of course the first section will be altered accordingly, as we alter the preamble to a bill or resolution after having changed the bill or resolution by amendment. I think if he will do that it will be more pertinent and more intelligible to the House.

Mr. DAVIS. Before I sit down, I desire to send up to the Clerk's desk a substitute which I propose to offer for this entire bill; it is the Senate bill on this subject.

The SPEAKER. The substitute cannot be acted upon now; it must be reserved until this bill shall have been perfected section by section. The gentleman can give notice of his intention to move a substitute at the proper time.

The question was upon the amendment of Mr. DAVIS to the first section, to reduce the number of regiments from fifty-five to fifty.

Mr. BLAINE. Let me make a suggestion. The motion of the gentleman from New York [Mr. DAVIS] involves a very wide discussion at a premature point. Now, I hope the gentleman will heed my suggestion, which is, that the point he desires to accomplish can be more directly reached by moving an amendment to the

fifth section of this bill, and if the House agrees with him, then this first section can easily be changed to conform to his amendment to the other section. As debate under the fifteen-minute rule is very free, I would suggest to the gentleman to let this section be passed over for the present.

Mr. DAVIS. I have no objection to accede to the suggestion of the gentleman from Maine, [Mr. BLAINE,] to pass over this section for the present, if it can be done without prejudice to what I want.

Mr. CONKLING. I would suggest that this question again comes up in section four, determining the organization of the infantry regiments, where it reads, "of ten regiments, to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps."

The SPEAKER. This first section can be passed over by general consent, and subsequently modified to correspond with whatever changes the House may make in other parts of the bill.

No objection was made.

Section two was then read, as follows:

SEC. 2. *And be it further enacted*, That the five regiments of artillery provided for by this act shall consist of the five regiments now organized; and the first, second, third, and fourth regiments of artillery shall have the same organization as is now prescribed by law for the fifth regiment of artillery: *Provided*, That the regimental adjutants, quartermasters, and commissaries shall hereafter be extra first lieutenants.

Mr. CHANLER. As I understand the arrangement made by the consent of the House just now, the first section of this bill is not now under consideration.

The SPEAKER. The first section has been passed over by general consent, with the understanding that hereafter it shall be made to conform, in regard to the number of regiments, with the action of the House upon succeeding sections.

Mr. CHANLER. I desired to say a few words upon this first section, in reference to the general application of portions of it. But perhaps I can say what I have to say just as well upon this section.

My object in rising is to notice the very terse and clear statement, as well as the very full and fair statement made by the chairman of the committee [Mr. SCHENCK] in reference to the character and scope of this bill. I certainly feel inclined to congratulate the gentleman upon his kindness and consideration in accepting the suggestions of the Lieutenant General of the Army and the Secretary of War in behalf of retrenchment, and I think we may congratulate ourselves that the state of security of the country is the basis of that retrenchment; that we have no reason to apprehend that state of internecine war which has been made the ground for most of the bills presented to this House; and also that in the face of a foreign war we are prepared in the organization of the Army here proposed to meet any exigency which may arise.

This bill appears to pursue the same system of consolidation—whether with more success I cannot tell. The bill, coming before us now for the first time, has not yet been subjected to that analysis which its importance justifies. But, sir, the general features of the system proposed in the bill—the organization of the colored troops, of the Reserve corps, and of the Provost Marshal's Bureau; the fundamental alteration proposed with reference to the control of the Military Academy at West Point; the disposition manifested to exclude regular officers and to favor volunteer officers, as if the citizen who receives a military education at the expense of the Government should stand in an inferior position to him who enters a volunteer organization without such military education—a distinction for which I cannot see any good reason—all these points strike me with force on the first reading of the bill.

Now, sir, one great feature of this bill—the examining board—has been admitted by the chairman of the committee to bear the name by implication if not by merit, of a star-chamber tribunal. How such a tribunal may be

advantageous to the service I, not being an expert, cannot of course determine with confidence; but considering the ordinary principles of human nature, it appears objectionable, because it places these military men at the mercy of the arbitrary judgment of their fellows, and tends to create a spirit of rivalry and contention which must prove a source of discord that will have a fatal influence upon the whole organization, rank and file. Upon this point I trust that when the section comes up we shall hear from the chairman of the Committee on Military Affairs an explanation which will be satisfactory to the House and to the Army, the officers of which, so far as my observation has gone, deem this feature of the bill very objectionable.

One object which I had in rising to speak on this occasion was to call attention to the fact that, until this bill shall be fully and fairly before the country, there can be no sufficient opportunity for members, particularly those on this side of the House, to gain practical and useful information as to the bearings of the bill upon the Army and its officers. I trust that the chairman of the committee will consent that this full and fair opportunity for becoming acquainted with the merits of the bill shall be given, and that final action upon it will be sufficiently delayed to enable us to inform ourselves properly. The chairman of the committee, by reason of his peculiar position, has, of course, opportunities of information superior to those possessed by most of the other members of the House, particularly the members of the Opposition. As one of these, who, according to the system carried out by the dominant party, are allowed to see the gates, but never to enter the portals of the political paradise, I ask for a little time, and express the hope that the discussion will be full and satisfactory. It is my impression that before the debate shall close the able and experienced chairman of the Military Committee will himself acknowledge that his bill is capable of improvement.

The next section was read, as follows:

SEC. 3. *And be it further enacted*, That to the six regiments of cavalry now in service there shall be added six regiments, having the same organization as is now provided by law for cavalry regiments, all the first and second lieutenants of which, and two thirds of the officers in each of the grades above that of first lieutenant, shall be selected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, and have been distinguished for capacity, good conduct, and efficient service: *Provided, however*, That graduates of the United States Military Academy shall be eligible to appointments as second lieutenants. Any portion of the cavalry force herein authorized may be dismounted and armed and drilled as infantry at the discretion of the President. Each cavalry regiment shall hereafter have but one hospital steward, and the regimental adjutants, quartermasters, and commissaries shall hereafter be extra first lieutenants.

Mr. PAINE. I move the following amendment:

In the fifth line, after the word "which," insert the words "commissioned before the 1st day of January, 1870;" and in the sixth line, after the word "lieutenant," insert the same words: so that the clause will read as follows:

That to the six regiments of cavalry now in service shall be added six regiments, having the same organization as is now provided by law for cavalry regiments, all the first and second lieutenants of which, commissioned before the 1st day of January, 1870, and two thirds of the officers in each of the grades above that of first lieutenant, commissioned before the 1st day of January, 1870, shall be selected from among the officers and soldiers of volunteers, &c.

Mr. Speaker, this section provides that, in officer these six cavalry regiments, the first and second lieutenants shall be selected from among the officers and soldiers of volunteers, and two thirds of the officers of the higher grades shall be selected in the same way. Now, the question at once presents itself, does this language mean that all the officers of these lower grades and two thirds of the officers of the higher grades shall for all time to come be selected from the volunteers; or does it mean that only the first appointments shall be made in that way from the volunteers?

Now, Mr. Speaker, if the first is the purpose of the committee, it seems to me man-

ifest injustice is done to the regular Army, and if the second is the meaning of the committee, it seems to me injustice is done to the officers of the volunteers. I believe it should be, as I have no doubt it is, the wish of the committee, to do equal and exact justice between them both. I certainly am disposed, and shall be hereafter, to cast my vote actuated alone by that principle. I wish to do everything that shall seem to be just and right in favor of the officers of the regular Army, while I shall at the same time insist upon everything which seems to me to be just and right to the officers of volunteers.

EVENING SESSION.

Mr. STEVENS. The gentleman from Wisconsin yields to me for a moment. I move that the evening session for this evening be dispensed with.

There was no objection, and it was ordered accordingly.

SATURDAY SESSION FOR DEBATE.

Mr. STEVENS. While I am up I will make another suggestion. I do not know whether the House is disposed to sit to-morrow, as it is the anniversary of a striking event, the assassination of the late President. If not I will move that when the House adjourns it adjourn to meet on Monday next.

The SPEAKER. The Chair is informed that there are some six or eight gentlemen who desire to speak.

Mr. STEVENS. To-morrow?

The SPEAKER. Whenever they can get the floor.

Mr. STEVENS. I will not move to adjourn over then, but move that to-morrow's session be exclusively devoted to debate.

There was no objection, and it was so ordered.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. PAINE. Now, Mr. Speaker, I believe it would be injustice to the officers of the regular Army if the appointments for all time to come, without further legislation, shall be given to officers of volunteers. On the other hand, it will not satisfy me if only the first appointments shall be given to volunteers. It is still less satisfactory to me that the law should stand ambiguous and open to such construction as the War Department or any officer called to consider it may choose to give. I have, therefore, offered what seems to me to be a compromise between those two plans, giving these appointments up to January 1, 1870, to officers of volunteers, leaving them after that time to be filled by the War Department as the Department may desire. I hope the gentleman will accept that.

Mr. SCHENCK obtained the floor.

Mr. STEVENS. Let me ask for a definition of the word "volunteers" as used in this bill. Do I understand it to embrace drafted men?

Mr. SCHENCK. Yes, sir. I have never heard it questioned.

Mr. Speaker, the gentleman from Wisconsin has discovered an ambiguity in this third section, which with him I am willing should be amended. He is right in supposing the understanding and intention, and such would only be the fair construction of the section, is to provide for volunteers who are to be appointed in the first appointments which are made, what is called the filling of original vacancies in these regiments. To remove the ambiguity it may be well to insert some provision to say it is only in these original vacancies created by calling into being these regiments or else to limit them to time, as he proposes.

I do not know I should object to the extension of the time, for that virtually is the effect of his amendment, so as to give the exclusive right of appointment to two thirds of the appointments to volunteers for nearly four years more. That can be the only effect to extend the time so as to be more favorable to volunteers. As it removes ambiguity and makes the section clear, I shall not oppose the amendment.

The amendment was agreed to.

Mr. BOYER. I desire to offer the following amendment;

Strike out these words:

Provided, however, That graduates of the United States Military Academy shall be eligible to appointment as second lieutenants.

And to insert in lieu thereof the following:

Provided, however, That graduates of the United States Military Academy, who served as officers of volunteers, shall be eligible to appointment as other officers of volunteers.

I do not perceive, sir, why this distinction is made between graduates of the Military Academy and those not graduates of the Military Academy when both served as volunteer officers. It will be seen this would exclude graduates of the Military Academy, although they did not serve as officers in the regular Army. I should like to hear a good reason given, either by the chairman of the Military Committee or some one else, why a graduate of the Military Academy, who has served as a volunteer officer during the rebellion, is less fit to receive an appointment than if he had received no military education at all?

Mr. SCHENCK. That proviso was put there for the purpose of saving graduates of the Military Academy. If the gentleman will hear me I will explain. The preceding portion of the section provides that the first and second lieutenants shall be taken from among the volunteers, and that would cut out the young men who have just left West Point. Something is to be done with them. You could not put a single one of them into the cavalry unless there was a saving clause which would embrace that proportion of them whom you might desire to appoint into the cavalry. It was, therefore, thought proper by the Committee on Military Affairs not to cut off the graduates from West Point, but to provide that while these subaltern appointments were to be given to volunteers or volunteer officers, an exception should be made in favor of the young men coming from West Point. That exception, however, only extends to making second lieutenants of them. That limitation to the second lieutenantcies in such appointments is occasioned by a desire to prevent the taking of these young gentlemen, fresh from West Point, and making them captains and first lieutenants, while you give to volunteer officers only second lieutenantcies. Such has actually been the case; there are young gentlemen who only left West Point last year, who are now captains in the service. The object of the committee is to save the graduates of West Point, and give them the same benefits that volunteer officers enjoy so far as second lieutenantcies are concerned.

But there is another point. The gentleman says that a graduate of West Point may have served as a volunteer officer. Well, if he has served in that capacity, and is yet in the regular Army, he is not cut off by this provision; because he is something now in the regular Army. He is at least a second lieutenant, and he retains his place. But if he was a graduate of West Point, and not in the regular Army, he was then only a volunteer officer, and he has the same advantages as any other man in the volunteer service.

Mr. BOYER. Would not those be excluded who, although graduates of the Military Academy, had never served in the regular Army, but had served during the war in the volunteer force? If that be the intention of the gentleman, I think his bill accomplishes his object. If it be not, then he ought to modify his bill.

Mr. SCHENCK. Perhaps the gentleman might possibly find a case of that kind.

Mr. BOYER. There are hundreds of cases of that kind.

Mr. SCHENCK. If a graduate of West Point immediately upon graduating has resigned and afterward gone into the volunteer service, and is only a volunteer officer, he might be thus cut off.

Mr. BOYER. That would exclude hundreds of the best officers who fought during the war.

Mr. BLAINE. There may be cases of that kind, and I suggest the use of language which

would obviate the difficulty. It may be surplusage or tautology, but I suggest to the gentleman that he insert after the word "eligible" the words "on gradation." That will obviate the difficulty suggested by the gentleman from Pennsylvania.

Mr. BOYER. I will accept that amendment as far as it goes, but I still insist on the addition of the other words, "Provided, that graduates of the United States Military Academy who served as officers of volunteers shall be eligible to appointments on the same footing as other officers of volunteers."

Mr. SCHENCK. If you limit it to those it will cut off all the new graduates. Some of these young gentlemen have served nowhere. They have come out as graduates since the war was over, and we wish to save their right to promotion.

Mr. BOYER. The phraseology suggested by the gentleman from Maine would save that class, but not the class that I intend to save by the amendment which I propose.

Mr. BLAINE. I have a suggestion to make which, I think, will cover the point so that gentlemen cannot quibble or cavil about it at all. I suggest the addition of a proviso that graduates of the United States Military Academy, after the passage of this act, shall be eligible to appointment.

Mr. BOYER. There will still be an ambiguity about it.

Mr. BLAINE. Not if you insert the words, "Provided that cadets of the United States Military Academy who shall graduate after the passage of this act," &c.

Mr. BOYER. It will still be liable to ambiguity. It would lead to the inference that none but those would be eligible to appointments.

Mr. BLAINE. I do not think the gentleman from Pennsylvania has got hold of the spirit of the proviso, which I thought the chairman of the Committee on Military Affairs explained very clearly. The proviso is entirely in the interest of the West Point graduates. It was put in there for their benefit exclusively.

Mr. BOYER. Yes; so that they might be appointed second lieutenants and nothing else.

Mr. BLAINE. Will the gentleman tell me when a West Point graduate was ever entitled to any appointment except that of second lieutenant? This provision simply conveys to them the same right as regards these six regiments that they have in other parts of the Army. The first part of the section would have confined the selection of all the officers of these six regiments, both line and staff, to volunteers. It was thought by the Committee on Military Affairs that it would be unfair to cut off from appointments in these regiments those graduating from West Point.

Mr. BOYER. I can understand how the amendment suggested by the gentleman from Maine would save young men who have just graduated at the Military Academy at West Point, but it would not save those who graduated there years ago, and who have been officers in the volunteer service during the war. That class would still remain unprovided for.

Mr. BLAINE. They stand precisely on the same footing as other volunteer officers.

Mr. BOYER. Well, I propose to make the matter plain by inserting the words I have suggested.

Mr. GARFIELD. There is the one third unprovided for, from which all persons may be appointed, together with the advantage they gain under the bill from having been volunteer officers as well as graduates of the Military Academy at West Point. It does seem to me that the class of persons to which the gentleman refers is amply provided for under those two heads. The proviso, as it now stands, would apply to the young cadets just out of the Academy.

Mr. BOYER. I want to provide for those graduates of the Military Academy who were officers in the volunteer service. Many of our most valuable volunteer officers who fought during the rebellion were graduates of West Point, who had never served in the regular

Army. But when the rebellion broke out, having been educated at the public expense, they thought it their duty to volunteer, and they did so. Some of them led regiments; others were captains, or occupied other subordinate positions. Why should they, simply because they were graduates of the West Point Academy, be excluded; and why should they not be placed on the same footing as other volunteer officers?

Mr. GARFIELD. They are, under my reading of this bill.

Mr. SCHENCK. The gentleman from Pennsylvania certainly totally misapprehends the whole tenor of this section, or else I am exceedingly in the dark myself. Suppose this proviso were not here at all, what then would be the effect? Why, that all these subaltern appointments would be given to volunteers, including those who had graduated at West Point as well as others. If they had left the regular Army and were volunteers only, and had been volunteers during this war, they would not be disqualified.

Now, we want to have them all to have the benefit of this section; all those who, having been graduates of West Point, have left the regular Army, have resigned their places therein, and have served only as volunteers. And then we want to put in a saving clause for the benefit of some few who may hereafter graduate, who without such saving clause would be disqualified. That is the whole of it.

There was perhaps some justice in the criticism of the gentleman, as it applied to the saving clause, so far as these cadets were concerned, for it might be held to extend to other classes than those just graduated. I suggest, therefore, that it be amended so as to read, "that cadets of the United States Military Academy hereafter graduating shall be eligible," &c.

Mr. BOYER. I understood the gentleman to say a few moments ago, when explaining the general features of this measure, that one difference between this bill and the bill which passed the Senate was, that the latter bill put regular officers who had also served as volunteer officers upon the same footing with volunteer officers, while the object of this bill was to exclude that class of officers.

Mr. SCHENCK. That is an entirely different section, and is in entirely different language.

Mr. BOYER. Very well; then I will wait until that section is reached, and in the mean time accept the modification of the gentleman from Maine, [Mr. BLAINE.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had non-concurred in the amendment of the House of Representatives to the concurrent resolution of the Senate prohibiting the sale of spirituous and other liquors in the Capitol building and grounds.

Also, that the Senate had indefinitely postponed House bill No. 458, granting a pension to Sarah E. Pickell.

Also, that the Senate had passed House bill No. 219, for the relief of Catherine Mock, with an amendment, in which he was directed to request the concurrence of the House.

Also, that the Senate had passed without amendment House bills of the following titles:

An act (H. R. No. 218) for the relief of Charles Youly;

An act (H. R. No. 264) granting a pension to Mrs. Altazera L. Wilcox, of Chenango county, State of New York;

An act (H. R. No. 266) granting a pension to Mrs. Isabella Fogg, in the State of Maine;

An act (H. R. No. 267) granting a pension to Virginia K. V. Moore;

An act (H. R. No. 268) for the relief of Albert Nevins;

An act (H. R. No. 443) granting a pension to Mrs. Elizabeth York;

An act (H. R. No. 444) granting a pension to Lewis W. Dietrich; and

An act (H. R. No. 446) for the relief of Nich-

olas Hibner, late private in the sixth regiment of the Missouri State militia.

Also, that the Senate had passed Senate bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 201) for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana;

An act (S. No. 237) granting a pension to Mrs. Martha Stevens;

An act (S. No. 238) granting a pension to Mrs. Amarilla Cook;

An act (S. No. 241) directing the enrollment of Agnes W. Laughlin, widow of a deceased soldier, as a pensioner; and

An act (S. No. 252) granting a pension to Mrs. Sarah E. Wilson.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled the following act and joint resolutions; when the Speaker signed the same:

An act (S. No. 229) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia;

A joint resolution (S. R. No. 49) for the temporary relief of destitute people in the District of Columbia; and

A joint resolution (S. R. No. 45) protesting against pardons by foreign Governments of persons convicted of infamous offenses on condition of emigration to the United States.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. BLAINE. I move to amend the third section by inserting after the words "graduates of the United States Military Academy" the words "who shall graduate after the passage of this act;" so that it will read:

Provided, however, That graduates of the United States Military Academy, who shall graduate after the passage of this act, shall be eligible to appointment as second lieutenants.

Mr. BOYER. I accept the amendment.

Mr. GARFIELD. I would suggest the further amendment to add the words, "and to no higher grade."

Mr. BLAINE. I take it that is the existing law.

Mr. CONKLING. The criticism made by the gentleman from Pennsylvania [Mr. BOYER] is that by the clause, as it stands unamended, a graduate from West Point must have served in order to be considered in reference to appointment as second lieutenant. The proposition now is to leave the section as it is in that respect, except to provide that graduates coming from the Military Academy hereafter shall be eligible to such appointment.

Now, if I understand the point and apprehend the force of this language, the change will be to confine the section as it now is to those who may graduate hereafter, leaving the other question as much open as it is now. I would suggest to the chairman of the Committee on Military Affairs that the object may be accomplished by inserting after the word "eligible," in the proviso as it now stands, the words "without having served as volunteers;" so that the clause will read:

Provided, however, That graduates of the United States Military Academy shall be eligible without having served as volunteers to appointment as second lieutenants.

Mr. BOYER. I think myself that would be much better.

Mr. CONKLING. I think that would meet the point on all sides, and leave it in much better shape than it is now.

Mr. BLAINE. I will accept that in lieu of my amendment, although I think it is mere surplusage.

The amendment was agreed to.

Mr. FARNSWORTH. I would ask the attention of the chairman of the Committee on Military Affairs [Mr. SCHENCK] for a moment while I indicate an amendment which I think should be made to this section. I understand the object of the committee by this section to

be to give to officers and soldiers of volunteers during the late war all the commissions of first and second lieutenants, and two thirds of those of higher grade. Now, it seems to me that the language employed in this section does not accomplish that object. The section now reads—

All the first and second lieutenants of which, and two thirds of the officers in each of the grades above that of first lieutenant, shall be elected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, &c.

Now, a great many of the officers of volunteers who served in the late war also held commissions in the regular Army.

Mr. BLAINE. That point is fully met by another section of this bill.

Mr. FARNSWORTH. I propose to insert after the word "volunteers," in the clause I have just read, the words "not holding commissions in the regular Army."

Mr. SCHENCK. I beg to call the attention of the gentleman to section forty of this bill, which obviates all ambiguity such as the gentleman complains of. That section provides:

That officers of the regular Army, who have also held commissions as officers of volunteers, shall not on that account be held to be volunteers under the provisions of this act.

This defines what is meant by "officers of volunteers," so as to exclude any conclusion such as the gentleman thinks might be arrived at without such a provision.

Mr. FARNSWORTH. I think that is true, and I withdraw my amendment.

Mr. HALE. Mr. Speaker, I move to reconsider the vote by which the House adopted the amendment of the gentleman from Wisconsin, [Mr. PAINE,] in regard to the time during which this provision for the appointment of officers is to continue in force. I will state what I understand to be the effect of that amendment.

As the section now stands it has application only to the filling of the original vacancies—the formation of the regiment at the outset—leaving the laws already in force and as amended by this bill to apply with reference to subsequent promotions and appointments in each regiment. The result of that is that when the original vacancies are once filled there are no further appointments, except to the grade of second lieutenant. Now, the effect of the amendment proposed by the gentleman from Wisconsin is simply to provide that for a term of nearly four years those original appointments to the grade of second lieutenant shall be made solely from volunteer officers and soldiers, thus excluding from promotion during all that time the rank and file of this very army which we are now organizing.

I submit that such a policy is one which this House is not ready, on deliberate consideration, to sanction, and one which ought not to be sanctioned. I submit that if we are ever to have an efficient army we must in organizing it rely mainly on the opportunity for promotion held out to the rank and file of that army. Hence, it appears to me that this provision proposed by the gentleman from Wisconsin will derogate greatly from the efficiency of the army which we now propose to organize.

I trust that the motion to reconsider will prevail, and that appointments to the grade of second lieutenant, after the regiments are once organized, after the original vacancies are once filled, will be left open, as they are under existing laws, to the rank and file, to those who have served as volunteers, to those who may come from civil life, and to the graduates of the Military Academy.

Mr. PAINE. I desire to say a few words in reply to the considerations submitted by the gentleman from New York, [Mr. HALE,] and I will admit at the outset that those considerations are not without weight. But the gentleman, while he is proposing to provide by law that these positions shall be given hereafter to men in the ranks, must also bear in mind that the larger proportion of these six regiments will be made up of men who have been volunteers during this war, and who will hence fall

strictly within the terms of the section as now amended on my motion. I am anxious to provide for the volunteers who have served in this war and who may hereafter reenlist in the regular Army; but I contend that they are covered by the section as it now stands.

There is another thing which the gentleman must not overlook. He is anxious, as I am, to provide for the seventeen hundred officers of the regular Army; but, sir, I am anxious, as I believe he must be, to provide for the fifty or one hundred thousand officers of volunteers.

Mr. HALE. The gentleman will permit me to say that it is the privates, the rank and file of the regular Army, not the officers, that I am now trying to provide for.

Mr. PAINE. I understand; but, as I was remarking, I am anxious that the fifty or one hundred thousand officers of the volunteer army should not be lost sight of. Let me say to the gentleman again, what he appears to have failed to understand, that the rank and file of these six new regiments will be men who have served in the volunteer army during this war, and those men are covered by the section as it stands with my amendment, for by that section these commissions are to be given, not to volunteer officers alone, as the gentleman seems to suppose, but to volunteer officers or soldiers.

I may remark, too, that, as I believe, a statutory provision ought hereafter to be adopted that promotions and commissions in the regular Army shall be given exclusively to officers and soldiers actually in the service, so that the privates may be lifted up by merit to commissions, as they deserve to be. But I cannot see the force of the gentleman's objection to my amendment already adopted.

Mr. HALE. The gentleman will allow me to submit to him this single proposition, whether there is any justice, or fairness, or propriety in providing that a soldier who has served in the volunteer forces during the last four years and then enlisted in the regular Army, shall be eligible to appointment as a second lieutenant, while a private, a corporal, or a sergeant who has served faithfully in the regular Army during the same period shall be ineligible. The effect of the amendment is to make that discrimination.

Mr. BLAINE. Mr. Speaker, there is a single consideration I desire to suggest to the gentleman from Wisconsin. One of the difficulties we are going to encounter is to fill the ranks of the Army which we are providing for in this bill. The officers are going to be numerous. It will be more than four times as large as any Army we have ever had in the United States. Now, the graduates of the West Point Military Academy will not begin to supply the commissions this Army will call for. Heretofore graduation at West Point has outrun the demand for officers to such an extent that a great many had to enter as brevet second lieutenants, who remained brevet second lieutenants for years. I know officers who served fifteen years before they got first lieutenant's commissions.

That being the case, the way to official position not being through West Point, except for a minority of places, if the Army bill is wisely regulated you can make the appointing power to official position one of the strongest stimulants of filling up your ranks. I would like to see it confined that the first appointments and promotion to official positions should be from West Point and from the rank and file. You can get a better class of men. You will prevent, too, what is called political influence in making appointments. You certainly will stimulate enlistments. Deserving men who enter the Army and get the rank of corporals or sergeants will have a fair show of being officers in a few years.

Mr. THAYER. How does the gentleman propose to stimulate enlistment by providing that those who enlist shall not be promoted until 1870?

Mr. BLAINE. As I am speaking against that amendment the gentleman had better ask the question of some one else. I am speaking

against the amendment of the gentleman from Wisconsin. I am for filling up with officers of volunteers at the organization and then leaving promotion open to the rank and file. Therefore I am for a reconsideration of the vote by which the amendment was adopted.

Mr. HALE. I will state, if this be reconsidered, it will be perfectly satisfactory to retain the present words moved by the gentleman from Wisconsin; and simply to add to them that they shall be selected from among the officers and soldiers of volunteers and the enlisted men of the regular Army.

Mr. PAINE. That will be perfectly satisfactory to me.

Mr. HALE. That will provide that these vacancies shall be filled either from the volunteer or regular Army. If it be satisfactory, I will withdraw my motion to reconsider, and move to add after the word "service" in the tenth line, "or enlisted men of the regular Army;" so that it will read, as follows:

SEC. 4. *And be it further enacted*, That to the six regiments of cavalry now in service there shall be added six regiments, having the same organization as is now provided by law for cavalry regiments, all the first and second lieutenants of which, and two thirds of the officers in each of the grades above that of first lieutenant, shall be selected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, and have been distinguished for capacity, good conduct, and efficient service, or enlisted men of the regular Army.

Mr. FARNSWORTH. I am opposed to that amendment. The officers and soldiers of the regular Army have, under this section as it now stands, avenues for promotion open to them in all the old regiments of which they are members, as well as to one third of the officers of the new regiments. These regiments are going to be filled up, if at all, by men who served in the late war almost entirely. This section provides that the officers and soldiers who served in the late war may hold all the offices except one third. What is the use of extending it to embrace soldiers of the regular Army who already may receive commissions in the old regiments? Now, sir, these new regiments are to be filled up by soldiers of the late war. I say they are all included in this section without amendment. The amendment of the gentleman from New York will extend the privilege to all the men in the old regiments now.

Mr. HALE. The gentleman will allow me to explain. He misapprehends my amendment. It is simply that the original vacancies—that is what I intend by it, but perhaps I failed to express it clearly—that the original vacancies above that of first lieutenant are to be filled by promotion and not by appointment, and the rank of second lieutenant is to be filled from those who served in the volunteers during this war or served in the regular Army.

Mr. FARNSWORTH. That is not in the amendment as proposed by the gentleman before. That is very well.

Mr. HALE. I think the gentleman's criticism is just. I will so modify my amendment.

Mr. PAINE. I supposed the amendment of the gentleman from New York was to be inserted in line seven. That presented itself to my mind at first. Now, he proposes something different by placing the amendment in the tenth line, which gives a man who happened to be an enlisted man in the regular Army the same rights and privileges as those who rendered actual service during the war. It is not just.

The SPEAKER. The Chair did not regard the gentleman as accepting the amendment, but the gentleman from New York [Mr. HALE] withdrew his motion to reconsider, and moved to amend the section by adding thereto.

Mr. PAINE. I have made my objections to the amendment. I have said what I wish, and that I cannot accept it.

Mr. HALE. Being satisfied that the criticism of the gentleman from Illinois [Mr. FARNSWORTH] in regard to my original amendment was well founded, and that it failed to

express the idea I had intended, I will modify it thus:

After the word "service" insert as follows:
And after the original vacancies are filled, enlisted men of the regular Army shall in like manner be eligible to appointment as second lieutenants.

Mr. SCHENCK. I am afraid this will not cohere very well, and that it will not accomplish the object which the gentleman has in view.

I yielded to the suggestion of the gentleman from Wisconsin [Mr. PAINE] to remove some of the ambiguity in the section upon the question whether these were the original vacancies or not. But I doubt the propriety of extending it further than three or four years to come. I think the intention of the committee in the original section was about right, and that may be carried out if the gentleman will reconsider his proposition and insert something of the kind in another place. I will suggest that section three be amended so as to read thus:

SEC. 3. *And be it further enacted*, That to the six regiments of cavalry now in service there shall be added six regiments, having the same organization as is now provided by law for cavalry regiments, and in making appointments to fill the original vacancies in the regiments thus provided for all the first and second lieutenants, and two thirds of the officers in each of the grades above that of first lieutenant, shall be selected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, and have been distinguished for capacity, good conduct, and efficient service.

I think that will compromise all these differences. I submit to the gentleman from Wisconsin [Mr. PAINE] whether that will not accomplish the object.

Mr. HALE. Allow me to ask, does this proposition include the reconsideration of the amendment passed on the motion of the gentleman from Wisconsin, [Mr. PAINE?]

Mr. SCHENCK. Yes, sir.

Mr. PAINE. The proposition of the chairman of the committee is not satisfactory to me for the reasons that I gave at the outset. It seems to me that something more than the original vacancies should be retained to reward those men who have served in the volunteer army during the war. There have been from one to two millions of them, and from fifty to a hundred thousand officers who have served in the volunteers, and if we give to them only the specified original vacancies in these six new regiments of cavalry, leaving all the other six and a part of these to officers and privates of the regular Army, it seems to me we shall not be doing justice to officers and soldiers of the volunteers. As it stands now the regular Army has the commissions of six of the cavalry regiments and one third of all above lieutenants in the others. Why should we give to the few men who compose the regular Army, either as officers or as enlisted men, not only the commissions of the six old regiments and one third of those of the higher grades of the new, but also the greater part of the remaining two thirds of the commissions of the six new regiments of cavalry? I would be willing to abridge the time, but I cannot consent that all the promotions to be made after the original vacancies shall be filled shall pass beyond the reach of the volunteer officers.

Mr. VAN AERNAM. I believe the regular Army has always taken care to look out for its own children in regard to promotion. No one has ever been promoted over the great bulk of the cadets.

Mr. BLAINE. The Army Register shows some one hundred and fifty officers who have been promoted directly from the ranks.

Mr. FARNSWORTH. A large number of promotions have been made lately from the regular Army from sergeants to first lieutenants and captains to make room for first and second lieutenants on the recommendation of members of Congress. But I have not seen any first lieutenants or captains appointed upon such recommendation. I see a great many colonels, lieutenant colonels, and majors who have served faithfully during the war have been appointed second lieutenants while ser-

geants have been promoted to make room for them.

Mr. SCHENCK. To bring the House back to the suggestion that I made as a compromise, I propose to insert in section three after the words "cavalry regiments," these words:

And in making appointments to fill the original vacancies in the regiments thus provided for, and for a period of three years after the passage of this act.

Also to strike out the words "of which;" so that the section will read:

SEC. 3. *And be it further enacted*, That to the six regiments of cavalry now in service there shall be added six regiments, having the same organization as is now provided by law for cavalry regiments, and in making appointments to fill the original vacancies in the regiments thus provided for, and for a period of three years after the passage of this act, all the first and second lieutenants, and two thirds of the officers in each of the grades above that of first lieutenant, shall be selected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, and have been distinguished for capacity, good conduct, and efficient service.

The motion to reconsider the vote by which the amendment of Mr. PAINE was adopted was agreed to.

The question recurred on agreeing to the said amendment.

Mr. PAINE. I withdraw it, and accept the proposition of the chairman of the committee, [Mr. SCHENCK.]

The amendment of Mr. SCHENCK was then agreed to.

Mr. SCHENCK. I ask now to have read the amendment of the gentleman from New York, [Mr. HALE.]

Mr. HALE. I will modify it by inserting after the word "lieutenant" these words:

And that after the original vacancies are filled, enlisted men of the regular Army shall in like manner be eligible to appointment as second lieutenants.

Mr. SCHENCK. That is not necessary now, after the adoption of the last amendment.

Mr. GARFIELD. I hope the amendment in the shape now presented will not prevail, and for this reason: if it be passed, all that a civilian who has ever served in his life has to do to get into the regular Army as second lieutenant is to have it arranged that as soon as he shall be enlisted in the regular Army he shall be promoted, and in a few days he can pass from civil life to the position of a commissioned officer. Now, that is precisely the thing which we do not want to be done. We want the Army to be made up of those who have served either in the ranks or as officers.

It has been said, very properly, that persons who have served in the regular Army ought to have a chance to be promoted. They have a chance now every day. In the nineteen regiments now in service it is a very common thing for enlisted men to be promoted to commissions. Therefore no wrong is done to these by the law as it now stands. But if we do what the amendment proposes, men who never saw a day's service can enlist to-day and to-morrow get commissions as second lieutenants.

Mr. PAINE. I wish to bring to the attention of the House a single instance that occurred within my personal knowledge. A man of influence had a friend for whom he desired a commission in the regular Army. He enlisted and received a high bounty from the Government, with an arrangement by which he was placed immediately on agreeable duty at the headquarters of his immediate commander, and as soon as possible recommended for promotion. And but a short time elapsed after he had pocketed his bounty and entered the regiment as a private, before he received his commission, for which alone he enlisted.

That will be done every day if this amendment is adopted.

Mr. HALE. It will probably be difficult to frame any bill that will not be subject to abuses by the President of the United States, the Senate of the United States, the Secretary of War, and officers in command of brigades and regiments in the Army. It can hardly be expected that we can provide against all the frauds which may be committed by the collu-

sion of all those officers. But for the sake of obviating the difficulty to which the gentleman refers I have no objection to again modify my amendment by saying "enlisted men of the regular Army who shall have served at least one year."

Mr. GARFIELD. During the late war.

Mr. HALE. I insist that it should not be "during the late war." We should leave the door open to meritorious service hereafter as it has been heretofore. Gentlemen familiar with the history of the Army know that there have been as gallant and meritorious deeds performed by our soldiers of the rank and file at obscure points on our frontiers, in Indian wars, as have been performed in this war against the rebellion. Now, I am unwilling to shut the door against men who may wish to enlist in the Army and earn their commissions as heretofore.

I will modify my amendment by inserting the words "after six months."

The question was upon the amendment of Mr. HALE as modified.

Mr. WRIGHT. I desire to move an amendment to the amendment.

Mr. DEMING. I move that the House now adjourn.

Mr. SCHENCK. I hope the gentleman from Connecticut [Mr. DEMING] will withdraw that motion for a few moments.

Mr. DEMING. I will withdraw it for the present.

Mr. SCHENCK. I desire to move to reconsider the vote by which the House agreed to insert after the words "shall be eligible" the words "without having served as volunteers."

The SPEAKER. The pending question is upon the amendment of the gentleman from New York, [Mr. HALE], to which the gentleman from New Jersey [Mr. WRIGHT] has indicated his purpose to move an amendment.

Mr. CONKLING. Will it not be in order for the gentleman from Ohio [Mr. SCHENCK] to submit his motion to reconsider on next Monday, the next legislative day?

Mr. WASHBURNE, of Illinois. I would suggest to the gentleman that he can accomplish his purpose by entering the motion to reconsider to be acted on hereafter.

Mr. SCHENCK. I will do that.

The motion to reconsider was accordingly entered upon the Journal.

By unanimous consent the House postponed informally the further consideration of the Army bill, and proceeded to the consideration of business upon the Speaker's table.

MRS. ANN HETH.

The first business upon the Speaker's table was an act (S. No. 201) for the relief of Mrs. Ann Heth, widow of William Heth, of Harrison county, Indiana; which was taken up, read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. MARTHA STEVENS.

The next business upon the Speaker's table was an act (S. No. 237) granting a pension to Mrs. Martha Stevens; which was taken up, read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. AMARILLA COOK.

The next business upon the Speaker's table was an act (S. No. 238) granting a pension to Mrs. Amarilla Cook; which was taken up, read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. AGNES W. LAUGHLIN.

The next business upon the Speaker's table was an act (S. No. 241) directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner; which was taken up, read a first and second time, and referred to the Committee on Invalid Pensions.

MRS. SARAH E. WILSON.

The next business upon the Speaker's table was an act (S. No. 252) granting a pension to Mrs. Sarah E. Wilson; which was taken up, read

a first and second time, and referred to the Committee on Invalid Pensions.

MRS. EMERANCE GOULER.

The next business upon the Speaker's table was an act (S. No. 260) granting a pension to Mrs. Emerance Gouler; which was taken up, read a first and second time, and referred to the Committee on Invalid Pensions.

AMERICAN FISHERIES.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to the resolution of the House of Representatives of the 10th instant, requesting information in regard to the rights and interests of American citizens in the fishing grounds adjacent to the British Provinces, I transmit a report from the Secretary of State, to whom the resolution was referred.

ANDREW JOHNSON.

WASHINGTON, April 13, 1866.

The message and accompanying documents were referred to the Committee on Foreign Affairs, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. BOYER asked, and obtained, leave of absence for ten days for his colleague, Mr. DENISON.

And then, on motion of Mr. DEMING, (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. ALLISON: The petition of William M. McFarland, and 50 others, citizens of Waukon, Iowa, asking for just and equal laws relating to insurance.

Also, the petition of assistant assessors of third district of Iowa, asking additional compensation.

By Mr. BARKER: The petition of citizens of Alleghany county, Pennsylvania, asking that additional duties be levied on foreign wool.

Also, the petition of members of the bar of Cambria county, Pennsylvania, asking that the salaries of the district judges of the United States courts may be so as to yield an adequate support.

Also, the petition of citizens of Alleghany county, Pennsylvania, asking that additional duties be levied on foreign wool.

Also, the petition of farmers, mechanics, and working men, of Mifflin county, Pennsylvania, praying Congress to enact such a tariff as will protect the national industry, replenish the Treasury, and develop our national resources.

By Mr. BROMWELL: The petition of citizens of Iroquois and Macon counties, Illinois, praying for the establishment of a national Bureau of Insurance.

By Mr. DAWSON: The petition of 36 citizens of Indiana county, Pennsylvania, asking an increase of duty on foreign wool.

By Mr. DENISON: The petition of Bear & Sleguier, Reichard & Walter, Bowkley & Lesley, and others, of Wilkesbarre, Pennsylvania, asking that barley be admitted from the British Provinces and Canada on a tariff not exceeding five cents per bushel.

By Mr. EGGLESTON: The petition of Captain Paulson, praying for compensation for service rendered by his military company during the time of Kirby Smith's raid on Cincinnati.

By Mr. ELIOT: The petition of Sylvester Holmes, Thomas Aspinwall, Charles Hudson, Benjamin Stephenson, and Levi T. Prescott, officers and soldiers of the war of 1812, praying for pensions to the soldiers of that war.

By Mr. FERRY: The memorial of Henry M. Clarke, and 40 others, citizens of Lowell, Michigan, praying for the passage of a law regulating inter-State insurances.

By Mr. INGERSOLL: The petition of citizens of Stark county, Illinois, for an increased duty on foreign wool.

Also, the petition of citizens of Stark county, Illinois, for a tax on dogs.

By Mr. LAWRENCE, of Pennsylvania: A petition, numerously signed by citizens of Washington county, Pennsylvania, for an increase of duties on foreign wool.

By Mr. LONGYEAR: The petition of Peter Mulvany, A. C. Robinson, and 150 others, citizens of Calhoun county, Michigan, asking for an increased duty on wool.

By Mr. NIBLACK: The petition of J. P. Elliott, and others, merchants of Evansville, Indiana, praying that steamboats may be allowed to carry powder under certain restrictions.

By Mr. ROSS: The petition of N. P. Tinsley, and 38 others, of McDonough county, Illinois, in favor of a national Insurance Bureau.

By Mr. SPALDING: The petition of M. D. Call, and 450 others, citizens of northern Ohio, mostly wool-growers, asking for increased protection to wool.

By Mr. STEVENS: The petition of female clerks, asking for increase of pay.

By Mr. UPSON: The petition of S. H. Jennings, Cass Chapman, and 131 others, citizens of Niles, Berrien county, Michigan, praying Congress to pass laws regulating inter-State insurances of all kinds.

By Mr. WELKER: The petition of Chester A. Cooley, and 52 others, wool-growers of Brownhelm township; and Robbins Burall, and 32 others, wool-growers of Sheffield township, Lorain county, Ohio, asking protection on wool.

Also, the petition of Alonzo Gaston, and 239 others, wool-growers of Lorain county, Ohio, asking protection on wool.

By Mr. WASHBURN, of Massachusetts: The petition of Henry Wilder, and others, trustees of Lancaster Savings Bank, in the ninth Massachusetts district, for a repeal of the tax on deposits in said institutions.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 14, 1866.

The House met at twelve o'clock m.

Rev. C. B. BORTON, Chaplain of the House, offered the following prayer:

O God! we come before Thee to-day, impressed with a vivid consciousness that we are frail, corrupt, and passing away. Often reminded of the uncertainty of our lives, to-day we have brought before us anew him whom we may justly call the nation's dead, and with whom the dead of the Senate and the dead of this House are thus made to address us again from their graves. O Lord, help us to heed this solemn admonition. The business of life has so frequently of late been interrupted by the solemn memorials and admonitions of death that we should be very unwise if we failed to lay them to heart. And now we pray Thee, O God, that we may profit by these solemn lessons which are brought anew to us here this morning. May we remember how quickly our own lives may and will pass. We cannot tell how many of us ere another year shall roll around will also be called to our account. As those who have been called away have been associated with us in all the concerns of this present life, so we ere long must join them, and be associated with them in all the untried scenes of that eternal world. So may we, O God, number our days here as to apply our hearts unto wisdom, and be prepared to render up our account, as they also have done.

We beseech Thee, O God, that while the nation is reminded of the life as well as the death of our departed Chief, the people may learn to love better than ever the principles which he professed and in defense of which he died. Great God, may all the actions of the different departments of the Government converge upon the great object upon which Thy providences also unite—the establishment here of one free and Christian nation, where man shall be recognized as man because he bears the image of his Maker, and where God shall be universally acknowledged. We ask and offer all in Jesus' name, to whom be glory forever. Amen.

On motion of Mr. GARFIELD, the reading of the Journal of yesterday was dispensed with.

Mr. GARFIELD. Mr. Speaker, I desire to move that this House do now adjourn. And before the vote upon that motion is taken I desire to say a few words.

This day, Mr. Speaker, will be sadly memorable so long as this nation shall endure, which God grant may be "till the last syllable of recorded time," when the volume of human history shall be scaled up and delivered to the omnipotent Judge.

In all future time, on the recurrence of this day, I doubt not that the citizens of this Republic will meet in solemn assembly to reflect on the life and character of Abraham Lincoln, and the awful tragic event of April 14, 1865—an event unparalleled in the history of nations, certainly unparalleled in our own. It is eminently proper that this House should this day place upon its records a memorial of that event.

The last five years have been marked by wonderful developments of individual character. Thousands of our people before unknown to fame have taken their places in history, crowned with immortal honors. In thousands of humble

homes are dwelling heroes and patriots whose names shall never die.

But greatest among all these great developments were the character and fame of Abraham Lincoln, whose loss the nation still deplores. His character is aptly described in the words of England's great laureate—written thirty years ago—in which he traces the upward steps of some—

"Divinely gifted man,
Whose life in low estate began,
And on a simple village green;"

"Who breaks his birth's invidious bar,
And grasps the skirts of happy chance,
And breasts the blows of circumstance,
And grapples with his evil star;

"Who makes by force his merit known,
And lives to clutch the golden keys
To mold a mighty State's decrees,
And shape the whisper of the throne;

"And moving up from high to higher,
Becomes on Fortune's crowning slope,
The pillar of a people's hope,
The center of a world's desire."

Such a life and character will be treasured forever as the sacred possession of the American people and of mankind. In the great drama of the rebellion there were two acts. The first was the war with its battles and sieges, victories and defeats, its sufferings and tears.

That act was closing one year ago to-night, and just as the curtain was lifting on the second and final act, the restoration of peace and liberty; just as the curtain was rising upon new characters and new events, the evil spirit of the rebellion, in the fury of despair, nerved and directed the hand of the assassin to strike down the chief character in both.

It was no one man who killed Abraham Lincoln; it was the embodied spirit of treason and slavery, inspired with fearful and despairing hate, that struck him down in the moment of the nation's supremest joy.

Ah! sir, there are times in the history of men and nations when they stand so near the veil that separates mortals from the immortals, time from eternity, and men from their God, that they can almost hear the beatings and feel the pulsations of the heart of the Infinite. Through such a time has this nation passed. When two hundred and fifty thousand brave spirits passed from the field of honor through that thin veil to the presence of God, and when at last its parting folds admitted the martyr President to the company of the dead heroes of the Republic, the nation stood so near the veil that the whispers of God were heard by the children of men.

Awe-stricken by His voice, the American people knelt in tearful reverence and made a solemn covenant with Him and with each other that this nation should be saved from its enemies, that all its glories should be restored, and on the ruins of slavery and treason the temples of freedom and justice should be built and should survive forever. It remains for us, consecrated by that great event, and under a covenant with God, to keep that faith, to go forward in the great work until it shall be completed.

Following the lead of that great man and obeying the high behests of God, let us remember that—

"He has sounded forth a trumpet that shall never call retreat;
He is sifting out the hearts of men before His judgment seat.
Be swift my soul to answer him, be jubilant my feet;
For God is marching on."

I move, sir, that this House do now adjourn. The motion was agreed to; and thereupon (at fifteen minutes after twelve o'clock) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BEAMAN: The petition of John S. Strong, and 32 others, of Lenawee county, Michigan; also, the petition of James C. Watson, and 31 others, of Ann Arbor, Michigan; also, the petition of Professor E. Durand, and 32 others, of Chelsea, Washtenaw county, Michigan; also, the petition of John H. Burleson, and 12 others, of Ann Arbor, Michigan; also, the petition of B. C. Benson, and 35 others, of Jonesville,

Michigan; also, the petition of William Burt, and 45 others, of Detroit, Michigan; also, the petition of Hiram Walker, and 32 others, of Detroit; also, the petition of L. Black & Co., and 61 others, of Detroit; also, the petition of A. Shelley, and 112 others, of Detroit; also, the petition of R. Verner, and 21 others, of Detroit; also, the petition of John L. Whiting, and 33 others, of Detroit, Michigan; all praying Congress to enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies and promotive of the greatest good and convenience to all concerned in such transactions.

Also, the petition of Ethel Judd, and 51 others, inhabitants of Hillsdale county, Michigan, praying for increase of duty on all unwashed foreign wool.

By Mr. DELANO: The petition of D. G. Weyth, and 100 others, citizens and wool-growers, of Licking county, Ohio, praying an increased duty on foreign wools for the benefit of wool-growers of this country.

IN SENATE.

MONDAY, April 16, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Secretary proceeded to read the Journal of Friday last.

Mr. ANTHONY. I think it is hardly necessary to read this record of pension bills; it is very long indeed; and I move that the further reading of the Journal be dispensed with.

The PRESIDENT *pro tempore*. It requires unanimous consent to dispense with the reading of the Journal. If there be no objection, it will be considered the sense of the Senate that the further reading be dispensed with.

PETITIONS AND MEMORIALS.

Mr. WILLIAMS. I present the memorial of the Oregon City Manufacturing Company, in which it is represented that that company is now engaged in the manufacture of woollen cloths, and is also engaged in the manufacture of ready-made clothing in its own mills out of the cloths of its own production, and it further represents that, by a decision of the Commissioner of Internal Revenue, the company is made liable to pay a tax, first, on the value of the cloth manufactured, and then upon the entire value of the ready-made clothing; and the memorial prays that the revenue law may be so modified that after the payment of the tax upon the value of the cloth, the company may be relieved from the payment of any tax except upon the increased value made by converting the cloth into clothing, as is the case in reference to fabrics made out of cotton cloths. I move that this memorial be referred to the Committee on Finance.

The motion was agreed to.

Mr. HOWARD presented the memorial of Henry Miller and others, citizens of Detroit, Michigan, engaged in the manufacture of malt liquors, praying for a reduction of duties on foreign barley imported into the United States; which was referred to the Committee on Finance.

Mr. HENDRICKS presented the memorial of Lieutenant Commander R. L. Law, praying to be restored to active duty in the Navy; which was referred to the Committee on Naval Affairs.

He also presented a communication addressed to him, from James F. Miller, of Peru, Indiana, representing that frauds have been perpetrated upon the Miami Indians of Indiana, growing out of a misapplication of the funds granted them by the treaty of June 5, 1854, and praying for an investigation of the matter; which was referred to the Committee on Indian Affairs.

Mr. COWAN presented a memorial of members of the bar of Washington county, Pennsylvania, and also a memorial of members of the bar of Venango county, Pennsylvania, praying that the salaries of the judges of the United States district courts may be increased; which were referred to the Committee on the Judiciary.

He also presented the petition of Alexander Young, John Gibson, and others, distillers and dealers in domestic spirits in the city of Philadelphia, in which they represent that the exaction of personal security for the payment of duties on spirits deposited in general bonded

warehouses is in effect a heavy tax on trade without any advantage to the revenue, and praying for a modification of the law so that they may be relieved from its payment; which was referred to the Committee on Finance.

He also presented a petition of wool growers, residing in Crawford county, Pennsylvania, praying for an increase of the duty on the importations of foreign wool into the United States; which was referred to the Committee on Finance.

Mr. MORGAN. I present concurrent resolutions of the Legislature of New York, asking for the passage of an act of Congress appropriating the sum of \$877,628 to pay the claims of the seventeen thousand two hundred and twenty-eight persons which have been audited and found due for clothing and other contingent expenses of the militia of the State of New York who served in the war of 1812, which clothing and other expenses were necessary and unavoidable in consequence of the inadequate compensation of eight dollars a month, without bounty or an allowance for clothing, provided by the act of Congress authorizing the President to call out the militia, by draft or otherwise, for a period not exceeding six months. They have also instructed their Senators and requested their Representatives to vote for the passage of such an act. I move that the resolutions be printed, and referred to the Committee on Claims.

The motion was agreed to.

Mr. DOOLITTLE presented a communication addressed to him, from the Secretary of the Interior, transmitting estimates of appropriations required for fulfilling treaty stipulations with certain bands of Dakota or Sioux Indians, under treaties ratified by the Senate since the 1st of December last; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heernance, late chaplain of the one hundred and twenty-eighth regiment New York volunteers, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (S. R. No. 57) appointing a board of managers for the National Military Asylum, reported it adversely.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 108) appointing managers for the National Asylum for Disabled Volunteer Soldiers, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 88) expressive of the thanks of Congress to Major General Winfield S. Hancock, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 262) to provide for the national defense by establishing a uniform militia and organizing an active volunteer militia force throughout the United States, reported it without amendment.

Mr. SPRAGUE, from the Committee on Military Affairs and the Militia, to whom was referred the bill (H. R. No. 472) for the relief of George R. Frank, late captain thirty-third regiment Wisconsin volunteer infantry, reported it without amendment.

Mr. VAN WINKLE, from the Committee on Post Offices and Post Roads, to whom was referred the petition of Duncan G. MacRae, praying for compensation for services rendered in carrying the mail in North Carolina, asked to be discharged from its further consideration; which was agreed to.

AMERICAN REGISTERS TO VESSELS.

On motion of Mr. CHANDLER, it was

Ordered, That the amendments of the House of Representatives to the bill (S. No. 30) to issue American registers to the steam vessels Michigan and Dispatch and W. K. Muir, be referred to the Committee on Commerce.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 266) to establish additional offices for the assay of gold and silver, and for other purposes; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 64) for the appointment of a commission to consist of engineers of the Army upon the subject of the construction of railroad bridges across the Mississippi river; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 65) for the discontinuance of New Orleans branch mint, and for the appropriation of the machinery thereof to the construction of the branch mint in Nevada; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. JOHNSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 267) authorizing the establishment of a navy-yard and a coal and naval depot at the harbor of Annapolis; which was read twice by its title, and referred to the Committee on Naval Affairs.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President had approved and signed, on the 13th instant, the following act and joint resolutions:

An act (S. No. 199) to establish the collection district of Port Huron, the collection district of Michigan, the collection district of Montana and Idaho, and to change the name of the collection district of Penobscot;

A joint resolution (H. R. No. 44) authorizing Commodore William Radford to accept a decoration from the King of Italy;

A joint resolution (S. R. No. 53) authorizing Rear Admiral H. Paulding to accept a decoration from the King of Italy; and

A joint resolution (S. R. No. 58) respecting the burial of soldiers who died in the military service of the United States during the rebellion.

BILL RECOMMENDED.

Mr. KIRKWOOD. On Friday last, under the instruction of the Committee on Public Lands, I reported to the Senate the bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, with amendments. Upon examining it since it has been printed I find that it will become necessary to refer it back to the Committee on Public Lands, and I make that motion.

The motion was agreed to.

ARMY REGISTER.

Mr. ANTHONY. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Military Affairs and the Militia be instructed to inquire whether the full Army Register now in course of publication has been compiled in accordance with the requirement of the joint resolution approved March 2, 1865, and what will be the cost of such publication.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ANTHONY. I wish to call the attention of the Committee on Military Affairs to this resolution. This roster was printed in pursuance of the joint resolution approved March 2, 1865, which directed the publication of "a full roster or roll of all general, field, line, and staff officers of volunteers who have been in the Army of the United States at any time since the beginning of the present rebellion, including all informal organizations which have been recognized or accepted and paid by the United States;" and the resolution also goes on to say:

And, to defray in whole or in part the expenses of this publication, an edition of twenty-five thousand copies of such enlarged Register shall be published,

and may be sold to officers, soldiers, or citizens, at a price which shall not more than cover the actual cost of paper, printing, and binding; and shall not, in any case, exceed one dollar per volume.

I suppose it was the idea of the Senate when this resolution was passed that the roster could be printed in about one volume, but I find that it will take eight volumes, and to print an edition of twenty-five thousand copies of eight volumes will cost \$200,000. I should think the probability of the Government being reimbursed by the sale of those copies of any considerable portion of the expense of publication is very doubtful indeed.

But that is not all. This resolution requires that the roster shall include "all informal organizations which have been recognized or accepted and paid by the United States." Now, I find in looking over this Register, that the first New Hampshire regiment, under Colonel Tappan, is not named; the sixth Massachusetts regiment, which marched through Baltimore and drew the first blood of the rebellion, is not mentioned; and the eighth Massachusetts regiment, which opened the road from Annapolis, is not mentioned. Both those regiments received the thanks of Congress; and yet in this roster, which was to include not only all the regiments in the service, but all the informal organizations, those regiments are not even named. I find also that the first Rhode Island regiment, which came by the way of Annapolis to the relief of Washington, with my colleague, then Governor of Rhode Island, at the head of it, under the command of Colonel Burnside, afterward a major general, and now Governor-elect of Rhode Island, is not mentioned. I find also that the first, second, and third Connecticut regiments are not named. I do not think Congress would be willing to expend \$200,000 to print that sort of a roster. I do not know that this can be prevented; but with regard to many regiments, instead of giving the official list of the battles in which the regiments bore an honorable part, I find this record:

"The official list of battles in which this regiment bore an honorable part is not yet published in orders."

I find that this paragraph applies to a third of the regiments. I think it is time that those were made known, if they are ever to be made known. I do not know but that the delay is unavoidable, but until those battles can be ascertained and placed at the head of each regiment, I think this publication had better be postponed.

This is a subject that belongs properly to the Committee on Military Affairs, and I hope they will give it their attention.

I wish to say further, that I think the publication of this document is needlessly expensive. The Senator from Massachusetts [Mr. WILSON] will find upon reading it over that there are a great number of blank pages in it.

The Superintendent of Public Printing submitted to me what I considered a much better form, and which would be much cheaper and much more convenient, but it did not seem to meet the approbation of those who are engaged upon the work. I would not undertake to decide between the two. I think the Committee on Military Affairs had better examine into the subject.

The resolution was adopted.

CLAIM OF GEORGE M'DOUGALL.

Mr. CONNESS. I offer the following resolution, and ask for its present consideration:

Resolved, That the Secretary of the Interior be requested to report on the claim of George McDougall, heretofore referred to the Secretary of the Interior by a resolution of the Senate.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CONNESS. I will state, in explanation of the resolution, that it refers to a claim connected with Indian affairs in California. It was formerly referred by a resolution of the Senate, for report, to the Interior Department when that Department was presided over by Secretary Smith. No report was ever made; and the present Secretary desires that a new

call may be made upon him, if he is to be called upon to report upon it. The object is to get a report in order that it may be referred to the Committee on Indian Affairs for examination. The claimant is now deceased, and the proceedings to be taken are in behalf of his widow.

The resolution was adopted.

SIOUX CITY BRANCH PACIFIC RAILROAD.

Mr. HOWARD. I move to take up Senate bill No. 109.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 109) to rescind the order of the President designating the Sioux City and Pacific Railroad Company to construct the branch of the Union Pacific railroad from Sioux City.

As the President of the United States, on the 24th of December, 1864, designated the Sioux City and Pacific Railroad Company, a corporation of the State of Iowa, for the purpose of constructing and operating the branch of the Union Pacific railroad, authorized to be constructed by the seventeenth section of the act of Congress approved July 2, 1864, entitled "An act to amend an act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean," &c.; and as that company has filed a map in the Department of the Interior of the route over which it proposes to construct the branch road; and as the construction of the branch road upon the route proposed will be in violation of the true intent and meaning of the act of Congress, the bill proposes to amend the order of the President designating the Sioux City and Pacific Railroad Company to be the company authorized to build the branch railroad, under and in pursuance of the seventeenth section of the act of Congress approved July 2, 1864, entitled "An act to amend an act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean."

Mr. HOWARD. This bill was reported to the Senate by the Committee on the Pacific Railroad several weeks since. The object of it is to set aside an order made by President Lincoln, dated the 24th of December, 1864, giving to the Sioux City Railroad Company the right to construct what is known as the Sioux City branch of the Pacific railroad. The order to which I refer is found in Document No. 14 of the Executive Documents of the present session. It is as follows:

Whereas the Sioux City and Pacific Railroad Company, a company organized under the laws of Iowa, has requested the President of the United States to designate said company "for the purpose of constructing and operating a line of railroad and telegraph from Sioux City to such point on, and so as to connect with, the Iowa branch of the Union Pacific railroad from Omaha, or the Union Pacific railroad, as such company may select":

Therefore be it known, That by the authority conferred upon the President of the United States by the seventeenth section of the act of Congress approved July 2, 1864, entitled "An act to amend an act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean," &c., I, Abraham Lincoln, President of the United States, do hereby designate the said Sioux City and Pacific Railroad Company for the purpose above mentioned.

ABRAHAM LINCOLN.

December 24, 1864.

That order, it will be observed, was dated the 24th of December, 1864. By the fourteenth section of the Pacific railroad act of 1862, the Union Pacific Railroad Company was bound to construct a branch from Sioux City, upon the most direct and practicable route, to a point on the Iowa branch or on the Pacific railroad, not further west than the one hundredth degree of longitude. It will be seen that this clause of the act of 1862 made it obligatory upon the Pacific Railroad Company to construct this Sioux City branch; but by the act of 1864, amendatory of the Pacific railroad act of 1862, the Union Pacific Railroad Company was relieved of the obligation to build it; and the amendatory act provided as follows:

"That whenever a line of railroad shall be completed through the State of Iowa or Minnesota to Sioux City, such company, now organized or as may

hereafter be organized under the laws of Iowa, Minnesota, Dakota, or Nebraska, as the President of the United States, by its request, may designate or approve for that purpose, shall construct and operate a line of railroad and telegraph from Sioux City, upon the most direct and practicable route, to such a point on, and so as to connect with, the Iowa branch of the Union Pacific railroad from Omaha, or the Union Pacific railroad, as such company may select, and on the same terms and conditions as are provided in this act and the act to which this is an amendment, for the construction of the said Union and Pacific railroad and telegraph line and branches; and said company shall complete the same at the rate of fifty miles per year."

Such was the amendatory act of 1864, but the amendatory act also adopted the principle of not allowing the Government bonds to issue on account of the road beyond the one hundredth degree of longitude. The company might extend its road further west, but it would not be entitled to the aid of bonds, but only of alternate sections of land on each side of it. That was the effect of the amendatory act of 1864 compared with the original act. The language of the amendatory act—I refer to the seventeenth section of that act, which I might, perhaps, as well read—is as follows:

"SEC. 17. And be it further enacted, That so much of section fourteen of said act as relates to a branch from Sioux City be, and the same is hereby, amended so as to read as follows: that whenever a line of railroad shall be completed through the State of Iowa or Minnesota to Sioux City, such company, now organized, or as may hereafter be organized under the laws of Iowa, Minnesota, Dakota, or Nebraska, as the President of the United States, by its request, may designate or approve for that purpose, shall construct and operate a line of railroad and telegraph from Sioux City, upon the most direct and practicable route, to such a point on, and so as to connect with the Iowa branch of the Union Pacific railroad from Omaha, or the Union Pacific railroad, as such company may select, and on the same terms and conditions as are provided in this act, and the act to which this is an amendment, for the construction of the said Union and Pacific railroad and telegraph line and branches, and said company shall complete the same at the rate of fifty miles per year: *Provided*, That said Union Pacific Railroad Company shall be, and is hereby, released from the construction of said branch. And said company constructing said branch shall not be entitled to receive in bonds an amount larger than the said Union Pacific Railroad Company would be entitled to receive if it had constructed the branch under this act and the act to which this is an amendment; but said company shall be entitled to receive alternate sections of land for ten miles in width on each side of the same along the whole length of said branch: *And provided further*, That if a railroad should not be completed to Sioux City, across Iowa or Minnesota, within eighteen months from the date of this act, then said company designated by the President, as aforesaid, may commence, continue, and complete the construction of said branch as contemplated by the provisions of this act."

It was under that section that President Lincoln made the order designating the Sioux City and Pacific Railroad Company as the corporation to construct the Sioux City branch. According to the construction which I put upon the seventeenth section of the act of 1864, it was incompetent for the President to make an order designating any company for the construction of the Sioux City branch within the eighteen months which were allowed by this seventeenth section. Nor was it competent for him, as I understand the act, to designate any company for the construction of that branch until there should be a railroad running through either the State of Iowa or the State of Minnesota to Sioux City. The object of the Government was plain, to secure the construction of some railroad through Minnesota or Iowa to Sioux City, so as to form a connection at that point with the railroad system extending through Iowa, Minnesota, Illinois, Wisconsin, and Michigan, the purpose being, according to my view of the statute and the policy of Congress at that time, to establish Sioux City as a kind of central point at which the railroad system of the northwestern States should form a connection with the Pacific railroad proper. Nevertheless, upon the application of certain gentlemen connected with the Sioux City Railroad Company, the President was induced to make what I regard as a premature order in the premises, giving this privilege to the Sioux City railroad at a period so early after the passage of the act as to cut off all fair and just competition between that company and other companies for the construction of this road.

It will be observed also that the very lan-

guage of the seventeenth section, from which I have read, requires this route, whatever company may attempt to construct the road upon it, to be on the most direct and practicable line. The words are, "on the most direct and practicable route from Sioux City," to form a connection either with the Iowa branch, the Omaha branch, so called, of the Pacific railroad, or with the Pacific railroad proper itself, in which latter case the junction would have been at, or west of, the one hundredth degree of west longitude.

The Sioux City company seem to have been on the alert, and as early as June, 1865, about six months after President Lincoln's order was issued, they filed a map of the route which they propose to follow through Sioux City westward to form the junction upon the Iowa or Omaha branch, with the line of the Union Pacific Railroad Company. I hold in my hand the map which was furnished the committee by the Secretary of the Interior. The company in laying down the route of their road commence at Sioux City on the Missouri river. Instead of proceeding to the west, however, they proceed to the southeast. They run a distance of about twenty miles nearly southeast in the State of Iowa. After reaching the most eastern point of their route, they proceed to the south, and then to the southwest, crossing the Missouri river, run thence almost in a southwesterly direction, and terminate at the little village of Frémont, in Nebraska Territory, between the Platte river and the head waters of the Elkhorn river, a distance in the whole of at least ninety-five miles, forming a sort of ox-bow; proceeding first to the southeast, then to the south, and then to the southwest; and at Frémont they form a connection with the Omaha branch of the Pacific railroad. When they have reached Frémont, they have made a westing from the point at which they started, that is Sioux City, of not quite five miles; and the traveler and his freight, in proceeding from Sioux City to the Omaha branch, has been obliged to go at least ninety-five miles in order to proceed westward five miles. This circuitous route makes twenty miles of easting into Iowa, seventy-two miles of southing, and has a length from Sioux City to Frémont of at least ninety-five miles, as I have already remarked, and in running this distance they get west of Sioux City only five miles; that is, they run ninety-five miles in order to get forward five miles!

There is another view of this subject, Mr. President, which ought not to be omitted. The Government, by the terms of the amended Pacific railroad act of 1864, lends its credit to the company, to the amount of \$16,000 for each mile, amounting for the whole of this distance, calling the distance ninety-five miles—and it is certainly, I think, greater than that—to \$1,520,000. Besides this, the company is to get the land subsidy along the whole of this ox-bow line of ninety-five miles at the rate of twenty sections per mile, amounting in all to nine hundred and fifty sections of land, or six hundred and eight thousand acres, worth at the minimum price \$760,000.

The committee, after looking this whole subject over and discussing it at several meetings, and after hearing men of experience acquainted with that part of the country, who made their statements on the subject, came to the conclusion that the better way was to set aside the President's order of the 24th of December, 1864, and open this subject for competition between any companies that may see fit to compete for it. Of course, it does not belong to me to pass any censure upon the Sioux City and Pacific Railroad Company for adopting this course, but I cannot omit to say that I regard their conduct in selecting this circuitous route through Iowa, thus increasing the distance for persons connected with the northwestern railroads and northwestern transportation very considerably, as a plain departure from the manifest intent and meaning of the law of 1864. What the northwestern States want particularly is as direct intercommunica-

tion with the Pacific railroad as is practicable; and they do not wish to be compelled, in traveling, or in the transportation of their freight and merchandise, to pass over a hundred miles distance upon a railroad which is entirely unnecessary so far as they are concerned; thus greatly increasing the expense of travel and transportation. The object of the bill is to set aside that order and open the whole subject for competition hereafter between the companies that may see fit to compete for the construction of this branch.

Mr. McDUGALL. It is my impression that I was chairman of the Pacific Railroad Committee when Sioux City was made to have a connection with the Pacific railroad. I can say, as all who were then members of the Senate know, that Kansas and Iowa quarreled much. I was industrious (at least I thought I was industrious) to secure a communication from the valley of the Mississippi to my own coast, and not very particular about how it was done so that it was well done. The line from Sioux City was made a line of communication, but not as a main line. A branch was fought for by the extreme Northwest from St. Paul downward. I am not unacquainted with the topography and geography of that part of the world; perhaps I am quite as familiar with it as the Senator from Michigan; perhaps a little more so; for I do not think he ever rode horses in that part of our land. It is only a line of communication to bring Minnesota and the extreme Northwest down into communication with the main line, so as to bring the main trunk at the one hundredth meridian in communication with the point stated in the bill. It never was intended as a direct line, but, upon a topographical investigation, a route from Sioux City to the one hundredth meridian was regarded as the best means to unite the main route with the northwestern railroad system. I think I have pursued the study of the possibilities of railroad lines between the Mississippi valley and my own coast with as much carefulness, I dare say with more carefulness, than any man I know.

Mr. HOWARD. I do not know that I understand the Senator from California very clearly; but if I do, I understand him to say that there has been some topographical report on the subject of this branch line. I have never seen any such report.

Mr. McDUGALL. I will say to the Senator from Michigan that I had, when I first came into the House of Representatives, fifty manuscript maps of that part of the country, besides the surveys of the engineers of the Government—fifty that I had employed men to make—and then I understood the country myself by my own personal cognition. I say that this branch was provided for simply to connect the Northwest, from Lake Superior down through Minnesota, and join it to the main line communicating with California. That proposition, when presented from the Northwest, met with my full approbation, I having carefully studied the subject. I think the Senator from Michigan, who is always careful, and to whose opinions I always listen with great respect, is a little mistaken, because he has not gone quite far enough west.

Mr. GRIMES. The Senator from Michigan is much more familiar with the statutes of the United States on the subject of the Pacific railroad than I am, but I must claim that I am a little more familiar with the topography of the country through which it is proposed to build this branch road than he is. The Senator from California has very correctly stated what was the purpose of Congress at the time this branch was provided for, and the Senator from Michigan has correctly stated what is the purpose of this bill, namely, to set aside the President's order, to violate, as I apprehend, the contract now existing between the Federal Government and the company that was designated by the President of the United States to build this road, and then to allow a competing line to construct a road up the valley of the Niobrara, a valley which every gentleman who ever passed through it, so far as I know, beginning with

Lieutenant Warren, will admit that it is impossible that a railroad can be built through.

Mr. SUMNER. Why?

Mr. GRIMES. It cannot be built for the reason that there is no timber; it goes through what are called the bad lands. One half of the country or a large part of the country through it is what is known as the alkali land, sand-hills, as the Senator from Missouri [Mr. Brown] correctly suggests, who has been through that country himself, I think—sand-hills on both sides that never will admit of any population; and to-day you have not got twenty-five hundred people in the whole Territory of Dakota through which it is proposed to build it; and if it were built, let me say it would require as a subsidy—and I think the gentlemen who are upon the Committee on the Pacific Railroad will confirm what I say—\$50,000,000 more than it would to build this road.

Mr. CONNESS. Allow me to make an inquiry as to the last expression of the Senator, in comparing these two routes, so called. I desire to know what he means by "this road." Does he mean the designated route, the map of which is in the Interior Department?

Mr. GRIMES. The nearest practical route.

Mr. CONNESS. I hope the Senator will address himself to that question.

Mr. GRIMES. I will. The seventeenth section of the act which was read by the Senator from Michigan does not in his estimation authorize the President of the United States to designate this company now before us to build this road. Let us look at that section. It reads as follows:

"That so much of section fourteen of said act as relates to a branch from Sioux City be, and the same is hereby, amended so as to read as follows: that whenever a line of railroad shall be completed through the State of Iowa or Minnesota to Sioux City, such company, now organized or as may hereafter be organized under the laws of Iowa, Minnesota, Dakota, or Nebraska, as the President of the United States, by its request, may designate or approve for that purpose, shall construct and operate a line of railroad and telegraph from Sioux City, upon the most direct and practicable route to such a point on, and so as to connect with, the Iowa branch of the Union Pacific railroad from Omaha, or the Union Pacific railroad, as such company may select, and on the same terms and conditions as are provided in this act and the act to which this is an amendment, for the construction of the said Union Pacific railroad and telegraph line and branches; and said company shall complete the same at the rate of fifty miles per year: *Provided*, That said Union Pacific Railroad Company shall be, and is hereby, released from the construction of said branch. And said company constructing said branch shall not be entitled to receive in bonds an amount larger than the said Union Pacific Railroad Company would be entitled to receive if it had constructed the branch under this act and the act to which this is an amendment; but said company shall be entitled to receive alternate sections of land for ten miles in width on each side of the same along the whole length of said branch: *And provided further*, That if a railroad should not be completed to Sioux City, across Iowa or Minnesota, within eighteen months from the date of this act, then said company designated by the President, as aforesaid—"

The Senator infers that the President had not any right until the expiration of those eighteen months to designate a company; but that is not the language of the act; that is not the tense in which this section is drawn.

"*And provided further*, That if a railroad should not be completed to Sioux City, across Iowa or Minnesota, within eighteen months from the date of this act, then said company designated by the President, as aforesaid, may commence, continue, and complete the construction of said branch as contemplated by the provisions of this act."

In accordance with the construction which the President of the United States put upon that law, and which I apprehend cannot be other than the correct construction, he made the following order:

Whereas the Sioux City and Pacific Railroad Company, a company organized under the laws of Iowa, has requested the President of the United States to designate said company "for the purpose of constructing and operating a line of railroad and telegraph from Sioux City to such point on, and so as to connect with, the Iowa branch of the Union Pacific railroad from Omaha, or the Union Pacific railroad, as such company may select;"

Therefore be it known, That by the authority conferred upon the President of the United States by the seventeenth section of the act of Congress approved July 2, 1864, entitled "An act to amend an act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean," &c., I, Abraham Lincoln, President of the United States,

do hereby designate the said Sioux City and Pacific Railroad Company for the purpose above mentioned.

ABRAHAM LINCOLN.

December 24, 1864.

Now, Mr. President, it seems to me that there is no power in Congress to go beyond that act of the President; that when he had performed his duty in designating the company under the law which should be authorized to build the road there was the end of the matter.

Mr. HENDRICKS. Will the Senator allow me to ask him one question, whether this company which has been designated by the President has made surveys and located the road. Has it made any investments?

Mr. GRIMES. Yes, sir. I say it seems to me, and I think the Senate must concur with me, that there was the end of the matter, and that there is no power in Congress to overthrow that contract, and that it is a manifest breach of public faith to attempt to do it. I undertake to say that gentlemen who are advocating this measure would not do it for themselves as private individuals in private transactions.

When that order was made by the President, designating the Pacific and Sioux City company as the proper corporation to construct this road, individuals were induced in different sections of the country to invest their money in the stock; surveys were made. I do not pretend to say that they have made the best survey and selected the best line that could have been selected. They thought it was the best one; but they have a corps of engineers this moment in the field attempting a better one.

Mr. HOWARD. Allow me to ask a question. On what route is this corps of engineers now engaged?

Mr. GRIMES. They are attempting to find a route by which they can build their road upon the nearest and most practicable way from Sioux City to strike the Union Pacific railroad. That is what they are trying to do. The Senator has alluded to the fact that this road from Sioux City runs in an easterly direction. It runs in an easterly direction from the simple fact—I think my colleague has been to Sioux City and knows the topography of that country—that it is impossible to cross the Missouri river at Sioux City. There is a rise of the bluff on the opposite side of several hundred feet, so that it is necessary for them to cut through the bluff below Sioux City, and run in a southeasterly direction for a few miles until they strike the bottom of the Missouri river. Perhaps it is not known to the Senator from Michigan that the only place where the bluff comes to the Missouri river in the whole State of Iowa is at Sioux City. On the opposite side are what are known as the black hills, extending down several miles, through which it would be just as impossible to ever construct a railroad that would be a paying road as it would be to construct one through the White mountains. But, Mr. President, it is not the purpose of the company that was incorporated under the laws of the State of Iowa to take any advantage of the Government. They desire to build the road upon the nearest and most practicable route; and in order to show that such is their sentiment, and to test the sense of the gentlemen who are so anxious to set aside the order designating this company, I propose to amend the bill of the Senator from Michigan by striking out all after the enacting clause and inserting the following as a substitute:

That the Sioux City and Pacific Railroad Company, designated by the President of the United States to construct the Sioux City branch of the Union Pacific railroad, shall construct said branch upon the best, most direct, and practicable route, subject to the approval of the President of the United States, and to be determined by him on actual survey without regard to the line designated upon the map placed on file by said company in the Department of the Interior.

It will be observed that the proposition I offer as a substitute for the bill advocated by the Senator from Michigan is that, without any regard to the survey to which he has alluded and the map which he has presented to the Senate, this road shall be built upon the nearest

and most practicable route, subject to the future approval of the President of the United States, instead of leaving it as it now is, according to the position of the Senator from Michigan, on the map which he has presented to us. We have, I believe, within a short time organized an engineer board, a kind of Pacific railroad department, at the head of which I think we have an engineer. These surveys will hereafter be referred to that officer, and I am content that the company shall be required to build the road according to the plans that shall be approved by the Secretary of the Interior, and by his engineers and the President of the United States.

Mr. HOWARD. I differ from the Senator from Iowa as to the true construction of the seventeenth section of the act of 1864. According to his view, it was competent for the President at any time after the passage of that act to designate any company he might see fit for the construction of the Sioux City branch. It does seem to me that the simple reading of the statute is a full and complete answer to that position. It says that so much of section fourteen of the original act "as relates to the branch from Sioux City be, and the same is hereby, amended so as to read," that "whenever a line of railroad shall be completed through Iowa or Minnesota to Sioux City," the President shall have this power of designation; and afterward in a subsequent proviso the section declares that this State road shall be completed within eighteen months, and if it is not completed within eighteen months then the company that may be designated by the President of the United States may proceed to build this branch. If the language, "whenever a line of railroad shall be completed through the State of Iowa or Minnesota to Sioux City" does not imply until that act is done, until that condition is complied with by some company, I am unable to understand language. It is tantamount to declaring that after or upon the completion of a road to Sioux City through Minnesota or Iowa, the President may have power to designate a company to construct this branch; and that was manifestly the policy and intention of Congress at the time of passing the act; the object being to secure absolutely and beyond peradventure the construction of a road through Iowa or through Minnesota to Sioux City, so as to form a connection with the system of railroads that concentrate at Chicago, and for the benefit of the Northwest.

Mr. SUMNER. Do I understand my friend to say that President Lincoln transcended his power when he designated this company?

Mr. HOWARD. I think he did. I think it was an inadventure on his part. He could do this only after the completion of a road through Iowa or Minnesota, and not before. He assumed to exercise the power of designation before the completion of any such road, and there is no such road in existence.

The Senator from Iowa seems to insist that rights have become vested in the Sioux City Railroad Company, and that we cannot now interfere with this order without a violation of vested rights. I do not so understand it. I know of no right which has accrued to that company. The company have never applied a single dollar in the way of constructing this railroad. They have not broken ground; they have not chopped down a tree; they have not laid a tie; they have not advanced a single dollar for the construction of the road.

Mr. McDOUGALL. The Senator will permit me to ask him a question. I believe I was earlier on that committee than the Senator from Michigan. I ask him whether he is not aware that the line designed to connect with Lake Superior by St. Paul and down to Sioux City, and thence to the one hundredth meridian, was not given a longer time for its construction than any other line because the country was new? Was it not understood that they would need more time to survey and find out appropriate routes? Then let me ask him further whether they have not been triangulating the whole thing from Cedar Falls down to the

junction with the main line at the one hundredth meridian. If they have not been doing so, I have been misinformed.

Mr. HOWARD. I have not the means of assuring the honorable Senator from California whether private companies have been engaged in that enterprise, but I think it is highly probable they have been.

Mr. McDOUGALL. I would ask him, then, whether the location of a road by excellent engineers is not the first term in the building of a road in a new country, and whether it is not one of the most expensive things.

Mr. HOWARD. I do not understand that the location of a road, by merely making surveys, constitutes any part of the building of the road.

Mr. McDOUGALL. I ask whether the location of a road in a new country is not of as much importance to the construction of the road as its grade or the putting on the track, when completed, of engines; whether it is not more important that the engineers should first locate a route.

Mr. HOWARD. I hardly think the Senator from California will insist on an elaborate answer to that question. The honorable Senator from Iowa states to the Senate that a route up the valley of the Niobrara river is impracticable and impossible on account of the want of timber and the general difficulty of the route. It is very true, as I have been informed, that a company has been formed in Dakota Territory that has in view a competition for the construction of this branch. Whether that company will proceed, in case it becomes designated under the act of 1864, to construct a road up the valley of the Niobrara, is more than I am able to say. I am not here as the advocate of the Niobrara route, but I must say that in my judgment the Senator from Iowa has been greatly misinformed as to the character of that route. If that route were adopted, the branch would commence at Sioux City, running up the valley of the Niobrara for a distance of about two hundred and sixty miles, and would then pass off toward the southwest and terminate probably at Fort Laramie, there forming a junction with the Union Pacific railroad proper. As to the character of this route I beg leave *en passant* to say that so far as I have been able to acquire information on the subject, I am compelled to differ very widely from the opinion formed of it by the Senator from Iowa. I have read with a good deal of care a report made by a Mr. Sawyer in 1865 of his explorations for a wagon road up that valley, and from the head waters of the Niobrara to Virginia City, in Montana Territory. This exploration was made in the summer of 1865. Of course it will not be possible for me to read more than very short extracts from it. He started to make his explorations from Sioux City; he proceeded up the valley of the Niobrara a distance of two hundred and sixty-five miles, and then passed off further to the northwest on his way to Virginia City, which was the terminus of his exploration, for the purpose of establishing the route of that wagon road. He says in his report:

"Accompanying the expedition were five emigrant teams and a private freight train of thirty-six wagons, coupled together so as to be drawn by eighteen teams of six yoke of oxen each, and heavily loaded, some teams being loaded with sixty-four hundred pounds; and here permit me to say that the entire practicability of the route traveled over may be seen when I state that not one of these wagons were uncoupled during the journey for the passage of any obstacle in the road."

On reading the report you will be struck, sir, with this fact, that the valley of the Niobrara river, so far as he explored and examined it, is found to be well provided with timber, with water, and with grass. In a letter which Mr. Sawyer wrote only a short time since, remarking upon the character of that valley, he says:

"I should think from my observations and from those of my surveyors that a railroad might be constructed up the Niobrara to Laramie at a reasonable cost per mile: there is no range of mountains to cross, and the excavation and embankment would be about the same as upon roads in Iowa and Illinois."

I have no doubt that upon a more complete and thorough exploration of the country through

the valley of the Niobrara it will be found that a railroad is entirely practicable upon that route. There has been, however, no very thorough exploration of the route from the head waters of the Niobrara river over to Fort Laramie. Still the committee were informed by a very intelligent gentleman who had repeatedly traveled over that part of the route between Laramie and the head waters of the Niobrara, that in his opinion a railroad was entirely practicable between these two points.

I beg to add, for the information of the Senate, that the Territorial Legislature of Dakota, in January, 1865, in a memorial which they addressed to Congress upon the subject, remonstrated very strongly against the construction of the road upon the ox-bow line which has been adopted in the map of the Sioux City Railroad Company. They use this language:

"We are also informed that there is some talk of a route down the valley of the Missouri river, to unite with the Central or Iowa branch of the Pacific railroad at or near the mouth of the Elkhorn, a tributary of the Platte river."

That is the route now under discussion.

"Such a route would run about south from Sioux City for nearly one hundred and fifty miles. This would necessitate all the above roads [referring to the roads coming from Minnesota and Wisconsin and Illinois] to run at least two hundred miles out of the most direct route by the way of the Niobrara valley. That is to say, when the roads are completed it would necessitate the business on these four roads to travel at least two hundred miles further to reach the passes in the Rocky mountains than would be necessary should that Sioux City branch run up the Niobrara valley or by the way direct from Chicago. It needs no argument to prove that such a route would not be of any practical value or importance whatever to those roads. The only one that would in the slightest degree be benefited by such a diversion of that branch would be the aforesaid road via Dubuque, known as the Dubuque and Sioux City railroad. But we do most earnestly protest against a policy which would favor that or any other of these roads at the expense of all the others, as that supposed south route assuredly would."

The Legislature of Minnesota during the same winter also remonstrated against the adoption of this ox-bow route. They observe, in their preamble and resolutions:

"Whereas by several acts of Congress liberal grants of public lands have been made for the construction of a railroad from the head of Lake Superior southwesterly via St. Paul to a point on the western boundary of Iowa, at or near the parallel of forty-two and a half degrees of north latitude, intersecting in its passage a railroad running westwardly from Winona, and another running up the valley of the Root river, in Minnesota, and one from McGregor, in Iowa, and connecting with the North or Sioux City branch of the Pacific railroad at the above point; that southwestern road operating as a main trunk to all the others; and whereas the best interests of all of those roads, as well as of the country through which they run, and the whole region of country westwardly thereof, require and demand that that branch should run westwardly on the nearest, most direct, and most practicable route to unite with the main trunk in the neighborhood of Fort Laramie; and whereas a diversion of that branch from that route to the Platte valley route, thereby increasing very materially the distance, will be destructive of the best interests of those roads and the country through which they run, as also a palpable violation of the spirit and evident intention of the law creating that branch: Therefore,

"Resolved, That our Senators and Representatives in Congress be requested to use their best efforts and influence to secure the location of said branch westwardly, as near as may be, along the parallel of forty-two and a half degrees of north latitude to a point of junction with the main trunk, and so as in the most effectual manner to promote the best interests of all those roads and of the country through which they pass."

"Resolved, That they protest against and use their influence to prevent that branch from being diverted down the valley of the Missouri river to unite with the Platte valley route."

I have, I believe, presented to the Senate all the material facts connected with this bill. The committee had it under consideration at several meetings; they listened to the statements of many very intelligent gentlemen connected with these various routes; they examined the law as carefully as they were able, and they came to the conclusion that the best course to be adopted was to set aside the order of the President of December 24, 1864, and thus to leave the whole subject open to fair and honorable competition between the railroad companies that might see fit to compete for the privilege of constructing this branch.

The Senator from Iowa proposes to amend the bill; and if I understand the drift and pur-

pose of his amendment, it simply proposes to set aside the map which has already been filed by the Sioux City company, to treat it as a nullity, and to authorize this company hereafter to construct this branch wherever they may see fit to construct it, by the approbation of the President, thus leaving in their hands the exclusive privilege of constructing the branch, and excluding all other companies from competition with it for that privilege.

Sir, I object to this. It is no remedy for the evils which at present exist. The statute of 1864, in and of itself at the present time, contains full authority to the President of the United States to designate this company or any other company that he may select for the purpose of building this branch. The Senator from Iowa tenaciously clings to the privilege which he seems to think has already been acquired by this company. I wish to disengage its grasp upon this privilege. Without intending to cast any reflection whatever on the character of the gentlemen connected with the company, I must repeat that I cannot but regard the route adopted by them, running, as it does, a circuitous route to the southeast, then to the south, then to the southwest, through a large portion of the State of Iowa, and terminating upon the Omaha branch at Frémont, thus advancing to the west only five miles at the utmost from the point of beginning, as a very plain departure, as an evasion of the plain intent and meaning of the statute of 1864; and for one I cannot consent that a company who has resorted to such a course shall continue to grasp the privilege it seeks to enjoy. I think we ought to unclasp that grip if it be possible.

Mr. CONNESS. I will not detain the Senate long in what I shall have to say on this subject, and will endeavor to make myself as well understood as possible. The subject-matter of this bill and the question to which it relates received more continuous consideration from the Pacific Railroad Committee of this body than perhaps any other single question that has ever been referred to that committee. Parties interested on both sides of the question were heard at many successive meetings. They were heard chiefly on the question of routes—the relative advantage of one route as against the others. This company that the President of the United States has designated, as has been stated by the Senator from Iowa, has been organized and issued stock and taken steps of that kind, a disturbance to which would lead to a great deal of injury to private parties. I wish to disabuse the mind of the Senate upon that point. This company is an organization of other railroad companies running through the State of Iowa, and perhaps Wisconsin and contiguous States. They organized together to construct this branch for the purpose of giving a western connection to all their roads with the Union Pacific Railroad Company. The act of 1864 has been read from. The seventeenth section of that act gives authority to the President to make the designation of a company for building this branch, and such authority is to be found nowhere else. I will read from it a very few lines; it provides that—

"Whenever a line of railroad shall be completed through the State of Iowa or Minnesota to Sioux City, such company, now organized or as may hereafter be organized under the laws of Iowa, Minnesota, Dakota, or Nebraska, as the President of the United States, by its request, may designate or approve for that purpose, shall construct and operate"

this branch of the Pacific railroad. This act was passed in 1864, nearly two years since, but the connection predicated in this section has never yet been made. No line of railroad has yet reached Sioux City. I ask the Senator from Iowa whether I am correct in stating that no line of railroad has yet reached Sioux City from the east.

Mr. GRIMES. None, sir.

Mr. CONNESS. Very well. The Senator calls my attention to another provision in this section which I desire to read, for I wish it distinctly understood that I have no interest in this case; I sat in the committee as a juror and heard all that was said. The second proviso

in this section the Senator claims, and perhaps correctly, should be construed in connection with the first part of the section. That proviso reads thus:

"And provided further, That if a railroad shall not be completed to Sioux City across Iowa or Minnesota within eighteen months from the date of this act."

The eighteen months have passed and it has not been done—

"then said company designated by the President, as aforesaid, may commence, continue, and complete the construction of said branch as contemplated by the provisions of this act."

That proviso seems to be inconsistent with the first part of the provision which I read, and to provide that if within eighteen months no road should reach Sioux City from the east the company designated by him should go on and construct this branch. There really appears to be a conflict between the two provisions.

There are two questions to be considered in connection with this bill now before us; and they are separate questions. One is, whether the President made a legal designation when he designated this company for the construction of this branch, and whether if he did not make a legal designation it is good policy for Congress now to make that designation or confirm the one that he made, and give the building of this branch to this company, which I will call the Iowa company for the purpose of being understood. The other question relates entirely to routes; and they are totally distinct.

In regard to the investigations had before the Pacific Railroad Committee, I desire to state to the Senate that the bulk of what was said by the advocates of both parties in interest related directly to routes, and not to this designation, for so far as the designation is concerned, the Senate have it all here in the two provisions I have read, and are entirely competent to decide without any discussion; and so were the committee who had the matter in charge. But upon routes there was a great deal said. Gentlemen connected with Dakota Territory came before the committee and advocated the setting aside the order of the President, as proposed by the bill of the honorable chairman of the committee, so that they could come forward and organize a company, alleging that they had the most direct westwardly route up what is called the Niobrara river, a branch of the Missouri. Much was said in regard to the practicability of constructing a line upon that branch; and I must say here that so far as I am a judge of a mountain country—and I live in one, and have for years—and could construe what was said by the advocates of the Niobrara route, my conclusion was, and I could not escape from it, that there was no practicable or fair route up the Niobrara.

It was described by themselves as a river with a very narrow valley—in our country we would call it a cañon—a deep cut in a very hilly country, with precipitous bluffs very generally; and a country over which now mule trains travel with considerable difficulty; and where wagons travel they are compelled in all cases, as was stated, I believe, before the committee, to take the tops of the ridges, and cannot go up the valley of that river; in other words the river has no valley connected with it.

Then, so far as the Niobrara route is concerned, and so far as it affects the question now before the Senate, my judgment was and is that it cuts no figure in the case, that it is an impracticable sand-hill region, not profitable to construct a branch of the Pacific railroad through.

Mr. McDOUGALL. Will the Senator from California permit me to ask him a question?

Mr. CONNESS. Certainly.

Mr. McDOUGALL. Has my colleague, the Senator from California, ever studied anything of engineering or mountain countries? I ask an answer.

Mr. CONNESS. I do not think that has any relevancy to this subject. If the Senator's colleague has not, he is certainly willing to

concede that his colleague has studied sufficient for both.

Mr. McDOUGALL. Ah! the better man of the two, then.

Mr. CONNESS. Now, Mr. President, there is another fact that appears, so far as the Niobrara route is concerned, in the discussions that were had before the committee, namely, that if it were adopted by the order of Congress for the construction of a Pacific railroad branch, it would make a very long and a very expensive route to the Treasury of the United States before it could connect westwardly with the Union Pacific railroad, and that is an additional reason why it should not be adopted. The time will doubtless come, when more population gets into that country, that branch roads will connect with the main trunk or Union Pacific railroad; but that time, in my judgment, is not yet.

Now, sir, the question directly before us, and the cause of the introduction of this measure, is the line located from Sioux City, east of the Missouri river, and crossing the Missouri river a considerable distance south of Sioux City and thence running to Fremont, where it connects, I believe, with the Omaha branch of the Pacific railroad. It appears that this Iowa company have deposited the map now before me, as the plat of their route, in the office of the Secretary of the Interior; and the lands, I suppose, have been withdrawn from the market in accordance with law. I believe that the construction of a road over this route would be unwise, inasmuch as it runs eastward and not westward, and that this route, as contemplated by the language of the substitute of the Senator from Iowa, would be set aside. Certainly the United States are not willing to build a branch of the Pacific railroad from Sioux City, which shall run eastward, and in the length of one hundred miles only make five miles of westward distance. The route which the company has adopted, as shown by the map which has been deposited, is one that ought to be set aside. I think, as I suppose all right-minded persons think, that the route should be left to engineering. I have no objection, and never saw any during the discussion, to this Iowa company, composed of owners of contiguous railroads interested in seeking this western connection, being the company to build the branch. Indeed, my opinion is that they are the best able to build it; that committed to their hands it will be built soonest and best, for we have, in addition to the motive of personal interest that they will have in assuming the franchise, the amount of interest they have in seeking the connection by their other and existing roads. But whether the President had a legal right to designate them is a question for the Senate to decide. Whether it is well for Congress now to confirm that designation is a question also for the Senate to decide, and I have no advice to give upon these propositions.

When the bill before us was in committee it seemed to me not an extravagant thing to recommend that the bill should pass as agreed on by the committee; in other words, I thought this company would eventually build the road in any case, that they were the company best able, organized for the purpose, determined to take the franchise, able to go on with the surveys and demonstrate the best route. I thought they would eventually get it in any case. As to these other companies spoken of by the Senator from Michigan, I think none of them are yet organized.

Mr. HOWARD. They are.

Mr. CONNESS. There are companies organized?

Mr. HOWARD. Very responsible companies.

Mr. CONNESS. The Senator from Michigan says they are organized, and are very responsible companies; that had passed my attention. I do not know but that I have said all on this subject that I need at this time say. My only purpose in rising was to show that the committee had fairly and fully considered the case;

that they had considered the question of whether the President should have designated this company or not; that they had considered the ability of this company to construct the road; that they had considered the cheapest line of construction for the Government, and that they had also considered the best route for its construction over. I have no feeling in the premises, but, as I authorized the report to be made, I shall vote, of course, to sustain that report. If the Senate should not adopt it, then I should be willing to accept the other proposition, that coming from the Senator from Iowa.

Mr. McDOUGALL. Mr. President, this is an opportune occasion for me to make a remark due to myself and my relations to my State. It happened to be the fact that I introduced the first bill for a Pacific railroad in the House of Representatives long years ago. I was chairman then of that committee. I introduced the first carefully prepared bill in this body, and was chairman of the committee. I, the voice of the majority governing, after having reported and helped to pass the first bill that ever did pass in Congress, was superseded by the sober Senator from California. I inhabited the city of San Francisco, the metropolitan city of the Pacific. His antecedent in the House resisted the Pacific railroad going to San Francisco; and my colleague resisted the Pacific railroad going to the great metropolitan city, a place of which Humboldt spoke when he traveled along California's mountains and valleys long years ago. This from personal local considerations he did; and I know those considerations, and I affirm them now, and I do it for my own dignity and for the respect I have for the high senatorial office. The opportunity has not come before for me to say this; but what I say is the perfect truth. He did this for personal reasons, not for public. I do not think he understands the dignity of office. A man may play fantastic tricks so far as he himself is concerned; but when he accepts office and represents others he must be careful that he does the full measure of his duty; and it is my impression that he never learned to do that.

The PRESIDENT *pro tempore*. The remarks of the Senator of a personal character are decided to be out of order.

Mr. CONNESS. Only because what the Senator has said will be printed in the Globe, as I hope it will be every word—

Mr. McDOUGALL. Every word.

Mr. CONNESS. I hope the Senator will now be silent. Only because it will be printed in the Globe do I rise to make any response; otherwise I never would respond to what my colleague says in the Senate of the United States, but what he says goes out in print as the words of a Senator, and if no notice be taken of it here the public at large cannot but understand that the object of his animadversions deserved those animadversions. The Senate will bear me witness to-day, as they will since I have been in this body, that I came here for business, that I have made honest endeavors to represent the interests, the best interests, of the people who honored me by selecting me as a Senator. The testimony of the Senate on both sides I have no fear but that I can receive on that point. That this morning should be selected by him who unfortunately represents my State in this august body, to make a personal attack upon myself—

Mr. McDOUGALL. Will the Senator from California allow me to ask him a question?

Mr. CONNESS. No, sir.

The PRESIDENT *pro tempore*. Does the Senator give way?

Mr. CONNESS. No, sir.

Mr. McDOUGALL. Not for a question?

Mr. CONNESS. No, sir.

The PRESIDENT *pro tempore*. The Senator's colleague does not give way.

Mr. CONNESS. That this assault should come this morning while we are engaged in the duties of our high office in considering a subject relating to the public weal lying outside of

the State of California, can only be accounted for by the Senator who has made it being in that unfortunate condition which has led to so much disgrace to our State.

Mr. McDOUGALL. Mr. President, I have a right to call the Senator to order and to pronounce that a falsehood. I have that right.

The PRESIDENT *pro tempore*. The Senator will state his point of order, but he must state it in parliamentary language; otherwise the Chair cannot entertain any motion from the Senator. Does he make a point of order on what the Senator [Mr. CONNESS] says? If so, he will state his point of order.

Mr. McDOUGALL. I will state the point of order, then. A man who makes an insulting remark on the floor of the Senate, if it is a false remark, may be corrected by the statement of the term "falsehood," which is parliamentary; it is so in Great Britain and so in the United States. I desire to pronounce that a falsehood, and I am within the rule as it is laid down.

The PRESIDENT *pro tempore*. The Senator from California [Mr. CONNESS] will proceed.

Mr. CONNESS. Mr. President, I hope I shall be protected from these interruptions in what I shall have to say in future.

The PRESIDENT *pro tempore*. The Chair will endeavor to enforce the rules of the body.

Mr. CONNESS. I ask the indulgence of the reporter, else the remarks that I have made and what I wish to make will necessarily lack coherency. I was saying, sir, that the assault both in time and in character made by the Senator would not have been made on this occasion were he not in the condition which has led to so much disgrace to our State and has so often led to public shame in this august body.

Mr. McDOUGALL. Again—

The PRESIDENT *pro tempore*. The Senator must observe order.

Mr. McDOUGALL. Again I call the Senator to order, and again I say—

Mr. CONNESS. I hope the Chair will keep order.

The PRESIDENT *pro tempore*. The Senator's undertaking to pronounce what his colleague states to be untrue is not a point of order; and the Senator must not interrupt. He will have his opportunity to reply if any misstatement is made.

Mr. McDOUGALL. Will the President allow me to state what I think to be the true rule?

The PRESIDENT *pro tempore*. If the Senator makes a point of order, the Chair will entertain the point of order. The Senator from California on the left of the Chair [Mr. CONNESS] has the floor and must not be interrupted unless he is called to order.

Mr. McDOUGALL. The point of order I will state. It is not—

Mr. SUMNER. I rise to a question of order. I submit that the Senator must not be allowed to proceed. He must make his point of order and then take his seat.

Mr. McDOUGALL. I have the floor, having risen to state a point of order. Not having stated the point of order, I still have the floor.

The PRESIDENT *pro tempore*. The Senator from California rose to a point of order and has not stated it. The Chair entertains his motion only on the ground that he is stating his point of order.

Mr. McDOUGALL. I wish to state what I think to be the rule, which is, as far as I have been instructed about parliamentary law, that a person speaking personally, as the Senator, my colleague—

Mr. CONNESS. Mr. President, I believe I am entitled to the floor. I object to this. If the Senator has a point of order to make, I hope he will be made to state it.

The PRESIDENT *pro tempore*. That is the object of the Chair. The Senator [Mr. McDOUGALL] is stating his point of order as the Chair understands. If he is not stating a point of order he is clearly out of order.

Mr. McDOUGALL. I am only stating it. I am trying to get at it carefully so that I may be exact. If I am wrong I have no doubt the President will rule right. If the Senator, my colleague, had risen in his place and objected to some things I said, I think he might have made a point of order on me.

Mr. SUMNER. I rise again to a question of order.

Mr. McDOUGALL. I am on the floor on a point of order.

Mr. SUMNER. The Senator is arguing a case.

Mr. McDOUGALL. I am not. I am approaching the statement. Permit me, Mr. Chairman of the Committee on Foreign Relations, to make my statement. If a person says a thing on the floor of the Senate that undignifies a Senator he has the right to rebuke it by proper terms. That is the point of order, and so it has been ruled in Parliament, and so it has been ruled in this Senate for fifty years. That is the point of order. That is all I want to state, so that the President will understand that I have the privilege to rebuke a false assertion, it being personal to myself.

The PRESIDENT *pro tempore*. The Chair does not understand that what the Senator now states is a point of order.

Mr. McDOUGALL. It is a point of order. It is my right to have such an assertion corrected whenever I ask a correction.

The PRESIDENT *pro tempore*. The Chair understood the Senator from California on the right [Mr. McDOUGALL] to deny the truth of some assertions made by the Senator from California on the left, [Mr. CONNESS.] The Chair does not think that a point of order.

Mr. McDOUGALL. I think the Chair does not understand me. I think the Chair did not understand the remarks of the Senator from California, [Mr. CONNESS.] There is the point. The Senator from California, my colleague, made a remark that was personal to myself, not an opinion or a matter of discussion.

The PRESIDENT *pro tempore*. The Senator from California [Mr. CONNESS] will proceed. The Chair perceives no point of order in the matter stated.

Mr. CONNESS. If my purpose had ever been at any time, or if I ever could entertain the purpose, which I never have, to reflect upon my colleague, the Senator in this body, it were entirely unnecessary; the conduct of the Senator here furnishes the most severe reflection that could possibly be uttered by human tongue.

The Senator, as I have once taken occasion to state in defense of my State, does not represent the State of California in any sense, either political or moral. The Senator was enfranchised with the senatorial office by that great State five years ago, since which time the Senator has never returned to see his constituents or that they might see him; and yet I have been put to the constant test in this body of bearing and submitting—feeling proud of the people I represent here—to the assumptions of representation of them made by that Senator. I have borne it, sir; I have sat in my place when that Senator, so far from representing that high-toned, moral, and courageous constituency and great sovereignty, was sitting in his chair, or rather lying in his chair, the object of pity, before an audience assembled here from nearly every State in the Union. I have covered my eyes more than once in shame before these exhibits. My associates in this body must not understand that I am dead to considerations of this character, but, sir, silently and quietly, kindly even to him, I was biding the time when the Senator, by the termination of his official career, should cease thus to misrepresent, thus to humiliate, and thus to shed all the disgrace that was possible in him to do upon not only the State that honored him and enfranchised him, but upon the American character and upon the American Senate. But, sir, I cannot bear it this morning, in view of the wanton, unprovoked assault made upon myself.

The Senator rises here and bandies the

word falsehood, Mr. President, against me. The Senator dare not do that out of this great body.

Mr. President, I dare not reply, for my senatorial character is in issue here, to conduct so despicable as that is. I dare not respond to it. Of my character for truth and veracity, for honor in the representative character, I have no comparison to make with him. I shrink from the contrast as I would from all the pollution that hell could vomit forth in its most disgusting convulsions. I have no contrast to make.

Mr. President, with gentleness, with kindness, with what was due to the senatorial relation, notwithstanding the provocations in every point of view—I would at any time since I have sat here have sacrificed them all before the high and imperious duty of vindicating this great American forum and have cast a vote upon any day for the expulsion of the Senator because of his offenses committed here again and again against the dignity of this body; but, sir, I could not lead in such a work—the Senate has spared him; but forgetful of this consideration in his behalf, he has repeated again and again these outrages and violations of order and decorum and dignity until forbearance has ceased to be a virtue. The Senate have constantly done themselves and the country a wrong. It was not enough that this great body of which he became a member had by unanimity concluded that he should not be permitted longer to sit in its committees to consider legislative questions. That silent but most positive condemnation, so far from bringing reformation and change, has but sunk and degraded the object still more, until having no character to lose, nothing in controversy, he rises and commits the last offense this morning.

Mr. JOHNSON. The honorable member from California—

The PRESIDENT *pro tempore*. Does the Senator from California yield the floor?

Mr. JOHNSON. The honorable member from California will permit me to interrupt him for a moment?

Mr. CONNESS. Certainly.

Mr. JOHNSON. As far as any necessary vindication of his character is concerned, I submit to the honorable Senator whether he has not gone far enough.

Mr. CONNESS. I was about to close.

Mr. JOHNSON. And I am sure—

Mr. McDOUGALL. Permit me a remark.

The PRESIDENT *pro tempore*. The Senator from Maryland has the floor by consent of the Senator from California.

Mr. McDOUGALL. I ask him to permit me a remark—

Mr. JOHNSON. I will not.

The PRESIDENT *pro tempore*. The Senator from Maryland does not give way and must not be interrupted.

Mr. JOHNSON. I am sure that it would be agreeable to the Senate, and to all who hold in respect the character of the body, that a discussion like this should terminate.

Mr. CONNESS. Mr. President, I beg to say to the Senator from Maryland, to the honorable President, and to the Senate, that I feel as deeply as any human being can feel the pain of this whole proceeding; but I began by remarking that what is said in this Chamber goes out as the record of this great body, and, so far as the public at large and outside readers are concerned, we are all equal here; and therefore, provoked again and again, I cannot, either for myself or for the State that I in part endeavor to represent here, be silent longer. If I have, Mr. President, by manner, by word, or by inopportune occasion offended the Senate, or any Senator, certainly there is no person to whom it would communicate more pain than myself, and there is none who would withdraw any offense committed either to an individual or to the body where I was than myself. I am done, Mr. President.

Mr. McDOUGALL. I shall be more respectful; I will not speak of "the sober Senator

from California;" I will speak of the superb Senator with the superior voice. There is a little story told of one of the best men in America—Mr. Pettigru, of Charleston, South Carolina. Having advocated a cause in which he had occasion to denounce the client of the opposite counsel and his family for having been guilty of perjury, the fighting man of the family came from the mountains, which are a branch of the Alleghenies in that region, and came up to Mr. Pettigru, who was walking along in the old-fashioned style, with his green bag under his arm. This big, tall fellow came up and said to him, "You are a God damned liar." Mr. Pettigru did not notice it. Then said he, "You are a damned scoundrel." Mr. Pettigru did not pretend to see him at all, but walked along toward home, like a gentleman. "Mr. Pettigru," said he, then, "you are a God damned son of a bitch."

The PRESIDENT *pro tempore*. The Chair thinks the repetition of such stories is disorderly, and ought not to be indulged in in the Senate.

Mr. McDOUGALL. Very well, then, I will give the climax of the thing, which I think will not be rude, because it was done by a gentleman. When he said this, Mr. Pettigru knocked him down, and said to him, "You may lie as much as you please, but this is the way I notice such remarks as you made last." Now, I say simply, as these are lies, they do not undignify me, for I am conscious of my own rectitude.

Now, let me pursue this matter one step further. I am not going to be disorderly. I will give what is due to myself and to the other Senator from California. In the year 1852 I determined to be a candidate for the Federal Congress a few days before the convention of my party met, when my colleague, the other Senator from California, professed to be of the same party with myself. After notifying my friends at home in San Francisco, I took vessel and went to Sacramento, the seat of government. I arrived there after midnight, and early in the morning I arose to see my friends there and notify them of the fact that I would be a candidate for their suffrages. What happened then is the basis of all this. I walked down stairs, and at the door of the hotel I found a Senator of my State whom I knew well and who had invited me to be a candidate. I said to him, "Captain Walton, I have changed my mind since I saw you." The Senator had invited me with great earnestness, had spent some days in inducing me to become a candidate for the Federal House of Representatives. Said I, "I have changed my mind; I have determined to become a candidate." He said to me, calling me "General," which was my *soubriquet*, "I regret it; you know how earnestly I urged you to become a candidate, and after leaving you I immediately went to the city of Stockton and offered my support to Major Hammond," who had then been Speaker of the House of Representatives of the State. Said I, "Certainly, I remember your kindness, and under the circumstances I cannot ask your support." A man was introduced to me at that time by Captain Walton whom I addressed with the cordiality that belongs to western habits. He said, "Captain Walton does not own all the county of El Dorado; I have as much to say about that as he has, and I am going there this morning by stage. In the county of El Dorado you are more highly regarded, and with proper opportunities you can obtain our suffrages, and I will see that you are properly represented." The man being a stranger to me, that being the first opportunity of his coming within my vision, I did not rely on that, and sent to El Dorado, one of the principal counties of my State. After having advised my friends that I was a candidate, I returned to the city of Benicia, where the convention was held.

Mr. DOOLITTLE. Mr. President—

Mr. McDOUGALL. I would desire to conclude my sentence; I have not completed it.

Mr. DOOLITTLE. The Senator is entitled

to the floor, but I desire to call the attention of the Senator to a fact, if he has no objection. That fact is that the question under consideration is in regard to this Pacific railroad bill.

Mr. McDOUGALL. But this is a personal controversy, and I wish to state the controversy as it is. Permit me to proceed. I shall not take three minutes. I want to state the cause why.

The convention met four days thereafter. I was well advised that the person who had volunteered El Dorado to me had become my adversary. He came to the convention with his followers. He did not call upon me, but cast his vote against me. I was not troubled, because I was advised; I was forewarned and forearmed. After I was nominated on the first ballot, by a handsome majority, he came to me and said, "I congratulate you, sir, as a Representative from the State of California." Said I, "Sir, I do not know how well you can congratulate me, or how well you can afford to offer me your hand. You had given me the assurances of support, and you made a speech against the person who seconded my nomination, and cast your vote against me. You have a right to change your opinions, and I not being informed of the reason why you cast your vote against me, must say that to me, without information, it looks much like treachery. Permit me to inquire, if you had a cause, why you did not give me the explanation, and inform me, first, that you had changed your opinion, and secondly, the reason why." "Oh," said he, "I found out that you are too much of a southern man for me;" and he cast his vote for a man who had sent a circular around for establishing slavery in California.

Sir, those men who have wronged you once, and know they have wronged you, will always be your adversaries. I do not speak otherwise than as can be interpreted by the Senator across the way.

Mr. HENDRICKS. If it is not the desire of Senators to have a vote on the bill which is immediately before the Senate, I will move its postponement with a view to take up the bill that was under consideration the other day for the relief of certain contractors for the construction of vessels-of-war and steam machinery, and upon which I was submitting some remarks to the Senate at the time an adjournment took place. If Senators think we can reach a vote on this bill to-day—I desire a vote upon it—I shall not interpose the motion.

Mr. HOWARD. I think we can soon come to a vote.

Mr. DOOLITTLE. I suggest, inasmuch as an important amendment has been offered by the Senator from Iowa, that the bill had better go over and let that amendment be printed.

Mr. HOWARD. I will not object to that. But I beg leave to make one single remark before the subject passes over this morning. It was observed by the Senator from California, [Mr. CONNESS,] that he supposed the lands on the route marked upon the map which I have furnished had been withheld from the market for the benefit of the company. In that respect I think the honorable Senator has been misinformed.

Mr. CONNESS. I rather asked it as a question.

Mr. HOWARD. Such is not the fact. The lands upon the route marked upon the map have not been reserved at the Department of the Interior, as I have been informed, and I think that the company have made no progress whatever in regard to this road. Whether they have made an actual survey of the route marked down on the map is more than I am able to say. I apprehend, however, that they have not. Possibly they may have surveyed a portion of the route, but I apprehend they have not surveyed it all.

In this connection I beg leave to be indulged in one further remark: the statute of Iowa authorizing the establishment of corporations of this description, which are called in the statute "associations," requires that the articles of association which stand as the charter of the

company, taken in connection with the general act, should set forth the conditions and times on which the stock of the company is to be paid in—a very important provision as I regard it—the object of the statute being to require the actual payment in, at certain times to be fixed by the articles of association, of the capital of the company. The Sioux City company, in their articles of association, seem to have overlooked that very important clause in the general statute of Iowa, and in their articles they say:

"The capital stock of said company shall be \$6,000,000, which shall be divided into shares of \$100 each, and may be taken by individuals and corporations, to be paid in such installments as said company may require, and under such rules, regulations, and restrictions as may be provided by the board of directors."

Leaving the whole matter of the payment of stock by the stockholders discretionary with the board of directors, who may call it in or omit to call it in, as they choose. They may call it in at one time or another time, as they may choose. There being no time fixed in the articles of association for calling in the capital stock, it would seem that if the board of directors were so disposed, they might omit entirely to require the payment of any cash capital by any stockholder of the company, which certainly, as I think, would be a violation of the general act of Iowa to which I have referred. Whether they could construct this road out of the subsidy and the lands, I do not know; but I must confess, looking at the articles of association, it appears to me very much as if that were their purpose, not intending on their part to make any very liberal contributions in cash.

Mr. GRIMES. I hardly suppose that the Senate is prepared to sit as a court of appeals to decide whether or not corporations created by the State of Iowa under their laws are valid or not. All that I have to say in reply to the Senator from Michigan is, that I know several of the persons who are connected with this company. I know that they are very pure men, very able men, and are capable of building the road; and I think that they probably are as well qualified to discharge this duty as the gentlemen who compose the adverse company, with the members of which I suppose the Senator is familiar, for I believe they are generally from the town in which he has his residence. I have no doubt the persons who are seeking to get the control of this road in opposition to the company to which the grant was made by the President are all very respectable people; but the charter, as I suppose, and have believed, and am informed, is in strict accordance with the laws of the State of Iowa.

Mr. HOWARD. It was not my intention to sit as a judge upon the question whether this Sioux City company is legally incorporated or not. That was the furthest possible thing from my mind. I felt it a duty, however, to call the attention of the Senate to this important fact, and it will have such weight as Senators choose to give it.

As to the other company to which the Senator alluded, I have only knowledge of but one or two members of it. Very few, however, of the members of the company to which the Senator refers, reside at Detroit; and as to those, I can assure the Senator that they are gentlemen of the highest responsibility and untarnished honesty and honor as business men—men who would delight in exercising the privilege of carrying through this important work as expeditiously as possible; men who would be sure to accomplish their object. As to the character of the stockholders of the Sioux City company, I know much less of them than the honorable Senator from Iowa does. I presume, however, they are all excellent business men—men of responsibility. I have been so told; but I cannot, just at this point, suppress the fact appearing before us in public documents now on our tables, that three of the stockholders, three of the members of the board of directors of that company, are members of the present Congress—members of the House of Representatives. I think it proper

to state that fact for the information of the Senate.

Mr. GRIMES. I desire to say in response to that that the Senator is mistaken. I believe that one of the members of the House of Representatives of my State assisted in forming the company, but when the company was formed he ceased to have any connection with the road. I think that one member of Congress is one of the members of this company. I do not know that there is any particular impropriety in that. I do not know that it is any more improper than it is for the Senator's constituent, who holds an office in the Territory of Dakota, to be a lobby member about this body, as he has been ever since this session of Congress commenced, for the purpose of securing this grant to the adverse company, of which he is a member. I simply desire to repel the inference that might be drawn from the remarks of the Senator from Michigan that there was anything improper on the part of these gentlemen who were members of the House of Representatives. One of them I think is a very worthy member from the State of Massachusetts, as good a man, as pure a man, and as competent a man, according to my knowledge of him—and I think that is the opinion held of him by his own constituents and by the people of that Commonwealth—as ever had a seat in the Halls of Congress; and I can make the same remark, with perfect propriety and truth, in regard to my colleague of the House of Representatives. I do not know with what purpose it was that the Senator from Michigan saw fit to drag in the names of these gentlemen and put them upon the record here. I can only say, whatever that motive may have been, that, in the estimation of their friends, nothing that he can say can injure them.

Mr. HOWARD. Certainly it was not my purpose to introduce the names, and I have not introduced the names, of any members of Congress from the State of Iowa as members of this company. That is not necessary. I referred to that fact, however, to account, if possible, for this strenuous opposition which has been made, and probably will hereafter be made, to the passage of the bill now before the Senate. I, like the Senator from Iowa, see no impropriety in a member of Congress being connected with a railroad company, being a stockholder or director; there is certainly nothing disreputable in that; but that would naturally be a circumstance, so far as a member of Congress is concerned, inducing one to be tolerably vigilant in regard to his rights and in regard to the rights of his company. That is all that I intended.

As to the other gentleman to whom the Senator has seen fit to allude—a private gentleman of spotless reputation—

Mr. GRIMES. He holds an office in Dakota Territory.

Mr. HOWARD. Yes, sir; I believe he is surveyor of the Territory of Dakota, and has been absent, on leave, for a number of months, from his post of duty, and has spent much of his time at Washington. What may have been his business entirely, I am unable to say. It is true, however, that he is friendly to the passage of this bill, as he has a right to be, as every man in Dakota and elsewhere has a right to be. I do not know of any reason in morality or politics or law that would exclude a gentleman holding a public office from taking an interest in any public measure pending before Congress. I do not know why he should be ostracized simply because he is a public officer.

Mr. HENDRICKS. I move that the further consideration of this bill be postponed with a view of taking up the bill for the relief of the contractors for building the iron-clads.

Mr. CLARK. If the Senator from Indiana desires to address the Senate upon the bill to which he alludes, I, of course, will make no objection to that bill coming up, but I desire, if possible, to call up House bill No. 233, with regard to the *habeas corpus*, which was under consideration some days ago, and which is a bill of public importance; and I should be glad, if the Senator does not wish to address the

Senate, if he would let that bill come up instead of the one to which he alludes.

Mr. HENDRICKS. I do not wish to occupy the time of the Senate but briefly.

Mr. CLARK. Of course, if the Senator desires to occupy it at all, I will not interpose another motion.

Mr. HENDRICKS. I understand that the Senator from Iowa, the chairman of the Committee on Naval Affairs, will perhaps offer some amendments which may remove all objection to the bill I have named, and it need not occupy very much time if he takes that course.

The PRESIDENT *pro tempore*. It is moved that the further consideration of the bill now before the Senate be postponed, and that the amendment offered by the Senator from Iowa be printed, and that the Senate proceed to the consideration of the bill made by the Senator from Indiana.

Mr. HOWARD. If the bill now before the Senate is to be postponed, I beg to suggest that it be postponed until to-morrow at one o'clock.

Mr. CLARK. Oh, no; do not assign a day for it.

Mr. WADE. I hope there will be no assignments that will prevent me from calling up a bill which, if it is to be passed upon at all, ought to be acted upon very soon.

Mr. SUMNER. What is that?

Mr. WADE. The bill to incorporate the District of Columbia Canal and Sewerage Company. If it is to be passed at all, it should be passed at once. I intended to call it up this morning, but this bill got ahead of me. I think this bill ought to be considered and passed at the earliest moment, and I should be glad if the Senate would agree to take it up now.

Mr. SUMNER. Why not go on with the business before us and finish it this afternoon?

Mr. HOWARD. I inferred from what the Senator from Indiana said that he desired to speak on this bill, and wished it postponed for that reason.

Mr. HENDRICKS. Not at all.

Mr. HOWARD. If that be not the case, I think we had better come to a vote on this bill without a postponement.

Mr. HENDRICKS. If we could reach a vote I should not interpose another motion; but I suppose this bill in regard to the Pacific railroad will occupy some further time, and I desire to conclude what I was saying at the time of the adjournment the other day, and I suppose that we can then dispose of the bill that I propose to call up in a very short time.

Mr. ANTHONY. If the Senator from Indiana was cut off the other day in the middle of his speech I do not know why that would not come up as the unfinished business. I think he ought to have the privilege of concluding his remarks.

Mr. HENDRICKS. I supposed it would; but I did not want to interrupt other business.

Mr. GRIMES. It was understood a few minutes ago that this railroad bill would go over until to-morrow, and I know that two or three Senators left the Chamber under that impression. I think, therefore, it would be well for us to adopt the suggestion of the Senator from Indiana, and let this bill be postponed until to-morrow.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Indiana.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had insisted on its amendments to the concurrent resolution of the Senate to prohibit the sale of spirituous and other intoxicating liquors about the Capitol building and grounds, disagreed to by the Senate, and asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. JOHN WESTWORTH of Illinois, Mr. HIRAM PRICE of Iowa, and Mr. SAMUEL J. RANDALL of Pennsylvania, managers at the same on its part.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 122) making appropriations for the naval service for the year ending 30th of June, 1867;

A bill (H. R. No. 218) for the relief of Charles Youly;

A bill (H. R. No. 264) granting a pension to Mrs. Altazera L. Wilcox, of Chenango county, in the State of New York;

A bill (H. R. No. 266) granting a pension to Mrs. Isabella Fogg, of the State of Maine;

A bill (H. R. No. 267) granting a pension to Virginia K. V. Moore;

A bill (H. R. No. 268) for the relief of Albert Nevins;

A bill (H. R. No. 443) granting a pension to Mr. Elizabeth York, widow of Shubal York, late a surgeon in the fifty-fourth regiment Illinois infantry volunteers;

A bill (H. R. No. 444) granting a pension to Lewis W. Dietrich; and

A bill (H. R. No. 446) for the relief of Nicholas Hibner, late a private in the sixth regiment Missouri State militia.

LIQUOR IN THE CAPITOL.

The Senate proceeded to consider the message from the House of Representatives asking for a conference on the disagreeing votes of the two Houses on the amendments of the House of Representatives to the resolution prohibiting the sale of spirituous liquors in the Capitol building or grounds, disagreed to by the Senate and insisted on by the House.

Mr. SHERMAN. In the absence of the gentleman [Mr. WILSON] who introduced the resolution, and for him, although without authority, I will move that the Senate insist upon its disagreement to the amendments and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and that the President *pro tempore* appoint the managers at the conference on the part of the Senate. I hope that this will be considered as the motion of the Senator from Massachusetts who introduced the resolution.

The motion was agreed to.

SARAH E. PICKELL.

Mr. LANE, of Indiana, desiring to move a reconsideration of the vote indefinitely postponing the bill (H. R. No. 458) granting a pension to Sarah E. Pickell, on his motion, it was

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill of the House (No. 458) granting a pension to Sarah E. Pickell, which was indefinitely postponed by the Senate on the 13th instant.

CONTRACTORS FOR VESSELS AND MACHINERY.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 220) for the relief of certain contractors for the construction of vessels-of-war and steam machinery.

Mr. HENDRICKS. It is not my intention to occupy the attention of the Senate more than a few moments in the further discussion of this bill. At the time of the adjournment on Wednesday last I was showing the effect of the action of the Department upon these contractors, and was illustrating it by the cases of three other vessels that were constructed by Messrs. Secor & Co., the Tecumseh, Mahopac, and Manhattan, three of the river and harbor monitors. As I said, the contract by Messrs. Secor & Co. for the construction of those vessels was made on the 1st of September, 1862, and they were to be completed in six months, but in fact they were not completed for about eighteen months. Now, I wish to show to the Senate how it came that they were not completed within the time or within a short time after the time limited, and what was the effect of that delay in the completion of the vessels upon the contractors themselves.

The contract price for these vessels was considerably above a million dollars, and the work was commenced, I believe, almost immediately

after the contract was made; but very shortly afterward the superintendent commenced making changes in the plans of the vessels and in the mode of doing the work. I will show the extent to which the changes were ordered. I will refer very briefly to some of the evidence that was before the board.

These contracts, as I have said, were made on the 1st of September. In the latter part of September the first instructions were given, the drawings of the particular plans, Nos. 2, 6, 5, 8, and 7, signed by Stimers, the general inspector.

"On the 9th of October, a second specification was received from the general inspector which demanded the following changes from the specifications upon which we built."

The changes are given; the different items; the cost of these changes amounting to a good many thousands of dollars. The Senate will observe that that was a little more than a month after the contracts were made. Then again on the 14th of October, a month and a half after the contracts were made, other changes were ordered; again on the 14th of November; again on the 19th of November, and the last modifications were very extensive, involving a great change in the plan of the work and a great increase of the cost of the vessels. On the 15th of January other instructions were received, and from time to time thereafter almost during the entire time of the construction of the vessels. Messrs. Secor & Co., I believe, built five vessels in all, two of this particular class, and (upon which they sustained such serious loss) they built three vessels, the Tecumseh, the Mahopac, and Manhattan, river and harbor monitors, a very important class of vessels. The Senate will observe on page 9 of the report a copy of one of the letters written by Stimers, as general inspector, to the contractors. That letter is dated December 22, 1862. It commences thus:

"GENERAL INSPECTOR'S OFFICE,
IRON-CLAD STEAMERS,
"413 BROADWAY, NEW YORK, December 22, 1862."

"GENTLEMEN: You are probably aware that the iron-clad steamers Mahopac, Tecumseh, and Manhattan, now in process of construction by you, are, in their general plan, simply a modification of the *Passec* class. That the original design emanated from Captain Ericsson, the inventor of this system, and that this office was established by the Government for the purpose of making and issuing to the various builders of the vessels the detailed working drawings. The design of Captain Ericsson contemplated the deck covered with one inch thickness of iron. The deck planking and much of the side armor of pine wood, and all armor plates to be of fifteen sixteenths inch thick each.

"After this plan left the hand of the designer, there was added another inch to the thickness of the deck plating; the pine wood in the deck planks and side armor was changed to oak; the full thickness of one inch each was demanded for all armor plates; the weight of the boilers was increased fifteen per cent., and in some minor respects weight was added to what was originally intended, until, after having in vain protested against these additions, Captain Ericsson gave notice that he would no longer be responsible for the flotative power of these vessels. I have, therefore, caused the displacement and the weights to be carefully calculated, and, to avoid the necessity of carrying any ballast to balance the vessels, the calculations extended to balancing the weights equally with the displacement. As the result of these investigations, it has been determined to make the following alterations."

I will not undertake to describe to the Senate what these alterations amounted to, for I cannot very well understand them myself, not being a mechanic or engineer; but they were very important alterations. This was one of a series of communications from the general inspector to these contractors. This was about midway in the period fixed for the completion of the vessels, and from time to time onward alterations were made; so that, as a matter of course, the vessels had not approached completion when the time limited for their completion had expired. Again, on the 18th of June, 1863, very elaborate instructions were given by General Inspector Stimers to the contractors. Senators will find that letter on the 10th, 11th, and 12th pages of the report, and can see by referring to it the extent of the alterations and modifications of the work.

Now, sir, what was the effect of it? As I said the other day, the entire alterations and

modifications of the plan of these vessels caused extra work to be required, amounting to above half a million of dollars. That extra work was paid for by the Department. There is no claim by these contractors for that. The point is just this: that by requiring so much additional work and such a departure from the original plan from time to time, the work could not be completed within any reasonable period, and instead of the vessels being built from the 1st of September, 1862, to the 1st of March, 1863, the work ran through the whole of the year 1863 and up to March, April, and May, 1864. If Senators will turn to the 8th page of the report they can see the effect of this necessary delay, occasioned by the action of the Government or by the instructions of the general inspector, upon the contractors. As a part of this report, there is a statement of the advance in the price of labor and material, which is certified to be correct by Admiral Gregory who had charge of this work. Let us take a few of the items.

This contract was made in September, 1862. It should have been completed in March, 1863, but was not, and I presume it would not have been completed at that time, even, if no alterations had been required; but the modifications rendered it impossible to complete this work until eighteen or twenty months after the time of the contract. Supposing the vessels had been completed by the 1st of March, 1863, the following advances in prices would not have occurred to the contractors. In September, 1862, flange iron was six cents per pound; in March, 1863, it was eight and one fourth cents. In September, 1862, common iron was sixty-five dollars per ton; in March following it was \$87 50 per ton—a very considerable advance. Now as to labor: finishers in September, 1862, were receiving eighteen cents per hour; in March, 1863, they were receiving twenty-one cents per hour—an advance of three cents per hour.

Because of the modifications required by the general inspector these vessels were not completed until the spring of 1864. Now, I ask Senators to observe the increased cost of material and labor running up to that period, and I will take the same items. Flange iron in September, 1862, was six cents per pound; in May, 1864, it was ten cents. Common iron in September, 1862, was sixty-five dollars per ton; in May, 1864, it was \$145, being an advance of more than one hundred per cent. American iron in September, 1862, was twenty-six dollars per ton; in May, 1864, it was sixty dollars per ton, being an advance of more than one hundred per cent. With regard to labor, finishers in September, 1862, received eighteen cents per hour; in May, 1864, twenty-eight cents per hour. Laborers in September, 1862, received eleven cents per hour, and in May, 1864, twenty-one cents per hour, an advance of ten cents per hour, almost one hundred per cent. Smiths, in September, 1862, received nineteen cents per hour, and in May, 1864, thirty cents per hour. Carpenters in September, 1862, received eighteen cents, and in May, 1864, twenty-seven cents per hour.

Mr. President, I have referred to the cases of these three vessels for the purpose of illustration before the Senate. It is impossible for me to refer to each particular case that is provided for in this bill; but I give these three vessels for the reason that the allowance made by the board to Messrs. Secor & Co. upon these three vessels seemed to me to be as large as any in the list of the awards.

Mr. CLARK. With reference to that point I desire to say to the Senator that that is one of the great objections that I have to the bill, that the Senator and the Senate cannot consider each case separately by itself. I can conceive that there might be very good reason why we should make an allowance to A or to B on account of the action of the Government in delaying the work, when there would be no reason for making an allowance to C or to D.

Mr. HENDRICKS. I will speak of that directly.

Mr. CLARK. The difficulty is, this bill takes the whole of them together, and we go rather by illustration of the whole case than by an examination of the individual cases.

Mr. HENDRICKS. That is not exactly the case, for the reason that the committee, in the report made by the Senator from Nevada, [Mr. NYE,] have examined each claim and each case.

Mr. CLARK. That may be. The committee may have satisfied themselves, but the Senate may not be satisfied.

Mr. HENDRICKS. I cannot say that the Senate will be satisfied, but the committee have not asked the Senate to take one or two cases as a matter of illustration. The committee, in their report, have given the particular facts of each claim. The report does not present these cases as a matter of illustration, but gives the facts in each case.

Mr. WILLEY. I merely rise to remind the Senator from Indiana that the bill also names each case separate and distinct, just as much so as if there were distinct and separate bills in each case. The committee not only report separately on each vessel, but the bill, although it provides for all of these claims in the same bill, does so by clauses, separating the claim of each.

Mr. CLARK. I understand that perfectly, because I have examined the bill somewhat; but here are forty-two cases, as the Senator will see, put in one bill, on which the Senate is to pass. We think it enough to pass upon one claim; but here we have got forty-two all in one bill.

Mr. WILLEY. Where is the difference whether we are to have forty-two bills, or have but one bill, when we can take up each case, or each vessel at a time, as we can do in considering this bill, framed as it is?

Mr. CLARK. That is not what we are doing. Senators are trying to carry the whole bill by an illustration of a portion of these cases.

Mr. HENDRICKS. The committee do not propose to carry the whole bill by illustration, although in my argument I do not undertake to examine the particular merits of each particular case. The report of the committee, made by the Senator from Nevada, discusses each case separately, and presents the facts of each case as fully as the committee were able to do. But for myself, I content myself with giving a few illustrations, as the Senator from Iowa, the other day, selected one or two cases as an illustration, for the purpose of showing that some parties claimed largely, while other parties did not claim nearly so much.

Now, Mr. President, upon these three vessels, as I said, I thought the award of the board was as high perhaps as in any case, and I have selected them as being as hard a case to satisfy the judgment of the Senate upon as any. I have selected those three vessels, the Tecumseh, the Mahopac, and the Manhattan. The award upon each vessel is \$119,000, making above \$300,000 upon the three vessels. If it shall appear upon a careful examination of the allowance made upon those three vessels that it is right and proper, the Senate will not be so uncertain upon claims where the allowance is not so large.

Mr. CLARK. If the Senator will permit me for a moment, I have not examined the report very carefully, but I find one case where the contractors claimed about seventy-seven thousand dollars, I think, and without showing upon what principle they had gone precisely, or without showing that he was not entitled to that sum, this board cut him down by a sort of arbitrary rule to the largest allowance they had made anybody else, to wit, about eighteen thousand dollars. They took another man's case as a guide for his, which showed to my mind that this board did not examine into the subject very carefully.

Mr. HENDRICKS. I will speak of that directly. On these three vessels that I am speaking of \$119,000 was allowed upon each. That seemed to be a large allowance, more than three hundred thousand dollars upon the three,

upon a contract considerably above a million dollars, the entire cost of the vessels, including half a million of extra work which was ordered by the general inspector being above two million dollars. Now, upon work, the contract price of which is above a million dollars, the board allow above three hundred thousand dollars for losses sustained by the contractors. Upon an examination of the facts we see that labor has gone up nearly one hundred per cent. during the time that this work was carried on; some qualities of iron above one hundred per cent., and much of it approaching one hundred per cent.; so that when the contract was made, it was made with a view to the then prices, and the Government caused the delay of perhaps a full year by the change in the plan of the work, and during that period it went on advancing from month to month until this enormous price had to be paid for labor and material. I do not claim that it cost the contractors an additional hundred per cent. for their material and labor, for much of the work, of course, was done and much of the materials were purchased by the contractors before the labor and materials had reached this very high price; but I say that in view of the great increase of prices, this allowance did not seem to me to be extravagant.

The board do not seem to have examined these cases as an omnibus bill, but they examined each case, heard the evidence, and decided upon each case. Take the case that has been referred to by the Senator from New Hampshire; a party claimed \$74,000 upon a contract of \$82,000. The bureau of the Navy Department in its communication to the Committee on Naval Affairs has referred to that. It has not referred to the award made by the board, but has referred to the claim made by the party. My notion is, that it was not an honest claim; at least, it was not such a claim as ought to have been allowed, and it was not allowed. The board reduced it to \$12,000. The Senator thought it was \$18,000.

Mr. CLARK. I made a mistake.

Mr. HENDRICKS. In fact it was \$18,000. I will explain to the Senator how he has been misled. The claim was for \$74,000. The allowance is \$18,000; but that allowance of \$18,000 includes about \$6,000 of extra work, which has been allowed by the Department, but has not been paid to the parties. The record shows that; so that the real allowance by the board for losses was \$12,000 instead of \$74,000.

Mr. CLARK. I said they had allowed \$18,000.

Mr. HENDRICKS. They did allow \$18,000, but \$6,000 of that was for additional work required by the Department.

A word in regard to the Wateree, upon which the Senator from California [Mr. CONNESS] made a speech the other day. He says he has a personal knowledge of the Wateree and that it proved to be a defective vessel. I am not going to discuss with the Senator his information with regard to that vessel, nor his competency to judge of whether it was a well-built vessel or not. He is satisfied that the Wateree was not a well-built vessel. The Department does not agree with the Senator, although he thinks he got some of his information from the Department, but I think in part he must be mistaken, for the resolution which authorized the Secretary of the Navy to organize this board closed with this sentence:

"None but those that have given satisfaction to the Department to be considered."

The Secretary of the Navy had no right to refer any case to this board where the parties in the construction of the work had not given full satisfaction to the Department.

Mr. CONNESS. Will the Senator permit me to interrupt him?

Mr. HENDRICKS. Certainly.

Mr. CONNESS. I deduced my conclusion with regard to the Wateree in part from the performance of the ship, which I presume is very good testimony in the case. Our sailing vessels make trips from New York to San

Francisco in, say, one hundred and twenty days. They have been made within ninety days or thereabouts, and often within one hundred and one hundred and ten days. However, those are extraordinary trips. From one hundred and twenty or one hundred and twenty-five days to one hundred and forty days is a common trip for any good sailing vessel; but the Wateree, a steamship, a new ship, was I think more than eight months finding her way there. I only stated what came within my knowledge in that connection, and also in connection with that the statement made from the Department to me on the subject.

Mr. NYE. If the Senator from California will allow me to make a suggestion to him, the Monadnock is generally considered a good ship, and she was five months in getting to Rio Janeiro.

Mr. CONNESS. The Monadnock is a monitor, a ship of an entirely different class.

Mr. CLARK. A double-turreted monitor.

Mr. CONNESS. Yes, sir.

Mr. HENDRICKS. In reply to the Senator from California, I have to say simply this: that I am surprised that the Wateree ever got to California at all.

Mr. CONNESS. We were, too.

Mr. HENDRICKS. Anybody who is a judge of these vessels would be surprised; and the fact that she labored hard to get to California, going around South America, and it took her months to get there, is no evidence that she is not a good vessel; and the Senator would have so known if he had studied the structure of the vessel and the purpose for which that class of vessels was constructed. It is not a sea-going vessel. It was not intended to be. It is a double ender—a vessel constructed during the war, for the purpose of going into the rivers and creeks; and it is made a double-ender because it is likely to be used in rivers so narrow that they cannot turn. It is made with rudders and machinery, so that it can run either way. It belongs to the class of iron double-enders, and it is not at all a sea-going vessel. It was supposed to be necessary to have such a vessel on the California coast, and so, I suppose, the Department ran the risk of taking this vessel to sea around this very long voyage.

Mr. CONNESS. I beg the Senator's pardon for saying one word here. She was not sent to California to ascend any river.

Mr. HENDRICKS. Then I take that back. I do not want to discuss immaterial matters.

Mr. CONNESS. She was sent there for a sea-going vessel, a man-of-war, and is now on the South American station as such.

Mr. GRIMES. The only difficulty in getting these double-enders around the Pacific is, while they are in the Atlantic ocean. As the name indicates, the Pacific ocean is a pacific ocean, and these vessels, when they are once around Cape Horn, can perform good service in the ocean and on the ocean.

Mr. JOHNSON. Have you been on the Pacific?

Mr. GRIMES. No, sir; but I have read of the Pacific, as I suppose the Senator has.

Mr. CONNESS. What the Senator from Iowa says is true.

Mr. JOHNSON. It is pacific only in name.

Mr. GRIMES. There seems to be a contrariety of opinion here. The Senator from Maryland says that it is only pacific in name, and the Senator from California says my statement is true.

Mr. CONNESS. The Senator from Maryland made one voyage.

Mr. JOHNSON. I made two.

Mr. GRIMES. At any rate, while they are not adapted to the navigation of the Atlantic ocean there are two or three of these vessels there—the Mohongo and the Wateree; and these vessels are found to be well adapted, I believe, to the service there.

Mr. HENDRICKS. I am glad to hear that the Department has not made a mistake in sending these vessels around to the Pacific coast. I supposed they were intended for the

same sort of service on the Pacific coast that I have been informed they were intended to perform on the Atlantic coast. I believe the Senator from Iowa, who is very familiar with this entire subject, agrees with me that they are not suited for the rough sea of the Atlantic ocean.

Mr. CONNESS. The Senator will be kind enough to permit me to interrupt him one minute further, so as to give him my whole statement of the case. He will remember that I stated that upon the arrival of the Wateree on our coast she had to be taken into dock and a very heavy expense—I do not state the figures, for I have not got them, but those figures can be obtained at the Navy Department—a very heavy expense was entailed upon the Government by reason of the bad material used in her construction. That was the statement I made. That was the information I had from the Navy Department. I certainly did not, in what I undertook to say, intend to reflect on the vessel at all, but to state facts that had come within my knowledge.

Mr. HENDRICKS. I do not intend, I will state to the Senator from California, to give great weight to this particular case, and therefore I do not want to discuss it at great length. I will say a word or two in reply to him. The Wateree was not intended for sea service. She was put upon the ocean and taken around to California. It took her a long time to go there. It is a matter of surprise to me that she ever got there, as she was not intended for that sort of service. She gets there; she is bruised and battered during the voyage; and then is placed upon the stocks and is repaired at great expense.

Mr. CONNESS. I know the Senator will pardon me for interrupting him again.

Mr. HENDRICKS. I will ask the Senator to conclude what he has to say on this subject, and then I will make a remark or two, and we will drop the subject of the Wateree.

Mr. CONNESS. I give the floor to the Senator. I do not desire to intrude upon him.

Mr. HENDRICKS. Does the Senator wish to say anything further?

Mr. CONNESS. As the Senator has called my statement in regard to the Wateree in question, I thought it would be acceptable to him for me to make myself understood on that subject. The Suwanee, subsequently sent to the Pacific coast, is a double-ender also, of the same class as the Wateree, and very nearly the same size. She went there in a great deal less time, performed better, and when she arrived there was in good order and condition. What I said strictly applied to the condition of the Wateree and her construction.

Mr. HENDRICKS. The Suwanee was of the same class, manufactured by the same house, at the same yard, for the same price, I believe, and a little less was allowed for the loss on her by the board. She made her voyage to California in a little less time than the Wateree. That does not prove that the Wateree was not a good vessel. As I said before, I presume the Wateree had to encounter a sea which her construction and style did not fit her for, and when she got to California she had to be repaired. Senators know very well, and the Senator from California knows very well, the cost of repairing vessels in California. I believe that labor cost five dollars and \$5 50 per day in gold at the Government works at Mare Island when gold was 250, making labor on that coast to cost, in the Government currency of the country, ten, twelve, or fourteen dollars a day; and of course it cost a great deal to repair a vessel there. I do not have it from the Department, and I do not know how true it is, but the gentleman told me that one of the vessels that was constructed in a Government yard was taken to California, and was so battered in the voyage that she was put upon the stocks at the Mare Island navy-yard, and it cost as much to repair her upon that side at the enormous rates paid there, as it would cost to build her upon this side. It may not be so. It cost a very considerable sum of money at

any rate. There is no question about that, I presume.

Now, sir, we have the evidence of the Department in submitting the case of the Wateree to this naval board that they considered her satisfactory, for the resolution did not allow any claim to go before the board unless the work was done to the satisfaction of the Department. In the next place, we have a statement from the Department addressed to the Committee on Naval Affairs, which the chairman of the committee read the other day, and there is no objection made to the Wateree, to her machinery, or to the style of her construction by that report that I now recollect. There is some objection made to another vessel, to some wood work on the Mohongo, but I believe no objection was made in that report or memoranda to any other vessel that is mentioned in this award.

Now, Mr. President, to conclude what I have to say on this subject, the Senate at the last session referred this whole subject to the Navy Department, and authorized the Secretary of the Navy to organize a board to estimate the amount of the losses that were sustained by these contractors. Was that right? Was it right for the Senate to contemplate the payment to these contractors of the losses that they necessarily sustained? As an original proposition, is it right? Is there any Senator here that desires to see these men broken up for work done for the Government during the war? On that subject I will read what is said in the report of the committee:

"The committee believe that in many other cases the completion of the work was delayed by the action of the Department, because it is the concurrent testimony of many of the contractors that such was the case, and also because it could not be otherwise, inasmuch as the art of building iron-clad ships-of-war was not then perfect; it was yet in experiment, so much so that constant modifications of the plans became necessary as the use of completed vessels discovered defects or suggested improvements. And it would have been a failure of duty on the part of the Department had it failed to introduce any improvement at any time during the progress of the work; and to the fact that diligence and care were observed in that regard is in part to be attributed the production of a navy so perfect and so formidable."

But suppose the Government had not interfered at all, and had not from time to time directed modifications of this work, which caused delay, and which threw upon the contractors the necessity of buying material and employing labor at greatly increased prices; suppose the contractors had made a mistake simply in regard to the cost of the work; and suppose that during the war they gave their entire energies to the production of a navy that astonished the world; are Senators willing that these enterprising citizens shall be broken up in such an enterprise? Was it a commendable thing that they undertook these contracts? Our navy-yards were fitted for the work of ordinary times, but they were not of sufficient capacity to produce a navy such as was required during this war. These citizens undertook the work. They have met with misfortune. Ought that misfortune to be borne by the people, or should these contractors be crushed in their patriotic enterprise? I admit, unquestionably, that the hope of making a profit may have influenced them to some extent; but upon that subject I will ask the attention of the Senate to the facts reported by the committee:

"From Messrs. Lenthall and Isherwood, of the Navy Department, and Mr. Wood, the general inspector, the committee learned that the petitioners entered into their contracts upon public competition, after general notice; that the lowest bid in a class was taken as a standard, which those bidding higher had to adopt, and that the prices were 'barely fair at the then current rates'; that the petitioners dealt fairly and honestly by the Government in procuring the very best material which they could command, and doing the best quality of work, and that they were diligent in adopting all measures in their power to complete the work within the stipulated time."

This evidence, as I recollect, was brought before the committee at the last session, and this is an extract incorporated into this report from the report that was made to the Senate at the last session of Congress. Then these contracts were made by these men at prices barely fair at the then current rates; barely fair in September, 1862, so far as many of the vessels are con-

cerned. The prices from that time went on from day to day and from month to month advancing. These contracts were made by some below their own propositions, and at barely fair prices at the then current rates. Is there any Senator here who wishes to see these men broken up merely because they entered into contracts with the Government? Is there any Senator here who wishes to say to these men, "We have your bond, and we will hold you to your bond; we will take the blood out of your business; we will have the pound of flesh."

Mr. President, with this evidence before the Senate I cannot conceive it possible that Senators would desire to enforce a rule that between private individuals it is felt would be a hard rule to enforce. If a mechanic were to enter into a contract with any Senator here for the erection of a house, and it should afterward be proved that the material and labor cost much more than was expected, is there any Senator here who would be willing to take that house upon the bond and see the mechanic broken up? As between man and man, this would be regarded as a hard rule. Between the Government and the citizen who undertakes in a time of pressing need to produce that which the Government must have it is an oppressive and outrageous rule, in my judgment, that would hold him to his contract and his bond.

But, sir, the committee say further:

"The delays occasioned in the work by the changes of the plans caused large losses to the contractors; first, by leaving their labor unemployed for the time upon their hands; second, by requiring them to carry insurance and interest; third, by the constant and rapid increase of the cost of labor and materials, and the depreciation of the currency, for which the Department could not give adequate and complete relief. The delays worked a special hardship upon the builders of the nine vessels first mentioned, as it was provided in their contracts that they should each receive \$500 per day for every day their vessels were completed before the time limited for their completion. From Mr. Wood, the present general inspector, the committee learned that this class of contractors, to overcome the delay occasioned by the changes in the plans and waiting for the specifications, and to meet the earnest requirement of the Department for an early completion of the vessels, prosecuted the work at night and on Sundays, and that for such work they were compelled to pay double prices, for which the Department did not and could not make them any compensation."

Again, they say:

"The committee are satisfied that the petitioners have sustained, and are sustaining, heavy losses, which it was not in their power to avoid after making their contracts. The contracts were generally for large amounts, and required a long time for their completion. It was impossible for them to make provision for all the material required, or to foresee and provide against the great advance in the price of labor. The demand for iron of peculiar and large sizes and fine quality was great, the supply small, and the means of producing it in the country limited. New machinery for preparing and rolling it was necessary; under such circumstances builders of iron ships and heavy machinery could not contract in advance for such quantities as would be required, even could they advance the money, so that they were compelled to abide the fortunes of the market. During the progress of the work, by many of the petitioners, labor and materials have advanced, perhaps, one hundred per cent. This was not foreseen either by the reckless or the most prudent. The increased cost of labor and materials outran the calculation of every one. Ought the losses resulting from such a state of facts to fall entirely upon the petitioners? The committee think not. First, for the reason that the Government, by her own competition for skilled labor and material, contributed materially to the losses. Second, the Government, by the mode and manner in which she imposed her taxes, contributed to the result."

I will not read further from the report, and will now leave this question, so far as I am concerned, with the Senate. When the cases of these contractors were presented to the committee, and referred to myself along with the distinguished gentlemen who were associated with me on the sub-committee, I gave the subject very close attention. I soon became interested in the examination, and during the progress of the examination I went to the navy-yard, and I saw one of these vessels, the Mahopac, a vessel that has cost the firm who built it \$119,000 more than the Government has paid for it. That vessel has gone through the strife of the war. She was in the James river when her services were very important. She rendered very valuable service at Fort Fisher, and came out of it battered and bruised

with the marks of the enemy's cannon balls upon her. And now, sir, as she lies at your navy-yard battered and bruised, here, having come out of the war, proving herself to be a first-class vessel, of great value in bringing the war to a close, is there any Senator willing to say to the enterprising firm who built her, "We have got your vessel; she has done us valuable service; she helped to take a most difficult point, Fort Fisher, where failure had occurred before; a point that had to be taken in order to stop the supplies of Richmond; she has helped to reduce Wilmington; she has contributed very largely to bringing this war to a close; but we will hold you to your contract, and you shall bear this loss of \$119,000?"

As to the question that is raised, and the most plausible objection, and the most difficult to answer, that this is an omnibus bill, we cannot examine each case. The entire Senate is unable to do that. But at the last session, upon the motion of the Senator from Nevada, this question was referred to the Navy Department. Are you willing to risk a question of this sort with the Department that represents the Government? Are you distrustful of the Secretary of the Navy in the selection of a board? Who can best examine a question of this sort? You admit these men ought not to be broken up for work they have done during the progress of the war. You admit that the changes of the market ought not to fall upon them and crush them when the Government has received the benefit of their enterprise and investments. Then you say we ascertain what allowance ought to be made? At the last session the Senate said it was a safe thing to submit that question to the Navy Department, and you said to the Secretary of the Navy, "Select a board." You did not impose the duty of investigation upon the Secretary himself, but you said to him, "Select a board and ascertain how much these men have lost." Were not these men authorized to infer from that resolution that you intended to pay the losses that it was proved had been sustained? You said to the Secretary, "Organize your board, and submit these cases to the board, but do not submit any case where the work is not entirely satisfactory; but if a man has done his work well, if the vessel has proven to be a good vessel, submit it to the board, and let the board take the evidence and report to us how much the losses are." That is not an omnibus proposition, because each case went before the board upon its own separate merits. The board was organized in June, 1865, by the Secretary of the Navy. For what purpose? For the purpose of ascertaining, safely to the Government, fairly to the contractors, what was the amount of loss in each particular case. Is it not fair to infer that the Secretary of the Navy would select men that were qualified for that duty? I think he did select such men. Who are they? I disagree with the Senator from Iowa with regard to this board, as I understand it.

Here is Commodore Thomas O. Selfridge. I understand that before the war he was in charge of the navy-yard in California, and was supposed to be qualified for the very business of superintending the construction of vessels and the repair of machinery, and he is now, as I understand, in charge of the navy-yard at Philadelphia. Is it not fair to presume, then, that the learned Senator from Iowa is mistaken in his suggestion to the Senate that Commodore Selfridge was a competent man on board ship, but probably did not understand very much about machinery. The Government has found him peculiarly well qualified; and I understand that he was selected upon this board for the reason that during most of the time this work was being done and these contracts made Commodore Selfridge was in California and knew nothing about these contractors or their claims, and came as an entire stranger to them and went upon the board without any feeling, prejudice, or previously formed opinion. I submit to Senators, if Commodore Selfridge is fit to be at the head of the navy-yard at Philadelphia, is he

not competent on a board to investigate the question whether a man has sustained a loss or not in the building of a ship?

The next member of the board is Chief Engineer Montgomery Fletcher. I understand that when these contracts were made and this work was done, he, too, was not here, but was at some distant point, I do not know where, but was entirely removed from any influence these contractors could bring to bear upon him. He was an engineer. He ranks, I believe, in the Navy, along with Isherwood, who is in the Department. I do not know that he is so competent and so skillful a man. I do not make any comparison of that sort; but I say his rank as a naval officer, I believe, is equal to that of the engineer in the Navy Department. He is an engineer in the Navy Department by his profession, and by his studies is well qualified to make these investigations.

Then there is Paymaster Eldredge. I understand that he was selected because of his skill as an accountant. These claims of course involved the examination of very elaborate accounts, and I understand they were thoroughly examined; and he is one of the most skillful accountants in the employ of the Navy Department, and because of his qualifications in that respect he was selected.

I believe that this was a very competent board. Is the Senate not willing to risk a board so organized, selected from the skilled men of the Department by the Secretary of the Navy, to make a particular investigation, safe to the Government, as I remarked, and just to the contractors? They sat for five months, from June till December, heard the evidence, examined the claims, examined the accounts, and made their award on the 23d day of December last. Can we not trust to an investigation of this sort? If Senators say that it is right to make up to these men their losses without any profit, can you have a better assurance that the right has been ascertained than you do have when a board so organized makes a report?

Now, sir, I think it is safe to rely on that report. The Senator from Iowa—and I say to the Senate that on a question of this sort we ought all of us to give very much weight to his suggestions, for he is very competent, very thoroughly informed on every question in relation to the Navy, and we all know that he brings to the investigation of any subject a most honest purpose, just, as he understands it, to the Government and to all the parties—thinks that the report of this board is not sufficiently reliable for Congress to make an appropriation upon. I am not quite able to agree with him on that point, but if he shall feel it to be his duty, as I understand he will, to propose an amendment limiting the amount of allowance to a percentage upon the contract price, I do not know that I shall seriously oppose it. If any of these parties shall find it impossible to live under that allowance, they can present their particular claims to Congress, if they choose to do so, hereafter. I submit the question with what I have said to the Senate.

Mr. GRIMES. I offer as a substitute for the bill the following:

That the Secretary of the Treasury be directed to pay, out of any money in the Treasury not otherwise appropriated, to the several parties the awards made in their favor by the naval board organized under the resolution of the Senate adopted March 9, 1865, the awards being made under date of December 23, 1865, and reported to the Secretary of the Navy: *Provided*, The payments shall not in any case exceed twelve per cent. on the contract price, except in the case of the Camanche, in which case the award shall be paid in full.

Mr. NYE. I desire to get this question settled in some way. If the Senate wish to postpone the question so that it shall come up to-morrow at one o'clock, I will not object.

Mr. GRIMES. It will be observed that the amendment I have proposed as a substitute to the bill that came from the committee, is to allow to each one of the contractors named in the award made by the naval officers twelve per cent. of the amount of the contract. As I stated to the Senate the other day, when this subject was under consideration, I am as con-

scious as anybody can be that there is a great deal of equity in many, probably in all, of these cases. These men, as has been said by the Senator from Indiana, entered into contracts with the Government at a time when the necessities of the Government were very great. They necessarily extended through many months, and, in some instances, through one or two years. All the energies of these contractors were applied to the execution of their contracts, and all their wealth and the wealth of their friends, in many instances, was embarked in the execution of their contracts. In the mean time the Government, with whom the contract was made, levies a duty not contemplated by the contractors at the time the contracts were made, on many articles necessary for them to use in fulfilling their contracts. It also laid a direct tax on many things, and laid them three or four times on some things that it was necessary for them to use in order to fulfill their contracts. Then not only was there a call for the labor they had anticipated, and supposed they would be able to use in their yards, but there was a conscription ordered, and in addition to that, we passed a law declaring that all mechanics and artisans who were employed by the United States in the navy-yards should not be conscripted, while all the mechanics and artisans who were employed by these private contractors were subject to conscription; and hence, those who did not go voluntarily into the Army, in many instances, were induced to go into the Government navy-yards in order to avoid conscription.

Mr. JOHNSON. They were "drafted" not "conscribed," as we were told.

Mr. GRIMES. I will not stand on terms; the proper term may have been "drafted." Now, although there may not be any legal claim upon the Government in such cases as these, it seems to me that these contractors present a very strong case in equity. I think that if I enter into a contract with the Senator from Maryland to execute a piece of work, and he uses any means, having the power to do so, to enhance the price of the execution of that work, if I could not enjoin him from doing so, at least I could recover the excess that through his instrumentality I was compelled to pay.

Mr. JOHNSON. Unless I had a right to do it.

Mr. GRIMES. It is a question of conscience at any rate, if it is not a question of law. Now, the amount that I have proposed is twelve per cent. Senators will observe by the table that is appended to the report of the committee that during the time that these contracts were being carried into execution, the enhancement in the prices of labor and material was greatly in excess of that amount, from seventy-five to one hundred per cent. I think. The difference between the proposition which I have proposed and the award of the board is the difference between about \$1,100,000 and \$2,230,000.

Mr. JOHNSON. Twelve per cent. would give \$1,100,000.

Mr. GRIMES. Yes, sir. It is a reduction of one half.

Mr. WADE. I move that the bill be postponed until to-morrow, and that the amendment be printed.

Mr. SUMNER. I send to the Chair an amendment which I wish to make to the proposition of the Senator from Iowa, or to the original bill, either. It is the amendment relating to Donald McKay.

Several SENATORS. Let it be read.

The Secretary read as follows:

And be it further enacted, That in the case of Donald McKay, of Boston, Massachusetts, who built the Ashuelot and machinery, and Miles Greenwood, of Cincinnati, Ohio, who built the Tippecanoe, whose contracts have been completed to the satisfaction of the Department, and who were prevented from appearing before the naval board, shall be entitled to the same rate of compensation as is authorized to be paid to other parties building the same class of vessels and machinery; and such payment to be made to them out of any money in the Treasury not otherwise appropriated, under the supervision and direction of the Secretary of the Navy: *Provided*, The evidence submitted for his examination fully establishes the right of said parties to compensation.

Mr. WADE. I move that these amendments be printed, and that the bill be postponed until to-morrow.

Mr. NYE. I move to strike out the word "twelve" and insert the word "fifteen" in the amendment of the Senator from Iowa.

Mr. JOHNSON. That will go over with the rest.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator from Ohio moves that the bill be postponed until to-morrow, and that the amendments be printed.

The motion was agreed to.

WASHINGTON CANAL.

Mr. WADE. I move to take up Senate bill No. 190.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of bill S. No. 190, to incorporate the District of Columbia Canal and Sewerage Company.

The Secretary commenced to read the bill.

Mr. WADE. This bill has been up before; I suppose it is not necessary to read any more than the amendments reported by the committee since its recommitment.

The PRESIDING OFFICER. The Senate will proceed to consider the amendments reported.

The first amendment of the Committee on the District of Columbia was in line twenty-one of section one to strike out "hold and convey real estate and other property."

The amendment was agreed to.

The next amendment was in line twenty-four of section one, to insert "and" after "money."

The amendment was agreed to.

The next amendment was in line twenty-four of section one, to strike out "their" before "franchise," and insert "its."

The amendment was agreed to.

The next amendment was to strike out all of the second section, after the enacting clause, and in lieu of the words stricken out to insert:

That the said company is hereby authorized and empowered to survey, locate, lay out, and construct a canal and sewer between the Anacostia river, commonly known as the Eastern branch, from a point thereon near its junction with the Potomac river, to a point on the old canal near Virginia avenue, which passes through the city of Washington; thence in, by, along, and through said old canal to the western corporate limits of said city of Washington; and thence to the Chesapeake and Ohio canal at or near Georgetown, in the District of Columbia. The said canal and sewer, when constructed, shall constitute and remain a depository and duct for the sewerage from the city of Washington, and from the property of the United States therein; and the proper corporate authorities of the city of Washington shall always have unrestricted and full power to determine where the sewers of said city shall connect with the said canal and sewer, and the manner in which said connection shall be made, so as the manner of making the connection shall not injure or impair the bank of said canal and sewer where the connection shall be made, nor shall the said District of Columbia Canal and Sewerage Company make any charge or receive any compensation for any connection of sewers. The canal and sewer shall be cut to the depth of ten feet below high tide as it usually rises; and shall be seventy feet wide at the water-line, with the usual slope to the banks; and shall at all times be kept in good and navigable repair, and all sediment or deposits collecting in the same from the city sewers or otherwise shall be kept cleaned out so that the tide may constantly flow through the same; and the said company shall have the exclusive right to assess and collect tolls upon said canal and also upon the wharves and docks of the same.

Mr. CLARK. I move to amend this amendment of the committee in the forty-ninth line on page 4 by inserting after the word "connection" the words "or drainage;" so that the clause will read:

Nor shall the said District of Columbia Canal and Sewerage Company make any charge or receive any compensation for any connection or drainage of sewers.

The amendment to the amendment was agreed to.

Mr. CLARK. In line fifty-one I move to amend by inserting the word "low" before "water;" so as to make it read, "seventy feet wide at the low-water line."

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was in section three,

line five, before the word "require," to insert "shall."

The amendment was agreed to.

The next amendment was in line six of section three, to strike out "that" and insert "the."

The amendment was agreed to.

The next amendment was after the word "places," in line eleven of section three, to strike out the words "as the board of directors may deem proper at such time."

The amendment was agreed to.

The next amendment was in lines sixteen, seventeen, and eighteen of section three, to strike out the words "or such amount thereof as said corporators shall deem sufficient to authorize said company to commence said work," and in lieu of them to insert:

And at least twenty per cent. of the whole capital stock shall be subscribed before the said company shall be authorized to commence said work.

Mr. JOHNSON. I suggest to the member from Ohio whether he ought not to provide in addition to the provision which he has that the stock shall be subscribed, that it shall be paid in.

Mr. WADE. There is a provision for that further on.

The amendment was agreed to.

Mr. CLARK. While we are on this section of the bill I think "any," in line ten, before "place," had better be stricken out and the word "some" inserted; so that it will read:

Books for subscription to the stock of said company shall be opened at some place in the city of Washington.

Mr. WADE. I have no objection.

The amendment was agreed to.

Mr. JOHNSON. The member from Ohio said that a provision was in the bill that twenty per cent. should be paid in, but that is not the provision; only ten per cent. is to be paid in.

Mr. WADE. At the time of subscription ten per cent. is to be paid in.

Mr. JOHNSON. But that is all they are under an obligation to pay before they begin the work. What I suggested was that before they began the work they should have twenty per cent. paid in.

Mr. CLARK. They cannot call a meeting until twenty per cent. has been paid, not even a meeting to organize. Look at page 7 and you will see "as soon as the aforesaid twenty per cent.," &c.

Mr. JOHNSON. What I think ought to be done—I do not see that it is done by any provision I have yet observed—is to require that they should pay twenty per cent. before they commence work.

Mr. CLARK. If the Senator will look to page 7 he will see.

Mr. WADE. It reads:

As soon as the aforesaid twenty per cent. on the whole capital stock shall have been subscribed as aforesaid, and the said cash payment of ten per cent. shall have been made, the said corporators, or a majority of them, shall call a meeting of the stockholders, &c.

Mr. JOHNSON. Where is the provision that the other ten per cent. shall be paid in?

Mr. WADE. I did not say that there was a provision that the twenty per cent. shall be paid. Ten per cent. shall be paid; I supposed that was enough. It is a very large expense they are to be at.

Mr. JOHNSON. Twenty per cent. is a small proportion.

The next amendment was to strike out the fourth section of the bill after the enacting clause, and in lieu of it to insert:

That as soon as the aforesaid twenty per cent. on the whole capital stock shall have been subscribed as aforesaid, and the said cash payment of ten per cent. shall have been made, the said corporators, or a majority of them, shall call a meeting of the stockholders at the National Hotel, in the city of Washington, by advertisement in one or more of the daily newspapers printed in the city of Washington ten days previous to such meeting; and the said stockholders, in person or by proxy, shall proceed to the election from among the stockholders, by ballot, of seven directors for conducting and managing the business of said company for the term of one year from the time of their election. The said directors, so elected, shall immediately appoint one of their num-

ber to be president of the board of directors, and also another one of their number to be treasurer of said company. The said president, treasurer, and directors, before entering upon the discharge of their duties as such, shall respectively take an oath before any officer authorized to administer oaths, that they will support the Constitution of the United States, and will faithfully discharge the duties of their respective offices. In the absence of the president a majority of said directors may appoint a president *pro tempore*; and a majority of said directors shall constitute a quorum for the transaction of business.

The amendment was agreed to.

The next amendment was to insert as a new section at this point:

Sec. 5. *And be it further enacted*, That the said president, directors, and treasurer shall continue in office one year from the time of their election, and the directors shall fill any vacancy which may happen in their own body during the term for which they were elected, and in case of the death, resignation, or disqualification of the president or treasurer, they may elect a president or treasurer to serve for the residue of the term; and the stockholders, in one year after the day on which the election of directors shall be first made, and on the same day in every year thereafter, (excepting the same shall happen on Sunday, and in that case on the day succeeding,) shall elect by ballot a new board of seven directors from among the stockholders, from whom a president and treasurer shall be forthwith appointed to serve one year, all of whom shall, in manner and form aforesaid, take the oaths aforesaid; and the president and directors, for the time being, shall give public notice in one or more of the newspapers published in the city of Washington, at least ten days previous to the expiration of the time for which they were elected. Each stockholder shall be entitled to one vote for every share of stock held by him at the time; and any stockholder, by written authority under his hand, and executed in the presence of two witnesses, may depute any other stockholder to vote and act as proxy for him at any general meeting.

Mr. WILLEY. I think there should be an amendment in the seventeenth line. There was an omission of the printer or draughtsman. After the word "notice," in the seventeenth line, I move to insert the words "for a new election;" so that the clause will read, "and the president and directors, for the time being, shall give public notice for a new election in one or more of the newspapers published in the city of Washington, at least ten days previous to the expiration of the time for which they were elected."

Mr. WADE. That is right.

The amendment to the amendment was agreed to.

Mr. CLARK. I think that the section had better be amended in line twenty-three. There is a provision that a stockholder may depute any other stockholder to vote for him by proxy. Why should he be confined to "any other stockholder?" Why not "any person?" It may be for his interest to select some one outside of the corporation when he cannot go himself. He should not be confined to a stockholder.

Mr. JOHNSON. It is not usual with us to allow others than stockholders to act as proxies.

Mr. CLARK. It is with us.

Mr. WILLEY. In drafting the amendment I followed what was the usage as far as I was acquainted with the usage.

Mr. CLARK. I move to amend by striking out the words "any other stockholder," and inserting "another person."

Mr. WILLEY. Simply add after "stockholder" the words "or other person;" that will be better.

Mr. WADE. Very well. I have no objection to that.

Mr. CLARK. I will adopt the suggestion of the Senator from West Virginia, and move to add "or other person."

Mr. SPRAGUE. That seems to me a very singular amendment. Here is a stockholders' meeting in which it is proposed to introduce outsiders. It is something quite new to me in the organization of companies. I have never known it to be done in any meeting I have attended.

Mr. CLARK. It is done oftentimes.

Mr. SPRAGUE. It ought not to be.

Mr. CLARK. This section is for the election of directors after the corporation is organized.

Mr. SPRAGUE. So much the worse.

Mr. CLARK. Here is a man the owner of stock; he is sick and unable to attend, and his son may be a very proper person for him to

depute to go. Shall he not have the privilege? He knows about his business. Must he send his proxy to somebody else who is a member of the corporation?

Mr. WILLEY. He need not send his son; he might make another stockholder his proxy.

Mr. CLARK. But he may instruct his son as to what he wants to do. His son may be in such intimate relations that he chooses to have him vote for him. He cannot instruct him in everything that may come up. There is no harm in it certainly.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment, was to insert, after the section just inserted, the following:

Sec. 6. *And be it further enacted*, That the treasurer of the said company shall, before he acts as such, give bond to the company in such penalty, and with such security as the president and directors shall require, conditioned for the faithful discharge of the duties and trusts committed to him. The salaries of the officers of the said company shall be fixed by the board of directors.

The amendment was agreed to.

The next amendment was to add at this point:

Sec. 7. *And be it further enacted*, That the shares in said company shall be deemed personal and not real estate, and shall be transferable in such manner as the board of directors shall prescribe, and the shares held by any individual shall be liable to be attached or taken in execution by *ieri facias* to satisfy the debts due from any such individual, in like manner as other personal property may be.

The amendment was agreed to.

The next amendment was to insert after the amendment last adopted the following:

Sec. 8. *And be it further enacted*, That the said president and directors, and their successors, shall have full power to demand and receive of the stockholders in equal proportion, the remaining four fifths of the shares of stock, from time to time, as they shall judge necessary; and if any of the stockholders shall neglect or refuse to pay their proportions within one month after the same shall have been required, the share or shares shall be forfeited: *Provided*, That notices shall be given by advertisement in one or more of the daily newspapers published in the city of Washington, for ten days, of the time when the same shall be required to be paid.

Mr. JOHNSON. I should like to know from the committee the exact meaning of this section. What do they mean by "the remaining four fifths of the shares of stock?"

Mr. WILLEY. You will observe, by a preceding section, that they are required to pay twenty per cent., which is one fifth, on subscribing. Then in order to get the remaining four fifths this section provides that they shall pay it in the manner here prescribed.

Mr. JOHNSON. But it says "four fifths of the shares," not "four fifths of what is due on the shares."

Mr. CLARK. As I understand the section, it seems to me very objectionable indeed. As soon as twenty per cent. or one fifth of the stock is subscribed, this corporation may proceed, and ten per cent. is all that is to be paid in. Now, as I understand it, this provision is that the gentlemen who subscribe the one fifth in the first instance are to be liable to subscribe for the other four fifths by and by. That must be the clear meaning of it.

Mr. JOHNSON. That is what I supposed to be the meaning of it.

Mr. CLARK. It certainly should not be so. A man may be supposed in the first instance to take all the stock in the corporation he wants, and on that he is assessed ten per cent. But what is this section?

That the said president and directors, and their successors, shall have full power to demand and receive of the stockholders, in equal proportion, the remaining four fifths of the shares of stock.

Mr. JOHNSON. I rose for the purpose of inquiring whether that was the purpose. It requires any stockholder to take his proportion of the rest of the stock although he may not be willing to do it; and even if he was willing to do it, the effect of the provision is to secure the whole of this stock to the persons who first subscribe, and to compel them to take it. That is not the object, I suppose.

Mr. WADE. I do not understand it so.

Mr. CLARK. I supposed there was some

misunderstanding in regard to it, for I certainly think the Senator from Ohio would not have reported such a provision.

Mr. WADE. I suppose if a man has subscribed for stock and paid in one fifth of it, if in one month after a demand is made upon him and he refuses to pay the balance he should forfeit the stock. Surely he cannot hold it forever. It is a very common provision.

Mr. JOHNSON. That is right enough.

Mr. WILLEY. The object of this section is very plain, but perhaps not well expressed. I move, in order to meet the objections of Senators, after the word "stock," in the fourth line, to insert "by them respectively subscribed."

Mr. CLARK. But I think that does not accomplish what the Senator from Ohio understands by this section. As I understand it, one fifth is to be subscribed, and one tenth or ten per cent. of that is to be paid in. Now, you want a provision that the other nine tenths which is to be paid shall be paid in on the stock subscribed.

Mr. WILLEY. That is the object of the section.

Mr. CLARK. The amendment which the Senator from West Virginia proposes would not accomplish that. I think, perhaps, he had better pass this by, and something can be framed to accomplish the purpose very readily.

Mr. JOHNSON. It had better be passed by for a time.

The PRESIDING OFFICER. This amendment will be laid by for the time being informally, if there be no objection. The Chair hears no objection.

The next amendment was in section [six] ten, to strike out from line one to line eleven the following words:

Said company is hereby authorized and empowered to purchase, lease, receive, and hold real estate, and any other property which shall be deemed necessary for the use of said company; but all such real estate or other property, whether public or private, shall be acquired by purchase of the same upon terms to be agreed upon between said company and the owners of any property which said company may desire to lease or purchase for the purposes aforesaid; and in case the owners of such property cannot agree upon the terms of the sale thereof, or.

And in lieu of these words to insert:

The said company are hereby authorized and empowered to take, purchase, and hold for the purposes of this act, so much real estate and other property as shall be necessarily required for the proper construction of the canal and sewer aforesaid, and for the construction of all proper and convenient basins, locks, reservoirs, docks, and wharves, to be connected with said canal and sewer. And where the said company shall not be able to procure such real estate by purchase from the owner thereof, or the owner thereof.

The amendment was agreed to.

The next amendment was in section [six] ten, line thirty-eight, to strike out "and" and to insert:

But no such inquisition shall be had until after ten days' notice thereof has been served on the owner of the real estate so to be taken, when he resides in the District of Columbia, or by publication of notice in one or more of the daily newspapers published in the city of Washington for twenty days where such owner resides beyond the said District. When the owner is a *feme covert*, the notice shall be to her and her husband; when he is a minor, to his guardian; and when he is *non compos mentis*, to his committee, or the person having the charge of his estate. The.

The amendment was agreed to.

The next amendment was in lines fifty-one, fifty-two, and fifty-three of section [six] ten, to strike out the words:

And in case there be good cause shown, said inquest may be set aside, and said chief justice shall direct another inquisition to be taken in the manner above described.

And in lieu of them to insert:

Where good cause is thus shown, the said chief justice shall set aside said inquest, and appoint another similar commission, who shall qualify in the same manner, and whose inquisition shall be taken, returned, filed, and confirmed, or set aside for good cause shown, in the same manner as the first inquisition was taken, returned, filed, and confirmed, or set aside. And such commission and inquisition shall be renewed as often as may be necessary until the inquisition made shall be confirmed.

The amendment was agreed to.

Mr. JOHNSON. I call the attention of the member from Ohio to what, perhaps, is a mis-

take in the designation of the chief justice. In the twenty-second and twenty-third lines of the section, on page 11, he is designated as "the chief justice of the United States district court for the District of Columbia." I think it should be chief justice of the supreme court of the District of Columbia.

Mr. WADE. The supreme court of the District of Columbia it ought to be.

Mr. JOHNSON. The language here is "the district court," in the twenty-third line, on page 11.

Mr. WADE. That ought to be amended. It ought to be "supreme court of the District of Columbia," instead of "United States district court for the District of Columbia." I move that amendment.

The amendment was agreed to.

The next amendment of the committee was to strike out all of section [ten] fourteen after the enacting clause, and in lieu thereof to insert:

That the said company shall, within thirty days after the passage of this act, cause a constant stream of fresh water to be turned into and upon the said old canal, and to flow through the same from the western corporate limits of the city of Washington to the Anacostia river, and to continue so to flow until the 20th day of October next, in default whereof the said corporators of said company shall forfeit and be jointly and severally liable to pay to the United States the sum of \$2,000, recoverable on motion made by the mayor of the city of Washington or any other person, after ten days' notice thereof duly served in the supreme court of the District of Columbia, or any other court having competent jurisdiction. And unless the said canal and sewer shall have been fully constructed and completed in the manner specified in the second section of this act, on or against the 1st day of June, 1867; or in case the said company shall thereafter fail to keep the said canal and sewer in good repair, or clear of all sediment and deposits as by said section it is required, for three consecutive months, the franchise hereby granted to said company shall be forfeited, and the rights and privileges hereby granted shall revert to the United States.

The amendment was agreed to.

The next amendment was to insert as a new section after section [eleven] fifteen:

SEC. 16. *And be it further enacted*, That in order to aid the said District of Columbia Canal and Sewerage Company in fulfilling the objects and requirements of this act, the use of that part of the Washington canal, and bridges crossing said canal, for the purposes aforesaid, between the junction of Virginia avenue and a point near the foot of Seventeenth street west, at the mouth of Tiber creek, and for the width of seventy feet, to be determined by a line drawn through the center of said canal or channel and extended therefrom on either side thirty-five feet, be, and the same are hereby, vested in the said District of Columbia Canal and Sewerage Company, to have and to hold the same for the use and benefit of the said company.

Mr. WADE. I move to amend the amendment in the eighth line by striking out "seventy" and inserting "eighty-two," so as to make it read, "for the width of eighty-two feet." Seventy feet is exactly the width of the canal, leaving no chance for a tow-path or anything of the kind; eighty-two feet is what the committee agreed upon.

The amendment to the amendment was agreed to.

Mr. WADE. It ought to be further amended so that they can build the canal and save rebuilding one bank, for which purpose I move to strike out the words "through the center of said canal or channel and extended therefrom on either side thirty-five feet" and insert "anywhere between the banks of said canal," so as to leave them to make it between the old banks where they please.

Mr. CLARK. I think you had better look into that.

Mr. WADE. I see no objection to this language, "to be determined by a line drawn anywhere between the banks of said canal," so that they can use one bank or the other. By the language as it is now, they might have to build up from a line drawn through the middle, so as to be compelled to make two banks when they could use one bank to an advantage.

Mr. WILLEY. The previous part of the bill requires the canal to be seventy feet wide at low-water line. This clause as it now stands requires thirty-five feet on each side, which would only be seventy feet wide. That would leave no room at all for making a tow-path. It ought to be wider, in order to give them the privilege of making a tow-path.

The PRESIDING OFFICER. The amendment of the Senator from Ohio is to strike out the words "through the center of said canal, or channel, and extended therefrom, on either side, thirty-five feet," and in lieu thereof to insert, "anywhere between the banks of said canal."

The amendment to the amendment was agreed to.

Mr. CLARK. I wish to call the attention of the Senator from Ohio to that. I think he had better strike out a little more, "to be determined by a line drawn," because I do not think there is any force in the language as it is now. I would say, "for the width of eighty-two feet, to be taken anywhere between the banks of the said canal;" because possibly by a line drawn anywhere between, you might run it beyond the banks.

Mr. WADE. I believe it would mean the same thing, but perhaps that would be better expressed.

Mr. CLARK. I move so to amend the amendment.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The next amendment was to insert at this point as a new section:

SEC. 17. *And be it further enacted*, That nothing in this act contained shall be held or deemed, in any manner or way, to injure or impair any public or private rights or interests, or in any manner to affect the same beyond the mere transfer of the rights of the United States to said District of Columbia Canal and Sewerage Company.

The amendment was agreed to.

The next amendment was to insert after section [twelve] eighteen the following as a new section:

SEC. 19. *And be it further enacted*, That the said company shall permit all public property belonging to the United States to pass through said canal and sewer free of all charge or toll; and the said company shall, from time to time, as may be required, lay before Congress a just and true account of their receipts and expenditures, with a statement of the clear profits thereof.

The amendment was agreed to.

Mr. WILLEY. I propose further to amend the bill by adding at the end of section eighteen "and that the same may be altered, amended, or repealed by Congress."

Mr. CLARK. Put it at the end of section twenty. I have drafted an amendment to strike out "and" in line two of section twenty, and add at the end of the section, "and shall be subject to alteration or repeal;" so that the section will read:

That this act shall be deemed a public act, shall take effect and be in force from and after its passage, and shall be subject to alteration or repeal.

Mr. WILLEY. I accept that.

The amendment was agreed to.

Mr. CLARK. I will now move to amend the amendment of the committee in section eight, line four, by striking out the words "the remaining four fifths of shares of stock" and inserting "and" in place thereof; so that it will read, "that the said president and directors, and their successors, shall have full power to demand and receive of the stockholders, in equal proportion, and from time to time as they shall judge necessary;" and then to insert after "necessary" the words "such sums as may remain unpaid on any shares of stock subscribed;" so that the clause will read:

That the said president and directors, and their successors, shall have full power to demand and receive of the stockholders, in equal proportion, and from time to time, as they shall judge necessary, such sums as may remain unpaid on any shares of stock.

The amendment to the amendment was agreed to; and the amendment of the committee, as amended, was adopted.

Mr. WILLEY. I move to amend the second section, in line thirty-six, by striking out the words "or near" and inserting "its terminus in;" so that the clause will read:

And thence to the Chesapeake and Ohio canal at its terminus in Georgetown.

The amendment was agreed to.

Mr. JOHNSON. The amendment which

the Senate have adopted at the instance of the Senator from New Hampshire, in the eighth section, still leaves unprovided for, as I think, the manner in which the four fifths of the stock not subscribed at first shall be thereafter subscribed. If it is left without a provision of that sort the president and directors may by by-law make that provision. If they can give the right exclusively to the then subscribers they are not required to open the books again as I understand.

Mr. WADE. I suppose not.

Mr. JOHNSON. I have some reason to believe that the stock will be very valuable, at least that is the impression of those who profess to have some knowledge on the subject. I have none of my own, of course; but if the stock is to be very valuable—

Mr. WADE. I have no objection to that being changed if it is thought necessary to change it. For myself I was looking much more to the public interest than I was to the private interest.

Mr. JOHNSON. I have no doubt about that. I only suggest to my friend from Ohio that perhaps it would be as well to provide that the books shall be opened again unless all the stock is taken at the beginning.

Mr. WADE. What amendment would the Senator propose to accomplish that?

Mr. WILLEY. Has the Senator from Maryland adverted to the provision in the third section, line fifteen, "and said books shall be kept open until the whole amount of said stock shall be subscribed?"

Mr. JOHNSON. That will do. I was only asking if there was a provision on the subject.

The bill was reported to the Senate as amended and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PROTECTION OF UNITED STATES OFFICERS.

Mr. CLARK. I move to take up for consideration House bill No. 238, to amend an act entitled "An act in relation to *habeas corpus* and regulating judicial proceedings in certain cases."

Mr. HENDRICKS. I move an adjournment.

Mr. CLARK. I want to get up this bill and then I have no objection to an adjournment. I want the bill up to adjourn on it.

The motion to take up the bill was agreed to.

EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. HENDRICKS. I move that the Senate adjourn.

Mr. WILSON. It will take but a moment to do what I want; I desire to have some executive messages referred.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, April 16, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER. This being Monday, the first business in order is the call of States, commencing with the State of Maine, for the introduction of bills and joint resolutions, to be referred to appropriate committees, and not to be brought back by a motion to reconsider.

APPORTIONMENT OF REPRESENTATIVES.

Mr. HILL introduced a joint resolution proposing an amendment to the Constitution of the United States to apportion Representatives according to the number of voters in the several States; which was read a first and second

time, referred to the joint committee on reconstruction, and ordered to be printed.

PAYMENT OF NEW YORK MILITIA.

Mr. WARD introduced a bill providing the means for the payment of the militia of the State of New York for their service in the war of 1812; which was read a first and second time, ordered to be printed, and referred to the Committee on Appropriations.

CATHARINE WELSH.

Mr. COOK introduced a bill for the relief of Catharine Welsh; which was read a first and second time, and referred to the Committee on Military Affairs.

RECORDING OF DEEDS.

Mr. WILSON, of Iowa, introduced a bill authorizing non-residents to have deeds recorded in the office of the clerk of the United States district and circuit courts, &c.; which was read a first and second time, and referred to the Committee on the Judiciary.

NIAGARA FALLS SHIP-CANAL.

Mr. PAINE introduced a bill to provide for the transportation of vessels around the falls of Niagara; which was read a first and second time, and referred to the Committee on Roads and Canals.

GRANT OF LANDS TO MINNESOTA.

Mr. DONNELLY introduced a bill making a grant of lands to the State of Minnesota to aid in the construction of the Hastings, Minnesota River, and Red River of the North railroad; which was read a first and second time, and referred to the Committee on Public Lands.

NEBRASKA PENITENTIARY.

Mr. HITCHCOCK introduced a bill to provide for the creation of a penitentiary in the Territory of Nebraska; which was read a first and second time, and referred to the Committee on Territories.

REMOVAL OF SURVEYOR GENERAL'S OFFICE.

Mr. HITCHCOCK also introduced a bill to remove the office of surveyor general of the States of Iowa and Wisconsin to Plattsmouth, Nebraska; which was read a first and second time, and referred to the Committee on Public Lands.

ELECTION OF MEMBERS OF CONGRESS.

Mr. JENCKES introduced the following joint resolution:

Joint resolution relating to the passage of a law making regulations for the mode of electing members of Congress.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is expedient for Congress to exercise the power granted in section four, article one, of the Constitution for making regulations concerning the times, places, and manner of holding elections for Senators and Representatives by general statute, with a view to prevent the recurrence of contested-election cases in either House arising out of elections conducted under State laws; and also with a view of securing the election of members of Congress by loyal constituencies.

Resolved further, That as means toward the attainment of such results in the election of members of the House of Representatives, it is expedient to include among such rules and regulations in substance the following:

1. A registration of all the electors in each district having the qualifications requisite for electors of the most numerous branch of the State Legislature in the State in which such district is situated.

2. A provision that such elections shall be conducted independently of the State elections, under the direction of officers whose mode of appointment and whose duties shall be defined in such statute; and that such elections shall be held on the same day in each district in the United States.

3. A requirement that at such elections those registered electors only shall be permitted to vote who shall have proved in manner to be provided in the regulations, their constant and continuing loyalty to the Government of the United States.

4. Provisions prescribing the conditions upon which those who were excluded for disloyalty may be readmitted to their right of suffrage for members of Congress at such election at some future period.

The joint resolution was read a first and second time, ordered to be printed, and referred to the committee on reconstruction.

LIEUTENANT A. H. PEARL.

Mr. BUCKLAND introduced a joint resolution for the relief of Lieutenant A. H. Pearl;

which was read a first and second time, and referred to the Committee on Military Affairs.

DISTRIBUTION OF STATE PAPERS.

Mr. HAYES introduced a joint resolution to authorize the distribution of a portion of the surplus copies of the American State Papers in the custody of the Secretary of the Interior; which was read a first and second time, and referred to the Joint Committee on the Library.

LIBRARY OF CONGRESS.

Mr. HAYES also introduced a joint resolution extending the privileges of the Library of Congress to certain officers of the United States; which was read a first and second time, and referred to the Joint Committee on the Library.

The SPEAKER next proceeded to call the States for resolutions, commencing with the State of Ohio.

FRAUDULENT CLAIM AGENTS

Mr. HAYES submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing by law for punishing, by imprisonment or otherwise, any person who as agent or attorney shall collect from the Government money due to officers, soldiers, or sailors, or to their widows or orphans, for services in the Army or Navy, or for pensions or bounties, and who shall fraudulently convert the same to his own use; and to report by bill or otherwise.

Mr. HAYES moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EXEMPTION FROM TAXATION.

Mr. PLANTS submitted a joint resolution of the State of Ohio relative to exemption from taxation; which was ordered to be printed, and referred to the Committee of Ways and Means.

WIRZ TRIAL.

Mr. GARFIELD submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be requested to have prepared for publication the proceedings of the trial of Henry Wirz, in which shall be embraced, as nearly as practicable in the language of the witnesses, a summary of the testimony given, and the decisions, findings, and sentence of the court, together with the address of the Judge Advocate and that made in defense of the prisoner.

Mr. GARFIELD moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NORTH CAROLINA UNION SOLDIERS.

Mr. SCHENCK submitted the following resolution, and demanded the previous question:

Resolved, That the Secretary of War be directed to communicate to this House a report of the Judge Advocate General, and such other information as may be of record on file in his Department, on the subject, which will show what are the facts in the case, and what steps have been taken to bring to justice and punishment the murderers of the following-named Union soldiers belonging to the first and second regiments of North Carolina loyal infantry, alleged to have been tried and executed by orders of the rebel Generals Pickett and Hoke, under the pretext of their being deserters from the Confederate service, namely: Jesse Sumner, Hardy Dougherty, Stephen Jones, David Jones, William Haddock, John Freeman, John Brock, Sergeant Joseph Fulcher, William D. Jones, Charles Cuthrell, — Kellum, Mitchell Busick, Louis Freeman, Joseph Haskett, William Irvine, Anos Aymett, Stephen H. Jones, and J. J. Brock.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

MEXICO.

Mr. McKEE submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to this House, if in his opinion not inconsistent with the public interest, any correspondence

with the French Government in regard to the withdrawal of its forces from Mexico, which may have been exchanged since the correspondence communicated to the House with the President's message of January 5, 1866; whether that correspondence has been published by the French Government among the official documents communicated to the French Chambers or not, and specially any correspondence in regard to any specific promise from the French Emperor to put a stop to his proceedings in our sister republic of Mexico and discontinue imperialism there.

AMENDMENT OF THE RULES.

Mr. PAINE offered the following resolution, and demanded the previous question:

Resolved, That the Committee on the Rules be instructed to inquire into and report upon the expediency of providing by amendment of the rules, that when the House shall have under consideration a bill or resolution which shall have been returned by the President with his objections to the House in which it originated, neither the motion to lay on the table nor the motion to postpone indefinitely shall be in order.

Mr. DAVIS. I object, if objection is in order.

The SPEAKER. The resolution is introduced under the regular call of the States.

On seconding the demand for the previous question, no quorum voted.

The SPEAKER ordered tellers; and appointed Messrs. PAINE and DAVIS.

The House divided; and the tellers reported—ayes 60, noes 41.

So the previous question was seconded.

Mr. ELDRIDGE. I move to lay the resolution on the table.

The question was put; and there were—ayes 44, noes 49.

Mr. FINCK. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken, it was decided in the negative—yeas 45, nays 57, not voting 81; as follows:

YEAS—Messrs. Allison, Beaman, Bingham, Boyer, Brandegee, Buckland, Bundy, Davis, Defrees, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Henderson, Hill, Hogan, Chester D. Hubbard, Edwin N. Hubbard, James M. Humphrey, Kasson, Ketcham, Kuykendall, Latham, George V. Lawrence, McCullough, Niblack, Nicholson, Patterson, Phelps, Plants, Raymond, Rogers, Rollins, Shanklin, Sitgreaves, Taber, Taylor, John L. Thomas, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Whaley—45.

NAYS—Messrs. Ames, Delos R. Ashley, Baker, Baldwin, Benjamin, Bidwell, Boutwell, Reader W. Clarke, Sidney Clarke, Conkling, Cook, Deming, Eckley, Eggleston, Eliot, Garfield, Abner C. Harding, Hayes, Higby, Holmes, Ingersoll, Jencks, Julian, Kelley, Laffin, Lynch, McClure, McKee, Mercer, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Orth, Paine, Price, Alexander H. Rice, Schenck, Scofield, Shullabarger, Spalding, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Ward, Warner, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—57.

NOT VOTING—Messrs. Alley, Ancona, Anderson, James M. Ashley, Banks, Barker, Baxter, Bergen, Blaine, Blow, Bromwell, Broomall, Chanler, Cobb, Coffroth, Cullom, Culver, Darling, Dawes, Dawson, Denison, Dixon, Dodge, Donnelly, Driggs, Dumont, Farquhar, Ferry, Grider, Grinnell, Griswold, Harris, Hart, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Johnson, Jones, Kelso, Kerr, William Lawrence, Le Blond, Loan, Longyear, Marshall, Marston, Marvin, McIndoe, McKee, Morrill, Newell, Noell, Perham, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, John H. Rice, Ritter, Ross, Rousseau, Sawyer, Sloan, Smith, Starr, Stilwell, Strouse, Thornton, Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Winfield, and Wright—81.

So the resolution was not laid on the table.

The main question was then ordered, and the resolution was agreed to.

Mr. PAINE moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

EIGHT-HOUR SYSTEM.

Mr. INGERSOLL offered the following preamble and resolution:

Whereas it is one of the paramount duties of all legislative bodies to lighten as much as possible the burdens upon the laboring classes and promote the general welfare: Therefore,

Be it resolved by the House of Representatives, That the Committee for the District of Columbia be instructed to inquire into the expediency of establishing by law the eight-hour system, as it is called, as constituting a day's work in the District of Columbia, and that said committee be authorized to report by bill or otherwise at any time.

Mr. WASHBURNE, of Illinois. I object

to the committee being allowed to report "at any time."

Mr. INGERSOLL. I will strike that out.

Mr. FARNSWORTH. I move to amend by inserting six hours and a half instead of eight, if that is in order.

Mr. INGERSOLL. If the gentleman includes himself among the laboring classes I will accept the amendment; if he does not I do not accept it.

Mr. WILSON, of Iowa. I would inquire whether the resolution embraces laborers in the employ of the Government.

Mr. INGERSOLL. It includes everybody so far as this city is concerned.

Mr. WILSON of Iowa. So far as the employes of the Government are concerned, the Committee on the Judiciary have agreed upon a report.

Mr. INGERSOLL. I am aware of that. This resolution goes further than the one that is before that committee. It proposes to establish the system by law for the laboring classes in this District.

The SPEAKER. If it gives rise to debate it goes over.

Mr. STEVENS. I would inquire whether if they work nine hours there is any penalty.

Mr. INGERSOLL. Not yet. I demand the previous question.

The question being put on seconding the demand for the previous question, no quorum voted.

The SPEAKER ordered tellers; and appointed Messrs. McCULLOUGH and INGERSOLL.

The House divided; and the tellers reported—ayes 35, noes 47; no quorum voting.

Several MEMBERS. Withdraw it.

Mr. INGERSOLL. I do not propose to withdraw it. I move a call of the House. I want a quorum here.

The SPEAKER. There is evidently a quorum present.

Mr. INGERSOLL. You cannot prove it by me. [Laughter.] I demand the yeas and nays.

The yeas and nays were not ordered.

The call of the House was refused.

Mr. WILSON, of Iowa. I ask that the Chair count the House so as to ascertain if there is a quorum present.

The SPEAKER counted the House and announced that there were one hundred and eleven members present.

Mr. BOYER. I rise to a privileged question.

The SPEAKER. That cannot interrupt the morning hour on Monday.

Mr. BRANDEGEE. I hope the tellers will be required to resume their places.

Mr. FARNSWORTH. Is it in order to move to lay the resolution of my colleague upon the table?

The SPEAKER. It is in order.

Mr. FARNSWORTH. Then I make that motion.

Mr. INGERSOLL. I demand the yeas and nays on that motion, and call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. INGERSOLL and DEMING were appointed.

The House divided; and the tellers reported—ayes twenty-four, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 15, nays 92, not voting 76; as follows:

YEAS—Messrs. Davis, Farnsworth, Goodyear, Grinnell, Aaron Harding, Edwin N. Hubbard, Jencks, Laffin, George V. Lawrence, McKee, Mercer, Moorhead, Price, Shanklin, and Stevens—15.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, Baker, Baldwin, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boyer, Brandegee, Bromwell, Buckland, Burt, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Defrees, Deming, Donnelly, Eggleston, Eldridge, Eliot, Finck, Glossbrenner, Hale, Abner C. Harding, Hayes, Henderson, Higby, Hill, Hogan, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, James M. Humphrey, Ingersoll, Kelley, Kelso, Ketcham, Kuykendall, McKee, Miller, Morris, McClure, McCullough, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Plants, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rollins, Ross, Schenck, Scofield, Sitgreaves, Spalding, Taber, Taylor, Thayer, John L. Thomas, Thornton, Ward, Warner, Elihu B. Washburne, Henry

D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—92.

NOT VOTING—Messrs. Alley, Ancona, Anderson, James M. Ashley, Banks, Barker, Bergen, Blaine, Blow, Boutwell, Broomall, Coffroth, Cullom, Culver, Darling, Dawes, Dawson, Delano, Denison, Dixon, Dodge, Driggs, Dumont, Eckley, Farquhar, Ferry, Garfield, Grider, Griswold, Harris, Hart, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Johnson, Jones, Julian, Kasson, Kerr, William Lawrence, Le Blond, Lynch, Marshall, Marston, Marvin, McIndoe, Morrill, Newell, Noell, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, Ritter, Rousseau, Sawyer, Shullabarger, Sloan, Smith, Starr, Stilwell, Strouse, Francis Thomas, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Wentworth, Winfield, and Wright—76.

So the House refused to lay the resolution upon the table.

During the roll-call,

Mr. LONGYEAR said: Mr. DRIGGS is absent in consequence of illness.

Mr. HOGAN said: My colleague, Mr. NOELL, is absent in consequence of sickness. I presume he would vote "no" if here.

Mr. ELDRIDGE said: I desire to say that Mr. LE BLOND is paired for two weeks with Mr. CULLOM.

Mr. SHANKLIN said: I desire to state that my colleague, Mr. TRIMBLE, is paired for two weeks from Friday last with Mr. ALLEY, of Massachusetts.

The result of the vote having been announced as above recorded,

The SPEAKER stated that the morning hour having expired, the resolution would go over until next Monday.

Mr. WENTWORTH. I move to proceed to the business on the Speaker's table.

The motion was agreed to.

SALE OF LIQUORS IN THE CAPITOL.

The House accordingly proceeded to the consideration, as the first business on the Speaker's table, of the amendments of the House, disagreed to by the Senate, to the concurrent resolution, prohibiting the sale of spirituous and other liquors in the Capitol building and grounds.

The action of the Senate on said amendments was read, as follows:

IN SENATE, April 13, 1866.

Resolved, That the Senate disagree to the amendments of the House of Representatives to the foregoing resolution.

Mr. WENTWORTH. I move that the House insist on its amendments and ask a committee of conference on the disagreeing votes of the two Houses, and on that motion I move the previous question, as there are a large number of gentlemen here who have business to bring forward.

Mr. NIBLACK. I hope the gentleman from Illinois will withdraw his demand for the previous question until I can make a single suggestion.

Mr. WENTWORTH. I must decline to do so as there are many gentlemen here who have business to present.

The previous question was seconded.

Upon ordering the main question there were upon a division—ayes 51, noes 18; no quorum voting.

Tellers were ordered; and Messrs. WENTWORTH and ELDRIDGE were appointed.

The House again divided; and the tellers reported—ayes sixty-three, noes not counted.

So the main question was ordered.

The question was upon the motion of Mr. WENTWORTH that the House insist upon its amendments to the concurrent resolution, and ask for a committee of conference; and being taken, it was agreed to.

Mr. WENTWORTH moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently appointed Messrs. WENTWORTH, PRICE, and RANDALL of Pennsylvania.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the

House of the following titles; when the Speaker signed the same:

An act (H. R. No. 122) making appropriations for the naval service for the year ending 30th of June, 1867;

An act (H. R. No. 218) for the relief of Charles Youly;

An act (H. R. No. 264) granting a pension to Mrs. Altazera L. Willcox, of Chenango county, in the State of New York;

An act (H. R. No. 266) granting a pension to Mrs. Isabella Fogg, of the State of Maine;

An act (H. R. No. 267) granting a pension to Virginia K. V. Moore;

An act (H. R. No. 268) for the relief of Albert Nevins;

An act (H. R. No. 443) granting a pension to Mrs. Elizabeth York, widow of Shubal York, late a surgeon in the fifty-fourth regiment Illinois infantry volunteers;

An act (H. R. No. 444) granting a pension to Lewis W. Dietrich; and

An act (H. R. No. 446) for the relief of Nicholas Hibner, late a private in the sixth regiment Missouri State militia.

WASHINGTON DAILY CHRONICLE.

Mr. STEVENS. I ask unanimous consent to submit the following resolution for action at this time:

Whereas it is important that our legations abroad should be kept truly advised of the state of the country: Therefore,

Be it resolved by the House, (the Senate concurring,) That the Clerk of the House be directed to furnish three copies of the Morning Chronicle to each of our foreign legations, consular agents, and commercial agents, for the use of said legations and attachés, and that he pay for the same out of the contingent fund of the House.

Mr. ROSS. I object.

Mr. STEVENS. I move to suspend the rules to enable me to submit this resolution at this time.

Mr. ROSS. I call the yeas and nays upon the motion to suspend the rules.

Mr. HALE. I rise to a point of order. My point of order is this: that a transaction of this kind, appropriating the contingent fund of the House to a purpose entirely outside of the organization and duties of the House, is out of order.

The SPEAKER. The Chair overrules the point of order. In the appropriation bills there is a sum set apart for the contingent expenses of the House. It is for the House to determine by their votes how that contingent fund shall be distributed, not for the Chair.

Mr. HALE. My point of order is that the House can only appropriate that fund to expenses which properly pertain to the duties and business of the House.

The SPEAKER. That is a matter of argument and goes to the votes of the members of the House. It is not for the Chair to decide.

Mr. STEVENS. This is for the business of the House. There is an attempt made in some quarter to smother up in the country a knowledge of what the House is doing; and this is for the purpose of giving publicity to the business of the House.

Mr. ROGERS. Is debate in order?

The SPEAKER. The motion to suspend the rules is not debatable.

Mr. ROGERS. I rise to a point of order: that this makes an appropriation, and should go to the Committee of the Whole.

The SPEAKER. Appropriation bills must go to the Committee of the Whole. This is not an appropriation bill, but merely a resolution directing the distribution of a portion of a fund already appropriated.

The question was upon suspending the rules. The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 60, nays 44, not voting 79; as follows:

YEAS—Messrs. Delos R. Ashley, Baxter, Beaman, Benjamin, Bissell, Boutwell, Brownell, Bundy, Reider, W. Clarke, Sidney Clarke, Cobb, Cook, Donnelly, Eckley, Eliot, Farnsworth, Grinnell, Abner C. Harding, Henderson, Higby, Hill, Holmes, Hulburd, Ingersoll, Julian, Kelley, Kelso, George V. Lawrence, Loan, Longyear, Lynch, McClurg, Marcen, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Orth,

Paine, Perham, Price, Schenck, Seofield, Shellabarger, Spalding, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—60.

NAYS—Messrs. Baker, Boyer, Brandegee, Buckland, Chanler, Coffroth, Davis, Defrees, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hayes, Hogan, Chester D. Hubbard, Edwin N. Hubbell, James M. Humphrey, Kasson, Ketcham, Kuykendall, Ladin, Latham, McCullough, McKuer, Niblack, Nicholson, Phelps, Raymond, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Stillwell, Taber, Taylor, Thornton, Burt Van Horn, Henry D. Washburn, William B. Washburn, and Whaley—44.

NOT VOTING—Messrs. Alley, Allison, Ames, Ancona, Anderson, James M. Ashley, Baldwin, Banks, Barker, Bergen, Bingham, Blaine, Blow, Broomall, Conkling, Cullem, Culver, Darling, Dawes, Dawson, Delano, Deming, Denison, Dixon, Dodge, Driggs, Dumont, Eggleston, Farquhar, Ferry, Garfield, Griswold, Harris, Hart, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Jencks, Johnson, Jones, Kerr, William Lawrence, Le Blond, Marshall, Marston, Marvin, McIndoe, McKee, Morrill, Newell, Noel, Patterson, Pike, Platts, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Sawyer, Sloan, Smith, Starr, Strouse, Francis Thomas, John L. Thomas, Trimble, Robert T. Van Horn, Ward, Warner, Winfield, and Wright—79.

So the rules were not suspended, two thirds not voting in the affirmative.

PAY OF NAVAL OFFICERS.

Mr. ROGERS, by unanimous consent, presented joint resolutions of the Legislature of New Jersey asking an increase of the pay of naval officers; which were referred to the Committee on Naval Affairs, and ordered to be printed.

PRINTING OF TESTIMONY.

Mr. BOUTWELL. From the joint committee on reconstruction, I report additional testimony relative to the States of Alabama, Georgia, Mississippi, and Arkansas. I move that of this testimony there be printed the same number of copies as of the testimony previously reported.

The SPEAKER. That motion will be referred, under the rule, to the Committee on Printing.

PORTAGE AND SUPERIOR RAILROAD.

Mr. ELDRIDGE, by unanimous consent, presented joint resolutions of the Legislature of Wisconsin, instructing the Senators and Representatives from that State to use their endeavors to procure the necessary legislation to change the route of the land-grant road from Portage to Superior; which were referred to the Committee on Public Lands, and ordered to be printed.

Mr. COBB, by unanimous consent, presented joint resolutions of the Legislature of Wisconsin, relating to the construction of the Portage and Superior railroad; which were referred to the Committee on Public Lands, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. PRICE, by unanimous consent, asked leave of absence for Mr. GRINNELL for one week.

Leave was granted.

Mr. SHANKLIN, by unanimous consent, asked leave of absence for Mr. TRIMBLE until next Friday week.

Leave was granted.

CONFISCATION OF LANDS.

Mr. FARNSWORTH, by unanimous consent, presented the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire whether any and what action is necessary to confiscate the titles to lands which were purchased by the late confederate States, and used for prison camps and other purposes.

PERSONAL EXPLANATION.

Mr. WHALEY (having obtained unanimous consent to make a personal explanation) said: Mr. Speaker, I regret exceedingly that for the first time since I took my seat on this floor, in July, 1861, I have found it due to myself and my friends to rise to make a personal explanation. I wish to call the attention of the House to an article from the Cincinnati Gazette of April 7. I ask the Clerk to read that article,

in connection with the heading of the paper, so as to show distinctly what it is.

The Clerk read, as follows:

"Cincinnati Daily Gazette. Office, Gazette Building, northeast corner of Fourth and Vine streets. Saturday, April 7, 1866.

"A very laughable incident occurred last week in Congress. An account, submitted by the Committee on Agriculture, contained a large number of expenditures charged to various members of the committee, closing with considerable charged up to *et al.* Mr. HUBBARD objected, and said he did not know who 'Mr. Et Al' was, but supposed he was some friend of the Commissioner of Agriculture, or of the committee from West Virginia, Mr. WHALEY. This sally 'brought down' the House in roars of laughter, and sorely disturbed WHALEY, who begged the floor for an explanation. He is a rather ignorant man, and took the matter seriously, and therefore protested that 'Mr. Et Al' was none of his appointments; as he had recommended only soldiers or their families. The effect upon the House may be imagined."

Mr. SPALDING. Will the gentleman from West Virginia yield to me for a moment?

Mr. WHALEY. I will.

Mr. SPALDING. I wish to say that that mistake was brought about to some extent through my agency. When the gentleman from Iowa [Mr. HUBBARD] spoke of *et al.*, I supposed that it was the name of a man. I called the attention of my friend from West Virginia to the matter, and asked whether that man was one of his appointees. In doing so, I was in error. [Laughter.]

Mr. WHALEY. Mr. Speaker, I believe the reporters who have seats here in this House are either employed and paid by the House, or assigned to places in the reporters' gallery by the consent and order of the House. I believe indirectly they have seats assigned to them by the Speaker. Let me say the able reporter for the Gazette, Mr. Whitelaw Reid, has been gone from this city for four months. I have known him for many years, and I have regarded him as an excellent gentleman and an able correspondent. His successor, H. V. N. Boynton, is a son of the Chaplain of this House. Every member of this House must willingly confess that we have all profited by the pious prayers of our Chaplain; but when his son, occupying a seat by the courtesy of the House, sends forth an article so unkind, so ungenerous, so unfair, and so unjust, against me as a member of the House, it is a duty I owe to myself and to my friends to set the matter right here and before the country.

I appeal to the old members that no personal attack could be made upon me because of any personal misconduct on my part. I feel assured all will agree I have done my duty. Members with whom I have associated know that I have been uniformly courteous in debate, that I have been kind by nature; therefore the attack upon me must be ascribed to some political motive, and to nothing else. Now, I deserved better treatment at the hands of the Union men of Ohio. When the rebellion was powerful, with others I made an effort and succeeded in throwing up a barrier which saved the border counties of Ohio from the pillage and ravages of the hordes of secession. I have only done my duty in so doing, but it deserved some better return than this malicious attack.

I will say, in conclusion, that it has grown too common for correspondents who have been assigned seats here to slander members of Congress. I do not fear them where I am known. My associates know I have done my full duty. Who will deny my earnest effort to discharge my duty to the country when contemptible rebels attempted to destroy it? During the death-struggle I was the uncompromising enemy of the rebels and the contemptible doctrine of secession. And what I have done I have done to the best of my ability; no one could do any more.

I thank the House for its attention.

LEAVE OF ABSENCE GRANTED.

Mr. HOLMES moved that leave of absence be granted to his colleague, Mr. HOTCHKISS. The motion was agreed to.

BANKRUPT LAW.

Mr. ROGERS. I ask the gentleman from Ohio to yield to me for three minutes.

Mr. SCHENCK. I yield to the gentleman for that time.

Mr. ROGERS. I ask the Clerk to read an extract from the New York Times.

The Clerk read, as follows:

"**BANKRUPT BILLS.**—The statement in the correspondence of the Herald that Mr. CONKLING, of New York, had, upon the defeat of Mr. JENCKES's bankrupt bill, introduced another 'which cannot be picked to pieces,' and which is as near perfect as the legal acumen of the first lawyers in Congress can make it, does Mr. JENCKES gross injustice, inasmuch as the bill in question is a *verbatim* copy of the one introduced and advocated by Mr. JENCKES, and which was bitterly opposed by Mr. CONKLING. He now takes Mr. JENCKES's bill and introduces it as his own."

Mr. ROGERS. Mr. Speaker, my object in rising is to set the honorable gentleman from New York [Mr. CONKLING] right in regard to this transaction. The offering of a new bill by him was more at my suggestion than perhaps at that of any other person. I consulted with the honorable gentleman from Rhode Island, [Mr. JENCKES,] after his bill was defeated, in order that he might get up another bill before the House. He proposed to me I should offer the bill, but, as I was on the weaker side of the House, I thought it best not to do so. I went to the gentleman from New York and asked him to offer a bill of the same character to be referred and amended in such manner as to meet the objections which had been stated in the debate by some gentlemen who were disposed to vote for such a measure. It was manifest to me a bill drawn with different machinery would meet the views of gentlemen on the other side who refused to vote for the bill which had been pending. It was through no discourtesy to the gentleman from Rhode Island that it was proposed to submit another bill to be referred to the committee. He suggested, in the first place, I should offer the bill, and, as I have said, I induced the gentleman from New York to offer it. I went to him as he was known as an able lawyer and had taken an interest in the matter.

I make this explanation, not for the purpose of relieving myself from responsibility, for I am not ashamed of my vote for the bill. I have considered the subject, and think a bankrupt law necessary. So does the gentleman from New York, [Mr. CONKLING.] And it was a mere matter of courtesy, and nothing else, toward myself and other members who urged him to offer the bill, that he did offer it, not intending in any way to take away any of the prestige which belonged to the gentleman who introduced the bill. And when the bill is returned the chairman of the present committee will have control of it the same as before.

Mr. GRINNELL. I would inquire if we have the gentleman for an ally on this bill. [Laughter.]

The SPEAKER. The Chair will state he has always given information to gentlemen in regard to parliamentary questions when they have asked it, as is his duty, and that after the rejection of the bankrupt bill the gentleman from New Jersey, [Mr. ROGERS,] and some other gentlemen, asked him how it could again be brought up, and the Chair stated that the committee would be revived by the introduction of a new bill.

Mr. CONKLING. Before the regular order proceeds I beg to express my obligations to the gentleman from New Jersey [Mr. ROGERS] for making this statement. An act of justice or of public courtesy from a political opponent is always rather a refreshing episode in the monotony and asperities of politics, and none the less so when induced by the malice of those who do not hold themselves as open adversaries.

As I am on my feet I will add that I have satisfied myself that the somewhat malicious, and indeed venomous, paragraph from the New York Times which has been read, was not originated and telegraphed to that paper by its avowed or ostensible Washington correspondent. From an acquaintance of some length with one of those correspondents I should be

surprised had he thus defamed any member of this House. And I am glad, as attention has been called to the matter, to be able, speaking upon my belief, to exonerate the regular Washington correspondents of the Times from all part in originating the groundless imputation which the House has heard read.

Mr. JENCKES. Will the chairman of the Committee on Military Affairs [Mr. SCHENCK] allow me simply to say that I believe the fact to be as stated by the gentleman from New Jersey, [Mr. ROGERS,] and confirmed by the gentleman from New York, [Mr. CONKLING?]? When the act was done I happened to be absent from the House, and the gentleman explained to me immediately afterward the reason why it was done, for which he then received my thanks and now does.

I never saw this paragraph until this morning. I had no connection whatever with it, either with the originating or the publishing of it.

Mr. RAYMOND. Mr. Speaker, I rise neither to make a disclaimer nor an admission. I rise simply in consequence of the somewhat peculiar language which my colleague saw fit to apply to a paragraph which he says was in the New York Times. This is the first time, so far as I know, that that paper has been brought into this controversy. The paragraph read at the Clerk's desk was, as I understood, from another paper.

The gentleman says that a paragraph somewhat peculiar and venomous in language appeared in the New York Times, and he acquitted two gentlemen of the responsibility for that paragraph. Whether these gentlemen are obliged to him for his volunteer acquittal is their concern, not mine. I did not know but that from some peculiarity in the gentleman's manner and emphasis he meant to throw the responsibility of what he styled the peculiar venom of the paragraph upon me as the known editor of that paper. When he will be more plain and explicit upon that point, I shall be glad to make such an answer as the case will permit.

Mr. CONKLING. I will make what I say explicit. I ask the gentleman from New Jersey [Mr. ROGERS] whether I am right in stating that the paragraph just read at the Clerk's desk was read from the New York Times.

Mr. ROGERS. Yes, sir; from the Times of April 13.

Mr. CONKLING. That is explicit as to that. Repeating that I believe the regular correspondents are blameless, I now ask my colleague [Mr. RAYMOND] if he sees or feels anything in the matter as it stands before the House which calls upon him to admit or to deny having telegraphed or inspired a libel upon one of his colleagues. If he did it, I do not know the fact, but I repeat that I have reason to believe that neither of the ordinary correspondents of his paper did it. I believe I have been sufficiently explicit now for the present.

Mr. RAYMOND. I do not feel disposed to disclaim or admit anything on the strength of such an appeal as the gentleman has seen fit to make; merely upon the strength of that appeal I shall not admit or disclaim anything to him in this matter. I had not seen this paragraph or heard it read until this moment. I supposed when it was read from the Clerk's desk that it was from the New York Herald, as that was the name of the paper I understood the gentleman from New Jersey [Mr. ROGERS] to mention. I paid very little attention to it. If I can see the paper, of course if there is anything to be said about it, I am ready to say it here or elsewhere.

All that I know about the matter is that I was informed immediately after the gentleman introduced the bill, by another gentleman who was more concerned in the bill than he himself was or than I was, that after killing that bill he had reintroduced it in precisely the same form. I presume I repeated that fact to several persons. I do not remember whether I repeated it to any correspondent of my own newspaper or of any other. I understood that to be the fact;

I repeated nothing more than that fact, and I had it from authority which my colleague would not question or dispute for a moment. If there was anything "venomous" in that act I suppose he is welcome to the circumstance. I can only say that I never had any feeling against him in regard to that matter or any other. I have never expressed it in correspondence, or, so far as I am aware, in conversation. As the paragraph is not before me I do not feel called upon to say anything more on the subject.

Mr. CONKLING. If the House will indulge me, I wish to make for myself an emphatic disclaimer. My colleague does not like to disclaim anything. I wish to disclaim making any appeal whatever to him upon this question. He iterates and reiterates the word "appeal;" I remind him that I have made no appeal to him; and if he feels called upon to say anything touching his own connection with this matter it must be in consequence of promptings other than any suggestions of mine.

One word further, Mr. Speaker. The bill which I introduced was sent me, it seems, by the gentleman from New Jersey, [Mr. ROGERS,] at the request of the gentleman from Rhode Island [Mr. JENCKES] and others of the select committee. I did not look at it but simply complied with the request made of me, not only by the gentleman from New Jersey, [Mr. ROGERS,] but, in substance, by several other members of the select committee. A number of gentlemen appealed to me to do something to revive the bill, that it might be further amended. This I was willing to do upon receiving the assurance that the committee would accept certain amendments. The chairman of the committee supposed a motion to reconsider would accomplish the purpose, and to satisfy him upon this point I put a question to the Chair which drew from the Speaker the statement that the only way to keep alive the committee, and repossess it of the subject, was to introduce a bill anew and have it referred. This I expressed my willingness to do with the understanding that it should be rendered acceptable to those who thought with me as to alterations to be made. This understanding was assented to by at least three members of the committee, and some one of them was to bring the bill to my seat. It was brought to me as I have said, and without looking at it at all to see whether it was one man's bill or another man's bill, I sent it to the Clerk's desk and asked leave of the House to introduce it. The leave being granted, I suggested to the gentleman from Rhode Island [Mr. JENCKES] that it might be well to ask the Speaker to recognize him, that he might enter a motion to reconsider, so as to be able to call up the motion and the bill at his pleasure, as his committee might not soon be called for reports. My whole purpose was, as will be seen, to do my utmost to aid the gentleman from Rhode Island [Mr. JENCKES] and his committee, and to give them absolute control of the subject.

This act of courtesy, so ordinary that I think no member of the House would claim credit for having done it, or would have felt himself excused had he refused to do it when requested, has been seized on by some one and perverted into a dishonorable proceeding. A telegraph has been sent to one of the great papers which is malicious and venomous. The venom is easily discoverable, and particularly in the statement that Mr. CONKLING having bitterly opposed the bill, now takes it and introduces it as his own. Does not every man of honor see the *animus* of that? Did not every reader of the paper see in it an accusation that the person referred to had been paltering in a double sense; that he had bitterly opposed a measure and had then sought to claim it as his own; that he had appropriated another man's labor, had sought to deprive another of his just dues, and had attempted to palm off as original something not his own?

All this of false suggestions, and more, is contained in this telegraphed libel.

I repeat that it was an extraordinary statement, a venomous statement, and I stand by what I say. I also repeat my belief that the gentlemen who ordinarily telegraph to the New York Times, and whom the public hold responsible for what appears there as "telegraphic dispatches from Washington," did neither of them either inspire or write this dispatch. There, if others are content to leave it, I am content to leave it.

Mr. RAYMOND. I am not quite content to leave it just there. The remarks about appealing to me now to disclaim related to the manner rather than to the fact. The gentleman did not see fit, in any way which I thought I could with propriety notice, to say or intimate that I was responsible for that paragraph. The only reason that I alluded to it at all was because of some intimation in his manner and tone that he, perhaps, looked on me as responsible for the paragraph. That was the reason I declined to explain or make any explanation on that particular point. I think now he has made the matter of his own feeling in this case a little more manifest than it was at first. And I beg now to say, as I said before, that I am in no sense responsible for that paragraph, except that in conversation with others I may possibly have made myself responsible for the facts stated in it, namely, that the gentleman, having opposed the bill before the House at that time, and contributed to its defeat, immediately reintroduced the same bill. That is a fact that he himself admits. And in the absence of any explanation on his part, I beg leave to say to him that it gives rise to a certain construction which may or not be venomous, but is certainly not complimentary to the one that does it. Now, I put no such construction upon it; but I take the liberty of saying here that I know others did place that construction upon it.

The explanation of the gentleman of the way in which the bill was reintroduced and the motives that led him to reintroduce it is perfectly satisfactory to all persons, I suppose, as it seemed to be to the gentleman who was the author of this bill, [Mr. JENCKES.] With that explanation the matter is clear now; without it I submit to him that it was not clear before.

Mr. CONKLING. Does the gentleman know that the bill that was reintroduced was the identical bill reported from the committee?

Mr. RAYMOND. I do not know that fact. But, as I said before, I was assured by a member that it was the same bill *verbatim, et literatim, et punctuatim*.

Mr. CONKLING. I do not know how the fact is, either. And I repeat that the bill was sent or brought to me by the gentleman from New Jersey, [Mr. ROGERS,] as it turns out, or rather I think two bills were brought to me, one of which I sent to the Clerk's desk, and the other I returned, without looking into either.

Mr. RAYMOND. With that explanation, as I said before, it is entirely satisfactory.

Mr. ROSS. I demand the regular order of business.

The SPEAKER. The first business in order is the consideration of the bill for the reorganization of the Army.

CONTINGENT EXPENSES OF NAVY DEPARTMENT.

The SPEAKER laid before the House a communication from the Secretary of the Navy, submitting a detailed statement of the expenditures of the contingent fund of that Department for the year ending June 30, 1865, agreeably to the act of Congress of August 26, 1842; which was laid upon the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had agreed to the report of the committee of conference on the bill (H. R. No. 184) entitled "An act to authorize the sale of marine hospitals and of revenue cutters."

The message also announced that the Senate had passed, without amendment, the bill (H. R. No. 25) entitled "An act for the relief of Thomas Hurley."

The message also communicated the following extract from the Journal of the Senate:

IN SENATE OF THE UNITED STATES,
April 16, 1866.

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate a bill of the House (H. R. No. 458) granting a pension to Sarah E. Pickell, which was postponed indefinitely on the 13th instant.

Attest: J. W. FORNEY, Secretary.

RAILROAD TO THE PACIFIC.

Mr. PRICE, by unanimous consent, from the Committee on the Pacific Railroad, reported back, with certain amendments, a bill (S. No. 20) entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the States of Missouri and Arkansas to the Pacific coast," and moved that the same be recommitted, and be ordered to be printed.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REORGANIZATION OF THE ARMY.

Agreeably to order, the House resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States."

The pending question was upon the motion of Mr. HALE, to insert after the word "lieutenants," in the twelfth line of the third section, the following:

And that after the original vacancies are filled, enlisted men of the regular Army who shall have served at least six months shall in like manner be eligible to appointment as second lieutenants.

Mr. SCHENCK. I suggest to the gentleman from New York [Mr. HALE] the propriety of inserting in his amendment the words "one year" instead of "six months," in order to prevent an abuse, by which men without proper claims may be enlisted for the very purpose of getting commissions, an abuse which has prevailed to some extent, and for which a door ought not to be opened.

Mr. HALE. I see no objection to that. I modify my amendment in that way.

Mr. PAINE. I desire to make a suggestion to the gentleman from New York, which I think will improve his amendment, and will, I believe, meet his approval. My proposition is that enlisted men should be eligible to second lieutenantcies after one year's service, as suggested by the gentleman from Ohio, in the regiments in which they are serving; and not in other regiments. The language of the amendment as it now stands would allow an enlisted man of one regiment to be enlisted in another.

Mr. HALE. I do not see the objection to allowing these men to be transferred. I understand that this corresponds with the ordinary practice of the Department. It is deemed better, I believe, that when appointments are made the appointees should be transferred to new regiments in which they have not served.

Mr. PAINE. With regard to the general rule the gentleman is right, but if he will consider the effect of that rule as applied to this case he will see that it ought not to be adopted.

Now, there are six new regiments of cavalry for which we are now providing; but there are in the Army fifty-five regiments of infantry and six regiments of artillery, in addition to twelve regiments of cavalry. Now, the rule which he proposes will allow enlisted men from all those regiments to be commissioned in these six new regiments of cavalry. It will be observed that it is only in these six new regiments of cavalry that the most desirable vacancies can be found in the Army. The six regiments of artillery are already full or are provided for; the six old regiments of cavalry are already full or are provided for. It is only in these six new regiments that there will be vacancies; and if we allow enlisted men of the Army, who have served as volunteers during this war, to be transferred from any one of these eighty regiments into these six regiments, but a very

small chance, it seems to me, will be left for volunteers who have served either as enlisted men or as officers during the war and have by such meritorious service earned the right to commissions in these regiments.

I move to amend the amendment by adding to it the words "in the regiments in which they shall have served."

Mr. HALE. It seems to me, Mr. Speaker, that the amendment proposed by the gentleman from Wisconsin [Mr. PAINE] should not be adopted. I understand that it has ordinarily been found the true policy, in making appointments from the rank and file of the Army, to transfer the appointees to regiments in which they have not served; for the simple reason that one who has served as a private is less likely to exercise the proper discipline and control among men with whom he has been familiar as a companion and an equal than among strangers.

I do not think that the gentleman from Wisconsin has any good reason to fear that these regiments will be filled up from the rank and file of the whole Army. I am not aware that the War Department in appointments or commissions has ever manifested any such favoritism on behalf of the rank and file of the Army as to lead to the belief that there will be an abuse of power in this respect hereafter. I think there is no reason to apprehend these regiments will be unduly flooded by appointments from the rank and file. This same provision is to be made, of course, in regard to the infantry regiments, and it seems to me they ought to be left on an equality.

The question recurred on Mr. PAINE's amendment to the amendment.

The House was divided, and there were—ayes nine, noes not counted.

So the amendment to the amendment was disagreed to.

The question then recurred on Mr. HALE's amendment.

Mr. PAINE demanded the yeas and nays. The yeas and nays were not ordered.

The amendment was agreed to.

The question recurred on Mr. SCHENCK's motion to reconsider the vote by which the House agreed to insert after the words "shall be eligible" the words "without having served as volunteers."

Mr. SCHENCK. Mr. Speaker, I will assign as briefly as I can my reasons for moving the reconsideration of that amendment. It was an amendment which was adopted to come in the eleventh line of the third section, after the word "eligible," so as to make the section read:

That graduates of the United States Military Academy shall be eligible, without having served as volunteers, to appointment as second lieutenants.

I am more than ever satisfied that the bill as originally reported was very much nearer right than it will be with any such amendment. That amendment, if it have any effect at all, at least does not carry out the intention of the section in that clause, nor avoid the evil intended to be guarded against. As provided now by the section, two thirds of the officers above the grade of first lieutenant are to be selected from the volunteers, and all the subalterns, that is, the first and second lieutenants, from the volunteers. The proviso was put in to save the graduates of West Point, the object being to enable the young men who have been educated there to come in, notwithstanding this third section allows only volunteers in these subordinate appointments. Without that provision they will be excluded.

Now, if we put in these words, if graduates may come in without having served as volunteers, it can only have some such effect as this: none of the graduates who are yet to come from West Point have served either in the volunteers or the regular Army, and it must be intended to cover graduates who have been sent out from that Academy in former years. Now, every graduate of West Point living during this war either served in the volunteers, or in the regular Army, or did not serve at all. If he has served in the volunteers he is provided for as a

volunteer officer. If he served in the regular Army he does not want a place as second lieutenant, because he has a place already. If he did not serve at all he has no business in any Army of the United States. If any man having the advantage of a military education such as that given at West Point could go through this war indifferent, not seeking employment on the part of the country, he ought not to be permitted to come into the Army after the war is over. That is my doctrine, sir, and I would enforce it.

Mr. CHANLER. Let me say—

Mr. SCHENCK. I do not want to be interrupted, and I am never able to hear what the gentleman says even if I were to yield to him.

If the section is permitted to stand with the proposed amendment, which I assented to, but which on reflection I believe to be all wrong, if graduates come in as volunteers, it throws open the door for those graduates who have been in the rebel army. No one, I presume, intended that, yet it has that effect. Or its effect will be to throw open the door to those who have been in no army, but resigned perhaps from our Army when the war broke out because they did not want to be in during the war, and are willing to return in the position of second lieutenant when all danger has gone by. We do not want them to be admitted.

I ask, therefore, that the amendment by which these words were introduced shall be reconsidered. If anything be done with that class I prefer to fall back upon what was agreed between my colleague and myself, that hereafter a graduate of West Point shall be eligible to a second lieutenantcy, the object of the committee being to save these educated young gentlemen and not exclude them from appointments by giving all these subaltern positions to volunteers. It will carry out, too, the intention of the committee to provide two thirds above first lieutenants shall be volunteers, and that all the first and second lieutenants shall be volunteers except these graduates from West Point who shall be eligible to come in as second lieutenants.

I ask the House, therefore, to reconsider the vote by which the first amendment was adopted; and I give notice that if that motion shall prevail then I shall propose, or my colleague on the committee [Mr. BLAINE] will propose, to amend the provision.

Mr. BLAINE. I will send to the Clerk's desk the amendment I propose. I understood on Friday last, when I yielded to the amendment of the gentleman from New York, [Mr. HALE,] that that amendment of the gentleman from New York was to constitute a part, and not to take the place of my amendment. Under that misapprehension I yielded, which I should not otherwise have done.

Mr. BLAINE's amendment was read, as follows:

Provided, however, That cadets hereafter graduating from the United States Military Academy shall be eligible to appointments as second lieutenants.

Mr. CONKLING. I came into the Hall in time to hear the amendment read, and I take the liberty at this moment, to suggest to the Committee on Military Affairs that the amendment which has been adopted will be as necessary and applicable in case the motion to reconsider should prevail as otherwise, because when you say those who graduate hereafter shall be eligible, you do not provide, unless you express it in terms, that they shall be eligible without previous service.

Mr. BLAINE. The gentleman from New York being absent, he failed to hear the suggestion of the chairman of the Committee on Military Affairs. I wish to say further, that when I yielded on Friday to the gentleman from New York, it was on the understanding that his amendment should be incorporated with mine, not thinking that it would be put simply in place of mine. That gave rise to an evil which the chairman of the committee has just explained.

Mr. CONKLING. I hope the House will not vote in here anything as harmless sur-

plusage. This amendment is not mine in any sense. It was a mere suggestion which would reach the object which the gentleman from Pennsylvania sought to accomplish. But I am quite sure that it is not harmless surplusage. If the committee intend that graduates from West Point shall not be eligible unless they have served as volunteers, I am not prepared to say that it is not right.

Mr. SCHENCK. The objection I make, on reflection, is that it is all wrong to appoint a graduate from West Point who, during the war, has not been in service.

Mr. CONKLING. I appreciate that point.

Mr. SCHENCK. If he has served in the rebel army he ought not to be appointed. If he has served in the Union Army he is provided for. If, with his military education, he has not served at all, more shame for him.

Mr. CONKLING. I agree that there is great force in that, and I have no opinion to express against it. I only say that if, in opposition to that view, the intention was to render eligible cadets without service, then the amendment suggested was necessary. In that view the amendment was not surplusage; otherwise it amounts to nothing.

Mr. BLAINE. I think the gentleman from New York misapprehends the point of the amendment. The bill confined the appointments to the subaltern grades, first and second lieutenantcies, to volunteers, and without a proviso letting in West Point graduates they could not get in. Being confined by the letter of the bill to volunteers, a proviso was put in saving the chances of the West Point graduates. The proviso now pending is:

Provided, That cadets hereafter graduating shall be eligible, &c.

That makes it as clear as anything can be.

Mr. BOYER. Would it not obviate all difficulty to insert after the word "eligible" the words "immediately upon graduation?"

Mr. BLAINE. Well, put those words in.

Mr. BOYER. Let the amendment read:

Provided, however, That graduates of the United States Military Academy shall be eligible, immediately upon graduation, to appointments, &c.

The SPEAKER. The question had better first be taken on the motion to reconsider.

The question was taken; and the motion to reconsider was agreed to.

The question recurred on Mr. BOYER's amendment.

Mr. BOYER. I will modify my amendment so as to read:

Provided, however, That graduates of the United States Military Academy shall be eligible, immediately upon graduation, to appointments as second lieutenants without such service.

The amendment, as modified, was agreed to.

Mr. STEVENS. We all have some knowledge about these military matters, of course. I must show mine by moving an amendment. I like portions each of the Senate bill and of the House bill better than some portions of the other.

Now, I see that by the Senate bill two regiments of colored troops, out of the six regiments that are to be added, are provided for. I think that that ought to be so in the House bill. That has been omitted unless it has been inserted in some other section. I suppose it has not been, and I move, therefore, to amend this third section by inserting, after the word "regiments," in the ninth line, the words "two of which shall be composed of colored men;" so that it shall read:

That to the six regiments of cavalry now in the service there shall be added six regiments, two of which shall be composed of colored men, &c.

I offer this amendment because I believe that colored troops do better as cavalry than perhaps in any other branch of the service. They have been skillful horsemen all their lives. If there was anything they were taught by their southern masters it was how to ride on horseback. I understand from officers who have served with them that they make excellent cavalry, so far as they have had any experience. I think, therefore, they should have an opportunity of serving in that branch of the

service, and hence I approve of the Senate proposition rather than that of the House.

Mr. SCHENCK. I will only remark upon this subject that, after looking over the whole ground, it was concluded by the Committee on Military Affairs to report in favor of eight regiments of colored infantry troops, without making any cavalry regiments consist of the same character of troops. We have nothing especially to say about it except to submit the question to the House whether they will not agree to that suggestion of the committee. I have no feeling about it one way or the other. If it be thought by the House that two of the six new regiments of cavalry should be colored troops, it will not in any way affect the bill in its other features.

Mr. CHANLER. I think this proposition coming from the gentleman from Pennsylvania [Mr. STEVENS] is certainly consistent. I do not see why colored troops should not be employed in this branch of the service as well as in any other. I do not doubt but that the colored troops are valuable soldiers and fought well in the late war. I am willing to go further and invite the gentleman from Pennsylvania to take the lead and authorize this Government to enroll colored troops as officers in the United States Army. A petition has been presented to the House on this very subject, and the Committee on Military Affairs refused to grant its prayer. You have soldiers enough here to witness it, and the whole country has witnessed the sincerity of your arguments in behalf of the colored troops. If Hannibal crossed the Alps and is worthy of being quoted here for introducing colored troops into his army, go on and let your Hannibals supplant your Grants.

There is a list published in the morning papers of to-day of military members of this House who propose holding a public meeting in this city. Their names are headed by the distinguished chairman of the Military Committee, and it contains with one or two exceptions the names of all the officers who are members of this House upon the other side, who served as volunteers in the Army of the United States. I do not see the name of any man who served from this side of the House, although there are those who so served.

I wish to know from the chairman of the Military Committee if he shrinks from placing the officers of the Army of the United States in competition with negroes. Is he afraid to enter into that fair and open field of competition to which he has invited the common soldier to enter in this proposed reorganization of the Army? Is it fear or is it prejudice that leads him to refuse to do that? Is he ignorant of the capacity of the negro, or is he influenced to such an extent by the narrow-minded habits of life in which the honorable gentleman has been educated that he cannot see the injustice of his own bill?

Now, if his system of organizing the American Army is worth anything, it should be consistent; it should be a unit with itself. There should be no difference or distinction on account of race or color either in the ranks or among the officers. The gentleman seems to shirk the responsibility of elevating the negro race. The gentlemen of the Military Committee seem to tremble for their own personal distinction in that respect.

I look with eagerness and interest to the course pursued by the honorable gentleman from Pennsylvania, [Mr. STEVENS.] His intimate relations with the colored race, his knowledge of their virtues and their fascinations enable him to advocate the necessity of giving the colored race an opportunity of entering the military service of this country. He understands fully the reasons why the doors should be thrown open to the descendants of the black race, who bear the proud stains of the highest men in the Government of this country to-day or in the past, whose mothers were the victims of the seductive charms of the witty white man. I congratulate the venerable gentleman from Pennsylvania, that he is not ignorant of their

virtues, their courage, or their merits, and I respect him when he comes forward as the champion of the black race, and insists that the President of the United States, under his general power as the Commander-in-Chief of the armies of the United States, shall invite the worthy of the black race to positions in it; and do it, too, under the provisions of the civil rights bill, which, having made them citizens of the United States, should also admit them as members of the Army by this bill to reorganize your Army.

The civil rights bill having been passed, the laws under which your Army is now organized gives the power to the Commander-in-Chief of the Army. And I wish to see no laggard philanthropy huddling about the poor privates of the Army, but they should be allowed the highest grades that white men have been allowed to reach. Now, the gentlemen of the Military Committee know very well the ability and capacity which the corporals and sergeants of the colored troops have acquired by their service in the Army to this time. And I want to know why, in the present state of public opinion, those gentlemen have not brought forward in their bill a proposition so laudable, so consistent, so patriotic, so just, and so absolutely necessary to meet the exigencies of the civil rights bill which they have forced upon us.

I do not want to see the gentleman, the chairman of the Military Committee, confine his liberality to the private soldiers of the regular Army, I want to see him, with that manly courage which has always characterized him, take the part of the humble officers of the colored troops, the sergeants and corporals; take them by the hand and lead them up to the President of the United States, the Commander-in-Chief of all our armies, and claim for them positions as officers in the Army. He knows the arguments which have been used here so often on every occasion. The blood of our brave colored troops has flowed in rivulets upon every battle-field of this great war, while those who urged by persistent arguments the necessity for the use of the black man as a soldier remained here in this House, or but seldom exercised their prowess on the field.

I hope an amendment will be made in this spirit. I hope the gentleman from Pennsylvania [Mr. STEVENS] will lead us on. He is the Moses of the day. Let him lead on in this great work; and let the gentlemen of the Military Committee hold up the hands of the modern Moses, so that these people may pass over in safety. And the time will not be far distant when the military organization of this country will be filled by the patriotic members of the colored race.

The question recurred on Mr. STEVENS'S amendment.

The House divided; and there were—ayes 46, noes 12; no quorum voting.

Mr. CHANLER demanded the yeas and nays.

The yeas and nays were not ordered.

The SPEAKER *pro tempore*, (Mr. WASHBURN, of Illinois, in the chair,) no quorum having appeared on the last vote, ordered tellers, and appointed Messrs. BLAINE and CHANLER.

The House again divided; and the tellers reported—ayes fifty-six, noes not counted.

Mr. GRIDER. It was my understanding that the House was dividing on ordering the yeas and nays. It was certainly my intention that the tellers should be, not on the amendment, but on ordering the yeas and nays. I demanded tellers on the yeas and nays at the time.

The SPEAKER *pro tempore*. The Chair did not hear the gentleman from Kentucky demand tellers on the yeas and nays. The yeas and nays were refused, and the Chair ordered tellers on the amendment, as there was no quorum on the previous vote.

Mr. CHANLER. I insist that the division shall go on.

The SPEAKER *pro tempore*. The tellers will resume their places.

The House again divided; and the tellers reported—ayes 56, noes 12; no quorum voting.

Mr. SPALDING moved that there be a call of the House.

The motion was disagreed to.

Mr. CHANLER. I insist there shall be a division in reference to the demand for the yeas and nays.

The SPEAKER *pro tempore*. It is not in order, as the House refused to order the yeas and nays.

Mr. STEVENS. I think there is a quorum present now, and I hope by unanimous consent the tellers will again take their places.

Mr. ROSS. I object.

Mr. FINCK. We want the yeas and nays. Is it in order to move to reconsider the vote by which the yeas and nays were refused?

The SPEAKER *pro tempore*. It is in order.

Mr. FINCK. Then I make that motion.

The motion was agreed to.

The yeas and nays were then ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 28, not voting 76; as follows:

YEAS—Messrs. Allison, Ames, Baker, Baldwin, Barker, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Brandegee, Bromwell, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Davis, Defrees, Deming, Donnelly, Eckley, Eliot, Garfield, Grinnell, Hale, Abner C. Harding, Hayes, Henderson, Hooper, Hulburd, Ingersoll, Jencks, Kelley, Kelso, Laffin, Loan, Longyear, Marston, Marvin, McClurg, McKee, Mercer, Moorhead, Morris, Moulton, Myers, O'Neill, Orth, Paine, Patterson, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Spalding, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, Windom, and Woodbridge—79.

NAYS—Messrs. Boyer, Chanler, Coffroth, Farnsworth, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Hill, Hogan, Chester D. Hubbard, Edwin N. Hubbard, Kuykendall, Marshall, McCullough, Morrill, Nicholson, Phelps, Ritter, Ross, Rousseau, Shanklin, Taber, Taylor, Thornton, Robert T. Van Horn, and Henry D. Washburn—28.

NOT VOTING—Messrs. Alley, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Banks, Beaman, Bergen, Blaine, Blow, Broomall, Buckland, Cullom, Culver, Darling, Dawes, Dawson, Delano, Denison, Dixon, Dodge, Driggs, Dumont, Eggleston, Eldridge, Farquhar, Ferry, Griswold, Harris, Hart, Higby, Holmes, Hotchkiss, Asabel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, James Humphrey, James M. Humphrey, Johnson, Jones, Julian, Kasson, Kerr, Ketcham, Latham, George V. Lawrence, William Lawrence, Le Blond, Lynch, McIndoe, McRuer, Miller, Newell, Niblack, Noel Perham, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Rogers, Sawyer, Sitgreaves, Sloan Smith, Starr, Stilwell, Strouse, Trimble, Burt Van Horn, Whaley, James F. Wilson, Winfield, and Wright—76.

So the amendment was agreed to.

During the vote,

Mr. TROWBRIDGE stated that his colleague, Mr. BEAMAN, was compelled to leave the House by indisposition.

The vote was then announced as above recorded.

Mr. BLAINE. I move, after the words "any portion of the cavalry force herein authorized may be dismounted and armed and drilled as infantry at the discretion of the President," to insert the following:

But the number so dismounted shall be taken, so far as the interests of the service will permit, proportionately and impartially from the several cavalry regiments.

I will explain the object and the necessity for this amendment. The cavalry service consists at present of six regiments. It is proposed to add six. There is a great deal of jealousy among the cavalry when they are dismounted, and the natural operation would be that those who are last enlisted would be, in a body, or as whole regiments, kept dismounted, and the old regiments would be kept mounted, and a great deal of discontent and unfairness would be the result.

The Senate bill undertakes to remove that trouble by proposing that not exceeding four companies of each regiment shall be dismounted. The effect of that will be to make twelve cavalry regiments of eight companies each. My amendment simply means this: that the portion dismounted, whatever it may be in the judgment of those having charge of the

matter, shall, so far as the interest of the service will allow, be impartially shared between all the regiments of the cavalry service, which will remove jealousy and create fair play all around.

I need not say, perhaps, that I move this with the assent of the members of the committee.

The amendment was agreed to.

Mr. SCHENCK. I move to amend section three by adding this at the end:

And such regiment shall have one veterinary surgeon, whose compensation shall be \$125 per month.

It applies only to the cavalry. These persons employed now are receiving about seventy-five dollars, and rank as sergeants. They get certain allowances, but they are paid an amount about sufficient to secure the service of competent, scientific horse doctors.

It has been suggested to me in a communication on the subject by the chief of the Cavalry Bureau that it is absolutely necessary, in order that proper persons may be secured, that the pay should be somewhat increased. And every one acquainted with the cavalry service will understand how essential this officer is.

It is also proposed to give them the rank, without command, of captain. I cannot bring my mind to assent to that proposition. I see no reason why, without command, we should give them that rank. But I think the pay should be increased so as to afford additional inducement for securing good officers. This \$125 per month will be the entire compensation. They will be without any allowances or emoluments if this amendment shall pass. It amounts to \$1,500 a year, which I think is necessary.

The gentleman from Illinois [Mr. FARNSWORTH] suggests \$100 a month. I think it is not, and in the opinion of the chief of the Cavalry Bureau, men cannot be engaged for that sum who are of the right character.

Mr. FARNSWORTH. I suggest \$100 a month, assimilating it to the amount paid by the Government to contract surgeons in the Army. A large portion of the surgeons that were employed during the war received but \$100 per month.

I agree with the chairman of the Committee on Military Affairs that veterinary surgeons are necessary in the cavalry service. Such regiments when mounted cannot well do without them. And I agree that the Government has not paid enough for such officers. During the fore part of the war they only received, I believe, the pay of sergeant major. Latterly they were paid seventy-five dollars per month. I think \$100, which is half way between seventy-five dollars and \$125, will command the service of veterinary surgeons certainly as well as \$100 will command the services of surgeons qualified to take charge of hospitals. I therefore move that amendment.

Mr. HALE. I wish to submit to the chairman of the committee whether a horse doctor ought to have better pay than a doctor of men. The assistant surgeon of the Army is the medical officer of the regiment, and he gets a less sum than this bill proposes for a horse doctor. According to the present bill his pay and allowances amount to less than \$125 a month, and he ranks as lieutenant. It seems to me that a man who doctors horses ought not to be paid more than one who attends to the cure of the ills of the human race.

Mr. SCHENCK. The assistant surgeon ranks as lieutenant of cavalry. He gets less pay, but a great deal more compensation, because he gets certain rations and allowances for servants' rations and clothing, and various little things which go to make up the compensation, which are not taken into the account when you talk about his pay proper. By the bill before the House the first lieutenant gets \$1,800 and the second lieutenant \$1,600.

Mr. HALE. By the Army Register an assistant surgeon of less than five years' service ranks as first lieutenant, and his total pay and allowances amount to \$112 83 per month.

Mr. SCHENCK. That may be so published.

As I said before, this is one of the difficulties we have to encounter to know what they do get. Where the officer gets pay, commutation, and allowances, the first lieutenant of cavalry, for instance, in this city, gets \$2,088 41 a year. The allowance for fuel is \$198, and for quarters \$432, and if that be taken off, it still leaves the amount more than \$1,200.

Mr. FARNSWORTH. In Washington city the allowance for these items is about double what it is elsewhere.

Mr. SCHENCK. If the gentleman from Illinois [Mr. FARNSWORTH] thinks \$1,200 is enough, I am not desirous of disputing the matter with him, but will leave it to the House. Only I say that the present compensation is insufficient, and that if we appoint men fit for the places we must give them more than they are now receiving.

Mr. COBB. I desire to ask the chairman of the committee a question, and it is a question which I wish at this time to submit to that committee, who are presenting to us an entirely new bill for the organization of the Army. I would inquire whether it is not desirable, in framing such a bill as this, to change the whole system of compensation, doing away with the complicated machinery of allowances and rations. I would like to know of the chairman of the committee, or of some one competent to answer it, whether it is not possible to frame a bill which shall dispense entirely with this complicated system of compensation.

Mr. SCHENCK. In reply to the gentleman from Wisconsin, [Mr. COBB,] I will say that in my view just such legislation is needed. And it is in consequence of that conviction that I have reported, with the authority of the Military Committee to back me, a bill to fix the compensation of the officers of the Army in an intelligible shape, and that bill he will find on his file.

After we get through this bill it may perhaps not be impolitic to move that bill as an addendum, so as to include all in one bill. This bill might be modified by striking out the words "emoluments and allowances" wherever they occur. I have not thought it advisable, however, to bring it before the House for it will be hard enough against the influences surrounding us to fight through either one of these bills, I think. And I know that we shall have to rally with all the strength we can, those of us who think as I do, and as I am glad to see the gentleman does, on the subject of compensation, before we can get any bill of this kind through the House against outside influence and Army influence.

I make this reply merely to satisfy the gentleman that that subject has not passed unnoticed, and that there is a bill to accomplish the very object the gentleman desires now on file.

The amendment of Mr. FARNSWORTH, to strike out \$125 and insert \$100, was agreed to.

The amendment, as amended, was agreed to.

Mr. TAYLOR. I would inquire if it be in order to move to go back to section two for the purpose of amending it.

The SPEAKER *pro tempore*. It can be done by unanimous consent.

Mr. SCHENCK. I will hear what the gentleman proposes.

Mr. TAYLOR. I propose to amend by inserting in section two, after the word "artillery," the following:

That there shall be appointed a chief of artillery with the rank, pay, and emoluments of a brigadier general, who shall have charge, under the direction of the War Department, of all matters pertaining to the artillery arm of the service.

Mr. SCHENCK. I object to going back for the purpose of allowing that amendment.

Mr. TAYLOR. I would inquire if it will be in order at any stage of the bill to introduce this amendment.

The SPEAKER *pro tempore*. The Chair is not at the present moment prepared to answer that question.

Mr. TAYLOR. I will withdraw it, and move hereafter to add it as a new section. That I am told I can do.

Mr. ROSS. I move that this bill be recommitted to the Committee on Military Affairs, with instructions to remodel and reform the bill so as to reduce the Army to a number not exceeding forty thousand men.

Mr. Speaker, I do not profess to be well versed in military affairs. But I have been unable to see the necessity of so large a standing army as that provided by the bill reported by the committee. It is very expensive to maintain so large an army in the field. And I do not regard such an army as being in consonance with the theory of our institutions. Our dependence for defense is not upon a standing army. In case of an invasion of our country, or any infraction of our rights, our reliance has always been upon the volunteers who respond promptly to the call of the Government for the purpose of repelling invasion and maintaining our rights.

I have not heard from any gentleman the necessity for fastening upon a people already burdened and borne down by the weight of taxation the enormous expense of a large standing army. I would be glad if some member of the Military Committee, or some other member of the House who may be conversant with the subject, would inform us as to the expense of keeping a regiment in the field. I know that last year there was testimony taken before the Committee on Territories in relation to the expense of keeping a regiment of cavalry in the Indian country. And military men testified before that committee that the entire expense of keeping a regiment of cavalry in service in that country was \$2,000,000 per annum. Of course it would not be so expensive to maintain a regiment in other parts of the country.

Sir, I cannot give my consent to burden the people of this country with further taxation for this purpose, unless there is more apparent necessity for it than any which I have been able to discover, and therefore I have moved, and I trust such may be the opinion of this House, that this bill be recommitted with instructions to remodel and refashion its provisions in accordance with what I have suggested.

I have no disposition to protract debate upon this question. I desired merely to express my opinion upon the subject. And I shall be glad, if a sufficient number shall coincide with me, to be permitted to record our votes in favor of an Army of not exceeding forty thousand men in time of peace.

Mr. ROGERS. I have not hitherto participated in any manner in the debate on this bill. But I have been unable, by any examination I can give it, to see what necessity there is at this time for any such law at all as this. I have had no satisfactory reason shown to me that there is any insufficiency in the Army as now organized, and as it has been organized since the foundation of the Government, under the old system and by virtue of the principles upon which it has been organized.

I entirely agree with the honorable gentleman from Illinois [Mr. Ross] as to the impropriety at this time of keeping a large standing army. It was the wisdom of our fathers, and they gave it out to their children as a settled axiom in American history, that large standing armies in time of peace were not only dangerous to liberty, but they involved the country in heavy and enormous expenses. And during the whole period of our political and national history, from the first formation of the Army of this country down to this time, I believe at no time, when the country was not involved in war, have we had an Army to exceed the maximum of twenty-five or thirty thousand men.

Now, after we have gone through this rebellion, and marshaled armies more gigantic and enormous, perhaps, than any that ever were marshaled upon the fields of this country, and I might say upon any other since civilization began, what necessity is there to change the organization of the Army which existed during all that period. When the first tocsin of war was sounded, we found men so ready through our volunteer system that it was but a short time before we had a million men in the field,

able to put down the most gigantic rebellion that ever raised its hydra head upon any continent, and to subdue any army ever marshaled on earth.

Sir, when this war began, a proclamation was issued by President Lincoln, calling for seventy-five thousand men, for the purpose of putting down the rebellion, thus illustrating the esteem and consideration with which the people of this country have regarded small standing armies. It had long been settled in the minds of the people that a large standing army was not necessary; and although when that call was made the regular Army of our nation numbered only fifteen or twenty thousand men, the hills and the valleys poured out like water men who were ready at a moment's call to march forth in defense of their country's cause, and assist in putting down the fearful rebellion which has so recently closed.

Sir, I am satisfied from the experience of the country during the last seventy-five years that there never was a time in our history when the situation of this country required a smaller army than is necessary at the present time. There is no danger of any more civil commotions; there is no danger of any further rebellion. The power of the Government has been maintained. Our Government has shown itself to be formidable and omnipotent. It has demonstrated that it is abundantly able to put down any rebellion. It has shown itself strong enough to cope successfully with any army which may be raised against it, whether marshaled in this country or any other.

Sir, an army of such numbers as we had before the rebellion will be sufficient hereafter for all practical purposes. There is no necessity that, at a time when the people are already groaning under the onerous burden of taxation, they should be subjected to still heavier burdens to support in time of peace an army of seventy-five or eighty thousand men. Sir, as soon as you adopt the doctrines of the monarchists of the Old World and establish in this country the system of maintaining a large standing army in time of peace, that very moment you menace liberty and destroy one of the foundation principles of our republican institutions.

In reference to this question of a standing army, I am willing to stand by the doctrines of Washington and Jefferson and Madison, and the other founders of our Government, who have bequeathed to us the principle that standing armies in times of peace are dangerous to republican institutions. A republican Government must rest for its foundation upon the consent and affection of the people. Their patriotism must be relied upon as its sure defense in the hour of peril. Large standing armies are simply a menace to popular liberty.

Mr. GRINNELL. Will the gentleman yield to me one moment for a question?

Mr. ROGERS. Yes, sir.

Mr. GRINNELL. How large does the gentleman understand the Army to be now, and to what number would he have it reduced?

Mr. ROGERS. I do not know how large the Army is now. I am not prepared to say. I am not very well versed in military affairs. But I am prepared to say that I am for reducing the Army to as low a standard as is consistent with the preservation of the peace of the country—as low a standard as has been necessary at any time within the last twenty-five years.

Mr. GRINNELL. How low?

Mr. ROGERS. Fifteen or twenty thousand. Forty thousand as proposed by the gentleman from Illinois [Mr. Ross] would be a very liberal allowance indeed, and would certainly be as large an army as the tax-burdened people of this country should be called on to maintain in time of peace. Such is the patriotism and courage of our people that they can always be relied on to come forward as volunteers in overwhelming numbers to vanquish any foe, whether from without or within, and to maintain the honor and integrity of the country.

Mr. GRINNELL. I desire to inquire of the

gentleman whether he would, in this or any future emergency, enlist the Fenians.

Mr. ROGERS. I do not know whether we can enlist the Fenians. I think that the Fenians are able to take care of themselves. I suppose that the gentleman, if he has any love of liberty, will, in common with all other men who rejoice to see republics established everywhere, give his sympathy and aid to the Fenians in their effort to throw off the yoke of tyranny with which England has oppressed the Irish people for the last seven hundred years.

I suppose the gentleman has not yet forgotten we were once under the tyranny and bondage of England. I hope he has not forgotten we spurned the right of taxation assumed by Great Britain, that we proclaimed our independence, that our forefathers spilled their blood in defense of their freedom; and I trust that gentlemen will now sympathize with the downtrodden people of Ireland who are making the same effort to relieve themselves from the same despotism of England.

But, sir, this country is not England. It is a republic. It is one which exists in the sympathy and love of the people. It is bound together by the iron bands of affection, which can never be broken or rent asunder. There is no necessity, therefore, existing in this free country to keep officers in pay at thousands of dollars a year, who have nothing to do in a time of peace except to lounge about the country.

Why, Mr. Speaker, our taxes are now burdening us down. We have a national debt of \$3,000,000,000. That is exclusive of the debts of the States, of perhaps \$1,000,000,000 more. It is the bounden duty of the people to pay every dollar of that debt. Let us keep our faith and obligation with the people with whom we contracted this debt. Let us bend our energies in such way that the resources of the country will come under our command freely, from the hearts of the people, without resistance on their part or oppression on ours. And it is mainly on the ground that this adds enormously to our expenses that I am opposed to it.

The idea of allowing it to be in the power of any person who may be at the head of our military establishment, or of the President of the United States, a corrupt or ambitious man if you please, to control so vast a standing army, is radically wrong. He may use it to control the affairs of the Government and to accomplish the objects of his personal ambition like some of the leaders in ancient Rome and elsewhere. It is dangerous to the liberties of the people. It is introducing an element into the Government which in the end will prostrate the best interests of the whole country.

There is no necessity for it. No gentleman, so far as I have heard, has been able to show any necessity for an increase of our standing Army.

Let me say there never were better rules and regulations established for the army of any country than those established by our fathers for the Army of this country. That Army has been marshaled and successfully sustained and upheld under those rules and regulations. Those regulations have been accorded by the people of the old continent in reference to military government to be as perfect in theory and application as those of any country in the world.

The SPEAKER *pro tempore*. The gentleman's time has expired.

Mr. BLAINE. I beg the gentleman from Illinois to withdraw his proposition. When this bill was reported from the Committee on Military Affairs and taken up for consideration it was agreed that we should go through it section by section, giving a liberal allowance of fifteen minutes to each member for debate, so that the measure could be perfected. Propositions like the one now pending interjected in this way will, of course, only give rise to this sloshy-washy debate. I appeal to the gentleman to withdraw his proposition.

Mr. ROSS. I regret I cannot comply with the gentleman's request.

The SPEAKER *pro tempore*. Debate is exhausted.

Mr. SCHENCK. I demand the previous question on the motion to recommit.

The previous question was seconded and the main question ordered.

Mr. ROSS demanded the yeas and nays.

The House divided; and there were—ayes sixteen, noes not counted.

Mr. ROSS demanded tellers on the yeas and nays.

The House divided; and there were—ayes seventeen, noes not counted.

The SPEAKER *pro tempore*. Tellers are not ordered, and the yeas and nays are not ordered.

Mr. ROSS. I rise to a question of order. I understand when one side of the House is counted we have a right to have the other side counted.

The SPEAKER *pro tempore*. The gentleman from Illinois demanded the yeas and nays and tellers on the yeas and nays, but on a division there were not enough to order either the tellers or the yeas and nays.

The motion to recommit was disagreed to.

Mr. ROGERS. I move to amend by adding a provision that the Army at no time shall exceed thirty thousand men; and I move that amendment for the purpose of occupying the attention of the House for about three minutes.

Mr. SCHENCK. I rise to a point of order, that the provision that the Army at no time shall exceed thirty thousand men has nothing to do with this section. I not only make the point of order, but I appeal—

Mr. ROGERS. The gentleman will not find fault with me if he will permit me to go on.

Mr. SCHENCK. Yes, we will have the same old speech over again. [Great laughter.]

The SPEAKER *pro tempore*. The Chair overrules the point of order.

Mr. ROGERS. I offer this amendment more for the purpose of vindicating myself, than anything else, from the malicious assaults which the honorable gentleman from the State of Maine [Mr. BLAINE] has made it his business to make upon me every time I have got up to say anything in this House. I suppose that he knows very well that during the remarks which I made on the amendment offered by the gentleman from Illinois I confined myself strictly to the question before the House. This House will bear me witness in saying that in no arguments which I make before this House do I digress from the subject under debate, and that I always confine myself strictly to the subject before the House. I make no general speeches; no Saturday speeches. I mean no disrespect to anybody else, but I think I ought to be treated with common respect, at least, by the gentleman from Maine when I get up to address the House.

When my resolutions, over which I had no control, came up a week or two since, I had the floor, and the Speaker of the House told the House the reasons why I was entitled to the floor, and because I would not yield the right which I then had the gentleman from Maine got up and abused me and treated me in a most shameful and indecorous manner; in such a manner as I would treat no member either on this side of the House or on the other. The House will bear me witness of the truth that I always treated gentlemen upon all sides of this House with the utmost courtesy. Nobody has known me to get up and browbeat and abuse any member because he did not agree with me. God made us so that our natures are different, and we arrive at different conclusions, and I think it is most contemptible and indiscreet work on the part of the gentleman, when I undertake to discuss any subject, to attempt to browbeat me and insult me. In what I have said I have no ill-feeling toward the gentleman at all. I hold him in high respect. I believe him to be a gentleman, and shall always treat him with courtesy. All that I ask of him is that he shall treat me in the same way. He is a member on the other side of the House, and he is only entitled to the

same rights that I am. When he speaks on any question he never finds me slurring him for what he says. Although I may not say what will suit the other side of the House, I speak the honest dictates of an honest heart and the views I entertain, and I do not like to be abused for my honest convictions by any gentleman upon the other side of the House.

Mr. BLAINE. The gentleman from New Jersey says that I have taken occasion whenever he has spoken to say something indecorous or unbecoming. Yet he cites only two occasions in which I have offered any remarks about him. If he will remember how frequently he has addressed this House, and can only remember those two occasions, he must see that there must have been a good many times when I have not referred to him at all. Now, I never have had the slightest unkind feeling toward the gentleman from New Jersey in my life. Two or three weeks ago, on a Monday morning, by means of a mere accident in parliamentary rule, which happens perhaps once in twenty-five years, the gentleman had an opportunity to exhaust the whole morning hour in a debate in which neither himself nor any other member of the House was interested, and I appealed to the gentleman personally to yield the floor, inasmuch as there were many gentlemen on this side of the House who had resolutions to offer—not resolutions of a political character, but of a business nature, which could only be introduced under the call of States on alternate Mondays. The gentleman agreed that he would not take more than twenty minutes, but then he continued for the entire hour; and in the heat of the moment I made some remarks that were hasty and unbecoming, as I have since thought. If I thereby wounded the gentleman in any way I am very sorry for it; and I will say in addition, that I have none but the kindest feeling for him personally. He has always treated me with respect, and I desire to treat him in the same way.

Mr. ROGERS. That is sufficient.

Mr. STEVENS. I rise to a question of order. I desire to know to what part of this section this debate applies. [Laughter.]

The SPEAKER *pro tempore*. The Chair is not yet advised.

Mr. ROGERS. I want but a moment more.

Mr. SCHENCK. If the gentlemen have exhausted their reasons for reducing the Army, I will move the previous question.

Mr. ROGERS. Wait until my fifteen minutes are through, if you please.

Mr. SCHENCK. Very well.

Mr. ROGERS. I ask but a moment more. The gentleman from Maine says that my arguments upon the resolutions which I offered had interest neither for the House nor for myself nor anybody else. [Laughter.]

The gentleman is mistaken about that; it was a very important question, and I presume the House will remember that when first I came here, I think in the first week or in the second, I offered a joint resolution which was referred to the Judiciary Committee, to authorize the States to tax United States securities, and the remarks which I made were therefore entirely pertinent to the question before the House.

Mr. SCHENCK. I must really rise to a question of order.

Mr. ROGERS. It is not necessary. I withdraw my amendment.

Mr. VAN AERNAM. I move to amend the section by inserting at the end of it the following proviso:

Provided further, That officers of the same grade above the rank of first lieutenant, who shall be appointed under the provisions of this section, shall have their rank determined by their last previous rank, whether in the volunteer service or not.

Mr. SCHENCK. I hope the gentleman from New York will not put that on a section with which it has nothing to do whatever. This section relates to a cavalry force. His amendment refers to an entirely different and separate question. I suggest that he add it to the bill as a separate section, otherwise we shall make this bill a piece of unmeaning patchwork.

Mr. VAN AERNAM. The only way in

which I could offer it appropriately would be to move to strike out the whole section and insert this in lieu of it.

Mr. SCHENCK. This section applies to an organization of six new cavalry regiments to be added to the six now in the service, and this general military legislation, intended to apply to all officers of all arms of the service, is incongruous with this part of the bill. I hope the gentleman will so far aid the committee in perfecting the bill as to reserve his motion and offer it as a distinct section at a later period.

Mr. VAN AERNAM. If that will conduce to the convenience of the Committee on Military Affairs I will withdraw my amendment for the present, and offer it at another time.

The amendment was withdrawn.

Mr. SCHENCK. I move to amend the fourth section by striking out in line five the word "comprising," and inserting in lieu thereof the word "constituting."

The motion was agreed to.

Mr. BOYER. I offer the following amendment.

In line six after the word "regiments," strike out all the remainder of the section, as follows:

Of ten regiments, to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps; and of eight regiments of colored men, to be raised and officered as hereinafter provided, to be known as United States colored troops.

This bill, as interpreted by the chairman of the Military Committee, provides for an army of fifty thousand men, but with an organization capable of expansion to eighty-two thousand six hundred men. That is, there are to be regiments organized and officers appointed sufficient for an army of eighty-two thousand six hundred strong, and the President is to have the authority to recruit it to its maximum strength whenever in his discretion he may decide that the exigencies of the service require it. To this large increase of the regular Army as a peace establishment I desire to record my opposition. I have great respect for the opinion of the able and patriotic chairman of the Military Committee, who has told us that he had been in favor of a still greater increase. I have also, in common with the whole country, profound respect for the military judgment of the Lieutenant General, who, we are told, has expressed himself in favor of the enlargement of the standing Army to the extent contemplated by this bill. Still I cannot bring myself to see its necessity.

No one, I suppose, will contend that a larger standing army should be maintained in time of peace than the exigencies of the country require. Now, what exigencies do exist which require such an army as is provided by this bill as a permanent peace establishment? The rebellion is over. At least there is not a man now in arms against the Government in any part of the country. The President has proclaimed peace. The late rebellious States are submissively and patiently waiting at the doors of Congress for peaceful recognition in the reestablished Union, the authority of which none of them any longer disputes. The Indian frontier is quiet, and likely to need less force to keep it so than was heretofore required. There is no immediate danger of a foreign war, and if such an occasion were to arise half a million of volunteers could be raised in thirty days, either for defense or invasion. During the present generation, at least, our volunteer forces would not be found wanting either in disciplined men or experienced officers. Why, then, shall we now provide for a standing army of over eighty thousand men?

Upon the general principle, then, that a larger standing army than the exigency demands is not in accordance with the nature or safety of our institutions, and also upon the ground of public economy, I move the amendment which I have offered. If it should prevail it will save over eight millions a year to the country, and still leave an army which, when raised to its maximum standard, will number over sixty thousand men. I think the reduction can best be made by striking off that

portion of the proposed army which must prove the least efficient, namely, the Veteran Reserve corps and the colored regiments.

As respects the Veteran Reserve corps, I agree with the remarks made on last Friday by the gentleman from New York, [Mr. DAVIS.] I think the country owes to the disabled Union officers and soldiers of the late war a reasonable support, but not in the Army. I shall always be found ready to vote to the maimed heroes of the war liberal provision in the shape of pensions, but I am not in favor of providing for ten regiments of disabled soldiers as a part of the Army of the United States.

As for the colored regiments, I believe they can perform no military duties which could not better be performed by white men. They are not wanted as soldiers at the North, and at the South they would prove a continual source of irritation, complaint, and disquiet. On the Indian frontiers they would be less efficient than white soldiers, for their fear of Indians is proverbial. I maintain that to the white men of the United States rightfully belongs the government of the country in peace and its defense in war. And if the time should ever come when they are no longer equal to the performance of these duties the hour of our national dissolution will have arrived.

I entertain no expectation that this amendment will prevail because from our past experience we know that when the majority of this House have once got hold of the negro upon any question they never surrender him from their embraces, but I have moved this amendment and I shall endeavor to get a record vote upon it. I demand the yeas and nays upon my amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 16, nays 79, not voting 88; as follows:

YEAS—Messrs. Boyer, Brandegee, Chanler, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Edwin N. Hubbell, Niblack, Nicholson, Ritter, Rogers, Shanklin, and Sitgreaves—16.

NAYS—Messrs. Ames, Baker, Baldwin, Baxter, Benjamin, Bidwell, Blaine, Boutwell, Buckland, Bundy, Coffroth, Conkling, Davis, Deffrees, Deming, Donnelly, Eckley, Eliot, Grinnell, Hale, Abner C. Harding, Henderson, Hill, Holmes, Hulburd, James M. Humphrey, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Kuykendall, Latham, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Orth, Paine, Perham, Phelps, Price, William H. Randall, John H. Rice, Rollins, Ross, Schenck, Shellabarger, Spaulding, Stevens, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Ward, Elisha B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, and Woodbridge—79.

NOT VOTING—Messrs. Alley, Allison, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Banks, Barker, Beaman, Bergen, Bingham, Blow, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Culver, Darling, Dawes, Dawson, Delano, Denison, Dixon, Dodge, Driggs, Dumont, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Griswold, Harris, Hart, Hayes, Higby, Hlogan, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Johnson, Jones, Kasson, Kerr, Laffin, William Lawrence, Le Blond, Marshall, McCullough, McIndoe, Morrill, Newell, Neill, Patterson, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander II. Rice, Rousseau, Sawyer, Seefeld, Sloan, Smith, Starr, Stillwell, Strouse, Taber, Taylor, Trimble, Van Aernam, Burt Van Horn, Warner, Whaley, Stephen F. Wilson, Windom, Winfield, and Wright—88.

So the amendment was not agreed to.

EVENING SESSION DISPENSED WITH.

Mr. WARD. I move that the evening session for to-day be dispensed with.

The motion was agreed to.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. DAVIS. I move to amend this fourth section by striking out the words "of ten regiments to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps."

I make this motion from no desire whatever to do wrong or injustice to any man who has served gallantly in the armies of the Republic. But I do it because as a legislator, responsible in some degree for the enactments that may be passed here, I believe it my duty to make this motion to amend.

Now, among the reasons which I beg leave to assign for this amendment is, in the first place, the vastly increased expense to be entailed upon the Government by the organization of ten additional regiments which under no circumstances can perform more than one half the duty of the same number of efficient and able-bodied men. I had occasion to state on Friday last the expense to which these ten additional regiments will subject the Government in the way of their organization, equipment, and maintenance. I stated that if only the minimum of these regiments was organized the expense for the pay proper alone of the officers and men would be nearly nine hundred thousand dollars a year.

Mr. SCHENCK. Yes, and the gentleman missed the correct figures in his estimation by just half a million dollars.

Mr. DAVIS. I did not get it high enough.

Mr. SCHENCK. A half million too high.

Mr. DAVIS. I am satisfied I got it too low. I desire to increase the sum named, and to say that the pay proper of these regiments will cost the Government \$1,300,000 per annum if the organization shall reach only the minimum provided for. That is for their pay alone.

Now, when you come to add to that their equipment, maintenance, &c., you will see that we are rolling up an immense indebtedness. And for what? For the purpose of furnishing employment to men who have been disabled in the service; and that kind of employment which, for the interest of the Government, should be performed only by able and efficient men.

Now, I submit that any man, who under any circumstance will enlist in this Veteran Reserve corps, can, with a moderate and reasonable pension from the Government, obtain a competent support by adding thereto some employment which he will be able to perform in some walk of private life. Therefore it will be doing no wrong to these men if we pay them the pensions to which they are entitled, if we give them the encouragement which we ought by our liberality, and then say to them, "Although we deal liberally with you in consequence of your past services, we do not feel bound to pay you full pay as officers in this organization." I believe there is no principle of justice or propriety which demands it.

I believe that the interests of this country require that we should strike out this clause entirely. It is well known that if you take ten regiments of disabled troops and put them into any service where efficiency and activity are required, they cannot do more than one-half the service which efficient and able-bodied men can perform.

Now, sir, I think that the striking out of the provision for these ten regiments will be proper. I do not believe that to reduce by ten regiments the Army proposed by this bill will be any injury to this Government. Throughout our previous history, we have at all times been able to preserve the peace of the country with an army far fewer in numbers than that now proposed; and although I admit that there is a necessity for a larger force at present, in consequence of the increased extent of our country and the peculiar condition of affairs now existing in some portions of it, yet I am not ready to say that such an army as we would have if these ten regiments should be stricken out, an army capable of being raised to seventy-two thousand seven hundred men, would not be sufficient to meet all the demands of the Government. I trust, therefore, that my amendment will be adopted.

Mr. INGERSOLL. I remember, Mr. Speaker, when the Veteran Reserve corps was organized; and I remember, too, that at that time it was understood that that organization was to be a permanent one. When the men who now compose that organization, or so much of it as is left, had so far recovered from wounds and disabilities incurred in active service that they believed themselves fit for the military duty assigned to this corps, they ap-

peared before a competent military board, and if on examination were found to possess the requisite military knowledge, and by a suitable medical board they were found to possess the necessary physical strength for the performance of the duties assigned them, they were mustered into the service.

Sir, those of this Veteran Reserve corps who now remain in service—many of them have been mustered out—are No. 1 men. They have been tested on the field of battle, and not found wanting. They are men of courage and experience; and I say it is a slander upon a noble organization to say that these men cannot do half the service that can be rendered by men who have never seen service in the field. I say that a man with a cork leg and with only one arm, if he has ordinary ability in other respects, is as capable of doing duty at a fort or a military rendezvous in time of peace as any man.

I hold, sir, that this nation has some interest in caring for the men who constitute this Veteran Reserve corps. We have no right to muster them summarily out of the service, saying to them, "We are willing to give you a pension of \$100 or \$200 a year, and with this, you can, if you exercise ordinary prudence and economy, make your living."

Mr. CONKLING. Will the gentleman permit me to ask him a question?

Mr. INGERSOLL. Yes, sir.

Mr. CONKLING. The gentleman has stated that, when this corps was organized, there was an understanding, in some way, or on the part of somebody, that it was to be a permanent organization. Will the gentleman be kind enough to state to the House on what he relies on making that assertion?

Mr. INGERSOLL. Yes, sir; if it is a matter of any importance, I will do so. I state from my recollection that, at the time of the organization of this corps, it was so understood. I remember that I spoke with reference to it myself. I recollect that an officer of my own State consulted me with reference to the question whether he had better give up the business by which he could make a livelihood at home for the purpose of going into the Veteran Reserve corps. I remember that I told him that I supposed it would be a permanent organization, and that therefore it would be advisable for him to go into it as a lieutenant, the pay of which position would be sufficient, under ordinary circumstances to support him and his family.

It was my understanding, and I think it was the general understanding, that that corps should be a permanent organization. I know that there are now in that corps men who abandoned their ordinary pursuits and professions to enter this corps, believing in good faith that they could by the services which they would render compensate the Government for its outlay in maintaining that organization. Does any gentleman believe that those men would have entered that corps if they had understood that they were to remain only a year or eighteen months, and were then to be turned off that their places might be filled by able-bodied men?

Mr. CONKLING. Does the gentleman put that question for the purpose of having it answered?

Mr. INGERSOLL. No, sir; I do not care to be interrupted just now.

Mr. CONKLING. If the gentleman desires an answer, I would be glad to give it.

Mr. INGERSOLL. But I can answer for myself. It is a plain and real answer. They did not dream of such a thing. They supposed they were part of the Army of the United States, and that we would take a pride in them for the services they had rendered; that their organization should have the dignity and something of the *éclat* of the "Old Guard."

Yes, Mr. Speaker, the Veteran Reserve corps can be pointed to with pride and glory by American citizens, for they have proved the defenders of the Republic against a wicked, inhuman, and atrocious rebellion. And a gen-

erous people will recognize their services and provide for and maintain them in their military pride and glory as a part of the United States Army.

I deny that the Veteran Reserve corps are inadequate to discharge the duties of any ordinary post or garrison of any branch of the service while the country is at peace. I beg the country and this House not to disregard the claims—yes, sir, the claims of these noble soldiers. Let us maintain this organization as an independent organization of the Army, whether it consist of five or ten regiments. I am not satisfied we need fifty thousand or sixty thousand men in a time of peace to maintain the dignity of this country. When I am convinced that we do I shall vote for such number of men, but not until I am. I shall want to hear further from the Committee on Military Affairs or those who have carefully investigated the subject. But whether the Army shall consist of twenty-five thousand men or fifty thousand men, I insist that the Veteran Reserve corps, men who have nobly won renown upon the field of battle, shall have their place in the Army and shall not be overslaughed by any opposition from any quarter, whether it be under the guise of pretended economy or by the regular Army or by any other interest whatever.

Mr. ELDRIDGE. As it is a glorious thing to belong to the Army, I ask why it is the gentleman was not heard of in the war?

Mr. INGERSOLL. I tell you I was required at home to take care of just such contemptible "copperheads" as that gentleman. [Laughter.] My services were required at home. If all the patriotic and honest men like myself had gone to the front such "copperheads" as you would have taken the country, and it would have gone to eternal ruin. [Applause on the floor and in the galleries.]

Mr. ELDRIDGE. I desire to know from the gentleman why he has not taken care of the copperheads?

Mr. INGERSOLL. I say that we have. [Renewed applause.]

The SPEAKER *pro tempore*. Applause in the galleries and upon the floor is out of order.

Mr. INGERSOLL. I say that we have taken good care of the "copperheads."

Mr. ROGERS. I rise to a point of order. Is it in order, in public debate to go to the country, for one member to abuse his fellow-member of the house by calling him a contemptible copperhead?

The SPEAKER *pro tempore*. The Chair thinks it is not in order.

Mr. ELDRIDGE. I wish the decision had been that it was in order, as he has not more contempt for me than I have for him.

Mr. INGERSOLL. I do not care about anything he says. It matters nothing to me. [Laughter.] I have been used to hearing their slang and their slanders for several years. I wish to say I did not personally call him contemptible, but his political party which has embarrassed the Union party, which has encouraged the rebellion, which has done all it could to defeat the Government in its great struggle with the rebellion. I do call them contemptible.

Mr. ROGERS. Is that in order?

Mr. INGERSOLL. I think it is in order.

Mr. ROGERS. On what ground?

Mr. INGERSOLL. Because it is the truth. [Laughter.]

Mr. ROGERS. Is it in order for a member to stand here and abuse another party? If it is, I am willing to have this out. [Cries of "Order!"] If there are traitors anywhere they are in the other party. [Continued cries of "Order!"] They are the disunionists today, and we are the only real Union men in the country.

Mr. ELDRIDGE. What is the ruling of the Chair?

The SPEAKER *pro tempore*. That the gentleman from Wisconsin is out of order.

Mr. ELDRIDGE. Why?

The SPEAKER *pro tempore*. For inter-

rupting the proceedings of the House without the consent of the House.

Mr. ELDRIDGE. I rise to a point of order. I wish to know whether the point of order raised by the gentleman from New Jersey ought not to be decided before any other. I want to know whether it is not as proper for me to call the gentleman from Illinois a traitor, as I do, as for him to call me a "copperhead."

The SPEAKER *pro tempore*. The gentleman from Wisconsin is out of order.

Mr. INGERSOLL. Mr. Speaker, I believe I have the floor. [Laughter.] I want it understood that I place upon whatever the gentleman from Wisconsin has said no sort of importance—

The SPEAKER *pro tempore*. The Chair calls the gentleman to order.

Mr. ELDRIDGE. I rise to a question of order. The Chair has decided that the gentleman from Illinois was out of order.

The SPEAKER *pro tempore*. The Chair decided that his application to the gentleman from Wisconsin was out of order.

Mr. ELDRIDGE. I insist upon the enforcement of the rule, that being decided to be out of order, the gentleman from Illinois must take his seat.

Mr. INGERSOLL. I rise to a point of order. The Chair has decided a moment ago that—

Mr. ROGERS. One point at a time.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. INGERSOLL] will suspend. The gentleman from Wisconsin [Mr. ELDRIDGE] raises the point of order that the gentleman from Illinois [Mr. INGERSOLL] was held by the Chair to have been out of order. That was so.

Mr. INGERSOLL. I do not doubt that. [Laughter.]

The SPEAKER *pro tempore*. The remark of the gentleman from Illinois [Mr. INGERSOLL] as applied to the gentleman from Wisconsin [Mr. ELDRIDGE] was out of order.

Mr. ELDRIDGE. The question of order goes further.

Mr. INGERSOLL. I rise to a point of order.

Mr. ELDRIDGE. I insist that the gentleman from Illinois [Mr. INGERSOLL] shall take his seat until the House permits him to proceed.

Mr. INGERSOLL. My time has not expired yet, I believe.

The SPEAKER *pro tempore*. The gentleman's time has not yet expired. The gentleman from Wisconsin [Mr. ELDRIDGE] insists that the rule shall be enforced, that the gentleman from Illinois [Mr. INGERSOLL] having been declared out of order shall take his seat until he is permitted to proceed.

Mr. BLAINE. I move that he be permitted to proceed in order.

Mr. ELDRIDGE. I insist that he has not yet taken his seat.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. INGERSOLL] will be seated. [Laughter.]

The motion that the gentleman be allowed to proceed in order was agreed to.

Mr. INGERSOLL. Suppose Jeff. Davis should call me a traitor, should I pay any attention to it?

Mr. ROGERS. I rise to a point of order. The gentleman is not speaking to the question before the House. Jeff. Davis has nothing to do with it. [Laughter.]

Mr. INGERSOLL. He may have, from present indications. If this copperhead party ever gets into power Jeff. may be one of their leaders.

Mr. ROGERS. I insist that the gentleman should confine himself to the question before the House or take his seat. He is not talking upon the question at all.

The SPEAKER *pro tempore*. The Chair sustains the point of order.

Mr. ELDRIDGE. I raise another question of order. The gentleman from Illinois [Mr. INGERSOLL] has no right to charge upon this side of the House that they are followers of Jeff. Davis, or that he is their leader. It is an

abuse of the privileges of this House. I ask the Chair to decide that question.

The SPEAKER *pro tempore*. The Chair has decided the point of order raised by the gentleman from New Jersey, that the gentleman was not in order in the line of his remarks.

Mr. ELDRIDGE. Then I insist that the rule shall be enforced, and he shall sit down.

The SPEAKER *pro tempore*. The Chair has decided that he was not in order in the remarks he was proceeding to make. The gentleman can proceed in order.

Mr. ELDRIDGE. I insist that he cannot go on, when the Chair has decided him out of order, until the House again allows him to proceed.

The SPEAKER *pro tempore*. The gentleman was not in order, was not speaking to the amendment. If he shall speak to the amendment before the House he is in order.

Mr. ELDRIDGE. Then my point is not allowed. I desire now to make another question of order of some importance. He has applied to this side of the House the epithet that they are followers of Jeff. Davis. I insist that that is not a proper remark to make against members of Congress.

The SPEAKER *pro tempore*. The gentleman raises another point of order, that the application of the remark to the side of the House to which the gentleman belongs, that they are followers of Jefferson Davis, is not in order. The Chair cannot decide whether that is in order or not. [Laughter.]

Mr. ROGERS. I rise to a point of order: that we will withdraw all objection and allow the gentlemen on the other side to proceed if they will allow us to answer.

The SPEAKER *pro tempore*. The gentleman from Illinois [Mr. INGERSOLL] has the floor.

Mr. NIBLACK. I insist on knowing what the amendment under consideration is.

The SPEAKER *pro tempore*. The Clerk will report the amendment.

The Clerk read the amendment, namely, to strike out the following from section four:

Often regiments, to be raised and officered as hereafter provided for, to be called the Veteran Reserve corps.

Mr. McKEE. I ask the gentleman to yield to me a moment.

Mr. INGERSOLL. I will do so.

Mr. McKEE. I only wish to make a single statement. So far as this side of the House is concerned there is a part of us at least who do not take any exception whatever to being called followers of Jeff. Davis, because we have never been considered as being in that line. A number of us at least have a record by which the country at large will not put us in that category. As to the gentlemen who are a little further over, that seem to have fears of such charges, there may be some ground for those fears. [Laughter.]

Mr. INGERSOLL. I was showing the necessity of preserving the Veteran Reserve corps, and in order to do that I was showing that from present proceedings and present indications the rebel power is liable to be restored in this country, with Jeff. Davis at its head.

Mr. ROSS. I would inquire of my colleague if he has heard of the result of the municipal election at Peoria, Illinois.

Mr. INGERSOLL. Yes, sir. The copperheads have a majority there, I am sorry to say. [Laughter.] There are some who have been pardoned and restored to political power who are as deeply dyed in crime as Jeff. Davis, his compeers, and coconspirators, and I want to protect the country against such men.

[Here the hammer fell.]

Mr. WARD. I move that the House adjourn. The motion was agreed to; and accordingly (at four o'clock and twenty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BEAMAN: The petition of Oliver Gold-

smith, and others, dealers in leaf tobacco and manufacturers of cigars in the city of Detroit, praying for relief touching the tariff on imported cigars.

By Mr. CONKLING: The petition of Milton H. Thompson, and others, of Utica, New York, praying the passage of laws regulating inter-State insurances.

Also, the petition of several flax mills, praying that a duty of at least fifty percent, *ad valorem* may be laid on coarse flax yarns, coarse linens, hemp, and jute goods, and no duty upon foreign flax for fine fabrics.

By Mr. DAVIS: The petition of S. C. Gardner, Sylvester Gardner, and 34 others, citizens of Onondaga county, New York, praying increased protection on American wool.

Also, the petition of Drs. John G. Shipman, Theodore Bradford, and 18 others, practicing physicians of Syracuse, New York, asking for a change in the internal duty affecting medicines.

By Mr. ECKLEY: The petition of 175 wool-growers of Island Creek township, Jefferson county, Ohio, asking an additional duty on wool.

By Mr. FINCK: The petition of Thomas P. Skinner, and others, citizens of Perry county, Ohio, praying for an increase of duty on all foreign wool imported into the United States.

By Mr. HARDING: The memorial of citizens of Rock Island county, Illinois, protesting against the permitting of disloyal men to hold office, and against the repeal or modification of the "test" oaths.

Also, the petition of citizens of Mercer county, Illinois, for a post route, &c.

Also, the petition of Joanna Winans, for a pension. By Mr. HUBBELL, of New York: The petition of brewers of the United States, praying for reduction of duty on barley imported from Canada.

By Mr. HULBURD: The petition of sundry inhabitants of St. Lawrence county, New York, asking a general insurance law.

Also, the petition of sundry other citizens of St. Lawrence county, New York, praying reduction of imports on certain articles that are used in compounding medicines, &c.

By Mr. INGERSOLL: The petition of 100 citizens of Putnam county, Illinois, asking for an increase of duty on imported wool.

By Mr. KELSO: The petition of citizens of Barton county, Missouri, for the relief of William B. Smalley, late postmaster at Lamar, Missouri.

By Mr. KETCHAM: The concurrent resolutions of the Legislature of the State of New York, in regard to the adjudicated claims of the militia of that State who served in the war of 1812.

By Mr. LAWRENCE, of Pennsylvania: Several petitions from citizens of Lawrence and Washington counties, Pennsylvania, for an increase of duties on foreign wools.

By Mr. LONGYEAR: The remonstrance of Alexander Monroe, and 1,262 others, citizens of Ingham county, Michigan, against an extension of the Amboy, Lansing, and Traverse Bay railroad land grant to the company of that name.

Also, the petition of A. B. Gibson, and 23 others, citizens of Jackson, Michigan, asking for the establishment of a Bureau of Insurance.

By Mr. MOULTON: The petition of Mrs. Imogene Buckingham, praying for the allowance of a pension or an annuity.

By Mr. NIBLACK: The petition of Owen Fuller and Ulysses B. Fisher, contractors on mail route No. 10648, praying relief from the terms of their contract.

Also, the claims of John J. McGrew and R. H. Hoffman, for property destroyed at Lexington, Missouri, by order of the military authorities of the United States.

By Mr. PAINE: The petition of Thomas Kershaw, and 30 others, citizens of Milwaukee, for the enactment of a law regulating insurance in the United States.

Also, the petition of Jacob Olp, and 33 others, citizens of Geneva, Wisconsin, for increase of duty on foreign wools.

Also, the petition of R. H. Bristol, and 90 others, citizens of Delavan, Walworth county, Wisconsin, for increased tariff on foreign wools.

Also, the petition of Alonzo Potter, and 51 others, citizens of Lyons, Walworth county, Wisconsin, for increase of tariff on foreign wools.

By Mr. RANDALL, of Kentucky: The petition of Leonard Casey, of Whitley county, Kentucky, for pension for disability received in the service of the Government.

Also, the petition of citizens of Somerset, Kentucky, for a post route from that town to Knoxville, East Tennessee.

Also, the petition of citizens of Owsley county, Kentucky, for a post route from Beatyville to Thompsonville, in said county.

By Mr. RICE, of Massachusetts: The petition of John Kidgway, of Boston, that the Secretary of the Navy may be authorized to make trial of his "vertical revolving battery."

By Mr. TROWBRIDGE: The petition of L. Woodward, and 22 others, citizens of Avon, Michigan, asking for an increased duty on foreign wool.

Also, the petition of citizens of Michigan, asking for the passage of just and equitable laws to regulate inter-State insurances of all kinds.

By Mr. UPSON: The petition of Walton J. Barnes, and 81 others, citizens of Quincy, Branch county, Michigan, praying Congress for an increase of duties on foreign wools.

Also, the petition of Z. G. Swan, and 66 others, citizens of the same place, for the same purpose.

Also, the petition of David Stephenson, and 27 others, citizens of Bethel, in the same county and State, for the same purpose.

Also, the petition of Asahel Brown, and 120 others, citizens of Alganssee, in the same county and State, for the same purpose.

Also, the petition of John McNett, and 88 others,

citizens of Matteson, in the same county and State, for the same purpose.

Also, the petition of Martin Kinsley, and 50 others, of Ovid, in the same county and State, for the same purpose.

Also, the petition of William Chase, and 36 others, citizens of Kinderhook, in the same county and State, for the same purpose.

By Mr. VAN HORN, of New York: Petitions from Niagara and Genesee counties, signed by 245 citizens, asking an increase of duty on wool.

By Mr. WARD: The resolution of the Legislature of the State of New York, asking an appropriation to pay the claims of the militia of New York for clothing, &c., who served in the war of 1812.

By Mr. WELKER: The petition of George C. Underhill, and 106 others, wool-growers of Lorain county, Ohio, asking protection on wool.

Also, the petition of D. A. Fenn, and 123 others, wool-growers of Ashland county, on the same subject.

Also, the petition of Daniel Musser, and 99 others, wool-growers of Ashland county, Ohio, on the same subject.

Also, the petition of J. H. Dudley, and 55 others, wool-growers of Henrietta township, Lorain county, for the same purpose.

By Mr. WILSON, of Pennsylvania. The petition of the physicians of Tioga, Tioga county, Pennsylvania, praying to be released from tax on medicines, &c.

By Mr. WOODBRIDGE: The remonstrance of E. W. Stoughton, William M. Everts, Daniel Lord, Charles O'Connor, James T. Brady, and 58 others, members of the bar, practicing in the Federal courts, against the passage of Senate bill No. 103, to reorganize the Federal judiciary.

IN SENATE.

TUESDAY, April 17, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

LIQUOR IN THE CAPITOL.

The PRESIDENT *pro tempore*. In compliance with the order of the Senate directing the Chair to appoint a committee of conference on the disagreeing votes of the two Houses on the concurrent resolution prohibiting the sale of spirituous liquors in the Capitol building and grounds, the Chair appointed Mr. WILSON, Mr. SHERMAN, and Mr. GUTHRIE.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received and been requested to present to the Senate a petition numerously signed from the sixth congressional district of Iowa, setting forth that certain persons in the interest of the Des Moines River Navigation Company, a corporation that the petitioners describe as a defunct corporation, are interfering with and making certain improper allegations in regard to the extension of the Dubuque and Sioux City railroad. They assert that the continuance and extension of that road is of great importance to that district and to the State of Iowa, and hope that these allegations will not be credited by Congress. This petition, if there be no objection, will be received and referred to the Committee on Public Lands.

Mr. HOWARD. I move that it be referred to the Committee on the Pacific Railroad. I think it more appropriately belongs to that committee.

The PRESIDENT *pro tempore*. It will be referred to that committee if there be no objection.

Mr. POMEROY presented the petition of William A. Carter, praying that he may be permitted to preëempt certain sections of land in Utah Territory represented to contain deposits of iron ore and bituminous coal, upon the condition that he construct thereon a blast furnace and foundry; which was referred to the Committee on Public Lands.

Mr. HOWE presented the petition of Joseph W. J. Holmes, sr., praying for compensation for property destroyed in Columbia, South Carolina, by the United States forces under General Sherman; which was referred to the Committee on Claims.

Mr. WILLEY. I offer the petition of certain residents of the town of Martinsburg, Berkeley county, West Virginia, members of the German Evangelical church of that town, praying for relief for the destruction of the church belonging to that denomination by fire during the recent rebellion while occupied by

the forces of the United States as quarters for troops. In offering this petition I desire to attract the attention of the Committee on Claims to it. The members of this denomination, the Germans of this country, manifested an unexampled fidelity to the Union during the progress of the war, and were most faithful to it in all sections, and suffered great persecution in the lines of the confederacy. These persons now memorializing Congress are no exception to the general rule. They have not only lost the house in which they worshiped, but they have been great sufferers from the effects of the war individually. I hope the Committee on Claims will give the memorial of these excellent gentlemen and most faithful citizens due consideration, and if it be possible, that the relief they ask for may be granted. I move that it be referred to the Committee on Claims.

It was so referred.

Mr. WADE presented the petition of Lizzie A. Jones and Samantha Jones, representing that they lost two brothers in the United States service during the late war, upon whom they were dependent for support, being totally blind, and praying that they may be allowed a pension; which was referred to the Committee on Pensions.

Mr. SHERMAN presented resolutions of the Legislature of Ohio in favor of such a modification of the laws now in force as shall clearly leave subject to State taxation national currency and all other obligations and securities of the United States not exempted from such taxation by a subsisting contract with the holders thereof; which were referred to the Committee on Finance.

Mr. BUCKALEW presented a petition of the American Slate Exchange, of Bethlehem, Pennsylvania, praying for a reduction of the tax on American slate and for an increase of the duty on importations of foreign slate; which was referred to the Committee on Finance.

He also presented a memorial of the Board of Trade of Philadelphia, praying for an appropriation by Congress to secure a full display of the products of our country at the Exposition to be held at Paris, France, in 1867; which was ordered to lie on the table.

Mr. NYE presented the petition of Joseph R. Morris, praying that the Commissioner of Patents may be authorized to issue to him a patent for a new and useful improvement in furnaces; which was referred to the Committee on Patents and the Patent Office.

Mr. BROWN presented the memorial of James A. Paige and others, late chaplains in the service of the Government, praying that the commutation for fuel and quarters drawn by them from June, 1862, to April, 1863, inclusive, may not be required to be refunded by them; which was referred to the Committee on Military Affairs and the Militia.

Mr. BROWN. I have received a letter from the Secretary of the Interior, transmitting a communication from the contractors for building the Center market-house on Pennsylvania avenue and Eighth street, inviting the attention of Congress to the subject, which I lay before the Senate, and move to refer to the Committee on the District of Columbia. It was sent by mistake to the Committee on Public Buildings and Grounds, of which I am chairman.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. CONNESS. I rise for a single moment, sir, to a question of privilege. I find in the Globe of this morning that after I left the Senate Chamber yesterday, pending a personal difficulty forced upon me here, the Senator from California [Mr. McDougall] went on with a long statement of a grievance that he professed to have against me dating as far back as 1852, which he said was the cause of his attack, as I understand the statement he made here. It would fully prove at least that the Senator had a good memory and held revenge better than he holds some other things.

Without dwelling upon this question, sir, I will briefly say that he alludes to a nomination of his, or a candidacy of his, for the House of Representatives in 1852, before the Democratic convention assembled at Benicia, in California, in that year; and he makes a long statement, in regard to which I have no personal knowledge, and most of which, I apprehend, exists only in his own fancies and brain. But he brings to my mind one material fact that I desire to put on record; and for that purpose I rise. I think it is more than probable that I was a member of that convention and would have supported him for Congress but that his chief advocate, the man who put him in nomination, was a notorious traitor, ex-Governor Smith of Virginia, who was then in our State for the express purpose of giving that State to the South as an outlet for the future confederacy. He aimed at political power there and was then laying its foundation, and the man who was put forward in that convention by Smith could not, under any circumstances, secure then any vote of mine, for my purpose in being a member of that convention was to offer all the resistance that I could to the schemes then in embryo and being developed there for the attempt to establish a southern confederacy at a later day, founded upon the corner-stone of slavery. I remember very well that I did reply to Smith in the convention, and thereafter opposed the nomination that he put forward, but that nominee was nominated and elected, and was a member of the House of Representatives in 1854, and, I believe, there voted for the celebrated Kansas-Nebraska act, which was a part of the beginning of the end. That is all that I desire to say on the subject, and I say it only that it may go as a part of this record.

REPORTS OF COMMITTEES.

Mr. SUMNER, from the Committee on Foreign Relations, to whom were referred two memorials of brewers of the United States, praying for a reduction of the duty on barley imported from Canada and the British Provinces in North America, so that it may not exceed the sum of five cents per bushel, asked to be discharged from their further consideration, and that they be referred to the Committee on Finance; which was agreed to.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Oliver Holman, late additional paymaster in the United States Army, praying that he may be relieved from all responsibility for money alleged to have been stolen from him while acting as paymaster at Boston, Massachusetts, submitted an adverse report thereon; which was ordered to be printed.

ALEXANDER THOMPSON.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 102) for the relief of Alexander Thompson, late United States consul at Maranhão, have had it under consideration, and have directed me to report it back with a recommendation that it pass. I think business would be facilitated if the Senate would act on this joint resolution at once. It will take but a minute.

By unanimous consent, the joint resolution was considered as in Committee of the Whole. It proposes to require the proper accounting officers of the Treasury Department to adjust and pay all proper accounts and claims of Alexander Thompson for salary and services as consul at Maranhão, in Brazil, in as full and ample a manner as if he had been a citizen of the United States while discharging the duties of the office.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed

the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 493) granting a pension to Mrs. Joanna Winans;

A bill (H. R. No. 494) for the relief of Martha J. Willey; and

A bill (H. R. No. 495) for the relief of Mary A. Patrick.

The message also returned to the Senate, in compliance with its request, the bill (H. R. No. 458) granting a pension to Sarah E. Pickell.

The message further announced that the House of Representatives had passed the following bills without amendment:

A bill (S. No. 201) for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana;

A bill (S. No. 241) directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner;

A bill (S. No. 252) granting a pension to Mrs. Sarah E. Wilson; and

A bill (S. No. 260) granting a pension to Mrs. Emerance Gouler.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 25) for the relief of Thomas Hurly;

A bill (H. R. No. 184) to authorize the sale of marine hospitals and of revenue-cutters;

A bill (S. No. 241) directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner;

A bill (S. No. 201) for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana;

A bill (S. No. 252) granting a pension to Mrs. Sarah E. Wilson; and

A bill (S. No. 260) granting a pension to Mrs. Emerance Gouler.

SARAH E. PICKELL.

Mr. JOHNSON moved to reconsider the vote by which the bill (H. R. No. 458) granting a pension to Sarah E. Pickell was indefinitely postponed on the 13th instant; and the motion was entered.

PATENT OFFICE REPORT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print ten thousand copies of the annual Report of the Commissioner of the Patent Office, to report it back with an amendment; and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the resolution, as follows:

Resolved, That there be printed for the use of the Senate ten thousand copies of the annual Report of the Commissioner of the Patent Office for the year 1865.

The amendment of the committee was in line two, to strike out "ten" and insert "four;" so as to read, "four thousand copies."

Mr. ANTHONY. I desire to say a word in regard to this amendment. It has been customary, ever since I have been connected with the public printing, to print ten thousand copies of the annual Report of the Commissioner of Patents. It is undoubtedly a book of very great value, and if it is proper for the Government to print any documents of this kind for popular distribution, which is a question that may well be considered, this is one of the most valuable. It is the history of the inventive genius of the country for the year that has gone by. It not only disseminates among the people a knowledge of what has been invented, but it stimulates the public ingenuity in all directions. Under ordinary circumstances of the Treasury, the committee would not recommend any reduction of the number to be printed, but probably would recommend an increased number, corresponding with the increase of population and mechanical development; but in the present condition of the Treasury it is deemed advisable that the great-

est economy should be used, and it is the determination of the committee to reduce this branch of public expenditure to the lowest point that is consistent with the public interest.

If this resolution and the amendment shall be adopted, I am instructed by the same committee to offer another resolution reducing the number of these documents for 1863 and 1864 in like proportion. Those have not been printed owing to the great pressure on the public Printing Office. If the resolution shall pass as amended, and the other resolution which I shall offer shall pass, it will effect a reduction of sixty per cent., or of eighteen thousand in the whole number of copies.

Mr. President, in this connection I wish to say a few words for the correction of some mistakes into which the country and the Senate have fallen with regard to the expenditures for the public printing. The documents which are distributed are mainly the reports of the executive Departments that contain the history of the Government for the year. They are the reports which the trustees of the people render of their stewardship. They contain a large amount of statistical and historical information of very great value, such as all Governments have been accustomed to put into a permanent form. They must be printed. These great reports as they come to us in manuscript are of no use; they are not accessible; members of the two Houses of Congress must have them in type or they might as well not be presented to them. When they are once put in type it is comparatively little additional cost to strike off copies for the State archives and for public libraries; and the importance of that is very evident, that these documents may be accessible for reference, and that they may be in various places for preservation and security against fire. Then there is another temptation, when this is done, which is liable to considerable abuse, to print large numbers of copies for popular distribution; and the impression seems to prevail throughout the country that this practice is now carried to a greater extent than it has been heretofore; and it is to correct this error that I wish to call the attention of the Senate to the cost of public printing for the last year.

I saw it stated the other day, in a paper of very large circulation, and of very high character, that "Pub. Doc." cost, last year, \$2,000,000. The idea intended to be conveyed, and doubtless entertained by the editor, was that we distribute annually \$2,000,000 worth of books among the people; and my friend from Indiana [Mr. Hendricks] the other day stated that the public printing had in some way risen from \$200,000 to \$2,000,000, and he seemed to call upon us for some explanation. This, coming from a Senator generally so accurate as my friend from Indiana is on all matters unless when he is talking on politics, is calculated to produce some impression on the Senate.

The cost of the public printing is undoubtedly a great deal larger than it was, and the reasons for it are too palpable to require more than enumeration. In the first place the country has increased. The same increase that the growth and progress of the country require in all other departments is naturally to be expected to be required in the department of printing, and rather more perhaps with a progressing and enterprising people like ours, because printing may be regarded almost as a type of civilization, and the more progressive a people are the more printing they will require.

Then the war has enormously increased the amount of public printing. The printing that would answer for an army of ten or twenty thousand men that were lying around in barracks would be manifestly but a very small percentage of that required for a million men engaged in active operations all over the country, and very often in a large degree officered by inexperienced men who would naturally waste more blanks than an instructed officer would require for his use.

A still greater cause of the increase in the

cost of printing is the increase of the cost of paper, of labor, and of all the materials entering into printing. Paper has been two and a half prices; I suppose paper is now about double what it was before the war, and it has been three times more than it was before the war. The same is also true with all the materials for binding, although the Government has not suffered so much as might have been apprehended from this cause because the contracts have been made at very low rates by the Superintendent, and, as all his contracts have been made with men reliable and men of high reputation, and they have fulfilled their contracts in the most honorable manner at considerable loss to themselves.

The Senator from Indiana spoke of a time when the printing was \$200,000 a year. I do not know when that was. The average cost of the printing of the Thirty-Third, Thirty-Fourth, and Thirty-Fifth Congresses, the three last Congresses under the contract system, was \$374,000 a year. That was for the Senate and House of Representatives alone—the printing, paper, and binding. The whole printing now for the Senate and House of Representatives and for all the Executive Departments is not \$2,000,000; in round numbers it is \$1,750,000—a little less than that. Now, sir, let us see how much of that is the printing of Congress. The first item is for the War Department, \$484,000. That is something more than a quarter of the whole.

Mr. CONNESS. Of course that belongs to this period of the country.

Mr. ANTHONY. Certainly, it will not be continued; but for the present year it will cost a great deal on account of the mustering out of so many men. It is not an annual expenditure but it goes in to make up the \$1,750,000 which is called two millions.

The next great item is the Treasury Department; that is \$264,000. The printing of the Treasury Department, of course, must be immensely greater for a revenue of four or five hundred millions, drawn from every department of industry and almost every department of life, going in and counting a man's silver spoons and requiring returns of them, than it was for an income of \$80,000,000 drawn from customs. This item of \$261,000, instead of diminishing will doubtless increase, because the internal revenue increases, and as the southern States are becoming objects of taxation a large amount of printing will be required for the revenue officers there, for, I believe, whatever differences of opinion may exist about admitting the southern States to a share in the representation, the blackest Republican does not mean to deny them the blessings of taxation. The printing for this Department, therefore, instead of diminishing will increase.

Another item is the Post Office Department, which is more than \$100,000. The Department of Agriculture is \$45,000; the Judiciary is \$28,000; the Interior Department is the modest sum of \$25,000. All of these sums I have no reason to doubt are necessary and the amount is economically expended. This reduces the cost for Congress alone, for the two Houses, for the printing, paper, and binding, to \$690,000. The cost for the same items for the Thirty-Third, Thirty-Fourth, and Thirty-Fifth Congresses was \$374,000 a year. Six hundred and ninety thousand dollars to-day will not do as much printing as \$374,000 would then, nothing like it, and the reason why we can do for \$690,000 now what required only \$374,000 then is because it is done now much more economically. There was a large profit to the contractors in the smaller item, and there is none in the larger item.

Take the printing alone, leaving out the paper and the binding, of which the prices have risen enormously—the amount now paid for the Senate is \$50,000, against \$67,000 six years ago, and the amount for the House of Representatives is \$75,000, against \$125,000 six years ago, the average of the six years preceding the establishment of the Government Printing Office. The whole printing now of both

Houses of Congress, leaving out the paper and the binding, the printing alone is \$125,311 46, against \$192,782 49 under the old system, when everything was a great deal cheaper than it is now, showing a saving of over twenty-five per cent.

No such documents are printed now as the Pacific Railroad Reports, the Japan Expedition, and the Mexican Boundary Survey. The Mexican Boundary Survey Report cost \$80,000, and the Pacific railroad publication cost three quarters of a million. I do not know what the Japan expedition volumes cost, but the money that was expended on these three publications would have placed a good library in every congressional district in the United States.

The Treasury blanks, which are printed at the public Printing Office, I think might be printed more economically elsewhere, for printing is very high here, but there is a particular reason for having them all printed here. It is very desirable that the blanks should be identical; it is very desirable for the detection of errors and frauds that the returns which are made to the Treasury Department should be precisely the same, such as the clerks are familiar with looking over, all over the country, and many of them are printed in duplicate, one set being bound in the Department and the other set sent out, and when the returns come in it requires less clerical labor for the examination, and the examination can be conducted with a great deal more accuracy, and gives much better opportunities for authenticating the returns.

I have made these remarks, Mr. President, because I did not wish to see Congress laboring under the imputation of great extravagance where it has really induced important economy. I need not say after these remarks that I consider the establishment of a Government Printing Office as a very economical arrangement for the Government. I tremble to think what would be the bills brought in upon us if all this printing was done now by contract, if we were at the mercy of contractors for the printing of the various blanks and forms that have been made necessary during the war, the prices of which could not be stipulated for in advance; and I should not do justice to my own feelings and to a very faithful officer if I did not say that I think the Superintendent of Public Printing is one of the most economical, careful, and faithful officers that I ever came in contact with. His whole object is to reduce the expenditures of his department as much as possible, and to reduce the amount of printing ordered by Congress, constantly persuading us to do it, and also to print the executive work at the lowest price that is compatible with its accuracy and with the efficiency of the public service. The printing is done now a great deal better than it ever was before and a great deal cheaper.

The amendment was agreed to.

The resolution, as amended, was adopted.

Mr. ANTHONY. I am instructed by the Committee on Printing to offer the following resolution, and to ask for its present consideration:

Resolved, That the number of copies heretofore ordered of the Reports of the Patent Office for the years 1863 and 1864 be reduced from ten thousand of each to four thousand of each.

Mr. CLARK. I think that had better lie over.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over.

Mr. ANTHONY. I would make one suggestion to the Senator from New Hampshire. The whole number will have to be printed pretty soon, if at all. The resolution, the Senator is aware, is to reduce the number from ten thousand to four thousand, and the work is now upon the press, and unless the reduction is made now the Superintendent will be obliged to go on; therefore I shall call it up to-morrow.

Mr. CLARK. I do not know that I am opposed to it, but I think I would like to talk with the Senator a little about it.

Mr. ANTHONY. Very well. I have no objection to let it go over.

BILLS INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 66) for the relief of Joseph R. Morris; which was read twice by its title, and referred to the Committee on Patents and the Patent Office.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 268) to prevent and punish the manufacture and use of false, forged, or counterfeited brands, stamps, and stencils; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 67) to provide for the erection of fire-proof buildings at the Schuylkill arsenal, near Philadelphia; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. SPRAGUE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 68) providing for a change of name of certain forts and Government works; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 269) to define the number and regulate the appointment of officers in the Navy; which was read twice by its title.

Mr. GRIMES. I desire to say, in connection with the fact that I introduce that bill, that it has been drawn at the Navy Department, and is accompanied by a letter from the Secretary of the Navy, which I desire to have printed and laid on the tables of Senators in connection with the bill. I desire further to say that I do not feel myself committed to the provisions of the bill which I have submitted, but I have presented it to the Senate for its consideration in compliance with the request of the Secretary of the Navy. I move that the bill be referred to the Committee on Naval Affairs, and that the letter of the Secretary of the Navy be printed.

The motion was agreed to.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 270) securing to non-resident litigants the benefit of the jurisdiction of the United States courts, in the States lately in rebellion, in certain cases; which was read twice by its title, and referred to the Committee on the Judiciary.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 69) making an appropriation to enable the President to negotiate treaties with certain Indian tribes; which was read twice by its title, and ordered to lie on the table.

Mr. DOOLITTLE. I will say to the Senate that I desire to take up this resolution to-morrow morning. It is a very important matter, and is based on facts that have just come to my knowledge from the Interior Department.

LAKE PORTAGE SHIP-CANAL.

Mr. POMEROY. I move to take up for consideration Senate bill No. 193, which was originally reported from the Committee on Commerce, considered at length in the Senate, and then referred to the Committee on Public Lands, who have reported it back in a new draft. The amendment only need be read, because it is a substitute for the original bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 193) to amend an act entitled "An act granting land to the State of Michigan to aid in building a harbor and ship canal at Portage Lake, Keweenaw Point, Lake Superior," approved March 3, 1865.

The PRESIDENT *pro tempore*. It is moved that the substitute reported by the Committee on Public Lands be read instead

of the original bill, and that order will be taken unless some Senator asks for the reading of the original bill.

The Secretary read the amendment of the Committee on Public Lands, which was to strike out all of the bill after the enacting clause, and to insert the following in lieu thereof:

That there be, and hereby is, granted to the State of Michigan, to aid in the building of a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior, in addition to a former grant for that purpose, approved March 3, 1865, two hundred thousand acres of land in the upper peninsula of the State of Michigan, and from land to which the right of homestead or preemption has not attached: *Provided*, That one hundred and fifty thousand acres of said lands shall be selected from alternate odd-numbered sections, and fifty thousand acres from even-numbered sections of the lands of the United States. Said grant of lands shall inure to the use and benefit of the Portage Lake and Lake Superior Ship-Canal Company, in accordance with an act of the Legislature of the State of Michigan, conferring the land granted to the said State, by the act hereby amended, on said company: *And provided further*, That the time allowed for the completion of said work and the right of reversion to the United States under the said act of Congress, approved March 3, 1865, be extended three additional years.

Mr. POMEROY. I notice that in the amendment as printed there is an omission of a proviso in regard to the mineral lands. It should have been in the amendment, but through some mistake it has been left out. I therefore move to amend the amendment by adding as an additional proviso the following:

Provided further, That no mineral lands shall be included within this grant.

Mr. CONNESS. I suggest to the Senator that he should define "the mineral lands" in inserting that clause; otherwise it would include all minerals.

Mr. POMEROY. In States like Michigan, where there never have been any precious metals, we have always confined ourselves to the use of the words "mineral lands;" but in those States where the precious metals are found, we designate the mineral lands as containing precious metals.

The PRESIDENT *pro tempore*. The amendment of the committee will be modified as suggested by the Senator from Kansas, and the question is on the amendment as modified.

The amendment, as modified, was agreed to.

The bill was reported to the Senate as amended; the amendment was concurred in.

Mr. POMEROY. There is a clerical error in the eighteenth line of the amendment. The word "to" should be substituted for the word "on;" so as to read, "to said company."

The PRESIDENT *pro tempore*. That correction will be made, being merely a clerical mistake.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. The title of the bill was amended so as to read:

A bill granting lands to the State of Michigan, to aid in the construction of a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior, in said State.

Mr. POMEROY subsequently said: I ask leave to enter a motion to reconsider the bill (S. No. 193) to amend an act entitled "An act granting lands to the State of Michigan, to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior," approved March 3, 1865, which passed this morning during the morning hour. There is a mistake in the bill. I merely want to enter a motion to reconsider.

The PRESIDENT *pro tempore*. That motion will be entered.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Pensions:

A bill (H. R. No. 493) granting a pension to Mrs. Joanna Winans;

A bill (H. R. No. 494) for the relief of Martha J. Willey; and

A bill (H. R. No. 495) for the relief of Mary A. Patrick.

ADMISSION OF COLORADO.

Mr. WILSON. I move to take up the motion entered by me some time since to reconsider the vote by which the bill to admit Colorado into the Union was defeated.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is, Will the Senate reconsider its vote rejecting the bill (S. No. 74) for the admission of the State of Colorado into the Union?

Mr. GRIMES and Mr. JOHNSON called for the yeas and nays, and they were ordered.

The Secretary proceeded to call the roll, and Mr. ANTHONY answered to his name.

Mr. BROWN. If it is proposed that a reconsideration of this vote shall take place, as a matter of course or of courtesy I do not wish to contest such a course although doubting its propriety, but I do not wish any acquiescence on my part to be construed into an approval of the joint resolution in favor of the admission of Colorado with its present constitution. I was sick and absent in Philadelphia when the vote was taken on this proposition before, or I should have voted against it. As it is, if enabled to be present whenever the vote may again be taken, if it is to be reconsidered, I will unquestionably oppose it. The chief objection which I wish to state—not that there are no others—is that the constitution under which it claims admission contains a clause denying the right of suffrage to persons on account of color and race. I will never indorse by any vote of mine in this Senate any such odious discrimination, and as I propose to exercise my constitutional right in that behalf in regard to other States of the Union which have lately been in rebellion, so I am willing that the political reform, the assertion of this fundamental principle, should begin in the house of my friends, and apply first to the admission of Colorado.

Mr. SUMNER. I hope the Senate will not reconsider that vote.

Mr. TRUMBULL. There has been an answer to the roll-call.

Mr. SUMNER. I beg the Senator's pardon; I think no answer was given.

Mr. BROWN. I voted.

Mr. ANTHONY. I voted twice; the Senator from Missouri once.

Mr. SUMNER. I was called out of the Senate for one minute, and during my absence this motion has been made; I do not know by whom.

Mr. WILSON. I made the motion. I did not know that my colleague was absent.

Mr. ANTHONY. If the Senator from Massachusetts wishes to address the Senate on the subject, I hope he will be allowed to do so by unanimous consent.

Mr. RAMSEY. He can do it just as well on the bill when it comes before us.

Mr. GRIMES. He has a right to do it on the motion to reconsider. The Secretary called the name of the Senator from Rhode Island and he answered before the Senator from Missouri rose to his feet to explain the vote he was about to give. The Senator from Missouri was permitted to give that explanation, and now I suppose the same courtesy might with equal propriety be extended to the Senator from Massachusetts.

Mr. TRUMBULL. The Senator from Missouri says his name was called and he answered.

Mr. GRIMES. So had the Senator from Rhode Island been called, and he answered before the Senator from Missouri's name was called.

Mr. TRUMBULL. As I understand it, the Senator from Missouri was called, and when his name was called he rose and explained his vote.

Mr. GRIMES. He had no right to do that.

Mr. TRUMBULL. Perhaps not if anybody had objected.

Mr. GRIMES. He was permitted to do it, and now the Senator from Massachusetts ought to have the same privilege.

Mr. TRUMBULL. If the Senator from

Iowa desires to hear the Senator from Massachusetts, I shall not object. The rule of the Senate, I believe, has been, when there has been a response not to allow debate afterward.

The *PRESIDENT pro tempore*. Such is the rule of the Senate. After the call of the yeas and nays and a Senator answers, the rule of the Senate is that debate ceases. The Senator from Iowa, however, is right, in the opinion of the Chair, in point of fact, that the name of the Senator from Rhode Island had been called, and his answer was heard by the Chair. When the Senator from Missouri's name was called, he made a few words of explanation, no Senator objecting. The Chair then directed the call to proceed. The call again commenced, and the Senator from Rhode Island had answered, and simultaneously with his answer, or perhaps immediately after, the Senator from Massachusetts addressed the Chair and was recognized. If the point of order, however, is made, the Senator from Massachusetts, under the rule, is not entitled to be heard.

Mr. SUMNER. Does the Chair decide that—

The *PRESIDENT pro tempore*. The Chair does not understand that any Senator makes the point of order objecting to the Senator from Massachusetts proceeding. The Chair simply stated that if the point of order should be made, the Senator from Massachusetts would not be entitled, under the rule, to be heard. According to the practice, however, which has been adopted in the case of the Senator from Missouri, the Senator would be entitled; but still no point of order was made then. The Chair did not feel called upon to enforce the rule as against the Senator saying a few words of explanation, and he would not now as against the Senator from Massachusetts, and does not understand that any one now makes the point of order. The Chair therefore recognizes the Senator from Massachusetts.

Mr. SUMNER. Mr. President, I hear Senators about me say, "Make your speech after the motion to reconsider has been adopted." I have no speech to make, but I wish to meet this question on the threshold, frankly and sincerely, with my most earnest protest. I feel that the Senate will make a great mistake if they proceed to reconsider this vote. The question was amply discussed on a former occasion; it was considered in every possible aspect. The condition of the Territory of Colorado was exposed; its want of population was exhibited, and its constitution having in it the word "white" was also exhibited to the Senate. On those grounds I felt it my duty then to oppose the admission of that Territory as a State into this Union. I opposed it then as earnestly as I could, believing it my duty as a Senator; fully satisfied that it would have been a fatal mistake for us to admit it. Having acted as I did then, I feel that I should be untrue to myself if I let slip any opportunity to resist the effort to introduce this Territory into the Union at this time, and under the present circumstances of the case. I hope, therefore, that the Senate will not proceed to reconsider the vote that, to their honor, they have already recorded. They did well when, on a former occasion, after a two days' debate, by a large vote they deliberately refused to receive this Territory into the Union. Has anything occurred since to cause a change of opinion? Is there any new evidence? Are there any new facts? Is there anything which can change your responsibilities or which can make you see your duty in a new light? Has that constitution been amended? Has the word "white" been struck out of it? Why, sir, at this moment the most important practical question before the country is, whether we shall allow the word "white" to be in the constitutions of the late rebel States. Sir, with what just weight can you insist that the word "white" shall be excluded from those constitutions when you yourself deliberately receive into the Union a new State which has that principle of exclusion? I say, therefore, for the sake of my country, for the sake of public tran-

quillity, for the sake of those fundamental principles on which so much depends, and which, whether as Senator or citizen, I can never forget—I appeal to you, sir, and to my associates on this floor, not to allow this question to be revived. Let Colorado wait at least until she recognizes the Declaration of Independence.

The *PRESIDENT pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 238.

Mr. WILSON. I should like to have a vote on this question, and I move to pass over that bill for a short time.

Mr. CLARK. I have no objection if we can come to a vote immediately on this matter, but I do not want the special order to lose its place.

The *PRESIDENT pro tempore*. The unfinished business will be laid aside informally if there be no objection.

Mr. COWAN. I hope not. This is an important question, and it has not been discussed by everybody.

Mr. WILSON. Well, let it pass over.

Mr. CHANDLER. I move that the special order be passed by informally for the purpose of allowing us to finish this motion to reconsider.

The *PRESIDENT pro tempore*. Objection being made to an informal postponement, it will require a motion to postpone the special order.

Mr. CHANDLER. I make that motion.

The *PRESIDENT pro tempore*. It is moved to postpone the present and all prior orders in order to continue the consideration of the motion to reconsider the vote on the bill for the admission of Colorado.

Mr. GRIMES. I trust the Senators who are so anxious that Colorado should be admitted will allow this measure to go over until there can be a fuller Senate than there is to-day.

Mr. WILSON. I propose that it shall go over until to-morrow morning.

The *PRESIDENT pro tempore*. The Senator from Michigan makes a motion to postpone the present and all prior orders.

Mr. CHANDLER. I withdraw the motion. Let it go over.

PROTECTION OF UNITED STATES OFFICERS.

The *PRESIDENT pro tempore*. The bill (H. R. No. 288) to amend an act entitled "An act relating to habeas corpus and regulating judicial proceedings in certain cases," approved March 8, 1863, is before the Senate as in Committee of the Whole, the pending question being on the amendment reported by the Committee on the Judiciary.

Mr. NYE. I think when we adjourned yesterday we were upon the naval bill, and I had the floor upon that question.

Mr. CONNESS. This was a subsequent arrangement.

Mr. NYE. I did not hear it.

Mr. CLARK. I called up the bill to make it a special order. That was the very object of moving to take it up, and then to adjourn.

Mr. NYE. That was a very sharp thing.

Mr. CLARK. Not at all sharp. It is the usual practice of the Senate.

Mr. NYE. I move to lay that order of business aside, and take up the bill relating to the iron-clads.

Mr. CLARK. I hope that will not be done; let us not lay aside this public business for what may be considered the private business of individuals.

Mr. NYE. That is important public business, relative to the construction of the iron-clads.

Mr. CLARK. This is a matter of a great deal of importance. I understand that in one State there are some three thousand suits which are to be reached by this bill.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Nevada to postpone the present and all prior orders and take up the bill referred to by him.

Mr. TRUMBULL. I hope not. The bill which the Senator from New Hampshire calls

up is one of public importance and one of urgency. I think my friend from Nevada himself, when he knows what the bill is—his attention has not been turned to it—will consent that it shall come up. It is a bill to protect loyal men from prosecutions and suits for acts done in obedience to orders in putting down the rebellion. There are at this time, I understand, several thousand suits pending against loyal men who have committed no offense and done no act except in obedience to orders of superior officers. They are now being sued and prosecuted in the courts of Kentucky and other States, and this is a bill which has passed the House of Representatives and is of a public character; and it is due to the men who hazarded their all to save the country that we should protect them from prosecutions and suits for simply doing their duty. I hope that we shall go on with it.

Mr. NYE. At this point I should like to have the question of priority established a little. The Senator from Ohio, [Mr. WADE,] when I had the floor on the amendment offered by the Senator from Iowa [Mr. GRIMES] to the bill in relation to the contractors for iron-clads, moved that that question be laid aside until to-morrow (to-day) at one o'clock, to which I consented. Afterward, as the Senate was about to adjourn, the Senator from New Hampshire slipped in this bill. I merely want to learn what the practice is, that hereafter I may avail myself of it if I desire to get priority. I supposed that when the Senate made an order that the naval bill should go over until to-day at one o'clock, it meant what it had said.

Mr. CLARK. I do not quite like the expression of the Senator from Nevada that I had slipped the bill in, implying that I had done it for the purpose of defeating his bill. The Senate will remember that the Senator from Ohio made the motion to postpone the navy bill, the bill which was under consideration, and to proceed to the consideration of the bill chartering a company for the sewerage of this city. He moved to postpone the navy bill until one o'clock to-day, but it was not made a special order, and if it had been made a special order the unfinished business would override that special order.

Mr. NYE. That is what I want to learn.

Mr. CLARK. The Senate will bear me out in the assertion that when I moved to take up this bill the Senator from Massachusetts [Mr. WILSON] said, "You are not going further, Mr. CLARK;" and I said that I wanted to take up the bill so that it might be in order for to-morrow, (to-day), and the Senate thereupon took it up and put it in order for this time. There is no "slipping" about it. It is the deliberate order of the Senate taking up the bill at that time.

Mr. NYE. You slipped me.

Mr. CLARK. But it is before the Senate in its order.

The *PRESIDENT pro tempore*. The question is on the motion of the Senator from Nevada to postpone the present and all prior orders and proceed to the consideration of the bill named by him.

Mr. CLARK called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 17, nays 14; as follows:

YEAS—Messrs. Anthony, Buckalew, Cowan, Doolittle, Howard, Howe, Lane of Kansas, Morgan, Sumner, Nye, Poland, Ramsey, Riddle, Stewart, Sumner, Wade, and Yates—17.

NAYS—Messrs. Clark, Conness, Edmunds, Foster, Johnson, Kirkwood, Lane of Indiana, Pomeroy, Sherman, Sprague, Trumbull, Van Winkle, Willey, and Williams—14.

ABSENT—Messrs. Brown, Chandler, Cragin, Creswell, Davis, Dixon, Fessenden, Grimes, Guthrie, Harris, Henderson, Hendricks, McDougall, Morrill, Norton, Saulsbury, Wilson, and Wright—18.

So the motion was agreed to.

CONTRACTORS FOR VESSELS AND MACHINERY.

The Senate accordingly resumed, as in Committee of the Whole, the consideration of the bill (S. No. 220) for the relief of certain contractors for the construction of vessels-of-war and steam machinery; the pending question being on the amendment of Mr. NYE to the amendment of Mr. GRIMES.

The amendment of Mr. GRIMES was to strike out all after the enacting clause of the bill and insert in lieu of the words to be stricken out the following:

That the Secretary of the Treasury be directed to pay, out of any money in the Treasury not otherwise appropriated, to the several parties the awards made in their favor by the naval board organized under the resolution of the Senate adopted March 9, 1865, the awards being made under date of December 23, 1865, and reported to the Secretary of the Navy; *Provided*, That the payment shall not, in any case, exceed twelve per cent. upon the contract price, except in the case of the Camanche, in which case the award shall be paid in full.

The amendment of Mr. NYE to this amendment was to strike out "twelve" and insert "fifteen."

Mr. NYE. Mr. President, in calling the attention of the Senate to this bill by the motion just made, I did not intend to press it in advance of any other more important measure; but I deem it quite important to the country, and especially important to these contractors, that they should know as soon as possible the exact condition in which they are to stand.

A little more than a year ago this Senate adopted a resolution authorizing and directing the Navy Department of the Government to appoint three competent persons to ascertain the actual cost to the contractors of the vessels and steam machinery that had been accepted by the Government. I assumed then that the Senate conceded one point, that by authorizing the board to do that duty they conceded that the Government were at least equitably bound to pay the actual cost of these vessels and machinery to the contractors. In introducing that resolution I had no other object in view than to ascertain the exact cost of these vessels and the machinery, so that at this present session of Congress the subject could be acted on understandingly. We assumed, of course, that the Department would appoint such a board as in all of its constituent parts would make a perfect whole to ascertain that fact; and we rested upon that supposition. They appointed that board and the board have reported. Their report has been the subject of investigation by the Committee on Naval Affairs, and as the Senator from Indiana [Mr. HENDRICKS] has said, received the careful consideration of the sub-committee to which it was referred. They came to the conclusion that it was no more than an act of justice on the part of this Government to pay to the contractors the actual cost of the labor they had performed.

Sir, it seems to me in all its phases to be eminently just. The whole system of this mode of naval construction was new. The Government itself knew very little about it, and the contractors as little as the Government. But an absolute necessity existed for the construction of these ships; the necessities of the Government were such that, cost what they might, it must have them, and the ships have answered well the end for which they were constructed. I think I can say in truth that there is no class of men who have been engaged on Government contracts that have displayed a nobler spirit of self-sacrifice and patriotism to the Government than those men who vied with each other to see who could construct the best and most efficient vessels-of-war. At any rate the Government had determined to have this class of ships, and made its contracts for them in 1862 and 1863, and from that time until the period of their completion the reasons are ample and very clearly set forth why there must of necessity have been a great increase in the cost of the work. The Government acknowledged this. The Government acknowledged that it did not know itself what it did want and was constantly retarding the work on these ships by alterations from the specifications in the contracts.

It is patent to us all that from 1862 to 1864 not only the price of labor, but of every material which enters into the construction of a ship, almost doubled in cost. So accurate were the board that had this matter under investigation, that they required of these contractors that they

should give the price of labor per hour during every month that they were engaged in the construction of these ships. Upon that point there is no question that the statements rendered are true and perfectly reliable; they come to the Committee on Naval Affairs certified by the president of the board as correct and true.

The Senate will bear in mind that these contractors were invited and required to appear, not before a tribunal of their own choosing, not before a tribunal where they had the opportunity of even choosing one member; but the Government itself fixed the tribunal, and required and demanded the presence of these contractors before that board, in compliance with the resolution that the Senate had adopted.

Then, sir, there are two things which the Government had done. The Senate had passed the resolution, and the Navy Department had acted under that resolution. A board was organized, and before it these men were required to appear. That board was diligent in its business, and sat from June until December, and it required these contractors to come before it and present their claims. Was the Government in earnest with these contractors, or was it trifling with them? Was this all to go for naught and the judgment of the board to be reversed and the Senate of the United States to sit as a court of appeals for the purpose of reversing the judgment of the board appointed by the Government itself? Sir, the committee to which this subject was referred felt that our inquiries need go no further than to ascertain what was the actual cost of these vessels. To ascertain that, a board of inquiry had been sitting for five months, and we took the report of that board as evidence of the cost of these ships. It seems to me that that is just. When a poor mechanic or contractor has gone on to do work for the Government, and has, as my friend from Iowa [Mr. GRIMES] said yesterday, involved not only all his own fortune but the fortune of his friends in the construction of these ships, and when the Government by a tribunal of its own has declared that the cost of these ships was so much, it seems to me that the Government is estopped from going back of the judgment of the tribunal of its own selection.

Sir, are we to be told that this Government is too poor to be just? Are we to be told here that this tribunal had not sufficient ability to determine what the cost of these ships was? I have observed that whenever a tribunal is appointed by this Government to ascertain what is due from the Government it is exceedingly exacting, exceedingly careful, and it is very rarely that a mistake is made in giving the applicant or contractor more than he ought to receive. I approve of that care and of that scrutiny, but I assert that when a judgment is rendered in favor of a claimant this Government should be controlled by it.

The Senator from New Hampshire, [Mr. CLARK,] always careful, always vigilant, and exceedingly scrutinizing, denounced this as an omnibus bill. Sir, here are just as many bills as there were double-enders and iron-clads that were accepted by this Government. He fears that an unjust bill is to be carried through on the back of just bills. In answer to that, let me say there is no greater probability of there being danger of one bill helping another, in the bill as it is presented, than though there were forty separate bills. I therefore dismiss that suggestion made by the Senator with that simple explanation.

The Senator from Iowa, the chairman of the Committee on Naval Affairs, proposes to give these contractors twelve per cent. in addition to their contract price. I do not think that that mode of relief is as just as the other; I do not believe that it will be as equitable to all these parties, and for this reason: by that proposition some will get more, perhaps, than they would get under the award as it has been rendered, and some will get greatly less. Some will get more than they ought to have, and others will get less than they ought to have. It seems to me that when the amount which is due these contractors for the actual

cost of their work is ascertained, that is the exact measure of justice which the Government ought to mete out to them in a spirit of magnanimity.

Mr. GRIMES. The Senator is mistaken as to my amendment. As the amendment is drawn they cannot get more than the award; but where the award is more than twelve per cent. they get the twelve per cent. If the award is less than twelve per cent., they will get the amount of the award, whatever that may be.

Mr. NYE. Then I understand the Senator to say that the award may be less than he proposes to give.

Mr. GRIMES. The award is less than twelve per cent. in several instances. In those instances, under my substitute, if adopted, the parties will only get the amount of the award, which may be two per cent. or five per cent.; but in the other cases where the award exceeds twelve per cent., those contractors will get the twelve per cent.

Mr. NYE. I thank the Senator for his explanation; it simply shows that, after all, he puts great confidence in this award as being right, and I assume that there is no other basis that can be right as between these contractors and the Government but that resting upon the award of this tribunal constituted by the Government itself. It is therefore that I object to the amendment, but if that mode of relief is to prevail—and I know the power of the distinguished chairman of the Committee on Naval Affairs, and feel great embarrassment in attempting to go against anything that he desires—if that must be guarded as he says the amendment is, "that no person shall receive more than the amount of the award in any case and shall be paid by a percentage, I insist upon it that my amendment should prevail, to insert "fifteen" instead of "twelve" per cent. If the representations of these contractors are to be relied upon, their sufferings in a pecuniary and financial point of view have been very great. They have subjected themselves to large payments of interest, have had many anxious hours and days in regard to it, involving their friends' property in the issue. It seems to me that upon every principle of justice this Government ought to pay the contractors the actual cost of the work done by them.

This is not an isolated case, or one peculiar to our own Government. I have taken occasion, since this question came up, to examine a little into the proceedings of the English Government at the time of the Crimean war. They needed vessels of a different kind from those which had been usually employed, and the rule they adopted where contracts were made in a hurry, not knowing what the additional cost would be resulting from the necessity of speedy construction, was to pay the contractor the cost. Can this Government or its representatives afford to see the grand crash that will be made in individual fortunes, rather than step up and say that the contractors shall receive what the labor and materials actually cost them? A man would hardly be tolerated to live as a good citizen in a neighborhood who would get a contract which was oppressive and ruinous on his neighbor and so use it as to crush him; and surely this nation can afford to be as magnanimous as individual is to individual.

But we are told by the Senator from Iowa that this is only the beginning of the end, that there are other claims. I have not taken occasion to investigate that fact; I have not thought it material. If this claim rests upon the principles of equity and justice, and there are other claims resting upon the same foundation, this nation, in view of its own dignity, in view of its own sense of justice, ought to meet them. Our Navy is not a thing of a day. It has done more to defend our national honor and our national integrity and has given a more noble exhibition of our national genius and enterprise than any other arm of the service used during the war; and it has made old England sing in subdued accents that she is mistress of

the sea. From the day that the little Monitor went down to Hampton Roads and sank the rebel craft, or so shattered her that she had to take herself back to her moorings, the character of the American Navy has attracted the admiration of the world. I believe sincerely that these contractors have tried to do the best they could, not for their own advantage, but for their country's glory, and to establish the fact that the character of the American Navy that was being built had more in it than any other navy that had ever been built.

Now, sir, we have this Navy, and I submit to the Senate, I submit to the country, whether it is not worth all that it has cost. I care not, sir, what its cost may be; we have a Navy now that admonishes the world that we are prepared for offensive and defensive warfare with a naval force such as no other country can boast. Much of the credit of this achievement is due to the noble patriotism and magnanimity of the contractors who built these ships, and they will stand as a monument to the genius of American skill and enterprise when those who are talking about them to-day will have been forgotten.

Sir, I insist upon it that the report of the board is the fairer, truer, and less liable to mistake than the proposition submitted by the Senator from Iowa in his amendment; but if that basis must be surrendered, if that proposition, mathematically certain, must be given up, I insist upon it that the amendment of the Senator from Iowa should be amended by inserting fifteen per cent. instead of twelve per cent. These contractors have given the cost of every nail and spike and bolt. The cost of every item in the construction of the vessels, from the laying of the keel to their completion, is here before us. I am unwilling that this Government should say to them, "Notwithstanding it cost you so much, we will give you a portion only of what the work cost you." If you adopt the principle that the Government is liable and should be held responsible to any extent, the whole ground is yielded. If the contractors are entitled to anything, they are entitled to what the work cost. Either reject the entire principle and say you will not pay at all, or give them the actual cost of the work. I appeal to the magnanimity of the Senate, the representative of the great nation whose Navy this is, not to send these men beggarly away, and let not the only return they get for their patriotism and energy be an expression of ingratitude from the representatives of the people of this country.

Mr. HOWARD. I desire to put a question to the Senator from Nevada in reference to the basis on which this claim is made. Were not the contracts regularly made with each one of the firms mentioned in this bill, for the construction of these iron-clads, and were not the prices fixed by the contracts; and where does it appear that the Government of the United States is bound either in law or on principles of honor to pay them more than was required by their contracts? I understand that the object of this bill is to supply deficiencies of that kind, and to indemnify contractors who claim that the work cost them more than the contract price. I wish some information on this subject from the honorable Senator from Nevada.

Mr. NYE. These contracts were made in 1862 and 1863, at a time when labor was at a given price. The vessels were to be completed within a certain time specified in the contract; but the Government admits the fact, and it is shown in the report, that for various reasons by the operation of governmental direction they were retarded in their work, and much of it was not completed until 1864, when the price of almost every article they had to use had doubled.

Mr. HOWARD. Did not the contractors themselves contemplate that this delay might be produced by the direction of the Government, and had the contractors therefore any ground to complain of the delay produced in that manner?

Mr. NYE. When they contracted to build a ship in a hundred and fifty days or a hundred

and twenty days, I take it they did not understand that the Government was to change the model, change the machinery, or to order such alterations as would require more than the time prescribed in the contract for the performance of the original work, to make the alterations, as it appears in this report was done in a number of instances. Five hundred thousand dollars worth of extra work was done on one vessel.

Mr. HOWARD. Then I understand from the Senator from Nevada that the Government insisted on some fundamental changes in their mode of construction.

Mr. NYE. In a large number of cases.

Mr. HOWARD. Necessarily increasing the cost of the work.

Mr. SHERMAN. I ask if that was not in all cases paid for.

Mr. NYE. The extra work was paid for; but the time it took to do the extra work was as great as the contract time for doing the whole work.

Mr. SHERMAN. Still all the increased cost on account of the extra work was paid for, as I understand.

Mr. NYE. I understand so, except in one case; but that does not change the principle. The point is that time was essential, and that every month that rolled around increased the cost of doing the work. On one ship extra work to the amount of \$500,000 was ordered, which took more time to perform than it would have required to make the original construction. The question of time is important in two views. The price of labor by the hour doubled and the cost of materials almost doubled. Almost all the materials which they had necessarily to use advanced in price from seventy-five to one hundred per cent. In another case, as appears by the report, the contractors did not receive the draft for the machinery until after the contract time for the completion of the work had expired, and as the Department say in the letter to them, it was owing to the hurry of business in the Department. In every one of these cases there is a reason rendered, and a reason that has been entirely satisfactory to the Navy Department. The Department accepted the work as evidence of their satisfaction. They took it when completed; and that is the highest evidence of their satisfaction with the work, both with regard to time and with regard to quality. Therefore the suggestion which the Senator from California [Mr. CONNESS] made yesterday falls to naught. It is not at all unusual, but usual, when ships-of-war go from here, and especially new ones, to the Pacific coast, to send them to the dry-dock on Mare Island to be overhauled and repaired.

Mr. President, I do not desire to occupy the time of the Senate, or to keep the more important measure, as it is deemed, of the Senator from New Hampshire from being acted on. I have only to say that the report in this case was carefully drawn and is the result of mature deliberation by the sub-committee. If the Senate, after the suggestion of the chairman of the Committee on Naval Affairs, proposes to pay a percentage, I think it ought to pay at least fifteen per cent. upon the contract price. If the figuring of my distinguished friend from Iowa is correct, and I have observed that he never figures so as to pay out very much money, fifteen per cent. will give almost a million dollars less than the board reported that the work cost the contractors. It seems to me that a million less ought to satisfy the Government. If such a reflection is at all sweet, I think the reflection that it has had and is now enjoying the benefit of more than a million dollars hard earned by days of toil and anxiety ought to satisfy the most voracious. If it is required here, under the lead of my distinguished friend from Iowa, that these men shall contribute a million, let that suffice; but I insist upon it that he shall not by his twelve per cent. proposition take half a million more from them which their families and their own interests require that they should have. I submit to the justice of the Senate that when it is shown by figures that the Gov-

ernment have reaped where they did not sow, to the amount of \$1,000,000, that ought to satisfy at least a sensible, honorable body of men who take justice for their standard and equity as their rule.

Mr. GUTHRIE. Mr. President, I have difficulties about this bill on two points. It is avowed here as a rule that we are to pay the cost of this work, though it exceeds the contract price. Are we to establish the precedent that nobody that contracts with the Government is to lose; that Congress will make up any loss? That is a pretty broad precedent to make, particularly at this time, or, indeed, at any time. Another question involved is that you guaranty by this action the value of the currency, or in other words you guaranty them against the increase of war prices during the time they are fulfilling their contracts.

I should not like the Senate to establish either of these principles, that the contractors with the Government of the United States are to be paid the cost of their work without regard to the contract price, or that they are to be indemnified for the depreciation of the currency and against the increase of war prices. All that is embraced in the resolution that was passed by the Senate at the heel of the session last year, authorizing the Department to form this board to pass upon the cost of the vessels. If I was making laws to last for all time to govern a people, I would make no such rules and regulations. I have been, to a limited extent, engaged in public works; and my experience has been that there is a difference in the talent, ingenuity, and skill of contractors. One man or one set of contractors will do their work, pay all their hands, and make money, and upon the same description of work and at the same prices another set will fall short and not be able to pay their hands, and fail in the end. Why is this? It is on account of the superior energy and skill of some, their power of combination, and their ability to apply their means to the end in view, the accomplishment of the work. If I can understand these reports, that has been the case in some of these contracts. Under precisely the same circumstances some have complained of no losses and others have complained of pretty heavy losses.

Now, we know what ship-builders are, as well as what they should be. Give them the dimensions of a ship, and the character of the vessel, and they know what quantity of timber is needed; they know what iron is necessary and the amount of labor necessary to accomplish it. They can make their estimate of what it will cost them, and allow for a fair profit, including their capital in machinery and in the investment; and as intelligent men they do make their estimates and their bids accordingly. We know the immense fortunes that some of these ship-builders have made, and yet we know that there are others who fail, and so it is in all the avocations of life. Men of skill, energy, and judgment are the prosperous men; men who lack skill, lack energy, and lack judgment are the men who fail in the affairs of this world.

Now, sir, I am unwilling (and that is my difficulty about this bill) to make the rule that this Government is to answer for whatever a contract may cost the individual to accomplish the work, without regard to the contract price. They are sagacious men; they make their calculations upon the character of the currency and the chances of its depreciation. They know the effect of war and how it changes prices; and that, too, if they are fit for their avocations, enters into their calculations when they bid. I believe all these specifications required them to make additions and alterations before the completion of the work; and that was within their contemplation at the time they made these contracts. It may be true, and no doubt is true, that they have been delayed by these alterations, by the large additional work that was required to be done; but for this additional work they were paid under the contracts. They may not have been paid for all the delays, all the damages that were

done them. They could not have foreseen the extent of this additional work. They may have supposed the designers of these vessels understood their business and had made the designs carefully, and that the alterations would be but small and immaterial. An alteration that would cost an additional \$500,000 certainly was not within the contemplation of any contractor, because it never should have been allowed by a Department that understood its business in relation to the building of vessels.

Mr. HENDRICKS. Will the honorable Senator allow me to make a suggestion?

Mr. GUTHRIE. Certainly.

Mr. HENDRICKS. I think there is force in his suggestion so far as regards ordinary contracts; but I think it is due to the Department to say, as is stated in this report, that the building of these ships was to some extent and almost altogether in this country an experiment, and the Department had to avail itself of all possible experience, and as improvements were found necessary they had to be made. Therefore I suggest to the Senator that it is not like the construction of a ship upon old plans, and I have not been able to see that even in the case to which he refers the Department was in fault.

Mr. GUTHRIE. Mr. President, every special case that appeals to the Treasury, has its *placebo*, its excuse for failure. The building of iron vessels was no new thing—no new thing in America, no new thing in Europe. We are not to suppose that our officers made the plans without information as to how far the science had progressed in other countries. I do not impeach them with any such want of judgment and skill as to suppose that they went on blundering ignorantly without knowing what had been done in other countries.

I have no question in my own mind that most of these men have lost money; I think they have lost money, principally because of the alterations that were made; and I should be glad to have some criterion devised upon which I could vote for settling their bills, so that we might be done with them.

The difficulty I have is in coming up to the point that this Government is to establish now and forever the principle that no man who contracts with it is to lose, and that it is to act upon the principle hereafter that the contract price is not to be the rule of compensation. If the contractors then swell the cost of work that they have undertaken to perform, it is nothing to them. They will not care how high wages go, for Uncle Sam is to pay.

I will not agree to establish that principle; but still these men have suffered by the change of plans and the additional time required to do the original work, throwing them into more expensive times. I would be willing to furnish a criterion of compensation if I knew what it was. The chairman of the Naval Committee seems to fix upon twelve per cent.; the Senator from Nevada fixes it at fifteen per cent. I should like to have these bills settled at the one or the other, and that we should be done with them; but I beg you, gentlemen, not to establish the principle that a contractor with the Government is never to lose, let his work cost him what it will. Such a rule would not do in private life among individual citizens. In extraordinary cases of hardship or of difficulty, individuals, who are able to do so, compensate the contractor beyond the contract price. That is an appeal to his own sense of equity and justice on account of the misfortune of the man who has made the contract. But when we come to make general rules and declare the general principle that we are to compensate all these men, we take from them their interest in the result of their work and we are to pay the bills.

Allusion has been made to the depreciation of the currency, and that is urged as an argument in favor of this bill. Why, sir, there is no intelligent man but what takes that into consideration in making a contract. He estimates the cost and the hazards that he will incur. All those things are within his contemplation at

the time. If you are going to make compensation for the difference between the contract price and the value of the money when it was paid, to all the soldiers who received your pay, to all the officials to whom you paid salaries, and to all the contractors who contracted to deliver to you on time all the supplies for the Army and Navy that have enabled this country to carry on the most stupendous war that has happened in our time, or that I hope ever will happen on the continent of America, it will be an endless and ruinous job, and you will never be done settling the cost of this war.

I do not wish to set up my judgment against the judgment of anybody. If it is the sense of the Senate that it should extend its hand to relieve the calamities of the contractors who have failed, be it so; but I have seen enough of this case to see that some of these parties have failed in the construction of precisely the same class of vessels in regard to which other parties have made no complaint, thus showing that the failure in the one case was owing to the want of skill and knowledge of the contractor and not to any fault of the Government. There is no period in the history of the nation, when you are carrying on a great war or great constructions and improvements, that this same thing will not happen—some will fail while others make money.

I felt bound to say this much on these few points. I am not willing to establish the rule that we will compensate every contractor for the cost of the work that he contracts to do, or that we will take into consideration the difference in the value of money and the value of labor during the whole period of the contract; but still, wherever the loss has been occasioned by the action of the Government in delaying the specifications or requiring additional work that could not have been fairly calculated upon when the contract was made, I think there is ground for equitable compensation, and I feel willing and ready to vote for it.

Mr. GRIMES. I only rise to set the Senator from Kentucky right in regard to one thing. I think, in the first place, that he is mistaken in supposing that so many of these cases are predicated upon the loss that has been sustained by the contractors in consequence of alterations made by the Navy Department. But the inference would be drawn from what he has said that the conduct of the Navy Department in the construction of these vessels was rather of a blundering character, and that they ought not to have directed changes to be made; and he says that these are not the first iron vessels that have been built; that they have been built before. That is true. Iron vessels have been built before; but no such vessels as we have built have been built before; and almost all of the attachments to these vessels have been compelled, necessarily, to be altogether of a different character from what was before known. In the first place, it required a great deal of time and ingenuity and a great many experiments in order to determine which was the best character of a rudder to apply to these monitors. Then there were constant changes made in order to obviate the defects which were found to exist in the original Monitor, so as to prevent the great overhanging which was doubtless the cause of the sinking of the original Monitor. Then it was exceedingly difficult to arrange the compass, and many experiments were made and considerable delay occasioned in consequence of the variation caused by the action of the iron on the deck of the vessel upon the compass. They finally devised a way of raising the compass on a high staff and having a card on which it could be read down in front.

If the Senator will go with me down here to the navy-yard I will show him two monitors, one of which was built in 1862, and another one built recently, the *Tonawanda*, and he would hardly suppose that the original Monitor that was built in 1862 was the prototype and original of the perfect vessel that is now lying at the wharf. These changes have been going on gradually. Every battle

that has been fought, every storm that they have encountered, every experienced and capable man who has commanded one of them has made some suggestive changes, and where those changes have met the approval of the proper advising officers of the Navy Department, although a vessel might be upon the stocks, availing themselves of the clause in the contracts which authorized them to change the specifications of the contract, they have done so. Manifestly it was the interest and the duty of the Government to make such changes. I am happy to be able to say, and I think the Senator will concur with me if he has consulted with any naval gentlemen and entertains the same opinion with them, I am happy in being able to say, what is my own honest conviction, that we have to-day the most perfect iron vessels in the world; and they have all sprung out of a defective original vessel, and all been perfected through those changes which have been gradually going on in these various ship-yards, either private ship-yards or our own.

I rose, Mr. President, not for the purpose of controverting or entering into a discussion of the merits of this proposition, but simply not to let it be inferred that I acquiesced in what might possibly be drawn as a conclusion from the Senator's remarks, that I believed there had been any improper blundering in regard to these iron-clads. I know that the Navy Department have made mistakes, I know they made most egregious mistakes in regard to one class of vessels not included in this bill. I am not here to defend those mistakes; but I am here to defend every improvement and change that has been made toward making a perfect ship-of-war, which I think we have done.

Mr. SUMNER. Mr. President, I am happy to agree with the Senator from Kentucky in the fundamental principle which he has laid down and developed so clearly. I agree with him that by no legislation of ours must we recognize the principle that contractors with the Government may never lose. The Senator cannot state that proposition too strongly. But I part company with him when he undertakes to apply the proposition to the present case. We agree on the proposition; we disagree on the application.

Had these contracts been in a period of peace, then there would have been occasion for the application of the proposition of the Senator; but they were not in a period of peace; they were in a period of war. The Senator himself has characterized the war as perhaps the greatest in all history. If they were not precisely in a period of war, they were in those early days which were the heralds of war. The practical question for us as legislators is, whether we can shut our eyes to that condition of things. The times were exceptional; and surely the remedy must be exceptional also.

I have said, had it been a moment of peace, then the Senator from Kentucky would be right, and we should not be justified in exercising the influence which we have over the public Treasury in opening it for the relief of these contractors. But, sir, war is a great disturbing force. What force in human society, what force in business, is more disturbing? Wherever it goes it not only carries with it death and destruction, but the derangement of business, the change of pursuits, the interference with the currency, and generally the dislocation of the common relations of life. You cannot be blind to such a condition of things. You must not shut your eyes to its consequences. If you do so you cannot do justice to the case that is now before you.

I repeat, therefore, did these contracts grow out of a period of peace I should not be here now to advocate them; but it is because they grew out of a period of war that I insist that those who have suffered by them shall enjoy that same justice which we are making haste to accord to all who have contributed to our success in that terrible war. Why, sir, how often do we plead in this Chamber for justice to all who have contributed to our success! It

is my duty constantly to plead here for justice to those freedmen who have done so much and placed you under undying obligations. I hope I am not indifferent also to those national creditors who have supplied the means which helped your triumph; nor yet again to those soldiers, whether on land or sea, who have so powerfully served the national cause. But there is still another class, for whom no one has yet spoken on this floor, who have contributed to your success not less than the soldier or the creditor; I was almost about to say not less than the freedman; I mean the mechanics of this country. They, sir, have helped you to carry on this war to its victorious close. Without the mechanics where would you have been? What would have been your equipments on the land? Where would have been that marvelous navy on the sea? It was the skilled labor of this country, coming so promptly to the rescue, which gave you that power which carried you on from victory to victory.

Now, sir, the practical question is, whether these mechanics, who have done so much to turn the tide of battle, shall be losers by the skill, the labor, and the time which they devoted to your triumph? Tell me not, sir, that they acted according to their contract. To that I reply, the war disturbed that contract, and it is your duty here, sitting as a high court in equity, to review all the circumstances of the case and to see in what way the remedy may be fitly applied. You cannot turn away from the equities of the case. You cannot treat it literally and severely according to the precise terms of the contract. You must go into those vital considerations which arise out of the peculiar circumstances of the case.

There are several facts which are obvious to all. They have been alluded to already in this debate. A Senator on the other side of the Chamber has alluded to them. In the first place, there was the general increase in the price of labor and material that ensued after these contracts were made. Nobody doubts that. There was, then, in the second place, another fact somewhat connected with the first. I mean the change in the currency. There was, then, in the third place, what has been alluded to several times, the changes made in the models of these vessels at the Navy Department, which necessarily imposed upon these contractors additional expense and labor. Then there was another circumstance to which my attention has been directed latterly—I believe, however, the Senator from Iowa alluded to it yesterday—that at the moment of the war, when labor was the highest, when it was most difficult to obtain it, there came an order from the proper authorities exempting those who labored in the arsenals and public yards of the United States from enrollment. Of course all who were then working in private yards or with contractors, naturally, so far as they could, hurried under the national flag that they might become workmen there and thus obtain exemption from enrollment. I have here an order from the Navy Department which I believe has not yet been introduced into this debate, and which I will read. It is introduced by an order from the War Department, as follows:

[Circular No. 28.]

WAR DEPARTMENT,
PROVOST MARSHAL GENERAL'S OFFICE,
WASHINGTON, D. C., July 25, 1864.

Skilled mechanics and operatives employed in the armories, arsenals, and navy-yards of the United States who shall be drafted, and, on examination, held to service, will not be required to report for duty under such drafts so long as they remain in the aforesaid service, provided the officer in charge shall certify that their labor, as mechanics or operatives, is necessary for the naval or military service.

JAMES B. FRY,
Provost Marshal General.

Then comes the supplementary order from the Navy Department, as follows:

In accordance with the provisions of the circular, should "skilled mechanics and operatives" employed in the yard be drafted, the commandant will certify to the Provost Marshal General that "their labor as mechanics or operatives is necessary for the naval" service. The exemption from military duty continues only so long as the drafted persons are employed in the navy-yard; and should either of them leave

for any cause the fact will be immediately reported to the Provost Marshal General. The commandant will decide what operatives come within the provisions of the circular.

Very respectfully,

GIDEON WELLES,
Secretary of the Navy.

TO COMMANDANTS OF NAVY-YARDS.

Mr. KIRKWOOD. What is the date of that?

Mr. SUMNER. "Navy Department, 13th of August, 1864."

Mr. KIRKWOOD. Now, I should like to ask, at what time were these contracts given out for the building of these ships? In 1862, I believe.

Mr. SUMNER. In 1862 and 1863.

Mr. KIRKWOOD. What proportion of the work, then, was done after the issuance of this order?

Mr. SUMNER. That I am not able to say.

Mr. KIRKWOOD. We ought to know that, in order to see what effect that order is to have on our deliberations.

Mr. CLARK. Many of them were finished a year before that.

Mr. SUMNER. But I take it they were not all finished at that time. Surely they were not. This order illustrates very plainly the disturbing influence from the war; and this brings me again to press this point upon your attention. I mention certain particulars in which this appeared; but I wish to bring home to your minds the controlling consideration that we were in a time of war, vast in its proportions, and most disturbing in its influence. This alone is enough to account for the failure of these contractors to complete their contracts. We were not in a period of peace, and you err if you undertake to hold these contractors to all the austere responsibilities to which you might properly hold them in a period of peace.

The Senator from Kentucky said that they took the war into their calculations. Perhaps they did; but who among these contractors could take that war adequately into his calculations? Who among those sitting here or at the other end of the avenue properly appreciated the character of the great contest that was then coming on? Sir, we had passed half a century in peace; we knew nothing of war or of war preparations, when all at once we were called to efforts on this gigantic scale. Are you astonished that these contractors did not know more about the war than your statesmen? Be to these contractors as gentle in judgment and as considerate as you have been to others in public life who have erred in their calculations with regard to it.

I have said that the interest now in question was the great mechanical interest of the country. It is an interest, let me add, that is not local, as this bill is for the benefit of mechanics in all parts of the loyal States, from Maryland in the South to Massachusetts and Maine in the North and East, and then stretching from New York on the sea-board to Missouri beyond the Mississippi. I have here a list of the States interested, through different contractors, in this very bill. I will read it: Maine, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Ohio, Illinois, Missouri, and even California. The interest for which I am now speaking crosses the mountains and goes to the Pacific ocean.

I said that this was the skilled labor of the country. What labor more valuable; what service, while the war was going on, more important! If these mechanics did not expose their persons in the peril of battle, they gave their skill to prepare others to achieve the victory. It was in ancient times that the oracle said to the city in danger, "Look to your wooden walls." The oracle in our country said, "Look to your iron-clads and your double-enders;" and these mechanics came forward and by their generous labor enabled you to put those iron-clads and double-enders on the ocean, and thus to secure the final triumph. The building of that invulnerable navy was one of the great victories of the war, not to be commemorated on any special field, but to

be seen in those mighty results which we all now enjoy.

And now again I ask, are you ready to see these contractors who have done this service sacrificed? You do not allow the soldier to be sacrificed, nor the national creditor who has taken your stock. Will you allow the mechanic to be sacrificed? There are many of them who, without your help, must suffer. One of the most enterprising and faithful in the whole country is a constituent of my own, who during the last year has been obliged to go into bankruptcy from his inability to meet liabilities growing out of the war, and at this moment he finds no chance of relief except in what a just Government may return to him. My friend on my right [Mr. Nye] asked you to be magnanimous to these contractors. I do not put it in that way. I ask you simply to be just. Do by them as you would be done by.

The Senator from Nevada also very fitly reminded you of the experience of other countries. He told you that England, at the close of the Crimean war, when her mechanics had suffered precisely as your mechanics have suffered, did not allow them to be sacrificed, but every pound and shilling of all their liabilities under their contracts was promptly met by that Government. Will you be less just to your mechanics than England? It is an old saying that republics are ungrateful. I hope that this Republic may certainly vie with any monarchy in gratitude to those who have served it. You have shown great energy in meeting your enemies. I ask you to show a commensurate energy in doing justice to those who have contributed to your success.

Now, sir, the practical question remains, what shall be paid? I, of course, shall vote for the amendment of the Senator from Nevada raising the percentage in the proposition of the Senator from Iowa to fifteen per cent; but I am free to say that does not satisfy me. I prefer the report of the committee, and I will tell you precisely why. I prefer it because it is founded on the judgment of a court. I do not use the language hastily. I say it is founded on what for practical purposes may be called the judgment of a court. It was by a resolution of this body that a commission was constituted of honorable gentlemen having the confidence of the country, one of them an eminent commodore in the Navy; another a paymaster, and another an engineer; three gentlemen who from their education and position were supposed to be peculiarly competent to deal with such matters, and to them these cases were submitted. They sat as a tribunal for months; they listened to all the evidence that was brought before them; and you have now before you their final judgment. They were a court of claims created by yourselves to deal with these cases.

Mr. KIRKWOOD. I should be glad to call the attention of the Senator to the fact that the board was constituted for this purpose:

"To inquire into and determine how much the vessels-of-war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work."

They were organized for the purpose of ascertaining just what the cost was, not concerning the question whether it ought to be allowed or not. It was a mere question of dollars and cents, a matter of figures. It does not touch the question whether we should make the allowance that they report.

Mr. SUMNER. I do not pretend to say—I hope my friend will understand me—that their report is, technically, in the form of a judgment of a court; but I do submit that under the circumstances of the case it is to be taken by us as of similar value. It is the finding of a tribunal created to consider this very question. Sir, do we not almost every day act on the judgment of the Court of Claims, sitting in another part of this building? We accept their deliberations, and do not undertake to open their judgments, except in rare cases. I do not mean to say that the Senate may not open the judgment of the Court of Claims, nor

do I say they may not, if they choose, open the finding of this tribunal which has been constituted under a resolution of the Senate; but I submit that you have before you a proper authority for your conclusion, and I ask you, why go behind their report, especially when that report is commended by the Navy Department itself, and by the Naval Committee of the Senate?

The case seems to me to be unanswerable; it is impregnable. I put it, first, on the ground of original equity, growing out of the abnormal condition of war; in the second place, I put it upon the ground that it has been heard and considered by a tribunal practically of your own selection; and I may add, in the third place, that all this has been admitted and recognized by a committee of your body. I hope you will not hesitate to do justice.

Mr. HENDERSON. I suppose the Senator from Massachusetts is perfectly familiar with this report, and as I know but little about it I rise merely for the purpose of getting some information in order to guard myself in my vote. I desire to ask him if the board constituted under the resolution of the Senate heard any evidence whatever beyond that which was presented by the contractors themselves. I call his attention to the minutes of the board:

"The board, after a critical examination of the bills of cost presented by the several contractors for vessels and steam machinery contracted for in the years 1862 and 1863, who have appeared and made sworn statements, has determined the excess of cost in the several cases, over and above the contract price and allowance for extra work, to be as follows."

The minutes of their proceeding do not show that they heard any testimony whatever except that which was brought by the contractors themselves, the bills of cost which they presented and which they swore were the bills that entered into the construction of these vessels. I ask the Senator if he has any information on that subject, whether they were authorized, or whether they did take other testimony than that which was presented to them? I suppose they were authorized to do so.

Mr. SUMNER. I will say to my friend that I have no information beyond what appears in the report.

Mr. HENDRICKS. If the Senator from Massachusetts will allow me, there was other evidence taken by the board. What was the entire evidence before the board is not communicated in the record of the board, but in reading the record of the board I find that there was additional evidence to that of the contractors themselves taken.

Mr. HENDERSON. Upon what points?

Mr. HENDRICKS. Upon the character and cost of the work.

Mr. HENDERSON. By whom were the witnesses suggested?

Mr. HENDRICKS. The board took the testimony of naval constructors. I believe they are officers in the Navy.

Mr. CLARK. I will inquire if there was anybody else examined besides these constructors and officers connected with the Navy?

Mr. HENDRICKS. I do not understand these constructors to be contractors. They are officers of the Navy.

Mr. CLARK. Certainly, I understand that; but I do not find in looking over the report that anybody beyond those were summoned as witnesses.

Mr. HENDRICKS. I am not prepared just now to say that there was anybody beside these naval constructors.

Mr. CLARK. I do not see any in the report.

Mr. HENDERSON. Although my friend from Massachusetts has made a very earnest speech in favor of allowing these claims, and from which I was very much struck with the merit (as I supposed) of the claims, yet he seems not to be perfectly conversant with the whole case. I think he is rather generous on this occasion, and jumps at the conclusion that these contractors are entitled to something too readily. It springs, however, from his magnanimous and generous nature, I think. I

desire, therefore, to ask the Senator from Indiana, who seems to have given attention to this subject, whether these contractors contracted for other vessels than those named in this report of the committee during the existence of the war between 1861, the time of its commencement, and 1865, the time of its close.

Mr. HENDRICKS. I believe that the board has given us no evidence upon that question; but I understand that some of these contractors did construct other vessels, and some did not. For instance, I understand that the Messrs. Secor constructed either four or five vessels, I do not know which, and their claim here is for three. I did hear, though from no authentic source, that Messrs. Eads & Co., of St. Louis, did some other work for the Government beyond that mentioned in this bill, but what that work was I do not know.

Mr. HENDERSON. My reason for asking the question springs from the fact that I noticed in the report that Mr. James B. Eads, of St. Louis, who deserves a great deal of credit for his industry and energy in the construction of vessels in the early part of the war, is allowed by this board for constructing the Milwaukee, which was constructed at St. Louis, \$30,438 84, and they allow him on the Winnebago \$29,174 20, making an aggregate of \$59,613 04, which they suppose is the loss he has sustained in the construction of these two vessels. According to my understanding Mr. Eads constructed some five or six vessels for the Government. Am I to understand that if Mr. Eads made money upon the other contracts he is entitled to be paid for his losses upon these two vessels? I understood from Mr. Eads, who is a very highly honorable gentleman indeed, that upon one or two vessels he had lost some money, but I surely did not understand from him that he lost money upon all the vessels that he constructed. My understanding was quite to the contrary; and if we are to allow large sums of money for losses sustained in the construction of some vessels I cannot see why there should not be a set-off at least of the amount of profits made upon other vessels constructed by the same parties. My friend from Indiana tells me that the Messrs. Secor, who are allowed for large losses by this report, constructed other vessels. Am I, by my vote, to allow them a large amount of money to reimburse them for losses upon the vessels named here without knowing what amount of profit they made upon other vessels? I do not know but that the contracts were all taken together; probably they were all taken together; and it is surely a very dangerous precedent, as stated by the Senator from Kentucky, to make these allowances when the parties have really made large sums out of the Government upon other contracts.

The Senator from Massachusetts says that this is a court that we have established to investigate this matter; and he asks, do we not take the reports of the Court of Claims? Certainly we do, but the Court of Claims was established by act of Congress. Was this board established by a joint resolution of Congress? I do not so understand. We are acting upon the supposition that this is an inferior court, and that its decision is binding upon us, and that we must necessarily allow these claims. Why so? This was nothing but a resolution of the Senate, adopted on the 9th of March, 1865, making it the duty of the Secretary of the Navy to organize this board, and directing them to make a report. It was no law of Congress, and this board had none of the attributes of a court. In fact, their proceedings did not possess the solemnity that should attach to a court, and of course we are under no obligations whatever to pay their awards. I understand that this was a mere preliminary proceeding to ascertain the amount of loss sustained by these parties, and if they did sustain any loss, then to open the courts to them, so that there might be an investigation and the amount found due paid.

If the Senators who are urging the passage of this bill will bring in a measure to open the

Court of Claims to these parties, not to investigate their legal claims against the Government, because they have none, but to ascertain the amount that is equitably due to them, I am perfectly willing to vote for it. If they have sustained losses on all their contracts taken together with the Government during this period of time, I am perfectly willing to open the doors of a court where they may be heard; but I am wholly unwilling to adopt the proceedings of this board and call it a court binding upon me. Why, sir, I have no evidence before me, nor has any gentleman yet stated that such evidence is before us or can be produced, that this board went outside of the representations of these parties themselves except what was stated by the Senator from Indiana, who always states his positions correctly, that experts, men learned in this business of building ships, were introduced perhaps to testify as to the general cost of these things.

Let us look at this report for one moment. Here is the contract for the Winnipeg:

"The contract for the Winnipeg was made August 21, 1863, to be completed in eleven months; but the vessel was not completed and accepted until March 20, 1865."

Why was that? I see that the parties in this case are allowed every dollar that they claim. The Government is allowed nothing on account of this delay. This board awarded to these parties \$63,715 41 for losses, and yet the vessel, which was to have been completed in eleven months after the contract was entered into, which would have been in June, 1864, was not completed until the war had nearly closed. I see no sufficient excuse for that.

Here is the case of the monitor Camanche. What amount do these gentlemen say we must allow them? One hundred and seventy-nine thousand nine hundred and ninety-three dollars and eighty cents, the amount of loss, as we are told, sustained by these contractors. What was that contract? It was made June 20, 1862, and the vessel was not completed and delivered until January, 1865—not more than two or three months before the war was concluded. I know that some reasons are stated why the work was delayed, but when we come to look at those reasons they are unsubstantial.

I will now refer to the iron-clad Onondaga. We are told on the sixth page of the report that—

"The contract for the iron-clad Onondaga was made May 26, 1862, and was completed February, 1864; the contract price was \$625,000, the cost claimed was \$710,156 51, and the award \$85,203 91."

Now, let us see what the committee say was the cause of this delay:

"The delay in the completion of the vessel was occasioned by 'scarcity of labor, difficulty of obtaining materials, strikes, and having to close his shop for two months on account of mobs in the summer of 1863.'"

Was it in consequence of any action of the Government? Was it in consequence of the depreciation of the currency? There is not a word said about that; but we are told that it was owing to the scarcity of labor, the difficulty of obtaining the materials that entered into the construction of the vessel, and strikes. Why, sir, these things all occur, and they are things, as was very justly said by the Senator from Kentucky, that contractors always take into consideration. Is the Government to be responsible for these things? Surely not. I do not wish to take up the time of the Senate. If these parties have lost money I really want to allow them something. I do not ask that these parties shall be broken up, or that they shall be ruined when they were doing the best they could, and acting very much as the Government itself was acting, (as was very correctly stated by some Senators,) in the dark, in the construction of these vessels. I am unwilling under all the circumstances that they shall lose if they have lost; but what evidence have we that they have lost?

Mr. COWAN. Was not that the purpose for which this board was created, to ascertain the amount of the loss?

Mr. HENDERSON. I presume so; but surely it has none of the sanctity of a court.

The Senator from Pennsylvania is too good a lawyer to insist upon anything of that sort; and as I understand, this was a mere preparatory proceeding to see whether any legislation should be had on the part of Congress to open the doors of the courts. These parties cannot go now into the Court of Claims and claim damages or ask to be reimbursed for these losses, because they have no legal right to go there. But if they have sustained losses, let us go to work and legislate so that they may be reimbursed; but how? Are we to take as conclusive this proceeding? I do not understand, as the Senator from Pennsylvania will see on the first page of this report, that there was any evidence taken except the statements of the contractors and the bills that they produced.

I do not charge anything corrupt or anything fraudulent upon these contractors, but I do not know that all these bills that are produced by the contractors went into these identical vessels. They were constructing other vessels. I do not suppose that the bills show what vessels the different items were contracted for. The bills do not show into what vessels the items went. As I have shown already in one case, as I understand, Mr. Eads contracted for five or six vessels, and it seems he lost but upon two. I know that Mr. Eads is an honorable gentleman; I am personally acquainted with him; and I know he would not present bills containing items that went into other vessels; but I do not know these other parties; and I will not act even in favor of Mr. Eads, although he is an honored citizen of my own State, until I know that he made nothing upon the other vessels that he constructed for the Government. Such surely is not now my understanding. It may be so. I have had no conference with him on this subject except what I have mentioned, and that occurred a year or two ago.

Now, Mr. President, notwithstanding these contractors may have lost something, I think we ought not to act here in a matter of so much importance, a matter involving over two million dollars, without knowing whether we are disbursing it for the proper parties or not, without knowing that it is justly their due and whether they are entitled to it as men who have done so well as the Senator from Massachusetts claims. I recognize their claims. I recognize the great service they have rendered to the Government. But I apprehend that the most of them undertook this work with a view of making something upon it, that they made the contracts with a view of making money; and, as has been very properly said, these men are shrewd, capable men. They know very well how to make their contracts. If there was any action of the Government which caused them to lose, if by taking, as in the case of the *Camanche*, the machinery that was provided for that vessel and putting it in another vessel, they were delayed in the construction of the vessel and loss was occasioned in consequence, I am perfectly willing to allow for it; but I will not allow it upon the report of this board. I cannot do it. I do not understand that it was appointed by a joint resolution of Congress. I do not understand we are under any obligation whatever to confirm the awards made in their report. I do not understand that they have taken evidence such as they ought to have taken. I do not understand that both sides of this case have been heard. It is exceedingly difficult to get the truth even when both sides are heard, but you never get the truth when only one side has been heard, and I see nothing to satisfy me that more than one side has been heard in this whole investigation. It is yet to be shown that such is the fact. I have not seen it, and I have yet to learn it. No gentleman has stated it on the floor; and yet this bill is pertinaciously urged upon us. I cannot vote for it, and I hope other Senators will not vote for it until we are better prepared to do so.

Mr. SHERMAN. Mr. President, the importance of this bill arises not only from the amount of money involved in it, which is

\$2,250,000—a very large sum of money—but also from the principles upon which it is founded, and especially since the statement made by the honorable Senator from Massachusetts. He admits the correctness of the general rule of law that parties may enforce contracts fairly construed, without any hardship, and if losses occur to the contractor it is his loss; if, on the other hand, profits are made, it is his benefit. That rule is applied to all contracts for the Government by individuals, and no one feels it to be a hardship.

But the honorable Senator from Massachusetts now states that during this war, and by reason of this war, this principle of law cannot be applied and ought not to be applied. If that is true, then there is no end and no limit to the claims upon the Government. If that is true, the same claim that is made in this case may be made in behalf of every person who has furnished oats or hay or corn or supplies of any kind to the Army or Navy. It will apply to every class of claims that is made against the Government. It may be applied to every officeholder of the Government, to every person whose salary has been fixed on a specie standard, to every person whose expenses have been changed by the existence of the war. It would apply to all classes of contracts as well as to mechanics.

Now, I venture to say that there has been no time in the history of America when the mechanics of this country have been so prosperous and have made such large sums of money as they have during the recent war. Great activity has been given to all branches of industry. Every man who has had a shop or who has been engaged in mechanical employments has had constant occupation. All classes of industry have been made prosperous by the demands arising out of the war. The absence of laborers in the field of battle, the absence of ordinary competition, the vast supplies needed by the Government, and the purchase of everything that enters into the consumption of human life were so great during the war that all classes of business men have been prosperous. I venture to say further that the very class of men for whose relief this bill has been provided have been more prosperous during this war than ever before. It is a matter of common remark that they have made large sums of money. Nearly all the wealthy manufacturers have become more wealthy; and this has extended not simply to those articles consumed by the Government, but to all articles of manufacture. There is no class of the people of this country for whom the Senator from Massachusetts could with less force appeal for sympathy than for the mechanical and manufacturing interest of the country, simply because by the extent and nature and character of the war they have had constant occupation and employment without the ordinary competition.

Now, the question arises whether we shall deliberately indorse a principle by which every contractor of the Government may claim from us the losses he has sustained on one particular contract. If the rule was applied generally, and you attempted to ascertain the loss of the individual and reimburse that loss, that would not be so heavy; but that is not the case here. Here a particular class of vessels is selected, and it is shown that the contractors have lost money upon those vessels. Now it may be that these same contractors, as I know is the case, because I know some of these contractors, have made very large sums of money on other contracts with the Government. It is not proposed to deduct those profits; it is not proposed to make an equitable rule upon the *quantum meruit* principle, and giving them only what is properly and justly and fairly their loss in all their transactions with the Government, but you are to select a particular class of contracts, a particular class of vessels, on which there has probably been a loss of some two millions, and you are to reimburse that loss, leaving them to enjoy all the profits they have made on their contracts with the Government.

I venture to say that every person who owned a machine shop in the city of New York or Philadelphia, or the State of Ohio, who has been employed directly or indirectly in the manufacture of the muniments of war, has made several times the cost of his entire property before the war, if he has managed with ordinary skill, simply because those works have been constantly employed. And yet, because these particular contractors have lost money in the building of a certain class of vessels, you propose to reimburse that loss. It seems to me we ought not to enter upon such a field. I am staggered at the probable results of such a policy. If this bill passes upon the ground on which it is now placed by members of the Senate, we shall have claims without end, and you cannot resist them. There have been cases where persons contracted to deliver hay at fifteen dollars a ton and have paid twenty-five dollars a ton for it. Contracts have been made for oats, for wheat, for transportation, for supplies, for all kinds of muniments of war. Why do you not apply the same principle to those class of cases? You cannot resist them, if you once adopt this rule. I, therefore, am not prepared, on a question involving so large an amount as this particular case, and a principle which involves millions more, to vote for such a proposition.

The Senator from Massachusetts places this claim upon another ground, which I think has been sufficiently answered by the Senator from Missouri, and that is, that we instituted a court; they have made an award, and we are bound to carry into execution that award. If this were a court organized by law, and if an award had been made by it upon principles of law, I should feel bound by that award, although I might not approve of the principles adopted by the court; but that is not the case here. Every day we pass resolutions of inquiry; we call upon the Secretary of War, or the Secretary of the Navy, or the Secretary of the Treasury for information. He furnishes that information. We do not bind ourselves before hand to adopt the conclusions of the Secretary of War, or the Secretary of the Navy, or the Secretary of the Treasury. We do not even bind ourselves to take the facts that he gives us. So in this case, at the end of a long debate, at the end of a controversy upon this very class of claims, a resolution was offered, I think, by the Senator from Iowa—

Mr. GRIMES. Oh, no, I did not offer it.

Mr. SHERMAN. Some one offered the resolution in the Senate, and my impression is that I voted for it, because I wanted to know the facts.

Mr. GRIMES. It was offered at the executive session, and there was no debate upon it.

Mr. SHERMAN. The very fact that the chairman of the Naval Committee cannot tell when this resolution was offered, under what circumstances it was offered, and what inducements led to its being adopted, shows that it had no influence whatever and ought to have no influence whatever in our deliberations.

Mr. CLARK. The Senator will see, if he looks at the resolution, when it was offered. It was offered on the 9th of March, 1865.

Mr. SHERMAN. At the executive session?

Mr. CLARK. It must have been, for Congress adjourned on the 4th of March.

Mr. SHERMAN. That shows the folly of basing any argument upon the resolution, except the facts that the committee have brought before us.

Mr. McDougall. The Senator from Ohio will allow me to inquire of the Senator from New Hampshire whether he understands that the resolution was adopted after Congress adjourned. I was present when that resolution was passed.

Mr. CLARK. Here is the record on the report: "In the Senate of the United States, March 9, 1865."

Mr. JOHNSON. That shows when it was adopted.

Mr. CLARK. That is the time, I suppose, when it was offered.

Mr. SHERMAN. Congress adjourned on the 4th of March.

Mr. CLARK. It could not have come over, then, from the regular session of Congress.

Mr. SHERMAN. That shows very clearly that the resolution can have no effect on the debate. It was a mere resolution of inquiry. The Secretary of the Navy could not furnish this information himself, and therefore, at the suggestion of some Senator, we do not know who, it was proposed that the Secretary of the Navy should get this information by means of a board composed of some of his subordinates.

Mr. CONNESS. I will state to the Senator that the resolution was offered by the honorable Senator from Nevada, [Mr. NYE,] I think, upon the last day of the executive session.

Mr. SHERMAN. The resolution itself was proper, and I have no doubt I should have voted for the resolution, because it tended to procure facts that might influence the judgment of Congress. I cannot say but what if a particular case of hardship was furnished to me, a clear case of loss, and especially if that loss was caused by any act of the Government, I might be willing to reimburse that loss of money caused by the Government. I probably would have voted for the resolution asking for this information, but it has no effect on the judgment of the Senate now. This information is given to us simply like ordinary information from an executive Department. It is not sustained, so far as we know, by any oath. It does not appear from the report, so far as I can see, from the beginning to the end, that any one of these contractors was put on oath.

Mr. HENDRICKS. The testimony was all under oath.

Mr. SHERMAN. It is not stated on the face of the report. At any rate, it is *ex parte* in its very nature. Now, it seems that the amount of the claims, according to one allegation of this report, was \$2,383,520 20, and the amount of the awards is \$2,267,627; so that it appears that they have scarcely made any variation between the amount of the claim and the amount of the award. This is always a remarkable fact, because we know that human interests prompt us strongly—

Mr. CLARK. If the Senator will pardon me, the board were not to report what they thought due, but what was the cost of these vessels, and they, of course, would take that from the contractors.

Mr. SHERMAN. I say that the losses claimed before the board by the parties in interest were \$2,383,000, while they actually awarded the sum of \$2,267,000. That very fact shows that they did not scrutinize these claims very closely, because it is not in the nature of things, be men ever so honest, but that there would be a greater difference between the aggregate of claims among a great number of contractors and the aggregate of awards than is made in this case. It is only a difference of three or four per cent. I do not deny that there may be many meritorious cases in this report; but I can only say that the principles upon which this report is founded are not such as will induce me to vote from the Treasury of the United States two and a quarter million dollars, and establish a principle which, in my judgment, will lead to a very large expenditure.

Senators must remember that we shall be called upon before this session closes to pass upon a character of claims that will test the judgment of every Senator. A demand will be made upon us by those who are most deserving of our bounty and our favor, who have protected and maintained the Government during four years of terrible war; a demand will be made by the soldiers for \$200,000,000 for the equalization of bounties. A demand is made by the loyal States, and a bill on the subject is now being pressed in the House of Representatives, for \$150,000,000. Demands of every character and kind are constantly pressed upon Congress. Indeed, if we do not resist with a firm and unyielding hand here in

the Senate, where the body is of a more permanent and durable character, these claims upon the public Treasury—the expenses of this year may run up to a period of one year of the war—we may destroy the interest of all the widows and orphans and the people of this country who have invested their property in the public debt; we may impair the public debt; we may adopt principles which will lead to expenditure without limit and without restraint. I, for one, am disposed to scrutinize carefully every claim that is now made upon the Government, and to yield only when that claim is proven to be just and proper, but not sooner than that.

Among the persons who would be benefited by this bill is a gentleman whom I regard as highly as any man in the State of Ohio; a man of great energy, skill, and capacity, and yet I could not be influenced by a desire to give him even what he might claim to be just, to vote this large sum of money and adopt a principle which might be injurious to the people at large, at least without further testimony than we have presented to us in this report. If, however, the matter is pressed to a vote, I intend before the subject is closed to offer an amendment, which I will now read, and which, adopting the principles upon which this bill is founded, I do not see how any member of the Senate can vote against it. It is to add to the amendment of the Senator from Iowa the following:

Provided further, That no payment shall be made to any person, firm, or corporation who have received profits on other contracts with the United States, greater than such award; and for the purpose of ascertaining the same the said board is hereby reorganized, and shall inquire and determine the profits of each person, firm, or corporation derived from such other contracts, and such profits shall be deducted from such award.

If the principle on which we are asked to act in this case is to be adopted, then, as a matter of course, this same board ought to extend their observations beyond these particular contracts and ought to look and see whether the individual, firm, or corporation whose poverty or distress we are about to relieve is not already rich in accumulated profit on other contracts. It may be that this board will find that although in these particular cases of contracts losses have been suffered, yet these very contractors who are appealing to our sympathy, and who have so excited the sympathy of our friend from Massachusetts, are now wealthy far beyond their highest ambition before the war occurred. If the principle is to be adopted of making good all the losses, we ought at least to be credited with the profits growing out of this war.

Mr. McDUGALL. It is pleasant for me to be once in accord with the Senator from Massachusetts, [Mr. SUMNER.] I think with him that Governments should be protectors and not oppressors. There seems to be a great lack of information here on matters of and about which every Senator on this floor should be well informed. These claims were presented to the Senate at an early day of the last Congress; they went to the Naval Committee, but the accounts stated were not satisfactory to the Navy Department, and the Senate itself passed a resolution directing an inquiry to ascertain the actual cost of these vessels and their machinery. The vessels were at that time esteemed highly—more so than they seem to be by some now. A board was organized of men of the most accomplished skill in such matters, nominated by the official representative of the Executive of this Government. It was not necessary that the men should be of great accomplishments in many respects, because they were only to inquire what was the true cost of these vessels and their machinery. For six months that board sat in continuous session at the Brooklyn navy-yard and in the city of New York. The board represented the Government of the United States, having been selected by the Secretary of the Navy. Testimony was taken pro and con, every man under oath, as in a court of justice. It was carefully done by men who understand the law of carefulness, as men who are educated to the business of officers of our Navy and engineers and

constructors in the naval service do understand it; done carefully as it could be done by men who understand what is the underlying basis of all truth, mathematics. After careful investigation, at the invitation of the Senate, under the orders of the Secretary of the Navy, we have had their results on our tables for a long time. The detailed testimony was submitted to the Naval Committee, and as the conclusion of the deliberations of that committee this bill is submitted to us; no member of the committee dissenting except one, and he is a dissenter; but he does not controvert a single thing affirmed in the report of the board that sat at Brooklyn, presided over by Commodore Selfridge, or a single thing that is affirmed by the committee who investigated the subject.

Now, it is well that there should be some objectors. That is the vocation of the Senator from Iowa, and I may say the same of the Senator from Ohio. But it is well to affirm the right. Governments have no right to do wrong any more than individuals. When these contracts were made the price of labor was altogether different than during the period when the contracts were performed, and why? Because of the exceptional condition of our country, well stated by the Senator from Massachusetts, and there are exceptions that prove rules. I remember well that there came forward men of large fortunes, men of great enterprise, men of high patriotism, willing to lend their fortunes and hopes to the Government. They were perhaps too old for arms; I saw many of them; they said, "We will furnish you arms, we will build you ships, build you anything; all we want is an order." The men who came forward to build the iron-clads were of that class, the best men of the country, and men not only of great mechanical skill, but who had won wealth by their enterprise and their skill, and were ornaments to the country. They came forward willing to hazard their fortunes. No one could anticipate, as the Senator from Massachusetts well remarked, it was not within the precognition of any human being, what would be the condition of the country twelve months from the time. What happened? Money, not the representative of money, rose to two for one. Prices appreciated accordingly two for one.

Again, the exigency of the Government required all the labor to be employed and three times as many rolling mills as could be obtained in Pennsylvania and otherwise to get out the material for clothing the iron-clads; consequently up went iron.

All these things were not within the possibility of contemplation by the most prescient men. It was special to this class of enterprise. I think that the first Secretary of War under the last Administration gave contracts to some people to build wagons who made great fortunes, and contracts for saddles, out of which great fortunes were made, and so of contracts for harness, and cattle, horses, and many other things. But the business of building these iron-clads was a business of dollars and cents; it could be shown by the books, proved by exact testimony, established as a fact in a court of justice, how much they cost. It was well known by these gentlemen that they would be ruined unless the Government would protect them. They came forward and built their ships; they put them on the sea; they destroyed their enemies. They knew then that they were expending I think at least thirty per cent. over and above what the contract price was, and that their whole fortune was gone unless they should be protected. They came here; they asked relief from the Senate. The Senate sent them to the Secretary of the Navy, asking that it should be carefully inquired into, not what was a fair profit on this labor, but what was the cost of material and labor, and that award is sent to us, and I say we shall be dishonest if we do not pay it. I do not believe it belongs to Government to be dishonest.

Mr. HENDRICKS. I shall detain the Senate but a few moments in answer to a point or two made by the Senator from Missouri and the Senator from Ohio. I do not think that

their view of the subject is just to the parties that present this claim. In the first place, the Senator from Missouri says that before the board that was organized there was no evidence, so far as he can observe, except the testimony of the parties themselves. Now, Mr. President, I think that if the board was satisfied with that evidence and reported it as satisfactory, we should be slow to question even that testimony, for during the last Congress we made parties to actions competent witnesses in ordinary suits in the courts between man and man; and if this board received the testimony of the parties themselves, together with their books of account, their detailed statements of expenditure, and relied upon that, I should not disregard the results of their investigation because of that alone. But the Senator has not thoroughly examined the report of the board, as he stated himself, else he would have found very material testimony in addition to that of the parties themselves; and I will call his attention to the testimony of Naval Constructor Pook, on pages 30 and 31 of the report of the board. I will read just one or two sentences of that testimony to show the character of it. In answer to a question, he says:

"Having examined the bills of cost and extra work of gunboat Chenango, built by Jeremiah Simonson, I find them to be fair and reasonable in every respect. Having examined the bills of cost and extra work for the gunboats Massasoit and Osage, built by Curtis & Tilden, I find them correct, charges fair and reasonable, and consider that the bill for extra work should be paid in full. Having examined the bills of cost and extra work for the gunboat Pontiac, built by Hillman & Strecker, I find them correct, charges fair and reasonable, and consider that the bill for extra work should be paid in full. Having examined the bill of cost of gunboat Wyandott, built by C. H. and W. M. Cramp, I find it to be correct, fair and reasonable in every respect. Having examined the bills of cost and extra work for the gunboats Agawam and Pontoosac, built by George W. Lawrence, I find them correct, fair, and reasonable, and consider that the bill for extra work should be paid in full."

And he goes on with other accounts. Then he comes to another account where he says he finds these items not to be fair and correct, and that they ought not to be allowed as they are presented; and upon his testimony the naval board acts. Then I find that Naval Constructor Delano, an experienced man in the construction of vessels-of-war, was also a witness before the board; also, Assistant Engineer Pierce and Chief Engineers Lawton and Brooks were witnesses before the board. I have been able to refer to these during the discussion. What other testimony there was before the board in addition to the testimony of the parties, I am not able at the moment to say; but this testimony of these officers of the Government is upon the very points that the board was investigating.

Mr. HENDERSON. The Senator will excuse me for interrupting him. The point to which I wish to direct his attention is this: did these parties who were witnesses before the board, and to whom he now refers, have any personal knowledge of the work, or were they connected with it as superintendents in any such manner that they would necessarily know that these were the items of articles that went into the construction of these identical vessels?

Mr. HENDRICKS. Of course these naval constructors being skilled men knew what ought to go into a ship. Suppose that the cost of a house is in investigation before a court; suppose we are investigating the cost of a house, and the size of it is given, the material that goes into it is known to a carpenter or a mechanic just as well as if he saw each piece put into the house.

Mr. HENDERSON. Did they superintend the work or had they any personal knowledge of it, or were they men connected with the Government here, naval constructors in this city, or were they naval constructors at New York or elsewhere?

Mr. HENDRICKS. I am not able to say where these men lived, or where they discharged the duties of their office. I find them to be

officers of the Government employed in the construction of vessels. Whether they were superintendents of these particular vessels I cannot answer the Senator, nor do I care. They knew the character of the vessels, their dimensions, and all about them; and when called upon to examine the accounts presented they say that those accounts are correct. It must be so, because they know what would necessarily go into a vessel of the sort.

Another point made by the Senator from Missouri and the Senator from Ohio is that we are not required to give much force to the finding of the board; for what reason? For the reason that that board was organized pursuant to a resolution of the Senate. I am not able to understand the moral force of that argument. If the House of Representatives had concurred in the resolution, and a board, composed perhaps of these same men, had been organized by the Secretary of the Navy under a joint resolution, do the Senators believe that the investigations of the board would have been more thorough than they were when it was organized by a resolution of the Senate? Where is the force of that objection? These officers were discharging a duty to the Government. Did they not do it fully and fairly? If the award of arbitrators is questioned because of partiality, mistake, or fraud, you must show it; the fact must be made known; and in the absence of some evidence on the subject the award is presumed to be honestly made, and made upon a full investigation of the case. Now, here is a board organized pursuant to a resolution of the Senate. I was not present, as I now recollect, when that resolution was passed, for I think I left a day or two before the adjournment of the extra session, and I knew nothing about its introduction or its passage; but it is a resolution of the Senate, and a board is organized pursuant to it to do a particular duty for the Government. Why is it that the finding of that board has less moral weight with the Senate than it would have if the board had been organized under a joint resolution of the two Houses? I am not able to see.

The Senator from Missouri referred to the case of the Onondaga. That vessel is said to be one of a very fine and very superior order. The Senator said that the delay in the construction of that vessel was not occasioned by any act of the Government. If he will turn to page 19 of the record of the board, he will find that he is mistaken. It appears there:

"That the causes of delay in building the hull and machinery of the Onondaga were on account of expensive alterations, and also the same as apply to the Chenango and Ascutney."

Expensive alterations were ordered by the Government. Both Senators referred to the fact that some of these parties may have constructed other vessels and may have made profits out of those vessels, and it is proposed by them to set off the profits that may have been made in the construction of other vessels against the losses that were sustained on these. Upon what principle does that rest? It is a new idea to me. I know nothing about this except that I heard it stated, from no reliable authority, that Messrs. Eads & Co., constituents of the Senator from Missouri, had made money in other work. I know nothing about it except just as I have heard a rumor to that effect. Suppose that Eads & Co. did make money in building some other ship, was it not right that they should make something? Ought the profits that were made by them in the pursuit of their business, profits that they would have made in doing work for individual citizens of the country, be taken away from them because they sustained a loss on other vessels? I do not understand this proposition of setting off profits that may have been made on other vessels as against losses sustained on these. I do not understand it either as a legal or a moral proposition, unless they obtained the contracts on which they made the profits by improper influences, unless there was fraud in them. Then perhaps there would be some moral propriety

in off-setting. I do not know that the contracts were made all together; but I think they were different contracts for different characters of vessels. I know nothing about it; but if they made profits, it is what mechanics expect, that they shall make some profit, and I cannot see the principle of taking away their profits on one vessel because they sustained a loss on another.

Mr. President, suppose that Eads & Co. in 1862 made a contract to build two vessels, and the Government suggested from time to time alterations in those vessels, and they are the losers upon those vessels to the amount of \$50,000, and suppose they take contracts for two other vessels, and the Government does not interfere at all, there is no trouble about them, and they go on and complete their contracts within the time specified and they make a profit on those contracts, why shall you take that away which is right and which they ought to enjoy to set it off against losses which were occasioned in part by the act of the Government?

The Senator from Ohio used an illustration that I think is unfortunate for the purposes of his argument. He says that men have lost money by buying corn, oats, horses, and other things for the Government during the war; and that we upon the same principle that we indemnify the constructors of iron-clads and monitors ought to indemnify those ordinary contractors. I am surprised that the Senator does not see a difference. A man goes to a quartermaster or a commissary for what purpose? Not to produce but for the purpose of buying and then selling to the Government upon speculation. His purpose is exclusively to make a speculation. The mechanic in his shop produces; he is not a speculator; he is a laborer. He expects by his labor and his enterprise and his skill and his judgment to make a profit, and he makes a contract with the Government and the Government interferes with him in the prosecution of that contract and he asks to be reimbursed; and it is said to him by the Senator from Ohio, "You, a mechanic that expend your money and your labor for the benefit of the Government, stand upon the same moral proposition as the speculator, the shoddy contractor, who expected profit and nothing else when he made his contract." A man contracts with the Government to furnish corn or hay or oats for the Army; he expects to go out and make his purchases at once to fill his contract; he knows what the prices are, and he can go out and satisfy his contract at once. If he contracts to supply a thousand head of horses at \$100 a head, he knows what the present cost of horses in the market is and he goes out at once and fills his bid.

Mr. KIRKWOOD. Suppose the horses are to be delivered three or four months hence, and the price rises in the mean time?

Mr. HENDRICKS. Then he takes it as a speculation; but I say that the mechanic who undertakes to do work for the Government which cannot be completed within six months, and which is not, because of the act of the Government, completed within eighteen months, does not stand before the country and before Congress as a speculator. Here are men in New York that have shops; they are doing work for the country; they are building machinery for the demands of the business of the country, making money, and the Government says to them, "We want a ship built." They devote their entire energy, their capital, and their machinery to the production of this ship. It is not a matter of speculation; it is an enterprise for the benefit of the Government.

Mr. TRUMBULL. Will the Senator from Indiana allow me to inquire whether this is a bill for the benefit of mechanics or contractors? How much of this money will go to the workmen that he is talking about?

Mr. HENDRICKS. I do not know of a single case in which this does not go for the benefit of a mechanic. There may be some of these contractors who are not mechanics, but I am not aware of a single case of that kind.

The workman, the particular mechanic who assisted the contractor in his shop, has received his wages from month to month. As the wages went up he was paid. When the contract was made the laborer got eleven cents an hour. In two months from that time he got thirteen cents; two months further on he got fifteen cents; and two months further on he got eighteen cents. He has been paid this; he could compel the contractor to pay it. The contractor himself is the mechanic, investing his labor, his skill, his judgment, and his means in his shop; and he produces a vessel that is acceptable to the Department and that is valuable to the Government. I say he is not to be compared to the man who goes out into the market to buy up what may be needed for the Army for the purposes of speculation.

The Senator from Ohio says that mechanics have made more money during the war than they ever made before. If the Government had not expected of these mechanics to construct ships, and they had been left to pursue their ordinary business, they, too, would have enjoyed the advantages, so far as advantages were enjoyed, coming from the war; but having to construct these ships, they are losers. Does the Senator question the fact; does the Senator doubt the fact that they are losers? Then why does he say that mechanics have made money? We are talking about these particular cases. They have not made money. Other mechanics have made money, I admit. The Senator, I presume, is aware of the fact that for three years back the railroad companies have not been able to make contracts for the delivery of locomotives at any period in the future; and why? Because mechanics have known for three years past that there was a constant advance in the cost of material and labor, and they would not make contracts for future delivery, but required the companies to pay what an engine was worth when produced. But here the Government obtained from these parties their contracts; and the question is, under all the circumstances, shall they be held to the bond?

The Senator says the award is large; it is \$2,267,000. That is what the board say were the losses. I think myself that the losses ought to be paid because they have been occasioned in part by the act of the Government. The Senator from Nevada proposes by his amendment that it shall be restricted in the highest case to fifteen per cent. upon the contract price. I believe that would reduce it very nearly a million dollars. The Senator from Ohio proposes that it shall be twelve per cent. I think, then, the reduction would be something more than a million dollars. The precise amount I cannot state to the Senate.

Mr. McDougall. Permit me to ask the Senator a question. I have not listened to the entire debate. Is there an exceptional case in regard to the Camanche?

Mr. Hendricks. Yes, the Camanche is excepted by the amendment. The entire award was \$2,267,627 18. A restriction to twenty per cent. upon the cost price would be \$1,721,524 68. Reducing it to fifteen per cent. I suppose would allow \$1,300,000 or \$1,400,000; and reducing it to twelve per cent. I suppose would leave it about \$1,000,000, so that the Senator from Iowa proposes that these contractors shall lose above \$1,000,000 by his amendment. Now, I submit to the Senate that as the entire loss is proven before a board organized by the Government itself, at least by a Department of the Government, to be above \$2,000,000, is it not enough that you ask it to be reduced \$1,000,000, that you should make fall on these contractors a loss of \$1,000,000?

The Senator from Ohio says that this was an *ex parte* examination. If it were proposed between two men to arbitrate a matter of dispute between them, and it was agreed that one of the litigating parties should select all the arbitrators, perhaps it would be said that was *ex parte*. He selects the court himself, and certainly he cannot complain of the award when made. Under a resolution of the Sen-

ate the Government itself selected the board. These contractors, whose interest depended on the judgment of the board, had no voice in the selection of the men that were to try their case. The Secretary of the Navy, representing the Government, organized the board. That board, having no interest, no sympathy with the contractors, but of the Government's own selection, heard the testimony for five months, and made its award.

Mr. SHERMAN. As a matter of curiosity I would like to ask my friend from Indiana if the Supreme Court of the United States is an *ex parte* tribunal. I need hardly ask him for an answer.

Mr. Hendricks. No, sir, I never esteemed it so.

Mr. SHERMAN. And yet the Supreme Court of the United States is selected by the President of the United States, and decides causes in which the United States are interested. Therefore his argument that this is an *ex parte* board, because appointed by an officer of the United States, is hardly of much force.

Mr. Hendricks. The suggestion of the Senator is forcible, but it was not myself that was saying this was an *ex parte* proceeding. I have not complained of it as an *ex parte* one. I am answering the argument of the Senator from Ohio; he said it was an *ex parte* proceeding, and the award was *ex parte*. If it was *ex parte* at all, I was going to show it was *ex parte* on the side of the Government, not on the side of the contractors.

Mr. SHERMAN. The evidence was *ex parte*, that is what I said.

Mr. Hendricks. So far as the evidence is concerned, it is from the mouth of the parties themselves and from the mouth of Government officials. Neither in the organization of the board nor in the evidence that was heard by the board was it an *ex parte* proceeding. If the Senate are willing that these men shall be destroyed in an enterprise that was so important to the Government at the time, in an enterprise in which they were materially interfered with by the Government itself, then I submit to the judgment of the Senate, it is not my judgment. I do not think our country requires it. I do not think the constituency I represent ask it at my hands. I do not think that between man and man they would themselves render such a judgment. When the Government itself has interfered so that the contracts were not completed at the time contemplated, so that these parties had to pay instead of sixty dollars, \$145 per ton for iron, I do not think that the constituency that I represent will desire me to say that all of this loss shall fall upon the enterprising men who gave up their shops from profitable employment to an employment that yielded no profit. We ask no profit for it; we ask simply that they shall not be destroyed; and the proposition of the Senator from Iowa is (and with the slight amendment proposed by the Senator from Nevada I will agree to it, and if that should not meet with the concurrence of the Senate I would then agree to the proposition of the Senator from Iowa) that of the \$2,267,000 of loss more than \$1,000,000 shall still fall upon the contractors.

Mr. RIDDLE. Mr. President, the hour admonishes me that I have but a short time to speak, and I shall detain the Senate but a few minutes. I shall vote against this bill in its present form. I shall vote for the amendment of the Senator from Nevada in the first place, but I would prefer the amendment of the Senator from Iowa. With either of these amendments attached to the bill, I am willing to vote for it.

There is one fact that has escaped the attention of Senators upon this floor, and it is a question of contract. If I had not already been convinced, the Senator from Ohio would have convinced me by his argument that if you open the door in this matter, other contractors can come in and claim additional compensation. I am for additional compensation in these cases, but not in the way it is asked for in the bill.

In my city the largest firm there built two of the largest monitors and have not asked for additional compensation. They have not come forward to knock at the doors of Congress and ask for additional compensation. Another firm in my city comes forward and asks for it. Now, how do they predicate their contracts? My friend, the Senator from Indiana, alluded to a contract for a house a few minutes ago. How does such a contractor predicate his bid? He goes around and asks the stone-mason how much he will put up the stonework for; he asks the brick-layer how much he will put up the brickwork for; he asks the plasterer how much he will put up the plastering for by the yard; so with the shingling, the roofing, and all; and before he takes the contract he predicates his bid on the sub-contracts he can make. How do these machinists do? How have they done? I know how they have done; the Senator from Ohio knows how they have done. Before they make a contract with the Government they make arrangements for the iron and steel conditioned on the receipt of a contract from the Government; they get the material at the price it was worth when the Government asked their proposals.

Now, if you give fifteen per cent., or twelve per cent., as the Senator from Iowa suggests, that pays amply for the increased cost of labor; the mechanics do not suffer; they will lose nothing by this operation. But in the event of passing the bill as reported the contractor makes the money and the mechanic gets nothing out of it. This is a fact which can be substantiated by every practical man living in a city where these iron-clad vessels have been built; although an institution in my city is interested in it, I care nothing for that. I say that unless the Senate adopt the amendments offered, I shall oppose the bill and take another opportunity to consider the subject.

Mr. CLARK. I have found a good deal of difficulty in regard to this class of cases, and the difficulty arises from their being classed together. I have no doubt, from the examination I have made, that there are meritorious cases included in the bill, and perhaps there are some cases which ought to have as high an award as this board has reported. I am satisfied from the examination I have given that there are others who ought not to have anything at all; so that if I vote for the bill either in the amended form or in the form in which it comes from the committee I am likely to do injustice to somebody.

I have been, Mr. President, casting around to see what we could do with a proposition of this kind. It first occurred to me that you might refer it to the Court of Claims, but yet I am satisfied that the Court of Claims would not do justice to some of the cases that are here, because a man may not have a legal claim who may have an equitable claim, and he would not be able to recover there; and yet I am satisfied that this board, which was constituted at the last session of Congress, was not a board to report upon what was due to these contractors; it only considered one side, that is, what the vessels had cost these men; it did not consider the other side, what deductions ought to be made by the Government in paying them the amount; so that it cannot be called any fair arbitration, or award, as the Senator from Indiana termed it, because they considered only one side, that is, the cost. If the question had been submitted to the board what deductions shall be made from the cost when you find it, that would have been an entirely different thing; but they were instructed only to consider what was the cost of the vessel in each case, and report to Congress. And yet the Senator from Nevada says that having committed it to them to award the cost, we are bound to pay it. I do not understand it so.

Mr. NYE. I did not say exactly that.

Mr. CLARK. That was the substance of what I understood the Senator to say.

Mr. NYE. I said that, admitting the principle that anything is to be paid, we should pay the ascertained cost.

Mr. CLARK. I cannot quite agree to that, that if anything is to be paid we ought to pay the award, if that is what the Senator means.

Mr. NYE. The cost is to be paid.

Mr. CLARK. If the cost is to be paid, we are to pay what is reported; but we have not come to an agreement to pay what the cost is reported to be, because it lays out of the case entirely the equities on the other side. Now, if you will constitute a board, and a fair board—I do not care who you take, whether they are builders, mechanics, or merchants, if they are fair people, and refer the matter to them with authority to say what ought to be paid under all the circumstances by the Government, then I might perhaps be willing to abide by that award; but I am certainly not willing to abide by an award which has been made showing only the cost, when so far as I can ascertain—and the Senator from Indiana will correct me if I am wrong—the committee did not receive any new testimony on that point. He will allow me to inquire whether there was any testimony before the committee going to show what deductions should be made other than what came from the report of the board.

Mr. HENDRICKS. In reply to the Senator I will say that at the last session of Congress the committee had before them two of the heads of bureaus in the Navy Department, the head of the Engineering Bureau and of the Construction Bureau, Mr. Lenthall and Mr. Isherwood, and also Superintendent Wood. They testified before the committee at the last session. What they testified at that time was incorporated into the report made by the committee at the last session, and it is extracted into the report made at this session. The committee had also before them a document certified to by Admiral Gregory who had charge of this work, showing the cost of labor and materials from time to time—the table which is appended to the report. I do not know whether that was before the board or not. I do not know of any other testimony that was before the committee that was not before the board.

Mr. CLARK. I understand that at the last session, before the committee as then constituted, some testimony was given. I do not know whether the committee is the same now or not; probably it is nearly the same; but at this session, after this report from the board comes to them, they consider it and consider in addition what was said at the last session, and the evidence furnished them then. Now, I want to say one word in regard to the table, for I am satisfied that the table is not made up correctly in some instances. Take, for instance, the cost of pig iron in 1864. It is said to be in the month of January, forty-five dollars; in the month of February, fifty dollars; and so running through. I happen to have in my possession an affidavit, furnished by a house in New York, of actual sales, and they quote the sales from their books made through the months of 1864, all the months, and I have compared it with this table, and the actual sales which they made were from ten to fifteen per cent. lower than the prices quoted in the table. But I have not had the opportunity of examining the table further, because I had no means.

Mr. WILLEY. I ask the Senator from New Hampshire whether the iron, the sales of which he refers to; was the same kind of iron and of the superior quality required for these vessels.

Mr. CLARK. I cannot say what quality it was. It is quoted as pig-iron, as the general quotation is here "American pig-iron." It does not appear from this table what the quality was.

Mr. HENDRICKS. It was a very superior quality.

Mr. CLARK. It may have been very superior, but I do not understand it to be so.

Mr. GRIMES. That would depend somewhat upon what it was used for in either case.

Mr. CLARK. For common ordinary castings it would not require a very superior quality.

Mr. GRIMES. If it was to go into the en-

gines it would require extra iron. If the pig-iron was to go into the dome of the Capitol it would not necessarily be very superior.

Mr. CLARK. But I was not proposing to comment on that, because I am willing to take the tables as I find them for the purpose of what I have to say. I want to call the attention of the Senator from Indiana to the first case reported here, to show what may be the equities on the one side and the other. If he will take the report and follow me a little while, I will call his attention to the case of the Iosco. It will be found that the contractors for building the hull of the Iosco were Larrabee & Allen, and they went on to construct the vessel, and they brought in their bill of costs, and their costs exceed the contract price and the extra work by \$11,708 97. It is the first case upon the list. If the Senator will be kind enough to turn to page 10 of the report of the board he will find this case of the Iosco specially reported:

"Regarding the United States steamer Iosco, side-wheel, double-enders: on the part of the contractors and builders of the above vessel appeared before the board A. L. Allen, ship-builder, Bath, Maine, who under oath stated that the contract for the above vessel was signed by the Navy Department on the 9th day of September, 1862, in which he was allowed one hundred and twenty-six days to launch the vessel, or until January 13, 1863, but the vessel was not put into the water until March 20, 1863, the vessel being detained on the stocks by order of Admiral Gregory and Inspector Pook—"

Now, this is the reason—

"as the engine builders were not ready to set up the engine; that the vessel was delivered to the Globe Works, South Boston, March 21, 1863; that thirty days, or until May 13, were allowed to erect the machinery on board, but the work was not completed until March 5, 1864, three hundred and forty-six days."

The engine builders were to have erected that work in the vessel in thirty days, and they took three hundred and forty-six days to do it.

Mr. JOHNSON. Is any reason given for the delay?

Mr. CLARK. There is no reason given for the delay here; I am going to go on a little further. Mr. Allen says further:

"That his vessel could not have been ready for launching at the expiration of the contract, and they were in no fault for this delay or loss of time to Government; that the contract price for the vessel delivered at Boston amounted to \$75,500; that the entire cost of the vessel was \$91,845 91; that in addition to the contract price he has been paid by bureau for extra work \$4,535 84; that the cost to him of the vessel over and above the contract and extra bills paid was \$11,810 07; and would state that, in addition to the great extra expense to which he was placed by the delay of the engine builders to complete their work, he was obliged to keep watchmen and to furnish material and outfits at greatly increased prices and larger wages for labor."

You see he was put to great extra expense by the delay of the engine builders.

Mr. JOHNSON. Permit me to ask whether the engine builder is allowed anything in this bill?

Mr. CLARK. Yes, sir. The engine builder is allowed, as I will show presently, something like thirty thousand dollars for the delay. I want to call the attention of the Senate to the contract for the hull and the contract of the engine builder to show the injustice that is to be done here. The contractor who built the hull clearly ought to be paid; he was delayed by somebody; Admiral Gregory and Constructor Pook kept the vessel on the stocks until it was necessary for her to be sent to the Globe Works to have her machinery put in, and then when she got there thirty days were to have been consumed in putting in that machinery so that he could have finished his vessel, and yet these engine builders took in the whole three hundred and forty-six days to put in that engine, and he was put to this delay. The board have rightfully awarded him, probably, eleven thousand and odd dollars for that delay, but the question is who should pay it. Do you propose that the Government should pay it when the engine builders caused that delay, not the Government; the Government were in no fault.

Mr. JOHNSON. I suppose the engine builder contracted with the Government, not with these parties.

Mr. CLARK. Yes, with the Government, so that the Government would have to stand between the contractor for the hull and the contractor for the engines, but in equity it should come out of the engine builder.

Mr. JOHNSON. In the end it should according to these facts; but you would not throw the builder of the hull on the engine builder.

Mr. CLARK. Certainly I would not; but if I had to pay \$11,000 to the builder of the hull for the delay of this engine builder, I would not give this engine builder \$30,000 extra over his contract for doing it.

Mr. JOHNSON. Certainly not.

Mr. CLARK. Now let us turn to page 15 of this report:

"Appeared before the board Daniel N. Pickering, treasurer of the Globe Works, South Boston, Massachusetts, on the part of the company, contractors for the machinery of the double-enders Iosco and Massachusetts. Under oath stated, that the contracts for these vessels were dated by the Navy Department August 15, 1862, in which they were allowed seven months, or until March 14, 1863—"

When the vessel was ready—

"to complete the machinery and deliver the vessels to the Government, but the Massachusetts was not so completed and delivered until the 9th of January, 1864, nor the Iosco until the 18th of January, 1864, the principal cause of delay being the difficulty in obtaining workmen, as the demand for the services of men in the Army and Navy was so great, and also on account of the number of vessels being built by the Government."

Because the Government was choosing to build vessels in other yards these people were delayed, and therefore you are to pay them for their delay. And now you allow for this engine of the Iosco the sum of \$29,789 because they did not finish it until nearly a year after they agreed to do it. You compel the Government to pay \$11,000 on the hull because they were not ready, and then give them \$29,000 for that delay. That is the justice of this operation, and that is the "justice" to these contractors which the Senator from Indiana talks about.

I have got as strong a case as that in another instance. I have had time to examine only two or three of these cases, because one cannot go through forty-two cases in one day.

Mr. JOHNSON. Is that the only excuse in that case?

Mr. CLARK. That is the only excuse. I will read the whole of what was said.

Mr. JOHNSON. You need not on my account.

Mr. CLARK. They say that the demand for men for the Army and Navy, and the number of vessels being built by the Government, made it "impossible, with the scarcity of labor, to fulfill the contracts within the given time." There is the whole of it. Now, if the Senate will turn to the case of the Chenango, on page 4, they will find:

"Appeared before the board Jeremiah Simonson, ship-builder, and constructor of United States steamer Chenango, under oath stated the whole amount of cost of above vessel to have been \$91,441 81; the amount of extra work allowed and paid by bureau, \$3,528 17; the amount of contract, \$75,000; and presented the accompanying sworn statement, marked 3, showing the cost of that vessel over and above the contract price and allowance paid for extra work to be \$16,441 81."

And here in the table you find \$16,441 81 for the steamer Chenango. Now, what was the occasion for that? Mr. Simonson's statement proceeds:

"That the contract for the hull was dated September 9, 1862, and the vessel to be launched on January 13, 1863, (one hundred and twenty-six days); that the hull was ready for launching at that time, but was detained on the ways by request of the naval constructor and inspector of hulls, S. M. Pook, to be hereafter shown, as the steam machinery was not ready."

The same excuse again; the steam machinery was not ready; this man was delayed because the steam machinery was not ready.

"That the hull was launched on March 19, 1863, and that no injury arose to the Government from delay on his part; that the contractors for the steam machinery were allowed until May 8 (fifty days) to erect on board the engines, &c., but occupied until December 30, 1863, (two hundred and eighty-four days.)"

It took two hundred and eighty-four days to get that machinery in.

Mr. JOHNSON. Where was the machinery to be built?

Mr. CLARK. I will show the Senator pres-

ently; I do not now remember; but I will call his attention to it.

Mr. JOHNSON. I thought you had it before you.

Mr. CLARK. It is in another part of the volume, page 18. This was built at the Morgan Iron Works, New York. Now, I want Senators to bear in mind that there was no delay here on the part of the contractor for the hull. He was obliged to keep his vessel unfinished because the steam machinery was not erected in her, and was put to delay on that account, and they took two hundred and eighty-four days to erect that machinery, and he claims of the Government, and has been allowed by the board, the sum of \$16,441 81 on account of the delay of these people in erecting that machinery in his boat. That is the sole cause of it. Now, let us turn over to page 18 of the report and see what the Morgan Iron Works, who were to build this machinery, did; here is the statement of Mr. Quintard, who is the man that got up the table appended to the committee's report:

"Appeared before the board, George W. Quintard, proprietor of the Morgan Iron Works, New York, and contractor for the machinery of the double-enders Chenango and Ascutney; also for the hull and machinery of the iron-clad Onondaga. Under oath states, that the contracts for the Chenango and Ascutney were dated by the Navy Department August 15, 1862, in which he was allowed seven months, or until March 16, 1863, to complete the machinery of said vessels and deliver them to the Government, but the Chenango was not so completed and delivered until February 1, 1864."

The Chenango was not completed until February 1, 1864, ten months after he agreed to do it, and he had been keeping this hull all the time unfinished and putting the man who built it to expense because he failed in his contract.

Mr. JOHNSON. What reasons did he assign?

Mr. CLARK. I will go on and read the reasons he assigned:

"The principal causes of the delay in completing the machinery of these vessels were scarcity of labor, difficulty of obtaining materials, strikes, and having to close his shop for two months on account of mobs in the summer of 1863."

Nothing in the world in which the Government was concerned, things likely to happen, perhaps, to any contractor; and yet he delayed that hull ten months, putting the Government to the cost of \$16,000, and now he wants the Government to pay him for all that delay just what the machinery cost.

Mr. JOHNSON. How much is allowed him?

Mr. CLARK. For the Chenango there was allowed him extra for putting in that machinery, ten months after it should have been, \$25,826 35. It is said that the Chenango blew up on her trial trip, but I am not talking to that point. I am taking this work as if it had been done well. I am speaking of the delay which he caused and his equity to have pay from the Government. Mr. Quintard says, further:

"That he was relieved by an act of Congress from the terms of his contract, so far as the time of completion was concerned, and that the Department was fully satisfied that it was finished as soon as possible; that the excess of cost over and above the contract price was on account of the continued rise in the price of labor and material; that the total cost of the machinery for both vessels, including charge of ten per cent. for use of shop, tools, &c., was \$215,652 67; that the contract price of both vessels paid by the Government was \$164,000, leaving a balance, the excess of cost to him, over and above the contract price, of \$51,652 67."

That is \$25,826 34 for each vessel; and this man who has delayed you ten months and put you to the expense of \$16,000 on one vessel has the impudence to charge you ten per cent. on his whole stock and tools, and your commission allow it.

Mr. JOHNSON. For the ten months?

Mr. CLARK. It simply says ten per cent., without reference to time; and now there is an appeal to the equity and justice of Congress to pay that demand!

These are the only two cases in this whole report which I have examined, and I have no doubt that if I were to follow it through I should find others of a similar character. I took the

first and then took another at haphazard to see how they would come, and I find that result.

Mr. JOHNSON. I do not see exactly how he could charge for the use of his shop and tools. That was included, I suppose, in the contract price.

Mr. CLARK. I suppose he kept some account of the labor and material he had put into this vessel, and then charged ten per cent. on the tools and shop as a part of the cost of the vessel.

Mr. JOHNSON. During the ten months he delayed it?

Mr. CLARK. I suppose ten per cent. for one year. I do not wish to be severe on these contractors. I only make these observations for the purpose of showing what injustice you are likely to do here to the Government and the people who pay the money; for while these contractors are to be protected, the taxpayer also is to be regarded. While you undertake to do justice to those who deserve it, you certainly cannot do it in this inconsiderate way, which encourages those who have no just claim to come here with the expectation that Congress will pay any amount which they make out.

Now, I ask the Senate to pause; I do not know what is best to be done. I do not think the amendment of the Senator from Iowa reaches the case entirely, if you cut it down to twelve per cent. I doubt if some of these parties ought to have anything, and perhaps some ought to have fifty per cent. It is the indiscriminate lumping of forty-two cases in one bill that works the mischief. Give us one by one if it takes time, and let us consider each or establish a board that will consider the cases one by one, and give each man his due, not bring all up here in this omnibus which is to carry everything to the end of the journey and make you pay the fare.

Mr. President, I am opposed to this bill. I have heard all that has been said about war times; I have heard all that has been said about justice to mechanics; but let us be just to the country and to the constituency we represent, for you will bear in mind that the forty-two gentlemen who claim here, though eminent gentlemen they may be and deserving consideration, are but a drop in the bucket of the great people who are interested in this matter.

Mr. JOHNSON. Mr. President—

Mr. TRUMBULL. Will the Senator from Maryland give way? I think we might as well adjourn. We shall hardly get through with this bill to-day. We are sitting very long.

Mr. JOHNSON. That would be very agreeable to me.

Mr. TRUMBULL. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 17, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

REV. RICHARD FULLER.

Mr. J. L. THOMAS asked leave to withdraw from the files of the House the petition and papers of Rev. Richard Fuller.

Leave was granted, and the papers were accordingly withdrawn.

RIVER AND HARBOR IMPROVEMENTS.

Mr. ELIOT, from the Committee on Commerce, reported a bill making appropriations for the repair, preservation, and completion of certain public works, and for other purposes; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

EXCUSE FROM SERVICE ON A COMMITTEE.

Mr. SHANKLIN. Mr. Speaker, I desire to submit a proposition to the House. I ask to be discharged from further service on the

Committee for the District of Columbia. I feel, under the circumstances, that I can no longer hold that position with profit to the country or honor to myself. Therefore I ask to be discharged from further service on that committee.

The gentleman was accordingly excused.

LEAVE OF ABSENCE.

Mr. WASHBURN, of Indiana, asked and obtained leave of absence for his colleague, Mr. HILL.

SENATE BILL RETURNED.

The SPEAKER laid before the House the following communication from the Secretary of the Senate:

IN SENATE OF THE UNITED STATES,
April 16, 1866.

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate a bill of the House (H. R. No. 458) granting a pension to Sarah E. Pickell, which was postponed indefinitely on the 13th instant.

Attest: J. W. FORNEY, Secretary.

According to the usage of the House, the bill was ordered to be returned to the Senate.

Mr. SCHENCK. I call for the regular order of business.

The House accordingly proceeded to the regular order of business, which was the calling of the committees for reports, beginning with the Committee on Invalid Pensions.

ADVERSE REPORTS.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported adversely on the following cases, and the same were laid on the table:

The petition of Elizabeth J. Brooks, widow of Thomas J. Brooks; and

The petition of George W. Bonnin.

JOANNA WINANS.

Mr. BENJAMIN, from the Committee on Invalid Pensions, reported a bill granting a pension to Mrs. Joanna Winans, mother of George W. Winans, acting assistant paymaster of the United States Navy.

The bill was read a first and second time. It grants a pension, at the rate of twenty dollars per month, during her widowhood.

Mr. WASHBURN, of Illinois. I call for the reading of the report.

The report was read.

Mr. WASHBURN, of Illinois. I desire to inquire whether this case is not provided for by the general law.

Mr. BENJAMIN. It is not provided for by the general law, the absence not being on sick leave.

Mr. WASHBURN, of Illinois. What are the peculiar reasons for passing this special bill? I am pretty liberal in regard to this matter of pensions, but I would like to know something of the principles by which the Committee on Invalid Pensions are governed.

Now, I sent a case to the committee where a widow made an application for a pension on the ground that her son had been killed in the service. But a very short time before he was killed he had been married; if he had not been married, then his mother was in that position that she would have been entitled to the pension. His widow afterwards married and thereby forfeited her pension. Now, the mother comes in with her petition and asks that she may be entitled to the pension which she would have been entitled to had not her son been married.

I understand that the committee declined to report a bill of that kind, which was certainly one of the strongest cases I have seen presented to the House. I talked to the Commissioner of Pensions about the case, and while he thought it came within the spirit of the law, it was not within the letter of the law, but he thought it one of the most appropriate cases upon which Congress could legislate.

Now, I desire to know the principle by which the committee are governed, whether it is fish for one and flesh for another.

Mr. BENJAMIN. That has nothing to do with the case under consideration. The report

of the committee now before the House stands by itself. I demand the previous question.

The previous question was seconded and the main question ordered. The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. BENJAMIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ANN HETH.

Mr. PERHAM, from the Committee on Invalid Pensions, reported back, with the recommendation that it do pass, bill of the Senate No. 201, for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana.

The bill directs the Secretary of the Interior to place the name of Ann Heth, widow of William Heth, of Harrison county, Indiana, who was killed by the rebel Morgan's men while resisting their advance upon Corydon, Indiana, upon the pension-roll at the rate of eight dollars per month, to commence on the 9th of July, 1863, to continue during her widowhood.

The report having been read, the bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MRS. MARTHA J. WILLEY.

Mr. STILWELL, from the Committee on Invalid Pensions, reported a bill for the relief of Martha J. Willey; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill provides a pension of eight dollars a month, to Mrs. Martha J. Willey, widow of George W. Willey, late a corporal in company F, seventh regiment of New Hampshire volunteers, the pension to commence on the 18th of April, 1865, to continue during her widowhood, and in the event of her marriage or death, to go to the minor children of George W. Willey, subject to the limitations and restrictions of the pension laws.

Mr. WASHBURN, of Illinois. I ask that the report be read.

The report was read. It states that George W. Willey enlisted at Dover, New Hampshire, about the 29th of December, 1861, reenlisted at Fernandina, Florida, in 1864, at which time he received a furlough for thirty days, before the expiration of which he died of congestion of the lungs at Dover, New Hampshire, on April 18, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STILWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. MARY A. PATRICK.

Mr. STILWELL, from the Committee on Invalid Pensions, reported a bill for the relief of Mrs. Mary A. Patrick; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill grants a pension of twenty dollars per month to Mrs. Mary A. Patrick, widow of Mathew A. Patrick, who was a captain of the first artillery of the United States Army, the pension to commence on the 1st of January, 1860, and to be continued during her widowhood.

Mr. WASHBURN, of Illinois. I ask that the report shall be read.

The report was read. It states that Mathew A. Patrick entered the Army in 1814, as ensign, and died on the 6th of March, 1834, having

been promoted to be a captain of the first artillery; his death being caused by disease contracted in the service while on special duty.

Mr. WASHBURN, of Illinois. If the report of the committee sets forth the facts of the case, I would like to know why this lady is not entitled to a pension under the general pension law. It is said that this Patrick died of disease contracted in the service while in the line of his duty. If that is so, why is it that there is any necessity for a special law in this case?

Mr. STILWELL. This old lady is now seventy-four years of age. She never made an application for a pension until this time, and now only asks that the pension to which she is entitled shall date back to January 1, 1860. The surgeon who attended her husband at the time of his death has since died; thus producing a break in the chain of evidence required by the general pension law. But the certificate of the Adjutant General is on file with the papers in this case establishing the facts.

Mr. WASHBURN, of Illinois. We are asked to do something which Congress has rarely if ever done before; grafting a pension to date back before the passage of the bill. We are asked to grant a pension to this lady to date back six years. I do not know that it is of any use whatever to oppose any of these pension cases, no matter what principle may be involved. But I think this is going further than we have ever gone before under any state of circumstances.

Mr. STILWELL. This lady is strictly entitled to a pension from the 6th of March, 1834, when her husband died of disease contracted while in the service. But she does not claim that; only asks for a pension from January, 1860.

Mr. WASHBURN, of Illinois. If she was entitled to a pension, she has waived her right to it heretofore. And now she comes here, having waived her right, if it ever existed, and asks us to pass a bill to give her a pension dating back for six years.

Mr. STILWELL. She comes here now because she is poor and in indigent circumstances.

Mr. WASHBURN, of Illinois. I have no doubt this old lady may be a very meritorious subject for charity. But I contend that we have no right to legislate for charitable purposes. If we do the money in our Treasury might go out a little faster than it now does, and it might possibly give out. I do not see any principle upon which this bill can be passed.

Mr. BENJAMIN. This case, Mr. Speaker, is somewhat new to me. I was not aware that the committee had agreed to report a bill going back the length of time that this does, or even going back at all. I have been present at all the meetings of the committee that have taken place when I have been in the city, though there have been some meetings held when I was absent from the city. I ask the gentleman from Indiana [Mr. STILWELL] to consent to the postponement of the bill till the next call of the committee, one week hence. I would like to examine the matter further. I think the bill should be amended.

Mr. STILWELL. A majority of the committee have recommended the reporting of the bill. I have only carried out their instructions.

Mr. PERHAM. I feel that I ought to say that I have no recollection of any action of the committee agreeing that this bill should go back as far as is proposed. As to the merit of the case, I recollect it; and the committee, I believe, were unanimously in favor of a pension; but I am not aware that there was any authority to extend the pension back so far.

Mr. BENJAMIN. If it be in order, I will move to strike out the clause which provides that the pension shall take effect six years back.

The SPEAKER. The gentleman from Indiana [Mr. STILWELL] is entitled to the floor.

My STILWELL. I yield to my colleague, [Mr. WASHBURN.]

Mr. WASHBURN, of Indiana. I desire to

ask the chairman of the committee [Mr. PERHAM] whether he is not satisfied that a pension ought to be granted in this case.

Mr. PERHAM. That was our conclusion.

Mr. WASHBURN, of Indiana. If this lady is entitled to a pension at all, she is entitled to one for thirty-two years back instead of six years. But, as I understand, she asks it for only six years back; and therefore the committee have reported the bill in that form. If justice were done, she should receive a pension from March 6, 1834. The bill provides for giving her a pension for six years back, as she does not ask more.

Mr. PERHAM. In answer to the gentleman from Indiana, I ought to say that our committee have had before them a large number of petitions for the enactment of a general law to give pensions to all who served in the war of 1812. The committee have declined to report favorably on that subject; but we have taken up and reported favorably many individual cases which appealed most strongly to our sympathies, and which we thought would meet the approbation of this House and of the other branch of Congress. They were cases which did not come under the provisions of any general law. They were isolated cases, the circumstances of which, as the committee thought, justified the granting of pensions. In this case, if we grant this lady a pension from the time of the passage of the act until her death, we shall, I think, be treating her as well as she could expect.

Mr. WASHBURN, of Illinois. As I understand, the idea of the committee was to report a bill, corresponding with other pension bills, the pension to take effect from the passage of the act.

Mr. TAYLOR. I hope that this bill will not be recommitted. The committee have had the case under consideration, and know as much about the circumstances as they would if they should attempt a reexamination of the case. There seems to be some misunderstanding as to the date when this pension should commence. The bill proposes that it shall commence in 1860. There has been a rule established in the committee that all pensions of this kind shall commence from the passage of the act.

This case does not come within the general pension law, because of the absence of the record evidence of the death of this officer—the certificate of the surgeon. If that could be procured, the pension of this lady would date back from 1834. There is, however, satisfactory evidence in the case that the husband did die from disease contracted in the service; and in order that this case may be disposed of now, I move to amend the bill by striking out the words, "to take effect from and after the passage of the act."

Mr. STILWELL. I will consent to the amendment; and I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STILWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AGNES W. LAUGHLIN.

Mr. PERHAM reported back, from the Committee on Invalid Pensions, a bill (S. No. 241) entitled "An act directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner."

The bill was ordered to a third reading, was read the third time, and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MRS. SARAH E. WILSON.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 252, granting a pension to Mrs. Sarah E. Wilson, with the recommendation that it do pass.

The bill, which was read, provides that the Secretary of the Interior be authorized and directed to place the name of Mrs. Sarah E. Wilson, widow of William H. Wilson, late acting surgeon United States volunteers, on the pension-roll, at the rate of seventeen dollars per month, to commence from the passage of this bill, and to continue during her widowhood.

It appears from the report, which was also read, that William H. Wilson, the husband of the applicant, was sergeant of company I, eighty-second regiment New York volunteers; that he was a practicing physician and surgeon of good standing in his profession; that at the battle of Bull Run, July 21, 1861, he was detailed to act in his professional capacity on the field; that while so acting he was taken prisoner by the enemy; that he remained in the hands of the enemy as a prisoner until the fall of that year, when he was paroled and returned to his home; that at the battle of Antietam, being still unexchanged, he reported to the proper authorities at Washington in his professional capacity, and was sent to the battle-field to assist in caring for the wounded; that he discharged that duty faithfully and well, and while in the discharge thereof contracted the disease whereof he died March 22, 1863.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MRS. EMERANCE GOULER.

Mr. PERHAM, from the same committee, also reported back Senate bill No. 260, granting a pension to Mrs. Emerance Gouler, with the recommendation that it do pass.

The bill, which was read, provides that the Secretary of the Interior be, and he is hereby, authorized and directed to place the name of Mrs. Emerance Gouler, widow of Charles Gouler, late a private in company F, ninth New Hampshire volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the passage of this bill, and to continue during her widowhood.

It appears from the report, which was also read, that Charles Gouler, the husband of the petitioner, was a private in company F, ninth regiment New Hampshire volunteers, and was admitted to Satterlee United States general hospital, Pennsylvania, on the 28th of May, 1864, suffering from fever. That on the 8th of October following he received a pass from said hospital to leave the premises for a few hours, and that no information was afterward received concerning him until November 29, 1864, when it was stated by soldiers that he had been drowned. Upon an investigation by a coroner over the body of a soldier found in the Delaware river at Pine street wharf, Philadelphia, Pennsylvania, October 14, 1864, he was identified by the pass and other papers found on the body.

Mr. WASHBURNE, of Illinois. If I understand this case, Mr. Speaker, this party was a soldier who was accidentally drowned. If that be so, I do not know why we should make this an exceptional case. If we are going to act on it we should pass a general law.

Mr. PERHAM. There is a whole class of cases which we have considered. I do not know whether this is one of them. The facts of one case are that a sick soldier was granted a sick furlough and was sent to New York in company with six or seven hundred soldiers. The vessel which he was on was sunk with nearly all on board. But I am not sure that is this case, though very much like it.

Mr. BINGHAM. I desire to bring to the attention of the honorable gentleman from Illi-

nois that we are to pass upon these special cases which are not included under the general law. This case is upon a like state of facts referred to by the chairman of the committee.

Mr. WASHBURNE, of Illinois. I beg the gentleman's pardon. I ask the Clerk to read the report, so that the members of the House may hear it.

The report was again read.

Mr. PERHAM. This case has been examined carefully. It was discussed at length by the Senate, was passed and sent to us. The committee here, after investigation, approved it. It is now before the House, and I think ought to be passed. This man had a fever, contracted in the service, and if he had died in the hospital there would have been no difficulty about a pension. He received a furlough for five or six hours, and on being missed his body was found in the river.

Mr. BINGHAM. He was sick when he went out.

Mr. PERHAM. Yes, sir.

Mr. WASHBURNE, of Illinois. I do not see upon what ground you will grant this pension. This man did not lose his life while in the line of his duty.

Mr. BINGHAM. I do not think we should look narrowly into these cases. This soldier was suffering with fever and was in hospital. If, instead of perishing in the river, he had died in hospital the pension would have been granted under the law. He had a temporary furlough, and was found dead in the river. No one is able to say how he lost his life.

Mr. WASHBURNE, of Illinois. I beg the gentleman's pardon; there is no fact of that kind appears on the face of the report.

Mr. BINGHAM. The fact has been stated in the hearing of the House by the chairman of the committee, that he was suffering under his disease.

Mr. WASHBURNE, of Illinois. I presume the chairman of the committee knows nothing more about it than is stated in the report, and that states nothing of the kind.

Mr. BINGHAM. I take it for granted that he knows what he states—that he was still suffering and got leave of temporary absence, and during that time he was found dead in the river. No one will deny that if he had died in the hospital his case would have gone on the pension-roll.

Mr. PERHAM. In regard to his suffering in consequence of disease, I have only to say this: the practice in the hospital is to discharge soldiers whenever they are in a condition to be discharged, and I suppose that this soldier was not in a condition to be discharged.

I have no desire to discuss this matter at further length. I am willing to submit it to the House. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was read the third time.

Mr. WASHBURNE, of Illinois. I ask for a division on its passage.

On the passage of the bill no quorum voted.

The SPEAKER ordered tellers; and appointed Messrs. PERHAM, and WASHBURNE of Illinois.

The House divided; and the tellers reported—ayes 64, noes 38.

The SPEAKER. The Chair votes in the affirmative to make a quorum, and the bill is accordingly passed.

Mr. PERHAM moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles:

An act (H. R. No. 184) to authorize the sale of marine hospitals and of revenue-cutters; and
An act (H. R. No. 25) for the relief of Thomas Hurly.

ORGANIZATION OF THE PENSION OFFICE.

Mr. PERHAM. The Committee on Invalid Pensions have instructed me to report back House bill No. 278, in amendment of the several acts relating to the organization of the Pension Office, with an amendment in the nature of a substitute therefor.

The bill was read. It makes the salary of the Commissioner of Pensions equal to that of the Commissioner of Patents, and the salary of the chief clerk of the Pension Office equal to that of the chief clerk of the Patent Office.

The amendment reported by the committee in the nature of a substitute is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the salary of the Commissioner of Pensions shall be \$4,000 per annum, and the salary of the chief clerk of the Pension Office shall be \$2,500 per annum.

*SEC. 2. And be it further enacted, That the Secretary of the Interior shall appoint, from the fourth-class clerks in the Pension Office, one chief examiner of Army invalid pension claims, one chief examiner of Army pension claims of widows, mothers, and orphans, and one chief examiner of Navy pension claims; each of said chief examiners shall be allowed \$200 per annum in addition to the salaries already allowed to clerks of the fourth class: *Provided, That nothing in this section shall be so construed as to authorize the appointment of a larger number of fourth-class clerks than is now provided by law, including the examiners aforesaid.**

Mr. PERHAM. I am directed by the committee to move to amend the substitute by striking out the second section.

Mr. WASHBURNE, of Illinois. I wish the gentleman would consent to have this bill recommitteed, and have the bill, substitute, and amendment printed.

Mr. PERHAM. They are all printed.

Mr. WASHBURNE, of Illinois. I hope he will not press the bill this morning.

Mr. PERHAM. I wish to state briefly the considerations which have actuated the committee in making the recommendation which they do make. It will be seen by the substitute, as it now stands, that it only applies to the Commissioner of Pensions and to the chief clerk. The salary of the Commissioner of Pensions now is \$3,000, and that of the chief clerk \$2,000. I need not say to any gentleman who has had business with the pension department, that the Commissioner of Pensions is one of the hardest worked officers in the whole of the Departments of the Government. And I need not say that there has been a very great increase of business in that bureau during the last three or four years, and that it becomes necessary for the Commissioner, in order to a proper discharge of his duties, to work very much outside of the regular business hours, even well into the night, and that there is very great responsibility devolved upon him.

We are distributing now through this bureau something more than fifteen million dollars per annum—more than the whole expense of carrying on the Government up to the time of John Quincy Adams's Administration. The bills that are now in process of passage in Congress will increase the disbursements to more than twenty million dollars, and this is to be paid out in sums averaging less than one hundred dollars each in all parts of the country, and in almost every town in the country, making, aside from the necessity of a careful examination of all the cases that came before the Commissioner, a vast amount of business in keeping all these accounts with such a large number of persons, scattered over so very large a territory.

It is very true that the applications for pensions may now have reached the maximum and that there may not be so large a number of applications for the next year as there has been for the last year. But it is also true that only the plain cases have been disposed of. There are a large number of cases remaining that are different entirely, cases that require a great deal of investigation and very much research, to which the Commissioner of Pensions must give his careful attention.

Many of the heads of bureaus have deputies, but we give him none. He is obliged to attend to all his duties himself. When the salaries of these heads of bureaus were first established,

they were just one half the salaries of Cabinet officers, \$3,000, the salaries of Cabinet officers being then \$6,000. We have increased the pay of Cabinet officers to \$8,000, and this bill proposes to increase the pay of the Commissioner of Pensions to the same extent, giving him just one half the salary of a Cabinet officer, as we were in the habit of doing formerly.

Now, we found, when we came to examine the salaries of these heads of bureaus, that the Superintendent of the Coast Survey, for instance, receives a salary of \$6,000 a year. I am not familiar with the duties of that officer, but I presume they are very light as compared with those of the Commissioner of Pensions. We give the Comptroller of the Currency, who has a deputy to aid him, \$5,000. We give the Commissioner of Internal Revenue, who also has a deputy, \$4,000.

When we come to the War Department, the heads of bureaus there, I believe, are generally brigadier generals, receiving the pay and commutation of brigadier generals, which, I think, amounts to \$6,000 per annum. If I am wrong, some military gentleman will correct me.

When we come to the Navy Department, the head of the Bureau of Yards and Docks receives \$4,000. And then the Commissioner of Patents receives \$4,500.

Under all the circumstances the committee have come to the conclusion that it is very proper that the pay of this officer, who is obliged to stay here during the whole year, during the hot as well as the cold seasons of the year, and attending to his duties so assiduously, as it is necessary he should do to discharge them, shall be increased.

So far as the chief clerk of the Pension Office is concerned, we give the chief clerk of the Patent Office \$2,500. I suppose the duties of the chief clerk in the Pension Office may be as arduous as those performed there.

There is another fact connected with this matter. While you give many of the other heads of bureaus deputies, you give the Commissioner of Pensions no deputy, and therefore the chief clerk must be a man competent to perform the duties of the Commissioner in case of his absence or sickness.

The committee came to the conclusion that we need a man whose services are worth this salary. The chief clerk now is obliged to assist the Commissioner very much in his duties, and in case of the sickness or absence of the Commissioner would be expected to take his place and perform his duties.

The committee have recommended the passage of this bill, believing that on the whole it is about right, and I am willing to submit the question to the House.

Mr. WASHBURN, of Illinois. Let me say one word.

Mr. PERHAM. I will hear the gentleman from Illinois.

Mr. WASHBURN, of Illinois. Mr. Speaker, I have no fault to find with the manner in which the present Commissioner of Pensions performs his duties. I believe that he is a very faithful, conscientious, and able officer, and a very accommodating gentleman to do business with. But my point is against increasing these salaries. We are going on increasing, one after another, the salaries of all these men about Washington. Why, sir, we have, within a few years, increased the salaries of the Assistant Secretaries of War and of the Superintendent of the Coast Survey. And now here is a proposition to increase the salary of the Commissioner of Pensions to \$4,000, being an increase of \$1,000 a year.

The next thing that will come up, and with just as much merit as this, will be a proposition to increase the salary of the Commissioner of the General Land Office, and the salary of the Commissioner of Indian Affairs. And my friend from California [Mr. BIDWELL] is also very much to blame for not having brought in a bill to increase the salary of the Commissioner of Agriculture, the most laborious officer in the whole Government. And if we can judge from the votes of the House,

he is decidedly one of the most meritorious officers that we now have.

I object to this whole thing upon the ground that we have already gone too far in the way of increasing the salaries of these officers. If we are to increase the salary of the Commissioner of Pensions, we ought for the same reason to go on and increase the salary of the Commissioner of the General Land Office, and the Commissioner of Indian Affairs.

[Here the hammer fell.]

The SPEAKER. The morning hour has expired, and this bill will go over till tomorrow.

COMMITTEE ON MINES AND MINING.

Mr. HIGBY. I find myself under the necessity of leaving the city for some days, and therefore I ask that the Committee on Mines and Mining, of which I have the honor to be the chairman, may be called after the rest of the select committees have been called, instead of being called in its regular order.

No objection being made, it was ordered accordingly.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate insisted upon its disagreement to the amendment of the House to the concurrent resolution of the Senate concerning the sale of liquor in the Capitol building, and agreed to the request of the House for a committee of conference upon the disagreeing votes of the two Houses, and had appointed Messrs. WILSON, SHERMAN, and GUTHRIE, the committee on the part of the Senate.

Also, that the Senate had passed without amendment House joint resolution No. 102, for the relief of Alexander Thompson, late United States consul at Maranhão.

Also, that the Senate had passed a bill (S. No. 190) to incorporate the District of Columbia Canal and Sewerage Company, in which he was directed to request the concurrence of the House.

ORGANIZATION OF THE ARMY.

Mr. SCHENCK called for the regular order of business.

The SPEAKER. The first business in order is the consideration of the bill for the reorganization of the Army.

The House accordingly resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States."

The following section was under consideration:

SEC. 4. *And be it further enacted*, That the infantry regiments herein provided for shall consist of the first ten regiments of infantry, of ten companies each, now in service; of twenty-seven regiments to be formed by adding two new companies to each of the twenty-seven battalions comprising the remaining nine regiments; of ten regiments to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps; and of eight regiments of colored men, to be raised and officered as hereinafter provided, to be known as the United States colored troops.

The pending question was upon the motion of Mr. DAVIS, to amend the section by striking out the following words:

Of ten regiments to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps.

Mr. SCHENCK. The amendment now proposed to this fourth section would strike out all that portion of the section which relates to the organization of the Veteran Reserve corps. I desire, before any vote is taken upon the amendment, that the House shall fully understand the length and breadth of that proposition.

I stated at the beginning of the consideration of this bill, that in fixing the number of infantry regiments we have adopted the idea of the War Department and of the Lieutenant General, though some of us believed that the number of regiments should be greater. We have settled upon the number here named as perhaps the number most proper to be selected under all the lights we now have, and under all the necessities of the country. And therefore we

provide in the House bill that there shall be fifty-five regiments of infantry.

That number is to be made up as follows: first, of the ten regiments now in existence in the old Army. Then there are nine regiments, consisting each of three battalions of eight companies, which regiments were created during the war. It is proposed to continue those nine regiments, and by adding two companies to each battalion, to make a regiment of ten companies of each of these battalions, or twenty-seven regiments in all from these nine regiments. These twenty-seven regiments, with the old ten regiments will give thirty-seven regiments of the fifty-five to be provided.

That leaves eighteen of the fifty-five regiments still to be accounted for. Of these ten are to be regiments which shall constitute the Veteran Reserve corps, and eight regiments are to be made up of colored troops.

Now, the proposition is to reduce the whole number of infantry regiments by striking out the ten regiments to be organized as a Veteran Reserve corps, and the reasons have been assigned, by gentlemen who have discussed this subject, why this should be done. I think, however, the general reason for the opposition to this corps has not been assigned.

Originally fifty-five regiments of infantry were proposed, with the assent of all persons representing the interests of the regular Army. But when it was found that the House insisted that ten of these should be regiments officered by those who have been wounded in the service of their country, it was suddenly discovered that there were too many regiments of infantry provided for. And it was then proposed to drop five regiments, bringing the number down to fifty regiments, the other five to be added to the regular Army in the ordinary way.

Now, I am not at all surprised at the course which has been pursued here, and I shall not be surprised at any course which may hereafter be pursued toward this feature of the bill of the House. There is a general hostility cultivated, pressed, urged, spread around Congress, coming from those who are opposed to any Veteran Reserve corps at all. And it is not to be supposed but what it will have its influence and be felt here.

Before I speak of that, however, I want it distinctly understood what is proposed by the Committee on Military Affairs of this House. Gentlemen have spoken as if the committee were proposing to transfer the present Veteran Reserve corps bodily to the Army. There is no such provision in the bill. The present Veteran Reserve corps consists of twenty-four regiments, of whom there remains yet in service about six hundred officers, some four hundred of whom are employed at present in the Freedmen's Bureau. What is proposed by the committee is not that there shall be a Veteran Reserve corps of twenty-four regiments, but that of the fifty-five regiments of infantry, ten shall constitute a Veteran Reserve corps, and that they shall be officered, not by taking exclusively the officers of the Veteran Reserve corps, but by selections from among them, upon proper and thorough examination, and from among all other officers who have been wounded in the Union cause during the rebellion. In this way, officers are to be provided for this limited number of ten regiments. Before gentlemen conclude to vote for or against the proposition to strike out these lines from the fourth section, I invite their attention to the provision contained in the fifth section:

The Veteran Reserve corps shall be officered by selection from the officers of the present Veteran Reserve corps, and by appointment from any officers and soldiers of volunteers who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, to which that corps has heretofore been assigned.

It is, therefore, a misrepresentation, or at the least a misapprehension, to speak as if there were to be a transfer of the Veteran Reserve corps. The bill contemplates no such thing. The provision is for the creation of ten regi-

ments out of the fifty-five, instead of the old corps of twenty-four regiments, these ten regiments to be officered by selection from among the officers of the Veteran Reserve corps and all other officers and soldiers wounded in the Union cause in the suppression of this rebellion, the only requirement being that they shall be found competent upon examination.

These officers of the Veteran Reserve corps might well say, "It is hard that we should be required to undergo a reexamination, having once passed an examination when we received our appointments and were confirmed by the Senate." But these men do not ask for themselves, nor is it asked for them, that they shall be exempt from this reexamination. But the door being thrown open for all wounded officers and soldiers of the Union Army, it is proposed that they shall come in with the rest, and that from the whole the officers for these ten regiments shall be selected.

Again, how are the men for the regiment to be obtained? Generally by recruiting, as in other cases. But there is in one of the later sections of this bill a provision for obtaining and providing for men who have suffered wounds or contracted disability in service. At the close of the tenth section is the following provision:

It shall be competent to enlist men for the service who have been wounded in the line of their duty while serving in the Army of the United States, or who have been disabled by disease contracted in such service, provided it shall be found, on medical inspection, that by such wounds or disability they are not unfitted for efficiency in garrison or other light duty; and such men, when enlisted, shall be assigned to service exclusively in the regiments of the Veteran Reserve corps.

Those three provisions in these different and appropriate sections, show, taken together, how we would constitute this Veteran Reserve corps, to consist of these ten regiments. There is full provision made by which officers and men alike who have served their country and have been wounded or otherwise contracted disability shall not on that account be debarred from coming with their meed of help to the country in doing such duty as they may be fitted to perform, because they would be unable to undergo successfully that medical inspection which, both as to officers and men, is a part of the inquiry into their fitness when they are presented for service; but the rule being relaxed in their case, they are to be received notwithstanding their wounds or disability.

If you do not have a provision of that kind, both as to officers and men, what will be the consequence? No man who has been wounded in your cause can ever expect to be admitted into your service, whether he be an officer or a private, because the medical inspection always on inquiry into his fitness will exclude both officers and men unless you have some such provision.

But gentlemen say, these men being wounded ought not to be employed—let them live upon their pension; let them go into the pursuits of civil life. Let me apply that to those gentlemen who, being themselves already established in the regular Army, would exclude these wounded officers or volunteers. When one of them becomes wounded does he wish to go out of the Army upon his pension? When one of them becomes wounded does he wish to be relieved from all duty, from light duty, and receiving such entire pay as the law gives him? You never hear an argument of that kind come from that quarter.

But they say that it is to legislate a body of men into the regular Army who were only temporarily employed, passing by the question what these men were taught to expect in the Veteran Reserve corps when they were given the privilege of remaining in the Army or not. Let me say if we do that it is no more than what we are doing for the regular Army. What are these new regiments made up of? The nine regiments of the old Army. They were regiments of three battalions each, raised by law for the rebellion, and their term will expire by the limitation of law. Why, every one, whether he belongs to the School of West Point or was appointed from civil life, would be turned out

unless such a provision is made as that we make in the bill. When gentlemen make an objection of that kind they do not see how far it will go. If you cannot legislate the Veteran Reserve corps or any selection of them into your Army because there is bad policy in it, then it is bad policy to have twenty-seven new regiments made up of the nine old regiments raised only for the war. I expect these gentlemen have forgotten that.

Who are these wounded officers? Let us look at their character, as they will be spoken of disparagingly here and elsewhere in reference to points connected with this debate. There is a great misapprehension, I expect, in relation to them. They were appointed to the Veteran Reserve corps in 1863, 1864, and 1865. In 1863, when this organization was first begun, the aggregate of officers appointed was six hundred and eighty. They were appointed without examination by transfer from the volunteer service.

It was afterward determined to give a better character to the corps, and it was provided they should undergo an examination and be confirmed by the Senate. On that examination, of the six hundred and eighty appointed about one third failed and were dropped from the rolls, leaving the number of appointments in 1863 at four hundred and forty-six. In 1864 near four hundred appointments were made after rigid examination.

In 1865, at the close of the war, only fifty-five were appointed, making the total appointed and confirmed by the Senate eight hundred and ninety. About six hundred remain in the service who were regularly appointed, confirmed, and commissioned. Of these six hundred about four hundred are on duty with General Howard in the Freedmen's Bureau. I think it no breach of confidence to say I have his assurance—although like all other classes of officers there may be some who are unfortunate, who will be weeded out on examination—yet as a body he has no better, more efficient, capable, and intelligent officers than those sent to him for duty.

[Here the hammer fell.]

Mr. CONKLING. I move that the time of the gentleman be extended.

The motion was agreed to.

Mr. SCHENCK. This is the testimony of General Howard, and I think it is a better sort of testimony than that of gentlemen who think that one-armed men are not fit to be employed in the service of the United States, and who would dispense with any further committal of trust to that gallant and distinguished officer who sympathizes with and is in favor of providing for those who have suffered in the cause of their country.

But it may be asked, why did not these veterans return to their duty when they so far recovered as to be fit for any duty whatever? The answer is most obvious. In about nine cases out of ten it arose from the fact that there was an order of the Department in 1862, called the sixty day order, which provided that if an officer on account of wounds or disease should be absent sixty days or upwards, his name should be stricken from the rolls and his place supplied by another appointment. In this way men who were wounded and who ultimately recovered far enough to be able to be employed profitably in the service fell out of the Army entirely. They found their places filled on their return to duty.

But, sir, I was going to speak of the character of these men who are spoken of as unfit for service, men who have found their way into this Veteran corps as "loafers" so called. I happen to have among my papers a statement of the percentage of the number of the different character of the wounds received by these men against whom this tilt is now made, and I find that the percentage of wounds received by the present officers of the corps is as follows:

Those of them who have had one wound constitute thirty-five per cent. of the whole; those who have suffered from two wounds con-

stitute twenty-five per cent.; those who have had three wounds in the service constitute nine per cent.; those who have had four wounds one and a half per cent.; those who have received five wounds, one per cent.; those who have suffered amputation of a leg, ten per cent.; those who have suffered amputation of an arm, nine per cent.; the number not wounded, but admitted because of disease or other causes disabling from duty, only nine and a half per cent.

And yet people are talking about these soldiers as though they were made up of men who had no claim upon the country by reason of having actually served in the field of battle, and of having suffered in their persons by being exposed to the bullets and bayonets of the enemy.

But all these remarks are unnecessary when you take into account the fact that after all you are going to select from the whole number, that after all you throw the door wide open to all who have been wounded; and inasmuch as that is the fact, you bring it back to the reply to the general argument, that a wounded man is not fit for duty and a wounded officer cannot properly have command.

Sir, the true reason leaked out from a remark which dropped from one of the gentlemen from New York, which I have heard repeated again and again outside, and which is in fact based upon a general opposition on the part of those now constituting the regular Army to having any Reserve corps made up of wounded men, and, as far as possible, of wounded officers. The argument is this: that all the easy places, such as garrison duties and station duties in towns, will probably fall to the share of this corps, and the able-bodied gentlemen of the regular Army will have to rough it out on the frontier posts, in the field, or at hard work.

Well, sir, the only reply I have to make to that is this, that if any class of men deserve the easy places, deserve to be put on recruiting duty, in garrison along the coasts and as guards, where ever they can properly perform that duty, and not to be sent out to report on the frontier, it is exactly these men who have not only had an opportunity to prove themselves, but have actually proved themselves, brave soldiers in the cause of their country, and have got their disability in that way. And, so long as that disability does not unfit them for a reasonable share of profitable duty, I say, employ them in that profitable way and give them the benefit of thus being provided for as some compensation for that which they have undergone. If anybody is entitled to easy places, it is these men.

Ah! but it is said they would not be fit for the duty. I suppose not; I suppose not. A fellow with one arm could not make the salute properly! A fellow with one eye could not maneuver his opera-glass properly! A fellow with one leg could not lead the "German;" he could not waltz properly, even with the aid of a piece of cork to supply his deficiency!

Now, I trust that all such arguments will be put aside. I trust that while we throw the doors wide open to all men of the volunteers and of the regular Army, and endeavor to build up a good and sufficient army upon a liberal system, we shall give every one a chance; that there will be no more of these miserable and narrow attacks upon and attempts at exclusion of those who, whatever be their merits otherwise, have at least proved that they have been in the way of danger.

Mr. SHELLABARGER. I sympathize very heartily in the line of remarks of my distinguished colleague, and I am earnestly in favor of retaining in the service, as an act of mere national justice, this Veteran Reserve corps, but I do desire, before my colleague sits down, that he shall give the House the benefit of whatever knowledge he may have upon this point. It is a common objection in the Army against the retention of this Veteran Reserve corps that practically it will result in having ten regiments of officers and very few men. I

understand that it is said that the experience of the country heretofore in this matter has indicated pretty strongly that it will not be practicable to have these regiments filled with men.

Now, I would like my distinguished colleague to tell the House what there is that is known bearing upon that subject, and whether it would be practicable to fill up these regiments and keep them filled up; for that is the great point, I take it, that is made against this feature of the bill. I understand that it has been very strongly made at the other end of the Capitol.

Mr. SCHENCK. I am very glad to have had my attention called to that point by my colleague, and I shall but be repeating my reference to the tenth section of the bill when I indicate how that difficulty is provided for.

Mr. SHELLABARGER. The difficulty is said to exist in the fact that you cannot get men to fill these regiments.

Mr. SCHENCK. If you can get men for any regiments you can get them for these, with the additional advantage that men recruited for the general service are eligible to employment in these ten regiments. Any man recruited for the Army may be assigned to duty in one of these ten regiments, whether he has been wounded in the service or not. But in addition to that we throw these ten regiments open so as to authorize the enlistment, which otherwise we could not permit under medical inspection, of men partially disabled by wounds, and provide that they may be transferred to these ten regiments.

The consequence will be practically this: if you get enough wounded men to fill the ten regiments you will have these regiments composed exclusively and entirely of men who, to some extent, are invalids or cripples, but not as much so as to be unfit for duty. But if you do not get enough such men to fill the ten regiments you can fill them up from the rest of the Army.

The tenth section provides what shall be done with the recruits sent to the general rendezvous, and it then goes on to say:

It shall be competent to enlist men for the service who have been wounded in the line of their duty while serving in the Army of the United States, or who have been disabled by disease contracted in such service.

If there were not such a provision you could not enlist one of these men. Men who have lost an eye or lost a finger or an arm, men who have been injured in any way, would be rejected by the medical inspector. But we provide against that and say that any wounded man or officer shall be eligible, with this further proviso:

Provided, It shall be found, on medical inspection, that by such wounds or disability they are not unfitted for efficiency in garrison or other light duty; and such men, when enlisted, shall be assigned to service exclusively in the regiments of the Veteran Reserve corps.

Mr. BOUTWELL. I understand from the remarks just made by the gentleman from Ohio, [Mr. SCHENCK,] that he thinks it possible at least, and not only possible but probable, from our past experience, that these ten regiments will not be filled and kept full by invalids of the Army. In that case, he suggests that these ten regiments are to be filled as the other regiments are filled; that is, by men who can pass a rigid examination. I desire to ask that gentleman whether that is not likely to bring together two classes, and to assign the better class to duties to which they ought not to be assigned. As I understand, one of the results contemplated by this bill is that the invalid regiments are to be assigned to certain specific and lighter duties.

Mr. SCHENCK. My answer to that is simply this: if you do not receive any man who has been wounded, then all these light duties have yet to be performed by somebody. For in that case all these ten regiments and all the other regiments will be filled up with able-bodied men, who must perform light duty, garrison duty, and all the other kinds of duty which our soldiers are called on to perform. Therefore there is nothing gained or lost one way or the

other, except that the course proposed by the committee will enable you to receive a class of men who otherwise will be excluded.

Mr. BOUTWELL. I would ask the gentleman whether as a matter of experience, as well as within the range of reasonable probability, it is not true that an army of fifty thousand men, composed of those who will pass a rigid examination, will not necessarily furnish, in the troubles and trials even of a time of peace, all the men disabled and incompetent for active military service who may be necessary for all the light duties of the peace establishment.

And I would also ask still further, whether, considering the extended and varied character of this country, and its variety of climate, it is not necessary in order to secure the physical and moral welfare of the Army that there should be capacity in the Commander-in-Chief to transfer regiments and brigades from one portion of the country to another. And is not the natural and necessary effect of this bill to place the able-bodied and vigorous portion of the Army in unhealthy and exposed and deleterious situations which will undermine in five or ten years the best and most vigorous physical constitutions?

Mr. SCHENCK. To that I answer "No."

The SPEAKER. The second fifteen minutes of the gentleman from Ohio [Mr. SCHENCK] have expired.

Mr. INGERSOLL. I move that the time of the gentleman from Ohio be again extended.

Mr. SCHENCK. My time has been much taken up by interruptions and explanations. Hereafter when occupying the floor I will decline to yield to any one.

The time of Mr. SCHENCK was extended by unanimous consent.

Mr. STEVENS. Before the gentleman from Ohio [Mr. SCHENCK] proceeds, I desire to state to him that there is one objection in the minds of some gentlemen, not pertaining necessarily to this section, but which still has some bearing upon the votes which we are to give. And while I do not entertain the objection that others do, I desire some information.

Some gentlemen believe that the bill as it now stands is intended to include, first, all the officers of the Veteran Reserve corps, and then only to go among other wounded men for officers of these regiments. I do not myself so understand the bill, but others think so. But I desire to ask the gentleman from Ohio if there will be any objection on the part of the Committee on Military Affairs when we come to the next section, the fifth section, to strike out the words "by selection from the officers of the present Veteran Reserve corps, and," and thereby leave it open to all wounded men.

The section now reads:

The Veteran Reserve corps shall be officered by selection from the officers of the present Veteran Reserve corps, and by appointment from any officers and soldiers who have been wounded, &c.

If amended as I suggest it will then read:

Shall be officered by appointment from any officers and soldiers of volunteers who have been wounded, &c.

That would remove all doubt on the subject.

Mr. SCHENCK. I do not know that I should make any objection to the amendment suggested by the gentleman from Pennsylvania, [Mr. STEVENS,] that is precisely the meaning of the bill now. As the bill now stands, it is that this Veteran Reserve corps is to be officered by selection from the present officers of the corps and any other officers and soldiers who have been wounded. These officers having already been prominent before the country, having undergone their examination, and having been appointed, confirmed, and commissioned, would naturally be looked to among those who are to supply the officers for these ten regiments. And hence it will do no harm, one way or the other, I suppose, to leave out the words indicated by the gentleman from Pennsylvania.

Now, sir, to reply to the gentleman from Massachusetts, [Mr. BOUTWELL,] let me say, in the first place, that your garrisons are organizations. You send a company, or half a company, or two or three companies, or a regiment,

to a post or to a fort. The gentleman says that there will always be, in an army of fifty thousand men or more, a great number wounded or disabled by the accidents or casualties of the service to make up these garrisons. But they will have no organization. They do not get sick by companies or by regiments. You cannot, therefore, send them, with their proper officers, to perform garrison duty. The reply to the whole matter is that you cannot garrison your posts by selecting one man from one regiment, another from another regiment, two from a third, and an officer from a fourth to command them. So that this substitute suggested for a Veteran Reserve corps is simply impracticable and is utterly inconsistent with military discipline and military practice.

Then, again, the inquiry is, whether the able-bodied men will not necessarily be sent off to places where they will be exposed to the deleterious influences of climate; whether they ought not to be changed. Of course they should be changed from time to time, and they may be changed. As a great part of the peace duty will be garrison duty, it is probable that these regiments of the Veteran Reserve corps will be occasionally changed from post to post, from fort to fort, from guard duty at one point to guard duty at another, from garrison duty to guard duty; and from guard duty to garrison duty. So also with the able-bodied troops; so also with the remaining forty-five regiments of infantry who will not constitute the Veteran Reserve corps. They will be on duty sometimes on the Pacific coast, sometimes upon the Florida coast, sometimes along the Indian frontier, and sometimes elsewhere. There will be room enough for changes and transfers of all, notwithstanding the continuance of the Veteran Reserve corps; for there will be a vast deal more of garrison and post and guard duty to be performed than can possibly be performed by these ten regiments.

Now, as to the efficiency of the Veteran Reserve corps for such purposes, let us see what the present corps has done. A portion of that corps was sent out to Johnson's Island at a time when other troops had been withdrawn; and during their service as guard to that rebel prison the weather was sometimes so cold that the men froze at their posts. This shows that the members of this corps have been employed for duty at inclement places as well as able-bodied men. Men of this corps, mounted as cavalry, were sent up through Pennsylvania at the time of the riots in the mining region; and they scouted the country for miles. Again, they were mounted as cavalry and scouted the country in front of the fortifications of Washington toward the close of the war. They guarded the public property here at Washington at every point. At the time of the approach of the rebel enemy to this city in the summer of 1864, they occupied and garrisoned the northeast fortifications of the city, from Fort Stevens entirely around to Fort Reno. They were in conflict with the enemy. Many of them, although they had suffered wounds or contracted disease in former battles, were able to renew the fight, to take again their position as efficient soldiers; and many of them suffered even unto death in the battles which occurred when Washington was thus threatened. Their conduct upon that occasion received, as it merited, great praise. I might go on multiplying notices of the services of this Veteran Reserve corps, showing that it is a slander upon officers and men alike to say that they have not performed their duty, and performed it well.

Now, sir, it may be said that these men are men who have gone from civil life into volunteer organizations, and that now we pass them over to the regular Army. I admit that this is so; but if it be a sound objection, it is one which extends to all other volunteers.

What is your army now? It is an army made up largely from civil life. I have taken the trouble to have a table prepared to show how the present line officers, field and company officers, of the regiments in the regular Army have been appointed. I find it is by no means a

West Point army. West Point has gone further up. West Point gets for the most part the bureaus. West Point is in the Department. West Point has the general supervision of the whole. But when it comes to the line officers, field and company officers, in the several regiments, I find of the thirty colonels twenty-one were educated at the United States Military Academy, eight not graduates of West Point, and one vacancy. When you come to lieutenant colonels, there are twenty-five graduates and five who were not graduates of West Point. Of the majors, fifty-five were graduates of West Point and twenty-one are from civil life. When you get to the captains, you find that only one hundred and thirty-one are from West Point, while three hundred and three of the present Army never have been at the United States Military Academy. Of the first lieutenants, seventy-nine have been at West Point and three hundred and sixty-eight have never been there. Of the second lieutenants, fifteen have been at West Point and twenty-nine have never been there, there being a great many vacancies. I find in the present Army, of field and company officers one thousand and sixty, and of these only three hundred and twenty-six were graduates of the United States Military Academy, while seven hundred and thirty-four never had that advantage of military education, and have only been taught by commanding troops in the field and by such attention as they have been able to bestow on the subject.

You would exclude these men who in the volunteer service have been wounded, and yet when these nine new regiments were made up the officers who were appointed in great part had nothing to commend them except political influence to get them their places. There are men in your regular Army who never until they were put into that Army served anywhere. I do not complain of this. You had to make a sudden expansion of your regular Army amid the exigencies of the rebellion, while yet there were no men wounded, no men who had practical experience and who had seen service, to put in these places. The consequence was they were filled up, these original and other vacancies, by men from civil life without any experience whatever. These men are not to be legislated out, but are to be left for what they may have done since. When we come to the present Army in the field you take the men and there is no inquiry to prove who they are or what they are, no matter to what organization they have belonged, but you object that this is legislating a class into the Army, that it is taking men in a body and transferring them to a position to which they are not entitled.

I have occupied more of the attention of the House than I intended, but whatever I had to say might as well have been said now.

Mr. CONKLING obtained the floor.

Mr. HALE. The gentleman will allow me. Mr. CONKLING. I have been waiting a long while to say something myself.

Mr. HALE. In justice to the officers of the nine new regiments, the fact should be stated that those regiments were organized within sixty days after the war broke out, so that they could not be officered from those who had seen service in the field.

Mr. CONKLING. Mr. Speaker, I am persuaded we ought not to petrify the Veteran Reserve corps in the permanent military system of the country. This conviction remains unchanged by the earnest appeal made by the chairman of the Committee on Military Affairs; unchanged by the extraordinary efforts which have been made from the outside to convert this House to the opinion that the officers of the Veteran Reserve corps *en masse* ought to be taken up and preferred before all the other officers and men to whom the country owes so much.

Even if the proposition were free from favoritism; even if all the heroic and disabled were to be allowed to compete alike for the benefits proposed, it seems to me when I remember the object of the bill before us that such a measure would be of doubtful wisdom. We are not upon

a bill providing pensions or relief, we are upon an Army bill; a bill to lay anew the foundations of the regular Army, to vitalize, to invigorate, to utilize it. The objects are efficiency and economy; and making the provision due to sufferers in the late war is another matter, not less in importance, certainly not in duty, but separate and distinct from this.

Those whose experience and observation entitle them to instruct me will not deem me in error when I say that it is at least a question whether an invalid corps should ever exist in a permanent military establishment. I mean, of course, a purposely created invalid corps.

The laws of decay in peace, and of destruction in war, multiply invalids fast enough, and it is the mission of ingenuity and of duty to prevent the members of an army from becoming invalids, and to provide for the ever sickening and ever suffering and ever failing. Even this task is, from its nature, too difficult to be well performed.

With the utmost rigor of examination as to physical fitness at the time of enlistments, and with the best sanitary regulations afterward, which the most favored service admits of, the percentage of human ailments is so great, that in the Army, as in every other walk of life, a large proportion of the whole is constantly unfit for hardship or activity.

Beyond all this, the military life makes regiments and whole commands the sufferers from seasons and climates and hardships and campaigns, from which they must have relief by change and rest.

The necessities of a soldier's life require all the relief that the best system will allow, and the opportunity to afford this relief has been found inconsistent with allotting light service, or any special service, perpetually to one portion of an army and hard duty of the same kind perpetually to the other.

This is no new idea. It is not started to be applied to the proposed Veteran Reserve corps. Experience declared it long ago; and it has been recently and pointedly declared for our instruction in the very matter in hand.

I suppose it is no secret that the public authorities recently caused to be convened in this city a number of the first generals of the age. The object of the convention was to consult as to the best disposition to be made of the military establishment of the country, now that the war is over, and to consider and devise the best legislative provisions in reference to the regular or permanent Army. These generals were those whose large experience and whose professional eminence selected them as the best advisers, and whose official station makes them the persons to execute the law to be enacted. They came together; the Lieutenant General, General Sherman, General Thomas, General Meade, all came. General Sheridan, and others, did not come. This group of men, so illustrious and so skilled, studied the whole subject, and presented their views in writing. The measures they deemed wisest were embodied in a bill which they approved. That bill was introduced in the Senate, carefully considered in committee there. It became the subject of conference and correspondence between the committee of the Senate and the officers who had recommended it. It was elaborately considered in the Senate, and passed with but little alteration, and came to us. Here it went to the Military Committee, and there it stays.

In its place we have a bill presented which contains various things, which were specially and pointedly condemned by the officers to whom I have referred, by the committee of the Senate, and by the Senate also. There may be reasons for this, though we have not yet heard them.

Beside the bill, however, which these officers blocked out, they made a record of their recommendations. One was upon the point now before us. I will read it. It is, as will be discovered, in answer to a communication sent them with a bill, to which had been added a provision creating a Veteran Reserve corps.

The paper is signed by Generals Sherman, Meade, and Thomas, and I am not sure whether by General Grant also.

"The only essential change proposed in the Army bill is to omit the Veteran Reserve corps altogether."

This is the reason they give:

"In any army, no matter what pains be taken in selecting recruits, when we come to put them into service experience teaches that nearly thirty per cent. fail by reason of the ordinary imperfections of human nature. Now, if eight regiments of the fifty be taken from the invalids, or men of impaired strength, we add fifteen per cent., or in all forty-five per cent. of invalids, which is too large a proportion. In the end it is cheaper to provide directly, by way of pensions, for this class of soldiers. If the officers of the Veteran Reserve have a good record and restored health, they can be appointed just as other officers of the volunteer army."

I hope the gentleman will remember the subject with which these generals were dealing when they expressed that opinion, and the subject with which we are dealing when we listen to it. I ask gentlemen to remember what seems to have been sometimes forgotten to-day, namely, that the bill is not one to establish a military asylum or to provide for disabled men, but to invigorate and compact the armies of the Republic. Looking to the object in view, they say that an invalid corps, however organized, is a mistake. Why? Do we not all know; do we not all see obvious reasons, some of which were suggested by the gentleman from Massachusetts, [Mr. BOUTWELL?] Is not the reason of the matter so plain that even those of us who can lay no claim to military attainments may see and affirm it? Passing over the thirty per cent. of disability which inheres in every army, however well selected, we see the need of relief duty, of light service like garrison and post duty to recruit the weary and the worn.

Regiments sent to Texas, for example, and to other distant parts even in ordinary times, become worn, jaded, and impoverished, and there must be some relief for them, and for companies and battalions requiring change of climate and life. While post and garrison service are left open to be allotted from time to time among those most in need of the rest thus afforded, one hand is made to wash the other, the service is performed, and there are always enough and to spare of those whose hardships, and absence far away, and actual bodily condition, not only deserve but require repose and the relaxation which light service gives. If they are not to be thus relieved they must have seasons of entire uselessness and idleness accorded them.

I am assured by gentlemen who would not be questioned here as military authorities, that a great element of the *morale* of the Army, of the spirit and content of the Army, is the fact that all know that each regiment and battalion and company will have its fair turn at home duty as well as distant duty, at the relaxations which repair as well as the trials which jade. This has been always the rule in our service, and it has never been violated, I believe, in legislation.

It was in no way violated by the formation for the time being of the existing Veteran Reserve corps.

The gentleman from Illinois said yesterday that this corps was given reason to suppose that it was created permanently. I say to him, if he will look into the fact he will find it precisely otherwise. The Invalid corps, as it was first called, was created not by statute but by an order which I have before me. It was created for a temporary purpose. What was it? It was created as an auxiliary to the Bureau of the Provost Marshal General, which bureau, by the terms of the statute creating it, died with the war. This corps was created to guard prisoners, to assist in drafting, in short, to perform duties rather of police than of war at draft rendezvous, and elsewhere. It was created for these purposes, and for these purposes alone. There was a necessity for it, and that necessity was as temporary as it was great, while the war continued, and while every able-bodied man in the service was needed at the

front. The necessity has passed, the duties for which the corps was formed are no longer to be done. Of course everybody foresaw that the purpose was temporary, and everybody knew, who knew anything about it, that the organization was not to be permanent.

The Government has by act and word held but one language on this point, and no expectations have been created that any set of officers were to be preferred to others in the final reorganization.

I should like to make further observations upon the questionable expediency of any permanently established special invalid corps, but time does not permit. Let us assume that such a corps if impartially constructed, so as to give all disabled officers a fair chance, would be valuable and wise. Then why should those who have already enjoyed advantages over their companions in arms be still further favored? I ask this question because in spite of the language of section five and of the interpretation put upon it by the chairman of the Military Committee, I believe the practical effect will be virtually to prefer *en masse* a large portion of the officers of the present corps to other wounded and disabled officers and soldiers.

Mr. SCHENCK. There is no such thing in the bill, and the gentleman either cannot read or will not understand.

Mr. CONKLING. I hope the gentleman from Ohio will not get too energetic. He has had three extensions of his time, and has expressed himself so fully that he should be content for a space. I do not wish to wrench myself by attempting to execute that celebrated pelvic gesture, by which the gentleman makes himself forcible, but I hope the House will consider that I have executed it as far as is necessary, and that I say with just as much distinctness as the gentleman employs that the result under the language he refers to will, in my belief, be just what I have stated. Let us see how this is.

A provision on this subject, substantially if not exactly like the present, was suggested originally in the Senate bill as first introduced. No one then denied or doubted that under it the officers of the existing Veteran Reserve corps were to be continued. The whole provision was struck out in the Senate committee. When the bill was under consideration in the Senate, an amendment was offered not in the same language here employed. The whole subject was sifted in debate, and before a vote was had the mover of the amendment adopted the original language which, as I said, was in effect if not literally the same as we have here, namely, "to be selected from officers of the Veteran Reserve corps, and appointed from other wounded officers." Still, nobody in the Senate doubted that the provision was for the especial benefit of the officers of the present Veteran Reserve corps. So it was held and treated, and so it was condemned and defeated. So much to show that I am not solitary in my mistake, if mistake it be.

But let us look for ourselves at the probable result of such a provision. Who are the persons upon whom the provision is to act, and how are they now situated? The privates of the Veteran Reserve corps protested against being kept in service, and nearly all upon their own application have been discharged. Six hundred and twenty-one officers preferred not to be mustered out, and so remain in service. Three hundred of this number have already been provided for in the Freedmen's Bureau and in the Treasury service; the rest are unemployed. Look at these facts a moment, first, for another purpose. Here is a body of men conceded, for this purpose, to be all without exception meritorious, conceded to have suffered in the service of their country, and for three years they have been kept on light service and on full pay, while other men who have been wounded and disabled have been cast aside, or compelled, in spite of their wounds, to go to the front. All other heroes and martyrs have been doomed either to retire from pay after being disabled, or else, wounds or no

wounds, to drag themselves back to the camp, the trench, and the battle-field.

Bear in mind, then, that these men as a body have been during three years drawing pay and performing the lightest duty of the service to the exclusion of all others; and bear in mind that there now remain as officers of the Veteran Reserve corps, say six hundred and twenty-one men, some detailed and some unemployed. I hope the gentleman from Ohio [Mr. SCHENCK] will not take me up upon the exactness of that statement. It may not be literally accurate. I will stop and refer to the figures if he does, as I have them somewhere on my desk.

Now, a Veteran Reserve corps of ten regiments is to be rendered permanent and to be officered by "selection"—mark the word—not by appointment afresh, but by "selection from the officers of the present Veteran Reserve corps, and by appointment from any officers and soldiers of volunteers who have been wounded in the line of their duty," &c. Does not everybody see what is likely to result from such a mode of organizing? All these officers are in already, they can act in concert, they and their friends can and will see to their interests and pilot them through red tape and other obstacles.

Being already imbedded in the corps, and having their places and commissions, they will be "selected," and although here and there other wounded officers may fight in or be in from the outside, the ready-made officers of this corps are to happen in, and outsiders are to have the right to shear the wolf; their trouble will be how to cut the fleece. Those who know the ins and outs of the matter can tell just how it can be worked; it has been explained to me by officers, and volunteers, too, who oppose the whole thing. But without going into the minutiae, we can all see about how it will be. So it is understood in the corps and out of the corps. How else shall we explain the influences around us?

Whence the enormous anxiety of the officers connected with this corps to have this provision retained if they are to come in only for a slight percentage of commissions? Because on the theory of the gentleman from Ohio, [Mr. SCHENCK,] when you come to put the three or four hundred officers of the Veteran Reserve corps who now remain out of employ in among all the wounded officers and soldiers of the country, they would be lost. They would be—

"Like the snow-flake in the river.
A moment white, then lost forever."

Every one must see that if this little few were to be mingled with the many, put on a par with all the wounded soldiers of the war, and only allowed to receive their share of commissions in proportion to their numbers, that share would be virtually nothing at all.

Is that the understanding of those who have besieged Congress on behalf of the Veteran Reserve corps? Is that the understanding of the volunteer officers who bear honorable and disabling scars who oppose and denounce the proposed legislation as unjust to them and their unnumbered comrades?

Circulars have been sent throughout the Veteran Reserve corps officers, as I understand, and as has never been denied, calling upon those addressed to contribute money in order to have their interests properly attended to before Congress. Has this expense and this equivocal expedient been resorted to for the benefit of somebody else?

No man can wink so hard as not to see that the practical operation of this bill as it stands is likely to be to substantially include all the officers of the existing Veteran Reserve corps, and only by accident to include anybody else. Therefore I say again, that while the bill does provide that the officers shall be taken not only from the present officers of the corps, but also appointed from among others who have been wounded in the late war, the effect will be as I believe in the first instance to secure in their places all those who are now in the corps.

The SPEAKER. The time of the gentleman from New York [Mr. CONKLING] has expired.

Mr. PAINE. I move that the time of the gentleman from New York be extended.

No objection was made.

Mr. CONKLING. An insinuation has been made, I hope not by design, that those who oppose this measure oppose the defenders of the country, or are wanting in a sense of justice and gratitude to the defenders of the country.

The case is put as if here was an occasion to do an act of justice for the general good of those who went out from the fireside to the camp to maintain on far distant battle-fields the life and glory of their country. For one I deny this *in toto*. I repel the insinuation, and I can show that nothing could be a more heartless mockery than to pretend that the real sufferers by the war have any interest on earth in adding five regiments to the number of men required for the regular Army, for the purpose of organizing ten of them in the manner proposed.

In the first place, what is to become of the great bulk of those, a multitude sad to number, who have never been kept upon pay and in light service, but who went out and returned ruined by wounds and disease? How many of them will be unsuccessful for every one who succeeds in obtaining a commission in one of these ten regiments?

But again, are the most unfortunate to be included at all? An examination is required as to bodily ability. This will have the effect to cause the rejection of the most unfortunate of these men, to exclude those whose bodily disability is the greatest, and whose power to maintain themselves is the least. The advantage is to be enjoyed by those who are able in some sort to come up to the military standard. Therefore, as to the bestowal of the commissions, the plan is to favor the least needy.

How as to the men? Does any one suppose that regiments which are to do nothing but garrison duty need to be kept filled with men? Why, not at all. Does any one suppose they will be filled up and kept filled with men wounded heretofore? We know that it would be impossible to keep them filled by such wounded men even if it should be desirable. Why? Here is a regiment to be made up of five hundred wounded men. There are fifteen hundred other wounded men who would be glad to have places in the regiment, but they do not get there, and the occasion passes by. Does any one suppose that these fifteen hundred men are to stand as tide-waiters, watching for vacancies, that they will forego, or could or should forego, other modes of life so as to be ready to enlist?

"Each stepping where his comrade stood
The instant that he fell."

Then how, after the first formation of the regiments, is the body to be kept filled with men wounded "in the late war"? The first enlistment of privates might answer the description, but the recruiting must be done in other fields. One portion of wounded men are to be taken and the others are to be left to shift for themselves and to become occupied in various ways in life. The relief, then, is merely for those who in the first instance form these regiments.

Mr. STEVENS. If the gentleman will allow me, I desire to make a single suggestion. I think he cannot have understood the question which I put awhile ago to the chairman of the Committee on Military Affairs. Seeing that this suggestion might be made, I asked him what was the intention of the bill in this respect, and whether he had any objection to an amendment striking out the words "by selection from among officers of the present Reserve corps." He assured me that he would not object to it. This does away with that part of the argument of the gentleman from New York. I do not know whether the gentleman heard the remark.

Mr. CONKLING. I did not overlook it, and I am very glad that the gentleman from Pennsylvania has made this suggestion. For

one, I shall vote for that amendment when I have the opportunity. And I am glad to have the gentleman's attention at this moment, because I want it directed to the fact that even if those words were stricken out, the fault of the bill will not be cured in the particular he suggests. It will still be open to evasion and easy abuse. How are the officers of the Veteran Reserve corps to be gotten out to take their chance fairly with other men? That is the question. The Veteran Reserve corps exists; and you propose to prolong and perpetuate it. Now, unless you have some provision which dissolves this organization, which turns these officers out, which makes the officers of the Veteran Reserve corps as well as the others applicants in the same sense and on the same footing for appointment, the purpose of the gentleman from Pennsylvania will not be accomplished, although the bill will be improved.

Mr. STEVENS. I desire to inquire of the gentleman whether he understands that if this bill passes, these officers are necessarily retained? May they not be mustered out by the Department in the same way as other officers are?

Mr. CONKLING. Mr. Speaker, I do understand precisely that, and so I think will the gentleman from Pennsylvania when I remind him how all this has been managed. When we came here this session the officers of the Veteran Reserve corps were in the position in which the gentleman assumes they are now. They had been brought into being by an order; and they could be sent out by an order. But in the early part of the session, upon the motion of the chairman of the Committee on Military Affairs, a resolution was adopted calling upon the War Department not to muster out these officers, as the Department was doing, until provision to that effect had been made by Congress. That was the substance of it. Now, I challenge any gentleman to show me in this bill any provision overriding that declaration of the House.

Mr. SCHENCK. Does the gentleman really want an answer?

Mr. CONKLING. My friend's manner is rather appalling; but if there is no danger at this distance—

Mr. STEVENS. I desire to ask my friend from New York whether the resolution to which he refers was a joint resolution, or merely an expression of the opinion of the House.

Mr. CONKLING. I am not sure whether it was a joint resolution or not, and therefore I have refrained from saying anything of it except that it passed the House. I know that such a resolution passed this House; and I remember very well that I inquired at the time whether it was to lead to such a result as it is like to.

Mr. GARFIELD. I think that was a mere resolution of the House, making a request of the Secretary of War.

Mr. CONKLING. And here, in the return made from the Adjutant General's office, with which my colleague [Mr. VAN AERNAM] supplies me, there is a note in the case of a number of officers, stating that they are retained under the resolution of Congress to await further action in their cases. Three hundred and ninety-nine are retained in that way.

Mr. SCHENCK. If the gentleman really wants information on this point—

The SPEAKER. Does the gentleman from New York yield to the gentleman from Ohio, [Mr. SCHENCK?]

Mr. CONKLING. I will if it does not come out of my time.

The SPEAKER. It will come out of the gentleman's time.

Mr. CONKLING. Then I decline to yield. I have had a great deal of curiosity on this point; and I have asked at the Department and outside of the Department, what was to be the effect of such a provision as this; and I am advised that by the bill as it now stands the officers of the present Veteran Reserve corps will be transferred in a body to the corps pro-

vided for by this bill. I fear that the amendment of the gentleman from Pennsylvania [Mr. STEVENS] will not insure the contrary, and if the section is retained I shall move a further amendment in the same direction.

Mr. BLAINE. I desire to suggest to the gentleman from New York that it would be more satisfactory if he would point out the section of the bill which conveys that meaning, instead of indulging in loose and vague assertions with nothing in the bill to support them.

Mr. CONKLING. I have endeavored to refer to the provisions of the bill; and I will suggest to the gentleman from Maine [Mr. BLAINE] that possibly by listening he will have his attention directed to some provisions of the bill which he may not understand any better than the rest of us.

I take up this matter, Mr. Speaker, in a plain way, and judge with the poor light I have, and also from what gentlemen say who know more about such things than I do. Taking the words as they stand, and even as proposed to be modified by the gentleman from Pennsylvania, [Mr. STEVENS,] unless he turns out the Veteran Reserve corps, and have them begin again, the preference will be given to this set of officers over the others, as I think.

Mr. STEVENS. Let me read. It provides for ten regiments to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps. Does not that show *de novo* operation?

Mr. CONKLING. The bill says, also, that the Veteran Reserve corps shall be officered by officers selected from the present Veteran Reserve corps. Does this treat the language of the other section which the gentleman reads as requiring everything *de novo*?

Mr. STEVENS. The gentleman refers to another section: They are not to be transferred as they now are, but new regiments are to be raised, to be called the Veteran Reserve corps.

Mr. CONKLING. I have succeeded partly in my purpose by rousing the attention of the House, although I have wandered from saying the most that I wished to.

In the fragment of time left to me I will make another remark. I submit to the chairman of the Military Committee that he states rather strongly when his auditors are people not accustomed to military distinctions the proposition that officers can never enter the Army if they have been wounded. He does not mean that. He does not mean, I think, to say that officers are so examined as to be rejected merely because they do not come up to the bodily standard required in the case of privates.

Mr. SCHENCK. I do, most certainly.

Mr. CONKLING. Does the gentleman say an officer in the service goes out as a private goes out, in consequence of being wounded?

Mr. SCHENCK. The gentleman asks whether an officer is subject to medical examination on his appointment, and I say he is. One of the best officers of the Veteran Reserve corps was a candidate for the place of second lieutenant in the regular Army and was rejected on medical inspection.

Mr. CONKLING. I have no doubt an officer may be so disabled as to be unable to do duty in the Army and may be rejected for that reason. I have no doubt there are such cases. Phil. Kearney, though, went one-armed, with his bridle in his teeth, through all the war till he fell in fight, and nobody but death mustered him out. Officers who are fit to do duty are not, as I understand the application of the law, rejected because they have been wounded at some time and could not pass examination as privates.

It seems to me the true way to provide for officers and men wounded in the war is to adopt measures which will deal equitably and impartially among them all. This cannot be done by mixing one bill with another, and ingrafting upon a bill to make the Army more efficient an invalid corps, holding out benefits to them which ought to be given in another way. No man can invent a stronger measure for the

relief of our soldiers and their families of a proper and fair character than I will vote for. The more it favors wounded and disabled men the heartier shall be my support. This provision does nothing wise or just in that direction, and therefore it wins no favor with me on that account.

Mr. PAINE obtained the floor, but yielded to

Mr. BLAINE, who said: Mr. Speaker, I want the floor for five minutes to correct a gross misapprehension, I will not call it a misrepresentation, of the gentleman from New York. When the gentleman from New York speaks of his own knowledge on a subject he is a gentleman of accuracy to whom I always listen with great pleasure. He is not so accurate when he speaks upon the suggestions of others who are interested adversely to this bill.

He makes the broad assertion that this bill incorporates the Veteran Reserve corps as it stands into the regular Army. He has evidently not read the bill. The fourth section of the bill says:

Of ten regiments to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps.

The fifth section:

The Veteran Reserve corps shall be officered by selection from the officers of the present Veteran Reserve corps, and by appointment from any officers and soldiers of volunteers who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, to which that corps has heretofore been assigned.

Now, if the gentleman from New York will turn to the thirty-fifth section of the bill, he will find that no person shall be appointed to office in the line or staff corps of the Army until he shall have passed a satisfactory examination before a board to be convened under the direction of the Secretary of War, so that as a matter of fact, I assert it in its broadest and most unexceptionable sense, officers of the Veteran Reserve corps now in commission are not given one single inch advantage over any other wounded officers along the length and breadth of the loyal States. And the gentleman from New York certainly made a loose and vague assertion on that subject, contrary to the very letter and spirit, line and precept of the bill. I say this in vindication of the committee, of whom he has spoken as having cunningly gotten this in. It is drawn with very great care and proper safeguards are thrown around it.

Mr. PAINE. I am in favor of this provision of the bill which constitutes the Veteran Reserve corps. I am at the same time in favor of making careful provision for wounded officers and soldiers both of the volunteer and regular Army who have not hitherto been in that corps. If I supposed for one moment that the result of the provision contained in this section would be to give preference to men who are already in the Veteran Reserve corps, at the expense of those wounded officers and men who have never yet been placed in that corps, I should be opposed to the provision and struggle for its amendment.

And I am pleased to see the anxiety manifested by the gentleman from New York [Mr. CONKLING] in favor of these wounded officers and soldiers who have not hitherto been members of that corps. I only wish it had gone a little further, and had promised to take some practical form in this House which might benefit them. I only wish he had manifested a willingness so to amend this bill as to give these wounded officers and soldiers of the volunteer and of the regular Army, who have not hitherto been provided for in the Veteran corps, a chance under this law. But no; he turns with scorn from every attempt to amend this bill so as to include them, and makes that provision the basis of his opposition, and then turns around and positively refuses to do anything by way of amendment which shall obviate that objection. Now, the amendment proposed by the gentleman from Pennsylvania [Mr. STEVENS] does obviate that objection.

Mr. CONKLING. Did the gentleman say I

refused to have anything to do with that amendment?

Mr. PAINE. I do not say that he refuses to vote for that amendment, but I do understand him—and if I am mistaken I beg he will correct me—to have intimated to the House that notwithstanding that amendment he will vote against this Veteran Reserve corps.

Mr. CONKLING. My friend I know will indulge me in saying that he did misapprehend me. What I said was, that I should vote with pleasure for the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] and should seek to amend the section still further, if it was not stricken out, so as to accomplish the object which the gentleman from Wisconsin [Mr. PAINE] now announces.

Mr. PAINE. I am happy then to understand the gentleman as being willing to vote for the Veteran Reserve corps if the provision shall be so framed as to meet his views.

Mr. CONKLING. If we are going to have any, I will.

Mr. PAINE. Allow me to read this provision for the Veteran Reserve corps, as it will stand amended by the proposition of the gentleman from Pennsylvania:

The Veteran Reserve corps shall be officered by appointment from any officers and soldiers of volunteers or regular troops who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty to which that corps has heretofore been assigned.

Mr. Speaker, I undertake to say that that provision is fair to all the wounded officers and soldiers of the volunteer and of the regular Army; that it embraces them all, and that under this provision it will be the duty of the Secretary of War and of the President—a duty which they cannot evade honestly or fairly in reorganizing this corps—to select out of the whole body of the officers and soldiers wounded or diseased those who are best fitted to fill these regiments. Now, I ask what objection there can be to that.

I will not detain this House now by discussing all the arguments of the gentleman as to whether or not this Veteran Reserve corps should be established. I believe it is absolutely certain that not only in peace but in war we must employ a force equal to that embraced in these regiments for the performance of just exactly the duties which these men and these officers will be fully able to perform. And it is absolutely necessary that we should retain them in regimental organizations, and not have them in detachments or in squads. Then, I ask, what objections, upon principles of equity and humanity and justice, can there be if we undertake at once to provide for this case, and to discharge a duty of solemn obligation to the gallant men who have gone through this war, and suffered in the defense of their country, and for the maintenance of the national existence?

I shall vote to amend, improve, and perfect this provision, and after that is done I shall vote to retain it as a principal feature of this bill.

Mr. ROGERS. I have been greatly impressed by the remarks which have been made by the distinguished chairman of the Military Committee, [Mr. SCHENCK,] as well as the remarks of other honorable gentlemen who have sustained this provision of the bill, in regard to the bravery and valor of the men who are to be provided for by this section.

But I have not yet forgotten that we have an interest at stake in which thirty million people are interested, far greater and above the mere interest which may be contemplated by this bill for the benefit and advancement of those who have been wounded in the late war. Now, I am as willing as any man in this House to accord to the brave and gallant soldiers every effort to reward them for the duties which they have performed upon the field of battle, which may be within the legitimate sphere of our action. But while I am willing to accord to them all that we owe to them, I still remember

that we have a great country at stake, and that we are here to-day deliberating for the purpose of establishing an army for the whole country, to represent thirty million people, an army that some day may be marshaled against the combined forces and hordes of Europe, that may attempt to trample upon our rights.

But the interests of this particular class of men, the particular claims that they have upon the community, must give way to the interests of the people at large. We must not allow our feelings and prejudices in favor of these men to so warp our judgments as to lead us to legislate against the best interests of the country, merely because these men have exhibited bravery and valor upon the field of battle and have been wounded.

Sir, as much bravery, as much valor, as much patriotism as were ever exhibited upon the field of battle in any country, whether upon this continent or upon any other, have been exhibited during the late war by men who were not wounded at all. And because men in the discharge of their duty may have received wounds that is no particular evidence of their bravery over those whose bravery undaunted defied the bullets that have whirled around them, whose bravery in battle was evinced in the most determined manner, and yet who had the good fortune to escape any wounds whatever.

Now, those persons who have been fortunate enough to obtain positions in this Veteran Reserve corps took them with the distinct understanding—at least I so understood it, and I think almost every one so understood it—that that Veteran Reserve organization was merely for a temporary purpose; and because they have had the benefits of those places for two or three years of bloody warfare, without being exposed to the dangers to which other soldiers have been exposed, that is no reason why we should pass this class legislation in their favor, when they embrace not more than one out of twenty of the wounded soldiers of the Union Army.

Mr. BINGHAM. Does not the gentleman know that the text of the bill does not confine it to this Veteran Reserve corps?

Mr. ROGERS. That is the meaning of the bill and the only construction which can be put upon it. If the intention is not to give an advantage to the Veteran Reserve corps why say that the officers shall be taken from their ranks? Why is it that the body of the Reserve corps to be established by virtue of this bill shall be taken from the body of the Reserve corps as it exists at this time? Now, I say that this bill will authorize the officers of the Reserve corps as it now exists to take the places in these ten regiments, while that other body of wounded men, twenty times as large, who have been so unfortunate as not to get into the Veteran Reserve corps, are entirely excluded from the benefits of the Reserve corps to be established by this bill.

For one I am unwilling to make this discrimination between those who have not had the benefit of the Reserve or Invalid corps and those who have had it. I assert, without fear of contradiction, that the present Reserve corps, or the highest maximum number of it at any time during the war, would not constitute more than one twentieth of the wounded soldiers of the Union Army. Why should we make this class legislation here? These persons have been protected and taken care of by the Federal Government during three years of war merely because they happened to have the good fortune to get in this Reserve corps, while twenty times as many men who were not so fortunate and who were exposed to the same risks of battle are not provided for by this bill.

But I am mainly opposed to this bill for a graver and greater consideration, and that is for the interests of the country. I am not willing to do anything here for the benefit of these men that will destroy the morale of the American Army and impair its efficiency. No instance can be pointed out in the history of the world, from the time of Alexander the

Great down to the present time, where, in the organization of a great army, an invalid corps has been provided for in the very commencement.

Sir, I say that all history will be false if it be true that it is to the best interest of any country, at the formation of an army, to incorporate into that army a body of men who are recognized before they enter the army as unfit to do the great work of military duty for the protection of the country when an invasion may come upon it or an insurrection may break out in it.

Now, I am in favor of paying these men liberally in the way in which the Government has always provided for its soldiers in such cases. It is enough to put them on an equality with the other soldiers and officers of the Army, with the other brave men who have shown determination and valor equally with them, without making this particular class legislation, and without specifying and picking out these individuals as the ones who are to have particular consideration from the Government, by placing them in this Reserve corps and making it a part of the permanent organization of the American Army.

As was remarked by the learned and eloquent gentleman from New York, [Mr. CONKLING,] cases will arise fast enough by accidents and sickness and wounds received in the service to constitute a corps of this kind in the Army, without providing for such a corps at the outset. You cannot point to the legislation of any country in the world where heretofore provision has been made in the formation of an army, that ten, twenty, or any other number of regiments should be composed and constituted of men unable to do the most important military duty.

Why, sir, I have understood from military men, in conversation with them, that they want able-bodied men in the Army, men able and ready at any time when invasion may come upon the country on a sudden, when we have not time to prepare for war, before volunteers can be called out—that they may have able-bodied and efficient men to advance to the protection of the country at once, and that is the object and intent of the formation of a regular army in this country.

When our Constitution provided that Congress should have power to raise and maintain an army, it had reference only to the raising and maintaining of a regular army; and it is a fact which the history of all countries in all times attests that a standing army, which is to be called upon in emergencies for the defense of the country, should be composed of able-bodied men, competent to render effective service.

But, sir, it is enough for me to know that General Grant, General Sherman, General Meade, and General Thomas have all given the weight of their opinion against the formation of any such corps as this. Sir, I have confidence in the patriotism and the sagacious judgment of these officers. I do not pretend to be a military man; I have never been in the Army; but as one of the Representatives of the people of this great country, I am ready to accept the views of those who are better qualified than I am to determine what is best calculated to promote the efficient organization of the Army of the United States. I am satisfied that the advice given by such men as these is prompted by the purest motives and the highest wisdom; and I am willing to be guided by that advice.

Mr. ROUSSEAU. Will the gentleman from New Jersey yield to me for a moment?

Mr. ROGERS. I have only three minutes of my time remaining, and I cannot yield.

Besides, sir, this very question has been under consideration in the Senate of the United States. The Army bill as first presented there contained a section similar to this. But the committee of the Senate, to whom that bill was referred, struck out the whole section with regard to the Veteran Reserve corps; and subsequently two thirds of the Senate voted against inserting in the bill any such provision as that

contained in the bill reported by the honorable chairman of the Committee on Military Affairs. I am satisfied that the members of the Senate, in taking this action, were actuated by considerations of duty and a regard to the best interests of the country, guided by the knowledge which they had derived from leading military men.

However much regard, therefore, I may have for the members of this corps on account of the bravery which they have shown, I am not willing, with all the light we have on this question, to jeopard the interests of the country for one instant for the sake of advancing the welfare of any one class of people in this country.

Sir, these men ought to be provided for, and the Government is able to take care of them; and I am for inaugurating measures that will break down this Freedmen's Bureau system, this refugee system, and this provost marshal system, seeking at every man's heels for his blood; and I am ready to vote for spending the money of the Government in caring for the soldiers. But do not let us undertake, in this indirect way, regardless of the interests of the country, to provide for these men. Let us be liberal in appropriations of money for their support, but when we are organizing an army for the defense of the country, let us seek to insure the efficiency of that army.

Mr. WASHBURN, of Indiana. For my part, Mr. Speaker, I am in favor of a certain kind of class legislation. I am in favor of legislation for the benefit of that class of persons who are the survivors of those that have lost their lives in the defense of the country. I am in favor, also, of legislation for the benefit of those who have suffered wounds or incurred disability in the service of their country. I am in favor of such class legislation. And, Mr. Speaker, my objection to the provision of this bill with reference to the Veteran Reserve corps is that it should, in my judgment, be extended so as to include more of these men who have been wounded or partially disabled in the service, provided they are able to discharge the duties required of them.

I hope, Mr. Speaker, that the House will observe that all the gentlemen who oppose this Veteran Reserve corps, however much sympathy they may profess for the officers and soldiers who have rendered faithful service, finally settle down in their remarks to the point made by the gentleman from New Jersey that they are opposed to any of the wounded men being in the Army. Because General Grant has expressed the opinion that able-bodied officers should be placed on duty in the far West and in the South, the gentleman from New York [Mr. CONKLING] attempting to support himself by that opinion, argues in favor of giving all the easy places to the able-bodied officers of the regular Army, while I contend that the easy positions should be given to the wounded and disabled soldiers who have so nobly fought for their country.

Now, Mr. Speaker, I think the only question that is here for discussion is whether a wounded officer or soldier shall have the "soft places" in the Army, the duties of which they can discharge as well as the most able-bodied officers and soldiers.

It has been suggested that these men should retire from the Army upon their pensions. Now, sir, I do not want them to be put in the position of pensioners taking money from the Government when doing nothing, while they can discharge the duties of very many places where we now have able-bodied officers. Men in the Veteran Reserve corps if discharged would only get eight dollars pension whereas they now have full pay and are on duty; and the officers, numbering some three hundred and more, who now get full pay, would only get pensions from seventeen to thirty dollars.

The gentleman wants to know how we are to get rid of them. Let them be distributed to the States and Territories according to the number of troops raised. Of the three hundred officers of the Veteran Reserve corps one hundred and twenty-nine came from the State of

New York. Under the distribution suggested, her share would be thirty-two. The others we can easily fill up from the western States.

And it must be recollected that one of the objections to the Veteran Reserve corps is that it was not distributed fairly, and not because members are opposed to providing for wounded officers and men. The bill corrects that. It provides there shall be a fair distribution of wounded men in this corps and not to turn them all out.

For my own part I am in favor of providing this for these wounded officers and men. I hold in my hand a letter from a wounded soldier of my own regiment, asking and praying for this as a boon. I will read it:

"General, you know I have served my country as a faithful soldier, from the beginning of the war until the ending, and all I ask of it is merely to give me a situation in the Army as a soldier. You know your regiment was through many a hard-fought battle, that I never was absent from one except when wounded. I now bear the scars of thirteen wounds, and I want a place as a soldier if I can get it."

Mr. Speaker, it is for the wounded soldiers as well as the wounded officers I want a Veteran Reserve corps. It is because we have wounded officers and soldiers that a Veteran Reserve corps is necessary.

Mr. SCHENCK. I propose to call the previous question on this section after making a remark or two in behalf of the committee.

I am determined we shall not be misunderstood. I am determined to correct a misrepresentation which has been insisted on although again and again corrected. I do it by saying this: the Committee on Military Affairs had no idea of framing any bill providing for this Veteran Reserve corps except by making appointments to it from the wounded officers from all arms of the service, at least so far as volunteers are concerned. More than that, I am willing it should be extended to include the regular Army.

I will give notice to this House that no opposition will be made, but on the contrary my entire approval given to an amendment such as is proposed by the gentleman from Pennsylvania and the gentleman from Wisconsin—in the fifth section, that the language shall be altered so as to read that the Veteran Reserve corps shall be officered from any officers and soldiers of the volunteers and of the regular Army who have been wounded during the late war. I am determined there shall be no misapprehension about this, so that when gentlemen vote to strike out the provision for the Veteran Reserve corps I want it to be understood they are voting to strike it out with the distinct understanding that the officers are to be selected from all arms of the service, officers and privates.

Mr. HARDING, of Illinois. I hope the gentleman will go a little further, and provide for the apportioning of the appointments to be made among the several States. It is said the appointments shall be made to the effect that the public interest shall be subserved. The Veteran Reserve corps being in the service now they would of course be selected according to these dictates of public interest. If it be provided that these officers shall be apportioned among the several States as nearly as possible, I will, for one, vote for it.

Mr. SCHENCK. I have no objection to that. There is virtually a provision "as nearly as the public service will warrant."

Mr. HARDING, of Illinois. There is the point.

Mr. SCHENCK. The gentleman may move an amendment when we come to that section. We thought when we provided that these appointments should be made proportionately among the States we were doing about as well as we could. We could not cut a man in two.

Mr. SMITH. I desire to ask the gentleman a question in relation to the reorganization of the Army. I would like to know what was the proportion of the regular Army officers who served in the war compared with the volunteer officers belonging not only to the Veteran Reserve corps but to other branches of the Army, who distinguished themselves and showed them-

selves equally efficient upon the field and in discipline. And I would suggest whether it would not be fair to give to all such officers a fair chance.

Mr. SCHENCK. That is so much a matter of history that I shall not undertake to answer it. I will only say that we shall have to depend upon the statistics furnished at the other end of the avenue, and I do not know but each man had better make up his own table as to the comparative merits of volunteers and regulars. I move the previous question.

Mr. TAYLOR. I have an amendment that I wish to offer before this section is disposed of.

Mr. SCHENCK. I will withdraw my demand for the previous question so as to allow it to be read.

Mr. TAYLOR. I desire to state that by a bill which passed this House a few days since, the law on the statute-book depriving pensioners of their pension during the time they were employed by the Government was changed. Now, if this bill should pass and this Veteran Reserve corps should be constituted, the officers and soldiers in that corps would receive their pensions. Therefore I propose to insert in line eight, after the word "corps," as follows:

And pensions of all officers appointed to the Veteran Reserve corps, to privates enlisted in said corps, to cease from their appointment or enlistment.

Mr. SCHENCK. That does not properly belong here. I would rather not see it inserted in this bill. It is the law now. I insist upon the previous question.

The previous question was seconded and the main question ordered.

The question was on agreeing to the amendment of Mr. DAVIS to strike out of section four the following:

Of ten regiments to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps.

Mr. CONKLING. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on the amendment, it was decided in the negative—yeas 80, nays 84, not voting 69; as follows:

YEAS—Messrs. Delos R. Ashley, Baker, Baldwin, Benjamin, Boutwell, Boyer, Brandegee, Conkling, Davis, Eldridge, Farnsworth, Finck, Glossbrenner, Goodyear, Aaron Harding, Edwin N. Hubbell, Jenckes, Marshall, Marvin, McCullough, McRuer, Nicholson, Phelps, Ritter, Rogers, Shanklin, Taber, Van Aernam, Elihu B. Washburne, and James F. Wilson—30.

NAYS—Messrs. Ames, Ancona, Barker, Baxter, Beaman, Bidwell, Bingham, Blaine, Broomall, Buckland, Reader W. Clarke, Sidney Clarke, Coffroth, Cook, Defrees, Delano, Deming, Donnelly, Eckley, Eggleston, Eliot, Ferry, Garfield, Grider, Hale, Abner C. Harding, Hayes, Henderson, Holmes, Asabel W. Hubbard, Chester D. Hubbard, Hulburt, James M. Humphrey, Ingersoll, Julian, Kelley, Ketcham, Kuykendall, Loan, Longyear, Lynch, Marston, McClurg, Merout, Miller, Moorhead, Morris, Myers, Newell, Niblack, O'Neill, Orth, Paine, Patterson, Perham, Price, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Rollins, Ross, Schenck, Scofield, Shellabarger, Sitgreaves, Smith, Stevens, Stilwell, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Williams, Windom, and Woodbridge—84.

NOT VOTING—Messrs. Alley, Allison, Anderson, James M. Ashley, Banks, Bergen, Blow, Bromwell, Bundy, Chanler, Cobb, Cullom, Culver, Darling, Dawes, Dawson, Denison, Dixon, Dodge, Driggs, Dumont, Parquhar, Grinnell, Griswold, Harris, Hart, Higby, Hill, Hogan, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Johnson, Jones, Kasson, Kelso, Kerr, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, McIndoe, McKee, Morrill, Moulton, Noell, Pike, Plants, Pomerooy, Radford, Alexander H. Rice, Rousseau, Sawyer, Sloan, Spalding, Starr, Strouse, Trimble, Burt Van Horn, Warner, Wentworth, Whaley, Stephen F. Wilson, Winfield, and Wright—69.

So the amendment was not agreed to.

Mr. SCHENCK moved to reconsider the vote by which Mr. Davis's amendment was rejected; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The fifth section was then read, as follows:

SEC. 5. And be it further enacted, That the officers of the thirty-seven regiments of infantry, first provided for in the foregoing section, shall consist of those now commissioned and serving therewith, sub-

ject to such examination as the condition of their being retained in the service as is hereinafter provided for; all the original vacancies in the grades of first and second lieutenant, and two thirds of all other original vacancies in each of the grades above that of first lieutenant, to be filled by selection from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of rebellion, and who have been distinguished for capacity, good conduct, and efficient service; but graduates of the United States Military Academy shall be eligible to appointment as second lieutenants. The Veteran Reserve corps shall be officered by selection from the officers of the present Veteran Reserve corps and by appointment from any officers and soldiers of volunteers who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, to which that corps has heretofore been assigned. The officers selected to fill original vacancies in the regiments of colored troops shall be taken from among the present officers of colored troops who have served in the Army of the United States in the late war. And all appointments of officers in the Veteran Reserve corps and in regiments of colored troops shall be made on examination, as hereinafter provided, having reference to capacity, good conduct, and efficient service in every case.

Mr. PAINE. In order to make that section conform to section three, as amended, I move to strike out the following:

All the original vacancies in the grades of first lieutenant and second lieutenant, and two thirds of all other original vacancies in each of the grades above that of first lieutenant, to be filled by selection from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of rebellion, and who have been distinguished for capacity, good conduct, and efficient service; but graduates of the United States Military Academy shall be eligible to appointment as second lieutenants.

And to insert in lieu thereof the following:

And in making appointments to fill the original vacancies in the thirty-seven regiments thus provided for, and for a period of three years after the passage of this act, all first and second lieutenants and two thirds of the officers of each of the grades above that of first lieutenant shall be selected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, and who have been distinguished for capacity, good conduct, and efficient service; but graduates of the United States Military Academy and enlisted men shall be eligible to appointment as second lieutenants in those regiments, as in the new regiments of cavalry, under the provisions of the third section of this act, and not otherwise.

Mr. SCHENCK. That amendment only makes the section conform to what the House has determined in regard to the other section. I have no objection to it.

Mr. GARFIELD. If I understand the amendment, as read, it provides that graduates of the United States Military Academy and enlisted men shall be eligible to appointment as second lieutenants. I want to know if that does not leave it open so that any man, whether he has ever served or not, can go and enlist one day and the next day be commissioned under this provision. I simply make the inquiry.

Mr. PAINE. The amendment is carefully guarded on that point, and prescribes precisely the same conditions and requirements as are prescribed in regard to the six new cavalry regiments in the third section.

Mr. GARFIELD. I am satisfied. I see that it is so.

The amendment was agreed to.

Mr. SCHENCK. In pursuance of the notice I gave, I now move to strike out the words "by selection from the officers of the present Veteran Reserve corps, and," and to insert after the word "volunteers" the words "or of the regular Army;" so that the clause will read:

The Veteran Reserve corps shall be officered by appointment from any officers and soldiers of volunteers or of the regular Army who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, to which that corps has heretofore been assigned.

Mr. CONKLING. I desire to move to amend the amendment so as to provide that the present officers of the Veteran Reserve corps shall be mustered out and put upon a par with other wounded officers, so that they may all take their chance together.

The SPEAKER. The gentleman will please reduce his amendment to writing.

Mr. CHANLER. I understand this amendment to allow any soldier who has been wounded in the United States service to be promoted to be an officer of the Veteran Reserve corps.

I understand the gentleman from Ohio, [Mr. SCHENCK,] in this amendment, to have adopted the suggestion of the gentleman from Pennsylvania, [Mr. STEVENS.] And from the point of view in which I look at it I recognize in it a step in the right direction. I suppose it is the effort of the gentleman from Pennsylvania to include the colored troops and permit them to be made officers of the Veteran Reserve corps, and that is proper, that is just, that is consistent with the teachings of the modern "Moses." [Laughter.] And if gentlemen will only go on in that direction they will reorganize the American Army on a basis that will make it irresistible. They can "carry the war into Africa." They can overcome all sections and all sexes. I hope it was in that spirit that the gentleman from Pennsylvania made that suggestion. [Cries of "Louder!" "Louder!"] Sir, I consider the suggestion of the gentleman from Pennsylvania loud enough. It speaks in trumpet tones of the philanthropy and patriotism of that gentleman.

Sir, I do not think the gentleman from Ohio has looked into this question as deeply as he should have done. I think he has allowed himself to be duped by the astute mind of the able chairman of the Committee on Appropriations, and if he is not careful he will find a bill introduced here making a specific appropriation for this very class of officers; for officers taken from among the colored troops of the line who have been wounded in the service of their country. For it must be borne in mind that the appropriations which have been made for the Army as now organized will not be sufficient for what is here proposed.

This is a new movement; one in the right direction, but still a new movement. The gentleman from Ohio is being led in a direction he knows not whither. If the American armies shall be organized as is proposed, if the colored troops are to be brought into the organization, as is proposed by him and by the distinguished gentleman from Pennsylvania, he must consider the effect upon the existing organization of the Army. Accepting the proposition that has been laid down here by gentlemen on the other side of the House, that the black man is superior to the white man, then we must provide means for retiring our white officers. It is not possible that the competition can exist with safety to the white officers.

We have been told by the gentleman from Pennsylvania [Mr. STEVENS] that the battles of this country have been won by the colored troops, led by white officers, to be sure. But suppose those troops are to be led by black officers, as suggested by the gentleman from Pennsylvania, where are your white officers to go? I submit to the gentleman from Ohio that he shall look well into these questions. He is amending this bill in a manner which will defeat it. There are gentlemen on the other side of the House who cannot stand this thing; there are gentlemen who are not ready to officer the United States armies with colored officers.

We have refused, through our committees, upon a direct application to this House by petition, to appoint colored soldiers as officers; but by this act of indirection, as suggested by the gentleman from Pennsylvania, the Committee on Military Affairs are being duped into following a course which they themselves have already refused to take, and they will stand stultified upon the record of the House.

My friend from Wisconsin [Mr. ELDRIDGE] suggests that this is a movement toward the tropics; that it is an effort on the part of the sagacious chairman of the Committee on Appropriations to move toward Mexico and the tropics; to take possession of those countries where the white man wilts and turns yellow,

and where nothing blooms but the cactus and the negro.

Sir, this insidious effort on the part of the gentleman from Pennsylvania to destroy the American Army is in keeping with his successful effort to force the civil rights bill upon this House, to reduce the dignity of American citizenship, overriding the veto of the President, and placing the *ipse dixit* of a peculiar clique upon the laws of the country.

I hope, before it is too late, before the Military Committee is utterly committed to this folly by its too great trustfulness in the gentleman from Pennsylvania, this matter will be so ventilated and placed before the country that all may know whether or not the chairman of the Committee on Military Affairs is aware of his position, whether or not he really means that the wounded and disabled colored soldier shall be made an officer of the Army of the United States. Let that gentleman come forward and avow whether or not he is in earnest upon that subject, or whether he is innocently allowing himself to be misled by the great philanthropist of the country, the venerable statesman from Pennsylvania.

Mr. CONKLING. I will read the amendment I desire to offer, and the Chair will be kind enough to indicate the proper place in this section for it to come in. It is as follows:

Provided, That the officers of the existing Veteran Reserve corps shall, upon the passage of this act, be mustered out of service, and be put upon the same footing with other disabled officers.

The SPEAKER. That amendment can be offered to come in at the end of the section by way of addition to the section, but will not be in order for action until other amendments to perfect the section have been disposed of.

Mr. CONKLING. I will give notice that at the proper time I will offer the amendment I have read.

The SPEAKER. By general consent of the House, the amendment of the gentleman from New York [Mr. CONKLING] can be received at this time, to be voted upon when all the amendments for the purpose of perfecting this section shall have been disposed of.

Mr. SCHENCK. I move to amend the fifth section by striking out in the twenty-fifth line the words "the present," and inserting in lieu thereof the words "those who have served as," and by striking out in the twenty-fifth and twenty-sixth lines the words "who have served;" so that the clause will read:

The officers selected to fill original vacancies in the regiments of colored troops shall be taken from among those who have served as officers of colored troops in the Army of the United States in the late war.

The language as it stands at present assumes that all the officers of colored troops are yet in the service; while in fact a great many have been mustered out even since this bill was framed.

The amendment was agreed to.

Mr. PAINE. I move to amend by inserting after the word "war," in the twenty-seventh line, the following words:

But graduates of the United States Military Academy shall be eligible to appointment as second lieutenants in those regiments as in the new regiments of cavalry under the provisions of the third section of this act.

So that the clause will read as follows: *

The officers selected to fill original vacancies in the regiments of colored troops shall be taken from among those who have served as officers of colored troops in the Army of the United States in the late war. But graduates of the United States Military Academy shall be eligible to appointment as second lieutenants in these regiments, as in the new regiments of cavalry, under the provisions of the third section of this act.

Mr. FARNSWORTH. Why not make officers of other volunteer troops eligible to these appointments? The section, if amended as proposed, would confine appointments as officers of these colored troops to those who have been officers of colored troops and to cadets who shall hereafter graduate. There is no propriety in that.

Mr. MARSTON. I move to reconsider the

vote by which the amendment just offered by the gentleman from Ohio [Mr. SCHENCK] was adopted.

The SPEAKER. That motion will be entered, and will be reserved till the question is taken on the pending amendment.

Mr. PAINE. My object in offering this amendment was simply to give to the graduates of West Point, under the precise conditions which we have imposed upon them in the cases of the six new regiments of cavalry and the thirty-seven regiments of regular infantry, an opportunity to become competitors for second lieutenantcies in the colored troops. I see no reason why the graduates of West Point should be excluded in this case from the privilege which they have in the other two cases.

Mr. FARNSWORTH. I have no objection to the gentleman's amendment, if he will make it a little broader. I do not see why we should extend the section so as to include graduates of the Military Academy unless we also extend the privilege to officers and soldiers of volunteers. If the amendment be made as broad as the provision with reference to the six regiments of cavalry I shall have no objection.

Mr. MARSTON. It was to accomplish that very object that I moved to reconsider the vote by which the amendment of the gentleman from Ohio was adopted. I desire that appointments to the command of colored troops shall be thrown open, not only to those who have served with colored troops, but also to all the officers of volunteers.

Mr. PAINE. I do not say that I am opposed to the proposition of the gentleman from Illinois [Mr. FARNSWORTH] or the gentleman from New Hampshire, [Mr. MARSTON;] but it seems to me that it is hardly fair to load down my amendment in that way.

It undoubtedly occurred to the committee, in framing this clause of the bill, that some consideration was due to those officers of the Army who had encountered during this war the prejudices which at first unhappily prevailed against service in the colored troops. I am ready to recognize the claims of those men who were willing to stand up in the face of that prejudice and serve as officers of colored troops. If, however, the proposition of the gentleman from Illinois be adopted, we may perhaps fail to obtain a proper recognition of the desert of those officers who have heretofore served with colored troops. I am in favor of giving to the officers who have gallantly served with the colored troops hitherto the first opportunity in the officering of these colored regiments. But after this privilege shall have been extended to them, I certainly am in favor of giving to the graduates of West Point an opportunity to become second lieutenants of these troops. I shall probably vote for the amendment suggested by the gentleman from Illinois; but I would rather vote for it as an independent proposition, and not as a load upon the amendment which I have offered.

Mr. STEVENS. I believe I cannot vote for the amendment or the suggestion. If I read this rightly, after the first vacancy the subsequent vacancies become open for all troops. I do not know how many regiments of colored troops there were. I am told there were nearly two hundred. We have only eight regiments provided for here. I think it is best to leave it as it is. It only gives to those who served in the colored troops the vacancies in these eight regiments. I think it fair to leave as this does, all future vacancies to the discretion of the appointing power.

Mr. PAINE. As there seems to be some opposition to this I withdraw it.

The question recurred on Mr. MARSTON'S motion to reconsider.

Mr. FARNSWORTH. I have an amendment which I think will cover the ground. I move to strike out these words, in the twenty-fourth, twenty-fifth, twenty-sixth, and twenty-seventh lines:

The officers selected to fill original vacancies in the regiments of colored troops shall be taken from

among the present officers of colored troops who have served in the Army of the United States in the late war.

And to insert in lieu thereof the following:

The officers of colored troops herein provided for shall be selected and appointed in the same manner provided herein for officering the six regiments of cavalry provided for in the third section of this act.

I think that will cover all that the gentleman from New Hampshire seeks, and I hope, therefore, he will withdraw his motion to reconsider so that I may move my amendment.

Mr. MARSTON. I withdraw the motion to reconsider.

Mr. FARNSWORTH. I now move the amendment. I am not particularly wedded to this method of officering the colored troops. It brings up the question to be determined by the House. It places the colored troops upon the same footing that you place the cavalry and infantry, and on the same footing as the Veteran Reserve corps. I do not see why the door should not be open to all officers and soldiers who served in the Army for commissions in the colored troops as in the cavalry.

Mr. GARFIELD. I desire to oppose the amendment of the gentleman from Illinois, and will give in a word my reasons. As it has been already stated, there were nearly two hundred regiments of colored troops for whom the officers were selected from the Army, and examined before being appointed. I doubt whether we had anywhere during the war so carefully a selected body of men as those who commanded the colored troops.

I will remind the House that it required no little moral courage to take position in the colored regiments when they were first raised. I remember well when I drew an order calling a board which organized the first regiment of colored troops. I know that many officers said, "You cannot find enough respectable officers in this Army to officer that regiment." When a prominent staff officer accepted the position, and was made colonel of the regiment, and the ice was broken, we were enabled ultimately to get it raised. For a long time men were compelled to bear reproaches as commanders of negroes. Those who bore the prejudice, and who bore the taunts, and who showed themselves to be able officers, it is no more than right, I think, should fill these vacancies. When the original vacancies are filled they will be then thrown open to all. I hope the amendment will not prevail.

Mr. CHANLER. I offer the following amendment to the amendment:

The act or part of any act which authorized the use of colored troops in the Army of the United States is hereby repealed.

All acts or parts of acts inconsistent with this section of an act are hereby repealed.

Mr. FARNSWORTH. I hope the gentleman from New York will yield a few minutes of his time so that I may reply to the gentleman from Ohio.

Mr. CHANLER. I yield five minutes of my time to the gentleman from Illinois. Then I propose to speak to my own amendment to the amendment.

Mr. FARNSWORTH. I desire to reply to the argument of the gentleman from Ohio, [Mr. GARFIELD.] He says that it required a considerable degree of moral courage at one time for a man to take command of colored troops. Now, I recollect very well that at the very first organization of the colored troops there were men enough in the Army of the United States who had the moral courage to apply for positions in colored regiments, many more than were required to fill the regiments. There was no time when there were not at the office of Colonel Foster in this city pigeon holes full of applications for positions as officers of colored troops. Now, sir, why not open the door to these men who had just as much moral courage at the time as those who succeeded in getting the commissions?

Mr. STEVENS. I remember in this House, when it was proposed to raise colored troops, that many declared that nobody could be found

to command them; and certainly a member from Illinois declared that all the highest officers would resign if you put them in the field.

Mr. FARNSWORTH. Who was that?

A MEMBER. General Logan.

Mr. FARNSWORTH. I do not know whether that general made that remark or not. I think I have heard him deny ever having made it. But certain it is, and I presume every member of this House who was a member of Congress at that time can bear witness to the fact, that there were applications upon applications of soldiers in the field for the privilege of being examined before this board and for appointments in the colored regiments, a great many more than could be appointed.

Now, hundreds of these soldiers thus applying were obliged to serve in the war in the ranks because there were not colored troops enough to admit them to these places. Why should we not, then, open the door for these men? Why should we confine the officering of this colored corps to those that have served with them? Open the door. I have no doubt that all these worthy officers who desire to come in and who have served well with the colored regiments will stand a better chance for appointment than new men. Undoubtedly they will. But do not let us confine it to any particular class of men. Open the door broadly for competition to every man who deems himself worthy to seek the place.

Mr. CHANLER. My object in offering the amendment to the amendment is to place myself right upon the record, after having endeavored in vain to induce the gentlemen on the other side to officer the colored troops with colored men. There is nothing so utterly inconsistent in legislation as the effort of gentlemen on the other side to induce a class of our fellow-citizens to do the fighting and then not give them the same reward they claim for their own laborers in the field. There has never been any greater incentive offered to a soldier than that of rising gradually from the humblest to the highest rank. And when gentlemen who have served in the field, after having reiterated upon this floor time and again how great are their obligations to the soldiers, bring in here propositions to exclude the black man from any chance of becoming an officer in the Army, I deem it fit and proper at this time to bring in an amendment whereby the whole organization shall be repealed. It is a blot on the military organization of America, a blot on the whole early policy and system of this Government. You say that Democracy at the origin of the Government claimed that all men were equal. If the negro is your equal at home, is he not so on the battle-field? And if you deny him the right to march with the sword at his side as well as with the musket on his shoulder, you should, to be consistent, take from him both. He should not be allowed to use either as an implement of war unless he is allowed to use both. There is no variation or shadow of turning from the line of right and justice in this matter.

I know that in their inner hearts the gentlemen on the other side do not wish to officer the Army with negroes. I know that this is the last grand act of the apocalypse of the gentleman from Pennsylvania, [Mr. STEVENS.] But let him begin at the root by recognizing the equality of the negro in arms as well as elsewhere.

After riding over the President's veto of the civil rights bill, are you willing to take the position that, as regards the military service, you have disenfranchised this people? The slander is false and unjust. Such conduct as that is political heresy and against your own doctrine. I say that the Republican party is to-day guilty of political heresy in not officering the black troops with black officers. I know that it has been ruled out of order to use such language here, but I also know that in the face of the facts you dare not deny that what I say is true. My friend on the left [Mr. BALDWIN] says that is sound doctrine. He, too, is waiting

an opportunity, under the modern Moses, to pass over the Jordan—

Mr. PRICE. Will the gentleman allow me a word?

Mr. CHANLER. Oh, certainly. The gentleman is always so very courteous. [Laughter.]

Mr. PRICE. I want merely to thank the gentleman for having given the House and the country the information that Moses did cross the Jordan. [Laughter.] We had thought before that he never got over.

Mr. CHANLER. I thank brother Aaron for his suggestion. I do not see the originality of his idea, and I can hardly see the force of his remark.

I ask the House to come to a vote upon this proposition. I want to see how many men there are here who are sincere, how many men who, having cried up the colored soldiers, are unwilling to give them the rank of officers in the Army of the United States. I ask the previous question on my amendment.

Mr. SCHENCK. I thought it a good time for the previous question to be demanded after the gentleman had made a speech, and I rose for that purpose.

Mr. CHANLER. I had no desire to cut off debate upon this proposition. I did not mean to demand the previous question, but I ask the yeas and nays on my amendment.

Mr. CONKLING. I hope the previous question will not be called before I have an opportunity to offer my amendment.

Mr. SCHENCK. The gentleman's amendment is already pending, and I move the previous question.

Mr. CONKLING. I hope the gentleman will withdraw that. I will renew it. I want to say a word or two upon my amendment.

Mr. SCHENCK. I withdraw it. The yeas and nays were ordered upon Mr. CHANLER'S amendment.

Mr. CONKLING. Will the Chair be kind enough to state the situation of the question now?

The SPEAKER. The gentleman from New York [Mr. CONKLING] moved a proviso to be added to this section, which was reserved by general consent until the section should be perfected. There is now pending an amendment to that amendment, on which the yeas and nays have been ordered.

Mr. CONKLING. After that question has been taken, then, I will make the suggestions which I desire to present to the House.

EVENING SESSION DISPENSED WITH.

Mr. WASHBURN, of Illinois. Has the evening session been dispensed with?

The SPEAKER. It has not.

Mr. WASHBURN, of Illinois. I move, then, that until further orders, the evening sessions be dispensed with.

Mr. BLAINE. I object to that.

The SPEAKER. It is within the power of a majority of the House to do it.

Mr. CONKLING. Then, let us do it.

Mr. STEVENS. I hope the gentleman will confine his motion to this week.

Mr. WASHBURN, of Illinois. I will agree to that modification.

Mr. BLAINE. Has the gentleman from Illinois a right to make the motion?

The SPEAKER. Certainly; it is a privileged motion, pertaining to the order of business in the House, and can be entertained even pending a demand for the previous question.

Mr. CONKLING. I hope the gentleman will modify his motion so as to make it general. We can order evening sessions whenever we want them.

The SPEAKER. The Chair will state to the House how the matter now stands. The House under a suspension of the rules directed the holding of an evening session each day except Saturdays "until otherwise ordered." The words "until otherwise ordered" place it in the power of the majority of the House to order otherwise at any time. And they can

order that there shall be no evening session for any particular day, or they can order that the evening sessions be dispensed with until otherwise ordered.

Mr. FARNSWORTH. Can the majority of the House order an evening session at any time, if the motion of my colleague [Mr. WASHBURN] prevails?

The SPEAKER. Certainly, at any time.

Mr. WASHBURN, of Illinois. I am myself in favor of suspending indefinitely the order for evening sessions.

Mr. CONKLING. Then I move to amend it so that the suspension shall be indefinite, to the end that we may not be required to be on the watch to ascertain if we are to come here at an evening session.

Mr. STEVENS. I hope the amendment will not prevail. It may be necessary—

Mr. CONKLING. Is debate in order?

The SPEAKER. It is not.

Mr. CONKLING. Then I think this proposition should not be debated either way.

The question was upon the amendment of Mr. CONKLING to the motion of Mr. WASHBURN, of Illinois.

Upon a division there were—ayes 72, noes 22.

So the amendment was agreed to.

The motion, as amended, was then agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bills of the following titles; when the Speaker signed the same:

An act (S. No. 261) for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana;

An act (S. No. 241) directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner;

An act (S. No. 252) granting a pension to Mrs. Sarah E. Wilson; and

An act (S. No. 260) granting a pension to Emerance Gouler.

REORGANIZATION OF THE ARMY—AGAIN.

The House resumed the consideration of the bill to reorganize the Army.

The pending question was upon the amendment of Mr. CHANLER to the amendment of Mr. FARNSWORTH to the fifth section.

Mr. CONKLING. I stated a few moments ago that I would make a brief statement in reference to the amendment which I have offered.

Mr. SCHENCK. Do I understand that the gentleman from New York [Mr. CHANLER] offered an amendment to the one offered by the gentleman from Illinois [Mr. FARNSWORTH], and that the previous question has been ordered on those amendments?

The SPEAKER. The previous question has not been called; but the yeas and nays have been ordered upon the amendment to the amendment.

Mr. SCHENCK. Then why should the gentleman from New York [Mr. CONKLING] discuss another amendment which he proposes to offer presently, when he can discuss it just as well after we have disposed of those now pending?

The SPEAKER. By general consent the proviso proposed by the gentleman from New York [Mr. CONKLING] was regarded as pending, but not to be acted upon until the gentleman from Ohio [Mr. SCHENCK] and other gentlemen had perfected the section. And if the previous question should now be called and seconded, and the main question be ordered, it would not exhaust itself until a vote had been taken upon the proviso offered by the gentleman from New York, [Mr. CONKLING.] The gentleman from Ohio can call the previous question on the amendment of the gentleman from Illinois, [Mr. FARNSWORTH], and the amendment to that amendment moved by the gentleman from New York, [Mr. CHANLER.]

Mr. SCHENCK. Very well: I will call the

previous question upon the amendment and the amendment to the amendment.

The previous question was seconded and the main question ordered.

The first question was upon agreeing to the amendment to the amendment.

The question was taken; and it was decided in the negative—yeas 23, nays 85, not voting 75; as follows:

YEAS—Messrs. Ancona, Boyer, Chanler, Coffroth, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Edwin N. Hubbell, James M. Humphrey, Marshall, Niblack, Nicholson, Samuel J. Randall, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Taber, Thornton, and Whaley—23.

NAYS—Messrs. Allison, Ames, Baker, Baldwin, Barker, Baxter, Benjamin, Bidwell, Bingham, Blaine, Boutwell, Bromwell, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Cook, Davis, DeForest, Delano, Deming, Donnelly, Eckley, Eliot, Farnsworth, Garfield, Hale, Abner C. Harding, Henderson, Hooper, Asahel W. Hubbard, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Latham, George V. Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee, Mercer, Miller, Moorhead, Morris, Myers, Newell, O'Neill, Orth, Paine, Perham, Phelps, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Rousseau, Schenck, Shelby, Spalding, Stevens, Thayer, John L. Thomas, Trowbridge, Van Aernam, Ward, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Windom, and Woodbridge—85.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, James M. Ashley, Banks, Beaman, Bergen, Blow, Brandegee, Broomall, Reader W. Clarke, Culom, Culyer, Darling, Dawes, Dawson, Denison, Dixon, Dodge, Driggs, Dumont, Eggleston, Farquhar, Ferry, Goodyear, Grinnell, Griswold, Harris, Hart, Hayes, Higby, Hill, Hogan, Holmes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Johnson, Jones, Kerr, Laffin, William Lawrence, Le Blond, Marvin, McCullough, McIndoe, McRuer, Morrill, Moulton, Noel, Patterson, Pike, Plants, Pomeroy, Radford, Raymond, Sawyer, Seefeld, Sloan, Smith, Starr, Stilwell, Strouse, Taylor, Francis Thomas, Trimble, Upson, Burt Van Horn, Robert T. Van Horn, Wentworth, Stephen F. Wilson, Winfield, and Wright—75.

So the amendment to the amendment was not agreed to.

During the roll-call, Mr. NIBLACK stated that Mr. KERR had paired with Mr. HILL.

The result of the vote was announced as above stated.

Mr. CONKLING. I move that the House do now adjourn.

Mr. DEMING. I ask the privilege of making a personal explanation.

Mr. CONKLING. I insist on my motion that the House adjourn.

The motion was not agreed to; there being—ayes sixteen, noes not counted.

PERSONAL EXPLANATION.

Mr. DEMING. I ask unanimous consent to make a personal explanation.

There was no objection.

Mr. DEMING. A discussion arose yesterday upon a personal matter, between the gentleman from New Jersey, [Mr. ROGERS,] the gentleman from New York, [Mr. CONKLING,] and the gentleman from New York immediately on my right, [Mr. RAYMOND.] I paid but little attention to the discussion as it progressed; but on reading the report in full in the Globe of this morning, I feel it due to the gentleman from New York [Mr. RAYMOND] to add a few words to the disclaimer which he then uttered, that he was not responsible for the paragraph in the Times, which was first read by the gentleman from New Jersey, and which was afterward commented upon by various gentlemen of the House.

I was not present in the House when the bankrupt bill was introduced by the gentleman from New York, [Mr. CONKLING.] I shortly afterward saw the gentleman from Rhode Island, [Mr. JENCKES,] the author of the bill which was acted on recently by the House, and who, as we all know, has labored assiduously during the last two sessions to perfect that bill; and he informed me that the bill presented by the gentleman from New York was the identical bill which he himself had so laboriously prepared. I thought but little of the circumstance at the time; but a day or two later, I saw a paragraph in the New York

Herald which affirmed distinctly that the bill offered by the gentleman from New York [Mr. CONKLING] was a more perfect bill than the one which had been presented by the chairman of the committee on the bankrupt law; that it was such a bill as could not be picked to pieces in debate; that it was a bill which embodied all the legal acumen of the House, and a bill which the author of the paragraph thought would certainly pass. It seemed to me that, under the circumstances, gross injustice was done by that paragraph to the gentleman from Rhode Island; and upon exhibiting the paper to various members of the House, they concurred with me in that opinion, and agreed with me that the injustice should be corrected. I went to the gentleman from New York [Mr. RAYMOND] and pointed out specifically the points wherein I deemed gross injustice was done to the gentleman from Rhode Island, and I asked of him the privilege of making in his paper a correction of that paragraph, solely for the purpose of vindicating, as I conceived, the merits and the ability of the gentleman from Rhode Island. I stated to the reporter of the Times the facts of the case, to wit, that the gentleman from New York, [Mr. CONKLING,] who had voted against the bill of the gentleman from Rhode Island, had subsequently introduced that identical bill.

I did not make this statement with the intention of placing the gentleman from New York invidiously before the country in any respect; I was unconscious of being animated by any motives inimical to him; and if the result of my interference in this matter and the making of these statements to the reporter has either injured his feelings or prejudiced him before the public, I wish to make this public disavowal of any such intention, and to tender him an apology.

Mr. RAYMOND. Mr. Speaker, if the House will indulge me a moment—

The SPEAKER. Is there any objection to the gentleman from New York making a personal explanation?

There was no objection.

Mr. RAYMOND. I desire merely to acknowledge the courtesy and kindness which have prompted the gentleman from Connecticut [Mr. DEMING] to make the explanation which he has just made.

In the colloquy which took place yesterday between my colleague [Mr. CONKLING] and myself, I did not feel at liberty to go any further than I did in disavowing any responsibility for the paragraph which appeared in the Times, because I did not wish directly or indirectly to draw into the affair any gentleman without having had previous consultation with him. I feel obliged to the gentleman from Connecticut for stating what is the simple fact, that I had nothing whatever to do with originating, inspiring, composing, or printing that paragraph.

Now, if the House will indulge me one moment longer, I beg to say that my position here in a twofold capacity, as a member of Congress and as the editor of a newspaper, puts me sometimes in an embarrassing posture. I am quite ready always at the proper time and in the proper place to be responsible to anybody for anything I may say or do. I beg to add that I do not think the floor of Congress a proper place for making an explanation or for taking responsibility for things said or done; and hereafter I wish it distinctly understood while I will on the floor respond to any gentleman for anything I may say here, I will not hold myself subject to being questioned. I will not hold myself bound to answer any question which may be put to me here upon this floor for what I may say or do or what may be said or done in the columns of the New York Times. I will answer in the columns of the New York Times, when addressed as editor of the New York Times, for anything I may say or do in that capacity.

RECONSIDERATION OF A VOTE.

Mr. MARSTON entered a motion to recon-

sider the vote by which an amendment to the third section of the Army bill offered by the gentleman from Maine [Mr. BLAINE] was adopted yesterday.

EVIDENCE IN CONTESTED ELECTIONS.

The SPEAKER laid before the House evidence in the contested-election cases of Boyd against Kelso and Koontz against Coffroth; which was referred to the Committee of Elections.

And then, on motion of Mr. RANDALL, of Pennsylvania, the House (at four o'clock and thirty minutes p. m.) adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. DELANO: The petition of James Colvin, Thomas Black, and 1,000 others, wool-growers of Muskingum county, Ohio, praying for an increase of duty on foreign wools imported into the United States.

Also, the memorial of James Cather, trustee and deacon of the Baptist church at Glenville, Gilmer county, West Virginia, praying indemnity for the use of the church property by United States troops.

Also, the petition of John Kugler, for indemnity for use of property at Camp Dennison, Ohio, by United States military authority.

By Mr. HITCHCOCK: The petition of citizens of Nebraska, praying for just and equal laws for regulation of inter-State insurances.

By Mr. JULIAN: The petition of J. R. Daily, charging fraud and mismanagement on the part of the American Colonization Society, and asking relief.

By Mr. KETCHAM: The memorial of General C. H. Van Wyck, of Orange county, New York, asking that pensions may be increased and the laws so modified that persons entitled thereto may obtain the same with less delay and perplexity than at present.

Also, the memorial of General C. H. Van Wyck, asking that three light guns, captured at Duigle's Mills, South Carolina, in April, 1865, may be deposited at Washington's headquarters, at Newburg, New York.

By Mr. KELLEY: The memorial of 18 officers of the State Legislature of Pennsylvania, praying your honorable body to protect the wool-growers of the United States, by imposing a duty of ten cents per pound and ten per cent. *ad valorem* on all unwashed foreign wools competing with American wools, the value whereof at the last port of export, including charges in such port, shall be thirty-two cents or less per pound; and that a duty of twelve cents per pound and ten per cent. *ad valorem* be levied on all like wool, the value whereof, including charges in port, shall exceed thirty-two cents per pound; and that the above rates of duties be doubled on washed wools, and trebled on scoured wools.

Also, the memorial of 25 members of the State Senate of Pennsylvania, praying your honorable body to protect the wool-growers of the United States by imposing a duty of ten cents per pound and ten per cent. *ad valorem* on all unwashed foreign wools competing with American wools, the value whereof at the last port of export, including charges in such port, shall be thirty-two cents or less per pound; and that a duty of twelve cents per pound and ten per cent. *ad valorem* be levied on all like wool the value whereof, including charges in port, shall exceed thirty-two cents per pound; and that the above rates of duties be doubled on washed wools, and trebled on scoured wools.

Also, the memorial of 82 members of the Legislature of Pennsylvania, praying your honorable body to protect the wool-growers of the United States by imposing a duty of ten cents per pound and ten per cent. *ad valorem* on all unwashed foreign wools competing with American wools, the value whereof at the last port of export, including charges in such port, shall be thirty-two cents or less per pound; and that a duty of twelve cents per pound and ten per cent. *ad valorem* be levied on all like wool, the value whereof, including charges in port, shall exceed thirty-two cents per pound; and that the above rates of duties be doubled on washed wools, and trebled on scoured wools.

Also, the petition of 16 citizens of Meadville, Pennsylvania, praying your honorable body for a further protection to the wool-growers of the United States by imposing a duty of ten cents per pound and ten per cent. *ad valorem* on all unwashed foreign wools competing with American wools, the value whereof at the last port of export, including charges in such port, shall be thirty-two cents or less per pound; and that a duty of twelve cents per pound and ten per cent. *ad valorem* be levied on all like wool, the value whereof, including charges in port, shall exceed thirty-two cents per pound; and that the above rates of duties be doubled on washed wools, and trebled on scoured wools.

Also, the memorial of 28 distillers and dealers in domestic spirits in the city of Philadelphia, Pennsylvania, respectfully representing that the exaction of personal security for the payment of duties on spirits deposited in general bonded warehouses entirely out of the hands of the owner is, in effect, a heavy tax upon trade without any substantial advantage to the revenue, but, on the contrary, will have a tendency to diminish it by driving out of business all but the wealthiest houses. Your petitioners, therefore, pray your honorable body for the passage of a law requiring the simple obligation of the party storing spirits

to pay the duties before removing, in lieu of the bonds now required by law.

Also, the memorial of 58 members of the bar, practicing in the Federal courts at Pittsburgh, Pennsylvania, respectfully remonstrating against the passage of the bill to reorganize the Federal judiciary, now before the Senate of the United States, for the following reasons, &c.

Also, the petition of 54 citizens and wool-growers of Alleghany county, Pennsylvania, praying your honorable body to impose a duty of ten cents per pound and ten per cent. *ad valorem* on all unwashed foreign wools competing with American wools, the value whereof at the last port of export, including charges in such port, shall be thirty-two cents or less per pound; and that a duty of twelve cents per pound and ten per cent. *ad valorem* be levied on all like wools, the value whereof, including charges in port, shall exceed thirty-two cents per pound; and that the above rates of duties be doubled on washed wools, and trebled on scoured wools.

By Mr. LAWRENCE, of Pennsylvania: A petition, numerous signed by citizens of Lawrence county, Pennsylvania, asking an increase of duties on foreign wools.

By Mr. MARSTON: The petition of William James, and others, of Portsmouth, New Hampshire, praying that the recommendation of the Secretary of the Navy, that \$192,000 be paid to the officers and crew of the Kearsarge for the destruction of the Alabama, be carried into effect.

Also, the petition of Micajah Lunt, and 33 others, for the same object.

By Mr. McKEE: The petition of 600 soldiers of the tenth, fortieth, and forty-fifth Kentucky volunteers, asking a bounty equal to \$100 per year be paid them for the time they served in the United States Army.

By Mr. MOOREHEAD: A petition from citizens of Pittsburgh, Pennsylvania, praying for the passage of a law to permit steamboats to carry gunpowder when packed in kegs made of iron.

By Mr. MORRIS: Four petitions, numerous signed by citizens and wool-growers of the twenty-fifth congressional district of New York, asking for an increase of duty on imported wool.

By Mr. PAINE: The petition of S. Kidder, and 135 others, citizens of Salem, Kenosha county, Wisconsin, for increase of tariff on foreign wools.

Also, the petition of John J. Myrick, and 59 others, citizens of Lyons, Walworth county, Wisconsin, for increase of duty on foreign wools.

Also, the petition of S. S. Derbyshire, and 76 others, citizens of Pleasant Prairie, Kenosha county, Wisconsin, for an increase of tariff on foreign wools.

Also, the petition of James Bonnell, and 35 others, individuals and firms of Milwaukee, for the enactment of a Federal insurance law.

Also, the petition of Thomas C. Williams, and 18 others, citizens of Yorkville, Racine county, Wisconsin, for increase of duty on foreign wools.

Also, the petition of Thomas Dale, and 23 others, citizens of Yorkville, Racine county, Wisconsin, for increase of tariff on foreign wools.

Also, the petition of Delos Hale, and 35 others, citizens of Oconomowoc and Summit, Wisconsin, for the enactment of a Federal insurance law.

Also, the petition of Aretas Bailey, and 65 others, citizens of Caldwell's Prairie, Racine county, Wisconsin, for increase of duty on foreign wools.

By Mr. RAYMOND: The petition of Charity, mother of Stephen W. Weed, killed at Gettysburg to be placed on the pension-list.

By Mr. SMITH: A petition from the Board of Trade of the city of Louisville, Kentucky, praying Congress to purchase the Oakland grounds near that city, and the Government property thereon, for the purpose of establishing a cavalry depot school of instruction.

By Mr. WASHBURN, of Illinois: The petition of Charles S. Burt, and others, of Illinois, manufacturers of agricultural implements, for reduction of the tax on the same.

By Mr. WINDOM: The petition of J. H. Holland, and 63 others, citizens of Morristown, Rice county, Minnesota, asking for the passage of a law equalizing soldiers' bounties.

By Mr. WOODBRIDGE: The petition Z. H. Cunliffe, and 66 others, citizens of Arlington, Bennington county, Vermont, for an increased protection to American wool.

Also, the petition of John Balis, and 37 others, citizens of Benson, Rutland county, Vermont, praying for an additional protection on foreign wool.

Also, the petition of Asa Collins, and 27 others, citizens of Chittenden, Rutland county, Vermont, praying for additional duty on foreign wool.

Also, the petition of Henry C. Gleason, and 40 others, citizens of Shrewsbury, Rutland county, Vermont, praying for an increase of duty on foreign wool.

Also, the petition of Hiram Jones, and others, citizens of Waitsfield, Washington county, Vermont, praying for an additional duty on foreign wool.

Also, the petition of Boswell Bottum, and 103 others, and Charles Bacon, and 69 others, for same purpose.

Also, the petition of H. B. McLure, and 42 others, citizens of Middletown, Rutland county, Vermont, praying for an increased duty on wool.

Also, the petition of James Rice, and 33 others, citizens of Pownet, Rutland county, Vermont, praying for an increase of duty on imported wool.

Also, the petition of Seneca Root, and others, citizens of Hubbardston, Rutland county, Vermont, praying for an increased protection to American wool.

Also, the petition of Nathaniel Sherman, and others, citizens of Plainfield and Marshfield, Washington county, Vermont, praying for an additional duty on wool.

Also, the petition of Emory H. Clark, and 42 others, citizens of East Cabot, Washington county, Vermont, praying for an increase of the tariff upon the importations of foreign wools into this country.

IN SENATE.

WEDNESDAY, April 18, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a report of the Commissioner of Agriculture, communicating, in compliance with a resolution of the Senate of the 13th instant, information in relation to the rinderpest or cattle plague; which was referred to the Committee on Agriculture, and ordered to be printed.

He also laid before the Senate a report of the Secretary of the Interior, communicating, in obedience to law, copies of the accounts of Superintendent Sells and Agents Snow and Dunn, of the southern Indian superintendency, for the fourth quarter of 1865, with a copy of the report of the Commissioner of Indian Affairs on the subject; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

Mr. HOWARD. I present the petition of Mrs. Abby Green, formerly of Richmond, Virginia, praying for the passage of a bill for her relief on account of services rendered and losses incurred in behalf of the Union cause at Richmond, Virginia, from August, 1863, to February, 1864. I beg to state in regard to this petitioner that she assisted Mrs. Quarles very materially in rescuing Colonel Streight and his party from imprisonment at Richmond. I ask that it may be referred to the Committee on Claims.

It was so referred.

Mr. WADE. I present the memorial of Sue Murphy, and various documents in proof of her claim, setting forth that she was the owner of a house near Chattanooga which was ordered to be taken down for the purpose of erecting fortifications upon the spot where it was built. The memorial is strongly recommended by many officers, and among them those who ordered it destroyed. She claims to have been a loyal person. I move that the memorial and accompanying documents be referred to the Committee on Claims.

The motion was agreed to.

Mr. HENDERSON presented additional papers in relation to the claim of William C. Anderson; which were referred to the Committee on Claims.

Mr. KIRKWOOD presented a petition of citizens of Iowa, praying for the enactment of such just and equal laws for the regulation of inter-State insurances of all kinds, as may be effectual in establishing the greatest security for the interests protected by policies, and promotive of the greatest good and convenience to all concerned in such transactions; which was referred to the Committee on the Judiciary.

Mr. WILSON presented two petitions of officers of the United States Army, praying for an increase of their pay; which were referred to the Committee on Military Affairs and the Militia.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a joint resolution (H. R. No. 46) for the relief of Martha McCook, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 463) for the relief of James Foster, reported it adversely, and asked to be discharged from its further consideration; which was agreed to.

He also, from the same committee, to whom were referred the following bills, reported them severally without amendment:

A bill (H. R. No. 464) for the relief of John Gordon;

A bill (H. R. No. 460) granting a pension to Spencer Kellogg; and

A bill (H. R. No. 371) to grant a pension to Leonard St. Clair.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom was referred a memorial of citizens of Iowa, remonstrating against any diversion of the funds, and against any legislation that would be injurious to the extension of the Dubuque and Sioux City railroad, asked to be discharged from its further consideration, and that it be referred to the Committee on Public Lands; which was agreed to.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred a joint resolution (H. R. No. 197) to provide for the better organization of the pay department of the Navy, reported it with an amendment.

BILLS INTRODUCED.

Mr. RIDDLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 271) to authorize a special tax for the purpose of improving the Washington city canal; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 272) to authorize the corporation of Washington to reduce the width and improve the avenues and streets of that city; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. McDUGALL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 273) to authorize the President to convey to William P. Rogers and his associates the island of Yerba Buena, or Goat Island, in the harbor of San Francisco; which was read twice by its title.

Mr. McDUGALL. I desire simply to observe that when this bill was first placed in my hands I had great doubts of its propriety, but after looking at it carefully and being better informed, I think it is a bill to the profit of the Government. I move that it be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

HICKEY'S CONSTITUTION.

Mr. JOHNSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on the Library be instructed to inquire into the expediency of purchasing for the use of the Senate — copies of Hickey's edition of the Constitution: *Provided*, That the compilation be brought down to the present time on the same plan.

ARMY BREVET APPOINTMENTS.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President of the United States be requested to communicate to the Senate, if not incompatible with the public interests, the proceedings of the military board recently convened in St. Louis, Missouri, in relation to brevet appointments in the regular Army.

NEGOTIATION OF INDIAN TREATIES.

Mr. DOOLITTLE. By direction of the Committee on Indian Affairs a joint resolution, making an appropriation to enable the President to negotiate treaties with certain Indian tribes, was introduced by me yesterday and laid upon the table, and I stated that I should move to take it up this morning. It is very important that we should have immediate action on the subject, and I now move that that resolution be taken up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 69) making an appropriation to enable the President to negotiate treaties with certain Indian tribes. It proposes to appropriate \$121,785 77, or so much thereof as may be necessary, to enable the President to negotiate treaties with the Indian tribes of the upper Missouri and Platte rivers, to be expended by the Commissioner of Indian Affairs under the direction of the Secretary of the Interior.

Mr. DOOLITTLE. Mr. President, it is well known that hostilities have been going on between the United States and the bands of

Sioux Indians and the other Indians upon the upper Missouri and the upper Platte for several years at a very great expense, but that last fall the military authorities, under instructions both from the War Department and the Interior Department, entered into arrangements to bring about peace between the United States and those various bands. With several of these bands of Sioux treaties have already been made and peace has been effected. The War Department, or those having charge of our military operations, it seems, have invited the Indians of several other bands to meet at several of the forts of the United States with a view to negotiate treaties of peace and amity with those bands, and the Secretary of War called upon General Curtis to make estimates of what would be necessary in the negotiation of those treaties, as the Indians are brought together generally in bands and brought together almost entire; and the Government of the United States, while they are together and during the pendency of the negotiation, is compelled to furnish supplies to feed the Indians and to make some presents to them. The War Department called upon General Curtis to make an estimate, and he made an estimate to the Secretary of War, and it seems that at the time the Secretary of War, supposing that they had sufficient rations and supplies to attend to this matter, so informed General Curtis. I read from his letter:

"The Secretary of War informed me that the articles necessary to make up these supplies at the various points would be sent forward immediately."

It seems that on a communication from General Pope to General Grant and to the War Department that the War Department has not these supplies to furnish. The Indians are invited to assemble and the time is fixed, but the military authorities are without the supplies necessary to feed them during the pendency of the negotiations, and the matter is now thrown on the Interior Department, and the Interior Department have asked a special appropriation from Congress to meet these expenditures, sending forward the estimates by items of what the expenditures must necessarily be at each of these forts where the Indians have been invited to assemble.

Mr. BROWN. Where are the forts?

Mr. DOOLITTLE. Fort Sully, Fort Rice, Fort Berthold, Fort Union, and Fort Laramie, five different places. I have received a communication from the Commissioner of Indian Affairs to the Secretary of the Interior of the 12th instant, and I will read a portion of it to the Senate:

"I have the honor to acknowledge the receipt of your letter of the 26th instant, inclosing copies of correspondence between your Department and the Secretary of War in relation to the subsistence of Indians about to assemble in council at Fort Laramie and at various points on the upper Missouri river, and instructing me to make estimates of what supplies may be needed to provide for the occasion, adding transportation and subsistence for the commissioners."

"I have also to acknowledge the receipt of your letter of the 26th ultimo, inclosing a communication from Major General Pope, of March 16, with vouchers for services rendered by 'Big Ribs' and party, sent as messengers to the hostile Indians; and by reference from your Department of another communication from Major General Pope, of the 21st ultimo, inclosing vouchers of presents made to said 'Big Ribs,' the whole amounting to \$5,456 11, which you instruct me to embrace in my estimate of the required appropriation. In conformity with these instructions, I have prepared the desired estimate, but wish to call your attention to the within copy of a letter from Major General S. R. Curtis, addressed to this office, and dated March 2, 1866, in which he states that in compliance with instructions from the honorable Secretary of War, he had made estimates and requisitions on the War Department for the necessary rations to feed these Indians, and for transportation of said subsistence to Fort Laramie and other places of treaty rendezvous in the upper Missouri country, and that the Secretary of War had informed him that 'the articles necessary' to make up these supplies at the various points would be sent forward immediately."

"In view of the fact that the Indians referred to were called together by the military authorities in the early part of last winter, while the commissioners could not meet them until summer, their subsistence by the War Department seemed to me perfectly just and proper, and I placed implicit reliance on the assurance given by the honorable Secretary of War as above stated. It now, however, appears that as late as the 24th ultimo Major General Pope telegraphs

from St. Louis to Lieutenant General Grant that he trusts the Interior Department is making proper arrangements for feeding the numerous bands of Indians assembling at Fort Laramie and on the upper Missouri river, adding that the military authorities have not the means to meet such extraordinary demands outside of their legitimate province; and that if the Indians are under the charge of the Interior Department that Department should take care of such matters, and not depend on the military.

"The Secretary of War, in his letter of the 25th ultimo, sends you a copy of the above telegram, and referring to a conversation in Cabinet meeting, desires to be informed what measures have been taken by your Department to provide for the Indians about to assemble in council.

"In your reply of the same date you state that no arrangements whatever had been made, as you did not understand the Secretary to say definitely at Cabinet meeting that his Department could not furnish the subsistence for the purpose referred to, but would communicate with you in writing on the subject.

"A final communication from the honorable the Secretary of War, in reply to the above and bearing the same date, concludes the correspondence on the subject, the Secretary stating that he designed the conversation at Cabinet meeting as final and to the point, but as you appear to have not so understood the matter," he adds, "You will please consider the application for supplies from the War Department as definitely answered in the negative, for the reason that they cannot be furnished under legal authority, nor without prejudice to the military service.

"I have thus reviewed the correspondence in connection with the facts of the case in order to show that no blame can be justly attached to this Department for not having at an earlier date made necessary preparations for the assistance called for."

By some mistake it was supposed—General Curtis so understood it, and it was so understood by the Secretary of War—that the War Department would send on the supplies to feed these Indians during these councils and to provide what was necessary to be done in the negotiation of these treaties; but subsequently, on further examination, it seems the War Department cannot do it; at all events, they decline to do it, and the matter is thrown upon the Interior Department, and we must make this appropriation; otherwise these Indians are called together at these councils and there will be no provision made for them while they are there, and it may result in further hostilities and trouble.

Mr. President, I have stated the circumstances under which this application is made. It came to the attention of the Committee on Indian Affairs yesterday, and it was urged by the Commissioner of Indian Affairs and by the Secretary of the Interior that we should take immediate action because of the immense distance that these provisions and supplies have to be transported, and because the period fixed, as I understand, for the assembling of the Indians is the 20th of May, and no time should be lost. I therefore hope the resolution will pass at once.

Mr. SHERMAN. I need not remind the Senate that I have always opposed appropriations for Indian treaties on the ground that I have always been opposed to this mode of dealing with Indians. Besides that, my attention is now called to a letter of the Secretary of the Interior to the Committee on Finance to whom this subject properly belongs, and to whom the estimates for the negotiation of new treaties are generally sent to be included in the Indian appropriation bill, and they are generally examined by the Committee on Finance. I have in my hands a large number of estimates containing the details of this sum of one hundred and twenty-one thousand and odd dollars. It is a sum extraordinarily large. Indeed, the largest sum I ever remember to have been appropriated for making an Indian treaty is about twenty thousand dollars. This is \$121,785. We have not had time or occasion to examine these documents in detail, because the Indian appropriation bill has not yet come to the Senate. These papers would have been examined by us at the time we received them but for the fact that we supposed they were intended to apply to the Indian appropriation bill which has not yet come to us. Now, unless the Senator from Wisconsin can satisfy the Senate that there is pressing and urgent necessity for action on this appropriation, I do not see why we should pass a separate bill. It is unusual to do so. My own opinion is that some Senator would distinguish himself as a valuable public

servant who would take hold of this whole matter and transfer the Indian Bureau to the War Department, or organize some other mode of treating with Indian tribes than treating them like foreign nations. The idea of getting together the head men of the Indian tribes and giving them pork and beans—very sensible articles of food—feeding them up and then negotiating a treaty with them, and bringing that treaty in here to be ratified as a high negotiation with a foreign Power, has always seemed to me so ridiculous that I hope some time or other the Senate will abolish the whole system. These Indians will be gathered together as a grand conclave, they will have a Fourth of July celebration for about two or three weeks, and they will sign anything presented to them by the Indian agents. This \$121,000 will be used as a corruption fund—not improperly by the officers of the Government, but it will be used to make these Indians feel good while it lasts, and then the agent sent there to negotiate a treaty will write out what he pleases and they will sign it, without any knowledge of what is contained in it; and if they are satisfied with the terms of it afterward, well and good; if not, they will take up the tomahawk and the rifle and commence a war, if they are incited to it by white men.

That mode of dealing with the Indians has always seemed to me so ridiculous that I never had any patience in examining these matters. But if the Senate still insists on that policy of negotiating treaties with the Indian tribes, the Committee on Indian Affairs must take the responsibility for this appropriation, because the Committee on Finance to whom these papers were referred have never yet had time to examine them; nor has the proper occasion arrived when we could examine them. It would have been our duty, of course, to examine the details of these estimates if the Indian appropriation bill had come to us before this time and an amendment had been proposed to that bill to meet this object. I have not even read these papers; my attention has been just this moment called to the fact that the whole subject was referred to the Committee on Finance. I shall therefore take no responsibility as to the amount involved or as to the necessity of the appropriation.

Mr. DOOLITTLE. The Indian appropriation bill will probably not be here until the last of the session, and the 20th of May is the time fixed for the Indians to meet and for the supplies to be at Fort Laramie, Fort Rice, Fort Sully, and Fort Union on the upper Missouri, and Fort Berthold.

Mr. SHERMAN. I ask by what authority these tribes are to be convened.

Mr. DOOLITTLE. It was upon this authority: we were at war with them, and the military authorities, under the direction of the War Department and the Interior Department, the President of course being responsible, invited these tribes to treat. When my friend from Ohio speaks of the estimates sent to the Finance Committee I am inclined to think that he is looking at the estimates to carry into effect treaties already ratified.

Mr. SHERMAN. No.

Mr. GRIMES. Are these tribes that we have been at war with?

Mr. DOOLITTLE. Some of them are.

Mr. GRIMES. We have been at peace with some.

Mr. DOOLITTLE. We have been at war with the Sioux and the Blackfeet. In relation to the time I wish to say a word.

Mr. GRIMES. I wish to make an inquiry of the Senator. As I understand it, we have not been at war with many of these Indians that it is proposed to treat with. There may have been additional murders or atrocities perpetrated by some of them; but my impression is that we have treated with most of those Indians with whom we have been at war.

Mr. DOOLITTLE. We have not treated with them all.

Mr. GRIMES. What I want to know is this: does not the chairman of the Committee on

Indian Affairs contemplate treaties with Indian tribes with whom we have not been at war, and if so, why do we propose to treat with those particular tribes that we are already at peace with?

Mr. DOOLITTLE. Well, Mr. President—Mr. McDOUGALL. The Senator from Wisconsin will allow me.

Mr. DOOLITTLE. Yes, for a moment. I will refer to some papers I have here, and answer the Senator from Iowa.

Mr. McDOUGALL. I have known, probably, more of the Indians that traverse our Rocky mountains and the regions further west than any of my colleagues here in the Senate. I have known Indians from my boyhood. The policy of the Government in dealing with them, I think, has always been wrong. I agree with the Senator from Ohio altogether in that respect. They must be whipped into their place, and subjected to obedience. Why should not the Indian earn his bread by the sweat of his brow? Why should he not do it with his bow and arrow, or other material that he may possess? Why should he be supported by the Government? It is false legislation, and it is one of those things that oppress the men who do honest labor in the country—that labor which supports our Government. It is wrong. I have been opposed to it as a matter of policy always, and I take occasion now to give expression to my thought. I met a lot of Choctaws last night—and I can talk Choctaw—three chiefs who flattered in their peacock feathers. We buy them those feathers, and we buy them their blankets. Why should we do it? I have never been able to find that out by any logical deduction. We do not owe them anything but this: we should protect them on their hunting grounds. That I am prepared to do always, and let them die out by a law established by a greater Master than confines himself to this sphere, as another race that inhabit about the District of Columbia is to die out. No man can suggest a good logical reason why we should subsidize the Indians. My friend from Wisconsin, who is a western man, and who is acquainted somewhat with the subject, cannot advance a reason why we should subsidize them; tax our farmers and laboring men, and our mechanics, to subsidize the Indian, to come down here and parade his feathers in Washington, and draw our blankets. It cannot be done; it is not within the range of logic. I am, therefore, against the whole policy.

Mr. RAMSEY. This war commenced with the Issanti Sioux, in Minnesota, numbering about six or seven thousand. It extended then to the Yantoni Sioux, in the northern part of Dakota, and also to a part of the Yantoni Sioux, in southern Dakota, and also to the larger part of the Teton Sioux west of the Missouri, comprising the Blackfeet and other bands, so that the whole Sioux tribe on the plains are demoralized and infected with this war spirit. I do not see how entire peace and quiet can be restored to the frontiers unless through some treaty arrangement. It may require a little money, but surely—

Mr. McDOUGALL. Let me ask the Senator, would it not be better to whip them well?

Mr. RAMSEY. Certainly it would, if you could catch them, but that is the great difficulty.

Mr. McDOUGALL. Is not the Government powerful, and has it not men and horses enough?

Mr. RAMSEY. On those immense plains in Dakota, and on the Platte, it is impossible for any armed force you can send there to overtake them.

Mr. McDOUGALL. If you furnish General Sully the horses and men, he will hunt them to the death.

Mr. RAMSEY. But that would take ten times as much money as this treaty arrangement will cost. Besides, there are large bodies of these Sioux that you cannot possibly reach; our men cannot get at them; they live on the British frontier. All of the Issanti Sioux, the most hostile and most bloody of all the Dakotas, now live on the northern border, and after committing depredations retreat across the line, and you cannot follow them. They keep poisoning

the minds of other bands of Sioux. I do not see how it is possible to restore peace on the frontier unless we can do it by some treaty arrangement of this kind. The expense is nothing in comparison with the object to be accomplished.

Mr. McDUGALL. There can be no peace restored among the Indians on our frontier except by compelling them to obedience.

Mr. RAMSEY. The trouble is to catch them. I admit that the Senator is right in that, but it is impossible, on these immense plains, to catch these bands of Indians. We have had a large number of troops operating against them for years, but they have very rarely been able to overtake the Indians.

Mr. McDUGALL. They were never well mounted.

Mr. RAMSEY. The great difficulty is in carrying provender for your horses on these immense interior wastes.

Mr. DOOLITTLE. Mr. President, there is but one way to deal with these Indians on the plains: you must feed them or fight them. There is not much honor to be won by the Army or by the Government in fighting with these Indians. Compared with us, they are a very feeble people. We are strong; we are a great nation. They are wandering nomads over the plains, with no more habitation than the buffalo has. They go with the buffalo, and where the buffalo goes. They live upon the buffalo, and with the buffalo, and range over those vast plains. The honorable Senator from California suggests that we should by military power reduce them to subjection and compel them to obedience. Whenever we meet them we can conquer them and capture and slaughter them; but it is just as impossible, within any reasonable amount of expenditure, to catch these Indians and reduce them to obedience by war as it is to catch the buffalo upon the plains or the blackbirds that fly over the plains. Sir, the proposition to organize great military expeditions with artillery, to go through these immense plains and to carry provender for horses, where every bushel will cost you from three to five and even ten dollars to feed the horses on which you ride, is a proposition to put the finances of the Government into a bottomless pit.

I know it costs something to keep these Indians together and feed them; it costs something to make treaties with them. My friend from Ohio smiles at the idea of a treaty with an Indian tribe. He thinks the thing is ridiculous on its face. Compared with a treaty with Great Britain, I admit it is a very trivial affair; but so long as human nature is composed of those elements which dwell even in the breast of an Indian as well as a white man, by manifestations of friendship, by kind treatment, by presents, by feeding them, you can have peace with them better than by fighting with them, and at a hundredth part of the expense.

Mr. McDUGALL. Let me ask the Senator, is not that a policy to continue the controversy with them for many years, and will it not be in the end more expensive?

Mr. DOOLITTLE. We have been at war with these Sioux since 1862. I have no doubt the expenditures of the Government in prosecuting wars against the Sioux, on these plains, have amounted to over thirty million dollars. There is a difference between making appropriations to the Interior Department to feed Indians, and making appropriations to the War Department to furnish the commissary department, or the transportation department with supplies. You come into Congress with an estimate from the War Department for commissary supplies, and in a single bill of appropriation you will appropriate \$400,000,000 perhaps, all in one immense fund, which is drawn upon by the War Department at will; and so it is with the quartermaster's department; the appropriation is all made in one vast sum. But when we come to ask for appropriations for the Interior Department, you go into the items and take them up one case at a time.

Now, we have negotiated several treaties,

under the direction of the President, through the instrumentality of the War Department, with several bands of these Sioux Indians. They were fed by the War Department, and Congress never heard anything about it. Why not? Because it was paid for out of the funds of the commissary department and the quartermaster's department, and we never knew anything about it. But now, when the War Department say they have not the funds and cannot furnish the commissary supplies any longer, the Interior Department must furnish supplies to these very Indians whom the War Department have invited into council to see if we can have peace with them; and when the Interior Department presents its estimates before Congress and we look into them, they appear to be very large. The sum to be appropriated here is \$121,000, but it is not for a single treaty. The Indians are invited to meet at five different posts, hundreds of miles from each other, some on the upper Platte, some on the upper Missouri. I suppose they will assemble, and if they assemble, and the War Department is not prepared to feed them during the assembling, what shall be done with them? If we do not make this appropriation, the Interior Department cannot furnish them supplies. If they come together at our invitation and then disperse, they will regard it as a kind of breach of faith on our part to invite them together in this way to negotiate for a treaty and make no provision for them while they are there.

I admit that abuses creep into the Indian department, as is the case in every department where money is to be expended. Abuses creep in from the infirmity of human nature. Men are tempted to take advantage of the Government on contracts. Men are sometimes tempted to defraud the Government; and in dealing with the Indians perhaps the temptation may be stronger, if the Indians are the only witnesses of their transactions. But after all it is much cheaper for us to deal with the Indians in this way than it is to deal with them by arms. I say to my honorable friend from California that I think there is just as much honor, and a great deal more humanity, in feeding and blanketing and making presents to these Indians than there is in chasing them over the plains and slaughtering them, with their wives and children. I hope that this resolution will pass.

Mr. WILSON. How much does it appropriate?

Mr. DOOLITTLE. One hundred and twenty-one thousand dollars to pay the expenses of their assembling at five different posts. Some two thousand are expected at one place; fifteen hundred at another, fifteen hundred at another, &c.

Mr. McDUGALL. I do not dispute the point of present judgment with the Senator from Wisconsin, the chairman of the Committee on Indian Affairs, whose particular business it is to understand the present question. Indeed, I think he is altogether right in the present statement of what he desires to have done by the Government. I think he is altogether wrong, though, in the philosophy of his policy. The remarks that I made some few minutes since were designed rather to express my view of what should be the policy than what might be the proper thing now to be done. I understand that our Government through its proper officers has invited, for treaty purposes, the Sioux Indians north of forty-five degrees into council. This having been done, it should be exactly executed, for the faith of the Government is involved in it. My remarks, when I rose before, were directed to the permanent policy, not the present action. Those Indians having been assured that we will treat with them, and having been invited to meet us, they must be treated as they have been treated heretofore.

I only wish to say now that I desire to have done with that policy. I do not think that we have been out of the order of life or nature because the Indian has retroceded from the

country where he was born, westward and westward still, crowded by the progress of high civilization. I do not think that wrong. I think it is one of the provisions of the Master that thus it should be so. It is pleasant to me to think that the country that I properly inhabit is now occupied by the Caucasian race, and it there masters. It must happen so, for there is a progression of races, and that progression we have seen through all ages, from the Pelasgi and the fair-haired men from the North who came down from old Scandinavia and made the heroes of Greece and then in Rome; they who conquered, debilitated, and demoralized Italy. All these things indicate that there is a progression of races. I would not willingly injure one of the race who inhabited our country when the first white man landed on these shores. I am partial to the Indian race. I was taught in my childhood by the Oneidas—

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. DOOLITTLE. I ask that the order of the day may lie over informally until we can come to a vote on this resolution.

The PRESIDENT *pro tempore*. If no objection be made, the order of the day will be informally laid aside, and the joint resolution which was under discussion will still be considered as before the Senate.

Mr. DOOLITTLE. I do not wish to take up any further time; but I have before me the letter of General Curtis in which he states the number of Indians that are expected to assemble at these different posts: at Fort Laramie, twenty-five hundred; at Fort Sully, two thousand; at Fort Rice, two thousand; at Fort Berthold, two thousand; at Fort Union, twenty-five hundred. It will be seen, therefore, that there are two thousand Indians and upward to assemble at each one of these posts, and therefore I think the estimate is not an extravagant one.

Mr. NESMITH. I look upon this as a matter of very great importance, and I hope we shall have the immediate action of the Senate upon it. It is very well understood that during the last season great efforts were made to reduce the Indians of the upper Missouri and from there to Montana to some state of subjection or of peace. They had given great annoyance to travelers and settlers in Dakota and Minnesota as well as on the overland route. The energies of the Government were directed last summer to their subjugation. Failing in that, it was deemed by the military officers and the officers brought in contact with those people that it was better to inaugurate some system by which a treaty could be made with them, that it would be cheaper for the Government and better for all parties concerned that some amicable arrangement should be made which should secure peace on the frontier and on the plains. The energies of the officers of the Army and other Government officials who were brought in contact with them last year were directed to that purpose. The result was that arrangements were made whereby large numbers of them are to assemble early this spring for the purpose of concluding temporary treaties formed by the military who were in that country last summer.

Under that arrangement it is expected that within a few days large numbers of these people will be assembled at different points. They come with the express guarantee and understanding on the part of the Government officials that certain supplies shall be furnished them while there. We may question the right of the officers to make this pledge in advance; but that is a point of which an Indian has no very correct comprehension. When he meets a Government official and he pledges himself to do a certain thing, he regards that as the pledge of the Government. The Indian does not comprehend that the officer may not be authorized to make pledges in advance whereby large sums of money shall be disbursed before appropriation bills are passed by Congress.

That is a matter that cannot be brought to the comprehension of the Indian. He treats with the officer and looks upon him as one fully authorized to enter into and make these arrangements; and when a failure comes to carry out the provisions or stipulations made between that officer and the Indian, the Indian is bound to look upon it as a species of bad faith exercised on the part of the Government, and consequently he considers himself justified in resorting to hostilities for what he considers the bad faith of the Government.

The view in which the Indian looks upon this matter is that the Government is pledged to certain things, and the certain things to which it is pledged are set forth in detail in this report of the Commissioner of Indian Affairs. It is an estimate showing all the details, all that is necessary to carry out substantially the temporary treaties which were formed last year and to meet the Indians this spring, as was understood and arranged between the officers of the Government and the Indians at that time. It provides for large bodies of Indians being assembled at each place; for instance, fifteen hundred Indians are notified to assemble on the 20th of May at Fort Sully; then, again, fifteen hundred more are notified to assemble on the 1st of June at Fort Rice; at Fort Berthold fifteen hundred Indians are notified to assemble on the 20th of June; and at Fort Union two thousand Indians are notified to assemble on the 5th of July; at Fort Laramie two thousand Indians are notified to assemble on the 20th of May, and so on. These different assemblages have to be provided for. The Indians have been notified that they are expected to assemble there in pursuance of the negotiations which have been had with them. They are doubtless now on the way to these different points of rendezvous; and if this appropriation fails to pass, I apprehend that we shall have a repetition of the scenes of bloodshed, outrage, murder, and plunder which have been going on for the last two years in that country.

The urgency for the passage of this resolution consists in this fact: that the Indians being on the way to the different points of rendezvous it is impossible to wait until the general appropriation bill can pass Congress to carry out the objects contemplated by this resolution and by this detailed statement which I now hold in my hand. If we delay it until that time the period will have long passed when the Indians shall have assembled and this distribution of supplies should have taken place among them. Therefore, for the preservation of peace in that vast region of country, and in view of the objects which the military officers report can probably be accomplished—the making of a permanent peace there and preventing a recurrence of hostilities hereafter—I urge on the Senate the adoption of the resolution. On an examination of the details of the estimates, as submitted by the Secretary of the Interior and the Commissioner of Indian Affairs, I think they will be found most reasonable, and the sum is not so large as to excite any very great apprehensions on the part of Congress or of the country if we are to realize what I apprehend we shall from this general negotiation—a restoration of peace on the frontiers and on the plains.

Mr. RAMSEY. In addition to the other considerations which have been urged here on behalf of this appropriation, I desire to mention the fact that at this time many thousands of our people are passing up the Missouri river; many boats have already left St. Louis on their way up to Montana; two thousand miles of that route are through this hostile country; and these Indians, as the Senator from Oregon has said, will look upon the failure to furnish these supplies as a breach of faith on the part of the Government; and if our commissioners do not meet them with the supplies, they will seek revenge on the people going up there; and no man can tell what destruction of life and property will ensue.

Mr. SHERMAN. What I wish to get at,

and what these Senators on the Committee on Indian Affairs have not yet told us, is, who authorized the assembling of these Indian tribes. I have looked in these papers, and I cannot tell who did it. Was it the Secretary of the Interior, anticipating an appropriation from Congress? I see nothing to show that. Did the Commissioner of Indian Affairs undertake to make six new treaties with some ten thousand hostile Indians without authority of law? If not, who did it? Or was it left to some wandering Indian agent or superintendent of Indian affairs?

Mr. DOOLITTLE. Allow me to state on that subject the facts. During the last year hostilities were prevailing all over the plains. General Curtis was in command, General Sully being with the expedition far northwest, General Dodge down on the Arkansas. It will be remembered by my honorable friend that a committee was appointed on the part of Congress last year to inquire into Indian affairs; and the gentleman who now sits in the chair, [Mr. FOSTER,] myself, and other gentlemen, were appointed upon that committee. When we were upon the upper Arkansas, we were decidedly of the opinion that it was better to make peace with these Indians than it was to carry on this system of warfare, which was so enormously expensive and produced such very little results so far as the capturing of any of the Indians was concerned. We pressed the consideration of it upon the President, the Secretary of War, and the Secretary of the Interior. They had consultations here in answer to our communications to them by telegraph and otherwise; and we received telegraphic communications from them in return; and upon full consultation in the Cabinet with the President, it was determined to enter upon a system of negotiation of peace with the tribes instead of carrying on hostilities. All the military commanders were so directed by the Secretary of War and the Secretary of the Interior, upon instructions that were agreed upon between the Secretary of War and the Interior Department, with the sanction of the President. Commissioners were appointed to negotiate treaties of peace in the Indian country and up the Arkansas.

Among those who were appointed to negotiate treaties on the upper Arkansas were General Harney, who is famous among the Indians as a great general in fighting them, and Kit Carson, who was equally famous. In negotiating the treaties on the Platte and north of the Platte in Dakota, General Curtis, who had been in command of the department, was employed as one of the commissioners, and he entered into those treaties that have been already confirmed. Other gentlemen were with him, General Sully and General Sibley, the very officers of the Army who had had most to do with those Indians and knew the Indians best, and as I understand it General Curtis is the one who invited these Indians to these councils. General Curtis, as I understand, is to go out at the head of the commission with a view of negotiating the very treaties which they are invited to make. This has all been done with the full sanction both of the War Department and the Interior Department and with the express sanction of the President, and I may say upon the urgent recommendation of those gentlemen who were connected with that congressional committee to look into Indian affairs; and I have no doubt that if you carry out the policy and carry it through of negotiating treaties, and if we comply with our treaties in good faith and give them the supplies which we promised, the blankets and provisions which we promised, we may have peace with them at a tithe of the expense of dealing with them by the sword. These are the facts.

I know, as my honorable friend knows, that dealing with these Indians is a very different thing from dealing with a great nation like England or France; and of all the committees, I doubt not, in the Senate of the United States, there is no committee that has so difficult a task to manage and get along with as this very Indian Committee; dealing with them is so un-

certain. It is after all an experiment. We are dealing with a feeble people, with a dying people; they will soon pass away, and nothing will remain of the Indian tribes but the beautiful names which they gave to our rivers and our towns. This is to be their inevitable destiny; but while they are passing along like sick children on our hands, it is better to deal in the spirit of humanity, to feed these dying people, than it is to turn in and slaughter them by the sword. That is my settled conviction from all the information I have been able to obtain in relation to Indian matters.

Mr. SHERMAN. If these Indians had been conveyed by the President of the United States in pursuance of his executive authority to negotiate a treaty of peace and during a war, I have no doubt it is the duty of Congress to appropriate money to carry into effect the executive order. Undoubtedly the President of the United States has the power to negotiate peace with warring nations. If these Indian tribes are warring nations, as they seem to be considered, as a matter of course he has the power to negotiate a treaty of peace with them and submit it to the Senate for approval at the proper time. The only question that arises then would be as to the best mode of meeting the expenditure. As far as I understand the Senator from Wisconsin, the assistance and transportation have been heretofore furnished by the proper bureaus of the War Department, and now, for the first time, it is proposed to introduce into the Indian Office transportation and subsistence of provisions.

Mr. DOOLITTLE. What I desired to say was, that in dealing with these tribes in the treaties which were negotiated by General Curtis and by General Harney, the War Department had furnished the supplies; the Interior Department had not done it; and the Interior Department now supposed that the War Department would furnish these, until from a letter received from the Secretary of War the Secretary of the Interior is informed that the War Department cannot do it, and the thing is thrown on the Interior Department, and the Interior Department must take the responsibility of doing it; otherwise, the Indians are invited to meet at these places, and there are no supplies and we do not get peace with them. It is a new cause of irritation and a new cause of war, and that is just the exigency and the necessity pressing upon the Interior Department for our action, and our immediate action. Supposing that the War Department would furnish the supplies to these Indians as they had furnished them to the others, the Interior Department took no steps to procure these appropriations until now. At all events, this is the first request that came to the Indian Committee on the subject. I do not know but that those estimates that went to the Finance Committee may have gone in some weeks ago. I do not know when they went to that committee; but the matter first came to the Indian Committee yesterday, and with the urgent request on the part of the Department that we should take immediate action, because it was necessary to purchase these supplies immediately at St. Louis in order to send them up the Missouri river or get them transported to the place of meeting, which is already fixed, with these Indians.

Mr. SHERMAN. I do not intend to press any opposition to this appropriation, because I am deficient of information to do so; but the facts disclosed this morning show clearly, I think, that the Indian Bureau ought to be transferred to the War Department, or all connection with the Indians transferred to the Interior Department. That is manifest from the statements which have been made. Here is confusion between these two Departments of the Government; neither seems to understand its appropriate duties in this respect.

The bill of items submitted to the Committee on Finance is so singular that since I have read it this morning for the first time it strikes me as furnishing a very strong argument why

this whole subject ought to be transferred to the War Department. The negotiations ought to be made through military officers, the commanders of troops face to face with the Indians. Then you will have some check on the expenditure. The Senator will see himself that there will be no check here on the expenditure of the money about to be appropriated. In the subsistence department no ration can be drawn except in pursuance of law, and there are forms and modes of checking officers, so that there is a system of accountability which it is almost impossible to overcome. It is almost impossible that frauds can be perpetrated in the Subsistence Bureau of the War Department. So in regard to transportation; that is done under a system of accounts and checks, so that money appropriated for the quartermaster's department is certainly applied to the purposes to which it is appropriated, though sometimes frauds may perhaps be committed. This appropriation, however, will be to another Department of the Government, for supplies of a character over which that Department has not usually had any supervision. These estimates provide for six Indian treaties with the aggregated Indians that have been invited to participate to the amount of something like ten thousand.

The estimates are given in detail in the papers furnished to the Committee on Finance, and show that these Indians expected to be aggregated in masses, men, women, and children meeting together at five or six different forts of the United States, from fifteen hundred to two thousand at each fort, and they are there to be fed on pork, bread, coffee, and the ordinary rations of the Army for a certain time, and treaties of peace are to be negotiated with them. There is no mode of transporting those provisions from the settlements to the forts except by new agencies. The quartermaster's department has its contracts for the transportation of supplies in which competition has been had, proposals have been invited, contracts have been made. But in the transportation of these supplies there will be no competition. The very necessity of immediate action will compel the Department to transport these supplies at whatever cost. The expense of transporting the supplies will be almost equivalent to their original cost. One of the bills presented here shows corn used by one of the scouts sent out cost the Government eight to nine dollars a bushel, when we all know that in Iowa corn is now being burnt for fuel—it is so stated in the papers; and certainly it is not worth over twenty cents a bushel.

Mr. DOOLITTLE. Allow me to state that the corn which feeds the horses of the Army out there fighting the Indians costs from five to ten dollars a bushel. That is one reason we do not want to go out there with horses fighting the Indians. It costs just as much when the Army transports it out there as when anybody else transports it. In relation to this matter of transportation, I suppose the same price will be paid as for Army transportation.

Mr. SHERMAN. There is no limitation of that kind.

Mr. DOOLITTLE. The Army transportation is always done by contract.

Mr. SHERMAN. But done under and in pursuance of law which requires the quartermaster's department to contract. This would not be under that law.

Mr. DOOLITTLE. Still there is a law for contracts in the Interior Department just as much as in the War Department.

Mr. SHERMAN. I will call the attention of the Senate also to the character of the presents estimated for as part of the \$121,000. I will give only a few of the items—thirteen hundred pairs of blankets, to cost \$9,750; one hundred and twenty dozen scarlet shirts, cotton handkerchiefs, woolen blouses, thirty thousand yards of fancy prints, and various presents, amounting altogether to about thirty thousand dollars, for some ten thousand Indi-

ans. It is not very much for each Indian, but it shows the peculiar mode of making treaties with them. We gather these Indians together at various forts of the United States under military authority; we there feed them for twenty or thirty days, we furnish them blankets and clothing, &c., and then our commissioners—I do not know who they are—write out a treaty of peace, and the Indians sign it, ignorant of its provisions, unable to read, poor, miserable creatures as they are admitted to be; and that treaty is sent to the Senate of the United States, the highest political body in this nation; and how is it considered here? It is ratified, as a matter of course. I remember that in one case when I was a member of the House of Representatives, five Indian treaties were ratified, as I was informed by a Senator, without their being read in the Senate, on the last day of an executive session, and when we came to make up the estimates to carry those treaties into execution, they were so large that they were actually suspended, and not carried out for a time. That was the Oregon case. I believe there was a misunderstanding in regard to the terms of the treaty, and finally it led to a war.

Perhaps this is as good an occasion as any to say that there ought to be an end to this mode of dealing with Indians. I have no doubt these five treaties to be made by General Curtis and others—and no man could be selected in the United States whom I would more cheerfully trust with any power than General Curtis, whom I have known for many years—will be made in this way, and will probably entail on the Government an annuity for a number of years amounting perhaps to from \$100,000 to \$500,000; I cannot tell how much. The expense of our Indian service now is between two and a half and three million dollars, and the whole number of treaty Indians, so far as I can gather from the best information I can get, does not exceed one hundred and twenty-five thousand; there are other Indians, with whom we have no treaties; so that the cost of governing our Indians is greater than the cost of governing this country during the late war. It amounts probably to from ten to twenty dollars a head; and in addition to that are all the vast sums that are expended through the Army to keep the Indians in subjection. The amount actually appropriated every year for the benefit of the Indian service proper is from two and a half to three million dollars, and that merely to carry into execution treaties and to pay the expenses of agents and superintendents. The number of Indians that are included in our treaty stipulations has been variously estimated from one hundred to three hundred thousand, but I believe it has been more accurately estimated at the lower number, because they are constantly diminishing in number. Then the Indians with whom we have no treaty stipulations are now constantly, year after year, making treaties, thus adding to the expense of our Indian relations.

It seems to me that a system like this conducted in this manner ought to be put a stop to. I have not the information on which I can say that this sum ought not to be appropriated; indeed, it seems that the Government have placed themselves in a position where they have agreed to meet these Indians in council in the way they have heretofore made treaties with them. The stipulation has gone out with the assent of the President of the United States, and the military authorities have undertaken to convene the Indians *en masse* at various forts of the United States, and I do not see but that we are bound, under the circumstances, to appropriate the money in some form, either to give it to the military authorities, or to the Indian Bureau. It is, however, a fair illustration of the manner of our dealing with the Indian tribes. I have been in hopes for some years that the Indian Committee would report some measure by which the Indians might be transferred to the Military Department, there to be governed by military law until they should be

absorbed in the general population of our Territories to be governed by civil law.

I know that some objection has been made to transferring the Indians over to the territorial authorities and to the authorities of the new States, on the ground that there is an antagonism between the whites and the Indians that will lead the white man to disregard the rights of the Indians; but I believe it would be wiser and better to give to the infant States and Territories of the West a portion of the money now appropriated by the Government for the support of the Indians, and trust to the people of the infant States and Territories to govern those tribes, and disband our whole Indian system; or, if that cannot be done on account of the antagonism between the whites and the Indians, then to transfer this whole Indian service to the Army, and let them govern the Indians as subjects of the United States; but the present system of governing the Indians by treaty stipulations, by bribes and presents, beans and corn and pork, furnished at the enormous expense of from ten to twenty dollars a head to every Indian in the United States, is a system that ought not to be tolerated longer.

I will take this occasion to inquire of the honorable chairman of the Committee on Indian Affairs whether a proposition to transfer the Indian service to the War Department is not now pending in that committee.

Mr. DOOLITTLE. Yes, sir; there is a proposition now pending before the committee to transfer the Indian Bureau to the War Department; but that is not involved in this question.

Mr. SHERMAN. It is not involved, but this is the only manner in which we shall have the question of the Indians before us. We have no opportunity to discuss these Indian matters except when appropriations come before us; and they never come before us unless when there is such an urgent and pressing necessity to make the appropriations that we cannot for humanity's sake stop to deliberate on measures affecting the Indians. A year ago every Senator will remember that a proposition was made to pay over to the Cherokees and other Indians of the Southwest enormous sums of money to relieve them from immediate distress. We had no time to deliberate because the demand was made on us in the name of humanity to feed starving Indians, some of whom had been true and loyal. Indeed, these Indian questions are never brought before us until under such urgent circumstances that we cannot deliberate. There are very few Senators, probably, who would have been willing to authorize the convocation of these Indians *en masse* in the various forts of the United States for the purpose of making new treaties with them, and the question is now presented to us in such form that we cannot deny the appropriation, simply because the executive authorities of the Government have directed the convening of the Indians and we are bound to feed them while they are there; we are bound to carry their stipulations into effect; we are not left to legislate or to judge in regard to the matter.

Perhaps these remarks may be considered as rather out of order, as they do not affect the immediate question before the Senate. I do not wish to stand here as opposing this appropriation. Probably the faith of the nation is bound to feed these Indians and take care of them in the usual way. So we shall probably be considered bound to ratify the treaty when made, and we shall be bound to appropriate money to carry the treaty into execution. We never shall have a change in this system until one of two policies is adopted, either to transfer the whole Indian service to the War Department, or else to transfer the Indians to the charge of the people of the States and Territories where they live, and that is a proposition which I hope will be adopted before long. I am willing to leave to these new States and Territories the government of the Indian population, and if necessary to give the aid of the Army to govern the Indians, and if it is needed,

to distribute to them the \$3,000,000 the Indians now cost us to enable them to administer government over them. The system of bribes, treaties, and presents, ought to be abandoned by the United States.

Mr. DOOLITTLE. Mr. President, some of the remarks of my friend from Ohio, I think, challenge a moment's consideration. I do not look upon what we give to the Indians as in the nature of bribes. I do not think that the presents which are given, that what we contract to pay them annually in the shape of provisions and clothing, (for the payment of money to Indians has been almost entirely abandoned; what annuities are paid are paid in clothing, or in provisions, or in some articles which contribute to their support,) should be regarded as bribes. The truth is, the Indians inhabited all this vast country. I do not claim that they held it by a title such as that by which the civilized man holds his land in fee-simple; but they existed, lived, and occupied the country. The Indian thinks, and the world believes, and mankind must admit, that the Great Father above gave him his life, his existence, upon these vast plains, and in this rich and beautiful country. Our people, full of the Anglo-Saxon blood and the Anglo-Saxon disposition to make aggressions everywhere, powerful, increasing, spreading, aggrandizing, press in upon the plains and the prairies and among the mountains to dig for the gold and the silver of the mines of those mountains, where the Indians and their fathers before them perhaps for a thousand years, have lived and held undisputed control. Now, if we enter into all this goodly land, and by our going there, cut off the game upon which the Indian lived, surround him with the institutions of civilization, which are death to the savage man, surround him so that he cannot live in the way in which he was accustomed to live, do we owe him nothing? Is it just in the sight of God or man for us to say that we owe nothing to these people whose land we are appropriating at our pleasure? I cannot feel in that way. I think, therefore, that all we give the Indian, if we give him ten times as much as we do, would not pay him any more than the debt that we really owe.

My honorable friend says we should put this whole service into the hands of the War Department. I do not now discuss the question whether the Indian Bureau would be better managed under the War Department than under the Interior Department. That is not the question that arises on this appropriation bill, and I do not propose to discuss this question in advance of the action of our committee. It is one of the serious questions pending before our committee on which we mean to make a report during the present session for the action of Congress. But, sir, putting the control of the Indians into the hands of the War Department is by no means certain to reduce the actual expenditures of the Government. I will tell you what it may do. It may reduce very much the troubles of Congress; it will certainly reduce the troubles of the Indian Committee; it will reduce the applications for special appropriations in reference to Indian tribes, because the estimates of the War Department will all be made in one grand sum, for the commissary department so many millions, for the quartermaster's department so many millions, for the payment of troops so many millions more. That will involve all your dealings with Indians, and in those great sums you will not see them, you will not feel them, and you will think nothing about them, and say nothing about them. They will come up in the regular Army appropriation bill, and it will all be done in an hour.

Mr. NESMITH. I desire to suggest to the Senator from Wisconsin that expenditures of this very kind were made for similar purposes last year out of the Army appropriations.

Mr. DOOLITTLE. Yes, and Congress never heard of it, Congress knew nothing about it, because it was in the Army appropri-

ation bill, and no one can resist an Army appropriation bill. Indeed, the Senator from Ohio, representing the Committee on Finance, will not stand up here to resist an Army appropriation in time of peace or at any time.

Mr. President, in relation to what my friend has said about our treating with the Indians, I wish to say that that has been the uniform practice of the Government from the beginning and from before the beginning. The colonies treated with the Indians. The colonies were weak; the Indians were strong. The colonies were glad to treat with them; they were regarded then as to the colonies as independent and hostile powers such as the colonies were content to live upon terms of peace and amity with, and they made their treaties. I believe that if we kept our treaties now in all respects as faithfully with the Indians as the Indians keep their treaties with us, we should have little complaint. I believe that the difficulty has been more on our part; and that the breach of treaties, the breach of faith is as much to be attached to the Government of the United States as those who act in its name, and indeed more than to the Indians themselves.

But, Mr. President, I have taken up more time than I intended.

Mr. POMEROY. I rise to say but a single word. While I have not much confidence in the making of these treaties; I yet believe that the Indian department, so far as the transportation of supplies is concerned, has as economical and as regular a system as the War Department. The Senator from Ohio intimated very clearly that this was inaugurating a new system of transportation. It is not so at all. The Indian department advertises every year, as regularly as the War Department, for transporting all their goods, so much per hundred pounds per mile; and it happens that their bids this year, and I do not know but that it is so every year, were a little lower than those of the War Department. It is as economical a system of transportation as any in the War Department or any other Department.

Mr. SHERMAN. I ask if those contracts will cover subsistence like this.

Mr. POMEROY. Precisely. All their transportation is included in their advertisement, and those who get the contract will have to carry these goods with any others the department desire to send, because they have entered into contracts to do all the transportation of the department at so much per hundred pounds per mile, the same as is done in the War Department, only that the price is a few cents less. Then so far as relates to transportation there can be no objection to having the Indian department do it.

But, sir, I confess that I have very little faith in the system of treaty-making with these Indians. These Indians are very badly demoralized, and if you make a treaty with them it will not be really a treaty with the Indians but with a few white men who have got among them who want some goods and who use the Indians for their purposes. If there had been no white men mixed up among these Indians we should not have had half the trouble we have had. Bad men have gone out and got in with these tribes and demoralized them. The only result of arrangements of this kind is that they keep the peace while the goods last; the Indians will behave very well as long as they are fed. I have seen many treaties made, and I confess that I have but very little confidence in them. When the Indians are hungry again they will commit more depredations.

Mr. STEWART. I think there is no doubt that we shall have to make this appropriation, inasmuch as there is an agreement to collect these Indians and feed them, and the consequence of a failure to do so would be terrible to persons now on the plains exposed; but having lived for the last fifteen years in an Indian country, and having seen more or less of the practical operation of the present system, and having conversed with a large number of persons who have seen more than I have of it, I

have no hesitation in saying that the whole system is an absolute failure. It simply involves the extermination of the Indians and the extermination of a very large number of white people. Peace lasts while your provisions last. When the provisions run out, in order to get more the Indians commence murdering, and before you have any notice of it whole neighborhoods are cut off, women and children are slaughtered, and war is inaugurated for the purpose of their being bought off. The Indians understand it perfectly well. They boast of it. They say if they do not get their presents they will do these things, and they will get their revenge. I have been acquainted with several chiefs who told me how they intended to manage, understanding it perfectly.

The whole system is wrong; it corrupts your agents; corrupts the men you send to the frontier; corrupts the Indians; causes a large number of persons to be murdered every year. It is a long distance off, and you hardly realize how many people are murdered on your frontiers yearly. Probably a great many more whites are killed in battle and murdered on the frontiers than Indians. Undoubtedly in all your Indian wars five white men are killed to one Indian. The Indians, however, are destroyed by whisky and by feeding them for a time to excess and by the habits and diseases that they acquire from the white people. Small-pox and other diseases are carried among them, and they are carried off in large numbers. Virtually you kill them in that way, and they murder your white people. That is the system that is going on. You murder them by the whisky you carry among them, and they retaliate by murdering your women and children. That is the system, and I do not think any system can be devised which is any worse than this. I think the Committee on Indian Affairs should bring in a plan for a change. If you turn it over to the military you will make it somewhat better, because then you will have a Department more responsible than any you can organize for this special purpose. I think it would be still better to turn them over to the new States and Territories, and let them take care of them. That would be better than the way you are doing, and more humane. The present plan is the most inhuman, the most degrading, and the most lamentable in all its consequences you can conceive of. You cannot make it any worse by any change. But now, inasmuch as there is an agreement made with these Indians—and if we do not carry it out on our part, there will be immediate and terrible consequence visited upon the innocent that are upon the plains under the impression that they are to be protected, and that there would be treaties made—we are bound to vote the appropriation.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CONTRACTORS FOR VESSELS AND MACHINERY.

The PRESIDENT *pro tempore*. The order of the day will now be resumed, having been informally laid aside by common consent, being Senate bill No. 220, for the relief of certain contractors for the construction of vessels of war and steam machinery.

Mr. WILSON. We had up yesterday morning a motion to reconsider the vote on the Colorado bill. I desire to take that up and have the question taken on the reconsideration, if possible; this morning. I should like to have the other matter go over if the gentlemen who have the care of it will agree to that.

The PRESIDENT *pro tempore*. The special order is before the Senate. Does the Senator make a motion to postpone it?

Mr. SUMNER. I hope not.

Mr. WILSON. I give notice that I will call up the motion to reconsider to-morrow morning.

The Senate resumed, as in Committee of the Whole; the consideration of the bill (S. No. 220) for the relief of certain contractors for

the construction of vessels-of-war and steam machinery, the pending question being on the amendment of Mr. NYE to the amendment of Mr. GRIMES, to strike out "twelve" and to insert "fifteen" before "per cent."

Mr. JOHNSON. Mr. President, before the vote is taken upon either of the amendments, or the bill itself, the Senate will indulge me with a word or two upon the merits of the proposition contained in the report. The Senator from New Hampshire [Mr. CLARK] must have satisfied the Senate yesterday that some of the claims should not be allowed unless some explanation can be given in relation to the particular claims to which he called attention that is not to be found in this report. It is not necessary that I should call the attention of the Senate to the two cases to which he adverted, because he did it so clearly yesterday that it must be fresh in the minds of the Senators who were at that time present. The honorable member from Massachusetts [Mr. SUMNER] seemed to suppose—and that was the case with one or two other Senators—that what the Senate has already done and what has been done under the authority of the Senate's resolution exclude us from the right to inquire into the justice of these claims, that we are bound to allow everything that was allowed by the commissioners appointed under the authority of the resolution of the Senate. If I took the same view of that resolution as was taken by the Senator from Massachusetts, I should certainly vote accordingly; but I do not so understand the Senate resolution of March, 1865. The resolution is:

"Resolved, That the Secretary of the Navy be requested to organize a board, of not less than three competent persons, whose duty it shall be to inquire into and determine how much the vessels-of-war and steam machinery contracted for by the Department in the years 1862 and 1863 cost the contractors over and above the contract price and allowance for extra work, and report the same to the Senate at its next session. None but those that have given satisfaction to the Department to be considered."

The whole authority communicated to the board by the resolution was to ascertain, first, what the contract price was, and second, to ascertain what in point of fact was the whole expenditure under the contract made by the contractors; but why the expense exceeding the original contract price was a matter not submitted to them. The Senate wished to know whether the expenditure exceeded the contract price as a fact, reserving to themselves the right to decide, if it should be ascertained that the amount did exceed the contract price, whether the difference should be made up by the Government, or how much of the difference should be made up by the Government; and either of these questions would necessarily involve a further inquiry not submitted to the board by the resolution, what were the reasons which induced an expenditure exceeding the contract price. The reasons suggested in the two cases referred to by my friend from New Hampshire yesterday, in the first place, were not submitted to the board to inquire into; and in the next place, if they had been submitted to the board, they would clearly have committed an error in supposing that they constituted any ground at all binding the Government to pay the difference between the contract price and the actual expenditure.

I feel, therefore, under no obligation to allow what was allowed by the board; and the question before the Senate is one to be decided under all the circumstances of the case. Is it right that these contractors should be allowed more than the contracts with the Government entitled them to demand? That they have no legal right, I suppose will be admitted, because, although as between the contractor and the Government any alteration in the vessels not stipulated for in the contract would bind the Government to pay the additional expense consequent upon the alteration, and perhaps would bind them to indemnify the contractor for any expense consequent upon the delay in the completion of the work because of the change of the model of the vessel or the engine, it is perfectly certain, as all these contracts provided

that there might be a change, that as far as the law is concerned, as between the Government and the contractor, there would be no obligation to pay anything except for the extra work.

But we all know, and if we did not know it the facts stated in the report bring it before us very satisfactorily, that there must have been in some of these cases a loss where there was no failure at all on the part of the contractor. The work which these contractors undertook to perform was a novel one. As the honorable chairman of the Committee on Naval Affairs told us the other day, no such vessels as those that we desired to obtain had ever been built before, or if ever built before they had never been built in the United States, and our mechanics were therefore in a great measure inexperienced in what would be the cost of vessels of this description, and the Government were equally inexperienced. It was impossible, therefore, that they should be able to make any exact, accurate estimate, as they are able to do in relation to work the nature of which is fully comprehended. They went on therefore from time to time to change very materially the model not only of the hulls of these vessels, but of the engines, until they succeeded in obtaining, as I believe they have, vessels equal if not superior to any to be found elsewhere, and they rendered us very material service during the late civil war. That service was not only the service of putting it in our power to terminate the war perhaps sooner than otherwise it could have been terminated, but it was in placing us before the world as a maritime Power of the very first rank, and that fact alone gives a pledge I think of safety so far as foreign wars are concerned. Nothing but absolute necessity, a necessity growing out of some imputation on the honor of other Governments, or some gross violation on our part of what is due to the other nations of the world, would induce them to engage in a war with the United States; and as I do not apprehend that any such wrong will be done on the part of this Government, I feel sure that none of the nations of the world will ever engage in war with the United States if they can honorably avoid it; and that security has been accomplished in a great measure by the success of these vessels.

I hold in my hand, Mr. President, a statement of the reasons which in a particular case led to an expenditure much exceeding the amount of the contract price; it is upon the part of the contractors in the city of Baltimore who built the machinery for the Mackinaw, machinery, as I understand, that has turned out to be as perfect, and a great many think more perfect, than any machinery that has been built elsewhere for any of these vessels. They were engaged in very profitable business at the time they entered into this contract; they were solicited to enter into the contract by the Navy Department; the works of the Navy could not supply the immediate demands of the service, and all the other works, private as well as public, were oppressed by the urgency of the demand, and these gentlemen were applied to to build this machinery. Their statement is this—and the Senate I am sure will credit their statement, because two more honorable men are not to be found anywhere. The parties to whom I allude are Poole & Hunt, who built the machinery for the United States double-ender Mackinaw. They say:

1. Poole & Hunt accepted this contract at the solicitation of the Navy Department, at a time when the navy-yards and private marine engine building establishments of the country were found to be inadequate to meet the exigencies of the public service.

2. No specifications or drawings had been prepared by the Navy Department, for want of time. The price to be paid for the machinery, namely, \$82,000, was fixed by the Department, and Poole & Hunt assured by said Department that the price thus fixed would be ample, and the case of the Paul Jones, then but recently completed, was cited as proof.

3. The specifications subsequently furnished to Poole & Hunt by the Navy Department required in their fulfillment much heavier and consequently more expensive machinery than Poole & Hunt had supposed from the representations of the Department that they would be required to furnish.

4. The cost of the machinery to Poole & Hunt was

greater than to some other contractors, for the reasons, first, that they were not regularly engaged in marine engine building, and had to expend sums in rental of wharf property, erection of shears for hoisting, &c.; and secondly, that the hull of the vessel, which was built at one of the Government navy-yards, was not delivered to Poole & Hunt for months after the appointed time, during which time materials and labor had advanced in price far beyond all anticipations.

5. Poole & Hunt during a period of great public necessity devoted their workshops to the construction of this machinery, to the exclusion of other orders from private parties, upon which a fair business profit could have been made, and in estimating the cost make no charge for their own services, but include only the items of expense directly and justly chargeable to this work, and which determine the actual and positive loss.

6. Poole & Hunt do not ask to be paid a profit upon the cost of the machinery, but having faithfully supplied said machinery, at the positive loss as set forth in the report of the naval commission, and having had from the Navy Department no other orders upon which a profit could be made to offset the loss made upon the contract in question, only claim to have said actual loss reimbursed to them.

The actual loss as made to appear to the satisfaction of the board I think was between forty-two and forty-three thousand dollars.

As I have said, Mr. President, there is no legal claim perhaps to make this demand; but it seems to me very clear that in relation to contractors having a claim under the facts stated by these particular claimants, it is but right that they should at least receive some indemnity; and under all the circumstances perhaps it would be a fair settlement of the whole concern to give them a certain percentage above the amount of the contract price. I should prefer the percentage of fifteen per cent., but if the Senate are unwilling to give the fifteen per cent., of course I would vote for the proposed percentage of twelve per cent. I could not vote for the whole amount proposed to be given by the committee of this body, not only because it is perfectly evident that in some cases there is no claim for any amount, but secondly, because in a case of this description it is fair that where there is a mutual mistake there should be a compromise; and a compromise, as I think, can be made so as to do something like justice to both parties by giving twelve or fifteen per cent.

Mr. HENDRICKS. I think that a decided majority of this body believe that some relief ought to be given to these parties; but exactly upon what terms and in what way the friends of the relief are not fully agreed. I think that an understanding can be arrived at which will be satisfactory to all the Senators who believe that something ought to be given. With a view to that I move that the bill be continued as a special order until to-morrow at one o'clock.

The motion was agreed to.

THANKS TO GENERAL HANCOCK.

Mr. WILSON. I move now to take up the joint resolution, reported by the Committee on Military Affairs and the Militia, of thanks to General Hancock.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 88) expressive of the thanks of Congress to Major General Winfield S. Hancock. The resolution is in the following words:

Resolved, &c., That, in addition to the thanks heretofore voted by joint resolution, approved January 28, 1865, to Major General George G. Meade, Major General Oliver O. Howard, and to the officers and soldiers of the army of the Potomac, for the skill and heroic valor which at Gettysburg repulsed, defeated, and drove back broken and dispirited the veteran army of the rebellion, the gratitude of the American people and the thanks of their representatives in Congress are likewise due, and are hereby tendered, to Major General Winfield S. Hancock, for his gallant, meritorious, and conspicuous share in that great and decisive victory.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. JOHNSON subsequently said: I thought that the resolution which the Senate has just passed, of thanks to General Hancock, stated on its face that it was unanimously resolved. It does not, and it will not appear that it was passed unanimously unless we amend it.

Mr. WILSON. By common consent it can

be amended by inserting the word "unanimously." I do not know of any opposition to it.

Mr. JOHNSON. I move to insert the word "unanimously."

Mr. WILSON. That will render it necessary to send the resolution back to the House.

Mr. CONNESS. That will not delay it.

The PRESIDING OFFICER. (Mr. DOOLITTLE in the chair.) The Chair is informed that it is not usual to insert the word "unanimously" in a joint resolution.

Mr. JOHNSON. It can appear on our Journal that it passed unanimously.

The PRESIDING OFFICER. It will appear on the Journal that it was passed unanimously by the Senate.

Mr. JOHNSON. Very well.

SOLDIERS' NATIONAL ASYLUM.

Mr. WILSON. There are two or three other small matters reported from the Committee on Military Affairs that I desire to dispose of. I move to take up the joint resolution (H. R. No. 108) appointing managers for the National Asylum for Disabled Volunteer Soldiers.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which proposes to appoint the following persons managers of the National Asylum for Disabled Volunteer Soldiers, under the provisions and conditions of the third section of the act approved March 23, 1866: Richard J. Oglesby of Illinois, Benjamin F. Butler of Massachusetts, and Frederick Smyth of New Hampshire, of the first class, to serve six years; Lewis B. Gunckel of Ohio, Jay Cooke of Pennsylvania, and P. Joseph Osterhaus of Missouri, of the second class, to serve four years; John H. Martindale of New York, Horatio G. Stebbins of California, and George H. Walker of Wisconsin, of the third class, to serve two years.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

Mr. WILSON. I now move to take up the Senate joint resolution (S. R. No. 57) appointing a board of managers for the National Military Asylum, which has been reported upon adversely by the Committee on Military Affairs, with a view to move its indefinite postponement in order to get it off the Calendar.

The motion to take up the joint resolution was agreed to.

Mr. WILSON. I move that it be indefinitely postponed.

The motion was agreed to.

REV. HARRISON HEERMANCE.

Mr. WILSON. I now move to take up House joint resolution No. 107.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment New York volunteers. It requires the Paymaster General of the Army to adjust and pay the account of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment of New York volunteers, for such period as it shall appear that he actually rendered service as chaplain of the regiment, and for which he received no pay by reason of defective muster, or otherwise, through no fault of his own.

Mr. GRIMES. Let us have the report read.

Mr. WILSON. This resolution came from the House of Representatives. There is no report accompanying it, but the facts are these: this gentleman was appointed chaplain of a regiment, and went out and served with it three or four months, and has never received any compensation for his services. It is stated by those who are conversant with the case, among others a member of the House of Representatives who served in the Army, that this gentleman was a most excellent man, performed good service, and everything in the case is supposed to be correct.

Mr. GRIMES. Why do you not make a report, so that we may have it upon record?

Mr. JOHNSON. Is there no report from the House?

Mr. WILSON. No, sir; but I have stated the facts. It appears that this gentleman was appointed by the Governor of New York chaplain of the one hundred and twenty-eighth regiment of New York volunteers, went into the field, and served for nearly four months; but when the time came for him to receive his pay, notice was given by the War Department that by the strict letter of the law he was not entitled to pay because he had not been recommended, before the appointment had been made, by the officers of the regiment, although those officers and everybody concerned, as I understand, were satisfied with his appointment. General Ketcham, of New York, who knows the man, the regiment, and the case, says it is a most meritorious case.

Mr. GRIMES. I have no objection to the passage of the bill that I know of, but I must protest against this rule of calling upon the Senate to pass upon bills of this kind without any written report. Up to the last four years, such a thing as asking the Senate to pass a bill under such circumstances as these was never heard of. I trust, if the Committee on Military Affairs are going to take jurisdiction of private claims of this description, that they will at least furnish us a record of them so that we may know from session to session upon what principle we are acting.

Mr. WILSON. If any member of the Senate desires to have the matter go over, I have no objection. The bill came to us from the House of Representatives without a report, but I am willing to recommit it to the committee in order to have a written report made on the subject. I have stated the facts of the case.

Mr. SHERMAN. I will move to postpone the pending and all prior orders with a view to take up the Post Office appropriation bill.

Mr. WILSON. Will the Senator allow me to recommit this bill for the purpose of having a written report made?

Mr. SHERMAN. Certainly.

Mr. WILSON. I move to recommit the bill for that purpose.

The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. SHERMAN. I now move to postpone all prior orders and take up House bill No. 280, the Post Office appropriation bill.

Mr. TRUMBULL. I hope that will not be done. There is a bill that has been partly considered, of a very important character, that ought to be passed. I get letters about it every day.

Mr. SHERMAN. I can assure the Senator that this bill will take but a short time.

Mr. TRUMBULL. The bill to which I refer is the one in relation to the *habeas corpus*. It is a bill to protect Union men in the South, and I think it ought to be acted upon. I imagine every member of the Senate would be willing to vote for it in some form.

Mr. SHERMAN. I will state that I have been requested to call up this bill.

Mr. TRUMBULL. I do not suppose it is of any importance to pass this appropriation bill now.

Mr. SHERMAN. We desire to hurry on their engrossment. We wish to put the appropriation bills forward.

Mr. TRUMBULL. It is a bill to make appropriations for the next fiscal year.

Mr. SHERMAN. The chairman of the Committee on Finance requested me to call it up. It will occupy but a few moments. I apprehend it will only take the time occupied in reading the bill. It is very short.

Mr. TRUMBULL. If the Senator persists in his motion I will not antagonize with him, but this other bill has been up, and I suppose it is of no sort of importance whether the Post Office appropriation bill passes now or a month hence; it will certainly pass at some time.

Mr. SHERMAN. It will take but a few

minutes to dispose of it, and as I have the floor I insist on my motion.

Mr. TRUMBULL. It will probably prevent our considering the other bill to-day.

The motion of Mr. SHERMAN was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes.

The Committee on Finance reported the bill with amendments. The first amendment was in section two, line five, after the word "appropriated," to strike out the words "to take effect so soon as Brazil shall have performed the condition on her part provided in the law authorizing said service," and at the end of line nine to add the following proviso:

Provided, That this appropriation shall take effect only when Brazil shall have performed the condition on her part provided in the law authorizing said service.

So that the section will read:

SEC. 2. *And be it further enacted*, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the year ending June 30, 1867, out of any money in the Treasury not otherwise appropriated:

For the mail steamship service between the United States and Brazil, \$150,000: *Provided*, That this appropriation shall take effect only when Brazil shall have performed the condition on her part provided in the law authorizing said service.

The amendment was agreed to.

The next amendment was to add as an additional section the following:

SEC. 4. *And be it further enacted*, That the Postmaster General be, and is hereby, required to report to the Secretary of the Treasury annually, prior to the 1st day of November of each year, his estimate of the money required for the service of the Post Office Department for the ensuing fiscal year; which estimate shall be reported to Congress with the printed estimates of appropriations required by the joint resolution of the 7th of January, 1846.

The amendment was agreed to.

Mr. SHERMAN. I am directed by the Committee on Finance to offer another amendment; to add as an additional section the following:

SEC. 5. *And be it further enacted*, That the balance of the appropriation of \$100,000 under the thirteenth section of the act "to establish a postal money-order system," approved May 17, 1864, which may remain unexpended at the conclusion of the current fiscal year, may be used, as far as necessary, to supply deficiencies in the proceeds of the money-order system during the fiscal year commencing July 1, 1866.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. HENDERSON. I offer as an amendment, to insert as an additional section the following:

And be it further enacted, That in all cases in which persons have been appointed as assistant postmasters, either during the session or the recess of the Senate, and whose appointments have been submitted to the Senate and rejected or not consented to before the adjournment of the Senate, no money shall be drawn from the Treasury to pay the salary of such person, under such appointment, or under any previous appointment as such postmaster, after said adjournment.

Mr. JOHNSON. Two or three of the Attorneys General—I forget who they were—and the President has acted upon it from time to time, have held that an appointment made during the recess continues up to the close of the next succeeding session, whether the nomination has been submitted to the Senate and rejected or not. This is the received opinion now of the Government, and has been acted upon from the days of General Washington, I believe, but certainly from the days of Mr. John Quincy Adams; but this amendment, if I understand it, holds a doctrine directly the reverse of that.

Mr. HENDERSON. No, sir. The salary may be paid until the adjournment.

Mr. JOHNSON. I ask for the reading of the amendment again. Perhaps I did not understand it.

The Secretary read the amendment.

Mr. HENDERSON. The Senator will observe that the last words of the amendment

are "after said adjournment;" that is, after the adjournment of the Senate. The Senator will see that it does not interfere with the payment up to the date of adjournment. I drew it in reference to that. I drew it in a great hurry. My intention was to permit the salary to be paid until the last day of the session, but, beyond that it is not to be paid. The amendment does not conflict with the opinions to which the Senator refers.

Mr. NESMITH. I will inquire of the Senator from Missouri, if it is contemplated by this amendment to prevent the payment of salary to a person if he should be reappointed after the Senate adjourns.

Mr. HENDERSON. Certainly not. We have no control over that.

Mr. TRUMBULL. I hope the amendment will cover the case suggested by the Senator from Oregon, else it will be a useless provision. If the President the moment the Senate adjourns can reappoint whom he pleases when the vacancy has previously existed, and pay him, the confirmation of the Senate amounts to nothing, and the Senator's amendment amounts to nothing. I think it ought to embrace those cases.

While I am up, I wish to suggest to the Senator from Missouri another amendment which I think is necessary. Some years ago, I think in 1863, a provision was inserted in an appropriation bill to prevent the payment of salaries to persons who were appointed as officers in cases where no such office existed, and also to prevent the payment to persons who were appointed to fill vacancies, which vacancies had existed while the Senate was in session and were not filled until after its close. That provision, I think, read something like the one which the Senator from Missouri has now introduced. It prohibited the drawing of any money from the Treasury, as I recollect it, to pay those officers. But the point to which I desire the attention of the Senator from Missouri is this: notwithstanding that provision of the law, the Government found no difficulty in paying the persons whom it undertook to make officers without authority of law, out of the departmental contingent funds. The money was not drawn for that purpose; it was drawn as a contingency, to pay the contingent expenses of the Department, and was then taken to pay those persons, who were not officers at all; for the President of the United States has no more authority to make an officer, when the office is not established by the Constitution or by law, than he has to make a king. I will call attention to that provision of the statute.

Mr. HENDERSON. Do you allude to the statute of 1863?

Mr. TRUMBULL. Yes, sir.

Mr. HENDERSON. It is on page 646 of the twelfth volume of the Statutes-at-Large. It was attached to the Army appropriation bill.

Mr. TRUMBULL. This is the provision:

"That no money shall be paid from the Treasury of the United States to any person acting or assuming to act as an officer, civil, military, or naval, as salary in any office, which office is not authorized by some previously existing law, unless where such offices shall be subsequently sanctioned by law: nor shall any money be paid out of the Treasury as salary to any person appointed during the recess of the Senate to fill a vacancy in any existing office, which vacancy existed while the Senate was in session and is by law required to be filled by and with the advice and consent of the Senate, until such appointee shall have been confirmed by the Senate."

Notwithstanding that statute, persons were paid out of the contingent fund, as we have learned in response to our resolutions of inquiry, introduced at the present session, I think, by the Senator from Massachusetts, [Mr. SUMNER.] The different Departments admit that they have been paying officers—

Mr. SUMNER. In violation of law?

Mr. TRUMBULL. They have done it, I think, out of the contingent fund. I believe their responses show that. I think it is a virtual violation of the law; it is a violation of the spirit of the act. But I would take away the subterfuge; I would provide in this section that no money shall be drawn from the Treasury for that purpose, and no money shall be paid out of any fund whatever to persons claim-

ing to have an office when there is no such office. The Constitution of the United States authorizes the President of the United States to appoint all officers created by that instrument or which shall be established by law; but he cannot appoint to an office that is not established by law. Another clause of the Constitution directs that officers shall be appointed by and with the advice and consent of the Senate; and still another clause that the President may make temporary appointments to offices in cases of vacancies which occur during the recess of the Senate, and the appointee shall hold his office until the close of the next session of the Senate. That is a valid appointment, and such an officer is authorized to be paid. But if the vacancy exist while the Senate is in session, it is the duty of the Executive to fill it, and he has no authority to fill it afterward. The Constitution of the United States vests him with no such power. It is only when a vacancy happens during the recess that he can fill it without the advice and consent of the Senate. If, then, a vacancy exists now or before the Senate adjourns, while it is in session, there is but one way under the Constitution of the United States to fill that office, and that is, by and with the advice and consent of the Senate; and if the President omits to make a nomination, or makes a nomination which is rejected by the Senate, the office must go vacant until the Senate shall meet and confirm the appointment.

Mr. GRIMES. I suggest to the Senator that we let this bill go over and have the amendment printed, in order to take up the *habeas corpus* bill.

Mr. TRUMBULL. This is, perhaps, a matter of some importance, and I think, as my friend from Iowa suggests, that we had better let it go over and let the amendment be printed, so that we may consider it carefully. I think this amendment ought to be so worded that under no circumstances could the money of the people be taken to pay persons who are holding positions not provided for by law, or are holding them contrary to the Constitution and the law. I move that this bill be postponed until to-morrow, and that the amendment offered by the Senator from Missouri be printed, in order that we may see exactly what it is.

Mr. HENDERSON. I have no objection to that course being taken, and I will add a slight amendment to the amendment as it now stands.

The PRESIDING OFFICER. It is moved that the pending bill be postponed until to-morrow, and that the amendment of the Senator from Missouri be printed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the bill (S. No. 248) for the relief of James G. Clarke.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolution; which were thereupon signed by the President *pro tempore* of the Senate:

A bill (S. No. 248) for the relief of James G. Clarke; and

A joint resolution (H. R. No. 102) for the relief of Alexander Thompson, late United States consul at Maranhau.

PROTECTION OF UNITED STATES OFFICERS.

Mr. CLARK. I move that the Senate now proceed to the consideration of House bill No. 238, in relation to the *habeas corpus*.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863, the pending question being on the amendment reported by the Committee on the Judi-

ciary to add at the end of the first section the following:

But no such order shall be a defense to any suit or action for any act done or omitted to be done after the passage of this act.

Mr. EDMUNDS. I propose to amend the amendment reported by the committee by inserting in line eighteen, after the word "shall," the words "by force of this act or the act to which this is an amendment;" so that it will read:

But no such order shall, by force of this act, or the act to which this is an amendment, be a defense to any suit or action for any act done or omitted to be done after the passage of this act.

Mr. CLARK. I think there is no objection to that amendment; I believe, on the whole, that it is proper.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

Mr. EDMUNDS. I now move, in section one, lines three and four, to strike out the words "or other trespasses or wrongs done or committed."

The object of this amendment is, not to diminish the scope of subjects upon which this section operates, but to take out from the section what is a manifest admission that certain trespasses and wrongs have been done and committed which Congress is asked to justify by a mere enactment or edict. For one, I do not admit that the searches, seizures, arrests, and imprisonments which we design to reach are either trespasses or wrongs; and it will be anomalous, it appears to me, in legislation to declare in a law which we pass, that we do justify, even if we have the power, anything which is a trespass or a wrong, an act for which a citizen is entitled, by all the principles of law, to redress. Therefore, my design is that these obnoxious words, to me, may be stricken out, so that the section will read: "that any search, seizure, arrest, or imprisonment made, or any acts done or omitted," &c., without giving character to the act. Let the law decide that.

Mr. HOWARD. I see the object of the Senator from Vermont, but it occurs to me that we should retain the words "trespasses or wrongs." The language of the section applies it only to cases of search, seizure, arrest, or imprisonment; that is to say, that will be the application if the amendment is carried. It seems to me I would not narrow it down to that particular description of acts. There may be some acts performed which are neither searches, seizures, arrests, nor imprisonments, which ought, to come within the purview of the act. I therefore venture to suggest to the honorable Senator that he modify his amendment so as to insert the word "alleged" before "trespasses;" so that the section would read, "or other alleged trespasses or wrongs done or committed." Will not that meet the idea which the Senator entertains?

Mr. EDMUNDS. It appears to me that the terms following the words "imprisonment made," which are, "or any acts done or omitted to be done during the said rebellion," &c., are as broad as language can possibly be made. They are words of the most general character; and therefore my friend from Michigan is mistaken when he supposes that this section will be confined to searches, seizures, arrests, and imprisonments, merely; because then, with the amendment, the bill proceeds to declare in the broadest possible terms, "any acts done or omitted to be done during the said rebellion." If we desire by language which is perfectly supreme in its scope to cover every species of act which may be done, I am sure no more chosen or fit language could possibly be adopted; and therefore it appears to me for the sake of good taste, as well as for the sake of consistency, we ought not to begin an enactment in this Congress by declaring that we justify by a mere edict anybody's trespasses or anybody's wrongs.

Mr. CLARK. I think this is mainly a question about the construction of the bill, or rather a question of verbiage more than anything else,

and I am not certain that the amendment of the Senator would not be an improvement in the expression. I certainly have no objection to the adoption of the amendment, for I think the Senator from Michigan will agree that the words following "or any acts done or omitted to be done" will include everything that could be done by anybody; so that if the Senator from Vermont has any choice about it, I am entirely willing that the amendment should be agreed to.

Mr. TRUMBULL. The same reasoning would strike out all the other words, and you might just as well leave out the words "search, seizure, arrest, or imprisonment made," and let the section read:

That any acts done or omitted to be done during the said rebellion by any officer or person, &c.

But I will state that this section is copied after a statute already in existence passed some years ago, and although the general terms might embrace all these things, I think it is safer to leave these words in. They are in the former act.

Mr. CLARK. They are in the former act, but they are not in the sections which are alluded to in this bill. They are in the following section.

Mr. TRUMBULL. These are the very words, as I recollect, of the former act.

Mr. CLARK. They are the very words of the former act, but not in this sense or context. They are in the section following, the seventh section. I think the Senator will find it on page 755 or 756 of the twelfth volume of the Statutes. They are in the main immaterial.

Mr. TRUMBULL. The fifth section of the act of 1863 provides:

"That if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any officer, civil or military, or against any other person, for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or any act omitted to be done—"

Mr. CLARK. This follows the language of that section.

Mr. TRUMBULL. Yes, sir—

"at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the President," &c.

Mr. CLARK. I do not think the amendment is material.

Mr. TRUMBULL. I do not think myself that it is very material whether the words are out or in. I suppose you might leave all the words I have suggested out, and I do not know but it would receive the same construction; but there might be a difference of opinion about that. Some courts might hold that the general language "any act done or omitted to be done" would have one construction, and some another. The object of the law certainly should be to protect our officers who, acting in obedience to military authority, committed any trespasses or wrongs of any kind or made any seizures or imprisoned anybody when in the discharge of their duties in obedience to orders for the suppression of the late rebellion. I should myself be quite as well satisfied to let the section remain just as it is.

Mr. WILLIAMS. I respectfully suggest to the chairman of the committee the substitution of the words "or any injury to property or person." Will not that answer every purpose and avoid the objection made by the gentleman from Vermont?

Mr. CLARK. That would be about as bad, would it not?

Mr. EDMUNDS. The previous act, in which this same language has been used, uses it in an entirely different connection. The words are there used in respect to the removal of causes from the State courts to the Federal courts, and in such an act it may be perfectly proper to characterize the subject of any action as a trespass or a wrong, because if the Federal officer has committed a trespass or a wrong for which he may be civilly responsible, it is perfectly appropriate that the national tribunals should adjust the differences between himself and the person whom he has injured; and hence the old act appropriately enough uses this term. Here we are called upon, in this

first section, not to provide for the removal of causes of action for trespasses or wrongs, but to provide by a mere enactment a defense *ex post facto*. Now, I should be sorry indeed—it is something more than a mere question of taste—I should be sorry indeed to set the first example, I think, in the history of legislation, of commencing an enactment by admitting that I had committed or my officer had committed a trespass which in the end I undertook to justify by an arbitrary law. I hope, therefore, that the Senate will consent to the erasure of those words, which certainly in my opinion will not weaken the just force of the section.

Mr. HENDRICKS. I should like to hear the amendment proposed by the Senator from Vermont read. I believe that is the amendment before us.

The Secretary read the amendment, which was in section one, line three, after the word "made," to strike out the words "or other trespasses or wrongs, done or committed;" so that the section will read:

That any search, seizure, arrest, or imprisonment made, or any acts done or omitted to be done during the said rebellion by any officer or person, &c.

The amendment was agreed to.

Mr. CLARK. There is a little amendment that should be made in the eleventh line of the first section. The words "done or" should be inserted after the word "so;" so that it will read, "or any acts were so done or omitted to be done." It is an omission in the printing of the bill.

The amendment was agreed to.

Mr. HOWARD. I venture to suggest another amendment in the thirteenth line of the first section. The language as it now reads is this:

Or any acts were so done or omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him therein, shall be held, and are hereby declared, to come within the purview of the act to which this is amendatory.

I move to insert after the word "addressed" the words "or for whom it was intended." It may turn out in some cases that the order was misdirected by a mere clerical error, or the person for whom it was intended was misnamed in the orders innocently, and that he acted under the order nevertheless; but as the section is drawn, no person can avail himself of the protection of an order unless it should happen to be directed to him, although wrongly addressed by a clerical error. It seems to me this amendment will make it more exact and will enlarge the scope somewhat of the clause, and of the protection intended to be afforded. I propose to insert the words, "or for whom it was intended," leaving the matter of intention as a question of proof to be introduced upon the trial.

Mr. CLARK. It does not occur to me that there is any great objection to that. I do not now see any objection to the amendment.

The amendment was agreed to.

Mr. CLARK. The word "is," the first word in the thirteenth line, should be changed to "was," so as to read "was addressed."

The amendment was agreed to.

Mr. HOWARD. The act to which this is an amendment is only referred to in the title of this bill. I suggest to the honorable Senator from New Hampshire that there should be a direct reference to it in the body of the bill.

Mr. TRUMBULL. There is a reference to it in the first section.

Mr. HOWARD. The act to which this is an amendment is really referred to, if I mistake not, only in the title of the bill. I suggest that the title of that act should be inserted after the word "act" in the seventeenth line; so that it will read:

And within the purview of the fourth, fifth, and sixth sections of the act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863.

It is a mere matter of form, to give the bill more symmetry.

Mr. CLARK. It seems to me it is hardly

worth while to repeat the title of that act. The word "said" before the word "act" must refer to the act mentioned in the title of this bill, and nothing else. There is no other act referred to, and there cannot be a mistake about it.

Mr. HOWARD. Suppose we do not adopt the title. The title is no part of the law.

Mr. CLARK. If we amend the title then we can change the bill.

Mr. HOWARD. I will not insist upon the amendment. It is usual, after the recital of the act proposed to be amended in the title of a bill, to make it definite by inserting it in the body of the bill.

Mr. JOHNSON. I suggest to the honorable Senator from Michigan whether it would not be sufficient—it is not at all necessary, because it is stated in the preamble—to add after the word "act" in the seventeenth line the words "of March 3, 1863." That will make it certain.

Mr. HOWARD. That will do just as well, and I will accept that as a modification of my amendment.

The amendment, as modified, was agreed to.

Mr. EDMUNDS. I move further to amend the bill by adding at the end of the twentieth line of the first section the following words:

Or so far as it operates as a defense for any act done or omitted in any State represented in Congress during the rebellion, and in which, at the time and place of any such act or omission, martial law was not in force.

Mr. President, I am not one of that class of persons who are struck with constitutional paralysis on every occasion when some necessary law for the security of the public is about to be enacted; and therefore I am willing to go as far as any reasonable degree of patriotism, or even any reasonable degree of courage, will permit into the debatable land of constitutional doubt in passing acts of this kind, which are really designed for the security of men who have been acting under the orders of the Government in enforcing the laws; but it has appeared to me that there are limits beyond which it is not only unsafe, but unwise, for those who represent the people to go, even for the good end in view of reaching so noble a purpose as that of protecting the persons whom it is said have been sued in actions at law for carrying out the orders of the President of the United States, either directly or indirectly.

The act of 1863, to which this bill is an amendment, simply provided that the order of the President of the United States, or the order of any one acting under his authority, should stand as a defense against actions of this description. This bill goes further, and provides that not only the order of the President of the United States or of the Secretary of War, but the order of any military officer of the United States holding the command of the department, the district, or the place within which any search, seizure, arrest, or imprisonment was made, &c., shall stand as a defense in and of itself; so that in States of the Union which have never been in rebellion, in States of the Union where martial law has never been proclaimed, the act of a captain recruiting a company of volunteers is to be by an *ex post facto* law a complete defense to an action of trespass against him for false imprisonment, or for taking a horse, or whatever it may be. Certainly it must be an extreme necessity indeed which drives us to such legislation as that. It is the exercise, as it appears to me, in regions where martial law and rebellion have not prevailed at all, of a power which can nowhere be found in the Constitution, which can nowhere be raised by implication from any of its provisions, and which is contrary to the natural sense of justice which pervades every man's bosom.

I know that there is a precedent for this class of legislation. In the time of that king who was called, or rather miscalled, the first gentleman in Europe, and who was certainly the worst monarch, and whose fears of assassination and the overthrow of his Government

were such as to drive him nearly crazy, a subservient Parliament passed an act somewhat similar to this, which declared that all arrests of people suspected of treason which had been made, or which might be made within a certain limited time, should be regarded as lawful, independent of the question of whether there was any ground of suspicion, and independent of the question what subject of his Britannic Majesty it was who should make the arrest. But, sir, I have yet to learn that any court in Great Britain ever upheld an act of that description. I believe that no decision can be found anywhere in any civilized community holding that an *ex post facto* enactment, declaring, by mere force of the law, that a past transaction should be guilty or guiltless, had any force at all except as it fortified martial law or operated upon districts where civil law was not in force. Therefore it has appeared to me, not, as I have said before, as one of those persons who are delighted to find constitutional objections to everything which is proposed in the disturbed state of the country, but rather as one of those who desire to use that noble instrument to its fullest extent, and not to abuse its powers, that it is unwise as well as illegal to pass a law of this description, which operates upon districts of the country where there has been perfect repose, and where the mantle of the civil law has been unfolded day by day in the courts of justice.

Now, if I correctly understand public law, (and I do not claim any great familiarity with it,) where martial law does prevail, the order of the commanding officer, the order of his subordinate traced down through to the smallest corporal that carries a musket, so that it emanates from headquarters, as all proper discipline makes orders emanate, is a defense, independent of enactments and independent of any special statute on the subject. There is no meaning which can be attached, in my judgment, to the term "martial law," except that it has the force of law; and therefore, if there were any sections of this country where martial law has prevailed and where these arrests and imprisonments and seizures have been made, whether right or wrong, so that they were made by authority of the superior commander, that very law itself furnishes the justification, and it needs no act of Congress to confirm it. At the same time I am willing, if it be thought that an act of Congress will make it stronger, to acquiesce in that opinion. But when you ask me to go a step further, and into regions where peace and repose have prevailed continually, and martial law has not existed, and where no foe has raised his banner anywhere, and to say that the order of the President of the United States, or the order of any other person professing to act under his authority, however remote, is to be held as a defense in a court of law, then I am compelled to disagree, because it invades what have always been considered the fundamental private rights of every member of organized society.

Where is the necessity of it? If any of these arrests and seizures and imprisonments were made in regions where civil law prevailed, and were rightfully made, can they not be defended? If they have been wrongly made, ought they to be defended by an enactment of this kind, after the fact, which, without inquiry into the circumstances of the wrong, blindly declares that the wrong shall not be redressed? I am sure not. Therefore it has appeared to me that every good end which this bill has in view—and I agree it has good ends in view—is reached by adopting the amendment which I have proposed.

The usual course, and in my judgment the right one, and the course which ought to be pursued even in those regions where rebellion and martial law have prevailed, and the one which will be most effectual for the protection of those persons who are sued, is a bill of indemnity rather than an edict of defense. Let us declare that the United States district attorney for every district where any of these

suits is brought shall, upon proper affidavit and proof of the good faith of the officer, interpose in the name of the United States and take charge of the cause himself; and if any citizen has been wronged, let him have his damages, and let the public pay them; if any citizen has brought a false and vexatious suit, impose double or treble costs upon him as a penalty for bringing such a suit. That is a species of legislation which I am sure would commend itself to the country. But there can be certainly no justice in denying to a man who has been really wronged the privilege of trying his cause in the courts of his country upon the ground that some man who has been vexatiously, in his own opinion, injured, will turn around, and without authority and without right, bring an action which he ought not to sustain. Such legislation, as it appears to me, will reach a much more beneficent end, not only for the reputation of the country and for its peace and repose, but for the personal protection and the personal advantage of the class of persons whom we are all so desirous to protect.

Mr. COWAN. I have been very forcibly impressed with the remarks of the honorable Senator from Vermont; and I would hope that some heed be given to this subject. I am very well aware of the difficulty that we now have in dealing with this subject as it should be dealt with. I am very well aware of the difficulty there is in protecting an officer who acted in the conscientious discharge of his duties, while at the same time we protect the rights and liberties of the citizens who were the victims of those who abused their official position, often for the purpose of inflicting wrong, and for the purpose of gratifying private malice against their victims. It is therefore that I would fain hope that this bill will have the best consideration that the Senate can give it. That the loyal citizen should have no remedy and no redress against the tyranny and oppression of those who for the time were clothed with a little brief authority, is too monstrous to contemplate in a Government which professes, like ours, to be a Government of law. That the officer who, honestly, in the performance of his duty, executed the orders of his superior, should be subjected to actions and liable to damages in the civil courts, is equally to be deprecated by every good man. But the difficulty is to know where to draw the line. How to pass an act of oblivion by which those things which were proper to be done, and which were rightfully done, should pass away and be forgotten, is one question. It is another to take care that the citizen be shielded, even though he may have been unfortunate enough to live in a district pervaded by these troubles, and where his life and his property, perhaps, were in jeopardy from those who were either ignorant of their proper duties, or who, in disregard of them, were disposed to violate them maliciously.

Mr. President, the boast of the American citizen, and his pride heretofore, has been that this was a Government of law, rather than that of any individual or aggregate number of rulers; and it was supposed that we had so perfected the system that nothing could be done lawfully without law; or, in other words, that nothing could be done in this country, either in peace or war, which was not warranted by the laws of the land. I am very free to confess that I was one of those who so believed. I supposed that war had its laws as well as peace. I supposed that the officer of the Army was as much bound by the law as the civil officer, the captain as much as the magistrate, the colonel as much as the judge, and the general as much as the Governor. I had supposed that in time of war that part of the law of nations which treats of war and which provides for war would be the guide of the soldier, as the municipal law in time of peace is the guide of the civil magistrate. But, sir, I am very well aware that in a proud and fierce democracy such as ours, it is perhaps impossible, in times of great commotion, of great excitement, and of civil dissen-

sions, that this line should be exactly observed or that these rules should be well known to those to whom we intrust the protection of the public interests. Still, at the same time, with all due regard to the responsibilities which attach to these men, and with all proper consideration for the situations in which they find themselves, it must be confessed that after all the highest duty is the protection of the citizen, and especially the loyal citizen, and I would say especially the loyal citizen in the rebellious district.

Sir, there is small merit in playing loyal in New Hampshire. There is very little merit in being loyal in Pennsylvania. Any man can be loyal when the popular sentiment is so loyal that it would threaten him with a lamp-post if he were disloyal. But the stern virtue and the stubborn fidelity to the laws and to the Constitution, which marks the loyal man in a rebellious community, is above all others that which should be protected. It is for those men that I would now speak. It is for those men that I would now vindicate the justice of the Government. It is for those men that I would now vindicate the justice of the American people. I say that where a loyal man in a rebellious district has been maltreated by an officer of the United States Army, or by any person in the service of the United States, such a man is above all others entitled to the protection of the United States Government.

Who can gainsay this? I know that the tendency in the minds of men is to generalize. It is much more easy to generalize than it is to particularize. It is much more easy to throw your drag-net around a community or a State than it is to pick out the individual criminals and punish them. It is much more easy for an officer in the execution of his duty, and especially one so delicate as that of putting down a rebellion has always been, to treat all the people, irrespective of the circumstances which surround them, as guilty, than it is properly to separate the one from the other and let his hand be felt as the circumstances require.

How are we to do this, Mr. President? Does this bill do this? Will this bill enable an officer of the United States, or one in its service who has wantonly, maliciously, and without any probable cause, invaded the rights of the citizen, the loyal citizen, to escape from the punishment which the laws ought to inflict in such cases? Does this bill do that thing? If it does, this Senate of the United States of America, the greatest Republic upon the earth, ought to be the last place where it should find favor. In the United States of America, where, above all other places upon the earth, an insult offered to the meanest citizen of the Republic is to be taken as an insult to the Republic itself, wrong and outrage are not to be sanctioned by the laws. At the same time I wish it to be distinctly understood that I am as much in favor of a law to protect the officer in the discharge of his duty, in the fair, honest, conscientious discharge of the obligations imposed upon him in putting down this rebellion; I would protect him as far as any man. Does this bill do so; and if it does so, does it protect him alone? I have not been concerned in the fabrication of this bill; but I have thought that it would be far better—and I throw this out for the suggestion of the committee who have brought the bill here—instead of a sweeping enactment of this kind to provide that no action should be maintained against any person for wrongs or injuries done under pretense of an authority from the United States in putting down the rebellion, unless the plaintiff should show certain things, which, as the usual rule, are not cast upon him as a burden. Where is the difficulty in requiring the plaintiff to prove that the person who committed the wrong and the outrage upon him did so without authority, that he did so wantonly and maliciously? If you do that, you do not alter the frame and the texture of your laws, you preserve their harmony, and you preserve what is more, the administration of justice pure; you throw the *onus* or burden of proof

on the plaintiff. What is to prevent you from enacting that the plaintiff shall not maintain his action unless he shows that the person did the outrage, committed the wrong without having the public good in his eye rather than the gratification of his own personal malice against the individual wronged or the individual complaining? I suggest whether this would not be better; would it not be safer for everybody? Then you put the burden upon the plaintiff to show the *gravamen* of his charge, because if the person was really clothed with authority from the United States, then the old maxim with regard to officers that everything they do is presumed to be rightly done would be still preserved, and the plaintiff would have his remedy over and above that.

If a man clothed with authority commit an act of this kind, I think it is perfectly clear that it would be required on the part of anybody charging him with either misfeasance or malfeasance in office that it be shown. If on the other hand a person not clothed with this authority should commit these wrongs, let him be put upon the footing of other citizens; let him have no advantage, even though he pretended that he had authority.

Then, Mr. President, there is another suggestion that I have to make. Is this bill to extend everywhere, or is it to extend only to those portions of the Union where rebellion has prevailed? Or are we to establish the principle that when rebellion prevails in any portion of the United States, that of itself operates to create a dictatorship in the Executive? Is the suspension of the privilege of the writ of *habeas corpus* to be taken to mean that the Executive or his officers may arrest everybody, right or wrong? If that is to be the construction put upon it, it is a new construction, and one which has never prevailed. If when the writ of *habeas corpus* is suspended I am arrested and denied the privilege, I am not thereby debarred of my action for redress. The officer is still responsible, responsible not only for his malice, but for his blunders; and it behooves him, before he exercises this extraordinary power put in the hands of the magistrate under these circumstances, to know well upon whom he exercises it.

I know that an impression prevails in some places that when you suspend the privilege of the *habeas corpus*, all people, innocent and guilty, without any difference or distinction, may be arrested and may be held until the supposed danger is over, without any remedy on the part of those innocently arrested. Mr. President, I take it, that is not the law, and if it were the law, no republic could long exist, because it is well known that the Chief Magistrate, the Executive of the nation, is the proper judge of the time and of the circumstances when it becomes necessary for him to exercise this extraordinary power, and I have only to refer to the cases of some South American republics where this very principle was made fatal and destructive to republican institutions altogether. If you give the Chief Magistrate of the Union the right to decide when the contingency happens, and upon whom he shall exercise this extraordinary power, then free institutions are at an end, then a rebellion, which of itself is not dangerous, will be a pre-text of a very great danger to you, sir.

Mr. President, I would be glad to see this bill so well considered as that no innocent man should be deprived of his remedy, and I would be glad to have it so well considered, too, that no officer or other person in the service of the United States, honestly in the discharge of his duty, should be liable to be harassed in the State courts and mulcted in damages for an honest and fair performance of his duty, and in my judgment that can be only attained by the rule which I have laid down. Put the plaintiff to make out his case; put the plaintiff to show that the defendant acted without orders, if you please; put the plaintiff to show that the defendant, if he had orders, executed them in a wanton, malicious, and injurious, and if you

please unnecessary manner as it regards him; put the plaintiff to show that with or without orders the act of the defendant was not justified either by the municipal law or by the laws of war.

Mr. TRUMBULL. Is that not all there is here? Would not any officer be liable still, notwithstanding this bill, for an excess of authority just as a sheriff or anybody else would? This is only a protection for a man who does an act under and by virtue of an order. That is the extent of this bill; it goes so far and no further. For acts wantonly and maliciously done this bill would not protect him.

Mr. COWAN. Then, Mr. President, the bill is much more limited in its terms and the construction which the honorable chairman of the Judiciary Committee would put upon it than I have supposed.

Mr. TRUMBULL. I submit to the Senator to read it himself, and I ask him as a lawyer whether he would put any other construction upon it. It professes to protect persons for acts done "under and by virtue of any order, written or verbal, general or special," issued by proper officers. Now, I ask him as a lawyer and as a Senator if he would hold that that protected a man for doing anything he might do, whether the order covered it or not. I apprehend no court would give it such a construction, and I submit to the candor of the Senator himself if in arguing it it is fair to assume that it is obnoxious to the objection that he makes.

Mr. COWAN. I perhaps might agree that if the order was specific and to be strictly construed, then there would be no mischief here, but if so there would be no remedy here. If you propose only to protect the officer or the soldier where he can cover himself with a literal order to do the act that he has done, then I am free to say that your act of oblivion will go for nothing. Large allowance must be made in the construction of these orders. The order is to do a particular thing. Well, as to that particular thing, nobody will be complained of. The order is to take the Senate Chamber; but the order will not warrant the slaughter of the honorable Senator from New Hampshire after he has surrendered. But is not the intention of this bill to cover that by the "order?" Is it not intended to say that when the Senate is taken and when the soldiery are excited and when blood is hot, this is under the order? If it is not, what is it? My objection to it is that it reverses the usual order. For an outrage done to the Senator from New Hampshire under circumstances of that kind, I would require him to show that the outrage committed upon him was wanton and malicious and unnecessary in the execution of the order. Is not that the usual course of courts? The plaintiff must make out his case; the burden of it rests on him, and he is required to make it out, and to make out a complete case, even if the defendant himself be not present and defending. Clearly that is the case where men sue for torts. The prisoner in criminal prosecutions was not allowed to make any defense in ancient times, and why? Because the King was bound to make out a case of guilt to the exclusion of every other hypothesis, or in other words to render unnecessary or impossible any defense.

I think that is a clear, distinct, and plain principle of the law, and I think it would afford a far better protection to United States officers than simply to declare that they shall not be liable for certain acts done.

And, Mr. President, apart from this bill is not the law so at any rate? Is not the law of the country to-day that whoever complains of the act of an officer of the United States must show either that he had no authority, or that he transcended his authority, or that the act that he did was not warranted by any law, municipal or international? Is not that the law to-day? What is this bill for? Is not the very object of this bill to relieve against the law? Is it not to cover, shield, and protect men who have violated the law? Is it not for the pur-

pose of enabling a man to go into court who has no lawful defense, and to make one? Then the question arises, how is that best to be done? Is the defendant to make the defense, or is the plaintiff to make the case? If the plaintiff sues the officer in a particular character, if he alleges that the wrong was done under color of some special authority, is he not either to show that that authority itself is unlawful or that the defendant transcended it while he pretended to be acting under it? I say it is a matter of grave consideration for us, and that we ought not in this especial juncture to be hasty about this; that we conceive of some plan by which the officer or the soldier as well as the citizen may be protected.

Mr. President, I am very certain that outside of the defined limits of the rebellion, as we defined them, that which I have stated is the law of the land. Within the limits of the rebellion and where martial law might be lawfully declared, I am not so certain. Martial law, as I understand it, is the will of the commander, in the absence of any other law. Martial law exists in the paramount necessity of the case; or in other words, it is that case where the commander is obliged to administer what in one sense may be said to be martial law, but in another is simply his own will, because there is no law and no other means of administering any other law in the premises. It arises where *leges silent inter arma*. Where the courts are open, where the laws may be administered, the will of the commander cannot be substituted in the room and stead of that law, and his machinery for the execution of his arbitrary will can in no case supersede the proper tribunals of the country. To allow that for an instant is to allow that we are the victims of a tyranny against which the world has struggled during the historic era. There is not a page of our history—I mean the history of Englishmen and the history of Americans—that is not pregnant with lessons for our instruction upon this very point.

The law, as I said before, is supreme; the will of the whole people embodied in the Constitution or the statutes is what we obey. Who obeys any other sovereign? Do you, sir? Do I? Is any Senator here willing to take the will of one man, or a dozen men, and put it in the place of the American people, and dignify it with the name of law of any kind? If so, such man or such a Senator is unworthy of a place upon this floor and is unworthy of the name of American citizen. This is a Government of law, and not of men, and therein is its great characteristic; and it is prescribed law, published law, law that men may read and know, law the penalties of which cannot be incurred while it is locked up in the brain of a tyrant, or when it is posted upon the top of high posts where the people cannot read it, as Caligula prescribed his laws.

Then, I say, where the law is in force, where the will of the American people is the rule of men's action, where the American people by their Congress have not displaced that law and subjected themselves to the will of a military commander, there this bill can have no place. At the same time, sir, as I said before, where they have declared the inhabitants of a certain definite, limited, bounded district in rebellion, and where that district is under the arbitrary will of the commander, which is martial law, there, and there only, is an act of oblivion or indemnity such as this is at all to be entertained for one moment. That changes the presumptions; that is all. When a district was declared by Congress to be in a state of rebellion, and our officers were sent there to suppress that rebellion, the presumption is in their favor that they did that which was right and proper to suppress the rebellion; if they did not, it is for the plaintiff who undertakes to arraign them at the bar of the civil tribunal after the suppression of the rebellion to show it.

But it is not for this Congress, nor for any other Congress, to declare by one sweeping act that nothing done in the suppression of the

rebellion under authority and by virtue of orders shall give to any person injured an action for damages on account of it. That is a very different thing. Require your plaintiff to make his case; but do not undertake by one great act of—I hardly know what to call it; I will say dispensation, because it is to say that the laws which are the sovereign, and which we all admit we are willing to obey, shall for this turn, *pro hac vice*, have no place, that for a given time the people of this country, owing to the rebellion, shall be taken to have had no law. That, I think, Mr. President, we are not prepared now to do. I hope we are not prepared to do it. I would the rather suppose that in the restoration which we contemplate, and in bringing back the country to its old harmony and fraternal relations, it would be well to preserve as near as possible all of our laws and all of the spirit of those laws under which we have succeeded for about three quarters of a century as well as it was possible, and that we should not introduce into our code and make part of our system anything which was not consistent with it and which was not based upon the fundamental principles which have heretofore characterized that law and given it its high character among us.

The PRESIDING OFFICER. The question is on the amendment moved by the Senator from Vermont.

Mr. CLARK. I hope this amendment will not be agreed to by the Senate. The scope of it, I understand, is to limit the effect of the bill to those States in which martial law has been declared, or rather where the *habeas corpus* has been suspended and to leave these men who were commanded to do certain things in States where the *habeas corpus* has not been suspended, by their military superiors, to take their chances with a suit at law. The bill is in amendment of an act passed March 3, 1863, "relating to *habeas corpus* and regulating judicial proceedings in certain cases," and the fourth section of that act provided:

"That any order of the President, or under his authority, made at any time during the existence of the present rebellion, shall be a defense in all courts to any action or prosecution, civil or criminal, pending or to be commenced, for any search, seizure, arrest, or imprisonment, made, done, or committed, or acts omitted to be done, under and by virtue of such order, or under color of any law of Congress; and such defense may be made by special plea, or under the general issue."

You will bear in mind, Mr. President, that this section provides that any order of the President or under his authority shall be a defense. In the course of this rebellion a great many things have been done by other officers than the President of the United States, and where you cannot trace the act directly back to the authority of the President; as, for instance, a general in command would order a certain thing to be done, and the officer under him, the inferior officer or the soldier, would go and do it; and so the act of March 3, 1863, was no protection either to the officer or the man under him who did the act, because he could not trace his authority back to the President. This bill goes on to provide further, that if these acts were done "by any officer or person under and by virtue of any order written or verbal"—it happens sometimes that the order was verbal, there was no written order, and it was difficult to be proved in this respect—"general or special, issued by the President or Secretary of War, or by any military officer of the United States holding the command of the department, district, or place within which such seizure, search, arrest, or imprisonment was made, done, or committed;" that order shall be a defense.

Now, it so happens, as the rebellion is passing away, as the rebel soldiers and officers are returning to their homes, that I may say thousands of suits are springing up all through the land, especially where the rebellion prevailed, against the loyal men of the country who endeavored to put the rebellion down. In one single State, and that a State which never seceded, I am told there are three thousand of these suits against the loyal men who attempted to

put the rebellion down, and, strange to say, in that State some of the courts have declared that an order given by a Union officer to his subordinate was no defense, but if given by a rebel it was a defense, and the man set free. That is so.

Mr. JOHNSON. How is it proved? I should like to know.

Mr. CLARK. I have it from the member of Congress who was in the court when it was done.

Mr. JOHNSON. One of the superior courts?

Mr. CLARK. One of the courts of one of the States. I do not know whether it was the superior court, but it was one of the courts which had cognizance of the thing.

Mr. JOHNSON. A justice of the peace, perhaps.

Mr. CLARK. Not a justice of the peace, but somebody who had jurisdiction of the cause; and it becomes absolutely necessary that there should be some act to protect the men who have been fighting our battles for us and putting this rebellion down. How long ago was it that General Terry came here from Richmond in the pursuit of his ordinary business, and was prosecuted here in this District for something he had done somewhere in the department of Virginia? And so on through the land. No longer ago than last evening I read an account from a North Carolina paper that all through that State, since the rebellion has been subdued, and the rebels are returning, suits are springing up from one end to the other; and these rebel courts are ready to decide against your Union men and acquit the rebel soldier. If the Governor of one of those States had not interfered with his pardon, men would have gone to the State prison in that State for doing acts in pursuance of putting down the rebellion. And now the Senator from Vermont moves that this bill shall not apply to a loyal State, but shall be confined to States where the *habeas corpus* has been suspended. I must say I was surprised that the amendment should come from the Senator from Vermont; but I was not at all surprised that it should be indorsed by the Senator from Pennsylvania.

Mr. CONNESS. That was as natural as could be.

Mr. CLARK. Perfectly natural.

Mr. EDMUNDS. I hope the Senator from New Hampshire will not dishonor the paper, if it is good, on account of the poorness of the indorsement. [Laughter.]

Mr. CLARK. Certainly I would not, but I will say that if the Senator had been with us here during the rebellion, he would not have signed that paper.

Mr. COWAN. I hope that the honorable Senator may allow me to indorse that paper.

Mr. NYE. Will it improve it any? [Laughter.]

Mr. COWAN. I think it would. I am pretty well satisfied that if the Senator from Nevada had a good deal of his indorsed in the same way it would improve it. [Laughter.] But I have been in the habit of indorsing paper from the same State from which the honorable Senator [Mr. EDMUNDS] hails, and I am proud to see that the place of a Senator and a lawyer who formerly distinguished these Halls by his presence, (Mr. Collamer,) and with whom I had the honor to agree, I think, much oftener than the honorable Senator from New Hampshire, is filled by one who offers paper that can again be indorsed by me.

Mr. CLARK. I have no doubt in the world that the honorable Senator from Pennsylvania is glad to see a bit of paper of this kind from Vermont, it is so unusual; and I knew as well when it was offered that he would indorse it as I did after he put his name without recourse on the back of it.

Now, Mr. President, what is the reason why we undertake to shield these men in a case of this kind? First, because they are in pursuit of a worthy cause in putting down the rebellion; and secondly, because when a soldier is commanded to do a thing he cannot resist it. The soldier has the order of his superior to go

and do so and so. What shall he say? "I will not do it, sir." Then he is court-martialed or put in the guard-house at once. He obeys; he cannot well do otherwise; and then because he is in a loyal State he is not to have the protection of the Government, forsooth!

Mr. TRUMBULL. The Senator from Vermont was the author of the law of 1863.

Mr. CLARK. I understand that the old Senator from Vermont was the author of that law, and I did not know that the Senator from Pennsylvania indorsed it.

Mr. COWAN. I did indorse it; and if the Senator from New Hampshire does not know it, I can tell him that I myself was the author of some of its provisions.

Mr. CLARK. I am glad to hear him say so, for I have had it my mind, somehow or other, that the Senator from Pennsylvania had been changing around; now he has indorsed the contrary.

Mr. COWAN. A very intimate friend of mine was supposed at the time that bill was passed to be in some trouble in this particular direction; and I am not so certain whether the honorable Senator from New Hampshire, who is generally exceedingly captious and exceedingly tart, did not somewhat reflect on me at that time because I was constructing that bill in order to shield my friend; but we did not make it go beyond the order of the President or his authority at that time.

Mr. CLARK. The Senator from Pennsylvania is entitled to the benefit of that acknowledgment that he voted for the law to shield a friend. Has anybody else got a friend that wants to be shielded? These men were soldiers of a common country, and if the Senator from Pennsylvania will not shield them, the country should.

Now—and I am going to confine myself to this amendment—it is admitted that this is necessary in the rebel States, if you permit me to call them so, or in the seceded States. But suppose a case occurred in the State of New York. I think it was in 1863 when the riots occurred in the city of New York, and it was necessary to have a force there to maintain order. Suppose General Butler had said to one of his inferior officers, "You must do so and so," and he went and did it in pursuance of keeping the peace there and maintaining the authority of the Government, is not that man to be shielded? Suppose you follow it down from soldier to soldier, if you follow the order from one grade to another, so long as the man acts under the order, so long should he be protected.

I agree entirely with the Senator from Illinois, that if a man has an order of this kind and with that order in his possession he abuses the order and does what he is not required by the order, he cannot protect himself under the order. Does the Senator from Vermont think that he would be able to do so? If an officer by virtue of a writ should go and attempt to do certain things not commanded in the writ, and then should try to protect himself by the writ, it would be at once said, "You did what you need not do and what the writ did not command you to do." Suppose a man comes upon my ground; I put him off; and in putting him off, without any necessity I kick him and abuse him, and he sues me in court, and I plead that he was on my ground and that I put him off. "Ah! but," says he, "you not only put me off, but you kicked me;" then it would not defend me; there could be no pretense that it would defend me. So, if a man was commanded to go and take a horse and impress him into the Army, and he went and robbed a house, the order would not protect him; or if he went and stole a pig, the order would not protect him. It is what he is commanded to do by the order that the order protects him against; and it should protect him against that. He must follow the line of his orders or he cannot be protected.

Mr. EDMUNDS. Does the Senator from New Hampshire mean to contend that an excess in degree in the execution of one of these

orders, and not in kind, can be made the subject of an action under this statute?

Mr. CLARK. I suppose it would be in that case exactly as in other cases parallel to it, that if that excess in degree showed that the man was wreaking his vengeance and doing mischief instead of fairly following his order, it would not protect him.

Mr. EDMUNDS. Leaving aside the question of motive, if there was in fact an excess in degree, what then?

Mr. CLARK. I suppose the question of motive must be left to the jury who try the case.

Mr. EDMUNDS. But suppose, leaving aside the question of motive, they find that in point of fact the act was in degree excessive.

Mr. CLARK. Who decides the question of motive?

Mr. EDMUNDS. Suppose we leave that aside altogether, and find that in point of fact there is an excess in degree in the execution of the act to be done.

Mr. CLARK. That would be a question for the court entirely and the jury as to the excess, because if there was great excess you would infer from that a bad motive.

Mr. EDMUNDS. Suppose there was not great excess, but merely some excess?

Mr. CLARK. Then it seems to me if there was a little excess, and he did not intend it, and you lay the motive aside, it should protect him, and there is no great complaint of a thing of that kind; it is not worth complaining of; it is a distinction without a difference almost.

Mr. COWAN. That is *minimis*.

Mr. CLARK, (to Mr. COWAN.) I know, *non curat*.

The PRESIDING OFFICER. Senators will address the Chair.

Mr. COWAN. It was Latin.

Mr. CLARK. I do not understand that Latin is without the order of the Senate. What we desire is protection to these men in acts of this kind. We do not desire to shield anybody who has been guilty of doing what ought not to be done, or who has under such an order undertaken to wreak his vengeance or do mischief, but it is provided for the loyal men of the country who have been engaged in putting down this rebellion; and if in the great struggle that we have been obliged to make some men have done acts that were wrongful and we are obliged to excuse them to protect the great mass, we had better do it than let the servants of the Republic be tormented as they are in the courts.

Mr. CONNESS. Will the Senator permit me a word? I desire to suggest to the Senator that we are every day granting amnesty to rebels for the highest crimes known to the law. Who is against granting amnesty to some loyal men who have been fighting the battles? That is the suggestion I desire to make.

Mr. CLARK. It is a very pertinent suggestion. Those men, who have been pursuing our soldiers and murdering them everywhere they could find them almost, are coming here to the President of the United States, to those having power, and imploring pardon for all their acts.

Mr. CONNESS. And they get it.

Mr. CLARK. And they get it. But in regard to these Union soldiers who have come at your call, and marched under your orders, and preserved your Government, men cavil if even the Senate and House of Representatives propose to extend to them the hand of protection and protect them from the very men whom they have been fighting to save your Government from. Let me say, Mr. President, none but a rebel or a rebel sympathizer would sue one of these men who has thus been serving his country; but it more than anything now shows that the *animus* of this accused rebellion still lingers that we are unwilling to do this.

I know the Senator from Pennsylvania says it was a very easy thing to be a loyal man in New Hampshire. Then let me say to him that the disloyal men of New Hampshire, or Pennsylvania either, were without excuse, because there was not much difficulty about it.

Now, Mr. President, I appeal to the Senate, I appeal to the Senators to know whether if

one of these men is to be protected in Kentucky, he shall not be protected in Ohio, Indiana, and Illinois. Did we not have John Morgan in Indiana? Did we not have various disturbances in Illinois? Did we not have John Morgan in Ohio? And shall not the man who fought John Morgan in Ohio and Indiana and was obliged to seize a horse to follow him or seize a boat by order of his commander, be protected? Mr. President, the shield of my patriotism is broader, longer, every way larger; it covers these men wherever they are found who have been true to the Government.

The Senator from Pennsylvania would find out some different and some better mode of doing this; and that has always been the objection; when a measure has not been liked it has been asked, "Cannot you find some better way?" I do not know any better way than to go directly at it, say what we mean to do, and do it, and I do not care a copper whether the burden of proof is on the plaintiff or on the defendant, provided the defendant be protected, and protected by the strong arm of the Government. This bill comes to us from the House of Representatives. They framed it; they said it was the one they thought adapted to the purpose, and they sent it for our approval. The Committee on the Judiciary have taken the bill and examined it, and reported it back to you with one amendment and asked that it may be passed. Some verbal and other amendments have been made to it, which perfect the bill; and I ask now that this bill shall not go on one leg in the rebel States, and on a crutch in the loyal States.

Mr. EDMUNDS. Mr. President, it has always appeared to me in the brief experience I have had in this world, that in the long run, passionate legislation, if I may so describe it, comes back to plague those who enact it, and it has generally happened in the history of civilized communities, that legislation which has been enacted under the influence of feeling, no matter how pure, under the influence of passion, no matter how complete and perfect might be the beauty of the object of it, returned futile and nugatory upon the heads of those who undertook to carry it through.

Now, sir, I do not yield to the Senator from New Hampshire in my devotion to the interests of the loyal men who have fought the battles of the country. Where I am known it would not be necessary for me to justify myself on such a point as that. I do not yield to any man in my desire, to use the language of my friend from New Hampshire, to protect the soldier who has fought the battles of the country, whether in Illinois, or Ohio, or Kentucky, or South Carolina. And it is because I desire to protect him that I am desirous that this bill should be put in such a shape that it will stand the searching investigation of a court of law. I do not think he can be accounted the true friend of the soldier who holds out to him the ashes of disappointment in a species of legislation which, while it looks well, will not bear the test of actual experiment. My way of protecting the soldier is to give him a protection which will be real, to hold up to him a security which is something more than a mere fulmination, and which shall answer to him with the certainty of a positive defense. How is that to be done? That is the question.

It is useless to waste our time in vague discussion about who is the best friend to the soldier, or whether the Senator from Vermont happens at this moment to be on the wrong side of the Senate Chamber. That is nothing to the question. The question is, how shall we reach the end which we all desire in the safest and in the most positive way? It happens that the Senator from New Hampshire thinks that the best way to do it is to go directly at it, as he says, and to declare by an act of Congress that an act which was guilty yesterday, which was a wrong yesterday, an invasion of private rights yesterday, is right to-day, and is therefore justified. That is all there is in this act. I am not speaking of those questions of excess which seem to have troubled some gentlemen;

I am speaking of the cases where an act which was wrongful in itself has been committed, and where, therefore, the person who was wronged has as much right to claim our protection as the person who wronged him, whether he acted under orders or whether he did not.

Now, I undertake to declare with the little knowledge which I have on subjects of this description, and to defy contradiction, that there is not an instance in the history of legislation which has been practically followed and justified in law, that went beyond simply this: providing an indemnity, as I said a little while ago, by way of securing to the party accused, whether in a criminal information or in a civil suit, for a wrong done, the benefit of an impartial trial in the courts of the country, as this bill very properly provides, providing that he shall be defended at the public expense, and if it happens that in the execution of his duty he has invaded private rights, let the public, for whose sake and at whose command he has invaded them, foot the bill. That is the way to defend a loyal soldier in my judgment, and I do not care to have my patriotism impugned because I think it the better way than it is to enact a nugatory law to protect him.

Mr. NYE. Can the public go to prison for him?

Mr. EDMUNDS. They ought to go to prison for him.

Mr. NYE. They cannot very well.

Mr. EDMUNDS. If he goes to prison, it is only as a consequence of the criminal procedure, which the public of course by a pardon can at any time dispense from. And it is open to a little doubt whether this act applies to criminal cases at all. It ought to apply to them. If it is a civil case, certainly the public can stand between the officer and all harm by paying the damages which the law declares in favor of the party whose private rights have been invaded.

There are two classes of people in this country to be looked at in this matter. There are the soldiers who must be protected, and there are the citizens who must be protected. They must both be protected in the exercise of their rights. It is the right, as it is the duty, of the soldier to obey the commands of his superior officer, and he must be protected in doing so. It is the right of the peaceable citizen in a loyal community where civil law prevails to be secure from search, seizure, arrest, or imprisonment, except by due process of law or the judgment of his peers. One right is as sacred as the other, and therefore in our hasty zeal to protect one class of the community let us not do it at the expense of another who equally deserve protection, but let us so adjust our legislation by way of indemnity, rather than of arbitrary edict, as to provide for both.

Mr. HOWARD. I do not rise to detain the Senate on the question of this amendment.

Mr. HENDRICKS. If the Senator does not desire to go on to-night I will move an adjournment.

Mr. HOWARD. I shall occupy but a few minutes. The effect of the amendment of the honorable Senator from Vermont will be to withdraw the protection afforded by this bill from all persons who have committed any of the acts contemplated by the bill in any State where martial law has not been proclaimed. I so understand the amendment of the honorable Senator, and if I misunderstand it I should be very glad to be corrected.

Mr. EDMUNDS. The effect of the amendment is this: in all States where martial law did not exist at the time of the supposed act, whatever it may have been, and in all States where there was no rebellion, this statute does not, in and for itself, operate as a defense, but it still allows, if my amendment be adopted, a transfer of the cause to the Federal courts, and to be defended there upon the same principles that any other act of a public officer would be.

Mr. HOWARD. Simply applying it, then, to the question of removal?

Mr. EDMUNDS. Yes, sir.

Mr. HOWARD. Well, Mr. President, I can-

not vote for this amendment. I cannot by my vote turn over an innocent officer or soldier of the Union, who has done such acts as are contemplated by this bill, to the verdict of a local jury. That would be the consequence, if I understand it, of the adoption of the amendment of the Senator from Vermont. It would be to expose defendants in all such cases to the political prejudices and personal prejudices which might happen to exist in the particular locality against the person who happened to be a defendant.

Mr. DOOLITTLE. If the Senator from Michigan will give away, I desire to suggest that this is a very important question; and I understand that it is desirable that there should be a short executive session. If the Senator will give way, I will move an executive session.

Mr. HOWARD. If I intended to make a speech of any length I would give way with great pleasure; but as I shall close soon, I hope the Senate will indulge me to the end.

Mr. DOOLITTLE. This is a very important question, and I should like to hear the Senator upon it.

Mr. HOWARD. Mr. President, what is meant by "martial law" in the amendment of the honorable Senator from Vermont? What does it include? Is it the martial law that is to be established, or was established, by simple proclamation of the commander of the department or of the particular district? Is such a proclamation, even in a loyal State, the sole origin of martial law, and is it necessary in every case that there should be such a proclamation in order to justify the commander of the Union forces in the seizure of property that he might find absolutely necessary for the subsistence of his troops? Surely I did not suppose that the honorable Senator from Vermont would give such a narrow definition to the term "martial law." I do not understand it to be thus limited. Take the case of Illinois or of Ohio. Union troops have been marched and counter-marched through those States; actual hostilities have existed in those States; battles have been fought in Ohio and in Pennsylvania, neither of which was proclaimed to be under martial law, and fought in particular localities where there is no pretense that martial law had thus been proclaimed. I ask the honorable Senator from Vermont whether there be not the same necessity in such cases to extend this protection to Union officers and Union soldiers as there was in localities subject to the formal proclamations of martial law.

Mr. EDMUNDS. I do not think there is.

Mr. HOWARD. The honorable Senator from Vermont says he does not think there is that necessity. There may not be that necessity to the same degree in reference to all those States. I probably should not dissent from the honorable Senator in that view of the question; but that there is some necessity, that that necessity is of sufficient magnitude to justify us in passing this act, I have no doubt. What was the case in South Carolina, for instance, during Sherman's famous march to the sea? Was there martial law in South Carolina proclaimed by the commander? I never heard of it.

Mr. EDMUNDS. It was not represented in Congress.

Mr. HOWARD. But that makes no difference as to the principle. Now, sir, the great object of this bill is, in every case where a soldier or officer has acted in good faith under an order addressed to him or intended for him, to extend to him the protection of the law as against the consequences of any act which he might do and perform under that order or under color of that order, and to enable the defendant in such case as that to transfer the prosecution or the suit (for the proceeding may be criminal or it may be civil) from the local or State tribunal to a Federal tribunal, thus giving the defendant an opportunity of presenting his case to a court and a jury not infected by the local prejudices of the place where the act was committed.

I must confess that I see no ground or reason

whatever for drawing the distinction that is drawn by this amendment of the Senator from Vermont. I see no reason why it should not be applied as well in loyal States in the case of acts by military officers or soldiers as to the same acts when performed in rebel States or in any State under martial law. The reason is the same in both cases, the great object being the protection of the soldier or the officer in the discharge of his duty, and that is a duty which I hold devolves upon Congress. A soldier or an officer who is a subordinate must not omit to obey the order. If he refuses to do so it is always at the peril of his life or of imprisonment; and to expose a person thus situated to the consequences which might flow from a suit or prosecution in a community where there were strong prejudices against him is something I imagine which we ought not to do. The bill is nothing, in my judgment, but simple, naked justice, applicable to one case as well as to another, and to one locality as well as another.

Mr. SHERMAN. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 18, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BORTON.

The Journal of yesterday was read and approved.

GRANT OF LANDS TO WISCONSIN.

Mr. PAINE, by unanimous consent, presented the memorial of the Legislature of the State of Wisconsin, for a grant of lands to aid in the construction of so much of the Portage and Superior railroad as extends from Fond du Lac to Ripon; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. PAINE, by unanimous consent, also presented the memorial of the Legislature of the State of Wisconsin, asking the assent of Congress in reference to the route of the land-grant railroad from Portage to Bayfield and thence to Superior; which was referred to the Committee on Public Lands, and ordered to be printed.

COMMANDER J. C. CARTER.

Mr. SCOFIELD, by unanimous consent, introduced a bill for the relief of Commander J. C. Carter; which was read a first and second time, and referred to the Committee on Naval Affairs.

GRANTS OF LANDS TO DAKOTA.

Mr. BURLEIGH, by unanimous consent, introduced the following bills; which were severally read a first and second time, and referred to the Committee on Public Lands:

A bill granting lands to aid in the construction of a railroad and telegraph line from the city of Yankton, in the Territory of Dakota, to the west line of the State of Minnesota; and

A bill to amend section two of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts."

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the several propositions were referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JAMES G. CLARKE.

Mr. PATTERSON. Mr. Speaker, last Friday I reported back, from the Committee on Foreign Affairs, Senate bill No. 248, for the relief of James G. Clarke. It was objected to by the gentleman from Illinois, [Mr. WASHBURN,] and went upon the Private Calendar. After having examined the claim, I understand that he withdraws his objection.

Mr. WASHBURN, of Illinois. The gen-

tleman is somewhat mistaken in saying that I objected to the bill. I merely asked for the enforcement of the rule requiring bills making appropriations to go to the Committee of the Whole for their first consideration. While I do not object to taking the bill up, I do not say I will not object to its passage. Perhaps the bill is right in some aspects, but it is a bad precedent to pay a man for an office he never held.

Mr. PATTERSON moved that the Committee of the Whole House on the Private Calendar be discharged from the further consideration of the bill.

The motion was agreed to.

The bill, which was read, provides that the Secretary of the Treasury be directed, out of any money in the Treasury not otherwise appropriated, to pay to James G. Clarke the sum of \$6,483 96, in full for services as acting chargé d'affaires of the United States at Brussels from June 11, 1857, to September 27, 1858.

The Clerk then proceeded to read the report.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. PATTERSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. MORRIS obtained the floor.

Mr. EGGLESTON. I ask the gentleman to yield to me for a question of privilege.

Mr. MORRIS. I will yield if it will not take five minutes.

Mr. EGGLESTON. Day before yesterday one of the Representatives of West Virginia [Mr. WHALEY] made a statement in reference to a paragraph in a newspaper, attributing the authorship of that paragraph to a constituent of mine, Mr. H. V. N. Boynton. That gentleman, wishing to set the matter right before the House, has sent me the following letter, which I ask the Clerk to read.

The Clerk proceeded to read the letter, as follows:

WASHINGTON, D. C., April 17, 1866.

DEAR SIR: It appears from this morning's Globe that Hon. KELLIAN V. WHALEY caused a newspaper paragraph, out from the Cincinnati Gazette, to be read at the Clerk's desk yesterday, wrongfully intimating that Mr. WHALEY was not proficient in the elements of the Latin language; and that he then, in some very well chosen remarks, proceeded to denounce me by name as the writer of the paragraph.

I desire to state to you, as representing the district in which I reside, that the article did not originate, either directly or indirectly, with any one connected with the Gazette, but that it was a mere selection without heading or signature, which has been published in nearly all the—

Mr. JENCKES. I would inquire if the gentleman from West Virginia [Mr. WHALEY] is in his seat.

A MEMBER. He is not here.

Mr. JENCKES. Then I ask that the reading of the communication be discontinued until he is present.

Several MEMBERS. Oh, no; go on.

Mr. RANDALL, of Pennsylvania. I object to its further reading.

Mr. FARNSWORTH. It is no reflection upon the gentleman from West Virginia.

Mr. RANDALL, of Pennsylvania. It is all wrong.

Mr. FARNSWORTH. It is merely a disclaimer.

DISTRICT COURTS IN NEW YORK.

Mr. MORRIS. I yield to the gentleman from Ohio, [Mr. DELANO.]

Mr. DELANO. I ask leave to introduce a bill (H. R. No. 134) to regulate the terms of the United States courts in the eastern district of New York, and for other purposes.

Mr. ANCONA. I demand the regular order of business.

Mr. MORRIS. Have I not the floor?

The SPEAKER. The gentleman from New York [Mr. MORRIS] is entitled to the floor, but the gentleman from Pennsylvania [Mr. ANCONA] objects.

Mr. MORRIS. I hope the gentleman will allow this bill to be submitted. It is of a local character, pertaining to the courts of New York.

Mr. ANCONA. I do not object to the gentleman introducing his own proposition, but I do object to his yielding to friends on that side and not to those on this side.

Mr. BOYER. I renew the demand for the regular order of business.

Mr. MORRIS. I have troubled the House very little.

Mr. BOYER. I shall not withdraw it.

Mr. MORRIS. Much obliged.

ORGANIZATION OF THE PENSION OFFICE.

The House proceeded, as the regular order of business, to the consideration of the unfinished business of yesterday, being House bill No. 278, reported from the Committee on Invalid Pensions, in amendment of the several acts relating to the organization of the Pension Office, with an amendment in the nature of a substitute therefor.

The pending amendment was to strike out the second section of the substitute, as follows:

Sec. 2. And be it further enacted, That the Secretary of the Interior shall appoint, from the fourth-class clerks in the Pension Office, one chief examiner of Army invalid pension claims, one chief examiner of Army pension claims of widows, mothers, and orphans, and one chief examiner of Navy pension claims; each of said chief examiners shall be allowed \$200 per annum in addition to the salaries already allowed to clerks of the fourth class: Provided, That nothing in this section shall be so construed as to authorize the appointment of a larger number of fourth-class clerks than is now provided by law, including the examiners aforesaid.

The amendment was agreed to.

The question then recurred on agreeing to the substitute, as amended, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passage of this act the salary of the Commissioner of Pensions shall be \$4,000 per annum, and the salary of the chief clerk of the Pension Office shall be \$2,500 per annum.

Mr. PERHAM. I yield to the gentleman from Ohio, [Mr. EGGLESTON.]

Mr. EGGLESTON. This bill as it now stands merely increases the salary of the Commissioner of Pensions from \$3,000 to \$4,000 per annum, and the salary of the chief clerk from \$2,000 to \$2,500. The question for us to decide is whether it is right and just that this increase for these two officers should be made.

I have given the subject some little attention, and the chairman of the committee stated to the House yesterday morning the relative salaries of other officers in similar situations in this city. I was fully convinced, after hearing that statement, that it was my duty to vote for this increase of salary, and I hope that my friend from Illinois, [Mr. WASHBURN], who is always so watchful of the Treasury in this House, will not raise objection to the passage of this bill as it now stands.

I find on looking over the list of salaries that the Superintendent of the Coast Survey gets \$6,000 per annum, the Comptroller of the Currency \$5,000, the Treasurer of the United States \$5,000, the Commissioner of Internal Revenue \$4,000, and the Commissioner of Patents \$4,500.

Now, I undertake to say that neither of the officers I have named have as many arduous duties to perform as has the Commissioner of Pensions. Every one acquainted with that department knows how well and faithfully that officer is daily attending to his duties. I have had some experience since I have been stopping in Washington as to the expenses here, and I am satisfied that \$3,000 per annum will not meet those expenses, or come within a thousand dollars of it. I hope that in consideration of these facts each member will vote for this measure as it is just and proper.

Mr. PERHAM resumed the floor.

Mr. ROSS. I desire to move to amend the bill by striking out "\$4,000" and inserting "\$3,000."

Mr. PERHAM. I am unwilling to yield for an amendment of that kind.

Mr. ROSS. Then allow me to make a remark for a moment or two.

Mr. PERHAM. I will yield to the gentleman for a moment to make some remarks.

Mr. ROSS. I have quite a number of constituents in my district who are capable of filling any of these offices, and they are willing to take them at the salaries which we have heretofore been in the habit of paying.

Now, at the last session of Congress I voted for some increase of compensation to public officers. I did it for the reason that our currency was depreciated, and everything in the way of living was increased in price. But now the condition of the country is changed; the prices of articles are getting lower; our paper money is approximating more nearly to the value of coin; and I can see no necessity, in this juncture of our public affairs, when we take into consideration the condition of the people and the heavy burdens they have to bear, of our increasing the compensation of these officers.

Why, sir, I am astonished at the excuses which gentlemen make for increasing the compensation of these officers. They say that the Superintendent of the Coast Survey gets \$6,000, and that the Comptroller of the Currency Bureau gets \$5,000. Sir, as the Representatives of an oppressed and burdened people, are we, when we find out that an officer gets too high a compensation, to bring up the compensation of other officers to that standard? I should have supposed that my distinguished friend would rather have been disposed to cut down the compensation of all these officers instead of raising it. There is no necessity for an increase. You can get the best talent of the country to discharge the duties of these officers at the compensation heretofore paid by the Government, and it is placing unnecessary burdens upon our already over-taxed people to increase the compensation of officers now, when, instead of things rising in value, they are tumbling all the time.

It is much easier to get compensations up than it is to get them down. Gentlemen had better take notice of this. These salaries that were raised and that are now pointed to as the examples by which we are to govern ourselves, were increased for the reason that the currency of the country was inflated and the prices of living greatly enhanced in the city of Washington. Those reasons do not now exist, and instead of increasing, it is our duty to cut down and diminish expenses.

If you increase the salary of this gentleman to \$4,000, you will have to increase the salaries of other officers in the same proportion. That is not our duty. Our duty is to commence cutting down instead of increasing; and I ask the members of the House to come to the rescue now and let us show that we are carrying out in good faith our pledges to our constituents to retrench the expenses of the Government and not increase them.

Mr. PERHAM. I yield now to the gentleman from Iowa, [Mr. KASSON.]

Mr. KASSON. I understood the chairman of the committee to say, as a reason for increasing the compensation of the chief clerk, that this Commissioner of Pensions has not a deputy. I believe there is no department of a like kind in the Government where the head of the bureau has a deputy; and inasmuch as the proposition is to raise the salary of the chief clerk beyond the amount that is allowed to the chief clerks in other bureaus, I think that we should set a bad precedent, and one that would be appealed to hereafter in other Departments to the detriment of the public service, or at least to the loss of economy in the service.

I believe the highest amount paid directly for a chief clerk of any bureau in the Departments is \$2,000 a year. If this chief clerk has not that salary now, I will vote most cheerfully to give it to him. And I would give him more than that, if that was not equal to the amount now given to the chief clerks of the different bureaus of the various Departments of the Government.

In regard to the other point, the salary of

the Commissioner of Pensions, I am bound in candor to say that I agree with the chairman of the Committee on Pensions [Mr. PERHAM] that this officer's labors and responsibilities are fully equal to those who are receiving the proposed amount of salary. While I admit that a man without a family may live here in this city upon the salary the Commissioner of Pensions now receives, and that good men, single men, may be obtained to take the position with that salary, as suggested by the gentleman from Illinois, [Mr. Ross,] I deny that the best talents and abilities of the country can be obtained for that amount of compensation.

Mr. ROSS. I will agree to furnish from my district good men at that salary.

Mr. KASSON. I fear that those men whom my friend from Illinois calls "good men" would not be regarded as those best fitted for the place by the people of the country.

We know that in point of fact this officer is a very able and a very faithful officer, and that the bureau, in years past, has never had more than one tenth of the business which it is now called upon to perform. Under these circumstances, I think, inasmuch as we have raised the salaries of some other officers, it is due to this one to raise his simply to a proper and corresponding amount, on no other ground whatever than that of just compensation for fitting and excellent services to the Government.

Mr. WASHBURN, of Illinois. Will the gentleman from Iowa [Mr. KASSON] allow me to ask him a question?

Mr. KASSON. I will yield for a question.

Mr. WASHBURN, of Illinois. I desire to ask my friend from Iowa if the same reasons for increasing the salary of this Commissioner of Pensions do not apply to the heads of all the bureaus of the Government. Have not the duties of all the Auditors, for instance, been increased in very nearly the same proportion as the duties of the Commissioner of Pensions? And if you are going to undertake this thing, I ask, why stop here? Why not go further? Why not, as I said on yesterday, increase the salary of the Commissioner of Public Lands and the Commissioner of Indian Affairs, as well as the salaries of all the Auditors, who now receive this very salary of \$3,000 a year?

And let me say here that this is the time to meet this question of raising the salaries of officers, for this is perhaps one of the strongest cases that can be presented. There is no objection whatever to Mr. Barrett. As I said yesterday, he is one of the ablest and most conscientious officers that we have. But that is no reason why we should impose additional taxes upon our constituents to pay him an increased salary.

Mr. KASSON. In order that I may answer the question of the gentleman from Illinois, [Mr. WASHBURN]—and I gave way for a question only, and not for a speech, for I heard this speech yesterday—

Mr. WASHBURN, of Illinois. Not all of it.

Mr. KASSON. I think I heard the whole of it. But before I forget the questions of the gentleman I will answer them. The salaries of the other officers should not be raised now, because Congress has, in point of fact, raised them in many instances already, to meet the present emergencies, and it would be unjust to raise them again. But the salary of this officer has been left below the grade of the salaries of officers of corresponding bureaus of the Departments. I know heads of bureaus who now receive from five hundred to one thousand dollars more than this officer receives who do not perform more than one half the duties he is called upon to perform.

Mr. WASHBURN, of Illinois. Then cut the salaries of the other officers down, and not raise the salary of this one.

Mr. KASSON. It is because it is just that the salary of this officer should be raised that the committee have reported in favor of raising it. If my friend from Illinois will introduce a bill to equalize the salaries of all these officers according to some just rule I will go

with him in reducing those that are too high and raising those that are too low. But I am opposed to a wholesale denunciation of a just and proper compensation to a worthy and faithful officer on the ground that it is setting a bad precedent. From the beginning of this Government to this day we have from time to time felt compelled to raise the salaries of various officers of the Government according to the increase of their duties. And I do not know but that it may be so in the future. I am opposed to going too fast upon the subject of raising salaries. But I do believe it necessary to provide just and proper compensation to secure faithful and fitting service for the Government.

Mr. HALE. I desire to inquire whether the objection taken by the gentleman from Illinois to the increased expenditure proposed by this bill cannot be obviated to the satisfaction of all parties by making the money payable out of the contingent fund of the House. I believe that will remove all objection. [Laughter.]

Mr. WASHBURN, of Illinois. It might remove the objection of the gentleman from New York, [Mr. HALE,] but it would not remove mine.

The SPEAKER. The gentleman from Iowa [Mr. KASSON] is entitled to the floor.

Mr. KASSON. I have finished.

The SPEAKER. Then the gentleman from Maine [Mr. PERHAM] is entitled to the floor.

Mr. PERHAM. I will yield to the gentleman from Illinois, [Mr. WASHBURN.]

Mr. WASHBURN, of Illinois. The gentleman from Iowa [Mr. KASSON] has said, with some degree of truth, that I made substantially the same speech yesterday that I have made to-day. Sir, I believe that is the fact; for I have made that speech pretty often, and I am sorry to say with very little effect so far as regards my friend from Iowa. I have appealed more than once to members of the House to set their faces against all such extravagant propositions as this, but with very little effect. This case is presented to us fairly and squarely, and now let the House decide whether it will inaugurate this policy of raising salaries at a time when, as my colleague on the other side [Mr. ROSS] has very properly said, the prices of everything appear to be going down. When the prices of living are decreasing, and we are, as I trust, reaching the gold standard, why should we commence a system of increasing salaries? These salaries when increased will continue undiminished for all time. I have never known a case in which a salary has been diminished.

Mr. PERHAM. I now yield to my colleague on the committee, the gentleman from Missouri, [Mr. BENJAMIN.]

Mr. BENJAMIN. I agree with both the gentlemen from Illinois that this is a bad time for the Congress of the United States to commence a system of raising salaries. But, sir, there may be, and I think there are, exceptions to this rule. The present salary of the Commissioner of Pensions, \$3,000, was fixed in 1848, eighteen years ago; and it was fixed in accordance with the rule adopted at that time that the head of a bureau should receive half the salary of a Cabinet officer. The salary of the Secretaries at the time was \$6,000; and hence the salary of the Commissioner of Pensions was fixed at \$3,000.

In 1843 the Pension Bureau, as we all know, was a small institution. There were comparatively few persons upon the pension-roll. Now, that bureau has grown to an enormous extent; and the business of that bureau, I will venture to say, is more extended and important, and involves a larger amount of money, than the business of any other bureau of the Government. But the salary of the Commissioner, instead of being increased with the increase of business, has actually been diminished. How? We have provided in our laws that \$2,400 of his salary of \$3,000 shall be taxed at the rate of five per cent.; and to that extent the salary has been reduced below the amount at which it was fixed in 1848.

As was remarked yesterday by the chairman of the committee, [Mr. PERHAM,] a vast amount of money is involved in the transactions of the Pension Bureau; and the very best order of talent is required for the discharge of the duties of Commissioner. It is admitted by the gentleman from Illinois [Mr. WASHBURN] that we have that kind of talent at the head of the bureau at this time. We wish to retain that order of talent. We wish that the duties of that position shall hereafter be administered with the same ability with which they are now performed. Hence the committee believe that the salary of the Commissioner should be increased from \$3,000 to \$4,000. The latter amount is \$500 less than the present salary of the Commissioner of Patents; yet no gentleman acquainted with the facts will deny that the amount of labor required of the Commissioner of Pensions equals, and I believe that it largely exceeds, the amount of labor required of the Commissioner of Patents.

Mr. FARNSWORTH. I wish to inquire of the gentleman from Missouri [Mr. BENJAMIN] whether he is aware that the Government has found any difficulty in commanding at the present salaries the requisite talent for any of these positions, or whether he has heard that any of the heads of bureaus have resigned recently because they do not receive enough pay. If there are any of these positions vacant on account of such resignations, I give notice to the gentleman and to the country that there are several gentlemen in my district who would be glad to take these positions at the present salaries.

Mr. BENJAMIN. I will say, in reply, that I presume there can be found in my friend's district gentlemen who are ready to take and occupy seats in Congress without any compensation. I will not say that they are equal in point of talent to the distinguished gentleman from Illinois, [Mr. FARNSWORTH.]

Mr. STEVENS. I know some who are resigning in consequence of deficiency of salary. The Attorney General is about to lose the services of his assistant, a most valuable and efficient officer, because of the smallness of the pay. Unless some measure be passed we shall not be able to get along much longer.

Mr. BENJAMIN. I was saying, in answer to the gentleman from Illinois, when he drew a comparison between this Commissioner and the Commissioner of Indian Affairs, there was no increase of business in the Indian Bureau. It has not increased for ten years, and for the next ten years is likely to decrease. It is the same with the Commissioner of Public Lands.

The gentleman from Iowa is slightly mistaken in supposing the salary of this chief clerk corresponds with that of other chief clerks. It is \$200 less than that of other chief clerks. They generally receive \$2,200. We make this \$2,500 because of the increase of the duties devolved upon this clerk, and believe it to be right.

Mr. KASSON. Is not the gentleman in error that the chief clerks of the bureaus receive \$2,200? The chief clerks of Departments receive \$2,200, and the chief clerks of the bureaus \$2,000. In the Post Office Department the chief clerks receive \$2,000.

Mr. BENJAMIN. The gentleman is correct; some of the chief clerks of bureaus receive only \$2,000. Some I know receive \$2,200. The amount is not uniform. This asks for an increase to \$2,500. The whole increase amounts to the sum of \$1,500 a year. I think it is the duty of this House to pay competent officers adequate compensation, and that is all that is proposed here.

Mr. PERHAM. I hope I shall not be asked to yield any further.

I wish to say, in answer to the question why the committee have not reported in favor of the increase of the salaries of the heads of other bureaus, that in the first place, no such propositions were referred to us for other bureaus; and in the second place, there was no other

bureau the business of which had increased to so great an extent as this. In most of the bureaus the business remains about the same as when the salaries were established. This has increased ten times what it was. This office has to make the disbursement of from fifteen to twenty million dollars in sums of \$100 and less among individuals. It has to supply funds to agents all over the country and to see that the accounts rendered are correct.

Mr. CHANLER. Is this intended as a precedent for the increase of other salaries? The gentleman from Pennsylvania, I understand, says the Attorney General will resign unless we increase salaries. I take that as an indication of general increase of salaries. There are a great many colored persons waiting to take these places, as well as your places here, and there is no need to buy these white men to stay. [Laughter.]

Mr. PERHAM. This was not intended to establish any such precedent. I demand the previous question.

The previous question was seconded and the main question ordered.

The substitute was adopted.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. PERHAM demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WARD. I demand the yeas and nays. I want the country to know who favor increase of salaries.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 58, nays 63, not voting 62; as follows:

YEAS—Messrs. Baldwin, Barker, Benjamin, Bingham, Bland, Bunker, Butler, Clarke, Coffey, Davis, Delano, Dixon, Donnelly, Briggs, Eckley, Eggleston, Farquhar, Garfield, Grossberger, Haas, Hayes, Holmes, Chester D. Hubbard, Hubbard, Ingalls, Jones, Kelley, Kelso, George V. Lawrence, Lynch, Marvin, McKuer, Moren, Miller, Moorehead, Morrill, Morris, Myers, Newell, O'Neill, Porham, Samuel J. Randall, William H. Randall, Bayard, Rollins, Schenck, Smith, Stevens, Stilwell, Strouse, Taylor, Francis Thomas, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Welker, Whaley, and Williams—58.

NAYS—Messrs. Allison, Ancona, DeLoe R. Ashley, Baker, Beaman, Boutwell, Brandegee, Brownwell, Broome, Chandler, Sidney Clarke, Conkling, Cook, Deeming, Eldridge, Farnsworth, Ferry, Finck, Good-year, Grider, Abner C. Harding, Henderson, Asahel W. Hubbard, Edwin N. Hubbard, James M. Humphrey, Julian K. Ketcham, Ketcham, Kykendall, Latham, Loan, Longyear, Marshall, Mayson, McCullough, McKee, Moulton, Niblack, Orth, Paine, Phelps, Price, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Scofield, Shanklin, Sheilabarger, Sitgreaves, Spalding, Taber, Thayer, Thornton, Trowbridge, Ward, Elihu B. Washburn, Henry D. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, and Wright—63.

NOT VOTING—Messrs. Alley, Ames, Anderson, James M. Ashley, Banks, Baxter, Bergen, Blaine, Blow, Boyer, Buckland, Cobb, Cullom, Oliver, Darling, Dawes, Dawson, DeForest, Denison, Dodge, Dumont, Eliot, Grinnell, Griswold, Aaron Harding, Harris, Hart, Higby, Hill, Hogan, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbard, James Humphrey, Johnson, Jones, Kerr, Laffin, William Lawrence, Le Blond, McClurg, McIndoe, Nicholson, Noell, Patterson, Pike, Platts, Pomeroy, Radford, Rousseau, Sawyer, Sloan, Starr, John L. Thomas, Trimble, Warner, William B. Washburn, Windom, Winfield, and Woodbridge—62.

So the bill was rejected.

During the roll-call,

Mr. WASHBURN, of Illinois, stated that Mr. BLAINE was detained at his room by sickness.

Mr. ANCONA stated that if his vote would change the result he would vote in the affirmative; as it was he voted "no."

The result having been announced as above recorded.

Mr. WENTWORTH moved to reconsider the vote by which the bill was rejected; and also moved to lay that motion on the table.

Mr. ANCONA. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken on laying the motion to reconsider on the table, and it was decided

in the negative—yeas 55, nays 62, not voting 66; as follows:

YEAS—Messrs. Allison, Delos R. Ashley, Baker, Beaman, Boutwell, Brandegee, Bromwell, Broomall, Chanler, Sidney Clarke, Cook, Dodge, Eldridge, Farnsworth, Ferry, Finck, Goodyear, Abner C. Harding, Henderson, Edwin N. Hubbell, Julian, Kuykendall, Latham, Loan, McClurg, McCullough, McKee, Moulton, Niblack, Orth, Paine, Phelps, Price, John H. Rice, Ritter, Rogers, Ross, Scofield, Shanklin, Shellabarger, Sitgreaves, Spaulding, Strouse, Thayer, Thornton, Trowbridge, Upson, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, and Wright—55.

NAYS—Messrs. Ancona, Baldwin, Benjamin, Bidwell, Bingham, Boyer, Bundy, Reader W. Clarke, Coffroth, Conkling, Davis, Deming, Dixon, Donnelly, Driggs, Eckley, Eggleston, Farquhar, Garfield, Glossbrenner, Hale, Hayes, Holmes, Chester D. Hubbard, Hulburd, James M. Humphrey, Ingersoll, Jenckes, Kasson, Kelley, Kelso, George V. Lawrence, Longyear, Lynch, Marvin, McRuer, Mercur, Miller, Morris, Myers, Newell, Nicholson, O'Neill, William H. Randall, Raymond, Rollins, Rousseau, Schenck, Smith, Stevens, Stilwell, Taylor, John L. Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Welker, Whaley, Williams, Windom, and Woodbridge—62.

NOT VOTING—Messrs. Alley, Ames, Anderson, James M. Ashley, Banks, Barker, Baxter, Bergen, Blaine, Blow, Buckland, Cobb, Cullom, Culver, Darling, Dawes, Dawson, DeFrees, Delano, Denison, Dumont, Eliot, Grider, Grinnell, Griswold, Aaron Harding, Harris, Hart, Higby, Hill, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Johnson, Jones, Kerr, Ketcham, Laffin, William Lawrence, Le Blond, Marshall, Marston, McIndoe, Moorhead, Morrill, Noell, Patterson, Perham, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, Sawyer, Sloan, Starr, Taber, Francis Thomas, Trimble, and Winfield—66.

So the motion to reconsider was not laid on the table.

The question recurred on the motion to reconsider the vote by which the bill was rejected.

Mr. WASHBURN, of Illinois. On that I demand the yeas and nays.

Mr. PERHAM. Is a motion to recommit in order?

The SPEAKER. The rejection of the bill will have to be reconsidered first.

Mr. WASHBURN, of Illinois. Is it in order to withdraw the motion to reconsider?

The SPEAKER. It is not, after the House has refused to lay it on the table.

Mr. INGERSOLL. If the motion to reconsider prevails, will it then be in order to move to recommit?

The SPEAKER. It will.

The yeas and nays were ordered.

The question being taken on the motion to reconsider, it was decided in the affirmative—yeas 63, nays 55, not voting 65; as follows:

YEAS—Messrs. Ancona, Baldwin, Benjamin, Bidwell, Bingham, Boyer, Buckland, Bundy, Reader W. Clarke, Coffroth, Davis, Dawes, Delano, Dixon, Dodge, Donnelly, Driggs, Eckley, Eggleston, Farquhar, Glossbrenner, Hale, Hayes, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Ingersoll, Jenckes, Kasson, Kelley, Kelso, Ketcham, George V. Lawrence, Lynch, Marvin, McRuer, Mercur, Miller, Morris, Myers, Newell, Nicholson, O'Neill, Perham, William H. Randall, Raymond, Rollins, Schenck, Smith, Stevens, Stilwell, Strouse, Taylor, John L. Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, William B. Washburn, Welker, Whaley, Williams, and Windom—63.

NAYS—Messrs. Allison, Delos R. Ashley, Baker, Beaman, Brandegee, Bromwell, Broomall, Chanler, Sidney Clarke, Cook, Deming, Eldridge, Farnsworth, Ferry, Finck, Goodyear, Abner C. Harding, Henderson, Edwin N. Hubbell, Julian, Kuykendall, Latham, Loan, Longyear, Marston, McClurg, McCullough, McKee, Moulton, Niblack, Orth, Paine, Phelps, Price, Alexander H. Rice, John H. Rice, Ritter, Rogers, Ross, Scofield, Shanklin, Shellabarger, Sitgreaves, Spaulding, Taber, Thayer, Thornton, Trowbridge, Upson, Ward, Elihu B. Washburn, Henry D. Washburn, Wentworth, James F. Wilson, and Wright—55.

NOT VOTING—Messrs. Alley, Ames, Anderson, James M. Ashley, Banks, Barker, Baxter, Bergen, Blaine, Blow, Boutwell, Cobb, Conkling, Cullom, Culver, Darling, Dawson, DeFrees, Denison, Dumont, Eliot, Garfield, Grider, Grinnell, Griswold, Aaron Harding, Harris, Hart, Higby, Hill, Hogan, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kerr, Laffin, William Lawrence, Le Blond, Marshall, McIndoe, Moorhead, Morrill, Noell, Patterson, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Rousseau, Sawyer, Sloan, Starr, Francis Thomas, Trimble, Warner, Stephen F. Wilson, Winfield, and Woodbridge—65.

So the motion to reconsider was agreed to.

The SPEAKER. The morning hour has expired.

Mr. WASHBURN, of Illinois. I move

that the bill be referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The morning hour having expired, that motion is not in order.

EXECUTIVE COMMUNICATIONS.

The SPEAKER laid before the House a communication from the Secretary of the Interior, in compliance with a resolution of the House of March 23, 1866, transmitting a statement of disbursements under the fifth section of the act of Congress approved March 3, 1865; which was laid on the table, and ordered to be printed.

Also, a communication from the War Department in respect to the allowance of claims for the apprehension of Booth and others.

RESOLUTIONS OF TEXAS.

The SPEAKER also laid before the House resolutions of the convention of Texas in favor of a southern branch of the Pacific railroad.

Mr. ROLLINS. I move to refer it to the Committee on the Pacific Railroad.

Mr. WENTWORTH. I move that it be printed and referred to the committee on reconstruction.

The question being put, there were—ayes 30, noes 40; no quorum voting.

Mr. CONKLING. If it is in order to ask a question for information, I would inquire if this is to be referred to the committee on reconstruction with the view of having them reconstruct this railroad? Or what branch of the business of reconstruction does this proposition come under?

The SPEAKER. That is hardly a point for the Chair to decide.

Mr. ROSS. It is for the purpose of never getting a report, I suppose. [Laughter.]

Mr. ANCONA. Is not the question first upon the motion to refer to the Committee on the Pacific Railroad?

The SPEAKER. The Chair did not understand that motion to be made.

Mr. ROLLINS. I made that motion, as I supposed.

The SPEAKER. The Chair inquired what disposition should be made of the paper. The gentleman from New Hampshire [Mr. ROLLINS] suggested in his seat that it be referred to the Committee on the Pacific Railroad. The gentleman from Illinois [Mr. WENTWORTH] arose in his place and moved that it be referred to the joint committee on reconstruction. The House is now dividing upon that question, upon the last vote no quorum voting.

Mr. STEVENS. By whom is the paper signed?

The SPEAKER. By the president of the Texas convention.

Mr. STEVENS. I move to lay it on the table.

The SPEAKER. The House is now dividing upon the motion to refer. If that motion shall be voted down the motion to lay on the table will be in order.

Mr. WENTWORTH. I desire to ask for information if it has not been the uniform custom of this House, from the commencement of this session to this day, to refer all such matters to the joint committee on reconstruction?

The SPEAKER. The order of the House is that all subjects relating to the representation of the so-called confederate States shall be referred to that committee. In regard to all other subjects the reference is to be decided by a vote of the House.

Mr. RAYMOND. Has the division of the House upon the motion to refer reached such a point as to prevent debate?

The SPEAKER. This debate has been tolerated by unanimous consent.

Mr. RAYMOND. Is the question of reference still debatable?

The SPEAKER. It is not, except by unanimous consent, as the House is now dividing, no quorum having voted on the last vote.

Mr. DAVIS. I think the question has not been fully understood. I would merely suggest—

Mr. CHANLER. I rise to a point of order. Is debate or colloquy in order pending a division of the House upon a motion to refer?

The SPEAKER. The Chair sustains the point of order. Debate is not now in order. There was no quorum voting on the last vote, and the Chair will appoint tellers.

Messrs. WENTWORTH and BOYER were appointed tellers.

The House again divided; and the tellers reported—ayes five, noes not counted.

So the motion to refer to the joint committee on reconstruction was not agreed to.

Mr. ROLLINS. I move to refer this paper to the Committee on the Pacific Railroad.

The motion was agreed to.

EMANCIPATION CELEBRATION.

The SPEAKER. The Chair will lay before the House an invitation addressed to the members of the House of Representatives. It will be read for information.

The Clerk read, as follows:

WASHINGTON, April 12, 1866.

To the honorable members of the House of Representatives: We, the undersigned colored citizens of the District of Columbia, most respectfully invite the members of the House of Representatives to be present at the celebration of the anniversary of the emancipation of slavery in the District, to take place in Franklin square, Thursday, April 19, at twelve o'clock m.

ALFRED KIGER,
EDWARD L. SAYOY,
DANIEL G. MUSE,
W. H. SHORTER,
Committee.

Mr. ELDRIDGE. I think this should be referred to the joint committee on reconstruction, [laughter,] and I make that motion.

The motion was not agreed to.

Mr. ANCONA. Does the invitation include those members of the House who voted against the emancipation of slavery in the District of Columbia?

The SPEAKER. It includes all the members of the House of Representatives. It was read only for information, and not for any action of the House.

REORGANIZATION OF THE ARMY.

The House resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States."

The fifth section was under consideration, having been amended so as to read as follows:

SEC. 5. And be it further enacted, That the officers of the thirty-seven regiments of infantry, first provided for in the foregoing section, shall consist of those now commissioned and serving therewith, subject to such examination as the condition of their being retained in the service as is hereinafter provided for; and in making appointments to fill the original vacancies in the thirty-seven regiments thus provided for, and for a period of three years after the passage of this act, all first and second lieutenants and two thirds of the officers of each of the grades above that of first lieutenant shall be selected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, and who have been distinguished for capacity, good conduct, and efficient service; but graduates of the United States Military Academy and enlisted men shall be eligible to appointment as second lieutenants in those regiments, as in the new regiments of cavalry, under the provisions of the third section of this act, and not otherwise; the Veteran Reserve corps shall be officered by appointment from any officers or soldiers of volunteers or of the regular Army who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, to which that corps has heretofore been assigned.

The officers selected to fill original vacancies in the regiments of colored troops shall be taken from among those who have served as officers of colored troops in the Army of the United States in the late war. And all appointments of officers in the Veteran Reserve corps and in regiments of colored troops shall be made on examination, as hereinafter provided, having reference to capacity, good conduct, and efficient service in every case.

The pending question was upon the following amendment, moved by Mr. FARNSWORTH, to strike out the following:

The officers selected to fill original vacancies in the regiments of colored troops shall be taken from among those who have served as officers of colored troops in the Army of the United States in the late war.

And to insert in lieu thereof the following: The officers of colored troops herein provided for

shall be selected and appointed in the same manner provided herein for officering the six regiments of cavalry provided for in the third section of this act.

The question was taken; and Mr. FARNSWORTH's amendment was disagreed to.

The question recurred on the amendment offered by Mr. CONKLING as a proviso to the section, the vote on which had been reserved.

Mr. HALE. I desire to make a motion to perfect the section before the vote is taken on that amendment. I desire, with the leave of the House, to enter a motion on which I do not now desire a vote. It is an amendment, the fate of which will depend upon the disposition to be made of a subsequent section, and for that reason I ask that it shall be reserved until the House shall have considered the thirty-third section. My motion is to strike out in lines four, five, and six the words, "subject to such examination as the condition of their being retained in the service as is hereinafter provided for."

I propose hereafter to move to strike out a provision in the thirty-third section, and if that motion shall succeed then this clause will have to be stricken out.

No objection was made, and the amendment was reserved.

Mr. GARFIELD. I desire to move to amend the fourth section of the bill by striking out the words "of ten regiments to be raised and officered as hereinafter provided for, to be called the Veteran Reserve corps;" and to insert in lieu thereof the following:

And the Secretary of War is authorized and directed to enlist men for the service who have been wounded in the line of their duty while serving in the Army of the United States, or who have been disabled by disease contracted in such service, provided it shall be found, on medical inspection, that by such wounds or disability they are not unfitted for efficiency in garrison or other light duty; and such men, when enlisted, shall be assigned to such post, garrison, or other light duty, as the interests of the service may require: *Provided*, That there shall not be more than five thousand such enlisted men in the service at any one time.

The SPEAKER. That section is not now open to amendment. It has been passed under the operation of the previous question. The House is now engaged on the fifth section, and can only go back by unanimous consent.

Mr. GARFIELD. I wish the House would allow me to go back for the purpose of offering that amendment. I propose to offer another amendment to the fifth section, and if that be adopted, this one ought to be.

The SPEAKER. The gentleman from Ohio asks unanimous consent to go back to the fourth section.

Mr. SCHENCK. I must object to opening up that section again.

Mr. GARFIELD. I offer then the following amendment to the fifth section:

Strike out the following clause:

The Veteran Reserve corps shall be officered by appointment from any officers and soldiers of volunteers or of the regular Army who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, to which that corps has heretofore been assigned. The officers selected to fill original vacancies in the regiments of colored troops shall be taken from among those who have served as officers of colored troops in the Army of the United States in the late war. And all appointments of officers in the Veteran Reserve corps and in regiments of colored troops shall be made on examination, as hereinafter provided, having reference to capacity, good conduct, and efficient service in every case.

And insert in lieu thereof the following:

In making up the Army list, in pursuance of the provisions of this act, there shall be appointed, in accordance with the provisions of the third section of this act, from any officers and soldiers of volunteers or regulars who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, not less than ten colonels, ten lieutenant colonels, ten majors, ten adjutants, ten regimental quartermasters, [ten regimental commissaries,] one hundred captains, one hundred first lieutenants, and one hundred second lieutenants; and from any officers who have served as officers of colored troops in the Army of the United States in the late war, eight colonels, eight lieutenant colonels, eight majors, eight adjutants, eight regimental quartermasters, [eight regimental commissaries,] eighty captains, eighty first lieutenants, and eighty second lieutenants: *Provided*, That all officers appointed or retained in the Army, in pursuance of

the provisions of this act, shall be on the same footing in reference to pay, relative rank, and promotion within the staff, corps, or arm of the service in which they may be appointed or retained.

Mr. Speaker, I desire to explain, in a few words, what this amendment is designed to accomplish. During the discussion of this bill thus far there has been developed in the House a decided purpose to follow the lead of the Military Committee in this: that those who have been wounded in the service and also a certain portion of the colored soldiers shall constitute a part of the Army. Now, what we want is to realize the wish of the House in such a way as shall come as nearly as possible to making our Army a harmonious unit.

The objection which I have to the mode in which this bill proposes to effect its purpose is that it gives us three kinds of Army: first, the Army proper, that will be known as *par excellence* the regular Army; second, a portion of the Army known as the Veteran Reserve corps, made up in a special and peculiar way, officered in a special and peculiar way, and kept distinct from the other branches of the Army; and third, an Army known as the colored troops of the United States, officered in a peculiar way, and kept entirely distinct from the other two classes.

Now, Mr. Speaker, I believe that nothing can be worse for the efficiency and success of our Army than discordant elements in its organization—especially in its list of officers—walls of partition built up so that of one man it shall be said, "He is an officer in the regular Army;" of another, "He is an officer of the Veteran Reserve corps;" and of another, "He is an officer of the colored troops." I believe we can have all these elements, if the House so determines, and yet not have *eo nomine* these distinctions, which, I am very sure, will, if adopted, be a source of infinite difficulty, dissension, and heart-burnings in the practical workings of the Army. We have seen, during the late war, how that spirit has been manifested between the volunteers and regulars. We have seen how much difficulty these distinctions have caused in every department of our Army.

What I desire is that we shall have one harmonious Army, so that between officers of the same rank there shall be no distinction in consequence of their belonging to different branches of the Army to which they belong. I desire that all officers, whether assigned to the command of colored troops or to the command of regular forces or to the command of soldiers of the Veteran Reserve corps, shall be equally eligible to promotion in any of the different departments of the Army. This is the object of my amendment.

I believe we can carry out substantially all the ideas of the military committee, and still realize more effectually the unity of the Army, by not describing a Veteran Reserve corps, with its special class of officers; the colored troops, with their special class of officers; and the Regular Army, with its special classes of officers; but by simply declaring that there shall be so many colonels, so many lieutenant colonels, so many majors, so many officers of other grades, commissioned as a part of the official roster from among men who have been wounded or otherwise partially disabled, and that they may be assigned wherever the General-in-Chief pleases to assign them.

Mr. STEVENS. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. STEVENS. Was there any difficulty or discord in the French Army when it consisted of Old Guards, Young Guards, and the army proper?

Mr. GARFIELD. Well, Mr. Speaker, what was consistent and harmonious in the French army fifty years ago, under their peculiar situation of affairs, cannot justify us in making up our Army of such discordant materials as these. I am thoroughly and from principle opposed to establishing this sort of divisions by name in the Army of the United States.

Mr. WILSON, of Iowa. Will the gentleman allow me to ask him a question?

Mr. GARFIELD. Certainly.

Mr. WILSON, of Iowa. I desire to ask the gentleman whether, under the bill as proposed by the committee, a major in a colored regiment, for instance, could not be promoted to a lieutenant colonelcy in one of the white regiments.

Mr. GARFIELD. I have no doubt it is the intention of the committee that that may be done. But I desire an affirmative statement in the law to that effect, so that there can be no doubt of it.

Mr. WILSON, of Iowa. I entirely sympathize with the gentleman in that desire, and I wish to have the bill so amended (if it is not now in that shape) as to permit the promotion of officers of colored troops to higher positions in the white regiments, and the promotion of officers of white troops to higher positions in the colored regiments; so that officers in one branch of the Army shall not be excluded from promotion in another branch.

Mr. GARFIELD. I have no doubt the Committee on Military Affairs will adopt any proposition that affirmatively embodies that principle.

Mr. CONKLING. I ask the gentleman from Ohio [Mr. GARFIELD]—and I am glad to see his attention has been called to the subject, for we recognize the weight of his authority—to state for the benefit of the House what will be the number of officers.

Mr. GARFIELD. It will be large enough to officer ten regiments of the class of men now designated in the bill as the Veteran Reserve corps and eight regiments designated as colored troops.

Under this bill the military authorities, in making up the Army, are required to take in as many disabled officers as are needed to officer ten regiments of disabled soldiers, and the whole is to be a separate organization, known by a separate name, the Veteran Reserve corps. My amendment adopts the spirit and policy of the bill so far as to allow these disabled men to enter the Army, but it proposes to do away with these separate and special organizations with distinctive names. When the President, under the committee's bill, appoints men for the colored regiments, he must appoint men who have served as officers of colored troops. Instead of saying just such men and none other shall be appointed to command these troops, my amendment throws open the door to all officers of the Army, whether they have served in colored troops or not, and any officer appointed will be liable to be put in command of colored troops. As the bill stands, we establish a colored department, and provide a special mode for the appointment of officers for that class of troops. We also establish a Veteran Reserve corps or invalid department, and provide a special mode for the appointment of a class of officers for it. By this separate origin and appointment of officers, to be known by special names, to be ordered to special duty, it seems to me we have built up separate and dissimilar organizations, which will produce endless confusion, and make a weak and disjointed army.

The Army of the United States, Mr. Speaker, should not be an open hand with outspread fingers, but rather a doubled fist, a unit, consolidated as nearly as possible into one homogeneous organization, so that a colonel of infantry shall be a colonel for all infantry purposes, and a colonel of cavalry a colonel for all cavalry purposes, without regard to color or sanitary condition of the soldiers he commands.

I believe the amendment I have suggested, while it will require a slight modification of a few sections of the committee's bill, will work harmoniously and remove the most serious objections to what is known as the Veteran Reserve corps.

Mr. WRIGHT. The honorable gentleman from Ohio intimated that he was willing to

accept any suggestion which would carry out his idea. I have prepared a proviso which will, I think, answer the objection he contemplates removing, and with his permission I would like to have it reported as an amendment to the amendment.

Mr. GARFIELD. I will hear the gentleman's amendment read.

The Clerk read, as follows:

Provided, That graduates of the Military Academy at West Point and all officers of volunteers, including Veteran volunteers and the Veteran Reserve corps, shall be eligible to all offices necessary to fill vacancies under this bill: *Provided*, Such officer or officers can pass a satisfactory examination before a competent board of officers.

Mr. GARFIELD. I cannot accept that. It is not germane to the subject now under discussion.

The amendment which I sent up to the Clerk's desk, and which the chairman was not willing I should go back to offer as a modification of the fourth section, was to the effect that the Secretary of War shall be authorized and directed to accept persons partially disabled as enlisted men in the Army to the number of not more than five thousand; and that when they were accepted he might put them into separate companies, if he chose, or even separate regiments. I designed in that amendment to strike out that clause of the fourth section which organized these troops as a Veteran Reserve corps, and compelled the President to aggregate all of that kind of troops and officers as a distinct organization for special service. That was my purpose in introducing it. If the amendment which is now before the House shall prevail, I hope the chairman of the committee will allow me to go back and make the necessary modification.

Mr. SCHENCK. Mr. Speaker, every gentleman in this House accustomed to legislation, including my colleague, [Mr. GARFIELD,] must know how much easier it is to attempt to put here and there a patch upon a bill, which after all will render it incongruous in its parts, than it is to deal with that bill as an entirety with all its parts coherent. I think if the gentleman should succeed in making some or any of the amendments he proposes, it would result in marring the harmony of the bill as it now stands, and would only render necessary its recommitment in order to "lick it into shape," to use a vulgar expression.

So far as the amendment which I objected to going back to insert in the preceding section is concerned, it is borrowing language from the tenth section of the bill, which contains a provision in reference to enlisting men who could not otherwise pass medical inspection, unless there was a statutory provision that they might be received as enlisted men in the Army. And the only object of inserting the amendment in the fourth section instead of confining it in that connection to matters to which it properly belongs, must be to get rid of the words "Veteran corps." It seems to me it would be much better in connection with the matter of enlistments, which is provided for in the tenth section.

Then comes the amendment which the gentleman now proposes to the section under consideration, that you shall not have a Veteran corps, known as such, but shall authorize the Secretary of War to receive as many into the service, of all grades, as would, if put together, make up a sufficient number of officers for ten regiments.

Now, what is to be done with these wounded officers? You are either to take them as wounded officers and mix them up with the whole of the rest of the Army, so that you shall have light duty and hard duty, garrison duty and frontier duty, to be performed by a class of men not quite well suited for hard duty, because of their suffering arising from wounds received in former service, instead of assigning to that duty the able-bodied men who are peculiarly fitted for it. You make your Army incongruous in its character as regards its efficiency and capability and the physical characteristics of its various officers. You mix them all up together.

And then does the gentleman intend to separate them, and assign them to duty in ten particular regiments? If so, that constitutes a Veteran corps, and legislate as we please on the subject it will always be called such. One of these two things he must do, either mix up improperly and inappropriately, and to the detriment of the service, officers of different physical characteristics throughout the whole Army, or else separate them. If you do the former, you encounter a difficulty in that direction. If you do the latter, you have a Veteran corps whether you choose to call it so or not. If not known by law as such, it will receive some *soubriquet* or nickname from those who speak of it as a part of the Army.

Then in regard to the provision as to those who have been officers of colored troops, why make a special provision that you shall select enough officers who have heretofore commanded those troops to command the eight regiments, unless you mean to have eight regiments commanded by them? Why select that particular number of men who have had experience in command of colored troops, unless you mean something by it? Why pick out enough of those officers to replete them if you are only intending to scatter them throughout the Army?

It seems to me, therefore, that the only effect of all this is simply to mix up the whole matter, and to fail either on the one hand to accomplish the object intended or else to accomplish it without giving the appropriate name, and leave it to be nicknamed in such a way as those who shall turn their attention to giving names to these particular arms of the service may choose when they shall once have been ordered.

Now, as to the latter part of the amendment, I have no objection to it. It was the intention of the Committee on Military Affairs of the House to provide that without reference to whether they belonged to one corps or the other, in promotions hereafter to be made, there might be promotions in any one arm of the service without reference to these distinctions or divisions, and that is all that is necessary, it seems to me, to accomplish the object the gentleman has in view.

In the Senate bill, as originally printed and laid upon our tables, there was a provision that promotions in the colored troops, in the Veteran Reserve corps, or in any branch of the service should be confined to that particular division of infantry. Afterward, when the Veteran Reserve corps was dropped in the Senate, the colored troops remaining, this section was stricken out, and the bill of the Senate and the bill of the House both agree now on the subject of promotions in the divisions created between different portions of the infantry force; and therefore, the gentleman's amendment will only carry out what, it seems to me, is a fair construction of the bill, either the Senate bill or the House bill. But, in order to render it perfectly clear, as suggested by the gentleman from Iowa, [Mr. WILSON,] I have no objection that it shall be made, by specific terms, to be understood that promotions in that way shall be competent hereafter. But as to the original organization of these corps, I think that while nothing is accomplished, except perhaps confusion, by that which is proposed by my colleague, he will not escape from that difficulty which he thinks, as I believe improperly, will occur from having these different branches of the infantry of the Army.

Mr. FARNSWORTH. I wish to offer an amendment which would more properly, I think, precede the amendment of the gentleman from Ohio, [Mr. GARFIELD,] for it is an amendment to the text for which the gentleman from Ohio offers a substitute.

I move to insert after the word "was" in the twenty-seventh line, the words:

Or from those who have served in other volunteer troops either as officers, non-commissioned officers, or privates.

That will provide that the officers selected to fill the original vacancies in the regiments

of colored troops shall be taken from among those who have served. &c.

Now, as this bill stands, there are four regiments of white cavalry and fifty-four companies of white infantry, making five and two fifths regiments; ten regiments of colored troops, being two regiments of cavalry and two of infantry; and ten regiments of the Veteran Reserve corps; and as the bill now stands, you can only appoint in all the forces provided for in this bill, from among all the troops that have served in the last war, except the invalids and those who have served with the colored troops, nine colonels, nine lieutenant colonels, nine majors, and line officers in proportion, while the bill will require you to appoint ten invalid colonels, ten invalid lieutenant colonels, ten invalid majors, and so on, and also ten colonels that have served with colored troops, ten lieutenant colonels, ten majors, and a like proportion of line officers.

The bill provides that the officers of the colored troops shall be selected exclusively from among those who have served with colored troops, while it also provides that officers who have served with the colored troops may be appointed to the command of white troops. The door is open for the captain of a colored company to compete for an appointment as captain of any one of the white regiments.

Mr. PAINE. I want to inquire of the gentleman whether this is or is not the identical amendment upon which the House voted when it resumed the consideration of this bill this morning.

Mr. FARNSWORTH. No, sir; it brings up the same question, but it is not the same amendment. I desire to bring the question up again, because I do not think the House understood it when they voted upon it this morning.

I do not think this House intended to confine the selection of the officers of these ten colored regiments exclusively to those who have served with colored troops, while those officers at the same time may be appointed in any of the regiments of white troops provided for by this bill. In the reorganization of the Army why should we, among all the troops that have served in this war, select ten colonels from among those officers who served with colored troops, when you select from the great mass of the other soldiers only nine colonels for the other regiments?

And it is proposed by this bill that ten colonels, ten lieutenant colonels, and ten majors shall be selected for the Veteran Reserve corps from among the invalids of our soldiers, while only nine colonels are to be appointed from sound and able-bodied men.

Now, I think the bill ought to be amended in these respects. I think that the door should be opened more widely, and that we should not make a privileged class, but allow the Government, in the selection of these officers, to select from among any who have served in the late war.

Mr. PAINE. I voted this morning for the amendment of the gentleman from Illinois, [Mr. FARNSWORTH,] and I believe I was the only member of the House besides himself who did vote in favor of it. And I am still in favor of it as an independent proposition.

But I feel it my duty to call attention to some statements made by the gentleman from Illinois which seem to me to be incorrect. I think he has not correctly stated the number of colonelcies which shall be open to volunteers outside of the Veteran Reserve corps and the colored troops. In the first place there are the six new cavalry regiments, for which colonels are to be provided.

Mr. FARNSWORTH. Two of those regiments are to be colored regiments.

Mr. PAINE. Then there are four new cavalry regiments, at any rate. Then there are eighteen new infantry regiments for which colonels are to be appointed.

Mr. FARNSWORTH. How does the gentleman make out the eighteen new infantry regiments?

Mr. PAINE. There are now nine regiments

consisting of three battalions each, which are to be converted into twenty-seven regiments, thus providing for eighteen new colonels.

Mr. FARNSWORTH. These twenty-seven battalions are to be increased by adding two companies to each battalion, and there are to be appointed, therefore, only the two captains and the two lieutenants for these two new companies of each battalion.

Mr. PAINE. The gentleman from Illinois seems to suppose that these three-battalion regiments already have a colonel for each battalion. Now, in these nine three-battalion regiments there are only nine colonels, and this bill, by providing for changing each battalion into a regiment by the addition of two companies, making a regiment of ten companies of each battalion, will provide eighteen new colonelcies to be filled by appointment. Those eighteen, with four for the new regiments of cavalry that are to be composed of white troops, will make at least twenty-two colonelcies to be filled by appointment from among persons other than those persons in the Veteran Reserve corps, or the colored regiments.

But they are not all. There may be other vacancies in the artillery regiments, in the old regiments of cavalry, or in the colonelcies of the nine three-battalion regiments; and if there should be such vacancies, then any volunteer officer will be eligible to appointment to fill any such vacancy. There is no clause in this bill, from beginning to end, which renders a volunteer officer ineligible to any such position in our artillery, cavalry or infantry regiments.

Now, I was inclined, as the gentleman from Illinois is inclined, to throw open these commissions in the colored regiments to wounded officers and soldiers of volunteers and the regular Army, and to graduates of West Point. And I voted for his proposition to that effect. But this proposition seems to me to be the same which he presented before and which the House has already decided in the negative. And I think it is hardly proper to call upon the House again to pass upon the same proposition.

But there is one consideration which ought not to be overlooked in this case; that is, that the officers of the colored regiments are included among the volunteers in the general distribution of offices in the Army. That consideration would be a reason in favor of the proposition of the gentleman from Illinois, and it was the main reason which influenced my vote in favor of the proposition he submitted on yesterday. I admit its weight; and if the proposition should come up anew I should vote for it, as I did this morning. But at the same time, I cannot agree with the gentleman in supposing that without his amendment these volunteers would be cut off to the extent he imagines. On the contrary, I think the provisions of the bill are broader than he supposes. I shall therefore vote against his amendment now pending.

Mr. SCHENCK. I demand the previous question upon the pending amendment.

Mr. GARFIELD. I trust my colleague will ask the previous question only on the amendment to the amendment; I would like to say a word on the amendment.

Mr. VAN AERNAM. Before the previous question is called, I would like to offer an amendment.

Mr. SCHENCK. I withdraw the call for the previous question.

Mr. VAN AERNAM. I desire to move to amend the amendment of the gentleman from Ohio [Mr. GARFIELD] by striking out the words "regimental commissary" wherever they occur. I believe that that office is unnecessary.

Mr. SCHENCK. It is the seventh section which provides for this office; and we have not yet reached that section.

Mr. VAN AERNAM. I desire to strike out these words in this amendment; and when we come to the seventh section I shall move to amend that also.

Mr. GARFIELD. The gentleman will allow me to suggest that when we come to the

section referred to by the chairman of the committee, if the House should then decide to dispense with this office altogether that will apply to the whole bill, while if we adopt the gentleman's amendment now it will still not effect the general purpose. The gentleman had better wait till we reach the seventh section rather than involve us now in a general discussion whether we shall dispense with the office of regimental commissary in the whole organization of the Army.

Mr. VAN AERNAM. Well, then, I give notice that when we reach the seventh section I shall move to strike out the words "regimental commissary" wherever they occur.

Mr. GARFIELD. I hope that the amendment of the gentleman from New York [Mr. VAN AERNAM] will not prevail, because in the first place I do not see the reasons why we should dispense with the office of regimental commissary. But still it may be that when the general discussion on that subject shall come up, I may be led to take a different view from that which I now hold. Hence, without pronouncing either for or against the proposition, I hope the gentleman will not press the amendment until we come to the section which treats of the organization of a regiment.

While on the floor, I wish, if the gentleman will allow me, to say a word with reference to my amendment, in response to the remarks of my colleague, [Mr. SCHENCK.] I do not believe that the amendment which I offer as a substitute for the latter portion of this section will embarrass at all the general provisions of the bill. The whole manner of selecting these officers, so far as it is set forth in my amendment, was borrowed bodily from one of the subsequent sections of the bill as it lies before me; and therefore it will not, if adopted, be a patch or a blotch upon the bill.

As it is now proposed to have ten regiments consolidated and known as the Veteran Reserve corps, it seems to me that we shall have trouble in the future in continuing the organization of that corps. Is this corps to be kept up perpetually? Manifestly not; for the day will come, we trust, when we shall not have, among the population of this country, a sufficient number of men wounded in military service to supply the ranks of this Veteran Reserve corps. The time will therefore come when young blood will be infused into the Army, and when this Veteran Reserve corps will cease by the very inability to enlist men of the class described. Now, why not let those of this class come in and be put in separate companies if the Secretary of War so chooses, and when they fail to come forward in sufficient numbers to keep filled up the ten regiments their places can be supplied without the necessity for any new legislation? You will not then have to tear down the structure of your Army. It can move on under its present organization, and without a jar.

But if you put into the Army this Veteran Reserve corps by name—if you have a specific, definite, well-defined body of men known as the Veteran Reserve corps—you will be obliged some day to reform your legislation, and remodel your Army, simply because of this provision for the Veteran Reserve corps as a permanent branch of the Army. I desire that we shall organize our Army in such a way that it can be maintained permanently without the necessity hereafter of new legislation, when it shall be no longer practicable to preserve a Veteran Reserve corps.

Besides, sir, who knows that we want just ten regiments of this sort consolidated in one body? A company of these disabled soldiers may be required, for instance, at Milwaukee or at Sault Ste. Marie. A company, or two companies, may be required here or there along the northern border, along the Atlantic sea-board, on the Gulf, or on the Mexican frontier; and sometimes a regiment or half a regiment of able-bodied troops may be required in conjunction with one or two companies that may not be classed as able-bodied. Therefore, let the Secretary of War have discretion, if

you please, for one regiment of disabled heroes, for one company of these disabled men in a regiment, and nine companies of able sound men. Let us not compel him to have a whole regiment made up entirely of only that class of persons. Let him distribute them through the Army as the best interests of the service may demand.

Now, it is proposed by this bill he shall have these ten regiments known by a special name and collected in a special body. I think it will work evil to the Army, and it will certainly be inharmonious. I am thoroughly persuaded if the amendment I have offered be adopted, with a few amendments, not in the spirit, not in the structure, but only in the incidental form, we will make it a more acceptable and desirable bill.

Mr. SCHENCK. I did not think when I yielded that it was for the purpose of again going over the whole discussion of the amendment. I will say now to my colleague, that in reference to his own amendment, he himself admits these troops are to be kept separate. There is to be one company of them in each regiment. Those companies will be mixed up with companies of men of another class, and the officers commanding the companies with officers of another class of troops.

His objection is to their being called the Veteran Reserve corps. If they are not called the Veteran Reserve corps, separated as he proposes, perhaps they will get a name which may be worse. I think the name of Veteran Reserve corps is a good one. It is significant and honorable and descriptive of that which they have done, and indicating what they have earned. I suppose by wiping out the idea of a Veteran Reserve corps, and having one of these companies to a regiment, the gentleman thinks he has accomplished everything. It may be we will then hear of the cripple companies or the regiment of cripples or of "condemned Yankees," as the rebels speak of them, or some other nickname. I protest against that. If we are going to have a Veteran Reserve corps, and it seems to me the House so moved on this question yesterday by a vote of 80 to 30, let us meet the question. If we are not going to have it, let us not take it in fact and yet shrink from giving it its name, but have it nicknamed in some other way.

Mr. VAN AERNAM. I move to strike out the words "regimental commissary" wherever they occur in the amendment or in the bill.

I do this because I believe neither economy nor justice demand the creation of this office. By reference to the Army Register, I see only six regimental commissaries in the old organization. They are attached to cavalry regiments, and to cavalry regiments alone. If the amendment of the gentleman from Ohio should prevail, or the bill should pass, it would create seventy-one officers whose pay would not be less than \$200 per month. During the rebellion the same duties were discharged by commissary sergeants at twenty-one dollars per month, and I do not see why they should not continue to be so discharged.

Mr. SCHENCK. All I have to say is, that while I have doubted the necessity of having these two offices, concurrent military authority, and especially of the heads of the commissary and the quartermaster's departments, induced the committee to adopt the separation. It was so provided in the Senate bill as recommended by the military commission. As it is, one officer combines in his own person the qualities of two distinct offices, having to account to two distinct departments. I hope the amendment will not prevail. I demand the previous question on all the amendments.

The previous question was seconded and the main question ordered.

The amendments of Mr. FARNSWORTH and Mr. VAN AERNAM were both rejected.

The question recurred on Mr. GARFIELD's amendment.

Mr. GARFIELD demanded tellers. Tellers were ordered; and Messrs. GARFIELD and SCHENCK were appointed.

The House divided; and the tellers reported—ayes 37, noes 54; no quorum voting.

Mr. GARFIELD demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 58, not voting 74; as follows:

YEAS—Messrs. Ames, Baker, Baldwin, Bidwell, Boutwell, Brandegee, Broomall, Buckland, Chanler, Conkling, Davis, Dawes, Dodge, Donnelly, Eggleston, Eldridge, Farquhar, Garfield, Glossbrenner, Good-year, Aaron Harding, Hayes, Hogan, Hooper, Edwin N. Hubbell, Kelley, Kelso, Loan, McClurg, McRuer, Miller, Moorhead, Morris, Myers, Newell, Niblack, Nicholson, O'Neill, Samuel J. Randall, Ritter, Rogers, Spalding, Taber, Francis Thomas, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Wentworth, Williams, and Wright—51.

NAYS—Messrs. Ancona, Barker, Baxter, Benjamin, Bingham, Boyer, Bundy, Deming, Dixon, Driggs, Farnsworth, Ferry, Finck, Hale, Abner C. Harding, Henderson, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Hulburd, Jenckes, Julian, Kasson, Ketcham, Kuykendall, George V. Lawrence, Longyear, Lynch, Marshall, Marston, Marvin, McKee, Mercur, Paine, Patterson, Perham, Price, William H. Randall, Raymond, John H. Rice, Rollins, Ross, Schenck, Shellabarger, Sitgreaves, Smith, Stevens, Stilwell, Taylor, Thayer, Trowbridge, Upson, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whaley, and Woodbridge—58.

NOT VOTING—Messrs. Alley, Allison, Anderson, Delos R. Ashley, James M. Ashley, Banks, Beaman, Bergen, Blaine, Blow, Bromwell, Reader W. Clarke, Sidney Clarke, Cobb, Coffroth, Cook, Cullom, Culver, Darling, Dawson, Deftrees, Delano, Denison, Dumont, Eckley, Eliot, Grider, Grinnell, Griswold, Harris, Hart, Higby, Hill, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kerr, Lathin, Latham, William Lawrence, Le Blond, McCullough, McIndoe, Morrill, Moulton, Noel, Ord, Phelps, Pike, Plants, Pomeroy, Radford, Alexander H. Rice, Rousseau, Sawyer, Scofield, Shanklin, Sloan, Starr, Strouse, John L. Thomas, Thornton, Trimble, Warner, James F. Wilson, Stephen F. Wilson, Windom, and Winfield—74.

So the amendment was disagreed to.

During the roll-call,

Mr. INGERSOLL stated that he was paired with Mr. J. L. THOMAS.

Mr. SCHENCK moved to reconsider the vote by which the amendment was rejected; and also moved to lay that motion on the table.

The latter motion was agreed to.

The question recurred on the amendment proposed by Mr. CONKLING to add to the section the following proviso:

Provided, That all officers of the existing Veteran Reserve corps, except those now actually detailed for duty in the Freedmen's Bureau or otherwise actually and necessarily employed, shall, upon the passage of this act, be mustered out of service and put upon the same footing with other disabled officers not now in service.

The SPEAKER *pro tempore*, (Mr. BOUTWELL in the chair.) On this amendment the main question is ordered.

Mr. CONKLING. I demand the yeas and nays on the amendment. And I call attention to the fact that the previous question exhausted itself on the amendment preceding this.

The SPEAKER *pro tempore*. The Chair, upon reflection, thinks that the previous question has exhausted itself and does not cover this amendment. The Clerk is of a different opinion, and the Chair followed that.

Mr. SCHENCK. It was not understood that the previous question covered this amendment.

The SPEAKER *pro tempore*. The Chair rules that the amendment is open to debate.

Mr. SCHENCK. Would it be in order to stop discussion on this section? I have no objection to amendments being offered and voted upon.

The SPEAKER, (resuming the chair.) The House is not in Committee of the Whole, and debate is limited to fifteen minutes. The previous question being applied to any section cuts off any member from amending it. You pass by the section by the operation of the previous question and go on to the next.

Mr. SCHENCK. My object is to stop the interminable discussion.

The SPEAKER. The gentlemen may arrive at that object if the House will consent that debate shall be considered as in Committee of the Whole, and allow fifteen minutes for and against each amendment. Then, when debate

is closed on a section, amendments can be offered and voted on, but not debated. Now, the previous question cuts off both debate and further amendment. Shall the rule be adopted as in Committee of the Whole?

Several MEMBERS. Oh, no.

The SPEAKER. The Chair sustains the ruling of the Speaker *pro tempore*, [Mr. BOUTWELL,] that debate was not cut off upon the motion of the gentleman from New York, [Mr. CONKLING.] This proviso was reserved when the previous question was demanded by the gentleman from Ohio, [Mr. SCHENCK.]

Mr. STEVENS. Mr. Speaker, I do not see the necessity of this amendment. The Department can muster out at any time. And if after you pass this bill you muster them out they will all be entitled to three months' pay, according to the law.

Mr. CONKLING. I would like to ask the gentleman whether he has taken the pains to ascertain how many officers of the present corps would be retained in the corps to be established if an impartial distribution of commissions takes place among all the wounded officers and soldiers.

Mr. STEVENS. I have not taken any such pains, because I do not see what it has to do with the selection of officers impartially. That is drawing lots, I suppose. Those who have the appointment of them will select just whom they choose, twenty, thirty, or forty, by name. And as I said before, so much will be saved by allowing them to stay in. If they are not wanted they will be mustered out. I cannot see any need of mustering all of them out and letting them go home and draw three months' pay, and then bringing in the same men again.

Mr. SCHENCK. It is merely singling out these wounded officers of the Veteran corps, and giving direction to the War Department to do what they can do in other cases. Congress has never done any such thing before. They are all left under the operation of law to be dealt with by the military authorities in the same way. I do not understand why any such discrimination should be made. Or if made in this case, I would suggest whether we might not as well extend it to other officers and give instructions as to the mustering out of other arms of the service.

I demand the previous question on the amendment.

Mr. CONKLING. I hope not without giving me an opportunity to state why I offered it.

Mr. SCHENCK. I supposed the gentleman was through. I have made no special argument against it and I really wish to get through this bill.

Mr. CONKLING. I would like to explain in one word why I offered this amendment.

Mr. SCHENCK. No, sir; I move the previous question on the pending amendment.

Mr. CONKLING. The gentleman, then, refuses to allow an explanation to be made. We will see whether we can carry out the understanding of the House or not.

The question was taken on the demand for the previous question; and there were—ayes 31, noes 61.

So the previous question was not seconded.

Mr. CONKLING. I wish to detain the House but for a moment. And I wish first to repel entirely the insinuation made again by the chairman of the Committee on Military Affairs that any assault is intended upon these wounded officers. It must have been repeated, I think, for the benefit of the galleries here and the galleries elsewhere; because I hope no gentleman upon this floor is to be frightened from his propriety or sense by the repetition of a statement which has no foundation whatever in fact. An assault upon whom? The House has consented to retain this provision upon the guarantee—for it comes to that—of the chairman of the Committee on Military Affairs that impartiality, in theory and in substance, is to be preserved in the dispensation of these commissions. How? By putting upon a par the wounded officers and soldiers of the country; by not making a distinction in favor

of those who for the past three years have been enjoying what, in the parlance of the day, are called "the soft places" in the Army. I say that the House has consented to retain this provision in the bill upon the assurance and declaration that the bill is to be so modified as to secure that impartiality.

This provision is offered merely to carry out that understanding; merely to say that these officers, except so far as they are now in some way employed, shall be put simply upon a par, fairly, with other officers disabled by disease or wounds.

We are met by the chairman of the Committee on Military Affairs with the objection that such a provision is unnecessary. I will admit it for the sake of the argument. If it be unnecessary certainly it will do no harm. Let us put it in out of abundant caution, so that wounded officers throughout the country, even though they are not here in Washington, or belonging to any organization keeping special guard and watch over our legislation, may know that they have the same opportunities as anybody else. If this amendment is mere surplusage it is harmless, and let it be adopted for the sake of fair dealing, and to carry out the understanding of the House.

The able gentleman from Pennsylvania [Mr. STEVENS] makes a practical suggestion; he says that this amendment would involve some expense. I beg to ask the gentleman from Wisconsin, [Mr. PAINE,] whose fairness and good judgment as exhibited on this floor I respect as a military man, whether it be true that the mustering out of the service of ten, twenty, or thirty of these men, assuming that they would be reappointed, would involve any expense whatever that would be appreciable or to be talked about? I will thank him to state to the House whether it would or would not.

Mr. PAINE. In answer to an inquiry made by the gentleman some little time ago I replied that the expense of mustering out these officers would not be appreciable. But it did not occur to me then that there would be the three months' pay due. I do not know now how that matter would stand. If that extra pay were involved of course it would be an additional expense; but I do not know how that matter stands.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate had passed, without amendment, joint resolutions of the House No. 88, expressive of the thanks of Congress to General Winfield S. Hancock, and No. 108, appointing managers for the National Asylum for Disabled Volunteer Soldiers.

The message further informed the House that the Senate had passed a resolution (S. R. No. 69) making an appropriation to enable the President to negotiate treaties with certain Indian tribes, in which he was directed to ask the concurrence of the House.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. CONKLING. Everybody will see, assuming that the three months' pay would be due, that the expense would not be so great as if we continued the regular pay of all these men pending the selection. Again, I am informed that a muster-out and a muster-in, as a simultaneous act, would not involve this three months' pay.

Now, if I can get the attention of the members of this House, I ask them to consider for a moment the utter insignificance of the expense of which we are speaking. I have had a computation made, approximating certainly as nearly as I can arrive at it by consulting gentlemen who know, which shows that there cannot be fewer than two hundred thousand men and officers in the country who have served in the armies of the Republic, and who have become disabled by wounds or disease. Now, in these ten regiments there are three hundred and sixty commissions, or in the proportion of about one commission to each forty disabled officers and soldiers in the country. So that if the distribution of these offices

should be made according to an impartial rule of selection, there would be about nine commissions to be given to the three hundred and fifty or four hundred officers of the Veteran Reserve corps not now provided for. Therefore, the point made by the gentleman from Pennsylvania, [Mr. STEVENS,] results in just this, that there may be incurred the expense of mustering out nine men who will be mustered in again. And that can be provided for by the insertion of a word or two in some subsequent section of the bill.

Now, I hope that, as a large majority of this House voted to retain this provision concerning the Veteran Reserve corps, upon the express understanding that all wounded officers and wounded men are to be allowed barely to compete upon an equal footing for these commissions, that understanding will be carried out, and carried out certainly, even if we put in a provision for abundant caution, which we might do without. That will do no harm, and this amendment is intended only for that purpose. It is intended to prevent any advantage being gained by those who happen to be in Washington, who may happen to have such facility of access to the Department as will give them an advantage when the bill comes to be administered.

It is suggested to me to call the previous question, which I will not do, however, if it will cut off any other gentleman who desires to be heard upon this subject.

Mr. SCHENCK. I do not intend to pursue the course of argument which the gentleman from New York [Mr. CONKLING] seems to invite upon this subject. His elegant self-complacency at times in his treatment of the chairman of the Committee on Military Affairs is only surpassed by the severe irony I always receive from the gentleman from New York, [Mr. CHANLER,] on the other side of the House.

Mr. CHANLER. Mr. Speaker—[Great laughter.]

The SPEAKER. Does the gentleman from Ohio [Mr. SCHENCK] yield to the gentleman from New York, [Mr. CHANLER?]

Mr. SCHENCK. The gentleman can speak some other time. I have always received severe irony from that quarter, for proof of which I refer to the files of the Globe, and the reports of the debates therein contained. It is my misfortune to be so situated on both sides.

I indicated my opinion that the course of this debate had developed hostility to this Veteran Reserve corps upon the part of the gentleman from New York on my right, [Mr. CONKLING.] I do not think I am mistaken in that assertion; I do not think anybody in this House will differ with me. Nor do I think there is any question about the fact that when defeated in one mode of assault he resorts to another.

But I do not put my reply to his proposition upon any ground of that kind, or upon any such ground merely. I said before, as I say again, that to introduce a provision of this kind into a law, calling upon the executive authority, upon the War Department, to exercise this power of mustering out in reference to one particular class of officers or of men, is an unusual course, is an unprecedented course of proceeding. In this as in all other cases, where men or officers are to be mustered out of or retained in service, whatever requests might be attempted to be made by resolution or otherwise, it is hardly necessary to put in a solemn legislative enactment any instruction to the Executive upon that subject.

Now, this House is not bound, any more than is the Executive, by any resolution that may have been passed upon this subject. In fact, no resolution of the kind has ever been passed. Gentlemen are mistaken upon that point, and I will correct them, so far as that is concerned.

The history of that resolution, offered at a very early day in the present session of Congress, is simply this: there had been a proposition made and urged by some persons not particularly friendly to this Veteran Reserve

corps, or its continuance or connection with the Army in any capacity whatever, to submit to the men of that corps the question whether or not they would vote to be mustered out and go home. The result was precisely what would follow if you were to submit such a question to the vote of any regiment, brigade, or division of the Army, or the crew of sailors on board any vessel in our Navy. There is not a body of soldiers or sailors in our service who would not vote themselves out for a holiday if they had the opportunity, although they might be looking for a chance to reenlist three days afterward. Hence they all scattered; they went to their homes. Then the Secretary of War, always friendly to this Veteran Reserve corps, himself the originator, or at least the executor of the idea which called that corps into existence, was puzzled to know what it was his duty to do in regard to the matter. A number of gentlemen, members of this House, accompanied by one or more Senators, believing that it would be an act of great harshness if these wounded or disabled officers who had been selected and placed in this corps should be turned out at once, with the question still unsettled whether any of them were to be retained in the service or not, and with no provision in reference to the subsistence of themselves or their families, called upon the Secretary of War, who, after a full conversation, manifested his willingness to retain those officers until it should be settled whether we were to have a Veteran Reserve corps, for whose officers some of these men might perhaps be selected, provided there could be some sort of official indication of the wish of Congress that these officers should be thus retained.

In consequence of this, the Committee on Military Affairs of this House, after considering the whole matter, directed me to report a resolution, a copy of which I hold in my hand; and this is the resolution about which so much has been said. It was drawn up as a joint resolution, and is in these terms:

"Be it resolved by the Senate and House of Representatives, &c., That the President of the United States be requested to suspend any order mustering out the officers of the Veteran Reserve corps, until Congress shall have time to consider the subject, and take some legislative action as to the future disposition to be made of that corps."

That resolution being sent to the Senate, was referred to the Committee on Military Affairs of that body, and it has there slept ever since. There is no resolution on that subject now on the statute-book. Hence the Military Department is left at liberty to take such action as in the exercise of its discretion and military authority may be thought necessary or proper with regard to the mustering out of the officers and men of this corps.

But, sir, what I object to—and this is the whole of my objection—is the impropriety of inserting in a grave legislative act an instruction to the executive department to deal in a particular way with a particular branch of the public service, when nothing of that kind has ever heretofore been done, or has been thought proper to be done, in reference to any other class of men or officers employed in the military service.

Now, sir, there are in the military service men who might, perhaps, be mustered out. There are officers whom we once sought to have mustered out, when it was admitted that some of them had been for a year or more entirely unemployed, and were likely to remain so. But even in that action of ours, the Senate of the United States refused its concurrence. There has never been any action upon the part of the legislative power instructing, informing, or directing the Military Department upon such a subject as this. That, at least, is my present recollection, and I think no one is able to contradict it.

I object, therefore, to any such invidious distinction, any such odious discrimination, being made against any class of officers or men, whether wounded or not wounded, whether belonging to the regular Army or to one of the volunteer branches of the Army,

as to embody in a legislative act our instructions that there must be some haste in clearing them out of the way before it shall be considered whether any of them are to be retained in the service, or clearing out of the way as many of them as do not happen at this moment to be employed.

Then, again, the language of the amendment is "who were not necessarily employed." Now, who, after all, is to determine the meaning of that word "necessarily?" So long as we have a Military Department, the discretion with reference to this matter must, after all, rest with that Department; and I am willing it shall rest there.

Now, sir, as the gentleman from New York has advocated his amendment, and as I have replied to him, I do not know that I will be considered illiberal if I ask the previous question.

Mr. CHANLER. I hope the gentleman will not call the previous question.

Mr. SCHENCK. If I call the previous question on the whole section will that cut off amendments?

The SPEAKER. It will cut off amendments.

Mr. SCHENCK. There are gentlemen who want to offer amendments in good faith, and I therefore only call the previous question on the pending amendment.

The previous question was seconded and the main question ordered.

Mr. CONKLING demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 59, nays 43, not voting 81; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Baker, Baldwin, Bidwell, Boutwell, Boyer, Brandegee, Chandler, Sidney Clarke, Conkling, Davis, Dodge, Eldridge, Farnsworth, Farquhar, Ferry, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Abner C. Harding, Hooper, Asahel W. Hubbard, Edwin N. Hubbell, Hulburd, Julian, Kelso, Loan, Marvin, McRuer, Mereur, Moorhead, Morris, Myers, Nicholson, O'Neill, Orth, Paine, Ritter, Rogers, Shanklin, Shellabarger, Sitgreaves, Spalding, Strouse, Taber, Upson, Van Arman, Burt Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, and Wright—59.

NAYS—Messrs. Baxter, Beaman, Benjamin, Bingham, Broomall, Buckland, Bundy, Deming, Driggs, Eckley, Eggleston, Garfield, Hale, Hayes, Hogan, Holmes, Chester D. Hubbard, Ingersoll, Jencks, Kelley, Ketcham, Kuykendall, George V. Lawrence, Longyear, Lynch, McClurg, Miller, Price, William H. Randall, Raymond, John H. Rice, Rollins, Rousseau, Schenck, Stevens, Taylor, Thayer, Trowbridge, Robert T. Van Horn, Welker, Whaley, Windom, and Woodbridge—43.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, James M. Ashley, Banks, Barker, Bergen, Blaine, Blow, Bromwell, Reader W. Clarke, Cobb, Coffroth, Cook, Cullom, Culver, Darling, Dawes, Dawson, Deftrees, Delano, Denison, Dixon, Donnelly, Dumont, Eliot, Grinnell, Griswold, Harris, Hart, Henderson, Higby, Hill, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Kerr, Laffin, Latham, William Lawrence, Le Bond, Marshall, Marston, McCullough, McIndoe, McKee, Morrill, Moulton, Newell, Niblack, Noell, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Alexander H. Rice, Ross, Sawyer, Scofield, Sloan, Smith, Starr, Stilwell, Francis Thomas, John L. Thomas, Thornton, Trimble, Williams, James F. Wilson, Stephen F. Wilson, and Winfield—81.

So the amendment was agreed to.

During the vote,

Mr. VAN HORN, of New York, stated that his colleague, Mr. LAFLIN, was absent on account of sickness.

The vote was then announced as above recorded.

Mr. CONKLING moved to reconsider the vote by which the amendment was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. DAVIS. I move to add the following:

And it shall be lawful to appoint and commission as officers in any of the organizations authorized by this act any persons who have been distinguished for gallant and meritorious service in the Army of the United States during the late rebellion, and have been wounded or partially disabled therein while in the line of their duty: *Provided*, The disability arising therefrom shall be such only, as if incurred in the regular service under officers' commissions would not incapacitate them from duty therein.

Mr. Speaker, I offer that amendment because I believe it to be entirely just; and in submitting it, I wish to repel the insinuation made against me upon this floor yesterday that I was willing to do injustice to any branch of our Army or to any soldiers who have been in the field. I believe the provisions of this bill do injustice to thousands and tens of thousands who exposed themselves gallantly in defense of the flag of the country. They are restrictive. My desire is to open the way to all of the soldiers who have been disabled, provided they are fit for this duty.

It was charged yesterday by the honorable gentleman from Illinois that I had slandered the Veteran Reserve corps. I deny it. I said they were disabled; does he deny it? Is it a slander upon a soldier of the Army who bore the flag of his country over a defying fortress to say that he was wounded in the body or lost a limb or an eye in the service? I honor the gallantry and service of that soldier, but I do not slander him when I say that he has been disabled.

By this amendment I do not wish to give to the officers of the Veteran Reserve corps alone the benefit of these provisions, but I wish to give it to all who have been in the service, whether officers or privates.

The loss of a finger or of an eye disables a man under the present law so that he cannot be retained in the Army service unless he happens to be in the regular Army. In the regular Army a man thus wounded is not disqualified to serve, but still retains his rank. I ask, in God's name, why should not a man who suffers only equal disability in the volunteer service be entitled to the same benefits and advantage.

I offer this amendment, and I deny that any word that I have uttered on this floor can be tortured into anything like discourtesy to the disabled soldiers.

Mr. SCHENCK. I now demand the previous question on the section and amendment.

The previous question was seconded and the main question ordered.

Mr. CHANLER. I demand the yeas and nays on the amendment.

Mr. WASHBURN, of Illinois. I move that the House do now adjourn.

The SPEAKER. Will the gentleman withdraw that motion for a moment?

Mr. WASHBURN, of Illinois. I will.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill and joint resolution of the following titles; when the Speaker signed the same:

An act (S. No. 248) for the relief of James G. Clarke; and

A joint resolution (H. R. No. 102) for the relief of Alexander Thompson, late United States consul at Maranhão.

PERSONAL EXPLANATION.

Mr. INGERSOLL. I desire to make a personal explanation in regard to the action of the House upon the passage of the joint resolution appropriating \$25,000 for the benefit of the poor of the District of Columbia. I apprehend that the House did injustice to my colleague upon the Committee for the District of Columbia, [Mr. SHANKLIN.] It was the understanding between himself and myself that when that resolution came up for action in the House he should be heard in opposition to its passage. It is but justice to him to state that he was opposed to it, and desired to make some remarks in opposition to its passage, and as a member of the committee, and its chairman, I had given my assent, and supposed that the House would extend to him that courtesy.

When I called the resolution up the gentleman rose and asked to be heard. I stated to the House that I hoped he might be heard, and I desired to yield to him before the previous question should be ordered so that he might express his views in opposition to the resolution. There were several voices heard all

around me on this side of the House in opposition to my yielding to him, and I acceded reluctantly to that expressed opposition, believing that the House would, after the adoption of the previous question, allow him to be heard. I regret that the courtesy due to him as my colleague on the committee was not then extended to him. I did at the time what I thought was just, and if I did him any injustice I regret it. It was not intentional on my part. I beg to assure the House that my relations with that gentleman have been of the most cordial character, and that I esteem him very highly, and should regret to be a party to any act of injustice or want of courtesy toward him.

I hope this explanation will be satisfactory to him, and that he will give assent, or at least make no objection, to his reappointment by the Speaker upon that committee.

Mr. SHANKLIN. The explanation of the gentleman covers, I suppose, the whole ground in relation to myself, and is entirely satisfactory. I accept the explanation and apology.

The SPEAKER. The Chair reappoints the gentleman from Kentucky [Mr. SHANKLIN] on the Committee for the District of Columbia.

And then, on motion of Mr. WASHBURN, of Illinois, (at four o'clock and five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By the SPEAKER: The petition of Thomas J. Powell, praying for relief.

By Mr. AMES: The petition of South Scituate Savings Bank, for repeal of the internal revenue tax on savings institutions.

By Mr. DAVIS: The memorial of B. F. Rexford, James S. Leach, and others, attorneys of the Federal courts in the State of New York, remonstrating against the passage of the bill now pending in the Senate for the reorganization of the Federal courts.

By Mr. DELANO: The petition of George W. Penny, and 1,200 others, citizens and wool-growers of Licking county, Ohio, praying an increased duty on foreign wool, and the protection of wool-growers equal to that of manufacturers of this country.

By Mr. DODGE: The memorial of Richardson, Boynton & Co., and J. L. Mott & Co., and others, relative to the manufacture of stoves.

Also, the memorial of George W. Blunt, Moses H. Grinnell, and others, urging that an appropriation be made for the payment of the officers and crew of the Kearsarge for the destruction of the Alabama.

Also, the memorial of manufacturers of flax and hemp, praying an increased duty on imported articles made from hemp.

By Mr. FARNSWORTH: The petition of J. W. Shaunan, M. M. B. Boyce, and others, citizens of Illinois, for uniform insurance laws.

Also, the petition of citizens of Kane county, Illinois, in favor of increasing tariff upon wool.

By Mr. HARDING, of Illinois: The petition of citizens of Coatesburg, Illinois, to exempt from taxation alcohol used in medical preparations.

By Mr. HOLMES: The remonstrance of D. M. K. Johnson, and others, citizens of Oneida county, New York, against the passage of the bill reorganizing the Federal judiciary.

By Mr. LAWRENCE, of Pennsylvania: Two petitions from citizens of Beaver county, Pennsylvania, for an increase of duty on foreign wools.

By Mr. LONGYEAR: The petition of Henry C. Andrus, and 75 others, citizens of Battle Creek, Michigan, asking for an increased duty on wool.

By Mr. MYERS: The petition of Campbell & Thayer, Grove & Brother, Judd Linseed and Sperm Oil Company, John E. Lewis & Brothers, and others, manufacturers of linseed oil in the cities of New York and Philadelphia, for increase of the tariff on foreign linseed oil to thirty cents per gallon, and for the removal of the discrimination of ten per cent. on linseed imported direct.

Also, the petition of citizens of the State of Delaware, asking that the salary of Ephraim L. Lockerman, keeper of the light house at Reedy Island, in Delaware bay, now but \$400, may be increased.

By Mr. MILLER: A petition from citizens of Pennsylvania, praying that the Constitution of the United States be amended so that the President and Vice President may be chosen by the qualified voters directly without the intervention of Electoral Colleges, and that the voting for these offices be confined to citizens who can read.

Also, a petition from citizens of the counties of Union and Northumberland, in the State of Pennsylvania, praying Congress to impose such conditions upon rebel States as shall punish treason and reward loyalty with confidence and honor.

By Mr. MORRILL: The petition of W. H. Walker, and 24 others, citizens of Ludlow, Vermont, praying for the establishment of a national Bureau of Insurance.

Also, the petition of H. A. White, and others, citizens of Washington, Orange county, Vermont, praying for an increased tariff on wool.

Also, the petition of S. M. Dikeman, and others, citizens of Rutland county, Vermont, praying for an increased duty on wool.

Also, the petition of Elliot E. Kellogg, and 43 others, citizens of Windham county, Vermont, praying for an increased tariff on wool.

By Mr. SCHENCK: The petition of John Hatfield for relief.

By Mr. UPSON: The petition of J. B. Tompkins, and 49 others, citizens of Girard, Branch county, Michigan, praying Congress to increase the duties on foreign wool.

By Mr. WILLIAMS: The petition of wool-growers of Butler county, Pennsylvania, asking for an increase of duty on foreign wools.

By Mr. WILSON, of Pennsylvania: The petition of Joseph B. Roper, for compensation for damages done him and his property by Indians.

Also, the petition of Edmund Blanchard, executor of the last will and testament of Captain Evan M. Buchanan, deceased, for the passage of a law releasing the estate of said Buchanan from the payment of the sum of \$436 89, due the United States from him as commissary of subsistence, third division, sixth Army corps, United States Army.

By Mr. WOODBRIDGE: The petition of Prosper Elithorp, and 55 others, citizens of Bridgeport, Vermont; and also the petition of George Hammond, and 36 others, citizens of Addison county, Vermont, praying for an increased duty on foreign wool.

IN SENATE.

THURSDAY, April 19, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. McDUGALL. A few days since I presented some remarks to the Senate of a personal character. It was and is the opinion of my most trusted and nearest friends that the remarks of which I speak were not justified by the then present occasion, were in violation of the true rule of decorum, and were also offensive to this body. Under the influence of such counsels and with careful thought it has become my conviction that the judgment of those to whom I have referred was and is correct. I have always thought that it was nobler to confess an unpremeditated wrong than even to maintain the right. With this conviction I have risen to acknowledge the wrong, to express my profound regret, and to ask the pardon of this body. I do this with more than mere satisfaction.

It is further due to myself, as also to the Senator, my colleague, that I should request his pardon; this I now do. I had at the moment forgotten the old rule, a conclusion stated in a supposed Socratic discussion, *Ad Tusculum*, "Avoid the perturbations." I violated the injunction, "Let not the sun go down upon your wrath." With the morning, when the morn stood "tiptoe on the misty mountain-tops," there came penitence.

These short remarks are designed to be penitential.

PETITIONS AND MEMORIALS.

Mr. LANE, of Indiana, presented the memorial of Mary K. Smith, praying for an increase of pension; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a petition of citizens of Ohio, praying for such an increase of the duties on imports as will afford ample protection to American labor; which was referred to the Committee on Finance.

Mr. MORGAN presented the petition of Catharine F. Winslow, mother of Cleveland Winslow, deceased, late lieutenant colonel fifth New York Veteran volunteers, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. RAMSEY presented a petition of citizens of Minnesota, representing that the tax of six per cent. *ad valorem* which is imposed upon the gross amount of sales arising from the class of stoves composed of cast and sheet iron respectively, in addition to the tax and duty previously paid on the component parts of the same, amounting to ten and three fourths per cent. on the gross amount of sales, is a rate which far exceeds that laid upon any other article of iron manufacture, and praying that this special tax upon the class of stoves composed of cast and sheet iron, shall be imposed upon the increased value only; which was referred to the Committee on Finance.

He also presented the petition of D. A. Dan-

iels, praying for pay as second lieutenant of the third Minnesota battery from the 3d of February to the 28th of May, 1863, inclusive; which was referred to the Committee on Military Affairs and the Militia.

Mr. POLAND. I present the petition of George W. Tarleton, setting forth that he was at the commencement of the rebellion a resident of Mobile, Alabama, and a loyal citizen. He was the owner of property to the amount of some five or six thousand dollars in the State of New York, bonds, mortgage, and other property; and proceedings were instituted against the property on the ground that he was a rebel in arms against the Government, and this without any notice to him or any opportunity to have notice; and the property was confiscated and taken by the Government. He prays that it may be restored to him. I move the reference of the petition to the Committee on Claims.

The motion was agreed to.

POST OFFICE APPROPRIATIONS.

Mr. RAMSEY. The Committee on Post Offices and Post Roads, to whom was referred the amendment of the House of Representatives to the joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department, have directed me to report it back with the recommendation that the amendment be concurred in. It is a very simple matter, and I trust the Senate will at once consider the amendment.

By unanimous consent the Senate proceeded to consider the amendment of the House of Representatives, which was to add to the joint resolution the following proviso:

Provided, That this joint resolution shall not be construed to increase the appropriations already made for the service of the Post Office Department.

The amendment was concurred in.

REGISTERS TO VESSELS.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the amendment of the House of Representatives to the bill (S. No. 89) to issue American registers to the steam vessels Michigan, Despatch, and William K. Muir, have directed me to report it back with the recommendation that the Senate concur in the amendment of the House of Representatives, with an amendment. As this is an important measure, and it is important that it should be immediately acted upon, I ask the Senate to consider it now.

There being no objection, the Senate proceeded to consider the amendment of the House of Representatives to the bill, which was to add to it the following words:

And American registers, or enrollment and license, to the following-named vessels, that is to say, to the sloop Jenny Lind of Wolf Island, of Oswego, New York; the schooner Coquette, of Oakville; Trenton, of Trenton; Forest Queen; Two Brothers, of Wallaceburg; Minetta, of Gananoque; and Elizabeth, of Oswego, New York; the bark St. Elizabeth, of Provincetown, Massachusetts; the barks Advance and Acorn, and schooner Asia, of Chicago, Illinois; the steamer Prince Albert, of Georgetown, District of Columbia; the brig Maitland, propeller Niagara, and steamboat Canadian, of Buffalo, New York; the schooner E. P. Ryerse, of Cleveland, Ohio; the schooner Eureka, of Marzaretta, Ohio; the brigantine City of Toronto, of Erie, Pennsylvania; and the schooner Wavertree, of Cleveland, Ohio.

The Committee on Commerce reported in favor of concurring in the amendment of the House of Representatives, with an amendment, as follows:

And American registers, or enrollment and license, to the following-named vessels, that is to say, the ship Screamer, now called the Roamer, of Brunswick, Maine; the barge Mary, of Detroit; the steam-tug Sampson, of Detroit; and the schooners Caldonia and Enterprise, of Detroit; and the Anglo-Saxon, a Canadian-built vessel.

The amendment to the amendment was agreed to.

The amendment of the House, as amended, was concurred in.

The title of the bill was amended by adding the words, "and for other purposes."

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Post

Offices and Post Roads, to whom was referred a bill (S. No. 236) to authorize and establish certain post roads, reported it with an amendment.

Mr. ANTHONY, from the Committee on Naval Affairs, to whom was referred the memorial of John Ericsson, praying for compensation for his services in planning the United States war steamer Princeton and planning and superintending the construction of the machinery therefor, together with an opinion of the Court of Claims in his favor, submitted a report accompanied by a bill (S. No. 274) for the relief of John Ericsson. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. STEWART. The Committee on Public Lands, to whom was referred a bill (S. No. 215) concerning certain land granted to the State of Nevada, have instructed me to report it with amendments, for the purpose of having the amendments printed and the bill recommended to the committee.

The amendments were ordered to be printed, and the bill was recommended to the Committee on Public Lands.

Mr. VAN WINKLE, from the Committee on Post Offices and Post Roads, to whom was referred a communication from the Postmaster General on the subject of a patent canceling and marking stamp used by that Department, reported a joint resolution (S. R. No. 70) making compensation to Shaver & Corse, assignees, for the use of a combined post-marking and canceling stamp by the Post Office Department; which was read, and passed to a second reading.

Mr. EDMUNDS, from the Committee on Pensions, to whom was referred a bill (H. R. No. 459) granting a pension to Anna E. Ward, reported it with an amendment.

He also, from the same committee, to whom was referred the petition of Cornelius Crowley, praying for an increase of pension, submitted a report, accompanied by a bill (S. No. 275) for the relief of Cornelius Crowley. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. KIRKWOOD, from the Committee on Pensions, to whom was referred a petition of citizens of Linn county, Iowa, praying that a pension may be granted to Mrs. Jerusha Witter, widow of Dr. Amos Witter, late surgeon of the seventh regiment Iowa infantry, submitted a report, accompanied by a bill (S. No. 276) for the relief of Mrs. Jerusha Witter. The bill was read, and passed to a second reading, and the report was ordered to be printed.

CONDITION OF SOUTHERN STATES.

Mr. SHERMAN submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to furnish the Senate of the United States with any additional official reports or information he may have received relative to the condition of the southern people and the States lately in rebellion.

INDIAN AFFAIRS.

Mr. STEWART submitted the following resolution:

Resolved, That the Committee on Indian Affairs be instructed to inquire into the expediency of transferring the Bureau of Indian Affairs from the Department of the Interior to the Department of War, and to report by bill or otherwise.

Mr. WILSON. I will simply say that I think there is now a resolution of that character before one of the committees. I have no objection, however, to the adoption of this.

The resolution was considered by unanimous consent, and agreed to.

OBITUARY ADDRESSES ON SENATOR FOOT.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution for printing the addresses delivered on the announcement of the death of Hon. Solomon Foot, with the funeral sermon of Rev. Dr. Sunderland, to report it back without amendment, and recommend its passage; and I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That there be published in pamphlet form, for the use of the Senate, six thousand copies of the addresses made by the members of the Senate and members of the House of Representatives upon the occasion of the announcement of the death of Hon. Solomon Foot; and that Rev. Dr. Sunderland be requested to furnish a copy of the sermon delivered by him at the funeral of Senator Foot, to be published with said addresses.

The resolution was adopted.

ADMISSION OF COLORADO.

Mr. WILSON. I move to take up the motion to reconsider the vote by which the bill for the admission of Colorado was rejected.

Mr. SUMNER. The question is whether the Senate will take up the motion to reconsider.

The PRESIDENT *pro tempore*. That is the question. The question is, Will the Senate now proceed to the consideration of that subject?

Mr. SUMNER. Mr. President, I hope the Senate will not proceed with the consideration of that question to-day, and I assign two reasons why they should not proceed with it to-day. The first is that on looking about the Senate I see many Senators absent who ought to be here at the consideration of so important a question. That is my first reason. The second reason is that this day in this city is dedicated to the cause of human freedom and human rights—of emancipation. The streets to-day are filled with a happy people, emancipated by act of Congress, who are celebrating the anniversary of their rights. It is, sir, no proper day in which to proceed to recognize human inequality and in which to receive into this Union a community which chooses to insult the age by appearing here with a constitution setting at defiance the fundamental principles of the Declaration of Independence. Sir, this is no day in which to proceed with the consideration of that question. I insist that this day shall be kept consecrated to human rights, that it shall not be given up to an attempt to recognize the overthrow of human rights.

I may be told, sir, that there are but ninety colored persons in this distant Territory who are to be sacrificed. If there were but one, that would be enough to justify my opposition. Out of those ninety, more than seventy-five I am told have borne arms for you in the late war; and yet these people are now positively disfranchised in the constitution which it is proposed to recognize. Sir, if you choose to do it, if you choose to insult the public sentiment of this age by such an act, do not do it to-day.

Mr. WILSON. Mr. President, I have made this motion this morning in pursuance of a notice which I gave yesterday. My colleague opposes it, as he has a right to do, although he was one of the most prompt men in the Senate to take up the proposition to authorize Colorado to do precisely what she has done. He voted not only to take up that proposition in preference to other business, but he voted for the bill to allow Colorado to make a constitution and come here, and that bill authorized her to make this distinction or not to make it, just as she pleased. That bill did not even make a suggestion that she should secure equality before the law to all her citizens. On the 8d day of March, 1863, my colleague voted that the people of the Territory of Colorado should be authorized to frame a constitution, and that the President should admit her into the Union, when she framed it, on his proclamation. He did not then propose to provide that she should not make this distinction. He never suggested it; he did not dream of it. All of us on this side of the Chamber, I think, voted for that bill; and had Colorado framed her constitution immediately, she would be in the Union to-day just as Nevada is, for which he also voted. Although I voted against taking up the proposition when my colleague voted to do so, yet when it was up, and we came to a vote on the passage of the bill, I voted for it; and the vote was 18 to 17; but it was not passed until March 1864.

Now, sir, the people of Colorado have availed

themselves of the liberty which I gave them and which my colleague gave them, by our votes, and they have framed a constitution which they have presented here. I voted the other day against that admission, but I must confess that in doing so I did not feel satisfied that I was dealing fairly with the people of Colorado. I do not think it is fair play, after we passed the bill, which we did pass in 1864, and after the most enterprising and vigorous men in that Territory, who agree with a majority of us in this Chamber, have framed a constitution, and came here for admission, for us to refuse their application on the ground of a distinction which they have made in their constitution, when we did not ask them to refrain from making such a distinction; when we imposed no conditions on them; when we did not suggest any. After this course of legislation it seems to me too late now to raise a question upon that point.

That, sir, is my position. I have moved this reconsideration, and shall sustain it for the reasons I have stated. I am free to say, however, that I will vote for no more enabling acts to allow the people of any Territory to frame a constitution that shall make any such distinction. Under no circumstances whatever will I ever authorize any of the other Territories which have not yet had enabling acts, to frame a constitution which shall make such a distinction. We have advanced in the career of our progress to that position, and I think it will be dishonorable in us to allow anything of that kind. We, however, gave this people an enabling act, in which we did not tell them that they should not make this discrimination, and did not even suggest it; and that enabling act came, too, from the men of this body who profess to be the strongest in their devotion to the equal rights of man.

Therefore, sir, I have made this motion, and I hope that this vote will be reconsidered. I do not wish to press a vote upon the bill if Senators desire it to go over until we can have a full Senate next week; and after the vote is reconsidered I shall not object to the postponement. I do not wish to crowd it down on anybody. But I have entered this motion. My only objection before to the bill for the admission of Colorado was in regard to this very matter of which I have been speaking. As to the alleged irregularity in their proceedings, that is nothing to me. Many of the States have been irregular, and the United States were irregular in the formation of their constitutions, but in the words of Mr. Madison, the vote of the people settled all those irregularities.

As regards the population and condition of this Territory, I have received a letter from Professor Whitney. Few men of the country possess the knowledge that he possesses in regard to California and all the Territories in the Rocky mountain region. He is thoroughly acquainted with this Territory of Colorado, and in his letter to me he says:

"I have witnessed the result of the late vote upon the admission of Colorado as a State with much regret, believing that her merits have not been fully known, and believing that reports respecting her population, &c., have been made which have been erroneous.

"The population of Colorado to-day is a more abiding one than ever before, and this summer will witness an emigration there greater, probably, than that of any other previous year. Our own State, Massachusetts, has probably more capital invested in Colorado to-day than any other State, and although you would hardly imagine it, there is scarcely a man of wealth and position in this city who has not some funds invested in Colorado. You may believe me personally interested when I assure you of my belief that Colorado is vastly richer in mineral deposits than any other section of our country, but such conviction in my mind is the result of personal acquaintance with the different mining sections of the country for which preëminent richness has been claimed."

He sends me also a work of his, in which he says of Colorado:

"She presents a region unequaled in its extent and of incalculable value; one that has all the resources and supporting auxiliaries of an empire, with water in abundance, and vast fields of coal and wood, and inexhaustible veins of gold, silver, copper, antimony, tin, nickel, lead, and iron; all of the essentials where-with to erect and build and pay for. Her agricultural resources alone are sufficient to attract immense immigration."

I find in a work by Mr. Bowles, entitled "Across the Continent," these words in regard to this Territory and what he witnessed there:

"Never was progress in wealth, in social and political organization, in the refinements of American home life, more rapid and more marked than in the brief history thus far of Colorado. Soon she will enter the Union as a State, holding not only the elements, but the acquired realities, of a noble and proud one, and contributing largely, as she has steadily done, even as a Territory, to the common profit of the nation. From the beginning Colorado has always sent more gold to the East than she has brought back in goods; and she is destined to be permanently a profitable partner in the household."

Toward the close of his book, on page 353, Mr. Bowles says:

"Looking back over our mining experience, and taking the average testimony of each district as equally reliable, I find myself impressed with the superior richness of the Colorado gold mines. Their ore averaged as uniformly \$100 a ton, as that of Nevada, either Austin or Virginia, or of California does fifty dollars. The extraction is not as complete, because of the more intricate nature of the precious deposits; but means to overcome this, though perhaps at enlarged cost, seemed successfully initiated while we were there."

In view of the fact that we passed an enabling act for Colorado, and that we imposed no restrictions upon them in regard to their action; in view of the condition of that Territory, of its vast mineral wealth, and of the character of its population, I believe that its condition would be improved by admitting it into the Union as a State. As to this inequality of suffrage, we all know that it is wrong; we feel it now; and had we felt three years ago as we feel and see now, we should probably have inserted a provision in the enabling act of the Territory which would secure equality in this respect. I trust that such a provision will be inserted in all future enabling acts. I do not think that the admission of Colorado will commit us or embarrass us in any action that we may take in regard to other Territories or in regard to any of the States of this Union. I shall, therefore, give my vote for this reconsideration, and shall then be willing to postpone the further consideration of the bill.

Mr. GRIMES. There are other Territories which have enabling acts just like it.

Mr. LANE, of Indiana. This, as I understand it, is a motion to proceed to the consideration of this subject for the purpose of reconsidering the vote by which the bill for the admission of Colorado was rejected. I hope that we shall proceed to consider the subject now. Gentlemen have been here claiming to represent a sovereign State as Senators for the last two or three months. The subject has been referred to a committee; a report has been made, and full debate had on the subject in the Senate, and I see no necessity for any further delay.

The reason assigned by the honorable Senator from Massachusetts [Mr. SUMNER] is that this is the anniversary of emancipation in this District, and of course we should not take up any subject of this kind upon this day. I certainly sympathize with the colored people of this District in celebrating their emancipation as much as the Senator from Massachusetts or any other Senator. I voted for that emancipation, and am proud of it. But I do not suppose that simply because this happens to be the day of that celebration, all public business should be delayed on that account. I do not know how many Senators desire to participate in that celebration. If those opposing the admission of Colorado desire to participate in that celebration, they will have, I trust, no difficulty in procuring a leave of absence for the day until this vote can be taken.

I am for the admission of Colorado. I voted for it before. Colorado comes in with the word "white" as a prefix to the qualifications for holding office and voting. I should prefer that that word had been left out, but it has not been left out in any single State organization of any Territory that we have ever admitted. I believe that there is no instance in the whole history of the admission of new States where that word "white" has not been the prefix to the qualifications for holding office and voting.

Mr. SUMNER. Is it not time to begin?

Mr. LANE, of Indiana. It is perhaps time to begin, but we should have begun when we passed the enabling act; and the vigilance of the Senator from Massachusetts should not have slumbered on that occasion.

Mr. SUMNER. It did not, as I shall show you presently.

Mr. LANE, of Indiana. If he desired such a restriction it should have been proposed then. I ask the Senator from Massachusetts, if it may not be considered irrelevant, whether he did not vote for the enabling act for Colorado; whether he did not vote for the enabling act for Nevada; whether he did not vote for the admission of Nevada; and whether precisely the same provision does not exist in the constitution of Nevada, which we admitted less than two years ago by a deliberate vote?

I think Colorado should be admitted for many reasons. They are a peculiar people, isolated some six or eight hundred miles from the waters of the Mississippi, and some eight or nine hundred miles, perhaps, from the Pacific coast. They have a peculiar mining interest, not common to the whole people of the United States. They think they require peculiar legislation, and that their legislation at home will be more adapted to develop their interests than legislation here at Washington. They think they have peculiar interests which should be represented here in the person of a member in the other House and Senators in this branch of Congress, and I can see no possible objection to it. I feel that we are committed. We authorized the organization of a State government, we imposed certain conditions, and we said if they would comply with these conditions they should be admitted as a State. They have substantially complied with every single condition, not exactly in the time specified in the act, but time is not of the essence of this contract. It is a continuing contract. We expressed our willingness to admit them upon certain conditions. They made one effort and failed. Upon the second effort they complied with all our conditions, and I see no possible reason why they should not be admitted, no reason resulting from the time at which the question is to be taken in the Senate, no reason resulting from the nature of the case. I think we should hail these new States, we should build them up as soon as possible; and there is another reason: the moment a State government is organized the Government of the United States is relieved from the burden of the territorial organization, and that whole burden is thrown upon the people of Colorado.

I understand, also, that there has been a great misapprehension existing in the minds of many Senators in reference to the number of people now in that Territory. A memorial has passed their Legislature memorializing Congress for the admission of their members, and stating positively that they have a population of fifty thousand. I doubt not a great mistake has pervaded the minds of Senators in reference to the number of the population.

But it is said they are not able to bear the burdens of a State government, and the taxation necessary to support the machinery of a State organization. They perhaps are as competent to judge upon that question as we are, and they think they are able to bear all those burdens. Another thing is true: ten thousand or twenty thousand or fifty thousand persons in a mining district are better able to support the burdens of a State government than a quarter of a million of people in an agricultural country. They are wealthy; they are continually developing the capital of the country; and they feel that their interests would be subserved by this organization.

Another reason, important and controlling with me, is that the people there have a loyal and sound State organization. They have come in here under our invitation, and I do not now propose to slam the door in their faces.

Mr. GRIMES. How far the opinions of Professor Whitney, of Mr. Bowles, ought to

influence the judgment of the Senator from Massachusetts upon a question of this kind is for him to determine. I think Professor Whitney, in his letter, if I did not misunderstand its scope, admits that he is interested in this subject, and seems to doubt whether or not the Senator himself would not think that his interest might preclude his giving a proper consideration to his statement. But I have always understood that we decided these questions, not upon the fact as to whether there was a certain amount of mineral resources in the mountains of a Territory, but upon the ground that there was human population enough in the Territory to support a State organization; and whatever may be the opinions of either of those distinguished citizens from Massachusetts on a subject of this kind, they would have very little influence with me.

The Senator says that he thinks he is bound by the action of the Senate, inasmuch as we have passed an enabling act authorizing these people to form a State constitution. We did. They made an effort to form a State constitution, but did not succeed. There was the end of that transaction; our enabling act was *functus officio*; it died the moment the other party refused to recognize the proposition that we laid down; and now we stand entirely uncommitted upon this subject. I understand that the Senator himself, in the latter part of his remarks, admitted as much as this when he spoke of the irregularities in their attempt to be admitted into the Union.

But the Senator says that his colleague did not object, or did not put any limitations upon the people of Colorado so as to compel them to send here a constitution that would not preclude colored men from voting. Why, sir, does not the Senator know that we have all made vast progress since 1863? Has not the Senator himself made vast progress since then? Have we not declared emancipation throughout the whole land? Are we to be governed by the same principles that we acted upon at that time? Now, what attitude are we placed in here? I think the Senator from Massachusetts will vote with me, whenever we shall get an opportunity, to allow colored people to vote under certain circumstances; and yet here he commits himself to the theory, in the face of the Senate and of the country, and he indorses it by his vote, that it is proper for a State to be admitted into the Union with a perpetual exclusion of all the colored people within the jurisdiction of that State from voting. Does it not strike the Senator as being somewhat inconsistent? With what sort of a face can he get up here to-morrow and insist that the people of the State of Virginia or the people of the State of Tennessee shall allow certain classes of the population in those States to vote when he says that it is competent and proper for the people of the Territory of Colorado to forever exclude the colored population of that State from voting? Mr. President, I do not consider myself bound by any past action of Congress to give so inconsistent a vote as that; and never, so long as I occupy a seat on this floor, will I consent to do it.

Now, with regard to the population in this Territory, everybody has the privilege to draw his own deductions from his own information on this subject, for we have not any official information in regard to it. Hitherto, when Territories sought to be admitted into the Union as States, there was an enumeration of the population. There has been none here. One man draws one conclusion from the facts that are presented to his mind, and another another. I draw my conclusion from the votes that have been given in the Territory at the regular annual elections from the foundation of the Territory to this moment; and taking that as a basis—and I think that it is the most accurate I can find—I come to the conclusion that there are not to exceed fifteen thousand people in the Territory of Colorado. Now, if you are going beyond this record, if you are going to accept the opinions of Tom, Dick,

and Harry who may come here from Colorado, I will state what a gentleman told me—a very intelligent gentleman now of Montana, but formerly of my State, who left Montana in March, and who told me the day before yesterday that he believed there were six thousand of the citizens of Colorado then on their way to Montana and to Idaho.

Mr. SUMNER. I have heard the same.

Mr. GRIMES. And that he did not believe there was more than two thirds the population in Colorado at this moment that there was during the last winter. I do not ask anybody to accept that statement of the gentleman. I do not adopt it myself. It may be true or it may be false. I prefer to rely upon what is authentic, what we know to be facts, namely, the votes that have been given at the various elections in Colorado year by year, ever since she was erected into a Territory; and if there be anything like the same proportion of voters to population in that Territory that there is ordinarily in a Territory, then I am irresistibly driven to the conclusion that there cannot be to exceed fifteen thousand people in the Territory.

Now, sir, as I said the other day, I am not quite willing to say that a population of that size and of that description shall be entitled to come into the Senate and be represented, and have the same power in our deliberations as the State of New York or Ohio or Pennsylvania; nor am I quite willing to give such an inconsistent vote as I think I should be giving if I should indorse this constitution of the State of Colorado to-day, and then to-morrow come into the Senate under the leadership of the Senator from Massachusetts, and undertake to confer the elective franchise upon colored people in the selected States.

Mr. SUMNER. Mr. President, the question before the Senate, as I understand it, is on taking this proposition up; and the Senate will remember that in what I said I confined myself precisely to that point. I assigned two specific reasons why this matter should not be proceeded with to-day. I did not undertake, the Senate will remember, to go into the general question; I did not touch it. I made no allusion to the enabling act, no allusion to the population, and no allusion even to the constitution except so far as was needful to exhibit the glaring inconsistency of proceeding to recognize such a constitution on such a day as this. That was all that I said.

My excellent colleague, in reply to me, undertook to open the whole case. He has reminded you of the resources and the mineral wealth of Colorado. He has alluded to its population, and he has also invoked that ancient, departed, extinct enabling act. Had my colleague been in his seat when on a former occasion this question was amply discussed in all its parts, when that enabling act was exposed thoroughly, and it was shown that it had by no possibility any application to the present case, he would not have introduced that point; certainly he would not have introduced it by way of showing any inconsistency on my part, for on that occasion I fully met that suggestion and there was no one here to answer.

Why, sir, the Senator from Iowa has already told you that the enabling act had expired. I have it before me; I will not read it; Senators are familiar with it. It authorized certain proceedings to constitute a new State. Those proceedings were had and they failed, and the enabling act then and there failed and came to an end. All the obligations of Congress under that enabling act then and there ceased. That enabling act is at this moment of no value so far as this question is concerned; it cannot be cited; it is useless to read it. It is simply a record of a past consent given by Congress, which, however, failed to be acted upon.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 238.

Mr. CONNESS. I hope the Senator from Massachusetts will be allowed to proceed to

finish his remarks on this subject, and that the other business will be laid over informally.

Mr. SUMNER. I should rather the other business should go on. [Laughter.]

The PRESIDENT *pro tempore*. House bill No. 238 is before the Senate in the absence of any motion to postpone.

Mr. POMEROY. I move to postpone all prior orders and proceed with the consideration of this question.

Mr. CLARK. I can only express the hope that that will not be agreed to by the Senate, because it will be remembered that we had up the *habeas corpus* bill yesterday and proceeded with it to a considerable extent, and it was to come up in its regular order this morning, and I hope we shall be able now to finish that bill. When that shall have been done, I shall have no objection to any other bill coming up; but I do not like to have it interrupted in this way.

Mr. SHERMAN. I hope that the Senator from Kansas [Mr. POMEROY] will allow a motion to be interposed here that the further consideration of the motion to reconsider (if that is up) be postponed until a day certain. It had better be fixed for some day next week, when it may be disposed of. If we continue the consideration of the Colorado question now, it will take the whole day.

Mr. POMEROY. My object was merely to take the vote on the reconsideration now, and then settle a time for the consideration of the bill.

Mr. CLARK. The question of reconsideration will lead to debate. I am perfectly willing to allow it to be taken up for the purpose of fixing its consideration for some future day, but not to have the motion to reconsider discussed at this time. I am aware that that motion will lead to discussion.

Mr. JOHNSON. Certainly it will.

Mr. CLARK. I was not here when the Colorado bill was up and considered by the Senate before, and I should not feel myself, though I do not wish to delay the Senate, like letting the vote be reconsidered without some opposition to it. But I do not urge that as a reason why it should not be taken up. What I desire is that we should keep to the order of business, and finish one thing at a time, and not lap one upon the other. If it can be taken up and assigned for some given time, when we can come at it considerably and with the understanding that we are to take it up at that time, I am entirely agreed, because that will facilitate the business of the Senate.

Mr. POMEROY. If it can be taken up and made the special order for to-morrow at one o'clock, I am willing. I only want to dispose of the question.

Mr. CLARK. If it can be considered as the general sentiment of the Senate, that it may come up and be made the special order for some future time, I shall agree.

Mr. CONNESS. I intended this morning to vote for taking this subject up with the special view of postponing it until the beginning of the next week, when there will probably be a full Senate; and I think the whole Senate is agreed to that. I hope that will be done. It is not a matter of much consequence whether a reconsideration shall proceed to-day or not, if a day be fixed for its consideration. I hope the friends of the measure, or whoever has it in charge, will agree to fix its consideration for Monday, Tuesday, or Wednesday of next week, when there will be a full Senate. I have objected to taking up this question for two or three days past, particularly while the Senator from Maine, who is ill, [Mr. FESSENDER,] is absent, because I knew that he felt great interest in the subject, and desired to be present when it is considered. I hope that a day will be named by those who have the measure in charge, say Tuesday or Wednesday of next week.

The PRESIDENT *pro tempore*. The motion is to postpone all present and prior orders in order to continue the subject which was laid aside at the expiration of the morning hour.

Mr. WILSON. I will simply say in regard to this question that I have no disposition to crowd it, because a measure cannot be forced through here when a strong opposition manifests itself. I wish to accommodate myself to the Senate, and for that purpose I give notice now that on Tuesday morning next I shall renew this motion and adhere to it until we can reach a vote on it if possible.

The PRESIDENT *pro tempore*. That is not the motion before the Senate. The motion before the Senate is the motion of the Senator from Kansas to postpone the present and all prior orders for the purpose of continuing the discussion of the motion of the Senator from Massachusetts. That motion of the Senator from Massachusetts is not now before the Senate, and of course is not subject to be withdrawn by him.

Mr. POMEROY. I am willing to withdraw my motion if by common consent or by an arrangement we can agree to some day certain for the consideration of this subject.

Mr. WILSON. I am told by several Senators opposed to the bill that they are willing to take that course.

Several SENATORS. Let us fix a day.

Mr. WILSON. That is what I propose.

Mr. GRIMES. I rise to propose that by universal consent we now agree that this matter go over until next Tuesday morning, and that it be then taken up and made the special order.

Mr. CONNESS. Why not now make it the special order for that time?

Mr. GRIMES. That is what I propose. My proposition is that the matter go over and by general consent be made the special order for Tuesday morning.

Mr. RAMSEY. Why not Monday?

Mr. SUMNER. No; not Monday.

Mr. TRUMBULL. It is very manifest that there are certain members of the Senate who are determined that this matter shall not be considered. The question now is simply on taking it up, and upon that motion, in disregard of what are the rules of the Senate, Senators have gone into a discussion as to the amount of population, and the Senator from Massachusetts has assumed that he showed that the law authorizing the people of Colorado to form a State government was defunct and should not be referred to and that nobody replied to it. I have no doubt he thinks so. I tried to reply to it in my feeble way. I tried to show him that in good faith Congress was committed to the people of Colorado by that law. Of course it did not amount to anything; but it is assuming a good deal to say that nobody attempted to answer at all.

Now, sir, the enemies of taking up this measure propose that you shall put it off for a week. Sir, let it come up now, and let us now make it the special order for some day when it can be considered, and not when we meet here next Tuesday be opposed again by the same arguments against taking it up at all. That is what we are met with to-day. The Senator from Massachusetts, who called the question up, gave notice that he had no desire to have action on the bill to-day. He wished to call the subject up; he had made a motion to reconsider the action of the Senate that it had on a former day, and this reasonable request to call up a measure which has the support, certainly, of quite a number of Senators, and, I hope, may have of a majority, is met by the objection that it shall not come up at all. And the Senator from Massachusetts [Mr. SUMNER] tells us he has a speech to make. If he makes it he will make it out of order, for there is nothing in order on this question except simply suggestions as to the propriety of taking up the bill; its merits cannot be gone into.

Now, let us take up the bill, and let it be agreed to postpone it to the day named by the Senator from Iowa. He has made his speech; he has attacked Colorado on account of the population. I am prepared to show by a resolution of the Legislature of Colorado, adopted

within sixty days, that they have got more than fifty thousand people—a solemn act of their Territorial Legislature—and the Senator says they have not but fifteen thousand. You may prejudice a case by that sort of argument when the question is not up. I hope the Senator from Iowa, if he is willing that we should consider the question at all, will let us take it up now and make it the special order for Tuesday next at one o'clock. I believe everybody will agree to that.

Mr. GRIMES. Mr. President, the remark of the Senator from Illinois, that those who are opposed to the passage of this bill are determined that it shall have no hearing, is uncalled for, is unworthy of him, and so far as I am concerned is not true. I have listened upon several occasions to the kind of lectures with which the Senator is so familiar, and which he is so much in the custom of delivering here in the Senate, but so far as they apply to me, I wish to inform him now that I am heartily tired of them, and I shall be exceedingly obliged to him if he will withhold them in the future.

Mr. President, what I said in regard to the population of Colorado I said in answer to the gentleman from Massachusetts, who called up this measure, [Mr. WILSON,] and it was not volunteered by me. And so far as it relates to the memorial of the General Assembly of Colorado, if the Senator from Illinois, with all his acumen, can convince the Senate that it is possible for the General Assembly of the Territory of Colorado to memorialize and enact a fact of which they are as ignorant as we are, and convince us that we ought to adopt that statement, he will show a great deal more shrewdness and acumen than I have ever known him to exhibit thus far.

Sir, in perfect good faith I made the proposition that by universal consent this question should go over until Tuesday, and that then nothing else should be considered until it was disposed of, and I am, I confess, not pleased with the manner in which that proposition is met by the Senator from Illinois when he tells us that those, including all of us, who are opposed to the passage of this bill are unwilling that it should have a fair hearing in the Senate.

Mr. SUMNER. Mr. President, I have my ground of complaint against my good friend from Illinois. I do not mean to be very severe, however.

Mr. JOHNSON. Mr. President—

Mr. SUMNER. I beg the Senator's pardon; I do not give way.

Mr. JOHNSON. I rose only for the purpose of asking what is the question before the Senate.

Mr. SUMNER. The question is on postponement, and I shall speak to the question, I assure my friend.

Mr. JOHNSON rose.

The PRESIDENT *pro tempore*. The Senator from Massachusetts is entitled to the floor and does not yield it.

Mr. SUMNER. I said I have good ground of complaint against my excellent friend from Illinois. He undertook to answer what I never said; that is, he attributed to me something and then he found it very easy to answer. Now, sir, I never said that the argument that the enabling act was defunct was never answered on this floor. I said that the argument was made. I made it; others made it; the Senator from Iowa, many Senators, made it. I did not say that it was not answered. I remember well the effort of the Senator from Illinois to answer it. Whether he succeeded or not, I give no opinion. What I did say, however, was this: that on that occasion the suggestion was made, which my excellent colleague has made to-day, that I was guilty of an inconsistency; and I said that then and there I answered that argument. My colleague was not here, and he did not hear the answer, and therefore he has to-day without knowing the facts revived that charge of inconsistency. Holding the documents in my hand on that occasion I showed that the enabling act provided as follows:

"That all persons qualified by law to vote for rep-

resentatives to the General Assembly of said Territory, at the date of the passage of this act, shall be qualified to be elected; and they are hereby authorized to vote for and choose representatives to form a convention."

That is, the electors, according to this enabling act, were the electors at that time, authorized as such by the territorial statutes. Holding the territorial statutes in my hand, I showed you that when that act was pending in the Senate of the United States, all persons, without distinction of color, were authorized to be electors. That was the answer that I gave before; that is the answer that I give now. Therefore, sir, I say that when I voted for this enabling act, I did not vote with any idea that there could be a discrimination founded on color; on the contrary, I voted with the positive conviction that all possibility of such discrimination was excluded; and still further, in that very enabling act I voted for this proposition:

"The constitution, when formed, shall be republican, and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence."

Now, sir, I insist that the constitution which has been presented to us is not republican, and I further insist that it is inconsistent with the Declaration of Independence. My excellent colleague will certainly not maintain the contrary of that proposition. He will not say that a constitution which undertakes to exclude persons from their rights on account of color is consistent with the fundamental principles of the Declaration of Independence, and that, sir, is the very requirement of this enabling act for which I then voted. I insist that if you appeal to that enabling act you shall appeal to it not in any particular part, but in its whole. I appeal to it in that fundamental requirement that what is done shall be in harmony with the Declaration of Independence.

But, sir, I did not intend to argue the question. What I have said is merely in reply to my friend from Illinois. And now as to when we shall proceed with this question. If Senators think they ever should proceed with it, if Senators think that an effort like this to fly in the face of the Declaration of Independence, to fly in the face of those fundamental principles which we at this moment are striving to carry out through so large a portion of our country should be for a moment tolerated in this Chamber, then I am willing that you should fix a time to proceed with it. I think it ought not to be proceeded with at all. I think that the cause of human rights suffers every moment that you give to the consideration of the question. But I began the debate this morning by simply opposing your consideration of it to-day. If you choose to make a sacrifice of human rights do it on some other day than this.

Mr. TRUMBULL. Mr. President, it seems that I have fallen under the animadversion of my friend from Iowa.

Mr. DOOLITTLE. Allow me—

Mr. TRUMBULL. I shall say but a few words.

Mr. DOOLITTLE. I hope my friend from Illinois will allow me to make a suggestion to him.

Mr. TRUMBULL. Very well.

Mr. DOOLITTLE. I think there is one fact that has escaped the attention of my friend from Illinois, and that is a statement which was made by the Senator from Iowa when he made his suggestion. He proposed that this question should go over to Tuesday next, and be fixed by unanimous consent as the special order for that day. I think my friend from Illinois could not have heard that proposition, or none of this subsequent debate would have occurred.

Mr. TRUMBULL. I did not so understand the Senator from Iowa. I understood him to propose that it should go over and be taken up at that time, and not now made the special order, as it could not be without taking it up now.

Mr. DOOLITTLE. I understood the Senator from Iowa distinctly to say, "fix it as a special order."

Mr. GRIMES. I did.

Mr. TRUMBULL. We cannot make it a special order without first taking it up. The Senator from Wisconsin must be aware of that.

Mr. GRIMES. The proposition I made, and repeated twice, was that by unanimous consent it should go over and be made the special order for Tuesday morning, and be then proceeded with until disposed of.

Mr. DOOLITTLE. That was as I understood it.

Mr. GRIMES. And the Senator from Massachusetts who has charge of this motion so understood me.

Mr. TRUMBULL. I supposed that when it went over we should have the same difficulty in taking up the matter on Tuesday that we find to-day; but it seems in the few remarks I made I fell under the very serious censure of both the Senator from Iowa and the Senator from Massachusetts, and especially the Senator from Iowa. Now, sir, I never assumed to lecture anybody in the Senate, and least of all the Senator from Iowa. I should learn from him without attempting to teach him anything.

The Senator from Massachusetts thinks that I replied to the wrong part of his remarks. He understands that he made a statement which nobody replied to, and he reiterates it to-day, which was that when he voted for the enabling act he voted for an act which authorized all persons, without regard to color, to vote in the Territory of Colorado. Now, my distinguished friend from Massachusetts is laboring under a mistake himself, if he will allow me to say so. The truth about it is that the law of Colorado, when he voted for the enabling act, did not allow colored persons to vote. The statute of Colorado at the time the enabling act was passed confined the right of suffrage to white persons. The Senator from Massachusetts, therefore, when he voted for an enabling act that authorized the persons qualified to vote by territorial laws to form this State government, voted for an act confining the right of suffrage to white persons.

Mr. SUMNER. Will my friend allow me to correct him there?

Mr. TRUMBULL. Undoubtedly.

Mr. SUMNER. The date of the enabling act is March 21, 1864; it was then approved. My statement was, that when the Senate acted upon this enabling act all our information was that all persons in the Territory without distinction of color were electors, and we had before us the territorial statutes authorizing all to vote without distinction of color. Those statutes were altered eight or ten days before the approval of this act. I stated that on the former occasion in my remarks, and what I said was that when the Senate acted on this bill it was supposed that all persons, without distinction of color in that Territory, were electors. The alteration was made in that distant Territory between the action of the Senate and the approval of the act.

Mr. TRUMBULL. Was made before the approval of the act?

Mr. SUMNER. Yes.

Mr. TRUMBULL. Whether the Senator from Massachusetts acted under a mistake of fact or not, I am not, of course, advised, except as he informs us. I presume he acted under a mistake of fact, as he seems to labor under one or two mistakes to-day in supposing that nobody tried to reply to this statement when he made it before. I think the same facts were drawn out then; and the Senator, I suppose, has not forgotten his vote in regard to the other Territories where the suffrage was confined to whites. I suppose he has not forgotten his vote for Nevada. Perhaps he acted under a mistake then in voting to admit Nevada, or for the enabling act for Nevada.

But, sir, these matters have very little to do with the consideration of the question before us; and I do not mean to be betrayed into any personal altercation with either of the gentlemen in regard to this question. I want to put it upon its own merits. I thought I saw manifested here a disposition to prevent this sub-

ject from being taken up. I did not have the Senator from Iowa in my mind so particularly as the Senator from Massachusetts who had in an informal manner announced that he had his speech ready.

Mr. SUMNER. I have no speech ready; I never said that.

Mr. TRUMBULL. I beg pardon. I understood the Senator to say that he intended to speak against taking the matter up.

Mr. SUMNER. I began it, and I should have gone on if I had not been arrested.

Mr. TRUMBULL. I call that a speech, for when the Senator "goes on" he always makes a speech. [Laughter.] It seems that the Senator from Iowa thought what I said was a reflection on him. Certainly anything of that kind was the farthest in the world from any intention of mine. I understand that there is no objection on the part of the Senator from Iowa, and I hope there will be none from the Senator from Massachusetts, that we make this subject the special order for Tuesday next. So far as I am concerned I am entirely satisfied with that. That can only be done by taking it up and then making it the special order for that time. I am quite willing that it should be done by unanimous consent.

Mr. POMEROY. If it can be done by unanimous consent, I will withdraw my motion.

Mr. YATES. I rise simply to remark that I prefer the consideration of this question to-day for a reason directly the reverse of that which seems to animate the Senator from Massachusetts, [Mr. SUMNER.] I prefer that on the day that so many happy people in the streets of Washington are celebrating the anniversary of their independence we should set another star in the constellation of freedom. But, sir, I yield my objections and consent to the postponement.

Mr. WILSON. It seems to me everybody is agreed in this matter, and there is no need of prolonging this controversy.

Mr. POMEROY. With the understanding that the question is to be taken up on Tuesday, I withdraw my objection.

The PRESIDENT *pro tempore*. The bill before the Senate is House bill No. 238.

Mr. TRUMBULL. I want to know if the Colorado bill is made the special order for Tuesday next at one o'clock.

The PRESIDENT *pro tempore*. The Chair is unable to answer the question.

Mr. TRUMBULL. I move that we postpone other orders for the purpose of doing that, and then it will be formally done.

The PRESIDENT *pro tempore*. The motion is renewed by the Senator from Illinois that the present and all prior orders be postponed in order to proceed with the consideration of the subject named by the Senator from Illinois.

Mr. CLARK. I simply desire to suggest to the Senator from Illinois not to move to postpone the bill now before the Senate, because then it will be away from the Senate, but to let it be laid aside informally without a postponement, and let the other question come up by unanimous consent and be made a special order, and then this bill will come up.

Mr. TRUMBULL. I hope that course will be adopted. I will not move to postpone, but I ask that the Senate by unanimous consent allow the bill in reference to the admission of Colorado to be made the special order for Tuesday next.

The PRESIDENT *pro tempore*. The Senator from Illinois asks that the bill now before the Senate be laid aside by unanimous consent and that the motion to reconsider the bill in regard to the admission of Colorado be taken up. The Chair hears no objection. That subject is before the Senate, and the motion is that the vote rejecting the admission of Colorado be reconsidered. That question is before the Senate. Will the Senate reconsider the vote?

Mr. TRUMBULL. I now move, in pursuance of the understanding, that that subject be postponed to and made the special order for Tuesday next at one o'clock.

The motion was agreed to.

PROTECTION OF UNITED STATES OFFICERS.

The PRESIDENT *pro tempore*. The bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863, is now before the Senate, as in Committee of the Whole, the pending question being on the amendment of the Senator from Vermont [Mr. EDMUNDS] to the first section of the bill.

Mr. HENDRICKS. I thought there was a special order for this hour.

The PRESIDENT *pro tempore*. There is a special order, but the unfinished business of yesterday takes precedence of the special order.

Mr. BUCKALEW. I call for the yeas and nays on the amendment of the Senator from Vermont.

The yeas and nays were ordered.

Mr. CONNESS. Many Senators have left the Chamber, and this is an important vote. I hope it will not be taken at the present time. Senators have gone out for a few minutes, and I suggest that the Senate take a recess for a short time. [The procession of the colored citizens, in celebration of their enfranchisement, had attracted Senators to the balconies.]

Mr. TRUMBULL. They will be in, I suppose.

Mr. CONNESS. There is hardly anybody here to vote.

Mr. TRUMBULL. There is a quorum here, I think.

Mr. BUCKALEW. Send the Sergeant-at-Arms after the absentees.

Mr. CONNESS. Then let there be a call of the Senate.

Mr. JOHNSON. There is never a call of the Senate.

The PRESIDENT *pro tempore*. The call of the roll will proceed on the amendment of the Senator from Vermont.

Mr. SAULSBURY. I ask that the amendment be reported.

The Secretary read the amendment, which was in section one, line twenty, at the end of the section to insert:

Or so far as it operates as a defense for any act done or omitted in any State represented in Congress during the rebellion and in which at the time and place of any such act or omission martial law was not in force.

Mr. CONNESS. I move, under the circumstances, that the Senate do now adjourn. ["No," "No."]

Mr. JOHNSON. I ask for the yeas and nays on that motion.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. NYE. I rise to make an inquiry whether it would be in order to make a motion before the vote is declared.

The PRESIDENT *pro tempore*. No motion can be made while the Senate is dividing.

The result was announced—yeas 19, nays 14, as follows:

YEAS—Messrs. Conness, Cragin, Cresswell, Grimes, Henderson, Howard, Howe, Lane of Indiana, Norton, Nye, Pomeroy, Stewart, Sumner, Trumbull, Van Winkle, Wade, Williams, Wilson, and Yates—19.

NAYS—Messrs. Anthony, Buckalew, Clark, Cowan, Doolittle, Edmunds, Foster, Guthrie, Hendricks, Johnson, McDougall, Saulsbury, Sherman, and Wiley—14.

ABSENT—Messrs. Brown, Chandler, Davis, Dixon, Fessenden, Harris, Kirkwood, Lane of Kansas, Morgan, Morrill, Nesmith, Poland, Ramsey, Riddle, Sprague, and Wright—16.

So the motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 19, 1866.

The House met at twelve o'clock M. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

DISTRICT COURTS IN NEW YORK.

Mr. MORRIS, by unanimous consent, from the Committee on the Judiciary, reported a bill (H. R. No. 134) to regulate the terms of the United States courts in the eastern district of New York, and for other purposes.

The bill was read.

The committee reported sundry amendments to the bill of a verbal character, which were agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. MORRIS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TESTIMONY OF A. H. STEPHENS.

Mr. BOYER, by unanimous consent, submitted the following resolution; which was read, and referred, under the law, to the Committee on Printing:

Resolved, That there be printed for the use of the members of the House of Representatives for distribution fifty thousand copies of the testimony of Hon. Alexander H. Stephens before the committee on reconstruction.

Mr. ROGERS. I move to amend that resolution so as to make the number seventy-five thousand.

The SPEAKER. The resolution has gone, under the law, to the Committee on Printing.

Mr. WASHBURN, of Illinois. I object to the introduction of the resolution.

The SPEAKER. The objection comes too late. The resolution has already been referred to the Committee on Printing.

DEPOT FOR IRON-CLADS.

Mr. LYNCH, by unanimous consent, introduced a joint resolution authorizing the appointment of examiners to examine a site for a fresh-water basin for iron-clad vessels of the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

INSTRUCTION IN AGRICULTURAL COLLEGES.

Mr. LYNCH, also, by unanimous consent, introduced a bill to provide military instruction in agricultural colleges established under the act of July 2, 1862; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. WHALEY. I ask the unanimous consent of the House to make a personal explanation.

Mr. WASHBURN, of Illinois. I demand the regular order of business.

Mr. ROGERS. Oh, no; let us hear the gentleman's explanation.

Mr. WASHBURN, of Illinois. Well, I will not object.

Mr. WHALEY. I learn that yesterday, during my absence, the gentleman from Ohio [Mr. EGLESTON] asked to have a letter read from a gentleman in the reporters' gallery, but the reading was objected to. I hold in my hand a letter from the same gentleman which I am informed by his friends he desires to have read to the House. That is my excuse for offering it, and I ask that it be read.

The Clerk read the letter, as follows:

REPORTERS' GALLERY.
HOUSE OF REPRESENTATIVES, April 16, 1864.

SIR: I sincerely regret that I was not present to hear your eloquent, severe, and well-merited rebuke of some anonymous correspondent, who had the ill manners to intimate that you did not know the elements of the Latin language; and that what all now know you intended as a joke was in any sense considered as in earnest by yourself.

Will you do me the justice to state that I did not write the article you caused to be read, or procure its writing, or even know that it had been written, until the Gazette, in which it appeared as a selection, reached Washington?

You will at once perceive that the force of your remarks against the real offender will in no degree be broken by the correction which your own keen sense of justice and appreciation of the ridiculous will prompt you to make.

Very respectfully, your obedient servant,

H. V. N. BOYNTON.

HON. KELLIAN V. WHALEY.

Mr. WASHBURN, of Illinois. I suppose the gentleman from West Virginia is satisfied, as I have no doubt the House is, of the good faith in which that letter was written.

Mr. SPALDING. I demand the regular order of business.

PUBLIC PRINTING DEFICIENCY BILL.

Mr. STEVENS, from the Committee on Appropriations, reported a bill making appropriations to supply deficiencies in the appropriations for the public printing for the fiscal year ending June 30, 1866; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. STEVENS. I move that the bill be made the special order for to-morrow. This money is needed for the payment of the hands during this month.

Mr. WASHBURN, of Illinois. I would ask the gentleman how the business of the House stands in regard to the ordinary appropriation bills.

Mr. STEVENS. With the exception of the Indian appropriation bill, all the general appropriation bills have been passed and sent to the Senate, and only one or two of them have come back. We have, besides the ordinary deficiency bill, which is always kept to the end of the session, only the miscellaneous appropriation bill back. All the other general appropriation bills have been reported to the House and they have all been passed with the exception of the Indian appropriation bill, which has been kept back in order that provision may be made for several new treaties.

Mr. ROSS. I object to the bill being made a special order.

The SPEAKER. A majority vote can make the bill the special order for to-morrow, it being an appropriation day. The Chair will put the question to the House.

The motion to make the bill a special order was agreed to.

LEAVE OF ABSENCE.

Mr. McRUER asked and obtained leave of absence for one week for his colleague, Mr. HIGBY.

ORGANIZATION OF THE PENSION BUREAU.

Mr. SPALDING. I call for the regular order of business.

The SPEAKER. The regular order of business during the morning hour is the call of committees for reports. At the close of the morning hour of yesterday the House had reconsidered the rejection of House bill No. 278, reported from the Committee on Invalid Pensions, in amendment of the several acts relating to the organization of the Pension Office. The question now is, Shall the bill pass?

Mr. PERHAM. This bill has been pretty fully discussed, and I desire that it shall be put upon its passage now. I call the previous question.

Mr. WASHBURN, of Illinois. I hope the gentleman from Maine [Mr. PERHAM] will not do that. He himself proposed yesterday to have this bill recommitted to the Committee on Pensions. I hope he will have the letter of the Secretary of the Interior upon this subject of salaries read to the House. I think the gentleman did not state to the House what that letter was.

Mr. PERHAM. I have seen no letter of the Secretary of the Interior upon the subject of this Pension Bureau.

Mr. WASHBURN, of Illinois. Well, I hope the House will understand that this is but a stepping-stone to raising the salaries of all these officers.

Mr. PERHAM. I think this House is as well prepared to act upon this subject as it ever will be.

Mr. SPALDING. I hope the gentleman will allow me to say a word.

Mr. PERHAM. Very well.

Mr. SPALDING. I would as soon vote to raise the salary of the Commissioner of Pensions as to raise the salary of any other officer; but I want to know if this is to be a stepping-stone to raising the salaries of all those officers. If it is, let us know it.

Mr. PERHAM. That question was asked yesterday and answered as fully as it could be.

Mr. SPALDING. I only desire that the House shall act understandingly upon this subject.

Mr. CONKLING. With the permission of the gentleman from Maine, [Mr. PERHAM,] I desire to say that I voted yesterday in the first instance against this bill. I did it, I confess, without much knowledge of the bill, for I happened to be out of the House and unavoidably occupied otherwise when the explanation of the bill was made. I voted against the bill from my general opposition to the increase of salaries. For one, I have great respect for the officer whose salary is in question here. I believe him to be a very pure man and a very excellent officer; but if the gentleman from Maine will take the trouble I will thank him to state, for my benefit and for the benefit of others similarly situated who did not hear his explanation, what is the particular reason for raising the salary of this officer. If it is really a case of hardship, my inclination would be to go with him although I am generally opposed to raising salaries.

Mr. PERHAM. On the first day this question came up I presented, as fully as I could in the very brief period I occupied the reasons which governed the committee in making this recommendation. I stated the fact of the very large amount of business now before that bureau; that it had increased perhaps tenfold since the commencement of the late war. I also stated that the salaries of these bureau officers were formerly fixed at half the salaries of the Cabinet officers. The salaries of the Cabinet officers have now been raised to \$8,000 a year, and we propose by this bill to increase the salary of this officer so that it shall correspond to the salaries of Cabinet officers, as it did before those salaries were raised.

I also stated the further fact that many other officers of the Government, heads of bureaus having much less work to do and much less responsibility, are receiving salaries equal to and in some instances greater than that which the committee propose to give to this officer. Those arguments are set forth more fully in the columns of the Globe than I feel willing to take up the time of the House in now stating.

Mr. WASHBURN, of Illinois. I would ask the gentleman from Maine if the duties of the Second Auditor have not increased within a few years in a greater proportion than those of the Commissioner of Pensions. And the duties of the Third Auditor have also been increased. And I know that the duties of the Commissioner of Indian Affairs have been increased nearly twofold, in consequence of troubles among the Indians of late. The same reasons which operate in favor of increasing this salary will operate with equal force in favor of increasing the salary of every bureau officer of the Government. And if we increase the salary of the Commissioner of Pensions, I do not see how we can refuse to increase the salaries of other officers. As the gentleman from Ohio [Mr. SPALDING] has very well said, this is merely a stepping-stone to a general increase of salaries.

Mr. RICE, of Maine. I understand that the Secretary of the Interior has written a letter explaining his views upon the question of raising this salary as well as other salaries in his Department.

No man in this House feels better disposed toward the Commissioner of Pensions than I do; and I have seldom given a vote with so much reluctance as that which I gave yesterday against the increase of the salary of this officer, because I am fully aware of his great merit and the immense labor he has to perform. I only voted as I did for the reason that I believed the increase of this salary would be a precedent for the increase of other salaries. If a letter from the Secretary of the Interior on this subject is before the committee, I believe it due to the House that the letter should be read. I have just this moment understood that there is such a letter. I ask my colleague [Mr. PERHAM] whether such is the fact.

Mr. PERHAM. I will state, in reply to my

colleague, that no original letter from the Secretary of the Interior has come before the committee. There is before the Senate a proposition for the reorganization of the whole Interior Department, and in connection with that proposition a letter from the Secretary of the Interior has been communicated to the Senate. I believe that that proposition provides for a similar reorganization of the pension department to that originally proposed by this bill; in other words, it provides for an increase of the salaries of the higher grades of clerks in that department. A copy of that communication from the Secretary of the Interior was sent to me as chairman of the Committee on Invalid Pensions.

I now demand the previous question.

The previous question was seconded and the main question ordered, which was upon the passage of the bill.

Mr. SPALDING called for the yeas and nays.

The yeas and nays were ordered.

Mr. KASSON. I desire to inquire whether the bill as it now stands makes any change touching the salary of the chief clerk of the Pension Bureau.

The SPEAKER. It does not.

The question was taken; and it was decided in the affirmative—yeas 61, nays 51, not voting 71; as follows:

YEAS—Messrs. Ancona, Anderson, Baldwin, Banks, Barker, Benjamin, Blaine, Boyer, Buckland, Reader W. Clarke, Dixon, Dodge, Donnelly, Driggs, Ekeley, Eggleston, Farguhar, Glossbrenner, Hale, Hayes, Holmes, Chester D. Hubbard, Hulburd, James M. Humphrey, Ingersoll, Jenckes, Kelley, Keiso, George V. Lawrence, Lynch, Marvin, McKuer, Morcour, Moorhead, Morrill, Morris, Newell, Nicholson, O'Neill, Patterson, Perham, Plants, William H. Randall, Rogers, Rollins, Smith, Stevens, Strouse, Tabor, Taylor, Thayer, John L. Thomas, Van Aernam, Burt Van Horn, Warner, William B. Washburn, Welker, Whaley, Williams, Stephen F. Wilson, and Woodbridge—61.

NAYS—Messrs. Allison, Ames, Baker, Beaman, Boutwell, Bronwell, Broomall, Chandler, Conkling, Cook, Doring, Eldridge, Farnsworth, Ferry, Finck, Goodyear, Grider, Anner C. Harding, Henderson, Edwin N. Hubbard, Julian, Kasson, Kaykendall, Latham, Loan, Longyear, Marshall, McClurg, McKee, Moulton, Orth, Paine, Phelps, Price, John H. Rice, Ritter, Ross, Schenck, Shellabarger, Sitgreaves, Spaulding, Thornton, Trowbridge, Upson, Ward, Elihu B. Washburn, Henry D. Washburn, Wentworth, James F. Wilson, Windom, and Wright—51.

NOT VOTING—Messrs. Alley, Delos R. Ashley, James M. Ashley, Baxter, Bergen, Bidwell, Bingham, Blow, Brundage, Bundy, Sidney Clarke, Cobb, Croft, Culloh, Culver, Darling, Davis, Dawes, Dawson, Defrees, Delano, Denison, Dumont, Eliot, Garfield, Grinnell, Griswold, Aaron Harding, Harris, Hart, Higby, Hill, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James H. Hubbard, James Humphrey, Johnson, Jones, Kerr, Ketcham, Ladin, William Lawrence, Le Blond, Marston, McCullough, McIndoe, Miller, Myers, Niblack, Nocil, Pike, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Rousseau, Sawyer, Seofield, Shunklin, Sloan, Starr, Stillwell, Francis Thomas, Trimble, Robert T. Van Horn, and Winfield—71.

So the bill was passed.

During the roll-call,

Mr. VAN AERNAM stated that Mr. HUBBARD, of Connecticut, was confined to his room by sickness.

The result was announced as above stated.

SHIP-CANAL AROUND NIAGARA FALLS.

Mr. VAN HORN, of New York, from the Committee on Roads and Canals, reported back, with amendments, the bill (H. R. No. 344) entitled "An act to construct a ship-canal around the falls of Niagara."

Mr. PAINE. The gentleman from New York yields to me; and I offer an amendment in the nature of a substitute for the bill, and ask that it may be printed.

The SPEAKER. The Chair hears no objection, and the substitute will be ordered to be printed.

Mr. JENCKES. I ask the gentleman from New York [Mr. VAN HORN] to yield to me that I may offer a substitute for the amendment.

Mr. VAN HORN, of New York. I cannot yield any further at present.

Mr. Speaker, owing to quite severe indisposition I will not this morning occupy the time of the House at any great length in discussing this measure: but after a few remarks, stating the objects and features of the bill, I will yield

the remainder of my hour to several gentlemen who desire to be heard upon this subject. The bill is reported by the committee with several amendments which I propose the House shall act upon hereafter; and I reserve the right to conclude what I have to say when the previous question shall have been ordered, if the House shall see fit to order it.

Mr. Speaker, this is a measure of great national importance, and I propose to enter upon the discussion of the question in that light. This project has received the favorable action of the Government on several occasions in the past. Surveys for such a work have on several occasions been made under the direction of the Government by competent engineers. Reports of those surveys have been made, and are on file for the examination of all gentlemen who are interested.

Several years ago Captain Williams, one of the most distinguished of our engineers, made a survey under the direction of the Government for the construction of this work. He surveyed several routes and made his report. That survey and report were made in a time of peace. He said in that report it was a work of great military necessity, and that the Government should enter upon the construction of the canal as a military work. Of course we all admit it is a work of great commercial importance and benefit to the country. It is the only link wanted in the communication between the great lakes and rivers as it proposes to connect Lake Erie with Lake Ontario. Then we shall have a continuous line of communication from Lake Superior to Lake Ontario and the river St. Lawrence.

Now, sir, I am sorry to say that the chief opposition to this project comes from my own State. During the last few days some documents have been circulated and laid upon the desks of members, issuing from the canal authorities of the State of New York, urging upon the Representatives from that State to oppose the passage of this measure as being against the interests of New York. I say I am sorry the opposition to this great national project should come from my State. I have no sympathy with such opposition, and I take no part in it whatever, because I believe this is a measure of national importance and utility, and as a member of Congress legislating for the whole country, I am not disposed to throw obstacles in the way of such a measure although it may seem to some small extent to interfere with the interests of New York. Being a measure of great national importance and utility to all sections of the country, I think I should make no opposition to it.

What has been the position of New York in regard to the measure heretofore? On four or five occasions New York has gone in favor of this proposition. As early as 1798 a company was incorporated called the Niagara Canal Company, which looked directly to the construction of a ship-canal like that proposed by this bill. Again in 1823 the Legislature of the State of New York took similar action and again incorporated a company for the construction of this work. In 1858 similar action was taken; only recently, within the last two weeks, the popular branch of my State has passed a bill providing for the incorporation of a company to construct this work, by the large vote of 85 to 30. I am aware that measure failed in the Senate, or will doubtless be lost. I am not certain whether it has been lost in the Senate, but I understand it has been loaded with amendments to such an extent that its friends do not desire it to pass. Nevertheless, the popular branch of the Legislature, representing immediately the people of my State, has acted on the proposition, and passed the bill to which I have referred.

What does this bill propose? In the first place, it provides that the President shall appoint engineers who shall go upon the ground and make surveys and report their views, and upon those surveys and facts so reported he shall locate the route of this ship-canal. I may say there are several routes spoken of as

desirable for the construction of this canal. The President is to locate the route after these surveys which will best secure the greatest benefit to the commercial interests of the country, and at the same time the greatest naval and military advantages.

It provides further for a commission which shall take into consideration the advantages derived from such a work and adjust the damages. The commissioners are to hear all cases that arise and settle them upon their merits.

After the route is thus selected the President is authorized to contract with any company that may be incorporated by any State, or organized in any State—in New York no more than any other State—for the construction of this work on the plan prescribed in the bill.

It further provides that this company shall proceed at a certain time with this work, and shall complete it within a given time, and that the Government shall loan bonds to the amount of \$6,000,000 in aid of the construction of this work. The company is, however, to pay all the expense for survey and damages assessed up to the beginning of this work; but as fast as the company expends \$300,000, upon the certificate of the engineers the Government is to issue \$200,000 of bonds, and so on for every additional \$300,000 expended, until the whole \$6,000,000 of bonds are exhausted.

It further provides that ten per cent. of all the tolls received from this canal after paying the expenses and keeping up the repairs, is to be paid into the Treasury of the United States, on the 1st of January in each year, to reimburse the Government for the money thus loaned.

And I may say here that the Government, in consideration of this, is to have control, so far as its own use is concerned, in all time to come, of this canal. It is to have the supervision also with reference to its being kept in good condition during the whole time it may be in possession of the company.

It further provides that the Government may at any time purchase this canal by paying to the company what it has expended in its construction, and in addition thereto ten per cent. on the actual cost of the canal, and take possession of it itself.

This is what the bill proposes. As I said before, this is a work of great national importance. There is now already a canal upon the Canada side, called the Welland canal, connecting the lakes. But three fourths of all the shipping of the upper lakes is American shipping. It is American enterprise which has built the Welland canal, and which keeps it up; and if we do not have a canal of our own on our own side there will soon be an enlargement of that canal, for measures are already taken to secure it, so as to accommodate the largest vessels that float on our lakes.

It is therefore a question whether we are to have the benefit of this great work, or whether Canada shall have it.

Mr. TAYLOR. I would like to ask the gentleman a question right here.

Mr. VAN HORN, of New York. Very well.

Mr. TAYLOR. I would like to know what benefit this canal will be to the American commerce after this large expenditure, so long as the control of the St. Lawrence river is with the English Government.

Mr. VAN HORN, of New York. It will be the same benefit to our commerce that the Welland canal now is.

Mr. TAYLOR. What benefit will that be since the abrogation of the reciprocity treaty?

Mr. VAN HORN, of New York. I do not understand that the abrogation of that treaty deprives us of the use of that canal. In the year 1862 I understand that over thirty millions of commerce passed through the Welland canal into Lake Ontario, and more than three fourths of it went into American ports and did not go into the river St. Lawrence. We want a communication for the benefit of our commerce, and if we do not furnish this communication Canada will do it.

I repeat, that it is a question whether we shall control this commerce or whether Canada shall do it. The records of the past show very clearly that more than three fourths of all the commerce that has gone through that canal has gone into our ports, and not down the St. Lawrence river; and so it will be hereafter. And if such is the fact, while that canal is under the control of a foreign Government and while our commerce between the lakes is not under our own control fully, it becomes a very important question whether we shall not have a canal of our own on our own side over which we shall have entire control, and thus direct the trade through our own ports and to the benefit of our own citizens.

As I stated at the opening of my remarks, there are several gentlemen who wish to speak this morning; and, as I am very much indisposed and propose to discuss this measure hereafter, I yield to gentlemen who desire to speak. I yield now for fifteen minutes to the gentleman from Illinois, [Mr. MOULTON.]

Mr. MOULTON. Mr. Speaker, in common with the people of the great West, I, as well as my State, feel a very great interest in this project; indeed I may say that for more than twenty years the people of the great States bordering upon the lakes have looked forward to the time when this great national work shall be completed, and have regarded it as absolutely necessary for their prosperity and the development of the States bordering upon those waters. And I will say here that there is no single question to-day in which the people of that part of the country which I have the honor in part to represent feel so great an interest as in the question now under consideration.

Mr. Speaker, I will not occupy the few moments allotted to me in a discussion of the details of this bill. I believe they are substantially what are desired by our people, with a single exception, and that is that the bill provides that the depth of the canal shall be twelve feet. I think that the interests of the commerce of the West require that that canal shall at least be of the depth of fourteen feet, so that we can load a vessel at Chicago of twelve hundred tons and without breaking bulk convey the products of the West either to the eastern sea-board or to Europe.

Now, sir, the Government has contemplated this work almost ever since its foundation. It has been looked upon as an absolute necessity, at least in a military point of view. I shall make no remarks at this time as to its importance in that point of view. But no one who is acquainted with the topography of the western States, and the important connection that this work will accomplish, can doubt its great importance in that regard. It is to its commercial importance that I wish particularly to call the attention of the House at this time.

Before I do that, however, allow me to say a single word with reference to the power of the Government to construct works of this character. There was a time when the power of the Government to make appropriations for works of this character was disputed, but that time has long since passed by. The distinction is that whenever a work is national in importance and has reference to more than one State, connecting important navigable waters, as does this work, it may be regarded as entirely competent, and within the power of Congress under the Constitution, to make appropriations for the work. And such has been the practice of the Government upon this subject. Let me quote the language of President Monroe, touching the authority of Congress upon this point. Mr. Monroe said in reference to a work of a similar character to this:

"That Congress have unlimited power to raise money, and that in its appropriation they have a discretionary power, restricted only by the duty to appropriate it to purposes of common defense, and of general, not local, national, not State, benefit."

This construction of the Constitution was adopted by General Jackson, and I believe it has been the settled rule from that time to this with reference to works of this kind.

From the earliest period of our Government

appropriations have been constantly made for the purpose of aiding in the construction of works of this character down to the very present time.

Now, sir, I hold it to be the duty of the Government to afford reasonable facilities for commerce between the States. How is it with reference to the western States to-day? I may say of those States that they are in their infancy as regards development. In the State of Illinois, not one tenth part of her area has yet been developed and cultivated; and the complaint of the great West to-day is that there are no sufficient facilities afforded to that section of country whereby the immense surplus products there raised can reach a market at reasonable expense.

It is conceded upon all hands, I think, that the Erie canal and the railroads connected therewith afford no adequate facilities for the transportation of the products of the West.

The value of the products of the West annually seeking a market in the East is more than five hundred million dollars.

There are over three thousand steam and sail vessels upon our western lakes, and all this immense commerce has to be crowded through a single channel to market, and we of the West are at the mercy of an overgrown corporation and monopoly.

Now, sir, the objections that are made to this work, as I understand the gentleman from New York, [Mr. VAN HORN,] come principally from the State of New York. Now, what are those objections? Let us look at them for a moment. It is said that this canal would deprive the State of New York of a portion of its tolls and ruin and destroy the business of the Erie canal. Now, I do not admit that fact. And even if the completion of this canal should deprive that State of a portion of its tolls, is that any reason why this great national work should not be completed? The answers to this objection are:

1. The present canal and railroad connected with it cannot now do the business required by the growing interest of the West.

2. The West has been enormously taxed by these monopolies in New York, and has annually paid tolls to that State the sum of \$10,000,000.

3. It saves to the West one hundred and fifty miles of artificial travel and about seventy-five cents on each ton of freight.

Besides, New York is estopped from setting up the plea that the completion of this great work will injure her canals and railroads, because, as has already been stated here to-day, the Legislature of that State has on two or three occasions, and also very recently, granted to a company the right to construct this very work, thereby yielding up that entire question so far as it may affect her existing railroads and canals.

This action of the people of New York concedes the fact that the construction of the ship-canal would not injure the other canals and railroads of New York. I would ask, what right has the State of New York to place herself in the highway of commerce and monopolize the tolls upon all the products raised in the West?

It is further said that the canals and railroads of the State of New York will be ruined and destroyed if this work is completed. Now, if in the infancy of the development of the West, so far as its productions are concerned, with hardly one fifteenth of the whole western country developed, these canals and railroads are insufficient to transport the products of to-day, how much more so would they be when the West shall be more extensively developed.

Sir, what are the benefits to the West to be derived from the construction of this canal? What is the great want of the West to-day? It is the want of facilities for transporting their products to market. In the first place, this ship-canal will enable us to load our products on vessels at the southern ports of Lake Michigan, in fact all around Lake Michigan, and upon Lake Erie, and from there to have them

transported without breaking bulk at all, or more than once, to the eastern sea-board. It overcomes an artificial travel of one hundred and fifty miles, thus saving from seventy to seventy-five cents upon every ton of produce transported. And that amount is saved as well to the consumer in the East as the producer in the West. It will develop all the interest of the West, increase the value of all kinds of property, encourage immigration, and stimulate industry of every kind.

Another objection to this canal is, that it appropriates a considerable amount of money from the Treasury of the United States. The sum to be appropriated by this bill is only \$6,000,000; a very small sum, indeed, when compared with the great advantages that are to be received from this expenditure. And besides, it is provided in the bill that this appropriation shall be reimbursed to the Government by reserving ten per cent. of the tolls as they shall subsequently accrue. But, sir, without the means for transportation the interest of the West will be paralyzed and its prosperity greatly retarded.

The gentleman from New York [Mr. TAYLOR] has asked what advantage it will be to American commerce to construct a canal of this character. It seems to me that the advantages are so obvious that that question need not be asked. It enables us, as I have already remarked, to overcome at least one hundred and fifty miles of artificial travel, at a saving of at least seventy-five cents on each ton of produce transported. The gentleman says, however, that since the expiration of the reciprocity treaty between the United States and the British Provinces we will not have the use of the St. Lawrence river. It is true that we would not, independent of some arrangement with the Canadas, have the use of the St. Lawrence river below the town of Ogdensburg. We certainly have the right to the use of the river to Ogdensburg, for it is American waters that far.

Now, I assume that it will be for the interest of Canada to provide means and facilities of commerce to the great West through their canals. We pay tolls on the passage of our vessels through the various canals constructed for the purpose of overcoming the obstacles and obstructions in the St. Lawrence river. If we desire to ship to Europe the products which we load at Chicago, what objection would Canada have to allowing our vessels to pass through her canals, paying reasonable tolls, as they have done heretofore? Indeed, I am informed that Canada will afford every facility in her power for this purpose. She desires us to pass through her canals for reasonable toll.

But it is said that if that is done the State of New York would lose the benefit of those tolls. It is true she would to that extent. But I assume that in the future development of the productions of the West, there will be sufficient commerce from west to east to tax to the utmost every means of communication that can possibly be established between the West and the eastern sea-board for the next fifty years. To-day not more than one tenth part of the productions of the West can be taken to market for want of transportation. Thousands of bushels of corn have been used in the West for fuel during the past year, because it was worth less than other fuel and it would cost more than it was worth to transport it to market. What inducement is there for the western farmer to exert himself to raise productions that are of no value to him? The West to-day is overflowing with surplus productions of every kind which are comparatively valueless for want of means and facilities for market.

Now, sir, this canal will permit us to reach the city of New York almost without breaking bulk. We load at Chicago or at Detroit, and we take our vessels without breaking bulk to Ogdensburg at least, connecting at Syracuse with the Erie canal and thus reaching New York. It seems to me that it is the interest of New York to encourage this very work, whereby New York and the other eastern seaports may control the commerce of the West.

If you shut us out, and defeat this ship-canal, what will be the consequence? Either the West will be greatly retarded in prosperity or we must have the means to get our products to market; and if you do not afford us sufficient facilities for transportation through the State of New York by a canal of this sort, or by other proper means, you will compel us to seek transportation through the Canadas, whereby the benefits of the transportation of our commerce would be entirely lost to the State of New York and the citizens of the country and given to the Canadas.

If we cannot reach a market through New York on reasonable terms, we will provide other means, leaving New York out in the cold. The West can and should take care of her own interests. The best interests of the whole country demand the most unrestricted facilities and cheapest transportation for its productions.

When this is furnished no interest is destroyed or crippled, but the interest of all is promoted. The East and West by that canal will be more firmly united, and both parts of the country equally benefited and nobody injured.

The SPEAKER. The fifteen minutes of the gentleman from Illinois have expired.

Mr. VAN HORN, of New York. I yield the remainder of my time to the gentleman from Ohio, [Mr. SPALDING.]

Mr. SPALDING. Mr. Speaker, this measure was very fully discussed during the last Congress; and I am happy to have it in my power to say that this House, by a very decided majority, passed a bill similar in its features to that now before us, though for some reason the measure failed to receive the concurrence of the Senate.

Sir, I regard this measure as I have always done heretofore, as simply one of time; for I am satisfied that the imperious necessities of the great and growing West demand and will ultimately secure the construction of this canal around the falls of Niagara. There can be no doubt about that fact. No man representing here a district in the Northwest can at this moment venture to vote against this great measure, however much the intelligent members from the State of New York may insist upon their own policy of extending the capacities of the Erie canal.

I understand that the only objection offered by members from the State of New York is that this measure will interfere with the interests of the State along the line of the Erie canal from Buffalo to Albany. But, sir, the Erie canal cannot be made of sufficient capacity to accommodate the wants of the great West. We already transport from the upper lakes to the tide-waters of the East one hundred million bushels of wheat and corn. This quantity can easily be made one thousand millions if you will give us facilities for transportation. Growing as the West is in wealth and population, and hence in importance, how long can you successfully resist a measure of such vital importance to that section of the United States?

I put out of view at the present moment the question of the importance of this great work as a military necessity as a channel, in a time of difficulty with a neighboring Power, for the transportation of armed vessels from tide-water to the lakes, where we have so many flourishing cities, where we have such a growing commerce, and where we are now without any protection except a single gun upon a single vessel. Sir, at this moment we have upon the upper lakes—I speak now of the lakes above the Niagara falls—a fleet of water-craft connected with commercial operations equal to four thousand sail of vessels altogether. My own little city which within my own recollection had but fifteen hundred inhabitants, has at this moment a population of sixty-five thousand, and it has between three and four hundred vessels employed in this lake commerce. Our imports and exports within the last year would astonish gentlemen living in the East, if they do not know more than my friends from that quarter generally express themselves as know-

ing about our interests in the West. I say it would astonish them to know the amount of the exports and imports of the city of Cleveland, which does not pretend to compare with the mighty city of Chicago, away beyond us on Lake Michigan. The imports into the city of Cleveland for the last year were \$117,582,984. The total of their exports was \$96,572,137. Now, when you take into this account Detroit, Milwaukee, Chicago, with all the intermediate points on that long chain of lakes, what would you say to the imports and exports of the whole Northwest bordering on these lakes?

It is a confessed fact that the Erie canal, the Erie railroad, the Pennsylvania Central, all these great lines of communication now established leading from the Northwest to the sea-board, are not enough to take off our surplus products.

The SPEAKER stated that the morning hour had expired.

Mr. SPALDING. I am in favor of the passage of the bill.

ENROLLED JOINT RESOLUTIONS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

Joint resolution (H. R. No. 108) appointing managers for the National Asylum for Disabled Volunteer Soldiers; and

Joint resolution (H. R. No. 88) expressive of the thanks of Congress to Major General Winfield S. Hancock.

REORGANIZATION OF THE ARMY.

The House resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States."

The fifth section was under consideration, having been amended so as to read as follows:

Sec. 5. *And be it further enacted*, That the officers of the thirty-seven regiments of infantry, first provided for in the foregoing section, shall consist of those now commissioned and serving therewith, subject to such examination as the condition of their being retained in the service as is hereinafter provided for; and in making appointments to fill the original vacancies in the thirty-seven regiments thus provided for, and for a period of three years after the passage of this act, all first and second lieutenants and two thirds of the officers of each of the grades above that of first lieutenant shall be selected from among the officers and soldiers of volunteers who have served in the Army of the United States in the late war for the suppression of the rebellion, and who have been distinguished for capacity, good conduct, and efficient service; but graduates of the United States Military Academy and enlisted men shall be eligible to appointment as second lieutenants in those regiments, as in the new regiments of cavalry, under the provisions of the third section of this act, and not otherwise; the Veteran Reserve corps shall be officered by appointment from any officers or soldiers of volunteers or of the regular Army who have been wounded in the line of their duty while serving in the Army of the United States in the late war, or have been disabled by disease contracted in such service, and may yet be competent for garrison or other duty, to which that corps has heretofore been assigned.

The officers selected to fill original vacancies in the regiments of colored troops shall be taken from among those who have served as officers of colored troops in the Army of the United States in the late war. And all appointments of officers in the Veteran Reserve corps and in regiments of colored troops shall be made on examination, as hereinafter provided, having reference to capacity, good conduct, and efficient service in every case: *Provided*, That all officers of the existing Veteran Reserve corps, except those now actually detailed for duty in the Freedmen's Bureau or otherwise actually and necessarily employed, shall, upon the passage of this act, be mustered out of service and put upon the same footing with other disabled officers not now in service.

The pending question was upon the following amendment, submitted by Mr. DAVIS:

Add to the section the following: And it shall be lawful to appoint and commission as officers in any of the organizations authorized by this act any persons who have been distinguished for gallant and meritorious service in the Army of the United States during the late rebellion, and have been wounded or partially disabled therein while in the line of their duty: *Provided*, That disability arising therefrom shall be such only as if incurred in the regular service under officers' commissions would not incapacitate them from duty therein.

The previous question had been seconded and the main question ordered upon the section and pending amendment.

Mr. SCHENCK. Mr. Speaker, I have con-

ferred with the gentleman from New York in relation to his amendment, and considering it is general in its character, relating to all arms of the service, he agrees to withdraw it now and to offer it as a new section hereafter.

Mr. CHANLER. I do not feel disposed to obstruct the action of the House, but I should like to understand the reason for this sudden change.

Mr. SCHENCK. I ask unanimous consent that the gentleman from New York [Mr. DAVIS] shall be permitted to withdraw his amendment. The section relates entirely to infantry regiments, and the amendment to all arms of the service. It is deemed improper to attach to a section applying to one particular arm of the service general legislation in reference to all arms. I prefer the amendment should be withdrawn now and moved as an additional section hereafter.

As to debate, there will be ample opportunity on each section. I do not propose to stifle side debate at all.

Mr. CHANLER. The gentlemen on the Administration side seem to wish that this matter should pass without debate. I will withdraw the objection.

The amendment of Mr. DAVIS was accordingly withdrawn.

Mr. TAYLOR. Will it be in order to offer an additional section here to come in immediately after this?

The SPEAKER. The gentleman can move it after the sixth section, not after this. An additional amendment incorporated in the bill is an amendment to the section immediately preceding.

Mr. TAYLOR. The amendment that I wish to offer comes in properly after the fifth section.

The SPEAKER. The Chair rules that it would be an amendment to the fifth section, and not in order, as that section has been passed from under the previous question.

Mr. TAYLOR. The object of it is to continue the pensions of all these officers and soldiers during the time they are in this service, and it therefore properly comes in here.

Mr. SCHENCK. I for one have no objection to its being offered here, but I do not give it my assent.

Mr. STEVENS. I think we had better go on to the next section.

The Clerk read section six, as follows:

Sec. 6. *And be it further enacted*, That the appointments to be made from among volunteer officers, under the provisions of this act, shall be distributed, as far as may be consistent with the interests of the public service, among the States, Territories, and District of Columbia, in proportion to the number of troops furnished by them respectively to the service of the United States during the late war.

Mr. STEVENS. I move to strike out the words "so far as may be consistent with the interests of the public service." I think there will be no difficulty in any State in finding enough to fill their quota, and therefore I would not leave it optional with anybody to make discrimination against particular States.

Mr. SCHENCK obtained the floor.

Mr. NIBLACK. I rise to a question of order. There is not a quorum present.

Mr. BROMWELL. I move that the House adjourn.

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] is on the floor.

Mr. SCHENCK. I would like to get through this section.

The SPEAKER. The gentleman from Indiana [Mr. NIBLACK] can demand a division whenever a vote is required.

Mr. SCHENCK. The language proposed to be stricken out was put in by the committee simply because it might not be practicable to divide the proportion precisely by arithmetical calculation. If you should undertake to do so, you might have for one State or Territory an officer and a half or two thirds. If the gentleman will insert some words which will obviate the requirement for an exact division, so that one of our gallant men shall not be cut in two, I will assent to it. I have no objection, for instance, to distributing these appointments in the proportion stated as far as practicable.

Mr. STEVENS. I will modify my amendment accordingly. I move to strike out the words as before, and to insert in lieu thereof the words "so far as practicable."

Mr. CHANLER. I would ask for information from the gentleman who offered this amendment, or the chairman of the Committee on Military Affairs, what bearing this section will have upon the forces raised by the so-called loyal States from the States in rebellion. As I understand it, no States which, under the operation of the Freedmen's Bureau, and under the regulations of the service during the war, fitted out regiments which were called by the name of States in rebellion, will be entitled to the proportion under this section of officers for the troops which were actually raised for themselves, though nominally raised in the southern States.

For instance, during the occupation of Port Royal regiments of colored troops were raised there, and called the first, the second, &c., South Carolina regiments. Now, do I understand the effect of this section to be to give to the State of South Carolina a proportion of the officers to be appointed from officers of the colored regiments in this reorganization of the Army? I understand that to be the effect, and it may be the intention of the section.

I now yield to the gentleman from Pennsylvania, [Mr. ANCONA.]

Mr. ANCONA. As our friends on the other side of the House may be a little delicate about making a motion to adjourn on this occasion, I will do so for them. I move that the House do now adjourn.

The motion to adjourn was not agreed to.

The question recurred upon the amendment of Mr. STEVENS to strike out the words "as far as may be consistent with the interests of the public service" and substitute the words "so far as practicable."

The amendment was agreed to.

Section seven was then read, as follows:

SEC. 7. And be it further enacted, That each regiment of infantry provided for by this act shall have one colonel, one lieutenant colonel, one major, one adjutant, one regimental quartermaster, one regimental commissary, ten captains, ten first lieutenants, ten second lieutenants, one sergeant major, one quartermaster sergeant, one commissary sergeant, one hospital steward, two principal musicians, and ten companies, and each company shall have one captain, one first lieutenant and one second lieutenant, one first sergeant, four sergeants, eight corporals, two artificers, two musicians, one wagoner, and fifty privates, and the number of privates may be increased to one hundred, at the discretion of the President, whenever the exigencies of the service require such increase. The adjutant, quartermaster, and commissary of a regiment shall be an extra first lieutenant, appointed for their respective duties.

Mr. WASHBURN, of Indiana. I move to strike out the words "two artificers" in the clause relating to the organization of the companies. I make the motion more for the purpose of asking the members of the Military Committee what are the duties of these artificers, especially in the infantry regiments.

Mr. SCHENCK. This provision has been made in accordance with suggestions by the military council that assembled here, comprising Generals Meade, Sherman, and others. It was urged that at least two men in each company should be skilled artificers. That would constitute for each regiment what might be termed a corps of pioneers to aid in building bridges, and doing all other duties appropriate to such service. And we thought it not inappropriate to allow that number to each company, according to that suggestion. I think myself it is a good provision.

Mr. WASHBURN, of Indiana. Would not the same propriety require ambulance men?

Mr. SCHENCK. It might or might not be. They are connected with the surgical department, and can be detailed for that service.

Mr. WASHBURN, of Indiana. And these artificers are connected with the quartermaster's department, and can be detailed as well as the others.

Mr. SCHENCK. There is always something for artificers and pioneers to do in time of peace, about forts, &c. And I trust we

shall for a long time be in such a condition that we shall not require ambulance men.

Mr. KASSON. I would ask the gentleman from Ohio [Mr. SCHENCK] what reason there is for the last clause of this section? That clause is:

The adjutant, quartermaster, and commissary of a regiment shall each be an extra first lieutenant, appointed for their respective duties.

I am not sufficient of a military man to be an authority, but I suppose we have not hitherto had any extra officers for the purpose of doing these duties.

Mr. SCHENCK. I suppose we better dispose of one amendment before another is offered.

Mr. VAN AERNAM. I desire to move to amend this section by striking out the words "regimental commissaries."

The SPEAKER. That would not be in order, pending the amendment of the gentleman from Indiana, [Mr. WASHBURN.]

Mr. WASHBURN, of Indiana. I will withdraw my amendment for the purpose of allowing the gentleman from New York [Mr. VAN AERNAM] to offer his amendment.

Mr. VAN AERNAM. I move to strike out of this seventh section the words "regimental commissaries." I do so because I deem the office of regimental commissary entirely unnecessary and useless. In the history of this country, ever since the first organization of armies, there is to be found no instance of such an officer being employed as the commissary of an infantry regiment. There has been developed in time of peace no necessity for any such officer; nor in time of war, during the war of the Revolution, the war of 1812, the war with Mexico, and the great war of the rebellion through which we have just passed. And now, when we are organizing our Army upon a peace establishment, I can see no necessity for creating officers to do no service whatever that cannot be done by those we now have.

There are to be fifty-five regiments of infantry, according to the organization proposed by this bill, each regiment to have a commissary with the pay of a first lieutenant. According to the bill proposed to establish the pay of the Army, a first lieutenant is to receive \$1,500 a year as pay proper. In addition to that, this commissary is to receive \$120 a year for responsibility money. In addition to that, if you look at the next section of the bill, he is to be a mounted officer; that means nothing more nor less than that the Government shall furnish forge and shoe his horse, which will be an additional expense of at least ten dollars a month to the Government. That will make the cost of one of these officers \$1,740 a year. When multiplied by the number of regiments provided for, it makes the expense levied on the over-taxed energies of the people \$95,700 a year for no purpose whatever, because this same service has been performed through peace and through war by commissary sergeants, who have twenty-one dollars a month. The bill does not do away with the commissary sergeant at all, but continues him and makes this an additional office.

As I said before, the whole expense in these infantry regiments will amount to \$95,700 a year. And not only that, but we are creating a tax on the labor of the country to continue for all time. I hope the amendment will prevail.

Mr. WASHBURN, of Indiana. I believe that in time of peace the number of the officers of the Army should be reduced as low as possible, and that all useless officers should be dispensed with. In this case, during the war, when we have had marches of extreme length, it has sometimes been necessary to detail an officer to act as regimental commissary, but it was only in extreme cases that such was the case.

Now, you will hardly find a single regiment stationed as an entirety at one post, and the post commissary distributes rations to the company at the post. I can see no use of a regimental commissary when you have a quarter-

master who, during the war, has done this duty and done it well. This bill proposes, at the enormous expense of \$95,000 a year, to add another officer to each regiment. Instead of reducing the expenses of the Army, we are proposing to add an officer to each regiment at an expense of \$95,000. I am opposed to any such motion unless there can be some good reason shown for the increase.

Mr. SCHENCK. I think that the only motive that the committee had in adopting this provision was this: it has been thought by many, both in time of peace and in time of war, an imperfection in the system that one officer should combine in himself two characters, and thus mix his accounts, being responsible to two different departments, the Quartermaster General's department on the one side and the commissary department on the other. Therefore, in following the recommendation made by the principal officers of the Army, who sat in council upon all these subjects, the committee assented to an arrangement by which the two distinct offices should be created in the infantry as in the other arms of the service.

The difficulty is obviated to some extent by having a commissary and a quartermaster sergeant. I am not disposed to insist, myself, very strongly upon this provision for an additional officer. I am willing that the House shall decide the question.

Mr. WASHBURN, of Indiana. Will the gentleman tell me how it happens that in only one branch of the service an officer of this kind has been found necessary?

Mr. SCHENCK. Well, I think it is as necessary in one as in the other. It is questionable whether the office is necessary in one arm of the service or in the other. I trust the House will come to a vote.

The question was taken on Mr. VAN AERNAM's amendment, and it was agreed to.

Mr. SCHENCK. I now move to strike out, in lines four and five, the words "ten captains, ten first lieutenants, ten second lieutenants."

The section already provides, in regard to these regimental officers, that each company shall have one captain, and one first, and one second lieutenant. This is only a repetition. These officers are provided for in the regimental organization.

The amendment was agreed to.

Mr. HALE. In order to perfect the section, I move to strike out the word "commissary" in the fourteenth line.

The amendment was agreed to.

Mr. VAN AERNAM. I move to strike out, in line eleven, the words "fifty privates" and to insert in lieu thereof "one hundred privates."

The object of creating an army is to have one that will be of some practical use. I have no hesitation in indorsing the letter which was presented from Generals Grant and Sherman, and other general officers in the field, asserting the fact that there are always in field operations thirty per cent. of the men sick. I think those military men have understated the fact. My experience as a medical officer in the Army would lead me to believe that fifty per cent. of men are disqualified by physical disability, whether during actual campaigns, or on ordinary duty. In October, 1862, I landed here with a regiment of five hundred and sixty-two enlisted men. We were sent to the army of the Potomac; we were engaged in no active campaign, in no battle; the regiment suffered from no epidemic disease, no disease of a contagious character. Yet just seven months from the day when we arrived here at Washington we went into the battle of Chancellorsville with four hundred and thirty-eight enlisted men. The regiment had been depleted to that extent during those seven months, though we had no active campaigning, and were not subjected to the casualties of battle or to contagious or epidemic disease.

My observation leads me to the belief that what was true of that regiment was true of all the new troops that entered the Army in 1862.

Supposing that to be the fact, I submit that, if we put in the field companies numbering only fifty men each, they will at the end of six months have dwindled down to companies of twenty-five or thirty—thirty at most, probably twenty-five, perhaps not more than twenty; because, sir, the volunteer organization of the Army was not depleted to any great extent by desertions; but this is not a fact in regard to the regular Army, in which desertion has been a crying evil, order after order having been issued for the arrest of deserters from the regular Army.

Now, supposing that there should be a diminution at the rate of forty per cent. in seven months, as there was with the troops furnished in 1862, we should, under this bill, have our companies reduced in a period of half a year to twenty-three or twenty-four men. Thus our Army would become a great skeleton without any vital organization fitting for performing efficiently the functions of an army. Such an army would simply eat the substance of the people without rendering any valuable service.

I submit that, as it is contrary to the spirit and habits of the better part of our people, including the agriculturists and the sons of agriculturists, to enlist in the regular Army, it would be impossible, under the circumstances, to keep these companies full. I have seen a note from the Adjutant General's Office, stating that between October, 1864, and January, 1866, there had been only about thirty-nine thousand men enlisted into the regular Army.

Mr. WASHBURN, of Indiana. Will the gentleman allow me to ask him a question?

Mr. VAN AERNAM. Yes, sir.

Mr. WASHBURN, of Indiana. The bill, as it stands, provides that the number of privates in a company may be increased to one hundred, at the discretion of the President. Does the gentleman offer his amendment because he cannot trust the President?

Mr. VAN AERNAM. I offer the amendment because I believe it improper to allow a company to be organized with less than one hundred men. If you allow companies to be organized with a smaller number, your Army will be a mere skeleton without any muscle. You will have an army composed simply of officers and drummers—an army that may be fitted to illustrate the "pomp and circumstance of war," but which will be incompetent for efficient service in any exigency.

Mr. SCHENCK. I have very little to say in regard to this amendment. But I deem it impolitic and certainly not economical to keep the Army all the time up to its maximum. The effect of the gentleman's amendment, striking out "fifty" and inserting "one hundred," would be to keep the companies all the time at their maximum. It would organize at once an Army of eighty thousand men. I hope the amendment will not prevail.

Mr. FARQUHAR. I desire to ask the gentleman from Ohio, if he will permit me, whether the effect of the bill would not be to increase the number of regiments just one half, and thus increase in the same proportion the number of officers?

Mr. SCHENCK. It would not have that effect without further regulations.

Mr. FARQUHAR. If you make a company consist of fifty, instead of one hundred, do you not thereby increase the number of officers just one half?

Mr. SCHENCK. The officers are the same. The expansion is to be by filling up the regiments as occasion may require, but to keep the Army down to the lowest practicable point with regard to numbers in time of peace.

Mr. VAN AERNAM. I desire to say a word or two in addition to what I have already said on this subject.

It has been demonstrated, during this rebellion, that our people are not much inclined to enlist in the regular Army; they prefer to enlist in volunteer organizations. In reference to the organization of this Army, I would consult the views of the Secretary of War and the Lieutenant General, and allow them to have just as

many men in the field as they may think necessary and proper, with regard to the exigencies of the service and the condition of the country. But I would not allow organizations to go into the field in a skeleton capacity. The effect would be you would have a full quota of officers all the time, but you would not have the men to do the duty. You want a company of one hundred men to garrison a fort, take care of the guns and other public property. If you put these skeleton regiments into the field you will have to take four companies to make up these one hundred men, while you will have fifteen or sixteen officers to pay instead of two or three.

I apprehend it is not a matter of economy. It is not just to the people of the country to keep up officers when there are no men to perform the service. If fifty thousand men be needed let them be furnished in full companies and not in skeleton companies. I tell you if you adopt the provision for these skeleton companies, you will have an army of officers and musicians and no one to do duty.

Mr. GARFIELD. I hope the amendment will not prevail.

The question recurred on Mr. VAN AERNAM'S amendment.

The House divided; and there were—yeas 83, noes 86; no quorum voting.

Mr. HARDING, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 45, nays 65, not voting 78; as follows:

YEAS—Messrs. Ames, Anderson, Baker, Banks, Beaman, Sidney Clarke, Collioth, Conkling, Dawes, Donnelly, Farnsworth, Farquhar, Ferry, Finck, Grier, Abner C. Harding, Henderson, Hulburd, Kelley, George V. Lawrence, Marshall, Mercer, Miller, Moorhead, Morris, Niblack, Perlman, John H. Rice, Ross, Rousseau, Seaford, Shellabarger, Smith, Spalding, Srouse, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Warner, Henry D. Washburn, William D. Washburn, Windom, and Wright—45.

NAYS—Messrs. Allison, Ancona, Baxter, Benjamin, Bingham, Blaine, Boutwell, Boyer, Bromwell, Broomall, Buckland, Bundy, Chanler, Reader W. Clarke, Cook, Dixon, Driggs, Eggleston, Garfield, Glossbrenner, Hale, Hayes, Hogan, Holmes, Asahel W. Hubbard, Choster D. Hubbard, James M. Humphrey, Julian, Kasson, Ketcham, Kaykendall, Latham, Loan, Longyear, Lynch, Marston, Marvin, McClure, McKuer, Moulton, Myers, Nicholson, O'Neill, Orth, Paine, Patterson, Phelps, Price, Ritter, Rollins, Schenck, Shanklin, Sitgreaves, Stevens, Taber, Taylor, Thayer, Robert T. Van Horn, Ward, Elihu B. Washburne, Welker, Wentworth, Williams, James F. Wilson, and Woodbridge—65.

NOT VOTING—Messrs. Alley, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Bergen, Bidwell, Blow, Brandegee, Cobb, Cullom, Culver, Darling, Davis, Dawson, DeGreese, Delano, Deming, Denison, Dodge, Dumont, Eekley, Eldridge, Eliot, Goodyear, Grinnell, Griswold, Aaron Harding, Harris, Hart, Higby, Hill, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, James Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kelso, Kerr, Ladin, William Lawrence, Le Blond, McCullough, McIndoe, McKee, Morrill, Newell, Noell, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rogers, Sawyer, Sloan, Starr, Sulwell, John L. Thomas, Trimble, Burt Van Horn, Whaley, Stephen F. Wilson, and Winfield—73.

So the amendment was disagreed to.

The Clerk read the next section, as follows:

Sec. 8. *And be it further enacted*, That the adjutants, quartermasters, and commissaries of infantry regiments shall be mounted officers; and that all regimental adjutants, quartermasters, and commissaries shall be paid, in addition to their other proper allowances, as first lieutenants and mounted officers, ten dollars per month, as compensation for their greater care and responsibility; and officers of the line detailed to act as regimental quartermasters or commissaries, or as quartermasters or commissaries of permanent posts, or of commands of not less than two companies, shall, when the assignment is duly reported to and approved by the War Department, receive as extra compensation while responsible for Government property, ten dollars per month.

Mr. VAN AERNAM. I move to strike out the word "commissaries" in the second and fourth lines.

The amendment was agreed to.

Mr. VAN AERNAM. I move to strike out after the word "officers" in the third line, these words:

And that all regimental adjutants and quartermasters shall be paid, in addition to their other proper allowances as first lieutenants and mounted officers, ten dollars per month, as compensation for their greater care and responsibility; and officers of the

line detailed to act as regimental quartermasters or commissaries, or as quartermasters or commissaries of permanent posts, or of commands of not less than two companies, shall, when the assignment is duly reported to and approved by the War Department, receive as extra compensation while responsible for Government property, ten dollars per month.

I do not see why these officers should have an easy time in comparison with the officers of the line.

Mr. HARDING, of Illinois. I should be in favor of the amendment of the gentleman from New York [Mr. VAN AERNAM] if it did not render the section incongruous with the general scope of this bill. The section proposes to increase the number of officers and the expense of the Army without increasing its efficiency.

It is provided in this bill that these quartermasters and adjutants, when they have any public property in their possession, shall have ten dollars extra because of the responsibility which is devolved upon them. Now, what in Heaven's name has a quartermaster to do but to take public property and take care of it? There is not a regiment in the service to-day but what can find forty capable privates who have served for years who are competent for that position and who would be glad to obtain it. There is scarcely a wounded volunteer in the Army that is not capable of performing, in time of peace, all the duties and responsibilities which devolve by military law upon the office of quartermaster or adjutant. They are both very genteel berths, much sought after by young men of distinguished families. They are soft places, and can be made use of to get glory without danger.

Now, sir, except so far as I may feel bound to keep up the principle of this bill, and make it what it is designed to be, I shall not vote for a provision for the benefit of gentlemen who have political influence enough to get into the Army to live easy. My policy would be to have simply an efficient army for police duty in time of peace, and not have an officer or a man beyond the actual needs of the service. I would not create a standing army in anticipation of a war in the future. It is the last source to which I would look for security to liberty or law. A standing army is the engine and contrivance of monarchy and tyranny. It is the school in which despotism is learned; and if you keep up a large standing army in this country for a few years, schooled as standing armies usually are, you will find a large overshadowing institution, which is alien to the sentiments of freedom, virtue, and intelligence in the people.

Sir, I recollect at the beginning of the late war that a large proportion of the Army which we had nourished and educated, as we supposed, in harmony and sympathy with the great sentiment which has since put down that rebellion, deserted our flag and went over to the enemy. Notwithstanding their discipline and education at West Point they turned against this country. And those who remained in some instances and performed good service in the field, hesitated, if we are not misinformed, as to which side they should take.

Mr. GARFIELD. Will the gentleman allow me to ask a question?

Mr. HARDING, of Illinois. Yes, sir.

Mr. GARFIELD. Does the gentleman know of a single enlisted man in the old Army in 1861, or thereafter, who deserted and went over to the rebellion? And were not the desertions he speaks of confined wholly to officers?

Mr. HARDING, of Illinois. Yes, sir. If I used that language I retract it. Not many of the enlisted men, I believe, deserted.

But, sir, I wish to say this: that if in the future our country encounters difficulties by reason of insurrections at home or by collision with nations abroad, our reliance will be upon the patriotism and intelligence of the people for the preservation of a Government which is a blessing to those people, a Government which does not burden them with the incubus of a standing army, making them discontented and indisposed to fight for its preservation. I will undertake to say that if we should ten years

hence have a war, it would be better and more cheaply provided for and maintained by issuing a proclamation to the freemen of this country to come forth and fight the battles in the interest of freedom and good government than by keeping up a standing army in anticipation of such an event. Hence I do not believe in the policy of providing a large standing army, and keeping it up for ten, twenty, or thirty years, for the purpose of being prepared for war. I want no great horde of officers to eat out our substance. And whatever may be the purpose and object of the bill before us, its effect, I fear, will be to create a large number of officers and to make an inefficient army. To that I am opposed.

I am willing at all times to give employment to the volunteer officers who have been serving their country during the late war, whether they happened to be wounded or not, by giving the preference to them in the selections for the public service. I am willing that they shall be employed almost exclusively in doing garrison and other light duties, which are the only duties required to be performed in time of peace. These are my general views, and I shall vote to reduce the Army to thirty thousand, or at most, forty thousand men.

Mr. VAN AERNAM. Will the gentleman allow me to inquire of him if he would have those thirty or forty thousand men organized in regiments of a thousand men each, or would he have twice that number of regiments?

Mr. HARDING, of Illinois. I would have only thirty or forty full regiments if it was not incongruous with the bill. But I voted for the amendment of the gentleman from New York [Mr. VAN AERNAM] with the hope that the rest of the bill would be made to conform to it.

Mr. VAN AERNAM. Would not the gentleman from Illinois deem it advisable to perfect the bill in the best possible manner, and in the end recommit it, if necessary, to do what the chairman of the Military Committee [Mr. SCHENCK] yesterday called "to lick it into shape?"

Mr. HARDING, of Illinois. There is no trouble in reducing this bill to the shape the gentleman indicates. But I obtained the floor on the condition that I opposed the gentleman's amendment, and therefore I speak as if advocating the bill in its present shape.

The SPEAKER. The Chair inquired if the gentleman intended to oppose the amendment merely for the purpose of equalizing the debate. The gentleman can speak for or against the bill, as he pleases, having obtained the floor.

Mr. HARDING, of Illinois. The gentleman from Ohio [Mr. SCHENCK] has referred to the generals of our armies as the authority for determining the number of troops required in time of peace. Now, we must all remember that there is some human nature in all of us. It is quite natural for the men who command the armies of the United States to desire that our Army shall make a decent show in the world; that it should at least dignify the offices they hold in connection with it. And I think myself that the policy of this bill is to make a brilliant army, one that will accord with the characters and brilliancy of the generals in command of it.

If we had a different form of government I might "go in," as the saying is, for an army of half a million men, one able to make a show before the monarchs of the world, one able to control by force the people of this country who now claim the right of self-government. But under our form of government we depend upon a virtuous and intelligent people, devoted to a support of the Government which pleases them in every respect, and which makes their yoke easy, and their burden light. Take away that resource for the protection of liberty and a free Government and you will find no protection in a standing army. It is schooled in the school of the tyrant and the monarch, and if it does not ultimately become alien to liberty and democracy, it will prove very different in this country from what it has ever proved elsewhere.

I will ask my friend from Wisconsin [Mr.

PAINE] if a regiment, according to its ratio of the cost of an army will not cost the Government about a million dollars a year.

Mr. PAINE. I am not able to state the exact amount a regiment will cost the Government.

Mr. HARDING, of Illinois. I think that is about the cost of a regiment, taking in consideration all the pay and expenses of the officers. And more than half that expense will be incurred whether there are any privates in the regiment or not. The pay of the officers, the very machinery necessary to keep up the organization of the regiment, will cost the Government more than half that sum. Now, why should the people of this Government be taxed \$80,000,000 a year for this Army? For whose benefit and for what purpose? Is it to keep down the people of Illinois? We require no such repression in that State. Is it to keep down the people anywhere in this broad country? No, sir; a virtuous public opinion is all that is required for that purpose. If you will give me one division of cavalry and one division of mounted infantry I will undertake that Grant will do the job of preserving quiet all over the Union.

Mr. PAINE. I have but a single word to say in reference to the amendment of the gentleman from New York, [Mr. VAN AERNAM.] I have the highest respect for his opinion concerning this bill generally, and I am unwilling to express an opinion differing from his unless absolutely compelled to do so by my own convictions. But my observation has been that the old rule which prevailed in the regular Army when the war broke out, and which has prevailed ever since, whereby regimental quartermasters and adjutants always received ten dollars a month additional compensation for their increased responsibilities, was a rule founded in justice. I believe it is not true, as the gentleman seems to suppose, that these officers, the regimental quartermasters and adjutants, have light duties to perform compared with those that devolve upon the lieutenants of companies. On the contrary, my observation in the Army satisfied me that no officer in the Army was more severely worked than these regimental adjutants and quartermasters when they did their duty. I am not unaware that that duty is sometimes left unperformed, but I undertake to say that the post of a regimental adjutant or quartermaster, who is faithful to his duty, is no sinecure. The duty which devolves upon him is very much greater, and the responsibilities of his position are very much graver, than those which devolve upon the lieutenant of a company; for when the march was ended and the lieutenant of a company could lie down to rest, then the work of the regimental adjutant or the regimental quartermaster began; and it oftentimes lasted until morning came, and the column was ready to march again.

Now, sir, knowing that the labor and the responsibilities of these men are so much greater than those of the lieutenants, I am disposed to continue this provision—a provision which existed before the war, and has continued during the war—in this new Army bill. I am therefore opposed to the amendment of the gentleman.

Mr. SCHENCK. I hope the amendment proposed by the gentleman from New York will not prevail. I do not desire to add anything to the reasons which have been given, drawn not only from practice, but from propriety, by the gentleman from Wisconsin who has just taken his seat; but as the gentleman from Illinois [Mr. HARDING] has referred, as others have done in the course of this debate, to the immense cost of an army, and have overstated it exceedingly under a misapprehension, in consequence of not looking very closely into the figures, I desire to make a statement to the House.

Mr. HARDING, of Illinois. I referred to the Committee on Military Affairs for information.

Mr. SCHENCK. I will endeavor to give

it to the gentleman. I have here the calculation of the pay proper and allowances for clothing and rations of a regiment of infantry, and the pay proper and allowances of its officers, and I find that when you add the pay and allowances of officers and enlisted men together it amounts to \$128,872 19 a year. In this is not included the allowance for forage or fuel, which are drawn in kind. Of course the forage does not amount to much in the infantry, and while fuel is allowed at posts and in cities the amount is not a large one, except in the case of detailed officers on duty in cities like Washington.

Let me make the general remark that in speaking of regiments, I refer to regiments composed of fifty-five privates, artificers, and officers, the minimum organization provided for here, and not of a regiment expanded to its full number of one hundred. The additional cost in that case would be something like seventy thousand dollars in time of war, the number of officers being the same.

Mr. HARDING, of Illinois. Does that calculation include clothing?

Mr. SCHENCK. It includes clothing, rations, and everything.

Mr. HARDING, of Illinois. Does it include arms?

Mr. SCHENCK. No, sir. If the gentleman were a little patient, which no gentleman here seems to be, I was going to advance to that point. This is a specific estimate; a specific account of what is necessary to support one of these organizations.

But then an army implies bureaus, and officers detailed for duty there, commutation of quarters, artillery, horses for cavalry, and numberless other expenses in the various departments, quartermaster's, commissary's, &c., which must also all be estimated for in providing for keeping up a military establishment. Now, we happen to know what will be the aggregate annual cost of just such an army as is here proposed. It will be in round numbers \$33,000,000, (I can give the exact figures, if any gentleman desires them,) without any of the reductions from the bureaus and elsewhere provided for in this bill. There are seventy-two regiments provided for, including artillery, cavalry, and infantry; and the expense of the whole seventy-two regiments, with all the artillery and all the cavalry, and all the extensive bureaus, and all the munitions of war, including powder, lead, and all else that may be required to put an army in fighting order or to keep it in time of peace in a condition ready for fighting, is but \$33,000,000. How, then, is it possible that each regiment, and particularly each one of the infantry regiments (not half so expensive as cavalry regiments) shall cost half a million dollars per annum?

The amendment was not agreed to.

The next section was read, as follows:

SEC. 9. And be it further enacted, That each regiment in the service of the United States may have a band, (as now provided by law,) and there shall be one ordnance sergeant and one hospital steward for each military post, and the same number of post chaplains as now provided by law; and the President of the United States is hereby authorized to appoint for each national cemetery now established, or that may be established, a superintendent, with the rank, pay, and emoluments of an ordnance sergeant, to be selected from among those who were non-commissioned officers of volunteers in the Army of the United States in the late war, and who have served faithfully and been disabled while in the line of their duty.

Mr. PAINE. I move to amend by striking out, after the word "that" in the first line, the words "each regiment in the service of the United States may have a band, as now provided by law," and inserting in lieu thereof the following:

Twenty bands, and no more, may be retained or enlisted in the Army, with such organization as is now provided by law, to be assigned to brigades in time of war, and in time of peace to assembled brigades or to forts or posts at which the largest number of troops shall be stationed.

Mr. SCHENCK. I am inclined to agree with the gentleman from Wisconsin [Mr. PAINE] that such an amendment as this ought to be made. The provision during the war was for brigade bands for volunteers, the regular Army

having regimental bands. I incline to think that the drum and fife are about the best of music; but still bands have their use with others who have more musical taste than I. These bands seem to have a very inspiring effect at posts and with brigades or larger bodies.

I have no objection to the amendment, if it be so modified as to provide that these twenty bands shall include the band at West Point.

Mr. PAINE. I accept the suggestion, and modify my amendment by striking out after the words "twenty bands" the words, "and no more," and by inserting in lieu thereof these words: "including the band of the Military Academy."

Mr. SCHENCK. As it now stands the provision will be for twenty bands only, instead of a band for each regiment of the Army. Inasmuch as the band at West Point is now provided for I move to amend the amendment by adding at the close the words, "and the band at the Military Academy shall be placed on the same footing as other bands."

Mr. PAINE. I accept that as a modification of my amendment.

Mr. SCHENCK. I have offered this amendment for the reason that the cadets at West Point are now taxed twenty-five cents each per month to support their band. I see no reason why that deduction should be made from the pay of those young gentlemen. As that is an important military post, the headquarters of the Engineer corps, the band at that place should be put on the same footing as the bands of all other organizations of the Army.

Mr. VAN AERNAM. I move to amend the amendment of the gentleman from Wisconsin so as to make the number of the bands "seventeen" instead of "twenty." This will furnish a band to each of the generals in the service, and also a band for West Point.

These bands, Mr. Speaker, are a very expensive luxury. A paymaster in the service of the United States figured out for me this morning the monthly pay of a band, and it amounts to \$968. If these regimental bands be continued we shall incur an expense of more than half a million dollars a year for this extra music. I agree with the chairman of the Committee on Military Affairs in thinking that the drum and the fife are the only and the true martial music. As that kind of music is already provided in the organization of the company, and of the regiment, I see no necessity for a greater number of bands than seventeen. By reducing the number of bands it would reduce the expenses \$3,000 a month.

Mr. PAINE. I have no objection to reduce the number of bands to seventeen, but I should be sorry to place the amendment upon the same ground upon which he places it. I should be unwilling to graduate the number of bands according to the number of general officers. I see no connection between them. At the same time I admit the number of bands should be as small as possible consistent with the good of the service. Therefore, but not for the same reason which the gentleman gives, I accept the proposition to reduce the number of bands to seventeen.

Mr. VAN AERNAM. The gentleman from Wisconsin has mistaken me when he alleges that my idea is to graduate the number of bands by the number of general officers. My idea is to give a band to each unit. A brigade is a unit and is commanded by a brigadier general. I do not propose to furnish a band simply because a man is a general in the Army.

The amendment was agreed to.

The Clerk read the next section, as follows:

Sec. 10. *And be it further enacted*, That all enlistments into the Army shall hereafter be for the term of three years, and that but two field officers shall be appointed to any regiment until six companies of the regiment shall have been organized, and that but two officers for each company shall be appointed until the minimum number of men has been enlisted and the regiment duly organized; but recruits may at all times be collected at the general rendezvous in addition to the number required to fill to their minimum all the regiments and companies of the Army: *Provided*, That such recruits shall not exceed in the aggregate three thousand men. It shall be compe-

tent to enlist men for the service who have been wounded in the line of their duty while serving in the Army of the United States, or who have been disabled by disease contracted in such service: *Provided*, It shall be found, on medical inspection, that by such wounds or disability they are not unfitted for efficiency in garrison or other light duty; and such men, when enlisted, shall be assigned to service exclusively in the regiments of the Veteran Reserve corps.

Mr. GARFIELD. I move to strike out "three" and to insert "five," so as to make the term of enlistment five years instead of three.

I have not heard the reasons of the chairman of the committee, and although I would prefer to hear them before speaking to my amendment, I will yield to him or go on my self now.

Mr. SCHENCK. I will follow the gentleman.

Mr. GARFIELD. Mr. Speaker, I regard it as one of the greatest evils that the Army of the United States, even in the revolutionary war, the war of 1812, or in the late war, has ever been obliged to encounter, that is, these short terms of enlistment. It almost ruined us in the revolutionary war. It was almost equally damaging to the interests of the country in the war of 1812. Every one knows how terrible was the result in making the terms of enlistment so short during the late war.

Ohio, when the first call was made for troops, had eighty-two thousand men offered to the Government, and they would have been offered for five years or during the war as well as for three months if called for that time, but we were only authorized to receive them for three months. The consequence was that by the time we fairly got the troops into the field they had to be mustered out. We raised twelve months' troops, and nine months' troops, and we were even guilty of the folly at one time of raising hundred days' men. I know they did good service. It was a mere accident in the war that they did good service. It was the merest accident it was not twenty-five millions of money thrown away. As a matter of fact I acknowledge they did good service.

Now, sir, we have the best material for an army ever offered to any Government in the world out of which to make an army. We have men who have had military experience crowding to get places in the Army. Let us now get an army that will last five years at least, and not after we have consolidated and crystallized it and made it an efficient body of men have it go out of service to get other men in again.

My amendment may be advocated on the score of economy. There is always some extra pay when men are mustered out at the expiration of their term of enlistment. It will be a great saving to give this extra pay at the end of a five years' enlistment instead of at the end of a three years' enlistment. You will adopt the amendment, then, from motives of economy, but more than all other reasons for the purpose of having a well disciplined and permanent army. I hope we will make the term of enlistment five years instead of three.

Mr. SCHENCK. Mr. Speaker, it is not the committee, but my colleague, [Mr. GARFIELD,] that proposes to change the custom; for the present term of service is three years. The gentleman proposes to carry it back to what it was at the commencement of the war in the regular Army. Now, I am not able, without reference to the military law, to tell precisely the date of the change in the law from three years' to five years' service.

Mr. GARFIELD. In 1862, I think.

Mr. SCHENCK. That was from five to three. The experience acquired by our fathers in the Revolution led them, in 1790 and 1791, and thereafter by successive enactments, to fix the term of enlistment at three years, and it was only some few years before the late rebellion that the term was prolonged to five years. What the committee proposes now is, that having changed it from five years to three in 1862, we shall keep it as it is.

There is much force in the argument used

by the gentleman in reference to the experiences that men acquire in the service and the advantage of having old soldiers. He only concurs in the opinion of every officer who speaks on the subject. If it were left to the officers themselves to settle the question, they would require men to serve ten years instead of five.

But when you come to legislate upon this matter you must take into consideration the character of our people, the kind of men we propose to fill up the ranks of the Army with. The question then becomes one of politics, or of political economy, and all that relates to the industrial pursuits of our people have to be taken into consideration as well as the question of simply getting good veteran soldiers.

Now, sir, our Army is to be made up of men drawn from all the walks of life. Young farmers, journeymen mechanics, and young men who have not yet settled themselves in any particular pursuit, form the great body of the Army, and by far its best material. And I undertake to say that three years carved out of the life of a young American belonging to either of these classes is equal to about ten years taken out of the slow life of a European. I mean to say that our young men are not willing as a body to give five years of their time to the service of the country, while hundreds and thousands of the very same young men might be willing to dedicate three years to this military work.

Take a young farmer eighteen years of age. He wants to see something of the world in a new phase; he wants to look at it in a military aspect, and he is willing to enter the Army for three years, but not to spare five years of his youth for that service and come back at the age of twenty-three, twenty-four, or twenty-five to settle himself in life.

I go further than that. Though I am not given to vain-glorious praise of the people of this country, yet I believe that a young American learns more and is worth more in his three years' service than most Europeans in ten years. Our young men acquire military knowledge quicker, they have more spirit, and they perform military service better and they are more fitted even for command after three years' experience as privates than any other people on the face of the earth.

I prefer, therefore, to accommodate our legislation somewhat to the character of the people of the country, whom we expect to call upon to fill up and constitute the great body of our standing Army or of any army that we ever put into the field.

For these reasons, without dwelling upon them more at length—though much could be said, perhaps, on both sides of this question—I am not convinced of the propriety of going back to the old terms of five years, particularly when, as a part of the system, the Committee on Military Affairs, looking to legislation upon this subject with a view to a cure of an evil, have proposed a bill (No. 450) to regulate the pay and compensation of officers and soldiers of the Army. And as it may be inconvenient for gentlemen to turn to their files to look at that bill I will read one of its provisions. Section four contains this provision:

And be it further enacted, That the pay and allowances of all non-commissioned officers and enlisted men in the Army of the United States shall continue the same as provided by the act entitled "An act to increase the pay of soldiers in the United States Army, and for other purposes," approved June 20, 1861, and by other existing laws; but hereafter each enlisted man shall, instead of any allowance for bounty, receive an increase on his pay proper of one dollar per month for each month of faithful service in the second year of his enlistment, and a further like increase of one dollar more per month for faithful service in the third year of his enlistment; and when any soldier re-enlists immediately, or within ninety days after the expiration of a previous term of enlistment, it shall be counted as one continuous term of enlistment, and he shall receive from year to year additional pay at the rate of one dollar per month in each successive year that he remains in the service.

At the proper time the committee hope to have an opportunity of insisting upon that proposition, as a means of curing some of the evils

now existing, and of elevating the character of the service, as a scheme by means of which the services of the soldiers may be secured continuously for the benefit of the Government. And though it would seem to entail a heavy additional expense upon the Government, by increasing the pay of the soldier a dollar a month for each successive year, so that he shall receive seventeen dollars a month the second year, eighteen dollars a month the third year, and nineteen dollars a month the fourth year, if he shall reënlist, and so on from year to year of service, yet it is more than compensated even upon the score of economy, as a means of getting rid of this whole difficult question of bounty hereafter, and substituting a gradual increase of pay in its stead to the faithful soldier. And I hope we shall keep the time of three years in this section.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had concurred in the amendment of the House to Senate resolution No. 29, for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department.

Also, that the Senate had concurred in the amendments of the House to Senate bill No. 89, to issue American registers to the steam vessels Michigan, Despatch, and William K. Muir, and for other purposes, with an amendment, in which the concurrence of the House was requested.

MILITIA ORGANIZATION.

Mr. SMITH, by unanimous consent, from the Committee on the Militia, reported a bill to provide for the national defense by establishing a uniform militia and organizing an active militia force throughout the United States; which was read a first and second time, ordered to be printed, and recommitted to the Committee on the Militia.

AMERICAN REGISTERS OF VESSELS.

Mr. WASHBURNE, of Illinois. I ask unanimous consent to proceed to the consideration of the amendment of the Senate to the amendment of the House to Senate bill No. 89, to issue American registers to the steam vessels Michigan, Despatch, and William K. Muir, and for other purposes.

There being no objection, the House proceeded to the consideration of the Senate amendment.

The amendment was read, as follows:

Add to the amendment of the House the following: And American registers or enrollment and license to the following-named vessels; that is to say, the ship Screamer, now called Roamer, of Brunswick, Maine; the barge Mary, of Detroit; the steam-tug Sampson, of Detroit; the schooners Caledonia and Enterprise, of Detroit; and the Anglo-Saxon, a Canadian-built vessel.

Mr. WASHBURNE, of Illinois. I move to amend the amendment of the Senate by striking out the words "now called Roamer."

The amendment to the amendment was agreed to.

The amendment, as amended, was then concurred in.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the amendment of the Senate was concurred in as amended; and I also move to lay the motion to reconsider upon the table.

The latter motion was agreed to.

APPROPRIATIONS FOR INDIAN TREATIES.

On motion of Mr. STEVENS, Senate joint resolution No. 69, making an appropriation to enable the President to negotiate treaties with certain Indian tribes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Appropriations.

CANAL AND SEWERAGE COMPANY.

On motion of Mr. INGERSOLL, Senate bill No. 190, to incorporate the District of Columbia Canal and Sewerage Company, was

taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REORGANIZATION OF THE ARMY—AGAIN.

The House resumed the consideration of the bill for the reorganization of the Army.

The pending question was upon the motion of Mr. GARFIELD to amend the tenth section so as to make the term of enlistment five years instead of three years, as provided by the bill as reported.

Mr. GARFIELD. I desire to say a word in reply to what the chairman of the Military Committee [Mr. SCHENCK] has said in favor of three years' enlistments. He says he desires to encourage the young men of this country to go into the Army a short time, to see life, to get a taste of military life, before they enter upon what will be their permanent pursuits of life. Now, that may be very pleasant for the young men themselves; but it seems to me our true theory should be to legislate for the best interests of the Army and of the Government.

The suggestion of the gentleman, however, is but a part of the general principle which seems to be prevailing in this country, that offices and positions of any sort are a kind of gift, or rather a sort of plum-pudding, which everybody has a right to take a bite of, and when he has had his bite, some one else should be allowed to take a bite.

Now, it occurs to me that offices and positions are rather for the benefit of the Government than especially for the benefit of classes of people. And if the principle of rotation must be adopted in offices generally, it occurs to me that it had better not be adopted when we are organizing a great army for a great Government. For my part, I believe that this habit of encouraging our young men to dash into this little occupation and that little occupation, having no fixed purpose, is a bad one, and I would be glad to discourage them from it by making the term of service longer, so that the man who chooses the profession of arms shall go into the Army as a definite, permanent, chosen profession, and not merely for a short time. Let them go into it for the purpose of making themselves soldiers, with the purpose of rising by their merits from the ranks, if possible, to the highest positions in the Army.

We must consider, also, the immense extent of this country; we have to send men three or four thousand miles away, to points which it takes six months to reach and six months to come back from, thus using up a year in going and coming. Then it takes one year to fit them for duty, leaving, if you fix the term at three years, only one year for efficient service. I hope we shall not limit ourselves to that point.

I know that there are advantages to the persons enlisted in such a system, and feel myself to be, in some sort, a brevet member of the Committee on Military Affairs. I would always rather work with its chairman than against him. I do not believe, however, that he makes much point on this matter. I believe that by and by he will be better satisfied if we have a permanent army based on the five years' principle, which has prevailed far more in the Government than the three years' principle has done. We reduced the term of service to three years merely to meet the present necessities of the Government at a time when it was difficult to get men. We found it troublesome then to get enough men who were willing to go into the service for five years. But now, when we have men in abundance who are just as ready to enter the service for five years as for three, it seems to me that we ought not to omit the opportunity to get an army for the full term of five years, and make it a great, solid, permanent body of men.

I move the previous question on my amendment.

The previous question was seconded and the main question ordered.

The question was put; and there were—ayes 25, noes 38; no quorum voting.

Tellers were ordered; and Messrs. ROUSSEAU and GARFIELD were appointed.

The House divided; and the tellers reported—ayes 45, noes 48.

Mr. GARFIELD demanded the yeas and nays, and called for tellers on the yeas and nays.

Tellers were ordered; and Messrs. ALLISON and GLOSSBRENNER were appointed.

The House divided; and the tellers reported—ayes twenty-one, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 40, nays 61, not voting, 82; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Boutwell, Bundy, Chanler, Conkling, Davis, Dixon, Donnelly, Eldridge, Finck, Garfield, Glossbrenner, Hogan, Edwin N. Hubbell, James M. Humphrey, Jencks, Kelley, Kelso, Marvin, McKee, McKuer, Meurer, Newell, Niblack, Samuel J. Randall, Shanklin, Smith, Spalding, Taber, Taylor, Townbridge, Upson, Van Aernam, Ward, Elihu B. Washburne, Wentworth, Williams, and Woodbridge—40.

NAYS—Messrs. Ancona, Baker, Baxter, Beaman, Benjamin, Bingham, Blaine, Boyer, Broomall, Buckland, Dawes, Driggs, Eckley, Eggleston, Farquhar, Ferry, Grider, Hale, Aaron Harding, Abner C. Harding, Hayes, Holmes, Chester D. Hubbard, Hulburd, Kasson, Ketchum, Kuykendall, George V. Lawrence, Loan, Lynch, Marshall, Marston, McClurg, Miller, Morris, Nicholson, O'Neill, Paine, Patterson, Phelps, Price, John H. Rice, Ritter, Rollins, Ross, Rousseau, Schenck, Scofield, Shellabarger, Sitgreaves, Stevens, Thayer, Thornton, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Welker, Whaley, James F. Wilson, and Windom—61.

NOT VOTING—Messrs. Alley, Delos R. Ashley, James M. Ashley, Baldwin, Banks, Barker, Bergen, Bidwell, Blow, Brandegee, Bromwell, Reader W. Clarke, Sidney Clarke, Cobb, Coffroth, Cook, Culum, Oliver, Darling, Dawson, Deftres, Delano, Deming, Denison, Dodge, Dumont, Eliot, Farnsworth, Goodyear, Grinnell, Griswold, Harris, Hart, Henderson, Higby, Hill, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Julian, Kerr, Ladin, Latham, William Lawrence, Le Blond, Longyear, McCullough, McIndoe, Moorhead, Morrill, Moulton, Myers, Noell, Orth, Perham, Pike, Plants, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rogers, Sawyer, Sloan, Starr, Stilwell, Strouse, Francis Thomas, John L. Thomas, Trimble, Burt Van Horn, Stephen F. Wilson, Winfield, and Wright—82.

So Mr. GARFIELD's amendment was disagreed to.

The Clerk read, as follows:

SEC. 11. *And be it further enacted*, That the President of the United States is hereby authorized to employ in the Territories and Indian country a force of Indians, not to exceed one thousand, to act as scouts, who shall receive the pay and allowances of cavalry soldiers, and be discharged whenever the necessity for their further employment is abated, or at the discretion of the department commander.

SEC. 12. *And be it further enacted*, That there shall be one lieutenant general, five major generals, and ten brigadier generals, who shall have the same pay and emoluments, and be entitled to the same staff officers in number and grade, as now provided by law.

SEC. 13. *And be it further enacted*, That the Adjutant-General's department of the Army shall hereafter consist of the number of officers now authorized by law, namely, one adjutant general, with the rank, pay, and emoluments of a brigadier general; two assistant adjutant generals, with the rank, pay, and emoluments of colonels of cavalry; four adjutants, with the rank, pay, and emoluments of lieutenant colonels of cavalry, and thirteen adjutants, with the rank, pay, and emoluments of majors of cavalry. But after the first appointments made under the provisions of this section, as vacancies may occur in the grade of major, no appointment shall be made to fill such vacancy until the number of majors in the department shall be reduced to ten, to which number the said grade shall thereafter be limited.

Mr. GARFIELD. I desire to ask the chairman of the committee to explain to the House, before we pass from this thirteenth section, precisely what is meant by the creation of this new office of "adjutant" in the staff department. I would like to know whether these officers, called "adjutants" will be eligible to promotion in the regular staff department, or whether this is a new office which is created; and if so, what is its grade? It is evidently an innovation upon the present mode of organizing that staff; and I would like to hear the reason for the change.

Mr. SCHENCK. Nothing whatever was meant by the committee except to get rid of

a long, lumbering title. In reorganizing the Adjutant General's department we thought it well to drop the words "assistant adjutant general," as now applied to every officer, even of the most subordinate grade in that department, and to call these officers simply what they are, adjutants. Each regiment has its adjutant, who is known as regimental adjutant; then there are other adjutants; and at the head of them all is an Adjutant General who bears a relation upon the general staff to the Army such as adjutants of regiments do to the organizations to which they belong. We thought it unnecessary, either in the quartermaster's department or in the Adjutant General's Office, to continue forever the cumbersome titles, "assistant quartermaster" or "assistant adjutant general." In reorganizing what relates to the adjutancy of the Army, that portion of the staff through which orders issue, and which thus has the general supervision or direction, under the proper commanding officers, of whatever is done, it seemed to us entirely unnecessary to perpetuate these long titles.

The gentleman inquires whether these adjutants will be entitled to promotion as in other cases. Of course they will. They are a part of the same general department, occupying their several ranks, some as majors, some as lieutenant colonels, some as colonels; but we have restricted the title "assistant adjutant general" to the two assistants of the Adjutant General, who in his absence may be called upon to occupy temporarily his position. The provision of the bill, therefore, is for "one adjutant general, with the rank, pay, and emoluments of a brigadier general; two assistant adjutant generals, with the rank, pay, and emoluments of colonels of cavalry." Then the bill goes on to provide for "four adjutants, with the rank, pay, and emoluments of lieutenant colonels of cavalry, and thirteen adjutants, with the rank, pay, and emoluments of majors of cavalry." If this mode of simplifying the matter should not, in the opinion of members of the House, conform to good taste or propriety, they will of course correct our correction.

Mr. THAYER. I move to amend by striking out the thirteenth section, and inserting in lieu thereof the following:

And be it further enacted, That the Adjutant General's department of the Army shall hereafter consist of the officers now authorized by law, namely: one adjutant general with the rank, pay, and emoluments of a brigadier general; two assistant adjutant generals with the rank, pay, and emoluments of colonels of cavalry; four assistant adjutant generals with the rank, pay, and emoluments of lieutenant colonels of cavalry, and thirteen assistant adjutant generals with the rank, pay, and emoluments of majors of cavalry.

Mr. Speaker, what I propose as a substitute for this section is the corresponding section of the Senate bill. It leaves the present organization of the Adjutant General's department unchanged. Now, sir, I wish to say, in regard to what has fallen from the chairman of the committee, that I am surprised that he should take the view that the effect of the section as it stands in this bill is simply to change the title of an office. The effect of the alteration made by the bill before the House is really to legislate out of the Army of the United States no less than thirteen of its regular officers, and to deprive them of their commissions.

Mr. HALE. Seventeen.

Mr. THAYER. Yes, sir; seventeen.

There is something more than a mere matter of verbal taste in a proposal of that kind; something more than a mere preference for a particular word.

Now, sir, as this is a point of the gentleman's bill where is commenced a process which, if carried out, would undermine and disorganize the whole system of the Army of the United States as it is at present organized, I desire to call the attention of the House to the changes which are initiated in the thirteenth section, now pending. The same operation which is performed by this section on the Adjutant General's department is by subsequent sections performed on the quartermaster's department and on the subsistence department.

Mr. WOODBRIDGE. And in the pay department.

Mr. THAYER. And also in the pay department. The officers holding commissions, or at any rate a great part of them, in these departments of the Army are, by a few strokes of the gentleman's pen, driven out of the Army of the United States and deprived of their commissions; and he tells us in justification of a measure so sweeping as that, so indefensible and so full of injustice, that it is a mere question of words whether a man is to be called an adjutant or assistant adjutant general. Does not every man know an officer who is assistant adjutant general in the United States Army holds his commission in that capacity and holds no other commission? The rank he holds is simply incident to the office he holds, and when you abolish the office he holds you deprive him of his employment and his commission.

Is there any man in the House who has read this bill who will undertake to deny that this is the legal effect of the section under consideration? I apprehend not.

The same thing, as I have already said, will be accomplished by subsequent sections in reference to the other staff corps of the Army, if this bill shall become a law in its present shape. All these gentlemen, some of whom have been in the Army of the United States, for many years—one of them, as I know, over forty years—officers who have spent their lives in the service of the country, and who have greatly aided in conducting it triumphantly through the late great war, are to be condemned unheard and driven from the Army. They are not to have accorded to them even the poor privilege of being tried by the star-chamber proceeding provided for in the thirty-third section of the bill.

By the thirty-third section the committee invite us to provide a grand council to indict the two thousand or more officers of the Army of the United States. This grand inquisition is to present them for trial before a petit jury of three officers, who, I say without hesitation, are armed by the terms of the bill with the power of conviction, but with no power of acquittal.

You do not even offer to the poor assistant adjutant generals—the seventeen you propose to immolate by this section—the chance to be presented by this grand council and tried by your petit jury of three. You turn them out of the Army without trial, without examination, nay, without accusation.

I thought, sir, when the gentleman from Illinois [Mr. HARDING] a few moments ago, speaking of this bill, said that the idea was to make a brilliant army, he was indulging in a display of that parliamentary irony which the gentleman from Ohio condemned yesterday in the gentleman from New York, [Mr. CHANLER.] Sir, it may be a brilliant army after you have perpetrated this great injustice and swept out all the officers on the various staffs who have been doing service there, some of them during the greater part of their lives, and faithful and eminent service, too, without so much as a trial or accusation. It may be a brilliant army, in your estimation, after you have incorporated into your law the twenty-ninth section, which gives the President of the United States power to transfer an officer at his volition from the staff to the line, from one staff corps to another staff corps, from one arm of the regular service to another arm of the service, to swap them about as politicians may request for the benefit of their favorites and followers. It may be a brilliant army, in your estimation, if you adopt the twenty-eighth section and destroy the great and just principle of promotion by seniority in service (a principle which I maintain to be the only just and proper one regulating promotions under our system of government) and substitute for it a political scramble for promotion. I say, when you do all this injustice and make all these disorganizing changes you may have perhaps what may be ironically termed a brilliant army, but it will not be an

army, sir, in the military sense of that word. It will not be an army which could oppose a respectable mob. It will be, sir, itself but a mob.

Now, the section which I propose to substitute is the corresponding provision of the Senate bill; and I propose to follow it, if it shall be adopted by the House, by proposing similar substitutes in the case of all those provisions which in my judgment affect injuriously the staff corps of the Army. The substitute which I offer does not disturb the present organization of the Army. It leaves it, as regards this staff corps, untouched. As it is now it does no injustice; it deprives no officer of his commission without a hearing; it turns out no faithful officer from the service; it violates no principle, and is no injurious innovation. It is simply the preservation of what already exists, and what, in my judgment, is infinitely better than the experiment which is proposed.

Mr. BLAINE. I desire to say a single word in regard to the pending section. The chairman of the committee is very well aware—and it is not improper for me to say it—that as a member of the committee I have differed from him in regard to this bill as regards the staff corps. The gentleman from Pennsylvania, [Mr. THAYER,] I think, would not have shown so much indignation against the committee if he had understood the origin of this nomenclature, as applied to the staff corps. I will state how this change of nomenclature originated.

The Quartermaster General of the Army, an officer for whom I have a most profound respect, was at my instance invited before the Military Committee to discuss the affairs relating to his department, and this is the department to which the gentleman has referred with the most zeal.

Mr. THAYER. No, sir; my amendment does not relate to that department. You have made this change in the Adjutant General's department.

Mr. BLAINE. Do not interrupt me at this moment. The Quartermaster General himself suggested that the titles in the staff corps, particularly relating to his own, were unduly long and cumbersome, and he asked that they should be changed and made *verbatim, literatim, et punctualim* as they are in this bill. And it was as a convenience to him that it was done. And now that the gentleman from Pennsylvania should suppose that it was the design of the Military Committee to legislate a set of gentlemen out of office by a change of nomenclature, I can hardly think he is serious about it.

I agree with him that that change would have that effect. I am not in favor of the change; but I want to say that it was the furthest from the intention of the committee to do anything more than to accede to the wishes of the departments, as they thought were expressed through this chief.

Now, one word about the Adjutant General's department. If I cannot have a better amendment than the one the gentleman from Pennsylvania [Mr. THAYER] has offered, I shall vote for that. I think the argument of the chairman of the committee in regard to curtailing the size of this staff corps is unsound. The section provides that after a certain time the assistant adjutants of the corps shall be reduced to ten.

Here let me state a fact. When the war broke out in 1861, with a little army of eleven thousand men, capable of being enlarged to nineteen thousand, there were fourteen officers in the Adjutant General's department, and it was not considered too many. During the war it was increased by six. And now, with an army four or five times as great, there are only six added, making twenty. You have not increased them fifty per cent. while you increase the Army fourfold. I think, instead of decreasing the number, it ought to be increased.

When the generals in convention—Generals Grant, Meade, and Sherman—recommended that there should be seventeen of these officers the committee in the Senate agreed to it, but

the committee of the House did not concur, but introduced a provision cutting it down to ten, which it seems to me is entirely inadequate.

One word further. I want to ask the gentleman from Pennsylvania [Mr. THAYER] if he will accept an amendment by me as a substitute for his. The number of officers of high rank in all the departments, Quartermaster General's, Ordnance, Subsistence, and everywhere else, has been very much more increased than in the Adjutant General's department. In almost every instance an adjutant general, either brigadier or major general, is the chief of staff. An adjutant general on a staff, where there is no chief of staff by that name, has as much employment as a chief of staff. And if there should be a difference in rank it certainly should be in favor of rather than against the adjutant generals. I think, therefore, that without increasing the number of officers in this department there should be a change in their grades and rank, and I propose, if the gentleman from Pennsylvania [Mr. THAYER] will accept the amendment, that the section shall be made to read as follows:

That the Adjutant General's department shall hereafter consist of the same number of officers now authorized by law, and their rank shall be as follows, namely, one adjutant general, with the rank, pay, and emoluments of a brigadier general; four assistant adjutant generals, with the rank, pay, and emoluments of colonels of cavalry; five assistant adjutant generals, with the rank, pay, and emoluments of lieutenant colonels; and ten assistant adjutant generals, with the rank, pay, and emoluments of majors.

All that that does is to change the rank of three majors to that of two colonels and one lieutenant colonel, and that will give an opportunity for such meritorious officers as Major Vincent and others, who have done very valuable duty during the war, to have some chance of promotion. It does not increase the number of officers; it only changes the grade of three of the officers in the department. I hope the gentleman will accept this as a substitute for what he has himself offered.

Mr. THAYER. I will accept the amendment if the gentleman will strike out the words "number of;" so that it will read:

That the Adjutant General's department of the Army shall hereafter consist of the officers now authorized by law, &c.

Mr. BLAINE. Very well; I will do that. I mean no trick about this matter.

Mr. THAYER. I did not suspect the gentleman of that, and I now accept his amendment, as modified, in lieu of my own.

Mr. WOODBRIDGE. Mr. Speaker, we are told by members of the Committee on Military Affairs that this change in the name and rank of the officers in the Adjutant General's department came to them on the recommendation of the Quartermaster General. Now, if it came from the Quartermaster General, as I have no doubt it did, from the gentleman's statement, he has certainly been guilty of great weakness, or else, certainly, of doing great injustice to his corps. And if the provisions of this bill are adhered to, when the time comes, I shall move that the rank of quartermaster general, which General Meigs has very well for his own purposes kept in the bill, shall be reduced to that of chief quartermaster. If we are to have nothing but quartermasters, then the man at the head of the department should be chief quartermaster. But I am sure the House do not want to do injustice, and that when they see what the operation of this bill will be, in law, they will not sustain it.

Here we have seventeen officers in the Adjutant General's department who have passed the best part of their lives there, and nobody has ever found fault with the way in which they have discharged the duties of their important offices. They have been there during the better portion of their lives. There is no accusation against them; no charge. They were commissioned as what? As assistant adjutant generals; and if this bill passes those men will, in spite of their services in that department and in the Army, under their commissions as adjutant generals, by the law

drop out of the service. The office will be abolished; there will be no such rank in the Adjutant General's department, and hence they will be dropped from the rolls of the Army without any charges being made against them; and when everybody knows that they have performed their duties well and faithfully.

Now, I am quite sure, that the chairman of the Committee on Military Affairs [Mr. SCHENCK] cannot entertain the same view of the operation of this section which I do; for he is a just man; and I am sure he does not desire to do injustice to these men who are valuable to the Government in the positions which they occupy.

Now, I do say—and I beg the members of the House to listen to me a moment—that if this bill passes in its present shape these seventeen men will, by virtue of its provisions, as a matter of law, be absolutely and forever, unless they should be reappointed, dropped from the rolls of the Army. Who asks that that shall be done? Who would favor such a great injustice? Why, sir, even a reappointment would not reinstate them, because their commissions would be dated at the time of their reappointment, and that would make a great difference in their pay, their positions, their rank, and in every way.

I hope the amendment of the gentleman from Maine, [Mr. BLAINE,] which has been accepted by the gentleman from Pennsylvania, [Mr. THAYER,] will prevail, because I think it is just.

Mr. SCHENCK. Mr. Speaker, perhaps it is not to be wondered at that a bill relating to the organization of the Army, and therefore looking to war, should stir up this House as this bill seems to do. Gentlemen seem incapable of speaking upon almost any question connected with the bill without showing a belligerent state of feeling, at least toward the committee which has had the honor, in the discharge of their duties to this House, of reporting this bill. The bill was framed according to the best of their ability; a great deal of care and pains was bestowed upon every part of it, however unfortunate they may have been in satisfying the expectations of gentlemen all around the House.

Now, all I have further to say on that general point of the course taken by the committee, shall be this; and I say it now once for all: when gentlemen on either side of the House shall see proper to intimate or say that the Committee on Military Affairs has been cunning, has had sinister purposes, has designed indirectly to make war upon somebody, I do not think their impeachment is worthy of being answered. It is unworthy in them to make any such imputation, and it is unworthy in us to reply to it. When gentlemen suspect cunning and sinister motives in others, I am myself naturally inclined, although not generally suspicious, to suspect that it must be because they derive their conclusions from some consciousness within themselves that they would have been so influenced had they had the same duty to perform.

Mr. THAYER. Does the gentleman from Ohio, in his last remark, refer to anything that I have said?

Mr. SCHENCK. So far as the gentleman said we meant any covert attack upon these officers, I do refer to him.

Mr. THAYER. I said nothing of the kind.

Mr. SCHENCK. I so understood the gentleman. If the tenor of his remarks was not to that effect, then what I have said has no application to him.

Mr. THAYER. I certainly intended to make no reflection upon the committee in anything that I said. I simply argued that the result of the section which they report in their bill was to commit an act of the most gross injustice. But I trust that no one supposed for a moment that I intended to charge the Committee on Military Affairs with a deliberate design to do injustice. Of course every one understands that they fell into this error inadvertently. I intended to cast no imputation upon

that committee, and suppose that no one understood me as intending any.

Mr. SCHENCK. If the gentleman had no such intention, then my remarks are not in the slightest degree applicable to him. I misunderstood him, perhaps, in supposing that he did impute to the committee a design thus indirectly to get men out of office.

But we have been charged more than once in the course of the debate on former days, if not to-day, with being exceedingly cunning and sinister in our designs. If we have not been so charged, then my remarks fall to the ground. If we have been so charged, then that is the only reply I have to make.

Now, in reference to this particular matter, I am not certain but what in point of law the gentleman is right, and that this provision as it now stands would vacate some of these commissions. And when my attention was called to it, after we had adopted this different nomenclature for these officers, under the circumstances stated by the gentleman from Maine, [Mr. BLAINE,] I myself prepared an amendment to obviate any such difficulty, and to prevent any such conclusions against these officers. My amendment was written specially with reference to the Adjutant General's department, as I promised it should be, because my conversation was with one connected with that department, who spoke of this as the probable effect of this provision. And I intended, should the House agree with the committee in simplifying these titles (otherwise it would be unnecessary) to move a similar amendment in reference to any other department in which the titles have been changed. I will read the amendment which I have prepared to come in at the end of this section as a proviso:

Provided, That nothing in this section shall be construed to vacate the commission of any officer now commissioned as assistant adjutant general, but only to change the title to adjutant, leaving the same officer in the same position he held when bearing the former title.

Now, I repeat, this change of title is a matter of taste and propriety, more than anything else; and therefore, if the House should disagree with the committee, I shall not feel disposed to complain. My colleague on the committee has stated how this change originated—that the Quartermaster General himself, in the course of a discussion of all the various matters pertaining to his department, adverted to the lumbering titles which attach to the officers of that department as well as other bureaus or staff departments. Any gentleman who considers for a moment what those titles are can satisfy himself whether the complaint of the Quartermaster General is well founded.

We have a large number of officers—these seventeen who have been spoken of—who are called assistant adjutant generals. They are connected with the Adjutant General's department. We thought it would simplify the matter to provide that, in this great department, where the adjutancy of the Army is concentrated, the subordinate officers should be called "adjutants" simply, while we provide for two assistants of the Adjutant General, who retain the title of assistant adjutant general.

So also, in the quartermaster's department, we thought that, instead of having a large number of officers signing themselves "Deputy Quartermaster General" and Assistant Quartermaster General, it would simplify the matter to have a Quartermaster General, with two or three assistant quartermaster generals, to take his place in his absence or upon an emergency, and to call the rest simply "quartermasters," some to rank as lieutenant colonels, some as majors, and some as captains.

The system of having these numerous officers with these cumbersome titles sometimes leads to confusion. I recollect an instance that occurred a good many years ago when the title of "Deputy Quartermaster General" had perhaps been recently adopted in the Army. A rather fancy gentleman who held that position, but whose occupation before he went into the Army had been very different, was fond of attaching to

his name upon every hotel register the letters "D. Q. M. G.," after which, on one occasion, a mischievous fellow following him wrote as the explanation or translation, "Damned quick-made general!" [Laughter.]

Now, if I can avoid it, I want no more of these "D. Q. M. G.'s," "A. Q. M. G.'s," "A. Q. M.'s," and "A. A. G.'s." Now when we have an opportunity, upon a general reorganization of the Army, I think it would be better, without legislating anybody out or anybody in, (for this bill is made with reference to the Army establishment, and not to persons, however gentlemen may mistake it in that respect,) to simplify names as well as other things, so far as we can, taking care that in doing so no injustice shall be done. If this idea should prevail, gentlemen will find me ready to meet them more than half way in the effort to provide against any such consequences as they apprehend.

Now, sir, one word more before I close. I am not surprised at the warmth which is manifested whenever a finger is laid upon one of these bureaus or staff departments. It is a difficulty which we have encountered whenever there has been any attempt at legislation upon the subject of the Army, and which is every day increasing, that while our legislation is generally satisfactory to the line officers, the men in the field, the men at the front, the men who do the hard work out-of-doors, we are surrounded by gentlemen just as good, just as industrious, just as laborious, who, however, being situated here at the center, are ready to watch our proceedings, and unless we take care to refrain from doing anything which shall interfere in any way with their prerogatives or their convenience or their comfort, we have the whole of them using their influence against us.

And these gentlemen exercise very deservedly a great deal of influence. There are stationed in and about this city in the various Departments and bureaus, some hundreds of officers, each one of whom has his official, his personal, his social, his moral influence, which we all feel. I know a vast number of them, having, perhaps, as large a circle of acquaintance (and very pleasant acquaintance) among them as almost anybody else. But I declare here now that this sort of social and official and personal influence shall not, if I can help it, influence me in reference to the legislation which I may deem best for the general interests of the whole country.

In regard to these bureaus, let me say, former legislation has tended to attract men to Washington. I prefer the tendency of this bill and such other measures of reform as the Committee on Military Affairs desire to propose, which will have rather a centrifugal than a centripetal influence upon these gentlemen. I admit they must many of them be here, and are highly useful in being here, but at the same time I say a great many of them under this influence, or by our legislation which has stolen upon us, degree by degree, are here occupying places in these bureaus, not exactly the place for soldiers. There are men here in this city in these various bureaus who have been content to sit at their desk while the war was going on, engaged in copying records, indorsing papers, and other kindred occupations which might as well have been done, and as well done, perhaps, by intelligent clerks. I do not wish to continue that system of influence if I can help it. I wish to reduce the number of persons employed as officers as low as possible. I wish men educated at West Point, and well educated in all that relates to military knowledge, shall not, because they have been educated at our expense and after a term of four years' service there, good engineers, good gunners, full of the knowledge of military tactics, be employed simply as clerks.

There will be other features in this bill to which this same objection will be made, and I have thought it proper to say this much in advance. It will be found when we come to the subsistence department and the pay depart-

ment we have made a like provision in regard to them. We do not believe that men educated for four years at West Point, at the Government expense, should be selected for the purpose of inspecting crackers and buying beef. This is the general effect of the kind of legislation this committee propose, and it is for the House to say whether they will sustain us in that line of legislation or not. I do not believe the Adjutant General's department should be increased.

The SPEAKER. The gentleman's time has expired.

PACIFIC RAILROAD.

Mr. PRICE, by unanimous consent, from the Committee on the Pacific Railroad, reported back Senate bill No. 125, granting aid in the construction of a railroad and telegraph line from the town of Folsom to the town of Placerville, in the State of California, and moved that it be printed and recommitted.

The motion was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

DISTRICT OF COLUMBIA BUSINESS.

Mr. INGERSOLL, by unanimous consent, introduced the following bills; which were severally read a first and second time, ordered to be printed, and referred to the Committee for the District of Columbia:

A bill to authorize a special tax for the purpose of improving the Washington city canal; and

A bill to incorporate the Washington Canal Company in the District of Columbia, and for other purposes.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bills were referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PACIFIC RAILROAD—AGAIN.

Mr. HOLMES, by unanimous consent, moved that House bill No. 455, to aid in the construction of a railroad and telegraph line from Great Salt Lake City to the Colorado river, and to secure to the Government of the United States the use of the same for postal, military, and other purposes, be ordered to be printed.

The motion was agreed to.

REFUNDING DUTIES.

On motion of Mr. MORRILL, Senate bill No. 255, to remit and refund certain duties was taken from the Speaker's table, ordered to be printed, and referred to the Committee of Ways and Means.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LEAVE OF ABSENCE GRANTED.

On motion of Mr. WARD, leave of absence was granted for one week to Mr. ECKLEY.

WASHINGTON SEWER AND CANAL COMPANY.

On motion of Mr. WARD, Senate bill No. 190, to incorporate the Washington Sewer and Canal Company, was taken from the Speaker's table, ordered to be printed, and referred to the Committee for the District of Columbia.

CONDITION OF THE SOUTH.

Mr. DELANO. I ask the unanimous consent of the House to offer the following resolution:

Resolved, That the President of the United States be requested to furnish the House of Representatives with any additional reports or information he may have received relative to the condition of the southern people and the States lately in rebellion.

Mr. STEVENS. I object.

PAY OF POST CHAPLAINS.

Mr. MILLER, by unanimous consent, presented a joint resolution of the Legislature of Pennsylvania, in relation to the pay of post

chaplains in the United States Army; which was laid on the table, and ordered to be printed.

EQUALIZATION OF BOUNTIES.

Mr. MILLER also presented a joint resolution of the Legislature of Pennsylvania, in relation to the equalization of bounties; which was laid upon the table, and ordered to be printed.

And then, on motion of Mr. CONKLING, (at four o'clock and thirty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By the SPEAKER: The petition of Messrs. Osborn, Niles, Tegarden, Seymour, Hannah, Frederickson, and many others, business men of Laporte, Indiana, asking legislation in regard to inter-State insurance regulations.

By Mr. BAXTER: The petition of Henry Thorp, and 52 others, of Charlotte, Vermont, asking additional duties be assessed on foreign wool.

By Mr. BEAMAN: The petition of R. B. Robbins, and 321 others, citizens of Adrian, Michigan, and vicinity, praying for an equalization of bounties to volunteers.

By Mr. BINGHAM: The petitions of Charles J. Tax, William Moore, John Martin, J. S. Potts, George Wirtz, and 730 others, citizens of Harrison county, Ohio, asking efficient protection to American wool.

By Mr. CONKLING: The petition of S. A. Bunce, and others, as to inter-State insurance.

Also, the petition of citizens of Cayuga county, New York, asking that lumber be relieved from duty.

By Mr. DONNELLY: A petition from citizens of St. Paul, Minnesota, in favor of just and equal laws for the regulation of inter-State insurance.

Also, a petition from citizens of Bloomington, Minnesota, in favor of an increase of the tariff upon wool.

Also, a remonstrance of citizens of Hastings, Minnesota, against the obstruction of the free navigation of the Mississippi river by the construction of a bridge at Clinton.

By Mr. DRIGGS: The petition of Dr. Duffield, Hon. H. P. Baldwin, and 60 others, citizens of Detroit, Michigan, for such a liberal extension of a railroad land grant to the State of Michigan as will secure the completion of a road to connect with Lake Superior.

By Mr. EGGLESTON: The petition of Nancy Mason, Sally Drake, and Maxfield Huston, as heirs of Colonel William Crawford, praying for relief from Government in consequence of services rendered by Colonel Crawford against the Wyandotte tribe of Indians in 1782.

By Mr. ELDREDGE: The petition of 100 citizens of Sheboygan county, Wisconsin, for an increase of ten cents per pound and ten per cent. *ad valorem* on wool imported into the United States.

By Mr. GARFIELD: The petition of 1,472 citizens of Trumbull county, Ohio, asking for increased protection of American wool.

Also, the petition of L. M. Kirk, and 74 others, citizens of Smith township, Mahoning county, Ohio, praying for increased protection on American wool.

By Mr. GRIDEL: The petition of citizens of Mot-calt county, Kentucky, in behalf of David Philpot.

By Mr. LONGYEAR: The remonstrance of John Thompson, and 71 others, citizens of Jackson, Michigan, against an extension of the Amboy, Lansing, and Traverse Bay railroad land grant to the company of that name.

By Mr. MORRIS: The remonstrance of Hon. James C. Smith, and other eminent lawyers of Ontario county, New York, against the passage of the bill to reorganize the Federal judiciary now before the House of Representatives.

Also, two petitions, numerous signed by wool-growers of Ontario county, New York, asking for an increase of duty on imported wool.

Also, concurrent resolution of the Legislature of the State of New York, requesting the Senators and Representatives in Congress from the State of New York to propose and vote for a law for paying the adjudicated claims of the militia who served in the war of 1812.

By Mr. PAYNE: The petition of G. P. Hewitt & Son, and 22 others, firms of Milwaukee, for modification of excise tax on stoves.

Also, resolutions on the subject of reconstruction of late rebel States, adopted at a meeting of citizens of Rome, Wisconsin.

By Mr. PRICE: The petition of citizens of Davenport, Iowa, asking for the enactment of just and equal laws for the regulation of inter-State insurance of all kinds.

By Mr. RICE, of Maine: The petition of Adams H. Merrill, and others, of Maine, asking repeal of law exacting internal tax on roofing-slates.

By Mr. SCOFFIELD: Joint resolutions of the Legislature of Pennsylvania, in favor of equalizing bounties to soldiers.

Also, a joint resolution in favor of increasing the number of Army post chaplains.

By Mr. WASHBURN, of Massachusetts: The petition of Luke Lyman, and 86 others, citizens of the Connecticut valley, in Massachusetts, dealers and growers of tobacco and manufacturers of cigars, asking that the duties on cigars be changed from the present graduated scale to one of uniform rate; and that that rate be fixed at not less than three dollars per pound and fifty per cent. *ad valorem*.

Also, the petition of S. G. Hubbard, and 33 others,

citizens of Hatfield, Massachusetts, for same purpose.

Also, the petition of John T. Fitch, and 25 others, citizens of Hatfield, Massachusetts, for same purpose.

By Mr. WINDOM: The petition of C. R. Hughson, and 51 others, citizens of Minnesota, asking an increased duty on wool.

By Mr. WRIGHT: The petition of W. A. Brintzinghoffner, and others, dealers in leaf tobacco and manufacturers of cigars, for increase of duties upon imported cigars.

IN SENATE.

FRIDAY, April 20, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of a grant of land to aid in the construction of so much of the Winnebago and Superior railroad as extends from Doty's Island to Stevens Point; which was referred to the Committee on Public Lands, and ordered to be printed.

Mr. MORGAN. I present the petition of George F. Sherman, and eighteen others, weavers of the customs in the port and district of New York, soliciting an increase of compensation from \$1,485, the sum they now receive, to \$2,500 per annum, setting forth the reasons which, in their opinion, sustain the fairness and justice of their request. I move that it be referred to the Committee on Finance.

The motion was agreed to.

Mr. HENDERSON presented the petition of Andrew Branstetter, praying that a pension be granted him; which was referred to the Committee on Pensions.

Mr. JOHNSON. Mr. President, I present the memorial of miners and smelters of copper ores in two or three of the States. They state that they invested large amounts of money in the erection and conducting of their copper mines and works at a time when copper ores were free of duty, and they ask, therefore, that they should be relieved from the duty on copper ores, and for a protective duty on ingot, pig, cake, bar, or other copper of five cents per pound. They state the reasons for it as succinctly as I could state them. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin in favor of a grant of land to aid in the construction of so much of the Winnebago and Superior railroad as extends from Doty's Island to Stevens Point; which was referred to the Committee on Public Lands, and ordered to be printed.

REPORTS OF COMMITTEES.

Mr. NORTON, from the Committee on Claims, to whom was referred the petition of Mrs. Margaret Kaetzel, praying for an appropriation for the support of herself and family, alleging that, by reason of the death of her husband, who was killed on the 5th day of April, 1865, by the premature discharge of a cannon which was being used in firing a salute by order of the Secretary of War in honor of the capture of Richmond, she has been deprived of her support, asked to be discharged from its further consideration, and that it be referred to the Committee on Pensions; which was agreed to.

Mr. WILSON from the Committee on Military Affairs and the Militia, to whom was referred a bill (S. No. 268) to prevent and punish the manufacture and use of false, forged, or counterfeited brands, stamps, dies, or stencils, asked to be discharged from its further consideration, and that it be referred to the Committee on the Judiciary; which was agreed to.

Mr. WILSON. I am also directed by the same committee, to whom was referred a joint resolution (S. R. No. 67) to provide for the erection of a new building at the Schuylkill arsenal, near Philadelphia, to report it without amendment. There are some letters and esti-

mates with the bill which I should like to have printed. I make that motion.

The motion was agreed to.

Mr. WILSON. I am also directed by the committee on Military Affairs and the Militia to report back the joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain of one hundred and twenty-eighth regiment New York volunteers. This is a House joint resolution, and was recommended to the committee the other day for the purpose of having a report of the facts in the case. The committee find that a report was made in the House of Representatives. I should like to have the resolution put on its passage now. I think it is right.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the joint resolution on the day it is reported.

Mr. CLARK. I ask that it may be read at large, so that we may see what it provides for, before unanimous consent is given.

Mr. HOWARD. I hope we shall be allowed to get through with the reports of committees.

The PRESIDENT *pro tempore*. Objection being made, the joint resolution lies over under the rule.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of William Cook, praying for compensation for the use by the Government of a lot of land owned by him in the city of Washington, being lot No. 42, in square No. 184, submitted a report accompanied by a bill (S. No. 277) for the relief of William Cook. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of John H. Crowell, captain and assistant quartermaster of volunteers, praying that the accounting officers of the Treasury may be authorized to allow him a credit of \$250 in the settlement of his accounts, reported a bill (S. No. 278) for the relief of Captain John H. Crowell, assistant quartermaster in the United States Army; which was read and passed to a second reading.

Mr. HOWE, from the Committee on Claims, to whom was referred a bill (H. R. No. 347) for the relief of R. L. B. Clarke, reported it without amendment.

He also, from the same committee, to whom was referred a petition of loyal citizens of Loudon county, Virginia, praying for compensation for property destroyed by fire, and for live stock taken for the use of the Army or sold for the benefit of the United States by order of General Sheridan, reported a bill (S. No. 279) for the relief of loyal citizens of Loudon county, Virginia; which was read and passed to a second reading.

Mr. HOWARD. The Committee on the Pacific Railroad, to whom was referred a bill (S. No. 225) to aid in the construction of a southern branch of the Union Pacific railway and telegraph, and to secure to the Government the use of the same for postal, military, and other purposes, have had the same under consideration, and have directed me to report it back, and to ask that they be discharged from the further consideration of it, on the ground that the committee are of opinion that no further pecuniary obligations ought to be assumed by the Government to aid in the construction of branches of the Union Pacific railroad.

The report was agreed to.

WESTERN PACIFIC RAILROAD.

Mr. HOWARD. The Committee on the Pacific Railroad, to whom was referred the joint resolution (S. R. No. 61) to extend the time for the construction of the first section of the Western Pacific railroad, have had it under consideration, and have directed me to report it back to the Senate with amendments; and they ask that it may receive the present consideration of the Senate. It is a very short joint resolution, and I hope the Senate will consent to act upon it at once.

By unanimous consent, the Senate, as in

Committee of the Whole, proceeded to consider the joint resolution, which proposes to extend the time for the construction of the first twenty miles of the Western Pacific railroad to the 1st day of November, 1867.

The first amendment of the committee was to strike out "November" and insert "January."

The amendment was agreed to.

The next amendment was to add at the end of the resolution the following:

But this extension is upon the condition to be accepted by said company, and notice of such acceptance to be given by them to the Secretary of the Interior, that the lands known as the lands of the ex-mission of San José, as included in the map and survey thereof made October, 1864, by E. H. Dyer, deputy United States surveyor, shall not be included in the grant heretofore made to the said Western Pacific Railroad Company.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 134) to regulate the terms of the United States courts in the eastern district of New York, and for other purposes; and

A bill (H. R. No. 278) in amendment of the several acts relating to the organization of the Pension Office.

The message further announced that the House of Representatives had agreed to the amendment of the Senate to the amendment of the House to the bill (S. No. 89) to issue American registers to the steam vessels Michigan and Despatch, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled joint resolutions; which were thereupon signed by the President *pro tempore* of the Senate:

A joint resolution (H. R. No. 88) expressive of the thanks of Congress to Major General Winfield S. Hancock; and

A joint resolution (H. R. No. 108) appointing managers for the National Asylum for Disabled Volunteer Soldiers.

RESCUE OF THE SAN FRANCISCO.

Mr. WILSON. I move to take up Senate joint resolution No. 31. It will take but a few moments and it is rather important that it should be acted on promptly.

The motion was agreed to; and the joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco, from perishing with the wreck of that vessel, was considered as in Committee of the Whole.

It will be a request to the President of the United States to procure three valuable gold medals, with suitable devices, one to be presented to Captain Creighton, of the ship Three Bells, of Glasgow; one to Captain Low, of the bark Kilby, of Boston; and one to Captain Stouffer, of the ship Antarctic, as testimonials of national gratitude for their gallant conduct in rescuing about five hundred Americans from the wreck of the steamship San Francisco.

Mr. JOHNSON. I propose to amend the resolution by adding the following as an additional section:

And be it further resolved, That a sum not exceeding \$50,000 be hereby appropriated, out of any money in Treasury not otherwise appropriated, to enable the President to reward, in such manner as he may

deem most appropriate, the officers and crews of those vessels that aided in the rescue of the survivors of said wreck, and such other persons as distinguished themselves by offices of humanity and heroism on that occasion, the reward to be proportionate to the nature of the efforts made and the merit of the services rendered so far as the same can be ascertained.

The resolution proposed by the Committee on Military Affairs is one of two resolutions heretofore before the Senate and adopted by a very decided vote. The Military Committee, however, on this occasion, did not report the second of the original resolutions. The original resolutions gave first a gold medal for the services stated, and secondly, as reported by the committee of the Senate, \$100,000; but the appropriation of \$100,000 was amended in the Senate by being reduced to \$50,000. The circumstances which, in the judgment of the Senate at that time, rendered it due to the reputation of the United States and to the aid which the parties whose names are mentioned had contributed to save the lives of the soldiers of the United States, may, perhaps, have escaped the recollection of the Senate. I will, therefore, very briefly call to the attention of the Senate now the facts as they were known to the Senate at that time and as they certainly existed.

The San Francisco, a steamer of the United States, left the port of New York in the month of December 1853, with several hundred soldiers on board. It was apprehended at that time that there might be difficulty on the north-western border; and the Government thought it advisable to have troops there. The officers carried with them their families, and the number of officers and soldiers and the families of the officers and the families of some of the soldiers constituted an aggregate of about nine hundred souls on board. The San Francisco had been out a few days when she encountered a terrific storm, and during six days of that storm before any aid was received by her there were about one hundred and seventy washed overboard. The storm continued with terrific violence during the whole of that period. While they were in that condition and expected all of them to be lost, almost every moment of time, one or two vessels hove in sight, but they refused to assist, pleading their inability to assist, believing that an attempt to render aid would be fatal to themselves, when finally the steamer *Three Bells*, an English steamer commanded by Captain Creighton, hove in sight. The American steamer, the San Francisco, was commanded by Captain Watkins, known familiarly upon the Pacific, as the Senators from California will bear me out in saying, as Commodore Watkins, a Maryland man by birth, but one who has been following the sea all his life, and for the last fifteen or twenty years has been a citizen and resident of California. He commanded her, and notwithstanding his great skill and unflinching courage and his attempt to keep up the spirits of those who were on board, it was very evident that destruction was inevitable unless assistance was soon received.

In this condition of things the *Three Bells* hove in sight. Distress guns were fired. As soon as the captain saw that the steamer was in peril he went to her aid. His own vessel was leaking then to the extent of making about nine inches of water an hour. He was short of provisions. The moment he came within a distance to be communicated with directly, Captain Watkins—the wind being so high that it was impossible to make himself heard, either by his own voice or with the aid of the trumpet—placed upon a board in large letters what the captain of the *Three Bells* understood to be, “We are in distress; save us; we will charter your vessel.” This British captain, true to the instincts of humanity, and true, too, to the general instincts which characterize the sailor, said at once, with some surprise and some indignation, “What does the man want? Does he suppose that I am here for the purpose of chartering my vessel to make money? I am here to save all who are on board, if I can, and I will lay by your vessel as long as my own will swim.” The storm continued with una-

bated violence, and he remained within sight, sailing round and round, (his sails having been all destroyed except one or two of the lighter sails,) in the hopes of taking up any who might be washed overboard in the interim, before he could take from the impending wreck any one of the passengers or crew. During the whole of that time it was very doubtful which would go down first, his own vessel or the San Francisco; but he succeeded in keeping his own afloat.

He then launched two of his small boats, and with those two boats he got off about two or three hundred, I think, from the San Francisco. Captain Watkins then informed him that there were a great many sick, and there were women and children on board whom he was unwilling to trust in a small boat. Captain Creighton had been afraid up to that time to launch his larger boat, but he determined at all hazards to make the effort. She was launched, the sea running mountain high, all expecting to go down on both vessels, when fortunately for himself, and for the United States, and for all who were on board, he succeeded in getting on board the San Francisco every soul, sick and well, man, woman, and child. Captain Watkins was the last to leave his vessel; and they had barely got to the *Three Bells* and another vessel that had hove in sight in the mean time, and who aided in getting off a part of the crew, before the San Francisco went down. One of the vessels, after the *Three Bells* had saved some one hundred and seventy or two hundred, came to their aid and with great humanity and daring skill took some one hundred of the passengers. They were on their way to Europe, and they carried them to Europe.

The *Three Bells* sailed for New York. She was a great many days in getting to New York. She was kept afloat by the untiring exertions of the crew, for she was making water at the rate of nine inches an hour. She was short of provisions, and she was obliged to put all on board upon short allowance; and in order to take care of those who were received on board she was compelled to throw overboard the whole of her cargo that was under deck, it being impossible to accommodate the rescued above deck, it being absolutely necessary to give them the protection which they would have by being under deck. He immediately made for New York. He was six days in reaching that port. When he did reach it, he had but a very small quantity of water; it would not have lasted another day; and he had been compelled to place the passengers and crew upon an allowance, each, of two ounces of water, half a biscuit, and one ounce of bacon, during the whole of the six days that he was making the port of New York. On his arrival at New York, he had but fifty gallons of water; and he landed in New York three hundred passengers, men, women, and children.

Perhaps Senators do not bear in mind the scene which took place upon the arrival of the vessel at New York, and the solicitude that was felt for the fate of the vessel before the arrival of the passengers. He was *fêted* in New York the moment of his arrival. The Government paid for the loss of the cargo; but so signal was the service of rescuing from inevitable death some six or seven hundred soldiers of the United States, having with them many of the wives and children belonging to the men and the officers, that the Senate of the United States, upon the 6th of February, 1854, passed a resolution identical with the one now reported to the Senate by the Committee on Military Affairs, and another resolution, after reducing the amount originally named in it, identical with the resolution that I now offer to the report of the committee. As the Senate committee at that time reported the second resolution, they gave \$100,000. Pending the consideration of the subject in the Senate it was reduced to \$50,000; and I propose now that the Senate should adopt what the Senate adopted then, by a vote, I think, of 27 yeas to 16 nays.

The Senate, perhaps, may have forgotten, even those who heard at the time of this valuable service, the great enthusiasm which was manifested throughout all the commercial cities upon the arrival of the British vessel with a portion of the passengers of the lost vessel in New York. The others that were taken on board by one of the other vessels that came to the rescue were safely carried to Liverpool, and found their way back to this country. Captain Creighton, of the *Three Bells*, was *fêted* in New York. Every demonstration of gratitude was shown him. The Senate of the United States, by a very large majority, deeming it due to him, and to the others who had contributed in saving some seven or eight hundred officers and men of the Army of the United States and their families, passed a resolution such as is now reported by the Committee on Military Affairs, with the other resolution which I now propose by way of amendment.

I suppose many Senators may now have freshly before them, when the subject is called to their recollection, the enthusiastic joy with which the arrival of the *Three Bells* was received at the port of New York, and the tidings that some three or four hundred of the rescued of the ill-fated ship were on their way, perhaps in safety, to Europe. Captain Creighton was *fêted* all through New York by nearly all the societies engaged commercially. Every possible honor was evinced toward him. The heart of the nation gushed with gratitude for such services, and the passage in this body—it failing in the other House only for want of time—of a resolution such as is now reported by the Military Committee, with the addition which I propose now as an amendment, was hailed with grateful joy, as I well remember, by the people of the United States. It was a tribute due, not only for the humanity evinced by the parties who were engaged in the rescue, but for the daring gallantry they displayed, and the imminent risks they ran of losing their own lives in an effort to save the lives of citizens of the United States.

The whole nation's heart gushed with gratitude for such distinguished services, and the passage of a resolution distributing \$50,000, as well as a gold medal, was hailed, as I remember, with unmingled joy throughout every portion of the United States.

At that time, Mr. President, it was a matter comparatively unimportant to the captains of these three vessels, and particularly the captain of the British vessel, whether the gratitude of the nation should be evinced in a pecuniary way or not; but he was engaged in the American trade; he has always been an enthusiastic admirer of the American character, and has felt, as I know, an earnest solicitude for the success of the United States in the rebellion through which she has so happily and gloriously passed; and in consequence of that very rebellion he has been reduced almost to poverty. He is now here, and has been here for many months, and he seeks at the hands of Congress some valuable manifestation of their recognition of the services rendered without the slightest view at that time to any recognition of them of a pecuniary character; but now, when the recent unfortunate condition of the country has placed him in a situation of comparative want, he is willing to receive, anxious to receive, and as I think the honor and character of the United States require that he should receive, some substantial manifestation of the gratitude which the United States owe to him as a gallant sailor, looking to no other reward at the time than that which flows from a noble action performed in the cause of humanity. He is now anxious to receive the comparative pittance which the amendment I have proposed will give him, when divided between the three who were engaged in the humane effort.

As I have said, about one hundred and seventy were washed overboard before he could come to the rescue; but he, and the others who came afterward to his aid, saved some five or six hundred lives of officers and soldiers of the

United States and several of the families of the officers and the soldiers; and I remember as if it were but yesterday, although I was not in the councils of the nation at that time, with what joy the passage by the Senate of the resolution, such as it will be if you adopt the amendment I have proposed, was hailed throughout the United States. It was hailed as a manifestation of national gratitude for distinguished services, rendered at the imminent peril of life, not only of himself but of his crew, and at the certain destruction of the cargo which was intrusted to his charge; and the answer that the man gave when, misunderstanding the telegraph that Captain Watkins sent him by means of the board which he held up, (a telegraph, as he supposed, indicating the opinion of Watkins that he would not lay by his vessel except on the promise of some reward,) evinced the character of the true sailor. "What does the man mean?" was his indignant reply. Substantially he said, "Here I will remain; and if it be possible I will save all on board the evidently sinking vessel or lose my own life in the effort;" and he succeeded.

The book that I hold in my hand, which the honest and bold and humane sailor has kept by him from that time to this, is filled with manifestations of the nation's gratitude; and he was able to save from the elements the letter that was thrown overboard by Captain Watkins, which I will trouble the Senate by reading. It was picked up at sea:

STEAMSHIP SAN FRANCISCO,
January 1, 1854.

DEAR CAPTAIN: We are in great distress. Do not leave us. We have already lost about one hundred and eighty of our number, washed overboard. We have United States troops on board, and the commanding officer will charter your ship. We have plenty of water and provisions on board. We now number about four hundred and twenty, all told. I find it too rough to do anything with our rafts; they are made and waiting a calm.

Yours, &c.,
JAMES T. WATKINS,
Captain.

That was on the 1st of January, 1854; and this noble and humane—as all noble men are—sailor remained, at the imminent peril of his life and the lives of all those who were on board of his own ship and of the loss of his ship, alongside during the terrific storm that lasted for six days, during the whole of the six days, and he succeeded in rescuing every living soul left on board on the 1st of January; and I remember (and I recollect the proud feeling with which I received the information) the delight with which the vote given by the Senate on the occasion thrilled the public heart of the nation. Six or seven hundred soldiers of the United States destined to the furthest Territory of the United States to maintain the honor of its flag were rescued not only from imminent but certain death by the gallantry of this English captain and his noble officers and crew, and the disappointment, if disappointment was felt at all at the passage of the resolution through the Senate, was that the amount given was not the amount recommended by the committee. The committee recommended \$100,000; and it was amended in the Senate by being reduced one half; and it only failed of receiving the sanction of the other House for want of time. After that, not wanting the money, this Englishman, or rather Scotchman, I believe, by birth, went upon his own way rejoicing in that which gave him more satisfaction than money could at that time have given him, that he had contributed so much to save so many fellow-beings, and especially to save the soldiers and sailors of the United States and their families, and everywhere where the tidings reached of what the Senate of the United States had done in manifestation of their gratitude for the distinguished service he had rendered the United States by saving the lives of her soldiery, it was hailed with delightful gratitude everywhere. Money then was to him of little or no account; but he has suffered now because of our trouble. His trade was with us; the rebellion through which we have so happily and gloriously passed in a great measure broke it up; he is now poor; and

although at the time the service was rendered he had not the remotest idea of ever appealing to the gratitude of the United States for compensation for an act which he did from an impulse of pure humanity and at the risk of his life, he asks at the hands of the United States some small compensation for that peril now when the troubles in which we have been engaged and during which no one I have reason to believe more solicitously watched over us than he did—for he was always a true friend of the United States—have placed him in a condition of almost entire poverty.

Now, I propose in behalf of him and of others who were engaged in the same noble and humane undertaking that we manifest our gratitude to a heroism unsurpassed; the sea was running mountain high, threatening to engulf him and his crew, his ship leaking and making water at the rate of nine inches an hour, and he unable to keep her afloat except by the untiring exertions of himself and his crew. I ask in his behalf, and as a debt due to humanity; I ask in behalf of the officers and soldiers who were saved through his gallantry and the gallantry of two others who came to the rescue, that we shall, when we are able and he is poor, manifest our gratitude by contributing what will render, perhaps, the remainder of his days comparatively happy.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

LAKE PORTAGE SHIP-CANAL.

The PRESIDENT *pro tempore*. It is the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 238, the pending question being on the amendment of the Senator from Vermont, [Mr. EDMUNDS,] upon which the yeas and nays have been ordered.

Mr. POMEROY. With the leave of the Senator from New Hampshire I should like to reconsider a bill that passed during the morning hour the other day, merely to make a correction. The bill was amended before in the Senate, but as it now stands there needs to be a slight correction in order that the various parts of the bill may be in harmony with each other. There will be no question about it. It will only take two or three minutes' time.

Mr. CLARK. I will not object to that. The special order may be laid aside informally in order to allow the correction of a mistake in that bill.

The PRESIDENT *pro tempore*. That course will be taken, no objection being made.

Mr. POMEROY. I have moved a reconsideration of the vote passing Senate bill No. 193, granting lands to the State of Michigan to aid in building a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior, in said State. I now ask that the question be taken on that reconsideration.

The motion to reconsider was agreed to.

Mr. POMEROY. I now move to reconsider the vote ordering the bill to be engrossed for a third reading.

The motion was agreed to.

Mr. POMEROY. In the seventeenth line of the bill I move to strike out the words "hereby amended" and insert "herein referred to." We do not amend the former bill, but we recite it.

The amendment was agreed to.

Mr. POMEROY. I send to the Chair a substitute for the last proviso in reference to mineral lands.

The amendment was read, being to strike out the words—

And provided further, That no mineral lands shall be included within this grant.

And in lieu thereof to insert—

And provided further, That no lands designated by the United States as mineral before the passage of this act shall be included within this grant.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 134) to regulate the terms of the United States courts in the eastern district of New York, and for other purposes—to the Committee on the Judiciary.

A bill (H. R. No. 278) in amendment of the several acts relating to the organization of the Pension Office—to the Committee on Pensions.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President had approved and signed on the 17th instant, the following acts and joint resolutions:

An act (S. No. 31) to reimburse the State of Missouri for moneys expended for the United States in enrolling, equipping, and provisioning militia forces to aid in suppressing the rebellion;

An act (S. No. 229) to authorize the President of the United States to transfer a gunboat to the Government of the republic of Liberia;

A joint resolution (S. R. No. 45) protesting against pardons by foreign Governments of persons convicted of infamous offenses on condition of emigration to the United States; and

A joint resolution (S. R. No. 49) for the temporary relief of destitute people in the District of Columbia.

And that on the 18th instant he approved and signed—

An act (S. No. 201) for the relief of Ann Heth, widow of William Heth, of Harrison county, Indiana;

An act (S. No. 241) directing the enrollment of Agnes W. Laughlin, the widow of a deceased soldier, as a pensioner;

An act (S. No. 248) for the relief of James G. Clarke;

An act (S. No. 252) granting a pension to Mrs. Sarah E. Wilson; and

An act (S. No. 260) granting a pension to Mrs. Emerance Gouler.

PROTECTION OF UNITED STATES OFFICERS.

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863; the pending question being on the amendment of Mr. EDMUNDS to insert at the end of the first section the following words:

Or so far as it operates as a defense for any act done or omitted in any State represented in Congress during the rebellion, and in which, at the time and place of any such act or omission, martial law was not in force.

The question being taken by yeas and nays, resulted—yeas 10, nays 29; as follows:

YEAS—Messrs. Buckalew, Cowan, Doolittle, Edmunds, Guthrie, Hendricks, Johnson, McDougall, Nesmith, and Saulsbury—10.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Creswell, Foster, Grimes, Henderson, Howard, Howe, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—29.

ABSENT—Messrs. Brown, Davis, Dixon, Fessenden, Harris, Morrill, Norton, Poland, Riddle, and Wright—10.

So the amendment was rejected.

Mr. CLARK. I think a slight amendment is needed in the fourth line of the third section, to strike out the words "as well."

The amendment was agreed to.

Mr. SAULSBURY. I move to strike out the fourth section of the bill. That section provides:

SEC. 4. And be it further enacted, That if the State court shall, notwithstanding the performance of all things required for the removal of the case to the circuit court aforesaid, proceed further in said cause or prosecution before said certificate is produced, then, in that case, all such further proceedings shall be void and of no effect; and all parties, judges, officers, and other persons, thenceforth proceeding thereunder, or by color thereof, shall be liable in damages

therefor to the party aggrieved, to be recovered by action in a court of the State having proper jurisdiction, or in a circuit court of the United States for the district in which such further proceedings may have been had, or where the party, officer, or other person so offending shall be found; and upon a recovery of damages in either court, the party plaintiff shall be entitled to double costs.

Now, Mr. President, I am very free to say that if I were a judge in any State I should not feel myself bound to pay any attention whatever to this act; because I do not believe the Congress of the United States has the constitutional authority to pass the act. Suppose a judge of a State court should honestly be of that opinion, and suppose some Secretary of War, or the agent of some Secretary of War, or some Secretary of State, or the agent of some Secretary of State, has caused a citizen within the limits of one of the States to be arrested, and application is made to the State courts for redress, and the State courts believe they have the constitutional authority to afford that redress, notwithstanding the provisions of this act, and shall honestly so decide, your act proposes to punish them in damages for the exercise of an honest judicial opinion. I will not discuss the question, however, Mr. President, but I make the motion to strike out the fourth section of the bill.

Mr. CLARK. I hardly think it is worth while that I should spend much time in answering the Senator from Delaware, and I would not say a word now if this had not been the second time when he uttered words like those which he has now uttered in defiance of the authority of the United States. When the civil rights bill was upon its passage, when the Senate was about to vote on it, the Senator from Delaware, in the spirit that he now shows in the Senate, and in the hearing of the people who were here, stood up in the Senate and defied almost the authority of the United States, and said that if he were a judge, or a person acting in that capacity, in the State of Delaware, he would not obey the law. He repeats that same thing to-day. Sir, if it be so that the rebel spirit which defies the nation, in the person of judges and others, has crept into the Senate, and shows itself here, the more the necessity of the bill which we propose to pass. "I will not yield to that authority"—so said the rebel, and that produced the war; and now, when the war is over, the Senator from Delaware stands up and repeats that he will not yield to the authority of the United States. It is time this should be done with. It is time that the Senator should understand that the authority of the United States will be supreme, whether it takes a Senator or the merest rebel soldier. This Government must be obeyed, and it is not worth having if it cannot cause itself to be obeyed. This proceeding, if attempted to be carried on in a State court, in defiance of the United States authority, should be void, and the judge and everybody else who undertakes to set himself up in this way—for it will not be an honest authority—should be punished for so doing. We have had about enough of this State authority to teach it to yield respect and obedience to the laws of the United States.

Mr. SAULSBURY. Mr. President, I cannot possibly imagine anything I have said that should call for the very unbecoming remarks of the Senator from New Hampshire. Who is he, sir, that he should attempt to lecture a Senator in this body? Sir, I assigned the reason why if I were a judge I should not carry out the provisions of this law—because I believe it to be unconstitutional. What did I say about resisting the authority of the Federal Government except in the interpretation of an act of Congress if I were sitting in a judicial capacity? Was there anything discourteous to any member of this body in what I said; anything about resisting the authority of the United States? Sir, the idea did not enter into my mind at the time, but as I stated the fact that, sitting as a judge and believing the act to be without constitutional authority, I should feel myself compelled to execute the law of my State. When the Senator gets up here and

insinuates rebellion or a rebellious spirit to me, I have only this to say: that there is nothing in that Senator, mentally, morally, physically, or otherwise, that gives him the right to use insolent language here.

Mr. CLARK. Mr. President, I desire to use no insolent language; I shall not be discourteous, I hope, to the Senator from Delaware or any other Senator. I hope I shall not be discourteous to the Senate of the United States. I hope I shall not be discourteous to the Government of the United States. But when the Senator from Delaware, or any other Senator in this body, shall rise repeatedly, time after time, and say here in the presence of this Senate that he will not obey the authority of the United States, it is time, with due deference to him, that that spirit of the Senator, that that spirit of rebellion which crops out in that way, should be rebuked. I claim nothing morally, I claim nothing physically, I claim nothing mentally, but I do love my country, and, God aiding me, I will stand against rebellion to the bitter end of it, whether in the Senator from Delaware or in him who is now confined in Fortress Monroe.

Sir, we have had too much trouble from this spirit already. If the men who have been engaged in rebellion "accept the situation," let them accept it; but let not the same opposition and spirit be manifested in the Senate of the United States. We owe it to the people of the United States, who have stood by us through all the rebellion, that this Senate should be free from expressions of the kind and from an approval of such expressions; and if the Senator from Delaware rejoices that this rebellion is put down, let him put away the spirit which produced the rebellion, and accede to the authority of the General Government.

Mr. SAULSBURY. I shall not continue this controversy with the Senator from New Hampshire. I simply rise to repeat, that there was nothing in the remark that I made to cause any member of this body to say that I was opposed to the authority of the Federal Government or of a State government. I said if I were sitting as a State judge and called upon to act, and this act was produced before me, I could not recognize it as a constitutional law. It was simply the expression of an opinion. It never occurred to me that there was an intellect in this whole country so obtuse as for a moment to suppose that there was in that any spirit of defiance to any rightful authority of this Government, State or Federal. The Senator from New Hampshire, to exhibit his own patriotism, has chosen to indulge in language unbecoming this place, and which I trust will not be repeated. Of one thing I will assure the Senator: that while I wish to cultivate kindly relations with every member of this body, both in the Senate and out of it, no imputation upon my just and proper devotion to my Government will be submitted to. I ask the Senator from New Hampshire in future to be more cautious in the use of language. Sir, the time has gone by when sensible men indulge in reflections upon the motives of others, simply because they may differ in their political views, or in their interpretations in reference to a statute, whether State or Federal. I have sought no controversy with that Senator or any other; but hereafter, as in the past, if I believe an act is unconstitutional I will say so; and I have as much confidence in my own judgment in reference to questions of that character as I have in the judgment of the Senator from New Hampshire.

Mr. CLARK. I have heard the Senator's caution; but I do not abate one jot or tittle of what I have said. I meant no disrespect to him personally as a Senator, but to rebuke the spirit which is manifested here; and if I have occasion to say it again, I shall assuredly say it when the occasion calls for it.

Mr. EDMUNDS. I should like to occupy the attention of the Senate for a moment in addressing myself to the pending question rather than to the questions of spirit and feeling which have been discussed between the

Senator from New Hampshire and the Senator from Delaware. The proposition, if I understand it, is to strike out section four. All that section four provides for is the right of the removal of these causes from the State to the Federal courts. Certainly it appears to me that in respect to acts which are done under the authority of the General Government, the authority of the General Government ought to be asserted and it ought to be defended in its own courts; and such, I believe, has been the constitutional practice of the Government from its foundation. Therefore it appears to me that this section, which only provides for enforcing that right of removal to the national tribunals, is perfectly constitutional and perfectly right; and I am opposed to its being stricken out.

Mr. HENDRICKS. I was not able to see that the reply of the Senator from New Hampshire met the point made by the Senator from Delaware. This bill addresses itself to each one of us as lawyers. It proposes to confer upon the courts of the United States jurisdiction, and to control the proceedings of the State courts in certain causes; and I was not able to see the impropriety on the part of a Senator in saying that if he were a judge in a State court he should disregard the provisions of a law which he thought to be unconstitutional. Sir, it is not clear that this proposed transfer of causes from the State courts to the Federal courts was contemplated by the Constitution; and when a similar provision found its way in what is called the civil rights bill I had the same opinion upon it. Causes such as are not described at all in the provisions of the Constitution, which defines the jurisdiction of the Federal courts, are to be transferred from the State courts to the Federal courts, merely because Congress so provides. I have my doubts whether it can properly be done. When a case is pending in a State court, and an application is made to transfer that cause to the United States court, if the judge in the State court shall be of opinion that under the Constitution of the United States that cause ought not to be transferred, I submit to the judgment of the Senator from New Hampshire, what is the clear duty of the State judge? Ought he to send the cause from his court into a Federal court, contrary to the laws and Constitution of the country? What jurisdiction shall be possessed by the Federal courts is defined in the Constitution of the United States; and I am of opinion that that definition of jurisdiction does not include the cases provided for in this bill.

But, sir, suppose it be proper to transfer these causes from the State to the Federal courts, ought the third and fourth sections of this bill to be as they are? We are all familiar with the act which authorizes the transfer of certain causes from the State to the Federal court. Where a citizen of one State brings a suit against a citizen of another State, in a State court, the act of Congress authorizes the transfer of that cause to the Federal court, upon the application of the defendant; and why? Because the Constitution of the United States provides that litigation between citizens of different States may be heard in the Federal court, which is supposed to be disinterested in judgment and feeling between the parties. But in that act we do not find such extraordinary provisions as are in this bill. In that case the defendant, upon the first day of the term, must come into the State court and make his application for the transfer before he does any act which recognizes the jurisdiction of the State court, and he must give his bond that upon the first day of the next term of the Federal court he will file the papers in the cause in the Federal court, and enter his appearance. That is required of the defendant in a cause where it is clearly proper, within the provisions of the Constitution, to take the case from the State to the Federal court.

Here, however, in a case, to say the least of it, where it is doubtful whether the transfer can be authorized by Congress, it is provided that that transfer may be asked by the defend-

ant, after he has entered an appearance in a State court, after he has recognized, by his appearance and pleadings, the jurisdiction of the State court. And, sir, there is very strange language here, which may be construed authorizing the transfer after a judgment has been rendered in the State court. I call the attention of the Senator from New Hampshire to the language found in the third section, commencing in the eighth line, and I ask him to explain to the Senate the meaning of this language:

But nothing herein contained shall be held to abridge the right of such removal after final judgment in the State court; nor shall it be necessary, in the State court, to offer or give surety for the filing of copies in the circuit court of the United States.

Nothing herein contained shall be construed to abridge the right to take the case from the State to the Federal court after judgment rendered. After the defendant has recognized the jurisdiction of the local court, after he has pleaded in that court, after he has submitted to trial by a jury, and after upon the verdict a judgment has been rendered, I want to know of the Senator whether he contemplates that there should be a transfer, and that the judgment of the State court shall be vacated and a new trial had in the United States court.

But, sir, in the existing law which authorizes the transfer of causes to the Federal from the State courts in cases that are clearly within the provisions of the Constitution, is there any provision that if the judge shall be of opinion that the case ought not to be transferred, he shall be liable to punishment, he shall be liable to suit and damages? No, sir. Congress, in the enactment upon that subject, has assumed that the State judge will do his duty. But here, almost for the first time, and I believe for the first time unless a provision like this is found in what is called the civil rights bill, it is provided that if the judge shall deny the transfer, upon the exercise of his judgment, for what Congress may hold to be an error of judgment, he shall be liable to a civil suit and to damages. Are Senators willing to say that the State judges are to be punished by suits and damages for an error of judgment?

Mr. President, these are very extraordinary provisions, and I am not at all surprised that the Senator from Delaware should express himself upon them very earnestly. The language which he used I did not observe at the time; but I am very free to say to the Senate that if I were a State judge, and I thought the provision of this law was unconstitutional, I certainly should regard the Constitution as a higher law than the act of Congress which, in my judgment, if it should be my judgment, was contrary to the provisions of the Constitution. It presents the question to a judge whether a case can be transferred to the Federal court; and shall he not decide it? If I bring a suit in a State court against a man who has done me a grievous wrong during these four or five years, a wrong perhaps accompanied with violence and malice, and the cause is set down for trial upon an appearance and plea by the defendant, and he then asks a transfer of the cause to the Federal court, and the judge shall say that the case must be heard before him and before a jury in that court, shall that judge, because of the exercise of a sound and honest judgment, be punished by suit and damages? I ask the Senator from New Hampshire if he has known of any cases in which the State courts have refused under existing laws to allow a transfer where a proper case was made for a transfer? I have heard of none.

Mr. WILSON. There are a great many cases of that kind. I understand the Legislature of Kentucky has passed a law forbidding the judges of that State to allow these transfers. I understand further that there are over three thousand of these cases in that State. One officer of the Government has thirty-five cases against him. One of the judges of that State, Mr. Andrews, formerly a member of the House of Representatives, would not allow the order of the Government to the officer to be considered as any defense; he said it was no

defense; and in the course of ten days afterward he discharged a rebel on the ground that his order from the rebel service was a complete defense.

Mr. HENDRICKS. I am not familiar with the case referred to by the Senator from Massachusetts. If the judge to whom he refers showed partiality, or that he was governed by corrupt motives, I certainly have no apology or defense to make for him. But I had not heard of any refusals by State judges to allow transfers of causes where the cases were properly presented. I know that in the State of Indiana, as far as my practice has extended, there has been no occasion to complain. If a judge has acted in Kentucky as the Senator from Massachusetts understands, then the remedy against him is by impeachment, not by a general provision that for the exercise of his judgment a judicial officer shall be liable to suit and to penalties.

Mr. CLARK. I ask the Senator from Indiana, who is going to impeach him? Perhaps he will say, the Legislature of the State of Kentucky, if he were in Kentucky. A year or two ago the Legislature of Kentucky passed an act, similar in its provisions to the one we now propose, for the rebel soldiers; and when a member of that Legislature a year after presented a resolution of a similar kind for the Union soldiers, they voted it down. They gave the rebel soldier this defense and refused it to the Union soldier. I have a copy here of the resolution which Colonel Johnson, of Kentucky, introduced. It is in these words:

"Whereas at the last session of the Legislature an act was passed granting general amnesty to all who had been connected with the rebel army; and another which was made pleadable in bar to all indictments, prosecutions, and actions against any of them for acts performed during their said connection with said rebel army: Therefore,

"Be it resolved, That the Legislature is most respectfully requested to extend the same beneficent enactment to the Federal officer and soldier, which is but justly and fairly due to the man to whom that Legislature is now indebted for its very existence."

And they voted it down. Now, talk of an impeachment of a judge in a State like that!

Mr. TRUMBULL. What is the date of that?

Mr. CLARK. There is no date upon the paper.

Mr. TRUMBULL. I understand it was offered at the last session of the Legislature.

Mr. CLARK. I have another case in the State of Kentucky which I will bring to the attention of the Senate. I stated here the other day that the judges in Kentucky had decided both ways; had agreed to allow an order of a rebel officer to be pleaded in a prosecution against a rebel soldier, and had held that it was for him a good defense, and had refused it to a Federal soldier. I have the case here of a person named Holland, which I will read:

"Holland was indicted by the grand jury of Christian county for stealing some horses, which act he committed under the orders of his superior officer, General S. B. Buckner, of the rebel army, and upon being brought to trial was discharged by Judge Graham, circuit judge of Christian county, on the ground that he could not be punished for an act committed under the orders of his superiors, from which the Commonwealth appealed.

"Attorney General Harlan represented the Commonwealth, and Colonel B. H. Bristow represented the prisoner, (Holland.) Judge Robertson delivered the opinion of the court:

"The only judicial question presented by this appeal from a judgment of the circuit court discharging the accused on a verdict of acquittal on an indictment for robbery is, whether in a county of Kentucky, occupied and controlled by a confederate army under command of General Buckner, the forcible capture of a non-combatant citizen's horses in conformity with military authority, and in execution of a military order, was a criminal offense cognizable by the civil power of this State, and on this question our opinion is that the act being belligerent in the legal import of that comprehensive term it was not robbery in the technical sense. Argument to prove this would be superfluous, wherefore the judgment is affirmed."

Upon this a Frankfort correspondent of the Cincinnati Gazette remarks:

"This opinion was delivered on the 21st day of September, 1864, and has just been published by the reporter, Duval. Notwithstanding this opinion, some three or four thousand Union soldiers have been indicted and tried for similar offenses, and some of them sentenced to the penitentiary, and but for Gov-

ernor Bramlette's intervention with his pardoning power would now be incarcerated there."

It seems that what is a good defense for a rebel soldier is not a defense for a Federal soldier, and he is cast into prison for doing precisely the same thing for which the rebel soldier is set free. I make no imputation upon the State of Kentucky; I desire to cast no imputation upon her authorities; but if there be this honest difference of opinion in her courts, if they honestly believe that a rebel soldier is to be defended and protected because he has the order of his superior, it is time that we should provide that the Federal soldier should be protected in the same way. I have further testimony; and the Senator from Indiana need not ask me if cases have been refused a transfer. Thousands of them have been, on the very ground which the Senator from Delaware sets up, and which the Senator from Indiana, I understand, has approved, that they declare the act to be unconstitutional. What defense is an act of this kind to a Federal soldier if he goes into the court, and the judge says, "Your act is entirely unconstitutional; I will not regard it for a moment;" and then goes on to try and sentence him and put him in the State prison, or else finds a judgment against him and sends the sheriff to take away his property? There must be some way of remedying this crying evil, and these men who have been engaged in the defense of the country cannot be permitted to be persecuted in this sort of way. Their life becomes hardly worth having, if, after having driven the rebels out of their country and subdued them, those rebels are to be permitted to return and harass them from morning until night and from night till morning, and make their life a curse for that very defense which they have given your country. Sir, it should not be; and if these State judges will not obey the law, if they will not allow the transfer to be made, there should be a penalty annexed which would compel them to obey and transfer the cause.

Mr. HENDRICKS. I do not wish it to be understood that I believe that a State court has authority to punish a soldier for an act done within the lines and within the scope of the war, under the command of his superior officer.

Mr. CLARK. I did not understand the Senator to say any such thing.

Mr. HENDRICKS. I do not want it to be understood by any misunderstanding of the Senator's argument that I believe that. If a soldier in Kentucky should be indicted and arrested upon a charge of robbery for taking horses or any other property in the State of Kentucky, by virtue of a command of one of the United States officers, he being in control and possession of the country at the time, there is no question but what that would be a defense to the soldier. I do not understand whether the Senator approves or disapproves of the decision made by Judge Robertson, of the State of Kentucky; he did not say; but unquestionably that doctrine is the correct doctrine as applied to the troops of the United States. I do not doubt it; but I am not discussing what makes a crime there. I spoke simply of the proposition to transfer this class of cases to the Federal courts from the State courts—civil suits—and to punish by civil suit and damages a judge who, in the discharge of his duty according to his judgment, should refuse the transfer.

Mr. WILLIAMS. I happen to have on my desk the third volume of Story's Commentaries on the Constitution. Since the discussion arose on this fourth section, I have referred to it to see if there was any authority on the question submitted by the Senator from Indiana. I find extracts from an opinion delivered in the case of *Martin vs. Hunter*, quoted from 1 Wheaton's Reports, page 304, in which the right of Congress to authorize the removal of cases from a State court to a court of the United States is affirmed; and the Supreme Court say:

"If, then, the right of removal be included in the appellate jurisdiction, it is only because it is one mode of exercising that power; and as Congress is not limited by the Constitution to any particular mode or

time of exercising it, it may authorize a removal either before or after judgment. The time, the process, and the manner must be subject to its absolute legislative control. A writ of error is, indeed, but a process which removes the record of one court to the possession of another court, and enables the latter to inspect the proceedings and give such judgment as its own opinion of the law and justice of the case may warrant. There is nothing in the nature of the process which forbids it from being applied by the Legislature to interlocutory as well as final judgments. And if the right of removal from State courts exist before judgment, because it is included in the appellate power, it must, for the same reason, exist after judgment.

And in conclusion the court say:

"It is an historical fact that the Supreme Court of the United States have, from time to time, sustained this appellate jurisdiction in a great variety of cases brought from the tribunals of many of the most important States in the Union; and that no State tribunal has ever breathed a judicial doubt on the subject and declined to obey the mandate of the Supreme Court until the present occasion. This weight of contemporaneous exposition by all parties, this acquiescence of enlightened State courts, and these judicial decisions of the Supreme Court through so long a period, do, as we think, place the doctrine upon a foundation of authority which cannot be shaken without delivering over the subject to perpetual and irremediable doubts."

I understand that it has been repeatedly decided by the Supreme Court of the United States, so that the question now is regarded as finally settled, that where, in a State court, a party sued makes a defense under the Constitution, laws, or treaties of the United States, he has a right to have that cause removed at any time during its progress from the State court to a court of the United States, and there have the questions involved adjudicated. I think there can be no question, upon this authority, and upon other decisions of a like nature of the Supreme Court of the United States, as to the constitutionality of this section, because it is manifest that a military officer in the discharge of his duty is acting under the law or the authority of the United States.

Mr. DOOLITTLE. I move to amend the pending amendment, which is the proposition of the Senator from Delaware to strike out the fourth section of the bill, by striking out of the seventh line simply the word "judges," and then the section will remain as it now is, declaring that "all parties, officers, and other persons thenceforth proceeding thereunder, or by color thereof, shall be liable," &c. There is no necessity, in order to give full effect to this section, that you should undertake to declare that the judges who act in a judicial capacity shall be made liable. If you declare that all the parties are liable to prosecution, that the ministerial officers who act under it are liable, or any other person that volunteers to do it, you have just as good a remedy for the defense of the person as if you declare that the judges themselves are to be made responsible for what they do in a judicial capacity. It is a novel thing in the history of the United States to make the judges of a State court, who are acting judicially upon their responsibility as judges, and judging upon the validity of laws, responsible. I do not see any purpose in it, and it may make objections to the bill, which otherwise would be removed.

The question may arise, and be seriously considered, whether this bill, making a defense by act of Congress against a claim of an individual for injuries to person or property, making the order of a superior officer a defense in all cases, is or is not constitutional. If that be a question seriously raised, a judge sitting in a State court, just as much as a judge sitting in a Federal court, is called upon to act judicially. He must not act *in terrorem*; he must not act in fear of an indictment or in fear of a prosecution because he gives judgment one way or the other. Therefore, it seems to me it would be wise to strike out the word "judges," for I do not think it adds any strength to the section. As all the other parties are made responsible, I do not see the necessity of holding the judge personally liable in a matter where he is exercising his judgment in a judicial capacity.

Mr. TRUMBULL. It has been several times stated in the Senate heretofore that it is a novel thing to hold a judge responsible for what he

does as a judge. I have replied to that, and I have read the authority in Kent, and from the statutes of more States than one, making a judge of a court responsible for an act done by him as a judge; and why it should be represented here that this is a novel provision I am at a loss to know. I refer again, as I have it before me, to the authority as given by Kent in the first volume of his Commentaries, page 646.

Mr. DOOLITTLE. About ambassadors? Mr. TRUMBULL. No, sir, it has nothing to do with ambassadors. There is a law of the United States making judges responsible for issuing writs against ambassadors when they do it in their judicial capacity. But there is a law in the State of New York, and I doubt not in the State of Wisconsin—I have not looked into the acts of Wisconsin, but I presume it is so there; if it is not, it ought to be; it is so in Mississippi, and I presume it is generally so in all the States—that makes a judge of a court while acting as a court responsible in damages and to imprisonment when he refuses to issue a writ of *habeas corpus*, or when he imprisons a man by judicial act who has been discharged on a writ of *habeas corpus*.

Mr. DOOLITTLE. My honorable friend will allow me to say that it is not when the judge acts in a judicial capacity at all. In that case he is acting simply as a commissioner would act in the issuing of a writ, and if he at chambers refuses to issue the writ he is made responsible. But, sir, if the supreme court of Illinois, or of Wisconsin, sitting as a court, on an application for *habeas corpus*, should judicially refuse it, does the Senator pretend that the court and the judges would be responsible and made liable to fine and imprisonment for refusing it? Not at all. I say that the bill is wholly novel, so far as that provision is concerned, when you apply it to a judge acting in his judicial capacity in a court. It is a different affair when you apply it to a judge at chambers. He is bound to act like any commissioner of the court to issue the writ.

Mr. TRUMBULL. That is exactly what I mean to say; that when acting as a court, not as a commission and at chambers, the judges are made responsible; and so says Kent. I shall have the volume here in a moment, but while it is being sent for, I will read an extract which I have before me from the volume, and when I read it I hope the Senator from Wisconsin will take back all he has said.

"The penalty of \$1,000"—

says Kent—

"is given in favor of the party aggrieved, against every officer and every member of the court assenting to the refusal."

That is, the refusal to grant the writ of *habeas corpus*.

Mr. COWAN. That is, to take cognizance of the case at all.

Mr. TRUMBULL. We will see what that is. I read now from page 616, wherein the author is treating upon the writ of *habeas corpus*, the great writ of right, in which he says:

"The penalty of \$1,000 is given in favor of the party aggrieved, against every officer and every member of the court assenting to the refusal, if any court"

Is that a judge in chambers?

"If any court or officer authorized to grant the writ shall refuse it when legally applied for."

Is that a commissioner? If the judge refuses the writ when legally applied for, he is subjected to the penalty of \$1,000. Now, says the Senator from Pennsylvania, that means when it is not in court. Is it not in court when the application is made to the court? Is not the case there? And for refusing that great writ to a party who is entitled to it, the judge is liable to this penalty. What further does Kent say? In treating still further upon this subject, and wherein he treats upon the rearrest of a party who has once been discharged by writ of *habeas corpus*, he says:

"And finally, if any person solely, or as a member of any court, or in execution of any order, knowingly reimprisons such party, he forfeits a penalty of \$1,250 to the party aggrieved, and is to be deemed guilty of a misdemeanor and liable to fine and imprisonment."

Now, what becomes of your proposition that

it must be done as a commissioner and at chambers, and the "novelty" of the proposition? What further says Kent?

"The *habeas corpus* act of Mississippi makes the refusal or neglect of any judge or judges to grant the writ a high misdemeanor and an impeachable offense."

Again:

"The *habeas corpus* act in Illinois confines the liability of the judge to a penalty for refusing to issue a writ of *habeas corpus* when legally applied for to a 'corrupt refusal.'"

When a party applies for the writ, and the court or any member of a court decides that he is not entitled to that writ, and if in the State of Illinois he makes a corrupt decision, he is liable to fine and imprisonment. In the State of New York it is not required by the terms of the act that it should be shown that the decision is corrupt, but any court refusing to grant the writ when a party is legally entitled to it is subject to a penalty, and any judge of a court or member of a court who knowingly reimprisons a party who has been discharged on a writ of *habeas corpus* is liable both to fine and imprisonment, and even to impeachment in the State of Mississippi.

Now, what is the provision in this bill? It is not to imprison the party; but the provision here is that all parties, judges, officers, and other persons thenceforth proceeding with a case, after it has been removed to the United States court, or after the proper steps have been taken for the removal of the cause to the United States court shall be liable. If a State judge undertakes, then, to act and proceed in that case, he acts without jurisdiction and he is made liable by the provisions of the bill, and he ought to be made liable; and my friend from Michigan [Mr. HOWARD] says he would be liable at the common law, too.

This law that is proposed here is no such innovation, no such extraordinary provision as some gentlemen suppose. In my opinion, the main feature of the statute now proposed is nothing but a declaration of what the law is. A party is always protected in the discharge of a duty which is put upon him. The United States have authority to carry on war, to raise armies, to appoint officers, to prescribe rules and regulations for the government of the armies. One of those rules and regulations makes the private soldier and the subordinate officer obedient to his superior commander. By law, at the peril of his liberty and of his life, he is required to execute the orders issued by his superior officers. In the execution of those orders he is to be protected. The common law protects him—just as much protects the private soldier in the State of Kentucky in the execution of the order of an officer, as it protects a constable or a sheriff in the execution of a writ issued by competent authority.

But, sir, some of the State courts in these rebellious States refuse so to understand the law; they say that acts done under military authority afford no protection. Hence we propose to pass this statute declaring that the fact that the act was done by command of the superior officer in the discharge of his duty shall be a defense; and the State courts refusing so to treat it, that the United States court shall have jurisdiction of such cases. It would be the most monstrous proposition ever advocated, and utterly destructive of all government, if the citizen who is required to render obedience to the Government is not to be protected in the acts which he does in rendering that obedience. Can it be possible that the Government of the United States may call into its service and into its armies, in order to maintain the honor of the nation and the integrity of the Union, every citizen in the land, and compel him to serve, and then has no power to protect him against prosecutions for doing the acts which he was compelled by the Government to do? Sir, such cannot be the law.

But I did not rise with a view of arguing the question, but simply to reply to this assumption which has been set up here in the Senate and repeated as if it would seem that those repeating it were getting to believe it, that it was a

novel thing to punish a judge. The Senator from Wisconsin tells you that there is no necessity for it; punish the officer who executes the process; pass a law and put the responsibility upon the subordinate or the officer; let the judge issue an order and let the officer, the subordinate who is to execute it, take the responsibility and decide whether it is lawful or not. Sir, I am for going to the source of iniquity. I would take the head chief who undertakes to persecute Union men for doing their duty. I would take the man who issues the order, if he does it knowingly, as he must do it if he does it after the necessary steps have been taken to remove the case to the Federal courts. I would produce no such confusion into our judicial proceedings as to place upon the subordinate, the officer who is to execute the process, the responsibility of deciding whether it is void or not. Let the man whom the States place in the judicial office act on his responsibility, and if he acts corruptly or knowingly to oppress the most insignificant Union man that in defense of his country has committed an act for which he is sued, I would hold him responsible.

Mr. DOOLITTLE. Mr. President, my honorable friend from Illinois seems from his tone and manner to think that he has made a very great victory in quoting from Kent, but he has not answered the point that I raised. I say that in the refusal to issue a writ of *habeas corpus* the officer or the persons who sit as a court denying it are not acting judicially; there is no judgment given to them, for there is no cause before them. The question of the issuance of the writ is a mere ministerial act; the law requires it to be done for the purpose of bringing the case before the court; and when the judges act on the question, whether they issue the writ or not, they do not act on any judicial discretion; they act ministerially; they act under statutes positively requiring the writ to be issued; and for what? To inquire and see whether a man is restrained of his liberty or not; and the statutes assume to punish the judges for not inquiring into the case, not for what they do when they do inquire into a case; it is for their refusing to take jurisdiction of a case in order to hear it at all. They do not have any judicial determination on the question whether the individual sits in chambers or in court—

Mr. CLARK. What judicial discretion has the judge here when directed to obey an order to transfer the cause to the United States circuit court?

Mr. DOOLITTLE. Suppose the judge sitting as a court, when the question is argued and heard upon both sides as to the constitutionality of a provision of this bill, believes in his conscience that it is unconstitutional, what shall he decide? That is the question; and if he decides the one way or the other, is he to be made criminally responsible or civilly liable for his judgment? In issuing a writ of *habeas corpus*, there is no judgment; it is a mere ministerial act done by an officer sitting at chambers or by the judges sitting together in *banc*. It makes no difference whether the application is made to them in either way; there is no judgment on the question of issuing it. They do not hear any argument, and determine or pass on any question in issuing the writ in the first instance; but after the writ has been issued and the party is brought before the judge or before the court, and they have jurisdiction of the case, they are then called upon to pass judicially upon the questions involved in the *habeas corpus*. Does the Senator from Illinois contend that they would be liable, or any one of them liable, for proceeding in the case after they had issued the writ?

Mr. TRUMBULL. Do you want an answer?

Mr. DOOLITTLE. The Senator can wait until I finish. Now, Mr. President, what I said in the beginning was, that it is a novel proceeding to punish a judge criminally or make him responsible civilly for his judgment where a case is actually before him, a question is raised, and he is called upon as a judge to

decide that question either ay or no; and it is for that reason that I would strike the judges from this bill, because if it is to pass I wish to make it as acceptable and as little objectionable as possible.

Mr. TRUMBULL. A friend just hands me a newspaper to show how common a thing it is for courts to hear writs of *habeas corpus* and to make orders in regard to them:

"ORDER OF THE COURT.—In the United States circuit court, April term, 1865. In the matter of the petition of Charles D. Coleman for a writ of *habeas corpus*. This day comes the petitioner by Peter E. Bland and George E. Leighton, his attorneys, who present to the court the petition of said petitioner, this day filed herein, for a writ of *habeas corpus* to be directed to the warden of the penitentiary for the State of Missouri, for the production of the body of the said Charles D. Coleman before this court, to do, submit to, and receive whatsoever shall be considered by said court in that behalf concerning him, the said petitioner, upon the grounds and for the reasons and causes in said petition set forth; and the court having examined the said petition, and being fully advised of and concerning the same, now orders that said petition be granted, and that a writ of *habeas corpus* be issued as prayed for therein, returnable forthwith."

That looks a little like an order of the court; it looks a little like a judicial decision. It has that appearance. Attorneys appear in it. The Senator says attorneys never appear and the question is not argued on an application for a writ of *habeas corpus*.

Mr. DOOLITTLE. I did not say that.

Mr. TRUMBULL. Did not the Senator say that the writ of *habeas corpus* was a ministerial act, an act where no argument is heard on granting it?

Mr. DOOLITTLE. I did not say that no argument was ever heard on granting it. Sometimes arguments are heard by counsel on both sides.

Mr. TRUMBULL. Then it is a question that is argued before and decided by the court, and not by a judge at chambers. The laws of the United and the laws in my State authorize the courts to issue writs of *habeas corpus*.

Mr. DOOLITTLE. But it is a question on which they cannot decide judicially; one where there is no judicial discretion.

Mr. TRUMBULL. It is a case upon which they do often refuse the writ of *habeas corpus*; it is not a matter which they are bound to decide one way, as is shown by the order which I have just read; it does not issue as a matter of course.

Mr. DOOLITTLE. Mr. President—

Mr. TRUMBULL. Let me get through. It is a great writ of right, but a party must present a case showing that he is entitled to the writ of *habeas corpus*.

Mr. DOOLITTLE. He must set out in form what the statute requires.

Mr. TRUMBULL. He has got to set out what the statute requires and such circumstances as will entitle him to the writ. But the Senator says it is a ministerial act for which judges are punished, and that it is a novel thing to punish anybody for a judicial act. I remember the Senator once told an anecdote in this body which ran something like this: that on some occasion a justice of the peace had made a very extraordinary decision, and the attorney adversary to whom the decision had been made took up a volume of Blackstone and read it to the justice of the peace, showing that his decision was in direct conflict with the law as laid down in Blackstone's Commentaries. The justice replied that that was no authority for him. "No," said the lawyer; "I did not read it with the view of changing your opinion, but simply to show what a fool old Blackstone was." [Laughter.] Now, I propose to read a sentence from Kent, not with a view of changing the opinion of the Senator from Wisconsin, for I do not expect to be able to do that, for he says no judge for a judicial act was ever made responsible, but I want to show him what a great fool Chancellor Kent was. [Laughter.]

"This last provision"—

Referring to the provision of the New York

law for fining and imprisoning a judge of the court—

"is distinguished from that in any former statute on the same subject by applying the penal sanction to the members of any court acting judicially."

"Acting judicially," says Kent. It is distinguished from the former laws of the State of New York by applying the penalties and imprisonment to the judges acting judicially. That is what Kent says. Of course Kent did not understand the law—and of course this is a novel provision, and of course Kent did not know what "judicially" meant, and that this was necessarily a ministerial act and could not be anything else!

Now, I submit to the Senate and to the Senator from Wisconsin, whether he is not mistaken as to the novelty of this provision.

Mr. COWAN. Mr. President, I think it would be better to get back a little on this question behind where the honorable Senator from Illinois is so exceedingly positive about it in his assertion of what the law may be in the premises. This, if I understand it, is the provision upon which the contest arises:

That if the State court shall, notwithstanding the performance of all things required for the removal of the case to the circuit court aforesaid, proceed further in said cause or prosecution before said certificate is produced, then, in that case, all such further proceedings shall be void and of none effect; and all parties, judges, officers, and other persons, thenceforth proceeding thereunder, or by color thereof, shall be liable in damages therefor to the party aggrieved, to be recovered by action in a court of the State having proper jurisdiction, or in a circuit court of the United States for the district in which such further proceedings may have been had, or where the party, officer, or other person, so offending, shall be found; and upon a recovery of damages in either court, the party plaintiff shall be entitled to double costs.

Now, Mr. President, this Government of the United States is a Government of delegated powers.

Mr. HOWE, (laughingly in his seat.) I should like to see the authority for that.

Mr. COWAN. I am aware there are a great many people who do not understand that, and who really come here and attempt to be Senators of the United States, and to legislate here upon this floor as if they were members of Parliament, and as if they had omnipotent governmental power over this country. I know such gentlemen sneer; I know they snigger at this doctrine; and I know that a man has a right to snigger at his own disgrace, and at his own ignorance. He has that right, there is no doubt. I know of no provision in the Constitution which prevents a man from being just as big a fool as he pleases. [Laughter.] I do not know of any law to the contrary. But I do know that generally gentlemen and Senators ought to listen calmly and carefully to what is said on the other side, knowing the fallibility and frailty of human judgment, and that there is such a thing possible as that they may be wrong.

The Constitution of the United States says that this is a Government of delegated powers. What is meant by that? That we have just such power as is given in the Constitution by the several States and the people of the several States who compose this Union; and for fear that we should exercise any other or further powers, when we come here we are called up to your desk, sir, and required to take a solemn oath that we will support the Constitution. I am aware that oaths are used familiarly by dicers; I am aware that in some mouths they are but straws in the fire of the hot blood; but in the mouth of a Senator I suppose they mean something. I suppose that when we come here and take an oath that we will support the Constitution, we are to look to the authority that it confers upon us and will not endeavor to transcend that authority even a hair's breadth. Why? Because to do so is to transcend the will of the American people. When we are to have more authority, let the American people confer it, and then we can legislate in the premises.

Mr. President, what is the judicial authority conferred by the Constitution upon the Government of the United States of America? It

is not all the judicial authority of the land unquestionably. By what warrant does your State court in Rhode Island, sir, [Mr. ANTHONY in the chair,] decide criminal causes in it? By what authority does it convict the thief of larceny, the burglar of burglary, the murderer of murder? Is it by virtue of authority derived from the United States? Is it by virtue of authority enjoyed concurrently by the United States with the State of Rhode Island? Not at all. The stupidest citizen you have knows that your State has rights as well as the United States has rights. You have the right in that State to try for offenses committed within it generally. When does the United States try for offenses committed within the State of Rhode Island? Generally? Not at all. Not generally, but particularly, where the authority is given in the Constitution. By what judicial authority do your courts in Rhode Island decide between man and man in Rhode Island? By the authority of the sovereign State of Rhode Island, and by virtue of her reserved rights which were not delegated to the United States in the Constitution. Did you, sir, ever know a man in the State of Rhode Island, did you ever know in any State of the Union two citizens of that State dragged into the United States court for a difference between them? Nobody ever heard of it, and it has remained until this day and this age that these things should be known. As to differences arising between citizens of Rhode Island, unless in the particular cases provided in the Constitution—and in the Constitution the particular cases are provided for—the United States courts have no more jurisdiction than they have over a case in Russia. If a dispute arises between a citizen of Rhode Island and a citizen of Massachusetts, the United States courts determine it; and why? Because the Constitution and the Union were made for the purpose of securing domestic tranquillity, for the purpose of settling disputes between citizens of different States which would otherwise have led to broil and trouble between States.

A citizen of Rhode Island—and, with your liberty, sir, I will take your State as being one of as small compass, perhaps, as any other—charges upon another citizen of Rhode Island a trespass. Or I might go to the State of the honorable Senator from New Hampshire and take a case from his immense State with the large amount of patriotism and love of country which he professes here, and which he is not willing to allow to my honorable friend from Delaware, a little State, too. I suppose Delaware has just about as much patriotism as New Hampshire, and I suppose, and I have always supposed, that a man from Delaware loves his country as well as the Senator from New Hampshire, although he may perhaps differ from him as to what was the proper way to manifest that love. I am sorry that upon this floor we cannot argue questions and not people. I may imitate to some extent the language of the Senator from New Hampshire when I say that I think we have had too much of that, and I think it is time that the whip had ceased to crack over the heads of the minority here, or persons who do not choose to agree with a dominant tyrannical majority. What do gentlemen suppose they can do? Terrify men into submission to the will of a majority without expressing their opinions? Gentlemen, I tell you when this Senate becomes a place where a man cannot express his opinions freely, you have not restored the Union; you have not preserved your Government; you have destroyed the very essence and the vitals of it while you were pretending to save it; you have introduced a tyranny as detestable as that from which your ancestors rescued you in the Revolution—a tyranny as detestable as prevails anywhere in the world. Let every man in the Senate speak his free thoughts, give his opinions freely, and let no man impugn his motives upon this floor.

Sir, I come back to the question I put before. What was the judicial authority granted to the United States in the Constitution? This bill provides that when a citizen of the State

of Rhode Island brings an action of trespass against another citizen of Rhode Island, for a particular offense committed during the existence of the rebellion, and, if you please, in the act of suppressing the rebellion, the jurisdiction of the courts of Rhode Island shall be pushed aside, set aside, and jurisdiction of that cause given to the United States courts. I am not so dogmatic as to say that perhaps that may not be right. It is not necessary for the purposes of the argument here that I should assume, as if infallible, that that may not be right. I merely suggest a doubt, in order that I may meet the argument to the point of which I shall come directly. But, Mr. President, what I do say is that it is a question, and a question of law, as to whether the jurisdiction of the State of Rhode Island in that case can be ousted and that of the courts of the United States substituted for it. That is a question, a fair question, and I have respect for a man who argues it on this floor fairly. I have no respect for a man who assumes it to be one so exceedingly plain that nobody can mistake it.

A question, then, as I said, comes up between two citizens of this State, and one of them alleges that he was acting under the orders of the United States, that he was in the service of the United States, and that what he did in the premises he did as such servant of the United States. That, it is alleged by this bill, gives to the United States courts jurisdiction. I doubt it very much. Let us see in what cases the United States have jurisdiction; let us read it, because here it is. It is in very small compass, and any man of moderate abilities might, if he were to take the time, ascertain precisely the extent of the jurisdiction of the United States courts; and he could ascertain it from the Constitution itself, without running away to far-fetched analogies which have really no connection with the matters in hand.

"The judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States, and treaties made or which shall be made under their authority; to all cases affecting ambassadors, other public ministers, and consuls."

Because, you will observe, that when the Union was formed, all connection between the several States and foreign Powers was abandoned and given over to the new creation arising out of the whole—

"To all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands"

You observe it is particular, not general; it only applies to citizens of the same State who are "claiming lands under grants from different States," and you see how appropriate that was. If the titles to lands were to be decided in the courts of the State granting one of them, of course the trial would not be very likely to be acquiesced in. Then, in all such cases the United States was to have general jurisdiction for the purpose of public tranquillity, for the purpose of preserving the peace.

"And between a State or the citizens thereof and foreign States, citizens, or subjects."

There is the extent of it. Now, I ask any intelligent man under what part of that delegation of judicial power to the United States is claimed the right to decide between two citizens of Rhode Island or two citizens of any other State upon a question of trespass. Is that a plain question? Will any man say that that is a question upon which any man might not blunder, any man might not stumble, any man might not decide it one way or the other? Now, if I understand, what is complained of by my honorable friend from Wisconsin in this bill is, that you punish the judge for deciding that question one way as though it was a criminal offense.

Now, Mr. President, once for all in this body let me ask, is crime a fact or is crime an abstraction? Is crime a thing which has actual, potential existence in the mind of the criminal, or is it a mere creature of statute,

to be made out of that which has no element of crime about it? Clearly not the latter. In order to constitute crime, there must be a criminal intent; in order to constitute a trespass, a violation of the rights of anybody which is remediable by damages there must be an intent in the mind of the person who commits it to do the wrong. You cannot make that wrong which in itself is right and fair and honest by writing it down in a book that it shall be wrong. That will not effectuate your purpose. It is complained here that a judge, honestly deciding the law as he understands it, honestly deciding the question under the Constitution and under the laws taken all together, shall be punished as a criminal. To me that proposition is monstrous; to me it has never had any place in any legislation in civilized countries, within the recent Christian era at least, I think I may say.

But it is said that a judge may be made a criminal because he will not issue a writ of *habeas corpus*. I am rather inclined to think he should be, but in that case he is not to be a criminal because of his decision of a legal point; it is because of his refusal to do a plain duty laid down before him by the statute. If I go to a judge and demand a writ of *habeas corpus*, I do not ask him to deliver me a legal opinion on it; if the writ is warranted by the statute and I bring myself within the requirements of the statute I demand it of right, and if he refuses to do it he refuses to do his duty, and that is an offense. If I am detained of my liberty and I appeal to the judge to deliver me and he will not issue the writ, that is an offense and a very high offense. It was an offense as far back as Runnymede, in the great charter. But if he issues the writ and I am brought before him and my case is heard and he decides it, no matter how improperly, how erroneously, there is no guilt in that if he was not moved by an improper purpose, which I must show, not from the statute-book, but I must show as existing in his mind an intent to do the wrong, if I want to mulct him in damages or punish him as a criminal. There is the distinction, a very clear, broad distinction, one that nobody could mistake, between the cases cited here as precedents for this extraordinary exercise of power and this case itself.

Mr. President, it might be well to inquire from whence sprang all this brood of transferring cases from the State courts to the United States courts. How did it happen that there ever was a precedent for that thing? I will try and explain that. Among other powers delegated to the United States was the power of levying taxes, imposts, duties, and so on, or in other words, to enforce a revenue system. In early times in this country there was no act of Congress taking cognizance of that revenue system and providing for the decision of cases under it; and hence, perhaps, thirty-five or thirty-six years ago, about 1830, an act of Congress was passed which provided that whenever a revenue officer in the execution of his duty collecting the revenue shall be involved in law suits with anybody about that subject, those cases should be transferred to the courts of the United States in order that he might be tried there, because the cases arose not under State laws, but under the laws of the United States. That was right and proper. Where the officer was acting under the laws of the United States, where he was executing the laws of the United States, and where the whole subject-matter was within the jurisdiction of the United States, it was eminently proper that the cause should be carried into the United States courts; but that is a very different thing from the application we have made of that rule here, and a very different thing from the later precedent which we have followed. This is not that case. This is a case where *prima facie* the State courts have not only clear, unquestionable jurisdiction, jurisdiction never before perhaps doubted, but where the United States, by the very terms of the instrument under which we govern the Union, have no such power. Take the Constitution and the judiciary act

and read them. Let any man read them and see where he can find the authority there. The nearest he can possibly come to it is that these may be said to be cases arising under the laws of the United States. I am perfectly free to say that an argument may be made there; but I am also perfectly free to say, and I am perfectly sure in saying, that the man who decides that question one way or the other is not on account of that decision to be taken as a criminal or to be mulcted in damages because of any mistake he may make.

As my honorable friend from California [Mr. McDougall] very often says, the old fathers were wiser than we are; the men who founded this Republic, the men who made its Constitution—and "there were giants in those days"—provided much more aptly and quite as fully for this question as it was possible in the nature of things and from the machinery with which we administer our Government could be done. What did they do? They provided that whenever a defendant in any court set up a justification under the laws of the United States or under the Constitution of the United States, and the State court refused that defense, decided against it, decided against the constitutionality of the law under which he set it up, in such case he should have a writ of error to the Supreme Court of the United States. What could be plainer and wiser? If it be true that under the laws of the United States these officers are justifiable in any particular case, where is the objection to their making that defense in the State court, and, if it is not allowed, give them the right to appeal to the Supreme Court of the United States. What can be plainer than that?

I have another word to say about the policy of this law. The danger to the Union, the danger to the existence of this fabric to-day, is quite as great as it ever was, and why? The danger is that the several constituent parts of it will not keep each within its own sphere. The danger is that the States will assume to enlarge their reserved rights, and paralyze the General Government; and on the other hand the danger is that the General Government will encroach, swallow up the State rights, and centralize and despotize—if I may be allowed to make a new word for the occasion—this Government. What is our duty? Our duty is to keep both in the line of their original creation, keep them where the fathers put them. Let the United States be supreme in all that relates to the whole; let it have no concern whatever in that which relates to the particulars. One of the great pervading principles of the Constitution was that whatever a State could do better of itself than could be done by the whole Union was not delegated to the Union; whatever the Union could do better than a single State was delegated to it, and I fancy that everything was delegated which is proper to give the States the advantages of united action. To the United States was delegated the power of making war and of dealing with foreign nations. Why? Because thirteen united weak colonies could transact that business better, and secure the public welfare, and provide for the public defense much better than they could do it separate and apart. That was the reason. Take another instance. The postal communications from one State to another are far better in the hands of the General Government than they would be in the hands of the several States, by which we should have at the present time thirty-six different and distinct post office departments in the Union, and therefore the Post Office was given to the United States. Then the power of passing naturalization laws, of removing the disability which is attendant upon being foreign born, was given to the United States, and why? Because it was a general subject, and could be better administered by them than by any other authority. The right to maintain armies and navies was given alone to the United States, and why? Because they are arms by which the general defense and mutual welfare of the whole are to be protected. And so upon con-

sideration of the instrument which created this Government, and a careful consideration of it, it will be found, I think, to be as I have stated it, that wherever the thing to be done is for the general good of the whole, and which can be done better by the united action of the whole, and which cannot be done by the individual action of the States, there the General Government has authority; but wherever the State can administer the law, wherever the State can administer justice between her citizens, there the United States is never allowed to interfere, and she has no machinery by which she can interfere.

A very forcible illustration of that may be readily given. In order to transact the business of the people, in order to administer justice to the people in the several States, you have to have at least two or three inferior magistrates in every precinct, ward, or township. You have to have an orphans' court, a court of common pleas, a court of oyer and terminer, a court of quarter sessions, and you have sometimes to have courts of equity, in every county in every State. What for? In order that justice may be brought to the doors of the people. Now, think of the madness of executing that great governmental function, which is really and truly the very governmental function, by means of the United States machinery. The United States have no magistrates; that is, they have no justices of the peace, no "squires;" they have no county courts; they have no machinery in the world by which they can administer justice among the people except the courts created under the Constitution, one or two in a State. Think of this; and it gives us, above perhaps anything else, a better notion of the extent of the general power of the United States over the people; and when we think of the irritating effects of this kind of legislation protruding itself within the domain of State jurisdiction, where the people have always been accustomed to have justice administered, and where they have always been in the habit of relying on having it administered fairly, the question whether they will submit to it ought to make, I think, any prudent man hesitate. And if we come to reflect for one moment on the extent of the combinations that will be made against it, no matter how salutary it may be, no matter how wholesome it may be, no matter how much you may think it is required, if it is against the genius of our institutions, if it is against that which the people believe in the administration of the laws, your statutes will be wiped out, and they will never be of any avail to anybody.

Now, sir, I am, as I said, in favor by all means of protecting the officer in the honest, conscientious discharge of his duties while in the service of the United States. No man can feel the necessity of that more than I do. No man, I think, is more sensible of the annoyances, of the wrong and injury, that would be done to the faithful servant of the United States if he was to be dragged here and there and subjected to actions for what he did in the honest, conscientious discharge of his duties. At the same time when a man puts on the uniform of the United States, when he accepts her service and marches under her flag, if he is guilty of oppressing the citizen, of gratifying his private malice wantonly and without the welfare of the country constantly in view, then I have no kind of charity for such a man. I think that he is fitly and appropriately the victim of the severest laws that can be made to prevent wrong and oppression.

Sir, what is the mission of this man when he enters our service? It is to defend and protect the people, not to oppress and injure, rob and plunder them. Can anything be plainer? And if he so far forgets himself as to lend himself to wrong and injury and oppression, needlessly, ruthlessly, wantonly, and maliciously, I would have him punished, and punished severely. A double punishment should be his, because he not only shows the depravity of his own nature, but he disgraces the Government under whose

flag he fights and whose commission he carries about with him.

But, Mr. President, that is neither here nor there. I suppose upon these topics nobody will differ; I am not able to see how anybody could differ upon them; but the question is, how are we to make a remedy? What is the remedy to-day? The remedy is just as well settled in the State courts and by the State law, I think, as you can possibly settle it by the United States law. If I sue a man for an act done against me while he is acting under a commission, under authority derived from the law and the Government, he justifies himself by that authority in all cases if the act is warranted by the authority. There can be no difficulty about that. The sheriff's writ is good as a justification for him against a trespass. So the commission of the soldier is good as a justification for him against a trespass. But suppose that he exceeds his authority; if he has authority to take a fort, that gives him no authority to murder prisoners of war; if he has authority to assault a town, it gives him no authority to violate women; if he has authority to march through the country, that gives him no authority to take private property without such an emergency as excuses the act, and when the emergency is an excuse for the act the court is always willing to give him the benefit of it. That is the law now. It is the law everywhere throughout the civilized world, and why? Because it is common sense.

I know that in States where the rebellion has prevailed, and in the border States where the people have been very much excited, and where they have been divided into angry, hostile parties, these actions will be frequent, and a great deal of difficulty and a great deal of trouble will arise out of them. But these are troubles which are not to be cured by legislation; not to be cured even by State legislation. They are the troubles of a community, out of which it must emerge with the trials or punishments which result from them. It must acquire wisdom from experience. After awhile the people will learn that their true interests are not promoted by the gratification of their evil passions and by the forgetfulness of the great laws of charity, man for man; and these things will be avoided; but they are not within the domain of law; they are not curable by legislation. For instance, it is utterly impossible by legislation here that we should prevent the prejudices of a jury in one section of the country from denying to one man justice and giving an over-measure of it to another. We cannot prevent that. It is utterly impossible that we can by legislation here eradicate the prejudices of judges, that we can influence their leanings. We cannot provide for that by statute. That is to be the work of time, and the gradual operation of the good sense of our people who hereafter will no doubt discover the evils and folly which exist in all this, and they will come back to that sensible, wholesome operation of their laws which is the only thing after all that we have to rely upon.

Mr. President, in conclusion I have only to say that I think it is clear, beyond question, that the judges of a court acting under State authority, acting conscientiously in deciding cases, although they may act erroneously, are not for that reason to be made criminals, nor are they to be mulcted in damages for their erroneous judgment. The remedy for that in our jurisprudence is a writ of error. If they refuse to transfer a cause from the State court to the circuit court of the United States when it is the law, and the Supreme Court of the United States shall declare it to be the law that the case shall be transferred, then the case will go there, and it will go there without staining the judge with criminality, without subjecting him as a trespasser for what may have been an honest mistake of judgment on his part.

Mr. DOOLITTLE. Mr. President, I desire to say a few more words to my honorable friend from Illinois on this question of *habeas corpus*, and I have taken up the book from which my honorable friend read. In the State of Wis-

consin, to which he referred, and which he said he presumed authorized judges sitting in term time, if they refused the writ of *habeas corpus*, to be fined and imprisoned or mulcted in damages for refusing the writ, he is entirely mistaken. In the State of Wisconsin it is as I stated, and as it is in a large majority of the States of this Union; the officer refusing to issue the writ in vacation, and not in term time, is made responsible. The statute of Wisconsin is as follows:

"That if any officer authorized by the provisions of this chapter to grant writs of *habeas corpus* shall willfully refuse to grant the writ, when legally applied for, he shall forfeit for such offense to the party aggrieved the sum of \$1,000."

It is the officer, not the court sitting in term time. How is it in the State of Illinois, where the Senator himself resides, and was himself a judge of the supreme court? If the officer shall "corruptly" refuse to issue the writ he shall then be made responsible in damages.

"The *habeas corpus* act in Illinois," says Chancellor Kent, "confines the liability of the judge to a penalty for refusing to issue a writ of *habeas corpus*, when legally applied for, to a 'corrupt refusal'—not a judicial refusal, not even the decision of a ministerial officer in the refusal of the writ. How is it in the other States of the Union? In Connecticut there is no penalty imposed whatever upon a judge for refusing the writ; it is left to his judicial judgment, and the people of Connecticut and the laws of Connecticut have confidence enough in their judiciary to suppose that they will decide according to the laws of the land and the oaths which they have taken. How is it in Virginia and North Carolina? Their *habeas corpus* act is a copy of the *habeas corpus* act of England, from which we have borrowed the common law and the writ of *habeas corpus*; and how is it there? Are the judges sitting in term time made responsible in damages or by fine or imprisonment? Not at all; it is the judge sitting in vacation at chambers, not as a court, if he refuses the ministerial act, for it is nothing but a ministerial act to issue the writ when the statute requirements are complied with and the petition sets forth what the statute requires.

How is it in New Jersey? Precisely the same. In Maryland, I doubt not, it is the same—borrowed from the English statute. There are but two States in the Union that the Senator can point out—and the one is New York and the other Mississippi—where the Legislature has assumed to impose a fine upon judges for refusing to grant the writ in term time; and I now come to the question which originally arose between the Senator from Illinois and myself: I say the issuance of the writ is not a question of judicial discretion, even by the judges in term time. There is no judicial discretion with them but to look into the petition and see if the petition conforms to the statute; and if it does, they are bound to grant the writ. It is not a discretionary writ; it is a writ of right, to which the party has an absolute right. How is it in the State of Massachusetts? What says Chancellor Kent about Massachusetts on this subject of punishing judges for granting or refusing a writ?

"The Massachusetts *habeas corpus* act"—

And this is Chancellor Kent, living in New York and writing about New York and the statute of New York, comparing the statute of Massachusetts with the statute of New York, and he says:

"The Massachusetts *habeas corpus* act, in their revised statutes of 1835, does not contain degrading penalties hanging over the courts and judges."

Chancellor Kent, speaking of this statute of New York, which goes on to enact that the judges sitting in term time, if they refuse to grant the writ, shall still be made liable, says it is the first instance in the history of the English or American law in which any such thing has ever occurred; and he speaks of it, when he comes to speak of Massachusetts, as a degrading penalty hanging over courts and judges. But how is it even in New York? It is not an exercise of judicial discretion; and that is just the point I made in the beginning; it is not a

discretionary writ, but a writ of right. What says this same authority, to which my friend referred, speaking of the *habeas corpus*:

"It is a writ of right which every person is entitled to *ex merito justitie*; but the benefit of it was in a great degree eluded in England prior to the statute of Charles II, as the judges only awarded in term time, and they assumed a discretionary power of awarding or refusing it."

Because the judges in the time of Charles II assumed to say that the granting or refusing of a writ of *habeas corpus* was a question of judicial discretion, "the statute of 31 Charles II, c. 2," was enacted, which by its "explicit and peremptory provisions restored the writ of *habeas corpus* to all the efficacy to which it was entitled at common law," and made it a writ of right, to which a man had a right, whether the court was in favor of it or not. He had only to comply with the statute in reference to the petition which he presented, and the court were to award it; and in order to enforce this right, England provided by statute that judges in vacation who should refuse to award the writ should be liable to be punished, but not the court sitting in term time.

"The penalty for refusal to grant the writ was, by the English statute, confined to the default of the chancellor or judge in vacation time."

Not sitting in court, not sitting in *banc*, not in term time, but in vacation time; and the only States are New York and Mississippi, which provide that the members of a court sitting in term time shall be liable to a fine for not awarding the writ; and when they sit in term time and pass upon the question they pass upon it as a writ of right upon which they have no judicial discretion any further than to look into the petition which is the basis of the application and determine whether that petition on its face makes out a case for the writ; they inquire into nothing outside of the petition. They can take proof of no fact whatever; they can only look into the petition, and if the petition reads according to the statute, they are bound to issue the writ; they are bound without any judicial discretion to do so. That is the very point in the case. What I said in the beginning and assert now is, that it is a novel proceeding to undertake to render a judge responsible in damages for what he may judicially decide.

My friend from Illinois will not understand me as being any less desirous of defending those faithful men who, in the midst of this great rebellion, have been acting in the name of the Government of the United States. I wish to defend them; I wish to throw over them the shield of this Government; and where the individual has acted in good faith under the authority of this Government, I would defend him in the name of the Government, openly and frankly, and abide the consequences. I have some serious doubts whether it is within our power to declare, as it is declared in one section of this bill, that a mere order shall constitute a defense in those places where martial law was not declared or where the operations of the Army did not so disturb the administration of the civil law in the State courts and the Federal courts as to prevent justice being done between parties. Where martial law prevails, of course, the order of the military commander is a perfect defense. There is no law where martial law exists but the law of the military power governing the place, and whatever may be done may be justified under military order. But, sir, in those places where civil law has all the while been in full play, where the courts have been open, their proceedings undisturbed by arms—whether in such courts we can by act of Congress go any further than to declare that such a military order shall constitute a *prima facie* defense, and change the burden of proof, is a very serious question indeed.

But, sir, I will not go into the discussion of that matter now. I only wished to discuss this single question which I have raised, whether the course I have suggested is not wiser, better, more in accordance with the whole history

of legislation in England, and with the history of legislation in this country, the only pretended exception being the case of the State of New York and the State of Mississippi; and these are condemned by Chancellor Kent, the authority which the Senator from Illinois has quoted, who speaks of it as a degrading penalty hanging over courts and judges; who is opposed to it; who declares that the statute of New York is the first in the history of English law or American law which looks in the direction of punishing a judge for what he does or may not do in term time; although the act is not a discretionary act, it is an act which he is bound to do, if the petition complies with the statute, and he has no discretion to refuse the writ. I ask, is it wise to follow that example which is exceptional, contrary to the whole history of English law and American law? Is it wise for us to do it when there is no necessity for it? If the parties are made responsible; if the ministerial officers, who do not act judicially, and who always act upon their responsibility, are made liable for the damages resulting from the case being proceeded with in the State court after the removal, why is not our officer perfectly protected? I think that the act which we are about to pass will be just as efficient if we leave out the action of those who act judicially, it will be much less liable to objection in the States where it is to have force; and, in my judgment, it will be more in conformity with the history of the legislation of this country, and of that country from which we derive our laws.

Mr. HOWARD. Mr. President, a very strenuous opposition is made to the fourth section of the bill. The honorable Senator from Delaware has moved to strike it out. Another Senator has moved an amendment to that amendment, to strike out the word "judges" in the seventh line, so as to exempt the judges of the State courts from the damages which are contemplated in the section. I am opposed to both these amendments and in favor of the passage of the bill with the fourth section in it, because I think that section contains a sound principle, and that without it there may be many cases in which great injustice may be done to parties who are brought into the State courts on claims of damages by owners of property taken for the purposes of the war. I see no constitutional difficulty whatever in the fourth section. Still I am aware that it comes within that long category of bills which the Senate have passed or endeavored to pass during the late war, which by certain gentlemen in this Chamber have been denounced as flagrantly unconstitutional. Indeed, the honorable Senator from Delaware has gone so far as to say to us that if he were a judge sitting for the purpose of administering justice between man and man in his own State, and this statute, if it should become a statute, should be presented to him, and should be insisted upon by way of defense, he would feel bound to hold it unconstitutional and void, and that he would proceed, notwithstanding this Federal statute, to pass a final judgment in the case which might be before him, and to enforce it.

It is not necessary for me to say that it is the duty of a judge, whether he occupy a high or an inferior position, as such to decide every question of law that may fairly be presented to his consideration. I am not aware that the law exempts any class of judges of courts from this high and solemn duty. Still, it does seem to me that if I were a State judge, and this question were presented to me in the form which he has suggested, certainly if a doubt hang over the question at all, I should feel it my duty to decide in favor of the validity of the statute, leaving the question finally to be determined by the court of *dernier ressort*, the Supreme Court of the United States, and such, I think, would be felt to be the duty of almost every well-informed State tribunal.

But, sir, is there anything in this statute which is in conflict with the Constitution? And does the judicial power of the United States as delegated in the Constitution itself cover the cases

which are contemplated by the section? That is the first and principal point for us to determine. If there be a delegation of power in the Constitution covering these cases, the question of its constitutionality cannot be raised upon that issue. The Constitution declares that "the judicial power shall extend to all cases in law and equity arising under this Constitution, the laws of the United States," &c. Are the cases contemplated by section four cases arising under any law of the United States? What are they, and what is their character? It is best illustrated by a single example.

Suppose a private soldier in the State of Kentucky or Delaware, no matter where, received an order in writing, or a mere verbal order, from his superior officer in command and to whom he owed obedience, to proceed and take possession of the horse or any other article of property belonging to a citizen in the neighborhood, property deemed by the superior officer to be essential and necessary in the prosecution of his military operations; or suppose that the same soldier was directed by a similar order to proceed to demolish the dwelling-house of a resident in the neighborhood for the same purpose and under the same necessity. The soldier proceeded and executed the order; he took the horse or any other article of personal property mentioned in his order, or he proceeded and demolished the dwelling-house. He is sued in one of the local courts; he is made defendant; he is charged with committing a trespass against the property of the owner of the horse in taking and carrying away the horse, or he may be charged with demolishing the house. He is brought into court by regular appearance process; he pleads to the declaration of the complaint, whatever it may be; and his defense consists in the simple fact that he received from his superior officer a written or a verbal order to do the acts as to which the complaint is made against him. He presents the order, if it be in writing, or he proves or offers to prove the order, if it be a verbal order and not in writing. This is one of the numerous cases that have arisen during the late war. I ask the honorable Senator from Delaware and the honorable Senator from Pennsylvania whether this is not a case arising under a law of the United States. It arises from military necessity; that necessity is adjudged of by the superior officer in command.

Mr. SAULSBURY. Will the honorable Senator allow me to ask him a question?

Mr. HOWARD. Certainly.

Mr. SAULSBURY. I will state to the Senator a case that occurred in my own State, in the county in which I reside, and then I wish to know his opinion whether that arose under the Constitution of the United States, any law, or any treaty of the United States. A Methodist preacher was on the cars. After he left the cars he proceeded to a neighbor's house, and was asked what the news was. It was at the time when the rebels were making an attack on this city. He told them that he did not know, but he had heard a soldier say upon the cars that the report was that Washington had fallen. For making use of that remark a provost marshal visited his house, carried him against his will to the city of Wilmington, and lodged him in a place which they kept for public offenders. He was heard. There was not a particle of proof against the man, but he was made to pay an expense of some twenty or thirty dollars and allowed to return home. Now, sir, suppose that Methodist minister should institute a civil action against that provost marshal, or should cause him to be indicted in the courts of the county in which he resides, would that case arise under the Constitution, the laws, or any treaty of the United States, or would it be for a violation of the public peace of that State?

Mr. HOWARD. I was speaking within the purview of the bill: I was speaking about orders regularly issued by superior officers to inferiors, under which acts alleged to be trespasses may have been committed. That is the

extent of the bill, and that is the whole extent of the bill. Now, sir, are these acts complained of acts done under a law of the United States? Certainly the Senator from Delaware cannot deny it. They were acts committed—

Mr. SAULSBURY. Will the Senator allow me one moment? I do deny, as far as any of these acts have been committed in the State of Delaware, that they have arisen under any law of the United States.

Mr. HOWARD. That is not the question. I am speaking of regular acts of war performed by inferiors in obedience to the orders of their superiors. I am not speaking of willful and wanton trespasses committed by soldiers or officers without warrant and without order, because the bill contemplates no such cases, affords protection in no such cases. I am speaking of acts done under regular orders. Do those acts present cases coming under any law of the United States? That involves the question whether the war itself existed in pursuance of any law of the United States. If the war itself was waged in pursuance of law, if the Congress of the United States, in providing for its prosecution, did not transcend the Constitution itself, all these acts of war were committed under a law of the United States; and the acts themselves, taken in connection with the party plaintiff and the party defendant in the State court, constitute a case at law. A case at law must have parties; there must be a fact connected with it, there must be an allegation on one side by one party against the other in respect to which the plaintiff asks for relief or asks for judgment. That I understand to be in very brief terms a definition of a case at law.

The judicial power of the United States extends to just such cases; that is to say, it reaches them, it covers them. The judicial power of the United States may, if Congress so choose, take these cases and deal with them in any way it sees fit. If the case exists in a State court, being covered by and subject to the judicial power of the United States under the Constitution, it is competent undoubtedly for Congress to provide for the prosecution, trial, and decision of these cases in their own way. That, in brief, is all that is contemplated in this statute. But, sir, if according to the doctrine of some, if according to the teachings of a class of doctors who have been too numerous and whose teachings have been too fatal in this country, it is not competent for the Congress of the United States to wage war, as they say, against a State; if the acts of the United States in the prosecution of this war were according to the doctrines of those teachers, all void and of no effect; if a State ordinance of secession is to be the paramount law of the land, the Constitution of the United States to the contrary notwithstanding, then, sir, I agree that all these cases are not cases arising under any law of the United States, and therefore they cannot be removed from a State court in which they may happen to be brought. But, sir, I do not belong to that school of politics. I reject the whole theory of Mr. Calhoun and all his followers from beginning to end upon the question of the right of a State to secede, or the right of the Government of the United States to wage war for the purpose of putting down a rebellion or an insurrection. I hold all our acts to be perfectly valid and as valid as they were necessary.

Now, sir, as to the other amendment: it is suggested that the word "judges" should be stricken out of the section. It is alleged that it is a cruel proceeding against a judge to hold him responsible in damages for acts which he may do or assume to do in his judicial capacity. The bill has been much misunderstood; certainly it has been greatly misrepresented during this discussion. Gentlemen have imputed to it the principle that it assumes to punish a judge who proceeds after the case has been removed from him by inflicting a penalty upon him and treating him as a criminal. Not so, sir. The section speaks for itself, and speaks plainly, that if the State court shall, without

standing the performance of all things required for the removal of the case to the circuit court of the United States, proceed further before the certificate of removal is produced, then, and in that case, "all such further proceedings shall be void and of none effect; and all parties, judges, officers, and other persons thenceforth proceeding thereunder, or by color thereof, shall be liable in damages therefor to the party aggrieved."

Now, what is the theory of the bill? That it is the right of the party sued, the right of the defendant in that particular case, to present his petition to the court, and upon the presentation of such petition showing that the act complained of was done by him under a military order, it shall be the duty of the State court to surcease all its proceedings and pass the case from its own jurisdiction into the hands of the circuit court of the United States. It is in the nature of an injunction against the State court, or more properly speaking, it is in the nature of a writ of prohibition, which forbids and prohibits the court to which it is addressed from proceeding further in the case.

What has the judge to complain of? It is said if he proceeds further in the case after the removal papers are presented to him or filed with him he is acting in his judicial capacity, and that it is hard and cruel and disgraceful to punish a man, even in damages, when he is acting in good faith as a judge and deciding a question of law that has come before him. That is not this case. The State judge who had the first jurisdiction of the case has before him (and he alone knows the fact) all the papers to perfect this removal of the case from the State court into the circuit court of the United States. The paper itself is to him an admonition, a perfectly full notice that from the moment he receives it he ceases to have any further jurisdiction or power over the case, and that he must not proceed further with it. It is a plain, distinct, and unmistakable notice operating upon him to divest him completely from that moment of all his jurisdiction over the case. And will Senators say that with this paper before him he can be deceived or misled as to what his duty is? Can it be said that notwithstanding the provision of the Constitution which I have quoted, notwithstanding the existence of the law, notwithstanding the petition which is to be verified by the oath of the applicant setting forth the facts which divest him of the jurisdiction, he may still go on and act in good faith and without guilt and pronounce judgment against the defendant in that case? No, sir. He has no more right in law or equity or in good morals to proceed another inch with that case than has the party who is served with an injunction in a court of equity where the writ has been properly delivered to him and the seal of the court shown him; and we all know how heavy the penalty is, or may be, against a party in a court of equity who disobeys an injunction of the court. The injunction here is the injunction of a law of the United States, which says to the State court, "Stop; go no further; the supreme power of the United States bids you to pause; it interposes its strong arm to protect the soldier or the officer whom you have before you from any judgment which you may see fit to pass upon him, and it transfers him and his case to another and a more impartial and a safer tribunal." Sir, I think there is no ground whatever for the complaints which are made in this Chamber against inflicting punishment upon the judge who persists in his guilty course after this notice has been served upon him and does these acts against his own light and knowledge.

But it is said by the Senator from Wisconsin, spare the judge; let him proceed, notwithstanding the removal of the cause, and adjudicate the case, and send the soldier to jail, and let the soldier in order to seek redress sue, not the judge who has commanded him to go to jail, but the sheriff or the constable to whom the process for his confinement to jail has been delivered. It strikes me that that is

a very singular proposition indeed. Certainly that Senator is well enough acquainted with the principle of law that where a court has no jurisdiction of the subject-matter, but still persists in proceeding to judgment against the party, the law holds that judge responsible in damages, as well as the officer who executes the void process, and a ministerial officer of the court has no protection whatever, unless in cases where the court issuing the process had jurisdiction of the subject-matter. And how in this case, let me inquire of the honorable Senator from Wisconsin, is the ministerial officer to know whether the case has been removed or not? He does not keep the records. He does not inspect the papers. He has no right to look into the question whether or not the party complained against has removed the cause; and although the cause may have been removed in utter ignorance of the fact on the part of the ministerial officer, the tender morsels of the Senator from Wisconsin would go so far as to exempt the guilty judge who had issued the process in that case and punish the innocent ministerial officer for that as to which he had no knowledge and was entirely innocent. Sir, I cannot agree to any such absurdity as that. I hope that this section will not be amended in any respect.

Mr. JOHNSON. Having, as one of the Committee on the Judiciary, by whom this bill was reported, concurred with the committee in the propriety of reporting it, although perhaps there are one or two things in it that I could have wished had been omitted, I rise merely for the purpose of stating very briefly the grounds upon which I suppose we have a right to pass this bill.

In every well-regulated Government—and it is as true of a constitutional Government as of any other—nothing is more evident than that the judicial department should be coextensive with the legislative; that is to say, the former department should be able to decide upon all questions which may arise upon the legislation of the legislative department of the Government. The act of 1789, in its twenty-fifth section, was passed for the purpose of guarding against State decisions which might be found to conflict with the Constitution and laws and treaties of the United States, or found to punish or disregard in any way acts that might be done by officers of the United States acting under the authority of the United States. The policy of that provision at that time was very apparent to the men by whom the act of 1789 was passed, and that policy has been vindicated by almost the entire experience of the country from the time it was passed to the present hour. I think it is not too much to say that but for that provision our institutions would have failed. They would have failed because the rightful authority of the Government could not have been maintained; and if that authority could not have been maintained, the General Government, without the existence of which the State governments would be comparatively unable to constitute us a happy or a great people, would have been comparatively futile. That section provided that every case which might be instituted in a State court in which should be involved any question respecting the validity of a law of the United States, or the application of a constitutional provision of the United States, or of a treaty adopted under the authority of the United States, in which the decision of the State court was against the provision of the Constitution or the law or the treaty might be carried by writ of error to the Supreme Court of the United States. The effect of that provision was merely to submit to the Supreme Court of the United States the question included within that section and nothing else.

The Senate, and especially the legal members of the Senate, are not to be told that from the act of 1789 to the time when the case of *Martin vs. Hunter* was decided, reported in 2 Wheaton, the constitutionality of that provision never was questioned, and its wholesome operation, I think, had proved itself to the satisfaction of all those who desired to see

the rightful authority of the Government of the United States maintained. When the case of *Martin vs. Hunter* arose it was contended by Virginia that in a case instituted in a State court, as that was, where the final judgment had been rendered, the jurisdiction existing of course in the State court to pronounce that final judgment, it could not be carried at all—any part of it—to the Supreme Court of the United States by writ of error; not only because, perhaps, it was not involved in the section of the act of 1798, to which I have adverted, but because if it was, Congress had no authority to confer that power.

Upon looking at the decision of the Supreme Court in the case referred to, the Senate will find that the principal difficulty, if they had any difficulty, that the Supreme Court had to encounter was in the existence in the particular case of a final judgment. It was not doubted then, nor as far as I know has it been doubted since, that at any time from the commencement of a suit in the State court up to the rendition of a final judgment, if a question arose which involved the validity of a State law upon the ground of its being in conflict with the Constitution of the United States, or the validity of a statute of the United States upon the ground that it was not authorized by the Constitution of the United States, or the validity of a treaty upon the same ground, or the validity of an authority exercised by any agent employed by the United States under the authority of the United States, it might, antecedent to judgment, be brought for examination into one of the courts of the United States.

The strict constructionists of Virginia, at the head of whom stood at that time that judicial luminary, as he may well be called, Judge Roane, were exceedingly devoted to the doctrine of State rights, and they considered the twenty-fifth section of the act of 1789 as materially interfering with the wholesome operation of that doctrine in cases which might be brought into the United States Supreme Court under that section, and as in point of fact inconsistent with the existence of their State-right notions. The effort of the Supreme Court in the decision, a portion of which has been read by my brother from Oregon, [Mr. WILLIAMS,] quoted in the volume of Story's Commentaries to which he referred, was to show that the fact that the case had gone to judgment did not take from the United States the authority to examine the questions which the case involved, so far as those questions included the Constitution of the United States, or the laws of the States, upon the ground that they were not in accordance with the Constitution or the treaties or statutes of the United States. The learned judge, as I think, (independent of all mere authority to which the judgment of that tribunal is entitled,) arrives, by reasoning which is not to be resisted, at the satisfactory conclusion that there is as much authority to take a case into a court of the United States after judgment by a State court as there is to take it before judgment is pronounced. I repeat, that the authority to take it in the latter case was an authority that was never disputed.

Now, what does this bill do? We passed the act of 1863, the fifth section of which was intended to protect those who were executing authority under the United States during the rebellion. The whole country was in a state of agitation, such as perhaps no country in the world was ever before subjected to; certainly such as our country, fortunately, was never before subjected to, and I trust in Heaven never will be subjected to again. The language of that section is:

"That if any suit or prosecution, civil or criminal, has been or shall be commenced in any State court against any officer, civil or military, or against any other person, for any arrest or imprisonment made, or other trespasses or wrongs done or committed, or any act omitted to be done, at any time during the present rebellion, by virtue or under color of any authority derived from or exercised by or under the President of the United States, or any act of Congress, and the defendant shall, at the time of entering his appearance in such court or if such appearance shall have been entered before the passage of this act, then at the next session of the court in which such suit or

prosecution is pending, file a petition, stating the facts and verified by affidavit, for the removal of the cause for trial at the next circuit court of the United States."

That, as the Senate sees, and as you see, Mr. President, does not provide for the case in which a judgment has been pronounced, and the question, therefore, submitted to the Committee on the Judiciary, and the one upon which my own judgment was exercised as a member of that committee, was whether it was not advisable to make the remedy entirely coextensive with the possible mischief. For aught that we know judgments may be rendered in those cases against a party who has committed the acts, whatever they may have been, under the authority of the United States, without his having had an opportunity to make the application in time according to the provisions of the fifth section of the original act, and he may be punished, unless the case can be brought to a court of the United States, for the faithful discharge of his duty to the United States; he may be punished for having obeyed the order of a commanding officer up to the order of the President, which he had no authority, or supposed he had no authority, to refuse obedience to. It seemed to me, therefore, to be just as proper to give the power to remove a case into a court of the United States after judgment as to give the authority to remove it at any time antecedent to judgment, and that is all that is done by one of the sections of this act.

The authority, therefore, to make such a provision, I submit, with great respect to those who may entertain a different opinion, seems to me to be very clear. It assumes, as you are obliged to assume in the particular case, that the statutes of the United States already upon your statute-book are valid laws; it assumes that your officers, the President of the United States and those acting in subordination to the President of the United States, have done nothing that the laws of the United States or the Constitution of the United States will not protect them in. Assuming that, if the principle be the one which I stated in the beginning of these remarks as a principle necessary to the existence of any Government, that the judicial power of the Government must be coextensive with the legislative power of the Government, it is fit and proper that when the validity of the laws of the United States is questioned, or the validity of any authority exerted under the authority of the United States is questioned, the courts of the United States should have jurisdiction. That, I repeat, is all that is done by the third section of this act.

Now, having the power to pass that section, the next question which presented itself to the committee was, how is the party to be secured in the benefit intended to be conferred upon him by that section? He is sued, and judgment is rendered against him. He has been relying upon the Constitution of the United States; that reliance, so far as the State judiciary is concerned, has proved unavailing. He has been relying upon a law of the United States, or upon the authority of the President; and the State court has decided that his reliance fails him. Now, if we have a right—and that I will not argue again—notwithstanding the judgment, to take the case from the State court, and thereby arrest at once by displacing for a time, or absolutely, the jurisdiction of the State tribunal, the only question is, will you do anything, and if you will do anything, what will you do to render that right effectual?

Then what have we done by the fourth section? We have said that if, after an application is made to remove a case instituted in a State court, in which it is attempted to make responsible an individual for an act done under the authority of the President of the United States, the State court thinks proper, notwithstanding that removal, or that right to have a removal upon the part of the defendant, to execute the judgment; somebody is to be punished. The only question is to what extent will you carry the punishment, or rather, whom will you embrace in the class of persons who

are to be punished for violating a law of the United States? If the third section is one which we have a right to pass, then the enforcing of a judgment by the State court, after the case has been taken from the State court under the authority of the third section, is an offense, if we think proper to make it an offense, because it is a violation of the statute of the United States which we have the authority to pass. How do you punish the violations of any statute of the United States? How do you punish a postmaster for violating his duty? How do you punish him who interferes with your mail? How do you punish the officers of the land? How do you punish those who interfere improperly, illegally, with your records in your civil tribunals, or with the records of the Executive Departments? And why do you punish? Because, without punishment, provisions of that sort would be practically in many cases nugatory.

Whether it is admissible to do this, is another question. Whether the whole benefit of this act would not be accomplished by omitting the judges from the operation of the fourth section, is another question. But as far as the authority to punish is concerned, why is not the judge to be punished as well as his subordinate officer? If a judge forges his records, you can punish him; if he interferes with the mail, you can punish him; if he is guilty of any corruption in his office, you can punish him, notwithstanding he is a judge. He who commits a crime, or what the law constitutes a crime legally, cannot protect himself upon the ground that he holds an official station under a State government, or under the Government of the United States. That is very clear. A judge, therefore, when a case is removed from his jurisdiction by virtue of a constitutional act of Congress, who thinks proper to enforce a judgment over which his jurisdiction has entirely ceased, is just as much liable to be punished, if the legislative department thinks proper to punish him, as he is liable to be punished if they think proper to punish him for committing any other wrongful act.

It is not the case, according to my view, of an erroneous judgment. It is a violation of a statute of the United States, which, I have a right to assume in this branch of the argument, we have the authority to pass; and, supposing we have the authority to take the case from his jurisdiction, he has no more authority to execute any judgment which he may have antecedently pronounced than he would have authority to do anything else which the laws of his State or his country prohibited him from doing. I agree with my friend from Wisconsin that perhaps it would be advisable, because it would be probably less objectionable to the State tribunals, if this law is objectionable at all—I do not think it ought to be objectionable—if the section was amended in the way proposed by my friend from Wisconsin. I did not understand him as denying that we have the authority to make the act for which the section as it now stands punishes the judge a criminal offense.

There are many reasons, Mr. President, to which I beg leave very briefly to advert before I conclude, why legislation of this kind is important. I know that many acts of very unnecessary violence, many abuses of authority, many excesses of power have been committed by those in whose hands the management of this rebellion has been placed. I believed from the first, and I believe now, that it might have been suppressed, perhaps just as effectually, by observing all the limitations to be found in the Constitution upon the authority of the several departments of the Government. I believed, however—and perhaps I may have been induced to that opinion, though I thought not at the time, and have no reason to think now that I was induced to form that opinion by any such consideration—I believed in the beginning of the rebellion that it was all-important that the writ of *habeas corpus* should be suspended; and at the instance of the then President of the United States I wrote an arti-

cle upon the subject, after Mr. Chief Justice Taney had decided that it could not be done except by the authority of Congress, respectfully differing with the judgment of that great jurist; and that opinion was adopted by the Executive. But I may have been wrong. It would be worse than idle, it would be presumption of the highest degree for any man, and especially for one who was brought up almost at the feet of the learned judge to whom I have adverted, and whose excellence as a man, as well as his profound knowledge as a jurist, in common with all who had the same opportunity of knowing him, I acknowledge—to say that my opinion was certainly right, and his opinion was wrong. I do not know how the Supreme Court of the United States, if the question was brought before that tribunal, would decide it now. I think they would decide that the opinion which I gave was a correct one; but they might not hold that opinion. They might yield to the higher authority of the very distinguished man who has pronounced a different opinion in a case before him where the question was fairly presented. What then? Every member of your Government who has been in any way instrumental, or in any way a party in a refusal to obey the writ of *habeas corpus*, and who thereby defied the State power, or defied the judicial power of the United States, where an attempt has been made to exert it, would be responsible, notwithstanding he may have acted in perfect good faith, and under the honest conviction which I felt at the time—felt because I believed the power existed perhaps, but certainly felt that without the suspension of the writ, it would be exceedingly difficult to put down the rebellion as early as for the good of the country and for the sake of humanity it should be put down.

But that is not all. The President of the United States and persons acting under his authority, have established from time to time military commissions for the trial of citizens not connected with the Army. There is—I forget the particular section—in a section of the act of Congress containing the Articles of War, a provision which, considered by itself, would comprehend all who may do the acts specified in the particular section. My impression was, from the first, that that particular article was to be construed in connection with the entire articles, and that it meant only to embrace those who were connected with the Army. The Executive took a different view of it, and they established military commissions. Hundreds have been confined, some are now under confinement, several have been hung, under the authority of those commissions. I endeavored to satisfy the military commission by whom those who were charged with the assassination of the late President of the United States were tried that they had no authority to pass judgment at all. I failed. The sentences were executed. Those against whom the punishment of death was not awarded are now in confinement. Those upon whom that punishment was awarded were executed.

I cited a case in the argument to which I advert for the purpose of showing to the commission the peril in which they might place themselves if they executed anybody under that authority, the peril that the President himself and all his officers were involved in who participated in that execution; to show that if it turned out thereafter that the military commission was an illegal tribunal, they might be indicted for murder. I cited a case, never disputed, in England, which was substantially this: in one of the islands belonging to England there was a Governor Wall, in whom all power was vested, military and civil. He had some three or four hundred soldiers under his command. He got it into his head that they were about to mutiny. He was about leaving the island for home, and his paymaster was to go with him. The men's pay was largely in arrear, and they were under the impression that they would not be paid if those officers were permitted to leave the island. The result was what Governor Wall supposed, a mutiny, and

he selected the man that he thought was the leader of the mutiny and ordered a drum-head court-martial upon him. The man was brought up and tried at once. Some three or four hundred lashes was the sentence. They were inflicted, and he died in consequence of the punishment. As soon as the news reached England Governor Wall was indicted. He remained away until he thought the whole matter would have been lost to recollection by time, and at the end of twenty years, when Lord Ellenborough, who afterward was at the head of the court of King's Bench, was the Attorney General, he reached England. He was tried upon the indictment for murder, convicted, and, in spite of all interposition, was hung.

Now, Mr. President, that the President of the United States who has ordered military commissions, the officers who have acted as judges in those tribunals, and those who have executed the sentences which the commissions from time to time have awarded, acted honestly, I do not doubt. They thought they had the authority. The Supreme Court has decided that they had not. They held at the last term of the court that the whole proceeding was illegal, that there was no authority either by a court-martial or by a military commission to try a civilian, unless he happened to be a spy, and that brought him within the scope of military law. I am not willing to leave the question as a matter of doubt whether the officers of the Government, high or low, who have honestly discharged their duty under an authority which they believed was ample, are liable to punishment.

Now, how are we to prevent it? Eleven of the States have been in insurrection. I differ with a good many of the members of the Senate, perhaps with most of those to whom I am immediately addressing myself; I believe that the large majority of that people are just as loyal now to the authority of the Government as we are; but there are a good many, perhaps, who are not; and there may be included in that number State judges and State officers, and they may assume jurisdiction—and they have the jurisdiction unless we interfere—to try those parties for some such offenses as these, and they may be disposed to proceed to a final and an adverse result. Now, I ask if it be in our power to avert such an end as that, ought we not to exert the power? That is all that is done by this bill; the third section securing to the party merely the right to have the case remitted to a court of the United States; and the fourth section providing a penalty for proceeding to execute a judgment in a case over which the jurisdiction of the State court has terminated. Whether it is advisable to leave in the bill the particular clause suggested by my friend from Wisconsin is another question. I think the bill would be just as satisfactory, just as productive of good results, practically, without that provision as with it; but whether with or without it, if my opinion is of any avail, I think now, as I thought when the subject was before the Committee on the Judiciary, that the constitutional power to pass it is free of all reasonable doubt.

Mr. CLARK. I desire to say but one word, and that is upon the particular amendment now before the Senate striking out the word "judges" from the section proposed to be stricken out by the Senator from Delaware, the fourth section. I beg the Senate to consider who it is that has the direction of the causes in the State courts, and who it is that when the petition is filed has the power to order a stay of the action. It is the judge. Now, if the action should be stayed, and if the parties should be visited with a penalty if they attempted to proceed, why should not that judge, if he is one of the judges that desire to proceed against the authority of the United States, be visited with the penalty? Why should we make any distinction; and why should we not make a final end of the suit in the State court by enforcing the provision? I hope the amendment will not be made.

And now one word to my friend from Wis-

consin, who says that the provision to proceed against a judge is a novel provision, something new; and I think he said it was unknown or new either in this country or in that country from which we derive our laws. I have before me a statute made as long ago as 16 Charles I, in the year 1640, two hundred and twenty-six years ago, which contains this remarkable provision:

"And be it further provided and enacted, That if any lord chancellor, or keeper of the great seal of England, lord treasurer, keeper of the King's privy seal, president of the council, bishop, temporal lord, privy counselor, judge or justice whatsoever, shall offend, or do anything contrary to the purport, true intent, and meaning of this law, then he or they shall for such offense forfeit the sum of £500 of lawful money."

It was at the time when the English Parliament undertook to break up the Star Chamber which had been derogatory to the liberties of the country. They feared that they should not be able to enforce the provisions of this act without a penalty, and they made a provision that if any of those judges attempted to proceed and to do what theretofore the court had done, they should be liable to that penalty. Now, we desire to break up this practice of prosecuting Union men for attempting to preserve the Government. Why should it not be done? Everybody, I think, agrees that it is desirable. The Senator from Wisconsin agrees that it is desirable. Then if these judges will proceed in the face of the law of Congress, direct and peremptory, why should they not be punished? If they do not do it, if they yield obedience to the law, they will not be visited by the punishment; but if they will act in the face and eyes of the law, why should they not, as well as the parties and officers and other persons offending, be visited with the punishment? I hope we shall retain the word "judges," and that we shall say to them that they are amenable, as well as other parties, to the law of Congress and to this penalty.

Mr. DOOLITTLE. I think we ought to presume that the judge of a State, in his judicial office, who by the Constitution of the United States is bound to take an oath that he will support the Constitution of the United States, and all laws made in pursuance thereof, anything contained in any State constitution or law to the contrary notwithstanding, will not violate his oath of office. It is not necessary, in order to secure the rights proposed to be secured by the bill. There can be no proceeding against an individual if there is no party to it against him; and if the party who is seeking his redress against the Union officer is restrained, if he is made liable; it is not necessary to presume in the law of Congress that the judge will commit a crime. Why is it necessary to put it in your statute?

Mr. STEWART. If the Senator will allow me, I will ask, might not the State become a party, and make it a prosecution on the part of the State? Many of these cases are prosecuted in behalf of the State.

Mr. DOOLITTLE. I believe in what is said by Judge Kent, the authority cited by the Senator from Illinois. He says, in speaking of this very thing in the statute of the State of New York, which was to defend the liberty of every citizen; speaking of the writ of *habeas corpus* as a writ of right; speaking as a citizen of New York, who had been a distinguished judge of New York in the supreme court and chancellor of the State, he speaks of that provision as a degrading provision in reference to the judges. He says Massachusetts imposes no such degrading penalties upon her judicial officers. None of the States do it, it seems, but New York, and Mississippi, who followed perhaps the example of New York. I would agree with the Senator from New Hampshire, if it were necessary in order to defend the Union officers, to presume that these judges would, in violation of the law, be guilty of this proceeding of which he speaks. I do not question the constitutionality of our including the judges as well as including the officers or the parties; but as a question of good policy and

good legislation to stand upon the statute-book when the hour of passion has passed, I think it is by far better that we leave out the judges.

Mr. STEWART. How would you reach a case like this? An indictment has been found against one of our officers and it is before the judge. How will you prevent his having the suit prosecuted? In most of the States a *nolle prosequi* cannot be entered without the consent of the judge. He has a right, after the suit has been brought and an indictment found, to order the prosecution to proceed. How will you prevent him, except by a law of this kind? It is in his hands alone.

Mr. DOOLITTLE. I understand the effect of the third section is to remove the cause into the circuit court of the United States, and the circuit court which has the cause can by *mandamus* or *certiorari*—

Mr. STEWART. Suppose the judge refuses to remove the case at all from under his jurisdiction. How will you reach him?

Mr. DOOLITTLE. The third section removes the cause.

Mr. STEWART. But he has jurisdiction, and he says that this act is unconstitutional, and the case shall not be removed.

Mr. DOOLITTLE. The third section of the bill removes the cause. It is the authority of the Government in the enactment of this section that does it.

Mr. STEWART. How will you get a certified record? He denies the constitutionality of your act to remove the cause from the State jurisdiction, and that is what you are going to punish him for. He has it under his control exclusively.

Mr. DOOLITTLE. It is not necessary that you should have a certified record in order to remove the cause, because by virtue of the act, when the proceedings are complied with, the cause is transferred to the circuit court.

Mr. STEWART. Suppose, then, that the judge will not give up his record, and goes on with the trial notwithstanding. You say it is removed. He says, "It is not; I have got jurisdiction, and I will continue to have the cause tried; I will not allow a *nolle prosequi*, even if the district attorney is willing; it is under my control exclusively;" and it is. I submit, when an indictment is found the judge may proceed with it in any State. He can disregard your entire law unless you punish him for it.

Mr. DOOLITTLE. The third section provides:

That the right of removal from the State court into the circuit court of the United States, provided in the fifth section of the act to which this is amendatory, may be exercised after the appearance of the defendant and the filing of his plea or other defense in said court, or at any term of said court subsequent to the term when the appearance is entered, and before a jury is impaneled to try the same; but nothing herein contained shall be held to abridge the right of such removal after final judgment in the State court, &c.

The removal of the cause is independent of the judge or the court. The court cannot prevent its removal.

Mr. HENDRICKS. I suggest that the fifth section provides for the very case that the Senator from Nevada speaks of, where the clerk refuses to give a record, that the party shall appear in the court of the United States, and if the plaintiff refuses to prosecute the case, the case shall be dismissed, and that shall be a bar.

Mr. STEWART. But suppose the clerk has given a certificate; suppose all that has been done, and still the judge holds that he has the exclusive jurisdiction. Suppose that there is an indictment in a State court, and the judge says he has jurisdiction, and he is going on to try it. Who has the control of it except the judge after the indictment? Suppose he says that this bill does not operate as a removal?

Mr. HENDRICKS. The Senator as a lawyer knows that this will be the effect of it: if the application takes away the jurisdiction of the State courts then the remedy, of course, if the plaintiff persists in the case, is in the appel-

late courts, and finally, on an appeal, in the Supreme Court of the United States, inasmuch as the validity of this law, an act of Congress, would be in question.

Mr. STEWART. But suppose the judge goes on and convicts the man and sends him to the penitentiary, he must lie there until the case can be heard in the Supreme Court, three or four years hence.

Mr. DOOLITTLE. How can he send him to the penitentiary? No officer is allowed to do it. Will the judge put him there himself?

Mr. STEWART. The judge can order the officer to put him there.

Mr. DOOLITTLE. What if he does if the officer cannot put him there? If every officer to execute a decree of the court is made responsible, how can the judge do it?

Mr. STEWART. The judge has jurisdiction over the officer, and he can order him to do it, and if he does not do it the judge can call upon the power of the State if he has jurisdiction.

Mr. CLARK. I desire to make but one suggestion in answer to the Senator from Wisconsin, and that is one of fact. He says if it were necessary that these judges should be proceeded against he would not object. I hold in my hand a communication from a member of the other House from Kentucky, in which he says that all the judicial districts of Kentucky, with the exception of one, are in the hands of sympathizing judges. They entirely disregard the act to which this is an amendment. They refuse to allow the transfer, and proceed against these men as if nothing had taken place. Here is not the assumption that these judges will not do this; here is the fact that they do not do it, and it is necessary that these men should be protected.

Mr. SAULSBURY. It is about the hour of adjournment, and I move that the Senate adjourn.

Several SENATORS. Let us take a vote.

Mr. SHERMAN. There are other bills behind this which it is important for us to act upon, and we ought to dispose of this bill to-night.

Mr. SAULSBURY. I will not insist on the motion.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The question is on the amendment of the Senator from Wisconsin, to strike out the word "judges," in the fourth section of the bill.

The amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Delaware, to strike out the fourth section.

The amendment was rejected.

Mr. EDMUNDS. I hope I shall not be thought hostile to this bill by offering one more amendment, which is to add to the first section the following words, which I will read:

And in any suit or prosecution to which the provisions of this act or the act to which this act is an amendment apply, it shall be the duty of the Secretary of War to assume and carry on the defense thereof, at the expense of the United States, and to indemnify and save harmless any defendant or respondent therein from all damages, fines, costs, and expenses arising therefrom.

I hope that this will commend itself to the good sense of the Senate as an appropriate amendment, because it secures to the soldier who, in obedience to orders, has done his duty, that protection which we all believe he is entitled to, the protection not only of the word and of the law of the Government, but the protection of its arms and its pocket, in relieving him from litigation which, even if successful, to him in the end would be almost as ruinous as defeat.

Mr. SHERMAN. I should like to have the amendment read at the desk.

The Secretary read it.

Mr. SHERMAN. I am sure my friend from Vermont could not have understood the effect of such a provision upon the financial condition of the country. If the United States may be sued in the United States courts, there will be people who will sue the United States when

they would not bring suits against individuals. The effect of this amendment is to enable anybody to sue the United States for any transaction that has occurred during the recent war, because, although John Doe, or Richard Roe, or some nominal defendant, may be made the party defendant, yet, if the United States is to assume beforehand to conduct the defense of all suits that may be brought against these persons for any acts done during the war, and then the United States is not only to pay the expense of defending the suits, but to pay the judgments of the courts in all the various suits, it would be necessary for us to consider this bill in the Committee on Finance a little while and to provide ways and means to meet the judgments that may be rendered in cases of this kind. It seems to me we had better leave the defendant upon his trial, giving him the privilege of taking the case to the United States courts, there to be tried. There may be cases where the United States may, by appropriations to be hereafter made, indemnify the defendant; but it seems to me we ought not to invite that kind of litigation. It is well known that if the United States is a defendant in a suit, even an honest jury will give a much larger verdict against the United States than as against an individual. At any rate, it seems to me a proposition of this kind to assume the defense of all these cases and to guaranty beforehand the judgment that may be rendered in them, would be rather an expensive operation.

Mr. EDMUNDS. I do not know but that it would be an expensive operation. The putting down a rebellion and sustaining the Government of the country is always an expensive operation; but I had supposed, from the course of this debate, that the question under consideration was, the protection of the officers of the Government at whatever cost, irrespective of any question of finance or of mere pecuniary policy. We have gone upon the theory, and the correct theory, that it is a positive and solemn duty imposed upon the Congress of the United States to protect the officers and men who have executed its authority. If that theory is correct, and in my judgment it is correct, then most certainly we ought to make that protection something more than a delusion and show. We cannot logically or justly stop by merely declaring that the man on his own account, who has obeyed our authority, shall defend himself in years of litigation at his own expense. It is not his duty to do it. If he has obeyed our orders and has executed our will, is it not our duty, above all considerations of cost, to defend him? Do we defend him when we merely impose upon him the obligation of defending himself? We have stopped his pay; we have discharged him from the Army; we have driven him to rely upon his own exertions to obtain his livelihood, and have left him in the excess and magnificence of our gratitude a lawsuit as a pension. I am not disposed to stop there. I agree that the question which my friend from Ohio has raised is serious: but I do not believe that because it is serious we ought to shirk upon some future Congress, whose opinions upon this question we cannot forecast, the responsibility at last of doing the soldier justice. Let us do it now, when we have the power.

Mr. WILLIAMS. I wish to make one or two suggestions on this proposed amendment. It seems to me that its tendency would be to encourage litigation, and to induce persons who suppose they have claims growing out of the war to prosecute those claims with the assurance that any recovery would be settled by the United States because the United States makes itself responsible to the claimants. I think, in the second place, that there is danger that there may be collusion between the plaintiff and defendant. If it is understood that any judgment that may be recovered by a party when he sues another that has acted as an officer will be paid by the United States, there is danger that there may be collusion between the parties, and judgment suffered to

go by default or without making the necessary defense.

It seems to me that if an officer honestly and fairly defends himself in a suit of this description and he fails, and judgment is rendered against him, upon an application to Congress he will obtain relief. I believe it is the practice of Congress, where an officer, either civil or military, undertakes faithfully to discharge the duties of his office, and is subjected to expense in consequence of his efforts, to indemnify that officer upon special application, and upon such an application the facts can be examined. But to assume beforehand, while this litigation is threatened, that the United States in every case will pay the judgment that may be recovered and assume the defense of the action, it seems to me, is putting the finances of the country to some extent into the hands of private speculators and persons who might expect to make gain by these transactions.

Mr. HOWE. For a part of this amendment, it seems to me, I should vote with a good deal of pleasure. I do think that the Government, if it undertakes to protect these parties, should make that protection efficient; I do think the Government should undertake the defense of the class of cases which are provided for in this first section; and if it stopped there, if, instead of directing the Secretary of War, it directed the Attorney General to assume the defense of these cases, leaving the respondents in them to apply to Congress for the payment of the judgment, if a judgment was recovered, it seems to me I should vote for it. I do not see any objection to that. I think the Attorney General is the officer who should direct the defense rather than the Secretary of War; and I think as far as we ought to go now is to lend the aid of the prosecuting officer of the Government to the respondent in managing the defense, but to leave the question of paying any judgment, if a judgment is recovered, to the future consideration of Congress.

Mr. EDMUNDS. Mr. President, if it is right for us, as it seems in the judgment of the Senate to be right, to declare in advance by a decree of the Senate that the commission of any of these acts which have been performed is lawful, and therefore in effect to declare that the United States adopts and justifies every one of these acts over which the bill reaches, then where is the middle ground upon which we can rightfully pause and say, that having adopted these acts as our own, having justified them by our enactment, we will still turn the poor soldier over to the tender mercies of his own ability to carry on his lawsuit and leave him to appeal to some future representatives of the people, whose opinions toward him may not be so favorable as our own, for his final recompense? It appears to me that we cannot rightly do it. It appears to me that in the case of a soldier or an officer who is brought to answer in a tribunal of a State or in a tribunal of the United States, when we justify his act and make it our own, we ought to defend that act at our own expense, and if it turns out that the act was an invasion of private rights, so that the private citizen is lawfully entitled to redress therefor, it is we, and not the soldier or officer, who ought to make the compensation; and we ought logically and rightly, when we create the defense, to provide the means now and here of making that defense effectual.

The officer or the soldier may succeed in his defense; but how does he succeed, and at what expense? At the expense of years of litigation, at the expense of a ruin to him which is almost as complete as would be the ruin of defeat. Now, can we not trust the war branch of the Government, charged with the department of military affairs, in whose records is to be found the authority for these very acts, and under whose supervision and control every one of them has been performed? I ask, can we not trust such a Department with the supervision of this defense, and leave it to that Department to exercise the duty, as it ought to be the pleasure, of the Government and the

people to see that the soldier and the officer go scot free from trouble and expense, as well as from litigation.

Mr. GUTHRIE. Mr. President, the first section of this bill proceeds upon the predication that every individual who was engaged in the Army, and acted under orders of his superior was acting in the line of his duty, and acting innocently, and is entitled to protection, and we interpose it by this section, carrying it further than we did in 1863, for then we only made it a protection to the President and some of the principal officers. Now we propose to protect those who did any act under the order of any military officer of the United States holding the command of any military department, district, or place in which any—

Seizure, arrest, or imprisonment was made, done, or committed, or any acts were so omitted to be done, either by the person or officer to whom the order is addressed, or by any other person aiding or assisting him.

You grant the protection of the Government to all individuals who obeyed their superior officers; you interpose that order as a protection to them, as a defense for the acts for which they may be sued. If it so chances that they had no such orders, or that they did the acts complained of willfully and maliciously, and it is so proved to a jury, there will be verdicts against them. I have no doubt.

Now, I think we have carried this a little too far; we have made it broader than we need do. That is my principal objection to the bill. While this exemption was confined to the higher officers and the military policy of the Government, as proclaimed and ordered to be carried out by them, I thought it was fair enough and right enough. But after you have interposed these orders as a justification for your officers, and yet on trial they are convicted, I am not for paying the expenses of trial nor for paying the verdicts out of the Treasury; and I do not want it to be held out that any other Congress may be appealed to to pay those judgments. That is not a principle that I wish to establish on the heel of this civil war; and I hope that the amendment now pending will not be adopted. I think we are not prepared for it. I am perfectly certain that there are a great many places in the United States where there would be heavy verdicts against the officers if it was understood that the Government would pay them; and the plaintiffs and defendants would understand each other before they got through with these matters. I have no doubt about that.

It is a question with me whether without this act it is not a defense that the thing complained of was done under the authority of the order of a superior and that it was necessary to be done under that authority. I am sure that our district judge in Kentucky would hold it a defense that it was done in pursuance of orders of a superior. Judge Graham has been referred to as having decided that the confederate soldiers who seized property under the order of General Simon Bolivar Buckner were protected by that superior order, and Judge Robertson, of the supreme court of Kentucky, affirmed the decision, which is now before the Supreme Court of the United States, and he is one of our ablest jurists. I am sure he would not have confirmed Judge Graham's decision unless he had believed there was full foundation in law for it, and I do not believe either of them would allow a recovery where the party had the orders of a superior officer in the Federal Army. I think a man in the service of his country, and bound to obey, is protected by the order of his superior officer, and cannot be held either criminally or civilly responsible for it. He ought not to be, and that is the justification of this act.

Kentucky is a fruitful place for precedents, as I find here. I did not know when I left home that there was a single solitary suit of this character in the city of Louisville. I have heard of some suits in other parts of the State, and there have been some criminal suits. The confederate soldiers came in and they took horses and they alleged that they were sent in by their superior officers; and in some parts of the State

we indicted them for stealing, and convicted them, and sent them to the penitentiary. Our Executive released all that class of men on the principle that they had acted under orders, whether right or wrong. We had both armies, as you all know, there; the confederate army was upon us, and the Federal army was upon us, and we were pretty unceremoniously treated by both sides. Then we have had guerrillas. Our people like to fight out their rights in the old way, and they love a lawsuit, I believe, for the excitement and the luxury of it, [laughter,] and we would get all right if you would just give us back the courts and let us fight it out in the tribunals. We will never get right short of them, and I do not believe the United States will get right until we restore the writ of *habeas corpus*, restore the right of suits for all wrongs that infringe a man's personal rights or his property. But I am decidedly against this amendment, tacking this system of expenditure at the close of the war on the finances of the country.

Mr. EDMUNDS. I have only this to say in reply to the honorable Senator from Kentucky: that I think from what I understood of his remarks that he misapprehends the scope of the amendment which I had the honor to offer. That amendment is confined literally and exactly to the scope of the enacting section of the bill, if I may so term it, and it pledges the faith of the Government to defend only those acts which are provided for in the first section, and which the friends of this bill declare, and I hope rightfully declare, are only those acts which were lawfully done pursuant to lawful authority. My amendment, therefore, only goes to the same extent that the bill itself goes, and that is to provide for the payment of whatever may be necessary to protect the officer or the soldier in the discharge of his duty, and not to provide for payment or indemnity to the officer or the soldier who exceeds his duty; and unless the first section has a construction much broader than that which has been claimed for it, the amendment which I proposed has only the construction which I give to it. That is the whole of the story. This amendment is conceived for the purpose, and it will answer the purpose, and in my judgment no other part of this bill will answer the purpose, of fulfilling the duty which this Government owes to its executive agents, who in pursuance of its authority and not in excess of its authority have executed its will.

Mr. HENDRICKS. I hope we shall have a vote on this bill to-night, and therefore I do not intend to occupy the attention of the Senate for more than a moment. Though I have not considered the subject very carefully, I like the purpose of the amendment proposed by the Senator from Vermont. I do not think it would be safe to adopt this amendment. I think a proposition so important in its effects upon the Treasury of the country ought to be very carefully considered by some proper committee of the body, and therefore, although I might approve of the purpose of the mover, I cannot vote for an amendment coming before us under circumstances that prevent our considering it with that care with which it ought to be considered. Therefore I shall not vote for the amendment.

But there is this view to be taken: if the officer acts under an order which is legal and right, that is a defense to him. If he acts under an order which was not legal and not right, then the man who is injured by this wrongful act ought to have some remedy; and if the officer in executing the order has acted in good faith he ought to be protected. Now, protected by whom? Protected at the expense of the honest citizen who is wronged, or protected at the expense of the Government, for whose benefit he honestly and in good faith did the act? I think at the expense of the Government, and therefore I am inclined to agree with the Senator from Vermont, in his purpose; but I cannot vote for the amendment under the circumstances.

Mr. HOWE. If the Senator from Vermont will accept this in lieu of his amendment, I

should like to have him do so; if not I will move it as an amendment to his amendment:

And in any suit or prosecution to which the provisions of this act or the act to which this act is an amendment apply, it shall be the duty of the Attorney General and of the several district attorneys of the United States in the several districts, at the request of the respondent, to assume and carry on the defense of such action, after such action shall be removed into any of the courts of the United States.

Mr. EDMUNDS. I cannot accept the modification proposed by my friend from Wisconsin, because it fails to come up to the logical and just consequences of the bill which we are about to pass; it only goes half way. It admits our obligation to protect this man, but says we will only protect him at half expense ourselves and half expense to him, as we propose to remedy the cases of the iron-clad operations. I do not want to meet them in that way. Therefore I shall not accept the modification.

Mr. HOWE. I move this as an amendment to the amendment. ["No!" "No!"] Very well, at the suggestion of the Senators, I will let the vote be taken on the amendment of the Senator from Vermont, and if that be rejected I shall offer this.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Vermont.

The amendment was rejected.

Mr. HOWE. Now, I offer this to come in at the same place:

And in any suit or prosecution to which the provisions of this act, or the act to which this act is an amendment apply, it shall be the duty of the Attorney General and of the several district attorneys of the United States in the several districts, at the request of the respondent, to assume and carry on the defense of such action after such action shall be removed into any of the courts of the United States.

Mr. SHERMAN. If this amendment be adopted, the effect will be that if the defendant in any suit asserts that he did the act complained of under or by virtue of an order of an officer, that will compel the United States to assume the defense of that suit, whether the allegation be true or false. It seems to me we ought not to do so. A mere allegation beforehand of a fact of that kind, which may be false, may be known to be false, and shown to be false, ought not to compel the United States to assume the defense of that person.

Mr. HOWE. No, Mr. President, the Senator from Ohio misunderstands the effect of the amendment. The question, whether the particular cause comes within the purview of the first section is determined before the cause gets into the circuit court of the United States.

Mr. SHERMAN. No; if the defendant claims that what he did was under or by virtue of an order, that authorizes the transfer of the suit to an impartial tribunal; but his mere claim to have done the act under the order of an officer ought not to require the United States to step forward and assume before the claim is settled the expense of the trial.

Mr. HOWE. The United States assume no expense whatever, except it loans the professional services of their officers in making the defense after the case gets into the Federal courts. I cannot see any objection to that.

Mr. GRIMES. I suggest that as this bill comes from the Committee on the Judiciary, a committee in whom we have the utmost confidence, is reported to us without any clause of this description, they not deeming that it was necessary that there should be such a provision in the bill, and this amendment not being printed, and nobody exactly understanding its full scope and effect, the Senate had better pass the bill without the amendment, and if it be necessary to adopt such a provision as this as an independent measure, let it be so presented, and let it be printed, and let us see what it is.

Mr. HOWE. The proposition of the Senator from Iowa may be a very plausible one, but I think I can defend myself against the charge of interfering with the jurisdiction of the Judiciary Committee, when I state the simple fact that this amendment was drawn up by a member of the Judiciary Committee. I plead that in bar. [Laughter.]

Mr. DOOLITTLE. I deem this proposition of my colleague an important one, and there is an amendment which I myself wish to propose to the first section, which I think is very important; and the question now is, shall we go on with the discussion, or shall we adjourn and take up the question hereafter?

Several SENATORS. Let us finish it now.

Mr. DOOLITTLE. This proposition of my colleague has a very great deal of importance, in my judgment. It does not merely concern the States that have been in rebellion, but it concerns our own States, our own provost marshals, and the men who have acted all over our States. I speak now of the States of Iowa, Wisconsin, and all the States of the North. Our provost marshals are being sued, a great many suits are being instituted against them, and it is going to be the ruin of those men who have been acting on behalf of the Government for them to go on simply with the defense of these suits. They have not the means to do it and attend to them, and there ought to be some kind of provision by which the Attorney General of the United States and the district attorneys, or somebody in behalf of the Government, should take hold of the defense of these actions that are now pending. Several actions are pending in the county where I live, against the provost marshal of the district and the officers who have acted under him, and it is no small matter whether we give over these men to these harassing prosecutions, and leave them to defend themselves as best they may.

I do not say that it would be wise for us to announce, unqualifiedly and in advance, that we should defend all cases and pay all judgments that may be recovered against them. That might not be wise for us now to announce; but I think we should assume this matter of the defense under some limitations. It may be that in addition to what my colleague's amendment proposes we might provide that the cause, on being transferred to the circuit court, should be presented to the district attorney of the United States, and if he should be satisfied that there was a *bona fide* defense he should then go on with the suit. There might be some qualification of that sort.

But, Mr. President, in addition to that which my colleague proposes, I have an amendment which I shall offer to the first section of the bill which I deem very important. It is not precisely like the amendment which was offered by the Senator from Vermont, and in reference to this matter of making a law of Congress an absolute defense against a wrong to person and property absolutely and unqualifiedly in States where there has been no rebellion, no martial law, and where the courts have been continually open, that is further than I am prepared to go. Upon that subject I have drawn an amendment which meets my views and which I desire to have acted on, and I deem it very important.

Several SENATORS. Read it.

Mr. DOOLITTLE. As I am upon the floor—

Mr. CONNESS. I rise to a question of order. I hope the Senator will allow us to get a vote on the pending amendment, and then of course he will have the opportunity to offer and discuss his amendment.

Mr. DOOLITTLE. I am speaking on the pending amendment, and my amendment goes right in with it, and I suppose qualifies that section also, so that we may see how the whole section will read when we get these amendments in. The amendment which I intend to propose is:

And such order—

Referring to the order which is to be the defense—

Shall constitute in those States and Territories where martial law has not been declared, or where the administration of the civil law by the State and Federal courts has not been interrupted by the rebellion, a *prima facie* defense; and in cases it shall not be made to appear that such person acted under such order maliciously, corruptly, or oppressively, such defense shall be conclusive as to such person.

I want something that really is going to apply

to the States where there has been no martial law. Although this section of the statute will have validity, I have no doubt, in all those sections where martial law has prevailed, and where the courts have been overturned and military law has prevailed, and operate as a good defense; yet, when you come to apply it in those States where the courts have been open all the while, and declare that it is to be a perfect and complete defense independent of whether the act is done corruptly, maliciously, or oppressively, I have very serious doubts as to the constitutional power to do it. I want to have it so that the effect will be to defend our officers in Wisconsin. It is an additional provision which I wish to add to the first section, so as to apply in California and Wisconsin as well as in the States where they have been acting under military orders in the rebellion.

Mr. CONNESS. I feel under great obligations to the honorable Senator from Wisconsin for taking care of California, of course, but I thought I was right when I rose before, and that the Senator did not intend to ask for a vote on his amendment now as a question pending. It is easily understood, and does not require a discussion by legal gentlemen. We have listened here all day to a discussion of legal questions. It has been of great interest, but there is no legal question involved in the proposition that is before the Senate now, and I trust we shall have a vote upon that, and then for one I am ready to vote upon the proposition of the Senator from Wisconsin.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Wisconsin, [Mr. HOWE.]

The amendment was rejected.

Mr. HENDRICKS. I offer the following amendment, to come in at the close of the first section:

Nor for any act done with cruelty or unnecessary severity.

I do not think that I need explain this amendment. The chairman of the Committee on the Judiciary thinks that the class of cases contemplated by my amendment will not be included within this bill, anyhow; but it is well enough to make it certain. If this amendment be adopted, it will make the last clause of the section read:

But no such order by force of this act, or the act to which this is an amendment, shall be a defense to any suit or action for any act done or omitted to be done after the passage of this act, nor for any act done with cruelty or unnecessary severity.

Mr. CLARK. I doubt the propriety of adopting this amendment here, as it refers to the act that we passed in 1863 as well as to this. I think that is the meaning of the law, that a court would not hold a man to be exculpated under an order of that kind if he exercised unnecessary cruelty. I think it had better stand as it is.

Mr. TRUMBULL. I think the Senator from New Hampshire is entirely right. If we now say that the law shall not apply to this, another Senator may propose that it shall not apply to some other thing, and so on. Of course it will not apply to such a case as is supposed. This law, like all others, is to receive a reasonable and fair construction; and no court would hold that a man is to be protected in excessive cruelty in the execution of an order. That is not a fair meaning of the law. None of us would justify such things. If we commence making this class of exceptions, I do not know where it will stop. I think the amendment had better not be adopted.

Mr. HENDRICKS. I think it had better be adopted. The other day the Senator from Illinois made a very able argument to the Senate, assuming, in the first place, that the law of the land was as he proposed to declare it, and yet because it was not entirely clear, because there was some difference of opinion upon it, he proposed to declare what the law was. That was in relation to the citizenship of the colored people of this country. He admitted that they were citizens already, but there was a dispute about it, and so that there should be no ques-

tion about it thereafter, he proposed the law; therefore, he said that the veto of the President ought to be overruled. Now, sir, I say that it is not altogether clear. Does Congress intend to defend men who have gone on under orders of superior officers and done things cruelly and with unnecessary severity? Do you intend to step between the injured man and the wrong-doer when he pretends to defend himself under an order of a superior officer, if he has executed that order with cruelty and unnecessary severity? Although the law may possibly be construed, as the Senator says, yet there is no objection to saying so. It will not cost so much to print these words, if the Senate wants them in the bill. I call for the yeas and nays.

The yeas and nays were ordered.

Mr. JOHNSON. Before the vote is taken I would suggest to the Senator from Indiana that his amendment perhaps only covers personal wrongs. I should like him to amend it so as to comprehend also property.

Mr. BUCKALEW. Insert "maliciously or."

Mr. HENDRICKS. I will modify it by inserting "with malice." The amendment now reads "nor for any act done with malice, cruelty, or unnecessary severity."

The question being taken by yeas and nays, resulted—yeas 18, nays 16; as follows:

YEAS—Messrs. Buckalew, Doolittle, Edmunds, Guthrie, Henderson, Hendricks, Howe, Johnson, Lane of Indiana, Morgan, Norton, Poland, Ramsey, Saulsbury, Sprague, Van Winkle, Willey, and Yates—18.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Foster, Howard, Kirkwood, Nye, Pomeroy, Stewart, Sumner, Trumbull, Wade, Williams, and Wilson—16.

ABSENT—Messrs. Brown, Cowan, Creswell, Davis, Dixon, Fessenden, Grimes, Harris, Lane of Kansas, McDougall, Morrill, Nesmith, Riddle, Sherman, and Wright—15.

So the amendment was agreed to.

Mr. DOOLITTLE. That amendment, I think, substantially covers the same point which was embraced in the amendment I proposed to offer; so I shall not offer mine.

The bill was reported to the Senate as amended; and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time.

The bill was read the third time.

Mr. SAULSBURY and Mr. HENDRICKS called for the yeas and nays on the passage of the bill; and they were ordered.

The Secretary proceeded to call the roll.

Mr. SPRAGUE, (when the name of Mr. LANE, of Kansas, was called.) The Senator from Kansas, who sits next to me, desired me to say that he is paired off with the Senator from Delaware, [Mr. RIDDLE.] If present, he would vote in favor of the passage of this bill.

Mr. JOHNSON. I was requested by the Senator from California [Mr. McDUGALL] to say that if he were here to vote he would vote in the negative.

The result was announced—yeas 30, nays 4; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Doolittle, Edmunds, Foster, Henderson, Howard, Howe, Johnson, Kirkwood, Lane of Indiana, Morgan, Norton, Nye, Poland, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, Wilson, and Yates—30.

NAYS—Messrs. Buckalew, Guthrie, Hendricks, and Saulsbury—4.

ABSENT—Messrs. Brown, Cowan, Creswell, Davis, Dixon, Fessenden, Grimes, Harris, Lane of Kansas, McDougall, Morrill, Nesmith, Riddle, Sherman, and Wright—15.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives by Mr. LLOYD, Chief Clerk, announced that the House had passed the following bills and joint resolution in which it requested the concurrence of the Senate:

A bill (H. R. No. 500) making appropriations to supply deficiencies in the appropriations for the public printing for the fiscal year ending June 30, 1866;

A bill (H. R. No. 504) for the relief of Ishmael Day; and

A joint resolution (H. R. No. 115) for the relief of John Wells & Sons, of Baltimore.

The message further announced that the House of Representatives had passed the bill (S. No. 150) for the relief of Theodore G. Eiswald.

ADJOURNMENT TO MONDAY.

On motion of Mr. CLARK, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

REGISTERS TO VESSELS.

Mr. CHANDLER. I move to take up Senate bill No. 89, returned from the House of Representatives with an amendment.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives to the amendment of the Senate to the bill (S. No. 89) to issue American registers to the steam vessels Michigan, Despatch, and William K. Muir.

The amendment of the House of Representatives was in line four of the Senate amendment to strike out the words "now called the Roamer."

Mr. CHANDLER. I move that the Senate concur in that amendment.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read by their titles, and referred as indicated below:

A bill (H. R. No. 500) making appropriations to supply deficiencies in the appropriations for the public printing for the fiscal year ending June 30, 1866—to the Committee on Finance.

A bill (H. R. No. 504) for the relief of Ishmael Day—to the Committee on Claims.

A joint resolution (H. R. No. 115) for the relief of John Wells & Sons, of Baltimore—to the Committee on Claims.

Mr. SPRAGUE. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 20, 1866.

The House met at twelve o'clock m. Prayer by Rev. GEORGE F. MAGOUN, President of Iowa College.

The Journal of yesterday was read and approved.

The SPEAKER stated as the regular order of business the calling of committees for reports of a private nature, commencing with the Committee on Mines and Mining.

ADDITIONAL CLERK.

Mr. ROLLINS, from the Committee of Accounts, offered the following resolution:

Resolved, That the Sergeant-at-Arms be allowed to employ an additional clerk in his office during the present session of Congress at a salary of \$125 per month.

Mr. CONKLING. What is the occasion of this resolution?

Mr. ROLLINS. This resolution was referred to the Committee of Accounts several weeks ago, and after careful examination the committee came to the unanimous conclusion that it was best that the allowance should be made of an additional clerk during the present session. He asked for an annual appointment, but the committee recommend it only during the present session, which will be for a very short time.

I have a letter from the Sergeant-at-Arms, which I will send to the desk and have read.

Mr. UPSON. When does the clerkship commence?

Mr. ROLLINS. During the present session.

Mr. UPSON. At the beginning of it, or now?

Mr. ROLLINS. Let the resolution be read. The resolution was again read.

Mr. ROLLINS. I will modify it by having it read "from and after the 1st of April."

The Clerk read the letter, as follows:

SERGEANT-AT-ARMS'S OFFICE,
HOUSE OF REPRESENTATIVES,
WASHINGTON, D. C., March 7, 1866.

SIR: I have the honor to submit the following reasons why the resolution introduced by Hon. G. W. ANDERSON, chairman of the Committee on Mileage, and referred to your committee, authorizing the employment of an additional clerk in my office, should receive the favorable consideration of the committee and of the House:

The clerical labor incident to the present system of keeping deposit accounts with each member, with the necessary checks and daily balance-sheets, and the collection and payment of the internal revenue tax, has more than doubled since the passage of the revenue law.

In addition to the above increased labor at the present time, an examination of former "mileage reports" and routes, in order to enable the committee to equalize the mileage lists, has thrown so much additional labor upon this office that the present force of one clerk and one messenger cannot properly do the work.

I would therefore earnestly request that I may be allowed one additional clerk, with a salary of \$1,500 per annum. This increased expenditure will amount to but little more than the percentage allowed to collectors on the same amount of revenue that is collected and paid into the Treasury from this office, for which I cannot by law receive any compensation.

Very respectfully, your obedient servant,

N. G. ORDWAY,

Sergeant-at-Arms House of Representatives.

Hon. E. H. ROLLINS,
Chairman of Committee of Accounts.

Mr. RANDALL, of Pennsylvania. I have no particular objection to the passage of this resolution for the employment of this additional officer, provided that it is necessary, but I wish to bring to the attention of the House the fact that there is now employed, or rather engaged, in the post office, a lad who is very efficient and industrious, working from early morning till late at night, and there is no provision, I understand, for his payment. I desire, therefore, knowing the services of this lad, having it directly under my own observation, to add an amendment that the postmaster be authorized, from this date until otherwise ordered, to pay that lad the wages of a page upon the floor of this House.

Mr. WASHBURNE, of Illinois. I would like to know the circumstances under which this lad is employed.

Mr. RANDALL, of Pennsylvania. By no authority, as I understand; but he is the son of the postmaster of the House, and the employes not being equal to the service required, this lad volunteered to assist. He takes a deep interest in the discharge of the duties, and is very faithful.

Mr. CONKLING. What does he do?

Mr. RANDALL, of Pennsylvania. He delivers the mail at my house every morning, and he is engaged during the day every thirty minutes in carrying the mails out from this office to the sub-offices in the city.

Mr. CONKLING. I should not like to say anything by way of complaint of the post office, or of anybody who delivers the mail. But if the person to whom the gentleman from Pennsylvania [Mr. RANDALL] refers as delivering his mail is the same who delivers, or omits to deliver, my mail, I hope that a very moderate compensation will be fixed.

Mr. RANDALL, of Pennsylvania. I would inquire of the gentleman from New York [Mr. CONKLING] if it is a boy who delivers his mail.

Mr. CONKLING. I am sure I do not know. It must be a very small boy that delivers it sometimes, so small that with the naked eye we have very great difficulty in finding him.

Mr. STEVENS. I do not know anything about this small boy that is spoken of as being in the post office of this House. But I do know that we had there one of the best men I ever knew, by the name of William Tudge; and I know that almost every member of this House signed an application to the postmaster of this House to continue him in that office. And I know that the postmaster in place of that turned him out. Now, I would like to have some better reason assigned for giving additional force to the postmaster, before I give any more patronage to a man who thus abuses it.

Mr. ROLLINS. It is evident that members want to discuss everything but the resolution pending before the House. I decline to yield

to any further discussion of other matters. If any gentleman has any remarks upon this resolution I will yield.

Mr. ANCONA. I would inquire of the Chair how this resolution came before the House.

The SPEAKER. It was reported regularly from the Committee of Accounts when it was called in its order.

Mr. ROLLINS. The resolution was introduced, I believe, by the gentleman from Kentucky, [Mr. SMITH,] and referred by order of the House to the Committee of Accounts. After a careful examination by the committee they have reported unanimously in favor of the resolution as modified. The duties imposed upon the clerk of the Sergeant-at-Arms, as stated in the letter he has submitted to the committee, are nearly double, in my judgment, what they formerly were. And all who are familiar with the duties devolved upon that clerk will readily come to the conclusion, I think, that this request is just.

Mr. FINCK. I am opposed to the passage of this resolution; I do not believe that there is any necessity whatever for the appointment of an additional clerk in the Sergeant-at-Arms's office. It is known to the members of this House that the duties of the Sergeant-at-Arms's office, ever since its organization, have been carried on with the same force that it has at present. The Sergeant-at-Arms of this House has been favored with the services of an assistant of the highest business character and qualifications. He keeps the books and the accounts of the members. And if another clerk is added he will not aid the clerk now there in any respect whatever.

It is very well known to this House that during the Thirty-Eighth Congress no more force was in the office of the Sergeant-at-Arms than there is there at present. Now, from my observation of that office, and the business connected with it, I have no hesitation in stating that the present force is sufficient to discharge all the duties of that office. If they do not now receive sufficient compensation, then bring in a proposition to give them a greater compensation. But if you appoint an additional clerk for this session of Congress, he will be continued during the next session, and it will be followed as a precedent hereafter. I hope the resolution will not pass.

Mr. RANDALL, of Pennsylvania. I desire to say a word or two in reply to what has been said by my colleague, [Mr. STEVENS.] I desire to say to him that two wrongs do not make a right. Because this clerk, Mr. Tudge, was removed, that is no reason why this boy should not be paid. I joined with others in the recommendation that Mr. Tudge should be retained; perhaps that was one reason for his removal; I do not know how that is. But here is a boy employed, and I ask simply that he shall be paid for his services the same wages that are given to our pages.

Mr. ROLLINS. I will suggest to the gentleman that he can best accomplish his object by introducing an independent resolution, and having it referred to the committee.

Mr. RANDALL, of Pennsylvania. Very well; I withdraw my amendment.

Mr. ROLLINS. I believe it is necessary for the proper management of the affairs of the office of the Sergeant-at-Arms that he should have this additional assistance.

Mr. SMITH. I do not wish to have attributed to myself anything that belongs to another, and especially I do not wish to steal the thunder of the gentleman from Missouri, [Mr. ANDERSON.] He, not I, introduced this resolution.

Mr. ROLLINS. Yes, the gentleman from Missouri, [Mr. ANDERSON,] the chairman of the Committee on Mileage, introduced the resolution.

Mr. ANDERSON. I desire that the passage of this resolution shall not be affected by the indorsement of the gentleman from Kentucky, [Mr. SMITH.] [Laughter.]

Mr. ROLLINS. I wish to state also for the consideration of the House, that the matter of mileage has occasioned additional labor on the

part of the Sergeant-at-Arms. During the last session, before the matter of mileage was properly adjusted, the Sergeant-at-Arms advanced mileage to various members, trusting to circumstances for his pay. I move the previous question.

On seconding the previous question, there were—ayes 51, noes 33; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. ROLLINS and ANCONA.

The House divided; and the tellers reported—ayes 66, noes 30.

So the previous question was seconded.

The main question was ordered; which was upon the adoption of the resolution.

Mr. FINCK called for the yeas and nays.

The yeas and nays were not ordered.

Mr. FINCK called for tellers on ordering the yeas and nays.

Tellers were not ordered.

The resolution was adopted.

Mr. ROLLINS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MESSANGER IN HOUSE LIBRARY.

Mr. ROLLINS, from the Committee of Accounts, reported the following resolution:

Resolved, That the pay of William H. Smith, messenger in the House library, be, and the same is hereby, increased to \$2 50 per day, beginning February 1, 1866.

Mr. WASHBURNE, of Illinois. I ask the gentleman from New Hampshire to yield to me, that we may do an act of justice to a colored boy connected with the bathing-room who faithfully waits upon all the visitors there.

Mr. ROLLINS. I yield to the gentleman for the purpose of offering an amendment.

Mr. WASHBURNE, of Illinois. I move to amend the resolution by adding the following:

And that Sandy Bruce, Jr., be allowed at the rate of \$1 50 per day for his services in the bath-room, commencing with the present session.

Mr. ROLLINS called for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The resolution, as amended, was adopted.

Mr. ROLLINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ISHMAEL DAY.

Mr. WARD, from the Committee of Claims, to whom was referred the petition of Ishmael Day, praying compensation for the destruction of his property by rebel raiders on the 12th of April, 1864, reported a bill for the relief of Ishmael Day; which was read a first and second time.

The bill, which was read, provides that, as a recognition of the heroism of Ishmael Day, of Baltimore county, Maryland, and as compensation for the loss of all his property in defending the national flag from an attack by rebel raiders on the 12th day of July, 1864, there be paid to Ishmael Day, annually from July 12, 1864, during his life, the sum of \$421 50, to be paid in semi-annual payments.

The report, which was read, states that the petitioner, aged seventy-two years, and loyal to the Government of the United States, had his property, consisting of a dwelling-house, out-houses, and personal property, to the value of \$7,025, burned and destroyed on July 12, 1864, under the following circumstances:

Early on the morning of that day, as was his custom, he elevated and unfurled the flag of the United States in front of his door-steps as an insignia of his principles. Soon thereafter, while it was waving there, one hundred and fifty of Gilmore's raiders approached the premises, while two of the men in advance of the main squad of the enemy, seized the flag-staff and jerked it down, cursing and calling

the flag "a damned old rag." At this juncture old Ishmael Day rushed instantly up stairs, where he kept two guns loaded, seized one, shot and killed the traitor who had insulted the national flag, and immediately, with the other gun, he pursued the remaining rebel, who succeeded in making his escape. Very soon the whole party of raiders came upon the old man, threatened his life, and burned and destroyed his property, being all that he possessed in the world.

The matter was presented to the consideration of the late President of the United States, who directed that the amount of the loss sustained by the petitioner should be collected by military order and assessment by a levy upon the property of disloyal, rebel sympathizers of the vicinity. But this order, for some reason unknown, was never executed; nor has the petitioner ever received any compensation for any part of his loss in thus defending his country's flag.

The constitutional convention of Maryland, which met soon after Day's display of patriotism and loyalty, passed by a large majority the following:

"Ordered, That the thanks of this convention, representing as it does the people of Maryland, are hereby tendered to the old citizen and patriot of Baltimore county, Ishmael Day, for his heroic and gallant act in shooting down the traitor who dared to pull down his country's flag which he had raised as an evidence of his loyalty and patriotism, which act of daring heroism meets the approbation of the heart and conscience of every loyal citizen of Maryland."

The committee state that they are satisfied that Day needs the amount asked to provide for his comfortable support during the remainder of his days. In recommending a favorable consideration of the claim, they base their action upon the extraordinary and peculiar circumstances of the case; and in view of the example to the community at that critical period of the country, they deem it but just to this brave and aged patriot that his gallant deed should receive the especial notice and recognition of Congress and the country, and that compensation in a measure for the loss he actually sustained should be made.

The committee further state that they do not regard a recommendation of this claim as establishing any precedent for the payment of other claims for damages resulting from the ravages of war.

Mr. WASHBURNE, of Illinois. I should like to have read the resolution adopted by the House on the report of this committee, which forbids any claim of this kind going to that committee.

Mr. WARD. I will answer the gentleman if he will allow me. That resolution applied only to the States that had been in the rebellion. It does not of course apply to Maryland.

Mr. LOAN. Mr. Speaker, I would cheerfully support this measure if I could do so consistently; but this same Committee of Claims, in the case of a lady from Springfield, Missouri, who lost all of her property of every character and description by the ravages of war, who also lost her husband and has been left penniless with six children to support, reported adversely to it under the rule which they established. If a claim of that kind could not receive a favorable consideration, I do not see why we should make an exception in this case. I think it should fare the common fate and be rejected like all the others.

Mr. WARD. Mr. Speaker, the Committee of Claims have not been lavish of their favors, as the House will bear witness. They have felt, as the guardians of the public Treasury at this critical time in our affairs financially, we should be careful what kind of claims they should allow or recommend to the House. They have chosen to be just rather than to be generous, and hence a great many claims appealing strongly to our sympathy and patriotism have been rejected by the committee, not because of unwillingness to give relief in these cases, but because of the condition of our finances and because they would establish a precedent which might involve the country in the payment of large amounts of money.

The committee felt that in this case, in the case of this old man of seventy-four years of age, who, in the midst of that treacherous community in which he lived, remained firm and true to the flag of his country; who never retired at night but he prayed a prayer for our imperiled nation and never rose in the morning but he raised the flag over his door-step; who, when that flag was torn down by a ruthless hand, shot the traitor who did it; and who in consequence of that act was sent forth in his old age to wander upon the face of the earth without a roof to shelter him—in this case the committee thought they were justified in presenting this bill and report.

I remember very well, Mr. Speaker, when in the outbreak of the rebellion, when the Union was in jeopardy from traitors North and South and in foreign countries, and even when the Administration seemed to be conspiring to overthrow the Government, that the first inspiration we had from official circles, the first word of encouragement from Washington which sent a thrill of joy to every patriotic heart, was the injunction of General John A. Dix to his subordinates, "Whoever shall haul down the American flag, shoot him on the spot." That injunction has become "as familiar as household words." It has rendered his name immortal. Old Ishmael Day obeyed that injunction and shot the traitor on the spot. Allow me to express the fervent hope, through all the perils which shall beset our national life in coming ages, may this injunction be remembered and the example of old Ishmael Day shine out to fire the hearts and inspire the arms of our people to the latest generation. I think we should stamp upon this act the seal of our approbation. I hope there will be no dissenting voice.

Mr. UPSON. Is this to pay for property destroyed by rebels?

Mr. WASHBURNE, of Illinois. It is for shooting down a traitor.

Mr. UPSON. On what principle is it proposed to establish this precedent, and how is it to be carried out?

Mr. WARD. He has shot down a traitor for hauling down the American flag. I would sustain every one who sustained the American flag in that way. I demand the previous question.

The previous question was seconded and the main question ordered, and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ROGERS demanded the yeas and nays. The yeas and nays were ordered.

Mr. DELANO. I see that in some parts of the House this question is not exactly understood. The rule of the committee is to reject all claims for damages that are the result of the ravages of war. This man was a loser to the amount of some seven or eight thousand dollars, perhaps more. The committee felt that they could do nothing for him, but that his circumstances were peculiar, his act noble, and such as commended itself to the hearts of every one. Under these circumstances they proposed to submit to this House the propriety of giving this old man for the remaining years of his life, that are fast running out, who in his old age exhibited this high degree of gallantry and patriotism, a small pension. It is \$400 a year. Let us give him something. If \$400 is too much reduce it, but I think it is not too much.

Mr. WASHBURNE, of Illinois. I understood it was for property destroyed by the rebels.

Mr. DELANO. I knew very well that the question was not understood, and therefore I made this explanation.

Several MEMBERS. We will go for it now.

Mr. WARD. I now move the previous question.

Mr. HALE. A single suggestion. If this is a pension bill it ought to go to the Committee on Pensions.

The previous question was seconded and the main question ordered.

The question being taken on the passage of the bill, it was decided in the affirmative—yeas 107, nays 13, not voting 63; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Anderson, Delos R. Ashley, Baker, Baldwin, Banks, Baxter, Bidwell, Bingham, Blaine, Broomall, Buckland, Budy, Reader, W. Clarke, Sidney Clarke, Cobb, Coffroth, Conkling, Cook, Davis, Delano, Dixon, Dodge, Donnelly, Driggs, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Fitch, Garfield, Goodyear, Abner C. Harding, Hayes, Henderson, Higby, Hogan, Hooper, Asabel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulbard, Ingersoll, Jenckes, Julian, Kelley, Kelson, Ketcham, Kuykendall, Latham, George V. Lawrence, Lynch, Marshall, Marvin, McKee, McRuer, Mercier, Miller, Moorhead, Morris, Moulton, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Price, Samuel J. Randall, John H. Rice, Ritter, Rollins, Ross, Schenck, Seofield, Shanklin, Shellabarger, Smith, Spalding, Stevens, Strouse, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, William B. Washburn, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—107.

NAYS—Messrs. Beaman, Benjamin, Boutwell, Boyer, Broomall, Hale, Harris, Longyear, Niblack, Nicholson, Rogers, Upson, and Elihu B. Washburne—13.

NOT VOTING—Messrs. Alley, James M. Ashley, Barker, Bergen, Blow, Brandegee, Chanler, Cullom, Culver, Darling, Daves, Dawson, Deftrees, Deming, Denison, Dumont, Eckley, Eliot, Glossbrenner, Grider, Grinnell, Griswold, Aaron Harding, Hart, Hill, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Kerr, Ladin, William Lawrence, Le Blond, Loan, Marston, McClurg, McCullough, McIndoe, Morrill, Myers, Noell, Pike, Pomerooy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Sawyer, Sitgreaves, Sloan, Starr, Stilwell, Trimble, Van Aernam, Whaley, Winfield, and Wright—63.

So the bill was passed.

During the roll-call,

Mr. VAN HORN, of Missouri, stated that his colleague, Mr. NOELL, was confined to his house by sickness.

Mr. BROOMALL stated that Mr. STARR was detained at his house by sickness.

Mr. ANCONA stated that his colleague, Mr. JOHNSON, was detained at his house by sickness, and that Mr. DENISON had paired with Mr. ASHLEY, of Ohio.

The result having been announced as above recorded,

Mr. WARD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

JOHN WELLS AND SONS.

Mr. DELANO, from the Committee of Claims, reported a joint resolution for the relief of John Wells & Sons.

The joint resolution was read. It authorizes the remission of so much of the penalty incurred by reason of the failure of John Wells & Sons, of Baltimore, to complete their contract in 1863 for repairing the steamer City of Albany, as may not be covered by the actual loss of the Government by reason of the delay in the completion of the said steamer in accordance with the strict terms of the contract.

Mr. DELANO. There is a written report, but I can give the House the facts of the case, and then gentlemen may call for the reading of the report if they choose.

The memorialists contracted for the repair of this steamer, with a penalty in the contract of \$200 a day for every day that might transpire beyond the time agreed upon for the completion of the repairs. Various circumstances, over which the contractors had not altogether a control, caused a delay of forty-five days, so that the penalty amounted to \$9,000, and the entire contract price was only \$7,335. The difference between those two sums, namely, \$1,675, has been paid under protest.

Now, the examination shows to the satisfaction of the committee that it turns out that the vessel was not required for service during the interval of time, and that the Government did not actually sustain any damage for the want of its use. It seemed to the committee unjust to demand the bond, Shylock-like, for this penalty; and yet they did not feel disposed to decide that there were no damages sustained

by the Government. They, therefore, refer the matter to the Government to say how much actual damages they sustained by reason of the delay in furnishing the vessel, and they allow so much of the penalty to be remitted as was not covered by actual loss.

Mr. WASHBURN, of Illinois. Is that the purport of this joint resolution?

Mr. DELANO. That is its purport, and its language is clear and explicit, and that is all there is in the case.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

THEODORE G. EISWALD.

Mr. DELANO also, from the Committee of Claims, reported back, with the recommendation that it do pass, bill of the Senate No. 250, for the relief of Theodore G. Eiswald.

The bill directs the Secretary of the Treasury to issue and pay to Theodore G. Eiswald, of Providence, Rhode Island, two United States seven-thirty bonds of \$1,000 each, with coupons attached, in lieu of two such bonds owned by him and destroyed by fire, the charred remains thereof being now deposited in the office of the Secretary of the Treasury, the claimant being required to execute a bond to be approved by the Solicitor of the Treasury indemnifying the United States against any loss, cost, or damages on account of the issuing of such bonds.

Mr. WASHBURN, of Illinois. I would like to have the report read in this case if there be one.

Mr. DELANO. There is a Senate report, but I can give the gentleman from Illinois a briefer statement of the facts.

The evidence is clear that two seven-thirty bonds of \$1,000 each, by having been accidentally placed in an exposed position on a stove, were burnt, that the charred remains were taken to the Treasury Department, and that the bonds were identified by their numbers. That is attested by the certificate of the officers. The proof of the destruction and also of the identity of the bonds is perfectly clear. The Department itself is satisfied that it is proper that a law should be passed authorizing these bonds to be renewed.

I desire to say here to the House that this subject is one which has given the Committee of Claims great anxiety, and that their rule is to recommend, in the first place, the duplicating of no bond without the most perfect and satisfactory proof of its destruction; and they have gone further and refused to authorize the duplicating of any securities issued by the Government that come under the class of circulation, including compound-interest notes. The committee recommend the passage of this bill.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The SPEAKER. The morning hour has expired, and the Committee of Claims will be again called next Friday.

RIVER AND HARBOR IMPROVEMENTS

Mr. WASHBURN, of Illinois. The Committee on Commerce, in considering the river and harbor bill, desire some information from the War Department. I therefore ask the unanimous consent of the House to offer the following resolution:

Resolved, That the Secretary of War be directed to communicate to this House the following official reports:

1. Report of mixed board of engineers and naval officers, of which Commodore Latimer was president, and Majors Chase, Barnard, and Beauregard were members, in 1851 or 1852.

2. The report of Major Beauregard in 1852 or in 1853 relative to success of tow-boat company in deepening Southwest Pass as per contract.

There being no objection, the resolution was received and agreed to.

CHANGE OF REFERENCE.

On motion of Mr. DRIGGS, by unanimous consent, the Committee on Public Lands were discharged from the further consideration of the petition of John B. Chapman, and the same was referred to the Committee on Private Land Claims.

PUBLIC PRINTING APPROPRIATION BILL.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into Committee of the Whole on the state of the Union for the purpose of considering a small bill making appropriation for a deficiency in the appropriations for the public printing. I understand that the money is needed this month.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. SMITH in the chair,) and proceeded to the consideration of the special order, being bill of the House No. 500, making appropriations to supply a deficiency in the appropriation for the public printing for the year ending June 30, 1866.

The bill was read by clauses for amendment, but no amendments were offered.

Mr. STEVENS. I move that the committee rise and report the bill to the House.

Mr. SPALDING. I hope the committee will lay aside this bill and take up House bill No. 211, to authorize the President to appoint certain officers of his household and fixing their duties. The bill has been in the committee for a long time, and it will take but ten minutes to dispose of it.

Mr. SCHENCK. I hope the committee will not proceed to any other business. I yielded to the chairman of the Committee on Appropriations only to dispose of the one bill.

Mr. SPALDING. This bill will not take more than ten minutes.

Mr. SCHENCK. It will take much more time than that, I am sure.

Mr. STEVENS. I insist on my motion that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. SMITH reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 500, making appropriations to supply a deficiency in the appropriations for the public printing for the year ending June 30, 1866, and had directed him to report the same to the House without amendment, and with the recommendation that it do pass.

Mr. STEVENS. I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STEVENS moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REORGANIZATION OF THE ARMY.

The House resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States."

The following section was under consideration:

SEC. 13. *And be it further enacted*, That the Adjutant-General's department of the Army shall hereafter consist of the number of officers now authorized by law, namely, one adjutant general, with the rank, pay, and emoluments of a brigadier general; two assistant adjutant generals, with the rank, pay, and emoluments of colonels of cavalry; four adjutants,

with the rank, pay, and emoluments of lieutenant colonels of cavalry; and thirteen adjutants, with the rank, pay, and emoluments of majors of cavalry. But after the first appointments made under the provisions of this section, as vacancies may occur in the grade of major, no appointment shall be made to fill such vacancy until the number of majors in the department shall be reduced to ten, to which number the said grade shall thereafter be limited.

The pending question was upon the motion of Mr. THAYER to strike out all of the section after the enacting clause, and insert the following:

That the Adjutant General's department shall hereafter consist of the officers now authorized by law, and their rank shall be as follows, namely: one adjutant general, with the rank, pay, and emoluments of a brigadier general; four assistant adjutant generals, with the rank, pay, and emoluments of colonels of cavalry; five assistant adjutant generals, with the rank, pay, and emoluments of lieutenant colonels; and ten assistant adjutant generals, with the rank, pay, and emoluments of majors.

Mr. SCHENCK. Before the vote is taken upon the substitute, I will move, for the purpose of perfecting the section, to add the following proviso:

Provided, That nothing in this section shall be construed to vacate the commission of any officer now commissioned as assistant adjutant general, but only to change the title to adjutant, in the case of those who rank as lieutenant colonels and majors, without affecting in any way their relative position, or the time from which they take such rank.

Those of the members of the House who remember the discussion upon this subject yesterday, will see that the amendment I have offered removes the objection which was made, that there might by some possibility be a construction of the law, if this bill should be passed as reported by the committee, so as to legislate out of office these particular gentlemen.

There was one other objection to the section made by the gentleman from Pennsylvania [Mr. THAYER] upon which I wish to make a very brief comment. It has been the object of the committee throughout to legislate, not with reference to persons, but with a view of establishing an Army system, having reference to all the various departments of that Army. For that reason, in fixing these bureaus, the committee have adopted this language in regard to each department of the staff—"shall hereafter consist of the number of officers now authorized by law." The gentleman from Pennsylvania says that that is wrong, that it ought to be made to read, "shall consist of the officers now authorized by law." In other words, we are asked to legislate with a view to particular incumbents, to the class of persons who now hold the offices.

Now, I should like to know from the gentleman from Philadelphia, [Mr. THAYER,] who is learned in the law, what will become of this department when all these officers die or resign. If you decide that this department shall consist of these particular officers it cannot consist of any other officers. Now, we prefer that the department shall consist of a certain number of officers for all time to come; and that when the offices shall be vacated by death, resignation, or otherwise, the number shall be kept full by subsequent appointments, except wherein we have otherwise provided. As we are to have the application of nice construction of law, I repeat that if you legislate that the departments shall consist of certain officers who now hold certain positions, nobody else can hold those positions until you change the law so as to let others in.

Then, again, the last part of the section which it is proposed to strike out provides for a decrease of the Adjutant General's force hereafter as vacancies shall occur. Now, I do not wish to be repeating arguments which have been already submitted to the House any further than may seem to be absolutely necessary. But I will say this in reference to that and kindred propositions contained in other sections relating to the bureaus; we have been satisfied, in reference to many of these bureaus, that the gradual increase of their numbers has been carried beyond the necessities of the Army; we have been satisfied that this is the continual tendency of legislation, and we think that a great many of the duties of this bureau, as

well as of other military bureaus, might just as well be performed by men who have not received a full military education.

Now, the proposition to strike out the section includes that restriction of the number of majors hereafter to ten, which is but a small reduction in the Adjutant General's department. There is a larger reduction proposed in regard to some of the other bureaus, to which the House may or may not agree, according as they shall or shall not concur in the recommendations of the committee. But the general opinion of the committee is that there are but few officers needed here at headquarters, such as the chief of the department, and some proper assistants to supervise, direct, and control the affairs of the department. Our opinion is that you do not need officers with a military education to remain here month after month, and year after year, to be compelled to remain here as some of them have been, to perform clerical duties. That general feature runs through the whole bill; and the remark is as applicable to other bureaus, and still more applicable to some of them than to the Adjutant General's department.

I hope, therefore, that the section will not be stricken out, but that the gentleman will withdraw his objection to it. The amendment which I propose certainly removes most of the objections which have been urged against the section. I trust that the amendment will be adopted, and that the section will not be stricken out, carrying with it all this wholesome legislation, as we intended it to be, restricting the number of officers in that bureau.

Mr. BLAINE. I do not understand by what kind of arithmetic my honorable friend, the chairman of the Committee on Military Affairs, makes it out that, while when the Army was only eleven thousand there was a demand for fourteen officers in the Adjutant General's Bureau, yet, when we have an army of eighty thousand there should not be more than twenty of these officers; and it is even proposed to cut the number down to seventeen. Instead of increasing the officers of the Adjutant General's Bureau fourfold, as you propose to increase the regular Army, you do not propose to make an increase of fifty per cent. in the number of officers engaged in that bureau.

One word now as to the nomenclature. The gentleman from Ohio desires that all officers below a certain rank shall be called adjutants. Now, Mr. Speaker, I think it will be found to be true, as a general principle, that wherever a usage has grown up in the Army, whether with reference to titles or anything else, you will find, when you go to the bottom of the matter, that there is some good reason for this usage; and it is not safe to abolish such usages without full inquiry. Suppose, now, that this proposition should prevail, and that one of these adjutants should be detailed on the staff of a brigadier general commanding at St. Louis. Well, there are two or three regiments there, each having its adjutant. Then there are the post adjutants. These are all adjutants. There is no officer there directly connected with the staff department at Washington, known as the assistant adjutant general.

Now, in the military department there is no officer whose position, as connected with the War Department at Washington while upon the staff of a brigadier general, is better understood than an assistant adjutant general. It means a specific thing in the military service. It is not to be confounded with post adjutant or regimental adjutant. If you change the name, as the gentleman from Ohio desires, you only lead to confusion.

Mr. SCHENCK. As it is now, they are all assistant adjutant generals. If they cannot all have the same titles as adjutants, why should all have the title of adjutant generals?

Mr. BLAINE. The moment you change that you have gone to sea on the subject.

Yesterday my friend from Ohio spoke about the officers who remained in the staff departments of the Army in this city doing the duty

that clerks could have performed as well; yet he speaks this morning of some who were compelled to stay here. I know that some of these officers have been compelled to stay here in Washington against their will although they again and again applied for field service. They were refused because they were wanted in the Adjutant General's office in Washington.

One word more. This bill provides for one lieutenant general, five major generals, and ten brigadier generals, sixteen general officers who are entitled to assistant adjutant generals. In the War Department you have only twenty in all. There is never a time you do not have six or eight in the War Department. Take six out of twenty and you do not leave an assistant adjutant general for each general you authorize. Instead of being reduced it ought to be increased. If I did not have the highest respect for my friend from Ohio I would say that the proposition was preposterous to have the number reduced.

Mr. THAYER. Mr. Speaker, let me say a word first in regard to the criticism of the gentleman from Ohio on the word "number" in this section which I propose to strike out and which he thinks it would be improper to strike out. It appears to me that when you put into this law a provision that the Adjutant General's department should consist of a certain number of officers, and when in a subsequent part of the section you put in a provision such as is contained in this section, you thereby give clear intimation of your intention to vacate existing offices and to provide for new appointments. It was for that reason I could not consent to the insertion of the word "number." I think that the force of that objection still remains.

I desire to say a few words on what the Quartermaster General calls the "awkward titles," and which are proposed to be abolished. It has been the settled practice of the Military Department of the Government for a long time to have what are styled assistants in the several bureaus of that Department. We have in the War Department, I think, an assistant in every bureau of that Department. Commencing with the Secretary of War himself, we have an Assistant Secretary of War, we have assistant adjutant generals, we have assistant quartermaster generals, an assistant paymaster general, an assistant surgeon general, an assistant judge advocate general, an assistant provost marshal general.

If the objection of the "awkward titles" is good to those titles in the Adjutant General's staff, I ask the gentleman from Ohio why he does not propose to abolish all those titles in the other bureaus of the War Department. Why does he retain an officer with the title of assistant commissary general, or with the title of assistant paymaster general, or assistant surgeon general, or assistant judge advocate general, or assistant provost marshal general? Why is the verbal reform he is so anxious to inaugurate in this bill not applied to all of the bureaus of the War Department? Why does he restrict it to the Adjutant General's department, or the Quartermaster General's department?

If this is an inconvenient title, sir, it has endured for a long time without the discovery of the inconvenience, for these titles have been employed in the War Department since 1838, when these offices were created. They are titles which have been found to be of great convenience in the dispatch of business, not only in the various bureaus of the War Department but in all branches of the civil service also. There is no Department of the civil government, I believe, which has not those assistants also. We have an Assistant Secretary of the Treasury, an Assistant Secretary of the Navy, an Assistant Secretary of State, an Assistant Attorney General, &c.

Now, why select two bureaus of the War Department as proper subjects for this reform in nomenclature, and leave all the others untouched in this respect?

Sir, I see no inconvenience arising from

these titles. On the contrary I see great confusion and injustice arising from what is called the proposed verbal reform. I am aware that the gentleman had for this the authority of a suggestion made by the Quartermaster General in a letter dated December 18, 1865, which he addressed to the Lieutenant General, and which is now before me. I have good reason to believe that the Lieutenant General does not approve of these proposed alterations.

The Quartermaster General in that letter made this suggestion, of giving up, as he expressed it, the awkward titles of assistant and deputy quartermaster general, "which are relics," as he says, "of the days when the corps was a civil, and not a military body, attached to rather than forming a constituent part of the Army."

Now, sir, I may be mistaken, but I have a strong impression that in making that assertion the Quartermaster General fell into a very grave error. I believe it is an undoubted fact that the Quartermaster General's department has always been an integral part of the Army of the United States. There never was a day—and if I am wrong, I ask the chairman of the Military Committee to correct me—when it was a civil department of the public service.

The first Quartermaster General of the United States was General Mifflin of my own State, during the revolutionary war; and he was a brigadier general in the service. So also General Pickens and General Greene, both of whom subsequently filled this office, were not only men of military rank, but men of the highest military character and ability, and they both had the rank of brigadier general.

The quartermaster's department has always been treated in the public laws and recognized by Congress as an integral part of the Army, and never as a department of the civil service attached to the Army. Therefore the reason which was suggested by the Quartermaster General for this change, it seems to me, was totally unfounded in fact.

Now, sir, this change was recommended by the Quartermaster General in regard to his own bureau. He did not of course undertake to recommend its application to bureaus with which he had no official connection. He recommended it for his own department as an alteration to be made there, and in the draft of a bill, or a project for a bill which is annexed to his letter, he put in a proviso that no officer of the department should be discharged from the service in the execution of the law. It was very proper to do that, but it was, I am obliged to say, a totally inadequate remedy or compensation for the unavoidable mischief and injustice resulting from the abolition of these offices or titles; because under that proviso, as it was recommended by the Quartermaster General, these officers, although they might have obtained new commissions, would all have lost many years of rank in the service. This would necessarily result from the necessity of their being recommissioned.

The rank which they had earned by long years of service would have been taken away from them. This, of course, was not intended by the Quartermaster General in the suggestion which he made. I have said that the Quartermaster General's department has always been recognized and treated as a constituent part of the Army. Let me advert briefly to the legislative history of this department. The department underwent various alterations after the Revolution, until the war with England, in 1812, when it was increased and reorganized by placing General Swartwout at the head of it as chief of the department, with the rank of brigadier general, four quartermaster generals with the rank of colonel, (increased in 1814 to seven,) twelve deputy quartermaster generals, and thirty assistant deputy quartermaster generals. I refer to the Army Register, dated January 1, 1815.

At the reduction of the Army in May, 1815, the quartermaster's department was greatly reduced; yet General Swartwout was retained with the rank of brigadier general; this rank

he retained until May, 1816, when the department was reorganized by having two Quartermaster Generals with the rank of colonel at the head of it. This organization continued until the 8th of May, 1818, when it was again reorganized with a brigadier general at its head, and it was established as a bureau at Washington. It has continued with a brigadier general at its head ever since. Occasionally the number of its officers was increased, until July, 1838, when it was fully reorganized, restoring the grades which had formerly existed, with a slight alteration; the colonels being styled assistant quartermaster generals, (not quartermaster generals, as in previous laws,) and the deputy quartermaster generals with the rank of lieutenant colonel, (a rank still,) which had existed by act of March 8, 1799. It has continued as established in 1838, through two wars and many years of peace, without any inconvenience and without the titles being considered "awkward."

During all this time the officers of the quartermaster's department have been borne on the Army Register as a constituent part of the Army, as officers of the general staff.

I have made these observations in order to demonstrate that the department has always been regarded and treated as a military department, and not as a civil department attached to the Army.

The remarks which I have made in reference to the Quartermaster General's department have been prompted by the effort which has been made to uphold the proposed changes in the Adjutant General's department, by a reference to the suggestion which was made by the Quartermaster General for alteration in the titles of officers in that department. I hope the changes proposed in the thirteenth section relative to the Adjutant General's department will not be made, but that the House will adopt the substitute which I have offered.

Mr. DAVIS. I beg to make a remark in connection with the amendment offered by the chairman of the Committee on Military Affairs. I think he is entirely in error in striking out the term "assistant" in connection with "adjutant" in this department, and I wish to assign one reason which has not to my knowledge been adverted to on this floor. The assistant adjutant generals are directly connected with the military department at Washington. For instance, General Seth Williams was assistant adjutant general in the army of the Potomac, representing the Adjutant General's department at Washington, under Burnside and Meade and every other general who had command in that department. His relations with the generals in command were not those of a staff officer; his relations were with the Department here, and although he issued the orders of the generals in command, those orders belonged to the Department at Washington. He had custody of the records, and even an order issued by the general in command of the department could not control these records. They belong here, and the duty of the assistant adjutant general is to see that they are presented here as part of the records to be kept at Washington.

Now, I wish to say in connection with this question, that from every military department during the war we have accumulated, through the assistant adjutant generals, all the records pertaining to this war, and that there are in this city a number of buildings filled and stored with these records which are of invaluable service both to the troops and officers of the Army and to the history of the country, by reason of the fact that these assistant adjutant generals are under the direct control of the Department at Washington.

Mr. Speaker, while I am on the floor I may perhaps be permitted to allude to another matter. The honorable chairman of the Committee on Military Affairs has, I doubt not without intending any unkindness, not only reflected upon the general efficiency of these departments in Washington, but he has declared here that to a great extent positions in them are

retained by certain persons as a matter of favoritism as "soft places."

Mr. SCHENCK. I will ask my friend to point to one single phrase or sentence of that kind in anything I may have said. I have said nothing, whatever I may think of anybody in any department, making a reflection upon any department.

Mr. DAVIS. I did not understand the gentleman to refer to special persons.

Mr. SCHENCK. Nor to any department.

Mr. DAVIS. I beg pardon if I have misunderstood the gentleman. If I have not misunderstood him, I think he will make the admission. I did understand the honorable gentleman to say here upon this floor, yesterday, that these men in the departments were assigned to "soft" and "easy" places, and that they had shirked the responsibilities of the war.

Mr. SCHENCK. I never used any such language; but now, as the gentleman presses it on me, I will say that as to the greater number of those employed here, while many of them, I believe, would have preferred to have been on active service in the field, but were compelled to stay here by the importance of their services, I do believe that others were here because they preferred to remain here. But, sir, I said nothing of that kind before. I say now that I believe there are officers in some of these departments who preferred to have these places to being in the field. I hope I am now understood. But I made no general charge of that kind, nor do I now.

Mr. DAVIS. I do not intend to go behind the walls of the department for the purpose of passing judgment upon every individual who is within them.

Mr. SCHENCK. Nor do I.

Mr. DAVIS. I do say, however, that the officers connected with the departments at Washington have performed services as valuable to the Government as those who have been in the field.

Mr. SCHENCK. And I have said nothing less of them.

Mr. DAVIS. But the gentleman says that there are individuals in the departments who have been willing to shirk the dangers of the field.

Mr. SCHENCK. I did not use that term at all.

Mr. DAVIS. I know, sir, that there are officers who went into the Veteran Reserve corps when they might have gone to the front, men whose wounds had been healed.

I know officers in the Army who look with distrust upon many persons who entered the Veteran Reserve corps. I know one gallant officer from my own district who, with a wound of an inch and a half in diameter through his body, with a seton in the wound and entirely through his body, went with Sherman's army day and night from Tennessee to Atlanta, and from Atlanta to the coast, fighting on the mountains above the clouds, and never went to the hospital on account of his wound except when he was in camp. But there are many men in the Veteran Reserve corps who entered it for the easy places in it.

Now, if there are some individuals in these bureaus who have been willing themselves to avoid danger, I can only say that it is in accordance with the weakness of human nature. But the men of this department have worked day and night, for I have seen them at their desks day after day and night after night, until physical nature was almost exhausted. And in some instances I have implored them to go away upon the furlough which the Secretary of War was willing to grant them. But no, they remained faithfully at their duties, although they were pressing entreated to be relieved from duty here and allowed to go to the field.

In looking over the lists of officers in the department, I find that of the assistant quartermaster generals now on service here, a large proportion of them have seen service in the field, and some of them have been wounded and disabled in the service. And you will not find in

any department more faithful, efficient, and hard-working officers than the Adjutant General himself, or than his assistants, Hardee, Breck, Vincent, and others. I know personally many of the men in this department; and I do not know one of them who has not rendered efficient and faithful service in the field.

I trust, therefore, that we shall not, by the legislation we adopt here, do any injustice to these men. But I hope we shall be allowed to have the Army bill which was commended to us by the General-in-Chief, and by all our prominent generals.

Mr. SCHENCK. As the gentleman from New York [Mr. DAVIS] has said nothing about my amendment, I ask that it may be again read in order that the House may know upon what we are acting.

The amendment was read.

The question was taken upon the amendment, and it was agreed to.

Mr. SCHENCK. In order to remove all possible objection, I will move to further amend the section by striking out the words "after the first appointments made under the provisions of this section;" so that it shall read, "but as vacancies shall occur in the grade of major," &c.

The amendment was agreed to.

The question recurred upon the amendment of Mr. THAYER, by way of a substitute for the entire section as amended.

Mr. SCHENCK. Before the vote is taken upon striking out the section as amended, I must beg the indulgence of the House, as I seem to be left alone to attend to this matter on behalf of the Military Committee, to say a few words by way of comment upon what has been said by gentlemen who have addressed this House, so far as their remarks are pertinent to this section. By the amendments which I have offered, and which have been adopted by the House, this whole matter is now reduced to a simple question of taste and propriety in regard to the titles of these officers, except that the amendment now pending proposes to increase the number of officers as well as to fix their titles.

Mr. BLAINE. I beg the gentleman's pardon; I do not propose to increase the number of officers, but merely to increase the rank of some three of the majors.

Mr. SCHENCK. He proposes to provide for certain officers in the department who have acquitted themselves well. Now, upon that point I have simply this remark to make: in legislating upon this subject I have tried to legislate in regard to things and not in regard to persons. One officer who has been referred to here, and who has been named, and therefore there will be no impropriety in my repeating his name—Colonel Vincent—now brigadier general by brevet, of it may be major general, for these officers go up so rapidly that I lose sight of their titles—he is an officer of whom nothing can be said in praise by the gentleman from Maine [Mr. BLAINE] to which I will not accede. Yet, no matter who or what one of these individuals may be, what I claim is that if I do not think it necessary to have two or three more colonels, and two or three or four more lieutenant colonels, I will not consent to make them a permanent part of the Army organization with a view to any particular purpose.

I hold that there is a propriety in deciding in the first place upon what your Army system requires, doing it without reference to persons, leaving persons to get the advantage of it or not afterward. Now, if the gentleman thinks, as I presume he does, that there ought to be a greater number of colonels and lieutenant colonels generally, without reference to the particular persons who may first fill these places, that is another question.

Mr. BLAINE. Will the gentleman from Ohio permit me to interrupt him for a moment?

Mr. SCHENCK. Yes, sir.

Mr. BLAINE. I desire to say, in the first place, that the gentleman has, by a figure of speech—literally a figure of speech—increased the effect of my amendment. It provides for

only two more colonels and one more lieutenant colonel, making three officers in all. If the gentleman had given attention to what I attempted to say yesterday, he would remember that I distinctly took the ground that the Adjutant General's corps had not, according to the bill reported by the gentleman, as many officers of rank in proportion to other staff corps as it ought to have. My concern is not with regard to the effect of the bill on individuals; what I desire is the equalization of rank between the different staff corps, not discriminating against the corps which ought to be above the others. I say that, instead of discriminating against the Adjutant General's corps, our legislation should be in favor of that corps.

Mr. SCHENCK. I understand the gentleman, Mr. Speaker; and I repeat, there has been, in all these departments, a gradual, but though gradual, pretty rapid, creeping up in everything that relates to rank. Five years ago, when this war began, we had an Adjutant General, who, however, ranked only as a colonel. We now make him a brigadier general. At that time, one assistant adjutant general, ranking as a lieutenant colonel, was deemed sufficient. Now, there are two assistant adjutant generals in that bureau, both ranking as colonels. Then the Adjutant General's Bureau was satisfied with four majors and nine captains. We now propose to give its bureau thirteen majors and no captains. Everybody in that department is to be raised above the rank of captain. Thus it is continually with these bureaus. Step by step, from point to point, throughout our whole legislation for many years past, particularly since the war commenced, there has been a gradual advancement in number, titles, rank, and compensation.

Now, we propose to have for this increased regular Army as many of these officers as may be necessary. We assent to an advancement in numbers and rank. But the gentleman says this is not sufficient. While one colonel at the head of the Adjutant General's Bureau was formerly sufficient, we must now have not only one brigadier general, but four colonels. While formerly one lieutenant colonel served as an assistant, we must now have five lieutenant colonels as assistants. Besides, all the captains must be raised to majors, and the number of majors must be increased to thirteen.

But, sir, enough upon that point. I believe that this section makes ample provision for that department with regard both to the number and the rank of the officers; and however much I might be willing to gratify particular individuals or officers, I am not willing to ingraft upon the Army what I deem an unnecessary addition with respect to rank or numbers. Therefore I object to the amendment of the gentleman from Maine.

Now, as to this question of title, the gentleman from Philadelphia [Mr. THAYER] was compelled in looking at the bill to shut one eye in order to sustain himself in his argument. "Why," asked he, "do you not have assistant adjutant generals? Why wipe them out entirely?" If the gentleman will read the bill, he will find that we provide for an Adjutant General, and for two assistant adjutant generals, with the rank of colonel, while all those who rank as lieutenant colonel or as major are to be called simply adjutants. So the gentleman is entirely mistaken.

Mr. THAYER. Will the gentleman allow me to make a single remark by way of correction?

Mr. SCHENCK. Certainly.

Mr. THAYER. The remark which I made was in reference to the abolition of the title of assistant quartermaster general.

Mr. SCHENCK. We are not discussing that now.

Mr. THAYER. I asked why the committee proposed to abolish the title of assistant quartermaster general, while they leave the assistants in all the other bureaus.

Mr. SCHENCK. I am not mistaken when

I say the gentleman has singled out these two departments—

Mr. THAYER. If there was any inadvertence about it, I wish to say now I meant that the gentleman has abolished these titles in the Adjutant General's department and the quartermaster's department, while he has left the titles in all of the other bureaus.

Mr. SCHENCK. We thought there should be one or more assistants in each department. The Quartermaster General was satisfied as it was arranged in his department, and so we have left it. We have provided for an Adjutant General, and two assistants to take his place; the rest we call adjutants. My friend from Maine agrees with the gentleman from Pennsylvania that that is unprecedented and all wrong, because if you have adjutants in the field it will create confusion if you call them all adjutants. If you take them now in the field they are all called assistant adjutant generals, and there would be confusion, according to the gentleman's reasoning, because of the title, for in each case he would be an assistant adjutant general.

He says he must be called assistant adjutant general because he reports to the general head at Washington. Apply that to the other department. You have assistant quartermaster general and assistant quartermasters. There is a general head at Washington to report to. The same reasoning would make assistant quartermasters and assistant quartermaster generals in every case.

The gentleman from Pennsylvania says it is like the civil Departments, where you have a Secretary and an Assistant Secretary. I admit that, but you do not call all the clerks Assistant Secretaries. You have a Secretary, one or two Assistant Secretaries, and the rest of the subordinates you call clerks. So his illustration is a bad one indeed.

You are not to interfere with titles. Congress has interfered with titles again and again. There was a time, and if necessary I can refer to the statute, when we had a deputy adjutant general. That portion of the old cumbersome system was stricken off. Gentlemen will find it in the act of 1798. There was a time when you had not only a deputy quartermaster general but an assistant deputy quartermaster general. And when one was called to act in his place because of sickness or disability he had to sign himself A. A. D. Q. M. G., Acting Assistant Deputy Quartermaster General. Without those letters he could not indicate his title.

I believe differently from the gentleman from Pennsylvania, [Mr. THAYER.] I believe that the Quartermaster General showed his sense when he said it was time to get rid of these long, improper titles, and to call quartermasters quartermasters, and not assistant quartermasters. I believe the same thing in regard to the others, that instead of assistant adjutant general it is better to have an Adjutant General's department, and to have at the head of it an Adjutant General, with two or three assistant adjutant generals.

I think the gentleman is mistaken in regard to the title of deputy, as he will find if he goes back far enough. Deputy is not a military word. It has no military identity. It is making a civic title of deputy into a military title. We have got rid of all that, or propose to get rid of it.

Mr. THAYER. I could not go back further than General Mifflin, who first filled this position.

Mr. SCHENCK. What time?

Mr. THAYER. I will tell the gentleman by referring to the paper.

Mr. SCHENCK. It is suggested that the gentleman may go back to 1492. [Laughter.]

Mr. THAYER. No, sir.

Mr. SCHENCK. I will give the gentleman an opportunity to settle the question after he has consulted his authorities.

Mr. THAYER. It was May, 1776. He was Quartermaster General of the Army with the rank of general.

Mr. SCHENCK. By the amendments I have

made this morning—and before the question is taken I will ask to have it read as amended—we have removed objections thought to be so serious to the bill, and if the House does not want to give higher rank to these officers it will let the section stand as it is.

Mr. STEVENS. I want to know if I understand what this dispute is about. If I understand it, it is reduced to this, whether you shall say John Jack, or simply Jack—whether you shall say "assistant adjutant" or simply "adjutant." If there is any confusion in a name, one is just about the same as the other in that respect.

Now as regards surplus titles, the German barons, having some nine or ten titles, would not like to part with any of them. I do not see why "adjutant general" is not as good as "deputy adjutant," or "assistant adjutant," especially when, if the amendment of the chairman of the committee is adopted, it is to make no difference in their rank or pay.

But I wish to say that if I understand it, the amendment of my colleague [Mr. THAYER] makes an increase in the pay of three officers. Instead of having thirteen with the rank and emoluments of major, he proposes ten, and to put the others into a higher rank. Now I do not know precisely what that is for. I do not know why it is necessary to increase the pay of those three instead of having it as it is in the bill—thirteen adjutants with the pay and emoluments of major. I have not heard any good reason yet. Are there not enough colonels who are willing to be appointed adjutants now? Why, therefore, increase the pay to this amount?

Then I cannot see any good reason why you shall not diminish the expense of the Army when you can do it without legislating anybody out of office. When they die, the number is to be reduced to ten.

A single word more. The whole question between my colleague [Mr. THAYER] and the committee amounts to this: a curtailment of the word "assistant," and making it read simply "adjutant," with an increase of the pay of three, and a prevention of the diminution of the expense when they go out of office by death or resignation (they are not legislated out) by three. That is the whole question. It is hardly worth quarreling about, but if you adopt the amendment of my colleague you largely increase the expense and prevent a reduction of the number of these officers.

Mr. THAYER. I will not detain the House but a moment. I wish to make an explanation in order that the House may act with full knowledge of the present position of the question. The substitute which I offered makes no increase and no alteration in the present number or rank of the officers in that department.

Mr. STEVENS. It was a misapprehension on my part.

Mr. THAYER. No, sir, the gentleman is correct, but at the suggestion of the gentleman from Maine, [Mr. BLAINE,] I accepted his modification, which gave increased rank to two who are already assistant adjutant generals. It was not my understanding at the time the proposition was made by that gentleman that it would necessarily increase the pay. If I had known that I would not have accepted the modification. If, therefore, the House wishes to retain the present organization precisely as it is, with no alterations, all they have to do is to strike out the section and disagree to the amendment as modified by the gentleman from Maine, [Mr. BLAINE,] and I will offer the section of the Senate bill, which will keep the department precisely as it is, with no increase at all.

Mr. SCHENCK demanded the previous question.

The previous question was seconded and the main question ordered, being first on the substitute proposed by Mr. THAYER.

Mr. UPSON. I ask for a division of the question.

The SPEAKER. A motion to strike out and insert is not divisible.

The question was taken; and there were—ayes 35, noes 30; no quorum voting.

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 89, not voting 75; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Baxter, Beaman, Benjamin, Bergen, Bingham, Blaine, Blow, Boutwell, Broomall, Chandler, Conkling, Davis, Dawes, Dixon, Dodge, Driggs, Eldridge, Ferry, Finck, Garfield, Goodyear, Grider, Aaron Harding, Harris, Hogan, Holmes, Edwin N. Hubbard, Kelley, Latham, M. Humphrey, Ingersoll, Jenckes, Kelley, Latham, Loan, Longyear, Marvin, McNair, Moorhead, Morris, Moulton, Myers, Newell, Niblack, Nicholson, O'Neill, Samuel J. Randall, John H. Rice, Rollins, Ross, Scofield, Shanklin, Taber, Taylor, Thayer, John L. Thomas, Thornton, Townbridge, Upson, Burt Van Horn, Ward, Warner, Elhu B. Washburne, Whaley, James F. Wilson, Windom, and Woodbridge—69.

NAYS—Messrs. Baker, Banks, Brownell, Buckland, Bundy, Reader W. Clarke, Cobb, Coffroth, Deming, Eggleston, Farnsworth, Farquhar, Hale, Abner C. Harding, Hayes, Henderson, Higby, Asahel W. Hubbard, James R. Hubbard, Julian, Kelso, Kuykendall, Marston, McClure, Mercer, Miller, Orth, Paine, Price, Ritter, Schenck, Shellabarger, Sitgreaves, Spaulding, Stevens, Henry D. Washburn, William B. Washburn, Welker, and Wentworth—39.

NOT VOTING—Messrs. Alley, Ancona, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Bidwell, Boyer, Brandegee, Sidney Clarke, Cook, Cullom, Culver, Darling, Dawson, Defrees, Delano, Denison, Donnelly, Dumont, Eckley, Eliot, Glossbrenner, Grinnell, Griswold, Hart, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James Humphrey, Johnson, Jones, Kasson, Kerr, Ketcham, Laflin, George V. Lawrence, William Lawrence, Le Blond, Lynch, Marshall, McCullough, McIndoe, McKee, Morrill, Neell, Patterson, Perham, Phelps, Pike, Plants, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rogers, Rousseau, Sawyer, Sloan, Smith, Starr, Stillwell, Strouse, Francis Thomas, Trimble, Van Aornam, Robert T. Van Horn, Williams, Stephen F. Wilson, Winfield, and Wright—75.

So Mr. THAYER's substitute was agreed to.

Mr. THAYER moved to reconsider the vote by which the substitute was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. SCHENCK. I propose to add a proviso to the section.

The SPEAKER. The House is acting under the previous question, the effect of which is that the House passes from the consideration of this section to the next.

Mr. STEVENS. Is there not another vote to be taken in reference to this question?

The SPEAKER. Not unless a reconsideration be moved of the vote by which the previous question was seconded. The amendment of the gentleman from Ohio [Mr. SCHENCK] can be offered only by unanimous consent.

Mr. BLAINE. I object.

Mr. STEVENS. Cannot we have an opportunity of voting down the whole section?

The SPEAKER. If it were not for the previous question, a motion might be made to add to the section. As it is, the House has passed from its consideration.

The fourteenth section of the bill was then read, as follows:

Sec. 14. *And be it further enacted*, That there shall be four inspectors general of the Army, with the rank, pay, and emoluments of colonels of cavalry; and four assistant inspectors general, with the rank, pay, and emoluments of lieutenant colonels of cavalry, one of whom shall be specially assigned to duty as inspector of cavalry; and two assistant inspectors general, with the rank, pay, and emoluments of majors of cavalry.

Mr. SCHENCK. I desire to explain that section. I will preface what I have to say, however, by the remark that I presume that if in any way it differs from what is desired by those heads of bureaus at the other end of the avenue, they will be listened to rather than the Committee on Military Affairs. I say this because I wish to have the House and the country know just what the House has been doing.

The committee proposed in one of these bureaus to retain every officer, and give them more rank than they ever had before this war. The House was dissatisfied with that, and they have insisted upon increasing the rank of three of the majors out of the thirteen of the Adjutant General's department, so as to make two of them colonels and one lieutenant colonel.

And thus they declare that the committee is wrong, and that these gentlemen who used their

influence in the other end of the Capitol are right; and that the rank which they had when we had a million men in the field was not high enough when we came to provide for a smaller army, but that they should now have attained that rank. There is no reason excepting that; that is just what they had done.

I thought that possibly, now the war is over, we might be able to reduce matters a little for a smaller army, below what we had during the war with myriads of men in the field. But I was so far mistaken in that expectation as to find that we can not only not do so much as that, but that even higher rank is to be conferred upon those officers with the smaller army. I am determined that this shall be understood. I am determined that it shall be known by the House and by the country how far any attempt at reform is sustained here by this House.

Now, I knew when I began that we should have difficulty in touching these bureaus. I knew perfectly well, as I said yesterday, that all the tendency of the legislation time out of mind had been to build up these bureaus here at Washington, and that we should find great difficulty in getting back to a sounder and more wholesome and a living condition of things. I knew that the personal, official, and social influences which surround this House would make it very difficult for any committee of this House to carry any measure of reform, to remove any abuse, to cut off any incumbrance, to change anything which existed in the old condition of things, or to prevent a still further advance in the direction of higher rank, more officers, and greater pay. But the realization has gone far beyond my anticipations.

Still I mean to struggle on, and to sustain what the committee have decided upon whether I am sustained by the House or not, or even by those of the committee who voted with me in the committee. I intend to struggle on and do what I can in the way of reform. And I shall do so upon the principle I announced a few moments ago, when speaking upon one of these amendments, that he is a better friend of the Army as well as the country who is willing to make wholesome corrections, to remove abuses, and cut off incumbrances than he who prefers to accept all that has grown up, independent of any disposition he may have to pile more on.

I think these remarks necessary as a sort of preface to the course which I shall pursue as we advance from point to point in considering these different bureaus.

Mr. ELDRIDGE. I should like to ask the gentleman from Ohio [Mr. SCHENCK] a question in this connection.

Mr. SCHENCK. Very well.

Mr. ELDRIDGE. If the gentleman's object is to reduce the officer force of the Army, why has he proposed companies to consist of fifty instead of a hundred privates, thus giving double the proportion of officers we have heretofore had in the Army?

Mr. SCHENCK. That has nothing to do with the question under consideration. But I will say that in every organization of the Army, looking to an expansion in time of necessity, it is usual, and it has always been our system of legislation to have a system of officers by which in an emergency the number of privates can be increased to the necessity of the occasion.

But we are considering now the organization of the staff departments, the bureaus which have their several heads at Washington, and which have their staff officers permeating the country, and extending to the different portions of the Army.

The section under consideration was framed with a view to accommodate what was ascertained to be wanted by the military authorities, so far as the committee could understand, and as they believed. One amendment was made by the committee. Originally the committee reported only three inspectors general; it was afterward suggested and urged that there ought to be kept up a Cavalry Bureau; and a solution of that difficulty was made in

the way here reported. Instead of having the Cavalry Bureau as now a distinct organization in the Army, no more needed, perhaps, than an artillery bureau or an infantry bureau, it is proposed that one of these inspectors shall be assigned to duty as an inspector of cavalry.

In this way you may be able to detail all the efficient officers of the present Cavalry Bureau, without the need of maintaining a distinct bureau.

Mr. DAVIS. I see that the fourteenth section provides for—

Four assistant inspectors general, with the rank, pay, and emoluments of lieutenant colonels of cavalry, one of whom shall be specially assigned to duty as inspector of cavalry.

I desire to understand the reason for the insertion of this last clause.

Mr. SCHENCK. That provision was adopted on consultation with those who ought to know more than the gentleman from New York [Mr. DAVIS] or myself in reference to this matter. This bill proposes to increase greatly the cavalry branch of our Army. We are to have double as much cavalry as we have ever had before. During the war, a Cavalry Bureau was established, and it has been continued up to the present time. By common consent all round, it has been considered that, instead of continuing the Cavalry Bureau, the object could be effected just as well by authorizing the assignment of one of the assistant inspectors general to that particular service.

Mr. DAVIS. Does not that conflict with another provision of this bill which says that transfers shall be made from any arm of the service to any other arm of the service?

Mr. SCHENCK. It does not in the slightest degree. We provide for the appointment of four inspectors, one of whom may be detailed, not appointed, as inspector of cavalry. One officer may be detailed at one time; another at another; but it is probable that when one had been assigned to that particular duty he would be kept upon that assignment, because of the experience which he would have acquired.

Mr. DAVIS. I desire to inquire further, whether, without any such provision in this bill, the Secretary of War would not have entire authority at all times to assign any one of these inspectors to that service.

Mr. SCHENCK. I think it probable he would. Yet it has been deemed proper by some of the most eminent officers of the Army, whom I could name if it were necessary, that there should be in this bill a provision of this sort.

Mr. THAYER. Mr. Speaker, I rise simply to repel the imputation which I consider as being implied in the language of the chairman of the Committee on Military Affairs. I leave the House and the country to judge of the good taste exhibited by that gentleman in the scolding which he has given this House for daring to differ with him upon a measure reported from his committee and under consideration by the House.

He has spoken of influences of bureaus and of personal influences. Sir, I discharge my duty here under a conscientious sense of the obligation which I owe to the country and to my constituents, and with the best light which my intellect enables me to cast upon that conscientious discharge of duty. I am not the agent of any bureau or of any Department. I am quite as independent, politically and personally, of every bureau and every Department of this Government, in my votes and in my action in this House, as is the chairman of the Military Committee; and if he shall discharge his duty here, in bringing in his bills from this committee, with the same absence of personal motive and the same disregard of personal aims with which I discharge mine in the consideration of them, he will satisfy, I take leave to say, the utmost expectations of his constituents and of the country.

Mr. SCHENCK. When I said that there are social and personal and official influences around us here whenever we come to legislate upon these subjects, I meant just what I said.

Mr. THAYER. The remark gains no weight by repetition.

Mr. SCHENCK. I am subjected to those influences; so are others. The difference, if there be any, is this: when I dine with, or am visited by, or visit in turn, one of these gentlemen, whom I esteem my friends, I am very much inclined to do what he wants done, to keep him where he is and to help him along, and I would be glad if I could do it. But I have taught myself to believe that I must struggle against this disposition; and I have succeeded in doing violence to my own feelings, and have not yielded, altogether at any rate, to the personal, social, and moral influences in this respect which surround me among the many very agreeable acquaintances that I have among these officers in the bureaus.

I do not know whether anybody is weaker than I am or not. If they are, then perhaps there may be a difference between us. If not, then there is none.

I have not charged anything else on the gentleman from Pennsylvania particularly in any way, but I have said and announced to the country I did hope this Congress would, now the war is over and when we are going to have a comparatively small military establishment, so much less than we have had during the war, attempt to bring down, or at least not increase, the relative or absolute rank of the various officers of the Army. In that I am disappointed. It may be I ought not to have been disappointed, but I am. That is all I can make of it.

I recognize the right of gentlemen to represent their own constituency and vote as they please. I have been accustomed to vote as I pleased, but always within the bounds of propriety. And I mean on these subjects to say what I please to the country.

Mr. RANDALL, of Pennsylvania. I do not think it is a killing affair even if the gentleman has been disappointed by the majority of the House having acted on their own good sense, his opinion to the contrary notwithstanding.

Mr. DAVIS. Mr. Speaker, I do not like to rest under the imputation cast upon me by my friend from Ohio. I wish to say no drop of blood kindred to my own circulates in the veins of any officer of the Army to be affected in any way by this bill.

I wish to say I am not under any social influence. Since I have lived in Washington I have never, like my honorable friend from Ohio, had the privilege of being entertained by distinguished characters at dinner. I am under no influence of that kind, but I respect the opinion of men high in the military service. When I know there was pending a bill which had been submitted by Lieutenant General Grant, General Meade, General Burnside, and other distinguished generals; and when I thought that bill had been concocted under their supervision. I say it is not only entitled to my consideration, but to the consideration of every member of the House. There is no one who supposes these distinguished generals of the Army know nothing of military affairs, or at least do not know as much as the chairman of the Committee on Military Affairs of this House. I only honor the men whom the country honor, and in whom I am sure the country has confidence.

ADJOURNMENT OVER.

Mr. SPALDING. The gentleman from New York yields to me to make the motion that when the House adjourns to-day it adjourn to meet on Monday next.

Mr. SMITH. I demand the yeas and nays on that motion.

Mr. SPALDING. Then I withdraw the motion.

SATURDAY SESSION.

Mr. STEVENS. I move, by unanimous consent, that to-morrow be devoted to debate on the President's message.

There was no objection, and it was so ordered.

Mr. STEVENS. I now ask the unanimous

consent of the House for the adoption of the following resolution:

Resolved, That on Saturday bills on leave and resolutions for reference only may be received by unanimous consent on condition they shall not be brought back by a motion to reconsider.

Mr. SPALDING. I object.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. DAVIS. I desire, Mr. Speaker, to say only a word in conclusion. While I represent a constituency on this floor I intend to give my votes independent of any considerations like those to which the honorable chairman of the committee has alluded. I shall be under the influence and control of no man or set of men. I shall carry out the convictions of my own judgment, regardless of what may be said on one side or the other.

But, sir, in the discussion of this bill I think we should be guided by the suggestions of provisions which have been made by men of high military position. I go further. We ought rather to take their opinion than the opinion of so distinguished a military gentleman as the chairman of the Committee on Military Affairs.

Mr. SCHENCK. There was no such suggestion made as the gentleman suggests. I profess to be no more virtuous than my neighbors, but if it gives satisfaction to my friend I most solemnly assure him I had no thought of anything he had said or done.

The Clerk read, as follows:

SEC. 15. *And be it further enacted*, That the Bureau of Military Justice shall hereafter consist of one judge advocate general, with the rank, pay, and emoluments of a brigadier general; and one assistant judge advocate general, with the rank, pay, and emoluments of a colonel of cavalry; and the said judge advocate general shall receive, revise, and have recorded the proceedings of all courts-martial, courts of inquiry, and military commissions, and shall perform such other duties as have heretofore been performed by the Judge Advocate General of the Army. And of the judge advocates now in office there shall be retained a number not exceeding ten, to be selected by the Secretary of War, who shall perform their duties under the direction of the Judge Advocate General until otherwise provided by law.

Mr. SCHENCK. I move to strike out the word "shall" and insert "may," after the word "there;" so that it will read:

And of the judge advocates now in office there may be retained a number not exceeding ten, &c.

The amendment was agreed to.

Mr. SCHENCK. I also move to add at the end of the section the words "or until the Secretary of War decides that their service may be dispensed with;" so that the clause will read:

And of the judge advocates now in office there may be retained a number not exceeding ten, to be selected by the Secretary of War, who shall perform their duties under the direction of the Judge Advocate General until otherwise provided by law, or until the Secretary of War decides that their service may be dispensed with.

The amendment was agreed to.

Mr. GARFIELD. I move to insert after the words "military commissions" the words "authorized by law;" so that it shall read, "military commissions authorized by law."

Mr. BINGHAM. I hope that will not be adopted, unless the House intends to cast censure upon the action of the Administration of the late lamented President Lincoln. If the gentleman means by the term "authorized by law," authorized by special statute of the United States, it is very well known that all the commissions that were held under the late Administration were never authorized by special enactment. I appeal to my colleague [Mr. GARFIELD] to consider that if the authority arises by the general usage and law of nations in time of war, the words are wholly unnecessary. Every one knows that there has never been a military commission convened in the United States for the trial of anybody that has not been expressly authorized by statute, save in the time of war. That being the case, why introduce such a provision here? We are not secure either against rebellion or invasion; and does the gentleman suppose that by inserting a word here to place a limitation upon the executive power of the Government in the event of foreign invasion, so that offenses com-

mitted in time of public war, in violation of the usage and laws of war, shall not be punished in the absence of express authority of congressional enactment? If he does not, I hope he will withdraw his amendment. It is time enough to consider such a proposition when the Government in time of peace shall attempt to try anybody by a military commission without authority of statute. It has never been done yet, and it is time enough to provide against any such abuse when it is attempted to be done. Why undertake to put this in a statute in view of a contingency that may arise at any hour entirely beyond our control, and when Congress is not in session?

Mr. GARFIELD. I do not wish to take up the time except to say a word or two. The only point in dispute between the gentleman [Mr. BINGHAM] and myself is in reference to "military commissions." The other two courts, "courts-martial" and "courts of inquiry," are not in question. They are definitely authorized by the laws of Congress, and have been since the organization of this Government. But the words "military commissions" are not used in the statutes of Congress, except in one, I believe, in reference to the punishment of guerrillas.

Mr. BINGHAM. Excuse me; the gentleman is entirely mistaken. The words are used in three or four statutes. I remember one adopted by the last Congress subjecting spies to punishment by death upon conviction before a military commission.

Mr. GARFIELD. It was the same law, and related to spies and guerrillas.

Mr. BINGHAM. Not that.

Mr. GARFIELD. I introduced the bill myself in the last Congress. The gentleman is mistaken. I know there are military commissioners sometimes appointed to look into contracts and claims. We have commissions appointed in regard to the administration of affairs in the Army; but I speak of tribunals for the trial of persons charged with offenses against the Government in time of war, but who are not themselves in the Army.

Mr. BINGHAM. There were proceedings authorized to try parties by military commission for fraudulent devices to the injury of the Government, and providing for the infliction of penalties.

Mr. GARFIELD. It makes no difference. I concede that the words have been used in the statute once.

Mr. BINGHAM. Yes, half a dozen times.

Mr. GARFIELD. Never mind; the question does not turn on the number of times the expression has been used. What I said was agreeing with gentlemen in this: that military commissions apply to the Army in time of war and in reference to crimes over which the Army has control.

Now, we are building up a military establishment for a time of peace; and I do not believe it best to introduce that expression in a bill to establish an army on a peace basis, and let it be understood that military commissions are by a sort of inference to be used in this Government without express statute. And if gentlemen desire the expression retained in the law I want the qualifying words to go with it, or else I desire that the words "military commissions" shall be stricken out. I am satisfied, however, with either.

Mr. UPSON. I move to amend the amendment by striking out the word "law" and inserting in lieu thereof "the laws of war."

Mr. HALP. I suggest to the gentleman that he add the words "in time of peace."

Mr. BINGHAM. Oh, no; not at all.

Mr. UPSON. That is a very good suggestion coming from that source.

Mr. GARFIELD. I do not accept that amendment.

Mr. UPSON. Well, I offer my amendment.

Mr. BINGHAM. If this section had any words of limitation in it to the effect suggested by my honorable colleague, that it should not be operative or binding upon the executive department of this Government in time of war

or public invasion or rebellion, I would not take any exception at all to his motion, but the gentleman greatly mistakes the scope and effect of this legislation if he supposes that it is not to operate in the presence of a public enemy as well as in times of peace, and I would count myself false to the duty which I owe to the people of this country if I could sit silently by while an attempt is made here by solemn act of legislation to place a fetter upon the arm of the Executive, who is charged by his oath of office to take care that the laws be faithfully executed, and to summon to the defense of the country its whole military power, either to suppress rebellion or to repel invasion.

I say to my colleague that according to all the authorities the suggestion made by the gentleman from Michigan [Mr. UPSON] is sustained, that it is this day the common written declared judgment of the civilized world, that without formal legislation in time of public war all violations of the law in aid of the public enemy may by the usages and customs of war be subjected to trial by the tribunals of military justice known as military commissions.

I trust the suggestion of the gentleman from Michigan [Mr. UPSON] will be adopted by the House.

Mr. UPSON. I demand the previous question on my amendment.

Mr. SCHENCK. Will the gentleman from Michigan allow me to say a word?

Mr. UPSON. I will withdraw the previous question for that purpose.

Mr. SCHENCK. It is with diffidence that I assume to be a peace-maker even between these friends of mine. I dare say I shall have somebody finding treason in what I say. I suppose that the gentlemen know that military commissions are tribunals known under the laws of war in time of war and in an enemy's country, and I suppose they will agree that the records of them had better be kept somewhere. Why not use, then, instead of the words "military commissions authorized by the laws of war," the words "military commissions authorized in time of war."

Mr. GARFIELD. I am willing to accept that modification of my amendment.

Mr. UPSON. I do not think that meets the case, and I cannot accept that amendment. I demand the previous question on the pending amendment.

The previous question was seconded and the main question ordered, the question being first upon the amendment to the amendment offered by Mr. UPSON.

The question was put; and there were—ayes 23, noes 46; no quorum voting.

Mr. UPSON demanded tellers.

Tellers were ordered; and Messrs. GARFIELD and UPSON were appointed.

The House divided; and the tellers reported—ayes 42, noes 51.

So the amendment to the amendment was disagreed to.

The question was taken upon the amendment of Mr. GARFIELD, as modified; and upon a division, there were—ayes 36, noes 57.

The SPEAKER stated the result of the vote, and announced that the amendment had been disagreed to.

Mr. GARFIELD. I call for tellers on the question of agreeing to the amendment.

Mr. FARNSWORTH. I rise to a point of order. The Chair distinctly announced that the amendment had been rejected before the gentleman from Ohio [Mr. GARFIELD] called for tellers.

The SPEAKER. The attention of the gentleman from Ohio was held by a member conversing with him at the time the Chair announced the result of the vote.

Mr. FARNSWORTH. That certainly was not the fault of the Chair.

The SPEAKER. The Chair is of opinion that the demand for tellers was made in time by the gentleman from Ohio.

Mr. SMITH. I rise to another point of order. There is so much confusion in the Hall that it

is almost impossible for members to hear what the Speaker says, what is read by the Clerk, or what is said by members on the floor.

The SPEAKER. The Chair generally speaks distinctly and loudly enough to be heard by all who give their attention to what he says.

Mr. SMITH. I am informed by gentlemen on my left that they do not understand the amendment, and I would ask that it be read again.

The SPEAKER. The House is now dividing.

Mr. SMITH. I suppose it can be reported again by unanimous consent.

The SPEAKER. If there is no objection, it will be read again.

No objection being made, the amendment was again read.

The question was upon the call of Mr. GARFIELD for tellers upon agreeing to his amendment.

The call for tellers was not agreed to.

The amendment was not agreed to, as above stated.

Mr. GARFIELD. I now move to amend the section by striking out the words "and military commissions."

Mr. FARNSWORTH. I would ask the gentleman what he proposes to do with the records of military commissions, of which there have been several held.

Mr. GARFIELD. I have no desire to detain the House upon this subject, but as the gentleman from Illinois [Mr. FARNSWORTH] has asked me a question, I desire to say that if gentlemen are willing, now that the war is over, to retain these military commissions, I think they should say so. Their functions have ceased, and I am not willing that these organizations without any authority of law shall be continued in time of peace. I do not discuss the propriety of these tribunals in the past, or the propriety of trying any traitor of the late war. We are now legislating for the future, which will, I trust, for the next half century at least, see us under the dominion of law. Therefore I move to strike out the words "and military commissions," and upon that I call the previous question.

The previous question was seconded and the main question was ordered.

Mr. FINCK. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 34, nays 76, not voting 78; as follows:

YEAS—Messrs. Anderson, Baker, Chanler, Donnelly, Eldridge, Finck, Garfield, Goodyear, Grider, Hale, Aaron Harding, Harris, Hogan, Edwin N. Hubbell, James R. Hubbell, James M. Humphrey, Marshall, Mercer, Niblack, Nicholson, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin, Smith, Spalding, Taber, Taylor, Francis Thomas, Thornton, Warner, Whaley, and Windom—34.

NAYS—Messrs. Allison, Ames, Banks, Baxter, Beaman, Benjamin, Bingham, Blaine, Boutwell, Brownell, Buckland, Bundy, Reader W. Clarke, Cobb, Conkling, Davis, Dawes, Delano, Deming, Dixon, Driggs, Farnsworth, Farquhar, Ferry, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Asahel W. Hubbard, Hulbard, Ingersoll, Jencks, Julian, Kelley, Kelso, Ketcham, Kykendall, George V. Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Miller, Moorhead, Morris, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Price, John H. Rice, Rollins, Schenck, Scofield, Shellabarger, Stevens, Thayer, Trowbridge, Upson, Burt Van Horn, Ward, Elijah B. Washburne, Welker, Wentworth, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—76.

NOT VOTING—Messrs. Alvey, Ancona, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Bergen, Bidwell, Blow, Boyer, Brandegee, Broomall, Sidney Clarke, Coffroth, Cook, Cullem, Culver, Darling, Dawson, Deftrees, Denison, Dodge, Dumont, Eckley, Eggleston, Eliot, Glossbrenner, Grinnell, Griswold, Hart, Hill, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James Humphrey, Johnson, Jones, Kasson, Kerr, Latham, William Lawrence, LeBlond, McCullough, McIndoe, Morrill, Moulton, Neill, Phelps, Pike, Plants, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rogers, Sawyer, Sitgreaves, Sloan, Starr, Stilwell, Strouse, John L. Thomas, Trimble, Van Aernam, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Winfield, and Wright—73.

So the amendment was not agreed to.

Mr. HALE. I move to amend by striking out in the twelfth line of the fifteenth section

the words "selected by the Secretary of War," and inserting in lieu thereof the words "appointed by the President, by and with the advice and consent of the Senate;" so that the clause will read:

And of the judge advocates now in office there shall be retained a number not exceeding ten, to be appointed by the President, by and with the advice and consent of the Senate, who shall perform their duties under the direction of the Judge Advocate General until otherwise provided by law.

Mr. Speaker, I am told by gentlemen about me that these officers are already appointed, and that this is a mere provision for the retention of a portion of them, leaving the Secretary of War to decide who shall be mustered out. I do not so understand the case. I understand that the judge advocates now in office hold their positions only temporarily, and during the continuance of the volunteer organization. If any of them are to be made a part of the permanent organization of the Army under this bill, I submit that they ought to be subject to precisely the same method of appointment as other officers are—that there should not be an opening here for favoritism by a single officer, but that they should be appointed by the Executive, with the concurrence of the Senate, in precisely the same manner as other officers are.

Mr. BINGHAM. Mr. Speaker, as I understand, the matter stands thus: these officers have been appointed in the manner suggested by the gentleman from New York, [Mr. HALE;] and the effect of this bill is simply to allow the retention of a portion of them, not exceeding ten, to be dismissed from the service just as soon as the public interest may warrant it.

Mr. HALE. If the gentleman will permit me, I desire to ask him this question: are these officers now appointed in the service? If this bill should not pass will they remain a part of the force of the Army? It seems to me they will not.

Mr. BINGHAM. As I understand, they may, unless they are mustered out. They are liable to be mustered out of the service like other officers in the service. But they are now in the Army, not by the terms of their commissions for a limited and specific time. They are liable to be mustered out whenever their further services are not required.

I desire to say in this connection that, according to my recollection, there are now about eighteen of these officers employed in the service. The effect of this bill will be to take eight of them out of the service at once, leaving the Secretary of War to select from the whole eighteen and retain a number not exceeding ten, if the public exigency should require that number. If, in his judgment, the public exigency does not require any of them, he will, under the provisions of this bill, muster them all out. If five are sufficient, he will retain but five. Under the amendment suggested by my colleague, the chairman of the Committee on Military Affairs, the Secretary of War is required to muster all these officers out so soon as their services can be dispensed with.

Mr. HALE. Let me ask the gentleman one other question: whether these officers are not now in the service precisely as additional paymasters, and assistant adjutants general, and assistant quartermasters of volunteers are now in the service, and whether, in order to be retained in the service, they do not require reappointment just as much as the officers I have named require reappointment.

Mr. BINGHAM. I do not so understand the scope of this bill or the effect of existing laws. I yield the floor to my colleague, [Mr. SCHENCK,] who can explain this matter more fully.

Mr. SCHENCK. When this bill was first framed it embraced a provision for a judge advocate general and an assistant judge advocate general only. It was, however, ascertained that the business of the Judge Advocate General's office has in fact increased during the last year, notwithstanding the termination of hostilities, in consequence of the vast mass of records to be examined and filed and reports to

be made; so that it was necessary to have more assistance. The effect of the section, as it originally stood, would probably have been to legislate out of office all these judge advocates with the rank of major, because it limited the Judge Advocate General's department to the Judge Advocate General and his assistant.

With a view to obtaining information on this subject a correspondence was opened by the committee with Judge Advocate General Holt, to ascertain how many of the twenty-one judge advocates who had been appointed remained in office, and how many of them it would be desirable to retain. He explained to us that he must for some time to come have at least as many as the six now employed in the office, and that it would also be convenient and proper to retain four or five or six, to be detailed to attend to the trials that might be ordered. We fixed the number at the lowest limit consistently with what seemed to be expected and desired by that department—a little lower, indeed—and provided that ten might be retained.

There are eighteen of these officers now in office. There have been twenty-one. These eighteen are in office under a provision of the act of July 17, 1862, which I will read, and by which the gentleman from New York [Mr. HALE] will discover that he is mistaken. That act provides in the sixth section that—

"There may be appointed by the President, by and with the advice and consent of the Senate, for each army in the field, a judge advocate, with the rank, pay, and emoluments, each, of a major of cavalry, who shall perform the duties of judge advocate for the army to which they respectively belong, under the direction of the Judge Advocate General."

Under that act these officers have been appointed, have been confirmed by the Senate, have by some construction been retained, and are now in office. They are borne upon the Army Register like other officers. We want to get rid of a portion of them at least.

Mr. HALE. Let me ask another question, and that is, whether the term "army in the field" has not a definite meaning? Have we any armies in the field to-day in the sense in which the term is used in that act? We had the army of the James, the army of the Tennessee, the army of the Potomac, and so on.

Mr. SCHENCK. I was always inclined to disagree with the construction, but by the construction put upon it even by the law authorities at the War Department these persons remain in office, having been appointed and confirmed, although the army may have been disbanded. They are now actually in office, eighteen of them enjoying the emoluments, drawing salary, and most of them, I believe, at work. I think, after the fullest correspondence with an explanation from the Judge Advocate General, ten may be dispensed with. I think the gentleman will find his object entirely secured by leaving the selection from those now in office.

Mr. HALE. I withdraw my amendment.

The Clerk read the next section, as follows:

SEC. 16. *And be it further enacted*, That the quartermaster's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; six quartermasters, with the rank, pay, and emoluments of colonels of cavalry; ten quartermasters, with the rank, pay, and emoluments of lieutenant colonels of cavalry; fifteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; forty-four quartermasters, with the rank, pay, and emoluments of captains of cavalry; and at least two thirds of all original vacancies in each of the grades of lieutenant colonel and major, and all original vacancies in the grade of captain shall be filled by selection from among those persons who have rendered meritorious service as assistant quartermasters of volunteers in the Army of the United States in the late war. But after the first appointments made under the provisions of this section, as vacancies may occur in the grades of major and captain in this department, no appointments to fill the same shall be made until the number of majors shall be reduced to twelve and the number of captains to thirty, and thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers.

Mr. SCHENCK. I have been under a promise to the gentleman from Pennsylvania, on my left, for a day or two to give him the floor to have some bills printed.

CHESAPEAKE BAY AND LAKE ONTARIO.

Mr. MILLER, by unanimous consent, from the Committee on Roads and Canals, reported back House bill No. 92, to ascertain the practicability of having steamboat navigation from Chesapeake bay, at the mouth of the Susquehanna river, to Lake Ontario, in the State of New York; which was ordered to be printed, and recommitted.

Mr. SMITH moved that the House do now adjourn.

The motion was disagreed to.

GRANT OF LANDS TO WEST VIRGINIA.

Mr. MILLER, by unanimous consent, from the Committee on Roads and Canals, reported back House bill No. 144, granting lands to the State of West Virginia to aid in the construction of certain railroads, with the recommendation that it do not pass, and moved that it be laid upon the table.

The motion was agreed to.

EDUCATION OF THE MILITIA.

Mr. HARDING, of Illinois, by unanimous consent, from the Committee on the Militia, reported back House bill No. 102, to educate the militia, with amendments; which were ordered to be printed and with the bill recommitted.

Mr. SPALDING moved that the House do now adjourn.

Mr. STEVENS. I hope not, as we ought to work another hour.

Mr. SCHENCK. I hope we will not adjourn until we get through with the pending section of the Army bill.

The House divided; and there were—ayes 35, noes 61.

Mr. SMITH demanded tellers.

Tellers were not ordered.

So the House refused to adjourn.

LEAVE OF ABSENCE GRANTED.

On motion of Mr. DAVIS, leave of absence was granted to his colleague, Mr. VAN AERENAM, for ten days, and to himself for one week from to-day.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. DAVIS, of New York. I move to strike out section sixteen and in lieu thereof to insert the following:

And be it further enacted, That the Quartermaster General's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; six assistant quartermaster generals, with the rank, pay, and emoluments of colonels of cavalry; twelve deputy quartermaster generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; twenty quartermasters, with the rank, pay, and emoluments of majors of cavalry; and forty-eight assistant quartermasters, with the rank, pay, and emoluments of captains of cavalry, and the vacancies hereby created in the grade of assistant quartermaster shall be filled by selection from among the persons who have rendered meritorious service as assistant quartermasters of volunteers during two years of the war.

The substitute which I have offered is one which was prepared under the supervision of two distinguished generals whose names have been mentioned heretofore. And I understand that a bill containing this very provision was submitted to the gentleman who reported this bill, and that the original is now in this city with the interlineations. But whether it is so or not, I think there are many reasons why the sixteenth section, at least, as reported by the committee, should be amended.

I understand that the chairman of the committee consented to an amendment to the thirteenth section in relation to the Adjutant General's department; and I asked him if he had any amendment to propose to this section; because I inferred, from the course taken in regard to the other and the amendment which he offered thereto, that at least the same justice would be done to gentlemen in the quartermaster's department that he had conceded to those in the Adjutant General's department.

It will be observed by the provisions of this section that the nomenclature of all the assistant quartermasters in the department of a certain rank is entirely changed, so that the same effect will be produced precisely in that department, as was shown by the gentleman from

Pennsylvania, [Mr. THAYER,] as is produced in the department of the Adjutant General.

We have, for instance, under the provisions of this bill, forty-four quartermasters with the rank, pay, and emoluments of captains of cavalry. There are in the existing Quartermaster General's department, I think, forty-four assistant quartermasters, with the rank, pay, and emoluments of captain. There is no such grade established by this bill. Therefore the legal effect, as I submit to the gentleman from Ohio, [Mr. SCHENCK,] of passing this section and making it a law, would be to legislate out of office every person in the Quartermaster General's department of the rank of captain who now holds a commission as assistant quartermaster with that rank. My great object is to do exact justice to the officers in that department as to those in every other department.

And I will say that the same effect will be produced upon three colonels and four lieutenant colonels who are now commissioned as assistant quartermasters general and deputy quartermasters general. The commission runs by the nomenclature established by the existing law. The rank of deputies and assistants is entirely incident to their commission. They are not commissioned as captains, majors, or colonels, but as assistant quartermasters general, with the rank, pay, and emoluments of lieutenant colonels, majors, or captains, as the case may be. Therefore whenever the office is abolished which now exists by name in the present law, the abolition of that office removes at once the party holding this particular commission and he is retired from the regular Army; he is legislated out of the Army and holds no commission in it.

Now, I have no disposition to take up the time of the House, but I think that the provisions of the Senate bill in that particular do full justice to all parties, and I know not what reason the honorable chairman of the committee can assign against the adoption of that proposition.

It is true that in another part of the section, at the close of it, there is this provision:

The Secretary of War may assign at any time from among the officers of the quartermaster's department an officer to serve as chief quartermaster of a geographical military division, or of a separate army in the field, consisting of not less than ten thousand men, who shall have, while so assigned and acting, the rank, pay, and emoluments of a brigadier general; but not more than two officers shall hold such assigned rank at any one time, and any such officer relieved from the assigned duty shall return to his lineal rank in the department.

Mr. BLAINE. That part is not properly in the bill. It is to be stricken out.

Mr. DAVIS. If that provision is intended to be stricken out, I have of course no remarks to make upon it. But I submit that the amendment which I have submitted accomplishes all and no more than should be accomplished by the bill in reference to the Quartermaster General's department.

Mr. BLAINE. Let me ask the gentleman from New York [Mr. DAVIS] whether it would not satisfy him, inasmuch as this change was made at the request of the Quartermaster General, if a proviso were added to the section, that it shall not work to the vacation of any commissions; would not that be entirely satisfactory?

Mr. DAVIS. I have no objection to any reasonable provision that will accomplish that end.

Mr. BLAINE. The committee had no such purpose as the gentleman seems to suppose. They reported precisely what was recommended by the Quartermaster General.

Mr. DAVIS. I know that there are a number of gentlemen in the Quartermaster General's department who do not concur in the wisdom of the changes recommended by the Quartermaster General.

Mr. BLAINE. There is another point which has been made by some gentlemen, in the course of this debate, although perhaps not by the gentleman from New York, to which I desire to refer for a moment. It is that these officers would have commissions of a more

recent date than those which were vacated, and that hence the measure would work an injury to them. Now, that cannot be so because their rank is entirely relative.

It is no matter when their commissions are dated, so that they hold the same relative position as respects the men who come in rivalry with them for promotion. If all the commissions are dated similarly there is no harm done to anybody.

Mr. THAYER. I will yield the floor for a moment to the gentleman from Connecticut, [Mr. DEMING,] who has a request to make of the House.

CHANGE OF REFERENCE.

Mr. DEMING. Mr. Speaker, a very important memorial has been presented to the Military Committee, being the application of J. B. Sperry, president of the Union Pacific Railroad Company, for a reduction of the military reservation at Fort Riley. There has also been referred to that committee a petition from citizens of western Kansas, asking an appropriation for the bridging of the Republican river, or for the sale of certain lands to aid in that purpose. I find, on examination, that these petitions involve nearly all the legislation that has been passed in reference to the Pacific railroad companies, and much of the legislation that is applicable to the public lands. I ask, therefore, that the Committee on Military Affairs be discharged from the further consideration of these memorials, and that they be referred to the Committee on Public Lands.

There being no objection, the motion was entertained and agreed to.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. THAYER. I now yield for a moment to the gentleman from New York, [Mr. DAVIS.]

Mr. DAVIS. The gentleman from Maine [Mr. BLAINE] says that this change of nomenclature will not in any way affect the rank or position of any of these officers. I hold that in regard to priority of commission it does produce a change. If you commission a man under this law to a new office, I do not suppose you are going to provide that he shall hold the commission which he did at a prior time when he was commissioned under another law.

Mr. BLAINE. He holds the same rank in the department.

Mr. DAVIS. Every man who has served faithfully in the Army of the United States under commission of an officer is entitled by a certain term of service to a certain increase of ration. This is known as the "longevity" ration. Now, I undertake to say that these men, if you appoint them to new offices, unless you make special provision that they shall be entitled to such longevity ration, will be deprived of that benefit.

Mr. BLAINE. The "longevity" ration only applies to the infantry branch of the service.

Mr. SCHENCK. With a view of removing the objection to this section, or rather this phase of the objection, I move to add to the section the following proviso:

But nothing in this section shall be construed so as to affect the commission of any officer now commissioned, either as acting quartermaster general, or as deputy quartermaster general, or as assistant quartermaster general, but only to change the title to quartermaster in the case of those who rank as colonels, lieutenant colonels, majors, and captains, without affecting in any way their relative positions, or the time from which they take such rank.

Mr. THAYER. As I understand the amendment of the gentleman from New York [Mr. DAVIS] it leaves the organization of the Quartermaster General's department precisely as it is now. I would ask the gentleman from New York if that is not the effect of his amendment.

Mr. DAVIS. I really am unable to say.

Mr. BLAINE. Not by a very great deal. The House bill, as amended, proposes to have three colonels in the department, and his amendment six. The House bill proposes to have four lieutenant colonels, and he proposes to have twelve.

Mr. HALE. I call for the reading of the first two clauses of the substitute proposed by

my colleague, so that we may see what it amounts to.

Mr. THAYER. I hope that will be done.

The amendment was again read.

Mr. SCHENCK. That is in neither the House bill nor in the Senate bill.

Mr. DAVIS. I did not say it was.

Mr. FARNSWORTH. I would ask the gentleman from Pennsylvania [Mr. THAYER] or the gentleman from New York [Mr. DAVIS] to point out the necessity for increasing the number of quartermasters over and above the number provided in the House bill. The amendment of the gentleman from New York [Mr. DAVIS] proposes a larger number.

Mr. THAYER. I am opposed to the substitute proposed by the gentleman from New York, [Mr. DAVIS.] I desire to preserve the organization of this department in the form in which it now exists, which I understand can be accomplished by striking out that portion of the Senate provision which provides for a new grade, three assistant chief quartermasters general.

Mr. ROUSSEAU. Will the gentleman from Pennsylvania [Mr. THAYER] allow me to suggest an amendment which I desire to have offered?

The SPEAKER. There is an amendment pending to the section, and a substitute for the section pending.

Mr. ROUSSEAU. I desire to read it for the information of the gentleman, if he will allow me to do so.

Mr. THAYER. I will hear the amendment read.

Mr. ROUSSEAU. I propose to have this section amended by striking out the word "brigadier" and inserting the word "major" before the word "general." Also to insert after the word "general" the words "three quartermasters general, with the rank, pay, and emoluments of brigadier generals;" also strike out the word "six" and insert the word "four" in the same line. The section would then read as follows:

That the quartermaster's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a major general; three quartermasters general, with the rank, pay, and emoluments of brigadier generals; four quartermasters, with the rank, pay, and emoluments of colonels of cavalry; ten quartermasters, with the rank, pay, and emoluments of lieutenant colonels of cavalry; fifteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; forty-four quartermasters, with the rank, pay, and emoluments of captains of cavalry; and at least two thirds of all original vacancies in each of the grades of lieutenant colonel and major, and all original vacancies in the grade of captain shall be filled by selection from among those persons who have rendered meritorious service as assistant quartermasters of volunteers in the Army of the United States in the late war. But after the first appointments made under the provisions of this section, as vacancies may occur in the grades of major and captain in this department, no appointments to fill the same shall be made until the number of majors shall be reduced to twelve and the number of captains to thirty, and thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers.

Mr. THAYER. I prefer some other amendment.

Mr. SMITH. Will the gentleman from Pennsylvania [Mr. THAYER] yield to me for a moment?

Mr. THAYER. I will.

UNIFORM MILITIA SYSTEM, ETC.

Mr. SMITH. I desire to have entered upon the Journal a motion to reconsider the vote, by which the House yesterday recommitted to the Committee on the Militia House bill No. 501, to provide for the national defense by establishing a uniform militia system and organizing an active militia force throughout the United States.

I also desire to have entered a similar motion in regard to House bill 102, in regard to educating the militia, which with amendments was recommitted to that committee to-day, on the motion of the gentleman from Illinois, [Mr. HARDING.]

Mr. WASHBURN, of Illinois. I move to lay those motions to reconsider on the table.

Mr. SPEAKER. No action can be taken

on the motions to reconsider at this time, pending the consideration of the Army bill. The motions will be entered upon the Journal.

REORGANIZATION OF THE ARMY—AGAIN.

The House resumed the consideration of the bill for the reorganization of the Army.

The pending question was upon the substitute proposed by Mr. DAVIS for the sixteenth section in relation to the quartermaster's department.

Mr. THAYER. I appeal to the gentleman from New York [Mr. DAVIS] to withdraw his proposed substitute and accept in lieu thereof the corresponding section of the Senate bill, leaving out the three new officers created by that section. It will then read as follows:

That the quartermaster's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; four assistant quartermasters general, with the rank, pay, and emoluments of colonels of cavalry; eight deputy quartermasters general, with the rank, pay, and emoluments of lieutenant colonels of cavalry; sixteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; and forty-eight assistant quartermasters, with the rank, pay, and emoluments of captains of cavalry, and the vacancies hereby created in the grade of assistant quartermaster shall be filled by selection from among the persons who have rendered meritorious service as assistant quartermasters of volunteers during two years of the war.

Mr. DAVIS. I will accept that.

Mr. THAYER. If the House will adopt this amendment it will preserve the existing organization of the department. It not only refrains from the injustice which was contemplated, or rather I should say the injustice that would have been done, by the original section of the House bill, before the proviso was offered by the gentleman from Ohio, [Mr. SCHENCK,] and which would have turned out of the Army forty-eight assistant quartermasters, four assistant quartermasters general, and three deputy assistant quartermasters general, but it preserves the organization as it now is. And it renders all this verbiage unnecessary—I trust the gentleman will not consider me as meaning any disrespect—which was reported by the committee, simply for the accomplishment of his purpose of getting rid of titles which have been in the quartermaster's department ever since the reorganization of that department in 1838.

Now, I see no objection to those titles. They have worked no inconvenience, and the Quartermaster General himself does not pretend that they have ever worked any inconvenience. They have been preserved throughout the operations of two wars, and in times of peace, and no inconvenience or injury has arisen from them.

I am opposed to the section of the House bill even with the proviso of the gentleman from Ohio; because I think it is entirely unnecessary, because no benefit can be gained by it, and because it is a dangerous innovation upon the present and established organization of the Army. I do not know precisely what the effect of it would be; but it would go further, perhaps, than the gentleman from Ohio himself intends.

Mr. SCHENCK. If I may venture to differ with these gentlemen who are giving us this information, I will say that the gentleman from Pennsylvania is utterly mistaken. He says that this amendment proposes to keep the quartermaster's department just where it is. This is not the case. The Quartermaster General wanted the number of officers increased from sixty-five to one hundred or more. The Senate agreed to make the number eighty. We have agreed to make it seventy-six. The gentleman says that his proposition corresponds with the existing law. I do not know where the gentleman gets this impression. The Army Register of this year, relating to those now in office, tells us that while this substitute provides for four colonels, there are now but three; that while this substitute provides for eight lieutenant colonels, there are now but four; that while this substitute provides for sixteen majors, there are now but eleven; that while this substitute provides for forty-eight captains, there are now but forty-six; and that

while this substitute provides altogether for seventy-six officers, there are now sixty-six. The amendment is not the provision of the Senate bill; it is not the provision of the House bill; it is not the proposition submitted by the council of general officers; it is not that which was originally reported in the Senate; it is not in accordance with the Army Register. Somebody has got it up, and it will affect somebody and promote somebody; but surely it cannot be pretended that it corresponds either with the House bill or the Senate bill or the Army Register or anything else known to the present law or any proposition pending when the amendment was offered. This is what I undertake to say as matter of fact.

Mr. THAYER. If the gentleman will allow me, I will state for his information that the proposed amendment is cut bodily from the Senate bill, and is precisely the provision of the Senate bill, except that I have stricken out the words, "three chief quartermasters general, with the rank, pay, and emoluments of a brigadier general," those words involving the creation of a new office. It is exactly the provision of the Senate bill, omitting that new grade of Chief Quartermaster General.

Mr. SCHENCK. Now, I do not know that I have in regard to this matter superior advantages to those of any other gentleman; we all think that we know something about the matter. But I undertake to say this: the first bill reported in the Senate was called Senate bill No. 67, in which these matters were arranged just as each of the bureaus wanted them. That bill was afterward withdrawn, and a new bill, No. 67, was introduced. That new bill was the bill presented to the military council. Those officers went over that bill, suggesting changes in regard to the number of the Army and many other matters; but in scarcely a single instance did they touch these bureau concerns. In general, I believe, they made no recommendation one way or the other in regard to them. Afterward there was introduced into the Senate another bill, No. 138, the bill which has been passed by that body, both the bills No. 67 having been abandoned. In the bill No. 138, the Senate departed from the bills No. 67, and also departed in many respects from the recommendations of this military council. So far as concerns the quartermaster's department, the Senate proposes to have eighty officers in that department, being, as the gentleman says, something like this substitute, with the exception of the three quartermasters general, which the Senate bill provides for, but which he does not include in his substitute.

The Committee on Military Affairs of this House, after a full consultation with the Quartermaster General, hearing all he said upon the one side and the other, during a session of some two or three hours, came to the conclusion not to allow all that he claimed. Nor did they agree entirely with the Senate. There was no question made with this military council. The committee, after full consideration, reported this bill, and I will state the differences in this respect between it and Senate bill No. 138.

The present quartermaster's department, as left at the close of the war—very much increased from what it was before the war—has one brigadier general, three colonels, who are called assistant quartermasters general, four lieutenant colonels, who are called deputy quartermasters general, eleven majors, who are called quartermasters, and forty-six captains, who are called assistant quartermasters; making a total of sixty-five. The Senate bill, departing from the present arrangement, gives us one quartermaster, ranking as a brigadier general; three other brigadier generals, to be called chief assistant quartermasters general; four colonels, to be called assistant quartermasters general; eight lieutenant colonels, to be called deputy quartermasters general; sixteen majors, to be called quartermasters; and forty-eight captains, to be called assistant quartermasters; making a total of eighty.

The House bill provides for one brigadier general in the quartermaster's department, leaving out three other brigadier generals, putting it upon the same footing as the others. It also provides for six colonels, ten lieutenant colonels, fifteen majors, and forty-four captains, making in all seventy-six. It further provides, after the first appointments, as vacancies may occur in the grades of major and captain, no appointments to fill the same shall be made until the number of majors shall be reduced to twelve and the number of captains to thirty. Thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers. That makes a reduction of three in the grade of major and fourteen in the grade of captain. It makes a reduction of seventeen in all, so that there shall be fifty-nine, instead of seventy-six, which is believed to be sufficient for the purposes of the quartermaster's department.

I know that a great many more quartermasters might be employed. I know that the chiefs of bureaus are reluctant to give up any of the offices which they now have. I know officers may be ordered here who will do good service, but no better than clerks can do it. But I will not repeat the argument which I made in reference to the Adjutant General's bureau.

I call attention to the fact that the substitute, so far as brigadier generals are concerned, differs from the Senate bill. It is not what passed under the inspection of the military council. It is not what the House proposed. It is something which gentlemen offer, and which they have a right to offer. We arrived at our results after much examination, finding out how many were necessary for posts and so on, and we submit them to the House and to the country.

Mr. CONKLING obtained the floor, but yielded to

Mr. DAVIS, who said: I desire to say that the amendment which I sent to the desk to be read as a substitute was cut from the Senate bill. It is Senate bill No. 67. I know they passed a bill, No. 138. I understand that perfectly. I am credibly informed that this amendment received the sanction of the distinguished military gentlemen to whom I have alluded. The original Senate bill provided for eighty-seven. Bill No. 138 reduced that to eighty.

Mr. CONKLING. I now resume the floor. I am persuaded, no matter how amended, this bill will continue to afford harmless occupation; and I therefore move that the House adjourn.

Mr. MOORHEAD. I ask the gentleman to yield to me for one moment to move that the Committee on Commerce be allowed to report back a bill for the relief of Thomas F. Wilson.

Mr. CONKLING. I withdraw my motion for that purpose.

THOMAS F. WILSON.

Mr. WASHBURN, of Illinois, by unanimous consent, from the Committee on Commerce, reported back Senate bill No. 146, for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil, with a recommendation that it do pass.

The bill, which was read, provides that the Secretary of the Treasury be authorized to pay to Thomas F. Wilson, late United States consul at Bahia, \$1,500 out of any money in the Treasury not otherwise appropriated, in full compensation for extra services, and for all other claims he may have against the Government, while in the service of the United States as consul.

Mr. WASHBURN, of Illinois. Mr. Wilson was consul of the United States at Bahia, Brazil, during the years 1862, 1863, and 1864. During almost the entire time that the petitioner was consul at Bahia, that port was the rendezvous of the rebel pirates for the south Atlantic, where they landed large numbers of prisoners who were captured on board of American vessels on the high seas, and where they met their consorts and tenders for the purpose of obtaining coals, powder, and other supplies. Three of these rebel pirates made the port

of Bahia their calling place; two of them, the Alabama and Georgia, being on one occasion there at the same time, where they met their tenders to obtain supplies. One, and sometimes more, of these pirates were constantly cruising in the south Atlantic, and liable at any time to enter the port of Bahia, or to send in prisoners.

The rebels had a regular agent at Bahia, who was the consignee of their supply vessels, discounted their bills, and furnished funds to purchase stores for the pirates.

The frequent visits of the pirates to this port imposed upon the consul the necessity of taking care of, and providing for, large numbers of prisoners landed at different times; also required the utmost activity and vigilance in watching the pirates, and thwarting their efforts to obtain supplies, and required a large amount of consular labor and correspondence with the local authorities at Bahia, the United States minister at Rio de Janeiro, the Department of State, and the commanders of the United States vessels-of-war, to whom he supplied valuable information.

The last of the rebel pirates which visited the port of Bahia, for the purpose of obtaining coals and supplies, was the Florida. Through the efforts of the consul she was prevented from doing so. He was the party who went on board of the Wachusett and gave the information which led to the capture of the Florida.

If the committee had done anything to change the bill it would have been to make the amount larger.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. MOORHEAD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WINNEBAGO AND SUPERIOR RAILROAD.

Mr. ELDRIDGE, by unanimous consent, presented the memorial of the Legislature of the State of Wisconsin, asking for a grant of land to aid in the construction of so much of the Winnebago and Superior railroad as extends from Doty's Island to Stevens Point; which was ordered to be printed, and referred to the Committee on Public Lands.

BUSINESS ON SATURDAY.

Mr. STEVENS. I ask unanimous consent of the House to offer the following resolution:

Resolved, That on Saturday bills on leave, and resolutions, for reference only, may be received by unanimous consent, on condition that they shall not be brought back into the House by a motion to reconsider.

Mr. STROUSE. I object.

The SPEAKER. The resolution would relieve the House from much embarrassment.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Clerk, informed the House that the Senate had passed the following bill and joint resolutions, in which the concurrence of the House was requested:

An act (S. No. 193) granting lands to the State of Michigan to aid in the construction of a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior, in said State;

A joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others, engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel; and

A joint resolution (S. R. No. 61) to extend the time for the construction of the first section of the Western Pacific railroad.

WESTERN PACIFIC RAILROAD.

Mr. McRUER asked unanimous consent to take up from the Speaker's table joint resolution of the Senate No. 61, to extend the time for the construction of the first section of the Western Pacific railroad.

Mr. WASHBURNE, of Illinois, and Mr. ROSS, objected.

STATE AND NATIONAL BANKS.

Mr. RICE, of Maine, asked unanimous consent to introduce the following resolution:

Resolved, That the Committee on Banking and Currency be, and hereby is, directed to inquire into the expediency of providing by law for the conversion of State banks now organized into national banks on or before the 1st day of July next, and to report by bill or otherwise.

Mr. ROSS objected.

Mr. CONKLING. I move that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and thirty minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BOYER: The petition of Joel K. Markley. By Mr. BUCKLAND: The petition of J. W. Brecklin, and 37 others, citizens of Woodville, Ohio, for an increase of duties on foreign wools.

Also, the petition of J. T. Reynolds, and 30 others, citizens of Huron, Ohio, for the same.

Also, from E. J. Kellogg, and 52 others, citizens of Berlin, Ohio, for the same.

Also, from G. W. Mead, and 37 others, wool-growers of Huron county, Ohio, for the same.

Also, from Lewis Tucker, and 33 others, wool-growers of Huron county, Ohio, for the same.

Also, from Lucius P. Sisson, and 20 others, wool-growers of Huron county, Ohio, for the same.

Also, from George Silliman, and 18 others, wool-growers of Huron county, Ohio, for the same.

Also, from Reuben Burras, and 18 others, wool-growers of Huron county, Ohio, for the same.

Also, from N. Sutton, and 20 others, wool-growers of Huron county, Ohio, for the same.

Also, from U. B. Thomas, and 22 others, wool-growers of Huron county, Ohio, for the same.

Also, from J. B. Hale, and 37 others, wool-growers of Huron county, Ohio, for the same.

Also, from J. N. Campbell, and 24 others, wool-growers of Huron county, Ohio, for the same.

By Mr. FARNSWORTH: The petition of Ira K. Mansfield, William Courtright, Frederick Brown, and others, citizens of Winnebago county, Illinois, for increase of tariff upon wool.

By Mr. HARDING, of Illinois: The petition of E. Shaw, and others, of Rock Island, Illinois, for uniform insurance laws.

By Mr. HALE: The petition of George J. Nicholson, and others, citizens of the sixteenth congressional district of New York, for increased compensation to assistant assessors of internal revenue.

Also, the petition of Jehial P. Spear, and others, citizens of Moriah, Essex county, New York, for increased duties on foreign wool.

Also, the petition of Thomas G. Shaw, and others, citizens of Minerva, Essex county, New York, for the same purpose.

Also, the petition of Frederick Nye, and others, citizens of Wilmington, Essex county, New York, for the same purpose.

By Mr. HUBBELL, of Ohio: The petition of Dr. McNutt, Dr. Weeks, and Dr. Thatcher, practicing physicians, of Caledonia, Ohio, upon the subject of duties on imported medicines.

Also, the petition of R. L. Noe, and 74 others, citizens and wool-growers of Marion county, Ohio, praying for increased duties on foreign wool.

By Mr. INGERSOLL: The petition of 40 citizens of Stark county, Illinois, asking for an additional duty on imported wool.

Also, the petition of 20 citizens of Stark county, Illinois, asking for increase of duty on imported wool, and for a tax of two dollars on dogs.

Also, the petition of 45 citizens of Peoria, Illinois, asking for the imposition of a tax of two dollars on all dogs.

Also, the petition of 50 citizens of Peoria county, Illinois, for an increase of duty on imported wool, and a duty of twenty-five cents on foreign shoddy and rags.

Also, the petition of 75 citizens of Stark county, Illinois, for increase of duty on imported wool.

Also, the petition of 64 citizens of Walnut Grove, Knox county, Illinois, asking increase of duty on imported wool, and twenty-five cents duty on foreign shoddy and rags.

By Mr. LYNCH: The petition of W. F. Abbott, and others, asking that the tariff on imported cigars be changed from the present graduated scale to one of uniform rate, and that the rate be fixed at three dollars per pound, and fifty per cent. *ad valorem*.

By Mr. MORRILL: The petition of the Bishop Gatta Percha Company, of the city of New York.

By Mr. MORRIS: The petition of Dr. Chase, and others, physicians of Genesee, New York, asking that certain medicines be placed upon the free list.

By Mr. MYERS: The petition of Mrs. Mercie E. Scattergood, for pension of the grade of first assistant engineer United States Navy, her husband having been entitled to the pay of that grade at the time of his death.

By Mr. PAINE: The petition of John Plankinton, and 30 others, citizens of Milwaukee, Wisconsin, in favor of the enactment of a national insurance law.

Also, the petition of Philander Judson, and others, citizens of Kenosha county, Wisconsin, for a modification of the duty on foreign wools.

Also, the petition of P. Putnam, and others, citizens of Vernon, Waukesha county, Wisconsin, for increase of duty on foreign wools.

Also, resolutions of the Soldiers' and Sailors' National Union League of Wisconsin, in favor of the equalization of bounties.

Also, the petition of John McKibbin, and 29 others, citizens of Linn, Walworth county, Wisconsin, for increased duties upon foreign wools.

Also, the petition of W. M. Bingham, and 34 others, citizens of Milwaukee, Wisconsin, in favor of the enactment by Congress of a law regulating insurance in the United States.

Also, the petition of George Allen, and others, citizens of Linn, Walworth county, Wisconsin, for an increased duty on foreign wools.

By Mr. PHELPS: A memorial in behalf of miners and melters of copper ore.

By Mr. RICE, of Maine: The memorial of John W. Braze, of Washington Territory, asking for disapproval of an act of the Legislative Assembly of said Territory, entitled "An act in relation to Skamania county," approved January 14, 1865.

Also, four petitions of the county officers and others, citizens of the county of Aroostook, Maine, asking that said county may be annexed to the Bangor customs district.

By Mr. TAYLOR: The petition of William H. Tray, and others, of the city of New York, calling upon Congress to submit to the several States an amendment to expunge from article five of the Federal Constitution the following words: "and that no State, without its consent, shall be deprived of its equal suffrage in the Senate;" and for such other and further change and amendment as to the basis of representation in the Senate as shall tend to promote justice, real equity, and harmony.

Also, the petition of George W. Bush, praying relief.

By Mr. WASHBURNE, of Illinois: The petition of the Mississippi Bar Dredging Company, for leave to open one or more of the passes of the Mississippi river, at their own expense, and for compensation after the work shall have been completed, and so long as they shall keep the same open.

Also, the petition of merchants of the city of New Orleans interested in shipping, praying Congress to adopt some practicable mode of opening and keeping open the passes of the Mississippi river.

Also, the petition of underwriters and bankers of the city of New Orleans, praying Congress to legislate in reference to opening the passes of the Mississippi river.

By Mr. WELKER: The petition of Charles Camp, and 73 others, wool-growers of Homer township; of A. Munson, and 107 others, wool-growers of Guilford township; and of T. W. Painter, and 50 others, wool-growers of Medina township, Medina county, Ohio, asking protection on wool.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 21, 1866.

The House met at twelve o'clock m. Prayer by Rev. GEORGE F. MAGOUN, President of Iowa College.

The Journal of yesterday was read and approved.

PRESIDENT'S MESSAGE.

The House resumed, as in Committee of the Whole on the state of the Union, the consideration of the President's annual message, upon which Mr. PERHAM was entitled to the floor.

Mr. PERHAM. I yield for a few moments to the gentleman from Delaware, [Mr. NICHOLSON.]

RECONSTRUCTION.

Mr. NICHOLSON. Mr. Speaker, numerous and various have been the propositions before the House to amend the Constitution of the United States; but more obnoxious than all the rest, and affecting to a greater extent the whole character of our Government, is the following, upon which I propose to submit a few remarks, namely, the joint resolution (H. R. No. 63) proposing an amendment to the Constitution of the United States:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of the said Legislatures, shall be valid as part of said Constitution, namely:

ARTICLE — The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

So many and able have been the arguments already laid before this House against the adoption, at this time, of this or any other of the proposed amendments to the Constitution, that I might well despair of throwing any new light upon the subject, or increasing by anything I

can say the weight of the objections already urged.

I feel additional discouragement in approaching the discussion of this question, from the strong determination evinced by the majority to make this or some other material alteration in our organic law. They seem unrestrained by the ordinary considerations of public policy. They seem insensible to every appeal. They are moved neither by the glorious memories of the past, the wonderful wealth, power, and prosperity we have achieved under the Constitution as it is, nor by the bright prospect that awaits us in the future under a restored Union if we but preserve the "ancient landmarks." Intoxicated with the sudden possession of power, they chafe at every obstacle interposed between them and the gratification of their desires. Assuming with partisan zeal that a certain object must be accomplished, and finding the Constitution standing in their way, they would lay violent hands upon it, and with one blow destroy the beautiful harmony of our entire system of government.

My love and admiration for this system, which has been our pride and boast, forbid that I should now remain silent and unmoved, but rather urge me to stand up, relying on the justice of my cause, and plead for the Constitution of our fathers.

To appreciate fully the great change that would be wrought in the entire structure of our Government by the adoption of the proposed amendment, it will be necessary to consider the history of its formation and its present character, so far as the same is pertinent to the subject under consideration; and I shall do so with that brevity which so familiar a subject and its heretofore frequent discussion demand.

The States which united in framing our Constitution were originally colonies, separate from and independent of each other. They were settled at different times and by people who differed from each other in their habits and their religious and political opinions. Their local customs and regulations differed accordingly. There was no political connection between them; and one thing alone was common to them all, and that was the allegiance which each owed to the British Crown; and I might add the injustice and oppression which finally drove them to arms. This view of their political condition is sustained by Judge Story in his Commentaries, section one hundred and seventy-seven, which I will quote:

"Though the colonies had a common origin, and owed a common allegiance, and the inhabitants of each were British subjects, they had no direct political connection with each other. Each was independent of all the others; each, in a limited sense, was sovereign within its own territory. There was neither alliance nor confederacy between them. The Assembly of one Province could not make laws for another; nor confer privileges, which were to be enjoyed or exercised in another, further than they could be in any independent foreign State."

"And though their mutual wants and necessities often induced them to associate for common purposes of defense, these confederacies were of a casual and temporary nature, and were allowed as an indulgence rather than a right. They made several efforts to procure the establishment of some general superintending government over them all, but their own differences of opinion, as well as the jealousy of the Crown, made these efforts abortive."

Down to the formation of the Constitution this idea of separateness, distinctness, and individuality was maintained. The Continental Congress was simply a deliberative, advisory body. Its acts were in the form of resolutions, and not in the form of laws. It recommended, but did not command. The Declaration of Independence did not change their relation to each other, but changed each of them from a dependent colony to an independent State, with all the attributes of absolute sovereignty. In the earlier treaties with foreign Powers their distinct sovereignty is recognized in their enumeration by name. So in the provisional articles with Great Britain, in 1782, by which our independence was acknowledged, the first article declares that—

"His Britannic Majesty acknowledges the said United States, to wit, New Hampshire, Massachusetts, Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Del-

aware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, to be free, sovereign, and independent States; that he treats with them as such," &c.

And further, from Lawrence's Wheaton, pages 36 and 37:

"Sovereignty is acquired by a State, either at the origin of the civil society of which it is composed, or when it separates itself from the community of which it previously formed a part, and on which it was dependent."

Thus the internal sovereignty of the United States of America was complete from the time they declared themselves "free sovereign and independent States," on the 4th of July, 1776. It was upon this principle that the Supreme Court determined, in 1808—

"That the several States comprising the Union, so far as regards their municipal regulations, became entitled, from the time when they declared themselves independent, to all the rights and powers of sovereign States, and that they did not derive them from concessions made by the British King. The treaty of peace of 1782 contained a recognition of their independence, not a grant of it."

Now, what are the powers of an independent sovereign State? The very statement of the question suggests its own answer. As to external sovereignty we are not inquiring; but in the exercise of internal sovereignty a State must necessarily find no other limitation upon its power than its own will. I will not stop now to enumerate the great variety of these powers, but as to a single point will read again from Wheaton, page 182:

"Every State, as a distinct moral being, independent of every other, may freely exercise all its sovereign rights in any manner not inconsistent with the equal rights of other States. Among these is that of establishing, altering, or abolishing its own municipal form of government."

The colonies, then, became "free, sovereign, and independent States," and formed with each other a "firm league," by the Articles of Confederation, the second of which reads thus, namely:

"ART. 2. Each State retains its sovereignty, freedom, and independence, and every power, jurisdiction, and right which is not by this Confederation expressly delegated to the United States in Congress assembled."

The great variety of interests that were involved, as well as local prejudices and jealousies, notwithstanding the necessity of union for the common defense, made it difficult for the Congress to agree upon these articles, and they were not finally ratified until 1781, four years after they had been agreed upon by the Delegates in Congress.

Upon the establishment of peace and the achievement of their independence, having no longer the motive of a common danger inducing them to continue to acquiesce in the exercise by the Confederation of ungranted power, the defects of their Government became manifest. Then it was that, with hearts bursting with love and trembling with fear for the future safety of that precious boon, liberty and independence, which they had acquired, these unselfish patriots applied themselves to the task of remedying its defects. Their object was to form a Government which should possess all the power and energy necessary to constitute a national Government, and yet reserve to the several States the control of their own municipal affairs. Difficult as this task was, we all know how successfully it was accomplished. We can but imperfectly know how great were the difficulties, how various and conflicting the interests, how strong the jealousies, and how opposing the views of the members of the Convention. In the words of James Madison, *Federalist*, No. 37:

"The real wonder is that so many difficulties should have been surmounted, and surmounted with a unanimity almost as unprecedented as it must have been unexpected. It is impossible for any man of candor to reflect on this circumstance without partaking of the astonishment. It is impossible for the man of pious reflection not to perceive in it the finger of that Almighty Hand which had been so frequently and signally extended to our relief in the critical stage of the Revolution."

The result of this deliberation was that Constitution under which we have lived so long, and to the peculiar character of which we greatly owe all that we have accomplished as a people and as a nation.

It is not for me to eulogize their work, nor does this House need to be instructed in the nature of our Government. But I desire to present in contrast the Government as our fathers made it, and that Government, as gentlemen would have it could they succeed in the adoption of the proposed amendment, to say nothing of the long series of amendments and legislative enactments of a kindred nature that have been introduced.

Our Constitution having been framed and adopted by "free, sovereign, and independent States," bears upon its face marks of conciliation, concession, and compromise, without which it would inevitably have failed. The Government created by it is of a mixed character, partly national and partly Federal. Its powers are delegated powers. Being the creature of the States, it possesses, and can rightfully exert no power with which it was not clothed at the time of its creation, or which it has not since lawfully received.

It follows necessarily that all other powers "are reserved to the States respectively, or to the people." But to exclude any other interpretation, the tenth article of the amendments was adopted. The Government having been formed for national purposes, as the common agent of all the States, received all the power necessary for these purposes, while the States retained the exclusive control of their own municipal affairs. Our Constitution derives its chief excellence, and the Government the more strength, from the spirit of conciliation and compromise which animated its framers. It possesses a power of adaptation to all the various stages of our progress which it could not have had if been framed according to the idea of some rigid theorist instead of being shaped and molded according to the requirements of the several States, until it presented a system of government without a model in the world. It cannot be judged by any technical rule. To illustrate and sustain the views I have expressed, the truth of which I have no doubt is conceded, I will read a few extracts from the Writings of James Madison, volume four, page 61:

"It has been too much the case in expounding the Constitution of the United States that its meaning has been sought, not in its peculiar and unprecedented modifications of power, but by viewing it, some through the medium of a simple Government, others through that of a mere league of Governments. It is neither one nor the other, but essentially different from both. It must, consequently, be its own interpreter. No other Government can furnish a key to its true character. Other Governments present an individual and indivisible sovereignty. The Constitution of the United States divides the sovereignty: the portions surrendered by the States composing the Federal sovereignty over specified subjects; the portions retained forming the sovereignty of each over the residuary subjects within its sphere."

The same, page 420:

"The more the political system of the United States is fairly examined the more necessary it will be found to abandon the abstract and technical modes of expounding and designating its character; and to view it as laid down in the charter which constitutes it, as a system hitherto without a model, as neither a simple nor a consolidated Government, nor a Government altogether confederate, and therefore not to be explained so as to make it either, but to be explained and designated according to the actual division and distribution of political power on the face of the instrument."

"A just inference from a survey of this political system is, that it is a division and distribution of political power nowhere else to be found; a non-descript, to be tested and explained by itself alone; and that it happily illustrates the diversified modifications of which the representative principle of republicanism is susceptible, with a view to the conditions, opinions, and habits of particular communities."

And again the same writer in the *Federalist*, No. 45, says:

"The powers delegated by the proposed Constitution to the Federal Government are few and defined. Those which are to remain in the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce; with which last the power of taxation will, for the most part, be connected. The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs, concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

Thus we possess a system of government, which, to a foreign observer, may appear artificial and complex, but which to us, who are

furnished with the key, is simple in the extreme. That key is the jealousy which has been apparent through all our history, for the right of each State to control its own domestic affairs, and the firmness with which that right has always been maintained.

From all these various conflicting causes harmony has been evoked; and the most perfect equilibrium is presented to our view in the equal distribution of the Federal powers, in the limitation upon State and Federal power, and the line that is drawn between them; like that huge mass of rock which nature has so nicely poised that a child's hand can disturb its balance, but a giant's strength could not move it from its base.

That nicely adjusted balance is now, by this amendment, to be permanently overthrown. The line of demarcation between State and Federal power, which has been already too much obscured by the great latitude of construction given of late to the several grants of power, is now to be entirely obliterated. The barriers erected by the Constitution to protect the States in the absolute control of their municipal affairs are now to be thrown down for the Federal Government to enter this wide domain, to roam at will, and bring prostrate at the feet of Federal power the most inestimable and most fondly cherished of all civil or political rights. That instrument, framed with such affectionate solicitude by the great and good men of the Revolution, who were actuated by nothing but devotion to the common good, is now to be changed to gratify a savage sectional hate and an inordinate lust for power. Its beauty has already been sadly marred; and it bears upon its face the recently inflicted blow of sectionalism; but this amendment will completely subvert our present system of Government, and is a long stride toward ultimate consolidation. That I am just in thus characterizing it, a brief examination of its provisions will show. It reads as follows:

ARTICLE —. The Congress shall have power to make all laws which shall be necessary and proper to secure to the citizens of each State all privileges and immunities of citizens in the several States, and to all persons in the several States equal protection in the rights of life, liberty, and property.

The employment here, in the first clause of this amendment, of the identical language contained in article four, section two, of the Constitution, seems like an attempt to force upon it a construction that has always been denied by judicial authorities and commentators upon the Constitution; and its use here, in connection with the remaining clause, can only be intended to enlarge its signification without being sufficiently explicit to make its meaning undisputed.

The full force of that section, namely—

"The citizens of each State shall be entitled to all privileges and immunities of citizens of the several States"—

was most ably explained and illustrated by the honorable gentleman from Indiana, [Mr. KEAR,] in his speech upon what is known as the civil rights bill, and he sustained his position by a full array of authorities. I will not detain the House with any further remarks upon this point, except to say, that in my opinion, and as far as I have been able to gather from authorities, this section was only intended to relieve the citizens of each State from the disabilities of aliens when removing to, or sojourning in, the several States.

But as the case of *Abbott vs. Bayley*, 6 Pick., 92, 93, expresses so fully all I would say upon this subject, and is always cited as an interpretation of this clause, I will give it somewhat at large:

"The jurisdictions of the several States as such are distinct, and in most respects foreign. The Constitution of the United States makes the people of the United States subjects of one Government, *quoad* everything within the national power and jurisdiction, but leaves them subjects of separate and distinct governments. The privileges and immunities secured to the people of each State in every other State, can be applied only in case of removal from one State into another. By such removal they become citizens of the adopted State without naturalization, and have a right to sue and be sued as citizens; and yet this privilege is qualified and not

absolute, for they cannot enjoy the right of suffrage or of eligibility to office, without such term of residence as shall be prescribed by the constitution and laws of the State into which they shall remove. They shall have the privileges and immunities of citizens, that is, they shall not be deemed aliens, but may take and hold real estate, and may, according to the laws of such State, eventually enjoy the full rights of citizenship without the necessity of being naturalized. The constitutional provision referred to is necessarily limited and qualified, for it cannot be pretended that a citizen of Rhode Island coming into this State to live is *ipso facto* entitled to the full privileges of a citizen, if any term of residence is prescribed as preliminary to the exercise of political or municipal rights. The several States then remain sovereign to some purposes, and foreign to each other as before the adoption of the Constitution of the United States, and especially in regard to the administration of justice, and in the regulation of property and estates, the laws of marriage and divorce and the protection of the persons of those who live under their jurisdiction.

Now, assuming this to be the true meaning of the clause referred to, why make the Constitution repeat itself, or why empower Congress to pass laws in respect to privileges and immunities which have never in the light of this interpretation been denied?

But there can be no mistake in the meaning or intention of the latter clause. By it Congress is authorized to legislate upon the internal affairs of the several States, and in so doing, the only restraint upon its power will be its own conception of what is "necessary and proper."

The immediate object to be accomplished by this amendment I will advert to presently; but let us now consider the propriety of thus robbing the States of their right to regulate their own domestic affairs, and putting such vast power in the hands of Congress.

As I have said before, the great excellence of our Constitution consists in the separation between State and Federal power, and the assignment to each of its proper sphere.

While, very properly, the Federal Government possesses all the powers necessary for the legitimate objects of its creation, to the States has been reserved the exclusive control over all those matters which most deeply affect our welfare and happiness as social beings. To the States alone do we look for "protection in the rights of life, liberty, and property." The greatness of the whole is but the sum of the greatness of the several parts; and it is beneath the fostering care of the State government that the growth and development of each separate political community has proceeded, each having the power to devise just those measures best calculated to promote its own interest, subject only to the Constitution of the United States. We are dependent upon the State government in all the relations we sustain in life. To it and no other do we look for the administration of justice and the punishment of crime. By it are we shielded and protected in the quiet enjoyment of our own fireside. It regulates the transactions of business and trade, protects us in the acquisition of property, secures us in its enjoyment, and provides for its transmission to our posterity. From the cradle to the grave there is no right nor privilege essential to our security and happiness which we do not derive from our State government, and which we would not just as well enjoy if the Federal Government were blotted out of existence. It is right that this should be so. It is an axiom, I think, of political science that the nearer government is brought to the people the more conducive it is to the well-being of the governed. So it is much more likely that the people of a State, as a distinct political community, should know better how to advance their own interests than the people of another State or the representatives of other States could know for them, from whom they might differ in many important particulars.

This was originally their right, and they have reserved it in the Constitution, which forms our Union. And what is now proposed? We are seriously asked to pass this amendment, and invite the States to relinquish their freedom and independence and meekly submit to the interference by Congress in their internal

order and Government. We are asked to invest Congress with authority to go peeping and prying into all the multitudinous details, which can possibly be embraced under the general term of "rights of life, liberty, and property," and regulate them by such laws as may be deemed "necessary and proper." We are called upon to erect here the bed of Procrustes, lay the several States upon it, and torture them into conformity to its proportions. While I have the power to resist, I, for one, shall never consent to so dangerous an innovation, so complete a subversion of our present form of Government.

But while the amendment is thus couched in general terms, and is intended to confer this general power, we must not forget that it is urged for a particular purpose.

Gentlemen have declaimed most eloquently on the broad principle of equality, fraternity; but it is nevertheless apparent that negro equality is what is meant. Manhood suffrage is a very pleasant euphemism; but when translated into negro voting it is not quite so captivating. "Equality before the law" is quite a high-sounding phrase, and, as a general principle, is to be admired; but when you come to apply it to all the elements of which our society is composed, the effect is rather startling. Let us substitute the known for the unknown quantity in this article, and then see how it would read.

The Congress shall have power to make all laws which shall be necessary and proper to secure to the free negroes of each State all privileges and immunities of citizens in the several States, and to free negroes in the several States equal protection in the rights of life, liberty, and property.

I am not only opposed to any limitation upon the power of the States, but that opposition is increased, if possible, by the very object which is sought to be obtained. The very fact that this amendment would authorize such legislation as the "civil rights bill" is an additional reason why it should not be adopted. All the arguments urged against the passage of that bill apply with still greater force to this; though gentlemen have not waited until they could obtain constitutional authority for its passage. I certainly think that the negro should be protected in his life, liberty, and property, and believe that he has always enjoyed this protection, and that at this very moment he stands in no need whatever of those who have constituted themselves his especial friends, and clamor now so loudly for his rights. But I also contend that in giving that protection, in conferring rights and privileges, the several States should continue to exercise, as they do now, the power of declaring what shall be their extent, and by what means they shall be secured.

The object of government is not to benefit the individual, but to secure the welfare of the society over which, by common consent, it is established. The individual must yield to those restraints which a community for its own good sees fit to impose. Likewise, when there is a class which can be made certain and definite, it may be treated as an individual, and, if the peace and good order of society require it, may become subject to the same restraints and disabilities. Now, the negro race in this country constitute such a class which is easily and well defined; and the peace and welfare of a State, especially where they are found in great numbers, demand that the radical difference between them and the white race should be recognized by legislation; and every State should be allowed to remain free and independent in providing punishments for crime, and otherwise regulating their internal affairs, so that they might properly discriminate between them, as their peace and safety might require.

For the negro is not actuated by the same motives as the white man, nor is he deterred from crime except by punishments adapted to the brutal, sensual nature which characterizes him. They are not his true friends who are striving to thrust him up to the same level

with the whites, when the inevitable result must be a war of races; nor are they true lovers of their country's weal, who for such an object are willing to strike down the power of the States and consolidate the Government into a centralized despotism.

As it is not likely that such an amendment as this will be adopted by three fourths of all the States, and as it has been reported for our consideration from the committee of fifteen on reconstruction, the suspicion naturally arises that the committee intend that its adoption by the southern States shall be a condition precedent to their representation in Congress—I will not say restoration, for peace has long since restored them to the Union, but their Representatives are excluded by the mere exercise of arbitrary power on the part of the majority of this House.

Whether I am correct or not in this suspicion, one thing is certainly true, that so far as legislation for the benefit of the negro is concerned, under the authority of this amendment, those States are chiefly to be affected by it. At the risk of being laughed at, I would ask if it is fair and honorable to take such a mean advantage of a fallen foe. They deserve a better fate at our hands. They met our armies in the open field, and resisted with a courage and endurance that compelled our admiration. Their submission has been as complete as unexpected. This is a constitutional Government, however oblivious we may be of the fact. The cause of the war must have been a violation of the Constitution and laws. The power to carry it on must have been derived from the Constitution, or it nowhere existed. Whatever may have been its secret object on our part, in legal contemplation, and according to declarations at the time, it could only be to preserve the Union and enforce obedience to the Constitution and laws. This being the only object known to the Constitution for which the war was prosecuted, and having succeeded upon our part, it follows that the Constitution and laws have been vindicated and the Union preserved; and the Representatives of southern States have as perfect a right to their seats here as any gentleman on this floor. Their exclusion is revolutionary. And I seriously doubt whether this amendment if passed by Congress, as at present constituted, would be constitutionally before the States for their adoption. For it could never have been deemed possible, when power was given to two thirds of both Houses, to propose amendments, that a majority would have the power to exclude or expel a sufficient number to constitute itself two thirds, and then pass measures which it is conceded could not be passed were all the States entitled represented here.

But these absent States are more immediately interested in this question, by reason of the presence among them of a vast number of that inferior race whose condition has been so recently changed by the abolition of slavery. The negro's idea of freedom is to do nothing but bask in the sunshine. The negro woman now disdains to pick cotton, and her present ambition is to "send her daughter to boarding-school, and keep a piano." And they are assisted very much in these mischievous notions by such legislation as the Freedmen's Bureau and civil rights bill. With these ideas, they must, as a class, become idle and improvident, and a grievous burden upon those States. Already do we hear from many sections of Virginia that farmers despair of raising stock; that their poultry, pigs, and sheep disappear in the most mysterious manner. Now, it would be most destructive, just at this period of transition from one state of society to another, to fetter the power of the States while adapting themselves to this changed condition of things, by appropriate legislation to check their thieving propensities, discountenance vagrancy, and stimulate them to habits of industry. There is no reason why the most ardent philanthropist need fear that this power will be abused. The people of the South are honorable and high-minded. When these creatures were their

slaves they were treated as part of their household, with kindness and affection; and the exceptions to this treatment were not more numerous than were to be found in the relation of parent and child, or husband and wife. Give them time to adapt themselves to this sudden and complete revolution in their affairs. Give some heed to the following truthful suggestions of President Johnson in his objections to the civil rights bill:

"The white race and the black race of the South have hitherto lived together under the relation of master and slave—capital owning labor. Now, suddenly, that relation is changed, and, as to ownership, capital and labor are divorced. They stand now each master of itself. In this new relation, one being necessary to the other, there will be a new adjustment, which both are equally interested in making harmonious. Each has equal power in settling the terms, and, if left to the laws that regulate capital and labor, it is confidently believed that they will satisfactorily work out the problem."

But the saddest feature of all this scene is the vindictive spirit which gentlemen manifest in everything that relates to the unhappy South. Have we had introduced here any measures for the relief of that sorely stricken land? Have gentlemen applied themselves to heal the ravages of war and encourage a defeated, humiliated people to resume their former position and contribute, as before, their share to the national greatness and wealth? Alas! no. But what instead do we see? The carnival of death has ceased, but gentlemen are not willing yet to be cheated of their prey, and they carry on the war in another shape. Instead of shot and shell these valiant warriors now fire at them such acts of Congress as the Freemen's Bureau and civil rights bills; and when they think they have driven the iron still deeper into the soul, added another pang to the tortures already inflicted, their exultation, as exhibited here a few days since, marks the intense malignity of their hate.

Surely the war that is past has been punishment enough for the people of the South. It ought to satisfy the keenest thirst for vengeance, that their whole land has been swept with the "besom of destruction," that every house is filled with mourning, and every hillside and valley shows the blackened ruins of a once happy home. Let us cease this unmanly warfare. The work before us requires some of the same spirit that animated our forefathers—the spirit of kindness and conciliation. Let us apply ourselves now to the work of cementing with brotherly love the fragments of a broken Union. While, in the providence of God it may have been necessary that sectional hate and fanaticism should have nerved the arm that struck for victory, they have no office to perform in the duties of the present hour.

Mr. PERHAM. During four long and bloody years the people of this country have struggled for national life and the vindication of the imperishable truths of the Declaration of Independence. Nearly half a million of newly made graves, the lamentations of mourning mothers, widows, and orphans, the presence of maimed and battle-scarred soldiers in the streets, and a debt of enormous proportions attest to the fierceness of the conflict. But thanks to our noble officers and men who, in the hour of danger, left the endearments of home and kindred, and, baring their breasts to the storm of battle, triumphantly bore our flag on a thousand battle-fields, until the weapons of treason were shattered in the hands of their supporters, and the supremacy of the national authority established throughout our entire jurisdiction. A grateful nation will do honor to its living heroes, and the people will make pilgrimages of love and affection to the graves of the slain.

The old ship of state which our fathers, eighty years ago, built according to the best model of that day, and freighted with the fondest hopes of the world, has recently encountered a terrible storm. During its severe trial it has braved the winds and billows, at times appearing almost engulfed in the angry surges, then proudly rising in her majesty, the admiration of her friends and the envy of her ene-

mies, she outrode the storm and anchored in the peaceful waters. All this unparalleled trial could but reveal whatever defect existed in the material or construction. Some timbers have been parted, some holes in the bottom and sides have been made, into which the waters have for some time been rushing, requiring a portion of the crew constantly at the pumps. These holes must be stopped up; some slight repairs to the old ship must be made for her own safety and that of the passengers and crew. We have also exchanged a portion of the freight for an increased number of passengers in the shape of citizens of African descent. Some portion of the vessel heretofore used for the storage of freight must now be appropriated for the accommodation of these additional passengers. Their comfort and well-being must be provided for. They cannot be disposed of as you would store away bags and barrels and boxes. Such reconstruction must take place as will best secure the rights, comfort, happiness, and harmony of all on board. And it is absurd to object to these necessary and indispensable changes in the fear that the old ship might not be recognized.

We have been sent here by our constituents, charged with the important duty of reconstructing this Union in accordance with the enlightened and progressive spirit of the age, and on the basis of complete and impartial justice. They bid us ask nothing more, and charge us, by all the sacredness of our obligations, to accept nothing less. They send us here with no vindictive spirit. The horrors of Fort Pillow and Andersonville have inspired no feelings of revenge. They justly feel themselves masters of the situation, and will not stoop to exult over a fallen foe. While they demand that "treason shall be made odious," and that ample guarantees shall be given against the recurrence of another rebellion, they are willing to accept the least possible amount of punishment and concession that will secure these results. In this spirit I address myself to the discussion of the important questions arising from the present condition of the States recently in rebellion, and whether they are in a suitable condition to be entitled to representation in Congress and intrusted with all the rights and powers of loyal States.

Much has been said and written upon this subject, and the theories are about as numerous as the people who advocate them. But, for our purpose, it is of but little importance whether we regard these States as dead, according to the theory of some members of Congress, or their functions suspended, as the President declares. In any view of this subject these great practical facts remain. In that portion of the South recently in rebellion there is territory, limited and defined by State lines, within the jurisdiction and subject to the control of the United States. And there are people, citizens of the United States and owing allegiance thereto, but without State governments and without any power of themselves to create them. Theorize as we may on this subject, this is the common ground to which we must all come.

The President recognized this principle when he prescribed the manner in which these States are to be reorganized. If they are States in the Union now that the military power of the rebellion has been destroyed, entitled to the rights of loyal States, by what authority has the President exercised, practically, their judicial, executive, and legislative powers? By what authority has he appointed provisional governors, authorized conventions to form constitutions, prescribed the qualifications of voters for delegates to such conventions, and declared what the constitutions when formed should be, and exercised numerous other powers which he could not exercise in the loyal States?

Finding these States, then, at the close of the war without State governments and without power of themselves to create governments, it becomes our duty, in accordance with that provision of the Constitution which makes it the duty of "the United States to guaranty to every

State in this Union a republican form of government," to provide for the establishment of State governments that shall correspond with the spirit of this and the other provisions of the Constitution, and to guaranty in the strongest possible manner the perpetuity of such form of government. This is just what we have been trying to do for the last five years, but with partial success.

It is the duty of the United States, not only to see that new States to be admitted have such governments, but to "guaranty a republican form of government" in the old States as well. It makes no difference whether the rebellious States are dead or living; the duty of the United States is the same. It is just as much our duty to see that the government of a State continues republican in form as to require it as a condition of admission. Now, what is a "republican form of government?" It is one in which the republican principle is fully recognized; in the common acceptance of the term, it is a government by the people, one in which the rights of all the citizens are equally respected. Can we guaranty a republican form of government in the States recently in rebellion by pursuing the policy heretofore adopted? The President, on his accession to the Presidency, with the best of intentions, as we are bound to believe, inaugurated a policy which he declared to be an experiment, to be modified or abandoned whenever it should become necessary. He has been more than generous toward the late rebels, pardoning them, restoring to them their property, giving them in many instances the entire control of new State governments, doing everything that it is possible for man to do, in the way of kindness, to gain their confidence and good will and secure a compliance with the requirements of good citizenship. But have these acts been reciprocated? Instead of growing better and more loyal under the President's policy, they have grown worse and more disloyal. Instead of accepting in good faith the results of the war, they openly declare that they are only subdued for the time being, and they will now rely on their influence inside the organization of the Government to accomplish what they have failed to do outside by the bullet. Their policy is to render it so uncomfortable and hazardous for loyal men to live among them as to compel them to leave. Many hundreds of northern men who have made investments and attempted to make themselves homes in these States have been driven away. Others have been murdered in cold blood as a warning to all northern men who should attempt to settle in the South. Officers charged with the execution of the laws have been intimidated by threats of violence, and brutally murdered for a faithful discharge of duty.

In Kentucky the courts hold that officers and men who have been in the Union Army are personally responsible for arrests made and property taken during the war by order of their superiors. Many have been imprisoned, and actions are now pending against thirty-five hundred more in pursuance of this ruling of the courts; while officers and men who have been in the rebel army are by the same courts exempted from such liability because of their rights as belligerents. This is but foreshadowing what will take place in all the seceded States as soon as the military force shall be withdrawn.

Governor Brownlow, of Tennessee, who did more, perhaps, than any other man to secure the nomination of Andrew Johnson at Baltimore, in a recent address said:

"You may think it a little strange that I give such counsel. I do it because if General Thomas were to take away his soldiers and pull up stakes and leave here, you would not be allowed to occupy this school-room a week; and if General Thomas and his military forces were to go away and leave us, this Legislature, at the head of which I am placed, would be broken up by a mob in forty-eight hours."

On the 8th of March, 1866, he wrote to a member of this House a letter, from which I make some extracts. He says:

"Since pardons have been so multiplied, and no man has been punished, they have everywhere become impudent and defiant, until in most counties in

Middle and West Tennessee it is disreputable to have been a Union man, or, as a southern man, to have served in the Union Army—and matters are growing worse—there constructed traitors openly cursing loyal men, and threatening them with shooting or hanging; boasting that they have the President on their side, while we all feel that the President's policy is ruinous to us.”

“Every rebel in all this country, every McClellan man, and every ex-guerrilla chief, are loud and enthusiastic in praise of the President. The men who but a few months since were cursing him for an abolitionist and traitor, and wishing him executed, are now for executing all who dare oppose his policy or even doubt its success.

“There is twice the amount of bitterness and intolerance in the South to-day toward the Union and everything northern than there was at the time of Lee's surrender. Abuse of Union men, of the radical majority in Congress, and self-assumed superiority on the part of the southern chivalry have arisen to such a height that loyal men cannot travel on a steamboat or in a railroad car without being insulted. As it was during the war, so it is now; all concessions from the North or from the majority in Congress are regarded as evidences of fear. All the old rebel presses of 1861 and many new ones are in full blast, threatening Congress and the North with ultimate vengeance and boasting of southern prowess. The most popular men in the largest portion of Tennessee to-day are the men most distinguished for their hostility to the North and what they are pleased to term the radical Congress, and they are the class of men selected to fill offices, as the late county elections show. The same is true of the entire South, only to a greater extent. In a word, they are resolved on breaking up the Government, and they expect to carry out their scheme through the ballot-box, and how men of candor and intelligence can represent them as loyal and kindly disposed is a mystery to me, even in this age of rebellion and treachery.”

“Why, sir, many of them are expecting the President to disperse Congress with the bayonet, as Cromwell dispersed the Long Parliament. The southern breast is being rapidly fired to deeds of valor; and all this, and more, as I believe, has been caused by the mistakes of the President. His plan of trusting rebels with their State governments has had an effect exactly the opposite of what he intended. It has ruined the prospects of the Union men, and they feel that there is no safety for them unless Congress shall choose to protect them. Even three days ago General Thomas had to send troops into Marshall county, some sixty miles distant, to protect loyal men and freedmen who were fleeing for safety and coming to the city.”

North Carolina has been regarded one of the most loyal of the rebellious States; but, judging from the following from the Raleigh Standard, this State, too, is following her sisters in rebellion in the work of rewarding rebels and punishing loyal men:

“The town of Wilmington, in this State, has recently passed by popular election from the hands of loyal Union men into the hands of original secessionists and latter-day war men. The same is true as to the county court of New Hanover, under the appointment of magistrates made by the Legislature. It is considered disreputable in Wilmington to be an outspoken unconditional Union man. General Robert Ransom, lately of the confederate service, has been chosen marshal of the town, with a salary of \$2,000. General K. is, we presume, still unpardoned.”

Colonel Stokes, one of the true men elected to this House from Tennessee, in a recent speech said:

“We know that admission now would destroy the Union element of the States. Congress is doing right in holding them back. When the rebel armies first surrendered, there was everywhere a disposition toward loyalty; but I stand here to-night to say that there is now a feeling as bitter toward the Union men of the South as there was in 1860-61. And the facts have proved that Congress, in its cool and deliberate treatment of the matter, deserves the thanks of all Union men, in giving an opportunity for these rebels to show their hands. Time will show that Congress was right.”

This view of the spirit of the South is confirmed by the necessity which prompted General Grant to issue an order, on the 12th of January last, directing the military power to protect the loyal citizens of the rebellious States from the prejudice and violence of their rebel neighbors, and further to protect colored persons from prosecutions charged with offenses for which white persons are not prosecuted or punished in the same manner and degree.

All the accounts we receive from loyal sources, from Grant, from Schurz, from the agents of the Freedmen's Bureau, from every loyal man from the North who has visited the South, from every truly loyal man in the South, by petitions and entreaties, all agree that, if the military force should be removed, it would be impossible for Union men, black or white, to remain there. And yet the reconstructed Governor of Mississippi says they (the Union soldiers) are not needed, that they are “a disturbing element, a nuisance, and a blighting

curse.” The rebels desire that the United States troops shall be withdrawn, and their places supplied by State troops composed of officers and men from the rebel army, who would sooner protect the rebel oppressor than the loyal men.

While important service in the rebellion is a sure passport to political and social position and distinction, a systematic effort is made to brand every man with disgrace who has been true to the Government, thus openly and defiantly rewarding treason and punishing loyalty. It is a fact, to which I challenge contradiction, that in spite of all the caution, expostulations, arguments, and demands of the President in regard to the election of loyal men in the States he is attempting to reconstruct, with every consideration of policy urging them to a decent regard, for the time being at least, to the loyal sentiments of the country, the men who have been the most active and efficient in the rebellion are the most popular at the polls, and receive the largest vote. It is very true that some good men, under the pressure of circumstances, have been elected. A few such have been sent here as claimants of seats in this House—men who would honor the position they claim, and with whom we should all be most happy to be associated as members of this Congress, could we feel that they had a loyal constituency, able to maintain a loyal government.

In many instances the disloyalty of the persons voting, or the persons elected, has been so notorious that the President has been compelled to declare the election void, and withhold the certificate of election, or forbid their entering upon the duties of the office. The Secretary of the Treasury and the Postmaster General both declare that they are unable to find loyal men enough in those States, who are willing to take the prescribed oath, to fill the offices under their Departments, and we are called upon to repeal or modify the oath so as to allow these men, just out of the rebellion, to accept some of the most responsible and lucrative offices under the same Government they have been laboring for four long years to destroy. To a proposition so flagrantly wrong and perilous I will not consent by my vote. If there are not loyal men enough in the South who have been true to the Union to fill these offices, I would appoint some of the heroes of the war, and bid them take part in the administration of the government in the States they have saved by their valor.

A communication from Colonel De Gress, addressed to General Howard, and dated at Houston, Texas, December 15, 1865, says:

“I have the honor to respectfully report that in some portions of this State the negroes are not yet free; that the pass system is still in force, and when a freedman is found at large without a pass he is taken up and whipped.”

Lieutenant Eldridge, writing to the same officer, from Vicksburg, Mississippi, on the 28th of November, 1865, says:

“I have the honor to inclose herewith, for your consideration, the freedmen's bill, which has just become a law in this State, and would respectfully ask your attention to the following points therein:

“Section one prohibits the holding, leasing, or renting of real estate by freedmen.”

“Section four excludes freedmen from testifying in cases of whites.”

“Section five authorizes mayors and boards of police, by their sole edict, to prevent any freedmen from doing any independent business, and to compel them to labor as employes, with no appeal from such decision.”

“Section seven gives the power to any white citizen over the person of a freedman unknown to any other law, and denies the right of appeal beyond the county court.”

Major General Terry, in an order issued at Richmond, Virginia, January, 24, 1866, referring to a statute passed at the present session of the Legislature of Virginia entitled “A bill providing for the punishment of vagrants,” says:

“The ultimate effect of the statute will be to reduce the freedmen to a condition of servitude worse than that from which they have been emancipated—a condition which will be slavery in all but its name.”

A law recently passed by the Louisiana Legislature provides that any one who shall feed,

harbor, or secrete any person who shall leave his employer without his consent shall be liable to a fine or imprisonment; thus reviving, as far as possible, the principles of the old slave code. These facts might be multiplied indefinitely, but enough have been presented to show that, while these people accept the fact of emancipation, they believe the principle is wrong, and intend to make the condition of the freedmen as near that of slavery as possible. There are, to be sure, very many good and loyal men in the South, and had they the control of the States all would be well; but the unwelcome truth is the rebels are in the ascendency. Loyalty is the exception and disloyalty the rule.

Governor Cox, of Ohio, in his report of the President's conversation on the 21st of February last makes him speak of what he is doing in those States for the purpose of “stimulating loyalty” no less than six times in that short conversation. I fear that too much of the little loyalty we see manifested by these men is of the “stimulated” kind; that it is a sickly plant at most, and will die out as soon as the stimulation shall cease. I have no confidence in this “stimulating” business. My own observation proves to my mind that, though you may get a little more out of a subject for a day by administering stimulants, in the end he will sink just as much below his natural condition as he has been raised above it. The facts in this case show that the President's southern patient has been stimulated too long, that the medicine has ceased to have any effect, and he is rapidly sinking, and is now even lower than when the first dose was administered.

This is a sad picture, but it represents the spirit of the men who rule a large portion of the eleven seceded States to-day, and but for the presence of the military force would rule them all. Mr. Lincoln held that those States were “out of their practical relations with the Union,” and no one will deny that this state of things exists at the present time. The great work before us is to restore these States to their “practical relations with the Union” at the earliest moment consistent with the future security, peace, and perpetuity of the Government.

On whom devolves the duty of deciding when these States are in a condition to be represented here? Not the Executive. No such power has ever been delegated to him. Not the House of Representatives or the Senate acting independent of each other, but the law-making power of the Government alone is competent to perform this important duty. In confirmation of this view of the subject I add the express declarations of the President himself, through the Secretary of State. On July 24, 1865, Mr. Seward telegraphed to the “provisional governor” of Mississippi:

“The government of the State will be provisional only, until the civil authorities shall be restored with the approval of Congress.”

So, on September 12, 1865, he wrote to Governor Marvin, of Florida:

“It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.”

Thus it is seen that, as late as September, 1865, both these distinguished men agreed with the majority of Congress that the readmission of these States is to be subject to “the approval of Congress.”

In accordance with the President's and Mr. Seward's original plan, I hold that it is the duty of Congress to take the whole subject into consideration, as it is now doing, and decide just what guarantees it is absolutely necessary to require to secure equal and exact justice to all the citizens, and to prevent the recurrence of another rebellion in the future. This should be secured by such constitutional amendments as cannot fail to accomplish the object; and, on the ratification of these amendments by a vote of the people of these States, as a pledge of their sincerity and loyalty, I would allow them to be represented in Congress on an equal footing with the other States.

I venture to suggest some of the guarantees which, in my judgment, would best secure the well-being and mutual interest both of the North and South.

1. The leading intelligent traitors who knowingly and willingly went into the rebellion—those denominated by President Johnson “conscious traitors”—should be deprived of all political rights for the present at least, and until they shall have brought forth fruits meet for repentance, or the loyal sentiment of the States shall have become so strong as to render them powerless for evil. Aside from a few leaders, who by their official position or infernal conduct have been the representatives of treason, on whose heads should be visited the extreme penalty of a violated law as a vindication of the supremacy of law and order, and a notice to coming generations that henceforth “treason is a crime to be punished and made odious,” I would allow them to live in the country if they desire, and would heap coals of fire on their heads by securing to them full and complete protection of their persons, and the enjoyment of the fruits of their labor. This is all they expected when they laid down their arms; and, it appears to me, is all a rebel possessed of common decency would ask. Even Lucifer himself never had the presumption to insult the Almighty by going back after the overthrow of his rebellion and asking to be permitted to assist in the administration of the government he attempted to destroy, much less to claim the privilege as a right. There is no evidence that these men love the old Union any better now than when they were openly fighting against it. Their arms have been broken, but they are defiant still. They may accept the fact of emancipation, but they still believe that slavery is the best condition for the colored race, and it is but reasonable to suppose that as far as possible this idea would, if they were allowed to govern, be embodied in law, and carried out in their intercourse with the colored people. If I believed slavery to be right, and the relation of master and slave the best condition for both whites and blacks, I should use my influence to make the condition of the colored population as near that of slavery as possible. and if I disliked the form of Government under which I live as those men professed to hate the old Union, I should not cease my efforts to supplant the hated Government and establish one more in accordance with my own idea. Nothing less than this could be expected of me. Is it reasonable to suppose that the recent rebels would do less? Do not the acts of the Legislatures of many of these States just quoted answer the question with alarming significance?

The disloyal leaders who vacated their seats in this Hall in 1861, after having spent four years in an infamous attempt to destroy the Union by force of arms, and in vilifying the Constitution of our fathers without so much as professing to love the “old Government” any better than when they were fighting against it, with the blood of four hundred thousand murdered patriots still unwashed from their hands, ask to come back into the Halls of Congress; and they and some others in high and low places seem to think it very strange that they are not permitted at once to become the guardians of the institutions they so abhor. Before such cool affrontery Satan’s rebellion in heaven falls into insignificance. They have been here before and basely violated their oaths and took advantage of their official position to overthrow the Constitution and Government they had sworn to protect. They are no better now, and we should be false to our high trust to allow these men to come back again to reenact the scenes of 1861.

Suppose in this contest the rebels had succeeded, the old Government been overthrown, and the confederate government, based on the divinity of slavery and the right of secession, had become the government of this nation, what would have become of us here? If we had been permitted to live, we might have thought ourselves fortunate. But suppose the members

of this Congress to have been elected to the Congress of the new government. Our Democratic friends on the other side, who have always sympathized with the rebels in their treason and now regard them truly loyal, would find themselves very much at home, and might very properly cooperate with the confederate statesmen and ex-rebel generals in the work of such a Congress. But an unconditional Union man who hates slavery and treason and loves liberty could only go there for the purpose of molding the Government in accordance with his own views. Just so will it be with these ex-rebels if we admit them to legislate for a Government for which they have no sympathy. It will be like taking to our bosoms and warming into life the scorpion whose sting is death. If we should err in this matter and keep the States in question out (or in the position they voluntarily assumed) a little longer than is absolutely necessary, the error can be corrected; but if they are admitted with treason in the hearts of the governing classes of the people the evil may be irreparable.

In this view of our duty in regard to the treatment of leading traitors I utter no new declarations. These are the settled convictions of a large portion of the Union men of the country. They were the principles boldly advocated by President Johnson in his better days, before his head became giddy with power, and southern rebels and northern copperheads led him captive at their will. In the Senate of the United States, March 2, 1861, he said:

“Show me who has been engaged in these conspiracies, who has fired upon our flag, who has given instructions to take our forts and custom-houses and arsenals and dock-yards, and I will show you a traitor. Were I President of the United States I would do as Thomas Jefferson did, in 1806, with Aaron Burr. I would have them arrested, and if convicted within the meaning and scope of the Constitution, by the eternal God I would execute them.”

In a speech made in Nashville, Tennessee, June 9, 1864, indicating his acceptance of the nomination made at the Baltimore convention, two days before, he said:

“Treason must be made odious and traitors must be punished and impoverished. Their great plantations must be seized, and divided into small farms, and sold to honest, industrious men. The day for protecting the lands and negroes of these authors of rebellion is past. It is high time it was.”

“But in calling a convention to restore the State, who shall restore and reestablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled. All the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain.”

I quote further from the same speech in proof of my statement:

“Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration. I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government. We say to the most honest and industrious foreigner who comes from England or Germany to dwell among us, and to add to the wealth of the country, ‘Before you can be a citizen you must stay here for five years.’ If we are so cautious about foreigners, who voluntarily renounce their homes to live with us, what should we say to the traitor, who, although born and reared among us, has raised a parricidal hand against the Government which always protected him? My judgment is that he should be subjected to a severe ordeal before he is restored to citizenship. A fellow who takes the oath merely to save his property, and denies the validity of the oath, is a perjured man, and not to be trusted. Before these repenting rebels can be trusted, let them bring forth the fruits of repentance. He who helped to make all these widows and orphans, who draped the streets of Nashville in mourning, should suffer for his great crime.”

These are precisely the doctrines I advocate to-day, and, in the name of the people I represent, I call upon the President to cooperate with Congress in giving them practical application.

2. All the civil and political rights belonging to citizenship, including the right of suffrage, should be guaranteed to all loyal citizens, irre-

spective of race or color. The loyal men, white and black, who have always loved the old flag and were true to it in the darkest hours, can now be trusted to aid in the administration of the Government.

Right here it is objected that by placing the colored people on an equality before the law with the whites you will bring about a war of races. And this cry has been heard from the lowest groggery in the land up through all the grades of society to the White House. Do not these people understand that the measures they propose are the only measures that can possibly bring about a war of races in this country? What creates a war of races? It is the application of one law to one race and another to another race in the same community. It is granting privileges to one race which you withhold from the other, thus engendering jealousy, hatred, revenge, and terminating in open hostility. I admit that one hundred and fifty thousand men, trained to war, representing four or five million people stung to madness by the refusal of the Government to recognize their manhood, would be a dangerous element in any Government. But give the colored man the common rights that belong to man, give him an equal opportunity with the whites, subject him to the same laws, award to him the privileges you claim for yourself, bid him God speed in his efforts to raise himself from his degraded condition, and a war of races will be impossible.

Our fathers gave the right of suffrage to free colored men in nearly all the States in the Union, and without any evil results. The idea that the black man has no rights that white men are bound to respect is of modern invention.

We have paid dearly for our refusal to do justice to the colored race. Had we emancipated and enfranchised the colored men when Mr. Seward declared the “irrepressible conflict,” secession would have been impossible. These four years of blood and anguish have been the fearful punishment for our refusal to obey the demands of God’s eternal justice. The sins of the fathers as well as our own have fallen upon us with terrible consequences, and are to be visited upon coming generations in the shape of an enormous debt. And now, though we have given the colored man—what we had no right to withhold from him—his liberty, if we fail to give him the common rights of citizens we may depend on still further judgments from Him who made the black men black, and the white men white, and stamped upon both His own image.

When Mr. Lincoln, on the 1st day of January, 1863, proclaimed liberty to the bondmen, freedom to a race in slavery, and invoked upon the act “the blessing of God and the considerate judgment of mankind,” he meant something more than the mere form of freedom. That act was intended to carry with it the common rights of manhood. And when we called on the black men to assist in saving our imperiled country, we did not intend to avail ourselves of his services on the field of danger and then abandon him to the tender mercies of his former master, made doubly malignant because of his efficient aid to the Union cause. Unless we protect him in his civil rights his liberty is but a solemn mockery. The colored man, by rallying to the standard of a nation which had given him no rights except those of a slave, and bearing aloft our flag in the thickest of the fight, has earned his rights to all the privileges of a man. And if we deny him those privileges a God of justice will frown upon us, and mankind will curse us for our perfidy.

The practical question presented is, whether we will restore the government of the States recently in rebellion to the loyal or disloyal men. Will you trust the men who were hunted down by dogs, plundered of their property, imprisoned in loathsome dungeons, compelled to see their wives and little ones cruelly treated, exiled from their homes, driven to the mountains, to caves, and rocks, compelled to see their loyal associates shot down like dogs, dragged to the scaffold and hung as felons, and sub-

jected to all the outrages and indignities that devils could invent, and still stood true to the old flag, faithful among the faithless, or the men who were the authors and active perpetrators of all these cruelties? Shall we give heed to the entreaties of the men who have always been true and never faltered, and who now implore us to protect them from the rage of their rebel neighbors, or the recent traitors in arms who come to us with their hands still reeking with the blood of our murdered brothers, and, without any evidence of sorrow for what they have done, or the least signs of regret for their stupendous wickedness, demand an opportunity to accomplish by the ballot and other civil influences what they have failed to do by the sword?

Some say if you give the ballot to the negro his old master will control it. So when we talked about putting them in the Army it was said they would turn against us and fight for their old masters; but when were soldiers truer than they? Go ask at Port Hudson, at Milliken's Bend, and Fort Wagner, where their spirits went up from their black bodies to their God in defense of liberty, the Constitution, and the Union, and tell me whether these men can be depended on. The men who will peril their lives on the field of battle in defense of our Constitution will vote for it if you will give them an opportunity.

It is objected that the colored people are too ignorant to be intrusted with the ballot, but it is an objection that applies only to color. The most ignorant foreigner that ever landed from an emigrant ship, the most benighted poor white in all the South, is deemed a safe depository of this important trust, providing he has no shade of African blood in his veins. Scarcely a black man can be found in the whole country who was so ignorant that he did not know and choose the right side during the war, while his intelligent master was generally on the wrong side. I would sooner trust a loyal black man with the ballot than a disloyal white man. The argument that would exclude a poor or ignorant colored man from the right to vote would also exclude the poor or ignorant white man. The more this question is discussed the stronger are the convictions of the people "that the only way to secure and perpetuate our Government in its purity is to confer upon all the races of men equal rights, or such opportunities as will prepare them for the enjoyment of equal rights." And the time is not far distant when the people of this country will acquiesce in this principle as fully as they now do in the constitutional amendment abolishing slavery, which our Democratic friends so strenuously opposed.

In these views I also find myself sustained by the declarations of the President. In his Nashville speech, before referred to, he said:

"If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely."

In August, 1865, the President recommended to Governor Sharkey, of Mississippi, the extension of the franchise "to all persons of color who can read the Constitution of the United States in English and write their names, and to all persons of color who own real estate valued at not less than \$250 and pay taxes thereon."

In October last the President was in favor of negro suffrage. He then said to Major Stearns:

"My position here is different from what it would be if I were in Tennessee. There I should try to introduce negro suffrage gradually: first, those who had served in the Army; those who could read and write; and perhaps a property qualification for others, say two hundred or two hundred and fifty dollars."

In October, 1864, just before his election, Andrew Johnson addressed a gathering of colored people in Nashville, and said:

"I, Andrew Johnson, hereby proclaim liberty, full, broad, unconditional liberty, to every man in Tennessee. I will be your Moses, and lead you through the Red Sea of struggle and servitude to a future of liberty and peace. Rebellion and slavery shall no more pollute our State. Loyal men, whether white or black, shall govern the State."

3. We should forever prohibit the payment of the confederate and State debts contracted in aid of the rebellion, and prohibit the nation and the States from making payment for emancipated slaves. Already the less cautious rebels are talking about being able, by the aid of northern Democrats, when they shall be represented in Congress, to compel the General Government to assume their debt or repudiate the whole. James L. Orr, the so-called Governor of South Carolina, says:

"I therefore cherish the hope that Congress will, as soon as the public debt is provided for, make some just and equitable arrangement to make the citizens of the South some compensation for the slaves manumitted by the United States authorities."

General Schurz, in his report to the President, says:

"In fact, there are abundant indications, in newspaper articles, public speeches, and electioneering documents of candidates, which render it eminently probable that on the claim of compensation for their emancipated slaves, the southern States, as soon as readmitted to representation in Congress, will be almost a unit. In the Mississippi convention the idea was broached by Mr. Polter, in an elaborate speech, to have the late slave States relieved from taxation for years to come, in consideration of debts due them for the emancipated slaves; and this plan I have frequently heard advocated in private conversations."

Hon. John Covode, in his account of an interview with Governor Wells, of Louisiana, says:

"He began to make demands with regard to what Government should do. He said that Government must pay for slaves that had been emancipated, for it had taken or destroyed property enough for that purpose."

This is the programme now shadowed forth, and which, if not put to rest forever, will be a source of infinite trouble to us hereafter. We owe it to the loyal tax-payers North and South to provide that they shall not be taxed to pay the expenses of a war to destroy the nation's life; and we owe it to the holders of our national securities, as well as our own credit and financial stability, to provide by amendment to the fundamental law that none of these pretended claims shall ever be paid.

4. The doctrine of secession should be repudiated and branded with everlasting infamy. This proposition is too plain to need argument now. The experience of the last four years, the graves of four hundred thousand fallen heroes, the emblems of mourning all over the country, all speak in thunder tones, demanding that this doctrine hereafter shall find no place among the possibilities of the country.

The Union members of Congress earnestly desire to avoid any conflict with the President. They will have none except so far as he repudiates the principles which gave him the election in 1864. They ask nothing that the principles heretofore expressed by him, and enforced in his administration of affairs in the States recently in rebellion, do not absolutely justify and require.

But it is objected that our plan contemplates amendments to the Constitution, and the President says, "Amendments to the Constitution ought not to be so frequent that their effect would be that it would lose all its prestige and dignity." The President lost sight of this idea when, in the Senate of the United States in December, 1860, he proposed no less than nine amendments to the Constitution in one day. He repudiated this idea when speaking for the votes of the American people in Nashville soon after his nomination for Vice President. He said:

"I hold, with Jefferson, that Government was made for the convenience of man, and not man for Government. The laws and constitutions were designed as instruments to promote his welfare. And hence, from this principle, I conclude that Governments can and ought to be changed and amended to conform to the wants, to the requirements, and progress of the people and the enlightened spirit of the age."

"And let me say that now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state, and we are seeking security, let us fix the foundations of the Government on principles of eternal justice which will endure for all time."

And now, in 1866, the loyal people of the country say amen, and call upon the author to

coöperate with their representatives in securing such amendments as the changed condition of things demand; and to conform "to the requirements and progress of the people and enlightened spirit of the age," and I to "fix the foundation of the Government on principles of eternal justice which will endure for all time."

Because of the enunciation of such principles as I have quoted, and others corresponding thereto, the true men of this country rallied around Andrew Johnson, and triumphantly elected him to the second office within their gift.

I have quoted to some extent the declarations of the President to show that when a candidate for the suffrages of the people, and even later, he favored every proposition that the majority of Congress desire to adopt. If he will now, in his high position, carry out the principles he then avowed, a confiding people will rally around him and hold up his hands in the great work, and future generations will hold his name in grateful remembrance. Failing to do this, the terrible judgment of popular condemnation awaits him.

Mr. Speaker, I am no alarmist. I believe in a glorious future for this country, but on the express condition that we prove ourselves deserving such a future. The day of our peril is not yet past. Already in the North a large, and in some States a powerful, party who from the beginning of the war have sympathized more with the rebellion than the Government, are coming forward to meet their southern friends, and over the graves—not yet covered with the verdure of a single season—of the nation's fallen heroes, whom one has branded as murderers and the other has slain, they propose to shake hands, and pledge themselves to place this Government in the hands of those who but yesterday were striving to destroy it, and threaten revolution if their demands are not acceded to; and, "tell it not in Gath," they claim a President elected by loyal votes to coöperate with them. Already a Senator rises in his place and declares that "it is the duty of the President to ascertain who constitute the two Houses of Congress," and calls upon him to "recognize the Opposition here and the southern members as a majority of the Senate." Another Senator, at a recent meeting in this city, is reported to have said that "he believed to-day that a revolution is pending, and President Johnson would have better work for southern men than hanging them. He believed to-day that when Jeff. Davis left the Senate he was a better Union man than Abraham Lincoln. This he would say on the floor in Congress before he got through."

The New York World suggests that the "present national Legislature should be put down by force," and the Constitutional Union talks about the "second advent of Cromwell of England, or of Napoleon of France;" while the Macon Telegraph echoes back from Georgia the sentiment of its northern allies, and declares that "the ballot-box is too slow a remedy for existing grievances," and adds:

"Let the President put down the rebellion in Congress and appeal to the ballot-box to sustain that."

And continuing further in the same strain, it says:

"We prefer peaceable means; but, these failing, the President should issue his proclamation declaring the Union fully restored, and inviting the southern members of Congress to enter the Capitol and take their seats. If refused admittance, a regiment of United States troops should be sent to put the southern members in their places."

The proclamation has been issued, but the southern members and the regiment of United States troops have not yet appeared.

The Chicago Times says:

"We do not hesitate to declare that it is the solemn duty of the President to follow his words by deeds. We do not hesitate to declare that it is the solemn duty of the President to command the arrest of Thaddeus Stevens, Wendell Phillips, Charles Sumner, and their confederates in Congress and all over the country, for the crime of treason. In no other way can this northern rebellion be promptly quelled and the public quiet restored."

And if the rump Congress shall not speedily abandon its seditious, revolutionary, and lawless prac-

times, if it shall persist in excluding the representatives of eleven States from their rightful seats, and in exercising the powers of the Congress of the United States, we do not hesitate to declare that it will become the solemn duty of President Johnson to constitute himself the Cromwell of the time, and dissolve the rump by military power."

C. C. Burr, a Democratic orator and writer, in his paper, the *Old Guard*, in the issue of January, 1866, in eulogizing General R. E. Lee, says:

"It is a question which impartial and inexorable history will have to settle whether a success on his part would not have proved a benefit to his country."

He further says:

"When every Democratic editor will speak out his real thoughts and say boldly and defiantly that he believes men like General Robert E. Lee to be patriots, and men like Stanton and Seward to be traitors, there will be more honest men in the land than there are now, and there will be better hope for liberty—for our country's lasting peace and honor."

When I remember that those "Democratic editors" have never uttered a word in condemnation of the action of General Lee from the time he ignominiously betrayed the confidence of General Scott and the country, and basely drew his sword against the Government on whose patronage he had lived, to the present time, and that they have never ceased to apply the vilest epithets to the other two distinguished men named, I cannot avoid the conviction that Mr. Burr speaks what he knows on this subject.

For myself, standing in my place in the American Congress, representing a people who have freely poured out their treasure and their blood that this nation might live, and speaking for thousands of homes made desolate by the war, with the dust of the bravest and best of my constituents sleeping in patriots' graves, almost within sound of my voice, I am ready to swear, by all the sanctity of this free-will offering, that I will never consent, by my vote, that the Government of this country shall be taken from the loyal citizens who have saved it by their blood and given to traitors. Could I be so false and base as to do so, I should expect the gory dead to rise up in judgment against me.

We have emerged from the greatest military struggle on record, and now a moral contest has commenced. Already we have had seeming defeat. Already our enemies boast that our chosen leader is in sympathy with them and against us. God grant that the experience of the war may not be repeated; and that we may not be subjected to three years of political McClellanism and Chickahominy anguish, before a Grant shall be found to lead us on to victory.

There is a grandeur in the contest we are entering amounting to the sublime. Our people have stood unawed and invincible in the midst of the thunder and smoke of terrible battle, when carnage and death held high carnival. It remains for us to show to the nations of the earth that we can stand erect in this moral conflict, and, with hearts strong and undaunted, meet every responsibility incident to the great work which devolves upon us. The result of this conflict is not doubtful. We may not now be worthy to enter the promised land of peace and prosperity which lies before us. Months and years even of severe conflict may intervene, but we shall surely win at last. While God sits on His throne, right and justice are indestructible. Men may attempt to raise their puny arms and fight against His purposes, but they will be paralyzed. The man who expects to turn the Union party of this country from its convictions of duty by executive influence, will soon find he has mistaken the men who compose it. They have written their principles in letters of blood and will not abandon them. The equal rights of all men before the law in this country is foreordained of God; and he who puts himself in the way of its accomplishment will find that the terrible "groundswell of popular judgment," referred to by the President in his speech of the 22d of February, will open a chasm beneath his feet in which he will be buried out of sight.

While the nation to-day, in her tears and

ghastly wounds, bows her head before Him who has given us the victory, she makes the solemn pledge that justice and equal rights to all her people shall be the rule of her conduct, and that every element which tends to injustice and oppression shall be removed from the basis of the reconstructed Union, and that our glorious banner with every star restored, shining forth with a brighter luster than ever before, with liberty written in letters of living light on its ample folds wherever it may float, on land or sea, shall be the symbol, not merely of might and power, but of justice, and the highest civilization of human governments, inspiring the great heart of universal humanity with better hopes, and prompting to nobler endeavor.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed House bill No. 238, to amend an act relating to *habeas corpus*, and regulating judicial proceedings in certain cases, approved March 8, 1863, with amendments, in which the concurrence of the House was requested.

Also, that the Senate had agreed to the amendment of the House of Representatives to the amendment of the Senate to the amendment of the House to the bill (S. No. 89) to issue American registers to the steam vessels Michigan, Despatch, and William K. Muir.

Also, that the President of the United States had approved sundry acts and joint resolutions of the Senate.

RECONSTRUCTION.

Mr. J. L. THOMAS. Mr. Speaker, I yield a few moments to the gentleman from Pennsylvania, [Mr. MILLER.]

Mr. MILLER. Mr. Speaker, much has been said in regard to reconstruction, and as it is one of the most momentous questions that has ever devolved upon Congress since the formation of our Government, it is well that it has attracted the serious consideration of both Houses of Congress.

The wicked rebellion having been crushed, the next great question for us to legislate is, to try to prevent a similar outbreak; and to this Congress the nation looks for a guarantee of permanent security. The Union, in legal contemplation, is perpetual. It is much older than the Constitution formed by the Articles of Association of 1774, matured and continued by the Declaration of Independence of July 4, 1776. It was further matured, and the faith of the then thirteen States expressly plighted and engaged that it should be perpetual, by the Articles of Confederation of 1778, and finally in 1787 the declared objects for ordaining and establishing the Constitution were "to form a more perfect union, establish justice, insure domestic tranquillity, provide for the common defense, and secure the blessings of liberty to ourselves and our posterity." Thus the original thirteen States were by solemn compact cemented together. And the third section of the fourth article of the Constitution provides that new States may be admitted by Congress into this Union.

Has any State which formed a part of this Union a right, under the Constitution, to secede? That right is nowhere admitted in that sacred instrument, but the very contrary is inculcated.

Chief Justice Marshall, in the case of *Cohen vs. Virginia*, 6 Wheaton, 390, says:

"The people made the Constitution and the people can unmake it; it is the creature of their will and lives only by their will. But the supreme invisible power to make or unmake resides only in the whole body of the people; not in any subdivision of them. The attempt of any of the parts to exercise it is usurpation and ought to be repelled by those to whom the people have delegated their power of repelling it."

Mr. Madison in his letter to Mr. Trist, in 1822, says:

"I partake of wonder that the man you nameshould view secession in the light mentioned. The essential difference between a free Government and a Government not free is that the former is founded on compact, the parties to which are mutually and equally bound by it; neither of them, therefore, have a greater

right to break off from the bargain than the others have to hold them to it, and certainly there is nothing in the Virginia resolutions of 1788 adverse to this principle, which is that of common sense and common justice. The fallacy which draws a different conclusion lies in confounding a single party with the parties to a constitutional compact of the United States; the latter having made the compact may do what they will with it, the former, as only one of the parties, owes fidelity to it till released by consent or absolved by an intolerable abuse of the power created. It is high time that the claim to secede at will should be put down by public opinion."

Also Mr. Madison, in his letter to Mr. Everett in 1830, said:

"If [the Constitution] was formed by the governments of the component States, as the Federal Government for which it was substituted was formed; nor was it formed by a majority of the people of the United States as a single community, in the manner of a consolidated Government. It was formed by the States—that is by the people in each of the States acting in their highest capacity, and formed consequently by the same authority which formed the State constitutions."

"Being thus derived from the same source as the constitution of the States, it has within each State the same authority as the constitution of the State, and as such a constitution in the strict sense of the term, within its prescribed sphere, as the constitution of the States are within their respective spheres, but with this obvious and essential difference, that being a compact among States in their highest sovereign capacity, and constituting the people thereof one people for certain purposes, it cannot be altered or amended at the will of the State individually, as the constitution of a State may be at its individual will."

General Jackson, in his letter to Colonel Hamilton, of November 2, 1812, and the one to Mr. Crawford, of May 1, 1833, takes strong grounds against the right of secession. In the latter he uses this patriotic language:

"Take care of your nullifiers; you have them among you; let them meet with the indignant frowns of every man who loves his country. Haman's gallows ought to be the fate of such ambitious men."

Mr. Lincoln very properly said in his inaugural address of March 4, 1861:

"Physically speaking, we cannot separate; we cannot remove our respective sections from each other, nor build an impassable wall between them. A husband and wife may be divorced and go out of the presence and beyond each other, but the different parts of our country cannot do this. They cannot but remain face to face."

And in his first message to Congress on the 4th of July, 1861, he stated that—

"The Constitution provides, and all the States have accepted the provisions, that the United States shall guaranty to every State a republican form of government, but if a State may lawfully go out of the Union, having done so, it may also discard the republican form of government; so that to prevent its going out is an indispensable means to the end of maintaining the guarantee mentioned."

And finally, in his message of 2d of March, 1862, he repeated that—

"The Union must be preserved, and hence all indispensable means must be employed."

I need not, however, consume time in citing authorities against the right of secession, for even Mr. Buchanan, under whose administration the rebellion was matured, in his last message, delivered on Tuesday the 4th day of December, 1860, denied that "secession" could be justified as a constitutional remedy, and asserted that the principle is wholly inconsistent with the history as well as the character of the Constitution, but said he could not find anything in the Constitution to coerce a State into submission which is attempting to withdraw from the Confederacy, (notwithstanding the Constitution which he had sworn to support required him to take care that the laws be faithfully executed,) and for this dereliction of duty his country, on which his administration inflicted so much misery, will hold him responsible.

But again, the seed of secession, for many years sown broadcast in the then slave States and especially in South Carolina (which was the nest of treason) has been eradicated by the blood of more than three hundred thousand as brave men as the world ever saw who fell battling in defense of the flag of this great Republic; and another great moral victory was achieved by this bloody conflict, which was the overthrow of a system conceded by every true patriot to be incompatible with a republican form of government, and that is slavery.

There are eleven States that the leaders of the rebellion claim to have seceded, and the

question has been raised in the discussion as to the present *status* of these States. The honorable chairman of the committee on reconstruction [Mr. STEVENS] in an able speech delivered in the House on the 18th day of December last, takes the ground that these rebel States severed their original compact and broke all ties that bound them to the Union, and are to be treated as conquered provinces, or, to use his language—

"Unless the law of nations is a dead letter, war between two acknowledged belligerents severed the original compact and broke all ties that bound them together; the future condition of the conquered Power depends on the will of the conqueror. They must come in as new States, or remain as conquered provinces."

And he again remarks in the same speech—

"I cannot doubt that the late confederate States are out of the Union to all intents and purposes for which the conqueror may choose to consider them"—

and cited several authorities which he claims to sustain his position, among which are Vattel, Phillimore, and 2 Black's United States Supreme Court Reports, and in a great measure assumed the same position in his speech of the 10th of March.

Though I have great respect for the learning and statesmanship of my distinguished colleague, I cannot subscribe to all the doctrines enunciated by him. It may, however, be proper to state here that the honorable gentleman did not pretend to express the views of the Republican party, for in the speech first delivered he, with his usual candor and fairness, says:

"I trust the Republican party will not be alarmed at what I am saying; I do not profess to speak their sentiments, nor must they be held responsible for them. I speak for myself and take the responsibility for them."

Nor can I agree in all the views of my learned colleague, [Mr. WILLIAMS,] although his speech, for its learning and research, reflects great credit upon its distinguished author, nor can I to all contained in the able speech of that distinguished gentleman from Ohio, [Mr. SHELLABARGER,] in which is displayed much legal learning, and was delivered with great force. The authorities, however, cited by him do not, in my opinion, sustain his position as applicable to the so-called rebel States. The two latter gentlemen do not profess to go the same length as the former. I am certain that neither of these distinguished gentlemen will concede the right of secession under the Constitution to any of the States of this Union. Then, if no such right exists to peaceably withdraw, can the citizens of any State or number of States by force, short of a successful revolution, take such State or States out of this Confederacy?

I hold that no rebellious act can force a State out of the Union; that notwithstanding the rebellion, it still remains a part and parcel of it, as much as an arm is an integral part of the human body; though, owing to the rebellion, it may for a time be somewhat paralyzed. I would accord to the rebels no such honor as having been successful in taking the eleven rebel States, or any one of them, out of the Union, and now to be treated as conquered provinces. But suppose we should admit these States had forced themselves out of the Union, and no constitutional prohibition adopted, how would we stand in regard to the rebel debt? In Wheaton's Elementary International Law, page 93, it is laid down that—

"As to public debts, whether due to or from the revolutionized State, a mere change in the form of government or in person of the ruler does not affect the obligation."

"The essential form of the State—that which constitutes it an independent community—remains the same, its accidental form only changed. The debts being contracted in the name of the State by its authorized agents for its public use, the nation continues liable for them, notwithstanding the change in its international condition. The new Government succeeds to the fiscal rights, and is bound to fulfill the fiscal obligations of the former Government. It becomes entitled to the public domain and other property of the State, and is bound to pay its debts previously contracted."

I cite this authority merely to show the increased difficulties we might have to encounter

by adopting the doctrine of the rebel States having been out of the Union.

Considerable has been said as to what is required to constitute a State and attempt to show that the rebel States, as they are called, cannot be "States." In Wheaton's International Law, pages 57 and 58, it is said:

"A State, as to the individual members of which it is composed, is a fluctuating body, but in respect to society it is one of the same body of which the existence is perpetually kept up by a constant succession of new members. This existence continues until it is interrupted by some change affecting the being of the State. If this change be an internal revolution, merely altering the municipal constitution and form of government, the State remains the same; it neither loses any of its rights nor is it discharged from any of its obligations."

"The habitual obedience of the members of any political society to a superior authority must have once existed in order to constitute a sovereign State. But the temporary suspension of that obedience and of that authority in consequence of civil war does not necessarily extinguish the being of the State, although it may affect for a time its ordinary relation with other States."

And in Vattel, 423, one of the cases cited and relied on by my colleague, [Mr. STEVENS,] it is said:

"A civil war breaks the bands of society and government, or at least suspends their force and effect."

There is no doubt that the civil operations of the Government were for awhile suspended as regards the rebel States, but that would not prevent the Government from exercising that right as soon as the rebellion was crushed, nor would it be any acknowledgment that these States were separated from the Union. Much has been said and authorities cited in regard to ancient Governments which have but little application to a Government like ours. We may look in vain into ancient history to find one constituted like the United States, for even in the most enlightened days of the Grecian republic piracy was regarded as an honorable employment.

The law of nations, as understood by the European world and by us, is the offspring of modern times. It is truly said in Phillimore on International Law, page 138, (33 Law Library, 138:)

"That the United States of North America furnishes us the greatest example which the world has yet seen of a Federal Government; that its Constitution differs materially from the Germanic Confederation: the latter is a league of sovereign States for the common defense against external and internal violence, the former is a supreme Federal Government; it is in fact a composite State, the constitution of which affects not only members of the Union but all its citizens both in their individual and corporate capacities."

And the same doctrine is recognized in Wheaton's International Law, page 92. But it has been said that during the four years of bloody conflict the so-called rebel States were acknowledged by the United States as belligerents, and to sustain this theory 2d Black's United States Supreme Court Reports, which is known as the prize cases, has been cited and relied on. It cannot be denied that the rebellion against the Government of the United States assumed a gigantic form; that the rebel government had enforced obedience to its authority over a large region of country, and over many millions of people; that it had by force excluded temporarily the operation of the laws of the United States; and that our Government has in many ways recognized the contest as a civil war, and from motives of policy and humanity could not act strictly upon legal principles, but *ex necessitate rei* adopted so much of the civil warfare as would prevent indiscriminate slaughter and the infliction of unnecessary pain and hardship.

This was done without in any manner recognizing the rebel leaders or their organization, but constantly denying them to be a Government *de facto* or *de jure*. On examination of all the proclamations of the President, beginning with that of the 15th of April, 1861, and all the principal laws of Congress, I have not been able to find a single executive or legislative act which conceded a governmental *status* to the so-called rebel confederacy. The whole ground of legislation has been aimed to sup-

press insurrection, punish treason, and confiscate property of rebels. The most important bill on that subject that passed Congress is the one approved July 17, 1862, entitled:

"A bill to suppress insurrection, to punish treason and rebellion, to seize and confiscate the property of rebels, and for other purposes."

The so-called southern confederacy certainly was not a Government *de jure*; all its actions were a gross violation of rights. It was nowhere a recognized Government. It was never admitted into the family of nations. Every rebellion or insurrection is in reality a war, and it becomes more evidently such when it brings hundreds of thousands of men into the field; still, it is only a rebellion, and the citizens of the rebellious portion are only rebellious citizens, over whom the Government possesses not only all its legal rights, but all those powers which a state of war confers upon it.

As regards the United States, all the ordinances of secession were null and void, and the so-called southern confederacy was an entire and complete nullity, and the rebellious people may very properly have been treated as rebels and enemies. They may be tried as traitors and punished. The Supreme Court, in the prize cases, decided no more than this, that being engaged in a war with rebels the President had a right, *jure belli*, to blockade ports in possession of States in rebellion, which neutrals were bound to regard. There is no intimation of an abrogated Constitution or an outside *status*. Had this question been before the court no doubt Justice Grier would have adhered to his own opinion in case of the pirates, in which that eminent judge said:

"Every Government is bound by the law of self-preservation to suppress insurrection, and the fact that the number of the insurgents may be so great as to carry on a civil war against their legitimate sovereign will not entitle them to be considered a State. The fact that a civil war exists for the purpose of suppressing a rebellion is conclusive that the Government of the United States refuses to acknowledge their right to be considered such. Consequently this court, sitting here to execute the laws of the United States, can view those in rebellion in no other light than traitors to their country, and those who assume by their authority a right to plunder the property of our citizens on the high seas, as pirates and robbers."

My colleague, [Mr. STEVENS,] in his speech, recites a few words of what Justice Grier said in the prize cases, when speaking in relation to insurrections against Governments, as follows:

"When a party in rebellion occupy or hold in hostile manner a certain portion of country, have declared their independence, have cast off their allegiance, have organized armies, have commenced hostilities against their former sovereign, the world acknowledges them as belligerents, and the contest is a war."

But in the same paragraph that judge continues:

"They claim to be in arms to establish their liberty and independence in order to become a sovereign State, while the sovereign treats them as insurgents and rebels who owe allegiance and who should be punished with death."

This does not conflict with the opinion given by that distinguished jurist in the trial of the pirates, but is in confirmation of the fact that the United States did not acknowledge the rebel confederacy as a belligerent.

It cannot be disputed but that during the rebellion the civil laws could not be enforced over those States, and consequently the functions thereof were in a great measure suspended. But this fact, as the authorities heretofore cited show, did not place those States out of the Union, or destroy their *status* as States, and turn them into Territories.

During all that trying period there was still prevailing (though in a great measure suppressed) a Union element in those States which did much in aiding to crush out the rebellion. If there had been found in Sodom and Gomorrah ten righteous men, we are told that those cities of the plain would have been saved from destruction, and surely more than that number of true loyal men could have been found in each of the rebel States, even South Carolina not excepted. And are we more uncharitable than He who holds in his hands the destiny of worlds?

And again, had not the loyal citizens of those States a right to claim that they were citizens of the United States and entitled to protection under the Constitution, as did the inhabitants of Rome by claiming that they were Roman citizens?

In Vattel's Law of Nations, page 6, it is laid down—

"If a nation is obliged to preserve itself, it is no less obliged carefully to preserve all its members. The nation owes this to itself, since the loss even of one of its members weakens it and is injurious to its preservation. It owes this also to the members in particular in consequence of the very act of association; for those who compose a nation are united for their defense and common advantage, and none can justly be deprived of this union and of the advantages he expects to derive from it while he on his side fulfills the conditions."

And the same author on the same page further says:

"The body of a nation cannot, then, abandon a province, a town, or even a single individual who is a part of it, unless compelled to it by necessity, or indispensably obliged to it by the strongest reasons founded on the public safety."

It cannot be denied that East Tennessee had during the rebellion a large number of loyal citizens. Mr. Lincoln, in his message to Congress on the 8d day of December, 1861, stated:

"I deem it important that the large region of East Tennessee and western North Carolina be connected with Kentucky and other faithful parts of the Union by railroad."

On the 4th of May, 1864, the House passed a bill authorizing the President to appoint in each State in rebellion a provisional governor, with the pay and emoluments of a brigadier general, to be charged with the civil administration until a State government therein shall be recognized, and prior to that time, to wit, on the 20th of January, 1864, President Lincoln ordered an election to be held in Arkansas for Governor, &c.; thus showing that neither the action of Congress nor President Lincoln had any tendency to treat the rebel States as out of the Union or annihilated as States, but on the contrary shows the very opposite.

President Johnson, in his annual message of the 4th of December last, says:

"The perpetuity of the Constitution brings with it perpetuity of the States; thus mutual relations make us what we are; and in our political system their connection is indissoluble. The whole cannot exist without the parts, nor the parts without the whole. So long as the Constitution of the United States endures the States will endure; the destruction of one is the destruction of the other; the preservation of one is the preservation of the other."

But it is said by my colleague [Mr. STEVENS] that "on the ground of estoppel the United States have a clear right to elect to adjudge them out of the Union;" that "they are estopped both by matter of record and matter *in pais*."

And my able colleague, [Mr. BROOMALL,] in his speech of the 26th of January, says, in speaking of the rebel States:

"Having set up an independent government and waged war as a nation, they are estopped from pleading the right of citizenship to defeat the right of conquest."

If the latter gentleman's doctrine is tenable, then those residing in what are denominated the rebel States are no longer citizens of the United States, and consequently not amenable to her laws, and in that event all laws of Congress passed to punish rebels would be nugatory.

But how do the records stand in regard to estoppel? It is true that the so-called southern confederacy adopted a constitution and passed laws, claiming to be independent of the United States, and at the same time the United States Congress passed stringent laws which denied that those States were separated from the United States, and inflicted upon them severe penalties for their treason. So as regards matter of record the United States would be estopped from treating these States as out of the Union, as well as the rebel States would be by having asserted they were out. Then as to matter *in pais*. The United States asserted that those rebel States had not dissolved their connection with the Union, while the rebels on the other hand asserted they had. So as to matter *in pais*, they would be equally estopped.

Finally, the contest was by wager of battle decided against the rebels. In 7 Casey's Pennsylvania Reports, 334, Hill *et al. vs. Eply*, it is laid down:

"If no one be misled to his hurt he will not be estopped."

Also, in 12 Casey, 522, Brubaker *vs. Oakes*, it is ruled that—

"It is essential to an estoppel by matter *in pais*, that he who sets it up is bound to show that he has been misled to his hurt."

And in 3 Hill, 215, Dezell *vs. Odel*, it is laid down that to make an estoppel effectual it must show that the party made an admission clearly inconsistent with the evidence proposed to be given, and that the other party has acted upon that admission. The United States were not misled, for the actions of the rebels were well known, and both parties acted with full knowledge, and as already indicated, were on an equality as to matter of record. So that upon no legal principle are the rules of estoppel applicable as contended by my two colleagues.

Mr. Speaker, it has been said that if the States lately in rebellion were only put in abeyance during the war, then at its termination they were restored to all the rights they possessed prior to the rebellion, and the President had no right to direct provisional governors to call a convention to amend or form a constitution different from the mode designated in the constitution in force at the breaking out of the war. And the honorable gentleman from Ohio [Mr. SHELLABARGER] refers to the actions of the President in regard to North Carolina, and recites the clause in the old constitution pointing out a mode for altering or amending the same.

Now, owing to the rebellion, great changes had taken place. As a war necessity, slaves had by proclamation been declared to be freed, and the fourth section of the fourth article of the Constitution of the United States requires that the United States shall guaranty to every State in the Union a republican form of government, and in order to carry out that injunction it was indispensable that a change of the constitution should be made, and the Government had a right to demand it in order that the civil laws, which had to give way to the military, could be revived. And as to the mode of altering the constitution, though the old one points out a method by which amendments or alterations may be made, still that does not prevent the calling of a convention to adopt a new constitution or change the former, subject to the ratification of the legal voters. That is a right which the sovereign people of each State never parted with, and hence may as often as they choose, by convention, change their constitution so as not to be incompatible with that of the United States. The Legislature, without a convention, can make alterations only in the way prescribed by the constitution; but as I have already said, that is no bar to a change made through a convention, subject to the ratification of the voters; and for this procedure we have a case directly in point in regard to the State of Missouri. Article twelve of the constitution of the 10th of July, 1820—under which it became a State—provides that—

"The General Assembly may at any time prepare such amendments to this constitution as two thirds of each House shall deem expedient, which shall be published in all the newspapers printed in the State three several times, at least twelve months before the next general election, and if, at the first session of the General Assembly after such general election, two thirds of each House shall by yeas and nays ratify such proposed amendments, they shall be valid to all intents and purposes as part of this constitution: *Provided*, That such proposed amendments shall be read on three several days in each House as well when the same are proposed as when they are finally ratified."

Yet, notwithstanding this prescribed mode of amendment, the Legislature of that State passed, in the year 1865, a law calling a convention which continued in session a few weeks and adopted a constitution which was submitted to the people for ratification, (the disloyal

portion of the community being prohibited from voting,) and under that constitution the present members of Congress from that State were elected and now have seats in this House. Tennessee also adopted a constitution in a similar manner. But it has been said that the citizens did not all vote on these questions, that some of them were not allowed that right.

If they committed such acts as to deprive themselves of the right of suffrage it was a fault of their own, or if those who had a right neglected to vote it would not invalidate a constitution which had a majority of those who did vote. All that is required when a matter is submitted to the people for their ratification is a majority of the votes polled. The Constitution of the United States provides that in order to make an amendment thereto valid it must pass Congress by a vote of two thirds of both Houses, and be ratified by the Legislatures of three fourths of the several States, or by convention in three fourths thereof, so that in such an important amendment as that abolishing the system of slavery we cannot afford to theorize as to States being out of the Union or losing their status as States, for there is no telling what the United States Supreme Court, as now or shall hereafter be constituted, may decide in regard to the States lately in rebellion, and if there should not be a ratification by three fourths of the entire number of States, (including those lately in rebellion,) and it should be determined that in consequence thereof the amendment abolishing slavery was invalid, then all the lives and treasure sacrificed to eradicate from this Republic that accursed system which brought upon the nation so much misery would be of no avail. But the Secretary of State, that far-seeing statesman, (Mr. Seward,) who through the four years of terrible conflict managed the affairs of state so ably and kept us out of foreign wars, provided for the contingency so as to avoid all cavil. That gentleman, in his published certificate in form of proclamation of the 18th of December, 1865, recites the amendments, to wit:

"Sec. 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

"Sec. 2. Congress shall have power to enforce this article by appropriate legislation."

And then proceeds as follows:

"And whereas it appears from official documents on file in this Department that the amendment to the Constitution of the United States, proposed as aforesaid, has been ratified by the Legislatures of the States of Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia, in all twenty-seven States; and whereas the whole number of States in the United States is thirty-six; and whereas the before-specially named States whose Legislatures have ratified the said proposed amendment constitute three fourths of the whole number of States in the United States: Now, therefore, be it known that I, William H. Seward, Secretary of State, by virtue and in pursuance of the second section of the act of Congress, approved the 20th of April, 1818, entitled 'An act to provide for the publication of the laws of the United States, and for other purposes,' do hereby certify that the amendment aforesaid has become valid to all intents and purposes as a part of the Constitution of the United States."

It will be seen, Mr. Speaker, that seven of the above-named States that ratified said amendment had been with what was called the "southern confederacy." Surely it would not do for us now to say that the States so ratifying the amendment are not States within the Union. I might add that the Legislatures of California and New Jersey have since also ratified the amendment, while those of Kentucky and Delaware persistently refuse.

Mr. Speaker, we have heard on this floor, portrayed with zeal and eloquence, the barbarities committed by the rebels upon the Union soldiers, and the desecration of our dead, yea, even the murder of our venerable President. Now, sir, if it would restore to us again our much-esteemed President; to the bereaved parents, their sons; to the widow, her

husband; to the orphan children, their fathers and protectors who fell in defense of this Republic; to the maimed their amputated limbs, and restore to health the shattered constitutions of our surviving soldiers, I would be willing—if the Constitution would allow it—to see the rebel States annihilated.

But that restoration cannot be had; our noble dead must sleep until the sound of Gabriel's trumpet. Though there are no marks to designate the resting-place of some, yet their noble deeds will be engraven upon the hearts of a grateful nation; while those who fell fighting to destroy our free institutions, if not totally forgotten, will only be remembered as rebels and traitors, and not as the honorable gentleman from New York [Mr. RAYMOND] said, in comparing them to our dead, "The dead of the contending hosts sleep beneath the soil of a common country under the common flag; their hostilities are hushed, and they are the dead of the nation forevermore." Sir, those who were trying to take the heart's blood of the nation deserve no such eulogy. Again, it has been asked, "How long may this nation survive with Senators elected by rebel Legislatures, or by treaties made by Senators chosen by rebel States?"

This, Mr. Speaker, is rather a patriotic appeal; but if the Senate and House of Representatives stand firm there will be no danger of such getting seats in either branch.

The sixth section of the third article of the Constitution of the United States provides that—

"Each House shall be the judge of the election, returns, and qualifications of its members."

We must not look at those questions as an advocate employed for his client, nor let our feelings betray our judgment, but view them as statesmen.

Mr. Speaker, we have been repeatedly told on this floor that we ought to be cautious about admitting Representatives from the States lately in rebellion, but no particular plan for their admission has been clearly defined.

It seems to me that if Congress would submit to the respective States a few important amendments to the Constitution of the United States, they would be ratified, and all this complication avoided. It would have been better if this course had been pursued immediately after the assembling of the present Congress.

The framers of the Constitution contemplated that the time might arrive when amendments would be necessary, and therefore provided a method for its accomplishment. It would be strange if, after a period of upward of seventy years in this progressive age, amendments would not be found necessary; though I think they ought to be as few as practicable.

Yet I do not agree with the honorable gentleman from New Jersey [Mr. RAYMOND], who, in speaking of the Constitution, says he "looks upon all propositions for its amendment with hesitation and distrust." How any statesman can "hesitate and distrust" about the practicability of amending the Constitution to correspond with the times and circumstances I cannot imagine. Then, Mr. Speaker, I would propose: first, that the Representatives in Congress shall be apportioned among the several States according to the number of qualified voters in each State. Secondly, that neither of the States of the Union shall ever assume or pay any part of the debt of the so-called confederate States of America, or of any State contracted in carrying on war against the United States; and, thirdly, that the Constitution be amended by striking out that clause which says:

"No tax or duty shall be laid on articles exported from any State."

According to the estimate of my colleague, [Mr. STEVENS,] a small tax on exportation of cotton alone would amount to \$100,000,000 annually—a sum which would do much toward paying off our war debt. It is not likely it would be laid on any other product. These are all the amendments I deem necessary.

There can be no doubt that under the Con-

stitution each State has a right to regulate the qualifications of its own electors, and Congress has no right to assume that authority. In the District of Columbia Congress has exclusive jurisdiction, and may there regulate the right of suffrage, which is of very little practical importance, as none but municipal officers are elective in the District. According to the constitution of Pennsylvania, none but "white freemen of the age of twenty-one years, having resided in the State one year," &c., are entitled to the right of suffrage, and before that can be changed there must be an alteration in the constitution of that State. As to the freedmen, the amendment already adopted gives Congress sufficient authority to legislate for their protection. I consider, Mr. Speaker, that the most important amendment needed is that of representation according to the vote; for while it must be conceded that each State has a right to regulate the right of suffrage, yet if the colored man is deprived of a vote he should not be counted in the representation; to simplify it, no other one ought to vote for him. If these three amendments were adopted, and especially the first, and the States lately in rebellion should send loyal men as representatives, they ought to be admitted; and if this arrangement could be made, I see no difficulty in regard to representation from those States. But Congress ought never to admit to a seat any man who has voluntarily borne arms against the United States, and of their qualification each House is the judge. President Johnson, in his annual message, says:

"It is for you, fellow-citizens of the House of Representatives to judge, each of you for yourselves, of the election, returns, and qualifications of your own members."

I have not time to review all the arguments from the Democratic side of this House, but if the gentlemen from New Jersey [Mr. ROGERS] and the late member from Indiana (Mr. Voorhees) express the views of their party, they would be willing to admit to seats on this floor rebels whose hands have been stained with the blood of our Union soldiers.

If we were to determine that the States lately in rebellion could only be admitted as new States, after presenting an acceptable constitution, and upon that basis receive them back, what would prevent them immediately after from changing their constitution in any way they saw fit, provided it was not inconsistent with that of the United States? So that the only safeguard is the amending of the Constitution of the United States, which will be a sufficient barrier against all innovations; and if those States are sincere as to their returned loyalty they will have no hesitation through their Legislatures to join in ratifying the material amendments, and especially that of representation.

It is true a bitter feeling has prevailed against some of the rebel States for their treasonable course, and especially South Carolina, and that is not to be wondered at when we take into consideration the unparalleled misery they have brought upon the country; but it is hoped they have repented in sackcloth and ashes, and, as some evidence of that, we find even South Carolina ratifying the amendment abolishing their favorite institution of slavery, while Kentucky and Delaware, professing to be loyal States, refuse. I trust, Mr. Speaker, that the two Houses of Congress will see the vast importance of having the requisite amendments to the Constitution speedily passed and submitted to the States for ratification. Then, after being ratified by the Legislatures of three fourths of the States, without fear of not being able to carry out the injunction of guarantying to every State in this Union a republican form of government, Representatives from those States lately in rebellion who can take the oath prescribed by existing laws can be admitted to seats in Congress; and it is due to such men as Maynard, Colonel Stokes, Colonel Hawkins, Arnell, Fowler, and others, who, in the nation's struggle, stood up for right and freedom, to be cared for. It was easy to be a Union man in the loyal States, surrounded by friends of the

Republic, (and even there I am sorry to have to say that some were to be found sympathizing with treason,) but in the rebellious States it required the nerve of a Socrates to be loyal to his country where his personal liberty, life, property, and all that is dear to man were in peril. Even Alexander H. Stephens, who for a time so eloquently raised his voice against treason and clung to the horns of the altar of liberty, was, in the hour of trial and temptation, induced by the offer of a vice presidency in the so-called southern confederacy to let go that which he professed to love and revere, and turned his back against his country.

When war was raging it was necessary, for the preservation of the Union and to weaken the hands of the enemies of the Republic, to devastate the country in possession of the insurgents; but as the rebellion is now ended, it is the duty of the nation to foster and build it up; and by proper encouragement, with the blessings of free labor, evidenced by true loyalty, those States will exhibit in a few years one of the brightest spots in this Republic. My distinguished colleague, [Mr. WILLIAMS,] in speaking of the States lately in rebellion, says:

"Eleven of the columnar supports of our political edifice are now lying around us, like the grand columns of Tadmor and Palmyra, with shaft and capital and architrave alike shattered by the mighty convulsion that has laid them all in ruins."

And asks:

"Where is the hand that is to lift these columns to their place?"

Mr. Speaker, though the metaphor is beautiful, I do not agree with the honorable gentleman that eleven of the States of this Union are lying around "like the grand columns of Tadmor and Palmyra." The shock, it is true, was great, but they stood erect in the storm like the mighty oak of the forest, but came out somewhat scarred. But the leaders who caused this terrible conflict deserve condign punishment. The Government officials deserve great credit for causing the arrest, trial, and execution of Wirz, who was proved to be a monster, and for his barbarities to the Union prisoners deserved no better fate than that which was meted out to him; still he was but a subordinate, and it is not right that the chief officers should escape punishment. I agree with what was said by an eminent judge in my State, that "the greater the man, the greater the example."

Treason ought to be made odious, and there should be no procrastination in the trial of such offenders; the leading spirits should be the first brought to justice, and it is hoped that that part of the last annual message of President Johnson, in which he says—

"It is manifest that treason, most flagrant in character, has been committed. Persons who are charged with its commission should have fair and impartial trials in the highest civil tribunals of the country, in order that the Constitution and the laws may be fully vindicated; the truth clearly established and affirmed that treason is a crime, that traitors should be punished, and the offense made odious"—

may be speedily carried into effect, though I cannot well see why the leading traitors in the rebellion could not have been tried by a military commission as well as Wirz. I look upon John C. Breckinridge as one of the vilest traitors, and I trust an effort will be made to have him arrested, tried, and punished; and I might say that officers who held high military positions under the United States, and with the knowledge acquired as to the position of affairs, turned traitors and joined the rebel army, ought not to be permitted to stalk about the country.

Now, Mr. Speaker, though I differ somewhat with some of our leading members of the Republican party in this House as to the status of the States lately in rebellion, I agree with them that none but true, loyal Representatives ought to be admitted to seats from those States, and that we should have, as a safeguard, proper amendments to the Constitution of the United States.

It is hoped that the joint committee on reconstruction may mature some acceptable plan, which will meet the approbation of both branches of Congress and of the President, for the speedy

adjustment of the perplexed questions that now agitate the country. I do not agree with the honorable gentleman from New York, [Mr. RAYMOND,] that we do not get much information from that committee. It is composed of gentlemen of strict integrity, and experienced statesmen, who have been laboring assiduously to procure all the information possible to lay before Congress, and, when a full report is made, will no doubt give us definite information as to the situation of affairs in the States lately in rebellion, and be of great importance to the whole country. I would here remark that the honorable chairman of the committee, (my colleague,) who has already passed the period of life usually assigned to man, for his devotion to and toil in behalf of his country deserves great credit; and I pray that his life may be spared until the great questions that now so much interest the nation may be adjusted so that all the States can be represented in the councils of the nation.

If, Mr. Speaker, this great Republic, now extending from the St. Lawrence to the Gulf of Mexico, and from the Atlantic to the Pacific ocean, and from which the dark stain of slavery has been eradicated, and the Gospel, education, and civil rights extended to all classes, with a Constitution which, according to the language of Chief Justice Marshall, in *Cohens vs. Virginia*, (6 Wheaton, 387,) is formed for ages to come, and is designed to approach immortality as near as human institutions can approach it; and if the citizens are true and loyal, and put their trust in Him who holds in His hands the destinies of nations, this Republic will endure as a shining light until the end of time, showing to the world that man is capable of self-government, and that this is truly "the land of the free and home of the brave."

Mr. J. L. THOMAS. Mr. Speaker, the great question of reconstruction and the collateral issues properly belonging to it have been agitating this country in some form or another since the first session of the Thirty-Eighth Congress.

The rebellion which has been so gloriously crushed out has devolved upon us the solemn duty of dealing with its results in such a manner as that a permanent peace shall be secured and a lasting adjustment of all the irritating causes that produced it, shall be forever put at rest. I, for one, have made up my mind what course I shall pursue, and "with malice toward none, with charity for all, with determination to do the right as God giveth me to see the right"—to advocate and support such principles as will reconstruct the States lately in rebellion on a sure and loyal foundation, and that treason will never again lift its bloody hand to strike down the bulwarks of the Constitution.

Differences have arisen among us as to how this can best be done. Loyal, patriotic, honest men have spoken on the subject, and while some of them differ as to the details, and others as to mere abstract questions and theoretic views of "State suicide," we all agree on one point, and that is, that no rebellious State shall be represented on this floor until her people show such unmistakable proofs of repentance and loyalty for the future as will warrant us in believing that "the Republic can receive no detriment" at the hands of its former assailants.

The committee on reconstruction, to whom this House, by the unanimous vote of the majority, intrusted the investigation of the condition of the rebel States, have not as yet reported that any of them are in a condition to be represented here, with the exception of the State of Tennessee. That committee, composed as it is of some of the best and most patriotic members of this body, is entitled to our highest consideration and respect, and would not, I am sure, abuse the trust that has been placed in their hands. The fact that they have not yet reported that any of these States, except the State of Tennessee, are in a condition to be represented is a strong argument to my mind why we should not be precipitate in our

action. And however much that committee may have been abused by the whole copperhead press of the country, and arraigned by the President as an "irresponsible directory," I can see nothing either in the material of which it is formed or the duties which have been assigned them by the Senate and the House that detracts either from the conclusions at which they arrive or the right they have in exercising the powers allotted to them. Acting on behalf of the Senate and the House, they act as any other committee, clothed with such powers only as the Senate and the House see fit to give them. Their conclusions, and the facts upon which their judgment is based, must be submitted to the Congress for its ratification or rejection. How it can be looked upon or called "irresponsible," when it must render an account to the country for its conduct, is hard for me to comprehend. That it can be likened to a "directory," when it has no power of its own, and when its resolutions are feeble and lifeless except they receive the assent of Congress, is still more difficult for me to understand.

The joint resolution empowering that committee to act was passed on the 4th day of December last, and received the support and the vote of some of the very men whom we find to-day denouncing it as a usurpation. When it went out to the world no one saw in it anything but a legitimate exercise of the powers of Congress, and the President himself, so far as I am aware, did not say a word in opposition to it.

The Constitution says that "each House shall be the judge of the election, qualification, and returns of its own members." It nowhere says that each House shall separately, for itself, do this, nor that it shall not be done by the concurrent action of each House. Each House can act separately for itself, and in all questions touching the elections, &c., of the members of each House, the practice heretofore in ordinary cases has been for each House to act without the concurrence of the other.

But the question involved in the admission of the Senators and Representatives of the lately rebellious States was and is not a mere question of qualification, election, and return of its members, but goes to the fundamental principles of the *status* and organization of the people and the State governments of the States asking for the admission of their Senators and Representatives.

The Constitution says that "each House may determine the rules of its own proceedings." (Article one, section five.) Does this prevent the Congress from making joint rules, to be binding on both? On the contrary, has it not been the practice for each House, by concurrent action, to make joint rules, not only to facilitate public business, but to make their action uniform and harmonious? And if there ever was a case presented where neither House should act without the concurrence of the other it is in the mode and manner of dealing with the representation from these States. If each House should act for itself we might have the strange anomaly of the people being represented in one branch and the States unrepresented in another, or *vice versa*.

Again, the Constitution says that—

"The House of Representatives shall be composed of members chosen every second year by the people of the several States, and the electors in each State shall have the qualifications requisite for the electors of the most numerous branch of the State Legislature."—Art. I, Sec. 2.

Will any one tell me that the House has not the power to inquire and ascertain whether a man sent here to represent the people was in fact elected by the electors having the qualifications requisite for the most numerous branch of the State Legislatures? Suppose a man should present himself with his credentials, bearing the broad seal of his State, certifying that he was duly elected, and it should turn out that he was not elected by the qualified electors of the most numerous branch of the State Legislature, but by a portion of the people not qualified as such an elector—a negro

population, for example—will any one affirm that we would not have the power to ascertain who and what these electors were; and if they were not what the Constitution says they shall be, to refuse to admit them? And the same may be said as to the power of the Senate in relation to the States.

And yet when Congress passes a joint resolution appointing a joint committee whose duty is to inquire into the condition of eleven States, the majority of whose people have for the past four years been in armed and wicked rebellion against the Government, and to report whether any of these States are entitled to be represented because of their treason, it is denounced as a crime, and held up to the world as a monstrous outrage and a vile usurpation.

Sir, if it be an outrage for me to refuse to admit to my house a man coming from a locality infected with some loathsome, contagious disease until I am satisfied I can do it without running any risks or hazards of my life, or to the life of the inmates of my house, then it is monstrous in me to refuse men admission here, coming from disloyal constituencies, until I am satisfied their admission will not endanger the life of the Republic. This unseemly haste on the part of these States to come back into Congress on their terms is only equalled by their precipitate action in leaving these Halls in 1861 to join in breaking up by force of arms what they would tear down to-morrow by political trickery if you but give them the opportunity and the power.

While I am as desirous as any man that the States unrepresented should have their delegates participate with us in our deliberations, I am at the same time sensible of a duty that I owe to my country and to such of the loyal masses of the South as stood true to the Union in its hour of peril, that is paramount to any courtesy that I might be willing to extend to them.

Sir, the smoke of the great revolution through which we have just emerged has not yet sufficiently passed away to allow us to discern clearly the prospects or hopes of the future. For myself, as I never entertained a doubt during the long and dreary night that for nearly five years hung like a death-pall over our country, that the rebellion would be finally crushed out, and traitors made to feel the enormity of their guilt, so to-day, if I feel a sad disappointment that they have not met that doom that their treason entitled them to receive, I have an abiding confidence in the devotion and patriotism of the loyal masses of the people that they will never allow these rebels, who have forfeited everything by their rebellion, to dictate the terms upon which they shall resume their relationship to the Government. They are either to be consulted as to what conditions will best please them, or we are to make known to them upon what terms we please to receive them. We are either to consent that such men as they select shall be our peers in this House, or we are to tell them what character of peers they shall send here. We are either to exact no guarantees for future security, or we are to impose such guarantees as Congress in its wisdom may deem best for the public good.

I hold that treason is the same, whether it be committed by an aggregate of individuals, or by but one individual. It is levying war against the United States; giving aid and comfort to its enemies. When an aggregate of individuals commit treason, they are as liable to pay its penalty as any single individual would be. If any person in a State commits treason, and you have the power to prescribe the conditions upon which he shall be pardoned, (which the President has done, both by his amnesty proclamation and the thousands of pardons he has granted,) then you have the power as a Congress to say to these same men, "Before you shall be allowed to exercise your functions as States, you shall first comply with certain conditions, which we deem to be necessary before we can allow you to resume all your rights as members of a State."

The Constitution says the United States shall guaranty to each State a republican form of government. At the end of the rebellion we found that the insurgents had erected insurrectionary governments that were in the hands of traitors, and that were not only not republican, but that were usurpations and tyrannies. We found that the rebels in arms had seized hold of the political machinery of the States, and had not only carried them into rebellion, but had linked their fortunes to a pretended and revolutionary confederacy, which they acknowledged, and to which they had all sworn allegiance.

We found that men who were true in their loyalty to this Government were hunted down like dogs and treated like beasts; their property confiscated, their homesteads desolated, their wives and children forced away from them because of their loyalty. We found all this, and more which I shall not stop to recount, and which history will blush to record.

This being the case, the question is, not whether the States that went into rebellion were ever out of the Union, not whether by their ordinances of secession they succeeded in doing what their ordinances proclaimed to the world, but whether the State governments we found in existence at the time the combined armies of the confederacy surrendered to Grant were the legitimate State governments recognized by the Constitution, and republican in form, or were usurpations, presided over by traitors to their country.

It cannot be contended for a moment that the State governments found in existence in April, 1865, were the same State governments that existed prior to 1861. Not only is this not so, in relation to the functionaries representing these State governments, such as Governors, judges, and members of the Legislature, but in many, if not all of them, their State constitutions had been changed in order to meet the new obligations which they had contracted in attaching themselves to the rebel usurpation. Were these State governments legal or illegal; were they constitutional or unconstitutional; were they republican or anti-republican? If they are legal, constitutional, and republican, then were their ordinances of secession legal, constitutional, and republican? If, on the other hand, their ordinances of secession are and were void, then their State governments made under their ordinances of secession are void. The one follows as the necessary consequence of the other. This being the case, their secession ordinances being void, and all their State governments in existence during the rebellion being in like manner void and usurpations, we are forced to come to one of two conclusions, either that the State governments in existence in 1861 and prior to the rebellion, are in existence now, unchanged, with all of their rights and immunities, in as full and ample a manner as they possessed them at that time, or the rebel usurpations which continued in these States for four years, and which have been overthrown by force of arms, are still in existence, or the new State governments, created by provisional governors appointed by the President, are in existence.

If the first be the case—that is, if these State Governments have had an existence all through the rebellion just as though no rebellion had happened—then there is no obligation, no condition that either Congress or the Executive, either as a war measure or in any other respect, can impose upon these States. Then neither Congress nor the Executive have any right to say, you shall first adopt the amendment to abolish slavery, and repudiate the doctrine of secession, and as a condition-precedent before their admission to representation in Congress. Then neither the President nor Congress has any right to say that before any of their Representatives shall be admitted here they shall first be loyal, and then take an oath of loyalty.

If this be true, then neither Mr. Lincoln nor Mr. Johnson had any right to appoint provisional governors of States whose machinery of government was already in existence, and

which the rebellion did not and could not destroy. Then all the acts done by these provisional governors are illegal and void, and without warrant of law, either under the Constitution or the laws of nations.

It appears to me, sir, that a strange confusion of ideas has taken place in the discussion of this question. A State is confounded with the government of the State. A State cannot go out of the Union unless by successful revolution it succeeds in a separate, independent nationality, acknowledged as such by the world. Secession ordinances cannot carry a State out of the Union, because if they could, every State that attempted to secede would to-day be out of the Union. But the government of a State can become usurped and so utterly destroyed as to require not only remodeling but an entire new frame work.

Suppose, sir, for illustration, that the rebels in my own State had succeeded in 1861 in passing an ordinance of secession and forcing the loyal Governor of Maryland either to leave the State or to vacate the functions of his office; suppose, in place of the State government then in existence, they had elected another Governor, Legislature, and judiciary—all of them sworn to support the upstart and usurping confederacy; suppose this State government so organized had waged war against the United States for four years, and at the end of that time was compelled by force of arms to submit to the power against whom it had rebelled, in what condition would my State have been, and what would have been the duty and the obligations of this Government to the loyal Union men of Maryland who refused to take part in the usurpation, and who never yielded a voluntary support to the confederacy?

To be sure the boundaries of the State would have remained the same as they do now. Its geography would not have been changed, and possibly its name would have been allowed to exist. But suppose one portion of the people, acting under the constitution of the State as it existed prior to 1861, had elected Representatives and Senators, and suppose another portion of the people had elected Senators and Representatives in accordance with the laws made during the four years it was in rebellion, and that still another portion had elected Senators and Representatives in accordance with a constitution and laws made and enacted under and by virtue of a convention called into being by a provisional governor appointed by the President as Commander-in-Chief of the Army, which State government would you recognize, and which set of Representatives would you admit, and where would the power reside as to which was the State government and who its Representatives? If you say you would recognize the State governments in existence prior to 1861, then how can you reconcile the fact that the State governments organized in all of the lately rebellious States are to-day the creatures and creations of the conjoint action of the President of the United States by the appointment of provisional governors, on the one part, and the people of these States, acting by permission of the provisional governors, on the other.

If it be said that this cannot be done, that the State governments as they existed in 1860 were usurped, then I want to know if you intend to acknowledge the rebel usurpations carried on for over four years in spite of the Constitution, and in spite of the armies and the Navy of the United States which finally ground them to powder. If you will not, as you cannot and dare not, acknowledge the rebel usurpations, then the question is presented, are the State governments as at present organized in the lately rebellious States, so organized on such principles of justice and loyalty as to warrant the people of the United States to reinvest them with all the rights and privileges of States in as full and ample a manner as they were possessed by them prior to the time when they went into rebellion?

In the discussion of this question, Mr. Speaker, I do not intend to allow myself to be drawn

into a consideration of abstract questions, which when fully exhausted and finally answered bring us no nearer to the point we are trying to reach than when we started.

For this reason I do not intend to assume, as many have who have preceded me, either the right of a State to secede, or whether the rebel States did secede, or whether they have ever been out of the Union, or whether they are Territories. It is enough for me to know that they have been in rebellion; that during that rebellion their State governments ceased to have any relations (except as enemies) with the people of the United States; that certain consequences followed from their rebellion—one the subversion or overthrow of their State governments, the other a suspension of the representation in Congress.

I claim, sir, that it is for Congress to decide not only whether these State governments having been once subverted, have been again reconstructed, but to examine and see how they have been reconstructed, and whether they have been so reconstructed as to entitle them to representation here. In the language of the lamented Lincoln—

“Let us all join in doing the acts necessary to restoring the proper practical relations between these States and the Union, and each forever after innocently indulge his own opinion whether, in doing the acts, he brought the States from without into the Union, or only gave them proper assistance, they never having been out of it.”

That we are all desirous of doing this I am satisfied. That it ought to be done quickly, but with a view to secure future peace and security, both to them and to us, I am persuaded. So far as the constitutional power of Congress over this whole matter is concerned, I am convinced it is ample and exclusive.

The President, as Commander-in-Chief of the Army and the Navy, has the power to erect military provisional governments as temporary expedients for peace and quiet. But these provisional governments only proved two things: first, that the old State governments had been subverted or destroyed; and second, that having been destroyed, some expedient must be resorted to to make a new one. The power of Congress commenced where that of the President ceased. His power ceased when he withdrew his provisional governors. The power of Congress commenced when called upon to recognize the Senators and Representatives of the newly-reconstructed State governments.

That this power is in Congress, and exclusively in Congress, I shall read a short passage from the decision of the Supreme Court of the United States in the case of *Luther vs. Borden*, reported in 7 Howard's Supreme Court Reports, at page 10. Say the court:

“The fourth section of the fourth article of the Constitution of the United States provides that Congress shall guaranty to every State in the Union a republican form of government.”

“Under this article of the Constitution it rests with Congress to decide what government is established one in a State. For as the United States guaranty to every State a republican government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not.”

“And when the Senators and Representatives of a State are admitted”—

I desire gentlemen to pay their particular attention to this—

“into the councils of the Union, the authority of the government under which they are appointed, as well as its republican character, is recognized by the proper constitutional authority.”

What stronger authority could you have, as to the meaning of the guarantee clause and of the duties and powers of Congress under it than this? And what better vindication could we desire, as to our refusal to admit these Senators and Representatives from the rebel States until their condition has been inquired into and the form of government they have made has been ascertained, than the announcement made in this case, that when the Senators and Representatives are admitted into the councils of the Union the authority under which they are appointed is not only recognized, but the republican character of their State governments is at once and forever acknowledged?

Acting on this theory, at the first session of the Thirty-Eighth Congress a joint resolution was passed declaring that no State declared to be in rebellion by the proclamation of the President shall be entitled to appoint electors for President and Vice President until both Houses of Congress by concurrent action shall have recognized a State government in such State.

This theory of reconstruction is not therefore a new one, made by this Congress to keep the rebellious States from participating in legislation, but has been solemnly decided by the Supreme Court of the United States as a power vested exclusively in Congress, and one that no coordinate branch of this Government has the right to interfere with.

And, sir, the world will be surprised to know that both Mr. Seward and the President held to this doctrine, and so instructed some of the provisional governors of the so-called reconstructed States.

In answer to a letter from Governor Marvin, provisional governor of Florida, Mr. Seward, on the 12th of September, 1865, thus speaks:

DEPARTMENT OF STATE,
WASHINGTON, September 12, 1865.

SIR: Your Excellency's letter of the 29th ultimo, with the accompanying proclamation, has been received and submitted to the President. The steps to which it refers toward reorganizing the government of Florida seem to be in the main judicious, and good results from them may be hoped for. The presumption to which the proclamation refers, however, in favor of insurgents who may wish to vote and who may have applied for but not received their pardons, is not exactly approved. All applications for pardon will be duly considered and will be disposed of as soon as may be practicable. It must, however, be distinctly understood that the restoration to which your proclamation refers will be subject to the decision of Congress.

I have the honor to be your Excellency's obedient servant,

WILLIAM H. SEWARD.

His Excellency WILLIAM MARTIN, Provisional Governor of the State of Florida, Tallahassee.

What did the Secretary mean, when he said that the restoration to which the Governor's proclamation referred "will be subject to the decision of Congress," if it was not that to Congress attached the duty, the power, and the responsibility of deciding how and when that restoration was complete, final, and satisfactory?

Again, in a dispatch dated July 24, 1865, Mr. Seward, by order of the President, sends the following telegram to Governor Sharkey, of Mississippi:

WASHINGTON, July 24, 1865.

W. L. SHARKEY, Provisional Governor of Mississippi:

Your telegram of the 21st has been received. The President sees no reason to interfere with General Slocum's proceedings. The government of the State will be provisional only until the civil authorities shall be restored with the approval of Congress. Meanwhile military authority cannot be withdrawn.

WILLIAM H. SEWARD.

Has Congress said any more? Could Congress say any more? Which of the civil authorities of any of these States has been restored with the approval of Congress? And yet Mr. Seward undertakes to unite with those who denounce the action of Congress as revolutionary because Congress assumes to do what he says cannot be done except with the approval of Congress. If Congress has not the constitutional power to inquire into and determine the fact whether the governments of these States lately in rebellion have been properly reorganized, I want to know who has that power? Has the President? If he has, where does he find his power? It is clearly not in the Constitution, and it is equally as clear that it is not to be found either in the laws of Congress or in any military power that he possesses as Commander-in-Chief of the Army and Navy. Has the Supreme Court the power to determine this question? It certainly cannot have, since all of its powers are well defined, and, as I have before stated, that tribunal has decided that Congress has the power.

We are driven, then, to one of two conclusions: that there is no power anywhere, in any of the coordinate branches of this Government to judge of or determine upon the reconstruction of these States, or that power belongs to and

resides in the Congress of the United States. By assuming the first, the States that went into rebellion would have the right to build up any kind of a government as a State organization, and provided it owed allegiance to the Constitution of the United States it would be entitled to be recognized as such and to have its representation in this House. More than this, the States that went into rebellion not only did not need any provisional or military governments to aid them in building up new governments after the fall of the confederacy, but by simply surrendering, after they were compelled to surrender, and yielding obedience to the laws of the United States, after they were forced to do so, they had the right *eo instanti* to resume their former position in the Union, and to have all the original rights exercised by them before they went into rebellion.

I, for one, cannot agree to any such a doctrine, but hold to the only safe rule for the reconstruction of these States, that the power is in Congress to determine when these States shall be entitled to exercise all their proper functions in the Union, and how and on what terms it shall be done. Ay, sir, and that until these terms are complied with they shall remain where they have remained for the last four years, in the Union to be sure, because they had not the power to get out of it; but in the Union, divested of their representation in Congress until the Union masses of this land have so hedged them in by proper guarantees and safeguards for future protection as that they can be safely invested with all the powers of loyal States.

The question then occurs, have the State governments of any of the rebellious States been reconstructed in such a manner as to entitle them to be not only represented in Congress, but to receive all the powers and privileges of loyal States?

In answering this question we should consider, first, the *status* of the people of these States as to their loyalty to the Government; and second, the nature or kind of State governments they have organized, and which we are called upon to recognize.

I take it that no true, devoted friend of his country could wish that any of these States should again aid in controlling the destinies of this nation until the people of the States have shown themselves to be loyal to the Government which they are in part to control. When I use the word loyal in this connection, I do not mean that sturdy, bold, and defiant patriot who, through four years of blood and slaughter, maintained that no State had the right to rebel, and who refused to give a voluntary support to the rebel usurpation; but I take it in its new and amended sense, as a man who did go into rebellion, but who, having taken the amnesty oath, means in good faith to keep it.

In this latter sense I am constrained to say that I do not believe that the vast majority of those who have taken the oath are loyal, because I do not believe, in the language of our patriotic President, that you "trust" them.

That my opinion is not formed from any prejudice, but that it is a conviction based on sworn and legal testimony, I beg leave to refer to the testimony of Hon. John Covode. In one part of it, in answer to a question put to him by the committee, he says:

"I conversed with loyal men from other States—Mississippi, Alabama, &c.—who were then in New Orleans. They expressed a deep interest in having a correct policy inaugurated in Louisiana on account of the effect it would have on their own States. They said that if Louisiana was directed in the right course at the start, from her position and relations to other States, it would go far to produce the best results in several other States. I will here state that many truly loyal men whom I met in New Orleans seemed to lack confidence in their being ultimately protected and supported by the Government; and I was frequently asked, if I became satisfied or convinced that they were to be abandoned to the rule of the rebel element, to notify them in time to enable them to get away, more especially if the troops of the United States were to be withdrawn. They said that if the troops were withdrawn they could not live there. I know many citizens of Louisiana who remained within reach of the military because they did not dare to venture to return to their former homes."

In another part of his testimony the following significant facts are developed:

"Question. Have you a copy of your report to the President?"

"Answer. I have not a copy of that report. I have at home the rough draft from which the report was made, but not the accompanying papers, as I had no copies made of them. Not being aware that I should be called before this committee to testify I did not bring that rough draft with me to the city."

"Question. Can you state from recollection the substance of the conclusions in your report to the President which you state you made to him?"

"Answer. I might be able to state the substance of the conclusions. One of them I recollect distinctly was to this effect: 'That if the rebel element was allowed to vote in the South every member who would be returned to Congress would be hostile to the policy of the Federal Government, not only as regards payment of the national debt, but in reference to the emancipation of the negroes; that while they expressed a willingness to accede to the principles of the emancipation proclamation, they always coupled with it a determination to regulate their own affairs in that respect, stating that they would have an organized system of negro labor which they would control for themselves. Over and over again, in conversation in New Orleans, I heard them saying that they could make the condition of affairs better for themselves than it was before. They said that Government had freed the negroes and should be made to take care of cripples and those who were not able to work, while they would regulate and control the labor of able-bodied men.'

"I would here state that while many in the South would say that Government must pay the rebel debt as well as Federal debt, the better and more intelligent class of them did not speak in this way; but they told me distinctly that I could not expect that they would help to pay our debt or pension our soldiers for whipping them; that they would have power in the Government some day, with their increased representation, and would be able to defeat the payment of the interest on the debt or in some other way destroy public credit. I asked them where they expected to get help for that purpose, and they would generally say that there were portions of the North where they had no interest in Government securities—the West, for instance. I found that to be the feeling among the best men who had been in the rebellion that I met at the South. They seemed to take it for granted that we could not expect them, when they should again attain power, to help pay our debts."

Now, this is the testimony of one of the men sent by the President to ascertain the amount and kind of loyalty there is in the South.

Carl Schurz, also sent by the President to ascertain the feeling of the South, gives the following as his estimate of loyalty:

"I may sum up all I have said in a few words. If nothing were necessary but to restore the machinery of government in the States lately in rebellion in point of form, the movements made to that end by the people of the South might be considered satisfactory. But if it is required that the southern people should also accommodate themselves to the results of the war in point of spirit, those movements fall far short of what must be insisted upon."

"The loyalty of the masses and most of the leaders of the southern people consists in submission to necessity. There is, except in individual instances, an entire absence of that national spirit, which forms the basis of true loyalty and patriotism."

He also recommends the President to—

"Advise Congress to send one or more 'investigating committees' into the southern States to inquire for themselves into the actual condition of things before final action is taken upon the readmission of such States to their representation in the legislative branch of the Government and the withdrawal of the national control from that section of the country."

Generals Terry and Turner and Colonel Brown—

"Concur in representing the sentiments of the people of Virginia in relation to the Government as unimproved, and as rather having become embittered since Lee's surrender. They say that at that time the people were humble, sick of war, longing for peace on any terms, and ready to accept gratefully the pardon of the Government, and to submit to any conditions that might be imposed, while now they are arrogant, exacting, and intolerant. Most witnesses of that class express a decided opinion that the withdrawal of the Federal troops and of the Freedmen's Bureau would be followed by an unremitting persecution of white Unionists and persecution and remission to slavery of the colored people. The change of feeling is very generally ascribed by these witnesses to the President's liberal policy. In regard to the Federal debt, the people of Virginia are represented as in favor of its repudiation, or at least of combining with it the confederate debt. The witnesses who have been connected with the confederacy, however, deny this, and represent the people as willing to pay their share of the Federal debt by taxation. On this subject General Lee's opinion is that they are willing to pay both, and opposed to a repudiation of either."

General Swayne thus testifies before the committee on reconstruction of the amount and kind of loyalty in Alabama. He says:

"After the surrender of Lee a kindly feeling was generally expressed toward the United States, since

which a great increase of bitterness has taken place, displaying itself in a sort of social ostracism toward Union men, northern emigrants, and Army officers. There is a general desire on the part of the people to see the bureau removed. The Governor would like to see it removed, but while it remains extends to it cordial cooperation. The city of Mobile appears to be largely under the dominion of rowdiness, and actuated throughout by a feeling of hostility to the freedmen. During the past six months four colored churches have been burned in consequence of an attempt to establish colored schools in them."

Dr. James P. Hambleton, an ex-rebel surgeon, thus testifies as to the feeling in Georgia:

"The people there expect payment for their slaves and for the destruction of property by the war when the passions of the hour shall have subsided. They expect that at some future day there will be a sort of compromise by which the southern States will be relieved of their share of the rebel debt as a compensation for their losses. The people hold the same opinions as to State sovereignty as before the war, but having accepted the situation cannot, as honorable men, again resort to secession."

Talk about the loyalty of the South! Loyalty to whom and to what? Loyalty to the Government and people of the United States who have made them submit by force to the Constitution and laws they fought so long and desperately to destroy? Is it natural that the hearts of these people could so soon be changed from one of intense, bitter, deadly hate to that of devotion and attachment to the Government? And if their loyalty is not one of devotion and attachment, what kind of loyalty is it? Do you propose to have two kinds of loyalty, one for the North and the other for the South? If you do, what is to be the nature of the one and the character of the other? If northern loyalty is shown by the thousands of lives that have been lost and the millions of money that has been spent to preserve the nation, is southern loyalty to be proven by an utter contempt for the brave heroes who put down the rebellion, by a shameful recital of their high-handed outrages in desolating loyal States, or by making demigods of their traitorous leaders, to whom even now they propose to erect monuments as enduring evidence of their new-born love to the Government? Is this the kind of loyalty you want? Is this the kind of men you trust with the destinies of this nation? If it is, then, in my judgment, you need no joint committee to hunt it up. You will find it broadcast from Virginia to Texas. If it is not, then you must wait, and wait patiently, until the people in that region learn what you mean by loyalty, and set earnestly to work to obtain it.

Mr. Speaker, I am not an alarmist, but I cannot close my eyes to what is going on around me, nor fail to note the "signs of the times." We have barely emerged from one of the greatest and most bloody conflicts known to the annals of history. Millions of treasure have been spent, hundreds of thousands of lives have been sacrificed, and whole States have been desolated by the ravages of war to put down treason and to maintain and uphold the Constitution and the Union. Sir, if I mistake not, we are on the eve of a revolution that portends as momentous consequences to the untold millions of the future as the conflict through which we have passed brought upon us.

I cannot close my eyes to the fact that the very men who brought on this war of rebellion, and who strove through blood and persecution to overthrow this Republic, are striving to-day to get back into the places they ignominiously deserted, and are endeavoring once more to control the Government they impiously tried to subvert. I cannot overlook the fact that in none of the States where treason was the most violent and vindictive, and where traitors were the most wicked and defiant, has there been a single State government established, but that men whose records were the blackest for treason to the country have been elevated to the highest offices by the people; while on the other hand, men who were true to the country, and who suffered persecutions and confiscation, and were at all times the staunch and unwavering supporters of the Union, are set aside and laughed at and mocked for their loyalty. I have yet to see wherein treason has been looked

upon as a crime, or to find where any traitor has been made odious. On the contrary, the tens of thousands of men who with devilish hate sought the life of the nation are as complacent at the sad wreck they have made, and as jubilant at the easy penalties they have incurred, as though they had been doing God's work, and were receiving a crown of glory for their valor and devotion to the cause of treason.

After the surrender of Lee to Grant these men were ready to agree to any terms. They thought that treason was a crime, and that there was a law in existence to punish it as such. They would have been willing at that time to concede any condition for future good behavior and security in order to save their lives and their property. But when the President, from the goodness of his heart it may be, but certainly with mistaken clemency, gave them a pardon for past offenses, and they found themselves far beyond the reach of the law, they began to think that treason was not so great an offense after all, that it was only a political mistake, and not a crime. And to-day, instead of being humble and penitent, we find them open, bold, and defiant. They talk now of their rights in the Union, just as they used to prate of their "divine institution," and insist that we have no power to impose any terms upon them, and that all who do insist on terms are traitors and disunionists. I am inclined to think, sir, that if we were traitors we would have a better chance of easy times for the future than by standing forth as the advocates of our country's right, to be branded by such as they as revolutionists.

The President, in my judgment, made a great, a sad, and I fear a fatal mistake in the indiscriminate manner with which he granted pardon.

I am satisfied he did it for the best, thinking that after these men said they had lost all, and that the Government, in its great clemency forgave them all, they would become penitent and be moved by the tender cords of love to the side of the country. But, sir, the President has been mistaken. He has been made the victim of misplaced confidence, and instead of their becoming penitent, they are as defiant to-day as they were when Jeff. Davis ruled at Richmond as the great high-priest of the confederacy. Treason is still as deep and as damning in their bosoms as the day the great southern heart was inflamed by the attack on Sumter. They will strive to make the President think otherwise, to induce him to stand by them, and after he has stood by them and they have once more got back the power they lost, they will turn on him to sting him as surely as the viper turned to sting the farmer after he had warmed life into it.

It was but the other day that Alexander H. Stephens, the vice president of the exploded confederacy, gave his testimony before the committee on reconstruction, and what does he say:

"But the people of that State, (Georgia,) as I have said, would not willingly, I think, do more than they have done for restoration. The only view in their opinion that could possibly justify the war which was carried on by the Federal Government against them was the idea of the indissolubleness of the Union; that those who held the administration for the time were bound to enforce the execution of the laws and the maintenance of the integrity of the country under the Constitution; and since that war was accomplished, since those who had assumed the contrary principle—the right of secession and the reserved sovereignty of the States—had abandoned their cause, and the Administration here was successful in maintaining the idea upon which war was proclaimed and waged, and the only view in which they supposed it could be justified at all; when that was accomplished, I say, the people of Georgia supposed their State was immediately entitled to all her rights under the Constitution. That is my opinion of the sentiment of the people of Georgia, and I do not think they would be willing to do anything further as a condition precedent to their being permitted to enjoy the full measure of their constitutional rights. I only give my opinion of the sentiment of the people at this time. They expected that as soon as the confederate cause was abandoned that immediately the States would be brought back into their practical relations with the Government as previously constituted."

"That is what they looked to. They expected that the State would immediately have their representatives in the Senate and in the House, and they expected in good faith, as loyal men, as the term is fre-

quently used—I mean by it loyal to law, order, and the Constitution—to support the Government under the Constitution. That was their feeling. They did what they did believing it was best for the protection of constitutional liberty. Toward the Constitution of the United States, as they construed it, the great mass of our people were as much devoted in their feelings as any people ever were toward any cause. This is my opinion. As I remarked before, they resorted to secession with a view of maintaining more securely these principles. And when they found they were not successful in their object, in perfect good faith, as far as I can judge from meeting with them and conversing with them, looking to the future developments of their country in its material resources, as well as its moral and intellectual progress, their earnest desire and expectation was to allow the past struggle, lamentable as it was in its results, to pass by, and to cooperate with the true friends of the Constitution, with those of all sections who earnestly desire the preservation of constitutional liberty and the perpetuation of the Government in its purity. They have been a little disappointed in this, and are so now. They are patiently waiting, however, and believing that when the passions of the hour have passed away this delay in restoration will cease. They think they have done everything that was essential and proper, and my judgment is, that they would not be willing to do anything further as a condition precedent. They would simply remain quiet and passive."

What will the loyal men of this country say to such reasoning as this? After carrying on a war of four years to break up the Government, and after having been conquered and compelled to yield to a superior force, we are coolly told by these reconstructed patriots that they expected their representatives to be admitted "as loyal men," and that when they went into rebellion the people thought it was best for constitutional liberty, and that they will not agree to any conditions that the American people impose upon them, and says with the most supreme impudence that the South ought to refuse all conditions, and in case conditions are demanded and refused, he says:

"Should such an offer be made and declined, and these States should thus continue to be excluded and kept out, a singular spectacle would be presented. A complete reversal of positions would be presented. In 1861 these States thought they could not remain safely in the Union without new guarantees, and now, when they agree to resume their former practical relations in the Union under the Constitution as it is, the other States turn upon them and say they cannot permit them to do so, safely to their interest, without new guarantees on their part. The southern States would thus present themselves as willing for immediate union under the Constitution, while it would be the northern States opposed to it. The former disunionists would thereby become Unionists, and the former Unionists the practical disunionists."

Surely, Mr. Stephens has been taking lessons from the President, or the President has been learning from him. He says further on this subject:

"I think, as the Congress of the United States did not consent to the withdrawal of the seceding States, it was a continuous right under the Constitution of the United States, to be exercised so soon as the seceding States respectively made known their readiness to resume their former practical relations with the Federal Government, under the Constitution of the United States. As the General Government denied the right of secession, I do not think any of the States attempting to exercise it thereby lost any of their rights under the Constitution as States when their people abandoned that attempt."

Is it any wonder that these red-handed traitors are such friends of the "President's policy," when they see and know that "his policy," and his alone, is to give back to them all their rights as fully and place them in possession of the Government as completely as before they went into rebellion? And if this "policy" be carried out, what penalty is there, or can there be, for treason? And what inducements will be held out for loyalty? On the contrary, will not a premium be offered for disloyalty, and treason made respectable?

The President's policy, in my judgment, has done more to make treason respected and traitors heroes than the establishment and independence of the confederacy could have done; because, if the President's policy is fully carried out, it not only places the eleven seceding or rebellious States in the hands of the rebels, but by giving them once more a voice in the Government, the time will not be long before these same rebels will have the complete control of the Government in all its departments. No wonder, then, every rebel, from Davis to the merest subaltern in the confederate army, including bushwhackers, jayhawkers, and guer-

rillas, copperheads, and whilom peace men, are the earnest and devoted admirers of the "President's policy." It is just the "policy" for them, because they plainly see that it is the only one that they can live by and one which, through their newspaper press, they profess to die by. The President may continue to be deluded; but I warn the American people to-day not to look with indifference at what is going on about them, not to imagine, because we have put down the war of rebellion, there is still no danger to the Republic. I say there is danger; and unless the people of the North, the East, and the West arise once more in their might and proclaim to the South, you shall not be again invested with all the rights of loyal States until fundamental guarantees are given for future peace and security, you will see this Government, in less than ten years, in the hands of the very men who for the past four years have been trying to destroy it.

But it is said the President has the advantage of Congress, because he has "a policy," and Congress has none. It is a good thing for this country and the world that Congress has no "policy." The day of "policy" has, I trust, passed away, never to return. It was "policy" that brought on this rebellion, and that was near making the rebellion a success.

So long as Congress and the Executive acted on "policy" in the prosecution of the war, defeat after defeat was the result. But so soon as "policy" was thrown aside, and principles, eternal and unchangeable, were pursued instead, victory after victory perched upon the banners of the Republic, until at last principle was made triumphant over policy in the total and utter overthrow of treason.

It was "policy" that induced the framers of the Constitution to recognize the existence of slavery. It was "policy" that made the Missouri compromise of 1820, and that led to its repeal. It was "policy" that made the fugitive slave law of 1850, and it is "policy" that would to-day yield to the spirit of slavery, and give back to it more than it possessed when four million human beings were held in bondage.

No, sir; I want no policy; I have done with it. I want principles—principles that will live when you and I are dead, and that our children can live by and bless us for when they come in possession of the trust reposed in us.

This war has already decided one principle. It has decided that hereafter, in this land of liberty, there shall be no such thing as a slave, and the American people have made this principle a part of the organic law of the land. Mr. Alexander Stephens, however, does not think that the American people had the right or the power to make this a part of the Constitution, although he says it was one of the results of the war.

Hear the logic of this ex-vice president of the confederacy:

Question. Do you mean to be understood in your last answer that there is no constitutional power in the Government, as at present organized, to exact conditions precedent to the restoration of political power to the eleven States that have been in rebellion?

Answer. Yes, sir; that is my opinion.

Question. Do you entertain the same opinion in reference to the amendments to the Constitution abolishing slavery?

Answer. I do. I think the States, however, abolished slavery in good faith as one of the results of the war. Their ratification of the constitutional amendment followed as a consequence. I do not think there is any constitutional power on the part of the Government to have exacted it as a condition precedent to their restoration under the Constitution, or to the resumption of their places as members of the Union.

Congress has decided another principle which it had the power to do under the constitutional amendment abolishing slavery, and that is that all freemen should have the common rights of humanity—to sue, testify, and hold property; thus, for the first time in the history of this Government, making good the avowment in the Declaration of Independence that—

"All men are endowed by their Creator with certain inalienable rights, among which are life, liberty, and the pursuit of happiness."

I propose that now, since slavery is no longer in existence, that the clause in the Constitution

of the United States put there by "policy" in the interests of slavery shall be stricken out, and that hereafter the southern States, instead of having a representation here based on the negro population, shall be represented according to their white population alone or according to their voting population.

I have heretofore given my reasons for this and do not propose to repeat them, but until a constitutional amendment of this kind is passed by Congress and ratified by the States I cannot vote to admit them to representation.

Desiring that "treason should be made odious," and knowing that it would be unsafe to again trust political power to such as engaged in rebellion against the Government; feeling that I cannot safely trust such men in making laws for me, I want a constitutional amendment proclaiming in effect that no person who has entered or shall hereafter enter into rebellion against the United States shall ever be eligible for President, Vice President, or member of the Cabinet, or as a Senator or Representative in Congress.

I know you have a law on your statute-book, commonly called the "test oath," that excludes such persons from being Senators or Representatives; but once allow the southern States to participate in legislation, and in conjunction with the men who serenaded the President on the 22d of February last, and who presented him with a set of resolutions in which this test oath is denounced, you will find that it is but a "rope of sand," and that it will be repealed as unconstitutional. I prefer, therefore, to make this a part of the organic law, so as to place it beyond the reach of any "policy" that may hereafter desire to repeal it.

I know it will be hard for the southern people, who have engaged in this rebellion, to be taxed to pay off any public debt contracted in subduing them, and that it will be desirable, and even a point of honor with them, to tax her people to pay off the debt incurred by the rebel States in waging war against the United States.

In order, therefore, to protect the hundreds of thousands of men and women who loaned their hard earnings to the Government to carry on the war, and who received bonds in return, on the express condition that they should be promptly and faithfully met, as well as to protect thousands of poor Union men in the South who do not want to be taxed to pay off the rebel debt, I desire a constitutional amendment that neither Congress nor any State shall pass any law whereby any part or portion of the debt contracted in putting down rebellion shall ever be repudiated, or whereby any part or portion of the debt, State or confederate, contracted in aid of the rebellion, shall ever be paid or assumed.

I am aware that all the lately rebellious States have either passed laws or have inserted clauses in their constitutions, looking to the same result, but I am at the same time impressed with the conviction that "policy" might lead these men hereafter to repeal their laws or alter their constitutions, and I prefer that the American people should place a prohibition in the Constitution that would be so high that ambition would never soar to reach it or cupidity dare to touch it. Besides, since they were so willing to put this clause in their State constitution, they could not object to aid us in placing it in the Constitution of the United States.

As our soldiers and sailors should be our peculiar care—especially since the President has said that he intends to rely upon them expressly—I think we owe it to the sacrifices they have made and the sufferings they have endured, that there should be a constitutional provision denying to Congress the right to hereafter pass any law by which any pension, bounty, or gratuity shall be given to any person who served in the confederate army, or who went into rebellion against the Government. I know there is no fear of this or the next Congress passing any such law; but if reconstructed traitors ever get into power, and the Vallandigham Democracy should be within

reach to aid them, I am disposed to think that they would refuse to give any pension, bounty, or pay to our soldiers and sailors, unless you would agree to give the same to theirs. Why not? They think, in the language of the rebel ex-vice president, that when they took up arms to tear down the Government they were aiding "to rescue, preserve, and perpetuate the principles of the Constitution;" and inasmuch as that is just what our soldiers and sailors thought they had periled so much to save, they (the rebel soldiers) will claim as much of the honor and gratitude as our own.

These, Mr. Speaker, are the principles I would advocate, to be made a part and portion of our organic law. With them I think the country will be safe; without them you might as well prepare yourself at once to see this Government in the hands of the men who have been seeking to destroy it.

Congress owes it to the country to pass upon the propositions that I have named—and which I do not pretend to claim to be my own—and to submit them to the States for ratification. Instead of being several, they can be embraced in one proposition. So soon as they are ratified by any or all of the eleven States, I would admit such of them to representation as adopt them. Such as do not adopt them I would exclude from representation until three fourths of the States have ratified them, so as to make them binding upon all.

In this way, and in this alone, in my judgment, can the honor, the safety, or the perpetuity of the Republic be established.

I know there are some who do not apprehend any evil consequences from allowing these States to be represented now without any conditions and without any changes in our fundamental law. I wish I could think with them, and could place that confidence in the honor and loyalty of the men who went into rebellion as would warrant me in trusting them without any guarantees. But, sir, I cannot believe that men who conspired so long and secretly to bring on the rebellion, who fought so desperately and wickedly to make it a success, who starved and tortured so many thousands of our brave and heroic defenders in prisons and in dungeons, who have taken so many oaths, and have violated them, and become perjurers before God and man, and who since they have been vanquished and compelled to cease their strife, are as open and defiant as they should be modest and humble—I cannot believe, I say, sir, that such men are safe to be trusted with the destinies of a great nation and of an injured and magnanimous people.

I may be mistaken. It is possible, barely possible, that they are sincere, and that they do not contemplate in the future to act in any other way than for the glory and honor and success of this mighty nation. If I have made a mistake in not believing them to be thoroughly loyal, it is one made on the side of my country and in behalf of her safety. The loyalty of men who have been engaged for over four years in breaking up the Government is at least doubtful. In doubtful cases it is better to give the benefit of the doubt to the side of the permanency of your country than against it. If these men are at once taken in full fellowship and granted equal rights and powers without any guarantees, and it should afterward turn out that they were not true and sincere in their loyalty, the consequences will be terrible, and nothing but the interposition of the all-powerful arm of God could stay the anarchy that would be its legitimate result.

Let us all, then, unite in insisting on such guarantees as will secure a peace that is lasting and that will make the Constitution and the Union as impregnable from treason within as it is invincible from foes beyond its borders; and whether our course be indorsed to-day or not we shall have the consciousness of acting honestly and with a sole view of perpetuating our institutions, and unnumbered millions yet unborn will justify our action and honor us for standing firmly and unflinchingly by the ark of our safety.

Mr. SMITH. Mr. Speaker, as this is the only occasion probably upon which I will have an opportunity to speak outside of the regular business of the House, I avail myself of it for that purpose. I regret that the rule has not been suspended so that I might be allowed to speak in the House and not have to come in Committee of the Whole to say what I think I ought to be entitled to say in the House. But as this is a day for general discussion, I suppose my lips may be opened and I can say pretty much what I please. Therefore, I propose to discuss the same question that is discussed here usually on Saturdays, namely, the condition of the States and the condition of the country, the position of the President and the position of Congress at this time.

I hold, Mr. Speaker, as I have always held, that this war through which we have just passed was prosecuted for the purpose of restoring the Union; that the action of all the eleven States which passed ordinances of secession, and which claimed to be out of the Union, was null and void; and that the entire action of Congress, all the speeches made by Union men, and by almost everybody else except those who were rebels and who believed in the right of secession, for there were some such on this floor, and I understand there are some such now, were made distinctly and emphatically maintaining the ground that those eleven States were not out and could not get out of the Union. They attempted to set up a government for themselves, making slavery the corner-stone of that government. It was an old and favorite plan of many people in the South. It was discussed fully, elaborately, and at length, in this Hall and at the other end of the Capitol, for a quarter of a century, and the termination of that discussion brought on the war. Every loyal man in the country, North and South, and especially the loyal representatives of the people, denied the right of those States to secede, or to go out of the Union, or to do anything by which the Constitution should be subverted or the Government overthrown. And when it was my good fortune to enter the Thirty-Eighth Congress, a large majority of the representatives of the people sustained that idea. It was my pleasure to act with them, and to vote for men and money to suppress the rebellion and to keep these States in the Union, so as to have one great and glorious Republic. That was the policy pursued by the late President, Mr. Lincoln; that is the policy pursued by the present incumbent of the presidential chair, Mr. Johnson. That was in every resolution and in every speech made, even by the extreme men, upon this floor. That was the doctrine to which the Union party adhered.

Now, sir, after we have pursued that line of policy and carried the war to a successful termination, and restored the Union by the suppression of the rebellion, the remarkable, the wonderful doctrine is propounded on this floor in the Thirty-Ninth Congress that these States are out of the Union and should be kept out of the Union until members upon this floor see proper to let them come in.

Now, there is a plain provision of the Constitution which no man can ignore, which no man can deny, and which is the substratum upon which our Government rests, and that is that there cannot possibly be a republican form of government unless representation accompanies taxation.

The very moment this war was closed, the very moment the rebellious armies surrendered, the Government inaugurated a system of taxation throughout the entire South, appointing assessors and collectors in every district, who brought into the Treasury of the United States nearly thirty million dollars. And yet it is a conceded fact that throughout the entire South, during the war, the people were slain, their towns, cities, and houses were burned, their property was destroyed, and they were left almost entirely destitute. If this be true, and if this Congress intends to insist upon that policy, I ask, in the name of common sense, how long it can last. It does not follow because

you admit the constitutional principle to which I have referred that rebels must represent these people in the Congress of the United States. It does not follow that rebels shall hold office. It does not follow that men who have attempted to overthrow the Government shall come here and hold seats in this House and at the other end of the Capitol. We have the determination of that question; we are to decide upon the qualifications of those who come here and claim seats; and I presume there is no man who has loved his country and stood by it and defended it in its hour of peril that would admit any man to a seat to represent any portion of this country, whose hands are not clean, and cannot do, as we have all done, take an oath to support the Constitution and laws of the country, and swear that he has never uplifted his arm against the Government of his country. That is not asked; it never has been asked by any one who has been loyal heretofore to this Government; it never has been asked by the President of the United States. And I submit the question now, not only to Congress, but to the country, what are you to do? What will you do? What can you do contrary to what has been done already? A policy was inaugurated by the late President Lincoln, which has been carried out by President Johnson, under which these States have formed their organizations, and under which they are here to-day. Will you change that policy; and if so, how will you change it?

Mr. SCOTFIELD. I wish to ask the gentleman from Kentucky if it makes any difference whether we allow a man who was engaged in the rebellion to come in here and represent a district, or some other man, who, although he was not engaged in the rebellion, would vote exactly as the rebel would? Does it make the representation any better because the representative did not happen to be engaged in the rebellion, provided his views are the same and his votes here would always be the same?

Mr. SMITH. Well, Mr. Speaker, I do not see how that difficulty can be avoided in the future of our country.

Mr. BOUTWELL. If the gentleman will permit me, I will suggest a way.

Mr. SMITH. I prefer first to suggest my own way. The gentleman from Massachusetts can suggest his afterward.

Now, during the whole war, there were men here representing States which were not in rebellion, but which had a rebellious element in them, which contained rebellious districts, a portion of the people of the State absolutely believing in the doctrine of secession. Gentlemen representing such States hold seats upon this floor now. How are we to avoid that? Is there anything in the Constitution, is there anything in any law by which we can prevent people from sending representatives from any of the States which have not been absolutely in rebellion by the passage of an ordinance of secession by a State convention or by the Legislature? It cannot be avoided.

Now, I say very distinctly that, while the State of Pennsylvania may to-day send to this House a majority of good Representatives, men who will vote fairly and correctly and honestly and conscientiously, it does not necessarily follow that she will continue to send here, through all time, only men who will vote in accordance with the ideas of my distinguished friend who has suggested this question. It is not to be assumed that the district which I now have the honor to represent, and which I represented in the Thirty-Eighth Congress, will necessarily return a man of my political sentiments at the next election. It is not to be assumed necessarily that the district which has sent here my honorable colleague, [Mr. McKEE,] who is as radical as it is possible for a man to be, and whom I love and admire because of his devotion to the Union, will elect at the next election a man with the same zealous principles. Because a particular district in Illinois sends now as its Representative a gentleman seven feet high, and with the strong political proclivities of my friend over the way, [Mr. WESTWORTH,] it does not follow that that district

will at the next election choose just such a man, and one reflecting the same opinions that he does. What legislation can regulate this matter? Who can fix a rule by which it is to be done?

Mr. BOUTWELL. If the gentleman will give way for a moment, I would like to say a word just here.

Mr. SMITH. If the gentleman thinks that he can suggest a plan, I am always willing to learn; and therefore I yield.

Mr. BOUTWELL. I desire to ask the gentleman whether he does not see any difference between canvassing the political opinions which may be held upon questions concerning the administration of the Government by men elected as representatives from loyal States, and declining to recognize as entitled to representation people who at present are not represented, and who cannot be until there is some affirmative action on the part of the Government, without an inquiry as to their opinions concerning the right of the Government to exist. If we find, as we have found by the testimony of Mr. Stephens and others, that in some of these States which the gentleman desires should be represented immediately and without inquiry, nine tenths or nineteen twentieths of the people deny the right of this Government to exist, are they to come in here by their representatives and attempt to use their political power for the overthrow of the Government? Is not that a different question from the question how the Government shall be administered, all of us agreeing that it has a right to exist?

Mr. SMITH. As the question is presented by the gentleman from Massachusetts, I admit the difference in the two propositions which he presents. But, sir, allow me to say that I do not confine the question alone to loyal States, to Pennsylvania, Illinois, Massachusetts, or Kentucky. I submit this question in the case of a State where that condition of things does not exist, according to all the information we have, which is not locked up and hidden from the House and from the country—a State where there are loyal men, who have from the beginning to the end of the late struggle evinced their devotion to the Union, and who have further manifested their loyalty to Congress by returning to Congress as representatives men who are as loyal as any who now exercise the privilege of this floor—in such a case as this how is it to be reconciled to the consciences of members of this House and the people of the country, that such a community should be denied the right of representation?

Mr. BOUTWELL. Does the gentleman mean to confine the elective franchise in Mississippi, for example, to the loyal white men, excluding the disloyal white men?

Mr. SMITH. Yes, sir.

Mr. BOUTWELL. Then I ask the gentleman how a government is to be set up and maintained in such a State as Mississippi, it being matter of public notoriety, as well as the showing of sworn testimony, that nine tenths of the white people are disloyal? Does the gentleman expect that one tenth of the white people of Mississippi will be permitted by nine tenths to set up and continue a government against the judgment of the nine tenths, unless you support that government by the power of the Federal authority?

Mr. SMITH. Now, Mr. Speaker, I am glad that this question has been asked. According to the precedents established here by speeches and by resolution in the Thirty-Seventh and the Thirty-Eighth Congresses by the strongest men upon this floor, the doctrine was fully enunciated and maintained by a majority of the Union men, among them the honorable Speaker of this House, that the loyal people of each State, regardless of numbers, were to be recognized and considered as the State, and entitled to the rights and privileges of this State, including the right of representation in Congress.

Mr. BOUTWELL. I did not ask the gentleman what the Speaker of this House, or any

one else, has said. I asked the gentleman a practical question; if it appear upon testimony which cannot be disputed that nine tenths of the people of Mississippi are disloyal, does the gentleman expect that those nine tenths will permit the one tenth to set up and maintain a government?

Mr. SMITH. Mr. Speaker, if that question should be reduced to a practical form—if it be true that in such a case one tenth of the community must rule, that one tenth alone must be allowed to vote, that one tenth should be regarded as the State, and the remaining portion of the people must be entirely ostracized, must not be considered as entitled to the right of suffrage in the reorganization; who is to fix that? The gentleman no doubt will say "Congress is to fix it." Very well, admit it, for the sake of argument. Then why does not Congress fix it, and let the loyal one tenth of the people be represented in Congress, and enjoy all the other rights to which, as loyal citizens, they are entitled under the Constitution?

I know that the distinguished gentleman from Ohio, [Mr. BINGHAM,] whom I regret to say I do not now see in his seat—a gentleman who is justly looked upon as one of the leaders of this House, a man for whose opinions I have a very high regard, and one whose lead I have followed during the troubles of the last three or four years—asserted in the Thirty-Seventh Congress, in the case of an applicant for a seat from the State of Virginia, that the twenty-five men who alone had voted for that applicant, were the district, and that therefore he was entitled to a seat on this floor; and he was accorded a seat by a majority of the votes of the House, the Union men voting for his admission.

Again, sir, the gentleman from Tennessee, Mr. Maynard, held a seat on this floor as a Representative from the State of Tennessee during the Thirty-Seventh Congress, after that State had adopted an ordinance of secession.

Mr. McKEE. Will my colleague permit me to ask him one question?

Mr. SMITH. Yes, sir.

Mr. McKEE. In the case of the election of that gentleman from Virginia, did any others than those twenty-five who voted offer to vote or want to vote?

Mr. SMITH. I do not know anything about that; and it is not pertinent to the question. The rule of law and of practice in such a case is, that it makes no difference whether there were twenty, or twenty thousand men voting. No matter how many refuse to vote, those who do vote are entitled to representation, and their representative is entitled to his seat.

Mr. RANDALL, of Pennsylvania. Will the gentleman from Kentucky yield to me for a moment?

Mr. SMITH. Yes, sir.

Mr. RANDALL, of Pennsylvania. I desire to ask the gentleman from Massachusetts [Mr. BOUTWELL] a question. I would like to know whether he believes that it is in the power of nine tenths of the people of a State—

Mr. HIGBY. I object to the gentleman from Pennsylvania asking a question of the gentleman from Massachusetts.

The SPEAKER. The gentleman from Kentucky having the right to the floor has a right to yield.

Mr. HIGBY. I object to the gentleman from Pennsylvania putting a question to another gentleman who is not upon the floor.

Mr. RANDALL, of Pennsylvania. Then I will ask the gentleman from Kentucky to put to the gentleman from Massachusetts the question which, to avoid circumlocution, I proposed to ask directly myself.

The SPEAKER. The Chair thinks the gentleman from California [Mr. HIGBY] is correct in the point which he raises, as the gentleman addressed has not the floor to reply.

Mr. HIGBY. I do not want the gentleman from Pennsylvania to speak in the time which I, being entitled to the floor, have yielded to the gentleman from Kentucky. I want the

gentleman from Kentucky to go on with his remarks.

Mr. SMITH. I thought the gentleman had yielded the floor to me unconditionally. I do not wish to get into any trouble. I am trying to be as courteous as I can.

The SPEAKER. The gentleman from Pennsylvania may address the member upon the floor for the purpose of explanation, but he cannot address other members.

Mr. RANDALL, of Pennsylvania. I desire the gentleman from Kentucky to yield to me to put a question to the gentleman from Massachusetts. I do not listen to what the gentleman from California says; I yield to the decision of the Speaker.

Mr. SPEAKER. The gentleman from Kentucky has the right to yield the floor to the gentleman from Pennsylvania for personal explanation under the rule which has so often been read.

Mr. SCOFIELD. For explanation of the pending measure.

The SPEAKER. The gentleman will see that does not extend to interrogating other members.

Mr. RANDALL, of Pennsylvania. Let me ask the gentleman from Massachusetts how he believes nine tenths of the disloyal people of a State could destroy or impair the rights of the loyal one tenth. Now, if that loyal one tenth have to pay taxes have they not certainly the right of representation? Having that right of representation, when they come here and present loyal men and who are capable of taking the oath I have taken, what reason can he give for not admitting them to seats upon this floor?

Mr. BOUTWELL. I should like to answer the question if the gentleman will permit me.

Mr. SMITH. I will yield to the gentleman from Massachusetts if he will not take up too much time in answering the question.

Mr. BOUTWELL. I will answer as briefly as I can.

Mr. SMITH. Do not take too much time.

Mr. BOUTWELL. You can stop me when you please.

Mr. Speaker, the right of representation, whether in the Senate or in this House, is a right which pertains to States as States; and can be exercised by the people only through the recognized State organizations. The State organizations in these eleven States, which once existed in harmony with the organization of the national Government, by some event or through a series of events, have ceased to exist as a matter of fact, because they are not represented. That is the evidence they have ceased to exist. How, why, or when is a matter of no importance. Before any representation from either of those States can be exercised you must have the previous recognition of the right of the State to be represented. And in the inquiry as to the right of a State to be represented we must look to the whole constituency of a State to ascertain whether there is such an existing loyal sentiment as will reasonably lead to the expectation that the representation of that State will be loyal.

I will answer the question distinctly. There is no right of one tenth of the people of a State, even though loyal, to be represented as a State. It is the right of the people, of the whole people, when they demonstrate their loyalty to this Government, to be represented as the people of that State.

Mr. RANDALL, of Pennsylvania. The gentleman overturns the doctrine of Mr. Lincoln from the beginning.

Mr. McKEE. Allow me to ask a question.

Mr. SMITH. Not now. Mr. Speaker, Mr. Lincoln used language which I think it proper to read just here. I think it was when he was first inaugurated President of the United States. I did not vote for him then, but fell into the ranks and followed him afterward during the war. I think it is good authority to quote from. I want his original supporters to go back upon him, if they can, and when the war is over deny the doctrines of that great man. He said:

"The right of each State to order and control its

own domestic institutions according to its own judgment exclusively is essential to the balance of power, on which the perfection and endurance of our political fabric depends."

Now, there is no statement in that as to the number of the people who shall compose a State. I say, with all deference to this House, Congress has violated the laws in the admission to representation to Congress from those States lately disorganized, but now ready for admission to representation. If the gentleman from Nevada were here in his seat I would say that that State has not the requisite number of people to entitle it to representation upon this floor, yet she has two Senators and a Representative in Congress. Now, what are you to do? If you carry out the rule strictly you would have prevented that thing. If the loyal people who have maintained their allegiance to the Government in any of these States still claim it as a State, it is a State.

Now, I submit a question to the gentleman on the other side. The States have been disorganized. Their governments have been somewhat subverted—entirely if you please. Slavery has been overthrown, one of the fundamental institutions of each State, a constitutional provision of each State, one recognized by the Constitution of the United States and maintained by all the laws of the Government of the United States. There has been an entire subversion of that institution in every State of the Union. The Governors who went into the rebellion have all been turned out of office. How? By what means? By force, by war. By men supplanting the principles upon which they stood before the war and repudiating the action of the Governors then elected and the Legislatures then in power.

And what do we find to-day? No man on this floor has ever yet given a different construction nor can do it. There is a State government in every State lately in rebellion, a Governor, a Legislature, a judiciary, all the power which belongs to States under the Constitution. And what is it? It is recognized as republican in form. It is considered good.

But suppose you do not like it; suppose you will not admit it as a principle upon which these States should be organized and received back into the Government: what are you going to do, and when are you going to do it? You say that the President has no power to do what he did. Why do you not undo it? You have been here five months. The intellect of the nation, I presume, is in this Hall and the other. The representatives of the people are here from all the districts except these eleven States. If what has been done by President Lincoln and President Johnson is not good, why in the name of common sense, justice, right, and constitutional law, do you not undo it and do something else that is good?

Well, suppose you do undo it, what are you going to do in its place? You are bound to have a State government, to have the same machinery there that exists now. You say that you want the rebel debt repudiated. It has been done. You say you want the constitutional amendment adopted. It has been done. You say you want loyal men elected to Congress. How do you know that that has not been done in every instance? Who has determined that question? Has the legitimate power of each House investigated it, decided upon it, and reported to each House upon it? The Committee of Elections have done nothing, reported nothing on the subject. The representatives of the various States claiming to be loyal have been asking admission on this floor, and they have been rejected. Upon what ground? Congress says the States lately in rebellion are not properly organized. Why do you not organize them? What are you waiting for?

You say you want to see loyalty in the South. When are you going to get it? How are you going to get it? Are you going to get it this year, or next year, or the next, or when? Have you any assurance that you will have any more loyalty two, three, four, or five years hence?

than you have now? I can very well conceive how a man will be elected who is considered a loyal man to-day, from a district in Alabama, who can take the oath and take his seat here and vote and act with the Union men, and that at the next election they may send back another man from the same district of different politics. But how are you going to avoid that? What statute will enable you to avoid it? There is none.

There is but one process by which it can be remedied, by some constitutional enactment, such as was offered by the gentleman from Illinois [Mr. BAKER] the other day. If when this Congress assembled it had passed two amendments to the Constitution and stopped there, I believe the country would have been quiet and restored to a degree of peace to-day that it will not reach for years to come. Those two amendments should have been: 1. Repudiation of the rebel debt and no taxation hereafter for the payment of any portion of it. 2. That no man who had gone voluntarily into the rebel army or given aid and comfort to the rebellion should hereafter hold an office within the gift of the Federal Government. If Congress had passed those two amendments to the Constitution by this time the country would have been restored to peace and quietness, and no Representative from the rebel States would have taken his seat here who was not loyal to the Government. Then those who had not used their efforts to overthrow and destroy the Government would have been represented here, as they are entitled according to your Constitution, and you could have collected your taxes with the same ease that you do it now in the North.

Now, I want this country to be in the hands of Union men. I want men to control it who are fitted to maintain it in the future. I want the people who have sustained it during its dark days to pilot it in the years to come. But I assert from my place to-day, with all seriousness, and with as much earnestness and honesty, as in my judgment can be possessed by any man, that this Congress is doing a wrong which will result in injury to this great Government by denying the great constitutional principles upon which the Government of this country is founded, in refusing to a people, however rebellious they may have been, who have been whipped and completely subjugated until they laid down their arms and agreed to be obedient to the Constitution and laws of the country, a representation in the councils of the nation where they should be heard.

Gentlemen say we must punish somebody. Very well, I agree to that. The distinguished gentleman from Massachusetts [Mr. BOWEN] offered a resolution some days ago directing an inquiry to be made as to why some of these men have not been punished, and calling for the punishment of Jeff. Davis and others of the leaders of this rebellion. Now that very indirection seems to be casting blame upon the President because these men have not been punished.

What is the fact? The inquiry was made of the Chief Justice of the United States as to why he did not hold a court for the trial of those charged with treason. His reason was that martial law existed in Virginia and the other rebel States, and it was injudicious to hold a court in a State where martial law was prevailing. And yet a court has been held under that same Chief Justice in the District of Columbia, where martial law exists, and has acted upon questions in which all the States lately in rebellion were interested.

The Secretary of War was called upon and he expressed the same sentiments. The President has reserved from pardon five hundred leading men in the rebellion, as is well known to Congress and to the country. Now, why do you not pass a joint resolution calling for the trial and execution of these traitors? Because you want to dodge it; and why? Because you know the President of the United States has no power in himself to do it; Congress alone has the right to make such laws as will provide for the trial, condemnation, and punishment of

these people. Why do you not introduce your law for that?

Mr. SCOFIELD. I would ask the gentleman why he does not introduce a bill to that effect.

Mr. SMITH. I will, if some of you do not do it.

Mr. SCOFIELD. Why has not the gentleman done it before? He has been here five months.

Mr. SMITH. I have been waiting for it to be done by some of the gentlemen who have shown so much blood-thirstiness in regard to the rebels.

Mr. SCOFIELD. The gentleman is the only one now talking with any blood-thirstiness, and he calls upon us to say why we have not done something to punish these men.

Mr. SMITH. Because the organs of the radical portion of Congress, and of those who are opposed to the policy and conduct of the Administration, are denouncing him day after day because he does not do something. And yet members sit in their seats here or walk about the city or go through the country condemning the President for what should be justly charged to the Congress of the United States, and which cannot be shouldered on him.

Mr. ELDRIDGE. I would ask the gentleman from Kentucky [Mr. SMITH] if he desires to be understood as claiming that Congress has the power to pass laws now under which these men shall be tried, condemned, and punished; and must that not be done under the laws that existed at the time the crimes were committed?

Mr. SMITH. As a matter of course they must be punished under the laws that existed at the time their crimes were committed. But Congress can by law provide the means by which they can be brought to justice.

Mr. ELDRIDGE. Must they not be tried in the district prescribed by the laws which existed at the time the crimes were committed?

Mr. SMITH. I will agree to that. But the districts are as numerous as the men themselves. We can have them tried in Virginia and all the southern States because the courts are now reestablished there.

Mr. BROOMALL. I would ask the gentleman from Kentucky [Mr. SMITH] what additional legislation he considers necessary and what power has Congress to pass laws for the punishment of crimes committed heretofore.

Mr. SMITH. I have said all the time that the President of the United States had nothing to do with it; and I was undertaking to defend the President against the charge that he does not punish anybody, when he had no right to punish anybody. If the right existed in any place at all to lay down a plan by which these people were to be brought to trial it was in Congress and nowhere else. They failed to do it. I know Congress cannot pass *ex post facto* laws. I know that.

Mr. BROOMALL. What law can Congress pass?

Mr. SMITH. I understand how men would avoid if they could, bringing the people they charge as having been guilty of the highest crimes known to the laws of the country to justice because it will affect to some extent the policy pursued by Mr. Lincoln and President Johnson.

Mr. BROOMALL. I desire to ask the gentleman what power Congress has in the matter. And where does it get it?

Mr. SMITH. I would like to ask the gentleman from Pennsylvania—I do not want him to answer, as I will answer for him—what power has the President in the matter?

Mr. BROOMALL. To enforce the laws as they exist.

Mr. SCOFIELD. To execute the laws.

Mr. SMITH. If the position assumed by these gentlemen be true, that Congress has no power by any process of legislation over these rebels who have thus acted, what power have they to legislate in reference to the rebels in the States under the parole of the Administration? What right have they to keep them out? They want to punish the whole of them in a

body. They want to punish a State, a corporation, for what a few men have done. They refuse, by any declarative action of theirs, so as to put themselves right upon the record. I know what it means. It does not need a man of great experience to understand it. It is because President Johnson has followed the policy of President Lincoln. He carried out that policy, and States have been organized in the rebel States, republican in form, and which cannot be overturned or destroyed, which this Congress dare not destroy. I leave it to time to prove the truth of what I say. It is because they feel the force and effect of that policy upon the people. The great mass of the people will soon rise to maintain it, whether they have belonged to one party or the other heretofore.

Mr. RANDALL, of Pennsylvania. The President of the United States did, on the 2d of October, 1865, address a letter to Chief Justice Chase on this subject, and the Chief Justice, on the 12th of October following, replied, declining to hold a court as suggested by the President, and proposed a military tribunal for the trial of these people.

Mr. SMITH. That is true. I understood the President to say so myself.

Mr. SHELLABARGER. I want to make a suggestion in reference to what has been said of Chief Justice Chase. I do not know these statements are exactly parliamentary, but as one has been made, I desire to say this: within a few days the Attorney General of the United States made a statement to myself and others, not confidential or private, which it may be well enough to be known by the nation. He, the law officer of the Government, stated that the position taken by Chief Justice Chase under the circumstances was proper, as the condition of the country was not such as to make a judicial trial much less than a mockery. Chief Justice Chase was therefore right, in the opinion of the Attorney General, in declining for the time to hold court on account of the disturbed condition of the State where the trial was to be held.

Mr. SMITH. Mr. Speaker, I wish to say only this: if the opinion of the Chief Justice was correct, and that a civil trial would have been nothing less than a mockery, that in all the mass of civilians a jury could not be found that would convict them of treason, would it not be a farce and mockery for a commission to be called? I say that the position assumed by Congress and Chief Justice Chase, and other leading men in the country, to throw the whole *onus* of complaint and blame upon the President of the United States is wrong, unfair, and unjust. It is as certain to recoil upon them as the sun will rise and shine from day to day until the world shall end.

Now, I know that attacks were made upon the President of the United States long before this Congress met. I know that the very day this Congress was organized an attack was made upon him by which it was attempted to take out of his hands everything that had been done or that he could do, and to reverse every principle which had been adopted for six or eight months, and to place the whole matter in the hands of a committee, whose proceedings are so secret that no member of the House, even, is permitted to know what they are doing.

I happened to vote for the appointment of that committee, and I am sorry for it. They say that full confession is good for the soul, and I am always ready to confess when I do wrong. I did vote wrong then, because I had but just entered the House, and I believed that the Union party, with what I had heretofore acted, was still composed of Union men who did not adhere to the infamous doctrine, which I had fought for four years, that a State is out of the Union, and not entitled to representation. I went with them, therefore; but the moment I found out that their policy was to maintain that the States were out of the Union, and should be treated as Territories, that moment I abandoned them. It was not the great Union party, true to the Government and the

Constitution. I belong to that, and stand by it to-day.

The resolution which was offered by the gentleman from Pennsylvania [Mr. STREVE] in 1862 reflected my ideas then, and it expresses my ideas now. If he and his friends have departed from it, it is not my fault. I choose to stand by it now, as I did then. Let me read it:

"Resolved, That if any person in the employment of the United States, in either the legislative or executive branch, should propose to make peace, or should accept or propose to accept any such proposition, on any other basis than the integrity and entire unity of the United States and their territory as they existed at the time of the rebellion, he will be guilty of a high crime."

We then declared that it was a crime for a man to believe that this Union was dissolved, and to-day the gentleman from Pennsylvania is guilty of that very crime; and I stand here to-day to assert it. I am sorry that he is not in his seat. If he were, I presume he would answer me as he did on a former occasion when my mouth was shut, and I was not permitted by the rules of the House to respond, in language which no gentleman would utter. I suppose he would make a similar response to-day; but let me say that anything that falls from such a mouth falls harmless at my feet, as its utterer is old, decrepit, and powerless.

Now, I want to say, as my time is nearly out, that I believe in the Union of these States; I believe in the punishment of treason as a crime; I believe in the perpetuity of this Government; I believe in the Constitution and laws of my country; I believe it is the best, the purest, the most beneficent Government that God ever gave to man; and I rejoice with men of all colors, that this to-day is recognized as a free Government. I am glad that the shackles of slavery have been stricken from the limbs of four million people, and that they are in the way of being elevated until they attain to the full stature of manhood. I would throw no obstacles in their way; I would do all I could to elevate them, and secure to them those rights to which they are entitled under the Constitution and laws of my country.

But I want to see this Union restored; I want to see the States restored to their original positions in that Union. I want to see these seats filled; I want to see representatives both here, and on the floor of the Senate, from all the States, so that we may be once more a united people, and united for good. Let us maintain the integrity of the nation, the Union of the States, the supremacy of the Constitution, and the enforcement of the laws. Then, shall we transmit to posterity the liberties which we have enjoyed, based upon the rights of man, the liberties of the people, and in a country whose resources have scarcely begun to be developed. We shall go on and upward to greatness and glory. Then, can we invite to our shores the people of all nations, opening to them the doors of civilization; educating and elevating them, and providing them with comfortable homes; then shall we be the center of civilization, a great, grand, glorious, and Christianized people, whose rule shall spread from one end of the continent to the other; nay, throughout the world—instructing man in the paths of truth, virtue, and equal liberty.

LEAVE OF ABSENCE.

Mr. F. THOMAS asked and obtained leave of absence for his colleague, Mr. J. L. THOMAS, for Monday and Tuesday of next week.

Mr. RITTER asked and obtained leave of absence for Mr. HOGAN for two weeks.

FREE AND SLAVE LABOR, ETC.

Mr. RITTER. Mr. Speaker, I arise to-day with much diffidence; and if I were to consult my own feelings I certainly would have remained silent. The fact, sir, that so many gentlemen of great ability have so ably discussed most of the important subjects that are now agitating the public mind, together with a due appreciation of the great importance and magnitude of these questions, is well calculated to throw over one of my humble pretensions a dis-

trust of my ability to do those subjects and the people who honored me with a seat here that justice which is perhaps demanded of me. But, sir, the present unsettled and unfortunate condition of our country demands that every one who loves the American name; every one who loves the Government and the Union of the United States; every one who loves the Constitution that is the basis and foundation of our Government and Union should do something, if possible, to calm and unite the feelings and sentiments of the people, so that we may all once more have full confidence in the justice, integrity, and perpetuity of our Government.

Sir, it is said that our Government can only be maintained by the consent of the governed, and if this be true—as I apprehend all will agree that it is—the proper question for us now to settle is, what course should this Congress pursue in order to restore confidence in the minds of the people, to convince them that it is the intention of the Congress of the United States to treat all the citizens of this country with equal justice, no matter whether they live in the North or South, or whether they live in the East or West? Sir, if this can be accomplished all of our differences will at once be at an end; the soldiers that are now kept in the various States may at once be disbanded and returned to their homes, and the people in all the States would at once, as in times gone by, be constituted into a wall of defense against any and every enemy against the United States no matter where they might make their appearance. Sir, can we not do this? Can we not sacrifice our prejudices, our anger, and resentment, our party feelings, yes, and our parties, too, if necessary, in order to accomplish such a noble purpose? Sir, we have already sacrificed millions of money and oceans of blood avowedly to accomplish this grand object, and after the people have sacrificed all this cannot we lay aside our differences and determine, at least for the present, that we will adhere to the Constitution as it is, and require only that it shall be maintained, and the laws obeyed?

Sir, look for one moment at our condition. The people who were in rebellion against the authority of the United States have all acknowledged their defeat: they have surrendered to Federal authority. Yes, sir, they have done everything that has been required of them in order to their admission to seats in this Hall, and still we refuse them, notwithstanding they were told time after time by the highest authority that all that was necessary was for them to lay down their arms and submit to the laws. Sir, is this calculated to give confidence to these people that they will be treated with equal justice by this Congress? They have, by State conventions, amended their constitutions so as to abolish slavery in each State; they have declared their ordinances of secession to be void, repudiated all debts created on account of rebellion, and most of them have ratified the amendment to the Constitution of the United States abolishing slavery everywhere in the United States; and now, sir, they are submitting to taxation while we are refusing to allow them to be represented in this Hall. Sir, is this course calculated to give confidence to the people that this Congress intends that all of the citizens of the United States shall be free and equal?

But, sir, it is said that we must have guarantees. What do we understand from this? Sir, who has told what these guarantees are to be? All of the dominant party in this House are asking for and claiming that we should have guarantees, yet no plan of restoration setting forth the guarantees demanded by them has been presented to this House. Sir, why have the people in the lately rebellious States abolished slavery, pronounced their secession ordinances void, repudiated their war debts, &c., unless it has been to conform to the requirements of the conquerors, and thereby give assurances, or guarantees if you please, that they will obey the laws of the United States? Sir, is not this cry for guarantees merely an excuse for the purpose of postponing the time of the admission

of the representatives from these States so that the dominant party here can have time to make such amendments to the Constitution and pass such laws as in their judgment will secure their party in power, and which they know that they could not do if all the States were represented? Sir, is this calculated to inspire the people with confidence that this Congress intends to do equal justice to all?

Mr. Speaker, the idea of being taxed without the right of representation is one that has always been abhorred and detested by the American people, and accordingly we find in the Declaration of Independence one of the strongest reasons for rebelling against the King of England was that he had refused to pass laws for the accommodation of large districts of people unless those people would relinquish the right of representation in the legislature; a right, they say, that is inestimable to them and formidable to tyrants only. The Constitution of the United States also declares that representation and direct taxes shall be apportioned among the several States, which may be included within this Union, according to their respective numbers. Sir, I may safely say that the sentiment that there should be no taxation without representation has become so deeply impressed in the minds of the people of the United States that every effort to change it will but be the means to hurl from place or position every man who makes it. Sir, the President has fixed a plan for the restoration of those States, the people of those States have sacrificed a very large amount of property and also their own political views in order to become the recipients of the President's plan. They are willing and anxious to do it, and why should we object?

Sir, we have no sacrifice to make; we have maintained the Constitution and the Union; the flag of our fathers floats undisturbed over this nation; and I appeal to this House and to the country, I appeal to every lover of this Union, to come up like men and support the President in his noble and manly efforts to restore these erring people and States to maintain the Constitution and the Union, that we may once more have peace, prosperity, and happiness. Sir, it may be said that we have had some foreshowing of a plan, or rather the conditions upon which these States are to be allowed to be represented in the Congress of the United States. It is true that the majority of the committee of fifteen did report that the people of Tennessee were in a condition to exercise the functions of a State within this Union; but they then assert that they can only exercise the same by the consent of the law-making power of the United States. Now, sir, if the people of the State of Tennessee are in a condition to exercise the functions of a State, I ask, by what means or by what authority are they in that condition? It must be by authority of the Constitution of the United States; and if so, I would like to know by what authority these people are required to obtain the consent of the law-making power of the United States before they do exercise those functions which they admit themselves that they are in a condition to exercise.

Now, sir, I affirm that when a State is in a condition to exercise the functions of a State that Congress has no right or authority to require anything more than to judge of the legality of the election and qualification of its members, and to require that they shall take the oath prescribed by the Constitution. But they then declare that Tennessee is one of the United States of America upon the express condition that the people shall do certain things, and that they shall not do certain other things. These conditions are all very remarkable, and are required without even a shadow of authority. But, sir, there is one of them that strikes me as being more remarkable than all the rest, for the reason that in requiring it they make a demand, as I understand it, in direct opposition to an express declaration of the Constitution. The condition alluded to is in the words, "Nor shall the said State ever in any manner

claim from the United States, or make any allowance or compensation for slaves emancipated or liberated in any way whatever." Now, sir, these slaves were the property of somebody, or else they could not have been slaves, and the Constitution expressly declares that private property shall not be taken for public use without just compensation.

Sir, I have heard a great deal said by gentlemen upon this floor about the importance and propriety of the Government complying with its pledged faith and solemn promises made to the colored people. This is all very well; but, sir, a great Government like ours should never place itself in such a condition that the fulfillment of one promise is the direct violation of another. Sir, what stronger pledge, what more solemn promise, has this Government ever made than the pledge to the white people of these United States that their lives, liberty, or property should not be taken without due process of law; and then added the clause above quoted, that private property should not be taken without just compensation? Sir, no stronger promise or pledge has ever been made to any people. It is true that this promise was made to white people; but that does not make it less obligatory upon us. Sir, who would have owned a slave if the Constitution and laws of the country had not authorized it? Being thus authorized, the people of Tennessee vested their money in slaves, relying upon the pledges and promises of the Government to protect them in it. Really, sir, it does seem to me to be most remarkable that we do not only disregard the pledge of the Federal Government, but they also require the State of Tennessee to violate her own pledges made to her own people.

But, Mr. Speaker, it is not my purpose today to discuss the important subject of the restoration of the seceded States further than I have done. My object is to ask attention to another subject of perhaps but little less importance. It is, sir, to one of the most important sources to which we are to look for revenue to enable us to meet the vast demand that is now continually pressing upon us in the item of interest, as well as to supply the ordinary demands of the Government, and ultimately to pay the enormous debt that we now owe.

To be more explicit, it is my purpose to speak of the agricultural interest of the country, and to show, if I can, the difference in the different systems of labor as practiced in this country heretofore, and what may be expected from the laborers now in portions of this country under the system of labor now being inaugurated. Sir, the agricultural interest of this country is one of far more importance than any other one interest, and perhaps of many others put together, and if the agriculturists should fail for only a few years together, our whole country would be ruined, and no other interest or branch of industry could save us; but let the agriculturists succeed, and with proper legislation the country is safe. Now, sir, if this be true, we see at once the great necessity of fostering and protecting that important and worthy class of our fellow-citizens.

Sir, in making our calculations for revenue to meet the vast demands against us, it will not do for us to suppose that the revenue from the States heretofore known as slave States will be increased by this great and sudden destruction of slave labor, but that the products of those States will be greatly diminished, and to the extent of that diminution must be the increase of taxation in the free States. The Government, therefore, must look to the free States to make up the deficiency caused by the destruction of slave labor in the former slave States. I know, sir, that this statement, if true, disproves the truth of an assertion long and loudly made by a certain class of politicians in our country, to wit, that free or hired labor is more profitable than slave labor, and in order to prove this assertion to be true, a comparison has often been made between the States of Ohio and Kentucky, Ohio being a free State and using free labor, and Kentucky slave labor.

The argument is that as Ohio has a larger population and makes more in the aggregate than Kentucky, therefore free labor is more profitable than slave labor. I suppose, however, that the hard-working farmer in Ohio would not be much comforted by a knowledge of the fact that his State made more in the aggregate than the State of Kentucky if he is at the same time informed of the additional fact that each individual—white, free colored, and slave—in the State of Kentucky did make more on an average than did each individual in the State of Ohio. What gratification can it afford to a citizen of Ohio to know that his neighborhood is very densely populated, and that because of that fact, together with the difference in their system of labor, that he makes less on an average than does each individual in the State of Kentucky?

To prove that this is true, I beg to call the attention of this House and of the country to that most valuable document, the Eighth Census, made in 1860. By an examination of that document it will be found that the State of Ohio had in 1860 a population of—

Whites.....	2,302,838
Free colored persons.....	36,673
Total.....	2,339,511

The assessed value of real estate and personal property in Ohio was \$959,867,101. The average value of property assessed in Ohio, to each individual, white and free colored, is about \$410.

Kentucky had of—

Whites.....	919,517
Free colored persons.....	10,684
Slaves.....	225,433
Total.....	1,155,634

The assessed value of real estate and personal property in Kentucky was \$528,212,693; making an average to each individual, white, free colored, and slave, of about \$457; and if made to each white and free colored person, the average is about \$567 to each one.

To ascertain which had the most profitable system of labor, the people of Ohio, or those of Kentucky, I deem it necessary only to call attention to the most important products raised in each State, and estimate their value, and make the average to each person, thus:

In Ohio in 1860:	
Wheat raised, 14,532,570 bu., at \$1 3/4 bu.....	\$14,532,570
Corn, 70,637,140 bu., at 50 cts. "	35,318,570
Rye, 656,146 bu., at \$1 per "	656,146
Oats, 15,479,133 bu., at 50 cts. "	7,739,566
Rice, none.....	
Tobacco, 25,523,972 lbs at 10 cts. 3/4 lb.....	255,279
Cotton, none.....	
Value of live stock, including horses, mules, asses, milch cows, working oxen, other cattle, sheep, and swine.....	80,433,780
Total value.....	\$138,935,929

This gives on an average to each person in the State of Ohio about \$59.

In Kentucky in 1860:	
Wheat raised, 7,394,811 bu., at \$1 3/4 bu.....	\$7,394,811
Corn, 64,043,633 bu., at 50 cts. "	32,021,866
Rye, 1,055,262 bu., at \$1 "	1,055,262
Oats, 4,617,029 bu., at 50 cts. "	2,308,514
Rice, 24,407 lbs, at 10 cts. 3/4 lb.....	2,440
Tobacco, 108,102,437 lbs, at 10 cts. 3/4 lb.....	10,810,243
Cotton, 4,092 bales, at 10 cts. 3/4 lb.....	163,480
Value of live stock, including horses, mules, asses, milch cows, working oxen, other cattle, sheep, and swine.....	61,863,237
Total value.....	\$115,625,033

This gives an average to each person in the State of Kentucky, including slaves, of about \$100; and if the average is made only among the white and free colored persons, the amount to each one would be about \$125, more than double the amount made to each person in Ohio, the people of Ohio making only \$59 to each person. But to test this matter further, we will take the most important of the products of the States of Tennessee and Indiana:

The State of Indiana has a population of—	
White persons.....	1,339,000
Free colored persons.....	11,438
Total.....	1,350,438

The assessed value of real estate and personal property was in 1860, \$411,042,424; making an average to each person in the State of about \$305.

The population of the State of Tennessee was—

White.....	826,782
Free colored persons.....	7,900
Slaves.....	275,719
Total population.....	1,109,801

The assessed value of real estate and personal property in the State of Tennessee was in 1860 \$382,495,209. The average value to each person including slaves is about \$343, and if the average is made only among the white and free colored persons it will be found to be about \$453 to each one, against \$305 to each person in the State of Indiana.

Mr. KELLEY. Are all the people of Kentucky embraced in that calculation—slaves and all?

Mr. RITTER. Every one; white people, free colored people, and slaves; if there are any other kinds there, if the gentleman will point them out, I will include them.

Mr. KELLEY. And the property equals \$500 to each one of them?

Mr. RITTER. Three hundred and forty-three dollars to each.

Mr. KELLEY. Slaves and all?

Mr. RITTER. Yes, sir; if you exclude the slaves it will be \$459 to each.

In Indiana in 1860:	
Wheat raised 15,219,120 bu., at \$1 3/4 bu.....	\$15,219,120
Rye, 400,226 bu., at \$1 "	400,226
Corn, 69,641,591 bu., at 50 cts. "	34,820,792
Oats, 5,028,775 bu., at 50 cts. "	2,514,387
Tobacco, 7,246,132 lbs, at 10 cts. "	754,613
Cotton, none.....	
Value of live stock, including horses, mules, asses, milch cows, working oxen, other cattle, sheep, and swine.....	50,116,964
Total value.....	\$103,796,105

This makes an average to each person in the State of Indiana of about \$77.

The products of Tennessee in 1860 were as follows:

Wheat raised, 5,409,863 bu., at \$1 3/4 bu.....	\$5,409,863
Rye, 265,314 bu., at \$1 "	265,314
Corn, 50,748,260 bu., at 50 cts. "	25,374,133
Oats, 2,343,122 bu., at 50 cts. "	1,171,561
Tobacco, 38,931,277 lbs, at 10 cts. 3/4 lb.....	3,893,127
Cotton, 227,450 bales, counted at 400 lbs. 3/4 bale and 29 cts. 3/4 lb, is.....	9,098,000
Live stock, including horses, mules, asses, milch cows, working oxen, other cattle, sheep, and swine.....	61,257,374
Total value.....	\$106,469,402

This makes an average to each person in the State of Tennessee, including slaves, of \$95. And if the average is made between the white and free colored person only, it is about \$127 to each person, against \$77 to each person in the State of Indiana.

But as it may be thought that a comparison between these four States is not sufficient to satisfy every one, we will go still further, and introduce the great and rich State of Illinois and compare it with the State of Alabama.

The population of the State of Illinois was in 1860:

White persons.....	1,704,323
Colored persons.....	7,623
Total.....	1,711,951

The assessed value of real estate and personal property was \$389,267,372. This makes an average value to each person in the State of about \$221.

The population of the State of Alabama was in 1860:

White persons.....	523,431
Free colored.....	2,650
Slaves.....	433,080
Total.....	959,161

The assessed value of property, real estate and personal, was in 1860 \$432,198,762, making an average to each person in the State, including slaves, of about \$448, and if the average is made between the white and free colored persons of the State only, it will be

found to be about \$800 to each person in the State of Alabama, against \$221 to each person in the State of Illinois.

Mr. KELLEY. Will the gentleman allow me to put a brief question to him right here? Mr. RITTER. A short one.

Mr. KELLEY. Does that calculation embrace the appraised value of the slaves in Alabama and Kentucky?

Mr. RITTER. Yes, sir; I believe the Government always went upon the principle that they were worth something.

Mr. KELLEY. Does the calculation also embrace the appraised value of the laboring people of the free States?

Mr. RITTER. That has nothing to do with it, because the free colored people in the slave States are upon just the same footing in that respect with the free laboring population of the North.

The people of the State of Illinois made, in 1860, the following products:

Wheat,	24,159,500 bu., at \$1 $\frac{3}{4}$ bu.....	\$24,159,500
Rye,	981,322 bu., at \$1	981,322
Corn,	115,293,779 bu., at 50 cts.	57,648,389
Oats,	15,336,072 bu., at 50 cts.	7,668,036
Tobacco,	7,014,230 lbs., at 10 cts. $\frac{3}{4}$ lb.....	701,423
Rice,	none.....	
Cotton,	6 bales, counted 400 lbs to the bale, and at 20 cts. $\frac{3}{4}$ lb.....	480
Value of livestock, including horses, mules, asses, milch cows, working oxen, other cattle, sheep, and swine.....		73,434,621
Total value.....		\$164,593,771

This gives an average to each person in the State of Illinois of about \$96.

I would like to have the attention of the gentleman from Pennsylvania [Mr. KELLEY] to this, because I suppose he will attempt to disprove these calculations, if he can.

Mr. KELLEY. I think they are disproved now.

Mr. RITTER. I have no doubt they are as much as they ever will be.

The people of the State of Alabama made, in 1860, the following products:

Wheat,	1,222,487 bu., at \$1 $\frac{3}{4}$ bu.....	\$1,222,487
Rye,	73,942 bu., at \$1	73,942
Corn,	32,761,194 bu., at 50 cts.	16,380,597
Oats,	716,435 bu., at 50 cts.	358,217
Rice,	499,659 lbs., at 10 cts. $\frac{3}{4}$ lb.....	49,965
Tobacco,	221,284 lb., at 10 cts.	22,128
Cotton,	997,978 bales, at 400 lbs to the bale, and at 20 cts. $\frac{3}{4}$ lb.....	79,838,240
Value of live stock, including horses, mules, asses, milch cows, working oxen, other cattle, sheep, and swine.....		43,061,805
Total.....		\$141,007,871

This gives an average to each person in the State of Alabama, including slaves, of about \$146; and if the average is made between the white and free colored persons only it is about \$266, against an average of \$96 in the State of Illinois.

These facts, it seems to me, are sufficient to satisfy the most prejudiced partisan as to which is the most profitable, free or slave labor; but as some persons are never satisfied unless extremes are made to meet, I beg to ask attention to a few facts in relation to the States of Massachusetts and South Carolina.

Massachusetts had a population in 1860 of—

White persons.....	1,221,464
Free colored persons.....	9,062

Total.....1,231,066

The assessed value of real estate and personal property in Massachusetts in 1860 was \$777,157,816, making an average to each person in the State of about \$631.

South Carolina had a population in 1860 of—

White persons.....	291,388
Free colored.....	9,914
Slaves.....	402,406

Total.....703,708

The assessed value of real estate and personal property in South Carolina was in 1860 \$489,319,128, which makes an average to each person in the State, including slaves, of \$695; and if the average is made between the white and free colored persons, who were the owners of the property, the average value to each one

of these will be found to be about \$1,624, against \$631 in the State of Massachusetts.

In Massachusetts in 1860:		
Wheat raised,	119,783 bu., at \$1 $\frac{3}{4}$ bu.....	\$119,783
Rye,	388,085 bu., at \$1	388,085
Indian corn,	2,157,063 bu., at 50 cts.	1,078,531
Oats,	1,180,075 bu., at 50 cts.	590,037
Rice,	none.....	
Tobacco,	3,233,238 lbs., at 10 cts. $\frac{3}{4}$ lb.....	323,319
Value of live stock, including horses, mules, asses, milch cows, working oxen, other cat- tle, sheep, and swine.....		
		12,737,744
Total		\$15,237,499

This gives an average to each person in the State of Massachusetts of about \$13.

South Carolina raised in 1860:

Wheat,	1,285,631 bu., at \$1 $\frac{3}{4}$ bu.....	\$1,285,631
Rye,	89,091 bu., at \$1	89,091
Corn,	15,065,006 bu., at 50 cts.	7,532,503
Oats,	936,971 bu., at 50 cts.	468,487
Rice,	119,100,528 lbs., at 10 cts. $\frac{3}{4}$ lb.....	11,910,052
Tobacco,	104,412 lbs., at 10 cts.	10,441
Cotton,	353,413 bales, counted at 400 lbs to the bale, and 20 cts. $\frac{3}{4}$ lb, is about.....	28,273,040
Value of live stock, including horses, mules, asses, milch cows, working oxen, other cattle, sheep, and swine.....		23,934,465
Total.....		\$73,504,010

This gives an average to each person in the State of South Carolina, including slaves, of about one hundred and four dollars; and if the average is made between the white and free colored persons only, it will be to each about two hundred and forty-three dollars, against about thirteen dollars to each person in the State of Massachusetts.

It may be said that Massachusetts is not an agricultural State, and that her wealth and profits arise from her manufactures. This does not alter the case, as her property is certainly all included in her list of property assessed for taxation, and the same difference exists there.

But we are told that the negro will work better and produce more as a freeman than they have ever done as slaves. To ascertain what is true, or what we may expect from the colored people that have been lately made free, we have only to ascertain what has been the result where any large numbers of that race have been suddenly emancipated; and in order that there shall be no cause for contradiction on this point as to the facts of the case I will give them in the language of that eminent historian, Alison, who, in his History of Europe, says that—

"St. Domingo, the greatest except Cuba, and beyond all question the most flourishing of the West India islands before the Revolution, is about three hundred miles in length and its average breadth about ninety miles. The Spanish possessed two thirds and the French the remainder. In the French portion the inhabitants consisted of about forty thousand whites, sixty thousand mulattoes, and five hundred thousand negro slaves. This French colony was immensely productive, exceeding all the British islands together. Its exports, including the Spanish portion, were £18,400,000, and its imports £10,000,000 sterling. Eighteen hundred vessels and twenty-seven thousand sailors were employed in conducting the vast colonial traffic. It was this splendid and unequalled colonial possession which the French nation threw away and destroyed at the commencement of the Revolution, with a recklessness and improvidence of which the previous history of the world had afforded no example. Hardly had the cry of liberty and equality been raised in France, says our historian, when it responded warmly and vehemently from the shores of St. Domingo. The slave population were rapidly assailed by revolutionary agents and emissaries, and the workshops and fields of the planters overrun by heated missionaries, who poured into an ignorant and ardent multitude the new-born ideas of European freedom.

"The Constituent Assembly of March 8, 1790, had empowered the colonies to make known their wishes on the subject of a constitution by Colonial Assemblies freely elected by their own citizens, and on the 15th of May, 1791, the privileges of equality were conferred by the same authority on all persons of color born of a free father and mother. The planters openly endeavored to resist the decree, and civil war was preparing, when, on the night of the 25th of August, 1791, the negro insurrection long and silently organized, at once broke forth and wrapped the whole northern part of the colony in flames.

"The conspiracy embraced nearly the whole negro population of the island. The cruelties exercised exceeded anything recorded in history. The negroes marched with spiked infants on their spears instead of colors. They sawed asunder their male prisoners and violated the females on the dead bodies of their husbands."

Here, sir, we have the result of an attempt to put the negro on an equality with the white man. Sir, does it afford any consolation to

those who are so persistently endeavoring to bring on an equality here? What is there in this plain and clear historic fact that gives hope for a better result here if these wild and fanatical schemes are pressed upon the people of these United States? Do we not know, sir, that history will repeat itself, and that if they continue to press and force upon the people this equality that similar results will be the consequence here?

But, sir, let us follow our author a little further, and see what has been the result of the emancipation of these people upon the industry and prosperity of the island. He informs us that the universal freedom of the blacks was proclaimed on the 3d of June, 1793, and then gives us the following table, which he says contains the comparative wealth, produce, and trade of St. Domingo in 1789 and in 1832, after forty years of nominal freedom:

Population.....	1789.	600,000
Sugar exported, pounds.....		672,000,000
Coffee, pounds.....		86,789,000
Ships employed.....		1,680
Sailors.....		27,000
Exports to France.....		\$6,730,000
Imports from France.....		\$9,890,000
	1832.	

Population.....	280,000
Sugar.....	none
Coffee, pounds.....	32,000,000
Ships employed.....	1
Sailors.....	167
Exports to France.....	none
Imports.....	none

Here sir, we have a very sad but very instructive account of the result of suddenly emancipating large numbers of the colored race. Sir, is history to repeat itself in this instance? Is it not most rational for us to suppose that it will? What reason have we to believe that the colored people will do any better here than they have done under similar circumstances in other countries? Sir, can any gentleman suppose after being informed of these plain historical facts that those large and rich plantations in the former slave States will ever (for generations to come) be made to wave and almost to groan with or on account of the rich harvests of former years? No sir. But on the contrary these broad and fertile acres will be uncultivated, the fences that once inclosed them rotted and gone, and the land which once sent forth such large and heavy crops of grain, tobacco, and cotton will be covered with brambles and other wild growth that will afford no profit to either man or beast.

But, sir, we have other evidence to prove that whenever large numbers of colored people are suddenly emancipated the result is the destruction of labor, and consequently a very large falling off of the products of the soil.

I will call the attention of gentlemen to the facts as they have occurred in the island of Jamaica, where the negroes were emancipated under the most favorable circumstances; their freedom was not said to be the result of war. No, sir; the Parliament of Great Britain honestly made an appropriation to pay the owners for their property, and full equality, as it is desired here, was granted to the negro race. Parliament passed the act liberating the slaves on this island in 1833. Their population at that time was, of whites, 15,776; mulattoes, 68,527; and of blacks, 293,125. In the year 1810 Jamaica imported to the amount of £4,308,337, and her exports were £2,303,579. In twenty years after the emancipation of the slaves her imports had fallen off to the sum of £864,094 and her exports to the sum of £837,276; and in 1864 her exports were only £403,520, and her imports £932,316. There has been some increase in her black and mulatto population; but the white population have decreased to the amount of 1,900, and during the period between 1832 and 1847, 605. Sugar and coffee plantations containing 356,432 acres of land were entirely abandoned; and from 1848 to 1853 579 other plantations, containing 391,187 acres, were totally or partially turned to waste. These facts were recently stated in a speech delivered in the other end of this Capitol by one of the Senators from Kentucky

[Mr. DAVIS] as being verified by Mr. Carey, and a statement made by the West India Association of Glasgow and other documents.

Mr. Bigelow, in his Notes on Jamaica, says:

"Shipping has deserted her ports, her magnificent plantations of sugar and coffee are running to weeds, her private dwellings are falling to decay, the comforts and luxuries which belong to industrial prosperity have been cut off, one by one, from her inhabitants; and the day is at hand when there will be no one left to represent the wealth, intelligence, and hospitality for which the Jamaica planter was once so distinguished."

The same writer, on page 53, says:

"It is difficult to exaggerate, and yet more difficult to define, the poverty and industrial prostration of Jamaica. The natural wealth and spontaneous productivity of the island are so great that no one can starve; and yet it seems as if the faculty of accumulation were suspended. All the productive power of the soil is running to waste; the finest land in the world may be had at any price, and almost for the asking; labor receives no compensation, and the product of labor does not seem to know the way to market. Families accustomed to wealth and every luxury have witnessed the decline of their incomes until now, with undiminished estates, they find themselves wrestling with poverty for the commonest necessities of life."

And on page 54 he says:

"Since the year 1833, when the British slave emancipation act was passed, the real estate of the island has been rapidly depreciating in value, and its productivity has been steadily diminishing to its present comparatively ruinous standard."

And on page 55 the same writer gives us a table, which he says is from official returns, showing the amount of exports for three years previous to the emancipation act with the exports for three years preceding the month of October, 1848. He then adds that—

"By this contrast it appears that during the last three years the island has exported less than half the sugar, rum, or ginger, less than one third the coffee, less than one tenth the molasses, and nearly two million pounds less of pimento than during the three years which preceded the emancipation act."

And on pages 62 and 63 of the same author we have this statement:

"The value of fixed property—sugar estates—before emancipation was estimated at £20,000,000 sterling, but that the same property then could not be sold for more than £600,000 sterling."

Mr. Speaker, can any gentleman suppose, with this exhibition of facts before him, that the former slave States will, at any time for generations to come, be able to pay one half the amount of revenue that they would have done if their system of labor had not been destroyed? If so, I confess it is more than I can do. But, sir, whatever the deficiency may be, it must be clear to every one that those who did not own slaves will each one have to pay their proportionate part to make up that deficiency.

But, sir, admitting that what I have said is true, the great question of what is the best course for us to adopt under the present state of affairs, still presses itself upon us and demands our serious and earnest consideration.

Sir, it is the duty of all patriots to take facts as they exist, and make the best out of them that we are able to do, without regard to party considerations. We all know that we were once the most happy and prosperous people upon this globe. We also know that that is not the case now, but that our happiness and prosperity as a nation is, to say the least of it, greatly diminished. What, then, I ask, is necessary for us to do in order again to be prosperous and happy? I know, sir, that some plain, common-sense people would think the question easily answered, and that all we have to do would be to retrace our action and return to the condition we were in when we were prosperous before, with all the laws and customs that we then had, and we would be so again.

But, sir, these people forget that politicians are now ruling and leading the people of the United States, and their minds are filled with the ideas of progress and reform, and that although these progressions and reforms may be alone for the sake of maintaining a particular party, yet rather than acknowledge that they have failed in their attempts at reformation, they will press forward to something in advance, even if they bring ruin upon all. Now, sir, under this state of case the people will have to regard all that has been done as fixed facts, at least for a time, and look to these

facts as they now exist, and make the best we can of them.

Mr. Speaker, I affirm that in my judgment one of the most important things that can now be done in order to restore this Government and give confidence to the people in its justice and integrity, is for those who are now controlling it to pay all loyal persons for all the property of every kind that has been taken by the Government or its agents in order to enable it to put down the rebellion. Sir, no man can have confidence in the justice or integrity of a Government when he knows that it has taken the proceeds of his hard earnings, and then delays or refuses to make just compensation in some way. Sir, a very large number of loyal men in these United States have had property of different kinds taken from them, and in many cases it was property upon which they mainly depended for a support, and yet payment is withheld or refused.

Now, sir, what effect is this course to have upon the minds of the people? Does not every gentleman know that if the Government fails to pay the citizen his just claims, and at the same time forces these same citizens to pay taxes to support these men in office, that it will have a tendency to alienate the minds of the citizens and all love for the Government or its stability will be destroyed? Sir, what other course could be adopted that would be so well calculated to bring on a repudiation of the entire debt, and thus to prostrate and destroy the credit and honor of this nation? Sir, only a few days since there was a proposition made in this House by an honorable member, [Mr. LAWRENCE, of Ohio,] to amend the Constitution so as to prohibit the payment by the Government or by the States for slaves that had been emancipated by it. Now, sir, why is such an amendment as this asked? Surely if the Constitution and laws of our country give no claim to those who formerly owned these slaves, such an amendment is entirely useless, and if the mover of the proposition had not thought that these people had a claim founded upon the Constitution and laws he would not have proposed such an amendment.

If, then, these people have this claim, and to avoid it this amendment is sought and forced upon these people without their consent, I ask, sir, will not this be repudiation, so far as it goes, of the deepest dye, and what other effect do gentlemen suppose that such a measure can have upon the minds of the people except to alienate them from the Government and prepare them to vote for the repudiation of the whole debt of the United States? Sir, I warn gentlemen, if they do not desire such a repudiation, to stop in their wild and mad career and to cease their efforts to force their peculiar views upon the people.

Sir, let us imitate the noble example set us by our President; let us unroll the Constitution, as he has done, and be governed by it; let us open the doors of this House to the Representatives duly elected and qualified from all the States; let each State regulate and control their own affairs in their own way, subject to the Constitution and laws of the United States. This, sir, in my judgment, is the only way that we can ever have a restored Union. We may have a Government kept together by military power, but it will not in that way ever give us a restored Union.

Mr. SHELLABARGER obtained the floor.

Mr. KELLEY. Will the gentleman from Ohio [Mr. SHELLABARGER] permit me to ask one or two questions of the gentleman from Kentucky [Mr. RITTER] which he stated his willingness to answer after he should have concluded his speech?

Mr. SHELLABARGER. If I knew how much time it would take I might be willing to yield.

Mr. KELLEY. It will not take five minutes.

Mr. SHELLABARGER. If it will not take more than five minutes, I will yield.

Mr. KELLEY. I will propound the first question with the leave of the gentleman from Ohio.

Mr. SHELLABARGER. I will exercise my right to resume the floor if I find that too much time is to be taken.

Mr. ELDRIDGE. I object to the question being put to the gentleman from Kentucky [Mr. RITTER] unless he is allowed time to reply.

Mr. KELLEY. He will have time. The gentleman from Kentucky stated the assessed value of the property of the slave States in comparison with the assessed value of the property of the free States. I want to inquire whether that embraces the assessed value of the increase of slave population from year to year.

Mr. RITTER. I believe the gentleman asked that same question while I was upon the floor, with the exception of the part in regard to the increase of slave population. Of course slaves were regarded as valuable, and were required by the laws of the State to be assessed at what they would bring in the market, and were taxed as property.

Mr. KELLEY. I believe that branch of manufactures did not appear in the list of assessed property of the free States.

Mr. RITTER. That has nothing to do with the productions of the soil.

Mr. KELLEY. I wanted to point out the distinction. The gentleman's calculation of property was made by appraising the value of each working man in the South at from three hundred to one thousand dollars, and then crediting him with a portion of that in the average possession of property.

Now, I desire to ask the gentleman whether it be true, as he states, that all have been on an equality in Jamaica. He stated that all, black and white, were equal in Jamaica.

Mr. RITTER. I gave my authority for the statement.

Mr. KELLEY. The right of suffrage there is not possessed by one in ten of the population; suffrage there is not as liberal as it is in England.

As the gentleman from Ohio [Mr. SHELLABARGER] wants the floor, I will forego the other questions.

Mr. RITTER. I think any other day will do just as well.

Mr. KELLEY. I will ask one other question: if taxation with representation be the true principle, and its disregard must lead to revolution, ought not that principle to be applied to the majority of the people of the two States of South Carolina and Mississippi?

Mr. RITTER. The gentleman makes that a matter of assertion.

Mr. KELLEY. I ask the gentleman a question. He argues that the correct principle is that taxation and representation should be equal, and that the disregard of that principle would justify revolution. Now, I ask whether the disregard of that principle in regard to the majority of the people of the two States of South Carolina and Mississippi would in his judgment justify revolution?

Mr. RITTER. I am in favor of taxation and representation going together. In South Carolina they have always gone together, for the people have all been represented.

Mr. KELLEY. The gentleman stated that the census of 1860 showed that there were 291,000 white people in South Carolina, and 412,000 colored people. Now, I ask whether the principle which he regards as so sacred and inviolable should be applied to that State, and whether its disregard would in his judgment justify revolution?

Mr. RITTER. The gentleman forgets that the people of the State of South Carolina and the other southern States have always been represented in the State Legislature, and until the last two or three years have always been represented in Congress. He appears to have the idea that there were some persons in that section of the country who were not represented.

Mr. KELLEY. Does the gentleman, then, mean that the person shall have no voice in electing his representative, but that an oligarchy, an aristocracy, or a monarch may

designate the representative; or does he mean that the representative shall be the choice of the person represented?

Mr. RITTER. I do mean to say that there are a good many persons in the country who do not vote, and yet they are represented; and I presume that such will be the case for all time to come. I do not understand that any gentleman here proposes that everybody shall vote.

Mr. KELLEY. Then I will modify my question. Does the gentleman believe that a majority of the free adult male inhabitants of a State ought to have a voice in electing its representatives?

Mr. RITTER. Mr. Speaker, it seems to me we are consuming time here altogether unnecessarily. As I am trespassing upon the time of the gentleman from Ohio, [Mr. SHELLABARGER.] I will make this single remark, that I do not regard this as the proper place to discuss the question in regard to the qualifications of voters. The Constitution has, in my opinion, placed the control of that question with the States.

Mr. KELLEY. It is not often that a gentleman from Kentucky declines to answer a question or evades it.

DISFRANCHISEMENT OF REBELS.

Mr. SHELLABARGER. Mr. Speaker, some weeks ago I introduced a resolution, which was adopted by this body, referring to the Judiciary Committee of this House the inquiry whether it is competent, under the American Constitution, for Congress to declare by law the forfeiture of citizenship where that citizenship has been voluntarily abandoned by acts of disloyalty. Since that resolution was adopted the distinguished gentleman who occupies the chair of this House has been, I am glad to find, speaking, in the same direction in which that resolution points. Since that, again, one of the most distinguished lawyers of the House has introduced a set of resolutions bearing upon the same subject, and expressing with more distinctness a plan for putting in application that power of the Government, if it be one of the powers of the Government.

I am most glad, therefore, to find these and other evidences that the mind of the country is being directed now toward this important practical inquiry, as one, not all, of the means that may be resorted to for the purpose of relieving us from these questions of terrible embarrassment by which our Government is surrounded. To that great question, I desire to direct the remarks which I am about to make.

Mr. Speaker, your country, not yet twelve moons ago, went out from the presence of dangers so terrible and deadly as that their merest statement mocks at all the resources of human speech; and it went into a triumph and joy as indescribable as its recent sorrow was. And now again the people stand appalled under the shadow of some huge calamity, and before "grim-visaged war hath smoothed his wrinkled front" men of stoutest heart start back aghast at the damned portent of civil war which they deem they see grim and manifest before them, and they look into each other's faces and inquire—why? In "the breach" between the President of the United States and Congress touching the method of restoring the States in recent revolt to controlling power in the Union, and in the causes for that breach, most men find the occasion for this alarm. I go not at all to-day into the consideration of these, and allude to them now only for the purpose of saying, as I do here and now, that if any faith can be placed in the sincerity or truth of the most solemn utterances of the Congress and of the President then they do not differ, but do most precisely agree, upon at least one of the most, if not the most, important and decisive principles and means for the restoration of these States to power which can enter into that great work. Nay, I go further, and solemnly aver here upon the awful responsibilities of one of the legislators of this my country that if the President and Congress

have the constitutional right to employ this means to which I allude for the restoration of the States, and if they will in good faith unite to apply and put in force the principle which both solemnly profess to hold, then the work of restoration of these States will be, if not easy at least ultimately certain, and at once secured.

The principle to which I allude is, that in all these States the truly loyal alone shall have powers of government, either by the holding of office or by the exercise of the elective franchise, and that "the conscious and responsible leaders of the rebellion" shall be tried, convicted, and executed.

If, indeed, it be so that you may exclude from all powers of government, in the States recently in rebellion, those who really desire to destroy the Government, and if we may secure to the loyal people alone all control of the States and their Federal representation, then I see no reason why every State so governed would not be welcomed to-day to the embraces of the parent Government with an acclaim of joy almost like that which angels gave at Bethlehem.

The avowals by the President of the United States of his desire for this exclusion of rebels from all powers of government, and for their condign punishment, have been so frequent, so recent, and so explicit, that to doubt their sincerity would be to attribute to the President treachery to his professions and an infidelity to all the instincts of honor and manhood.

And, first, I reëxhibit to Congress and to the country a most explicit avowal of his principles upon this subject, made by the President at Nashville on the 9th of June, 1864, in accepting the nomination of the Union party for the Vice Presidency. The avowal is an emphatic and complete assertion of all the constitutional power, at least by State action, and also of the expediency and duty of exercising the power, for which I shall contend. It was upon this explicit avowal that Mr. Johnson was elected. In his formal letter accepting the nomination, he refers to this speech as one "in which I indicated my acceptance of the distinguished honor conferred by that body, and defined the grounds upon which that acceptance was based, substantially saying what I now have to say." (See Johnson's Life, by Savage, 298.) No pledge to principle could be more solemn, therefore, than this one is. None could be more signally ratified by a great people than was this in Mr. Johnson's election. In speaking of the convention to be convened to restore the government of Tennessee he uses the following language, which will be found in his Life, pages 295 and 296:

"But in calling a convention to restore the State, who shall restore and reestablish it? Shall it be the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If so, then all the precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled. All the glorious victories won by our noble armies will go for naught, and all the bat-le-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain. Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore, I say, that traitors should take a back seat in the work of restoration. If there be but five men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely. [Loud and prolonged applause.] I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government. We say to the haughty and industrious foreigner who comes from England or Germany to dwell among us and add to the wealth of the country, 'Before you can be a citizen you must be here five years.' If we are so cautious about foreigners who voluntarily renounce their homes to live with us, what should we say to the traitor who, although born and reared among us, has raised a patricidal hand against the Government which always protected him? My judgment is that he should be subjected to a severe ordeal before he is restored to citizenship. A fellow who takes the oath merely to save his property and denies the validity of his oath is a perjured man and not to be trusted. Before these repenting rebels can

be trusted let them bring forth the fruits of repentance." "Treason must be made odious, and traitors must be punished and impoverished. Their great plantations must be seized and divided into small farms and sold to honest and industrious men."

Mr. Speaker, the argument I now enter upon is all aimed to show that "the traitor ceased, so far as his Government may so elect to treat him, to be a citizen" and "forfeited his right to vote" when, by persistent rebellion against his Government, he "renounced his citizenship," and that he "should be subjected to a severe ordeal before he is restored to citizenship," and that "he should be required to bring forth the fruits of repentance before he shall be trusted." And these are the solemnly "defined grounds upon which Mr. Johnson's acceptance of the nomination was based." (Life, 298.) These are not merely the excited utterances of a stump speech, but were again carefully and solemnly repledged as principles in his letter to the president of the convention that nominated him. Upon them he went to the American people. The people by an overwhelming voice approved them. They cannot be now retreated from without both dishonor most shameless and foul and moral treason most deep and infamous. I cannot and will not believe that the President means to retreat from them; or that he purposes to seek refuge from the scorn and indignation of a betrayed and outraged people in the embraces of them whom he called the "perjured fellows who take the oath merely to save their property." (See Life, 294.)

He has again and again repledged himself to this same thing since his election. In his recent speech to the Virginia delegation headed by Mr. Baldwin, (late of the rebel congress,) he used these words:

"If there were but five thousand loyal men in a State, or a less number, but sufficient to take charge of the political machinery of the State, these five thousand, or the less number, are entitled to it if all the rest be otherwise inclined. I look upon it as being fundamental that the exercise of political power should be confined to loyal men, and I regard that as implied in the doctrines laid down in these resolutions and in the eloquent address by which they have been accompanied."

In the recent speech of Colonel Stokes, of Tennessee, made to the Legislature of that State, he is represented to have made the following statement touching the present views of the President upon this important question:

"As President Johnson said the other day before I left Washington, 'If you don't disfranchise the rebels they will disfranchise you.'"

Such, then, are the views of the President. To say that they are not his views, or that they are put forth as mere lures to ensnare a generous and confiding people into his support—mere "springs to catch woodcock," which he deems neither constitutional nor capable of being practically applied and enforced, nor fit to be so applied—is to attribute to him purposes and conduct which would be disgraceful to the most vulgar political harlequin, but which, in the ruler of a great and generous people who have so honored and trusted him, would be utterly disgusting and infamous. I will neither say nor believe this; and I therefore shall assume that the President deems it both practicable, constitutional, and fit to enact that the traitor "forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy the Government," and "that he shall be subjected to a severe ordeal before he is restored to citizenship."

I need not say that Congress has already indicated its belief in the same thing.

It is obvious, then, that either they who hold the two political departments of this Government are most false and insincere, or else they agree that the disloyal should be sternly excluded, by "severe ordeals," from Government until they "bring forth fruits of repentance."

I now proceed to inquire whether this which both Congress and the President favor is permitted by the Constitution.

And to guard myself, at the very threshold of these remarks, from misapprehension, I state, that should the Government be found to

hold this alleged power of excluding them who have renounced their citizenship from the exercise of its powers, still I do not favor such exclusion against the mass of the common people, unless it shall appear that they continue incorrigibly disloyal, and insubordinate to our Government and laws. I only inquire now as to the power. The manner and extent of its employment will be a matter for the high, solemn, and most cautious exercise of the wisdom and discretion of Congress; to be done with due regard to the nature of ours as a popular Government resting upon the will of the loyal citizens, but also with regard to the perpetuity and safety of the Republic.

What makes the inquiry upon which I now enter, as to the right to exclude the disloyal from citizenship and from voting, of such vital moment just now is the sad fact that in at least ten of these States there is the highest reason to fear that more than half the white inhabitants desire the destruction of this nation.

The people could not learn a fact, so utterly unnatural and appalling, until each household spelled it out, letter by letter, line by line, for itself. But the nation did learn it at last, when every family had read it in the marble features of its own slain—

"For there was not a house in which there was not one dead."

To again refuse to believe it as we did before, and to decline again to act upon it as true is only stark madness. For four years and a half that almost entire people strove for that destruction, with a ferocity of will which made the purposes of Danton and Robespierre almost timid, and with a cruelty of execution which makes the "September slaughters of the prisons" almost mercy.

And now, when the grass has not yet covered the graves where sleep the victims of this immense crime, and when, by no act, or speech, or sign, the great mass of the authors of it have even professed regrets for the past except regrets for the failure, and when they avow no new desires for the future, this nation must either accept this most unwelcome fact of general disloyalty or else the nation cannot live.

Mr. Speaker, has the Constitution, now that actual war for the attainment of the nation's destruction has been crushed out, deprived the Government of all power to accept this fact, and to provide against the imminent peril to the nation which it imports? To show that the Constitution has not is the work of this my hour.

To be fully and accurately apprehended, let me state now what I am about to maintain and what I shall not maintain.

I do not think that the Federal Government has any power to exclude by law any civilized native of the United States from rights of national citizenship who has not violated or renounced his allegiance to the United States.

I do not maintain that any citizen can, by any act of disloyalty or by discarding his allegiance, divest himself of the obligations of the allegiance which he owes his country; but, on the contrary, I hold that he cannot.

I do not hold that the United States can regulate the enjoyment of the elective franchise in the organized States so as to prescribe who, of them who are citizens, shall be permitted to vote. I think the second section of the first article of the Constitution gives this power to the States.

What I do maintain and shall strive to establish is, that the United States is a supreme nationality with the sovereign power usually held by nations to define the obligations of citizenship and demand the paramount allegiance of all its citizens in return for national protection; and that, in virtue of such sovereignty, the nation has the power by law to declare what gross, open, and palpable acts of abjuration and abandonment of the obligations of citizenship shall work a forfeiture of all the political rights and powers of citizenship, including the elective franchise; and may also prescribe what shall be deemed sufficient evidence of a return to true faith and allegiance

to his country such as to entitle him to demand the rights of a citizen.

To attain the establishment of these I now proceed.

THE UNITED STATES IS A NATION.

It is upon this sublime and simple law that I lay the foundations of my argument.

Mr. Speaker, how strange has been the history of that law's enunciation and enforcement in our country. Its absence from "the Confederation" rendered that structure, which was reared in the storms of war, utterly weak and insecure, and at the end of the eighth year of its existence prostrated it in ruin. To remove in the new Constitution this cause of the feebleness and ruin of the old, was the very end and purpose of the new one's formation. That high purpose they who made it engraved into its text in those vital words, "Shall be the supreme law of the land."

And then they set the purpose out again in the tiara of stars with which they bound the Constitution's brow, and made it read, "To form a more perfect Union."

This law, stated by Wheaton in the words, "The United States is a supreme Government, acting not only upon the sovereign members of the Union but directly upon the citizens," was thus made self-evident as the very foundation of the Government, both by the origin, the text, and the preamble of the Constitution. It was afterward affirmed by a thousand judgments of the highest courts of the States and of the nation. It was reannounced by the Government itself in the terrible dialect of war in the suppression of three successive revolts against that supremacy in the States of Pennsylvania, South Carolina, and Rhode Island. It became impressed upon the Constitution's history by the meanings assigned to it by those who made it. The same thing was enforced by the subsequent arguments of its great exponents, among which stands one—the reply to Hayne—unsurpassed by the achievements of the human intellect, and which has passed into undying history, the sole companion of its only peer, "the oration upon the Crown."

But, sir, after all these it was strangely, in God's orders, reserved to this Government to teach it to her children and the world in emphasis which startled the human race.

This lesson, which they who made it had thus written all over the Constitution, which the Government had three times more indicated by the accents of war, which for seventy years the courts had been framing into decrees and men had been illustrating with the best eloquence of earth, is comprehended at last. But, Mr. Speaker, it was only comprehended when it was written "in letters of mingled fire and blood—the fires of a war which swept half a continent, and the blood of 'the mighty millions.'"

There it stands now, written, comprehended. It is the judgment of by far the most august court which ever sat for "high resolve," the court of the mighty people; and men comprehend at last that this is a nation with right to live.

SELF-PRESERVATION A UNIVERSAL RIGHT AND DUTY OF NATIONS.

The next element of my argument I bring from the highest sources of public law; and assert that "the right of self-preservation is not only a right with respect to other States, but a duty with respect to its own members, and the most solemn and important one which a State owes to them." (Wheaton, 115.) "Every nation is obliged to perform the duty of self-preservation." (Vattel, s. p. 5.)

EVERY NATION IS ENTITLED TO THE MEANS OF SELF-DEFENSE.

Mr. Speaker, from the same high sources of authority, I allege that—

"Since a nation is obliged to preserve itself, it has a right to everything necessary for its preservation."
* * * * * "A nation has a right to everything that can ward off imminent danger, and keep at a distance whatever is capable of causing its ruin; and from that very same reason that establishes its

right, it has also the right to the things necessary to its preservation."—Vattel, s. p. 6.

"This right of self-preservation necessarily involves all other incidental rights as a means to give effect to the principal end."—Wheaton, 115.

As we proceed we shall see that these principles, so evidently inherent in the very nature of sovereignty, are both held and employed by every independent State.

CITIZENSHIP IS A NATIONAL AND NOT A STATE QUALITY AND GIFT.

Let it be next thoroughly established and comprehended that in our Government there is, properly speaking, no State citizenship, and that, to adopt the language of the case of *Lynch vs. Clark*, (1 Sanford R., 583,) citizenship is "a national right or condition."

Chancellor Kent affirms the authority of this case (2 Kent's Commentaries, s. p. 30, note) when he says:

"The question [of citizenship as distinguished from alienage] is one of national and not of individual [State] sovereignty."

"A State," says Judge McLean, "may authorize a foreigner to hold real estate within its jurisdiction, but it has no power to naturalize foreigners and give them the rights of citizens. Such a right is opposed to the acts of Congress on the subject of naturalization and subversive of the Federal powers. I regret that any countenance should be given from this bench to a practice like this in some of the States which has no warrant in the Constitution."—19 Howard, 533.

"Every citizen of the United States is a component member of the nation, with rights and duties under the Constitution and laws of the United States which cannot be abridged by the laws of any particular State." "Every person who is a citizen of the United States, whether by birth or naturalization, holds his great franchise by the laws of the United States, and above the control of any particular State."—*Opinion of Attorney General Bates, of 29th November, 1862.*

By such authorities as these I show this other proposition of my argument, that by the very essence and nature of sovereignty it is and must be the nation, the supreme Government, that determines who shall be members of the nation's body, its citizens, and whom it will admit to demand its protection and enjoy its powers.

NATURE AND RIGHTS OF CITIZENSHIP.

In order that the legal consequences which flow from the fact that the nation bestows and controls citizenship may be completely understood, it is best now to look at the nature of American citizenship.

Although this is a subject of great difficulty in some of its aspects, yet it is in others of the very easiest and most obvious comprehension and statement.

In speaking of what privileges and powers are included in citizenship, Mr. Calhoun says:

"But though we may not be able to say with precision what a citizen is, we may say with the utmost certainty what he is not. He is not an alien. Alien and citizen are correlative terms, and stand in contradistinction to each other. They, of course, cannot so exist."

The principle here alluded to by Mr. Calhoun, that he cannot be held to be a citizen who does not owe, or who does not recognize or render the obligations of a citizen, is more fully expressed by Vattel (s. p. 106) in these words:

"If the body of society or he who represents it [the Government] absolutely fail to discharge their obligations toward the citizen, the latter may withdraw himself."

Now note what follows:

"For, if one of the contracting parties does not observe his engagements, the other is no longer bound to fulfill his, as the contract is reciprocal between society and its members. It is on the same principle also that society may expel a member who violates its laws."

Precisely the same thing in its legal effect is stated by the Attorney General of the United States in his opinion of the 29th November, 1862. His words are:

"The duty of allegiance and the right to protection are correlative obligations, the one the price of the other, and they constitute the bond between the individual and his country."

Justice Blackstone says:

"Allegiance is the tie or ligament which binds every subject to be true and faithful to his sovereign in return for protection which is afforded him."

It cannot be necessary further to enforce a proposition which is asserted by plain and irresistible reason, by every authority of any

value upon international law which is in existence, and which is denied by none. This proposition is, that the "bond" which unites every sovereign State with its citizens is the recognition and rendering by the citizen of true loyalty, faith, and allegiance to his Government; and the reciprocal protection due and rendered by his Government to that citizen as the price of that allegiance; and when such faith is not recognized or rendered, there is no bond of citizenship and none of its rights. About the truth of this position there can be neither sensible dispute or doubt. The only question which can be made, bearing directly upon this doctrine of public law, is as to how the citizen may show he discards his allegiance, and how the Government may assert its right to forfeit his citizenship. This we shall presently come to and consider.

RELATIONS OF CITIZENSHIP TO SUFFRAGE.

I now assert another proposition which in principle is identical with and must result from the doctrine that "State laws and State legislation cannot in the nature of things be longer permitted to define, abridge, or enlarge the important privilege of citizenship in the United States." It is this: they from whom the United States may constitutionally withhold or withdraw the ordinary rights of national citizenship, such as the right of petition, of holding land, and of protection, cannot, except by the sufferance of the Government of the United States, have conferred upon them by the action of the States higher and more vital powers and rights of controlling the United States Government than would be derived by the possession of mere rights of national citizenship. In other words, those, whether native or foreign, whom the nation may rightly decline to permit the States to endow with citizenship merely, cannot be endowed by the States except by mere sufferance, as I have said, with the infinitely higher attributes of national sovereignty, which, by the elective franchise, selects all the rulers of the Republic. Judge Curtis (19 Howard R., 581) says truly that though—

"The enjoyment of the elective franchise is not essential to citizenship, there can be no doubt it is one of the chiefest attributes of citizenship under the American constitutions; and the just and constitutional possession of this right is decisive evidence of national citizenship."

I aver that they to whom the nation has rightly denied the rights of citizenship are thereby denied being deemed a part of the "people of the States" in the sense of the second section of the first article of the Constitution; and no State can make such men the electors and rulers of this nation unless, as is true in a few States, this be permitted by the mere sufferance of the Government. I do not object to this sufferance where loyal men are the recipients of it.

Let us see how this is now by the great lights of the law. I first cite Story, (Constitution, section 1103,) who, with irresistible force of reason, declares that—

"If aliens might be admitted indiscriminately to enjoy all the rights of citizens, at the will of a single State, the Union itself might be endangered by the influx of foreigners hostile to its institutions, ignorant of its forms, and incapable of a due estimation of its privileges."

Surely, whether the elective franchise be a right of citizenship or not, there is no other right so fatally dangerous to be intrusted, "at the will of a single State," to men not citizens, and "hostile to our institutions," as the power of selecting all the officers of the nation—a power which Judge Curtis well declares to be the "chiefest attribute of citizenship."

Again, sir, Chancellor Kent, (Note c, s. p. 229, 1 vol. Comm.) after declaring that in Ohio the right of suffrage is limited to naturalized and natural-born citizens, adds, "And so I think it ought to be in all sound policy; and the view taken of the subject in the above case (Spragins vs. Houghton, 2 Scammon, 377,) by one of the counsel who argued the cause, is a masterly argument." (See Mr. Butterfield's argument approved by Kent, in 2 Scammon, 382.)

Again, Mr. Lawrence (in Wheaton, 910) says:

"If they [the States] can admit to the elective franchise those who are not citizens, thereby neutralizing the votes of citizens, not only the Federal power of naturalization becomes a nullity, but in the latter case a minority of actual citizens by the aid of aliens may control the government of the States, and through the States the Government of the Union."

Once more I cite Mr. Calhoun, not merely because of the eminence of his learning and ability, but mainly because of the intrinsic force of what he says, and that it is said by one not too apt to restrict the powers of the States, nor to magnify those of the General Government. In the argument from which I have quoted (Wheaton, 905) he says:

"To suppose that a State can make an alien a citizen of the State, or confer upon him the right of voting, would involve the absurdity of giving him a direct and immediate control over the action of the General Government, from which he has no right to claim protection, and to which he has no right to present a petition. That the full force of the absurdity may be felt, it must be borne in mind that every department of the General Government is either directly or indirectly under the control of the voters in the several States." "Now, admit that a State may confer the right of voting on all aliens, and it will follow as a necessary consequence that we might have among our constituents persons who have not the right to claim the protection of the Government or to present a petition to it."

"But a still greater difficulty remains. Suppose a war should be declared between the United States and the country to which the aliens belong. They, as aliens, would be liable to be seized under the laws of Congress, to have their goods confiscated, and themselves sent out of the country. The principle that leads to such consequences cannot be true."

Surely Mr. Calhoun must be right. Surely the States cannot, if the nation should exercise its right to forbid it, authorize them to elect the American President and the American Congress, who can neither petition the Government they elect, demand the protection of the Government they elect, be required to bear arms in favor of the Government which they elect, be tried for treason against the Government they elect, nor remain, in time of war, in the country whose rulers they elect, and who are, by a law now in force, declared to be, in time of war, the enemies of the Government which they elect and required to be driven from the country. (See act of 6th July, 1798.)

Mr. Speaker, whether a nation endowed, as we have now seen ours to be, with the high attributes of supreme sovereignty—a nation with right to life; with right to all powers required to ward off danger to that life; with exclusive right to confer, define, and control national citizenship; with right, if it so choose, to exclude aliens from becoming citizens, and from either electing our rulers or demanding our protection until this nation shall deem them fit to become such; whether such a nation may withdraw the power of electing our rulers from men who have turned enemies of the Government and discarded all the duties of citizenship is the momentous inquiry to which all I have said was directed. If it be so that your Government has not this power, then, indeed, is it a prodigy of the hideous, a paragon of deformity, a very miracle of the monstrous, which has neither a peer nor proximate in the past of nations.

Look at the spectacle. A supreme Government exclusively creating and controlling allegiance and citizenship; but with States in that Government able to enact into supreme laws that all who have by acts of treason proved their purpose to destroy the Government shall elect its rulers, and that all who have not done this shall not vote for these rulers! You have a Government with exclusive power to decide whom it will permit to bear from State to State the right of abode, of holding land, and of exemption from unusual taxes, and yet with power in the States to declare that none but those whom the Union will not permit to have these lowest rights of citizenship shall elect all of the nation's supreme magistrates. You have a Congress able to make what the Constitution declares to be "the supreme law of the land," but with power in the States to enact by law that none shall vote in electing that Congress but they who, by taking part in rebellion, have shown that they aim at the

destruction of both Congress and its supreme laws. You have a nation bound to exhaust every dollar of its treasures and every drop of its loyal blood to defend the rights and avenge the wrongs of its citizens, and yet with no power in that nation to declare that Mason, in England, and Slidell, in France, and Suratt and Saunders, in Canada, have ceased to have the rights of citizens; and you are, therefore, bound to exhaust this treasure and blood for the defense of these. You have a nation in which, like in all others, the "bond" which unites the citizen to his country is the fact that he acknowledges and renders allegiance to its laws; and yet you have that nation not only bound to protect them who defy and spurn their Government and its laws, but also bound to permit the disloyal States to enact into "supreme law" that none shall vote for President or Congress of the United States but such as have made war upon the United States.

Need I say that a doctrine leading to results like these is not false merely, but utterly shocking?

HOW RIGHTS OF CITIZENSHIP ARE FORFEITED.

I shall pursue these suggestions no further, but shall assume that there is some way by which this Government can deprive men whom it deems unfit to be members of society of such rights of citizenship and of electors as is demanded by the public safety.

It will be said that the only way within the Government's power to divest persons of the political powers of such citizenship, and of the right to elect the national officers, is to indict, try, and execute them; and hence that no right can be declared forfeited by a mere act of national sovereignty. In other words, it is alleged that in cases where the guilt and disloyalty of vast communities of men are open, notorious, confessed, historical, and established by years of persistent, general, and universal war, still their Government is bound to regard them as innocent, law-abiding, and patriotic, and worthy to rule the nation unless they are tried by a jury and executed!

Now, this assertion I meet with a flat denial; and I assert that it flies into the face of all law, common, constitutional, and international; of all reason, ordinary and extraordinary, and of all history, our own and all other nation's.

Look at these. Take our own recent and melancholy experience. We have eight million people, each of whom, with the exception of the women and children, has made war upon his country and forfeited his rights of citizenship and life. Unless secession be legal, then both the treason and forfeiture stand confessed by each one of the millions. Now, is it possible that each of these must be either convicted and executed, or else be permitted to be the rulers of this land? Is this great Government, indeed, so impotent as this, that in matters of this stupendous moment, shown to be absolutely vital to its existence, it can choose but one of two things, and either one of which two things carried out, I affirm, would be fatal to the nation's life. If it must permit these eight millions who waged four years of war for the nation's death, and who may profess neither penitence, loyalty, or change of purpose, to resume the highest powers of Government under laws of disloyal States which exclude from government all the loyal men of the State, then that is national death. If, on the other hand, to prevent this you must try, convict, and execute these millions, that is both national dishonor and death.

It is no escape from this dilemma to say that I would convict them and then not execute them, but grant a partial pardon sparing life, but forfeiting franchises. That both proposes impossibilities and yields the case—impossibilities, because no nation ever did, or will, or can, or ever ought to try and convict one third of its people; and it yields the case, because if a conditional and partial amnesty, which spares life but forfeits rights of citizenship, can be granted after conviction, so it can before, when the guilt is open and confessed. (6 Opinions Attorneys General, 20; Sultzer's

case, Phil. R., 302.) I am not now to be understood as saying that a Government which assumes to exclude dangerous men from citizenship, or from higher powers than citizenship, as the elective franchise, deals with them in punishment of crime, or that in conceding to such men some rights of citizens, as that of residence, and depriving them of others, as that of voting, the Government is either punishing or pardoning crime as such. Such acts are no more a punishment of crime than the exclusion of aliens from the rights of citizens is a punishment of crime. And to admit such dangerous men to some rights of citizenship, as that of residing in the country, and of sparing their lives, is no more an assumption of the President's pardoning power than to permit aliens to reside and own property in the country is a pardon. These very same considerations prevent such laws from being bills of attainder, or of pains and penalties. This I argue not, because it is self-evident. You can no more punish and forfeit the property of an alien resident of the United States by the enactment of "attainder," or "pains and penalty" statutes, than you can so punish a citizen; and yet who ever dreamed that the act of July 6, 1798, banishing such aliens in time of war, was a bill of pains and penalties?

If it be true that our Government can withhold from none who are natives of our country the powers of citizenship, and if it cannot forfeit these powers by act of law and without conviction, when the citizen has openly renounced and trampled upon his obligations as a citizen, then some of the results would be the following: your Government could not exclude from citizenship the tribes of American Indians, at least not such as pay any tax. And yet that exclusion is as old as the Government. Neither could your Government exclude from powers of government pirates, or bands of robbers, or guerrillas, who are natives of your country and unconvicted. And yet such men, by the law of nations, are not only not citizens of any country, but are the declared enemies of the human race, whom any nation may destroy wherever found.

Neither could you declare men who flee their country in time of war to escape rendering to it military service to have lost citizenship. Such men you cannot try as criminals, or convict, because your process cannot reach them, and besides, the act of forfeiture may be one constituting no defined crime. Then, too, may Mason, Slidell, Breckinridge, and Wigfall, all not only demand the rights of citizen suitors in your courts, but, as has been said before, may demand that all this nation's loyal blood shall be expended in war to defend their rights and avenge their injuries.

We have already seen that the highest international authority in the world so expressly declares the law when he says that if a citizen does not "observe his engagements to the Government, then the Government is not bound to fulfill it, as the contract is reciprocal between society and its members," and that it is "on this principle also that society may expel a member who violates its laws." (Vattel, 106.)

There is no authority nor judgment of any court that does not take for granted and assume as a postulate the very thing I now strive to establish, to wit, that nations may exclude from all national citizenship, fellowship, and rights men whose character is wholly incompatible with the enjoyment of such rights. Take in proof of this the learned opinion of the Attorney General, Bates, already quoted, in which he assumes that if a man's character "is so incompatible with citizenship that the two cannot exist together" then he cannot be a citizen. Or take the definition of what a citizen is. I care not whose definition you select. You may take the oldest, as that of Aristotle, that it is one who "enjoys a due share in the government of that community of which he is a member," or you may take that of Vattel, that they are citizens who "are members of the civil society, bound to this society by certain duties, and subject to its authority; they

equally participate in its advantages." In every definition it is assumed that he is not entitled to be a citizen who does not discharge the duties which "bind" him to society and entitle him to be "a member of the Government in which he shares its power."

Or take in further proof of this the express authority of every writer upon public law, all of whom, like Vattel, assert the power in the sovereign to deprive one of citizenship who will not perform his duties. Professor Felice (vol. 1, p. 145) expressly asserts the power of the sovereign to forfeit citizenship, and indeed so does every other judicious writer on public law.

HISTORY.

I now appeal to history. I assert that there is not, and never was, a civilized nation in which the sovereign did not both hold and exercise the power of forfeiting and taking away, and that by law or edict of the sovereign rights of citizenship when its duties were not recognized or rendered.

Accepting foreign citizenship forfeits all its rights in France; and so does taking a foreign office. (Wheaton, 922.) The same is true in Prussia. (*Ib.*, 922.) One who abandons his country forfeits citizenship in Austria. An Englishman loses his rights as a British subject by adhering to a foreign Power. (Wheaton, 917; 2 Blackstone, 410.) The same is the law of Bavaria, of Wurtemberg, of Russia, and of Spain. The same law has been enforced again and again by Switzerland, and by every other European State; and that throughout all the period of civilized history.

Mr. HALE. Will the gentleman from Ohio permit me to ask him a question upon the point he is now discussing?

Mr. SHELLABARGER. Yes, sir.

Mr. HALE. I desire to inquire whether this forfeiture of which the gentleman speaks can ever operate until office found by a court of competent jurisdiction?

Mr. SHELLABARGER. I answer the gentleman that it does take effect by act of the sovereign in the enactment of the law or edict, whichever may be the channel of communicating the national will upon that subject-matter; and he will so find upon an examination of the authorities.

I have not appealed to these to show that our Government has the arbitrary power over the citizen which is held by the absolute Powers of Europe, for it is not so. I appeal to these to show that, during all time, and in every truly sovereign State which has the power to demand allegiance, and to confer citizenship, and to define its duties, whether that State be, like Austria and Russia, an absolute monarchy, or, like England, a limited one, or, like Switzerland and Rome, republics, they could also withdraw the same citizenship from them who performed none of these duties.

The two powers of conferring and withdrawing are in their nature inseparable. That would be a preposterous state of national sovereignty that can define by general law what kind of faith, allegiance, and duties done shall alone admit one to become a citizen and to demand his Government's protection, and yet that Government be utterly powerless to declare by similar law that the citizenship had ceased when all the duties of citizenship were utterly discarded and incorrigible treason was put in their place.

THE UNITED STATES.

I now assert that this very power in question, of withdrawing and withholding either some or all of the rights of citizenship from them who renounce their allegiance, has been exercised by your Government ever since it was in existence, and by the States before it was a Government. There was not a State in which during the war of the Revolution laws were not passed forfeiting rights of citizenship of them who adhered to the enemies of the country. The dates and titles of these acts will be found in 1 American State Papers, page 198. I cannot here refer to more than one or two,

which will give a just idea of the character and legal effect of all.

Two years after the treaty of peace of 1783, Georgia and South Carolina passed laws forever disfranchising them who had made war against the United States; and Sir George Hammond, the British minister, in his elaborate debate with Mr. Jefferson as to these laws disfranchising and impoverishing these rebels, shows that these laws were in force in a majority of the States ten years after that treaty, and long after the adoption of our present Constitution. In 1787, Massachusetts passed a law which, for three years, excluded from voting, holding office, teaching school, and keeping hotel, all citizens of Massachusetts who had the year before engaged in the insignificant rebellion against Massachusetts which was headed by Daniel Shays. Those who had fired on or had wounded any citizen were forever deprived of citizenship, as was Shays and his principal officers. Afterward some of them who had fired upon citizens were permitted to recover their citizenship by proving penitence and loyalty, and by taking an oath of allegiance.

Mr. HALE. Will the gentleman permit again a single question?

Mr. SHELLABARGER. Yes, sir.

Mr. HALE. Did not every one of those laws to which the gentleman has referred involve the trial, conviction, and sentence of the persons thus disfranchised before a court of competent jurisdiction?

Mr. SHELLABARGER. I answer the gentleman, no, sir. Besides the gentlemen will find that one of our naturalization laws, that of 29th March, 1790, was repealed, in part, because it excluded from citizenship only those "proscribed" by the State laws, and did not include, in terms at least, those "legally convicted." And the repealing act of 29th January, 1795, added to those proscribed the other class of them convicted, making the clause read: "No person heretofore proscribed by any State, or who has been legally convicted of having joined the army of Great Britain," &c. So the law of 1802, now in force, is. So that either and both classes, the proscribed and the convicted, are excluded from American citizenship.

Mr. HALE. Then will the gentleman tell me how, under those laws, the fact of having been engaged in such rebellion was ever to be ascertained?

Mr. SHELLABARGER. Now, Mr. Speaker, I will state, in answer to that question, that a very proper provision in a law upon this subject, in execution of the power for which I am contending, would be to provide by law that wherever one who, coming apparently within the description of those proscribed, claimed to be entitled to exercise the prohibited right he should be permitted to establish his right by proofs.

Now, then, I go on with my argument; and the gentleman will see as I proceed how unimportant are the suggestions he makes.

The power of these States to pass these laws forfeiting the right to vote, and these other rights, was, I believe, never disputed in this discussion with Mr. Jefferson by the British Government. Many of these laws were long after the treaty. By both the British and American interpretation of that treaty they who were in the United States at its date, and who adhered to our Government, thereby became citizens of the United States. These acts of the State Legislatures, especially that touching Shays's rebellion, turned them into disfranchised men who never adhered to any foreign Government, never were out of the United States, and who, but for these laws, would have been citizens of the United States. And yet some of these laws, without any trial or conviction, forever disfranchised them. Some of these laws punished particular individuals by name for specified offenses. These were acts of attainder or of pains and penalties, and such the United States may not now, owing to an express constitutional provision, pass. But such as provided generally for forfeiting citizenship where men

had renounced their allegiance, were not bills of attainder, are not prohibited by our Constitution, and are a most ordinary and just exercise of a sovereign power which was and is conceded by all our history to have been possessed by every one of the colonies. And shall it be endured now, that this great nation shall hold less power over national allegiance when it is voluntarily discarded by a traitor than these colonies had?

Mr. HALE. I take a deep interest in the gentleman's argument, and if he does not take offense, I would like to ask him a question.

Mr. SHELLABARGER. I will yield to the gentleman with pleasure.

Mr. HALE. As I understand the drift of the gentleman's argument now, it is that Congress may lawfully enact to-day forfeiture of citizenship as a penalty for having been engaged in the rebellion against the Government. I believe I am correct in that understanding. Then I submit whether there is not another difficulty in the case, which is simply this: that by another express provision of the Constitution, which he has omitted to notice, he is again precluded, for the imposition of a new penalty, for any crime whatsoever, committed before the passage of the act is expressly and directly within the definition of an *ex post facto* law; and whether it is not thereby forbidden by the Constitution of the United States, just as effectually as bills of attainder. I do not propose to argue or elaborate my suggestion. If to-day we may by legislation enact the penalty of the loss of citizenship for rebellion or disloyalty, may we not by the same operation enact another or different penalty before the passage of the act?

Mr. SHELLABARGER. Mr. Speaker, the gentleman knows, of course, that no law is *ex post facto* which is not both a criminal law and one punishing an act in a manner in which it was not punishable when it was done. But he forgets what has so abundantly appeared already in what I have said, that the high obligations of citizenship are not created by criminal laws, but arise out of that reciprocal, civil, and political contract of the common and international law which these denominate "allegiance," "the bond," "the ligament." He forgets that the obligations of these and the penalties which their violation brings to the violator, all existed when these men discarded their allegiance, and that the forfeiture, on their part, of rights then accrued. For this Government now to accept and by law declare that forfeiture thus already accrued, is neither attaching new penalties to an act nor punishing crime, as such, at all. The obligations of citizenship are as old as the Government; as old as any Government. They arise not at all out of any criminal law. Their violation is a violation of civil and political obligations, and works a forfeiture of the right to demand national protection and rights, as well where there is no law defining or punishing the act, either as treason or as any other crime; and also as well where the act of forfeiture is no defined crime (such as abandoning country to avoid defending it) as where it is treason. When, through Mr. Webster, this Government withheld from Thresher the rights of an American citizen to demand the Government's protection, and thus forfeited the highest rights of the citizen, the Government did not thereby impose new or *ex post facto* punishment, because that no law existed prohibiting the acts (which worked the forfeiture) of going abroad and engaging in the Lopez expedition. Of course these forfeitures by act of law ought never be resorted to except where the abjuration of allegiance is open and notorious; and then should not be extended to forfeiture of property, but only, as in Thresher's case, to withholding political power and protection.

But, sir, I go on. From the day of its birth to this hour your Government has by acts of Congress both asserted and exercised this identical power for which I argue. These acts bear date respectively April 14, 1862, and March 29, 1790, and were signed by Washington and

Jefferson. These acts all expressly provide that no person proscribed by any of these State laws to which I have alluded shall ever be admitted to become citizens of the United States without the assent of the States.

These acts of Congress are not pointed to as cases where the acts themselves first worked the forfeiture, for that was done by the State laws proscribing the traitors. But I do refer to them for the supremely important purpose of showing that it has stood for seventy-seven years as an unquestioned and unreversed judgment of the nation, that it is right and wise perpetually to deprive, by mere act of law, and without trial or conviction for any offense, men who are open and notorious rebels of all such rights and powers of citizenship as the public safety requires to be withheld or forfeited; and this, too, as against natives of this country who have never left it.

These laws were passed by the men who made your Constitution. They have remained upon your statute-book, and have been enforced throughout every day of your national existence. To-day they remain there, standing almost alone now, of all the statutes of our natal era, witnesses of that strange sagacity, genius, and power which conceived and planned and reared the awful structures of the Republic, and which started that Republic down through the ages upon its career of power and grandeur. There stand these statutes yet, like sentinels with swords of flame at gate of Eden, guarding the entrance to our national fellowship and power; and like monuments, too, of the wisdom of the Government's authors. These monuments of the nation's origin are now covered with the gray mosses of near a hundred years, and three generations of the nation's children have passed to the dead beneath their shade. And still they stand there to-day, their foundations resting upon the granites, justice and law, upon which lie, in eternal repose, the deep foundations of the Republic itself. And all over them, from base to summit, is written in characters as plain as those traced "by the fingers of a man's hand over against the candlestick upon the plaster of the wall of the King's palace," that truth, upon which all human government is founded, and upon which stands the government of God, that true allegiance and fidelity to Government is the only foundation of Government that can be; and that men fall from citizenship by the same "sin by which fell the angels."

But, Mr. Speaker, I quit this presentation of the authorities by pointing my countrymen, and you, fellow-members of this House, to the last and most terrible years of your life. In those fearful events which have been around you, and when good men had forgotten the partisan in the patriot, and when they were grasping with the awful energies of despair for the wisest and best means of national existence, you have again and again reenacted these principles of the Revolution; and your acts of Congress bear the now immortal signature of your honored and lamented President. Oh, how lamented now! By mere acts of law you have confiscated lands; you have deprived of power to hold office; you have deprived of the power to vote; and have wholly forfeited every quality of citizenship. The act of March 3, 1865, is an exercise of the very right of forfeiture without trial for which I argue. That act provides that—

"All persons who have deserted the military or naval service of the United States"—

And who do not report for duty within a prescribed time—

"shall be deemed and taken to have voluntarily relinquished and forfeited the rights of citizenship, and their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States or of exercising any right of citizenship."

Unless somebody shall hereafter appear in the world strong enough to show that to desert our armies is a higher offense against the duties of citizenship and a plainer relinquishment and forfeiture of its rights than four years of war against the nation's existence is, then this

law will stand as a practical assertion, exercise, and application of all the national powers of self-preservation for which I contend.

Mr. Speaker, I here quit my great theme, recommending to my fellow-members and to this great people to complete the argument upon the elements and forces of which I have scarcely entered. But, sir, even in what I have so poorly said, the right of this nation to enact a law to exclude from the high powers of the nation them who, by treason, have become its enemies, and not its citizens, is seen to be established, nay, sir, irresistibly established, by the very nature of all government; by the combined forces of reason, justice, and public virtue; by the very terms, nature, and origin of citizenship; by the paramount allegiance owed by the people to the Government of the United States as the "supreme law of the land;" by the precepts of the international law; by the usages of all other civilized nations, and by the unvarying practices of your own.

Sir, if indeed it be so that all these are not enough to establish as among the powers of our great and beloved but most injured Government, the merest right of self-defense, and if indeed the chief architects of that ruin of States, which lies there before you yet, almost unalleviated; if the chief actors of this crime, a crime whose infernal shades and glares are, in all the long future, to at once darken and show all that is bad in human history; if all these chiefs of human infamy, with blood-drops dripping from every finger's end, and from "each particular hair;" if these men, unrepentant, un-aneled, "no reckoning made," may stalk back, not to ordinary rights of citizenship merely, but to the higher, grander powers of electors of this mighty nation; nay, may come here into the very sanctuary of the nation's life, and to liberty's last retreat, and may come, too, as the rulers of the Republic, and all this in defiance of all power in the Government to forbid it, then, sir, have the precepts of all reason, all law, all morality, all history, all experience, and all common justice been discarded in the making of your Government; and then I turn away from looking at my country's future in anguish, in despair of the Republic.

But, Mr. Speaker, it is not so. Your country and mine has the power to be, and the Republic will live.

Mr. SCOFIELD obtained the floor.

Mr. HALE. I ask the gentleman from Pennsylvania to yield to me for about five minutes. I do not think I will occupy more than that.

Mr. SCOFIELD. I yield to the gentleman on condition that I do not lose my right to the floor.

Mr. HALE. I do not wish, Mr. Speaker, to put myself in the position of the immortal gentleman to whom Goldsmith alluded in his "Retaliation," who only thought of convincing while others thought of dining, but I do beg the privilege of calling the attention of the gentleman who has just taken his seat, and who has made an argument which for elaborateness, learning, and fairness I have seldom heard equaled in this House, and in which I have been greatly interested, to one or two points.

In regard to the proposition I made that the legislation which he proposes partakes of the nature of an *ex post facto* law, I submit it is not an answer to say simply, that section has nothing to do with the case. It is proposed by him, as a penalty of treason and rebellion, that these men shall, by legislation of Congress at this day, be deprived of certain rights. I say that by all legal definition it is an *ex post facto* law and nothing else.

Another point; in regard to the statutes passed by Congress since the rebellion, the act of 1864, and others to which he has alluded, I submit to the gentleman, and I know his own fairness will lead him to the same conclusion, that every one of those laws was prospective in its operation and not retrospective or retroactive. The law of 1864, which the gentleman read, about deserters, in which he emphasized the word

"have"—"those who have deserted or may desert"—has that word inserted in it for the express purpose of protecting it from the character of a retroactive law. It speaks of those who shall not return to their allegiance by a day fixed, making the prospective commission of the crime of desertion as the thing to be punished, and not the past offense.

A single word more and I have done. I believe I hold the crimes of rebellion and treason in as great detestation and horror as it is possible for a man to do. But there is one thing that I dread in this country more than armed rebellion, more than treason, and that is, to see true, honest, loyal, strong men of the nation, like the gentleman from Ohio, [Mr. SHELLABARGER,] in their zeal to put their condemnation upon the crime of treason, override, or seek to override, the plain and palpable provisions of the Constitution.

I regret that I am not prepared to go through with the gentleman's argument and point out where it seems to me he has departed from the true constitutional ground. I hope to be able to make that effort at some early day.

Mr. SCOTFIELD resumed the floor, but yielded to

Mr. WARNER, who moved that the House do now adjourn.

The motion was agreed to; and accordingly (at five o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. DELANO: The petition of L. C. Vernon, M. D., and others, of Muskingum county, Ohio, asking a revision of duties on foreign drugs and medicines.

Also, the petition of William Wolfe, and Henry Howe, and 200 others, citizens of Ohio, praying an increased duty on foreign wools, and the protection of the wool-growers of the country.

By Mr. WILLIAMS: The petition of wool-growers of Butler county, Pennsylvania, asking for increase of duty on foreign wools.

IN SENATE.

MONDAY, April 23, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Friday last was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to the resolution of the Senate of the 8th of January last, a communication from the Secretary of War, covering copies of the correspondence respecting General Order No. 17, issued by the commander of the department of California, and also the Attorney General's opinion as to the question whether the order involves a breach of neutrality toward Mexico; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer the petition of Mary Johnson, of Norfolk, in Virginia, in which she sets forth sundry losses growing out of the rebellion, and asks that Congress will take her case into consideration and provide some indemnity for her. I move the reference of the petition to the Committee on Claims.

The motion was agreed to.

Mr. SUMNER. I also offer the petition of F. C. Treadwell, sr., who will be remembered by many in former years as a lecturer on the Constitution of the United States, and an eminent jurist, in which he calls upon Congress to extend the right of suffrage to every person eligible to an elective office in the Union, and insists that the power of Congress on that matter is complete. I move the reference of this petition to the joint committee on reconstruction.

The motion was agreed to.

Mr. CHANDLER presented a petition of the members of the first Michigan cavalry, praying that soldiers discharged in Utah Territory, and not furnished transportation, may be paid

their actual traveling expenses to their homes; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of citizens of Michigan, praying for a grant of land to aid in the construction of a railroad from Saginaw to some point on Lake Michigan, in the direction of Bay de Noquette, and in the Grand Traverse region; which was referred to the Committee on Public Lands.

Mr. MORGAN. I have received a petition from the Chamber of Commerce of the State of New York, in which they express the opinion that the bill (S. No. 233) now before the Senate of the United States, being a bill in relation to the appointment of enlisted persons at the Naval Academy, and for other purposes, is, in the judgment of the chamber, calculated to improve the character and efficiency of our seamen. They therefore respectfully ask Congress to enact that bill into a law. I ask its reference to the Committee on Naval Affairs.

It was so referred.

Mr. HOWE presented a petition of citizens of Columbia county, Wisconsin, praying for an increase of the duties on wool imported into this country; which was referred to the Committee on Finance.

He also presented a memorial of the common council of the city of Green Bay, a petition of citizens of Green Bay, and also a petition of citizens of Appleton, in the State of Wisconsin, praying for the improvement of the harbor at the mouth of Fox river, in that State; which were referred to the Committee on Commerce.

Mr. HENDRICKS presented a petition of mechanics and laborers of Indianapolis, Indiana, setting forth that the present tariff does not afford them sufficient protection, and praying that the duties on imports may be increased so as to afford better protection to American industry; which was referred to the Committee on Finance.

Mr. VAN WINKLE presented the petition of John Gordon, praying compensation for services rendered as messenger in the Post Office Department; which was referred to the Committee on Post Offices and Post Roads.

Mr. WILLEY presented the memorial of Sarah A. Monroe, widow and relict of Rev. T. H. W. Monroe, praying for compensation for services rendered by her husband as chaplain in East Washington Methodist Episcopal church hospital; which was referred to the Committee on Claims.

Mr. RAMSEY presented two petitions of citizens of Blue Earth county, Minnesota, praying for an equalization of bounties to volunteers in the late war; which were referred to the Committee on Military Affairs and the Militia.

Mr. SHERMAN presented a letter from the Secretary of the Treasury, addressed to the chairman of the Committee on Finance, communicating a statement relative to the apportionment of the national currency; which was ordered to be printed.

PRINTING OF A BILL.

On motion of Mr. WILSON, it was

Ordered, That the bill (S. No. 207) to provide for the equalization of the bounties to soldiers in the late war of rebellion be printed.

REPORTS OF COMMITTEES.

Mr. ANTHONY, from the Committee on Printing, to whom was referred a joint resolution (S. R. No. 63) to authorize the Secretary of the Interior to exchange or dispose of certain odd volumes of congressional documents, and other odd volumes, reported it with amendments.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the petition of Joseph Nock, praying for the payment to him of damages arising from the annulling of his contract for supplying the Post Office Department with mail locks and key, and also for the use of his patent for the construction of mail locks, submitted a report accompanied by a joint resolution (S. R. No. 71) referring the petition and papers in the case of

Joseph Nock to the Court of Claims. The bill was read and passed to a second reading, and the report was ordered to be printed.

PUBLIC LANDS IN NEVADA.

Mr. STEWART. I am instructed by the Committee on Public Lands, to whom was recommended the bill (S. No. 215) concerning certain lands granted to the State of Nevada, to report it back with amendments. I ask for the present consideration of the bill; it is a short one, and is approved by the committee and by the General Land Office.

By unanimous consent, the bill was considered as in Committee of the Whole.

The first amendment reported by the Committee on Public Lands was so to amend the first section as to make it read as follows:

That the appropriation by the constitution of the State of Nevada to educational purposes of the five hundred thousand acres of land granted to said State by the law of September 4, 1841, for purposes of internal improvement is hereby approved and confirmed.

The amendment was agreed to.

The next amendment was in the third line of the second section to insert the word "hereby" before "granted;" so as to make the section read:

SEC. 2. And be it further enacted, That land equal in amount to seventy-two entire sections, for the establishment and maintenance of a university in said State, is hereby granted to the State of Nevada.

The amendment was agreed to.

The next amendment was to strike out the words "anno domini" in the second line of the third section, so as to make that section read as follows:

SEC. 3. And be it further enacted, That the grant made by law of the 2d day of July, 1862, to each State, of land equal to thirty thousand acres for each of its Senators and Representatives in Congress, is extended to the State of Nevada; and the diversion of the proceeds of these lands in Nevada from the teaching of agriculture and mechanic arts to that of the theory and practice of mining is allowed and authorized without causing a forfeiture of said grant.

The amendment was agreed to.

The next amendment was to strike out the fourth section of the bill, and in lieu of it to insert the following:

SEC. 4. And be it further enacted, That the President of the United States, by and with the advice and consent of the Senate, shall be, and he is hereby, authorized to appoint a surveyor general for Nevada, who shall locate his office at such place as the Secretary of the Interior shall from time to time direct, whose compensation shall be \$3,000 per annum, and whose duties, powers, obligations, responsibilities and allowances for clerk hire, office rent, fuel, and incidental expenses shall be the same as those of the surveyor general of Oregon, under the direction of the Secretary of the Interior, and such instructions as he may from time to time deem it advisable to give him.

The amendment was agreed to.

The next amendment was to strike out the fifth section, and in lieu of it to insert the following:

SEC. 5. And be it further enacted, That in extending the surveys of the public lands in the State of Nevada, the Secretary of the Interior may, in his discretion, vary the lines of the subdivisions from a rectangular form, to suit the circumstances of the country; but in all cases lands valuable for mines of gold, silver, quicksilver, or copper shall be reserved from sale.

The amendment was agreed to.

The next amendment was to add the following as a new section:

SEC. 6. And be it further enacted, That until the State of Nevada shall have received her full quota of lands named in the first, second, and third sections of this act, the public lands in that State shall not be subject to entry, sale, or location under any law of the United States or any scrip or warrants issued in pursuance of any such law except the homestead act of May 20, 1862, and acts amendatory thereto, but shall be reserved exclusively for entry and sale by the said State for the period of two years after such survey shall have been made.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

BILLS INTRODUCED.

Mr. WADE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 280) to repeal an act entitled "An act to retrocede the county of Alexandria, in the District

of Columbia, to the State of Virginia," and for other purposes; which was read twice by its title, referred to the Committee on the District of Columbia, and ordered to be printed.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 281) to authorize the Chesapeake Bay and Potomac River Tide Water Canal Company to enter the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

NITRO-GLYCERINE.

Mr. CONNESS. I offer the following resolution, and ask for its present consideration:

Resolved, That the Committee on Commerce be directed to inquire into the necessity of prohibiting the importation of nitro-glycerine, its transportation on American vessels, or by land within the United States, and its manufacture in the United States; and that the committee report by bill or otherwise.

There being no objection, the Senate proceeded to consider the resolution.

Mr. CONNESS. I have received this morning by the telegraph, from the Chamber of Commerce of San Francisco, the result of a special meeting called by that body in relation to this subject, which I ask to have read at the desk. It is addressed to Congress.

The Secretary read, as follows:

"At a special meeting of San Francisco Chamber of Commerce, the following action was taken:

"Whereas several fatal accidents have lately taken place from the terrible explosive properties of nitro-glycerine, a substance whose full powers seem yet imperfectly understood, even by experienced chemists, whereby great loss of life and property have resulted: Therefore, desiring to prevent further calamity,

"*Be it resolved*, That the president of this chamber be instructed to telegraph Congress requesting immediate legislation for the protection of life and property from dangers connected with nitro-glycerine.

"*Resolved*, That this chamber recommend the immediate passage of a law, under a suspension of the rules, constituting the shipment or transportation of nitro-glycerine by any public conveyance within the United States or by any vessel of the United States a felony."

Mr. CONNESS. I also hold in my hand a letter from a prominent gentleman of the city of New York, a small portion only of which I will read in this connection, showing the importance of as immediate action as can be taken on the subject, and I desire to call the attention of the honorable chairman of the Committee on Commerce to it, that he may, at the earliest moment of time, report upon it. This gentleman says:

"The fearful explosion and loss of life in San Francisco, of which we have received but brief accounts per telegraph, has been preceded by one still more dreadful at Aspinwall, of which your morning papers will give you the particulars, both caused by the same powerful and dangerous explosive material, namely, blasting oil, or nitro-glycerine. These two fearful calamities, following each other in quick succession, have caused much alarm here, especially as it is known that a considerable quantity of the article is now in our public warehouses."

He then alludes to former legislation regulating explosives by Congress, and continues:

"I am well informed that Austria has such a law. The inventor himself is ignorant of many of the means which cause its explosion. A person is now on his way to San Francisco with a package containing some twenty-five pounds in his state-room, a quantity sufficient to blow the ship to atoms. Other parties are known to be traveling with it in their carpet-bags on our railroads. Will you move in this matter? It is a most important one, in which the public is deeply interested."

"WILLIAM A. BAYLEY."

I desire this paper to be referred to the committee, with extracts from papers throwing some light on the material of nitro-glycerine, and also a pamphlet issued by the parties who have undertaken its circulation and introduction into use in the United States. It appears that there is a stock company being organized in New York, with a capital of \$1,000,000, for the purpose of manufacturing in the United States and introducing this terrible explosive into general use. The pamphlet also contains an extensive dissertation on the article. All these papers I desire to have referred, with the resolution, to the Committee on Commerce.

The PRESIDENT *pro tempore*. The question is upon the resolution.

The resolution was adopted.

The PRESIDENT *pro tempore*. It is moved

that the papers accompanying the resolution be also referred to the Committee on Commerce. That order will be made, if there be no objection.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House of Representatives had passed the bill (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 89) to issue American registers to the steam vessels Michigan, Despatch, and William K. Muir, and for other purposes;

A bill (S. No. 150) for the relief of Theodor G. Eiswald; and

A joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department.

INTER-STATE INTERCOURSE.

Mr. CHANDLER. I move to take up House bill No. 11, to facilitate commercial, postal, and military communication among the several States.

Mr. JOHNSON. The Senator from Maine who is not in his seat, [Mr. MORRILL,] and has been absent on business three or four days, is very desirous of being heard on that bill. He is a member of the committee before whom the bill has been pending. I submit, therefore, to the Senator from Michigan whether he had better not let it lie upon the table until his return. I understand he will be here to-morrow or next day. A delay of a few days can make but very little difference, I suppose, in the result of the measure one way or the other. I know that the Senator from Maine is very desirous of laying before the Senate the views which he wishes to present on the subject.

Mr. CHANDLER. I should like to go on with the discussion of this bill; I do not know that we shall arrive at a vote to-day. I am aware that the Senator from Maine proposes to discuss the bill; but I desire to arrive at a vote as soon as possible. It has now been before the Senate for three successive sessions, and most of those who desire to speak on it have spoken; but I understand some, among others the Senator from Maryland, desire to make speeches on the bill, and I should like to progress as far as possible to-day, and I shall press it to a vote as early as practicable.

Mr. JOHNSON. I was unable to hear the honorable member.

Mr. CHANDLER. I say I should like to have the discussion go on to-day and arrive at a vote as soon as possible. I understand there are several members prepared to make speeches now, and I desire to press for a vote at the earliest possible moment. It has now been before the Senate, as I observed, for three successive sessions, all of the last Congress and the whole of this session, and I presume every member is prepared to vote upon it.

Mr. JOHNSON. I do not know—certainly that is not my purpose now—that I shall discuss the measure at all; but I know that the Senator from Maine is very anxious to be heard upon the subject before a vote is taken. I am not aware that there is any other member of the Senate who proposes to debate it.

Mr. CHANDLER. I then move that it be made the special order for one o'clock on Wednesday next, the day after to-morrow—that it be postponed until Wednesday at one o'clock and made the special order.

The PRESIDENT *pro tempore*. That motion is not in order, as the bill is not yet before the Senate.

Mr. CHANDLER. I move to take it up for that purpose.

Mr. JOHNSON. I am told that the hon-

orable Senator from Maine is not likely to be here until Thursday.

Mr. CHANDLER. Well, I will say Thursday.

Mr. JOHNSON. Say Friday.

Mr. CHANDLER. I am told he will be here on Wednesday, and therefore I will move to make it the special order for Thursday. My first motion is that the bill be taken up.

The motion was agreed to.

Mr. CHANDLER. I now move that the bill be postponed until Thursday next at one o'clock and made the special order for that hour.

Mr. CLARK. I appeal to the Senator from Michigan to let it go over a day or two beyond that time. I know that the Senator from Maine expected to be back before this time, but he has been unexpectedly delayed and may be delayed until Thursday or Friday.

Mr. CHANDLER. If he is not present, I shall consent to a further postponement.

Mr. CLARK. That will be satisfactory.

Mr. CHANDLER. Let it be made the special order for Thursday with that understanding. The motion was agreed to.

POST OFFICE APPROPRIATION BILL.

Mr. SHERMAN. I move that we proceed to the consideration of the Post Office appropriation bill, with a view to dispose of the pending amendment to it.

Mr. HOWE. I suggest to the Senator from Ohio that he let that go over until one o'clock, and let us go on with a few private bills in the mean time.

The motion of Mr. SHERMAN was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes.

Mr. SHERMAN. The Senator from Wisconsin appeals to me to allow this bill to go over until one o'clock. I am willing to consent to have it laid aside informally until that time, as I understand there is no special order for one o'clock to-day, but I desire to have this bill disposed of to-day.

Mr. HOWE. I should like to have the bill laid aside informally with a view to proceed to the consideration of House bill No. 472.

Mr. SHERMAN. I have no objection, as I said before, to letting the appropriation bill lie over informally until one o'clock.

The PRESIDENT *pro tempore*. The bill will be laid aside by common consent until one o'clock.

Mr. HENDRICKS. I think the Senator from Ohio is mistaken; there is a special order for one o'clock; the bill for the relief of contractors in the Navy was the special order for one o'clock. It was so made the other day, and I supposed it continued as such.

The PRESIDENT *pro tempore*. It is in the Calendar of special orders, but does not stand assigned as a special order for to-day.

Mr. HENDRICKS. It was assigned the other day as a special order, and was then passed over informally.

Mr. SHERMAN. I believe we can dispose of the Post Office bill in a short time.

Mr. CLARK. I suggest to the Senator from Indiana that the bill to which he refers was not passed over informally, but was superseded by a previous special order, the unfinished business of the day before, so that it has lost its place as a special order.

Mr. HENDRICKS. I ask the Chair if that be the effect.

The PRESIDENT *pro tempore*. It stands in the list of special orders but will not come up necessarily at one o'clock to-day. Having been superseded by the unfinished business of a former day it stands on the Calendar among the special orders but is not to be called up at one o'clock as a special order, not having been assigned for that hour to-day.

Mr. HOWE. I understand that there is no objection to letting the Post Office bill be laid aside.

The PRESIDENT *pro tempore*. If no objection be made that bill will be laid aside informally.

GEORGE R. FRANK.

Mr. HOWE. That being done, I move to proceed to the consideration of House bill No. 472.

The motion was agreed to; and the bill (H. R. No. 472) for the relief of George R. Frank, late captain in the thirty-third regiment Wisconsin volunteer infantry, was considered as in Committee of the Whole. It proposes to direct the Paymaster General of the United States Army to settle and pay out of any money appropriated, or hereafter to be appropriated for the payment of the Army, the account of George R. Frank, late a captain in the thirty-third regiment of Wisconsin volunteer infantry, for his services, and all allowances as captain in that regiment, in the service of the United States, from the date of his last payment to the time of the final muster out and payment of the regiment, the same as though he had not been mustered out as captain for the purpose of being mustered in as major or otherwise.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

NAVY PAY DEPARTMENT.

Mr. GRIMES. I move that the Senate proceed to the consideration of House bill No. 197, to provide for the better organization of the pay department of the Navy.

Mr. SHERMAN. That will take considerable time, I fear. I therefore hope the regular order will be proceeded with.

Mr. GRIMES. If it does take time, let it come up again to-morrow in the morning hour. We can go on with it until one o'clock now.

Mr. SHERMAN. I have no objection to that.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that hereafter the active list of the pay corps of the Navy shall consist of eighty paymasters, forty passed assistant paymasters, and thirty assistant paymasters. Paymasters are to be regularly promoted and commissioned from passed assistant paymasters, and passed assistant paymasters from assistant paymasters, subject to such examinations as are required by law, and such as may be established by the Secretary of the Navy. Passed assistant paymasters are to give bonds for the faithful performance of their duties in the sum of \$15,000, and their annual pay is to be, at sea, \$1,500; on other duty, \$1,400; on leave or waiting orders, \$1,200.

The Committee on Naval Affairs proposed to amend the bill by inserting after the words "assistant paymasters," in line eight of section one, the following words:

And all passed assistant paymasters authorized by this act to be appointed who have not heretofore been appointed and commissioned as assistant paymasters, and all assistant paymasters hereby authorized to be appointed, shall be selected from those who have served as acting assistant paymasters for the term of two years, and who were eligible to appointment in that grade when they were appointed acting assistant paymasters as aforesaid.

Mr. GRIMES. I move to amend the amendment by striking out the words "two years" and inserting "one year."

The amendment to the amendment was agreed to.

Mr. GRIMES. In order to make it more specific I propose, at the end of the amendment, to strike out "that" before "grade," and insert "the;" and after "grade" to insert "of assistant paymasters;" so that the clause will read:

All assistant paymasters hereby authorized to be appointed shall be selected from those who have served as acting assistant paymasters for the term of one year, and who were eligible to appointment in the grade of assistant paymasters when they were appointed acting assistant paymasters as aforesaid.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to. Mr. SHERMAN. This bill, I believe, changes the pay of all the officers of the Navy. I have not had time to look into it.

Mr. GRIMES. Not at all. It regulates the pay department, and merely creates a few more paymasters and makes a new grade of acting assistant paymasters.

Mr. SHERMAN. This, then, is not a bill to change the pay?

Mr. GRIMES. Oh, no.

Mr. SHERMAN. Then I have nothing to say about it.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time and passed.

• WILLIAM PIERCE.

Mr. ANTHONY. I move that the Senate proceed to the consideration of Senate bill No. 231.

The motion was agreed to; and the bill (S. No. 231) for the relief of William Pierce was read a second time, and considered as in Committee of the Whole. It authorizes the Secretary of the Treasury to issue to William Pierce duplicates of the following-described bonds of the United States of America, Treasury Department, for the Oregon war debt, issued by the United States under an act of Congress approved March 2, 1861, payable at any time after the 1st of July, 1881, at the Treasury of the United States, with interest at the rate of six per cent. per annum, namely: No. 679, No. 682, No. 681, and No. 270, with coupons attached; the first three bonds being for the sum of \$100 each, and the last named being for \$50, each of them being signed L. E. Chittenden, Register of the Treasury, and each of the coupons attached being signed by G. Luff; but before the issue of the new duplicate bonds William Pierce is to execute and deposit with the Secretary of the Treasury of the United States, to the full acceptance and satisfaction of the Treasurer, such bond of indemnity as is usually required by the regulations of the Treasury Department for the issue of duplicate certificates of inscribed stock.

The bill was reported to the Senate without amendment.

Mr. TRUMBULL. Is there a report in this case?

Mr. ANTHONY. Yes sir. The bonds were lost by the burning of the steamer Golden Gate. The proof of the loss is as complete as it can be, and the petitioner is to give the bond of indemnity that is usually required by the regulations of the Treasury Department for the issue of duplicate certificates of inscribed stock.

Mr. HOWARD. What was the amount of the bonds lost?

Mr. ANTHONY. Three hundred and fifty dollars.

Mr. CLARK. The case is well proved.

Mr. TRUMBULL. Is this like the case we acted upon the other day?

Mr. ANTHONY. We have passed a number of cases on the same specifications.

Mr. CLARK. The bonds are fully identified and the loss well proved.

Mr. ANTHONY. The report is very short, if Senators desire to have it read, but I think it is unnecessary to read it.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

MRS. JERUSHA WITTER.

Mr. KIRKWOOD. I ask the Senate to take up for consideration Senate bill No. 276.

The motion was agreed to; and the bill (S. No. 276) for the relief of Mrs. Jerusha Witter, was read a second time and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Mrs. Jerusha Witter, widow of Dr. Amos Witter, late surgeon of the seventh regiment Iowa infantry volunteers, on the pension-roll, at the rate of twenty-five dollars per month, to commence from the date of her application for a pension, and to continue during her widowhood.

The bill was reported to the Senate without

amendment, ordered to be engrossed for a third reading, read the third time, and passed.

POST OFFICE APPROPRIATION BILL.

Mr. SHERMAN. I now call for the regular order.

The Senate resumed the consideration of the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes, the pending question being on the amendment of Mr. HENDERSON to add the following as an additional section:

SEC. —. And be it further enacted, That in all cases in which persons have been appointed, either during the recess or during the session of the Senate, as assistant postmasters or other civil officers under the Government, whose appointments require the consent of the Senate, and whose appointments, having been submitted to the Senate, have been rejected or not consented to before the adjournment thereof, no money shall be drawn from the Treasury, or used from any fund or appropriation made or created by law, to pay the salaries of such persons under such appointments, or under any previous appointment to the same office, for services rendered after said adjournment. And if any such person shall, after such adjournment, be appointed to the same office, no money shall be drawn or used as aforesaid to pay his salary until his appointment shall have been consented to by the Senate at its succeeding session.

Mr. JOHNSON. When the amendment now before the Senate was offered, I suggested to the Senate and to the mover of the amendment that it was perhaps doubtful whether we had the power to pass a law of that kind. The Government have acted under the belief, founded upon the advice that they have received from the law officer of the Government, on several occasions, that a commission issued by the President during a recess of the Senate, when he has clearly the authority to appoint, continues to the end of the next succeeding session of Congress or of the Senate, whether or not the nomination of the particular officer has in the mean time been by the Senate rejected, they being of opinion—and I certainly am not prepared to say that they are wrong—that the power conferred upon the President is a power which Congress cannot directly take away. However it might be if the provision was a prospective one, yet if the true meaning of those commissions is, that they continue until the end of the succeeding session, the party who may be in office under the commission is entitled to be paid; and the fact, therefore, of the adoption of this amendment, if that is the condition of the officer, if he has the right to his salary which the appointment gives him, will be, virtually, to repudiate an obligation which the Government has contracted. From the reading of the amendment at the desk, I suppose it goes to that extent. I submit, therefore, to the honorable member from Missouri whether he had not better modify it, if it is to pass at all, so as to clear it of all constitutional difficulty, and above all to clear it from a result which would seem to me to be apparent, that the Senate are sanctioning a repudiation of obligations properly contracted by the Government through the President.

The honorable member suggests to me that I have not properly apprehended the extent of his amendment. What I have said was said on what I supposed it to be as it was read from the desk. I have the amendment now in my hand, and I will read it for the purpose of ascertaining whether I have properly apprehended it. It is:

SEC. —. And be it further enacted, That in all cases in which persons have been appointed, either during the recess or during the session of the Senate, as assistant postmasters or other civil officers under the Government, whose appointments require the consent of the Senate, and whose appointments, having been submitted to the Senate, have been rejected or not consented to before the adjournment thereof, no money shall be drawn from the Treasury, or used from any fund or appropriation made or created by law, to pay the salaries of such persons under such appointments, or under any previous appointment to the same office, for services rendered after said adjournment. And if any such person shall, after such adjournment, be appointed to the same office, no money shall be drawn or used as aforesaid to pay his salary until his appointment shall have been consented to by the Senate at its succeeding session.

The latter part of the amendment was not in the section as originally proposed. I think

that has been added at the suggestion of my friend from Illinois, the chairman of the Judiciary Committee.

Mr. HENDERSON. No, sir. He suggested something of the sort.

Mr. JOHNSON. He suggested it and you adopted it. So far as the latter part of the amendment is concerned, it goes to this extent, that the President has no authority to appoint to the same office any one whose nomination has been rejected by the Senate. That has been done from time immemorial, and nobody has ever questioned the authority to appoint. There is nothing in the Constitution which limits the power of the President to appoint whoever he pleases. You may by law, perhaps, provide by way of punishment in certain cases that no one shall be appointed to office; but in the absence of any particular law excluding any particular man from the right to hold an office if he is appointed, the President's authority is just as absolute to appoint in a case where his nomination of the same man has been rejected as it is in the first instance to appoint him originally. I do not think I can be mistaken as to this. Whether the President should appoint is quite another matter; whether he should not show that respect to the Senate of not acting in relation to an appointment of this description which the Senate have refused to advise is an entirely different inquiry.

Mr. TRUMBULL. The Senator from Maryland will allow me to suggest that that is not the point which I made. I do not doubt that, as a question of power, the President may continue to send in the nomination of the same person after he has been rejected. As to the propriety of doing so, that is another thing; but as a mere question of power, as the Senator from Maryland well says, he may select whom he pleases where he has the power to make the appointment. But the point which I made was that where a vacancy existed while the Senate was in session, it was not competent for the President to make any appointment after the Senate adjourned. The Constitution authorizes the President to appoint men to office by and with the advice and consent of the Senate, and a subsequent clause of the Constitution authorizes the President to commission officers to fill vacancies which may occur during the recess of the Senate, whose commissions shall expire at the end of the next session of the Senate. Now, it does seem to me very clear under this provision of the Constitution as an original question, that the vacancy must happen during the recess of the Senate to authorize the President to fill it at all. This is the exact provision:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

When can the President fill up a vacancy by granting a commission which shall expire at the end of the then next session of the Senate? Clearly when a vacancy happens during a recess. Now, can it be said that a vacancy happens during a recess which existed when the Senate was in session? By way of illustration, there is a vacancy upon the supreme bench, which occurred, I think, since the last adjournment of the Senate. Suppose the President of the United States had omitted to fill that vacancy, to send in a nomination to the Senate until the Senate closed its present session, would it be contended that the President after the Senate had adjourned could commission a man as a justice of the Supreme Court, to hold his commission until the end of the next session of the Senate afterward? Would that be a vacancy which happened during the recess?

The intention of the framers of the Constitution was that all officers, saving some minor appointments which might be made by the heads of Departments in pursuance of laws which should be passed, should be made by the nomination of the President with the advice and consent of the Senate. The framers of the Constitution intended that all the officers of this Government should be appointed by the

concurrent action of the President and Senate; but the Senate not being always in session, and vacancies liable to occur at any time, it was necessary to provide some means by which the offices might be filled; hence this other clause was inserted to allow the President, when a vacancy happened in the recess of the Senate, to fill it by a temporary appointment or commission. It is not called an appointment at all, it is called the granting of a commission for a person to exercise the duties of that office until the end of the next session of the Senate, so as to afford an opportunity for the President and the Senate together to fill the office in the proper mode contemplated by the general provision of the Constitution.

Now, I suppose in speaking of this amendment immediately before the Senate, it is entirely competent to provide that no person shall be paid who is commissioned to discharge the duties of an office during the recess in case of a vacancy which has not happened during the recess. I beg pardon for saying so much in interruption of the Senator from Maryland. I really forgot that I was speaking on an interruption.

Mr. JOHNSON. I am very much obliged to the honorable member; he requires no apology; and I have an answer to each of the questions which his remarks suggest. The first is that the construction of the clause of the Constitution to which he has referred, has been before the executive branch of the Government frequently, and that construction from the first period when it was presented has, as I think, been uniform. The law officers of the Government have considered the word "happen" as used in the part of the Constitution adverted to by my friend from Illinois, as meaning "existing," independent of the cause of the vacancy. The object is to keep the Government in operation, to keep in existence all officers whom the Constitution deems necessary to carry on the Government; and if, therefore, from any cause, no matter what, a vacancy in them exists at any time when the Senate is not in session, the Executive has the authority to fill it. I have by me one of the several opinions upon that subject. The one that I have before me was given by Mr. Wirt when he was Attorney General, as far back as 1823. In it he says:

"I find that General Swartwout's commission as Navy agent at New York, expired during the last session of the Senate. Your nomination of another person to fill that vacancy was not confirmed by the Senate, and the vacancy still exists."

What was to be done? Could the office be filled, the Senate having adjourned and the vacancy having existed during the session of the Senate? He goes on to say:

"It is the case, then, of a vacancy which arose during the session of the Senate, but which, from the circumstance that has been mentioned, continues to exist in the recess. The question on which you ask my opinion is, whether, under the Constitution, you can fill the vacancy by a commission to expire at the end of the next session?"

The provisions of the Constitution on this subject are—

"1. That the President shall nominate, and, by and with the advice and consent of the Senate, shall appoint, all officers, &c.

"2. That the President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

Had this vacancy first occurred during the recess of the Senate, no doubt would have arisen as to the President's power to fill it. The doubt arises from the circumstance of its having first occurred during the session of the Senate. But the expression used by the Constitution is "happen;" all vacancies that may happen during the recess of the Senate. The most natural sense of this term is "to chance—to fall out—to take place by accident." But the expression seems not perfectly clear. It may mean happen to take place; that is, "to originate," under which sense the President would not have the power to fill the vacancy. It may mean, also, without violence to the sense, "happen to exist;" under which sense the President would have the right to fill it by his temporary commission. Which of these two senses is to be preferred? The first seems to me most accordant with the letter of the Constitution; the second most accordant with its reason and spirit."

He goes into a long argument to show that that is under all the circumstances the proper construction.

Mr. SUMNER. Whose opinion is that?

Mr. JOHNSON. Mr. Wirt's, and the same opinion has been given by several others. He comes to this conclusion:

"The construction which I prefer is perfectly innocent. It cannot possibly produce mischief without imputing to the President a degree of turpitude entirely inconsistent with the character which his office implies, as well as with the high responsibility and short tenure annexed to that office, while at the same time it insures to the public the accomplishment of the object to which the Constitution so sedulously looks—that the offices connected with their peace and safety be regularly filled."

That is to say, filled at all times. The honorable member from Illinois, therefore, perhaps, (certainly, if this construction given to the clause by Mr. Wirt is the correct one,) is in error in supposing that a vacancy which exists during the recess of the Senate may not be filled by the President during the subsequent recess of the body. But if the honorable member is right, the amendment which he proposes to this bill, and which the member from Missouri has adopted, would still be liable to objection. The uniform decision of the office has been that appointments made by the President during the recess, as to the authority to make which there of course can be no doubt, for it is communicated to him in express words, are to continue until the termination of the next succeeding session of the Senate. The commission which is given to an officer appointed during the recess is a commission which by its terms is not to expire until the termination of the next succeeding session of the Senate; and it has been held that it does continue until the termination of the next session of the Senate, although the nomination of the same man has been submitted to the Senate and has been rejected by the Senate. That has been the uniform construction of the Government, never, as I believe, questioned. Then what is the result?

Mr. TRUMBULL. I do not know that the Senator from Maryland was on the Judiciary Committee at the time; but this subject was brought before that committee at a previous session, and very elaborately considered. All these opinions of the Attorneys General which have been given in favor of executive prerogative were examined and reviewed; and the committee unanimously reported on this branch of the subject, that the vacancy must begin to exist during the recess of the Senate to authorize the President to fill it. It is no new question.

Mr. JOHNSON. The honorable member did not hear me. That does not affect the question I am now considering. I answer, whatever may have been the opinion of the Judiciary Committee, by saying that Mr. Wirt, in 1823, gave the opinion which I have just read, and that other Attorneys General since, to whom the question has been submitted, have given the same opinion. But what I said just now, when I was interrupted by the honorable member, was, that the particular construction to which I was then adverting had never been called in question, and had never been before the Judiciary Committee; and it presents the question, how long does a commission issued to a party appointed by the President during the recess, when there is no doubt of his authority to appoint, continue? It continues, according to the uniform construction of the executive, and, so far as I am advised, never questioned by any department of the Government, until the last day of the succeeding session of the Senate.

Mr. HOWARD. That is the exact language of the Constitution.

Mr. JOHNSON. That is the language of the Constitution. That being the case, those postmasters who were appointed during the recess hold commissions that run to the termination of the present session of the Senate. That is clear. If they do, then the vacancy that occurs is a vacancy occurring during recess, because as long as there is a man in office under a commission the office is filled, and there is no vacancy. The vacancy, therefore, begins to exist only at the termination of the next succeeding session of the Senate. Now, I can see—and I saw it when I was a member

of the executive—that this may be used so as practically to do away with what was the general practice of the Constitution; but the framers of the Constitution, in words, authorized the President to appoint and to commission parties who were to hold their offices to the very last moment of the session. The object of that was to insure the offices being filled. It seemed, no doubt, it went upon the hypothesis that the President would nominate during the session of the Senate, and in all probability if his nomination of the particular officer was rejected, that he would nominate somebody else, but that until he nominated somebody else, and that other party was confirmed by the Senate, his first appointment remained; or otherwise the office would go unfilled.

I admit with the honorable member from Illinois that I think the President would war as against the spirit of the Constitution, or, rather, would be guilty of an abuse of power, if he designedly kept in office a man whom the Senate had thought proper to reject for reasons which he had no ground to believe would afterward cease to influence the Senate; but it very often happens, or may happen to the Senate—it has happened—that they reject to-day, and find that they have made a mistake, and are willing to confirm to-morrow. The President, therefore, may have reason to believe that an appointee of his, rejected by the Senate, would still, if renominated, not be objectionable to the body; but whether so or not, whether it be an abuse of power or not, is not the question which this amendment suggests. The question is, has he the power? And if he has the power, and he has exercised the power by appointing a particular man to office, that man is entitled to his pay under the Constitution. We have no right to interfere with the power of the President indirectly. We cannot say that he shall not appoint. If that would be nugatory, it is equally improper, I submit to the Senate, to attempt to accomplish the same object indirectly, by providing that although he appoints the appointee shall not be paid. If the Constitution gives to the appointee a right to hold his commission, then the honor of the United States is involved; he ought to be paid; and yet this amendment says that he shall not be paid.

Mr. SHERMAN. I am generally indisposed to legislate on general topics on an appropriation bill; but this amendment of the Senator from Missouri contains two propositions which, I think, are simply declaratory of the existing law; and, to avoid all doubt, they may as well be inserted here. The first proposition declares that if a person who has been appointed during the recess of the Senate, or during the session of the Senate, shall continue to hold his office after the adjournment of the Senate, when he has been rejected by the Senate, he shall not draw any pay therefor. That is a proposition so plain that I think there can be no controversy about it. If a person is appointed during the recess of the Senate his office certainly terminates at the adjournment of the Senate. Is there any doubt about that?

Mr. JOHNSON. No.

Mr. SHERMAN. Then should he receive any pay for services rendered after the adjournment of the Senate? That is the question. I say he should not; and the first proposition contained in this amendment simply provides that if he continues to discharge the duties of the office after the adjournment of the Senate he shall not be paid for that work and labor done by him. That is a very clear proposition, that after his office terminates he should not discharge the duties of the office, and especially should not draw a salary from the Treasury. The second proposition is almost as clear, in my mind, that where the Senate has rejected a particular appointment and the President undertakes to appoint that same person again to the same office, in the face of the rejection by the Senate, that person shall not draw his pay, from any appropriation from the Treasury, until the nomination has been again submitted to the Senate, and has been approved and rati-

fied by it. It seems to me that that is the plain spirit of the Constitution. The President ought not to appoint a person who has been once rejected by the Senate, unless for clear and manifest reasons, and if those reasons are so clear and manifest they should be submitted to the Senate and the Senate would no doubt overrule its previous rejection of the nominee, and the incumbent ought to hold his office subject to that power of the Senate to reject the nomination.

Mr. JOHNSON. Suppose he is rejected on the last day of the session?

Mr. SHERMAN. Very well, then, if he is reappointed his salary ought to be suspended until the Senate have an opportunity to reconsider its rejection. The rejection of the Senate ought at least to have sufficient effect to prevent that person from holding office or drawing pay for such services in that office. That seems to me to be very plain. If, as the Senator from Missouri seems to think, there is danger that the President will, against the rejection of the Senate, appoint the same man to that office, I say that person ought not to receive money from the Treasury until the reappointment is submitted to the Senate and approved by it. With that view, I think, the amendment is carefully worded and will accomplish the purpose.

Mr. HENDERSON. I thank the Senator from Ohio for his defense of this proposition, which I think is perfectly clear, and I have but little to add to what he has said. The proposition seems to me to be perfectly plain. I examined all these opinions of the Attorneys General, and I found, in addition to the opinion referred to by the Senator from Maryland, quite an able opinion given by Mr. Taney, when he was Attorney General, upon the same subject, and sustaining in its position the views taken by Mr. Wirt. It is an opinion given in 1832 upon the appointment of a land officer in Mississippi, where the opinion is again given by that Department of the Government, that where the President appoints, the appointment holds until the last day of the session; and if the session of the Senate shall be adjourned without acting upon the nomination there is a vacancy again. It is contrary to my views of the subject, and yet I find that these opinions have been invariably given as stated by the Senator from Maryland. He is correct in stating that such has been the opinion, I believe, of every Attorney General who has been called upon for an opinion on the subject; but I differ with the Senator from Maryland in the opinion that he has expressed, that this amendment conflicts with that view of the subject. I do not think it has anything to do with it. I have so drawn the amendment as not to run counter to any opinion given by any Attorney General on the subject.

My idea in presenting the amendment is, that if the President shall nominate an officer to the Senate, and the Senate shall act upon it and specifically reject the appointment, and the President insists upon that party holding the office after the adjournment of the Senate, he shall have no salary. I differ with the Senator from Maryland in supposing that if Congress shall not vote to the executive department money, the executive department can continue its operations. I apprehend that Congress, by refusing to grant appropriations in the midst of a most important war, can stop the wheels of Government in that behalf. We can absolutely refuse to grant the means to carry on a war, and it will necessarily cease, provided we should do so. Now, the President makes an appointment. We have to advise and consent to that appointment, or else it is no appointment after the adjournment of the Senate. I grant that the appointment made lasts until the last day of the session; but the Attorneys General say that the President himself, by making another appointment and submitting it to the Senate, destroys the force of the first appointment. I have, therefore, drawn this amendment in reference to that point also. If

the President fails to send us another appointment, and after we have rejected his appointment leaves the appointee to hold the office, I say he can legally hold it no longer than the last day of the session, and when that day arrives it is clearly within the power of Congress to say that that man, by virtue of that appointment, or by virtue of any succeeding appointment, shall receive no pay.

The Senator from Maryland, perhaps, is sustained by the opinions of the Attorneys General upon one point, and that is, that a vacancy exists at the adjournment of Congress. Mr. Taney says, otherwise the Government would cease; and, contrary to the expressed opinion of the Senator from Illinois, it has been held, notwithstanding the intervening session of the Senate, that after an appointment has been made, and the Senate has failed to act upon it, at the close of that session there is a vacancy again, and the President may appoint. There is no such constitutional provision. This is merely the construction given by the respective Attorneys General; that is, that a vacancy again occurs, and the Senator from Maryland says that, according to the opinions heretofore given, if a vacancy exists immediately after the adjournment of the Senate, the President can appoint whom he pleases. Very good; I will not take issue with the Senator on that subject; the President may appoint whom he pleases; I only ask the Senate to say that if he does appoint the same individual, that individual shall not be paid; that we will appropriate no money whatever, and give him fair notice of that fact, for the payment of his salary. That seems to me to be but just.

The Senator says the President may appoint whom he pleases, and if we undertake to interfere with that right, we are trespassing on the constitutional right of the executive department. That is the position. Suppose that war exists, and Congress refuses to grant appropriations to carry it on; suppose we declare that a certain individual is not a citizen of the United States by an act of Congress, and the President appoints such an individual, are we bound to pay him? It is very true that the President may appoint; but suppose that the President appoints to a civil office in my State a man who has been convicted of treason, if you please. Under the act which we passed in 1862, he is disqualified from holding office. Let me ask the Senator from Maryland, if the President appoints such an individual, are we bound to appropriate money to pay him?

Mr. JOHNSON. No. He has no right to appoint him.

Mr. HENDERSON. Why has he no right to appoint him? Simply by virtue of the operations of an act of Congress. Then cannot we legitimately pass an act of Congress without a conviction of the individual, declaring that if such and such a person shall be renominated he shall not be paid? I cannot think for a moment that such a power is not lodged in Congress. I cannot realize the fact for a moment that a valid objection can be presented to the amendment. I have given careful attention to all the opinions that have been delivered on this subject, and I do not think that the amendment conflicts in any degree whatever with these opinions.

I desire, while I am up, to amend the amendment in the second line by inserting after the word "been," the words "or shall be," so as to make it apply to the future as well as the past. It was a mere oversight of mine that those words were omitted.

Mr. JOHNSON. How will it read then?

Mr. HENDERSON. In this way:

That in all cases in which persons have been or shall be appointed during the recess or session of the Senate, &c.

It will make it apply in its provisions to the future as well as to the past. I desire also to add several words in the twelfth line of the amendment, so as to obviate an objection that may be presented. I believe no such objection has been presented, but I can see very well that if

the appointment shall be made at the very last days of the session of the Senate, and the Senate adjourn without acting upon it, as suggested to me by the Senator from Illinois, some very serious difficulties may arise from the fact that notice has not been communicated to the officer. He may hold on for a month before he really knows that the Senate has rejected his appointment; hence some specific term should be stated within which the salary may continue to be paid after the adjournment of the Senate, and beyond that time it ought not to be paid. I will therefore modify my amendment by inserting after the word "rendered" in the twelfth line, the words "after the expiration of thirty days." That will give ample time for notice to be sent to any part of the United States that the Senate has rejected a nomination, and we shall pay him no salary from the expiration of thirty days from the adjournment.

Mr. JOHNSON. Are those the only modifications that you propose to the amendment?

Mr. HENDERSON. Yes, sir.

The PRESIDENT *pro tempore*. The modifications named by the Senator from Missouri to his amendment will be made, the amendment being under his own control as yet.

Mr. JOHNSON. I do not propose to argue the question again; but I submit to the honorable member from Missouri, and to the member from Ohio, the acting chairman of the Finance Committee, whether if this provision is to pass at all it ought not to be still further modified. The latter part of the amendment says that if any such person, that is, if any person whose nomination has been rejected or upon whose nomination the Senate have not acted, is again appointed to the same office by the President, he is not to be paid. That applies to the two cases of a nomination rejected, and a nomination not acted on. Suppose a nomination comes in a day or two before or the very day the Senate adjourns, or suppose the Senate without any good reason, for want of time, fails to act, or is unwilling to act, it would rather the matter should go over, as has frequently been done, is it necessary, in order to guard against any possible mischief which could result from leaving the President the power to appoint, to attempt to take from him indirectly the power to appoint by providing that the appointee shall not receive his salary? The vacancy may occur the day before, or the very day the Senate is about to adjourn, and he nominates; you cannot act upon it; you adjourn; is the office to remain vacant during the whole time that may intervene between the time of the adjournment and the time of the meeting of the next session?

Mr. DOOLITTLE. I beg to suggest to the Senator from Maryland another case. Suppose a person in office should die on the day the Senate adjourns, and no information is received by the President or by Congress, and therefore there could be no action, either by the President or Congress. It is still a vacancy during the session of the Senate, but the President cannot fill the vacancy.

Mr. HENDERSON. This amendment only applies to the appointment of the same person who has once been rejected.

Mr. JOHNSON. I am speaking now, not of your amendment, but of the doctrine held by the Senator from Illinois. Now, the particular inconvenience, and it seems to me, the gross injustice, of a provision of that sort would be avoided by striking out, if the amendment is to be passed at all, in the seventh line the words "or not consented to before the adjournment thereof." It would then read:

And whose appointments having been submitted to the Senate have been rejected, no money shall be drawn from the Treasury, &c.

I agree with the Senator from Ohio that he has no right, under the original appointment of the President, to continue in office after the adjournment, because his commission expires with the adjournment; but the next clause of the amendment deprives the President of the authority to reappoint him. If the words which I have just read be stricken out, the power to

reappoint would apply only to those whose nominations have not been acted upon, denying the power to appoint those whose nominations have been rejected. I suppose that will answer the purpose the honorable member has in view.

Mr. HENDERSON. I do not know that I have any serious objection to the modification suggested by the Senator, provided he will make the amendment at the end of line twelve instead of the seventh line. I will insert the words "so rejected by the Senate," at the end of the twelfth line, so that it will read:

And if any such person so rejected by the Senate shall after such adjournment be appointed to the same office, no money shall be drawn, &c.

The PRESIDENT *pro tempore*. That modification will be made as suggested by the Senator.

Mr. GUTHRIE. I feel very much indisposed to vote for this amendment in any shape in which it has been put or is likely to be put. The Constitution, which invests the nomination and the appointment in the President, has provided for vacancies which may occur during the recess. The framers of the Constitution knew that this Government in all its branches would require officers necessarily in the different localities to carry it out, and they knew that vacancies would occur when Congress was not in session and when the advice of the Senate could not be taken, and they provided that those vacancies should be filled, and they allowed no restriction upon the President in the selection of the individuals to do it. Now, I think in order that the Government may be carried on and the laws faithfully executed, this provision for appointments during the recess of the Senate was a wise provision and should receive a liberal and fair construction, so that we shall not fail in having officers. In the best light in which this proposition can be put, it is only restricting the President in the appointment of particular individuals. I can understand why the gentleman wants to keep a man who has been rejected by the Senate from receiving pay; but I cannot understand why he should wish to deny pay to the man on whose nomination the Senate have not had time to act, or whom they were not willing to take the responsibility of rejecting, and thus allowed it to go over. It is proposed to restrict the President from appointing him, and to declare that he shall depend upon the will of the Senate at the next session of Congress. I am satisfied there is no just reason for depriving any individual who has been nominated to the Senate for an office, and they have not acted upon the nomination, and he has filled the office and discharged the duty, of his pay.

Mr. SHERMAN. I will state to the Senator that that has been modified so as to confine it only to cases where the officer has been actually rejected by the Senate.

Mr. GUTHRIE. When I read the amendment it was the other way.

Mr. HENDERSON. I have modified it in that respect.

Mr. GUTHRIE. It was liable to the objection, and the whole proposition is distasteful to me, because it strikes at individuals instead of striking at principles. The individuals who are appointed are not to be paid, though they fill the offices and it is within the power of the President, and he is bound to see that these offices are filled, so that the public service may be discharged by competent individuals. It is his duty to do so, and yet by this provision you attempt to restrain him in the discharge of that duty by selecting certain persons and saying if they are appointed they shall not be paid for discharging the duty of the offices. I think we have no right to curtail his power in the premises, and I think we ought not to set the example of thus encroaching upon the President's prerogative of appointment. It looks to me as if we were beginning to make a little war on his appointments before they are made. I do not think that is becoming the Senate. I shall therefore vote against the amendment in all its shapes.

Mr. TRUMBULL. I am quite aware of these opinions of the Attorneys General, commencing back some thirty or forty years ago. The Attorneys General are the appointees of the President, and we know that they hold their offices at his will, and we know that when some persons have filled the presidential office they have not allowed persons to hold Cabinet offices who did not agree with them in opinion. I do not mean to derogate from the high character of the gentlemen who have filled the office of Attorney General in this country. They have been very able men, distinguished men, and they have given opinions upon the clause of the Constitution which I have read, but I really think those opinions will not bear the test of examination. If you bring those opinions to the language of the Constitution, I think you will see that they cannot be sustained. A mistake has arisen in the Senate in supposing that the President can appoint to office at any time. The President cannot appoint an officer either in the recess of the Senate or during the session of the Senate. The Constitution of the United States has not put the appointing power in the President's hands, but it has put it in the hands of the President "by and with the advice and consent of the Senate;" and he can no more appoint an officer without the advice and consent of the Senate than he can make a treaty without the advice and consent of the Senate. He can do neither. The language of the Constitution is peculiar. This is the language:

"He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law."

Then follows an exception authorizing Congress by law to vest the appointment of inferior officers either in the President alone or in the courts of law or in the heads of Departments. That is not material to the question we are now discussing.

Here, then, is the appointing power given to the President, by and with the advice and consent of the Senate; and that is all the appointing power that is given in the Constitution of the United States. The men who framed this Constitution saw that the Senate might not always be in session; there might be a difficulty in consequence of vacancies occurring by death or resignation while the Senate was not in session, and it would be impossible to fill that vacancy or to have the duties of the office discharged unless a power was vested in somebody temporarily to detail a person to perform those duties; and hence they added this clause:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate by granting commissions which shall expire at the end of their next session."

Now, what shall the President have power to do? To "appoint" persons? Not at all; but he shall have power to "fill up vacancies by granting commissions which shall expire at the end of the next session." The vacancy exists all the time; and if the President desires to have that person to whom he has granted a commission to fill up the vacancy continued in the office, he nominates him to the Senate and he is confirmed—not on this commission that was granted; that is not the practice. If a postmaster in the city of Baltimore had died in September last, and the President had designated A B to discharge the duties of postmaster at Baltimore on the 1st of October by granting him a commission to expire at the end of the present session of the Senate, and he thinks proper to appoint that same person to the office of postmaster in Baltimore, this designation that he has made by giving the commission is not what comes before us at all; but he sends his name in to us, and asks the Senate to advise and consent that he may appoint this man (whom he detailed by giving him a commission to act there

until the Senate should meet) to the office, and his commission dates from confirmation, and this designation that he had given him a commission to expire at the end of the session goes for nothing; that is the end of it.

Mr. COWAN. Is he not a good postmaster until the end of the session, even though his name should never be sent in and somebody else's should be sent in?

Mr. TRUMBULL. It is not an appointment at all. It is a person acting in that place by virtue of the power vested in the Constitution.

Mr. COWAN. The word "fill" is used instead of "appoint."

Mr. TRUMBULL. Yes, sir; and there is some meaning in that; there was a reason for that; but the Attorneys General say that the President may fill any vacancy that exists during the recess of the Senate.

Mr. COWAN. Not "which happens."

Mr. TRUMBULL. Well, sir, that is not the language of the Constitution, and that language gives no effect whatever to the words "during the recess of the Senate." If the intention of the framers of the Constitution had been that the President might fill any existing vacancy during the recess of the Senate or any vacancy which existed they would have said so, but that is not what they have said. They have said that he may fill up a vacancy that may happen during the recess of the Senate. These words "may happen during the recess of the Senate" are used in other portions of the Constitution. By reference to that clause of the Constitution of the United States which authorizes the appointment of Senators, it will be found that the Constitution declares that the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof for six years? What else does the Constitution provide?

"And if vacancies happen by resignation or otherwise during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature."

The language is precisely the same, "if vacancies happen during the recess of the Legislature." Has it not always been held in this body that the vacancy must happen during the recess of the Legislature or it did not authorize the Governor to appoint? Has not that been decided over and over again, that the Executive of a State cannot appoint a Senator to fill a vacancy in this body unless the vacancy happened during the recess? Is not the fact that it occurs during the recess of the Legislature necessary to authorize the Executive to appoint? That has been decided over and over again, and is the settled construction of the Constitution of the United States, admitted by everybody. How often has it happened that States have been partially unrepresented in this body just from the fact of the Legislature's failing to elect. We have one such case now from the State of New Jersey. The Legislature was in session when a vacancy occurred here by the decision of the Senate that Mr. Stockton was not entitled to his seat; and the Legislature has since adjourned. Does anybody suppose that the Executive of New Jersey has a right to fill that vacancy? The Senator from Wisconsin [Mr. Howe] says he does.

Mr. HOWE. You say the vacancy happened by the removal of Mr. Stockton.

Mr. TRUMBULL. Yes; and I say, does anybody contend that the Executive of the State has authority to fill that vacancy?

Mr. HOWE. Yes, sir; I say it.

Mr. TRUMBULL. It is well settled the other way; and I did not suppose that anybody held that doctrine. It has been decided, I do not know how many times, but a number of times, where the question has been brought up in the Senate, and it has always been decided that the Executive cannot appoint a Senator to fill a vacancy which existed while the Legislature was in session.

Mr. SUMNER. There is another element in the New Jersey case.

Mr. HOWE. The Senator will allow me to explain. The question upon which he and I would differ, I presume, is whether the existing vacancy was occasioned by the displacement of Mr. Stockton. My own impression is that the vacancy which exists is a vacancy which occurred by the expiration of the term of Mr. Ten Eyck. If that occurred during the session of the Legislature, the Governor cannot appoint, but if it occurred during the recess—

Mr. TRUMBULL. But there has been an intervening session of the Legislature, if it did occur during the recess.

Mr. HOWE. That vacancy we have decided never has been filled.

Mr. TRUMBULL. Does the Senator from Wisconsin hold, then, that after a Legislature has intervened the Executive can then act? Suppose the vacancy did occur during the recess of the Legislature; suppose a Senator were to die and subsequent to his decease the Legislature of the State from whence he came meets, fails to elect a Senator, and adjourns, does the Senator from Wisconsin mean to say the Executive can then appoint? The Legislature of New Jersey has been together since the expiration of the term of Mr. Ten Eyck. But there would be another and a conclusive answer to the Senator's suggestion, and that is this: Mr. Ten Eyck left no vacancy; Mr. Ten Eyck ended his term; and it has been repeatedly held that the Governor cannot appoint to an original term. That is not a vacancy happening. That is provided for by the Constitution in the clause which declares that each State is entitled to two Senators elected for the term of six years; and no Governor has ever undertaken to appoint a Senator for six years. Somebody must first be put into the office, must have commenced the term, before a vacancy can happen; so that I think my friend from Wisconsin will find upon investigation that in both points of view the Executive in the case I have supposed would have no authority to fill the vacancy.

Now, sir, the language, as I said in regard to the filling of a vacancy in the case of a Senator, is the same in the Constitution as it is in regard to the filling of a vacancy in the case of an officer of the United States. They must both happen during recess of the authority which has the right to make the appointment; in the one case the recess of the Legislature of the State, and in the other the recess of the Senate of the United States. If it were not so, it would be very easy to dispense with that provision of the Constitution which has vested the appointing power of all officers in the President by and with the advice and consent of the Senate, because the President could make appointments (if you call the filling up of a place by a commission an appointment) the moment the Senate adjourned, and continue in that way to make them as often as the Senate adjourned, and keep in office whomsoever he pleased, which would be manifestly a perversion of the meaning of the Constitution.

This whole question was submitted to the Committee on the Judiciary in 1863. It is no new question, and the Senator from Kentucky, if he will look into the subject, will find that it is not an attack upon the Executive. This is no new proposition in this body.

Mr. GUTHRIE. The Senator will permit me. I did not charge it as any attack upon the President. I charged it as an attack upon some people who had been nominated before this body and have been rejected or are likely to be rejected or not acted upon.

Mr. TRUMBULL. I have no such motive governing me. I speak of the construction which I believe to be the true one of the Constitution of the United States, without reference to anybody who has been before the Senate or is likely to be before the Senate. In the Thirty-Seventh Congress this resolution was submitted to the Committee on the Judiciary:

"Resolved, That the Committee on the Judiciary be instructed to inquire whether the practice which

to some extent prevails in some of the Departments of the Government, of appointing officers to fill vacancies which have not occurred during the recess of Congress, but which existed at the preceding session of Congress, is in accordance with the Constitution, and if not, what remedies may be applied."

My friend from Michigan, [Mr. HOWARD,] who was at that time a member of the committee, wrote an elaborate report, which I hold in my hand, on this subject, in which he reviews the opinion of Attorney General Wirt. He quotes from him the very same language the Senator from Maryland has quoted to-day, and also the opinion of other Attorneys General, and comes to the conclusion, in which the committee was unanimous, that the vacancy must begin to exist during the recess of the Senate in order to authorize the President to fill it by giving a commission to expire at the end of the next session of the Senate. In commenting upon this opinion of Attorney General Wirt, the committee say in this report:

"We equally dissent from the construction implied by the substituted reading, 'happened to exist,' for the word 'happen' in the clause. To say that an event which is to 'happen' during a given period of time may logically be an event which does not happen during that period, but during another and an anterior period, seems to us to be a perversion of language. 'Happen to exist,' as here employed by Mr. Wirt, is plainly intended as the equivalent of 'happen to be existing,' or 'in existence,' and is used to imply (though it does not) a continuance or prolongation of the event (the vacancy) from a point of time anterior to the recess. Now, it is the vacancy that is to 'happen.' Certainly any event which has begun and become complete must be said to have happened. But if a vacancy once exists, it has in law happened: for it is in itself an instantaneous event. It implies no continuance of the act that produces it, but takes effect, and is complete and perfect at an indivisible point of time, like the beginning or end of a recess. Once in existence, it has happened, and the mere continuance of the condition of things which the occurrence produces cannot, without confounding the most obvious distinctions, be taken or treated as the occurrence itself, as Mr. Wirt seems to have done. The words 'during their recess,' are plainly intended to qualify and limit the term 'happen.' The vacancy is to happen during their recess. Now, if the vacancy the President is authorized to fill may (as Mr. Wirt and his successors contend) take place indifferently during the recess or during the session, is it not evident that no meaning or effect whatever is given to the words 'during their recess?' Are not those words practically expunged from the Constitution?"

"Again, we see no propriety in forcing the language from its popular meaning in order to meet and fulfill one confessedly great purpose, (the keeping the office filled,) while there is plainly another purpose of equal magnitude and importance (fitting qualifications) attached to and inseparable from the former. In such a case the argument *ab inconvenienti* has no force, because the anticipated evils on the one hand are counterpoised by those on the other."

"But this forced and unnatural interpretation becomes more manifest in its results. Those results would quickly open the way to a practical deprivation of all power of the Senate over executive appointments. For if the President may in the recess appoint to and fill an office which during a session of the Senate was vacant, he may omit to make any nomination at a subsequent session, and at the close of it again appoint him under the idea of filling a vacancy, and so on from session to session. In the hands of an ambitious, corrupt, or tyrannical Executive, this use of the power would soon bring about the very state of things which the Constitution so carefully guards against, by requiring, in express terms, that the advice of the Senate shall first be taken, and its consent obtained before an appointment shall be made. We do not hesitate to say that this great safeguard of the public rights, interests, and peace is practically prostrated and destroyed by the insidious and, to our minds, totally unfounded construction which has been forced upon the clause."

"The committee, in considering the subject, have not overlooked the subsequent opinion given by Mr. Attorney General Tancy, in 1832, and that of Mr. Legaré, in 1841. Although the latter thinks the question one of no difficulty, and it is, in his mind, so plain as to 'admit of no doubt, whether it be considered as one of pure legal science or as matter of public expediency,' he carefully avoids putting it upon the ground taken by Mr. Wirt, that the word 'happen' may be construed to mean 'happen to exist,' which, as was too plain, at once revolutionized not only the letter but the apparent intention of the clause; but, with a far more adventurous spirit of interpretation, puts the claim of power upon the provision that the President 'shall take care that the laws be faithfully executed.'"

Mr. Legaré puts it upon that clause of the Constitution, as if under that the President of the United States derived any authority to appoint men to office in a different mode from that specifically and in the very terms provided by the Constitution itself. I will not read the whole of this report though it argues more clearly than I can do in any extemporaneous remarks, the meaning of this clause of the

Constitution, and comes to the conclusion that the vacancy must begin to exist during the recess of the Senate in order to authorize the President to issue a commission. In reply to the question of inconvenience which was put by the Senator from Wisconsin, [Mr. DOOLITTLE,] the committee show that there is no force in that, because the same inconvenience arises now, when the Senate is in session. Nobody will pretend that the President can issue a commission to fill an office while the Senate is in session. Suppose that the postmaster in the city of Washington dies to-day, does anybody pretend to say that the President can issue a commission to a man to fill his place to-morrow?

Mr. COWAN. Yes.

Mr. TRUMBULL. Do I understand the Senator from Pennsylvania to say that he can do that when we are in session?

Mr. COWAN. Yes.

Mr. TRUMBULL. Well, sir, I undertake to say that there is not an instance in the history of the Government where ever an attempt was made to do it. Nobody ever pretended that it could be done, and there is not an instance of its having been done in the history of the Government. I venture to say that where a death occurs while the Senate is in session the office cannot be filled in any way until the President nominates to this body and we advise and consent to the nomination. I undertake to say it has never been done, and no President has ever attempted to do it.

Mr. COWAN. What is to become of the office in the mean time?

Mr. TRUMBULL. The office is vacant until the President nominates, and by and with the advice and consent of the Senate appoints, some one to fill it. There is no pretense of any authority in the Constitution for the President to appoint a man to an office while the Senate is in session; that is, to an office that requires the advice and consent of the Senate; I am not speaking of inferior officers whom the law has authorized the President to appoint without the advice and consent of the Senate. There is no pretense that he can do it, and during the nine months we are in session if a judge of a court, if a postmaster, if a receiver of public lands, if any officer dies or resigns the office is necessarily vacant until by the advice and consent of the Senate some person is appointed to fill that place.

Mr. HENDRICKS. For my personal satisfaction I wish to ask the Senator if we have got to stay here nine months this session. There is an anxious inquiry about the time when we are likely to adjourn. The Senator suggests nine months, and I want to know if that is the time we are to stay here.

Mr. TRUMBULL. We have sometimes staid here nine months. I was speaking of a hypothetical case; I supposed an instance of the postmaster in Washington dying. I hope he is to live many years, and I hope that we may have no occasion to confirm anybody to fill the office in consequence of his death, either during this or any subsequent session as long as the Senator from Indiana and myself may be here. I spoke of what would have to be done in consequence of his decease. But the Senator is well aware that sessions of Congress do sometimes last nine months. The first session of Congress in which I had the honor to serve did not adjourn, I think, until September, and we had met in the December previous.

Mr. HENDERSON. With the Senator's permission I will state that his whole argument, although of course it is in support of the proposition, goes much further than I pretend to go. I may concur with him in many of the positions taken by him, but I have drawn the amendment with a view to the opinions of the Attorneys General, taking it for granted that they were the law. I concur with him in many of the points made rather than with the Attorneys General, but he is mistaken when he supposes that no opinion has ever been given to the point that where the President fills a

vacancy during the recess of the Senate and the Senate adjourns without having acted upon it the President cannot thereafter fill it.

Mr. TRUMBULL. I did not say that.

Mr. HENDERSON. Then I misunderstood the Senator.

Mr. TRUMBULL. I said that while the Senate was in session if a vacancy occurred it had never been pretended that the President could fill by appointment that vacancy without the advice and consent of the Senate while we were in session.

Mr. COWAN. Even temporarily?

Mr. TRUMBULL. Even temporarily; and I instanced a case. Suppose to-day that the postmaster in Washington city were to die; I undertook to say that the President would have no authority temporarily to appoint a successor without the advice and consent of the Senate while we are here, and nobody ever contended that he would.

Mr. HENDERSON. I am not aware of any opinion on that point, and I agree with the Senator in regard to it as a question of law.

Mr. TRUMBULL. The Constitution is very clear. The President has no authority to fill an office that becomes vacant during the session of the Senate. It is only when the vacancy happens during the recess that he can give a temporary commission; and if you construe those words, as the Attorneys General have done, to mean a vacancy existing during the recess, you cannot by possibility extend them, as I say, by any legitimate construction, to a vacancy which occurs while the Senate is in session; and hence we have provided in our laws for cases of this kind, by providing that the chief clerk, or some designated officer, shall take charge of the papers, and perform the duties until an appointment is made. That is sometimes done when a vacancy happens during the recess. I think the collector in the city of New York died during the recess of Congress, and by a provision of our law some person in that office—I think without appointment, but I am not sure as to that point; an appointment may have been made there—took charge of the office for the time being. There is a case of the same kind in the city of Chicago. Mr. Haven, the collector of that port, died since Congress assembled. One of the officers under him as cashier or chief clerk—

Mr. COWAN. Usually the surveyor of the port.

Mr. TRUMBULL. I think not the surveyor of the port, but some person connected with the office has been discharging the duties for several weeks. That is a provision to guard against this very difficulty, but the President has not appointed that person collector, nor issued any commission to him.

Mr. MORGAN. He did in the case in New York.

Mr. TRUMBULL. Mr. King died during the recess, and the President had authority to appoint in that case. This, then, I think is a perfect answer to the suggestion made by the Senator from Wisconsin. He supposed the case of an officer dying on the last day of the session of the Senate, and, before we had any information of it, the Senate adjourned; and then, said he, the President, according to this construction, could not fill that place. I answer to that, if on the first Monday of December, when we meet here, an officer dies, the President cannot fill that place without our advice and consent until we adjourn, and I say he cannot do it then. I say the vacancy happened during the session of the Senate, and not during its recess, and he can never fill it except by the advice and consent of the Senate.

I did not mean to take up so much time in arguing this proposition. I am aware that it goes further than the Senator from Missouri has provided, and I am for going further if it is necessary; I am for providing that no man shall receive compensation in any shape or form out of the money of the people for exercising the duties of an office to which he has no constitutional right.

Mr. HOWE. Mr. President, I did not

intend to say a word in this discussion, and if I had not spoken out of meeting I should not be called upon to do so. I did remark, intending it as a side remark to the Senator from Illinois, that I held that if the vacancy which existed in the representation from New Jersey was not occasioned by the displacement of Mr. Stockton, it might be filled by the Governor of New Jersey. I am not called upon to defend that proposition, not having very well considered it. The Senator, however, quoted me as making the statement, and I will say now that I do hold that the vacancy which exists in the representation of the State of New Jersey here is a vacancy which happened, not in consequence of the vote of the Senate upon the right of Mr. Stockton, but happened by the expiration of the term of service of Mr. Ten Eyck, the last Senator chosen by the Legislature of that State to sit in this body. How the fact is—whether that term expired during the recess of her Legislature, or during the term of the sitting of the Legislature—I do not know. I supposed it happened during the sitting of the Legislature, and therefore was a vacancy to be filled by the Legislature, and not by the appointment of the Governor; but if it happened during the recess of the Legislature, I think it is a vacancy to be filled by the Governor, and that his authority to fill it is not abrogated by the fact that a session of the Legislature has intervened, inasmuch as that Legislature did not fill the vacancy. I have not examined the question at any length, and therefore am not prepared to argue it.

Mr. EDMUNDS. I wish to call the attention of the Senate, and of my friend from Wisconsin, to the case of Mr. Phelps, a Senator from Vermont in 1853. A vacancy in the representation from Vermont occurred by the death of Mr. Upham. Mr. Phelps was appointed by the Governor to fill the vacancy; and the Legislature at its next session, on a political contest, failed to agree upon any person to fill the unexpired term. Mr. Phelps again took his seat in the Senate in the December following—December, 1853—and the question arose as to whether the appointment of the Governor had expired, or whether the Governor had further power, and it was decided after full debate and not upon political grounds, as the Senate was divided irrespective of politics upon the question, by a vote of 26 to 12, that Mr. Phelps was not entitled, under the appointment of the Governor, to sit. I believe that has been followed since.

Mr. HOWE. I was not aware of any decision on the point. The opinion which I submitted to the Senator from Illinois was an off-hand opinion. The language of the Constitution is that "if vacancies happen by resignation or otherwise, during the recess of the Legislature of any State," which I understand was the case in Vermont in the instance alluded to, "the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancies." I suppose the decision alluded to by the Senator from Vermont turned upon the force of this last clause of the section; and it may be correct. My own opinion was that if it was a vacancy that happened in any way during the recess of the Legislature, it was a vacancy to be filled by the Executive, and to be kept filled by the Executive until the Legislature shall have discharged the duty imposed upon it here. If the decision of the Senate has been to the contrary, I am rather inclined to believe that the decision of the Senate will stand, and that my own opinion will be overruled.

Now, Mr. President, I wish to say one word upon the pending question which I should not have said had I not taken the floor to explain myself. Touching the constitutional question which is argued here as if it were involved in the pending amendment, I have to say, in the first place, that it does not seem to me that there is any such constitutional question involved; but if it be, then I hold that under the first clause of this portion of the Constitution which has been referred to, the Senate is made by the Constitution a constituent portion of the

appointing power. The language is, speaking of the President, that—

"He shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law."

He shall nominate, and by and with the advice and consent of the Senate shall appoint, all these officers. I cannot have a doubt but what the framers of this article, the men who employed this language, meant to say to the President not merely that he shall present a man to the Senate for an office, but that he shall nominate a man who shall be approved by the Senate, and with the approval of the Senate shall appoint the men to fill these offices. In my judgment, the President does not discharge the duty which this clause of the section devolves upon him when he has simply sent a name to the Senate. His duty is discharged only when he shall have obtained the consent of the Senate to the nominee whose name he shall have sent in.

I know there have been industrious efforts made for very many years during our history to persuade the country that here was a prerogative vested in the President of the United States which made him really the appointing power, and which subjected every officer in the United States to his control. Such may be the effect of the interpretation placed upon this clause of the Constitution by the Attorney General from whose opinion the Senator from Maryland has read. I am inclined to think that is the effect which would follow if that interpretation were correct. That it is not correct seems manifest from the plainest and most natural interpretation of the words employed. But inasmuch as a vacancy may happen when there is no Senate in being to give its assent, there is another provision incorporated into the Constitution, and that provision, I think, authorizes the President to commission and thereby to fill up a vacancy which happens during the recess of the Senate, which happens at a time when there is no Senate in being to give its assent to a nomination. What is the tenure of the commission granted by the President under these circumstances? The language of the Constitution is that it shall expire at the end of the next session of the Senate. If there had not been any usage to the contrary, which I believe there has been, I should have supposed that a commission granted under these circumstances did confer an office upon the holder of the commission until the expiration of the next session of the Senate, and that any appointment made during the next session of the Senate by a nomination of the President would take effect from and after the expiration of the session of the Senate. If there had not been a usage to the contrary, I should have supposed that was the true interpretation of this clause, but I believe the usage is that this commission, which is granted to an officer in order to fill a vacancy happening during the recess of the Senate, is vacated the moment another individual or that same individual is nominated to the Senate and is confirmed by the Senate.

But, Mr. President, whatever may be the true interpretation of these clauses in the Constitution, whether they give to the President the right to dispense with the authority of the Senate altogether or not in making appointments, I take it there can be no manner of doubt that they do not give the President unlimited control over the finances, the resources, the revenues of the country. It is, it seems to me, optional with the Legislature how much they will pay the public servants, those of them whose compensation is not fixed by the Constitution, and when they will pay it, and what ones they will pay; and therefore it is that I said at the outset that I did not think there was any constitutional question really involved in the amendment offered by the Senator from Missouri. I take it there is no question but what the Legislature may constitutionally re-

fuse to pay any postmaster or any other officer. Of course they act at their peril. If they act on reasons which are not satisfactory to the country, they will suffer for it as they should; but they are the judges of the question what officers are to be paid, what offices are to exist independently of the offices named in the Constitution itself, how much each one of those officers should receive and when they are to receive it. It is in the exercise of this authority that we are called upon to adopt this amendment. It is by virtue of this authority that I take it we can clearly adopt this amendment without violating the Constitution. The question will still remain whether the fact that an officer has been nominated and has been rejected by the Senate, the coordinate branch of the appointing power, is of itself a sufficient reason for refusing to pay such an individual. For myself, holding that it is a sufficient reason, I shall vote for the amendment. I do not think the Legislature has a right to appropriate a dollar of the public funds for the payment of an officer who the Senate has said is unfit to hold office.

Mr. HOWARD. I do not know, Mr. President, whether I perfectly understand the provisions of this amendment. I beg leave to call the attention of the Senator from Missouri to it. The amendment speaks of "all cases in which persons have been appointed during the recess or during the session of the Senate as assistant postmaster or other civil officer under the Government," &c. Does he intend to say that where there has been a regular commission issued to fill a vacancy that occurred during the recess of the Senate no money shall be paid in compensation for services rendered under that commission in any case?

Mr. HENDERSON. No. I mean to permit the appointment to hold good until the adjournment of the succeeding session of the Senate; and after the last day of the succeeding session of the Senate I propose that he shall not be paid. The Senator will see, by reading the whole clause, that I submit to the opinions of the Attorneys General, who hold that appointments made under such circumstances are good. Of course, in some cases, the cases alluded to in the Constitution itself, there will be no doubt; but the Attorneys General have carried that doctrine much further; and I submitted to their opinions in the absence of the very able opinion that the Senator himself has given on the subject, for I really did not have time to examine it, and was not aware that a report had been made until the other day; and I have not had time to examine it since. I submitted to the opinions of the Attorneys General, and only carried it to the extent that I thought we properly could go in accordance with those opinions. The Senate will see that it only proposes to deny the salary after an adjournment of the Senate. I afterward inserted "after the expiration of thirty days;" and when the Senator from Indiana proposed an amendment in the twelfth line I made another modification. If the Senator from Michigan will permit me now to do so, I ask to withdraw the words "after the expiration of thirty days," because they are unnecessary now, since I submitted to the amendment suggested by the Senator from Maryland on the same subject.

The PRESIDENT *pro tempore*. The amendment is in the power of the mover, and those words will be stricken out.

Mr. HOWARD. I ask, then, that the amendment be read as it now stands.

The Secretary read it, as follows:

And be it further enacted, That in all cases in which persons have been or shall be appointed, either during the recess or session of the Senate, as assistant postmaster or other civil officer under the Government, whose appointments require the consent of the Senate, and whose appointments having been submitted to the Senate have been rejected or not consented to before the adjournment thereof, no money shall be drawn from the Treasury or used from any fund or appropriation made or created by law to pay the salaries of such persons under such appointments, or under any previous appointment to the same office, for services rendered after said adjournment. And if any such person so rejected by

the Senate shall after such adjournment be appointed to the same office, no money shall be drawn or used as aforesaid to pay his salary until his appointment shall have been consented to by the Senate at its succeeding session.

Mr. HOWARD. Mr. President, there are some things in regard to offices which I regard as certain and settled, and the first is, that no office can exist in the United States except under a law of the United States. The second is, that the President of the United States has the power of nominating candidates for office to the Senate, but that he has not the power of appointing them to office except by and with the advice and consent of the Senate, unless in cases of vacancy that may happen during the recess of the Senate.

I am aware, and so are we all, that the practice has been very common heretofore during the existence of the Government for the President of the United States to assume to fill vacancies by way of giving commissions where vacancies have occurred, not during the recess of the Senate, but during the session of the Senate; and it was on that particular point that the Senate saw fit to instruct the Judiciary Committee a few years ago to give their opinion, and my friend from Illinois has read to the Senate the result of their consideration on that subject.

Now, sir, I hold that it is the plain intention of the Constitution that where the President has authority to grant commissions for the purpose of filling a vacancy, that vacancy must have begun to exist, not during the session of the Senate, but after the close of the session of the Senate and during the recess of the Senate. I am quite aware that the Attorneys General of the United States, and I think perhaps without any difference of opinion among them as to the result at which they have arrived, have entertained the idea that a vacancy occurring during the session of the Senate may be filled by commission after the recess of the Senate has commenced. The Committee on the Judiciary took this question into consideration, and they held, and I think very properly held, that was a wrong and erroneous view of the Constitution. The Constitution declares that—

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

An eminent Attorney General of the United States, Mr. Wirt, I think, took very great liberties with this language when he held that the word "happen" in its connection here may be so construed as to cover a case of vacancy where the vacancy in the office had begun to exist during the session of the Senate. That was the construction which he put upon that language—I think a very strained and untenable construction. The Attorney General, Mr. Legaré, in 1841, was called upon to give an opinion upon the same question, and he held, not that the word "happen" may receive that broad construction, not that it may be made in that connection to imply a continuation of an event, but that the President necessarily had this power to fill a vacancy that had occurred during the session of the Senate in virtue of his power to take care that the laws are executed—two very different sources of power. I do not agree with either of them. I think it is high time that the Senate of the United States should act upon this most grave and serious subject. I do not admit that the practical construction thus given by the executive branch of the Government, for a long time, indeed, is the true and accurate construction to be given, and in saying this I am not unaware, I trust, of the great weight which such a long-continued practical construction of the language of the Constitution is entitled to. Certainly very great inconveniences may arise, and often do arise, from a departure from the practical construction of the law; but in such cases as this it seems to me that the language of the Constitution is too plain to be mistaken. The report from which the Senator from Illinois read contains some further observations on this question

of convenience, and with the leave of the Senate I will read a few paragraphs:

"We are aware that this construction has been, from time to time, sanctioned by Attorneys General, and, as recently as 1855, by Mr. Cushing, and that the Executive has, from time to time, practiced upon it. We are also aware of the great weight which such a continued practical construction is entitled to in considering the meaning and intent of a doubtful clause in a public act. But we have not been able to convince ourselves that such is the character of the provision. We think the language too plain to admit of a doubt or to need interpretation; and where such is the case, the language must not be wrested from its natural sense to avoid a supposed inconvenience.

"And it is quite apparent, from all the arguments of the Attorneys General, that the real foundation of their conclusions is the assumed inconvenience to the public service of permitting an office to remain vacant during the recess, where the vacancy has happened during the session and remains unfilled at its close.

"Cases, it is true, may occur, as they have occurred, where a vacancy may subsist after the session in consequence of the refusal of the Senate to consent to, or of its omission to act upon, a nomination; and exactly the same inconvenience may result, as it has on numerous occasions resulted, from the omission of the President to send in a nomination. It is also an inconvenience that a vacancy should continue for any length of time, whether occurring during the session or the recess, and yet vacancies must, from the very nature of the case, thus continue for a longer or shorter period. A similar inconvenience must necessarily have happened if the Senate had had no power whatever over appointments, and occurs from necessity in the most absolute Governments. It is unavoidable. All this, however, was clearly foreseen by the framers of the Constitution when they used the language giving the power; and it strikes us as far more rational to conclude that they regarded this temporary inconvenience as outweighed by the advantage they had secured by requiring all appointments to office, except in cases of vacancy happening in the recess, to receive the sanction of the Senate. The plan came as near to perfection as the nature of the case and the preservation of any effective power on the part of the Senate would admit."

Mr. President, I am for restraining, so far as is possible, the action of the executive branch of the Government to appointments to office within the strict limits of the Constitution. I think that during the last year or two we have had instances enough of an assumption on the part of the Executive to appoint to offices which had not even been created by law, and unless the Senate shall interpose effectually, and at a timely moment, to interrupt this current of events it is impossible to tell to what evils it may not lead. I shall, with a great deal of pleasure, vote for the amendment of the Senator from Missouri, because I think there ought to be just exactly that restraint imposed upon the appointing power.

Mr. JOHNSON. Mr. President, what I rise for the purpose of saying is not to discuss the particular amendment as now modified by the mover of it, but with a view merely to state the opinions which I entertain upon the questions discussed by the honorable member who has just taken his seat, and by the chairman of the Judiciary Committee. The honorable chairman, at the same time saying that it was not his purpose to weaken the authority of the Attorneys General, stated that perhaps their opinions were not entitled to the weight that should be otherwise accorded to them because they held their office under the President, and they may have fashioned their opinions to suit the views of the President.

Now, if the honorable member had had the experience which at one time it was my good or bad fortune to have had, I am sure he would not have indulged in a remark which was calculated to reflect upon the independence of those who have heretofore filled that high office. The Senate are aware, and the country is aware, that in former days it was filled by the most eminent men of the land; men as far incapable of being influenced by any political consideration, and certainly as far from being influenced by any opinion which the President might entertain, as the honorable member from Illinois, or anybody else, could be in any situation in which they might be placed. They are appointed under a law passed as far back as 1789 for the very purpose of being the legal advisers of the President and of the several heads of Departments. They are, therefore, *quasi* judicial officers, and as far as I am advised, without any exception, from the time of their appointment to the present hour, there never has

been an opinion given by any incumbent of that office upon any question which he did not believe to be in itself sound. It is possible that party may have unconsciously influenced his judgment; but if it be true that officers of that kind might be influenced by party considerations, I suppose it is equally true that Senators of the United States may unconsciously be influenced by like motives; that their opinions, therefore, are to be taken with some allowance on that account. But the opinions which have been the subject of comment do not stand alone upon the authority of the eminent men by whom they have been given. They have had the sanction of Congress, the sanction of this great body, the sanction, of course, of the Presidents who held that high office during the period that the opinions were pronounced, the sanction of Washington, of Jefferson, of Madison, of John Quincy Adams, of Monroe—men not eminent on account of any military service, but eminent for their legal knowledge as well as for their undoubted, and now, (however it might have been attempted to throw spots upon their reputation during the period some of them held that high office,) now, in the opinion of the world, spotless reputation; and until the learned Judiciary Committee of the Senate upon the occasion adverted to by the honorable Senator, the chairman of that committee, deemed it their duty to express a different opinion, as far as I am advised the opinion pronounced by the law officers of the Government and acted upon by the several Presidents never was questioned.

Now the honorable members tell us—particularly the honorable member from Michigan, who has just closed—that the language of the Constitution is so plain that it admits of no doubt. The honorable member risks a good deal of his own reputation, high as that is, when he pronounces so authoritatively that the question is free from all doubt, when from the beginning of the Government up to the period when that report was made, founded upon the hypothesis that there was no doubt, the opinion of every branch of the Government was that the true interpretation of the Constitution was directly the reverse of what he supposes now to be its only admissible interpretation.

What is the inconvenience to arise from adopting the construction of the executive department of the Government? The honorable member supposes, and that is his proposition, that the vacancy, if existing in point of fact for the first time during the actual session of the Senate, cannot be filled by the Executive if the Senate fails to fill it. Now this may happen; this has happened: a man dies during the session of the Senate; his death is not known to the President, is not known to the Senate; but his death creates a vacancy, and if it cannot be filled one of two things will be the result: that the office, however important it may be to the due administration of the Government, is to remain vacant for the eight or nine months that may elapse from the termination of one session to the beginning of another, or that the President must call the Senate together.

Does the honorable member mean to assert that in a case of that description the President has no authority to appoint? If he will look at these opinions he will find that in a case of that sort it never was doubted that the President had the authority to appoint; and the same principle has been adopted in relation to that principle of the Constitution which relates to the filling of vacancies in this body. The language in one respect is the same—if a vacancy happens during the recess of the Legislature the Governor is to appoint. The honorable member says that the uniform construction of that clause has been that if in point of fact he who was Senator ceases to be a Senator by death or by any other cause while the Legislature of his State is in session the place cannot be filled. What is the case of my friend, the honorable member from Vermont, [Mr. POLAND?] I looked at it with some concern when I heard of his appointment. I knew his reputation before

he came into the body, and I was exceedingly solicitous that it should turn out that there was no objection to the validity of his appointment. Judge Collamer died during the session of the Legislature of Vermont; but the fact was not known to the Legislature, and upon looking at the question with all proper solicitude, for the reason I have just stated, I found that it had been uniformly held that the authority of the Executive to fill a vacancy did not depend upon the mere fact of an existing vacancy, but depended upon the existence of two facts: first, vacancy existing, and second, the knowledge of the vacancy being possessed by the Legislature. Our friend from Vermont was received without objection on the part of anybody. Does any one doubt that he is entitled to his seat by virtue of that executive appointment? And yet, without giving a liberal interpretation to the word "happen," as it is found in that clause of the Constitution, he is not here by virtue of a valid appointment.

But there is a difference between the language of that clause and the language of the clause which is immediately before the Senate. The language of the clause before the Senate is:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session."

The language of the corresponding clause in relation to the filling of vacancies in this body is:

"If vacancies happen by resignation or otherwise during the recess of the Legislature of any State, the Executive thereof may make temporary appointments until the next meeting of the Legislature, which shall then fill such vacancy."

The appointment in that case terminates with the beginning of the session of the next Legislature; the appointments in the case under consideration do not terminate at the meeting of the next session of the Senate of the United States, but continue until the termination of that session. And there is a difference in another respect, a practical difference. Looking to the wholesome administration of the Government, the Government can go on without the Senate being full. Whether Vermont, for example, was represented as she is now represented, or was not represented until a Legislature met and should choose the same members or choose somebody else, was a matter, so far as the actual administration of the Government was concerned, of little or no moment; but how is the executive branch of the Government to be carried on upon any such doctrine? Your Secretary of the Treasury dies this morning; you do not hear of it; you adjourn before notice of the fact reaches you; are the finances of the Government to remain unadministered until we meet here next December? And so in relation to all the other appointments. The laws cannot be executed without your executive officers; the judgments of your courts cannot be enforced without your marshal; and if the Senate reject an appointment made by the President, or decline to act upon an appointment proposed by the President, and adjourn, are your courts to be practically closed? Certainly that will be the result if it be true that in such case there is no authority in the Executive to supply the vacancy unless the Senate shall be called together again, and the practical result might be that we might be called together from month to month. The mischief arising from that, the inconvenience resulting from that, the expenditure consequent upon that, is infinitely greater than to give the President the power to appoint a marshal or a Secretary of the Treasury, and to have the judgments of the courts, in the case of the first of these officers, executed; and so in relation to all other departments of the Government.

But my friend from Illinois and I, and perhaps for the same reason, have been very fond in past times of the niceties of special pleading, and he does not seem to have gotten rid of his love of them yet. He seems given over to technicalities, and pushes them to an extent in the construction of the Constitution even further than I have heard them applied to the construction of a plea in abatement. Now,

what does he tell us? The power of appointment is not conferred upon the President; the clause relied upon for the purpose of showing that he has any power of appointment was not intended to accomplish any such end; the word "appointment" is not in the particular clause; the word "appointment" is to be found in the clause which relates to what he may do with the advice and consent of the Senate; and because the word "appointment" is not in the one and is to be found in the other, the power of appointment in the one does not exist, although it exists in the other. What is the power, Mr. President? If vacancies exist they shall be filled by commissions issued by the President. That is the power conferred upon him. When the vacancy existing by the death or the resignation of the antecedent officer is filled, does not the incumbent hold his office by virtue of that commission? Does he not hold it, therefore, by the appointment of the Executive just as substantially as if the word "appointment" was to be found in the particular clause? Who can doubt that? He who did fill it filled it by virtue of the authority of the President to appoint, by and with the consent of the Senate. He who succeeds him in filling it fills it by virtue of the appointment of the President alone during the period for which he is authorized to fill it; so that in both cases the incumbent is in office by virtue of an appointing power.

I therefore submit, upon either of the two questions to which I have addressed myself, first, that a long-settled interpretation by every branch of the Government of the meaning of this clause is not to be unsettled now by the opinion of any committee of this body. No one has greater confidence than I have in the particular committee by whom the report relied upon was drafted or in the draftsman of that report; but I am sure he will not take it at all in an offensive sense, nor will any member of that committee consider me as meaning to disparage the authority to which each one of the committee is entitled, when I say that perhaps it may be that Pinkney and Wirt and Taney and Legaré and Berrien and Cushing may be right and this committee wrong; and more especially when what Pinkney and Wirt and Taney and Berrien and Legaré and Cushing have said upon the subject has received the sanction of every department of the Government until it first fell under the kind and critical censure of the members of this committee.

Mr. SUMNER. It seems to me, Mr. President, that if the question were now about forming the Constitution, and we were to consider where this power should be lodged, much of the argument of the Senator from Maryland would be very applicable; it would certainly be entitled to very great consideration, but he will allow me to say that he seems rather to have addressed himself to what in his opinion ought to be the Constitution than to what the Constitution is. Now, sir, I prefer to call the attention of the Senator precisely to what the Constitution is. I therefore, if the Senator will pardon me, put aside his very elaborate disquisition on the inconvenience that may ensue if we do not adopt his view. Even assuming that all that inconvenience might ensue, with regard to which the Senator will pardon me if I express great doubt, he will allow me to say that that cannot be an excuse to us for setting aside the text of the Constitution. There is the instrument. The Senator has quoted the words; he will pardon me if I quote them:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate."

Are not the words plain?

Mr. JOHNSON. That is a question.

Mr. SUMNER. The Senator says that is a question, but I put it, are not the words plain?

Mr. JOHNSON. If the Senator wants me to answer his question, I should say no.

Mr. SUMNER. Very well; the Senator has already answered the question in advance by an elaborate speech. His whole speech was a

long "no" on that question. He says that the words are not plain; but he will allow me to say, in reply, that to my apprehension they are plain. And I submit to the Senator that even in his opinion they would not be otherwise than plain if he were not led astray by that line of names to which he has so often alluded, beginning with that name which we all respect so much—William Wirt. Mr. Wirt, in his opinion, as the Senator reminds us, has undertaken to give an interpretation to the phrase "that may happen." Permit me to say that in my opinion that interpretation is latitudinous beyond apology. There is nothing, according to my mind, in any rule of construction or interpretation that will justify such a definition as he has chosen to attach to that phrase. And permit me to say that that definition begins with William Wirt. The other names cited by the Senator simply follow Mr. Wirt; they say ditto to Mr. Wirt. Therefore, if Mr. Wirt was wrong they were all wrong, for I do not think that any one of them, in the opinion that he gave, added to the original authority of Mr. Wirt. They added nothing in reason, in history, or in exposition of any kind. I say, then, I must carry you back to the very text of the Constitution, anterior to the opinion of Mr. Wirt; and if I could get my learned friend from Maryland to go back of Mr. Wirt, and just put him face to face with this text of the Constitution, without Mr. Wirt as the torch to light the way and then all these other torch-bearers after him, I believe there can be no doubt how that learned Senator must pronounce, because he has in him too much knowledge of the Constitution, too much knowledge of law, and too much common sense to attach such a definition to that phrase as he now willingly adopts on the authority of these names. I say from the authorities of these names, not from the text itself, and not from the reason of the case. Why, sir, what is the natural signification of the term? The language is:

"The President shall have power to fill up all vacancies that may happen during the recess of the Senate."

What is a vacancy? It is where the office is empty; and that emptiness of the office must come about, must occur, must fall in, if I may so say, during the recess of the Senate. If it does not occur during the recess of the Senate, if it does not fall in during the recess of the Senate, if it is all anterior to the recess of the Senate, then, allow me to remind the Senator, it does not come within the text of the Constitution. It is in vain for him to cite the authority of Mr. Wirt and to give a new-fangled definition to words which are so plain as to require no definition. We all know what the phrase "may happen" means. It is a commonplace phrase of every day use. Its signification is perfectly plain. It must mean that the vacancy in every respect completely must occur during the recess of the Senate.

But now, sir, if I can have the attention of my honorable friend from Maryland, allow me to cite authority against authority. I should prefer to treat this text on the basis of reason alone. Looking at it through reason, independent of authority, I say the conclusion is clear; but against the Senator's authorities I adduce an authority which I know that Senator will listen to with respect. I adduce the authority of one of the founders of this Constitution, one of the ablest of all those who assisted in building this frame of Government, and one of the ablest also of those who assisted in its early administration, the friend and companion of General Washington in his first administration. I mean Alexander Hamilton, who was called expressly to deal with this very question, and who in advance has given the authority of his name to that interpretation of the text which I have already shown reason requires. Now, listen to what Alexander Hamilton said, in a letter to James McHenry, Secretary of War, dated May 3, 1799:

"In my opinion, vacancy is a relative term, and presupposes that the office has been once filled. If so, the power to fill a vacancy is not the power to make an original appointment."

All that is clear. The Senator, of course, will not dissent from that. Then he comes to the precise point:

"The terms, which may have happened"—

quoting the words of the Constitution.

Mr. JOHNSON. Does he say "may have happened?"

Mr. SUMNER. He says "may have happened."

Mr. JOHNSON. That is not the precise language.

Mr. SUMNER. It is not, but is as he quotes it. The Senator will see that the meaning must be the same, though the quotation may not be strictly accurate. There is no difference which disturbs the sense.

"The terms, which may have happened, serve to confirm this construction. They imply casualty, and denote such as having been once filled have become vacant by accidental circumstances."

Then he goes on; and now I must have the attention of the Senator:

"It is clear that independently of the authority of a special law the President cannot fill a vacancy that happens during the session of the Senate."

That will be found in the fifth volume of Hamilton's Works, page 258. Now, sir, I adduce that as authority in reply to the authority adduced by my honorable friend from Maryland; for he himself, from his very argument, I think, showed us that, independent of authority, he must be with us in our interpretation of this language. I do not doubt that if I could carry my friend back of William Wirt, and put him face to face with this text, he would join with Hamilton, and, as I have already said, with the reason of the case in giving the same signification to this text which we do.

Mr. TRUMBULL. I move as an addition to the amendment now pending the following:

"That no person exercising or performing the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, till he is confirmed by the Senate, receive any salary or compensation for his services, unless he be commissioned by the President to fill up a vacancy which has begun to exist during the recess of the Senate and since its last adjournment."

Mr. SHERMAN. There is, it is manifest, a difference of opinion upon the question of the pending amendment between members of the Senate. This amendment would be just as proper and just as effective offered as an amendment to any of the appropriation bills. It is more pertinent to the legislative bill or the general civil appropriation bill than it is to this appropriation bill. It is a subject that has already excited some discussion and elicited some difference of opinion. Now, rather than choose between the amendment offered by the Senator from Illinois and that offered by the Senator from Missouri, I suggest to the Senate whether it would not be better to let this subject drop now and let a well-considered proposition be submitted as an amendment to one of the other appropriation bills. We must make some progress with the various appropriation bills. This amendment may just as well be considered at a later stage. For us now to choose between these different propositions would be to prolong the discussion; and I think we had better let both of the amendments drop and pass this appropriation bill and let the amendment be considered at some future stage of our session. I make this suggestion merely to expedite the business of the Senate, for I do think we ought to pass this bill to-day for we have a special order to-morrow and there are other important appropriation bills behind. I did hope that this afternoon we could be able to take up the Army appropriation bill and make some progress with it, but I have already despaired of that. I hope the suggestion I now make will be adopted.

Mr. COWAN. Mr. President, I agree entirely with the Senator from Ohio. I have considered the law as pretty well settled, and it had better remain as it is. If it is to be determined by this body, if it is to be a rule on the subject, we should take a little more time for its consideration than we can

on an amendment springing up in this way. I do not see that there is any necessity for determining the matter just at the present time.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I hope that we may get rid of this appropriation bill. This question may come just as well on some other appropriation bill.

Mr. WILSON. If the Senator withdraws the amendment we can do that.

Mr. HENDERSON. I do not.

The PRESIDENT *pro tempore*. Does the Senator from Massachusetts withdraw his motion for an executive session?

Mr. WILSON. The amendment proposed by the Senator from Illinois will require some further examination and discussion, and if it is to be pressed I certainly think we had better not attempt to pass the bill to-day. We had better let it go over and reflect upon it.

Mr. HENDERSON. I have no objection to that course. I have another amendment that I propose to offer to this bill, and perhaps it is an amendment that ought to be printed and that Senators would like to consider. I do not desire to put myself in the way of the passage of the appropriation bills. If it is absolutely necessary, if the public service requires that the bill should be passed immediately, I shall not stand in the way.

Mr. TRUMBULL. It is a bill for the next fiscal year, and will not go into effect until July next.

Mr. HENDERSON. That is what I supposed, and therefore it is not at all necessary that it should be hurried through immediately. I desire to offer another amendment, to insert the following as an additional section:

SEC. —. And be it further enacted, That in all cases in which the incumbents of civil offices shall be permitted to perform the duties of their respective offices after their successors shall have been appointed and confirmed by the Senate, and after such successors shall have offered to qualify as provided by law, such incumbents shall not be paid any salary or other compensation, nor shall they be permitted to receive any emoluments of office for services rendered after the expiration of thirty days after the adjournment of the session of the Senate at which the appointment of their successors may be confirmed.

The PRESIDENT *pro tempore*. The question now is on the amendment offered by the Senator from Illinois to the amendment of the Senator from Missouri.

Mr. HENDERSON. I ask that the amendment which I have just read may be printed.

The PRESIDENT *pro tempore*. It can only be received by unanimous consent. The Chair hears no objection. The amendment is received, and the order to print will be entered.

Mr. TRUMBULL. That order to print, I presume, will also include the amendment that I offered.

Mr. HENDERSON. Yes, sir.

Mr. CONNESS. I also propose offering an amendment, and I may as well offer it at this time. It is to come in at the end of the first section.

Mr. WADE. I also offer an amendment, to be added as an additional section, with a view to have it printed when the bill comes up again.

EXECUTIVE SESSION.

Mr. WILSON. I renew the motion for an executive session.

The motion was agreed to, and the Senate proceeded to the consideration of executive business; and, after some time spent therein, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

Monday, April 23, 1866.

The House met at twelve o'clock m. Prayer by Rev. GEORGE F. MAGOUN, President of Iowa College.

The Journal of Saturday last was read and approved.

The SPEAKER stated as the regular order of business the calling of the committees for

reports to go upon the Calendar, and not to be brought back into the House on a motion to reconsider, commencing with the Committee of Elections.

No reports were made.

EIGHT-HOUR SYSTEM.

The SPEAKER. The next business in order is the calling of the States and Territories for resolutions, the pending question being upon the resolution offered on Monday last by the gentleman from Illinois, [Mr. INGERSOLL.] On the demand for the previous question on Monday, no quorum voted. A motion to lay the resolution on the table was lost, and the question now recurs on seconding the demand for the previous question.

The resolution was read, as follows:

Whereas it is one of the paramount duties of all legislative bodies to lighten as much as possible the burdens resting upon the laboring classes and promote the general welfare: Therefore,

Be it resolved by the House of Representatives, That the Committee for the District of Columbia be instructed to inquire into the expediency of establishing by law the eight-hour system, as it is called, as constituting a day's work in the District of Columbia, and that said committee be authorized to report by bill or otherwise.

Mr. KUYKENDALL. I see my colleague is not in; can it be informally laid over?

The SPEAKER. It can be done by unanimous consent.

Mr. WENTWORTH. I object. There are other resolutions to be offered; I want to get several in.

Mr. KUYKENDALL. If the previous question is not seconded, will the resolution go over?

The SPEAKER. It would not under the rule.

Mr. HARDING, of Illinois. I propose to debate the resolution.

The SPEAKER. This is not the day of its introduction; therefore rising to debate it does not carry it over.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

EVENING SESSION ON TUESDAY.

Mr. BIDWELL offered the following resolution; which was read, considered, and agreed to:

Resolved, That the House will hold a session to-morrow (Tuesday) evening, the 24th, commencing at half past seven o'clock, for the purpose of hearing reports from the Committee on the Pacific Railroad.

Mr. PRICE. I move to reconsider the vote by which the House agreed to the resolution; and to lay that motion on the table.

The question having been put on laying the motion on the table, no quorum voted.

Mr. WASHBURNE, of Illinois. I ask the gentleman from California [Mr. BIDWELL] what particular object he has in holding a session to-morrow evening.

Mr. PRICE. I will answer that question. The Committee on the Pacific Railroad has not been called for two months, and from the course of business it will be two months longer before it will be called. Some members will have to be absent in a few days, and the committee are very desirous of making a report.

Mr. WASHBURNE, of Illinois. Do the committee want an evening session for the purpose of passing their bills?

Mr. PRICE. For the purpose of acting upon them.

Mr. WASHBURNE, of Illinois. I consider these Pacific railroad bills as most important, granting as they do some sixty million dollars, and I trust that this House will not consider them in an evening session. There is no necessity for evening sessions now. The House is far ahead of the Senate, and I trust we will consider this matter only when the committee is called in order for reports.

Mr. CONKLING. Does the resolution admit the construction that action is to be taken on the bill to-morrow night?

The SPEAKER. The Clerk will read the resolution.

The resolution was again read.

Mr. CONKLING. Now, I ask the Chair whether the proper construction of that resolu-

tion is that a bill may be put upon its passage when reported to-morrow evening.

The SPEAKER. It may, under the rule, as found in the Digest, which states that consent to report a bill carries with it the right to consider the bill.

Mr. CONKLING. I understand that; yet I should think that leave being asked to hear reports of a committee hardly conveyed to the House fairly the idea that we were to be called on to vote on the passage of the bills when reported.

Mr. STEVENS. I do not so understand it now. I understand the gentleman from Iowa [Mr. PRICE] to have meant nothing more than to bring these bills before the House and have them postponed until a proper time for consideration.

Mr. PRICE. My intention was that these bills should be acted upon to-morrow night, if the House agreed to the resolution. And, Mr. Speaker, I see no force in the objection of the gentleman from Illinois [Mr. WASHBURNE] or that of the gentleman from New York, [Mr. CONKLING.] If it is proper to act upon these bills at any time, they can be acted upon to-morrow just as well as three months hence.

The Committee on the Pacific Railroad has not been called for two months; and in the course of the regular call of committees that committee will not, in all probability, be called for two months to come. I have said to the House, and I say again, that there are some members of the committee who wish to be absent for a few days, and who do not feel at liberty to be absent until this committee has been called.

Now, the call of a committee for reports involves the necessity of acting upon the reports when made, although, as a matter of course, the bills reported may be postponed by the House until a day certain.

The SPEAKER. The Chair will read the rule, on page 58 of the Digest:

"The right to report at any time carries with it the right to consider the matter when reported. And where authority is given to a committee to make a report at a particular time, the right follows to consider the report when made."

Mr. PRICE. Certainly.

Mr. STEVENS. I suggest to the gentleman from Iowa, [Mr. PRICE,] that he consent, or if necessary put it into the resolution, that, although the bills may be discussed, yet no vote shall be taken upon them to-morrow night.

Mr. PRICE. I have no objection to that, if the vote can be taken—

Mr. WASHBURNE, of Illinois. I desire to inquire into what position a bill would be left if it should be discussed to-morrow night without a vote being taken.

The SPEAKER. It would come up the next morning as unfinished business.

Mr. WASHBURNE, of Illinois. By that means, then, the Committee on the Pacific Railroad would come in ahead of all other committees. I object to that, as it would be unfair to other committees. The Committee on Commerce, having very important business to report, has not had an opportunity to do so for some weeks.

Mr. PRICE. It is a little too late now for the gentleman from Illinois to object, and I will say to him that the very reason why I desire to have to-morrow night fixed for the hearing of reports from the Committee on the Pacific Railroad was that it would not interfere with any other business.

Mr. ELDRIDGE. I object to debate.

The SPEAKER. The motion to reconsider is not debatable, and the gentleman from Wisconsin [Mr. ELDRIDGE] objects to debate.

On the motion to lay on the table the motion to reconsider the vote by which the resolution was agreed to, there were—ayes 40, noes 33.

Mr. WASHBURNE, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 61, nays 40, not voting 82; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R.

Ashley, Baker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Bromwell, Broomall, Bundy, Dawes, Deffrees, Deming, Donnelly, Driggs, Ferry, Grinnell, Henderson, Higby, Holmes, Asahel W. Hubbard, Hulburt, Ketcham, Kaykendall, Laffin, George V. Lawrence, William Lawrence, Loan, Longyear, McKee, McKuer, Miller, Moorhead, Morris, Moulton, Myers, Orth, Patterson, Ferham, Plants, Price, John H. Rice, Rogers, Rollins, Schenck, Smith, Stevens, Thayer, Upson, Burt Van Horn, Warner, William B. Washburn, Wentworth, James F. Wilson, Windom, and Woodbridge—61.

YAYS—Messrs. Ancona, Boyer, Chanler, Reader W. Clarke, Conkling, Delano, Dixon, Eggleston, Eldridge, Eliot, Farquhar, Finck, Glossbrenner, Goodyear, Hale, Aaron Harding, Abner C. Harding, Hayes, Chester D. Hubbard, James R. Hubbell, James M. Humphrey, Jencks, Julian, Latham, Marshall, McCullough, Mercer, Paine, Ritter, Ross, Scofield, Shanklin, Sitgreaves, Spaulding, Taber, Taylor, Francis Thomas, Trowbridge, Ward, and Elihu B. Washburne—40.

NOT VOTING—Messrs. Alley, James M. Ashley, Baldwin, Banks, Barker, Bergen, Blaine, Brandegee, Buckland, Sidney Clarke, Cobb, Coffroth, Cook, Culom, Culver, Darling, Davis, Dawson, Denison, Dodge, Dumont, Eckley, Farnsworth, Garfield, Grider, Griswold, Harris, Hart, Hill, Hogan, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Kasson, Kelley, Kelso, Kerr, Le Blond, Lynch, Marston, Marvin, McClurg, McIndoe, Morrill, Newell, Niblack, Nicholson, Neell, O'Neill, Phelps, Pike, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Sawyer, Shellabarger, Sloan, Starr, Stilwell, Strouse, John L. Thomas, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Henry D. Washburn, Welker, Whaley, Williams, Stephen F. Wilson, Winfield, and Wright—82.

So the motion to reconsider was laid on the table.

CUSTOM-HOUSE FRAUDS, ETC.

Mr. HIGBY submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Public Expenditures be instructed to investigate the compromises of frauds upon the revenue which are alleged to have taken place in connection with the custom-house at Boston, and to ascertain what disposition has been made of the moneys paid under such compromises; also, to investigate such other alleged frauds upon the customs or internal revenue as they may deem advisable, and whether any vexatious suits have been commenced against importers and others brought or instigated by any person or persons connected with the customs or internal revenue service in the cities of Boston or New York; and that the committee be authorized to send for persons and papers; and if, in their judgment, it shall be necessary and most economical to take testimony in Boston or New York by such members of the committee as they may designate, not exceeding five in number, such designated members of the committee may have leave to sit during the recess of Congress for the purpose of such investigation, and with the aforesaid powers and authority.

Mr. WASHBURN, of Illinois. That resolution embraces very broad powers. If the subject is to be investigated at all, it ought to be investigated by a special committee appointed for that specific purpose.

Mr. HIGBY. I have demanded the previous question on the resolution.

Mr. CHANLER. This resolution touches large commercial interests. The gentleman from California is undoubtedly in earnest in this investigation.

The SPEAKER. If debate arises on the resolution, it goes over under the rule.

Mr. CHANLER. Well, I wish to debate the resolution.

The SPEAKER. The gentleman from California has demanded the previous question.

Mr. CHANLER. Can the gentleman yield the floor under that call?

The SPEAKER. He cannot. A single objection would take the resolution over.

Mr. HIGBY. If the House would permit me to send a paper to the Clerk's desk and allow it to be read for information, I think gentlemen would change their minds about this resolution.

Mr. SPALDING. I object to debate unless the gentleman withdraws the demand for the previous question.

Mr. DAWES. I hope the gentleman will not press the demand for the previous question upon a resolution like this and allow no one to be heard upon it.

Mr. CONKLING. I rise for information. I would inquire if it is not in order, as a matter of right, for the gentleman from California,

[Mr. HIGBY,] in offering this resolution, to have read any papers that accompany it.

The SPEAKER. It is not; that is in the nature of debate.

Mr. DAWES. It is due to the character and object of the resolution that it should not be passed under the previous question.

Mr. SPALDING. I object to debate.

Mr. DAWES. I hope the previous question will not be sustained.

The question was put on seconding the demand for the previous question; and there were—ayes 17, noes 43; no quorum voting.

Tellers were ordered; and Messrs. HIGBY and CHANLER were appointed.

The House divided; and the tellers reported—ayes 35, noes 62.

So the House refused to second the demand for the previous question.

Mr. DAWES. I rise to debate the resolution.

The SPEAKER. Then the resolution goes over under the rule.

COMBUSTIBLE MATERIALS.

Mr. McRUER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into the subject of the storage and transportation of combustible and explosive materials, and to report at any time, by bill or otherwise, what measures, if any, are necessary to secure better protection to life and property.

Mr. WASHBURN, of Illinois. I desire to say that after the morning hour I shall ask the attention of the House to that very subject from the Committee on Commerce.

AGRICULTURAL DEPARTMENT.

Mr. DONNELLY submitted the following resolution; which was read, considered, and agreed to:

Whereas one great object contemplated in the establishment of the Agricultural Department was the distribution of valuable seeds and plants among the people of the United States; Therefore,

Resolved, That the Committee on Agriculture be directed to inquire into the money value of the quota of seeds and plants received by the members of Congress from the Department; what proportion the same holds to the whole appropriation for that purpose; whether a much larger quota could not be obtained by advertisement and contracts with the gardeners and nurserymen of the country; and generally what steps are necessary to increase the efficiency of the Agricultural Department.

RECONSTRUCTION—TENNESSEE.

Mr. LATHAM submitted the following preamble and resolutions:

Whereas the committee on reconstruction has reported that the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union; and whereas, by the information received through the investigations of said committee and through other channels, it is the sense of this House that the people of said State are entitled to representation herein: Therefore,

Resolved by the House of Representatives, (the Senate concurring), That the committee on reconstruction be, and the same is hereby, relieved from the further consideration of all matters pertaining to the representation of the State of Tennessee in this House.

Resolved, That the credentials of the Representatives-elect from said State be, and the same are hereby, referred to the Committee of Elections, with leave to report at any time, and with instructions to report as soon as practicable upon the elections, returns, and qualifications of each of said Representatives-elect.

Mr. BROOMALL. I would ask if that does not go to the committee on reconstruction without debate.

Mr. LATHAM. The resolution is to relieve the committee from the further consideration of the subject so far as the State of Tennessee is concerned.

The SPEAKER. The Chair will examine the resolution.

Mr. BROOMALL. I hold that the concurrent resolution of the two Houses cannot be repealed in this way.

The SPEAKER. The Chair would rule that the first resolution offered by the gentleman from West Virginia, [Mr. LATHAM,] being a concurrent resolution, is in order. But the second resolution, being a simple resolution of the House, would not be in order at present. If

the first resolution should be concurred in by the Senate, being a concurrent resolution, then the committee on reconstruction would be required under it to report back the credentials of Representatives-elect from Tennessee; and then the House would take such action as they pleased in regard to them.

Mr. LATHAM. I will withdraw the second resolution.

Mr. BROOMALL. Can that be done now?

The SPEAKER. The gentleman has the right to withdraw his resolution or to modify it before any vote has been taken.

Mr. RANDALL, of Pennsylvania. I understand the Speaker to say that if the Senate should concur in the resolution then this committee on reconstruction would be discharged from the further consideration of the credentials in question. I rise to a point of order, that the Senate has nothing to do with credentials of members-elect to this House.

The SPEAKER. The Chair overrules the point of order. The resolution reads, "the Senate concurring," and the gentleman who offered it has thus submitted it as a concurrent resolution.

Mr. BROOMALL. Is that resolution in order under this call?

The SPEAKER. It is. A resolution of the House can be rescinded by a subsequent resolution of the House, introduced by any member under the regular call of the States. But this is a concurrent resolution, and though offered in order, requires by its language the action of the Senate.

Mr. CONKLING. I rise to a question of order.

The whole subject of the resolution having been referred to a committee, I allude to the joint committee and to the joint action of the two Houses, and that committee not having asked to be discharged, and the time to reconsider the reference having passed, it is not now in order, by a new resolution, passed by a mere majority, and not under a suspension of the rules, to bring the matter back into the House for consideration. If the point of order is not supported by the ground I have stated, I submit another ground.

The committee having possession of this subject has made a report to the House. That report is still pending. A motion to recommend the report was adopted, but a motion to reconsider the recommendation was entered and still stands. This arrested the subject on its way back to the joint committee, and left it before the House. Thus it is out of order to discharge the committee of the subject, because the House and not the committee has possession of it now. It cannot be brought up in the manner proposed.

Mr. ROSS. Is it in order for the gentleman from New York [Mr. CONKLING] to make a speech now?

The SPEAKER. The Chair is of opinion that the gentleman from New York has not gone beyond fully stating the point of order.

Mr. ROSS. He seemed to me to be making quite a speech.

The SPEAKER. The Chair overrules the first part of the point of order, and sustains the second part, which is that the committee on reconstruction have reported on the credentials from Tennessee; that the report was recommended to that committee, and that, while a motion to reconsider is pending, the report is before the House and not before the committee. The question in regard to Tennessee is not before the committee on reconstruction, but before the House.

Mr. FINCK. I rise to a point of order. Has not the report of the committee in regard to Tennessee been recommitted?

The SPEAKER. It has; but the motion to reconsider is pending, which arrests the action of the House.

Mr. FINCK. Is it not always in the power of the House to discharge a committee?

The SPEAKER. It is, if the matter is before the committee; but, as stated by the

gentleman from New York, the matter is not before the committee, but before the House, pending a motion to reconsider.

Mr. LATHAM. What will be the first vote taken on the motion to reconsider?

The SPEAKER. The first vote will be on the reconsideration of the vote by which the subject was recommitted. The Clerk will read from page 164 of Barclay's Digest.

The Clerk read, as follows:

"49. When a motion has been once made, and carried in the affirmative or negative, it shall be in order for any member of the majority to move for the reconsideration thereof—on the same or succeeding day—and such motion shall take precedence of all other questions, except a motion to adjourn, and shall not be withdrawn after the said succeeding day without the consent of the House; and thereafter any member may call it up for consideration."

Mr. LATHAM. My inquiry is, what will be the first vote taken by the House on the motion to reconsider?

The SPEAKER. To reconsider the vote by which the report in the Tennessee case was recommitted to the committee on reconstruction. That can be called up at any time when the House is not engaged in the transaction of other business.

Mr. LATHAM. If the House reconsider that vote, what would be the next vote?

The SPEAKER. The subject would be before the House—not recommitted to the committee.

Mr. ELDRIDGE. Does the Chair decide that the committee have not the subject in charge?

The SPEAKER. The subject is not before the committee pending the motion to reconsider, which can be called up at any time when the House is not engaged in other business.

Mr. ROSS. Is there no chance by which the House can get rid of this committee?

The SPEAKER. That is not germane to the question before the House.

Mr. WENTWORTH. I call for the regular order of business.

Mr. DELANO. I take an appeal from the decision of the Chair in reference to the Tennessee credentials.

The SPEAKER. The appeal is entertained but is not debatable, as it has been made at a time when debate is not in order, and upon a question growing out of an undebatable subject.

Mr. CONKLING. I move that the appeal be laid upon the table.

Mr. RANDALL, of Pennsylvania. I demand the yeas and nays.

Mr. DELANO. As the appeal is not debatable I withdraw it.

INDIAN DEPREDACTIONS.

Mr. HITCHCOCK, by unanimous consent, introduced a bill to provide for the relief of persons for damages sustained by reason of depredations and injuries by certain bands of Arrapahoes, Cheyenne, and Sioux Indians; which was read a first and second time, ordered to be printed, and referred to the Committee on Indian Affairs.

FIRST REGIMENT COLORADO MILITIA.

Mr. BRADFORD, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas it is represented that a certain regiment of militia, known as the first regiment of Colorado mounted militia, was in the winter of 1865 mustered into the service of the United States by order of Colonel Thomas Moonlight, then commanding the district of Colorado, and that they remained in the service for several months, the horses and a portion of the equipments being supplied from private means, and that said regiment was discharged without compensation; Therefore,

Be it resolved, That the Committee on Military Affairs be instructed to inquire into the facts, and if they find them to be substantially true as stated, to report a bill providing such compensation as may be just and proper.

SUPPORT OF INDIAN TRIBES.

Mr. BURLINGHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be

requested to furnish this House with a full statement of all money on hand, on the 10th day of July, 1865, applicable to the support of the various Indian tribes, and for all other purposes connected with the Indian service. Also, the entire amount which has been expended since that time and up to the 20th day of April, 1866, and the objects for which such expenditures have been made, together with the amount now on hand applicable to said service under the following heads. Also the amount which has been expended, over and above the appropriations already made, namely:

Pay of superintendents and agents, pay of sub-agents, pay of temporary clerks by superintendents, pay of interpreters, pay for presents to Indians, pay for provisions for Indians, pay for agency buildings and repairs, for contingent expenses of the Indian department, for making treaties with Indian tribes, for transportation of Indian annuity goods, support of refugee Indians in the southern and middle superintendencies, amount expended for support of refugee and other Indians over and above the amount heretofore appropriated.

TRIAL OF JEFFERSON DAVIS.

The SPEAKER. The next business in order is the following resolution offered by the gentleman from Indiana, [Mr. JULIAN,] which was laid over one day under the rule:

Resolved, (as the deliberate judgment of this House,) That the speedy trial of Jefferson Davis, either by a civil or military tribunal, for the crime of treason or the other crimes of which he stands charged, and his prompt execution, if found guilty, are imperatively demanded by the people of the United States in order that treason may be adequately branded by the nation, traitors made infamous, and the repetition of their crimes, as far as possible, be prevented.

Mr. WILSON, of Iowa. I suggest to the gentleman to refer that to the Committee on the Judiciary.

Mr. JULIAN. Mr. Speaker, is this resolution now debatable?

The SPEAKER. It is; it was laid over under the rule for debate.

Mr. WASHBURN, of Illinois. Has the morning hour expired?

The SPEAKER. The morning hour will expire in one minute.

Mr. JULIAN. I demand the previous question on the adoption of the resolution.

Mr. SMITH. I desire to debate it.

The SPEAKER. If the previous question is not seconded it will then be open for debate.

Mr. WASHBURN, of Illinois. I ask that the resolution be again reported.

The SPEAKER. It will again be reported if there is no objection.

Mr. JULIAN. I object.

Mr. WASHBURN, of Illinois. Has not the morning hour expired?

The SPEAKER. Not yet.

The previous question was seconded—ayes 50, noes 42.

Mr. ANCONA. I demand tellers on seconding the demand for the previous question.

The SPEAKER. It is too late.

Mr. ANCONA. Then I demand tellers on ordering the main question.

Mr. HARRIS. Is the resolution debatable?

The SPEAKER. It is not.

Mr. CHANLER. Is it in order to move to lay the resolution on the table?

The SPEAKER. It is.

Mr. CHANLER. I make that motion, and demand the yeas and nays upon it.

Mr. WILSON, of Iowa. I again ask the gentleman from Indiana [Mr. JULIAN] to permit this to go to the Committee on the Judiciary, who are now investigating that charge and taking testimony.

Mr. HARDING, of Illinois. I do not see that this resolution involves any doubtful question upon which we need the advice of the Judiciary Committee.

Mr. ELDRIDGE. Is it in order to move an amendment?

The SPEAKER. It is not.

Mr. ELDRIDGE. I ask the gentleman from Indiana [Mr. JULIAN] to allow the word "military" to be stricken out, so as to leave it that he shall be tried by a civil tribunal. Then there will be no objection to it.

Mr. GARFIELD. I hope it will not be stricken out, but that we shall have full power to try him.

Mr. HARRIS. I rise to a point of order, that the resolution presents a question which

this House has no authority whatever to pass upon.

The SPEAKER. The Chair overrules the question of order. It is not a question of order; it is a matter for the discretion of the House.

Mr. JULIAN. I conceive no possible reason for declining a direct vote on the proposition, and I therefore ask for a vote of the House on the resolution as it stands.

Mr. RANDALL, of Pennsylvania. Is it in order to move as an amendment to refer the resolution to the Judiciary Committee?

The SPEAKER. It is not, the previous question having been seconded.

Mr. ELDRIDGE. Does the gentleman from Indiana [Mr. JULIAN] decline to modify his resolution?

The SPEAKER. He does; and it would require unanimous consent to modify it.

Mr. BINGHAM. Is it in order to move to reconsider the vote by which the previous question was ordered.

The SPEAKER. The motion to lay on the table prevents it.

Mr. BINGHAM. I hope the gentleman from New York [Mr. CHANLER] will withdraw that motion, in order that I may move to reconsider.

Mr. CHANLER. What is the motive of the gentleman in making that motion?

Mr. BINGHAM. If the gentleman will withdraw his motion to lay the resolution on the table, I will move to reconsider the vote by which the previous question was seconded, so that I may move to refer the resolution to the Committee on the Judiciary.

Mr. CHANLER. Then I withdraw.

The question being put on the motion to reconsider the vote by which the previous question was seconded, there were—ayes 80, noes 33.

Mr. HARDING, of Illinois. I demand the yeas and nays.

The SPEAKER. The gentleman cannot demand the yeas and nays on this motion. He may demand tellers.

Mr. COBB. I call for tellers.

Tellers were not ordered.

The SPEAKER accordingly declared the resolution reconsidered.

The question recurred upon seconding the demand for the previous question; and being put there were—ayes 21, noes 71.

So the previous question was not seconded.

The SPEAKER. The morning hour has expired.

Mr. SCHENCK. I call for the regular order of business.

THE TEST OATH.

Mr. WILSON, of Iowa. I ask the unanimous consent of the House to make an adverse report on the message of the President, with accompanying communications, recommending a modification of the test oath, that it may be laid upon the table, and ordered to be printed.

The SPEAKER. That can only be done by unanimous consent or under a suspension of the rules.

Mr. WILSON, of Iowa. Then I move to suspend the rules so as to enable me to make the report. [Cries of "There is no objection."]

Mr. RANDALL, of Pennsylvania. I call for the regular order of business.

Mr. WILSON, of Iowa. I merely ask that the Committee on the Judiciary be discharged from the further consideration of the subject and that the report be laid upon the table and printed.

Mr. ROGERS. I desire to present a minority report in favor of the recommendation of the President.

Mr. RANDALL, of Pennsylvania. I object to the reception of the report.

Mr. WILSON, of Iowa. I move a suspension of the rules.

The question was taken; and two thirds voting in favor thereof, the rules were suspended.

On motion of Mr. WILSON, of Iowa, the Committee on the Judiciary was discharged

from the further consideration of the message of the President of the United States transmitting communications from the Secretary of the Treasury and the Postmaster General, requesting a modification of the oath of office prescribed by the act of Congress approved July 2, 1862, and the same was laid upon the table, and the report of the committee ordered to be printed.

Mr. ROGERS submitted a minority report upon the same subject; which was laid upon the table, and ordered to be printed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the report of the Committee on the Judiciary was disposed of; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PREVENTION OF CHOLERA.

Mr. WASHBURN, of Illinois. I move to suspend the rules to enable me to report from the Committee on Commerce, for action at this time, a joint resolution to prevent the introduction of cholera into the ports of the United States.

The question was taken; and two thirds voting in favor thereof, the rules were suspended.

Mr. WASHBURN, of Illinois, then, from the Committee on Commerce, reported the joint resolution; which was read a first and second time.

The joint resolution authorizes the President of the United States to make and carry into effect such orders and regulations of quarantine as in his opinion may be deemed necessary and proper, in aid of State or municipal authorities, to guard against the introduction of cholera into the ports of the United States.

It further authorizes the President to empower military and naval commanders in ports and places in States that have been or are in insurrection to enforce such quarantine regulations as may be deemed necessary for the purpose of guarding against the introduction of cholera or yellow fever, and providing for a proper course of treatment of patients.

The resolution also appropriates such amount of money as may be necessary to carry the joint resolution into effect.

Mr. SCOFIELD. I rise to a point of order. I submit that, as the joint resolution makes an appropriation, it must have its first consideration in Committee of the Whole on the state of the Union.

The SPEAKER. The gentleman from Pennsylvania will observe that the suspension of the rules suspended that rule as well as all others. The motion was to suspend the rules that the joint resolution might be considered in the House at this time.

Mr. SCOFIELD. Then I wish to suggest to the gentleman from Illinois that there ought to be some limit to the amount of the appropriation.

Mr. WASHBURN, of Illinois. The committee considered that point, and they did not fix any limit to the amount of the appropriation because it was impossible to tell how much or how little would be needed. It is a matter which must necessarily be left to the discretion of the Departments. I would be in favor of fixing a very small sum if the object could be accomplished. But the yellow fever is now prevailing in some of the ports and in other places in the South, and the Secretary of War has issued an order rather outside of his authority, and unless some provision of this kind shall be made he says he will have to revoke that order. I hope, therefore, the House will pass the joint resolution, and I demand the previous question upon it.

The previous question was seconded and the main question was ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution

was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NITRO-GLYCERINE.

Mr. WASHBURN, of Illinois, gave notice that the Committee on Commerce, to which was referred the subject of the necessary legislation to protect life and property from the dangerous explosive properties of nitro-glycerine, with leave to report upon the subject at any time, would probably be prepared to report on Thursday next, at which time they would ask the action of the House upon the subject.

MESSAGE FROM THE PRESIDENT.

A message in writing was here received from the President of the United States, by Hon. EDMUND COOPER, acting Private Secretary; also a message that he had approved and signed bills and joint resolutions of the following titles, namely:

An act (H. R. No. 18) to authorize the sale of marine hospitals and of revenue-cutters;

An act (H. R. No. 25) for the relief of Thomas Hurly;

Joint resolution (H. R. No. 88) expressive of the thanks of Congress to Major General Winfield S. Hancock;

Joint resolution (H. R. No. 102) for the relief of Alexander Thompson late United States consul at Maranham; and

Joint resolution (H. R. No. 108) appointing managers for the National Asylum for Disabled Volunteer Soldiers.

REORGANIZATION OF THE ARMY.

The House resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States."

The following section was under consideration:

SEC. 16. *And be it further enacted*, That the quartermaster's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; six quartermasters, with the rank, pay, and emoluments of colonels of cavalry; ten quartermasters, with the rank, pay, and emoluments of lieutenant colonels of cavalry; fifteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; forty-four quartermasters, with the rank, pay, and emoluments of captains of cavalry; and at least two thirds of all original vacancies in each of the grades of lieutenant colonel or major, and all original vacancies in the grade of captain shall be filled by selection from among those persons who have rendered meritorious service as assistant quartermasters of volunteers in the Army of the United States in the late war. But after the first appointments made under the provisions of this section, as vacancies may occur in the grades of major and captain in this department, no appointments to fill the same shall be made until the number of majors shall be reduced to twelve and the number of captains to thirty, and thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers.

The following amendment had been moved by Mr. DAVIS:

Strike out all after the enacting clause of the section and insert the following:

That the quartermaster's department of the Army shall hereafter consist of one quartermaster general, with the rank, pay, and emoluments of a brigadier general; four assistant quartermasters general, with the rank, pay, and emoluments of colonels of cavalry; eight deputy quartermasters general, with the rank, pay, and emoluments of lieutenant colonels of cavalry; sixteen quartermasters, with the rank, pay, and emoluments of majors of cavalry; and forty-eight assistant quartermasters, with the rank, pay, and emoluments of captains of cavalry, and the vacancies hereby created in the grade of assistant quartermaster shall be filled by selection from among the persons who have rendered meritorious service as assistant quartermasters of volunteers during two years of the war.

The pending question was upon the following amendment proposed by Mr. SCHENCK to the original section:

Add to section sixteen the following:

But nothing in this section shall be construed so as to affect the commission of any officer now commissioned, either as acting quartermaster general or as deputy quartermaster general or as assistant quartermaster general, but only to change the title to quartermaster in the case of those who rank as colonels, lieutenant colonels, majors, and captains, without affecting in any way their relative positions or the time from which they take such rank.

The question was taken, and the amendment of Mr. SCHENCK was agreed to.

The question recurred upon the amendment of Mr. DAVIS.

Mr. SCHENCK. I move to amend the amendment by adding the following:

But as vacancies may occur in the grades of major and captain in this department no appointments to fill the same shall be made until the number of majors shall be reduced to twelve and the number of captains to thirty, and thereafter the number of officers in each of said grades shall continue to conform to said reduced numbers.

The amendment proposed by the gentleman from Pennsylvania [Mr. THAYER] and accepted by the gentleman from New York [Mr. DAVIS] in lieu of one he had offered does not conform, as I will hereafter show, to what was recommended by the military officers to which this matter was submitted. There has been a great deal of misapprehension upon that matter, which has been persistently pressed upon this House, all of which I mean to clear up by the record.

But I confine myself now to proposing to amend the substitute by adding to it that which I have read, and which is contained in the original section, eventually reducing the number of those officers with a view to guarding against the continued increase of the force in the quartermaster's department, and bringing it down, even in case the substitute should be adopted, to the point to which the committee think it should be brought, by legislation looking to the future sufficiency of the quartermaster's department.

Now, I have already said to this House that there has been a continued effort made to increase the number of officers and to increase their rank in the different bureaus or staff departments stationed here at Washington. And I have said to the House that I was prepared to expect that, whenever any committee felt it their duty to report against this gradual progress in the increase of numbers, rank, and pay in these staff departments, there would be a general outcry from those departments, which would be felt in its influence upon this House; and, as I once before said, that influence has gone far beyond my expectations. This House has already passed upon the Adjutant General's department, and has added two colonels and one lieutenant colonel beyond what was ever recommended by anybody outside of this House, and beyond what was asked for by the Adjutant General's department itself. That the House has already done.

Mr. CONKLING. If the gentleman will allow me, I desire to say that I have no doubt the fact is precisely as he states it; and I wish to say for one that, such being the effect of the section, I voted under an entire misapprehension; I understood the gentleman from Pennsylvania [Mr. THAYER] to receive from a member of the committee the assurance that the effect of the amendment would be to leave the matter precisely as it stood; and when afterward the chairman of the committee showed us the effect of that amendment, I am satisfied that it took entirely by surprise a large number of those who had voted for it.

Mr. SCHENCK. I am assured by two or three gentlemen around me that they voted under a misapprehension; and I desire to prevent any such misapprehension in the future.

Mr. THAYER. Will the gentleman allow me to correct an erroneous statement?

Mr. SCHENCK. I will give the gentleman an opportunity to make the correction when I get through.

Now, sir, I think myself that the House, in voting upon the proposition made by the gentleman from Pennsylvania, did not understand that he had accepted a modification proposed by the gentleman from Maine, [Mr. BLAINE], which introduced an entirely new feature. I am sorry that the gentleman from Maine, my colleague on the committee, is not present at this time, because I wish that the history of this matter shall be fully understood. It was proposed by the gentleman to go further than the Department itself had asked, because if we did not do so, certain friends of his would

not get promotion. He urged that we must provide for two additional colonels and one lieutenant colonel; otherwise there would not be the promotion which he desired; and he accompanied this suggestion with the very persuasive remark to me that his proposition would also promote a friend of mine from my own State, in the Adjutant General's Office, Mr. Vincent, an officer well deserving promotion. But I preferred to adhere to what I thought right for the bill and for the country, not yielding to my personal predilections. The House, however, was more liberal, and concluded to make a couple of colonels and a lieutenant colonel that had never been asked for by anybody prior to the proposition of the gentleman from Maine. And so the matter now stands. I desire that no more such mistakes shall be made; and none shall be, if I can prevent it.

Now, sir, the committee, in examining with reference to the quartermaster's department and other bureaus, have become satisfied that there is a tendency to concentrate too great a force of officers in all the different staff departments, and that this abuse ought to be stopped. They have therefore proposed that as vacancies occur the number of quartermasters in two of the lower grades shall be reduced by not filling the vacancies until the number of those officers comes down to a point which the committee are satisfied will furnish a sufficient number of officers of this department to take charge of all the different posts, to supply all the troops, and to take care of matters here at the center.

Mr. Speaker, there is something to be learned upon this subject by comparing different departments of the Government; and I mean to do it here this morning with a view to showing the extent to which this evil has grown in the War Department. I have long been aware that in the Navy Department, where there is not the temptation for officers to seek to be brought here because of commutation of quarters, commutation of fuel, and other little advantages which pertain to the position of an Army officer here, everything has been conducted upon a very much more economical scale, by calling a very much smaller number of officers into the different bureaus here. But I was not prepared to find so great an inequality as is shown by an investigation which I made on Saturday last.

Leaving out the steam engineering department, where fifteen men are necessarily employed professionally in drafting plans relating to the construction of steam engines, and coming to the bureaus proper in that Department, I find that the Bureau of Medicine is managed by four officers only; the Bureau of Provisions by four; the Ordnance Bureau by one, its chief; the Bureau of Navigation and Detail by six; the Bureau of Equipment, the Bureau of Yards and Docks, and the Bureau of Construction by one each, their respective chiefs. Thus eighteen officers only take charge of seven bureaus in the Navy Department.

Now, there is not a single bureau in the War Department that has not twice as many officers to look after it.

Why do they come here? I admit the chief of each bureau ought to be a professional military man; I admit the heads of divisions might properly be; but I contend it is not necessary to have a lieutenant colonel, so far as absolute rank is concerned, a brevet major general, employed to keep the records in any one of these offices simply as a clerk, and yet I say that is done. I say all through these departments—in the Adjutant General's department to a certain extent, still more in the quartermaster's department, and still more, perhaps, in the other departments—men are employed, receiving commutation of quarters, commutation of fuel, professional men, men who have been educated for the most part at four years' expense at West Point in engineering, gunnery, and military tactics, acting as clerks.

I want to know whether the committee will

be sustained in bringing down these contract bureaus to such a point as will be sufficient to supply each staff department all the officers needed so as to send some of them out into the field with troops and to posts, diminishing the number there and supplying, if need be, intelligent clerks at less expense and without military education for that purpose. The committee came to this conclusion, and they made it a feature of their bill. I move the same feature to the substitute offered by the gentleman from Pennsylvania, [Mr. THAYER,] in order, if his substitute prevail, as I hope it will not, it shall not prevail without having this appended to it providing for a diminution of unnecessary number of officers employed in the staff departments.

The gentleman from Pennsylvania desires to make some reply in explanation of what was said by the gentleman from New York, and I yield for that purpose.

Mr. THAYER. I prefer to wait until the gentleman has finished what he has to say.

Mr. SCHENCK. I yield the floor, then, altogether.

Mr. THAYER. Mr. Speaker, I will, in the first place, clear up the matter referred to by the gentleman from New York, [Mr. CONKLING.] The House will remember that when I proposed as a substitute for the section of the bill now under consideration the corresponding section of the Senate bill No. 138, relating to the Adjutant General's department, a suggestion was made by a member of the Military Committee, the gentleman from Maine, [Mr. BLAINE,] to modify the substitute which I had offered. The effect of that modification was to increase the rank of three of the officers in the Adjutant General's department. It did not occur to me on the instant, (although if there had been opportunity for reflection it would probably have occurred to me) that the effect of the modification proposed was to increase not only the rank but the pay of those officers also. The modification having been offered by a member of the Military Committee I was induced to accept it. I was led to suppose by its proceeding from that source that it was a modification favored by that committee, and it did not strike me as particularly objectionable. Subsequently, when my colleague [Mr. STEVENS] pointed out the fact to the House that it would increase the expenses of the Government, and when it was too late for me to get rid of the modification, I distinctly informed the House of the then existing position of the question.

I told the House at that time that if I had been aware that the effect of the modification proposed by the gentleman from Maine [Mr. BLAINE] was to add to the expenses of the Government I would not have accepted it; and I gave the House notice that if they chose to vote down the modified substitute then pending I would immediately offer my original substitute without the modification. The substitute went to the House in that shape with full notice of the existing state of the question, and the substitute as modified by the gentleman from Maine [Mr. BLAINE] was adopted by the House.

I have alluded to this because I do not wish it to be understood that if there was any misapprehension on the part of the House in the vote which was cast upon that occasion, the blame of it can in any measure be laid at my door.

I desire now to say a few words upon the question now before the House. I am well aware, sir, that the proposition contained in Senate bill No. 138, with regard to the organization of the quartermaster's department, is not the precise proposition which was indorsed and approved by the distinguished generals who were consulted upon these questions. I refer to Lieutenant General Grant and to Generals Sherman, Thomas, and Meade. What they did approve was the organization of the Army as proposed in Senate bill No. 67, known as Mr. Wilson's bill, for which Senate bill No. 138

was offered as a substitute, and was finally adopted by that body.

What I wish to call the attention of the House to is the fact that the organization of the quartermaster's department, which was approved by the distinguished generals referred to, was the organization contemplated in Senate bill No. 67.

Now, I have prepared a comparative statement showing the organization of this department of the Army at the present time, what it would be under Senate bill No. 67, approved by the generals of the Army who had this matter under consideration, what it would be under Senate bill No. 138 which passed the Senate, and what it is proposed to be under the House bill now under consideration. It is as follows:

Present organization.		Senate bill No. 67.		* Senate bill No. 138.		House bill No. 381.	
Quartermaster General.....	1	Quartermaster General.....	1	Quartermaster General.....	4	Quartermaster General.....	1
Assistant Quartermaster Generals.....	3	Assistant Quartermaster Generals.....	6	Assistant Quartermaster Generals.....	4	Quartermasters (colonels).....	6
Deputy Quartermaster Generals.....	4	Deputy Quartermaster Generals.....	12	Deputy Quartermaster Generals.....	8	Quartermasters (lieutenant colonels).....	10
Quartermasters.....	11	Quartermasters.....	20	Quartermasters.....	16	Quartermasters (majors).....	15
Assistant Quartermasters.....	46	Assistant Quartermasters.....	48	Assistant Quartermasters.....	48	Quartermasters (captains).....	44
Total.....	65	Total.....	87	Total.....	90	Total.....	76

At the present time the number of quartermasters is sixty-five, including the Quartermaster General and all the members of his staff. Under Senate bill No. 67, the total number of the staff would be eighty-seven. That was the bill approved by Generals Grant, Meade, Sherman, and Thomas. Under Senate bill No. 138,

Comparison of the present and of the proposed organization of the quartermaster's department of the Army, according to the bills which have been presented by the Military Committees of the Senate and House of Representatives.

which passed that body, the number is eighty, or seven officers less than the bill recommended by those generals.

Mr. SCHENCK. Will the gentleman allow me to ask upon what authority he states that those generals recommended eighty-seven?

Mr. THAYER. I state it on the authority of a letter which I hold in my hand written by the chairman of the Military Committee of the Senate.

Mr. SCHENCK. I state on the authority of the bill which I hold in my hand that it is not so.

Mr. THAYER. Then the issue is between the two chairmen, and I shall not undertake to settle the difference between them.

Mr. SCHENCK. No, sir, the issue is between the chairman of the Committee on Military Affairs of the Senate, I insist, and his own bill which I hold in my hand.

Mr. THAYER. There is no issue between the Senate bill No. 67, and the statement which I have made. The statement in the letter accords with Senate bill No. 67, which was Mr. Wilson's bill, and the gentleman is incorrect in undertaking to deny that it is so. If there is an issue between the gentleman from Ohio and the chairman of the Military Committee of the Senate, I have nothing to do with that. I shall not undertake to settle the differences between the two committees of the respective Houses any more than I shall undertake to settle the differences which notoriously exist in the gentleman's own committee. That is a matter which I leave to him to adjust. I am now engaged in pointing out to the House the fact that in the Senate bill approved by the major generals who had these subjects under consideration, the number of officers proposed for the quartermaster's staff was eighty-seven, that in the bill now before the House the number is seventy-six, and that in the substitute for the section which I offered it is seventy-seven. So that the House will perceive that the number of officers embraced in the Quartermaster General's staff by the bill which passed the Senate, No. 188, and which is the same as my substitute, excepting that in the latter the three chief assistant quartermasters are omitted is seven fewer than was contained in the Senate bill 67, which was approved by the generals who had this matter under advisement.

Now, sir, from the remarks that were made by the chairman of the Committee on Military Affairs when this bill was last under consideration, one might be led to suppose that the substitute which I have offered for this section, which is the Senate section with the alterations that I have adverted to, provides for a larger and more expensive staff than that which is recommended by the Military Committee of this House. I wish, by a very few figures, to point out the total incorrectness of any such representation.

Now, it will be perceived by any gentleman who will take the trouble to analyze these two bills—I mean Senate bill No. 188, which passed that body, and the bill now before the House—that although by the Senate bill, with the three chief assistant quartermasters left out, as in my substitute, there is one more quartermaster in the department than is provided for in the House bill, yet the expense of the number provided for is actually less, and I can demonstrate it to the satisfaction of the House in a very few moments.

The gentleman's bill provides a staff for this department of six colonels, each of whom receive \$211 a month; ten lieutenant colonels who receive \$187 apiece per month; fifteen majors who receive \$163 per month apiece; and forty-four captains who are paid \$129 50 apiece per month. The aggregate monthly expenditure, therefore, of the gentleman's bill for quartermasters (I leave out, of course, the Quartermaster General in these calculations, because he is in both bills,) will be \$11,279 per month.

Now, if you take the substitute, you will find that, instead of providing for six colonels, it gives only four colonels; that it gives, in-

stead of ten lieutenant colonels, only eight lieutenant colonels; that it gives you instead of fifteen majors, sixteen majors—one more than is provided for in the House bill; and that it gives you forty-eight captains instead of forty-four captains.

The pay of the four colonels provided for by the Senate bill at \$211 per month amounts to \$844; the pay of eight lieutenant colonels at \$187 a month to \$1,496; the pay of sixteen majors at \$163 a month to \$2,608; and the pay of forty-eight captains at \$129 50 per month to \$6,216. The aggregate monthly expense, therefore, of the officers called for by the substitute I have offered amounts to \$11,164, being exactly \$115 less per month than the expense under the House bill, although the substitute provides for one officer more. The annual difference between the two propositions is, therefore, \$1,380 in favor of the substitute which has in it one more quartermaster than is provided for in the House bill.

Now, if there is any mistake about this, I invite the attention of the chairman of the Committee on Military Affairs to this calculation, and ask him to point out, if it is possible for him to do so, wherein this calculation is erroneous. I state without any apprehension of denial that the result is as I state it.

The gentleman made a great display on Friday last in a comparison which he instituted between my proposition and his own bill, and he gave the impression to this House that the former created a more numerous and expensive organization than his own bill; instead of which, in point of fact, it now appears by figures that the former, although it provides for one more quartermaster than the gentleman's bill, is cheaper than his bill by \$1,380 per annum. So much for that. I think I have disposed of the argument which rests upon the assertion that the substitute proposes any expense on the part of the Government exceeding that contemplated by the bill of the gentleman from Ohio.

Mr. PAINE. Will the gentleman from Pennsylvania allow me to inquire whether in his estimate of the comparative cost of the quartermaster's department, as provided in the Senate bill and in the bill now reported by the committee, he has allowed for the three brigadier generals in that department?

Mr. THAYER. No, sir.

Mr. PAINE. Well, he has spoken of the bill which he has been comparing with the House bill as the Senate bill. I ask him if that bill does not provide for three brigadier generals.

Mr. THAYER. I will answer the gentleman. The bill as it passed the Senate did so provide, as I have repeatedly said, but I hope the gentleman will now understand that in the substitute which I have offered, I struck out the three chief assistant quartermasters, who are brigadiers.

Mr. PAINE. Will the gentleman permit me to ask whether he is not comparing the section of the bill now before the House with his own section rather than with the section of the bill which passed the Senate?

Mr. THAYER. When I speak of the Senate provision upon this subject, I speak of the substitute which I offered, and which is the precise language of the Senate bill, with the provision relating to the three chief assistant quartermasters stricken out.

Mr. SCHENCK. As the gentleman from Pennsylvania [Mr. THAYER] is giving us his calculations, will he tell us at what he puts the pay of a colonel?

Mr. THAYER. At \$211 a month.

Mr. SCHENCK. What yearly pay and compensation?

Mr. THAYER. The gentleman will observe that I have made my comparison by the monthly pay.

Mr. SCHENCK. I undertake to say that somebody has very greatly imposed upon the gentleman. I say that every colonel on duty here in the quartermaster's department receives \$4,630 81 a year, including his forage

in kind, which is \$417. Taking that out, and it will leave him \$4,213 81. And I say every portion of the pay furnished to the gentleman, and upon which he has based his calculations, is utterly wrong.

Mr. THAYER. Does the gentleman mean to deny that \$211 per month is the pay allowed by law to a colonel?

Mr. SCHENCK. What is called "pay proper" is one thing; the actual pay and allowances is another and quite a different thing.

Mr. THAYER. The "pay proper" is what I mean.

Mr. SCHENCK. That is a small matter. And a colonel on service in the quartermaster's department gets more than a colonel of infantry on duty elsewhere, for he draws pay as a colonel of cavalry. He is allowed commutation for two servants at thirty-two dollars a month or \$384 a year; clothing for two servants, thirteen dollars a month or \$156 a year; subsistence for three hundred and sixty-five days at six rations a day for himself, and two rations a day for servants, two thousand nine hundred and twenty rations, or \$876 a year. He is also allowed forage in kind for two horses, which, at the present estimate at the quartermaster's department, will amount to \$417 a year. And then he is allowed as commutation for fuel \$397 81 a year. And he is also allowed for quarters, which in Washington is at the rate of eighteen dollars a room per month, while elsewhere it is nine dollars a room, except in New York where it is twelve dollars, the sum of \$1,080 a year, making in all \$4,450 81 a year. Then there is the difference between a colonel of infantry and a colonel of cavalry, \$180; making the whole pay and allowances of a colonel of cavalry in the quartermaster's department \$4,630 81. From this may be deducted forage, which is in kind, while all the rest is in money, \$417. And to be very exact about it, that will give the amount of money paid to a colonel in the quartermaster's department as \$4,213 81 a year. Now, I am stating some things here which have not been furnished to the gentleman from Pennsylvania [Mr. THAYER] upon which to base his calculations.

Mr. THAYER. If the gentleman's furniture is as good as mine he will have no reason to complain of its quality.

Mr. SCHENCK. Mine is from the pay department.

Mr. THAYER. I am much obliged to the gentleman for the statement he has made, for he has furnished me with an additional argument against his bill. He says that I have not included in my calculations the allowances to these officers; and he speaks of the large allowances made to these colonels and lieutenant colonels. Have I not told the House, and does not the House perceive, that the gentleman's bill provides for six colonels, while my substitute proposes only four colonels? The gentleman's bill provides for ten lieutenant colonels, while my substitute proposes only eight lieutenant colonels.

Mr. SCHENCK. The gentleman will not be so much obliged for the argument he says I have furnished him if he will look at the lower grades of majors and captains. The allowances made to the lower grades are greater in proportion to the pay proper than those made to the upper grades.

As, for instance, a major of infantry gets \$864 for quarters, and \$359 31 for fuel; being thirty-eight dollars less than the allowance to a colonel for fuel, and a little more than one hundred dollars less for quarters. The same thing is found to be true all the way down. The lower you get as to grade the larger in proportion to pay are the allowances. I am speaking of that for which I have the figures. A second lieutenant stationed at Washington gets \$2,088 41, some five or six hundred dollars more than the amount received by a second lieutenant in the field.

Mr. THAYER. If the gentleman shall succeed in convincing this House that a captain gets more in the way of commutation and allow-

ances than a colonel or a lieutenant colonel, then there will be some force in the remarks which he has made. But I apprehend that he will run against very hard facts and figures in attempting to sustain any such position. Everybody knows that the contrary is true, and that the higher officers get more by way of allowances than the subalterns. The gentleman is, in my judgment, very bold in undertaking a denial of this.

Mr. SCHENCK. What I said was that the lower the grade the greater are the allowances in proportion to the pay.

Mr. THAYER. Now, sir, I have pointed out to the House the fact that the amendment which I have offered as a substitute proposes but one more officer than the gentleman's bill. The gentleman's bill provides for seventy-six quartermasters; the substitute provides for seventy-seven. And I affirm, with entire confidence in the accuracy of my calculation, that the seventy-seven quartermasters, with the ranks which are assigned them in the substitute now before the House, will be less expensive to the Government than the seventy-six quartermasters provided for in the gentleman's bill. He may figure all day and he cannot make the contrary appear. The reason is that his bill increases the number of the higher grades of officers on the staff.

Now, sir, a few words more and I have done. The gentleman has proposed this morning an amendment looking to a reduction of the staff. For one I am opposed to that reduction. I am opposed to it because I do not believe that the present force is too large for an army upon the present scale. If you desire to organize an army of smaller dimensions than that proposed in this bill, if you will cut down your Army from fifty thousand to thirty thousand men, or if you will to any extent materially reduce its numbers you may diminish the staff. But what I say is, that these distinguished generals, with all their vast experience and personal knowledge, recommended for an army of forty-five thousand men, contemplated by bill No. 67 of the Senate, eighty-seven quartermasters for the staff. The number proposed in my substitute is seventy-seven, being, as I have already several times remarked, the same number proposed in Senate bill No. 138, with the three chief assistants stricken out.

Now, sir, I am willing to stand upon the opinions of those distinguished military officers. I say that if in their judgment a staff of eighty-seven officers in the Quartermaster General's department was a sufficiently small staff for such an army as was contemplated by Senate bill No. 67, then it is impossible for me to conclude that seventy-seven, exactly ten officers less, is an immoderate number for a bill which contemplates the organization of an army with, I believe, five thousand more men as a minimum, but which, you will bear in mind, it is possible to expand, under the provisions of the gentleman's bill to, I believe, eighty thousand men.

Now, sir, why legislate upon a contingency which may not exist? If you contemplate a general reduction of the Army, you cannot properly reduce it piecemeal in this way. This is not the way, in my judgment, to begin to reduce an army. You must make the reduction consistent in its details. You must first ascertain the size of your Army; and then when you have concluded upon the extent of the reduction you may set yourself to work to reduce all the several staff corps proportionally. I do not find that the gentleman proposes a general reduction of the other staffs or a reduction of his proposed force. On the contrary, the gentleman's bill proposes an army for a peace establishment. If the Army should be reduced at any time in the future, it will be perfectly competent for Congress to proceed to rearrange the several staff corps, and to adapt them in numbers and details to any reduction which may be made in the force; but why provide for a reduction of the staff corps when you do not provide for a reduction of the Army?

[Here the hammer fell.]

Mr. CHANLER. I feel much gratified, Mr. Speaker, in being able to unite with the chairman of the Committee on Military Affairs in his laudable efforts to reduce the organization of the Army. I understand the gentleman's motive, as he has asserted, to be one based upon the peace establishment. I have no doubt that this section is fair. It stipulates the manner in which the reduction is to take place. The reduction, however, seems to be not so much of a consolidation as promotion of officers from the rank they now hold in the Army Register of 1865, promotion from the rank of major to colonel and lieutenant colonel.

Now, the point of issue between the gentleman from Pennsylvania [Mr. THAYER] and the gentleman from Ohio [Mr. SCHENCK] seems to be "whittled down" to the question of two captains of cavalry. The reduction of the armies of the United States is to take this form, with an expenditure of \$33,000,000 per annum to support an organization of seventy-two regiments. The gentleman from Ohio [Mr. SCHENCK] proposes to change the present organization of the Army by simply promoting in the different bureaus different officers from the rank of captain. It seems to me to be reduced to a point of but little difference to the tax-payers, except as to the increase of officers who are promoted.

The number of officers employed in the quartermaster's department, as recorded in the Army Register for 1865, is seventy-eight. The number as suggested by the substitute of the gentleman from Pennsylvania is seventy-seven, and the number suggested by the gentleman from Ohio is seventy-six, a mere reduction of two in the Army of the United States, in face of all the eloquence of the gentleman from Ohio. We have spent two whole days in regard to the propriety of a reduction in the quartermaster's department of two officers holding the rank of captain, while the gentleman proposes an increase in that bureau of the rank of two officers, so that there shall be two colonels. In the section now before the House we have six quartermasters, with the rank, pay, and emoluments of a colonel, while in the present organization we have only three. That is a reduction *ad absurdum*. There are also ten quartermasters with the rank, pay, and emoluments of a lieutenant colonel of cavalry. That is in the pending section of the bill offered by the gentleman from Ohio. The lieutenant colonels in the present organization are four. There happens to be eleven majors in the present organization and fifteen in this bill, while the number of captains is diminished.

Again, sir, by this bill we have a reestablishment of this bureau whereby all the precedents on record in the War Office are changed, whereby all the routine of that Department is threatened with discord and confusion, while the whole question of retrenchment is forgotten in the question of promotion.

Who are to be benefited by this system? Is the object of this bill as has been charged here by gentlemen on the Administration side, not upon this side of the House? The charge has been made specifically and directly that this is a personal question. If there were wanted ground or proof, it would be found in this section, unless refuted by the gentleman from Ohio. Why, sir, under the plea of a peace establishment, should there be promotion of officers in this department unless called for? Where is the necessity? You reduce the Army from its present vast proportion down to seventy-two regiments, and while reducing it you promote the officers left in the organization, and you increase their salary by their promotion.

Sir, a standing army may be a necessity; I mean a standing army of the size suggested by Lieutenant General Grant and the Secretary of War. I do not presume to criticize that necessity, but upon the general argument, whether we should or should not have a large standing army, I stand arrayed against any system which leaves us incumbered with the expense of \$33,000,000 per annum for that organization.

We are entitled, the people of the country are entitled, to more consideration after their losses, and with the heavy burdens of taxation imposed upon them.

The period has never existed when a standing army, so far as fitness of the people to protect themselves is concerned, was less needed than at present. The people of the country, on both sides of the Potomac, are an armed militia, ready at the first sound of the bugle or of the drum to fall in line, as they have been in face of each other, against the common enemy.

For the suppression of insurrection there is now, happily, no need. For protection on our borders the force we now have is amply sufficient. And the gentleman on the other side who spoke so eloquently the other day [Mr. HARDING, of Illinois,] and took the lead on this question on the Administration side against a large standing army, said he would undertake with a division of cavalry and of infantry to hold this country in perfect security for all time to come. I understood the gentleman to say that, and I believe he is right. And I hope he will have an opportunity of testing the fact by a proper reduction of the standing Army. Then we will see whether the people of this country are not capable of self-government without the aid of a military organization of such gigantic proportions—gigantic, not in the case of the late struggle, not in consideration of the armies which we have lately had in the field, but gigantic as compared with what has been required in the past history or by the present condition of this country. In view of the fact that peace lies at the bottom of our institutions and that the people are willing at all times to hold themselves in readiness for the defense of the country, standing as the people do to-day, educated to govern themselves, educated in military matters by the militia law in every State, ready to go to the front at their country's call, we need, in my humble opinion, no such gigantic military organization as is proposed by this bill.

Sir, the defense of this country at this time does not depend upon your Army. Admit that the threatened invasion of the northeastern border may be well founded, that cannot be used as a pretext for a large standing army. There is not force enough in the British Provinces to call for such an army as this. A war with Great Britain, if it should ever come, would have to be waged mainly at sea.

And I maintain that this system of retrenchment of the Army is in direct contradiction of the system adopted in regard to the Navy. This is a retrenchment whereby officers are promoted, whereby gentlemen are charged with advancing the interests of their special favorites. But there is a great favorite of this country which won for us much honor, and which has placed our flag as high as it ever floated even in the late civil war, and which has never been treated by this body or by this Administration with due respect. The knife has been applied there without scruple and without consideration. I refer, sir, to the Navy.

I do not know why the gentlemen on the Military Committee should be called upon to state that in the organization of the bureaus of the Army such an immense force is necessary to carry it on, while the Navy requires but a minimum of the same number. That may be the secret. Patronage may underlie it all. It may be that the Army organization is a better machine for political purposes than the Navy can be. If so, so much the greater necessity for retrenchment. I will admit that the necessity of promotions arises in an inverse proportion, but it cannot be that political patronage is the secret of this promotion. It cannot be that, using the position of the chairman of the committee, the gentleman from Ohio [Mr. SCHENCK] has been misled from any personal feelings in this question.

[Here the hammer fell.]

Mr. PAINE. As I understand the gentleman from Pennsylvania, [Mr. THAYER,] whose amendment we are now considering, and as I

believe the House understood him, he bases his proposition upon the supposed approval of the generals whose advice has been brought before both Houses. I may have misunderstood him in this, but I certainly understood him to ask the House to adopt his amendment because it was in substantial conformity with the advice of those generals. I desire now to ask him whether his amendment comes nearer to the form of the recommendation of those generals to whom he alludes.

Mr. THAYER. I think the substitute is much nearer; and if the gentleman will allow me I will correct him a little. What I stated was simply this: that the distinguished generals to whom I referred had recommended Senate bill No. 67, and that that provided for a staff in the quartermaster's department of eighty-seven officers, whereas the substitute does not call for as many by ten; and I used that as an argument with which to rebuke the argument brought forward by the chairman of the committee, [Mr. SCHENCK,] that the number called for in my substitute was an unnecessary number. I did not say nor intimate that the generals had had under consideration my substitute. The gentleman was mistaken if he understood anything of that kind. Nor did I say that they had considered the Senate bill No. 138. If the House will look at Senate bill No. 67, and then look at the gentleman's bill, they will find the greatest discrepancies. The generals did not recommend the abolition of the office of assistant quartermaster general, as the gentleman's bill does, or of the office of deputy quartermaster general. And as to the number of officers, I wish to say to the gentleman from Wisconsin, that they recommend, upon the quartermaster's staff, eighty-seven officers, instead of the much smaller number provided for in the substitute.

Mr. PAINE resumed the floor.

Mr. CONKLING. I want, at some time or other, a little information, and I do not know any gentleman who would be better able to give it to me than the gentleman from Wisconsin. I ask him, therefore, to indicate some point in his remarks when it will be not inconvenient to him that I ask him a question or two.

Mr. PAINE. I will do so with pleasure.

Mr. Speaker, I hold in my hand the bill now before the House reported by the Committee on Military Affairs. I also hold in my hand Senate bill No. 67, which, as I now understand, the gentleman from Pennsylvania [Mr. THAYER] embodies substantially the recommendations of the generals.

I find that in the bill now before us there are provided for six quartermasters, with the rank of colonel; in the Senate bill, recommended by the generals, there are also six quartermasters, of the rank of colonel. I find that in the bill before us there are ten quartermasters provided for with the rank of lieutenant colonel; but I find in the Senate bill, No. 67 there are twelve officers of that rank provided for. I find that the bill now before the House provides for fifteen majors, while the Senate bill, to which the gentleman refers, makes provision for twenty officers of that grade. I find that of captains in this service the bill before the House provides for forty-four, while in this Senate bill, which the gentleman says embodies the recommendations of the generals, there are forty-eight officers of that grade provided for.

Now, it seems to me that if the gentleman has presented an amendment here which reduces the number of officers of these several grades below the number provided for in the bill reported by the committee, he is still further from following the recommendations of the generals than the committee itself.

It may be true, as the gentleman has said, that the generals have recommended different titles for these several grades of officers to those the committee of this House have recommended, and in that respect, so far as the mere nomenclature goes, it may be true that the amendment offered by the gentleman, or rather the Senate bill No. 67, is nearer the recommendation of these general officers than

the proposition of the House committee. But, leaving out of view the mere question of nomenclature, it appears to me to be very plain that the House committee has approximated vastly nearer to the recommendations of those distinguished generals, in the bill which they have introduced, and which is now before the House, than the distinguished Representative from Pennsylvania has done in the amendment which he offered.

I will now yield to the gentleman from New York [Mr. CONKLING] for his question.

Mr. CONKLING. I understand that the effect of the section as it is in the House bill is to legislate out three assistant quartermasters general, four deputies quartermasters general, and forty-six assistant quartermasters; making in all fifty-three officers legislated out of the Quartermaster General's Office. I wish to inquire of the gentleman from Wisconsin whether the information I have thus received is correct, and if it is, what is the excuse for this indiscriminate slaughter?

Mr. PAINE. In reply to the interrogatory of the gentleman from New York, I have to say this: that I believe it to be pretty nearly the unanimous opinion of those members of this House who have given the question their attention that the change in the title of one of these officers would, without some opinion of law to meet the case, or save the officer, abolish that office. But, if I understand correctly the posture of this question, as it is now before the House, there was a proposition introduced by the chairman of the Committee on Military Affairs which prevents such an effect.

Mr. SCHENCK. Such a proposition was offered, and was adopted by the House, and it is a part of the section as it now stands.

Mr. CONKLING. Shall we understand, then, that as the section now stands, it does not legislate out anybody?

Mr. SCHENCK. With the permission of the House, I will ask for the reading of the section as it was amended this morning. It legislates nobody out; it is particularly provided that it shall not affect the title to their offices of all of these men.

Mr. CONKLING. Is that true of all of them?

Mr. SCHENCK. It is true of all of them.

Mr. FARQUHAR. I rise to advocate the section proposed by the Military Committee in preference to the amendment offered by the gentleman from Pennsylvania, [Mr. THAYER.] I concede that the figures presented by that gentleman give the advantage to the section as proposed in the bill from the Senate. That, however, I do not understand to be the important question involved as between the amendment proposed by the gentleman from Pennsylvania and the section in the bill reported from the Committee on Military Affairs of this House.

The main point involved is the matter of economy. The gentleman claims that by his amendment the saving on the pay proper of colonels is \$115 per month. Now, the matter of true economy is presented to us by the section reported by the committee of the House, and it consists in the fact that there is to be an actual reduction in the officers of this staff department, to be accomplished by refraining from filling vacancies as they occur until the number of majors has been reduced to three, and the number of captains fourteen; or a reduction of seventeen officers in all.

Mr. THAYER. Will the gentleman allow me to ask him a question?

Mr. FARQUHAR. Certainly.

Mr. THAYER. If it is important that the number of officers in this department should be reduced, then why not favor the reduction at once? Or if this number be necessary now for an army of this size, how can a less number discharge the duties for an army of the same size when vacancies shall have occurred?

Mr. FARQUHAR. I would not decrease the number now for the very reasons suggested a few moments ago by the interrogatory of the gentleman from New York, [Mr. CONKLING.] There is no disposition on the part of this House, I think, to reduce the number of these

officers at this time and turn them adrift. But the proposition of the committee is, that as vacancies occur by death, resignation, or otherwise, those vacancies shall not be filled until there has been a reduction of three majors and fourteen captains.

Mr. PAINE. I would ask the gentleman from Indiana [Mr. FARQUHAR] if he does not find in the present business of this department, resulting from the war, a necessity for the temporary continuance of the present number of officers in the department.

Mr. FARQUHAR. I am obliged to the gentleman from Wisconsin [Mr. PAINE] for his suggestion; that is true. There is an immediate and present necessity for retaining the officers now on duty, and it is only proposed that in the case of vacancies by death, resignation, or otherwise, no appointments to fill such vacancies shall be made until the number of majors is reduced from fifteen to twelve, and the number of captains from forty-four to thirty.

And there is another reason why I favor the proposition as presented by the committee of the House, in this section. It provides that of the original appointments to be made under this bill, two thirds of the lieutenant colonels and majors and all of the captains shall be from volunteer officers who have performed meritorious services during the late war; that is, that two thirds of the ten colonels, two thirds of the fifteen majors, and all of the forty-four captains shall be appointed from officers of the volunteers.

Mr. THAYER. Will the gentleman allow me to call his attention to the fact that the substitute does the same?

Mr. FARQUHAR. I have not been able to see it. All I find in the substitute, which is section thirteen of the Senate bill, is that all vacancies thereby created in the grades of assistant quartermasters shall be filled by selection from among the persons who have rendered efficient and meritorious services as assistant quartermasters of volunteers during the war. I see no more than that.

Mr. THAYER. There can be no other vacancies.

Mr. FARQUHAR. I have been informed that there are other vacancies to arise besides the three assistant quartermasters general there referred to. If there are not, then in that respect the section of the committee's bill might have no advantage over the substitute. Still I prefer the section as reported by the committee.

Mr. SCHENCK. The Senate bill everywhere provides that these appointments shall be made from quartermasters and others who have served during the late war. But the House committee has preferred to take them all from our side, and to say that the appointments shall be made from among volunteer officers who have served in the Army of the United States during the late war.

Mr. THAYER. Will the gentleman allow me, for the sake of accuracy, to call his attention to the concluding language of the substitute, which provides that these positions shall be filled by selection from among persons who have rendered meritorious service as assistant quartermasters of volunteers during two years of the war?

Mr. SCHENCK. Exactly.

Mr. THAYER. Now, I would like to know where there is any discrimination in favor of the regular Army.

Mr. SCHENCK. I am not speaking about the regular Army. I am speaking about the rebel volunteers and the Union volunteers. We have preferred to require that these officers should have served on our side in the war. That is one difference between the two bills.

Mr. THAYER. That is a very nice criticism.

Mr. SCHENCK. It is a somewhat material point, it seems to me.

I wish now to call the attention of the House to the fact that the question now before us is the amendment to the amendment, proposing to attach to the substitute of the gentleman

from Pennsylvania the retrenchment in number proposed in the House bill. That is precisely the retrenchment to which the attention of the House has been called by the gentleman from Indiana, [Mr. FARQUHAR,] reducing the number of captains and the number of majors, so as to make an aggregate deduction of seventeen from the whole number. And the gentleman from Wisconsin [Mr. PAINE] rightly apprehended the motive of the committee in not making that reduction immediate. They provide that now, while we are winding up the vast business of the late war, this reduction shall not take place; but that hereafter, as vacancies occur in these lower grades, the reduction shall take place. The House is now called upon to say whether it will or will not sustain the committee in the proposed reduction.

As to the substitute of the gentleman, I desire to make but one or two remarks; for probably the discussion on this subject has already been protracted to a greater extent than is profitable. First, one word upon the general proposition which the gentleman makes—and which I think he cannot well have considered, or he would not have made it—that just in proportion as you increase the Army, you must increase its staff corps. I deny it. I say that in proportion as you increase an army, you may increase and ought to increase somewhat your staff corps, but not in equal ratio. You must increase your line officers in equal ratio. Every gentleman who knows anything about a turnpike company or a railroad company or a banking association will understand the principle involved here. A railroad company, with a road one hundred miles long, has its president, its vice president, its board of directors, its treasurer, its secretary. If that road be extended to the length of two hundred miles, no increase in the number of managing officers of the company is necessarily required, although a larger force is necessary to do the work along the line. So, if you increase the capital of a banking association from \$500,000 to \$1,000,000, you do not need to increase in the same proportion the number of the general supervisory officers—the staff, as it may be called. You may need to increase somewhat your agencies in that direction, but by no means in proportion to the increase of capital. The case is precisely the same with an army. The staff is the general supervisory power—the board of directors as it were, in a certain sense, of the Army; and you do not need to increase the staff just in proportion as you increase the rank and file, just as you increase the number of regiments, brigades, and divisions. You must increase your line officers, your field and company officers, in the same proportion in which you increase the rank and file; but the staff does not need to be increased except in a comparatively small degree. Hence the remarks of the gentleman imply a very grave mistake in reference to this matter.

Now, Mr. Speaker, let me say in reference to this discrepancy, that within my experience we have never legislated under such peculiar circumstances. Instead of being met here with argument, instead of being met with facts, we are met with some shadowy reference to something that has been done by some general officers, or by the chairman of the Committee on Military Affairs of the Senate, who has written a letter, if I understand the gentleman from Pennsylvania correctly, to explain to him what this House ought to do.

Mr. THAYER. The gentleman will permit me to say that I said nothing about that letter until I was asked upon what authority I made the statement that the general officers to whom I referred had approved a similar proposition to that embodied in my amendment.

Mr. SCHENCK. Very well; I should like to see that report of the general officers produced here, instead of being talked about in this way. I undertake to say this: that in the Senate the bill No. 67 was first introduced, and afterward another Senate bill No. 67, with

a good deal of creeping up as to numbers and rank; that when the board of officers met here they took this bill No. 67, went over it mainly with reference to the general size of the Army and some special provisions and other amendments and suggestions, as, for instance, fifteen new brigadier generals not agreed to by the House or Senate committee. As to the organization including the quartermaster's department, I mean these general sections, they simply pass them by, making no recommendations in regard to them.

That is what I undertake to say. I say further, when the Senate came to bill No. 138 they changed to a considerable extent, even that section relating to quartermasters, as it was before that council of military men. When the gentleman from Pennsylvania here undertakes to introduce his substitute he departs still further from it. Take his own statement. He says this House must not make any reduction, that it must not follow its own committee because that committee has departed from what was recommended by a board of officers, and in the same breath tells the House this same council recommended eighty-seven, and he recommends seventy-six, that is that he may depart from the recommendation of these officers, that he may come down from eighty-seven to seventy-six, but it will not do for the Committee on Military Affairs of the House, looking over the same matter, to come to the same conclusion.

Again, in regard to what the Senate has done. The Senate adopts the important feature of three brigadier generals. He abandons that, and yet he quotes the chairman of the Military Committee of the Senate.

I trust this House, whether it has or has not faith in its own committee, which has bestowed not a little time and attention on this matter, not only to see how far we can bring down the number of these officers now, but in regard to a future reduction of them to the needs of the country—I hope, whether they place confidence in the committee or not, they will look at these things themselves, and not let gentlemen lead them away by what some board of officers has done or what some chairman of committee in another body has thought may be done, gentlemen who quote persons outside and in the same breath refuse to consider them as any authority.

I believe this matter has been sufficiently discussed, and I therefore demand the previous question upon the section and pending amendments.

The previous question was seconded and the main question ordered.

The question recurred on Mr. SCHENCK's amendment.

The House divided; and there were—ayes 50, noes 12; no quorum voting.

The SPEAKER ordered tellers; and appointed Messrs. GARFIELD and THAYER.

The House again divided; and the tellers reported—ayes 58, noes 35.

So the amendment was adopted.

The question then recurred on the substitute of Mr. THAYER, as amended.

Mr. SCHENCK. If the substitute be voted down the section will be left as reported from the committee?

The SPEAKER. It will.

The House divided; and there were—ayes 33, noes 38; no quorum voting.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 44, nays 70, not voting 69; as follows:

YEAS—Messrs. Anderson, Bidwell, Boyer, Chandler, Sidney Clarke, Conkling, Defrees, Dixon, Dodge, Eldridge, Finck, Glessbrenner, Goodyear, Grider, Griswold, Aaron Harding, James M. Humphrey, Jenckes, Kelley, Latham, George V. Lawrence, Loan, Marshall, Marvin, Myers, Niblack, Nicholson, Samuel J. Randall, John H. Rice, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Spalding, Taber, Taylor, Thayer, Thornton, Robert T. Van Horn, Elihu B. Washburne, James F. Wilson, Windom, and Woodbridge—44.

NAYS—Messrs. Allison, Ames, Ancona, Baker, Banks, Baxter, Beaman, Benjamin, Bingham, Blow, Boutwell, Brewwell, Broomall, Buckland, Bundy, Reader W. Clarke, Cobb, Deming, Donnelly, Elliot, Farquhar, Ferry, Garfield, Grinnell, Hale, Abner C. Harding, Hayes, Henderson, Higby, Holmes, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbard, Hulburd, Ketchum, Kuykendall, Laffin, William Lawrence, Longyear, Marston, McClure, McKee, McKuer, Mercer, Miller, Morrill, Morris, Moulton, Newell, Orth, Paine, Patterson, Perham, Plants, Price, William H. Randall, Rollins, Rousseau, Schenck, Scofield, Shellabarger, Smith, Stevens, Trowbridge, Upson, Ward, Henry D. Washburn, William B. Washburn, Welker, and Williams—70.

NOT VOTING—Messrs. Alley, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Bergen, Blaine, Brandegee, Cc'roth, Cook, Cullom, Culver, Darling, Davis, Dawes, Dawson, Delano, Denison, Driggs, Dumont, Eckley, Eggleston, Farnsworth, Harris, Hart, Hill, Hogan, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Julian, Kasson, Kelso, Kerr, Le Blond, Lynch, McCullough, McDoe, Moorhead, Neill, O'Neill, Phelps, Pike, Pomeroy, Radford, Raymond, Alexander H. Rice, Sawyer, Sloan, Starr, Stilwell, Strouse, Francis Thomas, John L. Thomas, Trimble, Van Aernam, Burt Van Horn, Warner, Wentworth, Whaley, Stephen F. Wilson, Winfield, and Wright—70.

So the substitute was rejected.

The Clerk read the following sections:

SEC. 17. *And be it further enacted*, That the number of military storekeepers shall hereafter be as many as shall be required, not exceeding sixteen, who shall have the rank, pay, and emoluments of captains of infantry.

SEC. 18. *And be it further enacted*, That the provisions of the act for the better organization of the quartermaster's department, approved July 4, 1864, shall continue in force so far as they do not become obsolete and unnecessary upon the disbandment of the volunteer forces.

SEC. 19. *And be it further enacted*, That the subsistence department shall hereafter consist of the number of officers now authorized by law, namely, one commissary general, with the rank, pay, and emoluments of a brigadier general; two assistant commissary generals, with the rank, pay, and emoluments of colonels of cavalry; two commissaries, with the rank, pay, and emoluments of lieutenant colonels of cavalry; eight commissaries, with the rank, pay, and emoluments of majors of cavalry; and sixteen commissaries, with the rank, pay, and emoluments of captains of cavalry. But, after the first appointments made under the provisions of this section, as vacancies may occur, reducing the number of officers in the several grades below that of brigadier general of this department, no appointments to fill the same shall be made until the number of colonels shall be reduced to one, the number of majors to five, and the number of captains to ten. And thereafter the number of officers in each of said several grades shall continue to conform to such reduced numbers. And hereafter no graduate of the United States Military Academy, being at the time in the Army of the United States, or having been therein at any time for three years next preceding, shall be eligible to appointment as an officer in the subsistence department.

Mr. WOODBRIDGE. I move to amend section nineteen by striking out all after the enacting clause and inserting in lieu thereof the following:

That the subsistence department of the Army shall hereafter consist of the officers now authorized by law, namely, one commissary general of subsistence, with the rank, pay, and emoluments of a brigadier general; two assistant commissary generals, with the rank, pay, and emoluments of colonel of cavalry; two assistant commissary generals, with the rank, pay, and emoluments of lieutenant colonel of cavalry; eight commissaries, with the rank, pay, and emoluments of majors of cavalry; and sixteen commissaries, with the rank, pay, and emoluments of captains of cavalry.

The amendment proposed as a substitute, is a section taken from the Senate bill, and in my judgment is preferable to the one introduced by the Committee on Military Affairs. In regard to the titles it follows what the committee of the House adopted respecting the Adjutant General's department, and leaves the offices, titles, and rank the same as at present.

I would like to know from the chairman of the committee if he proposes to introduce an amendment to this section similar to that which was made to the thirteenth section, relating to the Adjutant General's department.

Mr. SCHENCK. Yes, sir.

Mr. WOODBRIDGE. Then the argument that this bill would legislate out certain gentlemen now holding rank in the department is not necessary; so that the only differences between this amendment and the original section are, first, that hereafter, if my amendment is adopted, as vacancies occur they will be filled and the force in the department will not be diminished; and second, that when vacancies

do occur they may be filled by graduates of West Point. Whereas, if the original proposition is adopted, whenever vacancies occur graduates of West Point cannot be commissioned to fill them.

I desire to have read a communication from the chief of the bureau respecting the necessity of retaining the force as it now exists.

The Clerk read the communication, as follows:

OFFICE COMMISSARY GENERAL OF SUBSISTENCE,
WASHINGTON CITY, April 16, 1866.

SIR: In reply to your note of this date calling my attention to the provision of H. R. bill 361, section nineteen, reducing the number of officers of the subsistence department, after being first filled to its present strength, and asking my views thereon, I have the honor to state that the number of officers of the subsistence department now authorized is twenty-nine, which number it is proposed by this bill to continue until reduced by the occurrence of vacancies to nineteen.

In my judgment, the subsistence departments should not be reduced below its present number of officers, nor their grade or designation changed.

All of the twenty-nine officers (except Captain Turner, brevet major general of volunteers, who is in command of the district of Henrico, Virginia,) now composing the department, are at present on duty at points where their services cannot be dispensed with without detriment to the service, which the accompanying list will in a measure explain. As soon as officers can be spared from their present positions, the service of one will be required in Arizona, another in Utah. One is (brevet Major Cushing) now on his way to the department of the Platte.

The Army is necessarily so widely scattered over the whole country of the United States that twenty-nine officers are not too many to give one officer to each important purchasing point and point of general supervision.

Very respectfully, your obedient servant,

A. B. EATON,

Commissary General of Subsistence.

Hon. ROBERT S. HALE, House of Representatives.

Mr. WOODBRIDGE. Here we have a statement from General Eaton, who, during the last war, has won laurels for himself and his department by the readiness and facility with which he furnished supplies, giving his reasons why there should be no diminution of the force in his bureau, and his reasons are good. He is supposed to know what the wants of his department are, and he says that owing to the great extent of our country, requiring so many military divisions, even now, with the present force, there are two highly important stations not occupied.

Now, I understand from the chairman of the Committee on Military Affairs that this department does not need many men, and that clerks can perform a large proportion of the duties required. Why, sir, what is the history of the commissary department? It was formerly on the civil list of the United States, and in the war of 1812, when those holding civil offices were invested with the duty of supplying the Army, it was found that it was impossible to secure that order and regularity of supply which is necessary to keep an army successfully in the field. Accordingly, in 1818, the department was made a portion of the military arm of the Government, and from that time to the present it has always been so considered. Throughout the Mexican war, and the various Indian wars, its organization and efficiency have been admirable, and certainly during the rebellion it has been a matter of amazement to all European officers who have been here to see how the immense armies we have kept in the field have been supplied, having everything in the way of material that an army could need.

We are told by my friend from Ohio [Mr. SCHENCK] that there are too many officers hanging about Washington in this department. If the gentleman had read the returns made by the department he would have seen that that is not so; because, of the twenty-nine officers connected with the department, there are only five to-day performing duty at Washington. The others are at Boston, Philadelphia, New York, New Orleans, San Francisco, and in various other portions of the country where purchases of supplies are absolutely demanded, so that we have not a bureau filled up with men who are seeking advancement and not performing duty. Of the twenty-nine men all but five are distributed in various sections of

the country. I know of one lieutenant colonel who, instead of being in Washington, as the gentleman says, having nothing to do but to sport his gold buttons, had three horses shot under him in the field, as a commissary in the Army, and in one year disbursed over forty million dollars in the city of New York. And, sir, you find nowhere, either in the quartermaster's or in the commissary's department, where the offices are filled by men who have been educated where personal honor is the first law of their observance; you find nowhere complaints or charges against such men that their accounts are wrong or that they have disgraced themselves and injured the country by misappropriating the moneys placed in their hands for the purchase of supplies.

Why, sir, there is another lieutenant colonel in this bureau, I will not call his name, who graduated at West Point, served throughout the Mexican war, led the forlorn hope at Chapultepec, and greatly distinguished himself in his early professional career. At the commencement of the rebellion he desired to take the field, but his experience and usefulness in the department were such that he was obliged to abandon the prospect of honor and promotion in the field for the less fascinating but no less honorable duties of the office.

Now, sir, if it is true, as I believe it is—for I am one of those who believe in the integrity of such men as General Eaton—that the force cannot be diminished, why does the gentleman from Ohio insist on reducing the number of officers from twenty-nine to nineteen? Before the war there were twelve or fourteen officers in this department, with an army of only seventeen thousand men. During the war, with an army proper of probably forty thousand, these twenty-nine officers have been required, and in addition to that some four or five hundred officers have been detailed from the volunteer service to fill various positions in the commissary department. With an army of fifty thousand at the minimum, with power of expanding it to eighty thousand, or thereabouts, and with all of these volunteer officers mustered out of the service, the whole duty will fall upon these twenty-nine men. And here is an attempt to reduce the number from twenty-nine to nineteen. It looks to me, sir, as "penny wise and pound foolish."

Again, sir, an objection is made to West Point graduates being permitted to have promotion in this department. That seems to me to be unjust toward West Point. We are told in this House that West Point has been a school where treason has been nurtured. Well, sir, if there have been men there who have been taught treason, it was because they were appointed by such men as until recently occupied the War Department, and who had early had instilled into them this pernicious doctrine of State rights. But take the record, and you will find that not one third of the graduates of West Point either resigned or joined the rebel army; while one half of the civil appointees in the regular Army deserted their flag and went over to the rebels.

Sir, it is not, and it has not been, a nursery of treason. It is, and it has been, a nursery of honorable, high-toned, high-minded, and educated gentlemen. And if there is a place under heaven where personal dignity and personal honor, under all circumstances, are inculcated, it is at West Point. Her course of education to-day is equal to that of any other institution in this country; and the courses of study in our colleges have been improved by borrowing from West Point.

[Here the hammer fell.]

Mr. SCHENCK obtained the floor.

Mr. THAYER. Will the gentleman from Ohio [Mr. SCHENCK] give way to allow me to move that the time of the gentleman from Vermont [Mr. WOODBRIDGE] be extended?

Mr. SCHENCK. Certainly; I have no objection to that.

Mr. THAYER. I ask unanimous consent that the gentleman from Vermont [Mr. Wood-

BRIDGE] have his time extended until he shall have concluded his remarks.

There was no objection.

Mr. WOODBRIDGE. I do not believe in long speeches, either before Congress or before courts. It is a great deal easier to tire people out than it is to secure their attention.

I was merely going on to say that this argument respecting West Point is one that is unjust toward that institution and toward the men who have been educated there.

Another feature of this bill, to which we shall come hereafter, divorces West Point from the Engineer corps, where it always has been, and where in my judgment it always should be, because the engineer officers are placed in that department by reason of their superior attainments in all the various branches of military knowledge.

Mr. SCHENCK. We are not considering the engineer department now.

Mr. WOODBRIDGE. The gentleman from Ohio [Mr. SCHENCK] objects to my remarking upon any other portion of the bill, and I will not pursue the argument further.

After the revolutionary war was over, Washington saw the importance of a military education, and West Point was established. Through the war of 1812 she carried us successfully; and in the war with Mexico, West Point obtained the most triumphant victories, and made the most triumphant marches that at that time were on the record of history.

And during this great rebellion, what has been the record of West Point? Look at her Grants, and Shermans, and Sheridans, and Meades, and her dozens and scores of others who covered themselves with glory during this last controversy. The heroes of the war that came from West Point challenge to-day the admiration of the world. They are the men whose names are written highest on the scroll of honor.

Sir, I would not depreciate the efforts of other officers, or detract from their merit. The volunteers of this country are entitled to the lasting gratitude of the country; they have made their record high and heroic. But, sir, war is a science, and the man who has been educated to the profession is the more likely to excel. And when in addition to that education, he is trained in those high notions of personal honor which West Pointers are trained in, you may put your Treasury in his hands and every dollar will be accounted for.

Mr. SCHENCK. The proposition of the gentleman from Vermont [Mr. WOODBRIDGE] is to strike out the House section and to insert the Senate section as a substitute. He admits the differences to be three, the first of which is in the titles given to these officers. The House bill proposes to get rid of the titles of assistant commissary generals of subsistence and assistant commissaries of subsistence, and to provide for them by a couple of assistant commissary generals, and call all the rest commissaries. This is, as it was in regard to the quartermaster's department, a matter of taste. The House has concurred with the committee, by adopting the section which they have reported in regard to the quartermaster's department, and I hope they will agree with the committee to apply the same rule to commissaries of subsistence.

The gentleman admits that there is no question between us as to the legal effect of that part of the bill, because I have ready an amendment precisely similar to that which was offered to the other two sections of the bill—an amendment of such a character as to avoid effectually any such legal consequence as to deprive these officers of their commissions. I leave, then, as a mere matter of taste or a mere matter of convenience—for it is nothing more—the question whether these officers shall be called "assistant commissaries general" down the line till you come to the lowest, the captains, and then "commissaries of subsistence," or whether they shall all, except the two principal assistants, be called commissaries.

The next difference between the gentleman's

substitute, borrowed from the Senate bill, and the provision of the House bill which we have reported, is that we propose to provide that, as vacancies occur, the number of these officers shall be reduced, so as to take away one of the colonels, three of the majors, and six of the captains, making a total reduction of ten. Sir, what is the fact in regard to the present number of officers in the commissary department? There are now twenty-nine officers, from the highest to the lowest, in the subsistence department proper of the regular Army. The Senate adopts that number; the House committee adopt that number, legislating nobody out. The Senate proposes that the number shall always continue twenty-nine. The House committee propose that, after the winding up of the business of this war, as vacancies occur, there shall be an omission of one of the colonels, three of the majors, and six of the captains, until the whole number shall be brought down to nineteen.

How many officers did we have in that department before the war? I hold in my hand the Army Register for 1860. At that time there was one Commissary General, with the rank only of a colonel; there was one assistant commissary general, with the rank of lieutenant colonel; there were two majors and eight captains. Those constituted the whole of the subsistence department—twelve officers in all, and only four of them above the grade of captain. We now have in that department a brigadier general, two colonels, two lieutenant colonels, a number of majors, and a number of captains, the whole number being twenty-nine. This is the force of that department as it now stands upon the Register.

Now, is it necessary to retain twenty-nine officers in that department forever? If twenty-nine officers will be required two or three years hence, when the business of winding up the operations of this war shall be all over, then the department ought to have more than twenty-nine officers now. But it is not contended that more than twenty-nine are needed now. General Eaton is satisfied with twenty-nine now; but he wishes that the department shall still embrace twenty-nine officers after all the present pressure of work shall have gone by. There seems to be some inconsistency in this. Either there are too few now, or there will be too many hereafter. There is no escape from this proposition. The adjustment of commissaries' accounts, and the other duties connected with the winding up of the vast business arising out of the war, have thrown a great burden for the next two or three years upon each one of these departments. But, I repeat, there is no escape from the proposition that if twenty-nine officers in that department be sufficient now, as General Eaton admits, then twenty-nine will be too many when this surplus business shall be disposed of.

Before the war, I repeat, the officers in that department were but twelve. During the war the number has been more than doubled, being now twenty-nine. Gentlemen may say this was on account of the war. But the regular Army has not been much increased during the war. And while this increase from twelve to twenty-nine was going on, five hundred and fourteen commissaries of volunteers were given to that department to help in the work. The gentleman takes no account of these five hundred and fourteen commissaries of volunteers who have helped to do the increased work consequent upon having millions of men in the field. The five hundred and fourteen that did the work consequent upon the vast army brought into the field, exceeding the old regular Army, are now mustered out or immediately to be mustered out. What is left? Twenty-nine, more than double as many as they had before the war commenced, and that is because of the increase of the Army we propose in this bill.

I say we have too many now. I say their own records prove that. I say that twenty-nine has been because of the increase of the regular Army, and made necessary by the

increase of business, and as that business decreases you may fall back, not to twelve, but to nineteen.

As I intimated a moment ago, you do not require increase of staff in proportion to increase of line officers. As you increase the Army increase of staff need not be in arithmetical progression at all. Increase of staff, rather, need not be in that exact ratio at all. Increase of line officers must be. As they had twelve before the war, we propose they shall keep twenty-nine now, never to be reduced below nineteen in the new Army we propose to establish.

I see, therefore, no argument in what came from the gentleman, nor any in the communication of General Eaton, except an honest intention, honestly entertained, a mistaken idea of every one of these men that they can never spare an officer after they have once had him.

If they have increased to twenty-nine with five hundred and fourteen volunteers, if you muster out the five hundred and fourteen volunteers they must have the twenty-nine now with increase of the Army. The proposition, therefore, we make is not to cut down the twenty-nine now, but, as the Senate proposes, to leave it as it is, reducing as the business of the war is closed up until you come down to nineteen, but not to go below nineteen, seven more than they ever had before prior to 1861.

Mr. WOODBRIDGE. Any one of these officers may be ordered off.

Mr. SCHENCK. I admit all that. I admit they may be detailed to business outside, but others may be detailed in their places. A man will not be ordered away without having his place supplied. So there is nothing in that.

With nineteen you will probably have one for every brigade in the field when troops are in service and leave the chief and three or four others to assist him. I think the chief with three or four here, and the others at posts and with brigades in the field, are quite enough. If the gentleman doubts that he can test the question upon each part of this proposition instead of a substitute by moving to strike out each one of these particular propositions.

Now, sir, it is proposed that we strike out the section reported by the House committee and substitute something entirely different instead of trying the question on each one of these propositions. And why? Because there is a third objection to the House bill upon which the gentleman is eloquent which he wants to get rid of by his substitute and that is this one in the bill:

And hereafter no graduate of the United States Military Academy, being at the time in the Army of the United States, or having been therein at any time for three years next preceding, shall be eligible to appointment as an officer in the subsistence department.

What led the committee to propose that? Not that these gentlemen were loafers. We never said that, and once for all I desire to say to my friend from Vermont, and to all others, that I believe the subsistence department has been exceedingly well managed all through this war, and the officers employed here have done their duty well, whether they came from West Point and had their education there, or were appointed from civil life. That is to create the impression we are making an attack on West Point. No such thing. That we are making an attack upon the subsistence department as loafers. No such thing. I say the subsistence department has done well through all of its officers, and I say none probably have done better than the graduates of West Point in that department.

What, then, do we mean? We mean this: that when we have educated a man for four years at West Point and made him skillful in engineering, gunnery, and general tactics, we do not want him to inspect biscuit and make contracts for beef. The gentleman challenges the world to produce any others who shall equal the glory that has been maintained upon stricken battle-fields by graduates of the Uni-

ted States Military Academy. I make no issue with him, but how much they come down from their glory when they depend for a living upon inspecting "sow belly" and "hard tack." That is the point which the gentleman utterly avoids. We have educated these men for something else. Civilians can do that work. Five hundred and fourteen civilians have proved they can do the work, and there is no more necessity for having a man educated at West Point to make him a competent commissary of subsistence than to be a chaplain or paymaster, or to discharge any other duties which require a knowledge of accounts and skill and ability to make contracts, to keep his accounts square, to pay over money received, and make purchases according to his orders in good faith. The very thing that should characterize West Point proves my argument. The more of a soldier you make of every graduate there the more incongruous it is that a man covered all over with glory, the rival of Mars, should condescend to weigh crackers and contract for beef.

Mr. WOODBRIDGE. Why is it not quite as necessary that West Point men should be in the commissary department where they buy beef, as that they should be in the quartermaster's department where they buy horses' tails?

Mr. SCHENCK. I believe the same provision ought to have been made in the section relating to the quartermaster's department. It was thought, however, by the majority of the committee that there were some advantages in a military education in that department—for instance, as connected with the transportation of troops, and making corrections—which were not required of paymasters and commissaries of subsistence.

The SPEAKER. The gentleman's time has expired.

Mr. SCHENCK. I hope I may be permitted to go on a moment more.

No objection was made.

Mr. SCHENCK. Now, I hope that gentlemen will see the propriety of the remarks which I am making. They are made in no spirit of opposition to West Point, but rather on behalf of West Point. They are not made with a desire to decry the advantage of a military education. No man can have had anything to do with military affairs without having felt the importance of a good military education in order to do the best service in any line of duty. But the point I make is that it is not necessary to educate these men at the United States Military Academy to perform these particular duties.

Now look at their appointment. As I said before, when the war commenced there were but twelve in the whole subsistence department, and they ran up to twenty-nine. Where did they come from? Out of the whole twelve there was but one man to be found who had no military education, who was fit to go into the subsistence department and make contracts in reference to supplies. There must have been something marvelous in that. And even he was a son of the chief of the department.

The war went on, and continued through 1861, 1862, and 1863, and nobody could get in from civil life. But who did get in? Second lieutenants of artillery. From certain circumstances, which I could explain if I would, the artillery always seem to have a particular hold on the subsistence department through its head on a former occasion; and thus as fast as these young fledglings come from West Point they are called upon to furnish brevet second lieutenants for officers in the subsistence department, and all at once they are made captains.

Mr. HALE. I think the gentleman is laboring under an entire mistake. I think there has never been an instance in the history of the United States Army of a brevet second lieutenant of the artillery being transferred and appointed to the office of commissary of subsistence, with the rank of captain.

Mr. SCHENCK. All I have to say in answer to that is that George Bell and J. D. Hawkins were.

Mr. HALE. I beg pardon. George Bell was made brevet second lieutenant, July 1, 1863, served through the grades of second and first lieutenant, and was appointed captain and commissary of subsistence on the 3d of August, 1861, more than eight years after he became a brevet second lieutenant of artillery. And just so with every officer in that department.

Mr. SCHENCK. Not every officer. I happen to know the fact as regards Mr. Sullivan whom I myself sent to West Point. Being a first lieutenant, he was made commissary of subsistence at the beginning of the war, and if he had remained with his battery, good officer as he was, he would probably have become a brigadier or major general of volunteers, or lost his life, instead of which he remained only a captain and commissary of subsistence.

Mr. HALE. He was not made commissary from brevet second lieutenant.

Mr. SCHENCK. No; he was a first lieutenant.

Mr. HALE. That was the case with all these men.

Mr. SCHENCK. I may have been mistaken in speaking of the first entry here as brevet second lieutenant; but that does not alter the fact. Here is a case of a second lieutenant of the first artillery who was not graduated until 1861, and two years after that we find him a captain in the commissary department.

Mr. HALE. I know the officer to whom the gentlemen refers, for he comes from my section of country; it is Lieutenant Elderkin. He stood at the head of the list of first lieutenants in his regiment, the first artillery, and had served gallantly and nobly for three years in the field. And from the first lieutenantancy in his regiment he was appointed a commissary.

Mr. SCHENCK. That does not alter the principle. Suppose that instead of being second lieutenants, as dated on the list, they went through the intermediate grade of first lieutenant, what then? I say there were artillery officers who, to get another step in promotion, consented to go into the subsistence department. Now, I find no fault with these young men, and especially not in time of peace, when promotion is slow; but I do say the probability is, that if these men had remained with their batteries, and fought it out during the war, most of them who consented to become captains in the subsistence department would have been at the head of brigades, or divisions, or corps before the war ended. And I say that it is not our policy to educate men, either to be first or second lieutenants or captains, or to hold any other rank in the artillery, infantry, cavalry, or engineers, and then let them become merchants to feed the Army. That is the point that I am making, and that is the point that I would have the gentleman meet, if he can.

Now, sir, I have said that there was not an opening until 1863. The door was then thrown a little ajar; and it was so amusing, on account of the way in which it was thus thrown ajar, that I will give you an account of it, subject, of course, to correction by my friend from New York, [Mr. HALE.]

There was a commissary of subsistence, a volunteer, in Boston, and a very excellent commissary he was, and has continued to be, and is still. His name is Brigham. He was a commissary of subsistence stationed at Boston, not in the field, and he has remained there, and has got into the regular Army. How did he get into the regular Army? It would not do to put him into the regular Army by direct transfer; for that would have been declaring to the country that it is possible for a man outside of the "charmed circle" to get in. What did they do? They required him to enlist as a common soldier in the eleventh infantry of the United States Army, which he did. He was immediately made a non-commissioned officer, and thus rendered eligible to promotion to a second lieutenantancy, and then, having been made

a second lieutenant—mark you, all this time not having resigned his commission as commissary of volunteers—he was washed with the proper waters, baptized into the regular Army, and was then competent to be made a commissary of subsistence. This little, close corporation made an excellent officer go through all this farce of turning common soldier, sergeant, and second lieutenant while yet a captain and commissary of volunteers, in order that he might creep into the subsistence department without that horrible and shocking thing, direct transfer from the volunteers to merchandising in crackers and beef, and taking charge of the provisions for the Army!

Since then they have made some very good appointments from the volunteer service—one recommended by myself, Mr. Crane, who headed the list of ten named for promotion, and had done most gallant service in the field. Another was a gentleman from Pennsylvania, Mr. Penrose, and there have been two or three other appointments of that kind made since that time.

But the objection I make is, that we do not need to educate men at West Point to make chaplains of them, or paymasters, or commissaries of subsistence, but that they have higher and more important duties in the art of war to perform, in heading brigades and divisions, and commanding their batteries; and that when we make them, at great expense and cost of time and money, military engineers, artilleryists, skilled in infantry tactics, and good cavalrymen, it is better and more proper that you should leave open to them staff appointments and other positions among the engineers, the cavalry, the infantry, and the artillery, and that these places of commissaries of subsistence and chaplains and paymasters, which require no more skill and knowledge than is developed at any school in the country or by the business pursuits of life, should be filled up by men who are just as well qualified and will answer every purpose.

I will not stop to argue the question whether the difficulty is that you cannot get "gentlemen" if you go outside of West Point, though that was a part of the argument of my friend from Vermont, [Mr. WOODBRIDGE.] I do not want to impeach the gentility of West Point; neither do I wish to impeach the gentility or integrity of the business men of the country who are willing to accept positions of this kind upon proper recommendations and with proper examinations, which they will all have to obtain and undergo. I think they will be found to fill the bill quite as well as if they had been educated on the banks of the Hudson.

Mr. HALE. If I understand the proper course of parliamentary proceeding, it is, before the vote shall be taken upon the substitute, to submit any amendments which may tend to perfect the original section of the bill. If I am correct in that, and the chairman of the Military Committee [Mr. SCHENCK] is now prepared to offer an amendment to obviate the difficulty in regard to mustering these officers out of the service, I would be very glad to have him move it at this time.

Mr. SCHENCK. I will move to amend section nineteen of the bill by adding the following:

But nothing in this section shall be construed so as to vacate the commission of any officer now commissioned either as assistant commissary general or commissary of subsistence, but only to change the title to commissary in the cases of those who rank as lieutenant colonels, majors, and captains, without affecting in any way their relative position or the time from which they take such rank.

Mr. CONKLING. For the benefit of those who do not understand this thing better than I do, I would ask how this amendment will leave the subsistence department practically.

Mr. HALE. I would say to my colleague, [Mr. CONKLING,] that I have one or two other amendments which I propose to move to this section, as soon as the vote is taken upon the amendment moved by the chairman of the Military Committee.

Mr. CONKLING. That is very likely. But I want to know how this amendment is to affect the *personnel* of the commissary department.

Mr. HALE. It leaves that matter precisely as it is now.

Mr. SCHENCK. It legislates out nobody at all.

The question was upon the amendment of Mr. SCHENCK.

Mr. SMITH. I desire to make a few remarks in reply to something that was said by the gentleman from Vermont [Mr. WOODBRIDGE] a few minutes ago, not to touch probably directly or indirectly upon the question now before the House.

I understood the gentleman from Vermont to say in the conclusion of his remarks that the entire credit of the successes of the Union Army and the downfall of the rebellion was attributable to those who had graduated at West Point.

Mr. WOODBRIDGE. Will the gentleman from Kentucky [Mr. SMITH] allow me a moment?

Mr. SMITH. When I have concluded my sentence I will. And that almost all the reputation that had been earned during the war belonged to the men who had received their education at that institution. While I give full credit to all those who distinguished themselves, who came from that Academy, and would not detract in the slightest degree from any one who won laurels on any field at any time, I must be permitted to dissent most emphatically from any such expressions emanating from any gentleman upon this floor, and going out to the country.

I will now yield a moment to the gentleman from Vermont.

Mr. WOODBRIDGE. My friend from Kentucky [Mr. SMITH] most certainly misunderstood me. There probably is not a man in this House who has a higher respect for the volunteer service of the country than I have; there is probably no man who would award them more credit than I would award them. They distinguished themselves with great honor to themselves and to the country; and they certainly did all which human energy and skill and foresight could do to save this country from the ruin which threatened to befall it from the rebellion.

But I did say, and I say it now, because I believe it to be true, not only in this case, but as a principle almost necessarily true in all cases, that the men who achieved the most distinguished military honor were the men who had graduated at West Point. There was Grant, and Sherman, and Sheridan, and McPherson—

Mr. SMITH. And Hancock.

Mr. WOODBRIDGE. Yes, and Hancock, and scores of others whose names I need not mention, who have risen to the very highest rank in the Army, and who really, by reason of their education, did achieve the highest reputation that was achieved in the field and in any of the departments connected with the Army.

Mr. SMITH. Mr. Speaker, my friend from Vermont has omitted to mention a great many officers who graduated at West Point.

A MEMBER. McClellan.

Mr. WOODBRIDGE. One of the twelve disciples did not come out all right; and hence you must expect that there shall be once in a while a similar occurrence in modern days.

Mr. SMITH. I do not intend, Mr. Speaker, to disparage in the slightest degree the reputation of any gentleman who graduated at West Point. I do wish, however, to state a fact which I believe to be a matter of history, and which the records of this war will establish for all future time. It is well known to the House and the country that when this war began the regular Army was composed of about five thousand men, rank and file. General Scott, who was not, I believe, a graduate of West Point, was the commander-in-chief. Few of the men who have distinguished themselves in this war were then in the Army. Those of the West Point graduates who stand highest to-day among the distinguished men of this war had at the opening of the war been long away from

that institution, and were most of them engaged in the civil pursuits of life—some in agriculture, some in mercantile business, some in the professions of law, medicine, &c. The man who stands to-day at the head of the Army was, I believe, when the war broke out, a tanner at Galena, Illinois. All right; there is nothing wrong about that.

I wish to call the attention of my friend from Vermont to this additional fact: that when President Lincoln issued his call for seventy-five thousand men to defend the capital of the nation and put down insurrection, those seventy-five thousand men came almost entirely from the civil pursuits of life. They were, almost without exception, men who had never seen West Point; and hundreds and thousands of them perhaps did not know that there was such a place.

I wish to state this further fact: that while there were a large number of the graduates of West Point who went into our Army and distinguished themselves, there were, I am sorry to say, numbers of men trained in that institution who took up arms on the side of the rebellion—men who had been educated in their secession doctrines by reading Rawle on the Constitution.

Mr. WOODBRIDGE. I beg to state that when that call for seventy-five thousand men was issued, the quota of Vermont was led by a graduate of West Point—as gallant a man as ever bore a sword—General Phelps.

Mr. SMITH. Mr. Speaker, the gentleman cannot have any controversy with me about the gallantry of West Pointers; I concede all that. I continue, therefore, the line of remark which I was presenting.

Now, sir, before the expiration of the three months for which those seventy-five thousand men were called out, President Lincoln issued a call for three hundred thousand men, to be enlisted for three years or the war. The volunteers who responded to that call were composed of every description of men. The officers who commanded those men took the raw material into the field. They drilled those men; they worked with them; they fought with them. When the rebellion was at its strongest stage, when the rebel forces in the field numbered one hundred and fifty or two hundred thousand men, well drilled and well equipped, those forces were arrayed on many a well-fought field against our noble army of volunteers, men who had, previous to the war, no military education, but who by thorough drilling and hard work became efficient soldiers, so that they were, it might almost be said, qualified to fight our battles without a commander. Then it was that our volunteers achieved their great victories, and won their great renown. It was then that a large proportion of the volunteer officers were set aside and West Pointers put in their places.

When the war had continued for three years and more, our army of volunteers had been so thoroughly schooled by the actual work of war that they were able to take any fort, to do any fighting, to whip any of the rebel armies "on their own hook," without a commander, for every man was a well-trained soldier. All that was necessary for such an army was the mere form of having a commander.

There was one grand and glorious thing about General Grant, which distinguished him from many of his predecessors. He had a tenacity of purpose which ever prompted him to keep on following the enemy, and to keep on fighting, and to keep on whipping. When a shell exploded upon his front, he did not retire, saying that something had occurred to intimidate him. This untiring persistency of purpose has been one grand cause of General Grant's success.

But, sir, the volunteers of this country have saved it. While you can go over the catalogue of West Pointers who have distinguished themselves, the catalogue of volunteers is much longer and larger and will swell out in history giving to these men a higher, grander, nobler position. Why, this one came from the plow,

this one from the desk, this one from the counting office, this one from the lawyer's office, this one from the medical office. In a little while they proved their efficiency, not only leading regiments and brigades but divisions and corps successfully through the conflict which has but recently ended. Why, sir, where is there a West Pointer who stands higher as a corps commander than Major General John A. Logan? I do not intend to mention a whole lot of men who sit round me in Congress. When did he lose a fight? Where is the State that has not presented volunteers, from privates to major generals, who have shown their ability in the field?

I have believed in a regular army. I have thought it was well to have a strong army. But, sir, I believed it more before the war than since the war. Before the war we did not anticipate war with all its sorest trials. When it did begin, and when a million men arrayed themselves against the Government, we found two millions and more of volunteers willing to risk their lives to defend the country.

The SPEAKER. The gentleman's time has expired.

Mr. ELDRIDGE. I move that the gentleman have leave to finish his speech.

There was no objection, and it was so ordered.

Mr. SMITH. Mr. Speaker, the record of the volunteers is so bright, so glorious, and so grand, it cannot be destroyed.

I am unwilling to say, because a number of men have come from West Point and distinguished themselves, they should be set up as the only ones who can save the country in time of war. The record of West Point shows that as many men from West Point went into the rebellion as were in our Army. Now, West Point does not make a man brave. West Point does not make a man good. West Point may educate as well as men can be educated. But it does not put fight into him. What does put fight into the American citizen? It is the country, her soil and institutions, which make him a fighter and qualify him for great deeds of daring.

I do not care whether you have five or ten thousand in the regular Army, this country is safe, to use the language of Mr. Seward. I do not care whether Congress passes a bill to increase the Army to seventy-five thousand or rejects it, the country is safe. I do not care whether Congress agrees with the President or the President disagrees with Congress, the country is safe. The great courage, the great intelligence, the great conservatism, and everything grand and good are behind Congress, with the people, and the people will save the country. I have little confidence in anything which belongs to political position, at this time especially. I believe in the faithfulness and integrity of the people.

In conclusion, I would like to say, if this House will only wait until we get the militia bill they will get rid of this great establishment and none the less save the country, when they will have an establishment that will only cost \$500,000, while this costs \$30,000,000. All you have to do is to rely upon the people, the great defenders of liberty in war as well as in peace.

Mr. NIBLACK. I have reasons which will convince me that it is not the intention of the House to pass this bill at this time. If that be so, we only waste time in considering it section by section. With a view to testing the sense of the House upon this bill I move that its further consideration be postponed to the first Monday of December next.

Mr. FARNSWORTH. I ask leave to introduce a resolution calling on the President for information.

Mr. NIBLACK. I am willing to yield for that purpose.

REPORT OF GENERAL SMITH, ETC.

Mr. FARNSWORTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States

be requested to communicate to this House the report of General Smith and Hon. James T. Brady of their investigations at New Orleans.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 146, for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil; when the Speaker signed the same.

RIVER AND HARBOR BILL.

Mr. ELIOT. I give notice that on Monday morning next, after the morning hour, I shall move to discharge the Committee of the Whole from the further consideration of the river and harbor bill, that it may have the action of the House.

BURIAL OF SOLDIERS.

The SPEAKER laid before the House the following message from the President of the United States; which was ordered to be printed, and referred to the Committee on Military Affairs:

To the House of Representatives:

In reply to the resolution of the House of Representatives of the 2d instant, requesting information respecting the collection of the remains of officers and soldiers killed and buried on the various battle-fields about Atlanta, I transmit herewith a report on the subject from the Secretary of War.

ANDREW JOHNSON.

WASHINGTON, D. C., April 20, 1866.

REORGANIZATION OF THE ARMY—AGAIN.

Mr. NIBLACK. I demand the yeas and nays on my motion to postpone.

Mr. SCHENCK. Is the motion debatable?

The SPEAKER. It is, to a limited extent.

FRENCH IN MEXICO.

The SPEAKER laid before the House a message from the President, transmitting, in answer to a resolution of the House of Representatives of the 16th instant requesting information relative to the proposed evacuation of Mexico by French military forces, a report from the Secretary of State with accompanying documents; which was ordered to be printed and referred to the Committee on Foreign Affairs.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed House bill No. 472, for the relief of George B. Frank, late captain of the third regiment Wisconsin volunteers.

Also, House bill No. 197, to provide for the better organization of the pay department of the Navy, with amendments, in which the concurrence of the House was requested.

Also, Senate bill No. 215, concerning certain lands granted to the State of Nevada.

Also, Senate bill No. 276, for the relief of Jerusha Witter.

Also, Senate bill No. 281, for the relief of William Pierce, in which the concurrence of the House was requested.

REVENUE ASSESSORS.

Mr. MILLER, by unanimous consent, introduced a bill to allow United States revenue assessors to appoint deputies; which was read a first and second time.

Mr. WASHBURNE, of Illinois. I call for the reading of the bill in full.

The bill was read. It authorizes United States assessors to appoint deputies in the same manner as collectors of revenue.

The bill was referred to the Committee of Ways and Means.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DUTIES ON IMPORTS.

Mr. KETCHAM. I ask unanimous consent to introduce a bill to increase temporarily the duties on imports.

Mr. WASHBURNE, of Illinois, objected, but subsequently withdrew his objection.

Mr. ALLISON renewed it.

INTERNAL REVENUE FRAUDS.

Mr. HIGBY. I ask unanimous consent to introduce the following resolution:

Whereas it is alleged in responsible public journals and elsewhere that in the enforcement of the revenue laws at the custom-houses in Boston and New York, and the adjustment of claims for the violation thereof, frauds have been committed upon the United States, and parties involved in said alleged violations; and whereas it is in like manner alleged that similar frauds have been committed in the enforcement of the internal revenue laws, and in the adjustment of claims for the violation thereof in said cities: Therefore,

Resolved, That the Committee on Public Expenditures be instructed to investigate all such alleged frauds, and that for that purpose they be authorized to send for persons and papers, and, if necessary, to sit during the recess of Congress, at such place as they shall deem most economical and efficient, and by such number, not exceeding three, of said committee, as they may deem advisable.

Mr. ROSS. I object.

And then, on motion of Mr. CONKLING, (at four o'clock and thirty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By the SPEAKER: The petition of Dr. J. A. Hatch, and others, of Kent Station, Indiana, asking that the preparations of the National Pharmacopoeia, &c., may be placed on the free list.

By Mr. AMES: The petition of Oliver Ames, and others, citizens of Easton, Massachusetts, to secure an education to all the children of the United States.

By Mr. BANKS: The memorial of Major Frank W. Marston, Lieutenant John C. Kinney, Lieutenant Henry C. Davis, Second Lieutenant Myron Adams, and Captain Ernest W. Demick, signal officers, department of the Gulf, engaged in the capture of the rebel war steamers Tennessee, Selma, Gaines, &c., and the forts in Mobile bay, for the passage of a law allowing them a share of prize money, &c.

By Mr. BUNDY: The petition of J. Baker, and 6 others, manufacturers of beer, in Portsmouth, Ohio, for the proper modification of the tariff on barley, so that it may be imported into the United States from Canada.

Also, the petition and certificate of Lieutenant Williams, of Lawrence county, Ohio, for pay for services as an officer in 1861.

By Mr. CONKLING: The remonstrance of citizens of Utica, New York, against judiciary bill.

By Mr. DRIGGS: A communication from Captain W. T. Reynolds, superintendent of lake survey, in reference to the amount to be appropriated for the same.

Also, the petition of I. N. Wright, J. Thompson, and 2,500 others, citizens of Lake Superior, praying Congress for an increase of duty on foreign copper.

Also, the petition of John Prindleville, Orville Olcott, and 75 others, citizens and firms of Chicago, Illinois, praying for an appropriation for the improvement of Eagle harbor, Lake Superior, Michigan.

Also, the petition of D. C. Holley, and 114 others, citizens of Shiawassee county, Michigan, in favor of an increase of duty on foreign wool.

By Mr. EGGLESTON: The memorial and papers in relation to a claim of James M. Leeds, for services rendered the Government as a detective under the orders of General Grant.

Also, the memorial of 60 mercantile firms of Nashville, Tennessee, praying for a modification of the law in regard to the transportation of gunpowder.

By Mr. ELIOT: The petition of Obed Brooks, and others, citizens of Massachusetts, praying for certain changes in the Constitution respecting the election of President and Vice President and the qualifications of electors.

By Mr. FERRY: The memorial of Robert Hopkins, Henry Hitchcock, and 100 others, citizens of Lyons, Michigan, praying that an *ad valorem* duty be levied on foreign wool.

By Mr. HOLMES: The petition of Edwin L. Gage, and others, citizens of Madison county, New York, for increase of tariff on wool.

By Mr. HULBURD: The petition of D. M. Chapin, and others, citizens of St. Lawrence county, New York, asking the passage of a national insurance law, &c.

By Mr. JULIAN: The petition of 83 soldiers and sailors, praying an equalization of bounties.

By Mr. KETCHAM: The petition of George Snyder, and others, of Rhinebeck, New York, asking for increased protection on American wool.

By Mr. LAWRENCE, of Pennsylvania: A petition signed by 609 citizens of Lawrence county, Pennsylvania, and also one from Beaver county, Pennsylvania, asking for an increase of duties on foreign wool.

By Mr. LONGYEAR: The remonstrance of S. D. Bingham, and 28 others, citizens of Lansing, Michigan, against an extension of the Amboy, Lansing and Traverse Bay railroad land grant to the company of that name.

By Mr. LYNCH: Resolutions of city council of Portland, Maine, relating to the preservation of iron-clads.

By Mr. MOORHEAD: Two petitions from citizens of Alleghany county, Pennsylvania, asking for an increase of duties upon foreign wool.

By Mr. MORRILL: The petition of Hon. J. R. Cleveland, and 61 others, citizens of Brookfield, Orange county, Vermont, praying for an increased protection on wool.

Also, the petition of Hiram Barrett, and 85 others, citizens of Stafford, Orange county, Vermont, praying for an increased protection on wool.

Also, the petition of Sewall Bradley, and 63 others, citizens of Sheffield, Caledonia county, Vermont, praying for an increased protection on wool.

Also, the petition of Jonathan H. Hart, and 39 others, citizens of Weston, Windsor county, Vermont, praying for an increased protection on wool.

Also, the petition of A. B. Bigby, and 32 others, citizens of Londonderry, Windham county, Vermont, praying for an increased protection on foreign wool.

By Mr. RICE of Maine: The petition of William Sparrow, and others, of Maine, asking relief from internal tax on roofing slate.

By Mr. SCHENCK: The petition of quartermaster and commissary sergeants of engineers, for same pay as company sergeants.

By Mr. WARD: The remonstrance of Hon. David Ramsey, and others, leading members of the bar of Steuben county, New York, against the Federal judiciary bill.

By Mr. WELKER: The petition of Asa Eddy, and 72 others, wool-growers of Wayne county, Ohio, asking protection on wool.

IN SENATE.

TUESDAY, April 24, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting, in answer to a resolution of the Senate of the 18th instant, a communication from the Secretary of War, covering a copy of the proceedings of a board of officers in relation to brevet appointments in the regular Army; which was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of Dr. Henry Clok, late veterinary surgeon in the United States Army, representing that he has had large experience in the treatment of the disease known as rinderpest, or cattle plague, and that he is in possession of a reliable means of cure, and also of a powerful preventive to the spread of the disease, and tendering his services wherever they may be required in arresting the progress thereof; which was referred to the Committee on Agriculture.

Mr. WILSON presented the petition of Sewall H. Fessenden, and others, who represent that they were the owners of the schooner William Carleton, which, when sailing down the Chesapeake on her way to Sandwich, Massachusetts, with a cargo of coal, was run into by the United States steam ram Stonewall and destroyed, and praying for compensation for the loss sustained by the destruction of the vessel; which was referred to the Committee on Claims.

Mr. SUMNER. I present the petition and memorial of citizens of the United States and of the State of Pennsylvania, representing literary and learned societies of that State, in which they set forth that it is desirable that every reasonable facility be furnished to the several historical societies and public libraries of the United States to enable them to increase the number of their books, pamphlets, and historical papers; that the present law which requires the person who sends documents and papers to such societies to prepay the postage, tends greatly to diminish donations; and that many of the papers and documents referred to, although of an ephemeral character, are yet important as historical memorials, and should be preserved. These petitioners, therefore, pray Congress to modify the existing laws, so as to permit postage on papers, documents, and books forwarded to the societies above named to be paid on delivery; and they further pray that the present rate of postage charged on such papers and documents be reduced fifty per cent. below the present charges to such societies.

This petition and memorial, as it is called, is signed by J. Francis Fisher, president of the Philadelphia Athenæum; T. Morris Perot, president of the Mercantile Library Company

of Philadelphia; W. E. Whitman, secretary of the Library Company of Philadelphia; Howard Malcolm, president of the Baptist Historical Society; Joseph R. Ingersoll, president of the Historical Society of Pennsylvania, and several others. I move its reference to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. HOWARD presented the petition of Mrs. Jane D. Brent, praying to be allowed a pension; which was referred to the Committee on Pensions.

Mr. CHANDLER presented a petition of citizens of Michigan, praying for a reduction of the tax on stoves; which was referred to the Committee on Finance.

He also presented a petition of citizens of Michigan, praying for a grant of land for the construction of a railroad from Saginaw to some point on Lake Michigan, in the direction of Bay de Noquette and in the Grand Traverse region; which was referred to the Committee on Public Lands.

Mr. LANE, of Indiana, presented the petition of William A. Phillips, late commanding officer of the Indian brigade, and others, praying for a bounty for the men of the first, second, and third Indian regiments, under the act of July 22, 1861; which was referred to the Committee on Military Affairs and the Militia.

Mr. MORGAN presented the petition of the Bishop Gutta Percha Company, of the city of New York, praying for an increase of the duty on all manufactured insulated telegraphic or electric wires or cables used for telegraphic or other purposes; which was referred to the Committee on Finance.

Mr. COWAN presented the petition of J. A. Boyer, Andrew Robinson, and others, and the petition of Henry Jordan, John Sherrier, and others, of Westmoreland county, Pennsylvania, and the petition of J. B. Finlay, John W. Roney, and others, of Armstrong county, Pennsylvania, praying for an increase of the duty on imported wool; which were referred to the Committee on Finance.

He also presented the petition of Massey, Collins & Co., Thomas J. Martin, and others, brewers of Philadelphia, Pennsylvania, praying for a reduction of the duty on barley imported from Canada and the other British Provinces in North America; which was referred to the Committee on Finance.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CLARK, it was

Ordered, That the memorial of Margaret A. Laurie, praying for compensation for property destroyed by the United States forces in the District of Columbia, be taken from the files of the Senate and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. SHERMAN, from the Committee on Finance, to whom was referred the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred the bill (H. R. No. 397) to authorize the coinage of five-cent pieces, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred the bill (S. No. 196) to extend the port of entry of the collection district of the State of Oregon, reported it with an amendment.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of George Mack, and others, enlisted men of company G, eighth regiment United States Veteran volunteers, praying for the payment of bounty due to them which was lost through the carelessness or fraud of a Government officer, submitted an adverse report thereon; which was ordered to be printed.

Mr. POMEROY. I ask leave to introduce a joint resolution to go with that report in the case of George Mack, and others, and that it be printed, so that when the subject comes up

for consideration I can move this joint resolution as a substitute for the resolution of the committee.

There being no objection, leave was granted to introduce a joint resolution (S. R. No. 72) for the relief of George Mack, and twenty-four others; which was read twice by its title, and ordered to be printed.

INTERIOR DEPARTMENT CLERKS.

Mr. SHERMAN. I am directed by the Committee on Finance to report a bill to reorganize the clerical force of the Department of the Interior, and for other purposes. This bill was framed by the Interior Department, and the Committee on Finance are of opinion that they ought not to consider it, because it does not fall within their appropriate duties, but that they thought the subject was of sufficient importance to have the matter referred to a select committee to be composed of the chairmen or representatives of the various committees of this body having charge of the respective bureaus of the Interior Department. If such be the pleasure of the Senate, I ask that the bill be read twice, and referred to a select committee.

The bill (S. No. 282) to reorganize the clerical force of the Department of the Interior, and for other purposes, was read twice by its title.

Mr. SHERMAN. I move that this bill be referred to a select committee of five members; and I make the suggestion, simply on behalf of the Committee on Finance, that the select committee be composed of the chairmen of the several Committees on Indian Affairs, Public Lands, Pensions, Patents, and Printing. These subjects are all referred to in the bill.

The PRESIDENT *pro tempore*. It is moved that the bill be referred to a select committee consisting of the gentlemen named by the Senator from Ohio.

The motion was agreed to; and Messrs. DOOLITTLE, POMEROY, ANTHONY, LANE of Indiana, and COWAN, constitute the select committee.

PRINTING APPROPRIATIONS.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (H. R. No. 500) making appropriations to supply deficiency in the appropriation for the public printing for the fiscal year ending June 30, 1866, have instructed me to report it back without amendment, and as we are informed by the gentleman at the head of the Printing Bureau that the money is immediately needed to pay current expenses of public printing, I ask for the present consideration of the bill.

By unanimous consent, the bill was considered as in Committee of the Whole.

It appropriates, to supply deficiencies for the fiscal year ending June 30, 1866, for the public printing, \$115,000; for paper for the public printing, \$450,000; for the public binding, \$95,000. It also proposes to empower the Superintendent of the Public Printing to employ an additional clerk, of class four.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had passed a joint resolution (H. R. No. 116) to prevent the introduction of the cholera into the ports of the United States, in which the concurrence of the Senate was requested.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil;

A bill (H. R. No. 472) for the relief of George R. Frank, late captain thirty-third regiment, Wisconsin volunteer infantry; and

A bill (H. R. No. 500) making appropriations to supply deficiency in the appropriation for the public printing for the fiscal year ending June 30, 1866.

CLAIMS OF LOYAL CITIZENS.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 73) for the relief of loyal citizens of the counties of Berkeley and Jefferson, in the State of West Virginia; which was read twice by its title.

Mr. WILLEY. With the indulgence of the Senate, I desire to make a remark or two in reference to this resolution; but before doing so, with the permission of the Senate, I ask for the reading of the resolution at large.

The Secretary read the joint resolution, as follows:

Resolved, &c., That the second and third sections of the act entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermasters' stores and subsistence supplies furnished to the Army of the United States," approved July 4, 1864, be, and the same are hereby, made applicable to, and shall include, claims of loyal citizens of the counties of Berkeley and Jefferson, in the State of West Virginia.

Mr. WILLEY. The second section of the act of July 4, 1864, referred to in this resolution, is in these words:

"SEC. 2. And be it further enacted, That all claims of loyal citizens, in States not in rebellion, for quartermaster's stores actually furnished to the Army of the United States and receipted for by the proper officer receiving the same, or which may have been taken by such officer without giving such receipt, may be submitted to the Quartermaster General of the United States, accompanied with such proofs as each claimant can present of the facts in his case; and it shall be the duty of the Quartermaster General to cause such claim to be examined, and if convinced that it is just and of the loyalty of the claimant and that the stores have been actually received or taken for the use of and used by said Army, then to report each case to the Third Auditor of the Treasury with a recommendation for settlement."

The third section refers to subsistence supplies, and is of like tenor with the second section, referring them for proof to the Commissary General of Subsistence. It seems that the quartermaster's department, for some cause unknown to me, have excluded the counties of Berkeley and Jefferson from the operation of these two sections of the act of 1864.

Mr. TRUMBULL. If the Senator from West Virginia will allow me, I will state that this subject has been before the Committee on the Judiciary, and a bill has been reported from that committee, and is now pending in the Senate, recommending the extension of the provisions of the act which he has just read to loyal persons in all portions of the United States. I apprehend that would cover the object which the Senator has in view. Perhaps that bill has escaped his notice. It is on the table, and it is the intention of the committee to call it up at the very first opportunity.

Mr. WILLEY. I was aware of the bill referred to by the Senator from Illinois. That bill embraces loyal citizens throughout the entire South, and will perhaps lead to some discussion and some delay. The resolution which I now offer is confined in its operations exclusively to the counties of Berkeley and Jefferson, in the State of West Virginia. Allow me to state, Mr. President, that the people of West Virginia feel somewhat chagrined that a part of her territory, the counties of Berkeley and Jefferson, as much a part of her territory as any other counties in the State, the loyal State of West Virginia, should have been excluded by one of the subordinate departments of the Government from the operation of the act of July, 1864. Why these two counties are excluded I cannot understand. Why a part of a loyal State should be excluded and another part allowed to be brought within the operation of this act, I cannot understand. Every other department of the Government has recognized these two counties as belonging to West Virginia, as a part of the territory of that loyal

State; the Executive has recognized it; the head of the War Department has recognized it; and recently, it will be in the recollection of the Senate, Congress by its action recognized the annexation of these two counties to the State of West Virginia, so that these two counties are now, and always have been, a part of that territory; since 1863 at any rate. Before the passage of the act of July, 1864, and ever since the passage of that act, these two counties have been as much a part of the State of West Virginia as any other counties within its limits.

We feel somewhat aggrieved that this discrimination should be made against them. There are not many claimants in these two counties; and fearing that the bill referred to by the Senator from Illinois might, perhaps, lead to some extended discussion and to some delay, I have thought it proper to introduce this resolution, supposing that there would be no objection to it, inasmuch as it simply places these two counties on an equal footing with all the other counties of the State; and if there be no objection I would be glad if the Senate would take up the resolution and consider it now. I have stated all that there is in the joint resolution. It seems to me there can be no earthly objection to it; and therefore I should be glad if the Senate would put the resolution on its passage now.

The PRESIDENT *pro tempore*. The Senator from West Virginia asks for the present consideration of the resolution introduced by him. Is there any objection? No objection being made, the resolution is before the Senate as in Committee of the Whole.

Mr. WILSON. The resolution is very brief, and I should like to hear it read again.

The Secretary read it.

Mr. TRUMBULL. Is that resolution intended to be put upon its passage? It has not been referred to any committee. Has it come from a committee?

The PRESIDENT *pro tempore*. It has not.

Mr. TRUMBULL. I think such a resolution ought not to pass without consideration. This whole subject has been carefully considered during the present session; and the law to which reference has been made, the law of 1864, I think, has been somewhat modified in the bill which has been reported, and which is now pending before the Senate, and will embrace this case. I do not think we ought to act on a resolution opening the door for the allowance of claims any wider than it was opened by the previous act, until we consider the whole subject, as we shall do in the bill of which the Senator from Vermont [Mr. POLAND] has charge, and which will be called up on an early day. If this joint resolution passes, another joint resolution may be offered to-morrow to embrace some other county, and another the next day to embrace some other county, and another the next day. This joint resolution has not been considered by any committee, and I trust it will not be pressed to a vote at the present time. It has not even been printed. I move that the pending resolution be referred to the Committee on Claims.

Mr. WILLEY. It seems to me that the honorable Senator from Illinois could hardly have looked at the case as it actually exists. The act to which he refers is dated July 4, 1864. West Virginia became a State on the 20th day of June, 1863. The act of July 4, 1864, provides for claims of loyal citizens in States not in rebellion. At the time of the passage of the act of the 4th of July, 1864, these two counties were within a loyal State, and the claims of loyal citizens in the remainder of the counties in that State have met with no difficulty at the Department. It seems to me an unjust and offensive discrimination against the loyal citizens of two counties of the State, that their claims should not be heard, while the claims of the loyal citizens of the other counties in the State have been adjusted without any difficulty. West Virginia became a State on the 20th of June, 1863; this law was passed July 4, 1864, more than a year afterwards, so that these two counties were in point of fact a part of the

State of West Virginia more than a year before this act was passed.

The object of the resolution is to correct this unjust discrimination and official misconstruction of the law as it really did exist. Congress has just given its assent to the annexation of these two counties to West Virginia. Therefore I trust, not merely for the sake of allowing the loyal men in these two counties to have their claims adjusted, but for the sake of a sense of pride on the part of the State of West Virginia, these two counties may be placed on an equal footing with all the other counties in the State.

Mr. CLARK. I have always been in favor of paying the claims of loyal men in the country wherever found; but I hardly see the necessity of the haste which the Senator from West Virginia manifests by desiring to have this resolution considered at the present time. I do not make objection to its consideration, but I think it should go to some committee who should make an examination of it. If it is all right, there will undoubtedly be a favorable report; and it would be more satisfactory to the Senate to know precisely where we are going. I do not desire to have it go to the Committee on Claims, but I think it had better go to the Committee on the Judiciary who had this whole matter under consideration. I have no doubt they will report at an early day, and perhaps that will be more satisfactory to the Senate.

Mr. WILLEY. There being objection on the part of Senators, of course I do not feel like urging it.

Mr. CLARK. I do not make an objection to its present consideration. I only point out the course which I think the resolution had better take; and I move its reference to the Committee on the Judiciary, if the Senator from Illinois will withdraw his motion, because that committee had the whole matter under consideration and they can report at a very early day, should the other bill not pass, which I think will be satisfactory.

Mr. TRUMBULL. I am not particular about the committee it goes to; but I do not wish to be understood by the Senator from West Virginia as at all opposed to the object he has in view. I presume I am for it; I agreed to the bill which has already been reported from the Committee on the Judiciary. I withdraw the motion to refer the resolution to the Committee on Claims. It is immaterial to me to what committee it goes.

Mr. CLARK. I move that it be referred to the Committee on the Judiciary. So far as informed at the present time, I will say to the Senator from West Virginia that I think I am entirely in favor of it, but I desire simply to examine it and know where we are going.

The joint resolution was referred to the Committee on the Judiciary.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 116) to prevent the introduction of the cholera into the ports of the United States, was read twice by its title, and referred to the Committee on Commerce.

NAVAL OFFICERS VISITING WASHINGTON.

Mr. GUTHRIE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of the Navy be requested to communicate to the Senate copies of any orders of the Departments which deprive officers of the Navy who are not on duty of the privileges of citizens of the United States with respect to their privileges of passing from one State to another or to the city of Washington; also, whether the Department has refused to permit officers to visit Washington for the purpose of personal appeal to the President of the United States or to Congress in their own cases, and if so by what authority this right is withdrawn from them as citizens of the United States.

CAPTURE OF JEFFERSON DAVIS.

Mr. HOWE. I offer the following resolution and ask for its present consideration:

Resolved, That the Secretary of War be requested to communicate to the Senate all evidence upon which the award of the commission appointed to

examine the different claims to the reward offered for the apprehension of Jefferson Davis was based, and especially copies of the reports of Lieutenant Colonel D. B. Pritchard, of the fourth Michigan cavalry, and of Lieutenant Colonel Henry Harnden, of the first Wisconsin cavalry, together with copies of the orders under which the above-named officers respectively acted.

Mr. COWAN. I should like to know if the purpose of the resolution is to assail the validity of the award.

Mr. HOWE. I want to get the evidence on which the award was made. I do not know whether I shall assail it or not until I see on what evidence it was made. I have some reasons to think, however, that the award is not justified by the evidence.

Mr. JOHNSON. Has the amount been distributed?

Mr. HOWE. No, sir, and cannot be, I take it, until there is an appropriation.

Mr. JOHNSON. I thought there was an appropriation in advance.

The PRESIDENT *pro tempore*. The Chair will ask whether the present consideration of the resolution is objected to.

Mr. CHANDLER. I presume the Senator can get the information he desires by applying to the Provost Marshal General or to the Secretary of War. I do not know that there is any particular national importance in the question whether the lieutenant colonel of a Wisconsin regiment or the lieutenant colonel of a Michigan regiment receives the money. It has been carefully adjudicated and decided. I understand that there is a little conflict of opinion between these two officers as to which is entitled to the reward. The fact is that the Michigan colonel caught him and has been decided to be entitled to the money. I do not care who sees the evidence, but I do not see what importance it is to this body.

Mr. COWAN. If this information was communicated, and it may be very voluminous, it will have to be printed; and if printed, for what purpose? There is no right of appeal that I know of to this body unless it should arise when a question of appropriation comes up. I should suppose that then it would more properly come up than now. I have no disposition to enter into the controversy which exists between Michigan and Wisconsin on this subject. I hope the services of both in this behalf will be paid, and well paid, but I do not want to throw good money away after bad.

Mr. HOWE. I do not understand exactly the philosophy which controls this discussion. This resolution simply proposes to ask the Secretary of War to communicate to the Senate of the United States the evidence upon which that award was made. I take it that evidence will not hurt the Senate, and it will not hurt the country. The Senator from Pennsylvania suggests that there can be no possible good derived from communicating here the evidence, because there can be no appeal taken from the award of these commissioners. I think the Senator is mistaken about it. An appeal can be taken. I do not think the award of these commissioners binds the Congress of the United States to appropriate a dollar unless the Congress of the United States are satisfied that the award is correct and ought to be paid. There was a bounty offered to those persons who should capture Jefferson Davis in his flight. It has been decided by the officers who were detailed to examine the question that certain individuals are entitled to the award. I do not know that the decision is not just. I have an impression that it is not just. I think the public is in no sort of danger if the Senate is allowed an opportunity of looking at the evidence and determining for themselves whether it is correct or not.

I do not know that I shall dissent from the award. I do not know that the fourth Michigan cavalry did not earn it. I am advised officially that the fourth Michigan cavalry did not get it; only a small portion of the regiment. If it was earned by that part, my impression is it was earned by more of the corps than are allowed to participate in the reward. I do not

undertake to say that the first Wisconsin cavalry is entitled to any portion of it. I have a decided impression that a portion of the first Wisconsin cavalry is. But let us see the evidence. My friend from Michigan does not object to that.

Mr. CHANDLER. Not at all.

Mr. HOWE. Then let us have it.

Mr. CHANDLER. It is very voluminous. I suppose it is a large volume, and it will cost several thousand dollars to publish it. If the Senator will change his resolution, and ask that the evidence be furnished to him in manuscript for his examination, I shall certainly vote for it. I am in favor of his having it all. I am satisfied with the award.

Mr. HOWE. The evidence, I think, will compose about as small a volume as you are in the habit of seeing, and whether we shall print it when we get it or not will be a matter for the Senate to determine when they have seen it. I think the evidence will consist mainly of a brief report from Lieutenant Colonel Pritchard, commanding the fourth Michigan cavalry, and quite as brief a one from Lieutenant Colonel Harnden, commanding the first Wisconsin cavalry. That is about all the evidence, I guess, there is on the point. If there is more, I shall be glad to see it.

Mr. CONNESS. There is much more.

The resolution was agreed to.

PAY OF ARMY OFFICERS.

Mr. WILSON. I move to take up House joint resolution No. 101, for the relief of certain officers of the Army.

The motion was agreed to; and the joint resolution (H. R. No. 101) for the relief of certain officers of the Army, was considered as in Committee of the Whole.

In every case in which a commissioned officer actually entered on duty as such, and was entitled by law to be so mustered in, but by reason of being killed in battle, captured by the enemy, or other cause beyond his control, and without fault or neglect of his own, was not mustered according to the regulations within a period of not less than thirty days, the pay department is to allow to such officer full pay and emoluments from the date on which such officer actually entered on such duty, deducting from the amount paid in accordance with this resolution all pay actually received by him for such period.

Mr. RAMSEY. I propose to amend the resolution by striking out in the fourth and fifth lines the words "and was entitled by law to be mustered in as such;" and by striking out in the eighth line the words "according to the regulations," and then after the word "days," in the ninth line, by inserting "from acceptance of any appointment or actual entry upon duty, and who was afterward regularly mustered into the service of the United States." This amendment has been brought to the attention of the Committee on Military Affairs, and I believe I may say that the chairman is satisfied with it and thinks it meets a case which ought to be provided for. The resolution, if amended as I propose, would read thus:

That in every case in which a commissioned officer actually entered on duty as such commissioned officer, but by reason of being killed in battle, capture by the enemy, or other cause beyond his control, and without fault or neglect of his own, was not mustered within a period of not less than thirty days from acceptance of appointment or actual entry upon duty, and who was afterward regularly mustered into the service of the United States, the pay department shall allow to such officer full pay and emoluments from the date on which such officer actually entered on such duty as aforesaid, deducting from the amount paid in accordance with this resolution all pay actually received by such officer for such period.

The amendment was agreed to.

Mr. SHERMAN. I desire to suggest that there is one difficulty in the resolution as it now stands. It speaks of an officer who has not been mustered in by reason of having been killed in battle; and then it goes on to provide that afterward, if regularly mustered into the service of the United States, he shall have his pay. Certainly the condition would not arise after he has been killed; he cannot then be

mustered into our Army. The purpose may be good enough, but the language is liable to this criticism.

Mr. WILSON. I prefer that the resolution be passed over, in order that we may look at the exact bearing of the amendment which has been adopted. I did not see all of the amendment before it was offered.

Mr. GRIMES. I suggest that it be printed.

Mr. WILSON. I move that the further consideration of the resolution be postponed until to-morrow, and that it be printed as amended.

The motion was agreed to.

PROTECTION TO UNITED STATES OFFICERS.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House had non-concurred in the amendments of the Senate to the bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 8, 1863, and requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. JAMES F. WILSON of Iowa, Mr. SAMUEL McKEE of Kentucky, and Mr. B. M. BOYER of Pennsylvania, managers of the conference on the part of the House of Representatives.

Mr. CLARK. I move that the Senate insist on its amendments to the bill just received from the House of Representatives and agree to the conference, and that the committee of conference on the part of the Senate be appointed by the Chair.

Mr. HENDRICKS. I wish to ask the Senator from New Hampshire if he is advised upon what amendments there is a disagreement.

Mr. CLARK. There was but one amendment that was of importance, and I suppose it must be upon that. That was in regard to the time at which the bill should cease to operate, with the amendment proposed to it by the Senator from Indiana. I suppose that is the amendment upon which the House must have disagreed with us, because the others were merely verbal. I will say to the Senator from Indiana that there is but one course to be taken, and that is to insist upon our amendments and agree to the conference, or else to recede from our amendments, and I do not suppose the Senator would be willing to recede.

Mr. HENDRICKS. No, sir; I think the Senate ought to insist; but then the chances are that when the committee of conference is appointed we shall not see the amendments again. I wanted to know what questions were to be submitted to the committee.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire.

The motion was agreed to.

CONTRACTORS FOR VESSELS AND MACHINERY.

Mr. NYE. I move to take up the bill for the relief of contractors for double-enders and iron-clads.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 220) for the relief of certain contractors for the construction of vessels-of-war and steam machinery, the pending question being on the motion of Mr. NYE to amend the amendment of Mr. GRIMES by striking out "twelve" and inserting "fifteen."

Mr. HENDRICKS. I had thought of submitting a very few remarks to the Senate with regard to this measure, but have concluded that it is better that we shall vote upon it, as the Senate very generally understand it. I suggest to the Senator from Nevada, in order that we may come to a vote upon it at once, that he withdraw his amendment to the amendment of the Senator from Iowa, and allow the Senate to vote upon that proposition.

Mr. NYE. I am ready to do so. I withdraw my amendment to the amendment.

The PRESIDENT *pro tempore*. The amendment to the amendment being withdrawn, the

question now is on the amendment of the Senator from Iowa, which will be read.

The Secretary read the amendment, which was to strike out all of the bill after the first clause, and in lieu of the words struck out to insert the following:

That the Secretary of the Treasury be directed to pay, out of any money in the Treasury not otherwise appropriated, to the several parties the awards made in their favor by the naval board organized under the resolution of the Senate, adopted March 9, 1865, the awards being made under date of December 23, 1865, and reported to the Secretary of the Navy: *Provided*, That the payment shall not in any case exceed twelve per cent. upon the contract price, except in the case of the Comanche, in which case the award shall be paid in full.

The amendment was agreed to.

Mr. SUMNER. I now offer this amendment to come in as a new section:

SEC. —. *And be it further enacted*, That in the cases of Donald McKay, of Boston, Massachusetts, who built the Ashuelot and machinery, and Miles Greenwood, of Cincinnati, Ohio, who built the Tippecanoe, whose contracts have been completed to the satisfaction of the Department, and who were prevented from appearing before the naval board, shall be entitled to the same rate of compensation as is authorized to be paid to other parties building the same class of vessels and machinery; and such payment to be made to them out of any money in the Treasury not otherwise appropriated, under the supervision and direction of the Secretary of the Navy, provided the evidence submitted for his examination fully establishes the right of the said parties to compensation.

I believe there is no question on this amendment. I have conferred with Senators who are interested in this subject, and I believe I have their concurrence in moving the amendment. The Senator from Nevada who has the bill in charge is familiar with it, so is the Senator from Iowa, and I understand that the Navy Department also is familiar with it, and that it has the cordial concurrence of that Department. I think there is no question in regard to it.

The amendment was agreed to.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is on concurring in the amendments made as in Committee of the Whole.

Mr. HENDERSON. I now move to postpone the consideration of the bill and amendments until the first Monday of December next, and upon this motion I call for the yeas and nays.

The yeas and nays were ordered.

Mr. McDUGALL. I desire to inquire of the Senator from Missouri the reason why he asks this postponement. I should like to hear the reason.

Mr. HENDERSON. This subject was thoroughly discussed a few days ago. I had not examined the subject as thoroughly as I might have done, but I thought the Senator from New Hampshire [Mr. CLARK] clearly disclosed to the Senate reasons sufficient to postpone the consideration of this bill, not only until the first Monday of December next, but forever. I do not pretend to say that there are not meritorious claims in this bill, individuals named who are entitled to something at the hands of Congress. I would be perfectly willing to grant something to some of these parties, but even in the original bill those parties are mixed up with others, as was clearly shown by the Senator from New Hampshire, who are not entitled to one cent and ought not to be paid one cent; at least if they ought to be, I have seen no reasons for it; no reasons have been given. Why, sir, if I am not mistaken, it has been shown clearly to the Senate that the only consideration for their claiming anything at the hands of Congress arises from their own willful neglect to perform the work within the time that they stipulated to do it in.

If we are inclined to do anything for these men, I think we ought to open the Court of Claims to them and prescribe some rules by which these parties can enforce this just claim which it is said they have against the Government. I am totally opposed to voting anything to these contractors upon the report of this board—a board organized under a simple

resolution of the Senate, passed without any notice whatever on the 9th of March, 1865, after the adjournment of Congress and during the executive session. The report of that board shows that they took no evidence whatever in order to ascertain the truth of the matter now before this body, and appealing to our generosity rather than to our justice, because, if I understand the report of that board, it was their generosity that gave us such a report, and not their sense of justice. I have heard no answer to the point made by the Senator from New Hampshire the other day. What is the proposition now made? It is a change simply from the award of the commission to twelve per cent.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is the bill making appropriations for the benefit of the Post Office Department.

Mr. NYE. I hope we may be allowed to get a vote on this question. I trust the Senator from Ohio will permit us to come to a vote upon it.

Mr. POMEROY. There is a special order for to-day, which I should like to have the Senate proceed with.

The PRESIDENT *pro tempore*. There is a special order, but the unfinished business of yesterday takes precedence of the special order.

Mr. POMEROY. I know that the unfinished business takes precedence, but it is within the province of the Senate to proceed with the consideration of the special order if they so determine.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is before the Senate, of course subject to the order of the Senate to be postponed or delayed at their pleasure.

Mr. HENDRICKS. I wish, almost as a personal favor, that this bill for the relief of these contractors could be disposed of this morning, as I desire to leave the city in a day or two, to be gone for a few days, and I should like to have it disposed of before I leave. I feel some little responsibility about it, as it was referred to myself and other gentlemen as a sub-committee. I believe the friends of the bill do not propose to discuss it at any length.

Mr. WILSON. How long will it take?

Mr. HENDRICKS. But a few minutes, I think. We do not wish to discuss it.

Mr. CLARK. I suggest to the Senator from Indiana that perhaps the bill had better go over until his return. I do not think it is likely to suffer from delay. I will say to him that I have never been so much embarrassed by any measure before the Senate since I have been a member of it, and that by reason of these cases being lumped together. I have no doubt there are some meritorious cases in the bill from the examination that I have been able to make, but they are loaded down by others that ought not to pass; and I think we should endeavor to see if we cannot contrive some way to relieve the Senate of this difficulty, so that we may have some discrimination in regard to these cases. I make this suggestion to the Senator in a friendly spirit, because I feel that some of these men should be relieved—I cannot say how many; but it seems to me to be the better way to legislate for individual cases, if we can contrive some way to do it. I have no personal wish about it. I make the suggestion to him as to the best course to be taken with it.

Mr. HENDRICKS. I know that is the feeling of the Senator from New Hampshire, but it is doubtful if we can really get to understand this case any more thoroughly than we now understand it, and if it is postponed until late in the session, the difficulty would be to secure a consideration of it in the House of Representatives. These parties are much pressed, and ought to have some relief; and as this is not quite half as much as the board allowed them, I thought it certainly would be adopted by the Senate. If we could agree upon any

plan safer to the Government and more just to the parties, I would be willing to do it. I have considered the subject in every light possible. I thought myself that the safer way was to adopt the report of the board, but as Senators for whose judgment I have a great deal of respect thought that was giving too much, and the chairman of the Committee on Naval Affairs proposes twelve per cent. on the contract prices, a reduction, I believe, of more than one half, I thought we might agree upon that.

Mr. CLARK. I will state to the Senator the difficulty which is likely to occur, and which will embarrass us, perhaps, to some extent. Here are some forty-two or forty-three of these claimants put into one bill. They do not include all this class of cases; and we are continually in the receipt of letters from other parties, who say, "We do not claim anything upon our contracts; we took a contract, we have fulfilled it, and though we have lost by it, we are bound by it; we do not ask anything; but if these parties are to be relieved by a general bill, we ought to be relieved also." How can the Senate resist such an application?

Mr. HENDRICKS. So far as my knowledge goes on that subject, I think this bill, with the amendment proposed by the Senator from Massachusetts, really covers about all the cases that have any equity. There is one case, I will state to the Senator, which is not here, but which I think will address itself forcibly to the Senate, and that is the case of Mr. Webb, who constructed the Dunderberg, a grand vessel, perhaps the greatest vessel-of-war in the world. I shall be in favor, so far as I know anything about his case, of giving him some relief. I think he has produced the greatest vessel, perhaps, in the world; but he could not present his case to the board, and he will have to appeal upon the merits of his separate case. I do not know of any other than that one.

Mr. POMEROY. I move that the Senate postpone the consideration of the present and all other orders, and proceed to the consideration of the special order, which is the bill for the admission of Colorado into the Union.

Mr. NYE. I hope the Senator from Kansas will withdraw that motion long enough to enable us to get a vote on this bill.

Mr. POMEROY. If the Senate is ready to vote on this question I am willing to allow the special order to be laid aside temporarily for that purpose; but if we are to have no vote upon it I think we had better proceed to the consideration of the special order.

Mr. CLARK. It is pretty evident, if the Senator will allow me, that we cannot come to a vote at once. There is pending the motion of the Senator from Missouri to postpone the bill until the first Monday of December next, and, then, if that is defeated, and the bill is to pass, I desire to propose an amendment to it before it does pass, and that will necessarily take some little time.

Mr. POMEROY. It could not be passed to-day, probably.

Mr. CLARK. I do not know, but I think we had better go on with the subject that is regularly before the Senate.

Mr. HENDRICKS. If that is the view of the Senator, I will move that this bill be made the order of the day for to-morrow at half past twelve o'clock.

The PRESIDENT *pro tempore*. The motion now before the Senate is to postpone the present and all prior orders and proceed to the consideration of the bill for the admission of Colorado into the Union.

Mr. HENDRICKS. I move that this subject be made the special order for to-morrow at half past twelve o'clock.

The PRESIDENT *pro tempore*. There is another motion before the Senate.

Mr. NYE. I hope the Senator from Kansas will withdraw his motion long enough to allow the motion to be put on postponing this subject until to-morrow.

Mr. CONNESS. I hope it will not be made a special order in the morning hour.

Mr. POMEROY. I have no objection to

this bill being considered to-morrow, and I am willing to make it the special order for to-morrow at one o'clock; but I think we had better proceed now with the consideration of the special order. It has been postponed from time to time, and by a sort of unanimous consent it was agreed that it should be considered to-day.

Mr. HENDRICKS. There is nobody opposing that. My motion is that this subject be made the special order at half past twelve o'clock to-morrow.

The PRESIDENT *pro tempore*. The motion before the Senate is to postpone the present and all prior orders and proceed to the consideration of the special order, and that motion must be put unless it be withdrawn.

Mr. POMEROY. I will withdraw that in order to allow the motion of the Senator from Indiana to be made.

Mr. HENDRICKS. Then I move that this subject be made the special order for to-morrow at half past twelve o'clock.

The PRESIDENT *pro tempore*. The question really before the Senate is the bill making appropriations for the Post Office Department, but that bill will be considered as laid aside, if there be no objection, in order to entertain the motion of the Senator from Indiana, which is, that the bill recently before the Senate for the relief of certain naval contractors be postponed to and made the special order for to-morrow at half past twelve o'clock.

Mr. CONNESS. I hope it will not be introduced into the morning hour.

Several SENATORS. Say one o'clock.

Mr. HENDRICKS. Very well; I will say one o'clock.

The motion was agreed to.

ADMISSION OF COLORADO.

Mr. POMEROY. I now renew the motion to postpone all prior orders and proceed to the consideration of the bill for the admission of Colorado.

Mr. SHERMAN. As the Post Office appropriation bill is the unfinished business, and I hope will take but little time, I think we may as well proceed with it. There will be time enough to pass both bills to-day. I hope, therefore, that the Post Office bill may be proceeded with for awhile, and if we find that it is going to take up much time we can then postpone it. It is now in order and is before us.

Mr. TRUMBULL. I should like to inquire if the Colorado bill was not the order of the day at one o'clock.

The PRESIDENT *pro tempore*. It was made the special order for to-day at one o'clock, by a vote of the Senate, but the unfinished business of yesterday, by the rule of the Senate, takes precedence of the special order, and the unfinished business is the Post Office appropriation bill.

Mr. McDUGALL. It is my opinion that is the ruling of the Chair in this particular case is not according to the law, and I will state my reason as a point of order. The special order supersedes the order of business, and if the Chair determine upon reflection to rule otherwise I shall be compelled to take an appeal; because these are laws that should be understood, and have to be studied to be learned. A special order overcomes the regular order of business, both in the House of Representatives and in this body, as I have understood it. I think if the President of the Senate will consider for a moment he will agree with me that a special order made by the Senate, for action upon a particular subject at a given hour, governs the regular order of business. In rising to question the judgment of the President I do not propose to reason; I rather rose to suggest that Senators may consider the subject, for it is a matter which, as a precedent, may be of great importance. When the Senate make a special order it is to be relied upon as the voice of the Senate, giving the right to the subject-matter at the hour appointed, independent of the ordinary course of business. So it has been understood always, as far as my knowledge runs, in regard to parliamentary law. I do not

profess to be very highly versed in these things, but it seems to me that logically it must be true; and I think if the President will consider carefully he will agree with me. If the President insists upon the ruling which he has made I shall be compelled to take an appeal from the decision, for the purpose of ascertaining what is the law of the Senate.

The PRESIDENT *pro tempore*. The Chair will call for the reading of the fifteenth rule of the Senate.

The Secretary read it, as follows:

"15. The unfinished business in which the Senate was engaged at the last preceding adjournment shall have the preference in the special orders of the day."

Mr. SHERMAN. There is no doubt at all about the rule. It is not only clear by the rule, but it has been the daily practice of the Senate ever since I have been a member of the body; probably fifty times in the session the unfinished business takes precedence of all other special orders. But I rose to say that I find it is the desire of the Senate, as this day was set apart for the consideration of the Colorado bill, to proceed with it, and I therefore have no objection to postponing the Post Office appropriation bill. I give notice that I shall call it up at an early day, in order to get it passed.

Mr. McDUGALL. "When ignorance is bliss, it is folly to be wise." My wisdom I withdraw.

The PRESIDENT *pro tempore*. The question is on postponing the present and all prior orders to proceed to the consideration of the Colorado bill.

The motion was agreed to; and the Senate proceeded to consider the motion submitted by Mr. WILSON to reconsider the vote by which the Senate rejected the bill (S. No. 74) for the admission of the State of Colorado into the Union, upon which the yeas and nays had been ordered.

Mr. SUMNER. Mr. President, on the 13th of March last, after a debate of two days, the Senate rejected a bill for the admission of Colorado as a State into the Union. This was by a vote of 21 yeas to 14 nays, being a majority of 7. And now, after an interval of more than a month, a motion is made to reconsider that vote. An attempt is made to revive a question which at that time seemed to have been buried. Of course those who press this motion have a right to do so, if they are satisfied in their minds that the motion ought to be pressed. I do not complain of them. But I meet the proposition on the threshold. I do not content myself by waiting to another stage and entering into the discussion after we have allowed the reconsideration. I oppose the reconsideration. I insist that this subject, once closed by such a majority, and on such good grounds, as I shall proceed to show, shall not again be opened in this Chamber.

Sir, the proposition concerns the admission of a State into this Union. I need not remind you that in other days no such proposition could be made in this Chamber without exciting great interest. Some of the most remarkable debates that have occurred in the Senate have been on such propositions. The proposition has two aspects: first, as it concerns the people in the Territory itself, who, I submit, are not prepared to assume the responsibilities of a State government; and secondly, as it concerns the other States in the Union, who, I submit also, ought not to be obliged at this moment to receive this community into full equality as a State.

On another occasion I felt it my duty to remind you of the position, the responsibilities, the powers, and the prerogatives of a State in this Union. I held up before you what you would undertake to convey to this small community if you invested it with the character of a State. I showed you that you would impart to it a full equality in this Chamber with the largest States in the Union; with New York, with Pennsylvania, with Ohio, with Massachusetts; and that in the exercise of this equality the Senators from this small community on all

questions of legislation, of diplomacy, and of appointments, might counterbalance the Senators of these large States. Assuming that this small community was already a State in the Union, I had no criticism to make on that equality of power; but I did present it to you as an unanswerable argument why you should not admit a community so small in the proper attributes of a State to the enjoyment of that high equality.

Permit me to say, sir, that you cannot adequately consider this question without giving your attention for one moment to the condition of the country at the moment when the question arises. We are happily at the close of a long, a bloody, and a most expensive war. Throughout that war, there was one question that entered into it, predominating over all others. It was the question of justice to the colored race. And now, sir, that the war is closed, that our soldiers are no longer in the tented field, that same question enters into your debates, and challenges your decision. You have before you at every stage of your legislation the question of justice to the colored race. And now, with this question staring you in the face, what do we see at this moment? A small community in a distant part of the country, small in population, even according to the statements of its friends not amounting in numbers to more than twenty-five or thirty thousand people; according to the statements of others, even as few in numbers as ten or fifteen thousand people; with agricultural resources that already begin to fail; with mining resources that during the last two or three years have been constantly failing; with accounts at the Post Office which during the past year have been failing; we have this small community coming forward and asking admission to equality as a State in the Union with a constitution that tramples on human rights. This new candidate, pressing for recognition, holds up a constitution which excludes all persons from the electoral franchise who are not white. It presents to you a constitution with a discrimination of the word "white;" and the question that you now have before you is, whether this small community, so slender in every respect, of such inferior condition, and coming forward with a principle of human inequality in its constitution, shall be admitted by you to the equality of States in this Union. You are not obliged to admit it. Your discretion is ample. The language of the Constitution is plain. "New States may be admitted into the Union," not must be, but "may be." You may exercise your discretion in the exercise of this prerogative. You may admit, or you may reject. Therefore when called to act, you must exercise your discretion. You cannot decline to exercise it. You must bring your judgment to bear upon the case; you must consider well all the facts and all the elements which enter into the civilization of this candidate community; you must consider of course its population, its resources, and also the character of its constitution. In doing so, you can have no feeling except of kindness and sympathy for the people there. God knows that I wish them well from the bottom of my heart. There is no aspiration which I do not offer for their welfare; but, on this occasion, we must consider the requirements of duty. And here the way is clear.

Now, sir, allow me to say, with these few words of introduction, that I present to you this proposition, that such a community as now exists in Colorado, deficient in population, failing already in agriculture, failing already in mineral resources, and with a constitution which sets at defiance the first principle of human rights, should not at this moment be recognized as a State of the Union. Mark me, if you please; I say at this moment and under these circumstances. The proposition that I present is compound or complex. I do not found my conclusion on any one of these elements or details, but I found it on the whole compounded together; and I say, sir, that at this moment, at the close of this war, when by every obligation we are

solemnly bound to maintain the rights of the colored race, you will err if you give your hand to such a community as I have described, which, so inferior in population and resources, comes forward with a constitution denying those rights.

Thus much, sir, I have to say by way of introduction; all this is simply that I may open to you in one word the magnitude of the question and the general principles which underlie it; but before I sit down it will be my duty to consider with some minuteness the actual condition and the resources of this Territory. And here, at this stage of the discussion, I hope to be pardoned if I call the attention of the Senate to a document which I find on our tables and which has been read I dare say by Senators. It is a pamphlet entitled "Colorado," and is addressed "to the honorable the members of the Senate and House of Representatives of the United States," and is signed "J. B. Chaffee and John Evans, Senators-elect." As I proceed it will be my duty to allude to statements in this pamphlet, which is the repository of facts and arguments for the admission of Colorado. I am reluctant to criticize it; but I believe if any Senator will canvass it from beginning to the end, he will find that there are very few of its statements which are entirely candid, very few which in point of fact can be relied upon in all respects. I said that it was signed by J. B. Chaffee and John Evans. Now, sir, I do not intend to introduce any personal question into this discussion so far as it can be avoided; but as this document is on our tables, and as it is here with a certain authority, in order to enlighten us as to our duty on this occasion, I think I shall not err if I call the attention of the Senate to the solemn judgment of one of the most honored committees of this body on the conduct of one of the signers of that document. I have in my hand the third volume of the Report of the Committee on the Conduct of the War, and I turn to the head of "the massacres of the Cheyenne Indians." That report, which is signed by B. F. WADE, chairman, after alluding to the testimony of Governor John Evans, one of the signers of the document now on your tables, proceeds as follows:

"His testimony before your committee was characterized by such prevarication and shuffling as has been shown by no witness they have examined during the four years they have been engaged in their investigations; and for the evident purpose of avoiding the admission that he was fully aware that the Indians massacred so brutally at Sand creek, were then, and had been, actuated by the most friendly feelings toward the whites, and had done all in their power to restrain those less friendly disposed."

Such, sir, is the language of your committee characterizing the testimony of the Governor of Colorado who now comes here to plead for the admission of that Territory as a State into this Union. His testimony is held up as "characterized by such prevarication and shuffling as has been shown by no witness they have examined during the four years they have been engaged in their investigations." It is that gentleman who now signs the paper I hold in my hand which is addressed to you in the expectation of influencing your votes on this occasion.

I shall not consider minutely the character of this pamphlet; but I will at this stage call attention to the very first proposition as an illustration of what seems to me the uncandid way in which the facts are presented. I may err; but this is the way it seems to me. For instance, here is a statement of the area of this Territory, which amounts, as it is said, to one hundred and five thousand eight hundred and eighteen square miles. Of this the pamphlet says that two fifths is east of the Rocky mountains, and that its agricultural and pastoral lands comprise forty-two thousand square miles, or over twenty-five million acres. That is the statement with which the pamphlet begins. Against this statement, which is not authenticated in any way, not supported by any authority, I oppose authority. I have in my hands a transcript from the report of the surveyor general of Colorado, dated August 15, 1865, addressed to the Commissioner of the General

Land Office, in whose annual report it appears. This authority is as follows:

"The extreme limit of the amount of land capable of cultivation in Colorado will not vary much from twenty-five hundred thousand acres."

Thus is the first statement in this pamphlet sweated down, if I may so express it, from twenty-five million to twenty-five hundred thousand acres.

Mr. KIRKWOOD. The Senator will allow me a moment. Will not the Senator find the statement he has just read from the surveyor general's report, word for word and letter for letter, in the paper submitted by Mr. Evans and Mr. Chaffee? Then wherein is the misrepresentation, I should be glad to know, when the very words read by the Senator from Massachusetts are in the report signed by those gentlemen?

Mr. RAMSEY. Does not the Senator recognize a difference between agricultural and pastoral lands?

Mr. NYE. The two and a half millions are agricultural, the other are pastoral lands.

Mr. SUMNER. But they are the same.

Mr. NYE. Not at all. They do not mean the same in the western States. One means sage brush, the other a place where things will grow.

Mr. SUMNER. They mean substantially the same; and it did seem to me that in the form of the statement there was a disposition to exaggerate uncandidly the actual condition of the Territory. And if I am mistaken, then I am happy to be corrected, and proceed at once to consider the important question of population. It will be remembered that when this enabling act was under discussion my excellent friend, the Senator from Ohio, [Mr. WADE,] who had the bill in charge, stated as follows. I quote from the Globe:

"I understand there must be now about sixty thousand inhabitants in Colorado. Some think a great deal more than that. That is the smallest number I find intimated by those who profess to know anything about it. It is a Territory which is filling up very rapidly. Judge Edmunds tells me that he has not the least doubt in the world that before they finish their arrangements and become a State, there will be sufficient population there for a Representative in Congress according to the ratio of representation fixed by the last census."

That was more than one hundred thousand. So that when the enabling act was passed the Senator from Ohio announced to us, on authority which he regarded, of course, as satisfactory, that there was a population there actually of sixty thousand. Now, the population, instead of increasing to one hundred thousand and more as the Senator triumphantly promised, has been constantly diminishing, growing smaller year by year according to all the evidence that comes to us, especially as shown in the annual elections. Thus, for instance, at the election for members of a Territorial Legislature in the autumn of 1861, the aggregate vote was 10,580; in December, 1861, a few months later, the aggregate vote for Delegate to Congress was 9,354, diminishing, you will observe. In October, 1862, the aggregate vote for a Delegate to Congress was 8,224, still again diminishing. In September, 1864, the aggregate vote was 5,769. In September, 1864, again there was a vote under the congressional enabling act to determine whether a State government should be adopted or rejected, and the aggregate vote was 6,192. Then, again, in September, 1865, only this last September, there was another vote on the adoption of the constitution now before us, when we have, all told, only 5,905. So that you will see that from 1861 down to the last evidence before us, the population of this Territory instead of increasing has been diminishing. Instead of rising to the proportions and the stature of a State, it has been gradually dwarfing into proportions, I might almost say, hardly fit for a Territory. It has shrunk inconceivably and beyond all precedent. I believe there is no other instance in our history where a Territory has gone backwards. Always before population has increased. It is the rule of this country; it is the tendency of

our people. But here the reverse has occurred. If you ask the reason why, it is plain. The Territory of Colorado is vast in extent, situated on the two opposite sides of a chain of mountains, like Italy "parted by the Apennines," sparsely settled, with few centers, with scanty resources, so that emigrants arriving there from foreign lands or from the East, instead of being tempted to stay are seduced to go still further West.

"Westward the star of empire takes its way,"

and they finally plant themselves in Montana, or Idaho, or Oregon, leaving behind them Colorado, so that in point of fact this Territory can hardly be said at this moment to have what may be called a permanent population. It is a floating population not yet attached to the soil, but still subject to change, and still subject to the temptation of emigration to other Territories.

Thus, for instance, Hon. SAMUEL McLEAN, Delegate in Congress from the Territory of Montana, says in reply to inquiries addressed to him, that he was a resident of Colorado from 1859 to March, 1862; he then went to Montana, and in the fall of 1864 was elected Delegate. He estimates the population of Montana at nearly forty thousand, "one fourth of whom went there from Colorado and are still going."

Mr. POMEROY. I ask the Senator if there is any other way of getting to Montana from the East except by going through Colorado. Do not they all have to go through Colorado?

Mr. SUMNER. When he says they went there from Colorado I interpret that he meant that they made Colorado a temporary home.

Mr. POMEROY. They may have staid there over night.

Mr. SUMNER. He could not mean any such thing. That would be playing with words. He says he estimates the population of Montana at nearly forty thousand, "one fourth of whom went there from Colorado and are still going." What is the natural meaning of these words? Obviously that they are emigrating from Colorado to Montana.

Mr. POMEROY. They come to my own State in the same way from the East and from Europe. They go to Massachusetts in the same way, and then go on; but we do not argue from that that Massachusetts is not a State, or that Kansas is not a State. This star of empire goes westward. These emigrants stop for a time in all the States. That is what that means, that they staid for a time in Colorado and then they went on to Montana.

Mr. SUMNER. But the figures I have read it seems to me are sufficient. They explain themselves and answer the Senator from Kansas. They show this constant decrease; and thus, for instance, at the last election there were only 5,905 voters. The Senator from Nevada [Mr. NYE] refers me to a vote of 7,000 which occurred, as I understand, at the Governor's election. I have been told that there are some circumstances of a peculiar character, some persons call them frauds, which affected that vote, so that I have not undertaken to discuss it. It was not cited in our debates the other day, and I have not chosen to introduce it into the discussion now.

Mr. NYE. I have it here.

Mr. SUMNER. The statement that I have before me from a citizen of Colorado, I will read, then:

"The last vote in Colorado is not given for the reason that the canvassers threw out a great many of the ballots because illegally cast, or rather because of monstrous frauds. Over a thousand, it is currently reported, were thrown out from one district. The number returned from the several voting precincts was over 7,000."

Assuming that over 7,000 were returned and that 1,000 were thrown out in one district for fraud, you have that cut down at once to 6,000; but assuming that it is 7,000, what is all this compared to the original 10,000 votes with which the Territory began, and compared also to the splendid promises which the Senator from Ohio made with regard to the Territory when he first called the attention of the Senate to it? And how do you account for this falling off,

except by the supposition that the population is tempted to other lands westward?

I have said that the Territory had been failing in population. I now remind you that it has also been failing in agriculture. On that head I quote the authority of the surveyor general of Colorado in his report dated August 15, 1865, as follows:

"No land can be cultivated without irrigation. The great drawback to the settlement of Colorado is the want of system in the method of irrigation."

"An emigrant generally leaves the Missouri river early in the spring, and arrives here in time to make a crop, provided he could find a farm already prepared for working; this he cannot do, and to dig the ditch necessary to irrigate a farm will consume the whole summer, and take more money than most emigrants have. The consequence is, that thousands come here, spend a few days trying to get a farm, and go on further west."

There, again, is an answer to the inquiry of my friend from Kansas, [Mr. POMEROY.] It seems that the surveyor general of Colorado says that these emigrants, after spending a few days at Colorado vainly trying to get a farm there, go on further west.

Mr. POMEROY. They do precisely that when they are in Illinois, and when they are in Missouri, and when they are in Kansas. Those men who are moving west only stop a little while. If they are not suited in one place they go on to another. That is precisely what this statement proves.

Mr. SUMNER. But the figures here show something more. We have also a statement in the same report of the surveyor general to the effect that grasshoppers have interfered with the products of the soil. Its agriculture has been essentially impaired by that insect. Here are his words:

"The only drawback to the cultivation of land is the grasshopper."

Again, speaking of the crop of 1865 he says: "The grasshoppers have destroyed all of two thirds of the grain crop."

As no crops can be raised without great expense at ditching, and appealing to that irrigation which was essential to the agriculture of ancient Egypt, while there is no Nile in Colorado to contribute from its abundant waters, and as the grasshoppers destroy two thirds of the crop before it is raised, we see easily why the farming population of Colorado has diminished.

Then, sir, we come to the *mineral resources*. Colorado is a mining Territory; its population is mining. But here there has been the same retrogression. Instead of going forward the Territory has been going backward. Thus, for instance, the same official report which I have already quoted, speaking of the mining, says, "the gold crop of the present year, 1864, has been almost a failure." Then, again, this same authority, in the report of 1865, says:

"Gold mining is almost at a standstill. Only fifteen hundred ounces per week is being produced in the whole mining region of Colorado, and the product for the year will not exceed one million dollars."

"The speculations of last year caused an entire stoppage of all the old mills."

"A few of the new mills are now in motion, but at the present cost of labor, and everything else, they cannot more than pay expenses. Many companies are doing nothing, some waiting for better times, some waiting for machinery, some experimenting on new processes, and some fooling away their money by trusting their affairs to ignorant men, and some who never intend to mine outside of Wall street."

Such is the official testimony with regard to the mines, and yet we are told in the pamphlet which is on our tables and to which I have already referred, that "Colorado, as a gold-producing country, is second only to California." In point of fact there was a time when it was second only to California, but that time has passed. If you look at the statistics you will find that the figures give an unerring answer. Take, for instance, the finance report for the year ending June 30, 1863. There it appears that California produced \$13,501,000 of gold in that year; Oregon, \$3,016,000; Colorado, \$2,893,000; so that in 1863 Colorado instead of being the second was the third. Then take the same report for the year ending June 30, 1864, we find that California that year produced \$15,071,000 of gold; Idaho, \$2,806,000—

Mr. STEWART. Who makes that report?

Mr. SUMNER. I give these figures from the finance report.

Mr. STEWART. That must be the amount that went to the Mint. California has never produced less than forty million dollars in any year.

Mr. SUMNER. Very well; it is the report, so far as it goes, of the Superintendent of the Mint, founded on the receipts of that institution.

Mr. KIRKWOOD. I desire to inquire if the Senator is giving us the figures officially communicated by the Director of the Mint?

Mr. SUMNER. These figures are taken from the finance report of the Secretary of the Treasury.

Mr. STEWART. That gives a very small fraction of the actual production.

Mr. SUMNER. It goes on the basis of what is received at the Mint.

Mr. STEWART. But a very small portion of the product of the country goes to the Mint. We are producing annually in the United States, according to the best estimate we are able to get, \$100,000,000 of gold and silver, while, according to the report on which the Senator relies, only about twenty millions go to the Mint.

Mr. SUMNER. I was commenting on the statement in the pamphlet, as follows:

"The report of the Superintendent of the Mint shows that Colorado, as a gold-producing country, is second only to California."

I answered this statement by the finance report, showing the contrary; so that, according to this highest authority, whatever may have been the position of Colorado five or six years ago, during the last three years it has not been the second gold-producing region of our country.

When the Senator interrupted me, I was giving the figures from the finance report for the year ending June 30, 1864, showing from California \$15,710,000 of gold, from Idaho \$2,806,000, from Oregon \$2,162,000, and from Colorado \$2,136,000; so that in 1864 Colorado stood fourth on the list, instead of standing second. Then comes the finance report for the year ending June 30, 1865, where it appears that California produced \$13,332,000 of gold, Idaho \$4,971,000, Montana \$1,767,000, and Colorado \$1,622,000; so that during this last year Colorado was again fourth on the list, instead of being the second. For the years 1861, 1862, 1863, and 1864, Colorado, according to this testimony, produced over two millions annually, but in 1865 it produced considerably less than two millions; less in 1864 than in 1863; less in 1862 than 1861. Therefore, sir, according to this unanswerable evidence, you find that her mineral wealth has been failing, and that this Territory has been less productive than it was at the beginning.

Sir, there is another illustration which goes to show how this Territory has been falling off. I refer to the *Post Office*. I need not remind you that there is no part of our system which quickens, increases, and expands with time more than the Post Office. There is no person who does not write more letters this year than he wrote the year before. So with all families. The interchanges of affection and of business grows naturally rather than diminishes. If you find, therefore, that there is a falling off in the Post Office, it is because the population there has essentially failed, showing there is not the same need of a Post Office that there was before. In this respect the fall has not been great, but it has been enough to indicate a retrogression. It shows what I have been aiming to exhibit from the beginning, that this Territory has been going backward. According to the report of the Postmaster General for the year ending June 30, 1863, there was received from letters in this Territory \$1,440, from papers \$993, from the sale of stamps \$14,263, making a sum total of \$16,697 received by the Post Office from this Territory. For the year ending June 30, 1864, you had from letters \$1,185, a fewer number of letters than the year before; you had

from papers \$674, a fewer number of papers than the year before; and you had from the sale of stamps \$12,953, being a sum total of \$14,812, showing a decrease in one year of \$1,685. To my mind this is a painful revelation, and it speaks volumes.

Thus, sir, does it appear from this somewhat minute survey that this Territory has gone backward in population, in agriculture, in mining, and in the Post Office. But this is not all; this is not its only retrogression; there has been a worse retrogression than any in population or agriculture or the Post Office. There has been a retrogression in republican principle. The Territory began by a recognition of human rights. As it proceeded here also was another retrogression, and it denied what it began by recognizing. Like Peter, it denied its Lord. I add, therefore, to this exhibition of the failure of this Territory, its failure in republican principles, and this I shall proceed to show by the authority of the present Governor of the Territory in his message communicated to the Legislature of the Territory under date of January 23, 1866. By this message it appears that the original organic act creating the Territory provided that the qualification of voters should be "such as shall be prescribed by the Legislative Assembly." Under the authority thus conferred, the Legislative Assembly at its first session passed a law regulating elections, which was approved November 6, 1861, providing that—

"Every male person of the age of twenty-one years or upward who shall have resided in the Territory for three months next preceding any election shall be deemed a qualified voter at such election."

Here is no discrimination of color. This was the way this Territory began in 1861; but as it proceeded, the same failure which showed itself in other respects showed itself in its devotion to the principle embodied in this legislation, until at last the Legislative Assembly at its session of 1864, by an act approved March 11, 1864, declared that no person being a negro or mulatto should be a voter. The language of the statute was—

"Every male citizen of the age of twenty-one years or upward, not being a negro or mulatto, shall be deemed a qualified voter."

Here, by expressed language, open and barefaced, negroes and mulattoes were put under the ban. A caste was established. A discrimination, odious, offensive, and unchristian was organized in the statutes of the Territory.

Sir, consider, that when this act was passed, in March, 1864, the country was still struggling in that terrible war involving the great question of justice to the colored race. At that moment this distant community, already aspiring to be a State in the Union, undertook to put its feet upon the colored race that had begun to gather under its jurisdiction. We are told they are few in number, perhaps a hundred; but out of that hundred there are some seventy who promptly went forth as soldiers to do battle for your flag; but when they returned to their homes they found that the franchise that they had already enjoyed was taken from them; that they who had periled life for to save the Republic and to aid it in establishing the rights of all, when they once more found themselves at their own firesides were despoiled of their own. Sir, am I wrong when I say that here was a retrogression in republican principles; that here was a departure from those fundamental truths which are essential to our Government. It was, I say, a departure and retrogression because this community had begun right. It began by recognizing these truths; but as if blasted by some evil genius, the same failure that attended it in population, in agriculture, in mining, and in other respects, seemed to descend upon its moral sense.

Mr. STEWART. Will the Senator allow me to ask him a question?

Mr. SUMNER. Certainly.

Mr. STEWART. I would inquire of the Senator if at the time he voted for this enabling act he supposed that the laws of Colorado allowed negroes to vote.

Mr. SUMNER. If the Senator will be good

enough to wait till I come to that point I shall answer it. I would rather not answer it now, but in the proper place.

Mr. STEWART. Then I have another question to ask, founded on that.

Mr. SUMNER. You had better, perhaps, ask me then.

Mr. STEWART. Very well.

Mr. SUMNER. I shall consider the question to which the Senator directs my attention at another place. I do not wish to avoid anything. I was now portraying the failure of this community; its fall, rather let me say. I do not use too strong language. I say it was a fall when this community, which had solemnly enacted justice, after the lapse of three years reversed its own decree, and solemnly enacted injustice. There it stands on the statute-book. You must recognize it. You cannot blink it out of sight. You cannot be insensible to it. It is a fact in the history of this Territory. No other Territory in the history of the country has ever been thus guilty. No other Territory which has risen to the height of justice has ever descended again so low. No other Territory which has undertaken to recognize the rights of man has afterward undertaken to overthrow them.

The Governor of the Territory, in the message which I hold in my hand, speaking of this question, says in language which does him honor: "It seems incredible, and were it not for the record it would be incredible, that such a measure could have been adopted at such a time."

The Governor in the same message goes on to show that these same colored men while despoiled of the elective franchise are nevertheless compelled to pay taxes to support the whole government and to support the public schools from which their children are excluded. Some of the more prosperous of them, in order to secure education for their children, have been obliged to send them to distant parts of the country, because this churlish and unjust community has denied to those children the rights of education while their parents are taxed for the support of schools. All this again is set forth by the Governor in the message which I hold in my hand, and he then adds:

"I do not propose in this connection to discuss the question of equality of race, about which so many words and so much labor have been wasted; but I submit without argument the fact that the colored people in Denver and various parts of the Territory are taxed for educating white children, while their own children are excluded from the public schools, and your action will determine how long this humiliating spectacle shall be presented to the world."

Could anything be more flagrant? And yet this community now appeals for your favor and countenance and welcome as a State.

I have alluded to the message of the Governor. I now cite another authority, which is a telegraphic dispatch from a colored citizen of Colorado, which has traveled over the wires a very long distance, as follows:

DENVER CITY, COLORADO, January 15, 1866.

The law adopted by the Territorial Legislature in 1861 allowed all persons over twenty-one to vote, without distinction of color. The law passed in 1864, signed by Governor Evans, deprived colored citizens of the right at the very time when appealing to them to help save the country. The admission of Colorado under her present constitution makes that law permanent. If not admitted now, this can be corrected.

WILLIAM J. HARDING,
A colored citizen.

Mr. TRUMBULL. If the Senator from Massachusetts has the territorial statute by him I wish he would read it. I do not understand that any negro ever did vote in Colorado, and I do not understand that there ever was a law of that Territory declaring that "any person" should vote. My information in regard to it is that the right of voting was confined to citizens, and they held in Colorado that a negro was not a citizen. That is not my opinion, but that was their opinion, and in point of fact no colored person ever did vote there. The language is not, according to my information, as the Senator reads it. I wish he would read the exact language if he has the statute.

Mr. SUMNER. I have read it from the Governor's message; I will read it again.

Mr. TRUMBULL. Does he quote the statute?

Mr. SUMNER. He quotes it precisely, and he gives it the interpretation I do. As he quotes it the word "citizen" is not there, and it reads thus:

"Every male person of the age of twenty-one years or upward who shall have resided in the Territory for three months next preceding any election shall be deemed a qualified voter at such election."

Mr. TRUMBULL. I have not the statute, but my information is that the word used was "citizen."

Mr. HOWARD. What was the date of the statute?

Mr. SUMNER. November 6, 1861, and it was passed in pursuance of the organic act. I have already referred to it amply; I do not wish to take up too much time in this discussion. So the Senate will see that the question presented by my friend from Illinois did not arise there. There was no question of citizenship. The language was broad and general; it was applicable to every male person of the age of twenty-one years or upward, and was the statute which in 1864 was reversed.

In further exhibition of the retrograde spirit which prevails in this Territory, I shall read a brief extract from a letter which I hold in my hand from a gentleman well known to my colleague, who left Massachusetts to make a home in Colorado—Hon. Rodney French. My colleague knows him as an excellent person, devoted to human rights, hating slavery, anxious for freedom everywhere and always. He is now at home in Massachusetts; and he writes me as follows under date of April 18—you will perceive that it is a very recent letter:

"The only colored man in the Territory who dared to offer to vote against the constitution was shot dead like a dog in the street the other day, and no more notice taken of it by the authorities than if he had been a beast. I sincerely hope and trust the motion to reconsider may not prevail."

And now, sir, we are asked to admit this Territory thus deficient in population, thus deficient in agricultural resources, thus failing in mining resources, thus failing in the Post Office. We are asked to admit this Territory with a constitution denying human rights. Will you admit it? Will you by any such vote interfere, as you surely will, with that just influence which you ought to exercise in the reconstruction of the States lately in rebellion? You have in those States this same question, shall the word "white" be allowed to continue in constitutions and statutes? And how can you insist that it shall be excluded from constitutions and statutes there, when you receive into the Union this new community with a constitution which tolerates this principle of exclusion? I have already said that you have complete control of the whole question; it is within your absolute discretion; you may shut this State out if you please; you may admit it if you please; but I call upon you to exercise that discretion so that human rights may not fail. Do not tell me that Connecticut failed to overthrow this proscription. Sir, do not imitate Connecticut. If you recognize this proscription, you will be as bad as Connecticut.

And now, sir, what is the argument, if argument it be called, which is brought forward in favor of the admission of this community as a State of the Union? I know of but one, unless there be another which occurs in a whisper and not in debate, to which before I close I may refer. I know of but one argument which has been adduced in debate, and that is founded on the enabling act of March 21, 1864, which is entitled "An act to enable the people of Colorado to form a constitution and State government, and for the admission of such State into the Union on an equal footing with the original States." If I understand the argument, it is that Congress by this statute pledged itself in advance to admit this community as a State into this Union; that we are bound by this statute so that we cannot escape this obligation; that, in short, we are tied up

by this statute. This is a strong assumption; but I believe it is an accurate statement of the position of the other side.

Now, sir, I think I can easily show that this is a great mistake. I may remind you in the first place that the President to whom this question was naturally submitted first, in a message to the Senate has expressly stated to you that in his opinion the new constitution which is now before the Senate was not formed in pursuance of the enabling act. In that message he sets forth the character of this enabling act, shows that there was an attempt to form a constitution in pursuance of it which failed, and that there was another constitution formed by political bodies independent of the enabling act, which he has submitted to your consideration. Of this second constitution he says:

"The proceedings in the second instance for the formation of a State government having differed in time and mode from those specified in the act of March 21, 1864, I have declined to issue the proclamation for which provision is made in the fifth section of the law, and therefore submit the question for the consideration and further action of Congress."

Thus, sir, the President did not feel authorized to issue his proclamation in pursuance of this enabling act declaring Colorado a State in the Union; he referred the question to you, and you must decide it; and here, again, I shall read another dispatch from the same telegraphic correspondent that I read from before, as follows:

"DENVER CITY, COLORADO, January 18, 1866.

"Please contradict in the newspapers the stories so industriously published at the East that the recent bastard State movement was in compliance with the terms of the enabling act. Not one single condition of the enabling act was observed, and many of its provisions were clearly violated, particularly that one which says the State constitution should accord with the principles of the Declaration of Independence."

If we examine these proceedings in detail, we shall see clearly how they differ from the requirements of the enabling act. In short, they are inconsistent with it, or outside of it so far as to derive no support from this act. This is clear as day.

It appears that this enabling act was approved on the 21st of March, 1864. Among other things it provides in section three that the Governor shall "by proclamation on or before the first Monday of May next, order an election of representatives" "to be held on the first Monday in June thereafter throughout the Territory." You will observe that this election is to be held at a specified time, the first Monday in June. This is a fixed point.

Then, again, by another provision it is declared that "in case a constitution and State government shall be formed for the people of said Territory of Colorado, in compliance with the provisions of this act, the said convention forming the same shall provide by ordinance for submitting said constitution to the people of the said State for their ratification or rejection at an election to be held on the second Tuesday of October, 1864."

There again you have another fixed date, containing a limitation in time. The constitution was to be submitted at a specified date; the representatives to the convention were to be chosen at a specified date. Then the last section of this statute provides for the admission of Colorado as a State into the Union. How? "In pursuance of this act;" in no other way. Thus the State, in order to claim any benefit under this act, must comply with all the conditions of the act; its representatives must be chosen at the time mentioned and the constitution must be accepted by the people at the time mentioned, and everything must be "in pursuance of this act." Those conditions failing, the act fails.

Now, sir, what occurred? The Governor, in pursuance of this act, did call together a convention at the day specified, and that convention did submit a constitution to the people which, at the day specified, was voted on and rejected. At that vote there were for the constitution 1,520 votes only. Against it there were 4,672 votes. When that constitution was rejected

the enabling act expired; it was *functus officio*; it had been acted upon and under. There was nothing more to be done in pursuance of it. But, sir, the next year certain parties desirous to galvanize this small community into a State, through political conventions or caucuses, acting through the committees of the different parties, got together a convention which proceeded to adopt a constitution which, after being submitted to the people, was adopted by a vote of 155 majority, and you have now the question before you whether that constitution, adopted under such circumstances, shall be recognized by the Senate. Surely not in virtue of the enabling act, because in reality nothing had been done under this act.

I have said that the enabling act had expired. It is in vain for Senators to cite it on this occasion. You cannot invoke it. These parties can claim nothing under it. It is like an obsolete statute which we read in the statute-book, but which we never undertake to adduce for authority. It stands as a monument showing what Congress had required, and showing also what this community had failed to perform. In adding it, you bring authority against the present pretension, for you show clearly that this pretension had no foundation in this statute.

But, sir, even assuming that the enabling act was in a condition to be employed for the organization of this Territory, which I insist that it was not, then it is my duty to go further and show you that these parties, as this colored telegraphic correspondent from Denver says, did not in any respect comply with the enabling act. Why, sir? By the enabling act the convention was to be called by the Governor. How was it called? By the executive committees of political parties, being so many caucuses. Such was the origin of the convention which is to give you a new State. What authority for that do you find in the enabling act? Be good enough, if you please, to point out a single word which can justify any such transaction. And yet we have been gravely told that this strange anomalous *hocus pocus* was by virtue of the enabling act. As if in every respect it was not plainly inconsistent with the enabling act.

Still further, in the second place, the enabling act declares that "the constitution shall be republican in form." This is a fundamental condition. I submit with confidence that a constitution which denies the first principle of human rights cannot be republican in form. Do not tell me that there are States in this Union which have such constitutions. That is no answer. We are not called to sit in judgment on those constitutions; we have no power to revise them; we are not to vote upon them; but here in this case we are called to sit in judgment upon this constitution, to revise it, and to vote upon it. You are to declare by your votes whether a constitution which tramples upon the principle of human equality is republican in form. I insist that it is not.

Still further, this enabling act declares that "the constitution shall not be repugnant to the principles of the Declaration of Independence." I ask you, what is the first principle of the Declaration of Independence? Is it not in solemn words that all men are created equal, and that all just government stands on the consent of the governed? Does any one deny that these are the words? You know them by heart; your children learn them in their earliest infancy; and whatever is done in this Territory is to be brought to these words as to a touchstone. This is a requirement of the enabling act. Therefore do I say that even if you insist that the enabling act is an authority for this proceeding, then do I reply, that this community has not in any respect brought itself within its terms. It has not complied with its terms either of principle or of proceeding. The proceedings were not according to the enabling act; the principles are in defiance of the enabling act. Tried by either standard, the whole effort must miserably fail.

But it is sometimes said that there is an inconsistency in opposing the admission of this State into the Union at this time when we voted

for the enabling act; and my friend from Nevada put me a question a few moments ago whether at the time of the passage of the enabling act it was supposed here in the Senate that colored persons exercised the elective franchise. Now, sir, as to the question of inconsistency—

Mr. TRUMBULL. Before the Senator proceeds to that point, as I asked him a question a moment ago whether colored persons ever voted in Colorado, and as I stated that I had been informed that they did not vote there, and that the act under which he supposed they voted was confined to citizens, and that the term "citizen" was construed in Colorado not to embrace colored persons, I desire to read the statute. He read from what purported to be the law of Colorado; but I find, on an examination of the statute which I hold in my hand, that the right of suffrage was confined to citizens.

Mr. SUMNER. Do you refer to the organic statute?

Mr. TRUMBULL. I refer to the statute of Colorado, which the Governor professes to interpret in his communication from which the Senator from Massachusetts read, in which he says that all persons twenty-one years of age being males were entitled to vote. Such was not the law of Colorado.

Mr. SUMNER. Have you the statute?

Mr. TRUMBULL. I have the statute before me and I will read it. What he has quoted is true; but it is only a part, and it misled the Senator from Massachusetts. I will read the section:

"That every male person of the age of twenty-one years or upward, belonging to either of the following classes, who shall have resided in the Territory for three months next preceding any election, and ten days in the township, precinct, or ward, in which he offers to vote, shall be deemed a qualified voter at such election:

"1. Citizens of the United States.
"2. Persons of foreign birth who have declared their intention to become citizens conformably to the laws of the United States on the subject of naturalization.
"3. Persons of Indian blood who have been declared by treaty to be citizens of the United States."

Those classes only can vote; and the Senator will see that the Governor by quoting only the first line "every male person of the age of twenty-one years or upward," without quoting the rest of the section, which goes on to declare "belonging to the following classes," misled him, and that the right of suffrage was confined to citizens of the United States and foreigners who had declared their intention to become citizens.

Now, sir, I will not be understood as saying that in my opinion a colored person is not a citizen. I believe he is; but such was not the understanding in Colorado, and no colored person ever did vote there, as I am informed by persons from the Territory; and certainly they could not vote unless they were citizens.

Mr. SUMNER. The Senator will indulge me in saying that I do not think his statement alters the case.

Mr. TRUMBULL. That may be, but it is best to be right.

Mr. SUMNER. I submit that the statement of the Senator does not alter the case. Clearly it is best to be right. In the first place, I have followed the message of the actual Governor of the Territory. I felt that I could not follow better authority. I hold his message as communicated to the Legislature now in my hand.

Mr. STEWART. Now let me put my question.

Mr. SUMNER. Very well.

Mr. STEWART. At the same time with the passage of the Colorado enabling act a bill was passed for the admission of Nevada. I want to ask the Senator if he voted for the enabling act of Nevada. This enabling act provided in the same manner that persons allowed to vote on the question of organization should be the same as those who voted for members of the Legislature, &c., in the Territory. I wish to state for the information of the Senator that in the fall of 1861 Nevada passed a law excluding negroes from suffrage, and it was on the statute-book in 1864 and had

been during all that period from 1861 up to 1864. Hence I infer that it makes very little difference as to the principle upon which Congress acted at that time whether there was any provision in the laws of Colorado expressly prohibiting negro suffrage, because if there had been that could have been no objection as it was no objection in the case of Nevada. Congress, then, in March, 1861, authorized the Territory to be organized into a State and authorized them to confine the voting population to whites in making that organization, and did not require the extension of suffrage to the negro. At the same time, it is true, it said that the constitution formed should be in accordance with the Declaration of Independence, but it authorized a particular class of persons to organize it, being white persons alone, confined to them. By construing that act in connection with the Nevada enabling act and the laws of Nevada, Congress provided that the State should be organized by whites alone and said that was in accordance with the Declaration of Independence.

Mr. SUMNER. Now, I will proceed to answer, as I was trying to do when I was interrupted by the Senator from Nevada, the Senator from Illinois; but the Senator from Nevada will allow me to say that I think it would have been better and more according to parliamentary rules if he had reserved his question until I had answered the Senator from Illinois. I think his question has nothing to do with that. Has it anything to do with the subject?

Mr. STEWART. If you get at the substance I shall be satisfied.

Mr. SUMNER. As to the question of the Senator from Illinois, I have this to say: the Governor of the Territory, whose message I hold in my hand, does not put upon the statute the interpretation which the Senator does. I have great respect for the opinion of my friend from Illinois, as he knows, but on this matter I submit that the Governor of the Territory on the spot, in a formal communication to the Legislature, is a better authority even than my honorable friend.

Mr. TRUMBULL. Better than the statute?

Mr. SUMNER. I am coming to that. That brings me then to the statute, and he says the statute enumerates as the first in the class citizens of the United States, and my honorable friend himself is obliged to confess that in his opinion colored persons are citizens of the United States. He does not doubt it. If he did, it would be my duty to remind him of that opinion given by the Attorney General of the United States in the winter of 1861-62, only a few months after the adoption of this territorial statute, declaring that all colored persons are citizens of the United States. I refer to that opinion with something more than respect, I refer to it with reverence. I do think, humbly speaking, that that opinion was one of the most remarkable and one of the grandest acts in the history of the late Administration. I do not doubt that hereafter when the annals of these times come to be written, the historian will dwell with honest pride upon that opinion where one man as it were reversed the whole policy of the State. By that opinion he fixed the law of this country forever: that all colored persons are citizens of the United States; and that opinion was emphatically the law of this distant Territory. It was the law of Colorado. The Senator from Illinois does not doubt it. Therefore when the Territorial Legislature inserted the words "citizens of the United States," it did not alter the case by a hair's breadth. The language was positive that all persons could vote without distinction of color. The Senator is informed that no colored persons did vote. I have been informed the contrary. But I insist that, beyond all question, by the territorial statute colored persons were allowed to vote.

And this brings me to another question. When at a later day, in 1864, the enabling act was brought into the Senate, that act recognized positively the existing territorial statutes

regulating the franchise. Here are the precise words:

"That all persons qualified by law to vote for representatives to the General Assembly of said Territory at the date of the passage of this act, shall be qualified to be elected; and they are hereby authorized to vote for and choose representatives to form a convention under such rules and regulations as the Governor of said Territory may prescribe."

Therefore, sir, do I say that at the date of the enabling statute all persons in the Territory, without distinction of color, were entitled to vote. They all had the electoral franchise constitutionally and legally. Is there any one who can doubt it? The Senator from Illinois cannot doubt it. He knows full well that that is the Constitution and the law of the land. They were all entitled to vote at the date of that enabling statute. I err when I say "at the date of that enabling statute." There was something like deception, if not fraud, that occurred between the passage of that statute in this Chamber and its approval by the President. The enabling act for the admission of Colorado passed this body, as I find by the Globe, February 24, 1864. This ill-omened territorial statute to which I have referred, which undertook to introduce the principle of exclusion, bears date March 11, 1864; that is, it was passed subsequent to the passage of the enabling act in the Senate. Therefore, when that enabling act passed this body, according to all the information in our possession and according to the principles of the Constitution as expounded by the Attorney General, all colored persons were entitled to vote.

I have been reminded by Senators that there is an inconsistency in having sustained the enabling act and now in opposing the admission of this State. Sir, permit me to say, there is no such inconsistency; because at the time when that act passed the Senate, by that very enabling act all colored persons were entitled to vote. But I might go still further, and remind the Senate that it appears by the Globe, which I have before me, that this enabling act passed the Senate without discussion and without a division. It does not appear who was present in the Senate at the time it was acted upon. For myself, I may say I have no recollection of the vote that was taken, but I do have a distinct recollection that I was informed that in the Territory of Colorado all persons, without distinction of color, were allowed to vote; and a recurrence to the statute which has been adduced on this occasion will show that I was right. It is vain for the Senator from Illinois to remind us that in Colorado they did not consider colored persons citizens of the United States. Constitutionally and legally they were citizens, and there was no power in Colorado to deny them that citizenship. It was because there was no power there to deny them that citizenship that they undertook to set it aside by positive legislation.

Mr. President, I have already said too much on this matter.

Mr. STEWART. How was it about Nevada?

Mr. SUMNER. I beg the Senator's pardon; I have no recollection of the Nevada case. I do not know whether I voted on it or not, and I consider the question as absolutely irrelevant. I am speaking now on the case of Colorado.

Mr. STEWART. Mr. President—

Mr. SUMNER. When I am done the Senator can proceed.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Nevada must not interrupt the Senator from Massachusetts unless he yields the floor.

Mr. SUMNER. If there were a question here in regard to Nevada I should certainly meet it; but there is no such question now. It is enough for us to deal with the case of Colorado.

I was saying, sir, I have already occupied too much time, more than I intended; but there is one other circumstance to which I ought to call attention before I close. It is the anomalous condition of the several counties of Mexican population bordering on New Mexico, and

which, as I understand, have, if I may so express myself, been carved out of New Mexico. Those counties contain, according to the estimates of different persons, from six to eight thousand persons, chiefly agricultural. They are farmers. I understand that those people are discontented at finding themselves embraced within the limits of Colorado. They do not speak English. They are Spanish in descent, and they are unwilling to be swept under a jurisdiction which is to them, in many respects, alien. They long to be back in New Mexico. During the last session of Congress a proposition was brought forward in the other House to reannex them to New Mexico. A proposition to the same effect has already been announced in the other House during this session by the Delegate from New Mexico. I have conferred with him on that subject this morning. I learned from him something of the discontent of these Mexicans; and I am assured from other sources that, should Colorado now be received as a State in this Union, so that the condition of these people would be permanently fixed as a part of the State, such is their yearning to get back to their Spanish kindred that they would move in a body to find themselves again within the borders of New Mexico, which is to them country and home, for which they have a sentiment of abiding attachment.

I have said that this Mexican population is estimated variously at from six to eight thousand, being an essential part of the population of Colorado. Imagine it withdrawn from this floating, failing population which I have already described to you, and how small does it become; why, sir, one of my informants, this morning, who has lived for several years in that part of the country, gave me as his opinion that at present the whole population of Colorado, including these Mexicans, was not more than fifteen thousand, and that if these Mexicans should be withdrawn, you would have this community shrunk to a population of seven thousand. I make no statement to that effect. I merely mention this as a suggestion which has come to me from persons familiar with this part of the country. It may at least help to put you on your guard against investing this petty community with the high prerogatives of a State. It may show you again how its population may melt under the State prerogatives, which you promise it.

Mr. President, such is the case against the admission of Colorado as a State into this Union. I do not see how you can admit it into the Union as a State without, in the first place, injustice to its own population, at this moment unable to bear the burdens of a State government; secondly, without injustice to the other States of the Union which ought not to find themselves voted down in this Chamber by two Senators from this small community; and, in the third place, without sacrificing a principle which at this moment is of incalculable importance to the peace of the Republic. In other times we have caught the cry, *No more slave States*. There is another cry which must be ours, *No more States recognizing inequality of Rights*. Against all this I hear a whisper, not an argument. It is whispered that we need two more votes on this floor. Sir, there is something that you need more than two more votes. It is constancy in the support of that great principle which is now essential to the tranquillity of the Republic. Better far than any number of votes will be loyalty to this great cause. Tell me not that it is expedient to create two more votes in this Chamber. Permit me to say nothing can be expedient that is not right. If I were now about to pronounce the last words that I could ever utter in this Chamber, I would say to you, Senators, do not forget that right is always the highest expediency. You can never sacrifice the right without suffering for it.

Mr. STEWART. I submitted to the Senator from Massachusetts a question at the time when he was charging that the people of Colorado had acted in bad faith toward Congress. That was the tenor of his argument. He as-

serted that at the time of the passage of the enabling act they allowed negroes to vote; that after it had passed Congress and before it was signed by the President, they repealed that law and passed a law which prohibited the negroes from voting, and that they had thereby (if there is anything in the argument) deceived Congress, and that Congress would not have acted as it did if there had been a law on the statute-book of Colorado prohibiting negroes from voting. I asked him what Congress had done at the same time in the case of Nevada, and he tells me that that is irrelevant. I say that what Congress did in the same breath, at the same time, and under the same circumstances, is some evidence of their intention at that time. Nevada, in 1861, had inserted the word "white" in fixing the qualification of voters. That law was upon her statute-book; the world knew it; and what did Congress do? On the 21st of March, 1864, the same day on which the Colorado bill was passed, Congress passed an act to enable Nevada to form a State government, and in the third section of that act provided as follows:

"That all persons qualified by law to vote for representatives to the General Assembly of said Territory at the date of the passage of this act shall be qualified to be elected, and they are authorized," &c.

Expressly confining it to persons who were qualified by the laws of Nevada to vote for members of the General Assembly. The laws of Nevada at that time expressly excluded negroes from voting, and therefore the organic act expressly prohibited the people of Nevada from taking the negroes into account in the organization of a State government, and gave the power to form the State government to a particular class. Congress did this on the same day that the enabling act for Colorado was passed; and now the Senator from Massachusetts would have us believe that Congress would not have passed the enabling act for Colorado if she had had such a law upon her statute-book.

Mr. SUMNER. I have not said that. It was not in my argument.

Mr. STEWART. Then there is nothing in the argument to the effect that Congress was deceived. There is nothing in the argument that Colorado changed her law. There is nothing in the argument that there was any bad faith on the part of Colorado in changing her law that influenced Congress, because Congress on the same day in acting on a like subject expressly confined the organization of a State government to the whites; selected as those who should be voters in forming the State government those who had been selected by the territorial law, and those were whites, and whites alone. Then I say that Congress, in March, 1864, were willing, at the time they extended this invitation to Colorado, that a government should be formed by the whites alone and that the negroes should be excluded; and they expressed that willingness in the case of Nevada if they did not in that of Colorado. Whether the laws as they existed in Colorado excluded them or not, they were practically excluded there, and Congress was willing that the new State should be formed exclusively on the white basis for suffrage, because on the same day it provided that another State government should be organized and that only whites should vote. The people of Nevada, supposing that it was not incompatible with the wishes of Congress to put in their constitution the same provision that they had in their laws, their laws having been by the enabling act approved and adopted as a guide for the formation of a State government, when they formed their constitution put in the word "white" the same as Colorado has done. The people of Colorado had no reason to believe that Congress would object in consequence of any action that had previously been taken by them.

Now, a question is raised whether this constitution is republican in form or not. There is much difference of opinion as to what constitutes a government republican in form. Every man has his own ideas on that subject.

I think that is hardly a question that can be raised here. The question with us is whether it comes up to the theory and practice of our Government, and whether it corresponds with the invitation by Congress. If it does, and they have acted in good faith thus far, let us receive them, and let us go forward and announce hereafter the principles that enter into a republican form of government. We cannot expect these people in organizing their government to do more than we invite them to do. If Congress had prescribed the rule of suffrage for Nevada, or Colorado, or any of these Territories, or intimated by any letter or line in the enabling act that they desired the suffrage to be extended to the negroes, and that that was a condition that would be required of them, and they had formed a constitution prohibiting the negroes from that right, then there would be just cause for excluding them.

Now, it is stated that Colorado is decreasing in population. Having been in Colorado last year, and knowing something of their peculiar situation, I will state again, as I have once stated, the reasons for this apparent falling off. In the first place, when the war broke out Colorado became more or less isolated from communication with the rest of the country; her mail facilities were cut off; there were hostile Indians on the plains; and she sent four thousand of her adopted sons to the war. This of course impaired her prosperity, and injured her progress to some extent, probably more so than any other Territory situated upon the western slope. She was dependent upon the East for communication and for supplies. It is a long distance from the Missouri river to the Rocky mountains, a distance of about five hundred miles, through a hostile Indian country; and during the war it was impossible for Colorado to progress as her natural resources and condition will warrant for the future. Then, they had grasshoppers there, which were a great inconvenience. They come into that country, I am told, once in ten, fifteen, or twenty years, and they remain one or two years; and I believe other parts of the country are visited by them also. They cut off the crops last year. They have never been known to exist more than two years at a time before they disappear. Every part of the country is subject to accidents which destroy the crops. The ground sometimes becomes too wet, and they have had that inconvenience in Colorado.

But when Senators speak of its want of agricultural resources, they are very much mistaken. Colorado is a State of vast agricultural resources. I recollect the time very well when California was pronounced to be a country unfit for anything but mining, when it was said that it had no agricultural resources; now it is universally admitted to be equal, if not superior, to any State in the Union in an agricultural point of view alone. Its amount of rich agricultural lands is equal to any State in the Union. When I first went to Nevada it was supposed that there were not three hundred acres of agricultural land there; now there is an active, large population cultivating the lands there, and doing it profitably. I was told that none of the country, or comparatively very little of it, could be cultivated, but every year proves that it is a much better country for agricultural pursuits than was at first supposed. The first thing that a person visiting the western country, and passing through Colorado, will be struck with, is the vast amount of fine agricultural land there. I do not believe it is true, as stated by the surveyor general, that crops cannot be raised in that country without irrigation. Certainly some kinds of crops will need irrigation; but there are a great many crops that can be raised without it, when they understand the seasons better, and understand the country better. It is a State that is going to be not much inferior to many of the western States in agricultural resources.

As to its mineral resources they are certainly remarkable. It bears the marks of a permanent mineral country. The veins are proper fissure veins, well defined, such as have been worked in other countries for thousands of

years. It is a remarkably well constructed country, geologically, for mining. The veins have all the regular formations that geologists say indicate permanence. Heretofore they have had some drawbacks in mining. They were cut off from communication with the Atlantic States; they could not get machinery there, and, of course, that impeded the progress of mining, and that is held up as a reason why these people should not be admitted as a State. Last year, when I was there, there were a vast number of new mills being erected, and there was machinery along the road, notwithstanding hostile Indians were scattered all the way from Atchison to Denver. The country really appeared to be pushing forward, notwithstanding the difficulties, notwithstanding supplies had been cut off, with remarkable energy, and with very fine prospects. Now that the war is passed; now that this new machinery is coming in, and one year of crops, I believe Colorado is to be one of the most prosperous Territories in the whole country, and will make a very prosperous State. It will not be a year from now until every one will be willing that Colorado shall come in; but as they have come here now with a constitution every way unexceptionable, as we formerly understood constitutions to be, every way unexceptionable as constitutions were understood to be at the time they formed it, not having any intimation from Congress that it would not be accepted, and having been invited to come here by Congress, and having had the question of population passed upon, it seems to me hard for those people to be sent back, to be turned away on the ground that they have not population enough, when there has been a standing invitation before them to come with what population they have. It is hard for them to be turned away because they have had a failure of crops in consequence of grasshoppers. It is hard for them to be turned away because they were delayed in getting transportation in consequence of Indians, for a short period. All of these embarrassments have now been removed, and they are on the high road to prosperity. It seems to me it is unnecessary, after they have gone to all this trouble of organization and have organized a government and sent men here entirely unexceptionable, to send them back. I do not see any good reason for it. Gentlemen may complain of them now, but I assure you that Colorado one day will be classed among the large States. There will be very many States in ten years from now that will be casting a smaller vote than Colorado, and will be more unequally represented. Yes, sir, in five years from now there will be a large number of States that will have a larger representation, in proportion to population, in this body than Colorado, because she has great resources. She is on the great line of overland travel. The Pacific railroad is going toward your borders and will soon help her. I think her situation is such and the circumstances are such that it would not be good faith now to turn her away.

I did not intend to make any remarks on this subject, but I deemed it due to say thus much, and I hope Colorado will be admitted.

Mr. GUTHRIE. When this matter was under discussion before I made up my mind that Colorado ought not to be admitted as a State; that she had not the population nor the ability to sustain a State government; that she could not demand, from the amount of her population, to be placed on an equal footing with the other States. She has not population enough to entitle her to a Representative in the other House. If she should be admitted, she would be entitled to two Senators here, which would be greatly in disproportion, and overbalancing with another small State the popular majority of the large States in this body. I thought it was not best for Colorado that she should come in and undertake the burdens of a State government at this time. I still think so after listening to all that I have heard. I have no doubt that she

has less population now than she had even at the time that the enabling act was passed. There was then a great outcry about gold there, and miners rushed there from all parts of the country because they desired to search new fields. They leave those places as soon as they find they are disappointed and rush to some other point. I have no doubt there is less population there now than there was in the beginning; and I feel very sure that she will not come as California did when she was admitted, and when she had such a great population. I do not believe that the people are able, from the production of the soil and the mines, to retain a population there that can support a State government.

I have no feelings of prejudice against Colorado or any of the northwestern States. They are peopled principally by the frontiers and from the frontiers with some adventurous spirits from the original States. They are a hardy, adventuresome people, but they are not attached to the soil, and they never will be until the country has become old and those born and residing there have learned to like the country.

I am opposed to the admission of Colorado for these reasons, and not for the reasons given by the gentleman from Massachusetts. I should not object to her Constitution because it had the word "white" in it in relation to voters. I do not believe that black people are citizens of the United States even though they are born here. That may come from my western residence and western prejudice and having been raised in a slave State. I am willing to admit that there is something that grows up in the feelings and habits and thinking of people who are raised in slave States and have acquired all their ideas from there, and that there is something strange in the fury gentlemen get into about equal suffrage and equality and all that. I hope the very best will come from the emancipation of the negroes—the best for them and for the whites—but I have not the absolute faith of those who have been missionaries in the cause, and started and originated it, and have brought themselves into conspicuous places in this Government and before the world as the advocates of that policy. I do not enter into any sympathy with them on that point, and I am not moved to act upon this subject by their reasons.

I think we could increase the number of votes in the Senate very legitimately by admitting those southern Senators who have been here for almost four months knocking at our doors and seeking admittance. I do not believe a title of what has been said about the discount of the South. I believe if we had admitted them in the first month of the session they would have been more contented, more harmonious, and more in union with us than they are now; and I believe the longer we delay it the greater will be the difficulty to be overcome. I am not surprised that gentlemen of the North who have been preaching in favor of the freedom of the negroes, and have formed characters and habits upon it, feel rather hostile to us who have been in slave States; but I think they will have to abate somewhat of their opinion, and their estimate of the southern people, before we can get together again. I hope they will take occasion to revise their opinions, and search their own hearts, and their own bosoms, to know how much of it is prejudice, and how much has been partisanship. In fighting this great battle they think they have been fighting for humanity and the freedom of the negro and the great name they are to make in history. If we were to sit down and take an account of the benefits and advantages they have brought upon the negro population, I think the balance would be greatly against them at this time, and they would have to draw upon the future for the great advantages that are to result from their measures. I hope that profits will accrue from them. I think it is better for the African that he should be governed by the people where he lives, who know his habits, and understand all about him. It is better for him, and I think

it is better for the whites, that we should settle this matter, settle this question of government, and let them be governed at home. It is not at all surprising that the negroes were misled by this sound of freedom and liberty, and supposed they were to live idly without labor and without work, and somebody was to support them. We know that to a great extent they did obtain those ideas. They are now abandoning them to some extent, and going to work. They are likely, in many places in the South, to prove a useful and industrious population, and add to the productions of the soil. I hope the very best from it. I think slavery being abolished, all sides should act in harmony, subdue their prejudices, if they have any, and come together united as far as we can for the interests of the country.

I think it is far more to the advantage of this country that we should admit the southern States and admit their representatives than that we should take in this new State that is not able to support a State government, in my judgment, and which will find it exceedingly onerous, as many of these States have already found it to be. I shall vote against this reconsideration as I voted against the admission of this State before, but not for the reasons given by the Senator from Massachusetts. The Senator intimates that perhaps some have changed their minds because they want a few more votes in this body. I wish the Senator had changed his mind before he led the onslaught upon the New Jersey Senator when they wanted but one. [Laughter.]

Mr. NYE. Mr. President, I was absent when this subject was discussed before, and hence I had no opportunity to cast my vote for this bill. If I had been here, I should of course have voted for the admission of Colorado. The permission to Colorado and the State that I have the honor in part to represent to form States was given at the same time, and the laws by which we were to be admitted are the same except in the change of the names of the Territories. The Senate will bear in mind that at the time this permission was given the Government was casting about to see where it could gain corresponding strength against the weakness incident to the rebellion. It occurred, and I think wisely, to the Congress of the United States that if the process of making new States could be successfully carried out on the more distant portion of the continent it would strengthen us in that direction and make a counterbalancing power to the southern element that was flying off. I think they acted wisely; and I think, as a matter of sound governmental policy, that we should have continuous States across this continent; and I shall not stop to inquire fractionally whether these persons who desire to take upon themselves the burden of a State government are correct or not. I satisfy myself with the answer they have given that they are willing to assume that responsibility. They are the judges, and not the Senator from Kentucky, or the Senator from any other State. They know best their ability, and knowing it, act in their good judgment as seemeth best to them.

I have seldom differed with the distinguished Senator from Massachusetts, and whenever I do, I differ with great diffidence, for I know his power, and I expect to feel it if I differ from him; but, sir, feeling a little of that strength at this present moment that the stripling of Israel did when he warred with the giant of Gath, I venture upon the forbidden ground.

It seems to me that he hardly treated this question with his usual fairness in the commencement of his argument to-day. I knew when he commenced that somebody was to be slaughtered, but who or how I did not know till I saw him plant his artillery upon the back of the distinguished Senator from Ohio [Mr. WADE] from the committee on the conduct of the war, and fire at one of the Senators-elect from Colorado. I could hardly then see its relevancy; and why he should take one of the distinguished gentlemen selected from that State to represent it in the Senate, I hardly

knew; and yet it soon came out. He was going to attack the veracity of this little pamphlet which I hold in my hand—a candid, truthful statement of the condition of Colorado, giving facts and figures, which, with all the research of the distinguished Senator from Massachusetts, he will pardon me for saying he has not shaken in a single portion. He has not carried, with all his artillery, an outpost, or driven in a sentinel set by the distinguished gentlemen who compiled this pamphlet. Against what he called assertion he brings in what he calls fact. The honorable Senator need not have gone out of this pamphlet to find just what he read as an overthrow of the whole thing. There it is, within five lines of where he was reading, and they cite the very authority that the distinguished Senator said was melted down by a single breath of the distinguished surveyor general of Colorado. They quote the surveyor general of Colorado.

But the difficulty lay here: my friend, who was not reared upon agricultural plains or mountain heights, but always breathed the purer air of bricks and mortar in Boston and the larger cities of Europe, had yet to learn that there was a difference between agricultural and pastoral lands. Sir, that difference has existed ever since the old poet sang. That difference has existed always. The difference is this: our agricultural lands produce the cereals, the vegetables, and the grains; the pastoral lands produce grasses upon which herds and flocks feed, on the mountain-side where the plow could not be held.

The distinguished Senator seems hardly willing, when he is driven from that point, to let the population of Colorado alone, and seems to convey the idea that as the report upon the conduct of the war had said something about the testimony of one of the witnesses, therefore the population that he represents must necessarily be bad. In a word, he made out this fact, taking his own assertion to prove it, that the population, the mining interest, the agricultural interest, and every interest in Colorado was dwindling and dwarfed to such an extent that I hardly thought it magnanimous in the giant of this Senate to hit it another blow; and yet, after all, Colorado survives.

I am not going to busy myself or detain the Senate by a detailed account of Colorado. Her history is as patent to all this Senate and the country as the history of Massachusetts. It has been written in much shorter time and in as indelible characters. In 1858 Colorado was an unbroken, untrodden wilderness, if plains can be called a wilderness. In 1858 the discovery of gold was made, and from that time to the present—and I challenge the gentleman to show to the contrary—no Territory within the boundaries of this Government has made more manly, more permanent, and more enduring strides than the Territory of Colorado. Sir, Colorado was in existence before Nevada was born. Her hills and her mountains were populated thickly by the intelligent, energetic, persevering men of the East and of all climes. In 1864, when the very atmosphere was thick with the elements of dissolving empire, Congress gave Colorado and Nevada a chance to set their stars amid the galaxy of the older, not brighter, stars. Colorado fell into this mistake: she nominated her State officers to run at the adoption of her first constitution. That will kill any Territory. We tried it once in the Territory where I live, and the constitution was beaten, as it always will be if you arouse the jealousies of contending political factions. That is the reason why Colorado was not within the letter of this enabling act. We tried the experiment in Nevada before the enabling act came, and we had learned a lesson. I remember well writing a letter to Governor Evans, who was Governor in a neighboring Territory, warning them not to fall into that error, but they did not heed it.

Now, sir, what is the true policy of this Government? These Territories are costly incumbrances. They make, if I may use the expression, as large drafts upon the Treasury of this

country as any other system or portion of our Government. I have satisfied myself from a long experience that the territorial governments made here are not sufficient or ample or adequate to meet the emergencies and exigencies of a thriving, growing, prosperous people. They are discontented with it, for the reason that most of the persons that are sent to rule over them are sent from abroad. I have often heard it talked of. The judiciary provided for by the organic acts under the territorial government is entirely inadequate to meet the exigencies and demand of any mining country. I speak of no particular person; but I know this from experience. The people of the Territory of Nevada saw before the enabling act reached them the perfect inefficiency of a territorial government to meet its wants, its interests, its demands, and they met and adopted a constitution much like the one we adopted recently, but it failed for the reason that attached to it were officers running to fill the State offices when it was organized.

Now, Mr. President, what is the real condition of Colorado? Is she as poor as my sympathizing friend from Massachusetts thinks she is? Is she so poor that even the distinguished Senator from Massachusetts cannot do her reverence? She has more tillable land twice over than the State of Massachusetts. She has more acres surveyed than the State of Massachusetts can have surveyed within her borders. She has as many preemption rights already taken up as would twice cover the State in which the Senator now presiding [Mr. ANTHONY] resides. She paid more taxes to the internal revenue last year than Oregon, a western State, and more than Nevada in some items. The total amount of internal revenue, except from stamps, in Colorado last year, this poor and miserable place, was \$130,052 01; in Nebraska, \$50,054 50; in New Mexico, \$49,042 28; and in Utah, \$41,525 93.

Tax of six per cent. on clothing and other articles of dress in—	
Colorado.....	\$705 59
Nevada.....	605 01
Oregon.....	591 35
Tax of six per cent. on furniture and other articles made of wood in—	
Colorado.....	\$1,372 77
Nevada.....	309 02
Oregon.....	335 52
Tax on manufacture of iron castings in—	
Colorado.....	\$216 61
Minnesota.....	200 50
Kansas.....	165 99
Oregon.....	330 23
Tax of one eighth of one per cent. on brokers' sales of merchandise and other goods in—	
Colorado.....	\$1,876 05
Nevada.....	590 05
Oregon.....	836 55
Kansas.....	369 32
Minnesota.....	522 62
West Virginia.....	883 92
Delaware.....	1,318 96
Connecticut.....	1,201 16
Vermont.....	919 36
Maine.....	1,888 28

Colorado paid more on the one eighth of one per cent. on brokers' sales than Nevada, Oregon, Kansas, Minnesota, West Virginia, Delaware, Connecticut, Vermont, or Maine.

It does not seem to me from these amounts that Colorado is dwindling very rapidly. They show most conclusively—and this pamphlet goes on to give the figures in detail—that Colorado is in a vigorous state of growth. It is a fact known to every man who reads that within the last six or eight months there have been developments in the mode of working the ores of Colorado that are inviting the attention of the civilized and scientific world. Their productions from the same ore that they have been turning out these millions upon have more than quadrupled; and to-day, and I speak advisedly when I say it, there is more attention being paid to the mineral wealth of Colorado than that of any other State or Territory of this nation. Why? She is nearer the borders of the surplus capital of the East. Capital has to fill up as it goes. It does not jump over States and Territories to find a distant shore, but it marches straight along with its interests and with its requirements; and Colorado,

before twelve months roll round, will have a population more than double what it has now. I know how these mining countries fill up; I know how the population surges back and forward like the restless waves of the sea; but, sir, it comes back again to its place. After it has tried Montana, Idaho, Nevada, California, and gone as far as mining enterprise can see a mountain, it comes back again; and I know that last year population was returning to Colorado as well as going westward from it. In my own State I have met men from Colorado who had come to see with their own eyes and determine for themselves whether it was better to move. I saw men who thought it was not and returned.

But, sir, after all, I expect that the trouble with my distinguished friend from Massachusetts is in regard to this word "white." He seems to abhor that word; it has a sort of terror for him. It has none for me; nor "black" either. I have here the amendment which my friend intended to propose to this bill, striking out the word "white," in the constitution of Colorado, and requiring the Legislature to give effect to it. I apprehend that at the time he offered that amendment he saw none of the visions of this pauper population passing before him; he saw no reason to overthrow the reputation of Governor Evans. There was no necessity then for the erroneous statistics which have been furnished by somebody. The word "white" it is that has so fearfully disturbed his equanimity. I have been as ardent an advocate in the interests of the black, if not as potent in his advocacy, as has been my friend from Massachusetts. I have panted for the day that we have arrived at now as the hart pants for the mountain stream, and I have lived to see it. But, sir, I am not going to vote against the admission of this State because that word is in her constitution; and why? I hear the tread of coming millions. I see that by the logic of events, whether this word is in or not, the day is not far distant when we shall see realized what this paper word "white" means. Sir, quicker than we can discuss this question will the phantom "white" disappear from Colorado. The sun will not make his annual course before you will see white men and black men voting in Colorado. It is the next step in the progress of this great reform, and men who lie across its pathway will be crushed before the moving power of a determined people.

Therefore, sir, I am not as particular as I should have been some years ago. I labored to get that word "white" struck out of the constitution of the State of Nevada. I was not a member of the convention. It was retained; but I venture the assertion that before twelve months roll around, colored men will vote in Nevada. Not half the stride will that be in the progress of Nevada that has been witnessed, for when I first went there it was at the peril of a man's healthy existence to talk about a negro or to claim to be an abolitionist; but, sir, they have received line upon line, and precept upon precept, not from me, but from others, until Nevada to-day is as radical a State as the State of Massachusetts. I would appeal to her population with as much assurance of being sustained in any step that moves to the culmination of this great reform as I would to Massachusetts itself. They are a young, vigorous, thriving, daring, noble people, and they dare do what is right, and they will. Before the tread of this march all bars of prejudice are breaking down, and my friend from Wisconsin, [Mr. DOOLITTLE,] when he was laboring to keep the blacks from voting in Wisconsin last fall, did not know that there was an existing statute on the book that allowed them to vote.

Mr. DOOLITTLE. If my honorable friend will allow me, I wish right there to state a fact that has escaped his attention. With his permission, I may as well state it here as at any other point. Twenty years ago I advocated colored suffrage and voted for it. In the State of Wisconsin, ever since I have resided in the State, I was willing that colored men should

vote in it. This very fall that he speaks of, I advocated before our people to allow colored men in Wisconsin to vote, and I voted for it at the polls.

Mr. NYE. That is good.

Mr. DOOLITTLE. But let me say to the honorable Senator from Nevada, there was another thing that I advocated, and it was this: that each State had a right for itself to determine the question, and that the Federal Government had no right or constitutional power to impose on a State negro suffrage; that the right of a State to determine that question for itself was one of the reserved rights of every State, under the Constitution. I give the honorable gentleman notice now that if he, or the men who act with him here, shall undertake to impose negro suffrage upon a State of this Union, coming from the Federal Government as an exercise of authority here, he and any party or set of men who advocate it will be crushed under the force of public opinion and swept out of power and out of existence. I say to the honorable Senator that the rights of States are of as much consequence as the rights of individuals. It is not the first time that on this subject I have been misrepresented here and elsewhere.

Mr. STEWART. Let me inquire of the Senator whether he wishes to be understood that an attempt to amend the Constitution so as to effect that end would crush the party.

Mr. DOOLITTLE. I say that any party that advocates—

Mr. NYE. Mr. President—

Mr. DOOLITTLE. To reply to both the Senators from Nevada at once on the subject is more than I bargained for. I rose to correct my friend from Nevada, on my right, [Mr. NYE.]

Mr. GRIMES. Answer that question.

Mr. DOOLITTLE. I will answer it if the Senator from Nevada on my right is willing to give way. I am perfectly frank to say that any party, political or otherwise, which shall go before the people of the United States upon the idea that the Federal Government or the Federal Constitution is to impose upon the States negro suffrage against the will of the States, will go to the wall.

Mr. STEWART. That is not the question I asked.

Mr. DOOLITTLE. The question the gentleman asked was, whether the States will accept a proposition to amend the Constitution giving negro suffrage. I answer no, sir, they will not. Join the issue as soon as you please here or elsewhere, and out of New England there are not three States in this Union, neither Nevada nor Colorado, nor any of the new States or the old States that will vote for an amendment of the Constitution of the United States by which negro suffrage shall be imposed upon the States.

Mr. COWAN. Nor amend their own.

Mr. DOOLITTLE. In reference to that, I will not say. There are other States that will amend their own constitutions on the subject. I simply rose to set my friend from Nevada [Mr. NYE] right on that question. While I, as an individual, have advocated the right of each State to determine this question for itself, and in the State of Wisconsin have advocated giving to the colored men there the right of suffrage, because the negroes who are residing there, generally speaking, as a class were able to exercise that right, and exercise it properly, I still insisted that it did not belong to the Federal Government to impose it on other States as a condition to their being in this Union.

Mr. NYE. Mr. President, I have said nothing upon that question. It seems to be the nightmare that haunts my friend from Wisconsin; and I receive his assertion with every degree of allowance that is necessary for a person that does not seem to express the wishes of his own State as expressed by the Legislature, and therefore I doubt his authority to speak for the public on that question. It is Banquo's ghost with him.

Mr. DOOLITTLE. Allow me a word on that point.

Mr. NYE. You have drawn me off, and I should like to proceed with my remarks.

The PRESIDING OFFICER. The Senator from Nevada is entitled to the floor.

Mr. DOOLITTLE. The gentleman speaks of my misrepresenting the State of Wisconsin.

Mr. NYE. No. You read the resolutions the other day that requested you to vote one way, and yet you voted the other way.

The PRESIDING OFFICER. Senators must address the Chair.

Mr. DOOLITTLE. I will not interrupt the Senator if he does not desire an interruption; but on that point I desire to state to him that the convention of Wisconsin last fall unanimously declared in favor of the doctrines to which I have adverted on this occasion.

Mr. NYE. Sir, the world has moved mightily since last fall, though the gentleman may stand still. We have been moving, and so has his State. But I was not saying anything about Congress imposing negro suffrage on the States. I was simply saying that the logic of events, which is stronger and more powerful than the laws of Congress, is sweeping on to that goal by its own resistless power. If they had not found a legislative enactment in Wisconsin that allowed black men to vote, I should think, the gentleman being a fair exponent of that State, that they would have negro suffrage in Kentucky before they had it in Wisconsin.

But, sir, to return to Colorado, she lies right in the pathway, and is the first stopping-place from the Missouri river westward to the Pacific. Her plains are extensive, beyond the conception of the dwellers in northern cities; her mountains are so high that they literally reach the clouds. In her productive valleys and on her mountain sides is heard the reverberation of the pick, the shovel, the mill, and labor in all its phases as it pertains to mining. The surplus capital of New York and the eastern States finds a field for its use, and its operations are expanding and increasing beyond all precedent.

The distinguished Senator from Massachusetts talks about her productiveness being only two and a half millions last year. Sir, before we got counting money by thousands of millions, it would have made Boston's ears stand erect to hear of a discovery in the West that was producing two and a half millions of gold in a year, and everybody that was out of their library and out of business would have gone to Colorado to see the rich mountains out of which it was dug; many of Boston's citizens are there now; and they behold with wonder the rich products that they gaze upon. The dazzling brilliancy bewilders the minds of those who are unaccustomed to such scenes and they fail to comprehend its vastness; and hence we cannot be surprised, however much we may regret, that financial statements are presented that create such misconceptions in others. Why, sir, the young State from which I come produces \$20,000,000 of silver a year. Colorado spared four thousand of her sons to serve the country in the tented field, and the Senator berates her for her diminished productiveness.

The sound of the hammer was not heard upon the anvil, the plow stood still in the furrow, men left their civil avocations, they quit digging for the rich treasures of gold to lie to the field where richer treasures were to be preserved than gold could purchase; and my friend from Massachusetts really discovers that Colorado is dwindling! No, Mr. President, Colorado never showed as many evidences why she should be admitted as a State as is presented by the very fact that regiment after regiment was sent from her territory to guard and protect the travel across the plains from the savage and to contend upon the field of strife with the rebels themselves. Sir, I am loath to turn my back upon any population that has shown such devotion to the Federal Government as Colorado has done. I assert that she comes here to-day clothed in the attractive habiliments of loyalty, the proudest vestment with which man was ever clothed; out of her misfortunes and from the smoke and din of

arms she comes here and presents herself with the spotless robes of undying loyalty. See it exemplified: here come two men clothed with the garments that you so much admire. Why do you not let them in? The answer is that my distinguished friend has heard it whispered—I never listen to whispers—that we want two more votes. Sir, I want twenty and two more, but I want them loyal, and I care not how many votes we have if they are of the right kind; and I do not intend that we shall have any other here, by my vote; do you?

Mr. SUMNER. No.

Mr. NYE. Very well; then you are safe and so am I.

My friend says she grows poorer and poorer; the vote of last year is less than ever before, and he says that that is at war with all the philosophy of the settlement of these Territories. That my distinguished friend thinks so, I have no doubt; but that the fact is exactly opposite I know. I have seen the time when the State of Nevada had ten thousand more population than it has got now. You see the same thing in every mining country. They roam and prospect and develop until there are no more mountains to find, and then they come back. That is the history in a word of mining populations. Let the hue and cry go up that there is a richer placer somewhere else, and down go the pick and spade, away they go, and they go to remain until they ascertain that they cannot fill their stomachs on east winds, and back they come to their first love, and there they stay.

My friend was so unkind in his strictures upon poor Colorado as to afflict them with grasshoppers. [Laughter.] If my friend is spending his time in reading the surveyor general's reports to keep up with the progress of grasshoppers, he is attending to small business. [Laughter.] I supposed he was engaged in higher, nobler purposes than looking after the march of grasshoppers. [Laughter.] Why, sir, I have seen grasshoppers in Massachusetts as thick as locusts in Egypt. Grasshoppers go wherever grass grows; and my friend, when he establishes the fact that there is a good crop of grasshoppers there, establishes the fact that there are pastoral lands there; for they never go but where there is something to eat.

But everything conspires to give Colorado a forbidding aspect in my friend's vision. With all the noble qualities that I so much admire in my distinguished friend, there is one thing he will pardon me for saying that he has yet to learn—that is a bold assertion for me—he has got to learn to take defeat gracefully; or in other words, he must learn that to procure success he is only entitled to use such means and such arguments as are legitimate to the subject and to the question to which they are applied.

Mr. President, if you take one step west of Colorado, what do you find there? You find there one of the strongest arguments and reasons why there should be the strong government of a State in Colorado. You find Utah, with all of her calamity, and with all of the dangers incident to it, nestled right in there with a large population. Step beyond Utah and you find the State of Nevada. To say much of her would not become me; but I assert this of her: Nevada is a State that has furnished as many troops in proportion to her population as any State in this Union; she has done much substantial work; her people are a law-abiding people, and they love the Union. Beyond Nevada we come to that mighty barrier, the Sierra Nevada; leap over that, and you come to the flourishing State of my distinguished friend from California. [Mr. CONNESS,] all glittering with gold; and yet, sir, California is no richer than Colorado, in my judgment; no richer than Utah, no richer than Nevada, Montana, or Idaho.

What next do we see? We see the mighty power this nation puts forth, to do what? To link these two great oceans together with hooks of iron and steel, and already is seen and heard from either ocean the steam whistle on the

Atlantic starting for the West, and in July they will be challenged above the clouds of the Sierra Nevada mountains bidding and beckoning them onward to the western coast. Right in this pathway lies Colorado, the first great stopping-place. Colorado, in two years from this time, will have a population that will pay more into the Treasury of this Government than many States whose locks are whitened with years. I know the abounding elasticity of these youthful States. I know with what vigor and strength they increase and go forward, and you cannot keep them from populating rapidly. Strike the music of the chord that echoes to "go," and population will flow into them, even from Massachusetts.

Show me where these rich treasures are found, and where, after all, we have got to look for the very material to light from off the shoulders of this nation its now crushing burden, and I will show you a population in point of intelligence, vigor, and numbers that will be satisfactory entirely to my distinguished friend from Massachusetts, and it will drive out the phantom that seems to haunt him, and it will give certain demonstration by its productions of its ability to be a State. "Poor Colorado" will settle with my friend one of these days; it will show him that he little knows, and has paid but little attention in his researches, to the treasures of her mighty mountains. Sir, there is a people there who have gone deep down under the mountains, and by their science and their skill, and above all, by their indomitable will and perseverance, have demonstrated to the world that there in Colorado lies wealth untold.

Sir, my friend has one habit that I thought I should never fall into, but I have got to do so now; and that is reading letters. [Laughter.] I have got nobody to telegraph me for the occasion, [laughter,] but I have a letter here by accident. [Laughter.] It is a letter written by the mayor of Denver City, and directed to me; he is now in New York. I will read it:

NEW YORK CITY, March 22, 1866.

DEAR SIR: I have just finished reading the report of the discussion in the Senate on the admission of Colorado, and must say that I was very much surprised at some of the statements made. As a citizen of Colorado, I can but regret that such statements place our young Territory and people in a very false position before the people of the United States as regards our population, mineral wealth, and agricultural resources. I have been a resident of Colorado for the past six years, and from the positions I have occupied, think that I am well posted in regard to all of these matters.

Our population I honestly believe to-day is of permanent inhabitants thirty-five thousand, if not more. I do not think, in so large a Territory, that the vote at any election is a fair index of population. Our people are scattered over the mountains and valleys, and in a number of localities no elections are held. I know it was the case at the last (State) election. Men who are receiving five dollars per day will not leave their work and travel eight or ten miles to cast a vote.

Our young Territory sent three regiments to the war and at the close of the rebellion they were mustered out in the States, but most of them after a short visit to their friends are now on the way back to their homes and property in Colorado. There were also hundreds of men who went from Colorado to their homes in the States and enlisted, who are now making their preparations to return to Colorado this spring. All of these men claim to belong in Colorado, as they hold property and pay taxes in that Territory to-day.

So much for our population, which I claim is on the increase daily instead of decrease. As regards our mineral wealth, I would say that I do not think there need be any question in regard to that. I will give a few facts which have come under my personal knowledge. I was connected with the private mint of Messrs. Clark, Gruber & Co., in the years 1861, 1862, and 1863, and during that time they struck off of their own coin \$750,000, and during the same period bought gold dust and shipped east over \$3,000,000 of gold bars, run from dust bought in Colorado. This is the business of one house. There were at the same time four other houses engaged in the same business, namely, banking. From the owners of five hundred feet on the Gregory mine there was bought in that time \$1,000,000 of gold. Distinguished professors state in published works that Colorado has the largest extent of rich quartz veins of any mining country on the globe. I will say here that our ores are what is termed refractory, and it requires a vast amount of machinery and skilled labor to work them. There have been formed in the eastern cities over seventy-five mining companies, involving a working capital of over ten million dollars. When these companies get in full and successful operation, I think Colorado will demonstrate to the world that she is a rich gold and silver producing country. Besides gold and silver, we have

rich veins of iron, copper, lead, coal, salt springs, and oil producing territory.

As regards business, I will state that the merchants in the city of Denver sold \$12,000,000 worth of merchandise in the year 1865. The aggregate amount of business done by banks in the Territory is \$15,000,000 per annum.

As regards our agricultural resources, I will simply say that the amount of land under cultivation is set forth in the report of the surveyor general. Our soil is rich and productive, and the yield per acre satisfies the most sanguine of farmers. Irrigation is required except on the straits.

From the county of Boulder, one of the smallest counties in the Territory, there were raised and sold in the city of Denver twenty-five thousand bushels of grain. This was exclusive of what they retained for seed and home consumption. One farmer in the county of Arapahoe sold his crop in Denver for the snug sum of \$60,000. The counties of Jefferson, Weld, El Paso, Huertano, Conejos, Costilla, Pueblo, and Fremont are agricultural counties.

This is a simple statement of facts, and I send it to you for the purpose of placing Colorado right before the honorable body of which you are a member.

I am, sir, very respectfully,

GEORGE T. CLARK,

*Mayor of Denver, and
Cashier of the First National Bank.*

Hon. JAMES W. NYE,

Senator from Nevada, Washington, D. C.

Now, Mr. President, I present the authority of Mr. Clark, the mayor of Denver, and the cashier of the first national bank there, against the supposed authority of my friend from Massachusetts.

Sir, I claim that it is the sound and wise policy of this nation to have the strong power of State governments across this continent. There is something in State ties. I never believed in this late *quasi* dissolution of States; but there is nothing that binds us so closely together in mutual interest as State ties. I believe that as a principle it is true; and the time so much longed for by the distinguished Senator from Kentucky who last addressed you will soon come when reason takes the place of frenzy in the rebellious States, when their judgments shall surmount their prejudices, when they shall have ceased to do evil and learned to do well, when it will be an acknowledged fact that State ties are stronger and more powerful than national pressure from outside. I want to see a row of States across this continent that will vibrate with one thrill from the quiet waters of the Pacific to the restless waters of the Atlantic. I want a State bond of sympathy from ocean to ocean that will hold the East and the West in bonds which the world cannot sever. I want the people inhabiting this vast expanse to be protected by State governments because they will make that which is now a wilderness "bloom and blossom as the rose." They will bring to the earth's surface a wealth that will astonish the world.

Give these people the fostering care of State governments, and they will convince foreign creditors that whatever obligations may rest upon the shoulders of the Government, they are always on a specie basis. Sir, higher than that, they stand on bullion. Give them State governments that will protect the miners in their distant mountain homes, let them feel that they are not in danger from the wrath of the wild savage nor from the neglect of their Government, and the population will be so thick as to drive away the last phantom that haunts my friend's mind—the grasshoppers—from Colorado. Sir, give Colorado a State government, let her have a voice in the national councils with which she will be in unison of sentiment, and her growth will be more magical than anything produced by the lamp of Aladdin. My friend has always turned, I suppose, eastward for light. Go West; go out there, and what will he see? The tales upon which he has feasted, that he has read as fables, are excelled by the realities. You find in Colorado a people that beat the mountains fine. You find in these new border Territories and States a population that level the mountains and fill up the valleys. They stop at nothing. Give them protection, and I repeat that the growth of Colorado will astonish the world. I have seen the difference between a State and Territory; and although the mantle of a State government has rested a little more than twelve months upon my State, there is a

feeling of security and advancement that never could have existed under a territorial government.

My friend is alarmed for the dignity and honor of the older States. Well, they will take care of themselves. I have heard much said against New England, and I love her so well that I am not going to repeat it; but she only occupies a small portion of this continent and she has had twelve most estimable (and it is happy for the country she has had them) Senators here that have stood like a breakwater between the lashings and fury of rebellion and the stability of the Government. Sir, would you have hesitated during the rebellion to have two from Colorado? Would you have quibbled upon the little point of the honor of the older States? Sir, a great State never is so noble and never appears so grand as when it reaches out its hand to a young, tender State and says, "I will uphold and sustain you; I bid you God speed on this journey."

Massachusetts was once young. True, that was a great many years ago; but she was young; she is old now, and should not forget that time. My friend and I have both been younger than we are; but there is nothing I recur to in my past life with half the pleasure I do when I recollect an instance when I have stretched out my hand to a young man to aid him over the thorny pathway of professional life. Sir, the States were not born at once; but the Constitution clothes them with the garments of age; from the moment they are born they are the equals of the older States. It is well it is so. Why should they not be the equals of the old States? They are bone of our bone and flesh of our flesh, offspring, shoots ingrafted upon the main stock of the parental Government. Sir, I do not think New York would be scared, frightened out of her propriety, if Colorado should have a couple of votes here. New York stands upon her own base as firm as the everlasting hills, and so will Colorado. Sir, I care not how many votes there are here; I anticipate the time, and that not far distant, when State line after State line will join, and there will not be an inch of the mountains and plains from the now dreary glaciers of Montana or Nevada to the easternmost boundary of the States beyond the Mississippi that will not boast of a State government standing as an equal with New York and Massachusetts upon this floor, and neither of them will be degraded by the association.

Sir, this business of making States is a large business; it has frightened the men down South. While they were engaged in hurling States out, some of us were engaged in bringing States in. This Government in its form and plan will never be perfect till there is not a territorial dependency in it, till State line touches State line over our broad and expansive continent. And furthermore, if I may be pardoned, I see symptoms of States from another quarter. When this Fenian speck shall have blown away, the Canadians like wise men may seek shelter under the protecting agis of the tree of liberty that was planted here by our fathers. Sir, the St. Lawrence is not wide enough to divide the continent between monarchical and republican institutions. New Brunswick and the other British Provinces are certain to come in and to tend toward an eastern preponderance by and by, as time rolls itself around.

I hope, Mr. President, that this vote will be reconsidered. Colorado deserves better than to be rejected now. My friend says the enabling act is dead. Well, suppose it is dead, does Colorado die with it? Because a statute has lapsed, are you to kill everybody that went where the statute existed? I pay but little attention in the discussion of this question to the mere fact of the existence of that enabling act. States have been brought into this family of States without any enabling act and with less population than Colorado has got. The State of Arkansas, when it was admitted, had but eleven thousand white population in it; and why do we stand here now, at this late day, debating such a point, when

it is not the number of inhabitants that make a State, but the quality and character of the inhabitants? Why do we stand here quibbling about numbers, when our fathers did not stop to cavil? Sir, it is time to drop this iron standard of having so many or no State. When a body of men come here with the power to uphold and maintain a State government clothed with the garments of loyalty, let them come in. In that way you put, if I may use the expression, braces into this great temple of freedom. You bring these elements of strength from State organizations, and my friend from Kentucky will pardon me when I say that the citizens of Colorado know their resources, know the expenses of a State government, know its burdens, and knowing them are willing to take them upon themselves; and who shall be the judge for them but themselves?

Mr. President, I have detained the Senate longer than I intended. I hope this vote will be reconsidered. Upon every principle of right, the enabling act was at least an invitation for them to come. My friend from Massachusetts says it would have been all well if they had come a year sooner. Does he not remember the parable? The laborer who came at the eleventh hour got the penny, too. I know the embarrassment of the question of time. Our election was fixed on the same day with the Colorado election under the enabling act; and nothing but using the telegraph and unusual exertion enabled us to distribute intelligence to our distant mining posts; and some of them did not know it. What then? The convention met. We supposed that we must be admitted before the election in the fall, or our work would be void; and I telegraphed myself sixteen thousand eight hundred words, the constitution of the State of Nevada: and Nevada was born by telegraph. [Laughter.] I received across the trembling wires, from the pen of the immortal Lincoln, that Nevada was born; and a shout went up that made the mountain-tops and valleys ring. Do you not suppose he knew what he was about? Clearly. Why did he not kick us out because the word "white" was in our constitution? It will not do. If Colorado had had as many telegraphs as we happened to have, and had used them as much, she would have been born in time. But, sir, this question of time, I take it, is a matter of small consideration. Here was an invitation to this feast of States; and she has come up to the feast as soon as time would allow. She has come up as soon as she could attire herself in State garments for the feast. My friend meets her by talking of "grasshoppers." [Laughter.] When she asks for bread, the bread of national life, he gives her a stone. Sir, that will not do. I insist upon it, that my friend from Massachusetts must be beaten now; and I trust that the lesson will teach him to take it gracefully, and I assure him in the utmost kindness that this word "white" will not hurt anybody.

Mr. President, I trust that this vote will be reconsidered and reconsidered now, and that Colorado which so justly deserves to stand within the circle of States will not be kept out any longer.

Mr. McDougall. Mr. President, "I am not an orator as Brutus is." In the matter of rhetoric, of euphony, and elocution, the gentleman who last addressed the Senate is my master infinitely. Of all these things I say nothing; but of myself I must say something because I did on a previous occasion vote for the pending measure. I did it spontaneously, without careful consideration. After careful consideration, I think it is not just or right, not consistent with our system. The reason on which I before acted spontaneously was that I desired to build up a western interest, which is the interest that my country belongs to. After careful consideration, I do not think that the Territory of Colorado is so populated and has such a number of permanent inhabitants as to justify her representation by two Senators in this Senate Hall. Its population does not come within the

rule that has been regarded as the true rule by all careful, considerate statesmen for many years. The spontaneous vote I before gave I am bound to change, for I think that then I was wrong, and now I will try to be right. I shall therefore vote against the reconsideration.

Mr. HENDERSON. I move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, April 24, 1866.

The House met at twelve o'clock m. Prayer by Rev. HENRY W. BELLOWES.

The Journal of yesterday was read and approved.

JACOB P. LEESE.

Mr. BIDWELL asked unanimous consent to offer the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Treasury is hereby authorized and directed to pay to Jacob P. Leese, out of the appropriation made "for the payment of judgments to be rendered by the Court of Claims," under the act approved June 25, 1864, the amount of his claim, as fixed by a decision of the Court of Claims, rendered December 24, 1860.

Mr. WASHBURN, of Illinois. I object.

TELEGRAPH TO THE WEST INDIES.

Mr. ELIOT. I ask unanimous consent to report from the Committee on Commerce Senate bill No. 26, concerning telegraphic communication between the United States and the island of Cuba, and other West India islands, and the Bahamas. Amendments have been made to obviate all the objections which were raised when the bill was before the House.

Mr. SPALDING. I object, and call for the regular order.

NIAGARA FALLS SHIP-CANAL.

The House accordingly proceeded to the consideration of the special order of business, being the call of committees for reports, the pending question being the bill reported by the Committee on Roads and Canals, providing for a ship-canal around the falls of Niagara, upon which Mr. VAN HORN, of New York, was entitled to the floor.

Mr. RULBURD. By an agreement between the gentleman who reported this bill [Mr. VAN HORN, of New York,] and myself, I will occupy the remainder of his time.

I desire to call the attention of the House to the importance of a ship-canal around the falls of Niagara on the American side, not only as a military measure, but as a commercial necessity.

In the latter view, it is needed and demanded by some fifteen States of this Union. There are directly interested in its construction some ten million people.

I propose to occupy the brief time allotted me in first asking the consideration of the military aspect of the question.

It is well known that by the treaty between this country and Great Britain neither nation is allowed to have more than one armed vessel on Lake Ontario and two on the upper lakes. But by means of its natural rivers and the construction of different canals Canada or the British Government can at any time build and accumulate gunboats or other war vessels and precipitate them upon the lakes; and all this preparation it can make in its own waters and of course without infringing the international treaty. It was stated a year ago, whether correctly or not I cannot say, that Great Britain then had a hundred gunboats ready, if need be, to throw them upon Lake Ontario. It must not be forgotten that Lake Ontario is the key position of the lakes if we are at war with Great Britain, or, what is the same thing, with Canada.

We had upon that lake a single vessel only to meet that force; and we by the terms of the treaty could have no more, and we had no rivers or large canals upon which we could build and store more, and have them in read-

iness. Now, one object of the construction of the Niagara ship-canal is to enable the United States in case of war, if need be, to make use of our large upper lake fleet of vessels, which could be speedily fitted for such use. On Ontario our merchant marine is outnumbered. On the upper lakes we greatly outnumber the Canadian or British marine.

It may be said that there is no speck of war on the northern frontier at the present time; that therefore this is but a contingent danger to be provided against; that we can guard against that, if need be, by volunteers or militia that may be called into service. I answer that the experience of the war out of which we have come, shows that even with a half million or million armed men we could not, or did not, guard effectually the Baltimore and Ohio railroad or the Baltimore and Cumberland canal, so as to prevent forays or raids. Such an experience shows that the great and long canal of the State of New York, so necessary and so important to the West and East, is liable to be pierced and broken at any time by a hostile invasion.

There is another feature in this case. Between Chicago and Ogdensburg, there are some fourteen hundred miles of natural navigation, with the single interruption of the falls of Niagara. Canada on its side has constructed the Welland canal, forty-two miles in length, with a second opening on the lake, shortening it to thirty-two miles, with twenty-eight locks of the dimensions of one hundred and eighty by twenty-six and a half feet. This bill proposes to construct a canal around the falls of Niagara, making the distance but eight miles, with much larger capacity in prism and in size of locks. Thus, in case of difficulty with Canada, instead of having one hundred and fifty miles to guard to prevent interruption of commerce between the East and West, we should have only eight miles to protect.

Now, Mr. Speaker, it may be said that this is now a minor consideration. I admit that it has not the importance which it once had. But when it is considered by this House that on those inland lakes there floats a commercial interest twice greater than the entire foreign commerce of the United States, it is manifest at once that there is on these lakes an interest that should be cared for. While we are making appropriations year by year to build and fit up and strengthen fortifications to protect our Atlantic coast, is there not a reason why, in a military point of view, we should have respect to the great interests of the North and of the West to be seriously affected and impaired in case of war by a direct interruption of commercial communication?

An order in council now shuts at any time the Welland canal against American bottoms, and since the termination of the reciprocity treaty this may be done without a moment's previous notice, as there are no treaty stipulations to prevent it. Besides, the Canadian authorities discriminate already against American commerce by refunding to Canadian vessels ninety per cent. of the duties, and exacting one hundred per cent. of the duties paid by American vessels, unless these American vessels discharge their cargoes at Montreal or some other Canadian port, or go out to sea by the way of the Gulf of St. Lawrence. These are reasons, in a military point of view, which to my mind have a direct bearing on the propriety of the construction of this canal by the Federal Government.

In a commercial point of view it is stated, and with truth, that the commerce of the lakes has vastly, rapidly increased. In 1840 the first vessel left Chicago with three thousand bushels of wheat for the East. Five years afterward the shipping trade of the lakes with the East was so large that Congress was called upon and passed a special act extending the admiralty and maritime jurisdiction of the Federal district courts to the lakes and navigable waters connecting the same.

Six years later, in 1851, the constitutionality of that act was raised, and after solemn argu-

ment was settled in the Supreme Court against the technical objection that as there was no ebb and flow of tide those inland lakes could not be covered by the acts of admiralty.

In delivering the opinion of the court, the Chief Justice took the broad ground that, tide or no tide, these lakes were, in truth, great inland seas, bordered by different States on one side and having on the other a long foreign frontier line of three thousand miles; that on them already existed a great and growing commerce between numerous States and a foreign nation; that on these lakes hostile fleets had encountered each other; and admiralty jurisdiction had already necessarily been, indirectly at least, extended and recognized.

To such importance and magnitude had commercial interests and rights thus early grown (1851) that he held, substantially, it would be contrary to the first principles on which the Union was formed to confine admiralty rights and privileges to States bordering on the Atlantic, and to tide-water navigation therewith connected, and to deny such rights to the citizens who border on the lakes. Certainly the Chief Justice intimated such was not the intention of the framers of the Constitution, one object of which, with them, was a perfect equality in the rights and the privileges of the citizens of the different States, not only in the laws of the General Government, but in the mode of administering them. That equality does not exist if the commerce on the lakes is denied the benefits and the protection which the Constitution secures to the States bordering on the Atlantic. Of course I refer to Chief Justice Taney's opinion in the well-known case in Howard's Reports, known as the Genesee Chief case.

Now, sir, if it is found that the present avenues of commerce and trade are inadequate, and it has been found by observation and by instrumental examination that only within the State of New York is there that natural dip or depression of land lying north of the mountain ranges and south of the frontier line, then we must look at existing outlets or easements of trade and commerce in operation or projected within the boundaries of that State.

Now, within that State is the New York and Erie railroad, which does what it can; the New York Central railroad, which also does what it can; and there is the New York and Erie canal, three hundred and fifty miles in length; adding ten per cent. for the six hundred and fourteen feet rise and fall of elevation, makes a working length of four hundred and fourteen miles; a canal of narrow prism, of numerous locks, and which is simply able to receive and carry boats of two hundred and twenty-four tons burden. It has been stated by the official authorities of that State that for three years the capacity of that canal has been tested to its utmost to provide transportation for the products of the States of the great West connected with or bordering the upper lakes.

When the State of Illinois has but one eighth of her land under cultivation; when the other States of the West have but one tenth of their land under cultivation, with present facilities—and there is no immediate prospect of their increase—what is to become of the products of these States ten or twenty years hence, when they shall have, perhaps, the half of their tillable acres under cultivation? Where will they find an outlet? Shall we be told that they can go down the Mississippi? That may answer for certain portions of the cereals of the West, wheat, &c., but it is very well known that there is a serious objection to that route by reason of the heat of the climate for the transportation of corn to and its export from the port of New Orleans. If I recollect aright, never in any single year has the export of corn from the port of New Orleans exceeded two hundred and fifty thousand bushels, while the Erie and Oswego canals of the State of New York alone have transported a million and a million and a half bushels a year.

But even if the Mississippi river was deep enough, and its channel rendered navigable for

boats all the year round, still there would be an objection to it on account of the climate, because the corn would heat and become damaged, and of course depreciate in value.

The products of the West must, therefore, find an outlet by northern and eastern routes, or it must be burned for fuel or distilled into spirits or fed to stock or rot upon the ground, as it has sometimes done of late.

Now, by the construction of the Niagara ship-canal, eight miles in extent, the expense of transportation is greatly lessened; and there will be several outlets from Lake Ontario to the sea-board and the great depot of this continent, namely, New York city. Therefore, there will be no danger of accumulation there.

But, as my time is limited, I will pass to another point. The State of New York, standing midway between the West and the East in that respect, by or through her canal officers, strangely assumes the position that this canal will injure the revenues of the Erie canal, and therefore it should not be constructed. But in another breath they admit and insist that the canal interests of the State of New York have been quite remunerative and productive, costing in round numbers, interest, loans, damages, enlargement, "pauper laterals," &c., all told, \$100,000,000; and that between eighty-three and eighty-four of these millions have been returned to the treasury of that State, leaving only some fifteen or sixteen millions of disbursement expense and unreturned. The Erie canal proper has paid for itself and \$9,000,000 more. What right, then, has the State of New York to claim that that canal, with its narrow prism and its yet more restricted locks, should require, as it does, that the commerce of the West, however great, shall be forced through it to market, whether they desire it or not; at all events, such portions of it as cannot go down the Mississippi, and such portions of it as are too bulky and weighty to be transported upon the railroads? The very statement shows that no wrong is done to the treasury of that State if the national Government makes this a national work.

Mr. DAWES. I am very desirous of voting for this bill, but I am not able to find just the precise condition of the bill before the House. I desire to ask my friend how efficient its provisions are to give the United States control over this canal so as to make it a national work. I am led to make this inquiry because the general drift of this bill is to make a donation to such corporation as may be formed by any State to carry on this work, and I observe that the State of New York has incorporated a company for this purpose, the act of incorporation containing this provision:

"The said corporation may accept upon any terms and conditions not inconsistent with this charter or the laws of this State, from the Government of the United States, or of any State, any grants of land, bonds, moneys, or credit which may be made to it, for the purpose of constructing the canal and works connected therewith, and may hold and dispose of such lands for that purpose. When completed, the State of New York shall have the right to purchase the said canal and the works connected therewith, by paying to the said corporation the cost of constructing the same, with interest computed to date of the purchase, with the further addition of ten per cent. thereon."

I desire to know whether in this bill you have sufficiently guarded against any such contingency as is provided for in that section of the law of New York, and that by no possibility this shall be anything but a national work.

Mr. HULBURD. If one of my colleagues had been here he would have offered an amendment that would remove that difficulty, taking it away from any State and giving its construction and its control exclusively to the General Government.

I wish to answer one other objection, and that is, that if this commerce finds its way in large vessels into Lake Ontario, it will go away from New York on down and out to sea through the Gulf of St. Lawrence.

Sir, those who are acquainted with the obstacles in that pathway to the ocean—obstacles that no time or expenditure of money or inducements of drawbacks can, in my judgment, ever surmount—would laugh to scorn the utter

absurdity of a serious apprehension from that quarter. Canada has expended millions in constructing the seven canals around the rapids in the St. Lawrence river between Ogdensburg and Montreal. In thus canalling and locking thirty-two and a half miles only one hundred and sixty of the two hundred and thirty-six feet of the elevation of Lake Ontario above Montreal has been overcome, leaving a tidal and channel current of seventy feet fall to be surmounted by the steam and sail of inland or upward-going vessels. She has expended millions upon magnificent docks and wharves to accommodate trade and commerce at Montreal; but thus far they have attracted there no forest of shipping. At a vast expense she has dredged the channel of that river to a depth of twenty feet and to a width of three hundred feet, miles and miles below that city, yet does "that way out" remain difficult and dangerous, and comparatively unfrequented, and forever will, in consequence of bad shores, sunken reefs, and perpetual fogs. The perils of this untoward thoroughfare most strikingly appear in one item of the recent *pftst*. In the last few years the Montreal Atlantic Steamship Company have lost seven, if not eight, of their fine, new, and well-appointed steam-packets in the intricacies of the Gulf of St. Lawrence. What fact more patent and potent of the perils of this dreaded rival route? There remains one other significant business item, illustrating the disfavor with which this route is viewed by shippers and insurance men. For ten years, between 1845-55, the charge for freight from Montreal to Liverpool averaged twice the charge from New York to the same port.

Of the river and Canadian ports proper this may be said: less than one eighth of the lake freight went down to Montreal, notwithstanding drawbacks and reciprocity. During the first six years of the operation of the reciprocity treaty only twelve thousand tons, in forty vessels, found their way to the lower St. Lawrence, and none of these, it is said, stemmed the upward current by returning to the waters where they were built and loaded. In 1863 but a single vessel cleared and entered American ports, through this channel, from foreign countries. In the words of Secretary Chase, notwithstanding "the careful and inviting legislation of Canada in regard to tolls and tonnage duties," "the united efforts of the two Governments have proved of little effect in opening a channel preferable to that made up of the lakes, the canals, and railroads of the United States."

The idea that this can become a rival route, ice-locked as it is nearly seven months of the year, in addition to all its other disadvantages, in opposition to our open sea-board, is too preposterous to be seriously considered. But—
[Here the hammer fell.]

Mr. ALLISON. I design to yield a portion of my time to the gentleman from New York, [Mr. J. M. HUMPHREY.]

Mr. VAN HORN, of New York. Will my colleague yield to me for a moment?

Mr. J. M. HUMPHREY. I will.

Mr. VAN HORN, of New York. After further consideration and consultation with the friends of the general project of a ship-canal around the falls of Niagara, I am directed to present the bill I now send to the Clerk as a substitute for the bill I offered on Tuesday last, understanding that the gentleman from Wisconsin [Mr. PAINE] will withdraw the amendment which he offered, in the nature of a substitute to the bill first introduced by me.

The first seven sections of this bill are the same as the corresponding ones of the former bill, with two exceptions: first, the alternative is given to use inclined planes, if upon careful investigation it is found that they will be advisable, and work to the best interests of the Government and the company; and second, a clause is inserted in the seventh section vesting the title of the land taken by the United States in securing the right of way, when the damages adjusted as provided in the bill shall be paid. Then follow the main provisions which make

this differ from the original bill. This bill provides for the chartering of a company direct by the Government who shall or may accept the benefits offered and construct the canal, with all the restrictions and provisions that are customary in such cases. The bill first presented provided for the construction of the work through any company chartered by any State, which company should be governed by similar regulations and subject to the same restrictions as in the bill now presented.

The concluding sections of this bill are the same as in the original bill, differing only so far as necessary to make them conform to the charter granted, and to confer upon the company so chartered the necessary power for the government of the corporation and the management of its affairs.

Mr. Speaker, as I propose to speak upon this measure hereafter, I will not occupy the time of the House any longer at present.

Mr. J. M. HUMPHREY here addressed the House; but before concluding, the morning hour expired. [His remarks will be found complete in the Appendix.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a bill (H. R. No. 500) entitled "An act making appropriations to supply deficiencies in the appropriations for the public printing for the fiscal year ending June 30, 1866."

SPEAKER'S TABLE.

Mr. McRUER moved that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

CATHARINE MOCK.

The first business on the Speaker's table was Senate amendment to the bill (H. R. No. 219) entitled "An act for the relief of Catharine Mock;" which was referred to the Committee on Invalid Pensions.

JUDICIAL PROCEEDINGS.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 238) entitled "An act to amend an act entitled 'An act relating to *habeas corpus* and regulating judicial proceedings in certain cases,' approved March 3, 1863."

Mr. WILSON, of Iowa. I move that the House non-concur in the amendments of the Senate and ask for a committee of conference.

Mr. ROSS. I call for the reading of the amendments.

The amendments were read, as follows:

On page 1, line two, strike out the following words: "Or other trespasses or wrongs done or committed;" so that the clause will read:

Any search, seizure, arrest, or imprisonment made, or any acts done, &c.

In line nine, after the word "so" insert the words "done or."

In line ten, strike out the word "is," and insert in lieu thereof the word "was."

In the same line, after the word "addressed," insert "as for whom it was intended."

In line fourteen, after the word "act," insert the words "of March 3, 1863."

After line fifteen insert the following:

But no such order shall, by force of this act or the act to which this is an amendment, be a defense to any suit or action for any act done or omitted to be done after the passage of this act; nor for any act done with malice, cruelty, or unnecessary severity.

Mr. WILSON, of Iowa, called for the previous question.

The previous question was seconded and the main question ordered: which was upon the motion of Mr. WILSON, of Iowa, that the House non-concur in the amendments of the Senate and ask for a committee of conference.

The motion was agreed to—ayes sixty-seven, noes not counted.

Mr. WILSON, of Iowa, moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER subsequently announced the appointment of Messrs. WILSON, of Iowa, McKEE, and BOYER, as the committee of conference on the part of the House.

PAY DEPARTMENT OF THE NAVY.

The next business on the Speaker's table was Senate amendments to the bill (H. R. No. 197) entitled "An act to provide for the better organization of the pay department of the Navy;" which were referred to the Committee on Naval Affairs.

RAILROAD TO TRAVERSE BAY, MICHIGAN.

The next business on the Speaker's table was a bill (S. No. 248) entitled "An act to extend the time for the reversion to the United States of the lands granted by Congress to aid in the construction of a railroad from Amboy, by Hillsdale and Lansing, to some point on or near Traverse bay, in the State of Michigan;" which was read a first and second time, and referred to the Committee on Public Lands.

JOHN T. JONES.

The next business on the Speaker's table was a bill (S. No. 122) entitled "An act for the relief of John T. Jones, an Ottawa Indian, for depredations committed by white persons upon his property in Kansas Territory;" which was read a first and second time, and referred to the Committee on Indian Affairs.

ELISHA W. DUNN.

The next business on the Speaker's table was a bill (S. No. 202) entitled "An act for the relief of Elisha W. Dunn, a paymaster in the United States Navy;" which was read a first and second time, and referred to the Committee on Naval Affairs.

WESTERN PACIFIC RAILROAD.

The next business on the Speaker's table was a joint resolution (S. R. No. 61) to extend the time for the construction of the first section of the Western Pacific railroad; which was read a first and second time, and referred to the Committee on the Pacific Railroad.

WRECK OF THE SAN FRANCISCO.

The next business on the Speaker's table was joint resolution (S. R. No. 31) manifesting the sense of Congress toward the officers and seamen of the vessels, and others engaged in the rescue of the officers and soldiers of the Army, the passengers, and the officers and crew of the steamship San Francisco from perishing with the wreck of that vessel; which was read a first and second time, and referred to the Committee on Commerce.

PORTAGE LAKE SHIP-CANAL.

The next business on the Speaker's table was a bill (S. No. 193) entitled "An act granting lands to the State of Michigan to aid in the construction of a harbor and ship-canal at Portage Lake, Keweenaw Point, Lake Superior, in said State;" which was read a first and second time, and referred to the Committee on Public Lands.

GRANT OF LANDS TO NEVADA.

The next business upon the Speaker's table was Senate bill No. 215, concerning certain lands granted to the State of Nevada; which was read a first and second time, and referred to the Committee on Public Lands.

WILLIAM PIERCE.

The next business upon the Speaker's table was Senate bill No. 231, for the relief of William Pierce; which was read a first and second time, and referred to the Committee of Claims.

MRS. JERUSHA WITTER.

The next business upon the Speaker's table was Senate bill No. 276, for the relief of Mrs. Jerusha Witter; which was read a first and second time, and referred to the Committee of Claims.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bills were severally referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had exam-

ined and found truly enrolled House bill No. 472, for the relief of George R. Frank, late captain thirty-third regiment Wisconsin volunteer infantry; when the Speaker signed the same.

JOHN K. HICKEY.

Mr. WRIGHT, by unanimous consent, introduced a bill for the relief of John K. Hickey; which was read a first and second time, and referred to the Committee on Naval Affairs.

JACOB P. LEESE.

Mr. HIGBY. I ask the unanimous consent of the House to introduce a joint resolution in relation to the claim of Jacob P. Leese, and to put it on its passage now.

Mr. FARNSWORTH. I object to the joint resolution being acted on now.

The joint resolution was read a first and second time, and referred to the Committee of Claims.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TERRITORIAL BUSINESS.

Mr. ASHLEY, of Ohio. Mr. Speaker, territorial business was postponed to Thursday of this week. I have been so unwell as to be unable to attend the sittings of the House or the committee. I ask, therefore, that Thursday of next week, during the morning hour, be set apart for reports from the Committee on Territories.

There was no objection, and it was so ordered.

TERRITORIAL ORGANIC ACTS.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a bill to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico; which was read a first and second time, and referred to the Committee on Territories.

METHODIST EPISCOPAL CHURCH.

The SPEAKER laid before the House the report of the New York East Annual Conference of the Methodist Episcopal Church; which was laid upon the table, and ordered to be printed.

MEXICO.

Mr. LAFLIN, by unanimous consent, submitted the following resolution; which was referred, under the law, to the Committee on Printing:

Resolved, That there be printed of the message of the President of the United States and the accompanying documents on the subject of Mexico the same number as is now provided by law for the printing of the general diplomatic correspondence.

REORGANIZATION OF THE ARMY.

The House resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States;" the pending question being on the motion that its further consideration be postponed to the first Monday of December next.

Mr. NIBLACK. I am satisfied, after conference with some friends, that the motion to postpone would not be a fair test, and that it would be more respectful to the committee to allow them to perfect their bill first. I therefore withdraw the motion to postpone.

The question then recurred on Mr. SCHENCK's amendment, as follows:

Add:

But nothing in this section shall be construed so as to vacate the commission of the Commissary General of Subsistence, but only to change the title of that officer to Commissary General; nor to vacate the commission of any officer now commissioned as assistant commissary general of subsistence or commissary of subsistence, but only to change the title to commissary in the cases of those who rank as lieutenant colonels, majors, and captains, without affecting in any way their relative position or the time from which they take such rank.

Mr. SCHENCK. I demand the previous question on the amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

Mr. HALE. I move to amend section nine-teen by striking out the concluding sentence, as follows:

And hereafter no graduate of the United States Military Academy, being at the time in the Army of the United States, or having been therein at any time for three years next preceding, shall be eligible to appointment as an officer in the subsistence department.

I do not propose to spend much time on this proposition, nor do I propose to go into any discussion as to the character of the Military Academy at West Point, the desert of its graduates, or the merits of those officers who are not graduates. But I submit that this clause of the section which I have moved to strike out does put an unjust and improper distinction in this bill against graduates of the Military Academy.

Now, I certainly have no desire to bestow praise upon the graduates of that institution at the expense of officers who are now graduates. I have no desire to claim any undue or unreasonable merit for the graduates of West Point; but I think we shall all agree that during the war we have just passed through, not only the officers who have gone into the Army from civil life, not only the rank and file of our troops, but the officers who are graduates of West Point, at least, as well, have all commended themselves most highly to the favorable consideration of the country.

A great deal has been said about the necessity of a West Point education for men to buy biscuit. I do not think it is a question of necessity. I do not think it is a question as to whether an education itself at West Point shall be required for this department. But this department does afford one of those sources of promotion, one of those rewards of merit, which certainly ought to be open to every deserving man in the Army. It is in itself but a trifle, it is true. Probably in the ordinary course of vacancies that shall occur in this department there will not average two appointments a year; but I am entirely unwilling, as a matter of principle, to say that in military offices, in offices requiring military knowledge or military education to administer successfully, as I claim these places in the subsistence department do require to a large extent—I am entirely unwilling that any one of these should be closed against officers of the Army of any character whatever.

In the present organization of this department, the organization as it existed during the whole of the war of the rebellion, or during the most of it at least, the head of the department is and has been a graduate of West Point. As to the efficiency, ability, and integrity with which he has managed the affairs of that department I think there is no question whatever. Other gentlemen connected with the department have distinguished themselves by their administration of its business. Others who are graduates of West Point have acquired in the service of this bureau no less distinction, no less good repute among all who are familiar with their operations, than has been acquired by themselves and others in the field. And many of those who are officers of West Point now in this department have distinguished themselves greatly in the field before receiving their appointment as well as on detailed service while they have held their commissions here.

I submit that there is no sufficient reason why this clause should be retained in this bill, standing, as it were, as a sort of stigma upon West Point, a mark of exclusion of officers from a certain line of promotion in the Army. I can see no reason why we should not equally exclude them from the Quartermaster General's department. Indeed the chairman of the committee, I understand, substantially admits it. The truth is, both these departments require not merely business capacity, but they also involve in no small degree full and accurate knowledge of military organization, of military law, and of the theory upon which the system of our Army organization is based. I certainly hope that the chairman of the Committee on Military Affairs will consent that this

clause of the section be stricken out, or that the House, in any event, will unite in saying that it ought not to be retained.

Mr. BLAINE. I do not rise to debate the pending question, but for the purpose of making a correction in the Globe report of the proceedings of Friday last, since which time I have been detained from the House by sickness. I am reported in the Globe as saying that the "longevity ration applies only to the infantry branch of the service." What I did say was that "the longevity ration applies from the instant an officer is commissioned in the service, without regard to change of corps or title." I was replying at the time to a remark of the gentleman from New York [Mr. DAVIS] who maintained that the proposed change of titles in the quartermaster's department would deprive the officers affected of their right to longevity rations.

One word further on another point. Yesterday the honorable chairman of the Military Committee [Mr. SCHENCK] intimated that I had procured the amendment giving advanced rank in the Adjutant General's department because it would promote some of my friends. The friends of mine that would thus be promoted are the friends of every member of Congress who has had business at the War Department, and in no other sense. I have no kinsman or constituent or old acquaintance to be helped or hindered by the amendment. I count many of the officers of the Adjutant General's department my friends, and I am proud to do so, but I was actuated solely by a desire to promote the interests of the public service in procuring advanced rank for that department. I desire to say nothing more on the subject.

Mr. THAYER. I desire to ask the chairman of the Committee on Military Affairs a question in reference to this section, if he will give me his attention. There are now, I believe, twenty-nine officers on this staff corps, of whom twenty-four are graduates of West Point, and five are not. The last clause of the section, which the gentleman from New York [Mr. HALE] moves to strike out, declares that—

Hereafter no graduate of the United States Military Academy, being at the time in the Army of the United States, or having been therein at any time for three years next preceding, shall be eligible to appointment as an officer in the subsistence department.

Now, the question which I ask the gentleman is this: whether if a vacancy occurs in this department among any of these officers, the whole of the twenty-four officers who are graduates of West Point, and who are now in this department, are to be excluded from being appointed to fill that vacancy; in other words, whether they are not totally shut out from promotion as vacancies occur, and whether promotion in the future is not, by the terms of this prohibition, confined to the five gentlemen in the department who are not graduates of West Point?

I will yield for a moment to the chairman of the committee to answer that question, for I wish to have his views upon that point.

Mr. SCHENCK. I have not the slightest idea that that would be the effect of the section; certainly that was not the intention of the committee in framing the bill. I suppose that in making appointments to the subsistence departments they would be made as before, under any fair construction of this bill; but if the gentleman has any doubt about it, I shall be very glad of any suggestion of phraseology which will accomplish the object the committee has in view more perfectly than it is, perhaps, accomplished by this section.

Mr. THAYER. I will avail myself of the offer made by the gentleman from Ohio by suggesting a modification which will prevent that result. I never had a stronger conviction upon any question of law than that which I have in reference to this, and I ask the attention of the lawyers of the House to the phraseology of this prohibition. I undertake to say that no lawyer in the House will dispute the point, after a careful examination of the phraseology

of this section, that its effect would be precisely what I allege it would be. Could anything be plainer than this, when you say that hereafter "no graduate of the United States Military Academy" shall be eligible to appointment as an officer in the subsistence department? Suppose a major, for instance, in that department should be appointed hereafter a lieutenant colonel or a colonel by way of promotion, would not that be an appointment in the subsistence department? Does he not have to be appointed by the President of the United States? Is it not necessary to send his nomination to the Senate and must he not be confirmed by that body? Why, every one will see that an appointment by way of promotion to fill a vacancy is just as much an appointment as an original appointment; and that when the language of the section excludes all graduates of West Point from receiving any appointment in the future in the subsistence department, it cuts off absolutely from promotion every officer in that department who was a graduate of that institution.

I will not take up the time of the House by any further remarks upon that point. I do not think that any gentleman who will carefully examine the provision can disagree with me in opinion upon this point; but as the gentleman from Ohio [Mr. SCHENCK] expresses his willingness that the language of the section shall be modified so as to prevent that result, I will offer such a modification.

Mr. WOODBRIDGE. I had occasion yesterday to make a few remarks in vindication of West Point. And as this is the first feature in the bill which would seem to create invidious distinctions against the graduates of that institution, I desire to lay before the House a little information respecting the institution, which I have collected since the adjournment on yesterday.

We all recollect that before the Mexican war there was very great opposition to the Academy. But the success in the Mexican war of the officers graduating there rather quieted the feeling.

We have been told that the Academy at West Point was a place where the sons of rich men were educated. I know that from an examination made at the time it was found that a large majority of those appointed to West Point were from the medium walks of life. We were told, also, that favoritism was shown there, and yet I know that upon one occasion the son of the then General-in-Chief of the armies of the United States was dismissed from the institution, and the son of the tailor who furnished the uniforms for the young men graduated at the head of his class.

But recently we have been told, in one of the prominent journals of the country, that the officers at West Point were a knot of lazy pensioners, and officers who decline to fight except in a gentlemanly manner. I have a statement showing what was done by the officers of the regular Army during the late war.

When the war began there were about twelve hundred officers in the regular Army, but of that number one hundred and eighty-one were left dead upon the field of battle, and nearly five hundred were wounded; or more than one half of all the officers of the regular Army were either killed or wounded in the various battles of the war. I consider that rather hard fighting than gentlemanly fighting; I consider the result an indication of bravery, of skill, of love of profession, and love of country, rather than otherwise.

At the commencement of the war there were among the officers of the regular Army eight hundred and twenty who were graduates of West Point. Under the law distributing the appointments to the Military Academy, the South, of course, had its proportion; and hence a large number of the graduates were from the South. Out of the eight hundred and twenty, only one hundred and ninety-seven resigned and entered the confederate service, leaving six hundred and twenty-three out of the eight

hundred and twenty, loyal to the Government which educated them.

I think this is a comment upon West Point and the regular Army which the gentleman from Ohio [Mr. SCHENCK] certainly ought to consider before he undertakes to create invidious distinctions against them.

Sir, of the six hundred and twenty-three officers who remained loyal, one hundred and thirty-eight were from the South, being nearly one half of the number of the graduates from the South; a triumphant answer to the charge that West Point is a nursery of treason. I do not believe that any department of the Government furnished so large a proportion of southern men who adhered to the Union as the regular Army and West Point.

There is another fact which is quite significant. Out of over two hundred officers appointed to the Army from the South and from civil life, not graduates of West Point, there were scarcely half a dozen who did not prove false to their allegiance. Assuredly this proves that the influence of West Point, and of the education which it affords, has not been unfavorable to loyal feeling. Out of eight hundred and twenty graduates in the Army at the commencement of the war, only one hundred and ninety-seven left the Army and joined the confederate forces. While out of those appointed from the South from civil life, less than half a dozen remained loyal.

Take the other Departments of the Government, even the heads of the Departments, the judges of the Supreme Court, members of the Senate and members of the House, and compare their record with that which West Point has produced, and I assure you it will be found that the loyalty of West Point men far exceeded the loyalty of those occupying high positions under the Government.

Mr. GRINNELL. I should like to ask my friend whether there is not a difference between the position of those who have been educated at Government expense and who have taken solemn oaths to support the Constitution, and civilians who were under no such obligation; and whether the gentleman's argument is not weak in overlooking this distinction.

Mr. WOODBRIDGE. No, sir; it is strong. I contend that when a man becomes a citizen of the Government and takes an oath to support the Constitution and laws of that Government, there is no palliation under which he may shield himself when he departs from the obligations of his oath. And although it may be said that it is more ungrateful in a graduate of West Point, having received an education at the expense of the Government, to prove untrue, than it would be for a man appointed from civil life, the facts show that the graduates of West Point do feel this gratitude; for of those from the South appointed from civil life scarce one remained true, while of those educated at public expense, more than three fourths of all remained loyal to their flag, and more than half of them were either killed or wounded in the course of the war.

I think this shows conclusively that the teachings of that institution are in favor of loyalty, exciting a love of country which, during the rebellion, has indicated itself; and here, in my judgment, is an additional reason why the institution should be sustained, and that there should be no invidious distinctions against its graduates.

Mr. THAYER. I move to amend by inserting after the word "department" in line twenty-three, the following:

But this provision shall not extend to graduates of West Point now in the subsistence department.

Mr. SCHENCK. I have no objection to that whatever.

Mr. TAYLOR. I would like to suggest to the distinguished chairman of the Committee on Military Affairs another modification of this section. I suggest that there should be added at the end of the section the words "unless disqualified by reason of wounds received while in the line of his duty." There are, I have no

doubt, many officers who, by reason of wounds, are disqualified for active field service, but who can yet perform the duties of commissaries as well as any others.

Mr. SCHENCK. For reasons which I will assign if the amendment be moved, I cannot consent to that.

The SPEAKER. The motion would not be in order now.

Mr. TAYLOR. I simply desired to throw out the suggestion.

Mr. TILAYER. I demand the previous question on my amendment.

The previous question was seconded and the main question ordered: and under the operation thereof the amendment of Mr. THAYER was agreed to.

The question recurred on the motion of Mr. HALE to strike out the last sentence of the section as printed.

Mr. SCHENCK. I desire to submit a few remarks in reply to the gentleman from New York, [Mr. HALE.] It seems to me that gentlemen in their eulogies upon West Point and upon those who have had the honor to be graduates of the Military Academy, run away enurely from the issue which is presented, or which at least it is desired shall be presented to this House by the provisions contained in the section as reported by the Committee on Military Affairs. Gentlemen say it is a discrimination against graduates of the United States Military Academy to provide that they shall not be eligible to selections for office in the subsistence department. Now, there is another light in which that may be viewed; and I may here repeat, without rearguing it, a proposition which I stated yesterday.

Skill in the art of war, thorough instruction in military science, such as is obtained at a national school like that we have established at West Point, is not necessary to make a competent officer of subsistence. So far is this from being the case that any man from civil life, having good business habits and character, accustomed to trade and to make contracts, understanding something about the ordinary affairs relating to the subjects of those contracts, is likely to be quite as well, if not better, qualified than a man who has turned his attention exclusively to the acquiring of technical knowledge in the particular line of war.

I lay that down as a proposition from which all the rest follows.

Now, sir, how do these gentlemen get this information? It is afforded to them at the expense of the Government. It is education given by the Government to those who, under the law, receive the appointments to West Point. The Government which gives education has the right to impose what conditions it will as among the terms upon which that education shall be conferred. Is it unreasonable to say to those gentlemen, when we give them a four years' education, at great cost, at a public institution maintained from the Treasury of the country for the purpose of instructing them in all that relates to the technical knowledge of war, they shall not throw all that away by going into a situation which requires no such technical knowledge?

Why did we propose to put this condition in the bill in regard to the subsistence department? Because experience has proved there is an evil in that department to be cured. If you take the Army Register prior to the war, never but one man was appointed who was not educated at the United States Military Academy, and he only from happening to be son of the chief of the department. After the war began, up to 1863, but a single appointment not from graduates of West Point, and including 1863, only some three or four. On the contrary, gentlemen graduating, it is to be presumed, reasonably high in their class, for we find them in the artillery branch of the service, have been again and again appointed to the subsistence department. Congress here intervenes and declares by law that hereafter it will be expected the department shall not

be made up of men who have been educated at the public expense for other purposes. That is the whole case.

Suppose the Army Register showed you could not get a chaplain in unless educated at West Point, that you could not get a surgeon in unless, in addition to his knowledge as a surgeon, you superadded graduation at West Point, would not Congress feel itself authorized to intervene and say by law this is not what we educated these gentlemen for? Therefore I repeat what I said yesterday, just in proportion as gentlemen say graduates of West Point are good engineers, capable artilleryists, excellent infantrymen, gallant and skillful cavalrymen, just in proportion as we have educated them for occupation in these particular branches of real war, we say that it is not unreasonable in us to expect they shall confine themselves to that for which we educated them.

I will not be drawn off into the comparative merits and demerits of West Point cadets or West Point graduates. There might be a great deal answered to what has been said on that subject. All comparisons are odious, and very often, if they comprise allusions to a whole class of men, they are as unjust and ungenerous as they are odious.

No man has a higher idea for the purposes of war of the military knowledge acquired in this military school than I have, but it does not follow from that we must therefore give to the gentlemen who have these qualifications, and who have corresponding good qualities of mind and character and courage and integrity in the general, all the places, as well those which require no such military education as those which do. It is unjust. It is not part of the contract.

But when gentlemen would speak of West Point they had better speak of it with bated breath, even on this question of remarkable loyalty. I admit the great body of the graduates of West Point, when the trial came, espoused the cause of the country and fought under the flag under which they had received their education, but I do not so much wonder they generally did that, as I abominate, despise, and denounce the infernal and damnable spirit of those who committed double perjury, going off to the enemy after they had thus been educated. I draw the distinction that my friend from Iowa [Mr. GRINNELL] drew. I say if civilians, if civil officers, if men in the ordinary walks of life, subjected to the political influences which surrounded them, with mistaken ideas mixed up with this heresy of secession, went off to the South and fought against their Government, that is more easily to be accounted for than that men, educated under the flag of the country and at its expense, enjoying its emoluments and honors and under the obligation to defend that flag, should have committed a double perjury, such as Robert E. Lee and others did when they deserted that flag. A good many of them who remained loyal, as it is termed, my friend from Vermont will himself admit manifested only a qualified, moderate, and temperate sort of loyalty.

Now, I do not say this in general disparagement of West Point. I would repel any attack upon the Military Academy or its graduates, as if they had generally shown a lukewarmness in the great cause of the country. But while I make that admission, I do not believe, on the other hand, in any of these comparisons, any of these allusions, which would seem to uphold the idea that West Point, above all other institutions, had sent forth men who had particularly signalized themselves as being peculiarly devoted to the country which had protected, nourished, educated, and provided for them.

But, sir, all this, I repeat, is out of the question. It is no part of it. The question presented really by the committee when they proposed that as a feature of the bill, is one of the simplest possible to be conceived. It does not involve any inquiry into the comparative fairness or unfairness exercised toward men who are graduates or cadets at West Point, in reference to their

origin as being more or less exalted or humble. Why that is brought in I do not understand; nor why a comparison should be made between the son of a professor there and the son of a tailor. I believe in these latter days it is not considered a thing otherwise than to be boasted of to have been connected with that honorable profession—a tailor. [Laughter.] We are not to be drawn aside into any such digression.

I repeat that the whole of this matter is in a nutshell. We educate these men at the public cost. We have places enough for them in the Engineer corps, in the cavalry, in the infantry, in the bureaus, and in the different staff departments, and we say to them, as the peculiar education which we give you was intended to qualify you for these places, if you will insist upon finding your way into other places not requiring this peculiar kind of knowledge, and if those who have the management of affairs will indulge you in getting these places, we will cut off all possibility by law and hold you to your calling as military men, peculiar and special, for which you were educated at the public expense.

The question being taken on the amendment of Mr. HALE, no quorum voted.

The SPEAKER *pro tempore* (Mr. DAWES) ordered tellers; and appointed Messrs. HALE and SCHENCK.

The House divided; and the tellers reported—ayes 23, noes 72.

So the amendment was not agreed to.

Mr. HALE. I move an amendment to section nineteen, which will, I think, commend itself both to the chairman of the committee and the House. I move to strike out from and including the word "reducing" to and including the word "ten," and to insert in lieu thereof the following:

In the grade of captain, no other officer of that grade shall be appointed until the number of captains shall be reduced to ten, and thereafter the number of captains in that department shall be limited to such reduced number.

So that the clause will read:

But after the first appointments made under the provisions of this section, as vacancies may occur in the grade of captain, no other officer of that grade shall be appointed until the number of captains shall be reduced to ten, and thereafter the number of captains in that department shall be limited to such reduced number.

I understand the chairman of the committee to make no objection to this amendment.

Mr. SCHENCK. I do not assent to it. If you will say nothing upon it I will say nothing, and you may move the previous question.

Mr. HALE. Very well. I move the previous question.

The previous question was seconded and the main question ordered; and the question being put on agreeing to the amendment, no quorum voted.

The SPEAKER *pro tempore* ordered tellers; and appointed Messrs. HALE and HARDING of Illinois.

The House divided; and the tellers reported—ayes 35, noes 61.

So the amendment was rejected.

The question recurred on the amendment of Mr. WOODBRIDGE, to strike out the whole of section nineteen, and insert in lieu thereof the following:

That the subsistence department of the Army shall hereafter consist of the officers now authorized by law, namely, one commissary general of subsistence, with the rank, pay, and emoluments of a brigadier general; two assistant commissary generals, with the rank, pay, and emoluments of colonel of cavalry; two assistant commissary generals, with the rank, pay, and emoluments of lieutenant colonel of cavalry; eight commissaries, with the rank, pay, and emoluments of majors of cavalry; and sixteen commissaries, with the rank, pay, and emoluments of captains of cavalry.

The question being taken on agreeing to the amendment, there were—ayes 23, noes 64, the Speaker *pro tempore* voting in the affirmative to make a quorum.

So the amendment was not agreed to.

The twentieth section was then read, as follows:

SEC. 20. And be it further enacted, That the Provost Marshal's Bureau shall hereafter consist of a provost

marshal general, with the rank, pay, and emoluments of a brigadier general; and one assistant provost-marshal general, with the rank, pay, and emoluments of a colonel of cavalry; and all matters relating to the recruitment of the Army and the arrest of deserters shall be placed under the direction and control of this bureau, under such regulations as the Secretary of War may prescribe.

Mr. CONKLING. I move to strike out section twenty of the bill. My objection to this section is that it creates an unnecessary office for an undeserving public servant; it fastens as an incubus upon the country a hateful instrument of war, which deserve no place in a free Government in time of peace.

I have never heard any very serious attempt to justify by argument the permanent continuance of an officer whose administration during the war has had in it so little to commend and so much to condemn. But I have heard an effort made to prove the propriety of this section by charging it to the Lieutenant General of the Army, and by saying that he had found a necessity for continuing, in time of peace, the Bureau of the Provost Marshal General. In order that the House may see how true this allegation is, I send to the Clerk's desk and ask (to have read copies of letters which have been furnished to me, the first a letter addressed to the Lieutenant General by a Senator of the United States.

The Clerk read, as follows:

UNITED STATES SENATE CHAMBER,
WASHINGTON, March 17, 1866.

GENERAL: The House bill for the organization of the Army contains a provision creating a permanent Provost Marshal's Bureau, with a brigadier general at its head; also placing the recruiting service in its charge.

It has been unofficially reported to me that this was done in consequence of a recommendation of yours to that effect.

I should be pleased to know if such is the case, as I had labored under the impression from conversation with officers of the Army that such a step was not a judicious one and tended only to increase the number of bureaus and officers of the Army with an increase of expenditure without any corresponding efficiency or benefit.

If my impressions are erroneous I would like to have them corrected.

I am, very respectfully, your obedient servant,

J. W. NESMITH.

Lieutenant General U. S. GRANT, &c.

Mr. CONKLING. I now send the answer of the Lieutenant General.

The Clerk read, as follows:

WASHINGTON, D. C., March 19, 1866.

DEAR SIR: Yours of the 17th instant, stating that it had been intimated that I had recommended the continuance of the Provost Marshal General's department and the transfer of the recruiting service to it, is received.

Some months since a paper was referred to me showing the great number of desertions from the Army and asking for suggestions to put a stop to them. To that paper I suggested a number of changes in orders governing the recruiting service, and recommended that the whole matter be put in charge of the Provost Marshal General, who could devote more attention to it than the Adjutant General with all his other duties could. I am opposed, however, to multiplying bureaus, and I think there is no necessity for a Provost Marshal General. In fact, if we had to organize the Army anew, I would not have as many bureaus as we now have. In my opinion, the country would be just as well and much more economically served if the coast surveying duties were added to the Engineer Bureau, and the quartermaster, subsistence, and pay departments were merged into one. I would not recommend a change now, however, but would not make any increase of bureaus.

Very truly, yours,

U. S. GRANT,
Lieutenant General.

Hon. J. W. NESMITH, United States Senator.

A true copy:

GEORGE K. LEET,
Assistant Adjutant General.

Mr. CONKLING. The reasons which no doubt the writer of that letter has for deeming the Provost Marshal and his bureau an unnecessary appendage to the peace establishment of the country appear at considerable length in a communication which I have here, but which I will not, unless it becomes necessary, have read. It is a communication from the acting head of the Adjutant General's Office. We all know that during our history thus far we have always managed without a bureau of this kind to recruit the regular Army, and that no need of it has ever been felt in maintaining the usual military establishment. The Provost Marshal's Bureau was a temporary expedient resorted to in an extreme emergency to bring volunteers hastily to the field. Its mission is

ended, and it should be buried out of sight. The communication in my hand shows that if reestablished now for the purpose of superintending recruiting for the regular Army—and it can be applied to no other purpose—the expense of the recruiting service will be largely increased, that no greater efficiency will be attained, that a necessity will be created for duplicating records, for a new supply of apartments, of clerks, of agents; in short, of the various arrangements connected with recruiting, and that absolutely no good result can be accomplished by it.

I state it thus strongly and briefly, and I will cause the details to be read if the reading shall be called for hereafter.

There is one thing—I know of but one—for this bureau to do before leaving the public presence, and that is to close its accounts, so as to allow the War Department and the country to know precisely what has become of the twenty-five million and odd dollars which, under the act of March 13, 1862, went to its credit. Sixteen million and some odd dollars have been expended, and nine million and odd dollars remain as a balance to the credit of the fund; and whenever the bureau will close its accounts, or will enable them to be closed, as they never will be until the bureau is wound up, it will perform its sole remaining function.

If the administration had been ever so able, the time has come when the whole system of provost marshals should be numbered with the grievous memories of a bloody and terrible epoch.

But there are yet other grounds of objection. I protest against any promotion or reward for the officer whose interests are involved in this section. He holds already the rank of lieutenant colonel in the staff department. Indeed, by accident, if the pending bill shall pass, he will be elevated to yet a higher grade; but as he stands now, his pay amounts to \$3,500, or thereabouts. I think that, for the present, is enough for him. He has suffered nothing and lost nothing in war that I ever heard of, and I protest, in the name of my people and in the name of the people of the western division of New York, against perpetuating a power under which they have suffered, beyond the capacity of any man adequately to state in the time allotted to me.

Central and western New York have a right to feel and do feel deeply on this subject. My constituents remember, and other constituencies remember, wrongs done them too great for forgetfulness and almost for belief by the creatures of this bureau and by its head.

We in the western division of New York had sent to rule over us as assistant provost marshal general an officer of the Veteran Reserve corps; a man who never saw a battle, who never received a scratch or suffered a day's sickness in the military service; a man honored with the especial personal intimacy and confidence of the Provost Marshal General, and who in a marked and ostentatious degree reflected the will and the favor of his chief. He had been for some time in the office of the Provost Marshal General here in Washington; he was his crony and confidant, and sustained with him, as events proved, relations of great personal intimacy. This spokesman, so trusted and so fortunate, did not come to us alone. There came at the same time other creatures of the head of the bureau at Washington. The western division swarmed with these chosen favorites, and they illustrated to the full the genius and the morale of their mission.

By acts of their own, and by acts done by their superior at Washington, they turned the business of recruiting and drafting into one carnival of corrupt disorder, into a paradise of coxcombs and thieves.

False quotas were put upon us; exaggerated telegrams and orders were sent to our boards of supervisors. We were victimized by constant uncertainty and deception. In my own district, under one call, \$438,000 was wrongfully wrung from an outraged and groaning people. Officers of this bureau who sought to stem the

tide of fraud were removed without warning, and the whole machinery of the Government was subjected to miscreants and robbers. Communities petitioned and remonstrated in vain. The most palpable wrongs were refused redress. Men immeasurably the superiors of General Fry represented and protested, but they were spurned with magnificent disdain. Never was "the insolence of office" more offensively portrayed than it was by this man whom it is proposed to decorate and enrich.

If there was no design at headquarters to do wrong there was a capacity to muddle, to begot, to misunderstand facts, and to misread and misstate figures and simple results, which is nearly inconceivable.

I was employed by the Government to prosecute some of the frauds to which I have referred; and I tried this assistant provost marshal general, who had been justified in all the outrages he committed and in all the acts by which millions were stolen from the people of New York; who was justified by his superior officer down to the time when the sentence was published, and afterward, I understand. He was accused and convicted of the basest forms of official atrocity; the most monstrous acts of bribery, oppression, and wrong were charged against him and proved against him. And although he disgorged some two hundred thousand dollars, I see it stated in a newspaper that the other day he purchased in the city of Philadelphia an establishment for which he paid down \$71,000. He was utterly poor when he entered this bureau; and yet, after all he yielded up, and after paying a fine of \$10,000, it seems that still he is rich.

And this was not an isolated case; far from it. On the contrary, I say, and I may endeavor on a future occasion to show in detail, that there never has been in human history a greater mockery and a greater burlesque upon honest administration than the conduct of this bureau, taking the whole country together. It will turn out that of the seven or eight hundred thousand men for whom, not to whom, because they did not get them, enormous bounties were paid, not to exceed three hundred thousand, I believe not two hundred thousand, ever reached the front.

[Here the hammer fell.]

Mr. BLAINE obtained the floor.

Mr. WARD. I hope unanimous consent will be given my colleague [Mr. CONKLING] to proceed.

Mr. ROSS. I object.

Mr. BLAINE. I am in a very weakly condition of health to make the brief explanation due to the Military Committee. But I wish to state why the committee reported this section of the bill in regard to which the gentleman from New York shows so much feeling.

I believe that among the earliest acts of the gentleman from New York at this session of Congress was the introduction of a resolution, which was adopted by this House, directing the War Department to report upon the expediency of abolishing the office of Provost Marshal General. In the routine of business the answer of the Secretary of War came to the Military Committee, and among the papers was a letter from Lieutenant General Grant.

There was an elaborate paper also from General Townsend. They were referred to a subcommittee. The committee, upon a full review of the papers, and especially of the letter of Lieutenant General Grant, reported this section. The gentleman from New York has read a letter from the Lieutenant General, which practically recalls the recommendations of the letter on which the committee acted; but I desire the Clerk to read the letter of Lieutenant General Grant, which was the authorization, in the judgment of the committee, for inserting the section.

The Clerk read, as follows:

HEADQUARTERS ARMY OF THE UNITED STATES,
WASHINGTON, December 14, 1865.

SIR: In reply to your letter of the 13th instant, in reference to desertions, I would make the following remarks: I do not think the present method of recruiting, as carried out, sufficient to fill up the regu-

lar Army to the force required, or to keep it full when once filled.

The duty is an important one, and demands, I think, the exclusive attention of an officer of the War Department, aided by a well-organized system extending over the country. I think the officer best fitted for that position, by his experience during the present war, is General Fry, and would recommend that the whole subject of recruiting be put in his hands, and all officers on recruiting duty be directed to report to him. He should also have charge of the apprehension of deserters, should be authorized to offer such rewards as will secure their apprehension. When caught they should be tried, and the sentence rigidly carried into effect; this would soon stop the present enormous amount of desertion.

I would recommend that the duties heretofore performed by provost marshals be hereafter performed by officers detailed for recruiting duty.

Very respectfully,

U. S. GRANT,
Lieutenant General.

Hon. E. M. STANTON, Secretary of War.

Mr. BLAINE. The House will observe that the Committee on Military Affairs acted precisely in accordance with the recommendations of the Lieutenant General as contained in the letter which has just been read. The first point which the Lieutenant General makes is that the system of recruiting carried on under the direction of the Adjutant General's Office has not proved efficient, in his judgment, in filling the Army. In the next place, he suggests that some special officer should be detailed to superintend the business of recruiting, and he names General Fry as the proper officer. In the next place, he states that provost marshals throughout the country are not needed, and that their places should be filled by recruiting officers. Provisions in accordance with all these recommendations are comprehended in the section which the gentleman from New York would have stricken out.

Mr. BOUTWELL. I desire to state that the facts up to the latest date do not sustain the opinion of the Lieutenant General. From last October till April 17, the Adjutant General has recruited between nineteen and twenty thousand men for the regular Army.

Mr. BLAINE. We acted only on the information before us. And when the gentleman from New York [Mr. CONKLING] quotes the letter of the Lieutenant General in condemnation of the report made by the Committee on Military Affairs, I merely wish the privilege of showing that that report was made in express conformity, *verbatim et literatim*, with the recommendations of that officer's letter, which came officially before the committee, and which was not smuggled in in the manner in which the letter read by the gentleman from New York comes before us. That is not an official letter; it is an unofficial note. The letter just read by the Clerk is an official note, communicated to this House by the Secretary of War on a regular call, and referred by the House to the Committee on Military Affairs.

Mr. Speaker, I do not suppose that the House of Representatives care anything more than the Committee on Military Affairs about the great recruiting frauds in New York, or the quarrels of the gentleman from New York with General Fry, in which quarrels it is generally understood the gentleman came out second best at the War Department. I do not think that such questions ought to be obtruded here.

Though the gentleman from New York has had some difference with General Fry, yet I take pleasure in saying that, as I believe, there is not in the American Army a more honorable and high-toned officer than General Fry. That officer, I doubt not, is ready to meet the gentleman from New York or anybody else in the proper forum. I must say that I do not think it is any very creditable proceeding for the gentleman from New York here in this place to traduce General Fry as a military officer when he has no opportunity to be heard. I do not consider such a proceeding the highest specimen of chivalry that could be exhibited.

The gentleman from New York has had his issues with General Fry at the War Department. They have been adjudicated upon by the Secretary of War; and I leave it for the gentleman to say whether he came out first best. I do not know the particulars; the gen-

tleman can inform the House. All I have to say is—and in this I believe I speak the sentiment of a majority of the members of this House—that James B. Fry is a most efficient officer, a high-toned gentleman, whose character is without spot or blemish; a gentleman who stands second to no officer in the American Army; and he is ready to meet the gentleman from New York and all other accusers anywhere and everywhere. And, sir, when I hear the gentleman from New York rehearse in this House, as an impeachment of General Fry, all the details of the recruiting frauds in New York, which General Fry used his best energies to repress with iron hand, a sense of indignation carries me beyond my personal strength and impels me to denounce such a course of proceeding.

Mr. MERCUR obtained the floor.

Mr. CONKLING. I ask the gentleman from Pennsylvania [Mr. MERCUR] to yield to me.

Mr. MERCUR. I yield to the gentleman. Mr. CONKLING. Mr. Speaker, if General Fry is reduced to depending for vindication upon the gentleman from Maine he is to be commiserated certainly. If I have fallen to the necessity to taking lessons from that gentleman in the rules of propriety, or of right or wrong, God help me.

I say to him further that I mean to take no advantage such as he attributes of the privileges of this place or of the absence of General Fry. On the contrary, I am ready to avow what I have here declared anywhere. I have stated facts for which I am willing to be held responsible at all times and places.

I say, further, that the statement made by the gentleman from Maine with regard to myself personally and my quarrels with General Fry, and their result, is false. He says I can—

Mr. BLAINE. What does the gentleman mean to say was false?

Mr. CONKLING. I mean to say that the statement made by the gentleman from Maine is false.

Mr. BLAINE. What statement?

Mr. CONKLING. Does not the gentleman understand what I mean?

Mr. BLAINE. I call the gentleman to order. I demand he shall state what was false in what I stated. I have the parliamentary right. I demand the gentleman shall state what is false in what I said.

The SPEAKER *pro tempore*. The gentleman from Maine will state his point of order.

Mr. BLAINE. I have already. The gentleman has denounced my statement as false. It is my right to have him state in what particular anything I said or what allegation I made was false.

The SPEAKER *pro tempore*. The Chair overrules the point of order. The gentleman from New York will proceed.

Mr. BLAINE. One single word more.

Mr. CONKLING. I do not yield.

Mr. BLAINE. Do I understand the Speaker to rule, when a member states that another has stated falsely, that is no point of order?

The SPEAKER *pro tempore*. The Chair does not understand that to have been the point of order.

Mr. BLAINE. Then I raise the point of order that the gentleman stated what was unparliamentary when he said that I stated what was false. I have no objection to his going on to state where it is false.

The SPEAKER *pro tempore*. The Chair understood the gentleman to say it was out of order to pronounce a statement was false without stating wherein it was false. The Chair overrules that point of order. If the gentleman has another point of order to raise he will please state it.

Mr. BLAINE. I raise the point of order that it was not parliamentary for the gentleman to use those words.

The SPEAKER *pro tempore*. The Chair sustains that point of order.

Mr. BLAINE. I have no objection to his stating wherein it is false.

The SPEAKER *pro tempore*. The Chair is of the opinion it is not parliamentary to pronounce what has been said by any gentleman in debate here is false. It is not a point of order well taken to require him to state wherein it is false.

Mr. CONKLING. Under the rules the words objected to should have been taken down at the time, and the point of order comes now too late. One who makes such points of order should be more careful how he makes them.

It is not my disposition, Mr. Speaker, to engage in personal controversy upon this floor; but when any member forgets himself so far as to impute unworthy motives and resentments to me, when my motives and resentments are wholly foreign to the matter before the House, he must expect a rebuff; and when he asserts offensively that I have had personal quarrels with a person whose administration and public acts are under consideration, and that I have been worsted in these quarrels, and that, too, before the Secretary of War and by the Secretary of War, and when that statement has no foundation in fact, I think the Chair and the House will agree with me that something is to be pardoned to the earnestness of the occasion. I said what I felt bound to say, speaking not only for my own constituents, but for other constituencies in New York whose Representatives hear me. I could not remain silent when I know that in my own district and elsewhere men who stood up honestly and attempted to resist "bounty jumpers" and thieves were stricken down and trodden under foot by General Fry. I affirm that the only way to acquit him of venality is to convict him of the most incredible incompetency. I am responsible for that, sir, everywhere. I have had no such personal quarrel with General Fry, however, as has been asserted. I never chanced to see him but once, unless I have forgotten it, and when the gentleman rises here and makes a charge of that kind, with the insinuation by which he accompanies it, his conduct calls for some plainness of speech. And so, using parliamentary language, I reiterate that the statement which was made is erroneous and destitute of that which it should possess in order to render it admissible in debate. I believe that is parliamentary, even if the other form was not.

Now, sir, I want to say a word about this letter.

Mr. MERCUR. Mr. Speaker—

Mr. CONKLING. I beg pardon. I thought the gentleman yielded the floor to me altogether. I am very much obliged to him, and will relinquish the floor at once if he wishes to occupy it. I thought he intended to yield to me without qualification, so as to have another fifteen minutes afterward. But I will instantly resign it, and thank him for his courtesy. I ask the gentleman whether I shall go on or not.

Mr. BLAINE. I wish to make a single statement.

Mr. CONKLING. I do not understand that any one but the gentleman from Pennsylvania can claim the floor.

Mr. BLAINE. The gentleman from Pennsylvania [Mr. MERCUR] had the floor.

Mr. CONKLING. I decline to yield it to the gentleman from Maine, [Mr. BLAINE.]

The SPEAKER *pro tempore*. Does the Chair understand the gentleman from Pennsylvania [Mr. MERCUR] to yield the floor entirely to the gentleman from New York, [Mr. CONKLING?]

Mr. MERCUR. I did not so understand it.

The SPEAKER *pro tempore*. Then the gentleman from New York has the right to resume the floor only by the consent of the gentleman from Pennsylvania.

Mr. CONKLING. I ask the gentleman from Pennsylvania [Mr. MERCUR] whether he wishes now to resume the floor.

Mr. MERCUR. I designed to resume it after the gentleman, but I will allow him to go on.

Mr. CONKLING. The letter which has been read, at the instance of the gentleman from Maine, from the Lieutenant General, has no

reference whatever to this section of the bill or to a provision like this. It is a letter written on the 14th of December, when the Provost Marshal General's Bureau was and was for the time to remain in existence, and it refers chiefly to what had better be done with deserters, and the statement of the Lieutenant General amounts to this: that such an officer being in existence it is his appropriate business to take charge of deserters, and he recommends that he should do so, and attend to recruiting beside. That is all. There is no recommendation whatever favoring the retention of this bureau permanently, or of having any such officer in the standing Army. It comes to the Secretary of War appended to an argument made by General Fry himself, an elaborate argument made to show that he is essential to the Government. And although it is appended for that purpose, I repeat that it has nothing to do with this subject, but relates wholly to what the Provost Marshal's Bureau had better be set to do for the time being.

The letter which I have presented from the Lieutenant General was written to a member of the Military Committee of the Senate, written in answer to a question in reference to this identical section proposed there, and in answer to the specific inquiry whether he was or was not in favor of continuing this bureau. And he says in so many words that in his judgment there is not the slightest occasion for it, that bureaus ought not to be multiplied, and that this one ought to be discontinued.

Therefore, Mr. Speaker, upon the authority not only of the Lieutenant General, but of all the generals who constituted the military council, because this section was omitted in the bill which they approved, I have made this motion.

Now, sir, as to the official conduct of this officer, I have deemed it proper to refer to it because the practical and real question is whether he personally is to continue in his present place. I have stated but a very small part of what I know from my own investigation of the matter. And I want it distinctly understood that in my judgment no officer of this Government holding a similar position has done so much harm and so little good as the officer of whom I am speaking. If that is offensive to anybody, so be it. To the particular individual to whom it may give most offense, I will answer not here but elsewhere, when it becomes necessary.

Mr. SPALDING. I desire to ask my friend a single question. Will it not answer his purpose if the House vote down this Provost Marshal's Bureau and let the matter stop there?

Mr. CONKLING. I think so.

Mr. SPALDING. We will do that cheerfully.

Mr. CONKLING. That is all I intended to do originally.

Mr. Speaker, how much time have I left?

The SPEAKER *pro tempore*. About four minutes.

Mr. CONKLING. Then I will yield it to the gentleman from Ohio [Mr. SPALDING.]

Mr. SPALDING. I wish to say a few words.

The SPEAKER *pro tempore*. Does the gentleman from New York [Mr. CONKLING] yield the floor to the gentleman from Ohio for the residue of his time?

Mr. SPALDING. I claim it on my own merits, sir.

The SPEAKER *pro tempore*. The Chair now understands that the gentleman from Ohio [Mr. SPALDING] is to speak during the balance of the time of the gentleman from New York, [Mr. CONKLING.]

Mr. CONKLING. I so understand. I yield the residue of my time only to the gentleman from Ohio, because I suppose that the gentleman from Pennsylvania, [Mr. MERCUR], to whom I am very much indebted, desires to occupy his full fifteen minutes.

The SPEAKER *pro tempore*. Then the gentleman from Ohio [Mr. SPALDING] is entitled to the floor for just three minutes.

Mr. SPALDING. Three minutes is enough

for me. I am opposed, sir, to the continuance of this military bureau known as the Provost Marshal General's Office. I am opposed to it in time of peace, because I consider it an unnecessary appendage to the Army. But I believe that during the late war it was a necessary evil, and I think that a great deal of the odium which has been attached to the administration of the duties of that office pertained rather to the nature of the office than to the individual who discharged the duties of the office. I question, sir, whether any man, whether he came from the East or the West, from the North or the South, could have gone into the administration of the Provost Marshal General's department and discharged its duties with any more satisfaction to the general public than General James B. Fry.

Now, I do not claim that vast frauds have not been perpetrated in this as in every other department of the Government during the last four years; I think they have been. But I do not think any one man is responsible for them.

I think, perhaps the gentleman from New York [Mr. CONKLING] has sufficient cause for what he has said; but such a case as he has mentioned has not been brought home to me, in all my official intercourse with the Provost Marshal General during the last three years, and it has been constant and frequent. I have been treated by him with a degree of kindness and courtesy which requires from me an expression of thanks rather than of censure. I am happy, therefore, to have it in my power to say that I am under obligations to this man; and it is a pleasure to me to acquit myself of the duty of doing so.

Mr. BLAINE. I do not rise to argue the merits of this proposition. I rise rather to relieve myself from the stigma attempted to be cast upon me, and to place myself properly on the record, as becomes a gentleman and a Representative.

I stated when I was up before, and I left it to the gentleman from New York [Mr. CONKLING] to answer whether I answered it correctly, that I had understood there were personal difficulties between himself and the Provost Marshal General. I have so understood it. I have understood it from very high authority. I have understood that in those difficulties the gentleman from New York, as I said before, did not come out first best. I did not make this as an assertion. I left it to him to say whether it was so or not. Certainly I did not violate any principle of propriety or of parliamentary etiquette. And, sir, even were I in full health, (and I ought to be in my bed to-day,) I could not consent to go into this cheap sort of stuff about answering "here and elsewhere" and about "personal responsibility" and all that kind of thing.

Sir, I do not know how to characterize it. When we had gentlemen here from the eleven seceded States, they used to talk about answering "here and elsewhere;" and it was understood that they meant a duel! I suppose the gentleman from New York means nothing of that kind; I do not know whether he does or does not; but that is the only meaning that can be attached to the phrase. When a man says that he is ready to answer "here or elsewhere," he means that he is willing to receive a note outside of the District of Columbia. Well, now, that is very cheap, and certainly beneath my notice. I do not believe the gentleman from New York wants to fight a duel; and I am sure he needs no assurance from me that I do not intend it. When I have to resort to the use of the epithet of "false" upon this floor, and this cheap swagger about being responsible "here or elsewhere," I shall have very little faith in the cause which I stand up to maintain.

Mr. MERCUR. Mr. Speaker, in addition to the objections, which appear to me to be personal to the present Provost Marshal General, it strikes me there are many objections to the establishment of this bureau as a permanent one. The reasons for its existence during the war were manifest; but it strikes

me that the reasons which exist for its abolishment since the termination of the war are equally manifest.

The bill, upon its face, provides for two classes of duties to be performed by this bureau. The one is the recruiting of the Army, and the other is the arrest of deserters. It provides that two persons shall take charge of these duties, one with the rank of brigadier general, and the other with the rank of colonel of cavalry.

Now, it appears to me that all these duties can be properly performed by a person occupying a lower position, and receiving much less compensation than these persons would receive. The recruiting of the Army is not a business of such vast dimensions nor will it be prolonged so long as to require the creation of a permanent bureau like this.

After the Army is filled, and we are informed that during the last six months recruiting has gone on very rapidly, this will not be needed, and whatever number we may fix upon as the proper number for the Army, we have reason to know that the vacuum can be filled up in a few months without any great difficulty; and when the Army is once filled on a peace establishment the duties of a bureau of this kind, so far as recruiting is concerned, will necessarily be very small.

Now, in regard to the other duties of this office, the arrest of deserters, I take it that there cannot now be a very large number of deserters that the Government proposes to pursue and arrest and punish. In these days of general amnesty and of general pardon, I presume the Government will not pursue very sharply and rigidly those persons who have deserted from the armies of the Union. And if there is no great number of deserters now who are to be arrested, is it to be supposed or assumed that the number will increase to such an extent in the future as to create a necessity for a permanent bureau to look after and arrest deserters? I think not; and hence I assume that neither for the one purpose nor the other specified in the bill is there any necessity for the creation of a permanent bureau of this character.

Now, in addition to the absence of any necessity for this bureau, it does strike me, if I understand the sentiment of the country aright, a sentiment which grew and strengthened with the progress of the recent rebellion, that the present head of this bureau did not satisfy public expectation in the discharge of his duties. It is not my design to attribute a want of good faith or a want of integrity to that bureau. In my judgment, though I may err, it was a want of capacity which created the great dissatisfaction which existed in the minds of the loyal people throughout the country.

The fact cannot be disguised that a great many of the complications and entanglements which arose during the progress of the war were solely in consequence of the orders which issued from time to time from the Provost Marshal General's Office. They complicated matters so much, one followed the other in such rapid succession, changing, modifying, and throwing confusion upon what had preceded, that no one could form any adequate idea of what was required. No district could tell how many men it had to raise, or how many men they had received credit for. Such being the fact, there is no reason, no justice, no propriety, in continuing this bureau for the benefit of the present incumbent.

The gentleman from New York [Mr. CONKLING] has suggested one thing in which this bureau was somewhat conspicuous, that is, its power of absorption of the commutation money which was paid by people all over the country, and of which no satisfactory account has yet been rendered. But there was another reputation which this bureau established, and that was its peculiar and unique way of combining figures. The country was frequently astonished by this rare and peculiar power of combining figures, not only during the progress of the war, but since we have met here this session.

I refer to the effort made to arrive at the probable cost to this Government in case we should adopt some system of equalizing the bounties to be given to our soldiers. We met here, every man of us zealous and warm in his desire to equalize the bounties. But the Provost Marshal General, with his peculiar combination of figures, has again thrown a damper upon us.

It strikes me that the House ought with great unanimity to vote down this section and cause this bureau to be abolished.

Mr. STEVENS. I move to insert the following in the place of the section which it is proposed to strike out:

That the Provost Marshal's Bureau shall be continued only so long as in the judgment of the Secretary of War may be necessary to close up the business thereof, not exceeding, however, six months from the passage of this act.

Mr. CONKLING. I will accept the proposition of the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. SCHENCK. My impression is that the sense of this House is against the section as it stands in the bill, and I certainly do not mean to struggle to keep it there. But it is equally certain that it is somewhat due to the Committee on Military Affairs that this House should clearly understand why it was that the committee believed that in an army bill a feature of this kind should compose one of its parts.

I will not go into any question about the character of the present incumbent of the Provost Marshal General's Office. He is able to defend that for himself. It is defended by the history of the war. It is defended by his services through good report and evil report. According to the best of his ability, that officer has so discharged his duty that those in his own immediate department, who know best how that duty has been discharged, have no such epithets to bestow upon him as that he is an undeserving officer.

It is not for me, therefore, to inquire why gentlemen make personal issues with that officer here, in a debate upon a feature in a military bill which has no reference to persons, but merely to a plan, a scheme of operations. And I here desire to say to the House, in behalf of the Military Committee, that in all their labor of consideration, discussion, inquiry, and other work tending to the framing of a proper bill for the establishment of an army system, they have endeavored to act without reference to persons, having in view only the best schemes for the attainment of objects which might result in the public good.

There is nothing about General Fry in this section. The probability is, that if the section should prevail as a part of the bill, General Fry would be retained in his present position; but it would not necessarily be so. The question truly before this House, as a legislative body, is whether or not the committee were right in supposing that a Provost Marshal General's Office, as a feature of a military system, is needed. Now, upon that subject, gentlemen have not been quite fair in referring to the testimony upon which the opinion of the committee, in favor of such necessity, was based. The gentleman from New York, [Mr. CONKLING,] in commenting upon the letter of the Lieutenant General, sent in response to a call made upon him by the Secretary of War, and officially communicated to this House, and by this House referred to the Military Committee, has taken occasion to say that there is nothing in that letter about recruiting, that it relates to desertion.

Mr. CONKLING. The gentleman misunderstood me. I said that there was nothing in the communication about a continuation of the Provost Marshal General's Bureau; that it referred simply to the business in which that bureau should be employed while it exists.

Mr. SCHENCK. And that its employment was to be in the arrest of deserters.

Mr. CONKLING. No, sir; I did not say that.

Mr. SCHENCK. Then I misunderstood the gentleman.

I wish now to call the attention of the House

to the letter of General Grant, which, in connection with other communications of opinion made to the committee, induced the committee to adopt this as a feature of their bill. Certainly the committee were justified in supposing that the communication of General Grant was intended to recommend just what they did. General Grant, in his subsequent letter, communicated now informally and indirectly to this House, has explained that perhaps he was misunderstood. But that does not alter the fact that here was the letter, and this was the character of the recommendation contained in that letter.

The question was the subject of recruiting and desertion; how the one should be promoted and the other prevented. Now, sir, it is a notorious fact that heretofore recruiting for filling up the ranks of the regular Army of the United States has been to a considerable degree a failure. Whose fault it is, I do not undertake now to say; but the fact is incontestable that heretofore recruiting has been conducted by the detail of an officer who wanted an agreeable visit to a quiet country town or a pleasant residence for a time in some city. This commissioned officer, while boarding at a hotel, and occasionally visiting the rendezvous, left the business of recruiting to be performed by some sergeant, aided, it may be, by a private or two, also detailed as a portion of the party. Thus the work of recruiting was slow and quite inefficient in its general results.

I remember very well having been compelled to turn my attention to the mode in which this business was conducted in a neighboring city, when myself in the military service; and I remember that week after week and month after month the reports of the recruiting officers, both for the regular Army and for volunteers, read about in this way: "For the month of April, total number of recruits four; total number of deserters four. For the month of May, total number of recruits three; total number of deserters three."

Once in awhile there was at the end of the month a small margin of one or two recruits, who might or might not find their way from the recruiting station to a place in the ranks.

Now, sir, this is as well understood by General Grant as anybody else, and in the very commencement of this letter he says:

"I do not think the present method of recruiting, as carried out, sufficient to fill up the regular Army to the force required, or to keep it full when once filled."

Here is the evil of which the Lieutenant General complains. The committee came to the same conclusion, not merely from his testimony, but from other facts and other reports laid before them; and although now, at the close of the war, recruiting is going on very well indeed, the gentleman from Pennsylvania is very much mistaken in supposing that there are no desertions, and a great many desertions. There is for some reason an unusual proportion of deserters.

But in this state of fact, what did Lieutenant General Grant say, when appealed to by the Secretary of War? He said, "The duty is an important one, and demands, I think, the exclusive attention of an officer of the War Department." Not his casual attention in connection with some other department on the part of the same officer to whom it shall be given. No, sir, his exclusive attention to this matter is required. He says it "demands, I think, the exclusive attention of an officer of the War Department, aided by a well-organized system." That is not different from what the provost marshal is now. There must be an officer who shall devote himself exclusively to this business, aided by a well-organized system extending over the country. He says:

"I think the officer best fitted for that position by his experience during the present war is General Fry, and would recommend that the whole subject of recruiting be put in his hands, and all officers on recruiting duty be directed to report to him."

He then goes a step further, and proposes to confer upon this officer everything relating to the apprehension of deserters.

I think, under these circumstances, his recommending the creation of a distinct system at the head of which was to be put this officer, whose exclusive duty it should be to take care of recruiting and desertions, justified the committee in supposing that it was equivalent to a recommendation for a distinct feature in the administration of the War Department by which these objects should be accomplished and these measures carried out.

I say this as I felt it was due to the committee, or a majority of the committee, in justification of their action in making this Provost Marshal's Bureau a part of the military system.

The House may differ from us; I think they do. But I am not at all sollicitous about this. I am not disposed to regard it in the light of a pet measure, however any one may be sharpened in opposition to it.

But, Mr. Speaker, I will add that the proposition of the gentleman from Pennsylvania [Mr. STEVENS] should be adopted, or something should be inserted in the bill to continue this bureau in order to finish up the business of the war. If you strike out this section you ought to put in some provision for six months or some other time, such as will prevent the bureau closing at a loss to the Government and a derangement of the military system so far as the trust reposed heretofore in that office is concerned.

I now demand the previous question.

Mr. FARQUHAR. I ask the gentleman to withdraw the call for the previous question.

Mr. SCHENCK. I will if the gentleman will renew it.

Mr. FARQUHAR. I will.

Mr. Speaker, having served under the orders of the Provost Marshal General in the discharge of the duties of a mustering and disbursing officer in the State of Indiana, and having had personal opportunities to know the importance of that system, I feel I should not have discharged my duty to myself, to my State, nor to this House if I should remain silent until this vote was taken without saying a word in regard to the manner in which the duties of the Provost Marshal General have been discharged in respect to that State. I desire to say that in the administration of the officer in charge of that department, I never did hear any charge made against the efficiency, against the promptness, against the success of the officer in charge of that department, but, on the contrary, and I say it with pleasure, the duties of that office were performed with evidence of the highest ability and the greatest satisfaction. During the time I had an opportunity of serving under that officer, a large amount of recruits were raised, both to fill up old regiments and to create new regiments, with a success which did not attend the service when another officer was in charge of that department. I take pleasure, without entering into the controversy, if I may so call it, regarding that system in this House and in regard to the duties and services of that high officer, to say to-day that I bear testimony to the highest ability of that officer in the full discharge of these duties.

I will take up but a moment more. What will be the effect of striking out the section of the bill which proposes to continue that office as it is now? It will be nothing more than to turn the duties of that office back to the Adjutant General's department. We did nothing more in the creation of that bureau than to detail an officer from the War Department to perform its duty. By striking out that from the bill you will turn it back to the Adjutant General's department. What will then be done? The War Department will detail the same officer, bearing the same rank, receiving the same pay, with the same assistants, for that purpose. I cannot, therefore, see much economy in taking the bureau from the position it now occupies.

I renew the demand for the previous question.

Mr. SCHENCK. I think the amendment proposed by the gentleman from Pennsylvania, [Mr. STEVENS,] limiting the time, if the section is to be stricken out, ought to be made a part of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The Clerk read the next section, as follows:

SEC. 21. *And be it further enacted*, That the medical department of the Army shall hereafter consist of one surgeon general, with the rank, pay, and emoluments of a brigadier general; one assistant surgeon general, with the rank, pay, and emoluments of a colonel of cavalry; eighty surgeons, with the rank, pay, and emoluments of majors of cavalry; one hundred and sixty assistant surgeons, with the rank, pay, and emoluments of first lieutenants of cavalry for the first three years' service, and with the rank, pay, and emoluments of captains of cavalry after three years' service; and five medical storekeepers, with the same compensation as is now provided by law; and at least two thirds of the original vacancies in the grades of surgeon and assistant surgeon shall be filled by selection from among the persons who have served as staff or regimental surgeons or assistant surgeons of volunteers in the Army of the United States two years during the late war, and one third from similar officers of the regular Army; and persons who have served as assistant surgeons three years in the volunteer service shall be eligible for promotion to the grade of captain.

Mr. CONKLING. I move to amend this section by inserting after the word "selection" the words "by competitive examination." I do not wish to argue it because it argues itself, so far as it is susceptible of argument. As the section stands now, very likely that is the design.

Mr. SCHENCK. Does the gentleman intend any change in the present mode of examination, which is, to note the degree of excellence and select from those who stand highest?

Mr. CONKLING. If that is the mode, then it accomplishes what I supposed was intended. In one of the Senate bills these words were retained. The chairman of the committee seems to think it is all right.

The amendment was agreed to.

Mr. SCHENCK. General PAINE has an amendment which I think the House will probably approve, one which, if it prevails, will obviate the necessity for the next section. The amendment, I believe, is somewhere in the House. I have not been able to get it and offer it as he requested.

Mr. HALE. I have the amendment which the gentleman from Wisconsin [Mr. PAINE] wished to propose, and I offer it on his behalf. I will not argue it.

The Clerk read the amendment, as follows:

"In section twenty-one, line five, after the word 'cavalry,' insert the following:
Two chief medical purveyors, and five assistant medical purveyors, with the rank, pay, and emoluments of lieutenant colonels of cavalry, who shall give the same bonds which are or may be required of assistant paymasters general of like grade, and shall, when not acting as purveyors, be assignable to duty as surgeons by the President.

Mr. SCHENCK. Mr. Speaker—

Mr. WENTWORTH. Will my friend yield to me one moment to give a notice?

Mr. SCHENCK. Yes, sir.

EVENING BUSINESS.

Mr. WENTWORTH. I give notice to the House, and also to the Speaker, that to-night during the pendency of the Pacific railroad bill I shall call for the rigid enforcement of the rules of the House in respect to the lobby. It is getting to be a large and powerful institution. I think we can run the machine alone. I give the doorkeepers notice.

Mr. RANDALL, of Pennsylvania. I would ask whether it is the intention to take a vote on the Pacific railroad bill to-night.

Mr. WASHBURN, of Illinois. I hope there will be no attempt to do business unless there is a quorum present.

Mr. PRICE. In answer to the gentleman from Pennsylvania, [Mr. RANDALL,] I will say that that is the intention.

Mr. WASHBURN, of Illinois. I am very sorry to hear the gentleman state that it is the intention to obtain a vote on this measure to-night, a measure which I undertake to say is of more importance than any which will come before this House, involving \$60,000,000 and an amount of land so great that—

Several MEMBERS. "Order!" "Order!"

REORGANIZATION OF THE ARMY—AGAIN.

Mr. SCHENCK. I gave way to allow the

gentleman from Illinois [Mr. WENTWORTH] to give a notice to the House, and not for a debate. I must resume the floor.

The amendment proposed by the gentleman from New York [Mr. HALE] in behalf of the gentleman from Wisconsin [Mr. PAINE] fixes the number of officers who may be detailed as medical purveyors, as provided for in the twenty-second section; but it transfers them to this twenty-first section, making them responsible bonded officers. There is a propriety in this, because there is very considerable trust reposed in these officers; and there has been a very great deal of abuse, leading to trouble, in the Surgeon General's department arising from the proceedings of detailed medical purveyors.

I wish the House to understand that if this amendment to the twenty-first section shall prevail, I shall move to strike out the twenty-second section.

Mr. HARDING, of Illinois. I demand the previous question on the section, with the pending amendment.

The previous question was seconded and the main question ordered, being upon the amendment offered by Mr. HALE.

The question was put, and there were—ayes 54, noes 21; no quorum voting.

Tellers were ordered; and Messrs. HALE and ROSS were appointed.

The House divided; and the tellers reported—ayes 70, noes 25.

So the amendment was agreed to.

The twenty-second section was then read, as follows:

SEC. 22. *And be it further enacted*, That the Secretary of War may detail a surgeon as chief medical purveyor, who, while performing such duty, shall be in charge of the principal purchasing and issuing depot of medical supplies, and shall have the rank, pay, and emoluments of a colonel of cavalry; and the Secretary of War may in like manner detail not to exceed five medical officers as assistant medical purveyors, who, while performing such duty in the different geographical divisions or departments, shall have the rank, pay, and emoluments of lieutenant colonels of cavalry.

Mr. SCHENCK. I move that that section be stricken out.

The motion was agreed to.

The twenty-third section was then read, as follows:

SEC. 23. *And be it further enacted*, That the pay department of the Army shall hereafter consist of one paymaster general, with the rank, pay, and emoluments of a brigadier general; two assistant paymaster generals, with the rank, pay, and emoluments of colonels of cavalry; two assistant paymaster generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; and forty paymasters, with the rank, pay, and emoluments of majors of cavalry; and the original vacancies in the grade of major shall be filled by selections from those persons who have served faithfully as paymasters or additional paymasters in the Army of the United States in the late war. And hereafter no graduate of the United States Military Academy, being at the time in the Army of the United States, or having been at any time for three years next preceding, shall be eligible to appointment as an officer in the pay department.

Mr. THAYER. I move to amend that section by adding thereto the following:

But this provision shall not extend to graduates of West Point now in the pay department.

The amendment was agreed to.

Mr. SCHENCK. I am instructed by the Committee on Military Affairs to move to amend this section by striking out in line seven the word "forty," and inserting "fifty" in lieu thereof. Sixty were asked for and are still asked for, but the committee determined upon forty. But the committee have instructed me now to move to strike out "forty" and insert "fifty," and in explanation of that determination I will simply ask to have read a communication from General Brice, the head of that department.

I know, sir, that the heads of departments are very apt to ask for all they think they can get, but I know of no man on whose good sense and clearness of judgment I would more rely than upon that of General Brice.

I give to the House his opinion in reference to this matter by having his letter read. I ask the Clerk to read it.

The Clerk read, as follows:

WAR DEPARTMENT,
PAYMASTER GENERAL'S OFFICE,
WASHINGTON, April 16, 1866.

SIR: In compliance with your request, I have the honor to suggest the reasons for my conviction that the number of paymasters (forty) provided in your bill for the reorganization of the Army is quite insufficient for the necessities of the service. After a full consideration of the subject, I am well convinced that a less number than the one fixed in the Senate bill (sixty) will prove inadequate—an unsafe allowance.

Our troops are now being disposed of in the establishment of small posts all over the public domain on both slopes of the Rocky mountains. From the head waters of the Missouri river down the plains and through the mountain passes to the intersection of the south line of the United States with the Colorado river. On the upper Mississippi, in the expanse of Indian country lying between the waters of the Mississippi and Missouri rivers, extending north almost to the line of the British possessions. Then, on the Pacific slope, from Los Angeles, in California, to the upper confines of Washington Territory.

Our Army establishment proposed is to be fourfold larger than before the war, and with probably three times as many military posts as ever heretofore existed in the history of the country. Most of these latter are in the ranges of the Indians, where travel overland by paymasters with money must of necessity be under the protection of military escorts. I am sure that no one in the service has had more varied and abundant experience in that sort of locomotion than I have had. For the most part of ten years I was engaged in paying troops in New Mexico, Arizona, western Texas, and on the plains of the West north of the Arkansas river and extending up to Fort Randall, on the upper Missouri river.

Such traveling has to be done with wagons to carry the supplies for the party, including the escort, embracing subsistence, camp equipage, cooking utensils, &c. A train of this character can only make twenty to thirty miles per day, and where it is not practicable to carry or procure forage for the animals even a less distance is made per day from the necessity of giving ample time for the animals to graze.

It will be readily seen from this how slow is locomotion on the plains when large sums of money are at stake and must be protected; and how little can be accomplished in a given time by a single paymaster under such circumstances.

As an instance of the past: when Fort Laramie was our extreme western post this side of the Rocky mountains, with only one (Fort Kearney) intermediate between that and Fort Leavenworth, each two-company posts, a paymaster supplied with funds at Leavenworth set out to pay the four companies stationed respectively at Kearney and Laramie—the distance to the latter from Leavenworth seven hundred and thirty miles. Here is the result:

	Days.
Going 730 miles, at 20 miles per day.....	36
Returning.....	36
Paying, refitting, and other unavoidable delays...	4
Total.....	76

Thus, to pay only four companies situated as described, starting from the nearest point where money was available, required two and one half months of time. Suppose the most favorable condition of things, and this time could not be reduced to less than two months.

It may be thought that escorts and trains are expensive appliances for the mere conveyance of paymasters in the execution of their duties; but properly considered they are not so. The transportation material is necessarily kept on hand at the proper depots to meet the various exigencies of the service, and it is as well employed as idle.

So of the troops used as escorts. Nothing is added to the current expenses of the Government, while the moral effect, upon the Indians, of these frequent excursions through their country is unquestionably salutary.

If before the war, with an average of twelve thousand men, twenty-five paymasters were scarcely sufficient for the demand, is it not reasonable to calculate that with a force of fifty to seventy thousand, and with the number of stations from two to three times increased, that sixty paymasters are not too many?

I treat of a subject entirely familiar to me in making my estimate. And I much question if future experience does not demonstrate that estimate to be short rather than in excess of the demand.

I beg to recur to another point in yours as well as the Senate bill which I venture to suggest needs amendment.

Your twenty-third section provides, "that the pay department of the Army shall hereafter consist of one paymaster general, with the rank, pay, and emoluments of a brigadier general," &c. Now, why is it not better that it read thus: that the paymaster general shall have the rank, pay, &c., of a brigadier general, and that the pay department of the Army shall hereafter consist of such paymaster general, two assistant paymaster generals, &c.

Your phraseology used will result in making a vacancy in the office of paymaster general, the present incumbent holding only the rank of colonel.

Now, as that incumbent has exercised the functions of the office for near two years and through the most important and difficult era of its history, if there is entertained no purpose to require him to give place to another, then the act of legislating him out of service can only embarrass while serving no good end. He was only very recently confirmed as Paymaster General, and without opposition.

The act passing in its present form, as to the action in question, and to take effect from its passage, there

will be an *inter regnum* during the time required for the action of the appointing power and the Senate, which will likely embrace days, perhaps weeks, as all the vacancies made under that section will likely be prepared and sent up in one list.

Very respectfully, your obedient servant,

B. W. BRICE,

Paymaster General.

Hon. ROBERT C. SCHENCK, Chairman Military Committee House of Representatives.

The question was taken on Mr. SCHENCK's amendment; and there were—ayes 51, noes 21; no quorum voting.

Tellers were ordered; and Messrs. GRINNELL and BOYER were appointed.

Mr. ROSS demanded the yeas and nays.

The yeas and nays were ordered.

Mr. SCHENCK. I suppose if we adjourn now the yeas and nays can be taken to-morrow.

The SPEAKER. If the House is in session at half past four o'clock, it will, under the order of yesterday, take a recess until half past seven o'clock. If it adjourns before that time, it will be to meet to-morrow at twelve o'clock.

Mr. SCHENCK. If that is to be the effect of a motion to adjourn now, then I will not make it.

Mr. ROSS. I move that the House do now adjourn.

Mr. PRICE. Cannot the House now take a recess by unanimous consent?

The SPEAKER. A recess can be taken now by unanimous consent; or a motion to take a recess until half past seven o'clock would be in order.

Mr. SPALDING. I move that the House now take a recess.

The SPEAKER. The motion to adjourn takes precedence.

Mr. WASHBURN, of Illinois. I call the yeas and nays upon the motion to adjourn.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 26, nays 71, not voting 86; as follows:

YEAS—Messrs. Bergen, Boyer, Chanler, Delano, Eldridge, Finck, Glosbrenner, Griswold, Hale, Aaron Harding, Hayes, Chester D. Hubbard, Latham, Marshall, Marston, Nicholson, Ritter, Ross, Shunklin, Spaulding, Taber, Thayer, Thornton, Elihu B. Washburne, Williams, and Wright—26.

NAYS—Messrs. Allison, Ames, Anderson, Baker, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Broomall, Buckland, Bundy, Sidney Clarke, Cobb, Conkling, Darling, Dawes, Defrees, Deming, Dixon, Dodge, Donnelly, Driggs, Garfield, Grinnell, Henderson, Higby, Hubbard, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kenckes, Julian, Kasson, George V. Lawrence, William Lawrence, LeBlond, Lynch, Longyear, Marvin, McClure, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Newell, Noell, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, Rogers, Rousseau, Sawyer, Schofield, Shellabarger, Sitgreaves, Sloan, Smith, Starr, Stevens, Stilwell, Strouse, Taylor, Francis Thomas, John L. Thomas, Trimble, Van Aernam, Ward, Henry D. Washburn, Welker, Wentworth, Whaley, James F. Wilson, Windom, and Woodbridge—71.

NOT VOTING—Messrs. Alley, Ancona, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Blaine, Blow, Boutwell, Brandegee, Broomwell, Chanler, Reader W. Clarke, Coffroth, Cook, Cullom, Culver, Davis, Dawson, Denison, Dumont, Eckley, Eldridge, Farnsworth, Farquhar, Ferry, Goodyear, Grider, Abner C. Harding, Harris, Hart, Hill, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James H. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kerr, LeBlond, McCullough, McIndoe, McKee, Morrill, Morris, Moulton, Newell, Noell, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Rogers, Rousseau, Sawyer, Schofield, Shellabarger, Sitgreaves, Sloan, Smith, Starr, Stevens, Stilwell, Strouse, Taylor, Francis Thomas, John L. Thomas, Trimble, Van Aernam, Ward, Henry D. Washburn, Stephen F. Wilson, and Winfield—86.

So the motion to adjourn was not agreed to.

During the roll-call,

Mr. BROOMALL announced that Mr. STARR was detained from the House by sickness.

Mr. VAN HORN, of New York, announced that Mr. PAINE was detained from the House on account of sickness.

The result of the vote was stated as above.

CAPTURE OF BOOTH AND HAROLD.

The SPEAKER. A communication was received a few days since from the Secretary of War in relation to the rewards for the capture of the assassins Booth and Harold, which should go to the Committee on Appropriations. It was laid upon the table at the time it was

received. If there is no objection it will be referred to the Committee on Appropriations.

No objection was made, and it was referred accordingly.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled an act (H. R. No. 500) making appropriations to supply deficiencies in the appropriation for the public printing for the fiscal year ending June 30, 1866; when the Speaker signed the same.

The hour of half past four o'clock having arrived,

The House, pursuant to an order adopted yesterday, took a recess till half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

DUTY ON LIVE ANIMALS.

Mr. MORRILL. I ask unanimous consent to introduce a bill imposing a duty on live animals imported from foreign countries, and that it be acted upon by the House at this time. If there is a single objection, I will not press it.

Mr. WASHBURN, of Illinois. Is any business in order this evening but reports from the Committee on the Pacific Railroad?

The SPEAKER. Only by unanimous consent. The House is now acting the same as it is in a day session when considering a special order.

Mr. MORRILL. I will state briefly the necessity for the passage of this bill. When the reciprocity treaty expired we failed to pass any bill on the subject; and, therefore, now have no duties upon live animals, whether imported from Canada or from any other country. I am informed that at the present time the owners of sheep upon the other side of the line are driving them over into the United States, and having them kept, proposing that they shall remain here until after they are shorn, when of course they can be driven back. They may thus be able to introduce wool into this country without the payment of any duty.

Mr. JENCKES. Does not the order of business for this evening's session preclude the consideration of any other business except reports from the Committee on the Pacific Railroad?

The SPEAKER. It does not, unless objection is made.

Mr. JENCKES. I object to any other business.

LAND-GRANT RAILROADS.

Mr. PRICE. Three weeks ago yesterday I reported, by direction of the Committee on the Pacific Railroad, Senate bill No. 83, entitled "An act to extend the time for completing certain land-grant railroads in the States therein named." That bill was ordered to be printed, and was made the special order for the Monday following—two weeks ago yesterday. We find that there are several inaccuracies in the printed bill; and under the instruction of the committee, I now move that the bill be recommitted to the committee.

Mr. KASSON. I have prepared a substitute for this bill. I desire that it shall be printed, and referred to the same committee.

Mr. WASHBURN, of Illinois. On the motion of the gentleman from Iowa [Mr. PRICE] I call for a division. I have no objection to this bill going to the committee; but I protest against business being done to-night without a quorum.

On the motion to recommit the bill, there were—ayes 20, noes 3; no quorum voting.

Mr. WINDOM. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 68, nays 0, not voting 115; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Delos R. Ashley, Banks, Beaman, Bidwell, Bingham, Broomall, Bundy, Sidney Clarke, Cobb, Darling, Dawes, Dixon, Dodge, Eggleston, Eliot, Ferry, Finck, Grider, Grinnell, Hale, Abner C. Harding, Henderson,

Asahel W. Hubbard, Hulburt, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Latham, Loan, Longyear, Marshall, Marvin, McClure, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Newell, Niblack, O'Neill, Orth, Patterson, Perham, Price, William H. Randall, John H. Rice, Ritter, Ross, Stevens, Francis Thomas, Trowbridge, Upson, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—68.

NAYS—0.

NOT VOTING—Messrs. Alley, Anderson, James M. Ashley, Baker, Baldwin, Barker, Baxter, Benjamin, Bergen, Blaine, Blow, Boutwell, Boyer, Brandegee, Broomwell, Buckland, Chanler, Reader W. Clarke, Coffroth, Conkling, Cook, Cullom, Culver, Davis, Dawson, Defrees, Delano, Deming, Denison, Donnelly, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Farquhar, Garfield, Glosbrenner, Goodyear, Griswold, Aaron Harding, Harris, Hart, Hayes, Higby, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James H. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kerr, Kuykendall, LeBlond, George V. Lawrence, William Lawrence, LeBlond, Lynch, Marston, McCullough, McIndoe, McKee, Myers, Nicholson, Noell, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, Rogers, Rollins, Rousseau, Sawyer, Schenck, Scofield, Shunklin, Shellabarger, Sitgreaves, Sloan, Smith, Spaulding, Starr, Stilwell, Strouse, Taber, Taylor, Thayer, John L. Thomas, Thornton, Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Henry D. Washburn, Welker, Whaley, Williams, Winfield, and Wright—115.

The SPEAKER stated that no quorum had voted.

During the roll-call,

Mr. LATHAM stated that Mr. ELDRIDGE was detained from the House by sickness in his family.

The result having been announced as above stated,

Mr. WILSON, of Iowa, moved a call of the House, and on that motion called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 71, nays 13, not voting 99; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Delos R. Ashley, Baker, Banks, Baxter, Bergen, Bidwell, Boyer, Broomall, Buckland, Bundy, Cobb, Cook, Darling, Dawes, Delano, Dixon, Dodge, Donnelly, Eggleston, Eliot, Ferry, Finck, Grinnell, Hale, Abner C. Harding, Henderson, Asahel W. Hubbard, James R. Hubbard, Julian, Kasson, Kelley, Kelso, Ketcham, LeBlond, Loan, Longyear, McClure, McRuer, Miller, Moorhead, Morrill, Moulton, Myers, Nicholson, O'Neill, Orth, Patterson, Perham, Price, Samuel J. Randall, William H. Randall, John H. Rice, Smith, Spaulding, Stevens, Taber, Thayer, Francis Thomas, Trowbridge, Upson, Robert T. Van Horn, Elihu B. Washburne, William B. Washburn, Wentworth, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—71.

NAYS—Messrs. Benjamin, Holmes, Hulburt, Jenckes, Latham, Marshall, Marvin, Mercer, Newell, Niblack, Ritter, Rogers, and Ross—13.

NOT VOTING—Messrs. Alley, Anderson, James M. Ashley, Baldwin, Barker, Benjamin, Bingham, Blaine, Blow, Boutwell, Brandegee, Broomwell, Chanler, Reader W. Clarke, Sidney Clarke, Coffroth, Conkling, Cullom, Culver, Davis, Dawson, Defrees, Deming, Denison, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Farquhar, Garfield, Glosbrenner, Goodyear, Grider, Griswold, Aaron Harding, Harris, Hart, Hayes, Higby, Hill, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James H. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kerr, Kuykendall, George V. Lawrence, William Lawrence, LeBlond, Lynch, Marston, McCullough, McIndoe, McKee, Morris, Noell, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, Rollins, Rousseau, Sawyer, Schenck, Scofield, Shunklin, Shellabarger, Sitgreaves, Sloan, Starr, Stilwell, Strouse, Taylor, John L. Thomas, Thornton, Trimble, Van Aernam, Burt Van Horn, Ward, Warner, Henry D. Washburn, Welker, Whaley, Williams, Winfield, and Wright—99.

So a call of the House was ordered.

The Clerk then proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Alley, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Benjamin, Blaine, Blow, Boutwell, Brandegee, Broomwell, Chanler, Reader W. Clarke, Coffroth, Conkling, Cullom, Culver, Davis, Dawson, Defrees, Deming, Denison, Dumont, Eckley, Eldridge, Farnsworth, Farquhar, Glosbrenner, Goodyear, Griswold, Aaron Harding, Harris, Hart, Hayes, Hill, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James H. Hubbard, James Humphrey, Ingersoll, Johnson, Jones, Kerr, Kuykendall, George V. Lawrence, William Lawrence, LeBlond, Lynch, McCullough, McIndoe, McKee, Morris, Noell, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, Rousseau, Sawyer, Schenck, Shellabarger, Sitgreaves, Sloan, Starr, Stilwell, Strouse, Taylor, John L. Thomas, Thornton, Trimble, Van Aernam, Burt Van Horn, Ward, Welker, Whaley, and Winfield.

The SPEAKER stated that ninety-eight members had answered to their names.

Mr. WILSON, of Iowa, moved that all further proceedings under the call be dispensed with.

The motion was agreed to.

The question then recurred on the motion to recommit, no quorum having appeared on the last vote.

The motion was agreed to; and accordingly the bill was recommitted.

Mr. KASSON. I now submit the substitute to which I referred, and move that it be printed and referred to the Committee on the Pacific Railroad.

The motion was agreed to.

Mr. JENCKES moved to reconsider the vote by which the bill and substitute were referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REVENUE ASSESSORS.

Mr. MILLER, by unanimous consent, moved that the bill which he introduced yesterday to allow United States revenue assessors to appoint deputies be ordered to be printed.

The motion was agreed to.

IOWA AND MISSOURI STATE LINE RAILROAD.

Mr. PRICE, from the Committee on the Pacific Railroad, reported back House bill No. 304, granting land to the Iowa and Missouri State Line Railroad Company, and for other purposes, with sundry amendments.

Mr. RANDALL, of Pennsylvania. Has the bill been printed?

Mr. PRICE. It has.

Mr. RANDALL, of Pennsylvania. But not the amendments.

Mr. PRICE. They are few.

Mr. WRIGHT. This is another of the gift enterprises. [Laughter.]

The bill was read.

First amendment:

Page 5, section four, in lines six and seven, strike out the words "the point where it may strike the Missouri river," and insert in lieu thereof, "Nebraska City;" so that it will read:

SEC. 4. And be it further enacted, That for the purpose of enabling said Iowa and Missouri State Line Railroad Company to effect a connection with the Union Pacific railroad or any branch thereof, at a point not further west than the one hundredth meridian of west longitude, the said company is hereby authorized to extend its line from Nebraska City to some point to be selected by it within the limitation above prescribed, upon the same terms and conditions, and with the like aid and privileges, that are granted to the Burlington and Missouri River Railroad Company by sections eighteen, nineteen, and twenty of an act in relation to the construction of a railroad and telegraph line to the Pacific ocean, approved July 2, 1864: *Provided*, That no lands in this section granted shall be taken from any grants or reservations heretofore made by the United States.

The amendment was agreed to.

Second amendment:

Page 2, line twenty-two, after the word "to" insert "not further than twenty miles from said road, and not including alternate sections reserved;" so it will read:

That, for the purpose of aiding the Iowa and Missouri State Line Railroad Company (the same being a corporation organized under the laws of the State of Iowa) to construct and operate a railroad on or near the State line of Iowa and Missouri, between the Mississippi and Missouri rivers, or to connect with the Des Moines Valley railroad at or near Farmington, in the State of Iowa, running thence to and along the said State line, as near as practicable, to some point on the east bank of the Missouri river, there is hereby granted to said railroad company every alternate section of land, designated by odd numbers, to the extent of ten sections per mile on each side of said road; but in case it shall appear that the United States have, when the line of said road is definitely located, sold any section, or any part thereof, granted as aforesaid, or that the right of preemption or homestead settlement has attached to the same, or that the same has been reserved by the United States for any purpose whatever, then it shall be the duty of the Secretary of the Interior to cause to be selected for the purposes aforesaid, from the public lands of the United States nearest to, and not further than twenty miles from said road and not including alternate sections reserved, the sections above specified, so much land as shall be equal to the amount to such lands as the United States have sold, reserved, or otherwise appropriated, or to which the right of homestead settlement or preemption has attached as aforesaid, which lands, thus indicated by the direction of the Secretary of the Interior, shall be reserved and held for the use of said company by the said Secretary for the purpose of the construction

and operation of said railroad, as provided by this act, &c.

The amendment was agreed to.

Third amendment:

Add to the fourth section:

And the said company may also form a connection with Brownsville, on the Missouri river, upon the same terms, and with the aid hereinbefore mentioned, but the lands granted by this section shall not be selected within eight miles of the southern boundary of the Territory of Nebraska; and no lands shall be selected under a grant heretofore made to aid in the construction of the extension of the Burlington and Missouri River railroad within eight miles of said southern boundary of the Territory of Nebraska.

The amendment was agreed to.

Mr. PRICE. This bill, Mr. Speaker, proposes a grant of lands, if there are any unoccupied, to a railroad on the southern line of Iowa, running to the Missouri river. The company has been organized and is building the road.

They ask for the passage of this bill, not so much for the lands they get, because there are but few lands there that are not taken, but because it will aid them some in the way of credit. The parties who are more immediately interested in this in Missouri, Iowa, Nebraska, and Kansas have no objection to the bill as reported by the committee, I believe. I think I have seen all the gentlemen who represent those States and Territories I have named, and they are willing that the bill should pass as reported. It passed the committee after thorough examination without a dissenting vote, and I did not suppose there would be any opposition to it in the House, or I should not have reported it at this time.

Mr. SPALDING. I desire to ask a question. I desire to know how long this railroad may be?

Mr. WILSON, of Iowa. It will be about two hundred and fifty miles in length.

Mr. SPALDING. And it takes ten sections of land on each side for each mile of the road.

Mr. WILSON, of Iowa. On paper it looks as if it would take ten sections on each side, but I will state that owing to the lands having been sold and granted to other companies this company cannot, by any possibility, receive under this bill to exceed forty thousand acres. I do not think they can find over twenty thousand.

Mr. SPALDING. Is there not a provision in it that enables the companies, where the Government lands are already taken, to locate the sections somewhere else?

Mr. WILSON, of Iowa. No, sir; it confines them to the strip of twenty miles.

Mr. SPALDING. Twenty miles each way.

Mr. WILSON, of Iowa. This road runs through one of the most densely settled portions of Iowa, where the lands have almost entirely been sold, and it is only here and there that a piece remains undisposed of.

And I will state further, that if any company is entitled to receive aid from the Government this is one, and for this reason: it is a company which is not under the control of persons residing elsewhere. It is controlled by the citizens of the State residing near the line of the road. And the construction is being conducted in this way: the farmers, mechanics, and citizens generally have subscribed to it, paying their subscriptions in work, in ties, in materials, and portions in money. It is for the purpose of aiding them in the completion of it that this grant is asked, and it is a very small pittance considering the magnitude of the work.

Mr. SPALDING. Does the chairman of the committee hold the floor?

Mr. PRICE. I do.

Mr. SPALDING. I ask the Speaker to recognize me to make a motion, after he is through with his remarks, to refer this bill to the Committee on Public Lands, for I think we ought to know something about the amount of land that is to be taken by this bill.

Mr. HIGBY. I ask the chairman of the committee if this company is working under an act of Congress.

Mr. PRICE. I will yield to my colleague through whose district this road runs to reply.

Mr. WILSON, of Iowa. In reply to the

gentleman's question I will state that this company is not organized under any act of Congress. We have in the State of Iowa no special charters; the companies are all organized under the general corporation law. This one is organized under that law. It is the only company which has been organized for the purpose of constructing a road through the section of the State through which this road is to pass, and it is in accordance with the laws of Iowa. It is a corporation that is entirely satisfactory to the people of that State, a corporation which is indorsed by all those who are interested directly in the construction of this road and in the development of the country through which it will pass, and there can be no objection to it on that ground.

Mr. KASSON. I would ask my colleague to yield to me a moment of his time to offer an amendment.

Mr. PRICE. I cannot yield for an amendment.

Mr. KASSON. I will state to my colleague why I want this amendment adopted more fully than I have done. This proposed railroad runs about one hundred and forty miles through my district, and consequently my constituents are deeply interested in it. Under these circumstances I ask him if it is not proper for him to yield to me.

Mr. PRICE. Certainly. I have no objections to the gentleman's offering his amendment. I have three colleagues, all of whose districts run down to the Missouri river, and all of whom are interested in this bill; but I cannot yield for an amendment that will kill the bill.

Mr. KASSON. I think that when my colleague hears the amendment he will see that it does not kill the bill, but that on the contrary it will meet the approbation of the House.

My first amendment is to add the following proviso:

And provided further, That no lands shall be at any time patented to said company which are situated more than twenty miles westward of the terminus of the said railroad at the time the patents are issued.

I will state the reason why I ask my colleague to accept this amendment. There is but a limited amount of land to be had. Without this limitation, prohibiting the anticipation of lands situate at a distance, the effect of the general grant would be to exhaust all the lands, some one hundred and fifty miles ahead of the road, to aid in building the first twenty miles. If the road should then stop in the first district, all the lands situate in my district would be applied to build the road before it reaches my district at all. I cannot consent to this, without giving away to others the means that should be applied to aid the road in my district. This amendment prevents drawing land more than twenty miles west of the terminus at the time.

Mr. WILSON, of Iowa. I think there is no objection to that amendment.

Mr. DELANO. I cannot understand exactly what is going on here. Let me make an inquiry. I desire to know what is the western terminus of this road.

Mr. KASSON. It is proposed to begin at or near Farmington, in Van Buren county, Iowa, where it connects with the railroad to Keokuk, connecting there with other roads leading to the Des Moines valley. My colleague from the first district stated here the amount of lands which should be granted, in which I concur, that it would not probably be more than fifty thousand acres. The people of that region of the country are very much interested in this road and are doing all they can to promote the enterprise by calling meetings and entering into subscriptions.

Mr. DELANO. Where do you expect to obtain the lands if you do not find them within ten miles of the road?

Mr. KASSON. My colleague who is upon the committee can answer that question better than I can.

Mr. WILSON, of Iowa. They are confined to twenty miles of the road.

Mr. KASSON. That seems to me a very reasonable limitation.

The question was taken, and the amendment was agreed to.

Mr. KASSON. I move to add the following as an additional section:

And be it further enacted, That the lands hereby granted shall be opened to preemption, settlement, and purchase under the laws of the United States until certified to and actually sold to a bona fide settler by the company building the railroad herein provided, as fully as if this grant was not made: provided, That the price of such purchase shall be \$2.50 per acre, and such purchase money shall be specially accounted for to the Treasury of the United States, and shall be paid to the railroad company whenever it would become entitled to such lands if unsold.

Mr. PRICE. I accept that amendment.

Mr. KASSON. The reason for that amendment is that it is necessary in order that settlement of these western lands shall not be retarded by any great land monopoly.

Mr. JULIAN. Will the gentleman from Iowa [Mr. PRICE] allow me to make a statement in regard to this bill?

Mr. PRICE. For how long?

Mr. JULIAN. Two or three minutes will be enough.

Mr. PRICE. I will yield for three minutes.

Mr. JULIAN. There is a novelty in this bill which I wish the House to understand. Up to this time the policy of the Government has been uniform, with, I believe, the single exception of the grants to the Pacific railroad, where the nationality of the measure made it impossible to make the grant to a State. The uniform policy has been in favor of grants to the State in trust for a particular company to do the work. Now, I object to the innovation which this bill seeks to make in our policy as unsafe, as making us embark in a line of policy at variance with the whole legislation of the past, a line of policy upon which we better not enter.

Now, I hope that this bill, which ought to have gone in the first place to the Committee on Public Lands, may now be referred to that committee, so that it may be examined, the extent of the grant ascertained, and the propriety of departing from the old policy of the Government fully considered.

I know that there were two or three cases in the last Congress in which grants were made directly to companies, but they were companies which the State Legislatures had previously designated as the fit instruments for executing the trust.

Mr. PRICE. I will yield to my colleague [Mr. Wilson] now.

Mr. FARNSWORTH. I rise to a point of order, though it may be too late for me to raise it now. I would like to inquire of the Speaker how this bill came before the Pacific Railroad Committee at all.

Mr. PRICE. It was referred to the committee by the House.

Mr. FARNSWORTH. I wish, then, to make this point of order: that is, that the Pacific Railroad Committee have no right under the rules of the House to report a grant of land for any road not a part of the Pacific railroad.

Mr. PRICE. The gentleman from Illinois [Mr. FARNSWORTH] is slightly mistaken in that.

The SPEAKER. The Chair decides, in the first place, that the point of order is raised too late. In the second place, the Committee on the Pacific Railroad is authorized expressly by the rule to consider any matter relating to any land-grant railroad between the Mississippi valley and the Pacific coast that may be referred to them.

Mr. FARNSWORTH. That means, of course, any railroad extending from the Mississippi valley to the Pacific coast.

The SPEAKER. The rule says nothing about the termini of the railroad; only that it must be located between the Mississippi valley and the Pacific coast.

Mr. WILSON, of Iowa. I think the gentleman from Indiana [Mr. JULIAN] is slightly mistaken in relation to the legislation to which he has referred. The grant of land made by Congress in 1856 to the State of Iowa for the purpose of aiding in the construction of these several lines of railroad from the Mississippi

river to the Missouri river was not made to the State in trust for such companies as it might name; but the companies were named in the act of Congress making the grant.

Now, we had a great deal of difficulty in Iowa growing out of that grant, and I believe the people of the State will be better satisfied to have the grant made directly to the company than to have it thrown into the State Legislature. And more than that, in 1863 Congress made an additional grant of land to the three companies embraced in the act of 1856, and that grant in the legislation of 1863 was made directly to the company, and this bill is following the precedent then established.

Mr. JULIAN. Had not the Legislature of the State previously designated the companies named in the act of 1863?

Mr. WILSON, of Iowa. Those companies were designated under the act of 1856.

Mr. JULIAN. Which was a grant to the State.

Mr. WILSON, of Iowa. That was a grant to the State; but Congress afterward granted the lands directly to the company.

Now, I will state to the gentleman, also, that under the legislation of the State of Iowa and the articles of incorporation adopted by this company the company is as much designated by the State of Iowa for the construction of this road as the other companies were for the construction of the other road. Under the general incorporation law of the State, this company organized for that purpose; and it therefore has an authorization under the laws of the State of Iowa for the construction of that road. There are no other competing lines; no other companies have been organized; no one proposes to build a road there except this single company.

Mr. JULIAN. I desire to inquire of the gentleman whether, under the grant contained in this bill, the Legislature of Iowa will have any control over the selection of the company to do the work.

Mr. WILSON, of Iowa. No, sir; of course not; because under the laws of the State of Iowa that company is now authorized to proceed with the work, and unless it shall abuse its franchises and powers it has the right to go on and construct the road. It can only be deprived of its powers by a judicial proceeding in which the company shall be found to have abused its powers.

Mr. JULIAN. Suppose the company should fail to do the work.

[Here the hammer fell.]

Mr. PRICE. I now yield the floor for three minutes to my colleague, [Mr. GRINNELL.]

Mr. RANDALL, of Pennsylvania. I should like to have read the act of incorporation of this company. I would like to know to whom we are giving these lands.

Mr. GRINNELL. I will yield to the gentleman from Pennsylvania after I get through.

The SPEAKER. The Chair cannot entertain the amendment which has been offered unless the point of order be waived as to its involving an appropriation. The amendment proposed by the gentleman from Iowa contemplates an appropriation, and would make the bill an appropriation bill. That amendment, therefore, is not in order for consideration in the House unless by unanimous consent.

Mr. BENJAMIN. If unanimous consent is required, I object.

Mr. WASHBURN, of Illinois. What is the amendment?

The SPEAKER. The amendment offered by the gentleman from Iowa provides that the Government of the United States may sell these lands, put the money into the Treasury of the United States, and pay that money out of the Treasury to this company. Such an amendment would make this an appropriation bill, and therefore it could not be considered in the House except by unanimous consent.

Mr. KASSON. I would like to call the attention of the Chair to the fact that the amendment does not propose an appropriation of money in the Treasury. It is a simple proposition for the substitution of the money for the land when the land shall be sold.

The SPEAKER. It has been ruled uniformly that any bill which by its own force will have the effect to take money out of the Treasury is an appropriation bill, even if the money is to be paid in and paid out afterward.

Mr. KASSON. I ask the gentleman from Missouri [Mr. BENJAMIN] not to insist on his objection.

The SPEAKER. If there is no objection the amendment will be entertained.

Mr. BENJAMIN. I ask the gentleman from Iowa to yield to me for a moment.

Mr. PRICE. I yield to the gentleman.

Mr. BENJAMIN. I am opposed to this bill in its present shape. As has been stated, it is a grant to a railroad company in the State of Iowa. This road passes near the line of the State of Missouri. I suppose there is not much land in the State of Missouri that will go to this company under this grant; but I apprehend there is some; how much I am not able to say. It does not matter, however, whether it is more or less. Here is a railroad company chartered by the State of Iowa. It becomes the owner of land in the State of Missouri to hold for all time to come so far as the State of Missouri is concerned. The State of Missouri will have no control over this company. It cannot by its legislation control a company that is chartered and controlled by the Legislature of the State of Iowa. This of itself should be sufficient to defeat the bill.

Mr. PRICE. I now yield three minutes to the gentleman from Pennsylvania.

Mr. RANDALL, of Pennsylvania. I desire to know to whom we are giving these lands. I find this bill is for the purpose of aiding the Iowa and Missouri State Line Railroad Company (the same being a corporation organized under the laws of the State of Iowa) to construct and operate a railroad. I should like to have that act of incorporation read, so that we may know who are these parties and what are the powers they possess. It may be that we are giving lands to this company not located within the boundaries of Iowa, and putting those lands under the control of Iowa, which would be a wrong thing for this Congress to do. I want to know how much land is proposed to be granted. It occurs to me we should know that. I hope that the motion of my friend from Ohio, [Mr. SPALDING,] to refer this bill to the Committee on Public Lands will be adopted, so that we may vote understandingly. As it is now we are all groping in the dark.

Mr. PRICE. I will answer the gentleman's questions, and I ask his attention and that of others who may have the same objections. This company is organized under the general laws of the State of Iowa, and not under special charter, for the purpose of constructing a railroad along the southern tier of counties of that State to the Missouri river. This is to aid in the construction of that road without regard to the organization of a company whatever. That is all there is of it.

Mr. RANDALL, of Pennsylvania. Does not this proposition donate land not situated in the State of Iowa to this corporation?

Mr. PRICE. Not that I know of.

Mr. RANDALL, of Pennsylvania. Unquestionably it does.

Mr. PRICE. That point has been guarded by the amendments which have been adopted by the House.

Mr. RANDALL, of Pennsylvania. It says it shall go forty miles.

Mr. PRICE. If the gentleman had listened to the amendments he would have known that has been guarded.

Mr. KASSON. I move my amendment in a modified form, so as to bring it within the rule.

Mr. MORRILL. I know when land grants have been made to certain States, and it was found they were not enough, they have come back and asked us to make up the deficiency in other quarters. I desire to know what guarantee we have this company will not come here and ask for other land.

Mr. PRICE. I do not think we have a guarantee that these men will not do a great.

many things for the next fifty years. I do not know whether they will ask for more lands; but if they do, there are no more.

Mr. DAWES. It is the last bite. [Laughter.]

Mr. GRINNELL. A friend of mine on the other side, though differing in politics, just came to me and remarked, "I want to appeal to the honest member from Iowa to know how this matter stands." I replied we were taking a great deal of time over a simple thing. I will ask the gentleman from Indiana, [Mr. JULIAN,] who is so much troubled about this great grant of lands, what it is, really. Some twenty or thirty thousand acres of land, of refuse lands, which even Missouri "Pukes" would not take up, and has been in the market for years at a few cents an acre.

Mr. EGGLESTON. Then why do you want them?

Mr. GRINNELL. Let the company take them, and see what they can do with them by draining and otherwise.

Mr. EGGLESTON. What does this company want with these poor refuse lands?

Mr. GRINNELL. They want to have a variety to show my friend's constituents when they come there, bad lands as well as good lands. This road passes through a county in my district; and the people are making great sacrifices for what they need. Let us vote, and help a noble enterprise.

Mr. RICE, of Maine. I ask leave to move the following:

Provided further, That the lands granted by this bill shall not exceed forty thousand acres.

Mr. PRICE. I do not yield to that amendment.

Mr. HALE. I wish to ask the chairman of the Pacific Railroad Committee whether under the fourth section of this bill this company may not connect their western terminus with the Union Pacific road, or one of its branches, by a north and south road, instead of a road running westerly? I notice that the section specifies no eastern limit of the point of junction with the Pacific road, but a western limit only. I do not understand that it is our policy to grant lands to enable these companies to build north and south roads.

Mr. PRICE. I do not think that can happen under the bill as amended. I demand the previous question.

The House divided; and there were—ayes 35, noes 58.

Mr. WILSON, of Iowa. I demand tellers. Tellers were ordered; and Messrs. PRICE and SPALDING were appointed.

The House again divided; and the tellers reported—ayes 47, noes 57.

So the previous question was not seconded.

Mr. WENTWORTH. I have no remarks to make. I am satisfied that this bill has got a large majority of friends in this House, and if it could be sent to a proper committee and put in a proper shape, I believe that this House will give the State of Iowa for this purpose any amount of land she asks for. I now move that it be referred to the Committee on Public Lands, and on that I demand the previous question.

Mr. KASSON. Will the gentleman yield?

Mr. WENTWORTH. I insist upon the demand. I do as the gentlemen did; they would not let me speak. [Laughter.]

The previous question was seconded and the main question ordered; and under the operation thereof the motion was agreed to.

Mr. WENTWORTH moved to reconsider the vote by which the bill was referred; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

NORTHERN PACIFIC RAILROAD.

Mr. PRICE. I am instructed by the Committee on the Pacific Railroad to report back House bill No. 414, to secure the speedy construction of the Northern Pacific railroad and telegraph line and to secure to the Government

the use of the same for postal, military, and other purposes, with an amendment, and with a recommendation that it do pass.

The bill was read.

Mr. RANDALL, of Pennsylvania. I rise to a point of order. This is an appropriation bill, being a pledge of the credit of the United States Government to pay certain interest money and pay the principal in case of the failure of the company.

Mr. PRICE. I would like to say a word on that.

The SPEAKER. The Chair will hear the gentleman before he decides it.

Mr. PRICE. The gentleman makes the point that this is an appropriation bill because it provides that the Government shall pay from the Treasury certain sums of money. I have not the bill before me, but I do not think such language as that is to be found in the bill. It only provides that the Government shall guaranty the payment of certain sums of money.

Mr. SPALDING. When the first twenty-five miles are completed we have to pay \$47,000.

Mr. PRICE. No, sir.

Mr. WASHBURN, of Illinois. Read two or three lines of the bill.

The SPEAKER. The gentleman from Iowa desires to say a few words before the Chair decides the question.

Mr. PRICE. I maintain that the point of order is not well taken because this bill only guaranties the payment in a certain contingency which may never arise. It is a guarantee in the happening of a contingency, and until that arises there is no money to be paid. There is no appropriation made for the payment of money.

Mr. WASHBURN, of Illinois. I beg pardon; the Speaker will see from the very language of the bill that it is an appropriation bill.

The SPEAKER. The bill pledges the "credit of the United States, in such form as the Secretary of the Treasury shall prescribe, to the payment of the interest of the stock of the said company from the date of issue of the same, and for a period not exceeding twenty years from the date of said issue, at the rate of six per cent. per annum, payable semi-annually on the 1st days of July and January in each and every year, in the legal currency of the United States, at the Treasury of the United States." The second section provides that certain moneys shall "be applied by the Secretary of the Treasury to reimburse the Government for any moneys paid for interest as aforesaid."

Mr. BINGHAM. I beg leave to suggest whether it is not very apparent that not one dollar of interest can ever be paid without an act of appropriation subsequently passed by Congress.

The SPEAKER. Will the gentleman please point out what part of the bill so declares?

Mr. BINGHAM. The language of the bill is, "to pledge the credit of the United States in such form as the Secretary of the Treasury shall prescribe to the payment of the interest of the stock of the said company for a period not exceeding twenty years from the date of said issue, at the rate of six per cent. per annum payable semi-annually." That is a pledge of the credit of the United States. What then? Before it can be paid there must be an appropriation passed by Congress authorizing its payment.

Mr. WASHBURN, of Illinois. There is a pledge of this payment "on the 1st days of July and January in each and every year, in the legal currency of the United States at the Treasury of the United States, or any of its depositories." If that is not an appropriation there is no language that can make an appropriation.

The SPEAKER. The Chair might as well decide the point of order. He is very clear in regard to it.

Mr. DELANO. I would like to say a word.

The SPEAKER. The Chair will hear the gentleman's suggestion.

Mr. DELANO. I desire to call the attention of the Chair to the clause making provision for the use of the money that may be placed in the Treasury from the sale of the lands. It is in these words:

Shall be deposited in the Treasury of the United States by the treasurer of said company on the 1st days of April and October in each and every year, to be applied by the Secretary of the Treasury to reimburse the Government for any moneys paid for interest as aforesaid.

Now, I ask whether any further legislation is necessary to authorize the Secretary of the Treasury to pay out this money which is to be thus applied and which is here appropriated.

The SPEAKER. The Chair referred to that very section in his remarks.

The Chair sustains the point of order that this is an appropriation bill for the reason that by its own force it takes money out of the Treasury. This bill on every 1st of January and every 1st of July would take money out of the Treasury by its own force. There are two sections in the bill which involve appropriations.

Mr. WASHBURN, of Illinois. Then I submit that the bill must go to the Committee of the Whole on the state of the Union.

Mr. STEVENS. I move that the bill be recommitted to the Committee on the Pacific Railroad.

Mr. WASHBURN, of Illinois. I move that it be referred to the Committee of the Whole on the state of the Union; and upon that motion I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. ROSS moved to lay the bill upon the table.

The SPEAKER. That would be acting on it in the House, although it is an appropriation bill.

Mr. ROSS. Well, I withdraw the motion.

The question being upon the motion of Mr. WASHBURN, of Illinois, to refer the bill to the Committee of the Whole on the state of the Union,

Mr. WASHBURN, of Illinois, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 43, nays 65, not voting 75; as follows:

YEAS—Messrs. Ancona, Boyer, Broomall, Buckland, Cobb, Delano, Dixon, Eggleston, Farnsworth, Farquhar, Finck, Garfield, Grider, Hale, Aaron Harding, Abner C. Harding, Hayes, James R. Hubbell, James M. Humphrey, Jenckes, Latham, William Lawrence, Marston, Morrill, Nicholson, Orth, Samuel J. Randall, William H. Randall, Ritter, Ross, Schenck, Scofield, Shanklin, Shellenbarger, Sitgreaves, Spalding, Taber, Thayer, Elihu B. Washburne, Henry D. Washburn, Wolker, Wentworth, and Williams—43.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, Baker, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Sidney Clarke, Cook, Darling, Daves, Dodge, Donnelly, Driggs, Eliot, Ferry, Grinnell, Henderson, Higby, Holmes, Asahel W. Hubbard, Hubbard, Julian, Kasson, Kelley, Kelso, Ketcham, Loan, Longyear, Lynch, Marvin, McClurg, McRuer, Mercur, Miller, Morris, Moulton, Myers, Newell, Niblack, O'Neill, Patterson, Perham, Price, John H. Rice, Rogers, Rollins, Smith, Stevens, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—65.

NOT VOTING—Messrs. Alley, Allison, James M. Ashley, Baldwin, Barker, Blaine, Brandegee, Broomwell Bundy, Chandler, Reader W. Clarke, Coffroth, Conkling, Cullom, Culver, Davis, Dawson, Deftrees, Denning, Denison, Dumont, Eckley, Eldridge, Glossbrenner, Goodyear, Griswold, Harris, Hart, Hill, Hogan, Hooper, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Kerr, Kuykendall, Laflin, George V. Lawrence, Le Blond, Marshall, McCullough, McIndoe, McKee, Moorhead, Neill, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, Rousseau, Sawyer, Sloan, Starr, Stilwell, Strouse, Taylor, Francis Thomas, John L. Thomas, Thornton, Trimble, Van Arnam, Ward, Whaley, Winfield, and Wright—75.

So the House refused to refer the bill to the Committee of the Whole on the state of the Union.

The question recurred on Mr. STEVENS's motion to recommit the bill to the Committee on the Pacific Railroad; and being put, the motion was agreed to.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was recommitted; and also moved to lay the motion to reconsider upon the table.

The question was put; and there were—ayes 33, noes 65.

So the motion was not agreed to.

The question recurred upon the motion to reconsider the vote by which the bill was recommitted; and being taken, it was not agreed to.

Mr. PRICE. I am instructed by the Committee on the Pacific Railroad to report back with amendments House bill No. 414, to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes, with a recommendation that it do pass.

Mr. WASHBURNE, of Illinois. I rise to a point of order. My point of order is that the Committee on the Pacific Railroad has not ordered any such report to be made.

Mr. PRICE. That is a question of veracity between the gentleman from Illinois [Mr. WASHBURNE] and myself, which can best be settled elsewhere.

Mr. WASHBURNE, of Illinois. I make the point of order that the committee has had no meeting since this bill was recommitted, for the gentleman from Iowa and all his colleagues have been upon the floor of the House all the time.

The SPEAKER. The Chair overrules the point of order. If the gentleman from Iowa [Mr. PRICE] states that he is authorized by the committee to make the report, the Chair has no right to go behind his statement.

Mr. WASHBURNE, of Illinois. I rise to a still further point of order: that it is within the knowledge of the Chair that the bill had not been recommitted to the committee two minutes when the gentleman from Iowa stated that he had been instructed by the committee to report it back, and therefore it was utterly impossible for the committee to have had a meeting; and that the committee has had no meeting, for the members of the committee have all been in their seats here since the bill was recommitted. Therefore, it cannot be true in point of fact that the committee has ordered this bill to be reported back since it was recommitted.

The SPEAKER. The uniform rule of those who have occupied this chair is that when the chairman of a committee rises and states that he has been instructed by his committee to report a bill, that statement is assumed to be true.

The Chair has before him a precedent in the last Congress which, after the discussion, was assented to by the whole House, and no appeal was taken. It was the case of the Illinois ship-canal bill, which was reported from the Committee on Roads and Canals. The Speaker ruled that it was an appropriation bill, and it was recommitted to the Committee on Roads and Canals. The chairman of that committee, Mr. Arnold, of Illinois, arose in his place and reported the bill back, modified so that it did not contain an appropriation in it. The point of order was made that he had no right to report the bill back at that time, because it was immediately after it had been recommitted, and there had been no action upon it by the Committee on Roads and Canals since its recommitment. The point of order was overruled by the Chair, and no appeal was taken.

The House cannot determine what instructions the committee may have given their chairman. They may have instructed him to report a bill which would be acceptable to the House; or they may have given him alternate authority, to report a bill in one form or in another; or he may have had an enlarged authority over the subject. The Chair cannot determine, nor can the House determine, what authority any committee may have given its chairman. If he states that he is authorized by the committee to make a report, the Chair is bound to receive the statement as correct.

But there is the question of the reception of the report, which may be raised. The Clerk will read the rule.

The Clerk read as follows:

"If it is disputed that a report has been ordered to be made by a committee, the question of reception must be put to the House."—*Barclay's Digest*, page 59.

The SPEAKER. That is the only question that can be raised.

Mr. WASHBURNE, of Illinois. Let that question be put.

Mr. RANDALL, of Pennsylvania. I rise to another point of order; that is, that the Committee on the Pacific Railroad has no authority to sit during the sessions of this House.

The SPEAKER. The Chair sustains that point of order.

Mr. RANDALL, of Pennsylvania. This bill was recommitted during the present session of the House; and the House has continued in session all the time since the bill was recommitted.

The SPEAKER. The committee may have authorized the chairman to report an amended bill, in case the one first reported should be recommitted to them.

Mr. WASHBURNE, of Illinois. I believe I have the floor.

The SPEAKER. The gentleman from Illinois rises to discuss the question of the reception of the report.

Mr. PRICE. I wish to say a word in reference to this question. I have stated that I am authorized by the Committee on the Pacific Railroad to report this bill; and when I make a statement of that kind here or anywhere else, I warn gentlemen that I do not intend that my veracity shall be called in question with impunity.

The SPEAKER. The Chair will state to the gentleman from Iowa that gentlemen have the right to raise these points of order.

Mr. PRICE. They have the right to ascertain what is the fact; but when the fact has been ascertained by the statement—

Mr. ROSS. I rise to a question of order.

The SPEAKER. The gentleman will state his point of order.

Mr. ROSS. It is that brethren should dwell together in unity. [Laughter.]

The SPEAKER. The Chair sustains that point of order. [Renewed laughter.]

Mr. WASHBURNE, of Illinois. I believe, Mr. Speaker, that I have the floor, and I yield it to the gentleman from Pennsylvania, [Mr. THAYER,] that he may move to adjourn.

Mr. THAYER. I move that the House adjourn.

Mr. RANDALL, of Pennsylvania. On that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 47, nays 58, not voting 78; as follows:

YEAS—Messrs. Ancona, Baker, Broomall, Buckland, Cobb, Cook, Delano, Dixon, Farguhar, Finck, Garfield, Grider, Hale, Aaron Harding, Abner C. Harding, Hayes, James R. Hubbell, Hulburd, James M. Humphrey, Jenekes, Julian, Ketcham, Latham, Marston, Miller, Newell, Niblack, Nicholson, Orth, Patterson, Samuel J. Randall, William H. Randall, Ritter, Ross, Seofield, Shanklin, Shellabarger, Sitgreaves, Spalding, Taber, Thayer, Elihu B. Washburne, Henry D. Washburn, Welker, Wentworth, Williams, Stephen F. Wilson, and Wright—47.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, Banks, Baxter, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Sidney Clarke, Darling, Dawes, Dodge, Donnelly, Driggs, Eliot, Ferry, Grinnell, Henderson, Holmes, Asahel W. Hubbard, Kasson, Kelley, Kelso, Laffin, William Lawrence, Loan, Longyear, Lynch, Marvin, McCarg, McCruer, Mercer, Morris, Moulton, O'Neill, Perham, Price, John H. Rice, Rollins, Schenck, Smith, Stevens, Francis Thomas, Trowbridge, Upson, Bart Van Horn, Robert F. Van Horn, Warner, William B. Washburn, James F. Wilson, Windom, and Woodbridge—58.

NOT VOTING—Messrs. Alley, Allison, James M. Ashley, Baldwin, Barker, Blaine, Boyer, Brandegee, Bronwell, Bundy, Chandler, Reader W. Clarke, Coffroth, Conkling, Cullem, Culver, Davis, Dawson, DeFrees, Deming, Denison, Dumont, Eckley, Eggleston, Eldridge, Farnsworth, Glossbrenner, Goodyear, Griswold, Harris, Hart, Higby, Hill, Hogan, Hughes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Kerr, Kuykendall, George V. Lawrence, Le Bond, Marshall, McCullough, Mc-

Indoe, McKee, Moorhead, Morrill, Myers, Noell, Paine, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, Rogers, Rousseau, Sawyer, Sloan, Starr, Stilwell, Strouse, Taylor, John L. Thomas, Thornton, Trimble, Van Aernam, Ward, Whaley, and Winfield—78.

So the House refused to adjourn.

Mr. WASHBURNE, of Illinois, obtained the floor.

The SPEAKER. The gentleman from Illinois rises to debate the question of the reception of the report. The Chair will state that debate must be confined within a very limited range. The only question is as to whether the House will receive the report under the circumstances stated by the chairman of the committee.

Mr. WASHBURNE, of Illinois. I propose to proceed within the limited range stated by the Speaker.

Mr. BANKS. I raise a point of order, which is that the question presented by the gentleman from Illinois is a question of the order of business, and is not debatable. If a discussion is to proceed upon the allegation that the chairman of this committee has reported a bill without authority, it is a question of privilege, and must be presented distinctly as such, and not as a question of the order of business. A question of privilege such as that would require an investigation into the transactions of the committee, which cannot be had at this time, and which cannot be discussed at this time.

The SPEAKER. The Chair overrules the point of order. The Clerk will read from the Journal of the Twenty-Seventh Congress, second session, page 1410, a precedent on this question.

The Clerk read, as follows:

"The Speaker stated that no question of order was involved; that the question, Shall the bill be received as the report of the committee? was for the House alone to decide; and as the reception of the bill was objected to, that question would be put to the House. The question was then put under the operation of the previous question."

The SPEAKER. It will be observed that in that case the question was put under the operation of the previous question, showing that, without the operation of the previous question the question would have been debatable, though within the narrow limits just stated by the Chair. Of course the previous question would have been unnecessary, if, in the opinion of the occupant of the Chair at that time, the question had been undebatable.

This is the only precedent the Chair has been able to find in the hurried examination which he has had the opportunity to make since the point was raised.

Mr. WASHBURNE, of Illinois. I will endeavor to confine myself within the limits laid down by the Speaker. I debate this in no spirit of faction. I say that my friend from Iowa [Mr. PRICE] is mistaken in the position he assumes, and the House will bear me out in what I say.

Mr. SMITH. If the gentleman debates this, when he gets through, can the other side be heard? I raise the point of order.

The SPEAKER. The gentleman from Illinois has not transgressed the proper limit of debate. The House will see there may be a time when the question of reception may be important. A chairman may rise and say he has been authorized to make a report, although a majority of the committee may be opposed to it. If his report be conclusive, the House would have to consider it.

Mr. WASHBURNE, of Illinois. I wish my friend from Iowa to distinctly understand I do not impugn anything he has said. Such is not my habit "here or elsewhere," to use the slang of the day. [Laughter.] But I call attention to this fact, and the House will bear witness to its truth, that this bill was reported back within two minutes after it was recommitted to the Committee on the Pacific Railroad, a committee consisting of fifteen members. I am certain my friend from Iowa was not five feet from his seat all that time.

I suggested what I know to be true as a matter of fact, that the committee had not in any parliamentary sense a meeting by which they could have ordered the reporting back of that bill. I will read the rule as laid down in the Manual.

But first I will state a case, which I think the Speaker will recollect, a case which arose in the Thirty-Fifth Congress, when Mr. Orr was Speaker. Mr. Clingman, as chairman of a committee, undertook to report a bill, when the question arose whether he was authorized to report it. He said he had consulted a majority of members upon the floor and considered he was so authorized. The Speaker held he had no such authority after consulting the committee one by one when they were not together as a body. It is laid down in the Manual as follows:

"A committee meet when and where they please—if the House has not ordered time and place for them—but they can only act when together, and not by separate consultation and consent, nothing being the report of a committee but what has been agreed in committee actually assembled."—Manual, p. 85.

I appeal to my friend from Iowa as an honest, candid, and like myself a somewhat hasty man, whether he comes within that rule. If he will say in the presence of the House he has had the committee together and they have considered the bill and amendments made to it, I will withdraw my opposition. I object to the reception of the bill.

Mr. STEVENS. I can understand perfectly the case of Mr. Clingman referred to. He stated distinctly they had not a session. It is not this case at all. The chairman here was instructed to report this bill. He has so stated, and no member of the committee has denied it.

I call the previous question.

The previous question was seconded and the main question ordered.

Mr. SPALDING moved the House adjourn, and demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 40, nays 60, not voting 83; as follows:

YEAS—Messrs. Ancona, Baker, Bromwell, Broomall, Cobb, Cook, Delano, Dixon, Fink, Grider, Hale, Aaron Harding, Abner C. Harding, Hayes, James R. Hubbell, Jencks, Julian, Ketcham, Latham, William Lawrence, Marston, Newell, Niblack, Nicholson, Orth, Samuel J. Randall, William H. Randall, Ritter, Ross, Shanklin, Shellabarger, Sitgreaves, Spaulding, Taber, Thayer, Elihu B. Washburne, Henry D. Washburn, Wentworth, Williams, and Wright—40.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Banks, Baxter, Beaman, Bergen, Bidwell, Bingham, Blow, Boutwell, Sidney Clarke, Darling, Dawes, Dodge, Donnelly, Driggs, Eliot, Farquhar, Ferry, Grinnell, Henderson, Higby, Asahel W. Hubbard, Hulburd, Kasson, Kelley, Kelso, Ladin, Loan, Longyear, Lynch, Marvin, McClurg, McRuer, Mercur, Miller, Moorhead, Morris, Moulton, Myers, O'Neill, Perham, Price, John H. Rice, Rollins, Schenck, Smith, Stevens, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, James F. Wilson, Windom, and Woodbridge—60.

NOT VOTING—Messrs. Alley, James M. Ashley, Baldwin, Barker, Benjamin, Blaine, Boyer, Brundage, Buckland, Bundy, Chanler, Reader W. Clarke, Coffroth, Conkling, Cullom, Culver, Davis, Dawson, Defrees, Deming, Denison, Dumont, Eckley, Eggleston, Eldridge, Farnsworth, Garfield, Glossbrenner, Goodyear, Griswold, Harris, Hart, Hill, Hogan, Holmes, Hooper, Hotchkiss, Chester D. Hubbard, Deamus Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kerr, Kuykendall, George V. Lawrence, Le Blond, Marshall, McCullough, Melndoe, McKee, Morrill, Noel, Paine, Patterson, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, Rogers, Rousseau, Sawyer, Scofield, Sloan, Starr, Stilwell, Strouse, Taylor, John L. Thomas, Thornton, Trimble, Van Aernam, Ward, Welker, Whaley, Stephen F. Wilson, and Winfield—53.

So the House refused to adjourn.

The question recurred on seconding the demand for the previous question on the reception of the report.

The previous question was seconded—yeas 58, nays 38, and the main question was ordered.

Mr. SPALDING. I demand the yeas and nays on the reception of the report.

The yeas and nays were ordered.

Mr. WASHBURNE, of Illinois. If the House adjourns, Mr. Speaker, will this be the first business in order in the morning?

Mr. STEVENS. If the question on the reception is decided now we may adjourn.

Mr. RANDALL, of Pennsylvania. I want to raise a point of order on the reception.

The SPEAKER. The gentleman is rather late, as the previous question is ordered on that subject. The Chair will state that if the House should adjourn this would be the unfinished business, and would come up as soon as the Journal is read.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

The question being put, there were—yeas 48, nays 49.

Mr. DELANO. I demand the yeas and nays.

The yeas and nays were ordered.

Mr. SMITH. If the gentleman will withdraw his demand for the yeas and nays, I will make a motion to adjourn.

The SPEAKER. It can be withdrawn by unanimous consent.

Mr. DELANO. I ask unanimous consent to withdraw it.

No objection was made.

The question was then taken on the motion to adjourn, and it was agreed to; and thereupon (at ten o'clock and twenty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BANKS: The memorial of Daniel S. Young & Co., and many other firms and dealers in tobacco, for a change in the tax on imported from a gradual to a uniform scale of duties.

By Mr. BAXTER: The petition of Joel Jones, and 26 others, of Wolcott, Vermont, regarding the reconstruction of the revolted States.

Also, the petition of Mrs. Lucinda Gates, asking that the pension granted her husband, a soldier of the war of 1812 be continued to herself.

By Mr. BENJAMIN: The petition of citizens of Schuyler county, Missouri, that Congress require ample guarantees from the rebel States before their members are admitted to seats in the national Legislature.

By Mr. BINGHAM: The petition of Gordon Lofland, Hugh Wilson, and others, of Guernsey county, Ohio, for protection to wool.

Also, the petition of James Stockdale, Benjamin Harris, and others, of Guernsey county, Ohio, asking protection to wool.

Also, the petition of W. Emerson, John Gray, Philip Inhart, and 280 others, citizens of Tuscarawas county, Ohio, asking protection to wool.

Also, the petition of wool-growers of Tuscarawas county, Ohio, asking protection to American wool.

Also, the petition of W. N. Camden, Henry Hartly, and others, of Guernsey county, Ohio, asking protection to wool.

Also, the petition of John English, Thomas Dixon, John E. Hull, and others, of Tuscarawas county, Ohio, asking a reduction of tax on the sale of agricultural implements.

By Mr. BUCKLAND: The petition of George H. Adams, and 29 others, citizens of Tiffin, Ohio, for a law regulating inter-State insurance.

By Mr. COBB: The petition of Richard Mann, and 87 others, of Sauk county, Wisconsin, on the subject of reconstruction.

Also, the petition of J. S. Maxon, and 44 others, of Bradford and Evansville, in Wisconsin, on the same subject.

Also, the memorial of Edwin B. Wagoner, late second lieutenant in the twenty-fifth regiment of Wisconsin volunteers.

By Mr. DARLING: The petition of dealers in leaf tobacco and manufacturers of cigars, in the city of New York, for an increase of tariff on those articles.

By Mr. DONNELLY: A remonstrance of citizens of Read's Landing, against the obstruction to the navigation of the Mississippi caused by the Clinton railroad bridge.

By Mr. HAYES: The petition of 308 citizens of Ohio, against restoring to the Union any State lately in rebellion, until adequate security has been obtained against a renewal of the attempt to secede.

By Mr. KUYKENDALL: The petition of A. B. Safford, and others, of Cairo, Illinois, praying for a uniform law regulating insurance companies.

By Mr. LAWRENCE, of Pennsylvania: A petition from citizens of Washington county, Pennsylvania, asking an increase of duty on foreign wools.

By Mr. Moulton: The petition of 17 citizens of Keidy's Farm; also, the petition of 21 citizens of Sandoval; also, the petition of 13 citizens of Cottonwood, all of the State of Illinois, praying that no rebel States be admitted into the Union without guarantees and securities for the future.

By Mr. ORTH: Remonstrances from many citizens of Indiana against the restoration of the late rebel States until guarantees of future security are obtained.

By Mr. PERHAM: The petition of 80 citizens of Maine not to restore any State recently in rebellion as a governing power in the Union till adequate security has been obtained against its renewing the attempt to secede, against any payment of debt in-

curred in the rebellion, and any distinction on account of race or color, and in favor of certain amendments to the Constitution.

By Mr. PRICE: The petition of 239 citizens of the State of Iowa, asking Congress not to restore any State that has rebelled and warred against the United States to its place and power as a governing partner in the Union till adequate security has been obtained against its renewing the attempt to secede; against its being represented in Congress beyond its just proportion according to its voting population; against any payment of debt incurred in rebellion, or for its emancipated slaves; and against any distinction in its constitution, laws, or municipal regulations on account of color or descent.

IN SENATE.

WEDNESDAY, April 25, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PROTECTION TO UNITED STATES OFFICERS.

The PRESIDENT *pro tempore* appointed as the committee of conference on the part of the Senate on the bill (H. R. No. 288) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, Mr. CLARK, Mr. TRUMBULL, and Mr. HENDRICKS.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of the Territory of Dakota, praying that certain settlers in that Territory may be indemnified for losses which, it is represented, they will suffer by the terms of the treaty with the Pecan Indians, now pending in the Senate; which was referred to the Committee on Indian Affairs, and ordered to be printed.

He also presented a communication from the New York East Annual Conference of the Methodist Episcopal Church, expressive of the views of that body in relation to the present state of the country; which was ordered to lie on the table.

Mr. WILSON presented a petition of unmarried daughters of revolutionary soldiers, praying that they may be granted the same pension that was received by their mothers while living; which was referred to the Committee on Pensions.

He also presented two petitions of white voters in the southern part of Florida, praying that commissioners may be appointed to award damages for property belonging to them which was confiscated and sold by the rebels; which were referred to the Committee on Claims.

Mr. GRIMES presented a petition of citizens of Burlington, Iowa, who represent that the laws and regulations touching the business of insurance now in force in the several States are dissimilar, and tend to the detriment of trade, and they therefore pray that Congress will enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies, and promotive of the greatest good and convenience to all concerned in such transactions; which was referred to the Committee on Commerce.

Mr. SHERMAN. I offer the petition of James Smith, of New York, praying Congress, in behalf of himself, and others, citizens of New York and Brooklyn, to pass a joint resolution abolishing the fractional part of a cent now exacted for each passenger in street railroad cars, or otherwise to exact the entire cent for the internal revenue, in lieu of the fractional part, which the citizens will not complain of; but they do seriously complain of the extortion of these monopolists, whose stock cannot be purchased for two hundred per cent. above the par value. I move the reference of this petition to the Committee on Finance.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred a bill (H. R. No. 345) for the relief of Christina Elder, reported it with an amendment, and submitted

a written report; which was ordered to be printed.

Mr. HENDRICKS. The Committee on Naval Affairs, to whom was referred the petition of fifteen petty officers and twenty-six seamen of the Western flotilla, praying for prize money or compensation for captures made at Island No. 10, Memphis, and other places on the Mississippi river, have instructed me to report it back, and ask that the committee be discharged from the further consideration of the subject. I am also instructed to say that the committee were not willing to report against the petition, but there was not sufficient evidence accompanying the petition, nor were the committee able in the Department to find sufficient evidence to justify a favorable report or a report of a bill appropriating money.

The report was agreed to.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Andrew Branstetter, praying for a pension, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia, as it does not come within the purview of the Committee on Pensions; which was agreed to.

He also, from the same committee, to whom was referred a bill (H. R. No. 494) for the relief of Martha J. Willey, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Mrs. Josephine Rice, widow of Brigadier General James C. Rice, praying for a pension, asked to be discharged from its further consideration, upon the ground that the petitioner is already entitled to a pension under the general law.

The report was agreed to.

Mr. KIRKWOOD, from the Committee on Public Lands, to whom was referred a bill (S. No. 203) to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in market, reported it with an amendment.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred the memorial of Edward St. Clair Clarke, acting assistant paymaster United States Navy, praying to be relieved from all responsibility in consequence of money lost by robbery in May, 1863, while attached to the United States steamer Sumter, submitted a report accompanied by a bill (S. No. 283) for the relief of Edward St. Clair Clarke. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred a bill (H. R. No. 453) for the relief of Cornelius B. Gold, late acting assistant paymaster United States Navy, reported it without amendment.

Mr. WILLEY, from the Committee on Naval Affairs, to whom was referred the memorial of Otway H. Berryman, of the Navy, praying to be allowed an amount equal to the balance found against him on the settlement of his accounts as acting purser while in command of the United States schooner Onkahye, and which he has been obliged to pay over to the United States, submitted a report accompanied by a bill (S. No. 284) for the relief of the children of Otway H. Berryman, deceased. The bill was read and passed to a second reading, and the report was ordered to be printed.

CATTLE PLAGUE.

Mr. SHERMAN. I am instructed by the Committee on Agriculture, to whom was referred a letter of the Commissioner of Agriculture giving information in relation to the rinderpest or cattle plague, to state that that communication has been considered by the committee, and after consideration they have directed me to report this resolution:

Resolved, That there be printed for the use of the Senate ten thousand copies of a letter of the Commissioner of Agriculture communicating information in relation to the rinderpest or cattle plague.

I ask for the present consideration of the resolution.

By unanimous consent the Senate proceeded to the consideration of the resolution.

Mr. SHERMAN. The Committee on Agriculture would like very much indeed to report some measure of a practical character to counteract if possible the cattle plague now prevailing in Europe; but we did not see that Congress had authority to pass an effective measure. In Great Britain, after various orders in council and various efforts to stop the progress of the cattle plague, they have recently passed a very stringent law, embodied in this letter, authorizing certain districts, supposed to be infected, to be first inspected, and then, when they are pronounced infected, authorizing the destruction of cattle in those districts. Under it the officers or inspectors may enter any man's field, barn, or close and seize and summarily destroy cattle affected by or even subject to the plague. It contains provisions for the destruction of hides, offal, hay, straw, or other material likely to convey the infection. It requires the active assistance of justices of the peace, constables, and the whole machinery of local laws and levies a local tax under the name of a cattle rate. It is manifest if such a law is needed to accomplish the purpose we must appeal to the State authorities. That such severe measures are needed to accomplish the wished-for result is shown, not only by this act of Parliament, but by the actual execution of similar measures in France, where by immediate destruction of cattle infected they have checked the disease.

The destruction which this disease has occasioned is much more fearful than I had any idea of until I read this communication and recent communications from England. As a simple illustration of the destructiveness of this disease, I will state that of 203,350 cattle attacked in a short period of time in certain districts in Great Britain, 39,487 were killed, 120,834 died, and only 28,656 recovered. There is great danger—it is manifest that it is impending—that this disease may come to this country. It has pursued very much the same march in Europe that the cholera has done, and it probably will come here, notwithstanding all the efforts that may be made by the Government and people of the United States to exclude it. It is an important subject for the States to consider whether measures ought not immediately to be adopted, founded upon the experience of other countries, to prevent the spread of the cattle plague.

The letters of our consuls in Europe have recently contained authentic statements of its progress. Mr. Dudley, our consul at Liverpool, under date of February 2, 1866, writes that the plague is not confined to England and Scotland, but prevails on the Continent in Belgium, Holland, Prussia, some of the German States, and in parts of Russia.

In the same letter he says:

"Inclosure No. 2 contains the returns made to the authorities at London of the cases reported in the kingdom during the week ending on the 27th of January, as taken from the papers of to-day, and two or three articles showing the fatality of the plague in certain localities it has visited. In one there is a list of persons who have suffered in the parish of Northenburgh, with the number of cattle they have each lost, and the number left. In Cheshire, the county just across the river from Liverpool, up to last Monday, 160,41 cattle had died of the disease, 700 had been killed, 5,247 were under treatment, and 1,245 had recovered. Upward of 3,000 were buried in this county during the week. From an article taken from the Scotsman, a paper published in Edinburgh, it would appear that the plague has entirely ceased in that city, either having exhausted itself or else been stamped out. But the article goes on to say, 'The vastness of the loss, however, that may be incurred before the disease runs its course in any district where it once makes entry is indicated by the fact that about four fifths of all the cows in Edinburgh, when the disease broke out here, died or have been killed.' As fearful as is the mortality, I fear it is rather under than overstated, and many other counties and towns have been and are suffering by this terrible plague equally if not worse than there. All kinds of remedies have been tried, but up to the present time no specific has been found; and if vaccination fails, no preventive has been discovered."

"By the official returns you will see that there is no abatement but a still further increase of the disease for the week ending on the last Saturday. (See inclosure No. 2.) The footings show 11,745 new cases, being an increase of 1,704 cases over the previous

week. Thus far there have been reported to the authorities 120,740 cases, of which but 14,162 have recovered; the rest have either died of the disease, been killed, or are still under treatment."

Mr. Abbott, consul at Sheffield, writes under date of February 17, 1866:

"The rinderpest continues to spread and the mortality to increase, notwithstanding the precautions which have been taken to prevent the diffusion of the disease. For a time it was supposed that inoculation was a safeguard, but even this remedy seems to have failed."

"When Professor Gamgee addressed the social congress, in October last, he was much ridiculed, not only in the discussions in the congress, but in the columns of the newspaper press, of stringent measures which he recommended."

"The exemption of Ireland, the partial exemption of one or two of the Scottish counties, seems to be due in the former case to a prohibition, which is rigidly enforced, of the importation of cattle into the island; and in the latter case, to the system of 'crushing out' the disease by the slaughter of cattle wherever it appears."

The rinderpest prevailed on the Continent for some time before it crossed the English Channel. In 1862, 152,000 cattle died with it in Austria. It spread over all southeastern Europe with an average of more than seventy-five per cent. It was carried to England by an importation of Russian bullocks, and already 200,000 very valuable cattle have perished. We cannot estimate the destruction of such a disease if by probable contingency it should be brought to our shores by any one of the numerous vessels daily arriving from the infected regions. We do not underrate the importance of the subject or the imminence of the danger.

But the question with us was, whether we had any power under our system of government to pass such a law as that which has proved to be somewhat effective in England, because the operation of that law, although very severe, has stayed to some extent the cattle plague, and has prevented it from spreading into regions where it might possibly, but for these very severe measures, have spread. We could not see that under our form of government Congress has the power to order the summary destruction of the private property of individuals in the States, nor use the vast number of local officers to make it effective. We thought, therefore, the only thing we could do was to report a resolution for the publication of a number of copies of this letter, so that the information which it contains may be generally distributed for what it is worth among the people of the several States. I am only sorry that the Legislatures of the different States did not take some action upon it before most of them adjourned. At any rate we thought it was a subject demanding immediate attention, and that if we could not do anything by law more than we have done in prohibiting the importation of foreign cattle and hides, we might invoke the attention of our countrymen to an impending peril.

Mr. SUMNER. I was sorry to hear two remarks of the Senator from Ohio. The first was that the cattle plague was coming. I hope that by proper precautions it may be averted. I do trust it may never come. I hope the Atlantic ocean at least may be a barrier. I was sorry also for the other remark that, in his opinion, Congress could not apply any remedy. I do not venture to question the accuracy of the remark; but I was sorry that the Senator who had the question in charge had arrived at that conclusion. It does seem to me that under our Government Congress ought to be able to apply a remedy in such a case. Is not our Government defective to a certain extent if Congress has not that power? I merely open the question interrogatively now, without undertaking to express any opinion upon it. I agree with the Senator from Ohio that it is of great importance that our people should be put on their guard. He therefore is right in causing the circulation of all public information on the subject; but I do hope that the Senator having the subject in charge will consider carefully whether it be not within the power of Congress, in some way or other, directly or indirectly, to apply a precise remedy.

Mr. SHERMAN. The honorable Senator

gave a broader meaning to my remarks than they would bear. I did not say that Congress had no power to prevent the spread of this disease. I said that it had no power to pass such a law as was recently passed in England, the only one which seemed to be effective for the purpose; that is, Congress has no power to direct the officers of the United States to go into particular districts or States of the United States, and there seize all the cattle of private citizens within a given State or district and destroy them. I doubt very much whether such a power exists in Congress. It is a power that ought to be exercised by the States. Congress may, however, by commercial regulations, do all it can to prevent the coming of this disease into the country, and it has already done so. A bill reported by me some time ago was passed, and under that bill the Secretary of the Treasury has excluded all cattle, hides, and everything that can communicate this disease from infected districts. If the Senator can suggest any other remedy or any other measure I should like very much to have the benefit of it. The Committee on Agriculture have not concluded themselves by their consideration of the subject from acting on any measure or reporting any measure that may seem to be necessary; but we do think that under our system of government the wholesale destruction of cattle in particular States and communities will not be justified by any power conferred by the Constitution on Congress. That is the only conclusion at which we have arrived, and I think upon that there is no doubt. If the Senator can find any power in the Government of the United States thus to destroy the property of private citizens within the States according to the system adopted by the British Parliament, which is supreme within the jurisdiction of Great Britain, I should like to know where he finds it.

The resolution was adopted.

MRS. W. L. HERNDON.

Mr. COWAN. The Committee on Patents and the Patent Office, to whom was referred the bill (H. R. No. 193) for the relief of Mrs. William L. Herndon, have had it under consideration, and have instructed me to report favorably upon it, and recommend its passage; and if there be no objection, I ask that it be put upon its passage now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider the bill on the day it is reported. Is there any objection?

Mr. TRUMBULL. I should like to know if it is a bill calculated to take any time.

Mr. COWAN. No, I think not; it simply proposes to confer on her the copyright of a book formerly published by public authority—Herndon's Expedition. I do not think there can possibly be any objection to it.

Mr. TRUMBULL. I do not know anything about this bill, but I know that we passed a similar bill a year or two ago, and afterward great objection was made to it.

Mr. CLARK. The fact is as stated by the Senator from Illinois, that two or three years ago we passed a bill of this kind, and got into considerable difficulty about it, and the Committee on Claims has been troubled with a petition from gentlemen claiming the right for I believe every succeeding session, and there seems to be some doubt about the relief. I do not know anything about this case; and if Senators do know that it is entirely free from doubt, perhaps there will be no objection to it, but I think it had better lie over and be printed, so that it may meet the attention of some one.

Mr. CONNESS. I think if an explanation of it is made, it will satisfy the Senator now.

Mr. CLARK. The difficulty is, that if we consider it now nobody will see it; but if we have it printed some Senator may see what the character of the bill is, or some person outside may get information on the subject.

Mr. TRUMBULL. Let it go over until to-morrow.

Mr. CLARK. I think myself it had better go over and be printed.

Mr. COWAN. Very well.
The PRESIDENT *pro tempore*. Objection being made, the bill lies over.

BILL INTRODUCED.

Mr. POMEROY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

RAILROAD BRIDGES ACROSS THE MISSISSIPPI.

Mr. RAMSEY. I move to proceed to the consideration of Senate bill No. 236.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 236) to authorize and establish certain post roads.

The bill, as introduced by Mr. TRUMBULL, proposes to make it lawful for any person or persons, company or corporation, having authority from the State of Illinois for such purpose, to build a bridge across the Mississippi river at Quincy, Illinois, and to lay on and over the bridge railway tracks, for the more perfect connection of any railroads that are or shall be constructed to the river at or opposite that point. When constructed, all trains of all roads terminating at the river at or opposite that point are to be allowed to cross the bridge for reasonable compensation, to be made to the owners of the bridge, under the limitations and conditions provided. The bridge is to be constructed as a draw-bridge, with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than three hundred feet in length; and the span is not to be less than thirty feet above the low-water mark, and not less than ten feet above the extreme high-water mark, measuring to the bottom chord of the bridge; and one of the next adjoining spans is not to be less than two hundred feet in length; and there is also to be a pivot draw constructed in the bridge, at an accessible and navigable point, with spans of not less than one hundred and fifty feet in length on each side of the central or pivot pier of the draw. The draw is to be opened promptly upon reasonable signal for the passage of boats, whose construction shall not be such as to admit of their passage under the permanent spans of the bridge, except when trains are passing; but in no case is unnecessary delay to occur in opening the draws after the passage of trains. Any bridge constructed under the act, and according to its limitations, is to be a lawful structure, and be recognized and known as a post route, upon which no higher charge shall be made for the transmission over the same of the mails, the troops, and the munitions of war of the United States, than the rate per mile paid for their transportation over the railroads or public highways leading to the bridge. The ferry authorized to be established by the Illinois and Missouri Transportation Company, by the laws of the States of Illinois and Missouri, across the Mississippi river at the city of Quincy, is, during the time authorized by the laws of those States, and until the completion of the bridge, under and according to the provisions of the act, to be recognized and known as a post route.

The Committee on Post Offices and Post Roads proposed amendments to the bill, the first of which was in section one, line four, after the word "Illinois" to insert "and Missouri," and to make the word "State" read "States;" so that the clause will read:

That it shall be lawful for any person or persons, company or corporation, having authority from the States of Illinois and Missouri for such purpose, to build a bridge across the Mississippi river at Quincy, Illinois.

The amendment was agreed to.

The next amendment reported by the committee was in section one, at the end of line thirteen, to insert:

And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation

of said river, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

The amendment was agreed to.

The next amendment was to strike out from section two the following words:

That any bridge built under the authority of this act shall be constructed as a draw-bridge, with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than three hundred feet in length; and said span shall not be less than thirty feet above the low-water mark, and not less than ten feet above the extreme high-water mark, measuring to the bottom chord of the bridge; and one of the next adjoining spans shall not be less than two hundred feet in length; and, also, that there shall be a pivot draw constructed in said bridge, at an accessible and navigable point, with spans of not less than one hundred and fifty feet in length on each side of the central or pivot pier of the draw.

And in lieu thereof to insert—

That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and seventy-five feet in length on each side of the central or pivot pier of the draw, and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than thirty feet above low-water mark, and not less than ten above extreme high-water mark, nearing to the bottom chord of the bridge, and the piers of said bridge shall be parallel with the current of the river.

The amendment was agreed to.

Mr. HENDERSON. I desire to offer some amendments to this bill. In the first section, line six, after the word "Illinois," I desire to insert "and at Hannibal, Missouri."

Mr. RAMSEY. I trust this will not be done. Let each proposition of this kind stand on its own merits. If the gentleman desires a bridge at Hannibal, it might be well to introduce a bill of that kind, refer it to some committee, and have the facts investigated as they have been in this case. Representations have been heard on one side and the other, and the committee strike at what they consider to be a safe mean between the extremes asked by the railroad company and the navigation interests respectively. This proposition of building bridges across the Mississippi river is a very serious one. I think in every instance the bill ought to be referred to a committee. For that reason I trust the gentleman will withdraw his amendment at this time and introduce a bill, as has been done in every other case.

Mr. HENDERSON. I must express some little astonishment at the objection the Senator from Minnesota presents to the amendment I have indicated. He insists that the subject of building a bridge at Quincy, Illinois, has gone before a committee, and that a proposition to build a bridge across the Mississippi river at Hannibal ought to go there, because the building of bridges across the Mississippi is a very serious thing under any circumstances. I think if the bill under consideration is to be passed, it is a very serious thing. I am not in favor of the passage of the bill, and I did not expect it to come up this morning. I have not all the memoranda here that I desire to present. I thought they were in my desk; they are not all here; and I shall be compelled to ask, eventually, a postponement of this bill until I can get them.

Now, Mr. President, I agree with the Senator from Minnesota that the proposition to build bridges across the Mississippi river is a very serious proposition. The Senator is very well aware of the fact that if these bridges are to be built at all, as provided in this bill, bridges not with continuous spans, but what are called draw-bridges, they will very materially interfere with the navigation of the Mississippi river, and I must express some little astonishment at the

proposition on the part of the Senator who seems to have reported this bill from the Post Office Committee to build bridges of this character across the Mississippi river. If he be willing, as a representative of the interests connected with that great river, to build draw-bridges over it, I am not. The Senate of the United States may outvote me on the proposition, but I never will vote for the establishment of a bridge across the Mississippi river which is called a draw-bridge.

It has been recently demonstrated that there is but little difficulty in building bridges with sufficient spans to admit of the passage of boats; and that being the case, if bridges can be built on the Mississippi river sufficiently elevated to admit the passage of steamers, even with chimneys that can be let down as mentioned the other day, I am perfectly willing that that character of bridges may be built; but it is a matter of serious consideration, indeed, whether draw-bridges shall be constructed across the Mississippi river. We know perfectly well that they will interfere, and materially interfere, with the navigation of that great river, and I doubt whether we shall ever be compensated by railroad travel and railroad transportation for the inconveniences arising from draw-bridges.

The Senator says that this bill for a bridge at Quincy has been before a committee. What have the committee done? They have simply reported the bill which was introduced and referred to the committee for building a bridge at Quincy. They have reported the bill back, only changing the height and the span of the bridge. But, sir, if a bridge is to be built at Quincy—I live in that neighborhood; I live only thirty miles from the town of Hannibal and only fifty miles from the town of Quincy; I know that country perfectly well—let me ask the Senator why he presents an objection to the building of a railroad bridge at Hannibal. What new light can the committee shed on it that cannot now be given?

Mr. RAMSEY. Does the gentleman want an answer now?

Mr. HENDERSON. The Senator can answer me directly. I am going to state some facts with which I am perfectly conversant, but with which, perhaps, the Senator is not. The Hannibal and St. Joseph Railroad Company first constructed its road from Hannibal to the town of St. Joseph, and that road is now being continued across the State of Kansas in a direct west line, and is to connect with the great line of road to the Pacific ocean.

After the construction of the road from Hannibal, the State of Missouri granted a charter to construct a branch road from the town of Palmyra, some fifteen miles from the town of Hannibal, so as to go directly to Quincy. The Legislature of Missouri might have prevented this railroad connection, but we did not see fit to do so. We permitted the Hannibal and St. Jo. Railroad Company to connect with the northern cross-road, which leads from Quincy to Chicago. A road is now being constructed across Pike county, Illinois, from Naples, on the Illinois river, which connects with the Toledo road—the Great Western road, as it is called—from Fort Wayne directly on to Hannibal. This road will soon be finished. Now, a bridge can be constructed at the town of Hannibal just as well as at the town of Quincy, and, let me say to the Senator, much more easily. A bridge can be constructed there with much greater facility, because the river is not so wide at Hannibal as at Quincy, and there is a better steamboat channel, a more condensed and more compact channel, there than at Quincy. A great line of railroad, leading from Pittsburg directly to Hannibal, will soon be in operation; indeed, it is to the town of Naples, within a few miles of Hannibal. Again, I ask the Senator, why, if a bridge is to be constructed at Quincy, shall not one be constructed at Hannibal also?

If you look at the travel and transportation of the country, if you look at anything beyond the mere interests of the town of Quincy alone, I can see no reason whatever why you should

not also allow a bridge to be constructed at Hannibal. I do not know whether it will benefit the town of Hannibal; I care not whether it does or not. I do not know whether the construction of this bridge will be of any substantial benefit to the town of Quincy. My impression is, that the construction of railroad bridges, such as are contemplated in this bill, upon the Mississippi river will do all the towns more damage than good. However, if the Senator desires to pass bills of this character, I shall not put myself in the way.

The Senator is very well aware that there is no break in steamboat lines between the town of Quincy and St. Louis. We have no line of packets running directly to Hannibal and back; we have none running directly to Quincy and back; but the lines of packets running from St. Louis continue their trips to the town of Keokuk, and there is no obstruction in the way. The navigation of the Mississippi above the town of Hannibal is just as good as it is between Hannibal and St. Louis, and indeed better. Therefore we do not need any different sized packets to navigate the Mississippi river between those points; and why is it that it will be an injury to construct a bridge at the one point and not at the other? The same lines of boats that pass under the bridge at the one point will be required to pass under it at the other.

But, Mr. President, a short time ago we provided for the construction of a railroad bridge at St. Louis. What sort of a bridge did we provide for constructing there? Was it such a bridge as the Senator now proposes? Certainly not. The bill which the Senate passed a short time ago at the instance of my colleague [Mr. Brown] required that the lowest part of the bridge at St. Louis should be fifty feet above high-water mark at its greatest span; that the bridge itself should have a continuous or unbroken span; that it should have one span at least six hundred feet in the clear, or two spans of four hundred and fifty feet in the clear of abutments. If the two latter spans be used, the one over the main steamboat channel must be fifty feet above high-water mark, measured to the lowest part of the bridge at the center of the span. Now, let us see what sort of a bridge is proposed here. The Senator from Minnesota provides in this bill that it may be built as a draw-bridge with a pivot or other form of draw, or with unbroken and continuous spans. We provided in regard to the bridge at St. Louis that it should not be built as a draw-bridge at all. Then it is here provided—

That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge; nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of the river.

It was provided, in regard to the St. Louis bridge, that the spans should not be less than six hundred feet. It is here provided that they may be only two hundred and fifty feet. Now, let me suggest to the Senator from Minnesota that if a bridge of this character is to be built, it will seriously interfere with navigation. I do not ask that a bridge of six hundred feet span shall be constructed at the point where a bridge is now proposed, but I do think that no bridge of less span than four hundred feet ought to be built upon the Mississippi even with continuous spans.

Mr. SHERMAN. It cannot be done.

Mr. HENDERSON. Mechanics say it can be done. The very best mechanics of St. Louis wrote to my colleague and myself that a bridge could be built at the city of St. Louis with a span of six hundred feet.

Mr. RIDDLE. Only by iron suspension bridges.

Mr. HENDERSON. I care not how it may be done, provided the bridge is put fifty feet above high-water mark, so as to enable the steamers to pass beneath the bottom chord of the bridge. We do not ask that it shall be built

in one or the other mode; we only ask that it shall be built in continuous spans, and if they want to use iron they can do so.

But let me propose to the Senator from Minnesota, whose section of country is very rapidly growing into great importance, that in the course of a few years a great change has come about in the transportation of products upon the Mississippi river, much of which comes from his own thriving State. Instead of loading down a packet and running it through, a tow-boat is taken, with a large number of barges, requiring much more space than formerly in the transportation of the productions of that section of country. He will remember another difficulty, and a very serious one with us. From the State of Wisconsin, and his own State, perhaps, a large quantity of the lumber used in our section of country is brought upon the surface of the Mississippi river. These rafts are sometimes three hundred, four hundred, or five hundred feet in length, and repeated difficulty in getting them through between the piers of a bridge has been experienced at the town of Rock Island. He may say that a raft is never so wide as two hundred and fifty feet. I do not know in regard to that, but I know that some of them are very wide. He will remember, however, that the current in high and low water is not always the same on the Mississippi or any other stream. The passage of rafts between the piers of these bridges will certainly require a space of more than two hundred and fifty feet. Perhaps the Senator from Minnesota can enlighten me on the subject, but if I am not much mistaken, in high water, when the current is strong, and when the piers themselves are not in a line parallel with the current of the river, a raft may be started through properly, but before the entire raft gets through it will strike the piers, as has frequently been the case at Rock Island, if I am not mistaken.

Mr. GRIMES. At Rock Island the bridge is right at the foot of the rapids where the current is very strong; but no such condition of things can exist here.

Mr. TRUMBULL. The span there is only one hundred and twelve feet.

Mr. RAMSEY. The whole difficulty at Rock Island is the obliquity of the piers to the current.

Mr. HENDERSON. That is the very difficulty that I am suggesting.

Mr. RAMSEY. That is well guarded against in this bill. They are required here to be in the line of the current.

Mr. HENDERSON. I am very well aware of that; but the Senator will recollect that he may have them in the line of the current in low water and they will not be parallel with the current in high water. The Senator knows perfectly well that the current of the Mississippi is not always in the same line; that the current changes even in high and low water. The current of a river, I apprehend, is controlled more or less by the height of the water and by the obstructions that may present themselves, and those obstructions may be different in high water from low water. The building of a wharf at a town may change the entire current of the river for miles above and below the town. Such things have frequently occurred. The smallest obstacle in nature will oftentimes change the current even of a river like the Mississippi. The Senator need not tell me that when a pier is built at an ordinary stage of water parallel with the current of the river it is always so. We know to the contrary. We know that the current is different in high water from low water. Hence it is an utter impossibility; and when you come to abate these bridges as a nuisance in the courts it will be found that the testimony is never sufficient to do it, and when they are once fastened upon the surface of that river we shall never get rid of them.

I would gladly say to-day that no bridge shall be constructed on the Mississippi river. I do not wish to put obstacles in the way of railroad transportation; but when you bring into com-

petition with the transportation upon the Mississippi river the transportation upon the lines of the railroads of this country, I infinitely prefer that great river. Nature has made a better railroad there than man can ever make, one upon which the productions of that great country can be transported much more cheaply than they ever can be carried upon the lines of railroad built by mortal man. The road is already made. All that man has to do is to construct the car—the steamboat—and put it upon that magnificent stream. So far as I am concerned, I would not mar that stream, nor would I mar the stream of transportation that must pass upon it in all time to come, by the construction of these bridges.

But, sir, when the Senator tells me that the Senate of the United States is to enter upon a scheme of building these bridges, and proposes a bill the mere effect of which—not the object—is to benefit a little town in the State of Illinois at the expense of the people of my own State, and I offer to amend it so as to give them equal privileges with the people of Illinois, I am met with the proposition that no committee has examined it. What if they have not? I know that country perfectly well; and if ten thousand committees were to examine it, they could not enlighten us upon the subject. The Senator from Illinois knows the country perfectly well. I apprehend the Senator from Minnesota knows it. The lines of railroad from the East go directly to the city of Hannibal; and why not give us a bridge twenty miles from Quincy if a company will build it? I propose to amend the bill so as to let us have a railroad bridge at Hannibal, if Quincy is to have one. If we are to enter upon this system of railroad bridges far down immediately upon the surface of that great stream, and to have bells rung for the opening of the draws, when every half mile of that mighty stream in the course of a few years will be covered with the commerce of a mighty nation—for when I speak of the West I almost speak of this nation, and when I speak of the nation I speak of the West as it will be in the course of twenty years from to-day—when it is proposed to have these bridges, let us make them equal, and let the people of every State be equally benefited by them, if anybody is to be benefited; and if anybody is to be injured, let all be injured alike. I do not mean to vote for the building of any bridge so far as I am concerned, even if this proposition shall be amended. I hope that the Senate will not refuse me this amendment, because otherwise the bill would be unjust. Will any Senator tell me why the Toledo and Pittsburg and Fort Wayne road should not have a connection direct at Hannibal as well as the northern cross-road? It is a direct line from Toledo, by the way of Hannibal, to St. Joseph. It is as straight as it can be, much straighter than the other road. Then why not build a bridge there? I know of no point on that great stream better fitted for building a bridge than the town of Hannibal.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is Senate bill No. 74, for the admission of the State of Colorado into the Union, the pending question being on the motion to reconsider the vote of the Senate rejecting the application of that State for admission.

Mr. RAMSEY. Will it be in order to make this present bill which we are now considering the business of the morning hour to-morrow, or will it become so as a matter of course?

The PRESIDENT *pro tempore*. It would not become the special business of the morning hour under the present rule of the Senate.

Mr. GRIMES. It would come up after we got through with the morning business.

Mr. POMEROY. We had better make it a special order for to-morrow at half past twelve.

Mr. SHERMAN. I hope no special orders will be made.

Mr. GRIMES. I have an amendment which I desire to propose to this bill, and I should

like to have the privilege of offering it now that it may be printed.

The PRESIDENT *pro tempore*. If there be no objection, the Chair will receive the amendment, and the order to print will be entered.

Mr. TRUMBULL. I suggest that the bill be made the special order for half past twelve to-morrow, so as not to interfere with the morning business, and I make that motion, so that we shall be able to get it up to-morrow.

Mr. SHERMAN. I do not think we ought to make special orders now, especially of a bill of this character.

Mr. TRUMBULL. I will not insist upon it if the Senator from Ohio objects. We perhaps can get it up to-morrow morning without having it made a special order. I hope the Senator will allow it to come up then.

Mr. SHERMAN. I shall have no objection to its coming up, but special orders interfere with the general business of the Senate.

ADMISSION OF COLORADO.

The Senate resumed the consideration of the motion of Mr. WILSON to reconsider the vote by which the Senate refused to order the bill (S. No. 74)* for the admission of the State of Colorado into the Union to be engrossed for a third reading.

Mr. DOOLITTLE. Mr. President, the Senator from Nevada [Mr. NYE] in the course of his remarks yesterday was pleased to allude to me as having been instructed by the Legislature of Wisconsin to resign my seat in the Senate, and as misrepresenting my constituents on this floor. It is not my purpose to-day to go into any lengthy argument to defend my course here. I may ask the attention of the Senate to that matter on some other occasion, when those resolutions shall arrive of which we have been informed in advance by the telegraph. I will only say for the present that when I entered upon my second term of office as a Senator for six years from the 4th day of March, 1863, at your desk, sir, I took a solemn oath, not to obey the resolves of the individuals who might happen to be elected as members of the Legislature of Wisconsin, or to follow the opinions or caprices of any other body of men, but to support the Constitution of the United States, and faithfully to discharge the duties of the office which was placed upon me; and God helping me, I shall keep that oath.

Upon the other allegation, that I stand here misrepresenting the views of my constituents, the people of Wisconsin, I will only say that by no word or vote of mine on this floor have I in the slightest degree deviated from the formally expressed opinion of the Union party in Wisconsin in its last convention, upon which this very Legislature was elected, as well as the Governor and State officers—not in one word, not in the dotting of an "i" or in the crossing of a "t."

But, sir, there were two propositions brought forward in that convention which, by a large majority, were put aside: first, the proposition to make negro suffrage, as it is called, a party test in the State of Wisconsin; and second, to make it a further test that no representative from the southern States should be admitted into Congress, and the States of the South should not be admitted into full communion until they should adopt impartial suffrage—suffrage just as free to the blacks as suffrage exists in favor of the whites. Those two propositions, by a large majority of the Union convention of Wisconsin, were laid upon the table; and upon that vote, and because I acted with the convention in favor of putting those resolutions on the table, I am called in question by certain gentlemen in Wisconsin and elsewhere. In support of the action which the majority of that convention assumed to take, and which I advocated, and for which, so far as I had voice or influence, I admit myself to be responsible, what did we say? We said to the people of Wisconsin, in advance of the election to come off, "If you adopt negro suffrage as a part of your party creed in Wisconsin you

will be voted down by a majority of thousands; four fifths of the soldiers who have come home from the field will vote against it; and the soldiers of Wisconsin who are still in the field will also vote against it."

Now, what are the facts? We went into the canvass; we put aside negro suffrage as an issue; and what did we do? We elected a Union Legislature and a Union Governor and State officers by ten thousand majority. But what became of negro suffrage? It was voted down by ten thousand majority in the State of Wisconsin. The result justified what the majority said in the Union convention, and what I among them said. When the soldiers of Wisconsin came to vote, four out of every five of them voted against it. What was the fact in relation to the soldiers in the field? There were still 1,172 votes cast by our soldiers in the field, and out of the 1,172 votes that were cast on the question of negro suffrage how many do you suppose voted for it? Three. And yet men talk about pressing negro suffrage as a political question before the people of the country, and denounce me because I had the courage to tell the people of Wisconsin what I tell the Senate here: place yourselves upon that issue and you will be buried out of sight. They would have been buried in Wisconsin had they not followed my advice, which saved the Union party in Wisconsin, and elected this very Legislature which now undertakes to instruct me on this question as to how I shall act and what I shall do.

The other point was whether we in Wisconsin—and there this great battle began—should insist, as a condition-precident to the admission of the representatives from the South, and the admission of those States into full communion, upon negro suffrage at the South. The people of Wisconsin decided against it, and they will decide against it a hundred times over.

Mr. HOWE. If my colleague will excuse me, I did not quite understand what it was that the people of Wisconsin decided against. I was occupied at the time.

Mr. DOOLITTLE. I say the Union convention laid that upon the table by a large majority.

Mr. HOWE. What was "that?"

Mr. DOOLITTLE. The proposition to insist upon negro suffrage as a condition-precident before admitting the States of the South into full communion. The Union party of Wisconsin refused to do that, and because they refused to do it they sustained themselves in Wisconsin.

As I have said, I do not propose to go into this question at length. The members of this Legislature were elected upon a platform which rejected, as a party measure, negro suffrage in the State of Wisconsin, and rejected as a party measure the insisting upon negro suffrage at the South as a condition-precident to their being admitted into full communion; and they could not have been elected without it, and this Legislature, that that convention, acting with me, put in power, now assume to instruct me because I do not follow their behests! Mr. President, let me warn my friends here, as I warned my friends in Wisconsin—and I do it in all sincerity—that is a rock on which you will split; if you fall upon it, you will be broken; let it fall on you and it will grind you to powder; try it on just as soon as you please.

While I insisted that it was wrong for the Federal Government to undertake to dictate to the States who should exercise the right of suffrage within their borders, and while I was opposed to making negro suffrage a part of the platform or creed of the Union party of Wisconsin, I, as an individual, did not object to negro suffrage in Wisconsin; and why? Because the class of colored persons who reside within our State are, from habit, from education, trained as freemen among freemen, capable of exercising the right of suffrage, and I advocated the extension of the right to them, and I voted for it as an individual.

Mr. COWAN. How many of them are there there?

Mr. DOOLITTLE. Three hundred in the State. But, Mr. President, as I said in the beginning, I do not intend to go into that question now at any length. My purpose is to come directly to the question pending before the Senate. I agree with my honorable friend from Massachusetts [Mr. SUMNER] in very much that he has said on this question. There are some things in which I do not concur with him, but at the same time I always accord to him the highest patriotism and perfect sincerity of purpose and character. One of the points on which I differ with him is this: I maintain that one of the rights which belong to the States under the Constitution, and which they have had from the beginning, is to judge for themselves on the question of suffrage. Believing that to be the right of a State, I do not feel at liberty to vote against the admission of a State because it declares that no Indians shall vote, or no negroes shall vote; or if it declares that certain classes of Indians may vote, or certain classes of colored men may vote; or even if it should go on to declare that women may vote. I should not vote to reject the constitution for that reason. If it established a property qualification, if it established an educational qualification, although I did not agree in the principle, perhaps, which was involved in the constitution, I would not oppose the admission of a State for that reason, because I believe that is a question that the State should pass upon for itself.

There is another point on which I feel called upon to say a word. I do not fully concur in the information which my honorable friend has in relation to the gentlemen who appear here claiming seats in this Chamber as Senators from Colorado. I do not know what may have occurred in the presence of the committee on the conduct of the war, or the sub-committee—

Mr. SUMNER. That is all that I quoted. I added nothing to that.

Mr. DOOLITTLE. I say I do not understand what may have occurred in that committee. I only know that before another committee of the body testimony was taken on the same subject; I refer to the Sand creek massacre. Governor Evans, the person alluded to, appeared before that committee on two or three occasions, and I must say that there was nothing in the testimony which led those of us who heard it to suppose or believe that Governor Evans had any knowledge of the meditated attack of Colonel Chivington upon the Indians at Sand creek. Indeed, there was some testimony before us which tended to show that Chivington made the attack without any knowledge on the part of Governor Evans. I feel that it is but just to Governor Evans to say this. As to the Sand creek affair, I shall not speak at the present time. I have already expressed my opinion on that subject in very strong terms in the Senate.

Having said thus much, I come directly to the consideration of the question that controls my mind on this subject; and that is the question of the population of the Territory of Colorado. In 1861 there was a census taken of the population of Colorado, and the census showed that there were there 18,223 males, 2,622 minors, and 4,484 females, making the aggregate population 25,329. At that time there were 10,580 voters in the Territory, or one voter to every two and a half of the population. If you assume the relative proportion of voters to the population to be as one to two and a half you can form a very correct estimate of the population during the years 1862, 1864, and 1865, for in each of those years elections were held, and the votes of the people of the Territory were taken. In 1861, as I have stated, there were 10,580 voters in a population of 25,329. At the election held in 1862 there were 8,224 votes cast, and the same ratio would give us a population of 20,560. In 1864 there was another election held, at which there were 6,192 votes cast, and the same pro-

portion would give a population of 15,480. In 1865 there was another election held, and the number of votes cast was 5,905, and the same proportion would give a population of 14,762.

The question arises, if the population of Colorado was 25,326 in 1861, how can it be that that population now is but 14,762? The causes are sufficient to any one who is familiar with the history of the time. Colorado is surrounded by other Territories full of mines, and these miners, who are without families generally, can, without great expense, and without any trouble or the breaking up of family ties, at once migrate from one mining district to another, and the mining districts of Idaho and Montana have actually drawn off this population from Colorado. General Pierce, the surveyor general, says, speaking of the population of Montana, that it was about 40,000, one fourth of which came from Colorado. According to that statement nearly 10,000 of the mining population left Colorado to go to Montana. Others, perhaps, went in and to a certain extent supplied their places.

Then, another cause has been in operation to diminish the number of people in Colorado. While the war was pending there were two or three regiments raised in Colorado; they were employed mostly in fighting the Indians, and some few came further east into Kansas, and into the service of the United States. The Indian wars and difficulties upon the plains interrupted the communication between the States and Colorado, and made provisions in Colorado so very expensive that it was impossible for them to sustain mining operations with any great degree of success; and it is a fact which you, Mr. President, and I very well know, (for we witnessed it with our own eyes last summer,) that very many of the mining operations were suspended in Colorado. Out of perhaps thirty mills but three or four were in successful operation. In consequence of the two facts to which I have referred, the emigration of the miners into other districts, and the interruption of communication across the plains, the expenses of living and feeding a single person were at least five dollars a day. How would it be possible in the Territory of Colorado to maintain the successful operation of mining at such a high price of provisions?

Mr. President, we know very well that in the south part of Colorado, over in the San Luis Park, the greater portion of the population is Mexican, and we know from all accounts that all that portion of the population are very much opposed to Colorado coming as a State in the Union in its present condition.

How, then, stands the question in relation to the people of Colorado? Do they desire to be admitted? Sir, the balance of the testimony is decidedly against it.

Mr. POMEROY. I do not like to interrupt the Senator, but I do not understand that the people in New Mexico, or that portion of them in Colorado, are at all opposed to it, because New Mexico herself has formed a constitution, and I am glad to say they have not got the word "white" in it, and they are coming here to ask that they may be admitted. They are acting with great unanimity in New Mexico on the subject.

Mr. DOOLITTLE. What I stated was that that portion of the people residing in the southern or southwestern part of Colorado, in the valley of the San Luis Park, which is the Mexican population, who speak Spanish, are very much opposed to having Colorado admitted into the Union as a State.

Mr. POMEROY. I cannot see why they should be so opposed to it, when the Mexicans in New Mexico are in favor of a State. I have yet to learn that that is so.

Mr. DOOLITTLE. That undoubtedly is the fact.

Mr. McDougall. Allow me to say that I have been there. The population of the San Luis Park belong properly to New Mexico; all their relations are there. They are opposed to the organization of this Territory as a State,

being compelled to connect themselves with an organization that is altogether American. They are in favor of a State in New Mexico. I examined with great care the natural boundaries; and the natural boundaries would throw that population of some seven thousand into New Mexico proper. Mere lines do not make the boundaries of States.

Mr. DOOLITTLE. The Senator from California states the fact that the San Luis Park, which is separated from the residue of Colorado by immense mountains, was settled by the Spaniards, and settled from the direction of New Mexico, and it is a Mexican population speaking Spanish. They from the natural boundaries belong to New Mexico; it is an artificial line which has separated them from New Mexico and embraced them within Colorado. The fact that they desire to withdraw from Colorado or have an act of Congress to withdraw them from Colorado and allow the San Luis Park, or a portion of it, to be attached to New Mexico is one reason, perhaps, why they are opposed to Colorado coming in as a State, including them.

But, Mr. President, if we come to the votes themselves, what do the facts show? Do the facts really show that the population of Colorado desire to come into the Union as a State? We passed a law and submitted the question to the people of Colorado. They decided against it by a vote of three to one in September, 1864, when there was more population than there was last September, 1865. They decided then three to one against it; but since then, without any law, by mere voluntary election, called under a voluntary understanding of the committees of two political parties, a convention was got together which formed a constitution and submitted it to the people for their ratification or rejection; and they held an election at which the whole vote polled was 5,905, and of that vote 155 is the majority in favor of the constitution. Here are one hundred and fifty-five persons more in the Territory of Colorado who desire a constitution and State government, than there are who are opposed to it, by the vote that was taken last fall; and yet by the vote which was taken a year ago when their population was more numerous than it was last fall, when the vote was heavier than it was last fall, they decided against it three to one; there were but 1,520 for it and 4,672 against it.

Now, Mr. President, upon these facts, when the population is so small, when it is so doubtful even whether the people of Colorado desire or a majority of the people desire to be admitted as a State, is it wise, is it just for us to pass this bill to admit them as a State into this Union? When I look at this as a practical question, and think that the little county of Racine, in which I live, which is principally an agricultural county, a little county twelve miles by twenty-four, has more voters and population than this proposed State of Colorado which it is sought now to admit into the Union with two Senators on this floor, it seems to me so plain that it is unwise for us to do it that I can hardly argue the question. Here is a population of not more probably than fifteen thousand. The mayor of Denver, in the last letter which has been read in the Senate bearing on this question, claims that there may be a population of thirty-five thousand in the whole Territory. Suppose there were thirty-five thousand; that is just about one fourth of the number sufficient to entitle a district to one member of Congress, for it requires over one hundred and twenty thousand population to be entitled to one Representative under the present ratio.

Sir, it is said that States have sometimes been admitted with a small population. I remember that Florida was admitted with a very small population; but who does not know that it was a question connected with slavery that forced Florida into the Union with that small population, that Florida was to come in as a slave State to balance against the State of Iowa, which was a free State? So, too, in relation to Arkansas. She came in with a small popula-

tion, but it was to balance against the great State of Michigan, and the act was always regretted afterward.

Mr. President, is there any political necessity upon us to force us to adopt this bad precedent, a precedent which has been condemned by all just-thinking men in the case of the admission of Florida and the admission of Arkansas with their small, insignificant population as States in this Union? That was then pressed as a necessity in order to balance off slave States with free States. They must, it was supposed, be admitted in pairs. Is there any such necessity now, when every State in the Union is a free State and no State in the Union is a slave State? Why should we do this great wrong?

Mr. NYE. Will the Senator allow me to ask him a question? What was the excuse for admitting Oregon with a small population?

Mr. DOOLITTLE. What was the population of Oregon?

Mr. NYE. Very small when the act of admission was passed.

Mr. DOOLITTLE. It was alleged, if I remember aright, that Oregon contained a population of from forty thousand to sixty thousand when it was admitted, and that was many years ago, when the ratio of representation was not as high by one third as it is now. When Wisconsin was admitted she had three Representatives. When Minnesota was admitted she had two. When Michigan was admitted I believe she was admitted with two Representatives. Iowa, when admitted, had a sufficient population to be entitled to two Representatives. If, as is alleged, Colorado possesses such vast and boundless fields of agricultural and pastoral lands, if, as is alleged, her mountains are full of mines, we need not wait very long. Now that peace is once more established upon the plains, in the course of one, two, or three years Colorado may fill up sufficiently with a population to be able to bear the burdens of a State government. We may then pass an enabling act and submit the question to the people of Colorado, and determine whether or not she ought to be admitted into the Union.

Mr. President, there is another consideration that ought not to be forgotten. When the election was held in September, 1864, to determine whether they would come into the Union or not, it was held, under valid law, so that persons who were guilty of the crime of voting when they were not entitled to vote or who were guilty of perjury at the election might be punished; but when this voluntary election was held in 1865, it was without law, without any authority, it was just as void as any other assembling of the people without any authority of law. Hundreds and thousands, perhaps, might not have voted at all at such an election, regarding it as an election without force; the Mexican portion of the population, in the southern part of the Territory, may not have voted at all, and in other districts they may not have voted.

Mr. President, I certainly see no such necessity, political necessity or any other necessity, for the admission of this State at this time as to justify us in doing it. I know it is sometimes claimed that the enabling act has pledged the good faith of Congress that they shall be admitted. Sir, that enabling act was passed in the belief that there were at the time of its passage from forty to sixty thousand people in Colorado. The chairman of the Committee on Territories stated to the Senate that that was the amount of the population of Colorado at the time. That was a great mistake. It is proved by the census that there were but 25,000; and if Congress were deceived; if Congress were imposed upon; or if Congress in mistake of the fact passed an enabling act by which they could form a constitution and come into the Union it does not lie in the mouth of the people of Colorado or any one else to say that there is any want of good faith on our part after the people of Colorado have exhausted the powers under the enabling act, and the law itself has had its effect. Until some act of Congress has been passed, the faith of this Government is not

pledged anew to the people of Colorado that if they held another election we should admit them as a State into the Union. Sir, they come here precisely as if they had originated a constitution without any enabling act. An enabling act is not necessary to the existence of a State or to its admission in the Union; but when the people of a Territory proceed without an enabling act they must show themselves in a proper condition to satisfy Congress that they can assume the responsibilities and duties of a State government. They do not show it. The contrary is shown. They do not show a population amounting to one quarter of what is sufficient to entitle them to a member of Congress. For these reasons I am opposed to the reconsideration of this bill.

Mr. LANE, of Indiana. Mr. President—

Mr. HOWE. Will the Senator from Indiana allow me a short time on a question upon which my colleague has spoken?

Mr. LANE, of Indiana. Certainly.

Mr. HOWE. Mr. President, the State of Wisconsin and the action of her Legislature and the action of the last convention which assembled in that State representing the party which sent my colleague and myself here have been referred to to-day, and were referred to yesterday, and on one or two previous occasions, and referred to in a manner which seems to me to demand some attention from myself.

Mr. President, of course I am not here to say that my colleague is not perfectly justified in his own judgment for each and every one of the votes he has given since he has been a representative of the State of Wisconsin here; but when he goes further than that, and not only assumes but asserts that he stands justified for these votes by the action of the last State convention held in the State of Wisconsin representing the Union party, or by any convention which ever assembled in that State representing that party, I think he assumes too much and asserts what the record of that convention will not substantiate. There was nothing, as I recollect the action of that convention, which could justify either of the votes which my colleague has given during the present session of Congress on which he has differed from the great body of his political friends about him. I ought not to speak very confidently on this point, perhaps. My colleague ought to be presumed to know better what was the action of that convention than I myself. It is true, as he has stated, that he was a member of that convention. I believe he was the chairman of the committee which drew and reported the resolutions adopted by that convention. If I mistake upon any of these points, he will of course correct me. He was, therefore, a prominent member of that convention. I was not a member of it at all. He saw the whole of it, and he was a great part of it, I think; but still I believe I cannot be mistaken in saying that the resolutions adopted by that convention cannot be urged here as authority for some of the votes which he has given.

I heard this, as I thought, asserted by my colleague yesterday on the floor, and I have looked for a copy of those resolutions this morning to see what there was in them that could be held up here as a justification for these votes of which the recent Legislature of Wisconsin has complained. I have not been able to find a copy of the resolutions, but I find one of them in a speech which my colleague himself made in the Senate on the 17th of January, I think—at least some time in January. Probably that resolution goes as far to justify the votes which have been commented upon in the State of Wisconsin as anything to be found in the whole series. Let me reproduce that resolution:

“That the *animus* which caused the late rebellion against the United States was born of the pride and ambition of an aristocracy founded upon slavery, which the war and the emancipation proclamation of President Lincoln has rightfully destroyed; and we deem it essential to the regeneration of the late slave but now free States that they should in good faith accept their new constitution as free States, not only by abolishing slavery in their State constitutions, but by the ratification by their Legislatures of

the amendment to the Constitution of the United States, submitted by Congress and now pending, which forever abolishes slavery in every State, and empowers Congress to pass all laws necessary to secure liberty to all the people, black and white. By its adoption the cause of the rebellion will be removed, slavery destroyed, liberty established upon a foundation which neither State, nor President, nor Congress, nor court, nor change of parties can shake; as enduring as the globe itself. By its adoption all the people of those States, all the world will know that they accept freedom as their situation and give up slavery, and all hope of restoring slavery, forever.”

Now, I think my colleague will agree with me that there is nothing in the whole series of resolutions passed by that convention which comes nearer to an indorsement of the particular votes of his which have been complained of than the resolution I have just read. I think I shall do my colleague no injustice if I remark that he himself was the author of that resolution, and I am certain that I do neither him nor the resolution itself any injustice when I say that right there in that resolution is found authority for every proposition which has been advocated by any one on this floor, and which has been denounced as radical, as disunion, and as disloyal. Mr. President, there and then, and through that very resolution which I have just read, my colleague instructed the people of Wisconsin and the people of the Union that to reorganize those communities down there, it was necessary, not indeed for them to put the ballot into the hands of black or white men, into the hands of one class or another, but that it was necessary for them to do certain things, to incorporate certain provisions into their own constitutions, and to assent to an amendment to the Constitution of the United States. Did he ever instruct the people of Wisconsin, or would he, without repudiation and indignant rebuke, have allowed anybody else to say to the people of Wisconsin, that the United States could tell them to put a paragraph or a word into their constitution, or to strike it out; have allowed the United States to tell Wisconsin that she must assent to one proposition or another as a part of the Constitution of the United States? Certainly not. No one yet has ventured to tell any State in allegiance to the Government of the United States what sort of constitution she shall form, or what sort of amendments she must incorporate into the Constitution of the United States.

I am not controverting the truth of what was asserted in that resolution at that time; but I do say to my colleague, to you, sir, to the Senate, and to the world, if they would only listen, that the power which can tell the State of Georgia or the State of Alabama to assent to an amendment of the Federal Constitution, or to incorporate any especial provision into her own local constitution, can do all things that we have been asked to do, and can make them put anything else into their constitution, or assent to the putting of anything else into our Constitution that we believe to be right. If you find anywhere the authority to say to the people of Georgia or Florida, “You must incorporate one amendment into the Constitution of the United States before you can be restored to the roll of States,” you can tell them to incorporate anything else into that Constitution. Instead, therefore, of this resolution affording a justification for the votes which my colleague has given, or for those peculiar views which he has urged here, and which have been complained of in our State, I must say again, as I said before, that I think it affords the most ample justification for every proposition which has been urged by the great majority of his political friends here, and which he has complained of as radical if not revolutionary.

Mr. President, the minority of the committee appointed by that convention to draft resolutions did, as I understand, ask the convention to adopt two resolutions, one declaring in favor of admitting negroes to the right of suffrage in Wisconsin; and I do not recollect the phraseology of the other resolution, but it was to the effect that they ought to be admitted to the right of suffrage in this southern insurrectionary portion of the country. My colleague says that those resolutions were laid

upon the table by an immense majority. The decision of the chairman of the convention was that they were lost, that the motion to lay upon the table had carried. I am not here to say that that was not the fact, because the convention was not divided; but I think I am warranted in saying that it could not have been by a very large majority of the convention, because I have been informed by a great many very candid gentlemen who were members of that convention that, judging by the sound, there was actually a majority against laying the resolutions on the table, but the chairman decided otherwise. I believe it was the last vote taken in the convention, after a great many members had left the building and left the town, when all were in a hurry to go. It was the last vote taken except the formal vote of adjournment, and the convention was not divided.

But, Mr. President, that the Union party of Wisconsin did think that the ballot ought to be put into the hands of the colored population in Wisconsin my colleague will not deny. That a very large majority of them voted in favor of putting the ballot into their hands, he certainly will not deny, for the record proves it. My colleague thought, and so advised, that it was unsafe to commit the party to that proposition. I thought otherwise then. I told him that I thought otherwise. I think otherwise now. With all the light which the late election has given me on the subject, I think it would have been wise for that convention to have recommended to the people of Wisconsin to accord suffrage to the few hundred black men within the limits of that State.

My colleague says that he voted for extending the right of suffrage and he advocated it before the people. I am glad to hear him say that he voted for it. I shall not undertake to say that he did not advocate it; but my colleague will allow me to say to him that if he did advocate the extension of suffrage in our State last fall, he did not do himself full justice; that he is capable of advocating a cause more ably, more conclusively, and, when he is advocating a good cause, as that was—he admits it or he would not have advocated it at all—he is capable of advocating it more successfully than he did that. I recollected, when he made this statement yesterday, a speech which he made in the city of Milwaukee, and which was published extensively through that State, and which was published in the National Intelligencer in this city, and was headed his "speech on negro suffrage." That was the only speech of his I ever saw or heard of advocating negro suffrage; and now I want to call his attention more particularly to one or two extracts from that speech, to vindicate what I have just told him, that it was not his best style of advocacy:

"Now, then, fellow-citizens, while I myself, more than twenty years ago, in the State of New York advocated the extension of suffrage to the colored men there, because I believed that a large majority of them were of sufficient intelligence to exercise that right, and although when it was submitted in Wisconsin I voted for its extension and expect to vote for it again when I go to the polls, I tell you I will not consent to make this question a matter of close communion in the Union party in Wisconsin. Gentlemen tell me that this is arguing from motives of expediency. Sir, it is arguing from the highest expediency, doing that which is right, and therefore is always the best. I maintain that at the present time the highest duty of the members of the Union party is to maintain their supremacy in the administration of this Government until the rebellion is over, and until the fruits of this struggle are gathered. It is not only suicidal but a crime of the highest magnitude as now to become divided and disorganized, and thus surrender the Government into the hands of a party who has opposed and embarrassed it during the prosecution of the war. You know very well and we all know that this matter of prejudice, for you may call it by that name, if by no other, is the most difficult of all things to manage in the human heart. You cannot reason with it, but it is a stubborn fact."

Now, Mr. President, I think I have read all there is in that speech in support of extending the right of suffrage to the negro. I am not complaining of my colleague for not saying any more last fall in defense of that law.

Mr. DOOLITTLE. My colleague will allow me to state, without interrupting him, that in

the convention to which he refers, I stated the same, and also in all my speeches that were published. I perhaps did not argue it at length for we were fighting other matters than that question; we were fighting to carry the Union party, and we did it.

Mr. HOWE. I do not dispute but that my colleague might have said as much as this in the convention which he attended. I do not dispute but that he might have said as much as this at some other meetings that he attended in that State. All I am saying or insisting upon is, that it is not as much as he can say in defense of a cause that he has at heart and wants to carry. He can do better than that, and therefore I infer that the extension of the suffrage to the negro did not have his best efforts last fall. I think, Mr. President, that if he and if that convention had lent to that measure of right and of justice the full benefit, the full weight of their names and their indorsement, the vote of that State would have been given in favor of the law.

Sir, if you look at the return of that vote you will find that while in most precincts the vote for the extension of suffrage fell below that given for the State ticket somewhat, in a great many of the precincts they ran right along parallel to each other, indicating that the same individuals who voted for the State ticket voted for the extension of suffrage, showing to a great extent that it was a party question, so treated in those precincts. The men who made up the Union party in those precincts were just like the men who composed the Union party in all the other precincts; but it happened that in the towns there were here and there politicians who thought there was something to be made, some evidences of wisdom to be exhibited, by avoiding the question of suffrage, and their influence was given against it; and you could almost count the individuals who reduced the vote for negro suffrage below the vote given for the State ticket. If the convention had indorsed that measure, as they indorsed the State ticket, we should not have seen these evidences, I think; and I think so the more, because of a very peculiar fact not at that time known to my colleague, and I am sorry to say not known to myself. That peculiar fact was that the law of our State at that very time did secure to every adult colored man the right to vote. The advice that my colleague gave to that convention, and upon which they acted, was simply this: it is not safe for you to put into your platform a measure which stands as the law of the State to-day. In 1849, if I am not mistaken in the year, the people of that State, a majority of them voting upon the question, voted to extend the right of suffrage to this very class. It was decided by the canvassers at the time that that was not sufficient to clothe them with the right, and they never claimed or exercised it until the late election. Then they did claim it, and it was denied to them; a suit was commenced, and since that time the supreme court of the State have decided unanimously that the vote given sixteen years ago did confer upon them the right of suffrage; and my colleague will not insinuate, nor will any man that knows the individuals composing that court, that it was dictated or influenced in any degree by political or partisan feeling. No one will assert that. Nay, more, I have not yet seen the first paper uttering the opinions of the Democratic party in that State, which assails the soundness or the justice of that decision of the supreme court.

Mr. President, the three measures upon which my colleague has differed most broadly from his former political associates in this body, and which have occasioned the most regret, not to say grief, among our friends in the State of Wisconsin, I believe may be said to be first his action upon that proposition recently pending which proposed to declare that these rebel States should not send representatives back here except with the assent of Congress embodied in an act; secondly, the vote he gave upon the question submitted to the Senate, Shall the bill extending and enlarging the pow-

ers of the Freedmen's Bureau be passed notwithstanding the objections of the President? and thirdly, the vote he recently gave upon the proposition to pass the civil rights bill, so called, under the same circumstances and over the veto of the President.

Now, I must be allowed to say, and to say very frankly, that not only is no one of these votes sanctioned by the action of the late State convention in Wisconsin, but every one of them is condemned by the express action of my colleague himself. He himself has declared individually against every one of these votes. The record has been presented here over and over again, showing that two years ago he voted for a proposition declaring in very words that no one of these States should send back representatives here until the assent of Congress was declared.

Mr. DOOLITTLE. I will ask my colleague how he voted on that question; for or against it?

Mr. HOWE. Mr. President—

Mr. JOHNSON. If the honorable members will excuse me, I rise for the purpose of inquiring what is the question before the Senate.

The PRESIDENT *pro tempore*. The question is, Shall the vote refusing to admit the Territory of Colorado as a State into the Union be reconsidered?

Mr. JOHNSON. I do not see that this discussion has much reference to that question.

Mr. HOWE. I am surprised that the honorable Senator from Maryland does not see the point. [Laughter.]

Mr. JOHNSON. I do not.

Mr. HOWE. If this is not germane to that question, I cannot conceive very well what should be. [Laughter.] I am very clear that it is germane to the debate which has taken place on the question, and I supposed that the present debate was strictly in order; therefore in carrying it out I supposed that I was strictly in order.

But to answer the question of my colleague, I believe the record shows that I did not vote on that question. I believe the investigation shows that I was engaged at the time on the Finance Committee. I want to say that if I had been here, I do not think there is any rational doubt that I should have voted for that proposition, because the record of the debates which have taken place here will show that I have made repeated demands since 1861 for such a legislative declaration as that was.

Mr. President, I refer to that little passage of history now in connection with the statement of my colleague that his vote was sanctioned by the State convention, simply, as I said, to show that not only the State convention was silent upon that precise point, but that he himself had committed himself to the doctrine which is now entertained by the great bulk of his friends on this floor.

The second vote which he gave here, and which has occasioned great regret among our friends at home, was the vote he gave on the passage of the Freedmen's Bureau bill, so called, over the veto of the President. The expediency of that measure, and its constitutionality, I suppose, he had himself declared, as I understand, having voted in favor of its passage when it passed the Senate. To that he had given his assent. Of course, when he voted for that bill he was not voting in defiance of instructions which the late State convention had given him. He did not understand that that State convention had incorporated anything into their platform which precluded him from voting for the passage of that bill. If he had, he would not have voted for it.

When the civil rights bill, so called, passed the Senate, I believe my colleague did not vote for it; but I believe he did say, subsequently, that if he had been in his place he should have voted for it; and would he have said so, will he assert now that he would have made such a declaration, if he had supposed that the late State convention had instructed him against giving any such vote? I do not conceive that he would have made any such declaration.

I conclude, therefore, that I am abundantly justified in saying that to each one of the measures upon which he has given a vote which has occasioned regret in our State he had previously given his assent. And now I think I have a right, and I think it is my duty, to plead these facts in defense, not of myself, nor by way of prosecuting my colleague for one moment or by one inch, but to plead them in justification of the action of the recent Legislature of Wisconsin. He asserts that that Legislature, in instructing him to resign or instructing him as to his votes, have themselves violated instructions given to them by the convention from which he says they originated. In the first place, I think, it is fair to say that the members of the Legislature are in no way bound by the action of that convention. The members of the Legislature represent precisely the same constituency that the convention did. They do not take instructions from any convention. It would be fair to say this, perhaps, of officers elected by the State and selected by the convention; but the members who represented that State in its Senate and in its House of Representatives were not selected by that convention, do not represent it, are not responsible to it. Secondly, I say once more, what I have already said, that the convention from which he says that Legislature sprang gave no such instructions as he has appealed to.

Mr. President, I believe this is all I need say in defense of the Legislature of Wisconsin. I cannot quit the subject without saying once more that my purpose in saying this is not in any way to attack my colleague. I thought I was bound to say something in defense of the Legislature. I believe they acted in entire good faith. I believe the difference of opinion which has developed between them and my colleague has occasioned them heartfelt regret; but that they have represented the loyal—no, I will not use that term now, speaking of political parties—that they have represented the Union party of that State, I must be allowed to say there is no longer any room or any excuse for denying. That should be conceded. It has become the fashion, which my honorable friend from Nevada [Mr. NYE] yesterday legitimated—it never was legitimate before—to read from letters extensively. As I received one yesterday from a gentleman who never allowed himself to be called anything but a Democrat until this war broke out, a gentleman holding a very high official position in our State, a position assigned to him by the Democratic party, and holding it in a very strong Democratic neighborhood and district, I feel tempted here, upon this point and in this connection, to read one paragraph. He has been known in our State since the rebellion broke out as a war Democrat, so classified in the nomenclature of parties in that State. He says:

"The Union party, including the war Democrats stand by Congress in Wisconsin, and no palaver will wheedle our people on this simple issue. We are for reconstruction on the basis of justice, and not for the incorporation of the rebel element without either reconstruction or justice. Congress is right and the President wrong on this issue."

Mr. DOOLITTLE. What is the name?

Mr. HOWE. My colleague asks me the name of the writer of this letter. I think I have described him so well that my colleague cannot be mistaken as to who he is; but I think every gentleman will see that I ought not to repeat his name because I have no authority for repeating it. I do not think he would hesitate to be held responsible for every sentiment that is there contained; but still, without having the authority to use his name, I certainly should not do so.

So much in reference to the State of Wisconsin and to the action of her Legislature; and being very much to my regret, on the floor, I believe I ought to say a word or two about the proposed State of Colorado. I would not allude to the subject only that I believe the Senator from Maryland [Mr. JOHNSON] rather insists that that is the pending question. [Laughter.]

Mr. DOOLITTLE. My colleague will allow me, before he enters on that subject, simply to

say that I will not now take the time or ask the time of the Senate to discuss this question between the Legislature of Wisconsin and myself until those resolutions arrive here which it has been said were passed; but at some time I will take up the question and then I will consider the subjects which my colleague has to-day presented. I simply intended to reply to-day to what was stated by my honorable friend from Nevada [Mr. NYE] yesterday; but my colleague has gone into some two or three other matters; and when the resolutions come here, I will express myself in full upon the whole subject and will reply to what my colleague has said.

Mr. HOWE. Mr. President, that is all perfectly satisfactory, of course. I declared that I was about to say a few words on the pending question; but I am aware that I took the floor from my friend from Indiana, and I took it for the purpose of making this explanation, speaking on a point really irrelevant to the issue. I do not think I have a right to keep it for any other purpose, and I now yield it to the Senator from Indiana.

Mr. LANE, of Indiana. Mr. President, I do not propose to enter at any considerable length into the general discussion of the subject before the Senate. I rise more especially for the purpose of performing an act of justice toward an old, long-tried, trusted, and true friend, whom I have known for thirty years. If the distinguished Senator from Massachusetts [Mr. SUMNER] had contented himself yesterday with referring simply to considerations growing out of the condition of Colorado and what he regards as the exceptionable features in the constitution of that State, I should not have felt bound or called upon to say one word further in the discussion of this subject.

The Senator from Massachusetts undertook, however, to disparage statements contained in the pamphlet signed by the two Senators-elect from Colorado by reference to the report of the committee on the conduct of the war, in which the name of Governor Evans, one of the Senators-elect from Colorado, occurs. That report was made under a misapprehension of the facts. The evidence was taken first before three members of a committee consisting of nine, then before two, and finally, as I understand, only one member of the committee was present. They acted, doubtless, with perfectly fair and honest intentions, but they did injustice unintentionally to Governor Evans, as I am prepared to show by an abstract of all the documents bearing upon the subject. The report of the committee accuses Governor Evans of prevarication as a witness before that committee. The point in issue was this—

Mr. WADE. As I do not know that I shall make any speech on the subject, and allusion has once or twice been made to what occurred before the committee on the conduct of the war, I barely wish to say that at the investigation which is alluded to here I was not present, although my name appears as chairman of the committee appended to the report. The evidence of Governor Evans, and all the rest of the witnesses, will be found in the report precisely, I suppose, as it was taken down, and every one can consult that and ascertain how it was. I only wish to say that I was absent in New York and Boston prosecuting another investigation connected with that committee at the time Governor Evans's testimony was taken, and therefore had no connection with this.

Mr. LANE, of Indiana. That is true; and if the Senator had waited one moment I should have so stated. I make no charge of unfairness against the committee. The evidence is all reported, word for word; but they misapprehended the character of Governor Evans's testimony, as the published facts will show to any candid mind. I have no doubt their report was perfectly fair. The report, however, charges Governor Evans with prevarication as a witness, in this: the charge was that the Cheyenne Indians were a friendly tribe; that they had been brought to Fort Lyon under the invitation of Governor Evans and the Indian Bureau to make a treaty;

and that they were set upon by a Colonel Chivington and murdered, men, women, and children, a charge well calculated to shock the moral sensibilities of the whole people. The committee took it for granted, as it seems to me, in their report that that charge was true; and because Governor Evans did not indorse the charge they accused him of prevarication. Now, what were the facts, as shown by the report of the Indian Bureau and the Secretary of War, which I have before me? If any gentleman controverts what I say, I am prepared to prove every word that I shall say.

In the first place, these Cheyenne Indians were not friendly Indians; they were at war with the people of the United States; they had been engaged in indiscriminate slaughter, plunder, robbery, and murder upon the plains. To show that they were friendly Indians, the committee on the conduct of the war report the further fact that although they had seven white prisoners with them they had purchased the prisoners. The proof taken before the council is, that every prisoner had been taken from murdered trains upon the plains by the very men who had them, and there was no purchase in it.

The committee assumed another fact, that Governor Evans offered a premium to the people of Colorado to go out and scalp Indians, men, women, and children, friendly or unfriendly. I have the proclamation of Governor Evans here, word for word, in which he expressly excludes all friendly Indians; and who else? All who had been invited to Fort Lyon to enter into treaty, where the massacre is said to have occurred. I have the further fact that Governor Evans was not in the Territory at the time, and was no more responsible for that massacre than any member of this Senate. I have the further fact from the War Department and the Indian Bureau that long before this massacre Governor Evans had turned over the whole administration of Indian affairs in that Territory to the War Department. As Governor of Colorado he was *ex officio* superintendent of Indian affairs; but when war broke out, when troops were sent to suppress Indian hostility, he very properly turned over the whole management of Indian affairs to the War Department, and Colonel Chivington was there, not under any order of his, but simply under the orders of the War Department. He was in no way responsible for anything that happened at that massacre. He had not only the authority of the War Department, but he had telegraphed to the Commissioner of Indian Affairs and resigned the administration into the hands of the officers sent there by the General Government.

Now, you see the entire unfairness of an attack upon one of the Senators-elect growing out of this state of things, and I am utterly astonished that the Senator from Massachusetts, without having read these documents and looked at these facts, which are incontrovertible, should have gone out of the record to make an attack upon a Senator-elect who has no right upon this floor to reply. I speak as an act of justice for one who has no right to speak for himself. I give voice to the dumb and voice to my sense of right and of duty in rebuking such an attack as this. I can see no possible reason for it. Suppose there was a personal objection to one of the Senators-elect, is that any reason why Colorado should not be admitted as a State? Try personal objections to the member when the member presents himself; but it does not in the slightest degree affect the right of Colorado to admission as a State upon this floor. I cannot see any possible object in it except as a mere make-weight.

The Senator from Massachusetts, it seems to me, too, departed from his usual courtesy and prudence in another thing, when he said there were known and avowed arguments, and there were arguments whispered in this Chamber, that these men should be admitted because we needed their votes. Now, I know the Senator from Massachusetts would not say that his fellow-Senators, all of them, or any one

of them, would be influenced by an unworthy partisan motive to admit a State not entitled to admission simply to carry partisan measures. I know he would make no such charge. I have done but little whispering since my wooing days were over, and I speak here in language heard by all present. Whatsoever I think to be right I avow it. I did say the other day that I should vote for the admission of Colorado for this, among other reasons, that they were organized upon a thoroughly loyal basis; and I shall vote in view of that very identical reason. If I thought they were organized upon a disloyal basis, I perhaps should not be quite so ready to admit them on this floor; neither, I am persuaded, would the distinguished Senator from Massachusetts. They are organized on a loyal basis, and that, to my mind, is one reason why we should admit them. We may need their votes; we may need the votes of loyal men; we shall need their votes, doubtless, before this great controversy is over; and if they are entitled to admission on other grounds, that is surely no reason, to my mind, why they should be rejected, simply because they have been elected and their State has been organized on a loyal basis. The great controversy is transferred from the field of battle to this high Chamber, and we need votes and support here as much as we ever did during our military campaigns. I believe that Colorado should be admitted. I shall vote to admit her for good and substantial reasons, and among those reasons is the very fact that I regard her people as essentially and intensely and thoroughly loyal. For no mere partisan purpose—my purpose wises higher than party—for the good of the country, the safety of the country, and to prolong the lifetime of the nation, I wish loyal votes to be multiplied here.

But the distinguished Senator, in order further to disparage this pamphlet of the Senators-elect from Colorado, takes the ground that the surveyor general has said that agricultural interests cannot be successfully prosecuted in Colorado except by irrigation, and from that he argues that no great agricultural population can ever exist in Colorado. Does the history of the world prove that? Look at the agriculture of ancient Egypt, the granary of the world, upon which were built the great cities of Cairo, Memphis, Thebes, and Alexandria, which made that little peninsula the storehouse for the whole ancient world. Every grain raised and every vegetable sold there was the result of irrigation. That civilization which built those wonderful pyramids, the grandest conceptions in architecture of human genius, which have outlived the mutations of forty centuries and outlived even the memory of their founders, was based upon an agriculture the result of irrigation. How was it with the agriculture upon the Euphrates, the original site of our civilization, perhaps the original birthplace of the human family; and Babylon, wonderful Babylon, with her hundred gates commanding the whole East for five hundred years? All the agriculture that supported Babylon and the nations on the Euphrates was the result of irrigation. The agriculture that built the great city of Mexico and that inaugurated a civilization, under Montezuma and his predecessors, higher in point of fact than the civilization of their Spanish conquerors, was all the result of irrigation. The agriculture that sustained and built up the wonderful empire of the Incas, which resulted in those grand temples dedicated to the worship of the sun at which scholars yet wonder, was all the result of irrigation. Nor has that experiment failed here. The one hundred thousand people residing in the valley of the Salt Lake owe their daily bread to irrigation alone. Then supposing that irrigation may be necessary to develop the agricultural interests of Colorado, that is no reason why that cultivation should not be most eminently successful.

I shall not refer to the "grasshopper" argument, because my distinguished friend from Nevada [Mr. NYE] has, I think, sufficiently exhausted that subject. [Laughter.]

Mr. President, when I had occasion to address the Senate a few days since on this subject I gave very briefly my reasons for the admission of Colorado. I have not changed those reasons. Why is that admission opposed? Because there is not enough population there. That is a mere matter of guess-work and speculation; no one knows what the population amounts to, and each one comes to a different conclusion. The mayor of Denver says the population is probably thirty-five or forty thousand; the Territorial Legislature thinks it is as much as fifty thousand; some other gentlemen put it down at twenty-five thousand. Why do I vote, then, to admit them with this small population? Because even though they did not comply technically with the enabling act, they did comply substantially; and granting, in the language of the Senator from Massachusetts, that that enabling act is null and void and expired by its own terms, what had the people of Colorado a right to infer from the passage of that act? That Congress was willing that they should organize a State government; and although they did not comply with the terms of the enabling act, States have been admitted without any enabling act at all; and we are so far bound at least by the passage of that enabling act, that it was an invitation to them to come, an intimation that their coming would be welcome; and even though they had acted upon their own motion, taken their own plan and not ours, they had a right to infer that they would be welcome when they formed a State government.

I suppose, however, the real objection is the word "white" in this constitution. I have already said I should prefer that that word were not in the constitution of Colorado. I should prefer that that word was not in the constitution of any State in the United States. But I will not vote to exclude Colorado simply because she does not permit negro suffrage. I will not vote to exclude any of the rebel States simply because they do not permit negro suffrage. If I believe that they are essentially right and loyal in every other respect, and if they disfranchise their rebel voters, I would not stand upon this qualification, because the whole practice of the Government has been different. Why is it necessary to strike out the word "white"? Because, we are told, it is in contravention of that provision of the Constitution which says that Congress shall guaranty to each State in the Union a republican form of government. From the foundation of the Government down to the present hour that interpretation of the Constitution has never for one moment obtained in Congress or in any other department of the Government. Every single Territory has been organized without questioning the right to determine the qualification of voters. Every single new State has been admitted with the word "white" in its constitution. We have recognized them as republican in form for three quarters of a century. The grand triumphs of this country in three wars, and its grand improvement in material interests have all been brought out under this interpretation of the fathers that a State might be republican in form and still have the word "white" in it. I look forward in the future, and no distant future, when the force of public opinion, mightier in this land than an army with banners, will strike the word "white" out of every State constitution; but I do not propose to make this a test in the case of Colorado when it has never been made a test in the case of any other State or Territory.

I have no fancy for dipping buckets into empty wells and growing old drawing up nothing. I believe in a more practical statesmanship than that. Here you have a people of vast wealth and untold mining interests knocking at your doors for admission, with a full-framed constitution and legally elected officers, claiming representation upon this floor, and representing from thirty to fifty thousand people, and among that number there are, as I am told, some seventy or eighty negroes, all told; and because the negroes are not allowed to vote, they are not to be permitted to enter, and

they are to be thrown across the pathway in the victorious march of this grand young empire midway between the Pacific and the Mississippi. We are to stop and have our hands tied because these seventy or eighty negroes are not permitted to vote. The distinguished Senator from Massachusetts, as it seems to me, is still dipping buckets into empty wells, and will grow old drawing up nothing.

Mr. WILLIAMS. Mr. President, I propose to say a few words upon the pending question. Several objections are made to the admission of Colorado, and the chief one seems to be that it does not contain the requisite population to entitle it to become a State in the Union. I have to say as to that objection, that there is no provision of the Constitution, no law of Congress, and no precedents in our history that require a Territory to contain any particular number of inhabitants to be qualified for admission into the Union. Territories have been admitted as new States with populations varying from 30,000 to 200,000; and no rule, therefore, has been established upon the subject; but each application has been decided upon its individual merits, and according to the circumstances under which it was made. Florida was admitted with a population of about 80,000 white people. Arkansas was admitted with about the same population of white people. Oregon, at the time of its admission as a State, did not contain more than 40,000 or 50,000 inhabitants; and so from the formation of the Government up to this time Territories have been admitted without respect to numbers, and the question of population has been subordinated to other questions that have concerned the admission of the Territory.

To insist that Colorado, under existing circumstances, should be admitted as a State, is not to controvert any principle established by the founders of this Government. When the Union was formed, the State of New York contained eight or ten times the population contained in the State of Rhode Island; Pennsylvania contained eight or ten times the population of the State of Delaware; but those small States were allowed equal suffrage in the Senate with the large States, and their proportionate power was preserved in the House of Representatives; and it is still preserved; and if Colorado shall be admitted, New York will have her thirty-one Representatives in the lower branch of Congress while Colorado will have but one.

Mr. President, I am almost persuaded that I see in these arguments that are urged against the admission of Colorado as a State, the shadow at least of that doctrine which has so long distracted the country and has finally developed itself in a protracted and bloody civil war. Objection is made to the admission of Colorado because it is not as large in population as the State of New York, or the State of Pennsylvania, or some other States of the Union, assuming that there must necessarily be some antagonism between the State of Colorado and the State of New York and other States, in consequence of which there is a necessity of preserving in the Senate the relative power possessed at this time by the State of New York, the State of Pennsylvania, or the State of Massachusetts. State power, State pride, State jealousy, State rights are more than intimated in this argument which is urged here against the admission of Colorado. Senators say in effect, will not the admission of Colorado, allowing her to have two Senators upon this floor, impair the State power of the State of New York? I have not heard the Senators from that State make the suggestion, but for that State it is suggested that she would be wronged if Colorado with her population should be admitted as a State into the Union. No doubt that the local interests of Colorado may need the immediate and exclusive attention of the Senators who may represent her upon this floor; but I undertake to say that in ninety-nine cases out of a hundred of general legislation, tending to the prosperity, greatness, and glory of this nation, Colorado would have

the same interest as the State of New York; and there is therefore no necessary conflict or antagonism between the two States.

Sir, look at this subject in another point of view. Take that vast territory lying west of Iowa, of Arkansas, of Kansas, stretching from Mexico to British America, a distance of more than two thousand miles, spreading westward to the Pacific ocean, boundless and inexhaustible in all the elements and resources of national power and greatness and glory; that vast domain, with all its great future, at this time has only six Senators in Congress and five Representatives. And now, when it is proposed to admit two more Senators and another Representative from that vast region, a great outcry is made as though it was an effort to introduce into the councils of the nation some dangerous and foreign element of power.

Mr. President, who are these people in Colorado that are asking for admission as a State? Are they strangers, aliens, foreigners? Are they not our own acquaintances, our relatives, our friends? Did they not go out from the homes of New England and the middle States, carrying with them an undying attachment to the places of their nativity, to make new homes in this distant Territory? Are not these the persons who are asking for recognition here as a State? What good reason can be given, I ask, if these people are willing to assume the burdens and responsibilities of a State, why they should not be permitted to do so? I ask if the agricultural interests of the State of Ohio will be prejudiced by the admission of Colorado as a State? Will the manufacturing interests of the State of Massachusetts be prejudiced by the admission of Colorado? Will the commercial interests of New York be prejudiced by the adoption of this bill? Are not the people of that Territory as patriotic as any other people? Will they not coöperate with us in building up the national power? Is there anything in the circumstances or population of that Territory that should make the Senators from New York afraid to associate here with the Senators from Colorado?

Can any Senator show any way in which any prejudice will be worked to any portion of the United States by the admission of Colorado as a State? The interests of this Territory will be promoted by this change, as the people believe, and as I have no doubt; and when any step is taken to promote the interests of Colorado or any other one of these western States or Territories, it is a step which promotes the interests of all the States and all the Territories, for their interests are identical; they are bound up together in the same common destiny, and equally concerned in everything that relates to the welfare of our common country.

Objection is made by the honorable Senator from Massachusetts [Mr. SUMNER] to the admission of Colorado because the people have not formed a State constitution in conformity with his wishes. I suppose that the theory which has been recognized, and will now be recognized, is, that the people of a Territory have a right to make their own constitution. If the doctrine which is advocated by the honorable Senator from Massachusetts be the correct doctrine, then it is unnecessary to pass any enabling act, but the most direct way would be for Congress to make a constitution, submit it to the people, and say to them, "Take this or take nothing." The argument is, that this constitution does not correspond with the wishes of members of Congress, and therefore ought not to be accepted.

Objection is made by the honorable Senator from Massachusetts that this constitution excludes black persons from the right of suffrage; but I desire to call the attention of that honorable Senator to the effect of his argument and his position. Here are twenty-five or thirty thousand white American citizens of the United States living in the Territory of Colorado; they come to Congress and say, "We have no choice in the selection of the men who govern us; we have no representation in Con-

gress; we have no voice as to who shall be the Chief Magistrate of the nation; we do not enjoy the rights and privileges of American citizenship under this territorial organization; and we ask Congress to consent to a change, so that we may resume those rights and privileges of which we have been deprived by living under a territorial government;" and the honorable Senator meets these twenty-five or thirty thousand white people of that country with the objection that they shall not have these rights and privileges because they have seen proper by their constitution to exclude a few dozen of blacks from the right of suffrage!

Now, sir, when a proposition was before the Senate of the United States to organize the Territory of Idaho, I remember that the honorable chairman of the Committee on Territories, in discussing that question, said it was a matter of very little consequence as to whether the organic act did or did not exclude black persons from the right of suffrage, because there were no black persons there upon whom such a provision could take effect, and it was, therefore, a mere abstraction; and it is so substantially in reference to Colorado. It is more of an abstraction than anything else, and the honorable Senator from Massachusetts persists in this objection more to advocate a certain theory than to produce any practical results. If Congress is bound upon this occasion to determine whether the thirty thousand white people of the State of Colorado shall have the right of suffrage, or whether seventy-five or one hundred black men shall have that right—and that is the question presented—I ask if it is not wise and just on our part to extend to these thousands of white men the right of suffrage and their privileges as American citizens rather than to deny them those rights and privileges for the supposed necessity of providing similar rights and privileges for a handful of black people.

Sir, the honorable Senator from Massachusetts, I remember, delivered an elaborate and an eloquent speech here, not many days ago, in which he proclaimed in learned words and thundering sound the doctrine that taxation without representation was tyranny. The twenty-five or thirty thousand white people of the Territory of Colorado are taxed like the citizens of Massachusetts, and they have paid within the last year more income tax and more revenue tax than some of the States of this Union; and yet those people have no representation whatever in the Government which imposes these taxes. I take up what the honorable Senator then said; I apply it to this case; I answer his argument with it, and I say that taxation without representation is tyranny.

I suggest to the honorable Senator that he ought not to be severe upon the people of Colorado because they adopted a constitution in this form, for I will remind him that on the 3d of March, 1863, he voted, without question or objection, to organize the Territory of Idaho with an exclusion of black people there from the right of suffrage. I do not advert to this circumstance to show the inconsistency of the honorable Senator, for I acknowledge that the opinions of men everywhere have undergone great changes on this subject, but I do it simply to show that he ought not to be too harsh upon the people of Colorado because they thought in 1865 just as he thought in 1863. They live in a distant Territory; they live under the shadows of great mountains; they have no immediate communication with the States of the Atlantic slope, and it cannot be expected that they would change their opinions as suddenly as the honorable Senator may, who lives in the full blaze of the intellectual day that fills the State of Massachusetts.

Moreover, I say that the people of Colorado ought not to be censured because they put this provision in their constitution; for, at the same session at which their enabling act was passed, and about the same time, the question arose in Congress as to whether or not the act organizing the Territory of Montana should or should not exclude blacks from the right of suffrage,

and after a long discussion and due deliberation, the Congress of the United States, at that time overwhelmingly Republican, determined that the act organizing the Territory of Montana should exclude blacks from the right of suffrage. In 1864 the Congress of the United States decided that the organic act of a Territory should exclude black men from the right of suffrage; and can Congress now, with any consistency, turn around and condemn the people of Colorado because they, about the same time, decided in the same way? Had they not good reason to suppose that this decision, under the precedents and under the circumstances, would be entirely acceptable to Congress?

I would prefer this constitution if it did not exclude any class of persons from the right of suffrage; but it does not follow that they will be perpetually excluded if we adopt this constitution. I cannot concur in what the honorable Senator from Wisconsin [Mr. DOOLITTLE] has said, that the time will never come when the States will adopt negro suffrage. I believe that the day is not far distant when the Constitution of the United States will be so changed as to entitle men of all classes, without distinction of race or color, to enjoy the elective franchise.

Mr. JOHNSON. The Senator from Wisconsin did not say, as I understood him, that the States never would agree to it. He only said they would not agree that Congress should pass a provision on the subject.

Mr. WILLIAMS. I understood the honorable Senator from Wisconsin to say that they would never sanction a proposed amendment to the Constitution of the United States extending the right of suffrage to black persons. He may be right in that opinion; I may be in error; but I have misjudged the signs of the times if the day is not approaching when all distinctions as to classes will be abolished, so far as the elective franchise and civil rights are concerned, in this country. The States are moving in this matter as States; and it is not to be supposed that the public opinion which will produce such a change in any of the eastern or northern or middle States will not reach across the mountains and the plains to Colorado and there produce the same effect. If this constitution shall be accepted and this State admitted, it may be, as predicted by the honorable Senator from Nevada, [Mr. Nye,] that within a year, or perhaps some longer but not remote period of time, this constitution may be so amended as to allow all men the right of suffrage.

The honorable Senator from Massachusetts said in effect, if I did not misunderstand him, that no man could consistently favor the admission of Colorado as a State under this constitution and at the same time insist that negro suffrage should be required of the States lately in rebellion. I think there is a vast difference between the two cases. If negro suffrage be required of the States lately in rebellion, it must be upon two grounds: first, because the black people of those States constitute a large proportion of the population; they are largely interested in all State matters and State questions, and there is such a deep-rooted prejudice against them that suffrage becomes necessary for them as a protection for their lives, liberty, and property; and again upon the ground that these black men have everywhere been unchangeably loyal to the Government during the late struggle, and by extending to them the right of suffrage we enable the loyal sentiment of that country to predominate over the rebel and disorganizing sentiment, and in that way secure the perpetuity, the peace, and the integrity of the nation. These are two good and valid reasons, if it be necessary to discuss that question at this time, that might exist for requiring negro suffrage in the lately rebellious States which do not exist so far as the Territory of Colorado is concerned; for there there is but a handful of negroes, a few dozen; and there is no feeling or prejudice, I imagine, in that Territory that would greatly

endanger the substantial rights and privileges of the colored people.

Now, sir, I have this to say on the question of population: admitting that the population at this time is not sufficient in the estimation of honorable Senators, I claim that upon all principles of good faith Congress is estopped at this time from controverting that question. Whatever legal or technical questions may be made upon the enabling act, I say that Congress then deliberately decided that the population of that Territory was sufficient to justify it in becoming a State. So far as that question of fact is concerned, it was then decided.

Mr. McDOUGALL. I should like to ask the Senator from Oregon how we can be estopped on this question. I know that is a term in the common law in some of the courts, and there is a law of estoppel; but it cannot apply to this case.

Mr. WILLIAMS. I do not plead any legal estoppel upon Congress. I acknowledge that Congress has the physical and legal power to change its opinion, but I say that Congress did decide at that time that Colorado had a population sufficient to entitle her to become a State, and when that decision was made, the people of Colorado, acting in good faith, proceeded to form a State government.

Mr. McDOUGALL. I will ask the Senator, did that conclude us?

Mr. WILLIAMS. I think, in good morals and in good faith, it did conclude us. I think when Congress has said to the people of a Territory, "You may go forward and form a State government, and when that State government is made we will allow you to become a State in the Union," and the people, upon the strength of that promise, proceeded to organize a State government and apply for admission and are rejected, they have a right to complain that they have been disappointed and not fairly treated by Congress.

It is said that this enabling act is *functus officio*, because the elections were not held in conformity with its provisions; but, sir, that is sticking in the bark. What difference does it make to Congress whether the election in Colorado was held in June or August or September? What difference does it make when or where or how a convention was held, so long as a constitution was formed and submitted to the people, and they adopted it, and upon that constitution ask for admission? The only legitimate objection which Congress can make at any time is that the population is not sufficient; I say Congress has made a decision which ought to conclude its action upon that question.

Mr. President, I have helped to make two Territories into States, and it is in vain for any man to tell me that a Territory is in as good a condition as a State. It is as unreasonable to expect that a Territory should have the same power, the same strength, and the same resources as a State, as it would be to expect of a child the strength of a man, or to expect that a community ten, twenty, or twenty-five years of age should have all the power and resources of a community that has been growing and improving for two hundred years. This Territory, according to my understanding, has a people who are willing to undertake the burdens and responsibilities of a State government. They believe that a State organization will promote their interests. They are the proper persons to decide upon that question; and it seems to me that when they ask to become a State, instead of meeting them with distrust and hostility, it is our true policy to take them by the hand, and say to them, "Come up higher and go with us, and we will do you good."

Sir, territorial organizations only result from necessity, and are incompatible with the spirit and genius of our Government; for under them American citizens are ruled by a Government in the making of which they have no voice. They are in a state of colonial dependence and subjection; and whenever the people in such a Territory are competent to maintain a State government, and desire so to do, it seems to

me justice and good policy dictate the consent of Congress, for by the multiplication of new States we add to the greatness and power of the nation.

Mr. President, I claim that there is enough before us to justify and require Congress at this time to admit Colorado as a State. I hope, therefore, that the vote rejecting the bill will be reconsidered, and that we shall soon have an opportunity to see another State added to the American Union.

Mr. HENDRICKS. Mr. President, if the question whether Colorado should be admitted as a State depended upon the height of her mountains, the richness of her valleys, and the productiveness of her placers, I would admit that the Senator from Nevada [Mr. Nye] has the force of the argument; but if it is to be decided upon the question whether first the proceedings organizing the State government have been regular or in conformity to law, and whether, in the second place, there is such a population there as entitles them to admission, I think there was not that weight in the Senator's argument that we had a right to expect.

The first question that naturally presents itself for our consideration is, whether Congress is now bound by the act which we passed in March, 1864, providing for the organization of a State government. I am not able to see that, as the Senator from Oregon says, we are in morals and in good faith bound by the action of Congress at that time. What did Congress do? Congress provided that the people at a time specified might elect delegates, that those delegates should convene and organize into a convention, and being thus organized, should frame a constitution for the people of that Territory, and that that constitution thus made should be submitted to the people for their approval or rejection. Such an election was held; the convention met; a constitution was framed; it was submitted to the people, and by a large vote, three to one, they rejected it. Now, I ask, was it competent for the people of Colorado to proceed further under the act of Congress? Could the people take another step under the act of Congress? They rejected the constitution that was formed pursuant to the act of Congress.

Then, sir, what is the nature of the proceeding which we are now called upon to indorse? If the Territorial Legislature of Colorado had provided for the calling of another convention, I would have given that legislative proceeding great respect and weight; but the Legislature did no such thing. In no authoritative and legal manner was the will of the people expressed upon that subject; but the chairmen of the three political parties there, of the Democratic party, the Anti-Slavery party, and the Union Central Committee, not authorized even by a convention of their respective parties, but upon their own motion, called a convention. That convention was held, and they adopted a constitution irregular in every respect, not having the stamp of legal authority in any respect whatever. The convention was held; a constitution was adopted by that convention and submitted to the people; and what was the vote? A vote giving a majority of but 155 in favor of the constitution thus so irregularly adopted. I ask Senators if there be anything in this proceeding that binds the conscience of Congress. The constitution adopted pursuant to the act of Congress stands to-day rejected by the people; and a constitution formed upon the motion of the chairmen of the political parties of the Territory stands indorsed but by the small majority of 155. Then, sir, I give no weight or authority whatever to the proceeding by which this constitution was adopted.

That brings us to the next question, which I consider the important one in this discussion; and that is, has the Territory of Colorado such a population as entitles it to admission? Upon the other subject, the weight that should be given to the proceeding under the act of Congress, and also upon the question of population, I call the attention of the Senate to the only information that was before this body

when the enabling act was passed in regard to population. When the enabling act was before the Senate the distinguished Senator from Vermont, now dead, (Mr. Collamer,) asked this question:

"I wish to inquire of the chairman of the Committee on Territories whether he has any information as to the extent of the population of this Territory?"

What reply was made? I read:

"Mr. WADE. Nothing that I can rely upon with a very great deal of confidence. I have taken some pains to ascertain the facts from the Delegate in the other House, and from Mr. Edmunds, of the Land Office, who has some information on that subject. I understand there must be now about 60,000 inhabitants in Colorado; some think a great deal more than that. That is the smallest number I find intimated by those who profess to know anything about it. It is a Territory which is filling up very rapidly. Judge Edmunds tells me that he has not the least doubt in the world that before they finish their arrangements and become a State there will be sufficient population there for a Representative in Congress according to the ratio of representation fixed by the last census. That is about the information I got."

That was the response of the chairman of the Committee on Territories to a question propounded to him when the enabling act was before this body, expressing the opinion that at that time there were 60,000 people in the Territory, and that the Territory was rapidly filling up and would soon have a population entitling her to a Representative in the other House. The Senate unquestionably acted upon that information. Was the chairman misled in regard to it? I think to-day he will admit that he was; that his statement to the Senate, upon which the Senate acted, was not reliable. He relied upon information that he received from the Delegate and from another party that he mentions, and that information now proves not to have been reliable. What have we now before us that is reliable? In the first place, we have the census that was taken in 1861. At that time the population of the Territory was 25,329; and upon that population the Territory at the first election thereafter was enabled to give a vote of 10,580. With a population of 25,000 a vote of 10,000 was cast. What does the vote since that time indicate? It shows the fact that at every election from that time to this the population of Colorado has been decreasing instead of increasing, until when the vote was taken upon the constitution that is now before us in September, 1865, the aggregate vote was 5,895. Less than 6,000 votes were cast when it is claimed this constitution was adopted or ratified by the people. It is claimed by the Senator from Nevada that a vote is not a very satisfactory indication of the population. The vote in 1861, perhaps, did not very clearly indicate the population. What were the people voting on then? Upon the election of a Delegate, the trifling matter of selecting one man for an office instead of another man. In 1865 they came to cast their votes upon the most interesting and exciting question that can ever be presented to any free people, the question whether they shall adopt a State government and what sort of a State government they shall adopt; and upon that question, that is calculated to call out the last voter of the Territory if they take any interest in their great questions at all, they could command less than 6,000 voters.

Mr. STEWART. Is the Senator aware that immediately after that, in the fall of 1865, in the election of State officers, 7,000 votes were cast?

Mr. HENDRICKS. Yes, sir, I am aware of that fact.

Now, sir, assuming that a population of 25,000 in 1861 could give a vote of 10,000, then what population does a vote of 6,000 in 1865 indicate? Just 15,000. On the same ratio, upon a more interesting question, instead of having 25,000, according to the vote in 1865 the Territory has a population of but 15,000, if we make an estimate upon the vote that was cast upon this constitution. Then I assume that the Territory at the time of the adoption of this constitution had a population of less than 20,000. I have a right to assume that it

is but 15,000, taking your calculation from the vote that was cast.

But, sir, the Senator from Oregon, with great force and earnestness, appeals to us to give to these people the right to vote for President of the United States, to control the legislation of Congress, to control the financial policy of the Government. He referred in his remarks to these matters; and to give force to his argument he alludes to the position of the Senator from Massachusetts, that taxation without representation is tyranny. Sir, is it possible that a small community in the formation of the laws shall have the same voice that a great community shall have? Representation must be equal and just, else representation of itself becomes tyranny. If you say that 15,000 persons in Colorado shall have the same voice in the legislation of the country that the 1,300,000 people of Indiana have, you adopt a tyranny as oppressive as to deny representation altogether. What has been the policy of the Government upon this question? The first position assumed by the Government was before the adoption of the Constitution, in the celebrated Ordinance of 1787, by which it was provided that out of the Territory of the Northwest, which now has in this Union such great empire States, there might be formed three or five States, but that no State should be admitted until it had a population of 60,000, about double of what was then the ratio of representation in the House of Representatives; and my colleague and I represent a State that came into this Union under that provision. The people of Indiana had no voice in the making of the Federal laws, the people of Indiana had no voice in the selection of the President of the United States, until they could number 60,000, until they could show a population entitling them to a Representative in the other House. But now it is claimed as tyranny if this Territory with a population of 15,000 shall not have a voice in the Senate of the United States, equal to the 1,300,000 people of Indiana.

Why, Mr. President, contemplate the proposition of the Senator from Oregon for a moment. He says that it is an act of injustice, that it is an act of tyranny, if the people of Colorado shall not have a voice in the selection of a President of the United States. Her population, in comparison with the population of the State which my colleague and I represent, is about as one to ninety. In the Senate of the United States one man in Colorado will have the voice of ninety men in the State of Indiana. Is that equality? Is that democracy? Is that justice? Or is it tyranny? And when you come to select a President of the United States in 1868, is it right, is it just, is it consistent with the policy of our Government, that one man in Colorado shall have the voice of ninety men in Indiana? How many it would be in New York, I know not. But the Senator says he has heard no complaint from New York; no complaint from the great State of Pennsylvania. As one of the representatives from Indiana, I differ from my colleague, and I am not willing that in the selection of a President at the next great election, which is to be a very sensitive period in our history, one man in Colorado shall equal ninety of the men whom I represent. It is not according to the policy of the Government. It is not according—

Mr. STEWART. I should like to inquire of the Senator how he figures that out. He says that Indiana, as compared with Colorado, estimating her population at fifteen thousand, has ninety to one in population; but Colorado will not have the same number of votes in electing a President that Indiana has.

Mr. HENDRICKS. The criticism of the Senator is right in respect to the election of a President. I have not made the calculation as to what would be the disproportion in the election of a President. I made my calculation in respect to the voice in the passage of laws through this body, and then applied it without very much reflection to the election of a Pres-

ident. The disproportion would be very great, and it would give to a man in Colorado far greater power and voice in the selection of a President than to a man in the State of Indiana. As to the two electors that are based upon the senatorial representation, my argument is correct. Colorado at the next presidential election, if she is admitted, will elect two senatorial electors, and those two senatorial electors will cast a vote equal to the two senatorial electors that are selected by the 1,300,000 people of Indiana. In respect to the two senatorial delegates, my argument is correct, that one man in Colorado would have a voice equal to ninety men in Indiana.

Mr. KIRKWOOD. Do I understand the Senator from Indiana to say that the policy of our Government and the Constitution of our Government require equality in these things?

Mr. HENDRICKS. No, sir, I do not say so.

Mr. KIRKWOOD. Take the State of Delaware, take the State of Florida, which the Senator is so anxious to get in, and he will find an inequality, if not so great, yet very great between those States and the State he so ably represents here. It is not the policy of our Government, I apprehend, to have equality in these things, and we do not have it.

Mr. HENDRICKS. The existing inequality in the Senate of the United States was so ably discussed by the Senator from Pennsylvania [Mr. BUCKALEW] some time since, and has been answered, or attempted, at least, to be answered by some Senators, that it is not necessary now for the Senator from Iowa or myself to rediscuss that question. The fact that there is inequality in the old States that came in as colonies into the Union and helped to make this Government does not justify us in carrying that inequality beyond any point known in our history heretofore. In 1787, as I have said, when a territorial government was given to the Northwestern Territory, it was required that before the admission of a State from that Territory there should be a population entitling the State to two Representatives in the House—a population of sixty thousand. I believe the same provision is found in the territorial government for the Southwestern Territory, and in the territorial government for the Territory of Louisiana, showing a policy and purpose by our forefathers; and I understood the chairman of the Committee on Territories to say that that has been the sentiment constantly from the foundation of the Government up to the present time, sometimes, for particular reasons, departed from, as in the case of Kansas.

Mr. STEWART. Was it not departed from in the case of Florida and Arkansas to a greater extent than in the case of Kansas? Neither of them, as I understand, had as much as fifteen thousand.

Mr. HENDRICKS. I was quoting the remark of the Senator from Ohio as authority. If the Senator from Nevada is not content with the argument that I present, I shall be obliged to him if he will answer it when I get through.

The Senator from Ohio, in the argument of this question a few weeks since, when he opposed the admission of Colorado with very great ability, stated, as I understood him, that the policy of the Government had been, though sometimes departed from under peculiar circumstances, to require a population entitling the people to a Representative in the House of Representatives. Now, sir, it would require about one hundred and twenty thousand to secure a Representative in the House of Representatives; and here with a population, upon the best information we can get, of about fifteen thousand, it is asked to give two Senators and a Representative to Colorado. I think the people of Indiana will hardly be satisfied with the argument of my colleague, based upon the loyalty of the people of Colorado, when he says, that in the making of the laws, so far as they depend upon the action of the Senate, and in the selection of a President of the United States, so far as it depends upon senatorial electors, he is willing to give to the people

of Colorado, because of their assumed loyalty, a voice ninety times greater than to the men of Indiana.

Mr. President, it is claimed that the Territory can be very much more prosperous with a State government than with a territorial government. I have never lived under a territorial government, and have not the experience of the Senator from Oregon or the Senator from Nevada in that respect; but why is it that a Territory may not be prosperous? Why may she not be comparatively independent in the regulation of her own domestic affairs? She does not have the selection of her Governor, or of her judges; but she selects all her local officers; she selects her Legislature. Her Legislature, by the laws which it enacts, regulates all her domestic affairs. If they need a combination of wealth, the Territorial Legislature may establish corporations, and may do all those things which the local interests of the people may require. I think the history of the Territories does not support the Senator from Oregon in the position that they are less prosperous during their territorial existence than afterward. I think there is not much weight in the argument of the Senator from Oregon and the Senator from Nevada upon that point. The Territories up to this time have not complained, so far as I know, of the legislation of Congress that applies to them. It seems to me to have been just and fair; and in respect to their domestic affairs, they regulate them for themselves.

I have said about all that I desire to say on this question. I know of no change that has taken place in the population of Colorado or in the regularity of the proceedings by which this constitution was adopted since this bill was rejected by the Senate. I am curious to know what shall change the judgment of Senators in regard to it. My colleague says that he has not joined in any whispering that we need two additional Senators here, and yet he did say before he closed his speech that he was glad to have additional Senators if they represented a loyal constituency. Mr. President, I shall, as readily as my colleague, as readily as any other Senator, welcome Senators who come here from new States with a population which justly, fairly, and rightly entitles them to seats in this body; but I am not prepared to say that the small population of Colorado shall have an equal voice in the Senate with the large population of Indiana.

Mr. STEWART. There have been several allusions in the debate to the fact that this bill has been once defeated. I desire to call the attention of the Senate to the fact that it was not defeated in a full Senate. The votes against it were only 21, and those for it 14, so that there were only thirty-five Senators voting. When we have a full Senate there are forty-nine here, there being twenty-five States represented. I say consequently that vote was not a fair test when there were only thirty-five members voting.

The assumption that the population of Colorado is only 15,000 is not a fair statement of the case. I think, myself, that the population is small; but placing it at 15,000 is certainly a very great exaggeration—a greater exaggeration than it would be to place it at 50,000. From the evidence fairly before us it is shown that at the last election for State officers they cast over seven thousand votes. Gentlemen say that is just as good a criterion of the amount of population as the vote in 1861 was. I deny it. Since that time families have been moving in; there were not so many miners roaming over the country that are only transient; there is a more settled population, and the numbers of voters in proportion to the population now is not as great as it was in 1861.

In 1861 they were huddled together in one or two small mining camps. Now they are scattered all over the Territory, and many of them following agricultural pursuits with their families. A vote of 7,000 now would indicate a larger population than a vote of 10,000 did when they were in one or two mining camps

all voting, all males, before they had brought their families there. The population has changed from a mining to an agricultural one to a great extent, and the vote of 7,000 of last year to me indicates a larger population than a vote of 10,000 would situated as they were in 1861, not having extended their population over the Territory and being huddled together where they could all readily vote. Now they have spread over the Territory; they have brought their families; and a vote of 7,000 at this time indicates to my mind a population of at least 35,000, because they are so situated that they do not come to the polls so regularly; they are a long distance from the polls; they have settled in the little valleys all over the country as any person traveling through will see. I am justified, then, in saying that a vote of 7,000 at this time indicates a larger population than a vote of 10,000 would situated as they were in 1861; and I think that when we have before us the fact that they cast 7,000 votes it is an extreme exaggeration to say that their population does not exceed 15,000.

But Congress has passed upon the question of population. The Senate twice passed upon it by passing an enabling act in 1863, and again in 1864. The population is certainly as great now as it was then, and is increasing, and the prospects before the Territory are infinitely superior to what they were in 1864. In 1864 they were cut off by an Indian war; they were embarrassed in every possible way; their prospect for the future was gloomy to what it is now. The rebellion is over; they have a railroad approaching them very rapidly; they have learned something of irrigation, and they have learned, too, how to dispose of grasshoppers, so that they will not be so ruinous perhaps as they were before. The grasshopper question, the irrigation question, and the Indian war question are all better understood. The prospects of the country are good. The mines have proved to be very rich. The various ores are being worked now to better advantage, and the Territory is in a much better condition than it was in 1864. It has a larger population than it had when you passed on the question; and I say, with the Senator from Oregon, [Mr. WILLIAMS,] that it would be bad faith, after having given this invitation, and after this constitution has been formed and these representatives have come here, to change the invitation and deny them admission. Hereafter if you want to establish a different rule, establish it; but now, under all the circumstances, I say that upon any fair construction of these votes there is a larger population in Colorado than there was in 1864, and everything connected with that Territory shows that it is better able to support a State government, with better prospects, than when you passed the enabling act, and I contend that it is bad faith to deny them admission.

Mr. McDOUGALL. Mr. President, I wish it were quite as convenient to think as to talk, for in thought there is counsel, but in words there is often great want of wisdom. I said yesterday that on the former occasion I was in error as to facts which led me to a wrong conclusion. There is no man on this Senate floor more concerned in building up the interests of the mountains and the Pacific and the great West than myself; I have labored in it from my youth upward; but I cannot justify myself to myself in sustaining this measure, for the reasons that I will state briefly, for I do not propose to go into a discourse or make it matter of argument.

This Government was organized upon a system. In this Senate Chamber each State is represented by two Senators, although it may be entitled to but one Representative in the other end of this building. To adjust the equilibrium was one of the great troubles of our grandsires. That for some factitious purpose a State should be introduced not possessing the qualifications that should justify it in claiming a member of the House of Representatives would be a wrong upon the system as it has been best understood. What are seven

thousand votes in the Territory of Colorado? I speak with a knowledge that is not uninformed, for I have lived on the frontier from my young manhood, and inhabited about that part of the world, and I was in Colorado, I believe, before any gentleman on this floor. Seven thousand votes there would indicate a population of about fifteen thousand, not more. It has been regarded heretofore as a rule that no State should come into the Federal Union until her population would come up to what was required by the enumeration for a member of the House of Representatives. I do not remember the precise number now required, but I know it is something over one hundred thousand. Two Senators in the Federal Senate for a population of fifteen thousand would be a great injustice; and to that injustice I cannot be a party. I did vote for this bill in the first instance. I did it for the reason that I want to build up the interests of the Pacific and the mountains; but I cannot on consideration agree to such a wrong. This is not a community yet established; its foundations have not yet been laid. When they are well laid, with the proper population, a well-organized society, then they shall be of the community of States by my voice, but not now.

Mr. HOWARD. Mr. President, I was not present in the Senate at the time the vote was taken rejecting the bill. Had I been here I should have voted for the bill, and I regret very much that I did not happen at that time to be in my seat, because I have a very strong conviction of the expediency and propriety of admitting Colorado as one of the States of the Union.

There appear to be two objections raised against the admission of Colorado. The first is insufficient population according to the opinion of some gentlemen, and the second is that the right of suffrage as defined in the constitution itself is too limited in excluding colored persons.

Now, sir, I confess that I do not regard either of these objections of sufficient weight to induce me to vote against the admission of Colorado. I consider the objection based upon the alleged insufficiency of the population in point of numbers as out of place entirely. On the 21st of March, 1864, Congress declared in very plain terms that—

"The inhabitants of that portion of the Territory of Colorado included in the boundaries hereinafter designated, be and they are hereby authorized to form for themselves, out of said Territory, a State government with the name aforesaid, which said State when formed shall be admitted into the Union on an equal footing with the original States in all respects whatsoever."

It is said that this statute, which in its subsequent clauses provides the mode by which the people shall organize themselves into a State, has spent its force and become *functus officio*; and we are therefore called upon, by the honorable Senator from Massachusetts especially, to pay no regard to the act of 1864. I do not regard the statute in that light; I do not regard it as having spent its force. I regard this first section, which I have read, as containing a pledge of the Government of the United States to the people of Colorado that whenever they shall form themselves into a State and provide for themselves a government, they shall, so far at least as population is concerned, be admitted into the Union.

I have said we passed this statute in March, 1864, and in the same breath we passed another statute giving the same privilege to the Territory of Nebraska, and another giving the same privilege to the then Territory of Nevada; and we did it at a time when the population of these several Territories, as ascertained by the official agents of the Government who took the census in 1860, was as follows: the population of the Territory of Colorado at that time, according to the census from which I give these figures, was 34,277; that of Dakota Territory 4,837; that of Nebraska Territory 28,841; and that of the then Territory of Nevada, perched like an eagle's nest upon mountains, was 6,857.

The people of the Territory of Nevada pro-

ceeded regularly, as required by the statute, to institute for themselves a State government at a time when they certainly had not a smaller population than six thousand eight hundred and fifty-seven. The probability is that in 1864, when they went through the process of forming themselves into a State government, the population was larger, but what it was I am not now able to say. It was certainly, as I presume, not greater than the population of Colorado. If I am wrong in this my friend from Nevada will be able to correct me. We have admitted Nevada as a State of the Union, which in 1860, being then a Territory, had a population of only six thousand eight hundred and fifty-seven inhabitants.

If the Territory of Colorado in 1864 possessed a sufficient population to justify Congress in granting them the privilege of forming themselves into a State government, and if, as is indubitably the truth, that population has not diminished since then, upon what ground is it, I ask, that gentlemen allege insufficient population as a reason for refusing admission to Colorado? I insist, sir, that so far as Congress are concerned, so far as the spirit of the law is concerned, we are estopped from insisting upon this objection.

Mr. McDOUGALL. Will my friend from Michigan allow me to ask him, is there any such thing as an estoppel as against a judge on the bench, he being bound to do justice? Is there any such thing as an estoppel where one has authority? It may be applied to parties litigant, but not to the judge.

Mr. HOWARD. I am not speaking of technical estoppels in trials at law. We all know right well that estoppels are mutual. What I mean to say is that we are upon every political and moral principle precluded from urging now, as an objection against the admission of Colorado, that she has not sufficient population, because we acted upon that identical question in 1864, and said to Colorado and said to the whole nation that Colorado then possessed a sufficient population to justify us in forming her into a State.

Mr. McDOUGALL. Allow me.

The PRESIDENT *pro tempore*. Does the Senator from Michigan yield the floor to the Senator from California?

Mr. HOWARD. With a great deal of pleasure. I hope my learned friend from California will now indicate his ideas in a tone of voice which will enable me to catch them on this side of the Chamber.

Mr. McDOUGALL. Only one word. Suppose I was wrong then; suppose I acted unadvisedly—

Mr. HOWARD. That is not a supposable case.

Mr. McDOUGALL. And I change my opinions, have I not a right to express it by my voice? Answer me that.

Mr. HOWARD. I suppose, according to the Senator's speech, he has availed himself of that high privilege of changing his opinion and changing his vote. I will now ask him a question; and that is, whether he did not vote for the act of 1864, giving this privilege to Colorado?

Mr. McDOUGALL. I believe I did.

Mr. HOWARD. And I think, as I am informed, he voted for the bill which was recently under discussion in this Chamber.

Mr. McDOUGALL. Yes, sir; I did.

Mr. HOWARD. And made a speech, too, a very good speech, undoubtedly, in favor of it. Most undoubtedly every gentleman has a right to change his opinion; but I say that without further light upon a given subject, without further facts to justify such a mental mutation as my friend from California seems to have undergone, he can scarcely say that he has a moral right so to change his opinion as to change the proper course of legislation upon the question.

However, sir, that is a question which he must settle for himself. I cannot act as casualist in so grave a matter. He must be his own judge.

Mr. McDougall. The Senator from California takes care of his own conscience.

Mr. Howard. I hope he has a very considerable task at times in doing so. [Laughter.]

Mr. McDougall. Very.

Mr. Howard. And now, Mr. President, I think that I have answered that objection, certainly in a manner satisfactory to my own mind, however unsatisfactory I may have been in regard to the minds of others.

The next objection relied upon by the honorable Senator from Massachusetts appears to be that the constitution which has been actually framed and is now before us is not in perfect accordance with that clause of the enabling act which requires that the constitution shall not be repugnant to the Constitution of the United States nor to the principles of the Declaration of Independence; and he seems to hold that the restriction upon the right of suffrage found in the constitution of Colorado, by which all persons who are not white persons are excluded from the electoral privilege, is a departure from that clause of the enabling act, the clause in the State constitution declaring that every white male citizen of the age of twenty-one years, &c., shall have the right to vote.

I do not understand that this is any violation of or departure from the principles of the Declaration of Independence. I was never able to discover in the Declaration of Independence that it was the right of every person, white and black, to vote at the polls. There is certainly no such clause contained in it, and I believe it has never received such a construction.

Mr. Sumner. I would ask my learned friend if the Declaration of Independence does not contain the proposition that all men are equal in rights.

Mr. Howard. The Declaration of Independence declares that "all men are created equal."

Mr. Sumner. That means equal in rights.

Mr. Howard. And that "they are endowed with certain inalienable rights."

Mr. Sumner. Then permit me to ask him, does it not go further and say that all just government stands on the consent of the governed? My learned friend will see that by this constitution one whole class is excluded.

Mr. Howard. I see plainly that one whole class is excluded by this constitution. That is very true; but it does not follow from that fact that it is a violation of the principles of the Declaration of Independence, in my judgment. I suppose that notwithstanding the Declaration of Independence, it is the right of every organized political community to regulate the right of suffrage according to the opinions and desires of a majority of that community. When we come to the question of government in a republican country the great and only final test is the will of the majority, whatever may be the component parts of the population. If, therefore, it be the will of a majority to exclude certain classes from the right of suffrage, where that will is exercised freely, I do not know any higher law pertaining to a republican government than that will. It must be submitted to. It may be right or it may be wrong in point of morals, in point of philosophic principles, but it must be submitted to as a practical rule of conduct, whatever may be the theory in regard to it.

I do not, I confess, Mr. President, regard this restriction of the right of suffrage in the Colorado constitution as of importance enough to withhold my vote from the bill now under consideration. If there was a large portion of the people of Colorado who were colored, if they were an important portion of the population, the question would then present itself in a different aspect, and it might become a very serious question whether they ought not to be admitted to a participation in the privileges of government; but as I understand it, the number there is only some forty or fifty.

Mr. Sumner. One hundred.

Mr. Howard. Suppose there are 100, and suppose the population of the present Territory of Colorado to be 30,000 or 35,000 or 40,000

or 50,000; I ask you, sir, especially as Congress has already passed upon this question, according to my apprehension, whether we ought now to hesitate and to keep the State out of the Union simply because her people happen to have exercised the same right, the same power, be it right or wrong, which is exercised in the constitution of almost every other State in the Union.

Mr. Sumner. Do I understand my learned friend as arguing that you may deny rights to one hundred persons but you may not deny them to a thousand?

Mr. Howard. I leave that question to the decision of the majority of the people of Colorado as the best test, as the most satisfactory rule for my conduct at present, especially as the number of that class of persons is so very small. I beg to say, however, and this I speak from my deepest convictions, that I think the time is not far distant when every citizen of the United States, black or white, ought to be and will be admitted to the right of suffrage. I could wish it were otherwise in the present case; I could wish that the people of Colorado in forming this constitution had seen fit to omit the word "white" as a qualifying provision before "person," in reference to suffrage, and I shall vote under the expectation that that generous and enterprising people who have done so much according to their numbers to uphold the Government of the United States during the late war will see to it hereafter that this error shall be corrected in their constitution, and that all persons, black and white, shall be permitted to vote in that State. I hope the same principle will be carried throughout the States, and that we shall all live to see the day—I expect to live to see it, and at no very distant period—when there shall be no such distinction in respect to suffrage as "colored" or "white." I believe that it is as much the right of the colored man to vote at an election as the white man; but still we must look to these matters in a practical sense; we must contemplate them as practical questions of legislation, and not as mere theoretical questions.

But, sir, it is said that this constitution originated irregularly, without the sanction of law, and the Senator from Indiana [Mr. Hendricks] has passed some severe criticisms on this feature of the case. I do not regard this constitution as having originated without law. I look upon the statute of 1864 as containing, as I before remarked, a pledge to the people of Colorado that they should come into the Union, as a pledge to them of the privilege of forming a State constitution, Congress having adjudged that their numbers were sufficient and that their situation at that remote point was such as to make it necessary and proper that they should form a State constitution and be admitted into the Union. It is very true that certain provisions of the act of 1864, relating to the proceedings to be taken in the Territory, had lapsed and ceased to be operative in consequence of the lapse of time. In such a question as this, Mr. President, is the mere lapse of a few months' time of such importance as to justify gentlemen in saying that Congress is under no obligation to the people of Colorado? We know very well that in all legal proceedings, even in proceedings of the most solemn character, where life itself is at stake in a court of justice, the court, in most cases, holds time to be merely immaterial; it is the substance of the thing to which the court looks; and it seems to me, in this case, it is the substance, it is the promise, the encouragement, the pledge which we in our sincerity held out to the people of Colorado, that ought to govern us, and not the mere question of the lapse of time.

Now, sir, I have not heard any complaint made that in the proceedings preliminary to the election of delegates to the convention that framed this constitution there was any fraud or unfairness whatever. The Senator from Massachusetts has made no such allegation. He does not pretend, nor does any Senator pretend, that

the mode of taking the vote was unfair, that there was any fraud or corruption in the whole proceeding; and I take it that if Senators are silent upon this, which would appear to be a very grave objection, it may be taken for granted that the proceedings were entirely fair; that although the constitution originated spontaneously with the people, and was carried forward by their consent until it finally became consummated in the form of a constitution, that is no reason whatever why we should disregard the constitution itself, or look upon it with suspicion.

I have in my mind, sir, a precedent which may not be without its interest on this occasion. It is one relating to my own State. The State of Michigan organized itself under an act of the territorial government of the Territory of Michigan, and utterly without the sanction of Congress or any fundamental law, in the year 1835. It called a convention, which assembled, framed and adopted a State constitution, and that constitution was submitted formally to the vote of the people of the Territory in the fall of 1835, if my memory serves me, and the people of the Territory assented to the constitution and ratified it. Subsequently, in 1836, Congress passed an act declaring that Michigan should be admitted into the Union as a State, provided a convention of her people should give their assent to a change of her boundaries on the southern border. The Senator from Ohio, perhaps, is old enough to recollect that rather stirring controversy between his great and gigantic State and the little Territory of Michigan. The Territory of Michigan called a convention in pursuance of a regular territorial statute. That convention met and took into solemn consideration the proposition of Congress to assent to a change of boundaries which stripped us of several townships on our southern border, and decided that they would not consent to it; and the convention dispersed and went home. The Democratic party, then entirely omnipotent in the State, discovering that it might be necessary in order to give strength to Mr. Van Buren, who was then a candidate for the Presidency, took upon themselves, through their leaders, to call a popular convention, which the boys at that time were in the habit of calling the frost-bitten convention. A vote was taken in a most irregular manner throughout the Territory, without oath, without challenge, without any of the forms of law ordinarily observed at such elections. Another convention was elected in this irregular way; that convention assembled together, although it was supposed that the law itself had spent its force under which the former convention was called, and gave the assent of the Territory to this change of boundary; whereupon a no less distinguished individual than Andrew Jackson, then President of the United States, issued his proclamation, founded entirely upon the assent of this irregular popular convention, and announced to the people of the United States that the State of Michigan was admitted into the Union. I do not refer to this precedent as one to be followed in all cases. At the time I regarded it more as a warning and as an admonition for the future than as a thing to be approved; but there it is upon the statute-book, and there is the proclamation of President Jackson, and here stands Michigan to-day admitted into the Union in virtue of such a popular decree.

Mr. President, I have consumed more time than I intended upon this subject. I regard, as I said before, the statute of 1864 as holding out to the people of Colorado the pledge of Congress, that upon the formation of a constitution by them which is republican in form, and not inconsistent with the Declaration of Independence, they shall be admitted into Congress as one of the States of the Union on an equality with the other States; and I shall vote to reconsider the bill, and I hope to have the good luck to vote for the bill upon its final passage and to see it adopted by a very respectable majority of the Senate.

Mr. Edmunds. Mr. President, as I feel

constrained to vote against this reconsideration, and as the reasons which impel me to that course are somewhat different in degree, if not in kind, from those which have been advanced by other Senators upon this floor, I beg the indulgence of the Senate for a very few moments while I state them.

The principal objection which induces me to oppose the admission of this Territory at this time, and to oppose it in spite of the personal respect and esteem which I feel for the distinguished gentlemen who would otherwise represent her in this body, is found in the nature of the constitution itself which she has presented, rather than in the irregularity with which it has been adopted or in the want of a sufficient population to entitle her to admission; and I presume that nobody will question that I misrepresent Vermont on this question when I say that it grows out of this much discussed word, "white."

In my own State from its foundation, when it was an independent State for many years, not a member of the Union, its constitution from the beginning to this day has adhered to what I understand to be the principles of the Declaration of Independence thoroughly. It has tolerated no distinctions between human rights of one race and another, or of one color and another, or of one sect and another. While my State, as all other States do, recognizes distinctions among men, while it acknowledges the paramount right and the paramount duty of a majority of the whole people to determine what are the true qualifications of electors, it discards the dogma of delusion and of wrong which declares that these qualifications and distinctions are to rest upon unreal and accidental foundations. Its laws always have, as the laws of all States do, provided that lunatics, *non compos*, criminals, and a variety of classes of persons upon whom the law under similar circumstances operates equally everywhere, are not entitled to exercise a voice in the government of the State.

Now, sir, in the case we have before us, independent of the question what are State rights, independent of the propriety of anything in the constitution of any State which already exists, we are called upon, in the exercise of a constitutional power, to decide as a matter of propriety for which we are responsible, what is fit and necessary to be contained in the constitution of a State which we are about to admit. We have entire power over the subject. It appeals to our sense of justice and to our duty to the country. It appeals to that sense of justice and to that duty in the lessons we have derived from the past and the hopes which we have for the future. I am not to be told, for one, that the rejection of a constitution because it imposes the qualification of color upon its electors is a thing that has never been done before. As the honorable Senator from Massachusetts said the other day, when is the time to begin if it is not now? In all preceding time the condition of the country, the rights of States, the situation of the people were different. We have reached the culminating point where the bitter fruits of errors of years ago have been reaped in a large degree, and where now, turning our faces once more toward the arts of peace and the hopes of prosperity and of equality, and fraternity too, I should hope, we are to begin a new era. There is, therefore, eminent fitness according to the spirit of the times, there is great appropriateness that now when we have the first opportunity after what has passed we should put ourselves right upon the fundamental principles of government; and accordingly there have been in this spirit introduced already in these enabling acts qualifications and requirements which were never introduced before. It has not been usual, according to my recollection, to insert in these enabling acts that "the constitution when formed shall be republican and not repugnant to the Constitution of the United States and the principles of the Declaration of Independence." That ancient charter of our liberties has again been referred to, and among its principles I

believe is the cardinal one, which has been stated by the Senator from Massachusetts, of the equality of man, and that further principle which has been stated by him, which that instrument emphatically declares, that the obligation and the right of those who govern is derived from those who are governed.

Now, there is offered to us a constitution which contains in it the fundamental declaration that the obligation to obey law, the power of those who are to exercise law, does not depend upon the consent of some portion of the governed at all; but that by reason of the accident of the color of a man's skin or of his race, of origin, independent of color—because I take it the word "white" in this constitution means white as a race distinguished from the negro race—a portion of the people are to be excluded from participation in the government. We are called upon under this constitution, I say, to declare, if we approve it and submit it to this people, that a provision, fundamental in its nature, in this constitution of that description is correct. I cannot consent to the doctrine. If I rightly understand the theory of the formation of government, it is that constitutions are formed (aside from the mere framework and machinery of government) for the protection of private rights and the fundamental rights of minorities and individuals against the powers of majorities, against the exercise of arbitrary power or of tyranny on the part of the Government.

Now, sir, what is there so sacred, what is there so fundamental in the right of the white men to rule the black, that the white men cannot be trusted with the power of wielding it by a majority? What is there in the nature of this question which makes it our duty to say to the people of Colorado, "We will not trust a majority of your voters to repeal the clause, but we will allow you to put it in your fundamental law so that the free will of your majority can never get it out?" I fail to see what there is so sacred in this right of white suffrage and in the duty of the absence of suffrage on the part of the black man, as to require it to be inserted in the fundamental law of the Government.

You will find, sir, and Senators will find, that this constitution contains the usual clause that two thirds of the Legislature are requisite to amend it in any particular. It is not, therefore, as I said before, the question whether it is right or fit that a State should decide for itself who or what portion of its citizens should vote, but it is the fundamental question whether we will allow a Territory over which we have control to impose upon itself an obligation which it cannot recede from, to exclude from any of the political rights of government any class of its citizens. That is the question. I do not know but that if this were left, as the original enabling act left it, to the people of that Territory to declare of themselves when and under what circumstances the colored race should be clothed with political rights, I should not be satisfied. I should then have preferred indeed that we should have some voice in the matter; but I fail to perceive how we can be appealed to to give to these people a constitution which ties up their own hands from doing what every one of my political brethren says is an act of justice.

What is there so sacred in this thing that this same constitution does not require the Legislature, by two thirds of its members, to allow any other class of citizens to vote? Is it not the subject of ordinary legislation to declare who shall vote and under what circumstances? And if so, why is it necessary to insert in a constitution which cannot be controlled by a majority of white men, that the mere accident of race or color shall be a fundamental objection to any allowance on the part of the whites to the blacks of the right to vote?

Mr. President, it appears to me, without enlarging upon this topic, that the aristocracy of class, the aristocracy of caste, is as bad as the aristocracy of kings. It is the same evil, anti-

democratic spirit precisely as that which animates the aristocracies that govern the monarchies of the Old World, only the form of the aristocracy is developed in a different way. For myself, I am a Democrat in the thorough sense of the term, as I understand it. I believe in the political equality of all men. I believe in the sacredness of the private rights of all men. And yet I am asked as a political friend of these gentlemen, as one having an ardent political desire that my party as it represents, as we suppose, the hopes of the country, should succeed—I am asked to deny my principles in order to achieve a temporary success. Sir, I cannot deny, I cannot turn my back to those principles which are cardinal and essential for the sake of any temporary success. A success of that description, in my judgment, is one not worth winning upon mere grounds of policy. It is one which no man who is convinced as I am of the cardinal error in this constitution can possibly be influenced by.

But where is the harm, Mr. President, to put it upon mere grounds of temporary policy? Are not these people still in the Territory? Can we not send this constitution back to them and say, "Try your hand at it again; reconsider your reconsideration once more; see if you cannot trust yourselves by a majority to declare whether you will allow negroes to vote or not? Have you not confidence enough in yourselves to leave it out of your constitution and not to tie yourselves up forevermore to a principle of this description?" And then, on the first Monday of December, if a majority of that people are still desirous of being represented in this body, can they not present themselves to us with a constitution to which no objection can be made, which sets no bad precedent in morals or in fundamental right that will come to plague us by and by when we apply necessary legislation to other portions of the country? And will these people have been harmed? The tyranny of taxation without representation, if it be a tyranny, will not then have lasted long. I see no difficulty in that course, and without occupying the time of the Senate in dilating upon these questions, I say therefore it is that I feel compelled for one, representing in part, as I do, a State whose sentiments on that subject have never been mistaken; I feel compelled, against my sense of what I should desire to do personally for the respectable gentlemen who come here; in spite of my wishes to accede to the desires of that young and growing population, I feel compelled by a sense of duty which cannot be put aside by temporary considerations to vote against this reconsideration.

Mr. SUMNER. Mr. President, I cannot forbear returning my thanks to the Senator from Vermont for the noble utterance that we have heard from him. He has reminded you of the true principle on which you are to pass. He has held up before you the dignity of the occasion, and has rallied this Senate to its duty. I thank him, sir. His speech ought to produce an effect on his associates in this Chamber. It ought to remind them that there is a truth which cannot be put aside for any temporary expediency. I am grateful to the Senator for the speech he has made. I think the Senate will do well to sleep upon it to-night, to reflect upon it, and when they come here to-morrow to do their duty in maintaining those principles which he has so clearly advocated. I move that the Senate do now adjourn. ["No," "No."]

The motion was not agreed to.

Mr. CRESWELL. Mr. President, when this question was before the Senate on a former occasion I voted against the admission of Colorado as a State, and were it not that I to-day propose to change my vote I should not trespass on the time of the Senate, at so late a period of the discussion, to make any remarks whatever touching the issue now presented by the motion for reconsideration.

The difficulty in my mind, and which induced my vote in the negative on the occasion to which I have just alluded, was not any of

those which the Senator from Massachusetts or the Senator from Vermont has presented, nor was it a difficulty arising out of the paucity of population or the regularity of the election. My trouble was with regard to the permanency of the population. I think I can safely say that the practice of the Government heretofore has never been to require any stated population as a condition precedent to the admission of a State, nor has it ever required any special form of proceedings with a view to qualify the people of a Territory for the rights of State sovereignty. With regard to all that I was satisfied, but doubts were entertained by me with regard to the permanency of the population then and now occupying the soil of Colorado.

Since the discussion on the occasion to which I have referred with reference to the admission of Colorado I have examined with more care into the state of affairs existing in that Territory, and I shall refer to the statement of facts made by Messrs. Chaffee and Evans, so far as it is not contradicted by the statement of the remonstrance or the statements of the honorable Senator from Massachusetts, in support of the position I propose to take to-day in now voting for the admission of Colorado. The proposed State of Colorado, according to the facts adduced, contains about one hundred and six thousand square miles, of which forty-two thousand square miles lie east of the Rocky mountains, and the residue, some sixty-four thousand square miles, west of the mountains. The region lying to the east of the mountains is nearly all valuable by reason of its adaptability to the pasturage of cattle; that lying to west of the mountains constitutes the great mining region of the State. With regard to the quantity of land actually in cultivation there seems to be some difference in point of fact, some gentlemen contending that not more than two hundred and fifty thousand acres are now in cultivation, while others contend that nearer ten times that amount is in cultivation. As to the quantity that is susceptible of cultivation there is also a difference of opinion. I think it is clear or can be clearly deduced from the statements of fact presented that all that portion of the Territory lying east of the mountains is valuable by reason either of its adaptation to agricultural or pastoral pursuits.

With regard to the mineral resources of the State the testimony seems to be entirely clear. So far as the mining interest is concerned, I quote from the Report of the Commissioner of the General Land Office for 1864, page 81:

"That Colorado is a rich mining country, no one acquainted with its resources can for a moment doubt. The gold occurs in veins of copper and iron pyrites, varying in thickness from six inches to forty feet, and in the yield from \$15 to \$500 per ton. I am not far out of the way in saying that there is no gold-bearing vein in Colorado that will not pay with proper machinery and economical working. I send you herewith a map of the gold region of Colorado, in which I have colored the parts that are known to be gold-bearing by actual development.

"In the county of Gilpin alone, the smallest of the gold counties, and I think no richer than others, there are now on record over seven thousand gold-bearing lodes; on these an average of twenty claims of one hundred feet each have been recorded, making one hundred and forty thousand claims in that county alone, and every day adds to the number of lodes. Comparatively few of these lodes have as yet been fully developed, but enough have been worked to show that under proper management a great majority of them can be made to pay."

"Rich mines of silver have been discovered this summer, and the latent wealth of the Territory has been vastly improved."

But it is not in the precious metals alone, Mr. President, that the soil of Colorado is richly endowed. General Pierce, the surveyor general of Colorado, in his report for 1865—and by the way that report of General Pierce has been referred to by gentlemen on the other side of this discussion as being entirely correct and very thorough in its examination—says:

"To a geologist nothing can be more certain than that at least one third of the plains of Colorado contain coal, and it has been found in enough localities to prove that that theory is correct. As yet very few coal veins have been opened and worked, and most of those are in lands that had been surveyed previous to the discovery of the coal, so that the amount found and returned by the surveyors is comparatively small.

In a country where there is not a stream that does not contain some indications of coal, it is difficult to say what land should be reserved as coal land, and I have colored on the plats only such as is proved to contain workable veins that are accessible."

So much for the mineral wealth of Colorado, around which a permanent population may be settled. Now, sir, what are the facts with reference to the population already in that Territory? It may not be very large; different estimates have been presented to the Senate varying from twenty-five thousand (and one gentleman, I believe, stated it to be as low as fifteen thousand) up to fifty thousand. I shall not make a point with regard to the numbers, because, in my mind, the necessity resting upon this Government to fill up that vast extent of territory stretching from the western portion of Kansas and the other States lying north of it, to the eastern frontier of the States lying on the Pacific is paramount. I believe that the sooner we fill up that vast territory with States, remove from the arena of angry and perhaps dangerous controversy on the floor of Congress all that immense section of country, the sooner shall we be in a position to bear our present heavy burdens of taxation, and to advance more rapidly in the path of prosperity.

Already in Colorado the people, according to the statement of the remonstrance filed here against its admission, and their friends, have expended thirty millions in one year with a view to permanent improvement for mining purposes. In Gilpin county alone there are seventy-five or eighty quartz mills, which cost from \$25,000 to \$100,000 each. The smelting works of one company cost about two hundred thousand dollars. The mineral developments in the other counties indicate beyond a doubt equally rich and more extensive mines of both gold and silver. The report of the Superintendent of the United States Mint shows that Colorado, as a gold-producing territory, is second only to California.

This last assertion, I very well remember, the Senator from Massachusetts in some measure attempted to controvert as to its precise accuracy. I will only say that I cannot take issue with that gentleman, although certainly it appears from the statements adduced by him that the gold and silver product of Colorado is sufficient to assert their right to claim that they stand among the first States in the Union in regard to their mining products. They have a population there which seem to be civilized in a measure; they seem to avail themselves of the ordinary pursuits of mankind, and not only that, but they seem willing and able to pay their taxes. When gentlemen speak of their inability to maintain a State government, I beg leave to refer them to the figures compiled in the bureau for the collection of internal revenue.

In Colorado there were collected last year \$130,052 01 for the purposes of internal revenue, independent of the receipts for stamps. The tax of six per cent. on clothing and other articles of dress amounted to \$705 59. The tax of six per cent. on furniture and other articles made of wood amounted to \$1,372 77. The tax on the manufacture of iron castings amounted to \$216 61. The tax of one eighth of one per cent. on brokers' sales of merchandise and other goods amounted to \$1,876 05. The tax of six per cent. on bill-heads, cards, and circulars, printed law blanks, and other printed forms amounted to \$410 20. Licenses paid by bankers amounted to \$1,100; licenses of commercial brokers, \$1,353 36; licenses for stock-brokers, \$658 33; licenses for builders and contractors, \$462 51; licenses for business and trade, or professions, \$854 16; licenses of butchers who sell butchers' meat at retail, \$497 50; licenses for livery stables, \$215 01; licenses of peddlers who travel with two horses or mules, \$2,246 07; income tax, \$38,079 67; tax on banks and insurance companies, \$765 04; licenses of wholesale dealers, \$3,531 83; licenses of retail dealers, \$3,755 01; licenses of hotels, \$2,205 41; licenses of lawyers, \$593 33.

This indicates clearly to my mind that the population of Colorado must remain there from the very necessities of their case. We have scriptural authority for saying that where the treasure is there will the heart be also; and it seems that these people have not only invested their means, but invested their means largely, in these various pursuits which necessarily fix them in that locality, attach them to that soil. So far as lawyers are concerned, we find a tax of \$593 33. I know they are called a parasitic class of society, but I think that the fact that \$593 was paid for lawyers' licenses in that locality, when lawyers pay but ten dollars a year, indicates a very considerable fungus growth with regard to the institutions of Colorado which I think indicates permanency. Being a lawyer myself, I may be permitted to make that remark. [Laughter.] So it is with reference to many other of these pursuits. They are permanent pursuits, and only such as men engage in who intend to remain, perhaps, the balance of their lives in the localities where they settle.

This doubt, then, being removed from my mind by an inspection of the facts as applicable to Colorado, I am prepared to-day to vote for her admission. I am glad to be able to do so, because I voted against her before very reluctantly.

One more remark, and then I shall close. It has been intimated as to the motives which actuate gentlemen in voting on our side of the question, that we have been prompted by a desire to increase the force of our own side on certain questions in this body. I hope I may be permitted to say, without intending any rudeness to the gentleman from Massachusetts, that I think that assertion was a very unwarrantable one. At the time this question was before the Senate before there were pending then great issues about which this whole nation, from one end of it to the other, felt the most profound concern. If I had been actuated then by any such motive, I should, without questioning for a moment the propriety of the admission of these gentlemen from Colorado, have voted, not as I did, but rather in favor of the bill then pending. That necessity has been in a measure removed. Those questions have been settled; the Senate has declared itself with regard to them, and they are definitely disposed of. What may come in the future is only conjecture. We then had the certainty staring us in the face of perhaps a very closely contested contest with the President upon those measures. So far as I am concerned, that consideration does not in any way affect my vote. I stand prepared, so long as I shall remain a representative of my State upon this floor, to vote always in accordance strictly with my conviction of right and justice, and to repel every imputation that I may be controlled upon any measure by any such motive as the gentleman has attributed.

Mr. WILSON. I hope we shall now proceed to take the vote on the reconsideration. I think we have spent sufficient time in this discussion.

Mr. JOHNSON. Mr. President, I am willing to say what little I have to say now, or in the morning if it is the pleasure of the Senate at this time to adjourn; but I do not ask an adjournment on my account. What I propose to say I can submit within a reasonably brief period.

I am opposed to the admission of Colorado, and I am opposed to it upon two grounds, the first of which would, of itself, be sufficient without the other. My opposition to it in the first place is the want of the necessary population. The Senate are aware, every member of the body must be aware, that in the deliberations of the Convention by which the present Constitution was adopted, the cause of all others which threatened most the defeat of the object which they had in view was the disparity between the States. From day to day the patriotic men who constituted that body were solicitous to avoid, if possible, the giving to the smaller States a voice in the Senate of the

United States equal to that which the larger States were to receive. The States that were then the largest—New York, Pennsylvania, and Virginia—were not only through their delegates in the Convention, but with, I believe, almost the unanimous opinion of the people of those several States opposed to giving the smaller States an equal voice in the Senate of the United States. It was said that such an equality was not republican, that it was hostile to all the ideas of republican liberty entertained at that period; and it was not until they became satisfied that the Constitution would not be adopted without it, that they agreed to give the smaller States an equality of representation in this body, counteracting the admitted mischief of that inequality by providing for a numerical representation in the other branch of Congress.

I think, therefore, Mr. President, it may safely be said that if it had been proposed in that Convention that any State should thereafter be admitted with a population anything like as small as is the population of Colorado, rating it at the highest number which the friends of this measure say is to be found there, it would not have received the vote of a single member of that Convention; it would not have received the vote of the members who represented the larger States. They consented to give to the smaller States the equality of representation only because they became satisfied that without it the Union would not be formed which they had so much at heart; and the smaller States had the larger ones practically in their power, looking to the object which the larger States had in view as well as the smaller States. Each of these States, small as well as large, was at that time perfectly independent; each was a nation of itself, invested with all the attributes of nationality; and there was no means by which the larger States could enforce a union or could persuade the smaller States to adopt a constitution by which that Union was to be formed and perpetuated, as they hoped the Union which they wished to form would be, except upon the condition that they would listen to the demands, in the particular of equal representation in the Senate of the United States, made by the smaller States.

At that time there were but thirteen States in the Union, or about to come into the Union. They had gone through a common struggle. Each had brought to the contest which resulted in our independence an equal loyalty and an equal patriotism, and all felt, the large as well as the small, a natural solicitude that there should be no separation in the future. Having gone through as one people the perils of the Revolution, they were willing, more than willing, they were anxious, that they should remain as one people. While, therefore, the larger States were of opinion, and for a long time unwillingly advocated it, that there should not be equality of representation in this body, they finally yielded it because in the past the smaller and the larger States had constituted practically but one nation.

Mr. GRIMES. If the Senator will give way, I move that the Senate adjourn.

Mr. WILSON. I hope not.

Mr. GRIMES. I withdraw the motion merely for the purpose of saying that it must be evident to the gentlemen who have charge of this bill that there is no desire to speak against time. Two thirds of all the speaking that has been done to-day has been by the friends of the bill. It is past the usual hour of adjourning. I do not know of anybody who desires to speak at all on the subject except the Senator from Maryland. I therefore move that the Senate do now adjourn.

Mr. SHERMAN. I call for the yeas and nays, because there is a pressure of public business, and this thing has occupied now several days. I think the discussion has gone as far as is necessary.

Mr. GRIMES. I trust we shall have the yeas and nays, and let us see whether or not members of this body are afraid to have their names recorded when a gentleman rises at this

period of the day and asks for an adjournment to enable him to be heard.

Mr. SHERMAN. The gentleman from Maryland does not ask it.

Mr. JOHNSON. I am in the hands of the Senate.

Mr. GRIMES. The Senator yielded the floor to me to move an adjournment.

The yeas and nays were ordered.

Mr. POMEROY. I understood the Senator from Maryland to say that he was willing to go on now.

Mr. JOHNSON. I said I was in the hands of the Senate.

Mr. POMEROY. If he is willing to go on I shall vote against adjourning.

The Secretary proceeded to call the roll.

Mr. STEWART. I desire to say that Mr. HARRIS and Mr. HENDERSON have paired off.

Mr. DOOLITTLE. I desire to state that Mr. DIXON, and Mr. LANE, of Kansas, have paired off.

The result was announced—yeas 14, nays 21; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Doolittle, Edmunds, Foster, Grimes, Guthrie, Hendricks, Johnson, Morgan, Poland, Riddle, and Sumner—14.

NAYS—Messrs. Chandler, Clark, Conness, Cragin, Creswell, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—21.

ABSENT—Messrs. Anthony, Brown, Dixon, Fessenden, Harris, Henderson, Lane of Kansas, McDougall, Morrill, Nesmith, Norton, Saulsbury, Wright, and Yates—14.

So the Senate refused to adjourn.

Mr. JOHNSON. Mr. President, I rather regret that the motion was made because we have lost so much time by it. Perhaps I am as able to go on now as I should be in the morning. I made no request of the Senate to adjourn, because I was unwilling to put the Senate to any inconvenience or to keep them from voting upon this bill, if they were desirous of voting upon it at this time. I am the more willing to go on now, because I have some reason to believe that some of the Senators are in a better condition than some others. They perhaps have dined.

I was saying, Mr. President, when the motion was made that if the proposition had come from any member of the Convention that States thereafter to be admitted might be admitted if they had a population such as is the population of Colorado, the suggestion would not have received the sanction of any other member of the body. Now, what is this population? The largest number that I have heard it estimated at is 35,000. Of that 35,000, 6,000 at least, some have stated it to be 10,000, consists of the original population of the Territory, Mexicans by birth, wholly unacquainted with our institutions, and who I understand, so far from joining in the application to have this Territory admitted as a State, are against it. But in relation to the population of 35,000, I think it will be found that in point of fact the population is much below that number. I found that opinion upon the vote which has been given upon the several occasions when a vote has been given in this Territory. The usual estimate is, and I believe it is found to be true, that for every vote there are in addition some four persons; that is to say, five persons furnish one vote. That is because in the general and in most of the older States the voters are heads of families or connected with families. The Senate must see that the emigrants to these new Territories for the most part do not take their families with them; they are for the most part young men, men in search of fortune, experimenting with a view to fortune, and they leave behind them their families, those who have them; but for the most part those who go into the wilderness in search of a new home go without families, and particularly those who go into a country where gold or silver is supposed to exist.

Mr. RAMSEY. Will the honorable Senator from Maryland, now that he is speaking on the point of the voting population as the test of the real population, allow me to call his attention to what has occurred in the State of

Minnesota? In the year 1864 there were polled upon the presidential contest 42,238 votes. In the year 1865, in the contest of that year for Governor, there were polled but 31,000 votes, and yet in that year the census of the State evidenced a population of 250,000.

Mr. JOHNSON. What is the conclusion to which the honorable Senator comes from those facts?

Mr. RAMSEY. I arrive at this conclusion: that notwithstanding the increase of population there was a diminution of votes. There is a difficulty in these new and frontier States in the people getting to the polls, so that sometimes there is a diminution of votes when there is not of population.

Mr. JOHNSON. But does the honorable member deny the fact which I have stated, that for the most part the emigrants, particularly to a Territory such as Colorado, are emigrants without families? That I suppose we all know to be true beyond all doubt; and the general rule as to the proportion of voters to people does not apply to such a population as is in one of these Territories. But independent of that, if you deduct the six or ten thousand Mexicans who form now a part of the population of that Territory from the 35,000 claiming to be there, and suppose that one half of those who did vote were voters without families, you find the population to be in all probability not more than 15,000. But suppose it to be 35,000. It is true that the Constitution of the United States in no part of it, with reference to the admission of new States, prescribes any number of population of which the State is to consist; but if they had contemplated as possible that the Congress of the United States under that authority would have admitted any State with a population such as is the population of Colorado, supposing it to be the largest number which any person has stated it to be, they would have prevented it, in my judgment, by constitutional prohibition. What did they do? A great many of the members of the Convention were members of the First Congress. In 1790 Congress directed the first census to be taken. In 1792, when they came to apportion the members the States were to have, they directed that there should be only one Representative for every thirty-two or thirty-three thousand of the population, so that the very men, or most of the leading men who constituted the Convention, when they came to act upon the question how the people were to be represented, provided that 33,000 should be necessary in order to be represented by one Representative. And now what are we about to do? To let these twenty or thirty thousand persons be represented by one member certainly in the House of Representatives, although the number now required as the basis of representation in that House is 127,000, and to give them two Senators on this floor, and why? I do not speculate as to motive; I have no right to speculate as to motive; but why is it necessary? Is it to protect the people of the Territory? Cannot we protect them by our own legislation? What is the condition of the people of this District, numbering now more than 100,000? They are not to constitute a State at any time. We are their representatives, and under the Constitution we are alike the representatives of all who may settle in these Territories before they are in a condition to be received into the Union of States.

In my judgment, the admission of States into this Union is a high function and a very important function. Some of the honorable gentlemen who are favoring this bill may, perhaps, not consider it so important as I do, because they give a latitudinarian construction to the Constitution, of which, in my judgment, it does not admit. They seem to believe that they can legislate for the States after they get into the Union. My opinion is that the moment the State is admitted it is wholly independent of any legislation that Congress may adopt, except such as falls within its delegated powers; that nearly the whole sphere of subjects with which the local rights of the State are con-

cerned, or the business of the people of the State is concerned, is to be submitted to the legislation of the State, and entirely independent of that which Congress may think proper to adopt. And I submit to those who are about to vote for this proposition that it is not republican in point of form. I do not mean upon the ground upon which my friend from Massachusetts places it, or on which the Senator from Vermont places it; but in the true sense of a republican government, it is not right in principle to give to fifteen or twenty thousand people an equal voice in this body with one or two or three millions.

The time may come when those who are for receiving now the State of Colorado, with that limited population, may regret the precedent that will be established if she shall be received. The admission of States is not to terminate with that of Colorado. There is an immense territory yet to come in when it comes to be sufficiently peopled. There is in some of these States now territory enough and population enough to make a dozen States. If the Union is restored actually to-morrow, and the whole of the southern States come in, they may have a policy of their own. They may think it necessary, in order to carry out that policy, to divide their own States; to make of Texas four; to make of Georgia just as many almost as they may think proper to make, for she has forty times the population of Colorado; to make of Virginia as many; and what will the States of New England be able to say in opposition if Colorado should be admitted? Virginia will insist, because it is sure to be so in the end, that having a population of five or ten millions she ought to be represented upon this floor by more than two Senators, and insist upon a division of her State into as many States as her policy for the time may dictate. How can you refuse to allow it? In the first place, you cannot refuse her on principles. In the second place, upon the hypothesis which I have assumed, you will not be able to refuse her by votes. What is to become of the New England States and the smaller States which are here upon the sea-board? I do not mention it by way of a threat, for threats are thrown away, as I trust, upon the members of this body; I appeal to it merely for the purpose of bringing to the attention of the Senate a fact which I think should enter into their deliberations as statesmen upon the possible tendency of this measure.

The honorable member from Nevada [Mr. NYE] who spoke so well yesterday—and the same thing has been said in substance by others—seemed to suppose that these people have a right to be admitted because of the extent of this Territory and the extent of the mineral wealth. That is not my idea of a State, Mr. President; and that is not the idea that our fathers had. The States that they designed were States to be composed of men and not of mere wealth. Otherwise the city of New York might furnish fifty States if wealth only was to be the test by which States are to be constituted. It is not the wealth in the mountains or the wealth in the pockets of the citizens; it is the citizens. The mere suggestion that twenty or thirty thousand people of all sorts, constituted of men, women, and children, native Mexicans, and others, are to be put upon the same footing in this body with the great State of New York seems to me—I was about to say to be so absurd—to be so anti-republican that the people of the country will never sanction it. If you can let a State in with 15,000, why not let her in with 5,000? The honorable member from Oregon stated that there was nothing in the Constitution which limits the number of people that is to constitute a State. That is true. Well, if in the absence of any particular provision on that subject in the Constitution, you can let in Colorado although she has a population of only fifteen or twenty thousand you could let in any other territorial possession that we have if it should turn out to have a population of 3,000 and should ask for it.

It is, therefore, upon the ground of the want of population principally that I am opposed to

the measure, but there is another reason which operates influentially with me. There is nothing to show that the people of the Territory even desire it—nothing satisfactory to my judgment. The only majority claimed is 155 out of a vote of some 6,000, and I suppose it is perfectly legitimate to infer that in the 6,000 who voted not one of the native Mexican population is to be found. And how was the election held? Not held under your enabling act of March, 1864. They did not pretend to hold it under that enabling act.

Mr. HOWARD. Mr. President—

Mr. JOHNSON. It is pretty late to be interrupted.

Mr. HOWARD. I was merely going to make a correction.

Mr. JOHNSON. What is the correction? I will hear the correction.

Mr. HOWARD. I was going to say that the documents which are before us show that the Mexican population in those two counties to which the Senator refers voted at the most recent election of members of the Legislature of Colorado, participated fully in that election, and also voted on the question of adopting the constitution itself. They cast a very large vote.

Mr. JOHNSON. I understand, outside of the constitution itself and the record of the actual vote, that the whole Mexican population are decidedly opposed to the admission of the State.

Mr. HOWARD. They were opposed to becoming part of the United States.

Mr. JOHNSON. But they are a part of the United States now, I presume.

Mr. RAMSEY. I think the only votes in Colorado against the constitution were the votes of that Mexican population. The American population all voted for it.

Mr. JOHNSON. All? That is not my information.

Mr. RAMSEY. Substantially all.

Mr. JOHNSON. But how was the election held? You passed the enabling act in March, 1864, and you provided specially how it was to be held, and you were very cautious in those provisions. They were intended to guard against fraud; they were designed that notice should be given to everybody; there was protection against improper voting. How has this constitution been adopted? Rejected at the election held under your enabling act of 1864 by a majority of 3,000 or 4,000 in a vote of not more than 7,000, it is now carried by 155; but how was that election held? The Territorial Legislature itself, even, did not pass an act authorizing the convention to be held. The presiding officers of the partisan committees, as I understand, or those who represented the political parties into which the population of the Territory was supposed to be divided, got together and themselves devised the mode by which the convention should be elected; but provision as to who was to vote, under what sanctions the vote was to be given, how fraudulent attempts at voting were to be frustrated, how they were to be punished if successfully attempted, is nowhere to be found, and nobody can tell whether the whole of that majority of 155 was not the result of illegal voting.

It would seem to be hard, very hard, that you should force upon such a minority as voted against this constitution a State government. They think, and think properly, that they may be taxed beyond their ability to meet it. They think it is better for them to remain in a territorial condition. Some of the most thoughtful, some of the most loyal to the Territory think so. We all know how these conventions are got up. Gentlemen are anxious to come to Congress, to the Senate and to the House; anxious to receive the offices which will be at the disposition of the Executive after they are admitted; but the body of the people have no such interest. It is better for them, until they have a fixed and permanent existence as a people, that they should remain in a territorial condition; and I have no doubt that if you pass such an

enabling act as was passed in 1864, rejecting the present application to be admitted and put the question again to the people of Colorado, they will vote against coming into the Union. I have said, Mr. President, substantially what I rose for the purpose of stating, not as well perhaps as I should have stated it in the morning if there had been an adjournment; and now close by saying that I shall not vote on the question, because I have paired off with one of the Senators from Illinois who is not now in his seat, [Mr. YATES.]

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is, Will the Senate reconsider the vote by which they refused to order the bill to be engrossed for a third reading? And on that question the yeas and nays have been ordered.

Mr. SUMNER. I had intended to say something before the debate closed in reply to different Senators who have spoken. What I said yesterday has been alluded to by various Senators and has been criticised. I do not wish to occupy the time of the Senate. I hope I have not abused its indulgence; but I feel strongly on this question, and I feel that the Senate is about to make a great mistake. I make no question with regard to the motives of Senators. I concede freely to all about me what I claim for myself. I feel, however, that they are about to make a great mistake; but it is too late for argument; I know that nothing I could say would influence a vote; and my only motive now in speaking would be to vindicate myself. There is nobody out of this Chamber that at this moment I care to reach on this question; I only wish to reach my associates in this body; I wish to appeal to them and to plead with them not to make the sacrifice which it seems to me they will make if they take the step which is now proposed. I will not detain the Senate, however, by another word.

The Secretary proceeded to call the roll.

Mr. WADE. I ought to state that I have paired off with the Senator from Pennsylvania, [Mr. COWAN.]

Mr. DOOLITTLE. I was requested to state, by the Senator from Connecticut, [Mr. DIXON,] that he had paired off with the Senator from Kansas, [Mr. LANE.] He would have voted "nay;" the Senator from Kansas would have voted "yea."

Mr. GRIMES. By the authority of the Senator from Maine [Mr. FESSENDEN] I secured a pair for him with the Senator from Oregon, [Mr. WILLIAMS.] Had he been here he would have voted in the negative.

Mr. STEWART. I am requested by Mr. HARRIS to state that he is paired off with Mr. HENDERSON. Mr. HARRIS would have voted against the reconsideration, Mr. HENDERSON for it.

Mr. JOHNSON. As I said just now, I am paired off with Governor YATES, of Illinois.

Mr. RIDDLE. My colleague [Mr. SAGLEBURY] has paired off with the Senator from Minnesota [Mr. NORTON] on this question. He would have voted "nay" if he were here.

Mr. WILLIAMS. I am paired with Mr. FESSENDEN.

Mr. McDOUGALL. Permit me to ask a question for information. Do pairs count? Do they help to make a quorum?

The PRESIDING OFFICER. They are not counted.

The result was announced—yeas 19, nays 13; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Cragin, Creswell, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Wiley, and Wilson—19.

NAYS—Messrs. Buckalew, Davis, Doolittle, Edmunds, Foster, Grimes, Guthrie, Hendricks, McDougall, Morgan, Poland, Riddle, and Sumner—13.

ABSENT—Messrs. Anthony, Brown, Cowan, Dixon, Fessenden, Harris, Henderson, Johnson, Lane of Kansas, Morrill, Nesmith, Norton, Salsbury, Wade, Williams, Wright, and Yates—17.

So the motion to reconsider was agreed to.

The PRESIDING OFFICER. The bill is now before the Senate and open to amendment. If no amendment be proposed, the question is,

Shall the bill be engrossed and read a third time?

Mr. SUMNER. I hope the Senate will now adjourn. There are a couple of amendments which I have to move to the bill. I do not wish to move them to-night.

Several SENATORS. Oh, yes; move them now.

Mr. SUMNER. Senators say, "Oh, yes, move them now." I hope the Senate will adjourn. I move an adjournment.

The motion was not agreed to.

Mr. SUMNER. I have an amendment to move. It is to add at the end of the bill the following proviso:

Provided, That this act shall not take effect, except upon the fundamental condition that within the State there shall be no denial of the elective franchise or of any other rights on account of color or race, but all persons shall be equal before the law. And the people of the Territory shall, by a majority of the voters therein, at such places and under such regulations as shall be prescribed by the Governor thereof, declare their assent to this fundamental condition, and the Governor shall transmit to the President of the United States an authentic statement of such assent whenever the same shall be given, upon the receipt whereof he shall, by proclamation, announce the fact; whereupon, without any further proceedings on the part of Congress, this act shall take effect.

On that I ask for the yeas and nays.

The yeas and nays were ordered, and being taken, resulted—yeas 7, nays 27; as follows:

YEAS—Messrs. Edmunds, Foster, Grimes, Howe, Morgan, Poland, Sumner—7.

NAYS—Messrs. Buckalew, Chandler, Clark, Conness, Cragin, Creswell, Davis, Doolittle, Guthrie, Hendricks, Howard, Johnson, Kirkwood, Lane of Indiana, McDougall, Nye, Pomeroy, Ramsey, Riddle, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, Williams, and Wilson—27.

ABSENT—Messrs. Anthony, Brown, Cowan, Dixon, Fessenden, Harris, Henderson, Lane of Kansas, Morrill, Nesmith, Norton, Saulsbury, Wade, Wright, and Yates—15.

So the amendment was rejected.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. SUMNER. I ask for the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The Secretary proceeded to call the roll.

Mr. GRIMES (when Mr. FESSENDEN's name was called) said: I desire to repeat what I stated before. It is known to the members of the Senate that Mr. FESSENDEN has been confined to his house for some ten days or two weeks by indisposition. At his instance I secured a pair for him on this question. Had he been here he would have voted against the bill.

Mr. JOHNSON (when his name was called) said: I am paired on this question.

Mr. WADE (when his name was called) said: I am paired as I stated before.

Mr. WILLIAMS (when his name was called) said: I have paired off with Mr. FESSENDEN. If he were here, he would vote "nay," and I should vote "yea."

Mr. SPRAGUE. The Senator from Kansas [Mr. LANE] desired me to say that he was paired off with the Senator from Connecticut, [Mr. DIXON], as has been already announced by the Senator from Wisconsin. The Senator from Kansas would have voted "yea."

The result was announced—yeas 19, nays 13; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Cragin, Creswell, Howard, Howe, Kirkwood, Lane of Indiana, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Trumbull, Van Winkle, Willey, and Wilson—19.

NAYS—Messrs. Buckalew, Davis, Doolittle, Edmunds, Foster, Grimes, Guthrie, Hendricks, McDougall, Morgan, Poland, Riddle, and Sumner—13.

ABSENT—Messrs. Anthony, Brown, Cowan, Dixon, Fessenden, Harris, Henderson, Johnson, Lane of Kansas, Morrill, Nesmith, Norton, Saulsbury, Wade, Williams, Wright, and Yates—17.

So the bill was passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a bill (H. R. No. 511) imposing a duty on live animals.

HOUSE BILL REFERRED.

The bill (H. R. No. 511) imposing a duty

on live animals was read twice by its title and referred to the Committee on Finance.

Mr. TRUMBULL. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, April 25, 1866.

The House met at twelve o'clock m. Prayer by Rev. HENRY N. BELLOWES.

The Journal of yesterday was read and approved.

TELEGRAPH TO THE WEST INDIES.

Mr. ELIOT. I ask unanimous consent to report from the Committee on Commerce Senate bill No. 26, concerning telegraphic communication between the United States and the island of Cuba, and other West India islands, and the Bahamas.

Mr. CHANLER. I object.

DUTIES ON IMPORTS.

Mr. BOUTWELL. I ask unanimous consent to introduce a bill to amend an act entitled "An act further to provide for the collection of duties on imports."

Mr. ROSS. Does it increase the duties on imports?

Mr. BOUTWELL. No, sir. This bill has been drawn with great care by well-informed persons on the subject, and the committee wish the benefit of having it printed.

The bill was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

PERSONAL EXPLANATION.

Mr. SHANKLIN. I rise to make a personal explanation. I discover that I am reported by the Chronicle and National Intelligencer a few days since as having perpetrated a long written speech in the House on last Saturday, a thing, sir, that I never did, never expect to do, and do not know that I could do. My colleague [Mr. RITTER] is entitled to the honor of having made the speech referred to. And while I am unwilling to appropriate any of the laurels of a gentleman of his eminent ability, I am equally unwilling that he shall bank on my capital or make speeches in my name. I hope, therefore, that that will be corrected.

Another error in the same report. I am reported as having followed my colleague on my right, [Mr. SMITH], a matter which I am satisfied never entered the head of any gentleman here. I will say that I have always found my colleague [Mr. SMITH] a very agreeable gentleman when met with, but the idea of following him, or the idea of expecting him to follow anybody long, certainly never entered my mind or the mind of anybody that knows him as well as I do. [Laughter.] I hope that may also be corrected.

Mr. SMITH. I wish merely to say that if my colleague would follow so good a leader as myself he would not have gotten into so many rebellious scrapes and bad company as he has done during the last few years.

WASHINGTON ACADEMY OF MUSIC.

Mr. DONNELLY, by unanimous consent, introduced a bill to incorporate the Academy of Music, of Washington city, District of Columbia; which was read a first and second time and referred to the Committee for the District of Columbia.

SALE OF ARMS, VESSELS-OF-WAR, ETC.

Mr. ORTH, by unanimous consent, introduced a joint resolution, authorizing the sale and transfer of arms, munitions and vessels of war; which was read a first and second time, and referred to the Committee on Foreign Affairs.

ISAAC RAMSEY.

Mr. HUBBELL, of Ohio, by unanimous consent, introduced a joint resolution for the relief of Isaac Ramsey, internal revenue collector of the eighth district of Ohio; which was

read a first and second time, and referred to the Committee of Claims.

PERSONAL EXPLANATIONS.

Mr. BLAINE. I ask the unanimous consent of the House to make a personal explanation.

No objection was made.

Mr. BLAINE. Mr. Speaker, in the debate yesterday on the Army bill in relation to the Provost Marshal General, there was some personal controversy between the gentleman from the Utica district of New York [Mr. CONKLING] and myself. That gentleman has been longer a member of Congress than myself, but I have understood—

Mr. WARD. I would inquire if my colleague from the Utica district is in his seat.

Mr. BLAINE. He is here. I should not have sought to make this explanation if he had been absent. I supposed the member was equally familiar, with myself, with the rule understood to obtain among members in respect to the Globe reports of personal controversies. I understand, as I presume we all do, that it is quite allowable for a member who makes a speech here not affecting any personal interest, to alter the reporter's notes and place them in such form as is most agreeable to himself. I have equally understood that in personal controversies between gentlemen it is a point of honor that as the reporter puts down what takes place it shall be printed, or that if alterations are made they shall be made by mutual understanding and knowledge.

I called at the Globe office this morning, and on reading the Globe at twelve o'clock I found essential alterations, and upon inquiry at the Globe office of the proper person, I was told that those alterations were made by the member from New York, [Mr. CONKLING], and are in his handwriting. I now hold the report of his remarks in my hand, and there is scarcely a page but what has been altered. But I do not intend to comment upon the alterations at any length. I merely want to call the attention of the House to one point, where the gentleman sought by an alteration to take away the entire point of my reply to him. I characterized some of his bravado as "cheap swagger" when he talked about meeting me "here or elsewhere." The gentleman eliminates that important part of his speech and inserts instead these words:

"I have stated facts for which I am willing to be held responsible at all times and places."

Now, the phrase "here and elsewhere" is a phrase well known in Congress; it is the phrase of bullism. It was a phrase upon which I commented, and which I denounced and justly denounced, and which the gentleman had no right to alter at the Globe office.

I desire to say that I never saw the notes of my remarks of yesterday. I did not know what the reporters had put in the Globe, and I should have considered that I was violating the first principles of honor which should exist between gentlemen had I ventured to do it.

Mr. CONKLING. I hope the member will yield to me for a moment to ask the loan of the sheets which he has obtained from the Globe office.

Mr. BLAINE. There was nothing surreptitious about it; they were obtained openly; and I hope the gentleman will give them back to me, as I am responsible for them to the Globe office.

Mr. CONKLING. I place myself under obligations to the gentleman by asking him not to give me that pile of manuscript, but to indicate to me the sheets to which he refers where alterations have been made.

Mr. BLAINE. On page of the manuscript No. 188½ he says, as reported, that he is entirely responsible "not only here but elsewhere," and that is cut out.

Mr. CONKLING. I ask merely to see the sheet. Before looking at it or making any remarks upon it I wish to say that I do know, what the member from Maine announces as if it were new to somebody or especially appreciated by

himself, that no member of this House has a right by any alterations, even of his own remarks, in any respect to affect the rights or the position of any other member with whom he has had a discussion, whether in the way of controversy or not. And I hope that it is unnecessary for me to assure any gentleman with whom I am acquainted that I am as incapable as the gentleman from Maine [Mr. BLAINE] pretends to be, of doing anything in violation of the rule which I state.

I deny entirely, speaking at a venture of all these sheets which are here—and I challenge a refutation of what I say—I deny that in any respect or particular have these notes been so altered by me as to change at all the position of any gentleman in this House, whether he took part with me in the debate or not. And I affirm—speaking of this sheet which I will look at particularly in a moment; and speaking of every other sheet upon which the debate of yesterday was reported; and speaking also of every other sheet of Globe reports that ever came into my hands—that I have made no alterations, none whatever, except those alterations which all gentlemen make, rejecting the surplusage and diffusive style which will always enter, more or less, into extemporaneous speaking, so as to prune down a little, into fewer words, the sense which was expressed.

On yesterday there was properly before this House the public administration of a public officer. It was a suitable theme for discussion. At all events, whether it was so or not was a question addressed to every gentleman for himself. I commented upon the public administration of this public officer and his subordinates; I spoke of facts of which I had the right to speak, because I had investigated them, and I thought I knew whereof I affirmed.

The member from Maine, [Mr. BLAINE,] with frivolous impertinence, put into the debate an imputation upon my motives; and attributed to me dishonorable personal resentment. Suppose what he said had been true; what had that to do with the matter which we were discussing? What light did an imputation cast upon me throw upon the question whether the Bureau of the Provost Marshal General ought to be petrified forever in the military system of this country?

Not only did he make a statement, which I repeat was frivolously impertinent and personal to me, but he made a statement in which he was mistaken. He added, in substance, that I traduced this officer in his absence, and that I did it here; thereby meaning to put upon me the further imputation that skulking behind the constitutional privileges of debate I was defaming an absent man.

In answer to that I said that I had no such intention; that I stated what I believed; that I was ready to state it here or elsewhere, and to be responsible for it, not only here but anywhere else. The gentleman says those are technical words. I did not know that they were technical words. I have heard them used here repeatedly. I heard them used the other day by a gentleman to whom I will not refer more especially; he said, in the precise phrase which I did not use on yesterday, that he would be responsible, not only here but elsewhere. What I said was that I was ready to stand by the statement I made; not to shelter myself behind the privileges of debate, but to be responsible to any person who should be aggrieved, everywhere and whenever he might see fit to raise the question.

Now, it was rather a cheap mode of clawing off from an ungentlemanly passage in the debate for the member from Maine to rise here and pretend to this House that he understood I meant to talk in the language of the duelist or to intimate in any way that I sought a personal controversy with him. I beg to assure him that my observation of him, if nothing else, would remove far distant from me the impression that in that way or in any other way it was worth while to attempt to get out of him any such controversy as that.

Now, sir, I made no such intimation. I had no such intention. I made no such statement. But on the contrary, I said what I will proceed now to read as it stood originally upon this paper; and then I will state to the House the alteration which has been made; and I will submit whether I will be compelled to sit at the feet of the gentleman from Maine and derive from him instruction as to what is gentlemanly and honorable.

Now, this sheet, which is handed to me without what precedes it, commences in the middle of a sentence. I would like to have the commencement of the sentence.

Mr. BLAINE, (handing a page of manuscript.) I will say here—

Mr. CONKLING. No, Mr. Speaker; I would like to continue my statement so far as to read this sheet.

Mr. BLAINE. I hope the gentleman will state what is in his own handwriting.

Mr. CONKLING. Mr. Speaker, I shall understand which is my own handwriting; and I shall be very frank and very fearless in stating all the particulars about this matter. If the gentleman will only be quiet he will find that he will lose nothing of the truth by waiting to hear my statement.

This the gentleman says is in my own handwriting, as it is:

"I say to him further, that I mean to take no advantage, such as he attributes, of the privileges of this place, or of the absence of General Fry."

I believe that is not the alteration complained of.

"On the contrary, I am ready to avow what I have here declared anywhere."

Not "elsewhere," but "anywhere." I believe that not much is lost by that variation.

"I have stated facts for which I am willing to be held responsible at all times and places."

The alteration, complained of, as I understand, is that instead of avowing a willingness to be held responsible here or elsewhere, which he says the phrase was, I say, "I am willing to be held responsible at all times and places."

Well, sir, if there is any diminution of responsibility here; if, by this alteration, making the declaration cover all space and all time, there has been avoided any responsibility which was assumed by saying "here or elsewhere," then I admit that I am subject to the censure of gentlemen whose position and character are such as to entitle them to give instruction upon such questions.

Now, the words stricken out, in lieu of which those words are inserted, appear thus in the reporter's notes:

"I am responsible, not only here but elsewhere, for what I have said and what I will say of the Provost Marshal General."

That I understand to be the alteration complained of. The notes were, "I am responsible not only here but elsewhere;" while, in making the correction I have said, "I am willing to be held responsible at all times and places." Mr. Speaker, I stand by that alteration. I will not undertake to say whether it is more or less precise than the original utterance. I will undertake to say, and I submit it to every gentleman in this House, that not only is there no alteration here which puts the gentleman from Maine in any different position from that which he occupies, but there is no alteration by which I relieve myself from any responsibility to any human being which in the original utterance I took.

Now, sir, having said this much, I conclude by saying that I throw back to the gentleman any sort of imputation which he seeks to cast upon me; and I say to him that the time will be far hence when it will become necessary for him to dispense to me any information or instruction with regard to those rules which ought to govern the conduct of gentlemen.

Mr. BLAINE. Mr. Speaker—

The SPEAKER. The gentleman from Maine asks unanimous consent to make a personal explanation. The Chair hears no objection.

Mr. BLAINE. I desire to say a single word. The reporters of the Globe, with their usual accuracy, have reported me in my rejoinder

with the phrase "here and elsewhere" in quotation marks. I want members to understand the precise point of my complaint. Though I am reported, and correctly reported, as referring to the gentleman's phraseology "here and elsewhere," and commenting upon the bravado of his manner, yet a person reading the debate might be led to ask what I was replying to when I quoted a phrase of that kind, the very mild phrase "at all times and places" having been cunningly substituted in the remarks of the gentleman from New York.

Now, Mr. Speaker, I never expected to make a personal explanation in this House in my life. As to courage I am like the Methodist deacon about his piety—I have none to speak of. If I had I should be loath to introduce it in competition with a gentleman who left such a brilliant reputation for courage in the Thirty-Seventh Congress.

Mr. CONKLING. I beg to say one word, that I did not see, of course, as gentlemen will understand, the remarks of the gentleman from Maine.

Mr. BLAINE. I am told at the Globe office he took the notes and did not return them till twelve o'clock and one o'clock this morning. That is said on my responsibility from Mr. Lewis, the superintendent of the composing room in the Globe office.

Mr. CONKLING. The member's zeal outruns his discretion, which perhaps is not the first occurrence of that kind in his life. Mr. Lewis, I undertake to say, and no other man who stands respectfully in the community, told the member from Maine that I had for one moment the sheets containing his rejoinder or any part of them. So far from that, one of the Globe reporters, Mr. Lord, handed to me here for the first time, between nine and ten o'clock, during the evening session, the sheets upon which my remarks appeared, and those alone, and not all even of the sheets upon which my remarks appeared. They contained nothing else except the point of order submitted to the Chair and the remarks made by the then occupant of the chair [Mr. DAWES] in deciding that point of order. I took those notes in haste, went into a committee-room, read them over rapidly, and corrected them. I never saw the notes of the gentleman from Maine. I did not know they contained any statement about "here or elsewhere." I did not think there was the slightest significance in those words more than in any other for this purpose. I say the statement he makes, that I had his notes until midnight or any other time, is without any shadow of foundation in truth.

But, Mr. Speaker, a member of this House capable of doing precisely that which upon four marked occasions during this session I have detected in the gentleman from Maine is capable of saying precisely what he said here, and putting me in a position when I answer it which makes me feel I owe an apology, if not to myself, to the members of this House, for detaining them one moment on such a matter.

DUTY ON LIVE ANIMALS.

Mr. MORRILL. I ask unanimous consent to report from the Committee of Ways and Means a bill imposing a duty on live animals imported from foreign countries, and that it be acted upon by the House at this time.

The bill was read.

Mr. MORRILL. Mr. Speaker, in view of the fact that we shall act upon the internal revenue bill, which will be reported to-day, before we can act on the tariff bill, it seems to the committee to be necessary and proper to report this in advance, for the reason that there is at the present time no duty on any live animals whatever. We understand the Canadians have adopted something of Yankee ingenuity, and are driving over their herds to this side of the line, keeping them here until shorn and then driving them back again. This is to prevent practice like that. I suppose there will be no objection to the immediate passage of the bill.

The bill was read a first and second time, ordered to be engrossed and read a third time,

and being engrossed, it was accordingly read the third time and passed.

Mr. GARFIELD moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

NATIONAL BANKS AND CURRENCY.

Mr. DARLING, by unanimous consent, introduced a bill to amend the act in relation to national banks and currency, approved June 3, 1864; which was read a first and second time, and referred to the Committee on Banking and Currency.

REBEL COTTON LOAN.

Mr. KASSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President be requested to communicate to this House, if not incompatible with the public interest, any negotiations that have been entered into by or proposed to the executive department of this Government respecting the rebel debt known as the cotton loan or any other rebel indebtedness.

WEST VIRGINIA.

Mr. LATHAM, by unanimous consent, introduced a joint resolution to extend to the counties of Berkeley and Jefferson, in West Virginia, the provisions of an act approved July 4, 1864, entitled "An act to restrict the jurisdiction of the Court of Claims and to provide for the payment of certain demands for quartermaster's stores and subsistence supplies furnished to the Army of the United States;" which was read a first and second time, and referred to the Committee of Claims.

CONTESTED ELECTION.

Mr. LAWRENCE, of Pennsylvania, presented papers in relation to the contested election in the twenty-first congressional district of Pennsylvania; which was referred to the Committee of Elections.

RAILROAD IN MINNESOTA.

Mr. JULIAN, from the Committee on Public Lands, by unanimous consent, reported House bill No. 497, granting lands to aid in the construction of a railroad and telegraph line from the city of Yankton to the west line of the State of Minnesota, in the Territory of Dakota; which was ordered to be printed, and recommended.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote by which the bill was recommended, and to lay that motion on the table. The latter motion was agreed to.

EMIGRANT VESSELS.

Mr. RANDALL, of Pennsylvania, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to.

Resolved, That the Committee on Commerce be requested to inquire what legislation is necessary to prevent vessels from foreign ports carrying an undue and disproportionate number of passengers and emigrants to their ship accommodations, and whether any precaution should be adopted to prevent the introduction into this country of cholera and other infectious diseases in such overloaded vessels.

DEFENSE OF MONTANA TERRITORY.

Mr. SMITH. I ask unanimous consent to introduce a bill to provide arms and ammunition for the defense of the inhabitants of Montana Territory.

Mr. SPALDING. I object.

ESCUTCHEONS OF WEST VIRGINIA AND NEVADA.

The SPEAKER laid before the House the following report from the Commissioner of Public Buildings; which was referred to the Committee on Appropriations:

OFFICE COMMISSIONER OF PUBLIC BUILDINGS,
CAPITOL OF THE UNITED STATES,
WASHINGTON, April 25, 1866.

SIR: In compliance with the resolution of the House of Representatives of the United States of February 13, 1866, I have caused to be painted and placed in two of the panels of the ceiling of the House of Representatives the escutcheons of the States of West Virginia and of Nevada.

I am, with high respect, your obedient servant,

B. B. FRENCH,
Commissioner of Public Buildings.
Hon. SCHUYLER COLFAX, Speaker of the House of Representatives of the United States.

NORTHERN PACIFIC RAILROAD.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The House accordingly proceeded, as the regular order of business, to the consideration of the unfinished business of last evening, being House bill No. 414, to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes.

The pending question was the question raised by Mr. WASHBURNE, of Illinois, on the reception of the report, upon which the previous question had been seconded and the main question ordered, and the yeas and nays ordered.

Mr. WASHBURNE, of Illinois. I understand the gentleman from Iowa [Mr. PRICE] expresses a willingness, if the report shall be received, to give full and ample time for discussion. I therefore waive all objections to the acceptance of the report.

Mr. WENTWORTH. How long will he give?

Mr. WASHBURNE, of Illinois. He is willing to give until August if necessary.

Mr. WENTWORTH. Does he say so? [Laughter.]

Mr. WASHBURNE, of Illinois. Oh yes, sir. He means by that, of course, a reasonable time.

Mr. WENTWORTH. I want to be heard on this question.

Mr. WASHBURNE, of Illinois. I have the pledge of my friend from Iowa [Mr. PRICE] and I will indorse it.

Mr. WENTWORTH. I would rather have the Speaker's indorsement. [Laughter.]

Mr. WASHBURNE, of Illinois. I withdraw objection to the reception of the report.

The SPEAKER. The question then is, Shall the bill be engrossed and read the third time?

Mr. WASHBURNE, of Illinois. I now raise the question of order whether the bill is before the House—whether after it was recommitted to the committee they reported back the bill which was before the House or another bill.

The SPEAKER. The question of reception is withdrawn, and now the question of order is raised in regard to the bill being properly before the House.

Mr. WASHBURNE, of Illinois. My point of order is that the bill before the House was never referred to the committee; that they never had it in their possession, and did not report it back.

The SPEAKER. That involves the question of reception. The Chair will decide the point of order. The subject of a Northern Pacific railroad having been referred to the Committee on the Pacific Railroad by petitions and bills, that gave them jurisdiction of the question, and they had a right to report the bill referred to them or any other bill on the subject. The Chair, therefore, overrules the question of order and the bill is before the House.

Mr. RANDALL, of Pennsylvania. I call for the reading of the bill, reserving the right to raise a question of order upon it when it has been read.

The bill was read.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, their Secretary, informed the House that the Senate insisted upon their amendments, disagreed to by the House, to the bill of the House No. 238, to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon; and had appointed Mr. CLARK, Mr. TRUMBULL, and Mr. HENDRICKS the conferees on the part of the Senate.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. RANDALL, of Pennsylvania. It will be remembered that last night, when this bill was presented, I raised the point of order that

it was an appropriation bill. Since that time I have conferred with many gentlemen, both those who are favorable to this measure and those who oppose it, and I have heard from them but one opinion, and that is that the Speaker, in giving his opinion and sustaining the point of order, was clearly correct.

The bill as now reported again differs in no material manner from the bill reported last evening. I therefore raise the same point of order, that this is an appropriation bill and must go to the Committee of the Whole on the state of the Union.

The SPEAKER. The bill now contains the following proviso:

Provided, however, That no money shall be paid on account of this bill until an appropriation shall be made for that purpose.

The Clerk will now read from the Globe a decision made upon this point by one of the predecessors of the present occupant of the Chair in the year 1863.

The Clerk read as follows:

"The SPEAKER. It has always been held that in order to bring a bill within the rule, the appropriation must be sufficient, without requiring further legislation, to take money out of the Treasury."

That has been the uniform ruling of various occupants of the chair, and as this bill will not, without further legislation, take any money out of the Treasury, the Chair overrules the point of order and decides that this is not an appropriation bill.

Mr. PRICE obtained the floor.

Mr. WENTWORTH. I ask the gentleman from Iowa to let the report be read.

Mr. PRICE. I am not aware of there being any report.

Mr. Speaker, I am glad that the stress of weather by which this bill has been incumbered is clearing up, the fog is lifting, and its friends feel pleasure in finding it on the open sea of free discussion.

I will say at the commencement that I do not propose to indulge in any attempts at oratory or eloquence in reference to this bill. I am of opinion that it is a matter of dollars and cents, facts and figures. Unless the facts and the figures will establish the other important fact that the bill has merits of its own and ought to pass this House, then I, as one of the advocates of the bill, as one of the committee who report it to this House, am perfectly willing to see it voted down.

This Northern Pacific railroad was chartered at the first session of the Thirty-Eighth Congress, and gives an extensive grant of lands to the company. Nothing, as I understand, has been done by the company up to this time, for the reason that the lands granted cannot be made available for the purposes intended. They now come forward and ask additional assistance in the shape of a guarantee of a certain amount of stock to enable them to make the grant available. I want gentlemen to remember that it is a limited amount of stock for a limited time.

The only question to be settled in reference to this matter is, whether the guarantees that the Government is to give to the company who agree to the construction of this road will be repaid to the Government and the country by the benefits derived from it. On the first three hundred and eighty miles of this road the bill proposes to guaranty stock to the amount of \$20,000 per mile. I will be obliged to gentlemen who feel an interest in this bill, either for or against it, if they will give their attention to these figures. Figures, as gentlemen know, will not lie, unless they be put down wrongly; and it is the business of members to see whether I put them down wrong or not.

On the next six hundred and twenty miles of this road the bill proposes to guaranty stock to the amount of \$25,000 per mile, making the guarantee upon the stock \$20,000 per mile and \$25,000 per mile for the first thousand miles of the road, the average being \$22,500 per mile. The interest upon that stock at six per cent, the rate specified in the bill, which interest is to be paid in currency,

will be \$1,350 per mile, or \$135,000 for the first one hundred miles.

Now, it will be remarked, and this is an item worth noticing and remembering, that the bill provides in express terms that when twenty-five miles of this road shall have been completed and put in running order, and not until then, the Government shall guaranty the amount of \$20,000 per mile. Another fact, and a very important one, connected with this item, is that immediately on the completion of the twenty-five miles for which stock is guaranteed, the company shall pay into the Treasury of the United States twenty-five per cent. of the gross receipts. Now, I hope that members will not confound this with gross earnings or net earnings. One fourth of all the moneys received by this corporation on the twenty-five miles of road upon which the stock has been guaranteed to a limited amount must be paid into the Treasury of the United States.

Now, I have taken some trouble to ascertain what will be the probable earnings; and I adopt as the basis of my estimates the earnings of western roads—new roads in a new country. I have now in my mind one road on the west bank of the Mississippi eighty miles long, with earnings of about six hundred thousand dollars per year. Taking that as the basis of my calculation, I calculate that one hundred miles of the Northern Pacific railroad would give \$750,000 a year. By this calculation, one fourth of the earnings during the year would be \$187,500. This amount the Government of the United States would receive each year for the guarantee of the stock of the company upon the first hundred miles.

Now, gentlemen will remember that the bill provides that the proceeds of all the lands on the south side of this road are to be paid into the Treasury of the United States. This, at \$2 50 an acre, will give you \$24,000 to be added to the \$187,500, which is one fourth of the gross earnings of the road. And I ought to have stated, in connection with the \$187,500, that it is \$52,500 more than the amount guaranteed by the Government.

Now, if these figures are correct, and the calculations approximate anywhere near the truth, at the end of the year we would have \$76,500 more money from the proceeds of the sales of the land and the quarter of the gross receipts of the road, than has been guaranteed by the Government. Now, gentlemen may answer that by saying that the land will not be sold, or if sold will not sell for that amount of money. Well, I will give them the benefit of that objection, and admit, for the sake of argument, that not an acre of land shall be sold, and that the earnings of the road shall only be such as other roads have earned in new countries. And then you will still have \$52,500 at the end of the year on this calculation, more than has been guaranteed by the Government.

Now, I am at a loss to know how this argument is to be met. It may do to say in broad terms that \$60,000,000 or \$50,000,000 are to be taken out of the Treasury of the United States for the benefit of a great corporation. It is one thing to make a declaration; it is another and a very different thing to back up that declaration by the facts and the figures. But I appeal to the living facts for the basis of my calculations, and for the conclusions at which I have arrived in this argument. If this road will earn what other roads in the new countries have earned heretofore, then at the end of the construction of the first hundred miles of this road the Government will have received \$52,500 more than they have guaranteed to the company.

Mr. TROWBRIDGE. I would like to ask the gentleman from Iowa [Mr. PRICE] a question. I desire to inquire whether this twenty-five per cent. of the gross earnings of the road is to be paid at any time previous to the completion of the entire road. I understand the language of the act requires the entire completion of the road before any of the proceeds are to be returned to the Government.

Mr. PRICE. The question of the gentle-

man shows me what I have always believed, that when bills are read from the Clerk's desk, not one man in ten in this House knows what is in the bills.

Now, I will reiterate a fact I have already stated, that there is an amendment, not printed, but written, in the bill, by which the committee have attempted to guard the matter particularly. The amendment provides that when the first twenty-five miles of the road are made, twenty-five dollars of every \$100 they earn, or, if you please, twenty-five cents on every dollar they earn, goes right into the Government Treasury; not of the net earnings, but of the gross receipts; not even of the gross earnings, but of their gross receipts. If the company receive money in any way, fair or unfair, the Government is to have one quarter of it.

One reason why the committee are in favor of this bill, is that they believe they can by this means aid the company to open and foster the vast regions of the Northwest, which for ages past have been, and probably to come will be, unsettled, undeveloped, unimproved, and untenanted without this aid; and at the same time that they give this aid, the Government will not be paying out a dollar.

Then, I ask, what becomes of the declaration, which appears in the Globe of to-day, and which has gone to the world, that the committee recommend a proposition taking from fifty to sixty million dollars out of the Treasury of the United States? I take occasion here and now to repudiate that declaration, and to say that from first to last that was not the intent of the committee in any respect whatever, nor can any authority be found in this bill for the declaration.

Mr. LYNCH. I would ask the gentleman if he includes in the gross receipts the sales of lands by the company.

Mr. PRICE. The Government is to get fifty per cent. of the sales of the lands, and twenty-five per cent. of the receipts of the road.

Mr. LYNCH. I understand that fifty per cent. to be of the proceeds of the sales of the lands on the southern side of the road. But if lands are sold on the northern side of the road, is the Government to be entitled to twenty-five per cent. of the receipts from that source?

Mr. PRICE. I do not understand that any portion of the proceeds of the land north of the road is to be given to the Government.

Mr. LYNCH. Would not the term "gross receipts" include all the receipts of the road from sales of lands and otherwise?

Mr. PRICE. It might be so construed; but that was not the intention of the committee. When they had provided for the value of half the lands they thought they had done tolerably well for the Government, especially when in addition to that they include twenty-five per cent. of the gross receipts of the road.

I think I have sufficiently answered the financial argument of this subject to prove that there is no money to be drawn from the Treasury of the United States; that this is a safe arrangement in that respect.

Mr. Speaker, the object of land grants to railroads in this country has been to develop its resources. The construction of railroads induces settlement and causes the wilderness to blossom as the rose. It is necessary that this country should be developed in its agricultural resources. In addition to developing those resources we propose also by this road to reach for all time to come the vast mineral resources of the mighty regions now almost deserts and almost inaccessible. I think it is demonstrable, then, that the Government will not only be compensated by the one fourth of the gross receipts and proceeds of one half the lands, but I am of the opinion that the additional benefits to be derived from this road will be immense, and extend not only to this but to future generations. They will be more than tenfold the amount guaranteed by the Government to the company. Any gentleman at all acquainted with the mineral resources of Montana and

Idaho, and the difficulty of reaching those places, must see that when we have annihilated the space between here and there by the construction of railroads the dollars which come from there now will be swelled to hundreds and thousands, if not millions.

This country is to be developed. It is the mission of the men of this day to develop the heritage intrusted to us. In no other way can the regions teeming with untold wealth be developed.

Now, let us look at the road in a military point of view. I shall not indulge in any conjectures. I find that Major General Rufus Ingalls, assistant quartermaster general, uses the following language:

"In my opinion, from an experience of many years in the quartermaster's department in the West and Northwest, it is of the utmost importance to the nation that this road should be constructed at the earliest moment possible, and a through line of communication opened from the great lakes to the Pacific ocean, by the head waters of the Mississippi and Missouri."

That is not all. Let me now read from Quartermaster General Meigs's report for 1865. He says:

"I am convinced that there is no difficulty to be apprehended from the rigor of the climate, or the depth of snow, in the working of the Northern Pacific railroad, which has not been not successfully and overcome in the construction and regular daily working of railroads in the States of Maine, New Hampshire, Vermont, Michigan, and Minnesota, and in Upper Canada, along the line of the Grand Trunk."

"Of the advantages to result to the country from the speedy opening of railroad communication along the contemplated line, it is hardly necessary for me to speak. I can add little to the argument so well set forth by the Senators and Representatives of the Northwest in their appeal to Congress of the 9th of this month."

"Heretofore the War Department has not had any considerable interest to protect in the northern central region, for whose development and protection this road is now so urgently needed."

He says in another place:

"The enterprise is one worthy of the nation. As a military measure, contributing to national security and defense alone, it is worthy of the cost of effectual assistance from the Government."

"The Central railroad to San Francisco will secure that admirable harbor and its trade, and the rich State of California, against all serious danger from a foreign foe."

"But our communication with the harbors of the northwest coast, Puget sound, the mouth of the Columbia, and with the growing population of Oregon and Washington, by sea from San Francisco, will be liable to interruption by a hostile fleet. With the Northern Pacific railroad in operation, troops and materials of war could be rapidly sent from the East to succor and defend our rising empire in the Northwest."

I will now call the attention of the House, and particularly of my friend from Illinois, [Mr. WASHBURN,] to the letter of Lieutenant General Grant indorsing those statements. I ask the Clerk to read it.

The Clerk read as follows:

HEADQUARTERS ARMIES OF THE UNITED STATES,
April 20, 1866.

The construction of a railroad by the proposed route would be of very great advantage to the Government pecuniarily, by saving in the cost of transportation to supply troops whose presence in the country through which it is proposed to pass is made necessary by the great amount of emigration to the gold-bearing regions of the Rocky mountains. In my opinion, too, the United States would receive an additional pecuniary benefit in the construction of this road by the settlement it would induce along the line of the road, and consequently the less number of troops necessary to secure order and safety. How far these benefits should be compensated by the General Government beyond the grant of land already awarded by Congress, I would not pretend to say. I would merely give it as my opinion that the enterprise of constructing the Northern Pacific railroad is one well worth fostering by the General Government, and that such aid could well be afforded as would insure the early prosecution of the work.

U. S. GRANT,
Lieutenant General.

Mr. PRICE. Now, Mr. Speaker, I undertake to say, from that declaration of principles set forth in that letter, that if the Lieutenant General were here he would vote for this bill, for he says that the prosecution of the construction of this Northern Pacific railroad is well worth the fostering care of the General Government.

Mr. WENTWORTH. I would ask the gentleman whether the Lieutenant General is not one of the corporators. [Laughter.]

Mr. PRICE. I will say to my amiable friend

that I have not looked at the list of corporators recently so as to be able to tell whether he is so or not. If he is, I have only to say that it is rather late in the day to call in question the integrity, honesty, or ability of that distinguished general, and I presume no gentleman here will undertake to insinuate that he wrote that letter because he was a corporator. Such an insinuation would be unworthy of any member of the House, as it would be unjust to that distinguished man. I know that my friend does not mean to insinuate it, but puts in the remark very much in the same way as he has done a great many other things—for Buncombe; as, for instance, his frequent remarks about soldiers with one leg and one arm.

Now, in addition to this testimony, I wish to say that in the Quartermaster General's report made to the House in 1865, there will be found on page 34 this statement:

"Cost of transporting military stores westward across the plains, by contract for year ending June 30, 1865, to Utah, and points on that route, \$1,524,119. Cost of transportation of grain to Utah and posts on that route, where the grain was delivered by contractors and the transportation entered into the price paid same year, \$2,526,727 68; making cost for transportation in one year in this region \$4,050,846 68."

The Quartermaster General goes on to say what is unnecessary to say, because everybody knows it, that the railroad would reduce the cost of transportation at least seventy-five per cent. There are twelve military posts now, some of them garrisoned by one hundred and some by two hundred men, along that very route, and there will be a very great saving in the transportation of supplies to these posts if this road is constructed.

From whatever standpoint you view it, either in a military, financial, or civil point of view, it becomes an inevitable conclusion that this road will be of immense advantage in developing the agricultural and mineral resources of the country.

These are some of the reasons that induced the committee to report this bill. I repeat that if my calculations are correct it will not take a dollar from the Treasury, and until gentlemen can show that the estimates upon which these calculations are made are erroneous they should not undertake to deny the fact. And that fact once established, every other objection to the bill must necessarily fall. If the road can be constructed with the simple guarantees of the Government affording the means to pay the expenses of construction, it will enable the company to refund every dollar that is paid to them as rapidly as the road progresses, and it will at the same time develop the resources of the country, and aid the civil and military operations of the Government. These facts being established, no gentleman can find any ground of opposition to the bill now before the House.

Mr. SHELLABARGER. I would ask the gentleman whether there is any provision in this bill for the repayment to the United States in any event of anything more than the actual amount they have received. In other words, whether the Government is to have any interest on the money it pays to aid in the construction of this road. I call his attention to the provision in the second section, that "the amount so paid shall equal the amount paid by the United States, as provided in section one, after which all further payments to the United States shall cease." And the other provision, so far as I understand it, contemplates only the payment of the actual amount which the Government has furnished—nothing for interest on the money that has been paid by the Government.

Mr. PRICE. I reply to that by saying that the committee did not contemplate that any sum should be paid by the company to the Government for interest on the guarantee of these bonds. And further, I call the attention of the House again to this provision: if on the 1st day of July, 1867, twenty-five miles of that road shall be finished, then the company come to the Government and say that it must indorse their bonds for \$20,000 a mile on each of those

miles. Mind, that before the ink is dry on the indorsement the road is in running order, and is earning money, which money, by another provision of the bill, is to be paid into the Treasury. At the end of six months the holder of the stock comes to the Government to receive the interest on his guaranteed stock. If in the mean time enough money has been paid in to the Government to pay said guaranteed interest, the Government pays nothing. There was no intention on the part of the framers of this bill that the Government should receive any interest on the payments it might make on account of guaranteed interest on stock.

Mr. SHELLABARGER. I wish the gentleman, chairman of the committee which reports this bill, would let me state what I understand the effect of this bill to be in some of the respects in which I think it bad. In the first place, the original bill incorporating this company bestowed upon this corporation forty sections of land to the mile in the Territories and twenty sections to the mile within the States. Then the third section of this bill enables the corporation to sell this land in fee-simple, and place the proceeds in the power of the corporation. This vast revenue is thus taken from the Treasury of the United States, and the only pledge or security that any of the proceeds of this land will ever go to pay back the interest on stock which the Government has paid, and which interest may amount to from forty to sixty million dollars, is that the treasurer of the corporation is directed to pay into the Treasury of the United States, which is just no security at all.

And then, sir, there is no provision at all for the payment of any interest to the United States upon the moneys the Government has paid out for this six per cent. interest on stock, but only the principal is to be paid back.

Then, again, although the United States has virtually built this road, and the stockholders have not, yet they require the Government to come in and guaranty to them that the road, which the Government land has built for these stockholders, shall pay them six per cent. upon all the immense amount of stock to be issued, and that, too, from the date of the issue and for not exceeding twenty years.

I wish to know if these provisions are in substance in this bill; and if so, does the gentleman think this right?

Mr. PRICE. Before my friend goes further, I submit that he has not fairly stated the case; because before any guarantee is made, and long before any money is paid, the company must spend at least a million or a million and a half on the first twenty-five miles of the road, and so on from time to time in twenty-five-mile sections. There is to be no guarantee of interest on stock until that is done. I am perfectly willing, if the gentleman from Ohio prefers it, that an accurate interest account-current shall be kept, and that you shall credit the Government with interest on payments and charge it with interest on payments made by the company. So far as I am concerned, I ask nothing but a fair and square transaction, such as would take place between two men in a legitimate business transaction; and if the gentleman wishes an amendment of that kind made, I presume there will be no objection to it. I do not think, however, it will have any practical effect on the bill.

Now, Mr. Speaker, I have no more to say at present upon this matter. I do not desire to consume the time of the House, because I am desirous for an early vote on the bill. And as I do not wish to deprive others of the same privilege of debate that I enjoy, I now yield the floor.

SERVICE ON A COMMITTEE.

Mr. WILSON, of Iowa. I understood yesterday that the gentleman from Illinois, [Mr. Cook,] my colleague on the Committee on the Judiciary, was unwell and would not be able to be in the House. He is in his seat this morning, and I therefore ask to be excused from serving on the committee of conference

on the *shabeas corpus* bill, so that that gentleman may be placed upon it as he had charge of the bill when it was reported to the House.

There being no objection, Mr. WILSON, of Iowa, was relieved from service on the committee of conference, and Mr. Cook was appointed by the Speaker to fill his place.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. WENTWORTH. Mr. Speaker, there is a vast deal of difference between being for a Pacific railroad and being for a particular kind of railroad covering or intended to cover the same ground. Now, there is no individual here, nor is there an individual whose constituents are more interested in a northern Pacific railroad than mine are. We of the Northwest, generally, are deeply interested in a bill for a northwestern Pacific railroad; but we have always before when a bill of this kind, involving millions, came up here allowed it to be discussed, and let everybody talk about it who wanted to do it; at least we were always willing to give our friends a fair and impartial hearing. But, Mr. Speaker, I have myself always distrusted any bill that brought with it a "lobby." I have always distrusted any bill where that class of men known as "the lobby" have to go behind my constituents and get them to instruct me.

Now, sir, I have lived in my district since I was twenty-one years of age. I know about everybody there, and about everybody there knows me. And yet this class of men have thought that they could instruct me about a matter involving the interests of my constituents among whom I have lived and among whom I expect to die. Within the last three days I have had sent to me nineteen extracts from western papers, not to speak of sundry instructions from the Chicago Board of Trade. Now, I hope that the man who went out there and got up those instructions for me got his *per diem* and mileage. [Laughter.] And if he cannot get other jobs of this kind, then let some one try to get him the place of a clerk of one of our committees, or recommend him to a place in some of the Departments.

Now, the first knowledge I had of this bill was conveyed to me by a constituent of mine, who stated that there was some effort being made to create public feeling in favor of this bill. "But," he says, "I think there is some trick in it; you better watch the bill; I fear they want to change the location, for it looks to us as if it was intended to be a Canada road."

Now, I supposed that when this matter came up I would be allowed to know something about it, to have a chance to examine a subject that so interests the great Northwest. But I do not know anything about it.

Mr. PRICE. The gentleman from Illinois [Mr. WENTWORTH] says he knows nothing about it. I would ask him if he has seen the Chicago Tribune.

Mr. WENTWORTH. If the gentleman had paid attention to my speech, he would have seen that I alluded to all these articles in the papers.

Last evening was set apart for the discussion of this bill. And when we came here we found a bill before us involving millions of dollars, concerning my constituents, concerning the whole northwestern country. And it was to be put through under the previous question. And how is the thing to be managed? A man gets the floor and then allows about three minutes or five minutes each to a few men to say something upon it. And considering the number who were to be allowed to speak, I estimate that each member was worth about ten million dollars to the company. [Laughter.]

Now, I take up the bill and examine it, and I find that there is a forerunner in it. Now, though not much of a lawyer, I have always understood that if an original charter has been violated in any way, and you can by hook or crook get it recognized by any little side-way legislation afterward, it will remove all the difficulty. Now, I looked at the bill with that

view. And then I went to the original charter, and I find there a large number of corporators. Now, it is always the way, when you want to dignify a thing of this kind, and want to take a great appropriation out of the public Treasury, to put in a large lot of names of distinguished people. And the gentleman from Iowa [Mr. PRICE] has had read here a letter from General Grant. All I would ask is, if General Grant has ever been concerned in this company since his name was put in the original charter?

Now, in our western country when we get up calls of meetings we always put on some big names as the speakers, although we do not know that they will be there; and then we have our board of managers to attend to all the little business of the meeting. A great many names of big men are published in big letters on the bills as having been invited and as being expected to attend the meeting. [Laughter.]

If members will turn to the act of incorporation of 1864, they will find the names of these corporators. They were not taken, as is often the case, from those who are members of the body passing the legislation, for I find among them the name of but one member of this House. But there is the name of General Grant; and not only his name, but the name of General Frémont also. Now, the question I want answered is, what have these men done? They were named in the charter; and if they were not willing to comply with the conditions of the charter, are they willing to give it up and let others come in and take the charter? Have they ever organized under that charter? My friend from Ohio, [Mr. BINGHAM.] whose name I find here, I know will take no offense if I ask him if he can give us any information upon the subject.

Mr. BINGHAM. I can only say, in reply to the gentleman from Illinois, [Mr. WENTWORTH,] that I learned this morning for the first time that my name was inserted in this statute. I was not a member of the last Congress, and was never consulted upon the subject. I have no information upon the subject, and therefore can impart none to the gentleman from Illinois.

Mr. WENTWORTH. Now, I have proved exactly what I wanted to prove, that a large number of respectable men are in the same position as the gentleman from Ohio, and do not know that their names have been used in this act as corporators. But there are some persons who know their names are here; there are some who are running this machine under the names of these distinguished men. Now, who are they? They ask this House to give them fifty or sixty million dollars. Yet one of the men who are named in the act as corporators did not know that his name was there. Still, because I say this it is intimated that I had better look out or I shall be set down as an enemy to my own section of country and an enemy to the Northern Pacific railroad.

Now, I want to know who are really the corporators in this company—who are the active men. I want to know who is the president of this road, and I want to know how near he lives to the Canada line. Can anybody tell who the president of this road is? I would like to have an answer, if anybody can give it officially. I do not want any guess-work.

Mr. WOODBRIDGE. I can inform the gentleman who is the president of this road. He is a personal friend and an old acquaintance of mine, formerly Governor of my State—a gentleman for whose integrity and ability I will vouch here and elsewhere. His name is John Gregory Smith. He is one of the railroad men of Vermont, operating one of the most extensive railroads in New England; and he desires the protection of these interests, so that this road to the Pacific may go through our own country, contributing to its wealth and prosperity, instead of going through her Britannic Majesty's dominions in Canada, where the road must go unless this company can get some aid from Congress.

Mr. WHALEY. I ask the gentleman from

Illinois [Mr. WENTWORTH] to yield to me for a moment.

Mr. WENTWORTH. Does the gentleman from West Virginia [Mr. WHALEY] wish to say anything on this subject?

Mr. WHALEY. Yes, sir.

Mr. WENTWORTH. Then I yield to the gentleman.

Mr. WHALEY. I merely wish to say that when I saw my friend from Illinois upon the floor I thought it an excellent opportunity for me to speak on this subject for three or four minutes, which I know he would not refuse to grant me. Let me say that the argument which that gentleman has presented against this bill, it appears to me, is, to use a western phrase, a "stumper."

I wish to say further, that while during the last five years I have voted for almost all works of national improvement, stretching from Maine into the Territories, I have come to the conclusion that before we impose upon our people any heavier taxation for carrying on works of this character, before drawing from the Treasury of the United States increased appropriations of money, or pledging the credit of the United States to any greater extent, we should, in a straightforward and honest manner, meet our obligations to the brave soldiers of the nation, and pass a bill to equalize the bounties of the men who volunteered in 1861 and 1862.

Mr. WENTWORTH. Now, Mr. Speaker, I want gentlemen to understand what I am driving at. I want to know whether we are to have this Northern Pacific railroad completed or not. I do not want to be personally offensive, because I am now speaking in the dark; and "in the night," it is said, "all cats are grey." I want to know who else are interested in this road; and I would like to know, if my friend from Vermont can tell me, whether they have ever paid in anything.

Mr. WOODBRIDGE. I am not able, Mr. Speaker, to give the gentleman the information he requires. I have had no personal connection with this road. But I am assured by gentlemen in whom I have the utmost confidence that this enterprise is undertaken in good faith, and it is to be controlled by one of the most intelligent, influential, and wealthy men in my own or any other portion of the country.

Mr. WENTWORTH. Now, Mr. Speaker, I was at one time the mayor of a city; and we sometimes arrested men for playing what was called "the confidence game." [Laughter.]

Now, sir, I shall not vote this number of millions out of the Treasury in any generous confidence. I know and have proved to this House by my friend from Ohio [Mr. BINGHAM] there is at least one man who does not know anything about it. I believe there are nine out of ten who are in the same position. Here is nearly a page of names of men from different States in the Union.

But where is the report? I call the attention of the House to the fact that we have not a single report to guide us. Suppose a man has to defend himself for supporting this measure; suppose he makes a statement and one in the crowd alleges that it is false, what can he do? Give us the documents; that will settle the matter. It is the question of veracity. That man will have to write here, "My dear friend, be so kind as to send me the report of the Northern Pacific Railroad Company, as I am seriously attacked on the subject." We will have to reply there is no report. It is, as has been remarked, voting money out of the Treasury without a report.

Now, when you see a man with eyes which cannot bear light you may conclude they are weak. If men shun light it is because they cannot bear it. [Laughter.] I am one of the individuals who want light. I want to know whether I am to take this or not. Give me responsible railroad men, take out the names of politicians; take out the names of claim agents; give me responsible railroad men, one from each State, and I will vote for this bill. I will do anything to get a fair and honest Pacific railroad.

I have sought information from the House to know to whom this money is to go; who will give it to me?

One would suppose, Mr. Speaker, what they really wanted was money to build the road. There is always something else in these acts of incorporation. Hence acts of incorporation should be watched. More than all we should watch acts amending acts of incorporation. Let us see what it is. It is said that the people of Chicago are to be benefited by this. If so, then I shall be benefited with the people of my city.

I call attention of the House to the reason why this should go to the Committee on Public Lands.

Mr. WOODBRIDGE. In looking over the names I find among the corporators in the act passed in 1864 the present president of this road, John Gregory Smith, who represents this road not as a lobbyist and presenter of claims before this Congress.

Mr. WENTWORTH. Does he know that he is president? [Laughter.]

Mr. BLAINE. Among the incorporators of this road are presidents of two leading railroads in my own State, one at present one of the directors of this road—Richard D. Rice and Anson P. Morris—two gentlemen for whom I will vouch everywhere.

Mr. WENTWORTH. Do they know they are there? [Laughter.]

Mr. BLAINE. They know they are there, and I know they are there.

Mr. SHELLABARGER. I ask the gentleman to yield to me.

Mr. WENTWORTH. I yield to my friend as he always talks sense.

Mr. SHELLABARGER. I want to put a question to my friend from Vermont as he seems to be familiar with the history of this corporation. A statement was made to me by a gentleman of eminently good character, formerly a member of this House, that the fact might be known. He was a stockholder in this company, I understand, and is perfectly familiar with the facts. I understood he wanted the fact known, although he did not want his name connected with the matter. I know nothing about it personally. His statement was this: that the gentlemen who had been instrumental and at considerable expense in getting this act passed by the Thirty-Eighth Congress, and who are connected with it as stockholders, made a contract to transfer their interest; that it was to be put in writing, but it was wholly or partly repudiated; that the contract provided for the payment of some one hundred and fifty thousand dollars; and that now these parties having purchased the franchise, virtually repudiated their engagements, and come into Congress for the purpose of getting these large additional values to this franchise obtained under such circumstances. That is the statement. About the truth of it I know nothing in the world.

Mr. DELANO. Allow me to say in this connection that I have substantially the same information from another source.

Mr. WOODBRIDGE. I will answer that question so far as I know, and I am known well enough in this House, I hope, to have it believed; I would not lend myself or my influence in any respect to get through an improper, unjust, or dishonest claim.

Mr. WENTWORTH. Name the prominent railroad men.

Mr. WOODBRIDGE. Mr. Onslow Stearns, a prominent railroad man in New England, a man who stands as high as Mr. Ogden of the gentleman's own district, who has done more to build up and develop the railroad system of the West than any other man in his district.

Mr. WENTWORTH. Gentlemen interrupt me and keep going off on side issues. What I want is the facts. All these big men are not in the bill. [Laughter.]

Mr. WOODBRIDGE. Yes, sir, they are.

Mr. WENTWORTH. Where is the proof of it? Why do not they tell me the names of the officers of the company?

Mr. WOODBRIDGE. I know some of the

officers of the company who are here; and I know what they are here for.

Mr. WENTWORTH. They are here for money.

Mr. WOODBRIDGE. The gentleman is a little nervous. I intend to give my views on this question; but if it will answer the purpose of the gentleman as well, I am willing to answer his question now.

Mr. WENTWORTH. My object was to stir up a little inquiry on this subject. But I start upon this basis: that one of the worst things in the present time is the departure from the old safe precedent by allowing bills to pass without any kind of report. Nine tenths of the members do not know what they are doing when they are voting upon such bills. It is committing political suicide; for when members are called to account at home for the votes they have given they have nothing to defend themselves with.

Suppose, for instance, I had voted for this bill on the strength of the name of my friend from Ohio [Mr. BINGHAM] being in it. We all know him and what he has done for his country. What sort of a defense would that be before my constituents if I should be called on to explain it, say, four days before election? I would telegraph perhaps to my friend and he would send word back that he did not know anything about it. [Laughter.]

Mr. PRICE. I would ask the gentleman whether he does believe that in such a dark hour of trial, when his political enemies were seeking to oust him from his place, he would be protected by the ghosts of the soldiers with one arm and one leg who would come to his rescue. [Laughter.]

Mr. WENTWORTH. I know this, that if I have right on my side God will support me. [Laughter.]

But, Mr. Speaker, how long is it since a bill was offered to give some poor soldier eight dollars a month, and somebody called out for the report? "Where is the report in that case?" "Let us have the report." Now only look at this bill. The joke of it is that you yourselves do not know how much money you are to give. You not only give it without any report, but you cannot tell how much you give.

Now, here is a nice thing. But the people at the West understand these things. Some eastern man must have drawn this. When some of our Yankee friends first came out there and advocated it they said it was a good thing. But it is played out now. Live Suckers and Hoosiers know all about this, and what it means. Here is your original bill and charter. Certain things are to transpire when the road is commenced. Now, here comes in that dangerous thing, the amendment to the original bill, and that is to define what commences the road.

Now, if any of you do not know when the road is commenced, here is the law of Congress, a precedent to be quoted on us hereafter, an act of the Thirty-Ninth Congress:

Sec. 5. *And be it further enacted*, That the commencement of the survey of the railroad and telegraph line in good faith shall be deemed and considered to be the commencement of the work within the meaning and intent of the act of incorporation.

I heard a man once say that he did not care much what they called him if they did not impugn his good sense. [Laughter.] Now, I do think that this is an insult to the good sense of this House, to make us define that to be the commencement of the road. But in order that members of Congress might not know anything about it we have had an evening session and had the previous question moved in the night. Everything was to be hurried through without any chance to consider the matter, and we were to decide when this road was to be commenced—how? Why, "within the meaning and intent of the act of incorporation." Now, it was not supposed in that hour's time that we should run back to the library—I do not know but what it is locked at night—and get this act of incorporation.

But I want to say that the drift of my argument now is to show that this bill should have been referred to the Committee on Public

Lands. That was the committee that originated these measures, that started the precedent of all these land grants—the Illinois Central railroad. Had this gone to that committee they would have made it conform to prior grants, and they would not have made this supplemental bill interfere with the original bill. Here is what alarms me and my constituents.

I have been anxious, and am still, that the right sort of a bill should pass, and I say now, that when this bill shall be made to conform to the usual precedent in the case I shall probably be as warm a supporter of it as there is in the House. But I want it to go through the usual form. I want it to be properly discussed. I want this supplemental bill to be compared with the original bill.

Look at the sixth section of this bill:

Sec. 6. *And be it further enacted*, That the said company may from time to time alter and change the location of its line whenever such change will the better carry out the purposes set forth in the act of incorporation, by filing in the office of the Secretary of the Interior a description of the new line adopted.

Now, we are not permitted to know the intentions of these men. They have not submitted their by-laws. I have been a director of railroads and we have had to have certain by-laws and certain minutes; and when we undertook to negotiate a loan, or to do this, that, or the other thing, we sent out extracts certified by proper authority from our minutes as well as from our by-laws. But here we have no information on that subject in regard to this company, and I, who represent the largest congressional district in the United States, am entirely uninformed on the subject.

Mr. PRICE. I would ask the gentleman whether, in all his exploration of the West in connection with railroad companies, he ever knew a railroad company that did not have the privilege of varying their line. And if he will look at this bill he will find that it provides that it shall not go further south than the forty-fifth parallel.

Mr. WENTWORTH. But they may go as far north as they please.

Mr. PRICE. They will not go into the British possessions.

Mr. WENTWORTH. I object to any member in this House or any one else coming and whispering and telling this man and the other what will be done. It will not defend me before my constituents nor save them from the results of wrong legislation. I want to know why it is that we have no information on this subject, and why we are not allowed to have anything official upon it.

But the gentleman from Iowa asks me a question, if I do not want to know that railroad companies are privileged to swing their line. I do not think that is a proper way to get a job through this House.

Mr. PRICE. Did the gentleman ever know a land grant of any other character?

Mr. WENTWORTH. I will state to the gentleman this: that is just what I am complaining about. I say that no individual in this House has the right to get up here and make an official communication of this kind. I say this bill should go to the Committee on Public Lands, so they may bring forward their report and put their names to it. And if the gentleman will move that I be added to the Committee on Public Lands, I will agree to state what I know, and put my name to it.

Now, I am seriously afraid, and my constituents are afraid, that it is the intention, if this bill shall pass through Congress, to carry this road, under the sixth section of the bill, into the British Provinces, and bring it around so as to communicate with the Grand Trunk road at Portland, Maine, and make this a great Pacific feeder for that road.

Mr. PRICE. I will ask the gentleman from Illinois if he does not know, as well as he knows he has an existence, that this road cannot by any possible means go into the British Provinces.

Mr. WENTWORTH. I do not know any such thing; neither does anybody else know it.

Mr. PRICE. The gentleman is the best know-nothing I ever saw. [Laughter.]

Mr. WENTWORTH. I do not profess to know anything that I am not certain of, and which I am not willing to put my name to. I never knew so big a lot of know-nothings as these men are who come here to get money out of our Treasury.

Now, I ask the gentleman from Iowa why he objects to allowing this bill to go to the Committee on Public Lands.

Mr. PRICE. It affords me a great deal of satisfaction to answer the gentleman. It is simply and entirely because there is not an ounce nor an inch of land in the bill, any way you measure it or weigh it.

Mr. WENTWORTH. Then, if there is no land in the bill, there is money; for they must have something. And if there is money, the bill ought to go to the Committee of Ways and Means, of which I am a member. Let it go to that committee, and I will sign any report I may bring in.

Mr. FARNSWORTH. With the permission of my colleague, [Mr. WENTWORTH,] I would like to ask the gentleman from Iowa [Mr. PRICE] a question. I am informed that some of the present officers of this road, under the new régime, are residents of Canada. Is that so?

Mr. PRICE. If that is so I am not aware of it. And I will take occasion to say, in this connection, that although that might possibly be true, even if it be so, I will say to the gentleman from Illinois, [Mr. FARNSWORTH,] and to all others, that this Government pays no money to anybody until they have first expended their own money to build this road. That is a point in this case which I do not wish this House to forget. I do not know, nor do I believe, that any of the directors of this road are residents of Canada.

Mr. WENTWORTH. There it is again; it is "know-nothing" all around. [Laughter.] Nobody knows anything except the men who want this money.

Then "there is the little joker" again; "now you see it, and now you don't see it." [Great laughter.] Here is land, and there is money. When you say anything about this bill they say "there is no land in it;" and when you refer them to that bill they say "there is no money in it."

Mr. PRICE. That other bill was passed two years ago.

Mr. FARNSWORTH. If there is no land in this bill I would ask the gentleman from Iowa [Mr. PRICE] what this third section means. I will read it:

Sec. 3. *And be it further enacted*, That the patents for or lists of land granted to this company shall convey the fee-simple of said lands to said company in the most full and complete manner, and that none of the lands granted to said company shall be subject to any general or local tax, for any purpose whatever, till after two years from date of said conveyance.

Now, if there is no land in this bill, what does that section mean?

Mr. PRICE. I suppose the gentleman wants me to answer that question, and yet I can hardly think he does. He pretends to be a lawyer, and for aught I know he is a very good one. Does he not know the difference between granting land to a company and carrying out the provisions of a grant of land long since made? There is no grant of land in this bill, but only provisions for carrying out a former grant to this company upon their complying with certain conditions.

Mr. WENTWORTH. Now, Mr. Speaker, the gentleman stated that this had nothing to do with public lands. I asked him why he objected to this bill going to the Committee on Public Lands, and his answer was that it contained nothing in relation to public lands. Now, as the gentleman admits that it does relate to public lands, I want to know whether he still objects to the proposition to refer the bill to the Committee on Public Lands.

Mr. PRICE. I do not admit any such thing. The bill does not contain the grant of an inch of land; and any gentleman who will read it must see that it does not.

Mr. WENTWORTH. Does the gentleman mean the bill or the charter?

Mr. PRICE. I mean the bill.

Mr. WENTWORTH. Well, this is only another illustration of "now you see it, and now you don't." [Laughter.]

Now, Mr. Speaker, I think this is one of the most important bills coming before the House this session. There is not an individual in this House who will go further than I will to secure the object which this bill professes to seek. But before I vote to give away this large amount of money, I must know how it is to be expended, and who is to have charge of the enterprise. I know that men when they get into these corporations very often "water" the stock, sell out at an advance, and some irresponsible persons come in as stockholders. I want to know what responsible men are going into this enterprise. I want to know something about their organization; I want to know the history of the matter. I want to have something in the shape of official documents. I would like to have a report from the Committee on Public Lands, to whom I think this bill should be referred. I move, therefore, that the bill be referred to the Committee on Public Lands. I shall not call for the previous question; for I hope that every member who desires to speak on this subject will be allowed to do so.

Mr. HENDERSON obtained the floor.

Mr. MORRILL. Will the gentleman from Oregon [Mr. HENDERSON] yield to me a moment that I may report a bill from the Committee of Ways and Means?

Mr. HENDERSON. I will do so.

INTERNAL REVENUE.

Mr. MORRILL, by unanimous consent, reported from the Committee of Ways and Means a bill to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof; which was read a first and second time, and ordered to be printed.

Mr. MORRILL. I desire that this bill shall be referred to the Committee of the Whole on the state of the Union, and that it be made a special order. I am willing to leave it to members of the House to say what time will be most convenient for its consideration.

Mr. WASHBURN, of Illinois. I suggest to the gentleman from Vermont that he leave the time indefinite for the present. That can be fixed hereafter.

The SPEAKER. There are no special orders in the Committee of the Whole on the state of the Union except the Indian appropriation bill, which the chairman of the Committee on Appropriations has stated he is not ready to go on with.

Mr. MORRILL. I suppose that the country is desirous to have as early action as possible on this bill; and as it will take several days to have the bill printed, I would suggest that it be made the special order for Monday week.

Mr. WILSON, of Iowa. We had better fix an earlier day.

Mr. MORRILL. I move, then, that the bill be referred to the Committee of the Whole on the state of the Union, and be made a special order for to-morrow week immediately after the morning hour, and from day to day until disposed of.

The motion was agreed to.

Mr. MORRILL. As most of the members will, I presume, desire a larger number of copies of this bill than the regular number, I move that ten thousand extra copies be printed in pamphlet form.

The SPEAKER. That motion will be referred, under the law, to the Committee on Printing.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. BURLEIGH. I ask the gentleman from Oregon [Mr. HENDERSON] to yield to me that I may ask the chairman of the Pacific Railroad Committee [Mr. PRICE] a question.

Mr. HENDERSON. I will yield for a question.

Mr. BURLEIGH. I have before me a map of the country through which this railroad is to pass; and I ask the chairman of the committee whether he can tell us the character of the land along the line of the road from the western boundary of Minnesota to the Bear's Paw mountains—a distance of seven hundred miles. The remarks of the gentleman, as made a short time ago, conveyed, as I understood them, the idea that this is a beautiful country, and under the operations of this railroad will be made to "bud and blossom like the rose." I wish to know whether I understood the gentleman correctly.

Mr. PRICE. That region, I understand, is a tolerably fair country; but I said nothing definitely with reference to the character of the country, because my knowledge of it, like the knowledge of almost every other member, is derived simply from the examinations and reports which have been made. I presume that in the course of the discussion information as to the character of that country will be developed.

Mr. BURLEIGH. I want to ask one more question.

Mr. HENDERSON. I believe I must decline to yield. The gentleman asks a question that can only be answered in a speech, and not in a minute. To tell the character of the land through which this road will pass would require an hour.

Mr. BURLEIGH. This road runs through the Territory which I have the honor to represent on this floor. Now, during the month of March last, when an appropriation was pending of \$15,000 for surveying the lands in that Territory, the gentleman opposed it on the ground that the lands were not worth surveying. I ask the gentleman whether he takes that view now or whether he takes another view.

Mr. PRICE. This is outside of that question.

I will state, for the information of the House, that the Committee on the Pacific Railroad have now under consideration a general law making the railroad companies to which lands are granted pay every dollar of the cost of surveying.

Mr. BURLEIGH. I want to know why the gentleman has changed his view in regard to these lands.

Mr. HENDERSON. I cannot yield any further.

Now, Mr. Speaker, I think the subject under consideration is perhaps of more importance than any which has come before the present session of Congress. This measure is not only a matter of sectional interest, but of interest to all the people of the United States. It is a matter, sir, of national importance. It is not of slight moment. It affects the welfare of this country to an extent with which nothing else which has been presented thus far for the consideration of this body will compare.

Before proceeding to remark further in regard to this road I will say that the gentleman from Illinois [Mr. WENTWORTH] is known to be a man of great wit, and hence his vast display of wit and eloquence to-day. But, sir, I confess I fail to see any argument or reason in what he has uttered. In my opinion he is on both sides of the question. At the outset he appeared to be opposed to the road, but afterward he appeared to be in favor of it. I could not help thinking of a class of politicians on the Pacific coast who have been in favor all the time of the Union, who have been in favor of the Government of the United States, but who at the same time always laughed and cheered when they heard that the rebels had got the advantage in any conflict.

So the witty points that he made were cheered and laughed at by those who were opposed to the road. The enemies of the road were decidedly tickled and amused at the wit he exhibited. I confess that if all the friends of the road were like himself, it would be a long

time before we should ever have the road constructed. I say, deliver us from all such friends!

I could not help being surprised at the anxiety which he manifested to have this bill referred to the Committee on Public Lands. I could not help being surprised that other men should have an anxiety that this bill should be referred to the Committee on Public Lands, especially when it is well known that the land has already been donated to this company. This bill does not propose to donate any lands. Then, why send it to that committee? It must be simply for the purpose of defeating the bill.

We know very well that delay often defeats a measure, and that referring a bill has a tendency to destroy it. I see no reason why any gentleman should ask this bill should go to the Committee on Public Lands unless it may be ultimately to defeat it.

If the bill asked for a grant of lands perhaps it would be just and necessary to send it to the Committee on Public Lands; but the lands have already been disposed of for eighteen months or two years. I see, therefore, not the smallest propriety in the reference of the bill as suggested.

Mr. Speaker, there has been a good deal of interest manifested as to the haste and hurry we are in reference to this bill. Why should we be in such haste? Why should we be in a hurry? The reason is this: men are ready to go to work, hundreds and thousands of dollars are ready to be invested in labor upon this road. But the company are not prepared to go to work until this bill shall pass. If we delay any longer it will be too late to go to work this summer. It must be passed soon or the work will be still further delayed. A few weeks of delay will defeat the measure at least for twelve months. It is important, then, that a bill of such magnitude and in which so many interests are involved should be passed immediately. It is necessary for the purpose of being able to send out the proper men that the work may be commenced this year.

It is said these lands are given away. I want to devote a portion of my time to that point. I deny that the public lands are being given away. There is no donation of the public lands in it at all. There is a provisional transfer, or I might say sale, of lands, but no donation. The Government has millions of acres of land lying there that have been lying there for thousands of years, and which have been of no benefit to anybody. And I say that without the construction of this road they would continue to be of no benefit to anybody. Gentlemen talk about a great sacrifice of land; millions of acres given away to speculating companies! Sir, I deny the truth of any such idea of its being a donation. Let us illustrate this point by plain figures. Suppose my friend here on the left [Mr. WASHBURN, of Illinois] owns a thousand acres of land lying out on the commons, unfenced and unimproved, grown up with briars, and which has become the den of wild beasts; that land does him no good, and it does no one else any good.

Now, suppose that a gentleman should make a proposition to him of this kind, "If you will give me half the land I will fence the whole of it, I will sink a well so as to provide water, and clear off the brush so as to make your part of it profitable to you." He accedes to the proposition, the bargain is completed, and this land becomes worth to him, perhaps, five hundred or one thousand dollars a year. Then another man comes and says to him, in the spirit in which gentlemen speak here, and asks, "Why did you give away that rich and productive land?" I say that it was a fair bargain and sale, and when the individual complied with the terms of the proposition, he held it as honestly as if he had paid \$1,000 for it.

Now, let me say in regard to this donation of land to the road that the land does not go to the company until the road is built, and when the road is built the value of the lands retained by the Government will be increased at least one hundred-fold. I ask any man to say whether that is a gift. If the company builds the road,

and by so doing increases the value of the Government lands one hundred per cent., is that a gift of the lands? Is it a donation? Is it a waste of the lands? No sensible man will say that it is a gift, or a donation, or a waste. It is a sensible investment; just such investments as this Government is in the habit of making.

Gentlemen talk about wasting the public lands. I am not surprised that some of my friends from the Atlantic coast, who have never seen much of the wilds of the West, think these lands would be worth from one hundred to three hundred dollars an acre; but the fact is, that these lands have remained unsold for thousands of years, and we to-day are offering them at \$1 25 per acre, and cannot get any price for them. And that state of things will continue until a road is built by which immigration can go to that region, and the country be secured from the savages.

Again, I say that the Government will not have to pay a dime of interest. The Government only lends its credit. Let us illustrate this point, also. Suppose that a father desires to assist his son to commence business, but, from misfortunes, has no ready money on hand, but has credit at the bank. He draws his notes for \$10,000, and hands them to his son, and says to him, "Here are the notes; you can put them in the bank and do business upon them, but you must refund the money by the proceeds of your sales as rapidly as may be."

Now, suppose the son to be successful; he meets his father's notes when due: is there any money paid; is the father called upon to pay that \$10,000? Not at all. He had no \$10,000 to pay; but he had credit, and that credit enabled the son to go successfully into business. And, sir, this company does not ask the Government to advance \$60,000 or any other sum, but simply to guaranty interest at six per cent., which would only become due when twenty-five miles of the road are completed. Then the interest on that amount is due; but one fourth of the gross receipts of the road are to be immediately applied to paying that interest. Another provision is, that the company can refund that money by transporting the mails and munitions of war of the Government; and there is no doubt that in a very few years the Government would get back in transportation all that it advanced.

But there is a third resource. The proceeds of the sales of the one half of these lands, all the lands lying on the south side of the road, would refund to the Government all the money it had paid.

Mr. Speaker, I have seen no man who has passed over this route to the Pacific coast, either going or returning, who opposes this measure. Every man who has viewed the Pacific coast, from San Francisco bay to Puget sound, understands the nature and necessity of this road. I know that many men seem to think that Puget sound and San Francisco bay are almost immediately together, and I wish to say that those two points are one thousand miles apart. There we have a coast of near two thousand miles. We have there an agricultural country that is unsurpassed in the world; we have a grazing country that is unsurpassed in the world; we have manufacturing facilities that are unsurpassed in the world; we have one of the healthiest climates and one of the loveliest countries in the world, and it will necessarily settle up very rapidly; and when this railroad shall span from the lakes to the Pacific shores you will then have sources of trade, travel, and commerce that will astonish the world. There will not only be a grand increase in the tide of commerce and travel from the Atlantic to the Pacific, but it will also increase the wealth of the Atlantic coast. For the trade from Asia to Europe must pass through their cities. I am, therefore, in favor of this bill. I want this road built in order that the starving men, women, and children upon the Atlantic shore may have the privilege of emigrating to the western shore of the Republic. We want them there, not to

be subsisted by charity, but to labor. We seek laborers there. We can feed and clothe half a million men and women in that country. The difficulty is to get them there. If this road were built it would teem with emigrants to the western shore, where they would find happy homes and could secure an independence for themselves and their children instead of subsisting on charity in a state of pauperism.

Mr. Speaker, I have not said anything in regard to the magnificent gold mines that are there in our country. I leave that part of the subject to others. I feel less concerned as to that particular matter than I do in that of homes for men and women now destitute. I see no objection to this bill, and I believe that if we were to sit here and talk for six months there would be the same quibbling objections made to it that we have heard here. I believe that the bill is about as nearly perfect as we can make one, and that it is a safe bill both for the Government and for the company.

It has been intimated here that this company has sold out once and may do it again. All I have to say about that is that if they do sell out I hope their successors will be better prepared to execute this great work than they are, and if so let them do it; we want this work done, and we do not care who does it so that it is done, and well done.

Mr. Speaker, I most ardently desire to see this work prosper. We feel that it is almost the life of our Pacific coast to have a railroad connecting it with the Atlantic. I heartily favor the Central Pacific railroad terminating at San Francisco; but I want two roads, if not three, constructed just as quickly as they can possibly be.

One road could be very arbitrary; it might be very tyrannical; but when there are two roads we will have competition, which is said to be the life of trade.

I have heard advanced in this House at this session many arguments in favor of another railroad to the city of New York. It is said that we want two roads from Washington to New York, both to run almost on the same line. And why do they want two roads? In order to secure competition.

So we want two roads to the Pacific coast; we want competition on that line. And I firmly believe that within five years of the time when these roads will be completed each of them will be compelled to lay down a double track in order to accommodate the business they will have to perform. And let us have this road, and the Southern road, and just as many roads as men will build, without involving the Government in expense. And that is the character of this bill.

Mr. DELANO. Mr. Speaker, I regard the subject now before the House as one of very great importance. The measure itself has intrinsic merit; that is to say, the construction of this road would be important and valuable as regards the interests of the country.

But this bill is important independent of that consideration. It is important because, if passed, it will establish a policy which is to have upon the nation an influence that I fear will be disastrous to the country; an influence and a power that the country is not able to endure in the present condition of our finances.

I therefore propose to call the attention of the House to some of the important features of this subject, for I think it necessary, and I deem it important that we all should, without reference to any interest except the overriding interest of the country, bring our minds to the consideration of this question.

In the first place, I desire to say to this House that in July, 1864, an act was passed incorporating certain persons under the name of the Northern Pacific Railroad Company. By the terms prescribed in the eighth section of that act the company was required to commence the work on said road within two years from the approval of the act. They have not done so, (for what reason I am unable to say.) And now it is proposed, I will not say invidiously, but I will say ingeniously,

to virtually exonerate this company from the duty of commencing this road until it shall be the pleasure of the company to commence it, by providing that the institution of surveys, &c., shall be considered equivalent to the commencement of the work.

Now, the original corporators, or at least a large portion of them, probably never knew that they were named in the act of incorporation. But their names were used, as the names of men who are in public life are often used, to give influence and character to what I regard as from beginning to end a scheme of public plunder. It is time to meet these questions, and to treat them as they deserve to be treated if we would save this nation from overthrow in its finances by those who are seeking to deplete and to bleed the nation at every pore and at every point where they can get their hands into the Treasury. The name of my friend and colleague, [Mr. BINGHAM,] was inserted in this charter, and yet I will venture to say he never knew it; I know he never knew it. And I suppose others are in a like situation in that respect.

As the gentleman from Illinois [Mr. WENTWORTH] says, there were some parties, however, whose names were used, who did know it, and knew for what purpose they were used. They went on, and progressing a little way they found it necessary to sell out to a new band of speculators. It is admitted here, I believe, by the friends of the bill that the persons who originally organized under this charter have parted with their interest; and a new swarm are now pressing Congress for a new appropriation.

That is the attitude in which this thing is now presented. I do not know any of the men concerned; I do not know who they were who originally organized. But I undertake to say that the fact is that those who originally organized this company have transferred it to another set of men. And that is what I mean by the new swarm that is here for more appropriations, for more money. With their arms already in the public Treasury, they want to run them in further; nothing short of the elbow will answer their purpose.

That is the way in which I view this transaction; and if I did not deem the condition of the country's finances such as to call upon us to defeat this scheme of plunder, I do not know but that I should have remained silent. I do feel, however, that it is time that we should pause for consideration and should stop this continual squandering of the nation's resources; for we need them, and we may need them hereafter more than we do at present.

I have said that the first organization have sold out, receiving as a bonus for the charter \$150,000, as I am informed, and the purchasers are here for more plunder. This is the "new swarm" to which I have already alluded. Now, I want to show the House what the company received originally. By the original charter there were granted to the company forty sections per mile for all the distance of this road through the Territories and twenty sections per mile for all the distance through the States. Now, for the purpose of showing this House what these gentlemen themselves think is the value of their original charter, I ask the Clerk to read a paragraph from a pamphlet which I send to the desk, entitled "An appeal to Congress in behalf of the Northwest, in connection with the construction of the Northern Pacific railroad and telegraph, by A. Ramsey, D. S. Norton, G. H. Williams," and others.

The Clerk read as follows:

"The company's lands amount to forty sections per mile in the Territories, and twenty sections per mile in the States. On the supposition that the latter are worth twice as much as the former, it may be said that the equivalent of twenty sections per mile (on the southerly side) the entire length of the line, is to be set apart for the security of the Government. This gives twelve thousand eight hundred acres per mile, which at \$2 50 per acre, amounts to \$32,000, about the average sum per mile on which the proposed guarantee is to take effect. Supposing, therefore, that the company should sell six per cent. annually of these lands, the proceeds of which are to be paid into the Treasury, sixty per cent. would be sold during the ten years of the construction of the road, and this per-

centage of the whole is believed to be available for sale and for settlement. On this supposition the Government will not come under advances at all."

Mr. DELANO. It will be observed, Mr. Speaker, that these gentlemen estimate the twenty sections in the States as being worth actually and intrinsically as much as the forty sections in the Territories. They estimate the twenty sections in the States as worth \$2 50 per acre. And then they show, by their own estimate, which is put before us to induce us to give further aid to this road, that the value of the grant already made by the Government to the company is \$82,000 per mile. They have estimated this land with the view of getting us to give them something more on the faith of this estimate. But, sir, if the estimate be true, will any man tell me that the company is not now able to go on and build that road?

Mr. FARNSWORTH. The gentleman will allow me to suggest, in support of his argument, that they compute only the land on one side of the road in arriving at the estimate of \$82,000 per mile. They state that the land on the south side of the road is worth \$32,000 per mile.

Mr. DELANO. Then, according to their estimate, the land granted to them is worth \$64,000 per mile.

Mr. FARNSWORTH. Exactly.

Mr. DELANO. Yet, sir, with amazing assurance they now come here and tell us that with this munificent grant, this princely donation, they cannot go on and build that road. Why, sir, capital throughout the country is now waiting honest and secure investments. If this company have anything like the pecuniary strength which they profess to have under the grant already made they can get anywhere advances of money sufficient for the completion of the road, and to pretend that it is necessary for Congress to give the company more in order to secure the completion of a road from the Atlantic to the Pacific is a false pretense, and if money is obtained from the Treasury by such a pretense it is simply obtaining money by false pretenses, which in Ohio is an indictable offense.

Mr. GRINNELL. Will the gentleman allow me to ask him a question?

Mr. DELANO. Yes, sir; as many as the gentleman desires. This is a school of catechism.

Mr. GRINNELL. I desire to inquire of the gentleman whether he believes that this estimate of the value of the land granted by Congress to this company is a correct estimate.

Mr. DELANO. Now, I want to make a Yankee contract with the gentleman. If I answer his question categorically, will he answer me a question?

Mr. GRINNELL. Yes, sir.

Mr. DELANO. Well, then, does the gentleman believe that these men are guilty of misrepresentations, either willfully or by negligence?

Mr. GRINNELL. I desire first to have an answer to my question.

Mr. DELANO. My opinion, then, is that this is an overestimate. Now, I ask the gentleman, if that is the case, why those gentlemen made that estimate?

Mr. GRINNELL. They are perhaps men of romantic ideas, and I think have set the value of the land too high.

Mr. DELANO. I think so, too.

Mr. GRINNELL. But the gentleman's admission as to the value of the land destroys his own argument. I now desire to ask the gentleman another question.

Mr. DELANO. Oh, no; I decline to answer any more. Our contract is closed.

Grant there is an over-estimate. It only shows how we are imposed upon by these men who come here to ask us for this grand and magnificent donation. It shows how we have always been imposed upon. But I will allude to this again in a few moments.

Let me say here, if this estimate exceeds the actual value of the grant to the extent of fifty per cent., still you have a grant worth \$32,000

a mile. If this estimate is correct, you have already donated to this company lands of the value of \$64,000 per mile; but if you have only given to this company \$32,000 a mile in lands, how much more shall it have? Can its appetite for plunder ever be satiated? I say that, in my opinion, the grant already made is sufficient to build the road. I do not suppose the estimate is overdrawn to the extent of one half. I suppose it was overdrawn to some extent, because they wanted to delude this House again, because they wanted to get more, and therefore wanted to make as strong a showing as possible to induce us to give the road a larger bounty.

It has been suggested to me that more faith is due to this estimate, because it was made by members of Congress. I will say to my honorable friend, who sits near me, that I do not see exactly how that can be. [Laughter.]

When we made the grant to this road what did they agree to? I call attention to the conclusion of section three of the charter. Let us see what bargain they then made. I propose to hold them to the contract unless they made a contract so manifestly unjust to themselves that we ought to relieve them.

What is the contract? It is provided in section three "that no money shall be drawn from the Treasury of the United States in aid of the construction of the Northern Pacific railroad." They agreed, if we would give them this land, amounting in the gross to eighty-eight million acres, if we would open our hearts and confer upon them this munificent grant, that they would bind themselves not to come back and call for money. Yet, sir, here they are to-day—a fresh and thirsty swarm, for that is what they are; they are here to-day, in violation of this contract, asking this Government to pay them a large sum of money.

Mr. LOAN. I would like the gentleman from Ohio to tell this House who it was that made this transfer—who it was that sold out, and to whom they sold out. What evidence is there of any such transfer?

Mr. DELANO. I understand it is not denied. I have it from a friend of the bill and a member of this House; and I have it from an acquaintance of my own from Vermont, who is a credible man. I heard it stated by my honorable colleague [Mr. SHELLABARGER] to-day. It comes to me from a reliable source. It comes upon the wings of the atmosphere, that this transfer has been made. Does the gentleman deny it?

Mr. LOAN. I have no information of the fact.

Mr. DELANO. If we can ever get this project into the hands of the Committee on Public Lands, I hope to get a report that will probe this sore to the bottom, and draw out of it the feculent corruption which it seems to me lies there, so that it may be exposed to the public eye and receive the condemnation which it merits.

It is proper, I presume, as the world goes, if these men can get a further grant from the Government, for them to do so; but I say that it is a plunder of the nation which ought not to be endured. I am speaking for my country, at a time and period of its existence when it is necessary to speak boldly and plainly, hit whom it may, strike where it will. The nation demands it.

What do these gentlemen want more, these men who made a contract with the Government and who have got this munificent grant? What further do they demand of us? I will show the House in a few minutes. They demand of us to guaranty \$57,000,000 of stock for a period of twenty years at the rate of six per cent. interest. It is stock to the average amount of \$31,000 per mile the entire length of the road, some eighteen hundred miles. A portion of it is to be issued at the rate of \$20,000 per mile, a portion at \$25,000, a portion at \$30,000 and a portion at the rate of \$50,000; and the average on eighteen hundred miles of the road is \$31,000 per mile, making in the aggregate \$57,000,000. And we are asked to agree that

we will pay six per cent. interest on that stock for twenty years, if necessary.

And what will it be, provided we have to pay it for the whole period of time? It will cost this nation \$68,000,000 simply to pay the interest on this stock during that period of time. They want us to guaranty \$31,000 a mile, and with that they will build the road and have the land with all its accretive value, made more valuable with our money.

Mr. PRICE. Will the gentleman allow me to interrupt him?

Mr. DELANO. Yes, sir.

Mr. PRICE. I wish to know whether the gentleman believes honestly, from the history of other railroads, in a dollar and cent point of view, that the Government will not get back all it pays in the shape of interest in this twenty-five per cent. of the receipts.

Mr. DELANO. I answer the gentleman, no; most emphatically and decidedly, no.

Mr. PRICE. Then, one more question. What are the data upon which you make that answer?

Mr. DELANO. I will give them. You say it will be paid by the proceeds of lands sold and the income of the road. When you obtained the grant for these lands you said you would never ask for an appropriation of money. In less than two years the company is here asking for \$68,000,000. I know how Governments are plundered. The entering wedge is in, and then Congress is asked for more; the demand for more is persistently made, inside and outside of Congress, until it is granted. And my opinion is now, that if you violate the original contract and let the parties in upon the present application, you will never get any of the money back, but will lose it all. That is why I propose to keep my hand out of this trap, and why I desire this House to keep the nation's foot out of it also.

I sincerely believe that the result will be the complete loss of this money. These men will take this stock and go into the market with it, go to eastern capitalists, men whose vaults groan with idle capital, and sell the stock at a discount. If they do it at the rate of fifty per cent., what of it? It will pay an interest to the purchaser of twelve per cent. on the money paid for it, and they have land enough left to make the stock valuable independent of this, as I have shown you already, by the grant. And if they have any ingenuity by the issue of this stock, or upon the supposition that the Government will issue it, they can employ any quantity of lobbyists by offering to sell it at a moderate discount.

Sir, what right have we now in the present position of the country to lay hold on the Treasury and subject the people to the danger of this additional taxation? You tell me, however, that the road is necessary, and that if we do not build it Canada will. Sir, if your grant is worth anything in comparison to your estimate of it, or what it is estimated at, there are capitalists that are desirous to take and complete the road, and what you ask for now is only another needless donation to men who do not merit and do not deserve it, and to whom it is not necessary to offer it in order to secure the construction of the road.

I make the point here that if they have \$32,000 per mile in land when the land is estimated at \$1 25 an acre, they have money enough now to build the road; and if they cannot build it with that they are not the proper parties to go on, and there is no reason why this Government should be asked to make this additional donation.

Mr. Speaker, I know very well that there are reasons why these considerations should be expressed. Our nation now groans with the weight of public debt and necessary taxation, and our credit must be maintained. I know that there are now floating claims against this nation not less in amount than \$1,000,000,000, according to my estimate; and these claims, if admitted at all, will never be settled with less than \$2,000,000,000. I do not believe they will be settled for that. The great private losses

of only loyal men sustained during this war for the nation's life will be pressed, and pressed, and pressed upon this nation; and, sir, by and by, in some form or other, when we have reconstructed the Government, when all the States shall move again in their accustomed spheres in harmony with each other, when we are again a united people, not only by law, but in heart, then the time will come when this country must decide what shall be done for such claimants, and we must, in order to act prudently, husband our resources as an upright man would who was resolved to be just before he was generous, and to pay his debts before he made a settlement upon his children, or an endowment upon his wife. You must husband your resources now for the financial trial that is before you. Do not let the world see you going into the gigantic schemes of plunder for the benefit of corporations, thereby shaking your credit before the nations of the world. Husband your resources and proceed with caution, deliberation, and frugality.

I know, sir, that we all by nature and education admire the grand, the beautiful, and the sublime. We look out upon the thunder storm and we behold the majesty and power of the Almighty with pleasure and interest. We stand before the great cataract of Niagara and behold the wondrous workings of the divine power in awe; and it seems to me that from this love of the great and sublime, when in this Hall of Representatives, as we look upon schemes of public plunder, the larger, the more magnificent, the more sublime they are, the more are we likely to fall into their support. It is time that we should fall back to a more sensible and rational view of things.

Mr. BOUTWELL. Will the gentleman let me ask him a question?

Mr. DELANO. Certainly, sir.

Mr. BOUTWELL. I would ask the gentleman whether, when he refers to this floating debt which cannot be liquidated without an expenditure of \$2,000,000,000, he refers to claims that may be brought by persons in the eleven States lately in rebellion?

Mr. DELANO. I refer only to claims of loyal persons.

Mr. BOUTWELL. I would ask him whether he includes claims that may be brought by persons in the eleven States recently in rebellion?

Mr. DELANO. I refer to such claims as will be made by loyal people in all the States, and none others. When I say that it will take \$2,000,000,000, I do it on the assumption that we shall compound these claims in some manner without settling up to the full amount.

Mr. BOUTWELL. Is that to be one of the effects of reconstruction?

Mr. DELANO. I did not say so; but the nation will ultimately have to meet this question, and settle it, in some form, either by compounding or refusing to pay. I do not know that it will necessarily follow reconstruction. I have not got that disease upon the brain.

Mr. BOUTWELL. Nor upon the heart either.

Mr. DELANO. What did the gentleman say—"nor upon the heart?"

Mr. BOUTWELL. I understood the gentleman to say that when the Government was reconstructed, and we were one people, not in law merely, but in sentiment, then this debt would be paid. I would as lief spend the money on the Niagara ship-canal.

Mr. DELANO. I have no doubt the gentleman would rather spend it upon the Niagara ship-canal, because that will perhaps open up a way to where he lives, or promote in some way the interests of his constituents.

Mr. BOUTWELL. It opens up a way from the great West to the Atlantic.

Mr. DELANO. I am from the great West, and although my friend thinks I have not reconstruction in my heart, I have in my heart the interests of the western country, and I profess to understand them. Certain it is that I am not afflicted with ossification of the heart if I have not reconstruction in that organ.

Mr. HENDERSON. Will the gentleman allow me to ask him a question?

Mr. DELANO. I will hear the question.

Mr. HENDERSON. I would ask the gentleman if he means that the Government is not to undertake any enterprise until the public debt is all paid off. Is that the doctrine of the gentleman?

Mr. DELANO. I have not said that, nor have I said anything that will lead to that inference. I have said that after the large grant already made to this company, there is no justice in our making the additional grant that is now proposed to be made to them.

But I alluded to the condition of the country and the state of the national finances for the purpose of showing that we should not now go into this enterprise. I do it in the conviction that the system now proposed will at once shock our credit at home and abroad; that it will have a bad influence upon the nation's credit, at the very moment when we are straining every nerve and making every exertion to bring this country back to a system of specie payments; when we should economize our resources and expenditures for the purpose of accomplishing that great work as one of the necessities before us.

Without discussing this subject further, I will yield the remainder of my time to my colleague, [Mr. SPALDING.]

Mr. SPALDING. I well recollect, Mr. Speaker, when the act was passed, which has been alluded to in this discussion, conferring upon an association of gentlemen, mainly from New England, I think some forty-seven million acres of land for the construction of a railroad called the Northern Pacific railroad; and I recollect as well that I then entered my protestation against that grant, as I do now against charging upon the Government liabilities for moneys in the shape of interest upon stocks to be issued by this organization. I considered it an association contrived for stock-jobbing purposes. But my words of admonition were not heeded; that bill became a law, and thereby the United States, in the language of my friend who has just taken his seat, [Mr. DELANO,] were virtually robbed of forty-seven million acres of land.

But it is said on the one side that this grant consisted of poor land; while on the other, when it suits the parties better, it is said that these lands were the most fertile of the West, and of a value almost incalculable.

Mr. Speaker, I hold in my hand a report made to the Boston Board of Trade last autumn, at the instance of these corporators, to show the extent and quality of the grant which the Thirty-Eighth Congress made to this corporation. And it consists of a certificate over the signature of a gentleman who for a long time administered the duties of the General Land Office, who was for a time one of the active managers of the Illinois Central Railroad Company, and who is now the efficient Third Auditor of the national Treasury. I send to the Clerk and ask him to read for the benefit of this House in his audible tones of voice the opinions of Hon. John Wilson in regard to the value of the land grant now held by this association.

The Clerk read as follows:

"I have not the figures, nor would I be able to work them up if I had; but comparing this with the Illinois Central railroad grant, I think it would be a small estimate to say, that if this grant is properly managed it will build the entire road, connecting with the present terminus of the Grand Trunk, through to Puget sound and head of navigation on the Columbia; fit out an entire fleet for the China, East India, and coasting trade, of sailing vessels and steamers; and leave a surplus that will roll up to millions."

Mr. WASHBURN, of Illinois. That pamphlet is put out in the interest of the company.

Mr. SPALDING. Yes, sir; it was made for the purpose of obtaining stock in Boston at the hands of the capitalists of that city.

Mr. LYNCH. Will the gentleman allow me to ask him a question?

Mr. SPALDING. Not now.

Mr. LATHAM. That was made for another purpose.

Mr. SPALDING. It was made for another purpose; the gentleman is correct in that. It was made for the purpose of inducing confidence by capitalists in the stock of this company, and induce them to invest their money in it.

Now, I do not design to impute any improper motives to the Third Auditor of the Treasury; far from it. I believe he was expending his best judgment upon the question then submitted to him for his opinion, for he proceeds in a portion of his letter to describe these lands, their quality, their location, and everything about them. And he thus concludes by giving his estimate of the value of the grant made by the Thirty-Eighth Congress assuring the capitalists that if these lands are judiciously managed, they will provide the means to construct this road from the Grand Trunk in Canada to Puget sound and the navigable waters of the Columbia, and in addition to that, fit out a fleet of merchant vessels and steamers for China and East Indies, with a margin left of "millions of dollars."

Upon this munificent grant a company springs up—reorganized, they tell us—and asks us to do, what? Why, in the face of a present ascertained indebtedness on the part of our Government of nearly four thousand million dollars; in the face of the taxation now imposed upon our people to pay current national expenses and the interest upon the public debt, we are asked to pay interest upon the bonds of this company. To what extent, sir? The sum total of the amount upon which the Government is to bind itself to pay interest at six per cent. per annum is \$57,420,000. One year's interest upon this amount is \$3,445,200.

But, say the advocates of this measure, the Government never will be called upon to pay the whole sum. When the first twenty-five miles of the road shall be completed, then the amount will be estimated at an average rate, as stated here, of \$31,900 per mile, making for the twenty-five miles \$797,500, on which the Government is expected to pay interest. When the first twenty-five miles are completed the bonds are to be issued and the indemnity by the Government is to go into effect. At that time the interest upon this sum for the first twenty-five miles will amount to \$47,850, which is to be paid out of the Treasury; and so on from the first twenty-five miles to another twenty-five miles, and another, and another, until the road is completed.

But it is claimed by the advocates of this bill that the Government is here offered complete security for assuming this liability. Security in what way? The company will give us, they say, as security one half of their lands—all their lands lying on one side of the road. The other half they reserve for their own purposes, speculative or otherwise. One half of our liberal gift to this company they give us back as security for the further advancement in the shape of a loan of the national credit, upon which we are to pay interest, as upon bonds, for twenty years. Now, I am willing to take the chairman of the Pacific Railroad Company at his word. For the sake of argument, I will admit all the great practical benefits which it is claimed are to result from the construction of this road. I will admit that a portion of these benefits will flow in upon my own people, for it is claimed that all along the route from Minnesota through Lake Superior and all the great chain of lakes, even to New England, the benefits resulting from this great national work must flow in most copiously. I admit it all. I will go further and admit, if you please, that so soon as the first twenty-five miles of road shall have been completed, and it shall be ascertained that the company can stand upon its own feet, they will not call upon the Treasury for a dollar. I say that, even admitting that not one single dollar may ever be taken from the national Treasury by reason of this undertaking, still I say the weight of the argument is against any such proposition as that contained in this bill.

Sir, we cannot assume at this moment, in behalf of the Government, a liability of \$57,000,000 without shaking faith in its responsibility and integrity. Why, sir, one of the first lessons which we learn in our school-boy days is that "money is credit" and "credit is money." So long as our nation preserves its credit it can command money. But, sir, if you heap upon the Government, the organ of the nation, liability upon liability, even though ultimately the payment of those liabilities may never be exacted, still the bare fact that the nation is liable for such immense sums shakes the faith of capitalists, not only here, but in Europe, in our capacity to meet our liabilities and pay punctually the principal and interest of our public debt.

No man should doubt this. It is common sense. It is predicated upon ordinary business experience. No individual who has any regard for his credit will suffer his liabilities to exceed greatly his ability to pay; and although a man may not be called upon to pay, yet, if he in a reckless manner assumes liabilities, men of prudence and sagacity will distrust him. As this principle applies to individuals, so does it also to Governments; and it is a principle which we should never disregard in our legislation.

I say, then, Mr. Speaker, I would object to passing this bill into a law on the simple proposition that it is not sound policy to make this Government liable for this large sum of money even though it may never be called upon to pay a dollar of it. When I say this, I do not admit that such will be the result. I rather agree with my honorable friend and colleague who has made so able an argument on this subject, that the prospect would be the other way, that the Government would have to pay all rather than none of the liabilities it is thus called upon to assume.

Mr. Speaker, I have made my sentiments known in regard to this measure, and I trust they will justify my vote. I know very well how these telegraphic communications to members are brought about. The same agency that has been at work around this Hall for months, has worked over the telegraph wires and brought a motion to me as well as to the gentleman from Chicago, and no doubt to other members upon this floor, in order to induce them to sustain this bill. Sir, I can never be reached in this manner. I must, whenever I vote on an important measure in this House, be permitted to vote according to the honest convictions of my own judgment or I will not vote at all; I will abandon my position at once, and ask my constituents to send some one in my place who will be more subservient to extraneous influences.

Mr. WOODBRIDGE next addressed the House. [His remarks will be published in the Appendix.]

Mr. FARNSWORTH obtained the floor.

Mr. BENJAMIN. Will the gentleman yield for a motion to adjourn?

Mr. FARNSWORTH. I will yield for that purpose.

Mr. PRICE. Allow me to say, before the motion to adjourn is put, that I propose to-morrow to call the previous question at half past three o'clock.

Several MEMBERS. Fix an earlier hour.

Mr. PRICE. Well, I will say two o'clock.

Mr. WENTWORTH. The understanding was that we would have a fair chance to be heard on this bill.

Mr. WASHBURNE, of Illinois. There can be no agreement as to the time when the previous question shall be called.

The SPEAKER. The Chair does not understand that any agreement is proposed, but simply that the chairman of the committee gives notice that he will call the previous question on the bill at two o'clock to-morrow.

Mr. WASHBURNE, of Illinois. We do not agree to any arrangement of that sort.

The SPEAKER. After the notice which has been given by the chairman of the committee, the Chair will feel compelled to recognize him at the time he has indicated.

LEAVE OF ABSENCE.

On motion of Mr. DAWES, leave of absence was granted to Mr. HOOPER for one week.

Mr. BENJAMIN. I move that the House do now adjourn.

The motion was agreed to; and thereupon (at twenty-five minutes past four o'clock p.m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BAXTER: The petition of William Bryant, and 44 others, citizens of Alburg, Grand Isle county, Vermont, praying for an increased duty on wool.

Also, the petition of A. B. Keeler, and 53 others, citizens of South Hero, Grand Isle county, Vermont, praying for an increased duty on imported wool.

Also, the petition of Linas Leavens, and others, citizens of Berkshire, Franklin county, Vermont, praying for an increased duty on imported wool.

Also, the petition of Henry S. Morse, and 40 others, citizens of Shelburn, Chittenden county, Vermont, praying for an increased duty on wool.

Also, the petition of Lucius A. Isham, and others, citizens of St. George, Chittenden county, Vermont, praying for an increased duty on imported wool.

Also, the petition of David A. Murray, and 42 others, citizens of Williston, Chittenden county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of T. S. Rice, and 39 others, citizens of Westford, Chittenden county, Vermont, praying for an increased duty on imported wool.

Also, the petition of E. W. Trow, and 46 others, citizens of Brownington, Orleans county, Vermont, praying for an increased duty on imported wool.

By Mr. CULLOM: Two separate petitions of sundry citizens of McLean county, Illinois, praying for the passage of a law regulating inter-State insurances of all kinds.

Also, a petition of sundry citizens of Woodford county, Illinois, asking that Congress shall increase the tariff upon all imported wool.

Also, a petition of a large number of citizens of Livingston county, Illinois, asking for the passage of a law regulating inter-State insurances of all kinds.

By Mr. DIXON: The petition of officers of Western Savings Bank, Rhode Island, for repeal of internal revenue tax on savings institutions.

Also, the petition of Dime Savings Bank, Brooklyn, South Brooklyn Savings Institution, Emigrant Savings Bank, Brooklyn, Dime Savings of Williamsburg, Kings County Savings Bank, and East Brooklyn Savings, for repeal of internal revenue tax on savings institutions.

Also, the petition of Wickford Savings Bank, Rhode Island, for same.

By Mr. EGGLESTON: The memorial of 120 steamboat owners and underwriters of Cincinnati, Ohio, praying for the passage of a law requiring steamboat captains and mates to procure a license from a board of examiners before they enter upon the duties of their offices.

Also, the memorial of Colonel B. Eith, in regard to payment claimed by the eighth regiment of the twelfth ward in the city of Cincinnati, for thirty-one days' service in the Army of the United States near Cincinnati.

Also, a memorial and the muster-roll of Captain Bard's cavalry company, claiming one month's pay for service rendered the Government in Ohio and Kentucky, during the Kirby Smith raid.

By Mr. FERRY: The memorial of John F. Cilley, and 20 others, citizens of Boston, Michigan, praying that an *ad valorem* duty be levied upon foreign wool.

By Mr. GARFIELD: The petition of 960 citizens of Portage county, Ohio, asking such protection on American wool as shall place the producer on equal terms with the manufacturer.

By Mr. LAWRENCE, of Pennsylvania: A petition numerously signed by citizens of Westmoreland county, Pennsylvania, for an increase of duty on foreign wools.

By Mr. LONGYEAR: The petition of William O'Calahan, and 35 others, citizens of Eaton and Ingham counties, Michigan, asking an extension of the Amboy, Lansing, and Traverse Bay land grant to the company of that name.

By Mr. WARD: The petition of William Tropp, of Elmira, New York, asking for the extension of a patent for making barrels.

IN SENATE.

THURSDAY, April 26, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PROPOSED EXPULSION OF MR. DAVIS

Mr. SUMNER. I offer a memorial from citizens of New York, in which they set forth that Mr. DAVIS, a Senator from Kentucky, declared in his speech of the 6th instant, in relation to the passage of the bill to protect citizens in the enjoyment of their civil rights, that if the bill should become a law he should feel compelled to regard himself as an enemy of the Government and to work for its overthrow; and these memorialists then proceed to say that

as the bill alluded to has been declared to be the law of the land by the action of the two Houses of Congress, and as they feel bound to regard Mr. DAVIS as standing in the attitude of an avowed enemy to the Government, as set forth in his declaration, they ask that he be expelled from the Senate. I offer this petition and ask its reference to the Committee on the Judiciary.

The PRESIDENT *pro tempore*. That reference will be ordered, if there be no objection.

Mr. DAVIS. I ask the Senate to permit the Clerk to read that petition.

The PRESIDENT *pro tempore*. It will be read, if there be no objection.

The Secretary read as follows:

To the Senate of the United States:

The undersigned, citizens of the United States, earnestly pray your honorable body: as Mr. DAVIS, Senator from Kentucky, declared in his speech of the 6th instant, in relation to the passage of the bill to protect citizens in the enjoyment of their civil rights, that "if the bill should become a law he should feel compelled to regard himself as an enemy of the Government, and to work for its overthrow," and as the bill alluded to has been declared to be a law of the land, by the action of the two Houses of Congress; and as we feel bound to regard Mr. DAVIS as standing in the attitude of an avowed enemy to the Government, as set forth in his declaration, that he be expelled from the Senate, and, with other traitors, held to answer to the law for his crime.

Mr. DAVIS. With the permission of the Senate I will make a single remark upon that petition. It is true that I used, in substance, the words that are imputed to me in that petition; but, as a part of their context, I used a great many more. As an example of garbling, the petition reminds me of a specimen that I heard when I was a young man. It was to this effect: "The Bible teaches 'that there is no God.'" When those words were read in connection with the context, the passage read in about these terms: "The fool hath said in his heart that there is no God." That specimen of the Bible was about as fair as this garbled statement is of what I said upon the matter to which it refers. This is all I have to say.

The memorial was referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS.

Mr. EDMUNDS presented a memorial of Joseph E. Oates and Aaron H. Bradley, in behalf of the colored people of Florida and Georgia, expressing their views on the subject of reconstruction, and praying Congress to adopt them as conditions precedent to the admission of the late rebellious States; which was referred to the joint committee on reconstruction.

Mr. HOWE presented a memorial of the Legislature of Wisconsin, in favor of so equalizing the bounties awarded by the Government to soldiers during the late war as to make them as nearly as possible in proportion to the time of actual service; which was referred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a mail route from Dodgeville to Avoca, via James Mills, William S. Bean's, and Booth Hollow, in that State; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for widening and straightening the channel of the harbor at Superior, in that State; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, praying the establishment of a mail route from Trempealeau Village, by way of Arcadia, Burnside, and Hale, to Sumner, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Wisconsin, in favor of the appointment of engineers to examine the present water channels through that State, with a view of enlarging the same so as to admit of a uniform steamship navigation from the Mississippi river to Lake Michigan; which was referred to the Committee on Commerce.

Mr. HOWE. I have also a long preamble and a series of resolutions passed by the Legislature of Wisconsin in reference to the votes given by my colleague in this body. The resolutions are in these words:

Resolved by the Senate, (the Assembly concurring.) That the course of Senator DOOLITTLE, in Congress, in voting to sustain the President's veto of the Freedmen's Bureau bill, in persistently urging upon Congress the immediate right of the inhabitants of the southern portion of the United States, who were lately in rebellion against the Government, to be represented in both Houses of Congress as inhabitants of States, and so advocating the principle that the enemies of the Government are as fit to administer its affairs as loyal men are, and finally, in voting to sustain the President's veto of the civil rights bill, in the face of instructions from the Legislature to vote for it, fills us with pain and indignation.

Resolved, That the course of Senator JAMES R. DOOLITTLE upon the great question of the reorganization of government among the late rebels, upon the Freedmen's Bureau bill, and the civil rights bill, was a desertion of the cause of human rights and republican government, and shows him totally unworthy to occupy any position representing a free people, much less so high a one as the people of Wisconsin in other times have elevated him to; and while it is not contended that we can deprive him of his office of Senator, yet we declare it to be his duty to resign his Senatorship, in order that the loyal people of Wisconsin may no longer be misrepresented upon the grave questions which are now being decided by the American people.

Resolved, That the Governor be requested to forward to each of our Senators and Representatives in Congress a copy of the foregoing preamble and resolutions.

I move that these resolutions be laid upon the table and printed.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. HENDRICKS. The Committee on Public Lands, to whom was referred the bill (S. No. 206) to quiet land titles in California, have directed me to report an amendment in the nature of a substitute, and recommend its passage. It is proper that I should say, sir, that this substitute has been prepared upon consultation with the Commissioner of the General Land Office, the chief clerk of that office, the surveyor general of California, and myself. It is prepared with a good deal of care, as it relates to a very important subject.

Mr. ANTHONY, from the Committee on Claims, to whom was referred the petition of T. S. Briscoe, praying for payment for his services in recruiting the twenty-sixth regiment of Iowa infantry, and the sixth Iowa cavalry, submitted an adverse report; which was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a resolution of the Senate of the 3d instant, directing them to inquire into the expediency of establishing an additional land district in the Territory of Nebraska, asked to be discharged from its further consideration, deeming that it is unnecessary to have another land district in that Territory; and the report was agreed to.

WILLIAM SAWYER, AND OTHERS.

Mr. HARRIS. The Committee on Private Land Claims, to whom was referred a joint resolution (H. R. No. 67) providing for the reappraisal of the lands described in an act for the relief of William Sawyer and others, of Ohio, have instructed me to report it without amendment and recommend its passage. It will take but a moment, and I ask for its present consideration.

There being no objection, the joint resolution was considered as in Committee of the Whole. It authorizes the Secretary of the Interior to appoint a commissioner to reappraise the lands described in the act entitled "An act for the relief of William Sawyer and others, of Ohio," approved July 2, 1864; but the occupants of the lands are to pay all the expenses of the reappraisal.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COLLECTION OF PLANTS.

Mr. SHERMAN. I am directed by the Committee on Agriculture, to whom was referred the memorial of Frederick Pech, donating to the United States a valuable collection of plants,

to report a joint resolution, providing for their acceptance.

The joint resolution (S. R. No. 74) providing for the acceptance of a collection of plants tendered to the United States by Frederick Pech, was read a first time by its title, and passed to a second reading.

Mr. HENDERSON. I ask the Senate to consider that resolution at the present time.

The PRESIDENT *pro tempore*. It requires the unanimous consent of the Senate to consider the joint resolution on the day it is reported.

There being no objection, the joint resolution was read the second time, and considered as in Committee of the Whole. It proposes to accept the collection of plants tendered by Frederick Pech, by his memorial of March 2, 1866, and that it be deposited in the Department of Agriculture, and appropriates the sum of \$300 to enable the Commissioner of Agriculture to procure suitable cases for the protection of such plants.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

COLLECTION OF THE CUSTOMS.

Mr. SHERMAN. I am directed by the Committee on Finance to report a joint resolution, and after a short explanation I desire to have it put upon its passage now.

The Secretary read the joint resolution (S. R. No. 75) making appropriations for the expenses of collecting the revenue from customs. It proposes to appropriate \$2,100,000 for the expenses of collecting the revenue from customs for each half year, from and after the last day of December, 1865, and in addition thereto, such sums as may be received during the half year from fines, penalties, and forfeitures connected with the customs, and from storage, cartage, drayage, and labor; and it also proposes to repeal the first section of an act making appropriations for the expenses of collecting the revenue from customs, approved June 14, 1858.

Mr. SHERMAN. In order to explain the matter more fully, I send to the Chair and ask to have read a letter of the Secretary of the Treasury, which has called the subject to our attention.

The Secretary read the following letter:

TREASURY DEPARTMENT, March 24, 1866.

SIR: The standing appropriation of \$1,800,000 for each half year, to defray the expenses of collecting the revenue from customs, made by the first section of the act of June 14, 1858, (31 Statutes, 337,) will be inadequate to meet the expenses of the current or of succeeding years.

It is estimated that there will be required an additional sum of \$300,000 each half year; that is, a total semi-annual expenditure of \$2,100,000.

I have the honor, in accordance with this view, to inclose a draft of a section designed to be appended to the regular appropriation bill, amendatory of the aforesaid first section of the act of June 14, 1858, to which I would request your favorable attention.

Very respectfully,

H. McCULLOCH,
Secretary of the Treasury.

Hon. W. P. FESSENDEN,
Chairman Committee on Finance, Senate.

Mr. SHERMAN. The matter was first called to our attention by that letter; and the Committee on Finance agreed upon an amendment to the legislative appropriation bill some time ago providing for the increase. The present permanent appropriation for the collection of the revenue from customs is contained in the first section of an act "making appropriations for the expenses of collecting the revenue from customs" under date of June 14, 1858. I will read that section:

That there be, and hereby is, appropriated for the expenses of collecting the revenue from customs, for each half year, the sum of \$1,800,000, payable out of any moneys in the Treasury not otherwise appropriated, together with such sums as may be received from storage, cartage, drayage, and labor for said half year.

The amount of the revenue from customs has been so enormously increased that the expenses have increased, not in the same proportion but to some extent, and the estimates now require \$300,000 more for the half year, \$600,000 additional for the year.

Mr. JOHNSON. What is the relative increase in the revenue?

Mr. SHERMAN. The Senator from Maryland asks me the increase in the revenue. I can tell him generally that since the date of the law the revenue from customs has doubled. I think in 1858 the receipts from customs were about sixty million dollars. The necessity for the immediate passage of this resolution, as the legislative appropriation bill will probably not pass Congress for a month or two, is stated in a recent letter from the Secretary of the Treasury, which I send to the desk to be read.

The Secretary read the following letter:

TREASURY DEPARTMENT, April 24, 1866.

SIR: On the 24th of March I had the honor to submit to your committee a section, designed to be appended to the regular appropriation bill, increasing the standing semi-annual appropriation for the expenses of collecting the revenue from customs from \$1,800,000 to \$2,100,000, and to explain the grounds of the suggestion.

It is found that the appropriation now on the books of the Treasury will be insufficient to meet the necessary expenses even for the month of April current, and I therefore transmit herewith the same proposition, slightly amended, in the form of a joint resolution, upon which I would most earnestly request an early action, it not being probable that the regular appropriation bill will be acted upon in time to meet the emergency.

I am, sir, very respectfully,

H. McCULLOCH,
Secretary of the Treasury.

Hon. W. P. FESSENDEN,
Chairman Committee on Finance, Senate.

The joint resolution was read three times and passed.

PRINTING OF A BILL.

On motion of Mr. NORTON, it was

Ordered, That the bill (S. No. 263) to authorize the Winona and St. Peter Railroad Company to construct a bridge across the Mississippi river and to establish a post route, be printed.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 286) to provide for the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, on the navigable waters of the Columbia river, in Oregon; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 287) to provide for the construction of a wagon road from Boise City, in the Territory of Idaho, to Susanville, in California; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. CLARK. I ask unanimous consent to introduce a bill which has been prepared by some person other than myself.

There being no objection, leave was granted to introduce a bill (S. No. 288) to provide for the payment of certain claims against the United States; which was read twice by its title.

Mr. CLARK. A bill of similar import went to the Committee on the Judiciary; I move that this take the same direction.

It was so referred.

Mr. CLARK also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 289) to provide for the probate of and for the recording of wills of real estate situated in the District of Columbia, and for other purposes; which was read twice by its title, and referred to the Committee on the District of Columbia.

DEATH OF SENATOR FOOT.

Mr. POLAND submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That one thousand extra copies of the addresses and funeral sermon delivered in the Senate on the death of Hon. Solomon Foot, a Senator from the State of Vermont, heretofore ordered to be printed for the use of the Senate, be printed for the use of the widow and family of the deceased.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary,

announced that the President of the United States had approved and signed, on the 25th instant, the following acts and joint resolution:

An act (S. No. 89) to issue American registers to the steam vessels Michigan, Despatch, and William K. Muir, and for other purposes;

An act (S. No. 146) for the relief of Thomas F. Wilson, late United States consul at Bahia, Brazil;

An act (S. No. 150) for the relief of Theodor G. Eiswald; and

A joint resolution (S. R. No. 29) for the transfer of funds appropriated for the payment of salaries in the Post Office Department to the general salary account of that Department.

WILLIAM COOK.

Mr. ANTHONY. I move to take up Senate bill No. 277.

The motion was agreed to; and the bill (S. No. 277) for the relief of William Cook was read the second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury to pay to William Cook \$200 for the use and occupation of his land in Washington city by order of the War Department.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

NEW YORK AND MONTANA IRON COMPANY.

Mr. WADE. I move that the Senate take up Senate bill No. 203 for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 203) to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of public lands now in market.

The PRESIDENT *pro tempore*. The Committee on Public Lands have reported the bill with an amendment to strike out all of the original bill after the enacting clause and to insert a substitute. The substitute only will be read unless some Senator asks for the reading of the original bill.

Mr. WADE. I suppose it will not be necessary to read anything but the amendment of the committee.

The Secretary read the amendment, which was to strike out all after the enacting clause of the original bill and to insert the following in lieu thereof:

That the New York and Montana Iron Mining and Manufacturing Company be, and they are hereby, authorized, at any time within one year after the approval of this act by the President of the United States, to preëempt two tracts of land in the Territory of Montana which, in the aggregate, shall not exceed twenty sections, not included in any Indian reservation or in any Government reservation for military or other purposes, three of which sections may be selected of lands containing iron ore and coal, and the remaining sections of timber lands near the said selections containing iron ore and coal, which selections shall be subject to the approval of the Secretary of the Interior.

SEC. 2. *And be it further enacted*, That the said company may acquire immediate possession thereof on the selection of the said lands by permanently marking their boundaries and publishing a description thereof in any two newspapers of general circulation in the said Territory.

SEC. 3. *And be it further enacted*, That it shall be the duty of the Secretary of the Interior to cause patents to issue to the said company for the said lands on the conditions mentioned in this section, all of which must be complied with within two years from the approval of this act by the President of the United States, or the said lands shall revert to the United States:

1. That the said company shall have the said lands carefully surveyed at their own expense, and shall file a plot of the same in the General Land Office of the United States, which surveys shall be by lines running north and south, and east and west, and each of said tracts of land shall be as nearly in a square form as may be practicable.

2. That the said company shall have furnished the Secretary of the Interior evidence satisfactory to him that they have erected, and have in operation, in one or more places on the said lands, iron-works with a capacity for manufacturing at least fifteen hundred tons of iron per annum.

3. That the said company shall have paid the United States for the said lands the minimum price of \$1 25 per acre.

SEC. 4. *And be it further enacted*, That the said patents shall convey no title to any mineral lands except iron and coal, or to any lands held by right of possession, or by any other title, except Indian title, valid at the time of the selection of the said lands.

SEC. 5. *And be it further enacted*, That the said company shall have the same privileges in every particular, with reference to the said lands which are now by law granted to ordinary preëemptors, with reference to the wood and timber on the said lands, with the exception of so much as may be necessarily used by the said company in the erection of buildings and in their legitimate business of manufacturing iron.

Mr. HENDRICKS. It is right that I should say that the committee was greatly influenced in consenting to the passage of this bill by the peculiar condition of the mining interests in Montana. That interior Territory is so far removed from any of the ordinary means of transporting the machinery which is necessary for carrying on mining business that the development of the mining interests of the Territory is likely to be very greatly delayed. It was represented to the committee that this company would establish iron-works and soon produce iron in the Territory itself. It is known that there are very valuable iron mines in that Territory; at least it was so represented to the committee in such a manner that the committee had confidence in that representation; and with great reluctance I consented to the reporting of the bill upon the peculiar state of the case. I desire to say that the committee understand that this shall not be a precedent to any special privileges in the purchase of the public lands. This is not to form a precedent, so far as the committee is concerned, in any other case.

Mr. GRIMES. I should like to inquire of the Senator from Indiana, under what law this New York and Montana Iron Mining and Manufacturing Company was incorporated, and whether or not he has seen the charter.

Mr. HENDRICKS. The bill was not under my charge in the committee. The Senator from Iowa [Mr. KIRKWOOD] had charge of the bill, and made the investigation. I understand that it is a company incorporated under the laws of the State of New York.

Mr. KIRKWOOD. I will give my colleague the information that he desires on that point. This company was chartered under a law of the State of New York, and I hold in my hand a copy of the articles of incorporation. They were submitted to the Senator from New York, [Mr. HARRIS,] who is a member of that committee, and I believe they are in accordance with the laws of New York.

While I am up I will say a word with regard to the bill itself, and in explanation of its provisions. The public lands of Montana Territory have not been surveyed, and therefore can only be located under the existing preëemption law, limiting the amount, I think, to one hundred and sixty acres. Mining is being carried on there to a very considerable extent, and in mining operations and in other operations there iron is necessarily used to a large extent. We know that now the iron used in that Territory has to be furnished from the iron manufactories of Pennsylvania and elsewhere, and carried to St. Louis, and up the Missouri river to some point from which it is started on wheels out to Montana, or else brought by rail to Iowa, wheeled across Iowa, and then by wheels carried to Montana. The result is that the freight upon the iron used in that Territory must be from thirty to thirty-five cents per pound. This state of affairs must necessarily be a great drawback upon the prosperity of that Territory, and if we can in any legitimate way reduce to them the expense of iron used there, it seemed to the committee proper so to do. We are expending a great deal of money that does not bring back money again to the public Treasury or increase the wealth of the country; and if we can legitimately legislate so as to increase the wealth of the country and the prosperity of these western Territories, it seemed to the committee well to do so.

What the committee therefore propose to do is, not to give to this company any lands whatever; not to give them an acre of land, but to allow them, in advance of the survey which we will not make, or do not make, at all events, to take up the quantity of land named in this

bill, with the same privileges and subject to all the liabilities of preëemptors, save and except so far as they may use the timber on the land for building and running their iron-works. We require them to make the surveys at their own expense. We require them, before they shall receive a title to the land, to satisfy the Secretary of the Interior that they have built on these lands iron-works capable of turning out, and turning out, fifteen hundred tons of iron per annum. If they fail in any one of these conditions they forfeit their entire right, and they are compelled to pay for the land the price of \$1 25 per acre.

The whole departure from what I understand to be the ordinary policy of the Government is in allowing this company to take up more land than it can take up under the existing law. One hundred and sixty acres of land would not justify an iron company in establishing iron-works. They must have timber for coal-ing. They cannot get it under the existing law. If they go upon the unsurveyed lands without a law of this kind, they are trespassers and liable to be sued and mulcted in damages for every offense. Without the timber, they cannot do the work. The question then is, shall they, or shall they not, be allowed to take up this land upon paying into the public Treasury the ordinary price of the public land, and establishing works there before they can receive title to their land? It struck the committee that it was necessary for the development of that Territory, and it would tend to do what they thought was required to be done at this time, especially when we have such heavy drains upon our people in the way of taxation, to increase the productive wealth of the country, to some extent, without at all injuring the public.

Mr. POMEROY. I have not had my attention called to this bill, until this moment, since it was reported. I think there is an oversight in it. The Senator who drafted the amendment has neglected to exclude preëemption claims or homestead settlements, and under the bill as it now stands this company may locate over a settler.

Mr. KIRKWOOD. The Senator is mistaken, I think. If it is so it is a mistake in the bill undoubtedly.

Mr. POMEROY. To settle that question I will move that the proviso contained in the original bill be added to this amendment. That proviso is in these words:

Provided, That no title shall be conveyed to any mineral lands except iron and coal, or to any lands held by virtue of any title of possession or other kind, valid at the time of the selection and location of the said tracts.

Mr. CONNESS. I should like to inquire how the Senator would construe or has construed the term "valid" in that proviso. Does he mean by that the possession of one of the inhabitants?

Mr. POMEROY. Yes; I mean a squatter, a settler.

Mr. CONNESS. Then you had better leave out the word "valid" and have it "any location in possession;" otherwise these sections of land may cover all the acquired rights and property of the entire community there. This company are authorized to go there and select the timber lands as well as the iron mines.

Mr. POMEROY. My intention is to prevent them from going on any settlement.

Mr. CONNESS. That is all right if the Senator will so draw his amendment as to fully carry out that idea.

Mr. KIRKWOOD. The proviso to the first section of the original bill was intended to be attached to the amendment reported by the committee.

Mr. POMEROY. It is an oversight, I see. I move, then, that the proviso contained in the last section of the original bill be added to the first section of the amendment.

The PRESIDENT *pro tempore*. It is moved to amend the amendment by adding at the end of the first section the following:

Provided, That no title shall be conveyed to any mineral lands except iron and coal, or to any lands

held by virtue of any title of possession or other kind, valid at the time of the selection and location of the said tracts.

Mr. KIRKWOOD. The committee intended to have that proviso in the substitute reported by them, and how it came to be omitted I do not know.

Mr. CONNESS. I do not know whether that proviso would cover the case fully. The word "title" in that proviso means that no title in fee-simple, such as is proposed to be conveyed by this bill, shall be conveyed to the possessions of other settlers; but it is a question whether under that proviso and by the bill this company would not get an equal right with those possessors to go upon the land; whether they would not get some right that would enable them to disturb those possessors. If the Congress of the United States shall see fit to give to any company, for the purpose of encouraging the production of iron or any other industry in our Territories, a certain amount of the public lands which will be deemed not extravagant, I have no objection. I think the purpose is a good one and would promote the welfare of those communities. But this proviso, it appears to me, is not sufficiently clear and precise to protect the possessors of land among this population against the provision contained in the bill. I would prefer, if the friends of this measure would not object to it, to have the bill laid over at present so as to have an opportunity to look it over.

Mr. KIRKWOOD. If gentlemen look at section four, they will see, I think, that this matter is provided for:

That the said patents shall convey no title to any mineral lands except iron and coal, or to any lands held by right of possession, or by any other title, except Indian title.

Mr. GRIMES. I would call the attention of my colleague and the chairman of the Committee on Indian Affairs especially to that clause. It reads as follows:

And be it further enacted, That the said patents shall convey no title to any mineral lands except iron and coal, or to any lands held by right of possession, or by any other title, except Indian title, valid at the time of the selection of the said lands.

Is it intended here that this company shall take the Indian title out from under them?

Mr. KIRKWOOD. Not reservations.

Mr. GRIMES. But any Indian title? Is it designed to confer on this corporation existing in the State of New York, not authorized by the Territorial Assembly of the Territory of Montana, to go out into Montana and take nearly half a section of land right out of the Indian Territory—land of Indians with whom we have treaty stipulations to preserve them in the possession of?

Mr. KIRKWOOD. Only such as can be entered, such as I would have the right to go upon or my colleague would have the right to go upon.

Mr. GRIMES. Where is that limitation?

Mr. KIRKWOOD. That I apprehend is the limitation of the bill as it stands.

Mr. GRIMES. I do not understand it so. I do not find any limitation here. I find that according to the legitimate construction of this clause this company can take any lands except such as may be held by some adverse possession or right, other than that held by an Indian title. That they can take.

Mr. CONNESS. I will say to the Senator that this fourth section gives no protection to the possessors at all, as I understand it. The language is:

That the said patents shall convey no title to any mineral lands except iron and coal, or to any lands held by right of possession, or by any other title, except Indian title, valid at the time of the selection of the said lands.

The possessors have no "valid title."

Mr. KIRKWOOD. A title that no one else can interfere with.

Mr. CONNESS. It is not a "valid" title.

Mr. KIRKWOOD. It is valid against everybody else.

Mr. CONNESS. If you will make it valid against the parties whom this bill is intended to serve, I shall be satisfied.

Mr. KIRKWOOD. That was the intention

of the committee. If they have not done so, any amendment which will secure that object, of course, will be coincided in.

Mr. CONNESS. I hope the bill will be laid over at present.

Mr. WADE. I think this bill is very well guarded so as to prevent this company from taking lands to which any other person whatever can make claim. When a person can acquire no title whatever, I do not really see what title he can get. If a man is on there by a preëemptive title, by any possessory title, such a title is a title by which he can defend himself at law, of course, against any other person not having a better title. It is true that the title is not perfect; it is not a fee-simple; he has not acquired that yet; but if he is in possession he has a right against everybody else but the owner or one who can show a better title.

I introduced this bill, and I have no kind of objection to its being made as strong and secure in that particular as it possibly can be. The only object of the bill is to anticipate the surveys in that Territory. If this land had been surveyed and offered for sale it would be subject to entry like the other lands we have. All this company want is to anticipate that, because the country has not been surveyed; otherwise they might enter there and take possession of as much land as they could pay for at the Government price; but the survey is not made, the land is not in market in this remote region. People are going in there in great numbers, and there is no commodity more valuable to them than iron. There is none more difficult to obtain on account of the distance they have to transport it to get there; and this company believe that if they could get the right to go in there and to make iron it would be profitable to them and greatly beneficial to the people of the Territory. I think it would. I know some of these parties, and I know that the company were about to commence operations there without any particular title, only such as they would acquire by possessory right; but the principal man, Mr. Ward, of Michigan, who is one of the greatest iron manufacturers, I believe, in the country, said at once he would take no interest in such an enterprise unless they could be assured of timber, as they would have to work their iron by coal. When they found a location where iron could be easily got, men around them would at once take possession of the timber in the neighborhood, and would have it in their power to defeat them, in a great measure, or put them to such inconvenience and expense to get the timber for coal as to defeat the object. Therefore they had no other way to do but to ask Congress, in anticipation of the surveys, to give them the right to purchase lands sufficient for that purpose; and that is all that they want; it is all that the company desire to have.

The Committee on Public Lands have had this bill under consideration and they have amended it and put it under every restriction that they could think of, and they have put them under no restriction, I believe, that they considered disadvantageous to them, their honest purpose being not to acquire title to land except in order to carry on this iron business; and when that is preserved I do not care what restrictions you put upon them to hold them to that purpose, as I think the bill does in every particular. If, however, Senators believe there is any chance for them to get possession in this way of lands to which others have a right or title, if that is not sufficiently secured, I shall not object to any amendment on that point that may be suggested.

The PRESIDENT *pro tempore*. The morning hour having expired it becomes the duty of the Chair to call up the special order, which is House bill No. 11, to facilitate commercial, postal, and military communication among the several States.

Mr. WADE. I would ask the Senate, if they are willing to go on with this bill, to do so, for I know it is a bill of the utmost importance; if this right is to be granted, it should be done at once.

Mr. POMEROY. If the special order is

laid aside informally for five minutes, I think we can complete this.

The PRESIDENT *pro tempore*. The special order is House bill No. 11. It is suggested that that bill be laid aside. It can only be done by common consent, except on motion.

Mr. NYE. I move that that be laid aside for the purpose of taking up the business assigned for this hour, the iron-clad question. ["Oh, no."]

Mr. CONNESS. I wish to suggest to the Senator from Ohio, who introduced this bill, that another objection occurs to my mind which, if I had time to state it, would, I think, make it necessary to lay it aside for further consideration. I do not wish to occupy the time of the Senate by stating it now, and I hope he will let it go over.

Mr. WADE. Very well, let it go over; but I give notice that I shall attempt to take it up to-morrow morning, if I can, and try to put it through.

INTER-STATE INTERCOURSE.

The PRESIDENT *pro tempore*. The special order is House bill No. 11, to facilitate commercial, postal, and military communication among the several States, which is before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill. Its preamble recites that the Constitution of the United States confers upon Congress, in express terms, the power to regulate commerce among the several States, to establish post roads, and to raise and support armies; and it is therefore proposed to authorize every railroad company in the United States, whose road is operated by steam, its successors and assigns, to carry upon and over its road, connections, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination. The act is not, however, to affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road.

Mr. MORRILL. Mr. President, I was not aware that this bill had been reported from the Committee on Commerce to the Senate. I believe there is another bill of a similar character which has been before the committee, and which originated in the Senate. At this moment I am not sure that I quite understand the distinction between the two bills. I think they are nearly similar, but I am not quite certain. It was my purpose on a former occasion to address the Senate upon this subject; but I find myself here at the present moment without any expectation of this bill being presented to the Senate to-day, and I am not in a condition to make any extended remarks. The bill is of a character which I think should challenge the attention of the Senate. It was passed in the other House, if I am permitted to allude to so much of the proceedings of that House as I gather from the debates, without much consideration, either at this or at the former session of Congress; and if I could bring myself to the conviction that it was not a bill fraught with the most dangerous consequences, I should be content to give a silent vote upon it. But, sir, it is a bill of most marked impression. It is a bill which strikes down deep to the very foundations of the Government. It is a bill that will be remarkable for all time in the legislation of this country if it pass. It is a bill that at once arrests the attention of whoever reads it as one which runs the line between the powers of this Government which are known, delegated, and expressed, and those which are doubtful, latitudinarian, and never to be entered upon except with caution.

It proposes, sir, in a word, to take by the power of the General Government the direction of the internal railway system of the United States. This is the proposition. I know it may be said that it only proposes to regulate it. To regulate is to control; to control is to direct; and under whatever branch you seek to exercise this authority, whether by the commercial power or by the power to regulate the postal service, or by that to raise and support armies and navies, it is the same thing; it is substantially to assert the power by the General Government to reach out its hand and lay its strong arm on the great American railway system. That is what it is, and I stand here to invite the attention of the Senate to so extraordinary a proposition as that. I ask Senators what is the exigency which justifies or demands it, and I ask Senators to point me to that provision of the Constitution which justifies it and authorizes it in clear, explicit, and intelligible phrase, not by doubtful interpretation.

First, sir, as to the exigency which justifies it or demands it; has anybody told you of any? What is the American railway system? Is it the creation of the Government of the United States in any respect whatever? Not a bit of it. It has grown up spontaneously out of the energy and the industry of the people exercising their functions in their primary and in their municipal capacities, the Government of the United States all the while standing afar off, doing nothing and proposing nothing.

I heard it said on a former occasion that the exigency grew out of the fact that one of the States of this Union had usurped authority, usurped power, and created an unjust monopoly, and that this measure was necessary to remedy that. Why, sir, is the Senate of the United States the place for the correction of such grievances? Are not the courts of the United States open? If the State of New Jersey, to which reference is made, and whose legislation is here arraigned, has been guilty of granting an unconstitutional monopoly, is this the place, is this the forum, to correct it? By no means. The courts are open, and any party aggrieved, any interest offended, has a remedy in the courts; and that should be a sufficient answer to that part of the argument.

It is said, moreover, that it exists as a grievance, it is a monopoly, and that the action of New Jersey is in restraint of the commerce of the country, of the free intercourse of the people of the country. Now, Mr. President, a little brief history, a little reference to events, puts to flight all argument of that kind at once. What is the fact? Go back to 1830, and you find the whole intercourse between the cities of New York and Philadelphia, by travel, carried on in ordinary stage-coaches. Perhaps as often as once a day it was practicable to pass between those cities in that way. The transportation of the country was carried on in ordinary lumber or baggage wagons. That was so only as far back as 1832; nay, later, in 1838 you find that state of things existing. To-day you may pass and re-pass between those two cities twenty times each day, and trains for transportation of all kinds pass nearly as often. Now, remember the charge is that the legislation, the action of New Jersey is in restraint of trade, travel, intercourse, transportation. Well, sir, New Jersey, by her own policy, and by the efforts of her own citizens, has done all to which I have alluded. They have given this increased facility; they have done it all alone; the General Government nothing, as it was not proper that she should do anything. A single fact of this kind is sufficient, I submit, to put to flight this argument that the legislation of New Jersey is in restraint of travel, trade, intercourse, is a restriction upon the commerce of the country.

But, Mr. President, I care to do no more than to advert to these facts, because they touch but very little upon the case any way. I object to this bill on the ground of its comprehension and scope. What it may do for New Jersey, or what it may not do, is of very little concern with me. I know but few of the peo-

ple of New Jersey; I know nothing of the circumstances of this case other than I have heard them detailed upon this floor. My objection lies to the bill because it is so broad and comprehensive, because while it is said that it is aimed at a monopoly in New Jersey, it is broad enough to cover the whole American railway system. In the last thirty years this American system has grown from the smallest beginnings to be the grandest system of intercommunication the world has ever seen. To-day not less than thirty thousand miles of railway communication exist in the several States, the product of the energy, the industry, and the capital of these States.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills of the Senate without amendment:

A bill (S. No. 158) to facilitate the settlement of accounts of the Treasurer of the United States, and to secure certain moneys to the United States, or to the persons to whom they are due, and who are entitled to receive the same; and

A bill (S. No. 255) to remit and refund certain duties.

INTERNATIONAL OCEAN TELEGRAPH.

The message also announced that the House of Representatives had passed the bill (S. No. 26) to encourage telegraphic communication between the United States and the island of Cuba and other West India islands and the Bahamas, with amendments, in which the concurrence of the Senate was requested.

Mr. CHANDLER. With the permission of the Senator from Maine, I desire to ask the Senate to concur at once in the amendments made by the House of Representatives to Senate bill No. 26.

Several SENATORS. What are they?

Mr. CHANDLER. One fixes the rate of telegraphic messages.

No objection being made, the Senate proceeded to consider the amendments, and they were read. The first amendment was in section two, line three, to strike out the words "during a state of war;" so as to make the section read:

That the said International Ocean Telegraph Company shall at all times give the United States the free use of said cable or cables, through a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, and diplomatic or consular agents.

The next amendment was after the word "agents," in the same section, to insert these words:

And the said company shall keep all its lines open to the public for the transmission, for daily publication, of market and commercial reports and intelligence; and all messages, dispatches, and communications shall be forwarded in the order in which they shall be received; and the said company shall not be permitted to charge and collect for messages transmitted through any of its submarine cables more than the rate of \$3 50 for messages of ten words.

Mr. SHERMAN. That is a very important bill, and the amendments present a question which I should like to look into. We had it under discussion for some time in the Senate, and now one of these amendments fixes the rate for telegraphic messages at \$3 50 for ten words.

Mr. CHANDLER. Not to exceed that.

Mr. SHERMAN. That is to be the rate for messages between Florida and Cuba, one hundred miles. The whole system of telegraphing in the United States will undoubtedly, within the next two or three years, undergo an entire revision and revolution. I suggest whether this bill had better not be laid over until the Senator from Maine, [Mr. FESSENDEN,] who took a great deal of interest in it at the time of the former discussion, and with whom I conversed about it after the passage of the bill by the Senate, can be present. I move, therefore, that the bill and amendments lie on the table for the present.

Mr. GRIMES. Mr. President—

The PRESIDENT *pro tempore*. The motion

of the Senator from Ohio is not a debatable motion.

Mr. SHERMAN. I withdraw it for the present.

Mr. GRIMES. I was only going to suggest to the Senator from Ohio that it seems to me this is a very opportune time to consider this matter. We have now under consideration the bill pressed by the chairman of the Committee on Commerce to relieve the country from one monopoly; and this is to establish another still more odious.

Mr. SHERMAN. I will turn that question over to the Senator from Maine, [Mr. MORRILL.]

Mr. CHANDLER. If the Senator from Ohio desires that this question shall go over, I have nothing to say against that.

Mr. GRIMES. I should like to look into it and see what it means.

Mr. CHANDLER. Let it go over. I supposed there would be no objection to the amendments of the other House, and therefore I asked for the consideration of the bill at this time.

The PRESIDENT *pro tempore*. The bill and amendments will be laid over by common consent.

INTER-STATE INTERCOURSE.

The consideration of the bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States was resumed.

Mr. MORRILL. It is not my purpose, Mr. President to make a formal speech at this time upon this bill. When interrupted I was adverted to the fact that the system of railways in this country, upon which now the Government purposes to lay its hands, is the product of the industry and energies of the people of this country unaided by their Government, acting in their primary relations, and acting upon the exercise of those reserved rights which constituted the strength of this Government in the past and will continue to constitute that strength in the future if they are left unimpaired. It is because the Government undertakes to lay its hand upon this industry, peculiar to the people, and in which the Government has not participated, and it is because the Government steps far over, I think, the line which guards and which should be held to guard those rights which have been delegated and those which have been reserved to the people, that I feel any solicitude at all upon this question.

I was remarking, sir, as to the character of this system. The grandest system of intercommunication any country in any time ever saw, springing up out of the brain of the people thirty years back, now spans the continent, sends out great arteries from every Atlantic commercial city on your coast to the far interior, and these in turn branching in all direction over the States, have made the intercommunication of the people easy, cheap, familiar, and have brought to the door of almost every farmer in the land the best markets the country affords. This has all been done upon that voluntary principle which the American people know so well by their guidance and by their direction; and who stands here to complain of it? Who stands here to arraign this American system, to say that it has not on the whole served the grandest purposes that any instrumentality ever served any people? The most that can be said of it is that in the State of New Jersey it is suggested that a monopoly has been granted, which, I believe, to say the worst of it, expires in 1868 or 1869.

Now, sir, what have the American people invested in this enterprise? I have shown you its operation, its workings, beneficent beyond measure, stretching from Maine to New Orleans and the far West, and offering cheap, quick, expeditious, safe intercommunication with all the people; and it is in their hands. Let us consider for a moment what has been the expense of this. What have this people expended? Over three thousand million dollars have been invested out of the earnings and out of the pocket-

ets of the people to the consummation of this grand system of railway and intercommunication, working all harmoniously, working admirably. And now, if I do not misinterpret this bill, you assert a principle which authorizes the General Government to reach out its hand and take the direction of every mile of the railway system in this country.

Would that be wise? Nobody will venture to say that; but that is the road on which you enter. I suppose the advocates of this measure would not pretend that it would be wise. I dare say they would deprecate it, that the General Government should enter into this competition and take the direction of these railways; but, sir, you assert a principle which authorizes it, and that is what I object to. If you have a right to say that roads may connect and shall connect; if you have a right to say that a railroad company in the interior of New Jersey—and that is precisely this case—may extend its road across that State and then across the Delaware river and connect with other roads, and that all roads, whether the States authorizing them will or not, shall have the right to connect one road with another, you have thereby asserted a principle which will justify the Government in establishing rules and regulations in regard to the commerce over these internal railways precisely as upon the navigable waters of the United States. And that is the doctrine maintained by those who advocate this bill; for it should be understood that the bill comes from the Committee on Commerce; it came, in the other House, from the Committee on Commerce of that body, and is reported back here from the Committee on Commerce of the Senate. It is based on the power to regulate commerce; and if you can regulate commerce in one particular over these railways, you can in all. Of course it follows that you may establish your custom-house officers in every depot and station-house in these States, and the rules and regulations which are applicable upon the navigable waters regulating the transit in vessels, however borne on the navigable waters, may be applied to these artificial highways. It is for this reason that I object to the bill. I object, to repeat, because I see no occasion for the interposition of such a power. The system works well enough as it is. I object because I believe it to be dangerous.

Now, sir, one word in regard to the authority, and then I shall content myself with recording my vote against the measure. I have already said that the authority is justified apparently in a threefold sense. First, the bill invokes the power of Congress, under the Constitution, to regulate commerce; secondly, the power to establish post roads; and third, the power to raise and support armies. What this nation can do in a state of war we have all of us witnessed in the last four or five years. Undoubtedly a state of war brings extraordinary powers. During the state of war we did not hesitate to put all the railways in the country for defense under the power of the General Government for the time being; but nobody supposed that that was a power to be exercised in time of peace. Nobody supposed that that power which we exercised for the time being, as the extreme war power of the nation, was to be the rule of action in time of peace, and that all of these railways were to be subjected in the future to the power of Congress and the control of the General Government under that law. That is the answer to that branch of the argument.

Then, as to the question of the exercise of the power for postal service, let me ask, is there any precedent in the history of this Government which authorizes the pushing of this principle to this extremity? If I recollect the authorities, none of them go any further than to assert the establishment of a post road over roads or ways already existing. The Government has never in a single instance claimed the right to make or construct, either in a State or Territory, or anywhere within its limits or jurisdiction, a road for the purpose

of postal service. The uniform interpretation of the power of Congress under that provision of the Constitution has been to establish as post roads roads existing in the several States; and I am confident that not a single precedent, either executive, legislative, or otherwise, can be found in the whole history of the Government where it has been attempted to push the interpretation of that provision of the Constitution beyond establishing as post roads roads already in existence.

But, sir, this measure during this session of Congress, and particularly at the last session, was argued by its advocates principally on the power of the Government under the Constitution to regulate commerce. Never in the history of this country has the principle been pushed so far as is here contemplated. On this subject of the power of the Government to regulate commerce we certainly have a history by this time. How much power Congress had under that provision of the Constitution very early sprang up in the history of this Government. As I recollect the facts, as early as 1816 Mr. Madison called the attention of Congress to the general subject as involved in the question of internal improvements; but it was not contended then, and during the whole period of the history of legislation in this country from 1816, when the attention of Congress was first drawn to the subject, down to 1830, when the whole question was thoroughly discussed by the Executive at various periods and by Congress, it was never contended that Congress had the power to give facilities to commerce by the creation of artificial highways in the several States. And, Mr. President, I think it is no stretch of reason to suppose that if Congress could not create these artificial highways, if Congress stood afar off and refused to make these internal improvements, and the people undertook these improvements in their own right and upon their own account, I think the argument not far-fetched at all that if Congress had not the right to appropriate the people's money to make these highways, these artificial ways of intercommunication in the several States, they have not the right to appropriate them when the people have made them themselves.

There is nothing better settled in American law than that the right of eminent domain is in the States. The right to control the territory within the limits and jurisdiction of the several States belongs to the States and not to the General Government. It never did belong to the General Government; the General Government never claimed that it did. The General Government never undertakes in a State to erect a fort or an arsenal or exercise any rights whatever in regard to the title to real estate except by consent of the States. When it was thought advisable to construct a national highway between the waters of the Chesapeake and the Ohio, the Cumberland road so called, Congress declined to act at all upon the question until the consent of Maryland, Pennsylvania, and Virginia had first been obtained, and upon the ground that Congress could not authorize the construction of a highway, even for military purposes, for that was the great object of that road, so declared, without having first obtained the consent of the States over which the road was to pass. This illustrates fully, I think, what very many similar acts in the history of the country tend also to show, that the right of eminent domain is in the States. Congress never claimed to have the right to enter the limits and jurisdiction of any one of the States for the purpose of building ordinary highways or railways, and I contend—and it is connected very closely with the argument—that if the Government cannot create these highways it cannot control them when created.

But, Mr. President, all the authorities, judicial, executive, and legislative, recognize a broad distinction between that commerce which is external and that commerce which is among the States, and that which is internal and within the States. The distinction is broad, well understood, and has been recognized from the earliest period. All the authorities that

were referred to by the Senators who have preceded me at this session and at the former session, recognize that distinction; it is obvious commerce internal and peculiar to the States, and commerce external and among the States. I would ask honorable Senators whose attention has been given to this subject, under which class does this system of internal communication fall? Is a railway constructed under a charter granted exclusively by a State, built entirely within its limits and jurisdiction, a way for commerce peculiar to a State and entirely within it, or does it fall within that principle recognized in the Constitution of commerce among the States?

In all the books—I have none of them at hand this morning—this distinction is taken and made very clear. I recollect a case in my own State—I think the honorable Senator from Maryland had occasion to refer to it in the speech upon this subject which he made at the last session—where a grant was made for the exclusive navigation of one of the navigable rivers of my State to a private company above a certain point held to be not navigable, and the court held that although that river was navigable to the sea and for some seventy or eighty miles from the sea inward, yet at the point where navigation terminated by reason of an obstruction, and above that point, although navigable for twice that distance, it was internal commerce and exclusively within the jurisdiction of the State; that the Congress of the United States, although supreme in its power to regulate commerce over external waters, here ceased to have any power at all; and simply because the way was wholly within the State and was not open to the sea.

If that principle is applicable to a railway, I submit whether a railway, which is to be regarded as a way for commerce, chartered by a State, created by a State, built entirely by a State, and entirely within its limits and jurisdiction, can possibly be interfered with by the Government of the United States in any way whatever; whether it is not entirely beyond the power of the United States; and whether it is to be said that the Government of the United States may reach out its hand and require it to connect with roads outside of the limits of the State. I maintain that all these internal railways, which are within the limits and jurisdiction of the States exclusively, belong to that class of internal commerce which is exclusively of the States, and over which the United States have no control and no jurisdiction whatever. I do not believe that it is for the interest of the country that this power should be exercised. To repeat what I have said before, I see no occasion for it, no exigency to call for the exercise of this power. That is a doubtful power, to say the best of it, I think no Senator on this floor will question.

Mr. President, I have accomplished all that I rose to accomplish this morning. I have called the attention of the Senate to the importance of this bill; and, with these brief remarks, I shall content myself with voting against it.

Mr. McDougall. Mr. President, it was my opportunity to use an instrument on the first road that ever carried an engine in the United States of North America, very close to where the two Senators from the State of New York inhabit. That very circumstance induced me to think very much about these questions. I rode over the New Jersey road when it was young. The Baltimore and Ohio road was projected in 1826 I think; I shall not be exact as to the date. These were great enterprises then. It was not public capital, it was individual capital as a rule that built those great railways that have made such great demonstrations in our country. It is true of the Baltimore and Ohio road, which when it was started was a greater enterprise than the Pacific railroad, that when it was projected by a merchant in that city, whose name is not at present in my memory, but who deserves renown, it was thought to be a wild and insane scheme—the attempt to climb the Alleghenies and

deliver a line of rail on to the waters of the Ohio.

Mr. President, the observations which I have had the opportunity to make, the lessons I have had the opportunity to learn with regard to enterprise, have convinced me that enterprise should be made as individual as possible; and perhaps in single individuality there is more potentiality even than there is in combination. There is a false tendency in our country to combinations and over-combinations. I speak of this as a reduction, and with some careful observation.

I do not propose to discuss the question of constitutional power with regard to this proposition; I will only express an opinion. My opinion is that this power does not exist in the Federal Government. If exercised, my opinion is, it would be unwisely exercised. Why should we, when young enterprise has brought forth and has led to great results, by the power of a combination or the millions of our people, interfere with the enterprises that individuals have achieved and undertake to destroy them? No wise reason, no good reason, no sound reason can be affirmed in favor of it. There may be a reason why individuals may make a few hundred thousand dollars out of this great Republic. When they do so, they wrong the millions; they violate great public law; they violate great public policy; and in my judgment violate the Constitution of the United States.

I say this much in vindication of what I think we must be most careful about, the fundamental law essential to the maintenance of our republican system. We have somewhat departed from it. I think we have departed too far. It would be well that we should pause for a moment and retrieve some of our steps; that we should think not of ourselves or the immediate moment, but think that a nation was not born in a day. Our fathers thought our system was organized to last through time, and we must consider a little that lesson which is worth thinking about by those who can consider. It was once thought in a particular period of the past ages, before the Advent, that men were only immortal in their posterity. Let us not think so much about ourselves, but let us try to be immortal in our posterity by doing exact justice and maintaining true principles. I oppose this bill because it is not within the law of our present license, and I oppose it because it is against sound policy. These are the reasons that govern my conduct, and therefore I shall vote against it.

Mr. DOOLITTLE. Mr. President, I suppose it is beyond question that if the State of New Jersey had never incorporated a railroad company in that State, Congress would have no power to do it. Now, what has New Jersey done? Has she interrupted commerce by creating a railroad across the State? All the old avenues of commerce are open still—transportation by land and transportation by water, for freight and passengers. New Jersey created, by this railroad, a new mode of commerce. She had a right to do it, as a State; she had a right to decline to do it, and it comes to that, as it seems to me. I only speak of this case of New Jersey as one case in point.

Without going into an argument on this question at length, I believe for one that our duty is not only to defend the rights of this Government against those who assail it, but it is equally our solemn duty to defend the rights of the States, those rights which are clearly reserved to them in the Constitution. It seems to me that the right of a State to build highways, to build railroads, or to refuse to build highways or to build railroads, is one of the rights which belong to a State. I do not believe that there is a Senator on this floor who will rise and say that if the State of New Jersey had refused to build a railroad across that State, Congress—unless it might be in a time of war—would have the power to charter a railroad and build a railroad across the State of New Jersey. That is exactly the power

that is involved in this bill. While I am opposed to all monopolies in the States, all monopolies that are oppressive, I am not opposed to a State having the power to exercise the right to judge for itself when railroads shall be built through its limits and upon what terms they shall be built; for I deem it essential to the independence of a State in its action upon those rights which are reserved to it.

These are my views on the subject. I confess I have been brought up rather in the school of State rights. I am in favor of a pretty strict construction of the Constitution of the United States. In time of war I know the great powers of this Government are waked up, and we exercise powers that we do not exercise in peace; but, sir, in time of peace I would exercise no more power by this Government than is actually necessary. I would leave, as far as possible, the exercise of all governmental powers to the States, because, when left to the States, they come nearer home to the people. The great idea of republicanism, which is a government by the people, comes nearer home to them when it is exercised by the States than when exercised by the Federal Government. If we assume to take all this upon ourselves, the business is so vast, so immense, that this Government will break down under its operations.

I did not intend to go into an argument, but simply to state my general view on this question. The arguments of the honorable Senator from Maine and the honorable Senator from California weigh very heavy upon my mind and accord with my general views on this question.

Mr. JOHNSON. I do not know that it is the purpose of any of the friends of the bill to discuss the question of authority which is involved. If there is any such purpose, I should like to hear them first before I submit to the Senate the views which I propose to submit. [A pause.] I presume from their silence that it is not the design of any of the friends of this bill to debate it. It would seem a little singular, if that be the fact, that a bill containing provisions never before even suggested in any Congress, and apparently so much in conflict with the Constitution of the United States, should not receive at least some support from those who think it does not violate that instrument. Upon a former occasion, when this measure, in a somewhat different shape, was before the Senate, I presented to the Senate the reasons which, in my judgment, demonstrated (to use a strong term) that it went beyond the constitutional authority of Congress; and plain as I thought that was in reference to that bill, if the Senate will turn to the particular bill upon their table, I think they will agree that this is still more obnoxious to objection.

The bill upon its face professes to be based upon the authority conferred upon Congress to regulate commerce between the States, and upon the authority conferred upon the same department to establish post roads. It does not profess, therefore, to be a measure called for by any military exigency; it does not intimate that we are not in a state of peace; nor does it state that what it proposes to have done under its provisions will become necessary hereafter if we should at any time hereafter be engaged in a war, civil or foreign. The power, therefore, which it assumes to exercise, is a power, if it exists at all, to be found under the authority to regulate commerce between the States, and to establish post offices and post roads. I had supposed until these modern days that the meaning of those two powers in the Constitution of the United States, with reference to such a proposition as this bill involves, had been so long and so uniformly established that it could not well be considered as open to further doubt.

A constitution is worth nothing practically if it is not to be considered as authoritatively settled after years of deliberation and frequent decisions by every department of the Government. If it is to be one thing to-day and another thing to-morrow, just as the members of

Congress may be different to-morrow from what they are to-day, we might as well have no Constitution. If the individual judgment of each individual member is to be exercised without regard to what has been the construction of the instrument uniformly up to the time when he undertakes to exercise his individual judgment, we are without a Constitution. And it is essentially (as I think) mischievous if that individual judgment is to be exercised in relation to any of the supposed restrictions upon the powers of Congress, or upon any of what have been in the past supposed to be the clearly reserved rights of the States. In my judgment—and I speak it with all due deference—when we swear to support the Constitution of the United States, we are bound to construe it, in order to support it, as the framers of the instrument are known to have construed it, and the people by whom it was adopted are known to have construed it and to have adopted it because of that construction. Looking to what was said by the members of the Convention, contained in the debates preserved by Mr. Madison with great accuracy, as was admitted by all who participated with him in the deliberations of that great body of great men, and in the proceedings of Congress while this department of the Government was filled by some of the leading members of that Convention, it is perfectly obvious that such a proposition as the one upon the table never would have been suggested by any member, because, in his judgment, it would have been wholly without the constitutional authority of this department of the Government.

With these general remarks, permit me to call the attention of the Senate to what this bill seeks to accomplish and what powers it undertakes to confer. Nobody even now, as far as I am aware, denies that the States have authority to charter railroad companies; and having authority to charter them, it would seem to follow that they have the authority not to charter them; and having the authority to exercise the discretion of chartering, or of not chartering, they necessarily have the authority, if they decide upon chartering, to state the terms, the conditions, upon which they will charter them; and consequently, having the authority to prescribe the terms or conditions upon which they will charter, they have a right to prescribe what privileges they will confer upon the holders of the franchise and what they will withhold. Those are propositions that need no argument, as I think the Senate will all admit.

What have the States done in the exercise of this admitted authority? They have chartered such companies for the construction of railroads as they have thought proper to charter, and they have given to them certain limited powers and only limited powers. Having the authority to charter and to limit the franchise, another consequence necessarily results: that if the powers granted are abused, if powers not granted are sought to be exercised, the franchise is subject to forfeiture. That would seem to be clear; and if that is clear, then the question of forfeiture or not must depend upon the law of the State by which the franchise is granted. The right of the State to forfeit, if it be a right, is one with which the Congress of the United States cannot interfere, because that would be to interfere with the right of the State to charter and to fix the terms upon which she is willing to charter.

Now, what does this bill do? One company is sufficient to illustrate the argument, and it somewhat simplifies it. New Jersey chartered a company, the name of which, as well as I recollect, was the Raritan and Delaware Railroad Company. I am not sure that I recollect the name. The honorable chairman of the Committee on Commerce will oblige me by giving me the name, for I suppose it has been before him in the deliberations of the committee on this particular measure.

Mr. CHANDLER. The Raritan and Delaware Bay Railroad Company.

Mr. JOHNSON. I thought the honorable

member would be familiar with the name, [laughter,] the Raritan and Delaware Bay Company. The powers conferred upon that company were limited.

Mr. STEWART. I should like to hear the name of the other company.

Mr. JOHNSON. I do not know. One is sufficient for my purpose, and I have got the one I expected to get.

Mr. CHANDLER. Perhaps the Senator never heard of the Camden and Amboy. [Laughter.]

Mr. JOHNSON. Yes, I have; but I do not think they have anything to do with this bill. [Laughter.] I do not think they have prompted it. I am not sure that the other did not.

Mr. STEWART. I should like to inquire of the chairman of the Committee on Commerce if the Camden and Amboy Company are favorable to this bill.

Mr. CHANDLER. They are supposed not to be. [Laughter.]

Mr. JOHNSON. Then the Raritan and Delaware Bay Company is chartered with limited powers. If this bill passes and it is operative, that company will be authorized to do what it cannot do under its charter. I think that may be considered as perfectly plain as a legal proposition, and as a proposition clear in the judgment of the committee, who, I suppose, intended to give to the Raritan and Delaware Bay Company, among others, some powers which its charter did not confer.

Mr. HOWARD. Will the honorable Senator allow me to inquire what are the termini of the Raritan and Delaware Bay railroad?

Mr. JOHNSON. I do not know.

Mr. HOWARD. It strikes me that is a very essential question.

Mr. JOHNSON. If my friend belongs to the Committee on Commerce, I have no doubt he knows both the termini; and if not, his friend who sits next to him [Mr. CHANDLER] can set him right in that particular.

But it will be authorized, if this bill can be legitimately passed, to do what it is not authorized to do by its New Jersey charter. If that be so, then the question broadly presents itself, can Congress, under any authority which it possesses of regulating commerce between the States, or of establishing post offices and post roads, exempt one of these companies from the limitations contained in its charter? If it can, then the whole country has been under a delusion upon the subject of this power; every State in the Union has shared in that delusion; every court in every State in the Union and the Supreme Court of the United States have partaken of the same delusion; for it never has been questioned (and I think I speak with certain knowledge upon the subject) by any State Legislature, by any State judicial tribunal, or by the Supreme Court of the United States, that a company chartered by a State to make a railroad may have its franchise forfeited if it undertakes to exercise powers not included within its charter. And of the powers which have heretofore been supposed exclusively vested in the State governments, that of regulating the tolls which they may charge, that of regulating the service for which the tolls may be charged, that of regulating the manner in which the business of the company shall be conducted, are powers supposed to be exclusively intrusted to the State governments, or rather, to speak in the spirit and in the letter of the Constitution of the United States, they are powers not delegated to the General Government, and therefore reserved to the States.

Now, what will this bill do? The charter of the particular company, the name of which was given to me by the honorable chairman, does not authorize the company to carry passengers and freight as it will be authorized to carry passengers and freight if this bill passes. Have we the power to do that? In the first place, what the bill does is to enlarge a charter granted by a State; it is amendatory to a State

charter. It assumes, as vested in Congress, therefore, the power to take into its own hands the charters granted by the several States, and to modify them just as they think proper, not only by extending the authority which the charter may grant, but if, in the judgment of Congress, at any time hereafter, or now, any of the restrictions in those charters are calculated to interfere with commerce between the States or to impede the transportation of the mails, they have the authority to repeal, practically, any of the limitations in the charter or any of the powers conferred upon the company by the charter.

What do those two powers prove if they exist? That the charter of every railroad company of every State in the Union may be modified by Congress whenever Congress thinks proper to exert the power of modification either by enlarging the franchise or by restricting the franchise. If Congress should, therefore, come to the conclusion that the tolls which one of these companies is empowered to charge by its franchise are too high they can reduce them; if they think they are too low they can increase them. What power is that? It is the power, not of establishing a road for the first time by any inherent authority existing in Congress, or any delegated authority existing in Congress to make roads and canals, but it is an authority to interfere with the chartered rights of companies established under charters granted by a State; and that is just what this bill does.

If the gentlemen whose minds are not made up upon the question will turn to the bill they will find, I think, that the criticism to which I am about to subject it is well founded. It is sweeping in its terms. Every railroad company in the United States is liable to its provisions. It recites the authority conferred upon Congress—I do not give the words now—to regulate commerce, to establish post roads, to raise and support armies; and therefore this bill is to be enacted under all or any one of the authorities which Congress by this recital is correctly said to have. The power to regulate commerce among the States, to establish post roads, to raise and support armies, either by itself or all collectively, are relied upon as showing that what is proposed to be done by the bill is within the power of Congress.

Therefore be enacted, &c. That every railroad company whose road is operated by steam, its successors and assigns be, and is hereby, authorized to carry upon and over its road, connections, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor.

It assumes, then, stopping there, that there are railroad companies now operated by steam that have not the authority to carry over their roads, &c., property and passengers on the way from one State to another State, and to receive compensation therefor. Stopping, therefore, at that part of the bill as it is now before the Senate, we are undertaking to give to these several railroad companies a power which they have not under their charters—a power which the bill upon its face assumes that they have not. Let us see how that will work practically. In every State in the Union there are to be found railroads whose termini begin necessarily in the State granting the franchise, and which often terminate at some point short of its own territorial line—a railroad from town to town within a State. We all know that. Do you mean to take from the States the authority to charter roads of that description? I suppose not. But what is the benefit to the State of chartering roads of that description if the very moment they are chartered Congress can say that, in spite of State legislation and State policy, a road, both of whose termini are to be within the State, may disregard its limits and go anywhere with any passenger or freight that may be on board of their cars, provided they be destined eventually to some other State?

But that is not all. You not only give them the authority to carry freight beyond the terminus of their own road, but you give them the

authority to receive compensation. What sort of compensation? How is it to be regulated? Is it to be regulated upon the ground of a *quantum meruit*? Can they charge any passenger just what they please, or just what the jury of a State, if it becomes the subject of contest, may decide to be the value of the service? Can they charge for freight just what they please, subject to a like contingency? Under this bill they can do it, for the bill does not undertake itself to regulate the charges which the companies may make for performing the service which they are authorized by this bill to perform, but not authorized by their charters to perform. Why, sir, that is at war with the policy of every State in the Union. It is at war with an obviously sound policy. Do you mean to subject the travel of passengers or the transportation of freight to the unlimited demand which a company may make for either service? Every State limits the compensation which the company is authorized to receive; but this bill leaves it without limit.

But that is not all. The honorable committee, of which my friend from Michigan is the chairman, did not think it was sufficient to accomplish the purpose they had in view, that the bill should pass in the form in which it came from the House of Representatives. They have, therefore, amended it, and what is the amendment? The bill, without the amendment, merely gives the power to pass with passengers or supplies that may be destined from any State to another State, and to charge for the transportation; but this question occurred to the committee evidently, and to the friends of the measure outside of Congress, how is a company, limited to some point short of the territorial line of a State, to carry passengers or freight destined from its own to some other State? How can it do it? It can only do it in one of two ways: by connecting at its own terminus with any road which may start from that terminus to the State line, or, if there is no such road, then by making a road; and that is what the committee, if I understand it, have advised the Senate to provide. They say, substantially, there are railroads to be found in some of the States which, under the limitations of their old charters, will not be able to transport passengers or freight or supplies on board their own roads, for transportation to the extent of their own limits, destined for other States, unless they are also authorized—the same company—to form a connection with some road which will take the passengers or the freight into another State. And you propose to give to the company whose power is limited by its own charter the authority, if there is no existing road with which it can connect, to make a connection by making a road. How is it to be made? It can only be made by the exercise of the right of eminent domain, unless the parties through whose lands the road is to pass think proper to cede what may be necessary for the purposes of the new road.

What are to be the limitations imposed upon the company in the management of the road that they are thus authorized to make in order to form a connection between the existing road and a road in some other State, so as to enable them to carry passengers and freight destined for another State? The power that you confer is a power involved in the general authority which you give them to connect with roads of other States in any way and anyhow. You give them the authority, therefore, under this act of Congress, without restriction to take possession of the land of a State, to take it away from its owners, and establish a road of their own; and, as I said before, after having established it to charge for the use of it just what they may think proper.

Even assuming the authority to belong to Congress to charter a road, it would be bad enough if you were to charter a company for the purpose of making a railroad and giving it all the powers necessary to accomplish that purpose, that you should not regulate the man-

ner in which the powers are to be exerted, but it is still worse when you leave them at large to exert the authority that you propose to confer upon them in any way that they may think proper.

But that is not all. The amendment goes further. It gives the power "to connect with roads of other States, so as to form continuous lines for the transportation of the same to the place of destination." Now mark, Mr. President, I have assumed that it will sometimes happen that there is no existing road with which they can make a connection, and that they are therefore to make a road. To give them the authority, if we have the power to authorize them to make a road, to charge for the use of the road would seem to be all right. But there are railroads with which a connection may be made. Then what do you say to them? The Raritan railroad—and I mention it only for the purpose of illustration—connects with some other road in New Jersey which runs through the State, and it can by means of that other road transport the passengers on board its own cars and the freight destined to some other State, to their places of destination. Now, what do you say? That if their passengers and their freight are placed in the cars of the road with which they form a connection and by which they are carried to the place of their destination in some other State, they may charge for the transportation upon that connecting road. Nothing is plainer than that. They are to connect with roads of other States so as to form continuous lines for the transportation of passengers and freight to their place of destination, and they are to receive compensation therefor.

What is the effect upon the passenger or the owner of the freight, if I am right? It is this—unless it be the purpose of the committee to accomplish what I suppose they will hardly pretend to say they have the authority to accomplish—to mulct the passenger or the owner of the freight with double charges. The passenger upon the Raritan railroad, or the owner of freight which is transported upon the connecting road of which the Raritan railroad constitutes no part except under the authority of this bill, is to be charged for that transportation by the Raritan company; and you do not propose to take from the connecting road that power. Leaving, therefore, to the connecting road the power to charge for transportation, you give to the Raritan road the power to charge also, and you give it without any limitation. They may charge what they please. Not being subject to the limitations contained in the charter of the connecting road, they are left to fix their compensation upon the ground of a *quantum meruit*. Why, Mr. President, with just as much authority, I think, could Congress say that the passenger should be carried without compensation. The authority to increase the tolls involves in it the authority to diminish the tolls, and the authority to diminish the tolls involves the power to do away with the tolls altogether and make the roads free.

I have not the books before me, Mr. President, nor if I had would I trouble the Senate with citations from them; but every lawyer in the Senate who is at all familiar with the decisions of the Supreme Court of the United States knows that long before and subsequent to the case of *Gibbons vs. Ogden*, reported in 9 Wheaton, it was the received doctrine that the internal commerce of a State was exclusively in the power of a State. The great men who filled the judicial department of the State of New York at the time when that decision was pronounced in the State court—men whose superiors were never found upon any bench either before or since—were of opinion in that case that the exclusive patent granted for the navigation of the waters of the Hudson river by steam was authorized upon the ground that the Hudson river was entirely within the State of New York, and it was therefore to be considered as included within the admitted right of every State to regulate its own domestic commerce. The Supreme Court of the United

States came to a different opinion as far as the exigency of that case was determined, and they came to that opinion upon the ground that that authority to regulate commerce among the States included navigation, and was an authority which did not terminate at the boundary line of any State, but went into any State as far as its navigable rivers would permit it to go, and that Congress, therefore, had the authority by license to authorize the vessels obtaining a license from the United States to pursue their trade from the State to which they belonged to the State for which the cargo was destined; but in that decision Chief Justice Marshall, speaking for the whole bench, admitted that roads exclusively within the limits of a State, commerce altogether internal, whether carried on upon the waters of a State or carried on upon the roads of a State, were entirely, exclusively, within the jurisdiction of the State.

Now, what does this bill say? That a road constructed for the local trade of a State, for the purpose of benefiting a commerce entirely internal as within a State, shall not be subject to any limitations contained in its own charter, provided it has on board its cars a passenger or a box of freight designed to go beyond the limits of which the road is authorized to carry it by its own charter. Once find the possession of one of these companies whose rights are limited, granted for the purpose of carrying on domestic trade as contradistinguished from commerce between the States—once put on board a road of that description a particle of freight or a single passenger, and it has a right to disregard its own charter, and the State has no authority to refuse that permission. It has no authority, therefore, to repeal the charter.

Let us look at that for a moment. The franchise is abused, clearly abused, or the State exercises a power reserved, as is done in most of these charters, of repealing or modifying the charter. You pass this act. A State insists upon her right to forfeit the charter of any particular company upon the ground that it is subject to forfeiture for an abuse of its franchise; or it undertakes to qualify the franchise; it undertakes to repeal the charter. Can the State do that if we have the authority to pass this bill? May not the company say, and say with success, if we possess the power this bill assumes to exert, "It is true we have abused the franchise; it is true that independent of congressional legislation the charter may be forfeited; it is true that by the terms of the charter you have a right to repeal it; but we stand upon the paramount authority of the Congress of the United States, and they have decided that we shall have the authority to make a road, unless we can form the connection in some other way, so as to connect our own road with the roads leading to some other State; you have no right to interfere to forfeit our charter or repeal our charter, because to do either renders useless the object which Congress has in view, and as every legal act of Congress upon any subject over which the jurisdiction of the body extends is by the very terms of the Constitution paramount to State legislation, we stand upon that paramount authority, and we defy the State to take away from us our franchise."

Now, Mr. President, as far as we can do it, we have admitted Colorado; and it was put upon the ground that a territorial condition was not suited to the genius of the American people; they wanted the protection that a State of this Union can claim under the Constitution. Pass this bill, and as far as the particular power is concerned, heretofore deemed to be exclusively in the States, we are in a condition neither more nor less than territorial. My friend from Oregon, [Mr. WILLIAMS,] who so well told us how important it was to the people of a Territory to be permitted to form themselves into a State government, to become a part of this great brotherhood of States, to be one of the States composing the Union, in order that they may have the powers reserved to the States and to the people of the States and escape the exclusive legislation of Congress, will find him-

self sadly mistaken in the practical result, provided the principle that is to be found in this bill is adopted. Oregon may fancy that she has a right to charter railroads and affix what terms she thinks proper; Colorado, if she comes in—and that may be one of her purposes in coming—may desire to charter railroads, and she may think that she will derive vast benefit from the right to have control over franchises of this description. But it is a delusion if the principle upon which this bill stands is a sound one. It will depend entirely upon the fancy of Congress.

Let a committee on commerce, as enlightened as the present committee of this body is, get it into their heads that the limitations contained in these several charters are dangerous and destructive to commerce between the States or to foreign commerce, and then they will claim not to usurp, because they do not consider it as usurpation, but they will claim the right to take the whole subject into the hands of Congress, thus throwing back in the instances to which I have alluded Oregon and Colorado into the chrysalis state of a Territory, and liable to the mischief so well depicted by my friend from Oregon. I tell him to take heed. Oregon is in danger. The people of Colorado, whom he is so anxious at once to bring into this Union of States, are in danger. It is not the old States only, but the new; one and all will be involved in the vortex of congressional power, until at last we shall become in relation to a subject of paramount importance, until lately considered to be exclusively vested in the States, a consolidated Government; and I stand upon the wisdom of our fathers—wisdom which fell from the lips of those men who were foremost in giving a liberal construction to the Constitution after it was adopted and were members of the Federal party, among whom was the enlightened and eloquent Ames, when I say to the Senate, I do not repeat his language, I give the substance of it—that consolidation in that sense will be destructive of American constitutional freedom. The Union consolidated is one thing; the Government of the Union consolidated so as to take within its own grasp powers heretofore supposed to be reserved to the States, is another thing. Under the first no imagination can depict the renown, the prosperity, and the happiness which will be the fate, if not of ourselves, of those who are to follow us; and no imagination, however fertile in conceiving mischiefs that may come in the future, can depict the horrors that will sooner or later be the result of such a consolidation as I have just stated; internal dissension, civil wars without number, until we are reduced to the condition in which the South American republics are now placed for the most part, when some military usurper coming from abroad or springing up within our own limits shall save us from the horrors of anarchy by ruling us with a despotic will.

I am done, Mr. President.

Mr. HOWARD. Mr. President, I have not had as full an opportunity to examine the facts connected with this case and the legal decisions which may be applicable to it as I could have desired.

Mr. JOHNSON. If the Senator will permit me, I will move that the matter go over until to-morrow. It is a subject that ought not to be disposed of at once.

Mr. HOWARD. Very well.

Mr. WILSON. Let us have an executive session.

Mr. CHANDLER. I move that the Senate proceed to the consideration of executive business so as to leave this bill as the unfinished business for to-morrow.

Mr. HOWARD. I yield the floor for that purpose.

The motion of Mr. CHANDLER was agreed to; and after some time spent in executive session, the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representa-

tives, by Mr. McPHERSON, its Clerk, announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 434) for the relief of Isabella Strubing;

A bill (H. R. No. 473) to extend the jurisdiction of the Court of Claims; and

A bill (H. R. No. 475) to facilitate the settlement of the accounts of paymasters of the Army.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 67) providing for the reappraisal of the lands described in an act for the relief of William Sawyer and others, of Ohio.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, submitting, for the consideration of Congress, a communication from the Secretary of the Interior in relation to the failure to complete the eastern division of the Union Pacific railroad; which was referred to the Committee on the Pacific Railroad, and ordered to be printed.

LEAVE OF ABSENCE.

On motion of Mr. GRIMES, two weeks' leave of absence from Monday next was granted to Mr. HENDRICKS.

CONTRACTORS FOR VESSELS AND MACHINERY.

Mr. HENDRICKS. I move to lay aside the pending special order and take up Senate bill No. 220.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 220) for the relief of certain contractors for the construction of vessels-of-war and steam machinery.

Mr. HENDRICKS. I move that the further consideration of the bill be postponed to and made the special order of the day for to-morrow at one o'clock.

The motion was agreed to.

On motion of Mr. POMEROY, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, April 26, 1866.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

REFUNDING CERTAIN DUTIES.

Mr. MORRILL. I ask leave to report back, without amendment, from the Committee of Ways and Means, Senate bill No. 255, to remit and refund certain duties.

I will explain the bill in a few words. After the expiration of the reciprocity treaty, some produce which it was intended to send from one port in the United States to another port in the United States was accidentally detained by ice, and in consequence became subject to duties. This bill has already passed the Senate unanimously. No one under these circumstances would be likely to exact duties from our own people. I think there can be no objection to it.

The bill was received and read. It directs the Secretary of the Treasury to remit, or if paid to refund, any duties levied on produce shipped from a port in the United States to a port in the United States via Canada, if the said produce was actually *in transitu* and detained by ice when the recent reciprocity treaty with Canada expired.

Mr. MORRILL. This bill is well guarded, and is intended to apply to some grain, I suppose, going from the West to the East.

Mr. J. M. HUMPHREY. Does this bill include grain that was bought in Canada before the reciprocity treaty expired?

Mr. MORRILL. It applies to grain shipped from a port of the United States only.

Mr. J. M. HUMPHREY. Ought it not to cover both cases?

Mr. MORRILL. I think not.

Mr. J. M. HUMPHREY. The justice of the one is as great as the other.

Mr. MORRILL. I know of no such cases.

Mr. J. M. HUMPHREY. I have in my possession a petition to the Secretary of the Treasury, which I have not yet presented, asking just such relief as this.

Mr. MORRILL. I think we might find a great many cases of persons in the United States who have purchased produce in Canada under those circumstances. If we open the door in one case the number of persons to be relieved may be interminable. I should be very much opposed to making the provisions of any bill so wide as that.

The bill was then read the third time and passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ACCOUNTS OF THE UNITED STATES TREASURER.

Mr. MORRILL, by unanimous consent, reported back, without amendment, from the Committee of Ways and Means, Senate bill No. 158, to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States, or to persons to whom they are due, and who are entitled to receive the same.

Mr. WASHBURNE, of Illinois. Let the bill be read.

The bill was read. The first section provides that all amounts of money that are represented by certificates, drafts, or checks issued by the Treasurer of the United States, or by any disbursing officer of any department of the Government of the United States upon the Treasurer, or any Assistant Treasurer, or designated depository of the United States, or upon any national bank designated as a depository of the United States, and which shall be represented on the books of either of such offices as standing to the credit of any disbursing officer, and bearing date prior to July 1, 1863, and which were issued to facilitate the payment of warrants or for any other purpose in liquidation of a debt due from the United States, which shall remain outstanding on the 1st of July, 1866, shall be deposited by the Treasurer of the United States, to be covered into the Treasury by warrants to be carried to the credit of the parties in whose favor such certificates, drafts, or checks were respectively issued, or to the persons which were entitled to receive pay thereof, and into the appropriation account to be denominated "outstanding liabilities."

The second section provides that the certificate of the Register of the Treasury, stating the amount of any draft issued by the Treasurer of the United States to facilitate the payment of a warrant directed to him for payment, and which shall have remained outstanding and unpaid for three years or more as aforesaid, and which shall have been thus deposited and covered into the Treasury, shall be, and the same is hereby authorized to be, when attached to any such warrant, a sufficient voucher in satisfaction of any such warrant or part of any warrant, the same as if the drafts correctly indorsed and fully satisfied were attached to such warrant or part of warrant; and all moneys mentioned in this and the preceding section shall remain as a permanent appropriation for the payment of all such outstanding and unpaid certificates, drafts, or checks.

The third section provides that the payee or the *bona fide* holder of any such draft or check, the amount of which has been so deposited and covered into the Treasury shall, on presenting the same to the proper officer of the Treasury, be entitled to have it paid by the settlement of an account and the issuing of a warrant in his favor, according to the practice in other cases of authorized and liquidated claims against the United States.

The fourth section provides that at the ter-

mination of every fiscal year after this act shall begin to operate, the provisions thereof shall apply to all similar certificates, drafts, and checks which shall then have remained for three years or more outstanding, unsatisfied, and unpaid, and to all disbursing officers' accounts that shall have so remained unchanged as in the next section provided for.

The fifth section provides that the amounts, except such as are provided for in the first section of this act, of the accounts of any kind of disbursing officer of the Government of the United States which shall have remained unchanged or which shall not have been increased by any new deposit thereto, nor decreased by drafts drawn thereon for the space of three years, shall, in like manner, be covered into the Treasury to the proper appropriation to which they may belong; and the amounts thereof shall, on the certificate of the Treasurer of the United States that such amount has been deposited in the Treasury, be credited by the proper accounting officer of the Treasury, on the books of the Treasury Department, to the officer in whose name it had stood on the books of any agency of the Treasury, if it shall be made to appear that he is entitled to such credit.

The sixth section enacts that for the purpose of giving force and effect to the full intent and meaning of this act, it shall be the duty of the Treasurer, and of all Assistant Treasurers, and of all designated depositaries of the United States, and of the cashiers of all national banks designated as such depositaries, to report to the Secretary of the Treasury at the close of business on the 30th day of June next, and in like manner at the close of business on every 30th day of June thereafter, the condition of every such account so standing, as specified in the preceding sections, on the books of their respective offices, stating the name of each depositor respectively with his official designation, the total amount so remaining on deposit to his credit, and the dates respectively of the last credit and the last debit made to each of such accounts respectively; and it shall be the duty of every and each disbursing officer in any and every department of the Government of the United States to make a like return of all checks issued by such officer, and which may then have been outstanding and unpaid for three years and more, stating fully in such report the name of the payee, for what purpose given, the office on which drawn, the number of the voucher received therefor, and the date, number, and amount for which it was drawn, and when known, the residence of the payee.

Mr. MORRILL. Mr. Speaker, this act becomes necessary in consequence of the fact, which is of course known to all the members of this House, that no money can be taken from the Treasury without an appropriation. In the dealings of the Department with disbursing officers and with various officers connected with the Treasury, there will constantly arise little errors in their accounts; and in order to facilitate the settlement of these accounts it has been necessary heretofore to pass an act of a similar kind. None has been passed since 1837, and that act was construed to apply only to transactions occurring previous to that date.

I have conversed with the Treasurer of the United States, General Spinner, upon this matter, and am quite satisfied that it is right. It will not take a dollar out of the Treasury; the money is all there; but it is necessary that we should give the power to make these transfers from general to special accounts, in order that these accounts with a large number of individuals, some of which are large, while many are very small, may be settled and closed. If no one wishes further explanation, I will ask for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. MORRILL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

AMERICAN STATE PAPERS.

Mr. HAYES asked unanimous consent to report, from the Committee on the Library, a joint resolution (H. R. No. 112) to authorize the distribution of a portion of the surplus copies of the American State Papers in the custody of the Secretary of the Interior.

The Clerk read as follows:

Joint resolution to authorize the distribution of a portion of the surplus copies of the American State Papers in the custody of the Secretary of the Interior.

Whereas it appears from a report of the Secretary of the Interior, dated January 25, 1864, that there remain undistributed at the Interior Department upward of eight hundred copies each of the American State Papers, second series, in seventeen volumes; Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Interior be, and he is hereby, directed to distribute, by mail or otherwise, four hundred copies of each of the said volumes in the manner following, to wit: to each member of the Senate and House of Representatives of the present Congress, one copy; to such public and college libraries as may be designated by the Joint Committee on the Library, one copy each.

Mr. WASHBURN, of Illinois. I object. Mr. HAYES. I am anxious the joint resolution should pass before leaving the city, and I think if the gentleman will listen to a statement he will withdraw his objection.

Mr. WASHBURN, of Illinois. I am opposed to the resolution in any shape. We have no right to take the books of the Government without paying for them.

Mr. HAYES. I move to suspend the rules. The SPEAKER. That motion is not now in order.

LIBRARY OF CONGRESS.

Mr. HAYES. I ask unanimous consent to report the following joint resolution from the Joint Committee on the Library:

Joint resolution extending the privileges of the Library of Congress to certain officers of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the privilege of using the books in the Library of Congress shall be extended to the General-in-Chief of the Army of the United States; to the Assistant Secretaries and chiefs of bureaus of each of the Departments; to the Comptrollers of the United States; to the Treasurer of the United States; to the Superintendent of the Coast Survey, the Superintendent of the Naval Observatory, the Surgeon General of the Army, the Judge Advocate General of the Army, the Superintendent of the Government Printing Office, the Commissioner of Public Buildings, and the Postmaster, Sergeant-at-Arms, and Doorkeeper of the Senate and House of Representatives, on the same terms and conditions as prescribed by law for Senators and Representatives.

Resolved, That no books shall be taken by persons privileged to use said Library outside of the limits of the District of Columbia.

Mr. WASHBURN, of Illinois. I object, unless it is amended so as to let in the whole world.

Mr. ROSS. I want the soldiers' orphans and widows included.

TELEGRAPH TO THE WEST INDIES.

Mr. ELIOT, from the Committee on Commerce, reported back Senate bill No. 26, granting to the International Ocean Telegraph Company the right and privilege to establish telegraphic communication between the city of New York and the West India islands, with amendments.

First amendment:

Strike out after the words "at all times" the words "during a state of war," so it will read:

Sec. 2. *And be it further enacted,* That the said International Ocean Telegraph Company shall at all times give the United States the free use of said cable or cables, to a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, and diplomatic agents.

The amendment was agreed to.

Second amendment:

Insert after the word "agents" the following:

And the said company shall keep all its lines open to the public for the transmission, for daily publication, of market and commercial reports and intelli-

gence; and all messages, dispatches, and communications shall be forwarded in the order in which they shall be received; and the said company shall not be permitted to charge and collect for messages transmitted through any of its submarine cables more than the rate of \$3 50 for messages of ten words.

The amendment was agreed to.

Mr. ELIOT demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and was accordingly read the third time and passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RELIEF OF ARMY PAYMASTERS.

Mr. SCHENCK. I ask unanimous consent to report back, from the Committee on Military Affairs, House bill No. 475, for the relief of paymasters of the Army, with a substitute.

Mr. WARD. I object to its consideration at this time.

The substitute was ordered to be printed; and the bill and substitute were then recommitted.

KANSAS WAR CLAIMS.

On motion of Mr. SCHENCK, the Committee on Military Affairs was discharged from the further consideration of Senate bill No. 259, to authorize the Secretary of War to settle the claims of the State of Kansas for the services of the militia called out by the Governor of that State on the requisition of Major General Curtis, commander of the United States forces in that State; and the same was referred to the select committee on the war debts of the loyal States.

SALE OF LAND AUTHORIZED.

Mr. INGERSOLL, by unanimous consent, introduced a bill authorizing the sale of a piece of land in the city of Washington; which was read a first and second time, and referred to the Committee for the District of Columbia.

SANITARY CONDITION OF WASHINGTON.

Mr. INGERSOLL. I should like to call the attention of the House to a subject that was referred to the Committee for the District of Columbia some time since, respecting the sanitary condition of this city. The committee examined that question and reported a resolution for the adoption of the House, but its consideration being objected to it was withdrawn, and has never received the action of the House. In view of the cholera having reached our shores, and that this city presents a condition inviting that epidemic, the committee have thought it proper to ask a small appropriation, which I hope will be considered this morning. I ask that the resolution be read.

The joint resolution was read. It proposes to appropriate \$25,000, and places the same under the control of the Commissioner of Public Buildings to be expended by him, or so much thereof as may be necessary, in such work as may be required to put in proper condition the avenues and public reservations under his control so as to prevent if possible the appearance of the cholera or other epidemic in the city of Washington.

Mr. WASHBURN, of Illinois. I have no objection to its being introduced and referred to the Committee of the Whole on the state of the Union, where we can consider it.

Mr. INGERSOLL. The object is now to take steps with as little delay as possible.

Mr. HARDING, of Illinois. I suggest that it be extended to the object of keeping the Hall of the House healthy and comfortable. I, myself, have been near perishing here for want of a breath of fresh air ever since I have been here. Daily I am reminded of the "black hole" of Calcutta. I am absolutely afraid of perishing for want of air.

Mr. WASHBURN, of Illinois. Let it go to the Committee of the Whole on the state of the Union, and I will examine it, and if there

is no reasonable objection we may take it up and pass it.

Mr. INGERSOLL. When can it come up again if it goes to the Committee of the Whole?

The SPEAKER. The gentleman can ask unanimous consent on any day to discharge the Committee of the Whole.

Mr. INGERSOLL. I cannot press it now without a suspension of the rules. Will not my colleague, [Mr. WASHBURN,] examine it himself?

The SPEAKER. Will the gentleman from Illinois, [Mr. INGERSOLL,] allow it to go to the Committee of the Whole or withdraw it?

Mr. INGERSOLL. Let it be referred.

The joint resolution was accordingly read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, by unanimous consent, reported adversely on the following cases; which were laid on the table:

Petition of Henry Willard, wagon-master, for compensation for services rendered.

Claim of L. D. Clemens.

Petition of William D. Wesson for pay, &c.

INDIAN AFFAIRS.

Mr. WINDOM, from the Committee on Indian Affairs, by unanimous consent reported Senate bill No. 204, to provide for an annual inspection in Indian affairs, and for other purposes; which was ordered to be printed, and recommitted to the Committee on Indian Affairs.

ISABELLA STRUBING.

Mr. TAYLOR, from the Committee on Invalid Pensions, by unanimous consent reported back a bill granting a pension to Mrs. Isabella Strubing, widow of private Edmund Strubing, deceased, of the forty-sixth regiment Pennsylvania volunteers, with an amendment in the nature of a substitute.

The substitute grants a pension of eight dollars per month from the 30th of May, 1864, during her widowhood, and provides that upon her death or marriage it shall go to her children until they shall attain the age of sixteen years.

The substitute was agreed to.

The bill was then ordered to be engrossed; and being engrossed, it was read the third time and passed.

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COURT OF CLAIMS.

Mr. ANCONA. I ask unanimous consent to call up the motion to reconsider the vote by which House bill No. 473, extending the jurisdiction of the Court of Claims, was recommitted to the Committee on Military Affairs.

No objection was made.

Mr. WASHBURN, of Illinois. Let the bill be reported.

The bill was read.

Mr. WASHBURN, of Illinois. For what purpose is this bill before the House?

The SPEAKER. On a motion to reconsider the vote by which it was referred.

Mr. WASHBURN, of Illinois. To what committee was it sent?

The SPEAKER. The bill was reported by the Committee on Military Affairs at the time that committee was reporting, and recommitted; and a motion to reconsider was made with the understanding that the gentleman from Pennsylvania [Mr. ANCONA] should call it up afterwards. No objection being made, the gentleman has called up the motion to reconsider, and it is now before the House.

Mr. WASHBURN, of Illinois. I hope that motion will not be pressed this morning.

The SPEAKER. The gentleman from Pennsylvania proposes, in case of reconsid-

eration, to move to strike out the first section of the bill, and to insert in lieu thereof the following substitute:

That the Court of Claims shall have jurisdiction to hear and determine the claim of any paymaster, quartermaster, commissary of subsistence, or other disbursing officer of the United States, or of his administrators or executors, for relief from responsibility on account of losses, by capture or otherwise, while in the line of his duty, of Government funds, vouchers, records, and papers in his charge for which he was and is held responsible.

Mr. ANCONA. I will only state that this substitute is proposed with the concurrence of the Committee on Military Affairs, and is merely a change of phraseology, making the bill general.

Mr. WILSON, of Iowa. I would inquire whether this bill has been printed.

Mr. ANCONA. It has been on the files of members for two or three weeks.

Mr. WILSON, of Iowa. Has the substitute been printed?

Mr. ANCONA. It has not, but it is a change merely of phraseology, and makes the act general instead of confining it to particular cases. There can be no possible objection to it. It will relieve the Department from a great deal of trouble on account of these claims.

I demand the previous question on the motion to reconsider.

Mr. WASHBURN, of Illinois. I move to lay the motion to reconsider upon the table.

The question was put, and there were—ayes 28, noes 36; no quorum voting.

Tellers were ordered; and Messrs. ANCONA, and WASHBURN, of Illinois, were appointed.

The House divided; and the tellers reported—ayes 24, noes 70.

So the House refused to lay the motion to reconsider upon the table.

The question recurred on the demand for the previous question on the motion to reconsider.

Mr. WASHBURN, of Illinois. I hope the gentleman from Pennsylvania will not press the consideration of this bill this morning. It is certainly one which ought not to be passed without full and free discussion. It takes away jurisdiction from the House in all matters of claims of this particular kind, leaving it to the Court of Claims. Now, I think that is very unsafe. I think the House ought not to part with its jurisdiction over these matters. I hope the gentleman will postpone this motion.

Mr. ANCONA. I see no reason for postponing it any longer. The bill was reported unanimously by the Committee on Military Affairs and has been on the files of members for two or three weeks.

Mr. BINGHAM. Will the gentleman let me say a word?

Mr. ANCONA. I will withdraw the previous question for that purpose.

Mr. BINGHAM. Mr. Speaker, I desire to say, in answer to the suggestion of the gentleman from Illinois, that the substitute is but verbal; that it does not change in any particular the substance of the bill as originally reported by the committee and printed. This bill does not put it in the power of the Court of Claims to take one dollar out of the Treasury of the United States. It simply provides that in all cases of alleged losses by paymasters, quartermasters, or commissaries of subsistence, which are usually passed upon in this House upon *ex parte* evidence, the claimants shall make their claims under the sanctions of law, under the solemnity of oaths administered in judicial proceedings, and in the presence of a law officer of the United States; that they shall not be allowed this relief unless the court, upon a full hearing of the whole case, upon testimony other than *ex parte* testimony; shall come to the conclusion that it is equitable to relieve the officer from his liability; in which event the bill provides that he shall simply have the credit upon his accounts in settlement, but not to draw any money from the Treasury.

Mr. WASHBURN, of Illinois. That is the same in effect as drawing money from the Treasury.

Mr. BINGHAM. No, sir.

Mr. WASHBURN, of Illinois. It relieves them from a liability to the Treasury.

Mr. BINGHAM. I do not want the House to be misled by any such remarks. The same thing is done in this House upon *ex parte* testimony; not testimony taken before a committee authorized to examine witnesses in the premises, but testimony taken out of doors before a notary public or a justice of the peace. I have seen this thing; I have had some experience in it, and I undertake to say that the effect of this bill is to protect your Treasury against depletion to the extent of hundreds of thousands of dollars annually.

Mr. WASHBURN, of Illinois. How is it to protect the Treasury when it affords the means to these gentlemen of getting rid of paying what is standing against them into the Treasury?

Mr. BINGHAM. The House is not to be deluded by any such suggestion. I answer the gentleman by saying that time and time again we have had bills passed through this House relieving persons from liabilities which they are under to the extent of thousands of dollars, and that, too, when there was not a syllable of legal evidence in the case. Now, this bill provides that all this shall be done upon proper evidence, before competent law officers.

Mr. GRIDER. It submits the justice of the case to the court?

Mr. BINGHAM. Certainly it does; and the court is to pass upon the case upon proper evidence, and after being fully satisfied that the party asking relief is not in fault, that he has done his whole duty, then the court decide that in equity he is entitled to be relieved from liability.

Mr. GRIDER. And depositions in the case can be read in the court?

Mr. BINGHAM. Only upon notice, and in the presence of the officer of the Government charged with looking after the interests of the Government.

Mr. SCHENCK. I am a great deal astonished that opposition should be made to the passage of a bill of this kind. It is not necessary that I should add anything to what has been said by my colleagues upon the committee, [Messrs. ANCONA and BINGHAM,] except this: I wish to advise the House that there have been referred to the Military Committee a great number of cases which would have occupied pretty much all the time of the committee if we were to give to each case that investigation which ought to be given to it before arriving at something like a judicial decision upon its merits. They are cases where quartermasters, commissaries, and other disbursing officers have lost their vouchers by capture by the enemy, or otherwise, and they are therefore unable to have their accounts presented, except upon other and secondary evidence.

Now, all that this bill provides is, that instead of each case being adjusted and settled in the hurry of congressional business, by a committee of either House or Senate, and a special enactment passed for the purpose, there shall be a general law referring to the Court of Claims all cases of this character, authorizing that court to report what are the facts in each case, and whether credit should or should not be allowed to the disbursing officer. That is the whole effect of this bill. We prefer a general law because we believe that neither a committee of this House, nor the House itself, could give a thorough investigation to each of these cases so well as the court could do.

Mr. GRIDER. What is the lowest sum which the court is to consider?

Mr. SCHENCK. There is no amount stated in the bill.

Mr. DELANO. I was not in here when the bill was read. I would ask if it is proposed to make the proceeding of the court final.

Mr. SCHENCK. There is an appeal allowed to the Supreme Court.

Mr. DELANO. I would suggest the propriety of providing that the decision of the court shall not be reviewed.

Mr. SCHENCK. I think perhaps this matter would be better understood by having the bill and the proposed substitute for the first section again read.

The bill and substitute were again read.
Mr. WASHBURN, of Illinois. In order to remove any difficulty I would suggest to the gentleman in charge of this bill, [Mr. ANCONA,] to put in a proviso that an appeal shall be allowed in all cases.

Mr. BINGHAM. In order to satisfy the gentleman, although I think it is the law now, I would suggest to my colleague on the committee [Mr. ANCONA] to modify his substitute by adding the following proviso:

Provided, An appeal may be taken to the Supreme Court as in other cases.

Mr. ANCONA. I will modify the proposed substitute in accordance with the suggestion of the gentleman from Ohio, [Mr. BINGHAM.]

Mr. STEVENS. I would inquire if this is confined to certain documents, such as bonds, or does it embrace all the funds which may have been lost?

Mr. BINGHAM. All that is lost without fault.

Mr. STEVENS. Does it embrace money which may have been lost?

Mr. BINGHAM. Certainly it does.

Mr. WASHBURN, of Illinois. If the bill is as broad as that, then I think the House certainly should never pass it.

Mr. ANCONA. I now demand the previous question.

The previous question was seconded and the main question was ordered; and under the operation thereof the vote recommitting the bill to the Committee on Military Affairs was reconsidered.

The question recurred upon the motion to recommit the bill.

Mr. ANCONA. I call the previous question on the motion to recommit.

The previous question was seconded and the main question was ordered.

The question was taken; and the motion to recommit was not agreed to.

Mr. ANCONA. I am instructed by the Committee on Military Affairs to move the following as a substitute for the first section of this bill:

That the Court of Claims shall have jurisdiction to hear and determine the claim of any paymaster, quartermaster, commissary of subsistence, or other disbursing officer of the United States, or of his administrators or executors, for relief from responsibility on account of losses by capture, or otherwise, while in the line of his duty, of Government funds, vouchers, records, and papers in his charge, and for which he was and is held responsible: *Provided*, An appeal may be taken to the Supreme Court as in other cases.

The question was upon agreeing to the substitute for the first section.

Mr. ANCONA. I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was agreed to.

The bill as amended was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill as amended; and being taken, there were, upon a division—ayes sixty-six, noes not counted.

So the bill was passed.

Mr. ANCONA moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PAYMASTERS OF THE ARMY—AGAIN.

Mr. SCHENCK. This morning I reported back to this House, by instruction of the Committee on Military Affairs, House bill No. 475, for the relief of paymasters of the Army, with a substitute, and asked for its consideration at that time. The gentleman from New York [Mr. WARD] objected to its consideration then, and it was recommitted. Having examined the bill, he now withdraws his objection, I understand.

Mr. WARD. I have had an opportunity to examine the bill, and I have no objection to it.

Mr. SCHENCK. I move to reconsider the vote by which the bill and substitute were recommended.

The motion to reconsider was agreed to.

The question recurred upon the motion to recommit.

Mr. SCHENCK. I withdraw the motion to recommit, and call the previous question on the bill and substitute.

The previous question was seconded and the main question ordered; and under the operation thereof the substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. SCHENCK. I move to amend the title so that it shall read, "A bill to facilitate the settlement of the accounts of paymasters of the Army."

The motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed joint resolution H. R. No. 67, providing for the reappraisal of the lands described in an act for the relief of William Sawyer and others, of Ohio.

Also, that it had passed bills and joint resolution of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 74) for the admission of Colorado into the Union;

An act (S. No. 277) for the relief of William Cook; and

Joint resolution (S. R. No. 74) providing for the acceptance of a collection of plants tendered to the United States by Frederick Pech.

ADMISSION OF COLORADO.

Mr. ASHLEY, of Ohio. I ask unanimous consent that Senate bill No. 74, for the admission of Colorado into the Union be taken from the Speaker's table, read a first and second time, and referred to the Committee on Territories.

Mr. WASHBURNE, of Illinois. I object.

DABOLL'S FOG TRUMPET.

Mr. DARLING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Commerce be instructed to inquire into and report on the expediency of establishing Daboll's fog trumpet at Sandy Hook, port of New York.

TAXATION OF BANK CURRENCY.

Mr. DELANO, by unanimous consent, introduced a bill declaring certain obligations of the United States and national bank currency subject to taxation under State authority; which was read a first and second time, ordered to be printed, and referred to the Committee on Banking and Currency.

NORTHERN PACIFIC RAILROAD.

Mr. WASHBURNE, of Illinois. I call for the regular order of business.

The House accordingly proceeded, as the regular order of business, to the consideration of the unfinished business of last evening, being House bill No. 414, to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes.

The pending question was Mr. WENTWORTH'S motion to refer to the Committee on Public Lands.

Mr. KELLEY. Mr. Speaker, I do not propose to discuss the details of the bill before the House; nor is it my object to answer the various objections which were raised to it yesterday; nor shall I, as did the gentleman from

Chicago, speak under the apprehension of the effect my remarks or my vote on the bill may have upon uninformed constituents on the eve of an election. My constituents, I apprehend, know my opinions on this subject pretty well. It was in 1850 that having met with Asa Whitney's pamphlet, and sought a conference with him on the subject of a Pacific railroad along a northern route, I gathered as many as I could of the people of Philadelphia in a meeting presided over by the mayor, and urged them to unite with me in applying to the American Congress to grant to Mr. Whitney and his associates just what is proposed to be granted to other men by the bill now under consideration. From that day to this I have never doubted the wisdom of the proposition; nor have I felt less interest in the subject since a dear sister, and a graceful girl of rare intelligence, over whose childhood I had watched with a father's solicitude, have been laid in that valley which Bryant, who is yet in the enjoyment of lusty life, after he had passed life's meridian described by saying—

"Where rolls the Oregon,
And hears no sound save his own dashings."

I still have living kindred in that valley; and for the last ten years have been in frequent and constant correspondence with those who dwell near Puget sound, and have thus learned something of the mighty and varied resources of the north Pacific slope, the region through which the only river that penetrates the heart of the country pours itself into the beautiful but sleeping ocean.

I shall discuss the bill in its broad and general relations. The question is, as the gentleman from Oregon [Mr. HENDERSON] well said yesterday, one of the gravest importance that has been presented to this Congress. He said truly it was of national importance. He did not, however, bound its importance by that suggestion. It is a question for the world. From Lake Superior to Puget sound! A railroad stretching from Lake Superior to Puget sound, a distance of eighteen hundred miles! To open to civilization and enterprise an empire longer and broader than western Europe from the southern vinelands of sunny Spain and Portugal on the one hand, the hyperborean forests of Norway on the other. Yes, sir, an empire equal to England, Ireland, Scotland, France, the German States, Belgium, Holland, Switzerland, Denmark, Sweden, Spain, and Portugal.

We fail, Mr. Speaker, to understand our relations to the age in which we live, and our duties to mankind, because we fail to appreciate the grand dimensions and unimagined resources of our country. We would regard ourselves giants did we estimate ourselves in proportion to possessions so grand in a country so abounding in multiform resources, so undeveloped, and so sparsely settled.

The region through which it is proposed to construct this road, exceeding in extent the territory of all the nations I have named, also embodies more mineral wealth than they all combined ever possessed. But what is its condition? It is a wilderness. Almost every acre of it is still innocent of the tread of a tax collector. It yields our country no revenue. Along the Pacific slope a few thriving villages dot it. Some of them will one day be great cities, but they are now on the borders of a vast wilderness.

Sir, I appeal from the constituents of the gentleman from Chicago [Mr. WENTWORTH] on the eve of an election to posterity and ask gentlemen to view the proposed enterprise in the light in which future generations will behold it. They will look beyond the vast empire I have indicated. There lies the sleeping but broad Pacific, capable of bearing a commerce a thousand times heavier than has ever chafed the waters of the Atlantic; an ocean on which our flag is seen floating only from the masts of coasting craft or whalers wending their slow way to the northern seas in quest of hard-earned wealth; an ocean which should bear a commerce estimated by values in dollars and cents

infinitely transcending any the Atlantic has known or may ever know.

Sir, so slight is our power upon that ocean that the recently pardoned rebel Semmes with a single vessel destroyed nearly a hundred of our peaceable whalers, giving their cargoes, gathered by years of dangerous toil, to the flames or the waves. It bounds our country for more than a thousand miles, and our maritime power, which could not now protect a mile of it, should be seen and felt upon it, and our flag and white sails or the curling smoke of our steamers should shadow its every wave.

That ocean belongs to us, and we should confirm our title by the right of occupancy; for when we cast our eyes beyond its placid surface we behold what is to be our next conquest. The Old World is to be awakened by American ideas. Its unnumbered people are to be quickened, instructed, and redeemed by American enterprise. Some statisticians tell us that there are 750,000,000 people in the ancient theocratic countries of the East, which is the West to which the star of our commercial empire will next take its way. Others put the population at 1,000,000,000; and others at 1,300,000,000. There, where civilization dawned and the drowsy past yet lingers, the first impulses of a new cycle begin to be felt. Japan is yielding to the impulses of our age. The Chinese wall is crumbling away. It was but yesterday that I had a letter informing me that our countryman, Dr. Martin, interpreter of the American legation at Peking, under the employment of the Chinese Government had rendered into that language our Wheaton's Law of Nations. Thus that vast and long isolated Power is preparing to enter into commercial connection with the world. The ancient civilization of Asia is giving way. At the end of thousands of centuries the doctrine of sacred castes is about to yield to the sublimer creed of man's freedom and equality. Muscular labor will soon be done there by the potent agents we now employ—coal and iron—and the genius of the buried dead, embodied in mechanism, will soon relieve their toiling millions as it now does ours. Their whole life is to be quickened by modern enterprise, and they will swell the numbers of the people on our Pacific slope.

But the inviting field of the ocean and the vast field of enterprise and reward open to us in Asia are not the only considerations that induce me to support this bill. The laboring people of every eastern city have an intense interest in this question. The safety of our country depends upon the intelligence, the virtue, the stability of our laboring people. He legislates not wisely for a democratic republic who does not make it the aim of all his acts to improve the material condition of the great laboring masses of the country. If we would perpetuate our institutions we must see that the wages of labor are so maintained that the children of the laboring man shall grow up amid the endearments of home and with the expectation that their children shall find more elegance and refinement in their homes than their parents were familiar with in childhood.

The construction of a road through our northern gold region will open a field that will be a constant refuge for the surplus labor of our eastern States. There will be a refuge for those masses of ingenious workmen who are jostled each year by lack of adjustment of their numbers to the demand for their branch of labor, or are deprived of the advantage of the skill they acquired in youth by the invention of labor-saving machinery; and instead of finding themselves as age gathers on their brow without the means of livelihood rich fields of enterprise easily reached will cheer their declining years.

But again, the depression of our laboring people springs not alone or chiefly from local causes. Beyond the Atlantic ocean there are three hundred and fifty million people in every community of which laboring men are held as raw material; and under the grasping influences of capital and the oppression of despotic Governments are held in such bondage that they

are made to subsist, even when they toil most assiduously, upon a modicum of the elements of life, upon a minimum of the amount that will keep the soul in a tolerably sound body. Escaping from this subjection they are borne to our shores by tens and hundreds of thousands each year. They are strangers in a strange land, many of them unacquainted with our language and our habits, and are unconsciously and unwillingly the means of depressing wages. But if we give to the company the means to inaugurate work on this road we will not only relieve the laboring masses of our crowded eastern cities, but furnish employment for more than the annual influx of those whom we gladly welcome, because they strengthen and enrich us by their toil. Could we drain Europe of its surplus laborers we would raise her wages as she now too often depresses ours.

What will be the true policy of the builders of this road? Will it not be to employ as laborers the heads of families, and to pay them with land and money, and settle the families along the line of the road, so that the laborer of one year will in the next farm his land and supply fresh laborers with bread? Thus will he who enters into an engagement with the company a pauper, or little better, find himself at the end of a year or two an independent farmer upon the world's great commercial highway. The managers of the road must pursue this policy, and will thus create business for and guard their road; thus, too, they will quicken the mineral and agricultural resources of the country, and give to the tax collector, whether at a port of entry or in the service of the internal revenue department, more money each year than this bill is likely to cause to be taken from the Treasury.

I ask gentlemen, in considering this subject, to rise to its dignity and grandeur. Sir, I am a devotee to freedom, but would make every country in the world tributary to my own. I delight in every manifestation of my country's power. I swell with pride as I contemplate its gigantic proportions and see how rapidly its people subdue the wilderness, and would, as I have said, make every nation tributary to its power and grandeur; but I would do it, not by oppressing any people, not by war with any Government, but by improving the condition of the masses of my countrymen and those who may become such, and showing the rulers and the people of the world how speedily free institutions exalt the poor and the oppressed of all nations into free, self-sustaining, and self-governing citizens. It is in our power to do this, and by no other means can we do it so well or quickly as by passing this supplement and vivifying the charter granted to the Northern Pacific Railroad Company. And, sir, it was not without some indignation that I heard the words "swindle" and "public plunder" echoed and reechoed through this Hall yesterday from the lips of honorable gentlemen, no one of whom had any knowledge of facts which justified the use of such language.

Sir, one of Shakspeare's characters says, on a certain occasion:

"My lady doth protest too much."

And I was a little struck yesterday with the constant protestations of honesty and virtuous indignation that accompanied those denunciations.

Sir, I do not know the gentlemen who are named in or hold the charter. I believe I have been introduced in the street cars to some of them, but I know this: that gentlemen whose word I would take, from Vermont and Massachusetts and Maine, and from other States, rise and tell me that they know them, and that they are among the honored men in the communities which they represent. And I have looked in vain through the provisions of this bill to find that which should induce members to denounce such gentlemen as swindlers and public plunderers, and men who are desirous "of getting their arms into the Treasury up to the elbow." I find no provision that justifies any such remarks; and it was in this connection that I asked yesterday whether it

was possible to exclude the lobby of the Central and Union Pacific railroad from the floor of the House. I did not know that it had been here, but I knew that there was not that in the provisions of the bill which could animate gentlemen to make such assaults upon men whose characters were indorsed as were those of the gentlemen who were so spoken of yesterday.

Now, sir, what does this bill propose to do? The land was granted by the original act. What is the value of that land—not its prospective value, but its present market value? There was a dispute yesterday between a gentleman from Iowa and a gentleman from Ohio as to whether the representations of its value made in one of the company's pamphlets were accurate. Sir, its value to-day as a marketable commodity is zero. It is not regarded as marketable by the Government. It has no market value. What will be its value five years hence? Who can say? I submit to gentlemen that this depends upon whether there be made into and through it an avenue or avenues by which commerce may be conducted and settlement made possible. Make two or three sections of railroad; settle the families of the laborers along its route, with the school-house, the newspaper office, and the church in their midst, and the sections of land will be among those that will yield the heaviest taxation; their gold and silver—for the country abounds in gold and silver—will flow into and replenish your exhausted Treasury. But let it remain a wilderness, as it is now, and when we shall have ceased to live it will still be untaxed—an unproductive wilderness without an appreciable market value. Therefore there might well be an honest misunderstanding or misapprehension as to its value, to be settled by the time and circumstances of the valuation.

Mr. Speaker, I again assert that I have been unable to detect any provision in this bill which looks like swindling. What are we asked to do? Why, when the stockholders shall have built twenty-five miles of road, we are to guaranty for not more than twenty years six per cent. interest upon a fixed amount of stock per mile. And what is the offset to that liability? Why, sir, all the money received by the company from the sale of lands on the southern side of the road is to be paid into the Treasury of the United States, to meet or partially meet that liability; and when fifty miles or more of the road shall have been completed, this process is to be repeated; and so, by sections of twenty-five miles, till the road shall be completed. This is the whole story.

Yet it has been said that we are asked to guaranty the interest of \$57,000,000 for twenty years. This cannot be possible. Some of the land will be sold before the road will be completed. But, sir, less than twenty years, perhaps in half that time, there is to be another relief for the Government. From the completion of the road twenty-five per cent. of its gross earnings are to be paid into the Treasury of the United States, together with all the proceeds of the sale of the land along the south side of the road for eighteen hundred miles. It is impossible that we can ever be called upon to pay for a single year the interest on \$57,000,000 or anything like that amount. The probabilities are that we may continue to pay something each year until the road shall reach the waters of the Missouri. I doubt whether we will ever be called on for a dollar of interest after that time; but if we shall, it will only be till the road shall have connected the commerce of the waters of the Missouri with that of those of the Columbia, pouring their way down to the Pacific. After that, if the laws of population hold with us as they have done, the Government cannot possibly be called on for a dollar.

Had any other civilized nation such an empire, opening to its people such resources, maritime, mineral, agricultural, and bucolic, would it hesitate to embark a few million dollars to develop and populate it? Would it shrink from so strengthening its commerce by an

annual contribution that would not be felt in the payments of the country or observed in announcing the total of its receipts and payments? No, sir; there is no Government that would hesitate in such a case; and I do not believe that the American Congress will fall so far short of its duty, will hold the copper cent so close to its eye, as to be unable to see the golden placer beyond, or will sanction the absurd policy of refusing to make a small annual outlay, for a brief term of years, for the development of resources the future value of which cannot be calculated.

Sir, great railroads have never been built by the capital of the stockholders. They are always built by borrowing, or if built by capital paid in, special laws permit dividends to be paid from the capital and charged to the construction account. Mortgages are often issued upon the franchise and survey; and the first grading is often done by means of a loan. In this connection I ask the Clerk to read a few paragraphs from the admirable letter of Quartermaster General Meigs. They are full of sound sense and the lessons of experience in the railroad development of this and other countries.

The Clerk read as follows:

"But the great reservoir from which man and all his necessary supplies are drawn is yet, and for years to come must be, the Mississippi valley and the Atlantic coast. The Territories of the Pacific coast are to be filled by emigration; they have, as yet, no great manufactories and no redundant population. The route needed for the opening and improvement of the country is the route from the East.

"The grants of land made by Congress for this object are liberal and are sufficient in time, probably, to construct the road. But men die; nations live; men cannot take their capital, the accumulated fruit of years of industry, and devote it to the construction of a great public improvement, and wait for years for the returns. They prefer enjoying the present use of their fortunes to investing their means in enterprises which will make large returns only after their death.

"The nation is lasting. The opening of every new route, the inclosure and cultivation of every acre of wild land, contribute immediately to the revenue and resources of the nation; and no means of improving the great national domain, of increasing by its products the national revenue and prosperity, can compare in cheapness and efficacy with the opening of rapid communication by railway with these distant, healthful, and productive regions.

"The country is one fitted to be the home of a hardy race, one in which the principles of liberty and the spirit of enterprise and industry will live and bear their natural fruits."

"A guarantee of a fixed rate of interest upon the cost of construction, to be repaid in a term of years, is a mode of assistance to their great enterprises, now common in the highly developed and heavily taxed countries of Europe. If those Governments, burdened with the immense annual expenditure of standing armies, almost as large in time of peace as we have been compelled to support in time of war, find it in the interest of their revenues thus to aid free travel and transport through countries already provided with navigable rivers and excellent wagon roads, we may confidently assume that our country will find ample reward for any such expenditure in opening up a highway for fraternal intercourse between our older communities in the Atlantic and the rising settlements on the Pacific—a highway, too, to which the inevitable laws of commerce will attract the trade of the East—the trade of China, Japan, and India—a trade along whose slow and painful track, when it was conducted by beasts of burden, and by oars and sails, instead of by the iron horse and the ocean steamship, great cities sprung up in the desert sands of Asia and on the coasts of the Mediterranean. Babylon, Nineveh, Palmyra, Bagdad, Damascus, Constantinople, Alexandria, Rome, Venice, Genoa, and London, are the outgrowths of this trade in former centuries."

Mr. KELLEY. Mr. Speaker, what all other nations have done, and what they are doing, we are asked to do, except that they sometimes assume a positive and enduring liability, while there will be no ultimate liability here. The immense grant of land, with high market values imparted to it by the completion of the railroad, will indemnify us against loss by our guaranty; for is there any gentleman here who doubts that this magnificent grant of land, made available to emigrants from the East and Europe, will be adequate security for the loan of an annual amount of interest, limited as it is in this bill? To doubt that it will be ample is to deny value to the richest portion of our country, or that increased wealth will follow enterprise and industry bestowed on raw material.

Sir, it is said that this measure will, if not bankrupt the country, at least impair its credit.

Do you bankrupt a country by increasing its productive industry? Do you bankrupt a country by expanding its habitable territory and carrying civilization to a broad empire teeming with resources, but now a wilderness? No, sir, it will not bankrupt the country. It will enrich it; it will expand and strengthen its credit. In the darkest hours of the war I stood here and advocated the grant of land to the Central Pacific railroad, and I then said in substance to those who listened to me, "Let us proclaim to the nations of Europe that now, in the very agony of our country, we project and launch for completion an enterprise for which none of them have the territory. Let us show them that, while our country is torn and almost rent asunder by civil war, such is the confidence in its power and endurance that we engage in enterprises which may not bless us, but of which our posterity shall reap the rich reward, and the very commencement of which will bring to us millions of dollars with which to pay for their construction."

The war is over, and I now appeal to gentlemen to increase the resources of the country by developing a region greater in length and breadth and natural wealth than western Europe, and making it populous, thrifty, productive, and a market for the consumption of the products of other regions, and above all by making it the great highway of the world. Let the capitalists of England, of France, of Frankfort-on-the-Main, and elsewhere, understand that their bills of exchange, representing and moving the commercial wealth of the world, traverse the continent of a democratic republic that can convert its wilderness into teeming farms and thriving cities by taking their paupers and the most abject of their people and elevating them into sovereign citizens of a free republic, and you will not impair the credit of the country.

I can conceive no enterprise which would more surely guaranty the speedy and easy payment of our national debt than the development of that empire which is drained by the Missouri and the Columbia, by the application of the rule invariably practiced in building railroads, to wit, the use of credit while capital is being made productive by the construction of the road. I apprehend that the money could be obtained without this legislation. I apprehend that an application to Sir Morton Peto and other British capitalists, with a stipulation to make this road a link in a grand international road, would bring the requisite capital. But I want no international railroad binding us still more closely to the Provinces of our proudest and most powerful enemy. I do not want the British line practically brought down from the forty-eighth to the forty-second degree of latitude. This should be an American road, and should be under the guardianship of the American Congress. It should be in the hands of American men, so that if the colonists make lateral roads, those roads shall feed our main line, and if discriminations are to be made as to rights or rates over the road, they shall be made against those who are not our fellow-citizens, and not against the interests of our country or countrymen.

I implore gentlemen to rise above the petty and local considerations that have animated this debate so far. I ask them to contemplate this as a great national scheme.

Especially do I ask them to guard the country against a monopoly whose footfalls were, in my judgment, heard here yesterday. It is said New Jersey is but a province of the Camden and Amboy Railroad Company. Men say that the Pennsylvania Central road governs that State. I have heard similar suggestions in regard to some of the States of New England and the West. I hear it stated sometimes that the Illinois Central railroad domineers the State of Illinois. We have granted a charter and a liberal donation to one Pacific railroad, and we must relieve ourselves from its power as a monopoly by adequately aiding other roads. I am in favor of a northern route, and should I stand here when the country is restored and the loyal men of the South are represented in this Hall,

if they ask a grant like this for a southern Pacific railroad, my voice shall be raised to give them subsidies greater than are asked here. With the Atlantic and the Pacific connected upon our northern boundary, upon the central line embracing Illinois, Missouri, and my own great State, and on a southern route, there will be no monopoly coming here to impel gentlemen to insinuate slanders against those who may present great undertakings to the consideration of Congress and the nation.

My arguments, Mr. Speaker, have been of a general character. They may all be familiar to gentlemen. But they have been uttered in the interest of my country and mankind; and in aid of those interests I hope this bill will be passed.

Mr. FARNSWORTH obtained the floor, but yielded to

Mr. STEVENS, who said: I only want a single moment. I ask the gentleman from Illinois [Mr. WESTWORTH] to withdraw his motion to refer to the Committee on Public Lands, so that I may move a substitute for the bill. He can then renew the motion. I only want the substitute before the House.

Mr. WESTWORTH. I wish to say that my sole object in moving to refer this bill to the Committee on Public Lands was to provoke inquiry. I am sincerely desirous that every member upon this floor shall discharge his duty, if he thinks proper, by referring to the Committee on Public Lands any amendment he has to propose. All I have desired, and all that I now desire, and all the gentlemen who are considered as the opponents of this bill desire, is that it shall be discussed. The whole trouble between us and those who are trying to force this bill through, is that they do not mean that the people shall understand anything about this bill. I am determined that they shall. I withdraw my motion.

Mr. STEVENS. I now submit a substitute for the bill.

Mr. WESTWORTH. I renew my motion. If any gentleman has an amendment to offer I am willing to yield for it to come in.

Mr. SPALDING. I give notice I shall move to lay the bill upon the table.

Mr. HIGBY. I rise to a question of order. Was not the Committee on the Pacific Railroad created for the very purpose of considering this subject?

The SPEAKER. The committee was raised for that purpose, but the House has the right to refer any bill to any committee it pleases. The gentleman from Illinois has a right to move to refer this bill to the Committee on Public Lands or to the Committee on Appropriations or any other committee.

Mr. FARNSWORTH. Mr. Speaker, I desire the House as well as the country to understand I am in favor of a Pacific railroad. I am not only in favor of one Pacific railroad, but of several, whenever the commerce of the country demands it. Two years ago, when the original bill was passed chartering this Pacific Railroad Company, I voted for it. I have not examined the Congressional Globe with reference to the debate that took place at that time, but I have a distinct recollection when the bill was reported by the gentleman from Pennsylvania, [Mr. STEVENS,] chairman of the Committee on the Pacific Railroad, some member, perhaps myself, asked whether it provided money should be drawn out of the Treasury for the construction of this road. Finally a provision, which I will read, was introduced. It is in the third section:

"And provided further, That no money shall be drawn from the Treasury of the United States to aid in the construction of the said Northern Pacific railroad."

Upon that provision being inserted in the act, myself, and I have no doubt many other gentlemen, voted for the bill who would not have done so without some such provision. But it seems that provisions of this kind inserted in the organic acts creating corporations of this sort are no protection to the Government. They come again and again, and, like Oliver Twist, they ask for more, more.

Now, Mr. Speaker, if we pass this bill, if we give this subsidy which they now demand in money, we still have no security, but they come again next session, or at the next Congress, and ask for more—more soup.

We have all kinds of agencies made use of here to put these bills through Congress. I was a little startled, and my nerves somewhat disturbed, in common with my colleagues, as I suppose, yesterday morning, after the debate had commenced upon this bill, when a messenger came around quietly to our seats, and laid before us a formidable-looking document from the Board of Trade of the city of Chicago, containing a series of resolutions adopted by that board in favor of this particular bill. Upon the envelope I noticed the stamp of the Board of Trade of that city; but they were without post-mark. They had not come through the ordinary channel of the post office, but were sent here by express to the lobby agent of this railroad company here, to be delivered to members from the West upon the eve of action upon it, for the purpose of influencing their votes.

Since that time one of my colleagues has received a letter from a gentleman in Chicago, which explains how it was manipulated and how these resolutions were procured to be passed by the Board of Trade. I will read a portion of the letter:

"CHICAGO, April 22, 1866.

"COLONEL WESTWORTH: You will see by the action taken by the Board of Trade yesterday that attention has been called to the Northern Pacific railroad. Colonel Rowland sent me a letter and some papers from Washington, asking me to present them to the directors of the board; and as I went in to do so I found a Mr. Hill, from Boston, explaining the wishes of the company. After he got through I read the letter and submitted the documents, consisting of the charter, an appeal to Congress from the northwestern members, a map of the route, and an act which has been reported to the House of Representatives by the Railroad Committee to assist the construction of the Northern Pacific railroad."

It then goes on to state that the resolution was adopted, and adds:

"You understand the object of all this. It is to influence the vote of yourself and other members from the State in its favor."

Mr. WINDOM. Is not that a common thing?

Mr. FARNSWORTH. The gentleman asks me if it is not a common thing. I believe it is; and it is common for any lobbyists who want to pass a particular bill to affect the commerce of the country to manipulate Boards of Trade and get these resolutions indorsing their projects.

Mr. WINDOM. The gentleman evidently does not understand that letter. This mare's nest is a great deal like some others that have been discussed about this bill. He says these papers were sent here by express from Chicago to some lobby agent to be scattered through the House. The fact is that these papers came here to Mr. Hersey, of the Post Office Department. I suppose they came by express. He is in no sense a lobby agent in this House; he is employed in the post office in the House of Representatives. In that way they are placed on the desks of members of this House.

So far as Mr. Hill is concerned, who is represented as coming from Boston to represent this railroad company, he is no other person than the secretary of the Board of Trade of that city. The city of Boston being interested in this road and desirous of receiving the benefits to be derived from it, sends its secretary of the Board of Trade to Chicago and calls the attention of the board to the subject, just as the city of Chicago sent the secretary of its Board of Trade to the city of Boston a short time ago to influence that Board of Trade in favor of the Illinois ship-canal. That is all there is in this mare's nest.

Mr. FARNSWORTH. I do not see that the explanation takes away from the force of my statement at all. A lobby man was sent from Boston to Chicago, an agent of this incorporation, for the purpose of manipulating the Board of Trade there, and there he met another lobbyist, one "Colonel" Rowland, an adventurer, who obtained the title of colonel, God only knows how—an adventurer, as I

happen to know, who has been manipulating this thing through the country for the last six months as the agent of this incorporation. A gentleman now in Chicago who had happened to meet him once in the city of Washington, got him to present the question to the Board of Trade of Chicago. He met this Mr. Hill there, accidentally, of course, who had been sent from Boston on this errand at precisely the same point of time. Between them they presented the case to the Board of Trade, an *ex parte* presentation, of course, and the resolutions were adopted. You all know how these Boards of Trade act upon matters of this kind. They aid and assist sister Boards of Trade of other cities in every matter that appears to be in the aid of commerce. They do not investigate with particular scrutiny the bill presented, but take it on trust as it is presented to them by the agent of the bill and adopt the resolutions offered for the purpose of influencing members of Congress. Now, I desire to say that a measure which is just in itself, and which commends itself because of its justice to the good sense and reason and patriotism of the people of the country, requires no such adjuncts; it requires no such lobbying; it does not require that these missives should be placed upon the desks of members of Congress upon the eve of voting upon the measure in order to interest them in it.

And, sir, when I find these galleries filled with lobbyists; when I find these papers coming to my desk day after day, sent in, as they are, by men who are lobbying for the bill, that is in itself enough to throw distrust upon the measure. A just measure does not require these outside influences in order to aid it or to commend it to the judgment, the good sense, and the patriotism of the Representatives of the people.

I have made a computation of the amount of money for which the United States will become liable under this bill, and I find that that amount, to be precise, is \$69,015,000. That is the amount for which the Government will become liable if you pass this bill.

I propose now, sir, to examine the question and see if there is any propriety, if there is any justice, if there is any reason whatever, why the Government should assume this great responsibility.

The original charter provides that this railroad company shall have twenty miles of land—a strip of land twenty miles wide wherever the road passes through a State and forty miles wide where it passes through the Territories—to aid in the construction of this road. This grant was made absolute; it was an absolute grant of the land to this railroad company. What value does the company itself place on these lands? I hold in my hand the report of the first board of directors that was organized under that charter, and I will send it up to the Clerk's desk to have an extract read.

A MEMBER. It has been read.

Mr. FARNSWORTH. Well, it will not hurt anybody to read it again, but I doubt if it has been read. This is the report of the first board of directors, the report of Mr. Perham, the president of the road, in reference to the value of the lands and the cost of construction. I send to the Clerk's desk and ask to have read what I have marked showing the value of the land and the cost of the road.

The Clerk read as follows:

"To construct this road, Congress, by an act of the last session, made a most munificent grant of twenty square miles of land, or twelve thousand eight hundred acres for each mile of the road through Wisconsin, Minnesota, and Oregon, and forty square miles, or twenty-five thousand six hundred acres, for each mile of the road through Dakota, Montana, Idaho, and Washington Territories, making an aggregate of forty-seven million three hundred and sixty thousand acres for the whole grant.

"These lands, when the road shall be built and the business fairly started, including town and station sites, would certainly average ten dollars per acre, making the sum of \$473,600,000.

"Supposing the construction of the road should cost \$60,000 per mile, the entire cost at this rate would be \$120,000,000, leaving to the shareholders an excess of clear profit from the lands alone of \$353,600,000.

"This estimate of \$60,000 per mile as the cost of the

road was liberal, in view of the vast quantities of material for its construction found along the route, including exhaustless mines of iron of the best quality, which could be turned into rails.

"And the estimate at ten dollars per acre as the value of the land is reasonable, when those lands are compared with the grant made for the construction of the Illinois Central railroad.

"The lands granted to this company have not been culled and selected, but are emphatically new lands, while the Illinois grant was of lands which had been many years in the market, much of them having been graded down to twelve and a half cents per acre; yet no sooner was the road completed than those shilling lands at once rose in value to twenty dollars, thirty dollars, fifty dollars, and even \$100 per acre, and from them that road was now in successful operation.

"With perseverance and energy, backed by the means at their command, this road could easily be completed and in full operation, with a telegraph accompanying it, within seven years; and at this rate, costing, as already estimated, \$120,000,000, the proceeds of the lands would yield to the shareholders, after reimbursing the whole of the original outlay, more than one hundred per cent. upon the capital, leaving out of view the earnings of the road."

Mr. FARNSWORTH. The House will notice from this report of the railroad company that they estimate the cost of constructing this road at \$60,000 per mile. And they further say, that after the road is built and equipped, there will be left a clear profit to the railroad of \$353,600,000, without any subsidy from the Government in the shape of money.

Gentlemen say that this report was got up when they wanted to sell out. I presume it was. And so the other report was got up when they wanted to get some money from the United States Treasury. And if you cannot rely upon the reports of the railroad company itself, as to the value of the franchises of this road, I would like some gentleman to tell me upon what we can rely.

I also hold in my hand the report of the Committee on the Pacific Railroad of this House, made in 1860. The report was made by Hon. Cyrus Aldrich, of Minnesota, a man well acquainted with the value of these lands, and of this route, and who, I think, is one of the corporators of this road. In that report the committee say:

"The undersigned, the Committee on the Pacific Railroad, do not doubt that much of this distance can be built for \$25,000 per mile, including a full equipment."

Now, if you can build a good portion of this road at \$25,000 per mile, instead of \$60,000, as the railroad company estimates, and if the rate of \$60,000 a mile would leave a net product of over \$350,000,000, what would the net product be at the rate of \$25,000 per mile?

Mr. GRINNELL. I do not believe that estimate.

Mr. FARNSWORTH. I believe it just as much as I believe anything presented to this House upon this subject, for it is official in some respect. We have not had much else that was official. I do not know why we should not believe this as well as any of these other papers.

Mr. STEVENS. If the statement the gentleman has had read is true, would it not be an excellent security for the guarantee asked?

Mr. FARNSWORTH. Well, if it is not true that the land is worth anything like the estimate, then I ask the gentleman from Pennsylvania [Mr. STEVENS] what security you would then have. The lands are certainly worth something or they are not.

Now, let us turn over the pages of another pamphlet. Gentlemen say this was got up for the purpose of selling out; but let us take up a pamphlet which was got up for the purpose of securing votes in this House and see what it says. It was read yesterday at the request of the gentleman from Ohio, [Mr. DELANO;] but I will call the attention of the House to it again.

The bill under consideration provides that the Government, for guarantying this interest, shall be secured by a lien upon the lands on the south side of the road; or rather a lien upon the proceeds of the sales of those lands. Now, in the pamphlet in which this company appeals to Congress for further aid this land is estimated at a value of \$32,000 per mile. And mark you, that estimate includes only one half the land that we have granted to this com-

pany; they estimate the land upon one side of the road only at \$32,000 per mile; and that is the amount of stock upon which they ask the Government to guaranty the interest. Well, sir, if the land upon the south side of the road is worth at the rate of \$32,000 per mile, I suppose the land on the north side of the road is worth that also. I suppose no gentleman will claim that there is any difference in the value of these lands, between those on the south side of the road and those on the north side of the road. Then the lands already granted to this company are worth at the rate of \$64,000 a mile.

Well, sir, if they have a grant of lands worth \$64,000 per mile, why, in the name of common sense, are they asking Congress for aid in the shape of money? Sir, I am not going to contradict the statement of this railroad company. I shall not take issue with them as to the value of this land. I am inclined to think that the lands are worth the amount named, or very near it. Then the question recurs, why do they want this subsidy or guarantee? Why, sir, they want it for the same reason that the other company wanted land. They want it for the purpose of speculation. They want it that they in turn, like the other company, may sell out.

The gentleman from Vermont, [Mr. WOODBRIDGE,] in giving yesterday a history of the transfer of this charter from the one company to the other, stated that the present company were induced to make this purchase because efforts to buy this charter were being made by capitalists and others in Canada, who were promised the aid of capital from England to construct this road. Well, sir, if their charter, without any such assistance as this bill will give them, was so valuable as to induce capitalists in Canada to attempt its purchase, it will of course become more valuable when this company get this further aid from the Government of the United States. Capitalists in Canada, England, or anywhere else do not seek to buy a railroad charter unless they think there is money in it. They do not engage in such undertakings for the good of the country. Men do not build railroads out of regard for the welfare of the country. Capital does not seek investment upon the principle of benevolence. You cannot find any benevolence in a man's pocket. The pocket nerve is not a benevolent nerve. It does not vibrate to the touch of charity. The pocket nerve is a sensitive nerve. It is, too, a selfish nerve. Capital can only be tempted to make investment where it will be a benefit to the holder. These men who are lobbying here are not lobbying for the good of the country. I never knew a man to come to Washington and lobby for a bill of this kind on account of the interest which he took in the welfare of the great West, although he may have made that a pretense. We find men from New England exhibiting suddenly a marked interest in the welfare of the poor West, showing a great anxiety that the West should be benefited.

Mr. DAWES. Let me suggest to the gentleman that ever since I can remember New England men have been helping to build railroads in the West.

Mr. FARNSWORTH. But the gentleman will not tell me that New England men who have helped to build railroads in Illinois have done so for the sake of Illinois. Massachusetts capital has gone to Illinois and sought investment there for the sake of Massachusetts capital. I know that the people of New England are a great and benevolent people. I know that they are distinguished for their works of charity, which are numerous and frequent. I have great regard and great veneration for New England. I love it, not only because it is the home of my ancestors, but because its virtues entitle it to respect and reverence. But, sir, the moneyed men of New England are like moneyed men everywhere else; and when they invest money in a railroad project they do it because they think it will pay. They do not do it from benevolent motives. So, too, when the people of Canada, or any other place, offer

their money for the purchase of a railroad charter, they do it because they think there is money in it. They do not in such matters act from motives of benevolence.

Sir, if the people of New England are so full of regard for the interests of the people of the West, I advise them to invest their capital rather in the construction of a canal which shall furnish transportation for some of our grain, relieving our plethoric and overburdened granaries. By such a work as that, millions of people would be benefited where only thousands would receive advantage from this Northern Pacific railroad.

Mr. DAWES. We propose to do both.

Mr. FARNSWORTH. Well, sir, the Treasury is not just now in a condition to warrant us in trying to do everything; and as there is sometimes a choice of evils, so there is a choice of benefits. When we cannot do all at once the various works which commend themselves to our judgment by the good results expected from them, we must select that which will accomplish the greatest good, and do that first.

Why, Mr. Speaker, many people seem to suppose it is practicable and feasible for the Government to undertake to build three separate railroads to the Pacific ocean. The argument is made here, inasmuch as we have granted subsidies to the Central Pacific railroad, that therefore we should treat all others in like manner. I do not see the force of that argument. Whether it was right and proper or not to make the grant to the Central Pacific railroad does not affect the propriety of making this grant. If it were wrong to make the grant to the Central Pacific railroad that does not make it right to make a grant to the Northern Pacific railroad. If it were right to make the grant to the Central Pacific railroad it does not follow that therefore we should make a grant to any other.

In my judgment the country does not demand it, nor is it feasible or practicable at the present time to undertake the building of more than one road to the Pacific. I do not believe it is practicable or feasible to build a railroad four or five hundred miles through a country not inhabited. I do not believe you can ever build or run a road over a country for that distance where there are no inhabitants. As fast as the country becomes inhabited, as fast as it is peopled, then they may want a railroad. As fast as it is peopled the lands will come into market and become valuable. But to undertake at the present time to put roads through, to force them through in the short space of time contemplated by this act, is impracticable.

Nor do I believe, Mr. Speaker, that the commerce of the country at the present time demands more than one road. I think the Government had better with the \$17,000,000 called for by this act dig a ship-canal across the Isthmus to connect the waters of the Atlantic with the Pacific. It certainly would be better to do that than to build a second road. Heavy freights will not go by land to the Pacific. Heavy freights will seek water communication. They will always be transported by water.

Mr. WENTWORTH. I understand that in the summer season there is to be water communication by this line across Lake Superior, and that in the winter season it is to be north of Lake Superior.

Mr. FARNSWORTH. There is to be water communication in the summer season only. It will be very much better to build a ship-canal across the Isthmus, for then you will have water communication all the year round for ships to sail from ocean to ocean.

Another reason why I think it is not necessary nor practicable to undertake the construction of another Pacific railroad at this time is this: it requires only three hundred miles of rail to make a complete line of water and rail communication from Salt Lake City to Portland in the State of Oregon. All you require is the construction of three hundred miles of railroad

from Salt Lake to the head of navigation on the Columbia river. If it is necessary, therefore, that we shall have a railroad to Oregon and the waters of the Columbia river, it is much more feasible to build a branch road from Salt Lake City to Salt Lake, and then from the other end of Salt Lake extending through to connect with the head of navigation on the Columbia river. There you have a good country. Such a route passes through the Territory of Idaho, a rich, growing, and flourishing Territory. You get then from the main stem or the main trunk of the Central Pacific railroad two arms to the Pacific ocean, one to San Francisco and the other to Portland, Oregon.

But at the same time I think it is not practicable or feasible to undertake at this time to build more than one road to the Pacific. I repeat what I said before, I am in favor at the earliest practicable moment when the country demands it of building two, four, or ten railroads to the Pacific. I am willing to make a liberal grant of land to aid in the construction of those roads. But I am not willing to give my vote to render the Government liable to the extent of \$69,000,000 in the present deranged financial condition of the country. I am not willing to put the Government under a liability of \$69,000,000 for what I consider at the present time unnecessary.

This is aside from my objection to this bill, which is that it is a speculative measure. We were told by the chairman when he reported this bill two years ago that land and land alone would build this road; that this company only wanted land; that they would not call upon the Government for money.

We find that that company was organized; and we are told now, not by authority, but by what I suppose may be regarded as the authorized mouth-piece of the company here, by the gentleman from Vermont, [Mr. WOODBRIDGE,] that that company has sold out their charter for what little money they had expended. But I have seen no official report of any moneys expended by this company. I have seen no report of any survey made by the company. I suppose it does take money to raise the wind, as it is called. I suppose money is expended in getting up companies, in getting their charters, in lobbying, in traveling over the country to procure the indorsement of Boards of Trade. If these are the expenditures to which the gentleman referred, to reimburse which they sold out this charter, I wish he would say so; but as for any other expenditure in the way of survey or the locating of the road or the commencement of work upon the road, we have certainly no knowledge of it.

They have not commenced the work. That is shown by the provision which they have inserted in this bill that the commencement of a survey in good faith shall be taken to be the commencement of the work within the meaning of the bill. The original bill provided that the charter should become void and that they should forfeit all right under it if they did not commence the work within two years. "Work"—it is generally understood what that means. To commence making the railroad—that is commencing the work. They come now to Congress and ask that we shall insert in their charter a provision that when they send out a surveyor in good faith to commence the survey that shall be considered a commencement of the work, although they may not break ground for years afterward.

Now, sir, I would like to know, I wish some gentleman would tell me, who is to be the judge as to when they commence this survey in good faith; who is to be the judge of the *bona fides* of this survey? Is it the President of the United States or the president of the company, or is it Congress? And if Congress is to judge of this, upon what evidence are we to base our judgment? The commencement of the survey in good faith? Why, I suppose, then, if they hire a surveyor and send him out to survey a mile of land on the supposed route, it is such a commencement of the survey of the road as is sufficient to save the charter.

Mr. HENDERSON. That would not be in good faith.

Mr. FARNSWORTH. My friend says that would not be in good faith. Sir, who is to judge whether it is or not? The surveyor goes on, and the company says it is in good faith. The surveyor produces his instruments and chains; you see they are surveying. Who is to judge of the good faith? Is my friend from Massachusetts [Mr. DAWES] to judge of the survey?

Mr. DAWES. The American people are to judge.

Mr. FARNSWORTH. The great American people are to judge, says the gentleman from Massachusetts. Upon what evidence are they to pass their judgment? Here is a question of forfeiture. They shall forfeit their charter if they do not commence the work in good faith. They commence a survey, and whether it is in good faith or not nobody can tell but themselves.

Mr. DRIGGS. If the survey is never made and the work never commenced, of course there will be no obligation on the part of the Government to issue the bonds. I cannot see how that affects the question.

Mr. FARNSWORTH. I see how it affects the question before us distinctly. I have not the slightest idea that this company propose to build this road. I suppose they come here to get this provision put into this bill in order to sell out their obligation in turn to some other company perhaps more greedy still than themselves. The question might have been asked two years ago, who will buy this? We find it is bought for \$160,000, although no ground has been broken. Now, if this charter was worth \$160,000 before a spade was put into the ground, before a mile of the road was located, what would it be worth after the Government assumes \$70,000,000 of indebtedness to aid in its construction, and after we all know these other provisions are in the bill which will give them a still longer time to operate? Why, sir, it will be worth, as they say themselves, millions upon millions. I would rather have this franchise after this bill has passed for speculation than to have the property of William B. Astor or the gentleman from New York, [Mr. DODGE.] [Laughter.]

It is for this reason I do not believe there is any good faith in this company. At the same time I am not attacking the officers here, nor do I propose to do so. I believe many of them are good men, but they have been manipulated like these Boards of Trade and these men who have been going through the country.

Mr. HENDERSON. I would ask the gentleman if he did not in times past have a personal difficulty with Colonel Rowland.

Mr. FARNSWORTH. I am not aware that if there were anything of that sort it would have anything to do with this bill; but I assure the gentleman that there is nothing of that kind. I simply know from personal observation that this man Rowland is a mere adventurer, and I state it upon my responsibility as a member of this House, and can prove it, either "here or elsewhere." [Laughter.] I use the words either in a "technical" or an untechnical sense. [Laughter.] I have only spoken of him because he has been the agent of this enterprise, and when they come to me through such unclean channels I am not going to vote for schemes of this kind. It makes me distrust the whole thing.

Mr. HARDING, of Illinois. I think I understood that there was security for the money advanced by the Government in the lands granted upon the southern side of the road. Now, I dispute that. I have examined the bill, and according to my understanding there is no security for the Government contained in it. The bill contains no limit upon the terms of sale of those lands, nor as to the character of the persons who may buy them, nor as to the rates at which they are to be sold. If they should be sold to individuals connected with the corporation, it would be a substantial

compliance with the grant. But no man in business would accept such security.

Mr. FARNSWORTH. I am glad my colleague has interrupted me for the purpose of making the observations which he has and calling my attention to the fact he has stated. Sir, it does strike me that this is the coolest and most impudent proposition that has ever been made to Congress. We granted this railroad company a strip of land forty miles wide in order to build the road, and now they come back and say, "If you will give us money instead of land with which to build it we will give you the security of one half of the land which you gave us," or rather, one half of the proceeds of the sale.

Well, now, it strikes me, as I think it must strike every member of the House, that it is a very cool and impudent proposition to make to the Government of the United States, that we shall take one half of the gift we made them as security for money necessary to build the road; for it amounts to the same thing. If we pay the interest on the stock, we build the road; we pay the stock itself, for money can always be procured upon interest; and if the Government will assume to pay six per cent. interest for twenty years on the money used in building the road, it might as well build the road at once, and much better. If the road is to be built in this way, is it not better that the Government itself, through its own agents, shall build, own, and control the road, rather than leave its benefits to an irresponsible company?

Mr. Speaker, I have occupied more time in discussing this question than I intended when I rose. Sir, I am a western man. I represent a large western constituency, engaged in agriculture and manufacturing pursuits. They are certainly as much interested in all the great lines of western communication as are the constituents of the gentleman from Vermont, [Mr. WOODBRIDGE.] We are not here as western men to oppose the opening of communication to the Pacific coast by railroad; by no means. But we are here to defend the Treasury of the United States from these reckless assaults that are made upon it. I yield the residue of my time to the gentleman from Pennsylvania, [Mr. RANDALL.]

Mr. RANDALL, of Pennsylvania. The time allotted to me is so short that it will be impossible for me to enter into any argument in reference to this bill. I shall therefore content myself with calling the attention of the House to one or two matters which, it seems to me, should command their consideration.

We have here a project of immense importance; and I wish to know of those gentlemen who mean to vote for this bill, where in the Constitution of the United States, from one end of it to the other, they find the power to spend money or to make appropriation of the money raised by taxation for such purposes as are here proposed.

Sir, the greatest latitudinarian constructionist of the Constitution can find no warrant in it for the expenditure of this \$57,000,000 of the people's money. I am sure that any man who was educated in the school of strict construction will not for a moment entertain the thought of voting for this project. Sir, this is not within the terms of the powers granted to Congress by the Constitution, nor is it within the spirit of that grant.

Now, let me call the attention of the House to the question of the necessity and propriety of this measure, of this expenditure of money. This bill comes here at a most unfortunate time; at a time when our Treasury, as was so beautifully described by my colleague, [Mr. KELLEY,] is in a depleted and almost exhausted condition. He tells us that by adopting this measure we shall pour into the Treasury untold sums of money. Why, sir, he killed his argument with his own words. He admits that our Treasury is exhausted; and yet he is willing to allow these people to put their arms still deeper into the Treasury.

Now, I would not object so much to this

measure if we were not so overwhelmingly in debt. But, as was so ably and so eloquently said on yesterday by the gentleman from Ohio, [Mr. DELANO,] our debt to-day will approach \$4,000,000,000.

[Here the hammer fell.]

Mr. DONNELLY obtained the floor.

Mr. WASHBURNE, of Illinois. I hope the gentleman from Pennsylvania [Mr. RANDALL] will have five minutes more time given to him.

Mr. DONNELLY. I will yield five minutes of my time to the gentleman from Pennsylvania.

Mr. RANDALL, of Pennsylvania. I am obliged to the gentleman from Minnesota [Mr. DONNELLY] for his courtesy.

Now, I ask the majority of this House, I ask you gentlemen on the other side, who will be responsible for the passage of this bill, where you mean to stop in this expenditure of the money of the people. Where do you mean to halt in this system of expending the money taken from a people already overburdened by taxation?

This expenditure is not for any legitimate purpose. I have failed to hear any argument which would warrant such an expenditure at this time. We are told that we are to get something back. They coolly propose to mortgage to us one half of our own lands which we have heretofore given to this company to secure the payment of what we are called upon to guaranty. How flimsy a security! How bold an argument!

Moreover, we are told that twenty-five per cent. of the receipts of the road, during the twenty years for which we are asked to guaranty this money, is to be paid into the Treasury of the Government. Does not every business man, who has ever had any connection with railroad matters, know that no such profits will be realized? And when you come to ask plainly and pointedly this question of the friends of this project, whether they believe that any such profits will ever come from this road, they tell you that they hope they may. Sir, there is no such probability.

Now, sir, I am not a little surprised that my distinguished colleague, [Mr. KELLEY,] a gentleman from the very same city which I represent in part, should come here and deliver a beautiful essay upon this great subject. It reminded me very much of some sermons I have heard. They were beautiful in language; they were filled with flights of fancy; they contained many castles in the air, but when I went home and began to consider upon them, I found that I could not remember anything that was in them. Now, I have listened to the argument of my colleague; I have heard about his castles in the air, his railroads in fairy land with golden tracks, yet in his whole argument he did not present us with a single fact, nor did he advance any reason whatever in behalf of this work. Does he not know that he is trying to force upon the people of his district, as their share of this expenditure, the sum of about three hundred thousand dollars? Have his constituents asked him in any public manner to vote for this expenditure? So far as I know they have not. Surely no such instruction has been given to me.

I say again to the majority on this floor, where do you mean to stop in these nefarious schemes of public plunder? How soon will you realize that the people of this country are overburdened with taxation; that our debt is immense, reaching an amount which in no other country of the world would be so cheerfully paid? Recollect that we must not heap too much on an already overloaded people. We should go back to the strict economy of former days. Why, sir, in the earlier days of this Republic, such projects as this were never heard of, or, if proposed, were promptly frowned down. Let any man read the veto messages of Mr. Monroe and General Jackson, and he will see how those great men viewed such schemes as this.

I hope, sir, that the House will not pass this measure. I hope that, if it should not be laid upon the table, it will at least be referred to the

Committee on Public Lands, so that we can have a report which will explain fully the effect of this bill, which will show us to what extent we are involving the Government in an expenditure of money. I hope that the Committee on Public Lands, if the bill should be referred to that committee, will give us a full and satisfactory report, which the Committee on the Pacific Railroad has failed to do.

The SPEAKER. The time allowed to the gentleman from Pennsylvania by the gentleman from Minnesota has expired.

Mr. DONNELLY resumed the floor.

Mr. SMITH. Will the gentleman from Minnesota yield to me that I may offer an amendment?

Mr. DONNELLY. I prefer not to yield any further at this time.

Mr. Speaker, the bill now before the House is of so much consequence to the people of the entire nation, and more particularly to the States known as the northwestern States, and especially to the State which I have the honor in part to represent here, that I should consider myself false to my duty toward my constituents if I did not occupy a brief period of time in its advocacy.

The proposition contained in this bill is a very plain and very simple one. It is in effect that the United States shall indorse, for a limited period of time, a limited portion of the stock of this company. It is that the United States shall guaranty the stock of the Northern Pacific Railroad Company upon the gross amount of \$57,000,000, or an average amount of about thirty-two thousand dollars per mile, for the period of twenty years. I hope it is distinctly understood in the House that this guarantee does not in any case extend beyond the period of twenty years, nor does it in any way extend to the principal of any part of the bonds of the company.

The whole question, then, for this House to determine is whether the United States Government will be safe in making such a guarantee, because it must be apparent to all that if the United States can build this great road, reaching from the head of Lake Superior to Puget sound, through a distance of eighteen hundred miles, and do it without incurring any loss to itself, it should by all means give the aid which is asked. This matter, then, resolves itself into the simple question, is the United States safe in taking such a step?

Now, we have had presented here by the opponents of this bill quotation after quotation from pamphlets and from speeches to show that the land grant already made to the company is of such enormous value that it alone ought to enable the company to build the road; that in any event it is of such great value that when the road shall have been constructed the land adjacent to it and already granted to the company will be equal in value to the total cost of the road itself.

Now, Mr. Speaker, if all these statements are true then this Government runs no risk whatever in giving the guarantee which is asked for, because the property of the company, when the road shall have been built, will be worth all that will have been expended upon it, and will therefore most assuredly be ample security for the interest upon a limited portion of the stock.

We were told yesterday by the gentleman from Ohio upon my left [Mr. SPALDING] that the land grant already made to this company is abundantly sufficient to build the road, and to prove it he read to us an extract from a letter of Hon. John Wilson, Third Auditor of the Treasury. I ask the Clerk to again read that extract.

The Clerk read as follows:

"I have not the figures, nor would I now be able to work them up if I had, but comparing this with the Illinois Central railroad grant, I think it a small estimate to say that if this grant is properly managed it will build the entire road, connecting with the present terminus of the Grand Trunk, through to Puget sound and head of navigation on the Columbia; fit out an entire fleet for the China, East India, and coasting trade of sailing vessels and steamers, and leave a surplus that will roll up to millions."

Mr. DONNELLY. From this testimony, quoted by those who are opposed to the bill, it appears that the land grant is not only sufficient to pay for this road but to equip a line of steamers besides for the China and East India trade, and leave a surplus of millions of dollars. In the presence of these facts, can these gentlemen say this country would not be safe in giving the guarantee asked for?

The bill further proposes to give twenty-five per cent. of the gross receipts of the road as security for the payment of the guaranteed interest. Now, as has already been stated, twenty-five per cent. is equal to that portion of the receipts out of which interest upon the capital stock of the company is paid.

Can it be doubted that the receipts of such a road would be enormous? With a vast and rapidly increasing population at both its extremities, great communities growing up along its whole line, and the trade of the Indies and China passing over it, who can doubt that its receipts would be enormous?

If you doubt this you doubt the future of the country and forget all the teachings of its past.

But it will be said, in answer, if all this is true, why not go and build the road with the land grant alone? I propose to address myself a few moments to that portion of the question.

The value of the land grant, Mr. Speaker, depends on the building of the road. That amount of land with the road built through it is worth every dollar of the estimate put upon it by Mr. Wilson. That land, without the road, is not worth to-day in New York city five cents per acre. You can go all through the western country, in the State of Michigan, in the State of Wisconsin, in the State of Missouri, and in other States of the West, and find millions of acres of land that have been offered time and time again for a shilling an acre without meeting with purchasers. Why is it? Because they are remote from those great works of internal improvement, the railroads, which are only second to nature's great rivers to the development of population. Take the experience of the West. Go back to the year 1856, and you will find land grants given about that time to the State of Michigan, to the State of Wisconsin, and to the State of Minnesota to build lines of railroad within a period of ten years; and yet in the last Congress we were called upon and besought to extend the time yet ten years further in which these roads should be completed. So that in these States, near to the great centers of population, twenty years have been considered essential to the construction of comparatively short lines of railroad by a land grant alone.

Mr. Speaker, if this were a trifling enterprise, if this was a road of fifty or one hundred miles through a comparatively settled country, we might with propriety be told that a land grant alone would build it. But recollect, sir, it is over eighteen hundred miles in length, reaching from the western terminus of the great water chain of lakes to the Pacific ocean, a road through a country unsafe, unsettled, unsurveyed, and almost undiscovered—in many parts a veritable *terra incognita*.

And yet we are told that this land grant which you could not to-day sell for five cents an acre in the eastern markets will build the road. It is impossible. The proposition is absurd.

Something has been said on this floor of the lobby influence of the Central Pacific railroad being exercised among members of this House adversely to this bill. I know not how that may be. I have no knowledge of the subject myself. I know when that road has asked at the hands of the country for additional aid the Northwest has been almost unanimous in its favor; and if there is to-day any party in the lobbies of this House representing that road, and trying to strike down a road running one thousand miles distant from it, then I say, sir, it cannot ask, and should not receive, a single additional favor at the hands of the American people.

Mr. HIGBY. Will the gentleman allow me to say a word?

Mr. DONNELLY. Certainly.

Mr. HIGBY. I have heard from two or three members that the Central Pacific railroad has been trying to get up an influence against this road. If there is anything of the kind the delegation particularly in interest in the Central Pacific railroad is not aware of it. I know that no member of that company has been near me since this bill has been under discussion, and I leave it to the other members of the delegation from California whether they have seen any member of that company in reference to this subject. I think they would first go to the members living in the vicinity and most interested, and not to other members of the House.

Mr. SPALDING. I ask the gentleman to yield to me.

Mr. DONNELLY. With pleasure.

Mr. SPALDING. Mr. Speaker, I have taken somewhat of an active part in opposition to this bill, and I repel the insinuation that any railroad agent has had influence with me or approached me at any time. I challenge proof that any agent of any company has come here to engender opposition to this bill.

Mr. DONNELLY. I do not state it as a fact. I alluded to the statement made yesterday on this floor that such an influence was at work here.

It was very far from my intention to insinuate that the honorable member from California and the honorable member from Ohio, for both of whom I have the highest respect, have been influenced or had any such influence brought to bear upon them. But I do say, sir, that if the statements we have heard are true, and if any such influence has been brought to bear upon this House, it shows a most narrow, base, and illiberal spirit on the part of that Central Pacific road.

We complain, sir, of the monopoly of the Camden and Amboy Railroad Company which seeks to grasp the exclusive jurisdiction of the State of New Jersey. But, sir, this thing dwindles into insignificance compared with the monopoly which would absorb a continent, and which will not endure a brother within a thousand miles of its throne.

For what have we done for that road? Yes, what have we of the Northwest aided to give them? We have virtually donated them \$90,000,000 of bonds of the United States. Not, sir, be it observed, a guarantee of interest alone for twenty years, but a liability incurred by the Government for both principal and interest upon that amount. Nay, more, we have released their road from one half the mortgage given to secure the United States; so that if the United States Government would protect itself, in the case of the Central Pacific railroad by foreclosing upon the mortgage which it holds, it must first pay off that other \$90,000,000, making in all \$180,000,000 of principal that the road has in effect received from us, besides all the accumulated interest on the bonds, not for twenty years, but until the maturity and payment of the same. Why, sir, in sixteen years the interest on those bonds will be equal to the principal; so that of principal and interest we shall have incurred in twenty years a liability in behalf of the Central Pacific railroad equal to \$450,000,000; and yet gentlemen are appalled when we ask for \$56,000,000, distributed during a period of twenty years, with which to accomplish all that which \$450,000,000 is required to accomplish in another latitude.

Why, sir, if it is true that \$56,000,000 of guaranteed interest will build this road, when \$450,000,000 are required to build the Central Pacific railroad, which now drags its slow length along, then I say, sir, it is the plainest of all possible proofs that this is the true route for the construction of a Pacific railroad.

Another objection made to this bill is, that it should have been referred to the Committee on Public Lands. I have the honor to be a member of both the Committee on the Pacific

Railroad and the Committee on Public Lands, and I can say, with no feeling of preference for either of those committees, that it would be grossly unjust to the Committee on the Pacific Railroad to send this bill to the Committee on Public Lands. If this bill is not such a one as should properly go before the Committee on the Pacific Railroad, then that committee has no functions and should be at once abolished; because it is, as its name implies, a Committee on the Pacific Railroad, and if this proposition for the construction of a Pacific railroad is not legitimate business for that committee then it has none. So much for that argument.

Now, Mr. Speaker, a few words as to the illiberal character of the arguments that have been urged here. I am sorry to see distinguished gentlemen for whose ability I have the highest respect protesting against this measure. I regret to see distinguished gentlemen from the great State of Ohio opposing this bill. It is but sixty-five years since emigration began to cross the western boundary line of Pennsylvania. Ohio was then a howling wilderness. The adventurous pioneers who then floated down the Ohio river upon rafts and boats, with their household goods around them, ran the gauntlet of the ambushed savages along its banks. Since that time what a magnificent prospect has been unfolded to the gaze of the world. Then a desolate wilderness, the State of Ohio and the States directly west of it now contain a population of ten million human beings, being one third of the entire population of the United States. Sir, with such wonders wrought in the space of a little more than half a century, I am surprised that gentlemen from the State of Ohio or from any of the western States can stand here and take such narrow and illiberal views.

We have just listened to a speech from the gentleman from Illinois [Mr. FARNSWORTH] against this bill. Let me call his attention to some statistics in reference to his own State. About the year 1836—I think that was the precise year—the United States made an innovation upon its former customs as great as that we now seek to make, by granting a large body of public lands to assist in building the Illinois Central railroad through the heart of that State. Those who have read the history of Illinois, written by one of its former Governors, know very well the condition of things before that road was commenced, and from which it lifted her up: the poverty of the people, the depressed condition of agriculture, the small value of the products of the soil, the trifling reward for human labor, and the slow increase of population. Turn to the census of 1830, and you will find that the population of Illinois was but 157,000. In the year 1860, thirty years later, the population had risen to 1,711,950. Now, mark the contrast. In twenty years before the Illinois Central railroad was built the total growth of the State of Illinois was 145,000. In thirty years subsequent to that year, the growth was 1,554,000.

Why, sir, the taxable property of the State of Illinois is equal to \$1,000,000,000, or one third the entire debt of the United States. The State of Illinois paid in direct tax in 1861 for the support of the Federal Government the sum of \$1,146,000.

Sir, I am amazed that gentlemen who come from the very soil of those States, so blessed by these great works of internal improvement, and with all their marvelous results pressing themselves directly upon their sight, can raise their voices against this measure. It is against reason. Why, sir, if such an illiberal spirit had possessed the men of 1836, Illinois would to-day have scarcely passed the era of coonskin currency, and wheat at ten cents per bushel; and we should have lost that mighty Commonwealth, with nearly two million population, which has given us a Lincoln and a Grant.

Why, sir, we ask aid to build only eighteen hundred miles of railroad, while in the State of Illinois to-day there are three thousand miles

of railroad, all springing from the impulse given to such works by that magnificent enterprise, the Illinois Central railroad.

Look, sir, at the effect this measure will have upon the future of the country through which the road is to pass. In 1860, the total population of that country, including the States and the Territories, was 240,127. In 1865, five years after, it had increased to 550,000. Why, sir, in my own State we have increased in population in spite of the war—war with the savages and war with the rebels—in the face of all obstacles, we have increased from about 170,000 to 300,000; and we, who in 1858 bought our breadstuffs from Illinois, produced last year between eight and ten million bushels wheat. And, sir, may we not look for similar effects along this great line of railroad? I have made a calculation in reference to one of its effects. There have been granted to this company, in the Territories through which the road will pass, forty sections of land per mile, being twenty sections on each side of the road. Be it remembered that the Government retains the alternate sections; so that there are open for settlement forty sections to the mile along the road. Now, does any one doubt that if the road is built that country will settle rapidly? There are four quarter sections, or four farms of one hundred and sixty acres each to each section, and taking the estimate, which holds good throughout the country, of six persons to every head of a family or voter, and we shall have one thousand persons to the mile, or for the whole length of eighteen hundred miles, 1,800,000 persons, and this irrespective of the population of towns and cities and rivers and branch roads tributary to the main road. But if in five years that country has doubled its population without this road, what will its population be when you infuse into it the life that will flow from such an enterprise as this?

Sir, it will quadruple, it will quintuple; it is within bounds to say that in twenty years there will be eight million people along the line of the road. And if they contribute as liberally, as gallantly, as heroically to the defense of this great nation with men and money and intellect as the noble State of Illinois has done, the country will have wisely invested the paltry amount asked for, even though it should lose every dollar of it.

Why, sir, look at the immigration from Europe, which is greater this spring than it has ever been before. This very company are already making contracts, in anticipation of the passage of this bill, with steamship lines to bring to our shores thousands of hardy laborers to help to build this road. Few, if any of them, will return to Europe. They will settle down along the line of this road, and become the nucleus of a new population, the foundation of new Commonwealths.

Why, sir, the London Times complained the other day that the skilled artisans of England, its most valuable workers, are leaving its shores in unparalleled numbers in search of plenty and liberty in the United States. The immigration which has already arrived this spring far exceeds that of any previous year, and we learn that the harbors of England and Ireland are crowded with hundreds of thousands waiting for vessels to carry them to our shores. Sir, war is imminent in Germany, and thousands upon thousands of the thrifty and intelligent people of that country will seek our shores. We do not want them to cluster in our cities. We want to be able to point out to them those great natural savannahs along the Missouri, the Yellowstone, the Columbia, and the Saskatchewan, where they may find all the conditions for prosperity and happiness. From northern Europe, too, a population hardy, industrious, and temperate, the Norwegians and Swedes, the identical stock which overran Europe and overwhelmed the Roman empire and gave shape and feature to the new civilization which was built upon its ruins; these races are seeking our shores in large and steadily increasing numbers.

And now, sir, I ask the Clerk to read the last speech ever made upon earth by our martyred President, Abraham Lincoln; a speech made, sir, upon the very day, ay, sir, upon the very night on which he fell before the bullet of the assassin; a speech made to you, Mr. Speaker, at your last parting with him as you were about to start upon your journey to the Pacific. I want it read by the Clerk and received by this House as the last utterance of that great and good man, and as an indication of the view his liberal intelligence would take to-day, were he alive, of this and all kindred measures.

The Clerk read as follows:

"Mr. COLFAX, I want you to take a message from me to the miners whom you visit. I have very large ideas of the mineral wealth of our nation. I believe it practically inexhaustible. It abounds all over the western country, from the Rocky mountains to the Pacific, and its development has scarcely commenced. During the war, when we were adding a couple of millions of dollars every day to our national debt, I did not care about encouraging the increase in the volume of our precious metals. We had the country to save first. But now that the rebellion is overthrown, and we know pretty nearly the amount of our national debt, the more gold and silver we mine we make the payment of that debt so much the easier. Now," said he, speaking with more emphasis, "I am going to encourage that in every possible way. We shall have hundreds of thousands of disbanded soldiers, and many have feared that their return home in such great numbers might paralyze industry by furnishing suddenly a greater supply of labor than there will be demand for. I am going to try to attract them to the hidden wealth of our mountain ranges, where there is room enough for all. Immigration, which even the war has not stopped, will land upon our shores hundreds of thousands more per year from overcrowded Europe. I intend to point them to the gold and silver that wait for them in the West. Tell the miners for me that I shall promote their interests to the utmost of my ability, because their prosperity is the prosperity of the nation; and," said he, his eye kindling with enthusiasm, "we shall prove in a very few years that we are indeed the treasury of the world."

AMENDMENT OF TERRITORIAL ACTS.

Mr. ASHLEY, of Ohio. Will the gentleman from Minnesota [Mr. DONNELLY] yield to me for a moment, as I must soon leave the Hall on account of indisposition?

Mr. DONNELLY. Certainly; with pleasure.

Mr. ASHLEY. I am instructed by the Committee on Territories to report back House bill No. 508, to amend the organic acts of the Territories of Nebraska, Colorado, Montana, Washington, Idaho, Arizona, Utah, and New Mexico, and ask that the same be printed and recommitted.

No objection was made.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was re-committed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a House joint resolution of the following titles when the Speaker signed the same:

Joint resolution (H. R. No. 67) providing for the reappraisement of the lands described in an act for the relief of William Sawyer and others, of Ohio.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. DONNELLY. There is one other objection that has been urged with peculiar force and eloquence by the distinguished gentleman from Ohio on my right, [Mr. DELANO.] The objection was that we had no right to do this thing, because we would thereby impair the credit of the United States. Now, let me call the attention of the House to the fact that this payment of money is only to be stretched through a period of twenty years; that the liability ends at the expiration of twenty years; that none of it can be paid save only as the road is constructed; and that the whole of it is not to be paid until after the road is entirely completed. If there is any man who can prove to me that the building of this mighty road of eighteen hundred miles in length, the transportation over it of the commerce of China, Japan, and the Indies, the growth of popular States

along its line, and the general prosperity it will infuse into the entire nation will impair the credit of our Government bonds, then indeed, sir, I have read the history of our country to little advantage.

Why, sir, the total product of the mines in the Territories along the line of this road was, during the last year, \$35,000,000. Build this road and it will be \$350,000,000. Why, sir, the discovery of gold in California and the production of \$800,000,000 from its mines saved our people from bankruptcy and has affected the commerce and the prosperity of the whole world. Build this road, give facility of access, and you set to work hundreds of thousands of miners with abundance of machinery, and who can calculate the production of the precious metals that will follow?

I remember when, in the last Congress, we were in almost the darkest hour of our great struggle, when it seemed as if the bark of the nation would go down amid the storm, an honorable and gallant gentleman from the city of New York, sent here by the votes of the Opposition, (Mr. Stebbins,) arose in his place, and in an able speech demonstrated that the resources of the country were equal to the debt it was contracting; and I do not forget that his strongest argument was based upon the history of our growth in the past and the certainty of our continued growth in the future.

Our credit rests not alone upon what we are, but what we are certain to be. Why, sir, if we double the population of this country, we reduce our debt one half. Are we to sit here and, following the niggardly, miserly policy which some gentlemen seem to favor, permit a great wilderness to remain a wilderness for half a century longer, or shall we encourage that tide of emigration which is now breaking all bounds in the Old World and flowing to our shores with an unparalleled abundance?

Sir, I am sorry to see the course taken by the opponents of the bill. We have heard little of real argument. One gentleman has told you that there is no report here, and that we do not know who are the corporators. Sir, that is a matter of no moment. This money cannot be drawn until the road shall be built; and it is of no consequence whatever who builds it. The object is the road, not the corporators. Give us a road, and we care not who owns it, provided only that with a proper national foresight we so guard the enterprise that it shall not pass out of the hands of our own citizens; and for one, I shall cheerfully vote for an amendment to require that two thirds, three fourths, or, if you please, all of the corporators shall be American citizens. That is all that we need ask. We shall not be called upon to pay the money unless the road is built; and if we secure the construction of the road, no gentleman can deny that the money has been well invested.

Why, sir, the hand of nature itself points out the route of this road as the natural highway of the continent. Starting from the mouth of the St. Lawrence and proceeding westward in almost an air line, you pass over the surface of the great lakes, the mightiest system of freshwater navigation in the world. Passing across seven hundred miles from the head of Lake Superior, you strike the Missouri river; and from the head of navigation on that river the distance is but three hundred miles to the head of navigation on the Columbia river. So that, when this company shall have built three hundred miles of road, we shall have built three hundred miles of road we shall have secured the means of steam communication between the Atlantic and the Pacific by way of the Missouri; and for this the Government risks \$750,000 annually. And, building seven hundred miles further to the head of Lake Superior, and we have, with a road of one thousand miles, a very large share of all the results to be derived from a Pacific railroad.

Why, sir, we were told by the gentleman from Ohio, [Mr. DELANO,] at the very moment that he was fighting this bill, that we must prepare

our backs to assume the mighty load of \$2,000,000,000—an amount two thirds as great as our total national debt—yet to be paid to the people of the reconstructed South for the sufferings and losses caused by a war created by themselves. And yet not a farthing is to be expended for the benefit of the great loyal Northwest, which has put forth every exertion to save the Government. Sir, it is our right to demand this measure. It is for us not only a right, but a necessity. This road cannot be built without some such measure to assist it, and the people of the Northwest are entitled to it at the hands of the General Government. The road must be built. If gentlemen are so liberal in their expectations of paying thousands of millions hereafter to the people of the South, certainly they can risk \$50,000,000 upon good security to unite the great lakes with the Pacific ocean.

Mr. Speaker, I now yield five minutes of my time to the gentleman from New York, [Mr. Dodge.]

Mr. DODGE. Mr. Speaker, I propose to examine this question for a very few moments as a business man and with reference to its influence upon the business of the country and the interest which the Government has in the completion of this road.

I presume, sir, that when the Congress of 1864 granted the charter for the construction of this road it was in view of the fact that the completion of the road was calculated to advance the interests of the country. At that time a bargain was made, such as railroad men often make with sections of the country that need the completion of railroads. Those who have been familiar with the construction of railroads know how often, for the sake of securing the building of a single spur or branch through an unimproved and undeveloped portion of the country, those who own the land are ready to come forward and offer to the railroad company one half, or any fair proportion of the land which they own, and which is entirely unmarketable, if the company will build a railroad which will give value to the land.

In this case the Government not only had unproductive land which it was desirous of rendering productive, but it had other objects. It looked to the vast population settling on the Pacific coast. It looked to Oregon, a thousand miles north of San Francisco. It looked to the vast mineral resources of the country, which this road would open to development and settlement. Looking at all this, a bargain was made, which, for the Government, would have been a good bargain if those with whom the bargain was made had had the ability to carry it out.

They came for this charter under the full expectation, probably, that obtaining a charter with such liberal grants of land they would be able to find capitalists with the necessary money to build the road. The moment they presented the charter to men of capital, from whom they must have the money, they saw at once there was to be an expenditure of from twenty to thirty million dollars before this land could be made available. The consequence was, when they went to capitalists here and elsewhere, they failed to find those who were willing to take this immense grant of land, this wild and mountainous land—land, as the gentleman from Minnesota [Mr. DONNELLY] has truly said, entirely unavailable, and which could not be sold to any capitalists in the world for five cents an acre.

They failed to find the capital, but they did not fail to find those who, if they could control this charter, would be glad to make it accessory to great works through the British North American Provinces. They found British capital could be obtained to build this road.

I will say to the House that I have not been interested to the extent of one dollar in the Northern or Central Pacific railroad; but when I found, a few weeks ago, a gentleman with whom I have been acquainted for years, and whom I have looked upon as the best railroad man in the country; when I found that he and his as-

sociates, some of the best railroad men in New England; men whose management have made them what they are; men well known in the moneyed circles of New York and New England—when, I say, a few months ago there was danger that this franchise would fall into the hands of British capitalists, these men met in Boston and looked over the charter; and they decided that something should be done to prevent this charter falling into the hands of British capitalists. They decided they would take this charter from these parties and pay the honorable expenses which had been contracted in preliminary surveys and such other incidental expenses, which every one who has had anything to do with railroads is aware enter into every such arrangement.

The SPEAKER. The gentleman's five minutes have expired.

Mr. DONNELLY. I have agreed to yield five minutes of my time to the gentleman from Connecticut.

Mr. HUBBARD, of Connecticut. I do not propose to detain the House with any extended remarks.

Mr. CONKLING. My colleague would like to continue his remarks, and I hope the gentleman from Connecticut will yield to him for that purpose.

Mr. HUBBARD, of Connecticut. The gentleman can continue his remarks after I have closed.

Mr. CONKLING. That will interrupt his remarks, and I hope he will be permitted to finish them at this time.

Mr. HUBBARD, of Connecticut. I yield for that purpose, with the understanding that I shall have the floor when he is through.

Mr. DODGE. I do not ask for more than five minutes.

Mr. Speaker, I will come directly to the point which I had in view when I rose. I believe the interests of the country demand not only the completion of the Central but the completion of the Northern Pacific railroad. I differ entirely with the remarks of some gentlemen here that the demand upon the Government on the part of the Northern Pacific railroad will shake the credit of the country. I have no hesitation in saying that the aid granted by the American Congress to the Central Pacific railroad has done as much as any other thing to give credit, substantial credit, to Government issues both in our own country and in Europe. Why? They know well there is in the center of this continent an immense deposit of the precious metals, and they know if we build this railroad that instead of producing as we have done in the last ten years \$1,000,000,000, forty years to come we will produce \$2,000,000,000, and will have the precious metals as the basis not only for the circulation of our own country but to pay the bonds not only in this country but in Europe. I believe if it were known today that by some magic the Central Pacific railroad and the Northern Pacific railroad could both be completed in a couple of years and the Government had to pay \$100,000,000 for it, it would strengthen rather than diminish the credit of the country.

These gentlemen that have now taken hold of this thing expect to put their hands in their own pockets down to the elbow and bring out the money that will build this road. They will complete the first twenty-five miles before they ask for the guarantee of a dollar. And when that is done, \$750,000 to \$1,000,000 more. They do not expect simply to spend the money they receive here, and they cannot think of going forward to build the road, relying for their pay upon the proceeds of the sale of lands until the road itself shall be remunerative.

Sir, I believe that the country generally and I believe that members of this Congress honestly feel that this road ought to be built. I know the men in whose hands the enterprise is. They are some of the best railroad men of the country, and it is not for speculation that they have embarked in it. They are just the men that the United States Government can trust to commence it and carry it on to completion.

Mr. HUBBARD, of Connecticut. I desire to say a word or two on the question now before the House, and if I take a wrong view of it, I hope the gentleman from Iowa, [Mr. PRICE,] who reported the bill, will be able to convince me of my error, as his arguments are always candid, clear, and strong.

I am in favor of the construction of the road, warmly in favor of it, and for all the reasons stated by my eloquent friend from Minnesota, [Mr. DONNELLY.] But for the present I am opposed to it. And that the grounds of my opposition may be clearly understood, I will state them.

I deny that Congress has the right or the power to bind the Government as an indorser of a private contract. That is my first objection. We have power to regulate commerce with foreign nations, between the States, and with the Indian tribes, the power to establish post offices and post roads; but this is a private enterprise, as I understand it, and I cannot think that there are any lawyers in this House who have given attention to the subject who will venture to give an opinion that the power to regulate commerce and establish post offices and post roads confers upon Congress the authority to bring the Government in as a guarantor of a private enterprise.

This, then, is my first objection to the bill. I wish I could see my way clear to vote for it, for I am in favor, as I said before, of the construction of this road as warmly as any man can be.

Then I have another objection to the bill. It was not my good fortune to listen to the debate upon this subject yesterday. Perhaps if I had been here my doubts would have been swept away. But, sir, this bill involves an appropriation ultimately. It cannot be questioned that if the Government becomes a guarantor and loses by the failure of the company, then an appropriation must be made, and that, too, without its being considered in Committee of the Whole. It will be necessary for some future Congress to make an appropriation to save the credit and the honor of the nation. So that in this way we are forestalling the action of this House as in Committee of the Whole. I object to our taking action now which will compel some future Congress to make an appropriation to save the credit and the honor of the nation.

[Here the hammer fell.]

The SPEAKER. The gentleman from Minnesota [Mr. DONNELLY] has two minutes of his time left.

Mr. DONNELLY. I yield it to the gentleman from Kentucky, [Mr. SMITH.]

Mr. SMITH. I offer the following amendment—

The SPEAKER. It can only be done by the gentleman from Illinois [Mr. WENTWORTH] withdrawing his motion to refer.

Mr. WENTWORTH. I do not propose to withdraw it, but I propose to offer the amendment myself, in order that the gentleman may get it in.

Mr. SMITH. How do you know you will approve it?

Mr. WENTWORTH. I do not care what it is; if gentlemen want to offer their amendments, I want to let them, so that they may all go to the Committee on Public Lands.

The SPEAKER. The gentleman will have to withdraw the motion to commit and offer the amendment himself.

Mr. WENTWORTH. Can I offer it, and then renew the motion?

The SPEAKER. Yes, sir.

Mr. WENTWORTH. Then I will do it by unanimous consent. [Laughter.]

The Clerk read the amendment, as follows:

At the end of the second section insert the following proviso:

Provided, That the land on the south side of the said railroad, the proceeds of which are also to be pledged to the payment of the interest guaranteed by the Government, shall not be sold except on terms to be agreed to by the Secretary of the Treasury.

Mr. SMITH. I now propose to say what I desire to say.

The SPEAKER. The time yielded to the gentleman has expired. [Laughter.]

Mr. WASHBURN, of Illinois, obtained the floor.

Mr. SMITH. I hope the gentleman from Illinois will yield me ten minutes of his time.

Mr. WASHBURN, of Illinois. I will yield the gentleman the residue of the evening if the House will agree to adjourn after he gets through.

Mr. WENTWORTH. I hope the previous question will not be seconded to-night. A great many members have gone home, not expecting a vote.

The SPEAKER. How much time does the gentleman from Illinois yield to the gentleman from Kentucky?

Mr. WASHBURN, of Illinois. I cannot yield to him at all unless it be the understanding that the House shall adjourn when he concludes. With that understanding I am willing to yield to him indefinitely.

Mr. SPALDING. Will the gentleman from Illinois yield me the floor to allow me to make a motion to lay this bill upon the table?

Mr. WASHBURN, of Illinois. No, sir; I cannot yield the floor for that purpose now. I will proceed with the few remarks I have to make.

I know, Mr. Speaker, the disadvantages under which I undertake to address the House at this late hour of the session, fatigued as it must be by the speeches which have already been made upon this question; but I would not dare to return to my home and face the incorruptible, honest, and patriotic constituency that have so long honored me with their support and confidence if I did not oppose, not only by my vote, but by my voice, feeble and unimportant though it is, this last, greatest, and most gigantic scheme which has ever been brought into the House of Representatives of the United States.

Sir, we had a night session the other night. We did not come here to inaugurate some legislation by which we might relieve our tax-ridden and overburdened constituents. We did not come here for the purpose of considering any bill to reduce their oppressive taxes. But we gathered here, with unwonted alacrity, to vote sixty-nine millions of the people's money out of the public Treasury to a private railroad corporation. And, sir, I consider it a species of good luck that this scheme, so well lobbied and so well planned, was not put through, as it was intended to have been put through, on that night under the screws of the previous question, without any chance being afforded to discuss and expose its enormities.

Sir, I have some little knowledge of the history of this legislation in regard to these railroad matters. I recollect how the supplemental Pacific railroad bill was put through the last Congress. And I desire gentlemen here, who were sent here by their constituents to protect their interests, and who intend to vote for this bill, to look for themselves and see what obligations have already been fastened upon the country in regard to these railroads.

In the first instance, the Pacific railroad bill contained an enormous grant of land from the Missouri river to the Pacific coast; and that grant was made upon the ground that the Central Pacific railroad could be built under it. And yet, at the last session of Congress we passed a supplemental bill doing what? Why, incurring an obligation of \$95,000,000, granting more land in addition to all the land that had been voted theretofore; and further than that, as you will see if you look at the bill, subordinating all our securities to these securities of the railroad company. That bill was passed at a night session, too; and so great was its popularity that we could not even obtain a vote upon it by yeas and nays.

More than that, sir, that Central Pacific Railroad Company, in addition to these grants, has come here this session and demanded of us something like sixty thousand dollars more, I believe, to pay expenses which it is bound to pay itself. Look to the record to see who

voted for or against that Pacific railroad bill, but you will find no vote by yeas and nays; and I can find but few gentlemen here who were members of the last Congress, in view of what is already seen and known in regard to the actions of that company, who are willing to concede that they were for the bill. I know I put myself on the record against it, and by that record I stand to-day. The ground upon which it was urged that we should pass that bill was this: that we must have a Pacific railroad; one Pacific railroad. I was willing to admit that. I was willing to do everything which it was proper for a Representative of the American people to do to secure such an object; but I was unwilling to vote for the extravagant bill proposed. But the cry for the road, without regard to the means, overbore every consideration, and the bill passed.

What then happened? So great a success had been achieved in the passage of that bill, that a short time afterward my distinguished friend from Pennsylvania, [Mr. STEVENS,] brought in another bill from the Committee on the Pacific Railroad, for the construction of the "Northern Pacific railroad." And I recollect well the discussion upon that bill. As it was stated it was an enormous bill; giving a breadth of twenty miles of the public lands on the line of the road in the States, and forty miles of the public lands in all the Territories through which it was proposed the road should pass; granting for the construction of the road a number of acres running up to untold millions; indeed, so great that you can scarcely state it.

And what were the arguments that were used when this bill was brought forward? It took the House by surprise, as I well recollect. But the gentleman from Pennsylvania, with that ability and ingenuity and influence which he so justly exercises, convinced the House that it would be proper to pass the bill for the reason that such a road might be built and that the grant of land that we made was sufficient to build it. And what did my friend from Pennsylvania tell the House in that respect? I beg leave to call his attention to an extract I will read from his speech on that occasion. He said:

"But I have looked a little into this matter, in the fulfillment of my duties as chairman of this committee, and I satisfied myself, first, that these men would build the road without a dollar of subsidy from the Government. I do not call the grant of this land giving away anything."

Notwithstanding all this, when we came to vote upon the bill, the House voted it down by a vote of 55 to 66; and the bill was lost. But afterward my distinguished friend brought in another bill, and under the pressure of the previous question—the proceedings occupying but little more than a column in the Congressional Globe, I think—the bill was finally passed. But that was not done without the House being satisfied, not only by what was said by the gentleman from Pennsylvania, but by what was put into the bill. In reply to the argument that this company, as the Central Pacific Railroad Company has done, would come here and demand some more aid from the Government, he incorporated into the very text of the bill that "no money shall be drawn from the Treasury of the United States to aid in the construction of the Northern Pacific railroad." That was considered a sweetener; that was a pledge to the country by Congress, and a pledge by the company to Congress, that this road would never come here to get anything more from the Government.

Now, how is the fact? By the nineteenth section of that bill there were certain things to be done in two years from the 2d of July, 1864, in order to save the charter; yet since the 2d of July, 1864, now nearly two years, these parties have never, so far as it appears, struck a spade into the ground along the whole line of this proposed road, have never done a day's work on the road, or made any preparation whatever—in fact, have done nothing at all toward commencing the work. Now, I call upon the American people to take notice of what is going on here. These parties come

here under these circumstances and demand of us to guaranty the interest upon \$57,000,000 for twenty years, amounting to the sum of \$69,000,000, which the Government is to assume; and I want also to call the attention of members to the bill itself. I want them to examine its provisions and to discover for themselves its extraordinary provisions. I know something about the manner in which these things are got up, these bills for railroad companies, and for other companies and corporations. It is not what the Government shall exact from the companies, but what the companies will exact from the Government. They make their bills and present them to us and we are to pass them. Now, I ask my distinguished friend from Iowa [Mr. PRICE] to give me his attention while I consider the second section of this bill.

There is a portion of the second section to which I desire to call the attention of members of the House, and particularly my friend from Iowa, [Mr. PRICE.] A great deal has been said to prove that eventually the Government will not be called upon to meet any part of the liability which it is to assume; that ultimately everything will be paid by this company. Now, sir, there is one thing that we know. We know the extent of the obligation which we are to assume; that is certain. Everything else must, of course, be uncertain, so far as reimbursement is concerned. But I ask, where in this bill is there any binding provision upon the part of the company by which the Government shall be certain to receive anything? The obligations are not mutual and dependent; they are all on one side. When this company shall have built a certain amount of the road, then the obligation becomes complete that the Government shall guaranty this stock to a given amount. Then, what does the Government get—I ask the chairman of the committee—what is the absolute certainty that the Government will get anything in return for this?

Mr. PRICE. Mr. Speaker—
Mr. WASHBURN, of Illinois. Let the gentleman reply in his closing argument. I ask, where is the security that this company will ever pay one dollar into the Treasury of the United States?

Mr. PRICE. I would like to answer that question now.

Mr. WASHBURN, of Illinois. No, sir; the gentleman can answer me hereafter. He will have the privilege of closing this debate.

Now, sir, I want gentlemen to look at the nature of what is called the "security" which this company offers. What is the security, I again demand? Does the Government retain its title to the lands? No, because in the original charter it is stipulated that the company shall receive patents for the lands when they shall have finished a certain number of miles of the road. As soon as that is done, the company gets the absolute title to the lands, and the Government has no further control over it.

Now, sir, what does this bill propose that the company shall do? The second section contains the following provision:

And for the further security of the Government for the pledge of the payment of interest as aforesaid, over and above the deposit of twenty-five per cent. of the gross receipts, as above provided, the proceeds of the sales of all the lands granted by the charter of the said company, situated on the southerly side of the line of said railroad, shall, as often as the sales of the same shall be made, be held as security for the payment of the interest so paid by the Government as aforesaid, and shall be deposited in the Treasury of the United States by the treasurer of said company on the 1st days of April and October in each and every year, to be applied by the Secretary of the Treasury to reimburse the Government for any moneys paid for interest as aforesaid, and also as security for the future payment by the Government of any interest accruing under said pledge, until the Government shall be fully reimbursed for the payment of the interest as aforesaid; and to secure the payment of said percentage of the gross receipts, and the deposit of the proceeds of the sales of the public land as before provided, the Secretary of the Treasury of the United States, whenever in his judgment it shall be necessary for the safety of the Government to do so, is hereby empowered to appoint an inspector, who shall have authority to examine the books and accounts of the company, and to direct the application of the said percentage of the gross receipts and the deposit

of the said proceeds of the sales of the public lands as aforesaid.

I ask gentlemen again and again, and in all earnestness and in entire good faith, where is the security which the Government gets? By the terms of the charter the company, as I have stated, when it shall have constructed twenty-five miles of road, receives a patent for the lands, and under this bill the company will have at the same time the interest paid on their stock. That is what the company receives, and the Government has no authority, no power to get a single dime from the company. I ask my friend from Iowa, who in his own private business as a banker is so vigilant in regard to his securities, where is the security which he, as a Representative of his constituents, has demanded from this corporation for the faithful performance of any obligation? The appointment of an "inspector" which is provided to examine the books and accounts of the company is simply a farce. If this bill be passed we are at the mercy of this corporation, and utterly powerless in their hands.

Mr. SMITH. Will the gentleman yield to me for a moment?

Mr. WASHBURN, of Illinois. For what purpose?

Mr. SMITH. That I may ask him a question.

Mr. WASHBURN, of Illinois. Very well.

Mr. SMITH. It is provided, as I understand, that this land shall not inure to the benefit of the company until after a certain number of miles of road are completed. The Secretary of the Treasury is directed to take control of this matter, and the treasurer of the company is required to pay the proceeds into the Treasury of the United States in April and October of each year. Now, I ask whether the road itself is not bound to the Government for that amount of money.

Mr. WASHBURN, of Illinois. No, sir; there is nothing in the existing law and nothing in this bill which furnishes this Government any security of the kind. Yet it was proposed that this section, monstrous as it is, should be put through in this bill.

Now, let gentlemen look a little further. I ask them to look at the third section of the bill.

Mr. SMITH. I call the gentleman's attention to the twenty-seventh line in the second section where there is a provision to reimburse the Government for any moneys paid for interest, and also security for the future payment by the Government of any interest accruing under this pledge until the Government shall be fully reimbursed for the payment of the interest.

Mr. WASHBURN, of Illinois. What security does the gentleman mean? There is no mortgage on the road. These parties get their title to the land after they have built twenty-five miles of the road. They get the guarantee of their stock. You have no power of interference and no power reserved to make them do anything.

Let us look a little further, at the third section, which I denounce in behalf of the people of the Territories through which this road is to pass. I will read it:

SEC. 3. And be it further enacted, That the patents for or lists of lands granted to this company shall convey the fee-simple of said lands to said company in the most full and complete manner, and that none of the lands granted to said company shall be subject to any general or local tax, for any purpose whatever, till after two years from date of said conveyance.

Here, sir, we take a strip of land forty miles wide through these Territories and give every alternate section to this railroad company, we permit them to hold this land indefinitely, for that I undertake to say is the effect, if not the object of this section, free from taxation. Two years after conveyance! It is to prevent the lands being taxed in these new Territories in order to support their governments. I undertake to say that under this bill these lands could be held without being taxed for an indefinite time. If the conveyances are

not made the lands could not be taxed, for it is provided that none of the lands granted to this company shall be subject to any general or local tax for any purpose whatever till after two years from the date of the conveyance.

Mr. STEVENS. Do they not become subject to taxation after the Government conveys them?

Mr. WASHBURN, of Illinois. No, sir. "On none of the lands granted to said company." What does that mean? "None of the land, granted to said company shall be subject to any general or local tax for any purpose whatever." I say there can be no doubt as to the meaning and intention of the act. For one I protest against it in the name of the people of these Territories, against this injustice. The people should have the right to tax all the lands to support their government, maintain their schools, build their public buildings, roads, &c.

Mr. STEVENS. When the gentleman undertakes to say that under this bill this company may hold these lands indefinitely free from taxation he is mistaken. That is not the reading of the bill.

Mr. WASHBURN, of Illinois. My friend from Pennsylvania says that it is not the reading of the bill. Let gentlemen read for themselves, and determine the question between him and myself. I say, in my judgment, nothing can be plainer than that.

Now, let us go a little further. I come next to the fifth section, because I am criticising the bill. It has already been alluded to by my colleague [Mr. WENTWORTH] and others, and it will be necessary for me only to say a word. These parties to whom this munificent grant was made, according to their own showing a grant of land of vast value, vastly more than enough to build the road, were to commence their work under the charter within three years, and yet, as I have already said, up to this time they have not struck a spade into the ground. They undertake, in this indirect way, to declare, what? That the commencement, not of the building of the railroad and telegraph line, but that the commencement of the survey of the railroad and telegraph line shall be considered the commencement of the work.

Mr. STEVENS. The substitute which I have offered provides for one year of extension.

Mr. WASHBURN, of Illinois. That shows what was the nature of this bill as introduced by the Committee on the Pacific Railroad, and which it was determined to put through under the gag of the previous question. Now, since the thing has been opened up for discussion, they propose to change these flagrant and glaring provisions of the bill, which would have become a law if it could have been put through under the previous question. I am speaking of the bill as it came from the committee, and which they undertook to force through the House.

It further provides—

That the said company may from time to time alter and change the location of its line whenever such changes will the better carry out the purposes set forth in the act of incorporation, by filing in the office of the Secretary of the Interior a description of the new line adopted.

Then this is to become a sort of migratory road, which the parties can locate here and there—here a little and there a little, just as they please—allowing us no control whatever, and leaving the country entirely uncertain where the line is to run, making it a foot-ball for all kinds of outrageous speculation along the line where they expect it to be located.

Those are the provisions of this bill which we are called upon to put through. Well, sir, I do not know but the bill will go through this House. But I wish to say a word to gentlemen on this side of the House in regard to this matter of the public expenditures of the country. We are held, and justly held, responsible for these expenditures. We are the majority. The country holds us responsible, and it is just to hold us responsible, and I tell my friends that when we go before the people at the coming election we will have to look at our records.

I tell you that the people will demand of us a strict account of our stewardship when they look at these stupendous appropriations of their money for objects of this character. It may be a matter of very little interest to my distinguished friend from New York, [Mr. DODGE,] or to his constituents, to the men who live in their gilded palaces, and roll in wealth in that magnificent city, how much they have to pay as taxes; but if he will go with me to the humble homes of my constituents, into the lowly cabins which dot the prairies, and see how this taxation is grinding them to the earth, how they groan under the oppression of railroad corporations and monopolies which are devouring their substance, how they have to pay a dollar a pound for their coffee, two dollars for their tea, and thirty to fifty cents a yard for coarse cotton fabrics—when he sees all this and reflects that these railroad monopolies have put such a tariff upon the products of the farmer that he cannot get his corn to market but burns it for fuel, he may think a little differently in regard to taxation.

Sir, all my sympathies are with the masses of the people, the "mudsills" if you may choose to call them such. Sir, they are the men who by their strong arms and patriotic hearts have upheld and sustained our country in our late struggle, and upon whom we must ever rely to support and uphold its honor and glory in all coming time.

Now, let me ask my friends to go home to their constituents on this question. I undertake to say that this proposition placed squarely before the voters of any congressional district of this country would not get a thousand votes. It is well for us to look a little to those constituents and see how they would probably act if this question was to be determined by them.

I saw recently a veto message of Governor Fenton, of New York, in which he used this argument: that the constituents of the members who had passed the measure would, if it were placed before them, refuse to give it their support. And permit me to say, I glory in the spirit which that honest and incorruptible Executive has shown in putting the knife of the veto into the very heart of the schemes of legislation of the State of New York. He deserves a monument, in my judgment, at the hands of the people of his State for resisting legislation oppressive to the great masses of the people. And let me say here that if our Executive would stop vetoing such measures as the Freedmen's Bureau and the civil rights bill, and would reserve his veto for some of these legislative schemes which are likely to pass Congress, he would to that extent receive the gratitude of the American people.

Mr. WENTWORTH. He is going to do it. [Laughter.]

Mr. HENDERSON. Will the gentleman allow me to say that nine tenths of my own congressional district would vote for the bill now under consideration?

Mr. WASHBURN, of Illinois. Well, I think I ought to make an exception in behalf of the gentleman's constituents. It is not strange that they want this railroad, and I bear cheerful testimony to the zeal and ability with which my friend has supported this measure.

A MEMBER. So would the people of Montana.

Mr. WASHBURN, of Illinois. Montana is not a State in the Union, and it never will be so far as my vote is concerned if it requires me to vote away this \$60,000,000. I think the millions of people this side of the mountains have some claims upon Congress as well as the other side. As my colleague [Mr. FARNSWORTH] well said, it would be well for us to get some means of communication across the country between the Mississippi river and the Atlantic. Not only that, but we more directly upon the mighty Father of Waters want the obstructions to that great highway of commerce removed so that our products can go "unvexed to the sea."

You do not do that. You do not provide the means by which the people of Illinois and

of the whole Northwest can send their products to market. We have struggled here year after year, and year after year, to get it done, but we cannot, and our constituents are suffering now as never before because they cannot get their products to market. And yet you have agreed to expend \$95,000,000 to build the Central Pacific railroad in addition to all the land you gave for the purpose; and now you are proposing to give lands and to vote \$69,000,000 to build another Pacific railroad.

Mr. DAWES. The Representatives of Massachusetts did not vote against the measure to which the gentleman referred just now.

Mr. WASHBURNE, of Illinois. Well, Massachusetts has all right, with one or two exceptions. [Laughter.]

Mr. STEVENS. I believe I voted against it, because my friend had taught me that taxation was so heavy that we ought to do nothing to increase it. [Laughter.]

Mr. WASHBURNE, of Illinois. I wish my friend from Pennsylvania would follow my teachings a little oftener. [Laughter.] If he did he would be upon much safer ground than that upon which he is treading now. Sir, I say it is unsafe ground. We have not a moral right to incur this liability of \$69,000,000 for the benefit of a private corporation. As I have said, it is shocking to think that such a measure as this can pass. Now, I think I have shown, in regard to the liability which it is proposed to assume in this bill, that that amount has got to be paid, and paid by the Government of the United States. It is so much added to our national debt. It is nearly three quarters of a hundred million "at one fell swoop," and the bill involving this was brought in here to be put through at an evening session, when the galleries were filled with spectators and lobby members looking down upon us, when our chandeliers were brilliantly lighted, and we were sitting here in our cushioned chairs voting away the people's money with magnificent indifference. There was no report accompanying the bill. My friend from Iowa [Mr. PRICE] did not condescend to put in a report to tell us anything about this measure. No, not a single word. He simply reported a naked bill, and he would have proposed, I presume, that the discussion should be limited to three minutes to each man, and then put the bill through under the previous question.

Now, sir, I do not believe that in any other country but this such legislation would ever be tolerated for a moment; and I do not believe the people of any other country would tolerate men who would thus vote away their money without being duly and fully advised concerning the measure. Sir, the prospect is encouraging. Already, inspired by the prospective success of this scheme, and by the prospect of money running so freely out of the public Treasury, some enterprising person has laid upon our desks to-day a proposition for a subsidy to ocean mail steamers and ocean mail routes. Abundant arguments can undoubtedly be adduced why we should grant two, three, five, or ten millions a year as subsidy to these ocean mail routes.

Mr. THAYER. Will the gentleman from Illinois allow me to ask him a question?

Mr. WASHBURNE, of Illinois. Certainly.

Mr. THAYER. I observe that there is upon our files another House bill, No. 378, which is entitled "A bill to aid in the construction of the Kansas and Neosho Valley railroad," which is to connect the great lakes with the Gulf of Mexico; and I observe that by the fourth section of that bill it is proposed that the United States shall guaranty what are called "construction bonds," bonds of \$1,000, twenty of which are to be issued for every mile of the road. I want to ask the gentleman whether he can give us any information in regard to that bill.

Mr. WASHBURNE, of Illinois. Oh, no; these railroad bills are so numerous, and they come in here so fast, that it would take any one member of this House almost all his time to keep track of them. I know I am kept busy

moving to reconsider, and laying that motion upon the table, the references of these bills to the committees.

Now, Mr. Speaker, I ask where all this is to lead.

Mr. GARFIELD. To the Pacific coast. [Laughter.]

Mr. WASHBURNE, of Illinois. "In a horn!" [Great laughter.] It would lead to the bottom of an almost empty Treasury. That is where it would undoubtedly lead if this bill shall receive our sanction.

Mr. WINDOM. And then what would become of the Illinois ship-canal?

Mr. WASHBURNE, of Illinois. That reminds me that if all the money go in this particular direction there will be none left for practical improvements demanded by the vast interests of the constituents of my friend and the people of the whole Northwest. My friend's constituents, like mine, have been plundered by these corporations and by these monopolies until they have declared that forbearance has ceased to be a virtue in regard to them, and when ninety-nine out of every hundred of my friend's constituents demand a better means of commercial transportation to the East I am surprised that he should be willing to gratify one out of a hundred by taking all the money of the Government to build this Northern Pacific railroad and devising nothing to afford them an outlet east.

Mr. WINDOM. They are emigrating to the West.

Mr. WASHBURNE, of Illinois. And I do not wonder at it. If they do not send Representatives here who will see that their interests are vindicated, who will use their influence to give them a better market for their products, then I do not wonder that they emigrate to the West. [Laughter.] If I were a citizen of the State of Minnesota, I think I should emigrate West in that condition of affairs; although, if I were a citizen of the district of my distinguished friend, I should dislike very much to leave it on his account. [Renewed laughter.]

Mr. WINDOM. I voted for the canal.

Mr. WASHBURNE, of Illinois. I know the gentleman voted for it, and I know he has been an able and vigilant Representative. But I tell him that if such schemes as this are to go through, it is no use for him, or me, or anybody else, to think of getting appropriations for what is so necessary to our people in the Northwest.

Mr. WINDOM. How about the money voted for Brigham Young?

Mr. WASHBURNE, of Illinois. I recollect that episode, when my friend seemed to be so much disturbed about a little money that he said was going to Brigham Young. He seems to have a prejudice against Brigham. I hope Brigham does not interfere with any of his rights, [great laughter,] so that he and I will quit there. My sympathy is in another direction; not in the direction of the gentleman from Minnesota.

But this is mere badinage, neither here nor there, and I am sorry the House has been detained so long about it.

I have seen a document which has been printed and laid upon our tables, styled "An appeal to Congress in behalf of the Northwest." Now, I consider myself a very small part of the Northwest. I believe I have been in the Northwest longer than any member of this House, except my venerable colleague from the Chicago district, [Mr. WESTWORTH.] [Great laughter.] He is *longer* there than I am. [Renewed laughter.]

I have been somewhat identified with the interests of the Northwest, for I have lived there more than half my life. I have seen it grow in power and in magnitude and also in glory, and I have felt a pride in it all. And I conceive that I might have some little share in the guardianship of the interests of the Northwest. But we seem to be left out of consideration in this matter, and the guardianship has gone to other hands.

Here is a pamphlet on this subject put on

our desks. The names of the parties on the back of this book to which I have referred, this "Appeal to Congress in behalf of the Northwest," are paraded on the outside, some of them in very large letters, as the indorsers of this scheme. I find there the name of Lieutenant General Grant, of Major General Meade, and Brevet Major General Ingalls, as well as others, all gentlemen for whom I have the highest respect and esteem.

Mr. DARLING. Will the gentleman allow me to ask him one question?

Mr. WASHBURNE, of Illinois. Yes, sir.

Mr. DARLING. I desire to inquire whether, when the charter of this company was granted two years ago, the gentleman from Illinois did not propose an amendment by which the name of General McClellan was stricken out and the name of General Grant inserted as one of the incorporators.

Mr. WASHBURNE, of Illinois. It is very likely, sir. It was certainly a very excellent change. [Laughter.] If the gentleman feels aggrieved about the matter, I hope he will make his grievance known to his constituents.

Mr. DARLING. No, sir. I agree with the gentleman that it was a very good change.

Mr. WASHBURNE, of Illinois. I do not suppose, sir, that General Grant ever knew that his name was in the list of incorporators. But his letter on this subject has been referred to, and the gentleman from Iowa, though I do not know why he should do so, has appealed to me particularly to listen to what General Grant had said on this subject. Now, sir, the opinions of that distinguished officer on subjects with which he is familiar, and to which he has given his attention, have very great weight with me, though I am not bound to permit his opinion, or that of any other man, to override the convictions of my own judgment. And let me say to my friend that the opinions of General Grant have weight with me because of his notions in regard to these very questions of economy, for I undertake to say that no man has devoted himself more zealously to reducing the expenditures of the Government and diminishing the taxation of the people than has General Grant during the last year.

Mr. PRICE. I think so, too; and that is the reason why I have given General Grant as an authority on this bill.

Mr. WASHBURNE, of Illinois. What does General Grant say? Let me say to my friend from Iowa that I do not know but I indorse every word that General Grant says on the subject. He says:

"In my opinion, too, the United States would receive an additional pecuniary benefit in the construction of this road, by the settlement it would induce along the line of the road, and consequently the less number of troops necessary to secure order and safety."

No doubt it would be a benefit in that way. But he adds:

"How far these benefits should be compensated by the General Government beyond the grant of land already awarded by Congress, I would not pretend to say."

That is the language of General Grant. And he says further:

"I would merely give it as my opinion that the enterprise of constructing the Northern Pacific railroad is one well worth fostering by the General Government, and that such aid could well be afforded as would insure the early prosecution of the work."

Yes, sir, "such aid as would secure the early prosecution of the work." That aid this company already has. So far as regards the propriety of the Government guarantying the stock of this company in the manner proposed, let me say that General Grant himself told me that he declined an indorsement of the policy of a guarantee of the stock by the United States.

Sir, I have spoken on this question with some degree of earnestness, for I have the strongest conviction of the impolicy of the measure. I do not know that there ever came before the House a measure calling forth the more earnest attention of the House than this bill demands. Sir, if we are to aid in this way in the construction of this road, shall we not be called

upon, on the same principle, to aid in the construction of a southern Pacific railroad, so as to have three roads? And with what consistency could we refuse to build that road if we build this? The same argument would apply. We have already committed ourselves to the Central Pacific railroad by the stupendous grant of lands; as well as by assuming a liability of \$95,000,000. We had better get through with that project before assuming any new liabilities. Mr. Speaker, there is an additional suggestion. The Committee of Ways and Means, after working carefully, judiciously, and faithfully, during the whole session, have brought in a bill to reduce the taxes of the country; and, sir, the reduction which will be accomplished by that measure is just about equivalent to the sum we propose to vote away in this bill.

If this bill is to pass, the bill for reducing the taxes ought not to pass, if we expect to pay our obligations and keep up the national credit. Let my friend from Vermont [Mr. MORRILL] move to strike out the enacting clause of his bill, and let the burdens upon the people still go unrelieved in order that this mammoth corporation shall make the Government liable for the vast sum provided in this bill. But I will detain the House no longer, but yield the floor.

Mr. STEVENS obtained the floor.

UNION PACIFIC RAILROAD COMPANY.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States, which, with the accompanying documents, was referred to the Committee on the Pacific Railroad, and ordered to be printed:

EXECUTIVE MANSION,
WASHINGTON, D. C., April 24, 1866.

To the Senate and House of Representatives:

I submit herewith, for the consideration of Congress, the accompanying communication from the Secretary of the Interior in relation to the Union Pacific Railroad Company, eastern division.

It appears that the company were required to complete one hundred miles of their road within three years after their acceptance of the conditions of the original act of Congress. This period expired December 22, 1865. Sixty-two miles had been previously accepted by the Government. Since that date an additional section of twenty-three miles has been completed. Commissioners appointed for that purpose have examined and reported upon it, and an application has been made for its acceptance.

The failure to complete one hundred miles of road within the period prescribed renders it questionable whether the executive officers of the Government are authorized to issue the bonds and patents to which the company would be entitled if this as well as the other requirements of the act had been faithfully observed. This failure may, to some extent, be ascribed to the financial condition of the country incident to the recent civil war. As the company appear to be engaged in the energetic prosecution of their work, and manifest a disposition to comply with the conditions of the grant, I recommend that the time for the completion of this part of the road be extended, and that authority be given for the issue of bonds and patents on account of the section now offered for acceptance, notwithstanding such failure, should the company in other respects be thereunto entitled.

ANDREW JOHNSON.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. WASHBURN, of Illinois. I promised to yield a portion of my time to the gentleman from New Jersey, [Mr. WRIGHT.]

Mr. STEVENS. I think we can arrange the difficulty. Although I intend to go on this evening, the speech of the gentleman from Illinois was filled so full of "chimeras, gorgons, and hydras dire," that my nerves have

been shocked, and I do not care to speak to-night. [Laughter.]

Mr. WASHBURN, of Illinois. Then I hope we will adjourn.

INTERNAL REVENUE BILL.

Mr. LATHAM, by unanimous consent, from the Committee on Printing, reported a resolution that there be printed in pamphlet form, for the use of the members of the House, ten thousand extra copies of the bill to amend the internal revenue laws, reported by the chairman of the Committee of Ways and Means, April 25, 1866; which was read, considered, and agreed to.

IMMIGRATION.

Mr. WASHBURN, of Illinois. Mr. Speaker, the Committee on Commerce have considered and are ready to report a bill in relation to immigration, which has some provisions in regard to over-crowding passenger ships, and also in connection with the cholera. I ask unanimous consent that it shall be considered to-morrow after the pending subject has been disposed of. There was no objection, and it was so ordered.

EQUALIZATION OF SOLDIERS' BOUNTY.

Mr. ELDRIDGE, by unanimous consent, presented the memorial of the Legislature of Wisconsin, for the equalization of soldiers' bounty; which was ordered to be printed, and referred to the Committee on Military Affairs.

NEW MAIL ROUTE.

Mr. ELDRIDGE also presented a memorial for a mail route from Trempealeau to Sumner, in Trempealeau county; which was ordered to be printed, and referred to the Committee on the Post Office and Post Roads.

WISCONSIN SHIP-CANAL.

Mr. ELDRIDGE also presented a memorial in relation to a ship-canal through the State of Wisconsin connecting the Mississippi river with the waters of Lake Michigan; and a memorial for the improvement of the harbor at Superior City, Wisconsin; which were ordered to be printed, and referred to the Committee on Commerce.

SENATOR DOOLITTLE.

Mr. ELDRIDGE also presented joint resolutions of the Legislature of Wisconsin, declaring it to be the duty of Senator DOOLITTLE to resign the office of United States Senator; which were ordered to be printed, and referred to the select joint committee on reconstruction.

EXPENSES OF REVENUE COLLECTION.

On motion of Mr. STEVENS, Senate joint resolution No. 75, making appropriations for expenses of the collection of revenues from customs, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Appropriations.

And then, on motion of Mr. BINGHAM, (at five minutes to five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BOUTWELL: The petition of B. R. Curtis, and others, citizens of Boston, Massachusetts, in reference to the reorganization of the courts of the United States.

By Mr. CULLOM: A petition signed by Bolivar Knickerbocker, surgeon in charge of the United States general hospital at Camp Butler, accompanied by a claim for damages sustained by him in the destruction of the hospital by fire.

By Mr. DAVES: The petition of William O. Bell, and others, physicians of Hampden county, Massachusetts, asking for the exemption of certain medicines from taxation.

By Mr. DELANO: The memorial of Benjamin Blakeney, Samuel N. Jackson, H. A. Greer, and R. P. Catlin, of Cincinnati, praying Congress to grant the public land lying within fifteen miles on either side of the line of the Des Arc, Dardanelle, and Fort Smith railroad, for the construction of said road, in the State of Arkansas.

By Mr. HARDING, of Illinois: The petition of citizens of Prairie City, Illinois, for legislation to regulate insurance in the United States.

By Mr. HOLBROOK: The petition of 200 citizens of northern Idaho, praying for a division of said Territory, and the formation of another Territory in accordance with the memorial passed by the Territorial Legislature.

By Mr. HUBBARD, of West Virginia: The petition of Charles I. Michaelson, asking payment for commissary supplies taken and used by the United States Army.

By Mr. KETCHAM: The petition of inhabitants of Dutchess county, New York, for increased tariff on foreign wool.

By Mr. LARLIN: The petition of Hon. James A. Bell, and others, of Jefferson county, New York, for the transfer of the schooner Mary from a Canadian to an American bottom.

By Mr. MORRIS: The petition of Stephen Hatmaker, Esq., of Milo Center, New York, and others, asking for an increased duty on foreign wool.

By Mr. NIBLACK: The petition of sundry physicians and druggists of New Albany, Indiana, praying that certain medicines may be admitted free of duty.

By Mr. TROWBRIDGE: The petition of A. B. Cudworth, D. A. Button, and 90 others, citizens of Oakland county, Michigan, asking for such action by Congress as shall consolidate the various land grants for railroad purposes to said State and secure the construction of one road from Saginaw to some point on the northwestern boundary of said State.

By Mr. WARD: The petition of James L. Waads and others, prominent members of the bar of Che-mung county, New York, against the Federal judiciary law.

IN SENATE.

FRIDAY, April 27, 1866.

Prayer by Rev. W. B. GILLETTE, of Cumberland, New Jersey.

The Journal of yesterday was read and approved.

ENROLLED BILL SIGNED.

The PRESIDENT *pro tempore* signed the enrolled joint resolution (H. R. No. 67) providing for the reappraisal of the lands described in an act for the relief of William Sawyer and others, of Ohio.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 434) for the relief of Isabella Strubing—to the Committee on Pensions.

A bill (H. R. No. 473) to extend the jurisdiction of the Court of Claims—to the Committee on the Judiciary.

A bill (H. R. No. 475) to facilitate the settlement of the accounts of paymasters of the Army—to the Committee on Military Affairs and the Militia.

INTERNATIONAL OCEAN TELEGRAPH.

The Senate proceeded to consider the amendments of the House of Representatives to the bill (S. No. 26) to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas.

The first amendment was in section two, line three, to strike out the words "during a state of war;" so as to make the section read:

That the said International Ocean Telegraph Company shall at all times give the United States the free use of said cable or cables, through a telegraphic operator of its own selection, to transmit any messages to and from its military, naval, and diplomatic or consular agents.

The next amendment was after the word "agents," in the same section, to insert these words:

And the said company shall keep all its lines open to the public for the transmission, for daily publication, of market and commercial reports and intelligence; and all messages, dispatches, and communications shall be forwarded in the order in which they shall be received; and the said company shall not be permitted to charge and collect for messages transmitted through any of its submarine cables more than the rate of \$3 50 for messages of ten words.

Mr. CHANDLER. I move that the Senate concur in the amendments of the House of Representatives.

Mr. CONNESS. I hope the Senate will not take sudden action on this question, nor at any time concur in the amendment with reference to the rate of charge. The charge here proposed to be allowed for telegraphing during the period of years this exclusive privilege is to last is far greater in proportion to the distance than any made anywhere in the United States. The charges now made for telegraphing across the continent to the Pacific coast from this city amount to about seven dollars and eighty cents, or thereabouts.

Mr. CHANDLER. To avoid discussion I will move that the Senate non-concur in the amendments, and ask for a committee of conference, if the Senator will give way for that purpose.

Mr. CONNESS. I wish to say what I was proceeding to say at the present time.

The PRESIDENT *pro tempore*. The Senator from California is entitled to the floor.

Mr. CONNESS. I shall not occupy long. I was stating, sir, that at the present time the cost of telegraphing from Washington city to the Pacific coast by the Overland Telegraph Company is for every ten words about seven dollars and eighty cents, a very high rate of charge, as we who pay it happen to know from day to day and from hour to hour.

Mr. WILLIAMS. I wish to suggest to the Senator from California that the rate is ten dollars from here to Portland, in Oregon, for every ten words.

Mr. CONNESS. I have no doubt it is, going by California. My purpose, however, was only to call attention to that as a high rate; but this is a higher rate still, three dollars for a distance of a hundred miles, which may be the means of communicating with the European continent, and the only means in case of the continued failure of the northern ocean line. As I understand, the French Government are now taking steps to construct a line by the Cape De Verde islands. My purpose, however, is only to call attention to the fact, and I do not want this question disposed of by being committed to a committee of conference.

Mr. CHANDLER. Well, let it go.

Mr. CONNESS. I hope the honorable Senator will allow me to proceed for a moment. I was about to say that I did not want this question disposed of by being referred to a committee of conference which shall agree to this rate. I notice, now, that the Senator from Ohio [Mr. SHERMAN] is in his seat, who feels some interest in this subject; and whatever course is taken, I desire to call the attention of the Senate to the fact that the rate fixed here is a rate that ought not to be permitted, in my opinion.

Mr. MORRILL. The Senate is undoubtedly sufficiently aware of the opposition to this bill.

Mr. CONNESS. I wish the honorable Senator to understand that I voted for the bill on its passage, and opposition to the bill is not my purpose now; but I am utterly opposed to adding to the exclusive privilege granted to this company the right to make this extraordinary charge.

Mr. MORRILL. Of course I did not propose to refer to the Senator particularly as "the opposition" to which I adverted.

Mr. TRUMBULL. Mr. President—

Mr. MORRILL. Does the Senator wish to interrupt?

Mr. TRUMBULL. I was going to ask the Senator having charge of this bill, who I believe is the Senator from Michigan, as it is going to give rise to debate, to let it go over, and let us proceed with the bill which we had up in the morning hour the day before yesterday, and which was partially discussed and postponed. I hope he will allow that bill to come up as there seems to be a disposition to debate this matter.

Mr. CHANDLER. I do not think it will lead to any debate. It has been thoroughly discussed heretofore.

The PRESIDENT *pro tempore*. Does the Senator from Maine give way?

Mr. MORRILL. Not yet. I do not propose to lose sight of this bill just here if I can help it. This bill had the consideration of the Senate, I believe, fully. The question now is upon concurrence in the amendments of the House of Representatives. I have not the slightest objection to the bill taking the direction which the honorable chairman who has charge of the bill has suggested, and to its going to a committee of conference where it can be adjusted, as the Senator from California, I am disposed to

believe, very properly suggests. The bill, so far as it has been amended by the House of Representatives, has been in derogation of the interests of the corporators. It was thoroughly discussed in the Senate, and I believe the Senate will bear me witness that the judgment of the Senate was favorable to the bill. On this question of the exorbitant character of the charge, I am not now in a position to judge. I am half inclined to believe with the honorable Senator from California that it may be so; but I suggest to him that the power to amend this charter in all particulars, including the subject of charge, is reserved in the bill, so that if the charge is found to be exorbitant hereafter it can be reached.

If it is the judgment of the Senate that this bill ought to pass, why not pass it now? We have had the deliberate judgment of the Senate once on this measure. My friend from Ohio [Mr. SHERMAN] thinks it ought not to pass without consideration. We have had consideration. That Senator is opposed to the bill *in toto*, and the opposition he makes to it, I dare say, is the opposition of the other day renewed. The bill having once had the sanction of the Senate, unless it is obnoxious to some such charge as the honorable Senator from California raises in this one particular, I object to its receiving the go-by, and I insist that its friends ought to give it a direction which will facilitate its passage at an early day. It should not be forgotten that it was said on a former occasion that time was essential. I suggest, therefore, to the honorable Senator from California to allow the bill to take the direction suggested by the chairman of the Committee on Commerce.

Mr. CONNESS. Will the Senator permit me to interrupt him for a moment?

Mr. MORRILL. Certainly.

Mr. CONNESS. My object is not to delay the passage of the bill. I finally consented to vote for it in the Senate when it passed. My opposition to it ceased then, as a matter of course. But I ask the Senator, in whose judgment I have great confidence, whether, in his opinion, the limit fixed by the amendment of the House of Representatives to the company's right to charge does not preclude us from acting on that subject hereafter under the general clause placed in the bill by the Senate originally reserving to Congress the right to alter and amend it. My impression was that it would have that effect as to that point. If it does not, as a matter of course the naming of the amount to be charged in the House amendment does not make the bill any more obnoxious than it was before, because as I voted for it they had a right to make what charge they pleased. But it occurred to me that if we agreed to the amendment of the House fixing this sum as the limit of the charge to be made by this company it would bind us hereafter in any action that we might propose to take on this subject.

Mr. MORRILL. I think the honorable Senator will see, on a moment's reflection, that it cannot by any possibility have that effect. The provision is simply that they shall not charge exceeding that amount, and of course, within that limit, it will be under the control of Congress.

Mr. CHANDLER. The only change made by the House was, first, making this line free to the Government of the United States in time of peace and war; second, putting in a proviso that they should not charge over so much for ten words, because the House were not willing to give to this company the great scope which they deemed to be contained in the original bill. But the same powers are reserved in the bill now that were in it before it went to the House. The amendments that have been inserted are simply against the company. I hope the vote will be taken on concurring in the amendments.

Mr. SPRAGUE. I trust that this measure will go back to the Committee on Commerce and receive more consideration than it has already received. The Senator from Missouri [Mr. BROWN] has suggested a measure to the

Senate whereby the United States will take the exclusive control of the telegraphing of this country. The Senator from Oregon and the Senator from California feel the full force and weight of the exorbitant demands of these great monopolies, and the business of the country every day suffers from the exclusiveness of this great interest. It strikes me that there should be an amendment to this bill providing that the privileges and the rights granted by it shall cease when the United States shall have taken possession, as they have a right to do undoubtedly under the Constitution, of the telegraphing of the country. Give us a clause to that effect; amend your bill; let us understand that the policy of the country is to prevent those exclusive monopolies which now embarrass the business interests of the country.

Mr. SHERMAN. The Senator from Maine has very correctly stated that I was opposed to the passage of this bill when it was under consideration before, and that I have not changed my mind. I have no objection to the character of the company who undertake this enterprise. On the other hand, I think the gentlemen engaged in it are men of capacity and have ample means to execute their purpose. My idea is that within a very short time—I hope within a year or two—there will be an entire revolution in the system of telegraphing. As it is now, it is only a luxury for the rich. A dispatch of ten words to my own State costs \$1 75 to the citizen who sends it, while probably the real cost to the companies does not exceed from one to two or three cents a word at the outside. The receipts for telegraphing in the United States annually are probably equal to the entire cost of all the telegraphic lines. That this system cannot continue, that some change must take place soon, I believe every man engaged in business is thoroughly convinced. Private enterprises will, even at a disadvantage, compete with existing lines, unless they are finally bought up as has been the case in very many instances. There must be some way of reducing the cost of what is now an absolute necessity in modern existence, telegraphing. I have no doubt that the same history of progress in the reduction of telegraphic charges will exist and continue for a few years to come as we had in the post office system. Within my recollection, a letter from New York to Ohio cost twenty-five cents. It is now reduced to three cents, and that is the price for conveying a letter to California. I have no doubt the same system will exist as to telegraphing. It is the cheapest mode of transit, and requires the least capital of any mode of transportation. Railroads, stage-coaches, turnpikes, canals, all require a vast outlay of capital, but telegraphing is the cheapest possible mode of communication; the least capital is required to be employed for the length of line, and therefore the price of telegraphing will gradually go down, with the improvements of the age, with competition, probably with the assumption of telegraphing by the Government of the United States. I have no doubt that that will occur in a short time.

My objection to this bill was not to the enterprise itself—for I was in favor of it—but it was to the monopoly character of the project, the granting to a private corporation in the State of New York of a sole privilege. It is true it was answered that this was somewhat modified by the right of Congress to repeal or change the law; but it seems to me that it is always a difficult thing to change such a law. After men have embarked in an enterprise of that kind, there is always an appeal, at least, to our magnanimity and liberality, not to deprive them of a franchise under which they have invested their money. I do not know whether any cases have occurred where Congress have changed or modified a private charter of this kind. There may be many such cases, but I know of none; and I am sure it will be very difficult indeed to change and modify this law.

The only objection I had to the bill was to the exclusive character given to this corpora-

tion; but that objection is made worse now, by one of the amendments proposed by the House of Representatives. By that amendment they have the right—that is the limit, and they will undoubtedly exercise it—to charge \$3 50 for ten words, from Florida to Cuba—one hundred miles of submarine telegraph. Gentlemen are well informed as to the cost of this submarine telegraph; how much it will cost per mile. It is manufactured in the United States, and an estimate of the cost can be readily obtained.

It should be remembered that this line may become the only mode of communicating with Europe. It is probably the most feasible line that is now proposed; and if the projected line between Ireland and Newfoundland should fail again this summer, this probably will be the only interoceanic telegraph. We know, also, that the French Government are now engaged in pressing their lines along the African coast, and expect to connect the French possessions in the West Indies by oceanic telegraphs, and then this line would connect with those. In view of the importance of this enterprise, it seemed to me that it was not wise to grant this sole and exclusive privilege, and especially to put a limitation which is an invitation to charge \$3 50 for every message sent across one hundred miles. As a matter of course the cost of the message from the connecting lines to the southern coast of Florida will be added to the cost of the message from Florida across to Havana; but the cost of communication will be in the hands of a single company without any rivalry or competition. It seems to me this ought not to be granted. I therefore felt myself justified in opposing this measure in all its various stages, and I think now the best disposition will be to send it to the committee that has charge of this matter.

I will state that that committee is now pursuing its investigations. It is in correspondence with all the existing companies with a view to get the basis of the cost and expenses of communicating telegraphic information. I do not, however, wish to have this referred to that committee, although I believe it would be better to let it lie on the table until the committee report and the subject is disposed of. I think that if the majority of the Senate are still of opinion that this bill ought to pass, the better way would be to have a committee of conference and have, if possible, a reduction of the maximum rate.

Mr. MORRILL. I do not know but that the good time is coming, and very suddenly, when the Government will take possession of all the telegraphs in this country; yet I am a little incredulous on that subject and do not see exactly how it is to be done. I suppose we shall have the millennium prophesied some time; but the question is whether we had better suspend all enterprise on these big hopes. It is this kind of enterprise that heralds the millennium if ever it comes; precisely this.

Now, Mr. President, I was not mistaken, I think, in my suggestion as to the opposition of my honorable friend from Ohio; and I cannot understand exactly how it is that a bill has been made obnoxious by an amendment which is itself a limitation on the power of the company. When this bill passed the Senate the power to charge was unlimited and unrestricted. The House of Representatives have limited the power of the company to charge beyond a specific sum. Now, I do not understand the force of the argument which renders that obnoxious to the charge of being exorbitant. It seems to me it is a limitation, to say the least of it; and to that extent, as I said when I was up before, it is against the interest of the company.

I do not wish to protract debate, and do not intend to do so, but I simply repeat that the question when up before on its merits was discussed at large and the judgment of the Senate was that the bill ought to pass. All that has taken place in the other House, I submit, does not change the attitude of the bill as it was before the Senate on its passage. It has all been in restraint of the interests and the rights

of the corporators. I submit, that having been the judgment of the Senate, whether the concurrence in this action, as moved by the chairman of the Committee on Commerce, who has charge of this bill, is not reasonable.

Mr. DOOLITTLE. I should like to inquire of the honorable Senator from Maine whether this amendment coming from the House of Representatives, fixing the price of messages at \$3 50, is in such form as to prevent Congress reducing that price hereafter if they think it necessary to do so.

Mr. MORRILL. It does not change the character of the bill in that respect, except that it prevents them from charging beyond that price, leaving the bill entirely within the control of Congress.

Mr. DOOLITTLE. The question in my mind is whether, if Congress assumes to specify a given sum, Congress may not feel itself bound by that, so as not to interfere; whether the amendment ought not to be amended so as to embrace in direct terms a provision that Congress retains the power at any time to reduce this price if it is regarded as exorbitant.

Mr. MORRILL. Congress now retains in its hands the power to alter, amend, or repeal the act; and of course that necessarily includes the power to change this provision.

Mr. DOOLITTLE. I know it was so argued, and perhaps that is the true construction; and yet it would do no harm whatever, and would relieve it of all possible doubt, to insert the words that Congress should have power at any time to fix the rates if these should appear to be exorbitant. I hope it will go to a committee of conference, and they can arrange it between themselves.

The PRESIDENT *pro tempore*. The Chair will put the question on the two amendments together unless a division is asked for.

Mr. MORRILL. I wish to say to the honorable chairman who has charge of this bill that I have not the slightest objection that it should go to a committee of conference, as I understood him to suggest.

Mr. CHANDLER. That was to avoid debate. I am content to take the bill as it is, or let it go to a committee of conference. The amendments have had the approbation of the Committee on Commerce. I think we had better vote on the question now.

Mr. CLARK. I suggest to the Senator from Michigan that, in my judgment, it had better go to a committee of conference. It may be that this limit is right; it may be that it is not right. It may be that it is too high. The Postmaster General has promised the committee on this subject to furnish them with some information in regard to the price of telegraphing, and in regard to the investment of capital, and the rates at which it may be done. I think, perhaps, that if we have a committee of conference they can confer, and determine what is best to be done, for I have no idea but that the chairman of the Committee on Commerce desires to have it at the proper rate, and they can act, perhaps, more intelligently in that way than if we at once concur in the amendments.

Mr. CHANDLER. I withdraw my motion to concur, and move that the Senate non-concur in the amendments, and ask for a committee of conference.

Mr. SPRAGUE. I have but one remark to make on this question, and that is with reference to a suggestion which fell from the Senator from Maine as to the millennium. If the millennium can be as easily reached as the establishment by the Government of the United States of telegraph lines between its post offices, I confess that it will be very easily reached. It seems to me as much the province of the Government of the United States to establish lines of telegraph between its various post offices throughout the country as it is to establish the post offices themselves.

The PRESIDENT *pro tempore*. The motion now is that the Senate non-concur in the amendments proposed to this bill by the House of Representatives, and ask a conference with

that House on the disagreeing votes of the two Houses.

The motion was agreed to.

The PRESIDENT *pro tempore*. How shall the committee be appointed?

Several SENATORS. By the Chair.

By unanimous consent the President *pro tempore* was authorized to appoint the committee; and Messrs. CHANDLER, MORRILL, and CONNEX were appointed the committee on the part of the Senate.

PETITIONS AND MEMORIALS.

Mr. JOHNSON presented the memorial of Joshua Jones, of St. Mary's county, Maryland, claiming damages for property of his, of which forcible possession is alleged to have been taken by the Freedmen's Bureau; which was referred to the Committee on Claims.

Mr. HENDERSON presented additional papers in relation to the claim of Washington Crosland for compensation for property belonging to him situated in St. Louis, Missouri, which was seized by order of General John C. Frémont, and used for Government purposes; which were referred to the Committee on Claims.

REPORTS FROM COMMITTEES.

Mr. HOWARD, from the Committee on the Pacific Railroad, to whom were referred various petitions praying for the construction of a railroad from the south line of Kansas to the north line of Texas, and also for a railroad across the Indian Territory from the south line of Kansas to Red river, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a message from the President of the United States, transmitting a memorial of the Legislative Assembly of the Territory of Colorado in relation to the location of the Pacific railroad, asked to be discharged from its further consideration; which was agreed to.

Mr. CLARK, from the Committee on Claims, to whom was referred the petition of Mary Johnson, praying for compensation for property destroyed by the rebels under the command of General Longstreet, near Suffolk, Virginia, reported adversely thereon.

Mr. KIRKWOOD, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, reported it with amendments.

BILL INTRODUCED.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 290) to incorporate the National Life and Accident Insurance Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

USE OF HALL.

Mr. WILSON. I offer the following resolution, and ask for its present consideration:

Resolved, That the use of the Senate Chamber be granted to James E. Murdoch, Esq., on Thursday evening, May 3, for the purpose of giving a reading for the benefit of the fair to be held in this city for the National Home for the orphans of soldiers and sailors.

I will simply say that there is being held at the present time a fair for the benefit of the orphans of soldiers and sailors. Mr. Murdoch, who has devoted almost all his time during the war to the cause of the soldiers, has offered to give a reading for the benefit of their children. If such a privilege is ever granted for any purpose it ought certainly to be for this.

Mr. RIDDLE. I am in favor of the object of the resolution of the Senator from Massachusetts, but—

The PRESIDENT *pro tempore*. The Chair will inquire if there be any objection to the present consideration of the resolution.

Mr. RIDDLE. I object, then.

The PRESIDENT *pro tempore*. Objection being made, the resolution lies over.

NEW YORK AND MONTANA IRON COMPANY.

Mr. WADE. I move now to take up Senate bill No. 203, the unfinished business of the morning hour of yesterday.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 203) to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in market; the pending question being on the amendment of Mr. POMEROY to the first section of the amendment reported as a substitute for the bill by the Committee on Public Lands.

Mr. POMEROY. I desire to withdraw the amendment that I moved yesterday, which was to add the proviso at the end of the original bill to the first section of the substitute reported by the committee, and to offer another proposition which will better secure the object I have in view. No action having been taken upon it, I suppose it is competent for me to withdraw it, which I now do, and in lieu of it I propose to insert in the tenth line of the first section of the substitute, after the word "purposes" the words "or in any other preëmption or homestead settlement;" my object being simply to make secure any settlement that may have been made against the location to be made by this company.

Mr. WADE. If the Senator will allow me, I will state that the Senator from California [Mr. CONNESS] has shown me an amendment that he has prepared which I believe covers the whole ground, and to which I have no objection.

Mr. POMEROY. Very well; I will withdraw my amendment and listen to the amendment of the Senator from California.

The PRESIDENT *pro tempore*. The Senator from Kansas withdraws his amendment to the amendment of the committee.

Mr. CONNESS. I have prepared a few amendments to this bill with a view of perfecting it or making it unobjectionable, and at the same time, of course, carrying out the purposes that its friends have in view. In the thirteenth line of the first section of the amendment of the Committee on Public Lands, I propose to insert after the word "be" the words "made under regulations from and," and in the fourteenth line, to strike out the words "Secretary of the Interior" and insert "Commissioner of the General Land Office;" so that the clause will read:

Three of which sections may be selected of lands containing iron ore and coal, and the remaining sections of timber lands near the said selections containing ore and coal, which selections shall be made under regulations from, and subject to the approval of, the Commissioner of the General Land Office.

That is the only amendment I propose to that section. The amendment reconciles it to the practice of the Land Office.

Mr. WADE. I do not think there is any objection to that amendment; but the Senator from Indiana [Mr. HENDRICKS] has had great experience on this subject, and I should rely more on his judgment than on my own, in regard to this amendment.

Mr. HENDRICKS. My only objection is to the latter part of the amendment, inserting "Commissioner of the General Land Office" instead of the "Secretary of the Interior." It has been the custom to submit the question of important selections of the public lands to the Secretary of the Interior. Railroad lands, swamp lands, and other selections are submitted to his judgment as the head of the Department. Of course, before they go to him they pass the supervision of the General Land Office, and the bill as it now stands secures the examination both of the Commissioner and of the Secretary. I do not see any propriety in cutting off the Secretary's revision of the judgment of the Commissioner, as is customary on all such questions. I do not object to the first part of the amendment, and therefore shall ask for a separate vote on it.

The PRESIDENT *pro tempore*. The question will be taken on each amendment proposed separately. The question now is on the

amendment of the Senator from California, to insert in the thirteenth line of the first section of the amendment reported by the committee, after the word "be," the words "made under regulations from and."

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from California, to strike out in the fourteenth line of the amendment of the committee the words "Secretary of the Interior," and to insert "Commissioner of the General Land Office."

Mr. CONNESS. If there be any objection to that amendment I have no objection to its withdrawal.

Mr. WADE. I hope the Senator will withdraw it.

The PRESIDENT *pro tempore*. That amendment is withdrawn.

Mr. CONNESS. I propose to insert at the end of the second section of the amendment of the committee the words "for the period of thirty days;" so that it will read:

SEC. 2. And be it further enacted, That the said company may acquire immediate possession thereof on the selection of the said lands by permanently marking their boundaries and publishing a description thereof in any two newspapers of general circulation in the said Territory for the period of thirty days.

Mr. WADE. There is no objection to that. The amendment to the amendment was agreed to.

Mr. CONNESS. I now propose to amend the fourth section of the amendment of the committee by striking out all after the word "coal," at the end of the second line, in the following words:

Or to any lands held by right of possession, or by any other title, except Indian title, valid at the time of the selection of the said lands.

And to insert in lieu thereof:

Nor to any lands lying within any grant for railroad purposes heretofore made, nor to any lands held by possession for mining or agricultural purposes, nor, should mines of the precious metals be hereafter discovered upon said lands, shall any citizen of the United States be prevented from entering thereon and mining for the same, nor from using, free of charge, so much timber as shall be necessary for such mining purposes.

So that the section will read;

SEC. 4. And be it further enacted, That the said patents shall convey no title to any mineral lands except iron and coal, nor to any lands lying within any grant for railroad purposes heretofore made, &c.

Mr. WADE. On reflection I am disposed to think that that is an unnecessary precaution. It will certainly throw a cloud over the title that this company will acquire by purchase from the Government. Of course they will have no right to any gold that may be discovered on the land by anybody, for under this bill they have no right to take gold and silver or anything but iron and coal. But if persons are to be permitted to go searching upon that land and they should find gold somewhere upon it, and are then to be permitted to cut the timber belonging to this company, it would render the whole grant very uncertain. I think when we expressly reserve in the bill all mines except those of iron and coal, sufficient caution has been had. I think it is anticipating what will not probably take place, and it will throw, as I said before, a cloud over the title that this company will acquire; because, after they have purchased and taken possession of the land, it will reserve not only the mines upon that land, but will reserve the privilege to strangers of going on there and using the timber on the land of this company to work the mines that may be discovered. I think there is no necessity for that.

And here I desire to say that this bill has been submitted to the most critical and searching examination of the Committee on Public Lands, and especially of the gentleman on that committee most competent to make this examination, who himself, perhaps, is as much a master of this whole subject as any gentleman in the Union. I think we have submitted to about amendments enough. I am afraid this amendment will involve the title, or cloud it so

that it may, perhaps, defeat the grant. I think the bill is sufficiently clear without this amendment.

Mr. JOHNSON. I suppose the objection of the honorable member from Ohio is to the latter part of the amendment, not to the first part.

Mr. CONNESS. Will the Senator permit me to explain the amendment?

Mr. JOHNSON. Certainly.

Mr. CONNESS. The question involved here is whether you will grant twenty miles of land in a mining region which may contain the most valuable mines of gold and silver, or whether you will not. I know there is an exception made in the bill of non-conveyance of lands containing these precious metals; but it is impossible, as this company are authorized to go into the forests, into a new country, to determine before they obtain the title to the lands, whether valuable mines of the precious metals are contained in these lands or not. They will therefore get the title and the patent of the United States to the lands before those discoveries can be made. Suppose that by the bill, although the patents issue, such lands are reserved as shall be found to contain valuable mines; I apprehend that without a provision, as a condition of the title, allowing persons to enter those lands, no person would have the right to go on them, and the mines would be practically reserved to and subject to the will of the company to whom we give title to the land.

The next point is as to the use of such timber as shall be necessary to work those mines. In the first place, you will remember that all the timber on these twenty miles of land goes with the land to these parties. It is said they want the timber in order to work the iron. So they do; but they are not prevented by my amendment from having all the timber that they will require. But if the lands be valuable for the purpose for which we are about to make this grant, as to give this company the right to make this selection and purchase, certainly the lands are also valuable if they shall be found to contain valuable mines of the precious metals to the public; but they will be valueless unless they are permitted to be worked, and they cannot be worked without timber.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order.

Mr. CONNESS. Let it lie over informally.

Mr. WADE. I hope that the special order will be passed over informally, so that we may be permitted to take a vote on this bill.

Mr. CONNESS. I shall only occupy a few moments in explaining this amendment.

The PRESIDENT *pro tempore*. By common consent, the special order may be laid aside if there be no objection.

Mr. HENDRICKS. Let it be laid aside informally, so that it shall be the business in order as soon as this bill is disposed of.

The PRESIDENT *pro tempore*. No objection being made, that will be considered as the understanding of the Senate. The Chair hears no objection.

Mr. CONNESS. If you shall subject all the timber upon this twenty miles of land to the will of the parties to whom you now convey the land, you practically subject the valuable mines that may be discovered there also to their use; for they may put such a price upon the timber as will make it utterly impracticable for anybody but themselves to work the mines, and it may be totally impracticable to obtain timber from the contiguous territory; for twenty miles of timber may embrace all that there may be within a very large district; and thus we come back to the original proposition. If the purpose is to make the grant complete, then I have nothing to say, because the Senate will understand when they vote that they vote upon that proposition. If the purpose is really to reserve the mines, remembering at the same time that the owners of this land and this iron-working company will have a right to become miners them-

selves, they may enter and discover the mines, and they may retain possession of those mines, and the condition that is imposed here may inure to them, so that there is no conflict if that should occur; but if other citizens are to be permitted to enter, to explore and ascertain whether valuable mines exist there or not, I submit that the right to use as much timber as is necessary to carry on their purpose is an absolute necessity to their occupancy. I submit that to any Senator who is acquainted with that section of the country and its business.

Mr. WADE. I shall occupy but a moment of time. I might apply to this case the old maxim, "If the sky should fall we may catch larks." Now, sir, this proposition is as broad as it is long. The gentleman thinks that by probability a gold mine may be discovered there valuable to work, and if it is, he wants the timber that these parties purchase subjected to the purpose of working those mines. It may be perhaps as possible in the future that such a mine will be discovered, and that they will want all our timber and thus destroy our iron-works, as it will be that we shall deprive the gold miner of the opportunity of discovering a mine and prevent him from using the timber to work it. The cases are altogether too remote. They escaped the searching investigation of that most competent committee that reported this bill, and I hardly think they would wish to attach to it a provision to anticipate against a contingency so remote and so unlikely to occur. On the one hand it is as likely to affect us who ask this grant and propose to pay for it, as it is that the discovery will be made by somebody else, and that they will want the use of our timber. I think it is too remote altogether, and it is subjecting the grant to such contingencies as will render it less valuable and less secure, and make men hesitate to embark in it, for it must be remembered that in order to go on with this great work of manufacturing iron in this distant Territory a great capital must be laid out there in the start. It will require a very large capital to start the work, and capitalists are very apt to be frightened out of their propriety if they see such unusual conditions attached to the grant. They do not like to run the hazard. That is the principal objection that I have to it. The danger is certainly so remote that the gentleman cannot suppose that it is necessary to anticipate and provide against a contingency so unlikely to occur.

Mr. CONNESS. The danger and the objection to making such a grant as this in a country entirely new is, that nobody knows what that country contains. I submit to the honorable Senator from Ohio that this is not by any means a remote condition, because you are to begin at the beginning of it. Persons enter upon that land, knowing nothing of what it contains, or what are in its bowels. I am not strenuous about the proposition that I have submitted; but I feel it my duty to explain it to the Senate, so that they may vote understandingly upon it. It is a matter of very little consequence to me whether you grant to A B twenty miles of land in the midst of one of your Territories or not. I have always been of the opinion that the title should go to the mines; and if the purpose here is to convey the title to the mines, all right, let it be done. But I submit that if that is not the purpose, and you are going to grant twenty miles of land for the purpose of working iron, and you intend to reserve to your people the working of the mines of precious metals that may be discovered there, you should reserve to them the reasonable use of the mines and of the working of the mines. The one is not worth anything without the other. My purpose is not to embarrass this company, nor to throw a cloud upon their property.

But the honorable Senator replies to me twice, thrice, that a committee have examined the bill. So they have. I submit the remarks I have made to that committee, or to the mem-

bers of it here. I care nothing about whether this amendment is adopted or not. I live in the very midst of a country involving the conditions that I discuss, and I have seen them from day to day, for years of my life. We have appended the same condition to our Pacific railroad grants. We granted to the Pacific railroad all the timber upon the even sections and the land and the timber upon the odd sections; but you will find that we incorporated an amendment, in 1864, in the grant, reserving against the railroad company and former grant of the timber as much of that timber as was necessary for the operations of the miners upon the even sections where mines may be discovered, because the reservation of the timber is as necessary as the right to work the mine itself. This amendment, therefore, is not applying a new condition, but carrying out a policy that has been adopted, and a policy that every man who lives in a mining region understands the necessity of.

Mr. KIRKWOOD. I should like to make a suggestion to the Senator from California. I understand very well the propriety of the reservation in regard to the lands falling within the line of the Pacific railroad. They need the timber for ties; but in this case this land, except where iron ore itself exists, is needed for the purpose of producing coal to work the ore. I understand from the Senator from California that the necessity for timber in mines is for no other purpose than that of cropping—I do not know the technical name.

Mr. CONNESS. Timbering their tunnels and shafts.

Mr. KIRKWOOD. For timbering their tunnels and shafts. I apprehend the amendment would not be objectionable if it were confined to that; but under this amendment extensive steam-works and all that kind of thing may be set up there and the timber taken off this land to run those steam-works.

Mr. HENDRICKS. If the Senator from Iowa will yield to me for one moment, I desire to suggest to the Senator from California that I cannot conceive that his amendment is necessary for the purposes that he desires. The bill already declares that no mineral lands other than coal or iron shall be granted; and it provides that the title which shall be issued shall not convey any lands containing the precious metals. Now, the company by the patent get no title to any land except of the character intended to be granted. They cannot take more than that. They do not become the owners, by virtue of the patent, of any lands except of the classes described. The effect of the amendment proposed is to give the right to take timber on land that is not of the character described. If you adopt this amendment, it makes the title uncertain as far as they have a right to acquire. Therefore, I think, if we intend to pass this bill, we had better stand by the language of the committee.

Mr. CONNESS. I find a good deal of objection to this amendment. As I said before, my purpose is not to oppose one tittle of interference or impediment against this bill. I am quite aware of the practical necessity of the suggestion that I have made. At the same time, having placed my views on the subject before the Senate, I am perfectly willing to withdraw the amendment. It is, as I stated before, a matter of no consequence to me.

The PRESIDENT *pro tempore*. The amendment is withdrawn.

Mr. McDOUGALL. Mr. President, it is my opinion that the amendment proposed by the Senator, my colleague, would be a well-advised amendment if the bill required it; but I do not think it exactly germane to the bill. It is my judgment that the whole proposition is what may be denominated as special legislation. I do not understand why "the New York and Montana Iron Mining and Manufacturing Company" should "be authorized within one year after the approval of this act" to select tracts of land in the Territory of Montana "which, in the aggregate, shall not exceed twenty sections." Such a thing has never been done in

this country to develop any such interest. The persons who discover iron—and this is the age of iron—are protected sufficiently by the present law. Those who discover gold or silver or copper, or any other valuable metal, are protected sufficiently by the present law. That to a company incorporated there should be granted twenty sections, is a proposition the meaning of which I can only understand in this way, that it is a matter of speculation. The men of the West, where I inhabit, have been too much disturbed by speculation. Individual enterprise has developed all the West, from the Mississippi valley to the mountains and to my own coast. We have not sought the support of organizations arranged in New York, which is my own native State and of which I speak with respect. All these things have been achieved by individual enterprise, as they have combined themselves; and companies organized here for speculative purposes have no right to any such franchise or any such grant from this Government. To pass such an act as this would be an evil precedent. It should not be incorporated in our laws. I speak to the main question of the bill and to those who have considered what the office and business of legislators is. Those who are ignorant should not undertake to speak of countries which they never inhabited and about which they know nothing. Those who think should pause. There are but few here—I know none but my colleague and myself in this Senate Chamber and the Senators from Nevada—who know anything about the country concerning which it is now proposed to legislate. I cannot account for the bill except as a matter of personal speculation against the policy of the country and against its true interest.

Mr. WILLIAMS. Mr. President, I desire to make one or two suggestions as to this bill with a view of eliciting some information. My attention has not been called to it until this morning. I find that section two of the bill provides that this company may acquire immediate possession of this land by marking the boundaries "and publishing a description thereof in any two newspapers of general circulation in the said Territory."

Now, if I understand the meaning of that section and of the other provisions of the bill, it is that this company can proceed at once, as soon as they mark their boundaries and publish their description of these lands, to take possession of the lands and hold them for two years without taking any other step, and during that time they may make any use of these lands they see proper. They may cut off and convert the timber to any use, and in every way appropriate the lands contrary to the intentment of this bill.

Mr. KIRKWOOD. Will the Senator read the last section of the substitute?

Mr. WILLIAMS. I do not know that that changes particularly the effect of the second section. I desire further to inquire—I think it is desirable to know—who constitute this New York and Montana Iron Mining and Manufacturing Company. Is this one of the moonshine organizations that are so numerous at the present day, or is it composed of solid, substantial men? Do they mean business by securing this grant? I do not know but that the policy of the bill may be perfectly correct; but before I vote to grant to any company consisting of persons unknown to Congress twenty sections of land, I desire to have more information on the subject than I have at this time, because by this grant we not only transfer this land, which may be very valuable, but it also becomes a precedent, as it occurs to my mind, which we may be hereafter called upon to follow, and in that respect it assumes an importance. I do not know that after I am further advised upon the subject I shall oppose this bill, but I should like to have more information than I now have about the matter.

Mr. WADE. I know some of these corporations, and they are some of the wealthiest men I know of; they have been engaged long in the iron business. Mr. Ward, of Detroit, is one,

who is very extensively engaged and has been for many years in that business. He was applied to to join this enterprise. It was supposed that it would be a great benefit to that western country, to the Pacific railroad, to the working of the mines, and everything else there, if instead of taking all their iron from the East and carrying it thousands of miles over the plains without any roads or proper means of carriage, manufactories could be erected upon the spot where iron to a large amount might be made. It would be a great benefit to the country, and those engaged in it believe that they could make it profitable to themselves. We are all confident that such an enterprise, if successful, will be of the greatest benefit to the people of the country there, enabling them to erect machinery to work their gold mines, and use iron for all the purposes for which iron in a country like that is useful. It is more doubtful in my mind whether it will prove to be a good speculation.

Before such men as Ward and some other wealthy men that are engaged in business—who are not speculators any more than they can speculate out of a legitimate business—would embark in such an enterprise, it was deemed necessary that the company should have a grant of lands something like this, and for this reason, which will occur to the Senator from Oregon in a moment: if they should lay out \$200,000 or \$300,000 and commence operations there in erecting their furnaces and other works, the people about there would see at once, "These men who are preparing to operate thus extensively will want the timber near by," and they would enter upon the lands immediately and have it in their power to put the furnace company upon just such terms in regard to timber for making coal as they saw fit. These men said at once, "Although it may be a good business for us, provided we can get the means of working it, we will not undertake it unless we can secure the title to enough timber land to make coal sufficient to carry on this business." Is that unreasonable? I know very well that they will not enter on this business unless they can thus acquire a title. They would be very foolish to do so, because the prosperity of their business would immediately be in the hands of strangers that would impose upon them just such terms as they pleased in regard to an essential element without which they cannot make their capital available. All there is in this bill is that it allows the entry of the land before the surveys. They may go now if they can find iron anywhere on lands open to entry, and they may enter all the land they please, provided they can pay for it. They could do so in Montana but for the fact that the land there has not yet been surveyed. They cannot enter it for that reason, and it may not be surveyed for two or three or four years. By this bill they wish barely to acquire just such a right as everybody will have as soon as the land is surveyed. That is all there is about it.

I hope this explanation will be satisfactory. There is no other speculation in it than the contingency of that business that they propose to engage in being profitable. They can work no gold mines, they can acquire no title to any gold or silver mines, nor anything else but iron; and if there should be coal there they would have the advantage of it. It is not very likely they will find any.

Mr. GIMES. I wish I could look at this matter—

Mr. HENDRICKS. I ask the Senator from Iowa to yield that I may call up the other bill. I suppose the Senator from Ohio will not now object. It appears that this is leading to debate.

The PRESIDENT *pro tempore*. The special order was laid aside only informally by unanimous consent. It is now before the Senate.

CONTRACTORS FOR VESSELS AND MACHINERY.

The Senate resumed the consideration of the bill (S. No. 220) for the relief of certain contractors for the construction of vessels-of-war and steam machinery, the pending ques-

tion being on the motion of Mr. HENDERSON to postpone the further consideration of the bill until the first Monday in December next.

Mr. SHERMAN. I desire to give notice that if I can get the consent of a majority of the Senate on Monday, whatever else may interpose, I shall seek to press the passage of the Post Office appropriation bill, and on the next day the Army appropriation bill. The accumulation of business from the Committee on Finance is becoming so great that we feel it our duty to press these appropriation bills on Monday and Tuesday next; and I give this notice now, so that Senators may make their arrangements accordingly, that I shall expect the Post Office and the Army appropriation bills to be disposed of on Monday and Tuesday.

Mr. HENDRICKS. I wish the attention of the Senate for a few moments to one or two points made against this bill by the Senator from New Hampshire [Mr. CLARK] some days since. It will be recollected by the Senate that the Senator from New Hampshire objected to the bill upon the ground that it provided relief for some persons whose title to relief he doubted. Among others, he selected the contractor for the machinery of the double-enders Chenango and Ascutney, Mr. Quintard. Now I wish to call the attention of the Senate to the very points in the report to which the Senator from New Hampshire alluded in his argument. After showing the excess of the cost over and above the contract price, the report of the board goes on to say:

"That there is no charge in the bill for these vessels for rebracing the boilers; that the causes of delay in building the hull and machinery of the Onondaga were on account of expensive alterations, and also the same as apply to the Chenango and Ascutney; that he was relieved from the time of his contract for this vessel, so far as regards time of completion, by the extensive alterations ordered to be made, and that the Department was fully satisfied that she was finished as soon as possible."

This entire contract for building the machinery of these vessels, the Chenango and Ascutney and for the hull and machinery of the Onondaga was taken together, as I understand; and the report of the board covers in this passage the entire three pieces of work. The loss of Messrs. Quintard & Company was \$29,000, shown by the evidence, upon good work, the quality of the work not questioned anywhere. The board finds that their loss upon this particular machinery was \$29,000. The amendment proposed by the Senator from Iowa will reduce the allowance to a little less than ten thousand dollars. So where there was an actual loss, as proven before the board—and it is not questioned anywhere—of \$29,000, the bill, as amended on the motion of the Senator from Iowa, proposes to allow a little less than ten thousand dollars.

Mr. President, the machinery for the Chenango and for the Ascutney belonged to a class of twenty-two which will be found in the award made by the board; and I wish to call the attention of the Senate to the fact that the machinery there contracted for by these men was of a very much heavier and more expensive character than was supposed at the time the work was commenced. It will be recollected by the Senate that there was great demand for this work at the time. The Government was in a strait for a Navy, and it was impossible at the time the contracts were made to have the drawings and specifications prepared so that the contractors might know exactly what they were to build. I will call the attention of the Senate to the evidence in one or two cases merely as illustrative of the class. That there was much more expensive machinery—engines and boilers weighing very much more than was supposed at the time it was made—is established by the testimony of twelve of these establishments. The contractors for the Mattabesett, the Shamrock, the Chicopee, the Tallapoosa, the Otsego, the Metacomet, the Mendota, the Lenapee, the Mackinaw, the Osceola, the Sassacus, and the Pawtuxet, twelve in all, establish the fact that this machinery was much heavier and more expensive than was supposed at the time the contracts were made.

I will refer only to two cases. I read from page 38 of the report of the board, in regard to the Mattabesett and the Shamrock:

"The contract price was \$164,000." * * * *
"There is no charge in the bill (annexed to this record and marked No. 38) for any condemned material or faulty workmanship, and it shows the actual cost of labor and material, and the bill of extra work shows a profit of about twenty per cent. At the time of taking these contracts there were no drawings furnished, and it was understood that the engines were to be about the same size and weight of the class of the Paul Jones, but in reality were of very much heavier weight and increased size, which was one of the chief causes of loss to the contractors, over and above the contract price."

Now, I call the attention of the Senate to the case of the machinery for the Pawtuxet, on page 21. There the report says:

"The excess of cost, over and above the contract price, was due to the greater weight of engine than the contractors were led to expect them to be, Mr. Isherwood, chief of the Bureau of Steam Engineering having assured them that they would not exceed those of the Paul Jones class, (three hundred and seventy-four thousand pounds); whereas the weight of one built by them was six hundred and thirty thousand pounds."

Very much above what was supposed by the contractors at the time the contracts were made. The trouble was, that at the time the contracts were entered into, or the bids received, the drawings and specifications were not prepared. I presume these men were sufficiently intelligent in their business to know what would be the weight and expense of an engine in ordinary times if the drawings and specifications were complete; but twelve of these contractors establish in their cases that the machinery was much heavier than was supposed at the time the contracts were made or the bids put in. Although the argument of the Senator from New Hampshire was forcible against this particular class, and was very favorable to another class, I think this entire class of contractors for the machinery are also entitled to relief. I ask the attention of that Senator to the fact that the average of loss to the men who contracted for the machinery was above \$25,000, some \$29,000, and some \$40,000, but the average was about \$25,000. Now the proposition of the Senator from Iowa brings down the allowance of each one of these men to less than \$10,000.

The contract price for machinery was \$32,000. The Senator from Iowa has secured an amendment that there shall be but twelve per cent. allowed upon it, which will be less than \$10,000, if my calculation be correct. We are to allow less than \$10,000, where the losses average above \$25,000. Of that entire class there are two where the loss was only between five and six thousand dollars on each vessel; but in those cases the parties had the iron at the time, and therefore there was no loss upon the material, but all the others averaged, I believe, about twenty-five thousand dollars loss. When the fact is shown in twelve of these cases that the machinery was very much heavier than the contractors were led to suppose at the time, when the further fact is considered that the drawings and specifications were not prepared, and could not be with the greatest diligence, I presume, in the Department, so that the parties might know the precise weight and size of the machinery, I submit whether this little allowance of one third of the actual loss is an unreasonable thing for these parties, the contractors for the machinery, to expect at the hands of the Government.

It may be, Mr. President, that I am all wrong in my views about this; but this fact has had much weight upon my mind: the Government was in a strait; she came into this war with a navy that could not contend with any of the considerable nations of the earth; she had to establish a blockade upon one of the longest coasts in the world, at more points than perhaps were ever blockaded in the world; the Navy Department had to strain every energy possible, it had to require all these workmen to do its work, and when they preferred doing work for individuals rather than going into contracts with the Government they were almost compelled by public sentiment at the demand of the Department to undertake it. They did

undertake it, and at an early day, considering the magnitude of the work, they placed upon the ocean a navy that enabled us to defy the Powers of the world, the grandest navy in the world, that makes every port along our coast secure against every hostile Power who may come against it. Is it becoming the dignity and the justice of this nation that these men shall bear a loss in the prosecution of so great a work for the country? For the commanding general that gains a battle we pass a vote of thanks and give a medal; and for illustrious and great deeds in the history of nations monuments are erected; but for these men that placed upon the ocean a navy that makes our coast as secure as it is possible for man to make a coast—for this great work these men, instead of having a medal, or a vote of thanks, or a monument, are to bear a loss, and some of them to go into bankruptcy.

Now, sir, I cannot appreciate the sentiment that requires that these men should bear all this loss. The fact of loss is clearly established. Upon that question no member of the committee had a doubt, no member of the board who examined this question for five minutes had a doubt that they sustained the loss, and that they sustained the loss in many cases because of the interference of the Government; and I submit whether it is becoming in us to let that loss fall altogether upon them. Taking the classes that are objected to by the Senator from New Hampshire, they get but about one third of their loss by the bill as it is now amended, and taking the entire class they get not quite, I believe, fifty per cent. of the entire loss; and I submit, if it is the pleasure of the Senate to relieve these parties, if we can do it more securely to the Government than by passing the bill as now amended. It allows but twelve per cent. in any case upon the contract price. My judgment is satisfied that this is below what is right.

Mr. CLARK. I gave this matter some examination when it was before the Senate at an earlier day. I have given it some examination since; I have given it a more thorough examination since that time than I gave it before; and all the examination and all the attention that I have been able to bestow upon it assure me that the bill ought not to pass. If the Senator from Indiana and those other gentlemen of the Senate who have this bill in charge had turned their attention to examining the cases individually, and would show us which ought to be provided for, and which ought not, I could agree to vote for those that ought to pass, and cheerfully vote for them; but when they bring here forty-two cases and do not pretend that all ought to pass, but that some are good and some bad, and thus make the good carry the bad, I cannot quite agree to the whole.

Mr. HENDRICKS. The Senator does not quite place the committee right. The committee who make this report think that each case ought to be relieved. That was the opinion of the committee, but the equities of some were not quite so strong as others.

Mr. CLARK. Then I will understand the Senator as representing the committee, and the committee as being of the opinion which he now states, that they all ought in equity to be relieved. Will the Senator allow me to ask him if he is of that same opinion still, that they all ought to be relieved?

Mr. HENDRICKS. Yes, sir, I am.

Mr. CLARK. Then I will ask the Senator to follow me as I examine some of these cases, one by one; and I will ask him by and by, when I come to some of these cases, whether he is then of the opinion still. I ask the Senator to turn his attention first to the cases of the Agawam and the Pontoosuc. I examined, I think, three cases when I spoke to the Senate before—the cases of the Iosco, the Massasoit, and the Chenango. I have been through the list on page 2 of the table of "double-enders, wooden hulls," I think, including eleven or twelve, and I find them all much in the same condition. I now take the two which come next to the Iosco, the Agawam and the Pon-

toosuc. If Senators will turn to page 8 of the report of the commission, composed of Selfridge, Fletcher, and Eldredge, they will find the statement of the person who built the hulls:

"Regarding the contracts for the United States steamers Pontoosuc and Agawam: there appeared before the board George W. Lawrence, ship-builder, of Warren, Maine, and constructor and contractor for the above vessels built by him, at Portland, Maine, and having been duly sworn, stated that the above vessels were constructed at the same time by him, and the cost shown is that of both together. That both contracts were signed on September 9, 1862, and the vessels to be launched in one hundred and twenty-six days, or on January 13, 1863. That the Agawam was launched on April 21, 1863, and the Pontoosuc on the following May 20, 1863, and on those same days, respectively, delivered over to the engine-builders; that the delay in launching was, on his part, of no loss or inconvenience to the Government, having been delayed on account of certain valves, &c., required previous to launching, having not been fitted in place by the Portland Works, contractors for the steam machinery."

These vessels were detained on the ways some two or three months by the want of the valves by the persons who were to furnish the steam machinery.

"That the contract price for each vessel was \$75,000," or \$150,000 for the two. Here I want to call attention to what was the contract price, or what was the cost of the machinery of the Paul Jones. Can the Senator from Indiana tell me?

Mr. HENDRICKS. No, sir; I cannot.

Mr. CLARK. Can the Senator from Nevada tell me what was the contract price for the machinery of the Paul Jones?

Mr. NYE. I cannot tell now, but I can find out.

Mr. CLARK. Perhaps I can inform the Senator. I do not know precisely, but my information is—and my information comes from the chairman of the Committee on Naval Affairs—that it was \$52,000, or not to exceed \$55,000. I understand that to be correct.

Mr. GRIMES. Yes, sir.

Mr. HENDRICKS. I ask the Senator when the Paul Jones's machinery was built.

Mr. CLARK. I cannot state precisely when it was built.

Mr. GRIMES. The Paul Jones was built some time before the contract was made for these other vessels. The engines of these other vessels, for which \$82,000 was contracted to be paid, were considerably heavier than that of the Paul Jones.

Mr. CLARK. That was precisely the point to which I desired to bring attention. These men complain that they supposed the engines they were to build were to be about the weight of the engine of the Paul Jones, and that they cost more because they were heavier. Now, the fact is that the machinery of the Paul Jones cost \$52,000, or not exceeding \$55,000, and the Government gave from \$75,000 to \$80,000, \$90,000, and over \$100,000 for these engines for the reason that they were heavier.

Mr. GRIMES. Eighty-two thousand dollars.

Mr. CLARK. Eighty-two thousand dollars for some, and some higher than that, I think.

Mr. GRIMES. Eighty-two thousand dollars for those that were made on the model of the Paul Jones.

Mr. CLARK. The same model. Now, it is evident at once to the Senate that they had their consideration for it, and they are not to be allowed to come here and complain that the engines were heavier than that of the Paul Jones, when their price was proportionably heavier. But I want to go along with these hulls.

"That the contract price for each vessel was \$75,000 each, \$150,000. The total cost of both vessels, including all extra work, \$189,429.40. That there was paid by the Government for extra work \$10,319.93; allowance made for material sold after completion of vessel, \$1,587.93; allowance made for material on hand after completion of vessel, \$1,300; making a total for extras of \$13,207.86. That the total cost of both vessels over and above the contract stipulations and amounts paid by the bureau for extra work was \$17,221.54."

Precisely that sum is reported here; for each vessel \$8,610.77 allowed by the board.

"The contractors for the steam machinery were allowed fifty days after the launching, in order to

erect it on board, which time expired in the case of the Agawam on June 10, 1863, but that she was not by them delivered to the Government until December 9, 1863, two hundred and thirty-two days."

Here is the point: here was this Government engaged in blockading a coast many times larger than ever had been attempted before; they wanted the vessels, they contracted for the vessels, they stipulated to have them at a given time; but these people did not deliver them for more than a year afterward, some six months, some nine months, some twelve months after they had agreed to deliver them; and all that time prices were rising; and now they come in here and ask us to pay, not for the vessels at the contract price after that time, but to pay for all the extras they were put to by reason of their delay. After so long a time elapsed beyond the time at which the vessels were to be completed, if the Government had said, "We will not take these vessels; we wanted them for blockading the coast; but you did not furnish them in time; the war is well-nigh toward its end; we will not take them," could these contractors have complained? But the Government did not say that. The Government said, "We will take the vessels; we will pay you the price which we stipulated, even at this late day;" and yet these contractors are not content. They want the Government not only to pay them the price which it agreed to pay, nine months or a year after the time had elapsed, when it had been denied the use of the vessels, but also to pay the extra price which arose by the enhancement of labor and materials while they were thus delaying.

"And in the case of the Pontoosuc, instead of the machinery being completed on July 9, 1863, when the fifty days expired!"

Two years nearly before the war closed—

"she was delayed until May 16, 1864, or three hundred and sixty-one days."

That was within less than a year of the time of the surrender of Lee. She was detained for the want of the machinery three hundred and sixty-one days, only four days less than a year, enhancing the price of the hull, which we are obliged to pay, depriving the Government of the use of the vessel, and then calling upon us to pay this enhanced price. Does the Senator from Indiana think that quite right? I will ask him, then, to turn with me over to pages 16 and 17, and let us see about the machinery for the Pontoosuc and the Agawam.

"Appeared before the board Edward H. Davis, treasurer of the Portland Company, Portland, Maine, on the part of the company, contractors for the machinery of the double-enders Pontoosuc and Agawam. Under oath states, that the contract for these vessels was dated, by the Navy Department, August 30, 1862."

A little more than a year after the war commenced—

"in which they were allowed one and a half month from April 21, 1863, the time of receiving the hull of the Agawam from the builders, to complete the machinery of said vessel, and one and a half month from May 20, 1863, the time of receiving the hull of the Pontoosuc from the builders, to complete the machinery of said vessels and deliver them to the Government; but the Agawam was not so completed and delivered until November 30, 1863; the Pontoosuc until April 14, 1864."

Now, I ask the Senator's attention particularly to this part of the report, if he will give it to me, to what these people say themselves in regard to it:

"The principal cause of delay was from the difficulty of the work, and being unprepared for the manufacture of marine engines, the works having been employed, previous to making this contract, in the building of locomotives principally; labor was obtained with difficulty, and when obtained, of an inferior kind."

Here is this very remarkable statement—I invite the attention of the Senate to it—that these men undertook work which they were not prepared for, which they were not skilled in, which they found to be difficult, and for which their shop was not prepared, and they were thus delayed two hundred and seventy and three hundred and sixty days in the two cases by their own inability and want of preparation for the work which they undertook; and yet they come forward and ask you to pay them \$40,000

apiece on each vessel. That is the report on each of these vessels which were delayed thus by their own insufficiency in preparation for the work. If a man who is unskilled in work undertakes to do it, and binds himself to do it, who is to suffer for it? That was exactly this case; and now I want to ask the Senator from Indiana whether he thinks that men who had not the ability to do the work, and who found it difficult, whose shop was not fit for it—they had not been used to building marine engines, they had been used to building locomotives—I want to ask him whether, when such men undertake work of that kind, for which they are not fitted and for which they are not prepared, the Government ought to pay all the extra expense they are put to by such unskillfulness and want of preparation? They do not say a word about the engines being heavier, that I remember, and yet they may. I will look and see; they go on to state:

"That the machinery for both vessels cost \$222,606 79; that the bills for extra work still unpaid are \$1,219 37—total cost, \$223,826 16; that the contract price was, for both vessels, \$164,000; leaving a balance, the excess of cost to them over and above the contract price, including amount claimed for extra bills, of \$59,826 16."

Resulting, as they say, from the difficult character of the work, from their not being prepared for it in their shops, because they had not been used to building marine engines, but to building locomotives, and because they could not get labor and materials. That is the statement they make themselves; and what is worse than all this, when they ask you to pay \$59,826 16 extra, they go on to say:

"That there is no charge in this bill for proportion of general expenses in running the works, which is estimated to be twelve and a half on the whole amount, which is a minimum charge, amounting in all to \$26,712 81, which they claim as a part of the actual cost of the vessels' machinery."

They sustained a loss on the contracts of \$59,826 16 on the two engines, and then they wanted \$26,712 81 as interest on their tools, which they say were not fitted for such work, and which delayed the work; and this board actually allowed them \$21,041 36 for interest on these tools which were not fit for the work, and swelled the whole amount of allowance up to over eighty thousand dollars. This board report for these two vessels completed in that way about ninety-seven thousand dollars extra. They report on each of the hulls \$8,610 77, and on each of the engines \$40,433 73 to these men who undertook work which they could not perform, for which they were not prepared, and which they delayed the Government in getting, one of them within four days of a whole year, when the Government wanted the work.

Now, I want to ask the Senator a question. He says that when a general fights a battle and wins a victory, we vote him thanks. Do we vote thanks to that commander who is ten miles behind and does not get up into line? Most of these men were a year behind and did not begin to form in line at the time they said they would, deprived the Government of the use of the vessels all the time they were so hanging back. The price was going up and enhancing, and they ask the Government to pay that enhanced price which arose from their own delay. That is the statement of the case. I ask the Senator from Indiana if he is in favor of paying the two men who built these two engines. Did not the Government do all for them that the Government ought to do when they took these engines off their hands, nearly a year afterward, and paid them the full price under the contract? If the Government had said to these men, "You have been delaying this work; we have suffered for the want of these engines; you agreed to furnish them at a certain time, but you did not furnish them; we must deduct so much from your pay;" what could these men have said? What would an individual have said in a case of that kind? Suppose one individual had contracted with another to furnish him a marine engine on a given day, and he did not furnish it until a year after, and that man had been losing all his trade and business by the want of that

engine, what would an individual have said? He would have recovered damages, and he would have been entitled to damages. He would have recovered damages such as he could have shown in any court. But the Government did not say that; the Government did not say to these men, "We must have damages from you for not fulfilling this contract;" the Government went forward liberally, at the end of the time, took the engines, and paid the men the money. Now they are not satisfied. They come in here and say, "We must have more; it is very true we delayed you; it is very true in the case of the Agawam we were two hundred and twenty-three days behind; it is very true in the other case of the Pontoosuc that we were three hundred and sixty-one days behind; but the Government ought to be generous." I agree the Government should be liberal; but when men come into the Congress of the United States and ask the Government to be generous, they should show that they performed good service for the Government. The bill is now in a better situation than it was some days ago; but if we give these men what this bill provides, twelve per cent., we shall pay them over nineteen thousand dollars for delaying work in that way, for delaying work by their own unskillfulness, for delaying work which they could not accomplish for the want of proper experience, for delaying work for want of proper shops and tools; and they knew when they undertook that work just what their shops and tools were fitted for, and they knew that their experience had been in locomotives and not in marine engines.

Now, Mr. President, if it could be shown on the part of these contractors that they undertook this work unwillingly, that the Government came to them and besought them to take up this work, that they objected to it, that they stated to the Government they were not used to doing it, that their tools were not prepared for it, that their shop was not fitted for it, that they had doubts whether they could carry it through in the time stated, and that the Government then urged them, and said, "We must have this work from some quarter; we will run the risk, and you must undertake it and do the best you can," that would have been one thing; but there is not a particle of proof of anything of that kind. They do not suggest it. These men were anxious to get these contracts; many of them were exceedingly anxious to get them, some not so much so. When the persons to whom the Senator has alluded took the contracts the weight of the engines was specified and they knew what they had got to do. It is true they undertook before that to build them, and had gone on before they got the contracts to commence their work; but they had signed no contract, and if when the contract came and the specifications came, they found the work heavier than they expected or agreed to do, it was easy to say, "Mr. Secretary of the Navy, that is not what I undertook; you represented to me that these engines were to be of the weight of those of the Paul Jones; I cannot agree to do that," the objection would have been considered; but that is not this case nor either of these cases which I am considering, for neither of these men allege that he did not understand what the weight of the engines was, nor does either of them allege that it was heavier than he expected when he undertook the contract.

I come now to the case of the Osceola, which is found on pages 6 and 7 of the report of the board:

"Appeared before the board E. F. Tilden, of the firm of Curtis & Tilden, ship-builders and constructors of the United States steamers Massasoit and Osceola. Under oath states the whole amount of cost of above vessels to have been \$63,597 35; the amount of extra work allowed and paid by bureau \$7,340 57; the amount of contracts \$50,000; the cost of these vessels over and above the contract price and allowance paid for extra work to be \$8,256 78. That the contract for the hull of the Massasoit was dated September 10, 1862, and the vessel to be launched on January 14, 1863, (one hundred and twenty-six days.)"

I shall skip the Massasoit, as I believe I made some observations on that the other day.

Very nearly the same time, it will be seen, was allowed for building all these vessels.

"That the contract for the hull of the Osceola was dated October 15, 1862, and the vessel to be launched on February 8, 1863, (one hundred and twenty-six days.) That the vessel was ready for launching April 15, 1862, but was not launched until May 23, being detained on the ways—the bed-plates not being completed and put in the vessel by the engine-builders."

Here is the same excuse, the same difficulty—the engines were behind, the bed-plates were not put in.

"That the vessel was delivered to the contractors for steam machinery on May 23; that they were allowed fifty days, or until July 12, to erect on board the engine, &c., but occupied until November 27, 1863."

Here was a delay of one hundred and thirty-eight days beyond the stipulated time. They were to have fifty days, and they took one hundred and eighty-eight; nearly four times as many. These contractors say:

"By the delay on the part of the engine-builders to complete the machinery, they [Curtis & Tilden] were unable to complete the work on the two vessels and receive the several payments as agreed upon in their contracts, and also suffered pecuniary loss from the great rise in labor and material during that time."

That is, during the time they were delayed.

Mr. NYE. Let me ask the Senator from New Hampshire one question, whether it was not a fact that the engines and the hulls were separate contracts. The engines constituted one contract and the hulls another.

Mr. CLARK. Certainly.

Mr. NYE. Then the man who built the hull was not to blame.

Mr. CLARK. The man who built the hull, if he performed his contract in time, would not be to blame; and I do not know that in this case the firm of Curtis & Tilden, though they did not get their vessel off until two months after, were to blame, because they were delayed by the men who were to build the machinery and put it in; they were delayed for the want of bed-plates. But the machine-builders undertook to contract with the Government that the machinery should be ready. This firm made a contract that the hull should be done at a certain time, and the engines were to be put in in so many days after. The hulls were delayed by the engine-builders in not putting in what should have been put in earlier, and were then delayed by these same machine-builders for a great length of time, four months after the time allowed. The Senator says the man who built the hull was not to blame; but who was? The man who built the machinery; and yet you put the man who built the hull and the man who built the machinery together, and serve them both exactly alike. That is the effect of your bill. Somebody is to blame. The Government were defrauded of this vessel—I said defrauded, I mean deprived of the use of this vessel—about two hundred days by somebody. By whom? By one or the other; and yet you propose to pay both. Now, if the man who built the hull was not to blame, pay him alone, but do not undertake to pay the man who deprived him of the power of putting his work in the water and delivering it at the time he agreed to do—the man who built the machinery. Now, will the Senator from Nevada and the Senator from Indiana turn to page 17 and let us see about this machinery?

"Appeared before the board Oliver Edwards, president of the Atlantic Works, East Boston, on the part of the company, contractors for the machinery of the double-enders Sassacus and Osceola. Under oath states, that the contract for the Osceola was dated September 20, 1862, and for the Sassacus, October 15, 1862, in which they were allowed seven months, or until April, 1863, and May, 1863, to complete the machinery of said vessels and deliver them to the Government, but the Sassacus was not so completed and delivered until September, 1863, and the Osceola until November, 1863."

And here the whole summer of 1863 passed away, when these vessels should have been operating in the southern Atlantic in the blockade, or elsewhere; the most favorable part of the year passed away, and the vessels were still delayed at the wharf for the want of machinery; and yet this is not a liberal Government that will come forward and pay the men what it agreed to pay after such a delay.

It is not liberal to lose the use of your vessel all the summer, and then in November pay for it the same as if you had had it originally; but it must be liberal to take it off the contractors' hands and pay their bills.

"The principal causes of delay"—

This is their own statement; it is not anything as to the weight of the engine, but it is the delay I am now complaining of—

"The principal causes of delay being the difficulty of obtaining labor and material, as the Government was putting out so much work."

It was this very work that the Government was putting out that these people undertook to do, and undertook to do in a given time, for a given price, and which they delayed to do, and for which they received a full price, and are now not satisfied. The company was relieved by the Navy Department of the term of the contract regarding the time of the completion of the machinery. They found that they could not get along with it, and this Government, that it is said should be liberal, was not hard; it extended the time, and then they went on; and they say "that it was finished as soon as possible; that the total cost of the machinery for both vessels was \$205,027 46." Here was a small vessel, the contract price for building the hull of which was only \$25,000, and yet the price of one of these engines, as made by the machine-builders when they got through, was \$102,513 83.

Mr. HENDRICKS. I will state to the Senator that it is very evident that that is a mistake in the printing of the report.

Mr. CLARK. Is not the record right?

Mr. HENDRICKS. There is a mistake in printing.

Mr. CLARK. What should it be?

Mr. HENDRICKS. They all cost the same price. Eighty-two thousand dollars was the contract price.

Mr. CLARK. They do not undertake to say what was the contract price, but what was the cost of building the engines. I am speaking of the cost to the builder.

Mr. HENDRICKS. It ought to be \$82,000. That was the contract price; and then the cost beyond that was what it cost the contractor above the contract price.

Mr. CLARK. If the Senator will give his attention to the report he will see that there is no mistake here—"that the total cost of machinery for both vessels was \$205,027 46." That is what it cost the builders, as they say "that the contract price of both vessels paid by the Government was \$164,000."

Mr. HENDRICKS. I was not observing the report there. The mistake that I alluded to is in another case, where the cost is printed as being \$50,000, when it should evidently be \$150,000. This is correctly printed.

Mr. CLARK. I thought there were some mistakes in the report, but I am not mistaken here. This is correct. The hull cost \$25,000, and the machinery \$102,500.

Mr. HENDRICKS. I understand this now. My attention was not given to what the Senator was saying at the time. I thought he said that the cost of the machinery was \$50,000.

Mr. CLARK. No.

Mr. HENDRICKS. It is stated that the cost of the hulls was \$50,000.

Mr. CLARK. The two.

Mr. HENDRICKS. But evidently that ought to be \$150,000. There is no doubt about that. The contract price was \$150,000, and the cost \$165,000. It is just \$100,000 less than it ought to be. It is a mistake in printing there.

Mr. CLARK. I do not know but that that is so.

Mr. HENDRICKS. Unquestionably so. It belongs to a class.

Mr. CLARK. But it is not material to the argument, as I understand. This man says the excess of cost was \$41,027 46 for the two. Now, I want to call the Senate's attention to what appears in regard to these two classes of vessels. The contract price for the Agawam and the Pontoosuc, as found on pages 16 and 17, was \$164,000, just the same that it was for

the Massasoit, the Sassacus, and the Osceola. The Senator from Indiana says these vessels were the same class, and the contract price was the same. Now, I want Senators to note the fact that when George W. Lawrence & Co. build the Agawam and the Pontoosuc, they make them cost \$17,000 above the contract price; but when Curtis & Tilden build the same class they make them cost only about nine thousand dollars beyond the contract price; and in the case of the Pontoosuc and the Agawam, the engine-builders make the engines cost \$80,000 beyond the contract price; and in the other case, the Atlantic Works only make them cost \$41,000 beyond the contract price. Why that difference? Why should this Government pay one set of builders \$80,000 beyond the contract price, and another set of builders, for two engines of exactly the same class, \$41,000 above the contract price? How happens it, except from the unskillfulness and the want of diligence on the part of these men in building these engines? And yet this report says pay these gentlemen at Portland \$80,000 beyond the price, and pay these gentlemen at Boston \$40,000 beyond the price. It seems to me, a man had only to delay his work the longer to get the more money, for they give him all he says it cost him; and so the longer he delayed and the more it cost, the more they gave him.

Now, Mr. President, I ask Senators to turn to the Chicopee. I have been through the whole range of these double-enders; they are in the same way. I do not want to weary the Senate, but I want to show enough of these cases to let the Senate see what they are about to pass upon. I do not deny that there may be some good cases here; I think some of the gentlemen who built the hulls of these vessels and were delayed in this way are entitled to the additional expense; but I do not think the men who put on board the engines and loaded them down with delay and deprived the Government of them for that extent of time should also be paid for that delay. On page 17 you will find the statement of Mr. Curtis, who built the Chicopee:

"Appeared before the board Paul Curtis, ship-builder, Boston, and contractor for the double-ender Chicopee. Under oath states, that the contract for the Chicopee was dated by the Navy Department September 9, 1862, in which he was allowed one hundred and twenty-six days, or until January 13, 1863—

The contracts were all given out at about the same time, and they were to be ready at about the same period—

"to launch the vessel and deliver her to the engine-builders; but the vessel was not put in the water until March 4, 1863, as the engine-builders (Neptune Iron-Works) were not ready to erect the engines on board."

The same excuse again. It would almost seem that these fellows had got this excuse stereotyped; they all agree upon it. They were delayed by the engine-builders!

"That the vessel was delivered to the Neptune Iron-Works March 11, 1863, and they were allowed fifty days, or until May 1, 1863, to erect the engines on board, but the machinery was not completed and put on board until April 1, 1864, at which time she was delivered at the navy-yard, New York."

They were to have had it on board May 1, 1863; they did not have it on board until April 1, 1864, eleven months afterward.

"By which delay on the part of the engine-builders he was at great loss, by being obliged to pay larger prices for material and labor to complete the vessel. That the entire cost of the vessel, including bill for extra work, amounting to \$7,115 09, was \$97,674 61; that the contract price of the vessel, delivered in New York, was \$75,000; that he has received from the bureau for extra work, \$3,304 20; total amount received from Government, \$78,304 20; leaving a balance of loss to him, over and above the contract price and allowance for extra work, of \$18,870 41."

Now, turn to the table again. Paul Curtis built one of these vessels, taken at the same time, at the same rate, when labor was scarce and materials scarce; the contract price was \$75,000, and she cost \$97,674 61, making an excess over the contract price and extra allowance of \$18,870 41; four times almost as much as the extra cost price in the case of Curtis & Tilden. Now, we are asked to pay this, and the committee say this is right and this is fair; and they want to give a percentage to the

whole. I do not see any fairer about it. If it is right that Curtis & Tilden should have \$4,000 above the contract price, it should be right that Paul Curtis should have the same unless he shows a difference, and he fails to show any.

Now turn to page 44, and you will find the case of the machinery of the Chicopee:

"Appeared before the board Mr. William Boardman, one of the proprietors and on the part of the Neptune Iron-Works, contractors for the machinery of the Chicopee and Tallapoosa. Under oath states, that the contract for the vessel was dated by the Navy Department August 15, 1862, in which they were allowed seven months, or two months after the receipt of the hulls from the builders thereof, to complete and erect the machinery on board; but that the Chicopee was not received until March 11, 1863, and the machinery was completed, and trial trip satisfactorily concluded on January 23, 1864; and the Tallapoosa was not received until March 16, 1863, and the machinery was completed, and trial trip also satisfactorily concluded March 12, 1864; they were relieved by letter from Department in regard to the time of completion of contract prior to the signing of the contract. That the actual cost of machinery was, including extra bill of \$2,065 75 yet unpaid, \$206,004 35; contract price received from Government, \$164,000; leaving an excess of cost, over and above the contract price, of \$42,004 35."

Twenty-one thousand dollars on each vessel for delaying her at the wharf eleven months, depriving the Government of the use of her all through the summer of 1863 and the fall of 1863, the winter of 1863 and 1864 up to April in the spring of 1864; and yet this very big-gardly Government, this Government that is exhorted so much to deal fairly by these gentlemen, deprived of the use of this vessel for eleven months, comes forward and pays the contract price, pays the full bill for extra work, and then is asked to pay all the enhanced cost by reason of the delay. Is it fair? Is that the kind of liberality you would recommend to your Government to the tax-payers? Now, as to a contract between two individuals where one stipulated to have a given work done by a given time and he failed for a year to do it, if the man who contracted for the work should come forward and take it off that man's hands and pay him the price and say, "Here, you have done the work and I will pay you the full price and take it, though I have been delayed," would not that be considered liberal? Would the man that had done the work ask for anything more? Yet here they undertake to say we must pay not only this individual man, not only this individual firm, but we must pay every one of these forty-two right straight through twelve per cent. on the whole contract price, not because they would not be glad to have more, but because they have loaded it so down with the weight of delay that they know these iron-clads will not swim with such a load upon them.

Mr. President, I suppose it is hardly necessary that I should go through with case after case of this kind. You may take any one of these double-enders and you will find much the same state of things. I cannot say that you will in every case, because I have not examined; I cannot affirm or deny; but I say that in all the cases I have examined I find this same state of things. And now I will ask the Senator from Nevada if he can tell me where in this report. I shall find the report in regard to the hull of the Mendota. Has the Senator seen it? Does he know it is there?

Mr. NYE. I think it is here.

Mr. CLARK. I will ask the Senator from Indiana. These gentlemen have undoubtedly considered this case. I want them to tell me where in the report of this commission I can find the report as to the building of the hull of the Mendota. I state to them that I have been unable to find it; that is as it is put down here. I want to know from them if they have found it, and if they have examined it. I wait, Mr. President, for those Senators to show me, if they can, where the Mendota is found here.

Mr. HENDRICKS. Do you want an answer right now?

Mr. CLARK. If you know where it is found.

Mr. HENDRICKS. I will examine.

Mr. CLARK. Has the Senator seen it and examined it?

Mr. HENDRICKS. Yes, sir, and I will find it presently.

Mr. CLARK. Well, Mr. President, perhaps I can help these gentlemen a little. I only wanted to see the care with which they have examined this report.

Mr. NYE. When we ask you to help us we will let you know. I propose to answer you.

Mr. CLARK. The Senator from Nevada in his quiet way says that when they find it they will let me know.

Mr. NYE. No, I did not say that.

Mr. CLARK. Or in substance, that when they ask for my aid they will let me know.

Mr. NYE. Yes; that was it. You will make your own speech, I suppose.

The PRESIDING OFFICER, (Mr. DOOLITTLE in the chair.) The Senator from Nevada will address the Chair.

Mr. CLARK. I did not know but that possibly I might have fallen into a mistake. I have my own notion about this matter, but I wanted the aid of those honorable Senators in investigating it. I hunted this report through and I could not find the report of the Mendota for building the hull, but I did find something which I suppose was meant for that, but is not that. If the Senators will turn their attention to the fifth page—

Mr. HENDRICKS. I will tell you where you will find it, sir. You will find it on page 5; it is there printed as the Mercedita; reference is also made to it on page 32. That is my understanding.

Mr. CLARK. I suppose that is so. I turned this book through and I could find no such vessel as the Mendota; that is, no contract for the hull. I then resorted to the table. I found the Mendota placed there at such a price, and looking through I came across the name of the builder, Mr. Tucker, of Brooklyn, New York, who is said to have built the Mendota, but here he is reported to have built the Mercedita, and the Mercedita is nowhere to be found in the table. We had a vessel called the Mercedita. I think she was at New Orleans in the fight there. I think she was purchased by the Government; she was not one of these vessels.

"F. Z. Tucker, ship-builder at Brooklyn, Long Island, and constructor of the United States steamer Mercedita, having been duly sworn, stated that the contract for above ship was signed September 9, 1862, to be launched and built (in one hundred and twenty-six days) on January 13, 1863; that the vessel was launched on that day and delivered to engine-builders, after being coppered, on January 24, 1863, to receive her machinery."

This man got his vessel along; she was launched on the day.

"That the total cost of the vessel was \$92,475 70, as per statement marked No. 4, and annexed to these proceedings—the contract to have been \$75,000; that there was paid by him for extra work done over the price, by order of Inspector S. M. Pook, and others, the sum of \$1,020 70, as per statement marked No. 5, and annexed to these proceedings; and also for work done in accordance with specifications, but not required in general advertisements for bids under which the ship was commenced, by authority of the bureau to have been \$7,335 75, as per statement marked No. 6, and annexed to these proceedings; leaving a loss on his part, over and above these amounts, of \$3,110 27 on the original contract price for the hull; that no money for extra work has ever been paid to him over and above the contract stipulation; that the engines and boilers were to be completed by builders of machinery in fifty days, or March 14, 1863, but was not completed until February 14, 1864, (three hundred and forty days.)"

Eleven months after they were agreed to be furnished they were furnished. All this time the hull of the vessel was rendered useless by the delay of the engine-builders. This man may deserve his price for his hull for aught I know; it is not very much above the contract price—I believe some four thousand dollars; and yet I think there is something in this report that will show the manner in which these costs were made up. I ask the Senators' attention to page 31 in regard to this gunboat Mendota. On the 19th of June, 1865, Mr. Tucker made up his bill of costs for that vessel and presented it to the board. Mr. Naval Constructor Pook was asked about it on page 31, and in regard to that bill he says:

"Having examined the extra bills of F. Z. Tucker,

for gunboat Mendota, I am of opinion that some of the charges are improper, and that he be requested to examine and correct them."

Here was this board established for the purpose of ascertaining the cost; they met together, and they notified contractor A to come before the board at such a time; they notified contractor B to come before the board at such a time; and they came, they made up their costs, and then those bills were examined; they were submitted to the naval constructor, he was asked whether they were right and proper; in many of the cases he said they were right and proper. In other cases he said they were not right and proper; and "Mr. Contractor won't you correct them?"

I ask the attention of the Senate for a few moments—because I will not run through all these cases, there are forty-two of them, and they would weary the patience of the Senate and take up too much time—to the case of the engine of the Lenapee, on page 42:

"Appeared before the board Mr. Joseph Belknap, superintendent, and on the part of the Washington Works, contractors for the machinery of the Lenapee. Under oath states, that the contract for the vessel was dated by the Navy Department August 25, 1862, in which they were allowed six and a half months, or within two months after receipt of hull from builders thereof, to complete and erect the machinery on board; but that the vessel was not so received until June 19, 1863, and the machinery was completed August 31, 1864. The principal causes of delay in completing the contract were owing to the bursting of a boiler while being tested, and difficulty in obtaining labor and material."

They have built an imperfect boiler, and while they were testing it it burst, and so they were caused delay.

"That the cost of machinery was \$111,161 24; contract price received, \$82,000; leaving an excess of cost, over and above contract price, of \$29,161 24."

And precisely that amount of cost, \$20,161 24, was allowed them when they set down the extra delay to the bursting of a boiler which they had made imperfect. I suppose if they had burst entirely up and blown their shop up, the whole would have been passed in. It does not seem that it made any difference what was claimed, what went into the cost, whether it was interest on shop and tools that were not fitted for the work, whether it was the unskillfulness of the contractors and the workmen, or whether it was the want of preparation, or the bursting of a boiler, or anything else that went into the cost, it was allowed; and now we are asked to pay twelve per cent. on the contract price.

I should be glad to see some measure before the Senate that would do more justice to these people than this. If a man is entitled to the consideration of the Senate, has been delayed by the Government and for that reason has been put to cost, that cost ought to be paid. It should not be twelve per cent. If he has been delayed by his own unskillfulness, his own negligence, his own want of care and skill and industry, then he should not be paid, not twelve per cent. nor any other percentage. These people say:

"That the excess of cost was owing to the rise in labor and material, and also to the fact of the time of the completion of the engine being extended over and above the time specified by the contract, due to the fact of our being unable to procure the necessary labor and material."

I will ask the Senate to turn for a moment to the case of the hull of the Lenapee, which is found on page 13—I think I alluded to this before—where the contract price was \$75,500 and the cost price \$150,000, more than double what the Government offered to give them. They contracted to do this work for \$75,500, and they say the total cost of the vessel, including the bill for extra work, was \$152,691 37. Now, Paul Curtis, of Boston, built the Chicopee, a vessel of the same class with the Lenapee. He took his contract on the 9th of September, 1862; and Edward Lupton, the contractor for the Lenapee, took his contract on the 9th of September, 1862, precisely the same day. Of course the same price for materials was to be paid by both. The same prices for labor were to be paid by both. One was operating in New York, near the commercial center, and the other was operating at Boston. They were

each allowed one hundred and twenty-six days, until January 13, 1863, to complete their contract. Mr. Curtis put his ship into the water on the 4th of March, 1863, and Mr. Lupton put his in the water on the 7th of June, 1863, three months afterward. Mr. Curtis built his ship for \$97,674 61, and Mr. Lupton made his ship cost \$152,691 37. Under oath, he stated that to be the cost. The commission did not see fit to allow him such a bill of costs as that, but they did allow Mr. Lupton \$18,576 52, \$2,000 more than they allowed anybody else, and more than four times as much as they allowed Mr. Curtis.

I do not know that it is worth while for me to pursue these cases further. There are several more of them that I have examined, and they lead to the same result as those I have stated to the Senate. In general, the work upon the hulls of the wooden vessels seems to have been done with much more rapidity, and much nearer the time at which they were to be delivered, than the work on the machinery.

I suppose, when the Government was hiring hands for its navy-yards and its ships, and when the men were going into the Army and the Navy, there was a difficulty in obtaining labor; but I do not understand why the difficulty was so much greater in procuring mechanics for ship machinery than procuring ship-carpenters in yards. Both employments require skill; both are carried on by artisans peculiarly fitted for the profession; and yet the men who built the hulls seem to have had far less difficulty than the men who undertook to build the machinery. But, sir, you undertake by this bill to give precisely the same percentage to the men who built the machinery, and from whom most of the delay came, that you do to the men who built the hulls. I do not undertake to find fault with the men who built the machinery for these vessels. I do not undertake to talk about the mechanic. I undertake to talk simply about the cases that are presented here. I have examined the report which has been presented here by the commission. I have taken the testimony which these gentlemen have furnished themselves; and I can come to no other conclusion whatever than that this bill ought not to pass.

I do not mean to say that there are not some persons included in this bill who might be entitled to perhaps all that this bill proposes to give them; there are others who are perhaps entitled to the twelve per cent. which the amendment proposes to give them; but I am entirely satisfied there are men here who ought not to have the twelve per cent. I am entirely persuaded that this leveling process of giving a percentage to all these people, no matter how they have done their work, how faithfully or unfaithfully, how skillfully or unskillfully, is not the true principle of legislation.

Sir, if a man has built, for instance, Army wagons under a contract with the Government, and he has found labor and material enhanced, why should you not give him twelve per cent.? If a man has made guns for the Government, whether small-arms or ordnance, by contract, why should you not give him twelve per cent.? They worked for the Government; they are mechanics; they are deserving; the derangement was the same to all. Why should you not say, by a general omnibus bill, that everybody who contracted for labor and material for the Government should have twelve per cent. over and above the contract price? Some of them made money, it is true; but the price of labor was enhanced to them just as much, the price of machinery was enhanced just as much, and the price of material.

I believe, sir, that the pending question is the motion of the Senator from Missouri [Mr. HENDERSON] to postpone the bill until the next session of Congress. I shall vote for the motion to postpone, if the friends of the bill desire to have it postponed, if they think any measure can be arrived at which shall do justice, I mean individual justice, to these people; but if the bill is not postponed I shall vote against its passage as it stands. I know we are urged to

pay the twelve per cent. I know it is said that it does not take more than half as much as the committee report, and you had better give that to them; the Government will have as much to pay in the end. But, sir, I want to be more discriminating. If I pay the money, I want to pay the money to the men who ought to have it, and not to the men who do not deserve to have it. Assume me that every one of these men ought to have the twelve per cent., and I will yield; but until that time comes I must vote against the bill.

Mr. HENDRICKS. I have but a very few remarks to make in reply to the Senator from New Hampshire, and when I shall have made them, I shall have said all that I intend to say upon this measure, so far as I am concerned. It shall then depend on the pleasure of the Senate. I shall not undertake to reply to all that the Senator has said. Much that he has said I attempted to explain on a former occasion; for instance, his comparison of the expense and cost of some of these vessels to some of the contractors, as compared with the cost to other contractors. I undertook to explain (as is explained in the report) on a former occasion, that peculiar circumstances caused the machinery to cost some men more than others, and the hulls some men more than others. I thought I had explained that sufficiently heretofore in answer to another gentleman.

Now, sir, I will call attention to a few of the cases to which the Senator has alluded; for instance, the Lenapee on page 13. Leaving the Senator's argument alone, it would produce the impression upon the Senate that this board had allowed a very improper claim. The contractors for the Lenapee undertook to build that vessel for \$75,000. They claim that she cost \$152,000, making a claim of \$77,000 of cost over and above the contract price; while other contractors for vessels contracted for at the same time, and just like the Lenapee, only claim from \$14,000 to \$18,000.

Mr. CLARK. Some of them but a little over four thousand dollars.

Mr. HENDRICKS. I explained those; those were peculiar cases; but the average was about from \$14,000 to \$18,000. If the board had allowed to the contractors of the Lenapee \$77,000, and to others only from \$14,000 to \$18,000, the Senate, of course, would be astonished at such a result; but the case of the Lenapee was heard; all the evidence on the subject considered; and the board did not allow the claim of \$77,000.

Mr. CLARK. So I stated.

Mr. HENDRICKS. It allowed but \$18,000.

Mr. CLARK. I stated that the board allowed about \$2,000 above what they allowed in any other case.

Mr. HENDRICKS. I know; but the Senator failed to state the further fact that of the \$18,000 allowed, \$6,000 was for extra work, not within the contract at all, not yet paid for; so that upon the Lenapee the board allowed for cost of the work over and above the contract price, only \$12,000. Is there anything in that case to prejudice the Senate against the bill? And yet the argument of the Senator was as plausible in that case as perhaps in any other.

Now, sir, we will take up the case of the Mendota, on page 31. Naval Constructor Pook was called as a witness, and his testimony will be found on page 31. He testifies that some of the charges made by the contractors for that vessel ought not to be allowed, and, comparing the claim made by the contractors with the award of the board, I take it that those items were not allowed. So much for that case.

The next case is the Chicopee on pages 17 and 44. On page 17 it appears that the contractors for the hull were delayed in completing that vessel by the failure to complete the machinery, as they claimed, and therefore it cost them something more on that account than it otherwise would have cost. Now, let us see what is the claim of the contractors for the

machinery. We will take that case to which the Senator has referred, and I wish to go a little further than the Senator did. I call the attention of the Senate to page 44 of the report, as the Senator did, and let us see whether the argument ought to have all the force that the Senator gives it. He gives it as much force as it is possible for it to receive. He makes the case thus: the contractors for the hull were delayed in the completion of their work, and loss was sustained by them, because the machinery was not finished according to the agreement of the contractors. Now, how does the case stand? It appears that the contract was signed on the 15th day of August, 1862, at the Department, and the machinery was to be finished in seven months, two months after the completion of the hull. The Chicopee was not received until March, 1863:

"The machinery was completed and trial trip satisfactorily concluded in January 24, 1864."

It ought to have been completed in June, 1863, but was not completed until January, 1864.

"And the Tallapoosa was not received until March, 16, 1863, and the machinery was completed and trial trip also satisfactorily concluded March 12, 1864"—ten months after the time limited for the completion of the work. The report goes on to say that the contractors "were relieved by letter from Department, in regard to the time of completion of contract, prior to the signing of the contract."

I ask Senators, how does that come? Here is a bid made; the specifications are not before the bidder; he has no opportunity to know exactly the style of the work; the party goes on with the work; and before the contract is reduced to writing and signed, a letter of the Department relieves him from the time agreed upon. I ask the attention of the Senate to this sentence:

"They were relieved by letter from Department, in regard to the time of completion of contract, prior to the signing of the contract."

A different time was allowed, the Department becoming satisfied that it was impossible to complete this work within the time specified, within seven months:

"That the actual cost of machinery was, including extrabill of \$2,665 75 yet unpaid, \$208,004 35; contract price received from Government, \$164,000; leaving an excess of cost, over and above the contract price, of \$44,004 35. That the excess of cost was owing to the great rise in labor and material, and difficulty in procuring the same."

I believe the Senator stopped just there; but I will ask the attention of the Senate a little further.

Mr. CLARK. What page is the Senator reading from?

Mr. HENDRICKS. Page 44:

"There are many reasons why the engines cost more than the amount of contract: first, when the engines were contracted for, drawings and specifications were not furnished us, and we were totally ignorant as to the weight of said engines, boilers, &c. From the best information and belief, we were led to suppose the machinery would weigh about three hundred and eighty or three hundred and ninety thousand pounds, and have to say that the raw material was worth about the amount of the contract, for the reason of the great excess of weight of metal over and above our estimate. We would also state, that owing to the losses on these vessels in connection with those contracted for in 1861, namely, the Octo-rara and Genesee, we have been compelled to make an assignment. That there is no charge in the bill (annexed to this record and marked No. 42) for any condemned material or faulty workmanship, and that the bill shows the actual cost of labor and material."

I ask the attention of the Senate to this case, one of the cases upon which the Senator made a very forcible argument. The facts are these: before the contract was signed a letter from the Department relieved the parties from the time fixed by the contract, seven months, and allowed them such time as was actually necessary for the construction of the machinery; and secondly, when the contract was made the Department was not prepared to furnish the contractors with the drawings and specifications, and therefore they could not know the exact dimensions of the machinery; and when they came to construct this machinery they found that the raw material, the iron alone, cost them about what they would receive for

the machinery when finished. Is there no equity there? Is there no justice for these claimants, as shown upon the report, in the very case that the Senator makes a forcible argument upon? Is there nothing to be considered by the Senate in the fact that the Department, before the contract was signed, found that it was impossible for the machinery to be constructed within the time limited, and by letter allowed them a longer time? Is it not to be considered by the Senate that when the contract was made the specifications and drawings were not prepared, the parties were not informed so as to form a judgment of the size and weight and cost of this machinery? Is it not to be considered by the Senate that when the work came to be made, it was found that the material itself cost the contractors as much as the contract price? That is all that I have to say upon that case.

On page 17 we find the case of the Osceola. The Senator made a strong point upon that. On page 7 will be found the contract and statement for the hull. The contractors for the hull showed that they could not complete the hull until the machinery was completed. That is the point upon which the argument of the Senator turned, that the hull could not be completed until the machinery was ready to be put into it. What is the statement of the contractors for the machinery? Let us see if they have no equity before Congress, admitting the argument just as strongly as the Senator states it, that the hull was not finished, and that the cost of the hull was increased because the machinery was not ready to be put in at the end of the six months:

"Appeared before the board Oliver Edwards, president of the Atlantic Works, East Boston, on the part of the company, contractors for the machinery of the double-enders Sassacus and Osceola. Under oath states, that the contract for the Osceola was dated September 20, 1862, and for the Sassacus, October 15, 1862, in which they were allowed seven months, or until April, 1863, and May 1863, to complete the machinery of said vessels and deliver them to the Government, but the Sassacus was not so completed and delivered until September 1863, and the Osceola until November, 1863."

Several months, six months, perhaps, after the time limited in the contract.

"The principal causes of delay being the difficulty of obtaining labor and material, as the Government was putting out so much work. That the company was relieved by the Department of the terms of the contract regarding the time of completing the machinery, and was fully satisfied that it was finished as soon as possible."

If there was a contract made to build machinery which it was supposed would cost \$82,000, and it was intended between the Government and the contractors that the work should be finished in seven months; if in fact it could not be done in the nature of things; if there was a mistake both on the part of the Department and the contractors, a mutual mistake, and that mistake results in a great loss to the contractors because of the fact that the work had to be done at a time when material and labor cost so much more than was anticipated, I ask Senators, if, upon grounds of equity, the parties are not entitled to relief. The Department felt that the work could not be finished within the time. It is shown here that the Department was satisfied that it was completed at as early a day as possible, and the Department itself relieved the parties from the terms of the contract in regard to the time limited. But further in the case, which the Senator did not call the attention of the Senate to because it did not lie in the line of his argument—there was another point to which he alluded in another part of his argument—these contractors say:

"That the excess of cost over and above the contract price was due, mainly, to the fact that the contract was accepted upon the representation of Chief Engineer Isherwood that the weight of material would not exceed that of the Paul Jones more than fifteen per cent., when in fact it did exceed that of the Paul Jones seventy-five per cent.; another cause being the rise of material and labor."

There is their case. They did delay the completion of the hull; that is not to be questioned; but how did it occur that they delayed the completion of the hull? It occurred because of the fact that such machinery could not be con-

structed in seven months. Here is the machinery for twenty-two vessels, and in no single case was that machinery completed within the seven months. Why? Senators will not say that all the contractors were negligent; that all the contractors lacked means to prosecute the work with diligence. That cannot be pretended; but it is apparent, as I think, that it was impossible to complete the work within that time. In these two instances to which I have called the attention of the Senate in response to the Senator from New Hampshire the Department felt that the work could not be completed in the time fixed in the contract, and extended the time, and held that the work was done at as early a day as possible. Then the further point is stated, that Mr. Isherwood, who, I understand, is a very skillful man in his profession and a very competent officer, thought that this machinery would not weigh more than fifteen per cent. above that of the Paul Jones, but when the machinery came to be constructed according to the specifications and drawings subsequently furnished, it weighed far beyond that and cost enormously above the sum contemplated.

The Senator has called the attention of the Senate to the fact that the contract price of the machinery for the Paul Jones was \$52,000. In the investigation of these cases I did not think it important to inquire into the case of the Paul Jones. That was machinery built before these contracts were made. That was machinery built when everything was at the very lowest price, a contract made long before these contracts were made, and machinery completed before these contracts were made, and machinery, as I understand it, completed before there commenced to be an advance in the cost of labor and material. If the Senator be right that that machinery cost but \$52,000, what weight ought that fact to have upon the judgment of Senators? That work was done when iron cost but half what it did afterward; and if Senators will look at the table accompanying the report of the committee they will see that the labor upon the machinery of the Paul Jones, and the material used in its construction, could not have cost the contractors one half of what it cost these men to complete their contracts. Therefore it is no fair test, that because the Paul Jones in 1861 could be built for \$52,000, all these ought to be built for that sum, or they ought to be built for \$82,000. The contract price was \$82,000, and it is evident beyond all question that the machinery did cost far above that.

I cannot undertake to go over all the cases that have been referred to by the Senator; but I say the fact that in not one single instance was the machinery completed within the time specified, but many months were required on the part of all these contractors to complete that machinery, shows that there was a mistake on the part of the Department, and on the part of all these contractors, too, in regard to the time necessary for the construction of the machinery. I take that as a general proposition, that there was a mutual mistake, and that mutual mistake, causing the work to run into months when labor and material were much advanced, accounts for the loss sustained by these parties. I submit to Senators, are not contractors oftentimes relieved upon grounds of mistake, in equity? Even in the courts, between man and man, if there is a mutual mistake, equity will correct that mistake. Whether equity between man and man in respect to a question like this would relieve, I will not say; whether this would be a precise case for the interference of a court of chancery, I will not say; but as between the citizen and the Government, I do claim that there being a great mistake in regard to the time necessary for the construction of this machinery, it is such a mistake as appeals to the conscience and sense of equity and right of the Government. That proposition that all these parties were mistaken in regard to the time, that the Department itself was mistaken in regard to the time, and the further fact that this was

much heavier machinery than was contemplated by any of these contractors, certainly ought to control when we come to administer equity between the Government and the citizen.

There was a point made about a misprint of the name of the Mendota. That was called at the proceedings of the board Mercedita. I was embarrassed to understand that when I came to examine the case; I could not find the report of the Mendota, and the facts of the case, but upon a careful examination I succeeded, as the Senator himself seems to have succeeded, in identifying the vessel. The Mercedita mentioned on page 5 is the Mendota unquestionably.

Mr. CLARK. If the Senator turns to page 32 of the report he will find it.

Mr. HENDRICKS. That is the contract for the machinery.

Mr. CLARK. It is down near the bottom of the page:

"Appeared before the board F. Z. Tucker, contractor for the double-ender gunboat Mendota, with explanations and corrections of the bills of cost of said gunboat, rendered on the 19th June, 1865."

If the Senator will refer back to that, date, he will see that Tucker, who was the contractor, rendered evidence in regard to the Mercedita, on page 5, so that that makes it very certain that that must have been the same vessel.

On page 13, in regard to the Lenapee, I understood the Senator to say that the extra work was included in the award of \$18,576 52.

Mr. HENDRICKS. So I understand.

Mr. CLARK. Where is the evidence of that?

Mr. HENDRICKS. I will give it directly. That is my impression.

Mr. CLARK. The Senator will see, by turning to page 13, that the contract price was \$75,500, and that the contractor has received a requisition on his claim for extra work of \$5,923 48, which he has never presented to the Navy agent for payment. He has got a requisition for that amount, and this other amount is all for work on the Lenapee, without extra work, as I understand.

Mr. HENDRICKS. My impression was when I examined the case originally—I have not examined it to-day—that that \$6,000 was included in the award; but I may be mistaken about that. If I am mistaken, it is \$18,000; if I am correct it is \$12,000 on the cost of the vessel. From reading the report, I thought it was as I stated.

In the case of the Mendota, on page 5, there is a statement rendered by the contractor; and on page 31, Naval Constructor Pook was called as a witness, and testified that some of the items charged by the contractor were not correct and ought not to be allowed.

Mr. CLARK. Only as to extra work, as I understand.

Mr. HENDRICKS. On the next page an explanation is made by the contractor, so as to make that right.

Mr. CLARK. It did not affect the amount of the bills at all.

Mr. HENDRICKS. No, sir; it does not affect the amount of the bills; but here is the explanation, and I will read just what the contractor said:

"Appeared before the board F. Z. Tucker, contractor for the double-ender gunboat Mendota, with explanations and corrections of the bills of cost of said gunboat, rendered on the 19th June, 1865, which corrections do not affect the total amount of bills previously submitted."

That is all there is upon that subject.

I understood the Senator to say that when the contracts for these twenty-two engines and boilers were made the weight of the machinery was ascertained and known to the parties. If he stated that he was mistaken.

Mr. CLARK. Oh, no.

Mr. HENDRICKS. I understand him now to say that he did not so state.

Mr. CLARK. I did not state the weight. I said I supposed, when the contract was reduced to writing, they understood what they were contracting for.

Mr. HENDRICKS. The weight of the ma-

chinery was specified when the contract was reduced to writing, though not when the work was commenced. I ask the attention of Senators to that important fact. Parties come here and make propositions to construct machinery. The specifications and drawings are not prepared. They can know but little about it. They propose to construct the machinery for \$82,000 per vessel. They go on and commence the work. Afterward the specifications are drawn up, and it appears, after they have commenced the work, that it costs very much more to build the engines and boilers than was expected. I ask if that does not establish an equitable right to relief on the part of the contractors. I believe that was the case in regard to every one of them; that the work, in fact, was commenced before these contracts were reduced to writing, under the supposition that the machinery would be about of the weight and cost of the Paul Jones, or rather the weight of the Paul Jones; the cost would be greater, inasmuch as there had been an advance in labor and material. The Senator from Nevada [Mr. Nye] has called my attention to the evidence that is furnished on page 21 as the weight of the machinery of the Paul Jones:

"That the excess of cost, over and above the contract price, was due to the greater weight of engine than the contractors were led to expect them to be. Mr. Isherwood, chief of the Bureau of Steam Engineering, having assured them that they would not exceed those of the Paul Jones class—three hundred and seventy-four thousand pounds."

Another one of the contractors says, under oath, that he understood that the machinery was to weigh from three hundred and eighty to three hundred and ninety thousand pounds; and the evidence in the case of the Pawtuxet is that the machinery weighed six hundred and thirty thousand pounds, almost double that of the Paul Jones. That mistake ran through all these cases, in regard to the weight, and I submit to Senators whether the Senator from New Hampshire has succeeded in establishing a substantial error in the report of the board in regard to any of the other cases. His argument is aimed at the contractors for the machinery. When it appears that there was a mistake on the part of the Department and on the part of each one of these contractors in regard to the time necessary for the construction of the machinery; when it appears that the contractors thought, at the time they made their bids, upon the representations made to them in the Department, that this machinery would weigh about as much as the machinery of the Paul Jones, and when it further appears that the machinery weighs greatly more, and is greatly more expensive, I ask Senators if the case for relief is not substantially made out.

Mr. CLARK. I desire to ask the Senator whether, supposing more time was necessary, the man who got out his work in six months was not more deserving than the man who got it out in twelve months.

Mr. HENDRICKS. I should say so.

Mr. CLARK. Then what is the propriety of putting them all at twelve per cent.?

Mr. HENDRICKS. Mr. President, there is not any very great difference in the time that was occupied in the completion of this machinery.

Mr. CLARK. One hundred days in some.

Mr. HENDRICKS. No, I think not. There was one case where the machinery was furnished for one vessel as early as September, 1863. I noticed that as I was reading over the report; and in some cases the machinery was not finished until the spring of 1864.

Mr. CLARK. A difference of six months.

Mr. HENDRICKS. Yes, sir; but I recollect of but one case in which the machinery was finished as early as September, 1863. That same house got out another engine and boiler in November, 1863; but most of this machinery was finished during the winter of 1863-64.

Now, I repeat to the Senate, that although there is much force in the argument of the Senator, when it is considered that the Department and the contractors made a mutual mistake in regard to the time necessary for the

completion of this machinery; when the Senator cannot say that these men by the exercise of the greatest diligence could have completed it within the seven months; when that longer time necessarily added very much to the cost of the work; when it is considered that they were deceived—I will not say deceived; it was not intentional on the part of the Department, unquestionably—but misled in regard to the weight of the engines, and they weighed greatly more than was anticipated when they made their bids; when it appears that with diligence they did prosecute the work, because there is no complaint on the part of the Government that they did not, and in some cases Congress relieved them and in some cases the Department relieved them in regard to the time; when it is shown that the Department thought they were finished as soon as was possible in one case—when all this is considered, and these men have done good work at as early a day as possible, will not Congress relieve them from the great loss which resulted from these mistakes mutual between the contractors and the Department? It seems to me, notwithstanding the critical argument made by the Senator from New Hampshire, that there ought to be relief.

Mr. President, I now submit the case so far as I am concerned, to the sense of justice of the Senate.

Mr. CLARK. I have but a word or two in reply, and it is not so much in reply as it is in aid of a suggestion or two made by the Senator from Indiana. I think, taking the Senator's statement to be entirely true, it shows conclusively that this kind of legislation that we are attempting here now is not the proper, intelligent legislation that we ought to have. Now, supposing these engines to have been heavier than any of the contractors contemplated, how much heavier were they? Does the Senator know, except in one case where a person says that the one which he built was so heavy? Before we can legislate intelligently we ought to have from the Department the weight of these engines, if the contractors complain of that, and know how much heavier they were.

Mr. HENDRICKS. They were all of one style.

Mr. CLARK. I understand that some of these people do not complain of that. Many of them do not complain that they were deceived in the weight; some do. If we could have the weight of these engines we could then know if that was a matter of equity, how much equity there was in the case.

Taking the matter of time, the Senator says that the Department was satisfied the time was not long enough. Do we know how much time the Department thought was long enough? Do we know how far the Department relieved them in regard to the time? We should have the information from the Department in all these cases before we can legislate intelligently. It is to this blind method of legislation that I so much object. It may be true, as I stated before, that the Government will have to pay as much in the end as this twelve per cent. would be; but I do not like this method of legislation. I want the people who are deserving of it to have the money, and those who are not deserving of it, if there be such, not to have it.

Mr. NYE. I have only two or three sentences to utter in regard to this bill, and I may as well commence where the Senator from New Hampshire left off. He says we ought to have evidence from the Department in regard to the increased weight of this machinery. Sir, this question was examined before the Department itself. The Senator from New Hampshire seems to forget that it was the very Department to which he refers that made this examination; and if there had existed in the Department the power to gainsay the evidence that was given by these contractors, I believe it is a fair presumption that it would have been given. This board was no tribunal of ours. If there were any omissions on the part of this board, it was not the fault of this Senate or of the contractors. The Senator from Iowa [Mr.

GRIMES] read here the other day the criticisms and strictures of Mr. Isherwood on these claims. I do not understand that in that communication there was any complaint or any sort of denial of the fact that this machinery was heavier than that of the Paul Jones. The Paul Jones was familiar to this board undoubtedly, and they understood the fact to be precisely as these contractors testified. Their report was before the Department and considered by it long before it came before the Committee on Naval Affairs.

The misfortune that the Senator from New Hampshire seems to be laboring under is, that nobody has examined this case but him, and because he found a wrong name in one place he turned round with quite a theatrical air of triumph, as much as to say, "I would impeach not only the intelligence but the integrity of the committee to which this subject was referred," and with an air of triumph he attempted to render us some aid. The fact appeared that the committee jointly happened to be as wise as the Senator separately, and found out the same thing that he found from examining the report. I congratulate the committee jointly that they were able to do what the Senator could do alone!

My friend from New Hampshire has argued this case as a very critical lawyer, and it seemed to me that he fell into the error of supposing that he was defending some one in New Hampshire, or somewhere else, against a legal claim made to recover in these several cases. Sir, the committee that made this report placed the report upon no such foundation. They have reported that these ships honestly cost these people, from the evidence that satisfied the commission appointed by the Government itself, so many dollars and so many cents. The appeal is not in the character of a legal claim, but it is an appeal of honest men that have labored honestly, that have not let their furnaces go unheated, whose hammers have been heard night and day; and for what? To aid this Government in constructing a navy that is to-day its proudest boast.

My friend from New Hampshire seems to hang upon this question of "time" as though it was a very important thing. "It is so nominated in the bond," says the Senator from New Hampshire. He returns to the bond. He argues well if this Government turns Shylock; but he does not argue well when an appeal is made to the sense of justice of this Government. Time, sir! It is patent to everybody that time in regard to these Government contracts has not been observed by any contractor. The whole country was in a state of wild confusion. Time! Why, sir, the time was set for McClellan to go into Richmond, when he marched out with the proudest army that ever went from here; but he did not get there at all. The time was set for peace, by the distinguished Secretary of State, in sixty days after the troubles commenced; and yet the controversy lasted four long years. So far as that distinguished officer of the Government could fix the time, he fixed it; but instead of sixty we had more than fourteen hundred days of bloody strife.

The Senator says these contractors have kept the Government out of the use of these vessels. What is the fact? The fact is, that the Government yards and every private facility for the construction of ships in this whole country were engaged. Besides, Congress passed a law providing that the laborers in the Government navy-yards should not be subjected to draft; but they passed no such law in regard to the private yards of this country. The fact is, that when these contractors got their shops full of men, the strong arm of this Government would come along and sweep them out in a day by a draft; or, just as fatal to them, by bidding a thousand dollars' bounty to every one who would enlist as a soldier, and a private workshop or a ship-building yard would be cleared in a single day. These facts are not proved; they are patent. There are some things that everybody knows; they are stamped

indelibly upon the tablets of our memory; and among those things is the fact that the exigencies of the country required these men in these several vocations; and the universal testimony of this entire report is that the labor which they were able to procure was of an inferior character, and had to be paid for at high prices, and was obtained with difficulty. Does the Government desire that proved? It is written on every page of history for the last four years. It is patent.

Sir, this Government acted far more magnanimously than its distinguished advocate from New Hampshire now does. They did not hang upon time. They were glad to get these ships whenever they came. They would have been glad to get them sooner, and they would have taken them later had they come. My friend, with a great deal of assurance of manner at least, and I presume he felt so from the strength of his argument, asks us, would an individual do it? I answer yes, if the individual's necessities were as great as the necessities of this country, and he would have been glad to do it. An individual who will stand upon the bond when a man has given him a superior article, and heavier than he contracted for, and say "I will take it, because it is so nominated in the bond," is not an honest man; and, sir, you would not trust him, nor would the Senator from New Hampshire trust him; and he could not get trusted in a country store in the State of New Hampshire.

I was utterly surprised at the pertinacity with which the Senator from New Hampshire adhered to this question of time. Sir, the truth is this Government "took no note of time save by its loss" during this struggle. It was all time and no time with them. For four years there has been no note of time save in preparation for bloody strife. I repeat again, I was utterly surprised to hear the distinguished Senator from New Hampshire, who is generally so generous, and takes such enlarged views of things, nail his objection to this measure on the question of time. Why did he do it? To show that this excess of cost arose from the delay of these contractors. Is there a particle of evidence of that sort in this case? Is not the contrary apparent throughout, that they strained every nerve to complete these vessels in time? They had two controlling motives to do it: first, in order to help to rescue the Government they loved from its peril; and next, because every day told them prices were increasing enormously; and yet my friend says they must suffer the entire loss occasioned by this delay.

Now, Mr. President, I desire to make two or three statements that are matters of history, and my friend will find them to be so if he goes to the Department. I have but one single acquaintance in this whole lot of contractors, but I have taken occasion to look a little into the record. Mr. Quintard has built ten ships for this Government.

Mr. CLARK. Thirteen.

Mr. NYE. No, sir.

Mr. CLARK. He told me so.

Mr. NYE. I guess you are mistaken, because he gave me the names.

Mr. CLARK. He told me he had built thirteen.

Mr. NYE. Well, all the better, as I am so often wrong and my distinguished friend always right. I understood that he built ten ships entire, and the machinery for three.

Mr. CLARK. That is what he may have meant by the thirteen.

Mr. NYE. I have it in writing from him. He has built ten ships, and the evidence can be obtained, if my friend desires to consult the Department, that not one of those ships did he want to build; and he has never built a ship for the Government upon which he has not sustained a loss. He tells me—and George Quintard tells the truth always—that these things were urged upon him. The Government said they could not do without them; he must do them; they could not get them done anywhere else. And yet, amid this whole

turmoil in the building of thirteen ships, and thirteen such ships, my friend from New Hampshire seems to count the very minutes of time against him as a reason why this Government should not be just to him. To that kind of reasoning I object. I insist upon it that the very severe criticisms of the Senator from New Hampshire, so fully answered by the distinguished Senator from Indiana, were not fair upon this report or upon the bill.

Now, sir, as little as I know of legislation, I think I see a way in which the distinguished Senator from New Hampshire could have shown his fairness much more clearly to my mind. He declares to you that some of these parties are entitled to remuneration. Then, why does he not move to strike out such as are not entitled to recover, in his opinion? He says he will vote to postpone the bill. That is a very easy thing for a Senator to do; but it is a very hard thing to be endured by those who are groaning under burdens they can hardly bear, for honest toil, honest labor, and honest material that they have given to this Government in the hour of her direst necessity. It is very easy for my friend from Missouri and my friend from New Hampshire to say, "We will postpone it for another year," when the very case shows you that every one of these parties who has not gone over already is tottering on the very verge of bankruptcy. Oh, postpone it! Give my friend time to read the pamphlet! If we will only postpone it, he is going into it very thoroughly; he will spend the vacation in reading the literature of double-end iron-clads, and next winter he will come here ready to be appointed, if the exigencies of the country should require it, a naval constructor!

Sir, we have here the testimony of two men who have grown grey in the service of this country, two naval constructors whose fame is not bounded even by our own shores, who have been consulted by other countries, long-tried and faithful servants of this Government, and they substantially indorse the testimony of these contractors. Sir, I insist upon it, that when these men come here they are entitled to an answer. I have taken no pains to ascertain how Senators are going to vote on this question; but if these men are to be buried amid the ruins of their misfortune, bury them now; for burial would be a relief. Do not keep them hanging upon the tenter hooks of uncertainty till frost time again, and then the Senator from Missouri or the Senator from New Hampshire may not have got fully booked up on the subject, and will move to postpone it for another season. Sir, quick poison is better than slow; and if this Senate has made up its mind that the rule of conduct they will establish is to take two and a half millions of money from citizens of this country, do it now. If the blow must be struck, let it fall now. Their agony already has been greater than they can endure. My friend from California knows that hundreds of thousands of dollars are involved in his own State, where the men have advanced their own money and have carried their loss like good soldiers and patriots.

Mr. President, all that I regret is, that this whole subject had not been referred to the honorable Senator from New Hampshire originally, and then we should have had set forth exactly what ought to be paid, and what ought not to be paid. I hope that this motion to postpone will not prevail, but that the bill will be passed as amended on the motion of the Senator from Iowa; it is throwing at least a crumb to hungry men, which is ever grateful.

Mr. GRIMES. My amendment has been adopted.

Mr. NYE. That amendment being adopted, I hope the bill will pass. I am entirely satisfied that it will be in consonance—and I make this remark in view of the inquiry that the Senator from New Hampshire made whether the tax-payers would like it—with the judgment of the people of this nation that they shall not take the labor of a man who has labored faithfully for them and he go unrequited. Sir, this is all that I desire to say on this question.

Mr. CLARK. The Senator from Nevada finds fault with me that I insist upon time in this contract, and he says, why insist upon time? McClellan was so many months in Washington before reaching the Chickahominy, and so many months so and so. Let me tell the Senator from Nevada that his allusion to that general and to time in that connection was an unfortunate one. I did not have him in my mind, if the Senator so supposed. If McClellan had come to time, as these contractors ought to have come to time, we should have saved hundreds of thousands of lives. If at the battle of Fair Oaks he had come to time, he might have gone into the city of Richmond. If at the battle of Malvern Hill he had come to time, he might again have gone into the city of Richmond. Again, if after the battle of Antietam he had come to time, he might have destroyed Lee and his army. And now, says the Senator, forsooth, what is the value of time? Why, sir, if Meade had come to time after the battle of Gettysburg we should have saved hundreds and thousands of lives; and who shall say that if we had had these ships, we should not have shortened the war and saved lives? The allusion was an unfortunate one from the Senator from Nevada for his argument, in my judgment. Sir, I am playing no Shylock with these contractors, and the Senator should know it.

Mr. NYE. I have not said so. I asked if the Government was prepared to play Shylock. I did not say the Senator was, by any means.

Mr. CLARK. The Government is playing no Shylock.

Mr. NYE. That is what I claimed, that it should not.

Mr. CLARK. It deals generously with these people when it extends the time and takes the vessels off their hands, when they have finished them, and pays them the full contract price for them. It does not say to these people, "You have delayed the performance of this work for months; six, eight, nine, ten, or eleven months, and therefore we will not pay you;" but it takes the vessels nearly at the end of the war, sometimes within eleven months of the end of the war, when they are comparatively useless, or not half the value they would have been if they had been in time, and pays them the full price; and yet the Senator from Nevada says "time, time." Sir, as we grow old we learn the value of time. The Senator knows the value of time; and he knows it is sometimes true, as Napoleon said, that a moment lost is the chance of future wretchedness; and especially so in war. This Government was in war; such a war as the world had not seen. It was straining every nerve, purchasing merchantmen for transport ships and for naval purposes, arming them, and doing everything it could to create a navy, contracting with these people to deliver ships within a given time, and they failing for nearly a year, this Government has not played Shylock; but after the war is over these gentlemen come and beseech the Government to be generous. Yes, let the Government be generous, but let it be intelligent in its generosity and reward those most who served it best.

Mr. President, I have said that I do not like this method of legislation. I know very well, and the Senator from Nevada must know very well, that when these men are put into a bill together—I do not say that he or the committee put them into a bill together—but he knows very well that these men came here together for the very purpose by collective influence of pushing a thing of this kind through.

Mr. NYE. I do not know any such thing.

Mr. CLARK. I well know such a thing.

Mr. NYE. Very well; you may, but I do not.

Mr. CLARK. It is very apparent that by the force of one given to the other, the thing is to be carried through by joint weight and joint influence. Some of these men may be, as the Senator says, poor; and some of these men may be rich, and if they are not misrepresented, are rich; but whether they be poor,

or whether they be rich, makes no difference in the justice of the Government. If a man is rich and has earned well of the Government he should be paid. If he is poor, and has not earned well of the Government, then he should not be paid. It is not by any such standard that I wish to try these men.

Nor do I wish to have this matter lie over that I may examine it; for I have said nothing about examining it. I wish it could be laid over, or I wish some different scheme could be devised by which we might do justice, as I said, individually in these cases, each case by itself and for itself, and not lump them in this way, and by a general bill give them twelve per cent. on the contract price. As I said before, in that way a man may get more than he is entitled to or he may get less than he is entitled to. They should not be leveled down in that manner, but each should have according to what he deserves.

"Now," says the Senator from Nevada, "why does not the Senator from New Hampshire move to strike out a case?" Because I have not had time to examine the cases through. I have not had time to examine any one of these cases sufficiently to enable me to say that the man may not be deserving of something, though on the showing he makes he is not entitled to it. I might strike out some that were deserving. If I were to move to strike out so that the bill should pass as I think it ought to pass, I would move to strike out forty-one and leave only one, whoever he might be, and try that, and then take the others up afterward. That is the way we ought to legislate, one by one, as we do in other cases, and not in this collective method.

Now, Mr. President, one word in regard to what was first said by the Senator, that this board had examined the weight of these engines. Where is the evidence of it? This board was not established for any such purpose. It was not established to report upon the weight.

Mr. NYE. Here is the evidence of it. I read from page 21:

"That the excess of cost, over and above the contract price, was due to the greater weight of engine than the contractors were led to expect them to be, Mr. Isherwood, chief of the Bureau of Steam Engineering, having assured them that they would not exceed those of the Paul Jones class, (three hundred and seventy-four thousand pounds.)"

Mr. GRIMES. Who says that?

Mr. NYE. Mr. Henry W. Gardner, of the firm of Gardner & Lake, contractors for the engine and boilers of the double-end vessel Pawtuxet.

"Whereas the weight of one built by them was six hundred and thirty thousand pounds; that the total cost, including cost of collection of bill and interest," &c.

There is the evidence.

Mr. CLARK. Is that all the evidence?

Mr. NYE. No, sir; by no means.

Mr. CLARK. Where is the rest?

Mr. NYE. Here it is in several cases.

Mr. CLARK. Will the Senator turn me to the rest?

Mr. NYE. Yes, sir. I will turn you to the testimony of Mr. William Boardman, on page 44, which you did not read, but which was read by the Senator from Indiana:

"That the excess of cost was owing to the great rise in labor and material and difficulty in procuring the same. There are many reasons why the engines cost more than the amount of contract: first, when the engines were contracted for, drawings and specifications were not furnished us, and we were totally ignorant as to the weight of said engines, boilers, &c. From the best information and belief, we were led to suppose the machinery would weigh three hundred and eighty or three hundred and ninety thousand pounds, and have to say that the raw material was worth about the amount of the contract, for the reason of the great excess of weight of metal over and above our estimate."

And you will find it in two or three other places in the report.

Mr. CLARK. But that does not state the weight of the engines.

Mr. NYE. It states the weight of one engine, and the engines of the double-enders are all alike.

Mr. CLARK. Only one man, so far as I know, states the weight of the engines.

Mr. NYE. The fact appears—

Mr. CLARK. They state generally that they weighed more.

Mr. NYE. Will the gentleman allow me to make a suggestion?

Mr. CLARK. Certainly.

Mr. NYE. The fact appeared clearly before our committee that the weight of the engines of the double-enders was about the same. I will ask the Senator from Indiana if he did not so understand it?

Mr. HENDRICKS. Yes, sir. I understood when the specifications and drawings came to be examined they corresponded.

Mr. NYE. They were alike.

Mr. HENDRICKS. There was no difference.

Mr. GRIMES. It is due to Mr. Isherwood and to the Navy Department to state that they say that to each one of these contractors to whom the \$82,000 was paid the specifications were delivered when the contract was made. The drawings were not delivered, but the specifications were placed in their hands.

Mr. HENDRICKS. That was when the contract was signed, not when the work was commenced.

Mr. CLARK. The point to which I wish to call the attention of the Senator from Nevada is, that only one person undertook to state the weight of these engines before the board. The board was not established for any such purpose. The board was simply established to ascertain and to report what was the cost of the work.

Mr. NYE. Will the Senator allow me to ask him a question?

Mr. CLARK. Certainly.

Mr. NYE. How could they ascertain what this work cost unless they ascertained the weight of the engines and machinery?

Mr. CLARK. In various ways. I do not know how specific the bills may have been. I do not know whether these gentlemen put in the weight of the raw material; whether they put in the weight of the engines or whether they fixed their bills in some other shape, upon the day's work or in some other way. That does not appear here, and that is the very point. They could put bills of cost in different shapes, and, I dare say, did put them in different shapes. I dare say the material cost differently to different individuals. Some, perhaps, would pay more and some less. This commission was appointed for the purpose of ascertaining the cost over and above the contract price and allowance for extra work, and report the same to the Senate. That was their work, to ascertain the cost, not to ascertain the equities on the other side; not to say what was required by the contract and what was furnished by the contractors, but simply to ascertain the cost and report that. I desire a very different thing. I desire that the equities on the other side should be stated in regard to the cost, and that we should have the whole matter intelligently before the Senate.

Mr. McDOUGALL. I do not rise to discuss this question, but only to make an observation in reply to the Senator-soldier from New Hampshire. He has talked about the battle of Fair Oaks and said something about Malvern Hill, and he has spoken about a general who is absent. The maxim "*de mortuis nil nisi bonum*" applies to the absent as well as to the dead.

Mr. CLARK. Put in the dead. [Laughter.]

Mr. McDOUGALL. He will live beyond your period. General George B. McClellan was an excellent soldier and a true patriot. If General McDowell had been allowed to make his movement as he was directed, according to General McClellan's advice, down to Yorktown to support him, he would have been in Richmond very shortly. Cowardly men withheld his forces for the defenses of Washington, and therefore General McClellan had not the material with which to ad-

vance. I am no especial admirer of General George B. McClellan; but I speak this for justice. After having captured Yorktown, with a worse siege than the first time when Yorktown was taken, the history of which is indited in the Rotunda, he advanced and lacked simply the support that he required in his own programme as a military man according to the strategy that he had stated. Perhaps the Senator-soldier from New Hampshire has learned the retreat of the Ten Thousand and Moreau out of the Black Forest; perhaps he went with Hannibal and Napoleon across the Alps; perhaps he has fought on many fields; perhaps he is able to lay down with Machiavelli the science and art of war. I say those remarks about General George B. McClellan are unwarranted, for he was a gallant man and a patriotic man. It is still a question pending whether he was a great general or not. [Laughter.]

Mr. RIDDLE. Mr. President, these extraneous questions, I think, should not be lugged into a debate on so important a matter as this. On a former occasion, some days since, I expressed my views upon this bill, and told the Senate that I would discuss it hereafter if necessary. That discussion I think now unnecessary. I then said, and I intend to adhere to it at present, that I would vote for the amendment of the Senator from Iowa, and if that amendment should be adopted I would vote for the bill. I infinitely prefer now the motion of the honorable Senator from Missouri, and why? What is the reason for it? It is to enable us to winnow the wheat from the chaff. It has been shown us that some of these allowances ought to be made and some ought not to be made. Now give us time to examine into this matter. There is no mechanic suffering from this delay; the mechanics are all paid off; and I venture to assert, and challenge contradiction, that nearly every one, if not every one, of the gentlemen who made these contracts had made a fortune out of the Government before he lost something on these contracts. It was their own option that they took the contracts. They made their contracts with their sub-contractors before they assumed the great contract, and if they lose on one and we are compelled to compensate them for that loss, should they not, with the same propriety, come back and pay us the excess of what they made upon the others? Would not that be justice? Would not that be fair to the Government?

The details which are cited by Senators on this floor are comparatively unimportant. If these gentlemen have just claims upon the Government, let them present their claims to the Court of Claims; or, if they prefer it, let them bring their individual cases before the Senate, and have them examined upon their merits. I may vote, perhaps, for all of them; certainly for some; but let us have the just claims presented separately from the unjust claims. I am not going to discuss this question; but I repeat now what I have said heretofore, that if we are going to make this allowance, if we are going to open the door, there will be no closing it. As was remarked by the Senator from New Hampshire, why cannot your wagon-makers come in for an additional allowance? Why cannot your contractors who contracted to deliver hay for twenty dollars a ton and had to give thirty dollars for it come in for additional pay? Where are you going to stop? That is the question. My plan is to postpone the subject, or rather it is the plan of the Senator from Missouri, and I shall vote for that with all my heart. I trust the Senate will postpone the bill in order that we may winnow out the wheat from the chaff.

The PRESIDING OFFICER. (Mr. DOOLITTLE in the chair.) The question is on the motion of the Senator from Missouri, [Mr. HENDERSON,] that this bill be postponed until the first Monday of December next; and upon that question the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 11, nays 24; as follows:

YEAS—Messrs. Clark, Davis, Doolittle, Guthrie, Henderson, Howe, Kirkwood, Riddle, Sherman, Trumbull, and Wade—11.

NAYS—Messrs. Anthony, Chandler, Conness, Cragin, Foster, Grimes, Harris, Hendricks, Howard, Johnson, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Van Winkle, Willey, Williams, and Wilson—24.

ABSENT—Messrs. Brown, Buckalew, Cowan, Creswell, Dixon, Edmunds, Fessenden, Lane of Indiana, Lane of Kansas, McDougall, Norton, Saulsbury, Wright, and Yates—14.

So the motion was not agreed to.

The PRESIDING OFFICER. The question now is on concurring, in the Senate, with the amendments made in Committee of the Whole.

Mr. HENDERSON. I now move to recommend the bill and the amendments to the Committee on Naval Affairs.

Mr. CONNESS. I wish simply to say in connection with my votes on this proposition, that I voted against the postponement because it is within my knowledge that some of the claimants comprehended by the bill deserve what is due them by the Government, for I believe sums are due them by the Government. But, although I believe that, I cannot vote for the bill in its present shape. I cannot agree to give twelve per cent. to parties who it has been clearly shown in the Senate are not entitled to a dollar, in order that those who are deserving shall be paid. Legislation of that kind cannot have my vote. It is not measured, in my opinion, by justice, for when we speak of justice we must never forget that there is more than one party who requires it at our hands. No addition, in my opinion, can be made at this time to the public indebtedness without the perpetration of a crime. It is an absolute crime, in my opinion. I say for myself that nothing can induce me to perpetrate that by my vote.

I am willing to vote the uttermost farthing that shall be ascertained to be due to any or all of the contractors who are parties comprehended by this bill; but only upon an examination of the cases; and I believe, and have believed from the beginning, that a specific examination of each case will lead to the payment of those who are most worthy at the earliest period of time.

It may be, Mr. President, that the Senate may pass the bill in its present form. If they shall do so of course I have no condemnation to utter in advance of what a majority may do; but until it is done by a vote of the Senate, I shall not believe that the Senate of the United States will pass the present bill or any bill made up as it is, comprehended as it is, putting upon the same level every class of claimants entitled to every degree of consideration. My opinion is that it should be committed for the separate examination of the claims. Whether that committal should be to the Committee on Naval Affairs or not is a question for the Senate to decide. I am perfectly willing that it should go there with instructions to them to report upon each case separately. I am prepared upon such a plan to be even generous as well as just to those who are found eminently worthy by the examination to be made. My own choice would be to commit it to the Committee on Claims of this body.

Mr. CLARK. We do not want it.

Mr. CONNESS. The Senator, who is chairman of that committee here, says he does not want it. I knew that; and although the Senator has discussed this measure with a clearness and acumen that commonly belong to him on every subject, and evidencing the industry that is of so much value to this nation, I have so much confidence in the Senator's sense of justice that I believe the cases having merit would receive due consideration at his hands.

It was suggested by the Senator from Nevada, who addressed the Senate a few moments ago on this subject, that the chairman of the Com-

mittee on Claims had now committed himself upon the subject. I do not understand that when a Senator performs the duty incumbent upon him here of analyzing closely the claims that are presented for the public consideration and payment he is committing himself against a measure. While the uttermost farthing that is due should be paid by the Government to whom it is found to be due, the uttermost farthing at the present time should be also kept in the Treasury if it belongs there; and I should feel for one that I was performing my part but illy here if I did not by my votes sustain such utterances. If the instructions are to go with this motion, or it is to be the understanding that when the bill is recommitted to the Committee on Naval Affairs they are to examine each case and report at the earliest period of time during this session, so that it may be acted upon, what is due to each of these contractors, I shall give a vote for that recommitment; but in its present shape I desire to say that the bill cannot receive my vote on its passage.

I have felt, Mr. President, called upon to make this statement more particularly because constituents and friends of mine are interested in some of these claims. I shall as a matter of course, both in the gratification of my feelings and in rendering them justice at the earliest period of time, seek the opportunity of serving them to that extent. If they expect anything beyond that they expect service that they cannot receive at my hands. I am in favor of the earliest examination of their claims, and the payment of the greatest amount that shall be found to be their due, and I have no doubt that their claims will stand the closest test of examination and comment when the facts are presented to this body.

Mr. WILLEY. Mr. President, if this bill is to be recommitted, speaking for myself only as a member of the Committee on Naval Affairs, I hope the suggestion of the honorable Senator from California will prevail and that it may go to the Committee on Claims or some other committee. I have not deemed it necessary to participate at all in the discussion, not because I had not examined the claims sufficiently to satisfy myself, but because I saw the bill was being discussed by other Senators more competent to do justice to the case, and perhaps more familiar with the subject. My own convictions upon the subject from the examination I have given the case are very clear. My mind is made up very conclusively on the merits of these claims. Therefore I do not think it is justice to the Senate to recommit the bill to the Naval Committee, if the other members of the committee feel toward the claims as I do. I trust that if it is recommitted at all, the suggestion of the Senator from California may prevail, and I know of no better committee to which it could go than the Committee on Claims. I am satisfied that although there may be a difference in the merit of these different claims, there is not a claimant in the bill mentioned that is not justly and honestly, before the country and the Senate, entitled to more than the bill will give him.

In reference to the difficulty in regard to the form of the bill, I have not been able to see the point in the objection made. I think there can be no more difficulty because several claims are included in the bill than there would be in the case of the naval appropriation bill or any other general appropriation bill which contains many distinct appropriations for various objects. The report upon these claims is distinct and separate; the claims themselves are set forth separately in the bill; and it is just as easy to modify any one of the claims or to strike it from the bill entirely as it would be to modify an appropriation bill or to strike it from the bill entirely.

I do not think that the honorable Senator from New Hampshire has done the sub-committee of the Naval Committee justice when he urges upon the Senate that cases containing less merit than others are included in the whole, in an omnibus bill, for the purpose of

carrying through those that may have less merit than others. It is hardly just to the Naval Committee to say that they would allow themselves to become the instruments of reporting any bill or any claim to the Senate that they did not believe to be deserving of merit and which they did not believe ought to be passed by the Senate.

I conclude these remarks without going into any examination. I hope the suggestion of the Senator from California may prevail, and that if the bill is to be recommitted it will go to the Committee on Claims or some other committee. I do not want it recommitted myself; I have no desire of that kind.

The PRESIDING OFFICER. (Mr. DOOLITTLE.) The pending motion is to recommit the bill to the Committee on Naval Affairs.

Mr. WILLEY. I suppose the question could be as well tested on the recommitment, to which I am opposed, by moving to amend that motion so that the bill may be referred to the Committee on Claims, which motion I make.

The PRESIDING OFFICER. The Senator from West Virginia moves to amend the motion to recommit by referring the bill to the Committee on Claims.

Mr. CLARK. I think we had better perhaps try the motion to recommit to the committee from which the bill came. I think there is no doubt the Senate have confidence in that committee. I am sorry the Senator from West Virginia should have understood that I intended to accuse the sub-committee of making up this bill in this way for the purpose of carrying one claim by means of another. What I meant to say was that these people who went before the board had done it for the purpose of carrying one with the other. I did not make any charge upon the committee.

I do not feel quite willing, so far as I am individually concerned, after having expressed myself so freely in regard to some of the claims, that the bill should go to the Committee on Claims, and solely for the reason that I feel that some of these people coming here with claims might not feel that confidence they ought to feel in a committee examining the matter. They might feel that I was prejudiced against their claims.

Mr. WILLIAMS. I hope this amendment which has been proposed by the Senator from Iowa [Mr. GRIMES] will be adopted and an end put to this controversy. Everybody knows that in a case of this kind we cannot ascertain the facts with mathematical accuracy; and all we can do is to approximate to justice. This subject has been examined by a board constituted for that purpose; it has been reexamined by the Naval Committee; it has been elaborately discussed here before the Senate; and now I say it will be more economical for the Government, if there be any persons in this number presenting claims not just in law or equity, to pay them the twelve per cent. rather than to protract this litigation and controversy; and it will be better for the men entitled to more than twelve per cent. to have the twelve per cent. at this time than to be compelled to wait year after year and finally get in the end perhaps a larger sum. I am in favor, so far as I am individually concerned, of settling the question at this time.

Now, sir, if the proposition that has been suggested should prevail, and each one of these claims should be brought before the Senate and before Congress by itself, and discussed as extensively, as no doubt it would be, as the claims have been upon this occasion, very much of the time of Congress will be occupied with this subject, and I do not believe there is any probability that we shall ascertain the facts in the case and be more likely to do justice after all that time and trouble than we are now. So far as I am concerned, I have listened to this discussion and heard what has been said on both sides; and I believe that justice will be promoted, that it will be more to the advantage of the claimants to have the question decided at

this time by the adoption of this proposition, and that the Government will save money by paying all these persons twelve per cent. I think they will be benefited and the Government will be benefited. I think the proposition ought to be adopted.

Mr. CONNESS. I need not say, as I have already spoken all I desire to say on that subject, that I differ very much from my friend from Oregon in the opinion he has expressed; but I rise to suggest that I think it is apparent that it will be found on a slight examination that the subject can be divided into classes when it comes before the Senate again and that although there are forty-two cases they need not come before us in forty-two bills; nor need even the examination be conducted except as to classes. I think that it is not so much of a work as is imagined and that if the bill be recommitted it will be found to be more easily and readily performed, and that we shall act upon it with more promptness and, I will not repeat, with more justice.

I am very glad the suggestion is made to commit the subject to the Committee on Claims. I wish to say again that I have no doubt the honorable chairman of that committee will act, not only with justice, but with generosity toward these claimants. The case, as has been stated, has been fully discussed here, and I think it may be conceded that it is the sentiment of the Senate to act with generosity toward these claimants, and I have no doubt that it will be examined with that view and with reference to that sentiment and opinion; and I hope that that course will be taken.

Mr. DAVIS. I would suggest to the Senator from Missouri that he add to his motion an instruction to the committee to report separately upon each case. I presume that each case has its distinctive facts and features, and I confess it struck me as somewhat improper to group in a single bill as many cases of different claims, each claim sustained by a different state of fact, as are embodied in this bill.

Another thought has occurred to me in relation to this matter. Some of these claimants may have had other contracts with the Government and upon those other contracts they may have made large profits, two or three times the amount of their losses on the contracts embodied in this bill. When a man contracts with the Government, as a general rule he must risk his contract and he must make or lose by it according to his judgment and according to his vigilance and energy in the execution of his contract; and when he has made profitable contracts with the Government, and consequently has received large profits, is it just to the Government, is there any claim of justice in his favor that he shall retain all the large profits which he has made upon other contracts and shall be indemnified in a contract on which he has made a loss? I think not. It seems to me that the committee ought to be instructed to report a separate bill in relation to each case, and that Senators might have an opportunity of withholding any remuneration in favor of parties who have made large profits upon other contracts. I therefore suggest to the Senator from Missouri that he add to his motion that the committee, to whatever committee it may be referred, be required to report a separate bill in relation to each claimant whom they deem entitled to relief.

Mr. HENDERSON. I decline to accept that amendment to my motion. I prefer that the bill shall go back to the same committee from which it came, since the discussion of the question. I do not desire that it shall be sent to the Committee on Claims. I have entire confidence in the Naval Committee, and after the facts that have been developed here in the discussion I think the Committee will do what is right. I have no doubt about that. If they report back the amendment of the chairman of the Naval Committee I cannot say that I shall vote against it; but I would rather they would reexamine it. I think the Senate would be better satisfied if there was a reexamination.

I do not ask that the committee report separate bills; I do not want them to do so; they may class the cases.

Mr. GRIMES. I think there would not be an absolute necessity for a separate bill in each case. I think the cases could be classified. For instance, the cases of the hulls could be put by themselves. There are some cases that spring out of the manufacture of wooden hulls of vessels entirely; others were different classes of vessels, and different classes of engines. Four or five or six bills might cover all the cases.

Mr. HENDERSON. I think the country will be better satisfied and the Senate will be better satisfied to have this measure go back for reëxamination; and if the committee shall, upon that reëxamination, decide that we ought to pay these claims, I am sure that I do not understand the subject sufficiently to put myself against the allowance; but I think facts enough have been developed to satisfy me anyhow that there are some claims here that ought not to be allowed. I suggest further, that the way the bill now stands the Senator from Massachusetts [Mr. SUMNER] has secured the adoption of an amendment to pay two other claimants. I do not know whether their claims have ever been examined by the committee or not. I do not suppose they have.

Mr. SUMNER. They are only to be paid what they shall prove before the Department.

Mr. HENDERSON. I am not satisfied with that sort of legislation. They never were before the board, as I understand. I did not understand that the Senator's amendment provided that those cases should be examined by the Department.

Mr. NYE. The amendment is that they shall stand on the same footing with the others, the same percentage being allowed as in the other cases.

Mr. HENDERSON. Now, let me suggest that if the amendment of the Senator from Iowa, the able chairman of the Naval Committee, should be adopted, that pays twelve per cent. on the entire amount of the contract price. The amendment of the Senator from Massachusetts is to be included, of course, bringing in two contracts that have never been examined, and very large contracts, as I understand; those contractors will be paid twelve per cent., too, though the committee has never examined those cases at all. The committee has not reported that they are entitled to anything; the board has not examined those claims; and all I have to satisfy me that they are entitled to anything is the proposition of the Senator from Massachusetts. That upon a great many radical measures would be amply satisfactory to me; but I do not know that I can vote twelve per cent. upon two large contracts merely because these gentlemen are thought by the Senator from Massachusetts to be as meritorious as those reported upon.

Now, I do not think we are legislating properly. Senators may think that I am putting myself in the way of doing justice to meritorious characters when I know nothing about the subject. That may be true. I think it is altogether likely that if the committee will reëxamine this question and report back to the Senate that I am mistaken, and that I am interfering in a thing about which I know nothing, I shall be perfectly satisfied. I do not know that I shall put myself in the way here again. I differ with the Senator from Oregon. He says the cheapest way to do this thing is to vote the bill and get rid of it. It has suggested itself to my mind that to-morrow morning I will bring a suit against my friend from Oregon. He says that when a claim is prosecuted against a defendant the best way is to pay it. I will only make my claim against my friend very large, and he will pay me twelve per cent. to get rid of me, I suppose, as the cheapest way to settle the suit. [Laughter.]

Mr. WILLIAMS. No doubt I should make money by it. [Laughter.]

Mr. HENDERSON. I will say no more.

I hope we shall vote on this proposition and refer it back to the Naval Committee.

Mr. MORRILL. I am very much in the position of the Senator from Missouri; that is, I know nothing very specially about this case. I have a general impression resulting from a general reading of the case and from some observations upon the case as it has progressed here. But what occurs to me is this: what are we to gain by sending it back to the Committee on Naval Affairs? We send it back to them for what purpose; with what expectation? Is it said that any new light has been elicited by the debate? Are we satisfied that this committee have been corrected in their judgment, instructed, or informed by this debate, so that they are in a better condition now than they were when the debate began? If so, there might be some hope; but if they are all of the opinion of my honorable friend from West Virginia, [Mr. WILLEY], I should have very little expectation of their changing much this report.

Is it expected by those who propose to send the report back to the Naval Committee that new evidence is to be taken? Is there any new evidence to be offered? Is it to be returned to the committee with instructions to reinvestigate and take new evidence? If not, what is to be gained by a recommittal?

It is to be recommitted, I hear it suggested, for the purpose of classification. How valuable that would be, I do not know. It might aid the Senate somewhat in its investigation, possibly; but after all it would not enlighten the judgment of the committee, and so far as results are concerned they would reach the same things precisely. And now all of us can see that this is a question of confidence to some little extent. I feel that I, to some extent, am to vote on this as a question of the confidence I repose in the committee and the commission. I believe the allowance is reduced now, on the motion of the honorable Senator from Iowa, the chairman of the Committee on Naval Affairs, to twelve per cent. on the contracts or twelve per cent. on some definite sum. That I understand now to be the judgment of that committee; I believe the entire committee. The moving of the amendment by the honorable chairman conveyed to me the inference that that is his judgment; and now I understand the committee are agreed that at least twelve per cent. ought to be paid. I understand the suggestion of the Senator from West Virginia to be that there are no claimants named in the bill who ought not at least to have that much.

Now, sir, if we are to act on that basis, what on earth is to be gained by longer delay in returning this to the committee? The classification which is suggested as possibly being an advantage to us, after all I conceive will be of very little use to us. I have read this report, and at one time I went through it somewhat with a view to make up a general judgment about it; and I think there is specification. Although there is general aggregation, there is detail; each case is set down by itself and each case was considered by itself.

I have made up my mind that on the whole, if it came to a general vote, I should vote for this bill, not that I have examined each case in detail and have become satisfied of its particular merit, but I do not forget the general fact that this work was done at a time when everybody must know that in the nature of things it was impracticable to do the thing without losing money. The Government was pressing in these shops in all directions. They were crowded with work. They gave up their own private enterprises to facilitate the public service; and I think we all know enough of the general disorders of the country, the general disruption of business affairs, to know that it was impracticable in the nature of things that these business operations could have gone forward under the circumstances at all economically to the contractors.

But I am not going to argue the question, because I am not sufficiently posted on the particular facts to justify it. I mean to say simply

that all the evidence, all the facts offered in this case, concur in showing that this business on the whole was a bad business for the contractors. The general judgment of the committee now is that at least twelve per cent. is due these contractors. There is no danger that injustice will be done by the Government if that much is allowed; much more is claimed, and much more, I believe, the majority of the committee concluded to report to the Senate.

One other thing should be considered: how does this case come here? The question was here last year, presented to the consideration of the Senate, and on the whole it was thought best to refer it to the Department out of which these contracts originated, who were supposed to have some information of course of the whole affair, to appoint a commission—a commission of its own choice, a commission of its own men, who would sit upon these cases, hear all the evidence, and make up a judgment. That was a commission appointed on one side; it is what in ordinary parlance we should say was an *ex parte* arbitration, arbitrators chosen entirely on the part of the Government; not in the ordinary law parlance an indifferent arbitration, but an *ex parte* arbitration, arbitrators chosen by the Government itself, Government employes, Government officers. Certainly a presumption ought to arise, I submit, that so far as the Government is concerned it has had an umpire of its own choosing. Nobody says it was not intelligent; nobody suggests that it has not been indifferent; nobody suggests that the award has not been the result of full consideration; and now I think the fair deduction is that the Government interests, at least under these circumstances, were duly considered.

Then, in addition to that, it has had a further safeguard. That report coming into this Senate has been referred to one of your first committees, and you have the evidence of the manner in which they have attended to their duties, and to-day I understand that all that committee concur in the judgment and belief that at least twelve per cent. ought to be paid these persons. Under these circumstances, I rose only to suggest that I shall vote, not to recommit, but for the bill.

The PRESIDING OFFICER. The Senator from Missouri moves to recommit this bill to the Committee on Naval Affairs, to which the Senator from West Virginia moves an amendment to commit it to the Committee on Claims.

The amendment was not agreed to.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Missouri to recommit the bill to the Committee on Naval Affairs.

Mr. CONNESS called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 13, nays 23; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Davis, Doolittle, Guthrie, Henderson, Howe, Kirkwood, Riddle, Sherman, Trumbull, and Wade—13.

NAYS—Messrs. Anthony, Cragin, Foster, Grimes, Harris, Hendricks, Howard, Johnson, McDougall, Morgan, Morrill, Nesmith, Nye, Poland, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Van Winkle, Willey, Williams, and Wilson—23.

ABSENT—Messrs. Brown, Buckalew, Cowan, Cresswell, Dixon, Edmunds, Fessenden, Lane of Indiana, Lane of Kansas, Norton, Saulsbury, Wright, and Yates—13.

So the motion was not agreed to.

Mr. HENDERSON. I have but one more motion to make in regard to this bill, and then, if the Senate desire, they can pass it. I move that the pending bill and the amendments be committed to the Committee on the Judiciary with instructions to report a bill by which the claimants may institute their several actions in the Court of Claims and recover such amount as will reimburse their actual cost in executing the contracts. I ask for the yeas and nays. ["No, no."] I withdraw the call.

The motion was not agreed to.

Mr. KIRKWOOD. For the purpose of ascertaining what is the precise judgment of the Senate on this matter, I move to amend the bill—

The PRESIDING OFFICER. The Sena-

tor from Iowa will allow the Chair to state the question. The bill is in the Senate, and the question is on concurring in the amendments made as in Committee of the Whole. Shall the question be taken on the amendments separately?

Mr. GRIMES. I think they had better be taken separately.

The PRESIDING OFFICER. The first amendment will be read.

The Secretary read the first amendment adopted in Committee of the Whole, which was to strike out the original bill after the enacting clause, and insert in lieu of it the following:

That the Secretary of the Treasury be directed to pay, out of any money in the Treasury not otherwise appropriated, to the several parties the awards made in their favor by the naval board organized under the resolution of the Senate adopted March 9, 1865, the awards being made under date of December 23, 1865, and reported to the Secretary of the Navy: *Provided*, That the payment shall not, in any case, exceed twelve per cent. upon the contract price, except in the case of the Comanche, in which case the award shall be paid in full.

The PRESIDING OFFICER. The question is on the first amendment.

Mr. KIRKWOOD. After the vote is taken, will it be in order to move an amendment to the bill as amended?

The PRESIDING OFFICER. It will be.

Mr. CLARK. I think the Chair is under a mistake. The Senator wants to amend the original bill by striking out, as I understand him, some of the names in the original bill.

Mr. KIRKWOOD. I want to do just this: I want to get a test vote, if I can, in the Senate. I intend to move to strike out one of these appropriations.

Several SENATORS. Which one?

Mr. KIRKWOOD. I take the first one for machinery.

Mr. JOHNSON. That is no test vote.

Mr. KIRKWOOD. I want to see whether it is the intention to consider these matters separately or altogether. I think the evidence in regard to this one is such that it ought to be stricken out. Whether I can do that at this time, or after the amendments are passed upon, I do not know.

Mr. SHERMAN. The Senator can very easily do it by a simple proviso, providing that no portion of the money shall be paid to the contractors who built the particular vessel. In my judgment, that is the only way to reach it.

Mr. KIRKWOOD. I am not familiar with the rules. I will state what I want to have done. I want to strike out the allowance to the Globe Works for the machinery for the wooden double-ender Isoco, if I can get at that in some way.

Mr. McDUGALL. It has been ruled before that until the amendments of the Committee of the Whole have been acted upon in the Senate, it is not in order to move amendments. So it has been ruled several times. I have seen it here. Whether the ruling is right or not, I do not know; but that has been the ruling.

Mr. CLARK. I think the proposition is a very clear one. The Senator from Iowa [Mr. GRIMES] moves a substitute for the whole bill, and it is in order, certainly, before the substitute is voted upon, to amend the bill which is proposed to be stricken out. The Senator from Iowa [Mr. KIRKWOOD] proposes to amend the original bill by striking out one item from the bill, so that it will leave then, to the choice of the Senate, either to take the substitute of the Senator from Iowa, [Mr. GRIMES], or the amended bill.

Mr. CONNESS. But that will not reach his object.

Mr. KIRKWOOD. Will it be in order for me now to move to amend the original bill in the respect which I have indicated?

The PRESIDING OFFICER. I understand from the suggestion of Senators accustomed to preside that it is in order to move to perfect the original bill before the vote is taken on striking it out and inserting a substitute. So the motion of the Senator from Iowa, in that state of things, is in order.

Mr. KIRKWOOD. If I can succeed in amending the original bill—

Mr. GRIMES. Let me inquire of my colleague if he does not think the sentiment of the Senate has been sufficiently tested on the subject, when they refused to commit the bill to either of the committees suggested for the purpose of separating these different claims. I believe the Senate, by a vote of almost two to one, decided that it should not be done.

Mr. KIRKWOOD. I am not certain of that; and for the purpose of being assured of it, I move, if it be in order, to strike out of the original bill this item on page 3:

To the Globe Works, of South Boston, Massachusetts, upon the machinery for the Isoco and Massasoit, \$59,577 99.

I have before me the report of the board showing the reasons why this award was made. It is one of the cases to which the Senator from New Hampshire called attention. This is the explanation given in that case:

"The contracts for these vessels were dated by the Navy Department August 15, 1862, in which they were allowed seven months, or until March 14, 1863, to complete the machinery and deliver the vessels to the Government, but the Massasoit was not so completed and delivered until the 9th of January, 1864, nor the Isoco until the 18th of January, 1864, the principal cause of delay being the difficulty in obtaining workmen, as the demand for the services of men in the Army and Navy was so great, and also on account of the number of vessels being built by the Government, making it impossible, with the scarcity of labor, to fulfill the contracts within the given time."

The only reason assigned for the delay is that they could not get hands to do the work, and we are called upon for that reason to pay them \$29,789 for each vessel. I think that they ought not to be paid that amount for that reason, and therefore I move to strike out this item.

Mr. CLARK. I desire to make a suggestion to the Senator from Iowa. It is the evident symptom of the Senate that they will take the substitute instead of what will be left of the bill if this item be stricken out. Then are we not wasting time in this way?

Mr. KIRKWOOD. This will be out of the substitute as well as of the bill, as I understand.

Mr. CLARK. Not at all, because the substitute refers to the report.

Mr. KIRKWOOD. Does not the substitute refer to the bill?

Mr. CLARK. No, the substitute does not refer to the bill; it refers to the original report of the board.

Mr. KIRKWOOD. If the Senate are determined to pass this measure as it is, be it so. I am sure this claim to which I have called attention ought not to pass. As, however, my amendment is supposed to be wasting time without any object, I withdraw it.

The PRESIDING OFFICER. The question is on concurring in the first amendment made as in Committee of the Whole as a substitute for the original bill.

The amendment was concurred in.

The PRESIDING OFFICER. The question now is on concurring in the remaining amendment, made as in Committee of the Whole, to add an additional section.

Mr. GRIMES. I move to amend that amendment by inserting the words "such amount of" before the word "compensation" at the close of the amendment, so that the Secretary of the Navy may pay these claimants if upon investigation he shall conclude that they are entitled to such an amount of compensation as is allowed in the previous section.

Mr. SUMNER. Certainly, I have no objection to that.

Mr. HENDRICKS. That amendment, I understand, refers the question to the Secretary of the Navy.

Mr. SUMNER. Yes.

The amendment to the amendment was agreed to; and the amendment, as amended, was concurred in, as follows:

Sec. —. And be it further enacted, That in the cases of Donald McKay, of Boston, Massachusetts, who built the Ashuelot and machinery, and Miles Green-

wood, of Cincinnati, Ohio, who built the Tippecanoe, whose contracts have been completed to the satisfaction of the Department, and who were prevented from appearing before the naval board, they shall be entitled to the same rate of compensation as is authorized to be paid to other parties building the same class of vessels and machinery; and such payment to be made to them, out of any money in the Treasury not otherwise appropriated, under the supervision of the Secretary of the Navy, provided the evidence submitted for his examination fully establishes the right of the said parties to such amount of compensation.

Mr. CLARK. I believe there is no amendment now pending.

The PRESIDING OFFICER. There is not.

Mr. CLARK. I move the following amendment as a new section:

And be it further enacted, That the sums hereby authorized to be paid to the parties herein named shall be in full for all work done by said parties on the vessels and machinery for which said sums are respectively paid, and if accepted by any of said parties shall be on that condition; and none of said parties shall be entitled to said sums until he shall execute a receipt in full for said claim.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. TRUMBULL. On the passage of the bill I ask for the yeas and nays.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 11; as follows:

YEAS—Messrs. Anthony, Cragin, Foster, Grimes, Harris, Hendricks, Howard, Johnson, McDougall, Morgan, Morrill, Nesmith, Nye, Ramsey, Riddle, Sprague, Stewart, Sumner, Van Winkle, Willey, Williams, and Wilson—22.

NAYS—Messrs. Clark, Conness, Davis, Doolittle, Guthrie, Henderson, Howe, Kirkwood, Sherman, Trumbull, and Wade—11.

ABSENT—Messrs. Brown, Buckalew, Chandler, Cowan, Creswell, Dixon, Edmunds, Fessenden, Lane of Indiana, Lane of Kansas, Norton, Poland, Pomeroy, Saulsbury, Wright, and Yates—16.

So the bill was passed.

ADJOURNMENT TO MONDAY.

Mr. RAMSEY. I move that when the Senate adjourn to-day, it be to meet on Monday next.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed without amendment the joint resolution (S. R. No. 56) authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States.

The message further announced that the House of Representatives had insisted on its amendments to the bill (S. No. 26) to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas, disagreed to by the Senate, and agreed to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and had appointed Mr. THOMAS D. ELIOT of Massachusetts, Mr. CHARLES O'NEILL of Pennsylvania, and Mr. NELSON TAYLOR of New York, managers of the conference on the part of the House.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; and they were thereupon signed by the President *pro tempore*:

A bill (S. No. 158) to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States, or to the persons to whom they are due, and who are entitled to receive the same;

A bill (S. No. 255) to remit and refund certain duties; and

A joint resolution (S. R. No. 56) authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States.

HOUSE BILLS REFERRED.

The message further announced that the House of Representatives had passed the following bills and joint resolution, in which it requested the concurrence of the Senate; and

the bills and joint resolution were severally read twice by their titles and referred to the Committee on Claims:

A bill (H. R. No. 354) for the relief of Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence;

A bill (H. R. No. 386) for the relief of Francis A. Gibbons;

A bill (H. R. No. 516) for the relief of Munroe Young;

A bill (H. R. No. 517) for the relief of Liston H. Pearce;

A bill (H. R. No. 518) for the relief of the owners of the bark Maria Henry;

A bill (H. R. No. 519) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States," approved June 25, 1864;

A bill (H. R. No. 520) for the relief of Elisha J. House, assessor of internal revenue for the second district of Michigan;

A bill (H. R. No. 521) for the benefit of Henry Horne;

A bill (H. R. No. 522) for the relief of Nathan Noyes; and

A joint resolution (H. R. No. 122) referring the claim of W. N. Swayne and P. K. Howard to the Court of Claims.

JOINT RESOLUTIONS INTRODUCED.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 76) proposing an amendment to the Constitution of the United States; which was read twice by its title, referred to the joint committee on reconstruction, and ordered to be printed.

He also asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 77) respecting brevet rank of officers of the Army; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

- POST OFFICE APPROPRIATION BILL.

Mr. SHERMAN. I move to take up the Post Office appropriation bill so that it may be left as the unfinished business of to-day to come up at one o'clock on Monday.

Mr. TRUMBULL. Before the bill is taken up, I desire to submit an amendment which I wish to have printed.

Mr. SHERMAN. Let the bill be taken up first.

The motion was agreed to; and the consideration of the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, was resumed.

Mr. TRUMBULL. I wish to withdraw the amendment which I offered to this bill some days ago, and I now send to the Chair an amendment to take its place, and I ask that it be printed.

The amendment was received and ordered to be printed.

Mr. RAMSEY. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, April 27, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

FREEDMEN.

Mr. KASSON, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the President of the United States be requested to cause to be communicated to this House a collation of the provisions in reference to freedmen, contained in the amended constitutions of the southern States, and in the laws passed by those States since the overthrow of the rebellion, so far as information upon that subject may be in the possession of the Executive Government.

COMMITTEE DISCHARGED FROM SUNDRY CASES.

On motion of Mr. ANCONA, the Committee on Military Affairs was discharged from the further consideration of the following cases, which were laid upon the table:

Petitions and memorials, with accompanying papers, of sundry officers and their legal representatives, for relief from responsibility on account of funds, vouchers, records, &c., captured and lost by them during the late war, namely: Majors E. L. Moore, C. C. Clark, D. Colden Ruggles, deceased, by his administrator, General George D. Ruggles, and John M. Austin, paymasters United States Army; Lieutenant Henry J. Spooner, Brevet Major William R. Murphy, Lieutenant Alfred C. Law, and Lieutenant Augustus H. Plummer, acting commissaries of subsistence.

Also, the following bills and joint resolution: A bill (H. R. No. 395) for the relief of Brevet Major T. C. Bowles, assistant quartermaster United States volunteers;

A bill (H. R. No. 148) for the relief of Captain Charles Brewster, commissary of subsistence; and

Joint resolution (H. R. No. 111) for the relief of Lieutenant A. H. Pearl, acting commissary of subsistence.

Mr. WASHBURN, of Illinois. I call for the regular order of business.

The House accordingly proceeded, as the regular order of business, to call the committees for reports of a private nature, commencing with the Committee of Claims.

ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, made adverse reports on the petition of Lewis Laddons, and the petition of W. P. Ellison and others; which were laid on the table.

MUNROE YOUNG.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported a bill for the relief of Munroe Young; which was read a first and second time.

The bill was read in full. It proposes to pay \$141 70 in gold to the claimant, being the amount wrongfully collected of him as duties on articles recovered from the wreck of the British ship William Corey, at Portland, Maine, on the 19th of June, 1865.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

EDWARD P. MCKINNEY.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported House bill No. 354, for the relief of Edward P. McKinney, of Binghamton, late captain and assistant commissary of subsistence.

The bill was read. It allows \$475, or so much thereof as the proof shall establish, on the claimant proving satisfactorily that the money was properly paid by him prior to the 13th of August, 1864, to men of the Rhode Island and United States cavalry, and that his vouchers were forcibly taken and destroyed between Harper's Ferry and Winchester, Virginia, without fault on his part.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WASHBURN, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

LISTON H. PEARCE.

Mr. THORNTON, from the Committee of Claims, reported a bill for the relief of Liston H. Pearce; which was read a first and second time.

The bill was read in full. It authorizes the

payment of \$540 in full for the services of the claimant as chaplain of the one hundred and thirty-second regiment Illinois volunteers during the recent rebellion.

The report in the case was read. It states that the claimant was appointed chaplain by Governor Yates, of Illinois, on the 1st of June, 1864, and his name, through the negligence of the officers, was never placed on the muster-roll.

Mr. WASHBURN, of Illinois. I would like to know why, if this man has performed services during the whole of the war, his name was not on the roll. It is very strange that there should be a chaplain serving during the war, treated as such, and getting no pay. It is, perhaps, one of those cases spoken of the other day. There were many of these patriotic men who proposed to go into the war, and who were willing to serve for nothing, and after serving on those terms they now come back and ask for pay.

Mr. THORNTON. I will explain it. The petitioner served only for three months, instead of during the war, and his name was not put on the muster-roll, as appears clearly from the testimony, from no fault of his, but of the officers. All the officers of the regiment certified that he performed service as chaplain of the regiment, which served only three months. He supposed his name was on the roll, but in consequence of the neglect of the officers it was not. But he performed the service in good faith.

Mr. TAYLOR. I would ask the gentleman if this chaplain was ever appointed by the Governor of his State or in any other way.

Mr. THORNTON. He was appointed by Governor Yates, of Illinois, and afterward by the late President.

Mr. WASHBURN, of Illinois. It is not made entirely clear to my mind why this gentleman's name was not put upon the roll if he was a regular chaplain.

Mr. THORNTON. The evidence does not disclose the reason, but the inference is that it was from neglect on the part of the officers.

Mr. WASHBURN, of Illinois. I understood my colleague to say that this claimant was only in the three months' service.

Mr. THORNTON. That was all.

Mr. WASHBURN, of Illinois. Well, the amount is small.

Mr. DEMING. I would ask the gentleman if he was ever appointed a field officer by any competent authority?

Mr. THORNTON. He was, by Governor Yates, of Illinois.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. THORNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BARK MARIA HENRY.

Mr. THORNTON also, from the same committee, reported a bill for the relief of the owners of the bark Maria Henry; which was read a first and second time.

The bill, which was read, directs the Secretary of the Treasury to pay the sum of \$12,000 to George Henry, agent of the owners of the bark Maria Henry, as full compensation for the use and detention of the said vessel by the United States from the 26th of February to the 26th of May, 1865, inclusive.

Mr. WASHBURN, of Illinois. I move that this bill be referred to the Committee on Commerce.

Mr. THORNTON. I hope that motion will not prevail. This case has been investigated very carefully by the Committee of Claims, to which it was referred. It provides compensation to the owners of this bark for the use or detention of the vessel. I think the Committee of Claims is just as competent to take charge of an investigation of such a matter as the Committee on Commerce.

Mr. LAWRENCE, of Ohio. I submit that this bill involves an appropriation and must have its first consideration in a Committee of the Whole House.

The SPEAKER. The Chair would have sustained the point of order if it had been made in time, but the House has already considered the bill in the House. The gentleman from Illinois [Mr. WASHBURN] has moved to refer it to the Committee on Commerce, and the gentleman from Illinois [Mr. THORNTON] is making remarks in opposition to that motion.

Mr. THORNTON. I ask that the report be read.

The report was read.

Mr. THORNTON. It will be seen by the report that in February, 1865, the quartermaster's department chartered this vessel to carry oats and hay from Portland, Maine, to Port Royal, South Carolina; and the agreement was that she was not to be detained in discharging her cargo longer than ten days. This would have released the vessel on the 26th of February. Instead of that she was detained at Port Royal until the 9th of March, 1865, and was then ordered to Moorhead City, North Carolina, and there discharged her cargo, and was detained there until the 26th of May, 1865. The vessel was thus detained by the military authorities for nearly a hundred days. She then sailed for Philadelphia.

The proof shows that during the time this vessel was detained by the military authorities she might have earned \$12,500 in carrying coal from Philadelphia to New Orleans. But the bark was detained, as I have said, and the committee have fixed upon the sum of \$12,000 as the amount of damages sustained by the owners of the bark in consequence of this detention.

The committee are satisfied, from a thorough examination of the case, that the amount is much less than the very serious damage done the owners of the vessel during the time of its detention by the military authorities. I hope the bill will pass, and not be referred to the Committee on Commerce.

Mr. WASHBURN, of Illinois. I made the motion to refer this bill to the Committee on Commerce because bills of this character are always referred to that committee, as they have the jurisdiction of cases of this kind. I trust my colleague [Mr. THORNTON] will make no objection to referring this bill to the Committee on Commerce.

Mr. THORNTON. I hope not; the matter has been already fully investigated.

Mr. UPSON. Is this amount of \$12,000 estimated and reckoned as a loss of profit?

Mr. THORNTON. The difficulty was in determining upon the proper rule for estimating the amount of damages. The owners claimed constructive damages; but the committee based the amount here named in the bill upon the last contract made to carry coal from Philadelphia to New Orleans, and for carrying that coal the owners could have netted \$12,500. In view of that and of the port and insurance charges and outfitting expenses, the committee are satisfied that \$12,000 will not cover the entire loss.

Mr. UPSON. It is, then, an estimate of loss of profits?

Mr. THORNTON. To some extent it is.

Mr. UPSON. I do not know upon what principle of law this can be given.

Mr. WASHBURN, of Illinois. From the reading of the report in this case it appears that this contract was entered into, and a certain amount stipulated as demurrage, which, at the rate of \$12,000 for the time here named, would make \$48,000 a year for a bark which I presume could have been bought for \$12,000 in the first instance.

Mr. THORNTON. It was a new bark, and cost \$60,000. This was its first trip, according to the proof of merchants in Portland, Maine. The gentleman, therefore, is entirely mistaken in his conclusion.

Mr. LYNCH. I will say, in reply to the gentleman from Illinois, [Mr. WASHBURN,]

that this was a new vessel of six hundred and forty tons, and this charter to the Government was for her first voyage. The vessel was worth from sixty to sixty-five thousand dollars. She was chartered for this trip to Port Royal, and was detained, as has been stated by the gentleman from Illinois, [Mr. THORNTON,] for sixty-nine days. She was rechartered to go to Philadelphia for a cargo of coal, and while waiting there she was notified that no cargo could be provided for her.

She was finally discharged in May, just at the time when business was at a stand-still in consequence of the collapse of the rebellion, and no freight could be obtained there. And the vessel had to take a very low charter to go from there to St. John, and there take a charter to England. Any gentleman acquainted with commercial matters must know very well that a vessel on a voyage cannot afford to take demurrage for lying in port. And besides all this, if the owners had had the liberty to take a charter at the time the Government chartered her, it has been shown here, and attested by the evidence of merchants in New York, Philadelphia, and Portland, who are well acquainted with these matters, that the owners would have made in that time more than twenty thousand dollars. This is not speculative at all, but the ordinary freight of the vessel, based upon the amount she earned from the time she left Portland until the time she had discharged her cargo at Port Royal.

Now, I want to say one word further, in regard to the motion of the gentleman from Illinois [Mr. WASHBURN] to refer the bill to the Committee on Commerce. That will involve a delay of some months, and will very probably carry it beyond the close of this session. The Committee of Claims have had the matter in charge from the first of the session. There have been no lobby agents here, for the men who own this vessel are not able to employ lobby agents. They are a few men of limited means, who have put all their means in this vessel, and are now embarrassed for want of what is justly due them from the Government.

There are now claims upon the vessel which are waiting the payment of this amount which is due from the Government. I hope, at any rate, that the matter will be settled here now, so that these parties may know what is to be their fate. I trust that the bill will not be permitted to go over to the next session, which would inevitably be its fate if it should be referred to the Committee on Commerce.

Mr. DELANO. There are a number of other matters which I desire to get before the House this morning; and therefore I feel compelled to call the previous question.

The previous question was seconded and the main question ordered; which was upon the motion to refer the bill to the Committee on Commerce.

The motion was not agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. THORNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COMPENSATION FOR HORSES.

Mr. THORNTON, from the Committee of Claims, reported a bill entitled "An act to amend an act entitled 'An act to provide for the payment of horses and other property destroyed in the military service of the United States,' approved June 25, 1864;" which was read a first and second time.

The bill provides that the act which it proposes to amend shall, from the commencement of the recent rebellion, extend to and include all cases of the loss of any horse by any officer, non-commissioned officer, private, or musician in the military service of the United States, while in the line of his duty in such service, by the abandonment of the same in consequence of injury arising from unavoidable accidents in

land transportation furnished by the Government, wherever it shall appear that such abandonment was the result of the order of a superior officer, and the injury and loss were without any fault or negligence on the part of the person sustaining such loss.

The question was upon ordering the bill to be engrossed and read the third time.

Mr. THORNTON. Mr. Speaker, I will only remark that a law passed in 1849 provided for compensation for the loss of horses in consequence of accidents in water transportation. In 1864 another law was enacted, providing for compensation for the loss of horses captured by the enemy. There have been referred to the Committee of Claims a number of resolutions and bills contemplating compensation for horses lost in the recent war in consequence of unavoidable accidents by land transportation. During the war a great many horses were transported upon the various railroads of the country; and this bill simply provides that the act of 1864 shall be extended so as to include cases of horses abandoned by order of a superior officer, in consequence of unavoidable accident resulting from land transportation furnished by the Government. It will embrace only a very small class of cases. The committee are satisfied, from the cases which have come before them, that a law of this kind is necessary and just.

Mr. Speaker, I move the previous question.

Mr. McKEE. I trust the gentleman will not press the demand for the previous question. I desire to offer a substitute for the bill.

Mr. THORNTON. I respectfully decline to yield for that purpose. I am satisfied that the House is not ready at this time to go further than this bill provides; and I prefer that the gentleman should present his proposition at some other time.

On seconding the previous question, there were—ayes 53, noes 11; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. THORNTON and McKEE.

The House divided; and the tellers reported—ayes seventy-five, noes not counted.

So the previous question was seconded.

The main question was ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. THORNTON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; which were thereupon signed by the Speaker:

An act (S. No. 158) to facilitate the settlement of accounts of the Treasurer of the United States, and to secure certain moneys to the United States, or to the persons to whom they are due, and who are entitled to receive the same; and

An act (S. No. 255) to remit and refund certain duties.

FRANCIS A. GIBBONS.

Mr. DELANO, from the Committee of Claims, reported back House bill No. 386, for the relief of Francis A. Gibbons, with the recommendation that it do pass.

The bill, which was read, provides that the Secretary of the Treasury be authorized to pay, out of any money in the Treasury not otherwise expended, the sum of \$563 19 to Francis A. Gibbons, the same being money paid by him for property purchased at a quartermaster's sale, in the city of Baltimore, Maryland, on the 15th day of February, 1863, under the direction of Colonel Belger, assistant quartermaster, which was not delivered to the purchaser.

Mr. DELANO demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. DELANO moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BEALS AND DIXON.

Mr. DELANO, from the same committee, reported back Senate resolution No. 56, authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States, with the recommendation that it do pass.

The joint resolution, which was read, provides that the Secretary of the Treasury is authorized to cause the accounts of Beals & Dixon, for deliveries of material after May 1, 1861, under their contracts with the United States, to be adjusted and paid; allowing to said Beals & Dixon such additional prices for material delivered after May 1, 1861, as, in his opinion, they may be justly entitled to under the provisions of their supplementary contract, dated January 1, 1857; provided, that in the opinion of the Attorney General said Beals & Dixon have a legal claim upon the United States for an increase of prices under said contract.

The joint resolution was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. DELANO moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GOLDSMITH BROTHERS.

Mr. DELANO. I am directed by the Committee of Claims to report back Senate bill No. 192, for the relief of Goldsmith Brothers, of the cities of San Francisco, California, and Portland, Oregon, brokers, and to move that it be referred to the Committee of the Whole House on the Private Calendar.

I will barely say to the House and to the friends of this bill, which is to duplicate certain Treasury notes to the amount of \$10,000 alleged to have been lost, that the committee after a careful analysis of the evidence came to the conclusion that in two particulars, it is too weak to justify them in recommending the passage of the bill, and for the purpose of enabling the friends to supply this deficiency I move its reference as I have indicated.

Mr. HENDERSON. When are we likely to reach the bill in the Committee of the Whole House on the Private Calendar? I want to know so as to have the necessary proof ready.

The SPEAKER. The Chair would infer from the remarks of the chairman when the evidence is supplied he will call the case up. The bill was referred to the Committee of the Whole House on the Private Calendar.

Mr. DELANO. I ask to have entered a motion to reconsider the vote by which the bill was referred, so that I may have the bill under my control.

The motion was accordingly entered.

ELISHA J. HOUSE.

Mr. DELANO, from the Committee of Claims, reported a bill for the relief of Elisha J. House. The bill was read a first and second time.

It provides that the proper accounting officers of the Treasury Department shall credit and allow Elisha J. House \$797 47 in the settlement of his accounts.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

WILLIAM M'BRYANT.

On motion of Mr. DELANO, the Committee of Claims was discharged from the further consideration of the petition of William McBry-

ant, and the same was referred to the Committee on Invalid Pensions.

EMPLOYMENT OF A CLERK.

Mr. DELANO, in response to a resolution of the House, reported that in the judgment of the Committee of Claims a clerk is necessary and indispensable for the transaction of its business; that all the customary hours of labor during the day, and frequently far into the night, are devoted by the clerk to the necessary and legitimate business of the committee, and that no member of the committee has employed him in attending to private business during business hours for the reason that his time is fully employed in his public duties.

The report was laid upon the table, and ordered to be printed.

W. N. SWAYNE AND P. K. HOWARD.

Mr. WARD, from the Committee of Claims, to which was referred the claim of W. N. Swayne and P. K. Howard, for damages sustained by collision of a United States transport with a tug on the Mississippi river, August 18, 1865, reported back the same with a joint resolution referring the claim for adjudication to the Court of Claims.

The joint resolution was read a first, second, and third time, and passed.

Mr. WARD moved to reconsider the vote by which the joint resolution was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

HENRY HORNE.

Mr. McKEE, from the Committee of Claims, reported a bill for the benefit of Henry Horne; which was read a first and second time.

The bill was read in full. It authorizes the payment of \$400 in gold, or its equivalent in United States currency, being the amount advanced by him for the use of Federal prisoners at Andersonville in 1864 and 1865, under the supervision of Father Whelan.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. McKEE moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. McKEE, from the Committee of Claims, made adverse reports on the following cases; which were ordered to lie on the table:

Petitions of William B. L. Thrasher, James Byers, and Benjamin Roach.

NATHAN NOYES.

Mr. THORNTON, from the Committee of Claims, reported a bill for the relief of Nathan Noyes; which was read a first and second time.

The bill was read in full. It authorizes the payment to the claimant \$150 in full satisfaction of Treasury warrant No. 8885, dated January 15, 1866, on the surrender of said warrant.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. THORNTON moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

JAMES CRUTCHETT.

Mr. WASHBURN, of Massachusetts, from the Committee of Claims, reported back Senate joint resolution No. 60, referring the petition and papers in the case of James Crutchett to the Court of Claims; and moved that the same be indefinitely postponed.

The motion was agreed to.

Mr. WASHBURN, of Massachusetts, moved to reconsider the motion by which the joint resolution was indefinitely postponed; and also moved to lay that motion on the table.

The latter motion was agreed to.

ADVERSE REPORTS.

Mr. WASHBURN, of Indiana, from the Committee of Claims, made an adverse report

on the claim of N. P. Munroe; which was ordered to lie on the table.

Mr. DELANO, from the same committee, reported adversely on the following cases; which were ordered to lie on the table:

Petitions of A. H. Markland, R. M. Shelton, John Kaye, M. J. Gonzales, James McLaughlin, and others.

CHARLES BREWER AND COMPANY.

Mr. WASHBURN, of Illinois, from the Committee on Commerce, reported a bill for the relief of Charles Brewer & Co.; which was read a first and second time.

The bill directs the Secretary of the Treasury to pay to Charles Brewer & Co., of Boston, Massachusetts, the sum of \$3,520, in full for the passage in the Hawaiian bark Kamehameha, of sixty-eight destitute seamen belonging to American vessels which were burned by the Anglo-confederate pirate Shenandoah, from the island of Ascension to Honolulu.

Mr. ANCONA. I ask that the report be read.

Mr. WASHBURN, of Illinois. There is no report, except a letter from the Secretary of State. I ask that it be read.

The Clerk read the letter as follows:

DEPARTMENT OF STATE,
WASHINGTON, March 14, 1866.

SIR: I have the honor to transmit herewith a copy of a letter from Messrs. Charles Brewer & Co., of Boston, inclosing to this Department an account of the Hawaiian bark Kamehameha V, for the passage of destitute American seamen from the Ascension islands to Honolulu. These seamen, numbering sixty-eight, belonging to American vessels which were burned by the pirate Shenandoah, were landed on the Ascension islands without any provision being made for their support. They were found in a destitute condition by the master of the bark Kamehameha V, and taken to Honolulu. It seems but just and proper that this claim should be promptly paid. As, however, there is no fund at the disposal of this Department with which to meet it, the claim is respectfully referred to Congress, with the recommendation that an appropriation be made sufficient to cover it.

I am, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. E. B. WASHBURN, Chairman of the Committee on Commerce, House of Representatives.

The SPEAKER. The morning hour has expired. Is there any objection to considering this bill at this time?

Mr. ANCONA. I demand the regular order of business.

The SPEAKER. Then the bill goes over until next Friday.

CHANGE OF REFERENCE.

On motion of Mr. NIBLACK, by unanimous consent, the Committee of Appropriations was discharged from the further consideration of the petition of J. H. Sherwin; and the same was referred to the select committee of freedmen's affairs.

NORTHERN PACIFIC RAILROAD.

The House then proceeded, as the regular order of business, to the consideration of the unfinished business of last evening, being House bill No. 414, to secure the speedy construction of the Northern Pacific railroad and telegraph line, and to secure to the Government the use of the same for postal, military, and other purposes.

The pending question was Mr. WESTWORTH's motion to refer to the Committee on Public Lands.

Mr. STEVENS. I hope, before anything else is done, the substitute which I offered yesterday will be read as I have modified it.

The substitute, as modified, was read.

Mr. WASHBURN, of Illinois. I would inquire if that substitute has been printed.

The SPEAKER. The Chair thinks it has not been printed as it now stands. Some parts of the substitute as now offered have been printed, but some parts of it are in manuscript.

Mr. WASHBURN, of Illinois. How is it before the House?

The SPEAKER. The gentleman from Pennsylvania, [Mr. STEVENS,] by the consent of the gentleman from Illinois, [Mr. WESTWORTH,] who made the motion to refer the bill to the Committee on Public Lands, moved a substi-

tute for the bill, and this morning he has modified that substitute, as he had a right to do.

Mr. BINGHAM obtained the floor.

Mr. WASHBURN, of Illinois. I hope this substitute will be printed.

The SPEAKER. The gentleman from Ohio [Mr. BINGHAM] is entitled to the floor.

THE TAX BILL.

Mr. MORRILL. With the consent of the gentleman from Ohio, who has the floor, I desire to state to the House that the bill amending the internal revenue act which was made the special order for Thursday of next week, will not be called up before next Monday week after the morning hour. The bill will not be printed before-to-morrow; and gentlemen have intimated to me that they will not be able to examine its provisions before the time I have indicated.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. BINGHAM. Mr. Speaker, I do not know, in view of the many and various objections which were urged to this bill as originally reported by the committee, that I would have been willing to have given my vote for it in the form in which it first came into the House, for the reason that the bill, by reason of the general terms in which it was reported, was liable to misconstruction, and possibly liable therefore to the very objections urged against it by some of the gentlemen who have spoken.

But, sir, in my judgment, the substitute which has just been read to the House removes and silences every objection that has been urged by gentlemen who have heretofore spoken against the adoption of this measure.

I agree with gentlemen that it is the duty at all times of the Representatives of the people to guard with jealous care the Treasury of the nation. Assuming that position, and agreeing to the fullest extent, upon that point with honorable gentlemen who have spoken against this measure, I beg to say that it is capable of absolute demonstration that the substitute which has just been read in the hearing of the House, in any event, whether this company goes forward with this work or abandons it, guards the Treasury of the nation and puts money into it. The act of 1864 has passed for the time being beyond the power of this House. Rights have been vested under it. No forfeiture has arisen. The time has not expired, as was suggested at one time by my honorable colleague, [Mr. DELANO,] but which I believe he afterward corrected—the time has not yet expired which was fixed by the terms of the act of 1864, within which the corporators could exercise the privileges secured to them by that act.

Nor does that time expire, by the terms of the act, until the month of July next, within which time these corporators or their assignees, whoever they may be, may secure to themselves beyond the reach of cure on the part of this House the great franchise provided for in the act of 1864.

Now, what change is wrought in this legislation by the substitute as now presented to the House, and which I hope will pass, if for no other reason than that it so materially changes the existing act as to give additional security and make assurance doubly sure that this great road, the need of the country, will be speedily constructed? The pending substitute does this, among other things: it enables the Government of the United States to reclaim at once and hold as a security for the construction of this road—which all members will admit to be essential to the prosperity of the country and the development of its resources in the Northwest—all the lands contained in the original grant of 1864, lying south of the line of survey from the shores of Lake Superior to the shores of the Pacific ocean. The amount of land thus reclaimed is variously estimated on this side of this House and on that side. I have not stopped myself to make the calculation, but I am informed by one of the members of the committee, who has given his attention to it, that the amount of land thus

reclaimed for the purpose of constructing this road is not less than twenty-three million acres.

What are the additional guards thrown into this bill by the substitute, and which, I say, remove the objections which gentlemen have urged here against it? The substitute provides that the Government of the United States shall not pledge one dollar of credit to the payment for the construction of any part of this road, as the gentleman from Illinois [Mr. WASHBURN] urged yesterday, and urged not without some color of authority from the text of the bill as it was originally reported. Sir, the substitute is guarded as carefully as human language can guard anything, it limits and restricts the Secretary of the Treasury so that he can never issue the pledge of this Government save when the company shall have first constructed twenty-five consecutive miles or more of this road, and then the pledge is only to extend to the number of sections so completed. In the first division of the road, upon the construction of twenty-five miles or more by the company, and the full completion thereof as provided by the provisions of the original charter and of the pending substitute, the Secretary of the Treasury is to issue the pledge of the Government for the payment of the interest upon two hundred shares of the stock of the road per mile, to the extent that the road shall be so constructed, and after its completion, and not before.

As the company proceed with the work, by the construction of additional sections of the road from year to year, the pledge of the interest is only to be given under this limitation: for the first year, not more than fifty miles; for the second year, not more than one hundred miles; for the third year, not more than two hundred miles; for the fourth year, not more than two hundred miles; and thereafter not more than three hundred miles per year till the whole road is completed. The Secretary of the Treasury is to proceed to pledge, subject to these limitations, the credit of the Government, to guaranty the interest only upon the stock of the road, under the further limitations within the first division, which extends from the eastern terminus to the one hundred and first meridian of longitude, at the rate of two hundred shares to the mile and no more. This, sir, is not a pledge of the Government, as has been asserted over and over again in the hurry of debate, to pay the stock or any part of the stock. It is to pay the interest, and only the interest, semi-annually, from and after the date of the pledge, and not ante-dating it at the rate of six per cent. for so much of the road as shall have been constructed, and only upon two hundred shares of the stock per mile within the first division. The original charter fixes the amount of the shares at \$100 each.

What, then, is the whole amount which the Government of the United States is liable to pay as interest semi-annually upon the first division of this road, as the same may be completed? It is but \$1,200 per mile; that and no more. I hope the House will not mistake me in what I say here—\$1,200 is the interest per mile on two hundred shares to the mile of the eastern division at \$100 per share.

The interest per annum on the eastern division is \$1,200 per mile, and no more, over the whole division. The gentleman [Mr. FARNSWORTH] says that it makes \$24,000 in twenty years, but I ask him to remember his words of yesterday, which did injustice to his own intelligence, when he intimated that under this bill we were to allow the company this magnificent grant of lands on the north side of this road, and construct the road, too. Who ever before heard, in this country, of \$1,200 building a railroad to the extent of a mile? Why, it would not supply the ties, to say nothing about grading the road, to say nothing about constructing the bridges, to say nothing about furnishing the iron, to say nothing about the work necessary to lay it down in its place, and to say nothing about the equipment of the road, all of which is provided for in the original act of incorporation, and by this bill

is a condition-precedent to be performed by the company before the United States gives its pledge to pay \$1,200 per mile per annum. What I have just said applies throughout the whole extent of the eastern division, a distance of about three hundred and eighty miles.

But, says the gentleman, that will be \$24,000 per mile at the end of twenty years. So it might be if the Government in all that time received no returns either from the proceeds of the completed road or the sale of the lands. But, sir, upon the hypothesis that the company would build the road to the extent required by the law, and we are not to issue this pledge until the company does this—when we secure twenty-five per cent. of the gross proceeds of the road as is provided in this bill, and have the absolute control of it, the road touching your great inland sea, Lake Superior—I would like to know whether one fourth of the gross proceeds of the road would not pay the interest at the rate of six per cent. upon one half of the cost of its construction. I undertake to say, sir, that under the limitations of this bill, the Government does not assume to pay more than the interest upon one half the cost of the construction upon the eastern division of the road. Twelve hundred dollars per mile is but the interest on \$20,000, and who believes that less than \$40,000 will build and equip the road in the manner required by the original act? But if twenty-five per cent. of the gross proceeds of the road would not be sufficient, what remains? Some twelve thousand acres of land to each mile on the south side of the road, in addition to the twenty-five per cent. of the gross proceeds of the completed road are reserved to the Government to secure the Government on its pledge of \$1,200 annually per mile.

The other gentleman from Illinois, [Mr. WASHBURN,] in arguing this question yesterday, objected to some of the provisions of the third section on the ground that the covenants were not mutual between the corporation and the Government; that the bill contained no provision which would enable the Government to enforce the security provided for its protection. On that point I ask the attention of the House to the consideration of the fact that by the substitute just read the third section has been struck out. Hence that objection falls to the ground, especially in view of the other provision contained in the substitute, that if the corporation shall fail to pay the interest for a period of ninety days after the maturity of the obligation it shall then be within the power of the Treasurer of the United States to proceed to sell every acre of the twelve thousand acres adjacent to each mile of the road so constructed and on the south side, and put the proceeds into the Treasury of the United States for the purpose of reimbursing the Government.

Upon a showing of this sort, I submit to gentlemen that there is no room here to cavil on this question of security, entire security, to the Government for this pledge of interest—none at all. I admit that there is a higher rate per mile laid upon the Government in the mountain district, which is the second or third division. But when gentlemen look into this question, they will find that, view it as they may, unless history altogether fails to repeat itself in this country in relation to railroads, it is utterly impossible that the Government of the United States can ever by possibility be a loser to the extent of a single dollar, in the event of the construction of the road, and without its construction by the company the Government incurs no liability whatever. The provisions of the bill pending simply secure the construction of the road by the company or the forfeiture of all the privileges granted by the bill.

In order that gentlemen may fully appreciate all the provisions of the pending substitute touching the other divisions of the road, I ask their attention to the further provision of the bill, that upon the second division of the road, there shall be pledged by the Government the interest upon two hundred and fifty shares per mile for the distance of six hundred and twenty

miles, when completed by the company, and which, being carefully computed, amounts to \$1,500 annually per mile. Let gentlemen consider that, before the second division of this road is reached at all, before one dollar is pledged by the Government of the United States toward the payment of interest upon one rod of the road to be constructed within the second division, you will already have in running order a road of three hundred and eighty miles running from the shores of Lake Superior westward.

Is any gentleman going to tell me such a road as that, in full operation and thoroughly equipped by this company, with twelve thousand acres of land to every mile of it, to be sold in the event of delay to pay the interest of this debt; that the Government of the United States, with the proceeds of these twelve thousand acres of land to each mile of the road and twenty-five per cent. of the gross proceeds of the road, cannot pay interest upon one half the cost of its construction or \$1,200 per annum upon each mile of the completed road? If that could be so, a railroad would never be built upon this continent. Never, sir.

Mr. SPALDING. I do not think my colleague is readily embarrassed by interruption.

Mr. BINGHAM. Not at all; but my time is limited. I will, however, yield to my colleague for a moment.

Mr. SPALDING. I will barely ask, inasmuch as the gentleman says that the substitute materially alters the features of the bill, whether he expects the House to vote on that substitute without having an opportunity to read it in print. I am told that our objections are remedied by the substitute. If so, we would be happy to vote for it. I want my friend, before he sits down, to let us hear from him in regard to the fact of attaching this whole liability to the Government upon the credit of the nation.

Mr. BINGHAM. If my colleague had observed and weighed the words I uttered, he would have noticed I admitted the general scope and purpose of the bill, by reason of the generality of its language as originally reported, were liable to the misconstruction put upon it by gentlemen who have already spoken. The language of the substitute is so plain that it requires no lawyer to understand it. There is not a man between these oceans who can read the English language who will fail to know that the Government of the United States, under the substitute, can never issue one dollar of pledge for the payment of interest except at the rates provided, mile for mile, as the road is constructed, and not till it is completed within the limitations named.

I now come back to the further provisions of the bill of which I was speaking when interrupted by my colleague.

In the third division of the road the Government is to pledge the interest upon five hundred shares to the mile for five hundred and twenty miles. The third is the mountain division, on which the pledge amounts to \$3,000 per annum per mile. What I have already said will justify me in saying that when the road reaches this mountain region, where are gold and silver and copper and iron beyond computation, the one fourth the gross proceeds of the road will pay, not simply interest at six per cent. on one half of the cost of its construction, but twenty per cent. on one half of the cost of its construction.

In the fourth division the limitation of the bill is the interest upon three hundred shares to the mile for two hundred and eighty miles, or \$1,800 annually per mile. This is the substance of the bill as amended.

Now, touching its effect on the credit of the Government of the United States. By the adoption of this substitute you secure, in my judgment, the construction of this road. How? You lend the credit of a great people to an organized company, by which they are able to call upon the capitalists of the whole civilized world and say to them, no matter what may be the stress upon the credit of the United States, the Congress does not hesitate to pledge the credit of the Government to secure the payment semi-

annually of interest upon the track of this great road.

The SPEAKER. The gentleman's twenty minutes have expired.

Mr. BINGHAM. Only a word further. I repeat, the passage of this bill secures the construction of the road by saying to European capitalists, this great nation, oppressed as it is with a public debt of \$3,000,000,000, considers this stock and company a perfect security against any embarrassment to its Treasury, a perfect security that not another cent of burden will be laid upon this people by reason of the loan of the nation's credit.

That is the position I assume here to-day. I wish to place it on record, that in my judgment the provisions of this bill, if passed, will never lay one cent of burden upon any citizen of the Republic. It cannot in the nature of things, unless a railroad like that pointing to the gold regions and commencing upon the shore of Lake Superior shall, by one fourth of its gross proceeds and the proceeds of twelve thousand acres of land to every mile of it, fail to pay the interest upon one half the cost of its construction and equipment.

I beg leave to say further that this measure, if adopted, instead of increasing the burdens of the people, will diminish them.

The adoption of this measure secures the construction of this road at a very early day to such an extent as, I believe, from the best information I have, will unite the head of navigation on the Missouri river with the head of navigation on the Columbia river, so that within the period of two years after the adoption of this bill we shall have through communication by rail and water from the Pacific to the Atlantic ocean. The survey reveals the fact that the distance between the navigable waters of the Missouri and Columbia is not more than five hundred miles; a remarkable revelation, indicating that God, in His providence, has so ordered it that this grand country, looking out upon Asia from the western slope of the Rocky mountains, and looking out upon Europe from the eastern slope, is to be one country, now and forever, one and inseparable.

I think it is the duty of statesmen to pass this bill if the effect of the measure will be to draw to the construction of this road the capitalists of the world, who are looking with eager eyes to our gold regions, and thus reduce the burdens of the people by the increase of the nation's wealth and the development of our great resources. It is certainly the first duty of statesmen, to whom the people have committed the trust of legislating for the general welfare, so to shape their legislation as to develop all the resources of this country, and thereby make this youngest-born of the nations the producer and the carrier for the civilized world; to enable it, in short, to lay its hand on the uncounted treasures of your vast western domain and the immense commerce of the great East, and make itself the carrier of the trade of all Europe, with China and the Indies, by the shortest possible route upon this planet.

I now yield twenty minutes of the remainder of my time to the gentleman from New Jersey, [Mr. ROGERS.]

Mr. ROGERS. Mr. Speaker, I have listened with considerable attention to the discussions which have grown out of this bill for the last two or three days, and especially to the position which has been taken by those who are opposed to it. In fact, from the wholesale charges which were made against the integrity of those who are here endeavoring to get this bill passed, before I had given the bill reflection and looked at the consequences that would result to the nation from our action in passing it, I was almost led to believe that some of the charges that have been made by those who appeared to be such sticklers at this time for the Treasury were true. But, sir, I find that the grand idea that appears to have been sought to be impressed upon members of this House and upon the country has been that this is a gigantic scheme or swindle for the purpose of robbing the Treasury of the United States and

the people of the country. And, sir, I must say here in advance, as regards some of the persons whose names appear as directors of this corporation, that the charges which have been made against them as being public plunderers of the Treasury and men unworthy of the confidence of good citizens, are such as ought to be repelled by those who know the personal character, standing, and reputation of those men.

I find among those directors the names of R. D. Rice and of Hon. D. M. Swift, a former member of Congress, who, according to the theory of the gentleman from Ohio, [Mr. DELANO,] belong to the swarm of men who have come here for the purpose of depleting and robbing the Treasury of the United States for the purpose of putting the spoils into their own pockets.

Sir, it must be a weak case, indeed, that will not be met by argument on the part of those who are opposed to it; and because these men have been unable to discuss the real merits of this question at all, I have taken the trouble to investigate it and see whether these charges of wholesale fraud and corruption are true.

It is said by gentlemen who oppose this bill that this bill has been attempted to be put through under the previous question. This objection was raised by the honorable gentleman from Illinois, [Mr. WASHBURN,] who is himself always most ready to take advantage of the previous question whenever it answers his purpose. And yet he comes here and undertakes to brow-beat members who take the part of these honorable people, by howling against the attempt to make use of the previous question. I ask the gentleman to remember when my own State was interested in the passage of a bill, when one of her railroad corporations that had plighted to it the faith of the State of New Jersey, was attempted to be shielded by this Congress, then the gentleman was willing to shut my mouth and refused to allow me one minute to be heard in the defense of my own State, although millions of dollars were involved in the interest of that corporation, and hundreds of thousands of dollars of taxes in the interest of the people of my State.

I say, sir, that it is with a very poor grace that gentlemen of that character, men who have taken the position that that gentleman has taken in regard to the demand for the previous question upon measures heretofore pending of a like character to this, come before the House now and tell the country that this is a gigantic scheme to rob the Treasury of the United States, simply because by a vote of the House the bill was authorized to be brought before it at a night session, and because notice was given by the gentleman who had control of the bill that at some future time the previous question would be called upon it.

Now, there is no fraud and no taint of fraud in this bill from the beginning to the end of it; and there ought to be no imputations of that character upon honorable gentlemen who are here endeavoring to advance the best interests of the country by establishing this great railroad route which is to connect the Atlantic and the Pacific oceans by bands of iron and by the iron horse, which is to transport our troops in time of war, thus enabling us to bid defiance to Great Britain by locomotive power, which will run our troops and munitions of war along the very frontier of the British domain if they undertake to hurl their lion against the rights and liberties of this country.

Now, sir, I am moved, in my consideration of this bill, by nothing but what I believe to be the interests of the country. I do not wish to put it in the power of thieves to deplete the Treasury, but I believe that the United States, instead of being damaged by the construction of this grand enterprise, will stride onward in the path of prosperity; it will invite the legions of the Old World to these shores; and it will enable the people of this country to protect their rights and liberties whenever an invasion shall be made upon it by any foreign power.

But the gentleman from Illinois [Mr. WASH-

BURNE] says that another reason why we ought not to support this bill is that a great lobby has been here to secure its passage. The gentleman knows more about the lobby than I do. The gentleman from Ohio [Mr. SHELLEBARGER] and his colleague [Mr. DELANO] say that they have been informed by somebody that the persons who originally went into this enterprise sold out and got \$150,000 in money for their charter. I ask the honorable gentlemen how they happen to have such information unless they themselves have come in close contact with this immense and powerful lobby which is said to be employed to advocate this measure. I hurl back in the teeth of those who charge that there is a lobby here for the purpose of advocating this bill, the fact that the most powerful and gigantic interests known to exist among the railroad interests of the country are here to advance their own interests and prevent the passage of this bill.

Mr. FARNSWORTH. Will the gentleman let me ask him a question?

Mr. ROGERS. Not now. Gentlemen talk about there being a lobby here. My experience, and I suppose the experience of every other gentleman here, is that no great enterprise has ever been started but that there were some men behind it to carry it on; and unless there were enterprising men, like these railroad men who are endeavoring to link the Atlantic and Pacific together, enterprises of this kind would die out, and we never would have that progress and civilization which have always been developed by the railroad interests of the country, as has been demonstrated in Illinois by the Central railroad which was established there; and I feel convinced that if we only plant ourselves upon the principles that the State of Illinois planted itself upon when it authorized that company to carry out its functions, we shall advance the prosperity, the wealth, the enlightenment, and the happiness of this grand empire of ours so as to make it equal to the State of Illinois, and you will find that those lands which are not now worth more than from twelve and a half to twenty-five cents per acre, will readily sell for ten and fifteen dollars per acre.

I do not believe that one dollar will be drawn from the Treasury of the United States which will not be paid back again. This entire road is to be within the control of Congress, and the moment this corporation, after the road is equipped and in running order, refuses to comply with one of the conditions of the charter which Congress has given them, we can file a bill in the court of chancery to have that charter forfeited, and we can stop the running of the road.

Now I do not believe it possible that when capitalists have invested twice what it is proposed the Government shall indorse in the way of interest, they will ever permit to be forfeited to the Government of the United States all the franchises of that corporation, merely to escape the payment of the forty or fifty million dollars that may come in time in the way of interest from the Treasury of the United States to help out this grand enterprise.

Now, I am for advancing the interests of this whole country. And in this grand enterprise I see that which I believe will bind the commerce of the country together from the Atlantic to the Pacific ocean. And the great continent of Asia, with its six hundred million inhabitants, will pour its commerce through this channel. And not only the great West, but the great East, the city of New York, and all the commercial cities of the sea-board, as well as the inland towns, are interested in this measure far beyond the pitiful sum of \$57,000,000, about which the gentleman from Illinois [Mr. WASHBURN] talks so much as a depletion of the Treasury.

Sir, he did not talk about the depletion of the Treasury of the United States when the Freedmen's Bureau bill was up here; a bill which, according to the estimate of the President of the United States, would have cost the country \$50,000,000 a year—a bill that would have

required a standing army in time of peace. The gentleman from Illinois did not hesitate to cast his vote in favor of that bill, that obnoxious, wicked, and pernicious measure, on account of any depletion of the Treasury of the United States. When the interest of any case happens to suit his constituents, and his own feelings and interest and ambition, especially if a bill happens to have been reported from the committee which he represents, then he does not seem to think so much about the Treasury of the United States; but with all his power, and with all the zeal and venom which he has exhibited in this case, he portrays to this House, in almost wild enthusiasm, the reasons why he wants the measure carried into effect.

This is no political question; it is a question that is in no way connected with politics. It is a question that recommends itself to the sound discretion of members of this Congress, representing the interests of the whole country. And although my constituents, in the fourth congressional district of the State of New Jersey, may not be directly interested in this grand enterprise, yet the country is interested in it; a country that I expect to see united one day; whose flag I hope may float over the capitol of South Carolina as it floats to-day from the dome of this Capitol. And I feel myself called upon, as a man who loves his country, and has its best interests at heart, to sustain this great national enterprise which is to make us glorious and powerful. If there ever was a measure that appeals to the sympathies, magnanimity, and patriotism of all who love their country, and has the best interests of his posterity and of coming generations at heart, it is this; and we should not seek to destroy it simply because some millions of dollars may be drawn from the Treasury of the United States.

I have more confidence in the integrity, patriotism, and love of country of the people than to believe that they will refuse to return to the Congress of the United States any man who shall honestly, and from high and conscientious convictions, vote in favor of this magnificent enterprise. They are not so narrow-minded as that; they are not so puritanical as that. And when this bill shall be passed, and the road shall have been completed; when trains are running on it, carrying our glorious flag to those mountains, with the grand principles of American liberty, we shall have done that for our country which will equal all that any other Government has ever done for the people under it.

Men talk as if the Treasury of the United States were bankrupt, as if our national finances were in the most desperately hopeless condition, as if the country were ruined. Why, sir, this nation can bear a burden of debt much larger than the amount now resting upon it. In view of our present national debt of \$4,000,000,000, which the people are so anxious and ready to pay, no man need undertake to make me believe that the mere addition of some \$50,000,000 to that debt will deplete or destroy the ability of the United States to meet its obligations. No, sir, there is no such weakness on the part of this Government.

There is some disposition on the part of some gentlemen on this side of the House to doubt the constitutional power of the Congress of the United States to enact such legislation as is proposed in this bill. I ask the attention of such gentlemen for a few moments to a consideration of the plain provisions of the Constitution. Sir, I have no more doubt of the constitutional authority of the Congress of the United States to pass such legislation than I have of the existence of a Supreme Being. Sir, the eighth section of the Constitution enumerates the powers delegated to the Congress of the United States, and among those powers is one "to establish post offices and post roads." If Congress has not power to provide for the construction of a railroad through the territory of the United States, for postal and military purposes, I ask gentlemen to tell me what is the meaning of that clause

of the Constitution. If that language does not authorize Congress to aid in the construction of a railroad such as is here contemplated, then that language is utterly without meaning; it is a mere dead letter.

Now, sir, I am opposed to any interference by the Congress of the United States with the eminent domain of a State. I am opposed to the United States undertaking to run railroads within the jurisdiction of a State without the consent of a State. I am opposed to an attempt by the Government to authorize a railroad between here and the city of New York without the consent of the States through which the road is to pass. I say that such legislation violates the true intention of the Constitution. But, sir, this bill provides that the three States through whose jurisdiction this road is to pass shall give their consent to its construction before the road shall be permitted to go through those States.

The proposition, here, as I understand it, is for the construction of a railroad from a given point to a given point, the road to pass over the territory of the United States, the bill expressly confining the corporation to the construction of the road within the eminent domain of the United States. This company will have no right, by virtue of its charter or this bill, to enter the domain of a State and interfere with its sovereign powers. This road cannot pass through any State except with the consent of the State, and it can only pass through lands belonging to the United States.

There can be, therefore, in my view, no well-founded legal or constitutional objection to this measure. If there are no just objections of this character, then it is the duty of conscientious legislators to support this measure, if they recognize it as one that will tend to advance the prosperity of the country by completing a work which cannot be accomplished except with the aid of the Government of the United States.

Sir, it is a most astonishing fact that when the act incorporating this company was passed it received in the Senate the vote of every member of that body.

The SPEAKER. The twenty minutes allowed to the gentleman from New Jersey have expired. The gentleman from Ohio [Mr. BINGHAM] has fifteen minutes remaining.

Mr. BINGHAM. I yield ten minutes to the gentleman from Michigan, [Mr. DRIGGS.]

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had disagreed to the amendments of the House to Senate bill No. 23, to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas, asked a committee of conference on the disagreeing votes of the two Houses thereon, and had appointed Messrs. CHANDLER, MORRILL, and CONNESS as the committee on the part of the Senate.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. DRIGGS. Mr. Speaker, as no gentleman from my State has yet been heard on this question, I feel impelled to present some remarks upon the subject; and I shall be as brief as possible.

Sir, when this question was first presented to the attention of Congress, I felt it my duty as a citizen of the State of Michigan, feeling an interest in everything that concerns the Northwest, to leave my seat here and visit the city of Boston to ascertain all that I could in reference to the responsibility of this company and everything connected with it. I met in Boston, under the auspices of the Board of Trade, the representatives of the Northern Pacific railroad. As the result of my examination, I can only say that, according to my information, the standing of this company for respectability and responsibility is of the highest character.

I have no doubt, Mr. Speaker, that the company now representing the grant of land by Congress to aid in the construction of this road are as respectable as any gentlemen who ever

associated themselves together in a public work. It would be a little curious to notice the geographical location of the gentlemen who oppose this measure. It will be noticed that they have made the discovery that this road is to start from Puget sound on the Pacific and end at Lake Superior. They have also discovered that it may have an eastern outlet across by the Straits of Mackinaw and down to Detroit, there connecting with roads leading south from that point. I want it understood by gentlemen who oppose this bill because Chicago has not been fixed upon as a point, that they can tap the road by their system and have a branch road from Lake Superior to Chicago. In the winter season until the road can be completed East, across the straits through Michigan, it will have to make its connection with the Wisconsin and Illinois railroads, so as to reach the eastern roads at Chicago, for it is known that the lakes can be navigated only for a portion of the year. It was my good fortune on visiting Boston to be the companion of Captain Mullin, who surveyed and has been associated with the Northern Pacific railroad from the commencement, and from him I learned some very interesting facts. The captain is a very practical man. He stated to me that by building a short road over a portage of some three hundred and fifty miles between the navigable head waters of the Yellowstone and Columbia rivers the entire connection between the Atlantic and Pacific can be effected, and goods and passengers transported from the Atlantic to the Pacific in ten days.

I have not the time to go into all the details of this proposition. I will say that I do not look upon this as a local work. Some of the gentlemen who oppose the bill are interested in the construction of the Central Pacific railroad for which a magnificent grant of land and money has been made, and now when the great Northwest seeks to secure an outlet to the Pacific, for local reasons these same gentlemen come in and oppose the measure.

When the gentleman from Illinois [Mr. WASHBURN] was speaking on the details of the bill it did occur to me that some amendments in reference to the conveyance of the lands were necessary. By the amendment before the House I understand the title does not pass until the road is built. That obviates that difficulty. The next question is as to the liability of the Government. As the bill has been amended not one dollar is guaranteed until the road is built. I undertake to say even if every dollar of that money was lost it would be the cheapest sixty millions ever expended on a great national work. My friend from Ohio [Mr. BINGHAM] says very truly that not a dollar would be lost, and I indorse that declaration. We can get it back on account of the carriage of the United States mails, and by security for one half of the land, and in various other ways. The Government can hold securities until it gets back every dollar.

In the upper peninsula which I represent there are copper mines, and if the road be built it will open that region to commerce. But I regard it as a national work, and one of the greatest importance. No gentleman from New England, New York, New Jersey, Indiana, Ohio, or any of the other States should oppose it. For by connecting at Detroit, in the State of Michigan, with the southern system of roads and the roads leading to the Atlantic cities, they will all have the benefit of this Northern Pacific railroad, and the bill for the encouragement of the building of which I hope will pass, but as I promised to occupy but ten minutes of the time of the gentleman from Ohio [Mr. BINGHAM] I must close my remarks and yield the floor to him.

Mr. GRINNELL. I understand that the gentleman has but eight minutes of his time left, and I propose to occupy that time, yet too short to more than glance at the great question.

Mr. Speaker, I shall vote for this bill, and divest myself of all local prejudices as a western man. I happen to live on the line of the Central Pacific railroad; it passes by my door;

but I am not to be bound to any locality. I believe this is a great national project, and as a monetary, as a business project, it is safe for this country and for Congress to adopt it.

The gentleman from Ohio [Mr. DELANO] pursued a line of remark which led us to suppose that here was such a magnificent grant of land that any further aid was unnecessary. He seemed to think that the amount would be \$100,000,000, and when I asked him whether he did not think that was too high, he expressed doubts about it, and finally concluded that it was so.

Now, I wish to call attention to the fact that gentlemen have not met the question. On the one hand they have said, "Here is such an immense grant of land that these men need nothing." On the other they have said, "You will lose if you become security for this company." Both statements cannot be true; the witnesses disagree. I have no hesitation in saying that these facts have never yet been met, and they never can be successfully.

Here is a great tract of land certainly, but what is it now worth? No more to this Government than so much moonshine, or so much clear sky, without a railroad. It is not worth one cent an acre without access to it. There is no man rich enough to own it and pay taxes on it in its present condition; nor will it for fifty years to come, without a railroad, have value.

What is the proposition? That this immense tract of land between Lake Superior and the Pacific shall be opened so that we shall have access to the gold mines and another highway to the Pacific ocean. This is what we can do; this is what we ought to do. We ought to lend to timid capital the aid, confidence, and surety of the Government in this enterprise; what the Government has before done, even by direct gifts; what Russia is doing in opening her wastes on a grand scale.

The gentleman from Ohio [Mr. DELANO] talks about the West, and assumes to speak for it as if he were of that country. Why, sir, he should remember that he is not within a thousand miles of the starting-point of this road. He has to travel two hundred miles across his own State, the same distance across the State of Indiana, then three or four hundred more across the State of Illinois northwest, and then hundreds of miles, before he gets to the starting-point of this road. He cannot speak for the West, because he does not live there as a Representative; and though able, I cannot think he appreciates our distances or wants.

Gentlemen have undertaken to say that my colleague, the chairman of the committee, [Mr. PRICE], has not presented a report, only a bill, withholding the light. My colleague has been characterized by the gentleman from Illinois [Mr. WASHBURN] as a banker. Well, sir, it is true that my colleague has honorably and successfully discharged the duties of president of the State Bank of Iowa, by which no man has lost a dollar. But he is not merely a banker. While the gentleman from Illinois was laying out streets in the city of Chicago my colleague was surveying and planning a railroad westward, near the eastern connection of the Pacific railroad, to Council Bluffs. He is a railroad man of ten years' experience in the Prairie State, as well as an extensive farmer, having, I am informed, a larger number of acres than any man west of the Mississippi river under cultivation. And yet the two gentlemen from Illinois designate him as a banker simply.

Mr. WASHBURN, of Illinois. Is he not president of a bank?

Mr. GRINNELL. He was president of the State Bank of Iowa. And I will here state that his word financially is regarded as good authority by all parties in that State, without regard to politics; and it is partly because he has examined this question financially, as well as its wide national bearings, that I give it my support. More than a banker. He was a railroad man for thirteen years, connected with the roads in Iowa and Illinois, and as a railroad

director he gave his time and money. And now, when the chairman of a committee, cautious with experience and exact in figures, has examined into this project in a financial as well as a national point of view, comes to me and says it is sound and safe and necessary, I give great weight to his opinion. Certainly no side issues should detract from the authority.

Mr. Speaker, let us divest ourselves of these local prejudices. Let us rise to the grandeur of position that we should occupy in legislating for a continent. I never wish to see the two sections of the country alienated. I would have the East bound to the West by iron bands. Give us this railroad, and what cost twenty-five cents a pound to reach the gold mines can be carried to the far West at from five to eight cents a pound. There is economy in the measure. There is greatness and safety in it, and unless my colleague has been grossly deceived in regard to the figures, it is safe financially; and I repeat, although I live on the line of the great Central Pacific railroad, I am willing that we shall have two or three roads, or as many as we can find money to build.

And let it not be forgotten that these capitalists, these railroad men, these shrewd managers, must lose ten million dollars before we can lose one. Will they enter into this project without any prospect of receiving their money back? No; they are shrewd, intelligent, far-sighted men, as well as patriots, and they know the necessity of this connection, and they know that if we can have the head waters of the Missouri river connected with the Columbia, crossing this magnificent country, we shall have achieved what cannot possibly be achieved by the Central Pacific railroad in the same time. Hence, I conceive that, as far-seeing and intelligent men, we should support this measure, sustained, I observe, by the Boards of Trade, by the powerful press of the Northwest, by every miner in the West, by the dwellers on the Pacific, and ought to be, as I am confident, by every agriculturist on the wide, rich prairies of our western States.

Mr. WRIGHT. Mr. Speaker, the bill before us proposes to part with the credit of the Government of the United States to a railroad company known as "the Northern Pacific Railroad Company," an association of gentlemen who carry on a private corporation for their own personal gain.

Before speaking of those features of the bill which to my mind render it objectionable, I call the attention of the House to the unfair manner in which this whole matter has been conducted. I do not believe that there is a single member of this House who has any objection to the completion of this road at the earliest practicable moment; but whether the road shall belong to the people or the Government of the United States rather than to private corporations is another question. That is one of the grounds of my opposition to this measure. We would like to see this country, vast as it is, and valuable as it is, speedily developed; its mineral treasures brought forth; its hills and valleys peopled and filled with grain and all other agricultural products which are necessary for the sustenance of man, and for the happiness of those who may dwell there. This is a question of humanity. It is a question of policy. But there is a question of legal right. This measure appears to be a sort of "gift enterprise," where much is promised and little performed. There is something under it. I confess that I have not sufficient intelligence to tell you where it is or what it is; but I feel that the measure is pregnant with mischief to our Government and to our institutions. When the Government becomes god-father to schemes of this description, being responsible for the acts of its god-child, there is danger.

In July, 1864, this Northern Pacific Railroad Company was chartered, and at that time it was presumed that we should never again be troubled with an application for additional assistance. The charter gave to them forty-seven million acres of land, and the company themselves, as

we heard yesterday upon this floor, declared that they believed that with that grant of land from the Government they would be enabled to complete the road and have a surplus of \$350,000,000. Less than two years have gone by and now they come here to ask, what we have no power to give, the credit of the Federal Government to an incorporation of private individuals for their own private speculative purposes.

Now, can we do that? Could we have done it in 1864? I ask gentlemen here (for the same principle is applicable to other measures as well as to this) to pause for a moment and reflect whether all of that land, lying in whatsoever State it may, is not the common property of all the States. I contend that the Government holds it only in trust for the people of all the States; and that it is, therefore, the trustee and custodian of these lands for the benefit of the States who are the *cestui que trust*; and you will never be able to get your discharge by accounting in the future if you take forty-seven million acres of that land and give it to one railroad company.

We gave away the other day two hundred thousand acres of land to build a ship-canal a mile and a half long. In a very short time the whole of this vast territory of ours will become the property of private individuals; and then, when we find our national debt pressing upon us severely, and turn to that as a source of revenue, we shall find that we have anticipated, and that it has gone into private pockets, and we shall be unable to make any headway in our efforts to pay our national indebtedness.

Now, let us consider this matter in another point of view. Suppose you have given away half of the land you possess, Pennsylvania, New York, and New Jersey, neither of them having any portion of that which has been given away, for I call it a gift without authority of law. Suppose that by and by a bill is brought in to divide the public lands remaining among the States. How can we account to Pennsylvania, New York, and New Jersey for the portion that you have given away? Have they not already been disposed of to railroad and canal companies and other corporations?

I think it is a matter that demands careful consideration on the part of this House. I have no special pleading to offer in a case of this kind. But I appeal to the good sense of members of this House to decide whether or not I am correct in saying that we are the trustees of this property, and have no right to dispose of it in this way; but we must account for it to the States who do not obtain their aliquot portion of it now or at some future day.

It has been urged here that this land possesses little or no value. I know the old saying, that drowning men will catch at straws; yet the shrewd men who come here and take such pains to get an act of incorporation might very properly be asked why they take this land if it is worth nothing. Now, it has become so valuable, after being in their possession not quite two years, that they speak about indemnifying the Government for guarantying the payment of interest on the bonds of this company, by offering us the half of what we gave them to secure \$67,000,000.

This is not the first example in history where large offers have been made. If it will be any benefit to members of this House I will refer them to a somewhat celebrated example. On one occasion, as we are told, the devil took our Saviour up on a high mountain and showed him a great deal of land, and offered him a very large land grant, larger, if possible, than this is. But our Saviour knew the devil did not own it, and He replied to him, "Get behind me, Satan." Now, members of Congress offer to these railroad companies and canal companies these large grants of land that belong to the people; and these corporations not being quite so conscientious as our Saviour was will most generously and willingly accept the grants of land thus pressed upon them.

And it seems that these railroad corporations who came here last Congress and got this grant are acting as if their idea was that the people of the United States did not send Representatives here who possessed ordinary intelligence. Therefore they generously bestow their advice upon us here in our seats, and in this building, and at our hotels, telling us how we can best discharge our duty. All I can say is that we are very much obliged to them for their interest in our enlightenment, and we will act as we may deem best.

Now, has any measure of security been taken by the Government that the lands thus given away to this private corporation shall pay taxes in common with the property of other corporations? Have we guarded the matter in any way so that the United States will ever be the gainer by it? Sir, what is to happen at once upon the completion of this road? A division of the profits will be made, and the Government will get nothing. The private corporations no doubt will be very much obliged to the Government for having loaned its credit to them, which is equal to so much money; they will be very much obliged for the land that has been given to them, and when the road is done they will take all the profits to themselves, bid good bye to the Government, and having become wealthy they will go off and enjoy their *otium cum dignitate*.

Mr. WASHBURN, of Illinois. Will the gentleman from New Jersey [Mr. WRIGHT] yield to me a moment?

Mr. WRIGHT. Certainly.

Mr. WASHBURN, of Illinois. I desire to say that I have been the victim of misplaced confidence, [laughter,] so far as the colleague [Mr. ROGERS] of the gentleman is concerned. I certainly understood him to say day before yesterday that he was against this bill, and he came to my desk and spoke to me about it. Yet I came into the Hall this afternoon and find him advocating it.

Mr. GRINNELL. I would suggest to the gentleman from Illinois [Mr. WASHBURN] that the gentleman from New Jersey [Mr. ROGERS] is not in his seat.

Mr. WASHBURN, of Illinois. I thought he was here.

Mr. STEVENS. That matter has nothing to do with this subject, and it is a thing which very few gentlemen would ever have mentioned.

Mr. WRIGHT. I ask members of this House whether they are making the best disposition of the money belonging to the Government in bestowing it upon such measures as these. It is said on the one hand that our Treasury is depleted, and on the other side that it is in no danger of a financial crisis of any sort.

Can we make a better disposition of this land? Once before on this floor, I invited the attention of members to the absolute necessity of doing speedy justice to our soldiers and sailors. Would it not be better to give some acres of this land to the institutions owned and controlled by the Government, so that the needy and deserving soldiers might enjoy the proceeds of this land as a common fund? Are we to allow the brave defenders of the Republic to go unprovided for. Destitution and beggary are stalking abroad throughout the land, because Congress has as yet made no proper provision for the soldiers.

If members of this House have greater regard for the Northern Pacific railroad than they have for the noble men who did so much for the salvation of the country during the recent rebellion, then let them vote to give the public lands to this company. For my part, I think that gross injustice would be done to our worthy volunteers if we should pledge the faith and credit of the Government as proposed by this bill; for a wise Government will always keep sufficient money in its Treasury to redeem its pledged faith. If this bill is to involve an expenditure in consequence of which the people of each congressional district in the United States will be subjected to an increased taxation to the amount of \$300,000, then our constituents ought to know that fact; and this is the

proper place to disseminate it. We should proclaim to them that there is no party feeling in this matter; that there can be none; that the question is one of legal right and impartial justice.

Sir, when I heard the eloquent remarks of gentlemen about the necessity of giving away our lands for works of public improvement, I felt disposed to send word to the Camden and Amboy Railroad Company to make application for a grant of land; I do not see why the House should not have its heart softened toward that corporation as well as any other.

Sir, however we may be bound by party feelings, it will not do for us to inaugurate a system by which we may wink at trifling errors and go on increasing our offenses until by their illegality they amount to absolute crimes, because it cannot be presumed that we could thus sin through ignorance. Sir, I desire that this road shall be built, and I am willing to do anything that I may lawfully and conscientiously do to assist in its construction. The great railroad of the State in which I live would form one of the connections of this road by way of the Atlantic and Great Western railroad. Sir, the opponents of this bill must not be misjudged. We do not desire to be understood as being other than favorable to the completion of the road. But we cannot approve the means by which the end is sought to be accomplished.

I think I am fully justified in saying that my constituents will approve the vote which I am about to give against this measure. I can cast that vote with a clear conscience, knowing that I have sought to do no injustice to the Northern Pacific Railroad Company, but that I have endeavored to save the money of my constituents, that I have striven to prevent the depletion of the public Treasury. Sir, I find on my desk this morning a circular which the Secretary of the Treasury has sent us, stating that \$350,000,000 is all that is necessary to be raised annually to pay off the interest of the public debt of England; and that during the past three quarters of the current fiscal year \$405,000,000 have been paid in this country. But, sir, he says that the continuance of the present system of taxation on the necessities and comforts of life—articles that we eat and drink and wear—is required in order to meet the demands upon the Treasury. Sir, at such a time as this, how can we, with any regard to the interests or the welfare of the country, engage in a scheme to guaranty, by a pledge of the national credit, fifty or one hundred million dollars to a private corporation? The principle is wrong. Our duty as Representatives requires that we should oppose such schemes; and this I say with no unkind feeling toward those who advocate the bill.

I trust that the bill may yet be put in such a shape that those who are at present its opponents may become its friends; and that in the mean time we shall mature a measure which shall extend to our soldiers and sailors that generous care which they so well deserve from the country.

Mr. BROOMALL. I ask the gentleman to yield to me.

Mr. WRIGHT. I will yield to the gentleman for twenty minutes.

Mr. BROOMALL. Mr. Speaker, I received in the mail this morning a circular, which I hold in my hand, purporting to come from the Treasury Department, the reading of which has caused me a considerable amount of discomfort. The purport of this circular is that in consequence of the enormous indebtedness of the Government, in consequence of the immense amount of taxes now imposed upon the people, it is utterly impossible for the Government to equalize the bounties to our soldiers. Many of us have been sitting here with the fixed determination not to let this session go by without passing that most righteous measure, and to be told now that the thing is impossible is a declaration that must grieve the heart of every lover of the country in this House. I am not without hope that the prophecies of the Secretary of the Treasury may be found to be mis-

taken. I am not without hope that some means may yet be ascertained to equalize the bounties of our soldiers, but for one I will not allow myself to give a vote in this House so as to tie my hands from supporting that measure when it comes up.

You may be sure, Mr. Speaker, after reading that document, I came to this House by no manner of means disposed to vote away sixty millions of money which ought to go to this purpose.

Mr. HENDERSON. I ask the gentleman to yield to me.

Mr. BROOMALL. I cannot do it, I have but a little time myself.

I will not vote the money which ought to go to this righteous purpose into the pockets of a private corporation. I warn gentleman, if they vote for this bill and violate their promise to the soldiers, they cannot fall back upon the assertion of the Secretary of the Treasury that the thing was impossible, for their votes upon this measure will stare them in the face. They will be told they have given by one single act to a private corporation nearly one half as much as would be required to equalize the bounties of the soldiers.

I recollect very well when the original bill, to which this is an amendment, was brought into the House. It was not without reason that members were startled at the injustice of the proposition it contained of conveying in fee-simple to a private corporation, the stock of which might be held in India, England, or anywhere else, lands exceeding in amount the entire State of Indiana, and more than double the land contained in the States of New Jersey, Maryland, and Delaware. Such a proposition might well startle members of Congress and make them hesitate; but my powerful colleague, chairman of the Committee on Appropriations, [Mr. STEVENS,] with his usual persuasiveness almost forced us to depart from our accustomed propriety to sustain the bill. I regret that upon that occasion I did not make my voice heard in condemnation of the measure. I allowed myself good-naturedly and amiably to yield my judgment to that of others; but when I saw this bill here, I was reminded that I had been somewhat recreant to my duty. I voted against the bill, I grant, but then I contented myself with that vote. Such at least is my recollection at this time.

What were we then told? The opponents of the bill, I think the gentleman from Illinois [Mr. WASHBURN] especially, pointed out the immense amount of lands proposed to be given to this people, and contrasted it with the land grants to other corporations. He earnestly remonstrated against the passage of the bill, and foretold that the demands of the company would not end there. He foretold truly. The eloquence of my colleague and others had such effect that the bill was suffered to pass, notwithstanding the warning of the gentleman from Illinois. It was passed upon the positive promise of these people that that would be the last demand by that company upon the Congress of the United States. Yet, sir, not a spade has been put into the ground, not a pole has been set, not a line has been run since the passage of that bill, and still the company is back here asking for money, money at a time when money is by no means plenty with the Government of the United States.

But it is said by gentlemen on the other side of the question that this money will be repaid. When? I would like to know when. If we commence this system of legislation we will find the bonds of the United States selling at fifty cents on the dollar long before we shall see a single cent of this money returned. The bill provides the means by which it is to be got out of the Treasury of the United States, but I see small chance of its being brought back.

The framers of the original bill—I mean the bill for which the pending substitute is moved—never intended that this money should be paid. They framed the bill so that it was never necessary for the company to repay the money.

They framed the very bill so that no part of the money that they proposed to take out of the Treasury should fall due to the Government until after the road was entirely completed. It is easy enough to leave ten miles of a road of eighteen hundred miles in length unfinished, so as to avoid the payment of the money.

The alterations that have been made by my colleague have not helped the bill much, very little indeed. They have only the better covered up, not the bad intentions of the House, not by any manner of means, but the bad intentions of somebody, I do not know who, for I inquired all day yesterday in this House of everybody I saw, "Who drafted this bill?" and was unable to find out who did it.

Now, the proposition of my colleague is, that we should take security for the money we lay out. What is the security? Why, the right to sell at double the price of our public land, and no less, the land lying on the south side of that road. Is that any security? And the bill proposes to vest all these lands in this company beforehand, so that they may sell them, and then the lands would be beyond our reach, in the hands of innocent third parties. For they take good care in this bill to make the grant of the land entirely free from all the conditions set out in the original act.

Mr. STEVENS. Will the gentleman yield?

Mr. BROOMALL. I am sorry I cannot yield.

Mr. STEVENS. I am sorry the gentleman will not allow me to make a correction.

Mr. BROOMALL. I think I have paid as much attention to this bill as we usually do. It may be my misfortune to be in error, but if I am, I am honestly so, and I shall have in vindication of myself at least the fact that I did not vote to a private corporation the money that should have gone to our soldiers.

Two of my colleagues from Pennsylvania, [Mr. KELLEY and Mr. STEVENS,] with extraordinary eloquence—extraordinary even for them—are urging the passage of this bill. Pennsylvania, ground down by local, State, and general taxation; Pennsylvania, that has had to resort to a means of raising money that never came within the knowledge, I suppose, of my friend the chairman of the Committee of Ways and Means, [Mr. MORRILL,] Pennsylvania, that has had to resort by law to taxing her citizens upon their poverty instead of their wealth (because within two years that State, finding that the General Government wanted all the tax that could be raised from her property, actually passed a law compelling the debtor to pay a tax on his debt;) Pennsylvania comes here, ground down in that way by taxation, and asks, through her Representatives, to let this private corporation dip its hands sixty millions deep into the public Treasury.

My colleague from Philadelphia [Mr. KELLEY] tells this House that Sir Morton Peto would be very glad to take this job off our hands, would be very glad, if I understand him, to guaranty this stock upon the terms offered to us. Well, all I can say is, if Sir Morton Peto wants the job, as for me he can have it, and when he gets through this job I will hunt him up a good many others of the same sort. I dare say there are corporations within the district of my colleague whose stockholders would be very glad to have the Government of the United States guaranty the dividends upon their stock.

I know that there are such corporations in my district, and if my colleague will aid me to get an introduction to that distinguished English gentleman, when he gets through the job that he proposes for him, I will introduce to him some of my constituents for that purpose. Sir, let who will guaranty these bonds, I, as a member of this Congress, never will.

Mr. KELLEY. For correction I ask the gentleman to yield.

Mr. BROOMALL. I do not want it taken out of my time, but I will do it.

Mr. KELLEY. I have nowhere intimated that Sir Morton Peto would gladly construct

this road if the United States would guaranty the bonds. I have said that he, with other Englishmen, would gladly give a guarantee for the sake of extending the British line down to the forty-second degree of latitude. I want no more British Provinces on our territory.

Mr. BROOMALL. The gentleman's explanation is precisely as I stated it. I did not state that he said that Sir Morton Peto would like to have the job if we would guaranty the bonds. What I said was, that that gentleman would gladly take the job that we are asked to undertake, would gladly take upon himself the guarantee of that stock upon the terms offered to us. It was in that view that I said that he or any other person on the other side of the Atlantic may do it so far as I am concerned.

It is time we began to retrench. The people are clamorous for a reduction of the taxes. Who of the members here present has not had letter after letter from his constituents asking when a bill reducing our taxation will be reported and acted on? Who is not glad to find that there is in the bill which has been reported a material reduction of taxation? But, if we are going to give away with one hand twice as much as we receive with the other, I want to know how we are to satisfy our constituents?

I believe, sir, that my time is very nearly exhausted, and I will only say further that upon this question I have paired with a gentleman from New York who has had to leave the Hall.

Mr. WRIGHT. I yield now to the gentleman from Illinois, [Mr. HARDING.]

Mr. HARDING, of Illinois. I am greatly indebted to the gentleman from New Jersey for his courtesy in allowing me a few minutes.

I felt more interested in this subject and am more ardently opposed to this bill than, perhaps, there is good ground for. I am anxious to preserve the financial credit of the Government. Perhaps I am more sensitive on that point than I ought to be.

I feel how much it has cost, both in blood and money. I feel how grinding and burdensome our present taxation is upon the people; and I am unwilling to add another dollar to our obligations unless it be for a measure of very great national importance.

It is asserted that this is a great national measure. I beg leave to deny it. It is but a great individual speculation. The nation is no more interested in the development of this region of country from Lake Superior to Puget sound than it is in the development of any other portion of the country. If the development of this country by the construction of a railroad is to be held to be a national business, why then I can only say that I have understood things differently. I do not understand that it is the business of this Government to engage in the general improvement of the country and the development of its resources, in the building of woolen and cotton factories, in the opening of canals, and in the construction of railroads in all directions. These are, in one sense, matters of national importance, but not in the sense that has ever been maintained by that great party to which I have had the honor to belong all my life, a party which has met opposition, but which in its construction of the power of Congress under the Constitution, to enter upon the improvement of the inland rivers and the harbors on our lakes, and to provide for the construction of other great national improvements, has never gone as far as this measure proposes to go. And no leadership shall lead me further than the position which that party assumed, and in which it was sustained in the past by the people of the country.

I have never understood that we had a Government here which could appropriate money from the public Treasury for the development of local interests.

In the limited time allotted to me I can, of course, say but little of what I would like to say upon this subject. I would like to show that this measure is not impelled by considerations of great national importance. If it be, then I ask why it is that members from partic-

ular localities are found, every one of them, "in" for it? Why is it that my friend from Portland, [Mr. LYNCH,] and all those who come from the line of latitude on which this road is to run, favor it? Why is it? Is it because they love this great country more than profit? Why is it that certain gentlemen from Pennsylvania, who are engaged in certain interests, are so deeply interested in this work? Of course it is because they look upon it as a national work; it is not because it would promote certain branches of business! Look at it. Your original bill gives in general terms a right to other roads to connect with this road. What is the connection? Is it the right to have the business of the New York Central, or the Michigan Central, or of any other road carried over this line? No such thing. The men who control the charter will make the business with the West go over the Grand Trunk railroad of Canada.

Let it go to Portland over the very roads that these distinguished and honorable public-spirited men from Vermont and New Hampshire represent. They, of course, are not influenced by any such considerations; not a whit of it. They are too honorable and high-minded to burden this nation with a view to local advantages and local benefits; I do not believe they would do it; not a word of it. And do gentlemen suppose that Boards of Trade, composed of the material that we know they are composed of, are ever influenced by any other consideration than love of country? Why, no, sir, never.

Men engaged in the iron interest are anxious, of course, to make railroad iron. But it is not in their special interest, of course, that a bill is introduced here to bind these railroad corporations to buy their iron of them. Yet this road is to be built of American iron, cost what it may, and however great may be the demand for it. But that of course will not weigh a straw in the estimation of my patriotic and truly honored friend from Pennsylvania, [Mr. STEVENS,] for I do honor him.

Now, I beg him to believe me when I say that this country does not want this increase of liabilities at this time. Whether we pay the money or not, it will stand against us on our books; it stands there as a mortgage, and he and others will find that when we have once committed ourselves to this thing they will so manage the business of the road that the quarter of the gross earnings which we are to receive will be very small. The great part of the earnings will be absorbed by the Grand Trunk road and the Vermont line; there will be very small earnings for the west end of the road, especially as that west end is eighteen hundred miles long. How many stations would there be on the western portion of the road? None, except on the Missouri river, until you get to the Pacific.

There is no population along the proposed line of road. I asked a friend what was the population, and he told me it was literally nothing. And there are but few villages on the Pacific coast. Now, what kind of freight can be carried eighteen hundred miles over a road that will pay for the carriage after it has reached the market? Not grain and corn, for it now takes three bushels of corn to pay for transporting one bushel from Illinois to Buffalo. I am proud of the railroad system of the United States; I am in favor of it; I have helped to build some, to my sorrow. And I have learned this: that there must be a large way business, a large population along the line of the road to make a road pay.

My friend from California [Mr. BIDWELL] says that they want competition to keep down the rates of freight to the Pacific. Now that is a beautiful idea; I will treat it more respectfully, and say that it is an honest idea. But you will find that where there are two parties to divide the profits, they will always manage to have a little higher rates of freight. I challenge gentlemen to show me an instance where competition has put down freights for any length of time. Those corporations will not

compete long. If the men who manage them ever do carry on a competition from personal animosities for any length of time, those who are interested behind them will turn them out and put others in their places who will better attend to the interests of the parties.

Now, you may build another road to the Pacific; but by the time it is done the managers of the two roads will get together and drink champagne and conclude that rates of freight must be raised a little higher. That is so; I have tried it, and it has been tried on me.

Gentlemen argue, why not give this land, which is worth about as much as the blue sky? Sir, it is too good to give away to a set of corporators who will thus have eighteen hundred miles of monopoly through the best mining regions of America, I am told. Sir, all know how this thing works; there is not a mine there but what if I own the railroad I own the mine, and you know it. If you have a coal mine or an iron mine or a gold mine, and I control a railroad, I will take all the profits of the mine for transportation.

Sir, there is not in this bill a syllable which will enable the Government to control the manner in which this company shall do their business. The whole thing will be under the control of the corporation. Sir, when I conclude to vote for allowing Sir Morton Peto and his associates or any association or company eighteen hundred miles of the territory for which my countrymen have fought and bled, and many of them died, I will let you know. Sir, what do you suppose would be thought of such a vote among my constituents, who have sent here their petitions signed by thousands of names asking to be relieved from the oppression which they have suffered from railroads in Illinois? Why, sir, the railroads of Illinois have competing lines. How is it, then, that they oppress the people? Sir, it is, as I have said, through the medium of champagne.

So far as concerns the power which will be wielded by this company, it is immaterial whether we give them twenty miles or forty miles along the line of their road. I know that this is merely an entering wedge. They will eventually exercise a power which nothing but the building of a competing line can break. Sir, if this bill be passed it will be equivalent to a deed of cession to these corporators for all this land. They will own it. The strong man will keep the house, and you can go in and out only at his pleasure.

Mr. Speaker, I do not like to express my opinion upon financial questions. But I have always believed that so far as we can we should pay as we go. I have accepted as a tolerably good and sound principle the advice of the Bible, "Owe no man anything." There is, I believe, another passage of Scripture—but I am not freshly read—which says something about the impolicy of indorsing for others. [Laughter.]

Mr. WASHBURNE, of Illinois. It was Ben. Franklin, I believe, who said that.

Mr. HARDING, of Illinois. I believe it was. Now, sir, I have had some little experience in that matter of indorsing for others; and I have almost always had to pay the bill.

Sir, there is another consideration which has its influence with me in reference to this measure. I expect to vote, cost what it may, for equalizing the bounties of those brave men who in 1861 and 1862 volunteered in the military service of the country, receiving meager bounties or none at all, and served, many of them, through the war. Cost what it may, I am determined to vote in favor of paying them the money to which their noble services more than entitle them. They are the saviors of my country. We owe them a debt of gratitude. We owe them more than brilliant words and fine resolutions. This Congress has sat now for more than four months, engaged in great part in the discussion of questions pertaining to the interests of particular localities. We have as yet taken no action on that great measure designed to pay to the soldiers a part

of the great debt we owe them. We are told that it will be a very hard job to get that measure through; and doubts are intimated whether it can be passed.

Sir, I receive letters from my constituents saying that they distrust the intentions of Congress. They rather begin to surmise that we intend to give that measure the go-by. For heaven's sake, gentlemen, do not ask me to go home and tell them that, in preference to voting for that measure, I gave my support to a scheme for a guarantee of the national faith to the amount of \$57,000,000 for the benefit of some gentlemen who are engaged in railroading. In my section of country, I am sorry to say, the people have not a very high estimate of men of that character. I have suffered somewhat under the prejudice which they entertain for persons of that description. I am seeking to retrieve my reputation by a faithful, an inflexible, fidelity to the interests of the whole country, regardless of all personal considerations. I am going to die in that harness; and acting on that principle, I am to-day standing by the people of the West.

More than a million of these western people—men who have served the country as soldiers, as well as the widows of soldiers and the children of soldiers—are to-day looking about them anxiously to see how they shall get along in the world. They find taxes heavy, business dull; and I declare, Mr. Speaker, I cannot have the heart to impose any additional burdens upon them at this time.

Now, sir, when a railroad is needed west of Lake Superior it will be built. There is no trouble in getting a railroad constructed when there is really a necessity for it. This has been the experience all over the country. Hence, I believe that this railroad to the Pacific will be built without Government aid whenever the interests and wants of the country justify its construction.

I hope we will have all these lands back again. I believe that the company has forfeited its franchise because it has not complied with the condition upon which it was granted. Let us get it back by all means. As it stands now it is equivalent to the cession of that whole territory to this private corporation.

There are other views of this question to which I would be glad to allude if I had the time.

The SPEAKER. The gentleman has seven minutes left.

Mr. HARDING, of Illinois. Here is a railroad of eighteen hundred miles to be built from Lake Superior to Puget sound. It is to have this immense grant of lands and its stock is to be indorsed by the United States Government. It is to be controlled by these private corporations. Yet my friend from Pennsylvania [Mr. KELLEY] talks about homes for the homeless. I think the people will understand who are for giving homes to the homeless. We do not give homes to the homeless by granting away in one act this enormous body of lands to a private corporation. Nor do I see any necessity of having a railroad from Lake Superior to transport the emigrants from Europe into those hyperborean regions where they would find it difficult for them to live without having the skins of wild animals upon their backs. I know that to develop the resources of the West we need population.

Now, sir, those who come from Europe need not go away off into the Rocky mountains to find homes, for they can be provided with homes upon the beautiful prairies of Illinois, and when those are overcrowded there is room for them in the lands beyond the Jordan of the Mississippi. It will be time enough for us to think of settling the land between Lake Superior and Puget sound when we have brought under cultivation the lands through which roads already pass. What would you think of a man who had only stock enough to work his own farm renting all the surrounding country? Yet such is the proposition we have here. Gentlemen are talking of populating millions and millions of acres of land

at a remote distance, when we have millions of good land lying idle and uncultivated close at hand.

I say, let us wait until the country is partially settled before we talk about building this road.

Mr. GRINNELL. The Illinois Central railroad was built when there was nobody at some points within twenty miles of it.

Mr. HARDING, of Illinois. I was out there at the time and know all about the subject.

INTERNATIONAL OCEAN TELEGRAPH.

Mr. ELIOT. I understand that a message has come from the Senate asking for a committee of conference on the disagreeing votes of the two Houses on Senate bill No. 26, to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas. I move that the request be granted.

The motion was agreed to; and the Speaker appointed Messrs ELIOT, O'NEIL, and TAYLOR as managers of said conference on the part of the House.

NORTHERN PACIFIC RAILROAD—AGAIN.

Mr. LONGYEAR. I ask the Clerk to read extracts from the original act of incorporation in reply to what has been said here, and to show that the pending bill does not make any change with the exception of granting an extension of the time.

The Clerk read as follows:

SEC. 4. *And be it further enacted*, That whenever said Northern Pacific Railroad Company shall have twenty-five consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated, the President of the United States shall appoint three commissioners to examine the same, and if it shall appear that twenty-five consecutive miles of said road and telegraph line have been completed in a good, substantial, and workmanlike manner, as in all other respects required by this act, the commissioners shall so report to the President of the United States, and patents of lands as aforesaid shall be issued to said company, confining to said company the right and title to said lands, situated opposite to, and coterminous with, said completed section of said road; and from time to time, whenever twenty-five additional consecutive miles shall have been constructed, completed, and in readiness as aforesaid, and verified by said commissioners to the President of the United States, then patents shall be issued to said company conveying the additional sections of land as aforesaid.

SEC. 8. *And be it further enacted*, That each and every grant, right, and privilege herein are so made, and given to, and accepted by said Northern Pacific Railroad Company, upon and subject to the following conditions, namely, that the said company shall commence the work on said road within two years from the approval of this act by the President, and shall complete not less than fifty miles per year after the second year, and shall construct, equip, furnish, and complete the whole road by the 4th day of July, anno Domini 1876.

Mr. STEVENS. Mr. Speaker, this question, like all great national questions, ought not to be discussed and is not to be decided either by buffoonery or vulgar denunciation. There are times and places when such things are pertinent, but not in the grand council of the nation when considering a great question of national importance. There we ought to have the calm judgment operating upon well ascertained and not perverted facts.

There are large minds that can take in the whole of a nation. There are small minds that can see only the purlieus of Delaware county or other places. What does not affect them cannot affect the great questions of legislation. There are none such here of the latter kind. I refer to that simply as illustration. [Laughter.] Now, let us see how we can look over this whole nation, from the Pacific to the Atlantic ocean, and not inquire how this particular measure affects my village or my constituents alone, but how it affects this great nation and posterity; for this is a subject worthy to command a consideration of this kind; and when that is done, and the facts which have been grossly perverted by gentlemen who have made their speeches here shall be put right before this House, I shall willingly leave it to the cool and sober judgment and candid action of this American Congress, and

whatever may be their decision upon the question I shall submit to with pleasure. I may regret a decision that is adverse to what I deem to be the interest of the nation, but I shall have no complaint to make against any. None who have fairly treated it can fairly be complained of, for they had a right so to treat it.

In the first place, therefore, let us consider the importance of this question. Is it as important as I have indicated? In the second place, let us consider the liability or the risk which this nation is to incur; whether we are to embarrass the finances of the country, as the heated imagination of some gentlemen seem to suppose by this measure. For if this is to take from other and more worthy objects, such as the compensation to our soldiers and sailors, and especially our one-legged soldiers, [laughter,] I certainly shall expect no man to vote for it.

In my judgment it is the most important measure ever presented to an American Congress, and it is one in which the most good can be conferred upon this nation and upon posterity with the least possible risk.

But before I enter upon that view I will take up a few of the preliminary objections, so that the brush being cleared away we may build more firmly upon a solid foundation.

Our distinguished friend from Illinois [Mr. WENTWORTH] thinks there are no records, no by-laws of this company. Now, I know that people as far out West as Chicago are not to be expected to enter into the light literature of the East, and read the matters connected with the great western railroads, and therefore I do not wonder that my friend had no knowledge that a book called "the Northern Pacific Railroad Company and its Charter and Organization," which I hold in my hand, containing the charter, the by-laws, and the original organization of the company, existed.

Mr. WENTWORTH. Will the gentleman allow me a word?

Mr. STEVENS. Certainly.

Mr. WENTWORTH. I appeal to every member present if I did not call for the records; if I did not ask gentlemen to send them to the Clerk's desk and have them read; and no one dared to offer any. No one has said to me that there were any, although I have repeatedly asked for them, and would be glad to read them.

Mr. STEVENS. Mr. Speaker, I admit my delinquency in not immediately answering the gentleman, but I am very much opposed to interruption. If the gentlemen will allow me [presenting a copy] I will respectfully tender a copy to him now. [Laughter.]

Mr. WENTWORTH. Thank you, sir; much obliged. [Laughter.]

Mr. STEVENS. Now, Mr. Speaker, that little book in which there is grand reading for youthful minds, shows the original charter and by-laws of the company, and a subscription of \$2,000,000, with the payment of ten per cent. The date of the organization of the company is December, 1864, in the village of Boston, [laughter,] and all the directors' names are there set down. As to these gentlemen, who are named as commissioners their duties were long ago discharged, my friend knows.

Mr. WENTWORTH. Will the gentleman, as he has sent me his book, allow me to quote it to him?

Mr. STEVENS. Certainly.

Mr. WENTWORTH. It has been publicly stated in this House that one of the Smiths living in Vermont was president of this road. This book which is sent to me as official authority ought to state the truth, and here I see that Mr. Perham is president.

Mr. STEVENS. Will the gentleman allow me to finish the record by comments?

Mr. WENTWORTH. You sent me this as the record.

Mr. STEVENS. I sent you the commencement of it.

Mr. WENTWORTH. Send me the true one, the last edition. [Laughter.]

Mr. STEVENS. That is the commencement of it, and that shows that there was a thorough organization of that company. A very ardent friend of this road, who had spent at least eight years of his life before he completed the grant by obtaining this charter, was made president of it—Mr. Perham, a man as honest as ever lived. He believed he was capable at the time of carrying it through without anything further, but his health failed him, or I believe verily he would have gone, like those who drummed up from house to house through New England, and obtained subscriptions enough to have built it. His health failed and he was obliged to give way. He found he could not attend to it. The time was passing round when he was obliged to commence it. He was applied to by a party of men for the purpose of purchasing the franchise, and if he had been what gentlemen suppose everybody connected with this institution is—a swindler, a robber, a speculator—he would have taken their bonus and given them the franchise; but, like an honest man, he refused it. And I sent to the Chair now a letter from the present president of the road in answer to a letter of mine.

The Clerk read the letter, as follows:

COMMISSIONER'S OFFICE,
NORTHERN PACIFIC RAILROAD COMPANY,
No. 258 F STREET,
WASHINGTON, D. C., April 25, 1866.

DEAR SIR: I have the honor to acknowledge receipt of yours of this date inquiring:

1. Whether the Northern Pacific railroad has been legally organized, and when and whether any report has ever been published by the company.

2. Whether there has been any change in the board of directors since the first election, and when and who now constitute the board, and their residences.

3. Whether anything was paid or agreed to be paid by the new directors as a bonus or otherwise for the change of management.

4. Whether anything, and what, has been done by the present board toward obtaining funds to build the road.

1. In reply to the first inquiry I would state that on the 7th day of December, 1864, the company was organized in accordance with the provisions of its charter, as appears by the report of the company, which I send accompanying this. The record of this organization, before the gentlemen now composing the board of directors were elected, was submitted to the examination of gentlemen of high legal position in the city of Boston, and their opinion given that the proceedings were regular and the organization legal and complete.

2. In reply to the second inquiry, the following gentlemen compose the present board of directors: J. Gregory Smith, St. Albans, Vermont; Onslow Stearns, Concord, New Hampshire; George Stark, Nashua, New Hampshire; R. D. Rice, Augusta, Maine; Edward S. Foley, Boston, Massachusetts; George C. Richardson, Boston, Massachusetts; James C. Converse, Boston, Massachusetts; Benjamin P. Cheney, Boston, Massachusetts; George H. Gordon, Boston, Massachusetts; Frank Fuller, New York; George Briggs, New York; Philander Reed, New York; L. D. M. Swett, Portland, Maine.

The last three were members of the old board. The others were elected on the 5th day of January last.

3. In reply to the third inquiry I would say, the change in the board of directors was effected at the solicitation of the members of the old board. The charter had been held by them for over a year, and they had been unable to secure the confidence of capitalists, or to obtain the funds necessary to justify the commencement of the work by the time limited in the charter, July 2, 1866.

Finding themselves unable to enlist the confidence of capitalists in this country they opened negotiations in the autumn of 1865 with the president of a company representing a large foreign corporation, to become the purchasers of the franchise of this company, with a view to make it a portion of a line then existing, which should be extended across the continent. This proposition, as I have been informed, remained open till January, 1866, this company, however, retaining the right to adopt other measures in the mean time to insure the construction of the road.

Pending these negotiations with the representatives of this foreign corporation the subject was presented to the consideration of leading capitalists of New England and other parts of the country, and they were strongly urged to engage in the enterprise, and thus save it either from utter failure from want of funds or from passing into the control of foreign capitalists.

The subject received a favorable consideration at the hands of these gentlemen, and they manifested a willingness to become identified with the enterprise, provided the management of the company could be placed in the hands of gentlemen whom they might select, and in whom they had confidence.

The gentlemen now composing the new directors were selected by capitalists of Boston and elsewhere to take the management of the company.

The new board were asked to relieve the old board from the legal liabilities of the company, for some of

which they had become personally holden, and to make immediate provision for the more pressing of these claims. An arrangement was accordingly made by which the new board stipulated to provide the means to pay such liabilities as were justly due from the company to an amount not exceeding \$150,000.

This agreement has, so far as my knowledge extends, been faithfully executed. There was no bonus required, and none in any form paid, or agreed to be paid, for the surrender of the franchise, nor for any transfer of the management, nor for any purpose whatever.

4. In reply to the fourth inquiry, I would say that immediately after assuming the duties of their appointment, and with a view to save the charter and provide the means for the early prosecution of the work, the new directors conferred with leading capitalists and financial men of the country, asking their opinion as to the probable prospect of obtaining the necessary fund upon the stock of the company based upon the land grant.

The uniform opinion of financial men was, that with the amount of securities upon the market offering a more desirable investment, it would be impossible to obtain the funds necessary to justify undertaking the work. The result of this consultation was, that if the Government would lend its aid in some form of guarantee for a limited period, the stock would acquire a value, and capitalists would thereby be induced to invest, and the work might be undertaken with confidence in the ability of the company to prosecute it with vigor and economy.

To raise the funds for this purpose, and to afford a basis of credit with which the company may construct its road and thus develop not only its own resources but in a much higher degree the wealth of the country, we ask the temporary aid of the Government in the present form, confidently believing in the ability of the company to repay fully all that may be advanced by the Government, not only in kind but many fold in the incidental benefits which will result to our common country and to the world.

I have the honor to be, dear sir, very respectfully, your obedient servant,

J. GREGORY SMITH.

President Northern Pacific Railroad.

Hon. THADDEUS STEVENS, M. C.

Mr. WENTWORTH. Allow me to ask a question. I understand that there are two bills before us. This subject comes before us, therefore, in two shapes. The gentleman is speaking to one of these bills. If he means the substitute, that substitute says three-fourths of the directors shall be American citizens. Now, then, if the other quarter can be British capitalists they can own the whole of the stock. They can let Americans in as stool-pigeons and run it as an English institution.

Mr. STEVENS. I understand the gentleman's question to be an argument.

Mr. WENTWORTH. An argument based on which way you answer the question.

Mr. STEVENS. Well, if the gentleman cannot decide that for himself, I will take it into consideration and give him an answer at another time.

Mr. Speaker, that letter dispels most of the scandal, most of the fiery denunciation of the two gentlemen from Illinois, [Mr. WENTWORTH and Mr. WASHBURN], and still more that of the gentleman from Ohio, [Mr. DELANO.] It takes from them, I think, the whole of the basis of their remarks.

I desire, however, before I proceed further, to call upon the gentleman from Massachusetts [Mr. BANKS] to say if he is acquainted with some of these men and what are their characters.

Mr. BANKS. I would rather not answer now. I propose to speak on the subject, and would like to say a few words at the close on that subject.

Mr. STEVENS. Very well. I will give the gentleman an opportunity before the expiration of my time.

Having shown who the present corporators are, men I will venture to say, from what I have learned from good authority, who are inferior to no set of men in the United States for energy and for skill in railroad, or for honor and integrity; having shown that this corporation is a true and vital corporation, let us proceed to inquire whether the object is worthy of the bill which we have before us.

I confess, sir, with some degree of humiliation that until it became my duty, two years ago, as chairman of the Committee on the Pacific Railroad, to examine thoroughly into this question, I was in a deplorable state of ignorance with regard to the great interests of the Northwest to be affected by this project.

I knew less about it if possible than some of these gentlemen who are now opposing the road. [Laughter.] But, sir, I did devote considerable labor; I waded through all I could find on the subject; the explorations of Lewis and Clark, the surveys of General Stevens, down to the latest and most interesting explorations of Captain Mullin.

I there learned, what I have hoped all know but what I was late in learning, that there was in those Territories land enough uninhabited, where scarcely a white man's foot had ever trod, to make eleven States, each equal in size to the State in which I reside, and that of those eleven States eight at least would each contain more arable land and land more fertile than the great State of Pennsylvania. It is true that in some of them there are many mountains, that there is much barren land; but not more in proportion to the whole area than there is in Pennsylvania and Virginia. And those very mountains, like the mountains of my own State, are the most interesting and valuable portions of the whole territory. My own State, filled with coal and other minerals, is very hilly and mountainous. Yet those very barren hills, every acre of them, are worth more than five times the number of acres in the grand valley in which I reside, and which is the most fertile and grain growing, I believe, of any in the Union.

And so it is with the very broken land, which is not arable, in the Territories to be traversed by this railroad. Those barren hills are filled with still more valuable minerals. Gold is yielded, not only in the sands of the rivers according to the Scriptures, but it is also found in the solid rock, and silver is found there in veins, pervading a larger portion of that territory than any other portion of the United States. And if I have not allowed my imagination to delude my judgment I declare to you that I believe this is the richest mineral region upon the face of the globe, and that it contains more solid acres of gold and silver and cinabar and the other precious metals than any other like portion not only of the United States but of the world. I may be mistaken, but I challenge those who have read and examined the authorities to contradict me by known facts, and not by any imaginary statement of facts.

Now, there is northward of the forty-fifth parallel of latitude, and south of the British-American line, territory sufficient to make more than eight States, each equal to Pennsylvania, more than an average portion of which, a great deal more than an average portion of which, compared with the State of Pennsylvania, is arable and fertile land. I had supposed that it was a barren waste until I had informed myself, as I supposed it to be my duty, by examining the subject. But I find that the soil is more fertile than that of the beautiful garden spot of my own county, although that is highly cultivated. Along the Red river settlements, wherever the country has been opened, to the Selkirk settlements, spring wheat will produce at the rate of sixty bushels to the acre, a thing unheard of in Pennsylvania and in most of the States of this Union. The smaller kind of corn will yield from sixty to ninety bushels to the acre, and in grass the country is not rivaled by any portion of this Union. Now, I assert I am giving no overdrawn picture, unless those who have dwelt there for years, and who are my guides, have misled me.

Now that is a country that is wholly unsettled. And that is the reason urged by my most respected friend from Illinois [Mr. WASHBURN] for not building this railroad; the country is not settled, is not developed. Hence, I suppose he thinks it never should be. Sir, it is because it is not settled that I am in favor of aiding the construction of this railroad. These very railroads are in modern times the great civilizers, the great means for promoting the population of a country.

And roads were used for this purpose in ancient times, though not railroads operated by

steam. Rome built her solid roads which have stood until this day, her Appian and other ways, leading from her great city to her provinces so that people might be induced to settle there, because of the means afforded them to bring their products to market at small cost.

And what has really settled the great State of Illinois but her system of railroads, her means of communication with the Atlantic sea-board, where her people can find a market? Who would have gone there had their products been given no opening to market, her corn worth but ten cents per bushel, and cheaper to burn as fuel than to transport to market? When markets are opened where products will realize a fair price, people will settle there rapidly. And one of the main objects I have in moving this substitute is to settle this country along this road. Give to this railroad the means of living for a little while, of commencing to draw her breath until she reaches a vigorous youth, then she will go on herself and pay her parents all her expenses; and she will people this whole country.

Mr. Speaker, I happen to know the fact that a part of the scheme of this company is to bring into that region forthwith from Europe immigrants, first as laborers to build the railroad, and second as settlers on the land, which they will purchase as payment for their labor. A gentleman of Boston, one of the men named in this bill, one of the largest shipping merchants in the United States—I need not mention his name—informed me that he was along making preparations to send a line of vessels to the north of Europe, to bring from Germany, from Norway, from Scotland, this very season, a large number of immigrants to settle upon that land, the climate of which is congenial with that in which they were raised and which they prefer; so that if this bill should pass it would not only be the means of securing the construction of this railroad, but it would establish a line of packets which would populate that country with the hardy freemen of the north of Europe, men who will always be upon the side of freedom, who will always be ready to aid us in any rebellious outbreaks which may come upon us from other quarters. Sir, God grant that we may soon fill up that country with such a population that, with the people of the great North, may be a counterpoise to the rebellious South, whose representatives when they come here will never permit us to do anything which may interfere with their projects. Sir, you must carry out this grand measure now if you are to do it ever.

And, sir, when you thus fill up that grand country, what have you done? You have furnished for this nation the productive industry of millions. You have furnished for the products of the manufacturing portions of the country an outlet to that great region. God grant that men who represent here the great manufacturing States, such as my own, where the loom and the anvil and the spindle are heard, may fully realize the bearings of this question, and understand how by voting against this measure from merely captious and narrow considerations, they assist to crush their own people and the interests of the nation.

But sir, by the passage of this measure, we not only help to fill up that country with a population of which I doubt not we shall be proud, but we aid in establishing across this continent a great thoroughfare between India and Asia and the millions of Europe. None of the great thoroughfares of communication with Asia or India ever carried half the wealth that would be carried upon this grand thoroughfare, starting not simply from Boston or Portland, but starting from Philadelphia, from New York, and every enterprising sea-port of the country and extending in the direction I have mentioned.

By such a measure as this, sir, we bind together our nation, because by it the countless millions which would soon swarm into that western world would be united by bonds of interest—of affection I hope, but certainly of

interest, which is stronger—with those of the East, so that in the next half century, when this country shall count its hundreds of millions of inhabitants, no man shall wish to break loose from this great nation, this brotherhood of freemen. Is there nothing in a consideration like this? Cannot my friends around me realize its force?

I know, sir, that some western people think there can be no western railroad unless it starts from Chicago. That is a narrow view. I do not expect this railroad to start from Lancaster or pass through Lancaster. I should be ashamed if any such motive should influence my vote upon this great question. But I do know that when this immense commerce comes upon those great inland lakes, a series of lakes more grand than the Baltic and the Black sea, it will distribute itself according to the enterprise and necessities of the different sections of the country. Some will go to Cleveland; some will go to Erie; some will go to Buffalo; some will pass on below; and what is left will go to Ogdensburg and thence find its way across New England. I perhaps ought not to speak thus loudly of a section of our country which some have threatened to "leave out in the cold." But it will affect them all. The far-seeing men of that region are willing to take their chance.

It extends the great thoroughfares from Erie, from Cleveland, from Chicago. We judge it will establish such a system of railroads as will be to the interest of the whole country.

Gentlemen talk about speculators and about particular sections. They would warp this down to a speculation for building up a particular section of the country. It is nothing of the kind.

Mr. Speaker, I am not well, and I am afraid that I have been somewhat diffuse. A man is always diffuse when he is feeble, and always feeble when he is diffuse. [Laughter.]

Now let me proceed with the consideration of this bill. Two years ago a munificent grant of uncultivated lands was made to this company. What did we grant? Nothing at all. By our general law any man could go and take up any one of those sections without paying a dollar. We only aggregated on the same terms what individuals might take up. We granted to this corporation what each individually could have taken for himself under our preemption laws. When we grant lands to railroad companies we are not granting anything the Government has, because the Government gives it to every man who goes there.

They say by this bill we are incurring great liabilities. What are they? The amendment of the bill provides that when they have twenty-five miles of the road built, and only then, shall the Government guaranty any money. When they have built twenty-five more we are to guaranty more. We only guaranty the payment of interest as the road is constructed. At the end of twenty years all liability is to cease. This road will pay every dollar of interest by tolls alone. If it does not the Secretary is authorized at the end of ninety days to sell the land.

The gentleman from Illinois caviled in reference to the section granting a relief from taxation for two years. In the substitute I have stricken it out. It provides that all the directors shall be citizens of the United States. The gentleman is afraid we will have foreign capital in it. I hope we will get capital from Frankfort, for by the contraction of currency which has been provided for at this session we may need it. It is provided in the amendment that the Government shall be called upon to guaranty for the first year fifty miles, for the second year one hundred and fifty, third year three hundred and fifty, and in 1870, five hundred and fifty. If they cannot be called upon faster than that, why no one will doubt that by 1870 the whole will be paid. The most that any moment can be charged is \$1,000,000. Yet they talk of \$60,000,000 or \$70,000,000.

I know, from a distinguished source, of a

wagon road from Sacramento to the valley of Nevada paying tolls on supplies from miners of over one million dollars. When this railroad gets into the valley of Nevada it will pay three times the amount suggested. Making one hundred miles off or two hundred miles off you strike the head waters of the Missouri, and I say that the carrying trade—not to speak of emigration—that the carrying trade to supply the miners of that country will pay twenty-five per cent. three times over. Gentlemen delude themselves, and try to delude others, when they talk of loss to the Government. It will be recollected all these things are in the amendment I have proposed.

This is a road which will run all the year unobstructed by snow. Among the information I obtained when I was chairman of the committee was that the buffalo went there to spend the winter to get away from the Black hills where they staid formerly. I learned that at Walla Walla, in forty-six degrees, the mean temperature was precisely like that of Washington. In the Willamette valley, in forty-eight degrees, it was precisely that of Philadelphia in forty degrees. And so on.

I am afraid that there is not time enough left for the gentleman from Massachusetts. Mr. Speaker, how much time have I left?

The SPEAKER. Ten minutes.

Mr. STEVENS. Now, sir, here is a road that certainly never can be obstructed by snow. It is a singular contrivance of nature that when you reach about the forty-seventh degree of north latitude there is a relaxation of cold, and a modification of climate. It is surprising, but it is a fact, that more than four or five degrees of latitude below that it is much colder than it is there. It is accounted for, as we all know, by the warm breezes from the Pacific ocean on that side of the mountains; and those extraordinary contrivances of nature, the hot springs, boiling at one hundred and twenty degrees during the whole year, some of them ten acres in surface, and heaped together for about one hundred miles, so that the snow never lies upon the ground there. There the buffalo finds a winter home. There the grass grows all winter; and there he lives and feeds when driven from other and more southern latitudes. These are strange facts to those who have not examined into this matter. A gentleman who has resided at the Dalles for seven years told me that last year from the mouth of Columbia river to his place, a distance of two hundred and fifty miles, there was no obstruction to the navigation of that river by ice. No wonder that my respectable colleague is afraid of rivalry with Philadelphia where the river is obstructed four or five times every year by ice. Sir, do not be afraid of such rivalry. You have a noble city if you have noble men. But I predict that when this road is built the city of Superior, at the head of Lake Superior, will be the great city of the West; for it will have behind it eight States of fertile land and noble and industrious freemen. I do not say that it will be grander, but it will be just as grand as other cities. Chicago will always be a noble and grand city; Philadelphia will be a grand city, but that also will be a great city.

Now, sir, I want the Central road built; but we have already appropriated largely for that; and I cannot understand how men who live along that route, and are to be benefited by it, can oppose this road. My friend from the Cleveland district [Mr. SPALDING] has made violent opposition to this bill on the ground of a want of funds. I thought I heard him the other day advocating an appropriation of \$6,000,000 for the construction of a ship-canal around the falls of Niagara. Our funds have fallen off very much since that time, which was not a week ago. I find, also, that my friend from the Chicago district [Mr. WENTWORTH] is willing to take \$13,000,000 from the Treasury for the Illinois canal. There is money enough for that purpose; and that was an absolute grant; whereas this is merely a grant of credit.

Mr. Speaker, my time is very nearly up, and

I will not pursue the subject. I hope the gentleman from Massachusetts [Mr. BANKS] will answer the question I put to him in regard to these incorporators, and for that purpose I yield to him the residue of my time.

Mr. BANKS. I did not exactly understand the question which the gentleman from Pennsylvania put to me.

Mr. STEVENS. The gentleman has heard read the names of the directors of this road, many of whom are from his own State. I wish to know the character and standing of those gentlemen in that community.

Mr. BANKS. They are certainly most excellent men, among the best representatives of the people of the East, and especially of the city of Boston. There are no more honorable men in this country; no men more interested in the welfare of the Government and of the people.

I could not, sir, in answering a question like this, express the views which I entertain of the interests of the eastern people in the completion of this work which has been under discussion; but if the House will allow me a little time, I should like to make some suggestions.

Mr. WASHBURNE, of Illinois. I hope the House will give the gentleman full time; and will also give time to some gentleman upon the other side to answer him.

Mr. PRICE. The only objection to that is, that we must take the vote on this question to-night.

Mr. WASHBURNE, of Illinois. So I say. Let us vote now.

The SPEAKER. The gentleman from Massachusetts [Mr. BANKS] has three minutes remaining of the time of the gentleman from Pennsylvania.

Mr. BANKS. I do not accept that. I desire to say to this House that both of my colleagues who represent the city of Boston are absent. Scarcely a speaker has discussed this question who has not more or less directly referred to the capitalists of Boston, and especially to the men who are officially or personally interested in this road. It would be a very unjust record to go to the country if no voice from that State should be heard in explanation of the position which those gentlemen occupy, and I think that the gentleman who has this measure in charge might at least allow time for that.

The SPEAKER. Is there objection to extending the time of the gentleman from Massachusetts?

Mr. WASHBURNE, of Illinois. Yes, sir; I object.

Mr. PRICE. I want to say to the House that after the previous question shall be sustained, if members are willing to remain here longer, I will yield to the gentleman from Massachusetts [Mr. BANKS] nearly the whole of the hour to which I shall be entitled. I have no disposition myself to discuss this matter further.

Mr. CONKLING. Has the gentleman any objection to allowing the gentleman from Massachusetts to proceed at his pleasure now, he having the floor when the gentleman concludes?

The SPEAKER. The gentleman from Illinois objects to that.

Mr. CONKLING. It is not a point for objection. If the gentleman from Iowa does not claim the floor the gentleman from Massachusetts can be recognized and can speak at his pleasure.

Mr. PRICE. I do not wish to shield myself behind the objection of the gentleman from Illinois. There are fifty members upon this floor who have been urging me to bring this matter to a vote to-day. Now, when the previous question shall have been sustained, I shall have an hour in which to close the debate, and if members are willing to remain here I am perfectly willing to give the gentleman from Massachusetts nearly all my time. [Several MEMBERS, "That is right."] Then I now demand the previous question on the bill.

Mr. SPALDING. I move to lay the bill and the pending amendments upon the table, and upon that motion I demand the yeas and nays.

The SPEAKER. The gentleman from Iowa [Mr. PRICE] is entitled to one hour to close the debate upon this bill. The Digest says, "The right of the member reporting the pending measure is never denied him, even after the previous question is ordered." The gentleman from Iowa, having demanded the previous question, is about to close the debate after the previous question has been seconded and the main question ordered. But in the mean time the gentleman from Ohio [Mr. SPALDING] moves to lay the bill, with the pending amendments, upon the table.

Mr. PRICE. Is that motion in order?

The SPEAKER. It is, and it has priority of the demand for the previous question.

Mr. PRICE. Can he make that motion after the previous question has been demanded?

The SPEAKER. He can; but the gentleman from Iowa could have gone on and spoken his hour, if he had retained the floor, upon moving the previous question.

Mr. WASHBURN, of Illinois. I submit that a motion to lay upon the table is not debatable.

The SPEAKER. That motion is not debatable; but the gentleman from Iowa stated distinctly to the House that he intended to move the previous question, and after it should be sustained to yield some of his time to the gentleman from Massachusetts, [Mr. BANKS,] whom many members of the House desired to hear. That was distinctly understood; and if the motion to lay on the table fail, he will have a right, after the previous question shall be sustained, to the floor for one hour to close the debate, and can then yield it.

The reason for this rule is, that during a debate, which the member who has charge of a bill allows to run on for hours, and sometimes days, so that all may be heard for and against the bill, some other member might move the previous question; and if the one in charge of the bill had not the right to close the debate, he would be cut off from making any reply to the arguments of those who were opposed to the bill; and therefore, under successive rulings of the Speakers of the House, the rule has grown up that, no matter by whom the previous question may be moved, the one in charge of the bill would still have the right to close the debate.

That, however, does not cut off the right of any member who may obtain the floor to move to lay the bill on the table, although it is not very often done under the circumstances, at the end of a debate, till the member reporting the bill, and who has allowed the debate on both sides, has made his closing speech.

Mr. PRICE. Have I the right to the floor for an hour, as the one who has charge of this bill, notwithstanding the motion to lay it on the table?

The SPEAKER. No, sir; the motion to lay on the table cuts off all debate.

The question was upon ordering the yeas and nays upon the motion of Mr. SPALDING to lay the bill and pending amendments on the table.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 76, nays 56, not voting 51; as follows:

YEAS—Messrs. Ancona, Baker, Benjamin, Bergen, Blow, Boyer, Bromwell, Buckland, Bundy, Chandler, Reader W. Clarke, Cobb, Conkling, Cook, Cullom, DeFrees, Delano, Deming, Denison, Dumont, Eggleston, Eldridge, Farnsworth, Farquhar, Finck, Glessbrenner, Grider, Hale, Aaron Harding, Abner C. Harding, Hayes, John H. Hubbard, James R. Hubbard, James M. Humphrey, Jenckes, Julian, Kasson, Kotcham, Latham, George V. Lawrence, William Lawrence, Le Blond, Marshall, Miller, Moorhead, Morrill, Morris, Moulton, Newell, Niblack, Nicholson, Orth, Pike, Plants, Samuel J. Randall, William H. Randall, Ritter, Ross, Sawyer, Scofield, Shanklin, Shellabarger, Spalding, Taber, Taylor, Thayer, Francis Thomas, Thornton, Ward, Elihu B. Washburne, Henry D. Washburn, Wentworth, Williams, Winfield and Wright—76.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, Banks, Baxter, Beaman, Bidwell, Bingham, Boutwell, Sidney Clarke, Darling, Dawes, Dodge, Donnelly, Driggs, Ferry, Grinnell, Griswold, Harris, Henderson, Higby, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Kelley, Kelso, Kuykendall, Laffin, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McKuer, Myers, Patter-

son, Perham, Price, John H. Rice, Rogers, Rollins, Rousseau, Stevens, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, William B. Washburn, James F. Wilson, Windom, and Woodbridge—56.

NOT VOTING—Messrs. Alley, James M. Ashley, Baldwin, Barker, Blaine, Brandegee, Broomall, Coffroth, Culver, Davis, Dawson, Dixon, Eckley, Eliot, Garfield, Goodyear, Hart, Hill, Hogan, Holmes, Hooper, Demas Hubbard, Edwin N. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Kerr, McCullough, McLindoe, Mercur, Neill, O'Neill, Paine, Phelps, Pomeroy, Radford, Raymond, Alexander H. Rice, Schenck, Sitgreaves, Sloan, Smith, Starr, Strouse, John L. Thomas, Trimble, Van Aernam, Welker, Whaley, and Stephen F. Wilson—51.

So the motion to lay on the table was agreed to.

During the roll-call,

Mr. BLAINE said: I have paired on all votes relating to this question, with Mr. JOHN L. THOMAS. If he were here he would vote against the bill, and I would vote for it.

Mr. ELIOT said: I have paired with Mr. DIXON; he is opposed to the bill, and I am in favor of it.

Mr. CHANLER said: My colleague, Mr. HUBBELL, is paired with Mr. BALDWIN for two weeks.

Mr. MYERS said: My colleague, Mr. O'NEILL, is paired with Mr. SITGREAVES; Mr. O'NEILL would vote for the bill if he were here, and Mr. SITGREAVES would vote against it.

Mr. WHALEY said: I have paired with Mr. SMITH, who is called out of the House on important business; he is in favor of the bill, while I am opposed to it.

Mr. ANCONA said: My colleague, Mr. DAWSON, is paired with Mr. HUBBARD, of New York.

Mr. INGERSOLL said: I am paired with Mr. WELKER; he is opposed to the bill, and I am in favor of it.

The result of the vote was announced as above.

Mr. SPALDING moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

Pending which,

Mr. DARLING moved that the House do now adjourn.

The question was taken; and upon a division there were—ayes 52, noes 69.

Before the result of the vote was announced, Mr. LYNCH called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 70, not voting 56; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Banks, Baxter, Beaman, Bergen, Bidwell, Bingham, Boutwell, Reader W. Clarke, Darling, Dawes, Dodge, Donnelly, Driggs, Ferry, Grinnell, Griswold, Hale, Harris, Henderson, Higby, Asahel W. Hubbard, Chester D. Hubbard, Hulburt, Ingersoll, Kelso, Laffin, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McKuer, Miller, Myers, Niblack, Patterson, Perham, Price, John H. Rice, Rogers, Rollins, Stevens, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, James F. Wilson, Windom, and Woodbridge—57.

NAYS—Messrs. Ancona, Baker, Benjamin, Blow, Boyer, Bromwell, Buckland, Bundy, Chandler, Sidney Clarke, Cobb, Conkling, Cook, Cullom, DeFrees, Delano, Deming, Denison, Dumont, Eggleston, Eldridge, Farquhar, Finck, Glessbrenner, Grider, Aaron Harding, Abner C. Harding, Hayes, Hotchkiss, John H. Hubbard, James R. Hubbard, James M. Humphrey, Jenckes, Julian, Kasson, Ketcham, Latham, George V. Lawrence, William Lawrence, Le Blond, Marshall, Moorhead, Morrill, Morris, Moulton, Nicholson, Orth, Pike, Samuel J. Randall, William H. Randall, Ritter, Ross, Sawyer, Scofield, Shanklin, Shellabarger, Spalding, Taber, Taylor, Thayer, Francis Thomas, Thornton, Ward, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Williams, Winfield, and Wright—70.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Barker, Blaine, Brandegee, Broomall, Coffroth, Culver, Davis, Dawson, Dixon, Eckley, Eliot, Farnsworth, Garfield, Goodyear, Hart, Hill, Hogan, Holmes, Hooper, Demas Hubbard, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kelley, Kerr, Kuykendall, McCullough, McLindoe, Mercur, Newell, Neill, O'Neill, Paine, Phelps, Plants, Pomeroy, Radford, Raymond, Alexander H. Rice, Rousseau, Schenck, Sitgreaves, Sloan, Smith, Starr, Stillwell, Strouse, John L. Thomas, Trimble, Van Aernam, Welker, Whaley, and Stephen F. Wilson—56.

So the motion to adjourn was not agreed to.

The question then recurring on the motion to lay on the table the motion to reconsider, it was agreed to.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the Committee had examined and found truly enrolled joint resolution (S. R. No. 56) authorizing the Secretary of the Treasury to adjust the claims of Beals & Dixon against the United States; which was thereupon signed by the Speaker.

ORDER OF PROCEEDING TO-MORROW.

Mr. STEVENS. I move that the session of to-morrow be devoted exclusively to debate as in Committee of the Whole on the state of the Union upon the President's message.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. HALE asked and obtained leave of absence for two weeks.

E. WOODWARD AND G. CHORPENNING.

Mr. HUBBARD, of Iowa, by unanimous consent, reported from the Committee on Indian Affairs a joint resolution for the relief of Elizabeth Woodward and George Choppenning, and moved that the same be printed and recommitted.

The motion was agreed to.

Mr. HUBBARD, of Iowa, moved to reconsider the vote by which the joint resolution was recommitted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

REGULATION OF IMMIGRATION.

Mr. WASHBURN, of Illinois, reported, from the Committee on Commerce, a bill (H. R. No. 481) entitled "An act to amend an act entitled 'An act to encourage immigration,' approved July 4, 1864, and an act entitled 'An act to regulate the carriage of passengers in steamships and other vessels,' approved March 3, 1855, and for other purposes."

The question being on ordering the bill to be engrossed and read a third time,

Mr. SPALDING moved that the House adjourn.

RECONSTRUCTION—TENNESSEE.

Mr. ROSS. I rise to a privileged motion. I understood the Chair to have decided the other day that we could get rid of and slough off this dead and putrid committee of fifteen, which has now become a stench in the nostrils of the nation. As the cholera is coming, and we should abate such nuisances—

The SPEAKER. The Chair has not made any such decision nor used any such language.

Mr. ROSS. Well, I desire to call up the motion to reconsider the vote by which the joint resolution in reference to the State of Tennessee was recommitted to the committee of fifteen.

The SPEAKER. The gentleman cannot call up that motion now. In the first place, the pendency of the motion to adjourn; in the second place, the unfinished business, the bill just reported from the Committee on Commerce; and in the third place, the special order after the morning hour, the Army bill, all prevent that motion to reconsider being called up now.

Mr. ROSS. Well, then, I give notice that I shall call it up at some other time.

The SPEAKER. The question is on the motion of the gentleman from Ohio, [Mr. SPALDING,] that the House adjourn.

The motion was agreed to; and thereupon (at ten minutes after five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. ALLEY: The petition of David and Benjamin Low, for a new register to the schooner N. W. Rowe.

By Mr. BEAMAN: The petition of Robert Laird, and 85 others, citizens of Hillsdale county, Michigan, praying for increased duties on all foreign unwashed wool.

By Mr. BROOMALL: The petition of 400 citizens of Delaware county, Pennsylvania, asking for such change in the tariff and internal revenue laws as will protect American industry from foreign competition.

and relieve the manufacturing and laboring interests of the country from the existing depression.

By Mr. CULLOM: The petition of Hon. George N. Miner, and numerous others, citizens of Tazewell county, Illinois, asking for protection of American wool.

By Mr. DEFREES: A petition from the citizens of Elkhart county, Indiana, on the subject of inter-State insurance companies for the protection of all classes of property.

Also, a petition from citizens of Whitley county, Indiana, directed to the Committee of Ways and Means, asking that "all medicines or preparations of the United States or other national Pharmacopoeia, &c., be placed in the free list."

By Mr. EGGLESTON: The petition of L. P. Bentley, and 80 others, post office route agents, of Ohio, praying for an increase of compensation.

By Mr. HOLMES: The remonstrance of John C. Churchill, and others, citizens of Oswego county, New York, against the passage of the bill reorganizing the judiciary.

By Mr. J. M. HUMPHREY: A petition for the passage of a uniform insurance law.

Also, a memorial of the brewers of Buffalo, New York, asking for the reduction of the tariff on barley imported from Canada.

Also, the petitions of James M. Smith, William J. Meek, and others, for American registers to vessels N. C. Ford and J. S. Austin.

Also, the petition of A. Sherwood, and others, for repayment to them of duties improperly collected.

By Mr. KELLEY: The petition of eight leading firms in manufacturing of machinery, in Philadelphia, Pennsylvania, praying Congress to modify the taxation on manufactured machinery as to bear equally on all productions when ready for final consumption; and in order to arrive at a true basis of taxation, each producer should be taxed only upon the additional value which he adds to the thing taxed, as indicated by its subsequent sale; also that an equivalent duty be imposed upon foreign productions of the same description.

Also, the memorial of 34 citizens, of Philadelphia, Pennsylvania, respectfully praying that Congress will enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies, and promotive of the greatest good and convenience to all concerned in such transactions.

By Mr. KETCHAM: The petition of citizens of Red Hook, Dutchess county, New York, asking for increased protection on American wool.

By Mr. MORRILL: A petition of dealers in leaf tobacco and manufacturers of cigars, of Allentown, Lehigh county, Pennsylvania, asking for increased tariff on imported cigars, namely, to make uniform rate on all cigars and fix the tariff at three dollars per pound and fifty per cent. *ad valorem*.

By Mr. PLANTS: The petition of 200 citizens of Washington and Noble counties, Ohio, for a mail route from Beverly, in Washington county, to Sharon, in Noble county.

By Mr. VAN HORN, of New York: The petition of A. G. Gage, supervisor of the town of Alabama, Greene county, New York, for money paid for men twice under the call for troops.

By Mr. WILLIAMS: A memorial of wool-growers of Butler county, Pennsylvania, praying for increase of duty on foreign wools.

HOUSE OF REPRESENTATIVES.

SATURDAY, April 28, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. WENTWORTH. Mr. Speaker—

The SPEAKER. By order of the House, no business is in order to-day except debate as in Committee of the Whole on the state of the Union on the President's message, on which the gentleman from Pennsylvania [Mr. SCOFIELD] is entitled to the floor. Does he yield to the gentleman from Illinois, [Mr. WENTWORTH?]

Mr. SCOFIELD. Yes, sir, for a moment.

LEAVE OF ABSENCE.

Mr. WENTWORTH. I ask leave of absence for three weeks, and I give notice that before leaving I wish to pair off upon the questions of liberty, economy, and keeping whisky out of the Senate. [Laughter.]

Leave was granted.

RECONSTRUCTION.

Mr. SCOFIELD. Mr. Speaker, what is the whole amount of disloyal population in the southern States? I do not include in this inquiry persons who have been stigmatized as "sympathizers" or "copperheads," much less any other portion of the Democratic party, but only those who sought to divide the country into two republics and who now regret the failure of their enterprise. The whole amount of white

population in the eleven confederate States is 5,097,524. Deducting from this amount the estimated number of loyal people in those States, and adding the disloyal scattered through the other five slave States, will give the answer to my question. Making this deduction and addition from the most reliable data within my reach, I conclude that the disloyal population in the whole South will not exceed, if indeed it will equal, five million in all.

If the eleven confederate States were readmitted now (the Constitution and laws remaining unamended) what amount of representation in Congress and the Electoral College would this five million be entitled to claim? They would certainly have these eleven States. There could hardly be a doubt about Kentucky. For if the loyal men of that State, sustained by the power of the Federal Army and the persuasion of Federal patronage, with the young disunionists absent in the South and the old ones disfranchised at home, could scarcely hold their own, what could we expect them to do when these young men have returned, the disfranchising laws have been swept away, the Army removed or palsied by orders, and Federal patronage at least uncertain? This would give them twenty-four Senators. There are four more States that belonged to the slaveholding class, Delaware, Maryland, West Virginia, and Missouri. Is it any stretch of probabilities to suppose that two more Senators will be picked up somewhere in these four States by the confederate element? I fear there will be more. This will give them twenty-six Senators.

In the House of Representatives this population will have as large, if not larger, proportionate representation. By the apportionment of 1861, fifty-eight Representatives were assigned to the eleven confederate States. These States will be so districted by the hostile sentiment of their several Legislatures that not one true Union man can be elected. To the other five slaveholding States twenty-six were assigned by the act of 1861. If any one will take the trouble to look over these districts, I think he will come to the conclusion that even if the laws disfranchising rebels in Maryland, West Virginia, and Missouri remain in force, not less than half of these will be controlled by the influence and votes of the late secessionists. This gives them seventy-one Representatives in the House. But even this large number must soon be increased. The two fifths of the four million freedmen which were not counted in the representative basis of the last census must be counted in the census of 1870, and (other things remaining the same) add to that number thirteen members more; so that the five million disloyal population, as soon as their full power can be felt through the elections, will have at least twenty-six Senators and eighty-four Representatives and one hundred and ten votes in the Electoral College. This is a low calculation. When we consider the earnestness, or rather I should say the fierceness of these people, the ability, ambition, and courage of their leaders, we may well apprehend that the number will be even greater. But this number is their own—legitimate and certain under the laws as they stand. Supposing the entire population of the United States to be thirty-five million now, this five million will be just one seventh of the whole, but will have more than one third the representation in both Houses of Congress, and more than one third of the Electoral College. The same amount of loyal population at the North is represented by only about half that number. If by factions or party division among the loyalists of the country, they could contrive to secure one sixth more of the representation, they would have a majority of the whole, and be able to control Federal legislation, elect the President, and distribute his patronage.

When these States are admitted and these people come to have the unabridged control of this twofold representation, how will they desire to use it? I do not inquire how they possibly may use it, nor even how they now expect or intend to use it, but how, if unrestrained by a united North, it would be their interest and

desire to use it. For the perpetuation of the Union? I fear not. They have come back to the Union, we should remember, only by coercion. To them it is a forced bridal. They submit to it, but they do not, because they cannot, embrace it in their hearts. The soldiers maimed, wives widowed, and children orphaned in their bad cause, appeal to their leaders for the promised support, but the Union has no pensions for them. The fortunes invested in confederate faith see no hope of realization in the Union. Hatred of the North and its anti-slavery majorities, the original motive for secession, is ten times stronger now than in 1861, and is backed up by \$4,000,000,000 of debt, damages, and pensions, which, as they insist, could, in a separate government, be levied by an export duty upon the cotton-consuming world. The life-habits of these people, their love of ease and domination, their pride, aristocracy, wealth, and power were all the outgrowth of an institution which might possibly be revived in a separate republic, but which is forever gone in the Union. "Confederacy" is a word that must long be enshrined in their hearts by the tender memories of their fallen kindred, but it must live, as they well know, in the history, traditions, and ballads of the Union, associated with perjury, dishonorable crime, and cruel war. If they should profess to love the Union we could not believe them. It is so unnatural that it would be easier to believe they were hypocrites than that they were monsters.

But they are neither hypocrites nor monsters. They do not love the Union, and do not pretend to. It is untruthful men of our own section that prevaricate for them. The same class of men that misrepresented the feelings of the North before the war, and thus deceived the South and goaded them into rebellion, now misrepresent the feelings of the South to deceive the North and lure it into irretrievable surrender. Before the war they deceived the South and betrayed the North; but now it is reversed, they deceive the North and betray the loyal South. The same perfidious breath that carried South the untruthful story of northern hate, and thus prompted the war, comes back now with another story, equally untruthful, of southern love. They tell us that the disloyal South is a gentle bride, impatient for the nuptials, when they know that she submits to them with loathing. Have they not laid down their arms? Is the argumentative inquiry. No, sir; their arms were taken from them. Have they not submitted? No, sir; they were defeated in battle. There is nothing in their past conduct nor present attitude that justifies the use of the word submission. Prisoners of war have been taken, but they were released on parole; rebel armies have been dispersed, but they have been reorganized as State militia; rebel State governments have been overthrown, but again revived and restored to the old possessors; and forfeitures of life and estates have been remitted, but that is all. Call this clemency, privilege, triumph, victory, what you please, but do not call it submission, with which it has not one shade of meaning in common. We do not need to call witnesses to prove that these people are hostile to the Union and its interests. The history of the human race proves it. Whoever attempts to prove the contrary must first show that they are unlike any other people whose passions, struggles, and defeats are recorded in the annals of the world.

But witnesses have been called—Union generals and rebel generals, Union and rebel citizens, without distinction of party, condition, race, or color—and all support under oath the great historic truth, that a purpose imbibed in infancy, cherished and stimulated by the rostrum, press, and pulpit for a lifetime; upheld by large fortunes, wrung from the toil of slaves, and sanctified by the blood of sons and kindred, has not been and cannot be surrendered to military orders. Such a purpose surrenders only to time. I do not present this great truth now by way of reproof or condemnation of

these misguided people, but only by way of caution and warning to ourselves. I come to the conclusion, therefore, that they do not desire the perpetuation of the Union. If we would remove all restraints and give them freedom of choice they would revive the confederacy at once. They would take advantage of a war with Great Britain or France to secure their independence, and they would take advantage of their double representation here to promote such a war. If no opportunity of escape should soon offer, would they not still live in hopes of it and in persistent hostility to the country's obligations to the soldiers, widows, orphans, and creditors of our war, and friendly to the assumption of similar obligations created by themselves in the interest of the rebellion? Even in advance of their own coming a portion of their vast claims have reached your files. When my colleague [Mr. RANDALL] from the Democratic side proposed that the national faith, pledged in war, should not be broken in peace, there was one voice from Kentucky against it—only one by count, but considering the quarter from which it came, multitudinous in omen. A bill has also been introduced by a gentleman, sometimes called the Democratic leader in this House, to repudiate in part the public debt under pretense of taxing it, in violation of the laws by which it was created. These cannot be regarded as the oddities of one or two men, but rather as impulsive confessions of imprudent scouts, too far in advance of the following army. The purpose will not be generally disclosed until the forces are arranged for its execution.

I am speaking now only of the dangers that will beset the Republic by the allowance of a representation unfriendly to its prosperity and even its existence in such disproportionate numbers. But we should not forget that this act is also a recognition as republican in form of constitutions, we have never seen (except that of Tennessee) and all, except those of Lincoln origin, under rebel supremacy. The white Unionists who have been looking through five dreary years of persecution, lynching, and confiscation to this as their hour of deliverance, will find themselves betrayed into the hands of their old, unhumbled, unrelenting tormentors. It also consigns the freedmen to the tyranny of old masters, not now as heretofore bribed to humanity by a moneyed interest in the preservation of their chattel estates. Twenty-five per cent., says an honorable gentleman who presents his back offensively to the North as he makes his low obeisance South, twenty-five per cent. have already perished. The wish no doubt was father to the thought with the masters in whose interest the declaration is made.

These, then, are my premises. I will repeat them:

1. There are only about five million disloyal population in the country.

2. This population when fully restored to the Union, the Constitution and laws remaining unamended, will hold more than one third of its representative power and the supreme control of at least thirteen States.

3. They will be interested to use that power for the division of the Union; and, failing in that, for the repudiation of its military and financial obligations.

Now, what is to be done? If these States are denied representation, it violates the fundamental principle of republican government. If allowed a double and hostile representation, the Union itself must be destroyed or preserved at the expense of another war.

Three remedies are proposed:

1. Disfranchise some portion of the rebels.

2. Allow all the rebels to vote, but neutralize their disunion sentiments by enfranchising the blacks in these States.

3. Equalize representation by taking as its basis either the number of voters or the population, minus the disfranchised classes; so that these States shall have no more representation in proportion to their represented people than the old free States have.

Either proposition would require an amend-

ment to the Constitution, to be accepted by the rebel States as a condition precedent to their restoration. It is also proposed to couple with either proposition a second amendment, prohibiting the assumption of rebel debts and claims either by States or the United States.

The third proposition has commended itself to much the largest number of Union members, and the amendments to that effect have already passed this House by more than a two-thirds vote. This, then, so far as this House is concerned, is the congressional plan of reconstruction. All we ask of the rebel leaders who are wrongly charging us with having no policy at all, but designing to exclude them for an indefinite period, is a little time to put in form of fundamental law these pledges of future peace. For five years they have been out upon plague-infected seas. Can they not tarry at quarantine for a single session?

Stripped of all disguises, herein lies the main disagreement. Shall these States be recognized at once in their present temper, without guarantees of any kind and with a twofold representation? It is not whether they shall be represented at all; to that we all agree. There may be a little question of time; a difference of a few weeks or a few months, and that is all. Shall they be represented twice over, once in their own names and once in the name of the negroes? Shall they come in upon a representative basis that clothes a white man of the South with almost as much again political power as a northern man controls? That gives two white voters in South Carolina as much voice in the selection of a President and in the legislation of this House as five voters in Pennsylvania possess? That practically gives to one seventh of your population, disloyal at that, more than one third of your power? That, sir, is the great question before this House and the American public. It is an effort on the part of the Opposition to carry into the politics of the country the old problem by which sixteen is made the majority of forty-nine. In England it is called the system of "rotten boroughs." It has long been the subject of political strife between the free and slave-labor counties of Maryland, Virginia, and Tennessee. And when it is everywhere else abandoned as a pernicious and anti-republican theory of representation, we are asked to make it the basis of reconstruction in the model Republic.

The enactment of these two simple and brief amendments, or others similar in purpose, is so absolutely necessary for the preservation of the Republic and the discharge of its obligations to its soldiers and creditors, and is so just and even generous to the insurgents, that they ought to receive the assent of every Union man, especially of every northern Union man. The Opposition do not dare to discuss their merits. While some deny that we have any plan of reconstruction, others assail it with insidious and deceptive objections. Some of these I propose to notice here.

First of all, they complain of the consumption of time. Five months have passed, and not a rebel admitted, is the complaining accusation. The Opposition are impatient. They cannot wait. Come in at once, say they, to the "erring brethren." Do not wait to drop your side arms or exchange your disloyal garments. Bills to protect the loyal men of the South against your pretended violence are pending now, come and help defeat them. We will soon have bills to enlarge pensions and equalize bounties to the soldiers you have maimed and the widows you have made; your advice and votes will be needed. A bill to give bounty land to the "boys in blue" could not be defeated nor the "butternuts" included without you. A bill to lift the burdens of taxation from the industry of the country and place it upon your foreign confederates, through exported cotton, will need your attention. Hurry up your organizations. Do not wait to heal lips blistered with a double oath of broken fealty before you kiss the Holy Evangelists with another. We have buried our sons and are languishing to clasp the hands of their murderers.

When once admitted, deny that you ever tried to break up the Government, but swear on all occasions that the Lincoln party were and are the traitors.

The complainants have only themselves to blame for much of this delay. Except for their persistent opposition the amendments would have been submitted months ago to the Legislatures then in session in the loyal States, and been assented to, no doubt, by the constitutional number. Except for their own opposition they might now be welcoming back their long-mourned friends to seats in these Halls. But they would consent to nothing that did not return them greater in numbers, and more malevolent in purpose. Hence the delay. *Hinc illæ lacrimæ.*

Next we are told that it conflicts with the "President's policy." What is the President's policy? I aver, first, that the President, when last authoritatively heard from, was in favor of the principle embodied in each of the proposed amendments. Of the first one, because he required the confederate States to adopt it; of the second one, because he has repeatedly declared himself in favor of making the number of voters the basis of representation. I aver, second, that he does not consider the *status* of the States such, that their assent to constitutional amendments cannot be required as conditions precedent to their restoration, because he directed Mr. Seward to inform these States that their assent to the amendment proposed in the last Congress was "indispensable" to restoration; and because he has not himself dealt with them as if they were States already in the Union. When the confederacy fell they were in full operation under governments originally organized in the Union. Governors, Legislatures, judges, and a full set of county and township officers were at work under constitutions once declared to be republican in form by the United States. These governments were regular unless you assent to the doctrine of forfeiture, for they had political continuity, what the church people call apostolic succession. Yet they were destroyed by the President's order and new ones extemporized in their stead.

From that time to this, in these States, the breath of the President has been the law of the land. Mr. Johnson went much further in this direction than his predecessor. Mr. Lincoln established governments only in States where he found none existing before, but Mr. Johnson first destroyed existing governments and then supplied their places with those of his own creation. So, both by words, and actions which speak louder than words, the President assents to every principle involved in the congressional policy of reconstruction. Indeed, the two policies could not well conflict, because they relate to different subjects. The one creates or revives State organizations, the other renews their Federal relations. When these organizations were complete, and the States ready to apply to Congress for a return to the Union, the President's policy was ended. His work was all done. The rest was for Congress. So he directed his Secretary of State to inform Governor Sharkey, July 24, 1865; Governor Marvin, September 12, 1865, and so he informed us in his annual message. If he has changed his policy since then it is hardly worth while to inquire what it is now, for his principles are written in water.

I do not wish to disguise the fact that while he approves the two amendments and believes the power exists to require their adoption as conditions of return, he thinks it unnecessary to insist upon any terms additional to those imposed by himself. It is in this opinion that his old persecutors, the defeated enemies of the Union, the foiled plotters of his assassination, have taken heart, and with cruel malice conspired with northern sympathizers to pursue him with their unrelenting friendship. Their last hope for the destruction of this country lies in the seduction of its friends. War failed them, they resort to diplomacy.

The President was not much moved by their threats, will he be seduced by their flattery? If so, let me assure those of our friends who are disposed to suppress their own convictions in hope to detain him and his patronage in a little select court party, that they might as well exercise a reasonable liberty of opinion. For if he ever determines to trust his political future to anybody besides the great earnest, triumphant Union organization that elected him, he will have sense enough to put them aside as mere nobodies in popular strength, heartless friends and harmless enemies, as courtiers always are, and push straight for the "southern brothered," rebel-led opponents of a permanent and peaceful Union. In that event his children and friends may well rejoice that the past, at least, is secure. His patriotic thoughts of the last five years will still live, although only to reprove him.

Again, it is said by way of excuse, "Why not admit such Union men as Fowler, Stokes, and Maynard, of Tennessee?" Because it is not a question about men. Shall a disloyal district, while it is still in a disloyal spirit, be declared entitled to representation with only half as many represented people in it as we require for a district in the North? That is the question. Captain Semmes ran up the Union flag when he wished to decoy an unarmed merchant vessel under the power of his guns, but replaced it with the pirate emblem when he had secured his victim. The names of these patriots are hung out to-day to secure representation to a rebel constituency behind them, but they will be hauled down at the first election and rebels put up in their stead. You may think you are only recognizing the Union flag, but when it is too late you will find yourselves alongside the Alabama and in the power of its pirate crew.

But it is said in reply, "We will not admit disloyal men even if elected." How can you help yourselves? If a whole delegation from South Carolina, for instance, present themselves to the Clerk of the last House and ask to be placed on the roll, prior to organization, and tender him the certificate of their election signed by the Governor and sealed with the great seal of that most sovereign State, shall the Clerk say which is loyal and which not? I suppose not. After the organization, in which all have participated, and all have been qualified and taken their seats, will you get up an inquisitorial committee to explore the secret recesses of their consciences and be father confessors to their sins? "No, but the iron-clad oath will exclude them." Do you not know, sir, that almost every man who is in favor of admitting these States without conditions is also in favor of repealing that oath? They already denounce it as an odious and unconstitutional test. The Secretary of the Treasury and the Postmaster General, backed up by a message from the President, ask its repeal so far as regards their Departments, thus making rebels as eligible as Union soldiers to appointments here, and under such lead I expect to see it swept away, and so do most of the gentlemen who are now urging us to lay aside a real safeguard and trust to this cobweb of a morning.

But suppose we could in this way contrive to dictate to these people who they should and who they should not elect, what kind of representation would that be? We say to them, "you are free to select your representatives, but mind that you select such as suit us, not yourselves." You call that representation? I call it obedience. We propose to extract the envenomed fang of the serpent before he is uncaged, and you to bind him with test oaths afterward. Suppose, again, you could manage to exclude in this way those who had been engaged in the rebellion, do you not know that a rebel constituency could find a fit representation outside that list, and all the more dangerous on that account? If they had none at home they could colonize from the North.

Again, magnanimity is invoked as a shield of desertion. A great nation, it is said, can afford to be magnanimous. Of course it can; but let

us see how this is. For four years these people made war upon us without cause or even plausible excuse. Before they began it, we begged them in great humility to withhold from the country this terrible desolation. In tears we warned them of the punishment that must follow. Our entreaties and warnings were received in the rebel capital, so their telegraph informed us, "with peals of laughter." They fired upon us while we were yet upon our knees begging for peace and union. The contest once begun, was conducted on our part with great forbearance and within the strictest military law. We even returned for awhile their fugitive slaves. On their part it was conducted not only with the condemned system of cruel guerrilla and piratical warfare, but with fire, poison, yellow fever, and assassination. The estates of Union men within their power were confiscated, and have never yet been restored, and Union men were hung for treason to their pretended government.

You tell us they have suffered. So have we. Peace has come at last; business prosperity will return; the insignia of mourning will be laid aside; but in the heart of every family there is an unspoken sorrow that will sadden life even to the grave. Now, we are admonished to be magnanimous to the authors of all this suffering. I accept the admonition, but I submit that we are so already. The law condemned them to death, and we have pardoned them. Their estates were forfeited, and we have restored them. Not a traitor has been hung; not one convicted; not one tried; not a dozen arrested; but many have been honored as rulers in States they only failed to ruin. The high-sounding eloquence of the gentleman from New York, [Mr. RAYMOND,] calling upon us to admire the "courage and devotion" with which these bad men prosecuted a cruel war against our kindred, our homes, and our country for four years, has scarcely subsided when our tears are invoked over their self-inflicted sufferings. Thus at this end of the avenue we are alternately called upon to admire and pity them, while at the other the green seal is kept hot with its work of clemency—clemency often unsolicited, sometimes contemned. We have even ordered historic inscriptions to be erased from captured cannon at West Point, that the boys educated at the expense of a Government their fathers could not quite destroy might not be irritated. What more can we do? What more can gentlemen ask in the name of magnanimity? "Give to this one seventh of your population more than one third of your political power?" Is that what you ask, and call it only magnanimity to the false men of the country? Call it rather treachery to the faithful, or if that sounds too harsh, call it submission, surrender, what you like, but for the sake of truth let no one call betrayal of country and friends magnanimity to enemies.

Again, sir, the effort to cut off the excess of this unpatriotic and sectional representation is ascribed to party motives. Is not the Opposition exposed to the same charge? Is not the Democratic party as anxious to secure friends as we are to avoid enemies? For the last five years they have been beaten everywhere. Every election has proved to them that they were growing small by large degrees. "Would to God that night or the rebels would come" has been their daily prayer. Does their haste to embrace the misguided brethren come solely from pure love and affection? Is it not possible that their passion is somewhat like that of—

"The immortal Captain Wottle,
Who was all for love and a little for the bottle?"

Is it not possible that they look a little to party, too? That they long not only for the alliance but the leadership of the South? They must remember that this leadership was generally able and always consistent, however unwise. It was not under that lead that they proclaimed both secession and coercion unconstitutional; that the war for the Union was constitutional, but there was no constitutional mode of conducting it; that an army should be raised, but volunteering was impracticable and

drafting unconstitutional; that it was right to raise money, but wrong to tax or borrow; that they were opposed to emancipation, but not in favor of slavery. It was not under that lead that Andrew Johnson was denounced as Lincoln's satrap when he consented to be provisional governor of a State from which the old Governor and Legislature had run away, and cheered as a patriot when he drove out the Governors and Legislatures of half a dozen States and supplied their places with appointees of his own. Is it not probable that, tired of their contradictory and hypocritical position, they crave the undissembling leadership of Breckinridge and Hunter, Davis and Toombs, as much as we can possibly dread it?

As another excuse for opposition to this plan of restoration it is said there are other inequalities in representation that ought to be removed as well as this. An honorable gentleman from Pennsylvania complains that the six eastern States have each two Senators, while New York and other large States have no more. It is true that some of the eastern States are small; but the Constitution provides that each State, whether large or small, shall have two Senators; and it further provides that while that instrument may be amended in other respects, with the assent of three fourths of the States, in this respect it shall not be amended without the assent of all the States. But why point only to the eastern States to illustrate the inequality of senatorial representation? The best illustration of it is not to be found there. The population of these States is 3,135,223. In the South you can find a smaller population with a larger representation in the Senate. The population of Arkansas, Texas, Florida, South Carolina, West Virginia, Maryland, and Delaware is only 3,032,761. Here are seven States with more than 100,000 less population than the six eastern States, one third of that being negroes, with fourteen Senators, two more than New England. Why did not the gentleman make his point on these States? Was it because the eastern States are free and loyal and the others were slaveholding, and in part disloyal? And why, just in this connection, does he complain that bounties are paid for catching fish? He never complained when higher bounties were paid for catching men and women for the southern market. These are the old complaints of the South, warmed over, in anticipation of its return, groundless, no doubt, but if ever so just, furnishing no good excuse for allowing to the complainants a twofold representation in this House.

Once more we are reminded that taxation and representation should go together. True, sir, but that would not entitle them to a double representation, nor deprive Congress of a reasonable time for deliberation as to the extent of the right and the best mode of securing it. But if it is meant that they are entitled on the score of taxation to instantaneous, unconditional, and disproportionate representation, I must beg leave to inquire, where are the immense taxes paid by them, upon which to base such extraordinary claims? The loyal people of the country have been paying burdensome taxes, a million per day, imposed by their misconduct, but when and where have they paid taxes? For the last five years they have paid none, and the amount they are just now beginning to pay is too trifling for argument. If the right of representation could be acquired by imposing taxes upon others or by robbery of the Government, their claim would be indisputable. They robbed the southern post offices of money, stamps, and mails; the arsenals and military and naval depots of ammunition, arms, and clothing; the custom-houses and sub-Treasuries of goods, bonds, and money; and the New Orleans mint of \$600,000 in gold, and have never made restitution. But they have paid very few taxes, and long before they will be called upon to do so a fair and adequate representation will be accorded them.

But they have still another argument—the one relied upon when all others fail, their refuge from discomfiture in every other field

of debate—and that is what they call the constitutional argument. When they find themselves unable to maintain in discussion the propriety of allowing the disloyal population a twofold representation, the half to represent themselves and the other half to misrepresent the loyal people, white and black, in their midst; when they can no longer screen themselves behind the "President's policy," words of indefinite meaning; when their aspersion upon our motives is repelled by showing that they have as strong party interest in forming an alliance with the rebels as we possibly can have in trying to prevent it; when their taxation theory is demolished by a report from the Secretary of the Treasury, they fall back upon the constitutional right of States to representation. They will retreat no further. This is their last ditch in debate. And here,

"In Dixie's land
They take their stand,
To live or die for Dixie."

Mr. Speaker, we are in an anomalous condition. The Constitution does not especially provide for the difficulties with which we are surrounded. Our fathers could not believe that so large a portion of the American people could be so barbarized by slavery as to undertake such stupendous crime. They did not provide for what they could not foresee. There are no precedents on file to guide us. This is the first disunion rebellion. Ours will be the first precedent in reconstruction, and the last—only if it is justly and wisely made. There are objections, plausible or otherwise, to every theory that has been or can be advanced as to the status of these States. My colleague [Mr. STEVENS] suggested that their present position was very much like that of California after the Mexican war. A score or more of speeches have been made to show that there are objections to this theory. The gentleman from Ohio [Mr. SHELLEBARGER] suggested that these State governments had perished in the rebellion, and that now new ones, republican in form, should be originated by Congress. Objections were raised to this theory. The gentleman from New York [Mr. RAYMOND] suggested that new governments must be originated and proper guarantees and conditions could be imposed, but these things should be done by the Commander-in-Chief of the Army and Navy as the terms of surrender. Objections have been raised to that theory also. Others still take the position that inasmuch as new constitutions and new governments have been established in these States originating in an irregular or revolutionary manner, that it is the duty of Congress, under the fourth article and fourth section of the Constitution, to see that they are republican in form, and in the discharge of that duty, require such conditions or guarantees as the safety of the Union, in their judgment, demands. This, too, is objected to.

An honorable gentleman from Pennsylvania at the other end of the Capitol, with some self-conceit, as it seems to me, sets down all these reconstruction suggestions or theories as mere whimsies. He has a plan of his own to restore the Union and get rid of traitors. It is simple in theory and cheap in execution. He will execute it himself with only the aid of a constable. Whenever a rebel shows his head, he and his constable will pounce upon him like a Buchanan marshal on a flying negro. He will put him where no rebel ever went before with his consent—in the old Capitol Prison. If the honorable gentleman really thinks that his plan is practicable, why does he not set about its execution? His intended victims swarm through the Capitol and the White House, and two or three dozen of them are asking admission to Congress. There are objections to this theory. Indeed it has been tried. It was Buchanan's plan for suppressing the rebellion, but it failed.

Now, sir, the theory of the Opposition, based upon the second and third sections of the first article of the Constitution, under which members from the rebel States are to be admitted

to these Halls without our leave, is that the right of a State to representation cannot be forfeited or lost so long as these two sections remain unaltered. Is there no objection to this theory? Why, it concedes the right of representation during the whole war. Their members could have entered this Capitol at any time and voted as the interest of the confederacy required. If the war had lasted fifty years instead of four the right would have run through all that time. Nor would it have ceased if our armies had been overpowered and the confederacy left unmolested. After one hundred years of separation, they might still vote for President and send members to Congress. Unless you admit the doctrine of forfeiture, you cannot avoid this conclusion. Aside from this doctrine, nothing but an amendment of the Constitution could deprive them of this right. But the Constitution could not be amended, because these eleven States are more than one fourth of the whole, and the assent of some of them would be necessary for any amendment; and to deprive them of Senators the assent of every one would be necessary.

The advocates of this theory, to avoid this result, concede that the right of representation would be forfeited by success. But how? The Constitution is not changed by the result of a battle. There it is, just as it was before. If they lost nothing by defeat would they by success? They lost nothing by secession and unsuccessful war, you say, because these were unconstitutional. Can they lose anything, then, by victory? Would not that be unconstitutional also? "But we would acquiesce." Well, suppose we should; would not acquiescence be unconstitutional and void? Where in the Constitution are we authorized to acquiesce in a division of the Republic? If their ordinance of secession was void would not our consent to it be equally void? If the ordinance was void can it be rendered more so by defeat or less so by victory? Some of the advocates of this theory, to avoid this reasoning, concede that the right of representation is forfeited or suspended during "contumacy." This cruel word to characterize the great rebellion is not original with me. It is the word maliciously chosen by our conservative friends who are determined to make treason odious. I wish the printer to inclose it with inverted commas, that such severity of language may not be ascribed to me. But who is to decide when the suspension begins and when it ends? The State? If so, that is no suspension at all. A right that can be taken up and laid down at pleasure cannot be said to be suspended. Is Congress the judge? Then I submit that by secession from the United States, by the formation of a new confederacy, by four years of terrible war and five of scornful refusal, these States would become a little contumacious, and Congress would be justified in suspending their rights until the legislation necessary to make representation fair and equal could be agreed upon and passed. And that is all that anybody here proposes to do.

This appeal to the Constitution for authority to hand the Government over to the unrepentant plotters of its destruction, is but a continuation of the policy pursued by the Opposition for the last five years. During that period they have raised a cry about the Constitution many times, but always in opposition to good measures or in advocacy of bad ones. When it was first proposed to coerce the rebellion and save the Union, and at every following step toward apparent success, they cried, "unconstitutional." It was unconstitutional to raise an army or march it into the sacred soil of the South. It was unconstitutional to issue bills of credit to meet the expenses. It was unconstitutional to close a rebel port or arrest a rebel spy, to proclaim martial law in a rebel country, or to appoint a provisional governor for conquered Louisiana or abandoned Tennessee. Look back through the debates of the Opposition; there is nothing constitutional but slavery and rebellion, nothing so unconstitutional as coercion and emancipation. Judging from

these debates, the Constitution was especially framed to repress liberty, punish fidelity to the Union, shield oppression, and honor treachery and great crime. These war measures are all constitutional now. Great light is thrown upon the Constitution by the surrender of Lee. The gleam of successful bayonets illumines the dark understanding of pro-slavery quibblers. But alas! the light of success shines only on the past. All the future is still unconstitutional. The "unconstitutional, disunion, abolition war" is rendered constitutional by the victory of our soldiers, but the effort to secure to the country the fruits of that victory by appropriate legislation is as unconstitutional as ever.

Here I close my defense of the Republican policy of restoration. Shall that policy be adopted? Not by this Congress, it is said, because enough conservative Republicans will unite with the Opposition to defeat it. Then, by falsely charging upon the Union party non-action and lack of purpose, it is hoped that a Congress can be elected next fall which will repeal the test oath and admit the rebel States without guarantees or conditions of any kind and with a representation always excessive and now enlarged by emancipation. Without the enlargement (which will not be attained until after the next census) the eleven confederate States will have eighty votes in the Electoral College, controlled entirely by the late insurgents, namely:

Alabama.....	8
Mississippi.....	7
Arkansas.....	5
Texas.....	6
Louisiana.....	7
Florida.....	3
Georgia.....	9
North Carolina.....	9
South Carolina.....	6
Virginia.....	10
Tennessee.....	10

They will need seventy-seven more to elect a President. Kentucky, Missouri, Maryland, and Delaware, States with strong confederate proclivities, will, it is claimed, furnish thirty-one, while the other forty-six can be made up by the Democrats of New Jersey, New York, and Connecticut. The classification of votes by which the President would thus be elected, would stand—confederates 80, semi-confederates 31, Democratic 46. This presidential scheme will undoubtedly fail, and yet it is the only one that has the slightest chance of success. If the Union party can be beaten at all, it must be by this or some similar combination. Suppose it successful, then, what would be the character of the new Administration? Four members of the Cabinet would belong to the eighty confederate votes and the other three to the seventy-seven from the northern and border States. All presidential appointments at home and abroad must be made on the same line of division.

If, as is alleged, this combination could also carry a majority of Congress, the confederates would have a majority of that majority, and in caucus (giving their allies the Clerk) would demand the Speaker and a majority of all committees, such as the Ways and Means, Claims, and Pensions, to which their peculiar interests might be referred. Pensions must then be surrendered or divided with confederate claimants; service in the Union Army would be an impediment to political success, and the Treasury, supplied by the industry and economy of the North, would be steadily absorbed in confederate damages. Then your creditors might count their worthless bonds and learn exactly how much it cost them to reclaim their fugitive masters. Then the pensionless widows and orphans of our valiant dead might bemoan in poverty and neglect the ingratitude of a Republic saved by a husband's and father's blood. And then our surviving soldiers must conceal their honorable scars to save a humble position in the capital they helped to preserve—for the enemy. Then, sir, we will all see, feel, and realize what the Opposition, in different phraseology, constantly assert, that the object of the war was to force the rebels to become our rulers.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed Senate bill No. 220, for the relief of certain contractors for the construction of vessels of war and steam machinery.

RECONSTRUCTION—AGAIN.

Mr. HIGBY. Mr. Speaker, a large portion of the President's annual message was devoted to the question of the reunion of the loyal States and those which had been in rebellion. Congress was as deeply impressed with the subject which was coming before them as any other branch of this Government possibly could be at the commencement of the present session; and with a view to do as much and as speedily as possible to ascertain the condition of the States which had been in rebellion, and whether there was any possibility by which they could have representation here, a joint committee of both branches of Congress was appointed, to whom everything in connection with reconstruction was referred for their consideration. We have several times, sir, heard from that committee by way of amendments to the Constitution of the United States. They have also taken a large amount of testimony in reference to the condition of things in those States, and have from time to time reported that evidence to the House and Senate. But, Mr. Speaker, I propose for a few moments to give attention to the report made by the committee on reconstruction on the 6th of March last, and a joint resolution with reference to the State of Tennessee, introduced into the House at that time; and more particularly to dwell upon the principles involved, for the principles involved in that case will enter into the case of every one of the rebel States on the question of readmission.

Mr. Speaker, I suppose that every and any subject presented to the House pertinent to these great questions can be scrutinized and remarked upon. I do not wish to be deemed officious or captious if I should chance to differ with fifteen of the wisest men we have in Congress in some respects as to the report they made at that time.

I ask the Clerk to read the joint resolution. The Clerk read as follows:

Mr. BINGHAM, from the committee on reconstruction, reported the following joint resolution: Joint resolution concerning the State of Tennessee. *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That whereas the people of Tennessee have made known to the Congress of the United States their desire that the constitutional relations heretofore existing between them and the United States may be fully established, and did, on the 22d day of February, 1865, by a large popular vote, adopt and ratify a constitution of government republican in form and not inconsistent with the Constitution and laws of the United States, and a State government has been organized under the provisions thereof, which said provisions, and the laws passed in pursuance thereof, proclaim and denote loyalty to the Union; and whereas the people of Tennessee are found to be in a condition to exercise the functions of a State within this Union, and can only exercise the same by the consent of the law-making power of the United States. Therefore, the State of Tennessee is hereby declared to be one of the United States of America, on an equal footing with the other States, upon the express condition that the people of Tennessee will maintain and enforce, in good faith, their existing constitution and laws, excluding those who have been engaged in rebellion against the United States from the exercise of the elective franchise, for the respective periods of time therein provided for, and shall exclude the same persons for the like respective periods of time from eligibility to office; and the State of Tennessee shall never assume or pay any debt or obligation contracted or incurred in aid of the late rebellion; nor shall said State ever in any manner claim from the United States or make any allowance or compensation for slaves emancipated or liberated in any way whatever; which conditions shall be ratified by the Legislature of Tennessee, or the people thereof, as the Legislature may direct, before this act shall take effect.

Mr. HIGBY. Mr. Speaker, two propositions will be observed as embodied in that resolution; one is that it pronounces the constitution presented by Tennessee republican in form, and the other is that the only means by which the State can have any representation in Congress is to be through the "law-making power of the United States."

Together with the resolution came to this House a large amount of testimony which had been taken by the committee in reference to the condition of Tennessee. In this volume is embraced an act of the General Assembly of the State, in which they prescribe who shall exercise the elective franchise. It is as follows:

An act to limit the elective franchise.

Whereas the first article and first section of the declaration of rights in the constitution of the State of Tennessee declares, "That all power is inherent in the people, and all free governments are founded on their authority and instituted for their peace, safety, and happiness; for the advancement of these ends they have at all times an inalienable and indefeasible right to alter, reform, or abolish the government in such manner as they may think proper; and whereas a large and respectable convention of the free and loyal people of the State of Tennessee met in the city of Nashville on the 9th day of January, 1865, and proposed certain alterations and amendments to the constitution of the State of Tennessee, for rejection or ratification by the loyal people on the 22d of February following; and whereas said amendments and schedule were solemnly ratified with great unanimity by the authoritative voice of the people; and whereas the eighth section of said schedule provided for the election of a governor and members of the Legislature on the 4th day of March, 1865, and who, in accordance therewith, were elected by the ballots of the loyal people; and whereas the same authoritative voice, in section nine of the schedule, delegated to the General Assembly meeting first under this amended constitution, the right to fix the qualification of voters and the limitation of the elective franchise: Therefore, acting faithfully under and in accordance with this delegation of the supreme power,

SECTION 1. *Be it enacted by the General Assembly of the State of Tennessee,* That the following persons, to wit:

1. Every white man twenty-one years of age, a citizen of the United States and a citizen of the county wherein he may offer his vote six months next preceding the day of election, and publicly known to have entertained unconditional Union sentiments from the outbreak of the rebellion until the present time; and
2. Every white man, a citizen of the United States and a citizen of the county wherein he may offer his vote six months next preceding the day of election, having arrived at the age of twenty-one years since March 4, 1865: *Provided,* That he has not been engaged in armed rebellion against the authority of the United States voluntarily; and
3. Every white man of lawful age coming from another State, and being a citizen of the United States, on proof of loyalty to the United States, and being a citizen of the county wherein he may offer his vote six months next preceding the day of election; and
4. Every white man, a citizen of the United States and a citizen of this State, who has served as a soldier in the Army of the United States, and has been or may be hereafter honorably discharged therefrom; and
5. Every white man of lawful age, a citizen of the United States and a citizen of the county wherein he may offer his vote six months next preceding the day of election, who was conscripted by force into the so-called confederate army, and was known to be a Union man, on proof of loyalty to the United States, established by the testimony of two voters under the previous clauses of this section; and
6. Every white man who voted in this State at the presidential election in November, 1864, or voted on the 22d of February, 1865, or voted on the 4th of March, 1865, in this State, and all others who had taken the "oath of allegiance" to the United States, and may be known by the judges of election to have been true friends to the Government of the United States, and would have voted in said previously mentioned elections if the same had been held within their reach, shall be entitled to the privileges of the elective franchise.

SEC. 2. *Be it further enacted,* That all persons who are or shall have been civil or diplomatic officers or agents of the so-called confederate States of America, or who have left judicial stations under the United States or the State of Tennessee to aid, in any way, the existing or recent rebellion against the authority of the United States, or who are or shall have been military or naval officers of the so-called confederate States, above the rank of captain in the army or lieutenant in the navy; or who have left seats in the United States Congress or seats in the Legislature of the State of Tennessee to aid said rebellion, or have resigned commissions in the Army or Navy of the United States, and afterward have voluntarily given aid to said rebellion; or persons who have engaged in treating otherwise than lawfully, as prisoners of war, persons found in the United States service as officers, soldiers, seamen, or in any other capacities; or persons who have been or are absentees from the United States for the purpose of aiding the rebellion; or persons who held pretended offices under the government of States in insurrection against the United States; or persons who left their homes within the jurisdiction and protection of the United States, or fled before the approach of the national forces and passed beyond the Federal military lines into the so-called confederate States, for the purpose of aiding the rebellion, shall be denied and refused the privilege of the elective franchise in this State for the term of fifteen years from and after the passage of this act.

SEC. 3. *Be it further enacted,* That all other persons, except those mentioned in section one of this act, are hereby and henceforth excluded and denied the exercise of the privilege of the elective franchise in this

State for the term of five years from and after the passage of this act.

SEC. 4. *Be it further enacted,* That all persons embraced in section three of this act, after the expiration of said five years, may be readmitted to the privilege of the elective franchise by petition to the circuit or chancery court, on proof of loyalty to the United States, in open court, upon the testimony of two or more loyal citizens of the United States.

SEC. 5. *Be it further enacted,* That so long as any of the white citizens of the State of Tennessee, who by this act are entitled to exercise the elective franchise, shall be connected with the Army of the United States, or with the military force of this State in actual service, the Governor shall issue writs of election to the commanding officers of such brigades, regiments, or detachments of Tennessee soldiers, wherever located, who shall open and hold the election, and receive the votes of their respective commands, and return the same to the secretary of state, and which shall be counted in the same way and manner as if said votes had been cast in any of the counties of the State to which the soldiers belonged.

It will be observed, in looking over this act, or the portion to which I direct your attention more particularly, that the elective franchise is to be limited to the white citizens of the State, those who have been loyal, as it disfranchises those who have been engaged in the rebellion. And further, this act is final upon the subject; as the constitution, as amended, "delegated to the General Assembly meeting first under this amended constitution, the right to fix the qualification of voters and the limitation of the elective franchise." So that further to amend the act from the reading of the schedule it would seem is not in the power of the General Assembly.

Now I wish to present a few facts immediately under this proposition. The resolution says that the constitution is republican in form. With the constitution comes this act of the Legislature upon the subject of the elective franchise. All the facts are embraced in the report which we received from the committee at the same time that this resolution was introduced. I have taken the trouble to make a little table from the census of 1860, which is as follows:

States.....	White.....	Colored.....	W. C.....
Virginia.....	1,047,411	548,907	Less than 2 to 1
Tennessee.....	826,782	283,019	Less than 3 to 1
North Carolina.....	631,100	361,522	Less than 2 to 1
South Carolina.....	291,388	412,320	Less than 3 to 4
Georgia.....	501,588	465,698	Less than 3 to 2
Florida.....	77,748	62,677	Less than 5 to 4
Alabama.....	526,481	437,770	Less than 5 to 4
Mississippi.....	353,901	437,404	Less than 1 to 1
Louisiana.....	357,629	350,373	Nearly equal.
Texas.....	421,204	182,921	Less than 3 to 1
Arkansas.....	324,191	111,259	Nearly 3 to 1
Total.....	5,449,463	3,053,870	Less than 5 to 3

In which I have united together in one sum the slave population in each State with the free population of the same, because since the slaves have become free they belong to the free colored population of the State, and I find this to be the fact with reference to Tennessee: white population, 826,782; free colored population, 283,019.

The proportion is less than three white citizens to one colored. In other words, the colored population in 1860 was more than one fourth of the population of the State.

It is but a few days since a law passed this Congress more dignified than legislative enactments usually are, for the reason that it passed, notwithstanding the veto of the President, by more than a two-thirds vote of each House. What did that law declare? I do not consider that we made the native-born colored man a citizen by it, for I believe that without that enactment he was a citizen of the United States; and I believe that a majority of the people so believe. The most eminent men of the nation for wisdom and learning so construed the Constitution of the United States. But we declared it thus solemnly that native-born inhabitants, no matter of what race or color, were citizens of the United States.

Now, then, what is the simple fact presented by the figures? We have some means of arriving at the measure of loyalty or disloyalty in the State of Tennessee. It is said that that State furnished thirty thousand Union soldiers to help fight the battles against the rebels. It is said on the other hand that Tennessee furnished one hundred thousand men for the rebel

army. But, sir, supposing it was fifty thousand Union soldiers to one hundred thousand rebel. Of course we cannot arrive definitely at the true proportion. The Legislature of that State has disfranchised those who were engaged in the rebellion; so that the voting population of the State is reduced to those who remained loyal to the Government during the whole struggle. I am speaking of the white population.

What, then, do we have presented? It comes down to the simple fact that a white population no greater than the colored population of a State are to have the entire control of the administration of the government of the State.

Mr. Speaker, I want to read a few words from the Declaration of Independence upon this question of bestowing civil rights and political rights. I think the definition is conclusive:

"We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights: that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men deriving their just power from the consent of the governed."

There is, then, according to this language, no security of "life, liberty, and the pursuit of happiness" unless those who are seeking these ends have the power of government in their hands. That is the logic of the language.

What, then, do we bestow upon men by attempting to secure to them civil or political rights? Why simply this: that they shall have the power of administering the Government. It is conclusive, therefore, that nothing is effected by simply declaring that you extend to them civil rights if in a republican government in which the power rests with the people they cannot, together with others, possess the political power to protect themselves in these rights.

Sir, I do not know where the power lies to take away the privilege of the elective franchise from a citizen of the United States. As a citizen of this country that privilege is one which belongs to him of right. Such is the definition and such is the logical and just conclusion.

I find this definition given by our great lexicographer, Worcester:

"Citizen. An inhabitant of a republic who enjoys the rights of a citizen or a freeman, and who has a right to vote for public officers; as, 'a citizen of the United States.'"

The great lexicographer, Webster, uses about the same language in his definition of a citizen. Then, sir, I quote another authority that is looked upon as very good in this country:

"The article in the Constitution of the United States declaring that citizens of each State were entitled to all the privileges and immunities of citizens in the several States applies only to natural-born or duly naturalized citizens; and if they remove from one State to another they are entitled to the privileges that persons of the same description are entitled to in the State to which the removal is made, and to none other. The laws and usages of one State cannot be permitted to prescribe qualifications for citizens to be claimed and exercised in other States in contravention to their local policy."

It was declared, in *Coryell vs. Coryell*, that the privileges and immunities conceded by the Constitution of the United States to citizens in the several States were to be confined to those which were in their nature fundamental, and belonged of right to the citizens of all free Governments. Such are the rights of protection of life and liberty, and to acquire and enjoy property, and to pay no higher impositions than other citizens, and to pass through or reside in the State at pleasure, and to enjoy the elective franchise according to the regulations of the law of the State."

That is from Kent's Commentaries. Some may contend that this regulation may go to the extent of prohibition. But, sir, prohibition is not regulation. The language is plain and explicit. The citizen has a right to vote; and there is no power under the Government to exclude him from that right. I do not care what may be the race or color of a man, if he is a citizen of the United States, that is a right of his—a paramount right.

It is true that States may have their regulations on the subject of suffrage. A State may provide that a citizen coming from another State must reside within its limits a certain length of time before he can vote. It may prescribe that a citizen must have attained a cer-

tain age before being allowed to exercise the elective franchise. But this is no such exclusion as that on account of race or color.

But, sir; what is the extent of this resolution? It proposes to admit the State of Tennessee, coming here upon the basis I have named—only a very small proportion of the white population, taking the same number that it had in 1860. Sir, without meaning to be captious, I say that such a proposition has no element of republicanism in it. Let me state a case which may arise, and let us see how members of this House are willing to meet it. You will have some of the eleven seceded States coming here and asking to be admitted whose colored population is in excess of the white population. In the State of South Carolina, for instance, a large majority of the population are colored people, now citizens. Suppose the colored people of the State of South Carolina should come here with a constitution asking to be admitted. They have been loyal through all this struggle. They are citizens of the United States. They present to Congress a constitution more generous and more liberal, if you please. They make no distinction of race or color. If you admit them with such a constitution you violate the principles contained in this report.

There are some stubborn facts which we must meet and face, and we had better face them in the beginning. It is not so hard to do right if we will trample prejudices beneath our feet and come up to great principles and stand by them. It is far better, sir, that we should come up and meet the question now, than wait until time forces us to do so.

I find, in footing up columns in the table presented, that in 1860 there were 5,449,463 of white population, and 3,653,870 of colored people in the eleven States. More than three fifths of the population now are colored people. Deduct from the computation those men who have been disloyal to the Government through this rebellion and what proportion would the white population of those States bear to the colored people? You would then have five of the colored to three of the white entitled to the privileges of the elective franchise.

If the principles proposed now to be adopted in the case of Tennessee should be accepted, they must be followed in the case of every other of the eleven States that may ask to be admitted, and we shall find in the end that we have ignored as citizens the majority and given the government to the minority, and by so doing will have trampled under foot the great and vital principle that lies at the foundation of our institutions.

Mr. Speaker, it is urged that we have no right to say who shall vote and who shall not vote. It is even said by some of the members on this side of the House, the Union members of Congress. It is said, you cannot go into the States and dictate to them who shall vote and who may not vote. Well, I grant this is true under the present condition of things, so far as regards the States that have never been in rebellion. The Government of the United States does not propose or attempt to go into any one of the States now in close fellowship with the Government and represented here, and say to them that all classes of citizens without distinction of race or color shall vote. It is true that the general principle has been to leave that question to each of the States. Sir, if Tennessee and Virginia are to-day States in the Union, possessing the same rights as Pennsylvania and Massachusetts, we have nothing to say upon this subject one way or the other.

But if, as is declared in this resolution, the law-making power of the United States is to settle now the question of the representation of the eleven States that have been in rebellion, and at the same time to examine the constitution of each of these States to see whether it be republican in form, then at the same time the law-making power of the United States has the right and the power to settle the question whether the State has allowed the citizens

of the State to vote or not in organizing and establishing the new State government; and further, the resolution imposes terms and declares the condition of the citizen entitled to vote.

It may be said that what constitutes a government republican in form depends upon the opinion of individuals. But the general principle, I presume, will be admitted, that a government is not republican in form if it excludes a large portion of the citizens from participation in the government; I mean without any contingency whatever—an absolute and unconditional exclusion from such participation. We, sir, have the control. We are acting as the law-making power with reference to the condition of each of these States; and it is our duty to declare that no constitution of government is republican in form that unconditionally excludes from the elective franchise any portion of its citizens for any reason whatever. Sir, there will be no difficulty in the settlement of the question when we get ready to yield our prejudices to right and justice.

Mr. Speaker, there are two very important questions involved in the present admission of any one of those States. Of one of those I have spoken; that is, the exclusion of a portion of the citizens of any one of the States from the elective franchise. There is another point, which when closely scrutinized is a little startling in its character. The proposition in this resolution is to admit Tennessee as a State of the Union. The presumption is that if readmitted, she will be entitled to at least the same number of Representatives that she had when the rebellion commenced. And, sir, the principle will hold true in the case of each of the eleven States that took part in the rebellion, whenever they shall be in as fit a condition to be received as Tennessee is said to be now. If the other ten States disfranchise the same class that Tennessee has disfranchised, the whole eleven States, while having the same number of Representatives as they had at the commencement of the rebellion, will possess a voting population less than half what it was at that time.

If we adopt this resolution we establish these two points: in the first place we permit the white citizen to participate in the government to the exclusion of the colored citizen; and secondly, we allow an undiminished number of Representatives to less than half the voting population at the commencement of the rebellion. I cannot believe that the people of the loyal States are ready to submit to such a sacrifice.

Further than that, Mr. Speaker, it would seem to be rewarding rebellion if we should allow these States to come here with the same number of Representatives that they had previously to the rebellion. While the white population who have remained loyal all through this struggle would have a double representation in these Halls, the colored population, who have been loyal, obedient, and devoted to the Government throughout the rebellion, would be ignored and excluded.

Sir, this act of disfranchisement is to expire after a certain time with reference to a certain class. After a period specified, the rebels are to become again citizens and voters. But no provision is made for admitting to the elective franchise that other class of citizens of whom I have spoken.

I am aware, sir, of what is urged with reference to the claims of the State of Tennessee. I am aware at an early period that State sought to bring itself into loyal relations with the Government. It established a new constitution. The Legislature ratified the constitutional amendment forever prohibiting slavery, and adopted other legislation with reference to reorganization. The people of that State have elected persons to be Representatives in this House, and the Legislature has chosen Senators.

But, sir, as has been iterated and reiterated here, the excellence of the character of the men who come here as Representatives is not the question. The question is as to the basis

of representation, the character of the people represented, their condition, and their relationship to this Government. No man can be a Representative here without a constituency; and the character of that constituency is the prime element in the investigation of a question of this kind.

Mr. Speaker, if every Representative in this Hall who professes to be a Union man—I speak of those Representatives who have acted together on this side of the House during the Thirty-Seventh and Thirty-Eighth Congresses, and are acting together now, and those of the same class at the other end of the Capitol—would upon this question take a distinct and definite position on the side of the great principle which I have indicated, acting upon it and sustaining it with all their powers of mind and heart, there would be no difficulty about this question of reconstruction. The great mass of the loyal people of this Union are ready to sustain their Representatives upon this proposition. There is no other way to settle the question.

It is the decree of the providence of God that those men who have been in rebellion shall be offensive to the instincts of every loyal man; and it is His will that keeps alive in our hearts and our memories their true condition, which renders them unfit to be represented in these Halls. Why, sir, if we can read the acts of a Being superior to ourselves, it may be reasonable to suppose that the object of the divine purpose is to hold us back from the work of hasty reconstruction and to delay that work until the prejudices of members in these Halls shall be so far removed as to enable them to act justly upon this great question, when they do act, and settle it upon a basis of equal justice to all and of permanent peace and prosperity to the country.

Sir, some people talk about a "policy" of reconstruction. It is said that there is a policy with one branch of the Government. I am glad, sir, to be able to say that there is no distinct policy with Congress. I declare, sir, that it is not within the wisdom of man to devise a plain, definite policy by which all these questions are to be settled. The question as to the proper course to be pursued with reference to those men who have been in rebellion is decidedly the most troublesome question with which legislators were ever called to deal. But, sir, we cannot dispose of that question until we place ourselves upon the principle that they who are loyal to this Government shall, without distinction of race or color, participate in the administration of it. When we are ready to act upon that principle we shall then the more readily and easily undertake the solution of the other great question, which is always bound to be far more difficult until we take the right position upon the first.

A "policy!" Why, sir, there is one policy, if it can be called such, which is easy to understand and easy to act upon. It is to trample right and justice under foot. It is to receive into our breasts the poison whose fatal influence has been so fully demonstrated. It is to inoculate upon our Government a branch from that foul Upas which has in the days of the past cast its deadly blight upon this nation. Sir, it would be a very easy thing to incorporate again into the Government the evils under which we have suffered in the past, and which did so much to bring upon us the horrors of the recent rebellion.

Sir, in the healing art there are two classes of physicians. Those of the one class are able to heal the outward symptoms of a wound, to give it a healthy surface, and remove the corruption which meets the eye, while the virulent and deep-seated disease still lingers in a latent form to break forth soon again with increased severity. But, sir, a physician of the other class, with the skill of the wisest surgery cuts deeply and eradicates the festering mass, and thus by a merciful severity restores lasting health.

Mr. Speaker, when we are ready to act on principles right and just we will then find we will have far less difficulty in the way. A

policy will in time begin to shape itself sufficient for all practical purposes. We will then finally settle a question the like of which we have never before had in our history, and the like of which I think the history of no nation on earth has ever exhibited. It was impossible for man alone to grapple with the condition of things all through the rebellion. There did seem to be a superior Power that was directing all things, and that same Power will lead us on, if we move with care, wisdom, and justice, to a right and a proper conclusion.

RESTORATION OF THE UNION.

Mr. HARDING, of Kentucky. Mr. Speaker, for more than four years past it has been my settled conviction, and I so declared in a speech in this House as early as December, 1861, and again in January, 1863, that there were two rebellions, one in the North as well as one in the South; and though seeming to differ widely on some points, yet in reality "leagued together and unitedly warring" to overthrow the Constitution and dissolve the Union. The only hope, therefore, of saving the Government and restoring the Union rested on the Conservatives and Democrats standing equally opposed to both extremes. The Herculean task that devolved on them was not merely to suppress and control one, but two rebellions; because the success of either was the destruction of the Government.

President Johnson, in a speech delivered in the Senate in February 1861, uttered a great truth when he said—

"There are two parties in this country that want to break up the Government. Who are they? The nullifiers proper of the South, the secessionists, or disunionists, for I use them all as synonymous terms."
 * * * "Who else is for breaking up the Government? I refer to some bad men in the North. There is a set of men called abolitionists, and they want to break up the Government. They are disunionists; they are secessionists; they are nullifiers."
 * * * "Whose allies are the abolitionists of the North, if they are not the allies of the secessionists and disunionists of the South? Are they not all laboring and toiling to accomplish the same great end, the overthrow of this great nation of ours? Their object is the same."
 * * * "We find first the run-mad abolitionists of the North—they are secessionists; they are for disunion; they are for dissolution. When we turn to the South, we see the red-hot disunionists and secessionists at the same work."

Mr. Speaker, the people of the South have abandoned and repudiated secession. They have returned to their allegiance, yield obedience to the Constitution and laws, and anxiously desire the restoration of the Union. The war is over. The southern rebellion is wholly suppressed. But, sir, the northern rebellion is still rampant and defiant, and there is no hope of the restoration of the Union until that rebellion is also subdued, or at least reduced to a controllable minority. We had four years of terrible and exhausting war to keep eleven States of the South from going out of the Union. And now we have had four months, and are threatened with four years of political and congressional war, to drive these eleven States out, and prevent the restoration of the Union.

These northern disunionists, the better to disguise their real object and deceive the loyal people of the North, have at different times assumed different names. First they are known as Radical Abolitionists, and then Republicans; next they claim to be Unionists, and then to belong to the Unconditional Union party. Now, their friends in Congress claim to be Reconstructionists, and have their reconstruction committee, composed of master workmen, deeply skilled in the art of breaking up the old Union, clearing away the rubbish, and building a new one. There can be no such thing as rebuilding or reconstructing the Union unless it has been broken up and dissolved. The basis, therefore, and central idea of this revolutionary movement, called reconstruction, is disunion. It rests on the assumption that the Union has been dissolved. It has no other foundation or support. They claim that the eleven States of the South are out of the Union.

The gentleman from Pennsylvania [Mr. STEVENS] has repeatedly declared in speeches in

this House that the war between the North and the South has—

"Severed their original compacts, and broke all the ties that bound them together. The future condition of the conquered Power depends on the will of the conqueror. They must come in as new States or remain as conquered provinces."

That gentleman also said—

"I cannot doubt that the late confederate States are out of the Union to all intents and purposes for which the conqueror may choose so to consider them."

And again, the same gentleman said in regard to the late confederate States:

"To prove that they are and for four years have been out of the Union for all legal purposes, and being now conquered, subject to the absolute disposal of Congress, I will suggest a few ideas and adduce a few authorities."

That gentleman clearly saw the logical necessity of boldly assuming that these States are out of the Union. He knew that upon any other theory it was impossible to frame even a plausible defense of the action of his party in regard to the southern States. Some of his followers, with more timidity, but with less clearness of perception than himself, have ventured to dispute his premises, while they agree with him in his conclusions and action. But all such involve themselves in a web of contradictions. Some of that party say these States "are neither in the Union nor exactly out of it, the territory at least is in the Union." That is, the people of the South are out of the Union, but the lands on which they live are in it. Others say "these States are out of the Union for practical purposes." That is, for all the purposes of self-government and representation in Congress they are out of the Union. But for the purpose of obeying laws enacted by others, and paying taxes, they are in the Union. All this is absurd. They are either in or out of the Union. There is no middle ground.

Mr. Speaker, if the States of the South are out of the Union, how did they get out? Certainly it must have been either by secession or by revolution; no other answer has been or can be given. Will any one at this day contend that the Constitution of the United States gives any countenance to the doctrine of secession? Does the Constitution provide for its own destruction? Does it arm each separate State with the power of withdrawing at pleasure, thus rising above the Constitution, dissolving the Union, and at once bringing to an end the Government formed by that very Constitution? No, sir, no; the great men who formed that Constitution furnished it with ample powers of self-preservation. They intended and provided for its perpetuity; so that, in the language of President Johnson's message, "no room is allowed even for the thought of a possibility of its coming to an end." If, then, as all admit, the Constitution is the supreme law of the land, every ordinance of secession in the South being opposed to the Constitution and seeking its overthrow of necessity must have been absolutely null and void; and being void must be regarded as wholly inoperative, and therefore could not work any change in the constitutional relations of the States to the Federal Government. But, sir, it is not necessary to argue this question at length. It is well known that during the whole period of the war, President Lincoln, with all the supporters of his Administration, scouted the idea that any resolution or ordinance of secession could take any State out of the Union, and even the men who now show themselves to be practical secessionists then professed to hold that opinion.

Let us next inquire whether the revolution—the war—took these States out of the Union. The States, as such, could not commit treason, could not be indicted and prosecuted. There is no authority in the Constitution, and none has been claimed, to make war upon the States, as such; and there has been no war against them. A portion of the people in all the southern States remained loyal and true to the Union during the war. They were not guilty of treason and incurred no forfeiture of any kind. All the proclamations of the President in regard to insurrection applied not to the States,

nor to the loyal people, but to that portion only of the inhabitants of the States who were in armed rebellion against the Federal Government. The insurgents in the South made war for the purpose of taking their States out of the Union, and establishing a separate and independent government over them. That was the issue tendered by them; that was the issue accepted by the Federal Government. On the 22d of July, 1861, both Houses of Congress passed a resolution by almost unanimous votes in which they declared that the war was not waged on our part—

"For any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of the States, but to defend and maintain the supremacy of the Constitution, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired."

The Federal arms were triumphantly successful. No one will have the hardihood to deny that every issue involved in the war thus waged was gained to the Federal Government by the successful result of the war. This alone would seem sufficient to close all debate on this question.

The gentleman from Pennsylvania [Mr. STREVEN] says the States of the South are out of the Union. But we answer, the war was waged to keep them from going out, and the war was successful. That gentleman holds that the war between the North and the South "severed all compacts and broke all ties that bound them together." But the answer is, the Constitution was the tie that bound them together. The war was waged on our part "to defend and maintain the supremacy of the Constitution," and the war was successful.

He holds that the people of the South have been subjugated, conquered, and are subject to the will of the conqueror, "or to the absolute disposal of Congress." But nothing of the kind could possibly result from the war, because we have seen "that the war was not waged for any purpose of conquest or subjugation."

That gentleman, and others of the same party, contend that the war has destroyed the States of the South and reduced them to mere Territories or conquered provinces. But the war on the part of the Federal Government was waged, as we have seen, not to destroy or overthrow, but to "preserve the States with all their dignity, equality, and rights unimpaired," and the war was successful. How preposterous it is for gentlemen to claim, as the result of successful war on our part, exactly what would have resulted if the South had been successful on their part.

The war waged by the insurgents in the South to take their States out of the Union was a failure, yet gentlemen say these States are out. The war on our part to keep these States in the Union was a success, yet gentlemen say they are out of the Union. That is saying that the success of the Federal Government was its failure; and the failure of the southern rebellion was its success. This important discovery has been made by the superior wisdom of the northern rebellion. It was wholly unknown in the South.

Mr. Speaker, what has been the public sentiment of the country on this question? When the confederate armies all surrendered, and the war closed, the whole country throughout the northern States was filled with bonfires, illuminations, and public rejoicings. Was it because the war had severed all ties between the North and the South, and separated eleven States from the rest? Did the people rejoice over a dissevered Union? If so, then was the nation drunk. Instead of demonstrations of joy there was the deepest cause of sorrow; the whole country should have been draped in mourning, while all the bells in the land sounded the knell of the Union. But no, sir, the people were not drunk, they rejoiced in the full assurance that all the States were saved, the supremacy of the Constitution maintained, and the Union preserved.

Mr. Speaker, during the whole period of the war Congress, by its action, declared the States

of the South were still in the Union. The Constitution provides that—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers."

Under that provision of the Constitution Congress, by law passed during the war, imposed direct taxes upon each of the States in the South as States in the Union. Under the same clause of the Constitution Congress also apportioned to each of the States in the South as well as to those of the North its proper number of Representatives in Congress. And in fact nearly every law of a general character passed during the war extended to and included the States of the South as States in the Union. Members of Congress from Tennessee and Louisiana, representing portions of those States, were received and acted and voted in Congress during the war; and at no period of the war has there been less than three members of Congress here acting with us representing the western portion of Virginia. Congress has thus, by its recorded action, treated, acknowledged, and recognized those States as States in the Union, and is now estopped to deny its own record. The action of the other departments of the Government has been to the same effect.

The late proclamation of President Johnson declares the war ended, and those States restored to the constitutional rights, now withheld from them by Congress. By the proclamations of President Lincoln, and of President Johnson, and indeed by the action generally of the executive branch of the Government, those States have been recognized as States in the Union at all times during and since the war. The Supreme Court of the United States ordered that causes brought up from the southern States should be docketed, regularly called, and tried; thus, in effect, deciding that those States are still in the Union. So that at every period of the war, and by every department of the Government, legislative, executive, and judicial, there has been the fullest recognition of the fact that those States are still in the Union.

Mr. Speaker, suppose it to be true, as gentlemen contend, that the eleven States of the South are out of the Union, what is the consequence? What does it mean? If it be true that all ties between the North and the South were broken, that the States of the South "now are and for four years past have been out of the Union," a separate and foreign Power, then the moment that separation took place the allegiance of the people of those States was transferred to their own confederate government. They could no longer claim protection from the Government of the United States, because they did not belong to it, and for the same reason owed no allegiance to it. They could claim protection from the confederate government, they were citizens of it, and therefore owed allegiance to it. It follows, therefore, that after the separation those called Union men in the South, who took up arms in favor of the United States, then a foreign Government to them, were deserters and traitors, and guilty of treason against the confederate government, to which alone their allegiance was due. But for the same reason all in the South who fought against the United States and to sustain the confederate government, were heroes and patriots. It follows, moreover, that during the same period, neither Jefferson Davis, nor any officer or soldier who fought under him, could possibly have been guilty of treason against the Government of the United States; it was to them a foreign Government, and they owed no allegiance to it. Upon these principles, is not the long incarceration of Jefferson Davis in prison, after the war is over, an act of cruelty that admits of no justification?

And again, sir, upon this theory, it follows that after the separation "and for four years past," the war on our part was not to keep the States of the South in the Union, for they were already out; but was a war for mere conquest

and subjugation. Who will justify for such a purpose the millions of treasure expended and the rivers of blood that has been shed? And, sir, was it not a base and criminal fraud for gentlemen holding such sentiments to induce thousands of soldiers to join the Army and pour out their blood to keep States in the Union that were already out, as such gentlemen knew, or at least believed? How will such gentlemen answer to the thousands of bereaved widows and stricken orphans all over the land who have been thus robbed of husbands and fathers? And will not the blood of slaughtered thousands rise in judgment and call for vengeance on those who deceived and betrayed them?

Mr. Speaker, the Union was formed by the Constitution, and so long as it continues the Union of the States must continue. The Constitution, like a band of iron, encircles, binds, and holds the States together. It is not possible for any State to get out of the Union while the Constitution lasts. If it be true, then, as gentlemen contend, that the States of the South are out of the Union, then the Constitution is overthrown, and the States of the North are also out of the Union; the Constitution holds all or none. If the logic of the gentleman from Pennsylvania proves South Carolina or Georgia to be out of the Union, it must of necessity prove that Pennsylvania is also out of the Union; and then it follows that the Constitution is overthrown and the Union dissolved; and this being the case, Congress has no authority, all its action is usurpation, an unlawful assembly, and the sooner broken up and dispersed the better. All the consequences I have mentioned, and more, necessarily result from the assumption that the States of the South are out of the Union. The theory of the reconstruction party means disunion and revolution, and it means nothing else.

Mr. Speaker, when we discard the pestilent heresies of northern disunionists, and turn to the sound constitutional theory held by loyal men, that, by the successful result of the war the rebellion in the South has been subdued, the supremacy of the Constitution maintained, and the Union with all the constitutional rights of the States preserved, we find not the shadow of a legal or constitutional difficulty in the way of complete restoration, harmony, and peace. When the rebellion in the South was subdued, and the insurgents yielded obedience to the Constitution and laws, then the States were in law restored to all their constitutional rights in the Union. And they would have been in fact restored months ago, and the whole machinery of national and State governments moving in harmony, but for the fact that the northern rebellion has thrown itself like a lion across the pathway of restoration, and arrested every movement in that direction.

Mr. Speaker, if the Constitution and the Union have been preserved, and the States of the South are in the Union, as I think has been fully proved, then it necessarily follows that the States of the North and of the South are coequals in regard to all the constitutional rights of States in the Union. This is a self-evident proposition, its truth cannot be disputed, because the Constitution knows no difference, it allows no difference, but places all the States on the ground of perfect equality. And for men to attempt to enforce a difference in regard to the admission of members of Congress, or any other right, is to turn revolutionists and trample under foot the Constitution they have sworn to support. In view of the Constitution, what becomes, sir, of all we have heard in these Halls from week to week about guarantees, guarantees, and bonds to keep the peace? The Representatives of part of the States in the Union, with magisterial air turning to other States in the Union and demanding guarantees, dictating the terms upon which they will graciously deign to allow their Representatives seats on this floor, assuming to inquire into the political and moral history of Representatives sent here by States in the Union! If the Representative is found loyal according to their standard, inquire whether

the State that sent him is loyal, but if so, then demand guarantees that the State will remain loyal for all time to come. Sir, this is the senseless jargon we have heard here ringing in these Halls until the true friends of the country are weary of it.

Mr. Speaker, the gentleman from Pennsylvania [Mr. STEVENS] is always consistent, though, as I think, always wrong in regard to the *status* of the southern States; still he seldom, if ever, reaches a conclusion at war with his premises. But this is far from being true as to others who act with him. Some weeks ago the gentleman from New York [Mr. RAYMOND] favored us with a speech in reply to the gentleman from Pennsylvania. The first part of that speech was a successful attack upon the position of the gentleman from Pennsylvania "that the southern States were out of the Union, conquered provinces, and subject to the will of Congress." The gentleman from New York established the reverse of that proposition; and he went on to say:

"I regard these States as just as truly within the jurisdiction of the Constitution, and therefore just as really and truly States of the American Union as they were before the war."

In regard to our action or dealings with those States the gentleman said:

"We are to be guided and governed, not simply by our own sovereign will and pleasure as conquerors, but by the restrictions and limitations of the Constitution of the United States, precisely as we are restrained and limited in our dealings with all other States of the American Union."

We listened with great interest and pleasure to these sound constitutional views so ably presented and defended by that gentleman. But it was with pain that we heard the gentleman in the latter part of the same speech declare, that before allowing their Representatives seats in Congress, he would require of these States "certain conditions in the nature of guarantees for the future." They must repudiate their war debt; abandon and renounce the principle of State sovereignty; guaranty the proper treatment of the freedmen; "he would exact of them all needed and all just guarantees for their future loyalty to the Constitution and laws of the United States." And he further said:

"I would exercise a rigid scrutiny into the character and loyalty of the men whom they may send to Congress before I allowed them to participate in the high prerogative of legislating for the nation."

It seems strange that the gentleman from New York, starting out from premises exactly the reverse, should nevertheless be found in his conclusions hand in hand with the gentleman from Pennsylvania, ready to vote and act with him in holding the States of the South "subject to the absolute will and disposal of Congress." Possibly that gentleman, after assaulting and carrying the outer works and strongholds of his adversary, became panic-stricken, and when victory was within his reach surrendered to the gentleman from Pennsylvania. It would have been cruelty if the Pennsylvanian had imposed harder terms, for the surrender was unconditional.

Now, sir, it is plain that if Congress can require of a State in the Union any guarantee or any condition not provided for in the Constitution, as the ground upon which the State shall be allowed representation in Congress, then any number or kind of guarantees and conditions may be required; so that the right of the State to representation is made to depend wholly on the sovereign will and pleasure of Congress, and therefore the State may be excluded from representation altogether if Congress shall think proper to do so. Sir, it is seen at a glance that all the guarantees and conditions mentioned by the gentleman from New York are in utter contempt of the restrictions and limitations of the Constitution. No one here would for a moment think of saying to a State of the North, "Give us guarantees that you will remain loyal in future and we will allow your Representatives seats with us, but not otherwise." Such a demand by Congress would be the highest evidence of its own dis-

loyalty to the Constitution, and show it engaged in revolution to overthrow it.

The Constitution defines, limits, and fixes the qualifications of members of Congress. As to this House the Representative must be twenty-five years of age; must have been seven years a citizen of the United States; and when elected an inhabitant of the State in which he is chosen. Everything else is left to the judgment and discretion of the people who elect him. If the Representative sent here has the age, citizenship, and residence I have mentioned, then the Constitution declares him qualified. Congress has no power to add to or take from these qualifications. To do so would be to change the Constitution. Congress can judge of but cannot fix or make qualifications. It is plain, therefore, what is meant by that other clause of the Constitution, which says "each House shall be the judge of the elections, returns, and qualifications of its own members." Now, when a Representative from a State presents himself here, this House has power under that clause of the Constitution to judge of what, of his character, of his loyalty, of the loyalty of his constituents? No, of none of these; but only whether he has the qualifications fixed by the Constitution as to age, citizenship, and residence, and whether the election and returns are according to law. This is all that is meant by that clause of the Constitution; and with the gentleman from Pennsylvania I say, "It seems amazing that any man of legal education could give it any larger meaning."

Mr. Speaker, when it is earnestly insisted here that the plain provisions of the Constitution should alone control this House in admitting Representatives into this body, whether sent from the South or from the North, the Constitution as to both being the same, gentlemen seem alarmed, and say, "The South may send here men who were leaders in the rebel army." And in holy horror they exclaim, "Are we to take by the hand and welcome to seats here rebels whose hands have been stained with loyal blood?" But in reply it might be asked, "Will you, then, stain your souls with perjury by violating the plain provisions of the Constitution you have sworn to support, and thereby make yourselves as guilty and criminal as you say they are?" But let us not be too much alarmed, but examine the question a moment. There would be more reason to believe gentlemen sincere in the alarm they express if they had not refused seats to Representatives sent here from the South who are men of acknowledged loyalty, men who were in the Union Army and periled their lives in defense of its flag. If the South should send a man here guilty of treason or other high crime, who had neither been tried, punished, nor pardoned, any one of you could have him arrested and sent off for trial, and so avoid his presence. Possibly, sir, a similar case might arise in the North, and what then would be the action of those gentlemen? We all know that for many years before the war there were large numbers in the North of open and avowed disunionists and traitors, laboring from year to year to dissolve the Union. Take a single example. Some time before the war a society of these disunionists met in Boston, Massachusetts, and passed this resolution:

"Resolved, That the one great issue before the country is the dissolution of the Union, in comparison with which all other issues with the slave power are as dust in the balance; therefore we give ourselves to the work of annulling this covenant with death as essential to our own innocence and the speedy and everlasting overthrow of the slave system."

In support of the resolution Wendell Phillips said:

"I entirely accord with the sentiments of that last resolution. I think all we have to do is to prepare the public mind by the daily and hourly presentation of the doctrine of disunion. Events which, fortunately for us, the Government itself and other parties are producing with unexampled rapidity, are our best aid."

And even during the war, Phillips, in a speech in this city, boasted that he had spent nineteen years to take nineteen States out of the Union; and there are many such men in the North.

Now, suppose the people of Massachusetts should elect and send here Wendell Phillips as their Representative, a man who has been steeped in treason for twenty years; and yet who doubts that the very men who are alarmed at the idea of seeing a southern rebel here, would nevertheless take by the hand this great rebel leader of the northern rebellion, and welcome him to a seat by their side in this House? But at the same time their loyal nerves would be shocked if a southern rebel were in the House. How righteous these political saints are; almost as righteous as were the Scribes and Pharisees!

Mr. Speaker, when a Congress like this, representing only part of the country, arrogates to itself the power to ignore the Constitution and fix its own rules for the admission of members from other parts of the country, it is manifest that Congress, and not the people, choose the Representative, because unless he will suit their wishes and strengthen their party the door of Congress is closed against him. There can be no plainer act of revolution to overthrow republican government than this. And yet, sir, that is precisely what has been going on here for more than four months of this session. This body of Representatives from the northern and middle States have, in fact, for the time being, nullified the Constitution and seceded from the other States of the Union; and are now, as to the legislative branch, carrying on a separate government to the exclusion of the other States, based on this act of secession. They have what they call "a reconstruction committee." This committee matures plans and adopts rules for the larger body; it answers all the purposes and more nearly resembles one of the secession conventions of the South than anything else seen in this country since 1861. Sir, was not President Johnson right when he charged, in the Senate in February, 1861, that the abolitionists of the North "were nullifiers and secessionists?" They are now demonstrating the truth of the charge, though acting under another name.

But certain gentlemen say if the Representatives from the South are allowed to come into Congress there is danger that laws may be repealed which they desire to perpetuate, and other measures distasteful to them enacted. Well, suppose it should be so, what do you propose to do about it? You answer, you "intend to provide against it," you "do not intend to submit to it." Then you do not intend to have a government controlled by a majority of the people of the whole country. You intend to establish an oligarchy on the ruins of republican government. You are now seeking to accomplish your purpose by civil revolution, but you are preparing the elements that may bring on a fearful and bloody conflict. Of one thing rest assured: the people of this country will never long submit to a government of any form that does not allow the voice of the whole people to be heard in its management.

Mr. Speaker, the northern rebellion, or disunion party of the North, at every period and under all its assumed names, has been, and now is, substantially the same. Always too busy with the sins of others to repent of its own; always aggressive and intolerant; always moved by a rapacious lust of power; its vital principle of action, its motive power, is native, inbred, political depravity. To gain political power it assumed the garb of philanthropy, shed hypocritical tears over the negro, and struck for the abolition of slavery. Its ceaseless agitation of the slavery question from year to year culminated in a war between the North and the South, the most desolating and sanguinary the world ever saw. Taking advantage of the war thus brought on, it accomplished the abolition of slavery.

And here, sir, passing by that enormous public debt that has doomed the white race to the grinding and oppressive slavery of taxation for generations to come; forgetting the million of brave white men that have fallen and perished in camp and battle-field; passing by their maimed survivors, with the multiplied

thousands of widows and orphans that fill and sadden the land; passing by all this, let us pause and consider for a moment what abolitionism has done for the black race. Four million slaves, by nature far inferior to the white race, never accustomed to think or provide for themselves, depending wholly on their masters for homes, support, and protection, a large portion of them aged and infirm men and women and helpless children; all of them are suddenly robbed of food, clothing, home, and protection, and turned out naked, homeless, and penniless to struggle for existence as best they can with a superior and highly cultivated white race. As must have been foreseen by all but blind fanatics, already many thousands of them have perished and died from disease, exposure, cold, and hunger. Thousands more all over the country are now perishing, starving, and dying. Even here in this city, the voice of suffering and hunger appeals to us from all the abolition pens, where hundreds of them are huddled together in rags and fifth, perishing and starving. Only a few days ago you appropriated \$25,000 to save from starvation, a few days longer, the miserable inmates of these abolition pens in this city. And you call these wretched victims of your policy "freedmen." And the act by which you placed them in this condition, you call "emancipation." But "the iron pen of history will record it as the most monstrous act of cruelty that ever darkened the annals of any of the nations of the earth." Sir, the country begins to see now that abolitionism and not the Constitution is indeed "a covenant with death" to the negro.

Not content with the ruin they have wrought, these pestilent agitators seize on the fact that slavery is abolished, and make that the basis of a new conflict. They are now everywhere striking for negro equality, warring against the laws of nature, seeking to blot out all distinctions, and crush down the white race to political and social equality with the blacks; all for the purpose of gaining a new recruit of negro voters to aid them in ruling and governing the white people in the South and border States. The natural tendency of this movement will be to engender a bitterness of feeling and burning antagonism between the whites and blacks that may break out in a war of races, resulting in the extermination of the whole remnant of the negro race in this country. But taking for their motto "Better roign in hell than serve in heaven," these mad, restless spirits rush on to another conflict, reckless of all consequences, determined to rule or ruin. Sir, the country will see after awhile, begins to see now, that abolitionism, not slavery, was the "sum of all villainies;" and the poor deluded negro will find too late that his master was his best and kindest friend, and the abolitionist his worst and most cruel enemy.

Mr. Speaker, the rebellion in the South can plead in extenuation much provocation long and patiently borne, but the northern rebellion can urge no such plea. Radicalism in the North was the source and origin of all the terrible convulsions and bloody horrors this country has suffered. The South, with all its errors, made no aggressions on the rights of the North. It never intermeddled with, nor sought to control, the domestic institutions of the States in the North. The South claimed only to exercise that control over its own domestic affairs it freely conceded to the North, and which was secured to both by a common Constitution. But the radicals of the North, without the hope of benefiting that section, and with no temptation save the gratification of a fallen, depraved, and malignant spirit, denounced the Constitution as "a league with death and a covenant with hell," and made lawless and unprovoked aggressions from year to year on the constitutional rights of the South. This led to the formation of two bitter sectional parties, one in the North and one in the South. And, as foretold by the Father of his Country, these sectional parties soon brought on a horrid conflict that reddened the

land with kindred blood, and blasted the country with desolation, as if smitten by the lightnings of heaven.

"By their fruits you shall know them." Radicalism in the North sowed and cultivated the seed, and the fruit was a harvest of blood. To conceal its horrid visage, radicalism put on the robe of philanthropy, and four millions of the black race are robbed of home and protection, and doomed to extermination, while the whole race of free white laborers throughout the whole country are sold into the galling slavery of taxation, cut off even from the hope that their children after them will be emancipated. Thus has the sun-dial of prosperity and happiness of this great country been set back half a century. And now, sir, the same party, under another name, and with the cry of liberty on its tongue, is earnestly striving to subvert the foundations of republican government, laboring to centralize, consolidate, and build up a frightful Federal despotism, under whose dark and deadly shadow self-government and all State rights would utterly sink and perish.

Sir, the people have been too long deceived by the hypocritical professions and fair names assumed by the northern disunionists. They should remember that under the mask of the best names the worst crimes have been committed. In the name of "liberty and equality" France was deluged in blood, while all law and all liberty lay prostrate beneath the iron tread of tyranny. And in other days, in the outraged name of religion, martyr fires were kindled, and men "of whom the world was not worthy" consumed at the stake.

Sir, the times are alarming. The horizon is full of dark and ominous clouds. Let the true friends of the country, of every name, unite with the Democratic hosts of the North, rally around and sustain the President in his patriotic and noble stand for the liberty of the people; and the northern rebellion will be crushed and subdued, our blood-bought heritage of constitutional liberty wrested from its deadly grasp, and the Constitution with the Union restored and preserved.

THE NATION AND ITS LABOR.

Mr. MOORHEAD. Mr. Speaker, in rising to discuss the duty the Government owes to the Labor of the country, I do not wish to be understood as seeking to avoid the consideration of other duties that devolve upon this Congress, in connection with the restoration of the national authority over the lately rebellious States. These latter are of the highest magnitude. None higher have ever devolved upon any body of legislators; and none of equal importance have rested upon an American Congress since the close of the session of the body which placed the Government in operation. The patience and patriotism, the wisdom and prudence, the skill and courage of those fathers of the Republic have been vindicated in the growth, glory, and strength of the nation. An equal need of praise will be ours if, like them, we do our duty faithfully, wisely, and well.

To this end we want not haste. On the other hand, cautious watchfulness should precede every step. We want not rashness. On the other hand, the most thorough self-possession should guaranty the soundness of every link of policy. We want not cowardice. On the other hand, a manly courage should impel us to see our dangers and should nerve us to meet and surmount them. On these points I have very few theories. I do not distract myself over the many perplexing suggestions which this great debate has elicited on every hand. To me it is comparatively unimportant which line of argument may ultimately be established. I content myself with knowing that the rebellion has been triumphantly suppressed, that the flag of the Union has been vindicated, and that the nation is not to be severed. I know, further, that it is a duty we owe both to the dead and the living to require from those whom we have overcome on the bloody fields of battle some guarantees for the future. If we do not demand indemnity for the past we must

have security for the future. Those lately in rebellion are now clamorous to become again a part of the governing power of the nation; to help mold our policy; to help enact our laws. Five years since they scornfully abdicated the seats they held in these high places, and insulted us who remained true to our allegiance with declarations of a purpose never again to share with us in a common Government. They left of their own will and against ours. They must return in accordance with our will and upon our terms. The victory won by our brave soldiers and sailors must bear its fruits, and the vanquished must relinquish all the causes of the war. They must not only abandon slavery, but the principle of slavery, and must secure the rights of freemen to all the freedmen within their borders. This is the natural and inevitable result of the war, and from it there is no escape. They must repudiate the rebel debt, renounce the claimed right of secession, and be willing to accept as the true theory of our Constitution that which the war has settled in conformity with the purposes of its framers. They must cultivate a spirit of loyalty to the Union, and prove it by their works. To do less is but to mock the nation's heroes who fought and died for us.

This much I am prepared to require, and I know in doing so I will be carrying out the views of the constituency who sent me here, and who in disaster and danger never wearied of showing how tenderly their hearts and how closely their fortunes were intertwined with the destinies of the Republic.

THE NATIONAL DEBT.

This war has entailed upon us a debt of nearly three thousand million dollars, with an annually accruing interest of at least one hundred and fifty millions. This is a sacred obligation. It is due chiefly to our own citizens, who, with a spontaneous liberality beyond all example, opened their coffers at the invitation of their Government in its hours of darkness and distress. No honest man will countenance the thought of repudiation in whole or in part. The debt must be paid to the last dollar. It will be so paid, and one more will thus be added to the long list of unfulfilled prophecies which croakers during the war spread throughout the land.

But the payment of the interest, the payment of the ordinary expenses of the Government, and the creation of a fund for the gradual extinction of the debt, involves a system of taxation which, in all its ramifications, opens a wide field for the exercise of the highest qualities of statesmanship, the great purpose being to harmonize this duty with the development of the resources of the country, the encouragement of its labor, and the improvement of the condition of the people.

DISTRIBUTION OF THE PUBLIC BURDENS AND THE NECESSITY OF PROTECTION.

Some advantages lighten this task. The enormous extent of our soil, embracing every variety of climate and production, the fertility of the land, its wealth of timber and minerals, its abundant water-power, its facilities of intercommunication by rail and river, and the substantial homogeneity of the people are elements of great consequence; and their coexistence will enable us, by diffusing the public burdens among our vast and varied interests, to make them rest lightly on every one. One thing, however, is indispensable, namely, that we have the amount of labor necessary to reach these resources, combine them into products, and form within ourselves the chain of production and consumption which, in its inevitable and constant round, casts its blessings upon all classes and pursuits.

Europe is sending us the bone and muscle of her population. Emigration is adding almost incalculably to our wealth. Each season we receive not less than one hundred thousand hale and hearty emigrants, worth more to us, in my opinion, than the importation of \$100,000,000 in gold. Each laborer, as he digs in the mines, or works in the mills, at the fur-

nace, the plow, the loom, the anvil, adds to the nation's wealth by increasing the market value of the article upon which he is engaged or preparing for production from the soil. This labor at once becomes part of the nation's capital, and enters into the computation of the nation's revenue.

The more constant its employment the more constant and important its results. If unexercised, it is lost forever, both to the laborer and to the nation. Thus the interest of every part of the people is the interest of the whole; and the duty of the laborer to work has its counterpart in the duty of the nation to help him work. The two are interdependent. The man cannot maintain himself without it. The State cannot be prosperous unless its "bone and sinew" be employed and prosperous. So we find the unanswerable argument for protection in the very necessities of our nature, which we dare not disregard, and which we must respect if we would live and thrive.

INTERFERENCE OF FOREIGN INTERESTS.

Interested parties seek to drive the American Congress from the discharge of this plain duty to its people; and, as formerly, the impulse now comes "from over the water." I have just received, Mr. Speaker, from a constituent, this circular, which has been extensively distributed throughout the western States, I learn. It is so instructive upon this point that I insert it entire:

[Confidential.]

NEW YORK, March 19, 1866.

DEAR SIR: We the undersigned iron merchants in New York, representing, we believe, the entire foreign trade in railroad iron, and also a portion of that of our own country, beg respectfully, but earnestly, to call your attention to the efforts being made by the iron-masters of Pennsylvania, through their Representatives in Congress, to procure an addition to the already excessive duty on rails. With the cost of freight, insurance, and incidental charges added to the present duty, there is a discrimination of at least seventy per cent. upon the manufacturers' price of rails in favor of the American iron-master. It strikes us this should be quite enough to secure him a profit. But it does appear strange that with a decline in gold, labor, and the cost of living, an attempt should be made, aided by a political money influence, so powerful as to warrant a fair chance of success, to advance the price of rails, under the name of protection to home industry, to a price which would prevent the development of new enterprises and materially interfere with the repairs and reconstruction of the railroads of the South and West. It would appear as if the entire railroad, commercial, and agricultural interests of the country were to give way to the advancement of the one interest in Pennsylvania, which has under the present tariff increased its capacity for production so considerably, and yet claims legislation to almost make its business a monopoly. We commend this matter to your careful consideration, and beg that you will use your influence with your Representative in Congress, and endeavor to give them full information on this subject, and ask them which will produce the most revenue to the Government, one mile of railroad, or the duty on one ton of rails.

J. BOORMAN JOHNSON & CO.,
DEHON, CLARK & BRIDGES,
M. K. JESUP & CO.,
G. M. DAVIS,
JAMES TENNER,
NAYLOR & CO.,
DABNEY, MORGAN & CO.,
R. J. MAKIN,
PERKINS, LIVINGSTON & POST,
And others.

ANSWERS TO THE CIRCULAR.

The gentlemen who signed and sent out this circular frankly state that they represent the entire foreign trade in railroad iron. No person, then, need be mistaken as to the objects they propose. They desire to build up the foreign iron trade, out of which they live, and to break down the domestic iron trade, by which thousands of American working-men earn their bread and maintain their families.

They charge that a "political money influence" is at work to achieve protection to home interests. It is upon the records of the nation that the last victory of the foreign trade, won in 1846, was with the aid of British gold, and it is at least as probable that the same interests are now using the same means as that those in the home trade are. I make no charge, for I have no facts, but it is mere impertinence in these foreign agents to attempt to cast an imputation in view of the ascertained expenditure made by their own friends in the memora-

ble contest which resulted in the passage of the free-trade tariff of 1846.

They charge, further, that with the cost of freight, insurance, and incidental charges added to the present duty, there is a discrimination of at least seventy per cent. upon the manufacturers' price of rails in favor of the American manufacturer. This can be easily refuted. The foreign rail bears no share of the indirect burdens levied by Government, and pays only the import duty. The English and Welsh iron-workers receive at this time an average of about fifty cents per day, making the net cost of a ton of rails about twenty dollars. The net cost of a ton of rails may be fairly computed at forty days' labor. Including the miner, mill-men, mechanic, clerk, and manager, the average rate of wages paid to men engaged in this country is two dollars per day, making the cost of the rails eighty dollars per ton. Four fifths of this are expended in living as soon as earned. On which the subjoined calculation, which has been verified and may be accepted as substantially correct, shows the amount of tax received by Government, which, be it remembered, receives nothing of this upon the foreign rail:

Table showing the indirect tax paid by labor on a ton of rails.

Articles Taxed.	Value.	Tax.
Sugar.....	\$2 00	30
Coffee.....	90	10
Buckets, tubs, &c.....	50	2 4
Sirup.....	1 50	8
Matches.....	6	2
Tea.....	1 50	25
Soap, 6 lbs.....	1 00	7 2
Vinegar.....	50	2
Brooms.....	60	2 7
Carb. oil, gas, candles, &c.....	50	7
Hardware, queensware, &c.....	2 00	40
Patent medicines, doctoring, &c.....	1 25	15
Muslins.....	2 50	12
Hosiery, &c.....	80	10
Cheeks, &c.....	50	2 6
Calico and ginghams.....	3 75	13 3
Cloths, essinettes, and flannels.....	3 75	17
Manufactured clothing.....	2 00	12
Boots and shoes.....	4 00	24
Beef, pork, and other meats.....	10 00	3
Taxes, stamps, &c.....	1 00	15
Whisky, 1 gallon.....	4 00	\$2 00
Beer, 1 gallon.....	60	3
Smoking tobacco, 1 lb.....	40	35
Chewing tobacco, 1 lb.....	1 00	40
Cigars.....	75	25
Sundries.....	2 64	15
	\$50 00	\$5 83

Articles not Taxed.	
Rent.....	\$4 00
Flour, 1 bbl.....	5 00
Butter and cheese.....	1 00
Lard.....	20
Vegetables, eggs, &c.....	5 00
Not taxed.....	15 20
Taxed.....	50 00
	\$65 20
Amount tax.....	\$5 83

To sum up this table and tell the whole story at a glance, remembering that it requires one ton and forty-three hundredths of pig metal and seven bushels and seventy-two hundredths of coal to make a ton of bar iron:

Table showing the total direct and indirect taxes on a ton of rails.

	Rate.	Tax.
Pig-iron.....	1 43	2 40
Coal.....	7 72	06
Rails.....	1 00	3 60
Add 12 per cent. to make gross ton.....		90
Total direct tax.....		8 40
Indirect tax paid by laborers.....		5 83

Indirect taxes paid by manufacturer.
Tax on income, stamps, licenses, oil, steel, brass castings, machinery and repairs, bricks, gum and leather belting, freights, and the innumerable other items connected with the manufacture and sale of iron, will add at least..... 2 00

Import duties on 2,240 pounds rails..... 15 68

Excess of revenue tax over tariff..... 55

This calculation has been, I have said, made with care, and I believe it to be mainly correct. How different, then, is the relation of the foreign and domestic manufacturers from that stated by the gentlemen who represent the foreign trade of the country.

See, besides, the incidental benefit derived from the presence in this country, rather than in Great Britain, of manufacturing establishments. The Cambria Iron-Works at Johnstown, Pennsylvania, paid their employees, in 1864, the enormous sum of \$1,399,899 82; and in 1865, the still larger sum of \$1,535,380 24. The population maintained by this establishment consumes annually, 2,000 head of beef cattle, 3,000 head of sheep, the product of not less than 4,000 hogs, and 20,000 barrels of wheat flour from the States of Illinois, Wisconsin, Iowa, and other parts of the great Northwest.

An iron-works, to produce from the ore 10,000 tons per annum, employs the labor of 1,300 men, which supports a population of 6,500 of all ages and both sexes, who, by the ascertained rate of political economists, consume fifty dollars per head in agricultural products. The rail-mills of the country in 1865 produced 353,017 tons. If we make the liberal deduction of 123,015 tons for rails rerolled, and throw all the labor employed in rerolling out of the calculation, we have 230,000 tons as the amount of production, sustaining a population of 150,000, who consume annually in farm products alone, \$7,475,000. This is the special branch of the iron business which the "foreign trade in railroad iron" desire Congress to sacrifice for their benefit, on the pretext, also, that a few hundred miles of railroad, to be constructed this year or the next, may be spared from borrowing a thousand dollars or so more per mile than might be required if they succeed in their design of destroying it.

But the circular seeks to create a jealousy by alleging that it is the manufacturers of Pennsylvania who are making this effort. Why single out the Keystone State for special mention? In 1865, the total production of railroad iron in the United States was 353,017 tons, of which 189,123, or more than one half, were made in other States; and of the thirty-seven mills in the United States, about two thirds are in other States than Pennsylvania, as appears from the following table:

States.	No. of mills.
Masachusetts.....	2
New York.....	5
New Jersey.....	1
Pennsylvania.....	14
Maryland.....	2
West Virginia.....	2
Ohio.....	3
Kentucky.....	2
Indiana.....	1
Illinois.....	3
Michigan.....	1
Tennessee.....	1

Pennsylvania contains but a portion of the great bituminous coal-fields of the Union. She has less than Illinois or Ohio, and not more than several others of the States; and New York, Michigan, Missouri, Tennessee, and Virginia have each of them more, and some of them far better, iron ore than Pennsylvania. Maryland, New Jersey, North Carolina, Georgia, Kentucky, Arkansas, and probably Alabama, have excellent ores, and either coal or wood on the spot, or easily accessible for all future requirements. The same fact is stated of Utah and Montana, and is probably true of other Territories. In the face of the truth, then, that eleven States besides Pennsylvania are already manufacturing railroad iron, and at least six others, beside the Territories, have within them the leading materials in abundance for its manufacture, the assumption of the circular that this is solely a Pennsylvania interest, as against the rest of the country, is simply absurd.

How strongly the true interests of some of the western and southern States are linked to this iron question may be further indicated. Some of them have resources in iron superior to Pennsylvania, or to all those at the command of Great Britain. Some of the largest iron-works in western Pennsylvania transport the ore from which their product is made from northern Michigan and southern Missouri. A rail-mill in Pittsburg gets its ore from Lake Superior. One of the largest mills in the State,

as I have been told by its proprietors, is only awaiting transportation facilities to follow the example. At least two of those in Ohio procure their ores from the same source. Every dollar's worth of ore raised from the mines of Michigan, Missouri, or Tennessee, is a dollar created, and eighty or ninety per cent. of every dollar thus created is distributed to those who delve in the mines, or work in the mills, and through them to the farmers who feed them, and the mechanics or laborers in a hundred other branches of industry who contribute to their necessities or comforts. Every dollar so created, and its multiples resulting from the labor of perfecting the raw material, is an addition to the wealth of the nation. Buy your iron from abroad, and you not only lose that profit which would otherwise have been produced, but every dollar you pay, save only the small percentage of tariff and the agent's commission, is carried off to be expended in a foreign land.

What has been said of railroad iron applies with equal force to all kinds of iron manufacture, whether cast, rolled, or hammered; and especially to those finer kinds upon which the greatest amount of labor is expended, and which, by reason of the comparative cheapness of European labor, the foreign maker has, at all times and under all rates of duties, been able to send to American markets. And the principle which I wish to enforce is not confined to iron, but to American manufactures in all their branches, every one of which is entitled to as much care from the Government as is required for its safe, steady, and successful development.

BENEFITS OF PROTECTION.

The benefits which flow from protection are not confined to Pennsylvania, and will be as wide-spread as our boundaries. Iron and coal are found in great abundance in many of the western States, and already a large quantity of iron is manufactured in West Virginia, Ohio, Tennessee, Kentucky, Indiana, Illinois, Michigan, and other States; and the day is not distant when the fertile Northwest, so productive of the cereals, will become the great manufacturing center of the Union. The earlier settlement of Pennsylvania, and the local advantages she enjoyed, have given her a start which, I hope, will enable her to maintain a healthy competition there many years for the trade of the West and South; but as population increases and the wants of the country are developed capital will seek promising locations and find new mines of ore and coal in the search for the minimum cost of production. Michigan ore will then be turned into bars, rods, and nails on Michigan soil, and the prairies of the West will be dotted with the chimney stacks of furnaces and forges, and ring with the cheerful sound of many-handed labor. The same causes will secure for the West a division of the manufacture of textile fabrics, which are now nearly monopolized by the eastern States, and the blessings of diversified production will thus be gradually extended over every portion of the country, until, with enlarged capital economically employed, improved machinery, diminished risks and costs of transportation, the minimum cost of production will be reached, and the nation be secure in its commercial supremacy.

This is within our grasp, and it is for the legislators of this day to say whether we shall reach this position and enjoy the advantages to be reaped from it, or whether we are to continue to play a part subordinate to a people to whom there is no reason why we should pay tribute; who are the enemies of our institutions and the scoffers at our principles; who were our enemies in the day of our weakness, and are our inferiors in every element of greatness except in the aggregation of capital which has enabled them to crush feeble nations, which has enabled them at times to corrupt the legislation of stronger, and before whom I insist it is our duty to maintain a determined and inflexible front.

THE STEEL QUESTION.

The history of the manufacture of steel in this country is of itself an argument. It is but a few years since it was commenced here. In 1864 there were thirty-seven establishments, of which fourteen were in Pennsylvania, nine in New York, five in Massachusetts, five in New Jersey, two in Connecticut, one in Michigan, and one in Illinois. The manufacture is one of great value, as its products cover the whole range of mechanics' tools and agricultural implements, as well as the implements of war. Its manufacture requires the highest class of skilled labor, and the pioneers in the experiment were obliged to pay large wages and even bounties to tempt skilled European workmen to incur the expense of coming here, and to pay them during the time thus occupied, each of which items was an addition to the disadvantages under which the attempt was made, although experience has proved that we have in this country, and especially in Essex county, New York, ore from which steel is manufactured of a quality equal to the best foreign-made article.

The tariff duties have been less favorable than was required. Prior to the passage of the Morrill tariff of 1861, the duty was only twelve per cent., less than half the amount then charged on iron. In that act it has been about doubled, but it is graded according to appraised value. That valued at seven cents per pound or less pays two and a quarter cents per pound; valued at seven and not over eleven cents per pound, three cents per pound; valued at over eleven cents per pound, three and a half cents per pound and ten per cent. *ad valorem*.

During the year 1864, of the importations of steel at the port of Philadelphia, 2,071,060 pounds were valued at less than seven cents; 1,093,507 pounds were valued at over seven and less than eleven cents; and 22,084 pounds were valued at over eleven cents.

During the year ending June 30, 1864, at New York, 14,808,828 pounds were imported valued at less than seven cents; 11,057,947 pounds valued at over seven and less than eleven cents; and 2,698,093 pounds over eleven cents.

During the same period the internal revenue assessor of the twenty-second district, Pennsylvania, which I represent, collected this excise tax from manufactures of steel:

	<i>Tax.</i>
On steel valued at 7 cents or less.....	none.
On steel valued at over 7 and not over 11 cents, 618,147 pounds.....	\$3,693 22
On steel valued at over 11 cents, 10,614,313.....	70,908 80
	<hr/> \$74,597 02

These figures show:

1. That the American manufacturer pays excise tax upon the full market value.
2. The foreign manufacturer pays on a foreign valuation, imports to his own agent on invoices which are not sale prices, and as a matter of fact manages to get one half of the entire importation of steel through the custom-house at the lowest rate of duty, and the result is, the amount of excise tax paid by the home manufacturer is about equal to the entire duty paid on the imported article, as appears from this detailed statement of the steel manufacturers:

"The following is intended to show the revenue of Government upon each ton of rolled or hammered cast steel made in the United States, under the law as it now stands, namely:	
Excise per ton on rolled or hammered steel.....	\$15 00
" " " of blooms used in making steel.....	3 60
" " " bar iron.....	3 60
" " on cost of crucibles consumed.....	3 00
" " 10 tons coal.....	60
" " cast iron molds, castings for repairs, fire brick, oil, &c., used in making one ton of steel is.....	60
The cost of stamps on letters, checks, bills lad- ing, &c.....	60
The indirect tax on labor on same basis as that estimated by D. J. Morrell, Esq., at the Cambria Iron-Works, on average value of cast steel, six per cent., inclusive of income tax.....	23 00
	<hr/> \$50 00

"From which it appears that the direct and indirect tax paid by the American manufacturer upon

every pound of cast steel produced by him, amounts to two and a half cents.

Now, for the sake of comparison, take the official returns of steel imported into New York, Philadelphia, and Baltimore, giving the quantity under each of the several classifications, and it will be seen that the whole quantity of imported steel amounted to 31,296,043 pounds, which at the present rate of duty will amount to \$870,030 38, or two and seventy-eight hundredths cents per pound duty, being about one fourth of a cent per pound more duty than the American manufacturer pays in the shape of excise on his production."

As a consequence the steel trade of America is in great peril, and unless aided by friendly legislation it must perish under the double competition of powerful British corporations or combined capital employing low-priced labor, and of fraudulent evasions of our custom-house duties. The Committee of Ways and Means propose to exempt this manufacture from all direct internal tax; the indirect tax will of course remain. This is a step in the right direction, and will to a considerable extent afford relief; but this important branch will require an increase of duty upon the foreign article to enable it to withstand the effort now being made to crush it out, and to recover the entire trade to the foreign manufacturer.

It is certain that this new and important manufacture is entitled by sympathy, by interest, and in justice, to positive and sufficient protection.

THE GLASS INTEREST.

Like steel, the glass interest is an important one in my district, and what is true of all other branches of manufacture is true of it. The cost of production has more than doubled since 1860. I take these figures from one of the heaviest flint-glass manufacturers in the United States:

	<i>Cost in 1860.</i>
Lead.....	289,277 lbs, 5 1/2 cts....\$16,271 83
Ashes.....	214,930 lbs, 5 1/2 cts.... 11,821 15
Niter.....	33,514 lbs, 9 cts.... 3,016 26
Fuel.....	144,000 bu., 4 1/2 cts.... 6,840 00
Boards.....	342,263 ft., \$9 50..... 3,251 50
Labor.....	33,711 70
Total.....	<hr/> \$74,912 44
	<i>Cost in 1865.</i>
Lead.....	289,277 lbs, 12 cts....\$34,713 24
Ashes.....	214,930 lbs, 12 cts.... 25,791 60
Niter.....	33,514 lbs, 15 cts.... 5,027 10
Fuel.....	144,000 bu., 12 cts.... 17,280 00
Boards.....	342,263 ft., \$25..... 8,556 58
Labor.....	67,422 14
Total.....	<hr/> \$158,790 06

This is exclusive of the internal revenue tax, which nearly equals the tariff on the imported article. These figures show the circumstances under which existing competition is maintained.

Respecting soda ash, included in the above table, it may be well to state that it was extensively manufactured in 1852, 1853, and 1854 in this country, and was sold as low as \$2 60 per hundred pounds. It supplied in a great measure the American market, and drove out the foreign article. The foreign makers then combined, put down the price in this market to so low a figure as to break down the American manufacture, and at this moment none is made in this country. The price has been raised to four and a half to five cents per pound in gold in England, and it costs the American manufacturer, in many instances, twelve cents per pound in currency delivered at the factory. The result of the failure properly to protect it is, that the American maker has been broken down and the cost of the article has been more than doubled to the glass manufacturer who requires it in his business, thereby necessarily increasing the cost of glass to all consumers.

During the war, the premium on gold acted as an increase of duty, but as the premium has declined, of course that temporary advantage has declined with it, and will shortly pass away entirely.

As a consequence it is not surprising that the imports are rapidly increasing. For some weeks past they have averaged about eight million dollars per week; and last week they exceeded twelve millions. The exports are about half the former sum. This is a state of

facts well calculated to alarm and startle us. The surplus productions of foreign manufacturers are thrown into our ports at low prices, disturbing our values and ruining our manufacturers.

I recently proposed a temporary increase of duties of fifty per cent. until the tariff bill can be prepared and passed, for the purpose of checking this excess of importation, but the House appeared to prefer awaiting the new bill for which the country is languishing.

Some persons object to an increase of duties because a return to specie payments will effect a reduction in the rates of labor and the value of materials. This expectation can be realized only measurably. I hope it will not to the extent desired by many. I should be unwilling to see labor reduced to its former minimum. Under our system it is not the policy of the Government to repress the laborer as in Europe; and we must legislate in the consciousness that the laborers of the country are a power in it. Their interests must be respected; and they are entitled to such legislation as will tend to keep open to them the avenues to thrift, wealth, and power.

They who expect to build up a system which is aimed at the dignity and prosperity of the laborers of the nation, and which necessarily involves their depression to the level of the European standard, should know, what they will soon be taught, that the inspiration of their system is from abroad, is not congenial to our institutions, and should find no lodgment on the statute-books of the great Republic.

THE WOOL INTEREST.

There is another interest of great importance to which I have not alluded, and which deserves candid and just consideration. It is the wool interest, in which eastern, middle, and western States are like concerned. As a branch of industry it is among the most valuable to the nation, both as to its agricultural and its manufacturing capabilities. The product is an absolute necessary of life, for which there can be no adequate substitute. It is capable of the largest variety of domestic and personal uses. Its production and its manufacture employ large numbers of persons, and the profits growing out of it are distributed among different classes and pursuits. Its agency in increasing personal and national wealth is direct and valuable, and in every aspect it deserves to be fostered and protected by the Government.

During the ten years ending in 1860 the aggregate value of the imports of woolen goods into the country was \$282,682,880. During the same time, we imported \$30,428,157 worth of wool, being an increase of nearly two hundred per cent. over the imports between 1840 and 1860. Our climate and soil enable us to produce wool of every description equal to any country in the world; and it is for the Congress of the nation to say whether, by wise legislation, we shall encourage so profitable and important a production, and whether we shall claim for ourselves the blessings and benefits which will result from the increased manufacture of flannels, cassimeres, shawls, delaines, and the like from American wool. As for myself, I prefer the interest of the American farmer, the American wool-grower, the American manufacturer, the American dealer to the like classes elsewhere; and I am anxious to add to our already numerous sources of wealth that which, in a peculiar manner, appeals to the generous pride and the honorable ambition of every true-hearted American citizen. Petitions by thousands of signers are before Congress beseeching us to be fair to this most meritorious class and thus just to all; and I trust we will not rise until we help to put their business upon such a foundation as will give them hope of ultimate triumph in their effort to expand the sweep and deepen the current of American industry and production.

POLICY OF PROTECTION.

Sir, I know the strength of the prejudices which have been created against the policy of protection; but they will not bear the light of

truth. As a policy it has always been an enriching one to the whole people. The country has never been as prosperous as when the Government acted upon it. And the periods of weakness and collapse have always been those in which misrule exposed us to the miseries of free-trade fallacies, which afflicted alike the producer, the manufacturer, the trader, and the Government.

I say the Government has never been rich except under the policy of protection. It has never been strong internally except when it recognized as its first duty that it owes to its own. Take for proof this table:

	Imports.	Revenue.	Average duty.
1845.....	\$117,254,564	\$27,528,113	23½ per cent.
1856.....	314,639,942	64,022,863	21½ "
1860.....	362,163,941	53,187,512	15 "
1864.....	205,000,009	86,100,000	43 "

These figures show that in 1864, when the average duties were forty-three per cent., we had over one half more revenue than in 1860 when the average was but fifteen per cent.; and that attending this was the important advantage that in the latter period we imported but little over one half the amount in the former; protection thus operating to prevent the evils of excessive importation, to develop our own labor, and to maintain the credit and financial strength of the national Government.

EXPERIENCE OF ENGLAND.

What is our experience in this respect is the experience of other Governments, and especially of that of England, whose remarkable record on this question is worthy of study. In 1846 England formally abandoned the policy of protection, and insisted that if under its previous legislation they prospered it was not owing to protection, but in spite of it. Let us see what has resulted from the change.

In 1820 England's exports of cotton piece goods amounted to 248,370,630 yards; in 1840 to 790,631,997 yards, being an increase in twenty years of 542,261,367 yards, equal to two hundred and thirty-four per cent. In 1860 her exports of cotton piece goods amounted to 2,765,337,818 yards, being an increase in twenty years of 1,974,705,821 yards, equal to two hundred and forty-nine per cent.

The increase of the free-trade period over the severely protective one in the exports of cotton was only fifteen per cent.; but if the respective capabilities of expansion are justly considered, it ought to have been a hundred per cent. at least. The increase of American manufactures from 1840 to 1850 was three hundred and thirty per cent.; and from 1850 to 1860 eighty per cent.

But the greatest and most important of all her products show more than this. Her production of pig iron in 1823 was 452,066 tons; in 1840, 1,396,400 tons—an increase under the protective system of two hundred and nine per cent. In 1857 the production was 3,657,447 tons—an increase of only one hundred and sixty-two per cent. The duty upon pig iron for the first three years of the first of these periods was 17s. 6d. per ton, and ten shillings for the first six years of the last, and free of duty for eleven years, or from 1846 to 1857. The latter period had the supposed advantage, and yet fell forty-seven per cent. short of equaling the protected period in ratio of progress.

Again: the exports of silk manufactures of the twenty years, from 1820 to 1840, increased one hundred and thirteen per cent. in value, while their increase from 1840 to 1860 reached no more than one hundred per cent.

The exports of flax manufactures fared worse; they rose in quantity of yards one hundred and forty-four per cent. from 1820 to 1840, and only reach fifty-five per cent. in 1860 above their amount in 1848.

In woollens, so long encouraged by sumptuary laws, and protected by fines, forfeitures, and even imprisonment, and after these were mitigated to a general average of fifty per cent. duty on all imports, England has lost her supremacy, not indeed by any change in her commercial policy, but by the superiority of the fabrics of the Continent. In 1815 she ex-

ported 889,338 pieces of cloth; in 1860 but 670,671. Her home-grown wool has for a long period deteriorated in quality, and she is now to a great extent dependent upon foreign wool and foreign looms for the finer fabrics required for home consumption, as is shown by the constantly declining proportion of the foreign wools imported. Between the years 1820 and 1840 the increase of her imports of wool was one hundred and ninety-seven per cent.; in the next period the increase fell off to one hundred and thirty-seven per cent.

Her exports of worsteds increased in the former period sixty-nine per cent. in the latter but fifty-two per cent. In those of mixed stuffs and flannels there has been some compensation in an increased value amounting to one hundred and forty per cent. as against thirty-three per cent.

In her cutlery, also, she is retrograding, a fact which is by her own authors attributed to the demoralization in her manufacture of those articles. In her endeavor to command the markets of all the savage and semi-civilized regions of the globe, her manufacturers find their account in making goods rather for sale than use; especially in those tools and implements of which every workman is a competent judge. German and American articles are at a premium even in her home market.

The purpose of this detailed array of the results of the respective periods of England's manufacturing history for the twenty years next preceding and next following the date of her change from protection to free trade is to show that the boasted triumph of the latter policy is as false in fact as it is in theory. The advocates of the modern theory appeal to facts and figures, which have a plausible appearance, but the meaning and value of those facts and figures flatly contradict the inferences so confidently drawn from them. The rate of progress in British industry and foreign trade in the years which have gone by since the policy of protection was abandoned has not exceeded, but has actually fallen behind, the rate of progress of any equal period of years previous to the change. The simple truth is, that for more than five centuries British policy defended her productive enterprises, as well as her commerce, against all competition by whatever severity of import duties and discriminative rates which seemed necessary, and having by this means fought her way into such perfection and power as she is capable of, and having nothing more to gain by the policy which made her what she is, she abandons it and decries its policy, utility, and necessity, and uses every agency which she can command to dissuade the nations whom she would hold in industrial vassalage from adopting in their own defense the very system that has made her fortunes. Her business is manufacturing; her progress depends upon it; she must extend it, and her manufactures for foreign use include opinions as well as commodities; she must have foreign markets, and these she cannot have if foreign nations will do their own work and defend their domestic industry as determinedly as they defend their territory against foreign invasion.

Six hundred years ago, in 1331, England commenced her system of protection in the form of absolute protection of the export of her own wool, then the best and most abundant in Europe, and of the import of cloth, of which till then Flanders had the monopoly in European commerce; and she continued the system, under many modifications adapted to the exigencies of her manufacturing history, at every change increasing the efficiency of her tariff, until it culminated in 1819 in an average protection of fifty per cent. on all articles competing with her staple products except manufactures of leather, printed cottons, and earthenware, which carried seventy-five per cent.; bar iron, fifty-seven and three quarters per cent.; plain white cottons, sixty-seven per cent.; and silk manufactures, embroidery, and leather gloves, in which France had the mastery

so decidedly that they were met by total prohibition. This policy of centuries was never relaxed, though the atrocious severity of its penalties was gradually abated, until all its objects were fully accomplished; and only after the edifice of her industrial system was finished from foundation to cap-stone she took down the scaffolding on which it was built and called it lumber and rubbish. In 1824 cottons woven in Asia, Persia, China, and the East Indies were still prohibited. In 1730, when the cotton manufacture was commenced in England, the oriental fabrics could be afforded for one third the price of the British product. In 1769 Arkwright invented his spinning machinery, soon afterward improved so that one hand in England could do the work of three thousand in Asia, yet no relaxation was indulged until the price of cotton yarn was reduced from thirty-eight shillings in 1786 to three shillings in 1832 per pound. Silk goods were charged with twenty-five to forty per cent. by their tariff of 1834, and woollens from fifteen to twenty.

From 1819 to 1826 the duty upon foreign bar iron was £6 10s., or \$32 50 per ton; but it was in that year reduced to £1 10s., or \$7 50. Why? Simply because protection had done its work. Iron was produced at Cardiff the year before at £10 per ton, while in Sweden and Russia it cost £13 13s., in Belgium £16 14s., and in France £24 10s. For ten years before this reduction in the rate of duty England imported of foreign iron an amount equal to ten and a half per cent. of her exports; in the succeeding ten years ten and a quarter per cent., so that her tariff was a dead letter long before its repeal. Her policy in all its stages and apparent changes is a copy of her procedure in relation to iron; never abated, never varied, but to accomplish its object the better, and finally abandoned only when it had fully achieved its utmost possible service in a complete success.

The history of French commercial policy is but the fellow of the British in the earlier stages of industrial development, but something wiser and better in its latest phase. The protective system, introduced by Colbert in 1660, maintained the finances of the kingdom and the progress of her manufactures against the vast expenditure of the fifty-five latter years of the reign of Louis XIV, (1643 to 1715—seventy-two years.) And of a much later period we have the history in the words of J. B. Say. He says:

"For thirty years (1804 to 1834) nearly every law passed on custom-house matters has been intended either to establish or to consolidate the system of protection and prohibition."

The result, as stated by the same author, was that France in 1826 contained the most beautiful manufactures of silk and woollen goods in the world, and he distinctly attributes this success, notwithstanding his free-trade principles, to the policy of Colbert. But after the example of England, France also could afford to remit duties when prohibition and protection had accomplished all their uses. In the treaty of commerce made in 1860, commonly called the Cobden treaty, and proclaimed as a triumph of the free-trade policy by all its advocates in England and among ourselves, silk was made free in the ports of France; and the finer kinds of glass, porcelain, embroideries, and other fabrics in which she excels all other nations, were also exposed to a competition in her home markets, as iron and the coarser cottons are in England; because no successful rivalry in price or product can possibly be effected. Just as free, and for the same reason, as ice at Boston, ivory in Africa, and sealskins among the Esquimaux.

But let the declaration be remarked, and challenged, too, by whomsoever will venture the question, in all things and every item of those commodities wherein her domestic industry could be endangered by Great Britain, the duties agreed upon are as highly protective, as in our Morrill tariff. For instance, on the coarser cottons of England, that treaty imposes two cents per square yard, and on the finest, but one fourth of one cent; on pig, broken

and old iron, from \$4 39 to \$6 35, but on iron manufactures, as follows: railroad \$13 68; sheet iron, \$25 41 to \$31 46; heavy wrought manufactures, \$17 58; small ware, \$29 32; anchors, chains, cables, \$19 54; and wrought tubes, large, \$25 40; small, \$48 85, per ton; while clocks and watches are let in at five per cent., and clock movements at nine cents per pound, just because they cannot come in at that rate or at any rate.

Now for the results.

The treaty went into operation in 1861. In that year the total exports to France were £17,427,413, and the imports from France £17,826,646—nearly equal. In 1864 the exports were £23,825,392, and the imports had risen to £25,640,733. Here there is no gain even in gross amount to the free-trade operators as against the protective party in the business. But when we come to look at the kind of exports which England sends to France we find that £11,839,517 worth of raw silk, raw cotton, and raw wool made up quite the half of these exports in 1864; how much more of her colonial produce entered into the total may be inferred from the fact that only £8,200,700 of British produce was embraced in the total, leaving full fifteen and a half millions or within a trifle of two thirds of the whole, of which England was only the carrier, and received only the profits or wages of commerce, and nothing of those of manufacturing industry; carrying, among other raw materials, raw silk to the value of £3,545,919, and taking back in exchange £5,980,814 worth of silk manufactures.

Verily this much-trumpeted triumph of England over the protective system of France, and the glorification of Mr. Cobden therefor, looks now as if England was only deceived, and her champion and agent had been outwitted by Louis Napoleon. But other noteworthy results have followed and are still to come. The Liverpool European Times, of the 23d of December last, speaking of the manifold benefits of the Cobden treaty to France, says:

"Some time since the English locomotive was a sort of ideal; whereas at the present day French locomotives are brought to such a degree of perfection as to be ordered from France for English railroads. In like manner the English machinery for extracting coal from mines was justly regarded as the best in the world. Yet not long ago a machine was ordered from a French house in the department of the Nord for an English mine."

Here we see that French protection, equal in amount but threefold equal in effect to that of the Morrill tariff bill, has had the effect to cheapen in price and improve in character the very iron and machinery in which England thought herself safe from all rivalry.

OUR OWN EXPERIENCE.

In our country the periods of protection have been those of prosperity. In 1842 the country was suffering in every part until revived by the beneficent act of that year. This continued until the act of 1846 checked our growth, while that of 1857 would have absolutely destroyed us but for the rapid increase of our population and the indomitable energy of the people. The calamities of the war forced us to the enactment of the tariff of 1861, which was the wisest and best we have ever had, not excepting that of 1842. The Morrill tariff will be known in history as the great agency by which the country was enabled to pass successfully through the war, and to grow in material prosperity. The high price of gold made its duties almost prohibitory, and we were thrown upon our own resources, which expanded incredibly at the call, and nerved the trade of the country to bear with ease the unequalled strain upon it.

THE MORRILL TARIFF.

I may be asked whether we are not now under the Morrill tariff. I answer, we are in theory, but not in fact. All that the manufacturing interests of the country ask, and I speak confidently for my own constituents, is to be placed where that tariff placed them in 1861. But it should not be forgotten that since that time the cost of foreign manufacture has not materially changed, but the cost of domestic manufacture has doubled, and in some cases

triplicated. The excise tax reaches almost everything which enters into manufacture. To place the two competitors where they were in 1861, our tariff duties should be increased so as to equal the increased cost of labor and the excise tax. This done, the condition of the country will improve in every part, and no one will feel the blow except the foreigner who hates us and his agent here who is undermining us.

RETURN TO SPECIE PAYMENTS.

The opinion prevails that a return to specie payments will remove all these evils. But it will not relieve the country of its taxes. It can only modify the cost of some raw materials, and probably of labor. Hence its effect can be but partial. I desire the return to specie payments, and would greet it with my whole heart, but in my opinion the true line of policy is in the direction I have indicated. By increasing the rate of duties to the point suggested our excessive importation will be restrained, the balance of trade will be thrown in our favor, our coin will be kept at home to fill the channels of business and become once more the circulating medium among the people. With present legislation this is hopeless. During the last four years our exports of coin have exceeded the imports \$177,778,163, as follows:

	Imported.	Exported.	Excess.
1862.....	\$16,415,068	\$36,887,640	\$20,472,572
1863.....	9,584,105	63,392,036	\$53,807,931
1864.....	13,115,612	69,390,485	56,274,873
1865.....	7,225,377	54,448,184	47,222,807

With this tendency to enormous importation of goods and the increasing necessity of gold exportations to pay for them checked, it is not unreasonable to hope that the product of our gold mines retained in the country a few years will enable us to glide into specie payments naturally and without shock to any of the great business interests of the country. It will be much easier to resume specie payments on the \$740,000,000 of paper money now afloat, on this plan, than to contract the currency to half its present volume and allow the present rate of foreign importation (\$12,000,000 per week) to continue.

All experience demonstrates the necessity of self-protection among nations. The American legislator who is blind to this truth must be ignorant of the business history of his own country as well as that of the civilized world. No nation can prosper without regarding its special capabilities, without developing them, without using the advantages which God has given it. With us this is a peculiarly imperative duty, because our labor is not only our financial need, but it is our political sovereign. Our Government rests upon its laborers; our strength comes from them; our hope is in them. As they sink the nation sinks; as they rise the nation rises in all the components of greatness and power. Let us be just to these willing giants who support the fabric of freedom, and the jewel of liberty will remain forever, blessing our children's children.

RESTORATION.

Mr. FINCK. Mr. Speaker, had debate been allowed on the civil rights bill after it was returned by the Senate to this House with the objections of the President, I would not have troubled the House with any remarks on this occasion; but the principles involved in that bill and of other kindred measures which have been introduced into the present Congress, are of such an extraordinary character as may well challenge the profound attention and close examination of Congress and of the country. Their consideration demands an inquiry into the nature and powers of the Federal Government, and I propose very briefly to examine some of the questions which seem to me appropriate to this discussion.

Our system of government, Federal and State, is a complex one, and the boundaries which separate and fix the powers of each, engaged the most anxious and thoughtful consideration of the great men who framed the Constitution of the United States. No question was presented and discussed in the Convention of so

much interest and importance as this. It was upon this great question that the Convention was principally divided; and if any one thing was settled in that Convention, and by the conventions of the several States, which afterwards ratified the Constitution, it was, that the Federal Government was to be one of limited and delegated powers, which were clearly defined in the instrument, and that it could exercise no powers not thus expressly granted, except such as were necessary to carry out express grants.

The powers conferred upon Congress, high and important as they are, are comparatively few in number, and are defined in section eight article one of the Constitution. I know that some gentlemen claim that a great deal may be done under the last clause of the section to which I have referred, which provides that Congress shall have power—

"To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof."

But, sir, this clause confers no new or additional power upon Congress. It simply authorizes Congress to "make all laws which shall be necessary and proper for carrying into execution" the powers granted in the Constitution.

Mr. Madison, in the Virginia convention, speaking of this clause, said:

"With respect to the supposed operation of what is denominated the sweeping clause, the gentleman was mistaken; for it only extended to all enumerated powers. Should Congress attempt to extend it to any power not enumerated it would not be warranted by the clause."

Justice Story, in his Commentaries, speaking on the same subject, says:

"The plain import of this clause is, that Congress shall have all incidental and instrumental powers necessary and proper to carry into execution all express powers. It neither enlarges any power specifically granted, nor is it a grant of any new power to Congress."

In the case of *McCulloch vs. The State of Maryland*, Chief Justice Marshall, delivering the opinion of the court, announces the same doctrine. He says:

"This Government is acknowledged by all to be one of enumerated powers. The principle that it can exercise only the powers granted to it, would seem too apparent to have required to be enforced by all those arguments which its enlightened friends, while it was depending before the people, found it necessary to urge."

The Constitution was formed by a people who had been in the possession and enjoyment of State governments of long standing. These States had entered into a Government under Articles of Confederation, which, after the pressure of the war of independence had been removed, proved inadequate for the purposes of a General Government; and the States, sovereign and independent as they were, having all the machinery and attributes of governments in themselves, so far as the same had not by the Articles of Confederation been "expressly delegated to the United States," undertook to form a more perfect Union; and to that end sent delegates to a Convention; and the result of their labors, the Constitution which they framed, was submitted, not to the people of the United States, for ratification, but was submitted to the several States, to be ratified by the people of each State acting through their own conventions, and was to be binding only on such of the States as should thus ratify, thus making it a Federal Government. The extent and character of the powers conferred upon the Government thus formed, were delegated powers, defined and limited, and all power not granted was from the very nature of the grant reserved to the granting power, namely, to the States and the people.

Now, was any power delegated by this Constitution to Congress to regulate the internal affairs of the States, or control contracts, prescribe who should be witnesses or parties in suits, who should inherit, purchase, lease, sell, hold, and convey real and personal property in the several States? None whatever, except that it is prohibited to the States to pass laws

impairing the obligation of contracts. Justice Story, speaking of this Government, says:

"They have made it a limited Government. They have defined its authority. They have restrained it to the exercise of certain powers, and reserved all others to the States or to the people."

Mr. Madison, in the *Federalist*, says:

"The powers delegated by the proposed Constitution to the Federal Government, are few and defined. Those which are to remain with the State governments are numerous and indefinite. The former will be exercised principally on external objects, as war, peace, negotiation, and foreign commerce, with which last the power of taxation will for the most part be connected."

"The powers reserved to the several States will extend to all the objects which in the ordinary course of affairs concern the lives, liberties, and properties of the people, and the internal order, improvement, and prosperity of the State."

It must be evident from this that Mr. Madison, who is justly regarded as the father of the Constitution, never dreamed that such a power as is assumed in the civil rights act, would ever be claimed or exercised by Congress.

But again, Mr. Marshall, afterward Chief Justice, speaking of the Constitution, (3 Elliot's Debates, 553,) asks:

"Has the Government of the United States power to make laws on every subject? Does he understand it so? Can they make laws concerning the mode of transferring property, or contracts, or claims between citizens of the same State? Can they go beyond the delegated powers? If they were to make a law not warranted by any of the powers enumerated, it would be considered by the judges as an infringement of the Constitution which they are to guard."

But this House, by a majority of more than two thirds, has solemnly decided that Congress can do precisely what Marshall believed the Federal Government had no power to do.

Mr. Madison, in the twenty-ninth number of the *Federalist*, discussing the character of the then proposed Constitution, and to prove that it created a Federal, and not a national Government, says:

"The idea of a national government involves in it not only an authority over the individual citizens, but an indefinite supremacy over all persons and things, so far as they are objects of lawful government."

"Among a people consolidated into one nation, this supremacy is completely vested in the national Legislature. Among communities united for particular purposes, it is vested partly in the general and partly in the municipal Legislatures. In the former case, all local authorities are subordinate to the supreme, and may be controlled, directed, or abolished by it at pleasure. In the latter the local or municipal authorities form distinct and independent portions of the supremacy, no more subject within their respective spheres to the general authority than the general authority is subject to them within its own sphere."

"In this relation, then, the proposed government cannot be deemed a national one, since its jurisdiction extends to certain enumerated objects only and leaves to the several States a residuary and inviolable sovereignty over other objects."

And still further, in discussing the same question, speaking of the adoption of the Constitution, Mr. Madison says:

"Were the people regarded in this transaction as forming one, the will of the majority of the whole people of the United States would bind the minority in the same manner as the majority in each State must bind the minority; and the will of the majority must be determined by a comparison of the individual votes, or by considering the will of the majority of the States, as evidence of the majority of the people of the United States. Neither of these rules has been adopted. Each State in ratifying the Constitution is considered as a sovereign body, independent of all others, and only to be bound by its own voluntary act. In this relation, then, the new Constitution will, if established, be a Federal, and not a national Constitution."

But each of the States in ratifying the Constitution gave expression to the strong and unmistakable sentiment of the people, that the Government formed thereby should be one of limited and delegated powers only.

The State of Massachusetts, in her convention of delegates, made the following formal declaration:

"And as it is the opinion of this convention that certain amendments and alterations in the said Constitution would remove the fears and quiet the apprehensions of many of the good people of the Commonwealth, and more effectually guard against an undue administration of the General Government, the convention do therefore recommend that the following alterations and provisions be introduced into said Constitution: first, that it be explicitly declared that all powers not expressly delegated by the aforesaid Constitution are reserved to the several States to be by them exercised."

New Hampshire, Virginia, North and South Carolina, New York, Pennsylvania, Rhode Island, all evinced the same anxiety to have it distinctly understood, that the General Government could exercise no power not delegated, and that all powers not so delegated were reserved; and so strong and universal was this sentiment, that it soon found itself embodied in that amendment to the Constitution which declares:

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively or to the people."

Again, Mr. Madison, in speaking on the subject of express powers, lays down this rule:

"Whenever, therefore, a question arises concerning the constitutionality of a particular power, the first question is, whether the power be expressed in the Constitution. If it be, the question is decided. If it be not expressed, the next inquiry must be whether it is properly an incident to an express power, and necessary to its execution. If it be, it may be exercised by Congress. If it be not, Congress cannot exercise it."

"I consider the foundation of the Constitution as laid on this ground, that all powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States or the people. To take a single step beyond the boundary thus especially drawn around the powers of Congress, is to take possession of a boundless field of power, no longer susceptible of any definition."

It is unnecessary that I should multiply authorities on this point.

Neither is there in this plain and undeniable doctrine as to the powers of the Federal Government, any warrant whatever for the heresies of secession and nullification; heresies which I have always opposed. The Federal Government is supreme in all its constitutional powers; so are the States supreme in the same way; and there is not necessarily to be any conflict. There cannot, it is true, be two supremes over the same subject-matter, but the Federal Government, and the States, are each supreme in their respective constitutional spheres.

But, sir, the danger to-day is not in secession, or any threatened or apprehended encroachment by the States, on the just and constitutional powers of the General Government. It meets us in the other direction—in the strong and well-organized attempt to destroy the just and constitutional rights of the States, and establish on their ruins a great and powerful centralized system.

As a part of this attempted revolution, bloodless it is true, but nevertheless a revolution of the most dangerous character, we have schemes and propositions pressed upon Congress which should arouse the fears of every true patriot, and stimulate him to the most determined exertions, to preserve our admirable system of government. Not only have eleven of the States of this Union during this session of Congress, in the very face of the plainest provisions of the Constitution, been denied all representation, but members duly elected to both branches of Congress, have been ousted from their seats, by the action of a domineering majority, and in some cases others admitted, who no intelligent man will pretend, represent the views of the majorities in their districts.

But, sir, this majority, not content with thus depriving nearly one third of the States of this Union of representation, have seized upon this opportunity to force through, and to continue to press, upon this Congress, measures which no one could expect would be adopted by the representatives of the people of all the States, if their voice could be heard in these Halls.

The legislation contained in the civil rights act being, in my judgment, so palpably in violation of the Constitution, I would be false to myself and my convictions of duty, if I did not most earnestly protest against it. The first section provides—

"That all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are hereby declared citizens of the United States, without distinction of color or race."

And it further defines what rights shall be enjoyed by the persons so made citizens of the United States, namely:

"To make and enforce contracts, to sue, be parties and give evidence, to inherit, purchase, lease, sell, hold, and convey real and personal property."

And to have—

"Full and equal benefit of all laws and proceedings for the security of person and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, and penalties, and to none other, any law, statute, ordinance, regulation, or custom to the contrary notwithstanding."

The second section provides:

"That any person who, under color of any law, statute, ordinance, regulation, or custom, shall subject, or cause to be subjected, any inhabitant of any State or Territory to the deprivation of any right secured or protected by this act, or to different punishment, pains, or penalties on account of such person having at any time been held in a condition of slavery or involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, or by reason of his color or race, than is prescribed for the punishment of white persons, shall be deemed guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, in the discretion of the court."

It is thus sought to establish an equality between the white and colored races by Congress, in all of the States of this Union, in the enumerated rights and immunities defined in the sections already quoted, and to prohibit the States from making any discrimination in any of the particulars named between the races. Sir, this measure invades the local legislation of the States, and controls it. It lays prostrate at the feet of Federal power the right of each State to regulate and control its own domestic concerns.

But not satisfied with subverting the legislative powers of the States, it strikes down the independence of the judiciary of the States, and subjects the judges of their courts to the arrest of some petty mercenary agent of the organized band of detectives which this act creates; thus overriding and completely subverting the free exercise of the local powers of all the States, by placing their officers under the control and surveillance of the Federal authorities.

Sir, if there is anything which the people of this Union will never abandon, without a struggle worthy of all the great defenders of free government, it is the great right revered and cherished by a free people, of each State to regulate and control its own domestic affairs, unchallenged and uncontrolled by any other power or authority whatever, except the Constitution of the United States.

Where, allow me to inquire, do you get the power to declare that "all persons born in the United States and not subject to any foreign Power, excluding Indians not taxed, are citizens of the United States?" No such power is conferred by the Constitution. Congress, it is true, has the authority "to establish a uniform rule of naturalization," but the effect of naturalization is only to remove the disabilities existing on account of alienage. But this power does not authorize Congress to confer citizenship on a person born within the United States.

Mr. Justice Curtis, in his dissenting opinion in the Dred Scott case, (19 Howard R.,) has very ably examined and considered this question, and he says:

"It appears, then, that the only power expressly granted to Congress to legislate concerning citizenship is confined to the removal of disabilities of foreign birth."

And—

"Whether there be anything in the Constitution from which a broader power may be implied will best be seen when we come to examine the two other alternatives, which are, whether all free persons born on the soil of the several States, or only such of them as may be citizens of each State respectively, are thereby citizens of the United States. The last of these alternatives, in my judgment, contains the truth."

But, sir, the whole scope and purposes of the provisions of the sections to which I have referred, are at war with the rights of the States.

Many examples could be presented, to illustrate how completely they subvert the powers of the States to regulate their own internal affairs.

Suppose the Legislature of a State should provide that no person should be a witness in a criminal case who was under twelve years of age, except where the witness offered was a negro, in which case he should be of the age

of fourteen years. Here would be a clear discrimination on account of color, and however much the policy of such a law might be questioned or discussed, yet it seems to me that no one can seriously question the right of the States to adopt such legislation. But, sir, not only the members of the Legislature who should vote for the passage of such a law, but the judges who under their convictions of duty and oath of office, should administer it, would be liable to arrest, trial, and conviction in the courts of the United States, and exposed to suffer imprisonment for one year, and to pay a fine of \$1,000. An exceedingly "civil" act, indeed. A State may in its discretion believe it necessary for the best interests of its people, in relation to certain crimes committed by a colored man, to impose upon him a "different" punishment from that imposed upon a white citizen; but here also this law steps in and rudely thrusts aside the laws of the State, and subjects both those who enacted, as well as those who enforce the State law, to the penalties already described.

Other examples of the interference of this law with the local legislation of the States, could be cited to show how it invades the reserved rights of the States, and centralizes power in the Federal Government, but it is unnecessary, as they will readily suggest themselves to the mind of every man who will consider this question. And the cases arising under this act are to be tried in the courts of the United States. Thus the State courts are to be deprived of hearing and determining controversies, growing out of that vast field of questions embraced in the class of rights described in this act, between the inhabitants of the same State, or, it may be, of the same county. And to enforce these extraordinary provisions the President is required to have always at hand a reserved military force.

The ninth section provides:

"That whenever the President of the United States shall have reason to believe that offenses have been, or are likely to be committed against the provisions of this act within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons charged with a violation of this act."

So we are to have a traveling court, going around from one neighborhood to another, to look after such persons as are likely to commit offenses against the provisions of this wonderful act; and as if to stimulate the swarms of deputies who are authorized by this law to be created to make arrests, they are to be paid by the United States the sum of five dollars for each arrest they may make, with such other fees as may be deemed reasonable by the commissioner for additional services.

And for whom are all these strange and extraordinary powers to be exerted? Not for the white men and women of this country. No, sir; the rights of the States are to be thus invaded, the legislative and judicial departments of the States are to be stricken down at the feet of Federal power, because the people of the States may not, in the civil rights and immunities enumerated in this act, be willing to place the negro race on a perfect equality with themselves.

Well may the President say, as he has said in that most able and unanswerable document containing his objections to this measure, that

"In all our history, in all our experience as a people living under Federal and State law, no such system as that contemplated by the details of this bill has ever before been proposed or adopted. They establish for the colored race safeguards which go infinitely beyond any that the General Government has ever provided for the white race. In fact, the discrimination of race and color is by the bill made to operate in favor of the colored and against the white race."

And now, let me inquire under what power delegated in the Constitution you may do all this. Certainly not under the clause which declares that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States." This clause has never before been invoked to sanction such startling

legislation as this, and it seems to me no sound lawyer would risk his reputation by seriously asserting that this clause would warrant this measure. But I believe the power has been claimed under the second clause of the recent amendment abolishing slavery.

Now, what is the power contained in that provision? It confers upon Congress the power to enforce the amendment which abolishes slavery. It was not the purpose, nor does it in the least affect, the questions relating to contracts, parties who may sue or be witnesses, or inherit, purchase, lease, sell, hold, and convey real and personal property, for these are subjects which have always been regulated and controlled by all the States, both North and South. The power evidently was intended to enable the Federal Government to prevent any State, or the people in any State, from continuing or re-establishing the institution of slavery; and if any of the States, or the people of any of the States, should attempt to enslave any person, this clause was intended to give to Congress the power to prevent such oppression, and to that end appropriate legislation is authorized. But, sir, to my mind, it seems perfectly absurd to claim under this clause, the right to control the local legislation of the States which regulate the questions as to who "shall make and enforce contracts, sue, be parties and give evidence, inherit, purchase, lease, sell, hold, and convey real and personal property." The States have always exercised exclusive jurisdiction over these questions, unchallenged and unquestioned, and the power to interfere in these matters has never been granted by the States to the Federal Government. To enslave a man is one thing, but for a State by its legislation to refuse to place the negro upon a perfect equality with its white men and women, in relation to the rights enumerated in this act, is quite another and a different thing, and one which must be left to the sound discretion of the States. This Congress has no more constitutional right to interfere with the local legislation of the States on the subjects embraced in this act than it has to regulate an eclipse of the sun.

Sir, I am not the enemy of the colored race. Heaven knows that I have not the least unkind or ill feeling toward them; and while I shall, as a citizen of Ohio, steadily oppose conferring upon the negro the right of suffrage, I shall always encourage, and be gratified to witness, a wise and liberal policy practiced toward them by the several States.

I have no doubt but that the generous and patriotic sentiments expressed by Alexander H. Stephens in his speech of the 22d February last, not only express the views of the people of his State, but of a majority of the people of all the States, in which this population is found. In that speech, speaking of the colored race, he said:

"In legislation, therefore, under the new system, you should look to the best interests of all classes—their protection, security, advancement, and improvement, physically, intellectually, and morally. All obstacles, if there should be any, should be removed, which can possibly hinder or retard the improvement of the blacks to the extent of their capacity. All proper aid should be given to their own efforts. Channels of education should be opened up to them. Schools and the usual means of moral and intellectual training should be encouraged among them. This is the dictate, not only of what is right and proper and just in itself, but it is also the promptings of the highest considerations of interest. It is difficult to conceive a greater evil or curse that could befall our country, stricken and distressed as it now is, than for so large a portion of its population as this class will quite probably constitute among us hereafter, to be reared in ignorance, depravity, and vice."

But, sir, if the Federal Government may thus invade and control the legislation of the States, in regard to their laws regulating the civil rights enumerated in this act, what is to restrain it from regulating all other legislation of the States? You have just as much power to regulate and control the laws of the States relating to marriage, divorce, dower, alimony, common schools, the assessment and collection of taxes, as you have to regulate the laws relating to the several matters contained in this law. Nay, more than this, by the exercise of

the same power, Congress may regulate and control the *political* rights of the people of the several States. You have precisely as much power in the one case as in the other; and that is, just none at all. You have as much right to say to the States that they shall allow the negro to vote, and hold office, as you have to say that they shall permit him to be a witness. The fact is you have no constitutional power to do either, and when it shall be acquiesced in by the people of the United States, that the General Government may exercise such powers, then, indeed, may we bid farewell to the rights of the States and our system of free government.

Such, sir, it seems to me, is the purpose of the men who control the majority in this Congress. A spirit of aggression upon the rights of the States, strong, bold, and determined, is busy at its work, and if not arrested by the clear and overwhelming condemnation of the people, at the coming elections, it may be too late to resist these encroachments, which gain strength as they advance.

Sir, in my judgment the doctrines of the distinguished gentlemen who control this Congress are inconsistent with our system of government, State and Federal. Their organization can only survive by so changing the system which our fathers framed, as to make it conform to their radical views of policy; and to effect this purpose, they must have a continuance of power. Eleven States of this Union, clearly entitled to representation, must be excluded, and their voice hushed in silence, while such important, unwarranted, and radical measures are fastened upon the country.

Sir, I warn the people, that although the rebellion has been suppressed, although we are at peace, at home and abroad, yet danger, the most threatening and disastrous, lurks within our borders; that schemes, the most dangerous to our system of government, are pressed upon Congress. Well may the President, who so nobly stands by the Constitution to ward off the assaults made on that sacred instrument, declare that—

"They interfere with the municipal legislation of the States; with the relations existing exclusively between a State and its citizens, or between inhabitants of the same State; an absorption and assumption of power by the General Government, which, if acquiesced in, must sap and destroy our federative system of limited powers, and break down the barriers which preserve the rights of the States. It is another step or rather stride toward centralization and the concentration of all legislative powers in the national Government. The tendency of this bill must be to resuscitate the spirit of the rebellion, and to arrest the progress of those influences which are more closely drawing around the States the bonds of union and peace."

Sir, I thank the President for his noble, manly, and patriotic defense of the Constitution and the rights of the States. Sometimes when I contemplate the rapid strides with which the extremists are carrying forward their inroads upon the great landmarks of our Federal system, I shudder at the dangers which threaten us. But, sir, I have not lost all hope. So long as we have a faithful and honest Executive, and a patriotic people, I will not despair. It is to the people at last to whom we must look for the proper correctives. Free government can only be maintained by constant vigilance.

"The spirit of liberty will not permit power to overstep its prescribed limits, though good intent, patriotic intent, come along with it."

Gentlemen cannot deceive the people by declaring that this law only involves *civil* rights. Sir, it does more, it involves the *right* of the Federal Government to declare the laws and constitutions of the States, which exclude negroes from voting, holding office, and acting as jurors, illegal, and set them aside, and punish the authorities of the States for executing them; because if this may be done in regard to *civil* rights, so it may in regard to *political* rights. Sir, I deny that any such powers have been delegated to the General Government; and if their exercise shall be sanctioned by the people, then, indeed, will the rights of the States, and all local legislation have been completely stricken down, and our Federal system

converted into an overshadowing, centralized despotism.

Sir, I shall always be found supporting the General Government in all its just and constitutional powers, as "the sheet-anchor of our peace at home, and safety abroad;" but, sir, I shall, with the same determined zeal, support and defend the just rights and powers of the States. They are our most efficient and competent governments for the home rights of the people; "and the surest bulwarks against anti-republican tendencies." The maintenance of these rights are essential to our system of government.

It is strange to witness to-day the men who, but a few years ago, were the most clamorous advocates for the rights of the States, supporting this and kindred measures, calculated to subvert the rights of the States.

Hon. HENRY WILSON, in a speech delivered in the Senate of the United States, on the 23d of February, 1855, declared—

"I recognize the democratic doctrine of State rights, in its application to slavery as well as to other local affairs, and while I have a seat in this Chamber I shall resist all attempts to encroach upon the reserved rights of the sovereign States of the Union. I will stand side by side with my Democratic friends in vindication of the Virginia and Kentucky resolutions of 1798 and 1799, which they indorsed at Baltimore in 1852."

How emphatic he is in the declaration that he would "resist all attempts to encroach upon the reserved rights of the sovereign States of the Union."

But Mr. WADE, in a speech delivered at the second session of the Thirty-Third Congress, was quite as clear and distinct in his utterances in behalf of the rights of the States:

"There are some Senators who profess a great regard for the rights of the States. I am one of those who have quite as much regard for the rights of the States as some who make louder professions on the subject than I do. I am one of those who, not only when an election is pending, but at all times, believe in the wisdom, the constitutionality, and the propriety of the Virginia resolutions of 1798 and 1799. I ground myself upon those resolutions; and, standing upon them, I denounce this bill as a violation, not only of the spirit of those resolutions, but as an attempt to trample upon the rights of the States and deprive them of the power to protect their own citizens from aggression and abuse. Do gentlemen suppose that the States, now awakened to a keen sense of their rights and the danger of consolidation, will ever submit to such a bill as this? I tell you nay."

"Who is to be the judge in the last resort of the violation of the Constitution of the United States by the enactment of a law? Who is the final arbiter? The General Government or the States in their sovereignty? Why, sir, to yield that point is to yield up all the rights of the States to protect their own citizens, and to consolidate this Government into a miserable despotism. I tell you, sir, whatever you may think of it, if this bill pass, collisions will arise between the Federal and State jurisdictions—collisions more dangerous than all the wordy wars which are got up in Congress—collisions in which the States will never yield; for the more you undertake to load them with acts like this, the greater will be their resistance."—*Congressional Globe, Appendix*, pp. 213, 214.

You see that he carries his views of State rights to their most extreme verge, and speaks of the States "in their sovereignty."

But, sir, there was a celebrated meeting held at Cleveland, Ohio, by distinguished Republicans of that State in May, 1859, which was addressed by Mr. Chase, then the Governor of Ohio, and at which, among other resolutions, the following was adopted:

"1. That the several States composing the United States of America are not united on the principle of *unlimited submission to their General Government*; but that, by compact, under the style and title of a Constitution for the United States, and of amendments thereto, they constituted a General Government for special purposes, delegated to that Government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whenever the General Government assumes undelegated powers its acts are unauthorized, void, and of no force, and being void, can derive no validity from mere judicial interpretation; that to this compact each State acceded as a State, and is an integral party; that this Government, created by this compact, was not made the exclusive final judge of the extent of the powers delegated to itself, since that would have made its discretion, and not the Constitution, the measure of its powers; but that, as in all other cases of compact among parties having no common judge, each party has an equal right to judge for itself, as well of infractions as of the modes and measures of redress."

Sir, here the Republicans who adopted this

resolution have indorsed the most extreme doctrines; doctrines on which it is charged the South based their recent rebellion.

I know that it has been announced in the Senate, by a friend of the Chief Justice, that although he did make a speech at the Cleveland meeting which passed this resolution, yet that he was not aware of the fact that such a resolution had been adopted.

But I find in a Cleveland paper an extract from a letter reported to have been written, a short time before the Cleveland meeting, by Mr. Chase, in response to an invitation to join in a meeting at Boston, to celebrate the birthday of Thomas Jefferson; which I will read:

"And how large the debt we owe him on other grounds: for his lessons of confidence in the masses of the people; of just regard in legislation and administration to all home interests, and of the wise liberality toward emigrants from other lands seeking free and honorable homes in ours; for his warnings against extravagance in Government expenditure, and its inevitable concomitants, oppressive taxation and debt; against the surrender or compromise of the rights of the States; against the centralizing tendencies, so dangerous to liberty, of Federal power; and last, but by no means least, against the silent and, because silent, most perilous encroachments of a Federal judiciary, perverted from its noble function of administering justice into a convenient means for the subversion of State sovereignty and the destruction of the most sacred guarantees of personal freedom."

It is possible that some political friend of the Chief Justice may be able also to put in a disclaimer about this letter. I know no more about it than what I find in the paper from which it has been read. But, sir, during this same period, and while Mr. Chase was the Governor of the State of Ohio, the celebrated cases of *ex parte* Bushnell and *ex parte* Langston were argued and decided in the supreme court of that State, and the same doctrines which are declared in the Cleveland resolution, were argued at great length, and with much ability, by the then attorney general of Ohio, Mr. Walcutt, a leading Republican, and afterwards Assistant Secretary of War under Mr. Lincoln's administration, and his extreme views of the reserved powers of the States, were sustained by two of the judges of that court, Judges Brinkerhoff and Sulliff, both of whom were Republicans. In that argument he said:

"But then it is said that the courts of the United States are supreme within their sphere; all agree to that; but what then? So also are the State courts supreme within their sphere; and the same argument which proves that the Federal courts have a right to determine the extent of their jurisdiction and impose that determination on State courts, proves equally, that the State courts have also the right to determine the extent of their jurisdiction, and conclude the Federal courts in that determination."

But again, he says:

"Any nation which has wholly surrendered the allegiance of its citizens or its correlative incidental right to protect them while within its territorial limits, has in that very act abnegated every attribute of sovereignty and become the mere local dependency of the power to which that allegiance and right have been surrendered. But Ohio is still a *sovereign State*, and has therefore never yielded this right, as she never could yield it, and still preserve her sovereignty, to the Federal or any other Government."

Further on, in the same argument, in speaking of the powers of the Federal Government, he says:

"The powers granted being granted by *independent sovereignties*, it not only follows, as the result of all just reasoning, that all powers not granted are withheld."

Judge Brinkerhoff, a distinguished member of the Republican party, in delivering his dissenting opinion in these cases, uses the following language:

"I know no way other than through the action of the State governments, in which the reserved rights and powers of the States can be preserved, and the guarantees of individual liberty be vindicated. The history of this country, brief as it is, already shows that the Federal judiciary is never behind the other departments of that Government, and often foremost in the assumption of non-granted powers. And let it be finally yielded, that the Federal Government is in the last resort the authoritative judge of the extent of its powers, and the reservations and limitations of the Constitution, which the framers of that instrument so jealously endeavored firmly to fix and guard, will soon be, if they are not already, obliterated; and that Government, the sole possessor of the only means of revenue, in the employment of which the people can be kept ignorant of the extent of their own burdens, and with its overshadowing patronage, attracting to its support the ambitious by means of its hor

ors, and the mercenary through the medium of its emoluments, will speedily become, if it be not already, practically omnipotent.

And all of this, in the opinion of the learned judge, is to follow, if it be conceded that "the Federal Government is in the last resort the authoritative judge of the extent of its own powers and the reservations and limitations of the Constitution."

Judge Sutfill, in the same case, fully sustains the views advanced by the attorney general and Judge Brinkerhoff, and enters into an elaborate discussion to show the nature and extent of the powers of the Federal Government. I will only detain the House by reading a few extracts from Judge Sutfill's opinion. He says:

"It is certain, therefore, not only that the Constitution does not, by any provision therein expressed, make the State governments, or any department thereof, subordinate to the Federal Government, or to any department thereof; but it is also evident that the proposition in various shapes to subordinate the State governments to the Federal Government in its legislative, executive, or judicial department was fully considered, and rejected by the framers of the Constitution."

Again, he says:

"It is therefore evident, both from the language and the early construction of the instrument, that the rights of the several State governments are as full and ample under the Constitution to protect the powers which they had not delegated, as is the Federal Government to protect the powers which had in fact been delegated to it. This right to protect its own legislative, executive, and judicial powers belonged to each of the States at the time of the adoption of the Constitution. The States in convention refused to surrender the right, or even to suffer it to be qualified. The power was not delegated in the Constitution, nor by it prohibited to the States, and is therefore reserved and still belongs to the State."

These opinions, it is true, were delivered by these learned judges, in a case in which they undertook to declare the fugitive slave law unconstitutional.

Mr. Chase, while these cases were pending in the supreme court of Ohio, was the Governor of that State, and I would be pleased to know, if the supreme court had held the fugitive slave law unconstitutional, and ordered the discharge of Bushnell and Langston, whether it was not the purpose of the Governor and his friends, to enforce and maintain the decision of that court, to the last extremity against the Federal Government? Certain it is that the views of these dissenting judges were indorsed by their party in Ohio, because Judge Swan, who with the majority of the court held the law constitutional, was defeated a short time afterward, in the Republican State convention for renomination, while Judge Brinkerhoff was in due season renominated and re-elected by that party.

But, sir, the convention which nominated Mr. Lincoln for the Presidency at Chicago, in 1860, adopted the following resolution:

"Resolved, That the maintenance inviolate of the rights of the States, and especially the right of each State to order and control its own domestic institutions according to its own judgment exclusively, is essential to that balance of power on which the perfection and endurance of our political fabric depend, and we denounce the lawless invasion by armed force, of the soil of any State or Territory, no matter under what pretext, as among the gravest of crimes."

And Mr. Lincoln in his first inaugural quoted this resolution as a law to himself and those who had nominated him.

Sir, I have quoted from these distinguished gentlemen in the Republican party, to show how industrious they have been in the past, in advocating the rights of the States, and to contrast their speeches and declarations then, with their position now in supporting measures, which strike at the very existence of the States.

Mr. Speaker, in my judgment this organized attempt to centralize power in Congress, is revolutionary, and it is so because it is attempted by the exercise of unwarranted power.

It is revolutionary because a majority of this Congress persistently, and unconstitutionally, refuse to eleven States of this Union any representation whatever. It is revolutionary because, taking advantage of the absence of such representation, whose presence is unconstitutionally prevented, this same majority seek to fasten upon the country, measures which are not sanctioned either by the Constitution, or

by a majority of the citizens of the United States.

Sir, I do not propose to enter upon an argument to prove that all of these States are in the Union—that their attempt to withdraw was a failure—that the result of the late terrible conflict was to preserve and not destroy the Union. All this I discussed in a speech which I made in this House during the early part of this session.

These States, then, being in the Union, and peace having been completely restored, there is no constitutional right whatever for depriving them of their just and constitutional representation. All talk about establishing, or requiring conditions or guarantees from them, before they shall be represented in Congress, is mere trifling with this great question. If these States are in the Union, as I insist they are, then you can no more exact conditions from them than you can from New York or Massachusetts. These States are all equal States, and each one is entitled to be represented, and to deny such representation, is not only clearly unauthorized, it is worse; it is revolutionary.

The Constitution declares that "the Senate of the United States shall consist of two Senators from each State," and to prevent a majority of the States from combining to deprive any State of its representation in the Senate, it is also declared that "no State without its consent shall be deprived of its equal suffrage in the Senate." Is any State to-day deprived without its consent of its equal suffrage in the Senate? Sir, we all know that eleven States are in violation of these plain provisions of the Constitution, deprived of any voice whatever in that body. And in relation to the House of Representatives the Constitution is equally clear and explicit; and among other provisions it is declared that "Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers," which is determined in a mode provided in the Constitution. These Representatives are to be apportioned among the States every ten years; and the same instrument declares that "each State shall have at least one Representative," thus establishing firmly the great principle of taxation and representation. The direct taxes have been assessed and are being collected, but the representation is denied.

Sir, the true Union men of this country are those who are for the immediate restoration of all these States, to their just and constitutional relations with the Federal Government; and the admission of Senators and Representatives constitutionally qualified. To deny these States these constitutional rights, is an attempt at disunion.

Sir, I am to-day, as I have always been, for the Union of all the States. I am opposed, as I have always been, to all attempts to break up this Union, whether they come from the North or the South.

The questions which are now pending are, in my judgment, of the most grave and serious character: union or disunion; the preservation of our system of Government, or the consolidation of power in the hands of Congress; the absorption of the clear rights of States, and practically the establishment of a centralized despotism.

These great issues have been made. The purposes of the majority of this Congress are clearly understood. You have the power now to pass what measures you please; you can deprive States of their constitutional voice in Congress; you can deprive clear majorities of the voters in districts in the northern States from being represented by the men of their choice. But, sir, it will not always be so. No, sir; no, sir. There is a power higher and stronger than yours, which will overrule you. The people—that people who love free government, and who have sacrificed so much to maintain it; that people who revere and cherish the Union of these States, and who will never abandon it; that people will demand, in a voice not to be misunderstood, a return to the requirements of

the Constitution. They will sit in judgment on these great questions, and send Representatives here who will respect the just rights of the States; who will seek to heal and not destroy; who will labor to unite and not separate; who will, with that true and generous policy which finds but little favor here, welcome into these Halls, Representatives from all the States, who may be devoted to the Constitution, and determined to maintain the Union.

NORTHERN PACIFIC RAILROAD.

Mr. ALLEY. I rise to a privileged question. I notice that I am down among those not voting on the motion to lay upon the table the Northern Pacific railroad bill. I voted in the negative, and I ask that the correction be made.

The correction was made accordingly.

Mr. BANKS submitted some remarks which will be found in the Appendix.

At the conclusion of the remarks of Mr. BANKS,

Mr. GRINNELL said: My colleague, [Mr. PRICE,] who had charge of the Northern Pacific railroad bill, is not able to be here to-day. I am requested to state on his behalf that no one regrets more than he that circumstances prevented his yielding the floor to the gentleman from Massachusetts, [Mr. BANKS,] as he had intended to do. He would have been pleased to hear the able and logical speech we have just listened to.

Mr. BUNDY obtained the floor, but yielded to Mr. GRINNELL, who moved that the House adjourn.

The motion was agreed to.

And accordingly, (at five o'clock and twenty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. COBB: The memorial of the corporation of Washington, asking to be repaid certain moneys advanced to the General Government.

By Mr. FINCK: The petition of Semantha Haskins, widow of John Rader, deceased, of Fairfield county, Ohio, praying the allowance of a pension.

By Mr. J. M. HUMPHREY: A petition for national insurance law by citizens of Buffalo.

By Mr. WENTWORTH: The petition of citizens of Chicago, for a national insurance company.

IN SENATE.

MONDAY, April 30, 1866.

Prayer by Rev. THEODORE D. WOOLSEY, D.D., President of Yale College.

The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

Mr. WILSON. I present resolutions of the Legislature of Massachusetts on the state of the Union and the duties of the Government to the freedmen. I ask that they be read, laid on the table, and printed.

The Secretary read as follows:

COMMONWEALTH OF MASSACHUSETTS,
IN THE YEAR 1866.

Resolutions on the state of the Union and the duties of Government to the freedmen.

Resolved, That the rebel States should be held in abeyance, and should not be permitted to join in the management of national affairs through representatives in Congress until the people of said States shall, by fundamental enactments and otherwise, manifest a loyal spirit of submission to the authority and Constitution of the United States, and give such guarantees as Congress may deem sufficient to render it safe and prudent to permit them to again resume the functions and privileges which they voluntarily surrendered by their rebellion and war; and in these matters the right of determination rests with Congress.

Resolved, That we tender our thanks to the Senators and Representatives at Washington for their firmness hitherto in maintaining their principles and for their resistance to all attempts to place in the Halls of Congress disloyal men, or the Representatives of disloyal constituencies, to the peril of the national credit and at the imminent risk of losing by legislation all that we have gained by successful war. And we expect them to maintain this position in the future and to the last.

Resolved, That while thus expressing our confidence in our senatorial and representative delegations in Congress, and the determination of the people to stand by them, we are also impelled to take notice of the recent charges made by name against one of the Senators of this State, Hon. CHARLES SUMNER, in the lately published speech of the President

of the United States, and to declare that the language used and the charges made by the President are unbecoming the elevated station occupied by him, an unjust reflection upon Massachusetts, and without the shadow of justification or defense founded upon the private or public record of our eminent Senator.

Resolved, That the enlightened judgment of mankind will hold not only the Government, but the people of the United States, to the fulfillment to the uttermost, in letter and in spirit, of the promises solemnly made to the freedmen; and any failure to fulfill them would inflict a stain upon our national character which would debase us among the nations and subject us to the contempt of our contemporaries and of posterity.

Resolved, That his Excellency, the Governor, be requested to transmit a copy of these resolutions to our Senators and Representatives in Congress.

The resolutions were ordered to lie on the table, and be printed.

Mr. WILSON presented the petition of hospital stewards of the Army, praying that such action may be taken by Congress as will place them upon an equal footing with those who perform similar service in the armies of Europe, by creating a grade with the rank, pay, and emoluments of a second lieutenant of infantry, for those of the corps of hospital stewards who upon examination, may prove themselves competent for the position; which was referred to the Committee on Military Affairs and the Militia.

He also presented a petition of journeymen book-binders, book printers, and working men of the United States, praying for the repeal of the revenue tax of five per cent. on manufactured books; which was referred to the Committee on Finance.

Mr. RAMSEY presented the petition of J. S. Giers, of Morgan county, Alabama, setting forth the destitute condition of the people of that State, and praying Congress to take some measures for their relief; which was referred to the Committee on Finance.

He also presented a petition of citizens of Otter Tail county, Minnesota, praying for the establishment of a mail route from Crow Wing, in that State, via Otter Tail City, to Fort Abercrombie, Dakota Territory; which was referred to the Committee on Post Offices and Post Roads.

Mr. SHERMAN. I present the memorial of Merrick & Sons, William Sellers & Co., and other manufacturers of heavy machinery, of Philadelphia, reciting at some length that under the present system of internal revenue they are compelled to pay a complex system of taxes, by which it is uncertain how much the corresponding duty on imported articles should be in order to put them on an equality with foreign manufacturers, and by which it is very difficult for them to ascertain the amount payable on their machinery. They say the system of taxes operates very injuriously to them. They therefore ask that a uniform tax, whatever may be necessary for the Government, shall be levied on the completed article. I ask that this memorial be referred to the Committee on Finance.

It was so referred.

Mr. WILLEY presented the petition of Abigail Ryan, widow of the late Thomas A. Ryan, a sergeant in company E, seventeenth regiment West Virginia volunteers, praying that she may be granted a pension; which was referred to the Committee on Pensions.

Mr. MORGAN presented the petition of C. K. Tuckerman, praying to be reimbursed for expenses incurred for the colonization experiment at Hayti, which, he alleges, was undertaken at the request of President Lincoln; which was referred to the Committee on Claims.

Mr. NYE presented additional papers in relation to the claim of Paul S. Forbes, for relief under his contract with the Navy Department to build and furnish the sloop-of-war Idaho; which were referred to the Committee on Naval Affairs.

Mr. DOOLITTLE presented a memorial of the Legislature of Wisconsin, in favor of so equalizing the bounties awarded by the Government to soldiers during the late war as to make them as nearly as possible in proportion to the time of actual service; which was re-

ferred to the Committee on Military Affairs and the Militia.

He also presented a memorial of the Legislature of Wisconsin, in favor of the establishment of a mail route from Dodgeville to Avoca, via James Mills, William S. Bear's, and Booth Hollow, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Wisconsin, in favor of an appropriation for widening and straightening the channel of the harbor at Superior, in that State; which was referred to the Committee on Commerce.

He also presented a memorial of the Legislature of Wisconsin, praying the establishment of a mail route from Trempealeau Village, by way of Arcadia, Burnside, and Hale, to Sumner, in that State; which was referred to the Committee on Post Offices and Post Roads.

He also presented a memorial of the Legislature of Wisconsin, in favor of the appointment of engineers to examine the present water channels through that State, with a view of enlarging the same so as to admit of a uniform steamship navigation from the Mississippi river to Lake Michigan; which was referred to the Committee on Commerce.

Mr. FESSENDEN presented a memorial of the city council of Portland, Maine, representing that Casco bay furnishes one of the best and safest locations for the reception and preservation of the iron-clad navy of the United States, and that materials and labor can be had cheaper at Portland than at any other sea-board city, and praying that a commission may be appointed to examine the location and report to Congress at its present session; which was referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Mrs. Rebecca Irwin, widow of Archibald Irwin, who was a private soldier in battery C, first Rhode Island light artillery, praying for a pension, submitted a report, accompanied by a bill (S. No. 291) granting a pension to Mrs. Rebecca Irwin. The bill was read, and passed to a second reading, and the report was ordered to be printed.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a bill (H. R. No. 475) to facilitate the settlement of the accounts of paymasters in the Army, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (S. No. 46) for the relief of Henry M. Whittlesey, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. HOWE, from the Committee on Claims, to whom was referred the petition of Captain F. M. Faircloth, praying for remuneration for property lost on board the steamer Boston, while on an expedition up the Ashepo river, South Carolina, on the 26th of May, 1864, submitted an adverse report; which was ordered to be printed.

He also, from the Joint Committee on the Library, reported a joint resolution (S. R. No. 79) to authorize the purchase for the Library of Congress of the law library of James L. Pettigru, of South Carolina; which was read, and passed to a second reading.

Mr. FESSENDEN. The joint committee, so called, on reconstruction have directed me to report, first, a joint resolution proposing an amendment to the Constitution of the United States; second, a bill to provide for restoring to the States lately in insurrection their full political rights; third, a bill declaring certain persons ineligible to office under the Government of the United States. They directed me, further, in reporting this resolution and bills, to say that it was the intention of the committee to accompany them with an extended report of their reasons, and the grounds upon which they report them. Unfortunately, however, such has been the situation of the committee, relying upon the chairman, who has been un-

able to attend to it on account of illness, that this report has not been drawn; and perhaps we may ask leave to submit the report hereafter in connection with the bills and resolution now reported. It was thought advisable, as it was so late in the session, not to withhold the measures proposed for action for the reason I have stated. It is very possible that the report may be made hereafter if it shall please the Senate to receive it.

The joint resolution (S. R. No. 78) proposing an amendment to the Constitution of the United States; the bill (S. No. 292) to provide for restoring to the States lately in insurrection their full political rights; and the bill (S. No. 293) declaring certain persons ineligible to office under the Government of the United States, were severally read a first time by their titles, and passed to a second reading.

PERSONAL EXPLANATIONS.

Mr. CHANDLER. A few weeks ago I unintentionally did an act of injustice to a patriotic body of individuals in this city, which I wish to correct. During the winter of 1860-61, there were two military organizations here, the one called the National Rifles and the other the National Volunteers. The National Volunteers was a rebel organization which marched from the District of Columbia into the rebel army; but the National Rifles was composed of the most patriotic citizens of the District. They were the first to march into Virginia; and they headed the column that first crossed the Long Bridge. They furnished a large number of soldiers and a large number of officers to the Union Army, and were really one of the most patriotic bodies in the United States. In the heat of debate, I inadvertently spoke of the National Rifles instead of the National Volunteers. I wish simply to do justice to a patriotic organization, to which I inadvertently did injustice, and I make this statement to correct that injustice.

Mr. HOWE. I wish to make a comment or two on an item that I find in the National Intelligencer to-day, taken from the Washington dispatches to the New York Herald. The item to which I call attention is as follows:

"Governor Fairchild, of Wisconsin, is here to push the appointment of a radical postmaster for Fond-du-Lac, which office will soon be vacated by resignation. The appointment was lately made in accordance with the Governor's views, but was subsequently withdrawn at the urgent request of Wisconsin Johnson Republicans, on the ground that the appointee was not one of them. The appearance of the Governor here to reopen the fight is looked upon as a trifle 'cheeky' by the friends of Senator DOOLITTLE, inasmuch as the Governor went out of his way to endorse and approve the Wisconsin resolutions censuring Mr. DOOLITTLE. The Governor, no doubt, came on at the suggestion of Senator Howe; but it is fair to presume their joint labors will be fruitless. The Post Office Department has at last commenced to look out for the President's friends in the matter of appointments."

Upon this paragraph I wish to say, first, that the Governor of Wisconsin is here on no invitation of mine, and upon no business that I have any sort of connection with. I understand, and I believe, that he came here without the slightest knowledge that there was a vacancy in the post office at Fond-du-Lac. I understand, and I believe, he is here simply to aid in the adjustment of some accounts between the State of Wisconsin and the United States of America, and that he takes no more interest in the question of who shall be postmaster in the city of Fond-du-Lac than any other Republican of the State of Wisconsin does take.

I think it is due to Governor Fairchild that I should say so much; and I think it is due to myself, to the Senate, and to the people of the United States, since this subject has been alluded to, that I should say one thing more about the post office at Fond-du-Lac. There has been no "fight" about it, to begin with. A vacancy exists in that office, occasioned by the resignation of the late incumbent, who has removed from the city, and from the State, and from the United States. My colleague, the Representative from the fifth district of Wisconsin, who lives within twenty miles of that

town, whose partner and whose son resides in the town, and who has his principal place of business in that town, and myself, all united in recommending the appointment of a man by the name of Gillette to fill that vacancy. His name was sent in to the Senate. I am glad to have the attention of the chairman of the Post Office Committee. It was referred to that committee, and by that committee reported back to the Senate with a recommendation that he be confirmed. Some one or two weeks ago—I do not recollect the precise time—the name of Mr. Gillette was withdrawn from the Senate by a message from the President of the United States. That withdrawal, I am bound to say, was made without any request of mine, without any consultation with me, without the slightest knowledge on my part that it was to be made, and, as I believe, without the slightest knowledge on the part of any Representative from Wisconsin except my colleague here, and possibly the Representative from the fourth district who was not elected by the Union party, and who probably never will be elected by the Union party until he or the Union party meets with a change of heart. That name was recommended to be withdrawn, as I understand, simply because it was alleged that Mr. Gillette did not support the policy of the President. I understand that it is asserted by the First Assistant Postmaster General that no man, with his consent, shall eat the bread and butter of the President unless he does support the President's policy.

Now, it will be seen that there has been no fight in reference to this subject. It will be seen, and I trust it will be believed, that the Governor is not here with any view to influence the disposition of that office.

Mr. President, I am compelled to draw two or three inferences from the facts I have stated to the Senate. The first is that whereas my colleague and myself were appointed to represent the State of Wisconsin by precisely the same party, I am now not recognized by the executive department of the Government as belonging to the party to which my colleague belongs. That is the first inference I draw, and my conclusion is, that if I do not belong to the party to which my colleague belongs, he does not belong to the party to which I belong. That is another deduction which I draw from this state of facts.

Having stated these two inferences, I have one other thing to say, and that will end my explanation upon this point; and that is, that I dissent entirely from the idea that these offices are in the first place "bread and butter," and secondly, I dissent entirely from the idea that if they are bread and butter, the President owns them. I conceive that they are agencies created by law, which the Congress of the United States makes and the Congress of the United States alone can make; that they are designed not to do the will of the President of the United States, but as agencies to execute the will of Congress; that they are paid by appropriations made by Congress; they will continue while Congress says so and when Congress says so, and are not the private property of anybody, and are not intended as instruments through which the President of the United States or any other individual can dragoon the people of the United States into one idea or another or into one policy or another.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced the appointment of Mr. J. B. GRINNELL, of Iowa, and Mr. J. L. DAWSON, of Pennsylvania, as managers on the part of the House of Representatives at the conference on the concurrent resolution to prohibit the sale of liquors in the Capitol building and grounds, in the place of Mr. HIRAM PRICE, of Iowa, and Mr. SAMUEL J. RANDALL, of Pennsylvania, excused.

RAILROAD BRIDGES ACROSS THE MISSISSIPPI.

On motion of Mr. TRUMBULL, the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 236) to

authorize and establish certain post roads, the pending question being on the amendment of Mr. HENDERSON, in section one, line six, after the word "Illinois," to insert, "and at Hannibal, Missouri;" so that the section will read:

That it shall be lawful for any person or persons, company or corporation, having authority from the States of Illinois and Missouri for such purpose, to build a bridge across the Mississippi at Quincy, Illinois, and at Hannibal, Missouri, &c.

Mr. HENDERSON. I withdraw the amendment for the present.

Mr. GRIMES. I offer an amendment which I propose to the bill as a new section:

And be it further enacted, That it shall be lawful for the Chicago, Burlington, and Quincy Railroad Company, whose road has been completed to the Mississippi river and connects with a railroad on the opposite side thereof, having first obtained authority therefor from the States of Illinois and Iowa, to construct a railroad bridge across said river upon the same terms, in the same manner, under the same restrictions, and with the same privileges as is provided for in this act in relation to the bridge at Quincy, Illinois.

Mr. RAMSEY. The honorable Senator from Missouri, [Mr. HENDERSON,] when this bill was before the Senate some days ago, expressed some surprise that I should advocate the building of bridges upon the Mississippi river. That Senator should have known that at this time, without any authority of law, at least on the part of Congress, there are two bridges upon the Mississippi river which are alleged to be by those who trade upon that river—the navigation interests there—highly obstructive to navigation. There are but three bridges, I think, on the Mississippi river from the falls of St. Anthony to the mouth of that stream. One is at St. Paul. That is a bridge of continuous span. It presents no obstruction to navigation. The bridge is elevated nearly one hundred feet above the ordinary stage of water, and boats of the largest class that navigate the waters of that region pass under it without obstruction and without difficulty. There are two other bridges spanning the Mississippi river, one at Clinton and another at Rock Island, both alleged to be highly obstructive to navigation, and bridges that have been remonstrated against by that interest for years past. So high has been the excitement at times that the boatmen following the river have been upon the point of abating the Rock Island bridge as a nuisance by violence. The remonstrances were so strong against its continuance that in 1859 a commission of officers of the Topographical corps of the United States Army was appointed to visit and examine that bridge.

The engineers of the railroad companies and the river interests differ entirely as to the character of the bridges that should be erected across the Mississippi river. Those having charge of that interest at St. Louis—the Chamber of Commerce—claim that the span upon the pivot bridges should be four hundred feet. On the other hand it is alleged by experienced engineers that a span of that size would be much more obstructive than one of a reasonable size; that the difficulties of opening it at times would be such as unfavorably to obstruct navigation upon that river.

The commission which was sent by the Secretary of War in 1859 to examine the Rock Island bridge was composed of Captain Humphreys, Captain Meade, and Captain Franklin, of the Topographical corps, each of whom has since attained the position of major general in the Army. In their report upon that occasion they said:

"From the drawings above alluded to, and from personal examination, the board found that the railroad bridge is placed at the foot of the rapids, and is thrown from the island of Rock Island to the city of Davenport, Iowa; that it is supported by two stone abutments on the shores, and six stone piers. The spans (five in number) are two hundred and fifty feet broad, the draw spans being at the water-level (nine and one half feet stage) and one hundred and seventeen and one hundred and twelve feet respectively, making the whole length of the bridge fifteen hundred and thirty-five feet.

"The piers, except those of the draws, are thirty-five feet long and seven feet broad at top, and fifty-three feet long and eleven feet broad at the bottom. The two small draw piers are thirty-eight feet long and ten feet broad at top, and fifty-four feet long and

fourteen broad at the bottom. The turn-table pier, including the guard pier and starling, is three hundred and fifty-five feet long and forty and one third feet broad at the top, and three hundred and eighty-six feet long and forty-five feet broad at the bottom. This pier is composed of a stone center pier thirty-five feet in diameter at the top, the remainder being crib-work filled with stone. The up-stream starlings of all the piers are isosceles right-angled triangles. The center line of the roadway crosses the turn-table pier two hundred and ten feet from its head, this pier being one hundred and fifteen feet longer and nineteen feet wider on the top than the truss which forms the draw. The superstructure of wood, built upon Howe's patent, is twenty feet above ordinary high and thirty-three feet above ordinary low water."

The great vice in that bridge is the obliquity of the piers to the current of the river. This commission further state:

"It will be seen that above the bridge the direction of the current makes with the axis of the piers, different angles varying from 26° to 14° 30'; that through the Illinois draw of the bridge, the angle with the axis of the pier is 5°, and that below the bridge the angle varies from 8° to 30° 30'."

"Were the same piers placed parallel to the current, the obstruction to the flow of the water would be about one third of what it now is."

"The general level of the river is raised by the piers of the bridge .49 feet, or nearly six inches, and the increase of the mean velocity due to the contraction of the water-way is 2.27 feet per second or 1.55 miles per hour, making the computed velocity under the bridge 5.55 miles per hour."

In summing up their conclusions, they say:

"1. The board is of opinion that the railroad bridge which crosses the Mississippi river between Rock Island, in the State of Illinois, and Davenport, in the State of Iowa, is not constructed according to correct principles, reference being had to the interests of navigation.

"2. The piers of the said bridge are not of the best form, and that there was no practical difficulty in constructing them of the proper form. With the exception of the turn-table pier, the board is of opinion that the defective form of the piers is a matter of no material importance. The turn-table pier will be more particularly referred to in the answer to the next question.

"3. The only pier larger than is necessary is the turn-table pier. This pier, in the opinion of the board, should have been constructed no longer or broader than was absolutely necessary to sustain the truss when the draw is open, and protect it from injury by passing boats. It might have been constructed with a length of two hundred and ninety-five feet, affording ample support and protection, and being actually three hundred and fifty-five feet in length; the difference, sixty feet, is unnecessary, and, in the judgment of the board, pernicious. The effect of making it longer than was absolutely required, is to contract the water-way, increase the velocity, narrow the draw-passage, and present more surface for boats to strike against, thus increasing the difficulty of their passage through the draw. In a pier of this size the form of the starling is of importance, and the upper faces of the pier should have been curved surfaces.

"4. The piers are not placed parallel to the current, but at angles varying from 26° to 14° 30'. The effect of this obliquity is to treble the obstruction to the flow of the water, and consequently to affect the increase of velocity in the same ratio. Another consequence is, that the passages of steamboats and rafts through the draw and between the piers are rendered much more difficult and hazardous. Furthermore, the draw on the Iowa side is rendered useless by the formation of an eddy therein.

"5. The velocities of the different parts of the river in the vicinity of the bridge have already been stated, and will be found tabulated in appendix C.

"6. The eddy on the Iowa side of the turn-table pier, as nearly as could be estimated, is about one hundred feet wide at the foot of the pier, and the turbulence or boiling of the water extends about five hundred feet below. This eddy, however, is constantly varying in its position and dimensions. Its effect on the passages of boats ascending and descending is undoubtedly to render them more difficult, on account of the care required to avoid getting one part of the boat in it while another part is in the current of the draw. It has been previously stated that the effect of this eddy in the Iowa draw is to render it useless."

"In conclusion, the board considers it proper to recapitulate some of the well-known principles of bridge building, to show how far they have been conformed to or departed from in the Rock Island bridge. These principles are:

"1. That at a given place, in locating a bridge over any stream, the site where the velocity of the current is a minimum should be selected.

"2. That in designing a bridge, the piers should have a minimum cross-section consistent with the support of the super-structure thus offering the least obstruction to the flow of the water and increasing the velocity of the current as little as possible.

"3. The piers should always be placed parallel to the thread of the stream, for the same reasons as those stated in the second principle, and because they thus render the passage of boats and rafts less difficult.

"4. In designing a bridge over a river having a large commerce in boats and rafts, the draws and spans should be of the greatest practicable width.

"In applying these principles to the Rock Island bridge, the board is constrained, with extreme regret, to report that all have been violated; thus rendering the bridge not only an obstruction to the navigation

of the river, but one materially greater than there was any occasion for.

The board fully appreciates the value and importance of the railroad traffic, and is of opinion that a bridge is necessary and should be constructed, not only at Rock Island, but at other points on the Mississippi river; but it is also of opinion that the interests involved in the free navigation of this noble stream demand that in locating and constructing these bridges unusual study should be brought to bear to insure the presentation of the least possible obstruction to the navigation, and that all considerations of expediency and economy should be made to yield to the paramount interests of the commerce of the river."

The Committee on Post Offices and Post Roads, to whom this bill was referred, sought information on the subject from every source where they could find it. The bill as referred to them provided for a draw of but three hundred feet, leaving a clear draw on either side of the pivot pier of less than one hundred and fifty feet, probably not over one hundred and ten feet. It was also mandatory on the company to build a draw-bridge. Inasmuch as the committee conceived that a bridge of continuous spans was to be greatly preferred to a draw-bridge, they changed the bill in that respect, leaving it optional with the company which to build.

The Senator from Missouri said that there was no use in referring these bills to that committee, that they would make no examination or modification of them, but simply report them as they received them. If he had read the bill as reported by the committee, and also the bill as referred to them, he would have seen that they have made very important modifications, and all in the interests of the navigation. We have provided in the bill as reported that the draw shall be three hundred and fifty feet, leaving a clear passage on either side of the pivot pier of one hundred and fifty feet. If the bridge shall be built with unbroken and continuous spans, it is to be fifty feet above extreme high water. This, we learn from experienced river men, is all that is desired. Where the chimneys are taller than that, the arrangement is to lower them upon the telescopic plan which has been introduced there.

With regard to the spans other than the pivot span, we have the information of competent engineers that an excess of over three hundred feet is not advisable. General McCallum, who had charge of railroad and bridge structures during the war, says:

"The longest draw-bridge ever constructed in this country is of two openings of one hundred and fifty feet each, although I do not consider even a greater length than this impracticable. Nevertheless would consider it unnecessary and impolitic. Any bridge located at right angles with the stream, with current of not more than four miles per hour, all purposes of navigation should be fully met by one hundred and fifty feet openings."

Mr. HOWE. I understand that the bill as reported provides for these openings to be one hundred and seventy-five feet.

Mr. RAMSEY. No, sir; the pivot pier and the one half of the pier at each end of the swing on which it rests detract from their width.

Mr. HOWE. But the span is to be one hundred and seventy-five feet?

Mr. RAMSEY. The span is to be three hundred and fifty feet.

Mr. HOWE. The spans are to be not less than one hundred and seventy-five feet in length on each side of the center or pivot pier of the draw.

Mr. RAMSEY. That makes three hundred and fifty feet in all, and leaves a clear draw of about one hundred and fifty feet.

Mr. HOWE. That leaves an opening of one hundred and seventy-five feet.

Mr. RAMSEY. Not in the clear.

Mr. HOWE. But it is on the side of the pier.

Mr. RAMSEY. The span is to be three hundred and fifty feet.

Mr. HOWE. Between this pier and the next.

Mr. RAMSEY. I should much prefer that the railroad company should accept it with a span of one hundred and seventy-five feet in the clear. That would require a swing-bridge of four hundred feet.

Mr. HOWE. But I do not understand the

engineer to recommend any such thing. I do not understand the authority the Senator just read from to do so.

Mr. RAMSEY. One hundred and fifty feet in the clear. "Spans of not less than one hundred and seventy-five feet in length on each side of the central or pivot pier of the bridge." The pier on which it rests on either end of this swing detracts from it; and a fair construction would be from the center of the bridge one hundred and seventy-five feet. The pivot pier is a pier probably twenty feet in width, of greater width than any of the other piers, and under the bill it is required to be. The whole of this immense structure, the swing-bridge, rests upon it. That with the half the pier rests on at either end detracts so much from this length as to reduce it to a clear passage of about one hundred and fifty feet. That much can be done, and I think that much ought to be conceded.

Mr. HOWE. The idea is this: the span is required by the bill to be one hundred and seventy-five feet. The span I understand to be the stretch from pier to pier, and not from the center of one pier to the center of the next.

Mr. RAMSEY. When we framed this bill we understood it to be from the center of the pier to the center of the opposite pier, from the center of the swing pier to the center of the resting pier.

Now, I think in this bill we have guarded all these various interests upon the river. We have insured, I think, a safe passage-way sufficiently large. We have required the piers to be on a line with the current. We have required the elevation to be fifty feet above high water if the bridge be constructed of a continuous span. I think we have provided against every fault that has been heretofore complained of in the other bridges erected upon that river. As I said before, if we could avoid building bridges entirely on the Mississippi river, I should esteem it in the interests of the country which I represent and in the interests of navigation upon that river; but the fact is that almost in spite of law they are building them. At this time I am told they are building a bridge upon the Mississippi river at Burlington. It is, then, important at this time, before these structures are up, when it will be impossible to remove them, the interest for retaining them being so large, that Congress should step in and regulate the construction, so as to be as little injurious to the navigation of the river as possible. No one can appreciate more than I do the importance of the trade on the river. I know that at a few of the towns on the Mississippi—St. Louis, Louisville, and others—the trade of 1865 amounted to more than seven hundred million dollars; twice as much as our foreign trade. In the State of Minnesota, far up at the head of that river, we ourselves shipped eight million bushels of wheat last year. Then the continued navigation of this river to us is of the first importance. But, sir, we realize the fact that in spite of us, in spite of all our desires, in spite of the interest of navigation on that river, they will persist in erecting these bridges; and hence we deem it of the highest importance now, when few have yet been constructed, that Congress should step in and, as well as it can, regulate them. As I said before, there are but three bridges now spanning the river, but there are applications for a dozen in this and the other House of Congress. We know, too, from the immense capital invested in the railroads that approach that river upon the east and upon the west, that they will cross it. It is not to be expected that they should be successfully resisted forever. They will cross it some time. I think now is the time when Congress should step in and regulate them, so as to be as little obstructive as possible.

Mr. HOWE. I should like to ask the Senator from Minnesota before he takes his seat what evidence the committee have that a draw of the length prescribed in this bill is manageable.

Mr. RAMSEY. We have evidence of larger draws, but they have been erected under ex-

traordinary circumstances. There is a bridge at one of the sea-port towns of France longer even than this. There is an iron swing-bridge at Brest, in France, spanning a water passage of three hundred and forty-seven feet clear, movable off its bed, erected at a total cost of \$406,000. It is a Government work, erected, I presume, without reference either to the expense of its construction in the first instance, or to the expense of its management afterward. It is desirable, of course, that we should strike a medium in the erection of these swing-bridges on the Mississippi, so as to injure neither the river nor the bridge interest. If we make them too large, they will often be out of order and immovable, and the boats, in passing up and down, will be interrupted. If they are made of smallest size, as requested by some, of course the channel-way will not be large enough for business. Now, the point between the two most desirable is that they should be easily workable, and at the same time as large as can be allowed. In that way the proper medium will be obtained and all interests preserved.

Mr. GRIMES. The proposition now pending before the Senate is an amendment proposed by myself authorizing the construction of a bridge at Burlington, on the Mississippi river, by the Chicago, Burlington, and Quincy Railroad Company, upon the same terms and under the same restrictions and with the same powers and privileges that are proposed by this bill to be granted to the company that seeks to be authorized to build a bridge at Quincy, in the State of Illinois—

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The hour of one o'clock having arrived, it becomes the duty of the Chair to call up the unfinished business of Friday last, being the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes.

Mr. HENDERSON. I think this can be disposed of in a short time.

Mr. GRIMES. Very soon, I think.

Mr. SHERMAN. I have no objection to the special order being laid aside informally, if it does not lose its place.

The PRESIDING OFFICER. That will be done by unanimous consent. The Chair hears no objection. The consideration of Senate bill No. 236 will be continued.

Mr. GRIMES. I suppose if there is anybody here who is peculiarly interested in the navigation of the Mississippi river, I am about as much interested as any one else. I have for thirty years lived immediately upon its banks, and I think that I am somewhat familiar with the condition of the commerce of the country connected with that river. A portion of the people in the town in which I live, fancying that the construction of a bridge will not be to their own particular individual benefit, would not favor the passage of this law, while I think that those who take the broadest, most comprehensive, and most correct view on the subject would favor it.

But whatever may be the opinions of my fellow-citizens of that town, there cannot be any question that the commerce and the interests of the State at large, which I have the honor here in part to represent, demand that there should be facilities for crossing the river without breaking the bulk of the freights that are to go over. Then the only question is whether or not bridges can be constructed across the Mississippi river so as to facilitate the crosswise commerce that is going east and west without obstructing or unnecessarily impeding the commerce that has hitherto and which is destined in the future to pass up and down on the river. I am satisfied that the proposition which comes from the Committee on Post Offices and Post Roads ought to be adopted, for the reason that I believe if the bridges are constructed upon the plan which they propose they cannot, by any possibility, be any obstruction to the navigation of the Mississippi river.

As the Senator from Minnesota has observed, we have two bridges now across the Mississippi river connecting the State of Iowa with the State of Illinois. There has been complaint, and constant complaint, about one of those bridges ever since it was erected, not because they do not open the draw in ample time whenever a steamboat presents itself and demands passage, but because they were unfortunate in placing the piers at the time of its original construction so that they do not stand parallel with the current. Now, this bill specifically requires that in the bridges authorized to be erected under it this necessary point shall be provided for.

Then another trouble with Rock Island bridge, where this difficulty has been, is that it is situated right at the foot of the rapids, where the current which comes over the rapids for ten miles above is much more rapid than at any other point in the Mississippi river from St. Anthony to New Orleans, except at another rapids known as the Des Moines rapids. Those conditions do not exist anywhere else on the river, and no bridge built exactly upon the plan of the Rock Island bridge would present therefore the same impediments that the Rock Island bridge does. But the bill which has come from the Committee on Post Offices and Post Roads requires that the draw through which boats will be compelled to pass shall be much larger than the draw at Rock Island. I think if I remember aright the draw at the Rock Island bridge is one hundred and twelve feet.

Mr. RAMSEY. One hundred and twelve and one hundred and seventeen feet.

Mr. GRIMES. Under the bill which is now before us, the draw will be one hundred and seventy-five feet.

Mr. RAMSEY. Not one hundred and seventy-five feet in the clear; about one hundred and fifty or probably a few feet more.

Mr. TRUMBULL. That had better belimited so as to make it clear.

Mr. GRIMES. The only objection I had when I read the bill was that it seemed to me that the Committee on Post Offices and Post Roads were requiring rather too much when they required a draw of one hundred and seventy-five feet, because the difficulty at the Clinton bridge and the Rock Island bridge has never been in consequence of the width of the draw, but in consequence of the flow of the current occasioned by setting the piers improperly at the time the bridge was constructed.

Now, what will be the effect of the passage of this bill if we adopt it? The Chicago, Burlington, and Quincy Railroad Company are already about to build a bridge at the place where I live. They have the authority from the State of Illinois to do it, and they have the authority of the State of Iowa to do it. They will not put in as wide a draw as is required by this statute unless this statute is passed. Your passing the statute, therefore, facilitates the commerce of the river, by compelling them to put in such a draw as the navigation of the Mississippi river requires; so that in every point of view it seems to me it would be advisable if this bill should pass; and living on the river as I do, and interested in the navigation as I am, a navigation which has been the building up of my town, I am perfectly free to declare that I believe the interests of the river commerce as well as the interests of the internal commerce of the State that wants to find its way eastward over the various railroads that connect them, across the Mississippi river with the country east of them, to the eastern States, require that authority should be granted to companies to bridge the Mississippi river. I do not think there is the slightest incompatibility between the navigation of the Mississippi river and the commercial interests of the railroads, provided a bill shall be passed properly guarded, as I believe the bill now under the consideration of the Senate is.

Mr. DOOLITTLE. I should like to ask my friend from Iowa whether, from his knowledge of the river, the current where the boats pass does not change from time to time, and

then, further, whether provision is made in this bill to secure the building of the piers so as to meet that contingency.

Mr. GRIMES. The current does change sometimes during the season of floods in the spring, but any company that owns a bridge will see to it that the piers are so arranged that the current will run through their draw. I have had a little experience in this question of currents myself. Sometimes the river threatens to leave a town on the banks; it becomes necessary, therefore, for the corporate authorities or individuals to throw in obstructions above, so as to cause a set of the current to run by the landing or levee of the village where it was originally, and which it has threatened to leave. They had a very good illustration of that in the city of St. Louis. St. Louis, a few years ago, was threatened to be left entirely away from the river; but by the expenditure of some thousands of dollars, I do not know how many, by putting in obstructions, stopping the flow of the current on the Illinois side, they caused the current to flow back, along down on the Missouri side, so as to make their landing a great deal better than it was before the river threatened to leave them. The railroad company will see to it that the channel is through their draw.

Mr. RAMSEY. I have here the opinion of Captain Blakely, a gentleman of long experience in the navigation of the Mississippi river, who gives this as his opinion:

"The draw, if one is built, should be made as wide as is practicable to build and have it answer a good purpose for the railroad, say no less than one hundred and fifty feet in the clear between the center pier and the pier on which the end of the draw rests when closed, and if found practicable, no less than one hundred and seventy-five feet in the clear."

Captain W. F. Davidson, who has been a long and successful navigator on the upper Mississippi, says:

"I think section two of the bill"—

Alluding to one of the railroad bridge bills sent to him—

"should be amended by forcing the company to build a draw"

considering that less obstructive than a bridge with continuous spans.

But, Mr. President, we did not feel at liberty to report against the allowance of bridges, and in many respects thought it advantageous to seize this opportunity of regulating them. I would, however, at the same time, desire that Congress should create a commission, authorize the President or Secretary of War to send a commission to survey the whole river, and decide, at least as to the future, what should be the character of the bridges there. The probability is that before the close of the next session of Congress you will be compelled to authorize a dozen of these bridges. The thing will get to be serious when they come to be so numerous as that. I think we have guarded this bill as well as, with the light before us, it was possible for us to do; and yet I should like when this extensive building of bridges on the Mississippi river is entered upon, to have the opinion of a board of scientific engineers; and with that view, some days since I introduced a joint resolution, which was referred to the Committee on Commerce, but they have not seen fit to return it yet with a report. I feel reluctant to vote for any other bridge than the one reported by the Post Office Committee in this bill, simply because it is but one; though I have no particular objection to any other except as to the number; but I hope that when this bill passes we shall authorize a commission to be sent to survey the river and determine and settle the essential points to be guarded in the construction of these bridges; how, where at the same time the railroads may be accommodated, the navigation shall be preserved. It is of great importance, not only to us, but to the whole country, that this should be done. My resolution, to which I have referred, and which was introduced some days ago, was in this language:

"That the Secretary of War be directed to appoint a commission, to consist of three officers of the corps

of Engineers of the Army, to examine and report at the present session of Congress, if practicable, and if not, before the next session of Congress, upon the subject of the construction of railroad bridges across the Mississippi river at such localities and upon such plans of construction as will offer the least impediment to the navigation of the river; and that the sum of \$10,000, or so much thereof as may be necessary, be, and the same is hereby, appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of said commission."

I should very much prefer, before very many bridges are authorized, that this commission should be sent out to view the river, and furnish us the best information on the subject.

Mr. HENDERSON. I desire to offer an amendment to the amendment of the Senator from Iowa, as an additional section:

And be it further enacted, That a bridge may be constructed at the town of Hannibal, in the State of Missouri, so as to connect the Hannibal and St. Joseph railroad with the Pike County and Great Western railroads of Illinois, on the same terms, and subject to the same restrictions, as contained in this act for the construction of the bridge at Quincy, Illinois.

Mr. TRUMBULL. That amendment does not provide who is to construct the bridge; it does not authorize any particular parties to construct the bridge. It says that a bridge may be built there. Do you mean to authorize the Hannibal and St. Joseph Railroad Company to build it?

Mr. HENDERSON. No.

Mr. TRUMBULL. Who is to build it?

Mr. HENDERSON. The amendment says that it may be built under the same terms and subject to the same restrictions as the bridge at Quincy; that is, it is to be built by a company appointed by the two States of Missouri and Illinois. It is to be done by an independent company; it cannot be built by the railroad company.

The amendment to the amendment was agreed to, and the amendment as amended was agreed to.

Mr. HENDERSON. I move to amend the second section of the bill by striking out, in lines thirty-eight and thirty-nine, the words, "whose construction shall not be such as to admit of their passage under the permanent span of said bridge;" so as to make the proviso read:

And provided also, That said draw shall be opened promptly upon reasonable signal for the passage of boats, except when trains are passing over the same; but in no case shall unnecessary delay occur in opening the said draws after the passage of trains.

Mr. TRUMBULL. I do not see why these words should be struck out. The Senator from Minnesota has charge of the bill, and I call his attention to the proposed amendment.

Mr. RAMSEY. Why should the bridge company be required to open the draw when there is no occasion for it? Why open the draw for a vessel that can pass under the permanent spans?

Mr. HENDERSON. I will state my reason for offering this amendment in a very few words. The proviso now requires that the—

Draw shall be opened promptly upon reasonable signal for the passage of boats whose construction shall not be such as to admit of their passage under the permanent spans of said bridge, except when trains are passing over the same.

It strikes me that if these draw-bridges be built there will be controversy between the boatmen and bridge owners in regard to the necessity of opening the draws. At certain stages of water on the sides of the draws a certain class of boats may pass under the permanent spans. There will be permanent spans on either side; the bill requires them. A small boat comes along that is not more than thirty or forty feet high, or, perhaps, a boat that is not more than twenty feet, or ten feet, if you please. It wants to pass through the draw, and the owners of the bridge declare that there is no necessity for opening the draw; that the boat may very well pass beneath the permanent span. Who is to settle the controversy between the boatman and the owners of the bridge as to whether, upon proper signal, the draw shall be opened or not? If boats can pass under the span they will give no signal; if they cannot, they will give the signal;

and why should not the bridge owners open the draw when the signal is given?

Mr. TRUMBULL. The bridge company would certainly act at their peril. The boats are not to be constructed with that view. The provision is "that said draw shall be opened promptly upon reasonable signal for the passage of boats whose construction shall not be such as to admit of their passage under the permanent spans of said bridge."

Mr. HENDERSON. Who is to determine the question as to whether the construction of the boats is such that they may pass?

Mr. TRUMBULL. Certainly the bridge company would act at their peril. If they did not open the draw, and the construction of the boat was such that any damage was done, they would clearly be responsible.

Mr. HENDERSON. I suppose the only remedy the boatman would have if the draw was not opened and he was forced to undertake a passage between the piers of the bridge, under the permanent spans, would be to sue the bridge company. Then I suppose the long, the everlasting controversy which has been had in regard to the Rock Island bridge, as to whether it is an obstruction or not, would be renewed for trial in the courts; or there would be a similar controversy, whether the particular boat could pass through or not.

Mr. RAMSEY. If you allow bridges with the draw at all, it is in the interest of the public that they should be taxed as little as possible; that is, that they should not be required to open the draw on any unnecessary occasion. Of course, a boat that cannot pass the permanent spans must pass through in this way; but it is desirable that the draw should be opened as little as possible and on no unnecessary occasion.

Mr. HENDERSON. I do not profess to know a great deal about these subjects; but it strikes me that the words which I have moved to strike out ought not to be in the law. I do not want a controversy between the bridge owners and the steamboat men in regard to this matter. I do not suppose that a steamboat man will give a signal unless he wants the draw to be opened. I apprehend that if he can pass under the permanent spans he would not require the draw to be opened, he would scarcely put the bridge owners to that trouble. As the bill now stands it will leave the bridge owners to open the draw or not just as they choose. Of course it will be at their peril, but only subject to a suit; that is all at last. I suppose damages might be recovered, provided the steamboat man could show that his boat was of such construction as to require that the draw should be opened, but look to the field there will be for the admission of testimony on both sides. It may be said by competent steamboat men that if the pilot had understood his duty he might have passed under the permanent spans without injury to his boat notwithstanding his boat has been destroyed; that the construction of that particular boat was such as to have admitted it to pass under the permanent spans. I think it is better to have this provision out.

The amendment was rejected.

Mr. HENDERSON. I will inquire of the gentleman reporting this bill, what is the meaning of the fourth section? What is the necessity for it?

Mr. RAMSEY. We accepted the fourth section as we found it in the bill as referred to us. It reads as follows:

Sec. 4. And be it further enacted, That the ferry authorized to be established by the Illinois and Missouri Transportation Company, by the laws of the States of Illinois and Missouri, across the Mississippi river at the city of Quincy, shall, during the time so authorized by the laws of the States aforesaid, and until the completion of said bridge, under and according to the provisions of this act, be and the same is hereby declared, recognized, and known as a post route.

I understand it only refers to a transit across the river at that point now. We found it as a section in the bill referred to us, and as we knew of no reason why it should be stricken out we allowed it to remain in the bill.

Mr. TRUMBULL. I believe that is about all there is in it. The States of Missouri and Illinois have at this point authorized a ferry. Nearly all the ferries over the Mississippi, and I do not know but all of them, are authorized by the joint acts of the Legislatures of the different States bordering upon the river. The object of this section is to make this ferry a post road. I suppose all roads of this kind, all the great highways of the country ought to be post roads. We say every session in a post-route bill that such and such roads, leading so and so, from one place to another, are declared to be post roads; and I do not imagine there can be any objection to this ferry being made a post road.

Mr. HENDERSON. I suppose there is no objection, then, to letting the section be stricken out. I do not like this way of Congress legislating advantages to a particular ferry company across the Mississippi river. I do not see any necessity for it. I do not know anything about this ferry company at Quincy; I do not know an individual connected with it; but the State of Missouri and the State of Illinois might desire to charter another ferry company across the Mississippi river, and I think that this section would affect that ferry, if it were authorized, perhaps injuriously.

Mr. TRUMBULL. How? This is not exclusive.

Mr. HENDERSON. Suppose the company named in the section do not discharge the duties enjoined upon them by the act of incorporation from the Legislatures of Missouri and Illinois, but they claim the right to take the mail across; that this is a postal route, and they claim the right to continue their ferry, under this act of Congress, notwithstanding their violation of the laws of the State of Missouri and of the State of Illinois. What effect would this act then have, I will inquire of the Senator from Illinois? I suppose that the charter may be forfeited by their failure to comply with the terms and conditions upon which it was granted, and the States respectively might desire to incorporate another company that would behave better in the future. Then what effect would this section have? I presume no other ferry company would be authorized to take the mails across; and the effect of this provision—I do not suppose it is intended in that way—would be to override the State laws and to make this a postal route, notwithstanding the effort on the part of the Legislatures of Illinois and Missouri to establish another ferry. I ask the Senator if that would not be the effect, or whether it could have any other effect.

Mr. TRUMBULL. I am surprised at the inquiry of the Senator from Missouri—

Mr. HENDERSON. I know you are always surprised.

Mr. TRUMBULL. Perhaps I do not understand it, but surely I am surprised at the inquiry. I cannot conceive how this can interfere with any other company. I am not for it if it can have any such effect. If it is to be an exclusive right to establish ferries on the part of Illinois and Missouri at this or any other point, I am opposed to all such legislation. I do not understand it in any such way. How it could possibly have such an effect I do not know.

Mr. HENDERSON. I expressly excepted it from the intention of the Senator.

Mr. TRUMBULL. How the section can give any exclusive privileges I am at a loss to conceive. But the Senator is aware that in order to take the mail over any of the common roads of the country, we make them post roads. We provide, for instance, "that the road from Hannibal to Palmyra, in Missouri, is hereby declared to be a post route."

Mr. HENDERSON. That is now a post route; the route itself is a post route. Then what is the necessity for this provision?

Mr. TRUMBULL. But there is no post route, I suppose, from Quincy across the river.

Mr. HENDERSON. Yes, sir, there is; it is now a post route.

Mr. TRUMBULL. I was not aware of it.

Mr. HENDERSON. There is no doubt

about it. I am not aware of any legislation of Congress making a particular ferry company or its boats a post route. This is the first legislation of that character I ever heard of, and I have been on the Post Office Committee for some years. It is common to declare the line of road between two certain States a postal route; but I am not aware of any such provision as this existing in any law of Congress. I have never seen anything of the sort. From Quincy to Palmyra, and from Palmyra on to St. Jo. is now a post route, and it can do no harm to strike out this section. The Senator of course does not wish to vest this ferry company with any peculiar or special privileges. I protest that I know nothing in respect to this company; but I think it is bad legislation to commence on the part of Congress to select any particular ferry company, and to declare that that company as now established shall be a postal route, because it may bring up a conflict with the laws of the respective States. The Senator will readily see that it may do so. The section can have no beneficial effect as it now stands, and therefore I ask that it be stricken out, if the Senator has no objection.

Mr. TRUMBULL. I do not see that it can have any injurious effect. When I expressed surprise at the amendment, the Senator rather rebuked me for that; but I really do not see how the section can have such an effect as the Senator supposes. What is a ferry? What do the law-books call a ferry? It is a highway, nothing else. A ferry is just as much a highway as a turnpike road; and I can see why there might be a necessity for a ferry being a post route. You cannot compel the mails to be taken across the river. I am not aware of any law that makes a ferry across the river a post route. If there is such a law, I am not aware of it. The Senator says there is a law already in existence making a post route from Quincy to Palmyra and to Hannibal.

Mr. HENDERSON. How would the mails be carried, otherwise, across the river?

Mr. TRUMBULL. I do not know whether there is a provision of that kind; there may be; that would embrace this very line of road. I do not know who compose this ferry company; the Senator is as well informed in reference to that as I am; but here is a ferry already authorized by the two States of Illinois and Missouri. If it is not, the section would not amount to anything. The bill recites the fact that there is such a ferry authorized there. Now, what possible objection can there be to making that ferry, until the bridge shall be completed, a post route? I see nothing exclusive in it. It seems to me it is perfectly proper that there should be a ferry there to transport the mails, and that it should be a post route. How that will interfere with any other company I cannot conceive.

Mr. GRIMES. I do not know any reason why this section is inserted here; and unless there is some explanation of it given I shall vote to strike it out. I can imagine this case: suppose there has been an old ferry company at Quincy, and the mails are transported by that old company—

Mr. TRUMBULL. I asked the question, if there was such a company.

Mr. GRIMES. I do not know; but unless we have some further knowledge on this subject I think we ought to strike this section out. If the parties interested have not seen fit to enlighten anybody so that we can obtain information on the subject the section ought not to be here. Suppose, I say, there had been an old company established there that carried the mail, and other parties have gone recently and secured a charter from Illinois and Missouri for a new ferry company, to be called the Illinois and Missouri Transportation Company, may they not now seek, perhaps, by this section to declare that that company, and that section—

Mr. TRUMBULL. Not "that only."

Mr. GRIMES. Well, that that shall be the post route.

Mr. TRUMBULL. A post route.

Mr. GRIMES. Well, a post route; that that

shall be declared, recognized, and known as a post route. They may then set up a claim that the mail shall not be transported by any other company.

Mr. TRUMBULL. Oh, no.

Mr. GRIMES. I do not know but that they could do it under this section.

Mr. HENDERSON. They can do it after the passage of this act.

Mr. GRIMES. Unless some satisfactory explanation can be given why this section is here, I think the Senator from Illinois ought not to ask us to adopt it.

Mr. TRUMBULL. I do not for the life of me see how the making of a ferry a post route is any more dangerous than making a bridge a post route. That is the very object of the bill. All these bridges are declared to be post routes when built. Does anybody suppose that the declaring of these bridges post routes, as this bill does—

Mr. HENDERSON. This is not a bridge.

Mr. TRUMBULL. I am speaking of the bridges. Does anybody suppose that the declaring them post routes gives these particular bridge companies an exclusive right, and prevents other bridges from being built? If I supposed so, I would not vote for the bill. How does a ferry differ from a bridge? If it is proper to have a post route, I ask the Senator from Missouri why it is not proper that a ferry should be a post route until the bridge is built. That is the provision here. I do not wish to take up time about it. I suppose that the parties who prepared the bill—it was not prepared by me—who contemplate building this bridge, wanted to use their ferry until they got the bridge constructed; and that is the provision here. I do not suppose it is intended, and I do not see how it can interfere with any other company.

Mr. HENDERSON. Let me ask the Senator, as a lawyer, if this provision shall be adopted can any other ferry company at Quincy take the mails of the United States across from Quincy opposite to Westminster?

Mr. TRUMBULL. Certainly it can if it is a post route.

Mr. HENDERSON. But it will not be a post route without the legislation of Congress. The Senator says that he did not draw the bill. I am very well aware of that, and I suppose the Senator, like myself, knows nothing about this ferry company; but I do not wish any particular ferry company now established by the laws of Missouri and Illinois to be legalized into being as the only post route at that town until this bridge shall be built. It may be forty or fifty years before the bridge is built, and other ferry companies may be incorporated by Illinois and Missouri. Why is it that this company shall be constituted the only post route at that point?

Mr. TRUMBULL. I have tried to explain to the Senator that it is not so to be declared. I do not know that there is any especial importance in the section, and I do not wish to have any controversy about it; but for the life of me I cannot see why the Senator will persist that this is the only post route. If there is no post route there, ought there not to be one? I have no more to say about it. I care nothing about it. I have no interest in it one way or the other, further than to authorize these great lines of travel to accommodate themselves to each other. I think the time has come when we have got to have bridges.

Mr. SHERMAN. I think it is possible that this bill will occupy all day if we proceed with it, and therefore I think we had better take up the Post Office appropriation bill.

Mr. TRUMBULL. I have nothing further to say about it. Let the Senate dispose of it as they think proper.

The PRESIDING OFFICER, (Mr. ANTHONY in the chair.) The Senator from Missouri moves to amend the bill by striking out the fourth section.

The amendment was agreed to.

Mr. HENDERSON. There is one vote that I feel I ought to have on this bill. I do not

intend to argue it. I argued the question a day or two ago. It is in reference to draw-bridges or continuous-span bridges. I desire to make a motion in that regard, as my constituents in Missouri have requested of me to do so. I do not see fit to read the documents that I have received on the subject from various towns on the Mississippi river, and from individuals, engineers and others, and steamboat men on this subject, as I do not wish to occupy the time of the Senate. Suffice it to say that I have been requested by a very large number of individuals, commercial bodies, &c., in my State to resist the construction upon the Mississippi river of any bridges except continuous-span bridges.

It is the opinion of some Senators here that draw-bridges can be constructed so as to be of less obstruction to navigation than continuous span bridges. The Senate will remember that two years ago we authorized the building of a bridge at Steubenville. The late lamented Senator from Vermont (Judge Collamer) was at that time chairman of the Committee on Post Offices and Post Roads. He reported a bill for the building of that bridge at Steubenville, the fourth section of which provided for the construction of any bridges on the Ohio river, and required that the continuous spans, if the bridges were built with continuous spans, should be three hundred feet in length. I remember that when the late Senator from Vermont reported the bill, he stated that if individuals wanted to construct such bridges they might attempt it, but his belief was that no such bridge could be built; that it was an utter impossibility. I learn from the Senator from Ohio [Mr. SHERMAN] that a bridge has been constructed at Steubenville ninety feet high, and with a continuous span of three hundred feet, and that it is operating well; that the railroads are using it, and drawing across it the largest freight trains; that there is no difficulty whatever. It is true the bridge cost a good deal of money, about \$900,000; but it is said to be one of the most substantial and permanent structures ever built in this country; it is a piece of bridge architecture perfectly wonderful in itself.

Inasmuch as it has been demonstrated by the construction of that bridge that the views and opinions of individuals a few years ago were not correct, and that a bridge of that character can be constructed, I think it would be better to adopt the continuous-span project on the Mississippi river. My impression is, that it is of less obstruction to the river than draw-bridges. At least, that is the view of all who have written to me on the subject. In all the communications that I have received since this subject was introduced here, and since my colleague introduced a proposition to bridge the Mississippi river at St. Louis, I have not received one that did not express a preference for a continuous-span bridge. It is not impracticable anywhere. I know it was said in 1862, when the bill for the Steubenville bridge was passed, that it was perfectly impracticable anywhere. There are always any number of arguments to be adduced as to the impossibility of a project. A bridge constructor remarked the other day, I think very forcibly and aptly, that there was no impossibility with the American people; that he had ceased to suppose that there was any impossibility. When the Senator talks about the impossibility of a construction of this character, I think he misses the mark. I am not disposed to think that the inventive genius of the American people will now fail them. Four years ago we thought it was an utter impossibility to build a bridge across the Ohio river with a span of three hundred feet, but the thing has been done. Everybody says now that it is a perfect success. There is no objection to building such a bridge across the Mississippi river. It can be constructed without any doubt.

But in order to test that one question, without making any extended argument on the subject, because I know the Senator from Ohio is very anxious to get up the Post Office appro-

priation bill, I move, in the fourteenth and fifteenth lines of the second section, after the word "act," to strike out all down to the word "bridge" in the eighteenth line. The clause now reads in this way:

That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a draw-bridge, with a pivot, or other form of draw, or with unbroken or continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans it shall not be of less elevation, &c.

If my motion should be adopted it will read thus:

That any bridge built under the provisions of this act shall be made with unbroken and continuous spans, and it shall not be of less elevation, &c.

That will strike out that portion of the section which leaves it discretionary with the company organized under this bill to build draw-bridges, and it simply brings up the question as to whether draw-bridges shall be built on the Mississippi river or not. That is the plain, naked question. If my proposition should be adopted it disposes of the draw-bridges, and all bridges built must be built with continuous spans.

Mr. TRUMBULL. I presume that amendment is not now in order. It is an amendment to an amendment of the committee which, I understand, has been agreed to.

The PRESIDING OFFICER. It is an amendment to an amendment already agreed to, striking out and inserting, and will not be in order until the bill is reported to the Senate.

Mr. HENDERSON. I was not aware that that amendment of the committee had been agreed to. I will wait until the bill is reported to the Senate, and will then offer the amendment.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question now is on concurring in the amendments made as in Committee of the Whole.

Mr. TRUMBULL. I desire to alter one of those amendments, and I suppose that this is the proper time to do it, before we concur in it.

The PRESIDING OFFICER. The better course will be to have the amendments on which a separate vote is required by any Senator excepted, and to take the question on concurring in all the other amendments to which there is no objection.

Mr. TRUMBULL. I desire to alter one of the amendments of the committee in order to carry out the purpose of the gentleman who has charge of the bill. It is in the twenty-eighth and twenty-ninth lines of the amendment to the second section. The clause now reads:

And with spans of not less than one hundred and seventy-five feet in length on each side of the central or pivot pier of the draw.

The Senator from Minnesota means that from the center of the pivot; but the Senator from Wisconsin [Mr. HOWE] thinks it is not susceptible of that construction. The intention is to have an opening of at least one hundred and fifty feet in the clear. I therefore move to amend that amendment in the twenty-ninth line by striking out the words "seventy-five" and inserting "fifty," and after the word "length" inserting the words "in the clear;" so that it will read:

And with spans of not less than one hundred and fifty feet in length in the clear on each side of the central or pivot pier of the draw.

That is what the Senator from Minnesota intends it shall be; but I think in the way it stands now there might be a controversy about it.

Mr. RAMSEY. I should very much prefer if the opening between the piers on either side of the pivot pier was two hundred feet.

Mr. TRUMBULL. But that is not what you meant.

Mr. RAMSEY. One hundred and fifty feet is the least that I would assent to. The advantage would be very little in favor of that here. From the center pier would be about twenty feet. The other piers, at least they are so at the top, where the superstructure rests upon

the pier at Rock Island, are about eight feet. Now you subtract about one half of each of those end piers and the whole of the center pier, and you do not have much above one hundred and fifty feet. I should prefer having the advantage of one foot, and if the bridge can be built with that span, I should prefer it very much.

The PRESIDING OFFICER. The amendment that Senators are discussing is not now before the Senate. The question will be taken on concurring in the amendments made as in Committee of the Whole, excepting the amendment indicated by the Senator from Illinois, and the one indicated by the Senator from Missouri.

Mr. HENDERSON. Both our amendments are to the same amendment.

The PRESIDING OFFICER. The question will then be taken on concurring in the other amendments.

Mr. TRUMBULL. I desire also to except the amendment offered by the Senator from Missouri for the building of a bridge at Hannibal.

The PRESIDING OFFICER. That amendment will be excepted. The question is on concurring in the amendments made in Committee of the Whole with the exception of those indicated.

The remaining amendments were then concurred in.

The PRESIDING OFFICER. The question now is on concurring in the amendment to the second section, which will be read.

The Secretary read the amendment, which was after the enacting clause of the second section, to strike out the following words:

That any bridge built under the authority of this act shall be constructed as a draw-bridge, with a span over the main channel of the river, as understood at the time of the erection of the bridge, of not less than three hundred feet in length; and said span shall not be less than thirty feet above the low-water mark, and not less than ten feet above the extreme high-water mark, measuring to the bottom chord of the bridge; and one of the next adjoining spans shall not be less than two hundred feet in length; and, also, that there shall be a pivot draw constructed in said bridge, at an accessible and navigable point, with spans of not less than one hundred and fifty feet in length on each side of the central or pivot pier of the draw.

And to insert in lieu thereof:

That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of the river: *And provided, also*, That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and seventy-five feet in length on each side of the central or pivot pier of the draw, and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than thirty feet above low-water mark, and not less than ten feet above extreme high-water mark, nearing to the bottom chord of the bridge, and the piers of said bridge shall be parallel with the current of the river.

Mr. TRUMBULL. I now move to amend the amendment in the twenty-ninth line, by striking out the words "seventy-five" and inserting "fifty;" and after the word "length" inserting "in the clear;" so that the clause will read:

And with spans of not less than one hundred and fifty feet in length in the clear on each side of the central or pivot pier in the draw.

Mr. HENDERSON. I hope very much that that amendment will not be adopted. I was not disposed to submit, if I could prevent it, to the construction of draw-bridges upon the Mississippi river at all. I have stated how sensitive my constituents feel on that subject. This bill was clearly drawn with the idea that the openings in the clear should be one hundred and seventy-five feet.

Mr. TRUMBULL. No, that was not the understanding.

Mr. RAMSEY. They were not expected to

be that in the clear. They were to be one hundred and fifty feet. I understood that the parties in interest were willing to accept this modification, and the bill was so reported. We were aware that by this phraseology we would gain a few feet in the opening, which was desirable. Of course if the Senate determine that it shall not exceed one hundred and fifty feet, the amendment will be agreeable to them.

Mr. HENDERSON. I stated a day or two ago that the navigation of this river was to be changed almost entirely in its character. My impression is that in the course of a year or two the steamers that are now running upon the river will be changed entirely to tug-boats and barges, and hence my desire is to have as wide openings as we possibly can have, if bridges are to be constructed upon this river at all. My recollection is that one of the draws at the Rock Island bridge is one hundred and seventeen feet.

Mr. RAMSEY. They are one hundred and seventeen and one hundred and twelve feet.

Mr. HENDERSON. In the clear?

Mr. RAMSEY. Yes, sir.

Mr. HENDERSON. It may be said that it is owing to the rapidity of the current there that so much property has been destroyed; but let me tell Senators, you cannot build a bridge on the Mississippi river that that very same difficulty will not come up, provided you do not have wider draws than are proposed here. In very high water the currents change, and it is an utter impossibility to pass through. These piers will have to be very large. If the boats have a large number of barges, or the boats are very wide, or the number of boats that are to be taken through occupy a large quantity of room on the river, it will be an utter impossibility to pass between the piers without striking them and destroying a part of the cargo. It has been and is now exceedingly perilous and dangerous to life at times to pass through that one hundred and seventeen feet draw at Rock Island.

I understood the Senator from Minnesota to say that a draw had been built in France with an opening much larger than this. Is it possible, I submit to the Senate, to build a bridge with a draw of one hundred and seventy-five feet? If so, there is no stream on God's earth that requires this width of draw more than the Mississippi river. It is a great stream, and it is a rich country that lies upon it. We in the West desire to preserve the navigation of that river, and I think the Senator from Illinois ought not to consent to any rule of construction that will obstruct in the future the navigation of this stream. He is as much interested in it as I am. I know that he feels as deep an interest in it as I do; and so does the Senator from Iowa. I do not put myself forward as the champion of the navigation of this river. I do not feel that I have any interest in it more than they have; but I do insist that now when we are laying the foundation of this system, because what we do here will be done for all time in the construction of bridges over that great stream, every precaution should be taken to secure the navigation. It is a stream having twenty-five hundred miles of navigation, the best stream for navigable purposes, perhaps, on the face of the earth, considering its length, and the country is just beginning to be developed, as it were. Take that immense country north of St. Louis and that must pour in upon the surface of that stream immense quantities of the products of the earth, in time to come, and manufactures and everything that can employ the industry of man. We all know that the transportation upon the surface of that river will not cost the people one third of the cost of transportation by railroad lines. While we are doing so much for the railroad companies, can we not do something also for the continued full navigation of this great river.

In the State of Missouri we have constructed steamers that take the cars across the river at St. Charles. No bridge has been built there, but a train of cars is run upon the boat and carried across immediately, without much ob-

struction; and that might be done on the Mississippi river; but gentlemen say no, they must have bridges. A bill is introduced here for the purpose of constructing them, and, as I understood, with spans of one hundred and seventy-five feet. I was opposed to draw-bridges entirely; I wanted spans of three hundred feet; but gentlemen insist on pivot bridges, and as I supposed, with spans of one hundred and seventy-five feet. I had a conversation with the gentlemen engaged in the construction of this bridge, and I told them that I desired the spans to be two hundred feet. They said one hundred and seventy-five feet in the clear was as much as they could stand, but they could construct a bridge with that span. Now, it is deliberately proposed this morning, when we are about to pass the bill, to reduce that width to one hundred and fifty feet.

I warn gentlemen who are just as much interested in this subject as I am, that they are doing a thing this morning that they will regret in the future. I am sure of it. I see a disposition to pass this bill, and why? Because of a desire to do what it is supposed will facilitate communication. We ought to adopt the glorious mean in this thing. I am willing to give the railroad companies on the east side of the river the facility of communication to the western bank; but I desire that the Senate in doing that shall not neglect the communication upon this great river itself. They should remember that they are interfering with that navigation which is much better for the people than any transportation they can get by railroad.

Mr. GRIMES. But that takes the transportation in the wrong direction.

Mr. HENDERSON. It will not do to close up the existing direction, if the people desire so to send the products of their farms. I know that that is to have its influence; but if gentlemen desire to insist on the change of direction and that the cargo shall go to the East, and they feel disposed to close up a great river like the Mississippi simply in order to change the direction, when that new direction costs at least four times as much, I will not make any further complaint, but I do think that if a bridge can be constructed with a span of one hundred and seventy-five feet it should be done.

The Senator who has charge of this bill says it can be done; that much wider spans have been built; it is possible to build them. Then let American genius go to work and construct such bridges here. It has been done in France; American workmen can do what French workmen can do. It has been done in England; American workmen can do whatever English workmen can do. If it is required for the commerce of France, it is demanded for the commerce of our great West. If it is demanded in any part of England for the commerce of England, it is as much demanded for the increasing and growing commerce of the people of the United States.

There is no reason why as great advantages should not be given here as are given elsewhere. If the railroad companies can construct such bridges, let them do it, and then you will have the advantages of communication both by railroad and by water. I sincerely hope this amendment will not be adopted.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois, [Mr. TRUMBULL.]

Mr. RAMSEY. I thought the amendment was withdrawn. What is it?

Mr. TRUMBULL. It is to strike out "one hundred and seventy-five" and insert "one hundred and fifty;" and insert "in the clear" after "feet." It carries out precisely what was meant.

Mr. RAMSEY. The gain is so little to the bridge company that I do not think it necessary.

Mr. TRUMBULL. It makes what is meant clear.

Mr. GRIMES. I am not at all astonished that the Senator from Missouri should be as tenacious on this subject as he is, because he is represent-

ing, as he says, the sentiment of the State of Missouri, the head and front of which is the city St. Louis, that is anxious that the whole northwestern country should be tributary exclusively to that particular city. Now, Mr. President, it so happens that a portion of my constituents who live in that Northwest of which the Senator spoke, and for whom I profess to be able to speak as well as the Senator can speak, are not only anxious sometimes to go to St. Louis, but they are anxious to have facilities for reaching the eastern cities; and they want, if they possibly can, to be able to do so in the winter, when the ice is running, when it is impossible to cross sometimes for weeks in succession without great risk of life; and they want an opportunity when they choose to send their freight and their live stock to the only market they have without breaking bulk at the Mississippi river.

Now, sir, the Senator says that the proposition which comes from the Committee on Post Offices and Post Roads ought not to be adopted, because it does not give sufficient opportunity for boats to pass. Who is to judge of that? Did not the gentleman representing the committee read to us the opinion of three Army engineers detailed to go out and examine the Rock Island bridge? Did they not state specifically in that report the objections to the Rock Island bridge, and that it was solely because the piers were not placed parallel with the current of the stream? Have not the committee modified this bill so as to correspond with the report which these engineer officers made? Is not that the best information we can obtain? As I understand it, this bill is predicated upon that report. It is brought in here by a gentleman who is as much interested in the navigation of the Mississippi river as any man can possibly be who occupies a seat on this floor. He is at the very head of the navigation of the Mississippi river. His individual interests and the interests of his neighbors would probably be against the construction of any bridge anywhere on the Mississippi. He has told us that his prejudices and prepossessions were all in opposition to the construction of any bridge. But yet even he, under these circumstances, after having thoroughly investigated the whole subject, after having read the report of these three Army engineers, recommends the Senate to pass this bill.

Mr. President, I need not say that my colleague and myself, who live on the Mississippi river, and who represent several tolerably important commercial towns, are deeply interested in the navigation of the river; and I would not, and I am satisfied that he would not, do a single thing here or elsewhere that could by any possibility obstruct the free navigation of that river; and I am not disposed to rest under the imputation which might be inferred from the remarks of the Senator from Missouri that we would obstruct the navigation. We are deeply interested in it. We want for the present time, and we want all future ages, to have uninterrupted navigation of the stream; but we want at the same time, if it can be done, and we are satisfied that it can be done, opportunities to get eastward as well as southward and northward. We want to be able to transport our produce and ourselves with as little inconvenience as possible to the eastern markets; and that is the reason why we insist that these railroad companies shall have an opportunity to bridge the Mississippi river, provided they do so without interfering in any degree with the navigation of the stream. The Post Office Committee having investigated the whole subject, predicated their report upon the opinion of three skillful Army engineers who were sent out there for the purpose of investigating the subject of bridges across the Mississippi river, have submitted us a bill, and for that I vote, and for that I trust a majority of the Senate will vote.

Mr. HENDERSON. I am sorry that my friend from Iowa should have thought that I was making any imputations upon him or the Senator from Minnesota. I distinctly stated

that both of them were as much interested in the navigation of this river as I could possibly be; but the Senator seems to think that I made some imputations on them, or that the effect of what I said might have that bearing. I think not. I certainly did not intend my language in that way, and I am perfectly sure that no such construction can be properly put upon it. He seems to think that, occupying the position that I do, living in Missouri and looking to my constituents there for sentiment upon this subject, and the State of Missouri having the great city of St. Louis in it, of course it is not astonishing that I should take the ground I do. If the Senator thinks that I am adverse to the interest of any town in Iowa or any town in New England, he is very much mistaken. If he supposes that I would knowingly do any act as a Senator here that should tend to build up a town in my own State to the prejudice or to the injury of another, when that act required a wrong on my part, I can state to the Senator that I would be very far from doing any such thing. It is true that I am a Senator from Missouri; I look to the interests of the people whom I represent; and none, I think, ever looked more closely to the interests of his own constituents than the Senator from Iowa. I never blame the Senator for it. He has a perfect right to do so; and he ought not to blame me for standing by the interests of the people of Missouri.

Mr. GRIMES. I did not cast any censure on the Senator.

Mr. HENDERSON. The Senator from Iowa is sadly mistaken, if he thinks I could be induced to step aside from my duty to the injury or expense of the people of any State of the Union. I do not desire to do it, and I would not do it. He says the Senator representing the committee on this question has recommended this amendment. I do not understand that the Senator from Minnesota recommends any such thing. The bill as it now stands provides that:

If any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the river at an accessible and navigable point, and with spans not less than one hundred and seventy-five feet in length on either side of the central or pivot-pier of the draw.

That, of course, is the length in the clear.

And the next adjoining spans to the draw shall not be less than two hundred and fifty feet.

If the Senator from Minnesota will say that it is his intention to reduce the width of the spans to one hundred and fifty feet, I will take back what I have said in reference to my opinions as to the construction of the bill; but I never doubted the construction of the bill. If the Senator from Illinois will allow the bill to pass as it stands, I am satisfied with it; but he moves this amendment; and the Senator from Iowa says that the gentleman having charge of the bill on behalf of the committee insists upon the amendment. I have not so understood the Senator from Minnesota, who read a steamboat man's letter declaring that the passage of vessels required one hundred and seventy-five feet.

Mr. TRUMBULL. The Senator from Minnesota will allow me to make a suggestion. We ought not to take up time, I think, in a disagreement as to what we mean. The Senator from Minnesota has stated once or twice that he did not intend the bill as the Senator from Missouri understands it, that the opening was to be one hundred and seventy-five feet on the clear, but he understands that there is to come out of this length of one hundred and seventy-five feet whatever the draw rests upon on the piers, which he thought would make it a little more than one hundred and fifty feet. I have consulted the Senator from Minnesota, and he is willing to make it specific by saying that the opening shall not be less than one hundred and fifty-five feet. Then there can be no doubt about it.

Mr. RAMSEY. I am willing to agree to that.

Mr. HENDERSON. I will compromise with

the Senator from Illinois if he will put it at one hundred and sixty feet.

Mr. TRUMBULL. Well, I will agree to that.

Mr. HENDERSON. Very well, Mr. President—

Mr. TRUMBULL. If my friend from Missouri will cease talking we can take a vote. I modify my amendment so as to make the provision read:

And with openings of not less than one hundred and sixty feet wide in the clear on each side of the central or pivot pier of the draw.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Illinois as thus modified.

The amendment was agreed to.

Mr. HENDERSON. I wish now to call the attention of the Senator from Illinois and the Senator from Minnesota to the first portion of the second section of the bill as it has been amended on the motion of the committee, and I desire to suggest an amendment to it, to which I hope they will consent. It now declares:

That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans: *Provided*, That if the said bridges shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark as understood at the point of location to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the piers of said bridge shall be parallel with the current of the river.

If these bridges are to be built as continuous-span bridges, I think it ought to be more specifically stated how they shall be constructed. I propose, therefore, in lieu of this language, to make it read:

That if any bridge built under the provisions of this act shall be constructed with continuous and unbroken spans, it shall not be less than fifty feet above high-water mark as understood at the point of its erection, measuring for such elevation from the surface of the water and such high stage to the bottom chord of the bridge. The main span of such bridge shall be made to cover the main channel of the river.

There is no such declaration in the bill now, but the bridge company may build the main span where they choose, are not compelled to build it over the main channel of the river:

And such span shall not be less than three hundred feet in length.

I suppose this will have to be altered to two hundred and fifty feet if the Senators insist on that width.

Mr. RAMSEY. I do not insist on the spans being only two hundred and fifty feet, but I have the opinion here of an engineer attached to the War Department. He says:

"In regard to the question of the economy and practicability of truss bridges for railroads, I have the honor to state that, in my judgment, spans of two hundred and fifty feet in the clear are as great as should be adopted for crossing navigable rivers."

They are the extent of spans over almost all the rivers with which we are familiar. The spans of the great bridge crossing the Susquehanna river, now in process of erection, are two hundred and fifty feet. It is desirable, of course, to have them three hundred feet if the Senate think they can be constructed of that width.

Mr. HENDERSON. Every bridge on the Ohio river is built with three hundred feet by the law I have before me.

Mr. RAMSEY. How many bridges are there on the Ohio?

Mr. HENDERSON. Here is a general law, pages 289, 290 of the Session Acts of 1861-62, and no continuous-span bridge can be built with less than three hundred feet on that river.

Mr. RAMSEY. What is the width of the Ohio river where the bridge is erected? There is but one on the river, I think, now built.

Mr. HENDERSON. There are several bridges on the river that have not been built under this law; and they have led to continual controversies in the courts of the United States on the subject.

Mr. RAMSEY. In a narrow stream, of course, it is easily thrown at a very high elevation, but the Mississippi is wider than the Ohio river.

Mr. HENDERSON. That does not apply to the spans of the bridge. A span of three hundred feet can be built on the Mississippi just as well as on the Ohio. There may be some difficulty about getting the elevation, but that has nothing to do with the span the Senator will see. I want to put these spans, if they are built in this way, three hundred feet instead of two hundred and fifty.

I suggest further that it ought also be amended so as to have the main span of the bridge, if they are built of continuous spans, immediately over the best or main channel of the river. There is no requirement of that particular in the bill.

Mr. RAMSEY. I have no objection to that at all. I cannot conceive what motive the company would have to build the main passage-way over any other than the main channel.

Mr. HENDERSON. I presume so; but why does the Senator require it in the draw-bridges and not in continuous-span bridges?

Mr. RAMSEY. I have no objection to that amendment.

Mr. HENDERSON. My amendment goes on:

The main span of such bridge shall be made to cover the main channel of said river, and shall be three hundred feet in length, and the next adjoining span not less than two hundred and twenty feet; and the piers of said bridge shall be parallel with the current of the river.

I should like, also, to have a provision of this character:

No span of any such bridge beneath which water flows at low-water mark shall be less than one hundred and seventy-five feet in length.

Mr. TRUMBULL. What is the amendment proposed? Where does it come in?

Mr. HENDERSON. It is where the committee amend the bill, beginning at line seventeen of section two:

Provided, That if any bridge built under the provisions of this act shall be constructed with continuous and unbroken spans, it shall not be less than fifty feet above the high-water mark as understood at the point of its erection, measuring for such elevation from the surface of the water at such high stage to the bottom chord of the bridge.

Mr. TRUMBULL. That is precisely what it is now except in different words.

Mr. HENDERSON. I wish to amend it; I prefer the different words:

The main span of such bridge shall be made to cover the main channel of said river.

There is no such provision in the bill.

Mr. TRUMBULL. There is no objection to that.

Mr. HENDERSON. Then I provide that no main spans shall be less than three hundred feet in length, and also to shorten the next adjoining spans so as to be not less than two hundred and twenty feet in length, "and the piers of said bridge shall be parallel to the current of river." I think the wording of it is much better and it contains an important provision which is left out of the bill as it stands.

Mr. RAMSEY. You are reducing the length of the spans from two hundred and fifty to two hundred and twenty feet.

Mr. HENDERSON. There certainly can be no objection to that.

Mr. RAMSEY. I have no objection to the enlargement of the main span to three hundred feet, but I object to the reduction of the other spans from two hundred and fifty to two hundred and twenty feet.

Mr. HENDERSON. I only ask that the one over the main channel shall be three hundred feet; two hundred and twenty feet is enough for the adjoining span. I do not care for a larger one if you have a three hundred feet span over the main channel of the river; but the Senator may put it at two hundred and fifty feet if he will. I did not know the Senator would be willing to agree to that; but if he is, I am perfectly willing that all the spans shall be two hundred and fifty feet except the main span, and let that be three hundred feet. That will cover any water running at low-water mark wherever the water runs at low-water mark.

Mr. RAMSEY. While I agree to accept the provision requiring the main span to be three hundred feet, I object to the deduction of the

others from two hundred and fifty to two hundred and twenty.

Mr. TRUMBULL. The Senator from Missouri will allow me to make a suggestion. He has copied out of a statute passed some time ago a little different phraseology from that employed in this bill. I really do not think it is any better than that in the bill which the Senator from Minnesota has reported, and which provides "that if the said bridge shall be made with unbroken or continuous spans"—the Senator proposes to amend by changing the order of the words "unbroken" and "continuous," so as to read "that if the said bridge shall be made with continuous and unbroken spans." I do not think there is much importance, in an amendment of that kind, which adjective comes first. The only point of his amendment, as it seems to me, is that the wide span shall be over the center of the stream, and to that I understand the Senator from Minnesota has no objection; I certainly have none. If the Senator from Missouri will just put his amendment into form, I think we can agree upon it.

Mr. HENDERSON. It is in form now:

That if any bridge built under the provisions of this act shall be constructed with continuous and unbroken spans—

Certainly that cannot be different from "unbroken and continuous."

Mr. TRUMBULL. I know; but there is no importance in amending the bill to change the order of those words.

Mr. HENDERSON. It was a mere oversight of mine if I have changed the order in which they come:

It shall not be less than fifty feet above high-water mark as understood at the point of its erection.

Mr. TRUMBULL. Here it is "as understood at the point of location." There is no importance in that change of language.

Mr. HENDERSON. I suppose not; but my amendment goes on, "measuring for such elevation from the surface of the water at such high stage to the bottom chord of the bridge."

Mr. TRUMBULL. Here it is "to the bottom chord of the bridge."

Mr. HENDERSON. My amendment goes on, "and the main span of such bridge shall be made to cover the main channel of the river."

Mr. TRUMBULL. That is the new matter you propose to put in.

Mr. HENDERSON. Is there any objection to the three hundred feet span?

Mr. KIRKWOOD. That is assented to, I understand.

Mr. HENDERSON. I suppose that is not a matter of very great consequence, because, of course, all these bridges will now be built with a pivot pier. I suppose no company will build a bridge of this character when they can build one much cheaper with a pivot pier and draw. At any rate I will offer my amendment. I move to strike out all the words between "provided," in the seventeenth line, and "river," in the twenty-fourth line, and in lieu of those words to insert:

That if any bridge built under the provisions of this act shall be constructed with continuous and unbroken spans, it shall not be less than fifty feet above high-water mark as understood at the point of its erection, measuring for such elevation from the surface of the water at such high stage to the bottom chord of the bridge. The main span of such bridge shall be made to cover the main channel of the river, and such span shall not be less than three hundred feet in length, with also one of the next adjoining spans of not less than two hundred and fifty feet in length; and the piers of such bridges shall be parallel with the current of the river.

The question being put, it was declared that the amendment was rejected.

Mr. HENDERSON. I call for the yeas and nays. I thought the amendment was understood to be agreed to.

The yeas and nays were ordered; and being taken, resulted—yeas 7, nays 21; as follows:

YEAS—Messrs. Anthony, Davis, Henderson, Howard, Lane of Indiana, Saulsbury, and Sherman—7.

NAYS—Messrs. Chandler, Clark, Conness, Doolittle, Fessenden, Foster, Grimes, Guthrie, Johnson, Kirkwood, Lane of Kansas, Morgan, Nye, Ramsey, Sumner, Trumbull, Van Winkle, Wade, Willey, Wilson, and Yates—21.

ABSENT—Messrs. Brown, Buckalew, Cowan, Cra-

gin, Creswell, Dixon, Edmunds, Harris, Hendricks, Howe, McDougall, Morrill, Nesmith, Norton, Poland, Pomeroy, Riddle, Sprague, Stewart, Williams, and Wright—21.

So the amendment was rejected.

Mr. HENDERSON. I move to amend the second section, by inserting after the word "river," in line twenty-four, the words "and the main span shall be over the main channel of the river." There is no requirement in the bill now that the main span of the bridge shall be built over the channel or anywhere near the channel. I hope the Senate will permit this amendment to be made.

Mr. RAMSEY. I have no objection to it.

Mr. HENDERSON. I thought perhaps there might be objection.

Mr. RAMSEY. At the same point, if the gentleman wishes to enlarge the main span to three hundred feet, he can propose it, and there will be no objection.

Mr. HENDERSON. That is what I desired to accomplish, but the Senate just voted it down.

Mr. RAMSEY. Not that alone. The Senator incumbered that provision with a great deal of other matter which we did not want to adopt.

Mr. HENDERSON. There were but two points in my amendment which has just been voted down.

Mr. RAMSEY. The great objection to that amendment was, that it did not elevate the bridge sufficiently. It left out this provision of the section as it stands:

It shall not be of less elevation in any case than fifty feet above extreme high-water mark.

Mr. HENDERSON. That is just what my amendment was; but I cannot go into a discussion of it with the Senator. I really want the best bridge I can get, and I will put the main span at three hundred feet. The amendment I move, therefore, is to insert after the word "river," in the twenty-fourth line of the second section, the words "and the main span shall be over the main channel of the river, and shall be not less than three hundred feet in length."

Mr. RAMSEY. I have no objection to that.

The amendment was agreed to.

Mr. HENDERSON. I call the Senator's attention to the word "nearing," in the thirty-fourth line of the second section. It seems to me that it was certainly intended to be "measuring."

The PRESIDENT *pro tempore*. That is a clerical error which has been corrected, as the Chair is advised.

Mr. HENDERSON. I now offer the following amendment as an additional section:

And be it further enacted, That any bridge or bridges erected under and according to the provisions of this act shall be lawful structures, and shall be recognized and known as post routes, upon which also no higher charge shall be made for the transportation of the mails or troops and munitions of war of the United States than the rate per mile which the company or companies owning the railroads on each side of the river, and using said bridge, charge for the same service; and the officers and crews of all vessels, boats, and rafts navigating said river are required to regulate the width and the height of the same so as not to interfere with the erection or use of any bridge erected under the provisions of this act.

Mr. KIRKWOOD. Is that in lieu of section three?

Mr. TRUMBULL. I do not know that I understand the amendment. Is it proposed to strike out section three?

Mr. HENDERSON. No, sir; I have not made any such motion.

Mr. TRUMBULL. There is a part of this section already in the bill.

Mr. HENDERSON. But there is some other matter in this.

Mr. TRUMBULL. It would be very incongruous to repeat over again provisions already contained in the bill. A portion of this amendment is precisely what the third section is.

Mr. HENDERSON. That provision, I thought, could be stricken out afterward. I am not particular, however, about the amendment. If the Senator from Illinois objects to it, of course it will be voted down.

Mr. KIRKWOOD. I suggest to the Senator from Missouri that there is a part of his amendment which would come in at the end of the third section, and perhaps he had better offer it in that form.

Mr. HENDERSON. I prefer the language as I have submitted it; but I do not wish to take up time, for I see that the Senate is impatient. I withdraw the amendment.

The PRESIDENT *pro tempore*. The question now before the Senate is on concurring in the amendment made as in Committee of the Whole to the second section as it has been amended.

The amendment, as amended, was concurred in.

The PRESIDENT *pro tempore*. There is another amendment made as in Committee of the Whole which was excepted and which will now be read.

The Secretary read the amendment, as follows:

And be it further enacted, That a bridge may be constructed at the town of Hannibal, in the State of Missouri, across the Mississippi river, so as to connect the Hannibal and St. Joseph railroad with the Pike County and Great Western railroads of Illinois, on the same terms and subject to the same restrictions as contained in this act for the construction of the bridge at Quincy, Illinois.

The amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

Mr. TRUMBULL. I think the title of the bill should be amended. It does not indicate what the bill is. I move to amend the title so as to read, "A bill to authorize the construction of certain bridges, and establishing them as post roads."

The amendment was agreed to.

PACIFIC RAILROAD—EASTERN DIVISION.

Mr. HOWARD. The Committee on the Pacific Railroad, to whom was referred a message of the President of the United States recommending an extension of the time allowed by law for completing the first one hundred miles of the Union Pacific railroad, eastern division, have had the same under consideration, and have directed me to report the message and documents with a joint resolution. I ask for the present consideration of the joint resolution.

Mr. SHERMAN. I object. I have already yielded an hour and a half, and I insist upon the regular order of business.

The joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern division, was read and passed to the second reading.

USE OF THE HALL.

Mr. WILSON. A day or two ago I offered a resolution to grant the use of this Hall to Mr. Murdoch for a reading for the benefit of the orphans of soldiers and sailors. I desire to take up the resolution and have the question settled whether we shall grant the use of the Hall or not, as the reading is to take place on Thursday, and the parties interested are exceedingly anxious to know whether the use of the Hall is to be granted.

Mr. SHERMAN. I call for the regular order of business. We can just as well decide in the morning the matter referred to by the Senator from Massachusetts as we can now.

The PRESIDENT *pro tempore*. The special order having been laid aside informally by unanimous consent, must now come up, a call for it being made.

POST OFFICE APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, the pending question being on the following amendment, proposed by Mr. HENDERSON as an additional section:

And be it further enacted, That in all cases in which persons have been or shall be appointed, either during the recess or during the session of the Senate, as assistant postmasters or other civil officers under the

Government, whose appointments require the consent of the Senate, and whose appointments, having been submitted to the Senate, have been rejected or not consented to before the adjournment thereof, no money shall be drawn from the Treasury or used from any fund or appropriation made or created by law to pay the salaries of such persons under such appointments, or under any previous appointment to the same office, for services rendered after said adjournment. And if any such person so rejected by the Senate shall, after such adjournment, be appointed to the same office, no money shall be drawn or used as aforesaid to pay his salary until his appointment shall have been consented to by the Senate at its succeeding session.

Mr. HENDERSON. The Senator from Illinois has submitted an amendment to the bill, the language of which I like better than that, and therefore I withdraw the pending amendment, at least for the time being, until his amendment shall have been acted upon, though if I see fit I may propose it afterward with some change of language; I am not satisfied with it in its present shape.

The PRESIDENT *pro tempore*. The Senator from Missouri withdraws his amendment.

Mr. TRUMBULL. I offer this amendment as an additional section:

And be it further enacted, That no person exercising or performing or undertaking to exercise or perform the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term, during the recess of the Senate and since its last adjournment.

Mr. JOHNSON. I should like to know the reasons why the honorable member from Illinois supposes a provision of that sort is constitutional. There was a period in the beginning of the Government when the President's power to remove was considered somewhat questionable. It was, however, decided by the Senate to be a clear power; and from that time to the present I do not know that the legality of the power has ever been questioned. Mr. Webster, many years ago, when there was a contest between the then President of the United States and the Senate—a contest just as angry or just as excited as the contest which may be supposed to exist now between a majority of the Senate and the President—was disposed to call in question the power of removal; but the Senate will find that, in a letter written by Mr. Madison, in the Papers we have recently published, in reply to Mr. Coles, who had been his former secretary, he enters into an argument on the subject and considers it a question no longer open for controversy. The Senate were very anxious at that time to prevent, if they could do it, the power which President Jackson was from time to time exercising, but they had to abandon it. I think the Supreme Court have more than once, the question being presented, recognized the power to remove, and they have done it even in relation to a judicial officer. The members of the judicial department of the Government provided by the Constitution hold their office during good behavior. But, notwithstanding that, the judges of territorial governments, it was held, were always liable to be removed by the President; and a case was brought into the Supreme Court by a judge who had been removed, claiming his salary on the ground that he could not be removed, not because there existed no power to remove in relation to officers generally, but because of the particular character of his office; and the Supreme Court, as well as I recollect—I do not speak with positive certainty on the subject—decided that a judge in a Territory was not to be considered as a judge within the judicial department of the Government, and was therefore just as liable to be removed as any other officer appointed under the Constitution and laws.

Now, I am not sure that I exactly understand the amendment proposed by my friend from Illinois. He does not mean, I suppose, to deny that the President has a right to remove, but he provides that if he does remove, and if the officer whom he appoints to take the place of the officer removed goes into office, he shall receive no compensation until his appointment

shall have been confirmed by the Senate. I suppose that the time when the President of the United States is to send in his nominations is a matter for himself to decide, as it is for the Senate to decide at what time they will act upon the nominations when they shall come in. If he has a right to remove and he has a right to appoint, and no officer is to get his pay until the Senate have acted upon the nomination, when it shall act, what is to become of the interests of the country in the interval that may pass between the period of the removal of the original incumbent and the confirmation of the nomination of his successor? Are the wheels of the Government, as far as they depend upon the filling of that office, to be arrested, to be stopped? And if they are not, is it proper to pass such an amendment as this, as the amendment will necessarily lead to that result? It cannot be supposed that a man will go into office and remain there subject to the contingency that he may be rejected by the Senate, that no matter how long he remains during a long session he is to get nothing unless the Senate shall confirm him. I should like to hear from my friend from Illinois upon what grounds he supposes that the power in the first place exists; and secondly, if the power exists, upon what grounds he supposes it to be advisable to exercise the power.

Mr. TRUMBULL. Mr. President, I do not think that the question of the power of the President to remove from office an incumbent and appoint another in his place during the recess is necessarily involved in the amendment which I have offered. That is a controverted point and has been from the foundation of the Government. The practice, I am aware, has been for the President to exercise the power to remove from office by making new appointments; and this has generally been acquiesced in.

The laws upon this subject have not, however, been uniform. In 1863 there was created an officer called the Comptroller of the Currency, and in the law establishing the Currency Bureau it was provided that "there shall be appointed a chief officer to be styled the Comptroller of the Currency, who shall be under the general direction of the Secretary of the Treasury." The law further provided that "he shall be appointed by the President, on the nomination of the Secretary of the Treasury, by and with the advice and consent of the Senate, and shall hold his office for the term of five years unless sooner removed by the President by and with the advice and consent of the Senate."

That law, passed in 1863, provided that the Comptroller of the Currency should be removed from office by and with the advice and consent of the Senate alone, and according to that statute it is not competent for the President of the United States to remove the Comptroller of the Currency except by the advice and consent of the Senate. The legislative construction which was put upon the President's power in 1863 by this act was that it was competent for Congress to provide that persons could be removed from office only by the advice and consent of the Senate when they were appointed by that advice and consent.

Mr. JOHNSON. What is the date of that act?

Mr. TRUMBULL. It was approved by the President of the United States at that time, Mr. Lincoln, and I believe—I have not looked into the Journals—it was voted for, my impression is it was voted for by the present President of the United States.

Mr. JOHNSON. What is the date of its approval?

Mr. TRUMBULL. The approval was on the 15th of February, 1863.

Mr. SHERMAN. I think the present President was not a member of the Senate then.

Mr. TRUMBULL. I am not quite sure whether the present President of the United States was in this body at that time and voted for the law. My recollection, however, is that

he was, but I would not affirm that to be a fact without reference to the Journal; but whether that be so or not, that was the legislative construction of Congress on this power of the President, and the law received the approval of President Lincoln.

But, sir, the amendment which I have proposed does not involve that question. According to my understanding, the President has no authority to fill a vacancy which exists in an office, by himself, without the advice and consent of the Senate, unless that vacancy occurs while the Senate is not in session; and one object of this amendment is to prevent appointments of that character. I deny that if a vacancy exists in an office while the Senate is here, the President has any power to fill up that vacancy without the advice and consent of the Senate. It takes the President and the Senate both to make an officer; but he may make a new appointment in case that officer dies during the recess of the Senate, or resigns his office, or in case the term for which he was appointed expires during the recess of the Senate so that a vacancy occurs, though I am not quite sure that he would have authority to appoint in the case of an expiration of the term, because that may not be the happening of a vacancy, inasmuch as the term expires at a fixed period, there is no uncertainty about it, and it is competent for the President to anticipate that period by sending the nomination of an officer to the Senate while it is in session for its confirmation. I am by no means clear that he has authority to appoint in that case, for then it becomes an appointment to an original office when the term has expired. However, it is provided in this amendment that in either of these cases the President may make an appointment or may fill up the vacancy, and the party will receive his salary. He has the constitutional authority to do this.

But, Mr. President, the control of the revenues of the country and of the money of the country is not in the hands of the President without the authority of Congress; he has no control over one dollar; he cannot draw his own salary except by authority of law; and the Senator from Maryland will observe that this provision does not go to the appointing power at all; it is merely a provision in regard to the salaries of officers or the compensation they are to receive. It is entirely competent for Congress to provide just as much compensation as it pleases, or no compensation. It may authorize an appointment of an officer without attaching any salary or any fees to the discharge of the duties of the office. I think there is a bill now pending, reported by the Senator from Massachusetts, the chairman of the Committee on Foreign Relations, that provides for the appointment of certain commissioners without any salary whatever. It is entirely competent for Congress to make such provision. There is, therefore, no constitutional question involved in this amendment which I have offered.

We propose to provide that no man placed in an office or undertaking to exercise or perform the duties of an office without the consent of the Senate shall receive any compensation whatever, unless his appointment is to fill up a vacancy which happens by death, resignation, or expiration of the term of service. The intention of this amendment is to prevent any person being turned out of office and another put in his place during the recess of the Senate so as to receive his pay. If the President thinks proper to undertake to remove officers, the successor will receive no pay, if this provision becomes a law, until that successor is confirmed by the Senate. That certainly involves no constitutional question, for it is entirely competent for Congress to pay what salaries it pleases to the officers of the Government, or no salaries at all. The chief object, however, of the amendment was to check the practice of filling up offices in the vacation of the Senate when there was an opportunity to have filled them by and with the

advice and consent of the Senate when it was in session.

Mr. JOHNSON. Mr. President, I am aware that the money of the Government is placed under the control of Congress; and in one sense, therefore, Congress has the right to refuse to pay salaries. They may refuse to pay the President his salary, now fixed by law. They may refuse to appropriate at all for the payment of the compensation which the laws give, or which the laws ought to give, to the officers who may be appointed from time to time by the appointing power. But the honorable member, I am sure, will see that the ground upon which he places the constitutionality of this legislation, as far as that particular ground is concerned, is one which will not bear examination. If the President has the power to appoint, and the appointee has the right to go into office under the Constitution, although Congress may have the power to say that they will not pay, have they the moral right to say that they will not pay? And if there is no moral right to deny payment in such a case, are they not warring against the spirit of the Constitution, though not against its letter, by refusing to pay?

The Senate of the United States, or both branches of Congress, may become so dissatisfied with the President of the United States as to be exceedingly anxious to get rid of him. His remaining in office may interfere with some favorite policy of Congress; Congress may look to political measures upon which, as they suppose, the welfare of the country depends, and find that they cannot accomplish their purpose in having such measures adopted as long as the incumbent of the presidential office is in his seat. There are two ways to get rid of him. One is to impeach him. That requires, to be successful, a vote in the body of two thirds. Another is to starve him out, and that may be accomplished by refusing to pay his salary; and the honorable member's argument would be just as solid in a case of that description in support of legislation such as I have supposed, as it is in relation to the case before the Senate, provided the President has the authority to remove and to appoint.

Mr. President, in all good temper, I caution my friends, or rather the member who offers this amendment, against what may be the consequences of this precedent in the future. It may answer the temporary purpose for which he avows it now to be designed; but it may be relied upon hereafter to answer a temporary purpose which the honorable member from Illinois would be the last man to wish to see accomplished. The precedent may return to plague the inventor. The dominant party now in each House of Congress may, in the course of time, become a minority. They may have elected their President, and he may be an officer who is willing to carry out their particular policy. These seats, however, and the seats in the other House may be filled by a majority of members who think that the policy which the minority and the President for the time being may desire to carry out, is dangerous to the country, and then they may propose just what the honorable member proposes now, not to take away the power of appointment, as he says, but to refuse to appropriate; not to declare that he shall not appoint, but to declare that if he does appoint his appointment will be futile; and they may go further and say following the principle for which this may be cited as a precedent, that the President, for the time being stands in the way of the true interest and honor of the country, or stands in the way of some party aspiration; but as he cannot be gotten rid of by impeachment they strike at his appointing power, and if they cannot get rid of him by taking from him, practically, the benefit of his appointing power, they accomplish the same thing by providing that no money shall go out of the Treasury to compensate his appointees.

I have now the book before me, and if the Senate will indulge me for a few moments I

shall be able to find the letter to which I adverted when I first rose, from Mr. Madison, upon this subject, written when his intellect was as bright as it ever was, written at a period when (if there is any war between Congress and the existing President) there was a war even more bitter than may be supposed to be existing now, between the then Congress and the then President of the United States.

Mr. CLARK. Is there a war now?

Mr. JOHNSON. I say supposing there may be. I only put it as a supposition. I am sure there is no war now, because the amendment proposed by the honorable member from Illinois shows that there is entire confidence in the President; no doubt about that. [Laughter.] Of course I have no right, except by way of supposition, to conjecture that there is a war.

Mr. SUMNER. A mere hypothesis.

Mr. JOHNSON. It is a mere hypothesis. I am sure there is no member of the Senate less likely to occasion a war with the President than the honorable member from Illinois; but this has a little squinting that way; and, unfortunately, perhaps, he does not see it. [Laughter.] If the Senate will indulge me until I find the letter to which I have adverted, I will read it as bearing more persuasively upon the question which I think is involved than I am sure would be the effect of anything I could say. While my friend behind me, [Mr. HENDERSON,] to whom I have turned over the book, is searching for the letter, let me say a word on the question what will be done by the proposed amendment.

The honorable member from Illinois tells the Senate that it raises no such constitutional question as I have suggested. If it does not, there is certainly no necessity for the amendment. If what it proposes to accomplish is that which the law now accomplishes, there is no occasion for the amendment. If it leaves the appointing power precisely as free as it is now, there is no occasion for the amendment. But as the amendment is offered upon the hypothesis that the law as it now stands will not accomplish what the amendment proposes to accomplish, the question is whether it does not seek to accomplish something which interferes with the appointing power of the President. Now, does it not? Since it was settled in 1789 nobody has ever seriously questioned that the President has the right to remove. Mr. Webster and Mr. Clay during the exciting periods to which I have adverted, while President Jackson was at the head of the Administration, suggested that there was a serious doubt whether the original decision was a correct one; but as well as I remember, both of them, and particularly Mr. Webster, admitted that it was too late to question the constitutionality of that decision.

What Congress did in the act to which my friend from Illinois adverts was done under the clause of the Constitution which gives the authority to provide for the mode in which officers whose appointments are not provided for in the Constitution may be appointed. That is all; but this goes a stone's throw beyond that. I understand the honorable member from Illinois now as avowing that his purpose is to deny to the President the power to appoint during the recess of the Senate, but that he does not mean to deny his power to remove. What is the benefit of the power to remove unless there exists in connection with it the power to appoint? What is the effect of the removal? Is it to get rid of the incumbent? The grant upon which the power was originally claimed, and was established, was important to the interests of the Government that there should be a right to remove. To give the President the power to remove, and to deny him the power to appoint, is to leave the Government unrepresented in its several administrative departments, to leave offices unfilled. Is the Senate prepared to do that? What is the President to do? I have no more knowledge of the purpose of the President than any mem-

ber of the Senate; it is not my good fortune to see him except very seldom, and that upon mere matters of business; but what is he to do? If he be the man that his friends suppose him to be, and that his whole life proves him to be, he is a man of firmness—moral as well as physical firmness. Suppose he is of opinion that it is the purpose of Congress to war upon him, by taking from him the power to remove, not by taking it from him directly, but by denying to those whom he shall appoint in place of those that he removes, compensation, what will he do? He will remove and not appoint. Then, what are you to do? Impeach him? If you do, what will be his defense? "My power to remove has been settled from the organization of the Government down to the time of your attempted indirect interference with it. You do not deny my power to remove directly; what you propose to do is, to deny payment to any officer whom I may appoint. You claim that right. So far as power is concerned, you have the power, because no money can be drawn from the Treasury without an appropriation, and you have the power to deny the appropriation. What then? I remove notwithstanding; I will not let a dishonest officer be in; I will not let an incompetent officer be in; I will not let a man who reviles me be in;" and no President from the beginning of the Government to this time, ever has. "I remove such a man; I try to fill his office, but I can get nobody to take his place because you say you will not pay whoever may take his place, and what is the result? The wheels of Government are stopped, and I make an issue with Congress before the people. Whose fault is it? Is it mine, or is it the fault of Congress?"

But, independent of all, Mr. President, I submit to my friends who are in favor of this measure, if any are in favor of it, except the mover of the amendment, what possible good is there to be accomplished? I speak it in no party spirit, for if I know myself I am not under the influence of party spirit, and in the present condition of the country I cannot be made to feel under the influence of party spirit. I ask, in the present condition of the country, what good is to be accomplished by carrying on an apparent war with the President, doing what has never been done in relation to any of his predecessors? What is the condition of the country? The war against rebellion over; the Union still practically dissolved; and what are the signs of the times? The Secretary of State has told us that he has instructed our minister at Vienna to ask for his passports if any Austrian troops are sent to the aid of the tottering empire of Maximilian. No doubt they will be sent. Then I suppose the Austrian minister here will ask for his passports. What are we to do?

Mr. CRESWELL, and others. Let him go. Mr. JOHNSON. Certainly we cannot prevent his going; but what may follow from his going. If we attempt to carry out the threat which is involved in the instructions to our minister at Austria to leave that court, war—war with Austria. Where can we strike her? We may strike the few soldiers she sends into Mexico, but that will do her little if any harm; but where can she not strike us? Fill the seas with privateers, and for aught that we know engage Napoleon as an ally.

I mention such contingencies as this not for the purpose of saying that if they occur they are not to be met in a manly and a patriotic spirit, but for the purpose of invoking my friends in this body to avoid, if it is possible to avoid, any dissension among ourselves. I should fear that while as I think no practical good of any appreciable extent, except perhaps in a party sense, will be accomplished by such an amendment as my friend from Illinois proposes, infinite mischief may be the consequence of our holding in the presence of the world divided councils. Eleven States of the Union are now not represented, and as far as Congress and the presidential election are concerned, not to be represented until after the next presidential election if the report made from the committee

of fifteen shall be adopted by Congress. Surely, this is not a time to exhibit before the world divided councils.

Our wishes individually are as nothing; our party hopes, whatever they may be, in my estimation, are as nothing; party ascendancy by either of the parties which are supposed now to divide the country is as nothing compared with the restoration of the Union, and standing, not divided, but standing as one and a united people all under the protection of the Constitution that our fathers framed for us and adopted for us, and entitled to all its rights.

I have now the letter to which I alluded some time ago. It is a letter from Mr. Madison to Edward Coles, who had been his former secretary, dated October 15, 1834. It is quite a long letter; but there are only one or two portions of it that bear on the particular question. In a former letter he had told Mr. Coles that in his opinion the Senate of the United States were inculcating what he termed innovating doctrines; and Coles asked him to specify what he considered to be innovating; and in answer to that request Mr. Madison says:

"You are at a loss for the innovating doctrines of the Senate to which I alluded. Permit me to specify the following:

"The claim, on constitutional ground, to a share in the removal as well as appointment of officers is in direct opposition to the uniform practice of the Government from its commencement. It is clear that the innovation would not only vary, essentially, the existing balance of power, but expose the Executive, occasionally, to a total inaction, and at all times to delays fatal to the due execution of the laws."

"Another innovation brought forward in the Senate claims for the Legislature a discretionary regulation of the tenure of offices. This, also, would vary the relation of the departments to each other, and leave a wide field for legislative abuses. The power of removal, like that of appointment, ought to be fixed by the Constitution, and both, like the right of suffrage and appointment of Representatives, to be not dependent on the legislative will. In republican Governments the organization of the executive department will always be found the most difficult and delicate, particularly in regard to the appointment, and, most of all, to the removal of officers. It may well deserve consideration how far the present modification of these powers can be constitutionally improved."

Another innovation of great practical importance espoused by the Senate relates to the power of the Executive to make diplomatic and consular appointments in the recess of the Senate. Hitherto it has been the practice to make such appointments to places calling for them, whether the places had or had not before received them. Under no Administration was the distinction more disregarded than under that of Mr. Jefferson, particularly in consular appointments, which rest on the same text of the Constitution with that of public ministers. It is now assumed that the appointments can only be made for occurring vacancies, that is, places which had been previously filled. The error lies in confounding foreign missions under the law of nations with municipal officers under the local law. If they were officers in the constitutional sense, a legislative creation of them being expressly required, they could not be created by the President and Senate. If, indeed, it could be admitted that as offices they would *ipso facto* be created by the appointment from the President and Senate, the office would expire with the appointment, and the next appointment would create a new office, not fill a vacant one. By regarding those missions not as offices, but as stations or agencies, always existing under the law of nations for Governments agreeing, the one to send the other to receive the proper functionaries, the case, though not perhaps altogether free from difficulty, is better provided for than by any other construction. The doctrine of the Senate would be as injurious in practice as it is unfounded in authority."

The first extract which I read is that which bears more immediately; and I will read it again. The italics are in the work, no doubt by Mr. Madison himself.

"The claim, on constitutional ground, to a share in the removal as well as appointment of officers is in direct opposition to the uniform practice of the Government from its commencement. It is clear that the innovation"—

The innovation being a claim of participation in the power of removal—

"would not only vary essentially the existing balance of the power but expose the Executive, occasionally, to a total inaction, and at all times to delays fatal to the due execution of the laws."

And the more mature reflection of the great and patriotic men who adorned this body at that time led them to abandon the contest. Now we are about to renew it. My friend from Illinois says that that is not the purpose of the amendment, and yet he cannot help saying that his very object is to deprive the Pres-

ident of the power to remove, not directly, but by taking from the appointees whom he may appoint the compensation which the law would otherwise give.

Now, I submit in all frankness, and, to repeat, without the slightest wish to effect any party purpose, without the most remote idea that my judgment upon this question is influenced at all by any party consideration, that it is all-important to the peace, quiet, prosperity, and honor of the country that we should get along with the President, however he may be, without trenching at all upon the powers which from time to time have been held from the beginning of the Government to belong to that department.

Mr. SUMNER. Mr. President, I should like to simplify the question before the Senate, which, it seems to me, the learned Senator from Maryland has done more to perplex than to explain. I say that, of course, with great respect to the learned Senator. It is said that the fox, when pursued, cunningly contrives to throw his pursuers off the scent, and it did seem to me as I was listening to the Senator, that he was imitating that sagacious animal. He was trying to throw the Senate off the scent, and now, sir, my simple purpose will be to bring the Senate back upon the scent.

The Senator very ingeniously reminded you of our relations particularly with Austria, and he opened before us prospects which under his powerful description were calculated certainly to awaken the attention and the interest of the Senate. I share, sir, the solicitude of that Senator with reference to the question to which he has referred, but I beg to remind the Senate that it surely can have nothing to do with this question. Whatever may be our relations with Austria, or with any European Power, I know not how those can affect our decision on the simple question now before us.

Then, again, sir, there is another question of great importance, which the Senator has introduced, and which is, to a certain extent, I admit, germane to this question. I mean that question so much discussed in the early history of our country, and which has never been entirely out of mind, to what extent the Senate may share with the President the power of removal. The Senator opens that question on this occasion, as if that was in issue in the amendment proposed. Permit me to remind the Senate that however associated it may be historically, perhaps, with the amendment now before the Senate, in point of fact it has nothing to do with it. You may have one opinion or another opinion on the question which the Senator has raised, and it will not affect your conclusion on the proposition upon which you are to vote. Whether Senators agree with the learned Senator from Maryland, that the Senate cannot share with the President the power of removal, or whether they disagree with him, what has that to do with the question that is now before us?

Therefore, sir, let me say, the Senator did not advance one jot in his argument when he adduced the authority of Mr. Madison, for Madison did not address himself to the question on which you are to vote. He wrote on entirely a different question, the power of removal. When the power of removal is in discussion, I, for one, shall be ready to enter into that debate, and of course I shall give all due weight to the authority of Mr. Madison, and also the other names which are associated with that question. I may remind the learned Senator, though he is not ignorant of it, that when that question was originally decided in this Chamber, it was under the Administration of George Washington, and by the casting vote of the Vice President of that day, John Adams; and there is reason to believe that when the Senate at that time abdicated its power to interfere in removals, it was governed as much by its great deference for George Washington as it was by any constitutional opinion that it had not the power.

However, I merely refer to these matters in

order to put them out of the discussion; they have nothing to do with it; and this brings me to the precise proposition before the Senate. In order that I may make no mistake in stating it, I will read its precise language:

That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term during the recess of the Senate and since its last adjournment.

The proposition is very simple; it needs no commentary or no explanation. All familiar with public offices know that there are unquestionably abuses that have occurred in the executive department from the habit, after the adjournment of the Senate, of filling vacancies which had existed during the session of the Senate but which the Senate had chosen not to fill. Is Congress wrong if it undertakes to provide by legislation that in such cases the party nominated shall not be entitled to any salary or compensation until he is afterward confirmed by the Senate? It may be, as the Senator from Maryland suggests, that we may not interfere with the power of removal; but there is one power which Congress has—and the Senate is a part of Congress—and that is the power over the purse strings; and all that this proposition undertakes to do is to exercise power over the purse strings in certain cases, so as to impose a check, a constitutional check, which recent events show ought to be imposed upon the Executive. The proposition is so simple that it hardly justifies argument, and I will not take any further time about it.

Mr. TRUMBULL. The Senator from Maryland is mistaken in supposing that this is a measure hostile to the Executive of the United States. It is an amendment intended to carry out what I conceive to be clearly the constitutional authority of Congress and to prevent a practice which has grown up of making appointments to office without consulting the Senate. The Senator from Maryland remarked the other day, very properly, that if the practice were to prevail that the President should fill up vacancies during the recess to continue until the end of the next session of the Senate, and then, without nominating anybody to the Senate during its session who could obtain a confirmation, were again after the adjournment of the Senate to make a new appointment to continue to the end of the then next session, he could in this way continue to exercise the appointing power without consulting the Senate at all. The Senator admitted that this would be a violation of the spirit of the Constitution.

This is no new idea in this body, nor is it aimed at the present Executive of the United States. Congress had occasion more than three years ago to pass an act upon this very subject. At that time persons were being appointed to office in this same way, without consulting the Senate. What did Congress do? It passed an act providing—

"That no money shall be paid from the Treasury of the United States to any person acting or assuming to act as an officer, civil, military, or naval, as salary in any office which office is not authorized by some previously existing law, unless where such office shall be subsequently sanctioned by law; nor shall any money be paid out of the Treasury as salary to any person appointed during the recess of the Senate to fill a vacancy in any existing office which vacancy existed while the Senate was in session and is by law required to be filled by and with the advice and consent of the Senate until such appointee shall have been confirmed by the Senate."

We provided more than three years ago, on the 9th of February, 1863, that in all cases where a vacancy existed which might have been filled by and with the advice and consent of the Senate while it was in session, if the President afterward undertook to fill that vacancy, the appointee should receive no salary until he was confirmed by the Senate. That is one case which is covered by the pending amendment. This amendment, however, goes a little further than the law of 1863, but not very much further. What is there in it? A practice has grown up, not under the present Executive

more, than under other Executives, of filling offices, as I think, in violation of the spirit of the Constitution, he doing it himself without consulting the Senate when it is practicable to consult the Senate. We tried to check this in 1863. Now, the provision that is offered is simply that if a person is placed in office under circumstances where it would have been practicable to have the advice and consent of the Senate without their advice and consent, then that person shall not be paid until the Senate consents to his appointment. When the Senate does consent he receives pay from the beginning. If the Senate of the United States were to adjourn on the 1st day of May, tomorrow, and a person were appointed by the President to an office which is vacant to-day, he could not under this provision receive any salary until the Senate met again next December and confirmed him; and why? Because the President ought, under the Constitution, to have sent us the name of the person to fill that office while we were here and to have had our advice and consent to his appointment. If he will not do that, the appointee must wait until the Senate convenes and gives its sanction to the appointment, and then he will receive his pay. There is no violation of any constitutional provision in doing this. But it is said that an officer may misbehave and the President ought to have authority to remove him. He may in using the public money during the recess of the Senate be guilty of some malfeasance, and he ought to be turned out. This provision does not interfere with that. Let the President suspend him and turn him out; let him also, if you please, designate some other person to fill the office until the Senate meets; and all there is of it is that until that other person is confirmed he will not be paid; but when he is confirmed he will be paid from the beginning. Is there any hardship in it? It has been suggested by some that the amendment might be amended in that respect so as to provide that in case of a removal for cause, to be reported to the Senate when it assembled, the appointee should receive pay from the time of the appointment. There perhaps would be no very good objection to an amendment of that kind, though I do not deem it essential or necessary, for I think there would be no sort of difficulty in finding good men to take any office and run the hazard of their confirmation by the Senate when they were appointed because the incumbent was unfit to hold the office. There would be no hesitation on the part of the Senate in confirming a person appointed under such circumstances and allowing him his pay. He would run no hazard in taking the office; but if without cause, if simply to put into office a partisan for party purposes and to the detriment of the public service, a removal is made, it is very questionable whether the appointee could or should be confirmed or even receive any compensation. Where the removal was for cause there would be no difficulty.

That is all there is of this amendment. It is no new provision, no attack upon the Executive, and I do not think it is likely to occasion war with Austria. [Laughter.] I do not myself think that we should be diverted from proper legislation by getting up any alarm of that kind. The withdrawal of our minister from Vienna or the withdrawal of the Austrian minister from Washington I do not think should prevent proper legislation on a subject of this character, and I really do not know what it has to do with the particular provision before the Senate.

I cannot see, therefore, Mr. President, any objection to the amendment. It seems to me it involves no constitutional principle whatever. All there is of it is that it will have a tendency to correct a practice which has been indulged in without any design, probably, on the part of former Presidents, and which I think ought to be corrected. I think the tendency of the act of 1863 was to correct a practice which was then growing up. It attacked it. This is another provision in the same direction covering what

is already covered by the act which I have read and going a very little further, so as to embrace appointments to vacancies which are created during the recess of the Senate. I trust, sir, that the amendment will receive the sanction of the Senate.

Mr. SHERMAN. Mr. President, I wish I could see this matter as clearly, and perceive the path of duty as easily as my friend from Massachusetts and my friend from Illinois. I should like very much to promote the manifest object of the amendment, to prevent removals during the recess for political reasons. The Constitution provides for two classes of appointments: one made during the session of the Senate, which are of no validity until they are sent to the Senate and confirmed. They are the classes of appointments referred to by the law of 1863, a law that I remember very well, and which grew out of abuse by the Executive of the constitutional power to appoint to office. Where a vacancy occurs during the session of the Senate, the appointment of the President is of no validity and has no force until it is sent to the Senate and is confirmed. No accounting officer of the Treasury would pay the salary from the time of the appointment until the confirmation, because the appointment only takes effect from the confirmation. The act of 1863 was simply declaratory of the Constitution in that respect. I presume it did not change in the slightest degree either the practice of the accounting officers or the practice of the Government itself.

But this amendment goes beyond that; it in effect declares that the President of the United States shall not remove anybody from office during the vacation, except upon the penalty that the successor shall get no pay unless at the pleasure of the Senate; that the officer who may be appointed by the President in case of a removal during the recess of the Senate, shall perform the duties of his office without pay until the Senate confirms him, and in case the Senate refuses to confirm him that he shall discharge the duties of his office without pay at all. The Constitution provides that "the President shall have power to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session." Now, let me take a case, which I submit to the chairman of the Judiciary Committee: suppose that after the adjournment an officer of the Government should become a defaulter, and should be removed for defalcation, or for crime, and some one else should be appointed in his place. That person thus appointed would be a legal officer of the Government, just as much so as the Senator from Illinois; just as much so as I am, just as much so as any officer of the Government can be. Does he propose to say that this officer shall not receive any pay whatever until the Senate has confirmed the appointment? Suppose the confirmation is refused by the Senate: does the Senator mean to say that officer shall receive no pay, although thus confessedly legally appointed, unless the Senate confirm him? The Constitution declares that this appointment made during the vacation is a legal, valid appointment which shall last until the close of the following session of the Senate. The officer is just as much an officer when he takes the oath of office under that appointment as he would be after the confirmation of the Senate in case he had been appointed during the session of the Senate. Do we say that we will not pay an officer for his services during the time he confessedly holds his office legally. That is the effect of the amendment.

Mr. CLARK. That is excluded, as I understand.

Mr. SHERMAN. No, sir. I ask the Senator from Illinois if that is not the legal effect of the proposition. I should like to have him state whether the effect of the proposition is not as I state. A removal occurs for cause, say for defalcation, during the recess; the vacancy occurs by removal for some good cause, a cause that he concedes to be good.

and a person is appointed to fill that vacancy; the person who holds that office is an officer of the Government, entitled under the law to his salary, just as much an officer of the Government as if he had been confirmed by the Senate in case the vacancy had occurred during the session of the Senate. Suppose that the officer thus legally appointed should die before the Senate could act upon him. In that case he would get no pay at all. Suppose there should be a division in the Senate on the question, and he should not be confirmed by the mere neglect or non-action of the Senate. The officer thus legally appointed would get no pay.

I see difficulties in the way. I should like very much, indeed, if it is within our power—I do not say it is not—to have some law passed which may limit and restrain the power of removal during the vacation of the Senate. Indeed, I do not think the question of the power of Congress to limit and control the authority of the President to remove has ever been settled. In my judgment, Congress may by law limit the power of removal; and why? The power of removal is not conferred upon the President by the Constitution of the United States. The Constitution nowhere gives him the power to remove any man from office. It is a mere inferential power, derived from the power of appointment. It was a power denied in the early organization of the Government, and as a Senator has suggested, a resolution affirming it was only carried by the casting vote of John Adams. It was regarded as a question of great doubt. The power of removal is nowhere conferred by the Constitution on the President of the United States in express terms. His power of removal is simply inferential from the power given him by the Constitution to appoint ambassadors, ministers, and consuls, judges of the Supreme Court, &c. What is there in the Constitution to prevent Congress from regulating and controlling to some extent the power of removal? Nothing whatever. We have done it in repeated cases. This very point was made at the time we passed the first law organizing the national banks. It was then discussed whether or not Congress could limit or restrain the power of the President to remove a man from office. The first law that was passed expressly provided that he should not remove the Comptroller of the Currency except on such and such conditions. Where do we gain that power? From the Constitution, from the inherent right of Congress to pass laws which are binding on the President. I therefore admit that Congress may by law restrain and limit the power of the President to remove.

But in my judgment the particular proposition which denies to an officer legally appointed during the recess his salary except upon a condition that may or may not happen, is at least a very harsh and violent measure, which I would hesitate very much to resort to. There is a remedy for the evil complained of, in my judgment, and it is without a measure of this kind. I dislike very much to see these propositions attached to our appropriation bills. They are in the nature of conditions to what we ought freely to grant, appropriations to meet the expenses of the Government. I do not like to see them put on in that way; but if the Senator from Illinois or the Judiciary Committee will frame a bill which will limit and restrain the power of the President to remove from office, so that when a man is appointed for four years he shall hold that office during that four years, unless he is removed for cause, to be submitted to the Senate, I will vote for such a proposition, and I say there never was a time when this great question could be more fairly met than now. It is admitted on all hands that at least a jealousy exists between the President and Congress; I will not say war, because I do not think there is a war, but there is a jealousy and a watchfulness probably on the part of the President and on the part of Congress. What is to prevent Congress now from passing such a law as I have indicated? The majority here is overwhelming. We have no object to accom-

plish of a mere partisan purpose. The majority in Congress is perhaps two thirds in a party sense. What is to prevent now the Judiciary Committee from carefully framing a law prescribing the term of office of the various classes of officers of the Government and declaring that the President shall not remove any one of those officers except for such and such causes?

I venture to say, although the opinion of Mr. Madison has been read to the effect that we cannot control the power of removal, that no great statesman has ever declared that where a man is appointed to office for a period of time fixed by law, and the power is not given to the President to remove him from that office, he can be removed without cause. That power is not conferred by the Constitution, and it is only derived inferentially—a power not to be extended. It seems to me that this is the solution of this whole difficulty. I hesitate very much to prescribe these tests in an appropriation bill, and I warn Senators that we yield an advantage, if I may so say, when we attach these propositions to appropriation bills which must pass in the ordinary course of business. Whoever is President, we must have appropriations to carry on the Government. We cannot justify any measure to restrain even a real, much less a fancied danger, by attaching these clogs and qualifications to appropriation bills. Now is the time, while we have ample power, even by a two-thirds vote in both Houses of Congress, to pass a just and wise law on this subject. I do not see any reason why the law should not now be passed. If so, it would properly come from the Judiciary Committee. It could be there properly considered and framed. The question ought not to be passed on in this informal way as an amendment to an appropriation bill.

These are my views, and I am bound to express them. I desire to accomplish to some extent at least the purpose here indicated, and probably I should go as far as the Senator from Illinois desires to go in this amendment; but I do not think it would be wise for us now to pass a proposition which would declare that an officer of the Government legally appointed under existing laws in accordance with the practice of the Government from the foundation to this time, shall receive no pay unless we should hereafter confirm that appointment. It is a stretch of power and of law that I think there is no example of in this Government. The case cited by the honorable Senator from Illinois is no parallel case, because that was a case where the appointment was made in violation of the Constitution, where the vacancy occurred during the session of the Senate, and the President undertook during the recess to fill up that vacancy. There was a case where he undertook to exercise a power and confer an appointment which he could not do except by the confirmation of the Senate, and the law properly declared that no money should be taken out of the Treasury for such a bad and informal appointment. But this amendment goes beyond that, and declares that a man shall not receive pay for an office to which he has been legally appointed.

The Senator from Illinois says it is no great hardship, because if a good man is appointed during the vacation the Senate will confirm him; but I ask the Senator whether a man is compelled to hold office in this country upon those terms and conditions. The framers of the Constitution contemplated a necessity impending upon the President to appoint officers during the recess of the Senate, and they provided for it. They are legal officers just as much so as I am. For us at this stage of the session to declare that those persons thus legally appointed shall not receive their pay until the Senate shall act at some future day, and that in the mean time public officers shall transact their business without pay for months, is rather an extraordinary proceeding. Take the case of a revenue officer collecting large sums of money who has to appoint an army of deputies, and in many cases those officers have to

pay their deputies or employes out of their fees or salaries. You require the officer to go on perhaps for nine months to discharge the duties of the office, paying in the mean time all the expenses of the office out of his own pocket, upon the uncertain contingency of a future confirmation by the Senate, and then you provide that in case the Senate does not see proper to confirm the man, he shall not have anything during all this period of time. That is the legal effect of this amendment; and I hesitate, I confess, to embark in that kind of conditions, but I am perfectly willing to support the Senator from Illinois in a proposition to limit by law the power of the President over all the public officers. The amendment proposed by the Senator from Missouri did not go so far. It contained two simple propositions affecting mainly those that were appointed to fill vacancies occurring during the session of the Senate. It met my approval. The amendment of the Senator from Missouri went no further than the law of 1863, but this goes a great way beyond that, and I confess I hesitate in taking the step.

Mr. HENDERSON. It is true that when this bill was up for consideration a few days ago I offered two amendments, not going the length of the proposed amendment now pending, but I am not disposed to think that this amendment cannot constitutionally be adopted. I think it can. I am not like the Senator from Illinois, either, upon the subject of restraining the power of the President to make these appointments. I freely confess that so far as I am concerned that is my desire. When I first offered amendments to this bill, I was governed by what had been the policy of the executive government heretofore, and the claim of power on the part of the Executive to make removals. I was willing to admit the existence of the power, simply because it had been exercised heretofore. Since I offered those amendments I have examined somewhat into this subject, and I can state to the Senator from Illinois that I have partially prepared a bill covering this whole question, and I design going on and completing a bill which will provide, as I think, for almost every conceivable case. I have, since that time, also examined somewhat into the history of this matter, and I have come to the conclusion—and I hope that it is a conclusion arrived at without any bias or prejudice from existing circumstances—that the President has no power constitutionally to remove an officer at all.

I am aware that Mr. Madison expressed his opinions repeatedly on the subject. I will refer the Senator from Maryland, who has given the opinions of Mr. Madison in a letter written in 1834, to his opinions given in the first debate on this subject in 1789. I honestly believe that all the mistake that has originated on this subject comes from the determination of the lower branch, and the Senate also, at a subsequent period in 1789 on this very subject. The Senator, of course, is well aware how the question came to be decided in 1789, and I really think it has been used as a precedent from that day to this without any reason for it. The truth of the matter is that it is not a precedent for such removals as are daily made now by the executive department of the Government. You will remember that immediately after the meeting of Congress a proposition was made to establish the various Executive Departments. Mr. Madison moved to amend it. The motion of Mr. Madison was:

"That it is the opinion of this committee that there shall be established an Executive Department to be denominated the Department of Foreign Affairs, at the head of which there shall be an officer to be called the Secretary to the Department of Foreign Affairs, who shall be appointed by the President by and with the advice and consent of the Senate, and to be removable by the President."

The debate which has been cited as a precedent upon this subject originated upon that proposition of Mr. Madison. Mr. Smith, of South Carolina, moved to strike out the words "who shall be appointed by the President by and with the advice and consent of the Senate." The ground of his motion was that the Presi-

dent had the power to make the nomination by virtue of the provisions of the Constitution; that there was no necessity for providing by law that he should nominate; but that when a law created an office under the United States it was the duty of the President to make the nomination, but the Senate must confirm it; that the use of the words was mere surplusage; and the words were stricken out by a large majority. But the important question then arose; the proposition was made by Mr. Bland, of Virginia, to strike out the other words, "to be removable by the President," and then came the question. Mr. Madison upon that point used the following words, and they are much more clear and explicit than the words he used afterward in his letter to Mr. Coles:

"Mr. Madison did not concur with the gentleman in his interpretation of the Constitution. What, said he, would be the consequence of such construction? It would in effect establish every officer of the Government on the firm tenure of good behavior; not the heads of Departments only, but all the inferior officers of those Departments, would hold their offices during good behavior, and that to be judged of by one branch of the Legislature only on the impeachment of the other. If the Constitution means this by its declarations to be the case, we must submit; but I should lament it as a fatal error interwoven in the system, and one that would ultimately prove its destruction. I think the inference would not arise from a fair construction of the words of that instrument."

After a very long discussion, from which I will read only a few extracts from the speech of Mr. Gerry, who was also a member of the Convention, it was decided by a very large majority that the power of removal should be given to the President. I desire to refer to the remarks of Mr. Gerry on that occasion. He said:

"The Constitution provides for the appointment of the public officers in this manner: the President shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law."

I call the attention of the Senator from Maryland to this opinion of Mr. Gerry, which is of almost as much value as the opinion of Mr. Madison:

"Now, if there be no other clause respecting the appointment, I shall be glad to see how the heads of Departments are to be removed by the President alone. What clause is it that gives this power in express terms? I believe there is none such. If there is a power of removal, besides that by impeachment, it must vest somewhere. It must vest in the President, or in the President and Senate, or in the President, Senate, and House of Representatives. Now, there is no clause which expressly vests it in the President. I believe no gentleman contends it is in this House, because that would be that mingling of the executive and legislative powers that gentlemen deprecate. I presume, then, gentlemen will grant that if there is such a power, it vests with the President, by and with the advice and consent of the Senate, who are the body that appoints. I think we ought to be cautious how we step in between the President and the Senate, to abridge the power of the one or increase the other. If the power of removal vests where I suppose, we, by this declaration, undertake to transfer it to the President alone."

This proposition afterward went to the Senate, and after a discussion in the Senate upon the points involved in it, it was decided by the casting vote of the President of the Senate that the President of the United States should have the power of removal. What was it that was decided? It was decided the law should be so constructed in creating the Executive Departments, presided over by the Secretary of State, the Secretary of the Treasury, and the Minister of War, that the President should at his pleasure remove them. That was all that was determined.

The question arose again, it will be recollected, in 1814, upon the appointment by Mr. Madison of the commissioners to settle the terms of peace with Great Britain. Mr. Madison, it will be remembered, made an appointment of commissioners to go to Europe on the subject of peace and to meet commissioners to be appointed by Great Britain, without any law or Congress whatever. A proposition was offered in the Senate declaring that Mr. Madison had exceeded his powers on that subject, and the question was discussed as to the power of the President to make such appointments

without law. Although there was no positive decision on the point, perhaps the better of the argument was inasmuch as we were in a state of war, even if the President had not the power to appoint those commissioners under the clause which we have been discussing here, namely, that the President, by and with the advice and consent of the Senate, shall appoint ambassadors, ministers, consuls, &c., he certainly had the authority under the treaty-making power.

The question came up again in 1827, and I desire to refer to the opinions that were then expressed. In 1827 the Senate appointed a committee to examine into this subject. That committee consisted of Mr. Benton, who was the chairman, Mr. Macon, of North Carolina, Mr. Van Buren, of New York, Mr. Dickerson, of New Jersey, who was afterwards Secretary of the Treasury, Mr. Johnson, of Kentucky, Mr. White, of Tennessee, Mr. Holmes, of Maine, Mr. Hayne, of South Carolina, and Mr. Finlay, of Pennsylvania. They investigated the subject and made a report. The Senator from Maryland has relied upon the opinions of Mr. Madison. I do not desire to read the whole of this report, nor any very considerable portion of it, but I will refer to a passage from it in order to show the reasoning in favor of the proposition that is now made by the Senator from Illinois. They say:

"It is no longer true that the President in dealing out offices will be limited, as supposed in the Federalist, to the inconsiderable number of places which may become vacant by the ordinary casualties of death and resignation. On the contrary, he may now draw for that purpose upon the entire fund of the executive patronage. Construction and legislation have accomplished this change. In the very first year of the Constitution a construction was put upon that instrument which enabled the President to create as many vacancies as he pleased."

Alluding to the construction to which I have referred:

"In the very first year of the Constitution a construction was put upon that instrument which enabled the President to create as many vacancies as he pleased and any moment he thought proper. This was effected by yielding to him the kingly prerogative of dismissing officers without the formality of a trial. The authors of the Federalist had not foreseen this construction. So far from it, they had asserted the contrary; and arguing logically that the dismissing power was pertinent to the appointing power, they had maintained, in No. 77 of that standard work—

That is a number written by Mr. Hamilton, because it is well known that Mr. Madison's opinions were to the contrary. From the very origin of the Government down to the day of his death, he held that the President had the power of removal; but I must say, from an examination of the opinions of the leading men of that day, that Mr. Madison was almost alone.

"They had maintained in No. 77 of that standard work that if the consent of the Senate was necessary to appointment, their consent was necessary to dismissal from office; but this construction was overruled by the first Congress which was formed under the Constitution: the power of dismissal was abandoned to the President alone; and with the acquisition of this prerogative, the power and patronage of the presidential office was increased to an indefinite extent, and the argument of the Federalist against the capacity of the President to corrupt members of Congress founded on the small number of places was totally overthrown. So much for construction. Now for the facts of legislation: without going into an enumeration of the statutes which unnecessarily increase the executive patronage, the four years' appointment law will alone be mentioned; for this single act * * * * "places more offices at the command of the President than were known to the Constitution at the time of its adoption, and is of itself amply sufficient to overthrow the whole argument used in the Federalist."

That was not the only time that this subject was considered in Congress. I find that in 1834 this question came up again. Mr. Clay, on the 7th of March, 1834, introduced into the Senate some resolutions in regard to it. I wish to direct the attention of the Senate to those resolutions, and also to the opinion of Mr. Clay, which I think is dispassionate and correct. The first resolution was in these words:

"**1. Resolved,** That the Constitution of the United States does not vest in the President power to remove at his pleasure officers under the Government of the United States whose offices have been established by law.

"**2. Resolved,** That in all cases of offices created by law, the tenure of holding which is not prescribed

by the Constitution, Congress is authorized by the Constitution to prescribe the tenure, terms, and conditions on which they are to be held."

Sustaining fully the view taken by my friend from Ohio, [Mr. SHERMAN.] The third resolution was in these words:

"**3. Resolved,** That the Committee on the Judiciary be instructed to inquire into the expediency of providing by law that in all instances of appointment to office by the President, by and with the advice and consent of the Senate, other than diplomatic appointments—

Of course, leaving the action taken by Mr. Madison, in 1814, to stand as a valid action—"the power of removal shall be exercised only in concurrence with the Senate; and when the Senate is not in session, that the President may suspend any such officer, communicating his reasons for the suspension to the Senate at its first succeeding session; and if the Senate concur with him, the officer shall be removed; but if it do not concur with him, the officer shall be restored to office."

"**4. Resolved,** That the Committee on the Post Office and Post Roads be instructed to inquire into the expediency of making provision by law for the appointment, by and with the advice and consent of the Senate, of all deputy postmasters whose annual emoluments exceed a prescribed limit."

That was done afterward. I will now read an extract from the remarks of Mr. Clay on the subject. Upon the introduction of his resolutions, Mr. Clay said:

"The three first resolutions assumed that the Constitution gave no power of removal from office by the President of the United States at his pleasure. He was fully aware that this power was conceded to the President by the first Congress which sat under the Constitution."

Alluding, of course, to the proceedings to which I have referred.

"But since that period, except in an incidental discussion here four or five years ago, it has never been discussed in Congress."

Alluding to the discussion upon the report of Mr. Benton in 1827.

"He had carefully looked into the Constitution, as it related to the power of removal in the President, and the result was that the power was not reposed in the President in the instance indicated in the resolutions. He believed the assertion of the power by the first Congress was improvident, and not the least reason for this opinion was the confidence which that Congress reposed in the wisdom, the prudence, and the patriotism of the first President, the Father of his Country."

Mr. JOHNSON. Mr. Clay had no such confidence in General Jackson.

Mr. HENDERSON. I am aware that the Senator will find some excuse for the opinions of Mr. Clay; but Mr. Clay was not alone at that period of time. Mr. Benton, himself, at the time these resolutions were offered, although he claimed to be the champion of the Administration of General Jackson, did not undertake to answer the report which he himself had made in 1827, which I have just read to the Senate. The Senator from Maryland will of course answer me that Mr. Adams was at that time President; but it was not disputed in 1834 that the report made by the leaders of the Democratic party in 1827 was not the true doctrine. I will refer the Senator to the opinions of Mr. Calhoun, in a speech delivered in February, 1835, which he will find in the second volume of Mr. Calhoun's Works. However much he may say that Mr. Calhoun was opposed to the Administration, and that his constitutional argument may have proceeded from a dislike of General Jackson, and whatever may be the Senator's feelings toward Mr. Johnson, the present President, and his desire to sustain him in this matter, yet I apprehend, when I read a short extract from this constitutional view taken by Mr. Calhoun, he will find it much more difficult to answer Mr. Calhoun's arguments than he does to say something in favor of Mr. Johnson. I call the attention of the Senator from Maryland to this argument of the Senator from Maryland. It is put much better than I could possibly put it. I will read a short extract from it. It seems to me it is perfectly conclusive:

"If the power to dismiss is possessed by the Executive, he must hold it in one of two modes: either by an express grant of the power in the Constitution, or as a power necessary and proper to execute some power expressly granted by that instrument. All the powers under the Constitution may be classed under one or the other of these heads; there is no intermediate class. The first question then is, has the President the power in question by any express

grant in the Constitution? He who affirms he has, is bound to show it. That instrument is in the hands of every member; the portion containing the delegation of power to the President is short. It is comprised in a few sentences. I ask Senators to open the Constitution, to examine it, and to find, if they can, any authority of the President to dismiss any public officer. None such can be found; the Constitution has been carefully examined, and no one pretends to have found such a grant. Well, then, as there is none such, if it exists at all, it must exist as a power necessary and proper to execute some granted power; but if it exists in that character, it belongs to Congress and not to the Executive. I venture not this assertion hastily: I speak on the authority of the Constitution itself—an express and unequivocal authority which cannot be denied nor contradicted. Hear what that sacred instrument says: 'Congress shall have power to make all laws which shall be necessary and proper for carrying into execution the foregoing powers (those granted to Congress itself,) and all other powers vested by this Constitution in the Government of the United States, or in any Department or officer thereof.' Mark the fullness of the expression. Congress shall have power to make all laws, not only to carry into effect the powers expressly delegated to itself, but those delegated to the Government, or any Department or officer thereof; comprehending, of course, the power to pass laws necessary and proper to carry into effect the powers expressly granted to the executive department. It follows that, to whatever express grant of power to the Executive the power of dismissal may be supposed to attach; whether to that of seeing the laws faithfully executed, or to the still more comprehensive grant, as contended for by some, vesting executive powers in the President, the mere fact that it is a power appertaining to another power, and necessary to carry it into effect, transfers it by the provisions of the Constitution cited from the Executive to Congress, and places it under its control, to be regulated in the manner which it may judge best."

Again, Mr. Calhoun in this argument says: "Such are the arguments by which I have been forced to conclude, that the power of dismissing is not lodged in the President, but is subject to be controlled and regulated by Congress. I say forced, because I have been compelled to the conclusion in spite of my previous impressions. Relying upon the early decision of the question, and the long acquiescence in that decision."

Referring to the argument in Congress in 1789—

"I had concluded, without examination, that it had not been disturbed, because it rested upon principles too clear and strong to admit of doubt. I remained passively under this impression, until it became necessary, during the last session, to examine the question, when I took up the discussion on it in 1789, with the expectation of having my previous impression confirmed. The result was different. I was struck, on reading the debate, with the force of the arguments of those who contended that the power was not vested by the Constitution in the Executive. To me they appeared to be far more statesmanlike than the opposite arguments, and to partake much more of the spirit of the Constitution. After reading this debate, I turned to the Constitution, which I read with care in reference to the subject discussed, when, for the first time, I was struck with the full force of the clause which I have quoted, and which, in my opinion, forever settles the controversy."

Mr. President, no man can read the debate of 1789, as I have done within the last two or three days, without coming to the same conclusion. Mr. Madison and those who contended with him, it seems to me, were in favor of leaving this power in the hands of the President by their legislation simply because they had entire confidence in the Father of his Country. I have looked at this question of removal, and I find that during the whole eight years of the administration of General Washington, after this debate in Congress, and after the admission that the power rested in the Executive to make removals without cause, there were but nine removals made. I do not say that they were made without cause, but I mean there were but nine removals made by the Executive. Mr. Adams succeeded General Washington, and there were but ten removals during his term of four years. Jefferson was in the presidency for eight years, and he removed but forty-two men. The whole eight years of the administration of Mr. Madison show but three removals. Mr. Madison claimed the power to exist, I admit, as fully as the Senator from Maryland; but how did Mr. Madison exercise that power when he had the control of it himself? In the whole eight years of his administration he saw fit to make but three removals. Mr. Monroe was in the Presidency for eight years, and he made but nine removals. John Quincy Adams, during his four years of administration, made but two removals. Forty years of the Government

show but seventy-five removals, not two a year. But when General Jackson came in, the first year showed some two hundred and thirty, and after that, I believe, some four or five thousand; and from that day to this it has been the continual practice of the Executives to seize upon the offices of this country for the purpose of increasing their power and patronage. When we come to examine the Constitution we clearly come to the conclusion that the President has no power to remove an officer. Why should he have the power? He may nominate, and by and with the advice and consent of the Senate may appoint an officer, but where does he get the power, as was very properly said by Mr. Calhoun, to remove an officer after he has once been placed in office.

I know that a great many inconveniences may be conjured up. I know that in a great many cases it would be very inconvenient indeed to deny the existence of the power. The Senator from Ohio may very properly say that if this proposition should be adopted many inconveniences will arise in some districts in regard to the collection of the revenue. But let us look at it in another point of view. Suppose that the President is a corrupt man, what then? I would that I had time to read from the reports made in 1827 and 1835 upon this subject, wherein they expressed so much distrust, wherein they expressed so much apprehension of danger in the future arising from this extraordinary power in the hands of the President. We must recollect that now there is a change in affairs; that where there was one office then, there are ten now. Look at the vast machinery for the collection of the internal revenue of the country. Has the President the power when we adjourn, to lay his hands upon every collector and every assessor in this broad land and turn him out? If so, I apprehend that Congress expressing a difference with the Executive will avail nothing. However this Congress may differ from the President in political desires for the future; whatever may be the conflict between us, that conflict will not last long; it will last but a very short time. Can the President, as soon as this Senate shall adjourn, lay his hands upon every officer in this land, upon the consuls and ministers abroad, and upon the assessors and collectors and all the vast machinery for the collection of the internal revenue? Can he seize upon all the post offices in the land? I do not say that he will do so; but I apprehend that if I were the President of the United States, and differed as materially from Congress as he seems to differ from us, and I believed I possessed this power, I would do so. I do not suppose that the President is a better man than I am; I do not say that he is a worse man than I am; I apprehend that we are all actuated by the same feelings and by the same motives. I do the President the credit to suppose that he acts conscientiously in his political opinions; and if he does, why should he not undertake to carry out what he terms "my policy?" If he lays the heavy hand upon all the public offices in this country, what avails it that the people may speak against him, or Congress may speak against him?

Mr. SHERMAN. He would lose more votes by the exercise of a power of that kind, ten thousand times, than he would gain. I do not believe that the power of appointment would affect political opinion in this country one iota. That is my deliberate opinion as to the power of appointment.

Mr. TRUMBULL. The public service might suffer.

Mr. SHERMAN. Yes; but it would not affect the mass of the people in the slightest degree.

Mr. HENDERSON. Suppose it would not alter the opinions of a single individual; I submit to the Senator from Ohio that where men by bending the supple hinges of the knee that thrift may follow fawning, can get that thrift to follow, would not men of the very worst character be apt to get into office? Then, I say, as was said by the Senator from

Illinois, the public service will suffer. I differ with the Senator from Ohio. I say that public patronage, as great as the Executive can have if he can turn out every officer in the land, will tend, and does inevitably tend, to sustain the President in his public policy.

Mr. JOHNSON. It weakens him.

Mr. HENDERSON. If it weakens him, then let the Senate thus strengthen the President. If that be so, I am in favor of strengthening the President. The Senator insists that by leaving this power in the hands of the President we weaken him. Then I will change my course of policy, and I will attempt to strengthen the President. I will at least say that the Senate of the United States ought to have some control over these offices. I have no prejudice against the President of the United States. I differ with him in policy. After an examination of this question, and I think I have come to the conclusion conscientiously, I believe that the Senate has a right to say when a man is to be removed from a public office. I believe that the Senate is a part of the appointing power, and that it is also a part of the removing power. There is no power in the Executive to remove any man when once in office unless he gets the consent of the Senate thereto.

Mr. Webster was supposed to be almost as good a constitutional lawyer as Mr. Madison. Mr. Webster made a speech in this same discussion in 1835, an extract from which I will read, and to which I call the attention of the Senator from Maryland. He asked me to show it to him. I have it in my hand:

"After considering the question again and again within the last six years I am willing to say that, in my deliberate judgment, the original decision was wrong."

That was the decision of 1789, from which I have read:

"I cannot but think that those who denied the power in 1789 had the best of the argument; it appears to me, after thorough and repeated and conscientious examination, that an erroneous interpretation was given to the Constitution, in this respect, by the decision of the First Congress."

It is unnecessary to read from other portions of this speech. It is certainly a very able argument, and one which I think as clearly sustains the position which I assume as the argument of Mr. Calhoun. They were certainly both able, as also the report of Mr. Calhoun made in 1835.

The amendment of the Senator from Illinois is in these words:

SEC. —. *And be it further enacted*, That no person exercising or performing or undertaking to exercise or perform the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term during the recess of the Senate and since its last adjournment.

The Senator evidently intends to refuse payment to the successors of those men who shall be removed without cause by the President. That is the meaning of it. It can have no other meaning. Now, as I suggested to the Senator this morning—and in much that the Senator from Ohio said I agree—I think that in arranging a law of this character we ought to cover the whole question, and we ought to provide for a temporary suspension by the President. We ought to provide for the filling up of those offices, notice of vacancies in which will not reach us before the adjournment. Otherwise much inconvenience may arise. A man may die in Oregon, and we may have no notice of the vacancy before our adjournment. The President ought to have the power, in a case of that sort, to fill that vacancy before the next session; and even if we do not agree to give our advice and consent to the nomination, that man having discharged the duties of the office ought to be paid. There are many inconveniences that will arise under this provision. The Senator from Ohio has pointed out some of them. I can conceive of many, but if it is insisted upon, if we must have a vote, I would rather adopt this provision and take those inconveniences than to adopt the inconvenience

to arise after our adjournment, of the removal of every man unless he will become a fawner to the Administration, a supple tool of the Administration, and unless he will promise his support to it. I say that is corrupting.

If it is known in this country that no man, when once in office, can be removed except by impeachment in this body, or by a vote of this body, then there will be a sense of independence and security that will enable each and every man in this broad land to feel that he is not dependent on the one-man power. We shall have better officers in consequence of it. We shall have men who feel that they can discharge their duties free and independent of the power of the Executive to remove them without consultation with any other branch of the Government.

Why, Mr. President, this power has become alarming in this country. It is high time that Senators should consider it. I do not allude to it simply because I differ with the President now, for that difference has not carried me, I think, beyond prudence or discretion. I do differ with the President. I would that that difference did not exist. I have not carried that difference beyond this Senate Chamber. I have said nothing against his course of conduct, though I think much may be said against it. If this power is to be left in the hands, not only of the present Executive, but for all time to come, in the hands of other Executives, when there are such a large number of offices to be filled, and such a large number of officers now holding positions under the Government, and it is known that the Executive can control them free of any let or hindrance on the part of any other department of the Government, I say it confers upon him a power that is dangerous to the liberties of this country.

I do not apprehend that anything of the sort would be undertaken, but I see that the newspapers throughout this country now are advising the President of the United States to expel this body from their places, to act the Cromwell and drive us out.

Mr. HOWARD. You mean the rebel newspapers.

Mr. HENDERSON. I took up a western paper the other day—I will not name the paper—in which the advice was given boldly and freely to the President, and the people were called upon to sustain the President, to march into this body and drive us out. It has been suggested in various other quarters. I think my friend from Kentucky [Mr. DAVIS] suggested, even upon the floor of this body, that the President might control this Congress if he chose so to do; that he could recognize the southern Senators who are waiting for admission, and call upon the minority of this body to join with them, and then send his communications to the new Senate.

Mr. DAVIS. If the honorable Senator will permit me I will state what I did say, and what I now believe.

Mr. HENDERSON. Certainly.

Mr. DAVIS. It is made the duty of the President by the Constitution to communicate to Congress and from time to time recommend for its consideration such measures as he shall deem proper. The position I assumed was, that before the President could exercise that office he would have to ascertain what bodies of men constituted the Congress; that if there were four bodies of men—that was the case which I put—two of them contending they were the Senate and the other two bodies contending they were the House of Representatives, the President must necessarily decide which body constituted the House and which body constituted the Senate; that it was a necessity, and that it was his plain, constitutional prerogative and right to determine, under such a state of things as that, which was the true Senate and which was the true House. I furthermore stated that if the southern members were to get together with a number of the other members of the two Houses, and they in the aggregate constituted a majority

of the two Houses, the President had the constitutional function and right to decide whether they did or not, and if he chose to recognize them as the two Houses of Congress that constituted a regular, legal, and constitutional Congress. That is still my opinion.

Mr. HOWARD. Then the Congress depends on the will of the President.

Mr. DAVIS. I furthermore stated that it was the province of the two Houses of Congress to judge exclusively each for itself as to the elections, qualifications, and returns of its members; that over those questions the President had no jurisdiction or control; but at the same time, if members contending for seats were to get together in such numbers as to constitute a majority of the two Houses, the President had the right to recognize them as the Congress. I say so still. That is my opinion, my belief.

Mr. HOWARD. Will the Senator from Kentucky allow me to ask him a question?

Mr. DAVIS. Certainly.

Mr. HOWARD. In what part of the Constitution does he derive this power which he claims for the President of deciding which is the true Congress and which the contrary?

Mr. DAVIS. I have just stated from whence I derive the power. I will read it. Here is the section:

"He shall from time to time give to Congress"—

Mr. HENDERSON. I was waiting on the Senator from Kentucky to state his views in regard to this double Congress, and if he is through with that I propose going on.

Mr. HOWARD. If the Senator from Missouri will allow me one moment, it is owing, perhaps, to my fault that the Senator from Kentucky is occupying his time at this moment. I asked him for the warrant which he finds in the Constitution for the President of the United States to recognize the right Congress and reject the wrong Congress. I was very anxious to see the grant of power to the President of the United States to draw such a distinction.

Mr. HENDERSON. Certainly; I ask pardon for interfering.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) Does the Senator yield further?

Mr. HENDERSON. Certainly.

Mr. DAVIS. I had lost sight of the Senator from Missouri in replying to the interrogatory of the Senator from Michigan. This was the authority upon which I relied as to the duties of the President:

"He shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient."

Now, before the President can recommend to Congress such measures as he may judge necessary and expedient, it results as a matter of necessity that he must ascertain what body of men constitute the Congress. The case I put was this: suppose a portion of the present Senate were to get together, and they were to receive the Senators claiming to be elected from the southern States, and they should organize as a Senate, and the Republican members of the Senate should make a separate organization, there would then be two organized bodies of men, each claiming to be the Senate of the United States. I said the President would have the constitutional power to say which he would recognize as the Senate; and that was the whole of my proposition. I admitted, however, at the same time, that the President would have no power whatever in deciding the question as to the elections, returns, or qualifications of any member of either body; that those questions would have to be decided by each branch of Congress for itself and not by a committee of fifteen.

Mr. ANTHONY. I wish to ask my friend from Kentucky a question, if he will allow me to do so.

Mr. DAVIS. Certainly.

Mr. ANTHONY. I listened, as we all did, with a good deal of attention and surprise to the speech which he is now explaining, and

I looked for it in the Congressional Globe, but have never seen it, and I wish to know if it is the fault of the reporters of the Globe that it has not been printed, and if not, whose fault it is.

Mr. DAVIS. It is my fault, but it will be printed in due time.

Mr. ANTHONY. I think that the practice of making speeches and then suppressing them in the Globe, thereby making those who reply to them appear very ridiculous, and their remarks very inconsequential, ought to be stopped in some way or other. I do not understand what right the proprietors of the Congressional Globe, or the reporters of the Congressional Globe, have to omit any speech that has been made. I am told—perhaps I am mistaken—that speeches have been made here in previous sessions which have never been printed and never gone into the Globe at all. I do not know that there is any law or any rule against the practice, but I think there ought to be one. I think the reporters of the Congressional Globe are bound to print what is said here, and to print it within a reasonable time; and I give notice that unless that is done, I shall feel justified in opposing the appropriation for the payment of the Congressional Globe. They agree to publish those speeches; they do not do it; and if it is their fault, then I think they ought not to be paid. If it is not their fault, then I think the reporters ought to be protected in such a way as that they shall have no discretion in the matter. Of course, if a Senator comes and desires to have his remarks suppressed, it is hardly possible for the reporters to refuse, but I think they should be protected from the exercise of any discretion in the matter.

Mr. DOOLITTLE. I desire, as we have got entirely from the question at issue, to move an adjournment; and I make that motion.

Mr. HOWARD. I hope not.

Mr. DAVIS. Will the honorable Senator permit me to say a word of explanation upon the suggestions of the Senator from Rhode Island?

The PRESIDING OFFICER. It is moved that the Senate do now adjourn; and that motion is not debatable.

Mr. ANTHONY. I hope we shall not adjourn.

The PRESIDING OFFICER put the question, and declared that the yeas appeared to have it.

Mr. DOOLITTLE. I ask for a division.

Mr. DAVIS. I should like to say a single word.

The PRESIDING OFFICER. The Senate is dividing.

Mr. ANTHONY. It is very unfair to adjourn when a Senator desires to make a personal explanation.

Mr. JOHNSON. That is your opinion.

Mr. ANTHONY. Yes, sir; that is my opinion.

The Senate refused to adjourn, there being, on a division—yeas six, noes not counted.

Mr. DOOLITTLE. I beg to say to the Senator from Kentucky that I did not desire to show any discourtesy to him in making the motion to adjourn.

Mr. DAVIS. I am fully aware of that.

Mr. DOOLITTLE. But we are entirely away from the question, and it is now almost five o'clock.

Mr. DAVIS. Mr. President—
Mr. HOWARD. Perhaps the Senator from Kentucky will yield to me for half a minute.

Mr. DAVIS. I want to make my personal explanation in reply to the Senator from Rhode Island.

Mr. HOWARD. What I wanted to do, if the Senator from Kentucky will permit me, is to send to the Chair—

The PRESIDING OFFICER. Does the Senator from Kentucky yield the floor?

Mr. DAVIS. I do not.

The PRESIDING OFFICER. The Senator from Kentucky is entitled to the floor.

Mr. HOWARD. I only wish to send to the Chair a portion of the speech of the Senator from Kentucky as reported by the official reporter in order that the Senator may know exactly what he did say on that occasion.

Mr. CONNESS. I hope that will be read.

Mr. DAVIS. I was about to say a word in relation to the practice of publishing speeches some time after they are delivered. I understand that the whole Appendix of the Globe is made up of speeches that are published some considerable time, more or less, after the time of their delivery. I have met with speeches that were published weeks and months after the day of their delivery, in the Appendix to the Globe. It was only in conformity to that practice that I was acting. The report of my speech was sent to me and I answered in reply that at my leisure I would revise it and would have it published in the Appendix to the Globe. That is all I have to say in relation to the practice of other members of the Senate and in relation to what I did as to that particular speech.

Mr. ANTHONY. There have been some speeches—I do not mean to say speeches of the Senator from Kentucky—but there have been speeches delivered here that have never been printed in the Globe at all; that have been suppressed entirely. That is a practice to which I wish to call the attention of the Senate.

Mr. HOWARD. I now send to the Clerk to be read a portion of the speech made by the honorable Senator from Kentucky on the occasion to which he has referred. I wish that it may go into the report of our proceedings.

The PRESIDING OFFICER. It will be read if there be no objection.

Mr. DOOLITTLE. Now that we have got through with the personal explanation, I renew the motion to adjourn.

Several SENATORS. Oh, no; let us have that read.

Mr. DOOLITTLE. Very well; but I give notice that I shall renew the motion after the paper has been read.

The PRESIDING OFFICER. The report will be read, if there be no objection. The Chair hears no objection.

The Secretary read as follows:

"Here, sir, is a provision in the Constitution which requires the President to communicate to the two Houses of Congress information as to the state of the Union, and to recommend to them such measures as he shall deem proper and expedient. What does this require him to do? He has to ascertain who compose the two Houses of Congress. It is his right, it is his constitutional function to ascertain who constitute the two Houses of Congress. The members of the Senate who are in favor of the admission of the southern Senators could get into a conclave with those southern Senators any day, and they would constitute a majority of the Senate. The President of the United States has the constitutional option, it is his function, it is his power, it is his right, and I would advise him to exercise it at any day, to ascertain, where there are different bodies, members of the Senate contending, which is the true Senate. If the southern members and those who are for admitting them to their seats, constitute a majority of the whole Senate, the President has a right—and by the Eternal he ought to exercise that right—forthwith, to-morrow, or any day, to recognize the Opposition here and the southern members of the Senate as a majority of the whole body."

Mr. DAVIS. That is my principle still. I maintain that that is the true principle of the Constitution.

Mr. HOWARD. The honorable Senator from Kentucky says that that is his principle still. I confess I regret very much to hear him make such an announcement. I pronounce that principle to be revolutionary, unconstitutional, and treasonable. I now move that we adjourn.

Mr. DAVIS. I wholly dissent from the position of the honorable Senator. It is neither revolutionary, nor unconstitutional, nor treasonable.

The PRESIDING OFFICER. It is moved that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, April 30, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday was read and approved.

The SPEAKER stated as the first business in order the calling of the States and Territories for bills and joint resolutions on leave, to be referred to the appropriate committees and not to be brought back on a motion to reconsider, commencing with the State of Maine.

STATE AND NATIONAL BANKS.

Mr. RICE, of Maine, introduced a bill granting further time and facilities for the conversion of State banks into national banks; which was read a first and second time, and referred to the Committee on Banking and Currency.

SKAMANIA COUNTY, WASHINGTON TERRITORY.

Mr. RICE, of Maine, also introduced a bill to disapprove of the act of the Legislative Assembly of the Territory of Washington, entitled "An act in relation to Skamania county," approved January 14, 1865; which was read a first and second time, and referred to the Committee on Territories.

HORACE I. HODGES.

Mr. DAWES introduced a bill for the relief of the heirs of Horace I. Hodges; which was read a first and second time, and referred to the Committee on Claims.

WILLIAM JONES.

Mr. COFFROTH introduced a bill granting a pension to William Jones; which was read a first and second time, and referred to the Committee on Invalid Pensions.

RAILROAD CONNECTIONS WITH WASHINGTON.

Mr. GARFIELD introduced a bill to promote the construction of a line of railroads between the city of Washington and the Northwest for national purposes; which was read a first and second time, referred to the select committee on a military and postal railroad from Washington to New York, and ordered to be printed.

BRIDGE ACROSS THE CUYAHOGA.

Mr. SPALDING introduced a joint resolution for the construction of a railroad bridge across the Cuyahoga river over and upon the Government piers at Cleveland, Ohio; which was read a first and second time, and referred to the Committee on Commerce.

WILLIAM WATKINS.

Mr. GRIDER introduced a bill for the benefit of William Watkins; which was read a first and second time, and referred to the Committee on Revolutionary Claims.

JOHN MUNN.

Mr. NEWELL introduced a bill for the relief of John Munn; which was read a first and second time, and referred to the Committee on Claims.

WAGON ROAD IN MONTANA.

Mr. SMITH introduced a bill to aid in the construction of a wagon road in the Territory of Montana; which was read a first and second time, and referred to the Committee on Territories.

TENNESSEE.

Mr. KUYKENDALL introduced a joint resolution declaring the constitutional relations of the State of Tennessee restored to practical relations with the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

JOHN A. WHITALL.

Mr. BEAMAN introduced a bill for the relief of the legal representatives of Major John A. Whittall, late paymaster in the United States Army, on account of loss of stolen vouchers; which was read a first and second time, and referred to the Committee on Claims.

RAILROAD IN IOWA.

Mr. HUBBARD, of Iowa, introduced a bill to amend an act entitled "An act for a grant of lands to the State of Iowa, in alternate sections, to aid in the construction of a railroad in said State," approved May 12, 1864; which was read a first and second time, and referred to the Committee on Public Lands.

REV. F. A. CONWELL.

Mr. WINDOM introduced a bill for the relief of Rev. F. A. Conwell, of Minnesota; which was read a first and second time, and referred to the Committee on Claims.

SIOUX RESERVATION, MINNESOTA.

Mr. WINDOM also introduced a joint resolution for the relief of certain settlers on the Sioux reservation, in the State of Minnesota; which was read a first and second time, and referred to the Committee on Indian Affairs.

SAMUEL DONNICA.

Mr. HENDERSON introduced a bill for the relief of Samuel Donnica; which was read a first and second time, and referred to the Committee on Invalid Pensions.

KANSAS AND NEOSHO VALLEY RAILROAD.

Mr. CLARKE, of Kansas, introduced a bill granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to the Red river; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

INTERNAL REVENUE.

Mr. ANCONA introduced a bill to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and the act amendatory thereof, approved March 3, 1865; which was read a first and second time, and referred to the Committee of Ways and Means.

RAILROAD FROM PITTSBURG TO CLEVELAND.

Mr. GARFIELD introduced a bill to promote the construction of a line of railroad from Pittsburg, Pennsylvania, to Cleveland, Ohio; which was read a first and second time, referred to the select committee on a military and postal railroad, and ordered to be printed.

TRIAL OF JEFFERSON DAVIS.

The SPEAKER. The next business in order is the call of States and Territories for resolutions, and under this call the first question is upon a resolution of the gentleman from Indiana, [Mr. JULIAN.] On last Monday morning the House refused to second the demand for the previous question, and debate arising, the resolution went over until to-day. The resolution is now debatable under the rules.

The resolution was read, as follows:

Resolved, As the deliberate judgment of this House, that the speedy trial of Jefferson Davis, either by a civil or military tribunal, for the crime of treason or the other crimes of which he stands charged, and his prompt execution, if found guilty, are imperatively demanded by the people of the United States in order that treason may be adequately branded by the nation, traitors made infamous, and the repetition of their crimes, as far as possible, be prevented.

Mr. WILSON, of Iowa. I hope that the gentleman from Indiana will consent to have this resolution referred to the Committee on the Judiciary, as the committee now have this subject under consideration.

Mr. JULIAN. I desire an opportunity to discuss briefly the question presented by the resolution. I will agree to make the motion for reference at the conclusion of my remarks.

Mr. WILSON, of Iowa. Very well; I yield to the gentleman for that purpose.

Mr. JULIAN. Mr. Speaker, in demanding the punishment of the chief rebel conspirators, I beg not to be misunderstood. I do not ask for vengeance. I feel sure there is no man in the country, however intense his loyalty, who would inflict the slightest unnecessary suffering, or any form of cruelty, upon even the most

flagitious of the confederate leaders. What the nation desires, and all it asks, is the ordinary administration of justice against the most extraordinary national criminals. The treason spun from their brains, and deliberately fashioned into the bloody warp and woof of a four years' war, involving the sacrifice of hundreds of thousands of lives, and thousands of millions of treasure, ought to be branded by the nation as a crime. It ought to be made "odious" and "infamous." The punishment of that crime, prescribed by the Constitution, is death; and I am just as unwilling to see the Constitution set aside and made void in this respect, in the interest of vanquished rebel leaders, as I was to see it trampled under foot by their armed legions while the war continued. Indeed, the punishment of these leaders is a necessary part of the logic of their infernal enterprise, and without it the rebellion itself, instead of being effectually crushed, must find a fresh incentive to renew its life in its impunity from the just consequences of its guilt. It will not do to say these leaders have been sufficiently punished already, by the failure of their treason, the loss of their coveted power, and their humiliation, poverty, and disgrace. Kindred arguments would empty our jails and penitentiaries, and make the administration of criminal justice everywhere a farce. The way of all transgressors is hard; but this hardship cannot justify society in failing to protect itself by fitly chastising its enemies. Justice to the nation whose life has been attempted, and to the assassins who made the attempt, is the great demand of the hour.

And here, again, Mr. Speaker, I hope I shall be understood. In pleading for justice I mean of course public justice, which seeks the prevention of crime by making an example of the criminal. Human laws do not pretend to fathom the real moral guilt of offenders. They have no power to do this. Their sole aim is the prevention of crime. They have nothing to do with that retributive justice which graduates the punishment of each transgressor by the exact measure of his guilt. To the great Searcher of all hearts belongs this prerogative, while society, acting through government as its agent, and having an eye single to its own protection, must deal with its criminals. This, sir, is my reply to the plea often urged that we should not hang the rebel leaders, because we cannot also hang the leading sympathizers of the northern States who are perhaps more guilty. The Government has nothing to do with the question of degrees of moral guilt or blame-worthiness, either in the North or the South. Its concern is with the nation's enemies, whose overt acts of treason have made them amenable to the laws, and whose punishment should be made a terror to evil doers hereafter. The fact that our power of punishment cannot reach all who are guilty, including many men in the loyal States who richly deserve the halter, is no reason whatever for allowing those to go unwhipped who are properly within the reach of public justice.

And the same reasoning applies to the argument sometimes urged against all punishment founded on the numbers who would fairly be liable to suffer. The question is frequently asked, would you build a gallows in every village and neighborhood of the South? Would you shock the Christian world by the spectacle of ten thousand gibbets, and the hanging of all who have been guilty of treason, or even a respectable fraction of their number? I answer, I would do no such thing. Public justice and the highest good of the State do not require it. I would simply apply the ordinary rules of criminal jurisprudence to the question, and as in other conspiracies, so in this grand one, I would mete out the severest punishment to the ringleaders. Most undoubtedly I would give them a constitutional entertainment on the gallows; or should the number of ringleaders be too great, or the guilt of some of them be less flagrant than others, perpetual exile might be substituted. The rebel masses, both on the score of their numbers and their qualified guilt,

should have a general amnesty; but by no possible means would I spare the unmatched villains who conceived the bloody project of national dismemberment, and by their devilish arts lured into their horrid service the ignorant and misguided people of their section. Whoever may escape justice, either North or South, or whatever embarrassments may be long to the problem of punishment at the end of this stupendous conflict, nothing remains so perfectly clear and unquestionable as the duty of the nation to execute the great malefactors who fashioned to their uses all the genius and resources of the South, and throughout the entire struggle invoked all the powers of hell in their work of national destruction.

Mr. Speaker, the adequate punishment of the rebel leaders involves the whole question of the rebellion itself. It is not a matter which the Government may dispose of indifferently, but is vital to the nation's peace, if not to its very existence. To trifle with it is to trifle with public justice and the holy cause for which the country has been made to bleed and suffer. It is to mock our dead heroes, and confess our own pusillanimity or guilt. It is to make treason respectable, and put loyalty under the ban. It is to call evil good and good evil; and since God is not to be mocked, it must in some form bring down upon our own heads the retribution which we may only escape by enforcing the penal laws of the nation against the magnificent felons who have sought its life.

Sir, I shall take it for granted that treason is a crime, and not a mere accident or mistake. In this most frightful and desolating struggle there is transcendent and unutterable guilt; and I take it for granted that that guilt is on the side of those who wantonly and causelessly took up arms against the nation, and not on the side of those who fought to save it from destruction. Treason is a crime, and therefore not a mere difference of opinion; a crime, and therefore not an honest mistake of judgment about the right of a State to secede; a crime, and therefore not a mere struggle of the South for independence while the North contended for empire; a crime, and therefore not a mere "misapprehension of misguided men," as some of our copperhead journals affirm; a crime, and the highest of all crimes, including all lesser villainies, and eclipsing them all, in its heaven-daring leap at the nation's throat; and therefore those who withstood it by arms were patriots and heroes, fighting for nationality and freedom, against rebels whose sure and swift punishment should be made a warning against the repetition of their deeds.

Mr. Speaker, if a man were to come into our midst and persuade us that treason and loyalty are about the same thing; that right and wrong, good and evil, virtue and vice, are convertible terms; that God and Satan are in fact the same personage, under different names, and that it matters little under whose banner we fight; and if he could thus enlist us in the work of uprooting the foundations of Government, of morals, of society, of everything held sacred among men, would he not be the most execrable creature in the universe? If he could indoctrinate mankind with his theory of "reconstruction," would not this beautiful earth of ours be converted into a first-class hell, with the devil as its king? Sir, you dare not trifle with this question of the punishment of traitors. Theory goes before practice. Right believing, on moral or political issues, precedes right acting; and you touch the very marrow of the rebellion when you approach the question of the punishment of the rebels. Sir, there is not a State in this Union, nor a civilized country on earth, which in the treatment of its criminals sanctions the sickly magnanimity and misapplied humanity of this nation in dealing with its leading traitors. No civilized Government, in my judgment, could possibly be maintained on any such loose and confounded principles. Crime would have unchecked license, and public justice would not even be a decent sham. No man will dispute this, or fail to be amazed that, in dealing

with our red-handed traitors, whose crimes are certainly unsurpassed in history, and have filled the land with sorrow and blood, we utterly decline to execute against them the very Constitution which they sought to overturn by years of wholesale rapine and murder.

Sir, this fact is at once monstrous and startling. We seize the murderer who only takes the life of one man, indict him, convict him, and then hang him. Undoubtedly some murderers escape punishment through pardons and otherwise, but certainly the penalty of death is inflicted in most countries. The pirate, who boards a vessel on the sea, and murders a few sailors, is "chased by the civilized world to the gallows." The plea in his behalf of magnanimity to a vanquished criminal would not save him, and his friends would scarcely urge it. Public justice demands the sacrifice of his life, and no one expects him to be spared if fairly convicted. But Jefferson Davis is no ordinary assassin or pirate. He did not murder a single citizen, but hundreds of thousands of men. He did not board a ship on the sea and murder a few sailors, but he boarded the great ship of state, and tried, by all the power of his evil genius, to sink her, cargo and crew, with the hopes of the world forever, into the abyss of eternal night. And is not his guilt as much greater than that of an ordinary assassin or pirate as the life of a great republic is greater than the life of one man? Was not each one of these leaders a national assassin, aiming his bloody dagger at the country's vitals, and is not his guilt multiplied by the millions whose interests were imperiled? And shall justice only be defied by the world's grandest villains and outlaws, and mercy defile herself by taking them into her embrace?

Mr. Speaker, Jefferson Davis was a favored child of the Republic. He had been educated at the nation's expense, and upon him had been lavished the honors and emoluments of office. He owed his country nothing but gratitude and fidelity, and no man understood these obligations better than himself. Again and again he had asked his Maker to witness that he would be faithful to the Constitution, which at the time he was plotting to destroy. Long years before the rebellion he had been inoculating the public opinion of the South with the poison of his heresies, and secretly hatching his treason in the foul atmosphere which he helped to create. His perfidy was most cold-blooded, deliberate, and premeditated. In order to blast the Government of his fathers, and establish upon its ruins a confederacy with slavery as its corner-stone, he has ruthlessly wrapped his country in fire and blood. He has wantonly destroyed the lives of more than two hundred and fifty thousand soldiers, who gloriously perished in resisting his treason in arms. He has maimed and crippled for life more than two hundred and fifty thousand more. He has duplicated these atrocities in his own section of the Union. He has organized grand conspiracies in the North and Northwest to lay in rapine and blood the towns and cities and plantations of the whole loyal portion of the land. He has put to death, by the slow torture of starvation in rebel prisons, sixty thousand brave men who went forth to peril their lives in saving the country from his devilish crusade against it. He has deliberately sought to introduce into the United States and to nationalize among us pestilence, in the form of yellow fever; an enterprise which, had it succeeded, would have startled the very heavens above us with the agony and sorrow it would have lavished upon the land. He stands charged by the Government with the murder of the President of the United States, and that charge, as I am well assured, is amply verified by proofs which will very soon be given to the public, and awaken a stronger and sterner demand for his punishment. He has instigated the burning of our hotels. He has planted infernal machines in the tracks of his armies. He has poisoned our wells. He has murdered our wounded soldiers. He has made drinking cups of their skulls and jewelry of their bones. He has spawned upon the

world atrocities so monstrous as to defy all definition, and which nothing but the hot incubation of the slave power, as the ripe fruit of its two hundred years of diabolism, could have warmed into life. Sir, he has done everything, by the help of his confederates, that an incarnate demon could do to let loose "the whole contagion of hell," and convert his native land into one grand refuge of devils.

Mr. Speaker, the pardon of a criminal so transcendently guilty would be an act in itself strongly partaking of treason against the nation. It would be at once a monstrous denial and a frightful mockery of justice. Do you plead for mercy to the great confederate assassin? I refer that plea to the Father of Mercies, who, I believe, only pardons on condition of repentance; and as yet I have heard of no rebel leader who even professes penitence for his crimes. Sir, I repudiate, as counterfeit, the mercy which can only be exercised by trampling justice under our feet, while it forgets both justice and mercy to the millions who have been made to mourn through stricken lives by the human monsters who plunged our peaceful country into war. The loyal people of the nation demand that they be dealt with as criminals. For myself, I would not have a civil trial for the leader of a belligerent power, which has maintained a public war against us for years. The nation cannot afford to submit the question of the right of a State to secede to a jury of twelve men in one of the rebel States, and a majority of them traitors, under an implied alternative that if they fail to convict, the Government itself would stand convicted of half a million murders. After the nation has established its right to exist by a four years' war, it cannot put that right on trial by a jury of its conquered enemies, or any earthly tribunal. Sir, let Jefferson Davis be tried by a military court, as he should have been, promptly, at the time other and smaller offenders were dealt with a year ago. Let him have the compliment of a formal inquiry to determine what the whole world already knows, that he is immeasurably guilty. And when that guilt is pronounced let the Government erect a gallows, and hang him in the name of the Most High. I put aside mercy on the one hand, and vengeance on the other, and the simple claim I assert, in the nation's behalf, is justice. In the name of half a million soldiers who have gone before their Maker as witnesses against "the deep damnation of their taking off;" in the name of our living soldiers, who have waded through seas of fire in deadly conflict with rebels in arms; in the name of the Republic, whose life has only been saved by the precious offering of multitudes of her most idolized children; in the name of the great future, with its procession of countless generations of men, whose fate to-day swings in the balance, awaiting the example you are to make of treason, I demand the execution of Jefferson Davis. The gallows is the symbol of infamy throughout the civilized world, and no criminal ever earned a clearer right to be crowned with its honors.

Sir, I ask why the Constitution should be mocked when it demands his life? What right have the authorities of the Government to cheat the halter out of his neck? Not for all the honors and offices of this nation, not for all the gold and glory of the world, would I spare him if in my power; for I would expect the ghosts of three hundred thousand murdered soldiers to haunt my poor, cowardly life to the grave. As I have said already, the punishment of the rebel conspirators is a necessary part of the work of suppressing the rebellion. Their treason was deliberately aimed at the cause of free government on earth, and they are justly to be classed among the guiltiest wretches whose crimes ever drenched the earth in blood. Every one of them should have a felon's death. The grave of every one of them should be made a grave of infamy, and the cause they served should be pilloried by all the ages to come. Sir, if you discharge the confederate chiefs because of the very magnitude of their work of carnage, you offer a public license to treason hereafter. You

say to turbulent and seditious spirits everywhere that they have full liberty, when it may suit their convenience, to levy war against the nation, and that while it may lead their deluded followers to wholesale slaughter, they shall be allowed to escape. You say that although the nation participated in the hanging of John Brown as a traitor, for the crime of loving liberty "not wisely, but too well," that same nation, which has copied John Brown's example in emancipating slaves by military power, shall turn loose upon society the hideous monster who waged war to establish and eternize a mighty slave empire on the ruins of our free institutions. And you speak it in the ear of the nations as your deliberate estimate of the value of free government, whose very life is the breath of the people, that the bloody conspirator who seeks to destroy it by the hand of war is undeserving of punishment, and consequently innocent of crime.

Mr. Speaker, can we, dare we, hope for the favor of God in thus confounding the distinction between right and wrong, between treason and loyalty, and forgetting that government is a divine ordinance, whose authority can only be maintained by enforcing obedience to its mandates? I speak earnestly, because I feel deeply, on this question of the punishment of leading traitors. The grand peril of the hour comes from the mistake of the Government on this point. During the war our deserters and bounty jumpers were executed. Our brave boys, overcome by weariness, who fell asleep at their posts as sentinels, were shot. A year ago the miserable tools of Davis and Lee, selected for their infernal deeds because of their known fitness to perform them, were summarily tried and hung. But in no solitary instance has treason yet been dealt with as a crime. Pardon, pardon, pardon, has been the order of the day, as if the Government desired to make haste to apologize for its mistake in fighting traitors, and wished to reinstate itself in their good opinion. Beccaria, in his celebrated Essay on Crimes and Punishments, says that "clemency is a virtue which belongs to the legislator, and not to the executor of the laws; a virtue which ought to shine in the code, and not in private judgment. To show mankind that crimes are sometimes pardoned, and that punishment is not the necessary consequence, is to nourish the flattering hope of impunity, and is the cause of their considering every punishment inflicted as an act of injustice and oppression. The prince, in pardoning, gives up the public security in favor of an individual, and by ill-judged benevolence proclaims a public act of impunity."

Dr. Lieber says that "every pardon granted upon insufficient grounds becomes a serious offense against society, and he that grants it is, in justice, answerable for the offenses which the offender may commit, and the general injury done to political morality by undue interference with the law." With these wise and just sentiments the President of the United States, on accepting his high office, perfectly agreed. He declared that mercy to the individual is often cruelty to the State. He said that "robbery is a crime, murder is a crime, treason is a crime, and crime must be punished." He said that "treason must be made odious, and traitors impoverished," and he reiterated and multiplied these declarations on very many occasions which were offered him for weeks and months following his inauguration. He repeatedly referred, approvingly, to his past record, covering declarations in favor of hanging the leading traitors, in favor of dividing up their great plantations into small farms for honest and industrious men, without regard to color, and in favor of breaking up the great aristocracy of the South, and compelling the rebels to "take the back seats in the work of reconstruction." For a season the whole loyal country was electrified by the clear ring of his words, while rebels were as completely palsied and dumb. They understood the new President quite as little as his loyal friends. They expected no quarter, and studiously sought their pleasure in the will of the Executive. They would have

assented gladly to any terms or conditions of reconstruction dictated by him, including even negro suffrage. Having staked all on the issues of war and lost, they felt that they were entitled only to such rights as the conqueror might see fit to impose.

Sir, this golden season was sinning away by the President, and that systematic recreancy to his pledges and record which has marked his subsequent career, has brought the country into the most fearful peril. The responsibility is upon him, and it must be measured by the magnificent opportunity which the situation afforded him for an easy solution of our national difficulties, and at the same time a solid and permanent reconstruction of the South. "No important political movement," says a famous English writer, "was ever obtained in a period of tranquillity. If the effervescence of the public mind is suffered to pass away without effect, it would be absurd to expect from languor what enthusiasm has not obtained. If radical reform is not, at such a moment, procured, all partial changes are evaded and defeated in the tranquillity which succeeds." These are suggestive and solemn words, and the reflection is a very sad one that the nation to-day would have been saved and blest, if the President had heeded them. He disobeyed the divine command to "execute justice in the morning," and did not even remember the heathen maxim, that "the gods themselves cannot save those who neglect opportunities."

Sir, while I dislike the occupation of an alarmist, I must say that I have seen few darker seasons than the present since the first battle of Bull Run. The President has not kept the faith. He has not favored the hanging of a single rebel leader. He has not made treason infamous, nor impoverished traitors. He has not favored the confiscation of rebel estates, and their distribution among the poor. He has not required traitors to take the back seats in the work of reconstruction. He has not cooperated with Congress in placing the governing power of the South and of the nation in the hands of loyal men. He has not shown himself the "Moses" of our loyal colored millions in leading them out of their grievous bondage. He has done the opposite of all these. The Richmond Times, the leading organ of treason in Virginia, says that "in his course toward the mass of those who supported the southern confederacy the President has been singularly magnanimous and wisely lenient. Nine tenths of those who for four years, with unparalleled gallantry upheld the confederacy, have long since been unconditionally pardoned. The cabinet officers who counseled the president of the confederacy, the congressmen who enacted those stringent conscript and imprisonment laws which kept up our armies, and many distinguished generals of the confederate armies, have either been formally pardoned, or been released upon parole, and no one dreams that they will ever be molested in person or estate. The military bastiles of the country, with one exception, have long since been thrown open, and the distinguished confederate officers who were confined in them have been restored to their friends and families." And these Virginia traitors who thus damn our President by their encomiums openly demand the unconditional release of Jefferson Davis from prison. Judging the President by the logic of his policy thus far, the demand will be complied with. When he decided, nearly a year ago, against the trial of Davis by a military court, he virtually decided that his treason should go unpunished; for no jury of southern rebels would ever find a verdict of guilty, and the trial itself would only be an insult to the nation. Jefferson Davis, I doubt not, is to be restored to his family and friends, and the argument of consistency demands it at the hands of the President.

Robert E. Lee, whose spared life has outraged the honest claims of the gallows ever since his surrender, is running at large, perfectly unmolested and safe from all harm. Black with treason, perjury, and murder, guilt-

ier by far than the Christless wretch who obeyed his orders in starving our soldiers at Andersonville, he goes his way in peace, while the Government, in this monstrous and appalling fact, confesses to the world that treason is unworthy of its notice. • He is president of a Virginia college, and teacher of her youth. He visits Washington, and tenders his advice to our public men about the work of restoring the Union. He goes before the reconstruction committee and gives his testimony, as if an oath could take any possible hold upon his seared conscience; and all that can be said is, that his unpunished crimes are doing precisely as much to make the Government infamous, as the Government itself has done to make those crimes respectable. The Legislature of Virginia indorses him as a fit man for Governor, and the champions of this proposition visit our Republican President, laud his principles and policy, and take the *front* seats in the house of his friends.

The vice president of the southern confederacy is likewise at large, and has been elected a Senator in Congress from his State. He also visits Washington, and gives his testimony before the joint committee of fifteen. Like the other leading traitors, he very naturally "accepts the situation," because he could not do otherwise, but he shows not the smallest token of penitence, says the rebels were in the right, and seems wholly unconscious of his real character as simply an unhung traitor, whose advice and opinions we shall only accept at their value. Leading traitors are not only pardoned by wholesale, but they hold nearly all the places of power and profit in the South. They are made Governors, judges, postmasters, revenue officers, and are likewise frequently chosen to represent their cause in Congress; and the President, our distinguished Secretary of the Treasury, and the Postmaster General, have all openly trampled under their feet the law of Congress requiring a test oath, in order that rebels might fill these offices, and on the false pretense that loyal men could not be found qualified to fill them in a country which furnished more than forty thousand loyal white soldiers during the war. As might naturally be expected under this system of reconstruction, loyal men are more unsafe in the revolted districts now than they were before the war, while the condition of the negroes in very many localities is more pitifully deplorable than that of their former slavery. So intense and wide spread is the feeling of hostility to the Union in these regions that loyalty is branded as both a crime and a disgrace, while even Wilkes Booth is regarded as a martyr, and his pictures hang in the parlors of "southern gentlemen" whose children are called by his name.

Nor am I surprised at the audacity of the rebel leaders. Neither do I complain, or blame them. They do not disguise their real character and opinions, because they have been made sure of the executive favor. With the President resolutely on the side of Congress in this crisis, a very different exhibition of feeling and policy would have been developed in the South. The danger now at our doors would never have appeared. The prospect of another bloody war to complete the work which we supposed already accomplished would never have alarmed the country. The President has deserted the loyal millions who crushed the rebel cause at the end of a conflict of four years and joined himself to that very cause which is now borrowing new life from the fertilizing sunshine of his favor, reasserting its old heresies, and renewing its treasonable demands. This is at once the root and source of our present national troubles, the prophecy and parent of whatever calamity may come. The President not only opposes the will of the nation, the policy of the nation, as expressed through Congress, but he brands as traitors before a rebel mob leading and representative men in both Houses, who are as guiltless of treason as the great majority with whom they act. Not content with the good fellowship of the men who began the war and fought us with matchless

desperation to the end, he unites with them in branding loyalty itself as treason, while he employs the power and patronage of his high office in rewarding his minions, and opposing the very men who made him their standard-bearer along with Abraham Lincoln, in the faith that his loyalty was unselfish and sincere. In fact, every phase of the presidential policy, as latterly displayed, confounds the difference between loyal and disloyal men, and gives aid and comfort to the rebels by mitigating or removing the just consequences of their crimes.

Mr. Speaker, this policy, utterly fatal to the nation's peace, as I have shown, must be abandoned. The Government cannot wholly undo the mistakes of the past, but it can do much for the future, and save the loyal cause, if the people, who see the threatened danger, will set themselves to work so resolutely as to compel a change. In God's name, let this be done. Let the people speak, for the power is in their hands, and if faithful now, as they proved themselves during the war, justice will prevail. Let them thunder it in the ears of the President that the nation cannot be saved, nor the fruits of our victory gathered, if in the settlement of this bloody conflict with treason right and wrong are confounded, and public justice trampled down. This is the duty of the loyal millions; and here lies the danger of the hour. It is just as impossible for the country to prosper if it shall sanction the present policy of the Executive, as it is for a man to violate a law of his physical being and escape the consequences. The demands of justice are as inexorable as the demands of natural law in the material world; and the moral distinctions which God himself has established cannot be slighted with the least possible impunity by individuals or nations. There is a difference, heaven-wide, between fighting for a slave empire and fighting for freedom and the universal rights of man. The cause of treason and the cause of loyalty are not the same. Perjury is not as honorable as keeping a man's oath. The black flag of slavery and treason was not as noble a standard to follow as that of the stars and stripes. The leading traitors of the South should not have the same honorable treatment and recognition as the patriot heroes of the Union. The grandest assassins and cut-throats of history should not defraud the gallows, while ordinary murderers are hung. Jefferson Davis should not have the same honorable place in history as George Washington. Benedict Arnold was not the *beau ideal* of a patriot, nor was Judas Iscariot "a high-souled gentleman and a man of honor," nor even "a misguided citizen of his country who engaged in a mistaken cause." The green mounds under which sleep our slaughtered heroes are not to have any moral comparison with the graves of traitors. The "throng of dead, led by Stonewall Jackson," are not to "contribute equally with the noble spirits of the North to the renown of our great Republic." Truth and falsehood, right and wrong, heaven and hell, are not mere names which signify nothing, but they pertain to the great verities of the universe; and the throne of God itself is immovable, only because its foundations are justice.

Mr. Speaker, I now move that this resolution be referred to the Committee on the Judiciary.

Mr. WILSON, of Iowa. On that motion I call for the previous question.

The previous question was seconded and the main question ordered.

Mr. HARRIS. I would like to make some remarks in reply to the gentleman from Indiana, [Mr. JULIAN.]

The SPEAKER. The House is acting at present under the operation of the previous question.

Mr. HARRIS. I ask the gentleman from Iowa [Mr. WILSON] to withdraw the call for the previous question.

Mr. WILSON, of Iowa. I cannot do that. The motion to refer the resolution to the Committee on the Judiciary was agreed to.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The SPEAKER. The next business in order is the call of States and Territories in inverted order, commencing with the Territory of Montana, for the introduction of resolutions.

MONTANA TERRITORIAL LIBRARY.

Mr. McLAIN presented a joint memorial of the Territorial Legislature of Montana, asking Congress for an appropriation for a territorial library, and for other purposes; which was referred to the Committee on Territories, and ordered to be printed.

ANNEXATION TO IDAHO.

Mr. McLAIN also presented a joint memorial of the Territorial Legislature of Montana, protesting against a joint resolution asking for the annexation of a certain portion of said Territory to the Territory of Idaho; which was referred to the Committee on Territories, and ordered to be printed.

PUBLIC BUILDINGS IN NEBRASKA.

Mr. HITCHCOCK introduced a bill appropriating certain proceeds of internal revenue in the Territory of Nebraska, for the purpose of erecting a penitentiary and completing the capitol in said Territory; which was read a first and second time, referred to the Committee on Territories, and ordered to be printed.

CONSTRUCTION OF WAGON ROAD.

Mr. HITCHCOCK also introduced a bill to provide for the construction of a wagon road from Columbus, Nebraska, to Virginia City, in Montana Territory; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MAIL ROUTES IN NEVADA.

Mr. ASHLEY, of Nevada, presented resolutions of the Legislature of the State of Nevada in favor of the establishment of a daily mail between the city of Austin, in the county of Lander, and Silver Peak, in Esmeralda county, in that State; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

Mr. ASHLEY, of Nevada, also presented resolutions of the Legislature of Nevada in favor of a weekly mail from Lone to Crystal Springs, in said State; which were referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

BRANCH MINT IN NEVADA.

Mr. ASHLEY, of Nevada, also presented resolutions of the Legislature of Nevada in relation to the building of a United States mint in Carson City in said State; which were referred to the Committee of Ways and Means, and ordered to be printed.

JEFFERSON DAVIS.

Mr. ASHLEY, of Nevada, also presented resolutions of the Legislature of Nevada in relation to the trial of Jefferson Davis; which were referred to the Committee on the Judiciary, and ordered to be printed.

SALE OF MINERAL LANDS.

Mr. ASHLEY, of Nevada, also presented resolutions of the Legislature of Nevada on the subject of the sale of mineral lands; which were referred to the Committee on Public Lands, and ordered to be printed.

CLAIMS FOR HORSES.

Mr. WHALEY introduced a bill in relation to claims for horses turned over to the United States; which was read a first and second time, and referred to the Committee on Military Affairs.

JUDGMENTS OF COURTS-MARTIAL.

Mr. BIDWELL submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be requested to inquire into the propriety of providing

by law that hereafter whenever any person subject to the Rules and Articles of War shall be tried by court-martial for any alleged offense, and the finding of the court shall be that the person tried is not guilty of the charge or charges against him, the president and judge advocate or recorder of the court shall give a written certificate of acquittal to the accused, who shall then be released from arrest or confinement.

INTERNAL REVENUE FRAUDS.

Mr. HIGBY. I offer the following resolution, upon which I demand the previous question:

Whereas it is alleged in responsible public journals and elsewhere that in the enforcement of the revenue laws at the custom-houses in Boston and New York, and the adjustment of claims for the violation thereof, frauds have been committed upon the United States, and parties involved in said alleged violations; and whereas it is in like manner alleged that similar frauds have been committed in the enforcement of the internal revenue laws, and in the adjustment of claims for the violation thereof in said cities: Therefore, *Resolved*, That the Committee on Public Expenditures be instructed to investigate all such alleged frauds, and that for that purpose they be authorized to send for persons and papers, and, if necessary, to sit during the recess of Congress, at such place as they shall deem most economical and efficient, and by such number, not exceeding three, of said committee, as they may deem advisable.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. HIGBY moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CLAIMS AGAINST VENEZUELA.

Mr. DRIGGS submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of State be requested to furnish this House with a list of the claims of citizens of the United States now pending in the United States legation at Caracas against the United States of Venezuela with a brief indication of the causes of complaint, and the reasons why payments have not been enforced during a long series of years, and what measures are necessary to bring these long-deferred claims to a speedy close.

Mr. DRIGGS moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ST. JOSEPH MISSOURI.

Mr. LOAN introduced a bill declaring St. Joseph, in the State of Missouri, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

ST. LOUIS WHARF.

Mr. BLOW introduced a bill to allow the extension of the wharf at St. Louis, Missouri; which was read a first and second time, and referred to the Committee on Military Affairs.

The SPEAKER. The morning hour has expired.

RECONSTRUCTION.

Mr. STEVENS. I am instructed by the joint committee on reconstruction to report a joint resolution proposing an amendment to the Constitution of the United States.

The joint resolution was read a first and second time. It is as follows:

A joint resolution proposing an amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE.—

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any

portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of male citizens shall bear to the whole number of such male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt, or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

Mr. STEVENS. I move that this joint resolution be postponed until Tuesday of next week after the reading of the Journal, and be made the special order for that day, and from day to day until disposed of, and that it be printed.

Mr. NIBLACK. I desire to inquire whether this report of the committee on reconstruction is intended to supersede the special report lately made in reference to the State of Tennessee; or whether that special report is to be first considered and disposed of before this shall be reached.

Mr. STEVENS. This does not supersede that; if the House shall choose, that special report can be taken up at any time. I move that the joint resolution just reported be made the special order for Tuesday of next week after the reading of the Journal, and that it be printed.

Mr. ROSS. I have no objection to this being made the special order at the time indicated, subject to the prior consideration of the tariff and revenue bills, if they come up previously.

The SPEAKER. This must be made a special order or not; it cannot depend upon a contingency.

Mr. ROSS. Then I object.

Mr. STEVENS. I move to suspend the rules for the purpose I have named.

The question was taken; and upon a division there were—ayes 89, noes 20.

Before the result of the vote was announced, Mr. ANCONA called for the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 107, nays 20, not voting 56; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, Baker, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, DeFrees, Delano, Deming, Dodge, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, McRuer, Miller, Moorhead, Morrill, Morris, Moulton, Orth, Paine, Perham, Phelps, Pike, Plant, William H. Randall, Alexander H. Rice, Rollins, Rousseau, Sawyer, Schenck, Shanklin, Shellabarger, Smith, Spalding, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Wentworth, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—107.

NAYS—Messrs. Ancona, Bergen, Boyer, Coffroth, Dawson, Eldridge, Finck, Grider, Aaron Harding, James M. Humphrey, Latham, Marshall, Niblack, Nicholson, Ritter, Ross, Strouse, Taylor, Thornton, and Winfield—20.

NOT VOTING—Messrs. James M. Ashley, Baldwin, Barker, Broomall, Bundy, Chanler, Culver, Davis, Denison, Dixon, Dumont, Eckley, Eggleston, Farquhar, Glossbrenner, Goodyear, Hale, Harris, Hart, Hayes, Hill, Hogan, Hooper, Demas Hubbard, Edwin N. Hubbard, James Humphrey, Johnson, Jones, Kasson, Kerr, Ketcham, LeBlond, McCallough, McIndoe, Mercer, Myers, Newell, Noell, O'Neill, Patterson, Pomeroy, Price, Radford, Samuel J. Randall, Raymond, John H. Rice, Rogers, Scofield, Sitgreaves, Sloan, Starr, Taber, Trimble, Van Aernam, Robert T. Van Horn, Welker, and Wright—56.

So the motion to suspend the rules was agreed to, two thirds voting in the affirmative.

During the roll-call,

Mr. THAYER said: My colleague, Mr. O'NEILL, is detained from the House in con-

sequence of indisposition; he is paired on all political questions with my colleague, Mr.

RANDALL.

Mr. ANCONA said: My colleague, Mr. JOHNSON, is paired with Mr. HOOPER, of Massachusetts.

The result of the vote was announced as above.

The question was taken upon postponing the further consideration of the joint resolution till Tuesday of next week, after the reading of the Journal, and making it the special order for that day, and from day to day until disposed of; and it was agreed to.

The joint resolution was ordered to be printed.

Mr. STEVENS. I am also instructed by the joint committee on reconstruction to report a bill to provide for restoring the States lately in insurrection to their full political rights.

The bill was read a first and second time. It is as follows:

A bill to provide for restoring the States lately in insurrection to their full political rights.

Whereas it is expedient that the States lately in insurrection should, at the earliest day consistent with the future peace and safety of the Union, be restored to full participation in all political rights; and whereas the Congress did, by joint resolution, propose for ratification to the Legislatures of the several States, as an amendment to the Constitution of the United States, an article in the following words, to wit:

ARTICLE.—

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress, and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Now, therefore,

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the above-recited amendment shall have become part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such.

SEC. 2. *And be it further enacted*, That when any State lately in insurrection shall have ratified the foregoing amendment to the Constitution, any part of the direct tax under the act of August 5, 1861, which may remain due and unpaid in such State may be assumed and paid by such State; and the payment thereof, upon proper assurances from such State to be given to the Secretary of the Treasury of the United States, may be postponed for a period not exceeding ten years from and after the passage of this act.

Mr. STEVENS. I move that the further consideration of this bill be postponed till Wednesday of next week, after the reading of the Journal, and be made the special order for that day, and from day to day until disposed of, and be printed.

Mr. ELDRIDGE. I object.

Mr. STEVENS. I move that the rules be suspended for that purpose.

The question was taken; and two thirds voting in the affirmative, the motion was agreed to.

The bill was accordingly postponed until Wednesday of next week, after the reading of the Journal, and made the special order for that day, and from day to day until disposed of, and was ordered to be printed.

Mr. STEVENS. I am further instructed by

the same committee to report a bill declaring certain persons ineligible to office under the Government of the United States.

The bill was read a first and second time. It is as follows:

A bill declaring certain persons ineligible to office under the Government of the United States.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no person shall be eligible to any office under the Government of the United States who is included in any of the following classes, namely:

1. The president and vice president of the confederate States of America, so called, and the heads of departments thereof.
2. Those who in other countries acted as agents of the confederate States of America, so called.
3. Heads of Departments of the United States, officers of the Army and Navy of the United States, and all persons educated at the Military or Naval Academy of the United States, judges of the courts of the United States, and members of either House of the Thirty-Sixth Congress of the United States who gave aid or comfort to the late rebellion.
4. Those who acted as officers of the confederate States of America, so called, above the grade of colonel in the army or master in the navy, and any one who, as Governor of either of the so-called confederate States, gave aid or comfort to the rebellion.
5. Those who have treated officers or soldiers or sailors of the Army or Navy of the United States, captured during the late war, otherwise than lawfully as prisoners of war.

Mr. STEVENS. I move that the further consideration of this bill be postponed until Thursday of next week, after the reading of the Journal, and be made the special order for that day, and from day to day until disposed of, and that it be printed.

Mr. ELDRIDGE. I object.

Mr. STEVENS. I move that the rules be suspended for the purpose of making it a special order for Thursday week next.

Mr. ELDRIDGE demanded the yeas and nays, and tellers on the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The rules were then suspended.

The bill was ordered to be printed, and made the special order for Thursday week next, after the morning hour.

Mr. STEVENS. I am directed by the committee to say that it is designed, as soon as the testimony is printed, that a short report will be made by the committee in furtherance of the objects now reported.

APPROPRIATIONS FOR FREEDMEN'S BUREAU.

Mr. STEVENS. I ask the unanimous consent of the House to report from the Committee on Appropriations a bill making appropriations for the uses of the Bureau of Refugees, Freedmen, and Abandoned Lands, for the fiscal year commencing January 1, 1866, and that it be referred to the Committee of the Whole on the state of the Union, and made the special order for to-morrow after the morning hour.

Mr. ROSS. Is that report in order?

The SPEAKER. The committee have a right to report for commitment, but not for action.

The bill was read a first and second time, referred to the Committee of the Whole on the state of the Union, ordered to be printed, and made the special order for to-morrow after the morning hour.

CONFISCATION.

Mr. STEVENS. I present a substitute for House bill No. 63, to double the pensions of those who were pensioners by the casualties of the late war, and to pay the damages done to loyal men by the rebel government and rebel raiders, and to enforce the confiscation laws so as to pay the same out of the confiscated property of the enemy, and move that it be printed.

There was no objection, and the substitute was received and ordered to be printed.

Mr. STEVENS. I ask unanimous consent to submit the following resolution calling for information:

Whereas the House did, by resolution dated March 5, 1866, request the President to inform them how many pardons had been granted by him, to whom, and for what offenses, and how much forfeited property had been restored to rebel owners, and to whom, to which no answer has yet been returned: Therefore,

Be it resolved, That the President be requested at

his earliest convenience to communicate said information, as it is needed for the purposes of legislation.

Mr. ROSS. I object.

LIQUOR IN THE CAPITOL.

Mr. GRINNELL. Mr. Speaker, my colleague, [Mr. PRICE,] who has been called away, desired I should move, which I do, that he be excused from further service on the committee of conference in reference to the sale of liquor in the Capitol.

The motion was agreed to; and the Speaker appointed Mr. GRINNELL to fill the vacancy.

Mr. WENTWORTH. Mr. RANDALL, of Pennsylvania, stated to me that he would be absent to-day, and I move that he be excused from further service on the same committee.

The motion was agreed to; and the Speaker appointed Mr. DAWSON to fill the vacancy.

LEAVE OF ABSENCE.

On motion of Mr. BERGEN, leave of absence was granted to Mr. TABER for one week.

On motion of Mr. NICHOLSON, leave of absence was granted to him for ten days.

On motion of Mr. THAYER, leave of absence was granted to him for one week.

A PAIR.

Mr. ELDRIDGE stated that he understood Mr. ROGERS was paired with Mr. HULBURD.

RIVER AND HARBOR BILL.

Mr. ELIOT moved that the Committee of the Whole on the state of the Union be discharged from the further consideration of the river and harbor bill.

Objection was made.

Mr. ELIOT. I move to suspend the rules for that purpose.

The question was taken; and there were, upon a division—ayes 72, noes 28.

So the rules were suspended, two thirds voting in the affirmative, and the Committee of the Whole was discharged from the further consideration of House bill No. 492, being the river and harbor bill.

The House proceeded to consider the bill, which was read in full.

WITHDRAWAL OF PAPERS.

Mr. BRANDEGEE, by unanimous consent, obtained leave to withdraw from the files of the House the papers in the case of Marchant & Co., and P. Rosecrans, leaving copies of the same.

PROVOST MARSHAL GENERAL FRY.

Mr. BLAINE. Will the gentleman from Massachusetts [Mr. ELIOT] yield to me a moment?

Mr. ELIOT. Yes, sir.

Mr. BLAINE. I hold in my hand a letter from Provost Marshal General Fry, which I ask to have read, at the Clerk's desk for the double purpose of vindicating myself from the charge of having stated in debate last week what was false, and also for the purpose, which I am sure will commend itself to the House, of allowing fair play to an honorable man in the same forum in which he has been assailed.

The SPEAKER. It requires unanimous consent to have it read. Is there objection?

Mr. CONKLING. I infer that this has some reference to me. I shall make no objection provided I may have an opportunity to reply to whatever the letter may call for hereafter.

Mr. STEVENS. I hope this will be postponed until we get through this bill. I object to interrupting it in this way.

Mr. BLAINE. I move to suspend the rules to allow it to be read.

The SPEAKER. The House is now engaged in the consideration of a bill brought up under a suspension of the rules; it cannot, therefore, suspend the rules to consider another matter.

RIVER AND HARBOR BILL—AGAIN.

Mr. ELIOT. The Committee on Commerce have deemed it to be their duty to offer this bill at this time for the consideration of the House and for their favorable action, and, as

they believe, for the promotion of the common welfare. The Constitution of the United States empowers it, the people demand it, and the necessities of the public require it. We ask for the expenditure of money and we believe that it can be shown that every dollar of appropriation asked for will, if judiciously applied, return thirty-fold into the Treasury of the United States. The time has come when loyal people look to Congress for help in the direction of this bill. During all the war the Committee on Commerce have persistently refused to report any bill on this subject although petitions have been before them time and again. And the people have been content; they have been expending life and treasure to save the life of the nation. The work of war has called them from their homes. That work has been well accomplished and thoroughly. And now from every loyal section of the land petitions have come up demanding the action of Congress in behalf of works where the highest industrial interests of the country are involved.

Mr. Speaker, I do not propose at this time to discuss the rightful power of Congress under the Constitution to legislate in this manner. It would seem as though that question ought to be deemed settled. It has been discussed for many years by the ablest men who have represented their various constituencies upon this floor and in the Senate. Whatever theorists may say, I believe that it is certain that the practical common sense of this country demands and will receive but one solution.

Perhaps, however, I may say, in reporting this bill, that the Committee on Commerce have been guided somewhat by the principles of a resolution which obtained the sanction of this House nearly twenty years ago, to which I will refer. On the 21st, of December, 1847, the gentleman from Illinois [Mr. WENTWORTH] offered the following resolution:

"Resolved, That the General Government has the power to construct such harbors and improve such rivers as are necessary and proper for the protection of our Navy and of our commerce, and also for the defenses of our country."

The principle of that resolution covers the appropriations called for in this bill, and I find while on the vote taken on the resolution the names of Jacob Thompson and others of that class are recorded in the negative, that besides the names of several gentlemen who are here upon the floor who are recorded in the affirmative, there were three not here who gave to that resolution, and to the principle of the resolution, the authority of their distinguished names. I refer to John Quincy Adams, Abraham Lincoln, and Andrew Johnson, all of whom sustained the resolution in the terms which I have read.

Nearly forty years ago Mr. Webster emphatically gave his opinion, which he said had been expressed some twenty years before that time, in favor of the general power of Congress, and of the policy of its exercise by the Government.

I hold in my hand an extract from Mr. Webster, which I will read. It is as follows:

"Congress has power to regulate commerce, both internal and external, and whatever might have been thought to be the literal interpretation of these terms we know the construction to have been, from the very first assembling of Congress, and by the very men who framed the Constitution, that the regulation of commerce comprehended such measures as were necessary for its support, its improvement, its advancement, and justified such expenditures as piers, beacons, and light-houses, and the clearing out of harbors required. Instances of this sort in the application of the general revenue have been frequent from the commencement of the Government. As the same form, precisely, exists in relation to internal as well as external trade it was not easy to see why like expenditures might not be justified when made on internal objects. The vast regions of the West are penetrated by rivers to which those of Europe are but as rills and brooks. But the navigation of those noble streams, washing as they do the margin of one third of the States of the Union, was obstructed by obstacles capable of being removed, and yet not likely to be removed but by the power of the General Government. Was this a justifiable object of expenditure from the national Treasury? Without hesitation I have thought it was. A vast chain of lakes, if it be not more proper to call them a succession of inland seas, stretches into the deep interior of this northern part of the continent, as if kindly placed there by Providence to break the continuity of the

land, and afford the easier and readier intercourse of water conveyance. But these vast lakes required also harbors and lights and breakwaters. And were those lawful objects of national legislation? To me, certainly, they have appeared to be such as clearly as if they were on the Atlantic border."

The First Congress committed the Government to the policy of the bill. The act passed on the 7th of August, 1789, the act referred to by Mr. Webster, and which was approved by George Washington, for the establishment of light-houses, beacon-buoys, and public piers, was a contemporaneous construction of the Constitution admitting the power of Congress to legislate for rendering the navigation of inlets, or harbors, or ports of the United States easy and safe. There was little internal commerce at that time and our foreign commerce was very limited; and yet, in 1790, Congress enacted and passed another law. In August, 1790, an appropriation was made for the security of navigation. In March, 1791, in April, 1792, in June, 1794, and in March, 1795, other laws were passed upon the same general subject. In March, 1796, the Secretary of the Treasury, Mr. Oliver Wolcott, recommended an appropriation of \$16,000 for four new piers in the Delaware river, and in April, 1798, a further sum of \$60,000 was recommended for the same purpose. The reasons given by Mr. Wolcott in the report which he made are of great significance at this time. They will be found in the Report on Commerce and Navigation for that year, volume one, page 390. He says:

"A question arises whether expenses of the nature proposed ought to be general or whether they ought to be delayed by a duty imposed on tonnage of vessels employed in the river Delaware. On this point it is respectfully suggested that though it may be difficult to form general rules by which to determine in all cases what establishments ought to be supported at the expense of the United States, and that though it is certain that many of the bays, rivers, and harbors of this country are susceptible of improvements which it would be inexpedient for the Government to undertake, especially at present, yet it is equally certain that national interests of the first importance are concentrated in the principal commercial cities which cannot, consistently with public interests, be submitted to the direction of local policy. The Secretary has considered the river Delaware, below Philadelphia, as entitled in respect to establishments for the security of navigation to the same consideration as any part of the coast adjoining the high sea. The proposed piers will be useful to foreign vessels and to American vessels from all the States. Commercial ports upon the river within the jurisdiction of three States will, in proportion to the extent of their trade, be nearly as much benefited by the establishments which are desired as the port of Philadelphia."

Now, we have at this time many "Delaware rivers," rivers and harbors in the interior which were then hardly known, but which have become now of as much relative national value as the river Delaware was at that time, and the arguments applicable to that river are all with the same force applicable to those covered by this bill, and every appropriation which we ask for here comes fairly within the principle upon which the old Delaware appropriation stood. The laws, during our early history, concerned light-houses, buoys, piers, &c., but as the wants of commerce increased, as the nation grew in resources, other laws were passed applying more generally the same principle. In April, 1798, a law was passed to stake out the channel of Warren river, Rhode Island, and moneys were appropriated for similar purposes in May, 1802, and March, 1805. After that time during different years other appropriations were made for like purposes in States upon the sea-board and away from the sea-board, but all for the general objects indicated in the first act approved by Washington.

I have here a report made by General Delafield at this session, in reply to a communication which I was directed by the Committee on Commerce to address to the Secretary of War, and which will be found as Executive Document No. 18, and if gentlemen will examine it they will find that from 1824 down to 1856, appropriations were made for building piers, for building break-waters, for removing obstructions in rivers, for improving harbors,

for improving navigation, for deepening channels, for the preservation of harbors, and for the construction of sea-walls. I believe that these will be found to embrace substantially all the classes of appropriations which are contained in this bill. The years when these appropriations were made will be found upon examination of this same document to cover the Administrations of Presidents Monroe and John Quincy Adams, of General Jackson and Mr. Van Buren and Mr. Tyler. During the early history of our Government we had comparatively no inland commerce, no lakes valuable for commerce; we had no valley of the Mississippi; we had no West; but all that was wanted was done.

The State of Illinois, if I recollect aright, was admitted into the Union in the year 1818. That State, young as she is, was six years old before a dollar of money was appropriated by the General Government for the improvement of harbors upon the classic waters of Lake Erie. There have been during these latter years other waters which have been dyed red with patriot blood; there have been other battle-fields than those thereabout where the blood of Union men has been freely poured out to save the nation. But yet, during all the life of the nation to come, I believe we shall turn back to no waters with more pride than to those where Perry first achieved his brilliant victory, the waters of Lake Erie. It would have been well if the Government of the United States had looked to that lake some years before it did. In 1824 the first appropriation was made.

During the war of 1812, as you know, Great Britain proposed to hold command of Lake Erie, and with her squadron there was blockading the port of Erie. Perry was stationed upon those waters to defend the interests of the United States. He then contrived to build and equip his small fleet within the harbor at that port; the British squadron being outside the bar in the deep waters of the lake, and his vessels within. His fleet at last was ready, but the Niagara and the Lawrence could not move because there was a bar which the Government had not yet seen fit to remove. It so happened that the British commander hoisted sail and went off one day with his squadron, leaving Perry, who had been providing some means to get his vessels over the bar, to execute his purpose if he could. With the greatest labor the Lawrence and the Niagara were lightened of their armaments, and means were used, which the skillful commander had before provided, by which the vessels were lifted over the bar and floated in the deep waters of the lake. Before the British squadron returned, the American fleet was prepared for its reception; and well we know that it was not long afterward that the battle of Lake Erie was fought and Perry's victory was won.

Now, Mr. Speaker, one of two courses must be taken. Either the Government must lift up its hand from the sea-coast and from lake and from river; it must say to the people, "You have fought for and made the nation and saved its life; but now within your own State borders you must protect and take care of your own interests;" or else the sea-coast, East and West, so far as it shall be necessary for the security of navigation, and the mighty rivers and the great lakes of the continent must be cleared of their obstructions and their harbors rendered secure, so that they may be entered with safety by the vessels of the United States and by the vessels of commerce, and I hope the members of the Thirty-Ninth Congress will upon this question be found upon the side of the people.

Sir, if the action of the early Government and of our early Presidents appropriating moneys for roads and canals and the various improvements of rivers, then of some commercial value, and of harbors on the sea-coast, was pursuant to constitutional powers granted or fairly implied, the question must be deemed fairly settled, and at this time the demands of more millions of men whose interests are involved in one im-

provement than achieved our independence cannot be properly denied.

In one appropriation asked for here, more than five million people are directly interested. And yet the States where they live are mere children in the Union—hardy young ones and hard strikers—they have done some splendid fighting during these four years past; they have sent their hundreds of thousands of men to help save that flag, and we should see to it that it shall securely wave over their lakes and rivers.

Sir, we have seven great lakes: Superior, Huron, Michigan, St. Clair, Erie, Ontario, and Champlain. Without estimating at all the rivers and the canals which connect those lakes, it will be found that there is a straight line of lake navigation of one thousand five hundred and seventy-three miles in length. But that does not state the whole truth, for the lake coast is five thousand miles in extent, of which three thousand miles are within the territory of the United States.

Leaving the lakes and going to the rivers, we find that, taking the rivers Mississippi, Missouri, Arkansas, Ohio, and Red river, with their tributaries, we have a length of navigable waters of sixteen thousand six hundred and seventy-four miles. The inestimable national importance of the navigation of these lakes and rivers cannot be overstated. The whole Mississippi valley, with its fourteen States, the eight States upon the lakes, depend upon these lakes and rivers as their natural highways to a commercial market. We can estimate the present commercial value of the products of the West; but we cannot tell how that value will be multiplied. Yet for many years from the time when the last general bill passed by Congress found its death in the President's portfolio, every dollar of appropriation has been earned by the earnest advocates of these improvements before it was authorized by Congress and became a law.

I do not propose to occupy the time of the House now by reviewing at any length the action of Congress upon the subject of river and harbor improvement. And yet it may be well to recur to that action briefly, and I propose to do so.

In 1808 Albert Gallatin's famous report was made, recommending a grand appropriation of \$20,000,000 for turnpike roads, canals, and inland navigation. Within the range of his recommendations were immensely long public roads and canals running north and south, and east and west. There were large appropriations recommended for improving the navigation of the great rivers. That recommendation of Mr. Gallatin was not acted upon.

It will be remembered that shortly after that time there were heard in the air the distant mutterings of thunder. Soon afterward a cloud not bigger than a man's hand was seen. The eyes of all and the attention of all were directed to what was to come. The war with England, which followed, put a stop to appropriations of that description. But from about 1808 until the presidential term of Mr. Tyler, through contest and through tribulation, and notwithstanding now and then a presidential veto, appropriations to the following amounts, according to a very valuable report made by Colonel Abert to the War Department, were made: during the presidential term of Mr. Jefferson, \$48,500; during the term of Mr. Madison, \$250,800; during the term of Mr. Monroe, \$707,621; during the term of Mr. John Quincy Adams, \$2,310,475; during the term of General Jackson, \$10,582,882; during the term of Mr. Van Buren, \$2,222,544; during the term of Mr. Tyler, \$1,076,500.

President Tyler, in his annual message to the Twenty-Eighth Congress, made at its first session, strongly recommended to the attention of Congress the western lakes and rivers. During that same session, however, he declined to sign, but returned with his veto, a bill providing appropriations for eastern harbors, known on the records of that day as the "eastern har-

bor bill;" while he signed a bill for improvements of western lakes and rivers. At the last session of the same Congress, a joint bill covering the East and the West was passed by Congress. The years upon the passage of that bill were, as the record shows, 105; the nays were 96. The Senate passed it by 27 yeas to 11 nays. Among the names of those who supported the bill, I find upon the Journal that of our distinguished friend from Ohio, [Mr. SCHENCK,] now at the head of the Military Committee, and also that of the gentleman from Chicago, [Mr. WENTWORTH.] Within ten days afterward Mr. Tyler's term expired; and so did the Congress during which the bill was passed; and the bill remained unsigned in the portfolio of the President.

I have referred, Mr. Speaker, to the report of Colonel Albert. His report, as chief of Engineers, was communicated to Congress by Mr. Polk in his first message; and the attention of Congress was invited to the suggestions which it contained. Colonel Albert called especial attention to the lake navigation, and described with a good deal of force the wants, the commerce, and the national value of the harbors of the lakes.

Colonel Albert says:

"We see the immense wealth and prosperity which these harbors have developed and the immense national interests which require protection—interests of commerce and interests of national defense, protection to vast amounts of property, to numbers of lives, and to a powerful auxiliary in time of war. Now, what is the protection which these vast national interests require? Harbors, only harbors, means of entering places of security to load and unload and for shelter in time of storms. Our Atlantic coast, more favorably situated in some respects, calls for protection in the form of costly fortifications and of numerous troops. Our lake coast, as extensive as that of the Atlantic, is deficient in harbors and places of refuge. It calls comparatively but for small protection in the way of fortifications, but it calls for protection from storms and for facilities to enter the harbors."

Well, sir, Congress did attend to the recommendations of the President, and to the suggestions made in that report; and during that Congress a bill was passed to protect the national interests referred to. There are now some three or four gentlemen upon the floor who supported that bill. Among them I find the gentleman from Ohio [Mr. SCHENCK] and his colleague, [Mr. DELANO,] the gentleman from New York, [Mr. GOODYEAR,] the gentleman from Chicago, [Mr. WENTWORTH,] and the gentleman from Kentucky, [Mr. GRIDER.] Jefferson Davis voted in the negative.

There were forty-nine appropriations contained in that bill. All of them except fourteen were for improvements of the same character as those which had been approved by General Jackson during his presidential term.

Mr. Polk vetoed the bill in July or August, 1846, and another smaller bill, which was passed toward the close of the next session, found its death in the drawer of the President.

At the next session, December, 1847, bringing it down to the first session of the Thirtieth Congress, an elaborate message was sent to Congress, in which forner arguments against the protection of national interests of commerce were repeated at great length. In 1848 the House passed another bill covering the same general ground. It was reported to the Senate on the last day of the session, after having passed the House, and failed there for want of time.

There was a valuable bill passed in 1852, and in the report which I have referred to from General Delafield will be found the appropriations contained in that bill.

Since then there have been several special bills, notwithstanding the vetoes of the President, which have become laws. I hold in my hand three bills passed during the first session of the Thirty-Fourth Congress, one to deepen the channels over the flats in St. Mary's river, Michigan, another to remove obstructions to navigation in the mouth of the Mississippi river at South Pass and Pass à l'Ouvre, and the other for deepening the channel over the St. Clair flats, Michigan. These failed to receive the

sanction of President Pierce, but were passed by the Senate over the veto in July, 1856, and two days afterward, I believe, were passed by the House.

There was another bill, first session Thirty-Fourth Congress, for the improvement of the Des Moines rapids, Mississippi river. That was not fortunate enough to receive the President's signature, was returned to the House on the 11th of August, 1856, and passed the House the same day and the Senate on the 16th of August.

At the end of the first session of the Thirty-Third Congress a bill was passed and returned to the House of Representatives without his signature. At the beginning of the second session of the same Congress reasons were communicated at length and the same argument presented so often made before and so often answered by the ablest expounders of the Constitution.

In 1866, we proposed to ascertain, on the principle of the resolution I referred to at the commencement of my remarks, whether, after four years of war, when loyal men of the East and West have given their fortunes and their lives to the support, rescue, and preservation of the Government, something may not be done that will enrich the people and the Government at the same time.

Is this work national or sectional? I cannot, of course, examine into the details of the items contained in this bill, but there is no item that cannot be defended upon its own independent ground. There is no one which does not rest upon estimates carefully made at the War Department. If it shall be necessary, I hold myself prepared, in behalf of the committee, to justify each specific appropriation.

I want now to speak of two items, one concerning the Mississippi river, and the other concerning the St. Clair flats.

There are four appropriations for the improvement of the Mississippi river, one at its mouth, one at the Des Moines rapids, one at Rock Island rapids, and one for the procurement and use of snag boats to remove obstructions in western rivers.

I say that it is a national disgrace that the Mississippi river has been left so long comparatively valueless; not absolutely, for it would not be possible that the "Father of Waters" could be made absolutely valueless, notwithstanding the fact that there are at the Des Moines rapids, the Rock Island rapids, and possibly higher up and before you reach St. Paul, obstructions which, during a great portion of the year, greatly, and at times wholly, impede the navigation of the river. It is not only the largest of North American rivers, but, if we consider it in reference to its tributaries and to its wonderful commercial facilities, it is the greatest river in the world. The remotest source of the Mississippi river is no less than three thousand one hundred and sixty miles above the Gulf, at Lake Itasca. For how many centuries that river has poured its waters into the Gulf no man knows, but history tells us that in 1520, a century before the Pilgrims landed at Plymouth, the Spanish mariner Pinédo sailed around the Gulf and saw what he called a "little sea," and a mighty river entering in, which he called the "river of the Holy Ghost." And from that time visited as is supposed by early Spanish and French mariners in the sixteenth and seventeenth centuries among whom were Narvaez, De Soto, Marquette, and La Salle, its stream has rolled for two thousand miles, passing at several points over ledges of rock where navigation is made impossible at times, and is always unsafe and dangerous. At these rapids the rocks must be removed if no better way can be found to make safe the navigation and protect the commerce of the Mississippi. It was Father Marquette, a Jesuit priest, who gave or rather who fixed the name which the Indians had before that time given to that mighty river. The men who thought they had discovered the river attempted to fasten upon it other names, but the old Ojib-

beway name of Mississippi was put into the books by Father Marquette, and the river has borne that name and must bear it forever. This bill introduces the name of that same Jesuit priest in another connection. I suppose that it is the same man after whom the harbor is named for which an appropriation will be found in this bill, the harbor of Marquette on Lake Superior.

Mr. Speaker, I want to ask the attention of the House to some practical and pretty important facts going to show the national importance of these proposed appropriations. Twenty-five years ago all the New-England States, with Pennsylvania and New York, had a population of about six million five hundred thousand. A census taken this day, after four years of war, will show in the seven States of Illinois, Indiana, Ohio, Missouri, Iowa, Michigan, and Minnesota, a population of not less than ten millions. At the Detroit convention which was held in July, 1865, Mr. James F. Joy, of Detroit, referring to the agricultural growth of those seven States, said:

"Contrast now the progress of agriculture between the two sections. All the Atlantic States named in 1850 produced 20,000,000 bushels wheat, and in 1860 had increased the production only 2,000,000 and risen to 22,000,000. In the same years the lake States (above named) had produced 40,000,000 in 1850 and 85,000,000 in 1860 of wheat. Of corn, the former States produced, in 1850, 47,000,000, and in 1860 57,000,000 bushels. The lake States produced in 1850, of corn, 185,000,000 bushels, and in 1860 319,000,000, and at the same rate of increase will in ten years more produce about 200,000,000 bushels of wheat and 600,000,000 bushels of corn." * * * "Now, there are ten million people interested in these products, and to them the matter of access to market is of the first and last importance." * * * "It is not the possibility of getting to market through avenues now open but the expense of so doing which is involved. Every additional avenue aids the facilities and diminishes the expense." * * * "With the millions of the West the avenue to market is a vital question. When close upon the Mississippi corn is burned for fuel, because the expense of sending it to market is more than it is worth; when from Illinois, on an average, it costs the farmer three bushels to get the fourth to market in New York, and much more than that to lay it down in Liverpool; when from all the lake States it costs half of all the flour and wheat to the farmer to get the rest into the markets of the world, it has become high time for the Government to look a little to the protection of his interests."

But, Mr. Speaker, although these seven States that I have named are all more or less interested in these Mississippi river improvements, there are five States whose interests are directly and vitally concerned. I refer to Missouri, Illinois, Iowa, Wisconsin, and Minnesota.

In presenting to the House the national importance of these appropriations, I certainly cannot do better than to refer to some facts which were laid before the convention held in February, 1866, at Dubuque, Iowa. My friend from Iowa [Mr. ALLISON] has furnished me with a copy of the proceedings of that convention; and I will read some extracts from a speech made by Mr. Robb, of the Dubuque Produce Exchange:

"The importance of this question, and the magnitude of the interests involved in its solution, will more clearly appear on an examination of the productiveness of the five States named. In 1860 the whole number of acres of improved land in all the States and Territories was..... 163,261,389

Of this—	
Missouri contained.....	6,246,871
Illinois.....	13,251,473
Iowa.....	8,780,233
Wisconsin.....	3,746,036
Minnesota.....	654,397
	27,579,030

Or a fraction less than one sixth.

"The total value of crops for 1864 is estimated by the Agricultural Bureau of the Department of the Interior to have been.....\$1,564,543,690

Of this sum—	
Illinois produced.....	\$214,488,426
Wisconsin.....	51,938,352
Missouri.....	62,903,562
Iowa.....	74,100,431
Minnesota.....	13,168,123
	403,692,474

Or more than one fourth of the value of the entire crops of the country. But these estimates of value are the estimated value of the various products in the States where produced. In this way the value of articles in the above States appears to a great disadvantage, because being so far from market, they are rated much less than the same articles in other States, especially those near the sea-board. The same is true

of the estimated value of the live stock, which, on the 1st of January, 1865, was, \$990,879,128

Of this—	
Illinois had.....	\$116,588,288
Missouri.....	44,431,766
Iowa.....	60,572,496
Wisconsin.....	36,911,165
Minnesota.....	8,890,015
	273,363,730

Or more than one fourth. A juster standard by which to measure the productiveness of these States would be a comparison of the amount of their respective products, since the value is so largely affected by the distance from market.

"The great staples of agriculture are wheat, corn, beef, and pork. Comparing these, we find that the total number of bushels of wheat produced in all the States and Territories in 1864 (except the cotton States, whose production was almost nominal, probably not more than one sixth of what it was in 1860) was.....160,695,823

Illinois produced.....	33,371,173
Missouri.....	3,291,514
Wisconsin.....	14,168,517
Iowa.....	12,649,807
Minnesota.....	2,634,975
	66,105,786

Or a fraction less than one half. The total number of bushels of corn produced was.....530,451,403

Illinois produced.....	133,356,135
Missouri.....	86,635,031
Wisconsin.....	10,067,053
Iowa.....	55,201,240
Minnesota.....	4,047,329
	244,986,768

Or nearly one half. The whole number of cattle and oxen, January 1, 1865, was.....7,072,591

Illinois had.....	978,700
Missouri.....	471,006
Wisconsin.....	383,760
Iowa.....	561,338
Minnesota.....	127,175
	2,526,979

Or more than one third. The total number of hogs was.....13,070,887

Illinois had.....	2,034,231
Missouri.....	983,857
Wisconsin.....	340,633
Iowa.....	1,423,567
Minnesota.....	109,016
	4,896,506

Or more than one third. The entire population of the United States in 1860 was.....31,443,322

Illinois contained.....	1,711,651
Iowa.....	674,913
Missouri.....	1,182,012
Minnesota.....	172,123
Wisconsin.....	775,881
	4,516,880

Or about one seventh.

"Thus it will be seen that these five States possessing only one seventh of all the population and one sixth of all the improved land, nevertheless in 1864 produced more than one fourth in value of the entire crop; more than one fourth in value of all the live stock; more than one third in number of all the cattle and hogs, and nearly one half of all the wheat and corn grown in the United States. Here we find four and one half millions of agriculturists along the upper Mississippi, producing in a single year from one third to one half of all the production of the leading staples of an estimated value of \$677,056,204."

"A glance at the commerce of the Mississippi will show how necessary it is that this work should be done immediately and effectually. Thirty years ago steamboats engaged in the river trade aggregated but a few score. Now there are over a thousand."

"In 1865 the imports of St. Louis, Cincinnati, Louisville, and two or three minor Mississippi towns were of the value of \$730,000,000. As the export trade of these places was about equal to their imports, we have for the entire commerce of these points nearly \$1,500,000,000. But this does not include the commerce of New Orleans, Memphis, Dubuque, and other important towns. Include the trade of these points and the aggregate value of the trade of the Mississippi and its tributaries, the Ohio and Missouri, in 1865 was more than \$2,000,000,000, a sum equivalent to three times the whole foreign commerce of the United States."

"Remove these obstructions and the producers of these States will then have a convenient and adequate outlet to the markets on our own sea-board and of Europe. They can market their grain in London and Liverpool, be successful competitors of European producers on their own soil, and eventually control the price of breadstuffs in the very center of the world's trade. In Europe land is scarce, and rents ruinously high. The consequence is that our farmers, who have cheap lands and mechanical labor, can produce grain with profit at figures that would ruin the European farmer. The only obstacle that prevents the western producer from underselling and by successful competition driving foreign producers from their own markets, is the want of cheap transportation. For the past five years the average price per bushel of wheat in London and Liverpool has been \$1 37 in gold, or \$1 90 of our own currency. The English farmer cannot produce it at a less cost with any profit. The land is mostly held by the nobility, who exact as a rental therefor forty per cent. of the productions. Improve these rapids, and grain can be sent from Dubuque to New Orleans for twenty cents and thence to Liverpool for seventeen cents, including cost of transhipment, thus netting our farmers at least \$1 50 per bushel and giving them the power

to undersell the English farmer in his own market, and eventually compel him to seek other pursuits. Wheat could be shipped from this point to New York for thirty-three cents per bushel by the way of New Orleans, while the average cost by present transportation from the Mississippi river to New York is sixty-five cents per bushel. Here is a saving of thirty-two cents per bushel. This on thirty million of our surplus crop of fifty million bushels annually raised, would make the enormous sum of \$9,600,000."

Now, the total value of the crops for 1864 throughout the country is shown to have been \$1,564,543,690. Of that immense amount the five States of Illinois, Wisconsin, Missouri, Iowa, and Minnesota produced in value more than one fourth part. But that statement does not show the whole truth, because these values are values which are estimated in the States where these cereals are produced.

But in Boston, Massachusetts, corn last year was \$1 21 per bushel; in Illinois, it was twenty-nine cents per bushel. It will be seen at once, therefore, that if those five States produced more than one fourth of the value of the whole crop of 1864, estimated at home prices, what an increased proportion would be shown if values were more equalized than they are now. I understand that at this moment there are in the State of Iowa twelve million acres of unimproved lands where the plow has never entered.

It is not possible, perhaps, to demonstrate more truly or clearly the national importance of these improvements; but still I desire to present further a few later statistics, which I have prepared from documents subsequently published. I want to call the attention of the House to one single crop, and that is the corn crop of 1865.

In Maine, the corn product in that year was 1,692,020 bushels; in New Hampshire, 1,468,090 bushels; in Vermont, 1,796,356; in Massachusetts, 2,363,245; in Rhode Island, 497,418; and in Connecticut, 2,265,818; making an aggregate of 10,082,947 bushels as the corn crop of these six States for 1865. Now, if you add to that the corn crop of New York, Pennsylvania, and New Jersey, you will have an aggregate of 170,688,279 bushels as the corn crop in that year of these nine States. The State of Illinois produced in the same year 177,095,852 bushels; that is to say, 7,000,000 bushels more than these nine States. Ohio yielded 94,119,644 bushels; Michigan, 17,520,305; Indiana, 116,069,316; Missouri, 52,021,715; Wisconsin, 13,449,405; Iowa, 62,997,818; and Minnesota, 5,577,795; making an aggregate of 538,851,845 bushels.

Now look at the values of corn in 1865:

States.	Per bushel.	Total value.
Maine.....	\$1 21	\$2,037,344
New Hampshire.....	1 21	1,732,729
Vermont.....	1 15	2,070,300
Massachusetts.....	1 104	2,611,385
Rhode Island.....	1 224	609,949
Connecticut.....	1 224	2,775,627
		\$11,887,334

Ohio.....	444	\$41,816,012
Michigan.....	601	10,706,850
Indiana.....	40 2-5	44,918,823
Illinois.....	294	51,800,536
Missouri.....	52	27,051,202
Wisconsin.....	46	6,200,726
Iowa.....	30	18,889,344
Minnesota.....	514	2,872,564
		\$204,275,147

The whole value of the Illinois corn crop was \$51,800,536. The whole value of the crop of the six New England States was \$11,887,334, and yet those six States produced only one seventeenth as much as the crop of Illinois, while the value was between one fourth and one fifth.

Now, sir, to get a bushel of corn from Illinois to Boston would cost eighty-one and a quarter cents; that is to say, it would cost the difference between its value in the Boston market and its cost at home; to carry the corn crop of 1865 from Illinois to Massachusetts would cost \$143,890,379 75.

The price in New York was ninety-five cents per bushel. The cost of getting a bushel of

corn from Illinois to New York was sixty-five and three quarter cents, and the cost of transporting the corn crop of Illinois to New York city would be \$116,440,522 69.

The whole crop of Illinois in 1865, taking the corn, wheat, rye, oats, barley, buckwheat, potatoes, tobacco, and hay was of the value of \$116,274,321; that is to say, the whole crop was worth \$166,201 69 less than the cost of transporting to New York the corn crop alone of 1865.

Now, with an unobstructed navigation of the Mississippi, that corn crop could be landed in New York city, at a saving of \$63,311,769 09. In this estimate I have allowed thirty-five and three fourths cents as the cost of getting a bushel of corn down the Mississippi. But I received a letter this morning on that subject, some portions of which I ask to have read.

The Clerk read as follows:

OFFICE ST. LOUIS LEAD AND OIL COMPANY,
142 SECOND STREET, CORNER WASHINGTON AVENUE,
ST. LOUIS, April 26, 1866.

MY DEAR SIR: I am in receipt this morning of a letter desiring me to transmit to you some information regarding present rates of freights from St. Louis to New Orleans, &c.

The present rates by steamers on grain and flour to New Orleans are: eighteen to twenty cents per bushel for grain and seventy cents per barrel for flour.

I am interested in a company lately formed for the purpose of transporting freight by barges towed by powerful tow-boats. Within the past three weeks we have sent out three tows of about four thousand tons each, and have been splendidly successful. A prejudice has always existed among our steamboat men and underwriters against this method of transportation, but it has been entirely overcome by the astonishingly successful operation of our theory; our boats making their trips in perfect safety and in less time than is generally required by passenger steamers. We are now taking freight to New Orleans at fifty cents per barrel for flour and twelve to fifteen cents per bushel for grain, and if the navigation of the upper Mississippi was not obstructed by rapids, and the lower river by snags and sawyers, it could undoubtedly be carried at these prices with profit, from St. Paul to New Orleans, over two thousand miles.

The advantage to the whole country by this method of transportation can readily be perceived, and its operations can be greatly facilitated and cheapened by the improvements contemplated in your bill; and I cannot conceive how any person having the interests of the whole country sincerely at heart could for a moment oppose it.

Yours, truly,

W. H. PULSIFER.

Hon. T. D. ELIOT, M. C., Washington, D. C.

Mr. ELIOT. The produce of the five States of Illinois, Missouri, Wisconsin, Iowa, and Minnesota in 1865 in cereals and potatoes was in bushels, 466,629,652. The produce of the same articles in the nine States of Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, and Pennsylvania, was 321,494,867 bushels. That is to say, the nine eastern States produced less than the five Mississippi States by 145,131,285 bushels, and yet Illinois, the oldest of the five States named came into the Union in 1818, Missouri in 1821, Iowa in 1846, Wisconsin in 1848; while Minnesota did not begin to be a Territory until 1849, and was not a State until 1857.

[Here the hammer fell.]

Mr. RICE, of Maine. I move that the time of the gentleman from Massachusetts [Mr. ELIOT] be extended for fifteen minutes.

No objection was made.

Mr. ELIOT. The five Mississippi States to which I have referred are all of them younger than the State of Ohio, a great deal younger, and yet the first child born in the State of Ohio is now living in a very serene old age in his native State; and he does not now number so many years as may be counted by our friend, the patriarch of the Pennsylvania delegation, [Mr. STEVENS.]

Now, we on the sea-board want to have cheaper corn; and the people on the lakes and western rivers want to get more money for their produce. The surplus produce of those States in a few years will not only feed all the Atlantic States, but there will be enough left to affect the price of food in Europe.

I now want to say something in regard to the St. Clair flats. Let us see if that matter is national and important or not. I have in my hand a valuable report upon these flats, made

by Colonel Graham, which will be found in volume five of Senate Documents of the third session of the Thirty-Fourth Congress, in the year 1858. I read the following extracts:

"The immense amount of commerce before alluded to, and which is shown by the accompanying statistics to be dependent upon this channel for its prosperity, ought not to be subjected to so long a delay in securing its practical benefits.

"The States of New York, Pennsylvania, Ohio, Michigan, Indiana, Illinois, and Wisconsin, and the Territory of Minnesota, have their shores washed by the great inland seas; whose intercommunication by ship navigation is much interrupted by the want of a safe and sure channel over these flats.

"The States of New York, Pennsylvania, Ohio, and a portion of Michigan, on the one side, are crippled in their important commercial relations with the remaining portion of the State of Michigan, and with the States of Indiana, Illinois, and Wisconsin, and the Territory of Minnesota, on the other side, by this intervening obstacle.

"Something would seem, then, under the purview of the Constitution, to be necessary to be done in order to regulate the commerce between these States. Viewed in this light the subject becomes one of great public concern. The value of the articles of commerce and navigation which passed over these flats during the two hundred and thirty days of open navigation in the year 1855, say between the middle of April and the 1st of December, will be presently shown to have amounted to the immense sum of \$250,721,455 50, that is to say, two hundred and fifty-nine millions seven hundred and twenty-one thousand four hundred and fifty-five dollars and fifty cents, or per day during the navigable season \$1,123,223 72. The improvement, then, when undertaken should be executed with a degree of permanency and celerity combined commensurate with its importance and the magnitude of the interests involved.

"It is making no more than a reasonable allowance for the effect of the obstruction to commerce now existing at St. Clair flats to say that had that obstruction not existed the value of the merchandise and produce that would have passed in 1855 would have been full fifty per cent. more than it actually was, or that it would have amounted during the navigable season of 1855 to \$376,751,538 95. This would have been an average value per day of \$1,083,030 25, or per day more than three times the estimated cost of the work to be done in a permanent manner, and with a channel-way six hundred feet wide and full twelve feet deep. It should be borne in mind that such a channel would admit as free and safe a navigation at night as during the day. In the present state of the flats no navigator ever thinks of attempting to pass them, except by daylight. This cause of detention, added to that of vessels grounded often for several days before they can be got afloat and tugged over, actually shortens the navigable season to quite one half of what it will be when the improvement shall be completed in the manner that shall best obviate all the difficulties."

Now, what are these St. Clair flats, and where are they? Lake St. Clair, which connects by means of the Detroit and St. Clair rivers the three lakes of Huron, Michigan, and Erie, is eighteen miles in length, and has a mean width of about twelve miles. The St. Clair flats are at the head of the lake. At the point where the river widens itself into a lake and forms the lake, sands brought down by the flow of the river are accumulated. The flats or sand-bars are made in that way; and a channel of about one mile in length must be cut through. For the last ten years nothing has been done by the Government; nothing since the date of the report from which I have just read.

At that time a channel was cut through one hundred feet wide and thirteen feet deep. That channel is said to be to-day about fifty feet wide and ten and a half feet deep. Now, the value of the commerce which during the last year passed over those flats was more than one hundred and forty-six million dollars. But that is exclusive of the value of the vessels, which amounted to \$250,541,846; making the total value of the property which passed over those flats in one season to be \$396,546,896.

I desire to call the attention of the House to a statement of this commerce over the flats. This statement, prepared by Mr. Edmund Trowbridge—a brother, I believe, of my friend from Michigan—conveys a very full and a very minute idea of the value of this improvement:

"At the time the above appropriation was made, 1857, the average carrying capacity of the vessels on the lakes was from ten to twelve thousand bushels of grain, but the rapid and enormous increase in the commerce of the lakes has made it necessary to build much larger vessels, and now it would be safe to say the average capacity of each is double that amount. Then the greatest amount of water that vessels could draw was from nine to ten feet, but now from twelve to thirteen and a half feet.

"It is no uncommon thing to see several of our

largest propellers aground on the flats at one time, working all the powers of their engines to extricate themselves. The water being shallow, the action of their wheels digs up, as it were, the sand under them, and deposits it in small hills or ridges in the channel, on which the next passing vessel is likely to stick fast.

"The navigation of the rivers connecting Lakes Erie and Huron has always been attended with much risk, and often with serious loss, owing to shoals, sunken rocks, and swift currents, even before the vessels were anything like the size they now are. This has made it necessary to bring to the aid of sailing vessels tow-boats to tow them through these rivers. These boats take in tow from two to seven vessels, and in passing over the flats the tug, or some of the vessels in tow, are very apt to stick fast on some of these ridges, formed by the propeller wheels, or owing to the narrowness of the channel, they strike on one bank or the other, and, not having room to work these vessels, the consequence is, those astern are sure to come in collision with those aground, causing, in the aggregate, an immense amount of damage, all of which would be avoided by having a sufficient breadth and depth of channel through which to do the business. The channel is now so crooked that it requires an expert pilot to take any ordinary sized craft over.

"The extent of the bar or flat is very insignificant, and the amount of money required from the Government is a mere trifle, when compared with the importance of the work sought to be accomplished.

"The entire length that would be required to cut the channel would not exceed one mile. Your committee are informed by competent engineers in the Government employ that the small sum of \$200,000 would give a channel three hundred feet wide and fifteen feet water.

"While your committee fully agree with and heartily indorse all the schemes proposed by conventions and Boards of Trade to enlarge our canals, build new ones, and open up greater facilities for getting the vast produce of the West to tide-water, they cannot but think that this work of enlarging the channel over the St. Clair flats is of quite as great importance as any that has been or can be proposed.

"As it is, one vessel can entirely close the channel by striking on one bank and swinging across the channel, thus effectually sealing it up, so far as the passage of other vessels is concerned; and your committee have known within the last two years a large propeller closing entirely the channel for four days, making it impossible for any loaded craft to pass or repass, and detaining at one time more than two hundred loaded vessels for that length of time. Your committee would recommend that an appropriation of \$200,000 be asked from Congress to accomplish this much-needed work.

"Your committee would also recommend that an appropriation be asked from Congress of a sufficient amount of money to build three range lights on the flats, in accordance with the recommendation of Colonel William F. Reynolds, made to the Light-House Board, which would enable vessels to pass over the flats as well at night as in the day. The necessity for these range lights is proven from the fact that temporary ones have been kept there by private subscription since the channel was opened. If not for them there would be large accumulation of vessels above and below the flats during the night, and at the earliest daylight each would try to be the first over. They would meet on the flats in such numbers and to such an extent that there would be an almost interminable jam, and the damage from loss of time and collision would be incalculable.

"Hereafter your committee will show the number of vessels, with their cargoes, that have passed the flats during the season of 1855, with the valuation of the same as near as possible. In some instances we have been obliged to estimate the value of cargoes, but feel assured that our figures are below rather than above the actual value.

"When we think that there are no less than fifteen States of our Union directly or indirectly interested in the commerce of the lakes, it seems as though they could, by a united effort, demand of our Government that this barrier or obstruction should be removed, and that demand should not go unheeded.

"With the foregoing remarks your committee beg leave to offer their statistical report, and would earnestly recommend that the report, or so much of it as is necessary, may be laid before the different Boards of Trade around the lakes, asking their cooperation in bringing this important subject before Congress, with a recommendation that the appropriation of \$200,000 be made to remove this barrier, and a further appropriation of \$10,000 per year be made to keep the channel open and clear for all times.

NUMBER OF STEAMERS AND VESSELS ON THE LAKES IN 1865.

	No.	Tonnage.	Valuation Gold.
Steamers.....	151	55,811	\$2,105,000
Propellers.....	289	91,092	4,339,000
Barkentines.....	156	66,529	1,963,200
Brigantines.....	74	21,874	418,400
Schooners.....	1,108	220,385	5,521,900
Total.....	1,773	468,691	\$14,347,500
Add 40 per cent. for gold.....			5,738,000
Total.....			\$20,085,500

Average valuation of each vessel, \$11,292.
In the class "schooners" is included schooners, scows, sloops, barges, &c. These 1,778 vessels are manned by 17,780 seamen, at a daily cost to the owners of \$92,230.

And cost for the season..... 16,955,340

Actual number of vessels passed the flats from the 1st day of April to the 14th day of December, as reported to Commodore William H. Gardner by the light-house keeper during the day-time, is.....16,706
To which may safely be added one third for passing in night, which said keeper did not include..... 5,568

Making entire number passing for the season.....22,274
Which is an average of those passing daily of eighty-six. At the above valuation in vessels, for each vessel we have the daily valuation in vessels without cargo passing.....\$971,112
And for the season we have the value of vessels that pass the flats.....\$250,546,896

It is estimated that there is an average of two vessels detained on the flats each day, at an actual loss to the owners in time and expense of getting off, each \$150, making \$300 per day, and for the season of two hundred and fifty-eight days.....\$77,400
This in addition to the damage done to vessel and cargo, which damage can safely be put down at \$50,000 for the season, making on the aggregate a loss to the owners of the property of.....\$127,400

It is estimated that forty thousand passengers are transported over the flats each year.

Your committee can form no definite idea of the loss to the passengers who from time to time are detained there, but think such loss may safely be put down at many thousands of dollars per annum, all of which loss would be avoided by having a sufficient channel through which this enormous amount of property could pass in safety.

The following is the amount of property transported over the flats during the season of 1855:

Articles.	Amount.	Price.	Total value.
Flour, bbls.....	857,458	\$3 00	\$6,850,664 00
Wheat, bus.....	16,834,883	1 50	25,252,324 50
Corn, bus.....	23,868,905	68	15,753,477 30
Oats, bus.....	8,572,933	45	3,857,828 85
Rye, bus.....	809,038	75	606,778 50
Barley, bus.....	747,447	1 25	934,308 75
Bacon, lbs.....	2,908,520	19	552,618 80
Beef, bbls.....	41,951	14 00	587,314 00
Pork, bbls.....	69,009	30 00	2,070,270 00
Lard, lbs.....	2,617,175	23	601,950 25
Tallow, lbs.....	1,034,780	13 00	134,521 40
Butter, lbs.....	865,214	30	259,564 20
Lumber, M.....	177,619,000	22 50	3,996,427 90
Salt, bbls.....	540,962	2 25	1,217,164 50
Shingles, M.....	33,756,000	6 50	219,414 00
Lath, M.....	21,218,000	3 00	63,744 00
Staves, M.....	4,818,000	18 00	87,264 00
Shingle bolts, cords.....	1,874	12 00	22,488 00
Tan bark, cords.....	3,517	8 00	28,136 00
Merchandise, tons.....	160,954	400 00*	\$4,381,600 00
Hay, tons.....	4,324	18 00	77,832 00
Plaster, tons.....	13,054	6 00	65,270 00
Coal, tons.....	356,379	10 00	3,563,790 00
Cedar posts, number.....	54,000	10	5,400 00
Telegraph poles, No.....	24,266	1 00	24,266 00
Pig iron, tons.....	12,460	50 00	623,000 00
Grindstones, tons.....	462	20 00	9,240 00
Hoops, M.....	14,367,000	6 00	86,202 00
Square timber, cubic feet.....	1,700,000	195 00	331,500 00
Iron ore, tons.....	287,982	9 00	2,111,838 00
Copper ore, tons.....	13,812	*	4,974,012 00
Stone, cords.....	1,522	8 00	12,176 00
Wood, cords.....	56,000	4 00	224,000 00
Saw logs, feet.....	50,000,000	12 00	600,000 00
Cattle, number.....	3,528	75 00	264,600 00
Water lime, bbls.....	18,018	1 80	30,432 40
Plaster, bbls.....	3,059	1 25	3,823 75
Brick, M.....	4,865,100	10 00	48,651 00
Bar iron, tons.....	7,099	100 00	709,900 00
Wool, lbs.....	484,200	35	169,470 00
Highwines, gallons.....	533,835	2 25	1,201,241 25
Powder, tons.....	589	600 00	353,400 00
Cheese, lbs.....	65,787	12 1/2	8,223 37
Candles, lbs.....	132,786	25	33,196 50
Soap, lbs.....	534,900	06	32,094 00
Apples, bbls.....	6,402	4 00	25,608 00
Dried apples, lbs.....	42,231	13	5,490 03
Sugar, lbs.....	340,014	16	54,402 24
Coffee, lbs.....	106,800	38	40,584 00
Tea, lbs.....	69,540	1 25	86,925 00
Vegetables, bus.....	16,652	1 00	16,652 00
Vinegar, galls.....	56,040	25	14,010 00
Tobacco.....		*	100,000 00
Nails, kegs.....	4,582	7 00	32,074 00
Lime, bbls.....	8,001	2 00	16,002 00
Hides, lbs.....	11,258,567	10	1,125,856 70
Machinery, tons.....	1,221 1/2	300 00	366,516 00
Beer, bbls.....	4,334	7 00	30,338 00
Malt, lbs.....	123,021	5 1/2	7,316 15
Window glass, boxes.....	1,640	7 00	11,480 00
Horses and mules, No.....	612	150 00	94,800 00
Seed, bus.....	40,000*	0 00	240,000 00
Oil cake, lbs.....	3,150,000	1 1/2	50,175 00
Broom corn, lbs.....	673,250	7 1/2	50,493 75
Hogs, number.....	615*		16,975 00
Pig lead, lbs.....	1,908,000	10	190,800 00
Sheep, number.....	435*		3,488 00
Railroad iron, tons.....	17,741	100 00	1,774,100 00
Marble, tons.....	3,114	130 00	404,820 00
Fire brick, number.....	376,069	9	33,846 21
Total.....			\$146,289,411 40

* Estimated.

E. TROWBRIDGE,
G. W. BISSELL,
P. J. RALPH.

Now, Mr. Speaker, it seemed right to say thus much—it is only the beginning of what might be said concerning these improvements in the Mississippi and upon St. Clair flats to

enable the naval and commercial vessels of the United States to navigate safely the lakes and the rivers of the West, and to enable the great agricultural interests of the country to add to the national wealth their heavy contributions and to find a market. The harbors named in this bill are all national, and their improvement is a matter of national concern. I therefore, in behalf of the committee, invoke the common voice of this House in favor of this legislation. There is no party question involved in it; but in giving to it our support we both provide for the common defense and promote the general welfare.

Mr. ROSS. I ask the gentleman from Massachusetts to yield to me that I may offer an amendment.

Mr. ELIOT. I will hear the amendment. Mr. ROSS. I desire to move to amend by inserting at the end of line eighty-eight, page 5, the following:

That \$200,000 be appropriated for the improvement of the Illinois river.

Mr. ELIOT. I cannot yield to allow that amendment to be offered. As gentlemen around me are pressing me to permit amendments, I ought to say that the bill contains no appropriation which does not rest upon careful estimates made at the War Department and upon recommendations which have emanated from there. I want to say, further, that there is not one point concerning which petitions have come from the people, so that the Committee on Commerce has had jurisdiction of the question, which has not been carefully examined; and I believe that in every instance where the people have desired the action of Congress, and where it has been possible to obtain from the Department such estimates as would enable the committee to determine with any accuracy what was wanted, appropriations have been reported. But it would not do to open the bill to amendments which are loose in their form and founded on mere guess-work.

Mr. DONNELLY. I ask the gentleman from Massachusetts to yield to me for an amendment which I can explain in a few words, and which I think will not be objectionable to the gentleman.

Mr. ELIOT. I will hear the amendment.

Mr. DONNELLY. I propose to add after the word "Maine" in the sixteenth line of the fourth section the following:

"At the Zumbro river, Minnesota, at the Cannon river, Minnesota."

Mr. Speaker, these rivers penetrate into one of the richest agricultural regions of my district; regions overflowing annually with great crops of grain and whose importance is annually increasing. The Zumbro river can be, I am assured, made navigable for steamboats for forty miles from where it enters the Mississippi river; and thus develop immensely the country for a space of twenty miles around it, while it will have a beneficial effect upon the growth of the entire region in which it is situated, and the towns upon the Mississippi to which it is tributary.

The Cannon river can be greatly improved, and it is the belief of many in my State that a system of water communication can be created, reaching, by canal, from the mouth of the Cannon river through streams and water-courses to the Minnesota river. It will be for the officers who make the survey to determine how far so great an enterprise would be practicable at this time, or if not, how much of it shall now be attempted. Of one thing we can be assured, that such a work would have the most enormous and instantaneous effect in settling and developing all that rich region of country, second to none in the United States in fertility and intrinsic value.

The Legislature of my State has memorialized for both these improvements, and has asked for land grants to aid them. I prefer that an appropriation should be made in money; and as it is evident by the appropriations already made by this bill that it is the intention of Congress to make liberal advances for the development and improvement of rivers and harbors, I can see no reason why the

young and rapidly growing State of Minnesota should not participate in the largesses of the Government; and as I cannot ask for definite appropriations without a previous survey and examination to ascertain the amount requisite, I therefore offer these amendments to the bill, so that these rivers can be examined and we may know distinctly, when the next session of Congress convenes, just what amount of appropriation will be necessary.

The bill also contains a provision for a similar survey of the Mississippi river between Fort Snelling and the falls of St. Anthony. The importance of the work contemplated in such a survey cannot be overestimated. It would carry the navigation of the Mississippi river up to the foot of the great falls of St. Anthony and make continuous navigation in an almost direct line north and south from that point to the Gulf of Mexico. The head of such a mighty valley cannot be unimportant. Around it are already clustering great cities—St. Paul, the capital and commercial center of the State, and the twin cities of Minneapolis and St. Anthony, possessed of the greatest manufacturing facilities to be found in the entire Mississippi valley; and where already the hum of woolen and cotton mills is heard, with the clatter of innumerable lumber mills. From these three great cities, now growing rapidly, and yet to spread over the intervening country until their expanding populations mingle and merge in one great metropolis, shall descend to the tropical valley far below them, there teeming with a crowded, happy, and free population, all the great productions of the temperate regions, lumber and wool, wheat and cattle, the productions of the field and the manufactured goods of the mill.

It is right and just that the navigation of the great river should reach to the very foot of the falls and receive the cargoes of its floating palaces from the very doors of its factories; and I trust the time is not far distant when even above the falls the Government can be induced to make an appropriation sufficient to deepen and improve the river up to the falls above St. Cloud. We owe it to the West that, where nature has done so much toward the construction of a mighty highway, no niggardly policy should govern us in relieving it of any partial impediments to navigation.

Mr. ELIOT. As this amendment proposes simply a survey, without any additional appropriation I do not object. The gentleman from New York [Mr. VAN HORN] has an amendment of a similar character, which I am willing shall be adopted.

Mr. VAN HORN, of New York. My amendment is to add, "of the harbor and the mouth of the Eighteen Mile creek, at Olcott, New York."

Mr. PIKE. I desire to offer an amendment of the same character. It is to insert, "of the St. Croix river above the Ledge."

Mr. ELIOT. I have no objection to that.

Mr. ROSS. I desire to move an amendment of the same nature, to add, "from the mouth of the Illinois river to La Salle."

Mr. ELIOT. I have no objection to that.

The SPEAKER. These different propositions will be considered as one amendment.

The amendment was read, as follows:

Insert after the word "Maine," in the sixteenth line of the fourth section, the following:

At Zumbro river, Minnesota; at Cannon river, Minnesota; of the harbor and the mouth of the Eighteen Mile creek, at Olcott, New York; of the St. Croix river above the Ledge; from the mouth of Illinois river to La Salle.

Mr. ELIOT. I now call the previous question.

Mr. SPALDING. I ask the gentleman to give way that I may offer a proviso which will not interfere with these appropriations. I propose to insert at the end of the bill the following:

Provided, That the Secretary of War shall at all times be authorized to place the public works of the United States mentioned in this act in charge of custom-house officers or other agents of the Government living near to said works respectively, who shall protect the same from unwarrantable obstructions or injuries of any kind, without additional charge for their services.

Mr. ELIOT. I cannot possibly yield for

that amendment. It proposes wholly new legislation.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELIOT demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PROVOST MARSHAL GENERAL FRY—AGAIN.

Mr. BLAINE. I ask to send to the Clerk's table to have read the letter the reading of which was objected to this morning.

Mr. CONKLING. I do not object, but only ask, if the matter relates to me, to have opportunity to reply.

Mr. BLAINE. I wish to repeat what I said before.

Mr. ROSS. I object to the gentleman from New York making a speech.

Mr. CONKLING. The gentleman does not want a letter to be read relating to a member and then not permit that member to reply.

Mr. ROSS. I withdraw my objection.

Mr. BLAINE. I want this letter read for the double purpose of vindicating myself from the charge of having made an untruthful statement on this floor, and to give, in the broad American sense, fair play and opportunity to a worthy officer to be heard in a forum where he has been assailed.

I wish further to say that if, on investigation, I had found I was in error in the statement I had made touching the member from the Utica district of New York [Mr. CONKLING] and Provost Marshal General Fry, I would, mortifying as it would have been, apologized to the House. Whether I was in error or not I leave to those who hear the letter of the Provost Marshal General.

The Clerk read as follows:

WAR DEPARTMENT,
PROVOST MARSHAL GENERAL'S BUREAU,
WASHINGTON, April 27, 1866.

SIR: I have to thank you for repelling as you did, in the House of Representatives, on the 25th instant, the very extraordinary assault upon me by Hon. Roscoe Conkling, of New York. It was a defense of me in a forum where I had no opportunity to be personally heard, and I am enabled to say that your assertions touching Mr. Conkling's difficulties with this bureau are amply and completely justified by the facts which this letter will disclose.

My official intercourse with Representatives in Congress during the past three years has been constant and in many cases intimate, and, with the solitary exception of Mr. Conkling, it has been marked, so far as I remember, by mutual honor and fair dealing. Mr. Conkling being thus an exception, it is my purpose to give a brief summary of his connection and intercourse with this bureau.

In the summer of 1863 Mr. Conkling made a case for himself by telegraphing to the War Department that the provost marshal of his district required legal advice, which he was thereupon empowered to give.

In April, 1865, Mr. Charles A. Dana, then Assistant Secretary of War, without notifying me, had Mr. Conkling appointed to investigate all frauds in enlistments in western New York, with the stipulation that he should be commissioned judge advocate for the prosecution of any cases brought to trial, and he was so appointed to prosecute, before a general court-martial, Major J. A. Hadlock. Mr. Dana vested him, by several orders issued in the name of the Secretary of War, without the sanction of Mr. Stanton, with the most extraordinary powers. Among these was the right to examine the dispatches in all telegraph offices in the western division of New York, which enabled a violation of the sanctity of personal and business correspondence. For his services in this connection Mr. Conkling received, on the 9th of November last, from the United States the modest fee of \$3,000. Whether he received, as it has been reported, from his district \$5,000 more for the same service, and whether he received additional fees from guilty parties for opposing proceedings at Utica, I am unable now to say, but, as hereafter shown, he was as zealous in preventing prosecutions at Utica as he was in making them at Elmira; and the main ground of difficulty between Mr. Conkling and myself has been that I wanted exposure at both places while he wanted concealment at one. I suppose there can be no doubt among high-minded men as to the character of Mr. Conkling's course in this matter. Whether his action in exer-

cising the functions of judge advocate and receiving pay therefor from the United States to the amount of \$3,000 while receiving his compensation as a member of Congress was a violation of the letter or spirit, or both, of article one, section two, of the Constitution, I leave others to decide.

As to the animus of Mr. Conkling's calumnious assault upon me, it is true (notwithstanding his assertion that he had no personal quarrels with me) that the differences between him and myself arose altogether from my unwillingness to gratify him in certain matters in which he had a strong personal interest. It is true, also, that he was foiled in his efforts to obtain undue concessions from my bureau, and to discredit me in the eyes of my superiors.

There have been three main issues between Mr. Conkling and myself.

The first arose in consequence of the removal of Captain Richardson, (the first provost marshal of Mr. Conkling's district,) upon a report of Judge Advocate Turner, that the proofs in his case disclosed a reckless persistence in fraudulent practices. Mr. Conkling complained of my action both to the President and War Department, but failed to procure any modification of my course.

The second issue was as to the restoring of Captain Crandall, (the second provost marshal of the district,) after I had secured his removal from duty on the recommendation of Major Ludington, who thoroughly inspected the district and reported that though not legally guilty he had morally perpetrated a most glaring and inexcusable fraud on the Government; he was sworn to serve, and that he had quieted his conscience by casuistry and regulated his actions by the counsel of unscrupulous legal advisers. Mr. Conkling failed to get Captain Crandall restored, and the officer selected by me continued in charge of the business until the office was closed.

The third issue was as to the Government's employing counsel to defend Captain Crandall after he had been relieved and had carried with him, in violation of the orders of the Department, some twenty thousand dollars, local bounty deposited with him in behalf of recruits, and in regard to which he got into litigation. In this Mr. Conkling failed. Counsel has not, to my knowledge, been authorized, nor have any lawyers been paid by the Government in that suit.

In support of his denial of differences with me which influenced his action Mr. Conkling states the fact that we had but one personal interview. That is true, but it proves the reverse of what Mr. Conkling asserts, for it was of such a nature as to render other interviews very objectionable. I was called to Mr. Dana's office to have a verbal discussion with Mr. Conkling on the questions at issue, but I had by this time learned too much of this gentleman to transact business with him in that way, and I declined to do so. We had, directly and indirectly, much correspondence, and generally of an unpleasant character, and I presume under such circumstances it will be granted that men's personal relations will be bad although they may have had but one personal interview.

Notwithstanding Mr. Conkling's denial in the House, his own letters as well as the foregoing statements show that there were differences and that he was "worsted." On the 25th of October, 1865, I wrote the Secretary of War, saying: "It is now many months since I have been able to obtain any response from the Department touching the interests of the Government in this District. Still I venture one more trial," &c.

Mr. Conkling asserts and presents it as an offense or crime on my part that Major Haddock was my cronny, confidant, &c., and that I justified him (Haddock) down to the time when his sentence was published and afterward.

These assertions are not true. Major Haddock was never my confidant or cronny. Prior to his entry into the Veteran Reserve corps I had never heard of him. He was appointed to that corps by a special order from the Secretary of War, without any knowledge or action on my part. He served under General Onkes, in Illinois, by whom he was highly recommended to me.

He then served for a short time in a subordinate position in a branch of my office, without my becoming intimate with him, personally or officially. He has never made a social or personal call on me in his life. He was highly recommended by the officer under whom he served in my office, and was selected for a temporary provost marshalship in Pennsylvania, where he rendered efficient service, without his integrity or capacity being questioned. After serving for a short time with fidelity, so far as I know, as acting provost marshal at Buffalo, he was selected as acting assistant provost marshal general, at Elmira, for the reason, and that only, that I thought he was upright and suited to the position. In that position I befriended and sustained him until I had proper evidence of his being unworthy, and not a day longer; but on this point I required better testimony than Hon. Roscoe Conkling. I received a letter dated as late as March 29, 1865, from Hon. Hamilton Ward, member of Congress of the district in which Major Haddock was stationed, claiming to be familiar with Haddock's course and the motives of the persons operating against him, "and protesting against his removal," but notwithstanding this, as soon as the official report against him was received, on the 1st of April, I had him relieved and his conduct put under investigation. He had not then been four months on duty as acting assistant provost marshal general.

After his trial and dismissal Major Haddock came to Washington to get a revocation or modification of his sentence. He pointed out to me instances of unfairness in his trial, but I declined to do anything in aid of his object, as I thought he deserved punishment, not for all the crimes with which Mr. Conkling charged him, but for the offenses of which he was really guilty. I even refused to give him a letter as to his behavior prior to his being accused, because

I knew that such a letter, though perhaps not wrong in itself, would be used to accomplish a purpose which I did not approve, namely, his pardon.

Major Haddock went on duty at Elmira as acting assistant provost marshal general, December 9, 1864.

An inspection made at my request the latter part of March, 1865, elicited the first information which I received suitable for proceeding against him.

I received the report on the 1st of April, and on the same day I submitted it to the Secretary of War, with the recommendation that Major Haddock be relieved from duty as acting assistant provost marshal general of western New York, and that his conduct be further investigated, which was approved by the Secretary of War, and Major Haddock was promptly relieved.

The prosecution of Major Haddock was on April 3, 1865, made the special business of Mr. Conkling and the Judge Advocate General of the Army, as shown by a letter from Mr. Charles A. Dana, Assistant Secretary of War. But whenever I had an opportunity, and so far as I had power, I urged forward the trial of Major Haddock. I was told by Mr. Dana, early in April, that Mr. Conkling would prepare charges, but hearing nothing definite in regard to them I, on the 22d of April, 1865, wrote to Mr. Conkling asking when he would be ready to proceed with the trial, to which I received a reply saying that he had forwarded the charges to the Secretary of War. This letter I at once (May 1st) referred to the Judge Advocate General, with the request that the trial might take place as soon as possible. The court was ordered to convene on the 17th of May, 1865. Notwithstanding Mr. Conkling was directed to get his instructions from General Holt, he frequently applied to me. On the 15th of May I referred a letter from him of the 13th with the following indorsement: "Respectfully referred to the Judge Advocate General, with the request that he will answer Mr. Conkling's inquiries by telegraph to-day, as the court meets day after tomorrow. Mr. Conkling is judge advocate of the court, and I recommend that all proper authority and facilities be granted to him at once." When the organization of the court was delayed by the absence of members I secured at once the detail of other officers, and notified Mr. Conkling by telegraph. There are other facts bearing on this point, but the foregoing are, I think, sufficient to show my desire to have Major Haddock tried.

Mr. Conkling, in his speech, insinuates dishonesty, saying this bureau should "allow the War Department and the country to know precisely what has become of the twenty-five million and odd dollars which, under the act of March 3, 1863, went to its credit." My official report, now partly in the hands of the Public Printer, shows in detail the disposition of every dollar of this money, and shows, moreover, a completeness and accuracy in accounts that is not surpassed, if it is equalled, by any bureau under the Government, and I hold a certificate from the Second Comptroller of the Treasury that all my accounts relating to this fund have been examined and found correct. Mr. Conkling speaks of this bureau allowing the War Department to know, &c., as if they were separate branches of the Government. My bureau is a subordinate branch of the War Department, and I wish here to point out clearly the fact that my business has been conducted under the constant supervision and direction of the Secretary of War, and those authorized to act in his name. It ought not to be necessary for me to remind either Mr. Conkling or the "people" that Mr. Stanton has never been unwilling to make examinations into the conduct of his subordinates, nor slow to act upon the result of them. This of itself is a sufficient reply to Mr. Conkling's abuse of me, especially as it is a fact that every request, complaint, or accusation of any importance made by him to or affecting this bureau, has been laid before the Secretary of War, and passed upon by him. It is true that the result has in nearly every instance been unfavorable to Mr. Conkling; and assuming that these were the differences or quarrels which were referred to in the debate as those in which Mr. Conkling came out "second best," he asserted what was not true when he denied them.

Mr. Conkling says that he may hereafter inform Congress what number of all the men who received bounty reached the front, intimating that the proportion was small. - I, for one, should be glad to obtain that information. The duty of sending men to the front rested with the Adjutant General of the Army and not with me.

He also hints that he may hereafter make a damaging exposure of the operations of my bureau. Whatever he may adduce in this connection he will probably not be able to disprove that it raised more than a million men for the Army, which, when hostilities ceased, consisted, notwithstanding all the losses, of one million five hundred and sixteen men; that it arrested and returned to the service over seventy-six thousand deserters, and that it raised by its own operations, in conformity to law, over twenty-six million dollars, which sum has been properly disposed of.

That there were frauds in my branch of the service I admit, but that they prevailed to a greater degree in it than in others, or that earnest and zealous efforts were not made by me to pursue, correct, and punish them, no man dare have the hardihood to assert.

And I will here state that the fraud or loss in Government funds under my bureau, including both that punished and that unpunished, has been comparatively small.

The frauds and malpractices which did occur were almost entirely in connection with local bounties, which could not be controlled by the United States, and which corrupted some of the officers of this bureau, but more of the people at large, including supervisors, agents, &c., selected by the people to disburse the funds which they so lavishly bestowed.

The general management of my business has received the approval of all dispassionate parties who have had an opportunity to judge of it, including the late President and that superior officer to whom I have been directly responsible, whose vigor and whose capacity and opportunity to judge are beyond dispute; and it will not be forgotten that complaints and accusations have been spread with great industry before the high officials last referred to.

I have been at all times amenable to the severest form of law—the military code—liable at any moment to summary arrest, court-martial, and extreme punishment in case of any dereliction of official duty. No one knew or knows this fact better than Mr. Conkling, and if, while acting as judge advocate, under the extraordinary inquisitorial powers bestowed upon him by his friend Mr. Dana, he came into the possession of any fact impugning or impeaching my integrity as a public officer, he was guilty of grave public wrong and unfaithfulness if he did not instantly file formal charges against me with the Secretary of War. He can, therefore, only escape the charge of deliberate and malignant falsehood as a member of Congress by confessing an unpardonable breach of duty as judge advocate. He held both offices and took pay for both at the same time; he has certainly been false to honor in one, and perhaps, as the sequel may show, in both.

Copies of official documents substantiating statements herein made are subjoined.

I am, sir, very respectfully, your obedient servant,
JAMES B. FRY,

Provost Marshal General.

Hon. JAMES G. BLAINE,
House of Representatives, Washington, D. C.

Mr. BLAINE. I do not ask the accompanying documents shall be read. I only ask that the letter and documents be printed.

Mr. ROSS. I move that ten thousand extra copies be printed.

The SPEAKER. That motion will be referred to the Committee on Printing.

Mr. CONKLING. I ask that everything be read. I enjoy it very much.

The Clerk read as follows:

WAR DEPARTMENT,
WASHINGTON CITY, April 3, 1865.

SIR: I am instructed by the Secretary of War to authorize you to investigate all cases of fraud in the provost marshal's department of the western division of New York, and all misdemeanors connected with recruiting. You will from time to time make report to this Department of the progress of your labors, and will apply for any special authority for which you may have occasion. The Judge Advocate General will be instructed to issue to you an appointment as special judge advocate, for the prosecution of any cases that may be brought to trial before a military tribunal. You will also appear in behalf of this Department in any case that it may be deemed more expedient to bring before the civil tribunals.

Very respectfully, your obedient servant,
C. A. DANA,

Assistant Secretary of War.

Hon. ROSCOE CONKLING.

WAR DEPARTMENT,

WASHINGTON CITY, April 3, 1865.

Hon. Roscoe Conkling having been appointed by the Secretary of War, to investigate transactions connected with recruiting in the western division of New York, all telegraph companies and operators are respectfully requested to afford him access to any dispatches which he may require for the purpose of detecting frauds and bringing criminals to trial.

By order of the Secretary of War:
C. A. DANA,
Assistant Secretary of War.

WAR DEPARTMENT,

WASHINGTON CITY, April 3, 1865.

Hon. Roscoe Conkling having been appointed by the Secretary of War to investigate transactions connected with recruiting in the western division of New York, all provost marshals and other military officers are hereby directed to give him free access to all their official records and correspondence, and to furnish him certified copies of any papers that he may require.

By order of the Secretary of War:
C. A. DANA,
Assistant Secretary of War.

WAR DEPARTMENT,

WASHINGTON CITY, December 21, 1864.

GENERAL: I have the honor to return to you the papers in the case of Captain Richardson, provost marshal twenty-first district New York, and respectfully recommend that said Richardson be at once arrested and held in custody for trial by court-martial. The proofs in this case disclose a reckless persistence in fraudulent practices that not only demand his arrest and trial, but also a complete renovation in the office of said district.

I am, General, very respectfully, your obedient servant,
L. C. TURNER,

Judge Advocate.

Brigadier General JAMES B. FRY,

Provost Marshal General.

WASHINGTON, D. C., March 31, 1865.

SIR: In obedience to paragraph seventy-eight, Special Orders No. 130, Adjutant General's Office, current series, and to your verbal instructions, I made an inspection of the board of enrollment for the twenty-

first district, State of New York, and have the honor to report as follows:

The prominent men of that district, the supervisors of its various towns and people, generally united in a determination to fill its quota under last call without sending citizens of the district. To this end a bounty of \$725 was provided for every recruit, and each supervisor was authorized to procure men. If recruits could be had for less than the above-mentioned sum, the difference accrued to the supervisor. The board of supervisors thus became a board of bounty brokers. Contracts were made with a notorious bounty broker, Aaron Richardson, for a supply of men.

This machinery for filling the quota being properly constructed with great consideration for the district, and regardless of the rights of the Government, there was found only one difficulty in its practical operation.

An order from the acting assistant provost marshal general of the western division of New York required a deposit with officers of the United States of five eighths of the bounty paid recruits. This was objectionable to the class of men furnished by the supervisors and Contractor Richardson, who very greatly preferred taking care of their own funds; and therefore recruiting did not progress rapidly. Some ingenious men of the district devised a cunning scheme to obviate this difficulty. Each recruit was instructed to say to the provost marshal that he desired no local bounty; that he went from better motives, and that Government provided as large bounty as he cared to accept.

The provost marshal admired the disinterestedness of the recruit and mustered him in. Men were now obtained rapidly. Bounty jumpers came to Utica by ear-loads, and, to use their own slang, the enrolling board of the twenty-first district became "a perfect walk." These facts are notorious throughout the western division of New York, and are amply proven by papers referred to me from Provost Marshal General's Office and herewith returned.

During the administration of Captain Crandall, provost marshal twenty-first district, from 24th January to 14th March, 1865, the records of his office show that there were enlisted forty-one men who refused all bounty, two hundred and sixty-nine who accepted fifty dollars, thirty-five who accepted from one hundred to two hundred dollars, and one hundred and twenty-three who received more than three hundred dollars.

In all, four hundred and sixty-eight were mustered in by Captain Crandall, of whom Major Haddock, acting assistant provost marshal general, western division New York, reports that fifty-five per cent. deserted before starting to the field. Had Captain Crandall retained in his hands five eighths of the bounty received by the two hundred and fifty deserters, there would have accrued to the Government \$109,000. The amount paid over by him was very small, but I was unable to ascertain it exactly.

Upon the 13th March the enrolling board of this district was suspended and Major Beadle, third regiment Veteran Reserve corps, relieved Captain Crandall. Major Beadle states that he found the affairs of the office in confusion. His statement is appended, marked "Exhibit A."

Captain Crandall admitted that he had in possession \$23,783 belonging to recruits and bounty brokers, but refused to turn it over for reasons given in his communication to Provost Marshal General, dated 11th March, 1865, herewith returned.

It is proper to state, in relation to the violation of Major Haddock's order to retain five eighths of recruits' bounty, that in the first seventeen cases, Captain Crandall explained why he did it, and Major Haddock was satisfied with the explanation. Upon this Captain Crandall based his subsequent action. The correspondence is annexed, marked "Exhibit B."

Aside from this transparent scheme to defraud the Government by filling the quota of their district with credits instead of men, there is nothing objectionable in the official conduct of the board. Some communications upon file in the Provost Marshal General's Office allege that the surgeon passed unfit men. But I am disposed to regard these cases as incident to haste and overwork, and not as showing criminality upon the surgeon's part.

The character of the surgeon (Babeok) has been above reproach, as also that of Captain Crandall. Commissioner Munroe has not enjoyed so fully the confidence of his fellow-citizens.

I do not regard the conduct of the board as legally guilty, but morally they have perpetrated a most glaring and inexcusable fraud upon the Government they were sworn to serve. They quieted their consciences by casuistry, and regulated their actions by the counsel of unscrupulous legal advisers. Mistled by sophistry, by an undue desire to serve well their friends, and by constant pressure from cowardly neighbors dreading a draft, they did this great wrong to their country, disgraced themselves, and brought upon their district a wide-spread reputation for rascality.

I respectfully recommend that every member of the board of enrollment for the twenty-first district of New York be dismissed the service, and that the money in possession of Captain Crandall be seized. And because of the disgraceful prejudice existing among the demoralized people of that district against filling their quota with decent men, thus preventing one of their own citizens from doing his duty to his country as well as his county, that an officer of the Army be detailed as provost marshal of that district. I have the honor to report further, that incident to the inspection of the twenty-first district facts in relation to the administration of Major John A. Haddock, acting assistant provost marshal general for western division of New York, were educed which led me to the conviction that he is unfit for the position he holds.

Men of undoubted character charge him with being insolent and abusive in discharging his duties, and grossly immoral; that he is in collusion with bounty brokers, and prostitutes his official position to personal ends. For proof of these charges I refer, at Utica, to the postmaster and Hon. R. Conkling; at Elmira, to the mayor, J. I. Nix, Postmaster D. F. Pickering, Provost Marshal J. S. Wright, Colonel B. F. Tracy, commanding post; Captain Eugene Devin, and Peter A. La France; also to Colonel L. C. Baker.

Very respectfully submitted,

E. H. LUDINGTON,
Major, Assistant Inspector General.

Brevet Brigadier General J. A. HARDIE,
Inspector General United States Army.

Respectfully referred to the Provost Marshal General.
JAMES A. HARDIE,
Inspector General.

WAR DEPARTMENT, April 1, 1865.

WAR DEPARTMENT,
PROVOST MARSHAL GENERAL'S BUREAU,
WASHINGTON, D. C., April 1, 1865.

Respectfully submitted to the honorable Secretary of War:

1. I recommend that Major J. A. Haddock be relieved from duty as acting assistant provost marshal general of western division of New York, and that his conduct be further investigated, and that Major S. B. Hayman, United States Army, be detailed for that post. Major Hayman is on duty in Indiana and can be spared for the purpose.

2. That the appointments of the members of the board of enrollment in the twenty-first district of New York be revoked.

JAMES B. FRY,
Provost Marshal General.

Presented to Secretary of War April 1, 1865, and approved by him.

JAMES B. FRY,
Provost Marshal General.

HEADQUARTERS DRAFT RENDEZVOUS,
ELMIRA, NEW YORK, February 20, 1865.

MAJOR: The twenty-first district, New York, is evading General Order 305. Men from that district bring with them to general rendezvous from twenty to twenty-two dollars each. The supervisors have taken some action with a view to evade the order. The district is filling its quota with bounty jumpers. Fifteen deserters from Auburn in one squad.

This is giving to this district an undue advantage over the other districts. There is now a rush of bounty jumpers for Utica. Major Haddock, acting assistant provost marshal general, declares himself powerless to correct this evil. I inclose telegrams from him to provost marshal at Utica, which show his views of the subject. General Order No. 305 is worthless and should be revoked unless the recruits are required to bring their money to general rendezvous. Unless this is stopped at once other districts will be compelled, in self-defense, to resort to the same dodge, and one of the best orders ever issued become a nullity.

I suggest that commanding officers of rendezvous be instructed to refuse to receipt for any recruit and substitute from this district unless he brings with him his local bounty or the amount paid him for becoming a substitute.

I am, Major, very respectfully, your obedient servant.

B. F. TRACY,
Colonel 127th U. S. C. T., Commanding Rendezvous.

Major H. CLAY WOOD,
Assistant Adjutant General, Washington, D. C.

HEADQUARTERS, CAMP SEWARD,
AUBURN, NEW YORK, March 4, 1865.

SIR: I have the honor to lay before you the following items in regard to the provost marshal's office at Utica. I learned from two apparently reputable men from Utica that the business at that office is conducted in the following manner: the supervisors of the county met and resolved to pay a county bounty of \$600; they met again and resolved to add \$125 to the \$600, making \$725 local bounty to be paid by the county; they then resolved themselves into a recruiting committee to furnish the quota of the county; they got the men at as low a figure as they can and charge the county the full amount of \$725. The provost marshal and the examining surgeon seem to be but the creatures of these supervisors. Men rotten with venereal disease, totally unfit for any duty, are passed by the surgeon and sent here for duty. One old man, just discharged for disability, having the piles badly, before he got to his home was grabbed by these Utica harpies, put through by the officials, with, as he alleges, but \$190, somebody pocketing the balance, and sent here. He is utterly worthless as a soldier. Nine tenths of the recruits sent here from that office are the most worthless set of scoundrels you ever put your eyes upon.

I am, very respectfully, your obedient servant,
JAMES L. LOTT.

First Lieutenant 19th V. R. C., Commanding Camp.
Major JOHN A. HADDOCK, Acting Assistant Provost Marshal General, Western Division New York.

HEADQUARTERS
192D REGIMENT NEW YORK VOLUNTEERS,
ALBANY, February 4, 1865.

COLONEL: I have the honor most respectfully to protest against the reception of recruits for the one hundred and ninety-second regiment New York volunteers who are mustered by the provost marshal at Utica. The men who have been received at the Veteran Reserve corps barracks from that city are, with-

out doubt, "bounty jumpers," and should not have been mustered by any intelligent mustering officer. Very respectfully, your obedient servant.

N. G. AXTELL,

Colonel 192d Regiment New York Volunteers.

Lieutenant Colonel F. TOWNSEND,
Superintendent Recruiting Service.

WAR DEPARTMENT,
PROVOST MARSHAL GENERAL'S BUREAU,
WASHINGTON, D. C., November 6, 1865.

SIR: The instructions of this bureau required provost marshals to turn over to the nearest disbursing officer all funds which came into their hands. The bureau having been informed that P. B. Crandall, then provost marshal of the Utica district, New York, had in his possession a large amount of money and bonds, and that he had not turned over the same or reported the fact to this office, he was ordered on the 4th of March, 1865, to turn over the money, which he refused to do.

On the 10th of the same month the order was repeated, and again disobeyed, he stating as a reason that he had been advised by counsel of high standing that he would be held personally responsible for the money.

On the following day the order was repeated, and again disobeyed with the statement that Ward Hunt, Esq., his counsel, advised him that he could not safely comply with the order.

On the 30th of March he was again ordered by telegraph from this office to turn over the money at once, and on the 1st day of April following, he answered by telegraph that he would immediately comply.

It subsequently appeared that instead of turning over the whole amount, \$33,995 10, which he had previously stated was in his possession, he had only turned over \$8,085.

On the 6th day of April his attention was called to that fact.

To this reply, dated April 13, was received on the 21st day of April, in which I was informed that the bonds in question (\$20,000) had been seized by a writ of replevin at the suit of Richardson, and in which letter Captain Crandall stated as follows:

"I respectfully request the Government to take charge of the suit and relieve me from responsibility in regard to it. In the event, however, that no charge is taken of it by the Government, I have placed it under the direction of Messrs. Hunt, Waterman & Hunt, who will appear as my attorneys in the case."

On the 9th day of March, 1865, Captain Crandall was suspended from office, and on the 31st of May, 1865, his services as provost marshal were discontinued.

No further information on the subject of the \$20,000 in county bonds was received from Captain Crandall until the letter dated September 15, a copy of which is transmitted by Hon. Roscoe Conkling. I have never approved of Captain Crandall's course in relation to turning in these moneys, nor of the intercourse between him and Aaron Richardson, the bounty broker, by which he, Crandall, came in possession of \$20,000 county bonds, now under discussion. Having, however, taken these bonds, Captain Crandall was ordered to turn them over to a designated disbursing officer of the Government, which he refused to do.

This refusal resulted in his suspension from duty, a correspondence, and a renewal of the orders to turn in the money, in answer to which renewed orders the fact appeared that during the correspondence and delay occasioned by Captain Crandall's disobedience, the money was taken out of his hands by a writ of replevin at the suit of Aaron Richardson, the bounty broker. It will be observed that in his first report of April 13 on the subject, Captain Crandall asks the Government to take charge of the suit and relieve him from the responsibility in regard to it, but says "in the event, however, that no charge is taken of it by the Government, I have placed it under the direction of Messrs. Hunt, Waterman & Hunt, who will appear as my counsel."

When I received this letter, I did not think, and do not now, that the Government was called upon to relieve him from the responsibility in this matter, and as he contemplated and had provided for the contingency of the Government not assuming the suit, and had employed counsel, and placed it under their direction, no action from this office was necessary, and I therefore took none.

In his letter of September 15, renewing the subject, he says, "Unless the Department, therefore, gives instructions to the attorney for the defense, Hunt, Waterman & Hunt, Utica, New York, and assume the responsibility of the suit, the defense will be abandoned by me, and Mr. Richardson will be allowed to take a judgment for the recovery of his bonds and to obtain the possession of the same."

I did not then, and do not now, consider that the threat to abandon the suit, contained in this quotation, called for any action from this office. Mr. Crandall saw fit as a Government officer to receive these bonds from a bounty broker; he refused to obey the orders of this bureau as to the disposition of them, and permitted them to pass out of his hands, and become the subject of a civil suit; he assumed the suit and employed counsel to conduct it, the same counsel, it may be remarked, under whose advice he had refused to obey the orders of this bureau to turn in the funds. He now (assuming that the within letter speaks for him) again asks the Government to assume the suit, that is, pay the lawyer's bills, Mr. Crandall having employed the lawyers and placed the case under their direction. I do not advise this course; on the contrary, I recommend that the responsibility which Mr. Crandall assumed in this matter rest with him. If he adopts the course proposed in his letter of September 15, to abandon the suit and let Richardson have the bonds, it will not, I presume, invalidate the right to proceed against him for the

amount if the Government has any good claim to it. I do not deem the insinuation made in the letter of Mr. Conkling, that an opportunity is sought to affront or punish the Union people of his district, worthy of denial or comment.

I am, sir, very respectfully, your obedient servant,
JAMES B. FRY,
Provost Marshal General.

Hon. EDWIN M. STANTON, Secretary of War.

Before the Clerk had concluded the reading of the above documents,

Mr. BINGHAM asked whether the further reading of the documents could not be dispensed with.

Mr. CONKLING. I do not wonder at the suggestion of the gentleman from Ohio, but the gentleman will see there is a good deal of this is personal me, and whatever there is of that sort I want to hear. I do not want to burden the House.

Mr. SMITH. I suppose the entire matter read there is official, and consists of communications between that Department and the gentleman from New York, with which he is familiar. It can be printed.

Mr. CONKLING. I will not trespass upon the attention of the House to have it read. It is all new to me, and gentlemen will appreciate my desire in having it read.

The SPEAKER. The reading will soon be finished.

The paper was then read through.

Mr. CONKLING. I appreciate the indifference with which the House must listen to an issue such as this, in its design on one side so personal and individual in its character; and at this hour of the day I shall not presume so far upon the good nature or the sense of justice of my fellow-members as to ask them for any great length of time to hear an explanation or a statement the main object of which must seem to be to repel a purely personal attack. I can, however, assure the House with the utmost sincerity that for everything in this most extraordinary communication saving of imputation upon me I am consoled, ay, doubly consoled, by the fact that I shall become the humble instrument of initiating an investigation much needed and good for the people of the whole country, wholesome and cleansing to the future.

Before I sit down, Mr. Speaker, I shall yield to some gentleman to move, and I know the House will order it, a committee to investigate a subject which has now ceased to be individual and become public, a subject which concerns the rights and interests not only of that great procession of mourners and cripples which war has left in our land, not only of the tax-payers of the country, but also to those in every walk and avenue of life, because all have a deep interest in preserving the purity of the Government in all its departments.

Of course, Mr. Speaker, I shall have no part in that committee. I shall not move it, as it would not be proper for me to move it, but a committee will, I trust, be appointed to bring fairly to the public knowledge some of the matters whereof I shall briefly speak.

Now, sir, asking the indulgence of the House for a space, I wish to take up some of the matters in this communication of General Fry as I was able to note them in the reading, which point directly, and which are intended to point injuriously to me.

Mr. Speaker, I did not file in the War Department long ago information in reference to widespread frauds in recruiting in the State of New York in which extensive combinations of active men were banded together in office and out; I did not act as counsel for the Government in unearthing and breaking up these combinations and exposing the actors; I did not devote upward of four months of patient labor in an attempt to arrest the enormous robberies and wrongs which prevailed in the State of New York, nor did I make an assault upon this bureau here, without counting the cost and knowing the consequences.

I was prepared for all the calumnies and all the responsibility that he must take who strikes at the thieves, marauders, and miscreants

who have fattened upon the necessities and needs of their country. I knew the resources and the desperation of the men who have made wealth out of the public woe. I understood perfectly that I must be prepared for all corners of this description, and it was to this that I referred in the avowal of my readiness to maintain my allegations of wrong in the Provost Marshal Bureau at all times and places. I will not say "elsewhere," for fear of unsettling the nerves of some who hear me; but avoiding the expression "elsewhere," which is so dreadful, I say that I did not forget nor did I desire to avoid the responsibility of being asked to make good by proof the accusations I made; of course I expected, by dispatches to newspapers instigated by General Fry and his satellites, by every mode, secret and open, of influencing the public judgment, and diverting attention from the objects of accusation, to be vilified; and I hoped to be permitted, if not invited, to point out to some authority competent to receive and act upon it the evidence on which I relied. That opportunity will be afforded if a committee shall be raised; and now I wish to call attention to three or four things contained in the letter of General Fry, and I will not go further on this occasion.

It is stated by this officer, as the House has heard, that upon a certain occasion I telegraphed to the Secretary of War in the language of the communication, as I caught it, in order "to make a case for myself;" that is, to procure my own professional employment. It was said that my dispatch was to the effect that the provost marshal of my district wanted advice. Let me state that transaction, all of it being matter of record in the War Department, so that it can be unmistakably verified or challenged.

An alleged deserter was arrested by the provost marshal of my district without the process of any court. A writ of *habeas corpus* was sued out of the supreme court of the State of New York. Acting upon a decision which had been made years before in a western case, and an opinion, or rather a charge, given a grand jury by Mr. Justice Nelson, of the Supreme Court of the United States, the officer made a return, in substance, that although no process of law had been issued for the arrest, he, as a military officer of the United States, held his prisoner and refused to obey the mandate of the writ. An attachment was issued and we were on the point of collision between the civil and the military authorities. I telegraphed the Secretary of War nothing except the facts, and my recommendation that he should direct the officer what to do. There was need of this. It was in 1863; a time in the State of New York when my colleagues well remember that it would only have been necessary that a collision should have occurred between the civil authority of the State and the military authority of the nation upon the issue of the *habeas corpus* and the effect would have been like drawing a match in a magazine of powder.

The Secretary of War telegraphed that the provost marshal must hold his prisoner at all events. I do not now profess to give the precise language, but it was that he must hold him and stand by his position, and the dispatch requested me to appear as his counsel, to take an appeal, and to argue the question between the military authorities of the United States and the judicial authority of New York.

I did appear; I did argue the case, and although that is neither here nor there, the decision was reversed, and reversed by one of the purest patriots and one of the most honored judges that ever graced New York's bench, and the decision stands as a monument of learning raised at a most critical and disordered time.

An appeal was taken to the court *in banc*. And there again I was requested by the Secretary of War, and I think the Attorney General upon the application of the district attorney of the United States, to act as counsel, and I did so. The decision was not reversed, and it per-

formed a very useful part at a very important juncture.

That, Mr. Speaker, was my connection with that transaction, and that was all of it; and upon this, an officer at the head of a bureau has dared to send here a letter on pretense of defending himself, containing a groundless libel deliberately written to stab the reputation of a Representative in retaliation for discharging his duty here.

I do not mean to be led into much zeal over the matter; but it is a bad plan for a man unjustly accused to resort to this sort of counter assault.

Again, this writer states that I was appointed, if I understand it aright, without the knowledge or assent of the Secretary of War, but by the Assistant Secretary, Mr. Dana, judge advocate for a certain purpose. Let me state briefly that transaction. During the period referred to, or before, detectives were sent by the War Department into the State of New York, to endeavor to ferret out, if possible, and put a stop to frauds in recruiting. These detectives, it seems, had been directed by the authorities to apply to me, among others, for advice and information as to persons in various localities whose statements could be relied on. They came, several of them, and repeatedly, to me. They came in the night as well as in the day, and communicated to me various fragments and bits of evidence which they collected, showing rather the extent of the evil, and the difficulty of getting at the bottom of it than anything else.

Weeks elapsed, and very little information was gathered, or, as they expressed it, although they could get moral evidence enough, they could get no legal evidence. At length I promised that when I should be relieved of engagements in the courts which were then pressing, I would investigate, as far as I could, various things which they and I suspected. I did so; and I sent to the War Department such information as I gathered, and some very pregnant disclosures which were made. Having done this, acting as a citizen, I supposed my connection with it was to cease. But afterward—I cannot state the date precisely; it was in April, a year ago—I received in the city of Syracuse, fifty-three miles from my home, while I was there professionally engaged, an urgent telegraph from the Secretary of War, asking me to come to Washington. As soon as I could release myself I took the cars, and, riding night and day, reached here in ignorance of the purpose for which I was summoned. Arriving here in the morning, I went to the War Department, and there had an interview with Mr. Stanton, the Secretary of War. He explained his sending for me, and stated to me certain facts, and I stated to him other facts relative to the subject of frauds and maladministration; and he proposed that, as counsel for the Government, I should investigate and prosecute, until the enormities discovered should be ferreted out and the guilty convicted. I at first declined, for reasons connected with my other professional engagements, knowing that preparatory to leaving home for the present session of Congress I should need all my time and strength in my ordinary business.

In my place, I suggested to the Secretary a gentleman, whose name I need not mention here, but it is one of the best and purest names in the State of New York, a gentleman of very high standing at the bar, and whom I hoped might be able to give the matter his attention, and I advised that to him rather than to me the retainer should be given. The answer of the Secretary was in effect, no, I know you, and I want you to do this, believing you will do it with activity and vigor, or some like remark of confidence. I took some little time to consider it, debating with myself. Upon reflection, I assented, and the Secretary himself directed in person and in my presence to be drawn up and presented to me a retainer which I believe has been read among these papers. That, sir, was the origin of that engagement, and of that trans-

action. Yet, the author of the remarkable production on the table ventures to insinuate, if he does not state, that I sought this employment, and obtained it, not from the Secretary of War, but from Mr. Dana, and that without the authority or assent, and I think without the knowledge, of the Secretary. I went to my home, disregarding and neglecting, as some persons who now hear me know, professional employments vastly more profitable to me, and devoted more than four months of most untiring, faithful labor to this investigation. I threw up numerous other retainers and gave undivided attention to this. I gave to it an effort which, although anybody else might have made it, and which did me no credit in the world, I stop to say, brought into the Treasury of the United States several hundred thousand dollars, and checked a most heady tide of swindling.

The investigation led, among other things, to the trial of this assistant provost marshal general, of whom General Fry says so much, and yet so little; a trial which alone consumed about eight weeks, at places distant from my home. When at last it was over, I declined to go further, thinking my poor share had been done, and finding it destructive to my regular business to engage in trials so interminable and absorbing, and I made report to the War Department and to the district attorney of the United States of the results which had been reached.

Some time after this, I received as other acting counsel do, I believe, a suggestion that I should present my bill.

I made out and sent to the War Department an account of the precise sum I had actually advanced in money, as traveling and other necessary expenses, rendering the amount to a farthing, and I made out no other account and no other charge. But I stated to the Secretary that I preferred not to do so, but to leave him to fix the amount; that the service was unusual to me, and that he better than I could judge of its value. I declined to fix any charge, but left it to him to fix such sum, whatever it might be, as he deemed the service worth; this I deemed at least fair to the Government, more than fair, for had I wished extravagant pay I should have taken any other course.

In reply I received from the Secretary of War a letter, in which he stated his opinion, and his opinion as a lawyer and as Secretary of War is a tolerably good one. Perhaps it will not be considered a remark too much aside, considering the intimations we have heard, if I pause, and render to the Secretary of War my personal thanks, and my testimony to the thanks which I believe the nation owes him for the integrity, the courage, and the manhood which he has given at the expense of his health to the American people during the darkest passage in their life. The Secretary of War, in reply to my letter, wrote to me, saying that he deemed \$3,000 a moderate sum for the labor which had been performed, and if that should be satisfactory to me, it would be very satisfactory to him. I returned an answer that it was entirely satisfactory, as I may say any other sum he might have fixed would have been, as I did not consider it an occasion out of which profit was to be made, or in which even such a charge might be made as any lawyer fit to conduct such a prosecution would have expected from a private client.

Mr. ROSS. If it will not discompose the gentleman too much, I would ask him to state whether that was during the time he was drawing pay as a member of Congress.

Mr. CONKLING. I do not quite understand the pertinence of the question of the gentleman from Illinois, [Mr. ROSS.] But I will endeavor to enlighten him. He probably knows, for I presume that information has extended to him, that the term of members of Congress commences on the 4th of March. And as the retainer which I have spoken of was in April, which, I will inform the gentleman, is a month that comes after March in the calendar, he will very likely be able, by the rule of three, or by some other rule with which he is familiar,

to cipher out whether I was a member of Congress at the time or not. I suppose the gentleman put his question all in the way of good nature; and I give my explanation to him in the same way.

I should be sorry to suppose that the member from Illinois, or any other member of this House—indeed, I should be sorry as an American to suppose that the standard of intelligence anywhere in the country is so low, that any human being, unless it be that distinguished mathematician and warrior, Provost Marshal General Fry, believes that there is the slightest impropriety in a man who is a member of Congress practicing his profession as counsel in courts, or accepting from the Government of the United States or from any other client a retainer for such professional services. It would be very extraordinary, indeed, if some distinguished gentlemen, whom I will not name, who have recently performed most conspicuous professional services for the Government while they were members of Congress, had subjected themselves to the criticism of the gentleman from Illinois, or of anybody whatever, always excepting, of course, Provost Marshal General Fry.

So much for that part of this bundle of papers given to a pretended statement of the circumstance of my acting as counsel for the United States.

I come to the next point which occurs to me. There is a statement, if I apprehended it aright, that some effort was made by me to have "concealment"—I think that was the word—in regard to the twenty-first congressional district. That is mere assertion. No circumstances are stated upon which it could be founded, therefore I cannot dissect it, but I pronounce the statement utterly and absolutely groundless—nothing whatever of truth can be found in it. On the contrary, in the investigation which took place before the court-martial to which reference has been made, everything that could be investigated pertaining to the twenty-first congressional district was investigated. The matter of recruiting there was held up, that the light might shine through and through it; and nothing in that statement amazes me more than that the Provost Marshal General or anybody else should dare, even in so daring a document, to put on record an assertion so utterly baseless.

So far I have noticed only some of the more far-fetched libels in these papers. I come now to the question which was made by the member who causes this letter to be read, the pretense that it in some way bolstered up the assertions made by him the other day. This letter was read in part, we were told, to show that I was not warranted in pronouncing untrue the statement that I had had personal "quarrels" with the Provost Marshal General. I beg leave, Mr. Speaker, to remind gentlemen of the precise statement which on that occasion I pronounced untrue. The member from Maine said—I read from the Globe—

"I do not suppose that the House of Representatives care anything more than the Committee on Military Affairs about the great recruiting frauds of New York or the quarrels of the gentleman from New York with General Fry, in which quarrels, it is generally understood, the gentleman came out second best at the War Department."

I will not stop to read further (although I propose to have all I have marked inserted in my remarks) the various forms in which the statement was made that I had had personal quarrels with Provost Marshal General Fry.

Mr. BLAINE. I hope the gentleman will read the whole. If he will show me the word "personal" in the speech to which he is replying, I will reward him. He cannot do it. He is putting his own interpretation upon it. Let the gentleman read all that he is going to print.

Mr. CONKLING. Mr. Speaker, I hope the active member from Maine will preserve himself as free from agitation as possible.

Mr. BLAINE. I demand that whatever the gentleman puts in the Globe he shall read.

The SPEAKER. Does the gentleman from New York yield to the gentleman from Maine?

Mr. CONKLING. I am not asked to yield. The Chair will see that all this interruption is in defiance of the proprieties of debate. I have no objection to the member from Maine being heard, however, at any length he pleases.

Mr. BLAINE. I rise to a point of order. The SPEAKER. The gentleman will state his point of order.

Mr. BLAINE. My point of order is that the gentleman from New York has no right to insert in the Globe what is not read either by himself or by the Clerk. I object to his doing so.

The SPEAKER. The gentleman has the right to object to its being printed in the Globe if it is not read.

Mr. CONKLING. Mr. Speaker, this is a little episode, I suppose, for the amusement and diversion of the House. It is quite unnecessary. The member had better be quiet; I am entirely disposed to have the whole passage read; and I will ask to have it read. I intended to send it to the Globe reporters for insertion. I suppose the member knew what had already been printed in the Globe as coming from him.

Mr. ROSS. Will the gentleman from New York yield to me a moment?

Mr. CONKLING. For what purpose?

Mr. ROSS. I desire to ask the gentleman whether he was drawing pay as judge advocate at the same time when he was receiving \$3,000 a year from the Government as a member of Congress.

Mr. CONKLING. I will answer the gentleman's question, Mr. Speaker; and I ask the Clerk to suspend for one moment the reading till I do so, because nothing interests me in connection with this matter more than the laudable curiosity of the gentleman from Illinois, [Mr. ROSS.]

I beg, Mr. Speaker, to assure the gentleman "confidentially," as the gentleman from Pennsylvania [Mr. STEVENS] would say, and I hope he will regard it as a confidential communication, that I never did receive salary as judge advocate during the period he refers to or during any other period; not one penny. Indeed, Mr. Speaker, I found myself very unexpectedly elevated when I saw the announcement in some paper that this retainer which the Government had given me made me acting judge advocate for the purpose of trying a case. It was merely an employment as counsel; and the counsel fee which was paid is, I beg to assure the gentleman, the only compensation that I ever received for my services. I never received any pay as judge advocate during any period whatever.

I now ask the Clerk to read the remarks which I have sent to the desk; all that are marked. They are the remarks of the member from Maine.

The Clerk read as follows:

"Mr. Speaker, I do not suppose that the House of Representatives care anything more than the Committee on Military Affairs about the great recruiting frauds in New York, or the quarrels of the gentleman from New York with General Fry, in which quarrels it is generally understood the gentleman came out second best at the War Department. I do not think that such questions ought to be obtruded here."

"Though the gentleman from New York has had some difference with General Fry, yet I take pleasure in saying that, as I believe, there is not in the American Army a more honorable and high-toned officer than General Fry. That officer, I doubt not, is ready to meet the gentleman from New York or anybody else in the proper forum. I must say that I do not think it is any very creditable proceeding for the gentleman from New York here in this place to traduce General Fry as a military officer when he has no opportunity to be heard. I do not consider such a proceeding the highest specimen of chivalry that could be exhibited."

"The gentleman from New York has had his issues with General Fry at the War Department. They have been adjudicated upon by the Secretary of War; and I leave it for the gentleman to say whether he came out first best. I do not know the particulars; the gentleman can inform the House. All I have to say is—and in this I believe I speak the sentiment of a majority of the members of this House—that James B. Fry is a most efficient officer, a high-toned gentleman, whose character is without spot or blemish; a gentleman who stands second to no officer in the American Army; and he is ready to meet the gentleman from New York and all other accusers anywhere and everywhere. And, sir, when I hear the gentleman from New York rehearse in this House, as an impeachment of General Fry, all the details of

the recruiting frauds in New York, which General Fry used his best energies to repress with iron hand, a sense of indignation carries me beyond my personal strength and compels to denounce such a course of proceeding."

Mr. BLAINE. The word "personal" does not occur there.

Mr. CONKLING. The House will observe I did not say the word "personal" did occur. But that is not here nor there. All gentlemen, all who have the appreciation or instincts of gentlemen, see the point of this passage. It was the assertion that I had had "quarrels" with Provost Marshal Fry, repeating that word more than once, and using other forms of expression; and that I had had "quarrels" with General Fry in which "quarrels" I had been worsted, in which "quarrels" I had been put down by the Secretary of War; in which the Secretary of War had taken sides against me. These were the points, first: that there had occurred between General Fry and myself "quarrels," and second, that in those "quarrels" I had been worsted, and worsted by the Secretary of War.

Now, Mr. Speaker, is there any shadow or foundation for that? I mean, taking the communication of the Provost Marshal General as the only evidence upon the subject. What does he say? I had stated, as the House will remember, before the member from Maine injected his statement—I will read that—I had previously stated all about having been employed to prosecute General Fry's friend and assistant. I said:

"I was employed by the Government to prosecute some of the frauds to which I have referred; and I tried this assistant provost marshal general, who had been justified in all the outrages he committed, and in all the thefts by which millions were stolen from the people of New York; who was justified by his superior officer down to the time when the sentence was published, and afterward, I understand."

The member from Maine, then, did not mean this prosecution by his statement. Now, what does the Provost Marshal say to give color to the statement that, independent of this, anything had taken place which will help out the assertion of "quarrels," and that I was worsted? What does he state? That Captain Richardson, a provost marshal in my district, was removed. So he was. He was removed without notice and without charges. He was removed, as it turned out, on the report of Haddock and the accusation of a man who is himself to be tried in a few weeks for such frauds as he charged upon Captain Richardson. The facts were in part made known to me, and, in common with some of the first citizens of my district, I represented to the War Department and to the President, if that was the form of the petition, that this man had been removed without notice and on secret information. We thought he should be heard; that there should be an investigation in regard to it. That is the beginning and end of all I had to say or to do with the removal of Captain Joseph P. Richardson. I think it will be hardly said that was a quarrel with General Fry.

The next statement is that Captain Peter B. Crandall was appointed provost marshal of my district and was afterward removed. So he was, and I take occasion to say, in the face of the imputations put upon Captain Crandall by General Fry, if ever I looked into the face of an honest man, P. B. Crandall is honest. I take it upon myself to state that a more honest man never broke bread than this man who was trodden under foot by bounty jumpers and thieves because he would not submit to them in violation of his duty and of the law of the land. There is a place where Peter B. Crandall is known, where he has been long known; and fortunately for me, also, in that same place, the twenty-first district of New York, inhabited as it is by as brave, as generous, as patriotic people as were ever represented on this floor, I am known and have been known for twenty years.

The people with whom I live, among whom I expect to die, know better than General Fry can tell them, whether the man who dared to pen the libels we have heard read deserves to

be sustained and commended, or whether he deserves to be gibbeted at the cross-roads of common contempt.

But, Mr. Speaker, I was saying that Peter B. Crandall was appointed provost marshal. He was appointed upon the recommendation of the most honored and trusted of our citizens without my having any part in his selection. I had no part or lot in it. It was made entirely by others. The person whom they selected was chosen because his integrity was and is beyond all question. He was removed after bounty brokers had threatened him that if he did not submit to their behests he would be removed, and after he had defied them to bring the machinery of this great Government to bear upon him for doing his duty. He was removed at the very time when they predicted his downfall, and I say here that he was removed because he did his duty and for no other reason under heaven, whether General Fry knows it or not. Had he been rascal enough to comply with illicit requests, he would never have been touched by the hands which struck him down.

I joined with various of the citizens of my district in representing to the Secretary of War that a mistake had been made or a wrong had been done in the case of this man; that if anybody was honest he was, and that it was doing great violence to the public service and to the people of that district to strike down a man who had been selected by some of its best citizens because he was in point of character above reproach.

That is all I had to do with it. I united with others in signing these representations. Was that having a personal quarrel with General Fry?

One thing more is referred to in connection with Captain Crandall. He had taken and held, and persevered in holding \$20,000 of bonds which were claimed of him by a bounty broker. He said they belonged to the Government of the United States, because the man had deserted for whom these bonds were hypothecated, and he would never surrender them to the claimant until he was compelled to do it by law. He was sued, and I wrote several times to the War Department recommending the Secretary of War to look into the facts himself and see whether the bonds might not be held, as I thought they should be held, by the Government. This is all I had to do with that.

The cause was subsequently tried. I had nothing to do with it. The counsel was a gentleman whose name appears in the papers read, a citizen honored in every walk of life, and Captain Crandall was sustained in holding the bonds, the court deciding that he did what should have been done, and that he ought not to have delivered them up. That is the entire of that transaction.

Having disposed of these things which General Fry recounts, I ask the House to observe that in no aspect, by no stretch, do they show that I quarreled with General Fry; at most they only show that recommendations made by me to the War Department roused his hostility.

Having referred to all transactions connecting me with him to which he refers, I come now to the one single interview which he says took place between us. It was upon the occasion which I referred to when I came here in response to a telegram from the Secretary of War.

The Provost Marshal General was sent for to come into the room of the Assistant Secretary of War during that day to give information, and he did come, and informed me of various things, among others, that Major Haddock was an estimable and honorable man; he denied utterly that there was anything to be said against him, although he had then made the recommendation which he parades, and for which he takes credit now, that he should be suspended; that he was satisfied Haddock was honest, and would back him anywhere. He said further that the people of my district, all of them, as he understood it, were cowards, drunkards, and sneaks; that that was his in-

formation; that there was not, he believed, an honest man in that district, and if one could be found and set to discharging the duties of provost marshal, as soon as it was known by others, they would immediately debauch him.

I was somewhat astounded at language like this, but I had no quarrel with General Fry. I was taught somewhat early in life that while a man should be careful in his associations, he should be choice in his fighting; and having received my impression of this man then and previously, I chose to have no controversy with him. Nor does he pretend that I had any. I did not call upon him. I neither sought nor avoided him. I requested no interview with him. There was nothing of the interview except that he was sent for to give certain information. He gave his information, he made the remarks I stated, and some other remarks, and retired upon his laurels.

The fact, then, is precisely this: neither in conversation with General Fry did I ever have any quarrel with him, nor by letter or correspondence did I ever have any quarrels with him; and no way whatever have I ever had a quarrel, in any definition of that term, with this Provost Marshal General.

As I said the other day, I prosecuted his assistant and friend. I knew then that I incurred his ire in doing it. I recommended to the War Department from time to time such things as I deemed it my duty to recommend. This I well know angered him, but I believe I never had occasion to make to the Secretary of War a recommendation relative to matters coming before him, which was not promptly responded to, and promptly approved. Unless I have forgotten something, I believe that throughout this prosecution I never addressed to the Secretary of War a single recommendation in regard to it which he did not approve, and which did not meet with his sanction.

The House will see, therefore, with how much truth it was that a statement was made here, first that I had had quarrels with a man whom I never saw but once, and with whom I never quarreled at all; and in the second place, that in those quarrels I had been worsted, and worsted by the Secretary of War, worsted by that distinguished officer, whose friendship and confidence it has always been my privilege to enjoy, and who never on any occasion did toward me anything calculated to awaken any feelings but those of friendship and respect, and who has my thanks for many acts of courtesy and kindness.

But, Mr. Speaker, I have already gone far beyond my intention in rising, and I trust that those who have listened to me so attentively will pardon something to the extraordinary incident which has been witnessed, of the head of a bureau, a clerk in the War Department, sending here to be read such a pile of rubbish as that, a personal assault upon a member of this House, under the pretense of vindicating himself in some way or other.

This officer longs for vindication, not with regard to these insignificant matters which pertain to me personally, but he longs for vindication with regard to those public matters which concern him in his responsibility to the people of the country. And I beg now to say, that if a committee shall be raised by this House to investigate the doings of the Provost Marshal General's Bureau, I will undertake to make good my assertion, that in the western division of New York, composing a large portion of that great State, this bureau, as it was administered, was one carnival of corrupt disorder. I will endeavor to make good that statement; and then the public shall know whether the head of the bureau was a man incapable of administration—a man incapable of seeing the difference between honest men and thieves—or whether it was administered by a man who had the capacity to do it, and who, but for the want of another quality, would have performed its duties well.

And now, Mr. Speaker, I will ask my colleague from the St. Lawrence district, [Mr. HULBORN,] whose position in this House and

in the country and in the State of New York will be a sufficient guarantee for the probity and the ability which will be brought to the service—I ask him to move that a committee be appointed by the House to investigate the doings of the Provost Marshal General's Bureau, and let us see whether a man, however humble he may be, who rises here to denounce what he knows to be a public wrong, is to be shuffled off by newspaper effects, or effects to be produced by sending here to be read such a communication as lies before us. If this man and his trusted agents are innocent he and they should have a full and thorough investigation of all the practices of which they stand accused.

I now yield the floor to my colleague for the purpose I have indicated.

Mr. HULBURD. I presume I shall meet the sense of the House when I say that it has probably devoted as much time as it ought to do to this matter between my colleague, the gentleman from Maine, and the Provost Marshal General. I propose to send to the Chair a resolution asking for the appointment of a select committee of five, because I deem the matter so very grave that it is due to my colleague, due to the Provost Marshal General, and due to the country that the subject shall be further investigated. And in view of the complimentary remarks which my colleague has made, I am confirmed in the design of putting in a disclaimer, which I had intended to do, and asking the Chair, if the House shall order this committee, not to place me upon it, as parliamentary courtesy might otherwise seem to require. I have a sufficient reason for it in the fact that the House has referred for investigation to the Committee on Public Expenditures, of which I am chairman, various important matters connected with custom-houses, and the internal revenue service at Boston and elsewhere; and I feel that we shall have as much as we can possibly do to carry out that resolution.

Mr. THAYER. I rise to a point of order. I do not think the indulgence granted by the House extended this far. The gentleman from Maine [Mr. BLAINE] asked leave of the House to have a certain letter read from General Fry. Leave was granted, with the tacit understanding that the gentleman from New York [Mr. CONKLING] should have leave to reply. That he has done. Now, I do not think this matter should take up any further time of the members of this House, either in this House or in committees. And if I have the right, I shall object.

The SPEAKER. The Chair overrules the point of order. The ruling has always been that when the House has permitted a personal explanation to be made, whatever legitimately or naturally grows out of it, in the opinion of the majority of the House, is in order. The Chair, of course, has no knowledge of what the resolution is, except from the remarks of the gentleman from New York, [Mr. HULBURD]; but he supposes it relates to the very question which has been brought in controversy between the gentleman from New York [Mr. CONKLING] and the gentleman from Maine, [Mr. BLAINE.]

Mr. BLAINE. I hope the gentleman from Pennsylvania [Mr. THAYER] will withdraw his objection.

Mr. THAYER. Where a gentleman asks by way of personal explanation to have a paper read, with the understanding that another gentleman should be allowed to make a similar personal explanation, is it in order for any member of the House to introduce business, by resolution or otherwise, if it relates to the subject-matter of the personal explanation?

The SPEAKER. If it relates to that subject it is in order. Therefore the gentleman from Illinois [Mr. ROSS] was in order when he submitted the motion, which went to the Committee on Printing under the law, that ten thousand extra copies of the communication from General Fry be printed for the use of this House.

The resolution of Mr. HULBURD was read, as follows:

Resolved, That a select committee of five members of this House be appointed to investigate the statements and charges made by Hon. ROSCOE CONKLING in his place last week against Provost Marshal General Fry; whether any frauds have been perpetrated in his office in connection with recruiting service; also, to examine into the statements made by General Fry in his communication to Hon. Mr. BLAINE, read in the House this day; with power to send for persons and papers.

Mr. CONKLING. I suggest to my colleague [Mr. HULBURD] to modify his resolution so as to provide for the investigation of any charges made against Provost Marshal General Fry and his bureau.

Mr. ROSS. Might it not be well to enlarge the powers of the committee so that they can investigate whether the gentleman from New York [Mr. CONKLING] has received more pay than he was entitled to receive?

Mr. CONKLING. I should like to have that done. I hope the committee will report on that whether it is embraced in the resolution or not.

Mr. HULBURD. That is embraced in the resolution now, it being one of the statements contained in the letter of General Fry.

Mr. ROSS. That will do, then.

The question was upon agreeing to the resolution of Mr. HULBURD.

Mr. BLAINE. I do not know that I have anything to say, and I shall not take very long to say it. I do not happen to possess the volubility of the gentleman from the Utica district, [Mr. CONKLING.] It took him thirty minutes the other day to explain that an alteration in the reporter's notes for the Globe was no alteration at all; and I do not think he convinced the House after all. And it has taken him an hour to-day to explain that while he and General Fry have been at swords' points for a year, there has been no difficulty at all between them. He has said that General Fry is of no consequence, that he is a mere clerk in the War Department. Yet he is a very sensitive clerk, and when he has been accused of all sorts of fraud, he should have a little chance to be heard.

Now, one single word. The gentleman from New York [Mr. CONKLING] has attempted to pass off his appearance in this case as simply the appearance of counsel. I want to read again for the information of the House the appointment under which the gentleman from New York appeared as the prosecutor on the part of the Government. It is as follows:

WAR DEPARTMENT,
WASHINGTON CITY, April 3, 1865.

SIR: I am instructed by the Secretary of War to authorize you to investigate all cases of fraud in the provost marshal's department of the western division of New York, and all misdemeanors connected with recruiting. You will from time to time make report to this Department of the progress of your labors, and will apply for any special authority for which you may have occasion. The Judge Advocate General will be instructed to issue to you an appointment as special judge advocate, for the prosecution of any cases that may be brought to trial before a military tribunal. You will also appear in behalf of this Department in any cases that it may be deemed more expedient to bring before the civil tribunals.

Very respectfully, your obedient servant,

C. A. DANA.

Assistant Secretary of War.

Hon. ROSCOE CONKLING.

Now, sir, I find in Brightly's Digest, page 821, section forty-six, that—

"No person who holds or shall hold any office under the Government of the United States whose salary or annual compensation shall amount to the sum of \$2,500, shall receive compensation for discharging the duties of any other office."

Now, sir, I leave it for the House to decide whether the gentleman can get off under the technical plea that he was not a judge advocate. He cannot deny that he discharged the duties of judge advocate under the special commission which I have read, and he was paid for the discharge of those duties. The case falls under the same law as that of the gentleman from Ohio, [Mr. SCHENCK,] who, being elected a Representative in Congress while yet a major general, declined to receive any pay as a member until he had resigned his

office in the Army and had taken his seat in this House. I have no suggestions to make about this, except that I consider the point well taken, and that in my view this committee, if appointed, ought to investigate the matter. I do not believe that the gentleman received the money rightfully, though I will say this much of him, if he will permit me, that I have no doubt he will restore it if convinced he has taken it improperly.

Now, Mr. Speaker, all I have to say further in connection with this matter is, that what I stated the other day has, as I conceive, been fully, entirely, and emphatically vindicated by the record. I believe I have shown the members of this House that I am incapable of stating anything here for which I am not responsible—not exactly "here or elsewhere"—but responsible as a gentleman and as a Representative.

Mr. THAYER. I move that this resolution be referred to the Committee on Military Affairs.

Mr. CONKLING. Mr. Speaker, I sought the floor again to say this, which possibly I omitted to state before: that no commission was ever issued to me by the Judge Advocate General. For fear that I omitted to state it, I beg leave to say that no commission, paper, or authority whatever was ever issued to me except the letter of retainer which has been read, employing me to act, according to its language, before military courts and before other tribunals.

Mr. BLAINE. Mr. Speaker—

The SPEAKER. Does the gentleman from New York yield to the gentleman from Maine?

Mr. CONKLING. No, sir. I do not wish to have anything to do with the member from Maine, not even so much as to yield him the floor.

Mr. BLAINE. All right.

Mr. CONKLING. I only want to say that the only authority under which I acted was that which has been read, and that I acted as counsel for the United States; and the business of counsel in that particular case I tried, as the case was tried before a military tribunal, was, of course, of the same general character that would have been done by a judge advocate, had there been a judge advocate for the court, just as in the trial of the conspirators, the distinguished gentleman who sits before me [Mr. BINGHAM] performed the same line of professional employment that a regular judge advocate would have performed had he been there.

Now, Mr. Speaker, one thing further: if the member from Maine had the least idea how profoundly indifferent I am to his opinion upon the subject which he has been discussing, or upon any other subject personal to me, I think he would hardly take the trouble to rise here and express his opinion. And as it is a matter of entire indifference to me what that opinion may be, I certainly will not detain the House by discussing the question whether it is well or ill founded, or by noticing what he says. I submit the whole matter to the members of the House, making as I do an apology (for I feel that it is due to the House) for the length of time which I have occupied in consequence of being drawn into explanations, originally by an interruption which I pronounced the other day ungentlemanly and impertinent, and having nothing whatever to do with the question.

Mr. ROSS. I rise to a point of order. I submit that the defense of the gentleman from New York should be made before this committee and not before the House.

The SPEAKER. That is scarcely a point of order.

Mr. BLAINE. It is hardly worth while to pursue this controversy further; but still the gentleman from New York cannot get off on the technicality which he has suggested. He says that a commission never was issued to him. I understand him to admit that if a commission had been issued to him he could not have taken pay for both offices. Now,

every one knows that those preliminary authorizations are the things on which half the business arising out of the war has been done. Men have fought at the head of battalions and divisions and Army corps without having received their formal commissions. The gentleman was just as much bound to respect the law under that appointment as though it had been a formal commission with the signature of the Secretary of War.

As to the gentleman's cruel sarcasm, I hope he will not be too severe. The contempt of that large-minded gentleman is so wilting; his haughty disdain, his grandiloquent swell, his majestic, supereminent, overpowering, turkey-gobbler strut has been so crushing to myself and all the members of this House that I know it was an act of the greatest temerity for me to venture upon a controversy with him. But, sir, I know who is responsible for all this. I know that within the last five weeks, as members of the House will recollect, an extra strut has characterized the gentleman's bearing. It is not his fault. It is the fault of another. That gifted and satirical writer, Theodore Tilton, of the New York Independent, spent some weeks recently in this city. His letters published in that paper embraced, with many serious statements, a little jocose satire, a part of which was the statement that the mantle of the late Winter Davis had fallen upon the member from New York. The gentleman took it seriously, and it has given his strut additional pomposity. The resemblance is great. It is striking. Hyperion to a satyr, Thersites to Hercules, mud to marble, dunghill to diamond, a singed cat to a Bengal tiger, a whining puppy to a roaring lion. Shade of the mighty Davis, forgive the almost profanation of that jocose satire!

The SPEAKER. The Chair will state at the conclusion of these personal remarks that, as the House had granted unanimous consent for a personal explanation, and it was presumed, of course, personalities would be indulged in, he has refrained from calling gentlemen to order. If any member had called to order, the Chair would at once have strictly enforced the rule.

Mr. CONKLING. I ask the gentleman from Pennsylvania [Mr. THAYER] to withdraw the motion to refer to the Committee on Military Affairs.

Mr. SCHENCK. That committee has now as much as it can attend to, and beside that, the gentleman from Maine is on that committee.

Mr. BLAINE. I hope the gentleman will withdraw his motion. I am a member of the Committee on Military Affairs and the reference would be wholly improper.

Mr. HENDERSON. I move to lay the resolution on the table.

The motion was disagreed to.

The question then recurred on Mr. THAYER's motion to refer to the Committee on Military Affairs; and it was also disagreed to.

Mr. CONKLING demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. CONKLING moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed an act (S. No. 236) to authorize the construction of certain bridges and to establish post roads, in which he was directed to ask the concurrence of the House.

REGULATION OF IMMIGRATION.

Mr. WASHBURN, of Illinois, demanded the regular order of business.

The SPEAKER stated the regular order of business to be the consideration of House bill No. 481, entitled "An act to amend an act

entitled 'An act to encourage immigration,' approved July 4, 1864, and an act entitled 'An act to regulate the carriage of passengers in steamships and other vessels,' approved March 8, 1865, and for other purposes."

And then, on motion of Mr. ROSS, (at five o'clock and fifteen minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. CONKLING: The petition of Mrs. Butts, and 65 other women of Hopdale, Massachusetts, asking an amendment of the Constitution prohibiting the States from disfranchising citizens on the ground of sex.

By Mr. DARLING: The petition of Brevet Colonel J. R. O'Beirne, for a portion of the reward for the capture of Booth and his confederates.

Also, resolutions of the Legislature of the State of New York, in favor of equalizing bounties.

By Mr. DAWSON: Joint resolution of the Legislature of Pennsylvania, instructing the Senators and Representatives of Pennsylvania relative to the equalization of bounties.

Also, the petition of 38 citizens of Westmoreland county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 67 citizens of Indiana county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 32 citizens of Fayette county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 116 citizens of Fayette county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 51 citizens of Fayette county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 31 citizens of Fayette county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 81 citizens of Fayette county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 61 citizens of Fayette county, Pennsylvania, praying for an increase of the duty on imported wool.

Also, the petition of 42 citizens of Fayette county, Pennsylvania, praying for an increase of the duty on imported wool.

By Mr. GRISWOLD: The petition of flax-growers of Washington county, New York, for protection.

Also, the petition of wool-growers of Whitehall, Washington county, New York, for protection.

Also, the petition of physicians, of Salem, Fort Edward, and other places, in Washington county, New York, asking that their medicines may be put on free list.

Also, a remonstrance, of lawyers of the city of Troy, New York, against the act reorganizing the Federal judiciary.

By Mr. HENDERSON: A petition of the wool-growers of Knox county, Illinois, praying for protection of domestic wool.

Also, a petition from hospital Army stewards, for increase of pay.

By Mr. HOTCHKISS: The petition of citizens of the State of New York, for the amendment of the Constitution changing the basis of representation.

Also, the petition of soldiers and citizens of Tompkins county, New York, for the equalization of bounties.

By Mr. INGERSOLL: The petition of citizens of Galesburg and Oneida, Knox county, Illinois, praying for a law regulating inter-State insurances of all kinds.

By Mr. LAFLIN: Concurrent resolutions of the Legislature of the State of New York, in favor of equalization of bounties.

By Mr. PAINE: The petition of Richard Van Alstine, and others, citizens of Delavan, Walworth county, Wisconsin, for increase of duties on foreign wools.

Also, the petition of P. M. Latimer, and others, citizens of Darien, Walworth county, Wisconsin, for same.

Also, the petition of H. Weatherwax, and others, citizens of Darien, Walworth county, Wisconsin, for same.

Also, the petition of John Utter, and others, citizens of Walworth county, Wisconsin, for same.

Also, the petition of Charles P. Soper, and others, citizens of Darien, Walworth county, Wisconsin, for same.

By Mr. RANDALL, of Kentucky: The petition of Colonel A. H. Clark, late of the forty-seventh Kentucky volunteers, that the members of that regiment be allowed \$100 bounty.

By Mr. SAWYER: The petition of L. B. Chittenden, and 30 others, citizens of Waupaca county, Wisconsin, praying for the enactment of equal laws for the regulation of inter-State insurances.

Also, the petition of W. P. McAllister, and 45 others, citizens of Winnebago county, Wisconsin, praying for the enactment of equal laws for the regulation of inter-State insurances.

By Mr. SCHENCK: Sundry petitions of citizens of Ohio, for an equalization of bounties.

By Mr. THAYER: Two petitions from citizens of Johnsville, Bucks county, Pennsylvania, and vicinity, asking for a mail route from Warminster to Southampton, Bucks county, Pennsylvania.

By Mr. VAN HORN, of New York: A petition,

signed by 63 citizens of Elba, Genesee county, New York, asking an increase of duty on wool.

Also, a remonstrance against a reorganization of the Federal judiciary.

By Mr. WARD: The resolutions of the Legislature of the State of New York, in favor of the equalization of bounties.

By Mr. WOODBRIDGE: The remonstrance of M. Da Costa, and 50 others, members of the bar in the city of New York, practicing in the Federal courts, against the passage of Senate bill to reorganize the Federal judiciary.

Also, the petition of Hon. John Gregory, and 10 others, assistant assessors of the first congressional district of Vermont, praying that the pay of assistant assessors may be increased to five dollars per day.

Also, the petition of Dr. Sidney Houghton, and others, citizens of Rutland county, Vermont, praying that medicines may be exempted from taxation.

Also, the petition of E. S. Newell, of Shoreham, Vermont, for a reduction of the tax on agricultural implements.

Also, the petition of Joel Colvin, and 11 others, of Danby, Vermont, asking an equalization of taxation on agricultural productions.

IN SENATE.

TUESDAY, May 1, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in answer to a resolution of the Senate of the 24th ultimo, a report from the Adjutant General covering all the evidence upon which the award of the commission appointed to examine the different claims to the reward offered for the apprehension of Jefferson Davis was based, including copies of the report of Lieutenant Colonel D. B. Pritchard, of the fourth Michigan cavalry, and of Lieutenant Colonel Henry Harnden, of the first Wisconsin cavalry, and stating that no orders were on record in the War Department under which those officers acted.

Mr. WILSON. I move the reference of that communication to the Committee on Military Affairs and the Militia.

The motion was agreed to.

The PRESIDENT *pro tempore* also laid before the Senate a report of the Secretary of the Navy, in answer to a resolution of the Senate of the 24th ultimo, calling for copies of orders of that Department which deprive officers of the Navy, who are not on duty, of certain privileges of citizens; which was referred to the Committee on Naval Affairs, and ordered to be printed.

PETITIONS AND MEMORIALS.

Mr. MORRILL presented the memorial of Nathan Webster, praying for compensation for property belonging to him taken during the war and used by the Government; which was referred to the Committee on Claims.

Mr. TRUMBULL presented the petition of C. M. Roy, W. S. Wortman, and others, citizens of Macomb county, in the State of Illinois, praying for the enactment of equal and just laws for the regulation of inter-State insurances; which was referred to the Committee on Commerce.

He also presented a petition of citizens of Macomb county, in the State of Illinois, praying for the establishment of a national Insurance Bureau; which was referred to the Committee on Commerce.

Mr. TRUMBULL. I have also a petition from one hundred and six citizens of Staunton, Augusta county, in the State of Virginia, stating that United States troops have recently been withdrawn, not only from that county, but from most of the surrounding counties in that section of the Shenandoah valley; and in view of the fact that threats are being made from various quarters against the lives and property of loyal men, and that, in their judgment, no protection or justice can be had through the civil courts or at the hands of the civil officers of the law, the petitioners pray that troops may be immediately forwarded to that locality, and that such measures be adopted as will insure to them justice in all matters of claims, and all

other matters relating to them, in a military court, or in any other manner deemed advisable by Congress. The names of these petitioners are attached to the petition, together with an affidavit, stating that the parties who have signed it are personally known to the affiant, that they are citizens of said county of Augusta, and that the affiant verily believes the persons therein named are good and loyal citizens to the Government of the United States, and were such during the late war. I move that the petition be referred to the Committee on Military Affairs and the Militia, as the parties seek military protection.

The motion was agreed to.

Mr. HOWE presented a petition of citizens of Menomonee, in the State of Wisconsin, praying for an appropriation for the improvement of the harbor at the mouth of Fox river, in that State; which was referred to the Committee on Commerce.

Mr. MORGAN presented additional papers relating to the claim of the Mercantile Mutual Insurance Company, of New York, for the issuance to them of \$8,000 in legal-tender notes in lieu of notes which they allege were lost in the United States mails by the sinking of the steamer Quincy; which were referred to the Committee on Claims.

Mr. LANE, of Kansas, presented the petition of Charles and Henry W. Spencer, of St. Louis, Missouri, praying for relief for an alleged illegal seizure of their trading boat, O. K.; which was referred to the Committee on Claims.

Mr. ANTHONY presented the petition of Ethan Ray Clarke and Samuel Ward Clarke, praying for the confirmation to them of the title to certain lands purchased of John Underwood by their grandfather, under a grant from the Spanish Government; which was referred to the Committee on Private Land Claims.

Mr. JOHNSON. I present the petition of W. M. Langhorn, and some forty-eight other persons, citizens of the city and neighborhood of Lynchburg, in Virginia, stating that by an act passed in 1861 by the Legislature of Virginia, some of the petitioners were incorporated into a body-politic and corporate for the education of the deaf and dumb and blind, and among others the deaf and dumb and blind negroes who were then in the State of Virginia. They state that emancipation has increased the number calling for such education very much; that they propose to teach them some art or handicraft, but find it impossible to accomplish the object they have in view if they are subjected to State and Federal taxation; and they pray that Congress may exempt them from the taxation of the United States. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

PERSONAL EXPLANATION.

Mr. HOWE. Yesterday, while I was attempting to make a personal explanation of a dispatch found in the columns of the New York Herald, I was understood by the reporter of the Associated Press to quote a remark from the Postmaster General. The Globe will show that the quotation I made was from the First Assistant Postmaster General. I hope the reporter for the Associated Press will make the correction, as it is due to the Postmaster General that it should be made and as widely disseminated as the mistake was. It was undoubtedly a mistake.

BURNING OF COLUMBIA, SOUTH CAROLINA.

Mr. JOHNSON. Mr. President, I received yesterday a note, dated the 21st of April, from General Wade Hampton, who is known to the members of the Senate as having actively participated in the war of the rebellion, sending me a formal letter dated on the same day, in which he complains that injustice has been done him by a letter from General Sherman in relation to the burning of the town of Columbia, South Carolina. I can better make the writer understood by reading that portion of the letter, and I proceed to do so:

"A few days ago I saw in the published proceedings of Congress that a petition from Benjamin Rawls,

of Columbia, South Carolina, asking compensation for the destruction of his house by the Federal Army in February, 1865, had been presented to the Senate, accompanied by a letter from Major General Sherman. In this letter General Sherman uses the following language: 'They [the citizens of Columbia] set fire to thousands of bales of cotton rolled out into the streets and which were burning before we entered Columbia. I myself was in the city as early as noon, and I saw their fires and knew that efforts were made to extinguish them; but a high and strong wind kept them alive. I gave no order for the burning of your city, but on the contrary, the reverse, and I believe the conflagration resulted from the great imprudence of cutting the cotton bales, whereby the contents were spread to the winds so that it became an impossibility to arrest the fire. I saw in your Columbia newspapers the printed order of General Wade Hampton, that on the approach of the Yankee army all the cotton should thus be burned, and from what I saw myself, I have no hesitation in saying that he was the cause of the destruction of your city.'

That ends the quotation from General Sherman, and then General Hampton proceeds to say:

"This grave charge made against me by General Sherman having been brought before the Senate of the United States, I am naturally most solicitous to vindicate myself before the same tribunal. But my State has no representation in that body."

And therefore he writes to me.

Mr. SHERMAN. Read it all.

Mr. JOHNSON. I will.

"Those who should be our constitutional representatives and exponents there are debarred the right of entrance. In those Halls there are none who have the right to speak for the South; none to participate in the legislation which governs her; none to impose the taxes she is called on to pay; and none to defend her or to vindicate persons from misrepresentation, injustice, or slander. Under these circumstances I appeal to you in the confident hope that you will use every effort to see that justice is done in this matter. I deny emphatically that any cotton was fired in Columbia by my order; I deny that the citizens 'set fire to thousands of bales rolled out into the streets'; I deny that any cotton was on fire when the Federal troops entered the city. And I most respectfully ask Congress to appoint a committee, charged with the duty of ascertaining and reporting all the facts connected with the destruction of Columbia, and thus fixing upon the proper author of that enormous crime the infamy he so richly deserves. I am willing to submit her case to any honest tribunal. Before any such, I pledge myself to prove that I gave positive orders, by direction of General Beauregard, that no cotton should be fired; that not one bale was on fire when Sherman's troops took possession of the city; that he promised protection to the city, and that in spite of this solemn promise his soldiers burned it to the ground, deliberately, systematically, and atrociously. I therefore most earnestly request that Congress may take prompt and efficient measures to investigate this matter fully. Not only is this due to themselves and to the reputation of the United States Army, but also to justice and to truth. Trusting that you will pardon me for troubling you,

"I am, very respectfully,"

"WADE HAMPTON."

Mr. President, I need not say that I have not the slightest suspicion, even, that the charge which the writer of this letter supposes General Sherman to be subjected to is true. There must be a mistake somewhere. It is equally impossible to those who know General Sherman to suppose that he did not believe everything that he stated in the communication which is here quoted. Whether he was misinformed, or whether General Hampton was misinformed, I know not. It is due, however, to an acquaintance with General Hampton, commenced long before this rebellion broke out, that I should say that in point of private character, in point of veracity, he stood as high as General Sherman can stand now; and that is giving him as much praise as can be bestowed upon him. I know not how his object can be accomplished, and I will therefore ask that the letter be referred to the Committee on Military Affairs. I do not suppose that the Senate would be willing to appoint a special committee to investigate the subject.

Mr. SHERMAN. Mr. President—

Mr. FESSENDEN. If the Senator will excuse me for a moment, I desire to say a word.

Mr. SHERMAN. I merely wish to make a suggestion that it may be put on record.

Mr. FESSENDEN. I only desire to say that this practice of reading in the Senate private letters, with reference to complaints and difficulties between gentlemen out of doors, and calling the attention of the Senate to them, is a practice which has grown up lately, which is very wrong, and which takes up a great deal of our time, and is very improper. Here is a

question of veracity, or something of the sort, between two gentlemen, neither of whom is a member of this body, one a general in our Army and one a general in the rebel army. This is not the place to settle those questions. The practice that has grown up even in public speeches, or speeches addressed to the Senate, of reading private letters without signatures, or at least not reading the signatures, or even with the signatures, is only calculated to take up time; it has nothing to do in reality with the business of Congress. More especially is it objectionable to bring up matters in reference to gentlemen out of doors and calling on the Senate or the House of Representatives to hear their differences and settle them. If they ask any action of Congress, let them address a memorial to this body or the other House in proper shape and call for action.

I, of course, do not wish to blame my friend from Maryland; he is only following the example of others in relation to the matter; but I wish to enter my protest against the whole thing, and in future I give notice that I shall object to the reading of any of these letters with reference to out-of-door matters with which we really have nothing to do. We are not a tribunal, or an arbitration, or referees to settle these difficulties between gentlemen out of doors, whatever may be their position and however high. We have nothing to do with them. It only interrupts the proceedings of this body and takes up time which should be devoted to other things, in my judgment.

Mr. SHERMAN. I cannot allow the charge of this most impudent rebel against the whole of an army to be entered upon the records of the Senate without a prompt answer, and I think it will be a very complete one. The honorable Senator from Maryland vouches for the previous good character of General Wade Hampton prior to this rebellion. Perhaps he would not be willing to vouch for it if he knew the entire history of Wade Hampton during this war.

The charge made by General Sherman was made in the course of his official duties in an official report. A citizen of Columbia, South Carolina, by the name of Benjamin Rawls, believing himself to be aggrieved, sent a petition to this body, and asked me to present it, claiming damages for property alleged to have been destroyed by our army in the burning of Columbia. In presenting that petition, I stated to the Senate the reasons, which in my judgment were sufficient, why it should not be granted; and read a statement from General Sherman, showing that the burning of Columbia was really caused by the previous policy of Wade Hampton. General Sherman did not allege that Wade Hampton set fire to the city of Columbia; or that his rebel army set fire to the city of Columbia, or that he ordered it to be done; but simply, that his previous orders were the inducing cause of the burning of Columbia. I asserted that citizens or inhabitants of Columbia itself did set fire to Columbia, and that the scattering of cotton in the open streets and squares spread the fire that destroyed it; and therefore Benjamin Rawls must look to his neighbors or to General Wade Hampton, who scattered this cotton, for his loss.

Now, sir, this letter does not deny the real assertion made by General Sherman. I have the papers now before me showing conclusively from official records that General Sherman's assertion was true, and that he was justified in saying that General Wade Hampton was the cause of the burning of Columbia. He commanded the rear guard of the rebels, and, indeed, made but little opposition to the march of General Sherman through the vaunted State of South Carolina, except the burning of cotton. This was the only resistance our army met in all its march through South Carolina, unless it would be probably the skirmish at the Salkahatchie. In other States General Sherman found an enemy, but in that pestilent State General Hampton resisted him by burning cotton. I have here upon this very point the official record of General Howard, who certainly for veracity would stand against

Wade Hampton or any of his set. On the 16th of February of last year General Howard in his official report said:

"The mounted infantry crossed the Saluda first, supported by some infantry of General Hazen's division, and pushed on rapidly, driving the enemy across the Broad river. The attempt was to save the bridge, but it failed, since the bridge had been covered with rosin and light-wood in such manner as to burst instantaneously into a flame; and this occurred even before all the rebel cavalry had crossed over. The remnant escaped northward."

"About 10 a. m., February 17, the mayor of Columbia, with a flag of truce, met Colonel Stone, and formally surrendered the city to him. The general-in-chief had instructed me to destroy certain public buildings, but to spare institutions of learning, asylums, and private dwellings."

"I transmitted these instructions to Major General John A. Logan, whose troops were to have charge of the city."

"He directed Major General Woods to place suitable guards. As soon as the bridge was completed, I crossed with General Sherman, and rode to the town with him, a distance of about three miles. The ground was dry, the wind blowing hard, so that the dust almost blinded us. As we entered the city the negroes and many white people collected at the corners of the streets, and greeted the general with loud cheering."

"In the main street was a large quantity of cotton partially consumed by fire. Some men were at work trying to extinguish the fire with a very poor engine. We remarked that the loose cotton was blown about in every direction, and the shade trees were so completely covered with bits of cotton as to remind me of a grove in Maine after a snow storm."

"The guards were carefully established in different streets, and seemed to be attending to their duty very faithfully."

"I noticed a few men under the influence of liquor, and immediately directed that they should be placed under guard. I have been thus particular in narrating these preliminary incidents, because there followed one of the most terrific scenes that I have ever witnessed, and we are charged by the 'rebels' with its inception. Thinking everything was very orderly and the city police in the best of hands, I selected a house and hoped to get a little rest. But it was hardly dark before a fire broke out in the vicinity of Main street and spread rapidly. I learned, moreover, that quantities of liquor had been given to the soldiers by certain people, who hoped in this manner to conciliate them and get their protection. And it is certainly true that many of our men and some of our officers were too much under the influence of drink to allow them to properly discharge their duty. Strenuous efforts, however, were made to arrest the flames. General Woods sent in a fresh brigade, and after ward General Hazen still another."

"During the night, I met Generals Logan, Woods, and other general officers, and they were taking every possible measure to stop the fire, and prevent disorder."

"Nevertheless, some escaped prisoners, convicts from the penitentiary, just broken open, army-followers, and drunken soldiers, ran through house after house, and were doubtless guilty of all manner of villainies; and it is these men that I presume set new fires further and further to the windward in the northern part of the city."

"Old men, women, and children, with everything they could get out, were herded together in the streets. At some places we found officers and kind-hearted soldiers protecting families from the insults and roughness of the careless. Meanwhile the flames made fearful ravages; and magnificent residences and churches were consumed in a very few minutes."

"After about two thirds of the city, all the business part of the town, including the old State House, had been destroyed, the wind shifted to the east, and the fire was stayed."

"The next morning showed very little of Columbia, except a blackened surface peopled with numerous chimneys, and an occasional house that had been spared, as if by miracle."

"I believe that the rebels who blew up the depot, scattered the cotton over the city and set fire to it, and took no reasonable precaution to prevent the destruction of Columbia, are responsible for the suffering of the people."

"Neither the general-in-chief, nor any of his lieutenants, have ever sanctioned any conduct so evidently against the dictates of humanity."

"The seventeenth corps followed the fifteenth across the Saluda and Broad, and encamped outside of the city to the northeast. The fifteenth corps encamped to the east and south, except the garrison of the city."

Such is the testimony of General Howard, who marched in with the advance of the army, with the general-in-chief. And it shows clearly that when our army entered Columbia the rebels under Hampton had prepared the city for conflagration, and that its own inhabitants, including negroes and escaped convicts, were maddening themselves with liquor, and that General Sherman and all under him did all they could to save the city from the destruction prepared for it by escaping rebels.

I have here also a private letter, written recently, since Wade Hampton denied this charge, by General Howard to General Sherman, from which I will read a short paragraph:

"On examining my report for the South Carolina

and North Carolina march, I find that I was quite explicit in my account of the burning of Columbia. My impression then was that the fire was set originally by the enemy. At Midway I protected the houses, including Simms's library, as long as we halted at that place. General Blair furnished the guards."

"I did not see Wade Hampton's orders for burning cotton, but know that his forces did burn cotton in our front constantly. Wheeler's letter to me, which you received and answered, shows that the burning had official sanction."

I now add to the testimony of General Howard the statement of General Charles H. Woods, of a recent date, and after he had seen in the papers the recent statement of Hampton. It is clear and explicit. It is from the general in immediate command, and who must have known the facts much better than Wade Hampton, then at a safe distance.

HEADQUARTERS, DEPARTMENT OF ALABAMA,
MOBILE, ALABAMA, April 7, 1866.

DEAR SIR: Your favor of the 2d instant has just reached me, and I hasten to reply as you request.

My official report of the campaign in South Carolina does state in general terms the facts as to the burning of Columbia in nearly the same language, and to the same purport as you claim. I will, however, further state in detail, that at the time of the capture of Columbia, South Carolina, I commanded the first division, fifteenth Army corps, and that the third brigade of that division was the first body of Federal troops that entered and took possession of the city.

The place was formally surrendered to my command through the mayor, but when the troops marched in considerable skirmishing was necessary to drive out the rear guard of General Wade Hampton's command, and the numerous stragglers left from the rebel forces.

I was among the first to enter the city after its occupation, and found the guards and patrols established by the commanding officer of the advance brigade well posted, and in the earnest and vigilant performance of their duty. But the streets were full of half-drunken citizens and negroes, and escaped or released convicts, who seemed to me to have been intentionally turned loose for the purpose of sacking the city, and thereby throwing odium upon the Federal occupation. I was also informed, and was satisfied, that many of the worst disposed of our own men were met by such citizens and negroes, furnished with intoxicating liquors, and every effort made to induce them to join in the work of destruction. I am bound to assert that every effort was made by my officers and myself to prevent such outrages, and I believe those efforts were generally successful. The streets in many portions of the city were filled with long rows or piles of cotton which had been set on fire, and prompt orders were given and earnest endeavors made by the troops to extinguish the flames, to save as far as possible all private property, and protect it from pillage. My belief is that the retiring rebel forces under command, as I am informed, of General Wade Hampton, intended to destroy all cotton left in the city, to save it from Federal possession, but that they did not intend to burn the city. No proper precautions, however, were taken, and we found the city actually in the hands of the reckless and irresponsible stragglers, both white and black, that I have before spoken of.

What outrages, robberies, or incendiary acts they may have committed I cannot state, but I do know that every effort was made to check them.

The burning cotton, exposed to a fearful wind blowing across the city, was not to be extinguished by human effort. As the bales burst large masses of flaming material were lifted by the wind and sent on and over roofs, in windows and doors, and against fences; and as water was very scarce no efforts of the troops proved of any avail until the fire nearly reached the State House.

I am satisfied that everything saved was owing to the energy of our men, and that nothing more could have been done. I was personally present in the city and am personally cognizant of the fact that my officers and men did their duty faithfully and well in saving and not in destroying property, either public or private.

The third brigade of my division was composed entirely of Iowa troops, and were among the best disciplined and best disposed soldiers of the Army, and were commanded by Colonel George A. Stone, of the twenty-fifth Iowa volunteers, an officer and a gentleman well known to me as a strict disciplinarian and an excellent soldier.

About nine o'clock at night, when the fire was at its height, I sent in another brigade of nearly two thousand men, under command of Brevet Brigadier General William B. Woods, with orders to do everything in their power to extinguish the flames. These men worked hard all night, and until the fire was extinguished.

I repeat that the destruction of the best business portion of Columbia was the perhaps unexpected result of the attempt of the rebel forces to prevent cotton falling into the hands of the Government of the United States, and must have so far received the sanction or order of the commanding officer of those forces, who I am informed and believe was General Wade Hampton.

I am, sir, very respectfully, your obedient servant,

CHARLES R. WOODS,

Brevet Major General, Commanding.

Major General W. T. SHERMAN, U. S. A., Commanding Military Division of the Mississippi, St. Louis, Missouri.

I now present to the Senate a letter written to me by General Slocum, probably in consequence of what was said here on a previous occasion. It may not bear upon the specific charge of the burning of Columbia, for General Slocum's army did not enter that city, but it shows very clearly the conduct of the rebel army, commanded in part by this man who now arraigns our army for barbarity:

SYRACUSE, NEW YORK, April 10, 1866.

MY DEAR SIR: I see that it is charged that our troops were guilty of great barbarity and cruelty on our campaign through South Carolina. While I am willing to admit that there were some bad men in every corps, and that isolated cases of a violation of the rules of war occurred, yet, in view of all the circumstances, I think the behavior of the army was as good as could have been anticipated.

My command (the left wing) crossed the Savannah river at Sister's ferry, and the men, upon entering the State of South Carolina, found their road filled with torpedoes so arranged that it was impossible to avoid them; and men saw their comrades mangled, and in many instances killed, in this barbarous manner, while they were quietly marching in column. Is it surprising that, under such circumstances, officers found it difficult to prevent their men from committing some acts in retaliation? I think not, yet I never found any difficulty in preserving order on entering a city or a large village, where guards could be placed.

On our approach to Winnsboro, South Carolina, we found the place on fire. I was informed by citizens that the fire was the work of a negro woman. The citizens appeared panic-stricken, and were doing little to save the place. My soldiers cheerfully and zealously worked to extinguish the fire, and the most perfect order was preserved while we remained in the town. When we left the leading citizens were very profuse in expressions of gratitude for the kind treatment they had received.

In passing judgment upon the officers and men of Sherman's army on this campaign it should not be forgotten that the events which led to the war were familiar to every soldier of that army. The boast made by some of the leading citizens of South Carolina at the commencement of the war, that they had labored thirty years to destroy the Union, their indignant denials that the people of South Carolina were of the same race as the hated Yankees, and their advocacy of "raising the black flag," were matters as well understood in Sherman's army as they were in the city of Charleston. This knowledge, on the part of the soldiers, together with the violation of the rules of war by the people of the State in planting torpedoes in places remote from any fortification or city rendered the duty devolving upon the officers a very difficult one.

I claim that the conduct of my command was not such as to justify the charges brought against the army.

Yours truly,

H. W. SLOCUM.

Hon. JOHN SHERMAN,
United States Senate, Washington, D. C.

I have also here a report from General Logan, whose report in almost every particular confirms that of General Howard. I have also the report of General Stone, the gentleman who was met three miles from the city by the mayor and the authorities of the city. It seems that General Stone got into a carriage to ride in with those authorities, and on the way they saw a portion of Wade Hampton's cavalry driving our advanced guards back; and Colonel, now General, Stone, left the carriage and went at the head of a small force of a certain regiment of Iowa troops and drove Wade Hampton's cavalry into the city, and followed them into the city; and he states that while he was on the road to the mayor's office to receive the formal surrender of the city, and there to raise the national flag, whisky and liquors of various kinds were freely distributed to and by the negroes and citizens of Columbia before a single American soldier arrived there, and that then the cotton was scattered all over the city; and I have no doubt that probably these escaped convicts, or the negroes maddened by liquor, rejoicing at their liberation, might by accident, or perhaps for reason, for enmity, have set fire to the city and caused the subsequent destruction; but when Wade Hampton, who had taken care to retreat before this occurred, charges our soldiers with this infamy of burning private houses he makes a charge that cannot be sustained.

He says that—

"About eight o'clock the city was fired in a number of places by some of our escaped prisoners and citizens, (I am satisfied I can prove this,) and as some of the fire originated in basements stored full of cotton it was impossible to extinguish it."

The fire-engines were ordered out, but the flames could not be stopped, the buildings were old, nearly all wooden ones, and the wind blowing almost a gale.

"At half past eight p. m. I received orders that I was relieved by Brevet Brigadier General Woods, and I sent the brigade to camp about one mile out of town, but remained in the city myself working all night to assist in extinguishing the fire."

Such, Mr. President, is the evidence I presented to the Senate to show that the statements made by General Sherman were justified by the facts. And, sir, I could add the express order of General Wheeler, under which Wade Hampton acted, requiring all cotton in the line of General Sherman's march to be burnt, and that it in fact was burnt. In the light of these facts what shall be said of this letter? He is an unpardoned rebel, living only by the mercy of this Government which he struggled to overthrow, cursed with treason, and responsible for the lives of thousands of the people of his own State, a fit sample of an army which converted bones of human beings into wearing-ornaments, and which starved thousands and tens of thousands of brave men whose misfortune it was to fall prisoners into their hands.

Examine his letter. He says he did not order this cotton to be set on fire, but he ordered or allowed cotton bales to be cut in the public square, and thus scattered the cotton all over the city, and made it so combustible that a negro, or a citizen, or an escaped convict, or any accident might set fire to the city of Columbia, and thus destroy the city. I then repeat that Wade Hampton and his associates did, in their insane desire to destroy cotton to prevent it from falling into our hands, cause the burning of the city of Columbia. But he says he did not order it to be burnt in Columbia. In this letter, which is written rather like a politician than a candid man, as I supposed Wade Hampton was, he says he did not order the burning of the cotton in Columbia. He does not deny that he ordered it to be burnt everywhere else. In Columbia probably it was not set fire to by his order, but he scattered it in such way that the accident which followed destroyed the capital of the State of South Carolina. I must confess that I do not shed many tears over the result, but in fixing the guilt of this charge I wish to fix it on the men who were themselves the cause of it.

It seems to me the impudence of this whole proceedings passes all imagination. He writes here to the Senate of the United States that the State of South Carolina is excluded from representation. Why? Because the authorities of the State of South Carolina violated their oaths; their people violated their duty of allegiance to support this Government. They had, for years, been trying to get out of this Government, and now they whine like whipped curs because they cannot come back here the moment they are whipped. It is degrading for a man occupying the position of Wade Hampton and all those leading rebels to beg and whine because they for a time are excluded for their crimes from representation here. They struggled for years to destroy their hateful association with Yankees. Why are they so anxious to resume these relations? The whole letter, not only the facts, but the omissions of fact and the impudence which dictated it, surpass all belief. Is it not strange that men like Wade Hampton, who were the original cause of this war, whose foolish bravado excited their people to resist the national Government, when they have felt the power of the national Government, come whining here with such a letter as this. When it is held up and read in the American Senate, it exhibits an amount of impudence that I did not conceive even a South Carolina rebel possessed.

Mr. JOHNSON. The honorable member from Maine would not have supposed that I presented a letter which was intended to be private, to the Senate, for nobody finds more fault with the practice of reading letters, particularly without giving the names of the writers, than I do and have done from the first. The letter which I have presented was sent to me for the purpose of being presented, and I considered it as in the nature of a memorial.

Mr. FESSENDEN. The Senator will under-

stand me. I did not apply that portion of my remarks to him particularly; but that has been practiced here, and I think the practice is very objectionable. It has grown up recently. I think it is equally objectionable to read a letter not addressed to the Senate, and to call for the Senate's attention, and take up the Senate's time in relation to it. Congress is to be addressed in a certain form; private matters are entirely out of place; and before I sit down I ask the Chair, what question is now before the Senate?

The PRESIDENT *pro tempore*. The question is on the reference of the letter offered by the Senator from Maryland to the Committee on Military Affairs and the Militia.

Mr. JOHNSON. I thought I had the floor.

Mr. FESSENDEN. Undoubtedly; but I had a right to ask that question.

Mr. JOHNSON. The letter which I have presented to the Senate was not presented on my own judgment alone. I showed it to the honorable member from Ohio, and he advised me to present it.

Mr. FESSENDEN. Bad advice, I think.

Mr. SHERMAN. I thought that the letter might as well be presented and the statement which I have made in connection with it.

Mr. JOHNSON. I presented it because the writer requested me to present it. It is not in the form of a memorial, but it is designed to effect the object of a memorial, to get the facts in which he supposes his reputation to be involved inquired into. Now, I am as far from justifying the conduct of General Hampton as the honorable member from Ohio. I think that in connection with all those who participated in the rebellion he sinned very materially against his duty; but it is possible that he may have been under the impression that he was right in what he did because of the peculiar construction which upon a certain subject they gave to the Constitution of the United States.

As I have presented the letter, it is proper, perhaps, that I should say that I think my friend from Ohio does the writer injustice in saying that he is whining over the fact that the representatives of South Carolina are not upon this floor. There is nothing in the letter which can be considered as whining at all, if I understand what whining is. He refers to that fact as a reason for sending to me what he wishes to be presented to the Senate. He states distinctly that he sends the letter to me because his State is not represented here; but that is immaterial.

Nobody can think higher of the gallant general to whom we are indebted so much for the termination of the rebellion than I do; nobody has more absolute confidence in his veracity than I have; nobody thinks higher or has greater confidence in the veracity of General Howard than I have; but it is possible that, notwithstanding General Wade Hampton, against his duty to the United States, engaged in the rebellion, he has not lost that claim to veracity which he had before the rebellion commenced; and he stood before the rebellion commenced as high in that particular as any man that I ever knew. He desires—and it is a natural desire—as the city of Columbia was burned, to clear himself of the charge of having effected that catastrophe.

General Sherman's letter states that he saw in a paper printed in Columbia what professed to be an order from General Hampton directing the burning of the cotton. That he denies positively; he says he gave no such order.

But, sir, it is unnecessary, and as the honorable member from Maine intimates, it is unnecessarily trespassing on the time of the Senate, to pursue the matter further. All that I desire is that the paper shall be referred to the Committee on Military Affairs, or allowed to lie on the table, just as may be the determination of the Senate.

Mr. FESSENDEN. I hope neither.

The PRESIDENT *pro tempore*. Does the Senator from Maryland vary his motion so as to move that the letter lie on the table?

Mr. FESSENDEN. Before any specific

motion is made, I desire to say that I think the proper disposition of this matter would be to refuse to consider this letter even by laying it on the table. It has no business here. Neither has it any business before the committee. It is a mere private letter, and Senators ought not to ask action upon it. I hope we shall simply refuse to consider it in any way.

Mr. CONNESS. I only rise to say that I cannot vote to send this letter to any committee of this body for the purpose of vindicating the reputation of Wade Hampton or any of his kind of men; and I am somewhat astonished that the honorable Senator from Ohio should feel bound to controvert his statements here or to vindicate the character of the eminent general bearing his name, or that of the United States Army against the charges of Wade Hampton. A man who undertook to burn and destroy this Government might well be taken to be able to perform the act of burning and destroying a city. There is nothing, and never has been anything, in the fair proportions of the city of Columbia, in South Carolina, that compared with the majestic proportions and great value of this Government to the human race; and yet the man who put himself forward and foremost in the work of destroying the one sends a letter here, and we are asked to vindicate him against the charge of burning and destroying the other. I have nothing to say other than to put it in that light.

As to the complaint denominated "whining," for it comes very near that, that South Carolina is among the States not yet given representation in this body, that complaint comes now from many quarters—quarters from which, had it emanated one year since, it would have caused surprise to every honest person in the land.

It is time that the parties who make those complaints had become ashamed to make them and to repeat them. It is of no consequence whether those States were ever out of the Union or whether they are out of the Union now; we know that their people in the mass, under daring and impudent leaders, like the man who sends this letter here, undertook to destroy the Government; and it is our duty to say when they shall be entitled to participation in the Government that they thus undertook to destroy. There is no power in them nor in any representative friends that they can have here or elsewhere which can commend them to representation in the Congress of the United States until the sober judgment of the people shall determine that they are fit for such representation.

I, too, join the honorable Senator from Maine in saying that this letter should not be referred to a committee or laid upon the table. Let those men retire from public gaze and let them perform works meet for repentance for their great crimes before they impudently thrust themselves forward for purposes of representation or for the purpose of engaging us in vindicating what is already a reputation so damaged that it never can be vindicated or justified.

Mr. WILSON. I do not see any need of referring this matter; and I hope this paper will be withdrawn by the Senator from Maryland, that thus the question will be ended. I desire to get up a resolution offered by me some days since, and which it is very important should be decided one way or the other. I refer to the resolution to allow this Hall for the use of Mr. Murdoch to give a reading for the benefit of the National Home for the Orphans of Soldiers and Sailors. I will simply say that Mr. Murdoch, since the war commenced, has twice given readings in this Chamber; and on both occasions Mr. Lincoln attended the reading.

Mr. SHERMAN. I move that the morning hour be extended until half past one o'clock, in order that we may conclude the morning business. I hope that that will be done by general consent.

Mr. WADE. Say two o'clock.

Mr. SHERMAN. Very well; but I want to get through with the Post Office appropriation bill to-day.

Mr. FESSENDEN. Let us get through with this matter.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Maryland to refer the letter read by him to the Committee on Military Affairs.

Mr. JOHNSON. I withdraw it.

Mr. LANE, of Indiana. I move to amend that motion.

The PRESIDENT *pro tempore*. The motion is withdrawn.

ORDER OF BUSINESS.

Mr. WADE. I now move to postpone all prior orders and take up Senate bill No. 203.

Mr. FESSENDEN. That is not morning business.

The PRESIDENT *pro tempore*. The Chair has not yet called through the business of the morning hour, but if the Senator from Ohio presses his motion the Chair will put it.

Mr. WADE. If there is any more morning business I waive my motion for the present; if there is not I insist upon it.

The PRESIDENT *pro tempore*. Reports from committees are now in order.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of George P. Remsburg, praying for an appropriation to provide for the support and education of his son, Charles Remsburg, who lost an arm on the 13th of April, 1865, by a volley fired by the provost guard in a public street of the city of Frederick, Maryland, submitted an adverse report thereon; which was ordered to be printed.

Mr. VAN WINKLE, from the Committee on Post Offices and Post Roads, to whom was referred the petition of John Gordon, praying for additional compensation for services as messenger in the Post Office Department, submitted a report accompanied by a bill (S. No. 294) for the relief of John Gordon. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred a bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 511) imposing a duty on live animals, reported it without amendment.

Mr. STEWART, from the Committee on Public Lands, to whom was referred a bill (S. No. 99) granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State, reported it without amendment.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred a bill (S. No. 263) to authorize the Winona and St. Peter's Railroad Company to construct a bridge across the Mississippi river and to establish a post route, reported it with an amendment.

BILLS INTRODUCED.

Mr. WILLEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 295) repealing the thirty-fourth section of the declaration of rights of the State of Maryland, so far as the same has been recognized or adopted in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 296) to incorporate the American Marine Insurance Company of Washington, District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

NEW YORK AND MONTANA IRON COMPANY.

Mr. WILSON. I now ask for the consideration of the resolution that I introduced some days ago, granting the use of the Chamber to

Mr. Murdoch on Thursday evening next, for the purpose of giving a reading for the benefit of the National Home for the Orphans of Soldiers and Sailors.

The PRESIDENT *pro tempore*. If the morning business is disposed of, the motion of the Senator from Ohio [Mr. WADE] takes precedence, in the opinion of the Chair.

Mr. WADE. Then I insist on my motion to take up Senate bill No. 203 for consideration.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 203) to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in market.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, and was read the third time.

Mr. GRIMES. I do not rise to discuss the merits of this bill, or to express an opinion as to whether it is wise or unwise for the Senate to pass it, but merely to place myself upon the record as being utterly opposed to the recognition of any such principle as is embraced in the bill. Senators who have read the bill have discovered that it completely overturns the whole land system of the United States. It proposes that a corporation created under the general laws of the State of New York, where a corporation can be created by any three, five, ten, or any other number of persons, for any purpose they please, may go into the Territory of Montana and there select twenty sections of land, make the surveys themselves, without any regard to whether they conform to the meridian lines or the base lines or the township lines of the United States surveys, and shall have a preemption right for two years, at the end of which time they shall be permitted to pay the Government price for the land. I find that there is no provision in the bill, so far as I can see, that will prevent the timber on the land from being utterly destroyed and used up for the purposes of the furnaces which it is proposed to establish there. I do not recognize the propriety of allowing a little corporation in an outside State to go into any of the new States or into any of the Territories and occupy land in the way in which this bill proposes.

I have only said this in order that I may not preclude myself in the future from occupying the position which I now do. I have no disposition to call for the yeas and nays, because I suppose the bill will pass anyhow.

Mr. WADE. I do not wish to take up the time of the Senate now, for I believe the objects and purposes of the bill are fully understood by the Senate. It is thought, I believe, by every one who has examined the subject, that nothing would so much tend to develop the mining and other interests in the Territory of Montana, and to facilitate the construction of the Pacific railroad in that direction, as by some method of this kind to have furnaces erected there, so that iron may be manufactured from the ores lying in that country, instead of being transported over the continent at a most ruinous expense. A company was formed of men, I believe as good as can be found in New York and Michigan and other places, who thought they might make it a profitable business for themselves, provided they could have the privilege of purchasing enough timber land to carry on their furnaces when they get there. As I stated the other day, and I would not repeat it now but for the fact that some Senators are present who were not here then, this enterprise could not be entered upon with any hope of success if, while this company were laying out the large capital which it will take to begin this business, some \$150,000 or \$200,000 at least, individuals could go on and take possession of all the wood land about them. The company then would be at the mercy of men who had not laid out a dollar for this purpose. They desire, therefore, to acquire suffi-

cient wood land; and they cannot get the wood land unless they purchase the title to the land itself. They ask Congress to enable them, in advance of the surveys there, to purchase this land at the Government prices, excluding them from all right to any minerals except iron and coal, or for using the grant for any other purpose except what is necessary to enable them to go on with this enterprise.

I believe every one admits that it will be highly beneficial to the people of that Territory and facilitate its settlement and the development of its mineral interests should this be done. Of that I have no doubt, and it seems to me nobody can have any doubt. Whether this will be profitable to those who invest in it is a thing which they must answer for themselves, but the object is certainly laudable. This bill does nothing more than anticipate, perhaps, by two or three years, the surveys of the land in that Territory. It is so remote that it has not been surveyed, though mining interests have sprung up which have carried a number of inhabitants there who would not have got there, probably, in a century had it not been for the mines discovered there. It is necessary, therefore, that these interests should be developed in advance, and every one who has turned his attention to the subject, so far as I have seen, believes that this bill will be beneficial, and I think nearly every one is in favor of it. The bill is guarded at every point. This company can acquire nothing but the title to this land, and they are to pay for it the same price, probably, that would be paid for it at some future period when it shall be surveyed and when anybody can go on and get it at the same price this company now offer. That is all there is about it. I hope the bill will pass.

The bill was passed.

PROTECTION OF UNITED STATES OFFICERS.

Mr. CLARK, from the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, submitted the following report:

The committee of conference on the disagreeing votes of the two Houses of Congress on the amendments of the Senate to the bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives concur in the first, second, third, fourth, fifth, and seventh amendments of the Senate.

That the House of Representatives concur in the sixth amendment of the Senate, with an amendment, as follows: strike out all after the word "act" in the fourth line of said amendment.

DANIEL CLARK,
LYMAN TRUMBULL,
Managers on the part of the Senate.
BURTON C. COOK,
SAMUEL McKEE,
Managers on the part of the House.

The report was concurred in.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 481) to amend an act entitled "An act to encourage immigration," approved July 4, 1864, and an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 3, 1855, and for other purposes;

A bill (H. R. No. 492) making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes; and

A bill (H. R. No. 545) making appropriations for the uses of the Bureau of Refugees, Freedmen, and Abandoned Lands, for the fiscal year commencing January 1, 1866.

The message further announced that the

House of Representatives had passed, without amendment, the following joint resolutions:

A joint resolution (S. R. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States; and

A joint resolution (S. R. No. 75) making appropriations for the expenses of collecting the revenue from customs.

The message also announced that the House of Representatives had concurred in the amendment of the Senate to the bill (H. R. No. 197) to provide for the better organization of the pay department of the Navy.

USE OF THE HALL.

Mr. WILSON. I now ask that the resolution be taken up allowing the use of the Hall to Mr. Murdoch.

The motion was agreed to; and the Senate proceeded to consider the following resolution, submitted by Mr. WILSON on the 27th of April:

Resolved, That the use of the Senate Chamber be granted to James E. Murdoch, Esq., on Thursday evening, May 3, for the purpose of giving a reading for the benefit of the fair to be held in this city for the National Home for the Orphans of Soldiers and Sailors.

Mr. RIDDLE. When this resolution was offered by the Senator from Massachusetts last week I objected to its reception. The reasons which induced me to object then actuate me now in opposing its adoption. I admit the talent and the ability of this great dramatist, but I am unwilling, by my vote at least, that this Hall, dedicated to legislation, shall be converted into a theater. There are plenty of halls in the city of Washington, and if this gentleman will get a hall for rent I pledge myself to take several tickets and to donate that money for the purpose which he is so anxious to assist, but never with my consent shall this Hall be converted into a theater or for any such purpose. You employ messengers and doorkeepers here, and you pay them a limited salary, and yet A, B, C, and D may come in here and get the privilege of the Hall, and you keep these messengers and doorkeepers here until midnight; you abuse your furniture; you wear out your carpets; and all this for nothing. Let Mr. Murdoch go elsewhere. I hope the Senate will not pass the resolution of the Senator from Massachusetts, and will not grant the use of this Hall to James E. Murdoch or anybody else.

Mr. WILSON. I will simply say that during the war Mr. Murdoch devoted most of his time to the cause of the country and of the soldiers, and gave one of his own sons, who fell in the war. Twice during the war he gave readings in this Hall; and I remember that on both occasions President Lincoln was present, and also Mr. Chase, and many of the most eminent men of the country. The Chamber was crowded by most excellent people; perfect order was preserved; no harm came of it, and I apprehend no harm will come of it now. It is a contribution to the cause of an asylum for the orphan children of soldiers and sailors who fell in the war. I hope we shall grant this privilege. If hereafter it is the intention or the purpose of the Senate to exclude all exhibitions of this kind, or of any other, from the Hall, let us settle the point, but I hope we shall not begin on this occasion.

Mr. CONNESS. I hope we will settle it now.

Mr. RIDDLE. I wish to ask the Senator from Massachusetts whether the House of Representatives have not passed a rule prohibiting the use of their Hall to any person except for legislative purposes.

Mr. WILSON. I understand they have done so at this session.

Mr. CONNESS. I move to amend the resolution by striking out all after the word "resolved," and inserting the following:

That the Senate will not grant the use of the Senate Chamber for lectures or readings or other such purposes.

I am willing to contribute to the extent of my means for the purpose, but it is clear to my mind that this Chamber should not be granted for this purpose, and that until a rule on the subject shall be adopted the warm-hearted

Senator from Massachusetts who leads in these matters will pour in upon us here, as the representative of the lecturers of both sexes in the country, requests for the use of the Chamber.

Mr. SHERMAN. I know Mr. Murdoch, and I know that he deserves this compliment on the part of the Senate; still I would not grant it to him if it was a mere personal favor; but the cause for which he will read on Thursday next is one that appeals to us so keenly and so warmly that I cannot refuse the request. The ladies of this city, and, indeed, many ladies throughout the country, are very much interested in establishing an orphans' asylum for the children of soldiers and sailors who have been killed in the service. They are now making great efforts in that direction. They are holding their fairs. They are giving public concerts. I attended one the other night that yielded them from six hundred to a thousand dollars, and the performers were all ladies and gentlemen of the city who gave their services gratuitously, and the hall was given gratuitously. It seems to me, the Senate of the United States cannot deny this small privilege when the object is to educate the orphan children of the soldiers and sailors who gave their lives in our service. It is the cheapest mode in which we can aid these beneficiaries, and I am perfectly willing to grant the use of this Chamber for any such purpose. If it was to inure to the benefit of Mr. Murdoch, I would not do it; but I know his generosity, and I know the feeling that has actuated him during the whole war. He gave assistance to the soldiers and sailors. He went into the camp. He read for them and cheered them. Indeed, he devoted four years of active life almost to their service, and gave a son to the cause of the country. No one could appeal to us more strongly than he; but I would not grant the use of this Chamber even to him if it were to inure to his benefit. But in consideration of the cause for which he is to give this reading, I certainly am willing to devote the Hall for such a purpose at any time. I do not think the damage will be very material if the Hall is taken care of.

Mr. POMEROY. I do not think we should put up the bars so that we shall not be able to grant the use of this Hall for any purpose, even if we do not let Mr. Murdoch have it. I think the Senate can consider each case when it is presented; and if they choose to grant the Hall for a particular purpose, I think we had better allow them to do it. I do not believe in passing an amendment to this resolution by which we shall deprive ourselves of the power of granting the use of the Hall to anybody we choose. I take it, the Senate will always have the good sense and judgment to be discreet in the matter, and will grant the use of the Hall to such persons as they may choose.

Mr. HOWE. I shall be very sorry if the Senate shall adopt this amendment; I shall be very sorry if the Senate shall decline to adopt the resolution offered by the Senator from Massachusetts; and upon precisely the grounds suggested by the Senator from Ohio. I have no idea that this Senate Chamber ought to take the place of a concert hall or an assembly-room; but, on the contrary, I have no idea that this or any other place is so sacred as that you cannot allow, properly, the cause of humanity to be served in it. When you find any such erection in the United States, whether it be the Senate Chamber or a synagogue, I am for taking it down. Mr. Murdoch proposes to read somewhere one evening in the cause of humanity. The Senate Chamber of the United States should be the first, if it is the most convenient hall, whose doors should be opened to such a call.

Mr. CONNESS. It appears to be evident, at least to my mind, that the bars must not be erected, and that humanity has many advocates here. I am very glad that that is the case. I propose to be humane, as I believe it a duty to be, in another way. But my purpose was merely to develop the judgment of the Senate

in regard to this question. If it is the pleasure of the Senate to grant the use of the Chamber for this purpose, I of course have little to say on the subject. I withdraw the amendment.

The PRESIDENT *pro tempore*. The amendment is withdrawn, and the question is on the adoption of the resolution.

Mr. ANTHONY. I should like to have the resolution so amended as to apply only to the galleries, and not have the floor open.

Mr. WILSON. I hope that amendment will not be made.

Mr. ANTHONY. I will not move the amendment if the Senator who has charge of the resolution does not assent to it.

The PRESIDENT *pro tempore*. Does the Senator withdraw the motion to amend the resolution?

Mr. ANTHONY. Yes, sir; as the Senator from Massachusetts does not like it.

The resolution was adopted—ayes twenty, noes not counted.

Mr. WADE. I now move to take up the resolution granting the use of this Hall to Mrs. Walling for the purpose of a lecture. The resolution was passed some time since, but was subsequently reconsidered, and is now on the table, I believe.

The PRESIDENT *pro tempore*. The resolution has passed from the desk. It will be returned in a few moments.

Mr. WADE. I suppose it will come in presently. We all know what the resolution is. It is to grant this Hall to this lady to deliver a lecture pertaining to national affairs. It was offered here some time ago and was discussed at some length. She wishes to have the use of the Hall on Monday evening, the 7th instant, and I will state now, while the Clerks are hunting for the resolution, that I shall move to amend it in that particular, changing the time. The day fixed in the resolution originally I believe has passed. I had nothing to do with the introduction of the resolution, but since it has been introduced I have seen the recommendations of this lady, and they are from such respectable sources that I have no doubt of her character and no doubt that it is good and commendable. I understand that she lectured before the Legislature of Ohio, in the Hall of Representatives there, to the great acceptance of the members and the people who were present. I am informed that the papers spoke very highly of her lecture. I know nothing about it in any other way. I move to take up the resolution because it has been pending for a good while, and it appears to me that, under the circumstances, we ought to grant this request, even if we grant no other. It seems to me we shall not be dealing entirely right with this question unless we do so. We all understand the circumstances under which that resolution was reconsidered.

Mr. SHERMAN. I will ask my colleague if the proceeds, or the money charged at the door, is to go to the benefit of this lady.

Mr. WADE. I do not know that she charges anything. I have no knowledge on that point. I do not know but that it is a gratuitous lecture.

Mr. WILLIAMS. It is a free lecture.

Mr. WADE. Her lectures are said to be very interesting, and she is said to be very able. I am told that it is a gratuitous lecture. I hope that the use of the Hall will be granted under the circumstances; and then if it should please the Senate to pass a resolution that the Hall shall never be used for this purpose again, I have no objection. I think, under the circumstances in which this resolution has placed this lady, that in justice to ourselves and to her, we ought to give her the use of the Hall. The Hall has been used before. It was said in the debate on a previous day, that this Hall had never been used for a purpose of this sort before; but that is not so. I am told that Miss Grace Greenwood—I believe that is not her proper name, which I have forgotten—has lectured here in this Hall. I do not remember it, but I have no doubt it is so. I hope we shall grant the privilege under the circumstances.

Mr. SHERMAN. As there is no hurry

about that matter, I hope the consideration of the Post Office appropriation bill may be resumed, as it is the special order. My colleague can call up this resolution at any time.

Mr. WADE. I will move that Mrs. Walling be granted the use of this Hall to deliver her lecture on Monday evening next, the 7th instant.

The PRESIDENT *pro tempore*. The Chair will state that the resolution has passed from the desk. The impression of the Chair is that a motion to reconsider was entered and passed upon by the Senate and the resolution rejected. If that is so, no proceeding under that resolution would be in order.

Mr. WADE. It was not rejected.

Mr. DOOLITTLE. It was reconsidered.

Mr. WADE. We reconsidered it, and left it there. I will consider this as a motion *de novo* then, but I wish it to be understood that the resolution was not rejected.

The PRESIDENT *pro tempore*. The Chair will entertain it as a new motion. It is moved that the use of the Hall be granted to Mrs. Walling for the purpose of a lecture on Monday evening next.

Mr. LANE, of Indiana. That assumes the form of a new resolution, and I object to its consideration to-day.

The PRESIDENT *pro tempore*. Objection being made, it lies over under the rule.

PACIFIC RAILROAD—EASTERN DIVISION.

Mr. SHERMAN. I now move to take up the Post Office appropriation bill.

The PRESIDENT *pro tempore*. That bill is the special order, and was only laid aside by common consent.

Mr. HOWARD. I suggest to the Senator from Ohio that there is a joint resolution reported by the Pacific Railroad Committee that ought to be taken up at a very early period and passed.

Mr. CONNESS. It will not excite any discussion.

Mr. SHERMAN. If it will not excite discussion—and I do not believe it will, as I know something about it—I have no objection to that resolution being taken up.

Mr. HOWARD. Then I move to take up Senate joint resolution No. 80.

The PRESIDENT *pro tempore*. The special order can be laid aside by common consent informally. No objection being made, it is laid aside temporarily by common consent, and the question is on the motion of the Senator from Michigan.

The motion was agreed to; and the joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern division, was read the second time, and considered as in Committee of the Whole. It proposes to extend the time for the completion of the first one hundred miles of railroad and telegraph line by the Leavenworth, Pawnee, and Western Railroad Company, (since called the Union Pacific Railway Company, eastern division,) mentioned in the tenth section of the charter of the Union Pacific Railroad Company, of July 1, 1862, and in the fifth section of the amendment thereof, of July 2, 1864, until the 27th of June, 1866; and the time for completing each succeeding section of one hundred miles is to be reckoned from the 27th of June, 1866.

Mr. HOWARD. I will state, very briefly, that this measure is introduced on the recommendation of the President of the United States, founded upon a communication made to him by the Secretary of the Interior, in which it appears that the company in question have acted in good faith and have proceeded to complete nearly one hundred miles of the road already, but they will not be able probably to finish it entirely according to the terms of the original charter by the day fixed by the charter. The Committee on the Pacific Railroad had the subject under consideration, and they were unanimous in recommending the passage of this resolution granting further time to the company, until the 27th of June, 1866, and

extending the time for the completion of the succeeding sections upon that road about one year forward, so as to make the time for the completion of the different sections correspond exactly with that fixed for the Omaha branch road. I beg to send to the Chair to be read a brief statement furnished to me by the president of the company, which will give to the Senate all the information which I think will be necessary.

Mr. SHERMAN. I doubt whether it is worth while to read that communication.

Mr. HOWARD. Very well.

Mr. POMEROY. There is no objection to the resolution at all.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 481) to amend an act entitled "An act to encourage immigration," approved July 4, 1864, and an act entitled "An act to regulate the carriage of passengers in steamships and other vessels," approved March 8, 1855, and for other purposes—to the Committee on Commerce.

A bill (H. R. No. 492) making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes—to the Committee on Commerce.

A bill (H. R. No. 545) making appropriations for the uses of the Bureau of Refugees, Freedmen, and Abandoned Lands for the fiscal year commencing January 1, 1866—to the Committee on Finance.

POST OFFICE APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The special order of the day, being the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, is now before the Senate, the pending question being on the following amendment offered by the Senator from Illinois, [Mr. TRUMBULL:]

Sec. —. *And be it further enacted*, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term, during the recess of the Senate and since its last adjournment.

Mr. TRUMBULL. Before proceeding with that, I desire to change the amendment which I have offered, slightly. I withdraw that amendment and offer the one which I send to the Chair as a substitute. It is the same with the exception of an addition at the close of it.

The PRESIDENT *pro tempore*. (Mr. POMEROY in the chair.) The Senator from Illinois proposes as a substitute for his amendment—

Mr. TRUMBULL. The amendment being under my control, I suppose I can withdraw it and offer this.

The PRESIDENT *pro tempore*. The Senator can modify his amendment. The amendment as now modified will be read.

The Secretary read it, as follows:

And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened during the recess of the Senate and since its last adjournment, by death, resignation, expiration of term, or removal for acts done or omitted in violation of the duties of his office; the cause, in case of removal, to be reported to the Senate at its next session.

Mr. HENDERSON. When the Senate adjourned yesterday evening, I was examining the power of Congress to pass the amendment proposed by the Senator from Illinois. At the

time that I was interrupted by the remarks interjected by the Senator from Kentucky, [Mr. DAVIS,] I had about closed the examination of the question in a political point of view; that is, I had examined the opinions of our distinguished men of various political parties since the organization of the Government down to the present time. I was just about to enter upon an examination of the question in a legal point of view, in order to show that the courts of the country have sustained the position which I took yesterday. I do not desire to take up much time of the Senate, and therefore shall hurry on with what little I have to say on the subject. I think that the view I take, and which I desire to see enforced after this long period of time—

The PRESIDING OFFICER. There is too much noise in the Senate. Senators will resume their seats.

Mr. HENDERSON. I cannot talk when there is so much confusion.

The PRESIDING OFFICER. Order must be preserved. The Senator from Missouri will proceed.

Mr. HENDERSON. It is very difficult to proceed when I cannot hear myself. I do not propose to occupy much of the time of the Senate, but this is an important question. I am perfectly aware that it is a proposition to change the entire policy of the Government on this subject, and some Senators who act with me politically have already expressed an opinion against the proposed amendment, doubting whether we have the constitutional power to adopt it. I am aware that the power claimed by the Executive to remove all officers in this Government has been exercised from the origin of the Government down to the present time. It is true, however, that during the first forty years of the Government, as I showed yesterday, but few removals were made; and indeed, looking back to that period, I find, as I shall attempt to show in a moment, that Mr. Madison, although he is the authority for this long-continued abuse, as I consider it, of the power of removal, declared at the time of the discussion to which I referred yesterday that if the President undertook to make removals without cause the exercise of that power on his part would be a just cause for impeachment, going to show most clearly that Mr. Madison never contemplated at the time the abuse of the position which he in the first debate on this subject took.

Before I proceed to examine the question legally—and I shall occupy but a short time in that examination—I propose to show the inducements held out to the American people for the adoption of the Constitution. It is a notorious fact that after the Constitution had been adopted by the Convention and placed before the people of the States an objection was urged on the part of many of the people against adopting it on account of the vast power of the Executive. That objection was answered in No. 77 of the Federalist. These papers were written and spread before the people for the purpose of inducing them to adopt the Constitution of the United States. In the seventy-seventh number, written by Mr. Hamilton, it is said:

"The consent of that body [the Senate] would be necessary to displace as well as to appoint. A change of the Chief Magistrate, therefore, could not occasion so violent or so general a revolution in the officers of the Government as might be expected if he were the sole disposer of offices. Where a man in any station had given satisfactory evidence of his fitness for it a new President would be restrained from attempting a change in favor of a person more agreeable to him by the apprehension that a discontinuance of the Senate might frustrate the attempt and bring some degree of discredit upon himself. Those who can best estimate the value of a steady administration will be most disposed to prize a provision which connects the official existence of public men with the approbation or disapprobation of that body which, from the greater permanency of its own composition, will in all probability be less subject to inconstancy than any other member of the Government."

Thus it will be seen that one of the inducements held out to the people of the United States to adopt this instrument was that the President would have no power of removal

except in conjunction with the Senate of the United States. As I stated yesterday, this wholesale removal of officers commenced, I believe, with General Jackson. It was continued by the Administration of Mr. Van Buren. Afterward, when General Harrison became President of the United States, it is a notorious fact to all the members of the Senate that the officers of the country were again changed. The officers who had been selected by the Democratic party during the twelve years of the Administrations preceding were turned out and Whigs were put in their places. Again, after Mr. Polk was elected in 1844, a wholesale removal was again carried on. In 1848, when General Taylor was elected, and under Mr. Fillmore's Administration, it is a notorious fact another wholesale removal of officers took place; and it has been continued from that day down to the present time; and I dare say it all proceeds from the idea advanced by Mr. Madison in the debate of 1789. It will be recollected, however, that in that debate Mr. Madison gave his opinion simply on the appointment of the chief executive officers who stand in a confidential relation to the President. It was in a debate on establishing the office of Secretary of Foreign Affairs, our present Secretary of State. There was some good reason for giving the power of removal to the President in cases of that sort. Objections were taken that the President should not have the power to remove even those officers, standing in so near and so confidential a relation to himself; and then Mr. Madison interposed his opinion, and becoming involved in the debate he afterward took the ground that the position was equally applicable to all officers; and therein consists the error, in my judgment, of this whole false theory that has grown up in the administration of the Government.

I have shown, I think, that it has been the opinion of the leading men of all the political parties of this country that this power of removal was one not granted to the President by the Constitution of the United States. It is notorious that Elbridge Gerry was opposed to it, and said that no such understanding ever existed in the Convention. Roger Sherman took the same ground. I will state another fact, while it is now before me, that the Judiciary Committee of the Senate in 1789, composed of nine members, decided against the view of Mr. Madison, and a majority of them voted against the passage of the measure carried by John Adams's casting vote. Of the members of the Judiciary Committee at that day, composed of nine as able men as then lived, five voted against giving this power to the President. The Judiciary Committee of the body that adopted the provision by one vote only decided against the existence of the power to remove on the part of the President.

But I do not rest alone upon the opinions of individuals. I might refer to the very able opinion given by Mr. Hamilton in 1790, years after the decision of Congress so much relied on, in a letter written to a friend of his. After he himself had been in office as the head of one of the Executive Departments of the Government, he gave an opinion from experience that his first views of the Constitution were correct. I refer next to Judge Story, in his work upon the Constitution. He, referring to this original debate, says:

"That the final decision of the question so made was greatly influenced by the exalted character of the President then in office, was asserted at the time, and has always been believed. Yet the doctrine was opposed, as well as supported, by the highest talents and patriotism of the country. The public, however, acquiesced in this decision; and it constitutes, perhaps, the most extraordinary case in the history of the Government of a power, conferred by implication on the Executive by the assent of a bare majority of Congress, which has not been questioned on many other occasions. Even the most jealous advocates of State rights seem to have slumbered over this vast reach of authority, and have left it untouched, as the neutral ground of controversy, in which they desire to reap no harvest, and from which they retired without leaving any protestations of title or contest."—*Story's Commentaries on the Constitution*, vol. 2, sec. 1543.

Judge Story declares it as his opinion that the appointing power has the power of removal.

In regard to inferior officers we can give the appointing power entirely to the President; but if we do not, if we reserve the right to give our advice and consent before the appointment shall be made, then he is clearly of the opinion, as are the courts that have adjudicated upon the subject, that the Senate has a voice in saying whether the officer shall be removed or not.

I know that the Senator from Maryland [Mr. JOHNSON] insisted yesterday that Mr. Madison ought to know, perhaps, better about this subject than anybody else. If Mr. Madison made no mistake on the question of constitutional power, he clearly made a very great blunder in regard to the future policy of this Government on the subject. He made predictions in regard to it which have not been fulfilled. For instance, Mr. Madison on the occasion of that debate said—I refer to Gales & Seaton's Debates, first volume, page 517—in answer to an objection which was urged by Mr. Gerry:

"The danger, then, consists merely in this, that the President can displace from office a man whose merits require that he should be continued in it. What will be the motive which the President can feel for such abuse of his power and the restraints that operate to prevent it? In the first place, he will be impeachable by the House for such an act of maladministration; for I contend that the wanton removal of meritorious officers would subject him to impeachment and removal from his own high trust."

Just think of it, Mr. President. Those gentlemen who laid the foundation of this great abuse of power in subsequent years of the Government took the ground that if the President did thus abuse the power thus put into his hands, he himself ought to be impeached! That was not the view alone of Mr. Madison; but Mr. Vining also, on page 531 of the same volume, remarked that—

"If the President removes a valuable officer, which seems to be the great danger the gentleman from South Carolina [Mr. Smith] apprehends, it would be an act of tyranny which the good sense of the nation would never forget."

Just think of it! Mr. Vining, who supported the power of the President, says it would be an act of tyranny on the part of the President to remove a valuable officer. Thousands and thousands have been removed under different Administrations, and removed without any cause whatever except that they disagreed politically with the power appointing them. If this idea of Mr. Madison and of Mr. Vining and of others in this debate which laid this unfortunate precedent in the administration of the affairs of this Government had prevailed, various Presidents would have been impeached and turned out of their offices. Mr. Baldwin also in that Congress said "that such an act would be an abuse of power." The mere removal of an officer for opinion's sake and without cause other than opinion's sake would be an abuse of power which, in the language of Mr. Madison, would subject the President himself to impeachment.

I think that, considering the fact that in every opinion that has ever been given by a leading statesman of this country from that day to the present, this debate in the First Congress is alluded to as authority, and considering the additional fact that in every judgment of a court from that day down to the present in which this question came under review, this debate has been alluded to for authority and the only authority on the question, we ought to examine the debate carefully, and if it turns out that the views entertained by distinguished men on the occasion have proven in the administration of the Government to be false and ruinous to the best interests of the Government, Congress ought now to resume the power with which it is clearly invested.

Without detaining the Senate I will allude to the first judicial opinion that I find upon this subject. It is reported in 1 Cranch, and I desire to call to this decision the attention of the Senator from Maryland, who expresses very confident views on this subject, and with whom I was disposed to agree when I commenced the examination of the subject. Relying entirely on the long practice of the Gov-

ernment, and supposing that it was utterly impossible that without good reasons the Government should have fallen into this practice, I was disposed at first to agree with him, but examination has led me to an opposite conclusion. The decision to which I now refer is that in the case of *Marbury vs. Madison*. Of course the question did not arise directly in that case, but a question akin to it did, and in one point of view perhaps the question itself arose; but it was avoided in the decision of the court, because it passed off on the power of the Supreme Court, in the exercise of its original jurisdiction, to issue the writ of *mandamus* to compel Mr. Madison to give the commission to Mr. Marbury. It seems that on the day before Mr. Adams went out of office, on the 3d of March, 1801, before the inauguration of Mr. Jefferson, he had appointed five justices of the peace in the District of Columbia, under a law which provided that they were to hold their offices for five years. The commissions were made out by Mr. Adams for those parties, signed by him, and sealed by the Secretary of State, but they remained in the office of the Secretary of State. The commissions were not delivered to the parties, and after Mr. Jefferson came into office, Mr. Marbury applied for a writ of *mandamus* to the Supreme Court of the United States, to compel the delivery of the commissions. The writ was to go against Mr. Madison, who was Secretary of State, to compel him to deliver the commissions to the parties to act as justices of the peace for five years. There is a concise statement of the case in the second volume of Story's Commentaries on the Constitution, page 406, section 1546, where it is stated thus:

"This subject was very elaborately discussed in the celebrated case of *Marbury vs. Madison*. Marbury had been appointed a justice of the peace of the District of Columbia for five years, according to an act of Congress, by President Adams, by and with the consent of the Senate. His commission had been signed by the President, and was sealed and deposited in the Department of State at the time of Mr. Jefferson's accession to the Presidency, and was afterward withheld from him by the direction of the latter. An act of Congress had directed the Secretary of State to keep the seal of the United States, and to make out and record and affix the seal to all civil commissions to officers of the United States, to be appointed by the President, after he should have signed the same. Upon the fullest deliberation, the court were of opinion that, when a commission had been signed by the President, the appointment is final and complete. The officer appointed has then conferred on him legal rights which cannot be resumed. Until that the discretion of the President may be exercised by him as to the appointment; but from that moment it is irrevocable. His power over the office is then terminated in all cases, where by law the officer is not removable by him. The right to the office is then in the person appointed, and he has the absolute, unconditional power of accepting or rejecting it. Neither a delivery of the commission, nor an actual acceptance of the office, is indispensable to make the appointment perfect."

Now I will read a few passages from the opinion of the Supreme Court in that case—it was the unanimous opinion of the court, pronounced by Chief Justice Marshall—to show most clearly that no idea ever entered the brain of a single judge that the President himself had the right of removal in cases where the law reserved to the Senate the power of consenting to the nomination before it was complete. The Senator from Maryland takes the ground—and I admit that he has the authority of the first decision by Congress, in 1789, but he has no other authority, because that decision is everywhere alluded to by the judges in their opinions, and they rely upon that alone—that the President has the right to remove an officer. I admit that that was the opinion given by Mr. Madison, but I desire to read from the opinion of the Supreme Court, to which I have called the attention of the Senate, as bearing on that point. The question arose whether under the circumstances I have stated the President had the right to withhold the commission. It was perfectly clear that the appointment had been made and confirmed by the Senate, but Mr. Madison, the Secretary of State, refused to deliver the commission, which was tantamount to a removal of the officer after his appointment, and it was notorious that Mr. Jefferson, the President, had so ordered it to

be done. The Supreme Court say—I read from 1 Cranch, page 156—

"Some point of time must be taken when the power of the Executive over an officer not removable at his will must cease."

What do the court mean by an officer not removable at the President's will?

"That point of time must be when the constitutional power of appointment has been exercised. And this power has been exercised when the last act required from the person possessing the power has been performed. This last act is the signature of the commission."

Again, in this opinion the court say—I read from page 162—

"It is, therefore, decidedly the opinion of the court that when a commission has been signed by the President the appointment is made; and that the commission is complete when the seal of the United States has been affixed to it by the Secretary of State."

"Where an officer is removable at the will of the Executive, the circumstance which completes his appointment is of no concern, because the act is at any time revocable; and the commission may be arrested, if still in the office. But when the officer is not removable at the will of the Executive, the appointment is not revocable and cannot be annulled. It has conferred legal rights which cannot be resumed."

They decided afterward in this case that this appointment was complete and perfect of itself, that it vested a right, and that the President could not in the particular case withhold the commission.

Mr. DIXON. Was that the case of a judge? Mr. HENDERSON. No; a justice of the peace in the District of Columbia. They only refused to issue the writ of *mandamus*, because they decided that in that case under the Constitution the Supreme Court had not original jurisdiction to issue the writ of *mandamus*; that it had only an appellate jurisdiction. It is true that the judiciary act of 1789 had attempted to give the Supreme Court the power to issue a writ of *mandamus*, but the court decided that the law in that respect was unconstitutional, because the Constitution only gave original jurisdiction in certain cases, and to issue a writ of *mandamus* was not one of those cases; and that view has been taken in some fifteen or twenty decisions between that time and this. But I read further:

"The discretion of the Executive is to be exercised until the appointment has been made. But having once made the appointment, his power over the office is terminated in all cases where by law the officer is not removable by him. The right to the office is then in the person appointed, and he has the absolute, unconditional power of accepting or rejecting it."

I am aware that the court decided in this case—and I think wrongly, if I may be permitted to differ from so able a court—that the President, after the confirmation by the Senate, has the right to withhold the commission, that the appointing power is not complete until the President signs the commission. The court seems to have fallen into this error from the fact that the two clauses—the one granting the appointing power, and the other providing that the President shall commission all officers thus appointed—occur in different portions of the Constitution, a circumstance which amounts to nothing, in my view of the Constitution. The granting of a commission by the President is a ministerial duty which he is compelled to do when he makes an appointment to the Senate and the Senate confirms it. It is, in my judgment, the absolute duty of the President under the Constitution of the United States to issue the commission in such a case, though I am aware the court in this case took a contrary view, and said it was necessary that the President shall have signed the commission and that it shall have been sealed in order to make it complete. Mr. Jefferson, in order to carry out this power of removal, continually resisted the idea that a writ of *mandamus* could go against any of the executive officers from any judicial tribunal whatever, which laid another foundation for error on this subject, in my judgment. When the President makes an appointment to an office, and the Senate confirm that appointment, it seems to me that the writ should go against the President to compel him to deliver the commission. The right seems to me

to be, then, entirely perfect and complete; and the absurdity of the opinion of the court is found in their own reasoning, because they say it is not necessary that the officer shall have the commission in his pocket in order to discharge the duties of his office; that an appointment may be complete without the delivery of the commission; that it is not the same as the delivery of a deed in order to make a grant of land complete, but that a man may properly be in the discharge of the duties of an office before the actual delivery of the commission. But read further from this opinion. On page 166 the court say:

"If by law the officer be removable at the will of the President, then a new appointment may be immediately made, and the rights of the officer are terminated. But as a fact which has existed cannot be made never to have existed, the appointment cannot be annihilated; and consequently, if the officer is by law not removable at the will of the President, the rights he has acquired are protected by the law, and are not resumable by the President. They cannot be extinguished by executive authority, and he has the privilege of asserting them in like manner as if they had been derived from any other source."

It will be observed that the court decided in this case that a justice of the peace in the District of Columbia appointed for five years, an office created by Congress, had a right to his office, after confirmation by the Senate, and a right against the President, and that the President could not defeat his right in consequence of a refusal to deliver the commission. If that be so, by analogy of reasoning why is it that the President of the United States has the power after the commission has been delivered and before the expiration of the term of office to remove? Is there any such right? Surely this opinion of the court has no meaning in it if such be the correct view.

The question has been adjudicated several times, and I refer next to the opinion of the Supreme Court reported in 13 Peters, page 230. This is a case in which the same question came up, and I think the opinion of the court is perfectly clear. It was an application by Mr. Hennen for a rule upon the judge of the district court of the United States for the eastern district of Louisiana to show cause why a *mandamus* should not be issued against him requiring him to restore Mr. Hennen to the office of clerk of the district court. It seems that from 1834 to 1837 Judge Harper had been judge of that district court, and having the appointment of the clerk of the court, he had exercised that right and had appointed Mr. Hennen clerk. Afterward Hon. P. K. Lawrence was appointed judge, and immediately upon his appointment he removed Mr. Hennen and appointed Mr. Winthrop clerk. Mr. Hennen resisted the right to remove him, and asked for this rule. The Supreme Court decided, of course, as they had done in the previous case, that they had not authority to issue the writ; that it could not go; and they decided also that the district judge had a perfect right to remove the former clerk and to appoint a new one; but now I wish to read from the opinion of the court to show that in their view the appointing power is the only power that can remove; and if that be true wherever Congress reserves to the Senate the right of giving its advice and consent to a nomination, the officer so appointed cannot be removed without the consent of the Senate. I read from the opinion at page 259 of 13 Peters:

"It cannot for a moment be admitted that it was the intention of the Constitution that those offices which are denominated inferior offices should be held during life. And if removable at pleasure, by whom is such removal to be made? In the absence of all constitutional provision or statutory regulation, it would seem to be a sound and necessary rule to consider the power of removal as incident to the power of appointment."

The President cannot appoint in some cases without the concurrence of the Senate. Where ever the concurrence of the Senate is necessary the Senate is a part of the appointing power, and if a part of the appointing power, the court say that the same power that appoints must necessarily, in the absence of any law on

the subject, have the power to remove. Again, on the same page, the court say:

"In all these Departments power is given to the Secretary to appoint all necessary clerks."

Alluding to the power of the Secretaries of the Executive Departments. We have by law given to those Secretaries the power to appoint their own clerks; the President has nothing to do with it; and the court held that where we have done that the heads of the Departments have the power of removal.

"In all these Departments power is given to the Secretary to appoint all necessary clerks (1 Story, 49.) and although no power to remove is expressly given, yet there can be no doubt that these clerks hold their office at the will and discretion of the head of the Department. It would be almost extraordinary construction of the law that all these offices were to be held during life, which must inevitably follow unless the incumbent was removable at the discretion of the head of the Department; the President has certainly no power to remove."

Why? Because he did not appoint; and he did not appoint because the law puts the appointing power elsewhere, and having put it elsewhere, if the officer is to be removed he must be removed by the power that appoints. The court say expressly that the power does not exist in the President to remove a clerk in one of the Departments; and yet it has been claimed on the floor of the Senate, and will be again claimed, that the power exists in the President to remove the head of a Department and to put somebody there who will remove the clerks. I deny that proposition. I say it is defeating entirely the Constitution; it is defeating the opinions of all, or a large majority, of the distinguished founders of our Government, leaving out Mr. Madison, and he surely, I admit, was as distinguished as any of them, and I give full weight to his opinions. It will be defeating the construction given by the courts in later days to the appointing power; and in the case from which I was quoting the court continue to say:

"These clerks fall under that class of inferior officers, the appointment of which the Constitution authorizes Congress to vest in the head of the Department. The same rule, as to the power of removal, must be applied to offices where the appointment is vested in the President alone."

If Congress gives to the President the power to appoint inferior officers, not reserving the right to consent to their appointment on the part of the Senate, then, say the court, the President has the right to remove of his own motion. Again the court say:

"And the Constitution has authorized Congress, in certain cases, to vest this power in the President alone, in the courts of law, or in the heads of Departments; and all inferior officers appointed under each, by authority of law, must hold their office at the discretion of the appointing power. Such is the settled usage and practical construction of the Constitution and laws under which these offices are held."

I am aware that in the opinion of the court, in this case, they refer to the decision of Congress in 1789, but they clearly give their dissent from the construction then sanctioned by Congress. There is another opinion of the Supreme Court in 19 Howard, to which I will not refer; it is unnecessary to do so, because it establishes the same doctrine to which I have referred in the other two decisions. On this same question Judge Story, at page 400 of the second volume of his Commentaries, section 1538, says:

"The language of the Constitution is, that the President 'shall nominate, and by and with the advice and consent of the Senate, appoint,' &c. The power to nominate does not naturally or necessarily include the power to remove; and if the power to appoint does include it, then the latter belongs conjointly to the Executive and the Senate. In short, under such circumstances the removal takes place in virtue of the new appointment by mere operation of law. It results, and is not separable, from the appointment itself."

It will be observed that Judge Story takes the ground that if the President can remove at all, it is by virtue only of a new appointment, and inasmuch as that new appointment has to come before the Senate for confirmation, if it is an office of that character which requires the confirmation of the Senate, of course no removal can take place until the Senate has confirmed the new appointment; that is to say,

the effect of the confirmation by the Senate removes the officer, and the officer is not removed until that confirmation occurs. He says further, section 1539:

"This was the doctrine maintained with great earnestness by the Federalist; and it had a most material tendency to quiet the just alarms of the overwhelming influence and arbitrary exercise of this prerogative of the Executive, which might prove fatal to the personal independence and freedom of opinion of public officers, as well as to the public liberties of the country. Indeed, it is utterly impossible not to feel that, if this unlimited power of removal does exist, it may be made, in the hands of a bold and designing man of high ambition and feeble principles, an instrument of the worst oppression and most vindictive vengeance. Even in monarchies, while the councils of state are subject to perpetual fluctuations and changes, the ordinary officers of the Government are permitted to remain in the silent possession of their offices, undisturbed by the policy or the passions of the favorites of the court. But in a republic, where freedom of opinion and action is guaranteed by the very first principles of the Government, if a successful party may first elevate their candidate to office and then make him the instrument of their resentments or their mercenary bargains; if men may be made spies upon the actions of their neighbors, to displace them from office; or if fawning sycophants upon the popular leader of the day may gain his patronage, to the exclusion of worthier and abler men, it is most manifest that elections will be corrupted at their very source, and those who seek office will have every motive to delude and deceive the people. It was not, therefore, without reason that in the animated discussions already alluded to it was urged that the power of removal was incident to the power of appointment; that it would be a most unjustifiable construction of the Constitution and of its implied powers to hold otherwise; that such a prerogative in the Executive was in its own nature monarchical and arbitrary, and eminently dangerous to the best interests as well as liberties of the country. It would convert all the officers of the country into the mere tools and creatures of the President. A dependence so servile on one individual would deter men of high and honorable minds from engaging in the public service. And if, contrary to expectation, such men should be brought into office, they would be reduced to the necessity of sacrificing every principle of independence to the will of the Chief Magistrate or of exposing themselves to the disgrace of being removed from office, and that, too, at a time when it might no longer be in their power to engage in other pursuits."

I read yesterday, Mr. President, from a speech of Mr. Webster in 1835. I desire now to read a little more from that same speech in regard to the policy of the exercise of such a power as is claimed for the President:

"The unlimited power to grant office and to take it away gives a command over the hopes and fears of a vast multitude of men. In the main it will be found that power over a man's support is a power over his will. When favors once granted may be withdrawn at pleasure, there is ordinarily little security for personal independence of character."

"The power of giving office thus affects the fears of all who are in and the hopes of all who are out; those who are out endeavor to distinguish themselves by active political friendship, by warm personal devotion, by the clamorous support of men in whose hands is the power of reward, while those who are in take care not to be surpassed in such qualities or conduct as will secure favor."

Again:

"The consequence of this is, that a competition ensues, not of patriotic labors, but of complaisances, of indiscriminate support of executive measures, of pliant subservience, and gross adulation."

"The patronage of office, the power of bestowing place and emoluments, creates parties, not upon any principle or any measure, but upon the single ground of personal interest, and thus they form round a leader and go for the spoils of victory; if the party chieftain becomes the national chieftain, he is apt to consider all who oppose him as enemies to be punished, and all who have supported him as friends to be rewarded."

"Blind devotion to a party and to the head of a party thus takes the place of the sentiment of genuine patriotism and a high and exalted state of public duty."

I desire now to refer to one more authority, and I shall relieve the Senate. I refer to the opinion of Judge Story, in his Commentaries, to justify the legislation that is attempted by this provision offered by the Senator from Illinois. He says, on page 405 of volume two, section 1544:

"Whether the predictions of the original advocates of the executive power or those of the opposers of it are likely, in the future progress of the Government, to be realized, must be left to the sober judgment of the community and to the impartial award of time. If there has been any aberration from the true constitutional exposition of the power of removal (which the reader must decide for himself), it will be difficult, and perhaps impracticable, after forty years' experience, to recall the practice to the correct theory. But at all events, it will be a consolation to those who love the Union and honor the devotion to the patriotic discharge of duty, that in regard to 'in-

ferior officers' (which appellation probably includes ninety-nine out of a hundred of the lucrative offices in the Government) the remedy for any permanent abuse is still within the power of Congress by the simple expedient of requiring the consent of the Senate to removals in such cases."

Mr. President, I have occupied too much of the time of the Senate, but the question is an important one. I know perfectly well that this proposition will be attacked all over the country, and it will be declared that it is an effort on the part of the Senate to curb unconstitutionally the power of the Executive. As I stated yesterday, I have no war to make upon the Executive; I have made no war in this body or elsewhere upon the Executive; but I have felt for many years that if this practice is to go on, whenever a President comes into office, of removing all officers who disagree with him in political opinion, however meritorious they may be, however deserving the confidence of the country; if the public offices are to be given as mere rewards for party fealty and without consideration of merit, it will ultimately lead to a destruction of our Government. I believe this as conscientiously as I believe any fact on earth; and it is not for the purpose so especially of curbing the present Executive as to curb any Executive who may come after him that I favor the amendment. The Senator from Maryland said yesterday that this precedent would return to plague the inventors. I hope so. If the next Executive shall be elected, as the present one was, receiving my vote, I desire that this same curb shall apply to him, and I pledge the Senator from Maryland that if this proposition is adopted no vote of mine, so long as I hold a place here or elsewhere where I can affect the question, will ever be given to confer upon the President an absolute power of removal.

It is clear that we have the power to legislate on this subject. I have shown it from the contemporaneous history of the Government. I have shown it from the opinions of all the leading men of all political parties. I have shown it from the legislation of the country. It was only three sessions ago that we passed an act in regard to the Comptroller of the Currency, that Mr. Lincoln should not remove him without the consent of the Senate. I know it was modified the session afterward, and it now stands that the President must give his reasons for such removal to the Senate, without retaining for ourselves that power which we rightfully hold of preventing the removal entirely. I cannot doubt that we possess this right.

If this assumed power of removal by the President was a dangerous power in days gone by, how much more dangerous has it now become! I disagree with the Senator from Ohio and the Senator from Maryland that patronage of this character is calculated to weaken the man who holds the power of dispensing it. I think I have shown from the opinions of Judge Story, from the opinions of Mr. Webster, from the opinions of Mr. Calhoun, (which I might read to substantiate the others if it were necessary,) that they believed from circumstances surrounding them at the particular time that it degraded the American character; that it was calculated to make clamorous partisans of the Executive of all men who happened to hold office for fear they might be removed; it took away the independence of those who were in office and made mere slaves and barnacles of those who were out. We see plenty of it now. It is not worth while for us to disguise the fact; we know there is the greatest abundance of it at this day. We know that individuals in office who, judging from their past course, do not at heart agree to the policy of the Executive, have become clamorous advocates of it, and we know also that individuals who are outside have become clamorous advocates of the President's policy for the mere purpose of obtaining office. If any incumbent of any office anywhere in the land stands in opposition to the President's policy; there is somebody ready to take his place, and ready to declare his fealty to the policy of the Administration. Now, I do not

pass on that policy, because it does not legitimately come in the purview of my argument. I have nothing to do with it on this occasion. I have attempted to examine this question legally and historically, and I think I have shown beyond all doubt to the unprejudiced mind that the power proposed to be exerted exists in Congress. Now, are we to exercise it or not? That is the question. Are the circumstances of the country such as to induce us to exercise it? I say they are.

I am not afraid to take my position on this subject. I have nothing to ask from the present Executive in the way of patronage; and I can safely express the opinion here that if I had the President would not grant it. I am satisfied from various appointments that have been made in my own State, and from appointments that I understand are to be made in that State, that nothing I could say would have any influence whatever. Gentlemen may say that is the reason why I insist upon this proposition. We have had a bitter contest in the State of Missouri; we have had a bitter contest in this nation; it has been a contest for the life of the nation itself; and if patronage is to be distributed, I for one am frank to say that if it is in my power to prevent its going into the hands of those who, during the last four or five years have advocated a policy antagonistic to my own and antagonistic to the nation, to the existence and salvation of liberty on this continent, I will prevent that.

I do not wish to be misunderstood. I do not wish gentlemen to misunderstand the position I occupy here. I am frank. I have nothing to ask of anybody; I am indebted to nobody; I feel dependent on nobody; but I desire to see the fruits of the victory we have achieved in this late contest garnered up and kept in the future for the preservation of liberty and of freedom in this nation, and that they shall not turn to ashes upon our lips. I do conscientiously believe that the policy entered upon by the President is well calculated to dash the hopes of the Union men of this nation. I have often said, and I now take occasion to repeat, that it is not my belief that the President intends by his course of policy, whatever it may be, to put under his heels the Union men of this land, and to build up the old rebel party. I have never so said, nor do I now say it; but I say that the effect of his policy is just that thing and nothing else. He has adopted a policy for the restoration of the southern States. Congress claims to have something to do with it; the President thinks not; and he persists in forcing upon us a system of policy to which we object and which we believe will put in power our enemies, not only in this branch, but in the other branch of the Legislature also.

Mr. WILSON. The enemies of the country.
Mr. HENDERSON. When I speak of "our enemies" I mean the enemies of the country. I believe that this course of conduct is well calculated to break down the moral sentiment of the country; and if we in our capacity here can uphold that sentiment it is our duty to do it, and I for one am willing to take the responsibility. I am not willing to violate the Constitution to curb the President. I want to see my way clear; I want to see it perfectly clear; but I am willing to declare now that in every particular in which I can, for the time being, curb that power constitutionally, legally, and in consonance with my own views of right, I will do it. I will do it because I have personal knowledge of some appointments. I will do it because I believe that if this course of policy be persisted in we shall inevitably have further trouble in this country. I do not charge that such is the design of the President. I hope that none such he has. I alluded yesterday to a newspaper article; I have it with me now. We all know that there is a difference between the President and the Senate. It is not worth while to disguise the fact; the country understands it. Measures have been passed by this body and sent to him which he has vetoed, and they

have come back; one of them has been passed; the other has been defeated. We know perfectly well that a very strong and powerful party is being organized against the majority in this body. We do not know their future intentions, we do not know their future designs; but we do know that in just such periods as are now upon us, in the past history of other nations much trouble has come. I do not know whether it is the intention to carry out the advice of many papers given to the President in my State and in other States; it is not only in the southern States that this advice is being daily given, but it is in the great West that we find advice of this character given to the President. I hope that nothing like it will be undertaken by him or others who agree or believe with him; but we do not know to what extent this vast power of patronage will urge the President; we do not know what he may attempt; we do not know how confident he may feel in his position; we do not know where this controversy that is now being carried on is to end. I take from a paper of very great influence and large circulation in the West this extract:

"If the disunion majority in Congress persist in their revolutionary measures"—

Several SENATORS. What is the paper?
Mr. HENDERSON. The Illinois State Register, published at Springfield.

"If the disunion majority in Congress persist in their revolutionary measures, let the President take care of them. Capitol prisons and Government battlements have yawned for purer patriots and better men than these incendiaries. Let the leader of the House, Thad. Stevens, and his revolutionists, and the leaders of the Senate, Sumner, Wade, and others of that class, be seized in the Halls they desecrate and be imprisoned. Let the southern members of Congress return to Washington and be duly installed in their seats. Then, on promise of amendment, let those revolutionists out, and the Union will be restored indeed. That day will be an illustrious one for the country, and will make the name of Andrew Johnson truly immortal."

I took up a paper yesterday from New Orleans in which I saw similar advice. The other day I took up a paper from Mobile, Alabama, in which I saw similar advice. I alluded yesterday to language used by the Senator from Kentucky, [Mr. DAVIS.] I regret very much that I should have been the innocent cause of the colloquy that then took place between him and others. I take this occasion to assure the Senator that I was not aware that he had even neglected to publish his remarks made upon a previous occasion. I knew nothing of that, and I did not allude to what he had said for the purpose of criticising the conduct of that Senator in this body or of censuring anything that he may have said or done; but I alluded to it for the purpose of showing that even gentlemen occupying places on this floor entertain this opinion and have expressed it. If this advice were carried out, do you not know that if the southern Senators should come here and organize with the minority of this body, and the southern Representatives should organize with the minority of the other body they would be in the majority? Do you not know perfectly well that if the President has the power to recognize them as the Congress, it will become absolutely essential for him to carry out the advice given in this newspaper extract; that is, to seize the Union majorities of this present body and the other House and put them into bastiles? Do you suppose we should silently submit? Would we any more do it than the Parliament submitted to Charles I?

Sir, if unfortunately a state of affairs of that sort should come upon us, we all know what would be the result: another war, the most terrible ever seen or known in this land, would be upon us. I know what the final result would be. We might have a longer war than we have had; more cities would be burned, more individuals would be killed, more blood would be spilled; there would be desolation in this land not seen or dreamed of during the past war. We know not where the ambition of man will go. I believe that the recent rebellion very largely sprang from this thing of appointments to and removals from office. I believe that

when Mr. Buchanan left the Presidency, and Mr. Lincoln came in, the idea of the southern people was that they for all time to come were to be denied the public crib at which they had fed heretofore, and that that belief rushed them into this rebellion. I know they used the slavery question, but they used it as a means of putting themselves in power.

But, sir, I was saying that if a controversy of this sort should come, the issue would be the same that it was between Charles and the Parliament, and the result would be inevitably the same; but it would come after long trouble, after much suffering, after many tribulations. I know that Senators will say it is entirely unnecessary to refer to these things. Mr. President, I tell you, and I tell Senators, that this controversy has gone far enough. I do not say that it is our duty to cease; I do not believe any such thing; but I would gladly to-day, if it were in my power, bring it to an end, as I gladly attempted for many months before the controversy commenced, by all the influence I could bring to bear upon the Executive, to avoid it. I feel that whatever the controversy may lead to in the future, whatever calamities it may bring upon the country, my skirts are clear, and that I did all in my power to prevent it. I would that the course of the Executive had been such as to give the country the real results of our victory.

So far as I am concerned, I have not thought, and I do not now think, that the Congress of the United States has met this controversy as it ought to have done. When the war commenced, it was upon the idea of the inferiority of a race. Mr. Stephens said that our forefathers had built upon a false idea, that all men were equal; and that having built upon the sand, when the storms and the floods came their house fell. It turns out that Mr. Stephens was mistaken, and that the house we occupied was built upon the rock. The idea of the equality of men should be inflexibly adhered to. The question might easily have been settled when the war was over. Slavery was abolished, but slavery was the mere result of an opinion; that opinion was, that there was a difference between men, an inferiority which justified one in making himself the guardian of another, and that the patriarchal relation necessarily resulted from this inferiority. When this house fell and when this idea was exploded we ought to have adopted and insisted upon the other idea of the absolute equality of all men, and built our house upon that. But we are not to do it; I am perfectly aware of that; I know it will not be done.

We shall fail in that endeavor, at least for the present; but then how much have you changed the whole negro question; once it was slavery and anti-slavery; the negro was made use of merely for party power. Now the negro is free, to be sure, physically free; but we are to have the contest over again as to whether he shall be free really. You have merely changed the form of the controversy, and for years and years it will go on as to whether four or five million people in this country, paying taxes, supporting the Government, bearing arms in defense of your country in the great war that we are to have with Austria and other nations of the world, referred to by my friend from Maryland yesterday, are to have any rights at all in the Government. The policy of the Executive is, of course, that they shall have none. That is the controversy really. Hence your Freedmen's Bureau bill was an effort on the part of Congress to give them the rights that were about to be taken away from them; hence your civil rights bill, which was to give them those rights of life, liberty, and property, which were denied to them by the legislation of the southern States. Both of these bills were vetoed. My idea has been that we needed no civil rights bill, though I voted for it; that we needed no Freedmen's Bureau bill, although I voted for it; but that we could attain the object of both and reach it much better by giving them the rights that

belong to every man who assisted in upholding and supporting the Government. That has been my view. I may be mistaken, but I entertain it sufficiently strong to say that if the President will continue to carry out an antagonistic policy, denying to them the rights of life, liberty, and property, denying to them that generosity and kindness which we are willing to extend to them; if the President be unwilling under any circumstances to extend to them the right hereafter to participate in government, which we are told must always rest upon the consent of the governed in order to be truly republican; if he will persist in that course of policy, I think it will justify us taking all legal and constitutional means to restrain his power.

But, Mr. President, I have said enough. I have frankly stated what my views are. I have no concealments to make. Others may seek to conceal their purposes; I do not. I want to be justified first by the Constitution; I want to be justified by laws that stand upon a sound constitutional basis; and when I have done that I would restrain this power, because I believe that it is degrading to the country; because I believe that under Administrations to come after us much harm may accrue to civil liberty in this country unless we pluck out this corrupting and baneful influence in the Government.

Mr. JOHNSON. Mr. President, I rise with no view to discuss the policy of the President of the United States, or to contrast that with what is supposed to be the policy of those who differ from him and who constitute the majority of Congress. I have but a word to say in relation to the first, and that is that if I understand what his policy is in the particular referred to, it is that which was adopted and carried out to a certain extent up to the period of his decease by his immediate predecessor. But however that may be, it has nothing to do, as I think, with due submission to my friend who has just taken his seat, with the question which is now submitted for the judgment and decision of the Senate. That question is one of constitutional law, and it should not be influenced, whatever may be the fact, by any political considerations except such as grow out of the nature of the Government constituted by the Constitution. We ought to ascertain what the Constitution is with reference to the subject before us, and to stand by it, no matter what its effects may be upon the party political destinies of the country.

The question is whether, under the Constitution, the President has the power to remove officers without the consent of the Senate; and the question, as it is presented by the amendment proposed by the honorable member from Illinois, comprehends every class of officers whom he may appoint with the advice and consent of the Senate. It embraces, consequently the members of his Cabinet who are called around him for the very purpose of aiding him in the administration of his office, in whom he is to confide, in whose sincerity of friendship, political as well as personal, he ought to rely; and if the Senators will look to what was said in both Houses of Congress at the period when the several Departments were organized, they will see that it never entered into the imagination of any of the statesmen of that day that the President could be compelled to retain in his Cabinet officers in whom he had ceased to confide, no matter upon what ground his confidence was lost. If he suspected a want of integrity, without having any positive proof, nobody doubted that it would be not only his right but his duty to remove. If he suspected or believed a want of fitness, the same was the universal opinion. If he suspected that they were hostile to what he believed to be a proper discharge of his duty, nobody questioned that he would have a right to dispense with them and to get around him men who would, with himself, be a unit with reference to all the executive functions intrusted to that department of Government. But if you adopt this amendment as it is now altered by my friend from Illinois, you to a

certain extent deny to him the right to remove a Cabinet officer, because the amendment as it now stands provides that if he does remove he must at the next session of the Senate report to the Senate the reasons upon which he removes. What is to be the effect of that, provided you have the authority to impose it? Suppose the reasons are not satisfactory, is the Cabinet member who has been removed to be reinstated? The amendment does not say so; and if it did say so, what would be the principle which the Senate would have adopted? That of forcing upon the President of the United States a Cabinet officer in whom he has no confidence, whom he believes to be untrue to duty, incompetent to the discharge of his office. The Senate may think differently from the President; they may believe that he has been true to duty, that he has every competency necessary to the discharge of the duties of the office, and so decide; is that to reinstate the minister who has been removed? This amendment does not say so. If it does not say so, what is to be the effect of the amendment? To get before the Senate some ground upon which the other branch of Congress may impeach the President of the United States.

Now, I speak knowingly, Mr. President, when I say that whatever doubt was expressed during the session of the Congress of 1789 in relation to the incidental power of the President to remove, no member of that body (and many of them had been members of the Convention by whom the Constitution was framed) ever suggested that the President could be compelled to keep around him any Cabinet officer whom he desired to displace. Let gentlemen reflect for a moment. We are not legislating now for an hour. Whatever may be the supposed exigency of the time, growing out of any actual or supposed difference of opinion between the President and Congress, what we do now—

"Will be recorded for a precedent:

And many an error, by the same example,
Will rush into the state."

We are but the creatures of an hour. This nation, I trust, is to last as long as anything human continues, ever growing in prosperity and power; and yet the principle included within this amendment strikes a vital blow at the executive department, and is inconsistent with all the objects which it was the purpose of the Convention to have accomplished through the instrumentality of that department. The Senate are not to be told that the second article of the Constitution of the United States, by which that department of the Government is created, says that "the executive power shall be vested in a President;" nor are they to be told that in the celebrated controversy between Mr. Madison and Mr. Hamilton in relation to the proclamation of neutrality, in letters written over the signatures of "Pacificus" and "Helvetius," Mr. Hamilton took the ground that every power, executive in its nature, except so far as it was restrained by the Constitution, was by force of the terms by which the executive department of the Government was created invested in the President. In the debate in 1789, to which my friend referred, Mr. Madison expressed the opinion with such a positive conviction of its correctness that from that time it has been practically acquiesced in. A part of the discussion in which Mr. Madison participated at that time the honorable member from Missouri has not read. Let me call the attention of the Senate to it for a moment. Mr. Madison in that debate used this explicit language:

"I think it absolutely necessary that the President should have the power of removing from office; it will make him in a peculiar manner responsible for their conduct, and subject him to impeachment himself if he suffers them to perpetrate with impunity high crimes or misdemeanors against the United States or neglects to superintend their conduct so as to check their excesses. On the constitutionality of the declaration I have no manner of doubt."

Now, let me stop for a moment to inquire, if there was no such power of removal what would be the condition of the country and what would be the condition of the President? He is sworn to see to the faithful execution of the

laws; and how can he do it? Not personally; it can only be done through the instrumentality of subordinate officers named in the Constitution, or officers appointed under the authority conferred upon Congress by the Constitution. He finds that the laws are not being executed, that an incumbent disregards his duty, is guilty of excesses, is dishonest, is appropriating the public money to his own purposes; what is he to do? He cannot execute the laws except by means of officers; he cannot go into the country himself and collect the revenue; he cannot be at every custom-house in the country and see to the collection of imposts; he cannot go himself personally throughout the country and collect the internal tax, whatever that may be; he cannot execute the judgments of the courts; he cannot go with your Indian agents and see that they properly apply the money set aside by Congress for that purpose. He is obliged to do it through the instrumentality of subordinates, and he finds that they are faithless; what is he to do? You adjourn on the 4th of March; you cannot sit longer at the second session; you do not meet again until December. According to this amendment, although he may turn out, (for the amendment does not deny that,) he cannot supply the places of those who may be dismissed; or unless he can find anybody disposed to take the place upon the contingency that the Senate will thereafter approve of the appointment, the place is not to be filled.

Well, then, your imposts are not collected; your tax remains in the hands of those who are liable to pay it; the duties which you owe to the Indians and the execution of your treaties with them remain unperformed. The Government, in a word, comes to a stand-still; and my honorable friend from Missouri thinks it would be pregnant with great public mischief to give to a President of the United States, elected by a majority of the people of the United States, a power of removal because he may abuse it. Certainly he may. Cannot we abuse our power? Are we individually better than he is? I do not speak of the present members of the Senate or of the House of Representatives or of the present incumbent of the presidential office; but looking into the manner in which they are respectively elected, is it a bit more probable that the President of the United States will be corrupt or prejudiced, almost to the point of practical corruption, than it is that some members of Congress may be corrupt; or to put a more respectable supposition, is it probable that they will be more enlightened and more able to see the true interests of the country than the President of the United States? I think not.

As far as my knowledge extends, nobody has ever impeached the personal integrity of any President of the United States. As to that, each has been spotless in the public estimation. Errors of judgment have been imputed to them; imbecility was imputed to him who preceded President Lincoln; that is to say, an imbecility which unsuited him for the exigencies in which he was placed; but in point of personal integrity his character never was assailed. Members of the Senate have been charged with improper conduct, and have been expelled; members of the House of Representatives have been charged with improper conduct, and have been expelled. So then in point of fact, looking to the experience of the country, it is just as likely that misconduct may be found in the Halls of Congress as that it may be found in the executive chamber.

But what is to supply the evil consequent upon the inability of the President to execute the laws because the officers placed under his charge are not fit, either morally or intellectually, to execute the laws? Above all, when you charge him, as a Congress would have the right to charge him; when the judgment of the country would charge him with having abandoned his duty in seeing the laws faithfully executed, and he comes before you and defends himself upon the ground that his officers were incompetent, you would, at one

time, and every Senate will hereafter, if that should be the ground of impeachment, tell him in reply, "It was your duty to remove the incompetent."

I know that when the question was first presented, in 1789, there were differences of opinion, and I know that it was decided in favor of what has been the practice ever since by the casting vote of the Presiding Officer in this body, but it received a majority of more than twenty in the House of Representatives. And see what Chancellor Kent says upon the subject. He seems to have doubted it as an original question; but after citing the preamble of the act of 1789, establishing the Treasury Department, which declared "that whenever the Secretary shall be removed from office by the President of the United States," thus assuming the power to remove, the commentator says:

"This amounted to a legislative construction of the Constitution, and it has ever since been acquiesced in and acted upon as of decisive authority in the case. It applies equally to every other officer of Government appointed by the President and Senate whose term of duration is not specially declared. It is supported by the weighty reason that the subordinate officers in the executive department ought to hold at the pleasure of the head of that department, because he is invested generally with the executive authority, and every participation in that authority by the Senate was an exception to a general principle, and ought to be taken strictly. The President is the great responsible officer for the faithful execution of the law, and the power of removal was incidental to that duty, and might often be requisite to fulfill it."—Kent's Commentaries, part 2, vol. 1, p. 310.

My friend from Missouri seems to suppose that he has found in the case of *Marbury vs. Madison*, and in a subsequent case that he cited from Peters, decisions of the Supreme Court of the United States at war with that principle. He entirely—I speak it respectfully—misapprehends both cases. The Constitution of the United States provides for certain officers by name; it gives to the President of the United States the authority, by and with the advice and consent of the Senate, to appoint to offices of that description. It vests in Congress the authority to give the power of appointment of other and inferior officers to any other department of the Government that it may think proper; and as Mr. Justice Story says, in the passages referred to by the honorable member from Missouri, under the latter authority nearly all the evils supposed to be incidental to the sweeping power of the President to remove may be guarded against, because Congress, under the power of providing for the appointment of inferior officers, have a right to provide for the term of office, and to make the particular officer independent of the Executive.

And now, what did *Marbury vs. Madison* decide? Mr. Adams, just at the close of his administration, appointed a number of magistrates here in this District, and he appointed a good many judges under a law passed about the same time constituting additional circuits of the United States, and making the Supreme Court of the United States exclusively an appellate tribunal. Before Mr. Adams went out of office his nomination of Marbury had been confirmed by the Senate, sent to the President, and a commission issued which he signed and which was deposited in the archives of the State Department, but was not delivered. The Supreme Court of the United States, upon an application made by Marbury for a *mandamus* to compel the Secretary of State, not the President, to deliver the commission, decided the question of the right of Marbury to the commission. With due deference to the very distinguished man then at the head of that court, and to those who were associated with him, I must be permitted to say that in doing so they committed, in my judgment, a very grave fault. They committed the same fault which the Supreme Court afterward in the *Dred Scott* case is supposed to have committed. They committed the fault of deciding a controversy in a case which was not before them, because after a labored and an able argument, as every argument flowing from the pen of that great man ever was, they came to the conclusion at the end

of the opinion that the whole matter was *coram non jure*, that the act of 1789 which gave an authority to issue the writ of *mandamus* was to be construed in connection with the Constitution of the United States, and in such a case as was before them Congress had not power to clothe the court with the authority to issue the writ except in cases in which they had an appellate jurisdiction. Their original jurisdiction being of a limited character and that not including such a case as *Marbury* presented, Congress had no authority, as they said, to give to the Supreme Court of the United States the power to issue the writ, and they dismissed the application and it has ever been a subject of regret that principles should have been announced in that opinion upon the merits of the controversy which, as the result showed, in the opinion of the court were not before them. The court fell into the great error of assuming jurisdiction so far as to decide a controversy which they afterward held in the same opinion was not before them because of the want of jurisdiction; and the Supreme Court in the subsequent case of *Dred Scott*, in the opinion of some, was thought to have fallen into the same error, and that in part has led to the severe animadversions upon that adjudication.

But, Mr. President, suppose it was before them, and suppose that opinion to be esteemed as authority, what does it decide? That Congress having created the office of magistrate, an office not known to the Constitution, and under their power to create having provided that the term of service of the incumbent should be five years, the incumbent was not liable to be removed until the expiration of that period, never denying—I think I speak knowingly; Heaven knows I have had occasion to read the judgment often enough—never denying the existence of the power decided in 1789 to exist in the President of removing officers generally; and the same remark is applicable to the case which my friend has cited from the thirteenth volume of *Peters*.

But if the honorable member had pushed his researches further he would have found another decision; and if he was at the bar, and we were trying a case, I should rather think it was because he found something in it against his argument.

Mr. HENDERSON. I referred to it.

Mr. JOHNSON. The case to which I allude was this: the Supreme Court having decided in the case of *Canter vs. The American Insurance Company*, reported in 1 *Peters*, that territorial judges were not constitutional judges, and therefore were not judges to hold their office during good behavior, but could be removed by the President at any time, Mr. Fillmore removed one or two; and one of those judges applied for a *mandamus* to compel the payment of his salary upon the ground that the President had no authority to remove him, and of course that his successor was improperly put in office. The Senate of the United States, the power to appoint in a case of that description being a power to be exerted in conjunction with the Senate of the United States, had approved the nomination.

Mr. HOWE. The subsequent nomination. Mr. JOHNSON. The subsequent nomination; but the question came before the Supreme Court, did that remove from office the original incumbent? That raised the question whether the President had power to remove; and as well as I recollect—I have not got the book by me—there was no member of the bench that suggested a doubt that as the Constitution was, in the judgment of that tribunal the power to remove was vested in the President, and pretty much for the reasons given by Chancellor Kent. If the Constitution had not provided that the appointment should be made in conjunction with the Senate, if it had merely created the office and created the executive department, the power to appoint would have been vested in the President, because in its nature it was an executive power, and therefore the provision of the Constitution which required the appointment to be made in

conjunction with the Senate was an exception from what would otherwise be the power of the President; and as the power of appointment in that view of it would have been an executive power, not requiring the advice and consent of the Senate, the power to remove, which was not provided for in the Constitution, was a power resting in the President because that also was an executive power.

My learned friend—and that, as I think, if there be an error in the argument, is the ground of the error—says there is nothing in the Constitution which gives to the President the power to remove. Certainly not; nor is there anything in the Constitution which gives to the President, by and with the advice and consent of the Senate, the power to remove. There are no such words to be found in the instrument. The power to remove, if it is to be exerted by and with the advice and consent of the Senate, is a power incidental to the power to appoint, and can only be placed upon that ground. The Convention did not think it necessary to provide an express power by which an incompetent officer was to be removed. They left it to be inferred; and Mr. Madison and those who coincided with him (and the Government has been conducted ever since upon the hypothesis of the correctness of that decision) considered the power to remove as an executive power, not dependent upon the power to appoint with the consent of the Senate, because that looked to one object and the other looked to a different object. The one looked to the power to fill an office; the other looked to the power to remove an incompetent incumbent.

I have not time, nor would I fatigue the Senate if I had, by referring to *Story* for the purpose of showing that he coincides with the view of Chancellor Kent. As an original question he doubted the existence of the power, not upon the ground of its supposed corrupt or dangerous tendency, as it was questioned by a good many respectable and able men, but he came to the conclusion, in the words I have already read to the Senate, that it is incidental to the executive function, and is necessary to enable the Executive to discharge his duty of providing for the faithful execution of the laws.

Now, Mr. President, whatever may be the opinion of the Senate on this question, I submit to my friend from Missouri, and those who concur with him on the question of power, whether it is advisable to put the proposition in this appropriation bill. I do not know what view the President will entertain upon the question. I know what Andrew Jackson would have thought of it and how he would have acted. He would have considered it a direct infringement upon his constitutional rights, and he would have vetoed the bill. Now, suppose the President comes to that determination, and you are unable to override that veto of an appropriation bill, the whole appropriation will be lost. We lost an appropriation bill here at the last session, and a very important one, the miscellaneous appropriation bill, because there was tacked to it a provision that was offensive to the then President of the United States.

Mr. CLARK. It failed in conference.

Mr. JOHNSON. It failed in conference finally, but it was understood to be very distasteful to the then President and very distasteful to a great many members of this body, and the bill failed. Now, let me ask the Senate, as statesmen, as sensible and unprejudiced men—and I certainly assume that that is the case with all whom I address—where is the necessity of incumbering this bill with a measure which may be provided for in a distinct bill just as operative to effect its purpose, if it can be passed, and without subjecting the particular bill, an appropriation bill as important as this, to the delay, and perhaps to the defeat, which may be the result of incumbering it with a provision of this description? Suppose your post offices are stopped. You know as much of the President's purpose as I do; but sup-

pose he comes to the conclusion that you have no right to interfere with what he believes to be his constitutional power, and the bill is lost, what will be the issue before the country? The post offices all to be closed, the mails arrested, communication between the several sections of the country put a stop to. You will say it is the President's fault; but what will the President say? "I stood upon the ground assumed by Madison in 1789 and never afterward departed from; questioned once or twice, but no measure ever proposed to change the question of power." Do you not think that the people will concur with the President, that the fault is with us? If you should reply, when you are called to account for having closed the post offices, that you were compelled to do it, the answer that could be and would be given to you would be considered as a triumphant answer, "Where was the necessity of clogging an appropriation bill with a measure of that description? Why did you not put it in a separate bill and let the issue go before the country whether you were right or wrong, if the President thought proper not to sanction that bill?"

I have no particular desire, provided there be a difference of opinion between Congress and the President of the United States, to render aid and comfort to Congress just at this particular juncture; but I tell them, and I tell them in all sincerity, that I think I am giving aid and comfort to them when I appeal to them not to incumber this bill with a provision of this description. They will give to the President a power before the country that he does not now possess, provided you can carry it through both branches, and provided he vetoes the bill, and the bill shall be lost on that account.

As I said in the beginning, Mr. President, it is not my purpose to discuss the differences, whatever they may be, existing now between the President of the United States and Congress. I am willing, more than willing, to admit that if there be such differences, each of the parties to the difference thinks that he is right; but I think I may say—I know I may say—that those who differ from the President ought charitably to conclude that he just as firmly believes that he is right as they believe that the contrary policy which they pursue is right. There is an honest difference of opinion, if there be any difference of opinion, and it is material to the interests of the country, in my judgment, that that honest difference of opinion shall be healed as speedily as possible. Let it break out as is suggested by the member from Missouri, speaking upon the authority of some Illinois paper; let it be carried to the extremity recommended by that paper, and what will be our fate? God forbid that it should come to that result; but the mere threat of such a result is calculated to weaken the Government in the estimation of our own people and in the estimation of the world at large; to break down the credit which we want in support of our finances; to unsettle that which I had hoped the triumph of our arms had achieved; to bring about not a restored Union, but a Union more distracted and a Government in infinitely more peril than it was during the worst period of the civil strife out of which, as far as arms could accomplish it, we have so gloriously emerged.

Mr. WILSON. We have some very important business to transact in executive session, and after consulting one or two Senators, I move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I trust the Senate will dispose of this bill to-day. We have been engaged now for three days on a collateral question on an appropriation bill. If the motion is insisted upon, I shall call for the yeas and nays upon it. If the majority of the Senate really desire to prolong this controversy, I should like to be informed of it, so that I may act accordingly. In order to test the sense of the Senate, I call for the yeas and nays on the motion of the Senator from Massachusetts.

The yeas and nays were ordered.

Mr. SHERMAN. I believe that if we proceed with its consideration we can dispose of this bill in a few minutes, but if it goes over until to-morrow it will take another day.

Mr. WILSON. With the consent of the Senate I will withdraw the motion; but I supposed, on consultation with several gentlemen, some of whom now advise the other way, that it was the general desire that we go into executive session in order to give time to look into this question a little more carefully. I have no doubt it would be better to do so; but at the same time I withdraw the motion.

Mr. SHERMAN. I have not the slightest feeling about the matter. If the majority of the Senate think that the bill had better go over until to-morrow, I have no objection; but I think we ought to finish it to-day and be done with it.

The PRESIDING OFFICER. The motion can be withdrawn by unanimous consent only, the yeas and nays having been ordered. The Chair hears no objection. The motion is withdrawn, and the question is on the amendment proposed by the Senator from Illinois.

Mr. TRUMBULL. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. CONNESS. I believe there has been a material change made in that amendment this morning, and therefore I ask for its reading.

The Secretary read the amendment, which was to insert as a new section the following:

And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened during the recess of the Senate, and since its last adjournment by death, resignation, expiration of term, or removal for acts done or omitted in violation of the duties of his office; the cause, in case of removal, to be reported to the Senate at its next session.

Mr. FESSENDEN. As the amendment offered by the Senator from Illinois stood yesterday, I should have very readily voted for it. I did not think it worth while to go into any argument on the subject. The constitutional right is very clear, so far as the appropriation of money is concerned. We can make any rules in reference to that that we please. The last clause, however, which is now introduced by the amendment this morning is very objectionable to me, and I hope the Senator from Illinois will withdraw it.

Mr. TRUMBULL. I preferred the amendment as it stood yesterday myself, but several Senators around me insisted upon having in it a provision in regard to removals; and I put it in at their suggestion.

Mr. FESSENDEN. As it stands now I cannot vote for it with that clause in it.

Mr. SHERMAN. I hope the Senator from Maine will now agree with me in the suggestion that I made the other day, that this matter might be put on some other appropriation bill just as well. We have at least seven or eight appropriation bills; this is the first; and it is scarcely worth while, when there is so much difference among ourselves in regard to the phraseology of this provision, to put it on this bill. I hope, therefore, it may be withdrawn from this bill, and if it is necessary at all, let it be put on some other bill.

Mr. FESSENDEN. So far as that is concerned, I cannot control or would not undertake to control the action of the gentlemen who have moved it as an amendment to this bill. I do not see anything very inappropriate about it, if they choose to move it, because it has reference to the expenditure of the money and may very properly be here, if gentlemen insist on keeping it here. But the proposition as it stands now has a look that is disagreeable to me.

Mr. HENDERSON. It admits the power.

Mr. FESSENDEN. I object to this last clause requiring the President in case of removals to give his reasons to the Senate. I do not think we have a right to require that. If the President, in the exercise of this power

chooses to remove persons, we have a right to say that those appointed in their places shall not be paid until the Senate has chosen to act upon their nominations; but to put the President to the necessity in all cases of telling the Senate, if he nominates another person for an office, the reason why he does it, is a new thing. Such a proposition was offered once in the time of General Taylor by my immediate predecessor. He brought it up over and over again in a very strongly Democratic Senate. I do not remember whether they finally voted it down or not, but if not, they got rid of it; they would not pass it at any rate, holding to the doctrine that the President, having the power of removal, so long as he had it he must exercise his own discretion about that, and that with reference to his appointments the Senate would consider whether they were proper appointments to be made.

I see no impropriety whatever in saying that when appointments are made during the recess, especially those which might as well be made to the Senate when it is in session, payment to those appointees shall be deferred until they have been confirmed. I do not think there is anything personal or offensive in making that rule. The doctrine which has been broached lately, and a matter conversed about under the administration of President Lincoln, was carried as far as this: that the President might nominate an officer during the recess of the Senate, which would hold up to the conclusion of the next session, and if then he was rejected or turned out, or at least not acted upon, it was again a vacancy arising in the recess of Congress, and the President might immediately put the same man in that the Senate had refused to confirm; and thus, in spite of the Senate, in spite of the constitutional provision, the power of appointment would rest entirely in the President, and the Senate was a nullity. I do not know and do not presume that President Johnson would attempt to do anything of that description. It is to be presumed he would not; but President Lincoln did, certainly in one case. I thought at the time it was exceedingly improper, and if the doctrine was followed out and the practice became fixed, that in reality the Senate would amount to just nothing at all.

Mr. JOHNSON. It is grossly improper.

Mr. FESSENDEN. Undoubtedly. That was in the case of a judge appointed in this District. The Senate refused to confirm him, once rejected him; it was then reconsidered, and the matter went to the last day of the session and he was not confirmed, and immediately after the adjournment of the Senate he was reappointed by President Lincoln, and he was afterward confirmed by the Senate.

Mr. JOHNSON. That was Wylic's case.

Mr. FESSENDEN. I voted against him finally, and I would vote against any man simply on that ground: that it is an encroachment upon the rights of the Senate, and if acceded to and followed the result is inevitable that the Senate is no part of the appointing power which the Constitution makes it. It was done in another case, and a more gross case, in my judgment, and that was in the case of General Blair, who had resigned his command and had been sworn as a member of the other House; his resignation had been accepted; and after the Senate had adjourned, I believe, the President undertook to put him in command of a corps of the Army.

Mr. JOHNSON, and others. It was during the session of the Senate.

Mr. FESSENDEN. While we were in session; and the Senate and the House of Representatives, by almost unanimous votes, reproved the President in fact for doing so. I remember that I remarked at the time, or shortly after, when I went into the Treasury Department, that if it was in my power to do it—which it was not, because I had no control over it—he never should have been paid a dollar for the services rendered by him, because I thought his appointment was in gross violation of the Constitution.

Now, sir, when such things are done and

when such doctrines are advanced and claimed, I think, without any impropriety whatever, Congress may assert their right over the money of the country, which they have unquestionable power to do, without infringing upon the right of anybody, and say, that where things are done contrary to the usual course, done by whom they may, they will hold on to the money until the Senate has had an opportunity to judge in such cases. It is an imputation upon nobody. I do not presume that President Johnson would do such a thing, or that he will take any offense at a provision of this kind.

That the President has the power of removal from office I have never doubted, for the simple reason that it seems to me to arise from the necessity of the case; that in the recess of Congress it may happen, and has happened, that a man may be guilty of such offenses that his removal at once becomes absolutely necessary; and in that case certainly the President should exercise the power; and in that case, or in any similar case, for any good reason; in any case, in fact, which did not upon its face present a gross dereliction of duty and a violation of the principles of the Constitution, Congress would not hesitate to pay the money to the officer appointed.

Mr. HENDERSON. Then let me ask the Senator, why refuse to pay the man? If the President can constitutionally remove an officer and then make an appointment, of course the Constitution gives him a perfect right to fill the vacancy until the last day of the next session.

Mr. FESSENDEN. I would not refuse to pay him. I would, whenever the case came before me, vote to pay him; but I say that in view of the principle that has been acted upon in some cases, and avowed by gentlemen as a correct principle, that the President can appoint during the recess, and when Congress adjourns, the Senate having rejected that man, can appoint the same man over again, it is necessary that we should express our opinion on such a power. I would have done it before if I had had an opportunity to do it, and therefore, as I would have always acted upon it, I am perfectly willing to act upon it now.

Mr. SHERMAN. If the amendment were confined to that class of cases it would be all very well.

Mr. FESSENDEN. You cannot tell whether it is one of that sort until the question comes up.

Mr. SHERMAN. Take the case of a Cabinet minister, or a more exaggerated and harder case than that, the case of an internal revenue officer, who is compelled to pay the deputies out of the fees; and would you require him to act until the close of the next session without receiving any pay?

Mr. FESSENDEN. I do not think there need be cases of that description, because the first assistant of the collector or assessor who was removed would discharge the duties until the appointment was made.

Mr. SHERMAN. He cannot use a dollar of the money. The money is all paid into the Treasury.

Mr. FESSENDEN. I do not see that any very great inconvenience would arise. At any rate I do not feel disposed to argue that point. I have long felt that with reference to appointments the power was tending too much in the direction of nullifying entirely the action of the Senate, and that it was time we should assert our own power over the question in some practical way, and I know no way so practical as this. I had therefore made up my mind to vote for the amendment if it was presented, although I would rather have it in some other place than on this bill; but of that I do not assume to judge. But with regard to the last clause of the amendment as it now stands, that the President when he exercises the power of removal shall in all cases be bound to give his reasons to the Senate, I think it is offensive in its very nature and character, and I cannot consent to vote for it if it stands in that way.

Mr. TRUMBULL. In my desire to accommodate our friends I changed the amendment

from what it was yesterday, more perhaps in consequence of what was said by the Senator from Ohio than any one else. Several Senators around me thought it was better to obviate an objection that he presented, that a person might be guilty of malfeasance in office, and it would be very hard if, under such circumstances, when he was turned out, and his successor appointed, a good man, he could not be paid until he was confirmed. The Senator from Ohio suggested that he might die after discharging the duties of the office for months, and in that way be entirely without pay. I was disposed, so long as we could get at the object which I had in view, to accommodate the amendment as far as possible to the wishes of all, and hence I modified the amendment this morning. Now, it seems that in endeavoring to avoid Charybdis I have run upon Scylla, and the Senator from Maine says he cannot go for it as it is. If it is more acceptable to Senators to have it in the form in which it stood yesterday, it is certainly more acceptable to me in that form. That was my preference. I changed it at the suggestion of several Senators.

Mr. JOHNSON. Have the yeas and nays been called for?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. JOHNSON. We had better vote, then.

Mr. TRUMBULL. There seems to be a disposition to pass upon it to-day in the shape in which we had it yesterday. I ask the Secretary to read the amendment as it was proposed yesterday.

The Secretary read as follows:

Sec. —. And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall before confirmation by the Senate receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term during the recess of the Senate, and since its last adjournment.

Mr. JOHNSON. That does not provide for the case of a removal?

Mr. TRUMBULL. No, sir.

Mr. JOHNSON. Then if the President should find out that an officer is dishonest and remove him, and appoint a successor on the 5th of March, at the end of the Congress, that officer is not to get any pay until the next December. The question is, whether that is right? It may be a Cabinet officer or a collector of the revenue. I do not think the Senate, when they come to reflect upon it, will adopt a principle like that.

Mr. GRIMES. You will get plenty of men to take the offices.

Mr. JOHNSON. What sort of men?

Mr. GRIMES. Good men.

Mr. JOHNSON. Men from Iowa, perhaps.

Mr. GRIMES. Yes, and from Maryland.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

Mr. HENDERSON. I hope the Senator will withdraw that motion for a moment until I can make a request of the Senator from Illinois. I hope that the Senator from Illinois will withdraw this amendment.

The PRESIDING OFFICER. Does the Senator from Minnesota withdraw his motion?

Mr. RAMSEY. I do not like to do so. I am satisfied that the Senate are not prepared to vote on the question before them.

Mr. HENDERSON. I wish to make one remark.

Mr. RAMSEY. Will you renew the motion?

Mr. HENDERSON. Yes, sir.

Mr. RAMSEY. With that understanding I withdraw the motion.

Mr. HENDERSON. The proposition presented yesterday by the Senator from Illinois I like much better than the proposition presented to-day. The proposition as made to-day admits the power of the President to remove. I do not admit it.

The Senator from Maryland, in replying to me a short time ago, alluded to a case reported in 18 Howard, in which he stated that the court had decided that President Fillmore had a right

to remove a judge of a Territory appointed under an act of Congress. I sent for a copy of the book. I stated in my argument that the case did not contravene the other two cases relied upon by me; and if he will examine the case he will find that although that question was argued before the court, there was no decision made on it. I undertake to say that the power to remove by the President without the consent of the Senate has never been passed upon favorably by the Supreme Court. I have been unable to find such a case, and I am satisfied the case my friend relied upon does not support his views, because the court followed the doctrine that he regretted had not been followed in the other cases; they said that point was not before them. They merely decided that the writ of *mandamus* could not go because of their want of jurisdiction in the case. Therefore, the other point was not decided, and my friend will have to find some other case in order to sustain his view.

As I stated yesterday, I am preparing a bill on this subject. I think that an act of Congress ought to be passed placing this power in the hands of somebody, in one of the supreme judges or in the President, to remove an officer in the cases alluded to by the honorable Senator from Maryland. But if the Senator from Illinois insists upon his proposition, I shall vote for it as it now stands, because it does curtail the power to a certain extent. But I think the power of appointment ought to be denied positively to the President in the vacation; that is, the power of removing and then declaring that a vacancy exists which he can fill. So far as I am concerned, I am disposed to deny that power absolutely unless it be granted in extraordinary cases by act of Congress. Whenever an officer is appointed, and there is no limitation or duration fixed to the extent of his office, and there is no power expressly given by act of Congress for his removal, I deny the power of the President to remove him. I say the authority is perfectly abundant on that subject.

I promised my friend from Minnesota to renew the motion to go into executive session. He held me under some obligation to do it, and does yet, and I therefore renew the motion.

Mr. SHERMAN. I simply desire to get the sense of the Senate, and therefore I call for the yeas and nays on that motion. I have no feeling about it. If the Senate desire to prolong this matter until to-morrow they can do so; but I want to close it to-day.

The yeas and nays were ordered; and being taken, resulted—yeas 22, nays 13; as follows:

YEAS—Messrs. Anthony, Davis, Dixon, Doolittle, Fessenden, Grimes, Guthrie, Harris, Henderson, Howard, Howe, Johnson, Lane of Kansas, Nesmith, Poland, Ramsey, Riddle, Sprague, Sumner, Van Winkle, Wilson, and Yates—22.

NAYS—Messrs. Chandler, Clark, Conness, Cragin, Lane of Indiana, Morgan, Morrill, Nye, Pomeroy, Sherman, Trumbull, Wade, and Wiley—13.

ABSENT—Messrs. Brown, Buckalew, Cowan, Cresswell, Edmunds, Foster, Hendricks, Kirkwood, McDougall, Norton, Saulsbury, Stewart, Williams, and Wright—14.

EXECUTIVE SESSION.

So the motion was agreed to; and the Senate proceeded to the consideration of executive business. After some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 1, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

RECONSTRUCTION.

Mr. BOUTWELL, by unanimous consent, gave notice that he would propose to amend the "bill to provide for the restoration of the States in insurrection to their full practical rights," by striking out all after the enacting clause and inserting the following:

That whenever the above recited amendment shall have become part of the Constitution, and Tennessee or Arkansas shall have ratified the same, and shall

have modified its constitution and laws in conformity therewith, and shall have established an equal and just system of suffrage for all male citizens within its jurisdiction, who are not less than twenty-one years of age, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oath of office, be admitted into Congress as usual: *Provided*, That nothing in this section contained shall be so construed as to require the disfranchisement of any loyal person who is now entitled to vote.

The proposed amendment was ordered to be printed.

Mr. BINGHAM. I give notice of my intention to offer an amendment which I send to the desk and ask to have printed.

The proposed amendment was accordingly ordered to be printed.

TAX ON CRUDE PETROLEUM.

Mr. MOORHEAD, from the Committee of Ways and Means, asked leave to introduce a joint resolution to provide for the exemption of crude petroleum from internal revenue tax or duty, and for other purposes.

Mr. ROSS. I object.

Mr. MOORHEAD. The Committee of Ways and Means have unanimously recommended this joint resolution.

Mr. ROSS. I am not in favor of the proposition at all, and am not willing it should come in.

RESOLUTION OF MASSACHUSETTS.

Mr. DAWES submitted a resolution of the Commonwealth of Massachusetts on the state of the Union and the duties of the Government to the freedmen; which was laid on the table, and ordered to be printed.

MARY A. RIPLEY.

Mr. DRIGGS, by unanimous consent, introduced a bill for the relief of Mary A. Ripley; which was read a first and second time, and referred, with the accompanying documents, to the Committee on Military Affairs.

Mr. ROSS. I ask leave to introduce a bill.

Mr. MOORHEAD. I object.

Mr. ROSS. I demand the regular order.

CUSTOM-HOUSE APPROPRIATIONS.

Mr. STEVENS, from the Committee on Appropriations, reported back Senate joint resolution No. 75, making appropriations for the expenses of collecting the revenue from customs.

The joint resolution was read. It appropriates \$2,100,000 for the expenses of collecting the revenue from customs.

Mr. STEVENS. I simply want to say that the law of 1858, precisely in the words of this, has been acted upon ever since that time, being the permanent law; and that the large increase in the expense of collecting the revenue, being \$300,000 more than it was, makes this necessary. It is an increase from \$1,800,000 to \$2,100,000. It reenacts the old law; or, rather, repeals it, and makes one precisely like it, with the addition of \$300,000 a year, which is found necessary. That is the whole of the bill.

The joint resolution was ordered to be read a third time; and it was accordingly read the third time and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

CHANGE OF REFERENCE.

On motion of Mr. HIGBY, by unanimous consent, the Committee on Appropriations were discharged from the further consideration of the memorials of P. E. Saunders, and others, inspectors of customs in Detroit, Michigan, asking for increase of pay; also, the memorial of the Legislature of Minnesota, asking an appropriation for improving the harbors of Lake Superior; and the same were referred to the Committee on Commerce.

DESTITUTE PEOPLE IN THE SOUTH.

Mr. ELIOT. I ask unanimous consent to introduce the following resolution for reference:

Whereas it is represented, on civil and military authority and by official reports to the Freedmen's

Bureau, that an alarming condition of destitution among the white population and freedmen, extending to absolute want of food, exists in various portions of the South, and especially in Arkansas, Alabama, and South Carolina, and that without Government aid thousands may perish by starvation before the raising of another crop. Therefore,

Resolved, That the select committee on the freedmen inquire into the expediency of an appropriation of \$100,000 for the immediate relief by rations of food to those thus destitute, giving preference in such relief to those whose personal property and supplies of food have been destroyed by the ravages of war, to be expended under the direction of the Commissioner of Freedmen, Refugees, and Abandoned Lands; and that the said committee have the right to report on such subject for consideration in the House at any time.

Mr. STEVENS. I merely wish to inquire of the gentleman from Massachusetts the necessity of this resolution. Yesterday the Committee on Appropriations reported a bill appropriating about eleven million dollars for this very purpose, and that bill is to be considered to-day in Committee of the Whole on the state of the Union.

Mr. ELIOT. That appropriation is not for this purpose.

Mr. STEVENS. It is for the purposes of the bureau.

Mr. ELIOT. This is rather more extended than that.

Mr. STEVENS. Then I have not the least objection.

Mr. ELIOT. This resolution is only for reference to the committee on freedmen's affairs.

Mr. STEVENS. I thought perhaps the gentleman was not aware that the Committee on Appropriations had reported on this subject.

Mr. ELIOT. Oh, yes, I was.

Mr. STEVENS. That is all.

The resolution was referred to the committee on freedmen's affairs.

PAY DEPARTMENT OF THE NAVY.

Mr. RICE, of Massachusetts. I ask leave to report back, from the Committee on Naval Affairs, House bill No. 197, to provide for the better organization of the pay department of the Navy, which has been returned from the Senate with amendments. The committee recommend a concurrence in the amendments of the Senate.

There was no objection; and the report was received, and the amendments of the Senate were concurred in, as follows:

On page 1, line seven, after the word "paymasters," insert "and all passed assistant paymasters authorized by this act to be appointed who have not heretofore been appointed and commissioned as assistant paymasters, and all assistant paymasters hereby authorized to be appointed, shall be selected from those who have served as acting assistant paymasters for the term of one year, and who were eligible to appointment to the grade of assistant paymasters when they were appointed assistant paymasters as aforesaid."

On the same page and line, after the word "subject," insert "however."

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the amendments of the Senate were concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. McRUER. Will the gentleman from Illinois [Mr. WASHBURN] yield to me for a moment?

Mr. WASHBURN, of Illinois. I yield for a moment to the gentleman from Ohio, [Mr. SCHENCK.]

Mr. ROSS. I demand the regular order of business.

The SPEAKER. Then the Chair must arrest all other business but the regular order.

Mr. SCHENCK. I hope the gentleman from Illinois [Mr. Ross] will hear what he is objecting to.

Mr. RICE, of Massachusetts. I desire to offer a resolution to carry into operation the provisions of the bill just passed.

The SPEAKER. The gentleman from Illinois [Mr. Ross] demands the regular order of business.

Mr. ROSS. I desired to offer a resolution a short time ago and objection was made, and I must therefore insist on the regular order.

REGULATION OF IMMIGRATION.

The SPEAKER stated the regular order of business to be the unfinished business of yes-

terday, being the consideration of House bill No. 481, entitled "An act to amend an act entitled 'An act to encourage immigration,' approved July 4, 1864, and an act entitled 'An act to regulate the carriage of passengers in steamships and other vessels,' approved March 3, 1865, and for other purposes."

The bill was reported without amendment, the pending question being upon ordering it to be engrossed and read a third time.

Mr. WASHBURN, of Illinois. This bill was reported from the Committee on Commerce, and with the report accompanying it has been printed for some time, and placed upon the files of members. It is a pretty broad bill in its provisions, and I desire members to examine it closely, as it may be broader than some members may be willing to agree to. But the committee believe that in consequence of the vast immigration to this country at the present time, and the character of the vessels in which these immigrants are brought to this country, it is important that something should be done immediately in this matter.

The bill was read in full.

Mr. WASHBURN, of Illinois. I move to amend the last clause of the section in relation to the enforcement of penalties, being section four of the bill, so that it shall read:

It shall be lawful for the Commissioner of Immigration, before or after suit brought, to compound any of said penalties, payments, or forfeitures, upon such terms as he shall think proper.

The amendment was agreed to.

Mr. WASHBURN, of Illinois. There is one section printed in this bill which has been inserted by mistake—section eight. I move to strike out the section.

The section was as follows:

SEC. 8. And be it further enacted, That all fines, penalties, and forfeitures recovered at the port of New York by virtue of this act, or any act hereby amended, except for death of passengers on voyage, shall be paid over to the superintendent of immigration at that city, to be accounted for by him to the Commissioner of Immigration, and disposed of by the latter as now provided by law.

The motion to strike out was agreed to.

Mr. WASHBURN, of Illinois. If no one desires to be heard upon the bill I will ask that the House vote upon it now.

Mr. DARLING. I hope the gentleman from Illinois [Mr. WASHBURN] will not call the previous question upon this bill at this time.

Mr. WASHBURN, of Illinois. I have no desire to call the previous question now if gentlemen desire to discuss the bill. This measure is no pet of mine; it is for the benefit of the constituents of the gentleman from New York, [Mr. DARLING.] If he desires to kill the bill, he may do so.

Mr. DARLING. I agree with the distinguished gentleman from Illinois [Mr. WASHBURN] as to the importance of this bill, particularly in relation to the port of New York and other ports of the Atlantic coast. But I had the honor, on the 29th of January, of introducing a bill amending the present passenger law in regard to the carrying of passengers. That bill, I understand, has been submitted by the committee to the Secretary of the Treasury and has met with his approval. If it is to be reported to the House by the committee, I shall not object to some alterations being made in it. Otherwise I should like to have incorporated in this bill the first section of the bill introduced by me, which covers pretty much all the defective points in the present passenger law.

Mr. WASHBURN, of Illinois. I would say, in reply to the gentleman from New York, [Mr. DARLING,] that the bill he has introduced is being considered by the Committee on Commerce, and will undoubtedly be reported upon favorably when that committee is called. There are some very important provisions in it, but they would be out of place in this bill. This bill is in aid of the Bureau of Immigration, and is one of very great importance to the city of New York. I have no particular interest in it myself; but I am somewhat surprised to see my friend disposed to embarrass the passage of this bill.

Mr. DARLING. I wish the gentleman from

Illinois to understand that I have no disposition or intention to embarrass the action of the House upon this bill; on the contrary, I very much desire its passage. Section three of this bill substantially embodies a portion of the provisions contained in the bill introduced by me. I only desire to have it understood that the passage of this bill shall not prejudice the passage of my own bill when it shall come before the House.

Mr. CHANLER. I desire to ask the gentleman from Illinois [Mr. WASHBURN] if this bill has been recommended by any competent authority.

Mr. DARLING. I have not yet yielded the floor. I desire to move to insert after the words, "Commissioner of Immigration," at the close of section four, the words, "with the approval of the Secretary of State." The clause will then read:

It shall be lawful for the Commissioner of Immigration, with the approval of the Secretary of State, before or after suit brought, to compound any of said penalties, payments, or forfeitures, upon such terms as he shall think proper.

Mr. WASHBURN, of Illinois. I thank the gentleman for his suggestion; I think the amendment is a very proper one.

The amendment was agreed to.

Mr. DARLING. I move to amend by striking out in the third section the following words, beginning at the word "ship" in the second line:

Owned in whole or in part by a citizen of the United States or by a citizen of any foreign country, and.

This phraseology is mere surplusage; for who but a citizen of the United States or of a foreign country can own a ship? I suppose the gentleman from Illinois will not object to this amendment.

Mr. WASHBURN, of Illinois. I have no objection to that amendment.

The amendment was agreed to.

Mr. DARLING. I move to amend by striking out in the fifth line of the same section the word "fourteen," and inserting in lieu thereof the word "twelve," so that the clause will read as follows:

That in every passenger ship carrying passengers to or from the United States, all the male passengers of the age of twelve years and upward, who shall not occupy berths with their wives, shall be berthed in the fore part of the ship, in a compartment divided off from the space appointed to the other passengers by a substantial and well-secured bulkhead, without opening into or communicating with the aforesaid adjoining space.

Mr. WASHBURN, of Illinois. I have no objection to that amendment.

The amendment was agreed to.

Mr. CHANLER. I ask the gentleman from Illinois to give us some information relative to the fourteenth section. It strikes me this section gives a great latitude of power to the naval surveyors, and may operate injuriously with regard to immigration. This power may be exerted in such a way as to interfere improperly with those engaged in the business of bringing immigrants to this country. The gentleman will oblige me by giving some information in regard to the history and necessity of this section. For the purpose of eliciting an explanation I move to strike out the fourteenth section.

Mr. WASHBURN, of Illinois. This is one of the most vital sections of the bill. If we strike it out we may as well defeat the whole bill. I could not hear distinctly the remarks of the gentleman from New York, [Mr. CHANLER,] and do not understand precisely the ground of his objection.

As the law now stands, there are so many abuses in regard to the space which shall be occupied by passengers in these ships, that it is found necessary to authorize by law some specific officer to make the surveys. Hence, by this bill, it is made the duty of the naval surveyors at the various ports to attend to making the surveys. The want of such action and such authority has led to the greatest possible abuses, as the gentleman from New York must thoroughly understand.

Mr. CHANLER. I am fully aware that some

provision of this kind is necessary for the regulation of immigrant ships coming to this country. But the power proposed by this section to be given to the surveyor of the port is very great. He will hold in his hands the control of the whole business of immigration. I believe that the bill should contain some efficient provision with reference to the measurement of accommodations given to the immigrants. I desire that those accommodations should be the most comfortable and healthy. My object is not to prevent, but to aid and facilitate immigration. But it appears to me that by putting this immense power in the hands of a single officer we shall not so much facilitate immigration as enable the power of one man to control the whole system. There may be some stringent necessity for giving this extreme and unrestricted power to regulate the whole of the immense immigration into the port of New York. Unless such necessity exists, I think we should provide some system of checks, such as do not now appear in the bill.

I have risen simply to call the attention of the House to this section. I desire to make no opposition to the bill, nor to any proper and beneficent measure having the same object. But this bill has been brought forward with very little explanation. We should not, I think, be called upon to pass on such a measure without fully understanding it. Certainly we are entitled to have full information on this subject.

We are told that the section is vital, and that we might as well vote down the entire bill as to strike out this section. But that is no answer to the demand for information. If the gentleman has no practical information to give, the majority of the House can act under his leadership. My object is not to defeat the bill. I only ask whether the gentleman is able to give a plausible reason why so much power should be given to the naval surveyor as to control immigration across the Atlantic; that, indeed, it should be left entirely and exclusively in the hands of the surveyor of New York.

Mr. DONNELLY. The proposition of the gentleman from New York is to strike out the fourteenth section of the bill. I will say, in answer, that if the motion is adopted it will strike out the vital portion of the pending measure. Without that section the bill would be a nullity.

The bill is intended in the main for the protection of immigrants to this country from being overcrowded, as many of them are, on ship-board. We find when we permit such overcrowding we not only do great injustice to the immigrant, but we incur the danger to the country, as we have already seen, of having a terrible pestilence brought into our ports, and thence spread over the land.

The section provides that every vessel carrying immigrants shall be surveyed so as to ascertain whether overcrowding takes place; and where overcrowding does take place a penalty is imposed. It is the vital portion of the bill.

I think the House and country are indebted to the gentleman from Illinois [Mr. WASHBURN] for pressing through this bill. It is not only a measure of safety for our own people, but of humanity to those whom our laws invite to our shores, who are to become citizens among us, and whose immigration hither should be encouraged by every proper means. We must avoid these "horrors of the middle passage," the recital of which, in the case of the vessels which have lately reached New York and Halifax, freighted with pestilence, revive the memory of the African slave trade.

Mr. WASHBURN, of Illinois. I demand the previous question.

Mr. CHANLER. If the gentleman demands the previous question, cutting off information, I must insist on my motion to strike out.

Mr. McRUER. I ask to amend the section so that it will read as follows:

Sec. 14. And be it further enacted, That it shall be the duty of the naval surveyors at the various ports

to survey ships and vessels engaged in the carrying of passengers under the laws of the United States, and to certify under their hand and seal to the Commissioner of Immigration the spaces in each such ship or vessel on the various decks, said spaces to be classed as first and second cabin and steerage, and how many passengers the said ship or vessel may be entitled to carry under the laws of the United States in each of said spaces, classed as aforesaid, &c.

Mr. Speaker, my object in this amendment is to provide that a ship entitled to carry one thousand passengers, as follows: one hundred in first cabin, two hundred in second cabin, and seven hundred in steerage, shall not crowd the whole number into the steerage or overcrowd any other portion of a ship.

Mr. WASHBURN, of Illinois. That is not applicable to this, but to another measure which the committee have been considering. I insist on the demand for the previous question.

The previous question was seconded and the main question ordered.

Mr. CHANLER's motion was rejected.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PROVOST MARSHAL GENERAL.

The SPEAKER announced the following as the select committee on the Provost Marshal's Bureau, &c.: Messrs. SHELLABARGER, WINDOM, BOYER, COOK, and WARNER.

Mr. DARLING, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas, reports are freely circulated, and charges made, that recruits were by fraudulent practices induced to enlist in the armies of the United States, in the city of New York and elsewhere, by officers of the Government, and other persons employed by such officers to aid in such fraudulent practices; and whereas it is alleged that such recruits when enlisted were deprived of their bounty and incarcerated in prison, and this bounty divided and shared between such officers and the persons who were employed by them, and also that persons engaged in the business of recruiting for the Army in the city of New York and elsewhere, were also defrauded by such officers and other persons acting in concert with them, and large amounts of money demanded and extorted from them, and that they were imprisoned until such demands were complied with, and were then immediately released; and whereas it is important that the truth of these grave charges should be speedily ascertained: Therefore,

Resolved, That the select committee of five appointed under the resolution of the 30th ultimo, be directed to investigate such charges, and that they have full power to send for persons and papers, and report the results of such investigation to this House as soon as practicable.

STARVING MOUNTAINEERS OF ALABAMA.

Mr. KELLEY. I ask unanimous consent of the House to submit the following resolution for the relief of the starving people of the mountain districts of Alabama:

Whereas it is reported by citizens of Alabama, in formal memorial to the two Houses of Congress, that many of the people of the mountain districts of that State are suffering from want of adequate supplies of food and that a considerable number of them have died of actual starvation: Therefore,

Resolved, That the President be requested to instruct the proper officer or officers of the Bureau of Refugees and Freedmen to inquire into the condition of said districts, and any other districts of the insurgent States, in which such suffering may be said to exist, and to relieve the people thereof, and provide them with corn and other seed for planting a crop sufficient for an annual supply to each family requiring such relief.

There was no objection.

Mr. SMITH. To what class does it refer?

Mr. KELLEY. Those who are referred to in the memorial I had the honor to present some time ago. They are white mountaineers of Alabama, who served in either army. They are the poor white people of northern Alabama.

Mr. SPALDING. I hope the gentleman will insert the word "white."

Mr. KELLEY. I do not suppose there are any colored people in those mountains. I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

The question then recurred on the adoption of the preamble; and it was also agreed to.

Mr. STEVENS moved to reconsider the vote by which the preamble and resolution were passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ILLINOIS SHIP-CANAL.

Mr. ROSS. I ask unanimous consent to introduce a bill for reference. I do not want to place myself in the condition of some other gentlemen claiming the credit of manufacturing this bill. It was one that was passed at the last Congress. It is a bill to construct a ship-canal for the passage of armed and naval vessels from the Mississippi river to Lake Michigan, and for other purposes.

The bill was read a first and second time, and referred to the Committee on Roads and Canals.

LONG BRIDGE.

Mr. ROLLINS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee for the District of Columbia be instructed to inquire into the facts concerning the interruption of travel over Long Bridge, and report the reasons why said bridge is allowed to remain impassable for months.

Mr. ROLLINS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

THANKS TO OFFICERS, SOLDIERS, AND SEAMEN.

Mr. SCHENCK, by unanimous consent, from the Committee on Military Affairs, reported back without amendment Senate joint resolution No. 34, expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States.

The joint resolution was read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

TAX ON CRUDE PETROLEUM.

Mr. MOORHEAD. I now ask leave to report from the Committee of Ways and Means a joint resolution to provide for the exemption of crude petroleum from internal tax or duty, and for other purposes.

The joint resolution was read.

Mr. ROSS. I supposed this was intended for reference.

Mr. KUYKENDALL. I object to the introduction of the joint resolution.

Mr. MOORHEAD. I will explain.

Mr. KUYKENDALL. I have no objection to an explanation, but I shall object after it is explained.

Mr. MOORHEAD. It was reported unanimously by the committee. A committee from the oil region came down here and showed a terrible state of affairs, arson and anarchy, in consequence of this act. These gentlemen appeared before the committee and satisfied us that it was a state of affairs that required prompt action. The same provision is in the bill. This will only make it act three or four weeks sooner.

Mr. KUYKENDALL. Why not send the soldiers to put the burning down?

Mr. MOORHEAD. That would be very expensive.

The SPEAKER. Is there objection to the consideration of this joint resolution? The Chair hears none, and the joint resolution is before the House.

Mr. KUYKENDALL. I do not withdraw my objection.

The SPEAKER. The Chair asked if there was objection, and paused, and no person objected.

Mr. WASHBURN, of Illinois. The gentleman from Illinois [Mr. KUYKENDALL] did persist in his objection, and I am bound in justice to say that gentlemen all around here heard him. He objected when the Chair called for objection.

Mr. MOORHEAD. He did not object from his seat.

Mr. BROMWELL. I objected from my seat, but was not heard by the Chair.

The SPEAKER. If the gentleman objected from his seat it is good.

Mr. KUYKENDALL. I notified the Chair in time that I would renew the objection after the explanation.

The SPEAKER. If the gentleman states that he renewed it that is sufficient.

Mr. RAYMOND. I wish to say that when the Chair put the question whether there was objection the last time, I distinctly heard the gentleman from Illinois [Mr. KUYKENDALL] say "I object, of course." It may not have reached the Speaker's ear.

The SPEAKER. If the gentleman from Illinois states that himself, that is enough.

Mr. KUYKENDALL. I objected certainly.

Mr. MOORHEAD. I raise the point of order that the gentleman from Illinois was not in his seat when he objected.

The SPEAKER. The point of order comes too late. The objection of the gentleman from Illinois was in time.

Mr. MORRILL. I think the gentleman would not object if he would hear the bill fairly explained.

Mr. KUYKENDALL. I object to any article being brought in here and exempted before the main bill is acted on. I do not know but that I shall object to exempting this article even in the main bill, but I certainly object to taking a particular article from the main bill to exempt it before anything else.

Mr. MORRILL. There are peculiar circumstances.

The SPEAKER. The bill is not before the House, objection being made.

FREEDMEN'S BUREAU APPROPRIATION.

Mr. STEVENS. I move that the rules be suspended and the House resolve itself into the Committee of the Whole on the state of the Union for the purpose of considering the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DONNELLY in the chair), and proceeded to the consideration of the special order, being bill of the House No. 545, making appropriations for the uses of the Bureau of Refugees, Freedmen, and Abandoned Lands, for the fiscal year commencing January 1, 1866.

By unanimous consent the first reading of the bill was dispensed with; and the bill was then read by clauses for amendment, when no amendments were offered.

Mr. STEVENS. I move that the committee rise and report the bill to the House.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DONNELLY reported that the Committee of the Whole on the state of the Union had had the Union generally under consideration, and particularly the special order, being bill of the House No. 545, making appropriations for the uses of the Bureau of Refugees, Freedmen, and Abandoned Lands for the fiscal year commencing January 1, 1866, and had directed him to report the same back to the House without amendment and with the recommendation that it do pass.

Mr. STEVENS. I move the previous question on the engrossment of the bill.

Mr. BLAINE. I desire to ask the gentleman from Pennsylvania a question.

Mr. STEVENS. I yield for that purpose.

Mr. BLAINE. In line twenty-four of the bill I notice an appropriation of \$3,000,000 "for sites for school-houses and asylums." Now, I have understood that land in the rebellious States has become very cheap by reason of the suppression of the rebellion, and if we are going into the building of school-houses on a scale large enough to require an appropriation of \$3,000,000 for the mere purchase of sites on which they are to be built, it

seems to me to be a little "steep." I ask the chairman of the Committee on Appropriations to explain that.

Mr. STEVENS. The report of the Commissioner of this bureau, if the gentleman will turn to it, sets forth the whole matter. I hope the gentleman has read it. It shows most urgent need for this appropriation, because these school-houses, which have been built in a great many instances upon abandoned lands, at a very great expense even to some of the freedmen, have nearly all of them, by order of the President, been restored to the rebel owners; and now the Department is obliged to go into the purchase of lands for school-houses for these poor, willing people, or to have no school-houses at all. The estimate which has been made amounts to what we have reported in this bill. There are now at this time, or there were at the time the report was made, between a hundred and a hundred and fifty thousand scholars, and there are now over two hundred thousand, who are all to be turned out unless this appropriation is made. I think it is the most wholesome provision that could be made; and that no like sum of money will be paid out for a better purpose. They have never had half the number of school-houses they should have had for the purpose of accommodating even the present number of scholars.

Mr. ASHLEY, of Ohio. I think this claim in relation to school-houses should be transposed; it is now somewhat imperfect.

Mr. BLAINE. With land at \$500 an acre, an appropriation of \$3,000,000 would be enough to purchase sites for fifty thousand school-houses.

Mr. STEVENS. I move to amend the clause in relation to school-houses and asylums by inserting after the word "sites" the words "and buildings." It will then read: "For sites and buildings for school-houses and asylums, \$3,000,000."

The amendment was agreed to.

Mr. ELDRIDGE. That was the very clause in regard to which I desired to make an inquiry of the gentleman from Pennsylvania, [Mr. STEVENS.] We could not hear the conversation of gentlemen on the other side, and do not know what that clause was intended to mean. It seems to be a very large sum for sites for asylums and school-houses.

Mr. STEVENS. It has been amended so as to include sites and buildings.

Mr. ELDRIDGE. That makes a very different thing of it.

Mr. BANKS. I would inquire what is the nature of the transportation for which this bill makes an appropriation of \$1,980,000.

Mr. STEVENS. I understand that, by the operations of the Government in restoring the forfeited and abandoned lands to their former owners, a great many of these freedmen must be transported to other places; the Department has been driven by the action of the Government to transport many of these people to other places.

Mr. BANKS. It seems to be a very large sum for transportation alone.

Mr. STEVENS. It is for transporting both refugees and freedmen. And the amount of money expended at this moment for refugees it will be found is more than double the amount expended for freedmen.

Mr. MORRILL. I would ask the gentleman from Pennsylvania if he will not consent to have this bill go over for a day or two, in order that it and the report of the Commissioner may be examined. I perceive that it appropriates \$11,500,000 and more, which is certainly a very large sum, and the bill should be fully understood by the House.

Mr. STEVENS. I had supposed that every gentleman who felt any interest in this matter had examined the subject and knew all about it. The bill is based upon reports of the Commissioner made since the 1st of December.

Mr. KASSON. Will the gentleman from Pennsylvania allow me a word?

Mr. STEVENS. Certainly.

Mr. KASSON. I am inclined to think,

upon looking over this bill, that it was prepared with reference to another condition of facts. I was not in our committee when this bill was passed upon by them. But my impression now is that the sums named in the bill are based upon facts, to a certain extent, that do not now exist. For example, very many of the persons for whom transportation was originally designed, whether refugees or freedmen, have already been transported to their homes, or to places where they have found employment. I say this is my impression. Whether my impression is correct or not, I think we ought, as the gentleman from Vermont [Mr. MORRILL] suggests, to take sufficient time to ascertain whether it is not practicable to cut down this large amount of appropriation. If the chairman of the Committee on Appropriations [Mr. STEVENS] knows that I am in error, of course my reason for delay is without foundation. But I think we ought to take a little time to examine into this bill.

Mr. STEVENS. I know only what the Commissioner of the Freedmen's Bureau, General Howard, has informed me. Twice within the last week he has urged me to have this bill passed, stating that it was impossible to go on with the operations of that bureau unless this bill be passed. All the transportation and all the clothing which the bureau has been supplying is to be paid out of this appropriation, and it is the urgency of the case which induces me again to call the previous question.

Mr. ROSS. I move to lay the bill on the table; and on that motion I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 27, nays 91, not voting 65; as follows:

YEAS—Messrs. Ancona, Bergen, Boyer, Chanler, Coffroth, Dawson, Denison, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, James M. Humphrey, Marshall, Morris, Niblack, Noel, Samuel J. Randall, Ritter, Ross, Shanklin, Sitgreaves, Smith, Strouse, Taylor, Thornton, and Winfield—27.

NAYS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Brandegee, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Deftrees, Deming, Dodge, Donnelly, Driggs, Eliot, Garfield, Grinnell, Griswold, Abner C. Harding, Henderson, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kuykendall, Lafin, George V. Lawrence, Loan, Longyear, Lynch, McClurg, McKee, McRuer, Moorhead, Morrill, Moulton, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Raymond, Alexander H. Rice, Rollins, Schenck, Shellabarger, Spalding, Stevens, Sullwell, Trowbridge, Upson, Van Aernam, Bart Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Whaley, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—61.

NOT VOTING—Messrs. Anderson, Baldwin, Barker, Broomall, Bundy, Culver, Davis, Delano, Dixon, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Goodyear, Hale, Harris, Hart, Hayes, Higby, Hill, Hogan, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kelso, Kerr, Ketcham, Latham, William Lawrence, Le Blond, Marston, Marvin, McCullough, McIndoe, Mercer, Miller, Myers, Nicholson, Pomeroy, Price, Radford, William H. Randall, John H. Rice, Rogers, Rousseau, Sawyer, Scofield, Sloan, Starr, Taber, Thayer, Francis Thomas, John L. Thomas, Trimble, Robert T. Van Horn, Welker, Wentworth, Williams, and Wright—65.

So the motion to lay the bill on the table was not agreed to.

Mr. LAWRENCE, of Ohio, who was absent during the call of the roll, stated that if present he would have voted in the negative.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was received, by Mr. COOPER, his Private Secretary, who also announced that the President had approved and signed bills of the following titles:

An act making appropriations to supply deficiencies in the appropriations for the public printing for the fiscal year ending June 30, 1866; and

An act for the relief of George R. Frank, late a captain of the thirty-third regiment Wisconsin volunteer infantry.

FREEDMEN'S BUREAU APPROPRIATION—AGAIN.

The question recurred on seconding the demand for the previous question.

Mr. STEVENS. I withdraw the demand for the previous question, and move to amend by reducing the appropriation from \$3,000,000 to \$2,000,000.

Mr. SPALDING. That is right.

Mr. WASHBURN, of Illinois. I understand that the committee on freedmen have given this subject some examination; and I desire to suggest to the gentleman from Pennsylvania whether it would not be well to refer this matter to that committee, that they may report upon it.

Mr. STEVENS. There seems to be some difficulty among gentlemen around me, because they are not well informed in regard to this matter. I desire to say a word of explanation.

These commissary stores, for instance, are stores furnished out of what is already on hand. These stores, instead of being sold, have been furnished, and are still being furnished, to these freedmen, and they are charged to this bureau. These stores are furnished, not only to the freedmen, but also to the refugees in much larger proportion.

One word as to the necessity for appropriations for transportation. I have in my hand a note from General Howard, stating that without an appropriation it is impossible for him to furnish the necessary transportation to these people. Numbers are flocking into this city to whom he desires to furnish transportation; but he cannot do so. He has gone as far as the Secretary of War will allow him to go under the present appropriation. I will ask the chairman of the committee on freedmen [Mr. ELIOT] to state whether these things are necessary or not.

Mr. ELIOT. In reply to the inquiry of the gentleman from Pennsylvania [Mr. STEVENS] I will state that this subject has not been particularly examined before the committee on freedmen. But I have personally, as a member of the House, taken some pains to ascertain, by inquiry at the office of the Commissioner of the Freedmen's Bureau, in regard to these items of appropriation; and I should be very glad to answer any inquiry which any gentleman on the floor may feel disposed to put concerning the propriety of any of these items.

In respect to the appropriation that is called for in connection with the quartermaster's department, I would state that except the clothes which properly belong to women and children, all the clothing has been obtained from the quartermaster's department at the values of the articles. They have been charged, so far as they have been heretofore obtained, to the bureau. The estimate is made here showing the amount which will be wanted during the coming year, not to go into the market and purchase clothing, but to go to the quartermaster with requisitions, so that clothing which would otherwise be sold for half price—for there is a very large amount on hand—will be sold to the Freedmen's Bureau at full price. It is not taking money from the Treasury at all; it is simply to enable the Freedmen's Bureau to purchase from the quartermaster's department clothing which that department has now on hand. That does not, of course, include the clothing for women and dependent children.

Mr. ELDRIDGE. I desire to inquire in reference to the first section of the bill. I notice that it provides these sums shall be appropriated out of any money in the Treasury not otherwise appropriated, for the support of the Bureau of Refugees, Freedmen, and Abandoned Lands, for the fiscal year commencing January, 1866. I want to know what the support of abandoned lands means.

Mr. ELIOT. That is simply the title of the bureau. The law creates a bureau of Refugees, Freedmen, and Abandoned Lands.

Mr. ELDRIDGE. First the bureau is provided, and then we have freedmen, and next abandoned lands.

Mr. ELIOT. It is the name of the bureau, and that is all. In regard to the transportation I will say a word.

Mr. ELDRIDGE. Allow me to ask another

question before the gentleman proceeds. Has this expense been incurred, or is the appropriation to be hereafter used? If a part has been incurred, what portion is hereafter to be used?

Mr. ELIOT. Which appropriation does the gentleman refer to?

Mr. ELDRIDGE. I mean in the aggregate.

Mr. ELIOT. It would be impossible to answer that question accurately; a portion has been used and a portion is to be used.

In regard to transportation, about twenty-two thousand refugees and freedmen have been transported, and those twenty-two thousand have been charged by the quartermaster's department to the Freedmen's Bureau. That has all to come out of this appropriation. It is estimated that about forty-four thousand will want to be transported. If the gentleman desires it I will state who they are and what they are. There are in this District, because of the war and because of the demand for labor, some four or five thousand who can have homes provided for them by the Government, and who will cost nothing to the Government when they have been removed to these homes. They cannot get there now, and a part of this is to pay that expense.

Mr. ELDRIDGE. How much of the three millions for sites for school-houses and asylums has been expended?

Mr. ELIOT. There has been no money appropriated for or expended in the purchase of lands or buildings I am aware of.

I will say, Mr. Speaker, there is no school the expenses of which have been borne by the Government. It has never paid for any tuition. All the expenses of tuition have been defrayed by benevolent associations of the North and West. There are some thirteen or fourteen hundred teachers employed, and there are some ninety to one hundred thousand scholars.

Mr. ELDRIDGE. I desire to know whether this \$3,000,000 has been founded upon any report?

Mr. ELIOT. It has been.

Mr. ELDRIDGE. How, if that \$3,000,000 be necessary, can \$1,000,000 be stricken off, without consultation with any committee or bureau, without impairing the efficiency of this service?

Mr. ELIOT. It cannot be done. This estimate of \$3,000,000 was founded upon a certain amount for each school and for a certain number of schools, so much for each school. In some portions of the South the price of land and building is larger than in other portions. The estimate, so far as it could be, has been accurately made at the Department. Striking down the appropriation \$1,000,000 it will disable the bureau from accommodating as many as if it had \$3,000,000.

Let me say there are a great many scholars, children of white people, who are instructed as well as the children of freedmen.

Mr. ELDRIDGE. On what report is the estimate made?

Mr. ELIOT. On the report submitted by the Commissioner of the Freedmen's Bureau; and on a report in reply to the Committee on Appropriations.

My friend from Pennsylvania [Mr. STEVENS] has either here on his desk or at his room a communication from the Commissioner stating in detail the items which he wants, and the reason why they are needed.

Mr. ELDRIDGE. But I wish to know if the committee have made any report upon which we can act intelligibly upon this or any other item in this bill.

Mr. ELIOT. A report has been made from the Bureau of Refugees and Freedmen; the gentleman will find it among his documents.

Mr. ELDRIDGE. What I ask is whether the committee have made any report.

Mr. ELIOT. What committee?

Mr. ELDRIDGE. The committee reporting this bill.

Mr. ELIOT. No, sir.

Mr. GRINNELL. I will state that we considered this item for school-houses and asylums

three or four times in the committee, and it was fully discussed.

Mr. NIBLACK. I would inquire how the titles of these school-houses and asylums proposed to be built by the bureau are to be taken.

Mr. ELIOT. In the name of the United States; all the property will belong to the United States.

Mr. NIBLACK. Does this constitute a permanent system or a temporary one?

Mr. ELIOT. It must necessarily be temporary as we all presume. It is one of those things which we cannot get clear of. It is temporary, but it costs something now. Let me say that the buildings which have been heretofore used for school-houses have been taken from the rebels who had formerly occupied them. School-houses were deserted and abandoned here and there which could be made available. But now these buildings have been taken from the possession of the bureau and have been substantially returned to the owners, and the time has come when these one hundred and twenty-five thousand children, white and black, will be taken from their buildings unless the Government for a season interposes.

Mr. CHANLER. Will the gentleman allow me to ask upon what authority he makes the assertion that if the public school-houses in the South erected for the education of white children are returned to the white people of the South, the white children will be kept out of school?

Mr. ELIOT. I have not said any such thing.

Mr. CHANLER. I understood the gentleman to say that unless this appropriation was made for these school-houses which have been seized by the Government, formerly held by the rebels, now used for white and black children, these children will be turned out. He made that assertion, and I want him to state upon what authority he can show this House that the white children of the South are educated by this bureau; and I want him to show by what authority the education of the white children will be lessened by not following out his plan.

Mr. ELIOT. I cannot consent to get myself into a controversy with the gentleman now.

Mr. CHANLER. I do not want any controversy. I want an answer to the question.

Mr. ELIOT. If the gentleman has got through I will try to answer him. I have not said that the white children of the South were educated with the black children. I have said no such thing. Nor have I stated anything from which such an inference could be drawn. What I said was simply this: that in conducting the affairs of the bureau, education has been given to the children of refugees as well as to the children of freedmen. And this: that where a school-house which has been used, or another building which has been used for the education, under the administration of the bureau, of freedmen's children and of white children, shall have been taken from the bureau, that school would be broken up unless the Government interposed. That is all I designed to say.

Mr. CHANLER. Then I suppose I misunderstood the gentleman.

Mr. ELDRIDGE. I certainly understood the gentleman to say that the white and black children were educated together.

Mr. ELIOT. Well, I hope I have put it right now. I did not mean any such thing as that.

Mr. ELDRIDGE. That is not the fact, then?

Mr. ELIOT. I do not know anything about it. I suppose all shades of color are to be found there, and it would be hard to distinguish some of them from white.

Mr. ELDRIDGE. If that is the case, then the gentleman referred to these mixed races only.

Mr. ELIOT. The gentleman must inquire of his Democratic friends; they know much more about that than we do. [Laughter.]

Mr. ELDRIDGE. I do not think they understand the Freedmen's Bureau better than the gentleman does. He has been the father of that measure, if not of any of these colored children. [Laughter.]

Mr. ELIOT. Well, it is a very good child, and I am not ashamed of the offspring.

Mr. CHANLER. A question has arisen in this interlocutory discussion as to the appropriation for these school-houses.

The gentleman from Massachusetts asserted, if I understood him, that these school-houses which were built by the people of the South for the education of white children, were at one time taken by the Government away from the white children and that black children were put into those school-houses which were intended by the southern people for the education of white children.

Mr. ELIOT. No, sir; I did not say it in that way.

Mr. CHANLER. No, not in that way; but that was the effect of what the gentleman said. The gentleman asserted that these school-houses in which black children were being educated were taken from the white children.

Mr. ELIOT. No, sir.

Mr. CHANLER. And now he proposes that an additional appropriation shall be made whereby the United States Government shall build other school-houses for the blacks alongside of those which were originally built for the whites.

That is the whole of his position, as I understand it, stripped of the verbiage with which it is clothed.

Mr. ELIOT. Well, the gentleman does not understand it at all.

Mr. CHANLER. Of course not; and it is impossible to understand a system by which the white population, robbed alike of their lands and of the system of education which they had built up for themselves, are to be taxed by this bill, as well as the people of the North, to sustain a Freedmen's Bureau raised for the purpose of holding the South in subjection to a political party. It is impossible to understand a system which links together with infamy a pretext of philanthropy.

Mr. ELIOT. Now, if there are no other inquiries which gentlemen desire to make I resign the floor.

Mr. STEVENS. I have here a letter from General Howard, dated the 10th of March last, urging the passage of this bill, and I have also here his estimate giving in full all the items.

Mr. KASSON. What is the date of his report accompanying the estimate?

Mr. STEVENS. The date of his report was the 19th of December last; and then in a letter, upon my application to him, under date of March 5, he increased the amount. The committee, however, have provided in this bill for the original estimate.

Mr. DODGE. Will the gentlemen allow me to ask a question of the gentleman from Massachusetts, [Mr. ELIOT?]

Mr. STEVENS. Certainly.

Mr. DODGE. The estimate for transportation is \$1,980,000. It was made in December last. I understand the gentleman from Massachusetts to state that there have been twenty-two thousand transported since that time.

Mr. ELIOT. No, sir; before that time.

Mr. DODGE. Before that time?

Mr. ELIOT. I suppose it was before December. I do not know. It was before the time I made the inquiry.

Mr. DODGE. The average cost of transportation over five hundred miles on railroads is ten dollars for each person. An appropriation of \$1,800,000 at the same rates would transport one hundred and eighty thousand persons. I suppose that since December, when this estimate was made, the occasion for the transportation of such numbers has very greatly diminished and it seems to me, therefore, that this item might be very much reduced.

Mr. KASSON. With the permission of the gentleman from Pennsylvania, I would like to say that we may essentially reduce the amount of the appropriation by a modification of the phraseology of the bill. For example, it is found that commissary and quartermasters' stores have, to a large extent, been already used by simply taking the material on hand.

Why, then, in lieu of this very large appropriation, should we not, by this bill, authorize a credit on the accounts of those departments, and the accounts settled at the Treasury upon the vouchers of this bureau?

It seems to me that we can avoid shocking the public mind, as it will be shocked by this large appropriation, larger I suspect than our pension list is to-day for the soldiers of our Army; we can avoid shocking the public mind, and more economically accomplish the necessary objects of this bill. We can give the protection which we are bound in honor and good faith to extend to this class of people, and at the same time reduce, very essentially reduce, the magnitude of the appropriations in this bill.

Why should we not also provide for the modes in which this money shall be expended, instead of leaving it without any limit to the discretion of the officers? If they are to use the machinery of the War Department, we should say so in this bill.

I assure the gentleman from Pennsylvania [Mr. STEVENS] that my desire is equal to his or that of any other gentleman to do everything that good faith and honor requires of us for the protection of this class of the community. But I also greatly desire that we shall so frame a bill that by increasing the number of disbursing officers we shall not increase the liability to frauds and mismanagement. And by transferring the machinery of the War Department from one object to another, and the money from one account to another, we will accomplish the same purpose that we seek to accomplish by making this large appropriation independently.

A single statement further, and I have done. This bill runs from the 1st of January, 1866, to the 31st of December, 1866. Contrary to our usual custom, we are establishing a new fiscal year for this bureau. By the provisions of the act establishing this bureau, it is to expire in one year from the establishment of peace; and it is generally regarded that the proclamation of the President fixes that period. Now, we should do one of two things: either make this according to the recognized fiscal year; or else provide for the expenditures of the bureau until it expires by limitation of law. We should also provide for the proper securing of the titles to these sites for asylums and school-houses, and determine whether, and how, we shall keep them after the bureau ceases to exist, and if so, how long. These are important questions, which I think require further time for examination, and I hope the bill may be recommitted.

Mr. SCHENCK. I observe this clause in this bill: "for salaries of assistant and sub-assistant commissioners, \$147,500." Now, if the gentleman from Massachusetts [Mr. ELIOT] is the father of the Freedmen's Bureau, I think that, as the step-father in one sense, I may claim to know something about it. The bill which is now actually the law upon the statute-book is a very simple bill in its provisions, and one which was got up in the committee of conference as a sort of compromise between the two Houses.

Knowing something of the history of this bill, I can state from recollection, without referring to it particularly, that among its provisions is one requiring that the Commissioner and sub-commissioners should either be appointed from civil life or might be detailed from the Army; so that officers already employed upon salaries paid by the Government can perform the duties of the bureau. That provision was the more essentially necessary, inasmuch as there was no appropriation made when the bill was passed for carrying out its provisions. In consequence of that provision pretty much all the work of the commissioners and sub-commissioners has been done by detailed officers of the Army. And unless it be for the purpose of keeping an account between the Army and the Freedmen's Bureau, so that the bureau shall be charged with the salaries of those detailed officers of the Army, I do not quite understand how it can be that \$147,500 should be needed or expended in paying the salaries of these officers.

I may remark that I say this as a friend of the bureau, as one who appreciates to the full extent the services of General Howard, its head, as one who wishes to sustain the bureau in every particular. But I think we should understand how it is that an appropriation should be called for so large as this to pay the salaries of commissioners and sub-commissioners, when, if I rightly understand the matter, in fact and in law, the business of the commissioners and sub-commissioners is performed mainly, if not almost altogether, by detailed officers of the Army, who draw their salaries from another fund.

Mr. STEVENS. So the Commissioner states in his report. But he also states that they are liable to be mustered out at any moment. He wishes, therefore, to be able to employ assistants independently of that altogether. This is all set forth in the report.

Mr. ROSS. I desire to ask the gentleman from Pennsylvania under what part of the Constitution he thinks Congress derives the power to build school-houses and educate the people of the South, taxing my constituents and his to pay the expense.

Mr. STEVENS. Under the law of nations, which is a part of the Constitution, and enables us to govern conquered provinces. [Laughter.]

Mr. Speaker, there has been much more objection than I anticipated on this side of the House to educating these poor people. I fear that some of our friends here still retain a portion of their old hatred of the negro. In view of the objection which is made, I modify my amendment and move to amend by striking out \$3,000,000 in the item for schools and school-houses, and inserting in lieu thereof \$500,000. On this amendment, I call for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill was ordered to be engrossed and read a third time, and was accordingly read the third time.

The question being on the passage of the bill, Mr. STEVENS demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE. I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 79, nays 41, not voting 63; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Bonwell, Brandegee, Buckland, Reader W. Clarke, Sidney Clarke, Conkling, Cook, Dawes, Deftrees, Delano, Deming, Dodge, Donnelly, Driggs, Eliot, Garfield, Ginnell, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburt, Ingersoll, Jencks, Julian, Kelley, Kelso, William Lawrence, Longyear, Lynch, McClurg, McKee, McRuer, Moorhead, Morrill, Morris, Moulton, O'Neill, Orth, Paine, Patterson, Perham, Plants, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Spalding, Stevens, Francis Thomas, Upson, Van Aernam, Burt Van Horn, Ward, Warner, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—79.

NAYS—Messrs. Ancona, Baker, Bergen, Boyer, Chanler, Cobb, Coffroth, Cullom, Darling, Dawson, Denison, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Abner C. Harding, Harris, James M. Humphrey, Kuykendall, George J. Lawrence, Loan, Newell, Niblack, Noell, Samuel J. Randall, Ritter, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Stillwell, Strouse, Taylor, Thornton, Trowbridge, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, and Winfield—41.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Baldwin, Barker, Bromwell, Broomall, Bundy, Culver, Davis, Dixon, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Goodyear, Griswold, Hale, Hart, Hayes, Hill, Hogan, Hooper, Demas Hubbard, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kasson, Kerr, Ketcham, Ladin, Latham, Le Blond, Marshall, Marston, Marvin, McCullough, McIndoe, Mercer, Miller, Myers, Nicholson, Phelps, Pike, Pomeroy, Price, Radford, William H. Randall, Raymond, Rogers, Seefeld, Sloan, Starr, Taber, Thayer, John L. Thomas, Trimble, Robert T. Van Horn, Welker, Wentworth, and Wright—63.

So the bill was passed.

During the roll-call,

Mr. ROLLINS stated that his colleague,

Mr. MARSTON, was detained from the House by sickness.

The result was announced, as above stated. Mr. STEVENS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MEXICO.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be printed of the message of the President of the United States and the accompanying documents on the subject of Mexico, under date April 23, the same number as is now provided by law for the printing of the general diplomatic correspondence.

Mr. LAFLIN moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

COTTON LOAN.

The SPEAKER laid before the House a message from the President of the United States, transmitting, in reply to a resolution of the House, a letter of the Secretary of State in regard to the rebel debt known as the "cotton loan;" which, on motion of Mr. KASSON, was ordered to be printed and referred to the Committee on Foreign Affairs.

NIAGARA SHIP-CANAL.

Mr. VAN HORN, of New York, demanded the regular order of business.

The SPEAKER stated the business in order to be House bill No. 344, to construct a ship-canal around the falls of Niagara, and that the pending question was on the substitute of Mr. VAN HORN, of New York, on which the gentleman from New York [Mr. J. M. HUMPHREY] was entitled to the floor.

Mr. J. M. HUMPHREY. I ask leave to offer the following amendments:

Strike out sections seven, twenty, twenty-one, and twenty-two.

Add the following:

SEC. 1. *Be it enacted, &c.*, That before entering upon the survey or construction of this canal, the consent thereto of the State of New York shall be obtained, and said corporation and all its property and franchises shall at all times be subject to the laws of the State of New York.

Mr. VAN HORN, of New York. Is that in order?

Mr. ALLISON. I only yielded to the gentleman to submit some remarks, and not for the purpose of offering amendments.

The SPEAKER. Then the amendments cannot be received.

Mr. J. M. HUMPHREY then concluded his remarks, begun when the bill was last before the House. [The entire speech will be found in the Appendix.]

The SPEAKER stated that the gentleman from Iowa [Mr. ALLISON] had ten minutes of his hour left.

Mr. ALLISON. I offer the following amendments:

Section twenty, line seven, after the word "payable," insert "in lawful currency of the United States;" also in line fourteen insert the same words; so that it will read:

SEC. 20. *And be it further enacted*, That the sum of \$6,000,000 shall be loaned by the United States, in the manner and at the times hereinafter provided, to the company hereby chartered, and its successors, to aid in the construction of said canal, and shall be advanced and paid in the bonds of the United States in denomination of \$1,000 each, payable in lawful currency of the United States in twenty years from their date, which said bonds shall be made and issued by the Secretary of the Treasury in the usual manner, and duly attested and dated the 1st day of September, 1866, payable at the office of the Secretary of the Treasury, on the 1st day of September, 1886, bearing interest at the rate of six per cent. per annum, payable semi-annually, in lawful currency of the United States, from and after the 1st day of September, 1866, upon warrants or coupons to be annexed thereto, signed by the Treasurer of the United States, duly numbered and registered in a book to be kept by him for that purpose. The said interest to be payable and the said bonds to be redeemed out of moneys to be hereafter appropriated by Congress.

Section twenty-two, page 21, line three, after the word "thereof," strike out, "after deducting the cost of repairs and the expenses of operating and improving the same;" so that it will read:

SEC. 22. *And be it further enacted*, That from all the tolls which shall be collected upon vessels, rafts,

floats, and property passing said canal, ten per cent. thereof shall, on the 1st day of January in each year after the completion of said canal, be paid by said company into the Treasury of the United States, which moneys, with the interest accruing thereon, shall be applied toward the payment of the principal of the sum so to be loaned to said company, as is herein provided, from time to time as shall hereafter be appropriated by Congress.

Add to section twenty-three the following proviso: *Provided*, That said rates of toll may at any time be reduced and regulated by Congress.

Mr. VAN HORN, of New York. I accept those amendments as modifications of my substitute.

Mr. ALLISON. Mr. Speaker, before entering upon the discussion of the merits of the particular bill now before the House for its consideration, I wish to say a word in relation to the general purpose sought to be effected by this class of improvements, namely, the opening up of new and the enlargement of the natural channels of communication whereby the agricultural products of this country may have a cheap and easy transit from their points of production to the markets of the world.

It is manifest that by whatever sum we lessen the cost of transportation, by that sum we enrich either the producer or consumer of these products. I undertake to say that in the aggregate there is no class of our people that receive so little reward for their labor as those who till the soil, and no class will be more benefited by the class of legislation here proposed than the agriculturist, inasmuch as we have for many years produced a surplus of breadstuffs which must be exported in some form. The foreign market for this surplus affects the price of the product consumed at home. Hence it is that the markets in Liverpool control, to a great extent, the price of the wheat, the corn, the beef, and pork at Chicago or upon the farms of the West. Our farmers are thus brought in competition with the wheat-growing countries of Russia, Egypt, and Turkey, and whatever will cheapen the cost of transportation of the products of the farm will aid the farmer until the demand at home or abroad exceeds the supply when the consumer will be benefited. The States most directly interested in this subject are the great prairie States of the West, as they produce nearly if not all the surplus cereals now produced in this country, as will be readily seen by a reference to the statistics upon this subject.

In 1864 there was produced in Illinois, Wisconsin, and Iowa, one fourth of all the live stock produced in this country, amounting in value to \$240,000,000, in round numbers; of wheat, more than one third, or 60,000,000 bushels; of corn, nearly one half, or 230,000,000 bushels; of cattle, 2,000,000, or one third of the whole product; and of hogs, 4,000,000, or nearly one third of the whole product. This, with a population of about three tenths of the whole population of this country. The surplus of this enormous product must find a market in New England and other eastern States or it must go abroad. I but state the truth when I say that our farmers are now being ground to powder between the upper and nether millstone of monopoly that requires for transportation to New York one bushel of wheat for every bushel transported from the Mississippi to New York, and two for every bushel of corn thus transported; and for this reason they are looking with intense interest upon our deliberations here to give them some relief whereby their toil may be properly rewarded. The measure now before the House I have no doubt will be of material service in the right direction. But it is not enough, and this Congress will fail in the discharge of one of its most important obligations to the country if it adjourns without passing an act to remove all obstructions now in the way of the safe and continuous navigation of the great river that threads itself midway between the oceans that mark our eastern and western boundary, running from the British possessions to the Gulf of Mexico. That is the natural highway for the commerce of the Mississippi valley, both to the eastern portions of our own country and to foreign markets.

And the West will not be content until the obstructions in the way of successful navigation of this river are removed, the most material of which lie upon the borders of Iowa and Illinois.

We are told that we must find a home market by building up in our midst manufactures, and thus bring the consumers of bread to the doors of those who produce it. I will say or do nothing that would discourage the growth of manufactures in the West or elsewhere in our country, but by proper and prudent legislation encourage their growth, and to that end would welcome eastern capital seeking investment in that direction. Yet no one who has beheld and traveled over our boundless and fertile prairies can fail to see that this region is destined to become, if it is not now, the granary of the world, and with all the looms and spindles of New England and the forges and rolling-mills of Pennsylvania transplanted there we would still have a surplus of agricultural products that would be transported a long distance before a market could be secured. It is safe to assume that the increase of population, including immigration, will keep pace with production of cereals and breadstuffs, and the agriculturist will always seek the cheapest and most productive soils. It has been reasonably estimated that of wheat alone there will be produced at the beginning of the next century annually five hundred million bushels, and of corn at least three times that number of bushels, one half of which will be produced in the prairie States west of Chicago, and chiefly consumed at points east of Buffalo, and must in some form be transported thither. This cannot be done except through the improved natural channels which nature has worked out by way of New Orleans and the great lakes. And here I wish to correct an error in which the gentleman from New York [Mr. HULBURD] is common with many others has fallen, namely, that because of the nature of the Gulf stream and the warm climate wheat and corn cannot be transported by way of New Orleans. This difficulty does not now exist, as by means of elevators at convenient points on the river the wheat and corn can reach New Orleans in a perfect condition, from which it can be easily and safely transported to any of the markets of the world; and the fact is that the United States exports wheat and flour to Portugal, Brazil, and Australia, and England imports largely from Turkey and Egypt; all this commerce being across the tropics subject to the climatic influences which prevail in the Gulf.

I mention these general facts in relation to this subject that the House may understand that the West will imperatively demand, and now, that this great river shall have removed from it the obstructions which hinder and impede its safe and easy navigation. This House has partially recognized this great want in the passage of the river and harbor bill, on yesterday, but the sums there appropriated will scarcely more than commence the great improvements demanded to secure the uninterrupted navigation of the Mississippi river from St. Paul to the Gulf.

In demanding these improvements we do not ask for the establishment of any new policy, but only a full recognition of the long-established policy of the Government, often disputed, but as often asserted in the legislation of the country. The same grant of power to regulate commerce with foreign nations authorizes Congress to regulate commerce among the several States. This power has been asserted from the foundation of our Government, in making appropriations for light-houses, beacons, buoys, and public piers erected or placed within the bays, inlets, harbors, and ports of the United States to render navigation safe and easy, and for the last ten years we have appropriated not less than \$1,000,000 annually for this purpose, without objection, in order to protect the foreign commerce of the United States, when in fact our trans-oceanic commerce does not amount to more than one tenth of our domestic commerce, and when the former

could not have existed, for the last few years but for the productions of the food-producing States of this country.

Sir, the tonnage of the Erie canal alone amounted to more than the total tonnage transported to and from the United States for the years 1862 and 1863. The five States of Illinois, Wisconsin, Missouri, Iowa, and Minnesota, lying west of Chicago, bordering on the Mississippi and on the lakes, furnished one third in value of the staples exported during the years 1861, 1862, and 1863. And here I shall take the liberty of quoting from an address delivered by a distinguished citizen of my own city, P. Robb, Esq., before a convention of shippers and merchants held at Dubuque, which sets forth in concise terms the value of this commerce to our country. He says:

"An examination of the statistics fully establishes the additional fact that these five States during the years 1861, 1862, and 1863, shipped East one hundred and fifty per cent. more corn and meal, and twenty-five per cent. more pork products than were exported from the entire country during the same period. These States not only supply the export wheat of the entire country, but also the export corn and pork products. The contributions, therefore, made by Illinois, Wisconsin, Missouri, Minnesota, and Iowa, to the exports of the United States in these three leading agricultural staples alone, are as follows:

	1860-61.	1861-62.	1862-63.
Wheat.....	\$48,938,780	\$44,187,138	\$55,647,979
Corn and meal.....	6,387,160	9,600,879	9,623,357
Pork products.....	4,687,784	10,217,281	16,424,338
Total.....	\$60,013,724	\$64,017,308	\$81,695,674

"Excluding gold, silver, and bullion, which are hardly analogous to other products, and the entire exports of domestic products of the United States amounted in 1860-61 to \$217,666,953; in 1861-62 to \$190,699,387; and in 1862-63 to \$260,666,110.

"The average exports of the country for the three years was \$222,874,133 33, and the average exports which these five States contributed in wheat, corn, and pork alone was \$68,575,568 66, or very nearly one third.

"In 1861, 1862, and 1863, the average yearly tonnage of all American vessels engaged in trans-oceanic commerce and entering the ports of the United States was 2,504,257 tons, and the average tonnage of all the vessels of all countries engaged in oceanic commerce and entering the ports of the United States was 5,341,867 tons. Now, the three staples contributed by these five upper Mississippi States to our exports were equivalent to 1,315,000 tons annually. They, therefore, not only contributed one third in value to our entire exports, but gave employment upon the ocean to more than one half of all our American tonnage, which was equivalent to one fourth of all the tonnage of all nations, our own included, entering the United States and engaged in the trans-oceanic commerce. History cannot furnish a parallel. But for the relief afforded by the productive industry of this section our national credit would have been seriously impaired, and ships must have rotted at their wharves."

I regret, Mr. Speaker, that I have not the time to quote more largely from this address, which is in itself a complete argument on this subject.

Is it possible that those who organized our Government intended to confine the power to regulate commerce to that only which appertains to our intercourse with foreign nations, a power the most important in its creation and most extensive in its operation which can belong to any Government? Is it not certain that they intended to remove this power from the disjointed and conflicting legislation of the States and place it under the auspices of a united and efficient Government, a power to be largely, liberally, and beneficially construed in furtherance of the great objects of Government, to be exercised prudently and wisely by the Congress of the United States, and to operate as well within the several States as upon our foreign commerce?

We are imperatively called upon now to exercise this power in behalf of the agricultural interest of the country in order to furnish competing lines for the transportation of their products, so that the corn of the prairies may reach New England and the East where it is needed for consumption and exportation, instead of being burned as now for fuel. We want these improvements to encourage the development of the great West, so that the food-consuming States may have cheap bread and the farmer may receive an adequate reward for his toil.

And inasmuch as this bill has a tendency to diminish the cost of transportation by creating

a competing line of communication, it will receive the support of the people of the western States and the sanction of their Representatives.

The gentleman from New York [Mr. J. M. HUMPHREY] finds fault with this measure because he can find in the Constitution of the United States no power to pass it; but if he will refer to the measures that have been at various times before Congress he will see that it has become the uniform policy of the Government to engage in these great works of internal improvement. There has scarcely been a Congress that has not in some form or another recognized this principle in our legislation. But the gentleman from New York [Mr. J. M. HUMPHREY] objects to this measure because it is within the State of New York alone, because it does not connect any two States, but the whole of the proposed improvement is necessarily in the State of New York. He seems to forget that it unites by water communication the great chain of lakes which float the commerce of many States and opens a direct communication with the ocean that bears upon its bosom the commerce of the world.

Now, I think this bill finds its sanction in many provisions of the Constitution, as in the power "to regulate commerce with foreign nations and among the several States;" "to declare war," "to raise and support armies," "and provide for the common defense," "to provide and maintain a navy," &c. It is admitted that this measure will be one of necessity for the protection and defense of our northern lakes should we come in conflict with England.

But the gentleman says we are not likely to have a war with that country. Why, sir, upon the principle he advocates we cannot cast a cannon nor build a fortification in time of peace, because it is not necessary except as a war measure. We could not build a ship for the protection of our commercial marine because we are not engaged in war. I believe the true policy of the Government is, in time of peace to prepare for war. Therefore it is that whatever is necessary to control and protect the commerce of our great northwestern lakes and the States bordering upon them as a war measure, the Congress of the United States certainly has power to adopt, and it is the sole judge of the exigency which shall call for the exercise of that power.

But another objection of the gentleman is that it interferes with the proper local jurisdiction of the State of New York. The gentleman from New York will bear in mind that we are constantly interfering with the local jurisdiction of the States. We have done it in a marked instance in the passage of a national banking law whereby we controlled the moneyed interest and power of this country by the creation of national banks. By the operations of that act in the State of Iowa, which I have the honor in part to represent, a State bank system has been utterly destroyed. Under the constitution of that State a charter organizing a general banking system in that State must be submitted to a vote of the people, and we had a system there which had been thus submitted and passed upon favorably; and yet, under the national banking law, our State bank system has been utterly ignored and driven out of existence, and without the consent of the State Legislature. A national system has been established there in violation of our State policy. So that we do interfere with the local policy of States by our legislation here, and we have the constitutional power to interfere when it is necessary for the general interests of the Government, or to carry out specific powers granted in the Constitution.

[Here the hammer fell.]

Mr. INGERSOLL. I will yield five minutes of my time to the gentleman from Iowa to conclude his remarks.

Mr. ALLISON. I am certainly much obliged to the gentleman from Illinois. I desire to say one thing with reference to the policy of the State of New York on this subject of canals. I

say that the policy which that State has adopted is sufficient in itself to justify the Congress of the United States in interfering with it by the adoption of this measure.

I hold in my hand the Proceedings of the Canal Board of New York, wherein they report to the Legislature of that State that this Erie canal, which the gentleman says cost \$100,000,000, instead of being a charge, has actually been a benefit to that State, and has placed in its treasury \$9,000,000 over and above the money expended for the construction of the work, nearly all of which was levied as a contribution upon the grain-producing States of the West. And yet the State of New York proposes now, by its interference here, to prevent the western States from transporting their cereals across that State unless they pay tribute to that State in the way of tolls such as it may see proper to impose; and it is for that reason and to establish a competing line of transit that this measure is proposed, for the purpose of depriving them of this monopoly of transportation between the lakes and the sea.

I know, also, that the gentleman from New York, [Mr. J. M. HUMPHREY,] when a member of the New York Senate, introduced a bill for the purpose of enlarging the Erie canal, showing that he believed at that time, as every one but him now believes, that we do need additional facilities by which the cereals of the western States can be transported to the city of New York and to the markets of the East. How did he propose to enlarge that canal? He proposed to do it by means of locks, which were to pass vessels of six hundred tons burden, and to levy upon the commerce of the western States seventy cents on every ton transported through that canal, in addition to the tolls levied by the State of New York upon its own citizens to pay for its construction and enlargement.

Now, the very fact that it has been the policy of the State of New York to compel the produce of the West to pass through the Erie canal or over her railroads, in order that she may control at will the commerce of the western States, and levy tolls upon that commerce, is in itself a just reason why we should interfere and pass this measure, in order that Congress may have control over this national highway, connecting the lower with the upper lakes, and thus connecting the lakes with the ocean, which thus far has been to us an unknown sea. And in order to keep this question of tolls within the power and control of Congress, I offered the amendment to the twenty-third section of the bill, giving this control to Congress, in order that we may not escape from the rapacious jaws of one class of monopolies to be swallowed up by the voracious maw of another; and in the hope that this competing highway may be used to cheapen transportation upon all the great lines eastward upon which we now depend to carry off our surplus productions, and in some degree to meet the growing wants and expectations of an industrious, intelligent, and virtuous population, now numbering millions, who have cast their lot west of the great lakes and in the valley of the Mississippi. And here I wish to express the thanks of that people to the honorable member from Massachusetts, [Mr. BANKS,] who spoke so eloquently on Saturday of the growing wants of this great nation, and to his colleague, [Mr. ELIOT,] for his earnest, persistent, and successful effort to improve the great river upon which we must largely depend hereafter for the transportation of our products.

Mr. Speaker, if we would keep pace with the growing civilization of the age in which we live, we must foster and encourage our internal commerce, by opening up new avenues, and improving the natural highways which Providence has carved out for us, and thus encourage every branch of our varied industry, and enable us with ease to meet the great responsibilities and burdens imposed upon us by the rebellion and war through which we have passed, and from which we have so triumphantly emerged. This improvement is

but one link in the great chain of improvements necessary to develop our great material interests, and raise this nation to the high and brilliant destiny that awaits it.

Mr. Speaker, the measure as it is now presented, I believe, has in it but few if any objectionable features, unless it be the fact that it authorizes a corporation to construct this canal instead of providing for its construction under the direct auspices of the General Government. For myself, I would prefer that the Government should itself undertake this great work of material improvement, in order that it might be as the ocean, free for the commerce of the world; but I have no doubt that whatever we could do by ourselves we can do through the necessary and proper agencies we may create. That we have the power to create a corporation for this purpose was decided by the Supreme Court in the case of *McCulloch* against the State of Maryland, where it was decided expressly that Congress has power, where an object is necessary to be accomplished, to create the means by which that object may be accomplished, and that it may create a corporation as one of the means, if that is deemed the best way to accomplish the end sought to be attained.

[Here the hammer fell.]

Mr. INGERSOLL. Mr. Speaker, I remember with some what of pride that in the Thirty-Eighth Congress I voted in favor of a bill of this character, for the construction of a ship-canal around Niagara falls, and also a bill to aid in enlarging the Illinois and Michigan canal, and after a considerable contest I had the proud satisfaction of seeing those bills pass this House by a very respectable majority. And I remember with what grateful feelings the people of the West responded to that action of Congress upon witnessing the exhibition of the generous spirit in this House which regarded not merely the interest of certain localities but the entire country. Early in the present session I introduced a bill providing for the appropriation of \$5,000,000 to aid the State of Illinois in enlarging the Illinois and Michigan canal to the capacity of a ship-canal. And now, if it were not for fear of embarrassing the passage of this bill, I would offer as an amendment the bill which passed this House at the last session to enlarge the Illinois and Michigan ship-canal. But I feel certain that if we pass this bill for a canal around the falls of Niagara, it will be a step well taken in the right direction; and that having taken that step, the second step will easily follow, which will be the passage of the bill for the enlargement of the Illinois and Michigan ship-canal, and thus without embarrassing this bill we will secure the other also; and thus those two great national works will receive the sanction of the national Legislature. Complete these two great works and you will have done more to aggrandize the Republic than by anything you have ever done, except it be the crushing out of the rebellion.

The gentleman from New York [Mr. J. M. HUMPHREY] objects to the passage of this bill, because he says that by virtue of a treaty now existing between this Government and the Government of Great Britain we can have but two war vessels upon the northern lakes and but one upon Lake Ontario, and consequently we cannot regard this measure as one of military necessity or as one required to provide for the common defense, as the treaty provides that we shall not enlarge our power upon those lakes. Now, let me remind the House and the gentleman from New York of what he no doubt overlooked for the moment, that in case a war should ensue between Great Britain and this country the provisions of all existing treaties between the two countries would be at once annulled, and we should then be free to exercise whatever power we might desire for our protection and self-preservation by building as many war vessels as we might deem necessary.

Mr. J. M. HUMPHREY. Will the gentleman allow me—

Mr. INGERSOLL. I cannot, for my time is limited.

Mr. J. M. HUMPHREY. Only a moment. Mr. INGERSOLL. Not an instant; not an instant. I should be glad to, but my time is too precious.

Now, if we build this Niagara ship-canal we will have it as an offset against the British power in the use of the Welland canal. And if war shall occur between this country and Great Britain they will at once proceed to build their gunboats on Lake Ontario and Lake Erie, and move them with the greatest facility from one lake to the other, as necessity should require, through the Welland canal, which would be closed against us. Give us this Niagara ship-canal, and we could go to work in our ship-yards, in case of war, along the entire lake shores from Ogdensburg to Chicago, and build a fleet of war vessels which we could move with equal facility through our own canal and thus be prepared to defend ourselves in a manner which would be impossible at present. Thus, in a military point of view, this canal is indispensable to the Government.

And I say here that no civilized Government on the face of the earth, with such a chain of lakes within her borders, and with a foreign Power on her frontier, would have existed ten years without connecting those lakes by a ship-canal. And yet we have existed for eighty years without such a canal, though our fathers showed their appreciation of its importance, not only in a commercial, but also in a military point of view, by urging upon Congress the necessity of the work. Let us at once perform this work, which is so much needed by the commercial, the manufacturing, and the agricultural interests of the country, and which is so necessary for the common defense of the whole country.

Let us look for a moment at the nature of the work, and see whether its magnitude is such as should deter us from entering upon it. This bill provides for the expenditure of but \$6,000,000, and that, too, in the shape of a loan, and that not in money, but in bonds to be repaid to the Government out of the earnings of the canal. Ten per cent. annually of the net earnings of the canal are to be returned to the Treasury of the United States. That is all this bill provides; and who is it who will say that that is not an outlay of credit that will pay the greatest rate of interest the Government ever received? In a few years every dollar would be repaid to the Government.

We have looked upon the Chinese as a sort of semi-heathen people, never as a commercial people. But they have within their borders a continuous canal communication of over one thousand miles in extent. The Government of France, under the reign of Louis XIV, built the Languedoc canal, connecting the Bay of Biscay with the Mediterranean, rising to a summit level of six hundred feet above the sea; a work perfectly stupendous in comparison with this. In Holland we have an example of national energy and commercial enterprise looking to the welfare of the people that it would be well to follow. They built, more than forty years ago, a canal from Amsterdam to the Helder, fifty-one miles in length, one hundred and twenty-five feet wide at the water-level, twenty feet deep, with an average width at the bottom of thirty-one feet, in order that the commerce of Holland and the world might avoid the dangers of the coast navigation.

Great Britain on our own continent has set an example worthy of imitation in building the Welland canal and other canals in Canada for the benefit of commerce, and for the protection of her dominions in time of war. The Caledonian canal is another great work built by the British Government in Scotland. It rises to the summit level over the rocky highlands of Scotland to an elevation of nearly one hundred feet. It is a ship-canal with twenty feet depth of water and with an average breadth of one hundred and twenty feet. This was constructed to avoid the dangers of the Pentland firth and the Western islands.

These are some of the works that other nations have performed, where their interest was as nothing compared with our interest in this great project, either in a commercial or a military point of view.

The gentleman from New York [Mr. J. M. HUMPHREY] tells us that the tariff and tolls on the Erie canal have been wonderfully reduced. Why, sir, the Erie canal was completed in 1825. When did the first reduction take place? Just about the time of the completion of the Welland canal, ten years later. That was made to some extent a competing canal, by virtue of treaties between this country and Great Britain. The New York Central railroad was completed in about the year 1840. That was another competing line. Other railroads sprung up over the country, connecting the East with the West; and in consequence of the competition created by these various lines of transportation the Erie Canal Company found it necessary for their business that they should reduce their tariffs and their tolls. Had not these competing lines been built there would have been no reduction, or next to none, either in tolls or in tariffs to the present day.

The Erie canal has been of incalculable benefit to the country. Had that canal never been constructed we would, in all probability, have had no magnificent West to-day. It opened, as by the power of magic, the way for enterprising emigrants to settle the West, and they were not slow to take advantage of it; and since the completion of that canal in 1825, the West may date the day of her onward march of prosperity and greatness. But the West needs to-day another canal, and further and greater facilities of transportation, more than she ever did the Erie canal; for unless these needed facilities of transportation be extended, the West will find herself worse off than though her population were less than half of what it now is and her agricultural products reduced in the same proportion, for we must have cheaper rates of freight for the transportation of our western products, or the industry of the West will be paralyzed. There will be no stimulus for agriculture, for the products of the farmer will not pay transportation to market. This state of things cannot last long. The West demands additional facilities of transportation. She will have them. If she cannot get aid from the Government, she will build the necessary works herself. And in order to perpetuate and promote a good feeling between the East and the West, and continue in that prosperity which has made the country rejoice, it will be the work of wisdom for the eastern and middle States to respond favorably to this demand of the West, for these States will be as much benefited as will the western States themselves.

Now, sir, in the early history of the Government, even John C. Calhoun, when he was Secretary of War, was in favor of this system, not of internal improvements, as some may be disposed to call them, but this system of national works, as necessary to provide for the common defense and the general welfare of the United States. Hear what he said in 1824, when Secretary of War:

"Let us bind the Republic together; let us conquer space by a perfect system of roads and canals."

These are precious words; they were uttered by Mr. Calhoun before he had become tainted with secessionism or nullification, and I repeat them here to-day to his credit. Happy would it have been for him and for the country had he never uttered any sentiments at war with these.

Why, sir, had the Government of the United States, prior to the war of 1812, built a great national road from here to Detroit, would Hull have made his ignominious surrender? No, sir; because we would have had the means of transporting men, cannon, and other munitions of war for the national defense in sufficient numbers and quantity to have prevented that deplorable event. It was estimated in the last war that a single cannon taken from our foundries in the East to Detroit cost its weight in silver to get it there. Yet this state of things

the old fogies of ages past, though yet living, would continue if they be permitted to control the legislation of the country.

Let us avoid the errors of the past. Let us "in peace prepare for war." If war should come, and it may be not far distant, you will then say, "What a pity it is that we did not build the Niagara ship-canal when we were at peace." Then it will be too late; now is the time for action.

Now, sir, with regard to the commercial importance of this measure to the country, East and West, no language is adequate to do the subject justice. Why, sir, it is estimated that by this great work the cost of transportation on every bushel of grain will be reduced ten cents at least from Chicago to New York and Boston. Consequently, it will be ten cents increase to the producer and ten cents reduction to the purchaser. Suppose, then, we transport one hundred million bushels of grain per annum, which, in a few years, will be but half the actual amount transported from the Northwest. There you have \$10,000,000 saved to the producer, and \$10,000,000 saved to the consumer. As the honorable gentleman from Connecticut [Mr. BRANDEGEE] remarked, "the effect will be to make a loaf of bread in Connecticut twice as large and cost but half as much as at present," not that the hundred million bushels will all go through this canal; but the construction of this work will have the effect to reduce freight on railroads and other lines of transportation to that extent if not more. By this means we shall enhance the value of western and eastern industry more than twenty million dollars per annum, a sum exceeding more than three times the amount proposed to be loaned by this bill, in the shape of Government bonds, for the building of this great national work.

Sir, I have here statistical tables showing the immense advantages of this work, especially to the agricultural interest of the West and to the whole country generally. Why, sir, Illinois, during the last year, notwithstanding she furnished a quarter of a million men for the Army for the preservation of the Republic, raised one hundred and seventy-seven million bushels of corn. That noble State raises one fourth of the entire corn product of the United States, one fifth of the wheat, and one seventh of the oats, and sends to the New York market more beef cattle than all the other States together.

But I will draw no invidious comparisons between Illinois and the other northwestern States. In proportion to their population and arable lands they do equally as well.

I will now give the House some statistics which will be instructive in estimating the importance of this work, and which will be of interest to the whole country. I read now from the report of Hon. W. J. McAlpine, late State engineer of the State of New York, in his report to the Legislature of that State in the year 1855. These are conceded to be reliable data:

Cost of transportation per ton per mile is:		Mills.
On the Ocean, long voyage.....	1½	
" short voyage.....	2½	to 6
" Lakes, long.....	2	
" short.....	3	to 4
" Hudson river.....	2½	
" Mississippi and St. Lawrence.....	3	
" Erie canal (enlarged).....	4	
" Ordinary canals.....	5	
" Railroads (ordinary grades).....	12½	to 13½

Now, the distance by the lake from Chicago to Buffalo is one thousand miles; and the actual cost of transporting a ton of freight, according to the estimate of Mr. McAlpine, is two mills per ton per mile, or—

For a ton of freight from Chicago to Buffalo.....	\$2 00
The distance from Buffalo to Troy, is 345 miles, which, at four mills per ton per mile, makes the cost of transporting a ton from Buffalo to Troy.....	1 38
Add canal tolls, at three mills per one thousand pounds, per mile.....	2 07
Cost of transportation per ton on the Hudson, at two and a half mills per mile.....	37 5

Making the whole cost, including canal tolls, of transporting a ton of wheat or flour from Chicago to New York, via Buffalo and the Erie canal.....\$5 82 5

Cost via the Niagara ship-canal and Lake Ontario: The distance from Chicago to Oswego, via the proposed ship-canal, would be eleven hundred and eighty miles, which, at two mills per ton per mile, would be.....	\$2 36
The distance from Oswego to Troy, by canal, is one hundred and eighty-seven miles, which, at four mills per ton per mile, for transportation, would be.....	74 5
Add canal tolls, at three mills per one thousand pounds per mile, on wheat or flour.....	1 12 2
Freight on Hudson river at two and a half mills per ton per mile.....	37 5
Add Niagara ship-canal expenses, per ton.....	20

Making the cost of transporting a ton of wheat or flour from Chicago to New York, via the proposed ship-canal and Lake Ontario.....\$4 80 2

In 1860 the whole number of acres of improved land in all the States and Territories was.....163,261,389

Of this—	
Missouri contained.....	6,246,871
Illinois.....	13,254,473
Iowa.....	3,780,253
Wisconsin.....	3,746,036
Minnesota.....	554,397
	27,579,030

Or a fraction less than one sixth.

The total value of crops for 1864 is estimated by the Agricultural Bureau of the Department of the Interior to have been.....\$1,564,543,690

Of this sum—	
Illinois produced.....	\$214,488,426
Wisconsin.....	51,938,852
Missouri.....	52,996,592
Iowa.....	71,100,481
Minnesota.....	13,168,123
	403,692,474

Or more than one fourth of the value of the entire crops of the country. But these estimates of value are the estimated value of the various products in the States where produced. In this way the value of articles in the above States appears to a great disadvantage, because being so far from market, they are rated much less than the same articles in other States, especially those near the sea-board. The same is true of the estimated value of the live stock, which, on the 1st of January, 1865, was.....\$990,879,128

Of this—	
Illinois had.....	\$116,588,288
Missouri.....	44,431,768
Iowa.....	66,572,496
Wisconsin.....	36,911,165
Minnesota.....	8,860,015
	273,363,730

Or more than one fourth. A juster standard by which to measure the productiveness of these States would be a comparison of the amount of their respective products, since the value is so largely affected by the distance from market.

"The great staples of agriculture are wheat, corn, beef, and pork. Comparing these, we find that the total number of bushels of wheat produced in all the States and Territories in 1864 (except the cotton States, whose production was almost nominal, probably not more than one sixth of what it was in 1860) was.....160,695,822

Illinois produced.....	33,371,173
Missouri.....	3,281,514
Wisconsin.....	14,168,317
Iowa.....	12,649,807
Minnesota.....	2,634,975
	66,105,786

Or a fraction less than one half.

The total number of bushels of corn produced was.....530,451,403

Illinois produced.....	138,356,135
Missouri.....	36,635,611
Wisconsin.....	10,087,053
Iowa.....	55,261,240
Minnesota.....	4,647,329
	244,986,768

Or nearly one half.

The whole number of cattle and oxen, January 1, 1865, was.....7,072,591

Illinois had.....	978,700
Missouri.....	471,006
Wisconsin.....	388,760
Iowa.....	561,338
Minnesota.....	127,175
	2,526,979

Or more than one third.

The total number of hogs was.....13,070,887

Illinois had.....	2,034,231
Missouri.....	988,357
Wisconsin.....	340,638
Iowa.....	1,423,567
Minnesota.....	109,016
	4,896,506

Or more than one third.

The entire population of the United States in 1860 was.....31,443,322

Illinois contained.....	1,711,951
Iowa.....	674,913
Missouri.....	1,182,012
Minnesota.....	172,123
Wisconsin.....	775,881
	4,516,880

Or about one seventh.

"Thus it will be seen that these five States, possessing only one seventh of all the population and one sixth of all the improved land, nevertheless in 1864 produced more than one fourth in value of the entire crop, more than one fourth in value of all the

live stock, more than one third in number of all the cattle and hogs, and nearly one half of all the wheat and corn grown in the United States. Here we find four and one half millions of agriculturists along the upper Mississippi producing in a single year from one third to one half of all the production of the leading staples of an estimated value of \$677,056,204.

"In the fiscal years 1861, 1862, and 1863, the United States exported 89,941,508 bushels of wheat and 6,997,470 barrels of flour, valued at \$148,673,907. During those same years we shipped from the lake ports named 85,577,516 bushels of wheat and 7,530,893 barrels of flour. Reduce the flour to bushels and we have as the entire exports of wheat from the United States for the three years, 124,828,902 bushels. Shipments from the lake ports named for the three years, 123,231,981 bushels.

"The contributions, therefore, made by Illinois, Wisconsin, Missouri, and Minnesota, to the exports of the United States in these three leading agricultural staples alone, are as follows:

	1860-61.	1861-62.	1862-63.
Wheat.....	\$48,938,780	\$44,187,148	\$55,647,979
Corn and meal.....	6,387,160	9,609,879	9,623,357
Pork products.....	4,687,784	10,217,281	16,424,238
Total.....	\$60,013,724	\$64,017,308	\$81,695,674

"Excluding gold, silver, and bullion, which are hardly analogous to other products, and the entire exports of domestic products of the United States amounted in 1860-61 to \$217,686,953; in 1861-62 to \$190,699,387; and in 1862-63 to \$260,666,110.

"The average exports of the country for the three years was \$222,874,133 33, and the average exports which these five States contributed in wheat, corn, and pork alone, was \$68,575,568 66, or very nearly one third."

Thus it will be seen what the West has done in her giant strides within the past few years, and he who is possessed of a brilliant, volatile imagination may have some conception of what the capacity, the power, and the glory of this country will be a quarter of a century hence. We are apt to think too much of the present and not enough of the future. We legislate too much for the present and not enough with reference to the future. The wisest and most far-seeing man of twenty-five years ago did not even dream of the realities of the present day; and then shall this country a quarter of a century hence say the same of us with reference to our present legislation? Let us try to comprehend the vast resources of the country and the power of its people under favorable circumstances, to build up a republic which shall be the controlling Power of the world in an agricultural, manufacturing, and mechanical point of view. We have the richest lands and the richest mines, the mightiest rivers and the greatest lakes on the face of the earth, and if we but make a proper use of the mighty and inexhaustible means in our hands, we will be one day, and that not far distant, the greatest, wealthiest, most intelligent, and happiest people that ever existed.

Now, the State of Illinois alone numbers 2,250,000 people, and the group of States known as the northwestern States more than 10,000,000 people. Forty years ago they all did not contain more than 1,000,000 souls. Then Chicago was known as an Indian trading post; now it contains a population of nearly a quarter of a million, and is the greatest grain, lumber, and pork market on the globe. Why, sir, since that day a republican empire has sprung into existence, which contains within itself more elements of strength and greatness than any empire in the Old World, with perhaps the single exception of the Russian empire. We have already astonished the world, and if we continue to increase in the present ratio of prosperity, we will not only astonish but amaze the world. Who can with certainty predict the future greatness and glory of the Republic, when it is ascertained with mathematical accuracy that according to the present ratio of increase of the population of the United States, in 1870 we will number 42,000,000 people; in 1880, 56,000,000; in 1890, 77,000,000; and in the year 1900, 100,000,000.

Sir, if the country is not cramped by the beggarly parsimony of narrow-minded and short-sighted men, it is safe to assume that the increase of her agricultural and mechanical products will increase in the same ratio as her population. How totally inadequate, then, will

be the facilities of transportation of the western products, with a population of 50,000,000, when all the lines of transportation are inadequate to carry off the surplus produce of 10,000,000 people to-day.

Think of it for a moment, and reflect upon the astounding fact, that but a few years ago this great Northwest was but one vast wilderness!

Washington, the Father of his Country, when Illinois was inhabited by the wild savage, when the entire Northwest was marked on the map to a great extent as a region unknown, had a deep appreciation of the future grandeur and glory of our country. Speaking of the western country, eighty years and more ago, he used this language:

"For my own part, I wish sincerely that every door to that country may be thrown wide open and commercial intercourse with it rendered as free and easy as possible. This is in my opinion the best if not the only cement that can bind these people to us for any length of time, and we shall be deficient in foresight and wisdom if we neglect the means of effecting it. Our interest is so much in unison with this measure that nothing short of that misjudged parsimony and contracted way of thinking which intermingles so much in our public councils can counteract it."

It is said to be unconstitutional for the Government to construct a work of this character. I have no time to enter into an elaborate constitutional argument on this question, but I must say a few words. The Constitution declares that Congress shall have power, first, to establish post offices and post roads; second, to regulate commerce with foreign nations and among the States and with the Indian tribes; third, to raise and support armies and provide for the common defense; and fourth, to make all laws which shall be necessary and proper to carry into execution the foregoing powers.

If the power of Congress could be questioned under the first and second powers above quoted, how could it be questioned under the third, which declares that Congress shall have power to raise and support armies and provide for the common defense? Congress can provide for the common defense without either an army or navy, and consequently may neither raise an army nor build a navy, and yet it may provide for the common defense by other means.

If it is necessary to provide for the common defense of the country to build a fort, then it is constitutional to build a fort. If it is necessary to provide for the common defense that we should have cannon and cannon-balls, then it would be constitutional for Congress to establish a cannon foundry wherein to cast guns; so we might establish a dozen or a hundred foundries, and so we might work the iron-ore bed to get the material wherewith to cast the cannon. It is a question, in the first place, of necessity, and in the second place a question of means.

The extent of the necessity is not measured in the Constitution, and the character of the means is not specified. Under this power in the Constitution we have established arsenals, dock-yards, navy-yards, military academies, naval academies, and done many other things to provide for the common defense of the country. Under this power we educate men in military schools and pay for their education out of the public treasury. Congress is to judge of what is necessary to provide for the common defense, and Congress is also to select the means whereby the country is to be defended. If a ship is necessary we build it; if a fort is necessary we build it; if an arsenal is necessary we build it; and if Congress determined that a ship-canal is necessary to the common defense, it ought to be built, and unless Congress provided for the building of that canal it would be derelict in its duty to the country.

The Secretary of War, in 1824, made use of the following language in his report:

"Many of the roads and canals which have been suggested are, no doubt, of the first importance to the commerce, the agriculture, and the manufactures and the political prosperity of the country, but are not for that reason less useful or necessary for military purposes. It is, in fact, one of the great advantages of our country, enjoying so many others, that whether we regard its internal improvement in relation to military, civil, or political purposes, very nearly the

same system, in all its parts, is required. The road or canal can scarcely be designated which is not highly useful for military operations, and which is not equally required for the industry or political prosperity of the country."

It gives no weight to the argument against the constitutionality of this bill to declare that the chief feature of the work is in its commercial value to the country. No matter how beneficial it may be in a commercial point of view if it is also in a military point of view a necessary means of defense to the country, then it is constitutional for Congress to make the appropriation for the construction of such work.

I will simply add in this connection, that the Constitution, in section eight of article one, in addition to the powers already referred to, provides that Congress shall have power to provide for the general welfare of the United States. This is a very broad and comprehensive power, and might, if needed, be quoted as a justification of the constitutional power of Congress to pass this bill, for if there be any one enterprise which is calculated to promote the general welfare of the United States, it is an enterprise which involves an increase of the facilities of transportation from the great West to the great East.

But we are not driven to this stress to defend this bill under the Constitution. We have a complete vindication, so far as the constitutional power of Congress is concerned, in that clause of the Constitution which declares that Congress shall have power to provide for the common defense. I should have little regard for the talent or the honesty of a man who should contend that a ship-canal around the falls of Niagara, connecting Lake Erie with Lake Ontario, is not necessary for the common defense of the country.

That great man Albert Gallatin, as long ago as 1808, in his celebrated report said:

"The opening of an inland navigation from tide-water to the great lakes would immediately give to the great body of lands bordering on those lakes as great value as though they were situated at a distance of one hundred miles by land from the seacoast."

He appreciated the importance of this work, and urged with great earnestness and ability a plan upon Congress for its construction.

The most enlightened and comprehensive statesmen of our country have from the earliest period of our Government been in favor of extending aid by the General Government in the construction of this great work, and they never were at a loss to defend the constitutionality of their views in the comprehensive language of the Constitution itself.

Congress is the only power under the Constitution authorized to judge and determine as to the necessity of the measure in providing for the defense of the country, and it is also the only power which has the constitutional right to determine what means shall be made use of to secure that protection except in time of war.

[Here the hammer fell.]

The SPEAKER. The gentleman has spoken fifteen minutes, the time which was allotted to him.

Mr. INGERSOLL. I yield ten minutes to my colleague, [Mr. Cook.]

Mr. COOK. Mr. Speaker, this question was so fully discussed in the House during the last Congress that I do not expect that anything that I can say will shed any new light upon it; and yet, as it is a question of so much interest to the people of my own State, in common with those of other western agricultural States, I have been forced to consider it with care, and I wish to submit a very few suggestions upon it to the House.

The proposed work is shown to be practicable. The report of Captain William G. Williams, of the United States Engineer corps, House Document 214, Twenty-Fourth Congress, first session, made by an officer of high professional attainments, demonstrates the practicability of the enterprise.

The cost is small. The report of the engineer fixes it at from three and a half to five millions, according to the route chosen. The increase in the price of labor and material since

the report was made make it necessary to increase this estimate somewhat, and accordingly the sum is now fixed at \$6,000,000.

Can the loan of the credit of the Government be constitutionally and properly given to this work as a work of military necessity? We have been called upon at this session to appropriate very large sums of money for the erection and repair of fortifications along our Atlantic seaboard, and to some extent upon the lakes. I do not question the propriety of such appropriations, and I think that it can be demonstrated that the principle which would justify them would justify the passage of this bill. To illustrate this: we very properly appropriate a sum of money to repair and garrison a fort at Oswego, for instance. Now this is wholly for the defense of that city and harbor, and is wholly unnecessary except in case of hostilities with Great Britain—no other enemy could ever reach that point—and the appropriation is made. But in the event of hostilities with Great Britain or her American dependencies this ship-canal would be a thousand-fold more available for the defense of the country than Fort Ontario. We have nearly or quite three thousand miles of lake coast. The whole line of this coast is studded with flourishing cities, the marts of business and the avenues of commerce. We have upon the lakes some four thousand vessels. An enemy in command of the lakes could do us more injury than would result from the reduction of any one place in the country. The whole trade and commerce carried on in the four thousand vessels of the lakes would be at the mercy of an enemy who could place a superior force upon their waters. The damage that would result to the business interests of all parts of the country in such an event can scarcely be calculated.

By treaty with England we are prohibited from maintaining upon the lakes more than a single vessel-of-war, to be armed with a single gun; and we have no war vessels upon Lake Ontario or the St. Lawrence. It is true that the British Government is also limited to a single war vessel, but it has facilities within its own territory for the concentration of fleets and material of war upon the lakes. The Canadian canals are so constructed as to be available for this purpose. The British Government is prepared, in the event of war, to assert an entire supremacy upon the lakes, for she can send the necessary naval force from the St. Lawrence to do so; while we have not a naval station on the lakes where a single vessel could be promptly fitted out, nor a fortification that could withstand a modern iron-clad vessel. What vast public and private interests are thus left defenseless. Surely the constitutional right to erect a fortification anywhere is not plainer than is the right to construct upon our side a canal through which vessels-of-war can be transported from the upper to the lower lakes or from the Mississippi to Lake Ontario. But the point to which I respectfully and earnestly ask the attention of the House is this: the work is essential to us of the West to enable us to bear the burdens which have been laid upon us in the shape of taxation, direct and indirect. We are an agricultural people. In the State of Illinois we have but one commercial city, properly so called. The great leading interest of the State is the agricultural interest. We produce an immense surplus of food, which must find its way to the eastern markets. It is the only commodity which we have to exchange for the manufactures of New England; for the coal, iron, and oil of Pennsylvania. The facilities of transportation are wholly inadequate. We have a magnificent water communication between Chicago and Buffalo, sufficient for the transportation of any amount of the products of the West, but at Buffalo our troubles begin. There is a barrier which we cannot pass. The amount of freight offering for shipment from Buffalo eastward is so great during the season of navigation that the owners of boats can and do demand and receive almost any amount of freight they choose to ask.

I ask attention to one fact which I will state and which will show the interest which our people have in this ship-canal. There are five routes by water and by rail from Chicago to the sea-board, and yet the demand for transportation last fall was so great, such vast quantities of agricultural products were waiting to go forward, more than all the lines could transport, that the price of transportation from Chicago to the sea-board was fixed by the dearest route of all, and flour or pork or beef could be as cheaply transported by Fort Wayne and Pittsburgh and over the mountains of Pennsylvania, as by the great water route. The price of our agricultural staples is almost wholly consumed in getting to a market. I know that men answer this appeal by saying, establish manufactures among yourselves and consume your agricultural products at home. This is easy to say, and I trust may one day be accomplished, but it is not presently practicable. Our soil, the cheapest and most productive in the world, invites to agriculture. We have not the capital at command to establish manufactures on so large a scale. We appeal, therefore, to the men of New England to aid us in transporting to them the food which they require, and which we are anxious to exchange for the products of their manufactories, and thus confer a real and lasting benefit upon both sections.

It is a fact that the employment of a farmer at the West is less remunerative than almost any other. There is now more real reason for complaint. I ask gentlemen to consider that, however carefully and skillfully and honestly you may arrange the various systems of direct and indirect taxation, tariffs, and internal revenue laws, the burden of the tax must to a great extent fall upon the consumer. We are consumers of the manufactures of the country. Our interests are not directly protected in your tariff laws, but we could bear all public burdens easily and cheerfully if it were not for the difficulty of reaching the markets of the world with the bulky products of our farms. If this canal is constructed, by opening a new route by water to the eastern markets and to the markets of the world, it will not only reduce the price of freight by affording new facilities for transportation, but will create a competition by which freights on established lines will be reduced to reasonable limits. When a vessel of one thousand or twelve hundred tons can be loaded in Chicago, and can reach the ocean without breaking bulk, the day of the prosperity of our great agricultural interest will have dawned. I believe that very rarely have we the opportunity offered us to accomplish so great a good at so small an expense as by the passage of this bill.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern branch; and a bill (S. No. 203) to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in market; in both of which he was directed to ask the concurrence of the House.

NIAGARA SHIP-CANAL—AGAIN.

Mr. VAN HORN, of New York. I propose to submit the question to the House whether they will order the main question to-night and close this discussion, or let the bill go over until to-morrow for another hour's discussion.

Mr. DAWES. Before the gentleman calls the previous question I desire to offer an amendment to his substitute.

Mr. VAN HORN, of New York. I yield for that purpose.

Mr. DAWES. I offer the following amendment to the substitute:

In section ten, line seventeen, after the word "Massachusetts," insert "the aforesaid subscription books shall be kept open at the places designated under aforesaid notice for at least three days." And insert after the word "and," in the nineteenth line, the

words "after the aforesaid three days," so that the section will read:

SEC. 10. And be it further enacted, That John C. Dore, of Illinois; Philo Chamberlin, of Ohio; Eldridge G. Merrick, of Michigan; David Dows, Abraham P. Grant, James D. Cooper, of New York; James Little, of Massachusetts; and Edward H. Brodhead, of Wisconsin, shall be commissioners to open books for subscription to the stock of said corporation, on which shall be paid at the time of subscription ten per cent. thereof, and they shall open such books on or before the 1st day of August next, at such places as they may appoint, having first given notice of the time and place of meeting for that purpose by publishing the same once at least in each week for four weeks successively in a public newspaper printed and published in the city of New York; Chicago, in the State of Illinois; Detroit, in the State of Michigan; Milwaukee, in the State of Wisconsin; Cleveland, in the State of Ohio; and Boston, in the State of Massachusetts. The aforesaid subscription books shall be kept open at the places designated for at least three days. A majority of said commissioners shall constitute a quorum for the transaction of business, and they may adjourn from time to time, and after the aforesaid three days, to such places as they may think fit, until the requisite number of shares shall be subscribed for; and in case a surplus of shares shall be subscribed for they may apportion them among the subscribers in such manner as they shall think for the interest of the said corporation.

Mr. VAN HORN, of New York. I accept that amendment. I have no disposition to prolong this debate, and unless some gentlemen desire otherwise, I will now move the previous question.

Several MEMBERS. Close it now.

Mr. VAN HORN, of New York. For the purpose of testing the sense of the House, I demand the previous question.

Mr. WARD. I ask my colleague to allow me to offer an amendment.

Mr. VAN HORN, of New York. I will hear what the amendment is.

Mr. WARD. I desire to move to strike out the nineteenth, twentieth, and twenty-first sections. They are the sections which appropriate the money of the Government to defray the expenses of this work.

Mr. VAN HORN, of New York. I cannot yield for that purpose.

Mr. WARD. If that is not done I cannot vote for the bill.

Mr. ELDRIDGE. Cannot a separate vote be required on the appropriation, under the rules, on the demand of one fifth of the members present?

The SPEAKER. That rule applies to cases where there are various appropriations in the bill, as was the case with the river and harbor bill passed yesterday.

Mr. ELDRIDGE. Does it not apply to "appropriations of money for works of internal improvement of any kind or description?"

The SPEAKER. The gentleman refers to rule 121, which is to be found on page 189 of Barclay's Digest. The Clerk will read it.

The Clerk read as follows:

"121. Upon the engrossment of any bill making appropriations of money for works of internal improvement of any kind or description, it shall be in the power of any member to call for a division of the question, so as to take a separate vote of the House upon each item of improvement or appropriation contained in said bill, or upon such items separately, and others collectively, as the members making the call may specify; and if one fifth of the members present second said call, it shall be the duty of the Speaker to make such divisions of the question, and put them to vote accordingly."

The SPEAKER. That rule has always been held to refer to cases like the river and harbor bill which passed yesterday. Where there are various appropriations in a bill for a variety of improvements, there can be a separate vote on each appropriation on the demand of one fifth of the members present. But the Chair rules that this being an appropriation for a single object, a separate vote cannot be called for on the separate sections of the bill.

Mr. VAN HORN, of New York. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. VAN HORN, of New York. Mr. Speaker, I have not taken up much of the time of the House this session, but having reported this bill, and feeling great interest in it, I desire to occupy a portion of the time allotted to me by the rules, and then I will yield a

portion of my time to some other gentlemen who desire to be heard briefly upon the subject.

Mr. Speaker, in presenting this measure to the House and the country, I do it with the greatest confidence that the appeal in its behalf will meet with a warm and generous response. It is not a new measure, and perhaps every member of the House is familiar with its object, its plans, and details. For very many years it has attracted more or less attention from the Government and the people, and been received with more or less favor. Amid the general indisposition to do nothing for public improvements by the party in power for many years prior to the war, this great project shared the fate of others of like nature and importance, and was not undertaken. Both branches of our national Legislature, however, have acted upon it in various ways, by favorable reports, by ordering surveys, and in the last Congress by passing a bill providing for the construction of this work. Upon the files of Congress are petitions, memorials, and resolutions from the people, Boards of Trade, and Legislatures urging the construction of the work this bill proposes to provide for, and instructing Senators and Representatives to endeavor to secure it if possible. Full reports upon the whole question, covering the surveys and estimates, and showing the great importance of the works are on file, one of which I had the honor to present in the Thirty-Seventh Congress, to all of which I direct the attention of the House.

This bill provides for the appointment of proper engineers by the President, who shall make the necessary surveys and reports, upon which the route of said canal shall be determined upon its merits, taking into account the twofold purpose of military and commercial advantage. The President is directed to procure the right of way by negotiation if possible; if not, by application to the court for the appointment of commissioners to appraise damages, and determine all cases of difference that may arise.

It further provides that the Government shall loan \$6,000,000 to this company, of twenty-year bonds, in consideration for which the United States is to have forever the practical ownership of the canal for all military and naval purposes whatever, and ten per cent. of all the tolls of said canal are to be paid into the Treasury of the United States on the 1st of January of each year, to be applied toward the payment of the money so loaned for the construction of the work.

It is further provided that the United States may at any time enter upon and purchase said canal by paying ten per cent. in addition to its actual cost. All the necessary provisions and safeguards for the protection of trade and commerce against exorbitant tolls and neglect in keeping it up and in perfect repair and order are inserted, and believed to be ample and just to all.

The grounds of the opposition made to this bill by my colleague [Mr. J. M. HUMPHREY] are not new by any means. While he argues that it is inexpedient and unjust to open up this communication, for the reason that it might interfere somewhat with the rights and interests of New York, he takes the old ground that the General Government has no right to take such care upon its hands and aid in the construction of such works.

Sir, this policy has vetoed all the great measures of improvement and internal development that have been pressed and desired in the past, and put a check upon the enterprise and industry of our people. The country owes to the great national party of the present and the past few years a debt of gratitude it can never pay for arresting this narrow-minded and weak policy of opposition to public improvement and fostering of great national enterprises like this, and introducing our people to a broader, more comprehensive, and eminently national system of aiding such enterprises, as a means of developing national life and national prosperity and wealth. As

to the power of Congress over these matters I am obliged to differ with my colleague, while I have great respect for his opinion, but as my time is limited I shall not be able to discuss at any length the constitutional question involved; besides, other gentlemen have said all that is necessary to be said upon this part of the subject.

This denial of right to Congress over these questions and the action of the Government in the same direction, defeated under the administration of Mr. Buchanan the Pacific railroad bill, which has since received the favor of the new Administration, and our whole country is destined to share in the great benefits that will flow from such a result.

A broad national policy of internal improvement is what is to arouse the energy and industry of our people, develop the resources and locked-up wealth of our vast continent, and give a permanency and vitality to our prosperity that can in no other way be secured. Any narrow view of this great question of national development is not in accordance with the character and genius of our people. They are alive to the importance of such great works of improvement, and believe that the public domain, the national credit, and the fostering care of the Government, in every way that they can reasonably and properly, should be given to aid the work of bringing out the enterprise and industry of our whole people and lifting them up to the highest point of civilization and national prosperity.

The passage of this bill is still urged, as heretofore, upon the two considerations of military and commercial necessity and importance. My colleague declares that there can be no real military necessity or importance connected with this proposed work, and that that idea is only advanced to catch votes or deceive the unthinking. He argues that instead of resulting in benefit to the Government, or intending to work a benefit to the Government in this direction, under the plea of military necessity or advantage there is a design to draw from the Treasury of the people of the United States \$6,000,000 and put it into the pockets of a selfish corporation. Now, sir, this remark will apply as well to every body of men who have, by the aid of Government in the various ways heretofore granted, added prosperity and wealth to the nation by their enterprise and sacrifices in the way of such public improvements. It is very easy to make such wholesale declarations, but the facts do not always justify them.

My colleague should remember that selfishness may control him a little in the opposition he makes to this measure. He may be moved to this opposition by considerations not altogether generous, to say the least. The main part of the opposition to this measure has always been in the city (Buffalo) so ably represented by my colleague; and in whose prosperity no one feels a deeper interest than myself, and I fear that he as well as the city he represents does not upon this question always present that broad, generous, and expansive feeling and action that would take in all our broad land, with its best and highest interests. Sir, those who are the advocates of this measure here and elsewhere are controlled by a great national purpose and desire, and while they hope to secure a safe investment for private capital, they seek to add to the national defense and prosperity. But let us consider its military necessity and importance.

I know it has been urged, is, and will be again, that as a work of military necessity, such a canal would have no importance, and be of no practical military benefit. It is said that in the event of a war with England or Canada, or both, our policy would be to rush upon Canada with such a force as to take immediate possession of their frontier and the Welland canal, and thus have a canal at our hand, already constructed, by which we could keep open the communication between the lakes and the West, and thus be able to afford protection when and where it might be needed without serious diffi-

culty. All this is very well, and I should favor such a move in such an event, but we have found that there are uncertainties connected with war as with other matters, and that it will not do to rest all upon a single expedient, but be prepared for any emergency.

Again, it would be a very easy thing to so lay waste such a structure before it fell into our hands, if, indeed, it should, rendering it of very little practical use when taken possession of. Besides, actual difficulties between foreign Powers do not spring up in a day, but are often the result of long-continued aggravation before forbearance gives way and the strife begins; and in such event the most formidable demonstrations and preparations are made by way of defense and means of resistance. It is idle for us to talk of subduing all opposition so easily that no means of defense and shelter ought to be made as an alternative. I still insist that this canal, constructed in such a way and where it will afford protection to American commerce and war material in transit from lake to lake, will be a work of great military benefit in time of war, and I cannot see how any sensible man, with all respect to my colleague, can argue to the contrary.

Celerity of movement, rapidity of transfer from point to point, is essential in naval as in military affairs. Our Canadian neighbors have a canal connecting the lakes on their side of the Niagara river, sufficiently inland to be entirely protected, unless the country between it and their frontier be taken possession of, which, of course, would be held by them to the last moment as of the first importance. It will be seen, therefore, that they have the means for rapidly transferring their boats and vessels of war from point to point on the lakes, which we have not. We have no means of communication but by land, so that the struggle in many instances might be confined on our part entirely to land operations, and we suffer seriously as a consequence. They could move from lake to lake as occasion demanded, transferring all their power from point to point at their will.

Were this work completed our whole field of operations would be changed, and we be prepared to at least equal them in facilities for preparing suitable defense to all our borders.

Again, such a canal would form a great base of supplies for naval and military operations for a border war, with facilities to throw to any desired point with great dispatch the materials necessary for the support and maintenance of a war upon our borders. It would impart strength and efficiency to our fleet upon the lakes, and afford a safe passage to our commerce even in a time of war, which would otherwise be obstructed and broken up.

At great expense the British and Canadian Governments have already constructed and in progress complete lines of communication between and to connect all their border waters, so as to secure every possible commercial benefit, and afford all their border the amplest protection in any emergency that may arise. During our civil war, when the London Times occupied any attitude but a friendly one, it was declared by way of boasting that they could throw with but little warning, upon any point upon our frontier, any amount of force, and such vessels of war as the emergency might demand.

And who does not know that such is the fact? Their enterprise, their foresight, and their wisdom in this regard have been far in advance of ours. We, too, should be prepared for all such emergencies, and take timely steps to secure the desired result. Captain Williams, one of the most celebrated engineers the Government ever had, who was directed to and make a survey for this work some time ago, and whose report is on file, after examining the whole ground and taking a careful survey of the whole question in all its attitudes, urges with great force the military necessity of this work, and insists that the Government ought to immediately enter upon its construction. He says that its importance in a military point of

view cannot be overestimated. This conclusion was arrived at in a time of peace, when there was no prospect of war, but was the result of careful and intelligent understanding of the advantages of such a work in a time of war, and is worthy of our highest consideration.

According to the treaty of 1817 we were restricted to one vessel not exceeding one hundred tons, with a single gun, for Lake Ontario, which is the key to all the great chain of lakes on our border; and also confined to two of like size and armament for all the upper lakes. Having no inland waters communicating with these great thoroughfares, we have not been able to have in readiness any vessels of war outside of these lakes which could be thrown upon them in case of necessity, and thus we have been left entirely without adequate protection. But the British Government, always selfish and seizing every opportunity for providing defenses, has steadily pursued a policy directly opposite ours, one looking directly to the command of the lakes by a sufficient naval force whenever she might choose to assert it. Since 1817 she has constructed the Rideau canal as a military work, so avowed, connecting Montreal with Kingston, on Lake Ontario; by an interior route, with locks one hundred and thirty-three feet long and thirty-three feet wide, well calculated to pass large gunboats in ballast; and the St. Lawrence canals, connecting the same points, with locks two hundred feet long and forty-five feet wide, to pass gunboats drawing nine feet. She has also constructed the Welland canal, as before stated, connecting Lake Ontario with the upper lakes, with locks one hundred and forty-five feet long and twenty-six feet wide, to pass gunboats drawing ten feet of water.

It is also proposed to construct another, of ample dimensions for all purposes, military and commercial, connecting Montreal with Georgian bay, on Lake Huron. Thus it will be seen that she can pass her war vessels from Montreal to Kingston, on Lake Ontario, in twenty-four hours, and to Lake Erie in less than forty-eight hours, and hold all our lake border, and our vast cities and the commerce of the lakes, which is mostly American, entirely at her mercy. At all these inland points of concentration she has constructed and holds large naval depots, thus keeping in constant preparation for efficient naval operations on all the great lakes, while our policy has been just the reverse of this, and we have no means of defense of such a nature, and have no communication between our great inland waters. As I have before hinted, England has boastingly told us that she was prepared for any emergency. In 1861, when the rebel leaders, Mason and Slidell, were seized on the British steamer Trent, and war was thought to be inevitable for a time, who does not remember that it was claimed extensively by the leading and most influential British press that their facilities were complete and ample and the means in readiness to pounce upon our unprotected lake frontier, destroy our commerce, and lay waste our whole border, and that, too, before we could accumulate any adequate means of resistance.

And who can deny the fact of such a statement? There is not a fortification on our frontier that an iron-clad could not pass with impunity, and perhaps batter down with ease. They are old and mostly dilapidated. A long-continued peace has allowed them to be neglected, and no frontier of equal length and importance in our whole country, and I may say in any country, is so poorly protected and prepared to meet the attacks that modern warfare and skill bring to bear in a time of war. This frontier is in extent more than three thousand miles, and has none of the means of defense that are necessary to secure protection or resist attacks. Our mode of warfare nowadays differs very much from that of the olden time. Forts and fortifications are good for something, but cannot compare in importance and real utility with the modern means of resistance and defense. The iron-

clads and war vessels of modern times can batter down and subdue the most formidable fortifications that engineering skill and patience can erect; and the experience we have had for the last five years in the great struggle for the nation's life, which has happily terminated so far as the trial of arms is concerned, demonstrates to us conclusively that the whole system of warfare has undergone a radical change, and that hereafter it must be upon a new scale and under different auspices to a very great extent.

Indeed, there has been such a complete revolution in our whole system of warfare and defense that forts and fortifications to a very great extent are giving away to other modes of attack and defense. The system of gunboat fighting upon our lakes, rivers, and other waters, as exhibited during our recent conflict, has become so efficient, and consequently so popular, that the attention of Congress and the Government has been and still will be turned toward developing and extending it to a much larger and more perfect system, and to give it still greater efficiency. All will readily perceive, however, that the efficiency of this practice of warfare depends entirely upon the facilities given to pass from point to point, from lake to lake, and river to river; hence the necessity of a more enlarged system of internal navigation. The general efficiency which the use of railroads and canals gives to a land force, by increasing the rapidity of movement, is one of the principal reasons in favor of this great work, as the force of the upper lakes could be thrown immediately upon Lake Ontario or back again to the points above.

All these facilities the Canadian and British Governments have in their internal communications between the rivers and the lakes, by which, if they hold their territory, they can visit every point on our lines of lake and river coasts, batter down our forts and defenses, lay waste our cities, and destroy our commerce. These are facts that are indisputable, which no argument or sophistry can destroy or cover up.

As I have before stated, the coast from the St. Lawrence to the western shore of Lake Superior is over three thousand miles, and forms a navigable water boundary for eight of the most important producing and commercial States of the Union, with an aggregate population in 1860 of nine millions, while directly on this coast, in towns, cities, and villages, are a million of as enterprising, intelligent, and patriotic citizens as we have, surrounded by all the wealth that an agricultural, manufacturing, and commercial prosperity can bring.

From these cities and through these lakes and rivers we are told that more than one hundred million bushels of grain, including wheat made into flour, and other agricultural products in proportion, are distributed annually to New York, New England, and the Atlantic cities north of and including Baltimore, for the consumption of those States and for exportation to foreign countries. This vast production, yet only in its infancy, occupies more than two thousand steam and sail vessels, measuring full seven hundred thousand tons, which on their return westward are always freighted with foreign and domestic merchandise. The annual value of this trade already exceeds five hundred million dollars. The arrest of this commerce for a brief period would produce disaster both to the East and the West, to the producer and the consumer. As the British Government is constantly prepared for an aggressive war upon all the lakes, complete lines of communication being now open, and naval depots already constructed and furnished to a very great extent, what can prevent all this extensive coast, this vast and constantly increasing commerce, from suffering at the hands of our neighbors, should hostilities ever be opened between us?

This proposed canal is the only link wanting to give free communication to us at all times through and between all the great lakes and the St. Lawrence for the vessels of the largest size navigating the lakes. On the upper

lakes the commercial marine is almost exclusively American, while on Lake Ontario and the St. Lawrence it is largely Canadian. If naval depots were established at proper points on the lakes, our vessels of commerce, many of them propellers, could be easily and speedily converted into vessels-of-war, and with this canal constructed, they could pass from lake to lake and the St. Lawrence as the exigencies of the case might require. These facilities are indispensable, especially from the fact that the English Government has as great and even greater within her borders. I may say without exaggeration that no part of our coast is so little protected, and in no instance are so vast interests, both public and private, allowed to remain so at the mercy of an unfriendly Power, jealous of our prosperity and national grandeur, and always ready on the slightest pretense to assume a threatening attitude and a hostile position.

But, Mr. Speaker, as necessary as this work is in a military point of view, it is as necessary to the commercial interests of the country, and to all interested in cheap transportation, which will result in benefit both to the producer and the consumer.

In 1862 at least thirty-two million bushels of grain, including wheat manufactured into flour, besides other agricultural products of western States, passed from the upper lakes into Lake Ontario through the Welland canal, paying tribute to Canadian enterprise and adding to Canadian prosperity. More than three fourths of this grain found its way from Lake Ontario and the St. Lawrence through American channels, to New York and New England; nearly twenty millions of it being shipped eastward from Oswego and Cape Vincent, and about five million bushels from Ogdensburg over the Northern railroad. The trade from the East to the West of course was correspondingly large, and all paid tribute as before to Canada as it passed through the Welland canal. It is said that the trade from the West to the East is increasing annually at the rate of about twenty per cent., as the great producing regions of the West are being developed and industry and enterprise are being stimulated. The trade through the Canada canal into Lake Ontario, and so on to tide-water, will increase in the same proportion, I conclude, if this canal is not constructed, for every facility that we can give with our present lines of communication by additions and completion will be furnished upon the other side as a matter of policy; in order to present every inducement to business and secure every possible benefit.

To this end arrangements will be speedily completed for the enlargement of the Welland canal to accommodate our largest-sized vessels, which it cannot now accommodate, and which trade upon the upper lakes; so that, without a canal upon the American side, the Welland canal will certainly continue to receive its present proportion of trade, or nearly so, even when the trade shall have reached a greatly increased amount, as it is destined to do. Trade will go where it has the greatest inducements held out to it. This will be conceded by all, for it is the experience of every man of business. How easy it is, in the absence of this competing route, for Canada to so discriminate in favor of vessels and cargoes going to Montreal, by such a regulation of tolls as will divert the trade to Canadian channels; in fact, American interests are entirely in and under her control in this regard while we have no competing route or connection between the lakes. If it be said that the New York canals and railroads are competing routes to the sea-board, and are sufficient for all present and future wants, I deny it. As before said, trade will go where it pleases. Inducements alone can lead and control it, and it will go just as far as it can possibly by vessel toward tide-water without breaking bulk, for it is the interest of both producer, consumer, and forwarder so to do. But, sir, the channels of communication as at present existing are not adequate to the present demands

of commerce, and can in no wise meet the demands of the great future.

A committee of the New York Legislature reported a little more than a year ago "that during a considerable portion of the last three years the enlarged canals had been taxed to their utmost capacity, not from deficiency in the main trunk, but from the impossibility of passing more boats through the locks." And everybody knows that the railroads connecting the East and the West cannot take for quite a portion of the time all the freight that is offered in any reasonable time. So great is the necessity for more and larger outlets to the Atlantic to meet the constantly increasing wants of the West, so rapidly developing itself, that the Illinois and Wisconsin Legislatures about two years ago appointed some of their most intelligent citizens to visit the Canadian authorities to urge upon them the necessity of enlarging the Welland canal, and the early construction of the proposed canal between the Georgian bay and Montreal. This completed, and Montreal would be nearer by water route to Chicago than Buffalo is by twenty miles, and nearer than New York is by nearly five hundred miles. With this work constructed we shall be obliged to enlarge all our present lines so as to carry largely and cheap, and open up every possible avenue of trade that will tend to reduce transportation from the West to the Atlantic cities, or we shall lose the ascendancy we now hold and suffer in a corresponding degree.

It may be urged here that if the locks of the Erie canal were sufficiently enlarged there would be no necessity for the proposed ship-canal. I reply, in the first place, that with the ship-canal the Erie canal with its enlarged locks will have all it can do, and cannot meet the demands upon it when the immense increase of trade of the future seeks an outlet to the East; and in the second place, that if the ship-canal be not constructed the Erie canal will not get the trade the ship-canal would get if constructed, for the reason that it will go where it now goes, through the Welland canal, which will have been put in a condition to induce trade to seek its channel.

And again, the further toward the point of destination you can send produce in large quantities in vessel without breaking bulk the cheaper will be the cost of transportation, and in this instance there would be a corresponding gain in point of time. All these advantages will be seized, and we should look at the question practically and act accordingly.

Captain Williams, a distinguished engineer to whom I have before referred, who surveyed the different proposed routes for this ship-canal by order of the Government, and made his report, which is on file, upon careful estimates, no doubt correctly made, says that produce from a given point West can be taken through to tide-water by way of the proposed ship-canal and, of course, by the Welland canal, when of sufficient size, for nearly thirty per cent. less than by Buffalo and the Erie canal, for the reason, among others which I have already mentioned, that but little if any more is charged per ton or bushel to Oswego by lake when once aboard than to Buffalo, while you have saved one hundred and twenty miles of artificial navigation and only increased the whole distance fifteen miles. This is a simple proposition but nevertheless true, and will bear investigation.

By having such a canal upon the American side we would get all the benefits of such a communication and be better able to control the commerce and keep it within our own territory, and by offering it such inducements as our increased facilities would allow us to do we could direct it to tide-water through our own markets, and greatly to the benefit of our own people. This is our duty, and we should not let the occasion pass without embracing it. I want gentlemen from the West who produce, and gentlemen from the East who consume, to understand that there is no way in which you can get so near together and secure so cheap transportation as to open up this con-

nection and allow trade in our largest vessels to reach as near tide-water as possible. I have no fear as to the balance of the work. The people, States, and the General Government are always ready to provide means to meet the demand upon trade. Private capital as well as public aid is always ready to secure every benefit that can be obtained. To save this vast trade of the West, New York will enlarge the locks of her canals when and where necessity calls, and if need be, her canals also. This will have to be done, for it is a narrow view that limits the business of the great future to the very limited capacity of our present thoroughfares.

Cheap transportation results in a corresponding benefit both to the producer and consumer, and this is one way in which transportation can be furnished cheaper than at present with a general benefit and no serious detriment. Facts will demonstrate this to be true. Hon. W. J. McAlpine, late State engineer of the State of New York, in his report to the Legislature on railroads in 1855, presented data from which he deduced the following results:

Cost of transportation per ton per mile is:	Mills.
On the Ocean, long voyage.....	1½
" short voyage.....	2½ to 6
" Lakes, long ".....	2
" short ".....	3 to 4
" Hudson river.....	2½
" Mississippi and St. Lawrence.....	3
" Erie canal (enlarged).....	4
" Ordinary canals.....	5
" Railroads (ordinary grades).....	12½ to 13½

Now, the distance by the lake from Chicago to Buffalo is one thousand miles; and the actual cost of transporting a ton of freight, according to the estimate of Mr. McAlpine, is two mills per ton per mile, or—

For a ton of freight from Chicago to Buffalo.....	\$2 00
The distance from Buffalo to Troy is 345 miles, which, at four mills per ton per mile, makes the cost of transporting a ton from Buffalo to Troy.....	1 38
Add canal tolls, at three mills per one thousand pounds per mile.....	2 07
Cost of transportation per ton on the Hudson, at two and a half mills per mile.....	37.5

Making the whole cost, including canal tolls, of transporting a ton of wheat or flour from Chicago to New York, via Buffalo and the Erie canal.....\$5 82.5

Cost via the Niagara ship-canal and Lake Ontario: The distance from Chicago to Oswego, via the proposed ship-canal, would be eleven hundred and eighty miles, which, at two mills per ton per mile, would be.....	\$2 36
The distance from Oswego to Troy, by canal, is one hundred and eighty-seven miles, which, at four mills per ton per mile, for transportation, would be.....	74.5
Add canal tolls, at three mills per one thousand pounds per mile, on wheat or flour.....	1 12.2
Freight on Hudson river at two and a half mills per ton per mile.....	37.5
Add Niagara ship-canal expenses, per ton.....	20

Making the cost of transporting a ton of wheat or flour from Chicago to New York, via the proposed ship-canal and Lake Ontario.....\$4 80.2

The above statement, which is official and doubtless entirely correct, shows a difference in favor of the Niagara ship-canal route of \$1 02 on a ton of wheat or flour from Chicago to New York.

Again this difference would be increased by the competition which always springs up between rival routes of trade, so that low freight would not be confined to this route, but all competing routes between the East and West would be obliged to reduce prices on through freight at least so as to conform to the cheaper channels, thus saving to the West annually millions of dollars, and to the East in the same ratio. As to the objection that trade through this canal would not stop at our ports, but move on to Montreal and be taken from our Atlantic cities, I would say that such has not been the fact thus far with reference to what has passed through the Welland canal to any considerable extent, for more than three quarters of it has found our sea-board through American channels and been consumed by our people or exported from our ports. Besides it would be more likely to go from us now than it would if we could furnish the facilities now furnished by Canada, and thus control to a greater extent than we now can the direction of our trade.

Again, it is objected that such a canal would deprive the State of New York of a large amount of tolls, which she would realize if the trade was forced through the whole length of her canals. It is impossible to force the trade against its interests; and it will go where the greatest inducements are held out to it. Besides, it would make no difference whatever, as I can see, for all the trade that an American ship-canal would get, if constructed, will be received by the Welland canal if ours be not constructed; and no condition of things could prevent it, as I can discover. It is simply a question whether we or Canada have the benefits of such a work and of such trade. The case must be met, and cannot be avoided. The issue is made up, and the result is an inevitable necessity.

I would be the last man to unnecessarily put myself in the way of the interests and prosperity of my State. I have stood by her interests always as best I was able. During three years in her Legislature, when her canal interests were on trial, and needed steadfast friends, and when, too, they were bitterly opposed, as they always were, by the party with which my colleague [Mr. J. M. HUMPHREY] has always acted, I had the honor to do all in my power toward permanently establishing them, and making them the pride and glory of our people.

And when they have been paid for by the business the great West has furnished, so that no part of the expense of their original construction and enlargement remains as a debt against the State, as the report of the canal board shows, especially so far as the main line is concerned, and when they are to-day worth all they ever cost, is it very generous in New York to say that no other channels shall be opened by which transportation will be cheapened unless tribute is paid to her? The West has done for New York all that New York has ever done for the West. The benefits are mutual.

But, sir, while I am jealous of the rights of my State, my duty now is here. I am to look over a larger field of operations, to take into my view our broad expanse of country, and in my action upon this as upon other great questions, consult the interests of all our people and all sections. It is a narrow policy, indeed, that would ask me to confine my action to the interests of my own State to the exclusion of all others, were it in my power to effect anything by it, which would not be possible in a body like this, representing such a variety of public interests, and all entitled to and able to command due consideration. I am in favor of developing all sections and interests of our broad country. Improvements of this nature should be aided by the Government, for they open communications with our people, bring them into a closer relationship, and tend to unite and bind together different sections of the country in a common interest. What vast wealth lies locked up in the earth, which industry and enterprise are fast developing, and when brought out to enrich and fill our land with plenty; what avenues of trade and commerce will be demanded to meet the necessities of the case! Railroads must be constructed to pierce our mountains and stretch across our boundless prairies; canals must connect our great rivers and lakes, those inland seas that make our continent a wonder and a marvel; and then, when the vast resources of the whole land shall be developed, and endless streams of wealth fill it with the fruits of such developments, we shall be able to fully realize our greatness and the magnitude of our resources.

All enterprises and projects that look to such results should receive the fostering care and aid of the Government. Every dollar and every acre of land given to such purposes is a rich investment for us, for they will bring back tenfold in due time to the whole people in the increased wealth and resources that will surely result from them. For New York or any of her Representatives to oppose this measure or throw any obstacles in the way of the completion

of this grand work of improvement it is unwise, and such opposition is suicidal. Buffalo, so ably represented by my colleague on this floor, [Mr. J. M. HUMPHREY,] has been the seat of all or nearly all the opposition that has been made to this measure from the State of New York. Now, sir, considered by itself alone, I would do nothing to strike at the interests of that great city, so filled with enterprise and worthy of the protection and admiration of all. I know of nothing upon which she is really unsound aside from this question of ship-canal, save it be at times her politics, but in this regard she gives occasionally some encouragement, for we see now and then signs of restored life and health, and it is to be hoped and believed that ere long she will stand upright, clothed, in her right mind, fully redeemed from all her past unfortunate errands and political degeneracy.

What enhances the interests and wealth of Buffalo and her people is gratifying to all our people, and especially to me and my constituents, for she sits like a queen upon the lake on the very border of my district, the most of which pays her constant tribute. She has no right, however, to hazard the best interests of the great whole for the purpose of aggrandizing herself, or to occupy such a selfish position as to advocate a policy that will cripple the vast interests of commerce generally so as to secure to herself a local benefit; and this applies equally to the whole State of New York. Such a course will in the end meet with a severe rebuke, for it cannot long withstand the broad and comprehensive policy of general advantage and public welfare which the great mass of our people will insist shall be adopted. Should the State of New York, or any portion of it, succeed in their opposition to this measure and the policy it is intended to secure, there will be brought about what in the end will be regretted. You will force the West and its trade through the Canadas by the present routes of communication and that to be completed, to wit, the Ottawa ship-canal, by which so many miles of transportation will be saved to reach New York, should the trade take that direction, and by which, without our own ship-canal, trade will inevitably be conducted by the St. Lawrence and out to the ocean without reaching our ports.

I call the attention of Representatives from New York, especially the city, from New England, Pennsylvania, and New Jersey, to this fact, for it will be too late to consider it after such a condition of things takes place. The great West and Northwest must and will have ample outlets for her trade and articles of commerce. Not one acre in ten of the vast productive region of that mighty empire is yet under cultivation. Ten years hence she will raise one thousand million bushels of grain for market over her own consumption. Emigration is being quickened since the war, and all this vast country is to be filled up with industrious, producing classes that will develop its immense resources, now unknown, and pour into the channels of trade a constantly increasing amount of production. What is New York doing to meet this great demand? Where is this outlet to be found? While we are foolishly resisting one of the great measures to remedy the defect and meet the demands upon us, our Canadian neighbors, wiser than we, will present the facilities needed, and carry off the untold benefits of their skill and enterprise.

Surely the East is directly interested in this question. Her business men, her cities, her commerce, her consumers are all identified closely with this measure in their best and highest interests. The West, too, has a deep interest in this work. By carefully prepared estimates, which are entirely correct and official, which I have presented, it will be seen that by the ship-canal route, over one hundred and twenty miles of canal navigation will be saved from Chicago to New York, which, by taking into the account the difference between the cost of transportation on the lake and canal, and the further fact that the freight will be but a trifle if any more

to Oswego than to Buffalo, we find that this route will cheapen the transportation on every bushel of wheat nearly four cents, which of itself is no small item for western men to examine in connection with this question. The same thing is true with reference to all articles of western production seeking our eastern markets.

Now, I submit whether this is not a measure that demands the serious attention of all sections, and claims an unqualified approval from Representatives of all portions of the country, for all are deeply interested in the general benefits to flow from its success. There are several outlets for the trade that reaches Lake Ontario: the Oswego and Erie canal, to Troy, and the Hudson river, besides two railroads at Syracuse, and another in contemplation; the Cape Vincent, the Rome and Watertown railroad, which now receives large consignments of lake produce, and delivers the same in New York by Central railroad, or Erie canal at Rome. The projected road from the Hudson to Lake Ontario, by the way of Saratoga, is being rapidly pushed forward, and will form another important avenue for western produce. The road from Ogdensburg to Boston is in successful operation, and supporting large lines of steamers in trade with the western States. By this route large amounts of produce are also sent to New York by way of Lake Champlain and canal. Other routes to the East are suggested and doubtless will be constructed, for the commercial energy of our people is unlimited, and will constantly increase as the demands for outlet increase. One of the most prominent is a water communication with the lakes, by way of a canal from Montreal, through Lake Champlain, and canal to the navigable waters of the Hudson, a distance of only sixty miles. But the success of all or any of these routes of communication, which are bound to be completed before very long, in which I insist the whole country is interested, depends entirely upon an opening between Lake Ontario and our western lakes by way of a ship-canal. There is no other as cheap, as proper, and as feasible. Shall we have it on the American side, or shall we continue to pay tribute to Canadian skill and enterprise? More than three quarters of all the commerce of the upper lakes is American, and hence it will be seen that we are keeping up the Welland canal by our enterprise and capital. We have paid for it and continually support it, and unless we move in the construction of a canal ourselves we shall furnish the means for its speedy enlargement and its continued support and prosperity.

But if the East and middle States will persist in their opposition to this measure, the West and Northwest will be compelled, and be justifiable, too, in making such arrangements as will meet their interests and take their immense surplus of productions by way of the Ottawa canal, to be constructed, to the St. Lawrence, and use that river as an easement to the ocean. I am glad that the West is so unanimously in favor of this measure, and hope that any unwise and selfish policy of any section may not lessen their devotion to the grand idea of developing our own resources by means of improvements like this within our own territory and under the control of our own people. Open up this connection between the lakes, and it will not be long before the New York canal, in her locks at least, will be enlarged to meet the demands upon them. Whether this canal be made or not, such an increase will be accomplished, but this is no reason why this work should not be done, as I have clearly shown, as all the additional facilities will be indispensable, and furnished from some quarter if not by us.

But, Mr. Speaker, I have detained the House much longer than I had intended to do in this debate; but the question opens up such interesting fields of contemplation in connection with the future of our country, and the vast transactions of its future commercial, agricultural, and manufacturing prosperity and devel-

opment, that I have been drawn further into the debate than perhaps prudence dictated.

Now, sir, when I look forward twenty and fifty years, which is but a span in the life of a nation like ours, and contemplate what our country is to be, in the light of the remarks made the other day by my friend, the distinguished gentleman from Massachusetts, [Mr. BANKS,] I confess I am filled with pride and satisfaction.

All our broad expanse of country from ocean to ocean will be filled with free, intelligent, and enterprising people, living in and controlling States with institutions calculated to lift them up to the highest point of civilization, and fill our whole land with blessings and happiness. Railroads and canals, fostered and aided by the Government when and where necessary, reaching out their long lines across the continent, and interlocking with each other, ramifying in every direction, through every mountain pass, or piercing the mountain's side, along the rivers, over the prairies, upon the very thresholds of all our towns and cities, bringing ocean near to ocean and making near neighbors of the most remote sections of our united and happy land; all pouring into our Treasury untold wealth, and making us complete masters of the whole earth in every material point of view. What a sublime field for contemplation and thought! It remains to be seen whether we shall be worthy of such a destiny, whether we fully comprehend the duties of the hour, and whether we are ready to grasp the occasion and secure these great advantages.

Every such work as this bill proposes to authorize tends to bind our people together in a common interest, and adds one more link to the bond of union, and increases each man's capital stock in his country's good name and honor.

When our great and unequalled lines of communication are all opened between the Pacific and the Atlantic, Asia will be compelled to pay us tribute and send her products across our continent, through the Atlantic cities to their destination. It has been well said that "we are yet to dictate laws in the arts, sciences, and finance to the whole world, as well as be acknowledged the commercial, agricultural, and manufacturing center of the whole earth." Among the means used to secure this grand result is the work proposed by this bill. It asks but a small favor compared with what has been granted and will yet be granted to other projects equally meritorious and worthy of consideration. The millions of money given to the Pacific railroad, for which I had the privilege of voting in the Thirty-Seventh Congress was a wise investment; and others of the same nature will do as much toward bringing about the condition of things to which I have referred. They develop, quicken, and push forward enterprise, labor, intelligence, and skill, all of which in their turn enrich and cover over our land with wealth and prosperity.

This work is entirely national in its character. We owe it to ourselves to aid in its construction, and thus secure it speedily. We owe it to the bold, enterprising men who have invested their property in commerce, and who are among the bravest of our people and the most patriotic of our citizens, that we open up this way of trade, and no longer compel them to pay tribute to those who have for us but little sympathy and respect, as the last few years of our trial have clearly shown. Our brave and loyal citizens engaged in service on our lakes ought not, any longer than it will take to construct our own ship-canal, be compelled to use theirs in the prosecution of their legitimate business; and Congress and the Government ought to give their early attention to the construction of the work that is now proposed. Like many other works of the past few years and present, it would stand as a monument to the intelligence, patriotism, and energy of the men and the Government who nobly came up to and met the struggles of the present day amid the darkest storms and greatest obstacles. It would be an honor to the age which

witnesses its execution and a blessing to our whole people.

Mr. Speaker, I now yield ten minutes of my time to the gentleman from Illinois.

Mr. ROSS. Mr. Speaker, from the cursory examination I have been able to give this measure, I am inclined to look upon it favorably. I have not examined the minutiae of the provisions of the bill, but the general objects which it contemplates are so different from those which ordinarily are presented for the consideration of this House that they certainly commend themselves to my judgment.

I regard this as a measure in the interest of peace, a measure in the interest of commerce, a measure in the interest of the prosperity of the whole country. It is not like many measures which have been pressed upon the consideration of this House during the last few months. It is not a measure to appropriate eleven or twelve million dollars for the purpose of feeding, clothing, and building school-houses for lazy, indolent negroes who will not work. It is nothing of the kind. It is not a measure for the purpose of raising the compensation of the heads of some of the bureaus who are hanging about at the skirt tail of members and of employés about this House, who beg to get into a public position, and who spend all the time afterward in trying to get their compensation increased.

I am aware at the threshold that the distinguished gentleman from New York [Mr. J. M. HUMPHREY] enunciates the grave doctrine to this House that this is an unconstitutional measure. My friend behind me says that that is a played-out question. I do not so regard it. I claim to be a strict constructionist of the Constitution. Still I do not believe in the doctrine that you can put your arms into the public Treasury and take millions of money from the people of the great West to expend upon the sea-board of the East, and that there is no constitutional right to make appropriations for the purpose of improving the great inland seas of the West.

The gentleman tells us that we are infringing upon the rights of New York, that we are going to take her precious soil without her consent. Why, sir, I suppose we would have to make a little hole in the rocks around the falls of Niagara. But that is not the secret of the gentleman's opposition to this bill. He tells us about the large expenditures that have been made at Buffalo in the way of warehouses for the purpose of taking charge of the products of the western country that are sent to the eastern market. He knows full well that thousands of his constituents live upon this business of transporting products from the West, reshipping them at Buffalo. That is the secret of his opposition to this bill.

It so happens, Mr. Speaker, that this is a measure that is in favor with the people. It is a measure in behalf of the toiling millions scattered throughout the length and breadth of our country, who do not throng the lobbies and ask for the passage of measures for their particular benefit. And now I want to see how the Representatives of the people will respond to this call that is made by their constituency at home with reference to this measure of great and paramount interest.

Mr. DELANO. Will the gentleman yield?

Mr. ROSS. For a question?

Mr. DELANO. It is not a question.

Mr. ROSS. I cannot yield; I have but a few minutes left. This is a measure in which the whole country is interested, unless it is the constituents of the gentleman from Buffalo, [Mr. J. M. HUMPHREY,] who want to have a portion of the products of our farms stick to their hands in transit through the city of Buffalo. Why, sir, it reduces the price of the commodity to the consumer and it enhances it to the producer. It is mutual in its benefit.

The distinguished gentleman from Massachusetts [Mr. ELLIOT] yesterday gave us some valuable statistics in relation to the products of the great Northwest, especially of the State which I have the honor in part to represent on

this floor. But strange enough, after he had gone through with the advantages of navigation and pointed out the fact that we had to give three bushels of our corn to get one to market, he had nothing in his river and harbor bill for the improvement of the Illinois river, one of the great arteries which is necessary to complete this line of communication around the Niagara falls, so that the people of New England who have been fed on cod-fish and herring may be furnished with the corn, pork, and beef of the western States. [Laughter.]

Sir, in my judgment this is a measure that should commend itself to the House. It is said to be a war measure. Well, it may be necessary as a precautionary measure. It may be proper in view of the contingency of a war, but I do not regard it in that aspect. I am not in favor of the proposition now pending before the House to create a large standing army at enormous expense to the people. This is a very different measure. Gentlemen could vote this morning eleven or twelve millions for the Freedmen's Bureau easily enough, but when you ask for a loan of \$6,000,000 to make a great national work in which the whole people, consumers and producers, are equally interested, constitutional objections spring up at once. My worthy friend from New York [Mr. WARD] wanted to strike out this appropriation of \$6,000,000 for this great national work, but he had no objection to eleven or twelve millions for the Freedmen's Bureau.

If my friend from New York [Mr. VAN HORN] who has this bill in charge will only infuse a little vigor in it there will be no difficulty in its passing the House. But because it is a measure in behalf of the farmers, the producers and consumers of the country, I fear that it may receive the cold shoulder in this Congress. I trust that the time has come when those who represent the great Northwest, which has been talked so much about here, will come to the rescue of her interest, and show by their votes that they are in truth in favor of a measure of this character.

In my judgment, this will never be any burden upon the Treasury of the United States. If I understood the amendment which was offered this morning, it proposes that the Government shall receive ten per cent. of the gross earnings of this canal. If such is the case most unquestionably every one who is conversant with the vast amount of business which will necessarily be done upon a canal of this character will know that the Government will be amply remunerated for every dollar that it shall expend in aid of this work.

I know there are interests adverse to measures of this character. But they come from Buffalo; they come, perhaps, from interested individuals in the State of New York who desire to impede the commerce and trammel the prosperity of the country.

Mr. DRIGGS. I am disposed to favor this bill, for I regard this as a great national measure. I recollect that last year when the Government built one of the cutters ordered for the lakes, after it had been completed at Oswego, they were not allowed to take it through the Welland canal. I have only to say to the gentleman from Illinois [Mr. ROSS] that while he opposed the Northern Pacific railroad the other day because it passed through certain localities, he favors this one because he considers it may promote the interests of his own particular locality. I favor it, as I believe all the members from Michigan will do, because I consider it a great national measure.

Mr. HARDING, of Illinois. With the permission of the gentleman from New York, [Mr. VAN HORN,] I will say that I am decidedly in favor of improving the great national highways of the country; and I deem the proposed canal by which it is proposed to avoid the obstructions of Niagara falls to be one of that character. I had at first intended to oppose this bill, because I am opposed to appropriation of moneys by Congress to the use and benefit of corporations. But a provision has been

inserted in the bill by which Congress is empowered to regulate the rates of tolls and charges upon this proposed canal, to the end that to the extent of the contribution of the General Government this canal shall be free to the people of the United States. I shall therefore vote for the bill, and forego the opposition which I had intended to make to it.

Mr. VAN HORN, of New York. I now yield to the gentleman from Pennsylvania, [Mr. STEVENS.]

Mr. STEVENS. I merely want to say that I regard this bill as constitutional, not under the war power particularly, but under the power in the Constitution to regulate commerce between the States. Although the proposed canal is entirely within the limits of one State, the commerce which it is to convey is between a great number of separate States; therefore I have no difficulty in overcoming any difficulty or scruple about internal improvements; especially when I find the gentleman from Illinois [Mr. ROSS] overriding his old prejudices and his old constitutional objections against works of internal improvement by the General Government.

I shall go for this measure, as I did for one the other day which was intended to bring to the East the products of the great West. It will take some time to build this canal; and before it is built this great Northern Pacific railroad will have settled and brought under cultivation millions of acres of our land, which will send its produce down Lake Superior and the other great lakes, and there must be some outlet provided for it; for the canals now made cannot carry the present commerce of the country. And that railroad bill will pass before many days.

Now, I beseech the gentlemen from Illinois, who had such strong constitutional objections to the Pacific railroad bill, to give up their objections and go for this bill. And if we could persuade the members from Illinois and the members from Wisconsin and my friend who lives in Cleveland, that beautiful city upon the lakes, [Mr. SPALDING,] to give up their scruples, we might carry the bill through the House. I do pray that they will lay aside those prejudices that they will no longer exist. I am glad my friend from Illinois [Mr. HARDING] who has just spoken has yielded his prejudices for a moment to the convincing argument of the gentleman upon the other side, [Mr. ROSS,] who seems to have forgotten his principles of yesterday. And I am glad that he has, and I only hope he will never remember them again. And I should be glad if my friend from the Pittsburg district [Mr. MOORHEAD] and others in his neighborhood would forego their prejudices and vote for this bill.

Mr. MOORHEAD. I will.

Mr. STEVENS. He says he will. I tell you the millennium day is coming, [laughter;] blind eyes are opened, and deaf ears are unstopped, [renewed laughter,] and I do not know where this blaze of glory will end.

I know the gentleman from the Galena district [Mr. WASHBURN] would like to see this bill pass if it is likely to do any good. But his record is such that it is impossible for him to do anything but make a short speech against it. And if he should speak against it, it would be in a voice of thunder, denouncing the terrible extravagance of those who thus vote away the public money merely to improve the country for the present generation and for future ages.

I trust, sir, that this bill may pass. I support it with sincerity. I believe it contemplates a great and a good work. If it were defeated I should grieve, if it were only on account of the noble man who has it in charge and who never fails to act liberally.

Mr. VAN HORN, of New York. I yield the remainder of my time to my colleague, [Mr. RAYMOND.]

Mr. RAYMOND. Mr. Speaker, in view of what has just been said, it is perhaps proper that I should congratulate myself, in common with the gentleman from Pennsylvania [Mr.

STEVENS]—and I believe we are the only two members of the House of whom this can be said—that we have not, upon this or any other subject, any prejudice whatever that we can be called upon to surrender. [A laugh.] Therefore we shall vote together on this bill.

He is situated somewhat differently from myself in this regard. I come from the city of New York, where, in common with the great portion of the northern Atlantic sea-board, our interest is to procure cheap food; and that will as time rolls on become more and more the great interest of all the northeastern States. On the contrary the interest of the great West, which is becoming more and more the grain-producing portion of this continent, is to obtain access to those who wish to purchase the food which the western States have to sell. This project is part of a grand scheme of works upon which this Congress must at some day or other enter, to facilitate communication between the grain-producing and the grain-consuming portions of this country. As a measure looking toward this great object I favor the bill now before us.

I beg leave to say, furthermore, that I shall, to the extent of my ability, favor every measure that may be brought before the House proposing to facilitate communication between the great West and the Atlantic sea-board, and falling within what I may deem the scope of the constitutional provisions on the subject. In my judgment the facilitating of all such communications, the cheapening of food for the East by opening communications with the markets of the great West, is hereafter to be one of the great works to which this Government is to give its attention.

The eastern portion of the country is drifting rapidly into the condition in which England found herself before the repeal of the corn laws. At the time of the adoption of the repealing act, her protective policy which she had pursued for centuries was abandoned under the pressure of the great and paramount necessity of obtaining cheap food for her people. That necessity broke down her prejudices, reversed her settled policy, and inaugurated an entire change in the whole course of her legislation. A similar occurrence must sooner or later take place with respect to the eastern portion of this continent.

Whatever, therefore, tends to facilitate communication between these two great sections of the country, tends to consolidate—not to reconstruct, for it is not needed in that regard, but to consolidate—the Union of the States, and make that Union perpetual, because it tends to make it one in interest, as it will be one in destiny.

I have not examined this bill, so far as its details are concerned, with any care; but I have the greatest confidence in the committee which has had it in charge, and in my colleague, [Mr. VAN HORN,] who has taken it under his particular supervision.

Mr. DELANO. As the gentleman says he has not examined the bill in its details, will he permit me to call his attention to one of its features?

Mr. RAYMOND. Yes, sir.

Mr. DELANO. Does the gentleman know how much money the bill proposes to take out of the Treasury?

Mr. RAYMOND. If I am correctly informed, it proposes to take no money out of the Treasury; but it proposes to lend the credit of the Government to the extent of \$6,000,000; and I beg to say that I consider it in that regard the best appropriation of \$6,000,000 upon which this Congress will be able to congratulate itself.

Mr. DELANO. Is the gentleman aware that one of the sections of the bill looks directly to the Government assuming the whole thing after the company has been permitted to go on borrowing at the rate of ten per cent. interest? Has the gentleman looked at the details of this monstrous measure at all? I do not believe he has; nor do I believe that the House understands what it is about to do in the passage of the bill.

Mr. RAYMOND. The gentleman's skepticism in regard to the extent of my knowledge may or may not be well founded. I say again, as I said before, that I have not considered the details of the bill; but my impression is that I am quite as well informed as the gentleman seems to be in regard to its general scope and bearing upon the present and future prosperity of the country. On this general conviction I am quite willing to act. I am responsible for no one's vote but my own, and that will be given most cheerfully for the passage of the bill.

Mr. VAN HORN, of New York. How much time have I left?

The SPEAKER. Two minutes.

Mr. VAN HORN, of New York. I yield them to my colleague, [Mr. DODGE.]

Mr. DODGE. Mr. Speaker, I simply wish to say in regard to this as a new work, that notwithstanding the fears of the canal commissioners of the State of New York, I shall vote cheerfully for the bill, because I believe the prosperity of the city and State of New York is identified with the prosperity of the West. I believe just in proportion as Illinois and the other western States are able to produce and get profits on their products, not to dispose of them merely at cost, but as they can make a profit on their productions, will they traffic with the city of New York, and use our canals and railroads so as to make them permanently prosperous. I shall vote for this bill under the firm conviction that the prosperity of the country is the prosperity of the city of New York.

On motion of Mr. VAN HORN, of New York, Mr. MILLER was granted leave to publish as part of the debates some remarks he had prepared on the pending measure. [The remarks will be found in the Appendix.]

Mr. DELANO. I move that the House do now adjourn. We have too thin a House to consider so important a measure.

Mr. J. M. HUMPHREY demanded the yeas and nays.

The yeas and nays were not ordered.

The House refused to adjourn.

The question recurred on the substitute of Mr. VAN HORN, of New York, and it was agreed to.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. DELANO moved that the bill be laid upon the table, and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 32, nays 85, not voting 66; as follows:

YEAS—Messrs. Ancona, Benjamin, Bergen, Boyer, Buckland, Chanler, Dawson, Delano, Deming, Denison, Eldridge, Finck, Glossbrouner, Grider, Aaron Harding, Chester D. Hubbard, James R. Hubbell, James M. Humphrey, Latham, Marvin, Niblack, Orth, Samuel J. Randall, William H. Randall, Ritter, Shanklin, Strouse, Taylor, Francis Thomas, Ward, Williams, and Stephen F. Wilson—32.

NAYS—Messrs. Ailey, Allison, Ames, James M. Ashby, Baker, Banks, Baxter, Beaman, Bidwell, Bingham, Blaine, Boutwell, Brundage, Brownell, Sidney Clarke, Cobb, Conkling, Cullom, Darling, Dawes, Defrees, Dodge, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Kuykendall, Lavin, William Lawrence, Loan, Longyear, Lynch, Marshall, McClurg, McKee, McKiernan, Moorhead, Morrill, Morris, Moulton, O'Neill, Paine, Patterson, Perham, Raymond, Alexander H. Rice, John H. Rice, Rollins, Ross, Sawyer, Shellabarger, Smith, Spalding, Stevens, Stilwell, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, James F. Wilson, Windom, and Woodbridge—85.

NOT VOTING—Messrs. Anderson, Delos R. Ashley, Baldwin, Barker, Blow, Bromall, Bundy, Leader W. Clarke, Coffroth, Cook, Culver, Davis, Dixon, Dumont, Eckley, Eggleston, Farquhar, Goodyear, Hale, Harris, Hart, Hayes, Hill, Hogan, Hooper, Demas Hubbard, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kerr, Ketcham, George V. Lawrence, LeBlond, Marston, McCullough, McIndoe, Mercer, Miller, Myers, Newell, Nicholson, Noell, Phelps, Pike, Platts, Pomeroy, Price, Radford, Rogers, Rousseau, Schenck, Scofield, Sitgreaves, Sloan, Starr, Taber, Thayer, John L. Thomas, Trimble, Robert T. Van Horn, Welker, Wentworth, Whaley, Winfield, and Wright—66.

So the House refused to lay the bill upon the table.

During the vote,

Mr. COOK stated that he was paired with Mr. Blow, and that the latter would vote against the bill while he would vote for it.

Mr. LAWRENCE, of Pennsylvania, stated that he was paired with his colleague, Mr. MILLER, and that the latter would vote for the bill while he would vote against it.

Mr. GRINNELL stated that Mr. PRICE, who was absent by leave of the House, would, if present, have voted for the bill.

Mr. TAYLOR stated that Mr. THAYER, who would have voted against the bill, was paired with Mr. WENTWORTH, who would have voted for it.

Mr. ELDRIDGE stated he understood from Mr. ROGERS that he was paired with Mr. HULBURD.

Mr. HULBURD stated that he had reserved the right to vote on this bill.

Mr. CHANLER stated that his colleague, Mr. HUBBELL, was paired with Mr. BALDWIN, of Massachusetts.

The vote was then announced as above recorded.

Mr. VAN HORN, of New York, demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ANCONA demanded the yeas and nays. The yeas and nays were not ordered.

The bill was passed.

Mr. VAN HORN, of New York, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

On motion of Mr. VAN HORN, of New York, the title was amended so as to read, "A bill to incorporate the Niagara Ship-Canal Company."

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had adopted the report of the committee of conference on the disagreeing votes of the two Houses on House bill No. 238, to amend an act entitled "An act relating to the habeas corpus and regulating judicial proceedings in certain cases," approved March 3, 1863.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled House bill No. 197, to provide for the better organization of the pay department of the Navy; when the Speaker signed the same.

LEAVE OF ABSENCE.

Mr. NIBLACK asked and obtained further leave of absence for his colleague, Mr. KERR, for one week.

Mr. GRINNELL asked and obtained leave of absence for Mr. PRICE for one week.

BARRY AND HIGGINS.

Mr. RICE, of Maine, by unanimous consent, from the Committee on Public Buildings and Grounds, introduced a joint resolution for the relief of Barry & Higgins; which was ordered to be printed, and recommitted to the Committee on Public Buildings and Grounds.

AMERICAN REGISTERS.

Mr. J. M. HUMPHREY, by unanimous consent, introduced a joint resolution authorizing the Secretary of the Treasury to grant American registers to certain vessels; which was read a first and second time, and referred to the Committee on Commerce.

A. SHERWOOD.

Mr. J. M. HUMPHREY, by unanimous consent, introduced a bill to authorize the Secretary of the Treasury to refund money paid by A. Sherwood, and others, for duties improperly collected; which was read a first and second time, and referred to the Committee of Ways and Means.

POST-ROUTE BRIDGES.

On motion of Mr. HARDING, of Illinois, Senate bill No. 236, to authorize the construction of certain bridges and their establishment as post routes, was taken from the Speaker's table, and ordered to be printed.

PAY DEPARTMENT OF THE NAVY.

Mr. RICE, of Massachusetts, by unanimous consent, introduced a joint resolution to carry into immediate effect the bill to provide for the better organization of the pay department of the Navy, and asked its consideration at the present time.

The bill was read a first and second time, ordered to be engrossed and read a third time, and being engrossed, it was accordingly read the third time and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

And then, on motion of Mr. FARNSWORTH, (at four o'clock and forty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. ELDRIDGE: The petition of Allen Pierce, for amendment of the Constitution so as to provide that the President and Vice President shall hold their offices twenty years, &c.

By Mr. FARNSWORTH: The petition of Hon. L. W. Lawrence, and others, citizens of Boone county, Illinois, for increased duties upon wool.

By Mr. GARFIELD: The memorial of several New York and Connecticut manufacturers of sheet-brass, brass and copper wire, and German silver, asking for increased protection.

Also, the petition of 75 citizens of Portage county, Ohio, asking for increased protection to American wool.

By Mr. HARDING, of Illinois: A memorial for survey of a canal to connect Rock river and Lake Michigan.

By Mr. HOLMES: The petition of Henry Ten Eyck, and others, citizens of Madison county, New York, for increase of tariff on wool.

By Mr. JULIAN: The petition of 73 citizens of Randolph county, Indiana, praying an amendment of the Federal Constitution prohibiting any distinction among citizens of the United States on account of race, color, or descent.

By Mr. KELLEY: The petition of J. J. Giers, and others, citizens of Alabama, praying Congress for immediate relief for the destitute and suffering poor of the mountain district of that State.

By Mr. MORRILL: The petition of S. R. Batchellor, and others, citizens of West Brantree, Vermont, praying for increased protection on wool.

By Mr. RAYMOND: Joint resolutions of the Legislature of New York, in favor of the passage of a bill to equalize bounties paid to soldiers.

By Mr. WARD: The petition of citizens of Wirt, Alleghany county, New York, in favor of increasing the tariff on wool.

IN SENATE.

WEDNESDAY, May 2, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. HARRIS. I ask leave to present the petition of William Johnson. It appears that this petitioner, who is described in his military papers as a man of dark complexion, with black hair and eyes, enlisted as a private in the fourteenth regiment of New York heavy artillery, and served as a private until his regiment was mustered out. He was mustered out with the regiment, but he was paid only seven dollars a month, being treated by the officers of the Government as a colored man. He now asks that an act of Congress may be passed giving him the same pay as other privates of his regiment. I move that the petition be referred to the Committee on Military Affairs and the Militia.

The motion was agreed to.

Mr. FESSENDEN presented the petition of Ezra Carter, jr., late collector of the customs of the district of Portland and Falmouth, praying to be allowed a balance due him on account of certain moneys expended for repairs to the custom house, the vouchers for which were

destroyed by fire; which was referred to the Committee on Claims.

He also presented ten petitions numerously signed by producers, traders, and operators of the oil regions of Pennsylvania, representing that the tax on crude petroleum is oppressive, impolitic, and unjust, and in its operations is fast crushing out all new developments of territory, closing up wells of moderate yield, and paralyzing every branch of business in that section of country, and praying that the tax may be repealed; which were referred to the Committee on Finance.

Mr. HENDERSON presented additional papers in relation to the claim of Washington Crosland for compensation for losses accruing from the seizure and use of his property by the Government of the United States; which were referred to the Committee on Claims.

PAPERS WITHDRAWN.

On motion of Mr. POMEROY, it was

Ordered, That C. C. Hutchinson have leave to withdraw his petition and other papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Eli W. Goff, praying for compensation for property rescued from him while inspector of customs for the district of Vermont, submitted an adverse report thereon; which was ordered to be printed.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 281) to authorize the Chesapeake Bay and Potomac River Tide-Water Canal Company to enter the District of Columbia, reported it with an amendment.

Mr. CLARK, from the Committee on the Judiciary, to whom was referred a bill (H. R. No. 473) to extend the jurisdiction of the Court of Claims, reported it without amendment.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a bill (H. R. No. 498) granting a pension to Mrs. Joanna Winans, reported it without amendment.

He also, from the same committee, to whom was referred a petition of unmarried daughters of revolutionary soldiers, praying that they may be granted the same pension that was received by their mothers while living, asked to be discharged from its further consideration, and that it be referred to the Committee on Revolutionary Claims; which was agreed to.

Mr. SUMNER, from the Committee on Foreign Relations, to whom was referred a message from the President of the United States, communicating a report of the Secretary of State, and papers relative to the claim on the Government by the owners of the British vessel *Magicienne*, reported a bill (S. No. 297) for the relief of the owners of the British vessel *Magicienne*; which was read and passed to a second reading.

Mr. JOHNSON. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 75) to amend the act entitled "An act to reorganize the courts in the District of Columbia," &c., and for other purposes, to report that they have had it under consideration and are of opinion that it should not pass. I move that the bill be indefinitely postponed.

The motion was agreed to.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred a joint resolution (S. R. No. 39) to refer the claim of the administrator of Richard W. Meade, deceased, to the Court of Claims, asked to be discharged from its further consideration, and that it be referred to the Committee on Claims; which was agreed to.

Mr. NYE, from the Committee on Naval Affairs, to whom was referred the petition of A. L. Fleury, praying for the appointment of a commission to visit London to investigate the invention of the so-called Zopissa board with a view of purchasing that invention for the use of the United States Government, reported adversely thereon, and asked to be discharged

from its further consideration; which was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 246) relating to public schools in the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 183) concerning the fire department of Washington city, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 253) to incorporate the First Congressional Society of Washington, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 264) to grant certain privileges to the Alexandria and Washington Railroad Company in the District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 247) donating certain lots in the city of Washington for schools for colored children, reported it with an amendment.

Mr. MORRILL. The same committee, to whom was referred a petition of citizens of the United States, praying for an appropriation for the establishment of an industrial normal school and farm and workshops in the District of Columbia for the education of competent teachers in agriculture and the mechanic arts, have instructed me to report that legislation is inexpedient; and I move that the petition be indefinitely postponed.

The motion was agreed to.

Mr. VAN WINKLE, from the Committee on Pensions, to whom was referred the petition of Mrs. Jane D. Brent, praying for a pension, submitted a report, accompanied by a bill (S. No. 298) granting a pension to Jane D. Brent. The bill was read, and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Jane E. Miles, widow of William D. Miles, praying for a pension, submitted a report, accompanied by a bill (S. No. 299) granting a pension to Jane E. Miles. The bill was read, and passed to a second reading, and the report was ordered to be printed.

REPORT RECOMMENDED.

On motion of Mr. MORRILL, it was

Ordered, That the report of the Committee on Revolutionary Claims on the petition of Sarah L. Spring and Harriet Spring, of Waterville, Maine, heirs of Captain William Barker, deceased, of the continental establishment of the revolutionary army, praying Congress to grant to them the pension that their grandfather would have drawn from the time of his discharge to the time of his death, or the half pay, with interest thereon, to which he was entitled by law, be recommended to that committee.

BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 301) regulating the service of final process in suits at law and of orders and decrees in equity of courts of the United States in places out of their jurisdictional limits; which was read twice by its title, referred to the Committee on the Judiciary, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 302) for the relief of the Mercantile Mutual Insurance Company of New York; which was read twice by its title, and referred to the Committee on Claims.

Mr. GUTHRIE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 32) to provide for codifying the laws relating to the customs; which was read twice by its title.

Mr. GUTHRIE. When I was in the Treasury Department I reported to Congress a codification of the revenue laws. I deemed it necessary at that time, but Congress did not act on it. It lies in the Treasury yet unacted upon and undisposed of. In a conversation with the Secretary of the Treasury, this resolution was prepared, and I know he is anxious

to have the benefit of such a codification. I propose to refer the resolution to the Committee on Commerce in order that they may consider the subject.

The PRESIDENT *pro tempore*. It will be so referred.

PRIVATE CLAIMS.

Mr. CLARK. There are several bills and orders upon the Calendar reported from the Committee on Claims. The Committee on Claims have asked of the Senate no time in regard to these matters during the present session; and I propose to ask of the Senate a little time on Friday next, if they will give it to me, to consider some matters reported from the Committee on Claims. Friday used to be a day set apart every week for the consideration of private claims, and I now propose to ask a little time next Friday, if the Senate will allow it.

FUNDING OF THE NATIONAL DEBT.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 300) to reduce the rate of interest on the national debt, and for funding the same; which was read twice by its title.

Mr. SHERMAN. Before this bill is referred I desire to make a statement as to some of the provisions of this bill for public information. It provides in the usual form for a five per cent. thirty-year loan, to be called the consolidated debt of the United States, and to be disposed of at not less than par, and to be applied to the payment of the existing national debt other than United States notes commonly known as greenbacks. There are two provisions of the bill likely to excite opposition, one of which grows out of the question of taxing property in United States securities. It cannot be denied that a strong feeling grows out of the exemption from State taxation of so large an amount of property, and various propositions have been made to subject them to increased taxation by the United States. While they bear interest at a rate equal to that allowed in most of the States on notes and securities subject to tax, this feeling of inequality will continue and increase. They are now subject to income tax levied by the United States, but owing to the \$600 exemption, now proposed to be increased to \$1,000, and also to the large amount held abroad which cannot be reached, and the readiness with which the tax is evaded, it yields to the United States less than one tenth of one per cent. on the aggregate debt. In consideration of the voluntary reduction in the rate of interest from six and seven and three tenths per cent. to five per cent., this bill proposes to extend the present exemption from State taxation to the income tax, and will in effect secure to the United States a reduction of one sixth of the present interest paid, with but the trifling loss of the income tax. The saving thus made, with a further sum, sufficient annually to amount to thirty millions, it is proposed to apply to the payment of the principal of the debt. If uninterrupted this will be accomplished in thirty-five years. The effect is to pay the national debt by the saving of interest.

The second provision grows out of the option given to the holders of the seven and three tenths notes to demand payment in money at their maturity in five-thirty bonds. This option will compel the Secretary to accumulate vast sums for a contingency that may not happen, and place him at the mercy of sudden contractions whenever the notes mature, as they do in large sums at specified dates. To avoid this, this bill applies the common custom and law of requiring a reasonable notice by the holders of this option. The same principle was applied to the option in the demand notes of 1862, and to an ordinary hiring of a house or a servant from year to year. If no option is taken then it is held to be a choice of money, and the Secretary will have six months to prepare for it.

I will not discuss the bill further. It is approved by the Secretary of the Treasury and has been partially considered by the Committee on Finance. It will be objected that the

holders of the present bonds will not convert them, but fortunately nearly all our securities will soon be within our reach by maturity. And it is the confident belief that this clean loan on a reduced rate of interest will be so fair an adjustment between the conflicting interests of the bond-holders and tax-payers that it will be accepted by both, and thus represent the consolidated debt of the United States. All the advantages proposed by the bill will be more properly considered when it is reported to the Senate. In the mean time it is but right to submit it to the impartial test of the public judgment, for it affects the interest of every one who pays taxes or holds national securities.

I move that the bill be referred to the Committee on Finance.

The motion was agreed to.

RECONSTRUCTION.

Mr. WILLIAMS. I ask leave to introduce at this time, for the purpose of having it printed, an amendment to the bill (S. No. 292) to provide for restoring to the States lately in insurrection their full political rights.

Mr. POMEROY. I ask for the reading of the amendment.

The PRESIDENT *pro tempore*. It will be read if there be no objection.

The Secretary read the amendment, which was to strike out section one of the bill and to insert the following in lieu thereof:

That whenever any one of the States lately in insurrection shall ratify the above proposed amendment, as required by the Constitution of the United States, and shall conform its constitution and laws thereto, the Senators and Representatives from such State, after the 4th day of March, 1867, if found duly elected and qualified, shall, upon taking the required oath, be admitted into Congress: *Provided*, That Senators and Representatives from Tennessee and Arkansas, respectively, shall be admitted, if elected and qualified as aforesaid, when either of said States shall ratify, as aforesaid, said proposed amendment.

Mr. WILLIAMS. Mr. President, I beg permission to say that this amendment embodies the views I presented to the committee, and I introduce it at this time so that it may be printed and examined before the Senate proceeds to the consideration of the bill. I invite attention to the fact that by this amendment Senators and Representatives from the so-called confederate States are not allowed to take their seats in Congress until the 4th day of March, 1867, with the exception of Tennessee and Arkansas, giving the loyal States an opportunity, if they desire so to do, to make the proposed constitutional amendment a part of the Constitution of the United States before that time. Should the loyal States adopt that amendment, I have little doubt that it would be adopted by enough of the other States to make it a part of the Constitution before the 4th of March, 1867; but if the loyal States should refuse to adopt the amendment and say that they do not want the guarantees and security for which it provides, then, so far as I am advised at present, I can see no good reason for refusing any longer to receive representation from these insurgent States. Tennessee and Arkansas are made exceptions. Their Senators and Representatives are to be received as soon as they ratify this constitutional amendment; and I believe, from the condition of their people and the character of their constitutions and laws, that they are entitled to a precedence over the other States that have been in rebellion. I believe that this amendment is better in all respects than the original section; but if the Senate, after consideration, decides otherwise, I shall cheerfully acquiesce in its judgment.

The PRESIDENT *pro tempore*. The order to print will be entered if there be no objection.

Mr. DIXON. Mr. President, I ask leave to give notice of my intention to offer, by way of amendment to the bill and resolutions reported by the joint committee on reconstruction, and as a substitute therefor, the following joint resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the interests of peace and the interests of the

Union require the admission of every State to its share in public legislation whenever it presents itself, not only in an attitude of loyalty and harmony, but in the persons of representatives whose loyalty cannot be questioned under any constitutional or legal test.

I ask the consent of the Senate to say a few words in explanation of my views on the subject.

What the country expected from Congress was a practical scheme for hastening the reestablishment of all the States in their full constitutional relations. This report produces a plan which must inevitably put off this end, so strongly desired and demanded. Does any one believe that the southern States will accept the proposed constitutional amendment? Certainly they will decline. They will say, "Let us see what the next elections in the North develop. This Congress may recommend the amendment; the next Congress, which is to be chosen in the fall of the present year, and which may meet on the 5th of March, 1867, may be of a different mind. It may repeal all that this Congress has enacted; we had better wait."

The "restoration of the States to their practical relations in the Union," as Mr. Lincoln happily phrased it, is therefore put off, if this report is accepted, for at least another year; and the practical result of the labors of the reconstruction committee will be to have made up a platform on which those who choose to stand upon it may go before the country at the fall election. That is all; and in our judgment that is not enough to satisfy the country.

It is hardly worth while to discuss the merits of measures which to be valid must be accepted by communities which are sure to reject them; but we may remark that it is not probable so heavily taxed and so poor a people as those of the southern States will assume the payment of the enormous and wastefully contracted rebel debt, and that no party would ever dare to go before the people of this country with a proposition for the United States to assume this debt, whose certificates are held chiefly by foreign speculators upon our national ruin. Further, that it is scarcely probable the people who have a majority in the South will voluntarily disfranchise themselves; and that the extremes to which partisan passions have been inflamed in Tennessee by the disfranchisement of the greater part of the population there, does not encourage practical men to look for the fruits of peace from such a policy enforced elsewhere.

Even the reconstruction committee acknowledge that "it is expedient that the States lately in insurrection should, at the earliest day consistent with the future peace and safety of the Union, be restored to full participation in all political rights." Now, what have we already to "secure future peace and safety?" In the first place, we have the civil rights act, under which any citizen who is denied justice by local or State courts is empowered to appeal to the United States court, which is commanded, with all its machinery, to interfere in his behalf, and if necessary, to use the military power of the United States to secure him justice. Surely no citizen need suffer wrong while this act remains. In the next place, we have a form of oath, prescribed by Congress; which makes it impossible for any one who voluntarily engaged in rebellion to enter Congress or to hold any Federal office without committing perjury, for which he may and ought to be indicted and punished. Finally, we have the Freedmen's Bureau for a whole year, during which, with a wise and conciliatory policy, we may hope the labor question in the South will assume something of its normal condition.

But let us not forget, on the other hand, the dangers which attend impracticable measures. Suppose, going before the people on this platform, built by the congressional committee, we are beaten. In that event we may be sure that the next Congress will not only refuse to make the demands which this one makes, but it will most probably repeal the civil rights act and the test oath; and thus our own impru-

dence will have sacrificed the great objects we have already gained.

The amendment proposed is right enough, if the reconstruction committee can get any southern State to accept it. But unless they do so, it is of course only a shot in the air, which may be right and true, but will hit nowhere—unless indeed it falls upon the heads of the gunners. Is it not far wiser for Congress to make sure of what it has done; to cry "Enough for this time;" to be content that it has secured the supremacy of law and justice in all our territory; and to admit at once to their seats all Representatives and Senators who can take the prescribed oaths?

One Congress cannot bring about the millennium; there are years to come in which we may all join upon a platform of larger liberty, and argue the questions and urge the reforms which still remain. For this time we have reason to be content; for we have put down armed resistance to the laws, and Congress has given us, in the civil rights act, a guarantee for free speech in every part of the Union. It is our own fault if, having thus secured the right to argue, we do not enlighten prejudice and mere opposition, and show that equal liberty is the best for all.

What I have read seems to me so wise and just, that I have adopted it as the best expression which I can make of my own views. It is the leading editorial article in the New York Evening Post of May 1, a journal which certainly is not excelled in ability, patriotism, and influence by any newspaper in this country. Coming from such a source, I cannot but hope that these wise, calm, and statesmanlike views may have some influence even in this body, as they certainly will have among the intelligent people of the United States. They express, in my judgment, the calm and resolute convictions of thinking men, and will, so soon as public opinion can legitimately declare itself, take the form and be clothed with the authority of public law.

Leave was granted to introduce the joint resolution (S. R. No. 81) providing for the representation of the several States in the Congress of the United States; which was read twice by its title.

Mr. FESSENDEN. I wish to make a single remark upon the proposition of the honorable Senator from Connecticut. He thinks that the remarks which he read from the New York Evening Post are so very wise, so very just, that he has some hope, to use his own language, that they may not be without their effect even upon the members of this body; thus, I suppose, intending to intimate that the last place where wise and just views could be expected to have any effect would be upon the members of this body. Sir, we have not given ourselves over to the keeping of the honorable Senator from Connecticut, or those who act with him. We do not pretend to any very particular wisdom or any particular sense of justice; but we who were on the joint committee of fifteen, and who are most immediately touched by the remark, feel that at any rate we have tried to do our duty. We have been in session a considerable length of time but not longer than we deemed it absolutely necessary in order to reach a conclusion, and in reaching that conclusion we have been obliged to take into consideration a great many things: first, what it would be wise and just to do, and next what, if it is wise and just, we can do; what would be acceptable in the first place to Congress, and in the next place what would be acceptable to the people. Unquestionably in the committee there was very considerable difference of opinion. That difference of opinion had to be reconciled. I do not suppose that the scheme as presented would be exactly in all particulars what would suit perhaps a large number; but the question is one beyond mere personal opinion, and mere adherence to personal opinion or personal feeling; and the committee, after much deliberation, came to the conclusion that its duty was to agree upon that which seemed to be the best

scheme with regard to reconstruction upon which they could come to a unanimous or nearly unanimous agreement.

The proposition made by the honorable Senator from Oregon this morning would indicate, for instance, that he is not exactly satisfied with the result to which the committee came. I really, with all respect to my friend from Oregon, beg leave to say that when a committee after great deliberation has come to a conclusion upon a subject which has been assented to and reported, at any rate the members of the committee should abstain from pressing individual views in advance of the general action of the body to which the report has been made, because it has a tendency to weaken the effect of the report itself.

I accede to what has been said by the honorable Senator from Connecticut with regard to the eminent standing of the press from which he has read; but, eminent as it is, I think it is not immodest on the part of the committee of fifteen, selected with very considerable care, and, with one exception, perhaps, composed of gentlemen eminently fitted for the position which was assigned to them, to suppose that after months of deliberation, after great study and reflection, after careful examination of the evidence before them, not only as to what was wise to do, but as to what could be done, the united opinions of a very large majority of them might be supposed to come about as near the right as the opinion of an individual who may happen to write in the columns of a newspaper. I acknowledge, as a general rule, that the editor of a newspaper knows by intuition far more of the state of the country and what is wise to be done, no matter what his age, or what his position, than Congress can possibly know; but I think, at any rate, a little faith should be given to a committee of Congress, so large as this committee, and to Congress itself, devoting itself carefully to the study of the great questions on which it proposes to act. I cannot agree with my honorable friend from Connecticut, that because the opinions which he read happen to appear in a press of character they are therefore so conclusive as at once to overturn all the conclusions to which, after much deliberation, the committee have arrived. At any rate I shall beg leave to ask, when the proper time comes, for the careful consideration of the Senate of all these important questions; and having no pride of opinion on the subject, if Congress shall come to the conclusion that the scheme which has been presented needs amendment and alteration, I shall submit with perfect willingness and perfect contentment, in the hope that something wiser and better will be reached; but until we come to the discussion I am unwilling to admit, even upon the authority of the New York Evening Post, that what we have done cannot be acceptable to the people of the United States.

Mr. DIXON. I suppose the Senator from Maine did not intend, in his opening remarks, to question my right to offer the amendment.

Mr. FESSENDEN. Not at all; I only suggested to the Senator that when he stated that the wisdom of those remarks of the Post might, he hoped, have some effect even upon this body, it was rather an intimation that this body could not be expected to act wisely and justly.

Mr. DIXON. The word "even," as used by me, may have, I think, a different meaning from what the Senator supposes. My meaning was that those remarks ought to have influence, even upon so distinguished and so wise a body as this; but I will consent to strike out the word "even," if it is offensive to the Senator.

Mr. FESSENDEN. Not at all.

Mr. DIXON. I meant to say, and I now repeat, that even in such a body as the Senate of the United States, words of wisdom like these might have their effect. I certainly would be the last person to reflect on the Senate, or to reflect on the committee, but I suppose I have a right to say that I do not think the report of the committee contains all the wisdom which even may exist in the Senate or in the committee itself.

Now, Mr. President, I beg leave to say a word with regard to that report and the measure which the committee have proposed. But for my great respect for the members of that committee and its chairman, and were I not forbidden by my knowledge that they are incapable of such a thing, from the bare reading of their reported propositions I should suppose that, as this writer intimates, whose language I have adopted, the object of the report was to present a scheme which could not be accepted. I am forbidden to entertain such an opinion by my great respect for the committee. I know they are incapable of anything of that sort, and I therefore am obliged to suppose that they thought this might be accepted, that it might possibly, under some supposable circumstances, calm the agitation which is prevailing on this subject, and result in the readmission of members from the late rebel States. That, no doubt, was their intention; but I beg leave to say that it seems to me that it is utterly impossible that that should ever be the effect of it. For example, allow me to particularize. After the States have accepted these terms, after they are represented in this body and in the House of Representatives for a period of nearly four years, if they accept the proposition next fall, they are to be denied the right of voting for their own Representatives in Congress; for we are told every day, and I believe it is to a certain extent true in some States, that the whole mass of the people participated in the rebellion, or at least, in the language of the report, "adhered" to it. The language of the report does not exclude merely those who were original conspirators, but all who may finally have adhered to the rebellion. Now, consider that proposition for a moment. These States are to be represented in the other House and in this body after having accepted these terms, and still their representatives are to be chosen without the votes of the people. I would ask, who is to vote? The colored men cannot vote. Take South Carolina or Mississippi or Georgia. Who is to choose Representatives in those States? I will not say it is a mockery, because my respect for the committee forbids; but I must say that it does seem to me that no man can expect that any of these States will ever accept the terms proposed. I agree with the Evening Post on that point. I will say further that I am not sure, if they would accept it, they ever ought to be permitted to vote at all.

Mr. FESSENDEN. I wish to ask the Senator a question. I have the impression that President Johnson has said, over and over again, that the government of these States ought to be exercised by the loyal portion, those who had been loyal to the Union.

Mr. DIXON. In the first place, I beg leave to say to the Senator from Maine that it makes no difference to me, in forming my opinions, what the President or any other man says. If the President had said so, it would not be of binding authority on me, unless my judgment approved it. In the next place, I say that I agree with the sentiment, not because the President said it, but because I believe it is a true and correct sentiment. But that is not what the report says. The report of the committee does not say that only loyal men can vote. I know the President says that; everybody says it who thinks as I do; but the question is, what is a loyal man?

Mr. FESSENDEN. Did he not say those who had been loyal, those who had not participated in the rebellion, should be those intrusted with the Government? Was not that his recommendation in regard to Tennessee?

Mr. DIXON. When these States are again regarded as members of the Union, if they accept the terms of readmission proposed to them, all loyal men at the time ought to be permitted to vote. I will not say that the exception made in one clause of the report is not correct, that certain leaders be disfranchised; but I say that to disfranchise a whole people, to tell them that they may send members to Congress and still shall not vote for

them—for that is the result of it—to say, "You may be represented, but you shall not vote," seems a mockery. Under it there might hardly be twenty voters, possibly, in a State.

Mr. President, why did I read the article from the New York Evening Post? Not as an authority. It struck me that the views were so correct and so sound that I desired to adopt them as my own, and I was very certain that the source from which those ideas came would have great weight with the loyal people of this country, and properly so; that that paper had a character for loyalty and for patriotism and for ability and for honesty and integrity which gave it weight; that what came from the distinguished and venerable editor of that paper was entitled to weight, even in the Senate of the United States, and therefore I read the article and adopted its language.

I have only one word more to say. I am extremely desirous—no man can be more desirous than I am—to unite upon some plan which shall pacify the country, and which shall restore and reconstruct the Union. I had hoped this committee would propose something which would accomplish that. As to the plan proposed, I am utterly hopeless with regard to its producing any good effect. I may be mistaken. I have the highest respect, I need not say, for the members of the committee. I know they are patriotic; but I think they are utterly mistaken, and I think I have the right to say it, in all respect to them.

Mr. FESSENDEN. The Senator from Connecticut has gone into a discussion of the merits of the report. I said nothing of the merits of the report. I did not intend to say anything, and I do not now, on that subject. I merely rise to say that I choose to avoid anything of that description until the report comes properly before the Senate, when, if I have sufficient strength, I shall endeavor to explain the views of the committee upon that subject so far as it may become my duty to explain them. In the mean time I suppose we are to have gentlemen giving us the opinions, which I think we can find out for ourselves, of different persons throughout the country. I wish only to say that, notwithstanding my respect for each and all of those who may choose to instruct us on the subject, we have a duty to discharge, and must discharge it in the best way we can upon our own views and sentiments as to what the condition of the country demands.

Mr. GRIMES. There seems to be some controversy between the Senator from Connecticut and the Senator from Maine as to what are, at this time, the opinions of the President of the United States; and occupying the peculiar relations which the Senator from Connecticut does to the Chief Magistrate of the country, I desire to refer, as he has done, to a newspaper, one published in this city, purporting to give the last revised opinions of the President, and to inquire of him whether or not they are authentic. I hold in my hand the National Intelligencer of this morning, which contains an article represented to me to have been telegraphed from the precincts of the White House to the various newspapers in the country, headed, "The President and his Cabinet in Council."

"It is understood that at the Cabinet meeting yesterday the President invited an expression of opinion from the heads of Departments respecting the propositions reported on Monday last by the congressional committee on reconstruction. An interesting and animated discussion is said to have ensued, in the course of which, if rumor be true, Secretary Seward declared himself in very decided and emphatic terms against the plan of the committee and in favor of the immediate admission of loyal representatives from the lately rebellious States.

"Secretary McCulloch was as positive as the Secretary of State in his opposition to the plan recommended by the committee, and expressed himself strongly in favor of an immediate consummation of the President's restoration policy by the admission into Congress of loyal men from the southern States.

"Secretary Stanton was equally decided in his opposition to the committee's propositions, was for adhering to the policy which had been agreed upon and consistently pursued by the Administration, and was gratified that the President had brought the subject to the consideration of the Cabinet.

"Secretary Welles was unequivocally against the committee's scheme, and his support

of the President's policy, comprehending the instant admission into Congress of loyal representatives from the States lately in rebellion.

"Secretary Harlan was rather reticent, and expressed no opinion.

"Postmaster General Dennison was in favor of carrying out the restoration policy of the President, but expressed some doubts as to the precise time at which loyal representatives from the southern States should be admitted to seats in Congress.

"Attorney General Speed was not present at the meeting, being on a visit to his home in Kentucky.

"The President was earnest in his opposition to the report of the committee, and declared himself against all conditions precedent to the admission of loyal representatives from the southern States in the shape of amendments to the Constitution or the passage of laws. He insisted that under the Constitution no State could be deprived of its equal suffrage in the Senate, and that Senators and Representatives ought to be at once admitted into the respective Houses, as prescribed by law and the Constitution. He was for a rigid adherence to the Constitution as it is, and remarked that, having sustained ourselves under it during a terrible rebellion, he thought that the Government could be restored without a resort to amendments. He remarked in general terms that if the organic law is to be changed at all, it should be at a time when all the States and all the people can participate in the alteration."

Now, Mr. President, if I understand the force of language, that is not the position that the President of the United States has hitherto occupied. If I understand it—and perhaps the Senator from Connecticut can set me right if I am in error—the President of the United States now insists that these States shall be immediately represented; that they are entitled, under the Constitution of the United States, to immediate representation in the Senate and House of Representatives without any antecedent conditions, and the most of his Cabinet concur in that opinion. I suppose that this is the antagonist proposition that is put forth from the White House in opposition to the report of the committee of fifteen, commonly called the committee on reconstruction—the immediate unconditional admission, without any terms, without any conditions, of the representatives of those States and of the people of those States.

Mr. SUMNER obtained the floor.

Mr. DIXON. I ask the Senator to yield to me for a moment to reply to the Senator from Iowa.

Mr. SUMNER. Certainly.

Mr. DIXON. The Senator from Iowa intimated in his opening remarks that I had some peculiar knowledge or means of knowledge of the President's views. He spoke of the "peculiar relations" in which I stand to the President. The Senator is entirely mistaken in regard to that. My relations to the President are precisely similar to those of the Senator himself. I have seen the President but once within the space of two months, and then for not over five minutes. I take his views from his written, published statements.

Mr. GRIMES. If the Senator will excuse me, the fact that the Senator's resolution was identical in spirit and almost in terms with the language attributed in the National Intelligence of this morning to the President led me to infer—

Mr. DIXON. If it is identical in spirit, then the Senator is mistaken in another point when he says that the President has now taken new views and new grounds. He says that the language attributed to the President in the paper from which he has read, is identical in spirit with the resolution that I have offered. My resolution is taken from the President's veto message of the Freedmen's Bureau bill more than two months ago; so that the Senator will see that he is mistaken in supposing that there has been any change in the President's views, if mine are identical with his; and I do not suppose there has been any change. I do not suppose that the President has changed from the views contained in that resolution. I copied the resolution from the words of the President contained in that veto message because I thought they were extremely well expressed and because they were my views.

Now, I desire to say with regard to this resolution of mine, that I have not offered it in consequence of any consultation with any human

being. I have not seen the President or any member of the Cabinet or any human being with regard to it. I read the article in the Evening Post, and it struck me as being true and as coming from a source entitling it to great weight and authority. I knew it would be respected by this body from the character of the writer. I thought it correct, and it was exactly in accordance with my sentiments.

I say this because it might possibly be supposed from what the Senator said that this resolution of mine has been offered in consequence of some consultation. Sir, I am in consultation with nobody. I attempt to act here as a Senator in accordance with my own views of right. I may be wrong; but I am under the lead of no master and no man. I care not what the President or anybody else thinks. If what he does and says is right, I support him; if they are wrong, I denounce him. That, I take it, is the position of every Senator. No man is worthy of being a Senator unless that is his position. I repeat that I have offered this resolution without consultation with anybody.

Now, a single word as to the President's views. I do not see that there is any very great contradiction. It cannot be supposed that the President will in every statement which he makes of his views express every single shade of idea that he may have heretofore expressed. He thinks that the southern States should be represented. How and by whom? Take all his language together, and it is by loyal men when they come here in an attitude of harmony and loyalty to the Government and are represented by loyal men. That is what my resolution says; that is what the President says, and I believe that is his view.

Mr. GRIMES. I did not intend to convey the idea that the Senator from Connecticut has a master; but I submit, after all he has said, that I was perfectly justified in saying that peculiar relations subsisted between him and the President, when he himself admits that he went, not only for the spirit, but for the identical language of his resolution, to the celebrated veto message of the President of the United States on the Freedmen's Bureau bill.

Mr. DIXON. It is no uncommon thing for a resolution to be offered in language taken from a message of the President of the United States. It is frequently done, and it is very proper, as it strikes me. In some remarks that I had the honor of making about two months ago in the Senate, I embodied that extract from the message of the President as the expression of my own views. I then said that I thought it was right, and I have now offered it in the form of a resolution.

Mr. SUMNER. When I rose a moment ago I intended to make a remark in reply to the Senator from Connecticut, but the question seems to have drifted out of sight. I will observe, however, that the question involved in his proposition is so important that I never regret—

Mr. SHERMAN. I should like to know if the unfinished business does not come up at this time.

The PRESIDENT *pro tempore*. The Chair was about to remark that the morning hour has expired, and it is the duty of the Chair to call up the unfinished business of yesterday.

Mr. SHERMAN. I have no objection to allowing the special order to pass over informally for a few moments to afford Senators an opportunity to make explanations on this subject.

The PRESIDENT *pro tempore*. The order of the day can only be laid aside by unanimous consent. No objection being made, it is laid aside informally.

Mr. SUMNER. I was about to say that the proposition involved in the resolution of the Senator from Connecticut is so important that it may be considered as perhaps always in order to discuss it. I do not know that we ought to pass a day without discussing it in some way. I certainly do not deprecate this discussion; but while I say that, I am very positive on another point: I should deprecate any effort now to precipitate a decision on that question;

and I most sincerely hope that the Senator from Maine, the chairman of the committee on reconstruction, who has this matter in charge, will bear that in mind. I do not believe that Congress at this moment is in a condition to give the country the best proposition on this important subject. I am afraid that that excellent committee has listened too much to voices from without, insisting that there must be an issue presented to the country. For myself, I have always thought that that call was premature. There is no occasion now for an issue to be presented to the country. There are no elections in any States. The election in Connecticut is over. The election in New Hampshire is over. There are to be no elections before next autumn. What is the occasion, then, for an issue to be presented to the country? I see none, unless Congress, after a most careful and mature discussion of the whole subject, is able to present an issue on which we can all honestly and as one phalanx go forward to battle.

I do not intend to be drawn into a premature discussion of the issue presented by the report of the committee on reconstruction. I merely speak now to the question of time. I am sure that that report could not have been made in the last week of March. I am equally sure that if the committee had postponed their report until the last week of May they would have made a better one than they have made in the last week of April. I hope, therefore, following out that idea, that all decision of this question will be postponed as long as possible, to the end that all just influences may come to Congress from the country, and that Congress itself may be inspired by the fullest and amplest consideration of the whole question.

Why, sir, there is the evidence which has been laid before this committee. We have not yet seen it together. That evidence ought to be together; it ought to be laid before the whole country; and we ought to have returning to us from the country the just influence which the circulation of that evidence is calculated to cause. I am sure that wherever that evidence is read the people will say Congress is justified in insisting upon security for the future. To that end, I take it, the evidence was taken, and I hope that Congress will not act until we get the natural and legitimate influences from that evidence.

But, sir, allow me to say, by way of comment on the proposition of the Senator from Connecticut, that it seems to me my excellent friend, when he brought forward his proposition, forgot two things.

Mr. DIXON. Probably more than that.

Mr. SUMNER. He says probably more than that; but the two things he forgot were so great, so essential, that to forget them was to forget everything. In the first place, he forgot that we had been in a war; and in the second place, he forgot that four million human beings had been changed from a condition of slavery to freedom. Those two great ruling facts my excellent friend forgot, evidently, when he drew up his proposition. He forgot that we had been in a war, because he fails to make any provision for that security which common sense and common prudence, the law of nations, and every instinct of the human heart require should be made. He provides no guarantee. Sir, the essential thing, at this moment, is a guarantee. The Senator abandons that; but it is because he forgets that we have been in a war. If I, like the Senator from Connecticut, could forget this terrible war, with all the blood and treasure that it has cost us, I, too, could forget the guarantees; but as that war is always in my mind, the Senator will pardon me if I insist that we shall have guarantees.

Mr. DIXON. If the Senator will allow me—

Mr. SUMNER. In one moment I shall have done. In the second place, I have said that my excellent friend forgets that four million human beings have been changed in their condition. Four million slaves have been declared to be freemen; and by whom, and

by what power? By the national Government; and let me say that, as the national Government gave that freedom, it belongs to the national Government to secure it. The national Government cannot leave those men whom it has made free to the guardianship or custody or tender mercies of any other government. It is bound to take them into its own keeping, to surround them all by its own protecting power, and invest them with all the rights and conditions which in the exercise of its best judgment shall seem necessary to that end. All that my excellent friend has absolutely forgotten. It is not in his mind. If I could bring myself to such an obliviousness, if I could bathe so completely in the waters of Lethe as my excellent friend from Connecticut seems to have done daily in these recent times, I could join him in the support of his proposition.

Mr. DIXON. One word in reply to the Senator from Massachusetts, with the consent of the Senate. The Senator says that I have forgotten many things, and among others the guarantees required by the four million slaves who have been emancipated. I desire to ask the Senator what guarantee those persons have in the proposition reported by the committee. The Senator exhausted all the terms of opprobrium in the English language in denouncing a resolution which was before the Senate some time since, and which contained the only guarantee for the colored race that is contained in this report. The only guarantee which he says he keeps constantly in his mind, and which I have forgotten, contained in this report is that providing that if those persons are not allowed to vote in the States in which they reside they shall not be counted in the apportionment of Representatives. The Senate has not yet forgotten—the echoes are still ringing in this Hall—what the Senator said in regard to that proposition. If the English language contains any term of reproach, if it can be coined into any form or shape of opprobrium which he did not exhaust on that subject, and some of which my friend from Maine [Mr. FESSENDEN] cited as beauties of rhetoric, I am mistaken. I think he could have gone no further in denouncing that very proposition which is the only guarantee in this report; and yet he says I have forgotten that they require guarantees. I beg leave to remind the Senator that he too has forgotten his own words on that subject.

Mr. SUMNER. Not at all.

The resolution of Mr. DIXON was ordered to be printed.

BOUNTIES TO COLORED SOLDIERS.

Mr. HENDERSON submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Military Affairs and the Militia be, and are hereby, instructed to inquire into the expediency of changing the laws so as to enable back pay and bounty due to colored soldiers for services in the late war to be drawn upon the same proof of marriage as is now required for the collection of pensions due to such soldiers under the act of July, 1864.

USE OF THE HALL.

Mr. WADE. I now move to take up the resolution granting the use of the Senate Chamber to Mrs. Walling for the purpose of delivering a lecture.

Mr. SHERMAN. If there is to be no debate upon that resolution, and it will not supersede the special order, I am perfectly willing that a vote may be taken upon it; but if the motion involves a postponement of the pending order I object to it.

Mr. WADE. I do not propose to debate it. I suppose it is understood by the Senate, and that we can get a vote upon it at once. If it gives rise to debate, I shall let it go over.

Mr. SHERMAN. I hope, then, the vote may be taken. I believe the yeas and nays have been ordered upon it.

The PRESIDENT *pro tempore*. It is moved that the Senate proceed to the consideration of the resolution.

The motion was agreed to; and the Senate

resumed the consideration of the following resolution:

Resolved, That the use of the Senate Chamber be granted to Mrs. M. C. Walling for the purpose of delivering therein an address, on Tuesday evening, the 17th instant; the floor of the Senate Chamber to be for the exclusive accommodation of members of the Senate and House of Representatives and their families.

Mr. WADE. I move to amend the resolution by striking out the time mentioned in it and inserting "Monday evening, the 7th instant."

The amendment was agreed to.

Mr. SHERMAN. I call for the yeas and nays on the adoption of the resolution.

The yeas and nays were ordered.

Mr. ANTHONY. I wish to offer an amendment to this resolution. I was opposed to the resolution, but since the Chamber has been granted to Mr. Murdoch and was once granted to this lady and then reconsidered, I think it would be cruel to refuse it now. I shall therefore vote for the resolution; but I think there ought to be a stop put to the practice (which is evidently going to be very prevalent unless we stop it by a resolution) of granting the use of this Chamber. In the other House they have been obliged to pass a resolution making it out of order to offer any such resolution, and now, the House Hall being closed, all persons who wish to lecture without going to the expense of paying for a hall will come here and apply for this Chamber. The objections to it are too manifest to need any recapitulation. I move to amend the resolution by inserting at the end of it the following:

And that hereafter the Senate Chamber shall not be granted for any other purpose than for the use of the Senate.

Mr. WADE. I have no objection to the amendment.

Mr. SUMNER. I doubt whether we should tie our hands for the future.

Mr. ANTHONY. We can repeal it whenever we choose.

Mr. SHERMAN. The amendment will not tie our hands in the future. It can be superseded by a resolution offered hereafter.

Mr. SUMNER. I understand very well it cannot legally and technically, but it does in form.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the resolution as amended.

The question being taken by yeas and nays, resulted—yeas 16, nays 18; as follows:

YEAS—Messrs. Anthony, Chandler, Doolittle, Fessenden, Howard, Howe, Morrill, Nye, Poland, Pomeroy, Ramsey, Stewart, Wade, Williams, Wilson, and Yates—16.

NAYS—Messrs. Clark, Conness, Creswell, Davis, Dixon, Foster, Guthrie, Harris, Henderson, Johnson, Kirkwood, Lane of Indiana, Morgan, Sherman, Sumner, Trumbull, Van Winkle, and Wiley—18.

ABSENT—Messrs. Brown, Buckalew, Cowan, Cragin, Edmunds, Grimes, Hendricks, Lane of Kansas, McDougall, Nesmith, Norton, Riddle, Saulsbury, Sprague, and Wright—15.

So the resolution was rejected.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolution, in which the concurrence of the Senate was requested:

A bill (H. R. No. 344) to incorporate the Niagara Ship-Canal Company; and

A joint resolution (H. R. No. 130) to carry into immediate effect the bill to provide for the better organization of the pay department of the Navy.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 197) to provide for the better organization of the pay department of the Navy;

A joint resolution (S. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States; and

A joint resolution (S. R. No. 75) making

appropriations for the expenses of collecting the revenue from customs.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. EDWARD COOPER, his Secretary, announced that the President had this day approved and signed the following acts and joint resolution:

An act (S. No. 158) to facilitate the settlement of the accounts of the Treasurer of the United States, and to secure certain moneys to the people of the United States, or to persons to whom they are due and who are entitled to receive the same;

An act (S. No. 255) to remit and refund certain duties; and

A joint resolution (S. R. No. 56) authorizing the Secretary of the Treasury to adjust the claim of Beals & Dixon against the United States.

POST OFFICE APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The unfinished business of yesterday, being the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, is now before the Senate, the pending question being on the amendment offered by the Senator from Illinois, [Mr. TRUMBULL.]

Mr. HOWE. I am going to vote for this amendment if I get a chance. I think I will vote for any part of it, for almost any one line of it. I would rather vote for the whole of it than for any part of it. It was said last evening that the modification made by the mover of the amendment was more objectionable than the amendment as originally introduced. Mr. President, what is this proposition? As introduced it proposed to say that no part of the money to be appropriated by this bill should be expended on persons or officers undertaking to exercise or perform the duties of an office which by law is required to be filled by the advice and consent of the Senate who shall not be confirmed by the Senate. The language is:

That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term during the recess of the Senate and since its last adjournment.

What is the objection to that? The objection urged was that incompetent or dishonest and faithless men may be found in office during the recess of the Senate, and it might become necessary in the judgment of the Executive, and in the judgment of all men it might be manifestly necessary to remove that officer, and if we adopted the amendment as it then stood, it would preclude payment to the successor of an officer so removed. In other words, it was held to be a check upon the right of the President to remove an incompetent officer or a dishonest officer in the recess of the Senate. To meet that objection to the amendment it was modified yesterday, and the latter clause of it now reads:

Unless such person be commissioned by the President to fill up a vacancy which has happened during the recess of the Senate and since its last adjournment by death, resignation, expiration of term, or removal for acts done or omitted in violation of the duties of his office; the cause in case of removal to be reported to the Senate at its next session.

What is the objection to that? It was said yesterday, it has been said repeatedly during this debate, that the question of the right of the President to make removals had been settled, was established, was no longer to be controverted. If that be so, I am opposed to the whole amendment. If it is settled that the President has under the Constitution the right to remove officers at his pleasure, let him do it. I hold that the President ought to discharge every part of the duty laid upon him by the Constitution. When he does make a removal then he makes a vacancy; and I know, when

a vacancy exists, the Constitution makes it the bounden duty of the President to fill it or to see that it is filled. If the Senate be not in session he must fill it himself. If the Senate is in session, he must nominate and enable the Senate to fill it. If, therefore, it be the settled construction of the Constitution that the President may remove officers at his pleasure, then a vacancy legally, regularly occurs, and when that vacancy is filled it is the duty of the Legislature to appropriate the money necessary to pay the salary.

I hold, Mr. President, that this amendment is one of the most important, if not the most important, proposition that I have been called to vote upon since I have had the honor of a seat on this floor. It is nothing less than whether a hundred millions of money is to be placed in the hands of the President of the United States, and always kept there, to be used in propagating political opinions with the people of the United States. I never saw an opinion, I never heard of a political opinion that I would be willing to propagate at that expense. I think if we confine this missionary work to the proper organs, all political opinions which are proper to be inculcated upon the American people may be inculcated at a much less expense.

I will not vote for this amendment; I will not vote for any other proposition which is calculated either to restrict the powers which the Constitution confers upon the President or which are calculated to embarrass him in the exercise of those powers; and I say once more, if the Constitution does delegate to the President of the United States the right or the power to make these removals, it is our duty to acquiesce in that construction, to recognize the vacancies thus created, to cooperate cheerfully with the President in filling them, and appropriate regularly and annually the money necessary to pay the officers thus appointed; but I say that that power never was given to the President by the Constitution and never ought to be vested in him by the Constitution.

This question has been treated as if all the officers whose duty it is to collect the customs, whose duty it is to collect the internal revenue, whose duty it is to act as marshals and deputy marshals of the several districts, all these subordinate officers were the mere assistants, aids, waiters, personal attendants upon the President to help him discharge his duties, and as though he were individually and officially responsible for all their acts.

I controvert both those propositions. There is not one of these officers, from the collector of customs to the deputy marshals, but what is a minister of the law. Almost every one of these offices has been created by law, by the enactment of Congress, to perform some duty which Congress thought ought to be discharged. There is no manner of truth or propriety in saying that they are the agents or the aids of the President of the United States. They are simply the agents or ministers of the people of the United States, called to do their work, commissioned to serve their interests. And I deny that the President of the United States is responsible for their conduct or misconduct. Nobody ever urged, nobody ever thought of intimating, no one ever thought of holding the head of one of your Executive Departments responsible for the conduct or misconduct of those employes working under his immediate eye. When there have been defalcations, peculations, or other acts of misconduct, who ever thought of holding the Secretary of War, the Secretary of the Treasury, or any one of the heads of the Executive Departments responsible for such misconduct or for any misconduct of subordinates? Each one of those officers has an official duty to discharge, and each one of them, whether he be the head of a Department or a clerk in it, has his duties prescribed by law, not always to be found in the statute, but the authority is found in the statute for directing him in the discharge of his duties. When he discharges them he receives the credit of fidelity. When he fails to discharge those

duties he ought to receive the punishment due to infidelity. I am not sure that he always does.

Mr. President, the light to be gathered from the language of the Constitution is in a small compass and it seems to me is conclusive. The Constitution says that the President—

"Shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for, and which shall be established by law; but the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

What possible ideas could the makers of this Constitution have had in their heads when they used this language, if they did intend that after all the President should have the right to remove all these appointees when he pleased to do so? Why require the concurrence of the Senate in the appointment of a postmaster if the moment the Senate adjourns the President can create a vacancy in that office, which he fills himself, independent of the Senate? That interpretation of the Constitution would give us the services of postmasters and other officers for about twenty-four hours in the year. On the last day of the session of this body the President might send us the names of those officers whom he wanted confirmed. That complies with the clause of the Constitution which says he shall nominate. He has discharged that duty. Then we confirm or we reject as we see fit. Suppose we confirm under those circumstances? He would surely send us men unobjectionable to the Senate, however objectionable they might be to him, and why? Because we adjourn to-morrow, and as soon as we have adjourned he has nothing to do but quietly displace the officer and then there is a vacancy, and that vacancy the Constitution expressly tells him to fill himself by a commission emanating from himself. This provision, requiring the concurrence of the Senate to any of these appointments, you see, if that is the interpretation of the power of removal, is the idlest thing in the world.

But if this power to remove officers is at all necessary, or was thought to be necessary to be vested in the President in order to secure the efficiency of the public service, why did the makers of the Constitution say to Congress in so many words, "You may take from the President the appointment of just as many of these subordinate officers as you please?" It does say "Congress may by law vest the appointment of such inferior officers as they think proper"—we are the judge of what are inferior officers where they are not prescribed in the Constitution—"in the President alone, in the courts of law, or in the heads of Departments." Every one of these subordinate officers the President may by act of Congress be deprived of all control over, and the appointment may be vested in your courts or in the heads of the Departments. Why did the framers of the Constitution give this power to Congress if they deemed it essential that the President should have a continuing, supervising control over these officers? It is evident to my mind that such an idea never entered the head of any member of that Convention. Not a word is said of the President's power to remove anybody. The Senator from Maryland reminds us that not a word is said of the right of the President with the concurrence of the Senate to remove anybody. That is true; but I understood him to admit that the President with the concurrence of the Senate would have the right to remove any officer appointed by the President with the concurrence of the Senate.

Mr. JOHNSON. What I intended to say, and what I supposed I did say, was that the nomination by the President and confirmation by the Senate of an officer would necessarily act upon and remove the previous incumbent; as both cannot be in the same office, the incumbent must go out.

Mr. HOWE. I understood the Senator correctly, I think. The power of removal, when

not restricted by supreme law, he said, and I agree, is an incident to the power of appointment. The power of appointment being unlimited, the making of one appointment to-day is not of itself a reason why another should not be made to-morrow. It has not exhausted the power; that power still continues in the same tribunal; and if he make another to-morrow it is a vacation of the one made to-day, because two officers cannot occupy the same office any more than two bodies can occupy the same space. The right of the President and the Senate to remove does follow, in the estimation of the Senator from Maryland, as in my own, as an incident to the power of appointment; but how does the President get it? Where does he get the power to remove officers whom he does not appoint, whom he cannot appoint, but who can only be appointed by the concurrent act of the President and the Senate? The Constitution is silent; it does not follow as an incident of the appointing power, because he has not the appointing power; it no more follows as an incident that the President can remove a man appointed by the President and Senate than it follows that he can remove an officer appointed by the Supreme Court here—its clerk, for instance. Where does it come from? Nay, the Constitution is not absolutely silent upon the power of removal, for the Constitution does declare that "the President, Vice President, and all civil officers of the United States shall be removed from office on impeachment for and conviction of treason, bribery, or other high crimes and misdemeanors." These terms cover every officer in the civil service of the United States. There is a method by which they may be removed—the power of impeachment.

The idea that is urged here by the Senator from Maryland, and has been urged by others, "You must not tie up the hands of the President; if you mean to have an efficient and honest discharge of the public service, you must give him the right to remove faithless officers"—this idea was not out of the minds of those men who made this Constitution; but they never thought of saying that the President might remove at will, and upon his own judgment, any man whom he deemed to be faithless or whom he deemed to be unsatisfactory. No; they said, "Here is a trial; they may be removed for these offenses, upon trial and conviction before the Senate of the United States," that being the only tribunal that can try an impeachment. I am not about to say that this right of removal through the process of impeachment, inasmuch as it is expressly given, is given to the exclusion of all other means; I do not mean to say that the law-making power cannot vest in the President of the United States or elsewhere the right to make removals for causes which are not matters of impeachment; but I do say, just here, that in my judgment, the men who made this Constitution understood an office to be something very different from what it has been treated in this debate, and very different from what it has been understood to be in the estimation of American politics for at least the last thirty years. An office was understood by them to be an estate, to be conferred upon men only because they were worthy and capable of serving the public, and to be taken from men only because they ceased to be worthy and capable; and the question whether they had so ceased or not they never dreamed was to be determined by any mere political agency actuated by mere political feeling.

Let me say a few words now upon the matter of authority, for this question is not a new one—it has been debated over and over again. It came under debate, as we learn, in 1789 for the first time. The Senator from Maryland objected to this amendment because it covered all officers, including, as he says, members of the Cabinet as well as others, and because it never was, as I understood him to say, imagined by any statesman, in the early days of the Republic, that a member of the Cabinet could hold office a day or an hour against the

will of the President; that he was intended to be the confidential friend and adviser of the President, to be in his confidence; that he must have his confidence, and nobody imagined that one could hold that office who was not in every way entirely satisfactory to the President. In answer to that idea I have to remind the Senate that the very first debate which arose in the history of our Government upon this power of removal arose in 1789, on the passage of an act creating an Executive Department, to be known as the Department of Foreign Affairs.

Mr. JOHNSON. My friend will permit me to interrupt him for a moment. That is true; but the objection to the particular bill to which the honorable member refers was that in the preamble it assumed that the general power of removal was in the President, not that he would not have the right to change his Cabinet officers.

Mr. HOWE. I shall not reproduce the debate. There was a bill pending before the Congress of the United States to create the Department of Foreign Affairs, now the Department of State. That proposed to make the head of the Department removable at the pleasure of the President. That was supposed to raise the question of the President's power to remove officers, and it led to a lengthy debate in the Administration of General Washington, the first President of the United States. The decision was that the bill should pass, notwithstanding those terms. The argument which supported the bill did insist upon the right of the President to remove officers generally, and that the power of removal was in the President. But, sir, after all, I think any one who reads that debate, I think it has been the judgment of American statesmen generally since—I am not about to sum up their opinions, but I think it is the judgment of American statesmen who have considered the subject since the date of that debate—that the weight of the argument, that the reason of the thing, was on the side of those who denied this right of removal; and we cannot fail to know that the mere circumstance that the executive office was then in the hands of General Washington must have influenced the result of that debate very materially. I do not know that the first President laid claim to any such power; but we all know that it was not the habit of the American people at that time to wait for him to lay claim to honors or to powers. They thrust honors upon him; and if he had laid claim to the shirt of every one of the men who voted to concede him this power of removal, I do not doubt that every one of them would have stamped Washington's name on their garments in a moment. They were not in a mood to deny anything that he asked for himself, or that was asked in his behalf. That was the decision, though made at that time and upon that bill to create the Department of State. Since that the subject has been under debate. In 1820 an act was passed entitled "An act to limit the term of office of certain officers therein named, and for other purposes;" the first section of which is in these words:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That from and after the passing of this act all district attorneys, collectors of the customs, naval officers, and surveyors of the customs, naval agents, receivers of public moneys for lands, registers of the land offices, paymasters in the Army, the apothecary general, the assistant apothecaries general, and the commissary general of purchases, to be appointed under the laws of the United States, shall be appointed for the term of four years, but shall be removable from office at pleasure."

That is the first section of the act, and it is all I care to read. Why did the Congress of the United States attempt to fix the tenure of these officers? Clearly because they thought they had the power to do it. Why did they, in the same act, confer upon the President the right to remove these officers, any of them, during this term? Clearly because they thought the President ought to have the right and had it not. There can be no plainer declaration of the opinion of Congress that the Constitution

does not confer this right upon the President than this attempt of theirs to give it to him; and here it is, in so many words. This act passed, it seems, without attracting any debate, without any controversy; but it was not acquiesced in for a long time without controversy. In 1835 an attempt was made to repeal the first section of the act, and the second section, which I did not read; and a bill was introduced into the Senate of the United States for that purpose. It was subjected to a debate, and a pretty thorough debate, which I do not propose to read even an extract from; but I must call the attention of the Senate to the vote upon the passage of that bill. It was a bill to repeal this section of the act of 1820, which conferred upon the President of the United States the right to remove these officers during the continuance of their term; and upon the passage of that bill the yeas were—Messrs. Bell, Benton, Bibb, Black, Calhoun, Clay, Clayton, Ewing, Frelinghuysen, Goldsborough, Kent, King of Georgia, Leigh, McKean, Mangum, Moore, Naudain, Poindexter, Porter, Prentiss, Preston, Robbins, Silsbee, Smith, Southard, Swift, Tomlinson, Tyler, Wagerman, Webster, and White—31, including, is it too much to say, not merely the ablest men of that time, but some who have been ranked among the ablest of any time, either in this country or elsewhere. In the negative are recorded the names of Messrs. Brown, Buchanan, Cuthbert, Hendricks, Hill, Kane, King of Alabama, Knight, Linn, Morris, Robinson, Ruggles, Shepley, Tallmadge, Tipton, and Wright—16. The vote is almost two to one in number, denying this right of removal to the President, and in weight of character, force of intellect, ability to comprehend—I was going to say something strong, but I am admonished by a look of my friend over the way, [Mr. MORRILL,] and I will simply say quite two to one.

Mr. President, in the face of such a vote as that so recent as 1835, had, with full review of the debate in 1789, which it is asserted here settled the whole question, I do not think it is fair or safe to say that this right in the President is a matter of fixed and established construction. Being firmly convinced myself that the Constitution does not confer any such power upon the President, that it was never meant to confer any such power upon the President, that it is a power which he does not need, which he ought not to have, and which no one man can be intrusted with with safety to the public service, I have watched this debate and I shall look for the vote upon the amendment with as much interest as I have attended upon any debate which has taken place and any vote which has been given in this Chamber. I concede the right of the Legislature to vest this power in the President if they see fit, but I want the Legislature to understand that if hereafter he exercises the power it is not his fault; it is the fault of the Legislature. He will exercise it if you permit him, beyond all question. I would if I were in his place. How he will employ it, to what end he will employ it, it is not for me to say, not for us to anticipate. If you want the President to be clothed with this power, and to have the disbursement of these millions, say so; take the consequences; be manly about it; but do not let us refuse to pay an officer that we authorize him to appoint.

But we are asked, what good will it do us to pass this amendment? What is the object? What is the inducement? I will tell you one good that will come of it, I think. I find in a recent paper a dispatch like this sent out from this city:

"Within a few days past a great change is noticeable in the matter of executive appointments. The President seems to have realized that longer forbearance with the enemies of his Administration and its measures was working rank injustice to his friends, and to have realized the potency of the old party maxim, that 'to the victors belong the spoils.' As a consequence, the radicals who mustered effrontery enough to call upon the President and solicit appointments for their friends, received little reward for their labors, and were treated to a plain exposition of his intentions for the future. They were told in language decisive and unmistakable, that his

friends should have the preference, and that no known enemy of the Administration policy should receive the quasi indorsement of a Federal appointment. In addition to this, the ax has actually been set to work, and decapitations are now of daily occurrence. Its effects are already visible in the altered and respectful deportment of more than one radical opponent in both branches of Congress."

Thank God, I am no radical! It does not refer to me.

"Heretofore, when the President's Private Secretary was sent to the Capitol on official business, he was received with a haughty frigidity that was absolutely insulting. Within a few days all have become anxious to do him reverence. He is met with the blandest of smiles, and surrounded by crowds who protest against any rupture of the friendly relations that should exist between the President and Congress, and who vie with each other in bestowing attentions, uttering pretty speeches, and deprecating the idea that they are or ever were in hostility to the Executive. But the work will go on. No one will be deceived by hollow pretenses. Those office-holders who have abused their positions to vilify the President and disrupt the Republican party will be made to give way to better men. The bare manifestation of this resolve has already half accomplished its purpose."

So it is written. What good will it do to adopt this amendment? It is asked. Why, sir, it will satisfy the country that this work is only half done; at least that we are not more than half subdued to what is called the President's policy; that something remains yet to be done. It will do something to convince the country that there is a little of the spirit which should imbue an American Congress left still here in these Houses, which are daily visited by the messenger from the President; that although polite, as I am glad to learn we habitually are, we are not entirely subservient and obsequious, nor slavish. It will do something to satisfy the country that the revenues which the people are yielding up with a most prodigal hand to meet the demands, and the just demands, of the nation, are appropriated in accordance with the best interests of the people, and to promote the great ends which induced them to yield them.

Mr. President, there is a feature in this dispatch that I think demands especial notice. We are informed in it that—

"The President seems to have realized that longer forbearance with the enemies of his Administration and its measures was working rank injustice to his friends, and to have realized the potency of the old party maxim, that 'to the victors belong the spoils.'"

We are subsequently told that the ax is in motion. The ax is in motion for what? To hew down and appropriate the spoils to the victors? Who are those victors that are gathering in the spoils, and when and where did they achieve their victory? These questions ought to be answered. I cannot answer them. I know of no victory that the President of the United States has achieved since 1864, when the loyal hearts and the loyal hands of the United States elevated him to the second office in the gift of the American people. If he has achieved a victory since then I have omitted to read of it in the papers, and I have not been informed of it in any way. Who were those victors that achieved that victory? I had a slight hand in it myself, and all my heart was in it. I thought I was triumphant, and that the nation was, when the choice fell on Andrew Johnson instead of Mr. George H. Pendleton of Ohio. When and how was this victory, which I thought I could safely hug to myself, changed into a defeat? I have not changed it, nor consented to the change of it, nor have I appointed the time when I shall consent to the change of it. If spoils belong to the victors, I really submit that to the Union party, who have achieved all the victories that have been achieved at all, whether in the forum or on the field, since 1860, ought to have some share in these spoils.

I think, Mr. President, much good, great good every way, will come of the adoption of this amendment. You will improve the character of the public service. The great, the leading, the most delicate trusts which your different statutes have created to be executed by these officers will then be in honorable and honest and brave hands, and they will feel that they are secure in the possession of those trusts. Refuse this and you will see every

one of them scrambled for, gambled for by a class of men that I will not attempt to describe, for the English language is not yet quite copious and rich enough to describe them adequately; but let the prevailing system of politics continue for twenty years and you can get out of our lexicographies a better description of them than ever was found of any natural curiosity yet in human language.

Much good every way will come of the adoption of this amendment. In addition to securing more faithful service in these offices, you will satisfy the country that you have got a Legislature which does not get down on its knees when a message is received from the White House, which does not take its gospel from the President of the United States, which does not vote the money of the people according to his dictation, but a Legislature which listens to the people that created it, takes its gospel from them, from them gets instruction, to them holds itself responsible, and to their will is now and hereafter always amenable. This will be gained, I think, by adopting this amendment.

But, says the Senator from Maryland, it will not do to urge this thing; it will not do to press it now; we must have peace; we are confronting critical times; the Secretary of State has written a letter to some one of our foreign ministers, and it looks as though we might have a fight; we are in danger of war; we must have peace at home; this division between the President and Congress must terminate. God hurry on that day; I am as heartily anxious to see it as any man; but how shall we bring it about? There is no man I know to whom peace seems more desirable than to me, but how shall we get it? How is it to be attained? Is it only found at the White House, and delivered in small packages done up to order and obtained by the Congress of the United States upon the personal application of its different members? Is that the only way we can get peace? Well, I guess we had better go without it a short time longer. Is it only to be obtained by our surrendering the most manifest terms of the Constitution and surrendering the dearest interests of the American people? Is peace only to be had upon such terms as these? I guess it would be too expensive. We declined peace in 1861 upon these terms. We might have had it then precisely upon these terms. If we would have surrendered the expressed will of the American people, abandoned their choice, subjected them to the dictates of those men who said there should be no peace until we did that, we might have had peace. You can always have peace if you will not resist what anybody will do. If all wrong and outrage and injury be accepted as readily and as cheerfully and as politely and as courteously as right and justice, you can have peace. Let a man cuff you and take it good-naturedly without contest or struggle, peace remains. Turn the other cheek as a reply to being smote upon the one, and you can have peace upon those terms.

But, sir, the trouble was that the American people had not quite made up their minds to take peace upon those terms. They thought that under this organic law they were made the arbiters in American affairs. They thought they had the right to send representatives here, each State to send two to this Chamber, and every district in each State to send one to the other Chamber; and when they had them here, they thought they had a right to be obeyed by them. They thought they had the right to send them here, a right conceded in this instrument—conceded, no; that is not the word I mean to use—secured to them in this instrument to send men here, to do what? Their own pleasure? The pleasure of the President? No, no; the pleasure of the men who sent them here, to execute the will of their constituents. That is what they thought. They have been cheated into that idea, and they are not willing to give it up; and I think for the present we had better indulge them in this idea, even if it be a

fallacy. The time is coming, Mr. President, as sure as you live, when it will not be a fallacy; when it will be a reality. The time is coming when these people who have under this instrument the right to send representatives here will see to it that the representatives do their will and not the will of the President.

Notwithstanding I am as anxious as the Senator from Maryland to have peace, I do not see the way to it as he directs; but I know a way to it; I know a way to peace. Let the President of the United States recognize this body—I do not mean this Senate, but these two Houses—as the law-making power, and let us recognize in him the Executive of the United States. Then we can have peace. If he does not discharge his duty exactly as we like, we will not undertake to interfere with him if he will let us discharge our duties as we understand the people who sent us here require of us. Then I think there is room enough in the United States for both the President and the Congress to exist and to breathe.

Sir, I cannot look back to see precisely how I have expressed myself. If I have uttered a sentence or a word which looked like a complaint of the President for exercising the power of removal, I have been a little misunderstood. I do not want anything I have said to be interpreted in that way. I am not the man to complain or to whine because the President does what the law lets him do. I said once, I think, and if I have not said it, I say it now, that if I were there I would do the same thing. I would have my friends in these offices if you would let me have them there and pay them for being there.

I am told the President is afflicted with an idea. I know what that disease is. I had one myself once. I suppose he believes in it. I can understand that the more readily because I am in the habit of believing in my own ideas. I suppose he wants the American people to accept it. That is natural. If he honestly believes in it, he ought to desire them to accept it; but I want the American people to accept my idea. No, I do not exactly ask them to accept it—they have got it bad, and I want them simply to hold on to it, and I do not want them to be dragged into letting it go. But I am not finding fault with the President for doing any one thing that you let him do, that the law permits him to do, in order to induce the American people to accept his idea. He himself was once, not a President, but a legislator. He himself seems to have, on one occasion at least, and I think on many, developed a very accurate and a very creditable idea of the duties of a representative. On the 19th of December, 1860, talking in this Chamber to the American Senate, prescribing their duty to that party who had not been victorious in the election of 1860, but had been defeated, and the party to which he then belonged, he reminded them what they could do and what they ought to do. He reminded them that Mr. Lincoln had been elected according to the Constitution and according to law, and said:

"I am for abiding by the Constitution, and in abiding by it I want to maintain and retain my place here and put down Mr. Lincoln and drive back his advances upon southern institutions, if he designs to make any. Have we not got the brakes in our hands? Have we not got the power? We have. Let South Carolina send her Senators back; let all the Senators come; and on the 4th of March next we shall have a majority of six in this body against him. This successful sectional candidate, who is in a minority of a million, or nearly so, on the popular vote, cannot make his Cabinet on the 4th of March next unless this Senate will permit him."

That is a clause which I think has escaped the attention of the honorable Senator from Maryland. There is one statesman who certainly thought the Senate had something to say about advising the appointment of a Cabinet minister.

"Am I to be so great a coward as to retreat from duty? I will stand here and meet the encroachments upon the institutions of my country at the threshold; and as a man, as one that loves my country and my constituents, I will stand here and resist all encroachments and advances. Here is the place to stand. Shall I desert the citadel, and let the enemy come in

and take possession? No. Can Mr. Lincoln send a foreign minister or even a consul abroad unless he receives the sanction of the Senate? Can he appoint a postmaster whose salary is over a thousand dollars a year without the consent of the Senate? Shall we desert our posts, shrink from our responsibilities, and permit Mr. Lincoln to come with his cohorts, as we consider them, from the North to carry off everything? Are we so cowardly that now that we are defeated, not conquered, we shall do this? Yes, we are defeated according to the forms of law and the Constitution; but the real victory is ours; the moral force is with us."

That is the way your President talked when he was a Senator. Do you suppose that he, who then knew so well what belonged to the character of an American Senator has forgotten it now? Does he not remind us to-day of the duty that devolves upon us? Do you think he was prepared to cover with smiles and blandishments a messenger from Mr. Lincoln in those times, if he had been President, or that he will entertain any very hearty and cordial respect for us if we do the like to his messengers? I think not. I would rather take the advice found here in the language of the President himself as a guide in discharging the duties of a Senator on this floor, and in this emergency, than to follow the suggestions so persuasively urged upon us yesterday by the Senator from Maryland.

Mr. President, I had no idea of occupying so much time when I rose. I want the Senate to adopt this amendment. I think the Senate had better adopt it as it stands. I do not care to deny to the President the right to remove officers for cause, but if the Senate sees fit to deny that, I acquiesce. The effect of this last provision is simply to leave that power of removal for cause in his hands and to deny him the right to make removals for any other reason. But either the part or the whole of this amendment, I ask the Senate, out of respect for itself, out of its respect for the country, out of its regard for duty, and above all, out of regard to the true meaning of the Constitution of the United States which each of us has sworn to support and defend, to adopt.

Mr. GUTHRIE. Mr. President, I think this amendment is in bad taste, and particularly at this time. When a proposition of this kind was first presented I was asked if I made the charge that it was an attempt to curtail the President's power. I told him that I did not; my charge was that it was carrying out the vindictive spirit of some one in the body who wanted to prevent particular persons from being appointed to fill the place of certain persons now enjoying office and emoluments after their term should be over. But he has amended it now so as to deny a right heretofore conceded, and to make it really an assailment of the power of the President and a denial to his appointees of the reward of office to which every man is entitled who discharges the duties of office.

My objection to this measure is that the question was settled in 1789, settled when a great many of the men who had participated in making the Constitution were here in Congress, settled at the instance of Mr. Madison, who, perhaps, better understood the Constitution than any one else, and who regarded the power of removal as a power incidental to the executive duties which the Constitution conferred upon the President. This power of removal was acquiesced in during the Administration of Washington. I think the Senator from Wisconsin attributes more deference to Washington on the part of Congress than was felt or acted upon. However that may be, the power was exercised by Jefferson, by Madison, by Monroe, and by Adams, in a greater or less degree. It has been the settled doctrine of the Constitution since 1789 to the present time. My objection to this species of legislation is that it is an attempt to change the settled construction of the Constitution, which has been acted upon and sanctioned by the American people; it is a revolution in relation to the appointing and removing power, a civil revolution inaugurated by the members of Congress who go back and criticise the action of their predecessors in coming to the resolution arrived

at in 1789, and it is done obviously and clearly because these gentlemen do not agree that the President shall not have the power of removing certain men who support them and their measures in opposition to him. We all know that there are very few of them who, when they come to make a speech, can deny it.

I am very sorry for the difference that has grown up between the President and Congress upon the subject of reconstruction. I was prepared to take the President's recommendations. I was disposed to consider that the result of the battle-field had given us full and fair guarantees. From the action of those States in electing Legislatures and changing their constitutions; from their sending representatives to the Senate and to the other House and asking admission into these Halls, I was disposed to take them on the credit of the acts they had done; to take them as sincere men; to take them as our generals on the field were prepared to take them, and forget and forgive the past. I believed we could do more with them for the Union and for the prosperity of this nation while they were in this body and consulting with us, and in the daily performance of acts of kindness toward each other and to our respective sections, than we could do by keeping them out and abusing them and declaring a distrust of them. I still think it would have been better if we could have come together and agreed. I charge no man with willfully doing these things to keep them out, and to keep them in a conquered position; but I know that is the deliberate opinion of the gentleman who last spoke that we should do so, for he proposed to put them under territorial governments and to provide from the Treasury of the United States for the expense of maintaining territorial governments for the people of these eleven States. I have no doubt he is sincere in his opposition to the policy of the President and in his desire to curtail the President's power; but I was glad to hear him say that if he was President of the United States he would exercise this power which all Presidents have exercised. I do not believe he loves his enemies any better than he loves his friends; and he has said that he would stand by his friends.

I am unwilling to change by vote of mine or to sanction a change of the construction of the Constitution in this particular as it has existed ever since the days of Washington and has been exercised by all the Presidents. There may be dangers, there may be inconveniences in adhering to it; but I believe this Government cannot be carried on successfully and advantageously without the power of removal being invested in the Executive. I believe the power of Congress and public sentiment will always restrain the Executive in the direction in which he ought to be restrained. I advise and counsel no unjust or improper deference to the President; but I do advise that we will let the landmarks settled by our fathers and adhered to by all succeeding Administrations stand where we found them. I do not want to put it in the power of the President to say that Congress is making war upon him by denying to him a power that all the Presidents of the United States have exercised, or curtailing it as far as possible.

I have no doubt that Congress could have passed a law authorizing the President to fill any vacancies that might occur, and then it would have been proper to let it go on as it has gone on without law upon the assumption that it came within the class of cases enumerated in the Constitution.

I shall vote against the amendment because I am unwilling to change the settled construction of the Constitution in this particular. I am not willing to set the precedent of making war upon the President and curtailing a power that has been exercised by all the Presidents of the United States in a greater or less degree.

The PRESIDING OFFICER. (Mr. HARRIS in the chair.) The question is on the amendment offered by the Senator from Illinois, on which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 19, nays 11; as follows:

YEAS—Messrs. Clark, Conness, Creswell, Harris, Henderson, Howard, Howe, Kirkwood, Morrill, Nye, Poland, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, Wade, Williams, and Wilson—19.

NAYS—Messrs. Davis, Dixon, Doolittle, Fessenden, Guthrie, Johnson, Morgan, Saulsbury, Sherman, Van Winkle, and Willey—11.

ABSENT—Messrs. Anthony, Brown, Buckalew, Chandler, Cowan, Cragin, Edmunds, Foster, Grimes, Hendricks, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Norton, Riddle, Stewart, Wright, and Yates—19.

Mr. WADE. I offer an amendment, to add the following as an additional section:

SEC. —. *And be it further enacted*, That all advertising, notices, and proposals for contracts for the Post Office Department, and all advertising, notices, and proposals for contracts for all the Executive Departments of the Government, required by law to be published in the city of Washington, shall hereafter be advertised by publication in the two daily newspapers in the city of Washington having the largest circulation, and in no others: *Provided*, That the charges for such publications shall not be higher than such as are paid by individuals for advertising in said papers: *And provided also*, That the same publications shall be made in each of said papers equally as to frequency, and that the circulation of such papers shall be determined upon the 10th day of June annually; and the publishers of all papers competing for such advertising shall furnish a sworn statement of their bona fide paid circulation of each regular issue for the preceding three months; and shall in like manner certify under oath that such circulation has not, during the said three months, been increased by any gratuitous circulation, by a reduction in price below the ordinary and usual price of such papers, or by any other means, for the purpose of obtaining the official advertising: *Provided*, That the charge for such advertising shall not be greater than is paid for the same publication in other cities, or at a higher rate than is paid by individuals for like advertising.

Mr. JOHNSON. What is the law now?

Mr. WADE. I suppose the object of this advertising is to give the widest circulation possible to these contracts, so as to create competition for them. The law as it now stands, and which this amendment seeks to modify, is the following section in the naval appropriation bill, approved March 3, 1845:

"SEC. 12. *And be it further enacted*, That in all cases where proposals for any contract or contracts, to be made by any of the Executive Departments or bureaus, and in all cases where notices of any description, issuing from the same, are now required by law to be advertised, the same shall be advertised by publication in the two newspapers in the city of Washington having the largest permanent subscription, and at the discretion of the Executive in any third paper that may be published in said city: *Provided*, That the charges for such publications shall not be higher than such as are paid by individuals for advertising in said papers: *And provided also*, That the same publications shall be made in each of said papers equally, as to frequency."

The present law, after providing very carefully for selecting the two papers that have the largest subscription, leaves it at the option of the President to take a third paper, without any regard whatever to its circulation, which really destroys the efficacy and symmetry of the law entirely, and is inconsistent with its provisions. The object being, as I said before, as I suppose, to give the widest circulation possible to these notices, when the law provided that they should be published in the two papers having the largest circulation, it was entirely inconsistent with that provision then to say that the President, without any regard to its circulation, might, at his discretion, take any third paper. The object of the amendment is to correct that, and to have the advertising done in the papers of the very widest circulation. The old law was not properly guarded to secure that. This amendment requires that affidavits shall be made as to the amount of the circulation, so as to secure honesty in the calculation, and to see that the law is not evaded. That is all there is to it.

Mr. CONNESS. As this amendment was originally introduced by the honorable Senator from Ohio it proposed to repeal an existing section of law, and would also, without his intention, repeal another section of the existing law necessary to be in existence; and the attention of the Department was particularly directed to what the effect of the amendment as originally prepared would be. The amendment, as proposed now by the Senator, has been reconstructed so as to avoid that difficulty, so

as to make it acceptable and not objectionable in that regard.

Mr. SHERMAN. I will ask my colleague if this amendment places the advertisements in Washington on the same footing in which they are placed in other cities where they are required by law to be made.

Mr. WADE. I understand it to be so. I am told by those that know better than I do that it is the same.

Mr. SHERMAN. I do not wish to make any discrimination for or against the papers here.

Mr. WADE. I think it will not.

Mr. CONNESS. This places it on the highest public ground.

Mr. SHERMAN. It puts them in the same position as papers published in other cities, as I understand.

Mr. CONNESS. I think it does.

Mr. SAULSBURY. I have only one remark to make on this proposition, and it is simply this: during the last Administration it was not found necessary, on grounds of public policy or otherwise, to propose any such amendment to the Post Office appropriation bill as is now proposed; it was not found necessary during the Administration preceding that; and I do not know what necessity exists now, under the present Administration, for making such a proposition greater than existed under preceding Administrations. Perhaps, however, the country will be able to understand it.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Ohio.

Mr. SAULSBURY. I ask for the yeas and nays upon it.

The yeas and nays were not ordered.

The amendment was adopted.

Mr. CONNESS. I propose the following amendment to come in at the end of the first section:

To enable the Superintendent of the Naval Observatory to carry out the object of the Senate resolution of March 19, 1866, for report of Isthmus routes to the Pacific ocean, \$1,500.

I will simply say, in explanation of this amendment, that the Senate passed a resolution calling upon the Superintendent of the Naval Observatory to furnish a report upon the data in possession of that office relating to the Isthmus routes for the purpose of the construction of a canal for commercial uses. It is found by the Navy Department that there is no appropriation from which the expenditures necessary in making that report can be drawn. They are required to furnish maps and lines of levels, &c., requiring a good deal of work. It has also been found by Rear Admiral Davis, who has charge of the Observatory, since he entered upon the work that a large mass of the most important matter, facts of great public importance and consequence, are in possession of the office. Since the introduction of the resolution there has been sent to me by Mr. Squier, our former minister to Central America, a very large mass of important matter connected with this subject, much of it obtained from British sources, which has been forwarded to that office.

I will also say now, in connection with this matter, that it is a subject in which many of the leading men of the country are taking a very deep interest, including Lieutenant General Grant. It is proposed further to follow this up with a survey to be made during the next winter. The encouragement that the parties engaged, including the Superintendent of the Naval Observatory, have met with since they have begun their observations point to very great success in the investigations proposed and being carried out. There is no opportunity to obtain this slight appropriation in any other way than by a separate resolution, except by an amendment to one of the appropriation bills, and it was deemed fit to propose it to this bill. It is offered with the concurrence of the Committee on Post Offices and Post Roads.

Mr. SHERMAN. Is it reported from that committee?

Mr. CONNESS. Yes, sir.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 26) to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas.

The message further announced that the House of Representatives had passed a bill (H. R. No. 342) in amendment of an act to promote the progress of the useful arts, and the acts in amendment of and in addition thereto; in which it requested the concurrence of the Senate.

HOUSE BILLS REFERRED.

The following bills and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 344) to incorporate the Niagara Ship-Canal Company—to the Committee on Commerce.

A joint resolution (H. R. No. 130) to carry into immediate effect the bill to provide for the better organization of the pay department of the Navy—to the Committee on Naval Affairs.

A bill (H. R. No. 342) in amendment of an act to promote the progress of the useful arts, and the acts in amendment of and in addition thereto—to the Committee on Patents and the Patent Office.

ARMY APPROPRIATION BILL.

Mr. SHERMAN. I now move to postpone all prior orders, if there are any, and take up the Army appropriation bill.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 127) making appropriations for the support of the Army for the year ending the 30th of June, 1867.

The Committee on Finance reported the bill with two amendments. The first amendment was to reduce the appropriation "for contingencies of the Army" from \$250,000 to \$100,000.

The amendment was agreed to.

The next amendment was to strike out the following proviso at the end of the bill:

Provided, That no part of the money hereby appropriated shall be used for paying the Illinois Central Railroad Company for the transportation of the troops or the property of the United States; and the Attorney General of the United States is hereby directed to institute a suit against the said company in the circuit court of the United States, in the eleventh circuit, without delay, to recover from the said company any moneys that have been paid to the said company by any department of the Government for the transportation of the troops or property of the United States; and the said Attorney General is hereby further directed to appear for the United States in said court, and prosecute its interests in the said suit.

Mr. SHERMAN. This is the same controversy that we had here a year ago, and which was then very thoroughly debated, and I think the Senate by an almost unanimous vote agreed to strike out a similar proviso in the Army appropriation bill of last year. I wish to call the attention of the Senate to it now, so that if a controversy should arise between the two Houses in regard to it, it may be understood. We examined the matter thoroughly a year ago and came to the conclusion that the arrangement made from Mr. Secretary Cameron and the Illinois Central Railroad Company was a reasonable one and ought to be executed in good faith by the Government, and therefore this proviso was not a proper provision to be inserted in a law. We adhere to that conclusion, after a reexamination of the subject.

Mr. YATES. I perfectly agree with the

committee, and am in favor of striking out this proviso.

The amendment was agreed to.

Mr. WILSON. I offer the following amendment as an additional section:

And be it further enacted, That the sum of \$146,000 be, and the same is hereby, appropriated out of any money in the Treasury not otherwise appropriated, to be disbursed by the Secretary of War, in the erection of fire-proof buildings at or near the Schuylkill arsenal, in the city of Philadelphia, to be used as store-houses for Government purposes at that post.

I will simply say that this amendment is in accordance with a recommendation of the Quartermaster General, approved by the Secretary of War. We have \$6,000,000 worth of property there now, and the buildings are insecure, and they think it absolutely necessary for the security of that property and for the public service that this appropriation should be made.

The amendment was agreed to.

Mr. CONNESS. I offer the following amendment to come in at the end of the fortieth line on the third page:

Provided, That the quartermaster's department shall, in supplying clothing and blankets for the military service on the Pacific coast, give a preference to articles manufactured there, when the same can be obtained without paying an increased price therefor, and when the quality shall be found to be of an equal or superior character.

I wish to say, in explanation of this amendment, and I call the attention of Senators to it, that the quartermaster's department, and the Indian department also, are now, and have been, sending out to that coast, a class of blankets and cloth of the most inferior character, mostly manufactured in England, costing the Government from twenty-five to fifty per cent. more than our domestic manufactures, made entirely of wool, can be obtained for at San Francisco. I have at my room now—I did not know that this bill would be called up to-day—specimens which have been sent to me of the blankets furnished by the department with the prices that they cost the Government, and also specimens of the blankets that are manufactured at San Francisco. Those made there are made entirely of wool, and are obtainable on the ground at less than the original cost of the foreign article; and we are paying in addition for the foreign inferior article the entire cost of transportation to that coast. In addition to that, while the domestic article is made entirely of wool, at least one half or two thirds of the foreign article is infused with cow's hair. The cloth sent out there for clothing is not of so bad a character, but yet a bad character, wearing out almost immediately, and costing the poor soldier nearly all the Government pays him to be supplied with clothing. I do not think that the amendment can meet with any objection according to the terms that are proposed in it.

Mr. SHERMAN. The law is now very stringent in prescribing the mode and manner in which the quartermaster's department shall purchase property for that department. Bids are to be invited, and the contracts are let to the lowest bidder. Samples are furnished, and those samples have to be complied with. Now, to make a stipulation in favor of the domestic manufacturers of California in a bill of this kind would be unusual, in violation of the general policy of the Government, and would create trouble. The same claim might be made in every other community. The same claim might be made in Missouri and Iowa and in any other State. The Senator says that California furnishes better blankets at a cheaper price. Then the people of California must learn to bid at the regular time for furnishing supplies in California. This is the only way in which it can be done. If the Senator will take pains in advising the people of California of the time and place for making bids for blankets, I have no doubt in due time the manufacturers of California, if they are springing up so rapidly—I did not know that they had manufactured in California—

Mr. CONNESS. The Senator evidently does not know a good many things.

Mr. SHERMAN. The introduction of an

amendment like this, changing and modifying the existing law, will embarrass the bill, and I think it ought not to be adopted, certainly not without grave consideration.

Mr. CONNESS. I should have been pleased if this amendment had met the concurrence of the Senator from Ohio, but I am very glad that the Senator has opposed it in the manner in which he has done. I do not think his objection that this amendment applies to a locality is a tenable one, because there is no other locality, he will remember, situated just like ours. We are on the other side of the continent. I am glad, however, that he has made the observations that have fallen from him. The department appear to have been as oblivious heretofore to the fact that there were manufacturers of this character in California as my honorable friend from Ohio. He says that if I shall be active in advising our manufacturers when they may bid they can get contracts to supply these articles. I beg to assure my honorable friend that there is a knack about bidding that the California manufacturers do not yet appear to understand or come up to. They have been here again and again by their agents and have undertaken to impress upon the Government and the agents of the Government employed in making these contracts the value and benefit to the Government of receiving their bids.

It has often been stated in this body that the most expensive branch of this Government, and the branch in which there is the least responsibility, is the quartermaster's department. It would hardly be necessary to affirm that that is the fact here to-day. I say this without any inclination to pass a word of censure upon the head of that department. He cannot know, managed as the department is, all that transpires. If I were at liberty to state here what I now know in regard to the impossibility of honest men getting good goods accepted, it would surprise the country and the Senate. Let me tell the Senator, and it is a startling fact, that (against a special order from the department here) after an inspection of the blankets sent out to San Francisco from the New York market, showing them to be utterly unfit for use, and after an examination and their condemnation by a military board of inspection regularly constituted, there was a peremptory order to go forward and use them; and five thousand pairs of blankets were concerned in that transaction. General Halleck examined them himself, and ordered them to be set aside, and would not permit them to be used, notwithstanding the peremptory order of the department.

Sir, this is not a new thing. It may be new in the Senate. I have at my rooms now specimens of the article that your soldiers are compelled to sleep under by this mismanagement that would surprise Senators, and they would be ashamed that either a white man or a black man should have them for his covering. The Senator smiles; but I assure him that if he were camping out and had to be warmed on a cold night by the miserable trash sent out to the soldiers on the Pacific coast he would not smile in the morning. I know the Senator's kindly heart.

There is nothing in the objection that he makes. No provision of this kind can come up in favor of Missouri or any other place. The Senator from Oregon, [Mr. NESMITH,] I apprehend, can bear a little testimony in this case. I will have these specimens brought here that the Senators may see them. I have had specimens already at the Quartermaster General's Office, but it is very hard to reach these things through departmental sources. The Indian department have done the same thing. They have managed in the same way. They have sent out blankets that have cost one hundred per cent. more than the blankets that are made in Oregon or San Francisco. Those blankets are made entirely of pure wool, while the blankets sent there have one half or two thirds of cow's hair, upon which your shoddy contractors have grown rich, and they and

their families are shaming sensible, modest, and discreet people of both sexes at your leading hotels throughout the country. I desire merely—it is a very simple amendment—that the Government shall give the preference when they can supply a better article there at a less cost. I do not think anybody can object to that.

Mr. NESMITH. I concur fully in what the Senator from California has stated with reference to the production of these articles on the Pacific coast. I do not know, however, whether it would be good policy to incorporate a provision of this kind in this bill or not. Since I have been here, for the last five years, I have made very strenuous efforts to get the Indian department to make its purchases in that country. They manufacture in Oregon the best blankets that I know of in the world; and I presume they manufacture them equally as good in California. It is a well-known fact that the wool, which is a staple article of production in that country and in all the States and Territories of the Pacific coast, is remarkable for its cheapness. The climate and the grazing facilities are such that it costs little or nothing to raise it; and a great deal of it is shipped to this side. While labor is somewhat higher there than it is here, the low price of wool enables the manufacturer there to make these articles of a better quality than can be shipped from this side at the same price. I have had a good deal of experience in this matter, in the examination of accounts of purchases of the Indian department; and last summer while I was out on the Pacific coast in connection with a committee of investigation of Indian affairs, I took great pains to obtain all the invoices of the goods that the department furnished from New York, and then the invoices of similar goods purchased and made on the coast, and by comparing them I found that the articles were purchased much cheaper there; and by comparison of the articles themselves I found that those that were purchased on that coast were of a quality very superior to those which had been sent there.

I am as anxious as the Senator from California that the Pacific coast shall be patronized in the purchase of these articles where the quality is superior and they can be purchased quite as low as they can be on this side; but I am not certain as to the propriety of incorporating a provision of this kind in this bill. However, I am willing to vote for it. I think some means should be taken, either by the department, or if the department refuse, by Congress to compel the department to purchase where they can get the best articles and at the least price. The expense of shipment is very great.

Mr. CONNESS. I did not intend to do so, but I will now send to the desk to be read a note received this morning from the honorable Secretary of War, and I will state how and why it was written. I knew that these departments were unaware of the extent of our manufactures in this line, and also their excellence; and when I was out there last fall I ordered a pair of blankets, not of an extraordinary character but of the best quality that are made for domestic blankets, to be made to present to the Secretary of War. They came to hand the other day, and this is a note in answer describing their quality. I will ask that it be read, and ask Senators to listen to its reading.

The Secretary read as follows:

WASHINGTON, April 28, 1866.

MY DEAR SIR: I have the pleasure to acknowledge receiving the pair of excellent blankets made for me, at your request, at the Mission mills in California. They surpass anything of the kind I have ever seen, and are more perfect and beautiful than I had known to be possible in such fabrics, and prove that manufactures will, like everything else, attain to the highest perfection on the Pacific coast. Mrs. Stanton's admiration of them knows no bounds, and she joins me in the desire that you will communicate to the manufacturers, and accept for yourself, our grateful thanks.

EDWIN M. STANTON.

Hon. JOHN CONNESS.

Mr. SHERMAN. I do not think any Senator who reflects on the present law would be

willing to vote for the amendment as it now stands. If there are good blankets made in California, and cheaper than can be purchased in New York, it is the duty of the Government to advertise for bids in San Francisco and Portland, and purchase them there, undoubtedly. I shall have no objection to a carefully prepared section to require bids to be published in those cities and inviting proposals; but after all, these blankets must be submitted to the inspection of officers. They must be examined to ascertain whether they correspond with the samples furnished on which bids are generally awarded. I suggest, therefore, that the Senator had better withdraw the amendment for the present. I do not intend to press the bill to a passage to-night. I merely desire to have it reported to the Senate, and then let it go over.

Mr. CONNESS. All right; I will do that. The PRESIDING OFFICER. The amendment is withdrawn.

The bill was reported to the Senate as amended, and the amendments were concurred in.

Mr. SHERMAN. There are other amendments that may be offered, but which we are not prepared now to offer, and I therefore move that the bill be postponed until to-morrow.

The motion was agreed to.

EXECUTIVE SESSION.

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 2, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

BOMBARDMENT OF VALPARAISO.

Mr. BLAINE asked unanimous consent to offer the following resolution:

Resolved, That the President of the United States be respectfully requested, if not incompatible with the public interest, to communicate to the House at the earliest practicable day any authentic information that may come into his possession in regard to the reported barbarous bombardment of the city of Valparaiso by the Spanish fleet on the 31st of March ultimo. Also, to inform the House what instructions had been given by the Navy Department to the officer commanding the American fleet in those waters.

Mr. BOUTWELL. I object.

JOHN R. BECKLEY.

Mr. HARDING, of Kentucky, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the petition, claim, and papers in support of the same, of John R. Beckley, as mail contractor, heretofore presented to the Postmaster General, be referred to the Committee of Claims, with instructions to inquire into the justice of the same, and report by bill or otherwise.

LAND GRANTS TO NEVADA.

Mr. McRUER. I ask unanimous consent to report, from the Committee on Public Lands, Senate bill No. 216, concerning certain lands granted to the State of Nevada.

Mr. WASHBURN, of Illinois. I have no objection to calling this up to have it printed.

The bill was accordingly ordered to be printed.

SOLDIERS AND SAILORS OF 1812.

Mr. COFFROTH, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be, and is hereby, instructed to report by bill or otherwise on pensions to all of the surviving soldiers and sailors of the war of 1812.

Mr. SCHENCK. I demand the regular order of business.

The House accordingly proceeded, as the regular order of business, to the calling of the committees for reports, commencing with the Committee on Patents.

PAPERS WITHDRAWN.

On motion of Mr. STEVENS, leave was granted for the withdrawal from the files of the House of the papers in the case of Major Moore.

PATENT OFFICE FEES.

Mr. JENCKES. I am instructed by the Committee on Patents to report House bill No. 342, regulating appeals to the examiner-in-chief of the Patent Office, with a recommendation that it pass.

The bill was read. It provides that upon an appeal from the examiner to the examiner-in-chief the appellant shall pay a fee of ten dollars, and no appeal shall be allowed until the said fee shall be paid.

Mr. JENCKES. Mr. Speaker, when this board of appeals was created no additional fee was prescribed for an appeal to it, and it has become overloaded with appeals from examiners-in-chief. Two fees are now paid in the Patent Office; one a fee of fifteen dollars upon filing the application, which is a payment for an examination; and the other is a fee of twenty dollars upon the issuing of the patent, which is the evidence that the party applying has convinced the Patent Office that he is an inventor. For the intermediate service no fee is required and none has been paid. It is reasonable that there should be a fee in view of the increased labor devolved on the Patent Office. If no one desires to debate the bill, I demand the previous question upon it.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. JENCKES moved to amend the title of the bill so as to read, "An act in amendment of an act to promote the progress of the useful arts, and the acts in amendment of and in addition thereto."

The amendment was agreed to.

PAY OF PATENT-OFFICE EXAMINERS.

Mr. JENCKES also, from the Committee on Patents, reported a bill in addition to an act entitled "An act to promote the progress of the useful arts," and the acts in amendment thereof; which was read a first and second time.

The bill authorizes the Commissioner of Patents to pay those employed in the United States Patent Office, from April 1, 1861, until August 1, 1865, as examiners and assistant examiners of patents, at the rates fixed by law for those respective grades; provided that the same be paid out of the Patent Office fund, and that the compensation thus paid shall not exceed that received by those duly enrolled as examiners and assistant examiners of patents for the same period.

Mr. WASHBURN, of Illinois. It cannot be possible that I understand that bill aright. If I do, it goes back, raising the salaries of certain parties in the Patent Office since 1861.

Mr. JENCKES. The gentleman does not understand the bill, and if he will listen to me for a moment I think I can explain it satisfactorily. During the time named in this bill, which is the period covered by Mr. Holloway's commissionership, certain assistant examiners were employed to do the duties of examiners-in-chief. The Commissioner declined appointing additional examiners-in-chief, as he might have done under the law, because the business of the Patent Office had at that time fallen off, and he did not wish to burden the Patent Office fund by the employment of men who at some time would have nothing to do. Hence he employed assistant examiners and second assistant examiners to do the work of examiners-in-chief and first assistant examiners, and they performed it satisfactorily. Upon examining the law, he was not satisfied that he had power

to pay them for the work they had performed, because he had not appointed them to the office the duties of which they had performed.

The passage of this bill is requested both by Mr. Holloway and by the present Commissioner of Patents as an act of justice to those who have done this work, so that they shall receive the pay for the work which they have done, and not be held to be satisfied by the pay of an inferior grade of officers.

The bill does not make any appropriation. These men are to be paid out of the Patent Office fund.

Mr. DAWES. I would ask the gentleman how this claim came to run along from year to year for four years.

Mr. JENCKES. It has not. It was before Congress at its last session, and the bill passed the Senate, but failed in the House. I have letters here from the former Commissioner of Patents and from the present Commissioner, and a statement from the examiners themselves of the duties which they have performed, and I will have them read if gentlemen desire to hear them. The point is this: that the Patent Office fund which has been accumulated by the labors of these men should pay them just what they have earned.

Mr. WASHBURNE, of Illinois. Have not these men been paid their salaries regularly?

Mr. JENCKES. They have been paid salaries regularly for an inferior grade of officers, while they performed the duties of a higher grade of officers.

Mr. WASHBURNE, of Illinois. That may be; but they have been paid the salaries of the officers the duties of which they performed.

Mr. JENCKES. No, sir; there is where the gentleman is mistaken. They have not been paid the salaries of the officers the duties of which they have performed, but salaries of officers of an inferior grade, the duties of which, of course, they did not perform during the time they were performing the other duties.

Mr. WASHBURNE, of Illinois. They have been paid the salaries of the offices to which they were appointed.

Mr. JENCKES. Yes, sir; but they did not perform the duties of those offices, but of a higher grade of offices to which they were assigned by the Commissioner. And this is merely to pay them for what they have earned.

Mr. HARDING, of Illinois. That is, while they held colonels' commissions they performed the duties of brigadier generals, and now want brigadier generals' pay.

Mr. WASHBURNE, of Illinois. Exactly; that is just it; they want brigadier generals' pay while doing the duties of colonels.

Mr. HARDING, of Illinois. No, sir; while performing the duties of a brigadier general, holding the commission of a colonel.

Mr. JENCKES. That is it.

Mr. HARDING, of Illinois. I wish merely to remark that if this great principle is adopted it will benefit a great many meritorious men. There have been thousands of men in the Army who have been commissioned as colonels, but have performed the duties of brigadier generals; and this principle would bring them all in for brigadier general's pay. It opens wide the door, and the Treasury can be most completely emptied; there is no doubt about it.

Mr. JENCKES. This bill is to pay men for the duties they have performed. And the gentleman from Illinois [Mr. HARDING] is mistaken in comparing this case with the case of colonels performing the duties of brigadier generals. This requires no appropriation, for the money is taken from the Patent Office fund. The other would require an appropriation.

Mr. HARDING, of Illinois. I move to lay the bill on the table.

The motion was agreed to.

Mr. ROLLINS moved to reconsider the vote by which the bill was laid on the table; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JONATHAN BALL.

Mr. JENCKES, from the Committee on Patents and the Patent Office, reported a bill for the relief of Jonathan Ball; which was read a first and second time, referred to a Committee of the Whole House, and with the accompanying report ordered to be printed.

PATENTS AT PARIS EXPOSITION.

Mr. CHANLER, from the Committee on Patents and the Patent Office, reported a joint resolution authorizing the Secretary of the Interior to appoint three commissioners to attend the Paris Exposition; which was read a first and second time.

The joint resolution authorizes the Secretary of the Interior to appoint three commissioners to examine and report upon the patented machines and inventions which may be exhibited at the Paris Exposition of 1867; and provides that the said commissioners be empowered to employ the necessary draughtsmen and photographers to carry out the intention of this joint resolution, the necessary funds for the expenses of said commission to be drawn by the Secretary of the Interior from the Patent Office fund not otherwise disposed of, not to exceed the amount of \$15,000.

Mr. WASHBURNE, of Illinois. I should like to hear some explanation of this joint resolution.

Mr. CHANLER. The purpose of this proposed commission is to enable the Secretary of the Interior, if in his opinion it may be necessary, to appoint a commission of experts, who shall go to Paris on behalf of the Patent Office of this Government to examine and take the proper drawings or photographs of the patented machines which may be exhibited at the coming Exposition of 1867. The practical result of this commission will be to enlarge the records of the Patent Office, so as to enable the Commissioner of Patents to decide upon the merits of the claims presented to him for patents in this country.

Under the existing law, unless the Patent Office of this country has full and sufficient information in regard to foreign patents, any person bringing here copies and models of foreign patents may obtain patents here, although such patents may exist at that very moment abroad. All will understand that at the Exposition at Paris there will be exhibited a large number of patented machines; and persons may take copies of them and obtain patents for themselves in this country if the Patent Office here is deficient in proper information upon the subject of patents in foreign countries.

Another point is that the character of this commission, which will be appointed from among the experts and mechanical men of this country, will be such as to warrant us in believing that the information they will obtain will be of the greatest practical value to mechanical men in this country, as well as of interest to scientific men all over the world. And it will enable the Commissioner of Patents to lay before the country a full, accurate, and valuable report, one which will be of the greatest value to the mechanical interests of this country. That is the whole scope and purpose of this joint resolution.

In regard to the money which is called for by this joint resolution, the amount can be changed if the House shall think it necessary. The Committee on Patents are not committed to any sum; they have merely named this sum, because there must be some amount provided for expenses.

Mr. BOUTWELL. I would inquire of the gentleman from New York [Mr. CHANLER] if the Patent Office is not supplied from all the countries of Europe with specifications and drawings immediately upon the issuing of patents there. And I would further inquire if it is not a common thing for practitioners to send abroad for specifications and drawings of patents which they can obtain at say less than three shillings each. And what is to be obtained through this proposed commission,

except the information which is now being received in the ordinary course?

Mr. CHANLER. It is a question of time. The specifications and drawings of patented machines which will be exhibited at the Exposition at Paris will not reach this country, without some such means as this, in time to enable the Patent Office of this country to be benefited by them. And the specifications which come here from Europe do not come until three years after an application is made there for patents, as I am informed at the Patent Office. And therefore, if I am correctly informed, it will be two or three years before the Patent Office will receive the necessary information in regard to inventions not yet patented.

Mr. BOUTWELL. If the gentleman will allow me, I will say that I do not know from what source he obtains his information. But my experience is that patents are issued in England in a much shorter time after applications are made than they are in this country. And drawings and specifications are to be had for the merest pittance.

Mr. ROSS. I rise to a question of order; that this being an appropriation bill, it should go to the Committee of the Whole.

Mr. WASHBURNE, of Illinois. The gentleman is mistaken. I am sorry to say this is not an appropriation bill.

The SPEAKER. The point of order, even if well taken, is taken too late. But this is not an appropriation bill; it does not propose to appropriate money from the Treasury, but to take it from the Patent Office fund.

Mr. CHANLER. This joint resolution is simply to aid the Commissioner of Patents to add to the information of his bureau. That is the object of this proposition, and it comes from the Bureau of Patents.

In regard to the statement of the gentleman from Massachusetts [Mr. BOUTWELL] that patents are issued more promptly in England than in this country, he may be correct. But I hope the House will bear in mind that this Exposition of 1867 will include the new inventions and patented machines not only of England, but of France and the whole of Europe and the world. And it is not impossible that the inventions exhibited there will be copied and presented in this country in a less period of time than that required to lay before the Patent Bureau in the ordinary way full information in regard to them. It is simply in behalf of the Patent Office that this joint resolution is submitted to the House.

Mr. WASHBURNE, of Illinois. My distinguished friend from New York [Mr. CHANLER] desires to authorize the Secretary of the Interior to appoint three high-toned gentlemen to go to Paris to look at and report upon the patented inventions which may be exhibited at the Paris Exposition of 1867, and then he goes on to propose that these three high-toned and elegant gentlemen shall be authorized to draw \$15,000 of money out of the public Treasury to pay their expenses. That is the purport of the joint resolution which we are asked to pass.

Now, I need not say to the House that I am opposed to this whole thing. I am opposed to it, in the first place, because it is not necessary. The gentleman from Massachusetts [Mr. BOUTWELL] has shown to the House that there is no difficulty in obtaining all the necessary information now. All the information we will get by paying \$15,000, we can get for three shillings and sixpence in every case. These commissioners are empowered to supply the necessary draughtsmen, photographers, &c., and the Secretary of the Interior is authorized to draw the necessary funds for the expenses of said commissioners from the patent fund, not to exceed \$15,000.

I have heard no reason which would justify the House in making this appropriation, except that we should take the money of our constituents to pay the expenses of certain gentlemen to go to Paris.

Mr. JENCKES. Mr. Speaker, the gentle-

man from Illinois has put precisely the contrary construction on this resolution from what was intended by the committee, and from what it means. It is a measure of protection to inventors and to the people of the country. If he had considered a moment what the state of our law regarding the granting of patents is, I do not think he would have made the remarks he has. Any one who visits the Exposition of 1867, and sees exhibited machines for the first time, may prepare drawings and make some modification to apply for a patent to this country. The Exposition will not preclude him from obtaining a patent. Its publication in some foreign work will preclude him, and nothing else. Hence the office has twice before met with trouble on similar occasions, and asks to have a measure of prevention in this third case.

The gentleman from Massachusetts [Mr. BOUTWELL] will understand how this may be. The information he has spoken of as obtained through publications may be long after the machinery has been done. We get the papers from the London office for a small sum. They supply intelligence from there as fast as the steamers can bring it here; but in France and Belgium information is not supplied as rapidly. It requires time to get copies of these patents. To get the volumes at our Patent Office sometimes requires three years.

Now, this Exposition takes place in Paris. Probably machines will be exhibited the first time and patents will be applied for near or about the time. Hundreds of people will visit the Exposition for the purpose of seeing what is new. Persons who have invented articles of a similar kind will get from this exhibition ideas of improvement on their own machines, or will take their ideas bodily from the foreign machines and take out patents in this country which cannot be invalidated by the exhibition of the articles there. It is not only for the purpose of protecting the office against swindling inventors, but to protect the people of this country against swindling patents, and against the claims which may grow out of them.

Mr. BOUTWELL. I ask whether the Exposition is not in its very nature calculated to guard the Patent Office here from frauds such as the gentleman from Rhode Island suggests. The articles exhibited are likely to be published in the journals of France and Great Britain simultaneously with the Exhibition.

Mr. JENCKES. The moment any article is described in any journal in any country where the article is produced a patent obtained in this country from that fact is invalidated, as the gentleman knows. Therefore the security we have from the Exhibition is great. If the descriptions were to be published simultaneously there would be no need of this, I agree. It is from the fact that they are not published simultaneously that this is needed. The official records of the Exhibitions in England and France were not published until two years after they had taken place.

Mr. BOUTWELL. I agree that the official report of the proceedings of the Exhibition and description of the articles exhibited would not be published for a considerable length of time; but the gentleman from Rhode Island knows very well that the publication in newspapers invalidates the patent in this country.

Mr. JENCKES. There is no provision that such provision shall be made.

Mr. BOUTWELL. They are certain to be made.

Mr. JENCKES. The gentleman must see this must be done at the opening of the Exposition, when these applications will be made here unless we take this measure to prevent them.

Mr. CHANLER demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. STEVENS moved that the joint resolution be laid upon the table.

The motion was agreed to.

Mr. LAWRENCE, of Ohio, moved to recon-

sider the vote by which the joint resolution was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PHILOS B. TYLER.

Mr. HUBBARD, of Connecticut, from the Committee on Patents, reported a bill for the relief of Philos B. Tyler; which was read a first and second time.

The bill authorizes the Commissioner of Patents to decide upon the application of the petitioner for an extension of his patent for the further term of seven years, the same as if it had not been already extended.

Mr. WASHBURN, of Illinois. I call for the reading of the report.

The report was read.

Mr. HUBBARD, of Connecticut. I can state in a few words all the facts that are material in this case. The improvement in cotton presses for the shipping of cotton, invented by this man, is one of great public utility, as was shown by all the testimony before the committee; and such is the opinion of the Commissioner of Patents. These presses are only available to any important extent in the cotton-growing States.

The invention was patented on the 16th of January, 1845. Just before the time of its expiration, namely, in January, 1859, the petitioner applied to the then Commissioner of Patents, Hon. Joseph Holt, for a renewal. He obtained a renewal for seven years. It appears that during the first fourteen years he perfected the improvement, and constructed and sold divers presses at the South, from which he realized a profit of \$23,417 22, which sum the Commissioner deemed to be a very inadequate compensation in view of the great public utility of the invention. The Commissioner, in his report, says that it has saved to the country millions of dollars. The committee regard it as an invention of the greatest importance, and although the inventor during the whole fourteen years has realized, as appeared by the account submitted of expenditures and receipts, some twenty-three thousand dollars, the committee believe that that was an entirely inadequate compensation for the great service which he had rendered to the country.

Upon the renewal of the patent by the Commissioner of Patents in January, 1859, the petitioner went to the South and obtained divers orders for presses; returned, gathered up material at great expense for the construction of machines, employed men and went to work diligently in their construction, the orders having been obtained a year in advance and the machines to be sold on credit. But before he could perfect his machines and get them into market to any considerable extent the southern rebellion came on, which prostrated all his efforts and ruined his business at once, by means of which he lost a vast amount in material and in wages which he had to pay to his employés. He also lost a great deal in the way of debts that were due to him from the cotton-growing States. His losses, in fact, were so great that the \$23,000 that had been realized by him was not only absorbed, but he was ruined in his estate and became a bankrupt, as I was informed. His whole estate, in point of fact, was swept away. It costs a very considerable sum to make one of these machines.

Now, he came to Congress with a petition asking that the seven years, which were rendered unavailable to him in consequence of the rebellion, and which resulted in his utter ruin, shall be given to him over again, as if no renewal had been granted. The committee think that it is an equitable claim. In fact, we never heard a more equitable claim. Surely none has ever been presented to the committee which seemed to make so strong an appeal to our sense of right and justice. But the committee do not ask that a bill be passed directing the Commissioner of Patents to grant this renewal. We have adopted a rule on this subject by which we are bound and restricted,

and we only report a bill which authorizes Mr. Tyler, the petitioner, to submit his case to the Commissioner just as if his patent had not been renewed for seven years, during the time of the rebellion; to submit all the facts and circumstances of it; to bring his witnesses, and if he can convince the Commissioner of Patents that in equity and in law he is entitled to a renewal, then he is to have it.

This is all that pertains to the case so far as I know. Unless some gentleman desires to be heard upon it, I will move the previous question.

Mr. UPSON. The reason, as I understand it, why it is urged that the patent shall be renewed is on account of the war. I have yet to learn that we are to guaranty to all individuals payment for damages sustained on account of the war.

This patent has now been running fourteen years. I understand the gentleman to say that the patentee has made \$23,000, but the committee think that is not enough, and that, therefore, we must extend the patent in order to enable him to make some more money, for the reason that the war prevented him from making as much as he otherwise would have made.

We are now, by a bill pending before the House, proposing to tax cotton five or six cents per pound, and in addition to that, it is now proposed to levy this additional tax for the machinery to be used in pressing it. It seems to me that the same reason would justify the extension of every patent which was renewed before the war broke out. For one, I am opposed to this measure.

Mr. WASHBURN, of Illinois. I may say that generally anything that is reported by my distinguished friend from Connecticut [Mr. HUBBARD] is commended to my consideration, for I know how careful he is and how right he is generally on all matters which come before the House for consideration; but I must confess that I am somewhat astonished to see him "switch off" on this patent cotton-gin affair.

Now, I have read the report, and if the House have listened to it I think they will agree with me that there is no occasion for us to depart from the principle the House has adhered to in the last two Congresses without a single exception, when they have resolutely refused, even under the greatest pressure, to extend patents.

Now, sir, in the first instance, this man got a patent for this machine for seven years, then he got his patent renewed for seven years more. He has had his patent for fourteen years, and his petition shows that he has received between twenty-three and twenty-four thousand dollars. And now, after showing that fact, he comes here and asks us to do what? Notwithstanding that he has had this patent for fourteen years, he asks us to remit the question back to the Patent Office as an original case, and permit them to grant him another patent.

I think the reasons which he alleges are utterly insufficient to justify us in granting what he wishes; and, as was well said by the gentleman from Michigan, [Mr. URSON], the point on which it is put would apply to all of these cases. This man claims that during the war he could not use his patent as he would have done if there had been no rebellion; and hence he comes here and asks us to reimburse him for that loss. On the same principle every man who had a patent renewed before the war can come here and ask a renewal of his patent.

Now, Congress has for the last two or three years, as I have stated guarded, perhaps more vigilantly than anything else, this matter of allowing parties who have patents to have them renewed. This is not a case in which the party shows that he has any claim upon us to depart from the principle upon which we have heretofore acted. I hope, therefore, that the House will not pass this bill.

Mr. DAWES. It is true, as the papers in the case set forth, that this man has received in fourteen years the gross sum of \$23,000 from this patent. I think it hardly follows from that

statement that there has been any undue profit made out of the public from the patent.

Mr. HARDING, of Illinois. Net profits.

Mr. DAWES. Whether it be net profits or gross receipts, to determine whether it is an inordinate sum or not, would depend upon the character and value of the invention, and the field in which the invention is to be applied. Now, this invention has direct application to the profitable cultivation of cotton; it is of no further use. It is a matter of history that the invention of the cotton-gin, which has made the whole southern country of any value whatever as a cotton-raising country, was of no profit at all to the original inventor, and he died a bankrupt, although he enriched the whole world with his invention.

Now, here is an invention in aid of the same object. And the net profits which the inventor has received during the fourteen years of the invention was only \$23,000. The invention had application solely to the cultivation of cotton in the rebellious States; and during the last four years, those which were to be under ordinary circumstances the most valuable years of his invention, all profits have been lost to him from no fault of his. He does not ask for a new patent, but merely that the Commissioner of Patents shall be authorized to examine into the whole case, to hear the whole evidence, and to decide, under the rules and precedents which have governed the Patent Office in the renewal of patents in time past, whether there is any fair and equitable reason for the longer existence of this patent. That is the whole extent of this bill.

Mr. WASHBURNE, of Illinois. If the gentleman will pardon me, I will ask him if he can deny that under this bill the Commissioner of Patents must necessarily issue this patent.

Mr. DAWES. I do not understand the bill to have been drawn for any such purpose. I would not sanction a bill that would require the Commissioner of Patents to issue the patent in question. If this bill is drawn in that way, I will not support it; but I do not understand it to have been drawn for any such end.

Mr. WASHBURNE, of Illinois. It is certain that the party understands that he will get a renewal of his patent if this bill is passed.

Mr. DAWES. I understand the gentleman from Connecticut [Mr. HUBBARD] to assent to what I say, that it was not the intention to draw the bill in the form indicated by the gentleman from Illinois, [Mr. WASHBURNE,] and if he has inadvertently so drawn it, I am quite sure he will see that it is modified. I think the party has great confidence that if the Commissioner of Patents is authorized to renew this patent he will obtain a renewal. But that confidence rests upon his belief in his ability to show to the Commissioner of Patents, what he is able to show to this House if this House were in a situation to hear patiently and fully what the Commissioner of Patents would hear, the justice of his case. If I understand the bill aright, the only authority given to the Commissioner of Patents is to hear and determine this case. I would ask the gentleman from Connecticut [Mr. HUBBARD] if that is the true construction of the bill.

Mr. HUBBARD, of Connecticut. Certainly.

Mr. WASHBURNE, of Illinois. The bill will speak for itself. It says:

And the said Commissioner shall examine the said application and decide upon the same upon the same evidence and in the same manner as in other cases where extensions of patents are applied for under existing laws.

Now, by this clause of the bill, as this patent has been once issued, the Commissioner of Patents can do nothing else but issue the patent.

Mr. DAWES. I think that the gentleman from Illinois [Mr. WASHBURNE] is mistaken in that.

Mr. WASHBURNE, of Illinois. I cannot be; that is the object of the bill.

Mr. DAWES. The Commissioner is authorized to hear and decide this case precisely as if the fourteen years for which the patent was originally granted had not yet expired; and he is to

extend the patent now just the same as he would have done, and only in that way, if the application had been made before the expiration of the patent. That is, if the patentee makes out his case and shows that he has failed to receive sufficient remuneration in consequence of circumstances over which he had no control, and for which he was in no way responsible, and that there has been no neglect on his part, then he will be entitled to the reissue of his patent.

It is because this relates to a matter that at this time is peculiarly interesting, a matter intimately connected with what we are all desirous of promoting, that is, the enlarged culture of cotton and the profitable culture of cotton, that I think every invention which will contribute to that end should be encouraged; and every genius that has any ability to produce any new method and bring it properly into market should be encouraged and remunerated.

Mr. WASHBURNE, of Illinois. Does not the gentleman understand that this man has already enjoyed a patent for fourteen years, and that the public is now entitled to the use of the invention without paying any further bounty?

Mr. DAWES. I certainly do not so understand.

Mr. WASHBURNE, of Illinois. That is the fact. Yet one might suppose from the gentleman's remarks that this is an invention which we are bound to encourage, and that the public could not get the advantage of it without the passage of this bill.

Mr. DAWES. The gentleman certainly does not mean to say that we are bound to steal a man's invention.

Mr. WASHBURNE, of Illinois. No, sir; but when a man has enjoyed the advantage of a patent for fourteen years, and has made out of it \$23,400, I do not believe that we are called upon to legislate more money into his pocket.

Mr. DAWES. I think that depends upon circumstances, the examination of which I am for one willing to remit to the Commissioner of Patents.

Mr. WASHBURNE, of Illinois. I am not.

Mr. HUBBARD, of Connecticut. I yield a portion of my time to the gentleman from Illinois, [Mr. BROMWELL,] my colleague on the committee.

Mr. BROMWELL. There is one fact about this case which is perhaps not understood. To make one of these machines is a greater undertaking than to build an ordinary steam mill. Now, when a man makes an invention the manufacture of which costs only a trifling sum, he can very easily get his remuneration in fourteen years. But when an invention requires a vast outlay to manufacture it and to bring it into use, no man can expect, except under very extraordinary circumstances, to realize anything like a fair remuneration in fourteen years. The history of inventions shows that the inventors of those larger and costlier machines or combinations of machinery have died poor, in consequence of their struggles to perfect their inventions against untoward circumstances.

Now, it was shown before the committee that this inventor had struggled against adverse circumstances during the fourteen years of his patent, and that he had just got his business in a somewhat promising way when he obtained his extension; that the \$23,000 which he received from the invention bears a very small proportion to his outlay, trouble, and suspense in his efforts to bring the invention into use. Just as he had secured the extension the rebellion broke out, depriving him in a great measure of the advantages of the extension. I think this bill should be passed. It provides for no appropriation.

Mr. HUBBARD, of Connecticut. I have only a few minutes left, and I must resume the floor.

I have only time to say that the bill simply proposes to submit the question of a renewal to the Commissioner of Patents, who is required to examine the whole case by wit-

nesses, just as if the matter had not been heard in this House at all.

Mr. DRIGGS. Let me ask the gentleman whether \$23,000 is all that this man received from his invention during fourteen years.

Mr. HUBBARD, of Connecticut. He received that amount within the fourteen years; but it was all absorbed afterward, as well as his whole estate, by losses in the cotton States. I now call the previous question.

Mr. WASHBURNE, of Illinois. I move that the bill be laid on the table.

On the motion there were—yeas 43, noes 49.

Mr. WASHBURNE, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 57, not voting 58; as follows:

YEAS—Messrs. Ancona, James M. Ashley, Baker, Beaman, Benjamin, Bergen, Bidwell, Bingham, Boyer, Brandegee, Broomall, Buckland, Chandler, Reader W. Clarke, Cobb, Cullom, Dawson, Deftrees, Delano, Deming, Denison, Farquhar, Finck, Grossbrenner, Grider, Aaron Harding, Abner C. Harding, Harris, Henderson, James R. Hubbell, James M. Humphrey, Julian, William Lawrence, Le Blond, Longyear, Marshall, Marvin, McCullough, McKee, Moulton, Niblack, Noell, Orth, Paine, Samuel J. Randall, Rollins, Ross, Rousseau, Sawyer, Scofield, Shunklin, Shellabarger, Sitgreaves, Stilwell, Taylor, Thornton, Trowbridge, Upson, Robert T. Van Horn, Ward, Elihu B. Washburne, Henry D. Washburn, Welker, Williams, Stephen F. Wilson, Windom, Winfield, and Wright—68.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Baxter, Blaine, Blow, Boutwell, Bromwell, Bundy, Coffroth, Conkling, Darling, Dawes, Dodge, Donnelly, Driggs, Eliot, Ferry, Garfield, Grinnell, Griswold, Higby, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James Humphrey, Jencks, Kasson, Kelley, Kelso, Kuykendall, Jaffin, Lynch, McKuer, Miller, Moorhead, Myers, Newell, O'Neill, Patterson, Perham, Pike, Plants, Raymond, Alexander H. Rice, John H. Rice, Schenck, Smith, Spalding, Strouse, Francis Thomas, Van Aernam, Warner, William B. Washburn, and James F. Wilson—57.

NOT VOTING—Messrs. Delos B. Ashley, Baldwin, Banks, Barker, Sidney Clarke, Cook, Culver, Davis, Dixon, Dumont, Eckley, Eggleston, Eldridge, Farnsworth, Goodyear, Hale, Hart, Hayes, Hill, Hoar, Holmes, Hooper, Demas Hubbard, Edwin N. Hubbell, Hulburt, Ingessoll, Johnson, Jones, Kerr, Keitcham, Latham, George V. Lawrence, Loan, Marston, McClurg, McIndoe, Mercer, Morrill, Morris, Nicholson, Phelps, Pomeroy, Price, Radford, William H. Randall, Ritter, Rogers, Sloan, Starr, Stevens, Taber, Thayer, John L. Thomas, Trimble, Burt Van Horn, Wentworth, Whaley, and Woodbridge—58.

So the bill was laid on the table.

Mr. WASHBURNE, of Illinois, moved to reconsider the vote by which the bill was laid upon the table; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RECONSTRUCTION.

Mr. WASHBURNE, of Illinois, from the joint committee on reconstruction, submitted testimony which had been taken before that committee in reference to Texas, Louisiana, and Florida; which was ordered to be printed and laid upon the table.

Mr. WASHBURNE, of Illinois, moved that the same number of extra copies be printed as had been ordered of previous testimony in reference to other States.

The motion, under the law, was referred to the Committee on Printing.

AGRICULTURAL COLLEGES.

Mr. BIDWELL, by unanimous consent, moved that the Committee on Agriculture be discharged from the further consideration of House bill No. 498, to amend section two of an act entitled "An act donating public lands to the several States and Territories which may provide colleges for the benefit of agriculture and the mechanic arts," and that the same be referred to the Committee on Public Lands.

The motion was agreed to.

FREEDMEN'S BUREAU APPROPRIATION.

Mr. WRIGHT. Mr. Speaker, I was absent from the House yesterday on account of sickness, and I wish to say if I had been present I would have voted against House bill No. 545, making appropriations for the uses of the Bureau of Refugees, Freedmen, and Abandoned Lands for the fiscal year commencing January 1, 1866, appropriating as it does \$11,000,000.

REORGANIZATION OF THE ARMY.

The House resumed the consideration of the bill (H. R. No. 361) entitled "An act to reorganize and establish the Army of the United States," the pending section being the following:

SEC. 23. *And be it further enacted*, That the pay department of the Army shall hereafter consist of one paymaster general, with the rank, pay, and emoluments of a brigadier general; two assistant paymaster generals, with the rank, pay, and emoluments of colonels of cavalry; two assistant paymaster generals, with the rank, pay, and emoluments of lieutenant colonels of cavalry; and forty paymasters, with the rank, pay, and emoluments of majors of cavalry; and the original vacancies in the grade of major shall be filled by selections from those persons who have served faithfully as paymasters or additional paymasters in the Army of the United States in the late war; and hereafter no graduate of the United States Military Academy, being at the time in the Army of the United States, or having been at any time for three years next preceding, shall be eligible to appointment as an officer in the pay department; but this provision shall not extend to graduates of West Point now in the pay department.

The pending amendment was moved by Mr. SCHENCK, to strike out in line seven the word "forty," and insert "fifty" in lieu thereof; on which the yeas and nays had been ordered.

Mr. SCHENCK. Mr. Speaker, I do not propose to detain the House except to recall what took place when the amendment was up before, and which may have since been forgotten. In the seventh line of the twenty-third section provision is made for forty paymasters with the rank of major. The number insisted on by the Paymaster General, in an able communication read to the House, is sixty. In most of these bureaus and departments, the gentlemen who are at the head of them wish to have the greatest number of assistants, but can get along with a less number if it be found essential the number should be limited. The committee, on reconsidering the whole matter, agreed to make a compromise between the views of the Paymaster General and their own, and accordingly I moved the pending amendment to strike out "forty" and insert "fifty."

The question was taken; and it was decided in the negative—yeas 56, nays 65, not voting 62; as follows:

YEAS—Messrs. Alley, Anderson, Baldwin, Baxter, Bidwell, Blaine, Blow, Cobb, Darling, Dawes, Deming, Dodge, Donnelly, Driggs, Eliot, Farquhar, Ferry, Garfield, Abner C. Harding, Henderson, Holmes, Hotchkiss, Asahel W. Hubbard, John H. Hubbard, James Humphrey, Ingersoll, Julian, Kasson, Kelley, Kelso, Longyear, Lynch, Marvin, McNair, Miller, Moorhead, Morrill, Morris, Myers, Newell, O'Neill, Paine, Perham, Pike, Plants, Raymond, John H. Rice, Sawyer, Schenck, Smith, Spalding, Stilwell, Durt Van Horn, Elihu B. Washburne, Henry D. Washburn, and William B. Washburn—56.

NAYS—Messrs. Allison, Ames, Ancona, Baker, Beman, Benjamin, Bergen, Boutwell, Boyer, Brandegee, Droomall, Buckland, Chandler, Reader W. Clarke, Coffroth, Conkling, Cullom, Dawson, Defrees, Delano, Denison, Eldridge, Finck, Grider, Aaron Harding, Harris, Hart, Chester D. Hubbard, James R. Hubbard, James M. Humphrey, Jones, Kuykendall, Laflin, Latham, George V. Lawrence, William Lawrence, Le Blond, Loan, Marshall, McClurg, McCullough, McKee, Moulton, Niblack, Noell, Orth, Patterson, Samuel J. Randall, William H. Randall, Rollins, Ross, Schofield, Stitges, Strouse, Taylor, Thornton, Trowbridge, Upson, Van Aernam, Ward, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Wright—65.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Banks, Barker, Bingham, Brownell, Bundy, Sidney Clarke, Cook, Culver, Davis, Dixon, Dumont, Eckley, Eggleston, Fairhurst, Glossbrenner, Goodyear, Grinnell, Griswold, Hale, Hayes, Higby, Hill, Hogan, Hooper, Demas Hubbard, Edwin N. Hubbard, Hubbard, Johnson, Jones, Kerr, Ketcham, Marston, McKim, Mercer, Nicholson, Phelps, Pomeroy, Price, Radford, Alexander H. Rice, Ritter, Rogers, Rousseau, Shanklin, Shellabarger, Sloan, Starr, Stevens, Taber, Thayer, Francis Thomas, John L. Thomas, Trimble, Robert T. Van Horn, Warner, Wentworth, Whaley, Windom, Winfield, and Woodbridge—62.

So the amendment was rejected.

ENROLLED JOINT RESOLUTIONS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled joint resolutions of the following titles; which were thereupon signed by the Speaker:

Joint resolution (S. R. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States; and

Joint resolution (S. R. No. 75) making appropriations for the expenses of collecting the revenue from customs.

DEEPENING SOUTHWEST PASS.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting a report of a board of engineers relative to the deepening of the Southwest Pass of the Mississippi, in reply to a resolution of the House of April 20, 1866; which was ordered to be printed, and referred to the Committee on Commerce.

TELEGRAPH TO THE WEST INDIES.

Mr. ELIOT. I submit the following report from the committee of conference on the disagreeing votes of the two Houses on the bill in relation to a telegraph between the United States and the West Indies:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 26) entitled "An act to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas," having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate agree to the first amendment of the House of Representatives to the bill, and that it agree to the second amendment of the House with an amendment, as follows: at the end of the amendment insert the words "subject, however, to the power of Congress to alter and determine said rates;" and the House agree to the same.

Z. CHANDLER,
L. M. MORRILL,
JOHN CONNESS,

Managers on the part of the Senate.

THOMAS D. ELIOT,
CHARLES O'NEILL,
NELSON TAYLOR,

Managers on the part of the House.

Mr. ELIOT. I demand the previous question on the adoption of the report.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, can I have the whole of that bill reported?

The SPEAKER. Not as a matter of right. Mr. RANDALL, of Pennsylvania. I ask it as a privilege.

Mr. ELIOT. I will explain what the effect of the agreement is.

Mr. RANDALL, of Pennsylvania. I think this bill went through the House without fair consideration. It appropriates a large sum of money.

The SPEAKER. There is nothing before the House except the question of agreeing to the report of the committee on the disagreeing votes of the two Houses. The gentleman from Massachusetts proposes to explain it.

Mr. ELIOT. There were two amendments which were made to the bill in the House. The first amendment gave to the United States the free use of the line during time of peace as well as during time of war. The Senate agreed to that amendment.

The second amendment which was made by the House was that the company should not charge more than at the rate of \$3 50 for each ten words. The Senate disagreed to that amendment. The managers on the part of the two Houses have agreed to the amendment, with this provision: "subject, however, to the power of Congress to fix and determine the rate at any time."

That is all that the committee of conference had before them. The effect of that amendment is to limit the rate of charges.

I ought to say that there is also in the bill a provision giving to Congress the right to alter and amend the bill at any time, so that the amendment which was agreed to in conference is really repeating what was in the bill before; but it made some parties more satisfied with the bill, and so the committee of conference agreed to the amendment.

Mr. RANDALL, of Pennsylvania. I think there is undue power granted there, and for the purpose of testing the question I move to lay the report on the table.

The SPEAKER. That carries the bill with it.

Mr. RANDALL, of Pennsylvania. I make the motion.

The motion to lay the bill on the table was disagreed to.

The previous question was seconded and the main question ordered on agreeing to the report

of the committee of conference; and under the operation thereof the report was agreed to.

Mr. ELIOT moved to reconsider the vote by which the report of the committee was agreed to; and also moved to lay that motion on the table.

The latter motion was agreed to.

ARMY BILL—AGAIN.

The Clerk read as follows:

SEC. 24. *And be it further enacted*, That the corps of Engineers shall consist of one chief of engineers, with the rank, pay, and emoluments of a brigadier general, six colonels, sixteen lieutenant colonels, twenty-two majors, thirty captains, and twenty first and ten second lieutenants, who shall have the pay and emoluments now provided by law for officers of the Engineer corps of these several grades respectively. But after the first appointments made under the provisions of this section, as vacancies may occur in the several grades of lieutenant colonel, major, and captain, no appointments to fill the same shall be made until the number of lieutenant colonels shall be reduced to fifteen, the number of majors to twenty, and the number of captains to twenty, and thereafter the number of officers in each of said several grades shall continue to conform to such reduced numbers.

Mr. SCHENCK. There is a mistake in a title in that section which I desire to correct. I move to strike out the words "chief of engineers" and to insert "chief engineer" in lieu thereof.

The amendment was agreed to.

The twenty-fifth section was read, as follows:

SEC. 25. *And be it further enacted*, That the five companies of engineer soldiers, and the sergeant major and quartermaster sergeant heretofore prescribed by law, shall constitute a battalion of engineers, to be officered by officers of suitable rank detailed from the corps of Engineers, and the officers of engineers acting respectively as adjutant and quartermaster of this battalion shall be entitled to the pay and emoluments of adjutants and quartermasters of cavalry.

No amendments were offered.

The twenty-sixth section was then read, as follows:

SEC. 26. *And be it further enacted*, That the ordnance department of the Army shall consist of the same number of officers and enlisted men as is now authorized by law, and the officers shall be of the following grades, namely: one brigadier general, three colonels, six lieutenant colonels, twelve majors, twenty captains, twelve first lieutenants, ten second lieutenants, all of whom shall have the same pay and emoluments as now provided by law, and thirteen ordnance storekeepers, of whom a number not exceeding six may also be appointed and authorized to act as paymasters at armories and arsenals. Ordnance storekeepers shall have the rank, pay, and emoluments of captains of infantry, and ordnance storekeepers and paymasters the rank, pay, and emoluments of captains of cavalry. But after the first appointments made under the provisions of this section, as vacancies may occur, reducing the number of officers in the several grades of this department below the rank of brigadier general, no appointments to fill the same shall be made until the number of colonels shall be reduced to one, the number of lieutenant colonels to three, the number of majors to six, and the number of captains to twelve; and thereafter the number of officers in each of said several grades shall continue to conform to such reduced numbers.

Mr. DAWES. I offer the following amendment to that section:

On line eleven, page 15, after the word "arsenals," insert the following: "The ordnance storekeeper and paymaster at the national armory shall have the rank, pay, and emoluments of other paymasters of the Army and other; so that it will read:

SEC. 26. *And be it further enacted*, That the ordnance department of the Army shall consist of the same number of officers and enlisted men as is now authorized by law, and the officers shall be of the following grades, namely: one brigadier general, three colonels, six lieutenant colonels, twelve majors, twenty captains, twelve first lieutenants, ten second lieutenants, all of whom shall have the same pay and emoluments as now provided by law; and thirteen ordnance storekeepers, of whom a number not exceeding six may also be appointed and authorized to act as paymasters at armories and arsenals. The ordnance storekeeper and paymaster at the national armory shall have the rank, pay, and emoluments of other paymasters of the Army, and other ordnance storekeepers shall have the rank, pay, and emoluments of captains of infantry, and ordnance storekeepers and paymasters the rank, pay, and emoluments of captains of cavalry. But after the first appointments made under the provisions of this section, as vacancies may occur, reducing the number of officers in the several grades of this department below the rank of brigadier general, no appointments to fill the same shall be made until the number of colonels shall be reduced to one, the number of lieutenant colonels to three, the number of majors to six, and the number of captains to twelve; and thereafter the number of officers in each of said several grades shall continue to conform to such reduced numbers.

I desire the attention of the House for a moment while I state the object of this amendment, which I think will meet the concurrence

of the chairman of the committee when I explain what it is.

The purpose of it is this: in the bill as prepared by the committee there is a provision for thirteen ordnance storekeepers, and six of them are to be also paymasters at the posts where they are stationed. One of these must be at the armory at Springfield. I wish to call the attention of the House for a moment to the duties of that storekeeper and paymaster at Springfield, and then to ask the House whether it is not reasonable that he shall have the pay of a paymaster of the Army. The House will see that his duties are much larger than those of any paymaster in the Army; and I ask, in connection with that, attention to the peculiar facts regarding his present pay, how it comes to be what it is, what it is, and what it has been for several years.

He is storekeeper for the armory. He has in his custody, and has had for a great many years, about fifteen million dollars' worth of property, four or five times more than is possible for any other storekeeper to have. He has been obliged to pay out during the last four years between four and five million dollars each year. That is a larger amount than he had to pay before the war, and larger than he will have to pay hereafter. He would be obliged to pay, under the present capacity of the armory, if it should be run to its full capacity, that sum; but it is not probable that it will be run to that capacity. He will be obliged to pay every year about two million dollars. He will certainly be obliged to keep now, after the war is closed, a much larger amount of property than during the war, as arms are coming back to the armory every day, and his liability as a storekeeper is therefore very largely increased. In addition to these duties as storekeeper and of paymaster at this armory, he is also commissary at the armory, and is obliged every year to pay out about thirty thousand dollars in that capacity.

Now, he has been obliged to perform all these duties for a salary of \$1,250 a year, without any emoluments, without any rations. The salary was fixed by law some time ago; I think it was when the superintendency of the armories was transferred from the military to the civil department.

He has been twenty-five years at that armory, and is an old and experienced man, whose skill and ability in his profession would have secured him almost any position in civil or military life. He has retained his position during the war from a sense of duty, not because he could earn as much money there as he could anywhere else, and from a feeling that after the war was over Congress would do justice to him and raise his compensation.

He has arrived at that period of life when he can hope for no promotion; and situated as he is, as a salaried officer, he is not entitled to any promotion in the Army. He now asks only that he may have the rank and pay of an ordinary paymaster.

I will send to the Clerk's desk to be read a letter from the present chief of the Ordnance Bureau, who was, during the war, superintendent of the national armory; also a letter from the present superintendent of the armory; and I think they will satisfy the House that this officer ought to be put simply where any other paymaster is put, though his duties and responsibilities are greater than those of any of them.

The Clerk read as follows:

ORDNANCE OFFICE, WAR DEPARTMENT,
WASHINGTON, February 26, 1866.

SIR: In reply to the inquiry contained in your letter of the 23d instant, I say unhesitatingly that I do not consider the compensation now allowed to military storekeepers and military storekeepers and paymasters of ordnance as a fair remuneration for the services rendered, and the heavy responsibilities which are devolved upon them.

Prior to the passage of the act of August 23, 1842, military storekeepers were allowed the pay and emoluments of captains of infantry, and military storekeepers and paymasters the pay and emoluments of captains of cavalry. This compensation is not too much for the services required of them. Their responsibilities for money and for other property is often very great, and within the last four years their duties and responsibilities have greatly increased.

To cite your own case as an example, during the three years that you were under my command at Springfield armory, your disbursements averaged \$5,000,000 a year, and your property responsibility was often greater than that amount. In making payments to the large number of men who were constantly leaving the armory before the pay-rolls could be regularly made, mistakes were unavoidable in over-payments, and in all cases the loss had to be made good by you. It would be only just that your pay should be increased, and I hope that it will be done.

Yours, very truly,
A. B. DYER,
B. M. G., Chief of Ordnance.
EDWARD INGERSOLL, Esq., M. S. K. and P. M., Springfield Armory, Springfield, Massachusetts.

NATIONAL ARMORY,
SPRINGFIELD, March 22, 1866.

SIR: I take pleasure in bearing my testimony to the heavy responsibility devolved upon you as military storekeeper and paymaster at this armory, and the inadequate pay now granted by law for such duties. I am of opinion that the pay given to Army paymasters would not be too great considering the large bonds required of you and the amount of property and funds for which you are held responsible.

Very respectfully, your obedient servant,
T. T. S. LAIDLEY,
Brevet Colonel, Major of Ordnance Commanding,
EDWARD INGERSOLL, Esq., Paymaster U. S. A.

Mr. SCHENCK. I appreciate the motive which induces the gentleman from Massachusetts [Mr. DAWES] to move this amendment. It is admitted on all hands that these officers have been inadequately paid heretofore; they have, in fact, had less pay than similar officers in the quartermaster's department. They are now receiving, however, one class \$1,040 and another class \$1,490 per annum, by an increase of \$240 per year added to the pay of each class since the law was originally enacted.

The committee propose, in the case of ordnance storekeepers, to increase their rank, pay, and allowances to those of a captain of infantry, which is less than a captain of cavalry receives, and to make six out of the thirteen ordnance storekeepers, who are also acting as and having the responsibilities of paymasters, of the rank and with the pay and emoluments of captains of cavalry, being about one hundred and eighty dollars a year more.

The gentleman from Massachusetts [Mr. DAWES] proposes to make an exception in favor of the ordnance storekeeper and paymaster at Springfield. I admit, while there are six of these thirteen storekeepers who also serve as paymasters, the burden of responsibility upon the one at Springfield is perhaps in some respects as great as of the other five in respect to the amount of property under his charge and the payments he has to make. These storekeepers, who act also as paymasters, expend from about five thousand dollars per month at the two or three western arsenals which have recently been established, one at Rock Island and one at Columbus, up to about two hundred thousand dollars per month, which has been the rate of expenditure at Springfield.

How, if the proposition of the gentleman from Massachusetts is to be confined exclusively to making a distinction between the officer at Springfield and the others, I do not know that there ought to be any objection to it. But I think, as a general thing, the allowance proposed to be made to them as captains of cavalry is quite sufficient.

Mr. DAWES. I ought to have added that the officer at Springfield is obliged to give \$50,000 bonds, while ordinary paymasters give only \$20,000 bonds.

Mr. SCHENCK. The gentleman is correct. I would suggest to him that his amendment now speaks of "the paymaster and storekeeper at the national armory;" I think he ought to say, "at Springfield, Massachusetts."

Mr. DAWES. I have modified my amendment in that way.

Mr. SCHENCK. They are all national armories. But this advantage should not be extended to any except that one officer, who has so many more responsibilities than the others.

Mr. O'NEILL. I desire to ask the chairman of the committee a question. Why is a distinction made between the military storekeepers in the ordnance department and the storekeepers in the quartermaster's department?

The bill provides that those of the one class shall receive the pay of captains of infantry, while those of the other class receive the pay of captains of cavalry.

Mr. SCHENCK. I am very happy to be able to give the gentleman an explanation. The storekeepers in the quartermaster's department, who are to receive only the pay of captains of infantry, do not act also as paymasters. There are sixteen of those; and they are all put upon the same footing. Of military storekeepers in the ordnance department, there are thirteen, seven of whom act simply as storekeepers like those in the quartermaster's department, and they are put on the same footing as to pay with the storekeepers in the quartermaster's department. But six of these military storekeepers in the ordnance department act also as paymasters, and they are put as to pay upon the footing of captains of cavalry, giving them an advantage of perhaps \$180 a year in pay and allowances, in order to recompense them for acting as paymasters as well as military storekeepers. No distinction is made, as the gentleman supposes, between the storekeepers in the quartermaster's department and those in the ordnance department. The storekeepers in the ordnance department who act only as military storekeepers are put upon precisely the same footing as storekeepers in the quartermaster's department. The distinction is made only in the case of a half dozen who serve also as paymasters.

Mr. O'NEILL. It seems, then, that the distinction is made on account of the additional responsibility of particular officers.

Mr. SCHENCK. And their additional duties. The distinction has always been made. I will give the gentleman the law on the subject. By a law passed in 1842, the paymasters and military storekeepers at the armories and at the arsenals of construction at Pittsburgh, Watervliet, and Washington city, received \$1,250; and all others who served as storekeepers, like those in the quartermaster's department, received \$800. But by an act passed in 1857, the sum of \$240 per annum was added to officers all round, increasing the compensation of those acting as storekeepers and paymasters to \$1,490, and that of the others to \$1,040. The distinction exists under the present law; and this bill proposes simply to continue it.

Mr. O'NEILL. The gentleman from Massachusetts has urged an increase of pay to the military storekeeper at Springfield on the ground that he performs the duties of paymaster, and is subjected to a large responsibility. Now, I wish to state that there are other officers in the country whose duties as military storekeepers have, during the last few years, imposed on them very great labor and responsibility. Sir, a case in point is that of the storekeeper at the arsenal on the Schuylkill, at Philadelphia. During the last four or five years the quantity of materials stored in that arsenal has at times amounted in value to ten or fifteen million dollars, imposing, of course, a great responsibility upon the storekeeper at that post. I also know that the military storekeeper at Washington has had an almost equal responsibility resting upon him. Why should not the military storekeepers at these two points have an increase of salary? The extent and importance of their duties certainly entitle these officers to a larger pay than the ordinary military storekeepers.

Mr. DAWES. I suggest to the gentleman that the difference between the two cases is this: in the case he speaks of the storekeeper had, during the war, the custody of a large amount of property, which is now constantly growing less; while the property in the custody of the storekeeper at Springfield is all the time increasing, as the military stores now go there for safe-keeping. In addition to that, his duties as storekeeper are by no means the whole of his duties. He makes large disbursements of money, equal in amount to those of any ordinary paymaster in the field: He has to perform, also, the duties of a commissary. Those are duties which do not devolve upon the store-

keeper either at the Schuylkill arsenal or here in this city. This is the reason why the distinction proposed to be made is just.

I admit the propriety of a provision in the bill that all of these should be raised to that particular point. I only ask the House to consider whether this one should not be provided for, as the others have been paid more than he has been, and who has had far greater responsibility. I hope my friend will not press his amendment.

Mr. O'NEILL. I approve of the amendment of the gentleman from Massachusetts. But he is mistaken in reference to the Schuylkill arsenal.

Mr. DAWES. I do not want to be considered as opposing the amendment of the gentleman from Pennsylvania.

Mr. O'NEILL. The Schuylkill arsenal has been the great distributing arsenal of the country. It has been so since the late war with England. It will still continue to be the receptacle of an immense amount of Government material. It is all under the direction of the military storekeeper. If I am not mistaken it is the duty of that military storekeeper to pay the employes of that arsenal. I think it is a point where we should give this military storekeeper the pay and emoluments of a captain of cavalry.

Mr. SCHENCK. We have long since passed the section in reference to military storekeepers.

Mr. O'NEILL. I understand the proposition is in reference to military storekeepers.

Mr. SCHENCK. If the gentleman will turn back to the sixteenth section he will find we there dispose of the quartermaster's department. I am glad it is disposed of. We were a long time at it. In the seventeenth section there is a provision about military storekeepers. We are now on the section providing for the ordnance department. We provide there shall be thirteen ordnance storekeepers, of whom a number not exceeding six may also be appointed and authorized to act as paymasters at armories and arsenals. The proposition is to make a distinction in favor of those who act as paymasters. The gentleman from Massachusetts proposes to make a still further distinction in favor of the one at Springfield on the ground, which I admit does exist, that his responsibility is to the extent of \$50,000,000, while the highest responsibility of the others is \$12,000,000, running down to \$600,000.

Mr. O'NEILL. I thought I was at the proper place to move the amendment. This military storekeeper at the Schuylkill arsenal has greater responsibility than any other military storekeeper, and I do not see why he should not have his pay increased.

Mr. SCHENCK demanded the previous question.

The previous question was seconded and the main question ordered.

The amendment was agreed to.

Mr. FARQUHAR. I move to strike out in line thirteen the word "infantry," and insert "cavalry" in lieu thereof. I desire to make an inquiry of the chairman of the Military Committee as to the effect of the section. I see it provides for six ordnance storekeepers as paymasters. It provides for thirteen in all. Is it the design that the remaining five shall not act as paymasters?

Mr. SCHENCK. There are six arsenals where the ordnance storekeepers act as paymasters, and we provide only for that number.

Mr. FARQUHAR. I withdraw my amendment.

The Clerk read as follows:

SEC. 27. *And be it further enacted, That there shall be one chief signal officer of the Army, who shall have the rank, pay, and emoluments of a colonel of cavalry. And the Secretary of War shall have power to detail from the Army six officers, and not to exceed one hundred non-commissioned officers and privates, to be taken from the battalion of engineers, for the performance of signal duty: Provided, That no officer or enlisted man shall be detailed to serve in the signal corps until he shall have been examined and*

approved by a military board, to be convened by the Secretary of War for that purpose; and officers while so detailed shall receive the pay and emoluments of cavalry officers of their respective grades; and enlisted men while so detailed shall, when deemed necessary, be mounted upon horses provided by the Government.

SEC. 28. *And be it further enacted, That in all the staff corps (or departments) promotions may hereafter be made without regard to seniority in the date of appointments or commissions, and the same rule of promotion by merit alone shall apply to all officers of the line above the grade of captain.*

Mr. GARFIELD. I move to strike out the word "above" and insert "below;" and to strike out "captain" and insert "colonel."

Mr. Speaker, there is no good reason why this rule of promotion should not apply to company officers. I am very glad that the committee has undertaken to adopt the principle of promotion by merit. It is an innovation upon the established customs of the Army, and will no doubt throw out some men and work some hardship. But the good that will be accomplished by it is so very great that I believe the section ought to stand with the amendment I have suggested. Where a man has devoted himself for life to the military profession, and has been compelled to serve perhaps five years in a single grade before the promotion comes, it may be said that it is hard that he should not be promoted as a matter of course. But on the other hand, if five years' service has not made him by his merits worthy of a higher grade, he ought not to be promoted.

Mr. WRIGHT. I wish to ask the gentleman a single question. His amendment proposes to strike out the word "above" and insert the word "below," and strike out the word "captain" and insert "colonel," so that it will read, "and the same rule of promotion by merit alone shall apply to all officers of the line below the grade of colonel." Does he consider a lieutenant colonel and a major officers of the line, or are they field officers?

Mr. GARFIELD. Certainly, they are officers of the line.

Mr. WRIGHT. There are too many tinkers about this.

Mr. SCHENCK. I ought to be satisfied, I think, when I consider that the argument of my colleague is an answer and an objection to his own amendment. But I will undertake to extend that objection somewhat by a little further argumentation.

He proposes to reverse the order in which distinction shall be made between promotion by seniority and by merit, so that the first promotions shall be by merit and the subsequent promotions in the higher grade only by seniority. If he does this he will simply reverse the whole order of proceedings in all other services, in any way assimilated to our own, and which exist in the very nature of these military offices.

Now, sir, the reason why promotions in the lower grades are confined to seniority in all services except our own, as far as I know, and that promotion by merit comes in as the officer rises in grade, I take to be this: a young man entering the Army as a second or first lieutenant, on having risen as captain to the command of a company, does not develop that particular genius and power of comprehension or combination which may make him a better field officer. Therefore, in all the various military services of the world they have gone on promoting by seniority alone in the first classes of officers until they reach some point (which we propose shall be above the grade of captain) where the officer is supposed to have developed the fact whether he is fit for a higher trust. Many a man will make a first-rate lieutenant or captain, be perfectly at home in all the routine of company matters and subordinate command, and yet be unfit for the larger and more comprehensive duties of a higher command, either of a regiment, brigade, or division. The gentleman, however, seeks to reverse all this.

To show that I am sustained by the practice of other countries, I beg leave to refer him and

the House to what is the practice in all the principal armies of the world. I hold in my hand a report upon this subject made by Major Mordecai, of the United States Army, who with General McClellan and another officer was sent abroad as a commission to look into the military systems of European countries. From this report I find that in Russia—

"Promotions are ordinarily made by seniority. In the guards, promotions are made regimentally to the grade of lieutenant colonel, inclusive; in the infantry of the active army, regimental promotions are made to the rank of captain, inclusive; above that grade the promotion is by divisions of four regiments; in the artillery, the promotions are made by brigades of four batteries; officers of artillery not attached to batteries are promoted separately. Above the grade of colonel, promotions are made through the whole army at the pleasure of the Emperor; so are extraordinary promotions for distinguished services in any grade."

Throughout the whole army any officer who has shown what he is fit for is selected for any higher position purely and solely upon his merits.

I will now refer to another Government in which the army is a very important part of the public service, and where its organization is admitted to have been brought to very great perfection. I refer to Prussia. Major Mordecai says, in his report, in reference to that country—

"Promotions are made according to seniority, and by regiments or corps, to the grade of major, except in case of incompetency on the part of the senior captain to command a battalion. Above the grade of major, the promotions are made by selections; but the order of seniority is habitually followed in time of peace owing partly to the difficulty in such a time of determining real military merit."

We find that in France—

"For brilliant action noticed in general orders promotions are made without regard to the above rules."

The rules referred to relate to the term of service, and the grades a man must be in before he can be promoted. The report goes on—

"And generally, in time of war, the term of service required for promotion may be reduced one half."

Ordinary promotions are made partly by selection by the Emperor, partly by seniority."

Without detaining the House further by referring to these extracts, I may say that the same rule prevails in the military service of every great military nation, and it is founded upon the principle that a man may make a good subaltern, may have all the knowledge necessary for a company officer detailed on subordinate duty up to a certain point, but that there is ordinarily somewhere, if you will have the best selections, when they must be made with reference to merit.

Now, in our own Army during the late war a law was enacted authorizing officers of the regular Army to be commissioned and serve as officers of volunteers; and everywhere throughout the whole extent of that Army of millions of men this principle was resorted to, and selections were made instead of the regular step by step tread-mill promotion, which carries up the dullest and poorest, as well as the best, in regular order. The truth is, the object is to prevent by the regular promotion the inefficient man, or the least efficient, being brought up to the highest positions, thus having your Army die like some old tree at the top and become rotten there while all the vigor is below.

I trust, therefore, that no reversal of this rule will be adopted by the House, and that we shall not abandon the practice as well as the theory of all military Governments in regard to promotions.

Mr. WRIGHT. I desire to ask the chairman of the Committee on Military Affairs, what is the object of inserting in this section these words that seem to exclude captains from that kind of promotion that is given to general and field officers?

If I understand that section there is one rule in regard to general and field officers, that they shall be chosen without any regard to seniority of service. They are selected by the President of the United States, subject to the advice and consent of the Senate. Now, I should like to

know why a captain if he is a worthy man should not be placed in the same category with field and general officers. He is in the same category the moment he gets above the rank of captain; why should he not be before, if you want to promote a meritorious line of officers?

Mr. SCHENCK. When you speak of the grade above the grade of captain, of course you mean the grade of major, for that is the next grade above. Therefore all these promotions will take place in the ordinary way, by seniority, while officers are yet young, undeveloped in character, and in some degree undeveloped in capacity. But when they become field officers and reach the grade of major, promotions will be made by selections according to merit.

As a matter of course, when a man has been promoted from captain to major, if he be a young major, even the last captain promoted, if he manifests unusual ability and fitness for going higher up, he will be eligible for selection for that purpose. That is the whole meaning of the provision. It is adopting in our military system what, as I have shown the House, has prevailed in the military systems of all other countries. I do not say that the first grade above that of captain is the best point at which to make the line. Perhaps you might say above the grade of major, or above the grade of lieutenant colonel or colonel. But the committee thought that after an officer had served as a subaltern, and as the commander of a company, and had got his first promotion above the grade of captain, and was made a major, he ought after that to expect promotion only according to the efficiency, ability, and fitness for higher and more serious and important commands which he should manifest.

Mr. WRIGHT. Does not the promotion of general or field officers depend upon the arbitrary will of the appointing power?

Mr. SCHENCK. Not now.

Mr. WRIGHT. While a captain has to depend alone upon his merits.

Mr. SCHENCK. Not at all; it is just the reverse. In all the staff corps promotions are hereafter to be made without regard to the seniority of commission or date of appointment; that is, they are to be by merit, and it is proposed that the same rule of promotion, by merit alone, shall apply to all officers of the line above the grade of captain; that is, to majors, lieutenant colonels, and colonels. Promotion by seniority will be confined to those who have not got to the grade above that of captain, to all below the grade of major.

Mr. WRIGHT. I am aware that many staff officers have the rank of lieutenant. But in regard to the promotion of line officers, I know of no reason why the captain of a company should not have the same chance of arbitrary selection and promotion as field and general officers.

Mr. SCHENCK. If I understand the gentleman aright now, he would have this rule of promotion by selection extend through all the grades.

Mr. WRIGHT. Why not?

Mr. SCHENCK. For the simple reason which I have already stated, and there must be some reason in the rule, since it is one which has been adopted in every country where they have military systems which have been built up through centuries. It is for the reason that junior officers, subalterns and company officers, are not presumed to be men who have become developed; it is not to be presumed that any of them will be able to make such show of preëminent ability above their fellows of the same grade as those in other and higher ranks, and therefore they are to be promoted by seniority alone. That is, where there is a vacancy for major, it is to be filled by promoting the oldest captain. Above that grade it is proposed to make promotions according to merit.

Mr. WRIGHT. My objection is this: that in the appointment of regimental staff officers, they may be selected without regard to seniority

or term of service, while captains seeking promotion must have a different rule applied to them. This is, in my judgment, an unfair and illiberal distinction.

Mr. BOYER. Mr. Speaker, I fear very much that in the present temper of the House this section is likely not to receive that attention which I think its importance demands. It proposes to make a radical change in the whole system of promotion in the Army. The system which at present exists has not, I believe, been found so deficient in its workings as to call for so radical a change as this.

We are about to organize the Army upon the basis of a peace establishment; and I trust that many years may elapse before it will be called into active service in the field. It is a serious question whether it would be an improvement upon our military system to make promotions below the grade of colonel by selection instead of by seniority. How is the merit of the officer to be determined? Among the various captains, majors, and lieutenant colonels, it will be very difficult to decide, from the manner in which they perform their duties in garrison or upon the parade ground, which of them are entitled by merit to be promoted over the heads of their seniors.

In time of war military genius makes its way; and during actual hostilities our old system did not prevent those who occupied subordinate positions in the Army from rising in the course of a few months to the very highest rank. That system did not smother the genius of a Sherman or a Grant. Why, then, shall this radical change be made now? What is there in the experience of the past to recommend it as a necessary measure?

I fear that however beautiful the system of selection by merit alone may appear in theory, it will be found in practice to be a system of political favoritism, under which officers will be promoted, not on account of their military merit, but because they happen to have a friend at court. I fear that under this system the officer stationed at some remote place upon the western frontier, having no relatives or friends in Congress or in the Cabinet, will be likely to remain in obscurity with his merit undiscovered; while some more fortunate officer much his junior, who has been enjoying for many years a soft place here in the city of Washington, will, because he happens to have an uncle in the Cabinet, or a brother in Congress, be promoted over the head of his meritorious senior; and that will be called a selection by merit!

If you could determine the value of men as you determine the value of jewels, by their luster or their color; or if you could gauge their value by their weight per pound, like so many bullocks, it would be easy to distinguish which man was entitled to the most consideration, and then you could make selections, as this section proposes they shall be made, exclusively by merit. But what man ever discovered in General Grant when he was a simple lieutenant in the Army the merit which would entitle him to be commander-in-chief of the Army of the United States? What man ever discovered in General Sherman, when he was the principal of a military academy in the Southwest, that he was the man to lead the forces of the United States through the very heart of the rebellion?

It was the merit alone of these men that enabled them to gain the distinction which their country ultimately bestowed upon them. But, sir, it was under the old system that this was achieved. And, sir, when we have before our eyes these illustrious examples of selection by merit, why are we to change the whole system, to reverse the whole order of things in the Army? I believe, sir, that there is nothing which would be more calculated to demoralize the Army than this very measure.

Allusion has been made to the practice of foreign countries; and among others that of France has been cited. I happen to know, however, that the selections which are made for promotion in the French army are made very differently from the manner in which they

would be made in this country, if the system proposed by this bill should be adopted without incorporating in the bill anything else to assimilate it to the system in the French army. In the French army the promotions for merit are made upon the recommendation of a board of officers of the army. That part of the French system is not incorporated into this bill.

If hereafter promotion by selection is to embrace all ranks above that of captain, or, as proposed by the amendment of the gentleman from Ohio, [Mr. GARFIELD,] all below as well as above that grade, I think the injurious effects of this system should be obviated by incorporating into it that which is deemed necessary for its proper, efficient, and beneficial working in the French army. Let, then, a board of officers be established, (composed of officers of the Army, not of politicians,) empowered to recommend their juniors for promotion. Let the men selected by a disinterested and capable board like that be the persons promoted by merit, if merit alone is to be the criterion. But as it is the practical result will be that the professed object of this section of the bill will be defeated. Instead of promotion by merit it will be a system of nepotism and favoritism throughout. I am therefore opposed to this section, and also to the amendment of the gentleman from Ohio, [Mr. GARFIELD,] and if it be in order I will now make the motion that this section be stricken out of the bill.

The SPEAKER. It is in order to move that the section be stricken out.

Mr. SCHENCK. Before the vote is taken on the motion to strike out, the vote will of course be taken on the amendment of my colleague.

Mr. BOYER. I do not make the motion now, and of course do not wish to cut off any amendment to the section.

Mr. SCHENCK. Mr. Speaker, the gentleman from Pennsylvania has spoken of that which is the objection to this system which I propose, and I admit it is to a limited and to a certain extent true of the present system. Like all other changes, the question is whether the result is loss or gain by departing from the present condition of things. If, on the one hand, you make promotion in any part of the Army by selection made upon men's merit it is liable to the possible abuse of which the gentleman speaks, that there may be partiality, but so far as examinations are concerned, if he will look at the thirty-fourth section he will find we have provided promotion below the rank of colonel shall be on examination by a board of officers as he recommends, not of politicians, not of outsiders, but a board composed of members of the Army.

The answer to that objection which may be made, the objection of promotion being made through partiality, is that in every human system we must trust somebody. Everything rests somewhere. The necessity of obedience to law is with those who are to carry it out. You may devise every expedient you can, and you will be scarcely able to get rid of that. While there is a fear of partiality and abuse on one side, look at what may be considered a greater disadvantage if you do not have some rule of this kind, found expedient to be adopted in every country which has had a successful military system except our own. The difficulty into which you run, if you do not make it limited, is this: if all promotion is to be by seniority, the oldest captain will be major in his turn, the oldest major lieutenant colonel, and the oldest lieutenant colonel, as a matter of course, colonel; and so all the way through, step by step; and inefficiency and incapacity are sure to result.

The gentleman was unfortunate in his illustrations, I think, drawn from experience during the last war, which experience has aided us in bringing our attention to this particular subject. He referred to Grant and Sherman and others who have distinguished themselves as great leaders in the war, prominent above all

others. How did they come to have their services secured in these high places? Most of these gentlemen had left the Army, these two particularly had, while others remained in the regular Army. They got appointed as field officers, some as colonels, some as lieutenant colonels, both these officers as colonels, and were found on trial to develop such qualities they were speedily made general officers, and from general officers of subordinate positions advanced by development of capacity over all others until they became chosen the leaders of the war. And thus men far below in age, in previous rank, and in date of former commission, by the very exigencies of the service and by force of this rule which we propose you shall now adopt to a certain extent throughout the Army, are brought at the head who are admitted on all hands to be those who ought to be at the head.

The illustration is not a good one for the gentleman's argument, it seems to me, but it sustains precisely what I am saying. And without extending the argument further, I would say that we have learned, I think, by sad experience a great deal during this war with all its lessons and among other things we have learned that there is good reason and good cause for the adoption of this rule of promotion by merit and selection, above certain grades at least, as it exists in other armies, and we would do well, perhaps, to introduce it into our own.

The gentleman says it is, to a certain extent, a radical change. I admit it. There is argument on both sides, and the gentleman has presented very fairly the argument against it. But I submit to him and to the House whether there is not more to be gained than to be lost by the change; whether the danger is not, if we continue with a still larger army, as we have heretofore, when it has not been so much felt, with a very small army in time of peace, making promotions step by step, by seniority alone, we may not find a large number of those highest in command among the worn-out, effete, and imbecile officers of the Army, instead of the most vigorous, best, and most gifted.

Mr. BOYER. I cannot admit, as the gentleman from Ohio [Mr. SCHENCK] seems to think, that I have been unfortunate in my illustrations. The cases of Generals Grant and Sherman were cited by me for the purpose of illustrating the fact that even under our present system of promotion by seniority, great and shining merit could find its way to the surface. In time of war the regular system of promotion by seniority is to a great extent disregarded, as it has been throughout the whole course of the late war. And I was willing to admit, too, that if we were always to be at war, then the system proposed by this bill is the very one which ought to be adopted. Amid the storm of war military merit makes itself evident, and enables us to distinguish truly when the junior should command the senior.

But we are now preparing an army for a peace establishment, and I say that it is not a good general rule in time of peace to select for promotion otherwise than by seniority.

And I do not think there is much weight, with all due deference to the argument of the gentleman, in the suggestion that we are likely to be overburdened with inefficient and incompetent officers; for you have your examining and retiring boards to enable you to rid the Army of all that sort of material under the operation of the existing system.

Then again, the section which the gentleman from Ohio [Mr. SCHENCK] points out as the remedy of the evils which are complained of as likely to result under the system which he would introduce, namely, section thirty-four, does not provide at all, as he asserts it does, for a board of examiners composed of Army officers to make selections for promotions, but it provides in these words:

That no officer of the Army below the rank of colonel shall hereafter be promoted to a higher grade before having passed a satisfactory examination as to his fitness for promotion and record of past ser-

vices before a board of three general officers, or officers of his corps or arm of service senior to him in rank.

It will be perceived that this board is to decide upon the fitness of officers for promotion. But they do not decide as to the respective merits of the different officers who may appear before the board, but only in general terms as to the fitness or unfitness for promotion. Having received the certificate of such an examining board, a young officer may grow gray before he receives the promotion for which they certify he is fitted.

Now, one of the great evils which will pervade this system thus sought to be introduced into the Army, will be that whenever a vacancy occurs there will be a strife among the various officers as to who is entitled by merit to promotion to fill the vacancy.

In a regiment, for example, where a colonelcy is to be filled, every captain in the regiment will consider himself entitled by merit to supersede not only the other captains but the major and the lieutenant colonel; and thus, in every regiment where a vacancy occurs, and as often as it occurs, there will be a scene of jealousy, strife, and intrigue calculated to lead eventually to the demoralization of the Army, and to the destruction of that *esprit du corps* which it is absolutely necessary should be preserved if we desire that our Army shall continue to be in the future what it has been in the past.

Mr. GARFIELD. I wish to call the attention of the House for a moment to the point in debate. The gentleman says that, notwithstanding the proposition made by the committee in this bill, we have seen notable examples during the late war in which the old system has given us the very best talent in the country. I answer that by a single fact, and that fact is, that all the examples he has given have been in defiance of the old custom in the Army and under special legislation that broke the old rule of promotion by seniority. If the rule of seniority had obtained throughout the war, not one of the leading men who occupied, and are occupying, high places in the Army could have occupied those places. Half a dozen of those who are major generals would have been majors yet but for the fact that the rule of seniority was entirely overlooked. It was found necessary in the progress of the war to enact a law that the President might assign a junior officer to the command of his seniors. It became absolutely necessary. We had some men who had grown old in the service, and it would not do, according to the old custom in the Army, to let a junior officer command them. Congress, therefore, passed an act providing that whenever the President of the United States saw fit he might assign any general officer, without regard to his rank, to the command of a department or an Army corps, and that officer might command his seniors. Thus, the rule of seniority was broken down regularly and systematically by law, to enable us to get hold of the best intellects of the country and put them into the service.

Observe another thing. This rule of seniority has always been broken down by great commanders wherever great emergencies of war were upon them. For instance, in 1798-99, when we expected war with France, Washington was appointed General-in-Chief of the Army, and he made it a condition to his acceptance of that position that he, himself, should have the selection of his leading officers. When he came to make his selection he made Alexander Hamilton, a man taken from civil life, and who had never been higher than a colonel in the Army, first in the rank of major general; he made Pinckney, of South Carolina, second in rank, and he made General Knox, who had been a commander of division in the war of the Revolution, third in rank; thus absolutely reversing the order, and placing those men in that order solely on the ground of merit, and not on the ground of seniority.

The great success of Napoleon Bonaparte was due, mainly, to the fact that he utterly ignored the rule of seniority. It is true, he paid this much deference to the rule, that if he wanted a corporal made a captain he promoted him to be a sergeant one day, a second lieutenant the next day, a first lieutenant the next, and a captain the next; but he went through the form only out of respect to a time-honored custom. I affirm, and I wish it understood by every gentleman, that no great and successful army was ever called into the field in the history of war, but what had its officers selected in defiance of the rule of seniority, and upon the principle of merit.

Now, the only difference between the chairman of the committee and myself is that I do not think he has gone far enough in the application of his rule of merit. I think the rule should be made to apply to captains and lieutenants as well as to officers above them.

And for the purpose of effecting that object I desire to modify my amendment so as to make it a motion to strike out the words "above the grade of captain." That would make the rule of promotion by merit alone universal throughout the Army; and that is what I desire.

Now I desire to say one word on that point before I yield the floor. The gentleman has said that we cannot always judge what a man will be until we have had time to test him. Therefore when a man has risen by seniority to the grade of captain, we cannot tell whether there is anything in him or not. Now, my answer to that is, that in the thirty-fourth section of this bill it is provided that there shall be competitive examinations for officers even below the grade of major, and they are to be promoted only as they shall show themselves to be proficient. And I want that principle adopted here.

Another point: the gentleman says we want men in the Army awhile before we can decide upon their merits. I know that it has under the old rule sometimes taken a man twenty years to reach the grade of major by the rule of promotion by seniority. At the time of the commencement of the late war there were many captains in the Army who had been twenty years in the service. Their merits had become perfectly well known.

As we are now entering upon a time of peace, a man will probably be a second lieutenant on an average for four or five years, which certainly will allow time enough to discover all the capacity there is in him. If young men who are commissioned second lieutenants do not make sufficient improvement in the vigor of their youth, when they can best improve themselves, during the three, or four, or five, or ten years that they are company officers, they certainly ought not to be promoted.

I hope, therefore, that the principle of promotion by merit or examination will be applied to all, and I modify my amendment to that effect.

Mr. STEVENS. I am not sure but I shall vote for the amendment of the gentleman from Ohio, [Mr. GARFIELD.] I ought perhaps in modesty to recite the old Latin maxim—is it?—"Non nostrum inter vobiscum lites componere." [Laughter.] I think that is Latin. [Renewed laughter.] I do not know that I ought to mingle in this quarrel between these high generals, having never been anything more than a second lieutenant myself. But I want to make this suggestion, that the system of giving promotion by seniority of rank comes from the old English system, and is founded, I think, upon a vicious principle. In England, by means of purchasing commissions, a nobleman who has younger sons, and desires to place them where they can secure a support for life, with a certainty of promotion, purchases commissions for them at from two to three thousand pounds each. Those commissions are salable by the officers holding them. Now, it would not do to have these vested rights broken in upon by allowing promotions or even appointments to be made for merit alone, and hence, until you

get to the higher grades in the British army, promotions are never made for merit, but only by seniority. That is a system devised by the nobility for the support of those for whom they have purchased commissions. But it is a system with which we in America ought to have nothing to do. We cannot afford to make our original appointments by the sales of commissions; nor can we allow those who hold commissions to transfer them by sale, and thus make a large amount of money out of them. That being the case, there is but one other system which we can adopt, and that is the system of promotion by merit, and I think we ought to apply the system to the lowest ranks.

I hope I shall be excused for venturing to make these remarks upon a question that I may be supposed to know nothing about, and I am willing to confess it. As I am requested to call the previous question, I will do so.

The previous question was seconded, and the main question ordered; which was upon the amendment of Mr. GARFIELD.

The question was taken; and there were—ayes thirty-two, noes not counted.

So the amendment was not agreed to.

The question recurring on the motion of Mr. BOYER, to strike out the twenty-eighth section, it was not agreed to.

The Clerk read as follows:

Sec. 29. *And be it further enacted*, That the President is authorized to transfer officers of the Army of the United States from the line to the general staff, and from the general staff to the line, or from one staff corps of the general staff to another and different staff corps, or from one arm of the service to another; but an officer on being so transferred shall only take such rank in the staff or corps in which he is placed as he held by commission in the staff or line before his transfer.

Sec. 30. *And be it further enacted*, That the age for the admission of cadets to the United States Military Academy shall hereafter be between seventeen and twenty-two years; but any person who has served two years as a volunteer in the Union Army, in the late war, may be eligible to appointment up to the age of twenty-four years.

Sec. 31. *And be it further enacted*, That cadets at the Military Academy shall hereafter be appointed one year in advance of the time of their admission, except in cases where by reason of death, or other cause, a vacancy occurs which cannot thus be provided for by such appointment in advance; but no pay or allowance shall be made to any such appointee until he shall be regularly admitted on examination, as now provided by law. And in addition to the requirements necessary for admission as provided by the third section of the "act making further provisions for the corps of Engineers," approved April 20, 1812, candidates shall be required to have a knowledge of the elements of English grammar, of descriptive geography, particularly of our own country, and of the history of the United States.

Sec. 32. *And be it further enacted*, That the Superintendent of the United States Military Academy may hereafter be selected, and the officers on duty at that institution detailed, from any arm of the service; and the supervision and charge of the Academy shall be in the War Department, under such officer or officers as the Secretary of War may assign to that duty.

Mr. SCHENCK. I move to amend by inserting the following as an additional section:

Sec. —. *And be it further enacted*, That no officer of the Army, in time of peace, shall be dismissed the service unless in accordance with the provisions of this act or by sentence of a court-martial duly approved.

The amendment was agreed to.

The Clerk read as follows:

Sec. 33. *And be it further enacted*, That immediately after the passage of this act the President of the United States shall convene a council of officers to assemble at Washington city, which council shall be composed of three general officers of the Army, three officers of infantry, two officers of artillery, two officers of cavalry, two officers of the medical department, one officer of the Adjutant General's department, one officer of engineers, one officer of ordnance, one officer of the quartermaster's department, one officer of the subsistence department, and one officer of the pay department; all to be selected for their high character for intelligence, discretion, justice, patriotism, and professional ability, and who, being thus selected, shall be retained on the Army list. It shall be the duty of this council to inquire into and consider the capacity, character, record of services, and fitness to be continued in the military service of every officer below the grade of brigadier general who may be in the Army at the time of the passage of this bill; and with a view to this they shall be furnished with all information, papers, records, and other documentary evidence they may require from the War Department. As they proceed with this investigation, they shall, from time to time, report all their conclusions in each case to the Secretary of War. When the report

of a majority of the council is not adverse in the case of any officer, he shall thereupon be immediately marked on the Army list to be retained in the service in the position or rank which he is then holding, of which due notice shall be given in general orders; but if the majority of the council report that in their opinion, and for reasons which they shall assign, the case of any officer ought to be further inquired into, he shall thereupon be summoned, by order, to appear before a board, to consist of three general officers or officers of his corps or arm of the service, senior to him in rank, to undergo further examination. On such examination, besides other inquiry as to his capacity and qualifications, mental, moral, and physical, the officer shall be allowed, if the case requires it, full and reasonable opportunity for explanation and defense, and may produce witnesses and other testimony to meet any objections or charges made against him. If the board thereupon report that he is not qualified to remain in the Army, for reasons other than any which involve bad moral character, he shall be placed on the retired list, as is provided in other cases for the retirement of Army officers, and on the same conditions; but if he be found unfit for the service on account of moral disqualifications, he shall at once be dropped from the rolls of the Army. And in making such investigations into the fitness of officers to be retained in the service, the said military council and such boards as may at any time be appointed and organized under the provisions of this section, shall take into account the cases of any who may have been employed in no active duty in the field during any part of the late war, and shall inquire specially into the reasons for their not being so employed; and any officer whose absence from active field service during the war shall be decided by a board of examiners, after full hearing, to have been on account of his sympathy with the rebellion or his unwillingness to serve actively against the so-called confederate States, or any particular State, or the people of any State engaged in rebellion, shall be reported the same as if found morally disqualified for the service.

Mr. SCHENCK. The Inspector General's department is not represented in the council of officers according to the present provisions of the section. I move, therefore, to amend by inserting after the word "department," where it occurs the second time in the tenth line, the words "and one officer of the Inspector General's department," and by striking out in the same line the word "and;" so that the clause will read:

Which council shall be composed of three general officers of the Army, three officers of infantry, two officers of artillery, two officers of cavalry, two officers of the medical department, one officer of the Adjutant General's department, one officer of engineers, one officer of ordnance, one officer of the quartermaster's department, one officer of the subsistence department, one officer of the pay department, and one officer of the Inspector General's department.

The amendment was agreed to.

The Clerk read as follows:

Sec. 34. *And be it further enacted*, That no officer of the Army below the rank of colonel shall hereafter be promoted to a higher grade before having passed a satisfactory examination as to his fitness for promotion and record of past services before a board of three general officers or officers of his corps or arm of service, senior to him in rank; and should the officer fail at said examination, he shall be suspended from promotion for one year, when, if he still desires promotion, he shall, upon application, be reexamined, and upon a second failure shall be dropped from the rolls of the Army: *Provided*, That if any officer be found unfit for promotion on account of moral disqualifications, he shall not be entitled to a reexamination.

Mr. SCHENCK. Mr. Speaker, some representations have been made to me by officers of the Army who have distinguished themselves during the late war as to the possible working of this section, and the propriety of an amendment to guard against possible injustice. In conformity with the suggestions made to me, I move to amend by striking out in the sixth line the words, "senior to him in rank," and inserting in lieu thereof the words, "who have served as seniors to him in rank during the late war against the rebellion;" so that the clause will read:

That no officer of the Army below the rank of colonel shall hereafter be promoted to a higher grade before having passed a satisfactory examination as to his fitness for promotion and record of past services before a board of three general officers or officers of his corps or arm of service, who have served as seniors to him in rank during the late war against the rebellion.

I will state the reason for proposing this amendment. Some officers who formerly served as captains or majors, or held other subordinate positions in regiments; have acted as brigadier and major generals during the late war, while their former colonels or lieutenant

colonels have not been selected for any such command, being supposed to be not quite so well fitted as their juniors, or not quite so young and capable as it was desirable they should be for the efficiency of the service. Now, these gentlemen who may apply for colonelcies, or any higher grade of position in the extension of the Army, do not wish to be examined by officers senior to them in rank who did not serve during the war, and whose sympathies would not probably be with them.

Mr. WRIGHT. I ask the gentleman from Ohio whether he is not taking away from the President and Senate their prerogative to appoint, nominate, and confirm. The gentleman refuses to answer, and I hope the section will be voted out.

The amendment was agreed to.

The Clerk read as follows:

Sec. 35. *And be it further enacted*, That no person shall be appointed an officer in the line or in any staff corps of the Army until he shall have passed a satisfactory examination before a board, to be convened under direction of the Secretary of War, who shall inquire into and take account of the services rendered during the late war, as well as the capacity and qualifications otherwise of the applicant; and such appointment, when made, shall be without regard to previous rank, but with sole regard to qualifications and meritorious services.

Sec. 36. *And be it further enacted*, That for the purpose of promoting knowledge of military science among the young men of the United States, the President may, upon the application of an established college or university within the United States, with sufficient capacity to educate at one time not less than one hundred and fifty male students, detail an officer of the Army to act as president, superintendent, or professor of such college or university; that the number of officers so detailed shall not exceed twenty at any time, and shall be appointed through the United States, as nearly as practicable, according to population, and shall be governed by general rules, to be prescribed from time to time by the President.

Mr. GARFIELD. I move the following to come in as a new section:

And be it further enacted, That whenever troops are serving at any post, garrison, or permanent camp, there shall be established a school where all enlisted men may be provided with instruction in the common English branches of education and especially in the history of the United States; and the Secretary of War is authorized and directed to detail such commissioned and non-commissioned officers as may be necessary to carry out the provisions of this section.

Mr. Speaker, I only ask to say a word on that subject. One of the greatest evils known in standing armies is the evil of idleness, the parent of all wickedness, and especially the ignorance connected with it. I hope we will be able to do something to eradicate that evil from our Army, and to do something to make it a patriotic Army. In the wearisome months spent in camp and at posts and garrisons there is nothing for them to do but to indulge in some devilry. It is a great evil in the Army. I want the enlisted men to have opportunities for culture, and I ask that the Secretary of War shall detail officers fitted for that purpose. I think such a section will relieve the Army from this evil. It has been drawn hastily, but I think will commend itself to the country.

One word more. If it were in my power I would make a law that every man and woman in the United States should study American history through the period of their minority. We cannot do that throughout the United States generally, but we can enforce it to some extent upon the privates in our Army.

Mr. SCHENCK. I have no objection to incorporate this section into the bill. I only advise the House and the gentleman who offers it that I have a long bill proposing a radical change to take place gradually in our whole system. The purpose will be indicated by reading its title. It is an act to establish a system of education in the regular Army of the United States, and provide that all promotions therein shall begin from the rank and file. As this is not to be presented now, but a matter for future consideration, I do not object to the amendment.

The Clerk read as follows:

Sec. 37. *And be it further enacted*, That any person applying for a commission under the authority of this act, and having permission to appear before a board

of examiners, shall be entitled, in case of passing the examination and being appointed or commissioned, to receive mileage from his place of residence to the place of examination, or such portion of that distance as he may actually travel, the same as is paid to officers traveling under orders, but shall be paid no other compensation.

SEC. 33. *And be it further enacted*, That the allowance now made by law to officers traveling under orders, where transportation is not furnished in kind, shall be increased to ten cents per mile.

Mr. ROLLINS. I move to amend by inserting the following as a new section, to come in after section thirty-eight:

And be it further enacted, That the provision in section fifteen of the act approved July 5, 1833, giving to certain officers an additional ration per diem for each five years of service, shall be construed to apply to all officers or soldiers of volunteers who may be commissioned in the regular Army, and the date of the original entrance of the officers or soldiers in the volunteer service shall be the date from which the period of five years shall be reckoned.

I understand that the committee have no objection to this amendment. The object of it is to secure a credit to the gallant men who have served in the volunteer Army during the war if they shall be appointed in the regular Army, so that they may obtain the additional ration. I think it is just and proper that they should have the credit. They will have been in actual service for some years, and deserve the credit that this amendment proposes.

Mr. SCHENCK. If section thirty-eight remains in the bill I have no objection to this amendment to it. It has been my purpose, however, to move to strike out that section altogether, and for this reason: it relates to pay and allowances, and that very provision is contained in another bill that we have reported called the pay bill, which has been made a special order in this House. Both the thirty-eighth section and the amendment which the gentleman proposes would be very appropriate in that bill.

Mr. ROLLINS. It is the safest course to put it in this bill.

Mr. BLAINE. If that bill should not pass I would rather have the amendment in this bill. The amendment was agreed to.

The Clerk read the following sections:

SEC. 39. *And be it further enacted*, That in construing this bill, officers who have heretofore been appointed or commissioned to serve with United States colored troops shall be deemed and held to be officers of volunteers.

SEC. 40. *And be it further enacted*, That officers of the regular Army, who have also held commissions as officers of volunteers, shall not on that account be held to be volunteers under the provisions of this act.

Mr. SCHENCK. I propose after section forty to insert as an additional section the following:

And be it further enacted, That nothing in this act shall be construed to authorize or permit the appointment to any position or office in the Army of the United States of any person who has served in any capacity in the military or naval service of the so-called confederate States during the late rebellion, but any such appointment shall be held illegal and void.

The amendment was agreed to.

Mr. WRIGHT. I have an amendment to offer as a new section:

And be it further enacted, That all leaders of bands of music in the United States Army, who now have the pay of second lieutenants, shall be styled band-masters, with the privilege of wearing the shoulder straps of a second lieutenant with a lyre thereon to indicate their position: *Provided*, That nothing herein contained shall add to the rank, pay, or emoluments of such band-masters.

I have the honor to submit this to the chairman of the committee. I presume that in the reorganization of the Army, apart from the general matters that attract the attention of the House, some minor details are necessary. This does not increase the rank of these persons, who are really officers, drawing the pay of second lieutenants, but their pride, I presume, might be gratified and their position known by the wearing of a shoulder strap with some of the insignia of military office upon it. It does not, I admit, amount to much, but we are all of us men, and the poorest among us have some personal pride, and therefore I would like to have this amendment adopted.

Mr. SCHENCK. I understand the gentleman's amendment not to propose any increase of pay.

Mr. WRIGHT. None whatever.

Mr. SCHENCK. Simply a badge.

Mr. WRIGHT. Simply that we may know who are band-masters in the United States Army.

The amendment was agreed to.

Mr. ANCONA. I offer the following amendment, to come in as an additional section after the section which has just been passed:

SEC. —. *And be it further enacted*, That there shall be an instructor of sword exercise with the rank, pay, and emoluments of a lieutenant colonel of cavalry; that said instructor of sword exercise shall be a thorough practical swordsman, conversant with both cavalry and infantry sword drill, and be distinguished for capacity, efficiency, and experience as an instructor; that he shall carry out such regulations for perfecting the officers of the Army in the use of the sword as the Secretary of War may prescribe.

The amendment was agreed to.

The forty-first section was then read as follows:

SEC. 41. *And be it further enacted*, That nothing in this act shall be construed to affect in any way the Bureau of Refugees, Freedmen, and Abandoned Lands, as now established by law.

Mr. GRINNELL. I offer the following to come in as an additional section:

SEC. —. *And be it further enacted*, That nothing herein contained shall be construed as affecting the existing law respecting the rank, pay, and allowances of chaplains of the Army, but the same shall remain as now established by the act entitled "An act to amend section nine of the act approved July 17, 1862, entitled 'An act to define the pay and emoluments of certain officers of the Army,' and for other purposes," approved April 9, 1864.

The amendment was agreed to.

The forty-second and last section of the bill was then read as follows:

SEC. 42. *And be it further enacted*, That all laws and parts of laws inconsistent with the provisions of this act be, and the same are hereby, repealed.

No further amendments being offered, the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. WASHBURN, of Illinois, demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The SPEAKER. The gentleman from Ohio is entitled to one hour to close the debate, if he desire to do so.

Mr. SCHENCK. I desire to submit some little explanation of the bill before the vote is taken. I do not propose to debate it at length. There has been enough of incidental debate in its progress through the House. The bill, as reported by the committee, has not been in any respect materially altered by any of the amendments that have been made. Its general scope and purposes remain about the same as I indicated they were when the bill was first introduced and submitted for consideration; and it cannot be pretended that full and fair opportunity for amendment and discussion has not been allowed upon each section of the bill in its progress through the House.

The bill, it will be remembered, is one which provides, now when the time has arrived for us to determine what our Army shall be in the future, for an establishment to consist of fifty thousand men, capable of expansion to eighty-two thousand, as the ultimate or maximum number. The bill, in its various provisions, is a most liberal one in relation to introducing into this Army those who have served with fidelity and efficiency in the late struggle for the preservation of this Government. It throws the doors wide open for the admission of volunteers.

Perhaps gentlemen are not fully aware of what is the present character, even with the changes already made, of the regular Army of the United States as it relates to the material of which its officers are made up, or of what it

would be if this bill should become a law, and the Army be eventually reorganized under its provisions.

I have here some tables, which I will not detain the House by giving in detail, but which contain some interesting statistics in relation to this subject, and such as may perhaps be new, even to many members of the House.

Let me take, in the first place, the present staff corps of the Army. It consists, including general officers, of a total of three hundred and twenty-seven. Of those, two hundred and fifty-six in the different staff departments are graduates of the United States Military Academy. They are divided in this way:

In the Adjutant General's department, where there are twenty-one officers, three are not graduates, and eighteen graduates.

In the quartermaster's department there are twenty-six who have not been educated at West Point, and thirty-nine who have been.

In the subsistence department, out of twenty-nine as a total, two have not been graduates, or are not now on the Army list, while twenty-seven have been.

I may here remark that this list was taken from the present Army Register of the 1st of January, 1866, and it should contain the names or two other officers who have been appointed in the subsistence department from among the commissaries of volunteers. So that there are really four who are not graduates.

In the pay department seventeen are not graduates, and ten are.

In the Engineer corps the whole number employed are graduates of West Point.

And so on until we reach the total which is given as I before recited it.

Among the general officers in the Army, as it now exists, we have a lieutenant general, who is a graduate of the Military Academy, five major generals, all graduates, and nine brigadier generals, eight of whom are graduates, and one of whom, General Terry, is not a graduate. The list which I have here shows only eight brigadier generals; being taken from the Army Register of last January it does not contain the name of General Terry. Thus it will be seen that the staff departments proper, with the exception of the quartermaster's department to a considerable extent, and the pay department and ordnance department to some extent, are made up of those who have been educated at the Military Academy.

But a change has commenced in the line, and is extending upward through the different grades of officers; and it may astonish gentlemen to learn that as the Army now stands, of a total of eleven hundred and twenty-four officers of the line, in the three arms of the service—cavalry, artillery, and infantry—only two hundred and eighty-four have been graduates of the Military Academy; while eight hundred and forty have been appointed from among volunteers or directly from civil life.

But there are vacancies which are not included in my list, which have recently been and are now being filled, of a number of first and second lieutenants, which will make the relative proportion still different. Of five hundred and sixty-four vacancies to be filled, the whole of them are to be filled by appointments from volunteers. The bill before the House, without reference to what the Army will be when these five hundred and sixty-four vacancies are filled, provides for six hundred and thirty subaltern officers, who will also all be taken from the volunteers.

Thus going on through the different items in this table, I find as the general aggregate, if this bill shall pass, that the whole number of officers, in all arms of the service, will be two thousand seven hundred and eighty, of whom two thousand four hundred and thirty-two, being the entire number with the exception of three hundred and forty-eight who are graduates of the Military Academy, will be appointed either directly from civil life or for the most part from among those who have served as volunteers in the late war.

The following are the tables to which I have referred:

THE STAFF CORPS.

Number of officers in the several staff corps of the Army according to the Army Register for 1865.

Corps or department.	Graduates.	Non-Graduates.	Total.
Adjutant General's department.....	18	3	21
Quartermaster's department.....	39	26	65
Subsistence department.....	27	2	29
Pay department.....	10	17	27
Corps of Engineers.....	86	-	86
Ordnance department.....	54	20	74
Bureau of Military Justice.....	-	2	2
Inspectors General.....	8	1	9
General Officers:			
Lieutenant general.....	242	71	313
Major generals.....	1	-	1
Brigadier generals.....	5	-	5
Total.....	256	71	327

The Army Register for 1865 shows that there are eleven hundred and twenty-four officers of all grades in the cavalry, artillery, and infantry regiments of the United States Army, divided as follows:

	Graduates.	Non-Graduates.	Total.
In the six regiments of cavalry, all grades.....	54	154	208
In the five regiments of artillery, all grades.....	102	185	237
In the nineteen regiments of infantry, all grades.....	128	551	679
The following vacancies existed (January 1, 1865,) in the same regiments, and have been filled, or are now being filled, by officers of the volunteer service, namely, cavalry, 56; artillery, 98; infantry, 410.....	284	840	1,124
The bill now before the House provides for eighteen new regiments of infantry, to be officered exclusively by appointments from the volunteer service.....	-	564	564
In the fifty-four companies to be added to the twenty-seven battalions of infantry now in the service, all officers of the grades of first and second lieutenants are to be from officers of volunteers.....	-	630	630
Two thirds of all other grades from volunteers.....	-	108	108
In the six new regiments of cavalry, there will be 234 officers, divided as follows: all first and second lieutenants and two thirds of all other grades from volunteers.....	30	60	90
	34	230	264
	348	2,432	2,780

The object of this bill, therefore, it will be seen, is to make a volunteer Army as it were, so far as deriving the material which is to compose the number of its officers is concerned. I mention this matter, because objection is made to an extension of the Army at this time, or to the creation of an Army at all.

Now, in regard to the extension of the Army, I have only to say, it has become, in the opinion at least of those who have charge of the military affairs of the country, and of the Department presiding over those military affairs, an absolute necessity to have something done which shall increase our regular Army, and put it upon that more extended footing which it is to have if the wants and needs of the Government are to be supplied.

The House may not be aware of the gradual diminution of the volunteer Army. I have statistics upon the subject, which I will state briefly. Even while we have been progressing with this bill volunteers have been necessarily mustered out of service from the expiration of their terms of enlistment and the necessity of treating them at the close of hostilities as entitled to their discharge, until there remained on the 18th of April only twelve thousand two

hundred and one white volunteers and eighteen thousand three hundred and fifty-eight colored volunteers, or a total of thirty thousand five hundred and fifty-nine volunteers, out of an army of one million five hundred and sixteen men which we had in the service at the close of the war.

Let me restate it. At the close of the war we had an army of regulars and volunteers of one million five hundred and sixteen men. Of these, fifteen thousand were regulars, leaving a total of volunteers in service at the close of the war of nine hundred and eighty-five thousand five hundred and sixteen. Of these there have been mustered out to the 18th of last month, until the number remaining was only thirty thousand five hundred and fifty-nine. And since the 18th of April there are known to have been mustered out of service because of expiration of terms of service and of orders already issued about fifteen hundred men. Perhaps another five hundred should be added to that number for the past week, for these statistics are a week old. But counting these fifteen hundred only, it will be seen that the volunteer force of the Army, including colored as well as white troops, has been reduced to twenty-nine thousand and fifty-nine men.

This leaves, therefore, scarcely anything to be relied upon except the regular Army, and nothing whatever to be relied upon after a few weeks more. It is natural, therefore, that those having charge of the military service of the country should be turning their eyes anxiously in the direction of Congress to see what is to be done in order to provide a sufficient army for all the needs of the Government, whether on the frontier or throughout the interior of the country, or upon our widely-extended coast, wherever garrisons are kept up.

The present strength of the regular Army, in consequence of the more rapid enlistments since the discharge of the volunteers, is about thirty thousand. There can be an extension altogether to the number of from forty-two to forty-three thousand, which is the entire limit of the present regular Army. In the course of a few months, or even weeks, we shall find ourselves entirely destitute of any volunteer force whatever under the operation of the orders already existing, and unless some bill be passed to continue in service the colored troops and other troops, we shall find ourselves with an army which at its maximum can be only a little over forty thousand.

Now, sir, admitting the necessity of a military establishment, extended to meet the requirements of the country, and equal to that which we are told from the headquarters of the Army, and from the Military Department itself, is absolutely essential, the next question is whether this is an appropriate time for creating such an army. I hold that this is a peculiarly appropriate time. We are now in the transition state from war to a peace establishment. We have now in the country an abundance of skilled officers and skilled soldiers. We have above all a proposition to embody into an army system a number of officers constituting the great bulk of that army, who will enter the new organization fresh from this war to suppress the rebellion, and full of all the sympathies, all the sentiments, all the love of country, and all the zeal to maintain at all hazards the honor of the flag and the integrity of the country in all time hereafter, which they learned in their experience and in their noble service during the late war.

I hold, therefore, that adopting as we do a system of examinations so that officers shall be thoroughly tried as to their merit, including their efficiency and fidelity in the service in which they have been so lately engaged, we can select no better time to put into the independent position of officers who will hold their offices during good behavior a body of men thoroughly adapted to maintain and defend our institutions through all time to come, than now when we can make up that army from men fresh from the field of war, on which they

have nobly defended our institutions and the integrity of our Government.

Sir, I do not propose to extend these remarks. I wish merely to call the attention of the House to these two propositions: that, in the first place, the army which we propose to create is an army no greater than is proportioned, according to the judgment of all those best qualified to judge of the matter, to the needs of the country in its extended interests; and in the next place that this army in its component character is made up of those who have served the country faithfully, and who thus have been imbued with such sentiments of devotion to the country and its flag and all its highest interests as will make them the best possible material from which to select such an army.

Mr. Speaker, I now call for the previous question on the passage of the bill.

Mr. BOYER. Mr. Speaker, would it be in order now to move to postpone?

The SPEAKER. It would be if the previous question should not be seconded.

Mr. ROSS. Would it be in order to move to recommit with instructions?

The SPEAKER. If the call for the previous question should not be sustained, that motion can be made.

On seconding the call for the previous question there were—ayes 57, noes 28; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. SCHENCK and BOYER.

The House was again divided; and the tellers reported—ayes sixty-six, noes not counted.

So the previous question was seconded.

The main question was then ordered to be put.

Mr. BOYER. I move that the bill be laid upon the table.

Mr. TAYLOR. If this bill be laid upon the table, then what will be the position of the Senate bill?

The SPEAKER. The Senate bill is before the Committee on Military Affairs.

Mr. WASHBURNE, of Illinois. I hope the gentleman will withdraw the motion to lay upon the table, and let the vote be taken on the passage of the bill, on which the yeas and nays have been ordered.

Mr. BOYER. I withdraw the motion to lay upon the table.

The question was taken; and it was decided in the negative—yeas 36, nays 88, not voting 64; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Bundy, Reader W. Clarke, Cobb, Deming, Donnelly, Driggs, Garfield, Henderson, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Ingersoll, Longyear, Lynch, Marvin, McKee, Miller, Moorhead, Morrill, Paine, Patterson, Piatts, Alexander H. Rice, Rollins, Sawyer, Schenck, Scofield, Smith, Stevens, Stilwell, Robert T. Van Horn, Elihu B. Washburne, Welker, and Williams—36.

NAYS—Messrs. Allison, Ames, Ancona, James M. Ashley, Baker, Baldwin, Beaman, Benjamin, Bergen, Bidwell, Boutwell, Boyer, Brandegee, Broomall, Buckland, Chanler, Sidney Clarke, Coffroth, Conkling, Cullom, Darling, Dawson, Deftrees, Delano, Denison, Dodge, Eldridge, Farquhar, Ferry, Finck, Glossbrenner, Grider, Grinnell, Aaron Harding, Abner C. Harding, Hart, Higby, Hotchkiss, James R. Hubbell, Hubbard, James M. Humphrey, Jencks, Julian, Kasson, Kelley, Kelso, Laffin, William Lawrence, Lo Blond, Loan, Marshall, McClurg, McRuer, Morris, Moulton, Newell, Niblack, Noel, O'Neill, Orth, Perham, Pike, Samuel J. Randall, William H. Randall, Raymond, John E. Rice, Ross, Shanklin, Schellabarger, Sitgreaves, Spalding, Strouse, Taylor, Trowbridge, Van Aernam, Ward, Warner, Henry D. Washburn, James E. Wilson, Stephen E. Wilson, Windom, Winfield, and Wright—88.

NOT VOTING—Messrs. Alley, Banks, Barker, Baxter, Bingham, Blaine, Blow, Brownwell, Cook, Culver, Davis, Dawes, Dixon, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Goodyear, Griswold, Hale, Harris, Hayes, Hill, Hogan, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, Johnson, Jones, Kerr, Ketcham, Kaykendall, Latham, George V. Lawrence, Marston, Phelps, Pomeroy, Price, Radford, Ritter, Rogers, Rousseau, Sloan, Starr, Taber, Thayer, Francis Thomas, John I. Thomas, Thornton, Trimble, Upson, Burt Van Horn, William B. Washburn, Wentworth, Whaley, and Woodbridge—64.

So the bill was rejected.

During the roll-call the following announcements were made:

Mr. BAXTER. I am paired with my col-

league, Mr. WOODBRIDGE, who, if present, would vote against the bill, while I would vote for it.

Mr. BLAINE. I desire to state that I am paired with Mr. THAYER, who would vote against the bill, while I would vote for it.

I am also requested to state that Mr. BINGHAM, who would vote for the bill, is paired, but I cannot recollect with whom.

Mr. ROUSSEAU. On this question I am paired with Mr. J. L. THOMAS.

Mr. HARDING, of Kentucky. My colleague, Mr. RITTER, is absent on account of sickness.

Mr. ANCONA. My colleague, Mr. JOHNSON, who is absent on account of sickness, is paired with Mr. HOOPER, of Massachusetts. I know that Mr. JOHNSON would vote against the bill, but I do not know how Mr. HOOPER would vote.

The result of the vote was then announced as above stated.

Mr. WRIGHT moved to reconsider the vote by which the bill was rejected; and also moved that the motion to reconsider be laid upon the table.

Mr. STEVENS. I hope that will be postponed for the present, as I want to go to the business upon the Speaker's table.

Mr. SCHENCK. I rose before the motion was made to reconsider.

The SPEAKER. The Chair acted in accordance with the uniform usage of the House in recognizing a gentleman who voted with the successful side.

Mr. SCHENCK. The gentleman from Iowa [Mr. GRINNELL] changed his vote in order to move a reconsideration. I hope the bill will go over till to-morrow. I want the volunteer officers and soldiers of the country who are waiting in expectation—

Mr. RANDALL, of Pennsylvania. I object to debate.

And then, on motion of Mr. SCHENCK, (at half past four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BAXTER: The petition of J. G. Saxe, and 80 others, asking that a mail route may be established from the depot in Georgia, to Cambridge, Lamoille county, Vermont.

By Mr. BROOMALL: The petitions of 595 citizens of Delaware county, Pennsylvania, praying for such change in the tariff and internal revenue laws, as will enable the manufacturing and laboring classes of the country to compete successfully with those of foreign countries.

By Mr. DARLING: The petition of C. K. Tuckerman, praying compensation for expenditures in the colonization experiment at Hayti.

By Mr. DEFREES: A petition from the citizens of DeKalb county, Indiana, asking that all medicines or preparations of the United States, or other national Pharmacopoeia, &c., be placed on the free lists.

By Mr. ELIOT: The petition of the Provincetown Seaman's Savings Bank, for relief from certain taxes.

By Mr. GARFIELD: The petition of 214 citizens of Mahoning county, Ohio, asking for an increased protective tariff.

By Mr. J. M. HUMPHREY: The petition of 4,000 sailors and citizens, of Buffalo, New York, asking for a modification of the law taxing seamen, &c.

By Mr. LAFLIN: The petition of Dr. A. Murdock, of Philadelphia, Jefferson county, New York, in favor of the abolition of internal duties on official preparations of the Pharmacopoeia.

By Mr. MARVIN: The petitions of William Chambers, M. D., Ira H. Van Ness, M. D., and others, physicians of Fulton county, New York, praying that all medicines or preparations of the United States or other national Pharmacopoeia in common use among physicians as remedial agents may be placed on the free list.

By Mr. MILLER: The petition of sundry citizens of Pennsylvania, for a mail route from Johnstown, Juniata county, Pennsylvania, to Shade Gap, Huntingdon county, in said State.

By Mr. MORRILL: The petition of S. B. Jones, and others, citizens of West Rochester, Windsor county, Vermont, praying for an increased tariff on foreign wool.

Also, the petition of R. W. Pitts, and others, citizens of Sudbury, Rutland county, Vermont, praying for increased tariff on imported wool.

Also, the petition of F. D. Grisworld, and 58 others, citizens of Saxton's River, Windham county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of John West, and 75 others, citizens of West Randolph, Orange county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Claud Somers, and 40 others, citizens of Barnet, Caledonia county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Squire Marcey, and 27 others, citizens of Hartland, Windsor county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of J. D. Wheat, and others, citizens of Putney, Windham county, Vermont, praying for an increased duty on wool.

By Mr. MYERS: The petition of 264 glass-blowers, and others, employed in the glass manufacturing business in the third congressional district, city of Philadelphia, for an increased tariff on glass ware, to protect their labor and prevent the serious injury to and suspension of their business threatened by the large orders for foreign glass ware being filled under the present insufficient tariff.

By Mr. NIBLACK: The memorial of B. J. Day, of Evansville, Indiana, praying that dogs may be taxed, as a means of protecting the wool interests of the country.

By Mr. WOODBRIDGE: The petition of P. Holton, and others, citizens of Danby, Rutland county, Vermont, praying for increased protection on imported wool.

Also, the petition of James M. Ketchum, and others, citizens of Sudbury, Rutland county, Vermont, praying for an increased protection on foreign wool.

Also, the petition of W. B. Randall, and 64 others, citizens of Sandgate, Bennington county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of D. S. Chatterton, and 156 others, citizens of Rutland, Rutland county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Stephen Wilmarth, and 113 others, citizens of Addison, Addison county, Vermont, praying for an increased protection on wool.

Also, the petition of Nathan Cupen, and 47 others, citizens of Goshen, Addison county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of H. L. Gale, and others, citizens of Larrabee's Point, Addison county, Vermont, praying for an increased duty on imported wool.

Also, the petition of Albert Ketchum, and 40 others, citizens of Whiting, Addison county, Vermont, praying for an increased duty on imported wool.

Also, the petition of L. Howard Kellogg, and others, citizens of Benson, Rutland county, Vermont, praying for an increased protection on wool.

Also, the petition of Rufus Baird, and others, citizens of Chittenden, Rutland county, Vermont, praying for increased protection on imported wool.

Also, the petition of William L. Farnum, and others, citizens of Poultney, Rutland county, Vermont, praying for an increased duty on imported wool.

Also, the petition of Erastus Kelley, and 39 others, citizens of Clarendon Springs, Rutland county, Vermont, praying for an increased duty on wool.

Also, the petition of George C. Dana, and 67 others, citizens of Weybridge, Vermont, praying for an increased duty on foreign wool.

IN SENATE.

THURSDAY, May 3, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore*. The Chair has received, and been requested to present to the Senate, a memorial signed by many dress-makers in different parts of the United States, praying for a modification of the present tax upon their business. They represent that so far as taxing their labor is concerned; though that would be onerous at the present time in view of their compensation, they would be willing to submit to that; but a tax of six per cent. upon the materials, costly trimmings, &c., that go through their hands purchased by their employers, makes an amount of expenditure on their part so large that their business, if the tax is continued, will be absolutely destroyed, and they beg that the tax on their manufactures may be repealed. This petition will be received, and referred to the Committee on Finance.

Mr. GRIMES. I present a petition from Admiral S. W. Godon, acting rear admiral in charge of the Brazil squadron, and the other line and staff officers of the Navy attached to that squadron, who represent that the pay for naval officers was established free from tax, at a period when the currency of the country was gold and silver; that even at that time it was not more than sufficient to meet their necessary expenses, and left them without the prospect of providing for old age or misfortune; that since that period the cost of the necessities of life has more than doubled in many instances; that this increase of cost has been provided for in civil employment by a corresponding increase of salaries, while the naval officers, compelled by the discipline of the Navy to pre-

serve the appearance of officers at whatever cost, have been forced, in many instances, to incur debts and suffer family privations, which they have endeavored to conceal from the public during the rebellion, with the hope that after its suppression either the cost of the necessities of life would be reduced to its former amount, or that Congress would, in their sense of justice, make such an addition to their pay as would enable them to maintain that appearance before their fellow-citizens and the representatives of foreign countries when abroad which universal sentiment requires of all officers. They therefore pray that Congress will in its wisdom and justice provide for an increase of the pay of the naval officers of the United States. I move that it be referred to the Committee on Naval Affairs.

The motion was agreed to.

Mr. SHERMAN presented a communication addressed to him from the Commissioner of Agriculture, in relation to the subject of cultivating the China grass; which was ordered to be printed, and referred to the Committee on Agriculture.

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Revolutionary Claims, to whom was referred the memorial of Frederick Vincent, administrator of James LeCaze, late of the firm of LeCaze & Mallett, praying for the payment of money advanced during the revolutionary war, submitted an adverse report thereon; which was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 249) to establish a land office in the Territory of Idaho, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, who were instructed by a resolution of the Senate of the 16th ultimo to inquire whether the full Army Register, now in course of publication, has been compiled in accordance with the requirement of the joint resolution approved March 2, 1865, and what will be the cost of such publication, submitted a report accompanied by a joint resolution (S. R. No. 83) respecting the publication of the Volunteer Army Register. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. STEWART. The Committee on Public Lands, to whom was referred a bill (S. No. 128) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, on the navigable waters of the Columbia river, in Oregon, have instructed me to report an amendment in the nature of a substitute; and I will state that the substitute is the House bill on the same subject, with some amendments.

Mr. HOWE. The Committee on Commerce, to whom were referred various petitions of persons engaged in mining and running coal from the Monongahela coal-fields to market on the Ohio and Mississippi rivers, praying for such an amendment of the enrollment act as to exempt from its provisions all coal-boats, coal-barges, and coal-flats which are used exclusively for running coal to market, and are not used for any other purpose, have considered the subject, and have directed me to ask to be discharged from the further consideration of the petitions, and recommend that they be referred to the Committee on Finance; and I will say, if the chairman of the Committee on Finance will give his attention, that there is accompanying the papers a letter from the Secretary of the Treasury recommending that they be exempted from the enrollment and be required to take out a license instead, and it was the opinion of the Committee on Commerce that it should be referred to the Committee on Finance that they might see whether they would issue a license, and if so, whether they would recommend or not that they be exempt from enrollment.

The report was agreed to.

DISCONTINUANCE OF LAND OFFICES.

Mr. POMEROY. The Committee on Public Lands, to whom was referred a bill (S. No. 250) for the discontinuance in certain cases of land offices, and authorizing modifications in the limits of land districts, have instructed me to report it back without amendment, and to recommend its passage.

Mr. WILLIAMS. I would like to have the bill which has just been reported by the Senator from Kansas considered and passed. I trust there will be no objection to it.

By unanimous consent the bill was considered as in Committee of the Whole. Its first section provides that whenever the public land in a State shall have been so nearly sold out as to render unnecessary the continuance of the district office of register and receiver, the Secretary of the Interior may order the transfer to the General Land Office of the land archives belonging to such districts; and in regard to the disposal of any residue of public lands in such districts the Commissioner is to possess all the powers previously possessed by the register and receiver. The second section provides that whenever, in the judgment of the Secretary of the Interior, it shall be advantageous to the public interest to modify the limits of a land district, either by enlarging or diminishing the same, he may cause such modification to be made, giving timely public notice thereof.

Mr. GRIMES. I would inquire what is meant by that last section. Is it intended to confer the power on the Secretary of the Interior to create new land districts?

Mr. POMEROY. It is not. It allows him to change the boundaries, or to consolidate two districts into one; but it does not allow him to make new districts.

Mr. TRUMBULL. Does not that power to change the boundaries already exist?

Mr. POMEROY. It exists so far as regards the State of California, but is not a general law. That is done under a special act allowing the Secretary of the Interior to change the boundaries of land districts in California; but he has not the right to change the boundaries in any other State, or to put two land districts into one in any other State.

Mr. RAMSEY. I think he has that power. At least he has exercised it in our State, for he has consolidated two districts there.

Mr. WILLIAMS. I will state that I applied to the General Land Office for a change in the boundaries of a land district in the State of Oregon, where it was necessary that the boundaries should be changed, and after examination the Department decided that it had no such power, and suggested that a bill of this kind be passed, authorizing the Department to exercise the power. It is at the suggestion of the Department that this bill is introduced and proposed to be passed, so that they may possess the power.

Mr. TRUMBULL. I should like to make another inquiry of the Senator from Kansas. In discontinuing all the land offices in a State where the lands are nearly exhausted, which I think is very proper and ought to have been done long ago in some of the States where there are still land offices, I submit whether provision ought not to be made for keeping the records in the State. When land offices have been consolidated, the books of the land office discontinued have gone to the consolidated office. There is occasion very often to refer to these records, and it will be exceedingly inconvenient in one of the new States, where all the land formerly belonged to the Government and all titles are derived from the Government, if when controversies arise the parties must come to Washington to trace the titles. It seems to me that provision ought to be made for depositing at the State capitals, with the States, the records of the land offices, or in some way for preserving them within the States. Unless that be done, they will exist nowhere except at Washington. I know it is the constant practice in my State, when actions arise involving the title to lands, to apply to the land office for cer-

tificates showing who entered the lands, when they were entered, and whether they were preempted, and so on, and by a statute of our State the certificate of the receiver of public moneys or register of public lands is made evidence, and I presume that is the law generally in the new States. Now, I submit if, instead of transferring the records to Washington, some provision ought not to be made to leave them in the States.

Mr. POMEROY. I will say, in reply to the Senator, that that subject has been for more than a month discussed in the Committee on Public Lands, and at two succeeding meetings the Commissioner of the General Land Office has been before the committee. The very point that the Senator from Illinois now makes was argued before the committee at considerable length. In examining the way the records are kept, both in the General Land Office here and in the various districts, we found that they did not have here duplicates of the certificates of entry. It was at first supposed that if they were brought here to the General Land Office it would be only multiplying papers of the same character; but the Commissioner of the General Land Office says that he now has to send to these various land offices himself to get copies whenever a contest arises in which he is asked to furnish them. It is very strenuously urged, by the General Land Office at least, that the whole of the documents in each case should be deposited here when we close out the land districts in a State. The committee have no feeling about it more than to make our system harmonious, and to accommodate the entry of these lands to the system that they have already adopted. It has been a long time before that committee, and we have been urged for a good while to report it. We hesitated somewhat, but finally concluded to report it as the Commissioner of the General Land Office desired it.

Mr. TRUMBULL. I was quite aware that the Senator from Kansas had no other object in view than the promotion of the public interests. The people of Kansas are just as much interested in this question as those of Illinois. We are all interested alike. Having been engaged somewhat in the practice of the law, I know that we have frequent occasion in those States to resort to the land offices for information, and I am sure it will subject the people to great inconvenience if the only information they can obtain in regard to land titles in their region is from Washington. It is very difficult to get that evidence from the Land Office here. During the present session I have been written to by gentlemen of the bar in my State for information in regard to tracts of land which they said they had written for and could not obtain, and they asked me to interfere and go to the Land Office and see if I could get for them the evidence of the entry of a tract of land or the grant of a tract of land, and when it took place, and to whom it was granted. These are facts that ought to be come-at-able conveniently by the people who are interested. I think the bill had better go over, so that we may have an opportunity to look at it a little more closely.

Mr. POMEROY. I have no objection to its going over; but I submit to the Senator that in a large State like Illinois, where we have reduced all the offices to one, it will be as difficult for the people living at remote districts from Springfield to get the evidence from Springfield as to get it from Washington. They have got to write for it; and if they send to Washington they can get all the evidence in the case, while if they send to Springfield they can only get a part.

Mr. TRUMBULL. You will have to employ a great many new clerks here if they are all to be compelled to come here.

Mr. POMEROY. I have no objection to the bill going over.

Mr. GRIMES. I call the attention of the chairman of the Committee on Public Lands to the phraseology of this bill, from which, if I understand it, nobody can tell whether it applies to a State like Illinois, where there is only one district, or to a State like Iowa where

there are several. It is very inartificially drawn, it seems to me, and ought to be redrafted.

Mr. POMEROY. It is drawn precisely to leave the discretion in the Secretary of the Interior to judge whether a district should be discontinued or not.

Mr. GRIMES. Any district?

Mr. POMEROY. Any district in any State. That is the meaning of it.

Mr. GRIMES. Then, as I understand it, if the Commissioner of the General Land Office chooses to discontinue one of the districts in the State of Iowa, all the archives in regard to that district are to be transferred here.

Mr. POMEROY. No, sir, that is not the bill.

Mr. GRIMES. That is the way it reads.

Mr. POMEROY. Where two districts are consolidated into one in a State they remain in the State; but when the land offices are closed out in a State then the bill provides that the archives shall be sent to Washington.

Mr. GRIMES. It is very likely that is the intention of the Committee on Public Lands, but that is not what the bill will accomplish it it should be enacted into a law.

Mr. CONNESS. I wish to say to the chairman of the Committee on Public Lands, while this bill is up, as it will be further considered at another time, that there is another difficulty connected with this subject, which is, that if these records come to the Land Office here, they will come under the operation of an existing law by which the Land Office is authorized to charge fifteen cents a folio for transcripts of records, which they are asked for, and which are so often needed, and they cannot be obtained without the payment of that sum. The committee should take that provision into consideration, because it is a grievous tax on the public which ought not to be permitted to remain, and it should not be extended by a bill of this kind to bring other records subject to it. Recently, in a case at the Land Office, where a decision was made against one of my constituents, and he was required to file his appeal within a given time, to get the evidence upon which he might make up his case, he was asked to pay fifteen cents a folio, when I was compelled to say that I would call for the evidence and papers in the case, by a resolution of the Senate, unless they were furnished; and then he got access to the papers. There is an existing law which, in my opinion, very much needs repeal or modification, subjecting the people connected with land questions to this enormous tax. It was enacted because of the many demands that were made upon the office, with restricted clerical force, for papers; and the Government finally, in its own behalf, inflicted this enormous tax. I make this suggestion now for the benefit of the committee, so that in the further consideration of this bill that great difficulty and exaction may be cured.

Mr. TRUMBULL. I think there is an existing rule—I know there was at one time—in the land department, which prevented the furnishing of copies of papers there except upon affidavits. I do not know whether there was a law on the subject or not; but I know that at one time the Commissioner of the General Land Office refused to furnish transcripts from the records unless certain affidavits were filed. If a party desirous of purchasing a tract of land wished to ascertain whether it could be safely purchased, it was clogged, before he could get the transcripts of the entry of the land or its grant by Government, with impediments which were very much in the way of the transfer of land. I do not know whether that rule exists now, but I am quite sure that it did some years ago.

Mr. POMEROY. It has been modified by the law to which the Senator from California has referred. Parties may now have transcripts by paying fifteen cents a folio for them. The difficulty which the Senator suggests was modified by the law to which the Senator from California has referred.

Mr. CONNESS. I suggest that it needs further modification.

Mr. WILSON. I thought it was under-

stood that this bill was to go over for further consideration.

The PRESIDENT *pro tempore*. There has been no motion to that effect as yet.

Mr. WILSON. I make that motion.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed until to-morrow.

The motion was agreed to.

INTERNATIONAL OCEAN TELEGRAPH.

Mr. CHANDLER. I submit the following report from a committee of conference, and ask for action upon it now:

The committee of conference on the disagreeing votes of the two Houses on the bill (S. No. 26) entitled "An act to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas," having met, after full and free conference they have agreed to recommend, and do recommend, to their respective Houses as follows:

That the Senate agree to the first amendment of the House of Representatives to the bill, and that it agree to the second amendment of the House with an amendment as follows: at the end of the amendment insert the words, "subject, however, to the power of Congress to alter and determine said rates;" and that the House agree to the same.

Z. CHANDLER,

J. M. MORRILL,

JOHN CONNESS,

Managers on the part of the Senate.

THOMAS D. ELIOT,

CHARLES O'NEILL,

NELSON TAYLOR,

Managers on the part of the House.

The report was concurred in.

SARAH E. PICKELL.

Mr. JOHNSON. Some time since I made a motion to reconsider the vote of the Senate on the bill (H. R. No. 458) granting a pension to Sarah E. Pickell. I move to take up that motion now with a view to refer the bill back to the Committee on Pensions. I do this at the request and with the concurrence of the chairman of that committee.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is on the motion to reconsider the vote of the Senate postponing the bill indefinitely. The motion was agreed to.

The PRESIDENT *pro tempore*. It is now moved that the bill, with the accompanying papers, be recommitted to the Committee on Pensions.

The motion was agreed to.

MILITARY ROAD IN OREGON.

Mr. NESMITH. I move to take up Senate bill No. 99.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 99) granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State. To aid in the construction of a military wagon road from Albany, Oregon, by way of Cargon City and the most feasible pass in Cascade range of mountains, to the eastern boundary of the State, the bill proposes to grant alternate sections of public lands, designated by odd numbers, for three sections in width on each side of said road. The lands granted are to be exclusively applied to the construction of the road, and to be disposed of only as the work progresses; and all lands heretofore reserved to the United States by act of Congress or other competent authority are reserved from the operation of the act, except so far as it may be necessary to locate the route of the road through the same, in which case the right of way is granted.

Mr. CONNESS. I call the attention of the Senator from Oregon to one of the provisions of this bill, which is the grant of the right of way through any reservation for military or other purposes, without subjecting that grant to the approval of anybody whatever hereafter. It would authorize the company to locate the road so as to destroy a reservation for military or other uses; they might run through the heart of it. I apprehend that is not contemplated, and yet it may be done under this provision as

it stands. I suggest that it be amended so as to subject the grant of the right of way through public reservations to the approval of the Department to which the reservation may belong, as the Interior or War Department.

Mr. NESMITH. I suggest to the Senate that the simple grant of right of way cannot very well interfere with any reservation. It does not give any of the land of the reservation for any purpose, but simply the right of way.

Mr. CONNESS. I am aware of that, but the right of way might destroy a military reservation.

Mr. NESMITH. I do not see how that could result simply from a road passing through it.

Mr. CONNESS. It might run through a military post.

Mr. POMEROY. It has been usual to put in that the right of way is granted subject to the approval of the President of the United States, and then he refers it to the proper Department.

Mr. NESMITH. I have no objection to a provision of that sort.

Mr. POMEROY. I suggest to add to the first section of the bill "subject to the approval of the President of the United States," and then he will refer it to whatever Department it comes under. I move that amendment.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

Mr. NESMITH. There is a typographical error in the fifth line of the first section. It is here printed "Cargon City;" it should be "Canyon City."

The PRESIDENT *pro tempore*. That correction will be made.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

STATE DEPARTMENT.

Mr. FESSENDEN. I desire to offer a resolution, and unless it is objected to, I should like to have action upon it now:

Resolved by the Senate, (the House of Representatives concurring.) That the standing committees of the two Houses on Public Buildings and Grounds be instructed to inquire and report what further provisions, if any, should be made for the accommodation of the State Department.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FESSENDEN. The resolution involves very considerably more than appears upon its face; but in drawing it I thought it best to word it as I have done. It is known, I suppose, by everybody, that the north wing of the Treasury extension is in process of being erected. In order to complete it, it will be necessary to take down the building which is at present occupied by the State Department. There is no place provided to which the State Department can go; and I do not know but that it must follow that the work on the Treasury building must be suspended for the want of power to accommodate the State Department. There is no fire-proof building where it would be safe to lodge the very important documents which are there.

It has been suggested to me that there may be great difficulties in carrying out the present plan; but it is very advisable, and very necessary, in fact, that the Treasury building should be completed. It has occurred to me—and I will state this as a suggestion—that we shall be very soon obliged to erect a new Presidential Mansion somewhere; we ought to have a different place from that to be occupied by the President, and a place surrounded by grounds of proper extent. How soon this can be done I do not know, nor do I know what facilities may exist for doing it. In that case, the present Mansion might very well, perhaps, be occupied by the State Department. I merely suggest this. But it is very evident to me that the whole Treasury building will be needed for the accommodation of the Treasury Department itself. For instance, the Internal Revenue Bureau is now in a building on the other side of the street, which is not a fire-proof

building, and a fire in that building and a loss of all the papers there would involve infinite confusion and difficulty.

The whole subject is one that has really got to a point that presses upon the consideration of Congress to make the proper provision for the Departments and for the safety of the important papers in the different Departments, and it is high time, in my judgment, that the whole matter should be deliberately considered by Congress. I have thought, therefore, that the better way was simply to call the attention of the Committees of the two Houses on Public Buildings and Grounds to the subject with regard to the State Department, which when they come to investigate they will find involves the consideration of the whole subject, which cannot be, in my judgment, any longer delayed. I therefore hope that the resolution will be adopted in order that the matter may be considered.

Mr. SUMNER. I am glad that the Senator from Maine has called attention to this subject. It has occupied something of my thoughts during this whole session. No one can visit the State Department without seeing that the building is, if I may so express myself, on its last legs; that it will not continue long. It is old itself, but it must give way, as the Senator suggests, to the Treasury building; and all that space, I presume, will be needed for the purposes of the Treasury building. The question, then, is where we shall place the State Department. I have heard it suggested that it should be transferred to the present Mansion of the President; but there is one remark to make upon that, that Mansion is not fire-proof.

Mr. FESSENDEN. It can be made so, I understand.

Mr. SUMNER. I have heard that suggested, and still again I have heard it doubted. I merely throw that out as something which of course the committee or the authorities who have it in charge must most carefully consider, for we should all start with the idea that the State Department must be placed in a fire-proof building. There are all the archives of the Government from the beginning except some few, and they are in reasonably good preservation. There are also the original treaties, and with regard to these I have often thought myself, and have sometimes thought of introducing a joint resolution to that effect, that it would be advisable to have them transferred to the museum at the Patent Office. They are essentially curiosities. As they are now published in the Statutes-at-Large, they are not of essential importance as records, but they are very curious, for instance, for a visitor or a traveler who comes to Washington. They ought, however, all will see, to be in some place that is fire-proof. I therefore assume that the building which we shall have must be fire-proof, and the practical question will be, whether the President's Mansion could be put in such condition. I do not know whether it could or not; but if it could, it certainly would be very favorable for the purposes of the State Department, central, accessible; but as the Senator from Maine says, that of course would entail the building of a Mansion for the President himself. I think all have foreseen that we must do that very soon, and I am very glad that attention is called to the question.

The resolution was agreed to.

PACIFIC RAILROAD—SIOUX CITY BRANCH.

Mr. HOWARD. I move to take up Senate bill No. 109, relating to the Sioux City branch of the Pacific railroad.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 109) to rescind the order of the President designating the Sioux City and Pacific Railroad Company to construct the branch of the Union Pacific railroad from Sioux City; the pending question being on the amendment of Mr. GRIMES.

Mr. SUMNER. I see that the Senator from Iowa [Mr. KIRKWOOD] who was to speak on

this question when it was last up is not now in his seat. I remember perfectly well he was about to speak because we had a little conference on the subject. He is not now in his seat.

Mr. HOWARD. I mentioned to him yesterday that I should call it up at the first opportunity.

Mr. SUMNER. Perhaps he did not expect it before next week.

Mr. HOWARD. I do not know how that may be.

The PRESIDENT *pro tempore*. The pending amendment will be read.

Mr. GRIMES. The amendment is to strike out all after the enacting clause. I suggest to the Senator from Michigan that he let the bill lie over until my colleague shall be present.

The PRESIDENT *pro tempore*. Does the Senator move to postpone the further consideration of the bill?

Mr. GRIMES. I suppose the Senator will not press it in my colleague's absence.

Mr. HOWARD. Not if he wants to speak.

Mr. GRIMES. I understood he did. I have not had any conference with him since the bill was under consideration before; but I understand the Senator from Massachusetts has had.

Mr. SUMNER. I have had; and he told me he should speak.

Mr. HOWARD. Let it lie over.

Mr. GRIMES. I move to postpone the further consideration of the bill until tomorrow.

The motion was agreed to.

JOHN ERICSSON.

Mr. ANTHONY. I move that the Senate proceed to the consideration of Senate bill No. 274.

The motion was agreed to; and the bill (S. No. 274) for the relief of John Ericsson was read the second time, and considered as in Committee of the Whole. Its purpose is to direct the Secretary of the Treasury to pay to John Ericsson the sum of \$18,930, in full for his services in planning the United States war steamer Princeton, and planning and superintending the construction of the machinery of that steamer.

The bill was reported to the Senate without amendment.

Mr. CONNESS. I should like to hear some explanation of the bill.

Mr. ANTHONY. The Senator from California desires some explanation. I will make it very briefly. This is the compensation awarded by the Court of Claims to John Ericsson for his services in planning the steamer Princeton. The bill is accompanied by a lengthy report from the Court of Claims. The committee have examined the case and have no doubt of the justice of the claim.

Mr. CONNESS. That is satisfactory.

Mr. ANTHONY. Mr. Ericsson has been too busy in building a navy for us to press it himself here.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

USE OF THE HALL.

Mr. DIXON. I wish to enter a motion to reconsider the vote by which the Senate yesterday rejected the resolution granting to Mrs. Walling the use of the Chamber.

The PRESIDENT *pro tempore*. The motion will be entered.

JOSEPH NOCK.

Mr. RAMSEY. I move to proceed to the consideration of Senate joint resolution No. 71, a small resolution referring some papers to the Court of Claims.

The motion was agreed to; and the joint resolution (S. R. No. 71) referring the petition and papers in the case of Joseph Nock to the Court of Claims was read the second time, and considered as in Committee of the Whole. By its provisions the claim of Joseph Nock for damages occasioned by the annulment of his contract for furnishing locks and keys for the use of the United States mail, and also for the

use of Nock's patent in the manufacture of mail locks subsequent to such annulment, will be referred to the Court of Claims for its decision, in accordance with the principles of equity and justice; but the court is not to render judgment for a greater sum than is contained in the report of Solicitor Comstock to the Senate, dated December 22, 1852.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WEST VIRGINIA MILITARY CLAIMS.

Mr. VAN WINKLE. I move to take up for consideration Senate bill No. 230.

The motion was agreed to; and the bill (S. No. 230) to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion, was read the second time, and considered as in Committee of the Whole.

It proposes to authorize the President to appoint a commissioner to ascertain the amount of moneys expended by the State of West Virginia in enrolling, supplying, equipping, subsisting, transporting, and paying such State forces as have been called into service in that State since the 20th day of June, 1861, to act in concert with the United States forces in the suppression of rebellion against the United States. The commissioner is to examine all the expenditures made by the State for the purposes named, allowing only for disbursements made and amounts assumed by the State for enrolling, equipping, subsisting, transporting, supplying, and paying such troops as were called into service by the Governor, at the request of the United States department commander commanding the district in which West Virginia may at the time have been included, or by the express order, consent, or concurrence of such commander, or which may have been employed in suppressing rebellion in said State. No allowance is to be made for any troops which did not perform actual military service in full concert and cooperation with the authorities of the United States and subject to their orders. From the aggregate amount found to be due, the commissioner is to deduct the amount of direct tax due by the State to the United States under the act entitled "An act to provide increased revenue from imports, pay interest on the public debt, and for other purposes," approved August 5, 1861.

In the adjustment of accounts the commissioner is not to allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases. If from his report it shall appear that any sum remains due to the State, the Secretary of the Treasury is to draw his warrant for the same, payable to the Governor of the State, and deliver it to him. The commissioner before proceeding to the discharge of his duties is to be sworn that he will carefully examine the accounts existing between the United States and the State of West Virginia, and that he will to the best of his ability make a just, true, and impartial statement thereof, as required by this act. He is to receive such compensation for his services as may be determined by the Secretary of the Treasury. The sum of \$368,548 37 is appropriated to carry the act into effect.

Mr. VAN WINKLE. I ask that the report of the Military Committee in this case be read.

The Secretary read the following report, which was submitted by Mr. NESMITH on the 27th of March:

The Committee on Military Affairs and the Militia, to whom was referred the joint resolution of the Legislature of West Virginia, adopted February 17, 1866, "to secure an appropriation by Congress for the payment of certain military claims created in that State during the war," have had the same under consideration, and beg leave to report:

That from an examination of official documents and vouchers, together with the statement of Governor Arthur I. Boreman and Adjutant General Peirpoint, it appears that the State of West Virginia did incur liabilities in defending that State against the

rebels and guerrillas during the rebellion, as follows:

1. For moneys paid to independent companies, the sum of.....	\$213,988 42
2. For moneys appropriated for payment of militia.....	142,645 12
3. For appropriations for supplying militia while in service.....	3,271 88
4. For subsisting and equipping volunteer recruits mustered into service of the United States.....	1,592 10
5. For money paid to Upshur county militia while prisoners.....	6,950 85
Total.....	\$368,548 37

The necessity for the foregoing expenditures may be briefly stated:

The first class above mentioned were independent companies, numbering from twenty-five to seventy-five men, with one commissioned officer, organized in the border counties of the State, with instructions and orders to cooperate as far as practicable with the United States forces, and to keep down and suppress lawless bands of guerrillas or partisan rangers, then continually infesting such counties, under authority of the so-called Confederate government, for purposes of plunder and conscription. The services rendered by these companies were of great value and importance to the United States troops stationed near the border, acting, as they did, as scouts and guides through the mountains, and in furnishing information of the operations and movements of the enemy in their front. Being citizens and residents of the country in which they were required to operate, they were much more efficient for the purposes mentioned than the United States troops could have been. During the existence of these organizations many favorable notices of their services were received from military commanders within the department. The duty performed by them was of the most arduous and dangerous character, and they were only paid for the time actually on duty.

The second class mentioned is for services rendered by the militia of the State when called into actual service. The principal portion is for services rendered by six companies in the southwestern portion of the State, organized by authority of Governor Peirpoint, under the restored government of Virginia, in 1862. These companies were in the service continuously for nearly nine months, supplied with arms and ammunition, but furnishing their own clothing and subsistence. They were for the greater part of the time under the command and subject to the orders of Brigadier General Julius White, then commanding the district of east Kentucky, and other officers in the United States service in that district. Of these companies General White makes the following indorsement upon their muster and pay-rolls: "I had frequent and valuable services from these companies, and believe the time charged upon these rolls has been fairly and honestly estimated, and ought to be paid." This indorsement is also concurred in by Hon. Laban T. Moore and by Colonel John L. Zeigler, late of the fifth Virginia infantry volunteers. The remaining portion of this class is for services rendered by the militia for shorter periods, and were called out usually at the suggestion of the department and district commanders to act in concert with the United States troops in maintaining peace against guerrillas and in repelling hostile invasion.

Of the necessity for the service of the independent companies and militia mentioned it may be said to have been absolute. West Virginia was a border State, and her territory a matter of continual controversy from the commencement to the end of the rebellion; and while it was no doubt the intention of the General Government to furnish protection to the loyal people, yet from the nature of the warfare which existed there, the United States troops stationed within the State were inadequate for their protection, and without the assistance rendered by the militia of the State a large portion of the territory must have been abandoned, thus transferring the border from the mountains of West Virginia to the Ohio river or beyond it.

Of the other classes of claims it is, perhaps, unnecessary to speak. Suffice it to say, the subsistence and supplies charged for were furnished by the citizens of the State when the militia were called into service, and when they could not be supplied by the State or the United States Government.

The company of militia were organizing and drilling, when it was attacked by a superior force of the enemy, and sixty-eight of the company were captured and carried to southern prisons, forty-five of whom died while in prison. The surviving members of the company and the families of those who died in prison were paid thirteen dollars per month only from the date of capture to the date of death or release from prison.

The committee reporting the accompanying bill recommend its passage.

Mr. VAN WINKLE. It is not necessary to add more than a few words to the report of the committee. The bill in form is the same as the bill that passed the Senate for the relief of the State of Missouri, while the amount of the claim is much less. The whole amount that can be paid to West Virginia under the bill is only \$368,000. The facts set forth in the report sufficiently show that this expense was incurred in repelling the invasion of the State, and in carrying on the war on the part, as it were, of the United States. Those troops were at all times under the command of United States officers, subject to be called on by them, and were

frequently called out by them. I have in my hand letters and dispatches from major generals, brigadier generals, and colonels, United States officers, calling the troops into requisition. The report sets forth an indorsement made on the pay-rolls by General White in reference to the efficiency of the service of these troops, and expressing his opinion that the time charged for is not excessive. The principal charge is for the services of certain independent companies which were raised with the approbation of the President and the War Department, and were armed and equipped by the War Department, and subsisted by the Department, but who otherwise were at the expense of the State. No monthly pay was ever made to them by the General Government; and I have among the papers an order from the Secretary of War directing their disbandment at the close of the war, which shows that they were recognized as troops on the part of the United States.

The service in West Virginia, as is known to most Senators, was very peculiar. The whole State is made up of spurs of the Alleghanies, and consequently is a succession of high ridges, perhaps from one end of the State to the other. The people of that country, accustomed to these mountain paths, find their way in them at any time; but the service that was necessary there to protect the borders from invasion was a very unwilling service on the part of other troops who were called on to perform it. The fact is they were in great danger of their lives. They were in danger of being lost in the mountain paths, and by the peculiar knowledge of those to whom they were opposed in such a country they were in more danger than men would be under ordinary circumstances. These independent companies, therefore, were raised for this service. They took charge mainly of the frontier. They kept the State from being invaded and the property of everybody plundered and carried off, and they were also, as is fully stated in the papers, of immense service to the regular United States troops, in acting as scouts and furnishing them information.

It is proper to state, also, that the Government were hardly, at any time during the war, able to furnish us sufficient troops for our protection, and that these troops were raised for that purpose. It is within my personal knowledge that owing to some exigency arising in the military service elsewhere the troops were withdrawn from our whole frontier; even the troops guarding the railroad were withdrawn, and their places supplied by militia.

But, sir, these papers come before Congress in such a way that I think I need not enlarge much on the subject. The Legislature of West Virginia appointed a commission of respectable and highly intelligent gentlemen to investigate all these claims; and while the State has paid in excess of the sum named in the bill some sixty or seventy thousand dollars, yet, not deeming those accounts as formal as they should be, they have not sent them here for payment.

I may state, also, that this is the only claim that West Virginia has against the Government. While there are now pending in the two Houses claims from other States, amounting in some cases to millions of dollars, for organizing and putting in motion their troops, West Virginia has no such claim. It is known that she furnished to the volunteers of the Army, independent of these troops whose payment is now asked for, thirty-three thousand men, equal, when reduced to three years' men, to twenty-seven thousand, while a great portion, one third, perhaps, of her population were inimical to the Government. She has had these extra claims, if they may be so considered, thoroughly examined. The papers are all in regular order. They have been made out on United States blanks, and I apprehend that the commissioner who is to be appointed under this bill will have no difficulty in adjusting the claims satisfactorily.

The Senate will remember that this is not a

final appropriation for this matter. These claims are all to come before a commissioner appointed, I believe, by the War Department, who will examine them thoroughly. The whole amount is but \$368,000, if we get it all; and as we have within a few days passed a bill in favor of Missouri, and another in favor of Pennsylvania, and another in favor of Kansas, I trust the Senate will be disposed to look with favor on this application of West Virginia.

Mr. FESSENDEN. I may be mistaken, but I thought from the reading that the appropriation in the bill was something over six hundred thousand dollars.

Mr. VAN WINKLE. Three hundred and sixty-eight thousand and some odd dollars.

Mr. FESSENDEN. What is the total appropriation?

Mr. NESMITH. Three hundred and sixty-eight thousand five hundred and forty-eight dollars and thirty-seven cents.

Mr. FESSENDEN. I understood it to be read \$600,000. I will inquire, for I did not hear the details of the bill read, whether it is guarded with regard to the rates of payment of these troops, so as to bring it within military rules and the rules of the Department.

Mr. VAN WINKLE. The sum that has been paid to these companies is but thirteen dollars a month. That is to pay them for their time. Then there is a small charge, not amounting to \$5,000, for subsistence furnished by the State to these troops. Then there is a charge for a company which, while drilling for the first time, I believe, were surprised and carried off—sixty-eight in number, of whom forty-five perished in the prisons of the South. The State paid those men from the time of their capture until their death or release from captivity at the same rate, —thirteen dollars a month.

Mr. FESSENDEN. The Senator did not understand me. I inquired if there was any provision by which the rates would be brought within the principles established by the War Department.

Mr. NESMITH. With the permission of the Senator from West Virginia, I will state that the fourth section of the bill provides—

That in the adjustment of accounts under this act, the commissioner shall not allow for any expenditure or compensation for service at a rate greater than was at the time authorized by the laws of the United States in similar cases.

That fixes the amount in relation to that. Then the third section provides:

That in making up said account, for the convenience of the accounting officers of the Government, the commissioner shall state separately the amounts expended, respectively, for enrolling, equipping, arming, subsisting, transporting, and paying said troops, and from the aggregate amount he shall deduct the amount of direct tax due by the said State to the United States, under the act entitled "An act to provide increased revenue from imports, pay interest on the public debt, and for other purposes," approved August 5, 1861.

This claim was referred to me by the Committee on Military Affairs for investigation, and I took very great pains to examine into all the details in connection with it. I examined the vouchers and the statements of the officers of West Virginia. The vouchers were very much in detail. I had not an opportunity of examining them all, but they were made out on blank forms furnished by the War Department; and I must say that I have never examined a set of papers which appeared to be more carefully made out and more perfect in all their details.

Mr. FESSENDEN. I am entirely satisfied. The object of my inquiry was simply to find out whether the case was brought within the ordinary rules of the service.

Mr. NESMITH. It was thoroughly examined in all those respects. I will state that the item of \$6,950 85 was the only point that I discovered in all the investigation about which there could be any possible doubt, and I think that that is a matter which will appeal to the humanity of every member of this body. Six thousand nine hundred and fifty dollars and eighty-five cents was appropriated and paid by the Legislature of West Virginia to the families of a company of militia who were captured by

the enemy and confined in southern prisons. The report says:

"The company of militia were organizing and drilling, when it was attacked by a superior force of the enemy and sixty-eight of the company were captured and carried to southern prisons, forty-five of whom died while in prison. The surviving members of the company, and the families of those who died in prison, were paid thirteen dollars per month only from the date of capture to the date of death or release from prison."

Mr. HENDERSON. I believe this is an exact copy of the bill as originally prepared by me in the Missouri case, with the exception of the number of commissioners. It was originally prepared with three, but I preferred to have but one. The House of Representatives, however, when that bill passed inserted three commissioners, and also added another amendment, of which I do not recollect the precise language, but I know they required the report to be submitted to the accounting officers of the Treasury. Inasmuch as the bill would probably be amended in the House so as to make it correspond with the Missouri bill, and inasmuch as the Missouri bill passed in that way, and it will be nothing more than just to submit these claims to the same scrutiny, I will offer an amendment to insert after line five of section five these words:

Who shall cause the same to be examined by the proper accounting officers of the Treasury, and said officers shall audit the accounts as in ordinary cases.

So that the section will read:

That so soon as said commissioner shall have made up said account and ascertained the balance, as herein directed, he shall make written report thereof, showing the different items of expenditure, as hereinbefore stated, to the Secretary of the Treasury, who shall cause the same to be examined by the proper accounting officers of the Treasury, and said officers shall audit the accounts as in ordinary cases, and if from said report it shall appear that any sum remains due to the said State, he shall draw his warrant for the same, payable to the Governor of said State and deliver it to him.

Mr. VAN WINKLE. I accept the amendment.

Mr. DOOLITTLE. I suggest that the language should be, "in ordinary cases as if the same troops had been mustered into the service of the United States."

Mr. HENDERSON. There is no necessity for that. The Senator will see in the second section that it is sufficiently guarded in that point. There can be no allowance under this bill for troops that were not called out by the United States commanders, or did not perform service under them. If the Governor called out troops they are not to be paid. I think the bill is correct and ought to be passed. I think that where United States commanders called out the militia of any State and forced them to do service, and then required the State to pay those troops, the General Government ought to pay the State. It is nothing but just to West Virginia; and with the amendment I have suggested, I think the bill ought to pass. The words "said report" in the sixth line of the fifth section should be changed to "their reports;" so as to read, "and if from their reports it shall appear;" and then the bill will be correct.

The PRESIDENT *pro tempore*. It is moved to amend the bill by inserting at the end of line five of section five, the words, "who shall cause the same to be examined by the proper accounting officers of the Treasury, and said officers shall audit the accounts as in ordinary cases;" and in line six by striking out the words "said report" and inserting "their reports."

Mr. POMEROY. The bill in relation to Kansas, I believe, had the same provision in it; I think it ought to be in at any rate. I do not know but that all the bills on this subject have had the same provision.

Mr. DOOLITTLE. The language of the Kansas bill was that they were to be paid "as if they had been mustered into the service of the United States." The only question which arose in my mind was whether the accounting officers of the Treasury, who are very technical as to the law, would raise any question about

their not having been actually mustered into the service of the United States.

Mr. HENDERSON. Certainly not.

Mr. POMEROY. I think this amendment embodies substantially the same thing.

Mr. DOOLITTLE. Very well.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Missouri.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

POST OFFICE APPROPRIATION BILL.

Mr. POLAND. I offer the following order, and ask for its present consideration:

Ordered, That the Secretary be directed to request the House of Representatives to return to the Senate the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, which passed the Senate with amendments, and was sent to the House of Representatives for its concurrence in the said amendments.

There being no objection, the Senate proceeded to consider the order.

Mr. SUMNER. What is the object of it?

Mr. POLAND. To reconsider the Post Office appropriation bill.

Mr. SHERMAN. Such an order, I believe, is always agreed to, as a matter of course, so as to allow a Senator to exercise his privilege of moving a reconsideration.

Mr. SUMNER. Might we not meet the question now?

Mr. SHERMAN. I am perfectly willing to meet it to-day if the bill comes back at once.

Mr. SUMNER. Might we not meet it now on this motion?

Mr. SHERMAN. I think not; that is unusual. If the Senator should move a reconsideration, I should like to have it disposed of to-day.

Mr. SUMNER. I only make the suggestion with a view to the economy of time, that we should not call the bill back needlessly. If on this proposition the Senator from Vermont will state the grounds on which he desires a reconsideration, we might then act on his proposition, and practically pass upon the question of reconsideration.

Mr. MORRILL. But in the mean time they might act upon the bill in the House of Representatives.

Mr. POLAND. I supposed that this motion was always agreed to as a matter of course.

Mr. JOHNSON. The honorable member from Vermont might lose the privilege which our rules give him of moving to reconsider unless we get the bill back speedily. The House may pass upon it, and there would be an end of it.

Mr. POLAND. I am not very familiar with the course of business in the Senate, but I understood that a resolution of this sort was always passed as a matter of course prior to a reconsideration.

The order was adopted.

Mr. SHERMAN. The motion to reconsider, if entered at all, must be entered to-day under the rules.

Mr. SUMNER. The Senator from Vermont did not state the grounds of his motion to reconsider, or does he merely give notice of such a motion?

The PRESIDING OFFICER, (Mr. CLARK in the chair.) No motion to reconsider can be entered until the bill is returned from the House: and debate is out of order.

Mr. POLAND. I supposed it was not proper to move to reconsider until the bill was returned. I will then state the grounds on which I shall make the motion.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed the bill (S. No. 155) concerning the boundaries of the State of Ne-

vada, with an amendment; in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed without amendment the bill (S. No. 74) for the admission of the State of Colorado into the Union.

The message also announced that the House of Representatives had passed the following bills and joint resolution; in which it requested the concurrence of the Senate:

A bill (H. R. No. 179) amendatory of the organic act of Washington Territory;

A bill (H. R. No. 202) to amend an act entitled "An act to provide a temporary government for the Territory of Montana," approved May 26, 1864; and

A joint resolution (H. R. No. 32) to facilitate communication with certain Territories.

BOUNDARIES OF NEVADA.

Mr. NYE. I ask the Senate to take up the bill (S. No. 155) concerning the boundaries of the State of Nevada, which has just been returned from the House of Representatives with an amendment, with a view of concurring in that amendment.

Mr. SHERMAN. I should like to hear what it is about.

Mr. NYE. It is a simple amendment added by the House to our boundary bill, reserving the rights of those who have located mines in the territory about to be incorporated into Nevada.

The motion was agreed to; and the Senate proceeded to consider the amendment of the House of Representatives, which was to add at the end of the bill the following:

And provided further, That all possessory rights acquired by citizens of the United States to mining claims, discovered, located, and originally recorded in compliance with the rules and regulations adopted by miners in the Pah Rangat or other mining districts in the Territory incorporated by the provisions of this act into the State of Nevada, shall remain as valid subsisting mining claims: but nothing herein contained shall be construed as granting a title in fee to any mineral lands held by possessory titles in the mining States and Territories.

Mr. WADE. I hope that amendment will be concurred in.

The amendment was concurred in.

INTER-STATE INTERCOURSE.

Mr. SUMNER. I move that the Senate proceed to the consideration of House bill No. 11.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States.

Mr. HOWARD. Mr. President, I shall take the liberty of detaining the Senate a few minutes in the consideration of this bill, and but a few, for I see about me a disposition to come to a final vote upon it as soon as practicable. The bill provides—

That every railroad company in the United States, whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, connections, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination: *Provided*, That this act shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road.

I thought, Mr. President, when I first read this bill, that its provisions were so plain and so evidently within the scope of the constitutional powers of Congress that it would be difficult for any gentleman, however ingenious, to raise a doubt as to its constitutionality; but like many other bills which we have had under consideration during the present Congress, as well as in former Congresses, this has encountered a very earnest and obstinate resistance, founded upon the idea that it is prohibited by the Constitution; and the honorable Senator from Maryland [Mr. JOHNSON] in very deprecatory tones, and almost in accents of despair

at the prospect of its passing the Senate, says to us that if we are thus to amend or endeavor to amend from time to time the Constitution of the United States, that if one Congress after another may encroach upon its provisions, we may as well have no Constitution. Undoubtedly, sir, the convictions of that honorable Senator of the unconstitutionality of this measure are very deep and strong. I could wish for the sake of the bill and the country that we could have his full and free concurrence, for I know, and so does the country, that his opinion upon so grave a question is entitled to and receives very great respect. Still, sir, after listening with much attention to his eloquent and ingenious argument against the bill, I have failed to be convinced by it of the unconstitutionality of the measure. On the other hand, I hold it to be strictly within the constitutional power of Congress, and to be a very expedient and necessary act for us to pass at this time; and I regret that so great a length of time has passed without such a Federal statute as this for the protection of the people of the different States of the Union in their commercial transactions.

The honorable Senator from Maryland informs us that this is an attempt to alter, to modify, and even to enlarge a State charter, and he accuses us of an attempt to override the just and legitimate powers of the States in reference to the creation of corporations for commercial purposes. In order that I may do him no injustice in this respect, I will take the liberty of reading from the Globe a single passage which states more clearly than I am able to do his first ground of objection. He says:

"In the first place, what the bill does is to enlarge a charter granted by a State; it is amendatory to a State charter. It assumes, as vested in Congress, therefore, the power to take into its own hands the charters granted by the several States, and to modify them just as they think proper, not only by extending the authority which the charter may grant, but if, in the judgment of Congress, at any time hereafter, or now, any of the restrictions in those charters are calculated to interfere with commerce between the States, or to impede the transportation of the mails, they have the authority to repeal, practically, any of the limitations in the charter or any of the powers conferred upon the company by the charter."

Now, sir, with great deference to that opinion, I insist that this bill does not assume to alter or amend in any legal respect any charter granted by a State.

The honorable Senator observed further—and he will pardon me for saying that I think in rather unguarded terms—that in enacting a charter of incorporation, it is the right of every State to annex to that charter such terms and conditions as the State pleases to annex; and therefore it follows, according to him, that if, for instance, the State of New Jersey shall enact a charter which prohibits the carrying on of "commerce among the States" by any person or by corporation within the limits of that State, inasmuch as this is a condition annexed to the charter, Congress cannot interfere to relieve the people of the other States who are trading and trafficking through New Jersey from the impediment thus created.

This appears to be the essence of his argument: that a State has a right to annex any condition which it may see fit to its charters of incorporation, and that it is out of the power of Congress, by any act of theirs, to relieve the community from such condition, however severe and unjust it may be in its effects upon the citizens of other States. On that point I take issue with the honorable Senator from Maryland. Sir, a charter of incorporation for commercial purposes, granted by the Legislature of a State to private persons, has ever been held by the Supreme Court of the United States to be a contract—a contract inviolable on the part of the State. It is, then, like any other contract or compact between individuals; the State being the party of the first part, and the corporators, after having accepted the charter, the parties of the second part. In the present case, the question is whether a State, by its legislation, either in the form of incorporating private companies or otherwise, can take into its hands and

control a power which does not belong to the State, but which belongs exclusively to Congress under the Constitution.

I think the honorable Senator will concede that if the matter of commerce, either foreign or among the States, be one which belongs not to the States at all but exclusively to Congress under the Constitution; if a State charter assumes in any way whatever to control, to burden, to hinder, or to prevent commerce among the States or commerce with a foreign country; if it annexes such a condition as this which I have described to its charter of incorporation, that condition is void in law, because the State has no authority whatever to annex such a condition to its charter. That portion of the charter, therefore, which assumes to control commerce among the States or commerce with a foreign country is void in law for the want of authority on the part of the State to exercise it. It is simply an attempt to exercise a power and authority on the part of the State Legislature *ultra vires*—not within the scope of its power, but belonging exclusively to the Congress of the United States.

What, then, is the character of commerce as defined by the Constitution, whether known as foreign commerce or commerce among the States, for in law there is no difference whatever? I assert that it has been held over and over again by the highest judicial authorities of the land that the power over commerce of either kind pertains exclusively to Congress, and does not belong at all to the States.

The Senate will pardon me for refreshing their recollection by certain references to adjudged cases. As the Senator from Maryland has indulged rather freely in such references he certainly will pardon me for imitating his example. I call his attention to certain passages which I will now read from what are known as the "passenger cases," decided by the Supreme Court of the United in 1848. I read from the opinion given by Judge McLean in those cases in which he groups together previous opinions. On page 125 of 17 Curtis's Condensed Reports, Judge McLean quotes the language of Chief Justice Marshall in *Gibbons vs. Ogden*, where he says:

"The power over commerce with foreign nations and among the several States is vested in Congress as absolutely as it would be in a single government having in its constitution the same restrictions," &c.

Again, he quotes from the same opinion of Marshall:

"Where, then, each government exercises the power of taxation, neither is exercising the power of the other; but when a State proceeds to regulate commerce with foreign nations, or among the several States, it is exercising the very power that is granted to Congress, and is doing the very thing which Congress is authorized to do."

Again, says Judge McLean:

"And Mr. Justice Johnson, who gave a separate opinion in the same case, observes: 'The power to regulate commerce here meant to be granted, was the power to regulate commerce which previously existed in the States.' And again: 'The power to regulate commerce is necessarily exclusive.'"

"In *Brown vs. The State of Maryland*, 12 Wheat., 446, the court say: 'It is not, therefore, matter of surprise that the grant of commercial power should be as extensive as the mischief, and should comprehend all foreign commerce and all commerce among the States.' This question, they remark, 'was considered in the case of *Gibbons vs. Ogden*, in which it was declared to be complete in itself, and to acknowledge no limitations.' And Mr. Justice Baldwin, in the case of *Groves vs. Slaughter*, 15 Peters, 511, says: 'That the power of Congress to regulate commerce among the several States is exclusive of any interference by the States, has been, in my opinion, conclusively settled by the solemn opinions of this court, in the two cases above cited. And he observes: 'If these decisions are not to be taken as the established construction of this clause of the Constitution, I know of none which are not yet open to doubt.'"

"Mr. Justice Story, in the case of *New York vs. Miln*, 11 Pet., 158, in speaking of the doctrine of concurrent power in the States to regulate commerce, says, that 'in the case of *Gibbons vs. Ogden*, it was deliberately examined and deemed inadmissible by the court. Mr. Chief Justice Marshall, with his accustomed accuracy and fullness of illustration, reviewed at that time the whole ground of the controversy; and from that time to the present the question has been considered, so far as I know, at rest. The power given to Congress to regulate commerce with foreign nations and among the States, has been deemed exclusive from the nature and objects of the power, and the necessary implications growing out of its exercise.'"

* At page 147 of the same volume will be found this passage from the opinion of Mr. Justice Wayne, in the passenger cases:

"Keeping, then, in mind what commerce is, and how far a nation may legally limit her own commercial transactions with another State, we cannot be at a loss to determine, from the subject-matter of the clause in the Constitution, that the meaning of the terms used in it is to exclude the States from regulating commerce in any way, except their own internal trade, and to confide its legislative regulation completely and entirely to Congress. When I say completely and entirely to Congress, I mean all that can be included in the term 'commerce among the several States,' subject, of course, to the right of the States to pass inspection laws in the mode prescribed by the Constitution, to the prohibition of any duty upon exports, either from one State to another State, or to foreign countries, and to that commercial uniformity which the Constitution enjoins respecting all that relates to the introduction of merchandise into the United States, and those who may bring it for sale, whether they are citizens or foreigners, and all that concerns navigation, whether vessels are employed in the transportation of passengers or freight, or both; including also, all the regulations which the necessities and safety of navigation may require."

I read, also, upon the subject of the exclusive character of the commercial power in the Constitution, from the second volume of Story's Commentaries, sections 1062 and 1063:

"In short, in a practical view, it is impossible to separate the regulation of foreign commerce and domestic commerce among the States from each other. The same public policy applies to each; and not a reason can be assigned for confiding the power over the one which does not conduce to establish the propriety of conceding the power over the other. The next inquiry is whether this power to regulate commerce is exclusive of the same power in the States or is concurrent with it."

Upon this subject I desire the attention of Senators. It is sometimes said that there is a commercial power in the States connected either with foreign commerce or with commerce among the States, which is to be regarded as concurrent with the power of the General Government over the same subject-matter. I wish to make myself understood on this point. The principle is, that the commercial power as granted in the Constitution is not even concurrent in any form or degree with the power of the States, but that it is absolutely exclusive in all cases.

Mr. MORRILL. While the Senator is upon that point, I will ask him if he recognizes the principle in the Delaware case, the case of *Wilson vs. The Blackbird Creek Company*, where the court settled that the power might be exercised by the States if jurisdiction had not been taken by the United States, and that to that extent it was concurrent.

Mr. HOWARD. It is some time since I examined the Blackbird creek case to which the Senator from Maine alludes; but I think upon a careful perusal and consideration of that case he will find that no such conclusion can be drawn from the rulings of the court. If the Senator will have the goodness to look at the comments upon the rulings in the Blackbird creek case, to be found in the passenger cases, he will discover that the Supreme Court in the latter cases did not so construe them. There were some peculiar circumstances connected with the Blackbird creek case which have no real relation to the question now under consideration.

Mr. MORRILL. As the Senator says the facts are not fresh in his recollection, he will allow me to state that that was a case of navigable waters open to the sea in the State of Delaware. The State of Delaware, through her Legislature, had exercised the right of damming that creek, and that raised the question of jurisdiction. The Supreme Court held that although it was navigable water and open to the sea, and undoubtedly on general principles would be within the jurisdiction of the United States, still as the United States had not exercised authority over it, the State might not improperly exercise such authority, and her authority would be good and valid until the United States did intervene. I think I recollect distinctly the case.

Mr. HOWARD. But I think the Senator will find that in the same decision the court recognized the principle that the State of Del-

aware could not obstruct the navigation of that creek by any structure that she might make. I do not remember particularly about that, but I think the Senator will discover that his Blackbird creek case has very little relation to the question now before us.

In commenting upon the commercial power, Judge Story remarks in his Commentaries, section 1063:

"The next inquiry is, whether this power to regulate commerce is exclusive of the same power in the States or is concurrent with it. It has been settled upon the most solemn deliberation that the power is exclusive in the Government of the United States. The reasoning upon which this doctrine is founded is to the following effect: the power to regulate commerce is general and unlimited in its terms. The full power to regulate a particular subject implies the whole power, and leaves no *residuum*. A grant of the whole is incompatible with the existence of a right in another to any part of it. A grant of a power to regulate necessarily excludes the action of all others, who would perform the same operation on the same thing. Regulation is designed to indicate the entire result applying to those parts which remain as they were, as well as to those which are altered. It produces a uniform whole, which is as much disturbed and deranged by changing what the regulating power designs to have unbounded as that on which it has operated."

Now, sir, if such be the character of the commercial power as conferred upon Congress by the Constitution, if it be in reality an exclusive power, as it has been decided to be by the Supreme Court in numerous instances, it was given to Congress for some beneficial purpose, and given with the intent that Congress, on all proper occasions, should exercise it. If it be given thus exclusively, and if the whole of it has been given, as Mr. Justice Story argues that it has been, I ask the honorable Senator from Maryland, and the honorable Senator from Maine, who takes the same ground in opposition to this bill, upon what principle is it that a State can legislate at all upon the subject of foreign commerce or commerce among the States. Where is the basis of any such legislation? The courts say the State is divested completely of its power over the subject-matter known as commerce, in all its parts, and that commerce is a unit, and pertains as such exclusively to Congress.

Can a State, then, insert, as one of the conditions of its charter, that the company or the private person to whom the charter relates, or to whom the license may be given, shall not engage in the business of commerce among the various States? Can a charter be predicated upon such a condition? The condition itself is not one which it is competent for the State Legislature to impose. It rests upon an assumption of authority which has been taken away—conceded away to the Congress by the will of the American people.

I need not say to the honorable Senator from Maryland that a condition inserted in any contract which in itself is unlawful, or which it is incompetent for the parties to it to agree to, is of itself void and inoperative, and if it affects the whole instrument, if no part of the instrument can be carried out according to the intention of the parties without giving effect to this particular clause, the whole instrument falls to the ground; but if portions of the instrument can be maintained, and the infected portion, which is void as against law or for want of authority, can be separated from the rest, then courts of law uphold the agreement between the parties *pro tanto*.

Now, I insist, sir, that a State charter cannot impose conditions upon a company that shall prevent, burden, or obstruct commerce, because the power to regulate commerce is granted exclusively to Congress, and therefore such a condition is void. Sir, suppose a State should assume to incorporate a company, and one of the conditions of the charter should be that neither the company nor any stockholder of the company should be engaged in foreign commerce; that the company should not be engaged in commerce with Canada or with any portion of the British possessions, will the honorable Senator from Maryland contend that such a condition would be valid; that any force could be given to it, or that it would receive any attention at the hands of a court of justice?

I think he will not, because it is too obvious that in such a case the Legislature has passed the boundaries of its power, and the condition it has assumed to annex is a void condition.

What is the New Jersey case, so called? I shall spend little time upon it; I will merely allude to it. I understand that the charter of the Camden and Amboy Railroad Company, connecting the city of New York with the city of Philadelphia, those two points being the termini of the road, contains in it a clause to this effect:

"That it shall not be lawful at any time during the said railroad charter to construct any other railroads in this State without the consent of the said companies."

That means the companies constituting the whole line—

"which shall be intended or used for the transportation of passengers or merchandise between the cities of New York and Philadelphia, or to compete in business with the railroad authorized by the act to which this supplement is relative."

That charter also contains, as one of its precious provisions, this most singular imposition upon the citizens of other States, that the company shall pay into the treasury of the State of New Jersey ten cents *per capita* for every passenger who shall pass over the line between New York and Philadelphia. If I misstate this provision of the charter I desire to be corrected.

Mr. MORRILL. Then I will ask the honorable Senator to give a little further attention to that particular provision, and he will find that it is accompanied with a statement that it is in lieu of all taxation; they are to pay that in lieu of taxes; that is the consideration.

Mr. HOWARD. That does not change the principle at all. Whatever may be the consideration passing to the State or to the company for this provision in the charter, the charter itself imposes upon the company in form, but really and in effect upon the passenger who travels, the sum of ten cents as a State tax, to be paid into the treasury of the State of New Jersey. "A rose by any other name would smell as sweet;" it is a tax in intention, in essence, and in practice.

Mr. KIRKWOOD. I wish, with the permission of the Senator from Michigan, to understand this matter aright. As I understand what the Senator from Maine and the Senator from Michigan say, in point of substance, the entire tax due from the company to the State is levied upon the passengers. The tax on the passengers, as I understand the Senator from Maine to say, is in lieu of all State taxes, so that the entire tax levied by the State upon the company is really levied upon passengers traveling from one State to another.

Mr. MORRILL. I do not wish to interrupt the Senator from Michigan, but if he will permit me, on that point, I desire to say that it is a great deal broader than the Senator supposes. I understand, treating this charter now in the nature of a contract between the State and the company, to encourage the company to enter upon this work, the State say, we grant you this exclusive right to carry these passengers, and if you perform the conditions on your part you shall be exempt from all taxation, city, county, and town; and in lieu of it you shall pay a revenue of ten cents upon each passenger you carry through the State. There are other reservations as to tonnage; but as to the item referred to, it is ten cents, and it is in lieu of taxation.

Mr. HOWARD. There is a small specific tax upon the through freight according to the same charter—the through freight from New York to Philadelphia and *vice versa*; but I do not care whether this tax upon passengers and freight through New Jersey be small or great, it makes no difference as to the principle. The question of principle is, whether it is a constitutional power of New Jersey to make such a discrimination among the passengers who travel and the freight which passes over its road as is here made.

Mr. MORRILL. Do I understand the Senator to assert that by the law of New Jersey a

tax is laid on each person who travels over that road?

Mr. HOWARD. No, sir; I did not assert that. I say that operatively, practically—

Mr. MORRILL. Oh, inferentially.

Mr. HOWARD. In reality it is a tax, although it goes, perhaps, by another name. It is perfectly immaterial by what name the rose is called; you recognize it by its smell.

Mr. MORRILL. How would it smell if, instead of a revenue of ten cents on each passenger, it was in the shape of a tax, State, county, and town, on the company—would that be the same thing?

Mr. HOWARD. It would be the same thing, undoubtedly, because it comes out of the pocket of the passenger or shipper who uses the line of railroad. It is not denied that this tax comes out of the pocket of the passenger who travels from New York to Philadelphia, is it? Does he not pay it?

Mr. MORRILL. He does it upon the assumption that the company imposes it; but there is no evidence that the fare is increased by one mill by reason of this tax, and it is just as comprehensible and conclusive to argue that if a tax had been imposed on the business of the company, the company, by reason of that tax, would have imposed an additional sum on the traveler to meet that additional tax—just as conclusive, I submit to the honorable Senator.

Mr. HOWARD. The honorable Senator from Maine, I think, differs a little in opinion as to the intention of this charter and the cognate acts of legislation from the persons who are in the actual exercise of the franchise. I read from a New Jersey document, emanating from the executive committee of the coalesced railroads represented by the Camden and Amboy Railroad Company, the following:

"It seems plain, from the acts incorporating these companies, and the testimony of those best conversant with the history of their incorporations, that it was the policy of the State, taking advantage of the geographical position of New Jersey, between the largest States and cities of the Union, to create a revenue by imposing tax or transit duty upon every person who should pass on the railroad across the State between those cities, from the Delaware river to the Raritan bay; but that it was not their design to impose any tax upon citizens of their own State for traveling between intermediate places."

"Here, again, the policy and intention of the State is most clearly indicated, in exempting her own citizens from the operation of this system of taxation."

I am indebted to the honorable Senator from Massachusetts [Mr. SUMNER] for the extract which I have now read to the Senate. Again:

"The company believe that a careful consideration of the whole matter, as well from the provisions of the charter as from a recurrence to the period when it was granted, will produce the conviction that the transit duty was intended to be levied only on citizens of other States passing through New Jersey."

I will not ransack all the charters and acts of legislation connected with the charter for the purpose of eliciting the meaning of the charter. I take it for granted that these gentlemen who had the documents all before them were as competent as I should be after having read the same documents to state to the world what the purpose of this charter actually was and is. Now, sir, I understand it to be true in point of fact that for fourteen or fifteen years past the people of New Jersey have been entirely relieved from all State taxes by means of the money which has been accumulated in their treasury in the form of this specific passenger tax and freight tax between New York and Philadelphia. They have not paid a dollar, as I have been credibly informed, of State tax for that period of time, and all the expenses of the government of that State have been defrayed out of the proceeds of this imposition which the State of New Jersey has made upon passengers and freight passing through between New York and Philadelphia. I ask, sir, if Congress have the exclusive power of legislation over the subject, is it not time that the citizens of other States should be relieved from so gross an imposition upon their good nature? Is it entirely fair that the citizens of Michigan, of New York, of New Hamp-

shire, of Maine, of Connecticut, of all the States passing over this railroad, should be made tributary to the selfish policy of New Jersey? Ought they to be compelled in this form to pay the expense of carrying on her State government?

And what is commerce, Mr. President? It includes not only an exchange of commodities in specie, not only the sale and delivery of personal chattels and the conveyance of lands for money or other consideration, but it includes navigation and travel; it includes, in the language of the Supreme Court, "intercourse" between the citizens of one State and those of another, whether that intercourse be for the purpose of trade and traffic or for anything else; whether it have profit in view or mere pleasure and friendship. The Supreme Court have held repeatedly—the principle has never been denied since the case of *Gibbons vs. Ogden*—that commerce, as spoken of in the Constitution, includes intercourse between the people of one State and the people of another, whatever may be the object of that intercourse. It includes, therefore, the right of free and untrammelled transit from one State to another. It includes the right of a man who walks on foot from an eastern State to visit his friends in the West, and it prohibits the State through which he may be compelled to pass from enacting any laws to obstruct his passage from his home to his family or his friends in the West or wherever he may see fit to go. He cannot be taxed as a citizen of another State passing through any one particular State; and his progress cannot be obstructed, or impeded, or embarrassed in any way whatever for the reason that he does not happen to be a citizen of the State wherein the burden is sought to be imposed upon him.

If I, in passing from New York to Philadelphia, can be directly or indirectly by the legislative power of New Jersey subjected to the payment of a tax of ten cents, I may be subjected to the payment of a tax of ten dollars or one hundred dollars. Nay, Mr. President, such is the character of the taxing power that if it can be exercised upon commerce and intercourse in this way, it can be carried so far as actually to exclude and keep out of the limits of one State citizens of another State. This monopolizing claim has no limits. There is no point at which it can be restrained. If the State Legislature has the power to impose a tax upon me, a citizen of Michigan, for going through the State of New Jersey, simply because I am a citizen of Michigan and not of New Jersey, they can prohibit me from going through the State of New Jersey at all; they can by legislation surround the State by a Chinese wall more difficult to scale than that famous wall which was erected to protect the Celestial empire against the incursion of the Tartars. There is no boundary, no limit to this inhospitable claim of power. Gentlemen declare that if we pass a bill recognizing simply the omnipotent power of Congress over the subject of commerce the Government is dissolved, a requiem is to be sung over its dead body, and the whole structure is to pass into one universal wreck and ruin. Sir, I do not read the Constitution of my country in this way. I discover in it an intention on the part of the fathers of the Republic to treat the citizens of the various States as equals, to allow the citizen of one State the same privilege in another State that he has in his own. I do not see any danger of encroachment upon the power of the States. The history of the Government from its initiation down to this moment contains the most lamentable and continuous lesson to us, admonishing us that its tendency has been and is to dissolution and separation rather than to a more strict and perfect union. Why, sir, one of the first attempts that was seriously made by a State against this great power of the Government to regulate commerce was made by the State of New York, which undertook by her Legislature to create a monopoly of the navigation of the navigable rivers of that State in the hands of the representatives of Robert Fulton.

Suppose the Supreme Court had decided otherwise than it did in that famous case of *Gibbons vs. Ogden*; the waters of the State of New York would to-day have been closed to other States under the authority of the State of New York, against all the foreign as well as domestic commerce, except upon onerous and intolerable conditions, by virtue of the same monopoly. Not many years ago a similar attempt was made by Maryland to obstruct foreign commerce by requiring that every importer of foreign goods who should land his cargo in that State should be at the trouble of going to the State authorities, taking out a license, and paying for it the sum of fifty dollars. The Supreme Court promptly and decisively laid its heavy hand on this pretension. I need not enumerate instances, Mr. President, of the attempts of States to encroach upon the just powers of Congress touching commerce. The absolute necessity of such a power in the central Government was, as we all know, the great procuring cause of the formation of the Constitution and the establishment of the Union.

Mr. President, the honorable Senator from Maryland tells us that the bill assumes to authorize a State railroad company to carry persons and property beyond the terminus of its road, to authorize a company to make connection and even to make a road. In the warmth of the honorable Senator's opposition to this bill, it seems to me he has made on this subject assertions which he will see occasion to review, if not to recall. Does the bill before us assume to authorize a company in New Jersey to carry persons and property beyond the terminus of its road? Does it assume to impart a new and additional faculty to those corporations, by which they can construct new roads, or parts of new roads, and thus extend their franchise by means of this bill? No, sir; the bill properly interpreted means no such thing.

Mr. JOHNSON. Will the honorable member read that part of it?

Mr. HOWARD. Yes, sir; I was about to do so. The bill provides that "every railroad company in the United States whose road is operated by steam, its successors, and assigns, be, and is hereby, authorized" to do what? Extend its road? Carry goods or passengers *ultra viam*, beyond the road, beyond the terminus or off the road? No, sir; but "to carry upon and over its road, connections, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property, on their way from any State to another State."

Now, I ask the honorable Senator whether this is granting to a railroad company an authority to transport passengers or freight to anywhere but on and over its road.

Mr. JOHNSON. And connections.

Mr. HOWARD. I will come to that. The honorable Senator will admit that already the State corporation has the authority to transport passengers and freight over and upon its road. There is no doubt about that; otherwise it would be a very useless corporation. But, says the honorable Senator, it also has the right to carry freight and passengers upon and over its connections. Sir, what is meant in the bill by the words, "connections, boats, bridges, and ferries?" Plainly, the connections which belong to the particular corporation, collateral railroads over which such corporation has a right to carry freight and passengers; connections which become such lawfully and properly under the legislation of New Jersey, by contract or by charter; connections which may be here regarded as the property of the particular company; connections which are its property precisely in the same sense in which boats, bridges, and ferries are its property; connections, boats, &c., the use of which, for purposes of transportation, the railroad legitimately has, possesses, and enjoys under State laws; and that is all that is meant. It does not go a single inch beyond its own chartered rights, established by the State. The bill assumes in no possible sense to impart to a State corporation any faculty, franchise, license,

or right whatever, except such as may be already granted to it by the State save to this extent: it declares that although under its charter it may be prohibited from carrying freight and passengers which are bound from one State into another, the particular corporation shall have the right in spite of the prohibition to carry on this inter-State commerce. That is the effect and the sole effect of this bill.

Let me illustrate. Suppose the charter of New Jersey, as it seems to have done, prohibits any other railroad company in that State except the Camden and Amboy from transporting freight or passengers bound from one State to another State through New Jersey; suppose the State prohibits one of its corporations from carrying passengers and freight thus destined; the bill declares that the State corporation so prohibited shall have the right to transport such passengers and freight; and I insist that we have a perfect constitutional authority to do so under the power to regulate commerce among the States.

Railroad corporations are created for the purpose of transportation. They are in a broad sense common carriers as known in the common law, and they may carry commodities and passengers bound from one State to another. No State has a right to make a discrimination between such commerce and its purely internal commerce, such a discrimination being inconsistent with the exclusive power of Congress over commerce.

But the honorable Senator takes another objection to the bill; he objects to its passage because, he says, if we can pass it we may regulate tolls upon State railroads; we may increase the tolls; and he seems to discover in the future the danger of Congress interfering with State railroads by assuming to regulate the tolls upon property passing through from one State into another. It is a sufficient answer to this objection, if it is deserving of the name, that it has no place; it is not founded upon any clause of the bill; it does not grow out of its language or intention, but is a mere apprehension of the honorable Senator that at some future day Congress may take it into their head to interfere with the tolls upon State railroads. Mr. President, have we not precisely the same power over commerce among the States that we possess over foreign commerce? Will the honorable Senator deny it? Will he undertake to limit the power of Congress in the one case and not in the other? Whatever may be the extent of this commercial power, Congress possesses it and the whole of it; and if that power extends so far as to grasp within itself the tolls upon passengers or merchandise transported from one State to another, so be it; we can neither enlarge nor restrain it. When the proper occasion shall present itself it will be for us to determine, if we do possess the power, whether to exercise it or omit to exercise it; and this is a sufficient answer to the argument of the Senator from Maryland upon that subject.

But, sir, in reference to foreign commerce, we have precisely the same power, and always have had it; and if there is any danger that we shall interfere injuriously or oppressively in the commerce among the States and control the States, has not the same danger existed ever since the commencement of the Government? And can the honorable Senator point to a single case where the United States have assumed to regulate the freights between foreign countries and the United States, or the price of passages, or anything of the kind? I apprehend he will find himself at a loss to discover any such precedent. While, at the same time, we know that every State of the Union has always interfered in some form in regulating tolls upon bridges, turnpikes, canals, and railroads, the Government of the United States have never exercised the power in any instance, as far as I have been able to ascertain. So I think that this objection of the honorable Senator from Maryland, that by passing this bill we shall establish a precedent of which we can avail

ourselves hereafter to regulate tolls upon State railroads, is unfounded, rather in the nature of an alarm than an argument.

I will not undertake to deny that Congress might, in an exigency, regulate the price of freight and passage money upon the ocean. The time may come when the exercise of such a power will become necessary. We have never, thus far, exercised it, to be sure; we have not seen the necessity of exercising it. And for the same reason I shall not deny that Congress have the power to regulate even tolls in the matter of trade among the States, though we have never exercised it, nor assumed to exercise it, thus far. I am not, however, by such objections to be frightened out of my position, that the power of Congress is just as exclusive over the one kind of commerce as the other.

His last objection is that if Congress may pass a bill authorizing every railroad to carry property bound from one State to another, as this bill does, it may make a road; that it may incorporate a company for the purpose of carrying on commerce among the States, and for this purpose make a road. This objection does not frighten me; nor will I undertake to say that Congress is totally disabled from creating a corporation for the purpose of carrying on commerce among the States; it is not necessary to deny even this power. If it could create such a corporation, it could undoubtedly authorize the corporation to make a road for the purpose of carrying on this commerce; but the bill before us does not contemplate the making of a road or any part of a road; so that I do not see that the last two objections of the honorable Senator to this bill, in which he seems to apprehend that Congress may do this thing or the other thing in the future, have the slightest weight in the discussion of the present bill.

The simple questions are, is this measure in accordance with the Constitution? Are we authorized to give this faculty and power to a State corporation, under the Constitution, or are we restrained from it? I have no doubt whatever upon the subject. I have no doubt that we have full authority to pass the bill in the very language which it contains; and I have just as little doubt that the interests of the public, the interests of the citizens of the various States who have been made tributary to New Jersey for so many years, and the interests of the whole commercial world visiting New York and Philadelphia require that this unblushing, persevering, corrupt, and corrupting monopoly of New Jersey ought to be extinguished; and I trust there will be votes enough and determination enough on the part of the Senate to put a complete extinguisher upon it. It has cursed the land long enough; and the people, with united voice, are crying against it. I trust we shall obey that voice.

Mr. HOWE. Mr. President, I am sometimes made to feel that there is nothing so timid and so abject as the Government of the United States. Sometimes, thank God, I am made to see that there is nothing grander or more heroic. The power of this Government and its authority is so often and so obstinately disputed that I really get to feeling at times as if it was made to look at and not to act. I have scarcely heard a proposition introduced into this body since I have had the honor of a seat here that has not found some one to deny the authority of Congress to enact it. This little proposition now before the Senate I think we have been straining at for something like two years, trying to swallow it. The Senator from Maryland, [Mr. JOHNSON,] in the very morning of its appearance, told us it was unconstitutional; and when he pronounces upon the Constitution, if he does not create convictions or change convictions, he is apt to influence them very much. I have seen a mesmeric experimenter lay his cane down on the floor before his victim, and make the victim think it was a serpent and travel all about the room to dodge it and to avoid it. Here is a bill as harmless, as inoffensive, as any man's walking-stick; and yet, because the Senator from Maryland told the Senate some

time ago that it really was a violation of the Constitution, we have been hesitating all this time as to whether we should adopt it or not.

What is this little thing that we dare not enact into a law? It says that every railroad company in the United States using steam, may carry over its road the Government supplies, passengers, troops, mails, freight, &c., on their way from one State to another. A railroad is a highway, I suppose. These passengers, troops, supplies, mails, and freights are commerce; they are the incident of commerce; they make up commerce; they are included within the term "commerce." What is this bill, then? A simple declaration that commerce may move over all the highways in any of the States. That is all there is of it. And yet we are told we cannot make that declaration. Why can we not make that declaration? It is said that one of the States, shoved in accidentally between two of the great metropolitan cities of the United States—New York and Philadelphia—has declared that of the highways running through its borders, only one of them shall carry these mails, troops, passengers, and freight; in other words, a State lying between New York and Philadelphia has declared that commerce between one State and another shall move only upon one of its highways; and that enactment lies in the way of our making this.

If that be so I ask, who controls the commerce between New York and Philadelphia? Who regulates it? The United States or the State of New Jersey? The State of New Jersey says it shall go over one particular way, and having said so we are told that the United States cannot say to the contrary. Why, sir, the State of New Jersey regulates commerce between those two cities if that be the case, and the Congress of the United States does not regulate it. That is as patent to me as the light above us. But the Constitution says that Congress may regulate commerce between the States, and not any one of the States. And, Mr. President, I want to remark here that this Congress was created, this Government was formed as much for the purpose of taking this very control from the States as for any other one purpose. One of the leading objects, one of the moving inducements to aggregate the original States into one supreme Government was the fact that independent of any such general control the several States did impose just such restrictions, limitations, and disabilities upon the movement of commerce between the different States. If we disclaim this power, therefore, now, we ignore one of the highest and most beneficent purposes had in view in the organization of this Government.

The argument urged against the exercise of this authority is very brief. It is said that Congress cannot authorize the building of a railway in one of the States; that that is a power to be exercised exclusively by the State; and the State having the exclusive right to authorize the construction of a road within its limits, it must have the right to impose just such terms upon the construction of the road as it sees fit. In the first place, I deny the premises. I deny that the Congress of the United States cannot authorize the building of a highway within one of the States. But conceding that proposition to be correct, the deductions which are drawn from it I deny altogether. Admitting the law to be that only the Legislature of New Jersey can authorize the construction of a railway within her limits, I do not concede in that state of the law that she is authorized to impose just such terms upon the use of the railway after it is constructed as she sees fit; for it is impossible that her right, or the right of any State, to build a railway, or to authorize the building of a railway, can be more absolute and unlimited than is the right of the United States to regulate commerce. Here is the fact that different railways, different highways operated by steam, are existing in a particular State; here is the fact that each one of them is authorized by the law of that State; but here is the other fact that the right to regulate commerce on those highways is in the

Congress of the United States. I conclude that this power of the several States to impose terms upon the companies constructing railways must be exercised in subordination to our authority to regulate commerce, or the reverse of this must be true, and our authority to regulate commerce must be held in subordination to the power of the States to construct railways.

Mr. GRIMES. Does our power go so far as to regulate the tolls?

Mr. HOWE. The question is put to me if our power goes so far as to regulate tolls upon commerce. Just how that power is to be exercised I do not now say; but that we have the power to regulate tolls in some way, if it be necessary, I have no more doubt than I have of our right to make appropriations. If there was but one road through which the commerce from the Atlantic sea-board could reach the valley of the Mississippi, and that led through the State of New York, and the State of New York, in the interest of her canal system, was pleased to say that all of this commerce should go on her canals and none of it on her railways, does any one tell me, in view of our Constitution, that New York could stand at the gateway of her canals and levy just such tolls as she saw fit upon the commerce flowing between the East and the West? There are two empires; the commerce flowing between them is of immense importance to the world; is it at the mercy, under our Constitution, of any one State? Whether we could say to the State of New York, "You must reduce your tolls on that canal to meet the requirements, or what we judge to be the requirements, of the country;" or whether we could say, "We will build a new canal in the interests of the nation and for the life of this great commerce," I will not stop to argue or to assert; but I do say most emphatically that it is not in the power of any one State to burden the commerce moving onward between the different States beyond the will of the nation. That question is not here. This is not a question of regulating tolls; it is a question of regulating commerce; it is a question of enabling commerce to move between different highways leading between the same points.

I said that either this authority to authorize the construction of railways must be exercised by the States in subordination to our authority to regulate commerce, or our authority to regulate commerce must be exercised in subordination to the authority of the States to construct railways or to authorize the construction of railways. I conclude that the power of the State, even if it be exclusive over the given subject, must be exercised in subordination to the authority of the nation, because the Constitution of the United States and the laws made in accordance with it are declared to be the supreme law of the land, anything in the laws of any State to the contrary notwithstanding. If the law of the State is not subordinate to the law of the United States, then the Constitution of the United States is not the supreme law.

But I said I denied that the power to build railways or authorize the construction of railways is exclusively in the several States. I have no manner of doubt, if it were adjudged by Congress necessary and expedient to promote the commercial interests of the United States, to advance the interests of commerce moving between State and State, to build a railway, that we might authorize the construction of a railway or build it ourselves. It is an instrument of commerce, and if we judge it expedient to build one, who shall control the exercise of our discretion? I am not going to occupy the time of the Senate with arguing that question. It seems to me it has been decided, if any question ever was decided. It seems to me the Supreme Court of the United States affirmed that very power in the case of the Wheeling bridge.

Mr. CRESWELL. The power to build a bridge?

Mr. HOWE. The power to build a railway; not in so many words, but by the most necessary implication. There was a company author-

ized by the States of Virginia and Ohio to build a bridge across the Ohio river, every inch of which was either in the State of Virginia or in the State of Ohio.

Mr. MORRILL. Virginia.

Mr. HOWE. Well, it was in one State or the other. The company was authorized by the laws of a State to build a bridge. A State—the State of Pennsylvania—complained of it as an injury to her interests, as a wrong done to her, and declared the structure to be illegal, and appealed to the Supreme Court of the United States to redress that wrong. The Supreme Court heard that complaint, pronounced that structure to be illegal, and adjudged that it be abated, that it be removed. Congress enacted a law declaring that that bridge was legal, was a lawful structure.

Mr. MORRILL. Will the honorable Senator allow me to make a remark just here?

Mr. HOWE. Yes, sir.

Mr. MORRILL. The Congress of the United States did nothing more than this: the Supreme Court, on an examination of the facts, had decided it to be an obstruction to the navigation of the Ohio river; and Congress, having the supreme jurisdiction of the commerce of that river, declared it was not an obstruction, it being the judge. That is all they did.

Mr. HOWE. I think it did more. I think the Supreme Court had declared that bridge to be illegal.

Mr. MORRILL. No, sir; they declared it an obstruction. The whole case turned on the question of whether it was an obstruction to the navigation of the Ohio river. The court found that it was an obstruction.

Mr. HOWE. And therefore not a lawful structure.

Mr. MORRILL. And therefore the State of Virginia had not a right to obstruct a common highway. The Congress of the United States said, we have a right to say that it shall stand notwithstanding that fact. That is what they said.

Mr. HOWE. The Supreme Court said, I repeat, that it was not a lawful structure. The reason why it was not a lawful structure, in their judgment, was precisely what my friend from Maine says, because it obstructed a highway, not leading through the State of Pennsylvania, which complained, but leading to the State of Pennsylvania, which complained. That is what gave the State of Pennsylvania a right to redress; the fact that it obstructed commerce moving to and from Pennsylvania. It obstructed the movement of that commerce. So the court said. They said it must be abated. Congress said, in defiance of the legal rights as adjudicated, passed into judgment, of the State of Pennsylvania, "It is not an unlawful, but a lawful, structure, and shall stand, the judgment of the court to the contrary notwithstanding." Congress did not authorize the building of a bridge, but finding a bridge constructed by a private corporation, without authority of law, they said "It shall have the authority of law." Pennsylvania complained. It was the exercise of authority within the limits of a State—the State of Virginia—to maintain a bridge which Pennsylvania had not authorized; Virginia attempted to authorize it, but had not the authority to authorize it, simply because it was a wrong to another State. I cannot for my life conceive why that power, which the United States exercised in Virginia to the injury of the adjudged rights of Pennsylvania, could not have been just as well exercised in Pennsylvania if the call for its exercise had been made from Pennsylvania. I must insist, therefore, that the court has passed upon and has affirmed, most substantially and most clearly, the right of the United States, if they see fit, to authorize the construction of railways within States in the interests of commerce.

Mr. President, if it were not for the peculiar course this debate has taken I think it would be an astounding thing for us to be told that in the face and eyes of the plain, constitutional declaration of our right to regulate commerce,

a State had been found to assert the right of controlling all the commerce through its limits to go over one channel to the exclusion of another. I think it would have astonished us to be told that a State had started such an authority; but it has been asserted, and it is gravely argued that we are bound by it. I hope that will not be the conclusion of the Senate. I do wish that the Congress of the United States could be emancipated some time or other from this notion, that not only was it bound by the authority of the people of all the States, but it was bound in every direction by the authority of any one of the States. I am as strict a constructionist of the Constitution, it seems to me, as anybody ought to be; I am as jealous of allowing the Government of the United States to interfere in what are the domestic concerns (to use an old-fashioned, and, I thank God, an out of fashion form of expression) of a State; that is to say, what concerns its own people, its own affairs, and its own prosperity alone. But the commerce which moves between New York and Philadelphia is not an affair which concerns the State of New Jersey. That is an affair which concerns all the United States, and concerns vastly more the States of New York and Pennsylvania than it does the State of New Jersey. That is not a domestic interest; that is not a domestic concern; that is not a domestic affair. That is one of the affairs which, as I said in the outset, was the very purpose of adopting this Constitution, in order to place it under the control and under the direction of the United States of America; and if this authority claimed on the part of New Jersey is affirmed any longer by the Legislature of the United States, you have sacrificed, you have voluntarily abandoned, one of the dearest interests you ever had, or can hope to have, in the Government.

Mr. CRESWELL. I propose to make a few remarks upon the pending bill; but before entering upon what I have to say, I desire to suggest an amendment to the bill as it now stands. It is to insert as an additional section the following:

SEC. —. *And be it further enacted*, That Congress may, at any time hereafter, alter, amend, or repeal this act at pleasure.

Mr. SUMNER. There is no need of the words "at pleasure."

Mr. CRESWELL. It is not a very long section, and if there should be two or three words in excess, I do not think they will do much damage. It will not be much of a trial to the gentleman's eyes to read the whole of the amendment.

Mr. President, this measure has engaged the attention of the Senate during the greater part of the last session and during so much of this session as has passed. One matter which has excited my suspicion somewhat with reference to the question, has been the difficulty of bringing its advocates to a precise presentation of their case. When we come to inspect the bill we find, in the preamble of it, that gentlemen claim to pass it under three of the powers granted to Congress in the Constitution. When driven from the refuge which they seek under any specified power, they immediately resort to a second, and if driven from that, to a third, and if driven from the third, they then claim, under the combined powers of all, that Congress has the right to pass this bill.

I shall refer particularly to the argument of the learned Senator from Massachusetts [Mr. SUMNER] with reference to the constitutional power of Congress over this subject, because from the known, acknowledged ability of that gentleman, his untiring industry which, like faith, seems sometimes to move mountains, and his immense erudition, I am satisfied if no authority can be found under the Constitution for the passage of this bill by that gentleman, it is only because none exists.

In the preamble to the bill, the power to pass it is claimed, first, under the clause to regulate commerce among the several States; second, the power to establish post roads; and third, the authority to raise and support armies; and the

honorable Senator from Massachusetts considered those powers in the order in which they are named. For the purposes of my argument I shall reverse his line of proceeding.

He cites, as his only authority for the power as claimed under the clause to raise and support armies, the action of the last Congress with reference to the general management of the railroads of the country. I can hardly think that the Senator, upon reflection, would claim that act as a precedent, or insist that Congress should now exercise the power which it did by that act, namely, to place all the railroads in the country under the specific and exclusive charge of the military authorities; for that is the precise language of that act. A clause of the first section authorized the Government—

"To place under military control all the officers, agents, and employees belonging to the telegraph and railroad lines thus taken possession of by the President, so that they shall be considered as a post road and a part of the military establishment of the United States, subject to all the restrictions imposed by the Rules and Articles of War."

The second section provided that all attempts by any parties whatever to interfere with the exercise of the power granted in the bill should be punished "as a military offense by death or such other penalty as a court-martial may impose."

The third section authorized the appointment of three commissioners to assess the damages suffered by reason of the seizure of the railroad or telegraph lines under the act.

In the fourth section it was provided—

"That the transportation of troops, munitions of war, equipments, military property, and stores throughout the United States shall be under the immediate control and supervision of the Secretary of War and such agents as he may appoint; and all rules, regulations, articles, usages, and laws in conflict with this provision are hereby annulled."

The fifth section declares—

"That the provisions of this act, so far as it relates to the operating and using said railroads and telegraphs, shall not be in force any longer than is necessary for the suppression of the rebellion."

The very authority which the gentleman cites shows that the power which he claims is something altogether different from that which was exercised in that case. That was an exercise of the military power of the Government during the war in an effort to protect and to preserve itself; but as the rebellion has been suppressed no such necessity now rests upon the Government to claim the exercise of any such power, and of course it cannot exist. Indeed, by the terms of the law it is no longer operative.

In the next place, this power is claimed under the clause of the Constitution with reference to the establishment of post offices and post roads. It is nowhere stated, and it cannot be stated with truth, that in any part of the country over which it is now proposed to extend the authority of Congress there is any denial of the right of the Government to transmit mails. I believe that every railroad company in the land is already subjected to that clause of the Constitution, and willingly submits to the authority of the Government in the transmission of its mails. One thing is certain: they are all anxious to secure contracts for that purpose with the Government, and so far from the States attempting to interfere with it, it is their manifest interest to offer every possible facility for the transmission of the mails with a view to the accommodation of their own citizens; and the difficulty is, not that the States refuse to the Government the use of their roads for postal purposes, but that the States cannot procure from the General Government a sufficient number of post offices and the assignment of a sufficient number of post roads. Applications come every day to the Government for that purpose.

The power, if it exists anywhere, must exist under the clause to regulate commerce. I was somewhat amused at the argument adduced by the Senator who has just taken his seat. He began by calling this a "little bill," and he said it was as harmless as any man's walking-stick, but before he took his seat he showed that that walking-stick had assumed the dimen-

sions of a huge bludgeon, with which he would knock out the brains of every railroad company in the land. It had, in his hands, and according to the powers that he claimed for the General Government, sufficient power to destroy the active capital now invested in railroads, amounting to \$1,200,000,000; because he distinctly claimed that in the Wheeling bridge case the Supreme Court had decided that Congress had the right to construct railroads, through and over any of the States without their consent.

Mr. HOWE. It was the Constitution that I made the bludgeon out of, not this bill.

Mr. CRESWELL. Very good. The gentleman seeks by this bill to exercise the power in whole or in part. His argument was that Congress had the power, not only to prescribe terms and to confer additional franchises upon railroad corporations already existing under the authority of the States, but that Congress had the right to make railroads and, in the exercise of the power over internal commerce, to create corporations for that purpose. Now, sir, I know that I may be charged with temerity, and that I may perhaps subject myself to a rebuke from the Senator from Wisconsin and the Senator from Massachusetts, when I state that in my opinion the Constitution of the United States imposes some limitation upon the power of the General Government, and that the people who ordained and established that instrument did not thereby confer imperial powers upon the Government of the United States. That may be a grave offense. If so, I apologize to the gentleman from Wisconsin.

Mr. HOWE. No; the Senator does not owe me any apology. I simply want to say that over the subject of the regulation of commerce I think the Constitution does confer on this Congress imperial power.

Mr. CRESWELL. So far as it goes; but the question is, how far does it go? The gentleman extends it so far as to destroy all the powers and all the rights of the States. He makes not only the power as granted by the fathers in the Constitution imperial and exclusive, but he denies all power to the States over their own soil. He usurps from them the exercise of the right of eminent domain.

The argument of my distinguished friend becomes a little more significant when we look at certain bills which have recently been introduced into the House of Representatives; and of which it would seem that this bill is the forerunner. One of them is House bill No. 96, "to provide for the construction of a line of railway communication between the cities of Washington and New York, and to constitute the same a public highway and a military road and postal route of the United States;" and upon looking through that bill, I find in the sixth section thereof this provision:

That said corporation is hereby empowered to purchase, lease, receive, and hold such real estate or other property as may be necessary in accomplishing the objects for which this incorporation is granted; and may, by their agents, engineers, contractors, or workmen, immediately enter upon, take possession of, and use all such real estate and property as may be necessary for the construction, maintenance, and operation of their said railway, and the accommodations requisite and appertaining thereto. But all real estate or property thus entered upon and appropriated by said corporation, which are not donations, shall be purchased by said corporation of the owner or owners of the same, at a price to be mutually agreed upon between them. And in case of disagreement as to price, and before the final completion of said railway and its appurtenances, the said corporation, or the owner or owners of such real estate or property, shall apply by petition to one of the justices of the Supreme Court of the United States.

And he is to appoint commissioners to view, value, condemn, and appropriate the land.

I challenge the gentleman from Massachusetts, with all his erudition, and I challenge the gentleman from Wisconsin, with all his ideas of a liberal interpretation of the Constitution, to adduce one solitary instance wherein any such power has been claimed or exercised by the Congress of the United States. That there are some things which the Congress cannot do in the exercise of its powers over foreign and domestic commerce there cannot be a doubt. There are two classes of powers which are

vested in the General Government under the Constitution; one consists of powers affecting relations which grow out of the Union itself as between different States; the other consists of powers in relation to matters over which, previous to the adoption of the Constitution, the States themselves had exclusive jurisdiction, and which previously existed in the States; and the doctrine has been maintained in the courts, so far as I have been able to gather it from the decisions, that as to the first class of powers Congress may exert exclusive jurisdiction without an exclusive grant of power in the terms of the Constitution; and that as to the other it required from the States an exclusive grant in terms in the Constitution; otherwise, it was not vested in the General Government. Now, sir, that the States have the exclusive right to their own territory, and had before the adoption of the Constitution, nobody can doubt; and I think it has been reserved for these latter days for gentlemen gravely to maintain that the General Government can, for the purpose of commerce, take without the consent or authority of the States a portion of their territory.

Why, sir, the Constitution provides, in so many words, that exclusive authority over any portion of the States, even for the purposes of forts and dock-yards, cannot be acquired by the United States except by the consent of the States; and if there is anything of authority due to the opinions of the eminent men who in the early history of the Republic were deemed the expounders of the Constitution, the gentleman will be left without even the shadow of a doubt from which to draw comfort. I have some books before me containing the opinions of three persons who are, I admit, somewhat old fashioned. One of them is Mr. Madison, another Mr. Jefferson, and the other is Mr. Hamilton. Mr. Hamilton in his day was considered rather a liberal interpreter of the Constitution, and was the acknowledged leader of the latitudinarian school, as it was called; but it seems he was far behind the learning of this advanced age. Mr. Hamilton, in his great argument, as submitted to General Washington on the power of the Congress of the United States to establish a corporation for the purposes of the National Bank, excludes from the powers of the General Government all authority to make any work of internal improvement requiring that they should appropriate any portion of the land within the States without their consent; but I will refer first in order to what occurred in the Convention to form the Constitution of the United States. I quote from Elliot's Debates, volume five, page 543:

"Dr. FRANKLIN moved to add, after the words 'post roads,' article one, section eight, a power 'to provide for cutting canals where deemed necessary.'"

"Mr. WILSON seconded the motion."

This was a motion to amend a clause now in the Constitution. I may say here that in that day railroads were unknown, and canals were the only great mode of intercommunication between distant points for heavy articles of commerce.

"Mr. SHERMAN objected. The expense, in such cases, will fall on the United States and the benefit accrue to the places where the canals may be cut."

"Mr. WILSON. Instead of being an expense to the United States they may be made a source of revenue."

"Mr. MADISON suggested an enlargement of the motion into a power 'to grant charters of incorporation where the interest of the United States might require, and the legislative provisions of individual States may be incompetent.'"

Mr. Madison was a friend of the motion; he desired to have the power granted to the United States.

"His primary object was, however, to secure an easy communication between the States, which the free intercourse now to be opened seemed local for. The political obstacles being removed, a removal of the natural ones, as far as possible, ought to follow."

"Mr. RANDOLPH seconded the proposition."

"Mr. KING thought the power unnecessary."

"Mr. WILSON. It is necessary to prevent a State from obstructing the general welfare."

Putting it upon the very ground gentlemen now do.

"Mr. KING. The States will be prejudiced and divided into parties by it. In Philadelphia and New York it will be referred to the establishment of a bank, which has been a subject of contention in those cities."

In other places it will be referred to mercantile monopolies."

Precisely the ground upon which gentlemen now claim the power.

"Mr. WILSON mentioned the importance of facilitating, by canals, the communication with the western settlements. As to banks, he did not think, with Mr. King, that the power, in that point of view, would excite the prejudices and parties apprehended. As to mercantile monopolies, they are already included in the power to regulate trade."

"Colonel MASON was for limiting the power to the single case of canals. He was afraid of monopolies of every sort, which he did not think were by any means already implied by the Constitution, as supposed by Mr. Wilson."

"The motion being so modified as to admit a distinct question, specifying and limited to the case of canals—"

"Pennsylvania, Virginia, Georgia, ay—3; New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware, Maryland, North Carolina, South Carolina, no—8."

"The other part fell, of course, as including the power rejected."

Thus it appears that there was a flat refusal on the part of the Convention to insert that power in the Constitution; but there are some other authorities. Mr. Madison at a late period of his life, January 6, 1831, in a letter to Mr. Reynolds Chapman, who seems to have written a treatise, which was highly esteemed, on the constitutional powers of the Government, used the following language:

"Canals as an item in the general improvement of the country have always appeared to me not to be embraced by the authority of Congress. It may be remarked that Mr. Hamilton, in his report on the bank, when enlarging the range of construction to the utmost of his ingenuity, admitted that canals were beyond the sphere of Federal legislation."

Again, in the same letter, Mr. Madison said:

"Perhaps I ought not to omit the remark that although I concur in the defect of powers in Congress on the subject of internal improvements, my abstract opinion has been that, in the case of canals particularly, the power would have been properly vested in Congress."

"It was more than once proposed in the Convention of 1787, and rejected, from an apprehension chiefly that it might prove an obstacle to the adoption of the Constitution."

"It cannot be denied that the abuse to which the exercise of the power in question has appeared to be liable in the hands of Congress is a heavy weight in the scale opposed to it. But may not the evil have grown, in a great degree, out of a casual redundancy of revenue, and a temporary apathy to a burden bearing indirectly on the people, and mingled, moreover, with the discharge of debts of peculiar sanctity? It might not happen, under ordinary circumstances, that taxes even of the most disguised kind would escape a wakeful control in the imposition and application of them. The late reduction of duties on certain imports, and the calculated approach of the extinguishment of the public debt, have evidently turned the popular attention to the subject of taxes in a degree quite new, and it is more likely to increase than to relax. In the event of an amendment of the Constitution guards might be devised against a misuse of the power without defeating an important exercise of it. If I err, or am too sanguine in the views I indulge, it must be ascribed to my conviction that canals, railroads and turnpikes are at once the criteria of a wise policy and causes of national prosperity; that the want of them will be a reproach to our republican system, if excluding them; and that the exclusion, to a mortifying extent, will ensue if the power be not lodged where alone it can have its due effect."

Mr. Madison was as zealous an advocate for railroads, canals, and other improvements as any gentleman on this floor, and yet he frankly admitted that no such power existed, and could only be exercised by the Government after a constitutional amendment granting the power.

One of the most important and interesting state papers upon this subject of internal improvements, under the powers of Congress, is the report that was made by Mr. Albert Gallatin, April 4, 1808. After reviewing the principal works of internal improvement, as they then existed in the country, or had, at that day, been projected, Mr. Gallatin proceeds to consider the question as to how far and in what way the General Government might afford assistance to those works; and he says:

"The manner in which the public moneys may be applied to such objects, remains to be considered."

"It is evident that the United States cannot under the Constitution open any road or canal without the consent of the State through which such road or canal must pass. In order, therefore, to remove every impediment to a national plan of internal improvements, an amendment to the Constitution was suggested by the Executive (referring to Mr. Jefferson) when the subject was recommended to the consideration of Congress. Until this be obtained, the assent of the States being necessary for each improvement,

the modifications under which that assent may be given, will necessarily control the manner of applying the money. It may be, however, observed that in relation to the specific improvements which have been suggested, there is hardly any which is not either already authorized by the States respectively, or so immediately beneficial to them as to render it highly probable that no material difficulty will be experienced in that respect."

Then I have before me the message of Mr. Jefferson, in which he recommends that Congress propose a constitutional amendment for the adoption of the States for the very purpose of conferring upon the General Government this power.

Now, sir, I have given, the opinions of Mr. Hamilton, Mr. Jefferson, and Mr. Madison, who were considered as the respective heads of the three great schools of constitutional interpretation, and they all agree in the opinion that there was no such power in the General Government. But the Senator from Wisconsin cited with some degree of satisfaction an opinion delivered by Mr. Justice McLean on that subject, from which he drew an inference favorable to his view of the question. The gentleman forgot a decision made by the same learned judge, reported by himself in the sixth volume of his Reports, page 524, in the case known as the Rock Island bridge case, in which he says, upon the precise point—

"Under the commercial power Congress may declare what shall constitute an obstruction or nuisance by a general regulation, and provide for its abatement by indictment or information through the Attorney General; but neither under this power, nor under the power to establish post roads, can Congress construct a bridge over navigable water. This belongs to the local or State authority within which the work is to be done. But this authority must be so exercised as not materially to conflict with the paramount power to regulate commerce."

"If Congress can construct a bridge over a navigable water under the power to regulate commerce or to establish post roads, on the same principle it may make turnpike or railroads throughout the country. The latter power has generally been considered as exhausted in the designation of roads on which the mails are to be transported; and the former by the regulation of commerce upon the high seas, and upon our rivers and lakes. If these limitations are to be departed from there can be no others except the discretion of Congress."

Without further reference to the books, I think, Mr. President, it is perfectly safe to leave the question of constitutional power on the authorities cited. And unless gentlemen can controvert these authorities it seems to me they have no standing before the Senate in claiming that any such power should be exercised. I am aware, however, that when driven from the open field they will say that the argument does not apply to them, because they do not attempt by this bill to exercise any such power, inasmuch as they do not propose to build a railroad. But if we look at the bill, it will be found to authorize all railroad companies throughout the country whose roads are worked by steam to carry upon and over their roads, connections, ferries, boats, and bridges, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with the roads of other States so as to form continuous lines for the transportation of the same to the place of destination. It authorizes these roads to carry freight and passengers and to charge compensation therefor, and to connect with other roads throughout the country.

Now, sir, either the bill is worth something or nothing. If it conveys no power, invests in these roads no right which did not exist under State authority, then the bill is utterly useless and nugatory; but I apprehend that the friends of this measure expect to accomplish something by the legislation they propose. They expect that these roads will, under the provisions of this bill, derive and exercise rights and franchises which have been denied to them by the States. This bill if it be operative at all must confer privileges which do not already exist. That, in my judgment, is the exercise of the same power, not perhaps the same in extent, but certainly the same in kind, which is claimed by those who assert that the General Government has the power to construct railroads and to build canals from one end of the Union to

the other; an argument just as strong can be made against the one as against the other upon the general principle of want of power.

The companies are authorized to carry passengers and freight "upon and over their roads," &c., and "to receive compensation therefor." Now, sir, if it be doubted whether these companies have or can have under any bill passed by Congress any right to charge tolls, certainly that argument may be applied to this bill; and the same objection may be made to that provision in regard to compensation. But the object of the bill, as it is claimed by its friends, is to destroy monopoly; and the only case cited by gentlemen who argue in favor of its passage is the case presented by the condition of affairs in New Jersey. It should be considered that under the phraseology of this bill these railroad companies are only "authorized" to connect with other roads. They are not obliged to connect with other roads; and, in my judgment, the result will be that they will exercise such a discretion that all the stronger roads will unite to the exclusion of all the weaker, and instead of a monopoly confined to the State of New Jersey, you will have a monopoly stretching from Boston to New Orleans, and wielding an amount of capital that will be strong enough to draw all the trade of the country along the lines of their railroads, and so far to paralyze the spirit of enterprise as to prevent the construction of any other roads to compete with them; so that if I am right, this bill, instead of destroying existing monopolies, will rather operate the other way. It will serve as a nursery for monopolies, and will enable one great monopoly, by destroying all competing roads, to exert a pernicious influence upon the legislation of the country and all its industrial interests.

Mr. President, I am not speaking in the interest of any railroad company; I am as willing as the friends of this bill to destroy all monopolies wheresoever found; but I do speak in the interest of the State which I in part represent upon this floor. I object to the passage of this measure because I believe it will have a most injurious effect upon the commercial interests of the country, and especially upon the great interest which is now known as the railroad interest. Sir, gentlemen talk of the exercise of the power of constructing railroads by the States as if, instead of having accomplished more than the industry and enterprise of peaceful men ever accomplished before in the history of the world in the same period, they had been resting supinely and had really accomplished nothing. The Census Report for 1860 shows that in the preceding decade there had been built lines of railroad stretching over 22,204 miles, and that in the same period \$854,900,681 had been invested in railroads in this country. All that money was invested upon the security afforded by State charters; much of it was brought from abroad; and a large part of it was gathered from other localities than those in which the roads were constructed. If Congress shall now assume the right to revise these charters and to restrict them, notwithstanding the fact that ever since the adoption of the Constitution no one has claimed such a right, and that it has been conceded that the authority to construct railroads, canals, and all works of internal improvement except so far as the Government might aid them by making contributions in money or lands, belonged to the States, the effect, in my judgment, will be most disastrous upon this great interest.

How is it with my own State? I find, on looking over the last report of the comptroller of the State, that Maryland, without any aid from extraneous sources except what capital she could borrow upon her State faith, has invested in public improvements the sum of \$35,844,816. Of that money she has lost entirely \$27,090,019, and all that she received from all sources in the shape of income from her investments in internal improvements, amounted during the last year ending 30th September, 1865, to \$544,162 82. On all this

sum of nearly \$36,000,000 she has received about one and a half per cent. in the way of returns.

It is not only unconstitutional but it is unjust in the extreme for Congress to attempt to usurp this power at this late day. To do so is to cripple the States most seriously in their resources. To do so is to cause Maryland as one of them to lose, not only the \$27,000,000 of unproductive capital which she has invested in these works, but the \$7,764,797 which are still productive.

Gentlemen from the West will bear with me while I present to them one consideration touching this subject. The policy of Maryland has always been most liberal upon the subject of internal improvements. She has exerted herself to the utmost to facilitate the commercial connections between the several States. She has never presented herself as a barrier between the States of the North or the East or the West and the national capital. She has afforded them facilities to an extent which almost proved ruinous to her own financial system.

Mr. SHERMAN. Will the Senator allow me a word?

Mr. CRESWELL. Certainly.

Mr. SHERMAN. I do not wish to dispute the assertion of the honorable Senator from Maryland as to the policy of his State, but I wish to make a suggestion now in regard to the great road of that State to which he alludes, which I think will not do him or the road or the State of Maryland any harm. I think that there are complaints and just complaints to be made against the Baltimore and Ohio railroad company, and as one of the small complaints which they ought at once to avoid, is the difficulty they interpose in transporting baggage and passengers through the city of Baltimore.

Mr. CRESWELL. The Senator will pardon me; I will inform him that I am not the baggage master of the Baltimore and Ohio railroad.

Mr. SHERMAN. I know that; but the Senator was saying that the State of Maryland and the Baltimore and Ohio Railroad Company had been very liberal. It seems to me that they have not been so liberal.

Mr. CRESWELL. I spoke of the State of Maryland, not of the Baltimore and Ohio railroad.

Mr. SHERMAN. You cannot speak of the State of Maryland in this connection without speaking of the Baltimore and Ohio railroad.

Mr. CRESWELL. I was speaking of the conduct of the State of Maryland with reference to the promotion of the commercial interests of the nation.

Mr. SHERMAN. Then I will make another complaint against the State of Maryland. Up to this time the State of Maryland and the State of Pennsylvania—for I make the complaint against both of them—have stood in the way of a railroad between Cleveland and Pittsburg and Washington city—a road that must some time or other and that ought to be speedily built—a road which if it had existed during the recent war would have saved this Government two or three million dollars. I speak within limits when I say that.

Mr. CRESWELL. Does the gentleman refer to the Connellsville road?

Mr. SHERMAN. Yes; that is part of the line. I know the Baltimore and Ohio railroad has been interested in completing it from Pittsburg to a connection with their road, and thence to Baltimore. Now, the people of the United States, and especially the people of the State that I represent, in which there is a great deal of feeling about this matter, desire the construction of a railroad from the capital of the Government through Pittsburg to the Northwest.

Mr. CRESWELL. I can only state to the gentleman that the State of Maryland, and I believe the Baltimore and Ohio Railroad Company, are zealously aiding in that effort, and the fact is that the Baltimore and Ohio railroad, although I have no authority to speak for that company, is actually engaged in the construc-

tion of a road from the city of Washington to the Point of Rocks.

Mr. JOHNSON. My colleague will permit me to state what they are doing, as perhaps I know it better than he does.

Mr. CRESWELL. Certainly.

Mr. JOHNSON. The Baltimore and Ohio Railroad Company and the city of Baltimore both are exceedingly anxious to have the Connellsville railroad completed. A charter was obtained from Pennsylvania for that purpose, and a charter from Maryland. The Maryland charter authorized the company chartered by Pennsylvania to come, to Cumberland, so as to connect with the Baltimore and Ohio railroad. Owing to causes which it is unnecessary now to mention, Pennsylvania after having granted a charter to that company repealed it; repealed it upon the ground that the company had not complied with the conditions of the charter. There was some suspicion that the cause of that repeal was to prevent the trade coming to Baltimore. Whether that is true or not is immaterial. There is a suit now pending between the Connellsville Railroad Company and another company chartered by Pennsylvania, in which the validity of the repealing act is in issue. I tried a cause involving that question in the circuit court at Williamsport, Pennsylvania, during the last summer, and the judges there decided that that law was unconstitutional. The controversy is not yet settled. That question was upon a motion to dissolve an injunction. But since then I am glad to say to my friend from Ohio that under a charter granted by Maryland, the object of which is to bring the Baltimore and Ohio railroad more directly in connection with Washington than it is now by virtue of the existing road, a route has been surveyed from the Point of Rocks, coming through the neighboring county of Montgomery, and the company are about to commence that work at once, and I have very good reasons to believe that that road will be completed in a very short time, the effect of which will be to give a direct communication from the city of Washington to the West, which everybody must see is very desirable. Whether if such a communication had existed before two or three million dollars would have been saved to the Government is perhaps problematical, because the great expense and trouble to which the Government was put, and to which the Baltimore and Ohio Railroad Company was subjected, was from the raids upon that road, and those raids would have applied just as well to a road continuously running from this District to the nearest point upon the Baltimore and Ohio railroad as upon the road as it existed.

My colleague will pardon me for adding a word further. The late lamented President of the United States and the present Secretary of War have over and over again told me, and they have communicated it officially to the Baltimore and Ohio Railroad Company, that the service rendered by that road to the United States during the rebellion was invaluable. It not only saved thousands and thousands of dollars, but it saved this capital. One of the feats which they achieved at the instance of the Government, and without which perhaps we might have been defeated at Richmond, was bringing forty thousand soldiers of General Sherman's army to the relief of the capital in order to join Grant's army. They brought the whole of them, I think, in two or three days, without losing a man or losing anything connected with that branch of the Army, even a cannon or anything else; and they were as speedily as possible sent to the front, by that means enabling General Grant with the force he before had to accomplish the victories which were so priceless in their results, and have thrown so much splendor upon his own name.

Mr. SHERMAN. I had not quite completed the charge that was made against Maryland. I do this not from any unfriendly feeling to the Baltimore and Ohio railroad, which is one of the great arteries of the commerce of the West, but for the purpose of directing the attention

of the Senator from Maryland to the complaints that prevail in my own State and throughout the whole Northwest in regard to the railroad system of Maryland. In regard to that little complaint about the baggage, I may say, although the Senator has not charge of the baggage, that I presume it has created more dissatisfaction with the Baltimore and Ohio Railroad Company than all other things combined. It arises from the fact that every woman, child, or man who desires to go from here to the West, through Baltimore and Harrisburg, cannot get through the city of Baltimore with the ordinary facilities that are furnished in all other places that I know of in the United States. We cannot buy a ticket from here to go any way except one; and that little impediment of a mile between the end of one railroad and another in Baltimore is made more onerous and more troublesome than five hundred miles of railroad travel; and in some cases I have myself gone to Baltimore for the purpose of seeing ladies who were traveling to the West through that gap. Every Senator who travels to the West knows that he cannot get his trunk checked from here to Harrisburg, and so westward. It is one of those little annoyances which are very hard to bear, and I have been surprised again and again that the Baltimore and Ohio Railroad Company have not adopted the plan which is adopted in almost every city in the Union. You can go from here to Boston, through Philadelphia and New York, and check your baggage through; but you cannot get a ticket from Cleveland to Washington. You can to Baltimore, and then must get through Baltimore the best way you can, and perhaps have to hire a hack at considerable expense to get yourself and baggage through the city.

I desire to state another point if I do not interrupt my friend—

Mr. CRESWELL. Not at all.

Mr. SHERMAN. The other complaint is that the State of Maryland has by some means or other by legislation prevented the completion of a road up the beautiful valley in which Hagerstown lies, so as to connect in that way with Harrisburg, and there is no means of communication between Washington and Harrisburg by way of Hagerstown.

Mr. JOHNSON. A road is being built there now.

Mr. SHERMAN. These are matters of complaint against the Baltimore and Ohio railroad and the State of Maryland, and they are generally grouped together because it is said that the Baltimore and Ohio railroad controls to some extent the legislation of Maryland. That it is so I do not vouch for; but these are complaints constantly made by the people of my State, who, as they lie right in the road of travel westward, feel these things more, perhaps, than any other State. I will say, in regard to Ohio, that our laws from the first have been extremely liberal; they allow anybody to build railroads anywhere in the State of Ohio who is willing to risk the investment. It seems to me that rule ought to be applied to all the States. As the Senator had alluded to the policy of his own State and to the Baltimore and Ohio railroad, I deemed it but right and just to say that these complaints are general, and especially the first one, almost universal.

Mr. JOHNSON. If my colleague who is entitled to the floor will permit me a word, I will say that I do not know where the fault lies in regard to the absence of any arrangement about checking baggage and selling tickets through; but there has not been, unfortunately, an agreement between the Baltimore and Ohio railroad and the railroad that runs from the city of Baltimore to Harrisburg. General Cameron has been at the head of the latter company; and either with or without cause, I do not know which—I do not pretend to decide which is to blame, if either is to blame—there has been no accord between them. It is because of that difference that they have been unable to make an arrangement which it is necessary to make in order to check baggage

through and give tickets through. The Baltimore and Ohio railroad, however, give tickets through everywhere except by way of Harrisburg.

Mr. CRESWELL. As the honorable Senator from Ohio has made certain inquiries in regard to the present and proposed action of the Baltimore and Ohio Railroad Company, I will state that I happen to have in my hand a speech of the president of that company made at the last annual meeting, which speech I think will afford the Senator all the information he may desire on the subject he has presented. If the Senator will pardon me, I will read some passages from this speech:

"Under the charter granted by the Legislature of Maryland at its last session, your engineers have been diligently engaged in locating a route from the Point of Rocks to Washington. I am gratified to inform you that they have so far progressed as to be able to state that the line from that point, which is now via the main stem and Relay House to Washington, ninety-one miles, will be reduced to forty-five miles, thus securing for the travel of the Southwest and the great West, a reduction in distance of forty-six miles.

"Notwithstanding the Pennsylvania Railroad Company and the Northern Central Railroad Company, whilst overflowing with professions to members of Congress and others regarding their anxiety for an improved line to the Capital; notwithstanding those parties have antagonized a further improvement of the highest utility and importance to the seat of Government, namely, the prosecution of the Pittsburgh and Connellsville road, from Connellsville to Cumberland, I am gratified to state that the United States district court have, in a decision heretofore rendered, distinctly maintained the rights of that company, under its charter, to construct the line.

"You all remember that the State of Pennsylvania granted the charter for this road; that fifty-eight miles of the road were constructed, and when the Baltimore and Ohio Company, recovering from its disasters and losses in the early part of the war, feeling it a duty, in the then situation of the country, prepared for the construction of that work, that the Hon. Thomas A. Scott, vice president of the Pennsylvania road, visited Harrisburg, and by his personal efforts and the influence of the Pennsylvania Railroad Company, as reliably stated, insisted upon that Legislature rescinding the charter of the Pittsburgh and Connellsville road for the unfinished portion of its line.

"But, gentlemen, the great requirements of the country, fully allied with the rights and equities of the case, will overwhelm and control the unjust efforts of parties who, in attempting to aggrandize other interests, improperly oppose those of the public.

"The Baltimore and Ohio Company and those associated with it are prepared to complete that short line to Pittsburgh, and thus by this improved route reduce the distance to Washington seventy-two miles from that central point in the West. While the relations to the national capital of the vast populations of the States of the Northwest are identified with this enterprise as well as their great agricultural interests, which would thus secure a route so much shorter and more economical to the sea-board, the city of Pittsburgh and western Pennsylvania are still more deeply and thoroughly interested in the prosecution of this work.

"Almost as one man, the merchants and manufacturers, the capitalists and the people of that city and of western Pennsylvania demand the construction of this road; and well they may, for with this line completed, and a direct outlet to Washington and Baltimore thus effected, the city of Pittsburgh has in its future a position scarcely secondary to Philadelphia itself. With its vast mineral resources and varied natural advantages, it is already the Birmingham of America; and with this double and powerful avenue thus opened for its people, a concentration of trade, and increase of manufacturing wealth and progress in all that makes communities great and prosperous, is before that city, of an unparalleled character."

He then proceeds to state the manner in which he proposes to secure the means necessary for that work:

"In this connection, it is proper to state that the distinguished gentlemen from England who recently visited this country in relation to American railway interests, were struck with the marked necessity as well as the great importance of this line; and that eminent, sagacious, and able gentleman, Sir S. Morton Peto, on behalf of the Atlantic and Great Western Railway Company, stated that in connection with the construction of the roads from Point of Rocks to Washington, and from Connellsville to Cumberland, capital would be promptly furnished and vigorous measures taken to complete the road from Cleveland, via Youngstown, to Pittsburgh, and thus furnish to members of Congress and all other parties visiting the capital of the United States, a route from Cleveland and the whole region of the lakes and Northwest, eighty-four miles shorter than any existing line."

I hope that is satisfactory to the Senator from Ohio on that point.

Mr. SHERMAN. I said when I spoke before that the Baltimore and Ohio Railroad

Company favored the Connellsville road; but that was resisted by the Pennsylvania Central. The other road, though, from the Point of Rocks through Hagerstown to Harrisburg, is a point about which I think Mr. Garrett is not quite so satisfactory.

Mr. CRESWELL. I am not prepared to furnish the gentleman with information on that subject. I am not aware, however, of any hostility by the Legislature of Maryland to the construction of a railroad from Hagerstown to the Point of Rocks; and I know that a road is now being constructed from Hagerstown eastward to connect with the Baltimore and Ohio road, (at what point I am not prepared to say,) and that this connecting link, when completed, will afford to passengers from Harrisburg and the Cumberland valley an immediate outlet by way of the Baltimore and Ohio railroad to Washington and Baltimore. That, I suppose, is the desideratum the gentleman speaks of.

There is only one other complaint, and that is in reference to baggage. Now, in regard to that, let me say that I will use my personal influence with the president of the Baltimore and Ohio Railroad Company—I know it does not amount to much—and I am sure if the gentleman's trouble in that respect can be remedied it will be done.

Mr. SHERMAN. I can tell the Senator that he will in that way do thousands of men and a great many very estimable ladies a great benefit.

Mr. CRESWELL. I will turn my philanthropy in that direction and endeavor to benefit my own sex and make the ladies happy.

Mr. President, I have only a few words more to say, and I think the interruption of the Senator from Ohio perhaps gives me an opportunity to say them with a little more pertinency. The State of Maryland has a right to call upon the West, whose works of improvement she has aided to nurture by the most liberal donations of public lands, at least to abstain from any legislation which will prove inimical to her most important interests. As I stated just now and proved, Maryland has invested \$36,000,000 of her own hard money in her works of internal improvement. Not one dollar for that purpose, so far as I am informed, has she ever received from the General Government.

To the States of the West, Maryland has voted with a generous heart large portions of that great domain which she long ago relinquished to the Union for the common good. It has been my policy since I have been in Congress to respond cordially to all the claims of the West; I am perfectly willing, if necessary, to give them a proper system of internal improvements; that they shall have every acre of the public lands. I am willing to aid them to the full extent of the Government. Weak no assistance from the Government; we merely ask that the Government will not subvert our own system and will not cause us to lose the immense amount of expenditure that we have already made for that purpose. We have already lost in our efforts to promote commerce between the other States of the Union and the internal commerce of Maryland one tenth of all the assessable property in the State. We have lost between twenty-seven and twenty-eight million dollars out of two hundred and eighty millions; and if the scheme of which I believe this bill is the forerunner is now adopted, and the Congress of the United States shall assume jurisdiction over all these railroad interests, it will result not only in the destruction of the roads which have been made already, but utterly to destroy the prospects of the State in the future.

Now, sir, what is the fact? In this country we are unable to build railroads by means of the capital of each separate locality. The Government does not purpose investing a thousand millions during the next ten years in railroads, as the States, and the enterprise of individuals assisted by the States, have done in the last ten years. The only security for all this money is found in the rights, franchises, and privileges conferred by State charters; and if Congress shall undertake by a new system of legislation

to usurp the right of eminent domain over the States, and thereby make new grants of roads and canals to subvert the grants of the States, it will utterly destroy that confidence which is necessary to enable the people of the United States to gather capital for the construction of any additional roads in the future. I believe that this policy will not only be detrimental, but actually destructive, of the great interests of my State and country.

Mr. MORRILL. Mr. President—

Mr. GRIMES. The Senator from Maine desires to address the Senate at some length, I should judge from the indications; and I therefore move that the Senate do now adjourn.

Mr. CHANDLER. I hope that motion will not prevail. I desire to have a vote on this bill if it is possible.

Mr. FESSENDEN. You cannot get it to-night.

Mr. CHANDLER. The Senator from Maine [Mr. MORRILL] informed me a short time ago that he would not read all the books on his desk, and he can get through in half an hour.

Mr. GRIMES. If he only reads one half of them it will take a long time.

Mr. CHANDLER. I shall be glad to get a vote to-night.

Several SENATORS. You cannot get it.

Mr. CHANDLER. The Senator from Maine informed me that he should be very brief in his remarks. I could make a long speech myself, but I will omit it, as I do not wish to occupy time.

Mr. GRIMES. The Senator from Nevada told me that he desired to address the Senate. I withdraw the motion to adjourn for the present, as I understand there is some other business which it is desirable to attend to.

POST OFFICE APPROPRIATION BILL.

A message was received from the House of Representatives, by Mr. McPHERSON, its Clerk, returning to the Senate, in compliance with the request of the Senate, the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes, with the amendments of the Senate thereto.

Mr. POLAND. I move to reconsider the vote by which the bill making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1867, was passed. I was desired to state the reasons for moving this reconsideration. I do not propose to enter into any discussion of the subject, but merely to state in a word the ground on which I make the motion.

The amendment for which I voted, and which was offered by the Senator from Illinois, clearly recognizes, as I think on examination, the power of the President to make removals from office, and to fill them by appointing other persons. The amendment to this bill provides that in such cases, and where officers are removed for cause, their successors shall receive no pay. It seems to me that if we concede that the President has the right to make removals and to fill the vacancies thus occasioned by the appointment of other persons, so that they are legally invested with the office, it will not do for us to say that they shall not receive the compensation which the law provides. That is revolutionary; we might as well refuse to make an appropriation to pay the salary of the President if his action does not suit us.

Upon this question of the power of the President to remove officers, this vexed question, which has always been a vexed question, I do not propose to make any argument, because I do not propose to ask to have this matter considered now. The Senator from Missouri [Mr. HENDERSON] informed us yesterday that he was preparing a bill upon the general subject of the power of removal from office. I desire that this motion to reconsider shall lie on the table until we may have his bill before us, and see whether it will not remove the difficulty. I submit the motion to reconsider, and ask that it lie on the table for the present.

The PRESIDING OFFICER. The motion to reconsider will be entered.

Mr. SHERMAN. Before the Senate adjourns, I ask that the motion to reconsider be made by the Senator from Vermont, [Mr. POLAND,] together with the bill to which it pertains—the Post Office appropriation bill—be postponed until Monday, at one o'clock, and made the special order then, so that we may dispose of it on that day.

Mr. FESSENDEN. There is no objection to reconsidering it.

Mr. SHERMAN. I hope, then, that the motion will be now acted on, and then let the bill be postponed until Monday.

Mr. SUMNER, and others. Why not act now?

Mr. SHERMAN. I move to take up the motion to reconsider the Post Office appropriation bill entered by the Senator from Vermont.

The motion was agreed to.

Mr. SHERMAN. I hope the vote will be taken on the reconsideration, and then—

The PRESIDING OFFICER. The question is on reconsidering the vote by which the bill was passed.

The motion to reconsider was agreed to.

The PRESIDING OFFICER. It will be necessary to reconsider the vote ordering the amendments to be engrossed and the bill to be read a third time.

The reconsideration was agreed to.

Mr. SHERMAN. Now I move that the further consideration of the bill be postponed to and made the special order for Monday next, at one o'clock, unless the Senate is willing to dispose of it now. ["Yes."] I should like to have it disposed of now. ["No."]

Mr. JOHNSON. A great many Senators have left the Chamber. Nobody expected it to come up.

Mr. SHERMAN. I have no objection to its going over.

Mr. POLAND. I prefer it to lie until the bill proposed by the Senator from Missouri shall be brought in, and I understand from him that he proposes to offer the bill early in the coming week. I do not wish to name any fixed day.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio to postpone the consideration of the bill until Monday, and make it the special order for that day at one o'clock.

The motion was agreed to.

Mr. GRIMES. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 3, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

CORRECTION OF THE JOURNAL.

Mr. MYERS. I rise to a privileged motion, to correct the Journal. I find in the proceedings of yesterday, as stated in the Globe, my name is recorded among those not voting on the Army bill. I voted against it.

The SPEAKER. The Journal will be corrected accordingly.

PERSONAL EXPLANATION.

Mr. McKEE. I rise to a personal explanation. I wish to state that on the vote yesterday on the Army bill I voted under a misapprehension. Some gentleman had made a motion to lay the bill on the table, and I supposed I was voting on that motion, and therefore I find myself recorded as voting for the bill. I intended to vote against it.

LEAVE OF ABSENCE.

Mr. BAKER asked and obtained leave of absence for his colleague, Mr. COOK, for three days, including yesterday.

Mr. TAYLOR asked and obtained leave of absence for his colleague, Mr. J. M. HUMPHREY, for two weeks.

Mr. LAWRENCE, of Pennsylvania, asked and obtained leave of absence for his colleague, Mr. MOORHEAD, for four days.

Mr. BINGHAM asked and obtained leave of absence for Mr. HUBBARD, of Connecticut, for one week.

REORGANIZATION OF THE ARMY.

Mr. SCHENCK. Mr. Speaker, the first business in order this morning is the motion to lay on the table the motion to reconsider the vote on the Army bill.

Mr. WRIGHT. I ask the gentleman from Ohio [Mr. SCHENCK] to allow me to modify the motion that I made yesterday. I made the motion to reconsider the vote by which the bill had been rejected, and to lay that motion on the table. I did it with no unkind feeling toward the friends of the bill, but I think it requires a little more consideration, and with the permission of the House I will withdraw my motion to reconsider and move that the bill be recommitted to the Committee on Military Affairs, in justice to the chairman.

The SPEAKER. Before the bill can be recommitted the vote by which it was rejected must be reconsidered.

Mr. WRIGHT. I withdraw my motion to lay on the table.

The SPEAKER. That leaves the motion to reconsider pending.

Mr. SCHENCK. My purpose in rising was to give notice that if the House should reconsider the vote by which the bill was rejected, I myself would move to recommit. I demand the previous question on the motion to reconsider.

Mr. CHANLER. Is it in order to move to lay that motion on the table?

The SPEAKER. It is.

Mr. CHANLER. I make it.

Mr. WRIGHT. The effect will be to kill that bill entirely.

The SPEAKER. That is so.

Mr. CHANLER. I demand the yeas and nays on the motion to lay on the table.

Mr. SCHENCK. If the motion to recommit should prevail I would also move to print the bill in the form in which it passed the House with the amendments.

Mr. CHANLER. It is not debatable.

The demand for the yeas and nays was not seconded.

Mr. CHANLER. I call for tellers.

Tellers were refused.

The question being taken on the motion to lay the motion to reconsider on the table, it was disagreed to.

The question then recurred on seconding the demand for the previous question on the motion to reconsider the vote by which the bill was rejected.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

The question then recurred on the passage of the bill.

Mr. SCHENCK. I now make the motion, or rather the gentleman from New Jersey [Mr. WRIGHT] has made the motion, to recommit. I suggest that he accompany the motion with another, that the bill as amended be printed.

Mr. WRIGHT. I will make that motion also.

Mr. ROSS. Is it in order to move to add instructions?

The SPEAKER. It is.

Mr. ROSS. I move that the committee be instructed to report back an Army organization not exceeding thirty-five thousand men.

The SPEAKER. The gentleman will reduce his motion to writing.

Mr. SCHENCK. I demand the previous question on the motion to recommit and the motion to add instructions.

Mr. ROSS. I have now reduced my proposed instructions to writing, as follows:

That the committee be instructed to report a bill for an Army not to exceed thirty-five thousand men.

I demand the yeas and nays on my motion.

Mr. SCHENCK. I withdraw the demand for the previous question simply for the purpose of calling the attention of the House to the fact that the proposition of the gentleman to reduce the Army to thirty-five thousand, if it were to prevail, would reduce the Army below its present maximum, forty-three thousand. I trust that there will be no instructions given to the committee. I renew the demand for the previous question.

The previous question was seconded and the main question ordered; the question being first upon Mr. Ross's motion to instruct the Committee on Military Affairs.

Mr. WRIGHT. What would be the effect of moving to lay that motion on the table?

The SPEAKER. It would carry the bill with it.

The yeas and nays were not ordered.

The question was taken on Mr. Ross's motion, and it was disagreed to.

The question recurred upon the motion to recommit the bill to the Committee on Military Affairs and order it printed; and being put, the motion was agreed to.

Mr. SCHENCK entered a motion to reconsider the vote by which the bill was recommitment.

EMPEROR OF RUSSIA.

Mr. STEVENS. I ask the unanimous consent of the House to introduce a resolution relative to the recent attempted assassination of the Emperor of Russia.

The resolution was read, and is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States of America has learned with deep regret the attempt made upon the life of the Emperor of Russia by an enemy of emancipation. The Congress send their greeting to his Imperial Majesty and to the Russian nation, and congratulate the twenty million souls upon the providential escape from danger of the sovereign to whose head and heart they owe the blessings of their freedom.

Mr. ROSS. I move to refer that resolution to the Committee on Foreign Affairs.

Mr. CHANLER. I move to insert after the words "head and heart" in the resolution, the words "under God." The Emperor of Russia is the head of the Greek church and there ought to be some recognition of the divine power in this resolution.

The SPEAKER. The resolution is not before the House. Is there objection to the introduction of the resolution?

Mr. ROSS. I object unless it is to be referred to the Committee on Foreign Affairs.

Mr. STEVENS. I withdraw the resolution until one man who is in favor of assassination cannot obstruct it.

Mr. CHANLER. I rise to a question of order.

The SPEAKER. The gentleman will state his question of order.

Mr. CHANLER. It is that the reasons of the gentleman for withdrawing the resolution were not stated so as to be heard here, and evidently had a bearing upon the action of the House.

The SPEAKER. The gentleman from Illinois [Mr. Ross] objected to the introduction of the resolution, and that objection prevents the resolution coming in. The gentleman from New York was not recognized as objecting.

PRINTING OF TESTIMONY.

Mr. BOUTWELL, from the committee on reconstruction, reported evidence in reference to the State of Georgia; which was laid upon the table, and ordered to be printed.

Mr. BOUTWELL moved that the same number of extra copies be printed as of the testimony heretofore reported by the same committee; which motion was referred, under the law, to the Committee on Printing.

Mr. CONKLING, from the same committee, reported testimony in relation to the States of Virginia, North Carolina, and South Carolina; which was laid upon the table, and ordered to be printed.

Mr. CONKLING moved that the same num-

ber of extra copies be printed as of the testimony heretofore reported by the same committee; which was referred, under the law, to the Committee on Printing.

COMMERCE WITH MEXICO.

Mr. JULIAN, by unanimous consent, introduced the following resolution:

Resolved, That the Secretary of the Treasury be instructed to communicate to this House any information he may have concerning discriminations made by the so-called Maximilian government of Mexico against American commerce, or against commerce from particular American ports.

Mr. RAYMOND. I suggest to the gentleman that he call upon the President and not the Secretary of the Treasury for this information. That is the usual form, and I believe the only form in which the head of a Department can respond. I make that suggestion for his consideration.

Mr. JULIAN. I will modify the resolution in that way.

The resolution, as modified, was agreed to.

CLERK FOR COMMITTEE ON AGRICULTURE.

Mr. BIDWELL, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Agriculture be allowed a clerk, at the usual compensation, for such length of time as the chairman may deem necessary, in order to make a careful investigation of the expenditures and administration of the Department of Agriculture.

MURDER OF NORTH CAROLINA UNION SOLDIERS.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting, in compliance with a resolution of the House of April 16, 1866, the report of the Judge Advocate General in regard to the murder of certain Union soldiers belonging to the first and second North Carolina loyal infantry; which was laid upon the table, and ordered to be printed.

ORDER OF BUSINESS.

Mr. WASHBURNE, of Illinois, called for the regular order of business.

The SPEAKER. The regular order of business for the morning hour of this day is the consideration of reports from the Committee on Territories.

Mr. O'NEILL. Does not the unfinished business of the Patent Office Committee come up this morning?

The SPEAKER. It does not; that business will come up when there is another morning hour for public business, when the Committee on Patents will be entitled to another morning hour. The morning hour of this day was assigned, by order of the House on the 18th of April, to the consideration of reports from the Committee on Territories.

TERRITORY OF MONTANA.

Mr. ASHLEY, of Ohio, from the Committee on Territories, reported back House bill No. 202, to amend an act entitled "An act to provide a territorial government for the Territory of Montana," approved May 26, 1864, with an amendment in the nature of a substitute.

The amendment was read, as follows:

Strike out all after the enacting clause and insert: That the Governor of the Territory of Montana be, and he is hereby, authorized on and after the 1st day of September, 1866, to reapportion said Territory for the election of the Council and House of Representatives: *Provided, That said apportionment shall be based on such an enumeration of the qualified electors of the several counties as shall appear from the election returns in the office of the secretary of the Territory and from such other sources of information as will enable the Governor, without taking a new census, to make an apportionment which shall fairly represent the people of the several counties in both Houses of the Legislative Assembly of said Territory; and the Legislative Assembly elected in pursuance of this act shall provide by law for the election of a Council and House of Representatives as directed in the act of which this act is an amendment.*

Sec. 2. *And be it further enacted, That the acts of the so-called Legislative Assembly elected without authority of law, and in pursuance of the proclamation of the acting Governor, which met and began its session in the city of Virginia on the 5th of March, 1866, be, and the same are hereby, declared disapproved and null and void; and no money now appropriated, or which may hereafter be appropriated, by the Congress of the United States for defraying the*

expenses of the territorial government of Montana, shall ever be paid to any person claiming to have been elected to the Council and House of Representatives of the Legislative Assembly of said Territory for services as members or officers thereof, at the session begun and held as aforesaid, or to defray the expenses incurred by said Legislative Assembly for any purpose.

Mr. ASHLEY, of Ohio. I call the previous question on the bill and amendment.

The previous question was seconded and the main question ordered, which was upon agreeing to the substitute.

The question was taken; and the substitute was agreed to.

The bill, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BOUNDARIES OF NEVADA.

Mr. ASHLEY, of Ohio, from the Committee on Territories, reported back Senate bill No. 155, concerning the boundaries of the State of Nevada, with an amendment.

The bill was read. The first section provides that, as provided for and consented to in the constitution of the State of Nevada, all that territory and tract of land adjoining the present eastern boundary of the State of Nevada, and lying between the thirty-seventh and the forty-second degrees of north latitude and west of the thirty-seventh degree of longitude west of Washington, shall be added to and made part of the State of Nevada.

The second section provides that there shall be added to and made a part of the State of Nevada all that extent of territory lying within the following boundaries, to wit: commencing on the thirty-seventh degree of north latitude, at the thirty-seventh degree of longitude west from Washington, and running thence south on said degree of longitude to the middle of the river Colorado of the West; thence down the middle of said river to the eastern boundary of the State of California; thence northwesterly along said boundary of California to the thirty-seventh degree of north latitude; and thence east along said degree of latitude to the point of beginning; provided that the territory mentioned in this section shall not become a part of the State of Nevada until said State shall, through its Legislature, consent thereto.

The amendment was read, as follows:

Add to the second section the following proviso: *Provided further, That the possessory rights acquired by citizens of the United States, in mining claims discovered, located, and originally recorded in compliance with the rules and regulations adopted by miners in the Pah Ranagat and other mining districts in the territory incorporated by the provisions of this act into the State of Nevada, are hereby declared to be valid subsisting mining claims; but nothing herein contained shall be so construed as granting a title in fee to any mineral lands held by possessory titles in the mining States and Territories.*

Mr. KASSON. I would inquire if this act would make the titles to these mining claims any different from what they would be if this act should not pass.

Mr. ASHLEY, of Ohio. In the Territory of Utah, where it is supposed this Pah Ranagat district is situated, there is no law regarding mining claims. And if this bill should pass without the amendment proposed by the committee, as soon as the information should reach the district the mines now located there would be liable to have their claims jumped by persons who would at once enter them under the mining law of Nevada. And it is proposed that the possessory right to those claims shall remain the same as if they had been originally discovered in Nevada; but they are not thereby to have the title in fee.

Mr. KASSON. Mr. Speaker, I concur entirely in the propriety of the object which it is desired to accomplish; but I fear that the manner in which it is proposed to be accomplished will interfere with any legislation that this Congress may determine upon touching the valid-

ity of those mining claims, unless the gentleman will consent to have the amendment so modified as to provide that the titles shall remain as valid as if this transfer of jurisdiction were not made. If the gentleman will consent that the amendment shall be put in that form, it will be safe; but it now declares that those titles shall be valid; and I fear that if the amendment be adopted in its present form, it may stand in the way of legislation which we may hereafter desire to enact.

Mr. ASHLEY, of Ohio. If the gentleman will examine the amendment, I think he will find that it is not justly liable to the objection which he raises. Both the Mining Committee and the Territorial Committee are unanimous in favor of the adoption of this proposition.

Mr. KASSON. Let the amendment be again read.

The Clerk read the amendment.

Mr. KASSON. The point which I make is that instead of the language, "are hereby declared to be valid," the amendment should read, "shall remain as valid and subsisting as if this act had not been passed." By the language which I propose, we shall avoid precluding ourselves from making any modification as to the extent of the claims, if we should choose to attempt hereafter a general system of regulating these mining claims.

I may remark that I take some special interest in this question in consequence of examinations made during my trip to the mountains last year. The amendment which I propose will accomplish, as I think the gentleman must admit, the entire purpose which he has in view, while it will avoid the danger that I certainly for one apprehend from the present language of the amendment.

Mr. ASHLEY, of Ohio. I have no objection to the amendment which the gentleman suggests. The Mining committee, of which I am a member, as well as the Territorial Committee, have had this matter under consideration, and are unanimous in favor of amending the bill in this way in order to secure the interests of parties who have made large outlays. I have no objection to the insertion of the gentleman's proposition.

Mr. KASSON's amendment to the amendment was read, as follows:

Strike out before the word "valid" the words "are hereby declared to be," and insert in lieu thereof the words "shall remain as."

Mr. WRIGHT. I desire to ask whether our action in declaring possessory rights valid is to affect the legal title to those lands.

Mr. ASHLEY, of Ohio. We desire to negative entirely the idea that it shall have any such effect.

Mr. HOOPER, of Utah. This is a question affecting the Territory which I represent here; and from the reading of the bill I have not been able to trace distinctly the line of division proposed. I therefore ask the chairman of the committee to state to what extent the committee propose to dismember the Territory of Utah.

Mr. ASHLEY, of Ohio. They propose to take off eighteen thousand square miles.

Mr. HOOPER, of Utah. Will the gentleman be kind enough to give to me in degrees? Is it one degree east and west?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. HOOPER, of Utah. Moving the boundary from the thirty-eighth to the thirty-seventh degree?

Mr. ASHLEY, of Ohio. Yes, sir; taking eighteen thousand square miles, leaving the Territory of Utah with eighty-eight thousand square miles, whereas it now has one hundred and six thousand.

Mr. HOOPER, of Utah. Mr. Speaker, would it be in order for me to move that the further consideration of this bill be postponed until it shall have been printed?

The SPEAKER. It would be, if the gentleman from Ohio yields for that purpose.

Mr. ASHLEY, of Ohio. I do not yield for that purpose. This is a Senate bill; it has been printed in the Senate, and is now on our files.

I cannot consent to such a motion as the gentleman proposes.

Mr. WASHBURN, of Illinois. I think that the gentleman from Ohio, [Mr. ASHLEY,] the chairman of the Committee on Territories, ought not to urge this matter against the wishes of the Delegate from Utah without giving him a fair hearing. This bill proposes to take off eighteen thousand square miles from that Territory; and I think it only fair and just that the Delegate representing the Territory should have a full opportunity to be heard on this question.

Mr. ASHLEY, of Ohio. I demand the previous question on the amendment and the amendment to the amendment.

The previous question was seconded and the main question ordered; and under the operation thereof Mr. KASSON's amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. ASHLEY, of Ohio. I now yield to my colleague from Maine [Mr. RICE] to offer a further amendment.

Mr. RICE, of Maine. By instruction of the committee, I move to amend by striking out the following words:

To the middle of the river Colorado of the West; thence down the middle of said river to the eastern boundary of the State of California; thence northwesterly along said boundary of California to the thirty-seventh degree of north latitude; and thence east along said degree of latitude to the point of beginning.

Mr. Speaker, I only wish to say that the effect of that amendment is to exclude from the portion of the territory to be attached to Nevada that portion in the Territory of Arizona, so that all the territory annexed to Nevada by this bill will only be the portion taken from Utah.

Mr. ASHLEY, of Ohio, demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. HOOPER, of Utah. I ask the gentleman to consent to the printing of this bill before action is taken on it.

Mr. ASHLEY, of Ohio. It has already been printed and is upon our files. I yield to the gentleman fifteen minutes of the hour to which I am entitled under the rules.

Mr. HOOPER, of Utah. Mr. Speaker, I do not propose to make a speech, but I feel it due to my constituents to elicit for them as much information as I can why this dismemberment should take place.

From the reading of the report of the House committee, as well as from the report of the Senate committee, upon which that body has acted and passed this bill, I have not been able to find any tangible reason assigned, indeed any reason at all, for the course which is attempted to be pursued. The bill presented to the Senate, as I understand, was drafted by one of the Senators from Nevada. It was there referred to the Committee on Territories, and I believe specially referred to him, and by him reported favorably to the Senate, when the Senate, acting in accordance with the report, passed it.

I will say that during the pendency of this matter in the Senate I never received any notice, nor did I have any opportunity of appearing before that committee to represent the views of the citizens of Utah touching this matter which so vitally affects their interests. I have had an opportunity of appearing before the House committee, and there stated my objections to this matter.

It is not, Mr. Speaker, only in behalf of the people of Utah that I object to the dismemberment proposed, but to the principle that is to be established. I believe the course of legislation now proposed is without precedent in the history of the country or its legislation in reference to the Territories. On the simple action of a committee thousands of square miles are taken from one Territory and attached to another without assigning a reason or consulting the people who are to be transferred. It does appear to me a position of this

kind, transferring land from one Territory to another, with the inhabitants thereof, is reducing these people, and nothing more nor less, to the condition of serfs; and in behalf of my constituents, the people of Utah, I here most solemnly protest against it.

According to the amendment of the gentleman from Maine, [Mr. RICE,] that part of the bill which proposes to dismember Arizona is in mercy stricken out.

Mr. ASHLEY, of Ohio. The amendment has not been adopted.

Mr. HOOPER, of Utah. On the principle of equal legislation the amendment should cover the whole ground.

Mr. ASHLEY, of Ohio. Then there would be no bill.

Mr. HOOPER, of Utah. There ought not to be. I deem it almost next to useless to refer to the fact that the people of Utah were the first to break a path from the Missouri river to the center of this continent. We claim to be the pioneers. We claim to have taken the germ of everything now in that country, over the broken roads and there planted them without any expense to the Government. We have there built up a State of one hundred and fifty thousand people; we have built up two hundred and fifty grist and saw mills; we have established three cotton factories; we have grown two thousand bales of cotton; we have opened up one hundred and fifty thousand acres of arable land, from which not only that State but all the Territories adjacent draw their supplies.

Mr. ASHLEY, of Ohio. I must resume the floor.

Mr. HOOPER, of Utah. I ask the House, in the name of justice, and in respect to the rights of a people who have done as much as any other to sustain the Government, to reject the bill.

Mr. ASHLEY, of Ohio. I yield ten minutes to the Delegate from Arizona.

Mr. GOODWIN. I hope the amendment of the gentleman from Maine will prevail. The bill, as amended, would provide for taking a portion of Utah and annexing it to Nevada, striking out so much of the Senate bill as provided for the annexation of any portion of Arizona.

This bill came to the House of Representatives from the Senate. While it was pending before the Committee on Territories in the Senate no hearing was had on the merits of this question. With my consent no hearing was had at that time, though I was notified that the bill was pending, for the reason that I desired to hear from my constituents in relation to the matter. When the bill came before the Committee on Territories of the House a full hearing was had on the merits of the question, and the committee, after hearing, decided to strike out so much of the bill as related to the Territory of Arizona.

Mr. Speaker, the House of Representatives is not the most convenient tribunal before which to present a question of this kind. A question regarding the dismemberment of a Territory should be decided upon evidence and facts, and not upon simple statements made in the course of debate; and the question was so regarded by the Committee on Territories of this House. I hope that the House will adopt the recommendation of the committee on this subject.

I can only state very briefly, in the time allotted to me this morning, the substance of the argument, the points that were made before the Committee on Territories. It would be impossible to go over the argument in full.

The first objection to taking this portion of the Territory of Arizona and annexing it to Nevada is this: there is no natural connection between those Territories. This portion of the Territory of Arizona is part of the watershed of the Colorado river. All the streams running through that Territory empty into the Colorado. The people receive their supplies up the Colorado river. The principal mail route into Arizona runs down through a settle-

ment about two hundred miles distant from Prescott, which is the capital of the Territory. All their connections and business are with the Territory of Arizona.

Now, if they were annexed to the State of Nevada they would be obliged, in order to reach the capital of the Territory, either to go round by San Francisco or to go up nearly to the point of the overland mail route before they could get into the route leading to the capital of Nevada. There is no natural connection between this country and the State of Nevada. It is separated from that State by a portion of the great desert, which presents an almost impassable barrier. It is so perfectly barren that it is called "Death Barren." That forms the boundary between the two.

There is another objection to this bill. It establishes a new precedent in legislation. While the consent of the State of Nevada is made a condition precedent to the annexation of this Territory, no consent is required on the part of the people of Arizona. They are obliged to take upon themselves the burden of a State government without their consent. I would be perfectly willing that this bill should pass if the people of that portion of Arizona can be permitted to vote on this question and decide it by a majority. And I propose to offer, if this amendment should not be adopted and the bill should pass in its present shape, an amendment of that kind. And sir, I know, and gentlemen who advocate this bill know, that if the bill does pass in this shape there will be an almost unanimous vote of the people of that portion of the Territory against it.

It may be urged that there are but few people within this Territory. Last year there were fifteen hundred people at least upon the Muddy river and its branches, and I am informed by the Governor of Arizona, Mr. McCormick, that there are now nearly twenty-five hundred people within the Territory, and that by the middle of this summer there will be five thousand.

The burden of a State government is sought to be imposed upon these people without asking in any way their consent, and I believe that is establishing a wrong precedent.

Mr. GRINNELL. With the permission of the gentleman from Ohio, [Mr. ASHLEY,] I desire to say that I have a friend living upon this portion of the Territory proposed to be set off, and if we are to yield to the vote of the people whether it shall be annexed to Nevada, I see no objection whatever, inasmuch as Utah has a much larger portion of arable territory. At present I do not believe it is as well governed as Nevada, but if we are going to yield to the people, to common sense, and to the laws of nature, they would go there; and if eighty thousand square miles is not enough for Utah, as it is at present constituted, I think we had better take off a little on the north. I hope we will by all means give Nevada a slice, thus securing more arable land to that State which is well governed and is now yielding a very large revenue to the Government.

Mr. ASHLEY, of Ohio. In a moment I will yield to the gentleman from Nevada, who is more interested in this matter than any other member of the House. I want to say, in reply to the gentleman from Utah, [Mr. HOOPER,] that when I was on a visit last summer through his Territory, President Young told me he had no objection whatever to this proposed dismemberment of the Territory of Utah. There are but few, if any, of his people living upon the territory proposed to be transferred.

Mr. WASHBURNE, of Illinois. I would like to know who President Young is?

Mr. ASHLEY, of Ohio. Mr. Brigham Young is president of the church.

Mr. WASHBURNE, of Illinois. Oh!

Mr. ASHLEY, of Ohio. I favor this measure and am opposed to the amendment of the gentleman from Maine, because the bill equalizes the Territories and makes the area of Nevada, which is now but 80,000 square miles, by the additions taken from Utah and Arizona, 104,000 square miles; Colorado has 104,000

square miles; New Mexico has 121,000 square miles; and with the dismemberment which we propose from Arizona, we still leave that Territory 121,000 square miles. Thus the territorial area of Nevada will be 104,000 square miles, Utah 88,000, Arizona 121,000, New Mexico 121,000, and Colorado 104,000.

In addition to that, the annexation of this territory to Nevada makes the boundary line of that State a navigable river. The head waters of navigation will then be within the State of Nevada; they will have an outlet to the Gulf and to the sea; and as they have less arable land susceptible of cultivation than either Arizona or Utah, I think it due that we should annex this territory to the State of Nevada.

I will state that at the time the Territory of Nevada was erected, but few of the members of the Committee on Territories understood anything of that country; it was comparatively unknown; we only knew it as a mining country. Since that time I myself have been through the Territory of Utah and the State of Nevada, coming back by the southern route; and I think I understand the wants of the people of that country; and I am sure the Speaker also understands them. I hope, therefore, that the proposition made by the Senate and sent in here will be adopted, and that the amendment of the gentleman from Maine [Mr. RICE] will be voted down.

I now yield, for a moment, to the gentleman from Nevada, [Mr. ASHLEY.]

Mr. HOOPER, of Utah. Before the gentleman from Ohio yields the floor, I desire to ask him a question. I would ask him whether he thinks that, from a trip across the country, he knows more about that country and the wants of its people than a man who has lived there for sixteen years.

Mr. ASHLEY, of Ohio. I do not know that a man could pick up the same amount of information in the time I was there that a man could pick up in fifteen or sixteen years; but I know that the information I obtained was from reliable gentlemen, and that I am quite as disinterested in this matter as the gentleman can be who represents the Territory of Utah. I now yield to the gentleman from Nevada.

Mr. ASHLEY, of Nevada. Mr. Speaker, it was for a long time understood in Nevada that we had this territory that it is proposed now to take from Utah. Some of the maps showed it; a map which the Delegate from Arizona had here showed it. But the law turned out to be different.

The reason why we want this territory for Nevada is that our people from Nevada have discovered mines in that degree of latitude, and we are occupying the country now. I live in the eastern part of Nevada myself, and I know of but one Mormon living in that degree of latitude. The Mormons have always been averse to mining; they have crushed it out in that Territory, and I can tell this Congress that our people who discover and work mines there do not wish to be under the control of the government of Utah; and I tell you that it is for the benefit of the United States that they should not be. All of Nevada was made out of the Territory of Utah. They opposed the organization of the Territory of Nevada in the beginning.

Mr. HOOPER, of Utah. I would like to ask the gentleman a question. I believe that when the Territory of Nevada was organized I was the Delegate from Utah, and so far from opposing the measure, I acquiesced in it. And let me repeat here that it is merely as a matter of principle that I object to this measure.

Mr. ASHLEY, of Nevada. The Territory of Nevada was here three years before she could be admitted. And if Utah was in favor of it, as well as the people of Nevada, it is a little strange it took so long to get her in.

Now, our people are occupying this strip of territory, which Utah does not need and which we do. The State of Nevada has not to exceed fifty thousand inhabitants, while the returns of the collector of internal revenue show that she

pays a tax of \$286,000. Utah has a population of eighty thousand, and pays but \$41,000 tax. The people of Nevada pay taxes at the rate of \$5 70 each; the people of Utah at the rate of fifty-one cents each, or about one eleventh as much as the people of Nevada. Let members judge which is the most benefit to the United States.

The gentleman from Utah [Mr. HOOPER] speaks of the principle of the thing. I should like to know what principle is violated by this bill, when the organic act of Utah provides for reserving to the Congress the right to take a portion of the territory to be annexed to some other State or Territory. And that is the case in regard to the organic act of Arizona. The Territory of Utah has twenty-five thousand square miles more than Nevada has, and the district proposed to be annexed to Nevada is a mining territory. The people of Nevada are a mining people, while the people of Utah are an agricultural people. We need this strip of territory; our interests are identical with the interests of those who inhabit that strip of territory. Utah will then be left with eighty-eight thousand square miles, which is seven thousand square miles more than Nevada now has.

In regard to Arizona, I will say that there is a point of land across the Colorado river, running up between Nevada and California, of about six thousand square miles. It has been very little occupied until lately. Since navigation has been opened, a few persons from Utah have gone down there and settled at the head of navigation on the western side of the Colorado river. They are opposed to being united with Nevada, because they will then be under a State government, and not under a territorial government, where they might have more influence.

Mr. ASHLEY, of Ohio. I must resume the floor now, and ask for a vote upon the amendment of the gentleman from Maine, [Mr. RICE.]

The question was taken; and upon a division, there were—ayes twenty, noes not counted.

So the amendment was not agreed to.

The bill, as amended, was ordered to be read a third time; and having been read the third time, it was passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON TERRITORY.

Mr. ASHLEY, of Ohio, from the Committee on Territories, reported back, without amendment, House bill No. 179, amendatory of the organic act of Washington Territory, approved March 2, 1853.

The bill was read. The first section provides that after the next annual session of the Legislative Assembly of the Territory of Washington the sessions shall be biennial; members of the Council shall be elected for a term of four years, and members of the House for a term of two years, and shall receive the sum of six dollars per day instead of three dollars, as heretofore allowed, and the same mileage now allowed by law.

The second section provides that each House shall have authority to elect, in addition to the officers now allowed by law, an enrolling clerk, who shall receive five dollars per day; the chief clerk shall receive six dollars per day, and the other officers elected by said Legislature shall receive five dollars each per day.

The third section provides that the first election for the first biennial session under this act shall be held at the time of holding the general election for the Territory in 1867.

Mr. ASHLEY, of Ohio. I call the previous question.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed;

and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ARTESIAN WELLS IN THE TERRITORIES.

Mr. RICE, of Maine, from the Committee on Territories, reported back, with an amendment, House joint resolution No. 32, to facilitate communication with certain Territories.

The question was on ordering the joint resolution to be engrossed and read the third time.

The joint resolution was read at length. It provides that whenever any loyal citizen of the United States shall make and establish an artesian well on the line of any mail route in New Mexico, Arizona, and Colorado, and the Colorado desert of California, at least ten miles distant from any spring or stream of living water upon such route, and a like distance from any well which may be established thereon by virtue hereof, he shall be entitled to one section of the public land, not including mineral land, embracing such well, the same to be marked out and designated in a compact form by such citizen; and upon filing with the surveyor general a sworn notice of the fact that such well has been established, with a particular description of the premises so marked out and designated, the same shall be treated as reserved land, and after the lapse of three years from the date of such establishment and upon satisfactory proof made to the said surveyor general of conformity to the foregoing stipulations, and that pure water from such well has been constantly furnished without charge to the public traveling upon such route, the incentive right of the claimant shall be affirmed, and upon the extension of the lines of the public survey, the boundaries of such section shall be adjusted according to the lines thereof.

The second section provides that effect shall be given this resolution by the Commissioner of the General Land Office, who shall have full power to revise and finally determine all rights and claims arising under the same, and to furnish evidence of title to such reserves, by patent or otherwise, with such conditions incorporated therein as may be necessary to secure and perpetuate the purposes of the grant; provided that no more than six hundred and forty acres shall be granted in the case of any one well; and provided further, that no grantee or beneficiary under this act shall be allowed to enter any lands under any homestead act of the United States.

Mr. RICE, of Maine, obtained the floor, but yielded it to

Mr. GOODWIN, who moved to amend by inserting after the word "well," in the fourth line, the words "at places where water cannot be procured by other means;" so that the clause would read:

Whenever any loyal citizen of the United States shall make and establish an artesian well at places where water cannot be procured by other means.

Mr. RICE, of Maine. I have no objection to that amendment.

Mr. STEVENS. I desire to inquire whether this is the bill we had before us some time ago proposing to give a square mile of land to any man who digs a well.

Mr. RICE, of Maine. No, sir; by the amendment which has just been proposed, it is provided that these grants shall not be made, except in cases where water cannot be procured by other means.

Mr. STEVENS. If the gentleman would reduce the quantity, so as to give only a quarter section or one hundred and sixty acres in each case, I do not know that I would object to the bill. As it is, I move that the bill be laid on the table.

The SPEAKER. The gentleman from Maine [Mr. Rice] is entitled to the floor.

Mr. RICE, of Maine. I demand the previous question, and yield to the gentleman from Ohio, the chairman of the committee.

Mr. ASHLEY, of Ohio. I am very certain that the gentleman from Pennsylvania would not desire to have this bill laid on the table had he ever traveled over those plains. I undertake

to say that in this immense region, east of the Sierra Nevada mountains, there is not one acre in ten thousand that can be used for agricultural purposes without irrigation; and in all that country there is not in any living stream or lake sufficient water to irrigate one acre in every ten thousand. The only hope of redeeming this land is in having these artesian wells dug, in order that the lands there may have irrigation.

Mr. STEVENS. May I ask the gentleman a question?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. STEVENS. Does the gentleman expect that irrigation for agricultural purposes will be furnished by artesian wells?

Mr. ASHLEY, of Ohio. It is the only hope.

Mr. STEVENS. Is it any hope at all?

Mr. ASHLEY, of Ohio. I do not know whether sufficient water can ever be obtained in this way; but I do know that some of the finest regions in the Old World have been opened to cultivation by means of the irrigation furnished by artesian wells; and I know that in this vast country, ranging from Mexico to the northern Pacific, there is not one acre in ten thousand which can ever be brought under cultivation unless by the aid of artesian wells.

Mr. HIGBY. I desire to state, in connection with this question, that in San José valley, in the State of California, there are several artesian wells which have been sunk to a great depth, and which give an abundant flow of water. And in the city of Stockton, in the county of San Joaquin, an artesian well has been sunk to the depth of nine hundred or a thousand feet, giving a stream of water which rises twelve or fifteen feet above the surface.

Mr. RICE, of Maine. I resume the floor to demand the previous question.

Mr. WASHBURN, of Illinois. I hope the House will refuse to second the demand for the previous question. I desire to know from the gentleman from Maine whether, under existing law, there is not provision by which title to a portion of the land on this mail route can be obtained from the Government.

Mr. RICE, of Maine. No, sir.

Mr. WASHBURN, of Illinois. I understand there is. I can get the book in a minute. They are entitled to preëemption.

Mr. RICE, of Maine. Under the homestead bill they may be.

Mr. WASHBURN, of Illinois. I hope the previous question will not be seconded.

On seconding the previous question there were, on a division—ayes 67, noes 35.

So the previous question was seconded.

The main question was then ordered to be put.

The amendment was agreed to.

The joint resolution, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. RICE, of Maine, moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

COMMITTEE ON TERRITORIES.

Mr. ASHLEY, of Ohio. I ask that the Committee on Territories shall have another morning hour after the call of the select committees. When the committee was called before I was absent on account of sickness.

Mr. WASHBURN, of Illinois. I object.

AMENDMENT OF TERRITORIAL ACTS.

Mr. ASHLEY, of Ohio, from the Committee on Territories, reported back House bill No. 508, to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico.

During the reading of the bill the morning hour expired, and the bill went over until the next morning hour for public business.

COMMITTEE ON TERRITORIES—AGAIN.

Mr. ASHLEY, of Ohio. I ask that the Com-

mittee on Territories shall have a morning hour on Saturday next.

Mr. WASHBURN, of Illinois. I object. I do not object to the committee having a morning hour after the usual morning hour.

Mr. HARDING, of Kentucky. I object.
Mr. STEVENS. I suggest that Saturday week be set apart to receive reports from all the committees. We can never get through unless that be done.

Mr. WASHBURN, of Illinois. An hour for each committee.

Mr. ROSS. I call for the regular order of business.

Mr. STEVENS moved that the House proceed to the business upon the Speaker's table. The motion was agreed to.

ADMISSION OF COLORADO.

The SPEAKER accordingly laid before the House Senate bill No. 74, for the admission of Colorado into the Union; which was read a first and second time.

Mr. ASHLEY, of Ohio. I am instructed to put this bill on its passage, unless some gentleman desires to be heard on it, or an early day can be fixed for its consideration.

Several MEMBERS. Let us act on it now.

Mr. RICE, of Maine. If I understand the action of the Committee on Territories, it was that a day should be assigned for the consideration of this bill.

Mr. ASHLEY, of Ohio. If no one desired to be heard I was to put it on its passage.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had agreed to the report of the committee of conference upon the disagreeing votes of the two Houses upon the bill (S. No. 26) entitled "An act to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas."

Also, that the Senate had passed a bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, with an amendment, in which the concurrence of the House was requested.

Also, that the President had approved sundry acts that originated in the Senate.

On motion of Mr. STEVENS, by unanimous consent, House bill No. 280 was referred to the Committee on Appropriations.

RELIEF OF CONTRACTORS.

Mr. HARDING, of Illinois. I ask unanimous consent to take up from the Speaker's table Senate bill No. 220, for the relief of certain contractors for the construction of vessels-of-war and steam machinery.

Mr. WASHBURN, of Illinois. I ask to have it read. It involves the payment of millions of dollars for the benefit of contractors.

Mr. ASHLEY, of Ohio. I cannot yield for all that.

ADMISSION OF COLORADO—AGAIN.

Mr. ASHLEY, of Ohio. Unless some gentleman desires to offer an amendment, or unless I can have an early day fixed for the consideration of this bill, I shall ask the previous question.

Mr. RICE, of Maine. Will the gentleman yield for an amendment?

Mr. ASHLEY, of Ohio. Certainly.

Mr. RICE, of Maine. I desire to strike out the word "white" where it occurs.

Several MEMBERS. It is not in the bill.

Mr. RICE, of Maine. I did not understand that this was to come up for discussion to-day.

Mr. INGERSOLL. I demand the reporting of this bill.

Mr. RICE, of Maine. Is it not in order to move to refer it to the committee?

The SPEAKER. It is if the gentleman from Ohio [Mr. ASHLEY] withdraws his demand for the previous question; not otherwise.

Mr. ASHLEY, of Ohio. I do not withdraw it.

Mr. STEVENS. Will the gentleman yield?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. STEVENS. I suggest to the gentleman that he had better allow a day or two for some friends to amend this bill. There are reasons why a great many of us cannot now vote for it, but we may amend it so as to pass it. I hope the gentleman will consider whether it is prudent to take the sense of the House upon it now.

Mr. ASHLEY, of Ohio. I cannot yield for that purpose unless we fix, say to-morrow after the morning hour, for its consideration.

Mr. ROSS. I think we had better have it postponed, say to-morrow two weeks.

The SPEAKER. The gentleman from Illinois objects.

Mr. ASHLEY, of Ohio. Then I insist on the demand for the previous question on the passage of the bill.

On seconding the demand for the previous question, there were—ayes 45, noes 57.

Mr. ASHLEY, of Ohio. I demand tellers. Tellers were ordered; and the Speaker appointed Messrs. ASHLEY, of Ohio, and LeBLOND. The House divided, and the tellers reported—ayes 46, noes 68.

So the previous question was not seconded. Mr. RICE, of Maine. I now move to refer it to the Committee on Territories.

Mr. ASHLEY, of Ohio. I hope it will not be committed unless the House is disposed to reject it entirely. I demand the yeas and nays.

Mr. RICE, of Maine. I desire myself that some day may be assigned for the consideration of this important question, and I hope it may be an early day. I do not wish to send this to the committee if it can be avoided, but rather than be driven to a vote upon it to-day, I shall insist that it go to the committee. But I trust the chairman of the committee will name an early day for the consideration of this bill. There are great principles involved in it.

Mr. ASHLEY, of Ohio. I will name Monday, after the morning hour.

Mr. ROSS. I call for the special order.

The SPEAKER. This is before the House now, by its order to proceed to business on the Speaker's table.

Mr. ROSS. Can I ask for the reading of the bill?

The SPEAKER. The gentleman can demand it.

Mr. FARNSWORTH. What is the special order?

The SPEAKER. The Chair will state that there are two special orders in the House, made some time since, operating after the expiration of the morning hour, one to establish the grade of general in the Army and the other in regard to the pay of officers of the Army, both coming from the Committee on Military Affairs. On Tuesday next, immediately after the reading of the Journal, the constitutional amendment reported from the committee on reconstruction is made the special order. On Wednesday and Thursday, immediately after the reading of the Journal, the two bills reported by that committee are also made special orders to continue until disposed of. Besides that, there is the tax bill reported by the Committee of Ways and Means, which has been made the special order in Committee of the Whole on the state of the Union for next Monday, after the morning hour.

That is the condition of the business of the House with regard to special orders.

Mr. ASHLEY, of Ohio. Then I ask that this bill be assigned for next Monday, after the morning hour.

The SPEAKER. The special orders now made can only be overridden by unanimous consent.

Mr. WILSON, of Iowa. I shall object, if it is to interfere with other special orders.

Mr. FARNSWORTH. If it should be made a special order for Monday, could it not be postponed by a vote of a majority of the House?

The SPEAKER. It can.

Mr. FARNSWORTH. Very well; then I cannot see why the House should not consent to let it be made the special order for Monday,

and then, if a majority of the House prefers to take up the tax bill, they can postpone this measure and take that up. The matter will be within the control of a majority of the House. It seems to me that to refer this bill to the Committee on Territories would be to kill it.

Mr. BINGHAM. That is what is intended.

Mr. FARNSWORTH. I understand that that is what is intended, but I do not desire to see it killed. If any gentlemen here have opposition to make to this bill, I am willing that they shall have a fair opportunity of presenting their views to the House.

Mr. ASHLEY, of Ohio. I make the proposition that we go on with the bill now, and if gentlemen have anything to say, or have any amendments to offer, do it now.

Mr. WASHBURN, of Illinois. What is the question before the House?

The SPEAKER. The question is on referring the bill to the Committee on Territories.

Mr. RICE, of Maine. I demand the previous question on that motion.

Mr. ROSS. I desire to hear that bill read before we are called to vote upon it.

The bill was read.

Mr. CHANLER. Is it in order to move to lay the bill upon the table?

The SPEAKER. It is in order.

Mr. CHANLER. Then I make that motion.

Mr. ASHLEY, of Ohio. I demand the yeas and nays upon it.

The yeas and nays were ordered.

Mr. ASHLEY, of Ohio. Before the vote is taken, I ask the Chair to state the question to the House distinctly, so that it may be understood.

The SPEAKER. The question is on the motion of the gentleman from New York, [Mr. CHANLER,] that the bill do lie upon the table.

Mr. ASHLEY, of Ohio. Which would kill the bill.

The question was taken; and it was decided in the negative—yeas 29, nays 109, not voting 45; as follows:

YEAS—Messrs. Ancona, Bergen, Blaine, Boyer, Chanler, Coffroth, Darling, Dawson, Denison, Eldridge, Finck, Grider, Aaron Harding, Harris, LeBlond, Marshall, McCullough, Niblack, Pike, Raymond, Ritter, Ross, Shanklin, Sitgreaves, Strouse, Taylor, Thornton, Winfield, and Wright—29.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bingham, Blow, Brandegee, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Coffroth, Cullom, De-frees, Deming, Dodge, Driggs, Dumont, Eckley, Farnsworth, Farquhar, Ferry, Grinnell, Grinnell, Griswold, Abner C. Harding, Hart, Henderson, Higby, Holmes, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Plants, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stillwell, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—109.

NOT VOTING—Messrs. Bidwell, Cook, Culver, Davis, Dawes, Delano, Eggleston, Glossbrenner, Good-year, Hale, Hayes, Hill, Hogan, Hooper, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Kerr, Marston, Marvin, McIndoe, Nicholson, Noel, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Rogers, Rousseau, Sloan, Smith, Starr, Taber, Thayer, Francis Thomas, Trimble, Van Aernam, Ward, William B. Washburn, and Wentworth—45.

So the House refused to lay the bill upon the table.

During the roll-call,

Mr. CHANLER said: My colleague, Mr. JAMES M. HUMPHREY, has paired off with Mr. POMEROY.

The question recurred upon seconding the demand for the previous question.

The SPEAKER. The Chair would state that if the previous question is seconded and the main question ordered, and the motion to refer is then voted down, the previous question would not be exhausted until the bill has passed its third reading.

Mr. ASHLEY, of Ohio. I hope the gen-

tleman from Maine [Mr. RICE] will withdraw his call for the previous question and let the question be taken upon the motion to refer, and I hope the motion to refer will not prevail, but that we will go on with the consideration of the bill to-day.

Mr. RICE, of Maine. I will withdraw the demand for the previous question.

The question recurred upon the motion of Mr. RICE, of Maine, to refer the bill to the Committee on Territories.

The question was taken; and upon a division, there were—ayes 53, noes 56.

Before the result of the vote was announced, Mr. WASHBURN, of Illinois, called the yeas and nays on the motion to refer.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 64, nays 74, not voting 45; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Baxter, Bergen, Blaine, Boutwell, Boyer, Buckland, Chandler, Conkling, Darling, Dawson, Denison, Dixon, Eldridge, Eliot, Finck, Garfield, Glossbrenner, Grider, Griswold, Aaron Harding, Harris, Henderson, Higby, James R. Hubbell, Hulburd, James Humphrey, Jenckes, Julian, Ketcham, Kuykendall, Latham, LeBlond, Marshall, McCullough, McRuer, Morrill, Morris, Newell, Niblack, Paine, Perham, Phelps, Pike, Raymond, Alexander H. Rice, John H. Rice, Ritter, Ross, Shanklin, Sitgreaves, Stevens, Stillwell, Strouse, Taylor, Thornton, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Winfield, Woodbridge, and Wright—64.

NAYS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Beaman, Benjamin, Bidwell, Bingham, Blow, Brandegee, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Coffroth, Cullom, De-frees, Deming, Dodge, Driggs, Dumont, Eckley, Farnsworth, Farquhar, Ferry, Grinnell, Abner C. Harding, Hart, Holmes, Chester D. Hubbard, Ingersoll, Kasson, Kelley, Kelso, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McKee, Mercer, Miller, Moorhead, Moulton, Myers, O'Neill, Orth, Patterson, Plants, Rollins, Sawyer, Schenck, Shellabarger, Spalding, Francis Thomas, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, Whaley, Williams, Stephen F. Wilson, and Windom—74.

NOT VOTING—Messrs. Cook, Culver, Davis, Dawes, Delano, Donnelly, Eggleston, Goodyear, Hale, Hayes, Hill, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Kerr, Marston, Marvin, McIndoe, Nicholson, Noel, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Rogers, Rousseau, Scofield, Sloan, Smith, Starr, Taber, Thayer, Trimble, Van Aernam, Ward, William B. Washburn, and Wentworth—45.

So the motion to refer was not agreed to.

The question recurred upon ordering the bill to be read a third time.

Mr. ASHLEY, of Ohio. I now propose that this bill be considered in the House. If any gentleman desires to be heard upon it I will yield a part of my hour to him.

Mr. STEVENS. The gentleman is very liberal, seeing that the previous question has been refused him.

Mr. ASHLEY, of Ohio. Well, I have the floor now.

Mr. STEVENS. Very well; go ahead.

Mr. WASHBURN, of Illinois. If the gentleman from Ohio [Mr. ASHLEY] makes a speech, I suppose we can answer it.

Mr. ASHLEY, of Ohio. On the 24th March, 1864, the Congress of the United States passed an enabling act authorizing the people of the Territory of Colorado to form a constitution and State government prior to their admission into the Union. Enabling acts were also passed for the Territories of Nebraska and Nevada. I drew up those enabling acts and introduced them into this House; but finding that the Committee on Territories would not be reached in time for action on them in the Senate during the second session of the Thirty-Seventh Congress, I carried them to the Senate and had them introduced there, and they passed that body; but this House failed to pass them at that session. At the first session of the Thirty-Eighth Congress the same bills or enabling acts were again introduced into both the Senate and House, and became laws. The bill authorizing the people of Colorado to form a constitution and State government became a law, as I have said, on the 24th of March, 1864.

My object in drafting and urging the passage of those enabling acts was twofold: one to

establish a new principle in the admission of States into this Union, negating, so far as I could in the enabling acts, the old idea of State rights; the other to secure the vote of three more States, in case the election of President and Vice President in the year 1864 should come to the House of Representatives.

At the time those enabling acts were passed it was not thought expedient by the party to which I belong to prescribe the qualification of electors in the constitutions of the States which were authorized to be organized and admitted into the Union. The people of Colorado, in the constitution which they formed in pursuance of that enabling act, and which constitution they rejected, prescribed that none but white persons should be electors within the State. The State of Nevada, having accepted the conditions prescribed by Congress, was admitted into the Union, with a provision in her constitution precisely like the one now objected to in the constitution of Colorado. At that time the people of Colorado voted against the proposition to become a State.

But last year the people of Colorado of all parties called upon the several committees representing the State and the anti-State organizations, and also the Democratic organization, and asked them to make an independent move for a State organization. While I was in the Territory they agreed upon a plan for electing delegates to a constitutional convention. In pursuance of the joint calls of those committees elections were held in that Territory, and a convention assembled which adopted a constitution in strict compliance with the provisions of the enabling act. That constitution was submitted to the people of Colorado, and by them adopted.

Mr. FINCK. Will my colleague yield to me for a question?

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. FINCK. I desire to ask my colleague what was the total number of votes at the election to which he refers.

Mr. ASHLEY, of Ohio. According to a pamphlet which I hold in my hand, 7,166 was the total vote.

Mr. FINCK. Can my colleague advise the House what is the present population of Colorado?

Mr. ASHLEY, of Ohio. I had here a statement from the Legislature of Colorado, estimating the present population of the Territory at fifty thousand.

Mr. FINCK. Can my colleague refer to any census taken in that Territory?

Mr. ASHLEY, of Ohio. No, sir, I cannot. The total vote at the recent election for Congressman was 7,557. If the gentleman will refer to the election returns for the eastern or southern States, he will find that this is a larger number of votes than is cast in several of the Representative districts in a number of the southern States. It is a larger vote than that cast in the State of Delaware or the State of Florida.

Mr. FINCK. Let me ask my colleague whether the number of voters in the Territories is not greater in proportion to the population than in the States.

Mr. ASHLEY, of Ohio. As a rule, Mr. Speaker, that is true of all newly settled Territories. But Colorado has been a Territory for some years. I have myself visited the Territory twice—once three years ago last fall, and again this year—and I can state that the female population is largely increasing, as also the junior population; so that the disparity between the actual population of a congressional district in one of the eastern or southern States and that of Colorado is not so great as my colleague would have the House suppose.

Mr. CHANLER. I desire to ask the gentleman from Ohio whether he is not aware that according to the returns made by the Post Office Department, which furnish a good test of population, the number of letters distributed in that Territory has within the last few years been largely and constantly decreasing.

Mr. ASHLEY, of Ohio. Mr. Speaker, if the gentleman is at all conversant with the

troubles incident to the Indian depredations upon the plains, he is aware that last year a large portion of the population of the Territory of Colorado left there for the eastern States and for other Territories of the West, and that the line of communication was constantly broken, at one time for several weeks, in consequence of the Indian depredations, so that the mails for weeks at a time were not carried to all parts of the Territory. Hence the test which the gentleman seeks to introduce is not a fair one. I take it, sir, that the voting population is a better and fairer test; and I believe that the number of voters at the last election in that Territory shows a population equal to that of some districts in the eastern States that now have Representatives in Congress, and we all know that they have a larger voting population than many congressional districts in the southern States.

Mr. ROSS. As the gentleman has visited that Territory, I ask him to state what, in his judgment, is the population of that Territory, leaving out those who are merely temporarily there for the purpose of mining.

Mr. ASHLEY, of Ohio. Well, Mr. Speaker, I am not able to state, because I was not in the southern part of the Territory which is inhabited by the Mexican population. But I was in all the mining districts, and from the best information which I could obtain, I think the population was more than forty thousand. But it is constantly increasing. The population of Colorado is to-day twice as great as that of the State of Florida at the time of its admission. Its population is greater than that of the State of Arkansas when it was admitted, or the State of Oregon at the time of its admission.

Mr. FINCK. Let me suggest to my friend that when those States were admitted the ratio of representation was much less than at present.

Mr. ASHLEY, of Ohio. That is true. But, sir, the number of votes is the best test; and if there are on an average as many voters for the State ticket or for members of Congress as are cast in other districts having Representatives, the gentleman should not interpose that objection. I addition to this, we all know how much faster the mining States and Territories increase in population than the agricultural States. Colorado furnished three regiments for the war, has furnished a large emigration to Montana, Idaho, and other mining Territories, and yet her population is steadily and surely increasing, and I do not hesitate to predict that by the census of 1870 she will have a population of two hundred thousand people. So far as population is concerned, however, Congress having proposed to these people to become a State, I think, without violating any great principle, we ought to vote for their admission. I desire also to vote for their admission because I believe in the principle of organizing State governments at the earliest day practicable in every one of the Territories.

Mr. ROSS. Is it not objectionable in excluding negroes from suffrage?

Mr. ASHLEY, of Ohio. I am compelled to vote for many propositions objectionable to me as an individual. I expect to vote for the report of the committee of fifteen.

Mr. ROSS. Why?

Mr. ASHLEY, of Ohio. Because it ignores the great body of loyal men in the South who during the rebellion were our friends and fought to preserve the Union, while it practically leaves the government of the late rebel States in the hands of those who attempted to destroy this nation. I intend to go for it, however, because I believe it is the best proposition we can get, and because it reflects the aggregate sentiment of the country. By passing this bill we but affirm the principle of that report. We leave the question of suffrage to the people of Colorado, and I would rather intrust that question or any other to the loyal people of Colorado, who furnished three regiments of as good soldiers as ever entered the Union Army, than to commit the question of enfranchising the black man to the white electors of the late rebel States, as we propose to do in the proposition

submitted by the joint committee of fifteen. I have no doubt that the loyal people of Colorado will enfranchise her blacks long before the blacks are enfranchised by the spirits who will control the late rebel States, if the proposition of the committee becomes law.

But I do not want to take up the time of the House in the discussion of this question, and therefore demand the previous question.

Mr. CHAVES. I ask to present the following amendment:

SEC. 3. *And be it further enacted*, That said State of Colorado shall consist of all the Territory included within the following boundaries, to wit: commencing at a point formed by the intersection of the thirty-eighth degree of north latitude with the twenty-fifth degree of longitude west from Washington; extending thence due west along said thirty-eighth degree of north latitude to a point formed by its intersection with the thirty-second degree of longitude west from Washington; thence due north along said thirty-second degree of west longitude to a point formed by its intersection with the forty-first degree of north latitude; thence due east along said forty-first degree of north latitude to a point formed by its intersection with the twenty-fifth degree of longitude west from Washington; thence due south along said twenty-fifth degree of west longitude.

Mr. ASHLEY, of Ohio. I cannot yield for that amendment.

Mr. WASHBURN, of Illinois. I ask the gentleman to yield to the following amendment:

Provided, That this act shall not take effect until the said State of Colorado shall so amend the constitution thereof as to strike out the word "white" as a qualification of voting.

Mr. ASHLEY, of Ohio. I will let that amendment in and then call for the previous question.

The previous question was seconded and the main question ordered.

Mr. LE BLOND demanded the yeas and nays on the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 37, nays 95, not voting 51; as follows:

YEAS—Messrs. Alley, Allison, Ames, Baldwin, Baxter, Blaine, Boutwell, Brandegee, Broomall, Dixon, Donnelly, Eliot, Garfield, Grinnell, Hotchkiss, Ashah, W. Hubbard, Jenckes, Julian, Kasson, Kelso, Kelso, Loan, Lynch, McCall, McRuer, Morrill, Paine, Perham, Pike, Alexander H. Rice, John H. Rice, Stevens, Elihu B. Washburn, Williams, James F. Wilson, Windom, and Woodbridge—37.

NAYS—Messrs. Ancona, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Beaman, Benjamin, Bergen, Bidwell, Bingham, Blow, Boyer, Brownell, Buckland, Bundy, Chanler, Reader W. Clarke, Coffroth, Conkling, Cullom, Darling, Dawson, Deffrees, Delano, Deming, Denison, Driggs, Dumont, Eckley, Eldridge, Farquhar, Ferry, Finck, Glossbrenner, Grider, Griswold, Aaron Harding, Abner C. Harding, Harris, Hart, Henderson, Holmes, Chester D. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Longyear, Marshall, Marston, McCullough, Mercer, Miller, Moorhead, Moulton, Myers, Newell, O'Neill, Orth, Patterson, Plants, Raymond, Ritter, Rollins, Ross, Rousseau, Sawyer, Schenck, Shanklin, Shellabarger, Smith, Spaulding, Strouse, Taylor, Francis Thomas, John L. Thomas, Thornton, Townbridge, Upson, Burt Van Horn, Robert T. Van Horn, Warner, Henry D. Washburn, Welker, Whaley, Winfield, and Wright—95.

NOT VOTING—Messrs. Sidney Clarke, Cobb, Cook Culver, Davis, Dawes, Dodge, Eggleston, Farnsworth, Goodyear, Hale, Hayes, Hibby, Hill, Hogan, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, James M. Humphrey, Johnson, Jones, Kerr, Marvin, McIndoe, McKee, Morris, Niblack, Nicholson, Noell, Phelps, Pomerooy, Price, Radford, Samuel J. Randall, William H. Randall, Rogers, Scofield, Sitgreaves, Sloan, Starr, Stilwell, Taber, Thayer, Trimble, Van Aernam, Ward, William B. Washburn, Wentworth, and Stephen F. Wilson—51.

So the amendment was rejected.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. LE BLOND demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 81, nays 57, not voting 45—as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Barker, Beaman, Benjamin, Bidwell, Bingham, Blow, Brandegee, Brownell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cullom, Deffrees, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Farquhar, Ferry, Garfield, Grinnell, Abner C. Harding, Hart, Henderson, Holmes, Hotchkiss, Ashah W. Hubbard, Chester D. Hubbard, James R. Hubbell, Ingersoll, Jenckes, Kasson, Kelso, Ketch-

am, Laflin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Marston, McClurg, McKee, Mercer, Miller, Moorhead, Moulton, Myers, O'Neill, Orth, Patterson, Plants, Alexander H. Rice, Rollins, Sawyer, Schenck, Shellabarger, Smith, Spalding, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Welker, Whaley, and Williams—81.

NAVY—Messrs. Allison, Alley, Ancona, Baxter, Bergen, Blaine, Boutwell, Boyer, Broome, Chandler, Croft, Darling, Dawson, Denison, Eldridge, Eliot, Finck, Glossbrenner, Grider, Griswold, Aaron Harding, Harris, Higby, James Humphrey, Julian, Kelley, Kuykendall, LeBond, Lynch, Marshall, McCullough, McRuer, Morrill, Morris, Newell, Niblack, Paine, Perham, Pike, Raymond, John H. Rice, Ritter, Ross, Rousseau, Shanklin, Stevens, Stilwell, Strouse, Taylor, Thornton, Elihu B. Washburne, Henry D. Washburn, James F. Wilson, Windom, Winfield, Woodbridge, and Wright—57.

NOT VOTING—Messrs. Baldwin, Cook, Culver, Davis, Dawes, Delano, Eggleston, Farnsworth, Goodyear, Hale, Hayes, Hill, Hogan, Hooper, Demas Hubbard, John H. Hubbard, Edwin H. Hubbell, Hulbert, James M. Humphrey, Johnson, Jones, Kerr, Marvin, McIndoe, Nicholson, Noel, Phelps, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Rogers, Scofield, Sitgreaves, Sloan, Starr, Taber, Thayer, John L. Thomas, Trimble, Ward, William B. Washburn, Wentworth, and Stephen F. Wilson—45.

So the bill was passed.

During the roll-call,

Mr. J. L. THOMAS said: I have paired with my colleague, Mr. PHELPS, who would have voted against the bill. I would have voted for it.

Mr. WINFIELD. My colleague, Mr. J. M. HUMPHREY, has paired with my colleague, Mr. POMEROY.

The result having been announced as above recorded,

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. McDONALD, its Chief Clerk, requesting the return of the bill making appropriations for the service of the Post Office Department for the fiscal year ending the 30th of June, 1867, and for other purposes.

Mr. GARFIELD. I move that it be returned.

The SPEAKER. It has been referred to the Committee on Appropriations, and it will be necessary to reconsider that reference. If there be no objection it will be regarded as reconsidered, and the order will be made by the House to return the bill to the Senate in compliance with the request.

WILLIAM COOK.

The next business on the Speaker's table was Senate bill No. 277, for the relief of William Cook; which was read a first and second time, and referred to the Committee for the District of Columbia.

LEAVE OF ABSENCE.

Mr. LAFLIN. I ask indefinite leave of absence for my colleague, Mr. MARVIN, who has been called away by the death of a brother.

MESSAGE FROM THE PRESIDENT.

The following message in writing was received from the President of the United States by Mr. EDWARD COOPER, his Private Secretary; which was read, laid on the table, and ordered to be printed:

To the House of Representatives:

In reply to the resolution of the House of Representatives of the 23d ultimo, I transmit a report from the Secretary of War, from which it will be perceived that it is not deemed compatible with the public interests to communicate to the House the report made by General Smith and Hon. James T. Brady, of their investigations at New Orleans, Louisiana.

ANDREW JOHNSON.

WASHINGTON, D. C., May 2, 1866.

COLLECTION OF PLANTS.

The next business on the Speaker's table was joint resolution of the Senate No. 76, providing for the acceptance of a collection of plants tendered to the United States by Frederick Peck; which was read a first and second

time, and referred to the Committee on Agriculture.

RELIEF OF CONTRACTORS.

The next business on the Speaker's table was Senate bill No. 220, for the relief of certain contractors for the construction of vessels-of-war and steam machinery; which was read a first and second time.

Mr. RICE, of Massachusetts. I move to refer it to the Committee on Naval Affairs.

Mr. WASHBURN, of Illinois. I move to amend by referring it to the Committee of Claims.

The amendment was agreed to; and the motion, as amended, was also agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was referred; and also moved to lay that motion on the table.

The latter motion was agreed to.

BRIDGES OVER THE MISSISSIPPI.

The next business on the Speaker's table was Senate bill No. 236, to authorize the construction of certain bridges, and to establish them as post roads; which was read a first and second time.

Mr. KASSON. I move to refer the bill to the Committee on the Post Office and Post Roads, and I ask, at the same time, to offer this amendment and have it take the same reference:

And be it further enacted, That it shall be lawful for any railroad corporation, whose road has been completed to the Mississippi river, and connects with a railroad on the opposite side thereof, having first obtained authority therefor from the States of Illinois and Iowa, to construct a railroad bridge across said river upon the same terms, in the same manner, under the same restrictions, and with the same privileges as is provided for in this act in relation to the bridge at Quincy, Illinois.

Mr. WASHBURN, of Illinois. I raise the point of order that, as this is a bill providing for one bridge and the amendment proposed is for another, the amendment is not in order.

The SPEAKER. The Chair overrules the point of order. The Chair finds from a hasty examination of the bill that it provides for three bridges across the Mississippi river, and the Chair thinks that this amendment is germane.

Mr. KASSON. I now yield the floor to my colleague, [Mr. WILSON.]

Mr. WILSON, of Iowa. I desire to offer another amendment to the bill, in order that it may go with the bill when it is referred.

The SPEAKER. That can only be done by unanimous consent.

Mr. KASSON. I have no objection.

Mr. WASHBURN, of Illinois. Let it be read, and then we can see whether we object or not.

The Clerk read the proposed amendment, as follows:

And that the Keokuk and Hamilton Mississippi Bridge Company be, and is hereby, authorized to construct a bridge over the Mississippi river at Keokuk, Iowa, of the same description as the other bridges provided for by this act.

There being no objection, the amendment was received.

Mr. HARDING, of Illinois. While I am in favor of these amendments, and will vote for them on the proper occasion, I am opposed to gentlemen coming in here now and riding down a bill which has been maturely considered in the Senate by the friends of the bridges at Quincy and Burlington. This measure was considered in the Senate by a very able committee, and a basis was laid by them upon which the Senate and the House can act intelligently. I do object to having that bill laid aside in some committee in order to give these gentlemen an opportunity to provide a substitute for it.

It will be a very easy thing for them to bring in their bills and pass them after the principle of bridging the Mississippi river shall have been established by the passage of this bill. While I am as much in favor of the gentleman's proposition as he is, I do hope his course will not be approved by the House.

Mr. KASSON. The gentleman from Illi-

nois [Mr. HARDING] raises a new question. He proposes that the House shall pass upon this bill without reference to a committee at all. If that is the general desire of the House I am willing that they shall take it up in connection with the amendment for action now.

But, sir, the gentleman is certainly wrong in saying that the object is to "ride down" this measure of which he is the friend. He forgets that forty miles north of his own city there is a city in Iowa of equal importance, with roads approaching it on both sides, and with what Quincy has not, a solid rock bottom in the river, which we have already appropriated money to blast out, so as to let boats through.

Now, I say, that when the proposition is to construct a bridge at a point like that, made by nature for it, the gentleman should not say that the intention is to "ride down" the bill. On the contrary, that amendment will strengthen his measure.

A word more. The gentleman has spoken of establishing the principle of bridging the Mississippi river. Why, sir, that principle has been established already, and there are two bridges now constructed above the points at which this bill authorizes the construction of bridges.

Mr. WASHBURN, of Illinois. Yes, and which obstruct navigation to the amount of millions of dollars a year.

Mr. KASSON. I would be much obliged if my friend from Illinois would allow me to speak when I have the floor, and when I am through I will yield with pleasure to him.

I say that the principle has been established, and that the interests of the States on both sides of the river require the construction of bridges occasionally across that river; and it is perfectly well settled that those bridges can be constructed so as not to obstruct navigation. I should certainly oppose any obstruction of navigation.

Mr. WILSON, of Iowa. I desire to remind the gentleman from Illinois, [Mr. HARDING,] who is opposed to these amendments, that this bill was originally introduced to authorize the construction of a bridge at St. Louis. It was amended in the Senate so as to provide for a bridge at Quincy and, I believe, another at Hannibal.

Mr. HARDING, of Illinois. The gentleman is wrong in that.

Mr. WILSON, of Iowa. It was also amended so as to authorize the construction of a bridge at Burlington, Iowa. Now, we simply desire that other points of quite as much importance as some of those provided for shall have the privilege of constructing bridges across the Mississippi river. The railroad connections at Keokuk are quite as important as those at Quincy. The railway connections there are quite as important as those at Burlington; and so it is at Dubuque. They are all important; and the break caused by the river in the connections of those lines is very serious.

Now, we ask that this bill, accompanied by these amendments, shall go to the Committee on the Post Office and Post Roads, a committee appointed to consider measures of this character, in order that that committee may determine whether it is not as important to have these other points provided for as those already provided for by the bill.

Mr. WASHBURN, of Illinois. I desire the calm attention of the House for one moment in regard to this subject of bridging the Mississippi river. To us in the valley of the Mississippi this is certainly one of the most important questions before Congress. I may say that we are all in favor of bridging the Mississippi river, if it can be done without any material obstruction to its navigation. I am in favor of it, and I believe all the people are in favor of it; and both interests must yield a little.

But there have already been two bridges built across the Mississippi river, and all of us who live in the Mississippi valley know that those two bridges have been almost the greatest possible obstruction to the navigation of that river, and have caused to the people of that valley

the loss of millions and millions of dollars of property. The value of the steamers that have been destroyed at Rock Island alone, I think, would amount to \$1,000,000.

Now, if we in Congress are going forward to legislate upon this subject of bridging the Mississippi, a subject of vast importance, we should legislate with great care and with great deliberation. Now, I desire to say that I am opposed to sending this bill, with the amendments which have been introduced, to the Committee on the Post Office and Post Roads, for the reason that that committee has already ordered a bill to be reported to this House to legalize the Clinton bridge and make it a post route, taking from the people of the Mississippi valley all their rights and all their remedies in that regard. That committee is already committed in favor of this subject of obstructing the navigation of the Mississippi river by these bridges, and hence I say that I do not believe that it is just and fair that this bill should go to a committee already committed in its favor.

Now, I move to refer this bill with amendments to the Committee on Commerce. It may, perhaps, be objected that the Committee on Commerce has formed its opinion on this subject. If that is so, then I will not insist upon having this bill referred to that committee. But I do insist that a subject of this vast importance should go to some committee where the subject will be considered fairly and justly, with a due regard to the interests of all parties, and not in the interest of these railroad corporations, which have for one object the damming up of that great natural highway, in order that they may compel freight to go over their lines, and thus rob the people still further. I want this question considered fairly, and by a committee that is not prejudiced on this subject, and that has not committed itself to any particular line of policy.

Mr. ROSS. Will the gentleman from Iowa [Mr. KASSON] permit me to offer an amendment?

Mr. KASSON. I will hear it read.

Mr. ROSS. It is to add the following:

Provided, however, That said bridges shall not be so built as to obstruct or impair the navigation of the Mississippi river.

Mr. KASSON. I have no objection to having that amendment go to the committee with the other propositions.

Mr. WASHBURN, of Illinois. In view of the importance of this question, I will ask that a fair committee be appointed to consider it.

Mr. KASSON. I will say that this question has already been considered with great care and deliberation in the Senate. The gentleman from Illinois [Mr. WASHBURN] suggests that a special committee should be raised for the purpose of considering this subject. I do not like to take this subject from the jurisdiction of the committee to which it properly belongs, and have it go to another regular committee, as was first suggested by the gentleman from Illinois. I think the Post Office Committee is a competent committee to consider the question, as is also the Committee on Commerce. But in the Senate the subject went to the Post Office Committee. Its very title indicates that it should go there, and I for one will not discredit any regular committee. The only other alternative is that it should go to a special committee.

Mr. WASHBURN, of Illinois. I am willing to withdraw my motion for a special committee, as also my suggestion that it be referred to the Committee on Commerce, and I will suggest that it should be referred to the Committee on Roads and Canals, which I am sure will prove to be an impartial committee.

Mr. HARDING, of Illinois. Will the gentleman from Iowa [Mr. KASSON] yield to me for a moment?

Mr. KASSON. I will yield for an explanation, but I cannot yield the floor entirely.

Mr. HARDING, of Illinois. Mr. Speaker, I feel a deep interest in the subject of bridging the Mississippi. My district lies one hundred

and fifty miles along the east bank of that river, including both rapids; and across the river into my district run four great lines of railroad which penetrate the great West beyond the Mississippi. My constituents as well as those of the gentlemen on the other side of the Mississippi are anxious to carry their business across that river to get their produce to market.

My constituents are equally interested with those of other gentlemen in maintaining an unobstructed navigation of the Mississippi. Sir, for thirty years I have fought against obstructions in the Mississippi. I fought against the construction of the bridge at Rock Island; and I have been opposed to all such bridges as would obstruct the navigation.

Now, sir, after weeks of labor, we have here a bill prepared upon the information of the ablest engineers of the country, and with the sanction of the War Department, by which it is provided that the railroad interest and those concerned in the transportation of freight by that mode of communication shall be accommodated, while the shipping interest upon the river shall also be accommodated.

I am in favor of the construction of a bridge at Keokuk. Those interested in that enterprise have had a committee here; and I have assisted them in their efforts to get a bill through Congress. But I do not wish that that project shall be tacked on to this bill so that the whole thing may go over to the next session. I had hoped, sir, that this bill would be referred by the House to some friendly committee that would report it back. It contains, I will state to the House, all the elements of a system of laws for the regulation of the construction of these bridges. The draw at Quincy is one hundred and sixty feet in the clear, a width far beyond that of the bridge at Rock Island, which was built without the authority of any law of Congress, and was a great obstruction. This bridge at Quincy, the proposed bridge at Burlington, and the one at Keokuk, are all unobjectionable, so far as I can judge from my investigation of the question.

I am aware of the zeal with which my colleague from the Galena district [Mr. WASHBURN] protects the navigation interests. I know very well that there is a very great prejudice against bridges; but I am happy to see that the honest sentiments of my friend have been modified, and that he publicly assents to the bridging of the river Mississippi. I beg him now to have this bill referred to a friendly committee if it must be referred at all.

Mr. WASHBURN, of Illinois. I propose that it shall be referred to the Committee on Roads and Canals. I desire that it shall not be referred to the Committee on the Post Office and Post Roads.

Mr. KASSON. I desire to ask the gentleman from the Quincy district, who is a friend of the original measure, to what committee he would prefer to have the bill referred. I am equally anxious with himself to have it go to a friendly committee, and at the same time a prudent one. I am desirous to oblige the gentleman. Does he desire it to go to the Committee on the Post Office and Post Roads, or to the Committee on Roads and Canals?

Mr. HARDING, of Illinois. I do not know what is the state of the business before those committees. I think I would prefer that it should be referred to a Committee of the Whole House.

Mr. KASSON. Then we should never hear of the bill again.

Mr. HARDING, of Illinois. I accept, then, the proposition to refer it to the Committee on the Post Office and Post Roads.

Mr. KASSON. That is my original proposition. I now yield to my colleague, [Mr. GRINNELL.]

Mr. GRINNELL. I desire, Mr. Speaker, that this bill may be referred to the Committee on the Post Office and Post Roads, because I know that that is a good committee.

Mr. Speaker, I am very glad to hear the gentleman from Illinois [Mr. WASHBURN]

surrender the positions which he formerly held and yield his great Mississippi fight.

Mr. WASHBURN, of Illinois. I occupy to-day the same position I always occupied. I was always willing to have the river bridged when it could be done without materially interfering with navigation.

Mr. GRINNELL. Mr. Speaker, it has been asserted over and over again, in and out of the House, that these bridges are nuisances and must come down. But, sir, in regard to the Rock Island bridge it has been shown that that is not an obstruction. The largest craft have, in great numbers—five or six hundred a season—passed there unobstructed; but when an old craft highly insured has run against the bridge and been destroyed, we have heard a great outcry about that bridge. It has been suspicious.

Now, sir, that bridge—I mean the Rock Island bridge—was constructed by eminent engineers, and if it is a nuisance there, it can be brought down by law. I suppose they want bridges at all these points, and I am willing that they shall have them. I am willing that this shall go to the Committee on the Post Office and Post Roads. It is for the interest of the other side of the river, where they have ten times the business, east and west of that on the river, that they shall have all the accommodations which nature and art both give them. The people distant to the Pacific are interested in these crossings. The railroad system of this country, and especially that west of the river, is made to yield to the natural highways of commerce. We have there established a bridge which will admit transit east and west as well as up and down the river.

Mr. KASSON. I now yield to the gentleman from Massachusetts, chairman of the Committee on the Post Office and Post Roads.

Mr. ALLEY. I was not present and did not hear the remarks of the gentleman from Illinois, but I am informed that he reflected on the Committee on the Post Office and Post Roads, charging that it was an unfair committee and in the interest of the railroads, and that he was opposed to any reference to that committee on that ground, asking at the same time that it be referred to the Committee on Commerce, of which committee he is chairman.

Mr. GRINNELL. The gentleman is mistaken. I said that the Committee on the Post Office and Post Roads was a fair committee, and the gentleman from Illinois said nothing reflecting on the committee at all.

Mr. ALLEY. I ask the gentleman from Illinois whether he reflected on that committee.

Mr. WASHBURN, of Illinois. I made no reflection on any committee. I trust I understand the rules too well for that. I stated the action of that committee and that it tended to strike down the interests of eight million people of the agricultural districts.

Mr. ALLEY. I understood the gentleman to have reflected on the action of the committee. I must have misapprehended, or rather I must have been misinformed, in reference to the position of the gentleman from Illinois. I understood that he reflected on the Committee on the Post Office and Post Roads, charging them with unfairness. He disclaims any reflection on that committee, and of course I have nothing further to say.

In regard to the question before that committee in which that gentleman is interested, no action has been taken and no report made, and of course the gentleman can have no complaint.

Mr. KASSON. I yield to the gentleman from Missouri.

Mr. BLOW. I desire to state there are two Senate bills before the House providing for the construction of bridges across the Mississippi river. The city of St. Louis, its Chamber of Commerce, and its people, have united in declaring that no obstruction should be made to the navigation of a stream upon which floats the greatest commerce of the New World. It is therefore provided in reference to the bridge

at that point so that any steamer may pass by that city on its way up the river without any detriment whatever. But, sir, if we pass this bill there will be a series of obstructions from the city of St. Louis to the falls of St. Anthony.

The bridge the gentleman has spoken of is one of the greatest obstructions, if not an absolute nuisance, causing extra insurance to be demanded by the insurance companies, and the loss of thousands of dollars' worth of valuable property annually. In addition to the natural obstructions it imposes a burden upon the cities on that stream which they are not able to bear. In adverse winds boats have had to remain for days at Rock Island. By this bill you propose to obstruct it at Quincy, Hannibal, Keokuk, and I do not know how many other places.

Mr. WILSON, of Iowa. Has the gentleman examined the provisions of this bill?

Mr. BLOW. I have. They call for a draw of one hundred and sixty-five feet, leaving only a channel hardly the width of the vessels themselves.

Mr. KASSON. I ask as a point of order whether it is proper to discuss the merits of the bill on the motion to refer.

Mr. WASHBURN, of Illinois. That brings up the whole question.

Mr. KASSON. I presume the proper time for this debate will be when the bill has been returned from the committee. I understand it has been prepared with unusual care and on consultation with eminent engineers. We understand uniformly that a bridge near the city and within the district of a member of Congress is always large enough and high enough, in the opinion of that member, but that a bridge above or below obstructs commerce, by being too small, and therefore ought not to be allowed to remain.

I have submitted my amendment with special reference to the wants of central and western Iowa. We want a double outlet for our products, the unobstructed option of the Chicago and St. Louis markets, and competition between railroads for freight. With this bridge at Keokuk we can send our products to St. Louis without breaking bulk. From Des Moines as a common center there will be two routes open to Chicago, and one, if not two, to St. Louis, and all without the serious obstruction of breaking bulk at the river, with its heavy accompanying charges.

With these remarks I simply now desire, as I am pressed all around, and as there are other measures waiting that are urgent, to ask the previous question on the motion to refer this to the committee. The whole subject will be open for debate when it comes back.

Mr. GRISWOLD. I desire to ask the gentleman whether by the provisions of this charter the bridge company would be liable for damages growing out of obstruction of the navigation.

Mr. KASSON. Certainly they are if the bridge is improperly constructed, liable at common law.

Mr. BENJAMIN. They would not, if it is built according to the provisions of the bill.

Mr. KASSON. I have no sort of objection to the fullest debate, but I understand it to be the wish of the House not to discuss it now.

Mr. STEVENS. The merits of this bill are not open, and I trust it will not take up the whole day. Let it go to the committee.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was referred to the Committee on the Post Office and Post Roads.

UNION PACIFIC RAILROAD.

The next business on the Speaker's table was Senate joint resolution No. 80, extending the time for the completion of the Union Pacific railroad, eastern division; which was read a first and second time.

Mr. STEVENS. I trust that may be considered now.

The bill was read in full. It extends the time for the completion of the first one hundred miles until June 27, 1866.

Mr. STEVENS. I offer the following amendment:

That the time for commencing and completing the Northern Pacific railroad and all its several sections is extended for the term of two years.

Mr. ROSS. Is that amendment germane to the subject? I raise the question of order.

The SPEAKER. The Chair thinks it is in order. It relates to the building of railroads across the continent. It is a question for the House whether it will concur in the amendment.

Mr. STEVENS. The object of the amendment is simply this: the original resolution proposed to extend the time for the completion of the southern branch of the Union Pacific railroad for a few months according to the recommendation of the message of the President. The time had expired. One and a half section had been finished, but not within the time required by law by a few days. The message of the President informed us that unless we extended the time the subsidy could not be granted. Two months are asked for. The amendment I offer is to give further time, but it proposes no advantage except the extension of the time.

I demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

On motion of Mr. STEVENS, the title of the bill was amended by adding thereto the words "and for other purposes."

Mr. STEVENS moved to reconsider the vote by which the bill was passed and the title amended; and also moved to lay that motion on the table.

The latter motion was agreed to.

NEW YORK AND MONTANA MINING COMPANY.

The next business on the Speaker's table was Senate bill No. 203, to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in market.

Mr. STEVENS. I move to lay that on the table.

The motion was agreed to.

SOLDIERS' AND SAILORS' ORPHAN HOME.

Mr. WASHBURN, of Illinois. I desire to make a statement. Several patriotic ladies have sent me a bill to incorporate the National Soldiers' and Sailors' Orphan Home in the District of Columbia. It is a very worthy object. I find among the managers the names of Mrs. General Sherman, Mrs. Carlile, Mrs. Todd, Mrs. Smith, Mrs. Hale, Mrs. General Curtis, Mrs. General Scofield, and a great many others; and I venture to bring the matter to the consideration of the House. I have looked over this bill, and if the House, after hearing it read, sees nothing objectionable in it, I will ask to have it passed.

The bill was read.

Mr. ROSS. I would inquire of my colleague if this bill does not take the custody of the property of these orphans out of the hands of their guardians, and give the control of it to this corporation.

Mr. STEVENS. I ask for the reading of the sixth section.

The Clerk read the section, as follows:

SEC. 6. And be it further enacted, That no child shall ever be bound out from this institution.

Mr. STEVENS. I do not think that is practicable. If the institution is to raise them up in idleness, and never bind them out, it is contrary to all precedents that I ever heard of. I move to strike that section out, so as to leave it discretionary with the managers of the institution.

The motion was agreed to, and the sixth section was stricken out.

Mr. ROSS. I again ask my colleague if this bill does not take the custody of the persons

and property of the children out of the hands of legally appointed guardians, and give it to this corporation.

Mr. WASHBURN, of Illinois. I do not think that that is the construction of the bill.

Mr. ROSS. It appears to me from the reading of it that it is.

Mr. WASHBURN, of Illinois. If the gentleman desires to amend it in that respect he can do so.

Mr. GARFIELD. I suggest to the gentleman from Illinois [Mr. Ross] that he offer an amendment providing that the bill shall not be construed in that way.

The SPEAKER. The section referred to by the gentleman from Illinois [Mr. Ross] will be read.

The Clerk read as follows:

SEC. 8. And be it further enacted, That upon any minor child being removed from or leaving this institution, as provided in the preceding section, and there being due to such minor child any pension or back pay from the United States Government, the directors of the institution shall retain control of such back pay or bounty until such child attains the age of majority, paying to such child during minority only the interest thereof, or such further sum as, in the discretion of the board, may be necessary for the support and maintenance of such minor.

Mr. WASHBURN, of Illinois. That is a very good provision. I think no one can object to it. I think the House had better pass the bill.

Mr. HARDING, of Illinois. I wish my colleague would explain why bounty money belonging to these orphans is safer in the hands of the directors of this corporation than in those of the agents which the law provides. Guardians are safer depositaries than these directors, who may or may not be good. They are good now, no doubt. But the institution may degenerate, as many things do in this world.

Mr. WASHBURN, of Illinois. My colleague entirely misapprehends the character of this bill. It is certainly for one of the most laudable objects to which our attention could possibly be called, and I think the provision to which the gentleman alludes is one of the best provisions of the bill. It provides that the funds of these orphans shall be kept by the institution, and the interest paid to them, until they come of age. The bill is designed for the purpose of protecting, educating, and caring for the orphans of soldiers and sailors.

Mr. HARDING, of Illinois. I move to strike out that eighth section.

Mr. ROSS. I suggest to my colleague if it would not be better to refer this bill to the Judiciary Committee or some other committee that will examine it. I have no objection to the object of the bill, but I think it had better be referred and examined.

Mr. HARDING, of Illinois. I have no objection to its reference.

Mr. WASHBURN, of Illinois. If the House desires it—

Mr. HARDING, of Illinois. I have the floor now.

Mr. WASHBURN, of Illinois. Then let the gentleman take charge of the bill.

Mr. HARDING, of Illinois. I will take charge of it if the gentleman wants me to.

We have a system of laws throughout the United States by which the interest of the minor children of our dead soldiers is secured. The Government itself which makes these grants to these orphans provides a place where this money shall be cared for and kept safe and secure. But, overriding all that system, it is proposed to provide here by a general sweeping clause that whenever the money of these orphans gets into the hands of this corporation, the custody of the funds shall be in the management of these directors. To that I am opposed. It is too large and sweeping a provision. I do not understand how the funds of these orphans will ever get into the possession of these directors. I shall move to refer the bill, unless my colleague will consent to strike out this section.

Mr. WASHBURN, of Illinois. The gentleman can make his motion, and the House can do what they please about it.

Mr. DELANO. Is it in order to move to refer the bill to the Committee on the Judiciary?

The SPEAKER. It is in order.

Mr. DELANO. I make that motion, then, in entire friendship to the measure, and simply because I do not think it is likely to be perfected in this mode. And I move that the committee have leave to report it at any time.

Mr. HARDING, of Illinois. Then I withdraw my motion to strike out the eighth section.

Mr. WASHBURN, of Illinois. I assent to the motion of the gentleman from Ohio. I have no desire to press this bill against the objection of a single man here.

Mr. DELANO. I have no objection to the bill. My object is to get it through.

The motion was agreed to.

So the bill was referred to the Committee on the Judiciary, with leave to report at any time.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate had agreed to the amendments of the House to the bill of the Senate No. 155, concerning the boundaries of the State of Nevada.

The message further informed the House that the Senate had passed a concurrent resolution providing that the standing Committees of the two Houses on Public Buildings and Grounds be instructed to inquire and report what further provision, if any, should be made for the accommodation of the State Department, in which the concurrence of the House was requested.

The message further informed the House that the Senate had passed bills and a joint resolution of the following titles; in which the concurrence of the House was requested:

An act (S. No. 99) granting lands to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State;

An act (S. No. 230) to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion;

An act (S. No. 274) for the relief of John Ericsson; and

Joint resolution (S. R. No. 71) referring the petition and papers in the case of Joseph Nock to the Court of Claims.

WITHDRAWAL OF PAPERS.

On motion of Mr. DELANO, leave was granted for the withdrawal from the files of the House of the papers, copies being left, in the cases of W. P. Jones, Benjamin Roach, J. A. Hudnall, and Amistad T. M. Filler.

On motion of Mr. ORTH, leave was granted for the withdrawal from the files of the House of the papers in the case of James Nokes, copies being left.

WISCONSIN RAILROAD GRANTS.

Mr. ELDRIDGE, by unanimous consent, introduced a joint resolution explanatory of and in addition to the act of May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in the State of Wisconsin;" which was read a first and second time, and referred to the Committee on Public Lands.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SALE OF SCHOOL LANDS.

Mr. UPSON, by unanimous consent, introduced a bill to amend section two of an act entitled "An act to authorize the Legislatures of the States of Illinois, Arkansas, Louisiana, and Tennessee to sell the lands heretofore appropriated for the use of schools in those States;" which was read a first and second time, and referred to the Committee on Public Lands.

ESTABLISHMENT OF POST ROUTES.

Mr. LYNCH, by unanimous consent, introduced a bill to establish certain post routes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

WEST VIRGINIA WAR CLAIMS.

Mr. HUBBARD, of West Virginia. I ask consent of the House to take from the Speaker's table, and have referred to the Committee on Appropriations, Senate bill No. 230, to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion.

Mr. WASHBURN, of Illinois. I object, unless it be to refer to the Committee of Claims.

Mr. HUBBARD, of West Virginia. It makes a specific appropriation, and therefore should go to the Committee on Appropriations.

Mr. WASHBURN, of Illinois. I think it is high time this question of jurisdiction over bills of this character should be determined by this House. The Committee on Appropriations has no right to consider these bills, but they should go to the Committee of Claims.

The SPEAKER. As objection is made the bill will not be taken up now.

TERRITORIAL BUSINESS.

Mr. ASHLEY, of Ohio. I understand that the gentleman from Kentucky [Mr. HARDING] withdraws the objection he made some time since to allowing the Committee on Territories to have an hour for the consideration of their business after the morning hour of to-morrow shall have been concluded.

Mr. DEMING. I renew the objection.

WAGON ROAD IN DAKOTA TERRITORY.

Mr. BURLEIGH. I ask unanimous consent to have the following preamble and resolution considered at this time:

Whereas an act of Congress was passed March 3, 1865, entitled "An act to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska;" and whereas by said act the sum of \$20,000 was appropriated for the construction of a wagon road from a point at or near the mouth of the Big Sioux river, via Yankton, Dakota Territory, to a point at or near the mouth of the Big Cheyenne river, thence up said river to its main fork, thence up the north fork to a point of intersection with the road from Niobrara; and whereas the work on said wagon road is reported to have been commenced and far advanced in 1865, by orders from the Secretary of the Interior, during the prosecution of which work treaties are claimed to have been made with the Indian tribes occupying the country through which said road is located, by which the right of way was secured to the United States; and whereas the Secretary of the Interior is represented to have ordered a suspension of work upon said Cheyenne road, and required the superintendent having charge of the construction of the same, to turn over all of the stock, implements, and money appropriated and purchased for the said road to the superintendent of the Niobrara road, whereby the opening and construction of the Cheyenne road are prevented, to the great injury of the Territory of Dakota: Therefore,

Resolved, That the Secretary of the Interior be requested to inform this House whether the work on the said road has been arrested or interrupted by his orders, and if so, for what reason the same has been done; whether any of the moneys appropriated thereto have been diverted to the uses of the Niobrara or any other road mentioned in said act, with the authority, if any in that case, for said diversion.

Mr. GRINNELL. Before determining whether I shall object to the introduction of this resolution at this time, I would inquire of the gentleman whether he has sought the information he asks at the Department of the Interior, and if he has been unable to obtain it there.

Mr. BURLEIGH. I will say that two years ago an appropriation was made for the construction of this wagon road. Since that time it is said that treaties have been made with the Indians along the line of the road, and it is said that the Government has secured the right of way for the road along there. I now understand that since those treaties have been made orders have been issued to suspend work upon this road, upon the ground that the Indians will not allow it to proceed. Now, I want to know whether there is anything in those treaties, or whether they are mere shams.

I have applied, but have not been able to obtain the information at the Interior Department, and I have introduced this resolution in order to ascertain the facts in the case.

Mr. HUBBARD, of Iowa. I object.

FREDERICK COUNTY, VIRGINIA.

On motion of Mr. LAWRENCE, of Ohio, the Committee on the Judiciary were discharged from the further consideration of the petition of citizens of Frederick county, Virginia, asking that that county be attached to the State of West Virginia; and the same was laid upon the table.

JOHN ERICSSON.

Mr. GRISWOLD. I ask unanimous consent to take from the Speaker's table, for reference to the Committee on Naval Affairs, Senate bill No. 274, for the relief of John Ericsson.

Mr. WASHBURN, of Illinois. I ask that the bill be read.

The bill was accordingly read. It directs the Secretary of the Treasury to pay to John Ericsson the sum of \$13,930, in full for his services in planning the United States war steamer Princeton, and in planning and superintending the construction of the machinery for the same.

Mr. WASHBURN, of Illinois. I have no objection to its reference. It contains an appropriation and will have to go to the Committee of the Whole, anyhow, when it shall be reported from that committee.

The bill was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

And then, on motion of Mr. WASHBURN, of Illinois, (at four o'clock and ten minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BEAMAN: The claim of Henry P. Sanger, for services rendered as book-keeper and teller in the office of H. K. Sanger, late United States depository.

By Mr. BROMWELL: The petition of Thomas A. Cosgrove, and others, praying for a law regulating insurance.

By Mr. BROOMALL: The petition of Dr. J. A. Meredith, asking that certain medicines be exempt from taxation.

By Mr. FERRY: The memorial of J. C. Lewis, and 16 others, citizens of Washington, praying for the passage of a law regulating inter-State insurances.

By Mr. GLOSSBRENNER: The petition of Arthur W. Farquhar, of York county, Pennsylvania, praying compensation for certain merchandise furnished to the Government in 1864 under contract.

By Mr. KELLEY: The memorial of merchants and citizens of Philadelphia, praying that the officers and men of the Kearsarge be rewarded for the sinking of the Alabama, as recommended by the Secretary of the Navy.

By Mr. LAFLIN: The memorial of H. A. Harvey, of New York City, praying for the extension of certain patents for the manufacture of wood screws issued respectively.

By Mr. LAWRENCE, of Pennsylvania: A petition from citizens of Beaver county, Pennsylvania, asking an increase of duties on foreign wools.

By Mr. SAWYER: The petition of A. V. Balch, and 20 others, citizens of Waupaca county, Wisconsin, praying for an enactment of equal laws for the regulation of inter-State insurances.

By Mr. SCHENCK: The petition of physicians of Eaton, Ohio, praying that medicines and preparations of the United States or other national Pharmacopoeia, of which the full and proper formula is published in the dispensatories, &c., be placed on the free list, inasmuch as the high tax on alcohol is sufficient to exempt them from tax on "official medicines."

By Mr. STEVENS: The petition of John McGarrish, asking for increase of pension.

Also, two petitions of Cary Ahl, and numerous others, citizens of Pennsylvania, asking for protection for American industry.

Also, the petition of Elizabeth Klinger, praying for a pension.

Also, the petition of Martha R. Bauer, praying for a pension.

By Mr. WELKER: The petition of J. H. Fay, and 66 others, wool-growers of Lorain county, Ohio, asking protection on wool.

Also, the petition of R. C. Fenn, and 27 others, wool-growers of Medina county, Ohio, asking for the same.

Also, the petition of Charles Boydston, and 23 others, wool-growers of Wayne county, Ohio, asking for the same.

By Mr. WINDOM: The petition of J. C. Easton, and 22 others, citizens of Minnesota, asking the enactment of just and equal laws for the regulation of inter-State insurances of all kinds.

Also, the petition of J. S. Sawyer, and 27 others, citizens of Minnesota, on the same subject.

Also, the petition of Gardner Darr, and 71 others, citizens of Minnesota, asking an increased tariff on wool.

By Mr. WOODBRIDGE: The petition of Alfred Hull, and 66 others, citizens of Wallingford, Vermont, praying for an increased duty on foreign wool.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. DARLING: A bill directing the Secretary of the Treasury to refund to the proper party or parties the amount of tax paid under section seven of the act to increase the internal revenue, and for other purposes, passed March 7, 1864, upon spirits imported prior to the date of said act.

IN SENATE.

FRIDAY, May 4, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. CONNESS. I present the petition of many thousands of the working men and trades societies of the city of San Francisco, California, addressed to the Senate and House of Representatives of the United States of America, in which they say:

"We, the undersigned citizens of the State of California, respectfully pray that you will be pleased to enact that eight hours shall be the period fixed for a legal day's work of labor, as to all workmen, artisans, or laborers in the employ of the United States; and that as weights, measures, &c., have been fixed and ascertained by law, you will, in like manner and spirit, fix the number of hours at eight, which shall constitute a legal day's labor."

I simply desire to say, Mr. President, in connection with the presentation of this petition, that the subject was before the Legislature of California on a like petition to this, and it was believed for a length of time by the workmen of that State that favorable action would be had upon it. I doubt not that State action is the more legitimate mode of arriving at this result than Federal action; but it will be observed that the petition only asks that a law be passed to fix the hours of labor which shall constitute a legal day's work in the employment of the United States.

I desire to say in addition, on presenting this petition, and I speak from a long experience, that I fully believe labor would be as profitable to the whole nation if eight hours constituted a legal day's work as now that ten hours mostly do so, because I believe that the labor which could be and would then be performed in eight hours would be fully the equivalent of the labor that is generally performed now in ten hours. I present the petition and move its reference to the Committee on Naval Affairs, to whom a like petition, I believe, has heretofore been referred.

The motion was agreed to.

Mr. SUMNER. I offer a memorial of the Commonwealth of Massachusetts addressed to the Senate and House of Representatives in Congress assembled, and praying Congress to reimburse certain moneys expended by Massachusetts for the common defense. This memorial, which is somewhat elaborate, sets forth at length the occasion on which these moneys were expended by Massachusetts and why Massachusetts undertook to expend them, and the consequent liability of the United States to reimburse them; and it concludes as follows:

"The government of Massachusetts under instructions from the General Government acted with all its accustomed vigor and liberality, and may now justly call upon the parental authorities of the general Union for the measure of equity in reimbursement, of which the expectation was raised by their own promise. The Commonwealth of Massachusetts, therefore, through its Legislature, respectfully asks that Congress will pass an act to provide for the refunding by the General Government of the expenditures made by Massachusetts as herein stated and explained."

This memorial is duly authenticated by the officers of the Legislature. I offer it and move its reference to the Committee on Military Affairs and the Militia; and at the same time, as it is a memorial from a State, I presume that if it does not come positively within the rule of the Senate, I shall not go too far if I ask that it be printed.

The memorial was ordered to be printed, and referred to the Committee on Military Affairs and the Militia.

Mr. HARRIS. I present the petition of William Syphax, who represents that some forty years ago the late Mr. Custis, of Arlington, gave to his mother, Maria Syphax, on manumitting her, a piece of land of fifteen acres; and he asks that Congress may confirm the title to that piece of ground to his mother and her heirs. I move that the petition be referred to the Committee on Private Land Claims.

The motion was agreed to.

Mr. WILSON. I present the memorial of the Sons of Temperance and Good Templars of Worcester, Massachusetts, in which they set forth that they are members of an organization of two hundred and fifty thousand persons in the United States, and they go on to speak of the evils brought upon the country, in the public service, civil, military, and naval, by intoxication; and they ask Congress to pass a law providing that intoxication shall work a dismissal of any public officer in the civil, military, or naval service of the country. I move the reference of the memorial to the Committee on the Judiciary.

The motion was agreed to.

Mr. CHANDLER presented a petition of citizens of Midland, Michigan, praying for a grant of land to aid in the construction of a railroad from Saginaw to some point on Lake Michigan in the direction of Bay de Noquette and in the Grand Traverse region; which was referred to the Committee on Public Lands.

Mr. JOHNSON. I present a memorial from ninety-five citizens of the counties of Dorset and Somerset, in Maryland, stating that they were assessed by General Lockwood in several thousand dollars for the purpose of rebuilding a church that had been burned, and with the burning of which they say they had nothing to do. I move its reference to the Committee on Claims.

The motion was agreed to.

Mr. VAN WINKLE presented six memorials from citizens of Alexandria city and county, Virginia, remonstrating against the proposed retrocession of that county to the District of Columbia; which were referred to the Committee on the District of Columbia.

REPORTS OF COMMITTEES.

Mr. CLARK, from the Committee on Claims, to whom was referred the bill (H. R. No. 519) to amend an act entitled "An act to provide for the payment of horses and other property destroyed in the military service of the United States," approved June 24, 1864, reported it without amendment.

He also, from the same committee, to whom was referred the bill (S. No. 46) for the relief of Henry M. Whittlesey, reported adversely thereon.

Mr. RAMSEY, from the Committee on Post Offices and Post Roads, to whom was referred the bill (S. No. 95) providing for the appointment of a commission to purchase a site and erect a building for a post office, custom-house, and for holding the courts of the United States, in the city of St. Paul, reported it with amendments.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the bill (H. R. No. 386) for the relief of Francis A. Gibbons, reported it without amendment.

Mr. MORRILL, from the Committee on Claims, to whom was referred the joint resolution (S. R. No. 52) authorizing the Secretary of the Treasury to change the name of the steamboat City of Richmond to the City of Portland, reported it with an amendment.

He also, from the same committee, to whom was referred the bill (S. No. 222) further to prevent smuggling, and for other purposes, reported it with amendments.

BILLS INTRODUCED.

Mr. HOWARD asked, and by unanimous consent obtained, leave to introduce a bill (S.

No. 303) for the relief of Joshua Hill, which was read twice by its title, and with the accompanying papers presented by him, referred to the Committee on Claims.

Mr. POLAND asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 304) for the relief of Mrs. Eastman, mother and sole heir of Alfred W. Eastman, deceased; which was read twice by its title, and referred to the Committee on Claims.

Mr. RIDDLE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 305) to amend an act entitled "An act concerning notaries public for the District of Columbia," approved April 8, 1864; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. TRUMBULL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 306) relating to the granting of passports; which was read twice by its title, and ordered to be printed.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred to the Committee on Territories:

A bill (H. R. No. 179) amendatory of the organic act of Washington Territory;

A bill (H. R. No. 202) to amend an act entitled "An act to provide a temporary government for the Territory of Montana," approved May 26, 1864; and

A joint resolution (H. R. No. 32) to facilitate communication with certain Territories.

REV. HARRISON HEERMANCE.

Mr. WILSON. I desire to call up a joint resolution which I supposed was passed the other day; but I find it was not. It is the joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment New York volunteers, which was recommended to the Committee on Military Affairs for the purpose of having a report in the case, and again reported with a report which has been printed.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The joint resolution was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ADVERSE REPORTS OF COMMITTEE ON CLAIMS.

Mr. CLARK. I asked the Senate the day before yesterday to allow me some time to-day for the business of the Committee on Claims; and if there be no pressing business in the morning hour, I should like to begin now, so as to get through early. I move that the Senate proceed to the consideration of the report No. 2 of the Committee on Claims on the petition of John Nabb and Sarah Nabb, an adverse report.

The motion was agreed to.

JOHN NABB.

The PRESIDENT *pro tempore*. The report of the committee will be read.

Mr. CLARK. Perhaps I can state the case a little more succinctly than it is stated in the report. The petitioners in this case state three accounts for which they ask payment of the United States, the first of which is an account for damage to the three-story brick and tile house No. 70 Church street, Charleston, South Carolina, for which they ask the United States to pay \$1,504 44. They also state an account for the rent of the house and for the price of a slave who was sold and the price went into the hands of a trustee of theirs, appointed by them, and for that they ask the United States to pay \$3,125. They also ask that the United States shall pay them the amount of a deposit which they made in a savings bank in Charleston, South Carolina, which they lost in the rebellion, amounting to \$678. The committee report an adverse resolution that the prayer of the petitioners ought not to be granted; and I think that is evident without stating the case further.

The PRESIDENT *pro tempore*. The question is on agreeing to the resolution reported by the committee.

The resolution was adopted.

F. A. LEWIS.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 6) of the Committee on Claims on the petition of F. A. Lewis.

Mr. CLARK. The report of the committee in this case is as follows:

The petitioner sets forth that, in consequence of the legislation of Congress, he has been unjustly deprived of his property to the value of \$15,527, the larger portion being negroes; and further, that the so-called confederate government has taken from him his other property to the value of \$4,000, for which that government promised to pay him; and as the United States have overthrown the confederate government, they are justly responsible for its debts.

The committee are unable to appreciate the soundness or justice of the reasoning in relation to either portion of this claim.

The petitioner has deemed it unnecessary to fortify either portion of his claims with a particle of evidence beyond his own statement. The committee, in view of the foregoing allegations, ask the passage of the following resolution:

Resolved, That the prayer of the petition of F. A. Lewis ought not to be granted.

The resolution was adopted.

OWNERS OF THE BRIG SABAO.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 8) of the Committee on Claims on the petition of David Baker, Mowrey & Steere, Samuel True, and Nathaniel Crowell, owners of the brig Sabao.

Mr. CLARK. The committee in this case report a resolution that the prayer of the petitioners ought not to be granted, and unless some one desires to have the report read, or some portion of it stated, showing the nature of the case, I will ask the Senate to take the question on the adoption of the resolution.

The resolution was adopted.

J. W. DOWNEY.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 9) of the Committee on Claims on the petition of J. W. Downey.

Mr. CLARK. This petitioner prays for the restoration of his real estate taken and sold under the confiscation act, and the committee report a resolution that the prayer of the petitioner ought not to be granted.

The resolution was adopted.

SELINA BARCLAY.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 10) of the Committee on Claims on the petition of Selina Barclay.

Mr. CLARK. This petitioner prays for relief for the burning of her house which was burnt by the destruction of the navy-yard at Gosport, Virginia, by the rebels. The committee report a resolution that the prayer of the petitioner ought not to be granted.

The resolution was adopted.

JOHN AHERN.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 12) of the Committee on Claims on the petition of John Ahern.

Mr. CLARK. This petitioner prays to be indemnified for loss on a contract with the acting assistant provost marshal general of the northern district of New York for board and rations furnished to the United States for soldiers and recruits at the city of Albany in 1863, 1864, and 1865; and the committee report adversely to the prayer of the petitioner.

The report was agreed to.

JEROME B. PILLOW.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 15) of the Committee on Claims on the petition of Jerome B. Pillow.

Mr. CLARK. This petitioner sets forth that he is a loyal citizen of Arkansas and asks pay for cotton which was carried away by our sol-

diers. The committee report a resolution that the prayer of the petitioner ought not to be granted.

The resolution was adopted.

JOHN EGNOLF.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 16) of the Committee on Claims on the petition of John Egnolf.

Mr. CLARK. This petitioner prays for compensation for the loss of a California bond. The committee report a resolution that the prayer of the petitioner ought not to be granted.

The resolution was agreed to.

WARREN, HOOD, AND HUMPHREY.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 18) of the Committee on Claims on the petition of George Warren, Daniel Hood, and Calvin R. Humphrey.

Mr. CLARK. The committee in this case report a resolution that the prayer of the petitioners ought not to be granted.

The resolution was agreed to.

MRS. KATE PETTIT.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 19) of the Committee on Claims on the petition of Mrs. Kate Pettit.

Mr. CLARK. I call the attention of the Senate to the report in this case, as it is short, and involves, perhaps, a new principle.

The Committee on Claims, to whom was referred the petitions and papers relative to the claim of Mrs. Kate Pettit, have considered the same, and make the following report:

The petitioner alleges that, in July, 1865, she was walking on the sidewalk of a street in the city of Georgetown in this District, and was knocked down by a Government wagon through the careless or reckless management of the driver; that, as a consequence, she was by this accident seriously and irreparably injured, whereby she lost the use of one of her arms, and was put to great cost and expense.

She also alleges that she is a widow in indigent circumstances, with two small children dependent upon her for support.

Considering the allegations and circumstances in this case to be proved, the committee know of no rule by which the Government can be held for the illegal and unauthorized acts of its servants; cases of this character may appeal to our sympathy, but from reasons of public policy can never be allowed as claims by Congress.

The committee recommend the passage of the following resolution:

Resolved, That the prayer of the petitioner cannot be granted.

The resolution was adopted.

ALONZO MORSE.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 20) of the Committee on Claims on the petition of Alonzo Morse.

Mr. CLARK. This petitioner prays indemnification for certain United States notes lost by the burning of his dwelling-house, and the committee make an adverse report. The notes were in part compound-interest notes, and in part notes which could not be identified. The Treasury Department paid him for those which could be identified, and the committee report against the balance of the claim, on the ground that there is no identification.

The report was agreed to.

LIEUTENANT COLONEL REYNOLDS.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 21) of the Committee on Claims on the petition of Brevet Lieutenant Colonel S. M. Reynolds.

Mr. CLARK. This petitioner prays to be relieved from responsibility for money stolen from him on the 22d December 1865; and I call the attention of the Senate to it, as the money was lost at one of the banking-houses in this city. The committee come to an adverse conclusion on this matter, and report a resolution that the prayer of the petitioner ought not to be granted.

The resolution was agreed to.

SWEENEY, RITTENHOUSE AND COMPANY.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 22)

of the Committee on Claims on the petition of Sweeney, Rittenhouse, Fant & Co.

Mr. CLARK. The prayer of the petition in this case is that they be allowed to go to the Court of Claims. They have been once to the Court of Claims, and had an adverse report, when the court consisted of three judges; and they want now, when it consists of five, to see if they cannot get a favorable report. The Committee on Claims came to the conclusion to report against it.

The report was agreed to.

FRANCIS MILLER.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report (No. 23) of the Committee on Claims, on the petition of Francis Miller.

Mr. CLARK. This petitioner entered into contract with the Government for the furnishing of certain supplies, the price of which he found afterward to be raised in the market, and he refused to deliver the supplies. He now asks that the Government should pay him that portion of the money which was retained upon his contract for the portion that he did furnish. The committee came to the conclusion that it should not be paid to him because he refused to perform his contract. They therefore report a resolution that the prayer of the petitioner ought not to be granted.

The resolution was adopted.

JOHN R. BROWN.

On motion of Mr. CLARK, the Senate proceeded to consider the adverse report of the Committee on Claims on the petition of John R. Brown.

Mr. CLARK. This is a claim for damages for the seizure of a vessel by some of our naval vessels as a blockade-runner. The committee came to the conclusion that there was probable cause for the seizure, and that no damages should be paid.

The report was agreed to.

P. A. WHEELER.

Mr. CLARK. The next report is one not printed, on the petition of P. A. Wheeler. It is an adverse report. I move that it be agreed to.

The report was agreed to.

CYRUS M. HARMON.

Mr. CLARK. The next report is No. 37, on the case of Cyrus M. Harmon. The petitioner was the owner of a newspaper in West Virginia, and the rebels got possession of a large portion of the country, embracing the county of Jackson, where he lived, and on the 4th of September, 1864, occupied Ravenswood, and immediately destroyed the presses, stock, and type of the establishment. He desires the United States to pay for it. The committee came to the conclusion to report adversely.

The report was agreed to.

COLONEL D. D. TOMPKINS.

Mr. CLARK. The next adverse report is No. 40, on the petition of the executors of the late Colonel D. D. Tompkins. Colonel Tompkins was ordered to reside in the barracks furnished for the United States troops at New Orleans. He chose afterward to reside in the city, and he demanded commutation for rent and quarters, which the Department refused to allow him. The committee think the Department were right, and therefore recommend that the prayer of the petition be refused.

The report was agreed to.

EPHRAIM HUNT.

Mr. CLARK. The next report is No. 41, on the petition of Ephraim Hunt.

Mr. FESSENDEN. In regard to that there have been several reports in favor of Ephraim Hunt which have been acted upon by this body, and a bill has been passed. There is now an adverse report. If the Senator is willing I should prefer that it should lie over.

Mr. CLARK. I will not object.

The PRESIDENT *pro tempore*. The case will be passed over.

REBECCA S. MINOR.

Mr. CLARK. The next report is No. 42, on the petition of Rebecca S. Minor. The petitioner asks for compensation for fences and buildings taken by troops of the United States near Natchez, Mississippi, and used for fuel. The case was wholly unsupported by evidence, and the committee recommend that she have leave to withdraw her petition.

The report was agreed to.

MARIA GENAUD.

Mr. CLARK. The next report is No. 48, on the claim of Maria Genaud, heir of Jean Hudry. The committee report that the prayer of the petitioner ought not to be granted.

The report was agreed to.

GEORGE D. C. HIBBS.

Mr. CLARK. The next report is No. 49, on the petition of George D. C. Hibbs. The committee report against the claim.

The report was agreed to.

MARY E. TWIFORD.

Mr. CLARK. The next is No. 52, in the case of Mary E. Twiford. I think one of the Senators from West Virginia presented the petition in this case. The committee came to the conclusion that they did not see any ground on which the claim could be allowed. It is a case where a house belonging to a widow lady was burned by the rebels because, as was supposed, she had given information to our troops.

Mr. VAN WINKLE. I think the Senator is mistaken about that claim having been presented by any of the Senators from West Virginia.

Mr. CLARK. I may be mistaken about that. I merely mentioned that because I did not know but that the Senators might desire their attention called to it.

The report was agreed to.

ANTHONY S. ROBINSON.

Mr. CLARK. The next report is No. 56, on the petition of Anthony S. Robinson. It is an adverse report, that the prayer of the petitioner should not be granted.

The report was agreed to.

AARON VAN CAMP.

Mr. CLARK. The next is No. 57, on the petition of Aaron Van Camp and Virginus P. Chapin, an adverse report.

The report was agreed to.

THOMAS LAURENT.

Mr. CLARK. The next is No. 61, an adverse report in the case of Thomas Laurent.

The report was agreed to.

H. CLAY WOOD.

Mr. CLARK. The next is an adverse report, No. 62, on the petition of H. Clay Wood.

Mr. FESSENDEN. I should like to have that laid over. I believe I presented the papers.

Mr. CLARK. I have no objection to its lying over for consideration.

The PRESIDENT *pro tempore*. The case will be passed over by common consent, no Senator insisting upon a vote.

JOSIAH O. ARMES.

Mr. CLARK. I now ask the Senate to proceed to the consideration of the bill (S. No. 16) for the relief of Josiah O. Armes, on which there is pending a motion to reconsider.

Mr. FESSENDEN. I suggest to the Senator whether, as that will occasion considerable debate, he had not better pass it over, and take up the other bills which will not occasion debate, and dispose of them in the first place.

Mr. CLARK. I propose to take the question upon the reconsideration first, and I think that will not lead to much debate; and then, if the vote is reconsidered, I will agree to postpone the bill and take up the other bills. I do not know that anybody wants to debate it upon the motion to reconsider. I propose simply to make a very short statement in regard to it.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from New Hampshire, that the Senate proceed to the consideration of this subject.

The motion was agreed to.

The PRESIDENT *pro tempore*. The question now is, Will the Senate reconsider the vote by which the bill was passed?

Mr. CLARK. This bill was passed by the House of Representatives at the last session of Congress, and came to the Senate and was passed here. The committee had examined the claim very thoroughly, and came to the conclusion, I think unanimously, that the claim ought to be paid. The bill was passed. The bill having been passed by both Houses of Congress, it went to the enrolling clerk. But by a mistake of the clerk it failed to be enrolled, and did not reach the President for his signature. The bill was reintroduced and taken up, I think, on the first or second day of this session, and was passed by the Senate and sent to the other House. It was then brought back here by a message for the purpose of entering a motion to reconsider.

I desire to state that this loss of the party is fully proved. The value of the property is fully proved. The title is fully proved. The Union sentiments and services of the man who makes the claim are fully proved. It is also fully proved that the man himself furnished a good deal of information and assistance to the troops of the United States. It is proved that his wife left her home in the night time, and came through our lines for the purpose of delivering information, and was fired upon by the pickets. It is proved, also, as bearing on the Unionism of this man, that he has a son who has been in our service through the rebellion, and is still in the service. I hope it will not be reconsidered, but I am willing to have the question taken without any further debate.

The PRESIDENT *pro tempore*. The question is, Will the Senate reconsider its vote passing the bill?

Mr. NESMITH. I ask the Senator from New Hampshire what amount is appropriated by this bill.

Mr. CLARK. About ten thousand dollars. It has been objected by some Senator that it will lead to a large outlay and expenditure; but from the experience and information of the Committee on Claims I think there are no facts to justify that fear. It does not seem to me to be so.

Mr. WILSON. As the bill has been once passed by the Senate the whole question is involved in the reconsideration. If the Senator from New Hampshire is willing to let the vote passing it be reconsidered, and then to let it lie over without action, I have no objection.

Mr. CLARK. I do not propose to let it lie over longer than until we have considered certain other bills. I am willing, as a test of the sense of the Senate, to take the vote upon the reconsideration without further debate, and then, if the bill should be reconsidered, to let it lie over, for we can debate it fully on the passage of the bill.

Mr. WILSON. The reconsideration covers the whole question; and if it should happen not to be reconsidered the bill passes out of our power. We have got to meet it now, therefore. If we go on with this question at this time I suppose the Senator will hardly have time to consider his other propositions. I suggest that he allow the vote on the passage of the bill to be reconsidered, or else let the whole question go over.

Mr. CLARK. Well, I will let it pass by, and take up other bills, if Senators desire to debate it.

Mr. JOHNSON. Let it be reconsidered first.

Mr. CLARK. No, I do not propose to have it reconsidered.

The PRESIDENT *pro tempore*. The question will be passed by, no objection being made to that course.

AMOSKEAG MANUFACTURING COMPANY.

Mr. CLARK. I move now to take up the bill (S. No. 225) for the relief of the Amoskeag Manufacturing Company.

The motion was agreed to; and the bill was read the second time, and considered as in Committee of the Whole. Its purpose is to require the Secretary of the Treasury to pay to the Amoskeag Manufacturing Company the sum of \$1,650, in full for three regimental cook wagons furnished the Government in 1861.

Mr. POMEROY. I should like to know why the company did not get their pay if they furnished these wagons. If the wagons were furnished by the company upon an order from the quartermaster or from any competent authority they ought to have got their pay. Why did they not?

Mr. CLARK. I will state that these wagons were furnished on the order of General Frémont when he was in command at St. Louis; they were well made, and the bills for them were reasonable. The claim was presented to the quartermaster and the parties relied upon the quartermaster, submitting it to the commission which was organized to consider the claims for supplies furnished under General Frémont, but the quartermaster neglected to do so, supposing that the parties would present it to the commission. For this reason the claim failed to be presented to the commissioners, and the parties were not paid on that account. The wagons were taken and used, and were serviceable.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

R. E. BRYANT.

On motion of Mr. CLARK, the bill (H. R. No. 214) for the benefit of Colonel R. E. Bryant was considered as in Committee of the Whole.

It proposes to require the proper accounting officers of the Treasury to allow R. E. Bryant, late commissary of subsistence, on settlement of his account, a credit of \$1,484 13, the vouchers and accounts for which were lost and destroyed, falling into the hands of the enemy at Holly Springs, Mississippi, on the 20th day of September, 1862, if on examining the evidence by the Commissary General he shall deem him justly entitled to the credit; but the credit is not to be allowed unless the Commissary General shall certify approval thereof.

Mr. CLARK. I will say that the committee have examined the papers and find that the case is well proved before them; but have put in the clause requiring the approval of the Commissary General, so that if anything should occur at the Department the claim need not be paid unless it be right.

The bill was reported to the Senate without amendment, ordered to a third reading read the third time, and passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. CLARK, it was

Ordered, That when the Senate adjourn to-day, it be to Monday next.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern division, with an amendment, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bills; which thereupon received the signature of the President *pro tempore* of the Senate:

A bill (S. No. 26) to encourage telegraphic communication between the United States and the island of Cuba and other West India islands, and the Bahamas;

A bill (S. No. 74) for the admission of the State of Colorado into the Union; and

A bill (S. No. 155) concerning the boundaries of the State of Nevada.

DANIEL WINSLOW.

Mr. CLARK. I move to take up Senate bill No. 149, for the relief of Daniel Winslow.

The motion was agreed to; and the bill was considered as in Committee of the Whole. It proposes to release and relieve Daniel Winslow and his legal representatives from all judgments, and from all liens and incumbrances of judgments in favor of the United States, heretofore obtained against Winslow, in any district court of the United States, upon a contract entered into by him with the chief of the Bureau of Provisions and Clothing, to deliver at the navy-yard in Charlestown, Massachusetts, eighteen hundred barrels of Navy beef; which contract was dated September 29, 1846; the meaning of the act being to release Winslow from all liability arising out of the contract or any bond given to secure its performance thereof, and from all judgments founded on the same, whether against himself alone or himself and his sureties, but not to relieve him of any levies heretofore made or sums paid on those judgments.

Mr. JOHNSON. What is the ground of that?

Mr. CLARK. I am asked by the Senator from Maryland to State the ground of the claim. During the Mexican war this party made a contract with the Government to furnish a certain amount of beef for the Navy. He went on to furnish the beef, but the price of beef rose very much upon his hands. He still, however, continued to furnish, as far as he was able, until he became entirely ruined. His property was seized and all his lands and goods taken. His bondsmen were some years ago released. The man himself has nothing. He has acted honestly and done everything he could, and the committee think he should be relieved.

Mr. JOHNSON. I am satisfied.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JOHN H. CROWELL.

Mr. CLARK. I move to take up Senate bill No. 278.

The motion was agreed to; and the bill (S. No. 278) for the relief of Captain John H. Crowell, assistant quartermaster in the United States Army, was read the second time and considered as in Committee of the Whole.

By its provisions the proper accounting officers of the Treasury are to be authorized to allow Captain John H. Crowell, on a settlement of his accounts, a credit of \$225, for so much money disbursed by him to persons in the service of the United States, in payment for such services, the vouchers for which payment were captured by the rebels and destroyed in an attack upon the camp at Baton Rouge, Louisiana, where he was stationed on the 5th day of August, 1862, if, on examining the accounts of Crowell, the Quartermaster General shall deem him justly entitled to this credit, and shall certify his approval thereof to the accounting officers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

R. L. B. CLARKE.

Mr. CLARK. I move next to take up House bill No. 347.

The motion was agreed to; and the bill (H. R. No. 347) for the relief of R. L. B. Clarke was considered as in Committee of the Whole.

It proposes to direct the Treasurer of the United States to pay the sum of \$1,500 to R. L. B. Clarke, in full for the time and expense incurred by him in contesting the seat of Augustus Hall, from the first district of Iowa, in the Thirty-Fourth Congress.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

COURT OF CLAIMS.

Mr. CLARK. I move that the Senate now proceed to the consideration of a House bill reported from the Committee on the Judiciary, but affecting claims. It is a bill extending the jurisdiction of the Court of Claims.

The motion was agreed to; and the bill (H. R. No. 478) to extend the jurisdiction of the Court of Claims was considered as in Committee of the Whole.

The bill provides in the first section that the Court of Claims shall have jurisdiction to hear and determine the claim of any paymaster, quartermaster, commissary of subsistence, or other disbursing officer of the United States, or of his administrators or executors, for relief from responsibility on account of losses by capture or otherwise, while in the line of his duty, of Government funds, vouchers, records, and papers in his charge, and for which such officer was and is held responsible; but an appeal may be taken to the Supreme Court as in other cases.

By the second section, whenever the Court of Claims shall have ascertained the facts of any such loss to have been without fault or neglect on the part of any such officer, it is to make a decree setting forth the amount thereof, upon which the proper accounting officers of the Treasury are to allow to such officer the amount so decreed as a credit in the settlement of his accounts.

Mr. DOOLITTLE. I did not understand what committee it was that reported this bill.

Several SENATORS. The Committee on the Judiciary.

Mr. CLARK. We were all agreed upon it in the Judiciary Committee. It does not increase the jurisdiction very much, but sends a class of cases to the court which are now very troublesome to us.

Mr. DOOLITTLE. It appears to me, from the reading of it, to change the burden of proof in regard to these quartermasters' and commissaries' claims.

Mr. CLARK. It simply sends these cases to the Court of Claims, where they are examined much more thoroughly, where the Government is heard from; but if they come before the Committee on Claims there is nobody to represent the Government. The Committee on the Judiciary thought it much safer to let them go before the Court of Claims.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

Mr. GRIMES. I should like to inquire of the Senator from New Hampshire what is meant by the last section of this bill. Suppose a balance should be found in favor of a quartermaster or other officer; is it intended that a decree shall be entered up against the Government of the United States?

Mr. CLARK. No; it does not allow a set-off.

Mr. GRIMES. Suppose there is a balance found in favor of the disbursing officer against the Government over and above the charges against him.

Mr. CLARK. This is confined to a certain class of cases, those where vouchers or funds have been lost, and to reach no other class of cases. There have been a good many of these cases arising during the war, where the vouchers have been captured by the enemy, where they have been destroyed, sometimes by fire, or otherwise, or inevitable casualty. The committee thought it was very much better that they should go before the Court of Claims than to come before the committees of the two Houses, where they now come, because they are examined in the court more thoroughly; there is there an officer of the Government to appear in behalf of the Government, whereas before the committees we have no such officer and very often have no such proof except such as we can get by sending to the Departments. The Committee on the Judiciary, therefore—I think they were unanimous in regard to it—came to the conclusion that it was better that

the parties should go to the Court of Claims for that purpose. The bill, however, does not undertake to allow the court to adjudicate upon any balance of accounts.

The bill was passed.

LOUDON COUNTY LOYALISTS.

Mr. CLARK. The next bill is the bill (S. No. 277) for the relief of loyal citizens of Loudon county, Virginia. That bill is in charge of the Senator from Wisconsin, [Mr. Howe.] I do not see him in his seat, and I propose, therefore, to let it be passed over.

The PRESIDENT *pro tempore*. The bill will not be taken up without a motion.

Mr. CLARK. As the Senate is thin, and the only remaining bill is that of Mr. Ames, and it may be desirable that Senators should be present when that is disposed of, I propose to pass it over at present, and I shall move, at some favorable moment, that it be taken up.

QUARTERMASTER AND COMMISSARY SUPPLIES.

Mr. POLAND. I move that Senate bill No. 217 be taken up.

The motion was agreed to; and the bill (S. No. 217) to provide for the payment for quartermasters' stores and subsistence supplies furnished to the Army of the United States, was read the second time, and considered as in Committee of the Whole.

It proposes that all claims of loyal persons, not exceeding \$500, for quartermasters' stores actually furnished to the Army of the United States and receipted for by the proper officer receiving them, or which may have been taken by such officer without giving such receipt, may be submitted to the Quartermaster General of the United States, accompanied with such proofs as the claimant can present of the facts in his case; and the Quartermaster General is to cause such claim to be examined, and if convinced that it is just, and that the claimant, at the time the claim accrued, was loyal to the Government of the United States, and has ever since so remained, and has never in any way voluntarily aided the rebellion, and that the stores were actually received or taken for the use of and used by the Army, he is to report each case to the Third Auditor of the Treasury, with a recommendation for settlement. A similar provision is made in regard to all claims of loyal persons, not exceeding \$500, for subsistence actually furnished to the Army.

It is further provided that all loyal persons having claims exceeding \$500 for quartermasters' stores, or for subsistence, actually furnished to the Army of the United States, and receipted for by the proper officer, or which may have been taken by such officers without giving a receipt, for the use of and actually used by the Army, may prosecute their claims against the United States in the Court of Claims, in the manner and to the extent now provided by law for the prosecution of claims against the United States in that court; and if the claimant shall establish by evidence that at the time his claim accrued he was loyal to the United States and has ever since so remained, and that he has never in any way voluntarily aided the rebellion, the court shall render judgment in his favor for so much of his claim as is found to be justly due.

Mr. POLAND. I move to amend the bill by adding to the third section these words:

And such judgments shall be paid out of any money in the Treasury appropriated for the payment for quartermasters' stores and subsistence respectively.

Mr. WILSON. Why not let these claims, like others, wait for the proper appropriation?

Mr. POLAND. This merely makes provision for the payment of the judgments that are authorized. It is not an appropriation of itself.

Mr. CLARK. With the permission of the Senator from Vermont, I will say to the Senator from Massachusetts that this amendment provides for the payment of these claims out of the proper fund. They are properly quartermasters' and commissaries' charges, and this amendment simply is that they shall be paid out of those funds, and not out of the general fund, so as to be chargeable to the

quartermaster's and subsistence departments respectively.

Mr. TRUMBULL. The committee thought there was some danger in permitting these claims for quartermasters' and commissary stores to be paid on the mere certificate of a quartermaster or commissary. That is the present law, and under it they are referred to clerks, although they involve very large amounts. We thought it safer, where the amount of the claim exceeds \$500, to send it to the Court of Claims. At present, if the claims are allowed they are paid out of the funds appropriated for the commissary and quartermaster's departments. Now, we propose to send them to the Court of Claims, and it is proper that they should be paid out of the same fund that they would if allowed at the office. The opinion of the committee was that it was safer, where they exceeded \$500, to make the parties go into the court, where the question will be examined on both sides.

Mr. GRIMES. Does it send all cases there?

Mr. TRUMBULL. All above \$500—all that class of cases which the law covers.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. GRIMES. Does this cover everything—transportation, &c., I would inquire of the Senator from Illinois.

Mr. TRUMBULL. The Senator from Vermont has charge of the bill.

Mr. POLAND. The first two sections of the bill provide, the one for the payment of quartermasters' stores, and the other for the payment of subsistence. These two sections are precise copies of an act that was passed a year or two ago, except that they restrict the amount of claims which can be settled in the department to those not exceeding five hundred dollars. The third section of the bill provides that claims of the character named in the first two sections above \$500 shall go to the Court of Claims, and the bill is extended in both classes of claims, irrespective of the amount of the claims, to the claims of loyal citizens in all parts of the United States. These are the only changes in the present law.

Mr. GRIMES. I suggest to the Senator who reported this bill that it does not embrace as much as it ought to embrace. It ought to embrace cases of transportation. There has been more swindling and fraud perpetrated against the Government growing out of charter-parties for transport ships—

Mr. TRUMBULL. Are not those all settled?

Mr. GRIMES. No, sir. I know of some most enormous cases which are yet in abeyance, and I trust the committee will amend this bill so as to include them.

Mr. POLAND. Claims for quartermasters' stores below \$500 it is provided shall be settled at the Quartermaster General's Office, and claims for subsistence below \$500 are to be settled by the Commissary General; and then the bill provides that both classes of claims above \$500 shall go to the Court of Claims and be settled there.

Mr. GRIMES. I find no fault with the bill as it stands. It embraces quartermasters' stores; but the term "quartermasters' stores" does not include claims for transportation; I mean sea-going transportation and river transportation, which has amounted to hundreds of millions of dollars during the war. Many of those claims are still in abeyance, unadjudicated, unsettled. What I desire is, that these large claims shall also go to the Court of Claims and be adjudicated there, instead of being decided by a clerk in the quartermasters' department. I suggest to the Senator from Vermont to change his bill, so as to include all claims growing out of transportation by water.

Mr. POLAND. I do not see that there can be any objection to that, but under the third section of this bill all claims of that character above \$500 are to go to the Court of Claims. It would be hardly proper of course to send that class of claims to the Quartermaster General's Office or to the Commissary General.

Mr. GRIMES. The Quartermaster General has that now. All charter-parties for the transportation of troops or munitions of war are made by the quartermaster's department, and not by the commissary department or any other bureau.

Mr. POLAND. Are those claims now settled in the Quartermaster General's Office?

Mr. GRIMES. Yes, sir. What I want is not only to include quartermasters' stores, which are included in the bill, but to include all claims growing out of transportation by land or water for the Army.

Mr. TRUMBULL. The Senator from Iowa will observe that this bill is not intended to take away the general jurisdiction of the quartermaster and commissary departments to settle for supplies and the general business of those departments. It covers only the class of cases where there is a controversy, and it is limited to cases where supplies have been taken by the proper officer and a receipt given for them, or where they were taken by the proper officer and no receipt given, and where the claimant was a loyal man at the time the property was taken, and has remained a loyal man ever since. The bill is only intended to apply to that class of cases. They would not settle those claims in the quartermaster and commissary departments because the proper vouchers had not been given. We passed a law one or two years ago authorizing the Quartermaster and Commissary Generals to settle that class of cases, where the receipt had been given by the proper officer, or where he had not given a receipt, if the property was taken and used by the Army, and the man from whom it was taken was a loyal man at the time, and has continued loyal since. They have been settling those claims. It was limited originally to claims that existed in the loyal States. This bill proposes to extend that provision to all similar cases—the Senator from West Virginia had a case up the other day—to all similar cases all over the United States, in disloyal as well as loyal States, wherever the proper officers took the property for the service of the Army and the vouchers were not executed. Now, instead of allowing those claims to be settled in the quartermaster and commissary departments, they are transferred above a certain amount—I am not sure about the amount—to the Court of Claims. That is all there is of this bill. It was not intended to give the Court of Claims a general jurisdiction in regard to cases where the proper vouchers exist and where by the existing laws these departments would have authority under the general law to settle the claim. It would involve another very serious question if you imposed upon the Court of Claims the passing upon all these accounts for transportation where there was a controversy about them. They could not do it. I think that would be too extensive a change. There would be an objection perhaps to it, that to take that general class of cases the court would have to have a great many clerks, and it would be impossible to do the business in the court.

Mr. GRIMES. This is a subject that I have no charge of. I did not know there was any such bill here. I know that great frauds have been constantly perpetrated growing out of transportation by water. I could state some most extraordinary cases that have occurred, some of which I understand are now under consideration and are being passed upon by a simple clerk in the quartermaster's department—cases of controversy between the Government and contractors, owners of vessels, and men who executed the charter-parties. If, however, the committee who have charge of the bill do not think it advisable to extend it so as to cover cases of that character, I am not going to insist upon it.

The amendment made as in Committee of the Whole was concurred in.

Mr. WILLIAMS. I hope that this bill will not be passed at this time. I did not anticipate that it would be brought up to-day, and I desire an opportunity to examine it. I am not satis-

fied that such a bill as this ought to pass at this time; and I ask the Senator who has charge of the bill to postpone it and fix some definite time when it can be taken up and considered. I think it is a very important bill, and it needs examination and consideration before the Senate decide to pass it.

Mr. POLAND. I have no objection to the bill being laid over to some future day, if it can be an early day, and we can have a time fixed when we can take it up. It is a bill which, if passed at all, should be passed soon.

Mr. WILLIAMS. Say next Tuesday at one o'clock.

Mr. POLAND. That will be satisfactory to me.

Mr. FESSENDEN. I desire to take up a little bill of which the Senator from Minnesota [Mr. RAMSEY] has charge, and which will give rise to no discussion.

The PRESIDENT *pro tempore*. The bill before the Senate is not yet disposed of. Does the Senator from Vermont make a motion in regard to it?

Mr. POMEROY. I move that its further consideration be postponed to and made the special order of the day for Tuesday next at one o'clock.

Mr. CLARK. Do not make it a special order.

Mr. FESSENDEN. Let it go over simply, without making it a special order. The Senator will get it up just as well.

Mr. POLAND. If Senators desire it, I have no objection to that course. Let it go over generally.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed until Tuesday next.

The motion was agreed to.

GEORGE HENRY PREBLE.

Mr. RAMSEY. I now move that the Senate proceed to the consideration of the bill (S. No. 176) for the relief of George Henry Preble, a commander in the Navy of the United States.

The motion was agreed to; and the bill was read a second time and considered as in Committee of the Whole. It directs the proper accounting officers of the Treasury, in settling the accounts of George Henry Preble, a commander in the Navy of the United States, to allow him pay as a commander from the 16th of July, 1862, in the same way and manner as if the order discharging him from the naval service had never been issued.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CONGRESSIONAL SOCIETY OF WASHINGTON.

Mr. POMEROY. I move that the Senate proceed to the consideration of Senate bill No. 253.

Mr. GRIMES. What is the title of it?

Mr. POMEROY. "A bill to incorporate the Congressional Society of Washington."

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to create Oliver O. Howard, Silas H. Hodges, Daniel L. Eaton, Henry A. Brewster, Charles H. Bliss, Ezra L. Stevens, Benjamin F. Morris, Daniel Tyler, Llewellyn Deane, S. C. Pomeroy, and Calvin S. Mattoon, and their associates, a body-politic and corporate by the name of the First Congressional Society of Washington, with all the powers incident to corporations and usually enjoyed by them, and such as are requisite to enable them to sustain religious worship in Washington, in the District of Columbia, and to erect and maintain edifices for that purpose, and parsonages; and the society are to be exempt from any taxes to be assessed upon their property, under the authority of Congress or of the District of Columbia or the city or county of Washington.

Mr. POMEROY. While I sympathize fully with the society, I move to strike out the name of "S. C. Pomeroy" from the list of incorporators. I did not know that that name was in the bill.

The PRESIDENT *pro tempore*. The name will be stricken out at the suggestion of the Senator, if there be no objection.

The bill was reported to the Senate as amended; the amendment was concurred in. Mr. GRIMES. I will inquire what committee reported this bill.

Mr. POMEROY. The Committee on the District of Columbia.

Mr. GRIMES. I ask that question with a view of inquiring whether or not this bill is drawn in accordance with the usual acts of incorporations of this description. I understand that it exempts the property of this church to any extent that they may own property in the District from taxation.

Mr. POMEROY. The exemption from taxation is limited "to sufficient property to enable them to sustain religious worship."

Mr. JOHNSON. How much will be sufficient for that purpose?

Mr. GRIMES. All I desire is, that they shall stand on the same footing with other religious denominations. I do not know whether this bill is in accordance with the practice in granting these acts of incorporation or not.

Mr. POMEROY. The bill was reported from the Committee on the District of Columbia, and the Senator from Maine, [Mr. MORRILL,] who had charge of it, is out of the Chamber at this moment.

Mr. RIDDLE. I will state that this bill was thoroughly examined by the committee, and it is in accordance with the other bills incorporating these churches, and is not excessive at all. It is the intention of the committee at some future day to draw up a general bill allowing religious societies to come in and be incorporated as is customary in the States.

Mr. POMEROY. I did not draw the bill, but I understand it is copied from the bill incorporating the Presbyterian churches in this city.

Mr. JOHNSON. Does it limit the amount of the property?

Mr. POMEROY. Not in dollars and cents.

Mr. JOHNSON. Is it limited by feet and acres?

Mr. GRIMES. There is no limit in the bill, as I understand it.

Mr. JOHNSON. There ought to be a limit, certainly.

Mr. POMEROY. The bill authorizes them "to purchase, hold, and convey real and personal estate, make contracts," &c., to such an extent "as to enable them to sustain religious worship in Washington, in the District of Columbia, and to erect and maintain edifices for that purpose, and parsonages; and said society shall be exempt from any taxes to be assessed upon their property, under the authority of Congress or of the District of Columbia or of the city or county of Washington."

Mr. JOHNSON. That is a departure, if my friend will permit me to say so, from the policy that Maryland has always adopted, and the policy which I think has been adopted by most of the States. We limit the amount of property that these corporations shall hold by constitutional provision, subject only to the qualification that the Legislature may authorize a larger amount to be held than the constitution by its terms authorizes. Under this bill, it would be exceedingly difficult to limit the quantity or value of real estate which this corporation may hold.

Mr. GRIMES. Say "not to exceed one hundred thousand dollars."

Mr. POMEROY. I have no objection to that. I will move to add as a proviso to the first section, the following:

Provided, That the amount of the value of real estate shall not exceed one hundred thousand dollars.

The PRESIDENT *pro tempore*. That proviso will be added by common consent to the bill, if there be no objection.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

PACIFIC RAILROAD, EASTERN DIVISION.

The Senate proceeded to consider the amendment of the House of Representatives to the joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern division, which was to add the following as an additional section:

SEC. 2. *And be it further resolved*, That the time for commencing and completing the Northern Pacific railroad, and all its several sections, is extended for the term of two years.

Mr. POMEROY. I move that the Senate concur in that amendment.

The motion was agreed to.

UNIFORM MILITIA.

Mr. WILSON. I desire to take up for consideration the bill (S. No. 262) to provide for the national defense by establishing a uniform militia and organizing an active volunteer militia force throughout the United States. With the permission of the Senate, I desire to say a single word before the motion is put on taking up the bill.

The bill has been prepared with the greatest possible care. The first nine sections of the bill take the place of the act of 1792, which is not at all applicable to our present militia system, and to which very little attention is paid. The residue of the bill, eleven sections, provides for the organization of an active militia force, which, if full, would make a force of about two hundred and forty thousand men in the whole country. The bill was submitted to several eminent officers of the Army, to General Grant, General Sherman, General Meade, and General Thomas, who examined it very carefully, made one or two slight suggestions, and stated that the bill would accomplish the object desired, to have a small, effective, well-organized, active militia force in the country, and recommended it very strongly. Several of the most eminent men connected with the Army and the militia of the country have indorsed it.

The present is a good time, as we are just at the end of a war, to bring into the militia many officers of eminence who have distinguished themselves during the war. The bill allows the establishment in each State of a number of regiments, containing from six hundred to a thousand men, equal to the number of Representatives in Congress of that State; so that the number of regiments in the country will be equal to the number of Representatives in the Congress of the United States. It seems to me that we require such a volunteer militia force; and I should like to take the bill up now and put it on its passage. The bill is so carefully and well prepared that I see that the Committee on the Militia of the House of Representatives have adopted it as their own, with two or three amendments upon it. They have killed the Army bill in the House of Representatives, and it seems to me this much we ought, at any rate, to do. I know that there is a desire to go into executive session early to-day, and that there is a large amount of business in executive session, but I should like to have this bill taken up now and call attention to it that Senators may be willing to take some little time to act upon it. I therefore move to take it up for consideration at the present time.

Mr. GRIMES. I will not undertake to controvert the many merits which the Senator has suggested as being embodied in his militia bill, but I think most of the Senators present will agree with me that whether it be meritorious or not, now is not the proper time to proceed to the consideration of so important a bill when there are not more than ten or a dozen members present. It is true that the House of Representatives have killed their Army bill, as the Senator has said, and I congratulate the House and the country upon the fact. If they will now only kill the Army bill we sent to them they will have accomplished an object equally as great and good, I think, for we have now a large Army, fifty thousand men, being one half more than we can keep full, and I know of no necessity for increasing the Army. If it be in

order I move that the Senate proceed to the consideration of executive business.

Mr. POLAND. Before that is done I hope the Senator will allow me to make a motion to reconsider.

Mr. GRIMES. I withdraw the motion for the present in order to enable the Senator from Vermont to make his motion.

POST OFFICE APPROPRIATION BILL.

Mr. POLAND. On my motion yesterday the vote by which the Post Office appropriation bill was passed was reconsidered, I desire now to move to reconsider the vote by which the amendment to the bill offered by the Senator from Illinois [Mr. TRUMBULL] was adopted, so as to bring the whole subject before the Senate.

Mr. CLARK. I suggest to the Senator not to take up that matter now.

The PRESIDENT *pro tempore*. It is moved that the Senate reconsider its vote adopting the amendment offered by the Senator from Illinois to the bill indicated by the Senator from Vermont.

Mr. POLAND. I do not ask that the motion be considered now; I desire only to have it entered.

The PRESIDENT *pro tempore*. The motion to reconsider will be entered.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863.

The message further announced that the House of Representatives had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 391) to create the office of surveyor general in Idaho Territory;

A bill (H. R. No. 555) for the relief of Charles Brewer & Co.;

A bill (H. R. No. 556) to authorize the issuing of a military land-warrant to Frederick Berlin, assignee of the heirs of Peter Hess, deceased;

A bill (H. R. No. 557) to quiet the title to certain lands within the corporate limits of the city of Benicia;

A bill (H. R. No. 558) to amend the charter of the Washington Gas-Light Company;

A joint resolution (H. R. No. 77) for the relief of Ambrose L. Goodrich and Nathan Cornish, for carrying the United States mail from Boise City to Idaho City, in the Territory of Idaho; and

A joint resolution (H. R. No. 133) relative to the attempted assassination of the Emperor of Russia.

HOUSE BILLS REFERRED.

The following bills and joint resolutions from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 391) to create the office of surveyor general in Idaho Territory—to the Committee on Public Lands.

A bill (H. R. No. 555) for the relief of Charles Brewer & Co.—to the Committee on Commerce.

A bill (H. R. No. 556) to authorize the issuing of a military land-warrant to Frederick Berlin, assignee of the heirs of Peter Hess, deceased—to the Committee on Public Lands.

A bill (H. R. No. 557) to quiet the title to certain lands within the corporate limits of the city of Benicia—to the Committee on Public Lands.

A bill (H. R. No. 558) to amend the charter of the Washington Gas-Light Company—to the Committee on the District of Columbia.

A joint resolution (H. R. No. 77) for the relief of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mails from Boise City to Idaho City—to the Committee on Post Offices and Post Roads.

A joint resolution (H. R. No. 133) relative to the attempted assassination of the Emperor of Russia—to the Committee on Foreign Relations.

EXECUTIVE SESSION.

Mr. GRIMES. I now renew the motion that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after two hours spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 4, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BRYNOR.

The Journal of yesterday was read and approved.

CORRECTION.

Mr. UPSON. I rise to a correction of the Journal of Wednesday, as well as of the Globe. I find myself recorded on the passage of the Army bill as absent and not voting. I was present and voted in the negative. I have just learned of the error, or would have asked to have the correction made yesterday.

The Journal was corrected accordingly.

EMPEROR OF RUSSIA.

Mr. STEVENS. I ask the unanimous consent of the House to introduce a joint resolution relative to the recent attempted assassination of the Emperor of Russia.

The resolution was read, and is as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States of America has learned with deep regret the attempt made upon the life of the Emperor of Russia by an enemy of emancipation. The Congress send their greeting to his Imperial Majesty and to the Russian nation, and congratulate the twenty million serfs upon the providential escape from danger of the sovereign to whose head and heart they owe the blessings of their freedom.

There was no objection.

The joint resolution was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. STEVENS demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. GRINNELL demanded the yeas and nays.

The House divided; and there were—ayes 17, noes 43.

Mr. ANCONA demanded tellers.

Tellers were ordered; and Messrs. GRINNELL and ANCONA were appointed.

The House was again divided; and the tellers reported—ayes twenty-nine, more than one fifth of those present.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 124, nays 0, not voting 59; as follows:

YEAS—Messrs. Alley, Allison, Ancona, Anderson, Dejos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Boyer, Brandegee, Bromwell, Broomall, Buckland, Bundy, Chandler, Glossbrenner, Grinnell, Griswold, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Julian, Kasson, Kelley, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Longyear, Lynch, Marshall, Marston, McClurg, McCullough, McKee, McRuer, Mercer, Miller, Morrill, Morris, Monilton, O'Neill, Orth, Paine, Perham, Phelps, Pike, Plants, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Ross, Rousseau, Sawyer, Seefeldt, Shellabarger, Sitgreaves, Smith, Spalding, Stevens, Stilwell, Strouse, Taylor, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Winfield—124.

NAYS—0.

NOT VOTING—Messrs. Ames, Bergen, Blaine, Culver, Darling, Davis, Dawes, Delano, Dumont, Eggleston, Furusworth, Goodyear, Grider, Hale, Aaron Harding, Harris, Hayes, Hill, Hogan, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell,

Hulburd, James M. Humphrey, Jenckes, Johnson, Jones, Kelso, Kerr, Loan, Marvin, McIndoe, Moorhead, Myers, Newell, Niblack, Nicholson, Noell, Patterson, Pomeroy, Price, Radford, William H. Randall, Ritter, Rogers, Schenck, Shanklin, Sloan, Starr, Taber, Thayer, John L. Thomas, Trimble, Ward, William B. Washburn, Wentworth, Whaley, Woodbridge, and Wright—59.

So the joint resolution was passed unanimously.

During the roll-call,

Mr. ANCONA stated that, in deference to wishes of friends, he would change his vote, and vote in the affirmative, although against his own conviction of propriety.

The vote was then announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

INTERNAL REVENUE BILL.

Mr. MORRILL. Mr. Speaker, I ask unanimous consent that the internal revenue bill, as modified by the Committee of Ways and Means, with additions including further subjects, and with errors corrected, may be ordered to be reprinted, and that as reprinted, it shall be taken up on Monday next.

It was ordered accordingly.

Mr. ANCONA. I would inquire whether this will include the extra copies ordered some days since; if not, whether the same number of copies of the corrections should not be printed.

Mr. MORRILL. It will not extend to the extra copies, because those are already printed. Mr. ANCONA. But a small portion of them, I believe. I suggest an amendment, that it embrace the extra copies remaining that have not been printed.

Mr. MORRILL. I think they have all been printed, but I see no objection.

Mr. CHANLER. I move that the same number of extra copies of the corrected bill be issued. It is very necessary that this bill should be distributed among our constituents.

The SPEAKER. That goes to the Committee on Printing under the law.

MILITARY AND NAVAL APPOINTMENTS.

Mr. PAINE. I ask unanimous consent to introduce for present action a joint resolution which I am sure will commend itself to the justice of every member of the House so that there will be no objection. It is in relation to the ages at which young men who have served in the Army or Navy during the late rebellion shall be eligible to appointment to the Military and Naval Academies. A provision relating to the Military Academy was embodied in the Army bill which has recently been before the House. I awaited the result of the action of the House on that bill before offering this resolution. But inasmuch as it may be some time before final action is had on that measure, and cases are arising daily, and many must arise before the 1st of July next, so that this measure will be of practical importance to the country, I sincerely hope the House will now take action upon it.

Mr. WASHBURN, of Illinois. I will object to it if it gives rise to discussion, not otherwise.

The joint resolution was read. It provides that those who have performed meritorious service in the United States Army as officers or enlisted men, for a period of not less than two years during the late rebellion, shall be eligible to appointment to the United States Military Academy until twenty-four years of age, and to the Naval Academy until twenty-one years of age; and all persons who have performed such service for a period of less than two years shall be eligible to appointment to the Military Academy until twenty-three years of age, and to the Naval Academy until twenty years of age.

Mr. RANDALL, of Pennsylvania. I object unless the gentleman will agree to put in the word "white."

Mr. PAINE. That amounts to an objection to the introduction of the resolution.

CORRECTIONS OF THE JOURNAL.

Mr. ALLISON. I see by reference to the Globe that my name is not recorded upon the final vote on the bill to admit the State of Colorado. I voted in the negative. I ask to have the Journal corrected accordingly.

The SPEAKER. The correction will be made.

Mr. VAN HORN, of New York. I am recorded as not having voted on the admission of Colorado. I voted in the affirmative.

The SPEAKER. The Journal will be corrected accordingly.

Mr. PERHAM. I am also recorded as not voting on the passage of that bill. I voted in the negative.

The SPEAKER. The correction will be made.

CORRESPONDENCE OF THE STATE DEPARTMENT.

Mr. BANKS, by unanimous consent, submitted certain correspondence of the Secretary of State with the British minister, on the subject of the claim of Thomas Miller and William Fisher, British subjects, on account of alleged illegal arrest; which was ordered to be printed, and referred to the Committee on Foreign Affairs.

Also a letter from the Secretary of State, transmitting a correspondence relative to the claim of Charles Allen, a British subject, for compensation for injury done to his property near Vicksburg, received April 27, 1866; which was ordered to be printed, and referred to the Committee on Foreign Affairs.

CHANGE OF REFERENCE.

On motion of Mr. INGERSOLL, by unanimous consent, the Committee for the District of Columbia was discharged from the further consideration of bill of the House No. 404, to amend an act entitled "An act to incorporate the Guardian Society, and provide for reforming juvenile offenders in the District of Columbia;" also, an act entitled "An act granting certain privileges to the Guardian Society of the District of Columbia;" and the same were referred to the Committee on Public Buildings and Grounds.

HABEAS CORPUS.

Mr. COOK. I am instructed by the committee of conference on the disagreeing votes of the two Houses on the *habeas corpus* bill to make a report, which I ask to have read.

The report was read, and is as follows:

The committee of conference on the disagreeing votes of the two Houses of Congress on the amendments of the Senate to the bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1865, having met, after full and free conference have agreed to recommend, and do recommend, to their respective Houses as follows:

That the House of Representatives concur in the first, second, third, fourth, fifth, and seventh amendments of the Senate.

That the House of Representatives concur in the sixth amendment of the Senate, with an amendment, as follows: strike out all after the word "act" in the fourth line of said amendment.

DANIEL CLARK,
LYMAN TRUMBULL,
Managers on the part of the Senate.
BURTON C. COOK,
SAMUEL MCKEE,
Managers on the part of the House.

Mr. COOK. I demand the previous question on the report.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays on the adoption of the report.

Mr. ANCONA called for tellers on the yeas and nays.

Tellers were not ordered.

The yeas and nays were not ordered.

The report of the committee of conference was agreed to.

Mr. COOK moved to reconsider the vote by which the report was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee

had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act for the admission of the State of Colorado into the Union;

An act to encourage telegraphic communication between the United States and the island of Cuba and the other West India islands, and the Bahamas; and

An act concerning the boundaries of the State of Nevada.

Mr. WASHBURN, of Illinois. I demand the regular order of business.

CHARLES BREWER AND COMPANY.

The House resumed, as the regular order of business, the consideration of a bill for the relief of Charles Brewer & Co., which was pending at the expiration of the morning hour on Friday last.

The bill, which was read, directs the Secretary of the Treasury to pay to Charles Brewer & Co., of Boston, Massachusetts, the sum of \$3,520, in full for the passage in the Hawaiian bark Kamehameha, of sixty-eight destitute seamen belonging to American vessels which were burned by the Anglo-confederate pirate Shenandoah, from the island of Ascension to Honolulu.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

HEIRS OF PETER HESS, DECEASED.

Mr. ECKLEY, from the Committee on Public Lands, reported a bill to authorize the issuing of a military land-warrant to Frederick Berlin, assignee of the heirs of Peter Hess, deceased.

The bill was read a first and second time.

It directs the Secretary of the Interior to issue to Frederick Berlin, as the assignee of the heirs-at-law of Peter Hess, deceased, a military land-warrant for forty acres of land in lieu of military land-warrant No. 17,308, heretofore issued to Peter Hess, deceased, in his life-time, but which was not located.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ECKLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SURVEYOR GENERAL FOR IDAHO.

Mr. ECKLEY, from the Committee on Public Lands, reported back House bill No. 391, to create the office of surveyor general in Idaho Territory.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read. It provides that the President, by and with the advice and consent of the Senate, shall be authorized to appoint a surveyor general for the Territory of Idaho, who shall be allowed an annual salary of \$3,000, with the same power, authority, and duties as those provided by law for the surveyor general of Oregon; and to have a proper allowance for clerk hire, office rent, and fuel, not exceeding that allowed by law to the surveyor general of Oregon, the office to be located at Boise City, Idaho Territory.

Mr. UPSON. I would inquire of the gentleman from Ohio, [Mr. ECKLEY,] what is the ordinary salary of a surveyor general of a new Territory?

Mr. ECKLEY. The salary of the surveyor general of each of the two districts out of which this is made is \$3,000 a year.

Mr. UPSON. I know that the salary of the surveyor general of the Territory of Dakota was \$2,000 a year; whether there was or not much land there capable of being surveyed.

Mr. ECKLEY. I do not know how that

is. The surveyor general does not survey the lands.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. ECKLEY moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SOSCOL RANCH, CALIFORNIA.

Mr. McRUER, from the Committee on Public Lands, reported back House bill No. 260, to amend an act of Congress entitled "An act to grant the right of preemption to certain purchasers on the Soscol ranch, in California," with a recommendation that it do not pass; and moved that the same be laid on the table.

The motion was agreed to.

ISSUING OF LAND PATENTS.

Mr. McRUER, from the Committee on Public Lands, also reported back House bill No. 67, to authorize the issue of patents for lands in certain cases, with a recommendation that it do not pass; and moved that the same be laid on the table.

The motion was agreed to.

LAND TITLES IN BENICIA, CALIFORNIA.

Mr. McRUER, from the Committee on Public Lands, also reported a bill to quiet the title to certain lands within the corporate limits of the city of Benicia, California.

The bill was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

The bill was read in full. It provides that the right and title of the United States to the lands situated within the corporate limits of the city of Benicia, California, as defined in the act incorporating said city, passed by the Legislature of the State of California April 24, 1851, shall be relinquished and granted to that city upon trust that so much of said lands as is in the bona fide occupancy of parties by themselves or their assignees upon the passage of this act shall be conveyed to such parties by the city; provided that this relinquishment and grant shall not extend to lands occupied by the United States as a military depot, or to lands heretofore reserved by the United States for public purposes; that this grant shall not interfere with or prejudice any valid adverse right or claim, if such exist, to any part of said land, or preclude a judicial examination and adjustment thereof; and provided further, that said city shall pay into the Treasury of the United States, at the office of the sub-Treasurer at San Francisco, for the land the title to which is hereby granted and relinquished, at the rate of \$1 25 per acre, within one year of the return to the General Land Office at Washington of an approved plat of the exterior limits of said city in connection with the lines of the public surveys.

Mr. CHANLER. I would ask the gentleman from California [Mr. McRUER] if the value of land in the city of Benicia is only \$1 25 an acre.

Mr. McRUER. I will state to the gentleman from New York [Mr. CHANLER] that the city of Benicia was built upon what was considered private land. It was upon what is termed the Soscol ranch, the title to which was confirmed by the land commissioners appointed by Congress to examine land claims in California. That decision was afterward confirmed by the United States district court of California. But after a succession of years, upon an appeal to the Supreme Court of the United States, the decision was reversed, and the original Mexican grant rejected upon what are considered to be technical grounds. Therefore the parties who seek the right to purchase this land from the United States at \$1 25 per acre, have already paid various prices for it, some of them perhaps as high as \$1,000 per acre, and even higher. These individuals have made purchases in good faith, and have paid a valuable consideration, upon the belief that

the property purchased was private property; and it is deemed an act of justice that they should have the right to enter their lands at the rate of \$1 25 per acre, and get a title from the United States.

I think there can be no objection to the passage of the bill, and I demand the previous question.

Mr. ECKLEY. I trust the gentleman will withdraw for one moment the call for the previous question, as I desire to strike out the last proviso of the bill.

Mr. BIDWELL. I trust that that amendment will be made.

Mr. McRUER. I withdraw the call for the previous question, and yield to the gentleman from Ohio, [Mr. ECKLEY.]

Mr. ECKLEY. I move to amend by striking out the following:

And provided further, That the said city shall pay into the Treasury of the United States, at the office of the sub-Treasurer at San Francisco, for the land the title to which is hereby granted and relinquished, at the rate of \$1 25 per acre within one year of the return to the General Land Office at Washington of a private plat of the exterior limits of said city, in connection with the lines of the public surveys.

Mr. McRUER. I have no objection to that, if there is no opposition to it on the part of the House. I consider it an act of equity to the residents of the city of Benicia; but I desire that the passage of the bill shall not be prejudiced for the sake of this small sum of money.

Mr. ECKLEY. I think there will be no objection to the amendment.

Mr. BIDWELL. I trust there will be no opposition to the amendment.

Mr. McRUER. I now renew the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment of Mr. ECKLEY was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. McRUER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

BENICIA, CALIFORNIA.

Mr. McRUER, from the Committee on Public Lands, reported back House bill No. 269, entitled "An act for the relief of citizens of Benicia, in Solano county, State of California," with a recommendation that it do not pass; and moved that the same be laid on the table.

The motion was agreed to.

A. L. GOODRICH AND N. CORNISH.

Mr. McRUER, from the Committee on the Post Office and Post Roads, reported back a joint resolution (H. R. No. 77) for the relief of Ambrose L. Goodrich and Nathan Cornish.

The joint resolution, which was read, provides that the Postmaster General be authorized to audit and settle, as to him may appear just and equitable, the demand of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mail on route 16001, from Boise City to Idaho City, in the Territory of Idaho, from the 5th day of July, 1864, until the 1st day of July, 1865.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. McRUER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WELLINGTON AND DORSEY.

Mr. McRUER, from the Committee on the Post Office and Post Roads, reported back Senate bill No. 210, for the relief of Wellington & Dorsey, with a recommendation that it do not pass; and moved that the same be laid on the table.

The motion was agreed to.

SANITARY CONDITION OF WASHINGTON.

Mr. INGERSOLL. By direction of the Committee for the District of Columbia, I desire to move that the Committee of the Whole on the state of the Union be discharged from the further consideration of the joint resolution (H. R. No. 121) to place funds in the hands of the Commissioner of Public Buildings for sanitary purposes, and that the House proceed to the consideration of the joint resolution at the present time.

Mr. WASHBURN, of Illinois. My colleague, [Mr. INGERSOLL,] I believe, proposes to make some amendments to the bill.

Mr. INGERSOLL. I did; but upon inquiry, I find that the city of Washington has appropriated more money for the purpose of cleaning the streets and alleys than this resolution proposes to appropriate; that the city corporation has done its full share toward putting the city in a proper sanitary condition, and that the sum proposed to be appropriated by the joint resolution is no more than will be required for putting the avenues in a proper condition. I do not therefore propose any amendment. If my colleague proposes any I am ready to hear it.

Mr. BEAMAN. Is the motion of the gentleman from Illinois in order now?

The SPEAKER. It is not, except by unanimous consent.

Mr. BEAMAN. I object.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. EDWARD COOPER, his Private Secretary, who also announced that the President had approved and signed an act to provide for the better organization of the pay department of the Navy.

BALTIMORE AND POTOMAC RAILROAD COMPANY.

Mr. McCULLOUGH, from the Committee for the District of Columbia, reported back House bill No. 388, to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia, with amendments.

The Clerk proceeded to read the bill.

Mr. BEAMAN. Is that a private bill? I raise the point of order that it is not.

The SPEAKER. The Chair thinks that it is a private bill. And as this raises entirely a new point, the Chair will ask to be indulged in explaining it.

There is no decision in Barclay's Digest as to what are private bills as distinguished from public bills. It does not appear that there has ever been an appeal from the decision of the Chair on that point. On examination, it has been found that the ruling of the Chair as to whether a bill was a private or a public bill has uniformly been acquiesced in.

It is evident that appropriation bills, Army bills, bankrupt bills, and other bills of that character, are public bills, while pension bills, claims for damages, claims of incorporated companies, and all bills of every kind from the Court of Claims, are, under the rule, private bills; but there is a middle ground between these bills where the character of the bill depends upon usage. A number of years ago Mr. Speaker Cobb decided that a bill granting lands to a railroad in Georgia was a private bill, but that decision has not been followed by any of those who have followed him as Presiding Officer of this House. It has been correctly held that railroad land grants were public bills.

Bills in reference to the District of Columbia have been reported both as public and private. The Statutes-at-Large are full of them under the heading of private bills, which is of course collateral evidence. As there is no decision in our own Digest, the Chair has examined into the parliamentary practice of Great Britain, where there is a marked distinction, growing out of the fact that fees have to be paid upon private while none are paid upon public bills.

In May's Parliamentary Practice (edition of

1859, pages 612 and 613) it is laid down, with a number of illustrations, that bills relating to London only are private bills, while those relating to the whole metropolis "have been dealt with as public bills; the large area, the number of parishes, the vast population, and the variety of interests concerned constituted them measures of public policy rather than of local interest." Bills establishing a police force in the city of London, improving Smithfield market, &c., were regarded as private bills, while the metropolitan cattle market and a metropolitan police were legislated on as public bills.

From these illustrations it is evident that while bills relative to and confined in their operation to the city of London are held in the British Parliament to be private bills, those embracing in their sphere the whole metropolis, including Lambeth, Mary-le-bone, Southwark, and Finsbury, with their millions of inhabitants and their vast area, are considered public.

There is also a decision in the second volume of Hatsell, which the Chair has not here at this moment, made by the Speaker of the House of Commons in 1807, that a bill for amending the highways of three counties was a private bill, because, as the Speaker said, it being "only" for three counties it was by all former precedents not a public bill.

The usage has been here that bills confined strictly in their operation to the District of Columbia can be reported as private or as public bills. The bill reported a few weeks ago for the incorporation of an ice company in this District was clearly a public bill, because it authorized agencies and the transaction of business in other places outside of the limits of this District. This bill appears to be confined to the District of Columbia, and can therefore be reported as a private bill on this day.

Mr. GARFIELD. Would a bill in reference to suffrage in this District be a private bill?

The SPEAKER. It would not. Private bills relate generally to individuals or corporations. The same volume of May's Parliamentary Practice states that private bills "are for the interest of an individual, a public company or corporation, a parish, a city, a county, or other locality." It must not be a general bill in its enactments, but "a bill for the particular interest or benefit of a person or persons." As an illustration, a pension bill for the relief of a soldier's widow is a private bill, but a general bill granting pensions to any class of such persons as a class instead of as individuals is a public bill. So far as the reading has progressed, the Chair infers the pending bill is confined to this District.

The Clerk then concluded the reading of the bill.

The amendments of the committee were read and adopted, as follows:

On page 3, line six, add "necessary for the construction of said road," and in line sixteen strike out the word "inhabitants" and insert "citizens."

On page 5, line forty-nine, at the end of the section, insert, "which courts shall have the same jurisdiction and powers over the subject-matter as the said circuit courts have under the act aforesaid."

On page 7, line four, strike out "sixteen" and insert "twelve," and in line fourteen, same page, after the word "and" insert the word "any."

Mr. McCULLOUGH. By the act of incorporation this company have a right to make lateral roads, provided they do not extend beyond the limit of twenty miles. This bill gives them a right to make from some point twelve miles below Washington a lateral road into the city of Washington.

Mr. ROSS. I move as an amendment to strike out "four years" and insert "two years," and also to strike out "six years" and insert "four years." I think they should be limited to two years to commence and four years to finish the work.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. McCULLOUGH moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

HOWARD INSTITUTE AND HOME.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back House bill No. 482, to incorporate the Howard Institute and Home of the District of Columbia, with a recommendation that it pass.

The bill was read. It constitutes James M. Edmunds, and others, a body-politic for the establishment of the said Institute for the instruction of freedmen, and fit them for independent support, furnishing also a temporary home for the sick.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

WASHINGTON ACADEMY OF MUSIC.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back House bill No. 510, to incorporate the Academy of Music of Washington city, with a recommendation that it pass.

The bill was read. It constitutes Max Strakosch, and others, incorporators, and fixes the capital at \$500,000, in shares of fifty dollars each.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WASHINGTON GAS-LIGHT COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back a bill to amend the charter of the Washington Gas-Light Company, recommending its passage.

The bill was read. It increases the stock of the company \$500,000.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

NATIONAL SAFE DEPOSIT COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with a recommendation that it do not pass, House bill No. 338, to incorporate the National Safe Deposit Company of Washington, and moved that the same be laid on the table.

The bill was accordingly laid on the table.

J. W. NYE.

On motion of Mr. INGERSOLL, the Committee for the District of Columbia was discharged from the further consideration of the papers relating to the claim of J. W. Nye, assignee, &c.; and the same were referred to the Committee of Claims.

NATIONAL THEOLOGICAL INSTITUTE.

Mr. WELKER, from the Committee for the District of Columbia, reported back House bill No. 352, to incorporate the National Association to Educate Colored Men for the Christian Ministry, with a substitute, recommending that the substitute be adopted.

The substitute was read. It creates Abraham D. Gillette, and others, a body-politic for the establishment of a national theological institute to educate persons for the Christian ministry. It provides that no person shall be excluded from the institute on account of theological belief.

The substitute was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being

engrossed, it was accordingly read the third time and passed.

On motion of Mr. WELKER, the title was amended so as to read, "An act to incorporate the National Theological Institute."

Mr. WELKER moved to reconsider the vote by which the bill was passed and the title amended; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LEVY COURT OF WASHINGTON COUNTY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back bill of the Senate No 90, enlarging the powers of the levy court of the county of Washington, in the District of Columbia, with the recommendation that it do pass.

The bill empowers the levy court of the county of Washington, in the District of Columbia, to declare and locate as public highways such roads known and used as "military roads" in the District of Columbia during the rebellion, as the court may deem advisable.

It provides further, that the damages which the owners of land may sustain shall be assessed as provided for in section three of the act of Congress approved July 1, 1812, "conferring certain powers on the levy court for the county of Washington, in the District of Columbia."

Mr. WILSON, of Iowa. I would ask the gentleman from Illinois what provision the law of 1812 makes for the payment of the damages when assessed.

Mr. INGERSOLL. It makes provision that the damages be assessed by a jury of twelve citizens of the vicinage, and the money is to be paid before the use of the road is entered on.

Mr. WILSON, of Iowa. From what source do they get the fund from which to pay the damages?

Mr. INGERSOLL. From the fund raised by the county taxes out of the county treasury. No part of it comes out of the Government funds.

The bill was ordered to a third reading; and it was accordingly read the third time and passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REFORM SCHOOL IN THE DISTRICT OF COLUMBIA

Mr. BALDWIN, from the Committee for the District of Columbia, reported back, with sundry amendments, bill of the House No. 379, to establish in the District of Columbia a reform school for boys.

The bill was read.

The SPEAKER. The morning hour has expired, and the bill goes over.

MILITARY ACADEMY APPOINTMENTS.

Mr. PAINE. I have so modified the joint resolution which I offered this morning that the gentleman from Pennsylvania [Mr. RANDALL] has withdrawn his objection, and I now ask unanimous consent to introduce it.

The joint resolution, as modified, was read, as follows:

Be it resolved by the Senate and House of Representatives, &c., That all persons who have performed meritorious services as officers or enlisted men in the Army of the United States for a period of not less than two years during the late rebellion, shall, if possessing the other qualifications now prescribed by law, be eligible to be appointed to the Military Academy of the United States until twenty-four years of age; and all persons who have performed such services for a period of less than two years shall, if possessing the other qualifications now prescribed by law, be eligible to appointment to said Military Academy until twenty-three years of age.

No objection being made, the joint resolution was received and read a first and second time.

Mr. SCHENCK. I move that the joint resolution be referred to the Committee on Military Affairs. I like it as far as it goes, but I think it ought to go further.

Mr. PAINE. The only objection I have to the reference is, that unless this joint resolution is soon passed, candidates who are best

qualified of all may be ineligible for the appointments to be made before the 1st of next July on account of age. A case of that kind may occur in my own district.

Mr. WASHBURN, of Illinois. I suggest to my friend that he ask leave for the committee to report at any time.

Mr. SCHENCK. I promise him that it shall be reported back within three days, if the House will allow.

Mr. GARFIELD. The appointments are not to be made until the 1st of July.

Mr. SCHENCK's motion was agreed to; and the joint resolution was referred to the Committee on Military Affairs.

By unanimous consent, leave was granted to the committee to report it back at any time.

BALTIMORE AND OHIO RAILROAD.

Mr. McCULLOUGH, by unanimous consent, introduced a bill to authorize the extension, construction, and use by the Baltimore and Ohio Railroad Company of a railroad from between Knoxville and the Monocacy Junction into and within the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

GENERAL OF THE UNITED STATES ARMY.

Mr. DEMING called for the regular order of business.

The SPEAKER. The first business in order is the consideration of House bill No. 3, reported back from the Committee on Military Affairs with an amendment, ordered to be printed, and the further consideration postponed to Tuesday, the 17th day of April, and made a special order after the morning hour.

The bill was read. The first section provides that the grade of "General of the Army of the United States" be, and the same is hereby, revived; and the President is hereby authorized, whenever he shall deem it expedient, to appoint, by and with the advice and consent of the Senate, a General of the Army of the United States, to be selected from among those officers in the military service of the United States most distinguished for courage, skill, and ability, who being commissioned as General may be authorized, under the direction and during the pleasure of the President, to command the armies of the United States.

The second section provides that the pay and emoluments of the General commissioned as hereinbefore provided shall be increased one half in amount, whether in money or in kind, over and above the amount allowed to a lieutenant general; and the said General may appoint upon his staff such number of aids, not exceeding six, as he may judge proper, who shall have the rank, pay, and emoluments of a colonel of cavalry; and the chief of staff to the Lieutenant General shall, during the existence of this act, be the chief of staff to the General.

The third section provides that whenever any general shall have been appointed and commissioned under the provisions of this act, if thereafter the office shall become vacant, this act shall thereupon expire and remain no longer in force.

The amendment reported by the Committee on Military Affairs was read, as follows:

Strike out all of section two, after the enacting clause, and the whole of section three, and insert the following in lieu thereof:

That the pay proper of the General shall be \$400 per month, and his allowances in all other respects shall be the same as were allowed to the Lieutenant General by the second section of the act approved February 29, 1864, entitled "An act reviving the grade of lieutenant general in the United States Army," and the said General may select for his chief of staff a brigadier general from among the officers of the Army holding that rank; and may appoint upon his staff such number of aids, not exceeding six, as he may judge proper, who shall each have the rank, pay, and emoluments of a colonel of cavalry.

The question was upon agreeing to the amendment.

Mr. LE BLOND. I would inquire of the gentleman from Connecticut [Mr. DEMING] whether the amendment proposed by the Military Committee increases the pay of the officers of the Army above what it was during the war.

Mr. DEMING. The amendment proposed

by the committee decreases very materially the pay provided by the bill originally referred to the Committee on Military Affairs. It makes the pay of general but \$180 per month, or \$1,560 per year, more than that of lieutenant general; and if the gentleman had waited a few moments he would have heard the explanation of all the provisions of the bill which I propose to give the House.

Mr. LE BLOND. I should be glad to hear the reasons for the increase of pay.

Mr. DEMING. I call the previous question upon the amendment of the Committee on Military Affairs.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to.

The question was upon ordering the bill, as amended, to be engrossed and read a third time.

Mr. STEVENS. Will the gentleman permit me to offer an amendment?

Mr. DEMING. I will hear it read.

Mr. STEVENS. I desire to offer the following as a proviso:

Provided, That whenever a vacancy shall occur in the office of lieutenant general, by promotion or otherwise, the vacancy shall not be filled until after the death or resignation of Lieutenant General Winfield Scott; and thereafter there shall be but one lieutenant general.

Mr. DEMING. I think the amendment offered by the gentleman from Pennsylvania [Mr. STEVENS] will tend very seriously to embarrass this bill. And as he can have an opportunity of offering that same amendment to another military bill which will provide for the office of lieutenant general, I would prefer that he reserve it until then.

Mr. STEVENS. If I thought for a moment that the amendment I propose would tend to embarrass this bill, I would not offer it. But it is for the purpose of making the bill more likely to satisfy the House that I have offered it.

Mr. DEMING. Very well; I am perfectly willing that the sense of the House shall be taken upon the amendment.

The question was upon the amendment proposed by Mr. STEVENS.

Mr. DEMING. Mr. Speaker, the bill, as amended upon recommendation of the Committee on Military Affairs, is so plain in its provisions and in its purpose that it hardly requires a formal explanation, and I certainly should not enter into one on this occasion except for certain objections made to me in private conversation which indicate that members misapprehend not only the limitations of this amended bill but also the previous legislation of Congress upon the grade of general.

The bill, as amended, creates the grade of general as a permanent part of the military establishment of this country. It provides also for his allowances, his staff, and his pay. The allowances in this bill to a general and the staff are precisely those which are provided in the bill creating the grade of lieutenant general. The pay proper, that is to say, the money pay, of the General is increased by this bill over that of a lieutenant general from \$270 per month, which is now the pay of a lieutenant general, to \$400 per month; thereby increasing the pay of a general over that of a lieutenant general \$130 per month, or \$1,560 per year.

The monthly receipts of the Lieutenant General now, from all sources under the act creating the office, are \$1,340. The monthly receipts of the General from all sources under this bill will be \$1,470—making the increased pay of the General over that of the Lieutenant General, as I have already stated, \$130 per month. The yearly receipts of the Lieutenant General from all sources, including allowances, commutations, rations, forage, and every thing, are \$16,080 per annum. The yearly receipts of the General from all sources, under this bill, will be \$17,640, an increase of \$1,560 per annum in favor of the General over the Lieutenant General. And this is the sole increase of pay or emoluments or allowances or rations or any thing else proposed by the bill which I am instructed to report.

In the second session of the Fifth Congress,

the first under John Adams, in consequence of our dissensions with the French republic a provisional army was authorized, and the grade of lieutenant general was for the first time in our history created for its commander and conferred upon General Washington. It was accepted by him upon the express stipulation that he should not be called into service until the exigency for which the office was made, an invasion of the United States by France, should actually occur. During the recess which followed the adjournment it was understood that General Washington was not entirely pleased with his new rank, because in his opinion it was inferior to that which he had held in the revolutionary war as General and Commander-in-Chief. In deference to these scruples, when the same Congress held its third session, it authorized the President to appoint and commission an officer who should be styled "General of the armies of the United States." I have not been able to discover that the appointment under this power was ever made, and a presumption is raised that it was not by a return from the War Department in 1800, where General Washington is still registered as Lieutenant General, with the mournful affix "dead," a mere formal entry, but vividly suggesting, in connection with a name so illustrious, that—

"The paths of glory lead but to the grave."

I had rested on this conviction until this morning, when happening to take up the Annals of Congress for 1801, I found in the resolves passed by Congress on the death of Washington, which occurred on the 10th of December, subsequent to the last act to which I have alluded, he is hailed by the resolutions as "General of the armies of the United States," the precise language of the statute creating the grade of general. Whether this title was ever conferred upon him or not, it is unquestionably true that unless the apprehension of a war with France had subsided or his own death had intervened, he would doubtless have been General of the armies of the United States.

The theory of the organization of the higher grades of our Army evidently demands a general to complete and round off symmetrically the ascending scale of rank and authority. The appropriate command of a brigadier general is a brigade, of a major general a division, of a lieutenant general an Army corps, while to complete the system an officer of higher rank and of more comprehensive power and ability is required, who, unchallenged, may direct and supervise and impart unity and concert of plan and purpose to the operations of all the armies in the field.

And this theory is confirmed, without an exception, by the practice of the master nations of Europe, who, in the severe school of gigantic and protracted war, have learned military wisdom. It may be safely said that there is not a prominent nation in the world whose army organization does not culminate either in a general or a marshal. Prussia, with a peace establishment in 1863 of 210,675 men, had, in the same year, 68 major generals, 61 lieutenant generals, 34 generals, and two field marshals. Austria, with a peace establishment in 1863 of 263,825 men, had 308 major generals, 209 lieutenant generals, 42 generals, and three field marshals. England, with a total active regular force in 1863 of 192,583 men, had in 1864 186 major generals, 109 lieutenant generals, 68 generals, and five field marshals, the last grade being conferred only on royal personages, or general officers most distinguished for services in the field. France, with an army in 1862 of 467,357 men, had in 1861 292 generals of brigade, 175 generals of division, and 11 marshals of France.

But, Mr. Speaker, while this bill creating the grade of general commends itself to your favorable consideration by the symmetry and completeness it will impart to the graduated scale of rank in our Army, and while, too, it is vindicated by the example of those nations most distinguished for military ability and success, I

cannot claim that in our present circumstances, when the Army has just triumphantly emerged from the most terrible contest which can ever assail the integrity of our flag without a general to command, and when we are now engaged in reducing it to the peace establishment, that either the symmetry of grade or the practice and example of other nations constitute an adequate argument for the passage of this bill.

I must admit that the chief claim which it presents for your approval is as a recognition and reward of the extraordinary services of the Republic's most successful and most illustrious defender; and I am therefore constrained in placing the bill upon its merits to refreshen your remembrance of the obligations of the country to him in many desponding hours of its recent extremity and peril. I trust the House will do me the justice to believe that while I should have never volunteered to rehearse to it his exploits I am still less disposed to shrink from such a rehearsal when imposed upon me as a duty, and when it is essential to a full and just appreciation of a measure I am instructed to report. I should greatly have preferred that this duty should have been committed to some gentleman more capable of "gilding refined gold" or of celebrating that merit which is universally acknowledged than myself. If General Grant's claims upon his country were either doubted or impugned I should rejoice to appear in his defense; but unless I greatly mistake the temper of this House upon the question of his exalted deserts, no discordant opinions or conflicting sentiments are to be harmonized here.

Perhaps, however, before entering into a review of his claims upon the nation, it may be proper and pertinent to briefly advert to the rewards which other times and other nations have bestowed upon transcendent military service and ability. Far, far back, at the very dawn of history, indeed upon the very first page of man's tempestuous annals, writ in faded hieroglyphs on crumbling columns, we read that long anterior to these most ancient records, war had absorbed nearly all the attention and activities of the race, and that the victorious warrior, from the necessities of a constantly threatened and embroiled society, became of course the king and founder of dynasties. Sesostris, Ramases, Pharaoh, and the great military chieftains who gave to Babylon and Assyria their imperial ascendancy, are the names of the Grants, the Shermans, and the Sheridans of that early day, promoted for martial service to an absolute sovereignty, transmissible by descent, over great empires. The war which for two lustrums raged round mighty Ilum was, you will remember, a war of kings who had acquired their scepters by previous prowess in the field. And to descend to later classic times, the names of Miltiades, Themistocles, Aristides, Epaminondas, will instantly occur to all as those of successful generals who were rewarded for military service by the chief civil position in their respective States; while the honors bestowed by Rome and Carthage on Cæsar and Hannibal illustrate the unbounded gratitude of those great martial nations to their defenders and deliverers.

Charlemagne won the iron crown with his sword. In the old régime of France the Luxembourgs, the Turennes, and the Condés, who reared and upheld the throne of the Bourbons, were invested with palaces, subsidies, and grants surpassing in splendor and magnificence the tales of enchantment or the dream of avarice. Even under the Empire dukedoms and royal titles and pomp were lavished by that large and warm imperial hand upon the successful general who pierced the enemy's center or bore the eagles triumphantly to the bristling crest of wavering battle, and gifts and estates were wrung from the nations they overran to maintain with more than oriental magnificence the dignity of the rank. England has always been prodigal of largesses to those who have vindicated her martial renown and extended her dominion. For the single victory of Blenheim, which dissolved the last coalition

and broke the colossal power of Louis XIV, Marlborough was created a Prince of the Holy Roman Empire with the principality Middlesex attached, and upon his grand entrance into London was received with an ovation which reminded a classical spectator of those resplendent triumphs which swept over the Appian Way in the palmiest days of the mistress of the world. The extensive manor of Woodstock, once a royal palace—the scene of the loves of Henry II and the Fair Rosamond—was instantly conveyed to him in fee, and the royal comptroller was directed by the grateful Queen to rear for him the stately pile of Blenheim, which remains until to-day a splendid monument of the genius of the architect and the gratitude of a nation. For his subsequent victories an annuity of £5,000 a year charged upon the post office was settled upon him, and his dukedom, which was originally limited to his heirs male, was extended to his heirs female, "in order," as it was finely expressed, "that England might never be without a title which might recall the remembrance of so much glory." It has been estimated that the sum total of these grants exceeded five hundred thousand pounds.

Some of us can remember the Peninsular campaign; how with every packet we learned that the guns of the Tower were heralding some new triumphs of the English arms in Spain; how London was all ablaze with bonfires; how the Prince Regent at the opening of every Parliament announces some crowning victory of Wellington, and that he will raise him another step in the peerage, and solicits from his faithful Commons another hundred thousand pounds to sustain the style and dignity of the increased rank. Some of us remember that on the night when the news from Waterloo first reached Parliament £100,000 were instantly voted, and that the gratitude of the nation descended upon the Iron Duke in munificent grants and golden showers. Places, palaces, offices, and sinecures are fairly thrown at his feet. The aggregate of sums given to him, exclusive of salaries, exceeds £900,000, to say nothing of a snug little annuity of £2,000.

Our institutions it is said are popular, and that these regal benefactions are hostile to their genius and spirit, and yet the American people have not in the past been insensible to the claims of great military service to solid and substantial rewards, and have constantly solicited expressions of gratitude in harmony with the simplicity and frugality of our system. They rewarded General Washington for his military services in the Revolution by twice electing him to the Presidency. They rewarded General Jackson for his military services in the war of 1812 by twice electing him to the Presidency. It was his services in the same war which contributed vastly to the elevation of General Harrison to the same office, and but for his Mexican victories General Taylor never would have been President of the United States. The heroism of General Scott in two wars directed the attention of a great party to him as their candidate for the Presidency, and all parties united in conferring upon him the rank of lieutenant general as the only reward they could bestow upon his lifelong devotion to the defense and renown of our flag.

Now, I could safely challenge each one of this long line of heroes to come forth and present a claim upon national gratitude which cannot be met and overmatched by the claims upon us of that modest and reticent soldier who scattered the armies and destroyed the military power of a rebellion whose triumph would have buried the great republic of the world beyond the hope of resurrection. Tried by the criterion of success, who of them can present a brighter, fairer, more unsullied record? Tried by the interests at stake, upon which of their swords did interests so momentous hang? Tried by the valor of the adversary, who of them ever encountered a foe so worthy of his steel? If in the sad and disheartening summer of 1863 it had been asked you, what rank will you con-

fer upon the general who silences the batteries at Vicksburg, that the Mississippi, through the bisected rebellion, might course unobstructed from the prairies to the Gulf; if it had been asked us at the close of the last session, what will you do for him who breaks the lines at Richmond and receives the sword of Lee, what soul in this House could have placed any limit or qualification upon its obligations?

Find a single martial enterprise in the whole history of mankind more serious in the obstacles to be overcome, more luminous as an example of heroism and endurance, more fatal to an enemy, more magnificent in its results, than the single enterprise of opening the Mississippi river; search the tide of time for a nation which was ever delivered from such depths and exalted to such a pinnacle of exultation by one single blow, as by that struck at Richmond in April last, which at the same time broke the head and paralyzed the extremities of the rebellion.

War has been defined to be contention by force for the purpose of crippling or overwhelming an enemy; and in glancing at the history of our war it seems to me that we had made but little progress even in crippling our enemy until the inflexible will and martial energies of General Grant entered as an animating and directing soul into the armies of the Republic. Prior to his conspicuous appearance upon the grand arena we had met with many reverses and a few successes, but the reverses were most depressing to the national spirit and the successes had hardly penetrated the hide of the defiant monster which was confronting us. War had surged and resurged with alternate triumph and defeat over the devoted plains of Missouri. We had gained a lodgment on the coast of South Carolina; we held the sand spits of Hatteras, and we had dearly purchased a strategical position on Roanoke Island. But in neither of these affairs had we succeeded in actually debilitating the enemy, and from neither of these points had we been able to penetrate the enemy's country much beyond the range of our cannon. The first decided success which let in a glimpse of sunlight and lifted the cloud of despondency and exhilarated the national heart were the brilliant operations upon the Tennessee and the Cumberland. When, following hard upon the capture of Fort Henry, the country learned that Fort Donelson, strongly fortified by nature and art, had surrendered with its garrison of sixteen thousand prisoners, and that large sections of Kentucky and Tennessee were redeemed from rebel thralldom, we asked, with all the vehemence of kindling gratitude, to whom are we indebted for a vigor of operations and an earnestness of purpose which prove that military enterprise and heroism are not obsolete, and that there is still some hope for our drooping flag, and we were told that he who could say to a rebel general, "No other terms than an unconditional and immediate surrender can be accepted; I propose to move immediately upon your works," was one of those worthy beneficiaries whom the nation had educated at its great military school; that he had won his spurs in the earliest battles of the Mexican war; that he had participated in that series of hard-fought engagements which carried triumphantly the flag of the Republic from the shores of the Gulf to the lake-encircled citadel of the ancient Aztecs; that he had won his full grade of first lieutenant in those bloody hours when Molino del Rey succumbed to the impetuosity of our soldiery, and his brevet of captain on that day, ever memorable in our annals, when the steep and frowning heights of Chapultepec were carried, and the trembling city below implored the mercy of our artillery.

We were told that when the war was over, disgusted with the *ennui* which haunts a soldier on the peace establishment, he had resigned his commission as captain, but that when the rebellion struck the first tocsin he rushed to the defense of the flag under which he was trained and nurtured, and offered his services to Governor Yates, of Illinois; that he had organized the Illinois quota under the first call for troops; that, as colonel of the

twenty-first regiment of that State, he had quelled the guerrillas in north Missouri; that he had risen rapidly to the grade of brigadier general; that he had destroyed a rebel magazine at Paducah; that he had wiped out Jeff. Thompson at Fredricton; that he had severely chastised a superior force of the enemy at Belmont; that he was a general who seemed to understand what war meant and what it did not mean; that in his judgment it did not mean lying in camp and garrison, drilling and organizing for ever and ever, but seeking the enemy, moving on his works, pushing and pounding until he gave way; and that when he did that you were not to wait for weeks and months for horses, shoes, transportation, but that you were to push on with such resources as you had; hang on his flanks like grim death, and if one expedient failed, try another and another until he was utterly routed and dissolved. In short, we were told that he was a positive man, of pluck and purpose and self-reliance, who did not believe, as some did, that Robert E. Lee was endowed by the supernatural powers with supernatural resources and strategy and ubiquity, or who did not fear, as some did, that he, with the entire army of Northern Virginia, could suddenly throw a somersault over intervening mountains and forests into our lines, but that, by butting and hammering away with mere human caution and skill and perseverance, the mightiest Paladin of treason could be outflanked or whipped.

Much criticism was expended at the time upon the battle of Shiloh; and that part of it which applies to the gaps and disconnections in our disjointed line of battle may be just. It was a vast *mêlée* between separate regiments, brigades, and divisions, each fighting on its own hook and for its own position, with but little concert of action and with but slight mutual support.

So far as the criticism applies to the violation of true principles of war by fighting that battle with his back to the Tennessee river, General Grant has broken his austere silence and condescended in characteristic strain to speak for himself. After the battle of Pittsburg Landing General Buell began criticising in a friendly way the impolicy of his having fought the battle with the Tennessee behind his men. "Where, if beaten, could you have retreated, General?" asked Buell. "I did not mean to be beaten," was Grant's sententious reply. "But suppose you had been defeated in spite of your exertions?" "Well, there were all the transports to carry the remains of the army across the river." "But, General," urged Buell, "your whole transports could not contain even ten thousand men, and it would have been impossible for them to make more than one trip in the face of the enemy." "Well, if I had been beaten," said General Grant, quietly lighting a cigar as he spoke, "transportation for ten thousand men would have been abundant, for that would have been more than would have been left."

And yet in one important respect it contributed more to the eventual success of our arms than any action in the war. It was the *experimentum crucis* which first tested the respective stamina and manliness of the two belligerents. It was the first hurling together of the two people upon a large scale in a hand-to-hand fight, and when the enemy retreated from that broken and gory field, he retreated with his arrogance tamed and his dream of invincibility dispelled forever. No southern soldier from that terrible day presumed to despise again the courage, the persistence, or the marksmanship of the adversary, for there was weeping and lamentation in every southern home.

I have already adverted to the vast importance to the national cause of the capture of Vicksburg. In those protracted operations, a war by itself, which culminated in the overthrow of that almost impregnable stronghold, it is difficult to discover what element or quality of a consummate commander General Grant failed to exhibit. Strategy? Why the conception of the new enterprise, after every con-

ceivable plan had been tried and failed, was either an inspiration of strategical genius or the result of the most laborious strategical study. Labor, and perseverance? Why, the reconnaissances of the different bayous, creeks, passes, and rivers which he made in that amphibious region, the dredging which he executed, the canals which he dug to open a safe water passage below the city, are without parallel in resistance to natural obstacles, unless the parallel is found in the memorable expedition of Xerxes into the Peloponnesus, which channeled Mount Athos and bridged the Hellespont. Forethought? Why, every step of a seemingly desperate adventure was prearranged in his mind, and every contingency which could be anticipated provided for in advance. Presence of mind? Contingencies that could not be foreseen were upon the spur of the occasion as fully met as if they had originally been embraced within his plans. Courage? Did he not push his transports through an iron hail compared with which the full blast of Gibraltar or Cherbourg would be comparatively harmless? Persistence? Did he not again drive the same transports, riddled by their first ordeal, through the fortifications which spouted destruction from the bluffs of Grand Gulf; and did he not, after twenty consecutive days of fighting and five pitched battles, huddle the army of the Southwest into its lines and hold it there until it dropped into his arms as prey?

Let me here pause in this rapid sketch of General Grant's military career and permit him to recite the results of his operations at Chattanooga in the congratulatory order which he issued to his troops. I ask the Clerk to read the order.

The Clerk read as follows:

HEADQUARTERS
MILITARY DIVISION OF THE MISSISSIPPI,
IN THE FIELD.

CHATTANOOGA, TENNESSEE, December 10, 1863.

The general commanding takes this opportunity of returning his sincere thanks and congratulations to the brave armies of the Cumberland, the Ohio, the Tennessee, and their comrades from the Potomac, for the recent splendid and decisive successes achieved over the enemy. In a short time you have recovered from him the control of the Tennessee river from Bridgeport to Knoxville. You dislodged him from his great stronghold upon Lookout Mountain, drove him from Chattanooga valley, wrested from his determined grasp the possession of Missionary Ridge, repelled with heavy loss to him his repeated assaults upon Knoxville, forcing him to raise the siege there, driving him at all points, utterly routed and discomfited, beyond the limits of the State. By your noble heroism and determined courage you have most effectually defeated the plans of the enemy for regaining possession of the States of Kentucky and Tennessee.

You have secured positions from which no rebellious power can drive or dislodge you. For all this the general commanding thanks you collectively and individually. The loyal people of the United States thank and bless you. Their hopes and prayers for your success against this unholy rebellion are with you daily. Their faith in you will not be in vain. Their hopes will not be blasted. Their prayers to Almighty God will be answered. You will go to other fields of strife; and with the invincible bravery and unflinching loyalty to justice and right which have characterized you in the past, you will prove that no enemy can withstand you, and that no defenses, however formidable, can check your onward march.

By order of
U. S. GRANT,
Major General.

Mr. DEMING. When General Grant first entered upon the general direction of affairs four new and controlling characteristics forthwith reformed, invigorated, and systematized our military administration—coöperation of purpose in our separated armies, energy in attack, rapidity in pursuit, and wisdom in the selection of the commanders of armies, corps, and divisions; the fit man for the fit place. I cannot, in this brief *résumé* of his services which I am attempting, but barely allude to the manner in which he combined the scattered and independent operations of our various armies in the field, concentrated upon a single point the entire military strength of the nation, and destroyed that damaging expedient by which the enemy in command of the interior lines of communication was enabled to reinforce any of his armies which were vigorously assailed. The campaign upon which the Lieutenant General first entered is admitted by the highest military critics to have been grand and perfect in

its conception, contemplating the simultaneous movement and the joint action of four armies—the army of the Potomac, the army of the Cumberland, the army of Western Virginia, and the army of the James—each with a different objective point, but all contributing to the great purpose of the campaign, the destruction of the chief army of the rebellion.

If the plan partially failed, and what was designed to have been finished in the field was at length completed by a protracted siege, it was not due to any want of genius or merit in the plan or of skill and vigor in executing that part of it under the immediate supervision of the commanding general. No man can contemplate, without admiration and wonder, that hand-to-hand fight in the blind thickets of the bloody Wilderness, that persistent and inflexible advance against overwhelming natural obstacles, against a determined enemy intrenched in front, acquainted with every path and with every point of attack and resistance, in possession, too, of interior lines over which he could rapidly hurry his troops, and throw them impetuously in any direction. No one can contemplate without astonishment and sympathy the burden of labor, anxiety, and solicitude which he cheerfully bore during the immense labors of that protracted siege, and at its final success our thanks to Grant unconsciously mingled with our thanks to God.

For this crowning work alone, so important in its immediate results, and charged with ultimate consequences so momentous to liberty, civilization, and the human race, let gratitude unbounded, unmeasured, infinite, be freely tendered, and let substantial honor and reward be bestowed in some slight degree commensurate with the obligations of an emancipated and rescued nation.

I think I may safely invoke the favor of the Representatives of the people to the humble testimonial proffered by this bill. Let us not in this day of our deliverance paralyze future heroism and reaffirm before the civilized world the ingratitude of republics by refusing this small tribute to the foremost soldier of this generation; to him who, entering the war as captain, won in its battles every successive grade, and emerged from it with a rank unsurpassed in our service; to him who at Fort Donelson first lightened the despondency of a trembling nation; to him who at Shiloh first demoralized the spirit of the haughtiest of foes; to him who at Vicksburg first released the loyal Father of Waters from forced complicity with treason; to him who at Chattanooga first opened the gates of Georgia that Sherman might sweep from Atlanta to the sea and from the Savannah to the Cape Fear; to him who received the swords of Buckner, Pemberton, and Lee, and the capitulation of three great armies of the rebellion; to him who successfully conducted two of the most memorable sieges in history; to him, finally, who dissolved the confederacy at Richmond, and struck every rebel rag from the Rappahannock to the Rio Grande.

Time, it is said, devours the proudest human memorial. The impress we have made as a nation may be obliterated; our grandest achievements, even those which we now fondly deem eternal, those which embellish the walls of that historic Rotunda, may all drop from the memory of man; our civilization, liberty, arts, agriculture, though sculptured in the pediments of this Capitol, may all be engulfed in Lethe's dark waters; this massive structure, with its solid foundations, expanded wings, towering columns, and bubbling dome may all be buried with our Constitution, Government, laws, and polity, in a common grave, yet we shall not all perish. You may rest assured that three American names will survive oblivion, and soar together immortal: the name of him who founded, the name of him who disenthralled, with the name of him who saved the Republic.

Mr. RAYMOND. Mr. Speaker, I obey a perilous but resistless impulse when I attempt to add a single word to the eulogy upon General Grant to which we have just listened with so much delight. I do not rise to rehearse the

story so well told; I do not rise to enforce by any additional argument the passage of the bill whose success has been already so thoroughly secured. That success was certain when the crowning reason for the presentation of the bill was stated by the gentleman who has just taken his seat. I seek to do nothing more than to express my own sense of the transcendent services for which this House thus seeks to reward that distinguished general, and add a word, if possibly I may, with the indulgence of the House to the estimate of those services.

Such honors as this bill proposes to create, or if not to create, to revive anew for a higher and still greater occasion than that on which they were created, become the man on whose head they are to cluster. And whether you consider his private worth, his patriotism, his distinguished services in the field, or the attitude in which he stands to this great nation to-day, and will stand through all time to come, those honors cannot be greater than his desert. He has carried this nation through the great rebellion which menaced its existence. He has reestablished the integrity of the Union and the supremacy of the Constitution, which were threatened and endangered by this rebellion. He has established through all time to come the right of the people to govern themselves, the destruction of which right was involved in the overthrow of the only Government in which it is now embodied.

But, sir, even more than this, he has rendered the highest service any man can render his country; he has led the nation through these transcendent trials by which alone any nation ever reaches the first rank among the military Powers of the earth; for until a new nation passes successfully through the great crisis of a civil war she cannot claim a place among the foremost nations of the world. History shows that without such a trial no such conquest has ever been achieved. No nation has ever yet won for herself that foremost rank to which all ambitious Powers aspire, except through the discipline of civil strife and bloodshed.

When we plunged into this great contest it was without experience, without knowledge of the means and resources that we could command to carry it through, without knowledge of our own temper and courage to face the crisis, without compactness, or solidity, or any of the elements of strength so essential to success. General Grant, it is not too much to say, has shown us that we possessed them all. He has organized, disciplined, and welded them all, and carried the nation successfully through its great struggle. That, sir, is a service for which he will be remembered, not in this land alone, but in all lands where military prowess stands foremost, as it does in every civilized nation of the world.

For that we cannot give him too much of recognition or of honor. Nor will this nation ever forget that it owes to him, in all human probability, the perpetuity of the great system of government which this nation was ordained to establish among the nations of the earth and make perpetual and paramount over them all. And no words will sound his fitting eulogy; no words less gifted than those used by the distinguished gentleman from Connecticut [Mr. DEMING] can properly and sufficiently describe the long career of his services, the long catalogue of victories he has won, and the honors he has heaped upon his native land.

I rejoice, sir, that this bill has been brought forward to do him honor. Would it were in our power to magnify, to increase, to augment to any extent the honors we would heap upon his name; for it is only by such recognitions from those they serve that the great men of any age ever meet their fitting reward.

I have listened, as I am sure we all have, with delight to the graphic recital by my honorable friend from Connecticut [Mr. DEMING] of the rewards heaped by foreign nations upon those who served them. What honors crowned the career of Marlborough! What rewards in palaces, and dotations, and in everything else

that a man or his family could prize, awaited the victorious Wellington when he returned from the Continent! What, in the face of such honors as these, can we present to those who have rescued this great nation of freemen from the peril with which their Government was threatened?

It is not, as has properly been said, the genius of our institutions to heap upon men undue material rewards, even for such distinguished services as these; but, certainly, this nation does not lack a grateful heart, even if its gratitude does not take the same form with that of other nations. We will give to General Grant, cheerfully, and with the heartiest acclamations of the nation he has served, everything that it is in our power to give. He shall walk from one end of the land to the other, so long as he shall walk the earth at all, honored and endeared to all as the savior of the nation, as the man who rescued from danger and destruction the priceless principle of self-government.

Ay, sir, unless gratitude shall fail, in coming generations nothing shall remind us of his name that does not remind us of his services; and when he shall die, and mingle his dust with the dust of our common earth, he shall descend to an honored grave covered with benedictions, covered with the glorious recollections of the services he has rendered, covered with everything that a grateful people can accumulate around his memory so as to perpetuate it to successive generations. This is his reward, if there can be any reward of national gratitude. This would suit, certainly, the quiet, the self-deprecating modesty of his noble and heroic character. And nothing more than this will be needed to satisfy him with what he has done, for he never sought anything but the consciousness that he was doing his duty, with all his energy and all his power.

Let this bill, then, sir, pass, as I am sure it will pass, by the unanimous and hearty vote of the House. And if there be anything else worthy of the nation's gratitude and of his acceptance let it be freely offered as the fitting testimonial of the service he has rendered the country and the honor he has heaped on the American name through all time to come.

Mr. STEVENS. Mr. Speaker, as I offered an amendment to this bill, I must say a word upon it. It would be in very bad taste, sir, for me to attempt to light my taper in the midst of these blazing luminaries which surround us. I shall not try it. My amendment proposes to reduce the expense of this movement by preventing, in case General Grant shall be promoted, the appointment of a lieutenant general until the death of General Scott, and then that but one shall be appointed.

Now, Mr. Speaker, if that amendment shall be adopted—and possibly without it I shall support this bill as a cheap and honorable method of expressing the nation's gratitude to one of her most illustrious defenders—the expense will be but slightly increased. I do not know that I much regard expense when we are seeking to honor and reward the Army of the United States.

I hope economical gentlemen will not be alarmed, but I believe that we ought largely to increase the pensions of our soldiers and their widows, and to increase their pay; and at the proper time it will give me pleasure to vote for such increase. But as has been well stated, how trifling is this present expense as compared with what has been bestowed by other nations upon their great commanders. I shall not attempt to recite what has been so eloquently and classically stated by the gentleman from Connecticut, [Mr. DEMING.]

We all know that upon her victorious consuls Rome bestowed the spoils of provinces. England has given her one, two, and three million pounds sterling to her successful commanders—to Marlborough, to Nelson, to Wellington; and yet not one of them ever achieved results half as important to the nation or to the world as have been achieved by our great commander, through his calm, firm, determined, and able conduct.

I believe that the moral and physical courage, the patience and skill, the operations in every way which we have witnessed, indicate General Grant as one of the fittest men to command a great army and lead it to great results. I agree with the gentleman from New York [Mr. RAYMOND] in being willing not only to promote him to this office, but as I understood him, and I hope I do not misunderstand him, to a higher office whenever the happy moment shall arrive. [Laughter and applause.]

I hope I shall be excused if I have been led, in the light of this honor, so grand, to violate what I announced to be my purpose when I arose. I hope the amendment I have offered and this bill will be adopted.

Mr. DEMING. If no other gentleman desires to speak I will call the previous question.

Mr. McKEE. I hope the gentleman will withdraw that call for a few moments.

Mr. DEMING. Certainly; I will do so.

Mr. McKEE. Mr. Speaker, I am very loath to say anything on this question. But entertaining the opinions I do in regard to it, I feel inclined since this discussion has come up to make a few remarks.

I regret very much that I am compelled to differ with the gentleman who has charge of this bill, [Mr. DEMING,] and with those who have advocated its passage. I would not detract from in the least, nay, I would go further, if possible, and add to the honor and esteem which the people of our country entertain for this champion of our Army. There is no man in this country who holds him in higher regard than I do. But I must here enter my protest and raise my voice against what I conceive to be this following too much the precedents which have been set, not by Governments constituted like our own, but by Governments whose forms our forefathers threw off when they established our own.

For one, I do not desire at this day that my country should turn back and imitate ancient Greece or Rome in conferring these great honors upon her heroes. I would not that my own country should imitate despotic France in her adoration for her successful chieftains. I would not that my country should imitate the example of monarchical England in conferring vast emoluments upon those who have led her armies to battle.

I regard this bill as antagonistic to the spirit of our institutions, as anti-republican, as contrary to the genius which our forefathers instilled into our Government when they founded it. I have seen enough in my short experience of life of what I may fitly denominate the aristocratic element of our Army. I have seen that spirit in the men who held positions in our Army at the beginning of the rebellion through which we have just passed. I have seen it in the great struggle which our people have waged against those who endeavored by force to destroy the institutions of our land.

And the country will bear witness to the truth of my statement when I say that it is not to that element which the nation has fostered and nourished that we to-day are indebted for the fact that we have crushed out the most mighty rebellion the world has ever seen. It is to the people that we owe it; to those who have not been educated in arms; to those who have not received the fostering care of the Republic, who have not been supported and feasted upon the public Treasury, but who in their might, at the call of their country, by their patriotism and valor succeeded in crushing out this great rebellion against the institutions of our fathers. To them we owe it, and we owe to the leaders who led them a debt of gratitude which the nation is not slow to acknowledge, and which the people are ready and willing and anxious to pay. But we owe them nothing by way of emoluments; we owe them nothing by way of rewards.

If we desire to reward the men who have saved our country, let us begin with the maimed and wounded and suffering, who have periled their all in its defense, and who at the end of

the war have no honor but their broken and disfigured limbs to carry to their graves.

I know this bill is but a small matter in the way of expenditure. It takes but about some twenty thousand dollars from the Treasury of the United States and confers it upon the leader of our armies; it is but a small affair. But the idea which weighs upon my mind is that this is contrary to the genius of our institutions—aping, if I may use the term, those old Governments of Europe whose whole theory is anti-republican, and whose example God forbid that my countrymen with my sanction should ever follow.

I am willing to reward our heroes. They have their reward in the gratitude which fills the heart of the nation. When the hero of this war travels, as the gentleman said, from one end of our country to the other, he is welcomed everywhere with the plaudits of a grateful people. They regard him as a man deserving great honor, and they give it to him. But I see no reason why we should establish this rank. It is not needed for the Army. It is not needed for the honor of the nation. The brave soldiers who followed their leaders through the war will not consider themselves flattered if this rank should be conferred. They do not ask that this new rank shall be created. The hero for whom this honor is proposed, though he would doubtless feel flattered by it, is, I am quite sure, too modest a man to desire this at the hands of his country.

I am sorry, sir, that I have felt compelled to say thus much. What I desire—and I may as well make the declaration here—is that this Government shall extend its fostering care and protection to those brave men who periled their all for their country, who have no honors to wear, and for whom we as a great Government should provide by pouring out our treasure liberally to them. I, for one, shall be ready to vote any amount within reason, either by way of bounties or pensions, to those brave men who have fought for our nation during the great struggle through which we have passed. But, sir, I do desire that my country, through her national Legislature, shall set to the world no example which would imply that a republican Government wishes to worship men as heroes.

Mr. FINCK. Mr. Speaker. I had hoped that there would be no discordant voice in this House upon the passage of this bill. I had trusted that at least in reference to this testimonial of our regard to so distinguished a character as Lieutenant General Grant there would be but one voice here among the people's Representatives.

I do not rise for the purpose of detaining the House, or saying anything in regard to the history of General Grant; for this has been done fully and ably by those who have preceded me. I desire, however, to state that I shall vote for the passage of this bill, because I believe it due as a testimonial of the nation's gratitude to General Grant. I honor him, sir, not only for his brilliant services in the field, but because of his magnanimity in the hour of triumph, and his genuine modesty. He has conducted himself throughout this war independent of party considerations or party intrigues, devoting himself to the vindication of the true honor of the country in maintaining the Constitution and preserving the Union. I trust, sir, that when the vote shall be taken on the passage of the bill, it will be unanimous.

Mr. SMITH. Mr. Speaker, it was not my purpose when this bill came before the House to-day to say one word on the subject; but representing, as I do in part, the State of Kentucky, a portion of the country which during the war felt so much the necessity of national defense and aid, I feel it due to the occasion that I should in my humble way express, imperfect though it may be, the gratitude of the loyal people of that State to that great, that good, and that renowned man, Lieutenant General U. S. Grant.

I remember, sir—and I may be excused for

alluding to it—that period in 1861, when the Legislature of Kentucky was in session and when the whole southern border of that State was threatened by an armed force seeking to overthrow and destroy the government of the State as well as the Government of the United States. At that time our people were divided. And, sir, when General Polk took possession of Columbus, General Grant, without authority from the Government, but acting on the convictions of his own judgment and with characteristic energy and promptitude, took possession of Paducah, thus saving Kentucky from the destructive power and control of the rebellion.

I remember when, on the 4th of July, the news was telegraphed to us that General Grant had captured Vicksburg, and when the people, looking to this and all else that he had done, rejoiced we had such a man as General Grant. Yes, sir, the nation owes it to him, and no men would be more proud of it than the soldiers who served under him.

This is a republican Government. General Grant, by his influence at the head of a great and good army, has secured to us an independent republican Government. The nation owes him the honor and should give it to him. Where is the man in Europe or on this continent who has done so much for republican liberty as General Grant? Where is the man who has done so much for freedom as General Grant? Where is the man who has lifted our flag higher and brought it back unsullied than General Grant? Where is the man with so much endurance and so much devotion? Where is the man beside General Grant who fought through wildernesses, through swamps, and snatched victory even from the valley of death?

It does me good to yield my tribute to this great general. If I had never seen him and only known him through the reports of his own soldiers who weep with delight when they talk of him, I would be glad to vote for this bill to-day.

I regret, sir, that a sentiment in this House to-day should come from my own State which is unwilling to give him that high credit which he deserves.

Mr. McKEE. I do not want the impression to go out, which might be inferred from the remark just made, that I am indisposed to give General Grant the credit which he deserves.

Mr. ROGERS. Mr. Speaker, I presume this bill, introduced by the gentleman from Illinois, [Mr. WASHBURN,] has no partisan purpose, but is merely the expression of the Representatives of the people of the United States of the fidelity which the people attach to a great general of the country. I have always made it a principle of my life that those who have shown heroism and bravery, without regard to party, are and ought to be entitled to the respect and high consideration of the people they have defended and sustained.

I think I can say with certainty that upon this side of the House, which I partly represent, no one will disagree with the sentiments which have been urged here by those who have advocated the passage of this bill. But, sir, I feel that no stigma ought to be attached to any man in this House because he may disagree with the sentiments of others or what they believe the proper action of Congress should be in regard to soldiers of the Army. I am not here to find fault with the honorable gentleman from Kentucky [Mr. McKEE] because he cannot be able to agree with the views of a majority of this House in the votes they may cast on this question. I feel there is no more solemn duty resting on any member of Congress, regardless of what objections may be made to him politically, than to stand here and express what he sincerely believes, whether his views meet with the approbation of a majority of the whole people of this country or not.

In favoring this bill on my part I am moved by no consideration of party and with no object to advance in rank and eminence the Lieutenant General of this country above those who have participated with him in the many battles and victories which during the last four and a

half years have taken place in our midst. I do not want to be understood in giving my vote for this bill that all our gratitude is to be centered in one man in the Army. I have not forgotten there are other able and illustrious generals in the Army entitled to the undying gratitude of the American people as well as those whose names appear in all that I have heard during this discussion. I suppose it will be the will of the President of the United States on the passage of this bill to give the commission contemplated in it to Lieutenant General Grant, as one who occupies the official position in the Army the highest of any, except it may be the President of the United States.

Sir, there is no man more willing than I to extend that gratitude to General Grant, because his heroism, his bravery, his patriotism, his fortitude, and his determination through this war have been unequalled in the history of the civilized world; but while he has shown this heroism and bravery, let us not forget the thousands and hundreds of thousands of men whom he led, of the men who faced the battlements of the enemy, of the men whose blood, whose valor, and whose patriotism equally consecrated the glorious victories which the American Army achieved during the bloody revolution through which we have just passed. It is a tribute which we owe, not only to General Grant, but to the men who followed him, to those whom he commanded, that while we extend to this brave and illustrious general the undying gratitude of the nation, we should at the same time extend to those brave and faithful soldiers the sentiment of respect and esteem which we cherish for every man who has engaged in this war for the suppression of the rebellion.

But, sir, General Grant has that which commends him to my respect much more than many others who were engaged in the war. I mean his Christian charity, his meekness, and his honorable manhood in granting to those whom he had subdued the rights which civilization demands shall be extended to an enemy that is at your feet.

When General Lee, whose ability I suppose will not be denied, as it never has been denied, by any gentleman on this floor, surrendered his sword to General Grant, it was handed back to him, as a manifestation of that Christian charity and goodness of heart which should characterize a true-hearted hero when his enemy is at his feet. General Grant was ready to extend to his conquered adversary those principles of civilized warfare which our fathers extended to their enemies in the bloody days of the Revolution.

But, sir, this is no new office that is proposed to be given, if I understand it. If my recollection serves me right, in reading the history of this country, General Washington occupied the same position that we now expect to be given to General Grant, or to such other general as the President of the United States in his wisdom may see fit. I believe that the mantle of the illustrious Washington may well fall upon the shoulders of General Grant. I believe that he has walked in the footsteps of the Father of his Country, and has shown an amiability of character and a tenderness of heart toward his foes that Washington did to those who had given aid and comfort to the followers and adherents of King George during the seven years of the revolutionary war.

Therefore it is with pleasure that I record my vote in favor of that hero, and I do it with a sentiment that it is not for him alone, but as a recommendation to the people of the country that they shall stand by those whose illustrious deeds of valor have been exhibited on the field of battle, whether as officers or soldiers, without distinction of rank or position.

Mr. SHELLABARGER. I rise, Mr. Speaker, for the purpose of making a single statement in regard to a matter alluded to in the remarks of my colleague, [Mr. FINCK.] With exact justice and propriety, my colleague stated that in the services of General Grant there had

appeared nothing of the partisan; that his public life was characterized by a devotion to his country without regard to partisan opinions or prejudices. The remark that I propose to make in connection with that is, that in no act in the life and service of General Grant, to my mind, is the sagacity and foresight of the distinguished Lieutenant General more plainly indicated than in the fact that nearly one month before the head of this nation had discovered that slavery must be stricken down before liberty could be saved, that great fact was announced by General Grant, and in terms fearless and distinct, the vigor of which startled the American mind at the time it was announced by this pioneer upon the great subject of emancipation. I undertake to say here, in the face of the nation, that the sagacity of the Lieutenant General as a military commander was nowhere more completely vindicated than it was in that foresight, that determined, and announced in advance, that policy which is contained in the letter which I send to the Clerk's desk, and ask to have read—a letter which bears date nearly a month before the proclamation of emancipation.

The Clerk read as follows:

VICKSBURG, MISSISSIPPI, August 30, 1862.

DEAR SIR: * * * * * The people of the North need not quarrel over the institution of slavery. What Vice President Stephens acknowledges the corner-stone of the confederacy is already knocked out. Slavery is already dead and cannot be resurrected. It would take a standing army to maintain slavery in the South, if we were to make peace to-day, guaranteeing to the South all their former constitutional privileges. I never was an abolitionist; not even what could be called anti-slavery; but I try to judge fairly and honestly, and it became patent to my mind early in the rebellion that the North and South could never live at peace with each other except as one nation, and that without slavery. As anxious as I am to see peace established, I would not, therefore, be willing to see any settlement until this question is forever settled.

Your sincere friend,
Hon. E. B. WASHBURN.

U. S. GRANT.

Mr. UPSON. I wish to call the attention of the House to the recommendation of the committee in regard to striking out the third section of this bill. That section provides that this office shall terminate with the life of the first appointee. It strikes me that this testimonial will be more valuable if we make it special; and it is also in accordance with the precedent, for when General Washington died this office died with him. If we make this a permanent office, it will not be a special testimonial, and we shall lessen the honor we intend to confer. I hope that amendment will not prevail, but that the third section will be retained in the bill as it originally stood.

The SPEAKER. The third section of the bill has been already stricken out.

Mr. DELANO. Mr. Speaker, I should not attempt to trouble the House with a moment's remarks were it not for the amendment which has been offered by the gentleman from Pennsylvania, [Mr. STEVENS.]

The great struggle through which we have passed for the preservation of the nation's life has developed great virtues and merit in the American character; and among those virtues and that merit nothing stands out, in my estimation, more conspicuous than the merit of the common soldiers who have fought, under competent generals, the great battles that have secured our liberties. Sir, I should feel myself incompetent for a seat in this House if it were possible for me for a single moment to ignore the merit of those soldiers.

Mr. Speaker, there never was such an army before upon the face of the earth. The sun never shone upon such an army. I pray God that the necessity for its repetition may never occur in the world. It was an outpouring of the loyal people of the country; the giving up of sons, of fathers, of husbands, with all the comforts and endearments of pleasant and happy homes, all surrendered at the shrine of our country's honor and glory and existence. I subscribe, therefore, to all that has been said upon this subject so eloquently and so well by the gentleman from Kentucky, [Mr. McKEE;] and I strike hands with him here to-day, and

with other gentlemen upon this floor who think as he does, in a solemn, irreversible compact to render to these gallant men, who have come forward voluntarily to save the nation, every benefit, every reward, every compensation, which it is in our power to give them.

But, Mr. Speaker, I will not go on to speak of the great characteristics of the American Army. It is neither necessary nor fit. I know there is not a man here, nor within the extended borders of this Government, who does not respond to this sentiment, and is not willing at all times and on all occasions to acknowledge it.

But, sir, this is not the only development that this war has made. It has brought out the genius and ability of men in America for the highest command in the field, and for the most skillful operations in military service. And, sir, in these developments no single man stands higher, shines brighter, or is more distinctly before the world than General Grant.

Let the minds of members here to-day recur to the year 1864. Let them remember how then the fate of this nation quivered, as it were, in uncertainty and in doubt. Let them remember how this man of iron will, of modest deportment, and of lion heart, took these gallant soldiers, the volunteers of a free people, and marched through the Wilderness with them against the most compact and powerful army that the confederacy had. See him leading those brave men through the continuous battles of the Wilderness to Richmond, before it and round it, until, as he himself said, the shell of the rebellion was crushed and its hollowness exposed to the world. And then behold this man, when Richmond had surrendered, modestly refusing to go into the city with display, to be there first to take possession of the citadel that had so long resisted our conquest. Behold him, sir, allowing others to march in in triumph, because he saw that there was more work to be done, and that work he was determined to pursue to its final accomplishment.

Leaving, then, the empty show and the place of honor, you see him giving up to subalterns the taking possession of the city of Richmond, while he goes on steadfastly in pursuit of his high purpose of making his work successful, and compelling the leader of the armies of the rebellion to lay down his sword before him. That is one of the instances that evince the characteristics of the man, and that raised him so high in the world's estimation.

And now what do we offer him by this bill? We offer him, what I will not allude to, but what we have heard so well described, and what has been so happily depicted by the gentleman from Connecticut, [Mr. DEMING;] we offer him a small boon. Is it in imitation of aristocratic or monarchical Governments that it is proposed to do this? No; it is in imitation of the great Ruler of all who bestows blessings and rewards upon the just and righteous, and punishments upon the others. I am not here to-day to imitate what other nations have done for their high chieftains and great military men. But I desire to show my gratitude, with the gratitude of this nation, in behalf of a great and a good man. Let us do it in imitation of divine authority, and not in imitation of man. Because other nations who have preceded us may have acted in the right way, that affords no reason for refusing to pursue a just path.

One word more. I hope this House will not adopt the amendment of the gentleman from Pennsylvania, [Mr. STEVENS.] There is another man—and I will say, Mr. Speaker, other men—in the recent military history of this country who deserve to be remembered. Though I concede to General Grant an elevation in great deeds and in great achievements higher than any other man in this war, God so ordered, and he but fulfilled his mission. But there are other names connected with the history of America which, if they are not written so high upon the scroll of fame as that of General Grant, will be found but a little way below, and one of those names, I am proud to say, belongs to the State of Ohio.

Need I speak of the man who went to Atlanta through a field of fire and amid the hail of lead and iron, and who from Atlanta went to the sea, and—? But I need say no more. His name belongs to Ohio and belongs to the nation, and I trust and believe that while the name of Grant lives the name of Sherman will not be forgotten. And when the place now held by General Grant shall be vacated by his promotion I want the hearts of the American people to be permitted to speak out what they now feel; and that the name of Sherman shall take the place now occupied by that of Grant.

Mr. DEMING. I now call the previous question.

Mr. WHALEY. Will the gentleman yield to me for a moment?

Mr. DEMING. It is now late and I cannot yield.

The previous question was seconded and the main question ordered; which was upon agreeing to the amendment proposed by Mr. STEVENS.

The amendment was again read, as follows: *Provided*, That whenever a vacancy shall occur in the office of lieutenant general, by promotion or otherwise, the vacancy shall not be filled until after the death or resignation of Lieutenant General Winfield Scott; and thereafter there shall be but one lieutenant general.

Mr. STEVENS. I call for the yeas and nays upon the amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 50, nays 78, not voting 55; as follows:

YEAS—Messrs. Alley, Ames, Baker, Baxter, Beaman, Benjamin, Bidwell, Boutwell, Brandegee, Broomall, Broomall, Reader W. Clarke, Sidney Clarke, Conkling, DeGrees, Dixon, Dodge, Donnelly, Driggs, Eliot, Farnsworth, Grinnell, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Hulburd, Kelso, George V. Lawrence, Loan, Longyear, Lynch, McClure, McKee, Mercer, Miller, Morris, Paine, Perham, Plants, Scofield, Stevens, Francis Thomas, Van Aernam, Warner, Williams, and Stephen F. Wilson—50.

NAYS—Messrs. Allison, Ancona, Anderson, Baldwin, Banks, Bingham, Blow, Boyer, Buckland, Chandler, Cobb, Coffroth, Cook, Cullom, Dawson, Delano, Deming, Denison, Eckley, Eldridge, Farquhar, Ferry, Finck, Glossbrenner, Griswold, Chester D. Hubbard, James R. Hubbard, James Humphrey, Ingersoll, Julian, Kasson, Kelley, Ketchum, Kuykendall, Ladin, Latham, William Lawrence, Le Blond, Marshall, Marston, McRuer, Myers, Niblack, Noel, O'Neill, Orth, Patterson, Phelps, Pike, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rollins, Ross, Rousseau, Sawyer, Shellabarger, Sitgreaves, Smith, Spalding, Strouse, Taylor, Thornton, Trowbridge, Upson, Burt Van Horn, Robert T. Van Horn, Elihu B. Washburne, Henry D. Washburn, Welker, Whaley, James F. Wilson, Windom, Winfield, and Wright—78.

NOT VOTING—Messrs. Delos R. Ashley, James M. Ashley, Barker, Bergen, Blaine, Bundy, Culver, Darling, Davis, Dawes, Dumont, Eggleston, Garfield, Goodyear, Grider, Hale, Aaron Harding, Hayes, Hill, Hogan, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Jenckes, Johnson, Jones, Kerr, Marvin, McCullough, McIndoe, Moorhead, Morrill, Moulton, Newell, Nicholson, Pomeroy, Price, Radford, Ritter, Schenck, Shanklin, Sloan, Starr, Stilwell, Taber, Thayer, John L. Thomas, Trimble, Ward, William B. Washburn, Wentworth, and Woodbridge—55.

So the amendment was not agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. LE BLOND. Trusting that the vote on the passage of the bill will be unanimous, or nearly so, I call for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 116, nays 11, not voting 56; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Baldwin, Banks, Baxter, Beaman, Bidwell, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Broomall, Buckland, Chandler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Dawson, DeGrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eldridge, Eliot, Farquhar, Ferry, Finck, Glossbrenner, Grinnell, Griswold, Abner C. Harding, Hart, Henderson, Holmes, Hotchkiss, Asahel W. Hubbard, Hulburd, James Humphrey, Ingersoll, Julian, Kasson, Kelley, Kelso, Ketchum, Kuykendall, Ladin, Latham, George V. Lawrence, William Lawrence, Le Blond, Longyear, Lynch, Marshall, Marston, McRuer, Miller, Morris, Myers, Niblack, Noel, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Plants, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield,

Shellabarger, Sitgreaves, Smith, Spalding, Stevens, Strouse, Taylor, Francis Thomas, Thornton, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, Welker, Whaley, James F. Wilson, Windom, Winfield, and Wright—116.

NAYS—Messrs. Baker, Coffroth, Denison, Farnsworth, Harris, Higby, Loan, McKee, Mercer, Morrill, and Stephen F. Wilson—11.

NOT VOTING—Messrs. Ancona, Delos R. Ashley, James M. Ashley, Barker, Benjamin, Bergen, Blaine, Bundy, Culver, Darling, Davis, Dawes, Dumont, Eggleston, Garfield, Goodyear, Grider, Hale, Aaron Harding, Hayes, Hill, Hogan, Hooper, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Jenckes, Johnson, Jones, Kerr, Marvin, McClure, McCullough, McIndoe, Moorhead, Moulton, Newell, Nicholson, Pomeroy, Price, Radford, Ritter, Shanklin, Sloan, Starr, Stilwell, Taber, Thayer, John L. Thomas, Trimble, Ward, William B. Washburn, Wentworth, Williams, and Woodbridge—56.

So the bill was passed.

During the call of the roll, Mr. ANCONA stated that he had paired with Mr. BLAINE.

The result was announced as above stated.

Mr. DEMING moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ORDER OF PROCEEDING TO-MORROW.

Mr. STEVENS. I move that the session of to-morrow be devoted exclusively to debate, as in Committee of the Whole on the state of the Union, on the President's message.

The motion was agreed to.

MONTANA.

Mr. SMITH. I move that leave be granted to the Delegate from Montana [Mr. McLAIN] to have printed as part of the debates some remarks in regard to the interests of his Territory.

The motion was agreed to.

[His remarks will be found in the Appendix.]

NATIONAL CURRENCY.

Mr. STEVENS, by unanimous consent, introduced a bill relative to the national currency; which was read a first and second time, and referred to the Committee on the Judiciary.

MARY C. REEVES.

Mr. NOELL, by unanimous consent, introduced a bill for the relief of Mary C. Reeves, administratrix of Albert Reeves, deceased; which was read a first and second time, and referred to the Committee of Claims.

INTERNAL REVENUE BILL.

Mr. LAFLIN. The Committee on Printing, to whom was referred a motion for printing extra copies of the internal revenue bill with the amendments agreed upon by the Committee of Ways and Means, have instructed me to state that they have examined the amendments so far as they have been determined upon by the Committee of Ways and Means, and have consulted with the chairman of that committee; and the conclusion which they have reached is, that as the amendments thus far agreed on are not material in their character, it is not advisable to order any extra copies at present. The committee, however, will be very glad to order the printing of extra copies, if there should be made hereafter any amendments of such a character as to justify the expenditure.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. W. J. McDONALD, its Chief Clerk, announced that the Senate had passed without amendment bills and joint resolution of the following titles:

An act (H. R. No. 214) for the relief of Colonel R. E. Bryant;

An act (H. R. No. 347) for the relief of R. L. B. Clarke;

An act (No. 473) to extend the jurisdiction of the Court of Claims; and

A joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment New York volunteers.

The message also announced that the Senate

had passed bills of the following titles, in which they requested the concurrence of the House.

An act (S. No. 149) for the relief of Daniel Winslow;

An act (S. No. 176) for the relief of George Henry Preble, a commander in the Navy of the United States;

An act (S. No. 225) for the relief of the Amoskeag Manufacturing Company;

An act (S. No. 253) to incorporate the First Congregational Society of Washington; and

An act (S. No. 278) for the relief of Captain John H. Crowell, quartermaster of the United States Army.

The message also announced that the Senate had concurred in the amendment of the House to joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern division.

MOUTH OF THE MISSISSIPPI RIVER.

Mr. ELIOT, by unanimous consent, introduced a bill to authorize the construction of a ship-channel across the mouth of the Mississippi river; which was read a first and second time, ordered to be printed, and referred to the Committee on Commerce.

CONFISCATION, ETC.

The SPEAKER laid before the House a message from the President of the United States in answer to a resolution of the 5th of March last requesting the names of persons worth more than \$20,000 to whom special pardons have been issued and a statement of the amount of property which has been seized as belonging to enemies of the Government or as abandoned property returned to those who claimed to be the original owners, transmitting reports from the Secretary of State, the Secretary of the Treasury, the Secretary of War, and the Attorney General, together with a copy of the amnesty proclamation of the 29th of May, 1865, and copies of the warrants issued in cases in which special pardons are granted, and the second, third, and fourth conditions of the warrant prescribing the terms, so far as property is concerned, upon which all such pardons are granted and accepted; which were ordered to be printed, and laid upon the table.

Mr. STEVENS moved that twenty thousand extra copies be printed.

The motion, under the law, was referred to the Committee on Printing.

STATE DEPARTMENT.

The SPEAKER also laid before the House the following concurrent resolution from the Senate:

Resolved by the Senate, (the House of Representatives concurring,) That the standing Committees of the two Houses on Public Buildings and Grounds be instructed to inquire and report what further provisions, if any, should be made for the accommodation of the State Department.

On motion of Mr. RICE, of Maine, the resolution was concurred in.

Mr. RICE, of Maine, moved to reconsider the vote by which the resolution was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

WAGON ROAD IN DAKOTA TERRITORY.

Mr. BURLEIGH by unanimous consent submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas an act of Congress was passed March 3, 1865, entitled "An act to provide for the construction of certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska;" and whereas by said act the sum of \$20,000 was appropriated for the construction of a wagon road from a point at or near the mouth of the Big Sioux river, via Yancton, Dakota Territory, to a point at or near the mouth of the Big Chyenne river, thence up said river to its main fork, thence up the north fork to a point of intersection with the road from Niobrara; and whereas the work on said wagon road is reported to have been commenced and far advanced in 1865, by the orders from the Secretary of the Interior, during the prosecution of which work treaties are claimed to have been made with the Indian tribes occupying the country through which said road is located, by which the right of way was secured to the United States; and whereas the Secretary of the Interior is represented to have ordered a suspension of work

upon said Cheyenne road, and required the superintendent having charge of the construction of the same to turn over all the stock, implements, and money appropriated and purchased for the said road to the superintendent of the Niobrara road, whereby the opening and construction of the Cheyenne road are prevented, to the great injury of the Territory of Dakota: Therefore,

Resolved, That the Secretary of the Interior be requested to inform this House whether the work on the said road has been arrested or interrupted by his orders, and if so, for what reason the same has been done; whether any of the moneys appropriated thereto have been diverted to the uses of the Niobrara or any other road mentioned in said act, with the authority, if any in that case, for said diversion.

LOST DISCHARGES OF SOLDIERS.

Mr. FERRY, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas in view of the vast number of military discharges now in the hands of soldiers of the United States liable to be, as many already have been, lost beyond replacement, thereby subjecting the losers to great expense and inconvenience in verifying rights to which they are entitled: Therefore,

Be it resolved, That the Committee on Invalid Pensions be, and are hereby, instructed to consider the justice and propriety of providing by law for such county or other local registration of soldiers' discharges as shall provide against losses of originals, and which shall be sufficient evidence in all cases to entitle the parties in interest to all the benefits thereof, and that the committee be authorized to report by bill or otherwise.

VENTILATION OF THE HALLS OF CONGRESS.

Mr. RICE, of Maine, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to communicate to this House the report made to him by Thomas U. Walter, late architect of the Capitol extension, on the warming and ventilation of the two Houses of Congress, with the reports of Professor Joseph Henry and Dr. Charles M. Wetherill accompanying the same.

And then, on motion of Mr. WASHBURN, of Illinois, (at four o'clock and thirty minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. ALLISON: The petition of R. W. Tirrell, and 500 others, citizens of Manchester, Iowa, for a law to regulate inter-State insurances.

By Mr. DRIGGS: The petition of Hill Gamble, and 34 others, of East Saginaw, Michigan, asking for the equalization of bounties.

By Mr. ECKLEY: The petition of E. M. Jenkins, and 110 others, wool-growers of Hammondsville, Jefferson county, Ohio, for an additional duty on foreign wool.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 5, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

The SPEAKER. In accordance with the order of the House no business is in order to-day except debate on the President's message, upon which the gentleman from Ohio, [Mr. BUNDY,] is entitled to the floor.

NATIONAL SAFE DEPOSIT COMPANY.

Mr. WARNER. I desire to enter a motion to reconsider the vote by which House bill No. 338, to incorporate the National Safe Deposit Company, of Washington, was laid on the table.

The SPEAKER. The motion will be entered on the Journal.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution (S. R. No. 80) to extend the time for the completion of the Union Pacific railroad, eastern division; when the Speaker signed the same.

RECONSTRUCTION.

Mr. BUNDY. It was my intention to address the House to-day extemporaneously, but I am entirely too unwell to proceed. I therefore ask to be allowed to print some remarks, in which I will embody the substance of what I would have said.

The SPEAKER. The Chair hears no objection, and leave is granted.

[His remarks will be found in the Appendix.]

Mr. PHELPS. Mr. Speaker, on the 1st of May, 1865, the Union Army numbered one million five hundred and sixteen men. After a struggle, unprecedented in ancient or in modern history, the purpose for which that vast power had been called forth was accomplished. Four years of civil war between people of the same race, of the highest type of modern civilization, and of equal intelligence, courage, and determination, had been waged upon a theater of continental proportions, had employed in its prosecution the most finished and destructive enginery, had in its terrific battles and daily skirmishes cost this generation over half a million lives, and had entailed upon the nation a debt of three thousand and upon the insurgent section a loss of seven thousand million dollars. But remarkable as was this contest in all the elements of material grandeur, it was still more memorable for the importance of the issue involved, and the extraordinary precision with which it was defined. Slavery, struggling for perpetuity, expansion, and power, struck at the existence of the Government, which, in the growth and progress of ideas necessarily came to stand in its path, arrest its advance, and menace its security. Slavery was the cause, and the only cause, of the rebellion. The idea of secession would never have been practically adopted, certainly never enforced by arms, but in defense of that institution. Hence the war policy of the Government necessarily became anti-slavery. Hence, in the fullness of time, came the proclamation of emancipation, the organization and arming of liberated slaves, the immediate and uncompensated abolition of slavery within her limits by the State of Maryland—an offering voluntarily made by that loyal State, as her contribution to the common cause in furtherance of the general policy settled upon as the only one to suppress the rebellion—and following that, the passage by Congress by a two thirds majority of the proposition to be submitted to the several States to abolish slavery throughout the country forever by constitutional amendment.

The policy thus adopted and persevered in by the Government ultimately forced a similar policy of emancipation and enlistment of slaves upon the consideration of the rebel authorities. The instant the confederate government found itself reduced to that dilemma the scales fell from all eyes. No sooner was it discovered that the thinned ranks of the rebel army, exhausted by four bloody years of incessant combat, and required to face the fresh columns that poured down with endless tramp from the North, could only be recruited from among those very slaves, to rivet whose fetters that army was in fact fighting, than the whole fabric tumbled into ruin. To arm the slaves was of course to free them, and to free the slaves to fight the battles of slavery was simply a *reductio ad absurdum* and a ghastly farce.

In the providence of God, it seems necessary that this most cruel of wars should have been fought to the bitter end upon the "line" which has been indicated: first, to secure from the South the complete, irrevocable, and final surrender of slavery; second, to remove all occasion for hindering the immediate pacification of the country by a desultory guerrilla warfare, so much feared and predicted; and third, to obviate all danger, and thus to extinguish in every candid mind all reasonable fear of a possible future rebellion in the interest of the defeated insurgents.

This generation cannot fully appreciate, but history will recognize the great fact of the abolition of the institution of human slavery. It is too sudden, too violent, and too vast to be fully comprehended to-day. Not the least among the many great evils of this system was the specific influence it produced over the moral sense, dwarfing and contracting the consciences of men to its narrow standard, just as darkness contracts the physical eye. Bursting suddenly and with great noise and fury into the bright air of freedom, what wonder that we should still see with dazzled and bewildered vision, that

we should grope and clutch vaguely at the objects around us, that we should be tormented with panic fears and haunted with hideous dreams of the dark prison-house. It is, therefore, by no means strange to me, but quite natural, that many well-meaning but purblind patriots should still afflict themselves and society with their panic dread of rebellion; should predict the revival or even affirm the actual present existence of slavery; should start at every sound, and stampede at every shadow; should see walking by moonlight the ghost of slavery, and behind every bush a "red-handed rebel;" should rend the air with clamors for protection against this imaginary monster, and make both day and night hideous with their jargon of guarantees, conditions, and constitutional amendments. Nor is it at all surprising that these same purblind patriots, in their blundering frenzy, should strike by mistake their best friends, should attack the Secretary of State, should denounce and threaten the President, and involve in the same censure the sacred memory of his lamented predecessor.

Sir, who is Secretary Seward, that he should be hawked at and torn, not now by the knife of the traitor assassin striking slavery's last blow at its greatest human antagonist, but this time by the loud and blatant champions of loyalty? I remember him well, with his "higher law" and his "irrepressible conflict," the scarred and reënlisted veteran in this great war of liberty; and I recollect him as he stood in the Senate many years ago, when men who now revile him as recreant and denounce him as a rebel sympathizer, then scoffed at him as an abolition fanatic, as he stood at the head of a corporal's guard gallantly attacking slavery in its stronghold. Sir, it may be said of him that while Phillips and Garrison and the other humbugs of both sexes were fighting valiantly in the rear, William H. Seward was at the front, leading not the advanced guard, but the skirmish line of freedom right up to the breastworks. With Henry Ward Beecher, he has devoted all the best years of his life to the destruction of human slavery. He struck at it whenever it lifted one of its hydra heads; he has put the searing iron, hissing hot, to the last of them; he felt anxiously and skillfully for the last pulsation of the dying monster's heart; he has pronounced it dead, and he who feared it not when living and terrible is not scared at its carrion. He belongs to a more vigorous and a more practical school of statesmen. He takes this view of the case, and all sensible men of firm nerves, clear eye-sight, and good digestion, agree with him, or soon will. The South was formerly possessed of the devil, in the scripture sense, and dwelt among the tombs. While this unclean spirit was present, there was much foaming and gnashing. It was finally exorcised, and as it came rending its way from out its tormented and bleeding victim, it howled out its name, not as legion, but slavery. It became incarnate in the person of Booth, and astonished and appalled mankind by the supreme horror and last convulsion of demoniac madness, before it died the death of a dog.

Now, there are those who would scourge and manacle and cuff and curse the rescued, regenerated, and emancipated South, even before her wounds are stanchd from this frightful, this worse than Cesarean operation. Beecher and Seward are of a different school of philanthropists. They see the one but lately possessed of the unclean spirit and gnashing among the tombs, now sitting, clothed, and in his right mind. They do not look for uniform amiability, nor do they require the patient immediately, and while smarting with pain, to express profound satisfaction and intense delight with the process, nor unfeigned personal love and gratitude toward those who performed it. On the contrary, it is fair to presume that those men of honor would abandon the unhappy victim to the tormentors should it exhibit so craven a spirit and so contemptible a hypocrisy. Nor is it deemed indispensably necessary that men, otherwise loyal, should profess now to hold the doctrines which

they have endeavored to maintain by the sword as false and heretical *ab initio*. For forty years and more they have been educated to believe the false and dangerous heresy which bore them the bitter fruits they reaped from the attempt at rebellion. It would be unreasonable to require, as it would be impossible to expect, that these people should all of a sudden sincerely and honestly believe that the principle for which they contended was false, because those who professed it have been routed upon the field. What we require and have a right to require of them is that they abandon that doctrine as a principle of action for the future. We have lost too many of our people in this war, we have shed too much blood and lost too much property and spent too much money to be altogether indifferent about the legitimate fruits of our dearly bought victory. We fought for Union, for the integrity, the immortality of our Government, and by the help of God we have conquered. We owe it to ourselves and to posterity to assure the one and the other against danger in the future. We therefore demand a searching, adequate, and irreversible guarantee of future practical loyalty. That demand is the sum and substance of the Administration policy, which it has lately become the fashion to scoff at.

Here is the "policy" in the exact language of President Johnson. I quote from his annual message to Congress, of the 4th December, 1865, a state paper that for clearness, terseness, cogency, and elegance has never been surpassed, and that for broad and catholic statesmanship and heroic intrepidity has taken the world by surprise:

"It is not too much to ask, in the name of the whole people, that on the one side the plan of restoration shall proceed in conformity with a willingness to cast the disorders of the past into oblivion; and that on the other the evidence of sincerity in the future maintenance of the Union shall be put beyond any doubt by the ratification of the proposed amendment to the Constitution, which provides for the abolition of slavery forever within the limits of our country."

"The adoption of the amendment reunites us beyond all power of disruption. It heals the wound that is still imperfectly closed; it removes slavery, the element which has so long perplexed and divided the country; it makes of us once more a united people, renewed and strengthened, bound more than ever to mutual affection and support."

And again:

"As no State can throw a defense over the crime of treason, the power of pardon is exclusively vested in the executive government of the United States. In exercising that power I have taken every precaution to connect it with the clearest recognition of the binding force of the laws of the United States, and an unqualified acknowledgment of the great social change of condition in regard to slavery which has grown out of the war."

The same plan of restoration was embodied by President Lincoln in his famous proclamation of July 18, 1864:

To whom it may concern:

Any proposition which embraces the restoration of peace, the integrity of the whole Union, and the abandonment of slavery, and which will be received and considered by the executive government of the United States, and will be met by liberal terms on other substantial and collateral points.

To secure the definite, unequivocal, and irrevocable surrender of slavery, the one only cause of rebellion, the one solitary root of disloyalty, to secure it by the voluntary surrender of the insurgents themselves, and to secure it by their legislative ratification of the constitutional amendment, acting upon it as States; as States of and in the Union under the Constitution; not only so, but as States of the Union above the Constitution by actually exercising the supreme State prerogative of amendment, by, in fact, sharing the State omnipotence of organic creation; this, then, was the aim and end of the Administration policy, this was the practical restoration of the Union.

Contrasts are sometimes more useful for purposes of illustration than analogies. The stars are not visible until the blackness of night devours the light of day. With this view let us hear the bold and outspoken leader of the House, speaking, as he frankly admits, upon his own responsibility; but speaking, as he

claims, with equal candor, "so as to secure perpetual ascendancy to the party of the Union," or, as he otherwise phrases it, to "continue the Republican ascendancy."

"Two things are of vital importance"—

I am quoting the distinguished gentleman from Pennsylvania, [Mr. STEVENS]—

"so to establish a principle that none of the rebel States shall be counted in any of the amendments of the Constitution until they are duly admitted into the family of States by the law-making power of their conqueror. For more than six months the amendment of the Constitution abolishing slavery has been ratified by the Legislatures of three fourths of the States that acted on its passage by Congress, and which had Legislatures, or which were States capable of acting, or required to act, on the question."

"I take no account of the aggregation of white-washed rebels who without any legal authority have assembled in the capitals of the late rebel States and simulated legislative bodies."

The reference is to the Legislatures elected in the several States by virtue originally of proclamations emanating from provisional governors appointed by the President; all the electors and members being required to take the prescribed amnesty oath of allegiance to the Government, and acquiescence in martial emancipation.

To proceed:

"Nor do I regard with any respect the cunning hypocrisy with which they deluded the Secretary of State by frequent telegraphic announcements that 'South Carolina had adopted the amendment; Alabama has adopted the amendment, being the twenty-seventh State,' &c. This was intended to delude the people, and accustom Congress to hear repeated the names of these extinct States as if they were alive, when, in truth, they have now no more existence than the revolted cities of Latium, two thirds of whose people were colonized and their property confiscated and their right of citizenship withdrawn by conquering and avenging Rome."

Here we have outlined with the freedom and boldness of a master hand the framework of a plan which was at a very early day of the session (December 18) proposed for the consideration and adoption of Congress. This plan had for its basis the theory of "defunct," "dead," or "extinct States," or if that were adjudged impossible or absurd, then they were to be called "States out of the Union and now conquered Territories." In either case, that is, whether on the one hand they are "not out of the Union but only dead carcasses lying within the Union," or whether on the other hand "they are and for four years have been out of the Union for all legal purposes"—in either of these hypotheses the logical sequence resulted that "being now conquered they are subject to the absolute disposal of Congress."

This programme then goes on to dispose of them as subjugated foreign provinces, to manacle their outlawed people, and hold them indefinitely as the mere slaves of Congress; to force them "to mingle with those to whom Congress shall extend the right of suffrage," and in that condition, excluded from representation, though subject to taxation, governed and disciplined by imported agents and commissioners, dragooned, court-martialed, and plundered, they are to be kept "for some years" "to eat the fruit of foul rebellion." Should this training fail to develop a spirit of earnest and sincere loyalty; should the advantages of this school, in which with exquisite and inimitable humor it is declared that they are to learn the principles of freedom, "practice justice to all men," and "accustom themselves to make and to obey equal laws" appear to have been thrown away upon ingrates unable to appreciate and unwilling to profit by them, does the programme on that account fail? Not at all. It has but just begun to succeed. The remedy for obstinate disloyalty is at hand. Permanent, incurable disaffection may read its fate very plainly in that of "the revolted cities of Latium, two thirds of whose people were colonized and their property confiscated and their right of citizenship withdrawn by conquering and avenging Rome."

As a speculation upon disloyalty, this policy could not possibly be improved. If general confiscation of property, under pretext, is what is wanted, no surer road to it can be found. It

is a process which, if put in operation upon a community whose loyalty was immaculate, would speedily convert it into a community of rebels. Why, sir, I believe that the spirited people of my own native State of Vermont, teased by so tormenting a tyranny, would indignantly revolt and turn upon their oppressors at every hazard and against all odds. If they did not, they would not prove their legitimate descent from those gallant men of 1781, upon whom Ethan Allen relied in his demand on behalf of the self-constituted State of Vermont for her immediate admission into the Union and representation in the Continental Congress.

"He declared to that body that no person could dispute his attachment to and sufferings in the cause of his country; but he did not hesitate to assert that Vermont had an indubitable right to agree on terms of cessation of hostilities with Great Britain, provided the United States persist in rejecting her application for a union with the States. Vermont, of all people, would be the most miserable were she obliged to defend the independence of the United States, and they at the same time at full liberty to overthrow and ruin the independence of Vermont. I am persuaded, when Congress consider the circumstances of this State, they will not be more surprised that I have transmitted these letters [letters from British emissaries containing treasonable overtures] than that I have kept them in custody; for I am as resolutely determined to defend the independence of Vermont as Congress are that of the United States, and rather than submit will retire with the hardy Green mountain boys into the desolate caverns of the mountains and wage war with human nature at large."—*Hoskins's History of Vermont*, page 102.

Such was the resolute and defiant attitude maintained by the infant State of Vermont, demanding of Congress admission into the Union as a right, although her independence had never been recognized nor her sovereignty established; and even her boundaries were disputed and her territory claimed by the neighboring States. And yet the memory of the bold Ethan Allen is to-day as much revered for that spirited and emphatic declaration to Congress as for his famous reply to the British commander of Ticonderoga, asking by what authority he demanded its surrender: "I demand it in the name of the Great Jehovah and the Continental Congress!"

The congressional treatment of the eleven States lately in insurrection, according to the plan of the gentleman from Pennsylvania, is so well adapted to provoke continued hostility to the Government and goad a maddened population into imbecile and desperate resistance that the extreme resort of confiscation which would then be justified has already been anticipated by an elaborate calculation. Four thousand million dollars are to be raised by sale of lands and such other property as can be found.

Four billions of money, mark you, to be raised out of a country blasted by a devastating war, out of a people stripped and picked by rebel sequestration, their whole slave property and their entire circulating medium annihilated; a people at this moment, many of them, begging their victuals and clothes of the North!

This programme of dissolution and reconstruction is of course incomplete without a series of amendments to the Constitution, all of which are to be consummated "before the defunct States are admitted to be capable of State action."

"They ought never to be recognized as capable of acting in the Union or of being counted as valid States until the Constitution shall have been so amended as to make it what its framers intended, and so as to secure perpetual ascendancy to the party of the Union," &c.

The first of these amendments is to change the basis of representation from Federal numbers to actual voters. The others are to allow Congress to lay a duty on exports, to make all laws uniform, to prohibit the assumption of the rebel debt, and lastly, to extend the right of suffrage to the emancipated blacks, although upon this point there seems to be some doubt as to whether the result may not be reached by direct congressional action. In either case, whether by constitutional amendment or by legislation, universal negro suffrage must be enforced as well "to continue the Republican

ascendency" as because "without the right of suffrage in the late slave States the slaves had far better been left in bondage."

As an earnest of the enforcement of this policy, and as a pledge of the principle on which this Congress would legislate for Territories over which it claimed jurisdiction, the action of this House, at a very early period of the session, may be cited.

A bill passed the House in January establishing universal negro suffrage in the District of Columbia. This was done by a valid exercise of power, Congress having by the Constitution exclusive legislation over this District in all cases. It was done, however, in direct violation of the wishes of the people of the District, and against the almost unanimous protest of the legal and qualified voters. It was not called for by the public sentiment of the country. Since the breaking out of the rebellion, New York, Illinois, Wisconsin, Minnesota, and Connecticut had been asked to enfranchise the few colored men within their limits. They all refused. In the State of New York it assumed the form of a proposition to permit negro suffrage without a property qualification. In 1860 such a proposition had been defeated by—yeas 197,503, nays 337,984. In 1864, after the presumed advance of public sentiment upon this question, a like proposition was defeated by—yeas 85,406, nays 224,336. In August, 1862, a vote was had in the State of Illinois on several propositions relating to negroes and mulattoes, with this result:

For excluding them from the State.....	171,893
Against.....	71,306
	<hr/> 100,587
Against granting them suffrage or the right to hold office.....	211,920
For.....	35,049
	<hr/> 176,271
For the enactment of laws to prohibit them from going to or voting in the State.....	198,938
Against.....	44,414
	<hr/> 154,524

As late as the autumn of 1865 the people of Connecticut refused by over six thousand majority to enfranchise the handful of colored men residing among them. An effort was made in the Thirty-Eighth Congress to incorporate the feature of negro suffrage in the bill to provide a temporary government for the Territory of Montana. It failed; and among those who voted persistently against negro suffrage in this new Territory, where there were perhaps no negroes at all, are the names of the entire Maryland delegation, consisting at that time (1864) of Messrs. Creswell, Henry Winter Davis, Harris, Thomas, and Webster.

After so many and such decided manifestations of public opinion, showing unmistakably that the people of this country are inflexibly opposed to a general and promiscuous intermingling with negroes at the polls and in public office, it was scarcely to be expected that the repudiated doctrine should be forced upon the protesting population of this District. Whatever reasons may be urged in support of universal suffrage in general, they all fail in the case of a municipal corporation. There are no people or interests within the limits of the District of Columbia of any importance that are not included within the corporate franchises of the cities of Washington and Georgetown. There is no voting done in the District except for the municipal officers of the two corporations.

It was therefore unfortunate that the political experiment of universal negro suffrage should first be applied to a city corporation, in which the horde of voters thus manufactured were, with scarcely an exception, without a particle of interest in the body whose franchises they were made to share, and whose funds they were assigned to control. Up to this time the rash feat of legislation remains a failure under the silent veto of the Senate and the

dead weight of public opinion. It is significant, however, of the fate in store for eleven States, under the false doctrine that by attempted secession they have consummated the dissolution of the Union, and by the failure of their insurrection, the surrender of their insurgent armies, and full and complete submission to the authority of the Government and obedience to its laws, have done no more nor less than lapse into the condition of conquered territories, subject to the absolute disposal of Congress.

I do not propose to review in detail the arguments or to discuss the authorities by which this doctrine has been maintained. I have been surprised, upon a question of such moment, at a crisis in our country's history of such transcendent gravity, to encounter a line of reasoning so utterly fallacious. The pivot of the whole argument is the concession of beligerent rights. Humanity required an observance of those restraints and courtesies which are due to an enemy by the law of nations. Cartels for the exchange of prisoners, and flags of truce to bury the dead, are therefore pointed to as the evidences of a state of war between independent foreign nations. That is what this argument amounts to, and nothing more. I was still more astonished to find the narrow technical doctrine of estoppel drawn from its proper sphere in the county court to reinforce this feeble logic. South Carolina must be held to be out of the Union because her convention and Legislature roundly affirmed that she was in so many words. Notwithstanding the Government took issue with South Carolina upon that identical proposition, denying that she was out of the Union in law, and in fact making good that denial by waver of battle, still South Carolina, under this doctrine of estoppel, must be held to have succeeded from the very fact of failure, and the Government to have failed from the very fact of success.

Sir, we have had a war for union, not for disunion. We have fought, not to consummate secession, but to prevent it. We were called forth, and we went forth, to put down treason, to enforce the laws, to crush out rebellion, to maintain the Government, and to save the Union. With our martyred leader we first tried to save the Union with slavery and we failed. We then tried to save it without slavery and we succeeded. We did not fight to secure the ascendency of a party, or to keep any man or set of men in office, but we fought for our country, for its Constitution, and its flag.

It was on this principle that the great contest began, and it was on this principle, held steadily in view by every department of the Government that it was prosecuted to a successful issue. These principles were clearly set forth by President Lincoln in his various proclamations and messages, letters and speeches. In his first inaugural, March 4, 1861, he laid down the correct doctrine, from which, to the day of his death, he never departed:

"It follows that no State upon its own mere motion can lawfully get out of the Union; that resolves and ordinances to that effect are legally void; and that acts of violence within any State or States against the authority of the United States are insurrectionary or revolutionary, according to circumstances. I consider, therefore, that in view of the Constitution and laws, the Union is unbroken, and to the extent of my ability I shall take care, as the Constitution itself expressly enjoins upon me, that the laws of the Union be faithfully executed in all the States."

The executive department, speaking through the Secretary of State, explicitly declared that—

"The Congress of the United States furnishes a constitutional forum for debate between the alienated parties. Senators and Representatives from the loyal portion of the people are thus already fully empowered to confer; and seats also are vacant and inviting Senators and Representatives from the discontented party who may be constitutionally sent there from the States involved in the insurrection."

To the same principle Congress also is committed by its acts and resolutions. The act of August, 1861, laying a direct tax of \$20,000,000 upon the United States, apportions that sum among the several States, including all the States

then in rebellion by name. Thus Virginia is recognized as still a State within the Union: "To the State of Virginia, \$937,530,667." And so with North Carolina, South Carolina, and all the eleven. Each is taxed by name, and each is named as a State, as in the case of the loyal States.

The act of Congress of March 4, 1862, under which the present House of Representatives was chosen, recognizes the right of these States to representation, in terms.

Thus we have the great fact that these States were living States, States of this Union, States subject to taxation and entitled to representation, conclusively settled by Congress itself, and settled at the very time when the people of those States were actually in flagrant insurrection. If doubt should still exist as to the true intent and meaning of these acts let Congress be its own interpreter. The record here is familiar but cannot be too often repeated. It is one of the great landmarks in this controversy and should always be kept in sight. In July, 1861, a resolution was adopted by such large majorities in both Houses of Congress as amounted virtually to unanimity, declaring:

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

The principle thus emphatically pronounced by Congress and the Executive was the common sentiment and universal understanding of the whole country throughout the entire period of the rebellion. It was affirmed by State Legislatures; it was announced in party platforms; it was enforced everywhere by loyal speakers and the loyal press. It was significantly recognized by the Union national convention which admitted the delegations from Tennessee, Arkansas, and Louisiana, upon an equal footing with the other States, following in this respect the example of Congress, and presented the name of Andrew Johnson, of Tennessee, to the suffrages of the American people as the Union candidate for Vice President of the United States. It was triumphantly sustained at the ballot-box by the nation at large. And it is the same Andrew Johnson, of Tennessee, who is to-day laboring to apply that same principle, in perfect harmony and consistency with his own record and with the known wishes of the lamented Lincoln, surrounded and supported by a Cabinet of Lincoln's selection.

The evidence of the recognition of these States as States in the Union, by force of the combined authority of both Congress and the Executive, culminates in their ratification of the great constitutional amendment as declared by the official certificate of the Secretary of State. That certificate was officially published on the 18th of December, 1865, in pursuance of an act of Congress, (April 20, 1813), providing that when the State Department shall have been officially notified that any proposed amendment to the Constitution had been adopted according to the provisions of that instrument—

"It shall be the duty of the Secretary of State, forthwith, to cause the said amendment to be published" * * * * "specifying the States by which the same may have been adopted, and that the same has become valid."

After reciting the amendment, the certificate of the Secretary of State proceeds as follows:

"And whereas it appears from official documents on file in this Department that the amendment to the Constitution of the United States, proposed as aforesaid, has been ratified by the Legislatures of the States of Illinois, Rhode Island, Michigan, Maryland, New York, West Virginia, Maine, Kansas, Massachusetts, Pennsylvania, Virginia, Ohio, Missouri, Nevada, Indiana, Louisiana, Minnesota, Wisconsin, Vermont, Tennessee, Arkansas, Connecticut, New Hampshire, South Carolina, Alabama, North Carolina, and Georgia, in all twenty-seven States; and whereas the whole number of States in the United States is thirty-six; and whereas the before specially named States whose Legislatures have ratified the said proposed amendment constitute three fourths of the whole number of States in the United States:

"Now, therefore, be it known that I, William H.

Seward, Secretary of State, by virtue and in pursuance of the second section of the act of Congress approved the 20th of April, 1818, entitled "An act to provide for the publication of the laws of the United States, and for other purposes," do hereby certify that the amendment aforesaid has become valid to all intents and purposes as a part of the Constitution of the United States."

Thus, by the joint authority of both Congress and the Executive, eight States that are claimed to be out of the Union, or dead States within the Union, from their participation in a rebellion for slavery, are finally and conclusively recognized as constitutional States of the Union for the highest of all purposes. It is a fortunate and auspicious circumstance that the highest proof that could be offered of their legal and constitutional status is connected with the strongest guarantee that could be given of their repentance for the past and their loyalty in the future.

I use the word "repentance" designedly. True repentance consists not in loud-mouthed professions. It consists in "bringing forth fruits meet for repentance." How much the South was chastened, humbled, and punished by the stern hand of war, he only can estimate who remembers the strange, infatuated fondness with which her people clung to their peculiar institution, and who appreciates the vast amount of wealth represented by it. It must not be forgotten by those whose clamors for the punishment of traitors grow incessantly louder as the danger from treason grows less, that in addition to the loss of the flower of the southern manhood in battle; in addition to the utter annihilation of the entire circulating medium in the pockets of these people and of the invested wealth in their safes; in addition to the wide-spread devastation and ruin of a desolating war, the crowning punishment of confiscation has already been their portion. Emancipation was punishment to every man who owned a slave. I have always believed that treason was a crime. Myself, I shrank from it as from pollution, until the time came to close with it in a death-grapple. For the leaders of rebellion, those who fired the southern heart and precipitated revolution, I have no sympathy, even now, in their disgrace. I have believed that treason ought to be punished, and I believe that it has been punished. If there be those who still thirst for vengeance, there may be exceptions, but I believe that they belong principally to that class of patriots who, in the words of General Sherman, "shun the fight and the march, and are loudest, bravest, and fiercest when danger is past."

In the view which I have taken of the great constitutional amendment abolishing slavery, it appears in a fourfold aspect:

1. As a surrender of the cause of the war.
2. As a pledge of sincerity in accepting the result of the war.
3. As a guarantee of future loyalty.
4. As a punishment for treason, by confiscation.

Is anything else wanted to pacify the country, restore the Union, close up our ranks, and march with solid, unbroken front against imperialism in America and despotism throughout the world? Is anything else to be done before confidence can be restored at home, trade revived, finances strengthened, currency settled, and resources developed?

The freedmen must be cared for and protected in their rights. I admit the necessity. It is already provided for. Under the second section of the amendment Congress has all necessary power over the subject. With the learned gentleman from Ohio, [Mr. BINGHAM;] I had constitutional scruples about the civil rights bill which I could not overcome even for the pleasure of reversing a veto. But that bill is now a law; it will probably be several years before it is judicially negated; in the mean time the freedmen under its operation are secure, and the public sentiment around them will gradually make all special legislation unnecessary.

Is anything else demanded? "Traitors must

be kept from ruling the country they strove to ruin." "Loyal men must govern a preserved republic." That is my belief. That exigency also has been foreseen and provided for. You have a test oath searching and stringent enough to satisfy the most exacting. Under it no traitor can enter Congress or hold a Federal office. I ask you now to administer that oath to Maynard and Stokes and Cooper, and to other brave and loyal Representatives from Tennessee. I ask for the immediate and unconditional admission of the Tennessee delegation on the floor of this House upon an equal footing with those of us who come from other loyal States. It is too late to argue the claims of that State. The whole country knows them by heart. During a great portion of the war Tennessee was actually represented in Congress; in this House by Maynard, in the Senate by Andrew Johnson, the seraph Abdiel of the great rebellion:

"Faithful found
Among the faithless, faithful only he;
Among innumerable false, unmoved,
Unshaken, unseduced, unterrified,
His loyalty he kept, his love, his zeal."

All the evidence taken by the joint committee on reconstruction concurs in the propriety of the prompt admission of her representatives to prevent the warm and glowing loyalty of her people from being chilled, as the loyalty of any people would be, by a persistent and contemptuous ostracism.

General Fisk, the commissioner of the Freedmen's Bureau for Tennessee and Kentucky, headquarters at Nashville, Tennessee, testifies as follows:

"Tennessee abolished slavery by her own action; she elected a Governor by the people; she repudiated the rebel debt; she ratified the constitutional amendment abolishing slavery, and did all that without executive indication or inauguration. Tennessee furnished thousands for the defense of the Union. All this is to her advantage, and were I a member of the Senate or House of Representatives of Congress I would vote most cheerfully to admit the delegation from Tennessee, believing that in so doing I would be taking a step that would increase the loyal sentiment of the State, and which would promote the tranquility and prosperity of the State."

The testimony of General George H. Thomas is equally emphatic upon this point; and, in fact, there is but one opinion among all acquainted with the actual condition of the people of that State. Why not, then, admit the Tennessee delegation? Is anything else demanded?

Mr. Speaker, I had hoped that the joint committee of fifteen, composed as it is of gentlemen of character, experience, and ability, would have given us, as the result of their protracted labors, some proposition on which all loyal men might unite. I did hope in the beginning that within a week after their organization, at least when Congress reassembled in January, they would report in favor of the immediate admission of the representatives of Tennessee. I believe that a majority of the House were prepared to admit those Representatives on any day when the question could be fairly got before them. Their admission has been delayed, and now, under the operation of the reconstruction programme recently reported from that committee, it appears that the State of Tennessee is to be indefinitely excluded from the Union. I say indefinitely, because her admission is made to depend upon the ratification by three fourths of the States of a series of constitutional amendments, which three fourths of all the States will never ratify. It is not enough that Tennessee herself ratifies the amendment. That does not entitle her, by this scheme, to the recognition of Congress. If the real intention had been to encourage southern loyalty by discriminating in its favor, the plan would have recognized States as they successively wheeled into line upon the platform.

Not only are these States to be excluded until every one of these amendments shall have become part of the Constitution, but each is required, by the third section of the amendment, to disfranchise nearly the whole of its voting population. Disfranchisement is a war

measure, and in time of rebellion is almost as necessary a means of defense as an army. It is altogether unsuited to a condition of peace, and, in fact, there can be no real peace in any community where such a proscriptive policy is long persisted in. It is unfortunately true that in most of these States the mass of the population "adhered to the late insurrection, giving it aid and comfort." Whether "voluntarily" or not would be, in the majority of cases, a nice question of casuistry. After the triumphant suppression of a revolt it is not wise or statesmanlike to go back for a minute inquisition into past offenses and canvass calmly and leisurely the by-gone effervescences of fierce excitement. "Let the dead past bury its dead." There are doubtless at the South inveterate, malignant, bitter, revengeful rebels. There are men there who, if tried for treason, lawfully convicted, and sentenced to be hung, could not succeed in getting even my signature to an application for executive clemency. Such men are a curse to any country. Such men brought on the rebellion, and such men are to-day doing the South more harm by their loud-mouthed ranting and offensive demonstrations than all the radicals in the country. I believe such cases to be more numerous in Maryland and the other border States than in the confederacy itself. I believe such cases to be less numerous in the late rebel army than in the great army of "sympathizers," marching like Noah's animals into the ark, male and female. On that side, as on ours, there is a class whom General Sherman's description was made to fit, "A class who shun the march and the fight, and are loudest, bravest, and fiercest when danger is past." Such men, though few in number and contemptible in power, attract attention from the noise they make. One grasshopper makes more noise in a field than a herd of cattle. As a question of propriety, I should like to see such men suppressed; by disfranchisement if that would get rid of them.

But, unfortunately, no practicable test can be found to discriminate such men from others whom it is not politic nor right to proscribe. I refer to men "who did go into rebellion, but who, having taken the amnesty oath, mean in good faith to keep it." Such men are loyal men, and loyal men ought to participate in the government of the country. Sir, I know men who have done, and are now doing, yeoman service in the Union cause who could not literally swear that they had never "voluntarily adhered to the late insurrection, giving it aid and comfort." Are such men to be now kicked out into the limbo of traitors? God forbid! Let us rather take them by the hand and encourage them to persevere. Likely as not, they will one day get far beyond us in the progress of loyalty, and turn back to reproach us for our want of zeal! No, sir, you will have to abandon this sweeping indiscriminate proscription of a whole population, that is, if you are in earnest when you say "it is expedient that the States lately in insurrection should at the earliest day consistent with the future peace and safety of the Union be restored to full participation in all political rights." If you are not in earnest, but only want an issue to disturb the minds of the people of the North by telling them from the stump frightful stories about the people of the South to prevent their participation in the next presidential election, and thus "to secure the Republican ascendancy;" why then keep it in, and let an intelligent people decide the issue.

The first section of the proposed amendment is as follows:

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

By the fifth section—

The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

And by the bill accompanying the proposed

amendment, entitled "A bill to provide for the restoration of the States lately in insurrection to their full political rights," it is required, as a condition precedent to the admission into Congress of the Senators and Representatives from such State, that it shall have modified its constitution and laws in conformity with the amendments.

By "citizens of the United States" are meant persons of color, they being declared such by act of Congress. The "privileges or immunities" of citizens are such as Congress may by law ascertain and define. I presume it will not be denied that under this amendment, if adopted, it would be for Congress to define and determine by law in what the "privileges and immunities" of citizens of the United States consist, in like manner as Congress has already, under the constitutional amendment abolishing slavery and conferring the power to enforce its abolition by appropriate legislation, determined that the emancipated blacks are "citizens of the United States," and defined in what their civil rights as such citizens consist.

An act of Congress to define the privileges and immunities of citizens could and doubtless would be made to include the privileges of voting, serving upon juries, and of holding office. Those privileges must, then, be incorporated into the constitution and laws of each of the States excluded before they have complied with the terms prescribed. Civil rights are limited to suing and testifying in courts, and being amenable to the same punishments as other citizens. "Privileges and immunities" are a much broader and more comprehensive term, and may, by definition, include suffrage, jury duty, and eligibility to office.

It might, indeed, be argued that even in the absence of a declaratory law, these franchises are necessarily conferred upon all "citizens of the United States" by the simple terms of the amendment itself. With such a law, negro suffrage and eligibility is at once enforced over the whole country; in the excluded States by virtue of the provision requiring them to modify their constitution and laws as a condition precedent to representation; in the loyal States by virtue of the provision giving Congress power to enforce the provisions referred to by appropriate legislation.

It is no recommendation to me that this covert introduction of negro suffrage is so artfully framed as almost to escape observation and avoid odium. I would much rather vote for a direct, honest, manly proposition that all men could understand at once, than for an equivocal process accomplishing the same result by machinery. If it is wise, statesmanlike, patriotic, or proper to take from the States the qualifications of voters, and to enforce at this time over the length and breadth of the land universal negro suffrage and eligibility, then, sir, let us make the issue visible and face it like men.

The second and fourth sections relate to the basis of representation and the repudiation of the rebel debt and of claims for emancipated slaves.

That relating to the basis of representation is founded upon a correct principle, and if submitted in connection with a proposition looking to the immediate and unconditional admission of the representation of Tennessee and Arkansas would probably remove all difficulty. No special objection would be made to the fourth section, although I regard it as wholly unnecessary. The idea that under any combination of parties in the future this Congress would ever entertain a proposition to pay the rebel debt or compensate the owners of emancipated slaves is too trifling to govern the action of statesmen. As for the individual States, they have all, or nearly all, incorporated such a provision in their constitutions, and if they had not they are not able by any process to escape the payment of their proportion of the national debt. The collection laws of the Government operate directly upon individuals and upon property in all the States. It will be as much

as the people of those States can do for many years to pay their share of the Federal taxes, and the danger of their assuming the debt of the exploded confederacy or the payment of claims for emancipated slaves is, in my judgment, wholly imaginary.

A few words with respect to the present condition and future prospects of the southern States generally, and I have done.

As to the disposition of the people of these States, there are two lights to guide us to a judgment. One is by way of inference or logical deduction from the necessities of their situation; the other is positive testimony. After all is said about rebels that can be said, they are but human beings governed by like motives and actuated by self-interest with other mortals. Obviously this interest prompts them to renew and strengthen their allegiance to the Government. The surrender of slavery has left them without a motive for rebellion. Loyalty, which means habitual obedience to law, is man's normal condition in society. These people must necessarily settle into that condition, if not prevented by maladministration. Their strongest desire now is naturally to be completely restored to the full enjoyment of their political privileges as members of the Union. This desire has increased with the difficulties thrown in their way. I was not of those who wished to see the Representatives elected from these States resuming their seats in this Hall on the first day of the session as though nothing had happened. I was perfectly willing to have them subjected to an ordeal of reasonable delay, one result of which would be to increase their appreciation of the privilege they sought. It is their interest now to overthrow the dogma of secession, since a legitimate application of it results in fixing their status as aliens and subjugated. The only interest they ever had in upholding it was as a means of protecting, in the last resort, their peculiar institution. They will gradually, but surely, become fixed in sound principles of constitutional construction, from the very necessities of the situation.

It seemed at one time absurd to suppose that the present generation could ever form a sincere attachment to the Federal Government or any department of it. And yet the forgiving disposition manifested by our lamented President Lincoln caused the death of him whom they had loathed to be sincerely mourned as a calamity to the South. The unexpected clemency exhibited by President Johnson, compelled by the exigencies of his great office and the moderate counsels of Mr. Lincoln's Cabinet, to leave harsh and vindictive utterances, hot from the boiling caldron of civil war, unrealized in time of peace, soon won for the executive department of the Government the confidence and even affection of the majority of the southern masses. Their interest in the legislative branch of the Government will return at once with their admission to a participation in it.

After a careful and anxious survey of the situation, made under an awful sense of responsibility to my country and to history, with no personal predilection or private interest that I am aware of to warp my judgment toward the conclusion it has reached, but with prejudices and interests all bearing in an opposite direction, I am constrained to believe that all further guarantees, by way of constitutional amendment or otherwise, as conditions precedent to a cautious and discriminating admission of loyal Representatives from States and districts whose inhabitants have been in insurrection, but who now present themselves in an attitude of loyalty and harmony, are unnecessary, impolitic, unstatesmanlike, and prejudicial to the peace and welfare of the country. The guarantees we have, and which I deem sufficient, are:

1. The constitutional amendment abolishing slavery and conferring upon Congress ample power to enforce it; and

2. A loyal army of one million fighting men, just as determined to stamp out treason should it dare to show itself in the future, as they have

proved themselves able to deal with it in the past.

The direct testimony as to the actual condition of the southern people is of course conflicting. I have, however, seen nothing which has materially shaken my confidence in the evidence of Lieutenant General Grant. His opportunities for observation have been ample, his judgment is not biased by partisanship, his sound common sense, his knowledge of human nature, his keen penetration and almost intuitive discernment of character are the most solid pillars upon which his great reputation rests.

His testimony is substantially corroborated by that of Major General Sheridan, furnished at a later period. General Grant testifies as follows:

"I am satisfied that the mass of thinking men of the South accept the present situation of affairs in good faith. The questions which have heretofore divided the sentiment of the people of the two sections—slavery and State rights, or the right of a State to secede from the Union—they regard as having been settled forever by the highest tribunal—arms—that man can resort to. I was pleased to learn from the leading men whom I met that they not only accepted the decision arrived at as final, but, now that the smoke of battle has cleared away and time has been given for reflection, that this decision has been a fortunate one for the whole country, they receiving like benefits from it with those who opposed them in the field and in council.

"Four years of war, during which law was executed only at the point of the bayonet throughout the States in rebellion, have left the people possibly in a condition not to yield that ready obedience to civil authority the American people have generally been in the habit of yielding. This would render the presence of small garrisons throughout these States necessary until such time as labor returns to its proper channel, and civil authority is fully established. I did not meet any one, either those holding places under the Government or citizens of the southern States, who think it practicable to withdraw the military from the South at present. The white and the black mutually require the protection of the General Government.

"There is such universal acquiescence in the authority of the General Government throughout the portions of the country visited by me that the mere presence of a military force, without regard to numbers, is sufficient to maintain order. The good of the country and economy require that the force kept in the interior, where there are many freedmen, (elsewhere in the southern States than at forts upon the sea-coast no force is necessary,) should all be white troops. The reasons for this are obvious without mentioning many of them. The presence of black troops, lately slaves, demoralizes labor, both by their advice and by furnishing in their camps a resort for the freedmen for long distances around. White troops generally excite no opposition, and therefore a small number of them can maintain order in a given district. Colored troops must be kept in bodies sufficient to defend themselves. It is not the thinking men who would use violence toward any class of troops sent among them by the General Government, but the ignorant in some places might; and the late slave seems to be imbued with the idea that the property of his late master should, by right, belong to him, or at least should have no protection from the colored soldier. There is danger of collisions being brought on by such causes.

"My observations lead me to the conclusion that the citizens of the southern States are anxious to return to self-government within the Union as soon as possible; that while reconstructing they want and require protection from the Government; that they are in earnest in wishing to do what they think is required by the Government, not humiliating to them as citizens, and if such a course were pointed out they would pursue it in good faith. It is to be regretted that there cannot be a greater commingling at this time between the citizens of the two sections, and particularly with those intrusted with the law-making power."

Mr. Speaker, it is not well that the people should be deceived in this matter, nor can they be. The question is simply one of union or disunion. Let the issue be frankly made and squarely met. Let the great contest be made under no doubtful colors, with trumpets sounding no uncertain sound, and may God defend the right!

For myself, I wish no new war-cry. I want to see no new motto emblazoned upon the victorious flag of my country. I will recognize none that has not been with it under fire. "Liberty and Union!" words embroidered there by the eloquence of Webster, are still proudly borne upon its folds. Let them remain there, with all the added significance that the great war for liberty and Union has imparted; with universal liberty achieved for all the inhabitants of the land, and Union, unconditional Union, the determined aim of all who rally around it.

Mr. INGERSOLL. I had fondly hoped, Mr. Speaker, when Lee surrendered to General Grant, and Johnston surrendered to General Sherman, the last armies of the rebellion, that we had heard the last of southern chivalry, and that we also had heard the last and seen the last of northern sycophancy and northern flunkynism. I had fondly hoped that there had been evinced enough of heroism and patriotism in the northern people in meeting and overpowering the rebel armies in that one grand, continuous "onward march" for four years in maintenance of the integrity of the Republic to have inspired those men who in former years had been the subservient tools of the southern aristocracy with something like an appreciation of true manhood, so that they would, either for shame, or by virtue of the heroic example that had been set them by the true men of the North, have been willing to have remained in silence, and let the work of reconstruction be performed by those who had saved the country by arms, or at least not have shocked the country again by that flunkynism, that subserviency, that sycophancy, that has ever disgraced that class of the northern people in their pliant yielding to every demand of the South. I had hoped that those examples of heroism would have had at least a silencing effect upon them, and that they would not have thrust themselves forward as the willing tools of their former masters.

But, sir, in this I have been mistaken; my fond hopes have not been consummated. I have been mortified beyond expression to find in the North that same set of men now advocating with the same reckless energy, and the same lack of honor and of principle, anything and everything which the reconstructed rebels tell them to advocate. They are as ready and willing to-day to subserve the purposes of the whipped yet arrogant rebels as they ever were. They are as ready to join hands to-day with them as they did in the passage of the odious compromise measures of 1850, just as they would have joined hands with them during the rebellion if they could have reached over the line of loyal bayonets between; just as they did join principles with them in their Chicago convention and platform in 1864 for the sake of restoration to political power, or even for the moiety of power that might be granted them by the generosity of the South; but what can you now expect of the men who in time of war sympathized with the enemies of the country? The old battles for liberty and justice on the one side and for slavery and tyranny on the other are upon us again, and we must fight them out. The clash of arms it is true has ceased, the physical battle has ended between the North and South, but the old battle of ideas is upon us still. The honest-hearted, patriotic, high-minded, honorable men in the North who are contending for principle have the same opposition, the same obstacles, to meet and overcome that they had before the rebellion. We have advanced, it is true, but there is great work yet before us. The rebels were not made rebels in a day, and they cannot be made patriots in a day. They were the legitimate offspring of slavery after an incubation of at least half a century, and now some are so crazy as to suppose that they can be turned into patriots in an hour. In my opinion, they must be born again. The only difference is this: during the war the rebel had a musket, now he has none. The difference is in the musket, not in the rebel.

Mr. Speaker, if the northern people had been united upon the great principles upon which this war was prosecuted, and in the prosecution of the war at any time during the rebellion, it would have insured the complete and immediate overthrow of the rebel power and the establishment of peace upon the broad principles of eternal justice. We lacked that unanimity, and hence the terribly protracted struggle, involving the sacrifice of half a million noble men and millions of treasure. It required all the energy of the honest-hearted and patriotic people to maintain the arm of the Government against the rebellion, aided and encouraged as it was

by the copperhead party; and now that the war has ceased it requires all the same energy, all the same patriotism, all the same devotion to principles, to maintain the legislative power of the country against the power that has been defeated on the field of battle but which is now attempting to usurp the Government, and in this wicked attempt they are aided, I regret to say, by the Executive of this nation; in fact, he is their leader; without him they would be powerless for evil. We have not only the defeated rebels to fight in this contest, together with their natural allies the copperheads in the North, those who sympathized with them and would have fraternized with them, but for the line of loyal army that interposed between them and their rebel friends, but we have in addition the executive power and patronage of this Government.

But, sir, we are not dismayed nor disheartened. We have been used to temporary defeats, to severer trials than this. We have gone through a storm of war and blood without intimidation, and, sir, as God loves liberty and justice, as the American heart throbs in response to the sentiment of universal liberty, just so sure this same power that was unconquerable in war will be successful in peace, and we shall triumph at last over southern aristocracy and chivalry, over northern sycophancy and flunkynism, and the President also. They will all have to succumb to the heroic and invincible power of northern patriotism, fighting as we are the battles of universal liberty and universal justice.

No, the northern patriots are not disheartened. They have given freely of their blood and treasure; they are now submitting to taxation by reason of the burdens that have been imposed by the war without a murmur; they have submitted to it all without complaint, and with an endurance and a confiding trust that have no parallel in history, and they are ready to endure and suffer whatever may be necessary for the glory and unity of the Republic. They will not suffer the fruits of their great victory, won at such enormous sacrifices, to be bartered away. They will reap the fruits of their victory; they will reestablish the Republic on the principles of justice, and they will never permit any rebel State to be represented in the Congress of the United States until it shall establish a government that is republican in form, and recognizes the rights of mankind, irrespective of color, within its local jurisdiction.

In my opinion, Mr. Speaker, there has been a false issue presented to the people. The President of the United States has done what he could to present an issue to the people that is calculated to mislead and deceive them. He has disguised his real purpose. He talks plausibly (so do all imposters) about "harmonious relations," "taxation without representation," occasionally mentions "soldiers and sailors," and now and then even ventures to use the word "patriotism." But what is all this for? Look at his acts, and then say to me, if you can, that the dearest object of his heart is not to secure representation from the rebel States, so that he may receive their support as a candidate for election to the Presidency in 1868, and receive their vote in the Electoral College. Under a pretense of restoring the Union he is playing a game for the "succession," otherwise he would demand guarantees from the South that the commonest prudence would declare necessary before they are clothed with full political power.

The President and his friends continually persist in declaring to the people that the issue now is, whether or not a State can secede; whether or not the States of the South have been out of the Union or have continued in it; that the question now is, in what way we shall "restore" those States to the Union, or, in the language of the President, "restore them to harmonious relations with the Government;" for the President denies that they have ever been out of the Union, and his present friends sustain his side of the issue.

Now, so far as the practical question for our action is concerned, so far as the interests of this Republic are concerned, so far as the interests of liberty and of justice and of universal right are concerned, it is an immaterial issue whether they are in or out of the Union. So far as the legislation of Congress is concerned, so far as the future status of the States that have been in rebellion is concerned, it matters not whether they have been out of the Union or not, or whether they are in the Union or not. We have heard too much already about States in and out of the Union, and not enough about the rebels in those States.

The question is not, whether those States shall have representation in Congress, but whether the rebels in those States shall be so represented, and allowed to vote here with reference to a restoration of those States to the "harmonious relations" we have heard so much about. It is a matter of supreme indifference to me and to the loyal masses of this country whether those States, technically speaking, are in or out of the Union. But it is a question of vital importance to the country whether those unrepentant rebels shall be represented in Congress, and by their power here defeat the objects of the loyal majority in Congress, defeat the restoration of the Union upon a loyal and humane basis. This is the real issue.

And so far as my voice can go I will use it for the purpose of unmasking the deception that the President of the United States would impose upon the people of this country. To what does it amount to whether I insist that the States are out of the Union, if I allow them to be represented here? Or what does it amount to if I concede that they have never been out of the Union, if I consent to their being represented here? Nothing in the world. They will admit that they are out of the Union, if you will admit them to representation in Congress; and they will not even thank you for insisting that they are in the Union unless you also admit them to representation in Congress; the power to vote loyalty down is what they want. The question is, whether the rebels (who would control absolutely the power and future destiny of those States if they are admitted into the Halls of Congress) are in a fit condition to be allowed representation here. You know, Mr. Speaker, and I know, that when a State, no matter how long it has been in rebellion or what the effect of that rebellion may have been upon that State or its people, is once admitted to representation in Congress it is placed on an equal footing with the other States of this Union, and has the same rights in Congress and out of it that any loyal State has. If you let the President carry out his programme of restoration, then farewell to your intervention by Congress; farewell to the restraining power of the Freedmen's Bureau; farewell to your constitutional amendments and your "civil rights;" farewell to any and all legislation here which interposes in behalf of the true Union men of the southern States.

When you admit these rebel States to representation here they care not whether you consider them as being in the Union or out of the Union so long as you give them a voice here again. And when you give them their votes here you give them a power which, when united with their northern sympathizers in Congress, will overwhelm the Union party and Union measures and reform (I should say deform) this Union in accordance with their own ideas. Are you, the million of brave and patriotic soldiers who survived the shock of war; are you, the patriotic men who defended and sustained our Army against the assaults of the "fire-in-the-rear" party, ready for this kind of restoration? The sacred blood of our martyred heroes cries to Heaven against it.

I take the ground, admitting, for the sake of argument, most distinctly, that no matter if a State cannot get out and never was out of the Union, yet by the rebellion of its people against this Government, by waging open war upon its

lawful authority, every citizen within such State would become thereby an alien enemy to the United States, and liable to be treated by this Government in all respects as one who never was a citizen of this Government, a foreigner domiciled within its territory, to say nothing of the right of the Government to hang them as rebels and enemies. If that position is correct, then it follows that if within any certain State all its inhabitants become alien enemies the Congress of the United States is alone vested with power to establish a government for them, to make laws for them, to control them so long as they shall remain alien enemies or simply aliens. I lay this down as an axiom in our Government: that when a person is an alien enemy, either by being the subject of a foreign jurisdiction or by virtue of his own treason, he remains an alien enemy to this Government until Congress relieves him from that disability. The President's position is, that a citizen of the United States may be a rebel belligerent firing at the life of the nation to-day, and a lawful citizen to-morrow, and entitled of right to representation in Congress!

An alien enemy, being such by virtue of his rebellion and treason, forfeits all the rights that he ever enjoyed under the Constitution and as a citizen of the United States. He forfeits the right to vote; he forfeits the right to be represented in Congress; he forfeits the right to hold office; he forfeits every right except such as he may exercise under the law of nations; and the fact that he may have been born in this country only adds a deeper blackness to his crime; he is entitled to only the same protection, and that, in fact, only by the courtesy of the Government, that would be accorded to a subject of Great Britain, or any other foreign Power, if he were simply domiciled within the jurisdiction of the United States. Let us not forget that these rebels were the most favored of our citizens. Their every interest had been generously protected and fostered by the Government always; and now, after they have sent to untimely graves half a million of the nation's bravest sons; after they have deluged the land with blood and covered it with a shroud of woe, in the names of Fort Pillow, Libby prison, and Andersonville, they demand representation in Congress, and Andrew Johnson and William H. Seward say they ought to have it.

Mr. Speaker, am I right when I declare that the people of these rebellious States are alien enemies to this Government? If I am, when and by what means did they become alien enemies? Was it by act of the Government of the United States? No, sir. Was it by their own act of war? It was. If, then, they were ever alien enemies to this Government, when did they cease to be such; or are they not alien enemies to-day? They are alien enemies this day, unless by act of Congress they have been recognized as being otherwise. The President cannot change an alien into a citizen. The Constitution has vested no power of naturalization upon the President. Congress alone is vested with that power. A foreign-born subject is required to reside in this country for five years before he can become a citizen, unless he has served in the Army; then why should these native-born rebels receive so much more consideration than a foreigner residing peaceably among us with the intention of becoming a citizen?

Sir, let me lay down in connection with this subject this proposition of law: that in order to be an alien to the United States Government it is not necessary that a man should be foreign-born. He may be an alien although not foreign-born. And I hold, sir, that the people of the southern States did, by treason and rebellion, become alien enemies to this Government. By their warfare against the Government they became its enemies; and by the laws of war they became alien enemies and liable to be treated as such. Let me read, upon this point, from Lawrence's *Wheaton on International Law*, page 899:

"In the United States it is incorrect to suppose

that alien as opposed to citizen means foreign as respects country. Indians are the subjects of the United States, and therefore are not in mere right of home birth citizens of the United States; but they may be made citizens by some competent act of the General Government, by treaty or otherwise."

Now, sir, with reference to these rebels who inaugurated a rebellion, who formed a *de facto* government, recognized by the civilized Powers of the world as entitled to belligerent rights; which was recognized by our own Government as entitled to belligerent rights; they became enemies, and alien enemies, although not foreign-born. And, sir, I hold, in accordance with the law which I have read, that the character of alien continues until relieved by competent authority of the General Government.

I read now from the opinion of the Supreme Court of the United States, as recorded in 2 Black's Reports, page 666, to show that the inhabitants of the southern States did, by virtue of their rebellion and treason against the United States, become alien enemies, and that is an independent fact, without reference to the status of the rebel States in their relation to the Union:

"A war may exist where one of the belligerents claims sovereign rights as against the other.

"Insurrection against a Government may or may not culminate in an organized rebellion, but a civil war always begins by insurrection against the lawful authority of the Government. A civil war is never solemnly declared; it becomes such by its accidents—the number, power, and organization of the persons who carry it on. When the party in rebellion occupy and hold in hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against their former sovereign, the world acknowledges them as belligerents, and the contest a war. They claim to be in arms to establish their liberty and independence, in order to become a sovereign State, while the sovereign party treats them as insurgents and rebels who owe allegiance, and who should be punished with death for their treason.

"The laws of war, as established among nations, have their foundation in reason, and all tend to mitigate the cruelties and misery produced by the scourge of war. Hence the parties to a civil war usually concede to each other belligerent rights. They exchange prisoners, and adopt the other courtesies and rules common to public or national wars.

"A civil war," says Vattel, "breaks the bands of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. Those two parties, therefore, must necessarily be considered as constituting, at least for a time, two separate bodies, two distinct societies. Having no common superior to judge between them, they stand in precisely the same predicament as two nations who engage in a contest and have recourse to arms."

"This being the case, it is very evident that the common laws of war, those maxims of humanity, moderation, and honor, ought to be observed by both parties in every civil war. Should the sovereign conceive he has a right to hang up his prisoners as rebels, the opposite party will make reprisals, &c.; the war will become cruel, horrible, and every day more destructive to the nation."

The Supreme Court say:

"As a civil war is never publicly proclaimed *ex nomine*, against insurgents, its actual existence is a fact in our domestic history, which the court is bound to notice and to know."

"The true test of its existence, as found in the writings of the sages of the common law, may be thus summarily stated: 'When the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts of justice cannot be kept open, civil war exists and hostilities may be prosecuted on the same footing as if those opposing the Government were foreign enemies invading the land.'"

"The law of nations is also called the law of nature; it is founded on the common consent as well as the common sense of the world. It contains no such anomalous doctrine as that which this court are now for the first time desired to pronounce, to wit, that insurgents who have risen in rebellion against their sovereign, expelled her courts, established a revolutionary government, organized armies, and commenced hostilities are not ENEMIES because they are traitors; and a war levied upon the Government by traitors in order to dismember and destroy it is not a war because it is 'an insurrection.'"

In this opinion the court declare that these rebels, these traitors, these insurgents, who have been prosecuting this war against the Government, are ENEMIES, to be treated in the light of public enemies, or alien enemies, entitled to the same rights as though it were a foreign war originally, and no more. And now I ask, when the character of an alien once attaches to the rebellious party, when does that character cease? Does it cease simply because they acknowledge their defeat on the battle-field?

Not at all. The character of any criminal does not change when, being detected and overtaken, he acknowledges the crime and proffers to make restitution; he is a criminal still. The rebels were only defeated in carrying out their traitorous designs because they were met and overpowered by the heroism of the northern people. Let us illustrate this a little further. We will presume that the people of Mississippi in 1860 were peaceful citizens; in 1861 they were rebels; in 1862, 1863, and 1864 they were belligerents; in 1865 they were subjugated; in 1866 the Government arrests the leaders for treason. But, say the rebels, you cannot try us for treason; although at first we were rebels, we afterward established the "confederacy," and you recognized us as a *de facto* government, as alien enemies, as belligerents; you waived the right to try us for treason in thus recognizing us. Well, we reply, if that is so, we will dismiss the charge of treason, and treat you as conquered public enemies, as aliens. No, no; that will not do; we will not submit to that; we claim, that notwithstanding you had the lawful right to fight and subdue us, that as soon as you wrested our arms from us we were at once transformed into citizens of the United States Government we sought to destroy, and are now entitled to representation in Congress and all other rights we ever enjoyed under the Constitution. We deny your conclusions, and we propose to contest the point with you before the people.

Mr. Speaker, in my opinion we would have but little trouble in settling these difficulties, or finding a solution of the problems which now weigh so heavily upon the country, had the President of the United States but conscientiously and honestly discharged his duty. Had he had more judgment and less ambition, more patriotism and less egotism, had he desired to subserve the interests of his country rather than his own, we would have had an easy deliverance from our troubles. When the surrender of the rebel armies was made, Andrew Johnson was President of the United States. He had exercised the authority but a few days. He had no experience in the administration of the Government, but he had ambition. He had a desire to make himself conspicuous before the country and before the world, and consequently, blinded by his ambition and crazed by his egotism, he refused to do what the simplest-minded man knew he ought to have done under such circumstances. You all remember the condition of the country at that time. He ought to have called the Congress together at once in special session, called together the representatives of the party who, confiding in his honor and his patriotism, based upon what he had publicly said on all occasions from the very inauguration of the rebellion, elected him Vice President.

Had he thus called the representatives of the people together to counsel and advise with, it would have been an easy matter for Congress at that time to have shaped the legislation of the country to a solution of these difficulties, and adjusted a basis of reconstruction satisfactory alike to the loyal people of the North and the subjugated people of the South. The latter were willing at the time of the surrender to accept almost any conditions which would have spared their forfeited lives and their forfeited property. They were thoroughly whipped; they were subjugated, and they were ready to acknowledge it. From the published speeches the President had made previous to their subjugation, and immediately after, they never dreamed of finding any clemency in his heart. They simply expected the rights and privileges belonging to a vanquished foe. They never dreamed of being regarded as citizens of the United States, entitled to the right of representation in Congress, and the right to "restore" the country they had moved heaven and earth to destroy.

No, sir, they never dreamed of it. The leaders expected to be hung, if they put any reliance upon the oft-repeated utterance of Mr. Johnson, that they should be hung, for he

had declared time and again that he would hang them; that he would make *treason odious*; that it was the greatest crime known to the calendar of crimes; that traitors should be punished. This he had declared, and they knew it. With an army to back him, and loyal people to sustain him in carrying out these declarations, they never dreamed of finding clemency and encouragement and protection, as the sequel has shown they have found, at his hands! Not only protection, sir, but promotion! and he has given them to understand that they have a constitutional right to deliberate in the councils of the Government they attempted to disrupt and overwhelm; that they have a constitutional right to make laws which are to determine the future status of the States and the people of those States who have been engaged in this formidable rebellion against the Government. Under the President's programme they are becoming much emboldened of late. Many of the southern papers insist upon it that all acts of the present Congress are illegal and void, for the reason that the eleven southern States are denied representation in Congress. They even go so far as to advise the President to call the southern representatives to Washington, and have them go in a body and claim their seats; and in case opposition is offered to this proposed outrage, they tell the President to apply the bayonet and clear the House of the radicals! This is easily enough said, but it will never be done. The New York News, referring to this subject of representation in a late number, said:

"The radicals oppose their admission. They bar the doors. They stand armed with stolen and unlawful weapons to dispute the passage of duly elected members of Congress to their rightful seats in the national Legislature. Then why does not the Chief Magistrate of the Republic interpose his authority to prevent this outrage against the representatives of the States and of the people? He has the power to do so. He is Commander-in-Chief of the armies of the United States, and has at his disposal an armed and disciplined force amply sufficient to preserve the peace at the seat of Government, and to enforce obedience to the laws beneath the roof of the Capitol of the Republic. Let a day be fixed for the representatives of the southern States and people to take their seats in Congress. The seats are there ready to receive the rightful claimants. Let them enter, take possession of their own and fulfill their official functions. Should violence be offered them by any man, or number of men, under any pretense whatsoever, let the President send a detachment of Federal troops to preserve order in the Capitol."

"If radical conspirators attempt to support their usurpation by force, the consequences be upon their heads. It is time that the Republic should have a complete and constitutional Legislature. We have been ruled too long by faction. We have been too long subject to the caprices of fanatics. The country must be permitted to resume its normal condition, and if revolutionists stand in the way, the executive arm is strong enough to sweep them from the path of restoration."

The Richmond Whig gives the following advice to Mr. Johnson:

"Call together a Congress composed of members from all the States of the Union, as well those of the South as those of the North, and that if the radical members should refuse to attend, that he shall recognize the northern conservative members and the southern members as the lawful Congress to sit in the Capitol and legislate for the country. The Whig does not see how this programme could be accomplished peacefully and supposes that the radical sectional Congress, as it terms it, would continue its sessions, appeal to the people, and proceed to muster an army if the United States Army should not side with it. In that case the Whig believes that the President would be prepared to meet force with force."

The Enquirer of the same date, discoursing on the same subject, says:

"It is evident, indeed, that a violent collision between Congress and the President is inevitable, and is imminent, if the true spirit and intent of the Constitution shall remain true, and its forms abused for the usurpation of power. In this issue the President has thus far been altogether in the right, and has evinced all the moderation. Congress has been wholly in the wrong, and has displayed a corresponding violence. That the public peace is yet unbroken is due to the President. It depends upon Congress whether it can be permanently maintained, for we take it for granted that the President will not yield himself an unresisting victim to revolutionary violence, whatever garb it may wear, or allow the Constitution, to defend which the sword has been given him, to be overturned or destroyed. A congressional *coup d'état* can be met by a presidential *coup d'état*, and in the collision the hardest must fend off as to what should be the President's pillow."

The Charleston South Carolinian says:

"There are obvious steps to the more firm establishment of this Government in the call of a congress

composed of the members of the southern States and such members of the present Congress as are ready to sustain his policy. In such a congress there would be large a Senate and nearly as large a House, while with such a body to sustain him he can even more justly represent the Government, and throw the radicals, who shall accept the issue, into the defensive attitude of an adversary faction."

Is this "bringing forth fruits meet for repentance," that the President used to talk about? How do you like this picture of "reconstructed" rebels?

Ah! sir, this failure on the part of the President to call Congress together was a great misfortune to this country; the greatest which ever befell it, perhaps, with the exception of one. It was a greater misfortune when Booth, the assassin, sent his bullet, with unerring certainty, through the brain of that purest and best man, who, by his patriotism and by his virtue, ennobled and elevated that country for which he died. That was one of the great calamities which befell the country. Ah! how little did we then know how much we lost. The next, as it has turned out, was that Andrew Johnson was Vice President! Had Andrew Johnson been an honest man, and had he been with us, from principle, in this contest, it would, sir, have softened the rigor of that first calamity to the American people.

But Andrew Johnson was never with the Republican party on principle; never, sir. In the first place he was for maintaining this Union, as can be proved by his last speech in the United States Senate, with slavery; for he deemed slavery secure only in the Union. In that speech he distinctly avowed that he was going "to fight for slavery in the Union;" he was satisfied that in the Union was the only safety for slavery, and that outside of it was certain ruin. He emphatically declared that "the institution would be perpetual if southern men stood together in the Union."

Andrew Johnson is essentially a southern man. Born, reared, and educated in the South, he has the prejudices of the southern people; he has their animosities, their hatreds, and their superstitions. He, however, was never recognized by the leaders of the South, who inaugurated the rebellion, as one of their peers, so he sacrificed nothing of a social character when he refused to go with them. He had never been with them as one of the spokes in their political wheel. Andrew Johnson to-day is filled with the poison of the malaria of slavery which he inhaled in his infancy, and during the ripening years of his life, and this I say in extenuation of his present position. He talked loudly, eloquently, and well with reference to the odiousness of the rebellion and the blackness of the crime of treason while it was his interest to do so. While he could remain in the United States Senate, or so soon as he resigned that position receive the appointment of military governor of Tennessee, and go there and maintain authority and power, and receive the emoluments of office, he could talk as loudly in favor of the maintenance of the Union, and for the suppression of the rebellion, and that traitors ought to be punished, and all that, as any man. I do not know but he has excelled almost any other in his denunciations of treason, and in his assertion that it must be punished, &c., and that the people must be taught that treason is the crime of crimes.

But, sir, so soon as Andrew Johnson finds himself clothed with executive power and with the immense patronage of his position, and so soon as he had surveyed the political field, he says to the people of the South "All my denunciations against you are nothing but gammon. I am talking that for New England. I never mean to carry out any of my threats against you. You take care to sustain my policy, and in 1868 I will be the candidate for the Presidency. I will see that none of your necks are stretched for treason; I will see that none of you suffer; I will take care of the South if you will let me humbug the northern people by these denunciations against the offense

of treason. Do this and it will all come out right."

Mr. Speaker, I believe the gentleman from Missouri [Mr. HOGAN] delivered a speech on this floor a few days since, in which he challenged the Union party, or any of its representatives in this Congress, "to show wherein Andrew Johnson had been a traitor to the pledges and professions he had made during the rebellion." Is it to be expected that any one is to be gammoned by any such "gasconade" as this? Are we to be told, and is it to be believed, that Andrew Johnson occupies to-day the same position that he held in 1864 and has held from 1861 up to within the past few months? There is a radical difference between the Andrew Johnson of to-day and the Andrew Johnson of a year ago; there is also an antagonism between the men who elected him and the men who now support him. Is not Andrew Johnson to-day trampling upon the principles he sustained and proclaimed a year ago? I proclaim here that he is, and I will prove it by his own record. Why, sir, if the Andrew Johnson of to-day is the man we elected Vice President then we have most wonderfully transformed ourselves. Somebody has been transformed. Either the Democratic party that denounced him as a traitor and a scoundrel of the deepest dye has been transformed, or the Union party or Mr. Johnson has been "transmogrified." Somebody has changed—things are not now as they were. That party which recently denounced him now sustain him, from Vallandigham down, filling the air with huzzahs in his praise. Unless the entire Union party has been transformed in a brief period there has a change come over the spirit of the dreams of the Democratic party, and over its actions, too. Is it the Union party or the Democratic or Andrew Johnson that has changed?

Sir, the Union party has not changed, nor has the Democratic party changed. The Democratic party is the same uncompromising foe of progress, civilization, liberty, and justice that it ever was during the rebellion, and the Union party stands to-day where it has always stood, undaunted and invincible, neither intimidated by threats nor seduced by patronage, the constant and untiring friend of liberty, union, and universal justice! God bless the Union party, say I!

There is nothing in common between the Democratic and the Union party. There is an antagonism which is irreconcilable between them; an antagonism as great as that between the Union party and Andrew Johnson. That antagonism does not exist between the Democratic party and the President. Andrew Johnson is doing all he can to sustain the Democratic party. He has abandoned his old friends. He has betrayed the party that gave him a name and a position among the potentates of the earth. He has betrayed the principles that he himself advocated within the past four years. He has given the lie to the sentiments which he expressed during the war on vital and important questions!

Sir, no man can make me believe, nor the Union men of this country, that the Democratic party which opposed the war, which created the Chicago platform of 1864, declaring the experiment of restoring the Union by war a failure; the party which strove to get up "a fire in the rear" of the loyal heroes fighting to put down the rebellion; no man can make me believe that that party in sustaining the Andrew Johnson of to-day is supporting the Andrew Johnson of 1862, 1863, and 1864.

The Democratic party are not fools. They know that they are sustaining a man who coincides with them, and who is promoting their interests. They are using him to aggrandize their party, and when they have accomplished their ends they will drop him. And the time will come when he will be so low that there will none "so poor as to do him reverence," even in the Democratic party.

I assert that there never existed a man so exalted or so powerful that he could betray the

party that placed him in power and survive that betrayal without dishonor and disgrace. Not an instance is known in the history of the world where a man betrayed his true friends, betrayed the party that placed him in power, who did not render himself politically infamous by that act of betrayal.

If illustrations were necessary I might cite the cases of John Tyler and James Buchanan. What did either of them make by their betrayal of those who elevated them to power? They have made a history which their children (if they are so unfortunate as to have any) will weep to read. So will Andrew Johnson, if he persists in the betrayal of those who put him into power, sink to the same level with Tyler and Buchanan; he is on the down grade now, and he will reach them if he does not soon stop.

Mr. Speaker, let us go to the record of the President of the United States and see what that proves. I have taken some little pains in the short time that I could spare from the discharge of other duties to run over his record, and ascertain what positions he assumed and what principles he enunciated during the war, for the purpose of contrasting them with those which he has been uttering during the last six months. Let the record itself show the contrast. It will appear as well defined and as apparent as the contrast between midnight and noon-day.

I quote now from Savage's Life of Johnson, on page 231, from the speech of Andrew Johnson, as a Senator from Tennessee, in the Senate of the United States, in the year 1861:

"Mr. President, when I was interrupted by the motion to clear the galleries, I was making a general allusion to treason as defined in the Constitution of the United States, and to those who were traitors and guilty of treason within the scope and meaning of the law and the Constitution. My proposition was, that if they would show me who were guilty of the offenses I have enumerated, I would show them who were the traitors. That being done, were I the President of the United States, I would do as Thomas Jefferson did in 1806 with Aaron Burr, who was charged with treason. I would have them arrested and tried for treason, and if convicted, by the eternal God they should suffer the penalty of the law at the hands of the executioner."

Now, I can point out to Andrew Johnson who the traitors are. And now let him dare to declare that by the eternal God he will have them tried, and if convicted he will hand them over to the executioner!

It will not satisfy me that Andrew Johnson is an honest man because he handed over to the executioner the poor miserable miscreant Wirz, and that poor unfortunate woman and three others who were one and all the mere tools of the intellectual instigators of the assassination. That was but little; they had no friends; they amounted to nothing. Andrew Johnson had no reference to such persons when he made this declaration in the Senate of the United States. No, sir; he made that declaration against the rebel leaders, against those in high position who were inaugurating this rebellion. And what has he done to fulfill that promise? "Were I President of the United States," says he. And now that he is President of the United States, clothed with the power that he seemed to desire at that time, what has he done toward the consummation of that promise? He has done nothing. He has not ordered the trial of any single man in the United States for treason.

On the other hand, he has pardoned or paroled every single traitor against this Government, with the exception, I believe, of two, perhaps but one. When it became necessary for General Humphreys, who had surrendered his sword not more than ten days before to General Sherman, to be pardoned, that he might enter upon the duties of Governor of Mississippi, here was Andrew Johnson ready to pardon him. He had not been from the battlefield three weeks before he was elected Governor of Mississippi by the returned rebel legions of that State; and Andrew Johnson at once sent him an executive pardon to enable him to enter upon the duties of that office. And I have been told that General Humphreys never as much as asked for it.

Instead of making treason odious, as he promised to do, he has done all that he well could to restore traitors to political power and to shield them from the legitimate results of their crimes. He has given them place; he has given them power; he has recognized them as being entitled to all the rights of loyal citizens under the Constitution, with here and there a solitary exception. And if I were a betting man, if I may be allowed to make use of such a phrase here, I would bet all that I have on this earth that he never will order the trial of Jeff. Davis; and that if he is ever tried and convicted, Andrew Johnson will pardon him. I only wish I was as certain to live a thousand years, and enjoy health and youth, as I am that Jefferson Davis never will make expiation for his bloody crimes while Andrew Johnson is the President of the United States!

Now, let us go a little further into this record, and see whether Andrew Johnson is a man who is keeping his promises or not; and whether it is true, as he would have it, that the northern men are all crazy radicals, and have themselves "gone back" on the principles they adopted during the progress of the rebellion. In this same Life of Johnson, by Savage, on page 295, Andrew Johnson is recorded as having made use of this language, in his speech at Nashville, while he was exercising the duties of military governor under commission from Abraham Lincoln:

"But in calling a convention to restore the State, who shall restore and reestablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State of Tennessee control its destinies?"

Just listen:

"Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled."

Sir, if that language was true as regarded the State of Tennessee, is it not true in reference to every other State situated as Tennessee was. Certainly, sir; if it was wrong with regard to the local legislation of the State of Tennessee that traitors should participate in the reorganization of their local government, the same objection exists with regard to their reorganizing any other State government which they have destroyed. Will not the same objection exist with regard to traitors participating in the reorganization of the General Government in assuming its rightful jurisdiction over the rebellious States and in restoring them to the Union practically? "Rebels should not be represented in the Tennessee Legislature," but "they should be represented in the Congress of the United States." I cannot harmonize these two positions of the President. They are irreconcilable.

But Andrew Johnson does not talk to-day as he did then. No, sir, he is for letting all those rebels participate in the conventions and in every step toward reconstruction; and if there is any treason in the way he has a pardon in his pocket ready to hand it to the man who may be embarrassed by any disability of that kind.

Let us continue the examination of the record:

"All the glorious victories won by our noble armies will go for naught and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain."

"Why all this carnage and devastation? It was that treason might be put down and traitors punished."

"Therefore I say that traitors should take a back seat in the work of restoration."

Sir, if Andrew Johnson could have his way to-day, traitors would take a front seat in the work of restoration. He has turned square round. Then, when he was acting with the Union party, he proclaimed to the world "that traitors should take a back seat." Now he proclaims that traitors shall have a front seat. He would give them front seats in this Hall! He would introduce here the rebel horde from Mississippi, Alabama, and other insurrectionary States. He would have their names called

on our rolls, and let them engage here in the work of legislation. That is what Andrew Johnson desires to-day.

[Here the hammer fell.]

Mr. LAWRENCE, of Pennsylvania, obtained the floor.

Mr. RANDALL, of Pennsylvania. Mr. Speaker—

Mr. LAWRENCE, of Pennsylvania. I had promised to yield to my colleague, [Mr. RANDALL;] but if the gentleman from Illinois [Mr. INGERSOLL] is not through, I prefer to yield to him till he shall conclude. He is engaged in a business which I think ought to be finished.

Mr. INGERSOLL. I am much obliged to the gentleman for his courtesy. I shall try to be as brief as possible. I was not aware that I was occupying so much time.

Let me quote further:

"If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom!"

Mark the language! Then he demanded that men should be *loyal to freedom*. That principle, like his avowals in favor of liberty and justice, he has deserted!

"If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely."

"Loud and prolonged applause," according to this report, followed that remark. Sir, I will guaranty that not one single man who joined in that demonstration of applause, applauds Andrew Johnson to-day; not one, sir. Every man who applauded that sentiment denounces the course of Andrew Johnson to-day, denounces his apostasy from the principles expressed in that speech. The men who applaud him to-day are the men who denounced him then, and who, when he made that speech, hung their heads or looked defiant and sullen. To-day they are patting him encouragingly and energetically on the back, and telling him that he is a second Andrew Jackson; that though he claims to be a "tribune" of the people, they are using him to advance their own purposes; and he seems not to know it; and he does not want to know it; but the true men who voted for him know it; he cannot deceive them.

It is refreshing to read the expressions of Andrew Johnson a few years ago. By virtue of such declarations as those I have read, he inspired the loyal North with confidence in his patriotism, in his integrity, in his love of universal freedom and justice to such a degree that when the patriotic Union men met in convention at Baltimore in 1864 they placed the name of Andrew Johnson upon their ticket next to that of Abraham Lincoln, and we went forth and battled for him faithfully and heroically against the same party who are denouncing us to-day and supporting him with the same vigor that they denounced him in 1864. This is the picture I want Andrew Johnson to look upon. It is a picture which the real friends of humanity and justice weep over.

Andrew Johnson has declared that the traitor has ceased to be a citizen; and that is the position I have taken here to-day, that the traitor has ceased by reason of his rebellion and treason to be a citizen; and that simply because he failed to consummate that treason in the overthrow of the Government, he has not been restored to his citizenship, for no traitor can be restored to citizenship until the supreme legislative power of this Government so restores him:

"I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men."—Andrew Johnson.

Did he, Mr. Johnson? Did the traitor forfeit his right to vote while you were Governor of Tennessee under Abraham Lincoln? If he did, how has that right been restored to him? If that right was forfeited while you were Governor, why does not that forfeiture continue till this day when you are President? Let him answer that if he can. He knows the truth is that he cannot answer it except by reaffirming his old position. The right to vote was for-

feited by the crime of treason, and that crime has not been expiated. There has been no forgiveness, there has been no restoration of that right of citizenship, and that forfeiture continues to-day, so that there has not been a legal vote cast by a rebel since the inauguration of the rebellion. "He forfeited his right to vote with loyal men when he sought to destroy our Government."

"We say to the most honest and industrious foreigner who comes from England or Germany to dwell among us and to add to the wealth of the country, 'Before you can be a citizen you must stay here for five years.' If we are so cautious about foreigners, who voluntarily renounce their homes to live with us, what should we say to the traitor who, although born and reared among us, has raised a pariahal hand against the Government which always protected him?"

Those were burning words, and how timely they are now. If the executive power were to carry those words into execution, Andrew Johnson would stand to-day among the honored men of the world, and as one of the first champions of liberty on the earth, if not the very first.

"My judgment is that he should be subjected to a severe ordeal before he is restored to citizenship."

That was said by Andrew Johnson when Governor of Tennessee. What ordeal is he subjected to before he is restored to citizenship, as Mr. Johnson now understands it? I will tell you. It is the ordeal of a trip to Washington to ask Andrew Johnson to pardon him. And that is all the ordeal he has to pass through. If he cannot get money enough to make his personal appearance, an application, I suppose, through the mail—

A MEMBER. Or female. [Laughter.] Mr. INGERSOLL. Yes; I have heard it said that a female was quite as effective.

Let me continue this, for it is refreshing. "A fellow," says Mr. Johnson, in referring to a rebel. Does Andrew Johnson call one of these southern people a fellow? Oh, yes; but that was in 1862 and 1863. Now it is "the honorable gentleman from Mississippi," "My friends from Virginia," "The noble chivalry of the South whom I have so long and intimately known, and can so thoroughly trust." [Laughter.] But he then said:

"A fellow who takes the oath merely to save his property, and denies the validity of the oath, is a perjured man, and not to be trusted. Before these repenting rebels can be trusted let them bring forth the fruits of repentance."

If the loyal people ask Andrew Johnson to show the fruits he has gathered from repenting rebels, what can he show them? He can show them nothing but stacks of applications for pardons!

"He who helped to make all these widows and orphans, who draped the streets of Nashville in mourning, should suffer for his great crime. The work is in our own hands."

That is a good point well presented. Let it be echoed by the people of the North, that he who helped to make these widows and orphans and drape the land in mourning should suffer for his great crime. But how does he suffer for his great crime under Andrew Johnson? By receiving a pardon with the seal of the Executive upon it or a commission to a Federal office. That is all the suffering I have heard of as yet.

"The work is in our own hands." Ah! that was true and would be to-day if Andrew Johnson was true to the principles he advocated a few months ago. The work is in my opinion in our own hands yet, whether he is with us or against us. We shall rely upon the steady and unflinching loyalty of the people, and Andrew Johnson though President will find when he opposes the executive power against the eternal principles of right which have been sustained by all this blood and treasure that he will be as powerless as a rush; that he will be overborne by the power of the people, and will find that the people in the right are greater and more powerful than the President in the wrong. I shall trust the people. I shall appeal from Andrew Johnson to the people, and I fear not their verdict.

They will vote for Congress as it is, and Andrew Johnson as he was!

Sir, let Andrew Johnson remember that the very people who are sustaining him to-day, the very men who are calling upon the country to support the President's policy, are the same men who so vehemently denounced him and hounded him but a few months ago. They are the men who were against him and all others who were fighting for the Government during the bloody years of war. None of his old friends support him now, except it may be some parasite, some lick-spittle who wants some contemptible office within his gift. They are the only ones. Every high-minded man who was for this war and this Government, for freedom and justice, is against Andrew Johnson to-day. Yes, sir, let him remember he could not to-day in the grand State of Illinois, who sent forth two hundred and fifty thousand of her sons to fight for the maintenance of the principle and sentiments he uttered in his speech at Nashville, get those men to go for him now although they voted for him in 1864. There is but one place they would go to now on his account, and that is to his political funeral. They would gladly follow him to his political grave.

Mr. Speaker, if he were a high-minded and honest man, when he finds he cannot carry out the principles of the party which placed him in power, that he cannot maintain the policy maintained by his true friends, he should resign his office. I believe we had an example of that kind in the Thirty-Eighth Congress. Mr. Stebbins, elected by the Democratic party in New York, found, when he came here, that he could not carry out the principles of the party which had elected him, and he accordingly resigned his seat like an honest man! Andrew Johnson should follow that example, and resign, for I declare that he is not carrying out nor intending to carry out the principles of the party which elected him Vice President!

But let me proceed with his speech:

"Ah, these rebel leaders have a strong personal reason for holding out—to save their necks from the halter; and these leaders must feel the power of the Government."

They did not know that he was going to be President, or that "reason for holding out" would not have existed.

That is not all. "Treason must be made odious." Is that all? "And traitors must be punished and impoverished!" In 1862 he declared they must be punished and impoverished, and now, sir, he is restoring every acre of land they enjoyed or occupied which by the military power had been turned over to the poor freedmen, taking it from them and handing back to these rebels. That is the way in which Andrew Johnson makes treason odious. Failing to make it odious by punishing southern men, he himself has made it odious by his treachery to the party and the principles of the party which placed him in power! If he is not a traitor to the Government and Constitution of the United States he is a traitor to the party which elected him Vice President, and to the sentiments which fell from his lips in 1862, and which found a welcome response in the hearts of the loyal men of the country.

Hear him again:

"Treason must be made odious, and traitors must be punished and impoverished. Their great plantations must be seized, and divided into small farms, and sold to honest, industrious men. The day for protecting the lands and negroes of these authors of rebellion is past. It is high time it was."

It was past then, and you, Andrew Johnson, should not have inaugurated a different policy. You have brought the dark days back! You have reversed the order of things. Instead of dividing up their "great plantations" and selling them to honest and industrious men, you are restoring to rebels their plantations, granting them pardons, and asking their admission into the Congress of the United States!

I now read from his speech upon the fall of Richmond:

"If we had an Andrew Jackson he would hang them as high as Haman, but as he is no more, and sleeps in

his grave in his own beloved State, where traitors and treason have even insulted his tomb and the very earth that covers his remains, humble as I am, when you ask me what I would do, my reply is, I would arrest them, I would try them, I would convict them, and I would hang them."

A little further on, in the same speech, he says:

"In my opinion, evil-doers should be punished. Treason is the highest crime known in the catalogue of crimes, and for him that is guilty of it, for him that is willing to lift his impious hand against the authority of the nation, I would say, death is too easy a punishment. My notion is that treason must be made odious and traitors must be punished and impoverished; their social power must be broken, and they must be made to feel the penalty of their crimes. Hence I say the halter to intelligent, influential traitors."

Suppose, sir, he should declare such sentiments to-day, what would be the effect? The throng that now surrounds him at the White House would disappear; the smiles of northern Democrats and the caresses of southern rebels would cease at once.

But let us see what further he says:

"The American people must be taught, if they do not already feel, that treason is a crime and must be punished; that the Government will not always bear with its enemies; that it is strong, not only to protect, but to punish."

Sir, under the rule of Andrew Johnson it is neither strong to protect loyalty nor to punish treason, for he refuses both. By his vetoes of the Freedmen's Bureau bill and of the civil rights bill, he refuses that protection which he declared it was the duty of the American people to extend to the freedman and to the poor southern Unionist. And he refuses to punish traitors. He has had within his power Jefferson Davis, the head and front of the rebellion, for one year, and has not yet ordered him to trial. He refuses to punish everybody that held any leading position in connection with the rebellion. Again, Mr. Johnson says:

"When we turn to the criminal code and examine the catalogue of crimes, we there find arson laid down as a crime, with appropriate penalty; we find there theft and robbery and murder given as crimes; and there, too, we find the last and highest of crimes, treason. With other and inferior offenses our people are familiar; but in our peaceful history treason has been almost unknown. The people must understand that it is the blackest of crimes and will be surely punished. I make this allusion, not to excite the already exasperated feelings of the public, but to point out the principles of public justice which should guide our action at this particular juncture, and which accord with sound public morals. Let the engraving on every heart that treason is a crime, and that traitors shall suffer its penalty. While we are appalled, overwhelmed at the fall of one man in our midst by the hand of a traitor, shall we allow men—I care not by what weapons—to attempt the life of the state with impunity? While we strain our minds to comprehend the enormity of this assassination, shall we allow the nation to be assassinated?"

Shall we allow the nation to be assassinated? That is the question that is upon us to-day, and if Andrew Johnson persists in the course he is now following, this nation will be in danger of assassination by the same fell power that took the life of Abraham Lincoln. They may not use the same weapon, but it will be as murderous in its effects upon the life of the nation. The pretense is the restoration of the southern States and the readmission of rebels to the Congress of the United States. Carry out the policy of Andrew Johnson, and you will restore the old order of things, if the Government is not entirely destroyed; you will have the same old slave power, the enemy of liberty and justice, ruling this nation again, which ruled it for so many years.

In a conversation with Sir Frederick Bruce, the President used this language:

"The time has come when traitors must be taught that they are criminals. The country has fairly made up its mind on this point; and it can find no more earnest agent of its will than myself."

What egotism! No more earnest agent of the people's will than himself! Has he not falsified that by every act he has done for the last six months? Why, he could not make an address two years, or even one year ago, without speaking of the odiousness of treason and the certainty of its punishment. But now, though he has not ceased to make speeches, he has ceased to talk about treason being made odious

and that rebels must be punished; he has ceased saying anything about these matters, but talks about their restoration to political power in this Government. That is the difference between Andrew Johnson of to-day and the Andrew Johnson of 1864.

Now, I have shown but one phase of the character and history of Andrew Johnson. Let us look for a few moments at the other phase. After he came to be the Executive of the nation, he at first almost startled the nation by his earnest denunciation of the crime of treason, and his promises in reference to the certainty of its punishment. But soon his old associates came around him. They wheedled him and flattered him and made him believe that he was a great man, and had more power than the people of the Republic who had elected him. They represented to him that all he had to do was to cut loose from the friends who had placed him in power, and accept them as his counselors, advisers, and friends, and he has done so. And now, instead of being the man entitled to the gratitude, confidence, and love of the loyal American people, he has only the support of the late rebels in arms and their sympathizers and apologists in the North.

The American people have borne a great deal; they can still bear a great deal. But it does seem to me that it is hard that we should be afflicted with the rinderpest, the trichina, the cholera, and Andrew Johnson, all in the same year. [Laughter.] Yet, with the blessing of God, I believe we shall survive all this; and that we shall exist after the Administration of Andrew Johnson shall have ended; that we shall rise superior to it by the power of the loyal people; that we shall preserve this Government notwithstanding the mad policy of the Executive and in spite of his southern friends and his northern copperhead supporters. I believe that the day will come when the American people will show to the world that under the American Constitution treason is a crime and that traitors will be punished. But Andrew Johnson will never teach the world that lesson!

Andrew Johnson is a consummate demagogue; he is one of the most unblushing demagogues that now exist in this country. And I will prove that by his own record; by the record that he has himself made. He has been making some speeches recently, and I have only to refer to them to prove the truth of the assertion I have made. He has presented himself before the American people in his speech to the soldiers and sailors, and in his speech of the 22d of February, if you can call that a speech. He tells them how much he has done, what trials he has endured, what privations he has suffered, what hardships he has undergone, and how much property he has lost in his efforts to save the Government and the country, "and now," says he, "can you doubt my loyalty and my intentions and my good will?"

Sir, Andrew Johnson has made no sacrifices worthy of any mention, and if he has, an appreciative and grateful people would remember them without his thrusting them in their faces on every occasion. What has he suffered? He has not suffered so much as the humblest private that fought in our armies during the rebellion. The humblest private that fought at Gettysburg or in the Wilderness is entitled to more credit than is Andrew Johnson for what he has done. Has Andrew Johnson ever fought the enemy in battle? No, sir. Has he ever made an effort to find the enemy on the tented field? Never. Has he ever even smelled gunpowder? Has he ever camped on the frozen ground? Has he ever stood guard in the stormy and dreary nights numbed with the frosts of winter? Has he ever suffered any of the privations common to the soldier, or endured any of the hardships of campaign life? No, never; not even an hour!

What has Andrew Johnson suffered? He suffered being United States Senator in 1861; he has suffered being military governor of Tennessee, snugly ensconced in a mansion at Nashville, with a brigadier general's straps on his shoulders, and feasted and toasted, with senti-

nels pacing before his door while he was securely and quietly sleeping through the watches of the night, while others braved the dangers he never met!

And will the American people allow him to impose his infamous policy of "restoration" upon them because he claims to have suffered so much? No; sir, not even if his pretended sufferings were real. Andrew Johnson has suffered nothing worthy of remark. I will allow myself to be interrupted by any gentleman who can tell me what Andrew Johnson has suffered, unless it be that he has suffered the pangs of an uneasy conscience for his perfidy to the principles of the Union party. That kind of suffering would be good for him, and I hope he may have plenty of it. There is certainly plenty of cause and I trust it may have a good effect.

Andrew Johnson, as I was remarking, is a demagogue. In 1862, when he was in Nashville, he told the colored people that he, Andrew Johnson, military governor of Tennessee, was going to be their Moses and lead them out of the bondage of Egypt into the Canaan of liberty. He made a mistake, to say nothing more. Instead of being their Moses he has been their Pharaoh. And if I am not greatly mistaken this modern Pharaoh and his present admirers will be swallowed up and overwhelmed in the sea of popular indignation which is rising in the loyal States. Why, sir, Andrew Johnson had at one time words of cheer to the freedmen, to the negroes, who had suffered more than he ever did for the preservation of this country. Sir, of the two hundred thousand negro troops who volunteered under our flag and shouldered their muskets to do what they could for the unity of this Government and for their own liberties, there is not one of that sable host who is not more entitled to credit from the American people for what he suffered and endured than Andrew Johnson, yet he is continually reminding the people of the great sufferings and hardships he has endured. In his address to the negroes in this city the other day he made this modest statement in reference to the abolishment of slavery by the constitutional amendment:

"I feel, and know it to be so, that my efforts have contributed as much, if not more, in accomplishing this great national guarantee than those of any other living man in the United States."

Oh, sir, he had kind and cheering words for those men who marched, with the utterances of his lips still ringing in their ears, to Fort Pillow, where they were massacred, and to Port Hudson, where they fought and fell heroically. And, sir, upon the other battle-fields of this war the words of Andrew Johnson encouraged and cheered them to heroic deeds. But he has no such words for them now. We have had an illustration of that fact in his late speech to the negroes in this city when they were celebrating the anniversary of their emancipation.

In that speech, which I will not quote at length, but merely state its substance, he said to those negroes that he thanked them for this token of respect to him; that they had taken the pains to come through the presidential grounds and stop at the Executive Mansion and pay their personal respects to him. He did not repeat the declaration that he was going to be their Moses and lead them through the wilderness to the land of liberty. He did not tell them that he was going to stand by any of the pledges of the Government that they should be protected in their liberty in the States where they may live. No, sir; he made no such declaration; it would have been useless. His veto messages of the Freedmen's Bureau bill and the civil rights bill, the very measures of this Congress calculated to insure that protection, would have been witnesses against him.

In his letter to Governor Sharkey of August 15, 1865, he said:

"If you could extend the elective franchise to all persons of color who can read the Constitution of the United States in English, and write their names, and to all persons of color who own real estate valued at not less than \$250, and pay taxes thereon, you would completely disarm the adversary, and set an example the other States will follow. This you can do with

perfect safety, and you thus place the southern States, in reference to free persons of color, upon the same basis with the free States."

This was encouraging to the poor souls who had worn the galling chains of bondage all their weary lives. But we hear nothing of this kind in his late speech.

In this speech he simply tells them, as he has often said before, what he has suffered and what he has done, and begs them to take upon credit the assertion that he will turn out some day to be their best friend. Well, sir, I do not believe in those who are friends on credit. I like a man who is a friend at the time when you need him; and if there ever was, in the history of this Government, a time when the loyal black people of this country—and they are all loyal—needed a friend it is now, when the South, being relieved from the military power of the Government, will seek to again enslave them, not perhaps by a sale on the auction-block as in the olden time, but by vagrant laws and other laws and regulations concerning the freedmen, which subject them to a surveillance, and will eventually subject them to a servitude little less degrading and no less galling than the old chains of slavery which they wore so long. Here is what the "restored" State of Mississippi has done already in this regard:

"1. 'An act to regulate the relation of master and apprentice, as relates to freedmen, freed negroes, and mulattoes.'"

"2. 'An act to amend the vagrant laws of the State.'"

"3. 'An act to punish certain offenses therein named, and for other purposes.'"

In the third act, section four is as follows:

"Be it further enacted, That all the penal and criminal laws now in force in this State, defining offenses and describing the modes of punishment for crimes and misdemeanors committed by slaves, free negroes, or mulattoes, be, and the same are hereby, reenacted and declared to be in full force and effect against freedmen, free negroes, and mulattoes, except so far as the mode and manner of trial and punishment have been changed or altered by law."

"Some of the 'penal and criminal laws' which have been reenacted for the freedmen are as follows:

"Article fifty-eight, section eleven, page 248, Revised Code, makes it punishable with death for a negro to murder, commit rape, burn houses, commit robbery, or attempt to commit such crimes. White persons are not punishable with death for most of the offenses mentioned in this section, nor for the attempt to commit any one of them."

"Article forty-five, of the above named act, page 245, provides that a slave shall receive twenty lashes if he be found away from the place of his employment without a pass. This is reenacted for freedmen."

"Article forty-six, page 246, awards thirty-nine lashes to the slave for buying or selling without written permission. Reenacted for the freedmen."

"Article four hundred and seventy-six, page 24, allows civil officers, and others to appropriate to their own use any article a slave may be seeking to sell. Reenacted for the freedmen."

"Article fifty-one, page 247, makes it punishable for negroes to congregate at night, or hold schools, &c. Reenacted as above."

"Article sixty-three, page 249. Both ears are to be cut off for false witness. (No white ears to be served so.) Reenacted as above."

Here you have a fair sample of the legislation of a State which has "accepted the situation." Is such a State fit to be represented now in Congress? Let the loyal people answer!

Sir, the laws which have been passed by the southern States in reference to the freedmen are of the most degrading and oppressive character. I have given one sample; let that do for all; I have no time to present any more to the House. Many of those States have reenacted, it may be said, their old code of slave laws, simply striking out the word "slaves" and inserting the words "freedmen," "persons of color," "mulatto," &c., and giving them no more rights than if they were still chattels. So it would be in every single southern State, unless by the strong arm of this Government you protect the black man who aided in the preservation of the Republic, and the preservation of that Constitution which is now being sought to be used as an instrument for their oppression by the Executive of the United States!

He tells us that the passage of these laws for their protection was unconstitutional. Sir,

has it come to this, that to protect the citizen's liberty under a republican form of government is unconstitutional? If it has, we had better have a new Constitution. I believe that it is one of the inherent powers of Government to protect the citizen in the enjoyment of his liberty and in the security of person and in the rights of property, independent of all constitutions. It is an inherent power, a power that dwells in government without any written law—that in the language of the Constitution, that instrument was framed by the people of the United States in order "to establish justice," "insure domestic tranquillity," "provide for the common defense," "promote the general welfare, and secure the blessings of liberty," &c. Will it be said that it must be written in express terms in the Constitution, otherwise the Congress has no power to protect its citizens, without respect to color or race, in the enjoyment of that liberty said to be the prime object in founding the Government? No, sir, it is but the make-shift of the demagogue. It is a bid for the Presidency in 1868. It is a crumb—no, not a crumb, but a whole loaf—thrown to the southern people for their support in the convention of 1868.

We now have two great prestidigitators on the political tapis, performing all sorts of lofty tumbling in endeavoring to win the admiration of the Democratic convention (to be) in 1868. I will not say that the gentlemen to whom I refer are Andrew Johnson and William H. Seward, for no one would suppose that Seward, with his "higher-law" and "irrepressible-conflict" doctrines of the past, would stand a ghost of a chance, and he will not. The South will never touch him.

The other gentleman, in fact, stands no better chance than Seward. He has betrayed one party that trusted him, and no other party will ever give him a chance for a second betrayal. But the race between the two, their throwing of crumbs, and in fact whole loaves, to their southern friends, is quite amusing, and in the end, may be instructive. I have not the least confidence in the political probity of either of them.

Mr. LAWRENCE, of Pennsylvania. I am willing that the gentleman from Illinois shall proceed with his speech, provided I shall have the floor when he gets through.

Mr. RANDALL, of Pennsylvania. I move that my colleague have his full hour after the gentleman from Illinois has concluded his speech.

There was no objection, and it was ordered accordingly.

Mr. INGERSOLL. I am obliged to my friends from Pennsylvania for their consideration.

Mr. LAWRENCE, of Pennsylvania. I desire to state that the subject upon which I shall speak is a dry one—the subject of the tariff—and will not interest the House as much as the one which the gentleman from Illinois is making. I have no desire to interfere with the enjoyment the House has in hearing the gentleman from Illinois.

Mr. INGERSOLL. Mr. Speaker, the truth is that the people are not so simple or so easily deceived as these gentlemen in high positions suppose. This game they are playing will be uncovered, it will be detected by the people and condemned. Their whole game involves an apostasy and an abandonment of the principles which they once announced, and which we, in common with them, believed and sustained, and yet believe and sustain.

Now, a word about this question of representation. I leave it to any gentleman on the other side of the House who is with the President on his reconstruction policy, whether or not, it is not held by him, and by those who support him, that the southern States are entitled to representation without conditions; that we have no right to impose conditions on the South precedent to their being represented in this Congress. That is their position, and that all you can ask is, whether the representatives can take the oath prescribed by law. Now

that I have stated the question fairly, let me ask, when did this right of representation accrue to the southern States lately in rebellion? Was it last month or six months ago, or when was it?

I hold this to be the position of the Union party on that question—although I am unauthorized to speak for any but myself—that if the southern States are entitled to representation in Congress to-day they were entitled to representation in Congress the very day after the surrender of the rebel armies. What has been done to clothe them with rights with which they were not clothed on the cessation of hostilities? Nothing has been done by Congress giving them this right. Has the President a right to clothe the States with new powers? Or has he the constitutional right to restore powers once lost? That belongs to the legislative department of the Government, and not to the executive. Where under the Constitution does he get any legislative power? Nowhere. He claims that peace exists. Why? Because the rebels have ceased to fight; because their armies have been disbanded; because the rebel power has been crushed. Not by any act of Congress does peace exist, but simply by reason of the close of the war.

Does that fact give the right to these people of the southern States to representation? The President and the Democratic party say that it does. I deny it. It gives them no such right. If they had any right after the surrender of Lee, it was not by virtue of any action of the President. He can confer no such right upon them.

Mr. RANDALL, of Pennsylvania. Does the gentleman want an answer to that question?

Mr. INGERSOLL. I am going to answer it myself. The Constitution clothes the President with no such power. He cannot make a citizen of an alien. He cannot make a naturalization law. Those people in the southern States became aliens by virtue of their rebellion and treason, and he cannot restore them to citizenship. It requires a greater than he. The legislative power of the country is the only power that can restore them to citizenship, the right of which they have forfeited.

Then what follows? Unless the rebels were entitled to representation in Congress immediately upon the surrender of the rebel army they are not entitled to it to-day unless Congress has intervened and by appropriate legislation has given them that right, and we all know that Congress has done nothing of the kind.

And here let me say that the President himself once recognized the fact that the rebels lost their political rights; that their State governments had ceased to exist by reason of their rebellion and treason; that they had no power inherent in themselves to resuscitate those governments; that they were no longer citizens of the United States but were alien enemies, conquered by the Federal power. That was his position less than one year ago, as I will prove.

The present President recognized the effect of the rebellion upon the southern people in the forfeiture of their political and civil rights by stepping in, in the absence of Congress, and proclaiming to these men what to do, and directing them to do it; by appointing over them provisional governors; by pardoning rebels for the purpose of making them Governors; by instructing them how to exercise the duties of their office; by telling them to call the people together in convention, and what kind of a constitution to make; by declaring who should and who should not vote, who should and who should not hold office; in short, by directing from beginning to end what the people should and what they should not do. What was that but a clear recognition of the forfeiture of their political and civil rights?

Now, I maintain that if the States wherein he exercised that power were States within the Union, or in the Union as he now claims they were, and that they were never out of the Union, then he was a usurper, an invader of State rights in undertaking to control them in

the slightest degree. If they were States in the Union by what authority did he go into them and do what he did? It was in violation of their constitutions that existed prior to the rebellion. He set those State constitutions aside, he disregarded them; he called new conventions without authority of State laws, simply as the executive head of this nation, without any authority expressed in the Constitution, and against the constitutional rights of the States thus invaded. If they were States in the Union, and entitled at that time to representation in Congress, he had no more authority to go there and revamp their old constitutions, or refurbish them, or dictate new laws and designate men to execute those laws in South Carolina, Georgia, and Mississippi, than he had in Wisconsin, Indiana, and Illinois. He would not dare to go into any of the northern States and tell the people to call a convention, saying that such a portion were citizens and entitled to vote, and such a portion not, and calling upon them to incorporate such and such provisions and expunge others from their State constitutions. He would be denounced as a usurper for undertaking to do such an act, and would be hung as a traitor unless he could find a pardoning power like that he exercises now.

Upon his own hypothesis, he has no more right to invade a rebel State than a loyal one, and every proclamation he has made and every act he has done in regard to the southern States since the cessation of hostilities has been a violation of their rights under the Constitution of the United States.

But I believe that he has not been a usurper to the extent that his own position indicates. He says they are entitled to representation now. So does the party that supports him. We say, on the other hand, that the men who sought to destroy this Government have no right to a voice in making the laws which direct the manner or mode of reconstructing their States.

Sir, it is a principle which the world will acquiesce in, which the people of this country will sustain, that the heroic people of the loyal States, who subdued this rebellion, shall, through their representatives in Congress, dictate the terms upon which the southern people shall be represented in Congress. And we must stand by that principle, for I would not give a rush for the Government, unless it can be preserved by the heroic and persistent effort of the northern people from the overwhelming ruin which these southern men would inevitably bring upon it if they should now be permitted to assume control of national affairs. Restore these unrepentant sinners to Congress, with Andrew Johnson standing by them, and with the support of those who are here ready to receive them with open arms, and your country will be on the down grade to certain destruction.

Why, sir, do you suppose that the people we have subjugated are coming here to Congress to vote a repudiation of their debt? Do you imagine that they are going to forget their own rebel soldiers who have been disabled in the war, or the widows and orphans of their own soldiers? Think you they are going to vote for a constitutional prohibition upon the claims of their own people, who sacrificed their treasure and their blood in the war against this Government? No! every man of them will vote to assume the rebel debt and pension the disabled rebel soldiers, and the widows and children of those who lost their lives in the rebel cause, and pay for the property that has been destroyed by our armies that marched through the South.

And when Congress votes to do all that the bankruptcy of this Government is achieved, your own loyal debt is repudiated, and the credit of your Government is annihilated. You will no longer be able to pay the pensions to your own disabled soldiers, or the widows and orphans that have been caused by this war. The vote of the southern Representatives will impoverish your Treasury and wide-spread ruin will follow. Loyal men of the North, are you

prepared to welcome the rebel States into your Congress now?

God forbid that that day should come. The loyal people of this country have suffered too much to endure that humiliation and disgrace. I appeal not to Andrew Johnson, because I feel that it would be appealing in vain. I appeal to the people to stand by their Representatives until we have put it beyond the power of the rebels of the South and their northern sympathizers to destroy this Government. And let us, the Representatives of the people, legislate for the interest of the country and of freedom. We must place such safeguards around this Government as shall secure its perpetuity, its grandeur, and its glory for all coming time.

Wait a little while, gentlemen on the other side. Do not be too anxious to allow this southern Samson to put his hands upon the pillars of this temple. You, too, may be crushed in the ruin as well as we. For your own sakes as well as ours let these southern Representatives stay out a little while until loyalty in their States gets a better foothold; until they shall send loyal men here; and if they have not the inherent sense of justice to do justice themselves, let us impose upon them such constitutional obligations as shall require them to do justice to all men, of all conditions, the low as well as the high; as shall require them to maintain a *republican* form of State government. Then, sir, I would admit them, but not till then. But till then let the same heroism, devotion, patriotism, and courage control and direct the legislation of the country for the preservation of that Government and that Constitution which has been saved by the indescribable valor of half a million heroes now sleeping their last sleep, and by that million of veteran survivors who are among us to remind us of their heroism and courage, and then not only will the present generation bless you, but future generations will treasure up your acts in grateful hearts, and God Himself will also add His blessing.

Mr. LAWRENCE, of Pennsylvania, obtained the floor.

Mr. RANDALL, of Pennsylvania. Will my colleague yield to me for a few moments?

Mr. LAWRENCE, of Pennsylvania. For how long?

Mr. RANDALL, of Pennsylvania. I think not more than five minutes.

Mr. LAWRENCE, of Pennsylvania. I will yield for that time.

Mr. RANDALL, of Pennsylvania. I have listened to the vehement declarations of the gentleman from Illinois [Mr. INGERSOLL] against the President.

Mr. ELDRIDGE. Will my friend from Pennsylvania [Mr. RANDALL] allow me to ask a question of the gentleman from Illinois, [Mr. INGERSOLL]?

Mr. RANDALL, of Pennsylvania. I have no objection, so far as I am concerned.

Mr. ELDRIDGE. The gentleman from Illinois [Mr. INGERSOLL] has animadverted pretty severely upon the President on account of some alleged change of opinions. I desire to have read a passage from the Peoria Weekly Democrat, and then inquire of the gentleman if he has not somewhat changed his opinions.

Mr. INGERSOLL. Is that a copperhead paper?

Mr. ELDRIDGE. I suppose you would call it so.

Mr. INGERSOLL. I deny its authority *in toto*. I would just exactly as soon—

Mr. ELDRIDGE. I do not want to be interrupted by the gentleman from Illinois.

Mr. INGERSOLL. Very well.

Mr. LAWRENCE, of Pennsylvania. I would suggest that I yielded only to my colleague, [Mr. RANDALL.]

Mr. ELDRIDGE. Then I would ask the gentleman from Pennsylvania [Mr. RANDALL] to have this read.

Mr. RANDALL, of Pennsylvania. At the request of my friend from Wisconsin [Mr. ELDRIDGE] I will ask the Clerk to read the extract referred to. I am not responsible for it in any respect, for I do not know what it is.

The Clerk read as follows:

"Soon after the first battle of Bull Run he ventured out as far as Fairfax Court-House, and there was made acquainted with some of his secess friends. On his return to Peoria he declared in substance that 'the people of Virginia were the noblest men of God's creation, and that the Government might as well attempt to pluck the stars from the heavens as to crush them, fighting, as they believed they were, for their rights and liberties.'"

"About three weeks before the last nomination of Mr. Lovejoy to Congress, Mr. INGERSOLL stated that 'his defeat by a conservative man would be worth fifty thousand men to the cause of the Union.'"

Mr. INGERSOLL. Will the gentleman from Pennsylvania [Mr. RANDALL] allow me a moment?

Mr. RANDALL, of Pennsylvania. After I get through the gentleman can answer that.

Mr. INGERSOLL. I want to answer it now, just where it is read.

Mr. RANDALL, of Pennsylvania. Very well; I will yield if my colleague [Mr. LAWRENCE] is willing, for I hold the floor by his courtesy.

Mr. LAWRENCE, of Pennsylvania. I am willing that the gentleman from Illinois [Mr. INGERSOLL] should have a short time to reply to what has been read.

Mr. INGERSOLL. I suppose this paper, from which the Clerk has read, is the copperhead paper of my town, Peoria.

Mr. ELDRIDGE. It is the paper that supported the Union during the war, and now supports the Union and Andrew Johnson. It is the organ of the party that has just succeeded in carrying the election in that town.

Mr. INGERSOLL. The same old copperhead paper?

Mr. ELDRIDGE. The same old paper.

Mr. INGERSOLL. I supposed it was the same old paper. I have been used to being vilified and abused by that little, mean, dirty, despicable sheet; a mean, miserable, dirty, lying, contemptible party paper of the meanest, most contemptible, and lowest stripe imaginable. It is a paper that cannot be excelled in meanness and lying and slandering in regard to the Union cause and Union men by any paper in rebellion during the entire war. It is a filthy, dirty, lying—

Mr. ELDRIDGE. Does the gentleman deny the statement in that paper?

Mr. INGERSOLL. I do not yield to the gentleman from Wisconsin [Mr. ELDRIDGE] just now. Sir, the statement which has just been read, whether contained in that paper or in any other, is false from beginning to end. I never saw one of these Virginia rebels during the war, to my knowledge; never. If I had, and the occasion had offered, I should have said to him what I have said to-day. My utterances would have been just the same as they were in 1862, when, as a candidate for Congress for the State at large on her Union ticket, I received the abuse and vilification of that same contemptible, blackguard, copperhead, Andrew Johnson paper, [laughter,] just as I receive it to-day. I then canvassed the State of Illinois, and met with just such slanders, not only from that paper but from the Memphis Avalanche and the Richmond Enquirer. They are all of a stripe and seek the same end, the elevation of the copperhead party to power, even, if need be, it is upon the ruins of the Republic.

Sir, never since the first utterances of treason in this country have my lips ever uttered one word, except in encouragement of the loyal North in their efforts to suppress the rebellion, and in denunciation of treason wherever it has reared its head, whether it be in the Halls of Congress, in the representative capacity of gentlemen who come here from northern States, or whether it be in the northern press, or where ever it may have been. I have been an uncompromising foe of every enemy of the Government, of every enemy of the Union party, whether he has been engaged in lauding Vallandigham or organizing Golden Circles throughout the northern States, or whether he had nothing better to do than to vilify the soldiers that were fighting for the holiest of causes by calling them "Lincoln hirelings." My voice

has ever been for the Union and those who have fought for it. I wish I could say as much for the gentleman from Wisconsin, [Mr. ELDRIDGE.]

Mr. RANDALL, of Pennsylvania. Mr. Speaker, I have listened to-day with some interest to the vehement declamation of the gentleman from Illinois against the President. The gentleman has drawn his sword against the President, perhaps never to be sheathed until death ensues. I do not mean death by atrocious assassination; I mean political death only. I am not the defender of the President. He needs no defender. I judge that he is quite able, and I trust that he will be quite ready to defend himself against this strong, and I must add vindictive, bill of indictment against him. The characteristics which he has displayed in former life would give reason to expect that he will exhibit the same characteristics again.

But, sir, I rise as a friend of fair play. The distinguished gentleman from Illinois has charged the President of the United States with the desertion of the principles upon which he was elected. I desire to present here the Baltimore platform upon which Andrew Johnson was elected, so that those who read the gentleman's remarks may be able to judge of their truth and to decide for themselves who has adhered to that platform and who has not.

The Baltimore platform is as follows:

Resolved, That it is the highest duty of every American citizen to maintain against all their enemies the integrity of the Union and the paramount authority of the Constitution and laws of the United States; and that, laying aside all differences of political opinions, we pledge ourselves as Union men, animated by a common sentiment, and aiming at a common object, to do everything in our power to aid the Government in quelling by force of arms the rebellion now raging against its authority, and in bringing to the punishment due to their crimes the rebels and traitors arrayed against it.

Resolved, That we approve the determination of the Government of the United States not to compromise with rebels, nor to offer any terms of peace except such as may be based upon an "unconditional surrender" of their hostility and a return to their just allegiance to the Constitution and laws of the United States, and that we call upon the Government to maintain this position, and to prosecute the war with the utmost possible vigor to the complete suppression of the rebellion, in full reliance upon the self-sacrifice, the patriotism, the heroic valor, and the undying devotion of the American people to the country and its free institutions.

Resolved, That as slavery was the cause, and now constitutes the strength of this rebellion, and as it must be always and everywhere hostile to the principles of republican government, justice and the national safety demand its utter and complete extirpation from the soil of the Republic; and that we uphold and maintain the acts and proclamations by which the Government, in its own defense, has aimed a death blow at this gigantic evil. We are in favor, furthermore, of such an amendment to the Constitution, to be made by the people in conformity with its provisions, as shall terminate and forever prohibit the existence of slavery within the limits of the jurisdiction of the United States.

Resolved, That the thanks of the American people are due to the soldiers and sailors of the Army and Navy, who have periled their lives in defense of their country, and in vindication of the honor of the flag; that the nation owes to them some permanent recognition of their patriotism and valor, and ample and permanent provision for those of their survivors who have received disabling and honorable wounds in the service of the country, and that the memories of those who have fallen in its defense shall be held in grateful and everlasting remembrance.

Resolved, That we approve and applaud the practical wisdom, the unselfish patriotism, and unswerving fidelity to the Constitution and the principles of American liberty with which Abraham Lincoln has discharged under circumstances of unparalleled difficulty the great duties and responsibilities of the presidential office; that we approve and indorse, as demanded by the emergency and essential to the preservation of the nation, and as within the Constitution, the measures and acts which he has adopted to defend the nation against its open and secret foes; that we approve especially the proclamation of emancipation, and the employment as Union soldiers of men heretofore held in slavery; and that we have full confidence in his determination to carry these and all other constitutional measures essential to the salvation of the country into full and complete effect.

Resolved, That we deem it essential to the general welfare that harmony should prevail in the national councils, and we regard as worthy of public confidence and official trust those only who cordially indorse the principles proclaimed in these resolutions, and which should characterize the administration of the Government.

Resolved, That the Government owes to all men employed in its armies, without regard to distinction of color, the full protection of the laws of war; and that any violation of these laws, or of the usages of

civilized nations in the time of war by the rebels now in arms, should be made the subject of full and prompt redress.

Resolved, That the foreign immigration, which in the past has added so much to the wealth and development of the resources and increase of power to this nation, the asylum of the oppressed of all nations, should be fostered and encouraged by a liberal and just policy.

Resolved, That we are in favor of the speedy construction of a railroad to the Pacific.

Resolved, That the national debt, pledged for the redemption of the public debt, must be kept inviolate; and that for this purpose we recommend economy and rigid responsibility in the public expenditures, and a vigorous and just system of taxation; that it is the duty of every loyal State to sustain the credit and promote the use of the national currency.

Resolved, That we approve the position taken by the Government that the people of the United States never regarded with indifference the attempt of any European Power to overthrow by force, or to supplant by fraud, the institutions of any republican Government on the western continent; and that they view with extreme jealousy, as menacing to the peace and independence of this our country, the efforts of any such Power to obtain new footholds for monarchical Governments, sustained by foreign military force, in near proximity to the United States.

Mr. Speaker, I would be glad to present here, if I had it by me, the Chicago platform of 1860, in order to show the gentleman from Illinois his own inconsistencies and those of the party to which he belongs.

Mr. INGERSOLL. Does not the gentleman mean the Chicago platform of 1864?

Mr. RANDALL, of Pennsylvania. No, sir; I mean the Chicago platform of 1860, on which Mr. Lincoln was nominated, and in which a just maintenance of the rights of the States is announced as a distinct principle to which the party is pledged.

So much, sir, for the inconsistencies of the gentleman's party. Now, as to the question which he asks whether we were in favor of admitting Representatives from the South, and when that right of representation ceased, if it ever ceased. Sir, I maintain that the right of representation as belonging to the loyal people of the South has never ceased. The gentleman himself must be aware that, upon this principle Representatives from the State of Tennessee were admitted here in the Thirty-Seventh Congress, one of those Representatives being one of the gentlemen who are now claiming seats upon this floor as Representatives from that State. Sir, if those three Representatives, after the State of Tennessee had seceded, had a right to come here and be admitted as Representatives of the loyal people of the State of Tennessee, when and why did that right cease? Representatives from the State of Virginia were also admitted by the same Congress. If Virginia had the right to be represented in that Congress, when and how did her right of representation cease?

Mr. INGERSOLL. If I understand the gentleman, he claims that he is now supporting Andrew Johnson's policy.

Mr. RANDALL, of Pennsylvania. I have not claimed anything with reference to supporting Andrew Johnson.

Mr. INGERSOLL. Well, the gentleman does claim that Andrew Johnson has not changed his political principles.

Mr. RANDALL, of Pennsylvania. I have referred the gentleman to the Baltimore platform, which, I hold, corresponds precisely with the line of policy which was pursued with reference to "restoration" by Mr. Lincoln during the entire period of his Presidency, and which, if I have understood correctly the declaration of the Secretary of War, Mr. Lincoln would have continued to follow, had he lived. And that platform is in entire harmony with the policy now pursued by Andrew Johnson. So far as I am able to judge, his course in the work of restoration presents no inconsistency with the Baltimore platform or with his letter of acceptance written in response to his nomination at Baltimore.

Sir, that letter of acceptance was as follows:

NASHVILLE, TENNESSEE, July 2, 1864.

GENTLEMEN: Your communication of the 9th ultimo, informing me of my nomination for the Vice Presidency of the United States, by the National Union Convention held at Baltimore, and inclosing a copy of the resolutions adopted by that body, was not received until the 25th ultimo.

A reply on my part had been previously made to the action of the convention in presenting my name, in a speech delivered in this city, on the evening succeeding the day of the adjournment of the convention, in which I indicated my acceptance of the distinguished honor conferred by that body, and defined the grounds upon which that acceptance was based, substantially saying what I now have to say. From the comments made upon that speech by the various presses of the country, to which my attention has been directed, I consider it to be regarded as a full acceptance.

In view, however, of the desire expressed in your communication, I will more fully allude to a few points that have been heretofore presented. My opinion on the leading questions at present agitating and distracting the public mind, and especially in reference to the rebellion now being waged against the Government and authority of the United States, I presume, are generally understood. Before the southern people assumed a belligerent attitude, (and frequently since,) I took occasion most frankly to declare the views I then entertained in relation to the wicked purposes of the southern politicians. They have since undergone but little if any change. Time and subsequent events have rather confirmed than diminished my confidence in their correctness.

At the beginning of this great struggle I entertained the same opinion of it I do now, and in my place in the Senate, I denounced it as treason worthy the punishment of death, and warned the Government and people of the impending danger. But my voice was not heard or counsel heeded until it was too late to avert the storm. It still continued to gather over us without molestation from the authorities at Washington until at length it broke with all its fury upon the country. And now, if we would save the Government from being overwhelmed by it, we must meet it in the true spirit of patriotism, and bring traitors to the punishment due their crime, and by force of arms crush out and subdue the last vestige of rebel authority in every State. I felt then, as now, that the destruction of the Government was deliberately determined upon by wicked and designing conspirators, whose lives and fortunes were pledged to carry it out, and that no compromise, short of an unconditional recognition of the independence of the southern States could have been, or could now be, proposed which they would accept. The clamor for "southern rights," as the rebel journals were pleased to designate their rallying cry, was not to secure their assumed rights in the Union and under the Constitution, but to disrupt the Government, and establish an independent organization based upon slavery, which they could at all times control.

The separation of the Government has for years been the cherished purpose of the southern leaders. Baffled in 1832 by the stern, patriotic heroism of Andrew Jackson, they sullenly acquiesced, only to mature their diabolical schemes and await the recurrence of a more favorable opportunity to execute them. Then the pretext was the tariff, and Jackson, after foiling their schemes of nullification and disunion, with prophetic perspicacity, warned the country against the renewal of their efforts to dismember the Government.

In a letter dated May 1, 1833, to Rev. A. J. Crawford, after demonstrating the heartless insincerity of the southern nullifiers, he said:

"Therefore the tariff was only a pretext, and disunion and a southern confederacy the real object. The next pretext will be the negro or slavery question."

Time has fully verified this prediction, and we have now not only "the negro, or slavery question" as the pretext, but the real cause of the rebellion; and both must go down together. It is vain to attempt to reconstruct the Union with the distracting element of slavery in it. Experience has demonstrated its incompatibility with free and republican Governments, and it would be unwise and unjust longer to continue it as one of the institutions of the country. While it remained subordinate to the Constitution and laws of the United States I yielded to it my support, but when it became rebellious and attempted to rise above the Government and control its action, I threw my humble influence against it.

The authority of the Government is supreme, and will admit of no rivalry. No institution can rise above it, whether it be slavery or any other organized power. In our happy form of government all must be subordinate to the will of the people, when reflected through the Constitution and laws made pursuant thereto, State or Federal. This great principle lies at the foundation of every Government, and cannot be disregarded without the destruction of the Government itself. In the support and practice of correct principles we can never reach wrong results, and by rigorously adhering to this great fundamental truth the end will be the preservation of the Union and the overthrow of an institution which has made war upon and attempted the destruction of the Government itself.

The mode by which this great change—the emancipation of the slave—can be effected, is properly found in the power to amend the Constitution of the United States. This plan is effectual and of no doubtful authority; and while it does not contravene the timely exercise of the war power by the President in his emancipation proclamation, it comes stamped with the authority of the people themselves, acting in accordance with the written rule of the supreme law of the land, and must, therefore, give more general satisfaction and quietude to the distracted public mind.

By recurring to the principles contained in the resolutions so unanimously adopted by the convention I find that they substantially accord with my public acts and opinions heretofore made known and expressed, and are therefore most cordially indorsed and approved; and the nomination having been con-

ferred without any solicitation on my part it is with the greater pleasure accepted.

In accepting the nomination, I might here close, but I cannot forego the opportunity of saying to my old friends of the Democratic party proper, with whom I have so long and pleasantly been associated, that the hour has now come when that great party can justly vindicate its devotion to true democratic policy and measures of expediency. The war is a war of great principles. It involves the supremacy and life of the Government itself. If the rebellion triumphs, free government North and South fails. If, on the other hand, the Government is successful, as I do not doubt, its destiny is fixed, its basis permanent and enduring, and its career of honor and glory just begun. In a great contest like this for the existence of free government, the path of duty is patriotism and principle. Minor considerations and questions of administrative policy should give way to the higher duty of first preserving the Government, and then there will be time enough to wrangle over the men and measures pertaining to its administration.

This is not the hour for strife and division among ourselves. Such differences of opinion only encourage the enemy, prolong the war, and waste the country. Unity of action and concentration of power should be our watchword and rallying cry. This accomplished, the time will rapidly approach when their armies in the field—the great power of rebellion—will be broken and crushed by our gallant officers and brave soldiers, and ere long they will return to their homes and firesides to resume again the avocations of peace with the proud consciousness that they have aided in the noble work of reestablishing upon a surer and more permanent basis the great temple of American freedom.

I am, gentlemen, with sentiments of high regard, yours truly,

ANDREW JOHNSON.

Hon. WILLIAM DENNISON, Chairman, and others, Committee of the National Union Convention.

Mr. INGERSOLL. I will show the reason why I ask permission to put a question to the gentleman from Pennsylvania. I will state what I understand him to state: that Andrew Johnson had not changed from the platform of the party upon which he was elected in 1864; but the party who elected him then, and oppose him now, has changed.

Mr. RANDALL, of Pennsylvania. Yes, sir, I think you have changed; that your party has shown the cloven foot; that they never expressed any purpose before the people to do what they have since done.

Mr. INGERSOLL. Has not your party changed in so far that your party opposed Andrew Johnson in 1864?

Mr. RANDALL, of Pennsylvania. The gentleman has a Yankee way of answering one question by asking another. [Laughter.] If the gentleman will answer my question perhaps he may have a right to ask another.

One remark more and I will yield the floor. I want to say there are but two positions to occupy, according to my apprehension, as to the question of the restoration of the Union, the principle enunciated by the chairman of the Committee on Appropriations [Mr. STEVENS] at an early part of this session, that these States are conquered provinces and we can therefore do what we please with them; and on the other hand, the Constitution of the United States and the decision of the Supreme Court, as delivered by Judge Grier, which the gentleman from Illinois [Mr. INGERSOLL] himself has quoted to-day to sustain his argument, in which that court determined that these States had not by reason of the treason of any individual in any manner been interfered with in their status as States. That is the gentleman's own decision of which he quotes, and that is the decision of the highest tribunal known to the country.

And I now say, as an humble member of the Democratic party, so far as I have been able to judge, it represents the conservative sentiment of the country. I claim to be a conservative Democrat myself, and not such a Democrat as the gentleman has described, not such as the gentleman would charge with treason, for, on the contrary, I represent a Democracy as loyal as the gentleman from Illinois. I represent, sir, a people who went with as much zeal and perhaps as far as the gentleman from Illinois in bearing arms to put down this rebellion. I am not a defender of rebellion in any particular. I am against anybody who seeks to overthrow the Government or the Constitution; and while I was in favor of putting down the rebellion when it emanated from the South, I am now to-day in favor of preventing the success and for putting down that party which seeks to change,

to annul, and to destroy the Constitution and to centralize this Government, and thereby to take away from the people the privileges which that Constitution formed by our forefathers gave to them. The gentleman from Illinois belongs to that party, and he will allow me to say, a party which does not seek any immediate restoration of this Union. They find that Andrew Johnson seeks that restoration in good faith.

His spirit of loyalty and fidelity to the Constitution is far different from that evinced by the Republican party. It is far different from that spirit of the gentleman's party which pressed through hurriedly the admission of the State of Colorado with two Senators in the other branch of Congress, simply because those two Senators will make up the two-thirds vote in the Senate and enable the Opposition party to be equal to any emergency against the conduct of the President in defending the Constitution of the United States. Yes, sir, that State was admitted into the Union, so far as the votes of the two Houses can go, when it has not as many inhabitants, I venture to say, as there are voters in my own district.

That is the party against which we are arrayed. It is the party which the people must overthrow before they can expect any full restoration of this Government. We can never have a continued peace until the principles embodied by Andrew Johnson in his veto of the Freedmen's Bureau bill, his veto of the civil rights bill, and his speech of the 22d of February last shall guide this country in a restoration of the Union of these States.

Mr. LAWRENCE, of Pennsylvania. I like that Christian virtue called patience, and have tried to exercise it toward my friend over the way.

Mr. RANDALL, of Pennsylvania. I am much obliged to the gentleman for his kindness. I knew his patience and his kindness of old, but perhaps I have encroached upon them too much.

Mr. LAWRENCE, of Pennsylvania. Not at all. I yielded more readily to the gentleman because he claimed to represent the Democratic party, and I wanted him to have the privilege of defending his friends, as he has done.

Now, Mr. Speaker, with the gentleman's permission, before I enter upon the subject which I intend to discuss, I propose to ask him a question in reference to the very subject he has adverted to. The gentleman says, and I do not controvert it, that he comes from a loyal district in Pennsylvania, and that his constituency are as loyal as that of the gentleman from Illinois, [Mr. INGERSOLL.] I want him to tell this House whether he supports to-day the Democratic candidate in Pennsylvania for Governor, Heister Clymer.

Mr. RANDALL, of Pennsylvania. I do; and I expect to do so with all my heart, because I believe his election will aid in the restoration of the Union.

Mr. LAWRENCE, of Pennsylvania. I only wanted a categorical answer.

Mr. RANDALL, of Pennsylvania. You have got it.

Mr. LAWRENCE, of Pennsylvania. I will now refer to a scene which has come up vividly before my mind since my friend from Illinois [Mr. INGERSOLL] commenced his speech—a scene which occurred three years ago or more in the Senate of Pennsylvania—when I heard Andrew Johnson slandered and vilified more than I ever heard any man abused in a public body by that same Heister Clymer and his Democratic associates. I have the speech here. I was told that the Senator was careful to suppress some parts of it, but in that speech he assailed Andrew Johnson in the strongest terms, declaring him utterly unworthy of the confidence of the Democratic party. And why was it that he made that assault on Andrew Johnson? Because we were disposed to honor him by giving him the use of the hall of the Senate of our State in which he could be heard in defense of the war. The Democratic party

refused to vote for it; they would not even permit his voice to be heard in that hall in favor of the cause of his country.

A motion was first made in the House that Andrew Johnson, and Governor Wright, of Indiana, should have the use of the hall of the House in that dark hour of the country, and how was that motion met by the representatives of the great Democratic party, who are now, or claim to be, the special friends of the President? It was defeated by their votes, and then presented in the Senate. I have no disposition to join in any vituperation against the President. I am far from indorsing some of the utterances of my friend from Illinois [Mr. INGERSOLL] in his speech to-day in regard to Andrew Johnson. I shall never engage in any personal abuse of any man who may be opposed to the policy of the party with which I act. But, sir, I say that this same Democratic party, led on by this same Heister Clymer in Pennsylvania, were opposed to allowing Andrew Johnson an opportunity to be heard in the hall of the Senate of Pennsylvania, and that the very same leaders have been here in this capital, and I have met them in the presence of the President of the United States, asking, as I suppose, for his interference in the State in favor of their party. These very men abused him two years ago as I never heard a public man abused in a public assembly, as I had occasion to know, for I was in the chair at the time, and was compelled several times to call them to order on account of their low abuse of a man that I supposed then to be, and still hope that I may be permitted to call, a patriot.

[Here Mr. WARNER handed Mr. LAWRENCE the speech referred to.]

Mr. RANDALL, of Pennsylvania. I suggest that the gentleman have leave to print it, so that it may go to the country along with the speech of the gentleman from Illinois, [Mr. INGERSOLL,] to see which is the worst.

Mr. LAWRENCE, of Pennsylvania. I have not said anything against the President, and shall not.

Mr. RANDALL, of Pennsylvania. I am not alluding to your remarks.

Mr. LAWRENCE, of Pennsylvania. I say that the men who were the enemies and traducers of Andrew Johnson in my own State, the copperhead party, who have held their secret cabals day and night, who have conspired against the Government, are now swarming around the President, getting down on their knees like scyophants, and asking for crumbs. I have seen them myself. And I have been told on good authority, and I believe it, that some of those who, a few weeks ago, nominated Mr. Clymer, came here to see if the influence of Andrew Johnson could not be had to carry that State for the Democracy in the coming contest.

Now, this is not saying anything against Andrew Johnson. I am telling who they were who abused him at that time, and who were his enemies. Those men to-day repudiate, as I suppose my colleague [Mr. RANDALL] does, the Baltimore platform; although my friend commends Andrew Johnson because he says he stands on that platform. And yet did my friend and colleague support and approve that Baltimore platform? I have no doubt he denounced it in every Democratic club-room in the city of Philadelphia, the very platform on which he says Andrew Johnson now stands.

Mr. RANDALL, of Pennsylvania. The Democratic party of Pennsylvania are not responsible for everything that Mr. Heister Clymer may say in his individual capacity. [Laughter.] Moreover, let me say that the Democratic party of Pennsylvania indorsed Andrew Johnson in their resolutions, because they believe his policy of restoration will give us once more a united country, and only on that ground.

Mr. LAWRENCE, of Pennsylvania. And the same party in my State sustained Vallandigham and indorsed him.

Mr. RANDALL, of Pennsylvania. When?

Mr. LAWRENCE, of Pennsylvania. In their State convention, in 1863. And I doubt

whether we could have carried the State for Governor Curtin but for that full indorsement of Vallandigham.

Mr. RANDALL, of Pennsylvania. I demand my colleague's authority for that assertion.

Mr. LAWRENCE, of Pennsylvania. I give my pledge, if the gentleman will accept that.

Mr. RANDALL, of Pennsylvania. I will accept the gentleman's pledge for forty-eight hours.

Mr. LAWRENCE, of Pennsylvania. In the convention that nominated Woodward for Governor, against Curtin, a resolution was passed congratulating the Democratic party of Ohio on their nomination of Vallandigham. And if that is not so I will agree to give the gentleman—

Mr. SMITH. Twenty cents. [Laughter.]

Mr. LAWRENCE, of Pennsylvania. More than that; I will give a basket of champagne.

Mr. RANDALL, of Pennsylvania. The gentleman is mistaken. The convention denounced the arrest and manner of incarceration of Mr. Vallandigham.

Mr. LAWRENCE, of Pennsylvania. I am astonished that my colleague [Mr. RANDALL] has such a short memory. I have had occasion to read that resolution before tens of thousands of the people of Pennsylvania; I have had occasion to refer to it more than fifty times. I do not misrepresent the Democratic party, nor do I misrepresent Mr. Clymer, who is a personal friend and an honest man. He has voted consistently and at all times against the war policy of the Government, and against making appropriations to feed and clothe the soldiers who were fighting for the Government; he has always sustained the copperhead party and its friends in the State of Pennsylvania. He is and has been a consistent leader of that party, and stands to-day as the candidate of that party in our State for Governor; a party, the members of which did all they dared to do, and keep out of prison, to hand us over to the rebels in the South.

Mr. SMITH. Will the gentleman allow me to ask him a question?

Mr. LAWRENCE, of Pennsylvania. Certainly.

Mr. SMITH. I would like to ask the gentleman from Pennsylvania [Mr. LAWRENCE] if it is not his wish as well as the wish of every loyal man in the country, I presume, that all men should be loyal and obey the laws and sustain the Constitution and the union of the States. Is not that his wish?

Mr. LAWRENCE, of Pennsylvania. That is my wish, certainly. And I should be very glad to see those punished who did not do so. And I would like to see some of them hung, and could name about twenty of them myself for that purpose.

Mr. SMITH. And I could double the number.

Mr. LAWRENCE, of Pennsylvania. And I do not know but I could name some in Kentucky.

Mr. SMITH. And I would double that, too. But I would ask the gentleman, if he finds men disposed and willing and anxious to obey the laws, and do obey them to all intents and purposes, would he have any cause of complaint against them?

Mr. LAWRENCE, of Pennsylvania. Does the gentleman expect me to have any faith in the Democratic party repenting of their sins? [Laughter.]

Mr. SMITH. Allow me, if you please.

Mr. LAWRENCE, of Pennsylvania. I thought the gentleman referred to them.

Mr. SMITH. Oh, no; I am not in the Clymer controversy at all. I do not know anything about it. I speak of those who are willing to obey the laws, and I do not come within the purview of the gentleman's rule of punishment. As to hanging the leading traitors, I am as much in favor of that as the gentleman from Pennsylvania can be.

Mr. LAWRENCE, of Pennsylvania. Well, Mr. Speaker, I did not mean to take up so much time. I was drawn into this discussion,

as the gentleman from Kentucky is aware, by the remarks of my colleague.

Mr. SMITH. I disclaim any intention to interfere in the controversy between the gentleman and his colleague. I was only asking a question with reference to the point of repentance and confession, whether the gentleman would forgive a man on that ground.

Mr. LAWRENCE, of Pennsylvania. Certainly I would, so far as I am personally concerned; but I would not, for that reason, exempt all the traitors from the just penalty of their crimes.

Now, Mr. Speaker, a dozen gentlemen around me are calling for the reading of the speech of Heister Clymer, to which I have referred, and which is just handed to me by the gentleman from Connecticut, [Mr. WARNER.] How he happened to have it I know not. In compliance with their wishes, I send to the Clerk's desk to be read an extract from the Legislative Record, the official report of the debates in the Pennsylvania Legislature.

The Clerk read as follows:

"Mr. CLYMER: Mr. Speaker, on this day, at this hour, in this place, a great issue is on trial, fraught with the interests, not only of the present, but of the future; and if I, in the decision of this issue, have acted a part, however unimportant, I shall hereafter look back to this day, to this hour, and to this place, with feelings of no little gratification."

"What is the question presented? It is a proposition to invite Andrew Johnson, the so-called Governor of Tennessee, to address the people of Pennsylvania from the Senate chamber of this State. I have various reasons for opposing this proposition. In the first place, I here boldly proclaim that he is not at this hour and never has been, by the Constitution or under the laws, the Governor of the State of Tennessee, except when years ago he was elected to that office by the people. I say, sir, that his appointment by the President of the United States to that position was a usurpation of power on the part of the President, and that there is no warrant under the Constitution, no authority in the laws for his appointment; and that every act which he has assumed to perform by virtue of his unconstitutional and illegal appointment has been in derogation of the rights of a sovereign State, and in flat violation of the Constitution of the United States.

"I say, sir, furthermore, that no such position as military governor of a State is known to the Constitution of the United States; that there is nothing in that instrument which authorizes the President of the United States to appoint a military governor of any State; and that to make such an appointment was to create the State of Tennessee a military province; and that his appointment was made to carry out and subvert the purposes of the present Administration, which is to reduce all the States of this Union to the condition of mere dependencies of a consolidated oligarchy or despotism. That is my position, so far as concerns this pretended Governor of Tennessee. Andrew Johnson has not been for years, and is not now, the Governor of that State; and I will never recognize him as such by voting for this resolution.

"But, sir, without regard to any question of his official position, take Andrew Johnson as an individual, assuming that he is rightfully clothed with the robes of office and may constitutionally exercise the duties of that high position; even then, I say to you, Mr. Speaker, that I never by my vote will allow a man to come into these halls and from this place speak to the people of this great State in support of what I know to be illegal, unconstitutional, and tyrannical acts of the Federal Government. I know, sir, that Andrew Johnson has gone as far as the farthest, and is ready to go still further, to destroy, to uproot, to overturn every principle upon which this great and good Government of ours was founded. I know that he has bent with suppliant knee before the throne of power; I know that for self or some other consideration, he has succumbed to every measure presented to him for approval or disapproval; and I know that in speeches delivered in the capitals of other States he has enunciated doctrines which, if adopted by the people of the great North, would be subversive of individual freedom and personal right. Sir, by no vote of mine can any person holding such views address the people of Pennsylvania in this chamber. Never, sir, never, so long as I have a right to forbid him."

Mr. LAWRENCE, of Pennsylvania. As the language to which I have referred does not appear in that speech, it is proper that I should say that Mr. Clymer and others suppressed a portion of the most objectionable part of their speeches. But from the whole tenor of that speech, the House will observe that it was a repudiation of Andrew Johnson, not only personally and politically, but officially.

Mr. RANDALL, of Pennsylvania. Will my colleague yield to me a moment?

Mr. LAWRENCE, of Pennsylvania. For what purpose?

Mr. RANDALL, of Pennsylvania. That I may have read a document which I wish to go

to the public along with the speech of the gentleman from Illinois, [Mr. INGERSOLL.]

Mr. LAWRENCE, of Pennsylvania. I cannot yield for that purpose.

Mr. RANDALL, of Pennsylvania. It will take only a minute.

Mr. LAWRENCE, of Pennsylvania. The gentleman knows very well that I have not much time.

Mr. RANDALL, of Pennsylvania. The document which I desire to have read is the platform upon which Heister Clymer was nominated as a candidate for Governor.

Mr. LAWRENCE, of Pennsylvania. I have seen that platform over and over again. It is an utter abandonment of all the old positions of the Democratic party.

Mr. RANDALL, of Pennsylvania. It is a good Union platform.

Mr. LAWRENCE, of Pennsylvania. But, sir, of what use is a platform which every one knows to consist simply of hypocritical professions? Sir, the platform which that party has adopted in Pennsylvania for campaign purposes is a card representing Clymer supporting a white man, while General Geary, that heroic man, who traveled with Sherman through the South, and returned victoriously, is represented as holding up, or perhaps embracing, a negro.

Sir, the only capital of the Democratic party to-day in Pennsylvania is the negro question. They attempt to appeal to the lowest passions and prejudices of the ignorant and debased with regard to the negro. Because some of us representing here the State of Pennsylvania voted for negro suffrage, as an experiment, and to enable them to compete with returned rebels in this District, our names are paraded as friends of the negro in preference to the white man. In this, with the tricks of demagogues, that party appeal to passion and prejudice, and not to judgment and reason.

Now, I say that is the platform upon which these men stand. It is published in every Democratic paper in the State. I eulogized President Johnson when these men were denouncing him. I stood by him at that time, in Harrisburg, when he made one of the most able arguments that I ever heard in defense of the Constitution and the right of the Government to put down this rebellion. I followed him then; I followed him in Tennessee, when he stood like an oak stricken in the forest, when he was driven from home, and his family were scattered. I stood by him then, and I stood by him as the candidate of the Republican party in the last campaign. I helped to elect him. I would be glad, sir, to say that I indorsed every act of his Administration. I do not, and I cannot. I came here as anxious as my friend from Illinois that we should be united, that the President and Congress should stand together in this great issue. I knew the assaults we had to meet from the Democratic party. I knew they were thirsting for the loaves and fishes. I knew they would use every effort to secure possession of the Government. I was anxious that we should stand upon the platform of the party which would save us from this humiliation and disgrace. I did all a man could do to stand by the President, and, as some of my friends know, I subjected myself to suspicion and reproach from some of my radical friends, because I did not indorse all their policy. I regretted to hear the President abused early in the session. I was anxious we should be kept together; but after his speech of the 22d of February, and after his veto of the civil rights bill, I found I could not go for his whole policy without degrading myself and losing my own self-respect.

And I say here, in the presence of the nation, that my district that voted for him was in favor of sustaining his Administration until by some of his own acts, and by means of the copperhead party all over the land, he succeeded in destroying that confidence which I desired to cultivate; and to-day I have the gratification to know, although I represent a doubtful district, that the President, by the removal of pure, honest, and patriotic men, and by pardoning

men covered all over with crime, who have been guilty of treason to the country, and by suffering himself to be led astray by our opponents, has made it necessary for the Union men to stand together in support of the general policy we sustain here, and they are as earnest and as powerful as when they sustained Andrew Johnson for the Vice Presidency of the United States. They stand in opposition to the general policy of the President, and in favor of the general policy pursued by the party in Congress, and I stand there with them. I am not going to abandon my principles to follow the lead of any man. I was willing to yield something for peace and harmony. When war is made upon us, when it comes upon the wings of the wind every morning and every evening, when we are attacked upon all sides, when attacks are made upon our people because they are not willing to bear the yoke, I cannot support the policy.

Mr. Speaker, I will not abuse the President personally. I never do that thing. I predict, with the honorable gentleman from Illinois, that we need not fear the contest. We live in an age of advancement, when bibles and churches and school-houses are scattered all over the land, when men are expected to respect a man because he is a man, when men are expected to do justice to all men, white or black; and I say the day is not far distant when this miserable copperhead party, that has no love of principle, that does not stand by its professed principles during more than one campaign, that has changed them in my own State twenty times within my own knowledge, when this Democratic party that derided Johnson, that slandered Lincoln—yes, sir, for they did deride, vilify, and slander him all over the land, calling him a low buffoon, while to-day they come up and hypocritically sing praises to his memory—I say that the day is not far distant when this Democratic party will sink into oblivion covered with the curses of the people it has deceived.

This same party rallies around President Johnson by night and by day. Go to the White House any time you please and you will be sure to see some of them, and always the shadow of some of the Blairs. [Laughter.] I have scarcely ever gone there without meeting some one of the family. I have seen the old man, who is almost ready to fall into the grave, there. It was the same during Lincoln's administration; he was always there trying to lead the President away from the people, in order to give office to the family.

I feel like the man in my own State at the time that President Jackson removed the deposits. He said, "I didn't wish General Jackson any harm; but I shouldn't care if the Almighty took a fancy for him." [Laughter.]

No family in this land so few in number has done so much to alienate the President from those who were his friends as this family of Blairs.

I have been drawn off into this personality. How could I help it? The Union organization by which I have stood since the first tocsin of arms was sounded at the attack on Sumter, I have followed it, never stopping to inquire whether a man who adhered to it was a Democrat or a Republican, and it was this organization and its policy that saved the country. I have met these men who call themselves Democrats everywhere. I know where they stand, and how they long for the flesh-pots of Egypt. But I have always found myself right when I have sustained the Union organization in my own State. Months ago I trembled for the President elected by Union votes, when I saw those men about the White House trying to steal him away, flattering him, eulogizing him, and dictating a policy for him.

When I saw, long since in the State Department, a pile of pardons as high as twenty family Bibles, [laughter,] and a man carrying a lot of them out, I saw it was a wholesale business, and was informed by a gentleman there he had carried out thousands of such.

Well may we tremble for the President, when

we reflect how much depends on his fealty to his true friends.

But as my friend from Illinois [Mr. INGERSOLL] has well said, the Union party will survive and save the country. I glory, sir, to-day, in the record of that party. There never has been a party in any country that has done so much for liberty. It has saved this Government from destruction. While the soldiers met the rebels in the field of battle and defeated them, the loyal men of the North met their allies in the political field, at the polls, and defeated them. I repeat, this Union party has saved the country in its hour of trial and it will triumph in the end, not so much on account of its numbers as because it is right. As my friend from Chicago [Mr. WENTWORTH] remarked the other day, "God will sustain us if we sustain the right."

I repeat, then, the Union party is bound to triumph. I may not indorse all that is done here by it. I am not quite satisfied with the report of the committee on reconstruction and shall vote to amend this proposition. But the Union party will live in spite of adversity. Already the political ax is falling upon the necks of our friends. Heads are falling in my own State.

A MEMBER. Who are they?

Mr. LAWRENCE, of Pennsylvania. As good men as ever lived are being displaced for bad men. The President has turned out the marshal of western Pennsylvania, as pure and upright a man and as capable as ever held office anywhere, and appointed a man in his place who was dismissed from service on a charge implicating his integrity. Thank God, he is not confirmed, and will not be. [Laughter.] I have met him very often. I do not know how much money he has made out of the position that he lost. The report varies.

Mr. SMITH. Who recommended him?

Mr. LAWRENCE, of Pennsylvania. It is not for me to say. Certainly the gentleman from Kentucky [Mr. SMITH] did not.

Mr. SMITH. I suppose somebody from Pennsylvania did it, and I would like to know.

Mr. LAWRENCE, of Pennsylvania. When I spoke to the President about the late marshal, and told him what I knew of him—told him that there was no more competent or worthy officer to be found—the President intimated that he should not be removed; but before two days elapsed he was removed and another name sent into the Senate; the one to whom I have referred as having been dismissed from the service of the Government charged with various crimes.

Mr. SMITH. I would like to ask the gentleman from Pennsylvania [Mr. LAWRENCE] if this person who was appointed marshal by the President did not carry with him some similar recommendations, in a political point of view, to those upon which the President released Clement C. Clay upon parole.

Mr. LAWRENCE, of Pennsylvania. I am glad the gentleman has asked me that question. Now, I venture to say—and I have not seen the record, and do not know whether there is any or not—that there is not an honest Union man in western Pennsylvania who signed any remonstrance against the late marshal. No charges were or could be preferred against so pure and upright a man, respected and loved by all who knew him. But there is a little cabal or clique of three or four men in Pittsburgh, in the district of my colleague, [Mr. MOORHEAD,] who cannot control twenty votes in any ward or borough in the State, brought this influence, with the aid of leading Democrats, to bear on the President; and I now make the prediction that notwithstanding that attempt to break down my colleague in his own district by removing some of his purest and best friends, he will come back here to the next Congress with as large a majority as he ever had before. Those few men, "sore-heads" we call them there, are men who always want offices for any party that has them to give. I hope the President will deem it proper and right to withdraw the name he proposed for marshal from the Senate. I am certain the President has been deceived in

regard to that man, for he would not inflict such injustice on his loyal friends in western Pennsylvania—men who sustained him so cordially and so effectively.

I have always been treated kindly by the President personally, and always expect to be. When he makes a mistake he allows me to refer to it. And if I make a mistake I am willing that he should refer to it, if he does not do it in a speech on the 22d day of some month. [Laughter.]

Now, Mr. Speaker, I had not the slightest intention when I came here to-day of saying one word of what I have said. I have a speech here on the tariff, and on the subject of protection to wool. You told me that I could not get the floor next Saturday, but that I might get in a speech to-day, if I would hurry up and get it ready. So I went home yesterday, and being a hard-working man I sat up late last night and got up early this morning, and about concluded my preparations for a speech to-day on the tariff.

Now, I represent a district that is more interested in wool-growing than any other district in the country, not even excepting that represented by my friend from Iowa, [Mr. GRINNELL,] who has shown so much interest in wool this session. And I believe my own county has more and better sheep than any other county in the country. [Laughter.]

Mr. GRINNELL. I have been charged by the people in my district with having had so much to do with another kind of wool that was not so popular, that I thought I would go for another kind that the people are more willing to have.

Mr. LAWRENCE, of Pennsylvania. Representing a district which has such a deep interest in the subject, I thought I would be justified in saying a few words in favor of protecting wool.

When this political subject came up I was led into speaking upon it, and I have said more than I had intended to do. I have this speech here on wool and tariff, but I feel some hesitation in boring the House with it, for it is a dry speech, full of statistics and figures.

Mr. SMITH. I move that the gentleman have leave to print his wool speech instead of the one he has made. [Laughter.]

Mr. RANDALL, of Pennsylvania. I object to that arrangement.

Mr. LAWRENCE, of Pennsylvania. I do not know that the speech I have made now will appear very well in print. But I am sure the speech of my colleague to-day [Mr. RANDALL] will not compare very well with his former record.

Mr. WILSON, of Iowa. If the gentleman from Pennsylvania [Mr. LAWRENCE] should not publish his speech of to-day we should lose Clymer's speech; and I should not want to lose that.

The SPEAKER. The Chair would say to the gentleman from Pennsylvania that the reporters of the Globe have already taken down his speech of to-day.

Mr. LAWRENCE, of Pennsylvania. I have been led off on this political question. But I want it distinctly understood that I intended only to get in this wool speech to-day. [Laughter.]

Mr. GRINNELL. I move that the gentleman have leave to print his wool speech.

Mr. SMITH. Certainly; that is right.

No objection was made, and leave was accordingly granted. [The speech will be published in the Appendix.]

Mr. LAWRENCE, of Pennsylvania. I have kept very quiet this session, as members very well know. I thought it most prudent in a new member not to mix up in these political discussions. But I felt it to be a duty that I owed to the people I represent to speak on this question of protection for wool. I have presented petitions with more than ten thousand names asking Congress to give them increased protection on wool. I have been, with others, before the Committee of Ways and Means on this subject, and I will say to the country that we believe the committee have agreed to report

just what the wool-growers desire on that subject.

Mr. BANKS. I hope the gentleman from Pennsylvania will go on with this speech and let us have the other in print.

Mr. LAWRENCE, of Pennsylvania. I have little more to say, as my time is nearly out. I wish now to say, in addition to what I have said, that I am willing to trust the future of this great nation to the Union party which has done so much for the country. When a party is held together and actuated by an honest desire to perpetuate the greatest good for the greatest number, you cannot by these side issues and by executive patronage corrupt it and lead it away from the path of duty.

Sir, the people do not forget the amount of blood and treasure that they have spent during the last four or five years. They do not expect this Congress to proceed in the work of reconstruction upon a policy which would lose to the loyal people of the country all that they have gained in the late contest. And this Congress will be sustained as far as they are right.

The members of the Union party have been slandered and vilified and denounced all over the country; but, sir, I venture to say that this Congress comprises a body of men as honest and as faithful to the interests of the country as any men who ever sat in this Hall. Sir, we are assailed, not because we are partisans, but because we stand together as men loving justice, standing up for the right.

In the coming contest in Pennsylvania the Union party will be sustained. My colleague over the way [Mr. RANDALL] knows that the contest promises to be as bitter as any that we have ever had in that State. He knows how loyal the people of that Commonwealth are. He knows that Pennsylvania gave to the aid of the Government as many soldiers, and more, perhaps, in proportion to her population than any other State in the Union. He knows that the great heart of that giant State—it has sometimes been called the blind giant—has always beaten in unison with the highest and best interests of the country. And I tell him that on the night of the second Tuesday of October next we will send up from western Pennsylvania a voice which will convince him that the people have not forgotten the record of Heister Clymer. They have not forgotten the fact, which the legislative journals prove, that he uniformly voted against securing to the soldiers in the field the elective franchise; and in a public speech he boasted of having done so. In my presence he voted over and over again against every proposition calculated to assist and sustain the State and the nation in the late struggle. He has been a most consistent friend of Vallandigham and William B. Reed, and that class of men all over the country; and he is a fit representative to-day of the Democratic party. He is a friend of Woodward, who as judge of the supreme court made a decision against the constitutionality of the conscription law, and who, because of that decision and one against enfranchising the soldiers of the State, was nominated by the Democratic party for Governor.

Mr. Speaker, I say that when the people of Pennsylvania come to look at the record of the Democratic candidate for Governor in my State, not only on these questions relating to the war, but on other questions, they will repudiate him. The Union party in that State, as members of this House are aware, have nominated a candidate without reference to his political opinions; a man who did once act with the Democratic party. We expect to elect him, and we will elect him. I can assure you the people are honest and well-informed and will stand by the country, and the truest, best friends of the country, and all will be well. Now, I will not detain the House longer. Not a word on this question which I have said did I intend to say when I came into this House. I now yield the floor.

Mr. ROGERS. Mr. Speaker, I did not intend when I came here to-day to participate in this debate, nor did I expect when I came here to be entertained with debate of the character

of that indulged in by the gentleman from Illinois, [Mr. INGERSOLL.] Indeed, I should not now say anything did I not feel it was my duty, when a man holding a high official position in the United States, the highest within the gift of the people, is assailed in his personal, political, and national character, as a Representative of the people to sustain him in the principles which he has enunciated, and which I believe to be the true Union principles of the country. Nor do I, in the remarks I intend to make, expect to indulge in any loose charges against those who represent the Republican or so-called Union party. I am not ready to believe that the rank and file of that party are disloyal to their country, nor am I willing yet to believe that those eighteen hundred thousand men who supported George B. McClellan in 1864 were disloyal to the country and wished to accomplish its ruin and to establish a despotism in place of the free Government which descended to us from our forefathers.

But while I support the doctrine of the President of the United States with the rank and file of the Democratic party, it is from the fact that the doctrine he has enunciated now, and the doctrine he has always enunciated, is the doctrine of constitutional liberty, which is the very life and soul of our form of Government, without which the light of liberty would go out and we would sink into despotism. I take the ground here, and without fear of successful contradiction, that Andrew Johnson has not violated any principle he ever enunciated, that he acts to-day under the solemn obligations of the oath which he has taken to support the Constitution in all its integrity, that he has betrayed no principle or party, and that his only ambition and his only hope are to sustain this great and glorious Union in the pristine vigor which it had before the war commenced.

I am ashamed, sir, at the situation which affairs have taken in this country. I weep in silent sorrow that a Representative of the United States Congress should get the attention of this House and country in vilifying and abusing as true and noble a patriot as ever stood up in any country in defense of its imperiled existence; a man, sir, who left the Senate of the United States in response to the call of his country; a man who, although southern-born, still imbued with the teachings of the fathers of the Republic, stood with those lovers of his country whose blood has been so freely shed upon southern soil; a man who has been identified with the Unionists of the South from the commencement, and whose defense of our flag, emblematic of the principles of constitutional freedom, made him the envy and admiration of all civilized nations. Yes, sir, he left the Senate of the United States for the purpose of vindicating the founders of his country, and to stand by the principles embodied and set forth in the Declaration of Independence and the Constitution of the United States. Sir, I would not degrade this House so much as to descend to the position which has been taken here to-day by the honorable gentleman from Illinois in vilifying, abusing, traducing, and slandering as noble a patriot as ever lived upon the face of this earth.

Mr. WILSON, of Iowa. The gentleman refers to the present President having left the Senate of the United States. When he left the Senate he did it to take possession of the office tendered to him by President Lincoln; that of military governor of the State of Tennessee. I wish to ask the gentleman from New Jersey whether he indorsed the act of President Lincoln in appointing a military Governor for Tennessee? If he did not, did he indorse the acceptance of that office on the part of Mr. Johnson?

Mr. ROGERS. I have no hesitation in saying that the appointment of military governors in time of war, when the civil tribunals could not perform their functions in the Union, was constitutional under the right to raise and support armies, repel invasions and suppress insurrections, and that when Abraham Lincoln appointed Andrew Johnson as

military governor he did it as Commander-in-Chief under military law. And I am here to sustain the appointments of military governors under those circumstances, whether appointed by Abraham Lincoln or Andrew Johnson, as an element of military power when the nation is sought to be torn asunder by rebels in arms, as a necessary element of military power to sustain the flag and to defend the country.

Mr. WILSON, of Iowa. The gentleman from New Jersey evidently misapprehended my question. I asked him whether he, at the time Mr. Lincoln performed that act, indorsed it.

Mr. ROGERS. I say this: that I never had anything to say about it, that I know of, either publicly or privately, in any way whatever. But I never doubted the right of a military commander in a military district where hostilities existed and the flag of the country was being assailed by armed invasion, to use the military power within those military lines. And I say I have always indorsed, and do now indorse, the act of Abraham Lincoln in appointing military governors within the lines of the military operations.

Mr. WILSON, of Iowa. The gentleman occupies a somewhat conspicuous position in the Democratic party, and inasmuch as he says that at that time he has no recollection of having uttered any word of indorsement or disapproval as an individual, I would ask him whether the party with which he then acted and now acts indorsed the acceptance of office by Andrew Johnson.

Mr. ROGERS. I say, sir, as a party, you can nowhere find in any State, county, or township an instance where the Democratic party ever denounced Abraham Lincoln for the exercise of military power within a State while the people of that State were arrayed in insurrection against the Government, and where civil law could not prevail.

Mr. WILSON, of Iowa. I believe that the speech which was read at the desk a few moments ago, made by Mr. Clymer, the Democratic candidate for Governor of Pennsylvania, does distinctly denounce the action of Mr. Lincoln in making that appointment, and denounces the acceptance of it by Mr. Johnson. Now, I would like to ask the gentleman whether that utterance of Mr. Clymer at that time was not in harmony with the views and position of the Democratic party.

Mr. ROGERS. As to the utterance made by Heister Clymer I have no knowledge, and I am free to say that so far as my knowledge extended the party indorsed no such sentiments as are attributed to Mr. Clymer, but there is no proof that he ever uttered them except the assertion of an abolition sheet. And let me say further, that the Democratic party, with its eighteen hundred thousand voters in the North, and representing millions of women and children, is not to be bound down by the idle or loose declarations of any man, any more than the honorable gentleman would wish to have the whole Republican party bound down by the declaration of Wendell Phillips when he said that he had been a disunionist for thirty years, or of Horace Greeley when he held out an invitation to the southern people to secede.

Mr. WILSON, of Iowa. I presume when that question was pending in the Senate of Pennsylvania that the Democratic party was represented in the persons of the Democratic Senators. Now, I ask whether that party thus represented did not sustain Heister Clymer by voting to refuse the use of the hall for the purpose of having that address made by Mr. Johnson.

Mr. ROGERS. No, sir; that was no indorsement of what Mr. Clymer said at all, any more than voting upon a proposition brought forward by a man is an indorsement of his speech made on that proposition. The Senators had a right to refuse the use of that Hall to anybody for a public meeting; and simply because those Senators who represented the Democratic party saw fit to cast their votes in accordance with the proposition of Mr. Clymer, it by no means follows as a fair conclusion that

they indorsed all the language he is charged by that sheet to have used on that occasion.

Mr. LAWRENCE, of Pennsylvania. Allow me to ask if Mr. Clymer has not been reelected to the Senate by the same people, and also renominated for Governor, since he made that utterance.

Mr. ROGERS. That may all be; but because he was reelected it is no evidence that the people who voted for him indorsed all he has said. I have no doubt that we have said many things on this floor and elsewhere that all our constituents do not indorse; and I will guaranty there is not a member here whose whole constituents will indorse all he has said. Will any one undertake to say, for instance, that all the Republicans of the district that sent to this body the gentleman who says he regards the States lately in rebellion as conquered provinces will indorse that utterance of the distinguished gentleman from Pennsylvania, [Mr. STEVENS?]

It is most unfair to undertake to make a great party responsible for what a few individuals may say. Because some men in the Democratic party may be unwise, that ought not to consign the Democratic party and its great doctrines to the tomb, even if the party should happen to support some of those men for official position.

I know there are members of the other side of the House, and I can pick them out, who often support measures advocated by the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] and yet disagree with him in the reasons by which he has reached his conclusions upon the subjects. I know from having had private conversations with them, and from hearing their speeches upon this floor, that this is the case. There are some of them who hold that the States are out of the Union, are dead for all political purposes; others hold that they are States in the Union, but without the right of representation. But there are some who hold with the Democratic party, that those States are entitled to immediate representation upon their representatives taking the oath prescribed by the Constitution and the laws, yet they all vote together when the test comes.

Now, to charge a whole party with the responsibility of the acts of Mr. Vallandigham, or anybody else, is uncharitable and unjust to the eighteen hundred thousand men in the North, many of whom had periled their lives in defense of their country, who voted for George B. McClellan for President of the United States. I say without fear of contradiction that the records of the Democratic party, from a period coeval with the formation of our Government, show that their doctrines and principles brought us to a state of prosperity unequalled in the annals of history. And only when the last generations of mankind have been gathered to the silent tomb will the principles they have always maintained and advocated cease to exist. And I am not to be driven from my honest convictions of duty by any denunciations of the party to which I belong, or by calling them traitors and disunionists.

Sir, Andrew Johnson is pursuing now just exactly the course he has always advocated. You cannot find in the Baltimore platform, upon which Abraham Lincoln was nominated and elected as President and Andrew Johnson as Vice President of the United States, one single word which contradicts what he now seeks to carry out. Will you call Andrew Johnson a traitor and disunionist because he wants the union of the whole country? What was the object of the bloody war from which we have just emerged? Why were a million men killed, maimed, and wounded upon the field of battle, and \$3,000,000,000 of Federal and \$1,500,000,000 of State debt imposed upon the country? Why have weeping and sorrow and anguish been carried to almost every home in this broad land? It was because we desired to perpetuate the Union which our forefathers established and handed down to us for the protection and defense of the white men and the white women of this land.

Sir, Andrew Johnson wants the Union as it was. He wants the Union that was made by the fathers and sages of the times that tried men's souls. He wants the Union which was intended to be the shield of the rights of the States, and the protector and guardian of the rights of the Federal Government. He wants the proper equilibrium preserved between the three coordinate branches of the Federal Government. And because he will not violate every pledge of faith that the Republican party made to the people in 1864, he is to be branded here as a tyrant and usurper, and as a violator of the principles which lay at the foundation of our Government.

I do not want to insult any one. I do not rise for any such purpose. But when any of you rise here and charge, as you have to-day, the Democratic party and Andrew Johnson with being traitors to their country and sympathizers with secession, I denounce it as wickedly false. This Congress, by its acts, through this central directory of fifteen that holds its secret sessions in this Capitol, is sapping the very life-blood and weakening the very foundations of this Government.

Mr. WILSON, of Iowa. I would ask the gentleman from New Jersey if he is not himself a member of that central directory of which he speaks.

Mr. ROGERS. I am, and I have great respect for the men who are on it. I am not here to say that those men, or any men upon the other side of the House, are actuated by any desire to commit intentional wrong. I would not degrade myself and the country by charging that gentlemen on the other side of the House, who have always treated me with respect, are any of them desirous to injure the country. But their prejudices and their passions, as in the case of John Brown when he committed murder and treason in Virginia, are leading the country on to destruction, and without the interposition of Andrew Johnson the lamp of liberty would soon be extinguished forever.

Now, sir, I had no participation in the election of Andrew Johnson—

Mr. WILSON, of Iowa. I should like to ask the gentleman another question. It may be that this "directory" has been guilty of something which has not been disclosed. If the gentleman is at liberty to name it I should like him to do so. I believe that the committee has removed the injunction of secrecy.

Mr. ROGERS. The gentleman knows perfectly well what has been done by that committee. He knows that from that committee have emanated projects of disunion. He knows that from that committee has emanated the doctrine embodied in the proposed constitutional amendment and the two bills which have been presented—the doctrine that the war dissolved the Union, that the southern States are out of the Union, and that it will require an enabling act of Congress and an amendment of the Constitution to bring those States back into the Union.

I am no disunionist. I will cooperate with no party that seeks to destroy this country. When the leaders of the majority party on the floor charge me and my fellow-members of this Democratic party with being traitors, I hurl back the charge into their teeth, and tell them that they are the only party now preventing the consummation of the great work of restoring the Union upon the principles of self-government consecrated by the blood of our revolutionary forefathers.

Mr. WILSON, of Iowa. The committee of which the gentleman is a member have presented their report proposing an amendment to the Constitution of the United States. One provision of that proposed amendment is, as I understand, that the southern States shall no longer be entitled to that unfair and unjust share of representation which they have heretofore enjoyed, and that, instead of having as the result of four years of war, an increase of political power in consequence of the emancipation of the slaves, they shall conform to a basis of representation which will be just to both

the North and the South, applying to all the States alike, and under which those who are enfranchised shall be represented. Now, I desire to know whether the gentleman is opposed to that principle embodied in the report of that committee, or "directory," as he terms it.

Mr. ROGERS. Yes, sir, I am opposed to it for the same reasons that our fathers were opposed to taxation by the British Parliament when they were denied representation in that body. I am opposed to it on the principles of the Declaration of Independence and the fundamental doctrines of the Constitution.

Sir, let me say further, in answer to that suggestion, that at the time of the formation of the Constitution slaves were held in all the States except one, and there was in many of the States a large colored population. From time to time slavery was abolished in the different northern States; yet, although the abolition was not accompanied by the enfranchisement of those who were emancipated, no one proposed that any of these States should be deprived of representation for the colored population to whom they denied the right of suffrage.

Mr. WILSON, of Iowa. We are not proposing, as I understand, even if we adopt the amendment reported by the committee, to take away from any State any just share of representation. The proposition, as I understand it, is this, and no more: that a man in South Carolina shall have no more political power in this nation than a man in New Jersey or in Iowa; that a white man in the State of South Carolina, which inaugurated this rebellion, shall not have as much power as that exercised by three men in the State of Iowa. I ask the gentleman whether he is opposed to that kind of representation.

Mr. ROGERS. I maintain, sir, that there is no more necessity for an amendment of the Constitution, because a portion of the southern population, lately slaves, have become free, than there was for a constitutional amendment when the various northern States abolished slavery within their limits. I say that the Constitution as it stands grants to the southern people no right of representation except that based on population; and in this respect all the States are placed on an equality; the South enjoys no peculiar advantage. Sir, if a million foreigners land at the port of New York and become a part of the population of the State of New York, that State, under the Constitution, is entitled to representation for those foreigners, although they may never become citizens and never vote.

And I say, sir, that the representation which has been allowed to the people of the southern States for the people of color will not exceed the basis for representation of foreigners who are not entitled to vote in the northern, middle, and western States.

Mr. WILSON, of Iowa. Would not the same result follow if one hundred thousand foreigners or a million foreigners should go into South Carolina instead of into New York?

Mr. ROGERS. Exactly. Let us leave the landmarks of this Government as they were when the Government was made. I believe this Government is the fruit of the most experienced wisdom of any people who ever lived, and that Washington and Jefferson and the men who framed the Constitution of the United States, coming out of the Revolution imbued with the principles of liberty and having the mantle of victory and patriotism thrown over them, were the best judges of what the true interests of this country are. Sir, in this time of excitement and of peril, when the Union, by the action of the members of this Congress, is dissolved, because eleven States are prevented from sending their Representatives here, to which right, under the Constitution, they are entitled, it is no time to amend the Constitution.

Mr. WILSON, of Iowa. The gentleman speaks of the excellence and perfection of the Constitution as our fathers made it. I ask him whether he does not think the Constitu-

tion now, embodying as it does the prohibition of slavery throughout the country, is not a little better than it was before.

Mr. ROGERS. That is an issue which I am not here now to discuss. It is an issue dead and gone. It is part of the history of the past. It has become part of the Constitution of the United States and freedom has been proclaimed to four million people. My vote, power, and influence shall be given to sustain that provision so long as I may live, whether North or South shall desire to strike it out.

Mr. WILSON, of Iowa. I ask whether if those States who have been in rebellion were represented in these Halls at that time that provision would not have been defeated.

Mr. ROGERS. At that time these men were engaged in rebellion and were convicts before the altar of patriotism. The execution of the law has been forgiven by the clemency and Christian character of the President. While they were firing upon the flag of the country and trying to destroy this Government they were not entitled to any consideration at all.

Mr. WILSON, of Iowa. I ask the gentleman whether he approves that portion of the President's conduct and policy which compelled the people of these unrepresented States to ratify that amendment and make it a part of the Constitution of the United States.

Mr. ROGERS. I did not then approve of it, but I believe now it was for the best interests of the country; that as an issue of war it should be given up in the reconstruction, after the war had wiped out slavery, to prevent future agitation upon it. I am satisfied that the best interests, the grandeur, glory, and perpetuity of this Government demanded that the States should perpetuate the result of the war in striking the shackles of slavery from every human being within the length and breadth of this land. I never was in favor of slavery. No man, sir, ever heard me advocate slavery in the abstract, but I was in favor of standing by the elementary principles embodied in the Constitution of the United States. I believed, and do yet believe, that abolishing slavery by war was in violation of the plighted faith of Congress as given in the Crittenden resolutions adopted after the war had begun, and of the letter, spirit, and intent of the Constitution. That proposition set forth the principles upon which this war was fought, and it emphatically declared that when the rebels laid down their arms the Union should be restored.

Mr. WILSON, of Iowa. The gentleman has to some extent eulogized the abolition amendment, and also the conduct of the President of the United States in relation to it, the Congress that passed it, and the Legislatures in the insurgent States which ratified it.

Mr. ROGERS. I have not eulogized them at all.

Mr. WILSON, of Iowa. I ask the gentleman whether, in his opinion, that great good could have been provided, whether that amendment of the Constitution could have been had, whether that security of liberty could have been procured for the people of this country if the insurgent States had been represented in these Halls; and if not, whether it would have been wise to postpone until their recognition was procured action on that amendment to the Constitution.

Mr. ROGERS. No, sir; I am not finding any fault, and if the gentleman had listened to me he would have seen that I found none with the course of action at that time in taking advantage of the absence of southern Representatives. But I held then as I do now, with Alexander Stephens, that there is no power in the Federal Government to usurp the functions of a State that have never been delegated to the Federal Government, even by a constitutional amendment made without the authority of the other States. I say that the abolition of slavery was an event of the war, and the result of one of the principles of war resorted to by the conquering power, that being the arbitrament to which the southern people submitted. And slavery having been abolished under those circum-

stances, I wish to keep it dead and buried forever, so far as I am concerned.

Mr. WILSON, of Iowa. The gentleman says he is opposed to the exercise of powers not delegated by the Constitution. I desire him to point out the particular clause which authorized the President to appoint provisional governors for those States and to require of those States the ratification of the constitutional amendment abolishing slavery.

Mr. ROGERS. The power was this: the Constitution of the United States says that the United States shall guaranty to every State a republican form of government, and when the people of any State are in insurrection, or when a State is overrun by the armies of other States, it is the duty of the President to call out the militia, suppress the insurrection, and repel that invasion. And it was by virtue of the power conferred by the force of military law, as embodied in the Constitution of the United States, that Abraham Lincoln had a right, not as President of the United States, but as Commander-in-Chief of the Army, to dictate such a state of affairs as would come within the requirement of the Constitution in guarantying to those States a republican form of government. And as slavery was an instrument of war, one of the principles upon which it was waged, the main principle, in fact, for the last two years, the arbitrament has settled that as much as any other question. When the people went to war these extraneous matters gave way to the force of the arbitrament, and were settled for all time to come.

Mr. WILSON, of Iowa. Then I desire to ask, inasmuch as Texas was omitted from the proclamation of the President, whether, in the gentleman's opinion, if Congress should pass the amendment now pending, it would be competent for Andrew Johnson, as President of the United States, to require of Texas the ratification of that amendment before he would recognize her as restored to such an extent as to be entitled to representation in Congress.

Mr. ROGERS. No, sir. I claim, notwithstanding what Andrew Johnson may have required, that when the rebels laid down their arms and submitted to the Constitution of the United States the war was ended. Notwithstanding anything that may have been put on paper by the President or anybody else, the very moment the southern States succumbed that very moment their State governments could by the people be put in full operation, because those State governments had been merely suspended by virtue of the illegality of action of the southern people, which never could destroy the existence of those States as States of the Union under the original act of admission.

Mr. WILSON, of Iowa. If I understand the gentleman's position, it is, that while the war was going on, before the rebel armies surrendered, the President might do this thing. But I wish to ask him whether the rebels had not surrendered before the President issued his first proclamation for the establishment of a provisional government in North Carolina, and whether all those provisional governments were not established after the surrender, and all those requirements on the part of the President were not subsequent to that time, by which they were to do certain things, and among others ratify the constitutional amendment abolishing slavery.

Mr. ROGERS. Nobody can doubt that a State government may be operated within the military lines by military governors, and it was only as a condition to the laying down of their arms that the Commander-in-Chief exercised the right under the Constitution to establish a republican form of government and lent the aid of the military power to the people of the insurgent States for them to ratify the act in such manner as they thought right, and upon such principles of the union of the several States as existed before they attempted to carry them out of the Union.

Mr. WILSON, of Iowa. I understood the gentleman from New Jersey to say that as soon as the rebel armies surrendered, the old State

governments as they existed prior to the rebellion at once revived; of course that must have included the revival of the constitutions of those States. Now, I wish the gentleman to state whether those States had republican forms of government before the rebellion. If so, and those governments were revived by the surrender of the rebel armies, where did the President get the power to require them to change those republican forms of government?

Mr. ROGERS. He was authorized to exercise that power upon the ground that the acts which had been performed in behalf of the confederacy were acts which were void *ab initio*; and there is no better settled principle of law than that no void or illegal act can overturn or destroy that which was legal, and therefore every movement of the southern people with reference to furthering or carrying into effect the machinery of the confederate government was without authority of law, and was in violation of the government, which the President of the United States was bound to uphold by all the means in his power. And he was authorized to put down all the forms of State government which the people of the South had adopted to sustain the cause of the confederacy. When those forms had been put down, then the *status* of those States, as it existed before the rebellion commenced, returned to them, except so far as regards what was declared to be the corner-stone of the rebellion, which was put in issue, and which went down with the rebellion under the military power of the United States.

Mr. WILSON, of Iowa. I do not see that the gentleman from New Jersey has answered one question which I put to him. That question was, whether the insurgent States, prior to the rebellion, had republican forms of government.

Mr. ROGERS. I say they had.

Mr. WILSON, of Iowa. The gentleman said that the surrender of the rebel armies revived the State governments that were in force before the rebellion.

Mr. ROGERS. Yes, sir.

Mr. WILSON, of Iowa. Consequently each one of those States, upon the surrender of the rebel armies, had a republican form of government, which had been revived.

Mr. ROGERS. Exactly.

Mr. WILSON, of Iowa. Now, I wish to ask the gentleman where the President gets the power to require those States to change the republican forms of government which they already had.

Mr. ROGERS. I say he did not require them to change their republican forms of government. Neither slavery nor the rebel debt was any part of their State government; no act of the southern people in aid of the confederacy was a part of their republican form of government. Therefore, I say that republican forms of government did exist and were not affected by the action of the President. The President is not to be called a usurper of power because he did not allow the people of the South to continue that which they had established in aid of the confederacy. All that he did, and all that he wanted to do, was to resuscitate their republican forms of government and to give full vigor to the voice of the people under them.

Mr. GRINNELL. Why does not the gentleman answer the question of my colleague, [Mr. WILSON?]

Mr. ROGERS. I do answer it. I say that Andrew Johnson has not acted in conflict with the Constitution. And I say he is not in the hands of the Democratic party. He never has appointed a Democrat to office; all his patronage is given to the party that elected him. And he is going to fight this battle out in the lines of the so-called Union party. And I tell you that eighteen hundred thousand Democrats will follow him or any other man who holds out to them the unfolded leaves of the Constitution and enunciates the doctrines and principles upon which the liberties of our country are founded.

Mr. DRIGGS. I understood the gentleman from New Jersey to say that he never was in favor of slavery; that he was always opposed to it. If the gentleman is sincere in that declaration, and I have no doubt he is, then I would ask him why he opposed the amendment to the Constitution by means of which we were enabled to get rid of slavery in a constitutional way.

Mr. ROGERS. Because I took the ground here, as the Speaker well knows, both that winter and the winter before, that there was nothing in the Constitution which gave us power over the subject; that it was a reserved right of the States, not delegated to the United States, to control their domestic institutions exclusively in accordance with their own judgment. Another reason for my course then was that the rebellion was not ended, and I believed it would tend to alienate the affections of the people of the South and lead them to continue longer in war against the Union; not that I had any doubt that the Union armies would finally succeed.

Now, sir, when the gentleman from Illinois [Mr. INGERSOLL] expresses a wish that Andrew Johnson had been swallowed in the Red sea of destruction, like Pharaoh and his hosts, it is a wish which, it appears to me, an American Representative should blush to utter. Sir, does a noble, patriotic President deserve to be spoken of in this manner simply because he is exercising his constitutional power to vindicate the great doctrines of civil liberty upon which the welfare and the progress of this country depend?

Sir, gentlemen are mistaken when they imagine that the American people can ever be brought to sympathize with the revolutionary doctrines of the disunionists which they have advocated in this Congress, doctrines which proclaim the dismemberment of the country and declare in effect that the country's flag, with its brilliant galaxy of stars, representing in undiminished number our grand sisterhood of States, is a "haunting lie." Sir, the people of this nation, who have fought to maintain the integrity of our Union and the perpetuity of the Constitution, recognize in the policy of Andrew Johnson the great principles for which they have been battling; and they will never consent that those principles shall be trampled under foot by disunionists of either the South or the North.

Sir, I believe that the principles which Andrew Johnson is so nobly defending will be successfully vindicated, and that, notwithstanding the denunciation and the calumny to which he is at this hour subjected, his memory will be honorably handed down to future generations, and posterity will thank him for planting the policy of the Government firmly upon those principles which are destined to conduct this nation to a grand and illustrious destiny; and like Washington, his name will be recorded in history as the deliverer of thirty million people from threatened bondage and despotism, whose record will be read by generations unborn as a bright monument of civil liberty, to whose name the great and the good, so long as free Governments exist, will do honor. His tomb will be visited and his remains in death revered as a solemn duty of a grateful people. May God give him a strength, wisdom, power, and influence to work out his great mission, and save him from the hand of the assassin, that he may be spared to see the Union of our fathers, the grandest and most united of any in the world, marching on in defense of the Constitution as the brightest jewel vouchsafed to man, until the dying gaze of his last look upon earth shall be brightened by the burning flame of the Union's cause, with fanaticism, radicalism, and disunionism dead and gone.

Mr. ASHLEY, of Ohio, obtained the floor, but yielded to

Mr. WILSON, of Iowa, who moved that the House adjourn.

The motion was agreed to; and thereupon (at five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By the SPEAKER: The petition of B. E. Harrison, of Lagrange, Prince William county, Virginia, asking that United States taxes paid by him may be refunded. By Mr. WILLIAMS: The petition of 71 citizens of Butler county, Pennsylvania, for an increase of duty on foreign wools.

IN SENATE.

MONDAY, May 7, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of Friday last was read and approved.

SMITHSONIAN REPORT.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of the Smithsonian Institution, transmitting the annual Report of the Smithsonian Institution for the year 1865; which was referred to the Committee on Printing, with the following resolution, submitted by Mr. TRUMBULL:

Resolved, That five thousand extra copies of the Report of the Smithsonian Institution be printed; two thousand for the Institution, and three thousand for the use of the Senate; and that the said report be stereotyped.

PETITIONS AND MEMORIALS.

Mr. RAMSEY presented the petition of Benjamin Franklin, late a private in company H, second Minnesota cavalry, who lost both hands and both feet while absent from his regiment on a furlough, praying for a pension; which was referred to the Committee on Pensions.

Mr. HOWE presented two petitions of citizens of Wisconsin, praying for an appropriation for the improvement of the harbor at the mouth of Fox river, in that State; which were referred to the Committee on Commerce.

Mr. FESSENDEN presented a petition of two hundred and sixty-four glass-blowers, and others, employed in the glass manufacturing business in the third congressional district of Pennsylvania, praying for an increased tariff on imported glassware to protect their labor and prevent the serious injury to and suspension of their business threatened by the large orders for foreign glassware being filled under the present insufficient tariff; which was referred to the Committee on Finance.

Mr. CLARK presented the petition of Louisa Baird, praying for compensation for her interest in the steamboat Sovereign, which she alleges was seized and sold at Cairo, Illinois, under a decree of confiscation of the United States district court for that district; which was referred to the Committee on Claims.

Mr. JOHNSON presented the petition of N. S. Davis, and nineteen other medical gentlemen, representing themselves to be a committee appointed by the American Medical Association, recently in session in Baltimore, praying that the medical and surgical history of the late war, prepared in the office of the Surgeon General of the United States Army, as a work of great use to the public and to the medical profession, be printed by the Government; which was referred to the Committee on Printing.

Mr. WILSON presented the petition of Brevel Brigadier General S. D. Sturgis and other officers of the United States Army stationed in Texas, stating that they understand the act authorizing an increase in the commutation of officers' rations expired on the 1st of May, 1866, and praying for its renewal; which was referred to the Committee on Military Affairs and the Militia.

On motion of Mr. FESSENDEN, it was
Ordered, That Miles Devine have leave to withdraw his petition and other papers from the files of the Senate.

On motion of Mr. CLARK, it was

Ordered, That John Egenolf have leave to withdraw from the files of the Senate a certain bond which accompanied his claim upon which an adverse report was made and to which report the Senate agreed, on the 4th instant.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the petition of William H. Allen, late

colonel of the first and one hundred and forty-fifth regiments of New York volunteers, praying to be reimbursed for expenses incurred by him in raising those regiments and for compensation for services while in command of the latter regiment, reported that the petitioner have leave to withdraw his petition and other papers from the files of the Senate; which was agreed to.

BILLS INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 307) authorizing the restoration of Commander Charles Hunter to the Navy; which was read twice by its title, and referred to the Committee on Naval Affairs.

Mr. HOWE asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 308) confirming the title of Alexis Gardapier to a certain tract of land in the county of Brown, and State of Wisconsin; which was read twice by its title, and referred to the Committee on Private Land Claims.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reserve in Wisconsin; which was read twice by its title, and referred to the Committee on Public Lands.

CLAIMS ON NEVADA.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 84) authorizing the payment of certain claims against the late Territory of Nevada; which was read a first time by its title, and passed to a second reading.

Mr. STEWART. I ask for the reading of the resolution at length and for its present consideration. I will state that in the settlement of the accounts of the Territory of Nevada there was a surplus in the legislative fund and a small deficiency in the fund for the payment of the expenses of the executive department of the Territory. This resolution was drawn up in the Treasury Department, and simply provides for the transfer of a sufficient amount of the surplus in the legislative fund to settle the accounts for the executive department. I presume it will be unnecessary to refer the resolution to any committee.

The Secretary read the joint resolution. To enable the Secretary of the Treasury to settle and pay outstanding claims chargeable to the contingent expenses of the executive department of the Territory of Nevada it proposes to transfer so much of the unexpended balance of appropriation for compensation and mileage of members of the Legislative Assembly, &c., of the Territory of Nevada as may be found necessary for that purpose to the credit of the fund for paying the contingent expenses of the executive department of the Territory; and the proper accounting officers of the Treasury are directed out of the balance thus transferred to pay the claims as adjusted and allowed.

The PRESIDENT *pro tempore*. The Senator from Nevada asks for the present consideration of this joint resolution.

Mr. FESSENDEN. I think it had better go over, so that we may see it in print.

Mr. STEWART. As there seems to be some objection to it, I ask that it lie on the table, and I will call it up in the morning.

The PRESIDENT *pro tempore*. The joint resolution lies over under the rule.

Subsequently, on the motion of Mr. STEWART, the joint resolution was referred to the Committee on Finance.

RAILROADS IN WISCONSIN.

Mr. DOOLITTLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 85) explanatory of, and in addition to, the act of May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in Wisconsin;" which was read twice by its title.

Mr. DOOLITTLE. I move that this joint resolution be referred to the Committee on

Public Lands, and I desire for a single instant to call the attention of my honorable friend who is at the head of that committee [Mr. POMEROY] to it. It does not ask for any additional grant of land whatever. It asks simply that Congress shall assume to the disposition which the Legislature of the State of Wisconsin have made of the grants—a disposition which was made, I think, unanimously by the Legislature. It takes no more land, but it is a changing of the route in order to avoid the difficulties, if I may so express myself, which Congress imposed upon the Legislature of Wisconsin when they gave them different starting places in the State at which to begin, arriving at a single point on Lake Superior. The difficulties growing out of the struggle between those local places led to some considerable discussion in the Legislature, and finally, as I understand it, they agreed upon this resolution unanimously. It asks no additional land, but it asks a change of the route so as to conform to the local interests of these places. I hope my honorable friend from Kansas, in taking up the resolution in his committee, will let us hear from it at an early day.

Mr. POMEROY. The Committee on Public Lands will be glad to hear the Senator from Wisconsin at any meeting of the committee. We meet on Thursday, and I hope the Senator will come and see us.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Public Lands, if there be no objection.

Mr. DOOLITTLE subsequently said: At the suggestion of the honorable Senator from Kansas, the chairman of the Committee on Public Lands, I ask that the joint resolution introduced by me in relation to the land grants to Wisconsin, and which was referred to that committee, be ordered to be printed.

The PRESIDENT *pro tempore*. The order to print will be entered if there be no objection.

TAXATION OF NATIONAL BANKS.

Mr. SHERMAN. I offer the following resolution, and ask for its present consideration:

Resolved, That there be printed for the use of the Senate three thousand copies of the recent decision of the Supreme Court of the United States, with the opinions of the several judges, on the taxation of national banks by State authority.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SHERMAN. It is unusual for the Senate to print decisions of the Supreme Court; but there are a multitude of cases pending, growing out of the taxation of United States securities, by or under State authority, and I have had a great number of applications for this decision, in order to govern the action in other cases.

Mr. JOHNSON. Is it not published by the reporter?

Mr. SHERMAN. It is published by the reporter; but the fund is limited, and the number published by him is exhausted. I have here what he tells me is the last copy. I should like to have this resolution adopted, so that we may have it in this form.

The resolution was adopted.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President had approved and signed, on the 3d instant, the following joint resolutions:

A joint resolution (S. R. No. 34) expressive of the gratitude of the nation to the officers, soldiers, and seamen of the United States; and

A joint resolution (S. R. No. 75) making appropriations for the expenses of collecting the revenue from customs.

And also that the President had approved and signed, on the 5th instant, the following acts:

An act (S. No. 26) to encourage telegraphic communication between the United States and the island of Cuba and the other West India islands, and the Bahamas; and

An act (S. No. 155) concerning the boundaries of the State of Nevada.

PATENT OFFICE REPORT.

Mr. ANTHONY. A few days ago I reported from the Committee on Printing a resolution to reduce the number of copies of the mechanical Patent Office Report, which was laid over at the suggestion of the Senator from New Hampshire, [Mr. CLARK], and if he has no objection I should like to have the resolution disposed of now.

The motion was agreed to; and the Senate resumed the consideration of the following resolution:

Resolved, That the number of copies heretofore ordered of the Reports of the Patent Office for the years 1863 and 1864 be reduced from ten thousand of each to four thousand of each.

The resolution was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the resolution of the Senate instructing the standing Committees of the two Houses on Public Buildings and Grounds to make inquiry concerning the further accommodation of the State Department.

The message further announced that the House of Representatives had passed, without amendment, the bill (S. No. 90) enlarging the powers of the levy court of the county of Washington, in the District of Columbia.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 3) to revive the grade of general in the United States Army;

A bill (H. R. No. 352) to incorporate the National Theological Institute;

A bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia;

A bill (H. R. No. 482) to incorporate the Howard Institute and Home, of the District of Columbia; and

A bill (H. R. No. 510) to incorporate the Academy of Music of Washington city.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern division; and it was thereupon signed by the President *pro tempore*.

PAY OF ARMY OFFICERS.

Mr. NESMITH. I move that the Senate proceed to the consideration of House joint resolution No. 101.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution (H. R. No. 101) for the relief of certain officers of the Army, the pending question being on concurring in the amendments made as in Committee of the Whole.

The Secretary read the joint resolution, as amended, as follows:

Resolved, &c., That in every case in which a commissioned officer actually entered on duty as such commissioned officer, but by reason of being killed in battle, capture by the enemy, or other cause beyond his control, and without fault or neglect of his own, was not mustered within a period of not less than thirty days from acceptance of appointment or actual entry upon duty, and who was afterward regularly mustered into the service of the United States, the pay department shall allow to such officer full pay and emoluments from the date on which such officer actually entered on such duty as aforesaid, deducting from the amount paid, in accordance with this resolution, all pay actually received by such officer for such period.

Mr. WILSON. I desire to have this joint resolution lie over, for the purpose of having a report made in regard to some questions I asked at the War Department connected with it. I hope the Senator from Oregon will let it lie over to-day, and I shall endeavor to be ready to-morrow.

Mr. NESMITH. Very well.

Mr. WILSON. I move that the further con-

sideration of the joint resolution be postponed until to-morrow.

The motion was agreed to.

VOLUNTEER ARMY REGISTER.

On motion of Mr. WILSON, the joint resolution (S. R. No. 83) respecting the publication of the Volunteer Army Register was read the second time, and considered as in Committee of the Whole.

It proposes to require the Secretary of War to cause to be canceled the volumes of the Roster of volunteers already printed, and to provide that the Roster compiled as directed by the joint resolution approved March 2, 1865, be published in accordance with a plan submitted by the Superintendent of Public Printing.

Mr. WILSON. The object of this joint resolution is to have a correct publication, and to have it at a greatly reduced cost. A joint resolution was passed the object of which was to have a correct roll of the officers of volunteers. The first volume has been published, covering the New England States. I have examined it with care, and I do not believe there is a single page of it without an error; whole regiments are left out; names of officers are left out, and others misspelled, and misstatements made as regard to them. As a publication it is utterly worthless, and worse than worthless.

This proposition is to cancel that publication, and to adopt a plan that will, instead of having eight volumes, get it into three or four, less than half the space now occupied, and to have it correct. There is no difficulty in having a correct Register. It simply requires intelligence and careful examination; and unless it be correct it is of no account. This proposition is to cancel the volume already published, and to commence anew on a plan prepared by the Superintendent of Public Printing; and I think that if this be adopted, it can be done at less than half the expense now about to be incurred. It is a proposition to get a correct list at less than half the expense for which we are to have this incorrect one, and therefore I hope it will be adopted.

Mr. ANTHONY. I quite agree in the remarks that the Senator from Massachusetts has made; but I should like to inquire of him if the resolution provides for another defect which I noticed in that Register. In regard to a large number of the regiments, I should think half of them, there was this note, "The engagements in which this regiment has borne an honorable part have not been made known in general orders," although some of the regiments were disbanded two or three years ago. I do not see why it is necessary that the battles in which the regiments have borne part should be promulgated in general orders before they can be put upon the roster; but if it be necessary, I should like to know of the chairman of the Committee on Military Affairs when we may expect those orders to be issued. Some of those regiments have been out of service for three or four years and some of them were in a good many battles.

Mr. WILSON. Scarcely any of them have been promulgated.

Mr. ANTHONY. Does this resolution provide for that?

Mr. WILSON. I think it does not, but the object is to have it published on a correct plan.

Mr. ANTHONY. Would it not be better to put in an amendment that the battles in which they have been engaged should be placed on the roster?

Mr. GRIMES. I should like to know of the chairman of the Committee on Military Affairs what is the necessity for publishing these large and cumbersome volumes. I suppose there is not a State in the Union that has not thorough reports already made embracing the name of every person who has enlisted into the Army from that State during the war, and what became of him, whether he was promoted or not, and whether he came out of the service safe or not. I know that to be the case with my State, and I am thoroughly satisfied that no volume can be compiled here at the capital that will be

half as accurate or satisfactory in regard to my State as the adjutant general's report of that State. I suppose other States are doing the same thing. If this be so, where is the necessity of duplicating these reports? I suppose these volumes will cost one or two hundred thousand dollars before we are done with them.

Mr. WILSON. Two hundred and forty thousand or two hundred and fifty thousand dollars on the original plan.

Mr. GRIMES. I apprehend the Senator's own State has an adjutant general's report.

Mr. WILSON. Certainly; and I consider it very perfect.

Mr. GRIMES. We have one in my State which is very accurate, and I presume every State has or will have; hence where is the necessity for duplication?

Mr. WILSON. I will state to the Senator from Iowa that in 1864 a joint resolution was passed providing for the publication of a full Army Volunteer Register to be in connection with the regular Army Register. This was not complied with, however; and on the 2d of March, 1865, another joint resolution was passed "to provide for the publication of a full Army Register." It provided—

"That the Secretary of War be, and he is hereby, authorized and required to cause to be printed and published a full roster or roll of all general, field, line, and staff officers of volunteers who have been in the Army of the United States at any time since the beginning of the present rebellion, including all informal organizations which have been reorganized or accepted and paid by the United States, showing whether they are yet in service, or have been discharged therefrom, and giving casualties and other explanations proper for such register. And to defray in whole or in part the expenses of this publication, an edition of twenty-five thousand copies of such enlarged Register shall be published and may be sold to officers, soldiers, or citizens, at a price which shall not more than cover the actual cost of paper, printing, and binding, and shall not in any case exceed one dollar per volume."

Under this resolution the first volume has been prepared, which includes the New England States. I have examined it, and find that several of the regiments are left out altogether, and in regard to other regiments there are many errors. I examined the list of three Massachusetts regiments and found several mistakes in each, and I have no doubt that there is hardly a page in the volume which can be relied upon.

Mr. FESSENDEN. How much has that volume cost?

Mr. ANTHONY. A dollar a volume for each copy; it will take four volumes.

Mr. WILSON. I understand that it will take eight dollars. We sell it for a dollar a volume, but it will cost more than that. The volume cannot be got up for anything like a dollar.

Mr. FESSENDEN. What is the gross amount of expenditure?

Mr. WILSON. I do not know precisely what it is. I understand that it costs more to correct the stereotyped plates than it did to make them originally. If anything is to be done in this matter, the Register should be made correct by examining, not only the records in the offices here, but those in the offices of the respective States, so that a correct list may be published, in order that we may have the names of all the officers who have served in the volunteer forces of the United States during the war in one publication with everything in regard to their services, showing whether they were dismissed or discharged or honorably mustered out, or whether they were killed or wounded. By having these facts all in one publication, they can be ascertained for the whole country in any part of the country. It seems to me that the object, which was what I have just stated, was an excellent one; and if it should be correctly carried out, and at a reasonable expense, the publication would be of great value to the country. Then in Massachusetts we should be able to learn all these facts with regard to the officers of any State, Iowa included, and the same would be the case in every part of the country.

It was provided that a certain number of copies might be sold at one dollar a volume, which would defray a part of the expense. A plan has been adopted at the War Department

contrary to the plan recommended by Mr. Defrees. His plan, I think, would bring the whole publication within three or four volumes; theirs will be at least eight, and will involve an expense of more than two hundred thousand dollars. The expense of his plan, of course, if he brings the work within three volumes, will be but little more than one third of the cost of the present plan.

What I wish to do is to cancel what has been done, for it is utterly worthless, and to begin again upon the plan prepared by Mr. Defrees, which is an economical plan, one under which a page will contain as much as two or three pages under the present plan, and then to go on and complete the work. The work ought to be perfect and complete, or else it is worthless. The object of this joint resolution is in the first place to get a correct Register, and in the next place to get it at about one third of the expense which this incorrect one will cost us. It is worse than nothing, because an official publication that is not correct is of no account to the country; it misleads men rather than gives information.

Mr. POMEROY. It occurs to me that a correct list had better be taken from the offices of the adjutant generals of the various States, and not try to get it here.

Mr. WILSON. I think that if the Senator from Kansas had this work to get out he would consult the officer here and consult the adjutant general's office of each State also, and compare the records, and then he would have a correct list. I should be very sorry if with the means at our command any men of intelligence could not make a perfect list. There is no difficulty about it; it only requires labor, thought, care.

Mr. POMEROY. I supposed each State had a perfect list. I know that my State has been at great expense and has spared no pains in getting a most perfect list for the State and I supposed all the States had done the same. It occurred to me that if the resolution was to be passed the list when made out ought to be made up from the returns in the adjutant general's office of each State rather than by examining the rolls here. That would save a great part of the labor of getting it up at any rate.

Mr. GRIMES. I am satisfied that such a report as the Senator from Massachusetts desires to have published by the authority of Congress, published in an intelligible form and in type which gentlemen who have reached that period of life which he and I are now entering upon can read, will embrace not less than twenty-five volumes. I am speaking of that whereof I know something. The State of Iowa furnished about seventy-five thousand troops, and the last I know of the report in that State on this subject, which was printed in a reasonable sized type, it embraced two volumes quite as large as this, [exhibiting an octavo volume,] and I think there is another one about to be published.

Mr. KIRKWOOD. That included, however, a list of the privates as well as the officers.

Mr. GRIMES. Exactly.

Mr. KIRKWOOD. I have one of those reports which contains the name of every man in our State that went into the service, officer or private.

Mr. GRIMES. That is, I suppose, what we are going to publish here. Why do we want to publish the name of a second lieutenant and not publish the name of an orderly sergeant?

Mr. KIRKWOOD. This provides for the officers only.

Mr. GRIMES. What is the purpose of this thing? It is to give some data to govern our officers in the future. If it is to result in anything of real advantage to the Government it must be something tangible that can be relied upon in the future as to not only the number of men that went into the service, but the identity of the men in question, growing out of pensions, &c. I would not give a straw for a mere roster of the officers. That indicates nothing. It was not the officers that fought our battles and won our victories for us. I would like to see the gradations by which

these men went up from privates to become officers, which is exhibited by the adjutant general's report of my State, showing that a very large proportion of the men who went into the Army as officers ceased very soon to be such, and that the men who went in the humblest and lowest positions very soon became the commanders, not only of their companies, but of their regiments and of their brigades. Such a report as that may be of value, although if you publish such a one as that, it seems to me it is only cumulative of expense when the States have already done it. We have got a report in my State that embraces officers, privates, musicians, everybody connected with the service, showing when he entered the service, when he went out, what offices he filled during the time he was in service, what has become of him since, where he was born, and in what place he enlisted. Such a report as that is of value. This report will be utterly worthless to the public. I hope the Senator will allow this joint resolution to be recommitted to his committee, and that they will report a bill repealing the law which authorized this printing to be done.

Mr. WILSON. I will say to the Senator that I have seen the report of the adjutant general's office of his State, and it is a most admirable one. I wish they had such a one in every State, and I wish we had one that recorded equally the name of every soldier that served the Republic; but that would make a great many volumes. The report of Iowa makes three large octavo volumes for seventy thousand men. Now, sir, here is a list of officers from the New England States making three hundred pages, and if it was put upon a good plan it could be got into about one hundred or one hundred and twenty-five pages. It will be seen that there is a great part of it waste paper, and the report is imperfect in itself. What the committee desired in this matter was to stop this imperfect report and this enormous expense. If the Senate desire to stop the publication altogether they can do so; but I think we had better publish the work. We can publish it in three good, fair-sized volumes, and have a perfect list of all the officers, and the casualties, and all the incidents connected with the war. We cannot afford to sell it for one dollar a volume as is proposed here; but we could furnish three volumes containing a list of all the officers of the volunteer forces of the United States, to be placed in every library of the country, and it would certainly, in my judgment, be a work of great value. If we could have a list of the two million seven hundred thousand soldiers who have gone into the service I should be glad to have it, but that would require the publication of fifty or sixty volumes; at enormous expense, and would necessarily take a great deal of time. This report will take time, and ought to take time. We need not hurry about it. What we want is to have a correct list. Mr. Defrees made a plan by which this report of three hundred pages, if his plan had been agreed upon, would have been reduced down to one hundred and twenty-five pages, and the arrangement was far better and more intelligible than the present one. As it is now it is worthless, and I hope that no more expenditures will be incurred in publishing this volume. I believe we had better adopt this resolution, and let the work go on at a reduced rate, but if Senators are not ready to act upon it now I will let it go over.

Mr. GRIMES. Recommit it.

Mr. ANTHONY. I should like to have it recommitted.

Mr. SHERMAN. If this matter is to go over I should like to call up the motion to reconsider the amendment to the Post Office appropriation bill.

Mr. WILSON. I move to recommit the resolution to the Committee on Military Affairs, and we will reconsider it; and I ask that in the mean time the report in this case be examined by the Senate. They will see that this work ought certainly not to go on.

Mr. ANTHONY. I wish to call the atten-

tion of the chairman of the Committee on Military Affairs to another defect in this report, which I think this resolution does not provide against. There is nothing in this resolution that prevents the new roster from being edited precisely as this is. There should be some provision for a competent editorial supervision of it; and there should also be a provision for a record of all the battles in which regiments have borne an honorable part, whether promulgated in general orders or not. But if we merely pass this resolution as it stands, I do not see that there is any provision in it for correcting editorial errors. There ought to be some competent officer detailed, and it should be made his entire business to correspond with the adjutant generals of the several States and have all the records of each State submitted to the State authorities.

Mr. DOOLITTLE. If the Senator will allow me, I will suggest to the Senator from Massachusetts, as he and I are on the Military Committee, that this resolution be referred to the Committee on Printing. The Committee on Printing understand this matter better than we do, and they now have the ideas of the Senator from Massachusetts on the subject.

Mr. ANTHONY. This resolution has never been before the Committee on Printing; the Committee on Military Affairs have had charge of it, and I think they had better keep charge of it. It is rather an extravagant thing, and the Committee on Printing never reported anything extravagant, and we do not want to be responsible for it.

Mr. WILSON. I move that this joint resolution be recommitted to the Committee on Military Affairs and the Militia. I think we shall get it into a satisfactory shape.

The motion was agreed to.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 86) to provide for the publication of the official history of the rebellion; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles and referred as indicated below:

A bill (H. R. No. 3) to revive the grade of general in the United States Army—to the Committee on Military Affairs and the Militia.

A bill (H. R. No. 352) to incorporate the National Theological Institute—to the Committee on the District of Columbia.

A bill (H. R. No. 388) to authorize the extension, construction, and use of a lateral branch of the Baltimore and Potomac railroad into and within the District of Columbia—to the Committee on the District of Columbia.

A bill (H. R. No. 482) to incorporate the Howard Institute and Home, of the District of Columbia—to the Committee on the District of Columbia.

A bill (H. R. No. 510) to incorporate the Academy of Music of Washington city—to the Committee on the District of Columbia.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes; and

A joint resolution (H. R. No. 137) to provide for the exemption of crude petroleum from internal tax or duty, and for other purposes.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 90) enlarging the powers of

the levy court of the county of Washington, in the District of Columbia;

A bill (H. R. No. 214) for the benefit of Colonel R. E. Bryant;

A bill (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863;

A bill (H. R. No. 347) for the relief of R. L. B. Clarke;

A bill (H. R. No. 473) to extend the jurisdiction of the Court of Claims; and

A joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment New York volunteers.

POST OFFICE APPROPRIATION BILL.

Mr. HOWARD. I move to take up Senate bill No. 109, relating to the Sioux City branch of the Pacific railroad.

Mr. SHERMAN. It is hardly worth while to take that bill up. At one o'clock there is a special order, and it is now one minute to one o'clock.

Mr. HOWARD. What is the special order?

Mr. SHERMAN. The motion to reconsider the amendment to the Post Office appropriation bill, and it ought to be disposed of. I do not think it will take long to dispose of it.

Mr. HOWARD. Very well; I withdraw my motion.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of Friday.

Mr. SHERMAN. I move that the unfinished business and all prior orders be postponed, and that the Senate now proceed to the consideration of the Post Office appropriation bill. The unfinished business, I believe, is the railroad bill.

The motion was agreed to; and the Senate resumed the consideration of the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes, the pending question being on the motion of Mr. POLAND to reconsider the vote by which the Senate adopted the following amendment offered by Mr. TRUMBULL:

And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate shall, before confirmation by the Senate, receive any salary or compensation for his services unless such person be commissioned by the President to fill up a vacancy which has happened during the recess of the Senate, and since its last adjournment, by death, resignation, expiration of term, or removal for acts done or omitted in violation of the duties of his office; the cause, in case of removal, to be reported to the Senate at its next session.

Mr. POLAND. I voted for the amendment to this bill, and for the bill itself, with great hesitation, and with the design, if I could not become better satisfied with it, to move to have it reconsidered. Subsequent reflection satisfied me that the amendment ought not to be adopted, and I therefore made the motion to reconsider.

The amendment proposed by the Senator from Illinois to this bill is very general and comprehensive in its terms, and denies any payment of salary or compensation to officers appointed by the President before confirmation by the Senate, unless appointed to fill vacancies happening during the recess of the Senate by death, resignation, expiration of term, or removal for official misconduct.

It is said that one of the mischiefs which this amendment is designed to prevent is the filling of vacancies which exist while the Senate is in session, and where there is an opportunity to submit nominations for their advice and consent, and this is omitted, or the nomination is rejected by the Senate, and the same person reappointed after the Senate adjourns. If the amendment went no further than this I could very cheerfully support it, for the language of the Constitution is clear that the President's power of appointment without the advice and consent of the Senate is con-

fined to vacancies that happen during the recess of the Senate.

But the amendment has a scope and meaning far beyond this. The power of the President to fill all vacancies that happen during the recess of the Senate is not denied. But this amendment declares that unless the vacancies happen in a particular way, the person appointed shall receive no salary or compensation until confirmed by the Senate.

I have not examined or considered whether the exceptions cover every possible occasion of vacancy which can occur, except removals for other reasons than for misconduct or malfeasance in office.

This is the class of cases which the amendment is designed to reach, and I think its distinguished mover will not deny that the main object and purpose of the amendment is to declare that if the President makes removals from office for mere political reasons, and thus causes vacancies during the recess of the Senate, the persons he appoints to fill them shall receive no payment for their services in office until confirmed by the Senate. In such cases the real question is not on the power of the President to fill a vacancy, but as to his power to thus make a vacancy. This brings up the old question of the power of the President to remove from office persons to whose original appointment the advice and consent of the Senate was necessary.

The Senator from Missouri, [Mr. HENDERSON,] with his usual straightforwardness and frankness, boldly avows that in his judgment the President's power of removal in such cases is commensurate only with his power of appointment; and that the consent of the Senate is as necessary to the removal as to the appointment. The able and learned argument of the Senator went far toward convincing me that if the question could now be considered an open one, that was the true construction of the Constitution.

The Senator from Maine [Mr. FESSENDEN] declared his willingness to support the amendment, except for the clause requiring the cause of removal to be reported to the Senate; but he admitted the power of the President under the Constitution to make removals without the consent of the Senate. In urging the necessity of the amendment, however, he dwelt wholly upon the abuse of the appointing power, by making appointments after the adjournment of the Senate, which might have been made and submitted to the Senate while in session. I should be doing that Senator great injustice to suppose that he did not fully understand that the matter aimed at was altogether a different and broader one. Other Senators have fought shy upon this question, and have argued in favor of the amendment, not exactly denying the power of removal, but under protestation, as a special pleader would say, that they do not admit it. They have said, conceding that he has the power of removal, we have the power to say whether his new appointees shall receive the salaries and compensations provided by law for those holding the offices. So we have the power to refuse any appropriations to pay the salary of the President, or to carry on any and every department of the Government, and thus destroy it. Although we may have such power, it is one which can only be justified in use in the last resort, to prevent usurpation or the destruction of the liberties of the people.

But if we believe that the President has not the legal and constitutional power of removal, why not say so directly? If we are prepared to adopt the doctrine of the Senator from Missouri, why not do it in as open and manly a way as he declares it? After a uniform exercise of the power by every Administration since the formation of the Constitution, to some extent, although for a considerable time doubted and questioned, and after at least thirty years of undoubted and unquestioned use, by a sweeping change of political appointments, with every political change of administration, and by both political parties, if we design now to declare a

different rule, and change the whole action of the Government in this respect, does it behoove us to do it in the indirect and sinister way this amendment proposes?

I have asked if that was the design, to deny to the President the power to remove, why not declare so, and make the needful and proper legislation on the subject, and I have been told that we could not pass such a law. Why not, let me ask? It must be, I suppose, because a majority of this body, or of both Houses, do not believe in the principle. If that be so, is it exactly open and honest dealing to undertake to bolster up this amendment by affecting to believe the President transcends his power by making such removals and new appointments? I must be allowed to say that it is a mode of accomplishing a purpose that does not commend itself to me.

But notwithstanding the argument in support of the amendment has been mainly that such political changes were beyond the legal and constitutional power of the President, the amendment upon its face concedes it, and provides that those appointed to fill vacancies caused by removals for misconduct in office shall be excepted from this prohibition of payment. It cannot be said that he has the power of removal for one cause, and has not for another. If by the Constitution he has the power of removal at all, of necessity he must be the sole and exclusive judge of the cause and necessity of removal. The validity or legality of the appointment of the officer appointed to fill such a vacancy could not be inquired into by going back to inquire for what cause his predecessor was removed. In the exhaustive discussions which this subject received from the eminent statesmen of the early days of the Government, it was never suggested but that the President was the only judge of the cause of removal, if he possessed the power in any case. This amendment virtually branches a wholly new doctrine. It concedes the power of removal by the President, but assumes that we may go back behind that, and inquire into the reasons, for the purpose of determining whether the new appointee shall have pay. It is certainly an anomaly that a man may legally fill and perform the duties of an office, but his right to compensation shall depend upon the reasons that influenced the appointing power in making the appointment.

The last contest on this subject of the President's power of removal was during President Jackson's administration, and the great Whig leaders of that day made a powerful effort to bring the Government back to what they claimed was the true construction of the Constitution, and deny the President the power of removal. But they did not succeed, and all parties have acted without question since upon the other theory. But it seems not to have occurred to those eminent statesmen that though the President could legally remove officers and fill their places with other persons, that they could make it a barren honor by depriving the holders of all compensation. It has been reserved for this financial generation to discover this new mode of curing either a defect in the Constitution or a wrongful interpretation of it. To me, the idea is strange and monstrous that a man who legally holds an office, and properly performs its duties, should not be paid because the reasons for his appointment were politically unsatisfactory. I believe such a position to be wholly indefensible; wrong in principle; one upon which no party can stand. In offering the motion to reconsider the vote passing this bill, I happened to say that such a doctrine seemed to me to be almost revolutionary. I have since learned that a radical Unionist has no right to use that word, that it belongs wholly to persons and papers of opposite political proclivities. I therefore take leave to withdraw the word.

What is the real purpose and object of this amendment? I suppose we may as well speak of things as they exist and as we all know them to be, as to pretend to be thinking and talking of something else.

A difference has arisen between the President and the Congress in relation to the proper policy to be pursued in relation to the States lately in rebellion, who separated from us and formed themselves into a separate government, and between whom and us a fierce war raged for four years before we succeeded in conquering them. The President insists that, as the rebellion is put down and new State governments have been set up in those States, they are now entitled to be represented in the two Houses of Congress (if the members sent are loyal) and to participate in all respects in the administration of the General Government as if they had not rebelled. Congress, on the other hand, claim that all the legal relations between these States and the General Government having by the rebellion and war consequent upon it been severed, it rests with Congress as the law-making department of the Government to restore them again, and that, in doing so, it is their right and their duty to exact such assurances and guarantees as will protect the loyal part of the nation against all danger from those who have shown such a determination to destroy it.

Neither the President nor Congress as yet show any disposition to yield to the views and policy of the other, and apparently the question must be determined by an appeal to the people in the election of the next Congress.

The President, and the majority in both Houses of Congress, were elected by the same political party, the great Union party of the country, which carried us so gloriously through the great rebellion; and the Federal offices of the country are generally filled by members of the same party, who were appointed by the President, or his predecessor, Mr. Lincoln. I suppose it to be true that the great majority of those persons now holding office, as well as the great mass of the Union party, concur with Congress in the proper policy to be pursued in the restoration of these rebel States. I suppose it is feared that in this contest before the people, as to which of these respective policies shall prevail, the President will attempt to strengthen his position by the use of his patronage, that is, that he will displace men who believe in and advocate the congressional policy, and fill the positions with either Union men, or Democrats who will advocate the policy of the President. And I do not know but it is feared that men now holding office, who really believe with Congress, will, for fear of losing their offices, profess to believe and act with the President. Now, I have no knowledge that the President designs any such course of action; he may or may not. I do know that the Democratic press and politicians of the country are urging this course upon him with great zeal, and with great promise of political profit to him and his policy. I cannot help believing that they have their own profit and advantage much more at heart than his, or that of his policy, in giving this disinterested advice. Now, I should as deeply regret to have any good Union man removed from office, and especially one that fully sympathized with Congress in their difference with the President, as any Senator in this Chamber, or any Union man in the land. I like to have my political friends hold the offices, not only for their own advantage and profit, but because I am very apt to think they are the best men, and that the public service is more honestly attended to than it would be by men of the opposite political belief.

Now, if this amendment is adopted, will it have the effect to prevent the President from making changes in office for political causes? If he has no such purpose or intention, then there is certainly no need of such an extraordinary provision being attached to this bill. And I may be allowed to say that I am not prepared to believe that he designs to do any such foolish thing. But assuming that he has such a wish and purpose, will the adoption of such an amendment as this be likely to prevent him from accomplishing it? On the other hand, will it not look like daring and defying him to do it, and be very likely to produce the very

result we desire to avoid? It is very reasonable to suppose that the President would feel great reluctance to remove men of his own party, appointed either by himself or his martyred predecessor, even if they did not believe in or advocate his policy. If we attempt to prevent it by the use of such questionable, if not unwarrantable legislation, as this amendment proposes, is there not danger, not only that he will accept the challenge, but that this very amendment will be accepted by the people as a sufficient justification for that course, and furnish a ground for saying that Congress was the aggressive party? Situated as we are, it seems to me that the adoption of this amendment will be more likely to produce than to prevent what we all hope to avoid.

But suppose that I am mistaken in my views, and in consequence of a failure to adopt this amendment the President undertakes to help his case before the people by turning good Union men who believe with Congress out of office, and fills their places with men, either Republicans or Democrats, who believe in his policy, is there any such ground of alarm in this as should frighten us out of our propriety, and drive us to doubtful and desperate expedients?

The whole thing is founded in a mistaken lack of faith in the people. This has been a common error of politicians and public men always, but the mistake is greater now than ever before, and especially in regarding any past experience of the effect and power of political patronage as applicable to the present condition of things.

In former times, when the people regarded politics merely as a trade by which certain men obtained a living; when the issues between the parties were about internal improvements, the public lands, banks, tariffs, and the like, subjects the real merits of which the masses of the people really knew but little about, and cared less; when they had no real belief that the success or defeat of either party would make a farthing's difference with them or the country, then a body of stirring, active office-holders, to circulate documents, harangue the people, and get out the voters, could produce a very important influence upon an election. But this state of things has no existence now, and no reliance can be placed now upon the experience of those days. For four long years we were engaged in a most desperate and bloody war, which periled the very existence of the nation itself. The attention of the whole country was roused and was kept most painfully intent upon the causes and course of the war till it ended in the overthrow of the rebellion. Almost every family throughout the loyal North was represented in the Army of the Union by some father or brother or son, and mourning and sorrow were carried into almost every northern home by the death of some dear relative in the Army by disease or on the battle-field, or the still more cruel mode of starvation in prison. In this way the people have come to comprehend everything pertaining to the subject as fully and completely as the first statesmen in the land. Nor have they, since the close of the war, lost any of their interest in it, and will not until the whole matter is put at rest.

I have heard it said here, I have read in the public press, that the great anxiety of the people was to have the matter settled, and get all the States once more into the Union together. The people are anxious to have the Union restored and all act again together, but that is not their great anxiety. What they fear, and about which they are earnestly anxious, is that they should not again be admitted until it is made perfectly certain that they are not again to come under southern domination, and that not even by combination with their old allies in the North can they again control the Government. The Union people of the North are not revengeful or malignant, but they cannot forget their martyred brothers and sons, or their own anxieties and sorrows; they cannot forget the immense burden of public debt imposed upon them; and they are too often reminded

of it by the tax-gatherer, all of which has been brought upon them by the conduct of the people of these States, to feel over-anxious for their return to participate in ruling the nation without the best and strongest assurances that they are safe in doing so. Another reason which keeps them watchful and careful is that almost every Union man in the whole North, who has any considerable property, is the holder of the bonds of the Government, which they feel would be put in peril if the southern men, even with northern help, could ever again hold the control of this Government. It is not true, sir, that the Union people of the North are dissatisfied with the policy or the action of Congress on this subject. What they do fear is that we shall not stand firm to the end; they fear the effect of patronage on us, and they have far more reason to than we have to fear for them. Now, Mr. President, what luck do you suppose some postmaster, or marshal, or assessor, made by the President out of a copperhead, or limping Republican, would have among these people arguing for the immediate and unconditional admission of the rebel States?

The idea is simply ridiculous. The truth is that the Union masses of the loyal States stand firmly with Congress in this matter and will do so to the end if we do not allow them to make issues against us by the adoption of untenable measures. Our platform is firm and strong, and all the Union party will stand with and by us upon it, unless we by our own folly let in a weak timber or rotten plank to frighten them from it. In this particular matter of the political patronage of the President, if we do nothing that can be made an excuse or cover for it, if the President turns out good Union men because they sustain Congress and concur with the mass of their party, and puts in others because they agree with him, he will raise a storm of indignation against himself among Union men as has not been witnessed before. The truth is that the President, if he entertains any such design, cannot build up for himself against the Union party, a presidential party of any considerable numbers without having in it the men who opposed every measure for the putting down the rebellion, who discouraged enlistments, opposed the draft, voted the war a failure, and many other things of that character. This very fact will destroy his party if he endeavors to make one. Where those men go the people will not. The people look upon this thing now as they did during the war, not as an ordinary question of politics, but as a question of loyalty or treason, and if the President abandons the great Union party to form one for himself, and his party is made up, as it must be in the main, by the men who opposed the war, they will soon be the only ones left in it.

If the President is ambitious to have such a party as this, shall we deny him the benefit of a few hired mercenaries in the shape of Federal office-holders if he desires? If he chooses to make changes, so far as my own State is concerned he will have to make them from men who do not belong to the Union party, if he must have men who support his policy, for I have never yet heard of a Union man there who does not most cordially support Congress. And I believe my State is not singular in this respect, but that the same will be found true of every loyal State. Let us then have faith in the people, stand firmly upon our principles, avoid all false and doubtful expedients, leave to the President the full and free exercise of every constitutional right and prerogative, so that any action of his hostile to the party that elected him, if he be guilty of any, shall be without excuse. If we can keep from killing ourselves, I have no fear of the President being able to do so, even if he entertains any such wicked purpose.

Mr. President, I expect to be rebuked and lectured here and elsewhere for opposing this amendment. I know that one can hardly be allowed to question a measure here, however injudicious or unwise he may deem it, without incurring the charge of being a copperhead,

or a conservative, or a Johnson man. I have seen in a leading Republican paper a notice of my motion to reconsider the vote by which this bill was passed, in which it was said that I had adopted the language of the copperhead press, and the Senator from Kentucky, [Mr. DAVIS.] My ideas on this subject may be odd and old fashioned, I admit, but they are such as have always obtained in Vermont.

Mr. President, I do not know anybody who can sustain such accusations with less danger of injury to themselves than Vermont and her representatives. Vermont has always upheld freedom and law. The doctrines of equal rights and equality before the law have been there maintained since the days of Ethan Allen. Her legislation, her officers, and her courts have ever faithfully fulfilled her will in sustaining liberty and freedom according to the Constitution and laws. When the war of the rebellion came upon the nation no State in the Union contributed her proportion of men more promptly than Vermont.

Her sons showed their patriotism and courage on many a bloody field, with equal credit at least to those of any other State. She paid as heavy a legacy of death, in proportion to her numbers, as any other. She bore her share in putting down the rebellion most cheerfully, and she did it to preserve a Government of constitutional law. She does not desire to have her representatives here aid in frittering away what has cost us so dearly to maintain. She desires her representatives to stand firmly for her principles and their principles, but to make their fight clearly within the pale of constitutional law.

The two great measures of this session of Congress which elicited the difference of views between Congress and the President were the Freedmen's Bureau and civil rights bills. I assisted in the preparation and perfecting of both those great measures in committee. I voted for both on their original passage in the Senate, and voted for the passage of both notwithstanding the President's veto. I voted for the joint resolution declaring that no State which had been in rebellion was entitled to representation or to share in the Government of the nation until both Houses of Congress should agree thereto. I think I may safely claim to be ranked as a supporter of the policy of Congress. It might in reference to these measures be said of me as a political wag said of a leading Anti-Mason in my State in the days of the rule of that party, "that he was such a fool that he believed in his party principles."

I feel a firm and abiding confidence in the soundness of our position, and of being able to maintain it before the people. Our party professes to be based upon something higher and nobler than mere temporary political expediency, and to stand upon the great doctrines of liberty and justice. It seems to me especially important that our practice should correspond with our professions; and that we should not undertake the acts of mere political adventurers. In this if anywhere lies our danger. An open and manly stand upon our principles, disdaining all political quackery, relying upon the intelligence and patriotism of the people, will carry us safely through to ultimate victory.

Mr. TRUMBULL. Mr. President, much has been said by the Senator from Vermont to which I shall have no occasion to allude, as I am not in a position, nor about to assume a position, that makes it necessary for me to go over my political record in order to satisfy my friends at home, in the Senate, or elsewhere, that what I am about to do is not a departure from my previous course. I regret very much that in discussing this question the Senator from Vermont, in a prepared and written speech, should have reflected upon the majority of the Senate as he has felt at liberty to do. I regret, sir, that a Senator with whom it has usually been my pleasure to act, should have risen in his place and denounced a measure voted for by a majority of the Senate, by nearly all his political friends, and which he himself had once voted for, as political quackery, as

an indirect and sinister way of legislating, and as an attempt to do something in a way which is not open and honest. Does the Senator from Vermont mean to impute to a majority of this body dishonesty in its action, that it is governed by sinister considerations, that it does not act openly and fairly? I will not suffer myself to be betrayed, Mr. President, into such a reply to these remarks as I think they would warrant. In a body where we are equals, where the motives of members are not to be assailed, and where one is presumed to be as honest as another, I have never indulged in any remarks claiming for myself greater honesty than others; nor have I imputed to others sinister designs or dishonest motives.

The proposition under consideration has received but a small part of the Senator's attention. He has denounced it as monstrous; he has spoken of it as a resort to a doubtful and desperate measure, as one upon which no party can stand; and he has said that he is disposed to make the fight within the pale of the Constitution. Does he mean by that that anybody here is disposed to make a fight without the pale of the Constitution? Why, sir, I think the majority of the Senate who voted for this measure have as much respect for the Constitution as the Senator from Vermont, and as little inclination to resort to any sinister or dishonest mode of legislation to carry out their objects.

What, sir, is this amendment? And it is to that that I design to confine my remarks, and not to go into the history of the war, to recount the gallant deeds of the sons of Vermont or of any other State. Sir, the heroic boys who went from all the States into the Army to put down this rebellion did their duty, those from Vermont as well as from elsewhere; and, sir, our legislation here should be shaped to secure the fruits of the victories which their valor achieved; and we should not permit by our legislation the fruits of the victories which they won at such great sacrifices to be lost to the country and to posterity.

The pending proposition is simply this: that persons unconstitutionally in office shall not be paid. The Senator admits that he would have no objection to that portion of the amendment which provides that if the President shall undertake to fill a vacancy which existed when the Senate was in session, after the Senate has adjourned, the person with whom he fills that vacancy should not be paid; so that to do so much is not dishonest nor a resort to a desperate measure. He is willing to refuse pay to an appointee in that case; he makes no objection to the provision on this appropriation bill; and what does he object to? He objects to the refusal to pay a salary to a person who obtains his position by a removal without cause, and who is put into office for the purpose of breaking down the Union party of the country and turning the Government over into the hands of the men who have been fighting for five years to destroy it. He tells us that the people of Vermont, of whose gallant sons he has spoken, and to the bravery of whose people he has paid a just tribute, are in favor of saying to the President of the United States, "You may, without consulting the Senate, hurl from office without cause whomsoever you please, and put in their places anybody you please, a rebel from the rebel army if you will, and we, the people of Vermont, will pay the man you thus appoint in the recess of the Senate." He is willing to tax the fathers of the gallant boys who went from the State of Vermont and fought to put down the rebellion, for the purpose of paying a rebel, it may be, who is put into office without the sanction of the Senate, and, as I insist, in defiance of the Constitution, when to secure him a place a faithful officer is, in the recess of the Senate, removed without cause, except to make room for a partisan of presidential policy.

The Senator says he would require him to take the oath. Does not the Senator from Vermont know that there are hundreds of traitors in office to-day that have not taken the oath?

Read the documents upon your table from the different Departments and you will find there are many in office who have never taken the oath.

Sir, it may be that the people of Vermont are in favor of saying to the President of the United States, "You may remove from office whomsoever you please, you may put in office whomsoever you please, without the constitutional sanction of the Senate, and we are prepared to tax ourselves to pay the salary of the man you put in, though he be a traitor and ready again to conspire to overthrow the Government." Sir, it may be that the citizens of Vermont are for that, but the citizens of Illinois are not. I claim not to know the views of the Senator's constituents, but I think I know something of those whom I have the honor to represent.

The amendment, as originally proposed, related to the filling of the vacancies which existed during the session of the Senate, and which the President would have had an opportunity to fill in the constitutional way by the advice and consent of the Senate. That was the original proposition. The Senator from Ohio [Mr. SHERMAN] thought it would not do to adopt it in that form because there might be connected with the revenue some officer who was squandering the public money, and if it was necessary to remove him for malpractice and put an honest man in his place it would not do to say that the successor appointed under such circumstances should not be paid until he was confirmed by the Senate. In order to meet that objection the amendment was changed so as to provide that in case of a removal by the President during the recess of the Senate of an officer for any act or omission in violation of public duty, where a person was appointed to fill a vacancy thus occasioned he should be paid. The President can, if this amendment becomes a law, remove and appoint in case of malfeasance in office, and the appointee will be entitled to his salary. That does not satisfy the Senator from Vermont. What does he want? He wants the President to be vested with authority to remove without cause for partisan purposes, and it may be for the purpose of aiding to force into Congress representatives from States not fit, according to the Senator's own showing, to be represented. That is his object in moving this reconsideration. There can be no other. But he tells us the President either has the power to remove, or he has not the power to remove from office, and if he has the power at all it is unlimited. I do not so understand the Constitution. I do not so understand the practice under the Government.

The Senator from Vermont tells us that from the foundation of the Government this power of the President to remove and appoint at pleasure has been recognized. I would like to inquire of that Senator if it has been recognized in the Army and Navy. Has it not rather been denied? Will he point to the clause of the Constitution that restricts the power of the President in the appointment and removal of Army and Navy officers any more than it does in the appointment and removal of civil officers? Has not Congress from the foundation of the Government denied the authority of the President to remove, except as provided by law, a very large class of officers, both in the Army and in the Navy? Have we not denied it also in relation to civil officers? It is not true that the President has from the foundation of the Government exercised this power *ad libitum*. I am not disposed to go into that argument. The Senator from Missouri [Mr. HENDERSON] exhausted that subject the other day. He showed how many removals had been made under the different Presidents, and I was astonished at the few that were made by the earlier Presidents. I shall not go over the argument to show whether the power to remove exists or not. I think that subject has been sufficiently argued. But, sir, if the President has not the authority to remove during the recess of the Senate, as a general proposition, does the Senator deny that we may

give him that authority? I take issue with the Senator from Vermont as to the authority of Congress in this respect. I insist that we may confer upon the President the power to remove in vacation by law, and wherever he does make a removal in vacation in pursuance of law and makes an appointment in pursuance of law in vacation, it is proper we should pay the appointee; but because we by statute confer upon the President authority for cause to remove and appoint in vacation, does it therefore follow that without legislation he can remove and appoint in vacation? Why, sir, we confer upon the President this power to appoint officers by creating the office. We establish a new Department of the Government; we increase the number of judges; we establish a judicial district; and how does the President get authority to appoint a judge or a marshal or an attorney? He gets it in pursuance of the law that creates the office; it is in pursuance of an act of Congress that he gets the power to make the appointments at all.

Just so in regard to the removal and appointment of incumbents in office. We may provide by a statute that for cause he may remove a man from office during the vacation and substitute another in his place, and submit to the Senate when the Senate convenes the question of whether they will advise and consent to the new appointment. Congress may go further. They may authorize the President to appoint and remove inferior officers without asking the advice and consent of the Senate, and we have often done so. The Constitution expressly authorizes Congress by law to invest the appointment of inferior officers either in the President alone or in the judges of the courts or in any of the heads of Departments; and in pursuance of this authority the appointments of various minor officers all over the country have been vested in the President alone and heads of Departments. Now, would it not be competent to provide in one of these statutes, when we give him the power of appointment without consulting us, that he should not have the power of removal without cause?

Mr. FESSENDEN. Will my friend allow me to make a suggestion?

Mr. TRUMBULL. Yes, sir.

Mr. FESSENDEN. In the case of the Comptroller of the Currency we provided by law that he should not be removed without the consent of the Senate.

Mr. TRUMBULL. I thank my friend from Maine for that suggestion. I recollect that there is such a provision, which was made, perhaps, in 1863; and the provision which it is now proposed to insert as an amendment to this bill also has a precedent the same year. The Senator from Vermont has denounced it as aggressive on the President, as inviting attack, as assailing him, whereas in 1863, when Congress was acting in harmony with the President, there was attached to an appropriation bill—the Army appropriation bill, I think—a provision very similar to this, not going quite so far, but providing that no officer appointed without the advice and consent of the Senate to a vacancy to which their advice and consent might have been obtained, should receive any compensation until he was confirmed by the Senate. So, sir, this is no new proposition; it is no new proposition in an appropriation bill; it is no new proposition in the law to deny the authority of the President to remove from office without the consent of the Senate. It was denied, as I am informed expressly, and as I recollect in 1863, in regard to the Comptroller of the Currency.

So the Senator from Vermont is mistaken as to the power of removal having always been exercised by the President *ad libitum*, and I believe he is totally mistaken as to the exercise of this power in the removal of the officers of the Army and the Navy; and I should like him to draw the distinction between them and civil officers. No President, so far as I am advised, ever undertook at will and without authority of law to appoint and dismiss officers of the Army and officers of the Navy.

Mr. KIRKWOOD. During the war, by special law, the President was authorized to summarily dismiss officers of the Army.

Mr. TRUMBULL. If there was such a statute, it is in confirmation of my argument, because it shows that Congress specially conferred the authority upon the President. Perhaps there was a statute passed during the war on the supposition that it might be necessary at such a time for the President to have the power summarily to dismiss and appoint officers.

Mr. FESSENDEN. I suggest that there is a statute of that kind. I have looked at it within a day or two; but the authority was not conferred upon the President by that statute; it had been exercised by the President before, with regard to striking the names of officers from the roll of the Army. He had been in the habit of doing it in special cases.

Mr. TRUMBULL. Had the President been in the habit of dismissing them from office?

Mr. FESSENDEN. Yes; before that.

Mr. JOHNSON. Certainly.

Mr. FESSENDEN. But that law gave particular authority to it.

Mr. TRUMBULL. Was not the power given after trial by courts-martial?

Mr. FESSENDEN. Generally it was; but there were some special cases where it was done by the President himself.

Mr. JOHNSON. The case of General Gratiot was one instance.

Mr. FESSENDEN. There were several instances in which the President exercised the power of striking the names of officers of the Army from the rolls at once. So it was in the Navy. I think there was a case recently; my impression is that Captain Preble was removed from the Navy, dismissed the service.

Mr. TRUMBULL. Was not that since this act?

Mr. FESSENDEN. No; before.

Mr. ANTHONY. Was there not a court-martial?

Mr. JOHNSON. General Jackson dismissed one or two for sending a challenge.

Mr. TRUMBULL. Was there not a law expressly prohibiting the sending of challenges?

Mr. JOHNSON. Of course there was; but there was no law giving the power to the President to remove a man for that reason. General Gratiot was dismissed by Mr. Van Buren without any court-martial.

Mr. TRUMBULL. I should like to inquire of the Senator from Maryland if that power has ever been conceded. It has been discussed and denied since I have been a member of the Senate. I mean the power to remove at pleasure an Army or Navy officer.

Mr. JOHNSON. I know it has been denied, but it has always been exercised.

Mr. FESSENDEN. In a very few instances.

Mr. JOHNSON. I mean to say that in every case where the President thought there ought to be a removal he has removed.

Mr. TRUMBULL. I do not so understand it. I understand the law provides for courts-martial and trials to remove a military officer. Does the Senator from Maryland mean to say that in every case where the President thought a man ought to be removed, instead of putting him upon trial, he has assumed to remove him himself; that that is the general practice of the Government?

Mr. JOHNSON. No; I did not say that.

Mr. TRUMBULL. Has not the practice been the other way in a large majority of cases, that the officer has been tried by a court-martial or in some other way, and been dismissed the service, if dismissed at all, in pursuance of the finding of a court? Does not the law provide for that?

Mr. FESSENDEN. That is done under the Army regulations; but although that is the general practice, yet, according to my recollection, there have been some instances where Presidents have, without any court-martial, taken the responsibility of striking the names of officers from the rolls of the Army.

Mr. TRUMBULL. I am bound to suppose

there have been such cases. I did not recollect them, but they are the exceptions; the general rule is the other way, and the very fact that the law provides a mode for trying incompetent officers or officers guilty of malfeasance in office who are attached to the Army and Navy, goes upon the idea that without this authority the power to dismiss them summarily does not exist; and I am quite sure if the records are searched there will be found to be very few cases of the character alluded to by the Senators from Maryland and Maine. Mr. Van Buren, it seems, exercised the power. I was not aware that any President had done it, and I apprehend that it will be found that it is of recent origin, and that no such power was attempted to be exercised in the early history of the Government; and the general rule is unquestionably the other way.

The Senator from Vermont tells us it is an anomaly that a man may legally fill an office and yet not be entitled to pay. Is it an anomaly? There is a bill pending on the table now authorizing the appointment of commissioners without any pay. They legally fill the office created by law, commissioners to go to Europe without any pay at all. Is that an anomaly?

Mr. POLAND. The Senator misunderstands my position. Where a man holds an office and the law makes provision for his payment, provides what his pay shall be, it seems to me very strange that we should undertake to provide that he may hold the office and not have the compensation which the law provides.

Mr. TRUMBULL. The law would not provide any compensation when we took it away, would it? Is the old law any better than the one which repeals it? Then the Senator from Vermont takes this position, that we have a right to establish an office and not establish any salary to it; but having established an office with a salary, we cannot take the salary away. If that is satisfactory to him, he is entitled to the benefit of all that that argument can give him. I do not think because we once attach a salary to an office we are obliged to continue the salary, any more than when we create an office we are obliged to give a salary with it. If there is a former law giving a salary inconsistent with this, of course this subsequent statute repeals it.

But the Senator tells us he has no knowledge that the President designs making any removals; he does not know that the President has any purpose of the kind. Well, sir, I have some knowledge that removals are being made throughout the country. It is not proper to speak here of removals which have been made and are now pending in executive session; but if it was, I think I could bring to the notice of the Senator quite a number of cases. But, sir, outside of executive session, I have seen it stated in the newspapers of the country that the marshal of the western district of Pennsylvania has been removed, that the collector of internal revenue in the district of Pittsburgh has been removed, that the postmaster in Pittsburgh has been removed. Sir, I have heard of a number of removals, which are also noticed in the papers in my own State. Yes, sir, I have heard of a letter written to a man holding an insignificant office in Illinois from one of the Departments, informing him that, having taken part in a meeting which passed resolutions sustaining Congress, he would have an opportunity to explain the matter. The Senator seems not to have heard of any of these things.

Now, sir, I have as much confidence in the people as the Senator from Vermont. I do not believe the people of this country are to be corrupted by patronage; but I am opposed to fostering men for the very purpose of giving them the benefit of official position to defeat measures which I believe, and which the Senator from Vermont has told you he believes, essential to the best interests of the country.

This amendment having been adopted, I trust the Senate will not reconsider it. It was not an original proposition with me. The Senator from Missouri first proposed an amendment to this appropriation bill which seemed

to me defective, and I aided in trying to perfect it. This explains my connection with it. I thought it was proper then; I think so now; and I think that after having adopted this amendment by the deliberate vote of the Senate, if we now recall the bill and reconsider the vote by which it was adopted, it will be virtually saying to the President of the United States that the Senate is prepared to vote money to pay men put into office for the very purpose of defeating the measures which we believe essential to the preservation of the Government and the perpetuity of our free institutions, and put there, too, by displacing faithful officers against whom no complaint exists. I am sorry if the Senator from Vermont cannot stand upon this position before the people of Vermont. I regret that he feels he cannot stand upon the position of refusing to pay men put into office at the sacrifice of men who are discharging their whole duty to the Government. Sir, if a man in office has been guilty of any official act of omission or commission the President may remove him, and his appointee, whoever he may be, is entitled to pay; but if he has been guilty of no official delinquency whatever, and is removed by the President during the recess of the Senate simply for the purpose of giving place to a person who will do the behests of the President or of anybody else, except in the proper discharge of his official duty, I think he ought not to be paid till confirmed by the Senate; and I am willing to stand upon that position before the country and the people of my own State.

Mr. SHERMAN. Mr. President, I am very much gratified that the Senator from Vermont has felt it to be his duty to submit a motion to reconsider the action of the Senate upon this amendment, and I think that we ought to discuss the matter without the slightest political feeling. It is a question which may become important, far more important than it appeared to be at the time it was first introduced by the Senator from Missouri.

This amendment is attached to an appropriation bill; it is a condition-precedent to the payment of any money for the support of the Post Office Department during the next fiscal year. Unless the President is willing to assent to this proposition affecting his power to remove and appoint to office this appropriation bill cannot pass. If he approves the bill, he approves it with all the conditions and qualifications attached to the appropriations. It is therefore a condition to an ordinary appropriation bill, and unless he does approve it, it must receive the sanction of two thirds of both branches of Congress or it cannot become a law; and in the event of his disapproval we shall either be called upon to pass the bill by a two-thirds vote of both branches, or we shall be compelled to abandon it and to lose the appropriations for the next fiscal year for the Post Office Department.

During the short period of my service in Congress I have passed through three or four scenes of this kind. Once the arbitrary will of one man in this body defeated the Post Office appropriation bill to the serious detriment of the public service and to the severe loss of the Treasury. That was the case of the defeat of the Post Office appropriation bill in 1859 by Robert Toombs in the Senate. On another occasion, last year, by a political amendment attached by the House of Representatives to the miscellaneous appropriation bill under the lead of a prominent gentleman in that House, an amendment which the Senate disapproved of and which the House sought to force upon the Senate, the result was the defeat of the miscellaneous appropriation bill to the very serious loss of the Treasury and very great inconvenience to the different Departments of the Government. There is another case where a condition proposed to be appended to an appropriation bill caused great injury to the public credit.

In view of these circumstances I always hesitate when conditions are proposed to appropriation bills. I do not doubt the power of Con-

gress to attach these conditions. We have the unlimited power over the public Treasury. No money can be drawn from the Treasury without an appropriation made by law, to which each House must assent; and therefore the Senate may, as a condition-precedent, impose terms upon the House of Representatives, or that House may impose upon the Senate, or both Houses may upon the President. The Constitution gives us that power; but I say it is a power which ought never to be exercised, and these political conditions ought never to be attached to appropriation bills unless it is to accomplish some great overriding good which is greater and higher than the evil of the defeat of an appropriation bill. That principle cannot be varied. We cannot attach qualifications or conditions to these bills unless we seek to accomplish some overriding good that cannot be accomplished in any other way, and to accomplish which we are willing to risk the defeat of the ordinary appropriations of the Government.

That is a principle which cannot be departed from; and therefore, as a general rule, it is never wise to attach to these bills which are intended for the support of the Government any conditions or qualifications of a political character. What is the consequence of it? The Executive may differ from Congress. It has been so in the past. Many times Congress has differed from the President. Suppose that Congress exercising its power over the public money should attach conditions to appropriation bills which are not agreed to by the President, what is the result? Revolution; either the President will then be compelled in violation of the Constitution to seize upon the public Treasury and pay the expenses of your Government, contrary to law and contrary to his oath of office, or else he will have to suspend the operations of the Government. Suppose this amendment should lead to an open breach between Congress and the President, what can he do? There is the Post Office Department which affects every man's house and home, which carries his letters from his wife, from his children, which transacts all his business of that character, which affects all the intimate relations of life—are we to endanger the ordinary appropriations for this great branch of the public service by a mere political controversy between Congress and the President as to his power of removing public officers?

I say that now is the time for us to consider this question before it goes further and before any such breach is made. It may be said that the President will sign this bill with this condition in it. I hope he will if it passes; but suppose he should not do so, we shall then have the question before us, and I prefer to meet it now. As a general rule to be applied in all cases, both in this and all other Administrations, I am opposed to attaching conditions to the appropriation bills. When Mr. Buchanan was in power, when Mr. Pierce was in power we had similar questions up and I always opposed any such efforts.

I say, then, that we ought to meet at the outset every effort to attach these political or disputed problems to an appropriation bill. There is no excuse, let me say to my fellow-Senators, for this proposition at this particular time, because we in Congress, representing the great Union party of the United States, supported, as I believe we are, by the great mass of the people, probably ninety-nine out of every hundred of those who sent us here, have the power to pass the laws we think necessary, without attaching them as qualifications to an appropriation bill. We can pass any law which meets the sanction of our political party, by the requisite vote, either of a majority, or, in case of a clear proposition, by a two-thirds vote. There is, therefore, no occasion, in order to accomplish any political object, to attach this as a condition to an appropriation bill. If, however, only a majority of both Houses of Congress could agree upon any bill that might be proposed, that shows that we ought not to attach that opinion of a majority of each House to an appropriation bill, because we should not

force upon the President any provision of law against his deliberate judgment unless we have the power to do it by the constitutional vote of two thirds of both Houses. We should not make the public necessities which demand that certain Departments of the Government be supplied with public funds a reason for forcing upon the President a provision that might not meet his sanction if it stood alone. It is impossible, it seems to me, to combat this plain proposition.

But, sir, beyond that—and upon this point alone I rested my argument before—I was willing to meet the object embraced by the amendment of the Senator from Missouri; but upon an examination it was found, and I think very clearly proved, that the law of 1863 met all the difficulty that he proposed to meet, and that was an attempt on the part of the President to fill offices the vacancies in which occur during the session of the Senate. The law of 1863 provides for that case. If the President after the adjournment of the Senate undertakes to fill an office the vacancy in which occurred during the session of the Senate, he does it without the authority of the Constitution. He has no power to fill vacancies which occur during the session of the Senate, except by and with the advice and consent of the Senate; and if he attempts in violation of the Constitution to exercise a power not conferred by the Constitution, we are then perfectly justified in withholding appropriations; indeed, we should not do our duty unless we did withhold the appropriations, because if we should pay officers thus illegally appointed we should consent to a violation of the Constitution on his part. But now in the case provided for by this amendment there is no denial of the power of removal, but a denial of the right of the officer to receive his money. The Constitution provides for two classes of appointments: one class where a vacancy occurs during the session of the Senate; it must be filled by and with the advice and consent of the Senate; the other is the case of a vacancy which occurs during a recess of the Senate, and then the President from the nature of things and by the express provision of the Constitution has the power of appointing a man to office to fill that vacancy, but the vacancy is only filled by such an appointment until the end of the following session of the Senate. The officer thus appointed by the President is a legal officer. As I said the other day there is no power conferred by the Constitution upon the President to remove any one from office. That power is only inferential. That power may be regulated by law. That power is not limited or restrained in the least by the amendment of the Senator from Illinois. The amendment does not say that a Union man shall not be removed from office and a rebel put in. That seems to be the proposition he debated; but that is not the proposition he has submitted to us. He says that no man shall be removed from office except for such and such causes; that is, a man who during this whole war has enjoyed the honors and emoluments of office shall not be turned out and a loyal Union soldier put in. That is one effect of his amendment.

Mr. TRUMBULL. Except by and with the advice and consent of the Senate.

Mr. SHERMAN. That is after the session is over. If there is a man who has held an office during all the years of the war, and received its emoluments, he shall not be turned out and a Union soldier without a leg or an arm put in, or if put in that soldier shall not draw his pay until the Senate meets and passes upon the reasons for the removal, and then if the Senate does not think the removal is sufficiently justifiable by the reasons stated, he shall not have any pay at all. That is the effect of this provision. This, therefore, does not reach the purpose contemplated by the Senator from Illinois. His purpose, I know, is to prevent the President from removing men for their political opinions; that we all know to be the purpose; but the President has, by the very terms of the amendment, the power to remove.

All he has got to do is to give us a reason, whether that reason is wise or unwise, sufficient or insufficient. He may give us a reason, and turn us off with a reason. Reasons are as plenty as blackberries. He may say he removes a man because he is a civilian and the person he appoints was a soldier.

Mr. TRUMBULL. The Senator does not remember the phraseology of the amendment in regard to that point. It is for an act done or omitted in violation of his duty.

Mr. SHERMAN. "For acts done or omitted in violation of the duties of his office." Take the case again which I formerly put: suppose an officer discharging the ordinary routine of his duties, say a clerk in one of the Departments, has enjoyed that office until after the adjournment of the Senate, there is no specific act to be alleged against him, but it is thought to be desirable to make a place for a Union officer, not a rebel—

Mr. CLARK. The clerks are not touched by this.

Mr. SHERMAN. Well, take the case of an assessor or a collector or a consul or a diplomatic minister, and the thousands of officers covered by this amendment. Cabinet officers cannot be removed and anybody put in, rebel or loyal, except at the risk of not getting any pay in case the Senate disapproves the reasons for the removal. This amendment does not prevent the President from removing any man he chooses, and he may give us a reason or not just as pleases; the removal is complete and perfect by the will of the President; so that the amendment accomplishes nothing. It is true, the man who takes the office cannot draw his pay until the Senate meets; but do you punish the President, do you cripple his power, do you limit his control over the public officers? Do you accomplish what you desire to accomplish? Not at all. You may punish some poor devil who is compelled to exercise the duties of an office and not get any pay for it; but you do not hurt the President or hurt his feelings. The result will be that good men, poor men, may be deterred from accepting office under these conditions, while bad men or rich men may be indifferent to the salary attached to the office. I say, therefore, with due deference to the Senator from Illinois, that the amendment does not accomplish the purpose that he has in view; it does not limit or control the power of the President over the public officers, but simply aggravates a controversy which may never arise.

Now, sir, there is a way, I think, in which this matter can be accomplished—not by an amendment to an appropriation bill; not by a limitation of this character; but by the exercise of the power of Congress over the duration and term of the various public officers. Although it has been somewhat questioned at different times since the foundation of the Government, yet, as I have said before, I do not believe it has ever been successfully controverted that Congress may regulate the duration and term of a public officer, may limit the power of the President to remove him, may declare that such and such an officer shall not be removed except for such and such a cause. But a bill of that kind must be made with many discriminations, must be made after much care. There are certain officers that the President ought to have the absolute power of removing; I can name Cabinet officers; it would be intolerable that the President should be expected to carry on the business of this great Government with a Cabinet council over whose members he had not the power of removal, the complete and absolute power. For that reason, hostile political parties have often confirmed the Cabinet ministers of a President of opposite policies, on the ground that the President from the very necessity of the case must have the power of removing Cabinet ministers and appointing such as he chooses. He must administer those great offices through his personal friends, and no party would require him to appoint any but personal friends around him to these great offices. He must, therefore, have power over the Cabinet ministers. So,

too, he must have a power over the diplomatic corps in a great measure. Those are officers appointed to represent our country abroad, holding confidential relations with the Secretary of State, and therefore the power over those officers ought not to be limited or controlled or crippled by Congress. But there are classes of officers who ought to hold their offices independent of the power of removal by the President—assessors, collectors, postmasters, and other officers who really may exercise political power; that ought by the law to be secured from unjust and arbitrary removal; and there is nothing in the Constitution to prevent Congress from passing a law on the subject, securing those officers in the discharge of their duties.

Mr. President, Congress has power over this subject much more ample than is generally supposed. Congress may prescribe that the judges of the Supreme Court or heads of Departments or courts of law may make a great variety of appointments. The provision of the Constitution is that "Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Now, who is an inferior officer? Is a collector an inferior officer or a superior officer? Is an assessor an inferior or a superior officer? The Constitution says that "Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments." There is no limit in this relative character of officers except the wise discretion of Congress.

Mr. JOHNSON. The fair inference is that all not named are inferior officers.

Mr. SHERMAN. As the Senator from Maryland says, it is a fair inference that all officers not named in the clause of the Constitution, "ambassadors, other public ministers, and consuls, judges of the Supreme Court, and all other officers of the United States whose appointments are not herein otherwise provided for," are inferior officers.

Mr. HENDERSON. Madison says that a Cabinet minister is not an inferior officer.

Mr. SHERMAN. I take it that exercising common sense in the construction of the clause, no one would say that Cabinet ministers, who are officers of the highest grade, were inferior officers; but with regard to the host of subordinate officers, including postmasters, I have no doubt of the power of Congress to say that the power to appoint all the postmasters of the United States shall rest in the courts of law or with the heads of Departments. There can be no doubt of it; so that our power over this subject is substantially unlimited, and thus we have the right to control and check the power of removal. Why, sir, we declare by law that an Army officer shall not be deprived of his commission except by court-martial and trial by his peers; and the same is true of an officer of the Navy. So of the various officers under the steamboat law, who are removed by the action of the judge of a court, and the supervising inspector, and a kind of a board that is organized; and so of the Comptroller of the Currency. Congress have repeatedly imposed limitations on the power of removal, and there is no difficulty in this Congress providing such a limitation. I only say that the exercise of the power in this form is objectionable as an amendment to an appropriation bill; that this particular proposition does not meet the evil complained of; and that on the other hand we have a remedy and a power to control removals by the President furnished us by the Constitution, and which may now be exercised with great ease by this Congress if they choose to set themselves to work upon it.

From all the developments that have been made up to this time, I do not believe that we have the right to say, as the honorable Senator from Illinois says, that rebels will be appointed to fill the offices of the Government; that the President will turn his back upon those men

who placed him in his high position, and appoint rebels to office.

Mr. TRUMBULL. I trust the Senator did not understand me to say that the President would appoint rebels. I said they might be appointed, and we had a right to provide that they should not be paid; but I do not think I said that the President would appoint rebels to office.

Mr. SHERMAN. I do not wish to extend the language.

Mr. TRUMBULL. But I understand that we are asked to repeal the test oath so that rebels can take office.

Mr. SHERMAN. There were certain cases in which men who had taken part in this rebellion were appointed to office. They were appointed by the Postmaster General and the Secretary of the Treasury. The matter was referred to us in all cases, and we had a special message on the subject.

Mr. TRUMBULL. How was it with the provisional governors?

Mr. SHERMAN. They are not officers under the law; they are simply agents; and I believe it was so held by the Judiciary Committee. They are not officers under the law; they are not officers whose nominations are to be submitted to us; they are simply agents for the time being, provisional in their character, I may say like spies or other persons employed in case of war, not officers in any sense of the word.

Mr. FESSENDEN. They are military officers or nothing.

Mr. SHERMAN. They are military agents and employes, but not officers. But waiving that question, two of the Departments of the Government have appointed subordinate officers who may be called "rebels." The Secretary of the Treasury has appointed certain of them subordinate agents to collect the revenue, and the Postmaster General has appointed a few probably as postmasters; but it has been wisely checked by Congress, and I believe the practice has now been abandoned. I think, therefore, there is no danger of such a contest as we now seem to anticipate by this amendment. If there is such a danger, we have the power to guard against it by a law. If this power shall be attempted to be exercised during the next summer after we adjourn; if the President of the United States shall seek to use the public money and the public offices for the purpose of breaking down any deliberate sentiment of the people of the United States, not only would the people of the United States be just and true enough to punish him, but we have it in our power next winter when we meet again to properly guard against such things in the future.

Let us not anticipate this danger. Let us not guard against it until it occurs. Let us not invite a controversy until it is upon us; and then we have ample and complete power over the whole subject. Let us not fear a foreign enemy, and arm our militia until he declares war against us and invades our country, and then we have the material within ourselves to repel the assault. I say Congress need fear no controversy with the President. He may appoint here and there persons whom we do not approve; but we have the power over such appointments in the Senate, and therefore I am opposed to seeking a controversy of this kind until it is forced upon us.

I have already said more than I intended on this subject. It is one of those unpleasant questions that it is difficult to argue. I prefer to rest my opposition to this proposition solely upon the ground that it is unwise to attach such a provision as this as a condition precedent to any appropriation bill.

Mr. STEWART obtained the floor.

Mr. HENDERSON. If the Senator from Nevada will excuse me, I should like to ask the Senator from Ohio a question.

Mr. STEWART. I will yield, if it will not take too long.

Mr. HENDERSON. I shall not occupy much time. The Senator from Ohio says we

have entire control over this question, and that if the President should appoint, during the coming summer, men that we are not in favor of, we can control those appointments next winter. Let me ask the Senator, if the President can, immediately after the Senate adjourns, remove an officer and thereby create a vacancy, and can fill that vacancy, to last until the last day of the next session of the Senate, what is there to prevent his doing the same thing at the end of the next session, and so continue making vacancies always immediately after the adjournment of the Senate? Because, if the policy heretofore adopted by preceding Administrations be carried out, the President can create a vacancy at any moment he chooses by turning an officer out, and when a vacancy is created of course he can fill it. Then what control has the Senate over it? If the Senate rejects the appointment, the vacancy has been created, and of course the President can appoint somebody else. What control have we over it?

Mr. SHERMAN. I have already stated that we can declare that an officer shall hold his office only for such a term, and that he shall not be removed, or we may take away from the President the power to appoint these officers, or give it to another department or officer.

Mr. HENDERSON. I thought that was the object of this amendment.

Mr. STEWART. Mr. President, as I am in favor of reconsidering this proposition and rejecting the proposed amendment, it may be proper for me to state my reasons, as they are somewhat different from any reasons that I have heard. If my views had been expressed by any other Senator I should not take this occasion to trouble the Senate with any remarks on this subject.

I have no doubt of the power of Congress to refuse to pay the appointees named in this amendment, or to refuse to pay anybody else, or to refuse to pass any appropriation bills whatever. I do not think there is any doubt about the power of the President to veto any bill that we may pass. I do not think there is any question of power involved, because that is ample. We can refuse to pass any bill or make any appropriation; but it is a question of policy, a question of a correct line of conduct. Inasmuch as it has been the habit in this Government for the last thirty years for the President of the United States to remove officers during the vacation of Congress and to appoint and commission others, and for the Government to pay them, there must be some new condition of things to make a law of this kind necessary at this particular time. It has not been the policy of Congress for the last thirty years to pass a law of this kind, and of course there must be some special reason now influencing Congress inducing them to pass such a law at the present time.

I have heard a great deal about the President's policy and the policy of Congress. I have heard a great deal about sustaining the policy of the President and sustaining the policy of Congress. The object of this amendment, so far as I have been able to learn from the course of this discussion, is to prevent the President from using this patronage in support of his policy. The world will so understand it. I believe that has been avowed here upon this floor. I do not think any one doubts that the object of this legislation is to prevent the President from using the power of his patronage to sustain his policy, it is said, as against the policy of Congress. If it be true that the President has a very bad policy, a policy that will be entirely destructive to the country, and Congress has a very good policy that will save the country, then it may be well to exercise this extraordinary power, unusual as it is; but that involves too extended a discussion for the present time. There is no danger until Congress does adjourn. While Congress is in session the Senate can reject all the appointments of the President; they need not confirm any of his appointments that are not suitable, and

consequently no evil can arise until after the adjournment.

I suggest whether it would not be well to wait until the policy of Congress shall be developed, so that we can compare it with the policy of the President, after we know exactly what the policy of Congress is. I admit that I do not understand the policy of Congress, and I do not wish to commence a war on the President as such *per se* until we get in a position to know whether we agree or not. It seems to me we should devote ourselves to the all-important question of knowing exactly how we stand, and what we intend to do, and then there will be time enough to take all the necessary means to defend that policy when it is known. I have differed sometimes with the President, and sometimes with the majority of Congress, and I expect I shall continue to do so, and to exercise my judgment upon all questions; but when I see that Congress has a better plan than the President, I shall take every means I can to vindicate that plan.

Now, what are the plans of the two, so far as they have been ascertained and developed? I appeal to Senators, and ask them what are the plans of the two, and what do they propose to accomplish? I have never indorsed the President's plan in full; I have always had objections to it, and stated them on all occasions; it does not meet the whole question; but it is a plain and simple plan. He says to us, "Admit loyal members at once; restore the Union on that basis; retain your test oath; admit those who can take that test oath; and recognize the States as they existed." Some of us are not satisfied with that. It is possible that we shall never get anything better, however, in this Congress.

Now, what is the policy of Congress? That is the most difficult thing to ascertain that I know of. It is stated that we want security for the future. I admit that. I feel the necessity of security for the future. I am a warm advocate for all the securities that can be taken for our republican institutions in the future. I will go as far as any man in this Congress to obtain those securities which shall do us some good. I am not afraid to meet any question, whether it may be called popular or unpopular, when the emergency arises to obtain a guarantee for security for the future; and I am not afraid to advocate any proposition which will give us security for the future.

The question of negro suffrage has been the only grand difficulty. I stated to my constituents before I left home that whenever I came to the conclusion that negro suffrage was a necessity as a security for the future in the reconstruction of these States I should go for it. I came here. I found both Houses of Congress advocating this theory. I found them laying down the doctrine that it was the only security that could be taken. I found them earnest in its advocacy. In the other House a bill was introduced granting universal negro suffrage in the District of Columbia. That bill drew forth a discussion which will mark the annals of the history of debate in America to all time. I read that discussion attentively. That bill passed the House of Representatives by more than a two-thirds vote. It came to the Senate. The Committee on the District of Columbia, however, saw fit to amend it by restricting the suffrage and rendering it partial; but on motion of the Senator from Illinois [Mr. YATES] the bill was recommitted by almost a unanimous vote of this body, for the avowed purpose of making suffrage in the District of Columbia impartial; and from that day on until the 16th day of March I heard eloquent and able speeches on this floor upon that question, declaring that it was the only security that could be given for the future, and I became satisfied that Congress would do nothing else. I, however, continued to mention the difficulties in the way, the prejudice which existed in nineteen northern States that had the word "white" in their constitutions. The radical press assailed me; I was assailed in this Chamber and

elsewhere as unsound, because I did not see my way clear. I could not be convinced that Congress would stand up to its principles, but I was laughed at for so thinking.

While I heard some Senators here contending for this principle, while I heard the voice of the press contending for suffrage for the blacks, I also heard others contending for the punishment of traitors and the disfranchisement of rebels. I was aware how popular that cry was; but I reflected that disfranchisement was the old road to tyranny. I reflected that it was the effort of faction to disfranchise faction that had sunk in oblivion all the republics of antiquity. I reflected that in modern times we had examples of disfranchisement in Ireland and Poland. I reflected that Mexico for the last fifty years had been playing this game of disfranchisement; that each faction that would come into power would disfranchise the others, and the result was anarchy. I reflected upon the argument that the honorable Senators made on this floor to the effect that the evil under which we are now laboring was the disfranchisement of four million blacks; that the experiment of disfranchisement in the South had nearly ruined the country, and brought on the recent war; that the cause of that war was the violation of the great principle of enfranchisement; and I shuddered at the idea of adding fuel to this fire, adding to the disfranchised blacks seven million disfranchised whites. I believed that what we wanted was amnesty and suffrage. I believed that we wanted amnesty for the rebels, suffrage for the blacks. I believed that we wanted to turn our attention to the principles of democracy, to put faith in the people. I saw no other road out of this difficulty, and finally arriving at the conclusion that Congress was in earnest, I introduced a resolution proclaiming universal amnesty and impartial suffrage. I repeat, I came to the conclusion that what the country wanted was amnesty to the rebels and an extension, not a limitation, of the suffrage; that all our ills had grown out of the fact that we had deprived four million blacks of their civil and political liberty, and that violation of the democratic principle had brought on this rebellion, and caused all the trouble we have had.

I know you say these men are rebels and should be punished. That is what was said in Mexico. That is what was said among the factions in Rome. It is the same argument that they used at the time they murdered the Catiline conspirators. Cato used the same argument, and in a few years afterward the same argument was used and drove him from Rome and made Caesar imperial. This argument that you use to disfranchise men leads to despotism, and it is a dangerous argument. It has been for insubordination, for treason, that the majority of mankind have been disfranchised; and you cannot show an instance on record where any good result has come from disfranchisement. On the other hand, we have some glorious examples of the beneficial results of a contrary policy. Scotland was enfranchised, Ireland disfranchised; compare the two. Compare our own progress with that of Poland. We have been enfranchised, Poland disfranchised. We were enabled to throw off the yoke when Great Britain attempted to disfranchise us. We have an example of the evil effects of disfranchisement in our own country. We found that the attempt to disfranchise the negroes, inferior as they are, few in numbers as they are, compared with the rest of our population, shook this great Republic from center to circumference, and now threatens its overthrow. However you may "beat about the bush," I believe on full reflection that if this controversy is ever settled you will come down to the principle of impartial suffrage and universal amnesty, or as near as may be. The mere exclusion of a few leaders from office is immaterial, one way or the other, but you must come down to that principle if you ever have a settlement.

Now, what is the policy of Congress on this

question? It is not what it appeared to be when Congress met; and I mean to be understood on this point. I will change every time I see a principle that I have never discovered before, but I will not change and go backward unless I see a cause and a principle. I say that the position Congress occupies to-day is not a strong one. We have before us the report of a committee on this subject; a committee that has had great difficulty in agreeing; a committee composed of worthy and leading men in both Houses; a committee whose report is regarded by the country as extremely important, as reflecting the sentiments of this body—a report which I do not now propose to discuss, but which, if adopted, will become a policy. But, before we undertake war with others, let us organize and agree among ourselves and examine this report, and lay down the rules that shall govern us. I will look at that report for a moment, because I think it is important.

The first section of the constitutional amendment reported by the committee, if it stood alone, would grant universal civil and political rights, if it means anything. I think, however, that that was not the intention. If that was not the intention, it adds nothing to the Constitution. It is evident that such was not the intention, because the second section provides for a case wherein the States deny the suffrage. It admits that that is a part of the programme, that they may deny suffrage. The second section, which is regarded as so all-important, is a provision that has been discussed in its substantial features in this body for weeks, and has finally been voted down. If in making these constitutional amendments we are to be the judges, as we are from necessity, in our own case—because we cannot, until these guarantees are fixed, allow the South to come back, and we must judge for them and ourselves—I say then in examining the amendments, I want to judge impartially. I say this provision is not impartial. If a move in that direction is to be made, changing the basis of representation, we should change it from numbers to voters and not invent an unfair proposition as this is. Being a judge in my own case, I want to judge fairly. This section provides, by its practical operation, for excluding from the basis of representation the non-voting population of the South and including the non-voting population of the North. The non-voting population of the South, according to the contemplation of this amendment, are the blacks. They will be excluded because they are native-born. The non-voting population of the North are aliens, and they will be included because they are not citizens. I say, therefore, that this provision is unfair, and it will be regarded as unfair in its operation. If you are going to make a change in the basis of representation change it to voters, which I have always contended for.

But I say, furthermore, that I do not believe there is any necessity for this change. I believe that if we plant ourselves on the original principle of democracy, that all the people shall be trusted to vote, we will find no necessity for these expedients. I hope that before this session closes we shall arrive at some conclusion of that kind. I am opposed to wasting our strength now in a war with the President until we have spent our power upon these amendments and attempted to agree and have a firm foundation. He can do no harm until that is done; and when we have planted ourselves on the broad principles of democracy and equal rights to all men, we can stand forth bold and strong; our principles will fight our battles for us; but until we have a platform of principles upon which we can stand, it seems to me idle to fight the President.

The third section submits a proposition to the southern States to vote for their own disfranchisement. I say that when they vote for their own disfranchisement they are no longer entitled to freedom, and it should be the work of the United States to provide a penal colony for them and send them there. If they will

vote for their own disfranchisement, they are less than slaves. I propose to call upon them for the enfranchisement of all men, but I never will submit to the proposition to call upon the South to vote for their disfranchisement. It may be inferred by this time that I am opposed to some of the provisions of this plan. I shall not be very enthusiastic in advocating a provision of this kind in our plan, but I do believe that discussion and time will bring us a good plan, and then let us commence our war on all who oppose our principles; but let us organize first.

The fourth section is a good one. It repudiates the confederate debt and all claims for damages for the emancipation of slaves. That is all right. Then it is provided that these amendments shall have been adopted by three fourths of all the States before any one of the southern States shall be admitted. You are not calling upon them to act individually. Their action will do them no good. It seems to me, as it stands, with a provision calling upon the South to vote to disfranchise themselves and making it impossible for them to get in unless they will consent to their disfranchisement, and postpone their admission until three fourths of the States adopt these amendments, it is not a very good plan. While I do not fully approve of the President's plan I freely say that I think the President's plan is a better one than the plan of the committee. I believe that we can get a better plan than either. I do not believe this report reflects the sentiment of any member of the committee. I believe it is a compromise of contending forces and conflicting opinions. They have gotten wearied of the subject. I believe if we get it into Congress and discuss it we shall develop something from this plan which will be more satisfactory. I do not believe any gentleman on that committee will say he favors that entire plan, but he will say, "I submitted to it in order to get a report." As it stands thus, let us postpone any outside issue; let us direct our attention to the work of reconstruction legitimately, and it seems to me fruits may come of it. We certainly never will agree upon a plan if we commence warring upon the President without a plan, distract our forces, and reduce our majority requisite to pass the plan when agreed upon; and consequently I hope that this amendment will be withdrawn and postponed until we know whether the President agrees with us or whether we differ from him.

I did not intend to be drawn into a premature discussion of this question, and perhaps I have anticipated too far the discussion that must necessarily arise upon the report of the committee. I do not intend to despair of getting a good proposition submitted to the country. I still have the utmost hope. I shall still do all I can to secure that end. If we can form none that is feasible, then I shall do all I can to prevent any special war being made upon the President, because if we have failed he has done no more, and we have no right to complain. I want to be distinctly understood that I shall not vote to destroy what has been accomplished by the President until a better plan of reconstruction has been agreed upon by Congress; and if he can use his patronage in aid of his policy let him do it, for unless we have a plan and a policy to vindicate we will have no use for patronage.

Mr. HOWE obtained the floor.

Mr. JOHNSON. As I am obliged to leave the Senate, I appeal to the honorable Senator to permit me to detain the Senate for about ten or fifteen minutes only.

Mr. HOWE. Certainly.

Mr. JOHNSON. Mr. President, I do not know that I made myself understood when this question was before the Senate on a former occasion, and it is likely that some of the members of the Senate may have supposed that I was of opinion that it was not in the power of the Congress of the United States to interfere with the President's right to remove in any

case. I rise principally for the purpose of saying that I agree fully with the honorable member from Ohio, [Mr. SHERMAN,] that in relation to all inferior officers, it is competent for the Congress of the United States to vest their appointment either in the President alone, or in the heads of the Departments alone, and to provide either that they may be turned out by the party in whose power the appointment is vested or that they may not be turned out. In the case of *Marbury vs. Madison*, referred to by my friend from Missouri [Mr. HENDERSON] the other day, it will be found that Chief Justice Marshall, speaking for the whole court in that case, went upon the ground that the particular officer whose commission was involved being an inferior officer and his appointment by act of Congress being for the period of five years, it was not in the power of the President to remove him during that period; and Mr. Justice Story, in those passages of the Commentaries to which the honorable member also referred, takes the same ground, and I have never heard it disputed, that it is in the power of Congress by law to place inferior officers in a situation to which the power of removal by the President will not apply, to withhold from him a power which he has not except with the consent of Congress, as far as the inferior officers are concerned. In the absence of any provision in relation to such inferior appointments, placing the appointee out of the reach of the party who is to appoint for the term of the law, whether he be the President or the head of a Department or a judge of the court, it is in the power of the appointing power to remove; but it is in the power of Congress to provide that there shall be no removal in such cases except upon such terms as Congress themselves may provide. The honorable Senator from Ohio, therefore, in my judgment—and I can add nothing to the force of his argument—is clearly right in the opinion that he has expressed. It is an opinion that I have held for many, many years. I entertained it after an examination of the subject during the Presidency of General Jackson.

I said the other day that the authority of the President of the United States to remove had not only never been denied by the Supreme Court in any of the cases in which that question was presented, but had been virtually admitted. The case that I had in my mind—the name of it, however, I did not for the moment recollect—was the case of *ex parte Hennen*, reported in 13 Peters. Hennen was a clerk of the district court of the United States for Louisiana. The act of Congress gave to that district judge the authority to appoint the clerk, and without assigning any cause for his removal other than the wish to appoint a personal friend, which appeared in the proceedings, he removed Hennen and appointed somebody else, and Hennen applied for a *mandamus* to compel the district court to reinstate him in the office. The court, in the opinion as delivered by Mr. Justice Thompson—as we all know, one of the ablest judges who ever sat upon that bench—throughout recognized, as I think, the authority of the President to remove. I will read a sentence or two from that part of his opinion. He says:

"It cannot for a moment be admitted that it was the intention of the Constitution that those offices which are denominated inferior offices should be held for life. And if removable at pleasure, by whom is such a removal to be made? In the absence of all constitutional provision or statutory regulation it would seem to be a sound and necessary rule to consider the power of removal as incident to the power of appointment. This power of removal from office was a subject much disputed and upon which a great diversity of opinion was entertained in the early history of this Government. This related, however, to the power of the President to remove officers appointed with the concurrence of the Senate; and the great question was, whether the removal was to be by the President alone or with the concurrence of the Senate, both constituting the appointing power. No one denied the power of the President and Senate, jointly, to remove, where the tenure of the office was not fixed by the Constitution; which was a full recognition of the principle that the power of removal was incident to the power of appointment. But it was very early adopted, as the practical construction of the Constitution, that this power was vested in the

President alone. And such would appear to have been the legislative construction of the Constitution."

Then he refers to the acts constituting the several Departments of the Government, and in speaking of that which provides for the constitution of the Navy Department, he says:

"When the Navy Department was established in the year 1793, 1 Story, 498. provision is made for the charge and custody of the books, records, and documents of the Department, in case of vacancy in the office of Secretary, by removal or otherwise."

In all the other laws, the provision is "by removal by the President or otherwise." The words "by the President" are omitted in the act establishing the Navy Department.

"It is not here said, by removal of the President, as is done with respect to the heads of the other Departments; and yet there can be no doubt that he holds his office by the same tenure as the other Secretaries, and is removable by the President. The change of phraseology arose, probably, from its having become the settled and well-understood construction of the Constitution, that the power of removal was vested in the President alone in such cases, although the appointment of the officer was by the President and Senate."

Mr. FESSENDEN. What is the Senator reading from?

Mr. JOHNSON. Thirteen Peters, page 259; and from that time to this—I am sure I can say with truth that I speak knowingly—no judge of the Supreme Court has ever questioned the power of the President to remove, although the appointment is made by and with the advice and consent of the Senate. My honorable friend from Ohio has said that it never could be in any state of excitement the design of Congress to deny his right to remove his Cabinet officers; and yet it is in the power of Congress to repeal all the laws by which those officers are appointed. Cabinet officers are not provided for in the Constitution. His authority over them is derived from that part of the Constitution which says that he shall have the authority to appoint all the officers particularly named, and all officers the appointment of whom is vested in the President and the Senate. Congress may, therefore, repeal those laws and leave no Cabinet officers at all, and the President will have to act upon his own judgment; but the good sense and patriotism of the men of 1789 showed how important it was that the President should have official advisers, and they therefore provided that the heads of these several Departments should be what is termed the Cabinet of the President; and in all the laws providing for the appointment of those officers it is assumed that the power of removal shall remain in the President.

Now, my friend has said that we can provide against any removal by the President of postmasters and collectors of the revenue. That is all true. We may by law give to the President the power to appoint those officers and deny to him the power to remove them. We may give to the Secretary of the Treasury the like power and deny to him the power to remove them; but I am sure no Senator would be willing to say that the power of removal, in cases of that description, should not be vested somewhere; and the question, therefore, which would present itself, if such a measure was proposed to the Senate, would be, where will you vest it? Will you vest it in the President of the United States? If not, will you vest it in the Secretaries? It must be vested somewhere, or we must run the risk of having dishonest or incapable officers in the several Departments of the Government. If you vest it in a Secretary, the President can remove the Secretary, and appoint one who will suit him better, and thus effect the same object.

I agree with the honorable member that it is advisable that the patronage of the Government should not be used for political purposes. In the beginning of the Government, and in the debates in 1789, which led to the determination of Congress that the power to remove was in the President, it was stated, and it is so stated, I think, in one of the numbers of the Federalist, that the exercise of that power, without cause, would be a good reason for impeachment. But it has long been the practice

of the Government to remove without assigning any cause; and it has now become, as I think, the settled construction of the Constitution, that so far as relates to appointments which you have given to the President, although they are to be made by and with the advice and consent of the Senate, he has a right to remove, and has a right to fill the places made vacant by removal, provided the removal is made during the recess of the Senate.

Mr. HOWE. Mr. President, I shall be very reluctant to see this vote reconsidered and to see this amendment rejected, because I think the amendment a very proper, a very judicious, and a very necessary one. There is no mere measure of expediency and but few of necessity the defeat of which would occasion me so much chagrin and mortification as to have any measure of any kind prevail by the sort of argument which is adduced in support of the reconsideration of this vote. I could not but regret most deeply that the Senator from Ohio [Mr. SHERMAN] thought fit to introduce here the argument which he has laid before the Senate. What is it? Conceding, for the purpose of his argument, our right to adopt this amendment, he still invokes the Senate not to do it; and why? Because it involves the Legislature in a collision with the Executive. For twenty years prior to 1860 a great deal of the legislation of this body, and a great deal of the political action of the people of the United States was controlled, not by appeals to the judgment of legislators or to the consciences and convictions of the people, but directly to their fears. The argument more potential than any other that was heard throughout the Republic was, upon various and sundry questions, not that it is or is not right and expedient, but you must adopt this or reject that; if you do not there will be a collision somewhere. I am glad to know that in those days, which I sometimes am made to fear were braver days even than these, there was no attempt to frighten the Legislature by pointing out the horrors of a collision with the President. We were threatened invariably with collisions in different portions of the Union. Different States of the Union said, if you do not submit to this policy, or to that, the Union will be disrupted. That was the threat which was held over the Legislature in those days. But now we are urged to pause, to reject an amendment conceded to be addressed to the discretion of the Legislature, because within its jurisdiction, for the simple and single reason that if we adopt it it may involve us in a collision with the President of the United States. Sir, if the Constitution, which we talk of frequently and which we regularly swear we will support, meant anything, if it meant to secure anything, it meant to secure a body to enact laws that should be as independent of the President as the President is of the Legislature.

Mr. STEWART. Will the Senator allow me one word at this point?

Mr. HOWE. Certainly.

Mr. STEWART. The Senator misunderstands me—

Mr. HOWE. I am not referring to the Senator from Nevada. I have not got to him yet.

Mr. STEWART. The Senator misunderstands me if he supposes that is the ground I place it upon. I place it on the ground that I do not know whether we have got any use for any such war as yet, and I want to wait and see.

Mr. HOWE. If my friend from Nevada will wait and see, he will know when I reach him. I was referring to the argument introduced by the Senator from Ohio. I say the Constitution intended that the action of this law-making tribunal should be absolutely independent of the action of the Executive, except through the simple exercise of the veto power. But the argument which is paraded here calls upon us as a matter of usage, as a matter of expediency, as a matter almost of necessity, to inquire at the White House what sort of legislation will be approved there before we venture upon it. I am unwilling to see any such usage

adopted. I shall regret most profoundly the day when by any act or vote of the Senate or of the House of Representatives such a usage shall be sanctioned or seem to be sanctioned. When any proposition is laid before this body I ask, and I think I have a right in the name of the Constitution to demand, that its merits shall be passed upon with strict regard to its own terms. If we, a majority of this body, approve the merits of the proposition, we have no right to reject it. We betray what, in our judgment, is the true interest of the people if we do reject it. No man has a right to tell us that the President will veto the bill, and we have no right to listen if we are so told. When the Senate approves a measure right, it is bound to assume that the President will think it right, and that he will approve the measure; and upon this point I will not believe any testimony except the direct and official testimony of the President himself. When we have considered and approved a measure, then he is called upon to consider, and approve or disapprove; and when he has had an opportunity to consider, and has told us that he disapproves, I will believe him, and I will believe no man but him.

I therefore lay out of view entirely the suggestion that the adoption of this amendment will involve us in any controversy with the President. If he does not approve of the bill with this amendment upon it, he will veto the bill possibly; if he does not see fit to approve the bill, he will unquestionably veto it; and then the two Houses will be called upon to determine what they will do in that contingency, to pass upon the reasons he gives for not approving the bill.

But, says the Senator, it is an amendment to an appropriation bill—an appropriation bill every dollar of which is needed for the good of the public service, and by putting upon this bill this measure which may prove obnoxious to the President, you jeopard, you hazard the safety of the bill. How so, or if so, what possible measure can you put into an appropriation bill and not run the same hazard? Every single individual appropriation in this bill might have been opposed upon precisely the same ground. If any Senator had assumed to say the President is opposed to this or that appropriation, he could have called upon us with just as much authority to lay aside that particular appropriation upon peril of having the bill vetoed, and the appropriations lost in case we put it in. This is only designed to be one of a great many provisions in a single bill. It is not in terms an appropriation. It is in terms a direction as to the disbursement of the money appropriated, and I know of nothing more proper or more regular than the imposition of just such regulations as this, touching the disbursement of moneys upon bills making appropriations of public moneys.

But, says the Senator, if we do put it on and if the President does veto this bill, then the postal service must suffer and languish through a whole year, and we shall be held responsible. Why shall we be held responsible? What shall we have done to occasion this disaster to the postal service? We have seen fit to incorporate a section into the bill making appropriations for that service, which we approve, which we deem right in itself, and it is conceded by those who urge this argument to be right. We put it on to this bill; and the President, it is assumed, does not approve it, and therefore he will not assent to the appropriations, and we are to be held responsible for the disaster that overtakes that branch of the public service. I conceive that he who wrongfully refuses to approve the bill is alone responsible for the consequences that follow. If we put a provision in this bill which the President ought not to approve, then he is justified in vetoing the bill, and the consequences that may follow upon this service justly attach to us; but if we put nothing on this bill but what the President ought to approve, then I do humbly conceive that he ought to approve the bill, and if he refuses to approve the bill he is not only re-

sponsible for rejecting this proposition, conceded to be right in itself, but he is responsible to whatever consequences follow to this branch of the public service.

But the Senator from Ohio insists that it is not necessary. He says there is no necessity for it now; it is entirely within our power to do this thing; it will be justified if the President should assume to make removals for insufficient or unworthy reasons. But, the Senator says, that time has not come; wait; do not inaugurate the war; pass your regular appropriation bills; when another session shall have convened, if you find the President has exercised this power, then put on the checks. Is that sound advice to give to the Legislature? It is assumed here on the part of some that in the recess of the Senate the President may remove every officer employed in the public service, the term of whose office is not fixed by the Constitution. If there be danger that he will exercise this power for partisan or political purposes, the time will not come, perhaps, until Congress shall have adjourned; and the occasion will have passed before the next session will convene. The Senator says, do not anticipate any such thing; wait, try him, and when you convene again if you find he has done it, then provide the remedy. When the wolf is in the yard, be sure you shut the gate! Well, I am not anticipating any maladministration on the part of the President; but I find a certain power claimed here to make these removals, with or without cause, for any reason that pleases the President; I deny that such power is given to the President by the Constitution; I insist that the Legislature should not recognize any such power; but because I find it insisted upon here, and by some assuming to speak in the name of the President, I am led to fear that the power may be exerted, and if exerted it will be exerted during the very next vacation of this body; and when you come together again the occasion for its exercise will have passed; officers of the obnoxious kind will all have been removed from their places and those places will be filled with officers of the right kind, approved by the President himself. When that is the case, says the Senator from Ohio, then put on the brakes, to use a form of expression I get from the President himself. When he gets all these offices filled with just such men as he likes, then pass an act of Congress which will prevent him from making a removal without the consent of the Senate! It strikes me that that would be a little late in the season to plant with any certainty of a valuable crop.

But these were not the only objections urged by the Senator from Ohio; they were the objections that I regretted to hear the most, for I do not like to have such considerations addressed to a legislative body ever. I like to have their judgments, their reasons, their convictions appealed to; their fears never. There was another objection. He argues that by the adoption of this amendment we restrict the power of the President to make removals. I think so; it is the very purpose. But if we restrict him in the exercise of that power, says the Senator, we may put it out of his power to remove a civilian who has been in office from the beginning of the war and to put in his place a poor soldier who has been crippled in the war; and will you not leave him that power? No, Mr. President; I think we had better not under existing circumstances leave him that power. I take it that all the occasion of the exercise of that power that will exist for a good many years exists now. I thank my God that we are enabled to reflect at last that our soldiers are done being crippled. All the cripples that are to be made in the progress of this rebellion are now made and are to be provided for; here is the tribunal, the President and the Senate together, that can make provision for them; and I shall not concede, either upon the suggestion of the Senator from Ohio or upon the suggestion of any other member of the Senate, that the President is more willing to take care of these crippled soldiers than we are. There are numerous cases of the kind

that wait to be provided for. I will not encourage the President to postpone that act of justice until this Congress shall have adjourned, and then do it upon his own private account. Let him do it now, because now justice waits to be done; let him send here the names of these crippled soldiers and let us pass upon the case. We can cooperate now, we are here to cooperate with him both in the act of removal and in the act of appointment.

The Senator admits, and I believe all who have spoken in opposition to this amendment concede to-day, that the power is in the Legislature to fix the terms of all these officers and to take from the President the right, if he has it, as I think by the statute he has, not by the Constitution, to remove any of these officers. We can, it is said, take that from him; and they say, why not do it? This is an indirect method of accomplishing the purpose, and the Senator from Ohio says it does not accomplish it after all. What is our purpose? To restrict the exercise of this power of removal. Do it then directly, they say, by act of Congress, and declare that the President shall not make these removals. Sir, that is only one way to do it. Is it a better way than this? That is the exercise of a greater power than this is. This does not say in terms, "You shall not remove at all," but it says that if you do remove without cause the officer whom you select to succeed shall not be paid. They tell us we may prohibit him from removing at all, but it is very hard to say when he has removed and a man has been appointed, that man shall not be paid. Hard? Why? Upon whom is it hard? It is not hard upon the incumbent particularly. It is not any harder than the existing law, under which the President can remove him or does remove whenever he pleases. It is harder upon the incumbent of the office, to be sure, than would be a law which said he should not be removed at all; but that we do not choose to say; we want to reserve the power somewhere to remove for cause; but is it hard upon the appointee? Yes, it does seem to be rather hard upon a poor, ambitious aspirant for a post office to say that after he is put into it and discharges the duties of it he shall not be paid; but recollect that is no harder upon the aspirant for the post office than it is to say to the President, as they suggest to us to say, "You shall not make the removal; therefore you shall not make the vacancy; and therefore you shall not make the appointment," for if we say that, as they urge us to say it, certainly the vacancy cannot be made, and certainly the aspirant cannot be gratified. But, says my friend from Vermont [Mr. POLAND] in an "aside," in the one case the man would hold the office, in the other case he would not. True as holy writ; but by whose fault or connivance does he hold the office? By the connivance of the Legislature? By ours? The law does not compel him to take the office. He sees fit to take it with the deliberate notice placed upon your statute that he cannot be paid if he sees fit to take office under those circumstances. He acts with his eyes open, and he acts voluntarily; there is no sort of duress or constraint laid upon him. Of what shall he complain? Why shall he complain?

The Senator from Nevada [Mr. STEWART] seems to think we are anticipating, reaching out for, seizing a weapon to strike before it legitimately comes to us. He does not like this amendment. Why? Not because we have not the power to pass it, not because it is not right in itself, not because he would avoid a collision with the President, but he has not got ready to enter into a struggle with the President, because he does not precisely know whether he can stand by Congress or not. He waits to know what is the policy of Congress. Until he knows whether he is on the side of Congress he does not like to make up an issue with the President. Until, in other words, he can see and understand precisely how he will relish the service of the Almighty he does not like to desert—no, I believe it would not be proper to go on with that sen-

tence, I will omit the rest of it; until he understands clearly that he will relish the service of Congress, he does not like to step out of the service of the President.

I do not know but that I am prepared to commend such prudence as that; and I cannot really relieve the Senator from his difficulty. I do not know what is the policy of Congress. I am struggling here to find out, to develop, the policy of Congress. I trust in the name of the Almighty and of the people and of the Constitution that a part of the policy of Congress is to adopt this amendment; and if my friend from Nevada approves it, I ask his assent to it. If he does not approve it, then I think he ought to vote against it. But I ask him to lay aside now and forever the idea that he is inaugurating a fight with the President of the United States when he simply sits here like a Senator and gives to his country the benefit of such judgment as he has upon any and every question that may be laid before him. That is the idea that I want to see started. It has lingered about these Halls a great deal too long, and it is because it has lingered here so long that it makes the adoption of just such an amendment as this so very necessary.

I have spoken so far, Mr. President—and I have spoken longer than I intended to do—from the stand-point presented on the other side, conceding that the amendment was right in itself and entirely within our discretion. Is there any doubt about it? I understand the Senator from Maryland concedes it to-day. I said the other day, and I repeat again, that whoever doubts or denies our right or our power to incorporate this amendment upon this bill ought to vote against it, and whoever doubts or denies the power of Congress to restrict the right of removal and to fix the tenure of these offices, I think ought to vote against the adoption of this amendment, for I concede now, as I conceded then, that if the Constitution confers upon the President of the United States the power to remove these officers, that is a power which he may exercise in defiance of us, and when he has exerted it in any case he has made a vacancy, and when he has made a vacancy he has not merely clothed himself with the right, but he has charged himself with the duty under the Constitution of seeing that vacancy filled. It turns, then, upon our right to restrict this power of removal. I shall not detain the Senate with any argument upon that point; to-day I do not understand it to be controverted; and I have only one single remark to make upon that head. As I read the Constitution, I must say that if the President has the right under the Constitution, and independent of statute law, to remove a postmaster at pleasure and for political reasons, he has the right to remove a judge of the Supreme Court. If he has a right to remove one of these civil officers, he has the right to remove every civil officer. I mean if he has it under the Constitution. But you tell me that the Constitution expressly fixes the terms of the judges, limits them to good behavior. Yes, I admit it. If you see fit to fix the term of a postmaster at four years or ten years, or during good behavior, the two cases are put upon a footing so far as the law is concerned. It being conceded that we have the right to fix the tenure of these offices, when we have done it it is just as much a law as the Constitution, for the Constitution of the United States is no more valid than any act of Congress made in pursuance of and in accordance with the Constitution; and if you see fit to fix the tenure of these offices, and yet concede that in spite of your law, which says it shall be four years or six years, the President may, under powers derived from the Constitution, remove within the term, then he may remove the judge; and every one of the officers employed in the civil or in the military or in the naval service is not an agent of the people of the United States, not an agent of the law, but he is a servant of the President.

Sir, if any such notion has prevailed in the

minds of the American people, I think it is time to wipe it out. I could illustrate the necessity of this by facts which have fallen under my observation within a very short time. This is not the occasion to parade them before the Senate; but there is not a Senator sitting here that cannot point his own finger to numerous instances illustrating the necessity of teaching the American people that it was not the design of our institutions to make the President of the United States responsible for public opinion, or to make him a missionary clothed with patronage and power and emoluments for the purpose of inculcating his own opinions or his own political doctrines upon the people.

Mr. SAULSBURY. Mr. President, when this subject was before the Senate originally, I did not mingle in the debate, because I considered it then, as it seems to be now, a controversy more between the two branches of the Republican party than between the Republican party and the party to which I belong. Sir, there seem to be two wings of that party, according to this debate, the one led by Congress and the other by the President of the United States. As I have said before, I belong to neither, but I belong to a party much older than either, a party having its origin at the foundation of this Government, a party under whose counsels and advice and management this country grew from a feeble Republic to be one of the greatest nations upon the earth. During its existence and control no civil war afflicted the land, and none of the evils were experienced under its management of public affairs that we have suffered during the short, brief, and terrible reign of this now distracted party. The Democratic party has but very little interest in this controversy as a party. Believing, however, the President to be patriotic, and that his policy, if carried out into practice, would conduce to the general benefit of the whole country, would be the means of soon restoring amicable relations between the States of this Union, and would again put us on the high road to prosperity and happiness as a people, the Democratic party, with a unanimity, yea, sir, a generosity seldom witnessed in the history of political parties, sustains the President in every constitutional effort to restore the relations which formerly existed between the States. That is the connection and that is the only connection which the Democratic party has with this controversy.

Sir, I should not have risen on this occasion if it had not been for a remark which was made by the honorable Senator from Vermont, [Mr. FOLAND.] I listened with great pleasure to his speech. It was able; it was in good taste; it was just such a speech, with very slight exceptions, as we should have expected from a gentleman of his high reputation. But I was sorry to hear one remark which fell from the lips of that honorable and distinguished Senator. When war was raging in the land, when the passions of the people were excited, when brother was arrayed against brother, and when parties and individual men were striving to prove that they were more loyal than their neighbors, I expected that men would so far forget propriety as to deal in epithets towards their political opponents; but I had hoped that when peace had returned, when passion had subsided, when the spirit of party had become calm, I never again in the Senate of the United States should hear the term "copperhead" drop from the lips of any Senator. But, sir, there is an old maxim, *de gustibus non disputandum est*. It may be the taste of honorable Senators to indulge in such epithets; I will not imitate the example. Not that it affects me; but I hope that it is the last time in the Senate of the United States that we shall be compelled to listen to such epithets.

While I am up, Mr. President, I will say a word upon the measure now before the Senate. It is very strange to me how the power of the President of the United States to remove certain officers from their offices can, at this late day, be questioned. I had supposed that, as Senators, we were familiar with the early

debates in Congress upon this subject, and I had supposed that if there was any question clearly and definitely settled, both by the practice of the Government and by judicial decision, it was the power of the President to remove those officers whom he had the power to appoint, and whose terms of office were not limited to a particular period, or during good behavior. Has the President the power, for instance, to appoint the heads of Departments? Has he the power to remove them from office if he sees proper? I do not know that I understood the honorable Senator from Maryland aright; I do not know but what he half conceded that this power might be taken away from the President by repealing the acts establishing those Departments. But to show that this power of removal clearly exists in the President I will cite two passages from the Constitution of the United States, if it is not now out of order to quote from that instrument.

The Constitution, in section two of article two, provides that—

"The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several States, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the Executive Departments upon any subject relating to the duties of their respective offices," &c.

The Constitution contemplates offices denominated here as Executive Departments; and in 1789 Congress proceeded, under the authority of the Constitution, to create those Executive Departments—the office, as it was called, of Secretary of Foreign Affairs, now Secretary of State, and the offices of Secretary of War, Secretary of the Treasury, and Secretary of the Navy. In the bills organizing those Departments this very question was most elaborately argued and solemnly settled by a vote of Congress, that the power to appoint and the power to remove both existed in the President of the United States. It passed by a very large majority. The main argument upon the bills establishing those Departments arose on the power of the President to remove the officers at the head of them, after he had appointed them by and with the advice and consent of the Senate.

The language of the Constitution is, that the President shall nominate and by and with the advice and consent of the Senate shall appoint. Now, who appoints to office? What was the argument then? Some said the appointment was made by the President and the Senate; but if we look for a moment we shall see that the Senate has nothing to do in making an appointment; it acts simply as an advisory body. The President nominates and the President appoints, but before he makes an appointment he takes the advice of the Senate. When is the appointment perfected? Is it perfected when the Senate gives its advice? No, sir. Then the Senate does not appoint. The appointment is only complete and perfect when the President attaches his signature to the commission. It was decided in the case of *Marbury vs. Madison* that to render an appointment complete there must be the signature of the President to the commission. The commission is the evidence of the appointment, and it is not issued and signed until after the Senate has advised the appointment; but suppose after the Senate gives its advice, the President does not choose to make out the commission and does not affix his signature to the commission, I ask you, is there any appointment? Clearly not.

This shows that the President, and the President alone, has the appointing power, and that the office of the Senate is nothing but that of an advisory body. That being so, the question comes back to this: what is the principle governing the power of removal? Any one who looks into Lloyd's Debates of that day will see that the doctrine was universally admitted in the argument that the power which appoints is the power which can remove, and which alone can remove. I know that in those early days the question arose whether the only power of removal was not by impeachment. Some advocated that doctrine; among the rest,

Mr. Smith, of South Carolina. Some contended that inasmuch as it required the advice of the Senate before an appointment could be made, the Senate also had the power, conjointly with the President, to remove, and that the President had not the power without the advisory body. But after full argument—and it is one of the ablest and most exhaustive arguments to be found in the debates of Congress either in former or present times—it was decided by Congress that the President, being the appointing power, had in himself alone the power of removal. And, sir, should it not be so? What are these but executive officers? Their appointment is an executive duty; they are called upon to discharge executive functions; the President of the United States is responsible for their conduct to the people and to the country; and therefore, being chargeable with the due administration of public affairs, and being clothed with the executive power, it would, upon principle even, if there were no authority one way or the other, and we were driven to reason abstractly on the subject, be nothing but right and proper that the power to remove should be in the authority which is responsible to the country for the action of the executive agents.

But, sir, judicial decisions, as well as uniform practice, has settled the question. This principle was clearly recognized in the case of *Marbury vs. Madison* in 1803. It was recognized and decided to be settled law in the case of *ex parte Hennessy* in 1833. It was declared in both cases that the law was clearly settled, and if you turn to the Life of Washington, by John Marshall, Chief Justice of the United States, who certainly ought to have known something upon the subject, you will find that he declares it to be settled law that the power of removal is with the President alone. And yet, notwithstanding this construction and the uniform practice from 1789 down to the present hour, some in this debate have gone so far as to question the right of the President of the United States to remove the head of a Department or any other officer. I might add to this authority the weight of the great name of Chancellor Kent, of New York, who held the same doctrine. This debate is the first time in my life, in the last twenty-five years at least, that I have heard the doctrine questioned.

Congress itself has uniformly heretofore recognized the power of removal to be in the President. In the acts of 1789 establishing the Departments of Foreign Affairs or State, of the Treasury, and of War, provision was made for the appointment of subordinate officers to take charge of the books, papers, &c., of said Departments in case of the removal of the heads of said Departments by the President. This is a clear legislative recognition of the right of the President to remove, and every President has acted under the Constitution in conformity with this recognition of right.

But, sir, there are officers whom the President now has the power to remove that Congress may prevent his removing, by depriving him of the right to appoint them; but I hold that while you leave him the appointment of these officers, you cannot take away from him the power of removal. The Constitution empowers Congress to vest the appointment of inferior officers in the courts of law or in the heads of Departments. Congress has done that in reference to the appointment of clerks, &c., in the Treasury and other Departments. Congress may by law provide for the appointment of inferior officers by some other party than the President, if Congress sees proper to do so; but Congress has not so far seen proper to do so; and the proposition now is to attach to an appropriation bill for the support of the postal service of the country an amendment providing that if the President of the United States shall, not only in reference to a vacancy happening during the sitting of Congress, but in reference to a vacancy which may occur during the recess, undertake to exercise the power admitted to be his, the person appointed by him shall not receive pay unless he shall be confirmed by the

Senate. All I have to say upon that (not feeling much interest in it as a party man or personally) is simply that it has not been done from the foundation of the Government up to the present time, under any Administration, however hotly war has waged between Congress and the President of the United States. When the President of the United States was a Whig, a Democratic Senate and House of Representatives never attempted to take from him this power of removal from office as it has existed ever since the foundation of the Government. When your President was a Democrat and your Congress Whig, they never attempted to deprive him of this power.

Let me ask gentlemen, what is the great reason for doing it now? If amid the hot conflicts of party in former days it was not found necessary thus to stigmatize the President of the United States, (for it is nothing but an attempted stigma upon him,) what great public emergency demands it at this late hour? Do you dare question the actions of your own President? When I questioned some of the acts of the late President of the United States, I heard the epithets "copperhead" and "traitor" rolling thick and fast wherever I went. Only two or three brief years ago if any man questioned the infallibility of the acts of Abraham Lincoln, if he had not one, two, or three plates of copper upon his head it was because the tongue of slander could not place it there. But now, sir, having a President of your own election, of your own choice, you attempt to deprive him of the power which has been heretofore admitted to belong to the Executive from the foundation of the Government. For myself I feel no interest in it as a party man. I have yet to find that the present Executive of the United States has appointed the first Democrat to office; and let me take occasion to say that while I consider it a pleasure and a pride to be the personal friend of the President of the United States, and while I approve and indorse fully every constitutional and patriotic effort that he has made to restore the harmony of this country, and again to cause us to be a happy and a united people, I am looking for my party to no crumbs that fall from the presidential table. Neither, sir, is the Democratic party looking for those crumbs; they did not vote for him; they have no right to demand his offices; and they do not demand them; but they claim the right, and it gives them pleasure, when he acts nobly and patriotically and manfully for the good of the whole country, to forget the fact that they did not vote for him, and to rally to his support; and if his hands at any time shall fall down, they will help to raise them up, if votes and counsel can help to raise them up. They have the harmony of the country, the peace of the country, the restoration of friendly relations between the different States more at heart than they have party triumph. Nay, sir, leave it, this day, to that good old party which launched this ship of state on the billows, to be out of office for four, eight, or twenty years, and to stay out, upon the condition of the restored Union under the Constitution as our fathers made it; place before them the alternative of restoring the Union which our fathers framed, or of their coming into power and having this country continually distracted, with eleven States kept out of the Union, and they would retire to the quietude of private life and rejoice that the flag of their country once more waved from ocean to ocean, and from lake to gulf, over a united, happy, and prosperous people.

It is a mistake when gentlemen suppose that the members of the Democratic party, in giving such support as they do to the measures and policy of this Administration, are actuated by party considerations, with a view of taking their President away from them, or with a view of getting their offices. Sir, we do not claim their offices. If we dared say anything to the President of the United States, we would say to him, "Give your offices to the men who voted for you and who sustain your policy, provided they are best qualified to discharge the

duties of such offices; but take care, be sure, you give them to friends who will support you sincerely, honestly, and vigorously in the war being waged against you;" and the honorable Senator from Nevada to-day seemed to talk as if there was such a war. He knows more about the secrets of the Republican camp than I do. He ought to know all about that fact. He says, "Give us a platform and we can fight." Whom is the honorable Senator going to fight? I thought from what I heard in this Chamber that the Democratic party was dead and buried; we have heard that often enough. Surely you are not preparing a platform now to fight this dead party. Then it must be a platform to be used in this war between the President and Congress; and as to the side on which my friend from Nevada is in that fight, a doubt was intimated by my honorable friend from Wisconsin.

A word more on the subject before the Senate, in reference to the question of justice and propriety. You should remember that I am speaking impartially in reference to this matter. I have no interest in it whatever as a party man; but I ask you as a matter of justice, should not the President have the privilege of surrounding himself with a few friends? From what I have heard of the appointees of the former President of the United States, very few of them are the friends, as I suppose, of the present Executive. Now, would it not be just, would it not be magnanimous on the part of this great party, that is going to make war on the President, if it is going to make war, to give him the privilege of selecting a few friends to be around him? Certainly it is usual to allow a dying man to be surrounded by a few friends to comfort him in his dying moments. If the President be so weak that he has not one per cent. of the party that elected him as you say, can you not afford to let him take a few of that one per cent. to take counsel with, and to comfort him in his affliction?

Why, sir, look at the history of removals in this country. When John Adams came into office there was no occasion for any removal of appointees under General Washington's Administration; but when Thomas Jefferson came into office there was some occasion for them, because then all the offices were filled by persons opposed to a majority of the people of the United States. Mr. Jefferson made but few removals, comparatively few. I believe he removed no man simply because he had voted against him, and no one for mere political cause alone unless the man removed from office had made himself particularly obnoxious by his abuse. There was no occasion for Mr. Madison, or Mr. Monroe, or John Quincy Adams to make many removals, because there was very little division of parties then, and yet they did all make some. When General Jackson came into power there was occasion again because the offices were mainly filled by those who were opposed to him, and yet that Administration which has been held up as a model Administration for proscription made but a little over six hundred removals in eight years, and there were then about eight thousand postmasters in the country besides thousands of other officers. Now, even if Congress is disposed to take from the President of the United States the appointing power, as I admit it has the right to do in a great many instances, by giving the appointment to the Supreme Court or to the heads of Departments, still it would be nothing but justice to leave to the President of the United States the power to appoint a number of his friends to office.

Why are gentlemen alarmed, let me ask? Why should they be alarmed? Why should they entertain the idea that the present President of the United States is going to pervert this power of removal to a bad purpose? Is he not surrounded by the "divine Stanton" and such men? Has he not Mr. Seward for an adviser? Are not all his present advisers men whom you have indorsed over and over again? Have you not confidence in your President's advisers? Certainly they are not going to make

any appointment to injure you. Certainly they will not countenance any appointments in favor of the Democratic party. Sir, let me tell you, that it would take more faith than it requires to remove mountains to cause me to believe that the present Secretary of State of the United States, who so long has fought the Democratic party, and who, by the by, I consider the cause of a great deal of the evil that has been brought upon this country, is going to forsake your standard and rally to the Democratic standard. He is going to do no such thing. But suppose he should, what then? Some few men might follow; but I march under no captains manufactured out of "divine Stantons" and bell-ringing Seward, and other men that I might name. You have them. You have got to keep them. You need not expect to get clear of them. Make war upon them if you choose, because in making war upon the President of the United States you will make war upon his Cabinet.

The Democratic party will not be driven from their support of the Chief Magistrate of the United States, whom they believe to be patriotic, and who in their judgment means well, though he may be surrounded by men who have warred upon that party all their lives, and whom the Democratic party have always fought; but they will support him in every act that they believe right, and in giving that support they are not animated or governed by any mere party considerations, but it is from a love of country and devotion to the country, and because they believe that his policy will conduce more to the interests of the country than your policy will. Although I know I differ with gentlemen on this floor who say they are so triumphantly strong in this country, I believe to-day that the Democratic party numbers more than one half of the constitutional voters of the United States in the States which never seceded; and, sir, now that your bayonets are removed from the polls, now that men can vote freely and act freely, we will hang our banner on the outer wall, and give it to the god-storms, the tempest, and the breeze, and we are not afraid to meet the united hosts of the Republican party in the next presidential election. At the same time, sir, Andrew Johnson may—and that is what you are afraid of—Andrew Johnson may, if he acts rightly, not through the action of the Democratic party alone, but by the almost spontaneous action of the American people, become the next President of the United States. If he acts constitutionally, settles these great questions which are now disturbing the nation, settles them peaceably, gives back to the country a restored Union and a restored Constitution, the grateful hearts of hundreds of thousands and millions of American voters may so swell that they may say he deserves yet further honors at their hands; and if the American people will it neither Congress nor the Republican party can prevent it.

Mr. STEWART. Mr. President, my friend from Wisconsin [Mr. HOWE] did not state my position quite fairly, nor exactly as I put it. He stated that I was waiting to see whether I could serve the Lord before I broke with his adversary. Well, that really looks like a manifestation of egotism on his part, as if he and the Lord were on intimate terms, so that he can say that he is on the Lord's side. But I beg leave to say that I do not exactly occupy that position. I believe that it is pretty well known that I am not much afraid to break with anybody, that I do not watch the President to see how he is going. I mean on all questions to consult my best judgment, and I am ready at any moment to break with the President or anybody else on principle, if he deserts principle. Now I choose to state my position for myself. The President has attempted reconstruction; he has reared a kind of policy; I as a member of the Senate do not propose to aid in destroying it until I have got some materials together whereby to build a better house. Until I have collected the materials I do not propose to go to work tearing down and destroying. It may be impossible for Congress

to construct a better policy; and if so, it is not the part of wisdom and justice on our part to destroy all that he has done.

I stated that the object of this amendment was undoubtedly to prevent the President from using the patronage of the Government to sustain his policy. If his policy is abandoned, or if we have a better one, I do not think there is anything so terrible in this law. If we have got a better policy that we desire to subserve, if we have the ability to build a better plan of reconstruction, it is our duty to use all constitutional power to make that successful; but if we have not, and do not succeed in getting it, we had better not pass any laws which shall embarrass the President in carrying out his policy. I want the States reconstructed; I want the Union preserved; and I believe that is the wish of the American people, and if Congress is incapacitated to do that, then I say we should throw no obstruction in the way of the President using his patronage and power to reconstruct in his way. But I stated at the same time that I believed Congress would be able to construct a policy which would be better than the President's; and when we have done that, I still hope the President will go with Congress.

Congress, after it has sufficiently deliberated, will, I believe, produce a plan, but until that is accomplished no harm can be done from delaying this matter; because Congress will be in session, and we shall have all the power in our hands. I say we should not be led astray on this side issue which is calculated to distract, which is giving us additional weight to carry, until we shall have arranged our plan of action, and then there may be no need of any conflict with the President. We may then be in harmony, and the great Union party may go on again without trouble. The President has not in the matter of appointments gone so far as to alienate himself from Congress. We have rejected very few of his appointments; we have confirmed nearly all. I believe we have not rejected more than the usual proportion. There is as yet no violent contest on this subject. We are here able to reject any improper appointment that he can make. We are going to stay here for some time, until we agree on some plan of action. Then, if there shall be trouble in carrying out that plan, let us use our constitutional power. My position is, that I am willing to break with any man who breaks with principle; but I am unwilling to tear down what another man has done until I have some evidence that I can do better, until I am prepared to do better.

Mr. McDOUGALL. Mr. President, I do not rise with the hope that I can add to the information of Senators on this subject. I cannot make the complement to the argument of the Senator from Vermont for the reason of its exceeding fullness; I cannot add to the learning that has been bestowed; but I choose to state my particular objections in my own way, briefly.

In the first place the amendment, the subject properly of discussion, is not germane to the bill; and the rule has been, and it is a good rule, that an appropriation bill should not be charged with extraneous matter. I have heard it maintained very earnestly always by the Senator from Ohio, who has been chairman of the Committee of Ways and Means of the other House, and now represents the Finance Committee, I believe. It is a bad practice, against sound policy; but that is not my gravest objection. The most difficult subject that was before the men who sat in council in 1787 was how to balance the powers of the Government, and those wise men, our ancestry, wiser than we, drew from the wells of old antiquity, they drew from the modern ages, and particularly the problem was how to balance the various powers of Government, and they designed as a policy that the three departments of Government should be each independent of the other, the executive, legislative, and judicial.

Now, all laws are not written. The common law is what is called the unwritten law.

So the laws of the seas from the time of Oleron are unwritten laws, and yet are laws of nations. For seventy-nine years we have been expounding our Constitution and system of government. It has been expounded by those who framed it. It was not possible to put in form of words every consideration that lay in and about the instrument, for then it would have been more extended than the Pandects of Justinian. It was intended for a Constitution to be built upon, construed, and has been construed by those who framed it. It has been determined that there are classes of officers, for instance, judges of the Supreme Court, appointed during good behavior who can only for misbehavior be ejected; a person appointed regularly to the military service under our system can be removed, if in the Army, by an Army court-martial; if in the Navy, by a naval court-martial that has tried and adjudged him. This has grown to be law, and is law. The case of *Marbury vs. Madison*, if I remember aright, was the case of a justice of the peace, appointed in this District, whose term was fixed for five years by law. That is within the province of legislation; but there are a class of officers who are not within the province of legislation, and after all their administration belongs to the executive department of the Government. Legislation belongs to us as much as judgment belongs to the Supreme Court. We were not made to make officers. We are merely advisers of the President with regard to a class of officers, and not necessarily all officers, not inferior officers. In this legislation we are indirectly undertaking to usurp the functions of the executive head of the Government, whose business it is to understand these things by himself and through those whom he is authorized to surround himself with. We are usurping his authority; we have not the legitimate power to do what is here proposed; and it is against the policy by which the foundation of this Government was laid.

This kind of legislation is itself in its character revolutionary. It is breaking up the established order of things for a mere temporary purpose. There is no disguising the underlying motive for this movement; it is patent. That from it must spring evil consequences is indubitable. We ought to live as a people that should endure through centuries, and why handle our institutions as things of a day? This is one of that class of movements, and I trust it will not meet the favorable consideration of the Senate.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The question is, Will the Senate reconsider the vote agreeing to the amendment?

Mr. SHERMAN called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Cowan, Davis, Doolittle, Edmunds, Fessenden, Foster, Guthrie, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Sausbury, Sherman, Stewart, Van Winkle, Willey, Williams, and Wilson—21.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Creswell, Harris, Henderson, Howard, Howe, Lane of Indiana, Morrill, Nye, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, and Wade—18.

ABSENT—Messrs. Brown, Buckalew, Cragin, Dixon, Grimes, Hendricks, Johnson, Kirkwood, Wright, and Yates—10.

The PRESIDING OFFICER. The question recurs on the adoption of the amendment.

Mr. HENDERSON. I move that the Senate do now adjourn.

Mr. SHERMAN. I think that unless some Senator desires to debate the matter further or to move an amendment, we had better go on and get through with the bill.

Mr. SUMNER. Let me remind the Senator that there are several Senators absent who would like to have an opportunity to vote on the question.

Mr. CRESWELL. I ask the Senator from Missouri to give way for a moment until I can make a formal motion. My colleague has informed me that private business will require his absence from the Senate until Monday next, and he has requested me to ask leave of absence for him until that time.

The PRESIDING OFFICER. The question is on the motion to adjourn, unless the Senator from Missouri withdraws his motion.

The motion was agreed to—yeas twenty-four, nays not counted; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 7, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Saturday was read and approved.

ORDER OF BUSINESS.

The SPEAKER stated the first business in order to be the call of committees for reports to go upon the Calendar, and not to be brought back by a motion to reconsider.

No reports were made.

The SPEAKER stated the next business to be the call of States for resolutions, commencing with the State of Indiana.

COLORS SUFFRAGE.

Mr. JULIAN. I submit the following resolution, and demand the previous question on its adoption:

Resolved, That the Judiciary Committee be instructed to inquire into the expediency of reporting a bill providing that hereafter the elective franchise shall not be denied or abridged in any of the Territories of the United States on account of race or color; and providing further, and thereby giving notice of the fact, that henceforward no State which the people of any of said Territories may organize shall be admitted into the Union whose constitution shall sanction such denial or abridgment of the elective franchise.

Mr. WILSON, of Iowa. I ask whether the gentleman proposes to instruct the committee.

The SPEAKER. It is a mandatory resolution.

Mr. JULIAN. I am willing to modify it so as to make it a resolution of inquiry. I demand the previous question.

The previous question was seconded and the main question ordered.

Mr. FINCK demanded the yeas and nays.

The yeas and nays were not ordered.

Mr. ELDRIDGE moved that the resolution be laid upon the table.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 29, nays 76, not voting 78; as follows:

YEAS—Messrs. Delos R. Ashley, Boyer, Coffroth, Dawson, Delano, Denison, Eldridge, Finck, Glossbrenner, Grider, Griswold, Aaron Harding, James R. Hubbell, Kerr, Latham, Le Blond, Marshall, Newell, Niblack, Radford, Samuel J. Randall, William H. Randall, Raymond, Rogers, Shanklin, Sitgreaves, Taylor, Thornton, and Whaley—29.

NAYS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Buckland, Reader W. Clarke, Conkling, Cook, Cullom, Deming, Dixon, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Henderson, Holmes, Hooper, Asahel W. Hubbard, Jencks, Julian, Kasson, Ketcham, Ladin, William Lawrence, Longyear, Lynch, McClurg, McKee, McRuer, Mercer, Miller, Morrill, Morris, Myers, O'Neill, Paine, Perham, Pike, Plants, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Stevens, Francis Thomas, Trowbridge, Upson, Van Aernam, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Windom, and Woodbridge—76.

NOT VOTING—Messrs. Ancona, Banks, Barker, Bergen, Blaine, Blow, Brandegee, Bundy, Chanler, Sidney Clarke, Cobb, Culver, Darling, Davis, Dawes, Deftrees, Dodge, Eggleston, Farguhar, Goodyear, Grinnell, Hale, Harris, Hayes, Hilly, Hill, Hogan, Hotchkiss, Chester D. Hubbard, Dumas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hubard, James Humphrey, James M. Humphreys, Ingersoll, Johnson, Jones, Kelley, Kelso, Kuykendall, George V. Lawrence, Loan, Marston, Marvin, McCullough, McIndoe, Moorhead, Moulton, Nicholson, Neill, Orth, Patterson, Phelps, Pomeroy, Rice, Alexander H. Rice, Ritter, Ross, Rousseau, Schellabarger, Sloan, Smith, Spaulding, Starr, Stilwell, Strouse, Taber, Thayer, John L. Thomas, Trimble, Bart Van Horn, Robert T. Van Horn, Ward, Wentworth, Stephen F. Wilson, Winfield, and Wright—78.

So the motion to lay on the table was not agreed to.

The resolution was then adopted.

Mr. JULIAN moved to reconsider the vote by which the resolution was adopted; and also

moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

UNITED STATES CIRCUIT COURT IN VIRGINIA.

Mr. LAWRENCE, of Ohio, introduced a bill regulating the time and place for holding the circuit court of the United States in the district of Virginia, and for other purposes; which was read a first and second time, ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. LAWRENCE, of Ohio, demanded the previous question on the passage of the bill.

Mr. RANDALL, of Pennsylvania. I hope now that the Chief Justice will perform his duty, and not try to place the blame on the President.

The previous question was seconded and the main question ordered; and under the operation thereof the bill passed.

Mr. LAWRENCE, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

EMPLOYÉS IN THE DEPARTMENTS.

Mr. SMITH. I did not hear the State of Kentucky called, being occupied at the time, and I ask leave to introduce the following resolution:

Resolved, That the Secretary of State, Secretary of War, Secretary of the Treasury, Secretary of the Navy, Secretary of the Interior, Postmaster General, and Attorney General be requested to report to the House the number of clerks, male and female, now in their respective Departments, from which States they were appointed, and what was their occupation before appointment.

Mr. FARNSWORTH. I object.

The SPEAKER. This resolution being a call for executive information it requires unanimous consent.

Mr. SMITH. I ask the gentleman to withdraw it.

Mr. FARNSWORTH. If the gentleman will look in the Blue Book he will find all he wants.

Mr. SMITH. I wish to make this statement:

It was but a few days ago that I saw the recommendation of a man who had just come out of the rebel army for appointment in some of the Departments, and but for the fact that he could not take the oath would have been there now. I understand there are efficient, capable, good men, who wish appointments who have served their country, who have one arm or one leg, who desire positions, while there are those who have never been in the service at all who have obtained appointments. I wish to ascertain and have the country know these facts, and therefore I introduce this resolution. I wish to see men who are deserving rewarded by the Government they have served. That is all the object I have in introducing this resolution, and I hope the gentleman from Illinois [Mr. FARNSWORTH] will withdraw his objection and let the resolution be passed.

The SPEAKER. The Chair understands that the gentleman from Illinois withdraws his objection. Is there unanimous consent to the introduction of the resolution?

Mr. WILSON, of Iowa. I suggest that the word "requested" be changed to "directed."

Mr. SMITH. I have no objection. I supposed the word "requested" would bring the information.

The SPEAKER. The usage of the House is, where information is desired of the President to use the word "requested," but where it applies to Cabinet ministers to use the word "directed."

Mr. GARFIELD. Should not that be in the form of a joint resolution?

The SPEAKER. The House directs Cabinet officers to report about anything.

Mr. MERCUR. I suggest to add to the resolution the words, "also those, if any, who have been in the confederate army, giving the names, number, and residences."

Mr. SMITH. I do not understand that to be the case, but I have no objection to the amendment being made.

Mr. MORRIS. I suggest that the resolu-

tion embrace the further inquiry, how many of the family occupy positions.

Mr. SMITH. If we can arrive at the fact without incumbering it too heavily I have no objection. And I will not object if the House will allow me to include inquiry into the custom-house at New York. Because I will state that men who have been in the service and who have been promoted to the highest rank have actually begged their bread in the streets of New York because of the refusal of the place of watchman in these departments that are within the gift of the Government, while others who have not in any way helped to defend the country have been the beneficiaries of those departments.

Mr. FARNSWORTH. I like the object of this resolution, but I hope my friend will permit it to be modified by directing the heads of Departments also to state by whom those several clerks were recommended for appointment. Let us know if there are any rebels in the Departments and who recommended them.

Mr. SMITH. I will accept that—and "by whom recommended;" and I demand the previous question.

Mr. RADFORD. I call for the reading of the resolution as modified.

The resolution, as modified, was read, as follows:

Resolved, That the Secretary of State, the Secretary of War, the Secretary of the Treasury, the Secretary of the Navy, the Secretary of the Interior, the Postmaster General, and the Attorney General be directed to report the number of clerks, male and female, now in their respective Departments, from which States they were appointed, and what was their occupation before appointment; and also, the names, number, and residences, if any, of such as have been in the late rebel army, and by whom the latter class were recommended for appointment.

Mr. SMITH. I desire to modify the resolution by inserting the words "and the number who have served in the Union Army."

Mr. ASHLEY, of Ohio. That is right; let us see how many there are there.

The previous question was seconded, and the main question ordered; and under the operation thereof the resolution was agreed to.

DISTRICT OF COLUMBIA.

* Mr. WELKER introduced a bill to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

DOCUMENTS FOR GLOBE REPORTERS.

Mr. CLARKE, of Ohio, submitted the following resolution:

Resolved, That the House reporters of the Congressional Globe be furnished with three copies each of all bills and resolutions printed by order of the House.

Mr. WASHBURN, of Illinois. Will those copies be taken from the number which members receive? There is a standing order as to the number of copies which shall be printed. I should like to know if these copies are to come out of that number. I have no objection to the resolution. I think the reporters should have copies of these bills and resolutions, but it should be in addition to the regular number printed.

Mr. CLARKE, of Ohio. Under the standing rule a sufficient number of copies is printed to supply what is called for by this resolution.

Mr. WASHBURN, of Illinois. It may be so in some instances, but I think the resolution had better be modified so as to provide for the printing of an additional number of copies.

Mr. CLARKE, of Ohio. There is no need of increasing the number. There is a sufficient number printed to supply this demand. I move the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

TRANSFER OF AGRICULTURAL DEPARTMENT.

Mr. LAWRENCE, of Ohio, submitted the following resolution, upon which he demanded the previous question:

Resolved, That the Committee on Agriculture be

instructed to inquire into the expediency of removing the Department of Agriculture to one of the Western States, and that said committee report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

PRINTING OF SMITHSONIAN REPORT.

Mr. GARFIELD submitted the following resolution; which was read and referred, under the law, to the Committee on Printing:

Resolved, That five thousand extra copies of the Report of the Smithsonian Institution be printed, two thousand for the Institution and three thousand for the use of the members of the House.

DISTRIBUTION OF ORDNANCE.

Mr. SCHENCK introduced a joint resolution relating to the distribution of ordnance and ordnance stores among the States; which was read a first and second time, and referred to the Committee on Military Affairs.

RECONSTRUCTION COMMITTEE.

Mr. BOYER submitted the following preamble and resolution, upon which he demanded the previous question, and called for the yeas and nays:

Whereas the joint committee of fifteen on reconstruction reported on the 30th ultimo, after the arduous labors of five months' continuous incubation, a well-matured plan of "how not to do it," in which they have fully met the expectations of the country, which is as much as ought ordinarily to be demanded of any committee; Therefore,

Resolved by the House of Representatives (the Senate concurring), That said joint committee be discharged.

Mr. BROMWELL. I move to lay that resolution on the table.

Mr. LE BLOND. I demand the yeas and nays on that motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 100, nays 24, not voting 59; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Boutwell, Bromwell, Broomall, Reeder, W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Defrees, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Ferry, Garfield, Griswold, Abner C. Harding, Hart, Henderson, Holmes, Hotchkiss, Asahel W. Hubbard, James Humphrey, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Laffin, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McIndoe, McKee, McRuer, Mercier, Miller, Morrill, Morris, Moulton, Myers, O'Neill, Orth, Payne, Perham, Pike, Plants, William H. Randall, Raymond, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stillwell, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Windom, and Woodbridge—100.

NAYS—Messrs. Boyer, Coffroth, Dawson, Denison, Eldridge, Finck, Glossbrenner, Grider, Aaron Harding, Harris, Kerr, Le Blond, Marshall, Niblack, Radford, Samuel J. Randall, Ritter, Rogers, Shanklin, Sitgreaves, Strouse, Taylor, Thornton, and Winsfield—24.

NOT VOTING—Messrs. Ancona, Barker, Bergen, Blaine, Brandegee, Buckland, Bundy, Chanler, Culver, Darling, Davis, Dawes, Delano, Eggleston, Farquhar, Goodyear, Grinnell, Hale, Hayes, Higby, Hill, Hogan, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbard, James R. Hubbard, Hulbard, James M. Humphrey, Ingelsoll, Johnson, Jones, Kuykendall, Marston, Marvin, McCullough, Moorhead, Newell, Nicholson, Noell, Patterson, Phelps, Pomeroy, Price, Alexander H. Rice, Ross, Rousseau, Sloan, Smith, Starr, Tabor, Thayer, Trimble, Robert T. Van Horn, Ward, Wentworth, Stephen F. Wilson, and Wright—59.

So the resolution was laid on the table.

DISTRIBUTION OF ASSASSINATION REWARDS.

Mr. KELLEY submitted the following resolution:

Resolved, That the Committee of Claims be instructed to inquire into the fairness and propriety of the award of the rewards offered for the arrest of Jefferson Davis and the conspirators to murder President Lincoln; and that the Committee on Appropriations be instructed to take no action on the same until the Committee of Claims shall have reported the result of their investigations and the House taken action thereon.

Mr. GARFIELD. Will the gentleman from Pennsylvania [Mr. KELLEY] explain the necessity for the passage of such a resolution as this?

Mr. KELLEY. I will very gladly give an explanation of it if the House will permit.

The SPEAKER. If objection be made the resolution will go over under the rule if it gives rise to debate.

Mr. KELLEY. An award has been made, which has already given rise to many objections. And as the Committee on Appropriations have been ordered to prepare a bill making an appropriation—

Mr. KASSON. I think the House has made no such order.

Mr. KELLEY. We have passed a resolution instructing the Committee on Appropriations on that subject.

Mr. KASSON. The resolution was simply referred. I would ask the gentleman if he knows of any action of the Committee on Appropriations which makes it necessary to ask the House to enjoin the committee from early action.

Mr. KELLEY. This is intended merely to guard against the subject being acted on by the Committee on Appropriations before the Committee of Claims shall have inquired into the propriety of the award.

Mr. KASSON. The order of the House directing the Committee of Claims to inquire into the subject, I presume, would be sufficient for the Committee on Appropriations.

Mr. KELLEY. Very well; I will modify my resolution by striking out that portion which relates to the Committee on Appropriations; and also substitute the word "distribution" for the word "award." It will then be a simple resolution instructing the Committee of Claims to inquire into the propriety of the distribution of the rewards.

Mr. FARNSWORTH. The Committee on Appropriations have the subject before them with a design to inquire into it. But we are not instructed to report any appropriation.

Mr. STEVENS. I think my colleague on the Committee on Appropriations [Mr. FARNSWORTH] is mistaken. After the subject was referred to the committee suggestions were made that the subject should be investigated. And one day, when my colleague [Mr. FARNSWORTH] was not present, I believe, the committee agreed that we would postpone action upon it until some other committee shall have investigated it, if it should be brought before them.

Mr. KASSON. I hope this subject will go to the Committee of Claims.

Mr. KELLEY. The Committee of Claims, I think, is the proper committee to consider this subject; and therefore I now call the previous question.

The resolution was again read, as modified:

Resolved, That the Committee of Claims be instructed to inquire into the fairness and propriety of the distribution of the rewards offered for the arrest of Jefferson Davis and the conspirators to murder President Lincoln.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

NOTT AND COMPANY.

Mr. SCOTFIELD introduced a bill for the relief of Nott & Co.; which was read a first and second time, and referred to the Committee of Claims.

EQUALIZATION OF BOUNTIES.

Mr. STROUSE presented the joint resolutions of the Legislature of the State of Pennsylvania in favor of equalization of bounties; which were ordered to be printed, and referred to the Committee on Military Affairs.

EXPORT DUTY ON COTTON.

Mr. STEVENS introduced a joint resolution proposing an amendment to the Constitution of the United States; which was read a first and second time.

The question was upon ordering the joint resolution to be engrossed and read a third time.

The joint resolution was read in full. It proposes to submit to the Legislatures of the several States the following article as an amendment to the Constitution of the United States:

ARTICLE —. Congress shall have power to lay and

levy tax or duty on cotton exported from the United States.

Mr. STEVENS. I call the previous question.

Mr. LE BLOND. If that joint resolution gives rise to debate, does it not go over under the rule?

The SPEAKER. If the previous question is not seconded, and debate arises on the joint resolution it would go over under the rule.

Mr. LE BLOND. Then we will filibuster a little.

On seconding the demand for the previous question there were—ayes 36, noes 38; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Mr. STEVENS, and Mr. RANDALL of Pennsylvania.

Mr. STEVENS. I want to modify my motion a little. I move that the resolution be referred to the Committee on the Judiciary, with instructions to report within one week. I desire to add these instructions, because in the earlier part of the session a similar resolution was, on my motion, referred to that committee, from which we have never received a report on the subject.

Mr. WILSON, of Iowa. I desire to say, in reply to what the gentleman has said, that the gentleman has had no such resolution referred to the Committee on the Judiciary, so far as my knowledge extends.

Mr. ELDRIDGE. Is this resolution debatable?

The SPEAKER. The morning hour has expired; and the resolution goes over until next Monday, unless the gentleman offers it in a modified form now.

Mr. STEVENS. I offer the resolution, to be referred to the Committee on the Judiciary.

The SPEAKER. The gentleman from Pennsylvania asks consent, the morning hour having expired, to introduce a resolution.

Mr. LE BLOND. I object.

Mr. FARNSWORTH. I move to suspend the rules for the purpose of allowing the resolution to be introduced and referred.

Mr. LE BLOND. I demand the yeas and nays on the motion to suspend the rules.

Mr. WILSON, of Iowa. I desire to ask; what is the present motion of the gentleman from Pennsylvania? Does he propose to refer the resolution with any instructions?

Mr. STEVENS. I withdraw that part of the motion with regard to instructions.

Mr. WASHBURN, of Illinois. As there is now no proposition to refer with instructions, I hope the gentleman from Ohio [Mr. LE BLOND] will withdraw the call for the yeas and nays.

Mr. ELDRIDGE. I desire to know whether the resolution has not already been introduced, and whether it has not gone over under the rules.

The SPEAKER. The gentleman from Illinois [Mr. FARNSWORTH] has moved to suspend the rules, the morning hour having expired, for the purpose of proceeding to the consideration of the resolution, on which the gentleman from Pennsylvania does not desire action at the present time, but which he simply desires to have referred.

Mr. ELDRIDGE. Can the rules be suspended to allow the introduction of a resolution which has already been introduced and has gone over?

The SPEAKER. The gentleman from Illinois moved to suspend the rules to bring the resolution before the House. That suspension would include the rule requiring the resolution to go over, as well as all other rules which may stand in the way of the consideration of the resolution.

Mr. LE BLOND. If this resolution is not to be reported back within a week, I am willing to withdraw my call for the yeas and nays. My chief object is to have these constitutional amendments postponed as long as possible, so as to preserve for as long a period as we can the principles of our Government from the hands of the radicals.

Mr. SPALDING. I object to debate.

The motion to suspend the rules was agreed to; and the joint resolution was introduced, read a first and second time, and referred to the Committee on the Judiciary.

Mr. ELDRIDGE moved to reconsider the vote by which the joint resolution was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills and a joint resolution of the following titles; which were thereupon signed by the Speaker:

An act (S. No. 90) enlarging the powers of the levy court of the county of Washington, in the District of Columbia;

An act (H. R. No. 478) to extend the jurisdiction of the Court of Claims;

An act (H. R. No. 214) for the benefit of Colonel R. E. Bryant;

An act (H. R. No. 347) for the relief of R. L. B. Clarke;

An act (H. R. No. 238) to amend an act entitled, "An act relating to *habeas corpus* and regulating judicial proceedings in certain cases," approved March 3, 1863; and

Joint resolution (H. R. No. 107) for the relief of Rev. Harrison Heermance, late chaplain of the one hundred and twenty-eighth regiment New York volunteers.

SMITHSONIAN INSTITUTION.

The SPEAKER, by unanimous consent, laid before the House a communication from Professor Henry, Secretary of the Smithsonian Institution, transmitting his annual report for the year 1865; which was laid on the table, and ordered to be printed.

MR. BANCROFT'S ORATION.

Mr. WASHBURN, of Illinois. Mr. Speaker, I have received and desire to lay before the House a letter from Hon. George Bancroft, who delivered the memorial address on Abraham Lincoln, together with some correspondence of Lord Russell. I desire that the whole shall be printed and referred to the joint committee on the memorial to President Lincoln. I think the House will be entertained and instructed by the reading of the correspondence; and I ask that it be read.

Several MEMBERS. Let us hear it.

The Clerk read as follows:

Lord Russell to Mr. Adams.

CHESHAM PLACE, February 28, 1866.

DEAR MR. ADAMS: I observe in the Daily News of yesterday extracts from a speech of Mr. Bancroft delivered in the House of Representatives on the 12th instant.

In this speech Mr. Bancroft is represented to have said referring to the breaking out of the civil war: "The British Secretary of State for Foreign Affairs made haste to send word through the palaces of Europe that the great Republic was in its agony, that the Republic was no more, that a headstone was all that remained due by the law of nations to 'the late Union.'"

As words pronounced on such an occasion and by so eminent a man as Mr. Bancroft may have an effect far beyond the injury which my personal character might suffer, I must request you to convey to Mr. Bancroft my denial of the truth of his allegations, and to refer him to facts of a totally opposite character.

Soon after the news of the resistance in arms of the southern States to the Government of the Union arrived in this country, a member of the House of Commons stated in his place that the bubble of republicanism had burst.

I replied in the same debate that the bubble of republicanism had not burst, and that if the curse of slavery still hung about the United States it was England who had made them the gift of the poisoned garment which was now their torment.

In fact I never had any doubt that whether the United States consented to separation or pursued the war to extremity the great western Republic would remain, happily for the world, a powerful and independent republic.

The authors of the Declaration of Independence in declaring their separation from Great Britain, after enumerating their complaints of her conduct, go on to say: "We must therefore acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind, and hold them, in peace friends."

That we should be enemies in war is easily understood, but when we are at peace, why should we not

be friends, as the great men of the American Revolution intended us to be? If they, in the moment of separation and of war, looked forward to a period of peace and of friendship, why should we, more than three quarters of a century after these events, keep up sentiments of irritation and hostility founded on a mistaken apprehension of facts, and tending to lay the foundation of permanent alienation, suspicion, and ill-will?

As Mr. Bancroft's speech is likely to have very extensive publicity, I reserve to myself the power of making public this letter at such time as I shall judge fit.

I remain, my dear Mr. Adams, your faithful servant,
RUSSELL.

P. S. I subjoin an extract of my speech on the 30th of May, 1861, as reported in Hansard's Debates.

Mr. Bancroft to Mr. Adams in reply.

NEW YORK, March 23, 1866.

MY DEAR MR. ADAMS: I have received from you, by Lord Russell's desire, a copy of his letter to you of 28th February last, in which he denies the truth of certain allegations in my address to Congress on the 12th of the same month. The passage which he cites contains these three allegations: that as British Secretary of State for Foreign Affairs he viewed this Republic as "the late Union;" that he sent this view of our country through the palaces of Europe; and that he made haste to do so. When Lord Russell calls to mind the authority for these statements, he must acknowledge them to be perfectly just and true.

On the 6th day of May, 1861, Lord John Russell, then Secretary of State for Foreign Affairs, wrote a dispatch to Lord Lyons, in which he describes the condition of America as "the disruption of a confederacy," and he further used these words: "Civil war has broken out between the several States of the late Union. The government of the southern portion has duly constituted itself. Her Majesty's Government do not wish you to make any mystery of that view." Here is irrefragable proof of my first allegation.

On the day on which the minister of the Queen thus wrote he addressed a dispatch to Lord Cowley, her Majesty's ambassador at Paris, designating our Republic as "the States which lately composed the American Union;" "the late United States;" "the late Union;" and he inclosed in that dispatch, for Lord Cowley's instruction, a copy of the above cited letter to Lord Lyons. Having thus ostentatiously communicated his view of our country as "the late Union," he asked in return "to be made acquainted with the views of the Imperial Government." My second allegation is therefore true in letter and in spirit.

That Lord John Russell, as Secretary of State, was in haste to do this, appears from his not having awaited the arrival of the American minister of Mr. Lincoln's appointment, and from those very letters of the 6th of May, 1861, to Lord Cowley and to Lord Lyons; for in those letters he confesses that he had not as yet received from Lord Lyons any report of the state of affairs and of the prospects of the several parties; but that on coming to the decision which was so momentous and unprecedented, he acted on the reports of "some consuls" and "of the public prints."

It is true that twenty-four days after Lord John Russell had officially described our country as "the disruption of a confederacy," "the late United States," "the late Union," he reproved a member of the House of Commons for openly exulting "that the great republican bubble in America had burst;" and owned "that the Republic had been for many years a great and free State;" but he uttered no expectation or hope of the restoration of our Union, and rather intimated that the Americans were "about to destroy each other's happiness and freedom." Lord John, on that occasion, rightly attributed the rebellion to the "accursed institution of slavery," and confessed that England was the giver of "the poisoned garment," that the former governments of Great Britain were "themselves to blame for the origin of the evil." But this confession must be interpreted by the light of his avowals on the 6th of May, 1861, and by Lord Russell's later assertion, that the efforts of our country were but a contest for "empire."

In speaking to the American Congress of the life and character of Abraham Lincoln, it was my unavoidable duty to refer to the conduct of the British Government toward our country during his administration, for nothing so wounded his feelings or exercised his judgment or tried his fortitude.

I was asked to address the two Houses of our Congress, and those only. When I learned that the British minister at Washington was likely to be one of my hearers, I requested Mr. Seward to advise him not to be present; and through another friend I sent him a similar message, which he received and perfectly understood.

I need not recall words of ninety years ago to be persuaded that in peace America and the United Kingdom should be friends. I have a right to say this, for when in the public service I proved it by public acts; and as a private citizen I have never wished our Government to demand of a foreign Power anything but justice.

Pray send Lord Russell a copy of this letter, which he is at liberty to publish; and I consider myself equally at liberty to publish his letter, to which this is a reply.

I am ever, my dear Mr. Adams, very truly yours,
GEORGE BANCROFT.

North America, No. 3. Presented to Parliament, 1862, (LXII.)

Lord J. Russell to Earl Cowley.

FOREIGN OFFICE, May 6, 1861.

MY LORD: Although her Majesty's Government have received no dispatches from Lord Lyons by the mail which has just arrived, the communication

between Washington and New York being interrupted, yet the accounts which have reached them from some of her Majesty's consuls, coupled with what has appeared in the public prints, are sufficient to show that a civil war has broken out among the States which lately composed the American Union.

Other nations have, therefore, to consider the light in which, with reference to that war, they are to regard the confederacy into which the southern States have united themselves; and it appears to her Majesty's Government that, looking at all the circumstances of the case, they cannot hesitate to admit that such confederacy is entitled to be considered as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent.

I have stated this to Lord Lyons in the dispatch of which I inclose a copy for your Excellency's information.

In making known to M. Thouvenel the opinion of her Majesty's Government on this point, your Excellency will add that you are instructed to call the attention of the French Government to the bearing which this unfortunate contest threatens to have on the rights and interests of neutral nations.

On the one hand, President Lincoln, in behalf of the northern portion of the late United States, has issued a proclamation declaratory of an intention to subject the ports of the southern portion of the late Union to a vigorous blockade; on the other hand, President Davis, on behalf of the southern portion of the late Union, has issued a proclamation declaratory of an intention to issue letters of marque for cruisers to be employed against the commerce of the North.

In this state of things it appears to her Majesty's Government to be well deserving of the immediate consideration of all maritime powers, but more especially of France and England, whether they should not take some steps to invite the contending parties to act upon the principles laid down in the second and third articles of the Declaration of Paris of 1856, which relates to the security of neutral property on the high seas.

The United States, as an entire Government, have not acceded to that declaration; but in practice they have, in their conventions with other Powers, adopted the second article, although admitting that without some such convention the rule was not one of universal application.

As regards the third article, in recent treaties concluded by the United States with South American republics, the principle adopted has been at variance with that laid down in the Declaration of Paris.

Your Excellency will remember that when it was proposed to the Government of the United States, in 1856, to adopt the whole of the Declaration of Paris, they in the first instance agreed to the second, third, and fourth proposals, but made a condition as to the first, that the other Powers should assent to extending the declaration, so as to exempt all private property whatever from capture on the high seas; but before any final decision was taken on this proposal, the Government of President Buchanan, which in the interval had come into power, withdrew the proposition altogether.

It seems to her Majesty's Government to be deserving of consideration, whether a joint endeavor should not now be made to obtain from each of the belligerents a formal recognition of both principles, as laid down in the Declaration of Paris, so that such principles shall be admitted by both, as they have been admitted by the Powers who made or acceded to the Declaration of Paris, henceforth to form part of the general law of nations.

Her Majesty's Government would be glad to be made acquainted with the views of the Imperial Government on this matter with as little delay as possible.

I am, &c.,

J. RUSSELL.

[No. 2.]

Lord J. Russell to Lord Lyons.

FOREIGN OFFICE, May 6, 1861.

MY LORD: Her Majesty's Government are disappointed in not having received from you by the mail which has just arrived any report of the state of affairs and of the prospects of the several parties, with reference to the issue of the struggle which appears unfortunately to have commenced between them; but the interruption of the communication between Washington and New York sufficiently explains the nonarrival of your dispatches.

The account, however, which her Majesty's consuls at different ports were enabled to forward by the packet, coincide in showing that, whatever may be the final result of what cannot now be designated otherwise than as the civil war which has broken out between the several States of the late Union, for the present at least those States have separated into distinct confederacies, and, as such, are carrying on war against each other.

The question for neutral nations to consider is, what is the character of the war; and whether it should be regarded as a war carried on between parties severally in a position to wage war, and to claim the rights and to perform the obligations attaching to belligerents?

Her Majesty's Government consider that the question can only be answered in the affirmative. If the Government of the northern portion of the late Union possesses the advantages inherent in long-established Governments, the Government of the southern portion has, nevertheless, duly constituted itself, and carries on in a regular form the administration of the civil government of the States of which it is composed.

Her Majesty's Government, therefore, without assuming to pronounce upon the merits of the question on which the respective parties are at issue, can do no less than accept the facts presented to them. They

deeply deplore the disruption of a Confederacy with which they have at all times sought to cultivate the most friendly relations; they view with the greatest apprehension and concern the misery and desolation in which that disruption threatens to involve the provinces now arrayed in arms against each other; but they feel that they cannot question the right of the southern States to claim to be recognized as a belligerent, and, as such, invested with all the rights and prerogatives of a belligerent.

I think it right to give your lordship this timely notice of the view taken by her Majesty's Government of the present state of affairs in North America, and her Majesty's Government do not wish you to make any mystery of that view.

I shall send your lordship, by an early opportunity, such further information on these matters as may be required for your guidance; at present I have only to add, that no expression of regret that you may employ at the present disastrous state of affairs will too strongly declare the feelings with which her Majesty's Government contemplate all the evils which cannot fail to result from it.

I am, &c.,

J. RUSSELL.

[Extract of Lord John Russell's speech in the House of Commons, May 30, 1861.]

My honorable friend, the member for the West Riding of Yorkshire, alluded the other night to one subject in a tone which I was very sorry to hear used by any one. My honorable friend said that "the great republican bubble in America had burst." Now, sir, I am proud to confess—I may be subject to correction—but for my part, when I find that a dark and tyrannical despotism has been abolished, and that people are likely to enjoy free government in its place, I rejoice. It is my duty to represent her Majesty as friendly to all existing States; but if a despotic Government fall, and the people who are subject to it are likely to obtain better and freer Government, I cannot conceal that it gives me satisfaction and that I sympathize with them. But I own I have very different feelings when a great Republic, which has enjoyed for seventy or eighty years institutions under which the people have been free and happy, enters into a conflict in which that freedom and happiness is placed in jeopardy. I must confess the joy which I felt at the overthrow of some of the despotisms of Italy is counterbalanced by the pain which I experience at the events which have lately taken place in America. I admit that I have thought, and that I still think, that in this country we enjoy more real freedom than the United States have ever done. I admit, also, that the great founders of that Republic, wise and able men as they were, had not the materials at hand by which they could interpose, as we are able to do in this country, the curb and correction of reason in order to restrain the passionate outbursts of the popular will. Yet we cannot be blind to the fact that the Republic has been for many years a great and free State, exhibiting to the world the example of a people in the enjoyment of wealth, happiness, and freedom, and affording bright prospects of the progress and improvement of mankind.

When I reflect that the approaches which are cast by the States of the North upon the States of the South, and the resistance which they have called forth, have arisen from that accursed institution of slavery, I cannot but recollect also that with our great and glorious institutions we gave them that curse, and that ours were the hands from which they received that fatal gift of the poisoned garment which was flung around them from the first hour of their establishment. Therefore, I do not think it just or seemly that there should be among us anything like exultation at their discord, and still less that we should reproach them with an evil for the origin of which we are ourselves to blame. These are the feelings which I heard the remarks of my honorable friend the other night, and I must say that I believe the sentiments which he expressed form an exception to the general impression in England. Indeed, I think nothing could be more honorable to our country than the prevailing pain and grief which have been occasioned by the prospect of that great and free people being about to rush into arms to destroy each other's happiness and freedom.

NEW YORK, May 3, 1866.

SIR: Having, in conformity with the request of Congress through its joint committee, delivered before them a memorial address on Abraham Lincoln, and Earl Russell having written a letter to deny some of my allegations, I deem it but an act of justice to transmit to you a copy of Earl Russell's letter and of my reply, and of the documents on which my allegation and his denial are founded. I request you to lay these papers before the joint committee of Congress, and I leave them at their disposition.

Very respectfully, yours,

GEORGE BANCROFT.

To Hon. ELIHU B. WASHBURN, of Illinois, Chairman on the part of the House of the Joint Committee of Congress, &c.

Papers inclosed.

1. Earl Russell to Mr. Adams: February 28, 1866.
2. Mr. Bancroft to Mr. Adams, in reply to Earl Russell: March 23, 1866.
3. Lord J. Russell's letters of May 6, 1861, to Earl Cowley and to Lord Lyons.
4. Extract of Lord J. Russell's speech in the House of Commons, May 30, 1861.

Mr. WASHBURN, of Illinois. I now move that this correspondence be printed and referred to the select joint committee on the memorial to President Lincoln.

The motion was agreed to.

TAX ON CRUDE PETROLEUM.

Mr. GARFIELD. I ask unanimous consent to report from the Committee of Ways and Means, for consideration at the present time, a joint resolution to provide for the exemption of crude petroleum from internal tax or duty, and for other purposes.

Mr. UPSON. I object.

Mr. GARFIELD. I move to suspend the rules for the purpose of allowing the introduction and present consideration of the joint resolution.

Mr. LE BLOND. I ask that the resolution be read for the information of the House.

The Clerk read the resolution. It provides that paraffine oil, not exceeding in specific gravity thirty-six degrees Baumé hydrometer, the product of a residuum of distillation, crude petroleum, and crude oil, the product of the first and single distillation of coal, shale, asphaltum, peat, and other bituminous substances, shall, from and after the passage of this joint resolution, be exempt from internal tax or duty.

Mr. FARNSWORTH. As the House is about to proceed at once to the consideration of the internal revenue bill, I do not see why this matter should not be considered in connection with that bill.

The SPEAKER. The motion to suspend the rules is not debatable except by unanimous consent.

Mr. MORRILL. If the House will hear two or three words in explanation of this measure, I do not believe a single member of the House will object to the consideration and adoption of this resolution at the present time.

The parties manufacturing this oil are subjected to a tax so heavy as to prevent absolutely the manufacture of the article with any profit to the manufacturer. The manufacturers being consequently compelled to stop their operations, their employes have become riotous, and are destroying large numbers of the wells. It seems to me, Mr. Speaker, that, as we propose to relieve this tax on the 1st of July, we might as well do it now, so as to allow these manufacturers to resume their business.

Mr. UPSON. I withdraw my objection.

Mr. ROSS. I renew the objection.

Mr. GARFIELD. I move to suspend the rules.

The House was divided; and there were—ayes 90, noes 13.

So the rules were suspended, two thirds voting in favor thereof.

The joint resolution was then received, and read a first and second time.

Mr. GARFIELD demanded the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. GARFIELD moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RECONSTRUCTION.

Mr. STEVENS. Mr. Speaker, as to-morrow has been fixed for taking up the report of the joint committee on reconstruction, I wish to suggest, inasmuch as it has been largely discussed, and there are still a considerable number of members who wish to speak, the speeches on that subject shall be confined to thirty minutes. Though on our part we have the laboring oar, yet I am satisfied we shall be limited to thirty minutes, so that a larger number of members may be heard. If there be no particular objection, I shall offer the following resolution. If there is any great objection, I do not intend to press it. I want the constitutional amendment sent to the Senate, to see what they will do with it.

The Clerk read as follows:

Resolved, That during the discussion of the con-

stitutional amendment proposed by the committee no speech shall exceed thirty minutes, nor shall the motion to extend the time of any member be entertained.

Mr. ROSS. That will not prevent a motion to print.

The SPEAKER. It will not.

Mr. RAYMOND. I beg to inquire of the gentleman from Pennsylvania whether it would not suit the convenience of the committee and the House to let that question lie over until the tax bill shall have been disposed of. If we go on with the tax bill to-day, and to-morrow with the report on reconstruction, it will leave a gap in the discussion. We may finish the tax bill in two or three days.

Mr. STEVENS. We have to some extent considered that. We think it important this should pass and be sent to the Senate so they may have it before them. We then propose the accompanying bills shall be postponed to suit the convenience of the House so that the tax bill or any other may be proceeded with.

Mr. BINGHAM. I hope there will be no such postponement.

Mr. NIBLACK. I desire to know whether an opportunity will be afforded to offer amendments to the proposed constitutional amendment.

Mr. STEVENS. This has of course nothing to do with that question. We intend to be liberal in allowing time for discussion. I only offer this so a larger number of gentlemen may be heard before it becomes necessary to close debate. The discussion must be brought to a close within a reasonable time. We desire to be liberal. We have already discussed the question so much that I think thirty minutes will be long enough.

Mr. BANKS. Mr. Speaker, I suppose this series of measures is proposed in good faith as a means of settling the difficulties of the country. The committee has taken a long time to consider the subject, but not too long, but there ought to be some opportunity given to discuss it. I do not think any time expended in the discussion of these measures, either for or against them, is time lost to the country. It will be discussed and understood by the people, and it is much better for the committee as well as for the House, that the discussion here should be full and thorough. I hope the gentleman will not press for a limitation of discussion until the House shall have shown at least a tendency, if not a disposition, to consume time improperly.

Mr. STEVENS. The gentleman knows we can only make this arrangement to-day.

Mr. SCOTFIELD. How many gentlemen have signified their intention to speak?

Mr. STEVENS. Oh, there is a list as long as my arm. [Laughter.]

Mr. ELDRIDGE. Do we understand the proposition to be that we are to consider the three measures that are proposed as one subject? It is thought by gentlemen on this side that these three measures are in fact one, and that the discussion ought to be had upon them all together. I think we may as well discuss the constitutional amendment and the other two measures at the same time rather than discuss them separately. They were reported as a series of measures upon the same subject.

Mr. STEVENS. I will say to the gentleman that as different days are fixed for the hearing of the different measures the subject must properly be considered in that way. We cannot take them up and pass them all together. I will say, however, that if the first measure is acted upon, whether passed or defeated, it is expected, if the House desire it, that the fairest debate shall be allowed on the other measures also. But the debate which I now propose to limit to thirty minutes is only on the one measure.

Mr. FINCK. I desire to inquire of the gentleman whether he has in his own mind fixed any time when he will call the previous question upon this proposed amendment to the

Constitution. I would like to know how long the discussion is likely to be permitted to continue.

Mr. STEVENS. I have not. I intended to be governed by the desire of the House very much in regard to that, allowing a very candid discussion. I am sure it will not be asked to procrastinate it factiously.

Mr. FINCK. Certainly not.

Mr. STEVENS. On our part, I can only speak for one, it is the intention to allow the largest and fairest debate desired by any member of the House.

Mr. FINCK. That is satisfactory.

The SPEAKER. Is there objection to the consideration of the resolution?

Mr. BANKS. I object.

Mr. STEVENS. I move to suspend the rules for the purpose of introducing the resolution.

Mr. SCHENCK. Before that question is put I desire to make a suggestion. The gentleman from Pennsylvania [Mr. STEVENS] intimated his purpose after having disposed of the main proposition, the amendment to the Constitution, to defer the consideration of the other special orders which are to follow in their turn. Now, regarding these different measures as gentlemen on the other side say, all as part of one whole, I trust when we enter upon the consideration of this business in one of its parts we will continue until the whole matter is disposed of. I merely make this remark now so as not to be considered as concluded or as having been understood to agree to any proposition of that kind which is thrust upon us now.

Mr. STEVENS. I do not propose to do anything except what the House may desire.

The motion to suspend the rules was agreed to, two thirds voting in favor thereof.

The question recurred on agreeing to the resolution.

Mr. ASHLEY, of Ohio. I suggest to the gentleman to modify the resolution so as to provide that at the evening session speeches may be made of an hour's duration.

Several MEMBERS. Oh, no.

Mr. STEVENS. I desire that the evening session shall be for action. I call the previous question.

The SPEAKER. The House has prescribed a "morning hour" in the morning and evening session both.

Mr. RANDALL, of Pennsylvania. Is it provided for yet in the evening?

The SPEAKER. It is not provided for yet, but the House has ordered that whenever an evening session shall be held the first hour shall be considered the same as a "morning hour." During the debate on the constitutional amendment that will be the first business in the morning after the reading of the Journal, so that there will practically be no morning hour.

Mr. LE BLOND. I suggest to the gentleman from Pennsylvania whether he had not better amend his resolution so as to embrace the other two propositions coming from the committee, so as to limit debate on each one to half an hour.

Mr. STEVENS. I do not know that I understand the suggestion—whether the gentleman desires that the thirty minutes shall apply to them all; but at present I do not wish to compel members to discuss three questions in the thirty minutes.

Mr. RADFORD. I would suggest the propriety of striking out the last part of the resolution prohibiting the extension of time to any gentleman.

Mr. STEVENS. I cannot do that. We have nullified the hour rule already, so that it amounts to nothing; and I do not want the rule nullified when it reduces the time to thirty minutes.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution was adopted; and also

moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PRINTING OF A SUBSTITUTE.

Mr. WILSON, of Iowa, by unanimous consent, from the Committee on the Judiciary, reported back with a substitute bill of the House No. 467, to declare and protect all the privileges and immunities of citizens of the United States in the several States, and the same was recommitted to the committee, and the substitute was ordered to be printed.

LEAVE OF ABSENCE.

Mr. SMITH. I ask leave of absence for two weeks for Mr. NOELL, of Missouri, who is sick.

There was no objection, and the leave of absence was granted.

Mr. WASHBURN, of Indiana. I ask indefinite leave of absence for my colleague, Mr. HILL.

There was no objection, and the leave of absence was granted.

DEPOSIT OF GOVERNMENT FUNDS.

Mr. LYNCH. I ask unanimous consent to offer the following resolution:

Resolved, That the Committee on Banking and Currency be directed to inquire what legislation is necessary to protect the Government against loss of public funds deposited in national banks, and report by bill or otherwise.

No objection was made.

Mr. WASHBURN, of Illinois. I move to amend that resolution by adding "and that said committee report a bill to prevent any deposits by Government officers being made in national banks."

Mr. LYNCH. I cannot yield for that purpose. I move the previous question.

Mr. WASHBURN, of Illinois. I hope the previous question will not be seconded. Let us try this question here.

The previous question was not seconded.

Mr. LYNCH. I withdraw the resolution.

EVENING SESSIONS.

Mr. MORRILL. I move to suspend the rules so that from and after to-night the House shall hold evening sessions, commencing at half past seven o'clock, p. m., until otherwise ordered.

Mr. WASHBURN, of Illinois. For what purpose?

Mr. MORRILL. For the purpose of continuing action on the revenue bill.

Mr. RANDALL, of Pennsylvania. Exclusively?

Mr. MORRILL. Yes, exclusively.

Mr. WASHBURN, of Illinois. I hope the gentleman will modify his motion so as to provide that the evening sessions shall be for no other business excepting the consideration of the tax bill.

Mr. BLAINE. Would not that do away with the "morning hour" in the evening?

The SPEAKER. The House has already ordered by unanimous consent that when evening sessions are held there shall be a "morning hour" for the transaction of the business of committees.

Mr. WASHBURN, of Illinois. Then I hope there will be no evening sessions.

Mr. SCHENCK. Is it in order to inquire if any good ever came of evening sessions?

Mr. ROGERS. Never.

Mr. MORRILL. We can do as good work on the tax bill in the evening as at any other time.

Mr. SCHENCK. I know that things can be run through at evening sessions very rapidly.

Mr. WASHBURN, of Illinois. If I understand the ruling of the Chair, there is an order already existing that there shall be a "morning hour" at the evening sessions. Cannot the House dispense with that?

The SPEAKER. Yes, by a suspension of the rules; but a majority of the House can order an evening session.

Mr. WASHBURN, of Illinois. Then I trust that if we have evening sessions at all they will be devoted exclusively to the con-

sideration of the tax bill. If you have a "morning hour" it will take an hour and a half to get a quorum here.

Mr. BLAINE. The position which the report of the committee on reconstruction holds in the House cuts off indefinitely the reports of other committees. The report of that committee comes up immediately after the reading of the Journal, and the discussion of it will run on *ad infinitum*; and if we do not have a "morning hour" in the evening there will be no opportunity for the other committees to report for several weeks.

I hope that members will come here to the evening sessions, and that we shall devote the first hour to the business of the morning hour.

Mr. ROSS. I would suggest to the gentleman from Vermont [Mr. MORRILL] to modify his motion so as to postpone the reports of the committee on reconstruction until after the tax bill shall have been considered.

Mr. MORRILL. The House can make such order as they please in that regard to-morrow, when the subject comes up for consideration.

The SPEAKER. The reports of the joint committee on reconstruction cannot now be postponed without a suspension of the rules, as they are not now before the House. When they come up to-morrow morning the House can then take such action as they may think proper.

The motion of the gentleman from Vermont, [Mr. MORRILL,] as the Chair understands it, is to suspend all rules in order that there may be each day after to-day, until otherwise ordered, an evening session for the consideration exclusively of the tax bill. The Chair is of opinion that if that motion prevails it will cut off the consideration of morning-hour business during the evening session, and also postpone the reports of the committee on reconstruction.

Mr. MORRILL. The Chair misunderstands my motion. It is not intended to postpone the consideration of the reports of the committee on reconstruction, but merely to suspend the rules so that after to-day there may be evening sessions for the consideration exclusively of the tax bill.

Mr. STEVENS. Would it not be better to allow the consideration of the reconstruction reports to go on in the evening also, and thus be able to get through them the earlier?

Mr. MORRILL. I think we better take the evenings for the tax bill.

The question was taken on suspending the rules; and upon a division there were—ayes 68, noes 36.

Before the result of the vote was announced, Mr. BLAINE demanded tellers.

Tellers were ordered; and Messrs. BLAINE, and WASHBURN, of Illinois, were appointed.

The House again divided; and the tellers reported—ayes 68, noes 34.

So the rules were suspended, two thirds voting in the affirmative.

Mr. MORRILL moved that after to-day the House shall hold an evening session each day, until otherwise ordered, for the consideration exclusively of the tax bill until the same shall have been disposed of.

The motion was agreed to.

MESSAGE FROM THE PRESIDENT.

A message in writing was received from the President of the United States, by Mr. COOPER, his Private Secretary, who also announced that the President had approved and signed a joint resolution (H. R. No. 67) providing for the reappraisal of lands described in an act for the relief of William Sawyer and others, of Ohio.

FISHERY AND WATER-CULTURE EXHIBITION.

The SPEAKER laid before the House the following message from the President of the United States:

To the Senate and House of Representatives:

Referring to my message of the 12th of March last, communicating information in regard to a proposed exposition of fishery and water culture at Arcachon, in France, I communicate a

copy of another dispatch from the minister of the United States in Paris to the Secretary of State, and invite the attention of Congress to the subject.

ANDREW JOHNSON.

WASHINGTON, May 4, 1866.

The message, with the accompanying documents, was referred to the Committee on Foreign Affairs, and ordered to be printed.

WARMING AND VENTILATING THE CAPITOL.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in compliance with the resolution of the House of 4th instant, transmitting certain papers, and the report of T. U. Walter, on warming and ventilating the Halls of the two Houses of Congress; which were referred to the Committee on Public Buildings and Grounds, and ordered to be printed.

MONEYS FOR INDIAN SERVICE.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in compliance with the resolution of the House of the 23d ultimo, transmitting a statement of moneys on hand applicable to the Indian service; which was laid on the table, and ordered to be printed.

LEAVE OF ABSENCE.

Mr. LATHAM asked and obtained leave of absence for his colleague, Mr. HUBBARD, until Wednesday next.

ADDITIONAL ASSAY OFFICES.

Mr. MORRILL reported, from the Committee of Ways and Means, a bill to establish additional offices for the assay of gold and silver, and for other purposes; which was read a first and second time, ordered to be printed, and recommitted.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and proceeded to the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. MORRILL. Mr. Chairman, let me say at the start, lest gentlemen should be too much frightened, that the great length of the bill before us mainly arises from the fact that the Committee of Ways and Means thought it advisable, wherever in the course of the revision a section of the old law was amended, even though but slightly, to strike out the old section and reinsert it as amended. This vastly swells the size of the bill, but will be much more convenient for those who are to interpret or administer the law hereafter. In revising our internal revenue laws, the question that meets us at the threshold is, how much revenue have we to spare? Or how much will our necessities require for another year? The last question has been specially answered by the Secretary of the Treasury, who has fixed, in a recent communication to the committee, \$350,000,000—provided the appropriations of Congress do not exceed the estimates—as the sum it would be safe to rely upon, including the revenue from the tariff as well as internal taxes. In making an estimate of the probable receipts from the latter, we have as a basis one full year and three fourths of the present year of experience, and the data are sufficiently complete to be of value. Our receipts for 1864-65 were, in round numbers, \$210,000,000, and the returns thus far of 1865-66 show that we may expect for the year an increase of nearly fifty per cent., or not less than from three hundred to three hundred and five millions. One of the largest and best paying consumers

of the products of the country during the war was the Government, but is so no longer. War prices no longer rule, and it is inevitable that manufactures must be still further reduced in values until we reach the solid standard of gold as recognized by the commercial world. The tax on manufactures, therefore, must be far less productive for the year ending June 30, 1867, than heretofore, as it will be computed at a less percentage, if our bill should be adopted, and on a far less aggregate amount. Then, as a general rule in a season of falling prices, it is not gains but losses which must be calculated at the end of the year; and therefore the tax on incomes, the dividends from banks and other corporations for the next year, cannot be expected to yield anything like the amount derived from these sources for the years ending December, 1864, and December, 1865. Nor can our foreign importations be maintained upon their present scale. It is very desirable that they should not be as they are supplanting a large share of the labor of our own people, and because payment will at present be made chiefly in United States bonds. Financial disaster, as well as increased depression to our industrial interests, cannot fail to follow such an influx of foreign goods as we have witnessed the present season. That trade must in some degree be postponed until we recover from the exhaustion caused by the war, until capital and labor can adjust itself to its new conditions of peace, or until we have something to exchange for British, French, and German iron, wine, and haberdashery, besides merely our national credit.

It is right, however, to look for some increase of revenue in consequence of the close of the war, and we may expect something from the States lately in rebellion, though not an amount in proportion at all to their relative numbers. Never fruitful in taxable resources, they have less now than ever. If we obtain outside of the receipts from cotton enough to cover the bills already passed in one or the other House for extra expenses on their account, it will equal my expectations. Taking all these things into consideration, as well as others not necessary to mention, the Committee of Ways and Means have felt willing to report the bill as it stands; which will reduce taxation the present year in round numbers about seventy-five million dollars.

It is also prudent to anticipate a large diminution of the revenue from customs, as it ought not to be expected to long continue at double the amount ever obtained in the most prosperous times. Our receipts from miscellaneous resources the coming year will be very light, as they have recently accrued mainly from property disposed of at the close of the war, and premiums on sales of gold, sources already nearly extinct.

We seek to make some compensation for these losses by increasing the tax on raw cotton three cents, or by raising it from two to five cents per pound. Supposing that two million bales should be raised this season and be taxed—and I think the amount will be considerably greater notwithstanding the actual want of good seed, and the changed system of labor—we ought to obtain a revenue from this source of \$44,000,000, or an increase over the tax at present in force of \$26,400,000. The crop may so far exceed the number of bales mentioned as to cover all the cotton which will escape taxation, or which will be used on plantations, and all that will be exported in the shape of manufactures and upon which a drawback will be allowed; but it will be safer to estimate probable receipts on a lower basis. All human calculations are subject to contingencies, and financial calculations are perhaps most exposed to be shipwrecked of all; but if we retain the tax on cotton as proposed, we can safely release, in my opinion, taxes to the extent contemplated by the bill. Otherwise we must reinstate something already stricken out of the roll of taxation by the bill, or find some new source of revenue which will produce an equal amount; and I say this without

feeling very confident that the rates for the income tax will be allowed to be changed much from the existing law.

<i>Treasury receipts for fiscal year ending June 30, 1865.</i>	
Customs.....	\$84,928,000
Internal revenue.....	209,464,000
Miscellaneous.....	35,175,126
Total receipts, exclusive of loans.....	\$329,567,126

Estimated Treasury receipts for fiscal year ending June 30, 1866.

Customs receipts to April 1, 1866, (actual) (coin).....	\$128,967,375
Internal revenue to April 1, 1866, (actual)	243,890,548
Miscellaneous (actual) premium on gold. &c.....	37,183,309
Actual aggregate receipts to April 1.....	410,041,232
Estimated custom receipts, April 1 to June 30.....	30,000,000
Estimated internal revenue, April 1 to June 30.....	60,000,000
Estimated miscellaneous, April 1 to June 30.....	1,500,000
Total aggregate receipts from all sources for the fiscal year ending June 30, 1866.....	\$501,541,232

Estimate of receipts for the fiscal year ending June 30, 1867.

Customs.....	\$125,000,000
Internal revenue.....	260,000,000
Increase on cotton.....	15,000,000
Increase on spirits.....	15,000,000
Miscellaneous.....	10,000,000
Requirements of the Secretary of the Treasury.....	350,000,000
Available for reduction of taxation.....	\$75,000,000

It will be seen that I estimate a reduction in the revenue received from manufactures, on account of a depreciation of values, of about twenty-five per cent., and a reduction upon incomes and dividends of rather more than that amount. It is true that we shall be likely to have a more perfect administration of the law; and I take pleasure in saying that the present Commissioner is a most diligent and conscientious officer; but the increase of revenue on this account will be at least counterbalanced by many little favors distributed all through our amendments, and which it is impossible to accurately estimate.

We could not, if we would, levy an export duty upon cotton, and, except for convenience of collection, an excise tax may be better, as, in the form it is here proposed, it is not necessarily to be paid by the planter, and may, in the same manner that we now transport spirits, be removed from one collection district to any one other, upon giving bonds for the payment of the tax within ninety days, or upon its arrival at its place of destination. The duties will practically thus be paid by the purchaser. In addition to this, while we guard our political citadel here against the dangers of any insidious treason from any quarter, when it comes to taxation we should not only be just but generous, and the drawback on manufactured cotton, of all the taxes actually paid, in any form, will redound most to the benefit of southern and western States. They will at once manufacture coarse cottons and yarns and warps much more extensively than they have hitherto done. And the southern people will be the last to surrender the system of a tax on cotton, when once it shall be adopted and understood. Until the production of cotton shall be so large as to reduce the price below twenty cents per pound, or exceeds the wants of the world, this tax will not be greatly felt by Americans. Should the tax at any time operate adversely to our interests, as I do not think it can at present, it must be reduced or removed as experience shall seem to require. Surely, if the entire cotton crop of the United States, save what we consume, could be exported in a manufactured state, or even in a partially manufactured state, instead of exclusively as a raw material, it would be an end worthy of statesmen, covering our country with blessings, and, wronging no man, would do much toward extinguishing resentments and restoring kindly feelings throughout the land. The southern

coast, and the banks of the Rio Grande, the Mississippi, the Mobile, the Tennessee, and the Savannah would soon be decorated and enlivened by factories, giving employment to thousands, and bringing the culture and contentment, the social life and comforts of organized industry into regions where hitherto useful labor has worn the badge of dishonor. The saving in freightage, and in the cost of food, will secure at least handsome profits—possibly large profits—to those who may engage in the business. With prosperity human nature is rarely disposed to make war. Make the South prosperous, and we make them our friends. With freedom for all, and with such measures as will induce them to work, they may become prosperous, and that through the policies of the national Government. Even though the cotton crop the present season should be but a half of the standard crop, the price will be so great that the South will realize more money from it than in any year of our previous history, as the laws of trade for the last seventy years prove that a short crop is always more valuable than a full one, and hence the uniform effort to hide the fact of a great crop.

The shrinkage of cotton in the process of manufacture is about fifteen per cent., and that amount will be lost to the manufacturer in the drawback, and gained to the Government. The principle is not novel. We return duties upon imported goods when reshipped, and we gladly allow spirits, tobacco, and all sorts of domestic manufactures to go out of the country without the payment of any internal tax. If it were possible to ascertain with any precision the tax paid on other raw materials when manufactured for exportation, as we can on cotton, as, for example, upon leather or iron, we should consider it unquestionably wise to refund the full amount paid.

Exports of the Manufactures of Cotton.

1853.....	\$8,018,652
1856.....	6,533,109
1860.....	5,141,044
1863.....	954,835
1865.....	764,761

The largest export trade we have ever known of the manufactures of cotton was in 1853, when it was a trifle over eight million dollars; but in consequence of the low-priced Surat cotton and the lower-priced labor of Europe it has steadily declined since that time, and during the late war nearly ceased, not reaching \$1,000,000 in 1865. Pass the present law, however, and we shall speedily have restored to American manufacturers and American merchants the full amount of the foreign trade we ever enjoyed, and in due time our country will assume that supremacy in the cotton trade of the world to which it is so legitimately entitled.

The system of levying a tax upon home manufactures would never have been dreamed of but for the grave necessities of the hour. Our Treasury was exhausted; our people were unused to paying taxes; a large party among our people were not in harmony with the idea of maintaining the Union at all hazards and at any cost; loans at home could only be obtained at first in dribbles; among foreign nations, with aristocracies everywhere dominant, it was an irrepressible joy for the organs of public opinion to speak of our country as "the late United States;" among them all there was no Louis XVI to send us a man or to lend us a dollar, or (with the single exception of Russia) even to bid us God-speed in the task of putting down a rebellion the most wicked in the annals of mankind; and a war—not a little war, but a great war—such as our country must and will always wage, if it wages any, of illimitable proportions had already begun. Under these circumstances we girded up our loins and became self-reliant—alone but independent—and built up the credit of the great American Republic in the hearts of our own people; made them see and feel that it would be safe to trust it, by seeking objects of taxation which would yield promptly and yield abundantly. The experiment proved a success. During the whole term of the war it was borne by our manufacturers and by our whole people, not only

without complaint but absolutely without injury, for it is even doubtful whether they ever enjoyed a season of greater prosperity. The law was new and therefore not polished and perfected by experience or revision, but first put into operation by the distinguished gentleman from Massachusetts, [Mr. BOUTWELL,] it at once vindicated the propriety of its principles and policy. Often amended subsequently in consequence of the increasing wants of the Treasury—bearing the misfortune of frequent changes, too, in its chief administrative officers—it soon brought forth most bountiful supplies and disclosed a resource of unequalled magnitude that can be used in any sufficiently urgent crisis, and which is an ample requital, rendered at the hour of our greatest need, for all the protection, direct or indirect, ever bestowed upon the products of domestic industry. Without these products of a free people we should have been as weak as our foes, and, if not vanquished, we should have retired after a single indeterminate campaign.

To illustrate the wonderful fecundity of a tax on manufactures take but a single instance: the little stamp tax of one cent upon each box of matches produced last year about fifteen hundred thousand dollars, or enough to arm, transport, and keep in the field fifteen hundred men. And this tax had not only to contend with the stocks on hand but for some time with extensive fraudulent importations. The tax may be expected to produce much more hereafter.

But now the duties of peace return, and we must simplify our laws, reduce the burdens of tax-payers so far as possible, and cheapen the cost of living. All cannot be done at once. We shall, do the best we can, leave something to be done by the next Congress and by future Commissioners of Revenue. At an early day spirits, malt liquors, tobacco, cigars, cotton, stamp taxes, and perhaps a small number of other objects, it is to be hoped, with custom duties, will afford revenue commensurate with all the wants of the Government. The fixed economy of all civilized nations requiring large revenues appears to be to squeeze out of those articles considered as luxuries by mankind—or which sustain and soothe but never slake habits deplored by good men everywhere—the largest sums which the most stringent laws will secure, and our practice in this respect from this time forward should doubtless conform to that of the world. Some changes are now proposed relative to tobacco and cigars, concerning the utility of which I have serious doubts. I fear the door which for the past year seemed effectually closed will be again opened to fraudulent practices, and that the revenue as well as the honest dealer will suffer. Still we must not be deaf to any well-founded complaints of the people. I know that gentlemen, for whose opinions and wishes I have great respect, from districts where low-priced tobacco is produced find their people clamorous for grading the tax according to values. On the face of it the claim would seem to be just. But I am told by officers connected with the administration of the internal revenue laws that the law as it now stands is working well, and that the tax on smoking tobacco should not be reduced. Experts believe that any fair discrimination cannot be honestly enforced, and the loss to the Treasury may be large. The tobacco-growing and manufacturing interest, it is true, has been and is now greatly depressed, but not so much on account of the form or amount of the tax as on account of the large influx of untaxed tobacco which flowed into our markets upon the cessation of the rebellion; and it may be added, too, that our tariff upon foreign cigars is much too low.

The bill proposes to wholly exempt from taxation many articles, and to largely reduce it upon others, and among these will be found slaughtered animals, salt, sugar, starch, coal, soap, vinegar, saleratus, clothing, and boots and shoes. These exemptions and reductions will lessen family expenditures and be a relief to all classes of the community. Dress-makers and milliners, wielding a potent influence, as

they do, will no longer be treated as men, subject to taxation, but as deserving of favor. Though they may tax us, we do not propose to tax them. Provisions or products of the farm it has been the policy from the start (and its wisdom has been only exceptionally questioned) to keep free from taxes. All fertilizers, draining tiles, and many of the more expensive implements of agriculture it is now also proposed to relieve. Freights, perhaps the most indefensible tax we have had, perpetually checking commerce and adding to the price of purchases as well as diminishing the price of sales, it will be seen are to be utterly abandoned, as are all the articles in schedule A, except gold watches, silver plate, billiard tables, and carriages valued above \$300, as by the testimony of the collectors the tax upon all the other articles therein embraced amounted to less than the cost of collection, while it imposed domiciliary visits, always obnoxious to a spirited people. It has been considered important not to check any enterprise for building or for repairs of buildings, and to this end building materials, such as brick, freestone, marble, slate, roofing-slate, lime, and cement, have been placed on the freelist. The tax imposed upon paper, books, and binding, entertained with little hospitality from the first, is surrendered the first opportunity without regret. The tax on knowledge, as it has often been styled, if it ever existed, it is to be hoped will be now abandoned. The tax upon all repairs, always indefinite and of dubious propriety, may also well be removed. If a horse runs away with a carriage, or a locomotive gets smashed, it seems oppressive for the Government to seize the opportunity of such misfortunes for levying a fresh tax.

We have proposed to exempt coal from any tax. If we regard it as an article of fuel we cannot any longer afford to dealers the excuse of a tax for a dear price. If we look upon it as the raw material from which gas is made, the tax on the latter would seem to be as great as we ought to subject an article so indispensable to the population of all our cities and most considerable towns. If we look upon it as the chief source—the hidden giant—of steam power, which drives so large a part of our machinery used in manufactures, from which so much of our revenue accrues, it certainly presents strong claims to be free.

Iron being an article of such large consumption, shaped into such multifarious forms for the use of mankind, employing numbers so vast in its production, and an abundant supply being almost a prerequisite in peace or war to national independence, the Committee of Ways and Means have been willing to wholly exempt pig iron, railroad iron, railroad iron rerolled, when in the form of, and to leave but three dollars per ton upon bar iron. Cheap iron is an advantage to the whole country, and especially so to agriculturists, to artisans, and even to the day laborer who wields but an ax or a spade. It is also important that we should not discourage railroad enterprises by making their cost so great as to frighten away all capitalists. Our iron should be made at home, but let us give our own people a fair chance to make it cheaply.

That the universality of a tax upon all descriptions of manufactures, in any state or condition when offered for sale, tends to a duplication of taxation, is sufficiently obvious, and the Committee of Ways and Means have sought to remedy this evil so far as they could consistently with their duty to the Government, whose wants though diminishing are still imperative. The increase of the tax on all manufactures last year, one fifth, or twenty per cent., as our law of last year provided for, it is now proposed to repeal. Steel being in the nature of a raw material, a manufacture in its infancy and in some peril from the pressing competition of the Old World, it is deemed expedient to entirely exempt from tax, and more especially as it will mostly be taxed when it reaches a more advanced stage of manufacture. The same argument applies to iron, which we have not yet felt able to wholly release; and also to cop-

per, lead, zinc, and brass, which we do propose to release. The bill, however, will show for itself. The reductions have been made with the sole view of the greatest good of the greatest number; and in the main I hope they will be accepted by the House. It is very likely to be true that many articles not now relieved can be pointed out having equal claims with those proposed for favor; but the answer is, civilly but firmly, the time for those has not yet arrived. The release of the tax upon many articles has not been done so much to favor them or any particular branch of manufacture as to favor those which remain still bearing the burden of taxation.

The removal, so far as it at present seemed prudent, of the constant duplication of taxes, will certainly tend to diminish the cost of a large number of articles, but until we reach the solid basis of a currency equal in value to coin, prices must remain dear and unstable, and producers and manufacturers, while working under circumstances of inflated cost, will be exposed to the chances of making sales in a falling market. The reduction must come at some time, and the pain will be severe if it comes suddenly, or lighter if it comes more slowly. It is the same in the sum total whether hastened or retarded.

Savings banks, or provident institutions—by far the most appropriate name—it will be seen are to some extent relieved from the tax on deposits, entirely relieved when such deposits are invested in United States securities or when made in sums not exceeding \$500 by any one person. It cannot be doubted that it is sound public policy to induce those having but small earnings to establish a habit of thrift and economy by using these savings banks as a place of trust. Does it not speak well for the character of our people, as well as that of our country, that these institutions now hold of these small earnings of the common people \$500,000,000? Where else can a similar fact be cited? Women, young persons, and those unskilled in making loans and taking securities, who possess too little to be reached separately by taxes, should not be taxed when assembled together, but rather deserve the paternal care of the Government.

The tax on the gross receipts of express companies was raised in the bill as first reported from three to five per cent., but, upon further consideration, in the revised bill the rate has been restored to what it is now by existing law. When we are reducing taxation in every direction, it appeared too invidious to single out one class of business, and that one giving marked distinction to American enterprise, and doom it to a tax equal to twelve or fifteen per cent. upon its net annual receipts.

The tax upon telegraph companies has also been placed upon the same level, or reduced from five to three per cent. One of the companies last year paid to the Government a tax upon \$700,000 gross receipts, amounting to \$35,000, when they had made an absolute loss of \$100,000, or \$65,000 besides the tax.

Express and telegraph companies may not all deal liberally with the people, and may seek extravagant profits, but the Government of the United States could hardly be expected to base its legislation upon resentments thus engendered unless the companies were the creatures of its own creation. Such abuses are more properly corrected by State legislation, or by even the more potent influence of competition and public opinion.

The tax in schedule A, although one of an inquisitorial character, and therefore objectionable in form, has been retained in part by the committee on the ground that the owners of carriages valued at over \$300, and gold watches and silver plate, were among those persons best able to contribute something to the support of that Government under whose protection they have been able to acquire articles indicative of wealth and assured means of support.

The law in relation to licenses, it will be seen, has been entirely changed in form, although

the substance of the tax will be found adhering to it. A special tax takes its place, and will, it is supposed, do equal service without being liable to the objections made in some quarters that it is an attempt to regulate the internal commerce of the States. Members of the House are aware that a case is still pending in the Supreme Court of the United States involving the constitutionality of the existing license law, and that this case, after having been tried, was considered of so much importance as to be postponed until next term, when the decision, whatever it may be, will be announced. I do not suppose that the court will be very eager to overturn the legality of laws which find precedents in our Statutes-at-Large almost from the foundation of the Government, but other gentlemen may think differently, and from abundant caution, as we are revising the internal revenue laws, and as the technical objection, if there be one, can be so easily removed, the Committee of Ways and Means have made the alterations to meet any circumstances that may arise, whatever they may be. There is no necessity for transcending our legitimate authority, which is merely to obtain the proper amount of lawful revenue in the least objectionable form.

It is not proposed at this time to change the rate of the tax on spirits nor upon malt liquors, mainly that we may have the law of high rates in operation a sufficient length of time to test its real value for revenue purposes, and incidentally, no doubt, its value as a mode of repression in the consumption of intoxicating beverages. For the largest revenue purposes, the rate of two dollars per gallon, although the time elapsed since its adoption is too brief to definitely settle the question, seems likely to prove unsatisfactory; and if it were an original question, the recommendation of one dollar per gallon by the revenue commission would not be disregarded by the Committee of Ways and Means. It is very clear that the whole tax fails to be collected, as the price has at no time or at any place been equal to the cost of spirits with the tax added thereto, and in some parts of the country the price has occasionally been below even the amount of the tax. The amount of spirits of domestic manufacture returned to the assessors for 1865 was 16,936,773 gallons as against 85,285,391 gallons in 1864, showing a falling off of nearly four fifths of the whole amount. It is to be noted, however, that much was distilled in 1864 in expectation of an increase of the tax, and this accounts for a diminished business in 1865, but does not prove a diminished consumption. Notwithstanding the heavy increase of duties upon foreign liquors, the total importations have not been materially curtailed. Our experience is likely to correspond with that of the world, which is, that the appetites of men for spirituous liquors are held in check very little by high cost unless that cost is very exorbitant, and only those in the most indigent circumstances check the regularity of their indulgence or surrender any portion of their accustomed allowance.

It is curious to note that iron manufacturers, in making up the calculation of the increased cost of a ton of iron, put in \$2 50 as the increased cost of whisky, and the employer is compelled, no doubt, to increase the amount of his monthly pay-roll to cover this new item in the cost of living. It may be inferred that the consumption of liquors in the length and breadth of the land is as large as ever, but that the tax has not been, possibly cannot be, collected. The great temptation to illicit distillation and to smuggling which arises in cases of the imposition of high duties upon liquors calls for the enactment of stringent, almost despotic laws, not merely for the punishment of fraudulent practices, but for the protection of the honest importer and honest distiller. Owling, or the carrying of wool out of the kingdom, was formerly punished in England by the imposition of heavy penalties, and we have found that the introduction from Canada of tin babies filled with whisky by their reckless parents can only

be suppressed by heavy penalties and by their prompt enforcement. That a large trade has been carried on the past year in the manufacture of small copper stills there is abundant evidence. If these should be suffered to be used clandestinely, as it is to be apprehended may have been the design, not only would the Government be deprived of a large amount of revenue, but public morals would be more or less debauched. The Committee of Ways and Means recommend, with some modifications, a large part of the changes in the law as to spirits proposed by the revenue commission in order to increase its efficiency. It is believed that the country, as well as Congress, are in favor of obtaining the maximum amount of revenue from spirits, and that we are not so eager to reduce the cost of intoxicating liquors as to be unwilling to wait until experience has fully tested the policy or impolicy of the highest rate of taxation as now fixed by law. It is understood that the method of mixing wood-acid with alcohol, as practiced in England, so that alcohol might be used in the arts and manufactures without the payment of any tax, has proved a failure, it having been found that such methylated spirit can be rectified and made into pure spirit again without any offensive smell. If any chemical preparation could be found which would accomplish this object its discovery and adoption would be a great relief to many legitimate branches of arts and manufactures.

The Committee of Ways and Means have proposed some modifications of the income law, but have not reached the conclusion, while the industrial employments must remain to a considerable extent heavily burdened, that it can yet be wholly dispensed with. By its terms, as originally passed, it was to expire in 1870, and thus a temporary character was put upon its face. In our great emergency it contributed, not to be returned again with interest, a larger amount than the richest bankers in Europe would have loaned to us even at sixty per cent. discount. Our loyal people paid the income tax of 1863, in June, of \$20,740,451 33, and then (estimated upon the same lists) they were called upon in four months to pay another income tax, and they responded by contributing \$28,920,312 02. Again, in 1864 their income tax foots up \$59,000,000. I point to these facts not only as a proud evidence of their patriotism and wealth, but as a proud evidence of their strict integrity of character. Strong as the temptation might be for evasive returns, sore as they might be in consequence of the swift pursuit and the continuous exactions of the tax gatherer, they even paid more in 1863 upon the second call than the first. Their country was in need, and even the greed for gain could not tempt the American people to defraud their Government. The law left it almost to the conscience of each man as to how much he should pay, and all seemed to vie with each other as to who should pay the most. I question whether any people ever paid a tax more honestly and accurately, and I question still more whether any free people ever imposed upon themselves, through their chosen Representatives, taxes so thick and fast.

If our income tax should be contemplated as a part of the permanent policy of the country it is not to be denied that it would need various and perhaps fundamental amendments. The objections to such laws are sufficiently obvious.

1. They are inquisitorial of necessity in their character, and Americans, like people elsewhere, though not averse to a knowledge of the secrets of others, are quite unwilling to disclose their own. Among commercial men such disclosures may be disastrous. If they show prosperity they invite envy and greater competition; or if they show any remarkable leanness they damage credits.

2. The temptation to make understatements and lend to these statements the sanction of an oath tends to sap and mine public morals, until men begin to excuse themselves for their own wrong doing, because, it being so common,

that to do otherwise would be to fail in average smartness.

3. When we take into consideration the sources from which income is derived, the habits of the different persons who pay the tax, the difficulty of apportioning it so that each will have paid in just proportion to every other person, leaving each relatively in the same conditions, the perplexities become almost insurmountable.

Entertaining such views, and the pressing exigency having passed, we have undertaken to lessen but not to entirely remove the weight of the income tax. To this end we propose to exempt the first \$1,000 of every person from any tax and only to reach any excess beyond that amount. This will increase the sum exempt from \$600 to \$1,000. Exactly how much of a reduction it will make in our receipts cannot be foretold, but probably not over ten to fifteen per cent., while it is likely to diminish the number of persons taxed nearly one half. If it should excuse fifty thousand persons, then the reduction will amount to \$1,000,000 for every such fifty thousand persons. There is perhaps no just reason for excusing any portion of the income of any one from the tax, except that of the hardship and the inability of persons with a limited income to spare any part of it, but that is enough.

In a republican form of government the true theory is to make no distinctions as to persons in the rates of taxation. Recognizing no class for special favors, we ought not to create a class for special burdens. Pursuing this principle a majority of the Committee of Ways and Means have agreed to that portion of the bill which makes the income tax after this year a uniform one of five per cent. upon the annual gains. The loss to the revenue will be large—about \$17,000,000—and it will be for the House to say whether the bill shall stand as reported or whether relief in any other direction is more urgently demanded.

I shall append to my remarks an appendix containing an estimate, made with the aid of the office of the Commissioner of Internal Revenue, of the reductions appearing to me likely to occur in consequence of the present revision of the law. Other gentlemen may differ from me and count upon greater compensations to counterbalance these reductions; but I have never found that sanguine financial predictions were safe for legislators.

In our list of exemptions we strove to reach earliest those articles upon which a reduction of cost would bring relief to the masses of our people, and those which are produced with such lean margins of profit as to be opposed and in danger of being annihilated by even so small a tax as five or even three per cent., which is not unfrequently, upon branches of industry closely cornered by foreign competition, in excess of what may be considered regular and satisfactory profits.

I know that many gentlemen will render valuable assistance in the progress of the bill, and all will feel bound to show that they are alive to and not unmindful of the interests of their respective localities, and some may wish to press amendments giving such interests further relief; and it is fair to allow a prominent record of the fact to appear in the Globe; but if the House shall reach the conclusion that we have proposed measures which will reduce the revenue as much as it will be prudent to do this year—keeping in view the unestimated drafts our legislation has made and is likely to make upon the Treasury—remembering, in the large operation of funding our national obligations so that they may bear the lowest rate of interest, that fifty millions now may be more important to success than two hundred millions at a later period—I trust that the good sense and forecast of members will lead them to vote down propositions for essential changes.

The result of the labor of the Committee of Ways and Means is, that of the headings in the Commissioner's report of the "receipts from specific and general sources" fifty-nine out of

two hundred and sixty-four will no longer be required, and the number of articles released, in proportion to the whole number remaining taxed, is still greater.

The law authorizing the Secretary of the Treasury to assign to the Bureau of Internal Revenue a sufficient force to carry it on will expire by its own limitation on the 1st of July next, and it therefore becomes necessary to make some arrangement for the permanent organization of the bureau. It will be seen that the bill makes provision for this object. The operations of this bureau are now on so large a scale as to require the services of able, clear-headed men, trained to business, and of unquestioned integrity. Such men in our country are highly prized, and command the highest salaries paid in financial and commercial employments, and unless we fix salaries at an adequate or competing point we shall only command the services of second-rate men. The base of the Treasury Department is that so soon as officers receive the stamp of its confidence they receive a loud call and the offer of more pay to go elsewhere. The best officers are, therefore, often mere birds of passage, here to-day but may be gone to-morrow. The Bureau of Internal Revenue, it is quite apparent, is deficient in executive force. It is impossible that the Commissioner, however faithful and industrious, and I know of no man more so, should be able to consider all the complicated cases daily arising for investigation in the administration of his office, and we have conceded not only the propriety but the absolute necessity of reinforcing the office by two additional deputies and one solicitor.

Notwithstanding all the disadvantages we have labored under in putting new and untried laws suddenly into operation, it is gratifying to find that the expense of collecting the revenue has been far less than was anticipated—including everything except printing done by the Public Printer—amounting, in 1865, to no more than two and seventy-five one hundredths, or two and three fourths per cent. This contrasts most favorably with the cost of collection in Great Britain, where, after years of experience, the cost varies from four and one quarter to five and three fourths per cent.

The services of the gentlemen employed on the revenue commission, I have no doubt, are properly appreciated by Congress, as they will be by the country, and the Committee of Ways and Means were unanimously, I believe, of the opinion that this kind of service should not be entirely discontinued. Believing that at least one similar officer can be profitably employed permanently, they have added a section to the bill for this purpose, and I have no doubt it will prove wise economy to adopt and continue it so long as we may be compelled to raise anything like our present revenues from taxation.

The military power of the United States needs no eulogiums from any quarter. Its supremacy at home is not likely to be questioned, and when it is challenged elsewhere it will be time enough to answer back. Its financial power, also, even in the agonies of civil strife, has been vindicated. No stain of dishonor rests upon its credit. Every promise has been kept with entire good faith. No creditor, holding the obligations of the nation, has had to do more than to ask and receive. No faithful soldier has closed his service without receiving at the same moment with his honorable discharge the last dollar due. Is there, then, any lurking danger as to our present and future financial condition? The confidence of the people in their own Government cannot be shaken; the vigor and elasticity of American industry is unrivaled; our resources, abundant to-day, will be greater to-morrow; no empire, ancient or modern, ever received, daily or annually, revenues of equal magnitude, and the wealth hidden in some of our single mountains, if it could be placed in the balance, would make our national debt kick the beam. Where, then, is the cloud no bigger than a man's hand? It rises only in that quarter from whence dis-

loyal representatives may come. Open and inchoate repudiators lust for power. Save us from these and the United States Government will survive, with its credit and civil glories radiant with youth and the fame of ages, long after the final chapter in the history of anti-republican Governments shall have been written.

APPENDIX.

Estimated deductions on articles exempted and partly exempted from tax.

Animal charcoal.....	\$3,000
Alum.....	5,000
Beeswax.....	3,000
Barrels, casks, boxes.....	250,000
Blooms, slabs, loops.....	60,000
Boots and shoes.....	4,400,000
Brass, rolled sheet copper.....	
Sheathing and yellow metal.....	700,000
Building-stone of all kinds, burr-stones, grind-stones, monuments, roofing slate, slabs and tiles.....	400,000
Brick, draining-tiles and water-pipes.....	282,000
Bichromate of potash.....	30,000
Blue vitriol and coppers.....	10,000
Coffins and burial cases.....	50,000
Crucibles.....	10,000
Crates and baskets.....	15,000
Crutches, artificial limbs, eyes, and teeth.....	25,000
Copper, lead, and tin.....	400,000
Clothing.....	11,600,000
Feather-beds, mattresses, &c.....	125,000
Fertilizers of all kinds.....	100,000
Flasks and patterns.....	5,000
Gloves and mittens.....	30,000
Gold-leaf and foil.....	32,000
Hemp and jute prepared for textile purposes.....	25,000
Hubs, spokes, felloes, wooden handles for tools and implements.....	175,000
Hulls of ships and other vessels.....	500,000
Income, increase of exemption from \$500 to \$1,000.....	3,000,000
Income, reduction from ten to five percent. on sums over \$10,000.....	17,000,000
Iron advanced beyond pig, slabs, and loops.....	400,000
Iron, railroad rerolled.....	582,000
Iron, pig.....	2,000,000
Iron, railroad.....	426,000
Iron castings for bridges.....	100,000
Iron, malleable.....	100,000
Keys, actions, and strings for musical instruments.....	125,000
Lamps and lanterns.....	50,000
Moldings for picture-frames, &c.....	5,000
Mineral waters, &c.....	125,000
Mineral coal of all kinds.....	1,250,000
Metallic nickel, quicksilver, manganese, cobalt, &c.....	12,000
Metallic zinc.....	50,000
Masts, spars, and ship clocks.....	45,000
Oxide of zinc.....	60,000
Paper, books, charts, and book-binding.....	2,072,000
Productions of stereotypers, electrotypers, lithographers, and engravers.....	60,000
Photographs.....	25,000
Plows, cultivators, harrows, straw and hay cutters, planters, seed-drills, horse-rakes, and winnowing-mills.....	1,500,000
Paints and colors.....	50,000
Putty.....	1,000
Paraffine oil and crude petroleum.....	2,100,000
Quinine, morphine, &c.....	12,000
Repairs.....	730,000
Railroad chairs, ship-spikes, ax-poles, horse-shoes, rivets, horse-shoe nails, nuts, washers, bolts, vises, iron chains, anchors, anvils.....	350,000
Roman and water-cement and lime.....	144,000
Starch.....	100,000
Soap.....	33,000
Steel.....	300,000
Spelter.....	10,000
Saleratus, soda ash, caustic soda, crude soda, bicarbonate of soda, &c.....	50,000
Sulphate of barytes.....	30,000
Spindles and castings for locks and machinery.....	300,000
Stoves in part of cast iron and sheet iron or soapstone.....	50,000
Sails, tents, awnings, and bags.....	125,000
Tin cans.....	25,000
Umbrellas and parasols.....	111,000
Vegetable, animal, and fish oil.....	600,000
Value of bullion used in wares and in watches.....	20,000
Vinegar.....	50,000
White lead and whiting.....	78,000
Yeast powders.....	
Yarn and warp.....	400,000
Licenses.....	13,000
Naphtha.....	5,000
Slaughtered animals.....	1,200,000
Schedule A.....	1,350,000
Schedule C (receipts).....	200,000
Freights.....	4,850,000
Salt.....	200,000
Soap (additional).....	300,000
Steam-engines, &c.....	350,000
Tobacco.....	650,000
Brokers' sales.....	500,000
Savings banks.....	50,000
General tax reduced from six to five per cent.....	12,000,000
Telegraphs.....	125,000
	\$75,684,000

Not estimated.

Bristles, flavoring extracts, deerskins, oakum, verdigris, illuminating gas of educational institutions, paintings and statues, aniline colors, bleaching-powders, tar, turpentine, candle wicking.

Mr. RAYMOND. I am sure the House has listened with very great satisfaction to the clear and interesting statement which has just been made by the chairman of the Committee of Ways and Means of the financial condition of the country. It cannot but give satisfaction to find the country prepared for an immediate reduction in the amount of its internal revenue so very considerable as that which the committee proposes to make. And it will be equally satisfactory to the House and to the country to find that this reduction is to operate so generally upon those processes and articles which are of most importance to the great mass of the people of this nation.

I am unwilling to trespass to any considerable extent upon the patience of the House; but I shall be glad, with its indulgence, to make a few remarks upon the general subject of taxation, especially in the attitude in which we approach it now. Perhaps I may find an apology for so doing in the fact that it is a wholly new subject. Until within the last few years, we have made it our boast, justly and truly, that we were the most lightly taxed nation on the face of the earth. Now we are compelled to confess that we are among the most heavily burdened of them all. This, sir, is one of the many vast changes which have been wrought in our condition by the rebellion we have just suppressed. We have incurred a vast debt consequent on the war for the suppression of that rebellion.

We have, moreover, provided, necessarily, for a permanent increase, more or less considerable, in the ordinary expenses of the Government. Those expenses must be met year by year. The interest upon the debt must also be met as it becomes due; and I think it of the utmost importance in all respects to our credit, to our character, and to the courage with which all burdens will be borne by the people, that we should lose no time in making a beginning toward paying off the principal of that debt. It does not seem to me wise, sir, that we should begin to accustom ourselves or the creditors of the nation, the people upon whom these obligations rest, to the idea that this debt may be fastened upon us like the debts of England and of France, never to be paid through all time to come.

The ordinary expenses of the Government, as they are estimated by the Secretary of the Treasury in his report, laid upon our tables at the opening of the session, are \$143,000,000. The interest to be paid during this year is fixed at about the same amount, some two millions less. Both these sums, I think there is reason to suppose, may be somewhat reduced. The expenses of the Army and Navy are not likely to be as high as they were originally estimated; and the amount which will be due for interest will be somewhat reduced by the fact that the Secretary of the Treasury is not likely to fund so much of the debt now bearing no interest as it was originally supposed he would. But these two sums, taking them at his estimates, make the considerable amount of \$284,000,000, which will be required to meet the expenses of the Government and the interest on the debt for one year.

I think we ought also to begin at once to make some provision for paying the principal of the national debt. I do not think it would be wise for us to provide less than \$50,000,000 per annum for that purpose, the sum to be increased from year to year as our system of taxation may be perfected, and as the industry may gradually adapt itself to the new burdens which are imposed upon it. This would make an aggregate sum of \$334,000,000 to be provided annually toward meeting the expenses of the Government and the interest and installments on the principal of the public debt. This sum will be required annually, without any serious

diminution from year to year, until we shall have paid off so much of the principal of the public debt as will allow us to estimate the interest at a sum considerably less. It will of course be growing less and less from year to year. Three hundred and thirty-four million dollars, in round numbers \$350,000,000, is a very large sum for a nation to pay annually. It is very large for us, in consideration of the fact that it is so much larger than we have ever before been called upon to pay or have any perfected machinery for raising the means to pay.

The aggregate revenues of Great Britain during the last year were but \$354,000,000, and those of France but \$350,000,000.

A MEMBER. Dollars or pounds?

Mr. RAYMOND. It is reduced to dollars. So that the three great nations of the world are substantially upon the same footing so far as the annual taxation imposed upon their people is concerned.

But we have the advantage of these nations in some respects, although both their population and their aggregate wealth are somewhat in excess of ours. We have a free Government, a Government which allows to every one of its individual members entire and perfect freedom of individual action; and that, sir, is a source of energy, of enterprise, of industrial vigor and elasticity which cannot well be overrated. Nothing more is needed to show the effect of this great principle of freedom upon the industry of a nation than a comparison of the rate at which the wealth of these three nations has increased during successive decades. I have not before me, nor have I in mind, the exact proportion of increase of population of Great Britain and France to the increase in their aggregate wealth. Our own has been very great. The increase in our wealth has been in much more rapid ratio than the increase of our population. During ten years, ending in 1860, the increase of our population was but thirty-five per cent., while in the aggregate wealth of the nation, it was one hundred and twenty-eight per cent. This is three times the disproportion which obtains either in England or France.

And more than that, our annual income is greater than theirs—in a much larger proportion. We have sources of wealth, moreover, sources of fresh vigor, sources of industrial productiveness to which none of the old nations of the world can make the least pretense. Immigration for one, and it is the only one I will mention, is itself a source of productive labor which cannot be estimated at less than two or three hundred millions dollars every year.

I refer to this to show that our debt, great as it is, is not beyond our resources; it is not greater than our people can bear. I may add that it is not greater than they will bear cheerfully and readily, because it is a debt incurred by the people themselves, and for the people themselves, for objects and blessings they have in hand to-day, and will have through all time to come.

Now, all we are asked to do—all the people ask us to do in adjusting this great burden, which is to recur year after for many years to come—is that we shall adjust it so the people may bear it easily; that we shall adjust it so that it will not cripple those energies upon which we rely for its payment; that we shall put it where they can bear it best, and not where it will rest heaviest upon them; that we shall put it upon their back and not upon their arms.

There are two great sources from which we have to meet these expenses. One is the customs; duties imposed on imported goods, and the other is excise duties, or duties imposed on goods of our own production. Both of these must be drawn upon from year to year. What either will amount to must be the result of estimates. The chairman of the Committee of Ways and Means, in the statement he has just submitted, estimates the receipts from customs at a sum less than that of last year. He looks forward, if I understood him aright, to a diminution of the duties on imports. Last

year these were \$84,000,000. The Secretary of the Treasury estimates them for the coming year at \$100,000,000. I confess I cannot see the data upon which estimates so low as either of these sums can be properly based.

Mr. MORRILL. I referred to the estimate for the year ending the 30th of June, 1867.

Mr. RAYMOND. So I understood. The estimate of the Secretary of the Treasury is for the same year.

Now, Mr. Chairman, down to the year 1861, for the five years immediately preceding that year and the commencement of the war, the imports averaged about three hundred and fifty million dollars. I am sure they will not be less than that from this time forward. Our imports are always measured by the amount of our exports. Our capacity to buy usually determines the amount we do buy. We are bringing into direct contribution to our commerce a larger extent of country than ever before. A million and a half of men are going from the field into productive pursuits. The South is soon to be open to commerce, and the South will produce largely with proper encouragement and aid at the hands of the Government; and I was glad to hear the chairman of the Committee of Ways and Means refer to this as one of the great reliances of the country for revenue, namely, encouragement of the industry of the South, and aid in developing the resources of that rich and productive region.

Now, sir, with all these sources of production I am sure we can fairly estimate our exports for the next year and for a series of years to come at not less than \$400,000,000, and our imports will be at least as large as they were during the five years previous to 1861. What, then, will be the probable revenue from customs? The present average rate of duty I believe is something over forty per cent., probably nearer forty-five than forty. That is not likely to be reduced, and it gives us one hundred and forty millions. Indeed, the further imposition of these domestic excise duties will render it indispensable that we increase the duty on foreign imports in order to keep the balance even between foreign and domestic duties.

But, sir, without going into any intricate or close calculation on this subject, I adduce these facts merely to show that the estimate of the Secretary of the Treasury, \$100,000,000, is exceedingly low, and that it is more likely to be one hundred and fifty millions than one hundred, at the rate at which imports are coming in now.

Estimating the custom duties at \$100,000,000 will leave \$250,000,000, or a little less, to be raised by domestic taxation. This bill now on our tables, upon which our action is invoked, proposes to provide for this sum each year for the expenses of the Government. Now, it is idle to conceal from ourselves the fact that this is a grievous burden, and it will always be felt to be a grievous burden by the mass of the people upon whom it rests. No matter how great may be their alacrity, no matter how determined may be their purpose to pay it, no matter how ready they may be to sacrifice all they have in maintaining the honor of the nation, it will still be felt now and always as a serious burden; and the extent of its weight will depend upon the manner in which it is distributed among the different classes and pursuits of the country.

Now, this is entirely a new subject for us. We have had no experience in devising ways and means to distribute duties upon domestic articles, so as to make them rest more or less lightly upon the mass of the people. The task was thrust upon us suddenly. The war came upon us suddenly, and with the war came taxes, out of which its expenses could alone be met. When the rebellion came upon us we all know how eagerly the people demanded that taxation should pay the expenses of the war for its suppression. Their determination to rescue the Government from the peril that threatened it prompted them to demand that taxation should be resorted to as the means of producing that result. My colleague from the north-

ern part of the State of New York, [Mr. Hurlburt,] then chairman of the Committee of Ways and Means in the Assembly of New York, will remember how universal the cry came to us, as it went to Congress also, that taxes should be increased and that the country should pay the expenses of the war as it went along instead of resorting to loans. Naturally enough Congress responded to that demand. It responded at once, and necessarily without much consideration. The laws of industry and of political economy were but little regarded. Congress issued its decree that everybody and everything should be taxed in every way. Upon all the processes as well as the products of industry, upon all work, and upon all tools by which work was to be done, upon all classes and conditions of men taxes were imposed without stint and without precaution. Every branch of trade, every kind of manufacture, raw material and net results—everything that could be made to pay was swept along in the vast dragnet of that first tax bill.

Now, while the people paid these taxes with the greatest alacrity and readiness, we must not fall into the error of supposing that such a system could be endured permanently. As a temporary necessity, they have borne it with a degree of courage and patience that could never have been exhibited by any other people on the face of the earth; and this is not an empty national boast—it is conceded by the highest authorities of England, that in this as in many other things the people of the United States have proved themselves entirely a people by themselves.

The London Economist, perhaps the highest financial authority in England, in speaking of the taxation through which the United States have passed during the last four or five years, says that "no other nation would have endured a system of excise duties so searching, so effective, and so troublesome." And it adds, that "to have imposed such taxes in England would have caused a revolution."

And it is to the eternal honor of the American people that in this, as in everything else connected with the salvation of their country, they have responded nobly to the calls of the Government. But this, as I have said, was from the necessities of the case a temporary provision. It became necessary, and the last Congress foresaw the necessity, to make provision for some permanent arrangement and system of internal duties. The first step which it took was a judicious step. It was to follow the example of that nation which has had more experience of internal taxation than any other, Great Britain. Great Britain always, in devising ways of taxation, appoints commissions or committees who take evidence carefully and elaborately; for taxation, even more than the ordinary action of government is an experimental science—purely deductive in its nature. There are no general principles which will instruct any nation as to the specific taxes it may impose. It must inquire into the facts and be governed by them. It must scrutinize each particular branch of industry, its bearings on all others and the bearing of the whole on the welfare and prosperity of the nation; and the system of taxation must be suited to the emergency in each particular case.

Congress authorized at its last session a commission of three gentlemen familiar with the subject from theoretical study and capable of making personal investigations of the facts relating to it. Those gentlemen have been engaged with assiduity, and intelligence, and, I think, with a degree of success far greater than could have been predicted, in investigating the whole of this great and novel subject. They have collected a vast body of evidence, which I am sorry to say has not yet been printed and delivered to Congress for its instruction, but the summaries made from it and published from time to time must have done much to enlighten all those members who wish to understand the subject in its details and the action proper to be taken.

Now, all that I propose to do upon this oc-

casion is to recur briefly to two or three general principles which I think should guide us in acting on the tax bill which is now before us. In imposing taxes upon domestic industry there are certain great principles familiar to all readers of political economy which it will not be wise for us wholly to neglect. We are to impose taxes upon a great variety of articles. The present law, as I have said, taxes everything. We seem to be almost in the condition of England when she first began her system of taxation, so amusingly described by Sidney Smith, when every Englishman came into the world by the aid of a doctor who had paid a tax, and that he paid all the way through life, until he was finally buried in a taxed coffin, in a taxed grave, and by an undertaker who had paid a tax; and it was then, and then only, that his taxation ceased.

Now, I do not suppose that we can reach a full and thorough compliance with all the theoretical principles of taxation laid down by the writers on political economy; but we can keep them steadily in view, and we ought always to aim to come up to them as perfectly as possible. In the first place, it is always desirable to impose taxation upon the results of industry rather than upon its processes. The processes of the manufacturer, the tools of the manufacturer should not be taxed, but the results of the manufacture, when they make their appearance, in profits and income, are proper subjects of taxation. When a man is endeavoring by labor to produce certain products he should not be taxed in his efforts, in his labor, but only in the result, the products of that labor.

It is a very commonplace maxim, but a very true one, and one to be borne in mind in all these economical discussions, that labor is the source and the only source of national wealth. Productive industry feeds all the sources of national wealth. It is the fountain from which we draw all the moneys we need for maintaining the Government or for any purpose whatever. If we tax the processes of production we tax the fountain-head, and thus diminish the ability to keep up the supply. It is rather the duty of the Government not to diminish the force of this productive industry, but to stimulate it, to aid it, to increase it.

Suppose a man is engaged in the manufacture of engines or anything of the kind, like our friend from Massachusetts, [Mr. AMES,] who is so largely engaged in the manufacture of axes, shovels, and other agricultural implements, it is not wise to tax the processes of that manufacture, either in respect to the raw material that is used or the tools that are employed or the food of the workmen that are hired. All those things should be as nearly free from taxation as possible; but when the net results, the profits, the income, are produced, they are the legitimate subjects of taxation, and may be levied upon accordingly.

And that, in my judgment, is what is really involved in what is commonly called the free-trade policy of England. England found herself in a condition when her main and essential interest was the manufacture of goods for the markets of the world. She had to compete with other nations in those markets; and she found it absolutely indispensable for the production of those goods at such a rate as to enable her to successfully maintain that competition to relieve her manufacturers from taxation upon everything that entered into the processes of production. She took the duty off raw cotton because she needed raw cotton for the goods she manufactures. She took the duty off corn, for she needed corn to feed her workmen, and by taxing corn she obliged the manufacturers to increase the wages of their workmen to pay the increased cost of their support. And so everything that entered into the working of her looms, her forges, and her machine-shops was relieved from taxation.

It is idle to call that policy free trade. As it is very properly said by the commissioners of internal revenue in their admirable report upon this subject, and as it had been remarked before by some French economists, it is only

a more subtle form of protection. Instead of taxing and excluding the goods of other nations, inasmuch as they went to the markets the ports of which she could not control, she very wisely reduced the cost of producing her own goods. That is a principle of universal application, one that we should apply just as rapidly as we can; for the same reasons that make it applicable to England make it applicable to us.

When we perfect our system of internal taxation; when we get it to a point where it will conform to the fundamental principles of political economy, the whole of this long list of manufactured articles that now figures on our tax bills will disappear, and we shall have left simply taxation upon the results of industry—upon the profits of labor; in other words, so far as the result of manufactures go, we will have taxation upon incomes alone. I consider incomes to be the fairest of all subjects for taxation, and I was a little surprised to hear the chairman of the Committee of Ways and Means [Mr. MORRILL] apologize for continuing the income tax a little longer. It seems to me that income is the first thing, so far as industry and the products of industry are concerned, which should be taxed; for in taxing income you tax that which a man has and nothing else, and that too in exact proportion to the amount of what he has.

If you encourage your people in their labor, in manufactures, in producing wealth, then after they have produced it and have the net proceeds in their pockets, it is quite just and fair and proper for the Government to claim a proper share of those profits to meet its own necessities. But the industry of the nation should be left unfettered; or if fetters have been imposed upon it, it should be allowed to regain its freedom at the earliest possible moment.

Of necessity, there are exceptions to this rule; and cases where it cannot be at once and fully applied. Cotton is undoubtedly one exception. In my judgment, it is proper to impose a tax upon cotton; and I think the rate proposed by the committee is not too high. However, that question will come up for more careful consideration when the bill comes to be examined by sections. I refer to it now, merely to say that although the tax upon cotton may seem to be an exception to the general principle I have laid down, yet the fact that cotton is a monopoly of this country, and must be bought from us by all other manufacturing countries, takes it out of the category.

It is not, for example, like iron. England has iron, and we have iron. We cannot, therefore, tax iron in the raw state, as we may tax cotton. Should we attempt to do so, we should expose ourselves to unfair, unjust, and injurious competition on the part of England. But if we tax cotton England must pay the tax also.

But, not to dwell upon this point, the next principle to which I ask attention for a moment is that we should tax, so far as possible, the superfluities and not the necessities of life. In the application of this principle to income is, I suppose, to be sought and found the justification of the exception of a minimum which is always made. In England, where an income tax has come to be one of the fixed taxes of the country, and will never be repealed, at least while she needs so large a revenue as she now does, I believe the tax is sixpence to the pound, and £100 of income are exempt from taxation. The cost of living in this country is somewhat higher, and especially for the working classes it is very considerably higher. Our present law exempts \$600 of income from taxation. The committee recommend that the amount exempted be increased to \$1,000, and in this I think they have recommended wisely, although it will subtract \$3,000,000 from the revenue in the aggregate. An exemption of \$1,000 will be but a just exemption. That amount will not maintain a working man and his family in this country in

any better condition than that in which he ought to live. The Government should not trench upon the necessities of the great mass of its people. The absolute necessities of the people should be spared, should be held sacred from the hand of the tax collector. The people should be allowed to enjoy undiminished so much of their earnings as they need to supply those necessities.

In regard to the income tax, I observe also that the committee recommend a repeal of the extra five per cent. on income over \$5,000. Incomes to the amount of \$1,000 are to be wholly exempt. The amount of income above \$1,000, up to \$5,000, is to be taxed at the rate of five per cent. By the present law an additional tax of five per cent. is imposed on all over \$5,000. I know that theoretical writers insist that it is unjust and impolitic to impose a graduated income tax; that every man should pay the same percentage on his income, whatever its amount may be. But there is this fact which, it seems to me, ought to be considered: that the second \$5,000 of a man's income is generally much more easily earned than the first \$5,000, when any business is entered upon that will insure large profits. Certainly a man can better afford to pay a second tax on all over \$5,000 than to pay a heavy tax on the first \$5,000 of his income. I confess that I do not think it wise, in the present state of the country, to exempt the second \$5,000 of a man's income from a second tax. I know that this may fall heavily upon portions of the community, but fortunately they will be those portions of the community which can best afford to bear it, and those portions of the community, I will add, which have thus far borne all taxation with the utmost readiness, and which show no signs of complaint at the taxation to which they are subjected. Even if it should be deemed wise to reduce somewhat the percentage of tax on the second \$5,000 of income, I hope the House will not think it wise to release it from extra taxation altogether.

The same principle of taxing superfluities and incomes instead of necessities applies to the taxation proposed upon commodities, upon beverages, upon articles consumed. I know that it is somewhat difficult, theoretically, to define what are necessities and what are superfluities. What is a necessity to one man is a superfluity to another, and what is a superfluity to any man at first becomes soon a necessity of life. But at the same time there are certain things which are used merely to gratify artificial tastes; and such things, I think, may very properly be called superfluities of life. And among these all nations recognize distilled spirits, whisky, fermented liquors, tobacco, and to a certain extent, tea and coffee. These, especially distilled spirits, are always made the subjects of heavy taxation.

In England distilled spirits are heavily taxed, and yield a very large portion of the revenue. Four of these articles—sugar, tea, tobacco, and spirits—yield \$97,000,000 out of \$112,000,000 received from customs in England; and licenses, malt and spirits, yield \$92,000,000 out of \$97,000,000 received as excise. They are always resorted to, and bear a very large proportion of the burdens of taxation. Our own tax bill aims at the same thing and goes upon the same principle. Under the law now upon your statute-book whisky is taxed two dollars a gallon, and in England it is taxed \$2 50. There is no rate upon these articles which can be so high as to be objectionable. On the contrary, the higher the tax the greater the indirect benefit in diminishing consumption, for all concede that a law which should largely increase the domestic use of spirits as a beverage would not conduce to the welfare and morality of the nation at large.

The only limit, in my judgment, to the amount of duty to be imposed upon whisky is the practical enforcement and collection of the tax. There we encounter a serious difficulty, for if we put the tax so high as to make the profit on illicit distillation very great we shall tempt or force men into that illicit distillation. I sup-

pose the cost, the prime cost, of producing whisky is about twenty-five cents a gallon, and when you put a duty of two dollars on that the profit on every gallon a man can sell in evasion of the law becomes immense. If we get the duty so high as to lead men to see that such enormous profits can be made we shall render it certain that this illicit distillation will be largely resorted to. This has been experienced everywhere. There is but one way to prevent it, and that is by the enactment of severe and rigid laws. We must have one of two things: either the tax shall be so low as not to tempt men to go into illicit distillation, or the law must be so severe that they will not do it.

Since the original internal tax law was enacted, we have made various experiments in the tax on whisky. I believe it began at twenty cents a gallon, then rose to sixty, then to \$1 50, and then to two dollars. I do not know whether any one of these taxes continued long enough to enable us to arrive at any general inference as to the rate that would yield the largest returns. It is certain that the present tax of two dollars is promoting illicit distillation to a degree which threatens the collection of any revenue whatever on whisky. In one single collection district in the city of New York, where two years ago there was not a single distillery, there are now thirty illicit distillers in cellars and out-of-the-way places, each making whisky, from one to five gallons a day, on which, of course, they pay no duty and make an enormous profit. I understand that in one district of Virginia, in the neighborhood of Richmond, where there were no distilleries two years since, there are now three hundred making whisky in evasion of the law. And in the State of Georgia, where there were but few a short time ago, there are now fifteen hundred.

How is this to be remedied? It can only be done by making the law so stringent that it will not be evaded. That is almost impossible in this country. The English Government has succeeded by looking into the detail of every man's business, by having an inspector in every man's distillery. In our country the facilities for evasion are so great that it is impossible to provide these remedies. I do not know what particular remedy the committee has recommended, but I cannot think of any likely to be more effective than a very heavy license tax and a very severe punishment for evading the law. If none are allowed to distill except those who pay a heavy license, all who evade or defy the law may be subjected to severe punishment. Large distilleries are willing to pay a license as large as may be demanded, provided they can be protected against illicit distillation. But how many of these same large distilleries which pay the taxes on their products have been forced to suspend. They cannot pay the tax of two dollars a gallon and carry on their business in competition with illicit distilleries all over the country, which make and sell their whisky and pay no tax whatever. This House has to choose, after deliberation, between these two things: either to reduce the tax on whisky so as to destroy this enormous temptation to illicit distillation, or to enact laws so stringent as to prevent the evasion of the law and the entire destruction of those who pay the tax.

I believe the manufacture of whisky is not less than from forty to fifty million gallons a year. Last year it reached the enormous amount of eighty million gallons, as the chairman of the committee has just stated. But forty millions may probably be regarded as the minimum production of the country. At two dollars this would yield \$80,000,000, and at one dollar it would yield \$40,000,000; but certainly, as the law is now enforced, it is not likely to yield even half of that amount. This matter should demand careful attention, and I trust the House will act upon it with due and sole regard to the interest of the revenue. The commissioners of revenue are of opinion, I believe, that one dollar per gallon will actually yield more revenue than the proposed tax

of two dollars, until or unless the proposed tax of two dollars is better enforced and more rigorously collected.

I have dwelt longer on that point than I intended. Tobacco is another article which demands careful attention, and it is one of the superfluities which can be heavily taxed.

But the next principle I desire to refer to, and I think it will be the last, is this: that taxes should be imposed upon as few articles as possible. A tax is a blow at best. It is a hurt, an injury inflicted upon somebody by the Government. It must fall somewhere, and wherever it falls it will create complaint and produce injury. It is therefore evident that it should fall upon as few as possible. The expense, moreover, of collecting the revenue depends far more on the number of articles taxed than upon the amount of the aggregate collection. Our present tax law imposes duties upon a great variety of employments which scarcely pay the expenses of collection. Take all the small trades, the tailor, the shoemaker, the milliner, the dress-maker, all the small traders of that sort, and you will find that the amount of tax imposed upon them scarcely pays the expense of collection.

In a note to one of the pages of the report of the commissioners of revenue is inserted an extract from the books of one of the tax collectors in the city of New York, from which it appears that there are many milliners, dress-makers, manufacturers of cloaks, &c., whose monthly taxes amount to \$1 04, another to \$1 20, in another to \$1 58, in another to \$1 75, and in another to only forty-two cents, &c. I need not say that this scarcely pays omnibus fare to collect these taxes. All these and all like them should be, it seems to me, dismissed from the tax bill at once.

So I think in regard to all manufactures of articles of indispensable necessity for the great mass of the community. Clothing has been taxed five per cent. during the past year, and the chairman of the committee reports this year a reduction to one per cent. Now, one per cent. will simply vex the producers and yield very little revenue. Clothing is an article of universal use; it is consumed by all classes. But any considerable tax upon it must operate unequally, because the poor man or the man in middle life wears just about as much clothing as the rich man, and has to pay substantially the same amount of tax.

It seems to me, therefore, that we could relieve the great mass of the community from that tax without interfering materially with the revenue. Last year it yielded something like six million dollars. This year it would no doubt yield much more at the same rate. But at one per cent. it will yield but little. And if no one else does so, I shall submit, at the proper time, an amendment to the bill to strike out clothing from the list of taxable articles altogether. So, I think, taxes upon paper, upon type, upon books, and upon newspapers as taxes upon knowledge, and taxes upon advertisements as checking free interchange of communication on business matters, and taxes upon insurance and savings as tending to discourage prudence and forethought; and all other taxes, of which these are samples, should be swept away as speedily as possible.

The effect of our present system of imposing taxes upon every article that is manufactured, and upon every part of such article, is very important in increasing prices by duplicating taxation. I will not dwell upon this branch of the subject, which you will find discussed clearly and fully in the report of the revenue commissioners to which I have referred.

They cite the instance of an umbrella as an illustration. Formerly an umbrella was made at a single manufactory. Now it is made by putting together the various parts, each made by a different process and each paying a separate tax. The stick of wood is one article, part domestic and part foreign, the foreign article being already taxed. Then the wire comes from another establishment; the handle

of bone, ivory, or horn, then the brass tube, then the elastic band of rubber, then the silk tassel, then the button and the cap—each of these may come from a different manufactory and is subject to a separate tax; and when they are all brought together and made into an umbrella, then they are taxed again.

More than that, the manufacturer of each one of the various items composing the whole avails himself of the fact that the article is taxed to add to the price of that which he supplies, and not only to the amount of the tax, but so as to give him a little additional profit. He takes advantage of the tax to increase his profit. It is so in every department of business. You find that the price of everything is raised, and raised beyond the amount of the tax imposed upon it. They manage the matter pretty much as the owners of the city railroad cars did when they were authorized to add to their fare the amount of the tax. The amount of the tax was one fifth of one cent, and they added one cent. And it is so in all departments of business. It is in human nature, and we cannot by any act we can pass here expel human nature from the masses of our people.

Now, apply this rule to all the products of manufacturing industry. Consider that, on all these processes this duplication is going on, and that each man adds something in addition to the tax to his part, and you will see a much more potent reason for the enormous prices that obtain to-day for everything than is to be found in the high price of gold. Why did not the price of everything fall when gold fell from 280 to 130? Simply because the price of gold and the inflation of the currency had comparatively little to do with the exaggerated prices at which all articles were held, not nearly as much as the fact of the duplication of taxes, and the exaggeration of profits which followed upon it.

Now, by abolishing all these taxes on manufactured articles the tendency would be to correct this most serious evil. When England began her system of internal taxation, the list of taxed articles was enormous; everything she had was taxed, and taxed roundly; but gradually, year by year, she has gone on reducing the number of articles on which internal taxes are imposed.

Her internal revenue now amounts to \$161,000,000. It is drawn from three great sources: excises, stamp duties, and assessed taxes. The excises amount to \$97,000,000, and of that sum more than ninety millions are raised from three articles, and there are but nine articles embraced in her whole list of excise duties. So, too, of her stamp duties. Her assessed taxes amount only to \$10,000,000 a year in all, and of these one half are raised from two items—inhabited houses, and carriages. This shows that a reduction of the number of articles taxed is quite consistent with an increased aggregate amount of taxation, provided the distribution is properly made. By nursing the great sources of internal revenue, by imposing taxes only where they can be easily borne, by putting them on superfluities, by not taxing processes, but income, we should obtain the means, gradually, of reducing more and more the number of articles upon our list for taxation.

Now, sir, I do not go into any examination of other items of this bill. These are the main principles which I think it would be well for us to bear in mind.

But, after all, nearly everything will depend upon the administration of the law. There is no department of law in which administration, execution, rigid execution, careful execution, honest execution, is so important as it is in connection with our internal revenue. If it is honest, vigilant, and correct, revenue can easily be collected so as to yield large returns. If it be lax, negligent, and still worse, if it be corrupt, there is no end to the losses which the Government will sustain. With a rigid system of collection, which involves the necessity of employing capable men at remunerative prices,

and having a good, efficient, and energetic staff, without reference to its cost—with such a system the people of this country can bear all the burdens of taxation now imposed upon them, or which any unforeseen emergency may hereafter require.

I hope the House, in discussing this bill, will have due and careful reference to that fact, as well as to the details of the tax itself. With a proper adjustment of this law, to be made from year to year, I am confident that this nation, with its resistless enterprise, its boundless resources, its rapidly increasing population, will meet the emergency for which it is now required to provide with the same degree of honor and success that has attended its conduct of the war which has just been closed.

The first reading of the bill having been dispensed with by unanimous consent, the committee proceeded to reconsider it by sections for amendment.

The first section was read, as follows:

That on and after the 1st day of July, 1866, in lieu of the duties on unmanufactured cotton, as provided in an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, approved June 30, 1864, as amended by the act of March 3, 1865, there shall be paid by the producer, owner, or holder, upon all cotton produced within the United States, and upon which no tax has been levied, paid, or collected, a tax of five cents per pound, as hereinafter provided; and the weight of such cotton shall be ascertained by deducting four per cent, for tare from the gross weight of each bale or package; and such tax shall be and remain a lien thereon, in the possession of any person whomsoever, from the time when such cotton is produced as aforesaid until the same shall have been paid; and no drawback shall in any case be allowed on raw or unmanufactured cotton of any tax paid thereon when exported in the raw or unmanufactured condition. But no tax shall be imposed upon any cotton imported from other countries, and on which an import duty shall have been paid.

Mr. LYNCH moved to amend the section by adding the following:

Provided, That any producer may procure an exemption of not more than six hundred pounds of cotton in any one year, as follows:

Upon exhibiting the same to the assistant assessor of the district where said producer resides and where the cotton was raised, at the place of production, and making oath that he raised and now owns said cotton, and satisfying the assistant assessor that his sworn statement is true, the assistant assessor shall file mark the bale or bales of said cotton with the number of pounds, being not more than six hundred as ascertained by weight then and there, and with the following words: "Cotton produced in the — assessment district is the — collection district in —, by —, and owned by him on the — day of —, 18—, and exempt from taxation." Filing said blanks with the designation of the assessment district and also of the collection district, the name of the State, the name of the producer and owner, and the date when said exemption is so ascertained and marked thereon. The assistant assessor shall give to said producer a certificate of such exemption setting forth the above facts, and also the place of production as near as can be, and the payment of his fee. He shall also make a full record of all such exemptions and transmit a transcript of the same to the assessor. The assistant assessor shall be allowed a fee of two dollars for all his services in each case of exemption, to be paid by the producer. Any person swearing falsely in procuring such exemption; and any person using or attempting to use the exemption certificate or marks provided for in this section with intent to procure exemption for any other cotton than that which was lawfully exempted, as such certificate and marks set forth; also, any person selling or giving away, purchasing or receiving such certificate or marks with intent to defraud or to aid in defrauding the revenue shall be liable, upon conviction thereof, to a fine of fifty dollars or to not more than three months' imprisonment. Under the provisions of this section no cotton in its unmanufactured state shall be exempt from taxation for more than ten months after the date of its marks or certificate of exemption. Any person other than the producer named in the certificate and marks aforesaid, who shall subsequently to such exemption claim property in any cotton so exempted, by virtue of an ownership prior in date to such exemption, shall forfeit all such cotton; and any cotton with reference to which the owner or his agent shall commit any violation of this section shall also be forfeited.

Mr. LYNCH. The object of the amendment I have proposed, as will be seen, is to encourage the smaller producers of cotton. It is following the general spirit of this bill, which exempts all incomes of less than \$1,000 a year. It also exempts all manufacturers of less than \$600. And the incomes of miners who do not produce \$1,000 are exempted from taxation. The amendment I have proposed follows out that same general principle.

There is a great deal of machinery connected with it, for the same reason that there is a great deal of machinery connected with this section levying a tax upon cotton. By referring to the bill it will be seen that sections two, three, four, and five, all long sections, relate to the collection of this tax on cotton. There is necessarily a great deal of machinery connected with this subject, for the reason that the collection of the tax is provided for by a lien upon the cotton produced, instead of, as in the case of manufactures, relying for the payment upon the responsibility of the manufacturer. This amendment is intended simply to encourage the small producers by exempting this small amount; thus following out the general spirit of the bill. I think there should be no objection to it.

Mr. MORRILL. Mr. Chairman, I trust that the amendment proposed by my friend from Maine [Mr. LYNCH] will not be adopted. In the first place, it will open the door through a vast region of country for any quantity of fraud. The owner of a large plantation, for instance, might employ any number of men, each of whom would get the benefit of this exemption.

In addition to this, I think the gentleman from Maine proceeds upon an entirely wrong theory with reference to who pays the tax. On whatever is consumed here in this country we, the consumers, pay the tax, and on whatever goes abroad we expect, of course, to compel foreigners to pay the tax.

The amendment is so voluminous and opens the door to so great a variety of frauds that I think my friend from Maine must on reflection himself see the impropriety of its adoption.

Mr. LYNCH. I desire to call the attention of the gentleman from Vermont, [Mr. MORRILL,] the chairman of the Committee of Ways and Means, to the machinery which the committee have found it necessary to provide, in order to prevent frauds in the collection of this tax upon cotton. While the amendment is somewhat lengthy in its provisions, yet the only point of it is the exemption of six hundred pounds of cotton from taxation. Its lengthy phraseology is designed to secure the Government against frauds in connection with that exemption. If the honorable chairman of the committee will examine the provision of the old law with reference to the exemption of manufacturers to the amount of \$600, he will find that that provision is liable to the same objections which he urges against this amendment. The only question is whether the proposition is so guarded that the Government will not be defrauded. I suppose the gentleman will agree that now when the labor of the South, the cotton-producing portion of the country, is revolutionized, it is desirable that if this tax be imposed on cotton, the small producers there should have some encouragement.

Mr. GARFIELD. I desire to ask the gentleman a question: does he think that, if his amendment should be adopted, it would help in any way the man who raises only six hundred pounds of cotton?

Mr. LYNCH. It would help him certainly to the amount of the drawback which he would receive—five cents per pound. It would help him to the extent of thirty dollars on the six hundred pounds.

Mr. GARFIELD. The whole of this tax would eventually be paid by the consumer, not by the producer. The amendment would multiply greatly the number of those who would be tempted to swear falsely in order to escape the tax.

Mr. LYNCH. I would say in reply to the gentleman that the same objection would apply to the whole bill, for it all depends upon whether the machinery adopted is such as to protect the Government against frauds in the collection of the revenue. The amount proposed to be exempted by the amendment is, it is true, small; but the same might be said with regard to manufacturers to the amount of not more than six hundred dollars. The same may be

said also with regard to the exemption of \$1,000 from income tax. The amount of tax exempted would be large to those who would have to pay it. This amendment proceeds upon precisely the same principle which is carried out all through the bill with reference to other products. The gentleman must see that whoever finally pays the tax, the producer must get the benefit of just this five cents per pound on the six hundred pounds.

Mr. MORRILL. I desire to say one word further with reference to this amendment; but before doing so, I will move that the committee now rise, as I wish to submit a motion to close general debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union, having had under consideration the Union generally, and particularly the bill (H. R. No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, had come to no resolution thereon.

Mr. MORRILL. I move, sir, that when the House shall again resolve itself into the Committee of the Whole on the state of the Union upon the bill No. 513, all general debate upon the bill terminate in one minute, leaving the five-minute debate upon amendments.

Mr. STEVENS. I rise to a point of order. Upon a bill which we are considering in this manner, section by section, is it in order to close debate upon the whole bill? Can the closing of debate extend beyond the pending section?

The SPEAKER. General debate on the bill can be terminated; but that does not interfere with five-minute speeches for and against amendments. The House cannot close debate entirely except upon the pending section.

The motion of Mr. MORRILL was agreed to.

Mr. SPALDING. I move that the House adjourn.

The motion was agreed to; and thereupon (at twenty-five minutes past four o'clock, p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BANKS: The petition of Nathaniel Swift, Moses Foster, William Chickering, W. S. Slevers, Samuel Merritt, Marcus Morton and others, for amendment of tax law on savings banks.

By Mr. CONKLING: The petition of citizens of Otsego county, New York, asking passage of laws regulating inter-State insurance.

By Mr. COBB: The memorial of George Cottingham, in relation to his pursuit of the assassins of President Lincoln, dated May 4, 1866.

By Mr. DELANO: The petition of J. B. Fellows & Co., of Mobile, Alabama, praying indemnity for 47,660 pounds of cotton taken at the capture of Mobile by the Government, sold at New York, May 13, 1865, for \$14,298 in gold.

Also, the petition of Mrs. Martha A. Booth, widow of Dr. William A. Booth, of Canton, Mississippi, who was a Union man murdered by the enemy, praying indemnity for losses of property by the war.

Also, the petition of Timothy Lyden, of West Virginia, praying compensation as wagoner in the quartermaster's department while he was in captivity and prison by the enemy.

By Mr. ELDRIDGE: The petition of citizens of Dodge county, in the State of Wisconsin, for national insurance law, &c.

By Mr. HULBURN: The petition of H. R. James, and others, citizens of Ogdensburg, New York, asking an increase and an *ad valorem* duty upon foreign flax imported.

Also, the petition of A. B. James, and others, citizens of St. Lawrence county, New York, on the same subject.

By Mr. LONGYEAR: The petition of A. C. Blodget, and others, citizens of Ypsilanti, Michigan, asking for a bureau of national insurance.

By Mr. ORTH: A petition from James Heaton, and others, praying for legislation on the subject of insurance companies.

By Mr. WASHBURN, of Massachusetts: The petition of Josiah Brown, and 131 others, tobacco-growers in the town of Deerfield, Massachusetts, asking for increased protection against the importation of cigars.

Also, the petition of Charles Haywood, and 51 others, tobacco-growers of Gill and Northfield, for the same purpose.

Also, the petition of Lemuel Cooley, and 59 others,

tobacco-growers of Whately and Hatfield, Massachusetts, for the same purpose.

Also, the petition of H. H. Mayhew, and 52 others, tobacco-growers of Charlemont, Massachusetts, for the same purpose.

NOTICE OF A BILL.

The following notice for leave to introduce a bill was given under the rule:

By Mr. JULIAN: A bill entitled, "An act concerning the elective franchise in the Territories of the United States, and the admission of new States hereafter to be formed within the same."

IN SENATE.

TUESDAY, May 8, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, communicating a second dispatch from the minister of the United States in Paris to the Secretary of State, relative to a proposed exposition of fishery and water culture at Arcachon, in France; which, on motion of Mr. SUMNER, was referred to the Committee on Foreign Relations, and ordered to be printed.

The PRESIDENT *pro tempore* also laid before the Senate a message of the President of the United States, communicating, in compliance with a resolution of the Senate of the 19th ultimo, a report from Benjamin C. Truman relative to the condition of the southern people and the States in which the rebellion existed; which, on motion of Mr. SUMNER, was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. HARRIS presented the petition of Enos Kellsy, of the town of Napoli, Cattaraugus county, New York, who states that he is sixty-six years of age; that he has not a dollar's worth of property in the world; that at the outbreak of the rebellion he had seven sons, all of whom enlisted in the Army; two of them were killed on the field of battle; another died in a rebel prison; another lost a leg at the battle of Gettysburg, and prays for a pension; which was referred to the Committee on Pensions.

He also presented a petition of citizens of Washington, District of Columbia, praying that Congress will enact such just and equal laws for the regulation of inter-State insurances of all kinds as may be effectual in establishing the greatest security for the interests protected by policies and promotive of the greatest good and convenience to all concerned in such transactions; which was referred to the Committee on Commerce.

He also presented two petitions of mechanics and laborers in American manufacturing establishments, praying that the tariff may be so amended as to protect their labor to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products, from which the foreign are free; which were referred to the Committee on Finance.

Mr. SUMNER. I offer the petition of citizens of New Bedford, Massachusetts, setting forth that St. Catharines, in Brazil, is an important place of resort for our whaling fleet; that it is essential to our interests that the consulate at that place should be filled by an American citizen competent to the performance of its duties. They go on to say that with the close of the war the salary for the consul there will be stopped. They recommend, in the interest of commerce, that a salary of at least \$1,500 be provided for the consul there. This petition is numerously signed by the most eminent and respectable citizens of New Bedford. I ask its reference to the Committee on Commerce.

It was so referred.

Mr. MORGAN presented the memorial and proceedings of a meeting of the medical profession held at Baltimore on the 4th day of May, in obedience to a call numerously signed by physicians from every portion of the United

States, praying Congress to adopt prompt and efficient measures for protecting the community against the approach of the Asiatic cholera; which was referred to the Committee on Commerce.

Mr. MORRILL. I ask leave to present the memorial of O. D. Mesnil, a citizen of Belgium, who respectfully represents that he is desirous of introducing into the United States a new mode for the towage of boats on navigable rivers. The proposed plan is fully explained and its advantages set forth in the printed summary accompanying it. I ask that this memorial be referred to the Committee on Commerce.

The PRESIDENT *pro tempore*. Did the Chair understand the Senator to say that the petitioner was a citizen of Belgium?

Mr. MORRILL. I believe he is so described; I am not sure.

The PRESIDENT *pro tempore*. Under the rule a petition from a foreigner residing in or belonging to any foreign Government cannot be received.

Mr. MORRILL. It is sent to me, not by himself, but by a very well-known citizen. I will withdraw the petition until I am able to ascertain the fact.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. CRESWELL, it was

Ordered, That the petition and other papers of Rebecca Scott, praying for a pension, be taken from the files of the Senate and referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. FESSENDEN, from the Committee on Finance, to whom was referred the bill (H. R. No. 213) making appropriations for the legislative, executive, and judicial expenses of the Government for the year ending the 30th of June, 1867, reported it with amendments.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of James Pool, praying to be reimbursed for money paid by him for supplies for the Shawnee tribe of Indians, reported a bill (S. No. 311) for the relief of James Pool, which was read and passed to a second reading.

EMPEROR OF RUSSIA.

Mr. SUMNER. The Committee on Foreign Relations, to whom was referred the joint resolution (H. R. No. 133) relative to the attempted assassination of the Emperor of Russia, have had it under consideration and directed me to report it back with amendments; and as the resolution is one which I think will interest the Senate, and perhaps ought to be acted upon immediately and unanimously, I will ask that it be proceeded with now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the following joint resolution:

Resolved, &c., That the Congress of the United States of America has learned with deep regret of the attempt made upon the life of the Emperor of Russia by an enemy of emancipation. The Congress sends their greeting to his Imperial Majesty and to the Russian nation, and congratulates the twenty million serfs upon the providential escape from danger of the sovereign to whose head and heart they owe the blessings of their freedom.

The first amendment of the Committee on Foreign Relations was to strike out the word "their" before the word "greeting," so that it will read: "The Congress sends greeting to his Imperial Majesty," &c.

The amendment was agreed to.

The next amendment was to add as an additional section the following:

And be it further resolved, That the President of the United States be requested to forward a copy of this resolution to the Emperor of Russia.

The amendment was agreed to.

Mr. SUMNER. Before the vote is taken I will take the liberty of making one remark. In considering the resolution in committee, it seemed in some respects inadequate to the occasion, and yet the committee did not think it advisable to attempt any further amendment. The public prints have informed us that an attempt was made on the life of the Emperor of Russia by a person animated against him

on account of his divine effort to establish emancipation. That report, I am inclined to think, has not disclosed completely the whole case. It does not appear, from what we are told, that the special ground of animosity to the Emperor, at the present moment, is so much the original act of emancipation as the courage and perseverance and wisdom which he has displayed in carrying it forward to its practical results.

I have had occasion, formerly, to remind the Senate how completely the Emperor has done his work. Not content with issuing the decree of emancipation, which was in the month of February, 1861, he has proceeded, by an elaborate system of regulations, to provide, in the first place, for what have been called the civil rights of all the recent serfs; then, in the next place, to provide especially for their rights in court; then, again, to provide for their rights in property, securing to every one of them a homestead; and then, again, by providing for them rights of public education. Added to all these, he has secured to them also political rights, giving to every one the right to vote for all local officers, corresponding to our officers of the town and of the county. It is this very thoroughness with which he has carried out his decree of emancipation that has aroused against him the ancient partisans of slavery, and I doubt not it was one of these who aimed at him that blow which was so happily arrested. The laggard and the faithless are not pursued by assassins.

The Emperor of Russia was born in 1818, and is now forty-eight years of age. He succeeded to the throne on the death of his late father in 1855. Immediately after his accession he was happily inspired to bring about emancipation in his great country. One of his first utterances when declaring his sentiments, was, that it was important that this great work should begin from above to the end that it should not proceed from below. Therefore he insisted that the Imperial Government itself should undertake the blessed work, and not leave it to the chance of insurrection or of blood. He went forth bravely, encountering much opposition; and now, that emancipation has been declared in form, he is still going forward bravely in order to crown it by assuring all those rights without which emancipation is little more than a name. It was, therefore, on account of his thoroughness in the work that he became a mark for the assassin; and, sir, our country does well when it offers its homage to the sovereign who has attempted so great a task, under such difficulties and at such hazards, making a landmark of civilization.

Mr. SAULSBURY. I move to amend the resolution by striking out the words "by an enemy of emancipation;" and upon this amendment I will submit a remark. The Senate of the United States, sir, is called upon to vote for this resolution as it stands, and to assert by its vote that the attempt made upon the life of the Emperor of Russia was "by an enemy of emancipation." Now, sir, I ask you, I ask any member of the Senate, whether there is one particle of evidence before this body, or whether there is a particle of evidence extant in this country, and accessible to the people of this country, which shows that such an attempt was made by an enemy of emancipation. I have seen none such. The statement that I have seen in the papers is that it was by a man in the humble walks of life, and I presume by a man that did not own many serfs. If it be the fact that this attempt at the assassination of the Emperor of Russia was made by an enemy of emancipation, that fact can be easily ascertained, for Russia is represented here by a minister. Inquiry could have been made of that minister; and if the fact be as alleged in the resolution we could have had knowledge of that fact from a proper and reliable source.

I do not suppose there is any person in this Chamber, or any person in this country, who approves of the attempt to assassinate the Emperor of Russia, or anybody else; but when we come to record our votes in favor of the passage

of the resolution, ought we not to be properly informed whether the resolution states a fact, or whether it does not state a fact? Sir, I sat in this Chamber in 1861, and I saw a resolution pass this body, which I supposed at the time was true, which affected a warm personal friend of my own, formerly a member of this body, declaring that he had joined the enemies of his country, and evidence was brought forward that he had subscribed some two hundred dollars to establish a newspaper to aid the southern cause, and that he had left Missouri and had gone over into the enemy's lines. Even my colleague, (Mr. Bayard,) a member of the Judiciary Committee at that time, was betrayed into the belief that that was the fact, and joined in the report. And yet, sir, I know the fact that on the very day that resolution passed the Senate of the United States, that gentleman was living quietly in the State of Missouri, at the house of a friend, had taken no part in any movement against the United States, and never did subscribe one dollar to establish a paper to aid the confederates. It is true that in 1860, during a political canvass, he subscribed \$200 to establish a Democratic newspaper, and that fact was used to found upon it the charge that he had given \$200 to establish a paper to aid the confederates, and that he had gone over the lines and joined the enemy. Sir, I have seen that Senator since, and I know the fact that at that time he was quietly living in the interior of Missouri, and had done no act against the Government. Well, sir, gentlemen honestly believed that was true. Now gentlemen may honestly believe that this is true, that the attempt upon the life of the Emperor of Russia was made by an enemy of emancipation. I want to know the facts. I am willing to vote for the resolution; I condemn the act as much as anybody else; but I want to be informed of the truth of the allegation that it was done by an enemy of emancipation. Why, sir, it seems, nowadays, that no crime can be committed, that no law can be violated, that no moral principle can be outraged, but that it is some slaveholder that does it, or some friend of slavery, some enemy to emancipation! If it be true that the act was done by an enemy to emancipation, we can readily be informed of that fact. Being informed of that fact, I will as readily vote for the resolution with that clause in as with it out; but I want to know whether I am voting for a fact. I therefore move the amendment.

Mr. SUMNER. Mr. President, it is impossible for the Senate of the United States on this occasion to send out a commission to Russia in order to ascertain the precise facts in this historic case. Sir, it is a historic case, to be adjudged by the rules of history and not according to the practice of a justice's court. I do not think the Senator will expect that we shall introduce witnesses on the floor on this occasion to prove what the Senator requires. Suffice it to say, sir, that the same testimony which tells us that the attempt to take the life of the Emperor was made, discloses also the character of the assassin. The Senator from Delaware must doubt that the attempt has been made, if he doubts the attempt was made by an enemy of emancipation. The same report that announces one fact announces the other; and if the Senator sets aside one fact he must set aside the other. They both stand on the same authority. I presume, therefore, that the House of Representatives, from whom this resolution proceeded, went on the original report as it came to us from Europe, even from the Russian authorities; they did not go behind that; and assuming that the attempt was made, they went further and assumed that the same authority which declared that the attempt was made was truthful when it disclosed the character of the author of the attempt. I do not think that the Senate can go behind that.

Mr. SAULSBURY. I do not desire that this body should send out a commissioner or that they should introduce witnesses upon the floor of the Senate; but the Russian minister resides in this city; if it be a fact he knows of it; he

has information from his Government disclosing all the circumstances of this matter. It will not injure this resolution, it will not spoil the compliment, if compliment it be, to wait for one day until the fact can be ascertained. Now, sir, I am just informed by my friend on my left, the Senator from West Virginia, [Mr. VAN WINKLE,] that the papers stated last evening that the man who made this attempt on the life of the Emperor was a hypochondriac. Here are conflicting statements. It may be that the offender was some crazy man, that does not know what emancipation means; and we are called upon solemnly to send to the Emperor of Russia our regrets at an attempt upon his life by an enemy of emancipation, which, perhaps, when it gets there will be all news to him. What would he think if it was to turn out that the person was not really an enemy to emancipation, but was some crazy monomaniac that attempted his life, as was the man who attempted the life of General Jackson? He would laugh at our folly.

If gentlemen are satisfied to vote in the dark, or if they have information on this subject that satisfies their minds that this was done by an enemy of emancipation, let them so vote. I cannot vote for any such fact. I do not know it; I doubt it. It may be true or it may be false. I will not say that I doubt it. I have no opinion about it. I have seen no evidence of it. The latest news states that the man was a monomaniac, as I understand. It is for this reason that I made the suggestion to the Senate that before a resolution goes solemnly from the Congress of the United States stating a fact, the Congress of the United States ought to be satisfied that the statement is true. That is my object, and my only object.

Mr. HOWARD. Mr. President, I do not see that it is very material to go into an inquiry respecting the particular facts connected with the attempted assassination of the Emperor of Russia. We are acting on the evidence brought to us by foreign journals. That is the best evidence we can have at present; and whether it is in all respects perfectly accurate, I regard as entirely immaterial. That an attempt has been made upon the life of that most excellent and magnanimous prince, Alexander II, of Russia, is, I suppose, beyond all doubt; and I shall, for one, vote for this resolution with a great deal of pleasure. He happens to be one of the very few of the princes of Europe who has maintained his position of firm friendship to the Union and his attachment to the success of our great cause; and I feel, for one, that this resolution is but a fair, reasonable expression of the gratitude of the nation for the high, heroic stand which has been taken by that Emperor toward our own country. I hope the resolution will pass without this amendment. I regard the mere fact implied in the mere reciting part of it as immaterial to the real purpose which we have in view. Our great object is to express our respect for that prince.

Mr. SAULSBURY. I shall say one word more, and then I shall not detain the Senate further on this subject. There have been frequent attempts made in Russia heretofore to assassinate sovereigns, but it has never been alleged on any former occasion that the attempt at assassination was done by an enemy of emancipation or by persons in favor of retaining a portion of the people as serfs. What right have we to assert that this arises from an opposition to emancipation, when it seems to be rather approved in Russia to attempt the assassination of a sovereign?

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Delaware to amend the resolution by striking out the words "by an enemy of emancipation."

The amendment was rejected.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed and the joint resolution be read a third time; it was read the third time and passed.

BILL INTRODUCED.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 310) to change the place of holding the courts of the United States for the northern district of Mississippi; which was read twice by its title, and referred to the Committee on the Judiciary.

APPROVAL OF A JOINT RESOLUTION.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President of the United States had approved and signed, on the 7th instant, a joint resolution (S. R. No. 80) extending the time for the completion of the Union Pacific railway, eastern division.

ASIATIC CHOLERA.

Mr. CHANDLER. The Committee on Commerce, to whom was referred the joint resolution (H. R. No. 116) to prevent the introduction of the cholera into the ports of the United States, have directed me to report it back with an amendment in the nature of a substitute, and I ask for its immediate consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

The PRESIDENT *pro tempore*. The Committee on Commerce report the joint resolution with an amendment to strike out all after the enacting clause and insert in lieu thereof a substitute. The substitute alone will be read unless the reading of the original resolution is asked for by some Senator.

The Secretary read the words proposed to be inserted in lieu of the original resolution, as follows:

That it shall be the duty of the Secretary of War, with the cooperation of the Secretary of the Navy and the Secretary of the Treasury, whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy, to cause a rigid quarantine against the introduction into this country of the Asiatic cholera through its ports of entry whenever the same may be threatened by the prevalence of said disease in countries having direct commercial intercourse with the United States.

Second. That he shall also enforce the establishment of sanitary cordons to prevent the spread of said disease from infected districts adjacent to or within the limits of the United States.

Third. That said Secretaries are hereby authorized to use the means at their command to carry out the foregoing provisions.

Fourth. That it shall be the duty of the Secretary of State to open a correspondence with the foreign Powers whose proximity to the United States will endanger the introduction of Asiatic cholera into this country through their ports and territory, soliciting their cooperation with this Government in such efforts to prevent the introduction and spread of said disease.

Mr. CLARK. That resolution is a very general statement, and I shall be glad to hear from the chairman of the Committee on Commerce what is proposed to be done under it, and what is the plan, if there is any, before the committee.

Mr. CHANDLER. The intention is to establish a uniform system of quarantine throughout the whole country. The proposition is drawn with very great care, and is deemed by the most eminent physicians of the United States to be an efficient plan. We have had before the committee some of the most eminent surgeons of the country; among others, the quarantine surgeons of New York; and the intention is to make the system uniform throughout the United States, and place power in the hands of the Secretaries to enforce it.

Mr. ANTHONY. I ask the Senator from Michigan the meaning of that part of the resolution which declares that the Secretary of War and the Secretary of the Navy shall use the means at their command to enforce these provisions. Does that mean that they shall use military power, the Army and the Navy, to enforce quarantine?

Mr. CHANDLER. They are to employ the vessels at their command, and all the powers at their command may be used, if necessary. I suppose that in the case of New Orleans, or any southern port where soldiers are employed, and it may be necessary to use them as a guard, they could be used under this resolution. In

other words, all the powers at the command of the Secretaries may be used at their discretion.

Mr. ANTHONY. Can they declare martial law?

Mr. CHANDLER. They may use any power requisite to stop the cholera.

Mr. ANTHONY. I would rather have the cholera than such a proposition as this. [Laughter.]

Mr. CLARK. It seems to me that this resolution is nothing more than making the Secretary of War and the Secretary of the Navy and others a board of health for the whole country, with the resources of the whole country at their command to carry it out. I am very slow, the first morning that the report comes to us, to vote for any such resolution. I think we had better consider it. We had better have some plan. I think the resolution had better go over until the committee can tell us more about it. It may be right; it may be that something will be necessary to be done to establish some uniform system of quarantine; but I think the system should be pretty well developed before we place such great powers in the hands of any person. I think it is hardly necessary to do so. There is certainly no such haste about it that we need pass this resolution on the morning it is reported, without some consideration or some information as to what the plan is. It is said the resolution is drawn with very great care; and it may be as to its wording; but nobody seems to be able to tell us what the scope of it is, or what is contemplated. It may be a uniform system of quarantine, but what kind of a quarantine, where established, how rigid? What do they propose by it? I doubt whether it is desirable. It is suggested to me that these Secretaries can do anything under the resolution. I have no doubt they can, but I doubt whether it is desirable to give them that power at once. I think we had better consider it.

Mr. CHANDLER. The Senator has had this identical resolution on his desk since the 6th day of March last, and if he does not know anything about it, it is time that he did. If the resolution is of any use at all, it is of immediate importance. If it is not of any use, kill it. We have had, as I said, before the Committee on Commerce the most eminent surgeons in the United States, and on consultation with those eminent surgeons and in consultation with the heads of Departments we have introduced this resolution. Put it over if you like; but if it is of importance at all, it is of importance now. The cholera is in New York harbor to-day. I do not think it will land; I hope not; but it may. You can wait a month; you can wait until the middle of July; you can wait until next December. If the Senator could not learn what this resolution means between the 6th of March and the 8th day of May, it takes him a great while to learn. That is all I have to say about it. It has lain on his desk the whole time ever since the 6th of March.

Mr. CLARK. I have always found that when a man forsakes his argument to attack a person he confesses the weakness of his cause. It may be true in this case. Now, it may be that this resolution has lain upon my desk, and it may be that it has been lying on the desk of every Senator in the Chamber; but you know, Mr. President, and all Senators know, that it is not usual for Senators to pick up the bills and resolutions that are laid on our tables, and examine them *seriatim*, and we do not care to see what their provisions are until our attention is called to them by some committee that reports upon them, and then, when a bill or resolution comes up and is read at your table, we listen to it, we hear its provisions, and we begin to think about it. It is not strange that after a man hears it read at the table in that way, when he sees that it has such sweeping powers that it goes from one end of the country to the other, and puts all the resources of the Government into the hands of this commission, he should say, "You had better be careful, you had better wait."

Now, the Senator from Michigan may desire

to push this resolution through, and for aught I know he may be in such fear of the cholera being in New York that he thinks he can prevent it by a sanitary regulation of this kind; but I do not quite so apprehend, nor do I apprehend that we are in so much danger that we should be justified in passing a resolution of this kind for any reason of that sort.

The Senator says that if we choose to put it over, we can do so. That is very important information; it is very important information that the Senate can put a measure over when they choose. I had learned that some time ago. I supposed they could do so if they thought well, even in regard to a measure which was reported from the Committee on Commerce. The suggestion I made was, whether it had not better lie on the table for one day until we can have some development of the plan, until we can consider the scope of what is proposed, and see what is best to be done. I am not alone in that particular, and the Senator need not show quite so much feeling in regard to me, because I heard Senators around me say, "It is better to put that over and consider it." I have no personal choice about it; I only desire that we should not legislate in such hot haste upon such grave and important matters.

Mr. CHANDLER. As I said a moment ago, the Committee on Commerce have had this subject under consideration for more than two months; they have consulted many eminent surgeons; they have thoroughly considered the joint resolution; but in regard to this, as in regard to many other projects that came before the body, we met with opposition from men who had given the subject no consideration. It is under the control of the Senate; if the Senate sees fit to postpone or to defeat it, it is a matter of no concern to the Committee on Commerce or to myself any more than it is to any other man in the United States. As I have said before, we have consulted the most eminent surgeons in the United States; we have had before us the health officers from New York, Baltimore, and Philadelphia; the provisions of the joint resolution have been thoroughly considered; and now the Senator from New Hampshire wants some plan proposed. We have proposed a plan. We propose to place this power in the hands of the heads of Departments, to be exercised at their discretion. I simply ask for a vote on the subject, and it is immaterial to me whether the Senate postpones it till to-morrow or kills it. I only say we have thoroughly considered it.

Mr. HARRIS. I hope this measure will not be acted upon to-day. As I understand, its effect will be to bring on a collision between the Federal authorities and the State authorities. I suppose if it goes into operation its effect will be to supersede the quarantine regulations of the State of New York over the harbor of New York; to take the power of the State of New York out of the hands of the officers appointed by that State, their board of health, their officers of quarantine, their efficient regulations, and place them all in the hands of the Federal authorities. If that is to be the effect of the joint resolution it had better be considered a little before it is adopted. I move that it be postponed until to-morrow.

Mr. CHANDLER. I hope not. I hope it will be acted upon now, and either rejected or passed.

Mr. HOWE. Perhaps it is not very important whether the Senate acts upon this question to-day or to-morrow; but before the Senate votes to postpone action upon it at all, I should like to make a suggestion. I do not think it will be the practical operation of this joint resolution to bring about a collision between the authorities of the United States and those of any State or any municipality. We understand that there is a general desire that there should be a uniform system of quarantine established; that is, a system of quarantine established which should be uniform at all ports and at all points of entrance. It is said that an effective quarantine before the harbor of New York is really

of no considerable practical value to New York itself, if the ports of Philadelphia and Boston and New Haven are left without any system of quarantine. And it is said, too, that quarantine regulations established for all these ports do not protect the United States nor those several cities against the introduction of those diseases which are said, upon the authority of medical gentlemen, to be portable diseases. They pronounce that this disease of cholera is a portable disease, and can be transferred from one point to another, and although you may establish a most effective quarantine before each of the ports to which I have alluded, yet it may be brought into some port on the Gulf, some port on the Mississippi, or over some railway connecting us with the Canadas. Now, it is very evident that the authority of the State of New York is confined to her own limits in establishing these regulations, and however effective they may be within those limits, they are useless, unless the regulations are just as effective in other States.

Mr. GRIMES. Permit me to make an inquiry. Is it contemplated by the Committee on Commerce that there shall be quarantine established on the various railroads connecting this country with Canada, at Niagara falls, at Portland, and at the other termini of these roads; that there shall be the same quarantine regulations established at these various points that are established at New York.

Mr. HOWE. Perhaps not that every provision shall be made in a small port as in a large port, but there shall be the same system; that is, the regulations adopted to keep a suspected vessel out of New York shall be adopted to keep a suspected vessel out of every other port, but the measures necessary to protect a small port against the entrance of a suspected ship may be different at different points. I do not know how that is. It is very evident that if we are to have a uniform system, it must be provided by the national authority, or by compact, agreement between the different States or different municipalities in the several States. Whether the United States will undertake to secure this uniformity, is a question that we have got to pass upon. Something we have done in that direction already. We have passed certain bills which tend to charge us with the care of the health of the United States.

Mr. GRIMES. What are they?

Mr. HOWE. Such as appropriating certain vessels of the Navy to this work, dedicating certain ships for this purpose. If you will have a uniform system you can only have it by the national intervention. That seems to me very certain; and medical gentlemen agree in the testimony that a system which is not uniform is of no sort of value; and it was said to the committee that if the United States would undertake the work of providing a uniform system for all its ports and all its avenues our neighbors in Canada would conform to it and establish just such an effective system there, and the same system that we have here, so that there shall be no favoritism shown to one port over another, either in the different States of this country or in the neighboring States. I do not understand that any arrangements have been made with our neighbors to the south in Mexico; and if no arrangement can be made with them we shall have to protect our southern border when it becomes necessary.

Mr. GRIMES. I think I am not open to the rebuke of the Senator from Michigan, that I have not examined this bill. I read it several days ago, and I am as ready to vote upon it now as I shall be at any future time; and if the committee are anxious that it should be taken up, I am willing that it should come up and I am prepared to vote against it. I do not recognize the obligation on the part of Congress that because certain physicians in the city of New York believe that it is necessary that there should be a cordon established in order to keep the cholera away from this country, therefore we shall be justified in abandoning all the powers of Congress into the hands of a commission and in conferring upon the Secretary of

the Treasury and the Secretary of War and the Secretary of the Navy all control over the military arm of the Government and over the Treasury, which this bill virtually does. I addressed an inquiry to the Senator from Wisconsin to learn from him, if I could, what was the full scope of this measure. I understand that it confers upon these officers—

Mr. HOWE. I did not understand that to be the inquiry.

Mr. GRIMES. I understood from the Senator from Wisconsin that this bill conferred the power on this commission, these three Secretaries, to establish quarantine regulations similar to those they have in New York, although not to so great an extent perhaps, because to such an extent it might not be necessary, anywhere on this continent. The bill does not require that the Government shall adopt the quarantine officers of the State of New York. Oh, no; they are to be new appointees, appointed under this law. The organization of the city of New York or of the State of New York is to be entirely ignored and is ignored by this bill. We are to have another batch of office-holders, innumerable in number if it is to be extended uniformly over the country according to the idea of the Senator from Wisconsin, which I understand is the idea of the committee.

I have not any such fear of the cholera as to induce me to vote for a bill like this. I believe that it will be attended with infinitely worse consequences to the country than the most malignant type of cholera that ever prevailed upon this continent. As my friend near me says, one thing would certainly result from it, and that is that it would give the cholera to the Treasury of the United States if it should be enacted into a law. [Laughter.]

Mr. President, it may perhaps be owing to the fact that I have no very great fears of the cholera, having had some experience in regard to it from having lived in a town with it three years, that I am not willing to break down all the barriers around the Treasury, which some gentlemen seem to be disposed to do. There is nothing, according to the provisions of this bill, as I understand it, that it does not authorize the three Secretaries to do. I trust that the time has gone by when we are going to be called upon to legislate in the manner in which this bill proposes. During the prevalence of the war we drew to ourselves here as the Federal Government authority which had been considered doubtful by all and denied by many of the statesmen of this country. That time, it seems to me, has ceased and ought to cease. Let us go back to the original condition of things, and allow the States to take care of themselves as they have been in the habit of taking care of themselves.

Mr. HOWE. Take care of their own cholera!

Mr. GRIMES. Yes, sir, take care of their own cholera. My State will take care of its cholera. I do not want to have a cordon, as they call it, against the cholera established between my State and the city of Chicago. I do not want officials, either of the Treasury or of the Army or the Navy out there to prevent a citizen from traveling from one place to another, either on the lakes or on the Mississippi river, which authority is conferred by the provisions of this bill. In my locality we are familiar with this disease; we know that it has not got such terrors as it seems to have to gentlemen who are not familiar with it, and we do not want to have our liberty restrained, nor do we want to have our privilege of locomotion restrained, nor do we want to have the Treasury afflicted by any such bill as this.

Mr. COWAN. I can only add to what has been so well said by my eloquent friend from Iowa, that in the present condition of the medical science nothing can be more absurd than this legislation. If there is any one thing I think well settled, it is that cholera is not contagious in that sense of the word which would enable you by means of some legislative enactment to keep it out of the country. I think for the credit of the body in that respect we ought

to avoid this mode of dealing with that which is now pretty well understood. I should just as soon think of legislating against coughs and colds as against cholera. As has been said, we have large experience in it now in this country; I have been myself two or three times in places where large numbers of people were dying of cholera; and I think the universal sentiment of the profession, the learned sentiment of the profession, is now that no kind of quarantine regulations can prevent the appearance and prevalence of this disease. It is an epidemic instead of a contagion. It exists in the air; and hence there was great propriety in the jest of some Senator the other day who proposed to refer the whole subject to the ventilation committee. If you could prevent the introduction of that air from which the disease arises, if you could prevent it from traversing its circle around the world every sixteen or eighteen years and from coming into our atmosphere, perhaps something might be done; but I am satisfied no kind of regulation other than that of cleanliness and care when the poison is in the atmosphere will have the slightest effect to stay the ravages of the disease.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 280.

TAX ON PETROLEUM.

Mr. COWAN. Before the Senate proceeds with the unfinished business of yesterday I desire to ask for the passage of a joint resolution which is now upon the table. Yesterday a joint resolution was received from the House of Representatives and laid upon your desk, sir, to take off the internal revenue from crude petroleum. It was not referred to the Finance Committee regularly and formally, but the matter was before that committee this morning, and was fully considered. I ask now that the joint resolution be referred to the committee, and that I have leave to report at once that the committee have considered it favorably and recommend its immediate passage; and I ask that it be put on its passage, as I think the matter is of great importance to the production of the oil regions, particularly of my State.

At the time when this tax was imposed, petroleum was worth ten or eleven or twelve dollars a barrel. At that time it was hoped that it would retain these prices in competition with the production of foreign oils, but that hope has not been realized. From a variety of causes the price has been reduced from ten to about three dollars, and when the producer pays the tax, and pays, as in a great many instances he has to do, a great expense for machinery, where the well is not a flowing well but pumping and falling, it leaves him nothing, and the wells are being abandoned, and the whole region is in a condition of desolation and panic. They are liable to such accidents as very often destroy the proceeds of months in a single night by fire; and those fires are sometimes the work of incendiaries, growing out, it is said, of changes which have taken place in carrying on the business, throwing many persons out of employment. For instance, it is alleged that a very great amount of oil has been consumed recently by carters, draymen, wagoners, and others, who were thrown out of employment by the introduction of pipes to carry the oil to the depositories, some of those pipes being seven or eight miles long.

The expiration of Young's patent in England and Scotland for procuring the petroleum from Scotch shales has reduced prices there, and it is utterly impossible for our people now to compete with those oils, they bearing the burden of this tax. We must consider further that the imposition of a tax upon this commodity is itself against all principle. It goes into the families in every part of the land; it is an article of prime necessity, an article as necessary as air and food to life; and I believe some political economists always, or at least since the days of Adam Smith, have recommended that articles of that character be freed

from the imposition of burdens of this kind unless in case of absolute necessity; and upon that principle the producers think they are entitled to the indulgence of Congress for this commodity. If it is refused, the revenues will not be the gainer and the people through those regions will be very largely the losers.

I may remark another thing, Mr. President, that just at this season of the year is the time when new wells are put down, and in the condition in which the business is now found nobody will embark in it; there is a stagnation all through that region of previous activity, which is distressing indeed to look upon; and without new wells, and without the investment of the capital necessary to put them down, the production of oil ceases to be a matter of any moment to anybody; because there is no well, no matter how good a one it may have been at the outstart, how freely it flowed or how profusely it could be pumped out, that is not in time exhausted; and hence to procure the commodity new wells have to be continually sunk and followed up by the investment of very considerable amounts of capital. This is now stopped entirely, owing principally to the imposition of a tax of one dollar a barrel upon oil. I hope, then, the Senate will concur with the House of Representatives in relieving from this burden.

The PRESIDENT *pro tempore*. With the permission of the Senate, the Chair will lay before the body the joint resolution from the House of Representatives referred to by the Senator from Pennsylvania.

The joint resolution (H. R. No. 137) to provide for the exemption of crude petroleum from internal tax or duty, and for other purposes, was read twice by its title.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Finance.

Mr. CONNESS. I hope it will not be referred. I trust the Senate will proceed to consider the resolution now.

The PRESIDENT *pro tempore*. It requires unanimous consent to consider it at the present time.

By unanimous consent the joint resolution was considered as in Committee of the Whole. It proposes to exempt from internal tax or duty paraffine oil not exceeding in specific gravity thirty-six degrees Baumé hydrometer, the product of a residuum of distillation, crude petroleum, and crude oil the product of the first and single distillation of coal, shale, asphaltum, peat, or other bituminous substance.

Mr. CONNESS. I beg to say one word on the motion that I have made to proceed to the consideration of this measure now. When the question was before the Senate hitherto, and this tax was imposed, I for one was not in favor of it. Living as I had lived for many years in a mining country, where perhaps one in a hundred enterprises succeeded, I understood well the nature of the enterprise of seeking for oil. I believed then that the imposition of this tax would prove precisely what it has proven to be—a tax rather upon effort than upon property. Such has proved to be the result, and I hope that no person will object to remitting it, so that this great interest may be relieved from a burden which is really intolerable to those engaged in it.

The joint resolution was reported to the Senate, ordered to a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes, was read twice by its title, and referred to the Committee on the Judiciary.

USE OF THE HALL.

Mr. HOWARD. I move to take up Senate bill 109.

Mr. SHERMAN. I hope that will not be

done. I desire to have the unfinished business of yesterday disposed of.

Mr. HOWARD. I do not think this bill will take much time.

Mr. SHERMAN. I think we can dispose of the Post Office appropriation bill, which is the unfinished business of yesterday, in a little while. The debate is exhausted, I imagine, and we can take the vote.

Mr. HOWARD. Very well.

The PRESIDENT *pro tempore*. The unfinished business of yesterday is the bill (H. R. No. 280) making appropriations for the service of the Post Office Department for the fiscal year ending the 30th of June, 1867.

Mr. WADE. I ask the Senate once more to take up the resolution granting the use of the Chamber to Mrs. Walling. I suppose there will be no debate upon it.

Mr. SHERMAN. Let us take a vote on this question.

Mr. WADE. On what question?

Mr. SHERMAN. The question debated yesterday.

Mr. WADE. This will not take a moment to decide it one way or the other. I ask the unanimous consent of the Senate to take it up. I only desire to have a vote upon it. If there is any debate upon it, I will let it go over.

The PRESIDENT *pro tempore*. The Senator from Ohio asks the unanimous consent of the Senate to take up the resolution granting the use of the Chamber to Mrs. Walling for the purposes of lecturing. No objection being made, the resolution is before the Senate, and the question is, Will the Senate reconsider its vote rejecting the resolution?

Mr. MORGAN. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. WADE. I barely wish to say this before the vote is taken on the reconsideration: this lady, I believe, was in Texas when the war broke out. She has three young children dependent on her for support. She lectures, as I understand, very much to the acceptance of the people, and she endeavors to support herself in this way. She is exceedingly anxious that she should have an opportunity to lecture here at once, more, I believe, on account of the prestige it will give her to have this Hall than for any other reason. I hope this privilege will be granted to her. That is all I wish to say about it.

The question being taken by yeas and nays, resulted—yeas 19, nays 11; as follows:

YEAS—Messrs. Anthony, Chandler, Doolittle, Edmunds, Fessenden, Guthrie, Howard, Howe, McDougall, Morrill, Nesmith, Nye, Poland, Pomeroy, Riddle, Sumner, Wade, Williams, and Wilson—19.

NAYS—Messrs. Buckalew, Davis, Grimes, Harris, Henderson, Morgan, Norton, Sherman, Trumbull, Van Winkle, and Wiley—11.

ABSENT—Messrs. Brown, Clark, Conness, Cowan, Cragin, Creswell, Dixon, Foster, Hendricks, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, Ramsey, Saulsbury, Sprague, Stewart, Wright, and Yates—19.

So the motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. The question now is on the adoption of the resolution.

Mr. WADE. I move to amend the resolution by striking out "Monday evening, the 7th instant," and inserting, "Thursday evening, the 10th instant."

The amendment was agreed to.

Mr. DOOLITTLE. I should like to have the resolution read, as amended.

The Secretary read it, as follows:

Resolved, That the use of the Senate Chamber be granted to Mrs. M. C. Walling for the purpose of delivering therein an address on Thursday evening, the 10th instant; the floor of the Chamber to be for the exclusive accommodation of members of the Senate and House of Representatives; and that hereafter the Senate Chamber shall not be granted for any other purpose than for the use of the Senate.

The resolution, as amended, was adopted.

POST OFFICE APPROPRIATION BILL.

Mr. SHERMAN. I now call for the order of the day.

The PRESIDENT *pro tempore*. The unfinished business of yesterday, being the bill (H. R. No. 280) making appropriations for the ser-

vice of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, is now before the Senate, the pending question being on the amendment of the Senator from Illinois, [Mr. TRUMBULL.]

Mr. MORRILL. I move to amend the amendment of the Senator from Illinois by striking out the last clause, I think it is, which provides for a report of the cause of removal to the Senate.

The PRESIDENT *pro tempore*. The Senator from Maine moves to amend the amendment by striking out the words "the cause, in case of removal, to be reported to the Senate at its next session;" so that the amendment, if amended, will read:

And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services unless such person be commissioned by the President to fill up a vacancy which has happened during the recess of the Senate, and since its last adjournment, by death, resignation, expiration of term, or removal for acts done or omitted in violation of the duties of his office.

Mr. HOWARD called for the yeas and nays on the amendment to the amendment, and they were ordered.

Mr. FESSENDEN. I wish to say a single word on this subject. I intimated the other day that as the amendment stood originally I had made up my mind to vote for it, and I gave some reasons why I thought we might with propriety pass something of that description with reference to what has been done heretofore, which I deemed to be very improper; but I could not vote for it with that clause in it. My colleague now proposes to remove that objection, so far as it existed to that particular clause, by striking it out. I shall vote to strike it out, because I think if the amendment is to be passed at all it would be much better without that clause, and if that is stricken out it would take away the most offensive part of it.

But I desire to say that on further reflection I have come to the conclusion not to vote for it as an amendment to this Post Office appropriation bill, whatever particular form it may assume, and for a reason which I will state. If this was very important—and I deem it important that something of the kind should be done—I would vote for it as an amendment even to an appropriation bill if we were at the very last of the session, and we had not time to legislate on the subject in another way; but I deem the suggestion made by the honorable Senator from Missouri [Mr. HENDERSON] in relation to a bill upon the subject, which might be well considered and digested, to be the proper course to be taken with regard to it. Undoubtedly this is a matter which needs consideration, because we have felt at various times that there were evils growing out of it, but it should be done with consideration, and embrace the whole subject. We have ample time to do it left us. We are not at the heel of the session. The thing may be well adjusted and well considered; and for a well-considered bill I should be very willing to vote, for the reasons that I gave the other day.

But I do not think it wise in any point of view, either as a matter of general legislation or, if Senators please, in a party point of view, to put an amendment of this sort, at this time and under existing circumstances, upon an appropriation bill, more especially upon the Post Office appropriation bill, which may very much embarrass it, and with which the dealings of the country are very much interested. If I had had any doubt on the subject the argument that was made by my friend who has charge of the bill, [Mr. SHERMAN,] and whom I feel in some measure bound to follow in relation to it, was such as to convince me that the course which I have now suggested is the proper course to take in relation to it.

Under the circumstances I have deemed it proper to make this explanation, as otherwise I might be considered as acting in the face of what I remarked the other day; and that is that without this addition to it I should be disposed

to vote for this proposition. As it is, I think it had better be struck off the bill altogether.

The Secretary proceeded to call the roll.

Mr. GRIMES (after first voting in the affirmative) said: Yesterday I paired off on this bill and all the amendments to it with the Senator from Connecticut, [Mr. DIXON.] I understood that the pair only extended to yesterday; but as he is not here to-day it is possible that he may understand that it extends beyond yesterday. I therefore desire to withdraw my vote. I voted "yea." I do not know how he would vote if he were here.

The PRESIDENT *pro tempore*. Shall the Senator from Iowa be permitted to withdraw his vote? No objection being made, his vote will be erased.

The result was announced—yeas 22, nays 16; as follows:

YEAS—Messrs. Anthony, Buckalew, Clark, Doolittle, Edmunds, Fessenden, Foster, Harris, Lane of Kansas, McDougall, Morgan, Morrill, Nesmith, Norton, Riddle, Saulsbury, Sherman, Stewart, Van Winkle, Wiley, Williams, and Wilson—22.

NAYS—Messrs. Chandler, Conness, Davis, Guthrie, Henderson, Howard, Howe, Lane of Indiana, Nye, Poland, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, and Wade—16.

ABSENT—Messrs. Brown, Cowan, Cragin, Creswell, Dixon, Grimes, Hendricks, Johnson, Kirkwood, Wright, and Yates—11.

So the amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. The question now is on the amendment as amended.

Mr. HENDERSON. I hope the Senator from Illinois will now withdraw the amendment. I think there is nothing in the amendment now except the admission of the power of the President to make removals, and I certainly will not vote for it.

Mr. HOWARD. The reason which the honorable Senator from Missouri has for voting against this amendment is the same reason that will prevail with me. I regard it as a plain recognition by Congress, or by the Senate at least, of the absolute and unconditional power of the President to make removals from office, and I cannot concede such a principle.

Mr. HOWE. I should like to have the amendment reported as it stands now.

The Secretary read as follows:

And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services unless such person be commissioned by the President to fill up a vacancy which has happened during the recess of the Senate, and since its last adjournment, by death, resignation, expiration of term, or removal for acts done or omitted in violation of the duties of his office.

Mr. HOWE. I think there is enough left to vote "yea" upon it, and I believe I will stick to it.

Mr. DOOLITTLE called for the yeas and nays on the amendment as amended, and they were ordered.

Mr. TRUMBULL. I think as the proposition has now been amended, striking out a part of the clause in reference to removals, it would be better to strike out all about removals and present it in the form in which it was originally offered. The proposition as originally offered was refusing to pay to any person put in office in a vacancy which existed during the session of the Senate. It is clearly not within the constitutional power of the President to fill a vacancy which does not occur during the recess of the Senate. I prefer, as a part of the amendment has now been stricken out, to put it in that form, and let us see whether the Senate is prepared to vote to pay men who are put into office without the consent of the Senate, when the vacancy existed while the Senate was in session, and it could have been consulted; in other words, whether it is proposed to repeal the existing law.

Mr. SHERMAN. I will ask my friend from Illinois if the law of 1863 does not cover that very case.

Mr. TRUMBULL. It does not cover all the cases.

Mr. SUMNER. Then I suggest to the Senator to modify his proposition.

Mr. TRUMBULL. I will modify it in that form by withdrawing the last clause.

Mr. HENDERSON. The Senator will reach it by striking out the clause "or removal for acts done," &c.

Mr. CLARK, (to Mr. TRUMBULL.) Move to strike out and insert your original proposition.

Mr. TRUMBULL. Yes, sir; I will move to strike out the amendment as it now stands and insert the original proposition as printed:

Sec. —. And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall before confirmation by the Senate receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term, during the recess of the Senate and since its last adjournment.

Is the pending amendment now under my control? If it is I withdraw it.

The PRESIDENT *pro tempore*. It is not, having been amended by the Senate.

Mr. SHERMAN. Before the question is put, I wish to show the precise legal meaning of this amendment. The Senator has read it, and I ask him to say whether in case of removal after the adjournment of the Senate, the amendment would not still prevent payment to the officer who takes the place of the person removed. Undoubtedly it does, and therefore it is subject to all the arguments that were urged against it yesterday. The amendment as it now stands only provides that in case of a vacancy caused by death, resignation, or expiration of term during the session of the Senate, the President shall have the power to fill the vacancy; but if the vacancy happens by a removal made during a recess of the Senate, then the person who is appointed to fill the vacancy, under the amendment as it now stands could receive no compensation until the Senate acts upon his nomination. It is therefore subject to all the objections I have named, and indeed more, because the Senator, in order to obviate some of the objections named endeavored to qualify the amendment by providing for certain cases of removal for cause. But take the case of a defaulter who is removed after the adjournment of the Senate, and some one is appointed to fill his vacancy; that is not a vacancy caused by death, resignation, or expiration of term, but it is a vacancy caused by removal for cause. In such a case as that, the incumbent who is legally appointed to a vacancy caused by a removal would not be able to draw his salary. I therefore trust that the Senator from Illinois will adopt the suggestion of the Senator from Missouri, and withdraw this amendment, and let the subject be referred to the committee of which he is chairman, to frame a law on the subject. There is no difficulty in doing so. This amendment is still subject to all the objections that have been made to it.

Mr. TRUMBULL. I have two answers to the Senator from Ohio. The first is, that there is no such thing as a vacancy in the case that he speaks of. A removal is not made and a vacancy occasioned, and then a person appointed; the President does not remove and then appoint, but he appoints to the office, and until the man is commissioned and qualified, the office is not vacant. That is the way where the removal is made by the appointment of a new man. It is not done by removing an officer and leaving the position vacant. Now, where a nomination is sent to the Senate—and it is occurring here every day—A B is nominated for marshal in one of the districts of Ohio in place of C D removed. The Senator from Ohio is aware that C D goes on exercising the duties of that office, and is not out of the office until A B is confirmed and gets his commission and qualifies; and does not turn over the papers of his office until then. The removal is consequent on the confirmation and acceptance of the office by his successor. If we reject the new, the old marshal continues and is not out of office at all. That is an occurrence which happens here daily. That is not a vacancy contemplated by the Constitution.

It is the same way in the recess of the Senate. Suppose the President thinks proper to remove the postmaster at Cincinnati. How does he do it? By the appointment of another person to that position, and the man in the position at Cincinnati continues to exercise the duties until his successor is commissioned and qualified, and then the papers are turned over to him. In the case of post offices, the Post Office Department—I think there is a law to that effect; I am not very familiar with the statutes on that subject—have a way of sending out a special agent, sometimes without any appointment at all as postmaster, to take charge of the office; but the mode of creating a vacancy by removal is by the appointment of another person to the office. That is the practice. That is one answer that I have to make to the suggestion of the Senator.

In answer to the suggestion which has been made during all this discussion in reference to this measure, that it should not go on an appropriation bill, but that we should have a general bill on this subject, I beg leave to say that no such bill will ever become a law. That is very clear, and everybody, I think, in the Senate must be fully aware of it. There are differences of opinion upon that subject which I am quite satisfied would prevent the enactment of a law. The Senator from Maine is for such a statute made perfect so that he could vote for it; but when it was perfected and made perfect so that the Senator from Maine could vote for it there would be a great many members of the Senate, I apprehend, who would not vote for it in that shape. I have had some conversation with Senators, and I am quite aware, I think, from the conversations I have had, that no general bill limiting and defining the power of removal from office by the President would receive even the sanction of a majority of the Senate, and if it did of a majority I am quite sure it would not of two thirds, and unless it had two thirds there would be very little probability of its ever becoming a law.

The constitutional question is not involved in the payment of an officer. Every one admits—the Senator from Ohio admits—that we may control the money of the Government; that we may appropriate to the payment of officers what we please, and when we please. I believe the practice of the Government is to pay most of its officers quarterly. I am not sure about that, whether all the salaries are paid quarterly or annually. This provision that is proposed would not prevent the salary from being paid annually. It would prevent the salary from being paid for a short time. As the law now stands I think it will be found that salaries are never paid oftener than quarterly. Perhaps I ought not to say never; but I think the general practice of the Government is to pay salaries quarterly. I may be in error, though, in reference to that. I am not sure what the period is, but if it is quarterly they have to wait three months for it, and the longest recess that ever takes place—

Mr. FESSENDEN. Some are paid monthly.

Mr. TRUMBULL. Are the judges paid monthly?

Mr. SHERMAN. All revenue officers are paid monthly, and postmasters quarterly.

Mr. TRUMBULL. How are foreign ministers paid?

Mr. SUMNER. Quarterly.

Mr. TRUMBULL. I understand foreign ministers are paid quarterly and postmasters quarterly. I presumed that was the general law, though I had not referred to it recently with a view of ascertaining how that might be. The longest possible period they would have to wait would be nine months. The average period when Congress is not in session is not over six months; and taking the average, it is possible, if an officer was appointed the day after Congress adjourned, that he might have to wait three quarters for his salary instead of waiting one quarter. That would be no very great hardship upon any one. As the law now stands, he may have to wait a quarter for his salary;

so that the proposition, in the form in which it is pending, involves no constitutional question whatever. It is certainly competent for Congress, if it thinks proper, to declare that all salaries shall be paid annually or semi-annually. Would the Senator from Ohio think that a very great hardship? I do not suppose there would be any great controversy if a proposition was made in the Senate to pay salaries every six months or every nine months instead of every three months, if it was found more convenient in the transaction of the business of the Government.

That is all that this proposition amounts to, and the object had in view is simply to obtain the advice and consent of the Senate upon these appointments, which is the spirit of the Constitution. The intention of the framers of the Constitution was that officers should be appointed by the President, by and with the advice and consent of the Senate. Whenever that is not done, it is an exceptional case. There are some exceptional cases. What are they? They are cases where vacancies happen during the recess of the Senate. It is not proposed by this amendment to interfere with those exceptional cases. The framers of the Constitution thought they were the only cases it was necessary to except from the general rule which they prescribed for the appointment of officers, which was by the action of the President and the Senate conjointly. That is all there is to this amendment. I have no sort of feeling about it. As I believe I have once before remarked, I was led to take some part in it in consequence of the amendment first proposed by the Senator from Missouri, and in endeavoring to aid in perfecting that amendment. It is for the Senate to determine.

Mr. SHERMAN. I certainly will not prolong this debate, because nothing new is elicited by it. I will simply refer to the last point stated by the Senator from Illinois, that this does not operate as a great hardship. It does operate as a great hardship. For instance, suppose the Senate should consider the nomination subsequently, when it is before them, and should reject it, then the man is without his pay entirely, and we have the spectacle of a public officer holding an office, performing the duties of that office, and getting no pay. Take the case of a Cabinet minister. Under this provision, if a man is appointed a Cabinet minister during the recess, he cannot get any pay until we meet at the next session, with a prospect over him of being rejected. A poor man could not hold the office, requiring a large expenditure. It is not the mere delay of payment. If it was certain that he would get the pay when the Senate acted, he might possibly borrow the money and pay his expenses; but this amendment provides that no money shall be paid out of the funds appropriated unless he shall be confirmed by the Senate. That certainly is a great hardship, for a man to hold an office the pay of which is contingent on the action of a political body.

Then again the Senator says that the amendment, as it now stands, does not effect anything more than to prevent the President from unconstitutionally filling a vacancy that occurs during the session of the Senate. That certainly is not the meaning of it. It provides that if a vacancy is caused by any other reason than death, resignation, or expiration of term, it shall not be filled until the incumbent is confirmed. Take the common case of a removal. Suppose after this session is closed the President should see fit, for good cause, to remove an officer. He may remove him. That is one act. He may appoint another. That is another act.

Mr. TRUMBULL. Is that ever done?

Mr. SHERMAN. I cannot say that it is ever done, but the act of removal and the act of appointment are separate and distinct things. It is the usual practice to appoint a new incumbent when you make a vacancy; but the vacancy may be made and then the new appointment.

Mr. TRUMBULL. That was the very point

that I made, that the vacancy is not made until the new incumbent is appointed. Is not that the universal practice? And the vacancy does not occur if the new appointment fails to be confirmed.

Mr. SHERMAN. The Constitution provides very clearly that the President shall have power to fill up vacancies that may happen during the recess of the Senate. The vacancy must first happen; but how? This amendment points out three ways by which it may happen—death, resignation, or expiration of term. All of them must be before the appointment. Now, add to that the other cause of vacancy, a removal—

Mr. TRUMBULL. Is that a vacancy?

Mr. SHERMAN. Certainly, it is a vacancy caused by removal; so that it seems to me we ought not to deceive ourselves with the language. Indeed the proposition as it now stands is broader than it was before, when we voted upon it yesterday; that is, it does not provide for the case of a removal for cause. I hope we shall come to a vote upon it and vote it down.

Mr. STEWART. I think I understand the point intended to be made by the Senator from Illinois, but I do not think it is well taken. He says that an appointment to fill the place of an officer removed is not an appointment to fill a vacancy, for the reason that the vacancy does not occur until after the appointment has been confirmed, if I understand him correctly. Now, I submit that the President cannot fill the office unless a vacancy occurs at the same time, because if the incumbent remains in the office the appointee cannot fill that office. Then he is appointed for the purpose of filling a vacancy which shall occur, although it may not be in existence at that particular moment, by reason of removal which is to take place. I do not think it matters whether that vacancy exists *in present*, or whether it is to be created by a subsequent removal; the practical operation is the same, so far as I can see.

Mr. SUMNER. There seems to be an abuse that has grown up recently which all have recognized in the course of this debate, and I believe there is no one who is not willing to apply a remedy; I mean the irregular exercise of the appointing power by the President during the recess of the Senate; and there are at least two different classes of cases in which that irregular application of the appointing power appears. The first class is where offices have been left vacant by the Senate at the time of its adjournment, and yet the President after the adjournment has proceeded to fill them up. It is a mild expression to say that the course of the President under such circumstances is irregular. I insist that it is positively wrong, that it is a departure from his duties, and an infringement of the rights of the Senate as a coordinate branch of the Government. All will agree that that class of cases may be treated under the head of abuse. I insist that it is our duty if possible to apply a remedy. I think all who hear me will agree that it is our duty if possible to apply a remedy.

Then there is another class of cases, and that is, where the President, to gratify, perhaps, a party spirit, without adequate cause, without any malfeasance or misfeasance, undertakes to create a vacancy. We feel that that course is at least irregular, and that it is an abuse.

Now, I take it we are all disposed to apply a remedy to these two classes of cases, and the question is how we are to reach them. There are two ways proposed. One is by a bill which shall undertake to regulate the whole subject of removals and secure to the Senate its share in that power; in other words, secure to the Senate the same power over removals which it has over appointments, and it is insisted that that is constitutional. Sir, I am disposed to agree with those who insist that the Senate ought to have a share in the power over removals. When Senators, however, go further and say that in endeavoring to apply a remedy for the abuses to which I have referred, we should wait for the passage of that bill, I must be permitted to say that I cannot join

them. I am not willing to postpone a remedy for existing abuses to so distant a day.

The general bill which it is proposed to introduce, and which my excellent friend from Missouri has in charge, and which we know has been commended by a distinguished citizen not in public life, Mr. Hamilton, of New York, in a pamphlet which is on some of our tables, raises a great question of constitutional law which has been under discussion from the days of Washington. I know not how the Senate, even after debate, in our day and under the pressure of recent events, will be disposed to pass upon it. It is a great question, I say; a question of constitutional law. Do not, sir, postpone the remedy for existing abuses till the final decision of that great question. When that bill is introduced, I, for one, shall be ready to meet it and discuss it at all points, whether on grounds of constitutional law or on grounds of expediency; but I am unwilling that a case of practical duty shall be postponed thus indefinitely; and that brings me to the precise question before the Senate, what shall we do? Why, sir, act at once and according to the best of our ability in order to apply the remedy to the abuses which I have indicated.

And, sir, what is the remedy which may be applied? I insist that after ample discussion in this Chamber we have substantially arrived at the statement of law made in the proposition of my friend from Illinois. I doubt if now we can do better than that. I believe if that be adopted it will, to a certain extent, apply a remedy. I do not think the remedy will be complete; but there will be something in it which will operate as a check upon the exercise of this irregular power by the President, and which will help to remove those abuses that we all recognize. For one, I am glad that the Senator from Illinois has brought forward the proposition, and I hope that he will not now, at this last moment, be a laggard. I hope that he will persevere, and press it to a vote. If the Senate will not adopt it, then let the Senate be responsible, as I shall think, for this abandonment of duty. I know that Senators may hesitate because they may think it inexpedient, or because they think the remedy does not go far enough; but no one, as I understand, hesitates on grounds of constitutional law. No one doubts that the proposition of the Senator from Illinois is in all respects completely constitutional. It is said that certain inconveniences may grow out of it; but do not inconveniences, and more than inconveniences, grow out of the system as we have it now? Not on account of those inconveniences, not on account of anything which has been said in this debate, can you hesitate. All that you are called now to do is to take advantage of your power over the purse-strings of the nation. It belongs to you to say when an officer shall be paid and when he shall not be paid. Nobody can doubt your constitutional power to that extent. Take advantage of it, then, and in that way, if in no other, place a proper limitation upon this admitted abuse. It is on this ground that I shall persevere with my excellent friend from Illinois to the end in voting for his proposition.

The PRESIDENT *pro tempore*. The question is on the amendment to the amendment.

Mr. SHERMAN. I suppose there is no objection to that.

The amendment to the amendment was agreed to.

Mr. SHERMAN. Now, on the amendment itself I ask for the yeas and nays.

The PRESIDENT *pro tempore*. The yeas and nays have already been ordered.

Mr. COWAN. I ask for the reading of the amendment, as amended.

The Secretary read it, as follows:

SEC. —. And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate, receive any salary or compensation for his services, unless such person be commissioned by the President

to fill up a vacancy which has happened by death, resignation, or expiration of term during the recess of the Senate and since its last adjournment.

Mr. CONNESS. I have not spoken on this subject since it has been before the Senate, and do not desire now to do more than explain the vote I shall give. I have voted consistently for the amendment offered and as perfected by the Senator from Illinois; but in the shape in which it now is I think it is reasonably obnoxious to the objections made by the Senator from Ohio, that great injury, and really a wrong that we have not a right to perpetrate, may result from its adoption, as against persons appointed who would be entitled to the offices to which they were appointed, and to the salaries belonging to those offices. The amendment would be particularly severe as against such persons legitimately and properly appointed on the Pacific coast. The distance between that country and this makes it already a matter of the greatest possible inconvenience, often very serious hardship, in regard to the payment of salaries due. In the shape in which the amendment stands, I cannot conceive that there is enough to be gained compared to the objections that are properly, as I think, made to it. I should like to still continue and vote for a proposition which should regulate this question; and whether others support such a proposition or not, when properly prepared and brought before the Senate, as we are now promised that it will be, it shall receive my vote and support.

Mr. WILSON. I voted yesterday with great reluctance for the reconsideration of this measure, because I did not desire to separate from gentlemen in whose judgment I have great confidence. My own judgment is that it is unwise to press this measure upon this bill at this time. I do not deem it wise to press it for this reason: the member of the Finance Committee who has the care of this bill [Mr. SHERMAN] is opposed to it. That gentleman we all recognize here as one of our true and reliable friends. The Senator from Maine, the chairman of the Committee on Finance, objects to putting it upon this measure. Other Senators, true and tried men, in whom we have confidence, make this objection. It did not seem to me wise to press this measure upon this bill with a divided vote among our friends, so I voted for reconsideration. I will go as far as any member of the Senate in the proper legislation to correct a great abuse; but we have time enough to mature and act upon such a bill, and if we pass such a bill, and it fails to become a law, there will be other bills upon which this same proposition may be moved, and upon which the Senate may put it with at least as much propriety as upon this bill. I believe that it is necessary that some action should be had by the Congress for the protection of our friends throughout the United States, and yet I do not entertain any great apprehensions in regard to the political influence of the appointments which are made and which are threatened to be made.

A person going into an office, recognized as a man of capacity and character, representing the sentiments of the community in which he lives, of those who have come into power, will exercise a certain degree of influence; but the putting in of a man against the sentiments of the men who made this Administration, a man who wears simply the collar of the Executive and violates his faith, will have no other influence than to excite the scorn, contempt, and indignation of the people. I tell Senators, and I tell the President, that the American people are in no condition to be bought or sold by Government patronage, and I believe the use of it for any such purpose will weaken whoever undertakes to use it, whether in the executive branch of the Government or in these Halls. I believe that ninety-nine out of every hundred of the men who put this Administration in power agree in principle and in policy, and I believe that any attempt to use the offices of

this Government to control the elections against them will signally and ignominiously fail.

I am, therefore, in favor of going just as far as we can go in maturing and passing a proper measure to correct abuses, and to protect the men who are filling the public offices against the attempt, whether it come from men in this Chamber or out of it, to remove faithful officers who adhere to their opinions, and appoint such men as the postmaster at Hartford, whom we have confirmed this year, and who has turned his back upon us—a man who was lingering around here last year with \$40,000 of money in his pocket to influence and control Congress.

I think we have time enough, as was said by the Senator from Maine this morning, to prepare such a bill and act upon it; and if we fail in that we shall still have time enough to take up the measure now proposed or some other measure of a similar character, and put it upon some other appropriation bill. We can do that toward the close of the session; we can do it after we have done what was suggested yesterday by the Senator from Nevada, after we have developed a plan that we approve and that will be conducive to the interests of the country.

For this reason I do not think there is any haste in this matter or any occasion for pressing this amendment now; and I am very much surprised at the earnestness with which it is pressed. I think it of far more importance that whatever measure we agree upon shall receive the careful and deliberate judgment of our friends, and that they shall act together, rather than that we shall press this amendment by a divided vote, with some of the ablest and most trusted members of the Senate opposed to putting it upon this bill.

It is said that if this bill does not become law because of the putting of this amendment upon it, somebody else will be held responsible for its failure. I do not agree to that doctrine. If we pass a bill and it does not become a law, the country will judge upon its merits as between us and any other branch of the Government. If we put it upon an appropriation bill, and the appropriation bill fails, the people will judge not of the proposition itself, but of the propriety of putting it upon an appropriation bill. That is my judgment on this bill; and so feeling, though it is with a great deal of reluctance that I differ from friends in whom I have the greatest confidence, and whose wishes I always like to comply with if possible, I shall vote against putting this amendment upon the bill now pending.

Mr. TRUMBULL. Mr. President, I am not a little surprised at the character of the speech of the Senator from Massachusetts, [Mr. WILSON.] I will endeavor to notice his objections to this amendment, each of them, but his main one I will notice a little more at length. His first objection, as I understood him, was that the member of the Finance Committee having charge of this bill [Mr. SHERMAN] objected to this amendment, and therefore he was not inclined to put it upon this bill. The Senator from Massachusetts knows that the member of the Finance Committee having charge of an appropriation bill objects to any amendments proposed to be put upon it always. He considers it his duty, having charge of the bill, to object to extraneous matter being put on it; but I think there is no member of the Senate who has oftener put such measures upon such bills than the Senator from Massachusetts himself.

Mr. WILSON. My amendments were always right. [Laughter.]

Mr. TRUMBULL. Of course they were excellent amendments when the Senator from Massachusetts offered them; he never offers any other. [Laughter.] There is no doubt of that. In that respect I am not equally fortunate. I am aware that the chairman of the committee, whether it be the Senator from Maine or the Senator from Ohio who has charge of an appropriation bill, is always averse to amendments, and the moment he sees any member of the Senate rise with a view of offering an

amendment, no matter what it is, he is generally against it. I say generally; I believe it is almost universally true; and I do not know anybody, unless it is the good-natured Senator from Massachusetts, that can ever get an amendment so perfectly right that they will agree to it.

But, sir, the Senator tells us that he is opposed to putting on this measure here by a divided vote among his friends. That is the extraordinary part of the Senator's speech. Sir, I am reminded of the jurymen who had been shut up with "eleven obstinate men." "Divided friends!" Who divides them? How is this amendment defeated? Has the Senator from Massachusetts looked around the Senate and seen who is voting with him? He prefers to go with his enemies rather than his friends, does he? What chance was there to carry the proposition of the Senator from Vermont [Mr. POLAND] here except by Democratic allies? What chance to reconsider this proposition by your friends?

"Call you that backing your friends," to unite with your enemies to beat them, and then come into the Senate here and boast that you are opposed to dividing your friends? It is a curious way indeed of backing one's friends, to unite with the enemy. Does not the Senator know that three fourths of the "friends" that he acts with are in favor of this measure? And he talks about "dividing" them. He is the twelfth jurymen, and the other eleven divide from him, and he is opposed to having any divided jury! Why do not the eleven men come and act with him? The Senator from Massachusetts asks, I think eighteen Senators, all his friends, to go to him and a few others who are voting with the Opposition in this body—

Mr. WILSON. Ten others.

Mr. TRUMBULL. Himself and ten others voting with the Opposition in this body. One third vote against two thirds of his friends, and then he complains of a division of his friends, and he divides off and goes with the enemy in a political point of view. Sir, that is the most extraordinary argument that I have ever heard in the Senate, and is only to be illustrated, as I have said, by the eleven obstinate jurors who would not agree with the twelfth man.

He is for a general bill. How many of your allies that are voting down this proposition will vote for a general bill? How do you expect to carry your general bill? Here are eighteen of your friends who are for this measure. Do you expect to carry your general bill without them? How many votes do you get for it? Ten. The Senator tells me ten. He will not find the Senator from Kentucky and the Senator from Delaware voting with him for his general bill. When he brings that in, he will find that he cannot carry it, that his allies will not stand by him.

Sir, I am making these remarks not by way of imputing anything to Senators who differ with me in reference to this measure. They doubtless think it is not best to put it on here; but I am making these remarks in reply to the charge that we are dividing our friends. The Senator from Massachusetts has brought it here and charges upon me and those with whom I act, two thirds of our friends, that we are dividing them, and it is in reply to that that I say the responsibility is on his own head, that he has deserted his friends in this respect when he deserts a majority of them and goes with his enemies; and I tell him that his general bill stands no chance at all to be carried by the forces with whom he is now acting.

Mr. POLAND. We expect you to vote for it.

Mr. TRUMBULL. The Senator from Vermont quietly says that he expects me to vote for that. By what right? Why do you expect me to vote with ten of you? Why expect the eleven jurymen to go over to the one man?

Mr. POLAND. Because it is right.

Mr. TRUMBULL. Because it is right! Well, that is the same reason that the Senator from Massachusetts gave a moment ago, that when he offered an amendment to an appropriation

bill it was always right. The Senator from Vermont says it is right. The Senator from Vermont on one side of me, and the Senator from Massachusetts on the other, two righteous men, never make a mistake, and they expect everybody to go with them. Sir, I think they should have some allowance for their brother Senators and suppose that it is very possible that they may be right, that it is barely possible that a majority of their friends may be right and they may be wrong, that it is barely possible that they ought not to be so very strong in their convictions that they know what is right and exactly how it ought to be done.

Now, sir, I am not disposed to go over the grounds of this measure again. As it now stands before the Senate, it is simply a proposition not to pay men put in office, as I think every Senator on the floor will admit, in violation of the Constitution; for if the Constitution means anything, it means that the President can only fill up offices in case of vacancies which happened during the recess of the Senate; and if the vacancy has not happened during the recess of the Senate he has no authority under the Constitution to fill it. In reference to the power of removal and appointment to offices, which are one act, the incumbent holding until his successor is appointed and qualified, there no vacancy exists. That was the opinion of Mr. Hamilton. That was not the case of the happening of a vacancy, because, as I said when up before, the vacancy is contingent on the appointment and qualification of the successor, and there is no point of time when the office is vacant; and if the successor fails to qualify after he is appointed, the incumbent holds on except in cases where the officer is suspended and the office is put in charge of a special officer of some of the Departments.

Mr. DOOLITTLE. Will the Senator from Illinois allow me to ask him a question right on that point? I will put this case: suppose that in vacation the collector of customs in the city of New York is found by the President to be actually squandering the public moneys, can the President remove him from the office?

Mr. TRUMBULL. That is a question not involved in this matter at all. This has nothing to do with it. The proposition before the Senate has nothing to do with such a case. It is contended that the power has been exercised by the President as a general thing, in vacation, of removing a man and putting another in his place.

Mr. DOOLITTLE. The question is whether the President cannot remove a man and create a vacancy. Suppose he finds a collector of customs stealing the money, can he not put him out of office? Must he allow him to stay in office until some other man is appointed and confirmed by the Senate to take his place?

Mr. TRUMBULL. I am not aware of his ever dismissing a man under such circumstances.

Mr. DOOLITTLE. I should like the Senator to answer the question whether he believes the President has power to do that or not.

Mr. TRUMBULL. The Senator wishes to ask me a question not involved in this matter at all. I am not on the question of removals; I have not argued to any extent the question of removals from office.

Mr. DOOLITTLE. I understood the Senator from Illinois to say that it was impossible that there could be a vacancy created by the President in making a removal; that when a man was in office, the only way to put him out was to push him out by pushing another man into the office. That I understood to be his argument.

Mr. TRUMBULL. My understanding is that the President never did remove a man except by pushing another in his place. There are cases where he has put a special officer in charge of an office for the time being. There are grades in all these offices; the Postmaster General has special agents authorized by law to travel all over the United States and author-

ized under certain circumstances to take possession of the mails and take possession of a post office. That is done sometimes; but if the President ever dismissed an officer except in pursuance of a law that was passed authorizing it to be done, as is the case in some instances in the military service—if he ever undertook to dismiss an officer and to leave the office vacant without designating somebody temporarily, *ad interim*, to take charge of it, I am not aware of it. It has happened here with Cabinet ministers that sometimes a person has been designated to perform the duties *ad interim* of a Cabinet minister; but I have yet to learn of an instance where an officer has been removed and nobody put in charge. It seems to me such a case never would occur; or if it did occur it would be, as is suggested to me, safe to submit the matter to the consideration of the Senate whether we would not give compensation.

Mr. STEWART. I should like to ask the Senator a question. I do not know whether I understand him correctly. Does he contend that appointing a person to an office without in form removing the incumbent, that adopting the usual course of putting one out and putting the other in, is not appointing a man to fill a vacancy?

Mr. TRUMBULL. I understand the Senator's question, and I say it is not appointing a man to fill a vacancy; there is no vacancy in that case. It has occurred here within two weeks, it is a matter now of public notoriety, that there was a person nominated to the Senate as collector of internal revenue in the district of St. Louis in place of another man removed. That is the way the communication to the Senate reads. The Senate rejected the nominee. Now, is not the previous incumbent there? Has he been removed? If we had confirmed the nominee, would it have been a confirmation to the vacancy? It would have been a confirmation to take the place of the man removed, and there never would be an instant of time when there would have been a vacancy.

Mr. STEWART. But must there not be a vacancy necessarily before he can enter upon the office? Does the Senator contend that both can be in office at the same time, and that there is not necessarily a vacancy happening at some time, and that the appointment is not for the purpose of putting a man in that vacancy whenever it does occur? No matter how short a time there is, one must go out and the other come in. They cannot both be in the office at the same time.

Mr. TRUMBULL. I suppose the Senator from Nevada wants to demonstrate the mathematical proposition that two bodies cannot be in the same place at the same time. I suppose it is possible for the Senator from Nevada to go out of his seat and somebody else to come into it, and that there never is an instant of time when the office is vacant, no more than there is a time when the office of the President of the United States is vacant. It is not a vacancy. That is not the vacancy contemplated by the Constitution of the United States.

Mr. DOOLITTLE. I will ask the Senator one question.

Mr. TRUMBULL. I am willing to be cat-
eched.

Mr. DOOLITTLE. In vacation cannot an officer resign his office and his resignation be accepted, and will there not then be a vacancy?

Mr. TRUMBULL. Have I not been arguing for an hour that that was the very vacancy which the Constitution authorized to be filled, that that was a vacancy, and that such cases were the only cases of vacancy, and that a removal is not the vacancy contemplated by the Constitution. When the Senator from Wisconsin, after I have repeated over the words of the Constitution, and argued to show as well as I could that the vacancy which the President was authorized to fill up by a commission was a vacancy occasioned by a resignation, death, or otherwise, as is provided here in the amendment, rises, and with a look of wisdom asks

me if I do not admit that when a man dies there is a vacancy, [laughter,] and then wants to ask some other question, why, sir, it is trifling.

Mr. DOOLITTLE rose.

Mr. TRUMBULL. I shall be through in a moment. I will not yield any further. I decline to yield any further to that class of questions. [Laughter.]

I have said, sir, I believe, all that I designed to say in rising, which was chiefly to reply to the extraordinary speech of the Senator from Massachusetts, who charged upon those of us supporting this measure an attempt to divide the party; and having replied to that I am willing to yield the floor to him or the Senator from Wisconsin or anybody else that wants it.

Mr. WILSON. Mr. President, I followed the Senator from Illinois and voted for his measure. I saw, on looking around the Senate, that some of our ablest and most trusted Senators felt it to be their duty to vote against it. I did not then believe, I do not now believe, that any principle is involved in putting upon this bill this measure. I thought the Congress of the United States would be in session for sixty or seventy days to come; that we should have abundant time to mature carefully and act upon a proper measure, one not sprung upon us here in the Senate as an amendment to another measure, one not dragged in here by a few of our friends, without consultation with others, but a measure brought into the Senate by a committee, carefully framed and taken up and examined, and deliberately acted upon.

It is well known that this question of executive power has been discussed in Congress on several occasions by the most eminent men of our country. The power of the President to remove was carried in the Senate, originally, by the casting vote of Vice President Adams; and a majority of the men in the Senate at that time, who had been members of the Convention that framed the Constitution, voted against this power of the President. This same question of executive power came up on other occasions, especially in the debate on Foot's resolution, when it was discussed with great ability by Robbins, of Rhode Island, Clayton, of Delaware, Barton, of Missouri, and other Senators, in perhaps the ablest debate the Senate of the United States ever knew. In 1835, on Mr. Calhoun's report on executive power and influence, the question was again elaborately debated. It is a question on which the most eminent minds of the country have divided. Mr. Hamilton said that—

"The terms 'which may have happened,' imply casualty, and denote such as, having been once filled, have become vacant by accidental circumstances."

Daniel Webster thought as Hamilton thought, and Chancellor Kent thought as Hamilton thought. Mr. Webster said here in the Senate:

"I must still express my conviction that the decision of Congress in 1789, which separated the power of removal from the power of appointment, was founded on an erroneous construction of the Constitution."

"I have the clearest conviction that they [the Convention] looked to no other mode of displacing an officer than by impeachment or by the regular appointment of another person to the same place."

"I believe it to be within the just power of Congress to reverse the decision of 1789, and I mean to hold myself at liberty to act hereafter upon that question as I shall think the safety of the Government and of the Constitution may require."

Sir, I did not call the Senator from Illinois to account and charge him with dividing our friends; I made no charges whatever. I uttered a few modest words in explanation of my own action, and the Senator assumes that I charged him with an attempt to divide our friends in the Senate. I expressed my regret to see this amendment pressed upon us when some of the most eminent men of the Senate were opposed to putting it upon this bill, and expressed their readiness to vote for a bill carefully and properly prepared and brought in as an independent measure. Until we have tried that, why press this? If we adopt this as an amendment to the present bill by a bare majority, what will be its influence in the other House? I will say nothing about its influence in the executive depart-

ment of the Government, for I do not think it is proper here to consider that question. What will be its influence among the people of the country? The Senator from Vermont [Mr. Poland] told us yesterday that the people were not anxious about executive power and patronage over them; they were more fearful of its influence over us; and I believe that he uttered a great truth when he made that declaration.

The Senator from Illinois chides me for acting with gentlemen on the other side of the Chamber. Well, sir, it so happened, not long ago, that that Senator was found acting with gentlemen on the other side of the Chamber, and for one I did not reproach him with so acting.

Mr. TRUMBULL. But I did not accuse anybody of desiring to divide our friends.

Mr. WILSON. I have not accused the Senator of a desire to divide the party. I merely referred to the fact that there was a division of opinion in regard to the propriety of putting this amendment on this bill—not a division in regard to the amendment itself, but as to the policy of putting it upon this bill. That is a matter of policy and not of principle. Others of our friends divided upon the resolution which, it will be remembered, was passed by the House of Representatives early in the session, proposing to amend the Constitution in regard to the basis of representation. I then regarded and every day of my life since I have regarded that division, resulting in the defeat of the resolution, as a deplorable calamity. Nineteen Union State Legislatures were then in session, and if it had been adopted they would at once have ratified it; and then, according to the theory held by eminent Senators and Representatives, it would to-day be a part of the Constitution of the country. But now, whatever amendment we pass, other Legislatures must be elected to act upon it; and the peril of carrying all these elections everybody can see.

Sir, it seems to me that the Senator from Illinois has no right to rise here and reproach any of us who doubt the expediency of attaching this measure to this bill, and he has no right to charge us with dividing the party because a portion of us feel it to be our duty to object to that course. I will vote for a measure to correct this abuse as an independent measure; and if toward the close of the session such a measure shall fail, not through any fault of the Senate or of the House of Representatives, I will vote with the Senator from Illinois to place it upon any other bill upon which it can be placed, and let it take its chances and share its fate. But at this time I do not fear that anything is lost by keeping this amendment off this bill. The discussion will do good; it has called our attention to the subject; and I believe in the light of this debate a measure may be framed which shall bring together those of us who stood together in passing the most popular measure that was ever enacted by the Congress of the United States and one that has the deepest hold upon the heart and conscience of the country—the civil rights bill. I believe that we can pass such a measure in such a shape that it will receive, as it ought to receive, the confidence and support of the whole country. But, sir, I do not complain of the active Senator from Illinois; I know his pertinacity and his determination, and how he always clings to any proposition that he makes. I sometimes think it would be a great deal easier for him to carry through important measures by a little more of the spirit of deference to others and of conciliation.

Mr. DOOLITTLE. Mr. President, the word "vacancy" I shall not discuss at length. I will state only two or three cases where, in my judgment, vacancies happen. If the officer dies there is of course a vacancy. If he should remove out of the country there would be a vacancy in the office. The Senator from Illinois would not doubt that. If he should resign there would be a vacancy, provided the resignation were accepted. The vacancy by resignation does not happen till the President or

the head of a Department acting under him accepts the resignation; and the question I put to the Senator from Illinois about resignation requires an act of the President or the head of a Department under him to make the vacancy. The President takes part in making the vacancy; the man cannot make it alone by mere resignation.

Mr. TRUMBULL. Does the Senator mean to say that a judge of the Supreme Court of the United States cannot resign without the consent of the President?

Mr. DOOLITTLE. A judge of the Supreme Court of the United States is not an officer under the President.

Mr. TRUMBULL. Nor is any officer an officer under the President; he is an officer of the Government.

Mr. DOOLITTLE. Executive officers are under the President, and responsible to the President in the execution of the law. The President is responsible for the execution of the laws and responsible that every executive officer under him shall execute the laws. He is sworn to see that they do execute the laws; he is the chief of the executive power, upon whom the responsibility, by the Constitution, is placed, and therefore these officers are responsible to him.

But, Mr. President, the Senator from Illinois, with all his ingenuity to get around the question, did not answer the question I put to him. Suppose that the collector of customs in the city of New York, immediately after the adjournment of Congress, or at any time during the vacation, is found to be embezzling the public money, is it true, as the Senator maintains, that the President cannot create a vacancy, but that he is still in office and must remain in office until his successor is appointed and confirmed by the Senate? The proposition is monstrous. Put another case. Suppose he should become insane; suppose that the insanity of the late collector of the city of New York, our esteemed friend, who, in a fit of insanity, threw himself into the Hudson river, had shown itself during the vacation, would it not be possible that the President of the United States should remove him from the office and make a vacancy? The Senator contends that the President cannot make a vacancy in an office as long as the man is living and does not resign or leave the country, without thrusting another man in to push him out of office. That is a great fallacy.

The truth is, the power exists, and the Supreme Court have so decided, and such has been the practice of the Government for seventy years; and I think that all who have preceded us, although there was some difference of opinion at the time, are entitled to some consideration, and the practice of the Government for sixty or seventy years is entitled to some consideration. The practice has been, that while the President could make a removal, he could not fill an office without the consent of the Senate, except in the vacation; he could not do it while the Senate was in session, so that the officer would not be entitled to take possession of the office or commence acting; but during the vacation, and until the Senate does meet, he has that power.

I do not mean to go into any argument of this matter at length; I will simply state another fact. My friend from Massachusetts, it seems to me, and some other gentlemen appear to assume that there is a great abuse of executive patronage. What do they mean? Do they refer to an abuse of executive power by the present Executive? There is no just ground for any such complaint. I say to the Senator from Massachusetts, and he knows it well—it is a matter spoken of in the papers—that it is understood that even in his own Cabinet the President tolerates differences of opinion; that men are in the Cabinet, one or more, who sympathize with the Senator from Massachusetts in his peculiar views on reconstruction, and the President does not even remove a member of his Cabinet for opinion's sake.

It is true Congress has passed resolutions

from time to time that to the returned and disabled soldiers who have served in the war for the Union, other things being equal, the public offices should be given. The Senator from Massachusetts has advocated that. Our State Legislatures have resolved to do the same thing. Our own party Union conventions throughout the country resolved to do it. Occasionally perhaps the President may have removed an incumbent for the purpose of placing, in accordance with the spirit of the times and the demands both of the resolutions of Congress and of the various Legislatures, a soldier of this description in his place. There may be other cases, and they are exceedingly rare—Senators can point out but very few—where persons have been removed not for opinion's sake, but sometimes for that personal invective and abuse upon the Administration which no Administration can tolerate with any respect for itself. I can assure the honorable Senator from Massachusetts that from all that I have seen, my judgment has come to the conclusion that there never has been a more tolerant chief executive magistrate within my recollection than the one who is now occupying the presidential chair.

Mr. HOWE. Will my colleague allow me to call his attention to a paragraph in the papers?

Mr. DOOLITTLE. I do not read the newspapers much, and I pay very little attention to what the newspapers say. Lately, sir, and for the last five or six months in relation to the course which has been pursued by me, I have been the subject of so much misrepresentation and abuse that I cease to have very much respect for the newspapers in these times.

Mr. HOWE. I supposed this was a clause which my colleague had overlooked; it has not reference to his own course at all, but to the point which he is just now discussing. I would like to call his attention to it.

Mr. DOOLITTLE. I shall be through in a few moments, and if my colleague wishes then to read from newspapers, I shall not object.

Mr. HOWE. I shall not insist.

Mr. DOOLITTLE. I was simply saying, Mr. President, that I believe the Senator from Massachusetts is taking counsel of his fears, and not of his judgment; and I believe another thing, that this unexampled proposition, never heard of before in the seventy-seven years of the existence of the Government, is not such a proposition as the Senate ought to entertain.

Mr. WILSON. The Senator from Wisconsin asks me if I referred to the present Executive in what I said of executive removals and abuses. I answer frankly that I did.

Sir, I wish simply to say this: during the last summer and autumn we were assured that the President was making an experiment in organizing the rebellious States; we were told that if it did not succeed, the remedy was in the hands of Congress. We were told, also, that differences of opinion among friends in regard to these modes of reconstruction were to be freely tolerated. The President went on in the course he had marked out for himself. The rebel States were reorganized; and every one of those States reorganized since the 4th of March, 1865, is to-day as completely in the hands of the rebels as it was the day Jeff. Davis was captured. Nearly every one of these States has elected rebels to Congress, three loyal men in Virginia to the House, none from North Carolina, South Carolina, Georgia, Alabama, Florida, Louisiana, one in Mississippi; none yet elected in Texas, where the election is yet to come; Hamilton is fighting for principle and for the cause, but he is to be overborne by the influence and power of traitors. I fear he receives no aid from this Administration.

This was the condition of the country when Congress met. Congress, as in duty bound, cast about to see what was to be done, to see that these States should come in here, as I have once before said, loyal end foremost, and not rebel end foremost. The advocates of bringing these States into the Government of the country, rebel end foremost, through the public press and in other ways, have been calling on

the President for the last four months to strike down the men who elected him and to reward men who would desert the principles, the ideas, the policy, and the measures of those who put this Administration in power. Faithful, true, tried, and honest men have been removed from office to make way for men who had no claims upon office and who have simply shouted hosannas to the President for the purpose of obtaining patronage and power. Was not a soldier removed in Philadelphia and a man who had not the public confidence of our friends there appointed in his place?

Mr. FESSENDEN. His name.

Mr. WILSON. Sloanaker. Are there not other cases? Here is a man appointed marshal in western Pennsylvania who was tried by court-martial, convicted, and dismissed the service, and I am told he would have gone to prison if it had not been for the influence of friends.

Mr. COWAN. Who were the "friends?"

Mr. WILSON. I know that there are men in this Capitol to-day who for the last three or four months have been urging and pressing the Executive to use the corrupt and corrupting influences of public patronage for the purpose of building up and constructing an independent party—a party that has died before it was born; and I know that there are men in this city—I mean the Blairs—who have been on voyages of discovery, hunting up and picking out a public man here and there, and offering them the kingdoms of this world if they would betray us.

I know that these things are so, and I know that a committee of this new party was got up, five of the members of which, I believe, have already declined because they do not belong to the concern and were captured without their consent. Its object was to organize a party to be built up by public patronage. Sir, you remember Scovel, of New Jersey; some of us remember him, how he came down here and blustered about, and declared that he was going to elect a Senator from New Jersey against the President's policy. Now, what would you think of a letter written by a public officer to another public officer in New Jersey saying, "The Secretary of the Treasury directs me by the order of the President to say to you that you must remove a certain man in your employment, and in filling his place consult Mr. Scovel?" It is well known and understood that Mr. Scovel struts over New Jersey claiming to control the public patronage in that State, and we have nominations before the Senate now of his dictation.

When a public officer dies or resigns, or his term of office expires, and the President of the United States in casting about among the men who elected him selects to fill that place a man he thinks agrees more nearly with him than with Congress, I make no complaint. I object to his raising this issue among ourselves, and I object to our raising it, and I do not raise it upon him. But when a competent, faithful, and honest public officer is discharged for no other reason than that he believes in the principles, the policy, the aims, and the purposes of the party of Union and liberty, the party that saved this country and made it a free country, when such a man is struck down to reward another man for mere partisan purposes or to get up a little rebellion against this great organization that to-day holds twenty-three of the twenty-five loyal States, I for one object to it. I object to it as an attempt to use the vast patronage and power of the Government of the United States for the purpose of corrupting a pure and true people, a people that have given nearly three million soldiers and \$3,000,000,000 to their country to carry it through the late rebellion.

I will say to-day what I believe to be true, and in saying it I make no assault upon the President of the United States. I say that I believe the policy the President has felt it his duty to pursue, which he has pursued, and which he seems to insist on pursuing, without consulting the views of Congress, this uncer-

tainty, this doubt, this veto of the civil rights bill, has made more sorrowful men and women in this country than were ever made by any other man that has trod the continent. Sir, the men that elected this Administration were actuated by the loftiest motives that ever influenced any people. They gave their children, they voted their money, they gave their prayers in November, 1864, for the reelection of Mr. Lincoln and the putting down of the rebellion, and the unity of the country, and the liberty of every man within the bounds of the Republic. They were God-fearing men and women, too, who had given the years of their life to aspiration, to thought, to prayer, to action for the freedom of all, and for the elevation of the humblest men within the bounds of the country. When they have seen this hesitation, when they have witnessed what we have witnessed during the last twelve months, when they have realized the great loss of the opportunity, in the early summer, last year, to give impartial suffrage and amnesty to the freedmen, and to the men who have been fighting against their country, when they have witnessed all these things their hearts have been wrung with a great sorrow not surpassed by the sorrow of the four bloody years of war in which three hundred thousand of their sons and brothers gave their lives to their country. The President of the United States—I do not mean to say that he purposed or intended it, for I do not believe he could be so ungrateful to the noble men that elected him—I believe, upon my conscience, has made more anxious nights, more troubled days, more bitter thoughts, more agony and sorrow of honest, conscientious, God-fearing men and women of our country than were ever made by any other man that ever lived. Upon my conscience I say that I believe Mr. Johnson has made more thoughtful men and women bow their heads in anxiety and sorrow during the past year than did the rebel chiefs during their four years of fire and blood.

Mr. HOWE. I listened to a declaration of my colleague just now that interested me very deeply and rejoiced me considerably. I hope it will turn out to be entirely correct. I understood him to say that the President of the United States is peculiarly tolerant of political opposition; that in point of fact we never have had a President more tolerant than he; that he tolerates opposition even in the members of his own Cabinet, and that he makes no removal from office for opinion's sake. Now, Mr. President, if this turns out to be so, I shall be very glad, I shall be exceeding glad, for I am bound to say that of all the Presidents we have ever had in office, I think there is no one of them under such heavy obligation to be tolerant of opinions opposed to his own as the present President.

Sir, the relations between the present President of the United States and the party which made him President are of a very peculiar character. That party, you must remember, sir, is made up in the main of a body of men against whom the President had been at war all his life until the great body of those men with whom he had acted all his life turned their backs upon the Government and became traitors to it; and when that happened, the President of the United States declined to go with them any longer, stood by the flag as he had always stood, remained true when thousands about him were false. That was the single fact which commended him to the confidence of that party which made him Vice President of the United States. I say he was commended to their judgments and to their confidence by the simple fact that he did not prove a traitor when thousands about him did. For that act of simple fidelity, that is what it is, simply fidelity to his duty as a citizen, we were grateful, profoundly grateful; and having proved in the very morning of the struggle that he was disposed to stand by the old flag and to uphold the authority of the nation, we were led to believe that he would stand there and thus to the end of the struggle; and so in its very

morning we clothed him with the authority and with the emoluments of a brigadier general in the Army, and we sent him to Nashville to assist in defending one of the strategic points in the great controversy that was going on. The President of the United States alludes to that, I see, occasionally as an act which placed him at a point of imminent peril. Ay, Mr. President, Nashville was a point of imminent peril; in that day there was no point in the United States which was not a point of imminent peril; but when we sent the present President to Nashville we sent security with him; we planted our armies between him and the enemy, a wall of adamant, and gave to Nashville the same security we gave to Washington and to every other point within the national lines. It was a place of peril because widespread defection and treason had covered the country with peril. That was all. But it was not peculiarly perilous. We made that—not we who fill these seats, but this nation made Nashville as secure as any point. He staid there; he did his duty; and grateful for that duty done, we said to him because he had been faithful over a few things we would make him ruler over many, and we did make him the Vice President of the United States, commended to us as I said before by the single fact that he had been loyal in the beginning of the struggle, and he had been faithful to the one trust we had imposed in him as a general in the Army.

It happened that when he had been made by our votes Vice President a terrible disaster overtook the country and he became the President; and it happened that soon after he became the President of the United States the fact was developed that there was a difference of opinion upon some points of policy between the President and the great body of that party which had been instrumental in making him President, upon questions which we thought, and which we think, and which I for one know, are vital and fundamental, if there are any vital and fundamental questions in American politics. We found that he was in harmony with those who had opposed his election, and at variance with those who had given him his election. I am not here to discuss the right or the wrong of that difference, for this is not the occasion; I have spoken upon it once and others have spoken upon it freely. I am not here to arraign the sincerity of these opinions of the President; this is not the occasion for that, if that sincerity is open to attack at all, which I do not say. But conceding him to be sincere in his convictions of duty, this is the thing, I say: that the President was bound to concede sincerity to those who differed with him, for they had shown that they were disposed to have no personal controversy with him; they had shown that they were grateful for every political merit he had discovered, and I think they had shown as much magnanimity as ever was exhibited in the conduct of one party toward one who had been a leading and a life-long opponent of theirs. He was bound, I say, to concede sincerity to his opponents. I do not say that the President was bound to surrender his own convictions of duty because the party which made him President took another view; but I do say he, of all the Presidents who ever lived, was bound to be tolerant of this difference that existed and was developed in the body of the party which made him President. That is why I say that he of all men that have ever been put in the presidential office was bound to exercise that very toleration which my colleague tells us now he is going to exercise and is exercising.

But, sir, as to the fact whether he has exercised that spirit of toleration or not, as to whether he will exercise it hereafter, I have an event or two to refer to. My colleague says that he has made a few removals, not for opinion's sake, but to reward gallantry and fidelity exhibited in the soldiers of our Army. I am told—my colleague knows whether my information is correct—that among the removals which he has been asked to make is one of a

gentleman who has for several years filled the office of sub-Indian agent for the Indians in the northeastern part of Wisconsin. I am told that he has been asked to remove him from that office, and to place in it a gentleman who has been connected with the Army it is true, because he has filled since 1861 or 1862 the office of paymaster in the Army, paying troops at different points—the city of Washington being one, the city of Madison, in our own State, being another, and, I believe, the city of St. Louis, being the third—a faithful officer, no doubt, but I take it not coming within the description of those officers to which our resolutions and our laws referred when they called for discrimination in their favor in the distribution of patronage. But, sir, I am told further that the Representative from the district in which this office is located, recognizing the propriety of discriminating in favor of soldiers, did think that this paymaster, or ex-paymaster, was not the most deserving soldier, and suggested that instead of his being appointed in place of that agent whose removal was decided upon, one General Swett should be appointed, who had been in the Army and had been in the line and on the field, had been shot, not to pieces, but had been crippled for life, had displayed great gallantry, had been placed in command of Camp Douglas, near Chicago, and in the discharge of his duty as such commandant, by his energy and by his activity, had really saved the city of Chicago from that conspiracy which was developed there in 1864. I am told that it was proposed by the Representative of that district that this individual should be the recipient of this office instead of the ex-paymaster, and I am told that that proposition is absolutely and peremptorily declined, and that my colleague declines it; and I am told that he has obtained from the President—I recite this as rumor; I do not vouch for the truth of any of these statements; I speak of them here because here they can be contradicted—a peremptory order on the Secretary of the Interior that the former agent be removed and that the ex-paymaster be appointed.

Now, if that is so I am afraid, whatever may be the motive of the President, it will be understood as being intended to favor political opinion and not military service. I fear that the more because I have been told that this ex-paymaster was a member of the convention in our State last fall and presided over the deliberations of that body, to whose action my colleague has referred several times here as having had very important influence upon the action of the State and upon his action here. That fact being known in Wisconsin, if it be true that the President peremptorily orders his appointment instead of the appointment of this wounded and crippled soldier, I am afraid it will be understood as a removal for opinion's sake, or if not a removal for opinion's sake, an appointment for opinion's sake. That is one fact which leads me to fear that there is great danger, in spite of what my colleague says, that this power of removal, if conceded to the President, will be exercised for political and partisan purposes.

There is another fact to which I wish to call the attention of my colleague. I have my eye upon it now, and I will read it. I read it from a newspaper, it is true, and perhaps as such it is not entitled to any consequence.

Mr. DOOLITTLE. What is the paper?

Mr. HOWE. It is the Wisconsin Union, which is published at Madison. My colleague is familiar with the paper, no doubt. Understand that it is a paper which supports the President's policy very vigorously. It copies from the Journal the following. I read as it appears in the Union:

"Mr. Rublee, of the Journal, writing from Washington, gives the radical office-holders the following pleasing assurance: 'Mr. ELDRIDGE (the Representative of the fourth district) alleges that he and a number of others of his party were at the White House on yesterday evening, and that the President assured him that every Federal office-holder in Wisconsin who does not sustain the President's policy will be removed and those who sustain him put in their places.'"

This organ may be mistaken; Mr. ELDRIDGE may not have told the truth; but I really think Mr. ELDRIDGE would not have made such a statement unless the President had made it to him, and I rather think this organ of the President would not have published it if it had not believed it and approved it. I quoted, it will be remembered, the other day a declaration which I have not heard refuted yet, not from the President, but from one who certainly sustains the President most gallantly and most bravely, that no man should eat the President's bread and butter unless he did sustain the President's policy. There are papers lying on this table, if it were proper to allude to them, which have given me further cause to distrust the entire accuracy of the statement submitted by my colleague. I cannot refer to them in this connection.

I have thought it worth while to present these two or three items, for I really feel that my colleague may be mistaken; that the President will, if it is found that we agree to it, think it justifiable to insist upon making vacant all places filled by those who do not sustain his policy and to supply their places by those who do.

Mr. DOOLITTLE. Mr. President, the other day, in my absence from my seat, my colleague thought proper to present to the Senate certain resolutions of the Legislature of Wisconsin that were not addressed to this body, upon which the body could take no action whatever; resolutions condemning me in the severest terms; resolutions instructing me to resign; and the grounds upon which they were placed were that I sustained the administration of President Johnson. Is that what my honorable colleague calls toleration of a difference of opinion? Does my colleague indorse those resolutions?

Mr. President, in regard to this great question of the relations the President bears to the party which elected him, my colleague falls into a very great mistake in supposing that the party which elected Mr. Johnson was the old Whig party. Not at all, sir. True, there were a great many persons who had been in the Whig party before it was dissolved that joined the Union party; but let me tell my colleague that in the organization of the Union party it was the Free-soil Democracy uniting with the elements of the dissolved Whig party that made up that Union party which won the victory.

From 1854 to the present hour there is not a single doctrine laid down in the platform of the Union party to which Mr. Johnson has in the slightest degree proved false since he became President of the United States. Sir, that party was organized in 1854, upon the dissolution of the Democratic party. The Democratic party dissolved on the repeal of the Missouri compromise and the attempt to enforce slavery in the Territory of Kansas. Then that portion of the Democratic party which was opposed to the extension of slavery, uniting with members of the Whig party entertaining the same sentiments, which party was already dissolved, formed this great organization denominated the Republican party of the United States; and, sir, the fundamental elements on which that party was organized in 1854 were the union of the States, opposition to the extension of the institution of slavery, and the preservation to each and every of the States of its supreme control over its own domestic institutions. In 1836 the sole issue was the extension of slavery; in 1860 it was the same issue.

Then after the success of Mr. Lincoln as the chief of the Republican party we entered upon another issue. What was it? A war to sustain the Union against the secession of the South. As the war progressed slavery was put at stake, slavery was thrown into the scale; and the question which in 1861 was, shall the Union be dissolved, shall the Government live or die, was changed in 1863 to the question whether slavery or the Union shall die. Sir, under the administration of Mr. Lincoln and the superintending providence of Almighty God, and next to that the patriotism of the American

people which filled up our armies and filled our Treasury, we succeeded at last in winning the great victory, sustaining the Union, and crushing the institution of slavery. To crown that great victory we brought forward the constitutional amendment. My honorable friend from Missouri [Mr. HENDERSON] has the honor of introducing it into this body. The Senator from Illinois, [Mr. TRUMBULL,] as chairman of the Judiciary Committee, has the honor of conducting it during its discussion here. I, as a humble member of this body, took part in that debate. Though the measure was introduced by the Senator from Missouri, it was my good fortune, and I look back to it with pride, to make in this body the first speech that was made in favor of that amendment to the Constitution.

From that hour until during the present session, when we have succeeded in carrying this amendment and having it adopted by three fourths of all the States, I have looked forward with an eye single to the accomplishment of that great victory. I pressed it in this body and elsewhere; and when many of those gentlemen on this floor who now claim to be the special champions of freedom told me over and over again that we could neither carry the amendment through Congress nor carry it through the States, my faith never faltered for an instant. Here and elsewhere and everywhere, as both the Senators from Massachusetts well know, I insisted that we could carry the amendment in this body and carry it through the House of Representatives, and that we could carry it through the country and carry it through three fourths of the State Legislatures, and that the adoption of that amendment would be the crowning, final, crushing, eternal victory over the rebellion by removing forever the cause which had produced it. Sir, steady to that purpose, with a faith which in darkness has no fear and in danger feels no doubt, I pressed on and on, in spite of opposition here and elsewhere, until I have seen it accomplished.

Now, Mr. President, in relation to the question upon which we are at present divided, when did this division begin? What did it begin about? Last spring, one year ago, every member of the Senate on the Republican side but six—and I will name the men, and there shall be no mistake about it—was in favor of the resolution recognizing Louisiana.

Mr. COWAN. Name them.

Mr. DOOLITTLE. Mr. President, in opposition to that proposition stood the two Senators from Michigan, [Mr. CHANDLER and Mr. HOWARD.] There was the Senator from Massachusetts, [Mr. SUMNER.] The other Senator from Massachusetts [Mr. WILSON] was in its favor. The Senator from Missouri [Mr. BROWN] was opposed to it, and the Senator from Ohio, [Mr. WADE.] Yes, sir, upon this question, the very question and the only question upon which there is a division between the President and gentlemen now who claim that Congress is in opposition to him—

Mr. GRIMES. You do not mean the whole Senate?

Mr. DOOLITTLE. The whole Senate on this side that night, with the exceptions I have named.

Mr. President, Mr. Lincoln, two years before Mr. Johnson was elected Vice President, entered upon this same policy. Mr. Johnson was appointed to carry out this same policy substantially in Tennessee. I mean it was the same on the two questions and the only two questions upon which there has been serious division—the question whether suffrage should be extended to the colored people of the South as a condition precedent to these States coming back into the Union, and the other question—

Mr. MORRILL. Will the Senator allow me a moment? I wish to ask him if I am to understand him to maintain that the Senators to whom he has alluded, and whom he has named, were the only persons opposed to the resolution for the admission of Louisiana last year?

Mr. DOOLITTLE. On the night that question was up there were eighteen of our friends who were for it.

Mr. MORRILL. How does the Senator ascertain that fact?

Mr. DOOLITTLE. Because I was present. Perhaps the Senator from Maine was not in the Senate that evening.

Mr. MORRILL. I was in the Senate, and I participated in the opposition to the resolution that night.

Mr. DOOLITTLE. The only two material points upon which the struggle was made were, first, whether suffrage should be extended to the colored people of the South as a condition precedent to those States being recognized and their representatives admitted; and secondly, whether those States were not subjugated provinces, and no longer States in the Union; and upon both these questions Mr. Lincoln's policy was precisely that of Mr. Johnson. Now, we have had a great division here for six months, it is said, and when you come to your final report of the reconstruction committee upon these two points on which the controversy began, you find that they have abandoned both.

Mr. CONNESS. Mr. President—

Mr. DOOLITTLE. No, sir, I will not yield at present. I am arguing this point, and I propose to call the attention of the Senate to it. I say that in the report of the reconstruction committee they abandon universal or "impartial" negro suffrage as a condition precedent to the recognition of these States and the admission of their representatives, and I say they have abandoned the other proposition that they are not States—that they are conquered or subjugated provinces. They admit them to be States, organized States, and propose to submit to their Legislatures the question upon the ratification of amendments to the Constitution.

Mr. President, my friend from Massachusetts says that ninety-nine out of every hundred of the Union party that elected Mr. Johnson are against him on these questions. He will find himself utterly mistaken. I can very well conceive that Mr. Johnson in relation to his friends now is very much like the position of Mr. Lincoln to the Union party after he was nominated at Baltimore, and before the Opposition had presented their platform at Chicago and nominated their candidate.

From the time of Mr. Lincoln's nomination there was a wonderful opposition raised in the ranks of the Union or Republican party. The Senator from Ohio [Mr. WADE] came out with his protest. It was rumored all over the country that Mr. Lincoln was about to resign or withdraw as a candidate and give place to somebody else, and it was more than whispered, too, by leading men on this floor connected with the Republican party, that if a Democrat should be nominated at Chicago who was in favor of a prosecution of the war, they would abandon Mr. Lincoln and give their adhesion to the Democratic candidate. But, sir, when the platform of the Opposition came to be presented, when the people came to look at the platform laid down at Chicago, Mr. Lincoln was elected from that hour; the tide set instantly in his favor, and nothing could resist it. And I say to gentlemen now that you will find that instead of its being true as you say that ninety-nine in every hundred of the Republican party are opposed to Mr. Johnson, before the next fall elections are over a majority of that party will be with him, and very likely you among them. Sir, I have seen since I have been here in this body and a member of the Union party, almost unanimous opposition in the Union party to Mr. Lincoln as I see now here against Mr. Johnson, and I have seen them come in, and I expect to see them come in again.

Mr. President, when gentlemen talk about ruling Mr. Johnson and me out of the Union party, or crowding us off the Union platform on which he was elected and on which I helped to elect him, they know but little of Mr. Johnson or of me. I do not yield the platform on which I stand, whoever may abandon it. I do

not yield it whoever may come upon it. Parties in opposition to principle are to me nothing more nor less than mere means to an end. When you ask me or undertake to drive me to abandon the ground on which we have elected our Administration, I will be no more bound by your party ties than is flax when it is touched with fire. But, sir, when you argue with me a principle you will find me there every time. Though professed Republicans may abandon the platform, and though professed Democrats may abandon their party and come on to my platform, I will not abandon it.

Now, Mr. President, let us look at this matter a little as reasonable men. We organized in this great campaign. We fought the battle through. We vanquished all opposition. We captured the rebellion, and with it we captured the Democratic party also. They surrendered unconditionally to our Administration, to our principles, to our platform, and pledged themselves to its support, both North and South. These are the facts. Now what would a wise general do? What shall we do with this great victory? Shall we be afraid of it and run away, or shall we stand fast by our principles and the position we have taken, and master the situation ourselves? That is the question. I know that the Democratic party as such, being completely vanquished with our success in the capture of the rebellion, have come forward and admit that our ground is the right ground. Do they say now that the war is a failure? Not at all. They declare that it is a glorious success. Do they now say that they are in favor of the institution of slavery or extending it, or allowing it to be extended? Not at all. They are rejoicing that slavery is abolished. They come forward and avow in all their newspapers and in all their resolutions and in all their party creeds precisely what we avowed in the campaign of 1864. Is not that a victory? Will you run away from your own victory? Why could we not as men have stood up by the side of our President, whom we had chosen, who stood precisely on the ground on which we placed him, in whom there has been no variableness on this question, no shadow of turning, but moving right on? Why could we not have stood by him and reaped all this great victory, built up the Union party of the country, and held its administration for a quarter of a century?

Mr. President, the whole secret was told by the frank, open-hearted, manly Senator from Ohio [Mr. WADE] when he made his answer to the speech which I delivered in this body on the 17th of January. What did he say? He said that he agreed with Mr. Johnson in all he had done; he found no fault with what he had done; he had proceeded upon the policy of our party, upon the policy of Mr. Lincoln, and had improved upon the policy of Mr. Lincoln; and, said that Senator, in substance, the only thing which remains to be done to put the key-stone in the arch is universal, impartial negro suffrage in the South. With that the whole policy of Mr. Johnson would have been complete. That was the point of difference. It began at the beginning of this session with that, and with the resolution that my colleague brought in, that we must treat these States as Territories, that we must provide provisional governments for them as Territories. These two ideas were the ideas that began this war upon the President and upon his policy. The President had made no war upon anybody. He had made no war upon anybody's policy or position. He had simply in his first message, and every subsequent act of his has conformed to that, brought forward the true state of the case. He was the executor of Mr. Lincoln. Mr. Lincoln, in his last speech, from which I before read an extract in this body, about three days before his assassination urged upon the country this policy.

But, Mr. President, in relation to the power of appointment, I said to my colleague that within my recollection, now thirty years of political affairs, I have never known an Administration more tolerant of opposition than the

Administration now in power. I believe it. If Mr. Johnson has erred at all, it has been in being too tolerant, not merely of opposition of opinion, but of opposition in the shape of the most vilifying, wicked, unfounded, libelous abuse which has been thrown upon him from one end of the country to the other by newspapers whose editors or proprietors were holding office under the Government. In relation to some of those matters, neither you nor I, if we had the responsibility of the executive department upon us, would tolerate that kind of personal abuse. It is unbecoming to allow it.

But, sir, in relation to Mr. Johnson, as I have said, he, like other men, may err; but for three years to come he is to be our President, the President of our choice, the President in whose hands, to a considerable extent, the destinies of this country are necessarily placed; and within the next three years to come we must settle all these great questions, and we must dispose of our pending relations with Mexico and with Great Britain. In what condition are we placed now, with these States all unrepresented, with the people growing more and more discontented—I mean the Union men of the South as well as those who have been in war against us—for the reason that for six long months here you have turned your back upon representatives as loyal as any man who sits upon this floor, some of whom have been wounded upon the battle-field while serving the cause of the country, and treated them precisely as you would treat the disloyal of the South. They become aggrieved; they become discontented and disappointed; their hearts are failing within them; and, as Mr. Lincoln said would occur, we, by turning our backs upon them, are doing all in our power to demoralize, disperse, and disorganize our friends in the South. What condition, I ask, are we in if we should have (what may come upon us at any hour) difficulties growing out of our relations with Mexico? Suppose that, from our complications there, we are involved in a war with Austria or France, or both together, what condition are you in to call upon the people of the South to come up to aid you in the great conflict? I tell you, Senators, it is our duty to close up this question. What is the effect of the proposition before us, reported from the committee on reconstruction? Is there a man on this floor who believes that that proposition, if it be submitted to the several States, will be adopted by a majority, much less by three fourths of them? Who believes if we should submit it that it would be so adopted? I do not think there is any man who can believe it. If they will not adopt it, what, then, is the effect? Instead of being reconstruction it is obstruction to the restoration of the States and of the Union.

Mr. President, I do not care to be drawn into a discussion of these party questions. I foresaw in certain movements that took place in the beginning, that it was war on the Administration and intended as war on the Administration by some who took part in it; and fearful of the result I have struggled from the beginning to avoid it, to endeavor if possible and by every means to have our friends in Congress and the President of the United States act harmoniously and act together on these great questions. The system of policy which Mr. Johnson inherited from Mr. Lincoln had been in operation for years. He presented it. You have not presented any better policy. Something must be done. This policy of the President must be accepted, certainly, unless there is a better policy. We must do something. Why not then come up, one and all, and take hold of this matter? I can assure my friend from Massachusetts that the people of this country, now that the war is over, demand peace, and will have it, and that it shall be peace in reality and not a mockery. They demand the union of these States, not their disunion. They demand reconstruction, not obstruction. They demand, and will have, the loyal representatives of the southern States in

the Congress of the United States. Sir, our friends here sometimes overlook and do not fully comprehend, in my judgment—I say it with all respect—that deep-seated feeling there is existing among the great mass of the people of the North. My friend from Massachusetts is utterly mistaken when he thinks that ninety-nine hundredths of the Republican party, as it is called, or the Union party, are with him on this question. He will find himself utterly mistaken if he relies on any such anticipation.

I had hoped, that this question would have been voted upon long ago. I know that this discussion has taken a wide range and made many digressions—digressions which perhaps I ought to regret, and which certainly I will not continue by any longer trespassing on the time of the Senate.

Mr. WILSON. Mr. President, the Senator from Wisconsin seems to have addressed his remarks to me—

Mr. CONNESS. I rise to a question of order.

The PRESIDING OFFICER. (Mr. ANTHONY in the chair.) The Senator will state his point of order.

Mr. CONNESS. It is that this discussion has no relation whatever to the question before the body. It has proceeded for nearly two hours, and gentlemen rise here and occupy the entire time in repeated speeches upon interpolations introduced by themselves. If we are going to consume the day in this kind of debate I propose that there be an opportunity given to more than the Senator from Wisconsin and the Senator from Massachusetts. I propose that we shall not listen constantly to the speech of the 17th of January repeated here upon every appropriation bill or other bill that may be introduced; and I ask either that the discussion be confined to the question before us, or that it be more general than it is.

The PRESIDING OFFICER. The discussion certainly does not relate to the subject before the Senate, but under the practice of the Senate the Chair does not feel authorized to rule it out of order. A wide range of debate has always been allowed in the Senate.

Mr. WILSON. It is very seldom that I ever say anything on these questions; I have occupied scarcely an hour during the whole of the session; and I am very much surprised that the Senator from California, who occupies more time than any other member of the Senate, should make a point of order of this character. I did desire at this time to reply to a few of the remarks made by the Senator from Wisconsin; but as the Senator from California has raised this point of order, if it is the wish of the Senate to close this discussion, I shall forego that answer.

Mr. COWAN. It is very well known that I never interfere in discussions of this kind, or very rarely, at least, because I know that the effect of them is not to convince anybody but perhaps to widen the breach. I only rise now for the purpose of correcting some errors into which the honorable Senator from Massachusetts [Mr. WILSON] has fallen in the excess of his zeal, and, I may say, in the excess of his hostility to the President.

The honorable Senator from Massachusetts belongs to one wing of the Republican party; I belong to the other wing. We had the President heretofore, and he had to put up with it; we have got the President now, and he has got to put up with it.

Mr. WILSON. I should like to see the wing to which the Senator belongs.

Mr. COWAN. The honorable Senator will find the wing this fall, and it will be such a wing as will sweep him and his faction out of existence, or I am very much mistaken in the signs of the times. He may succeed up in Massachusetts, or along there, but he will not succeed anywhere else, I think, very well, with all the bluster and parade that he makes as though he and his set were the whole Republican party.

The Senator to-day has descended into matters which more properly belong to the execu-

tive sessions of this body. He has charged the President here—with what, pray? A design to betray the Republican party? [Mr. WILSON shook his head.] To betray was the word; and I speak it knowing what I do speak and understanding what I do say, and I speak it more in sorrow than in anger, that in this party of ours for some time it has been the fashion, when anybody differed from certain gentlemen upon this side, there was no tolerance of a difference of opinion; there was no term too harsh to be applied to the recusant. Any man of sense could have seen that that was a very handsome way to keep up a party, particularly when that party had its platforms promulgated to the world; when they were written down and before the world, and could be read, and when the people themselves had pronounced upon them.

Now, I say to the honorable Senator from Massachusetts, and all those who hold similar opinions with him—I trust there are not many who will be so unguarded in their language as he has been—that so far from the President betraying the Republican party, if its written records are to be evidence of what it believes and what it thinks, the President to-day stands upon its platform firmly. Take that platform, produce your articles, bring forward your resolutions, and show where he has violated a single one of them; and when you do I will undertake to show upon this floor, and I will show it beyond the possibility of a denial, that it is the honorable Senator, and those who believe with him, who never were members of the party, who never ought to have belonged to it, and were the burden that it has always carried; that they are those who caused the divergence; they are those who, carried away into these new schemes and these new projects, have split it and divided it. I understand the Senator belongs to a party who discard platforms, who discard the belief of yesterday—a party of progress, who boast, "Are we not wiser to-day than we were yesterday? Have we not learned something in the experience of the past?" I should be glad if they had. Now—

Mr. SHERMAN. As the time for an adjournment is approaching, I rise to a point of order.

The PRESIDING OFFICER. The Senator will state his point of order.

Mr. SHERMAN. I ask if there is any limitation upon debate in the Senate.

Mr. COWAN. I ask the Senator to put his point of order in writing. I believe that is the rule.

Mr. SHERMAN. I will do so; but in the mean time I call on the Senator to take his seat. I am now serious. This debate has been continued for five or six days, and I hope we shall be allowed to come to a vote.

Mr. COWAN. I will change the subject and speak to another point. The honorable Senator from Massachusetts has told the Senate—

Mr. SHERMAN. I ask that the rule be enforced, and that the Senator take his seat until the point of order is disposed of.

Mr. COWAN. I clearly have a right to reply to personal matter.

The PRESIDING OFFICER. The Senator from Ohio rises to a point of order.

Mr. SHERMAN. The Senator must take his seat, and I will reduce the point of order to writing. The Senator made his point on me, and I insist that the rule shall be enforced.

Mr. COWAN. I propose to ask leave of the Senate to reply to that part of the remark—

The PRESIDING OFFICER. The rules require that the Senator from Pennsylvania shall resume his seat until the Senator from Ohio has stated his point of order.

Mr. COWAN. But I ask leave to proceed upon a new subject.

Several SENATORS. That is unnecessary.

Mr. COWAN. I will waive it.

Mr. TRUMBULL. (to Mr. COWAN.) You have a right to say what you please.

Mr. COWAN. I agree with my friend from California [Mr. CONNESS] that this has all been

extra judice, beyond the rule; but I wish to say to the honorable Senator from Massachusetts, because it illustrates the folly of this persistent quarrel that is kept up upon the President of the United States and which has been brought into the body—

Mr. SHERMAN. In compliance with the demand of the Senator from Pennsylvania I send the point of order in writing to the Chair; and I should like to have the Senator comply with the rules as he enforced them against me.

The PRESIDING OFFICER. The Senator from Ohio raises the following point of order: "The point of order is, that the remarks of the Senator from Pennsylvania are not pertinent to the question before the Senate."

Mr. HOWE. Would a motion that the Senator from Pennsylvania have leave to proceed be in order?

The PRESIDING OFFICER. Not until the point of order has been decided. The point of order is undoubtedly well taken according to the rules of the Senate, but under the practice and the wide range of debate that has always been allowed in the Senate, the Chair does not feel that he would be following the precedents in deciding that the Senator is out of order. The Senator from Pennsylvania will proceed, unless the Senator from Ohio appeals from the decision of Chair.

Mr. SHERMAN. I simply want it to be understood, because, having this bill in charge, I wish to do my duty, and I think it is the duty of the Chair to submit the question to the Senate and let us be governed by the will of the Senate. I believe that has been the usual course on such questions.

The PRESIDING OFFICER. The Chair will follow that suggestion and submit the point of order to the Senate.

Mr. TRUMBULL. I hope before that is done—

The PRESIDING OFFICER. That is done.

Mr. TRUMBULL. The Chair decides to submit it to the Senate?

The PRESIDING OFFICER. To submit it to the Senate.

Mr. TRUMBULL. The Senator from Ohio assumes that that is usually done. I have never known it to be done in the eleven years that I have been a member of the Senate.

Mr. SHERMAN. I think it is the rule.

Mr. TRUMBULL. Never on a question like this. This is the first time that it has ever been done.

Mr. FESSENDEN. The Senator is out of order unless he appeals from the decision of the Chair.

Mr. TRUMBULL. The Chair has not decided.

Mr. FESSENDEN. It is to be left to the Senate.

Mr. TRUMBULL. Very well; I have a right to argue it.

Mr. FESSENDEN. No, sir.

Mr. TRUMBULL. I insist that I have.

Mr. FESSENDEN. I make the point of order that the Senator has no right to argue the question unless he takes an appeal from the decision of the Chair.

Mr. TRUMBULL. The Chair has not decided it, and I have a right to argue how it shall be decided.

Mr. FESSENDEN. That is for the Chair to settle. I understand the Chair has made a decision that it shall be left to the Senate.

Mr. TRUMBULL. And now I can argue before the Senate how it shall be decided.

The PRESIDING OFFICER. The Chair submits the point of order to the Senate, but that is not a decision, and the Senator from Illinois has a right to argue the question.

Mr. TRUMBULL. Now, I wish to say—

Mr. COWAN. I believe I have the floor.

Mr. TRUMBULL. On this question I believe I have the floor. Sir, I would not have interfered with this question of order at all but for the remark which fell from the Senator from Maine or the Senator from Ohio, that it had been usual to submit a question of this kind to

the Senate. When an amendment has been offered to an appropriation bill and it was objected that it was a private claim, the Chair has often submitted that question to the Senate for its decision; but I have no recollection, and I think the Senator from Maine will find it difficult to produce a case, where, on a question of debate, when the whole subject was up, when a bill was under consideration and a Senator was discussing that bill, he was ever called to order in the Senate of the United States for the irrelevancy of his remarks, and the question was submitted to the Senate as to whether he should go on or not. I consider it a very important matter in this body to undertake to limit debate. The Senator from Pennsylvania must be the judge himself of what latitude he thinks proper to indulge in; and although I am quite willing to give him leave to proceed in order, as some one has suggested, I insist that he has a right to proceed and discuss this bill and make such a speech as he thinks proper, and that there is no rule that has ever been enforced in the Senate to deny him that right. I should be very sorry at this day to see a majority of the Senate decide that the Senator from Pennsylvania is out of order because in their opinion his remarks are irrelevant to the particular point under consideration. The whole bill is now open before the Senate. We are discussing an amendment to an appropriation bill, which, in my judgment, properly entitles any Senator who thinks proper to indulge in remarks—he must be his own judge as to the propriety of them—in making such remarks as he thinks proper, not, of course, violating the rules of the Senate in what he says; but so far as relevancy is concerned, he is to judge of that.

Mr. SHERMAN. I have now the rule, and I will read it to the Senate. It is a rule that is very rarely referred to, because we do not look to these questions closely:

"7. If any member, in speaking or otherwise, transgress the rules of the Senate, the Presiding Officer shall, or any member may, call to order; and when a member shall be called to order by the President or a Senator, he shall sit down, and shall not proceed without leave of the Senate."

That settles that question.

"And every question of order shall be decided by the President without debate, subject to an appeal to the Senate; and the President may call for the sense of the Senate on any question of order."

And my impression is that it is usual for the Chair to submit a question of order to the Senate. On the question of practice I may not be correct. Senators who are older than I am can speak as to that.

Several SENATORS. Not on a question of relevancy.

Mr. SHERMAN. That is the general parliamentary law. How far that is to be enforced in the Senate, is a matter for the Senate to determine. I do not wish to be discourteous to my friend from Pennsylvania, but this question has been before us for five or six days, and I want to have it disposed of.

Mr. TRUMBULL. A point of order on a question of relevancy is never submitted to the Senate.

Mr. CLARK. If the Senator from Ohio will allow me, I will suggest to him that he had better, in this case, withdraw his point of order, because there can be no general rule on a question of this kind. You may in this case decide that the Senator from Pennsylvania is out of order, but that does not decide that any other Senator is out of order until the Senate take the question on that particular case.

Mr. SHERMAN. I am perfectly willing to withdraw it. The only reason why I insisted upon it so far was that the Senator from Pennsylvania took the technical objection that I must reduce my point of order to writing, and that being unusual, I thought I would insist on the enforcement of the rule.

The PRESIDING OFFICER. The Chair did not insist that the point of order should be reduced to writing. The Senator from Ohio had a right to state it without reducing it to writing.

Mr. SHERMAN. The Senator from Pennsylvania insisted on the point of order being reduced to writing, which was very unusual.

Mr. COWAN. The words on which you made your point of order.

Mr. CLARK. Allow me to say that on that point I think the Senator from Pennsylvania was wrong. When a Senator is called to order for words spoken in debate, because they are opprobrious or improper, then they are to be reduced to writing, but not in a case of this kind. I think the point of order had better be withdrawn, and let the debate go on.

Mr. SHERMAN. I withdraw it.

Mr. GRIMES. I object to the withdrawal of the point of order, because I want to have this question settled.

Mr. CLARK. It settles nothing.

Mr. GRIMES. I want to have it settled for hereafter. Several times during this session when a Senator has been debating a question here and arguing it as he chose to argue it, somebody has got up and raised a point of order that he was out of order. I have never seen it done until this winter, and I want to have a stop put to it.

Mr. CLARK. The Senator from Iowa will allow me to suggest to him that taking this question now will decide nothing with regard to it. I have never known it done before, and I presume it will not be done again, if this point of order is withdrawn, any more than if we were to vote upon it. I think, if by general consent, the point of order is withdrawn, and the debate is allowed to go on, Senators will keep themselves within the ordinary rule of parliamentary law. They must, in a great measure, be allowed to judge for themselves what is proper.

Mr. SUMNER. I wish to call the attention of the Senate to a debate that is historic, perhaps the greatest debate that ever occurred in this Chamber, known as that between Mr. Webster and Mr. Hayne. Senators will remember that that occurred on a simple resolution relating to the disposition of the public lands. On the consideration of that resolution, the whole question of the relations between the North and South was opened; also the question between the rights of the States and the General Government, and the original formation of the national Constitution, all of which were most thoroughly discussed by Mr. Webster in at least two separate speeches. I am not aware that on that occasion any one undertook to call Mr. Webster to order by saying that he must confine himself to the consideration of the public lands. I take it, that debate may be considered as having practically settled in this Chamber that a discussion may be made a departure, if I may so express myself, from the original topic; but that departure must always be regulated by the good sense and the discretion of the Senators who take part in it.

Mr. CONNESS. With the permission of the Senator from Pennsylvania, I desire to say one word. I understood the Senator from New Hampshire to say that a question of order arising out of the latitude debate had taken and the inappropriateness of the debate to the subject had never been raised in the Senate before. I think the Senator was in error in that statement. I have several times since I have been here heard such questions of order made.

Mr. CLARK. Questions of order have been raised upon particular motions, such as a motion to commit or a motion to take up a subject, where the debate is always limited; but upon a general debate like this I never knew a question made.

Mr. CONNESS. I wish simply to say, in conclusion, without intruding on the time of the Senator from Pennsylvania, that I had no intention certainly to raise the question for the first time, but supposed I was following the ordinary path that was pursued here, as the debate had taken a very wide course. I drew upon myself remarks, somewhat personal, from the Senator from Massachusetts, and which I think had better not have been made by him, as they were not strictly correct. I did not

intend any offense to the Senator. I supposed I was doing that which I had a right to do, and which could not be regarded as offensive by any Senator.

Mr. COWAN. I have but a single word to say. I suppose that the debate was out of order, according to the rules of this body. I think the whole of it was logically out of order. That is logically out of order which considers persons instead of questions. The question here is as to the authority of the President and the propriety of the exercise of certain powers on his part. The range of the debate is wide enough to include all Presidents and all power and all Governments, and all that kind of thing. I think the divergence was on the part of the Senators from Wisconsin. I think any debate, unless it be in executive session, in which the person of anybody is introduced or the motives of anybody as a person is introduced is out of order; and it is out of order for the plain, palpable reason that it destroys all order and becomes disorder, and does not conduce in any way to the ends of truth.

My friend from Massachusetts is entirely mistaken in the instances which he gives. He states that a soldier was removed in the city of Philadelphia to make way for an enemy of the party. I need not say to the Senate, because it will learn that in due time, that this is utterly, totally, and entirely untrue, not that I mean to say that the Senator from Massachusetts knows that it is so; but the real truth of the matter is, that the person appointed is as radical, according to his record, and more radical than the honorable Senator from Massachusetts, with all his radicalism, dare be; and he comes here indorsed, I think, with all the radicalism that has ever prevailed in the country, all of which will be disclosed in proper time by my friend from Oregon, [Mr. WILLIAMS,] to whom the case is committed.

Now, with regard to the other appointment, the gentleman who was marshal of western Pennsylvania was a gentleman of my profession, a friend of mine; and I may say for him that he is as honorable, as upright, and as good a man as there is in the country. He has held that office for three or four years without the slightest stain upon his reputation or his credit in any way. The gentleman who has been appointed to take his place, instead of being a civilian, is a soldier, has been a soldier through the war; and what I rose especially for was to caution my friend from Massachusetts about the too liberal use of the vocabulary of the English language which is used to designate crime. He said to the Senate here, in open session, that this man had committed acts which, but for the interference of friends, would have sent him to the penitentiary. I think the honorable Senator is a just man; at least he talks largely of justice here. I think he is a charitable man. I think, when he manifests such extraordinary affection for an alien race and for an oppressed people, he would not hurt his brother.

But, sir, it is the fashion of the times; these words come so glibly upon the tongue, and they are held to be of so little import here, that a reputation is stabbed as though it were as vile trash as that which fills a purse. Let the honorable Senator reflect for one moment upon the gross injustice of such a charge as this, made here openly, in broad day, to the American people; and let him reflect that he makes it of a soldier—a soldier, I can tell him, who, after this disgrace of his, rode the raid with Sheridan, and fought the battles in the valley. In my country, whether this charge be true or be not true—I know nothing of it—no man would dare to charge that appointee to his face with a crime that would render him infamous. No man, whether he believes it or not, would charge that until it was properly investigated upon a presentment by a grand jury and a verdict of the fellow-citizens of the guilty man. I put it to Senators whether this is the place where a man's reputation may be torn to tatters; where his wife may be made to weep for shame among the other weeping

and doleful trains of which the Senator has told us; and whether he wishes to make himself the conduit, the mouth-piece, by which to convey insult and infamy to this man's children when the grave closes over both him and the Senator from Massachusetts. Sir, the rule was that prosecution should be free, but that defamation never should be free. Let him who charges a crime upon his fellow-man go to the law. If it is a crime at all it is a crime against the law; and when charges are to be made of this infamous character let the law be appealed to, let the prosecution be free, but let the defamation be limited, not only by the law, but by the restraints which every gentleman and every man of honor feels ought to regulate him in his intercourse with his fellow-man.

Mr. President, as I said at the outset—and I trust it is not more out of order than a great many things which have occurred in this debate—the honorable Senator belongs to one wing of the Republican party; I belong to the other. I have no uncharitableness for him and the people who believe with him. I may believe that their doctrines are erroneous, that their projects for the future are mischievous and will result in evil, but I have no crimes to charge upon them. The sure harbinger of the downfall of any party which resorts to that means to bolster itself up is to be found in the means itself. The man who stands firmly and strongly upon a good cause and upon the justice of it never turns aside from the question to argue the personal character of his opponent, for one of the best reasons in the world: the personal character of the opponent has nothing to do with it. The logic of a bad man is not necessarily bad logic because it comes from his mouth; nor is the logic of a good man necessarily good logic because it proceeds from the mouth of a pure man. It is only weak people who resort to those indices; and whenever you find a man resorting to them it is a sure evidence that he is not competent to decide upon the true. But has it come to this in the Senate of the United States, that we are to leave questions for personal motives and for a personal consideration of the characters of those who choose to advocate this or that doctrine?

Mr. President, I simply rose to say this much. I had not intended to say a word as long as the debate was confined to its legitimate limited range, because I supposed everybody had made up his mind on that point, and I did not attempt to influence anybody; but when the honorable Senator from Wisconsin [Mr. Howe] got up and undertook to dive into the secret machinery by which the President of the United States was guilty of ingratitude to him and his set, and when the honorable Senator from Massachusetts undertook to state boldly that the party was betrayed by the President, and when particular instances were given, it was utterly impossible to sit still and allow those things to go to the country without attempting to send along with them an antidote, however feeble it may be.

I have only to say further, that one day we shall wake up from this delusion by finding that if we undertake to govern an empire of the size of this, including so many States as this does, so many varieties of men, so many interests clashing with one another, we shall have to be much more charitable to one another, and we shall have to be much more tolerant of divergent opinions, and to yield ours, when it becomes necessary, for the common security and the common peace. As was well said by my friend from Wisconsin, [Mr. DOOLITTLE,] what the nation wants now is peace, not war. What it wants now is repose, and not factious and turbulent activity. What it wants is a restoration of law and order, obedience to the Constitution and to the recognized authorities of the land; that crimination and recrimination shall cease; the past be forgiven; that by-gones be by-gones; and that if there is to be retribution, if the hand of retribution has not fallen upon the nation heavily enough now, North and South, when there is hardly a family throughout the length and breadth of the land that is

not clothed in mourning, when every household mourns its victims sacrificed upon the altar of the insane hate of people against people—people who never saw one another and who know nothing about each other—I say that what the nation wants now is quiet, peace, and harmony, that good men should come together and be forgiving, and that if there are to be more victims they shall be victims of the law, not the victims of individual malice, or the victims of individual revenge. Let the law in its majesty seize upon the guilty, pronounce upon their cases, and execute its judgments as becomes a civilized, Christian people.

Mr. HOWE. I cannot allow this hold of the Treasury that we have got just now to pass away from us, and these appropriations to go, until I have said a word of explanation upon one remark of my colleague's.

To recall the Senate to the state of the question, it will be borne in mind that he undertook to defend the policy which the President is governed by in his appointments, and to deny that he was making any appointments for opinion's sake. I had some facts, that is to say, I heard some statements which I thought militated against that view of the case, and I submitted them that I might know whether they were correct or not. In reply to that my colleague took occasion to remark, as if it were a subject of personal injury to himself, that in his absence I had presented to the Senate some resolutions passed by the Legislature of Wisconsin asking him to resign his seat here in the Senate. If my colleague has a right to consider that a personal injury, if it was a personal injury to him, I regret it. If it was a wrong done him, I regret the act very much. Those resolutions were sent to me by the secretary of state of Wisconsin in company with several other series of resolutions and memorials, most of which were addressed in terms to the Congress of the United States. I could not understand any possible purpose in sending them to me except it was to have them laid before the Senate; and so it never occurred to me to doubt for an instant that it was entirely proper, and that it was demanded as the due of the State of Wisconsin that they should be presented to the Senate. I did have a question in my own mind whether courtesy to my colleague did not rather call upon me to wait and allow him to present the resolutions. I submitted that question to a couple of Senators much older and more experienced than myself sitting near me, and it was in pursuance of their recommendation that I submitted the resolutions myself. I certainly did not intend to do my colleague any wrong. I do not believe to-day I did him any wrong. I do think the Legislature intended that those resolutions should be submitted to the Senate. The fact of their passage was known to the world, and I think I only obeyed the wish of the Legislature of Wisconsin when I did submit them.

But my colleague asks me if I consider that act of the Legislature instructing him to resign his seat because of some votes he had given here as an act of toleration, and whether I approve of the conduct of the Legislature. Sir, the conduct of the Legislature had not been drawn in question at all. There had been no allusion to it whatever. But when my colleague holds up that act of the Legislature as an evidence of intolerance like that of which I spoke in certain appointments which were attributed to the President, I think he overlooks entirely the difference between the relations existing between him and the Legislature of Wisconsin and the relations existing between the President and the party who put him in the presidential chair. My colleague seems to forget the fact that the Legislature of that State selected him out of all the people of Wisconsin to come here, bringing her power of attorney to declare her will, to defend her interests, to uphold her honor, to be her representative. They had requested him upon one great measure to make a given declaration of her wishes. He declined to do that. I do not attack my colleague for declining it, for obeying his own

convictions instead of hers. That was his prerogative as a Senator. But having seen fit upon that great vital measure to follow his own convictions, to declare his own wishes, and not to make known the wish of Wisconsin, I must be allowed to say in all candor that I do not think the State of Wisconsin stepped out of her jurisdiction, or that the Legislature overstepped the jurisdiction prescribed to them when they saw fit to comment upon that course of his as to them seemed just. With that action of the Legislature I had no conceivable connection in the world, any further than to be their organ in submitting the resolutions to the Senate.

As to the other question raised by my colleague and discussed here, touching the President's policy itself, I expressly waived any attack upon that. My colleague's ideas of reconstruction are not advanced here now for the first time, and I do not feel called upon now to say a word in reply to them.

Mr. WILSON. Some things have fallen from the Senator from Wisconsin and the Senator from Pennsylvania that I desire to notice; but at this hour I do not like to ask Senators to stay here for that purpose. I therefore move that the Senate do now adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 8, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

RECONSTRUCTION.

The SPEAKER stated the first business in order to be the consideration of the constitutional amendment reported by the joint committee on reconstruction.

Mr. GARFIELD. I move that that special order be postponed, and that the House proceed to the consideration of the tax bill. I do this for the reason that I believe in three or four days at the farthest we can finish the tax bill. If we enter now into the discussion of the constitutional amendment it will bring up the entire subject of reconstruction, and the debate will run on for three or four weeks. It seems to me to be almost a national calamity to delay the tax bill that long. I call for the previous question.

Mr. STEVENS. I hope there will be no such disposition made of the special order. I have no idea that the constitutional amendment will take up more than two or three days. It ought to be in the Senate at once, if it is ever to be acted on. As to the tax bill, we will not lose anything by letting it lie over. Some additions have been recently made to it which I have not had time to read. We have set apart the night sessions for the consideration of that bill.

Mr. WASHBURN, of Illinois. I understand it was the agreement of the House yesterday that the constitutional amendment should be considered during the day and the tax bill during the evening.

Mr. GARFIELD. I do not think that was the understanding. It was not mine.

The SPEAKER. To what time does the gentleman propose to postpone it?

Mr. GARFIELD. Until the tax bill has been disposed of.

Mr. STEVENS. I move that that motion be laid upon the table.

Mr. RAYMOND. In case we do not finish the constitutional amendment to-day, will it be superseded by the proposition made the special order for to-morrow?

The SPEAKER. The constitutional amendment remains the special order until disposed of.

Mr. STEVENS. I withdraw my motion to lay upon the table.

I will say that the intention is not to press the accompanying bills until this constitutional amendment has been disposed of by the Senate.

Mr. JENCKES. I ask the gentleman from Ohio to modify his motion so that we may have the day for the tax bill, and the evening for reconstruction.

The SPEAKER. That will require unanimous consent.

Mr. GARFIELD. I am willing to agree to that.

Mr. STEVENS. I object.

Mr. GARFIELD. Then I insist on my motion and demand the previous question.

The previous question was seconded and the main question ordered.

Mr. LE BLOND. I demand the yeas and nays. I want to see whether the negro shall have preference of the finances.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 82, not voting 50; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Barker, Bergen, Boyer, Chanler, Coffroth, Darling, Dawes, Dawson, Denison, Eldridge, Finck, Garfield, Glossbrenner, Goodyear, Grider, Griswold, Aaron Harding, Harris, James Humphrey, Jenckes, Kasson, Kerr, Latham, LeBlond, Marshall, McCullough, Moorhead, Niblack, Patterson, Phelps, Pike, Radford, Samuel J. Randall, Raymond, Ritter, Ross, Rousseau, Shanklin, Stilwell, Strouse, Taber, Taylor, Thayer, Thornton, Robert T. Van Horn, Henry D. Washburn, William B. Washburn, Whaley, and Williams—51.

NAYS—Messrs. Atley, Ames, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blow, Bromwell, Broomall, Buckland, Bundy, Render W. Clarke, Cobb, Conkling, Cullom, DeWitt, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Eliot, Farnsworth, Ferry, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, James K. Hubbell, Hulburd, Ingersoll, Julian, Kelley, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Longyear, Lynch, McIndoe, McKee, McRuer, Mercer, Miller, Morris, Moulton, O'Neill, Orth, Parham, Plants, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Warner, Elisha B. Washburne, Welkor, Stephen F. Wilson, and Windom—82.

NOT VOTING—Messrs. Allison, Ancona, Blaine, Boutwell, Brandegee, Sidney Clarke, Cook, Culver, Davis, Delano, Dumont, Egzieston, Farquhar, Grinnell, Hale, Hill, Hogan, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Loan, Marston, Marvin, McClure, Morrill, Myers, Newell, Nicholson, Noel, Paine, Pomeroy, Price, Rogers, Sitgreaves, Sloan, Smith, Starr, Francis Thomas, Trimble, Ward, Wentworth, James F. Wilson, Winfield, Woodbridge, and Wright—50.

So the House refused to postpone the special order.

Mr. WASHBURN, of Illinois. I ask the gentleman from Pennsylvania to yield to allow me to offer a resolution.

Mr. STEVENS. I will yield if it does not come out of my time.

MERCHANTS' NATIONAL BANK OF WASHINGTON.

Mr. WASHBURN, of Illinois. I ask unanimous consent to introduce the following resolution:

Resolved, That the Committee on Banking and Currency be directed to examine into all the facts and circumstances connected with the recent failure of the Merchants' National Bank of Washington, and report to the House the amount of money deposited in the said bank, and by whom, the causes of its failure, and also what further legislation is necessary in regard to the national banks to protect the public and the Government, and that the said committee be empowered to send for persons and papers, and examine witnesses under oath.

Mr. HOOPER, of Massachusetts. I suggest an amendment that it be made to apply to other banks.

Mr. WASHBURN, of Illinois. I accept that—"and other banks."

The resolution, as amended, was agreed to.

Mr. WASHBURN, of Illinois, moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

GRADE OF VICE ADMIRAL.

Mr. RICE, of Massachusetts. I ask the gentleman from Pennsylvania to yield to allow me to introduce a bill.

Mr. STEVENS. I will yield.

Mr. RICE, of Massachusetts. I ask unanimous consent to introduce and put upon its passage a bill to amend an act to establish the

grade of vice admiral in the United States Navy.

The bill was read in part, when

Mr. ROSS demanded the regular order of business.

Mr. RICE, of Massachusetts. I hope the gentleman will allow this to pass.

Mr. ROSS. We have had flummery enough of that kind.

RECONSTRUCTION—AGAIN.

Mr. STEVENS. The short time allowed by our resolution will suffice to introduce this debate. If unexpectedly there should be any objection to the proposed amendment to the Constitution I may ask the indulgence of the House to reply.

The committee are not ignorant of the fact that there has been some impatience at the delay in making this report; that it existed to some extent in the country as well as among a few members of the House. It originated in the suggestions of faction, no doubt, but naturally spread until it infected some good men. This is not to be wondered at or complained of. Very few could be informed of the necessity for such delay. Beside, we are not all endowed with patience; some men are naturally restive, especially if they have active minds and deep convictions.

But I beg gentlemen to consider the magnitude of the task which was imposed upon the committee. They were expected to suggest a plan for rebuilding a shattered nation—a nation which though not dissevered was yet shaken and riven by the gigantic and persistent efforts of six million able and ardent men; of bitter rebels striving through four years of bloody war. It cannot be denied that this terrible struggle sprang from the vicious principles incorporated into the institutions of our country. Our fathers had been compelled to postpone the principles of their great Declaration, and wait for their full establishment till a more propitious time. That time ought to be present now. But the public mind has been educated in error for a century. How difficult in a day to unlearn it. In rebuilding, it is necessary to clear away the rotten and defective portions of the old foundations, and to sink deep and found the repaired edifice upon the firm foundation of eternal justice. If, perchance, the accumulated quicksands render it impossible to reach in every part so firm a basis, then it becomes our duty to drive deep and solid the substituted piles on which to build. It would not be wise to prevent the raising of the structure because some corner of it might be founded upon materials subject to the inevitable laws of mortal decay. It were better to shelter the household and trust to the advancing progress of a higher morality and a purer and more intelligent principle to underpin the defective corner.

I would not for a moment inculcate the idea of surrendering a principle vital to justice. But if full justice could not be obtained at once I would not refuse to do what is possible. The commander of an army who should find his enemy intrenched on impregnable heights would act unwisely if he insisted on marching his troops full in the face of a destructive fire merely to show his courage. Would it not be better to flank the works and march round and round and besiege, and thus secure the surrender of the enemy, though it might cost time? The former course would show valor and folly; the latter moral and physical courage, as well as prudence and wisdom.

This proposition is not all that the committee desired. It falls far short of my wishes, but it fulfills my hopes. I believe it is all that can be obtained in the present state of public opinion. Not only Congress but the several States are to be consulted. Upon a careful survey of the whole ground, we did not believe that nineteen of the loyal States could be induced to ratify any proposition more stringent than this. I say nineteen, for I utterly repudiate and scorn the idea that any State not acting in the Union is to be counted on the question

of ratification. It is absurd to suppose that any more than three fourths of the States that propose the amendment are required to make it valid; that States not here are to be counted as present. Believing, then, that this is the best proposition that can be made effectual, I accept it. I shall not be driven by clamor or denunciation to throw away a great good because it is not perfect. I will take all I can get in the cause of humanity and leave it to be perfected by better men in better times. It may be that that time will not come while I am here to enjoy the glorious triumph; but that it will come is as certain as that there is a just God.

The House should remember the great labor which the committee had to perform. They were charged to inquire into the condition of eleven States of great extent of territory. They sought, often in vain, to procure their organic laws and statutes. They took the evidence of every class and condition of witness, from the rebel vice president and the commander-in-chief of their armies down to the humblest freedman. The sub-committees who were charged with that duty—of whom I was not one, and can therefore speak freely—exhibited a degree of patience and diligence which was never excelled. Considering their other duties, the mass of evidence taken may well be considered extraordinary. It must be remembered, also, that three months since, and more, the committee reported and the House adopted a proposed amendment fixing the basis of representation in such way as would surely have secured the enfranchisement of every citizen at no distant period. That, together with the amendment repudiating the rebel debt, which we also passed, would have gone far to curb the rebellious spirit of secession, and to have given to the oppressed race their rights. It went to the other end of the Capitol, and was there mortally wounded in the house of its friends.

After having received the careful examination and approbation of the committee, and having received the united Republican vote of one hundred and twenty Representatives of the people, it was denounced as "utterly reprehensible," and "unpardonable;" "to be encountered as a public enemy;" "positively endangering the peace of the country, and covering its name with dishonor." "A wickedness on a larger scale than the crime against Kansas or the fugitive slave law; gross, foul, outrageous; an incredible injustice against the whole African race;" with every other vulgar epithet which polished cultivation could command. It was slaughtered by a puerile and pedantic criticism, by a perversion of philosophical definition which, if when I taught school a lad who had studied Lindley Murray had assumed, I would have expelled him from the institution as unfit to waste education upon. But it is dead, and unless this (less efficient, I admit) shall pass, its death has postponed the protection of the colored race perhaps for ages. I confess my mortification at its defeat. I grieved especially because it almost closed the door of hope for the amelioration of the condition of the freedmen. But men in pursuit of justice must never despair. Let us again try and see whether we cannot devise some way to overcome the united forces of self-righteous Republicans and unrighteous copperheads. It will not do for those who for thirty years have fought the beasts at Ephesus to be frightened by the fangs of modern catamounts.

Let us now refer to the provisions of the proposed amendment.

The first section prohibits the States from abridging the privileges and immunities of citizens of the United States, or unlawfully depriving them of life, liberty, or property, or of denying to any person within their jurisdiction the "equal" protection of the laws.

I can hardly believe that any person can be found who will not admit that every one of these provisions is just. They are all asserted, in some form or other, in our DECLARATION or organic law. But the Constitution limits only the action of Congress, and is not a limitation on the States. This amendment supplies that

defect, and allows Congress to correct the unjust legislation of the States, so far that the law which operates upon one man shall operate equally upon all. Whatever law punishes a white man for a crime shall punish the black man precisely in the same way and to the same degree. Whatever law protects the white man shall afford "equal" protection to the black man. Whatever means of redress is afforded to one shall be afforded to all. Whatever law allows the white man to testify in court shall allow the man of color to do the same. These are great advantages over their present codes. Now different degrees of punishment are inflicted, not on account of the magnitude of the crime, but according to the color of the skin. Now color disqualifies a man from testifying in courts, or being tried in the same way as white men. I need not enumerate these partial and oppressive laws. Unless the Constitution should restrain them those States will all, I fear, keep up this discrimination, and crush to death the hated freedmen. Some answer, "Your civil rights bill secures the same things." That is partly true, but a law is repealable by a majority. And I need hardly say that the first time that the South with their copperhead allies obtain the command of Congress it will be repealed. The veto of the President and their votes on the bill are conclusive evidence of that. And yet I am amazed and alarmed at the impatience of certain well-meaning Republicans at the exclusion of the rebel States until the Constitution shall be so amended as to restrain their despotic desires. This amendment once adopted cannot be annulled without two thirds of Congress. That they will hardly get. And yet certain of our distinguished friends propose to admit State after State before this becomes a part of the Constitution. What madness! Is their judgment misled by their kindness; or are they unconsciously drifting into the haven of power at the other end of the avenue? I do not suspect it, but others will.

The second section I consider the most important in the article. It fixes the basis of representation in Congress. If any State shall exclude any of her adult male citizens from the elective franchise, or abridge that right, she shall forfeit her right to representation in the same proportion. The effect of this provision will be either to compel the States to grant universal suffrage or so to shear them of their power as to keep them forever in a hopeless minority in the national Government, both legislative and executive. If they do not enfranchise the freedmen, it would give to the rebel States but thirty-seven Representatives. Thus shorn of their power, they would soon become restive. Southern pride would not long brook a hopeless minority. True it will take two, three, possibly five years before they conquer their prejudices sufficiently to allow their late slaves to become their equals at the polls. That short delay would not be injurious. In the mean time the freedmen would become more enlightened, and more fit to discharge the high duties of their new condition. In that time, too, the loyal Congress could mature their laws and so amend the Constitution as to secure the rights of every human being, and render disunion impossible. Heaven forbid that the southern States, or any one of them, should be represented on this floor until such muniments of freedom are built high and firm. Against our will they have been absent for four bloody years; against our will they must not come back until we are ready to receive them. Do not tell me that there are loyal representatives waiting for admission—until their States are loyal they can have no standing here. They would merely misrepresent their constituents.

I admit that this article is not as good as the one we sent to death in the Senate. In my judgment, we shall not approach the measure of justice until we have given every adult freedman a homestead on the land where he was born and toiled and suffered. Forty acres of land and a hut would be more valuable to him than the immediate right to vote. Unless we give them this we shall receive the censure of

man and the curse of Heaven. That article referred to provided that if one of the injured race was excluded the State should forfeit the right to have any of them represented. That would have hastened their full enfranchisement. This section allows the States to discriminate among the same class, and receive proportionate credit in representation. This I dislike. But it is a short step forward. The large stride which we in vain proposed is dead; the murderers must answer to the suffering race. I would not have been the perpetrator. A load of misery must sit heavy on their souls.

The third section may encounter more difference of opinion here. Among the people I believe it will be the most popular of all the provisions; it prohibits rebels from voting for members of Congress and electors of President until 1870. My only objection to it is that it is too lenient. I know that there is a morbid sensibility, sometimes called mercy, which affects a few of all classes, from the priest to the clown, which has more sympathy for the murderer on the gallows than for his victim. I hope I have a heart as capable of feeling for human woes as others. I have long since wished that capital punishment were abolished. But I never dreamed that all punishment could be dispensed with in human society. Anarchy, treason, and violence would reign triumphant. Here is the mildest of all punishments ever inflicted on traitors. I might not consent to the extreme severity denounced upon them by a provisional governor of Tennessee—I mean the late lamented Andrew Johnson of blessed memory—but I would have increased the severity of this section. I would be glad to see it extended to 1876, and to include all State and municipal as well as national elections. In my judgment we do not sufficiently protect the loyal men of the rebel States from the vindictive persecutions of their victorious rebel neighbors. Still I will move no amendment, nor vote for any, lest the whole fabric should tumble to pieces.

I need say nothing of the fourth section, for none dare object to it who is not himself a rebel. To the friend of justice, the friend of the Union, of the perpetuity of liberty, and the final triumph of the rights of man and their extension to every human being, let me say, sacrifice as we have done your peculiar views, and instead of vainly insisting upon the instantaneous operation of all that is right accept what is possible, and "all these things shall be added unto you."

I move to recommit the joint resolution to the committee on reconstruction.

Mr. BLAINE. I do not rise to discuss the proposition, but to ask of the honorable chairman of the committee a question, an answer to which, I am sure, will afford gratification and satisfaction to me, and doubtless to other members of the House. It relates to the third section of the proposed constitutional amendment, which is in these words:

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

Now, the question in my mind, upon which I respectfully ask for information, is whether this may not involve us in a position of bad faith. On the 17th of July, 1862, an act was approved, entitled "An act to suppress insurrection, to punish treason, to seize and confiscate the property of rebels, and for other purposes," of which the thirteenth section is in these words:

"That the President is hereby authorized at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion, in any State or part thereof, pardon and amnesty, with such exceptions and at such times and on such conditions as he may deem expedient for the public welfare."

Under and in pursuance of this act the late President Lincoln issued a proclamation granting a great number of pardons upon certain specified conditions. Hundreds and perhaps thousands of pardons were granted by Mr.

Lincoln during the years 1863 and 1864. Subsequently, and as late as the early summer of 1865, President Johnson issued his celebrated amnesty proclamation granting pardons and immunities to certain specified classes in the South that had participated in the rebellion with a military rank under colonel, and excepting certain classes from the benefits of his clemency.

Now, I am perfectly aware that as matter of strict law the deprivation of the elective franchise may not be regarded as a punishment, and therefore no violation of the immunities conveyed by the pardon. But as a matter of fact these pardons have been given and accepted with the full understanding that the recipients were thereby fully restored to all the rights and privileges of citizenship, and do we not by the proposed action place ourselves in the attitude of taking back by constitutional amendment that which has been given by act of Congress and by presidential proclamation issued in pursuance of law? And will not this course be justly subject to the charge of bad faith on the part of the Federal Government?

Mr. STEVENS. I will answer that question. I do not know if the gentleman is a lawyer, but I suppose he has examined this question. A pardon, whether by the President having the power, or specially by act of Parliament or Congress, extinguishes the crime. After that there is no such crime in the individual. A man steals; he is pardoned; he is not then a thief, and you cannot call him a thief, or if you do you are liable to an action for slander. None of those who have been fully pardoned are affected by this provision.

Mr. BLAINE. Then I must say if the gentleman answers the question in that way that he puts a strange construction on the section. I will read it again. It is as follows:

SEC. 3. Until the 4th day of July, 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

Now, I understand the distinguished gentleman from Pennsylvania to say that those under the rank of colonel who were pardoned will not be considered as having "adhered" to the rebellion, and that this will not apply to them, or in any way affect them. This certainly is a very strange construction, and it seems to me that it effectually nullifies what has been understood as the intent and purpose of the section. In that view the section is worthless; and in the view I have given it involves bad faith.

Mr. STEVENS. The law says that a man convicted of felony shall not testify. You call him as a witness; the objector shows his conviction; he shows his pardon; and he is not a felon.

Mr. BLAINE. The gentleman from Pennsylvania will excuse me. There is no pardon that can be shown in this case.

Mr. STEVENS. Oh, yes; there is a pardon.

Mr. BLAINE. There was no pardon granted except by the proclamation. These men have no pardons which they can produce in court as a malefactor can. A vast class was pardoned by wholesale, and being pardoned, they stand to-day just as well in point of civil rights and privileges as they did before the rebellion. Now, I maintain that this constitutional amendment would lead to serious misunderstanding throughout the entire South.

Mr. STEVENS. Of course the fact of having complied with the conditions of pardon will be shown.

Mr. BLAINE. But there were no conditions.

Mr. STEVENS. Oh, yes, there were.

Mr. BLAINE. President Johnson's proclamation pardoned all below a certain rank in the rebel army. Mr. Lincoln, I know, did exact conditions; and if there were no proclamation out except that of Mr. Lincoln, why, of course, there could be no misunderstanding. But I want the gentleman to observe the phraseology of the act of 1862, for

it was evidently written with a view to being applied after the war should have ceased. It says:

"The President is hereby authorized at any time hereafter, by proclamation, to extend to persons who may have participated in the existing rebellion, in any State or part thereof, pardon," &c.

It alluded to a future time when the rebellion should be suppressed. That future time has been reached. The rebellion was concluded and its armies dispersed, and President Johnson, in direct and literal pursuance of law, issued his proclamation pardoning all that class below the rank of colonel who had participated in the rebellion.

Now, this constitutional amendment would be held to override the President's proclamation, being organic in its nature and supreme. I understand, to use the cant phrase of the day, that it "goes back" on these men, and deprives them of the civil rights which this full pardon restored to them. That is my understanding, and that, it seems to me, would be the legal construction. But if the gentleman from Pennsylvania is correct, and it does not apply to that class of men, then I maintain that it is the bounden duty of the House to make the language so plain that "he who runs may read," and that there may be no doubt about its construction.

Mr. STEVENS. I have only to say, again, that whenever a man can show a full pardon, no penalty can be inflicted.

Mr. BLAINE. I desire to make no motion at this time, but if this provision is to be left, according to the construction which I have given it, what I think is the obvious one, or according to the construction which the gentleman from Pennsylvania has given it, which, it seems to me, would lead to infinite mischief and complication, I shall avail myself, at the proper time, of the right to move to strike it out.

Mr. FINCK. Mr. Speaker, I promise to trespass upon the attention of the House but a very few minutes in what I have to say on this question.

An amendment to the Constitution is at all times a matter of grave importance, and should command calm and patient deliberation.

It is of the last importance to the prosperity and happiness of a people that stability in the great organic laws of the nation should be maintained. Amendments sometimes, I agree, become necessary to the constitution of every nation; but they should not be hurriedly made, and never without considering the interests and opinions of the whole people.

To me, Mr. Speaker, this of all other seems the most inauspicious time to propose or make changes in our Constitution.

We are just at the close of the most stupendous war which has ever scourged any nation, and the passions and alienations which have been engendered by this strife have not yet completely passed away.

The amendments proposed are to affect the people of this whole country, but more especially are they intended to affect the people of the States lately in insurrection; and it would seem not only to be an act of even-handed justice, but of the highest wisdom, if we would consult the teachings of the wise and pure men who established our Government, that these people should have an opportunity of considering and discussing these amendments here, and to record their votes through their representatives either for or against them before they are finally submitted to the States for their action. Now, what is the condition in which we to-day find ourselves?

The war terminated over a year ago. The people of the late insurgent States have fully and completely yielded obedience to the Constitution and laws of the United States. Their State governments are completely restored. Their courts are in the full exercise of their jurisdiction, and profound peace reigns throughout our borders. To show that these people are in earnest, and acting in good faith, I need only refer to the fact that they have ratified the

amendment abolishing slavery, abandoned the pretended claim to the right of secession, and elected members of Congress.

But, sir, the men who control this Congress have failed, in my judgment, to meet these people in that true spirit of kindness and forgiveness dictated by a wise and enlarged statesmanship, and which now alone are necessary to restore cordial relations between the two sections.

At the commencement of this session a most extraordinary resolution was adopted, creating a joint committee of fifteen on reconstruction, and to which it was ordered that everything relating to the admission of members from the late insurgent States should be referred, and none of their representatives were to be admitted until this committee should report on the subject. Thus this House, in the face of that provision of the Constitution, which declares that each House shall be the judge of the elections, returns, and qualifications of its own members, surrendered the exercise of that right to a joint committee, the distinguished chairman of which [Mr. STEVENS] had already pronounced these States conquered territories and their citizens aliens.

We have been advised from time to time, with an air of supreme defiance at the restoration policy of the President, that Congress must first ascertain and declare that these were States really in the Union, with governments republican in form; and that until these things were satisfactorily declared by Congress, no Senator or Representative could be admitted from any of these States.

Well, sir, we have waited, and the country has waited, with feverish anxiety for the period when this committee should report on these questions and the congressional plan should be finally presented. Witnesses have been brought from all parts of the country and examined by the committee, to ascertain and report on the loyalty of the southern people and the condition of their State governments. At last, after five months' labor, this committee has brought in its report, and what information do they bring us? And what do they propose that Congress shall do? Do they tell us whether these States are in or out of the Union; or whether they have governments republican in form? Not a bit of it. But they report an amendment to the Constitution, containing four or five sections, with two bills accompanying it, and these are to constitute the congressional plan, as opposed to the policy of the President.

The time to which I am limited by the resolution of the House regulating this discussion; will prevent me from entering into an elaborate examination of this plan of the committee; and I shall have, therefore, to content myself with a very brief examination of it.

The first section provides that—

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

Well, all I have to say about this section is, that if it is necessary to adopt it, in order to confer upon Congress power over the matters contained in it, then the civil rights bill, which the President vetoed, was passed without authority, and is clearly unconstitutional.

The second section provides a new basis for the apportionment of Representatives to Congress, and is substantially the same which was defeated some weeks since in the Senate.

The third section deprives all persons who voluntarily aided in the rebellion from voting for members of Congress and for electors for President and Vice President until the 4th day of July, 1870.

The majority of the committee have made a most wonderful discovery, as disclosed in this third section of the proposed amendment, and have gravely announced to the world that a citizen of the United States who is now entitled to vote, but whose loyalty is suspected, would be an unsafe voter in 1866, or even in the presi-

dential election of 1868, but will, after having his feelings soothed and his love of country encouraged by being branded as an outlaw and compelled to bear the burdens of Government, in the nicely adjusted and ascertained period of four years from the 4th day of July, 1866, which is a safe and reasonable time after the next presidential election, be converted into a true and loyal citizen, and will by that time become attached to the Government which had disfranchised him, and may then safely be intrusted with the great right of suffrage. Certainly this discovery deserves to be protected by some law.

But, sir, this proposition to disfranchise these people by an amendment to the Constitution, to which you require the consent of the States whose citizens are thus to be disfranchised, is a most solemn admission that you have no authority to do so without such an amendment. I trust gentlemen have no design in this proposition to disfranchise nine tenths of the voters of eleven States, unfairly to perpetuate their political power, or to influence the next presidential election.

The fourth section provides that the rebel debt shall never be paid. Well, I suppose no one can be found in this country silly enough to believe that the rebel debt ever will be paid.

These proposed amendments are accompanied by a bill which constitutes a part of the plan of the committee, the first section of which provides—

That whenever the above recited amendments shall have become part of the Constitution, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress.

Also, another bill, which declares—

Certain persons ineligible to office under the Government of the United States.

Here, sir, in these propositions, we have the result of the wisdom and statesmanship of the distinguished gentlemen who compose the majority of the committee; and I say it without intending the least disrespect to these gentlemen, that in the future they will be quite unwilling to fix upon this report as the standard and measure of either their ability or statesmanship. Allow me to say, further, that this committee have had the opportunity, in the most important period of our history, to have inscribed their names among the first statesmen of the age, by a liberal and enlightened policy, which would have bound all sections of this great country together in the strong bond of mutual friendship and a restored Union. But they have let that opportunity pass.

Stripped of all disguises, this measure is a mere scheme to deny representation to eleven States; to prevent indefinitely a complete restoration of the Union and perpetuate the power of a sectional and dangerous party.

I am, Mr. Speaker, in the present attitude of our affairs, opposed to making any amendments to the Constitution; and, beside this objection, I am opposed to the measure under discussion, because it seeks to introduce into our system a principle which is wholly unauthorized, and will, if adopted, I fear, lead to serious difficulties in the future.

What is the theory on which these propositions are based?

This Union is composed of thirty-six States; and by law, in full force, but the provisions of which are defied and utterly disregarded, this House is legally and constitutionally to be composed of two hundred and forty-one members; but we have Representatives here from only twenty-five States, and only one hundred and eighty-four members.

The constitutional number of Senators is two for each State, and when full that body would now consist of seventy-two, while it is in fact, composed of but fifty. So that eleven States are denied all representation in both branches of Congress, although the Constitu-

tion provides. "that no State, with out its consent, shall be deprived of its equal suffrage in the Senate;" and the right to representation in the House is equally clear.

But this House by the mere exertion and combination of numbers excludes from its deliberations fifty-seven members; and the Senate by the same power excludes twenty-two members from a voice and vote in that Chamber. And it is, sir, in this strange and extraordinary condition of our affairs that we are gravely invited to proceed to change the Constitution in such a manner as to deeply and materially affect every State whose representatives are excluded from Congress; and we are further asked to say to these States thus excluded that if they refuse to debase themselves as equal States in the Union and decline to ratify and approve by affirmative action these changes, that their exclusion shall be perpetual.

I ask gentlemen to pause and reflect before they commit themselves to so monstrous and revolutionary a scheme as this.

I may be deluded and mistaken when I assume that we are still legislating under a Constitution which we have all sworn to support. Or can it be possible that while the forms and provisions of that sacred instrument are still contained in our books, that its whole spirit and binding authority have been destroyed, and that the rich heritage of our fathers, of a free Government regulated by law, has become already a mere machine by which the majority in Congress are left free and untrammelled to do just what they please?

Mr. Speaker, I trust that we are still in possession, not only of the Constitution of our fathers, but that we will be animated and controlled, at least in some degree, by their wisdom and patriotism.

Sir, I deny wholly that there exists under our Constitution any right whatever for any number of States to combine together to exclude the rest from their constitutional representation in Congress, and to say to these States so excluded that they shall only exercise the right of representation on the terms and conditions of adopting certain proposed amendments to the Constitution, because by the recognition of such a principle you at once sanction the right of three fourths of the States, not to make amendments merely, but to adopt a provision which they may call an amendment, and then drive the remaining one fourth of the States out of the Union, unless they shall also adopt the same proposition.

For that is virtually what is assumed may be done by the proposition of this committee. Nay, more than this is assumed. It is the assertion of the right of three fourths of the States to say to the other fourth, you shall be held in this Union for the purposes of taxation; you shall be subjected to all the burdens and duties of States in the Union, but you shall never be represented in Congress unless you agree to the conditions which we shall see proper to impose on you, although the Constitution expressly declares that "no State without its consent shall be deprived of its equal suffrage in the Senate," and that each State shall have at least one Representative in the House.

Sir, the whole scheme is revolutionary and a most shallow pretext for an excuse to exclude the vote of eleven States in the next presidential election. You cannot exact conditions in this way from any State in the Union; no more from Georgia, than from Massachusetts. They are each equal States in the Union, held together by the same Constitution, neither being the superior of the other in their relation to the Federal Government as States.

I cannot pretend to say, Mr. Speaker, what will be the action of these States, on these proposed changes, but I trust they will have spirit enough left to reject, with firm and manly independence, a scheme which disfranchises a large majority of their citizens and brands with the humiliating marks of inferiority States which are constitutionally the equals of any other

States in this Union. I trust, sir, these people will rally with a united and patriotic purpose around the wise and just policy of Andrew Johnson.

Gentlemen cannot justify themselves in supporting this proposed legislation on the ground that these States are out of the Union, and that therefore this Congress may require such conditions-precedent as they please to their admission. No, sir; these States are not out of the Union. They have never been out of the Union. They have been recognized by the executive and judicial departments of the Government as States in the Union, and Congress has, by its legislation, more than once during the war fully recognized them as States in the Union, and the very measure which is now proposed to them for their acceptance is a recognition of the fact that they are existing States of the Union; and yet gentlemen who support these propositions put themselves in the attitude of requiring conditions from these States, on which they are to be entitled to representation, which they do not for a moment believe they have a right to exact from New York or Pennsylvania. Sir, these eleven States are in the Union as equal States, and as clearly entitled to representation, as Ohio or Massachusetts. They are to be counted in the number of all the States, three fourths of which are necessary to ratify an amendment to the Constitution. They are so far regarded by this committee as States as to be called upon to exercise one of the highest functions which a State can exercise, namely, to adopt or reject a proposed change in the organic law of the country.

But, sir, a strange spectacle is presented in this measure. States are called upon to deliberate on proposed amendments within their own respective jurisdictions; and these very States are deprived of all opportunity of discussing or voting upon these propositions in Congress, and are States which it is gravely proposed shall not be represented, unless they shall first adopt amendments presented to them by two thirds of the representatives of twenty-five out of the thirty-six States of this Union. And more than all, these States are thus invited to deliberate on the modest demand made of them to disfranchise a large majority of their own citizens, through Legislatures elected or to be elected, by the votes of the very men who are to be disfranchised under this amendment. Sir, the proposition need only be stated to condemn it as anti-republican and wholly at war with all the well-settled principles of a free representative Government.

It is, sir, the assertion of a principle which may embarrass the nation in the future. I trust this Government may continue a free Government for countless generations to come. The life of man is of but short duration, that of a nation is often counted by centuries. And we should remember that it is always unsafe to establish precedents which may disturb the union of these States or sanction a combination of States to impair that perfect equality of the rights of the States as they exist and are secured, under our federative system.

We all know that one of the compromises made by the framers of the Constitution was the recognition of the equality of each State in the Senate; and to fix this equality they provided in the Constitution "that no State, without its consent," should be deprived of its equal suffrage in the Senate.

Well, you not only refuse this constitutional right of equal suffrage in the Senate, but go further, and deny all representation to eleven States in either House of Congress, and propose that the exercise of this plain right, secured by the Constitution to all the States, shall be enjoyed only on such terms and conditions as you may see fit to propose, through a Congress which thus excludes these States.

Gentlemen would do well not to forget that it is possible, if this combination of the majority of the representatives of twenty-five of the thirty-six States, should now be successful, and should be sanctioned by the people, that a

generation who may come after us, may deem it best for the true interest of a country which may then number one hundred million people, and fifty States, to modify the rights of some other States in their representation.

The six New England States have twelve Senators, but have a population less than the single State of New York, and in the next generation will probably have a population less than some of the States in the great valley of the Mississippi, and who can tell but that some other interest may not then form a combination and say to these six States, you have too much power in the Senate for your population, and we can only agree that you shall enjoy the right to be represented in Congress on the condition that you will consent to a reduction of your equal suffrage in the Senate?

Gentlemen from New England might then appeal to the Constitution and to the sanctity of that provision which gives to each State two Senators. But, sir, the answer could be made, and with tremendous force, that the same provision existed from the foundation of the Government; and notwithstanding that fact, these States once, on a memorable occasion in the history of this country, combined to disregard this provision and denied the benefit of this right to eleven of their sister States unless they should first sanction and adopt conditions which the majority had no right to impose; and depend upon it, sir, the appeal, if made to men like those who now control our legislation, would be made in vain.

Sir, this measure is dangerous to our safety. It protracts an unfortunate contest without promising any beneficial results to the harmony and prosperity of the country. The time has come, I most respectfully submit, when the feelings of sectional hate and animosity should give way to the higher and nobler principles of magnanimity, of kindness, conciliation, and true charity.

The people of the United States will never consent to a dissolution of the Union. They have sacrificed too much to preserve it ever to abandon it or sanction measures which will delay the complete restoration of all the States to their constitutional relations with the Federal Government. It was for this that our brave men fought. For this oceans of blood and treasure were poured out like water; and the man or set of men who may attempt to obstruct or delay the full fruition of the great struggle will be ground into powder by that people whose purposes to maintain the Union and preserve the Constitution are as fixed as our mountains.

Mr. Speaker, the North and the South are destined to live together as one people, in the same Union, and under a common Constitution. Let us, I beseech you, endeavor to live together as true friends and brothers.

Let us rise equal to the great occasion and imitate the noble example of our brave armies in the field, who, when the conflict had ended, no longer regarded the southern people as enemies, but as friends. "Enemies in war, in peace friends." Let us welcome into these Halls representatives from all the States who may be true to the Constitution and the Union; and when all these States shall once more gather around this common council chamber of the nation, then, and not till then, let the great questions of amendment be fairly discussed and voted upon.

Sir, if we shall be true to our destiny, obedient to the great principles of the Constitution and the rights of all the States, this Government will endure, and we shall be enabled to transmit unimpaired to our children as a priceless heritage, which has come down to us from the men of the Revolution, to be, as I most earnestly pray, perpetuated for ages to come as the model of free governments and the asylum for the oppressed of every land.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY,

its Secretary, announced that the Senate had passed a joint resolution of the House (No. 133) relative to the attempted assassination of the Emperor of Russia, with an amendment, in which he was directed to request the concurrence of the House.

RECONSTRUCTION—AGAIN.

Mr. GARFIELD. Mr. Speaker, I do not rise to speak at length upon the pending measure, but for the purpose of entering a motion and submitting a few practical suggestions on the bill, and particularly in reference to the third section.

With almost every proposition in the report of the joint committee on reconstruction I am pleased; yes, more than pleased, I am delighted that we have at least reached the firm earth, and planted our feet upon the solid granite, on enduring and indubitable principle. I believe we have at last a series of propositions which, in the main, will meet the approval of the American people as no others have ever done since the beginning of this struggle.

I will not go into a general discussion of the reconstruction policy, but will confine myself in the few words I shall say to the joint resolution and the amendment to the Constitution proposed by it now before the House, and more particularly to one section of it. First let me say I regret more than I shall be able to tell this House that we have not found the situation of affairs in this country such, and the public virtue such that we might come out on the plain, unanswerable proposition that every adult intelligent citizen of the United States, unconvicted of crime, shall enjoy the right of suffrage.

Sir, I believe that the right to vote, if it be not indeed one of the natural rights of all men, is so necessary to the protection of their natural rights as to be indispensable, and therefore equal to natural rights. I believe that the golden sentence of John Stuart Mill, in one of his greatest works, ought to be written on the constitution of every State, and on the Constitution of the United States, as the greatest and most precious of truths, "That the ballot is put into the hands of men, not so much to enable them to govern others as that he may not be misgoverned by others." I believe that suffrage is the shield, the sword, the spear, and all the panoply that best befits a man for his own defense in the great social organism to which he belongs. And I profoundly regret that we have not been enabled to write it and engrave it upon our institutions, and imbed it in the imperishable bulwarks of the Constitution as a part of the fundamental law of the land.

But I am willing, as I said once before in this presence, when I cannot get all I wish to take what I can get. And therefore I am willing to accept the propositions that the committee have laid before us, though I desire one amendment which I will mention presently.

I am glad to see this first section here which proposes to hold over every American citizen, without regard to color, the protecting shield of law. The gentleman who has just taken his seat [Mr. FINCK] undertakes to show that because we propose to vote for this section we therefore acknowledge that the civil rights bill was unconstitutional. He was anticipated in that objection by the gentleman from Pennsylvania, [Mr. STEVENS.] The civil rights bill is now a part of the law of the land. But every gentleman knows it will cease to be a part of the law whenever the sad moment arrives when that gentleman's party comes into power. It is precisely for that reason that we propose to lift that great and good law above the reach of political strife, beyond the reach of the plots and machinations of any party, and fix it in the serene sky, in the eternal firmament of the Constitution, where no storm of passion can shake it and no cloud can obscure it. For this reason, and not because I believe the civil rights bill unconstitutional, I am glad to see that first section here.

As the nearest approach to justice which we are likely to be able to make, I approve of the second section that bases representation upon voters. I believe the section is now free from the objections that killed it in the Senate, and I have no doubt it will now pass that body.

I am glad to see the fourth section here, which forever forbids the payment of the rebel debt. I am quite sure that on the proposition no man in this House will vote in the negative. Some may think the section unnecessary, but for abundant caution, and "to make assurance doubly sure," let it become a part of the Constitution.

It is to the third section that I wish to call the attention of the House for a moment. The gentleman from Maine [Mr. BLAINE] has made a point against it, which has at least this value; that whatever may be the intention of the committee or of the House, the section is least susceptible of double construction. Some may say that it revokes and nullifies in part the pardons that have already been granted in accordance with law and the proclamations of the President. Others may say that it does not affect them, and will not apply to rebels who have been thus pardoned.

Mr. STEVENS. Will the gentleman allow me to interrupt him a moment?

Mr. GARFIELD. Certainly.

Mr. STEVENS. I was not perhaps sufficiently explicit in what I said in answer to the interrogatory of the gentleman from Maine, [Mr. BLAINE.] I admit that a pardon removes all liability to punishment for a crime committed. But there is a vast difference between punishing for a crime and withholding a privilege. Nobody will doubt that you may distinguish between classes in the privileges accorded to them if you think their enjoyment would be dangerous to the community. While I admit that the pardon will be full and operative so far as the crime is concerned, it confers no other advantages than an exemption from punishment for the crime itself.

Mr. GARFIELD. I was about to say that if the section does not apply to those who have been pardoned, then it will apply to so small a number of people as to make it of no practical value; for the excepted classes in the general system of pardons form a very small fraction of the rebels. If the section does apply to those who have received the pardon, the objection of the gentleman from Maine [Mr. BLAINE] may be worthy of consideration.

But, without entering into the question of construction at all, and if there were no doubt or difference on that score, there are still other points to which I wish to call the attention of the House. If the proposition had been that those who had been in rebellion should be ineligible to any office under the Government of the United States, and should be ineligible to appointment as electors of the President and Vice President of the United States, or if all who had voluntarily borne arms against the United States had been declared forever incapable of voting for a United States officer, it would, in my judgment, be far more defensible. But what is the proposition? It is that—

Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

Now, Mr. Speaker, this, in my judgment, is the only proposition in this resolution that is not bottomed clearly and plainly upon principle—principle that will stand the test of centuries, and be as true a thousand years hence as it is to-day. If the persons referred to are not worthy to be allowed to vote in January of 1870, will they be worthy in July of that year? If the franchise were withheld until they should perform some specific act of loyalty, if it were conditioned upon any act of theirs, it would commend itself as a principle, but the fixing of an ordinary date, without any regard to the character or conduct of the parties themselves, is indefensible, and will not commend itself to the judgment of reflecting

men. What is worse, it will be said everywhere that this is purely a piece of political management in reference to a presidential election.

Now, I desire that what goes into our Constitution shall be the pure gold, unalloyed, untainted, having mingled with it nothing that will not stand the test of the ages. I fear that the proposition to which I have just referred might not stand that crucial test.

But, sir, I invite the attention of the House to another consideration. Suppose this section should become a part of the Constitution, and suppose that it were entirely defensible as a matter of principle, I ask gentlemen how it is to be carried out in practice. If, under its operation in eleven States of the Union, nine tenths, and, in some instances, ninety-nine hundredths of the adult population are to be disfranchised for four years, how do you propose to carry its provisions into practical execution? Will nine tenths of the population consent to stay at home and let one tenth do the voting? Will not every ballot-box be the scene of strife and bloodshed? It may well be doubted whether this section can be carried out except by having a military force at every ballot-box in eleven States of the Union. Are you ready to make the South a vast camp for four years more? I am ready to do that or anything else in the way of expense, if it is necessary as means of securing liberty and union; but I believe that great result can be achieved in a less expensive way. But it is evident to me that if this section becomes a part of the Constitution, it must either remain a dead letter or we must maintain a large army to enforce it. I do not, therefore, think it wise or prudent, both for practical reasons and for reasons of construction, as suggested by the gentleman from Maine, that the third section shall stand as a part of the Constitution in its present form.

I am sure no member of this House will think that I make this motion with the least desire to favor or excuse in any way the men who have been in arms against the Government. I trust I do not need to make such a disclaimer to any person here, or among Union men anywhere. But I desire that any proposition which may be submitted by us for ratification by the States shall be so grounded in practical wisdom, that when it is presented to the American people, any man who votes against it will need to hide his face in shame. And there are thousands of men who only need some little excuse to justify themselves in voting against this great and good measure. I had nearly completed a substitute for this section providing that no person who had voluntarily adhered to the late insurrection should ever be eligible to any office under the United States, but as I have not perfected it I will not present it now. I hope, however, we may begin by striking out the section as it now stands.

Is it now in order, Mr. Speaker, to move an amendment?

The SPEAKER. A motion to amend is not in order pending a motion to recommit.

Mr. GARFIELD. Then I move that the resolution be recommitted to the committee, with instructions to report it back to the House with the third section stricken out.

Mr. RAYMOND. I inquire whether it will not be in order to call for a division on the different sections of this amendment. I think that will be the better way to test the sense of the House.

Mr. GARFIELD. Mr. Speaker, I think when the vote comes to be taken on the motion to recommit, with instructions to strike out, the merits of the question will be tested by the House.

Mr. RAYMOND. I ask whether it will be in order to call for a division now, or at any time.

The SPEAKER. A resolution can be divided if each part can stand by itself, but a bill or joint resolution cannot be divided. It may be amended. Sometimes the House considers them section by section. They stand as a whole, and must be so considered.

Mr. RAYMOND. Can this be considered section by section?

The SPEAKER. It has been reported as a whole and must be acted on as a whole.

Mr. RAYMOND. If this be considered section by section, then a two-thirds vote will be required to carry each section. If amendment is necessary a majority can make it.

The SPEAKER. A majority can amend it, but it will require two thirds to pass it.

Mr. ELDRIDGE. I rise to make an inquiry. This being an amendment to the Constitution in three different particulars I ask whether it will not be required that we shall vote on them separately. I ask whether we can amend the Constitution by adding provisions grouped together in the manner in which these are without voting on each distinct proposition. Do not the Constitution and law require that they should be so voted on?

The SPEAKER. They do not. The proposition is reported by the committee as a whole, and although it embrace different provisions, yet this House and the Senate and the people will vote on it as a whole.

Mr. GARFIELD. It appears, then, that my motion is the only one that will bring us to a vote on this subject.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] has the right to withdraw his motion to recommit, and with the withdrawal of that motion the instructions would fall.

Mr. GARFIELD. Would I not have the right to renew the motion?

The SPEAKER. The gentleman could renew his instructions if the previous question were not sustained.

Mr. GARFIELD. Would I not have the right to move to amend if the previous question were voted down?

The SPEAKER. It would then be in order.

Mr. GARFIELD. Now, Mr. Speaker, if the gentlemen who report this bill will put in a section, that all who participated in the rebellion shall forever be excluded from the right of elective franchise, in all cases relating to national offices, then I will say the proposition will be just and one we could stand upon as a matter of principle. Anything is just which excludes from privilege and power all those infamous men who participated in rebellion. The proposition, without any modification, without any limitation, would meet with my approval as one eminently just, if it could be practically carried out. But when you attempt to make it extend only for a limited period, you thereby acknowledge that as a principle they ought not to be excluded except for a limited period. I am unwilling to admit that proposition. As a matter of principle they should either be forever excluded, or allowed to come in when they comply with such conditions as the loyal people of this country, through their representatives in Congress may prescribe. I do not think we can so well stand a mixed proposition like this.

Mr. DAWES. The gentleman proposes to submit practical views on this question, and in that view I ask him by what method the Congress of the United States could carry out that proposition if it is to deprive these parties of the right to vote in State affairs without erecting themselves into a tribunal in which to settle the question itself. I ask in that connection what tribunal is erected either in the Constitution or laws of the United States by which to settle the question in the appointment of electors of President and Vice President?

Is there any tribunal provided either in the Constitution or the laws of the United States to test the question, should the time ever come when the elections of a President and Vice President depends upon the right of certain men to vote as electors or members of the Electoral College, and yet their right so to vote be disputed?

It seems to me there is a defect somewhere in the want of any tribunal known to the Constitution and laws by which you can ever determine this question, and the time may

come when the whole nation will be rent in twain upon that question.

Mr. GARFIELD. I am obliged to the gentleman from Massachusetts. I had noted that point, and in this running debate was about to overlook it, that in case this provision should prevail and there should come up at the next presidential election a number of electors from those eleven States whose vote would determine the fate of the election, and then in the Electoral College the question should be raised whether those electors were chosen by men who had been in rebellion, what tribunal have we to decide that question? Have we any committee of elections provided for in the Electoral College? Have we any court, have we any tribunal whatever under the Constitution to which that important question could be referred?

It is not impossible that this section might bring us face to face with a new and most dangerous question, the solution of which is not easy to see.

Mr. SCOFIELD. Will the gentleman yield for a question?

Mr. GARFIELD. Yes, sir.

Mr. SCOFIELD. The gentleman says that he will go for an amendment to the Constitution that shall disfranchise this class forever. Now, I wish to ask him, if he should get the report amended to suit him in that respect, how is he going to get a tribunal to decide that question any better than now?

Mr. GARFIELD. The gentleman's question does not involve me in any difficulty. I did not say I was in favor of putting such a clause into this amendment in view of all the circumstances, but I said that that proposition would be more just than the present one, and I would prefer it. There would be practical difficulties in the way of either proposition, but more I think in the way of this.

Mr. HOTCHKISS. Will the gentleman yield?

Mr. GARFIELD. Excuse me; I shall conclude my remarks in a few moments. My colleague [Mr. FINCK] denounces this proposition and the whole scheme of the reconstruction committee as revolutionary, and calls upon the South to rally unitedly, and trusts they will have the manliness to resist it. It is not the first time that gentlemen on that side of the House have asked the South to rally against the North. During the last five years of bloody war their voices and their votes here and their actions elsewhere have been characterized by the same spirit, and have helped to unite and rally the South against the Union. It does not become these men who have so long pursued these revolutionary schemes against liberty to charge this House with being revolutionary when it is struggling to restore both liberty and Union to the Republic.

Mr. FINCK. Does the gentleman refer to what I said a few moments ago?

Mr. GARFIELD. I do.

Mr. FINCK. The gentleman has misstated what I said. I called upon the South to rally around the policy of Andrew Johnson; nothing about rebellion.

Mr. GARFIELD. Well, Mr. Speaker, how much difference there is between the gentleman's sentiment as I repeated it and as he himself states it I leave it to the House to judge. I understood him to call upon the people of the South to have the manliness to resist the operations of Congress and of the great Union party.

Mr. FINCK. I did not use the word "resist."

Mr. GARFIELD. The gentleman can consult his notes. If he did not use the word he knows best, and I desire to be corrected if I misrepresent him. But I understood him to say that he trusted there was sufficient manhood in the people of the South to unite and resist the revolutionary schemes of this Congress, as he was pleased to denominate them.

Mr. FINCK. One word. I said I hoped they would have the firmness and manliness of spirit to unite and reject this proposed

amendment, which was calculated to subordinate them as States in the Union.

Mr. GARFIELD. They have undertaken to reject and resist our scheme of restoring the Union for five years, and they propose now, and the gentleman by his own confession invites them to continue to unite and reject the scheme of the great Union party and of the people to build up liberty in this country and put down traitors and treason everywhere. I call upon the great Union party to stand together, and with all their manhood resist the revolutionary schemes not only of these rebels at the South, but of their coadjutors and abettors on this floor and everywhere who would unite with them and trample not only upon the prostrate body of the Union party, but, as I believe, of liberty herself. I have done.

Mr. THAYER obtained the floor.

Mr. FINCK. Will the gentleman allow me just one moment?

Mr. THAYER. I will yield to the gentleman for a moment.

Mr. FINCK. I desire to say to my colleague, for whom I have the highest respect, that in my judgment there is but one party in this country that is a disunion party, and he belongs to it. [Laughter on the Republican side of the House.]

Mr. GARFIELD. I am willing to stand by my record as a Union man.

Mr. THAYER. Mr. Speaker, the proceedings of the House to-day will, I trust, silence, at once and forever, the clamorous calumnies which have been industriously propagated by designing persons ever since this Congress convened, in which it was asserted that this Congress had no intention of taking any steps the object of which was the restoration of peace and concord to this whole country.

There have been persons, sir, very wise in their own conceit, great builders of States in their own judgment, and great law-makers, if their own opinions are to be received as truth, who have supposed that the great work upon which this Congress has entered was a work which might be accomplished with as much facility as a justice of the peace would dispose of an insignificant case in his court; and who saw, in the subject which engages the attention of this House, a matter of no grander dimensions than those which characterize the ordinary legislation of Congress. In the opinion of these persons the accumulated ruin of four years of civil war was to be remedied in an hour; States which were disorganized and rent from the parent Government by organized secession; by the deliberate and solemn act of conventions of the people; by the passage of laws during a period of four years; by the formation of new local governments; and by the exercise of every *de facto* sovereign power, were, in the opinion of these wiseacres, to be regenerated and restored to their normal relations to the Government, whose laws they had overthrown and trampled under foot, with as much facility as you would pass the most unimportant bill, and with as little delay as it would require to call the yeas and nays in this House.

Let the American people, Mr. Speaker, understand, as I doubt not they do generally understand, the magnitude of the ruin which has been caused by the rebellion, and they will comprehend the labors and the difficulties which attend the reconstruction of those old relations of loyalty and fidelity to the Constitution which once characterized these States.

Sir, for one, I have never lost my faith in the wisdom and discretion of the able committee to whom, at the outset of this Congress, this most important subject was committed. For one, I have not doubted that as soon as it could be accomplished, within as short a compass of time as the nature of the subject and the extent of the labors devolved upon them would permit, they would present to this House some scheme upon which the loyal people of the country might unite to effect a perfect restoration of peace and harmony throughout the United States. To the scheme which they have presented for that purpose, with the exception

of one feature contained in it, and upon which I will presently remark, I am prepared, after due deliberation, to give my cordial assent and approval. The exception to which I refer is the provision of the third section of the proposed amendment to the Constitution.

With regard to the first section of the proposed amendment to the Constitution, I cannot conceive that any loyal man can hold any other view upon that subject than that which is indicated in the proposed amendment. The Constitution of the United States apportioned Representatives and direct taxes among the several States according to their respective numbers, and ordained that those numbers should be determined by adding to the whole number of free persons, including those held to service for a term of years and Indians not taxed, three fifths of all other persons. So stood the Constitution at the commencement of the rebellion. By that instrument three fifths of the class of persons known as slaves were counted in the enumeration which fixed the basis of representation in this House.

How stands the Constitution now? Why, sir, the literal application of the Constitution to the present state of affairs makes this late slave population of the rebel States count in the representation in this body, not as three fifths, but as five fifths. Will any man say that that was contemplated by the framers of the Constitution? Will any man say that it was within the intention of the framers of that instrument that the late slaves in this country should, by an unforeseen state of public affairs, under a provision which enacted that they should count in the basis of representation as three fifths, come to count as five fifths, while at home they are counted politically as nothing? Yet this is what is proposed by those who oppose this amendment. It seems to me no man can maintain that proposition upon any principle of justice or sound political reasoning. What number of Representatives will this bring into this Chamber from the rebel States by way of increase over the former number that came here under the terms of the Constitution? About thirteen members. Is it not preposterous that after all the trials, the sacrifices, the sufferings, and the hardships caused by this great war for the Union the result of the success of the Government should be the increase of representation in this House on the part of those who made the rebellion, by adding thirteen members which they had not before the war? Is there a man here who dare go before the northern people and tell them that they are to be rewarded for the losses and sufferings which they have sustained by having thirteen additional members admitted into this body from the rebel States. I want to see the northern constituency that will send a Representative here who declares in plain terms that that is just and that he is in favor of it.

Now, I ask gentlemen on the other side of the House why that should be done. If you say that this large class of persons have been transformed from their late condition of chattels to a condition in which they constitute a part of the element of the political fabric, then I can conceive that having added that much in population to the thinking, voting men of the southern States, it would be just and proper that that addition should be represented in this body. But we all know that such is not the case. In those States themselves the late slaves do not enter into the basis of local representation. In South Carolina they do not enter into the basis of representation in the Legislature of that State. And anybody who will read the new constitution of South Carolina will see that such is the case.

Would it not be a most unprecedented thing that when this population are not permitted where they reside to enter into the basis of representation in their own State, we should receive it as an element of representation here; that when they will not count them in apportioning their own legislative districts, we are to count them as five fifths (no longer as three fifths, for that is out of the question) as soon as

you make a new apportionment? I am not going to dwell upon that proposition. I believe it to be a proposition which the people of this country will understand without much discussion. You have only to enunciate that proposition in plain terms in order to secure for it the unqualified rebuke of every man who sustained the Government during the war for the Union.

With regard to the second section of the proposed amendment to the Constitution, it simply brings into the Constitution what is found in the bill of rights of every State of the Union. As I understand it, it is but incorporating in the Constitution of the United States the principle of the civil rights bill which has lately become a law, and that, not as the gentleman from Ohio [Mr. FINCK] suggested, because in the estimation of this House that law cannot be sustained as constitutional, but in order, as was justly said by the gentleman from Ohio who last addressed the House, [Mr. GARFIELD,] that that provision so necessary for the equal administration of the law, so just in its operation, so necessary for the protection of the fundamental rights of citizenship, shall be forever incorporated in the Constitution of the United States. But, sir, that subject has already been fully discussed, I have upon another occasion expressed my views upon it, and I do not propose to detain the House with any further remarks of my own upon it.

I pass now to the third section of the proposed amendment, and here, sir, I am constrained to say that I do not believe it to be either proper or expedient to retain this section of the proposed amendment. I do not believe it for the reason which is contained in the preamble of one of the bills reported by the committee, the "bill to provide for the restoration to the States lately in insurrection of their full political rights." The preamble of that bill, as reported by the committee, reads as follows:

Whereas it is expedient that the States lately in insurrection should, at the earliest day consistent with the future peace and safety of the Union, be restored to full participation in all political rights.

I am opposed to the third section of the proposed amendment because I am in favor of the preamble of the bill. I am opposed to it because it looks to me like offering to the people of the States lately in rebellion peace and restoration with one hand, while you snatch it from them with the other. I am opposed to it because I think it will keep this country, which we seek to pacify and to bring back to its old state of allegiance, in a state of constant turmoil and disaffection if it does not rekindle afresh the fires of civil war.

Sir, I suppose the object of the present programme to be to indicate a plan which has for its object the immediate, not the prospective, restoration of the people of these States to the privileges they have lost. Immediate, if the safety of the country will permit. If the safety of the country will not, upon any conditions, admit of it, then, sir, we had better dismiss the whole subject. If the safety of the country will admit of it, then let us name those conditions.

That, sir, is what the committee, in my understanding, have attempted to do; but among the conditions which they have named is this one, which, in my judgment, is not necessary or expedient, and which appears to me to be impolitic and fraught with dangerous consequences. Sir, with what propriety, let me ask this House, can we present an offer to the people of the South to return to their allegiance, and to unite with us once more in the maintenance in good faith of the Constitution, if, while we propose as a condition the ratification of an amendment to the Constitution, and as another condition the ineligibility of the leaders of the rebellion to Federal office, we say to them at the same time that, although you comply with these conditions, although you agree to adopt this amendment, although you agree that representation shall be based upon the numbers which constitute a part of

the body-politic, although you agree that some example shall be made of this great iniquity by excluding from Federal office those who were ringleaders in it, yet you shall not be restored to the right of representation or to any participation in public affairs until the year 1870?

Now, sir, I am opposed to that; I think that it imperils the whole measure under consideration; and when I say that, I do not speak so much of the fate of that measure in this House as I speak of its fate in the country at large. I do not believe that the people of the loyal States will subscribe to either the necessity or the expediency of the third section of the proposed amendment to the Constitution. I believe, sir, that the masses of the loyal people of this country, those who made the greatest sacrifices to save it, are in favor of the restoration of these political rights to the southern people just as soon as they can be restored with safety; and I think that they regard as the only security and only safety which you can exact or obtain, the reform of the principle of representation, or rather the proper adjustment of the Constitution as regards representation to the new state of things. That is the point to which the loyal millions of this country turn their eyes for future peace and security. They know that if, instead of reducing the representation of the southern States in this House to a standard of just equality with ourselves, you leave the Constitution as it is to operate upon an unforeseen state of affairs, and give thirteen new Representatives to the lately disloyal States in this House upon a basis which they repudiate at home, there will be no peace and no security in the future for this Government. The inequality of representation worked by the result of the war in the emancipation of the slaves must be remedied. Representation must be based upon a population which is counted as a part of the body-politic and which forms an element of government. This must be done by an amendment of the Constitution, the original provisions of which are inapplicable to the altered condition of public affairs.

The loyal people who have preserved the Government demand this amendment to the Constitution. In my judgment, they will never, if they can prevent it, suffer this Government to be long without this amendment to the Constitution, because it would be a most unjust and cruel return for all the sacrifices which they have made, to deny them this measure of justice. But, sir, they do not, in my judgment, demand as a further price of security that the rehabilitation of the southern people, with all the rights of freemen, shall be postponed until 1870. I agree that it is just and expedient and proper that you should fasten a badge of shame upon this great crime of rebellion by rendering ineligible to office under the United States those who have been leaders in the insurrection against the Government. But, sir, this third section goes much further than this. It declares that the masses of the people in the lately insurrectionary States—because it is idle to talk of the people in connection with the infinitesimal number of Union men in those States—shall be disfranchised. We know that the masses of the people there, with exceptions too small to be counted, did support the rebellion, and supported it with their whole heart. They supported it in the field; they supported it by the payment of taxes; they supported it by speech and by votes; they supported it in every village and by every fireside. Everybody knows that. We cannot deny it. There is no use in attempting to conceal the fact. And in dealing with a great subject like this it is better to look facts in the face and treat them as facts. The third section of the proposed amendment disfranchises until 1870 this whole people, while the measure itself is presented to us as a measure of universal pacification as well as a measure for future security.

I do not believe, sir, that this feature of the measure which is proposed will meet the approval of our constituents. I believe that what the constituencies of the States now repre-

sented in Congress demand is, not prospective reconstruction, but immediate reconstruction with conditions that will secure the public safety. As I have already said, the great condition of public safety and security is the readjustment of the Constitution upon the subject of representation, that article of the Constitution which relates to the subject of representation having been pushed by the war from the original sphere of its operation, and which will, without amendment, operate in a manner never contemplated by the framers of the Constitution and with a degree of injustice to which the loyal States cannot consent to submit, and to which they will not submit if it can be prevented.

What will continue to be the condition of the country if you adopt this feature of the proposed plan? Continual distraction, continued agitation, continued bickerings, continued opposition to the law, and it will be well for the country if a new insurrection shall not spring from its bosom.

[Here the hammer fell.]

THE SPEAKER. The gentleman's time has expired.

MR. NIBLACK. I give notice that I will offer the following amendment if I shall have the opportunity:

Add to the fifth section as follows:
Provided, That nothing contained in this article shall be so construed as to authorize Congress to regulate or control the elective franchise within any State, or to abridge or restrict the power of any State to regulate or control the same within its own jurisdiction, except as in the third section heretofore prescribed.

MR. BOYER. Many great questions of public policy depend upon the decision of this Congress, but the greatest of them all is that which involves the restoration of the States to their practical relations with the Federal Union. Until that great end shall have been accomplished the triumph of the Government over the rebellion will be still incomplete; and the rebellion itself may claim at least a partial victory in so far as it has succeeded in removing the ancient landmarks of the Constitution, and in marring the symmetry of that constitutional Union of States which, as it came from the hands of our fathers, was the masterpiece of human government and the admiration of the world.

After the outbreak of civil war, the first essential work of the nation was the forcible suppression of the rebellion. That work, after a four years' struggle, the most sanguinary and costly in the history of revolutions, has been fully accomplished. Thanks to the unparalleled gallantry and endurance of our soldiers, and the unparalleled patriotism, energy, and generosity of the people, armed rebellion against the laws has been everywhere subdued, and from the Atlantic to the Pacific coast, and from the Aroostook to the Rio Grande, there is peace.

Exhausted by an unequal strife, conquered by overwhelming numbers, the late rebellious States lie prostrate at the feet of the Federal power, their population decimated and impoverished, their resources crippled and for the time well-nigh destroyed, and the cause for which they fought so madly and suffered so much hopelessly and forever lost. How shall the relations of national unity and harmony be restored between the States lately so discordant and belligerent? How shall the cruel wounds inflicted by the sections upon each other be healed? And above all, how shall the reunion be completed without the sacrifice of any of those principles and guarantees of civil liberty which we inherited, and without destroying the proportions of that political system of State and Federal jurisdiction which constituted the chief excellence of our Republic and has been the chief cause of its wonderful success? These are the important questions which devolve upon the present Congress of the United States. But however vast in its importance and comprehensive in its scope is the work which thus devolved upon Congress, it did not at first seem proportionately difficult. When Congress assembled in last December the lately rebellious States were already subdued and submissive, and all eager

to renew their allegiance to the Constitution and the laws. Their Senators and Representatives were here to take the constitutional oath of office, and in the name of their respective States to pledge their fealty to the Federal authority. In other ways they had manifested their good faith. They rescinded their ordinances of secession. They adopted the constitutional amendment abolishing slavery. To an ordinary observer not versed in the intricacies of party politics it must have appeared as if all the sacrifices of the war were about to be atoned by the blessings of a redeemed and reunited country. The temper of the southern people was most propitious. In answer to a resolution of the Senate, on the 18th of December, President Johnson said:

"In 'that portion of the Union lately in rebellion' the aspect of affairs is more promising than, in view of all the circumstances, could well have been expected. The people throughout the entire South evince a laudable desire to renew their allegiance to the Government, and to repair the devastations of war by a prompt and cheerful return to peaceful pursuits. An abiding faith is entertained that their actions will conform to their professions, and that, in acknowledging the supremacy of the Constitution and the laws of the United States, their loyalty will be unreservedly given to the Government, whose leniency they cannot fail to appreciate, and whose fostering care will soon restore them to a condition of prosperity."

On the same day, and in response to the same resolution of the Senate, General Grant said:

"My observations lead me to the conclusion that the citizens of the southern States are anxious to return to self-government within the Union as soon as possible; that while reconstructing they want and require protection from the Government; that they are in earnest in wishing to do what they think is required by the Government, not humiliating to them as citizens, and that if such a course were pointed out they would pursue it in good faith."

And he added these other significant words, as if to administer a rebuke to the proscriptive body of men to whom his language was addressed:

"It is to be regretted that there cannot be a greater commingling at this time between the citizens of the two sections, and particularly of those intrusted with the law-making power."

Such was the condition of affairs at the commencement of the present Congress. All obstacles to immediate reunion seemed to have been happily removed. At the South no man opposed. But lo, in this hour of the nation's hope and expectation, the leaders of the great so-called Union party stood at the doors of the Capitol and barred the way. They demanded of the repentant and returning rebels new guarantees as the price of representation in Congress. "You represent dead States," said one; "Treason is a crime and must be punished," said another; "Give the ballot to the negroes," said all of them; "Disfranchise nine tenths of your white voters," said another; "You are too many," said the chief among the leaders, "you will vote with the Democrats, and they and you together, being a majority of the people, will at the very first election turn the Republicans out of office."

It shall now be my purpose, as briefly as I can, to analyze and expose the nature of the guarantees in the absence of which this Congress proposes to perpetuate disunion. I maintain that they are no guarantees for the safety of the Republic which are wanted, but guarantees for the safety of the Republican party. For this it is that the hopes of the nation have been falsified, and great national responsibilities and interests sacrificed and betrayed. For this it was, and not for the restoration of the Union, that the joint committee of fifteen on reconstruction was invented. Its author and mover has been fitly enough placed at its head. From that moment disappointment ceased, for hope had fled. No sane or intelligent man in the country from that hour ever looked to the committee of fifteen for anything else than an ingenious scheme to keep out the southern States, and to prevent the restoration of the Union until after the next presidential election. I do not mean to attribute to the chairman of the committee of fifteen the sole responsibility of the acts or omissions of either the committee itself

or of the Congress which created it. On the contrary, I concede that he truly represents the principles and policy of the majority in this Congress, and that the leadership is his, not only by parliamentary usage, but by the natural right which pertains to experience, ability, and courage. Nothing is further from my intentions than to indulge in unbecoming personalities; but I must be allowed to say that the selection of such a leader is a fact which affords me a legitimate argument in favor of the position I take. For months before Congress met my colleague from the Lancaster district had been abroad through the land, breathing proscription, and confiscation, and forfeiture of State rights, and advocating suffrage for millions of negroes and disfranchisement for millions of white men. All this was well known to every member of this House; for my colleague is no obscure person, and he is not in the habit of hiding his light under a bushel. When, therefore, I find this statesman the "head center" of the Republican majority, his acknowledged leadership is conclusive evidence that his policy is the policy of his party. In the first speech made by him in the beginning of this Congress he candidly stated that the new guarantees demanded of the southern States were intended for party purposes. In advocating the change in the basis of representation as it is now substantially embodied in the proposed constitutional amendment, he said:

"With the basis unchanged, the eighty-three southern members, with the Democrats that will in the best of times be elected from the North, will always give them a majority in Congress and in the Electoral College. They will at the very first election take possession of the White House and the Halls of Congress."

And again:

"If they should grant the right of suffrage to persons of color, I think there would always be Union white men enough in the South, aided by the blacks, to divide the representation, and thus continue the Republican ascendancy."

In none of the speeches which have been made upon this floor by other prominent leaders of the majority will be found any declaration of motive so outspoken as that of the chairman of the committee on reconstruction. But in all of them will be found a course of argument in harmony with the policy declared by him, and adverse to the immediate restoration of the Union. The Congressional Globe groans beneath the weight of innumerable columns of labored argument to prove that eleven States are States no more, but subjugated provinces outside of the Union, and subject to the absolute will of the conqueror. To prove this disunion theory the various authors upon international law have been ransacked, and Grotius and Vattel have been misapplied and perverted with an amount of zeal and industry which might be entitled to commendation if employed to unite instead of to divide the country.

I do not propose to follow these learned doctors through the labyrinths which lead to the theoretical death and amputation of eleven members of the body-politic. For after all the refinements of logic and the subtleties of foreign lore have been exhausted they fail to answer the simple practical question. If, as admitted by all, secession was a failure and the war a success, how did the rebellious States get out of the Union? If they are States in the Union shall we appeal to Grotius and Vattel to define their rights, and the status of their people, and the extent of the Federal power over them? Or shall we rather go to the fountain head of our own political system, the Constitution of the United States, and to the writings of those who made it? What, indeed, if the States were dead, or as some with more refinement than others express it, in a state of suspended animation, what might we then expect from a body of patriotic statesmen assembled for the reconstruction of the Government? Which would be the purer and the nobler statesmanship, to trample upon the inanimate carcasses of the prostrate States with the iron heels of political proscription and sectional hate, or to breathe into their passive

forms anew the breath of life, and start them again in the career of honor, prosperity, and equality?

In elaboration and earnest zeal the arguments of the majority for the exclusion of States from the Union are only equaled by the efforts of the same reasoners in favor of the disfranchisement of their people after they get in. This is proposed by the joint committee on reconstruction as a condition precedent to their admission at all. The purpose of this wholesale disfranchisement of the white people of the South who have been engaged in the rebellion becomes more clearly evident when we consider the coördinate branch of the same scheme for acquiring control of the ballot-box by the enfranchisement of the blacks. Upon what a comprehensive basis of philanthropy these political artificers profess to build the theory of "no distinction of race or color!" To what a sublime pitch of eloquent declamation they swell this lofty theme of universal brotherhood. But everything has its limit; and so it seems has the humanity of the Republican majority of the Thirty-Ninth Congress and its legitimate representative, the reconstruction committee. As a set-off to these glowing dissertations in favor of the political rights of about four million American negroes, we have from the same source arguments equally elaborate and expressions of emotion equally as intense in favor of the right and justice of excluding from all political privileges about twice that many millions of white Americans.

Both those objects are sought to be accomplished by the proposed amendment to the Constitution reported by the committee, and now before the House for discussion. That amendment, together with the bills reported in connection with the same, is submitted to the House and the country as the best considered plan of reconstruction which the committee, after five months' incubation, have been able to produce for the consolation of a distracted nation. The plan is, at least in my opinion, most admirably adapted to its design, which was nothing more nor less than the solution of the problem of "how not to do it." In this I think it may be fairly said, in justice to the committee, that they have fully met the public expectation.

The terms laid down by the committee as the conditions precedent to the admission of representatives in Congress from the States lately in insurrection are of such a nature as to preclude any reasonable hope of their acceptance. The third section of the proposed constitutional amendment, which I propose first to consider, is itself sufficient to convince any reflecting man that the amendment is not intended for adoption, but only to operate by means of its expected non-adoption as an excuse for the exclusion of southern representatives for an indefinite period. It reads as follows:

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for representatives in Congress and for electors for President and Vice President of the United States.

The effect of this amendment, if adopted, would be to disfranchise for a period of over four years nine tenths of the voting population of eleven States. Does any sane man believe such terms would be accepted? When in the history of nations did a free people voluntarily consent to such a degradation? It is a condition which could not be accepted with honor, and it is a condition, therefore, which is not fit to be proposed to any American community by an American Congress.

But it is said that we have the rightful power to impose such a condition. If we had, its exercise would still be most unwise. It needs no argument to demonstrate that in statesmanship magnanimity is a nobler quality, and withal a sounder policy, than tyranny; and that it is better for a Government to call forth blessings by its clemency than to provoke the curses of a people by its oppression.

But I deny altogether the right of the Federal Government to disfranchise the majority of the citizens of any State on account of their past participation in the rebellion. They who have committed treason are amenable to the laws, even after they have returned to their allegiance. But you cannot make new laws and a new Constitution to meet their case. Treason is undoubtedly a crime and may be punished, but by no bill of attainder or *ex post facto* law such as is provided in the amendment before the House.

The ninth section of the first article of the Constitution declares—

"No bill of attainder or *ex post facto* law shall be passed."

That single prohibition is in itself a complete answer to all that has been said in support of the doctrine of the reconstruction committee. If any further answer were needed, it would be found in the ninth and tenth articles of the same instrument:

"ART. 9. The enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people."

"ART. 10. The powers not delegated to the United States are reserved to the States respectively, or to the people."

It will not do to say that the civil war has abrogated the constitutional rights of rebellious citizens, and that vengeance beyond the boundaries of what is written is to be justified to the Federal Government by right of conquest. Not only is such a doctrine opposed by the express prohibitions of the Constitution, but Congress and the whole nation stand pledged before the world against any such interpretation. After the civil war had commenced, and after a great battle had been fought, Congress passed through both Houses, by an almost unanimous vote, the following resolution:

"That this war is not prosecuted upon our part in any spirit of oppression, nor for any purpose of conquest or subjugation, nor purpose of overthrowing or interfering with the rights or established institutions of those States, but to defend and maintain the supremacy of the Constitution and all laws made in pursuance thereof, and to preserve the Union with all the dignity, equality, and rights of the several States unimpaired; that as soon as these objects are accomplished the war ought to cease."

Everywhere throughout the loyal sections of the country this was the accepted doctrine, and under it and for it the nation's treasure was poured out and the nation's blood was shed. It was our tower of strength, and clothed us in the indestructible panoply of right. Shall we now, when the war is over, be told that this was only a sham, a blind to delude the people and recruit the armies?

The gentleman from Ohio, [Mr. SHELLABARGER,] in his speech delivered upon this subject on the 21st of April, based his argument for the right to disfranchise the population of the late rebellious States upon the doctrine of self-preservation as the universal right and duty of nations. He argued this right upon an assumed state of facts with great force and learning; but the proof of the main premises of his proposition he altogether omitted. He assumed without proof that such disfranchisement is in this case necessary for the preservation of the nation; and that essential link being wanting, his entire elaborate argument falls to the ground.

If there does exist any necessity for the disfranchisement of the people of eleven States of this Union it must be because if suffered to vote for representatives and for President they would be numerically strong enough through the legitimate channels of legislation to control the Government of the country. But it is plain that of themselves they constitute a very perceptible minority of the entire nation. How, then, could they get control of the Government? It is plain that they never could acquire the sway in Congress or elect a President except with the help of a sufficient number of loyal voters in other sections of the country to constitute with themselves a majority of the whole people. In what attitude does this leave the party who upon this ground are striving to exclude southern representatives? Why, in the attitude of a conscious minority engaged in a

conspiracy to keep the control of the Government against the will of a majority of the people of the whole country.

Will it be pretended that, counting in the population of all sections, those who seek to destroy the country are more numerous than those who desire to save it? If this be so, the country is already doomed, and there is no salvation for it. If, on the other hand, a majority of the whole people will stand by the country, it is not in the power of any sectional minority to destroy it, and the loyal majority can better and more safely govern the opposing minority, if there be such, inside of the Union than out of it. I know there are men on this floor who seek every opportunity to insult the common sense of the country by harangues attributing to the Democratic party at the North complicity with the rebellion. If this atrocious slander had in it any truth; if the great Democratic party of the North, instead of sending its hundreds of thousands of volunteers into the ranks of the Federal armies, had gone over to the enemy or had remained only passive spectators of the scene, the victorious rebels would long ago have taken possession of the capital and the country. No one party can rightfully boast of having saved the country, and those who are the most bloody-minded and prescriptive in the uses of victory, as a general rule, have shed the least blood in its achievement.

I have considered the third section of the amendment reported by the committee, first, because it is the most objectionable of all the parts. I am opposed, however, to any further constitutional amendments as conditions to representation in Congress of any State in the Union. But my limited time will not allow me to dwell at much length upon the remaining sections.

The first section embodies the principles of the civil rights bill, and is intended to secure ultimately, and to some extent indirectly, the political equality of the negro race. It is objectionable also in its phraseology, being open to ambiguity and admitting of conflicting constructions.

The second section of the amendment is ostensibly intended to remedy a supposed inequality in the basis of representation. The real object is to reduce the number of southern representatives in Congress and in the Electoral College; and also to operate as a standing inducement to negro suffrage. It may indeed be said that there is some well-founded objection to the present basis of representation. But while eleven States remain without any representation in either House of Congress we may well postpone all minor reforms until the Constitution as it now is shall be first applied in good faith by those self-same Constitution menders. Justice and equality might also be promoted by carrying the reform into some other quarters. There can, for example, be no good reason founded in justice and equality why the six New England States, with a population of little over three millions, should have twelve votes in the Senate of the United States, and the State of New York, with a population of about four millions, only two. Would it not promote justice and equality to reconstruct in this respect New England's lucky six as well as Dixie's unlucky eleven?

The fourth section of the amendment prohibits the assumption of the rebel debt by the United States or any of them. But I imagine there is no hot haste required to prohibit by a constitutional enactment the payment of this debt by the bankrupt States of the South; and I do not suppose that any man outside of a lunatic asylum ever dreamed it would be paid by any one else. Besides, a constitutional amendment has already been passed this session by Congress to the same effect.

The fifth and last section of the amendment empowers Congress to enforce by appropriate legislation the provisions of the article.

Upon this latter it will not be necessary to remark.

The amendment is accompanied by a bill, the first section of which proposes to prescribe

the conditions of the future admission of the States in these words:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever the above recited amendment shall have become part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such."

It will be observed that even after any State lately in insurrection shall have complied with the condition, "and shall have ratified the amendment and modified its constitution in conformity therewith, the Senators and Representatives from such State, if duly elected and qualified, may," not *shall*, but "*may*," "after having taken the required oaths of office, be admitted into Congress as such."

The precious boon thus graciously tendered by the reconstruction committee as the reward of absolute submission to all its behests is after all but a chance of representation dependent upon the pleasure of that or some similar committee, and to be regulated, doubtless, by the political exigencies of the times. Perpetual exclusion, of course, is not contemplated by the committee, and representation is doubtless intended to be allowed at as early a day as is consistent with the safety of the Republican party; and the four years' disfranchisement provided by the third section is only intended to make the next presidential election entirely sure, and to secure a safe working majority in Congress to support the incoming Administration.

The imaginations of some gentlemen become strangely excited in the argument of this question of southern representation. There are those who declaim upon it as if it were proposed to bring into this House unrepentant rebels still breathing treason against the Government and plotting its overthrow while claiming to have a voice in its councils. There is no such proposition. If there were such a proposition I am sure it would have no advocates upon this floor. If such representatives were sent from the South, the majority have the power to exclude them, or to expel them after they had obtained an entrance.

It is argued that those who have once rebelled against the Government deserve to be disfranchised; but you cannot disfranchise a majority of the voters of a State without the establishment of an oligarchy; and the Constitution as our fathers made it guarantees a republican form of government to every State.

Besides, it is not for them alone that the Union is to be restored, but for ourselves also, and our children. Every hour during which we govern the eleven States with their twelve million people as conquered provinces carries us further away from the original landmarks of the Constitution and brings us nearer to centralization and military despotism.

Mr. KELLEY. Mr. Speaker, I know not that I am called specially to give utterance to my thoughts on this measure. The report of the committee does not meet my expectation, and one of its propositions is in conflict with some of my well-considered convictions. If, however, those with whom I am sent to cooperate in this House deem this measure wise and expedient, I will vote for it. I am prompted to speak because it will enable me to gratify gentlemen on the other side of the House, by allowing them to hear voices from one of the disfranchised States. They will, I know, be gratified to learn that they are not entirely voiceless or powerless on this floor.

One thing attracted my attention and doubtless that of others while listening to the speech of the gentleman from Ohio [Mr. FINCK] and that of my eloquent colleague, [Mr. BOYER,] and that was that either of them embodied in the text of his speech the text of the amendment they were discussing. I do not think this omission was accidental. I apprehend they would rather their constituents should read their denunciatory remarks than the language of the propositions under consideration.

They have not discussed any provision of the proposed amendment. I will not say they dare not discuss them clause by clause and denounce them as they have, but it would evince a high degree of political courage.

Let us look at these provisions so fearfully denounced by the gentlemen. Does my colleague think he could go safely through his district in Pennsylvania denouncing the proposition to embody in the Constitution of the United States a provision that—

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws?

There is not a man in Montgomery or Lehigh county that will not say those provisions ought to be in the Constitution if they are not already there.

Again, sir, dare he read to his constituents the language of the second section and reiterate his denunciations of it? It is as follows:

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

Shall the pardoned rebels of the South include in the basis of representation four million people to whom they deny political rights, and to no one of whom is allowed a vote in the selection of a Representative? Can he tell the men of the boroughs of Norristown and Allentown that one red-handed rebel in South Carolina is of right and ought to be the equal of three of the best and most patriotic of them on the floor of Congress or in the college for the election of President and Vice President? He dare not do it. They would spurn him and the insulting proposition. The men who fought the rebels and crushed their confederacy would say, give us at least equal consideration and power with the traitors against whom we fought, and who caused the death of three hundred thousand of our patriotic brethren.

I come, sir, to the third section. To strike that out would, in my judgment, be to emasculate the amendment. It is as follows:

SEC. 3. Until the 4th day of July, 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

Who ought to govern this country? The men who for more than four years sustained bloody war for its overthrow, or they whom my colleague designates as "that proscriptive body of men known as the great Union party" who maintained the Government against the most gigantic rebellion since that which Satan led? I quote my colleague's language, and I ask him whether he dare go before our fellow-citizens and argue that magnanimity requires us to hand the Government over immediately to the vanquished but unconverted rebels of the South.

He says, and so does the gentleman from Ohio, that those States are in the Union, and that their people cannot be disfranchised.

Mr. BOYER. Will the gentleman allow me to interrupt him?

Mr. KELLEY. Yes, sir, very briefly.

Mr. BOYER. I did not propose by anything I said to hand this Government over to the control of rebels. As I understand it the people of the South, once rebels, are rebels no longer; and I say that when they are ready to submit to the laws, as I believe they are, and send loyal men to represent them in this Hall, they have a right to be here and a right to be heard in the affairs of the Government.

Mr. KELLEY. I will not reply to the gentleman in my own language, but from the pen

of one who was as faithful to the rebellion and the confederacy as he, but made greater sacrifices for them. For he was in North Carolina and stood by the confederacy until its last army was surrendered. I read from his letter of 3d instant.

Mr. BOYER. Do I understand my colleague to say that I was faithful to the rebellion?

Mr. KELLEY. I say this: that the Democratic party of the North fought for the rebellion where there was no personal danger as zealously as the Democratic party of the South did on the field of mortal danger.

Mr. BOYER. And I say that my colleague fights for disunion as zealously as ever armed traitors at the South fought for it during the rebellion.

Mr. KELLEY. Opinions differ—that is all. Nothing further need be said on that subject.

In this letter of May 3, my clear-headed and statesmanlike correspondent says:

"I have always held that it was absurd in us, after being reduced to submission by the Federal Government, to set up any claim of right to regulate the terms of settlement.

"To me it is simply ridiculous to assert that the States had both the right to secede, and upon a failure to establish it, the right to return at pleasure. No conclusion is more logical to my mind than this, namely, that if the right of secession existed and was exercised, the States are now conquered territory; or that, if it did not exist, the people, after attempting and failing in a revolution, forfeited their most valuable political rights. And in either case the consequences are practically not very different. Whatever I may think of the wisdom of your plan of reconstruction, the right of the Government to make one, nobody but an insane man can deny. Like the vanquished everywhere, I think the people of the South will reap true glory now in fortitude alone."

That comes from as stout a champion of secession, rebellion, and war as there was on the floor of Congress during the war—one who gave four years and most of his property to sustain the cause.

I turn to another distinguished son of the same State.

Mr. ROGERS. I ask the gentleman to give the name of the author of that letter.

Mr. KELLEY. Sir, so bloody-minded are some of the baser sort of the reconstructed that I am not disposed to offer a victim or two upon the altar of the curiosity of the distinguished leader of the Democracy from New Jersey. [Laughter.]

This letter is a little older than the other. It is dated April 24:

"The course of events has not surprised me much, though it grieves me exceedingly. I saw, or thought I saw, that the best thing for the whole country, especially for the South, was entire harmony between the President and the party which elected him. That harmony has been broken, I fear, without hope of restoration. I cannot but think that the President has committed a great blunder, if not a great crime. I know verily that for two or three months after the surrender—until indeed his restoration policy was fully developed and considered here a fixed fact *notens notens*—the southern mind was more like a blank sheet of paper than I have ever knew it, more free from prejudice, more disposed to broad national views, and more susceptible to impressions favorable to the North and northern men and northern ideas. Upon that blank sheet of paper might have been written enduring characters of peace, union, and harmony between every section of the Republic. But the time was lost; when it will return, God only knows. I give it as my deliberate conviction that the prospect is darkening every day. Sectional pride, sectional hate, sectional ideas are as rampant here as they were before the war. Is it so at the North? I cannot believe it is so. But I am told that the determination is fixed to let no part of the fruits of the war pass away till all be fulfilled. This is right. Nor do I believe that our people will come to their senses until they realize this fact beyond cavil or dispute. The notion is sedulously inculcated here that the Northwest is thoroughly with the President and against Congress."

Mr. Speaker, there is no doubt that such false notions are sedulously inculcated, and produce much evil.

And the absurd notions inculcated here by gentlemen who claim to be the peculiar friends of the South are misleading the poor, impulsive, passion-ruled people of that section, and prompting them to such deeds as were perpetrated last week at Memphis, encouraging them to resist all efforts at conciliation and social reconstruction, impelling them to drive northern men and capital from their respective neighborhoods, and by threats and deeds of

violence to retard the material development of their own section and the interlinking of ours with theirs by the ties of friendship, of commerce. Yes, it is by promulgating such groundless delusions and catering to their wounded pride that the hour of safe and perfect reconstruction is delayed. No consideration is more important than the *animus* of the masses of the southern people; and he is not their friend who blinds their judgment or fires their hatred against the overwhelming majority of the people of the North.

Yet what does the third section of the proposed amendment, which my colleague says the people of the South cannot accept without dishonor, provide? Why, that at the end of four little years all those who by the crime of treason or the act of secession have disfranchised themselves shall vote and the past shall be politically forgiven, if not forgotten. Will my colleague dare go to his people on the ground that this offer is inhuman? Will he ask them as he did us how, if secession was a failure and the war a success, the States got out of the Union or the people lost their political rights. My Carolina letter answers that. If secession was a right it was exercised, and they are conquered territory; and if it was not a right, the people embarked in rebellion and have lost all civil and political rights, and the consequences are practically the same.

Mr. BOYER. Where does my colleague find his authority for saying that they have lost all their civil and political rights?

Mr. KELLEY. I referred to the letter from the gentleman's coworker in the southern wing of the Democratic party during the last four years, my correspondent from North Carolina.

Mr. BOYER. I ask better authority than that of a rebel, although he may pass current with my colleague.

Mr. KELLEY. The time was when such would have been a good deal better than Republican authority with the gentleman.

Mr. BOYER. It is just as good to-day as the authority of the gentleman.

Mr. KELLEY. No advantage will accrue from involving great national questions in personal wrangles. I quoted the authority, and will ram it down the gentleman's throat in the sixth district in the coming congressional campaign.

Mr. BOYER. You had better take care of your own congressional district, and I will take care of mine. [Laughter.]

Mr. RANDALL, of Pennsylvania. I think so, too.

Mr. KELLEY. I am in the habit of taking care of my district, and mean to do it.

Mr. Speaker, this section which is denounced as so degrading to the people of the rebellious States simply proposes, as I have shown, to restore to them at the end of four years those rights which the sensible people of the South know they have lost, and which they despise Andrew Johnson for attempting to restore by unconstitutional means. He has committed, said one of them, in the letter from which I read an extract, a great blunder, if not a great crime; and that is the sentiment of the brave men who fought us in the South.

The next section which the gentleman opposes is this:

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

There is not a voter in Pennsylvania that does not approve that proposition. The men of our State do not mean that the people of the United States or future emigrants to the southern States shall be taxed to pay the rebel debts or for slaves set free by war; and I mean that they shall see what the provisions are that the gentlemen assail with broad generalities and laudations of our modern "Moses." By the way, I may as well remark that gentlemen are mistaken when they suppose that Governor Johnson, in his speech to the colored people of Nashville, referred to the Moses of sacred

history. He did not; he referred to the "Moses" of modern story, whose razors were "made to sell and not to shave." He should not be censured because the enthusiastic hope of the poor freedmen misinterpreted his allusion. But to resume. It will not do to avoid the terms of this amendment. Gentlemen will have to confront them face to face.

I shall, Mr. Speaker, vote for this amendment; not because I approve it. Could I have controlled the report of the committee of fifteen, it would have proposed to give the right of suffrage to every loyal man in the country. I do not believe, with my colleague, that our Government rests on the complexion of its people, or the color of their hair. I believe that a patriot is a better citizen than a traitor. He talks of a proposition to enfranchise millions of negroes and disfranchise millions of white men. He does not use the language which his constituents will use, which is, that the friends of impartial suffrage propose to disfranchise traitors and to enfranchise patriots. They propose to punish treason and reward loyalty; and I know the people of Pennsylvania well enough to know how they will respond to that proposition.

Mr. BOYER. I desire to ask my colleague what sort of a government he would call that in which nine tenths of the adult male population are not allowed to vote—whether that is the kind of republican government which he has been telling us the Constitution guarantees to every State?

Mr. KELLEY. Sir, if nine tenths of the people of a State commit felony, and are convicted of it, they are deprived of the right to vote; and armed and warring treason involves all crimes. While, therefore, bloody-handed traitors, though numbering nine tenths of the people, are disfranchised by law, let the loyal people carry on the republican government of the State.

Mr. BOYER. One more question.

Mr. KELLEY. No, sir; no further interruption. My colleague believes that in South Carolina four sevenths of the people, every soul of whom were loyal, should be disfranchised, and three sevenths, every soul of whom were disloyal, should govern the whole seven hundred thousand people of the State. That is not republicanism. That is not democratic republicanism. That is not the sort of republicanism to which the interests and destiny of this country can be safely confided.

Mr. BOYER. My colleague is very apt to interrupt other gentlemen; and I trust he will have the courtesy to permit me, in this connection, to ask him one other question; and that is, whether he would disfranchise nine tenths of the adult male population of a State because of their treason after they have repented of that treason, have become loyal citizens, and returned to their obedience to the Constitution and the laws? I ask him whether he would, for the sake of punishing them still further, establish oligarchies in these States, by excluding the great mass of their citizens from the ballot-box.

Mr. KELLEY. Sir, if Probst, who recently murdered eight members of one family in my city, repented ever so much, I should still say, enforce the law against him; if you find his mental and moral nature so low that you ought not to execute him, because you do not believe him to be responsible, keep him in the penitentiary for the residue of his life, but never turn him loose on society. Protect society against him, however penitent he may profess to be. He only killed eight persons—some of these rebels, for whose equal citizenship the gentleman contends, killed their hundreds, and all of them struck at the life of the nation. This measure does not propose to punish them; on the contrary, it is an act of amnesty, and proposes, after four years, to reinvest them with all their rights, which they do not possess at this time because of their crime.

The only other section of this much abused proposition is as follows:

SEC. 5. The Congress shall have power to enforce

by appropriate legislation the provisions of this article.

So far as I am individually concerned, I object to the amendment as a whole, because it does not go far enough and propose to at once enfranchise every loyal man in the country. I wish to see its power asserted by the Government. I want to see traitors in heart or head, those who would hatch or effect treason, made to understand that the Constitution of the United States is the supreme law of the land; that treason is a crime which must be made odious; that traitors must be punished; and that it is the purpose of the governing people of the North, "that proscriptive body of men known as the great Union party," to maintain these propositions beyond "all cavil or dispute."

Mr. SMITH. Will the gentleman allow me to ask him a question?

Mr. KELLEY. A short one.

Mr. SMITH. I would ask the gentleman if he is in favor of disfranchising all the colored men who went into the rebel army.

Mr. KELLEY. I am in favor of disfranchising every traitor in the land, whether he be white or black. But I do not believe the gentleman from Kentucky [Mr. SMITH] can find a black voluntary traitor. Millions of colored people were property when the war began; they were owned; they were dragged or driven like cattle to where their owners would have them go; and if that was to the battle-field, being there they defended their lives. They were not allowed to assume responsibility when they were owned. Therefore do not adduce the fact that the master dragged his bound, his horse, or his slave into the field as evidence against the poor chattel. Prove the treason, make it evident in any way that he was a volunteer in the cause of the rebellion, then punish him as though he had been General Robert E. Lee.

Mr. SMITH. I happened to have seen myself in the field colored men who were volunteers in the rebel service; who were captured with arms in their hands; and who confessed that they had gone into the rebel service of their own accord. I have seen in the city of Washington, since I have had the honor of being a member of Congress, black men whose whole sympathies were with the South, and I must say, in opposition to the gentleman from Pennsylvania, [Mr. KELLEY,] that I do not feel like hanging these men of dark complexion who have voluntarily gone into the rebel army as privates. I wish to forgive them. Yet these men, as black as the ace of spades, went into the rebel army of their own accord to fight against the Government and against you, and yet you would not hang one of them, while you would hang the white men who volunteered as they did to go into the rebel army.

Mr. KELLEY. Do you think they ought to vote because they fought for the rebellion, as you would have these others? [Laughter.]

Mr. SMITH. Now the laugh comes from the other side. [Renewed laughter.] That is pretty good. Now, I do not object to letting the black rebel vote if he was a voter before the rebellion. But the State of Alabama from whence these men came—

Mr. KELLEY. The gentleman has got through his question, I suppose.

Mr. SMITH. A moment.

Mr. KELLEY. How much time have I left, Mr. Speaker?

The SPEAKER. The gentleman from Pennsylvania [Mr. KELLEY] has two minutes of his time left.

Mr. KELLEY. I want to say in those two minutes that all that the gentleman from Kentucky [Mr. SMITH] says may be true. I have known colored men to come in all along our lines, bringing their arms, ammunition, and sometimes horses with them, saying they had pretended to volunteer in the rebel service, in order that they might get to the front and run over to the land of freedom. I have no doubt there were thousands of such cases, and I should, therefore, require more proof to convict a

freedman, whose master was in the rebel service, of treason than I would to convict Lee or any of the volunteer soldiers of the rebel army who were freemen, the masters of their own bodies, the possessors, under God, of their own souls, as the poor negroes were not allowed to be.

Mr. SMITH. Now I will take the other half a minute. I wish to say to the gentleman from Pennsylvania, [Mr. KELLEY,] in support of his own position, that I have been myself—if I may be pardoned for using that expression at this time—the recipient of the kindest and strongest and most loyal admonitions of that dark-complexioned race of which the gentleman has just been speaking. I have known an instance in which my own regiment and myself, and, as I believed at the time, the interest of the "front" to which I was ordered, were protected and saved by a man born in slavery, a man as dark as Egyptian blackness itself.

Mr. KELLEY. I wish to ask the gentleman whether a white traitor is better entitled to vote for Congress and President than that dark-skinned patriot.

[Here the hammer fell.]

Mr. SCHENCK obtained the floor.

Mr. SMITH. Mr. Speaker, I would like to finish my speech.

The SPEAKER. Does the gentleman from Ohio [Mr. SCHENCK] yield to the gentleman from Kentucky, [Mr. SMITH?]

Mr. SCHENCK. For how long?

Mr. SMITH. I only want a minute.

Mr. SCHENCK. Very well.

Mr. SMITH. I wish to say to the gentleman from Pennsylvania and to the House and to the country, that because of the action of that black man to whom I have referred, I secured to him his freedom by transporting him, under the authority of the Government, beyond the section of country where men were held as slaves; and for this he gave me his thanks, which I appreciate. No man to-day is more willing and more determined to interest himself in giving to these people full and complete protection than I am. I yield nothing to the gentleman from Pennsylvania, [Mr. KELLEY,] I yield nothing to that class of men, in a readiness to acknowledge and reward the services of men, black as well as white, who have been faithful to this Government.

Mr. SCHENCK. I believe I must resume the floor. The gentleman asked me for one minute and I have given him two.

Mr. Speaker, I have no prepared speech upon this very grave subject which we have now under discussion; and it is very possible that I shall not occupy nearly the whole of the thirty minutes allowed me by the rule which has been adopted. Still, I desire that whatever I may say upon the single point to which I propose to confine myself may be said without interruption; and I hope gentlemen will take this as a notice to permit me to proceed in my own way to develop whatever idea I may have, if I have a clear one upon the subject at all.

I shall not speak of this proposed constitutional amendment at large. I should not have spoken with reference to it at all, at least at this time, but for the point which has been made in reference to a single one of its provisions. Objection is specially made to the third section, as it stands in the report of the committee. That section, as proposed to be incorporated into the organic law of the United States, is in these words:

Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

I do not say, Mr. Speaker, that this section, any more than other sections of the amendment, is embodied precisely in the language which I would have used, or indicates precisely the change in the Constitution which I would have preferred, had the choice rested solely with me. But I am bound, like all other gentlemen, to submit my peculiar opinions in reference to this amendment, and every point and

proposition which it contains, to what may seem to be the common sense of this House and of Congress, so that we may together arrive at what may seem to be nearest right, and yet capable of being agreed upon by all of us, or by a proper majority. I shall therefore raise now no question of criticism, nor insist upon the language which I would have used, or the form which I would have preferred in presenting a similar or equivalent proposition.

The objection which has been made by the gentleman from Maine [Mr. BLAINE] to that particular feature of this amendment, is, as I understand him, this, that it seems to conflict with previous legislation of Congress which authorized the President to grant pardon or amnesty to those who had been engaged in the insurrection, and that now, after pardon or amnesty, proclaimed either to individuals or classes, it seems an act of bad faith to punish further and again by denying the right of the elective franchise to any of these men who have been aiding and abetting the rebellion. I state the objection, I think, in the broadest and fullest extent to which it seems to go, and with all the force with which it seems to have struck the mind of my friend from Maine, [Mr. BLAINE.] At first it does seem to be a startling proposition. On the surface it would appear as if there was some bad faith in granting amnesty, in pardoning, and yet, as it were, still pursuing these insurgents and depriving them of certain privileges as additional punishment. If I understood this to be punishment, if I understood it to be a penalty imposed on them, depriving them of rights which they now enjoy, I would agree to the proposition made by the gentleman from Maine, and say that there is an inconsistency between the former action of Congress and the executive clemency exercised in carrying out the authority given by Congress, and that which is now proposed in the shape of amendment to your Constitution.

But, sir, I do not regard it in that light, and it is for the purpose of showing wherein it struck me differently that I propose for a few minutes to occupy the attention of the House.

Sir, the people of this country and those controlling the interests of the country now in official capacity are struggling between two ideas, more or less clearly defined on either side, and influencing the action of those who espouse them. There is, on one hand, what is called the President's theory for reconstruction of the States, and on the other what may be termed the congressional theory. As I understand the idea of the President of the United States, although his "policy" and his practice I must say on this very subject have been by no means consistent—it is this, that the States which have been in rebellion are now as much as any States of this Union, in full, complete, and equal relation to all the other States; that their rights are in all respects the same; that among these rights is included the privilege of unquestioned representation here in the councils of the nation, and that to shut them out from the enjoyment of this is to do them, therefore, absolute wrong.

Now, sir, I will not stop to inquire when that right attached. I will not stop to inquire whether the argument which would prove that proposition would not equally well prove that all through the rebellion, inasmuch as secession was a void act, these States and their people were fully and completely possessed of all rights in the Union, and therefore entitled to representation as now. I do not see where the argument is to stop. If the proposition be true, then at any time during the progress of the rebellion Virginia might have elected Robert E. Lee a Senator to represent that State and her sovereignty at the other end of the Capitol, or any of those men who were serving under him as chiefs of division and brigade to represent districts here upon this floor; and to have excluded them would have been to take away the right of Virginia and of the people of Virginia to be represented in either branch of Congress. And Robert E. Lee and other such arch-traitors could have appeared

here on the floor of Congress and spent their winter in obstructing legislation intended for the purpose of aiding the executive and war-making power in putting down the rebellion, and whenever the spring opened and they were ready for another campaign, might have taken the field in order by force of arms to attempt the destruction of the Government for which they legislated! Monstrous absurdity!

I will not stop, however, to ask when the time came, at what date the States were entirely and thoroughly and completely restored to that equal relation, because I do not believe they had any such equal, complete, normal relation as they once enjoyed while they were States in full communion with the rest of the Union. If I believed it, if I admitted that theory as to the present condition of the States, then it would follow with me necessarily that I should regard these people as having the right to vote for electors of President and Vice President and for members of Congress, and if they possessed this right, then to take away from them, either by statute law or organic law, the due exercise of it, would be imposing on them a penalty and punishment in addition to anything else they may have before been deprived of.

Rejecting this presidential theory, as it may be termed, I come then to the congressional theory on this subject. I will not stop to go into the inquiry whether these States have ever been out of the Union or not.

I do not believe they ever have. I do not subscribe to the doctrine of their having been reduced to the condition of Territories in the sense in which many understand it. I believe we had the right to subdue them, and subject them to obedience precisely upon the same principle on which a father punishes his own child when he has misbehaved. He thrashes his wicked and graceless son because he is his son, and not the child of a stranger. I believe we have a like right to inflict punishment on these rebellious States. In the domestic circle we shut the erring child up in a dark closet, or put him pointing in a corner, and keep him in disgrace away from the table, surrounded by the rest of the inmates of the family, until he has completely, and to our satisfaction, shown by penitence and a manifestation of a proper disposition that he means to deport himself better in the future; and no such sinning child has a right to complain of the discipline which keeps him in a place where he has by bad conduct put himself until he returns to good behavior.

But to the congressional theory. I understand it to be this: that these rebellious States have of themselves, as far as they have the power to do so, broken away from their normal and proper relations to the rest of the States; that when they thus broke away, though they did not release themselves from their obligations, they forfeited certain rights, and among others, after refusing to be represented here, disclaiming their allegiance and denying their connection through representation with the rest of the States, they forfeited that right of representation and cannot regain it until it is properly and by law restored.

And I understand, further, the theory to be that they can be properly restored only by law, and that until a law is enacted by which any State that has thus flung itself out of its proper relations to the Union is permitted to come back and stand upon a footing with other States and enjoy its representation here, such right of representation cannot be regained by that State.

Now, if this be the true theory, as I think it is, then I have no difficulty on account of the objection made by the gentleman from Maine, [Mr. BLAINE,] because if those States have flung away their right of representation, if they have forfeited by their misbehavior their right to claim their old, normal, formerly existing relation to the rest of the States, it is to be a work of subsequent enactment when and upon what conditions such rights and relations shall be restored to them.

Fully believing this, I aver that there is nothing that should be regarded as penalty or punishment in this third section of the proposed amendment. It takes nothing away from the people of those States. It does not disfranchise, but refuses to enfranchise. If you say that the people of these States, because of their having been engaged in the rebellion, shall not vote for Federal officers, there is nothing taken from them, because they have already divested themselves of that privilege, voluntarily abandoned, given it up, flung it away by breaking loose from the rest of the Union, as far as by their act, disposition, and power they could do so.

These States, then, are not in the condition in which Ohio and Pennsylvania are. If we should pass a statute, or undertake to amend our Constitution so as to make a discrimination between the States of Ohio and Pennsylvania and the other States of the Union, saying that certain persons in those loyal States shall not enjoy and exercise the elective franchise, either through entire time hereafter or through a probationary term, a limited period, we do wrong to those States; because Ohio and Pennsylvania and the citizens of those States have not already disfranchised themselves and wickedly and madly thrust their privileges and rights away.

But the rebel States are in an entirely different condition. They have divested themselves, by breaking up the normal relations existing between them and the other States, of the privilege, and their people at this time have no right to vote for President or members of Congress; and if they can only be restored as States, as reorganized communities, as a people, by our action, to the enjoyment of those rights, then the very fact that we have the power by statute-law or amendment to the Constitution thus to restore them, involves the further proposition that their restoration must be upon such conditions and such terms as we shall prescribe.

I might liken this to the institution of property. I cannot, by statute-law or by any alteration of the organic law of the land, divest a man of property which he actually owns without doing him a wrong. If he has violated law and subjected himself to punishment, what he has may be reached by fine or confiscation.

But suppose him to have no property, and the case is very different. When we are making laws, giving the original authority upon which property is to be obtained and held, surely it may be stipulated that such and such terms are to be complied with or such and such duties performed as the conditions on which the privilege of acquiring that property shall exist.

I would not take away from any one the elective franchise which he now enjoys. If I did, then would I be acting in bad faith, as the gentleman from Maine apprehends. I simply say to rebels, your pardon or amnesty only related to the crime you had committed, and so far as that crime tainted your character or affected your future you are purged of it by that pardon or amnesty. But as to anything which you have already divested yourself of, which you do not now own or enjoy, and which you wish hereafter to acquire; or, having had it once and lost it, desire to have restored to you, I will impose such conditions by statute or organic law as will determine on what principles, in what way, and at what time you shall get it back.

But, sir, somewhat to my surprise, because, as I suppose, it does not appear to him as it does to me, but a consistent part of the course of legislation in which we are endeavoring here to engage, my honored colleague [Mr. GARFIELD] proposes to get rid of this entire section, and to instruct the committee, in case the amendment be recommitted, to erase it altogether. And he assigns one or two other objections to it, upon which I will for a moment comment.

He says that he would be willing to have a proposition of this nature embodied in the constitutional amendment if, instead of dis-

franchising these insurgents until 1870, it disfranchises them perpetually.

Well, sir, I will not stop to inquire whether that would be going beyond the expectations of the people and beyond our duty or not. I should not, probably, quarrel with my colleague if he could add ten, fifteen, or twenty years, or even a longer period to the term of probation. But I deny the principle on which he sets out that there is anything inconsistent or wrong in making it an exclusion for a term of years instead of exclusion altogether. If there be anything in that argument, you ought not to send a man to an insane asylum for one, two, or three years, at the end of which period you may reasonably expect his intellect to be restored; you ought either to let him roam at large altogether or send him off as a lunatic for life. Or, in the case of crime, you must either not sentence a man to the penitentiary at all, or else incarcerate him for the term of his natural life. Or, to compare it to another thing, which perhaps better illustrates the principle involved, when a foreigner arrives upon our shores we should not say to him, "At the end of five years, when you have familiarized yourself with our institutions, and become attached to them, we will allow you to become a citizen, and admit you to all the franchises we enjoy," but we should require that he be naturalized the moment he touches our soil, or else excluded from the rights of citizenship forever.

Sir, I do not see that there is any principle involved in it. It is a mere question of expediency.

It has also been objected that it is exceptionable to incorporate into the Constitution any condition depending on lapse of time or a term of years—a period within or beyond which something is to be allowed or denied; and this is said to be, therefore, altogether a novel and unprecedented proposition. Sir, I deny even that. Any gentleman familiar with the Constitution will recall the provision that the slave trade, existing at the time of its adoption, should be permitted to run on for twenty years, but might be forbidden at the end of that time.

There is no principle violated, nothing which should prevent us from making the exclusion for two, three, four, ten, or twenty years, or during the natural lives of these insurgents, who seek to be admitted again to the exercise of the elective franchise.

Mr. Speaker, my own decided conviction is, that so far from going beyond the popular judgment and demand there is no part of all this amendment that will more commend itself to the sense of justice and propriety of the people of this country than this very third section. Everywhere throughout the land, in all loyal minds and hearts, the conviction has settled and grown strong and taken deep and fast hold that those who sought to destroy the Government ought not to be called upon so shortly afterward to undertake to rule and carry on that Government.

I do not believe there is any other portion of this whole proposed amendment to which so general an assent will be given by the people of this country, the loyal and true people throughout the whole broad extent of our land. They are full ready to declare that those who have proved false traitors and have raised their parricidal hands against the life of the country, who have attempted to strike down our Government and destroy its institutions, should be the very last to be trusted to take any share in preserving, conducting, and carrying on that Government and maintaining those institutions. And believing this, I have been all the more astonished that special attack should have been made on this particular section.

A gentleman sitting near me suggested, a moment ago, another objection to this section; one, however, rather to the form and phraseology than to the substance. Rebels are to be "excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States." He says this latter condition, without some

more precise and guarded expression, may be evaded; that as the Constitution gives the States the power "to appoint these electors in such manner as their Legislatures may direct," these States may, like South Carolina, give that power to their Legislatures, or even confer it upon their Governors. Now, all I have to say in reply is this: I am not troubled by the word "appoint." If the Legislatures are called upon to appoint electors, they must in appointing vote for them; voting is involved in the manner of selection. And no member of any State Legislature can be permitted to cast his vote for presidential electors, if this amendment be made to the Constitution, if he himself has voluntarily adhered to the cause of the rebellion. There is nothing to be apprehended from the possibility that disloyal voters may choose loyal legislators. If they do, we must trust and accept such choice.

But they may give the power to their Governors. Very well; if the Legislature shall by law direct the Governor to be their agent in the appointment of electors, then you reduce the matter to the test of still easier proof. That Governor cannot appoint, cannot choose, cannot vote for—for those words "vote," "choose," and "appoint" are used indiscriminately in many parts of the Constitution—unless he comes within the provisions of this section if it shall be adopted. I will not say that this proposition might not be embodied in some better form of words—

[Here he hammered fell.]

Mr. SMITH obtained the floor.

MISSISSIPPI AND OHIO RIVER PILOTS.

Mr. WHALEY. I ask unanimous consent to present the remonstrance of pilots on the Mississippi and Ohio rivers against the passage of House bill No. 447.

Mr. WASHBURN, of Illinois. I object; let it come in under the rule.

ENROLLED JOINT RESOLUTION SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a joint resolution to provide for the exemption of crude petroleum from internal tax and duty, and for other purposes; which was thereupon signed by the Speaker.

RECONSTRUCTION—AGAIN.

Mr. SMITH. I have always felt that when a crime has been committed, an absolute violation of law, upon a proper arraignment and trial and conviction of the party, justice and right and law compel the execution of the sentence. I entertain that opinion now and shall continue to express it. I therefore disagree with the gentleman who has just preceded me, [Mr. SCHENCK,] and the committee upon reconstruction who have reported this joint resolution, that those who have been what are usually denominated "red-handed traitors," who have attempted to destroy this Government and those who have defended it, should be forgiven at this time or even in 1870. I know there is a feeling prevalent in this House and in the country that we must submit to this proposition because there is a sentiment of reconciliation in the words and manner in which it is gotten up and proposed. But, for one, I must dissent, and my name must go upon the record in opposition to those men who have heretofore claimed a higher position for punishing those who have attempted to destroy this Government. I am surprised, and I must express my surprise, that men who have stood by the Government, who have voted men and money to sustain it, who have seen their country overrun, who have seen their armies defeated, who have seen their brothers slain, who have seen large battle-fields rendered gory, should at this time come forward and say that in 1870 the doors should be opened to these rebels and that there should be a general amnesty. You are radical; I am not. You are for general amnesty with universal suffrage; I am not. I stand here as a Union man, and as a conservative man, desirous to restore the Gov-

ernment, to secure the peace and happiness of the people, the unity of the States, and the supremacy of the Constitution. If you ask my consent to the pardon of the leaders of this rebellion, I say "No." But there are men upon this floor who say, "Confiscate their property and let them go." I say "No." In the Thirty-Eighth Congress I voted for the confiscation of the property of the leading rebels, and I made a speech in advocacy of that position. I stand by that doctrine to-day. But where are the men who advocated the doctrine then, and said, "Not only confiscate their property, but hang them all?" Those men now say, "Pardon them all, and restore them in 1870 to all the rights and privileges of citizenship." They do not even propose to wait until 1870. They say, "Confiscate their property and let them go." They would apply this doctrine to men who are guilty of rebellion against the Government, of treason against the Constitution, and war upon all our institutions. They say of such as Clement C. Clay, "Let them depart in peace." They would say of Jeff. Davis, "Confiscate his property and let him return to his home." All this may suit you; it does not suit me. You are radical; I am conservative. You say "Hang everybody," but you will not hang anybody. You say "Prosecute everybody," but you will not prosecute anybody. You say "Execute the laws," but you do not do it. Not long since the question was asked upon this floor whether you would execute these men through the instrumentality of the President. The answer was "No;" and the reason of that answer was that it was feared that the President would receive a little too much credit for his action in seeing that the laws were executed. I say let these men be tried; if guilty, let them be convicted; and then see whether the President will pardon them when thus convicted. Sir, this will never be done if we trust to these men who are all the time urging their radical schemes, who have forgotten the interests of the country, who seek not the salvation of the Union, but the salvation of party, and the interest of their particular ilk.

The gentleman from Ohio [Mr. SCHENCK] said a few minutes ago that he would not admit that these States were out of the Union; that they had been in the Union and were parts of the body-politic. Well, if that is the fact, how and under what circumstances are they to be gotten out? How are they to be destroyed? The gentleman, in speaking of this subject, adopted a simile, and said that when a child has offended the father whips him, and thus by correction brings him back to obedience to the law. Now, I submit the question whether there was ever on the face of the earth a father who, though he chastised his child because of disobedience, refused that child, even after the chastisement, bread and clothing and a place in his house. The father whips the child from love, remembering all the time that he is "bone of his bone, flesh of his flesh." He chastises him because he loves him.

Now, sir, the honorable gentleman from Ohio [Mr. SCHENCK] has chastised these men. He was a general in the Army, and he helped to chastise them. He did it because he loved them, because they were a part of the family. But now, when he has whipped them into obedience, and they ask to resume their place in the family circle, under the shelter of the great household of the nation, he says, "No, you cannot come in." This is unnatural. It is in violation of every principle that should govern the action of the father toward an erring or rebellious child. It is in violation of those great principles of affection which God has implanted in the human breast, and the disregard of which stamps a man as unworthy the name of man.

Now, sir, these States are in the Union. There is, so far as I know, only one man in this House who says that they are not; and he is the member from the Lancaster district of Pennsylvania, [Mr. STEVENS.] I designate him simply by the appellation of "member."

But the distinguished men upon this floor on that side say these States are in the Union; and I must call to my support again a distinguished gentleman, a personal friend, one I like, one I may appeal to, but who will not say anything to me just now—the gentleman from Ohio who sits across there; I mean Mr. BINGHAM.

Mr. THAYER. I rise to a point of order. It is out of order to mention by name any member present. I would not make this point upon a new member, but I think I can fairly make it upon the gentleman from Kentucky as the practice has become of late a very common one.

The SPEAKER. The rule is imperative that members must not be referred to except as from the States which they represent.

Mr. SMITH. I only used the gentleman's name in parenthesis. [Laughter.] Now, sir, I have heard the gentleman who called me to order as well as other gentlemen upon this floor mention the names of members in parenthesis. I would like to know, then, by what authority he has called me to order. You will find in the printed speeches the names of members printed in parenthesis.

Mr. THAYER. The names are interpolated by the reporters. The gentleman cannot mention any instance in which I have called the name of any member upon this floor. I consider it unparliamentary. I hope in future we will not have any more of it.

Mr. SMITH. I do not want the gentleman to take up all of my time. I wish to say I have precedents. Every gentleman who has any reputation in this country, and who has spoken upon this floor, has again and again called members by name when it was necessary to do so. There is the gentleman from Illinois, I will not mention his name, and many others, have called members by name ten, fifteen, and thirty times.

Mr. WASHBURN, of Illinois. If the gentleman refers to me I will say that he never heard me call a member by name.

Mr. SMITH. There are other gentlemen on the floor from Illinois.

The SPEAKER. To call a member by name in the British Parliament is considered the highest censure.

Mr. SMITH. Mr. Speaker, I want to have one thing settled right here. I find every time within the last four or five weeks that I have risen to address the House I have been interrupted by questions of order. I am a man of good humor, and you cannot make me mad. I do not mean to do any wrong to anybody, but I do mean to speak the truth. If it offends anybody, why then let them call me to order. I mean to say that none of these States are out of the Union, and that they never have been out of the Union.

Mr. THAYER. I do not want to interrupt the gentleman.

Mr. SMITH. I do not yield to the gentleman. The gentleman with his point of order has diverted me from the course of my argument. I am willing to stand on the principles I have avowed. There is the gentleman from Ohio—I will not call him by name, but the House will see whom I mean by looking where I am pointing my finger—was allowed to go on making his speech without interruption, but how does it happen when I undertake to speak in vindication of the great principle of the Union party I am constantly called to order?

Mr. THAYER. Does the gentleman want an answer?

Mr. SMITH. You cannot answer me just now. I must come back. It cannot be denied that members on the other side have risen here and abused the President, abused his policy of reconstruction and almost everything else that he has presented to Congress. The gentleman from Illinois [Mr. INGERSOLL] spoke here on last Saturday for more than two hours in abuse of the President. Now, I want to know why, if they are allowed to speak against him, I shall not be allowed to speak in his favor. There is nothing that they can propose that will restore this Union. They cannot deny

the constitutional prerogative of every State, taxation with representation. It is impossible. It is the fundamental law.

But you say that you are the judges of the qualification of Representatives in Congress, and the Senate are the judges in regard to the qualification of Senators; and so we can decide that question. I venture to say that the gentleman from Pennsylvania [Mr. STEVENS] and all that class of men will vote sooner, especially after the year 1870, to admit these traitors into their seats than I will; and I dare you to try it. You do not hate the red-handed traitors worse than I do, and you dare not go with me on a jury to try them. You would blanch, you would pale, you would sicken, you would crouch, you would forgive before I would, and save these men from execution who have attempted to destroy this Government, and you say it by your very conduct and by the proposition you make to-day. If you want representation by voting, say so, and let us have a plain proposition.

Now, I know it is hard to make a speech in the Congress of the United States without referring to the negro, and I thought I would get through a thirty minutes' speech without doing it. But my friend from Pennsylvania [Mr. KELLEY] could not help talk about the darkey; and my friend over here talks about him, and my friend over there talks about him, and my friends all around the House bring him in. Gentlemen, open your pocket, open your hand, open your heart, and let us see whether Union men from the southern States, and wherever they are found, will not do more than you will.

I happen to know some of you who have been called upon for contributions to feed the hungry and clothe the naked, and you did not respond. [Laughter.] And I know there were others that did. And yet you get up with your loud-mouth declamation and send your speeches over the country advocating the cause of the poor black man, while the poor black man, with his face turned to heaven, says, "Lord, deliver me from such friends." [Laughter.] And He will do it, too. [Laughter.] We understand it, and we know that if the negro is to depend on you for his bread and his clothing, (now, I am not speaking of the Union party, but of their leaders in Congress; the men who clamor so much about the negro,) you are the last men on the face of God's earth that will help him. Because, no matter whether a man is worth \$250,000 and owns a rolling-mill, or \$150,000 and is engaged in petroleum operations, or is worth \$500,000 and is engaged in cotton speculations, whenever a poor darkey comes along you cannot do a thing; but if there is an appropriation of \$25,000 from the Government of the United States coming through the Committee for the District of Columbia, then the darkey gets it. It is put into the hands of the managers of the Freedmen's Bureau, and that institution goes along swimmingly and all is well with the negro. There are two extremes.

Mr. KELLEY. Will the gentleman yield for a question?

Mr. SMITH. I cannot.

Mr. KELLEY. Just a question.

Mr. SMITH. Mr. Speaker, how much time have I left?

The SPEAKER. Six minutes.

Mr. SMITH. Well, how long do you want me to yield?

Mr. KELLEY. Half a minute.

Mr. SMITH. Very well.

Mr. KELLEY. I ask the gentleman whether he knows the fate of those who are neither hot nor cold.

Mr. SMITH. Yes, sir.

Mr. KELLEY. And whether that is your position.

Mr. SMITH. Yes, sir, [laughter,] I understand what is the condition of those who are "neither hot nor cold." The Bible informs me they are spewed out, and you are about the worst "spewed out" man I ever saw in my life. [Great laughter.] You take care of yourself and some of your colleagues over there from Pennsylvania.

Now, Mr. Speaker, I want it distinctly understood that the friends of the black man, and I use the words with emphasis, are those who know them, who have been associated with them and familiar with all their characteristics. They are the men who have defended them in the past, and will defend them in the future.

Now, the "spewed" gentleman from Pennsylvania talks about hanging rebels, and hanging all sorts of men. I remember, as he must too, the time when he saw, walking through the streets of Washington, a whole company of black men, dressed in grey, who were prisoners of war. Would you hang them, sir?

Mr. KELLEY. I never saw them.

Mr. SMITH. Then you were blind. [Laughter.] Your deeds were dark, and you could not see what was going on. [Great laughter.] I tell you I saw them, and they were there. I would not hang those men. I would not prosecute them. I would not interfere with them. I would give them a general amnesty, and I would extend it to the great masses of the people of the South.

You will have to live with those people; they are a part of the Government; their States are States of the Union; they are under the Constitution; they are subject to your laws, and they obey every precept that you lay down for them. And, sir, one remarkable thing is this: that if a rebel obeys the law, you want to hang him because he does obey it, you believe the law must be wrong because he assents to it! But, if he violates the law, you want, also, to hang him! What is the poor man to do? If he obey the law he is hung, and if he does not obey it he is hung.

Now, Mr. Speaker, there is one other thing I wish to say. There are two parties in this country who are against this Government, and are attempting to overthrow and destroy it—the one is an extreme party on the one side, and the other is an extreme party on the other side.

Mr. PERHAM. To which party does our friend belong?

Mr. SMITH. If you will keep quiet a moment I will tell you.

I remember very well a beautiful allegory in the Bible, which I have referred to before on another occasion and in a different place. It was when, under the administration of that great and wisest of men, a long time in the past, Solomon, a harlot stole the child of a kind and affectionate mother and claimed it as her own, or kept it to secure a large bounty for its return. The claim of the legitimate mother to the child had no effect upon the harlot. Distressed, heart-broken, and troubled beyond endurance almost, the mother appealed to Solomon for redress and the return of her child. He ordered both women and the child before him, and after hearing both he directed the child to be cut in twain and the one half to be given to the harlot and the other half to the woman the true mother. "Well," said the harlot, "I agree; I am satisfied; let the child be divided." "No," said the mother, "that is my child; I have petted it on my knee, I have nursed it at my bosom; 'tis part of my bone and flesh, and I love it as I do my life; do not kill it, do not destroy it; let the harlot have it, but save it." Solomon said, "Thou art the mother, take thy child." The Government of the United States is our mother; harlots North and South have attempted to destroy the child of the Government, the Constitution and the Union. It was proclaimed in the South, "Let the Union slide;" it was echoed back from the North, "Let the Union slide." They said, divide the Union; they attempted it. A long war was prosecuted for this division, but it failed. The wisdom, energy, and patriotism of the people said "No, we will make sacrifices of blood and treasure and the great institution of slavery; but defend, save, and let live the union of the States." These harlots cry to-day, the Union is dissolved, it is discovered and gone; the sacrifice made, the destruction of slavery, is not enough; let the child be divided. Their fol-

lowers, but few in number it is to be hoped, however, say, "Let the Union slide;" but the party to which I belong, the great party of the Union, say "No; we love the Union; it gives us life, protection, homes, plenty, liberty, individual freedom, and 'by the Eternal it shall be preserved.'" Now, I hope the gentleman understands to which party I belong.

The hour of half past four o'clock p. m. having arrived, the House, pursuant to order, took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The first section of the bill which was under consideration is as follows:

That on and after the 1st day of July, 1866, in lieu of the duties on unmanufactured cotton, as provided in an act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, approved June 30, 1864, as amended by the act of March 3, 1865, there shall be paid by the producer, owner, or holder, upon all cotton produced within the United States, and upon which no tax has been levied, paid, or collected, a tax of five cents per pound, as hereinafter provided; and the weight of such cotton shall be ascertained by deducting four per cent. for tare from the gross weight of each bale or package; and such tax shall be and remain an lien thereon, in the possession of any person whomsoever, from the time when such cotton is produced as aforesaid until the same shall have been paid; and no drawback shall in any case be allowed on raw or unmanufactured cotton of any tax paid thereon when exported in the raw or unmanufactured condition. But no tax shall be imposed upon any cotton imported from other countries, and on which an import duty shall have been paid.

The pending question was on the following amendment offered by Mr. LYNCH:

Provided, That any producer may procure an exemption of not more than six hundred pounds of cotton in any one year, as follows:

Upon exhibiting the same to the assistant assessor of the district where said producer resides and where the cotton was raised, at the place of production, and making oath that he raised and now owns said cotton, and satisfying the assistant assessor that his sworn statement is true, the assistant assessor shall file mark the bale or bales of said cotton with the number of pounds, being not more than six hundred as ascertained by weight then and there, and with the following words: "Cotton produced in the — assessment district in the — collection district in — by —, and owned by him on the — day of —, 18—, and exempt from taxation;" filling said blanks with the designation of the assessment district and also of the collection district, the name of the State, the name of the producer and owner, and the date when said exemption is so ascertained and marked thereon. The assistant assessor shall give to said producer a certificate of such exemption setting forth the above facts, and also the place of production as near as can be, and the payment of his fee. He shall also make a full record of all such exemptions and transmit a transcript of the same to the assessor. The assistant assessor shall be allowed a fee of two dollars for all his services in each case of exemption, to be paid by the producer. Any person swearing falsely in procuring such exemption; and any person using or attempting to use the exemption certificate or marks provided for in this section with intent to procure exemption for any other cotton than that which was lawfully exempted as such certificate and marks set forth; also, any person selling or giving away, purchasing or receiving such certificate or marks with intent to defraud or to aid in defrauding the revenue shall be liable, upon conviction thereof, to a fine of fifty dollars or to not more than three months' imprisonment. Under the provisions of this section no cotton in its unmanufactured state shall be exempt from taxation for more than ten months after the date of its marks or certificates of exemption. Any person, other than the producer named in the certificate and marks aforesaid, who shall subsequently to such exemption claim property in any cotton so exempted, by virtue of an ownership prior in date to such exemption, shall forfeit all such cotton; and any cotton

with reference to which the owner or his agent shall commit any violation of this section shall also be forfeited.

Mr. MORRILL. Mr. Chairman, the amendment pending, offered by the gentleman from Maine, [Mr. LYNCH,] provides that a certain amount, either six hundred or one thousand pounds of cotton—six hundred pounds, I believe—shall be exempt from tax throughout the South wherever cotton is produced.

Mr. LYNCH. If the gentleman will allow me, I will modify my amendment.

Mr. MORRILL. Very well.

Mr. LYNCH. I withdraw my amendment, and move to add to the section the following:

Provided, That any producer may in each year procure an exemption of not more than six hundred pounds of cotton produced by himself and owned by him from planting to baling and exemption, by complying with such regulations as the Commissioner of Internal Revenue shall prescribe, under the direction of the Secretary of the Treasury.

Mr. MORRILL. In my judgment, this amendment, if adopted, will be utterly destructive of all revenue from this source. And as I know my friend from Maine [Mr. LYNCH] is in favor of a tax upon cotton, I trust he will withdraw it.

But before yielding the floor let me say that if this amendment should be adopted every piccaninny in the South would have six hundred pounds of cotton to be exempted. All of the land would be leased or so managed that every workman, whether employed for wages or otherwise, would come forward with what would appear to be a valid claim for an exemption, and if this amendment should be adopted, I should regard it as equivalent to the rejection of this proposition to tax cotton.

Mr. LYNCH. I should be very sorry to propose any amendment here which would defeat the object of the committee in levying a tax upon cotton. When I offered my first amendment, I stated that my object was to encourage the small producers of cotton in the South; and also to follow out the general principle of the bill which exempts the small manufacturers of the North, the miners that produce a small amount, and incomes to a certain amount. I think there will be no more difficulty in guarding against fraud in the exemption of this amount than there is in guarding against fraud in the exemption of \$600 worth of manufactured goods.

It is hardly to be supposed that a planter can farm out to all his hands his plantation, while he really owns all the crop, and have every one of them come forward and make oath that they each own six hundred pounds of cotton, and obtain exemption papers upon that amount under any regulations that may be made by the Commissioner of Internal Revenue. I do not see that the farmer can attempt that any more successfully than the manufacturer at the North can share out his factory and thus avoid the five per cent. tax.

I think it is a matter of a great deal of importance that we encourage these small producers of the South by giving them the advantage of this exemption, and let them feel that the Government is a beneficent one. While at the North I would not encourage any class distinction, I would permit this at the South. I think it is for the interest of the Government that they should make the poor white people and the poor black people of the South feel that they had certain privileges and certain exemptions, and I think it is no more than right and just that the same principle should be applied at the South that is applied at the North. I will leave the House to decide the matter.

Mr. MORRILL. I regard this matter to be quite as important as the gentleman from Maine [Mr. LYNCH] can regard it. And I would like to reach the point of being able to give these men the bounty which he proposes, for it is nothing less than a bounty. If we do not adopt the provision the gentleman proposes they will have nothing taken from them; they are as well off as they would be if we do not pass the law.

Now, let me say, in relation to this proposal, that there is a very great difficulty about it. This provision, if adopted, cannot be enforced.

By the provisions of this bill we provide for the collection of this tax when the cotton is removed from the district or when it is manufactured in the district where it is produced. If there is any one in any of those districts who raises cotton and who shall see fit to manufacture an amount of cotton equal to that allowed to persons in the North, he will have the same privileges of exemption as the man who manufactures cotton in the North. If we allow this six hundred pounds of cotton to be exempted for each producer, then every bale of that exempt cotton must be traced throughout the country wherever it goes. It is quite enough to be called upon to trace this cotton to the manufacturers or when it leaves the district. To undertake anything more would be futile, and in my judgment absolutely impossible.

Mr. LYNCH. I would like to ask the chairman of the Committee of Ways and Means [Mr. MORRILL] if there will be any more difficulty in putting the exemption stamp on the bale than to put a stamp on to show that it has paid the duty.

Mr. MORRILL. The cotton the gentleman proposes to exempt will be in very small parcels, about a bale and a half each, and it will come in from all quarters, whereas in the general administration of the law it comes in in large parcels.

Mr. LYNCH. I understand that each bale is to be stamped.

The CHAIRMAN. Debate has closed upon the amendment.

The question was taken on the amendment of Mr. LYNCH, and it was not agreed to.

Mr. UPSON. I move to amend this section by striking out the word "five" and inserting the word "three," as the tax per pound to be levied on raw cotton.

I will state briefly my reason for offering this amendment. I consider the tax proposed by the bill as exorbitant and calculated to have an injurious effect, that tax being equivalent to twenty or twenty-five dollars per bale.

Besides, it will be found, by an examination of the bill, that after the cotton is manufactured into fabrics there is to be an addition of five per cent. *ad valorem*; so that the consumer of this cotton, when it is manufactured, will have to pay that five per cent. duty added to this tax.

Although it is said that the consumers who will pay this tax will, to a considerable extent, be those in foreign countries, still a larger portion of these manufactures will also be used in this country. And I find that the producer is generally very desirous to exempt the product from tax, as in the case of petroleum, in regard to which the question was considered so urgent that a bill on that subject was yesterday rushed through as an independent proposition. Infer, from facts of this sort, that a tax of this kind does, at least in some cases, affect in a measure the producer as well as the consumer.

I submit that, in the present state of our country, a tax of five cents per pound on cotton would be a very heavy burden, and is calculated, I think, to work more injury than benefit. This tax will weigh heavily upon a large class of our people who make use of manufactures fabricated from cotton. The tax is now two cents per pound. I notice that some of the southern States, North Carolina for instance, have gone through the process of levying a tax of two dollars per bale on cotton to support their provisional governments. The article is also subjected to other local taxes in the States where it is produced.

Mr. STEVENS. If the gentleman from Michigan [Mr. UPSON] had not moved to reduce this tax, I should have moved to amend by striking out "five" and inserting "eight." I think there is very good reason why this one article should pay a very large portion of the taxation which we are obliged to raise. If we

had a right to lay an export duty, which the Constitution at present forbids, we could, with an export duty of ten cents per pound, raise \$200,000,000 annually, while at the same time protecting our own manufacturers and selling abroad just as much cotton as we do now. Under the circumstances we must do the best we can. The only thing we can do is to lay an internal duty, and then allow a drawback upon that portion of the manufactured article which is exported. That is the only mode by which we can now do what we ought to do.

Mr. UPSON. I wish to inquire whether the object of the drawback is to enable us to sell more cheaply to foreign countries than to our own people.

Mr. STEVENS. The object of the drawback is to enable us to go into the markets of the world with our manufactures, where we cannot now go—to enable us to go where England is able to go by her free-trade system at home—to enable us to go to South America, to France, to the continent of Europe. If we would manage our concerns wisely, if we would lay a tax, for instance, of ten cents upon all of the article that is exported and nothing at home, there is not a market in the world to which the fabrics of this country would not find their way. We must approach the object as nearly as we can; and as we have to raise a considerable amount by internal taxation, let a portion of it be borne by those who raise the article of cotton and who created the necessity for this taxation.

Mr. UPSON. I thought the object was to benefit the home market.

Mr. STEVENS. Internal duty is not protection; it is just the reverse of protection.

Mr. UPSON. I speak of the drawback.

Mr. STEVENS. The object of the drawback is to enable the people of this country to send their manufactures advantageously into the markets of the world, without being overborne by the competition of the cheap manufacturing countries of Europe. How can we accomplish this except by a drawback as proposed by the bill? We now allow a drawback on whisky. We put no tax upon whisky exported. Why is this? It is that we may go into other countries and sell that article without being affected by the burdens of taxation which we are compelled to bear here. But it enables us to pay taxes in proportion, if we can sell a portion of our surplus production abroad at some kind of profit. And therefore, instead of sending the raw material abroad, let us now manufacture it here, and when we have manufactured it here, and our manufactories have been fully employed, let us send the product abroad to other countries where it is needed. But in order to do that you must take off a portion of the duty which is necessary here. Therefore I am opposed to the amendment of the gentleman from Michigan, [Mr. Upson,] although I am deterred from saying anything about the eight cents tax, as I intended.

Mr. HOOPER, of Massachusetts. I move to amend the amendment by making it two cents instead of three.

I regret to differ from my colleagues on the committee upon this or any other item in this bill, and I believe it is the only important item in regard to which I differ from them. But my conviction is very strong against this tax.

The main object of this bill is to relieve the country from some portions of the burdens of taxation, and cotton is the only article on which the tax is increased—the present tax being two cents, equal to about nine dollars per bale—and this bill proposes to increase it to five cents, or about twenty-two and a half dollars per bale. During the war Congress refused to impose more than two cents upon cotton. It seems to me unjust and impolitic, now that the war is over and every one desires to see the industry of the South revive and flourish, to oppress the production of cotton with this burdensome tax.

It is not true that this tax will be paid by

the consumers of the cotton. In the present condition of the supply of cotton the tax must come out of the producer. The price of cotton both here and abroad will depend on the extent of the supply, and whether you tax it two cents or twenty cents the price will not be affected by the tax until it operates to restrict the production of cotton in this country.

It is a mistake to suppose that because we produce more cotton than any other country, or perhaps than all other countries, therefore we have the monopoly of the article. Whatever tax we impose on cotton is paid by the producer until it restricts the production; and then it will operate as a bounty to encourage its production in other countries.

We shall not force the foreign consumer or even the consumer at home to pay this tax. It must come out of the producer of cotton until the extent of the crop is so great that this tax will operate as a restriction upon its production.

Mr. MORRILL. Mr. Chairman, this subject is not a new one. It is very clear that if the proposition which was made at the last session of Congress to tax cotton five cents a pound had been carried, we should have got many millions of money without impoverishing the country a dollar. Every dollar of it would have been paid by the foreigner. And so long as cotton remains at the present price, or until it comes down to a much lower rate, the position taken by the revenue commission without a single exception, I believe, was that it would continue to be the same; that the price levied by the tax would mainly come out of the cotton sent abroad. And not one of the manufacturers were opposed to it at the time. It was accepted provided a little pittance of drawback was given upon manufactured cotton.

Now, if we are to have any revenue at all of this sort let us put it at some figure that will make it of some importance, and not whittle it down to a point so fine that it will cost more to collect it than the revenue is worth.

The CHAIRMAN. Debate is exhausted on the amendment to the amendment.

The question being taken on the amendment to the amendment, it was not agreed to.

Mr. PIKE. I move *pro forma* to amend by making it six cents.

The House ought to recollect in acting upon this subject of cotton, that the other day we passed a bill making an appropriation for the next year of very nearly twelve million dollars, in great part for the purpose of protecting, encouraging, and assisting this raising of cotton; that is to say, for the Freedmen's Bureau. The necessity for that bureau lies in the fact that the population in the South, both white and black, need assistance for the next year, and that they were largely engaged in raising cotton and in raising the corn necessary for their own subsistence. So that it is one of the necessities of our position that so long as we make this large expenditure, such as we make in no other section of the country, the region in which we make this liberal expenditure should make a liberal contribution in return.

Another consideration is, that it is necessary to keep up a standing army in that section of the country where cotton is raised. It will be necessary to employ a large portion of our Army in that section for the coming year, if not for years to come; and so long as these extraordinary expenditures are necessary in that part of the country, so long we should draw a revenue from that section somewhat to correspond with those expenditures.

Now, the revenue commission, viewing this simply as a revenue matter connected with safety to the production of cotton, and to its maintenance in the markets of the world as an article of export, have proposed a duty of five cents a pound. I am satisfied with that.

Mr. KASSON. I believe that from the first there has been no member of the Committee of Ways and Means more interested than myself in the question of taxing raw material in the hands of the producer. Upon this question of cotton it has been treated by them—

and I am willing to accept that proposition—as an exceptional article that justifies the violation of the rules which we have applied to subjects of taxation generally in this country.

In the last Congress I endeavored to apply a similar rule to the production of tobacco, taking it off from the manufactured article and substituting it in a much less amount upon the raw material. The difficulty that we then encountered was the collection of the tax in that form without imposing a burden upon the producer. The same difficulty exists in respect to cotton, and in addition to that there seems to be a difficulty in the minds of many gentlemen in regard to the amount of this tax.

Now, one thing I apprehend is conceded on all hands, and that is that in respect to certain varieties of cotton, and only in respect to certain varieties, we are without competition in the production of the world. In the long staple, the most valuable kind, we have at present no successful competition. But there is in various parts of the world a production of a very large amount of cotton of an inferior quality, the short staple, which, if we tax the raw material too high in this country, will encroach, I think, upon the monopoly that this country has hitherto enjoyed.

The practical question, therefore, in my judgment, is, whether we put the tax so high as on the one hand to develop the production in foreign countries of a superior article, and on the other to compel the increase of the amount of the inferior article in place of that we have hitherto sent into foreign markets from this country.

It is upon that point that the principle I maintain applies. I do not believe that we have a permanent monopoly of the markets of the world in the production of cotton to the extent claimed by some. And I am as apprehensive in regard to this as I was on the subject of tobacco, that we may so affect the production of the raw material as actually to develop successful competition and take from ourselves the monopoly in the world that we now have.

I should have preferred that the committee had settled upon three cents, with a corresponding drawback on the manufactured article. I think both branches of the subject, the tax and the drawback, should be considered together.

I hope in this as in all similar subjects connected with the material interests of the country, no gentleman will attempt to put it on the ground of vindictive punishment upon the people of the South. It is the most dangerous element that we can introduce into our deliberations upon this as well as all other subjects. I say this for fear that some at least of my associates upon this floor may think that cotton will bear any amount of taxation we choose to put upon it, and that the burden will fall on the South. We in the North, who consume most largely, pay the burden in the first instance, and then the foreign consumers pay the residue of the burden in the second instance, after the drawback is allowed on the manufactured article.

I hope, therefore, that the tax will not be increased above five cents, nor decreased below three cents, and for myself, I should prefer to start the experiment on the grade of three cents.

Mr. PIKE. I withdraw my amendment.

Mr. BOUTWELL. I move to amend the amendment by striking out "three" and inserting in lieu thereof "two and a half." I do it for the purpose of saying that I cannot concur with the Committee of Ways and Means in the policy of putting the duty at five cents per pound, and chiefly upon general reasons. So far as I can be supposed to have an interest in the manufacturing industry of the country, I do not know that the manufacturers are particularly concerned in the amount of the tax on the raw material, provided that the drawback on goods exported corresponds with the tax laid on the raw material. But I

concur with the gentleman from Iowa [Mr. KASSON] that if the tax be put at five cents, and there be not a drawback, it will destroy the manufacturing interests of the country.

But I object to it chiefly upon general grounds. It is pretty well known that in reference to all political matters concerning the South, and the restoration of that section of the country to its former relations to the General Government, I am, in some degree, uncompromising. But upon all questions affecting their material prosperity, upon everything relating to the restoration of commerce and social order, I am in favor of the most liberal policy on the part of the General Government.

Now, sir, if this tax be put at five cents, and the Representatives of the South return here, as they must do at some time, I cannot anticipate anything but well-founded opposition, and some degree of bitterness on their part, in reference to this matter. We should consider that this must be, to some extent, a tax upon the cotton-producing interest of the country, for, while a portion of this increase in price may be charged over to the manufacturers of this and other countries, it cannot be reasonably anticipated, when you impose the duty equal to fifty or seventy-five per cent. of the cost of producing the material in ordinary times, that such a tax will be paid by the consumers entirely.

Previous to the opening of the war, in 1861, American cotton sold in the market of England, for about fivepence and three tenths, or something like twelve cents per pound. If you add five cents, or twopence ha'penny per pound, it must tend to increase the cotton production of other countries. Previous to the war the importation of East India cotton into Great Britain was between five hundred thousand and a million bales a year. During the war the importation of American cotton into Great Britain went down from one million eight hundred and forty-one thousand bales, to two hundred and eighty-one thousand and fifty bales last year, showing a loss of more than a million and a half of bales on the importations of American cotton. Now, the importations into Great Britain of all kinds of cotton have diminished only three hundred and twenty-eight thousand bales, comparing the year 1861 with 1865, showing an immense increase in the cotton-growing interests of other parts of the world during the prostration of the business here.

Now, if you impose a duty of fifty per cent. on the cost of producing the raw material in this country it must inevitably result in an increased production of cotton in other countries. I should much prefer that we should put the duty at something like three cents per pound, which corresponds with our general system so far as we can compare the duties on raw materials with the duties on manufactured articles which is observed in the revenue system of the country, and which is preserved in the bill now under consideration.

[Here the hammer fell.]

Mr. MORRILL. I merely desire to show to the gentleman from Massachusetts that gentlemen who are interested in this subject, and have given it great attention, differ with him as to the amount of tax that cotton will bear. I have recurred hastily to the report of the commission on the subject of internal revenue, and I will quote the names of certain parties who, I think, will be good authority with the gentleman.

I take first the name of Mr. William Dwight, a wealthy and distinguished manufacturer. He was asked if he recommended a tax of seven per cent. upon the raw material, and his answer was, "I do."

Another gentleman recommended a tax of only two and a half cents a pound, the only one I can call to mind who recommended so low a tax. Erastus Bigelow, a gentleman well known for his enlightened views and practical information upon these subjects, was in favor of a tax upon raw cotton.

Mr. BOUTWELL. Will the gentleman

from Vermont [Mr. MORRILL] allow me to inquire whether this testimony was not taken when the price of raw cotton was something like twice what it is at the present time; and also, too, when the anticipation of the quantity of cotton in the South to be brought out was something like a million bales, whereas in fact we have obtained one million nine hundred thousand bales or more?

Mr. MORRILL. I will give the gentleman the full advantage of all the facts. The facts were, as the gentleman intimates, that the price of cotton was very much higher than it is now. But it has not fallen below the price that was then anticipated by gentlemen who had in view the levying of this tax or not below twenty-five cents per pound.

Now, let me read from the testimony of Francis B. Crowningshield, the treasurer and manager of the Merrimack Company:

"Question. You would scale tax according to the price?"

"Answer. I don't mean to say I would exactly do that; but suppose, for instance, that cotton is not to fall below twenty-five cents in the next three, four, or five years, I should say it would bear a tax of somewhere about seven cents."

Take the testimony of John A. Lowell:

"Question. Are you in favor of an export duty or excise tax on cotton?"

"Answer. I see no objection to it all.

"Question. In case an excise duty were levied, what amount would you recommend?"

"Answer. I have thought of the matter a good deal, and I have thought about five cents a pound would probably be a tax that would affect nobody."

The testimony of Mr. E. R. Mudge—a man of energy and great enterprise in the manufacturing business—is as follows:

"Question. Are you in favor of an export duty or excise tax on cotton?"

"Answer. I should not object.

"Question. To what extent?"

"Answer. I should say that from five to six cents might be imposed without detriment to the producing interest of the South for two or three years."

I will now give the testimony of William Amory, another distinguished gentleman, and the treasurer of some of the largest cotton manufacturing establishments in the country:

"Question. Would you recommend a tax as high as five cents?"

"Answer. That would require a great deal of deliberation. You would have to put a tax on which would raise a very large revenue; and if you found there were five million bales—which I think very likely to occur much sooner than my friends generally—I should think you could reduce it much lower than five cents."

But that was not the tenor of the general testimony.

Mr. GRISWOLD. Is there any evidence before the committee as to the price at which the English manufacturers would use American cotton exclusively?

Mr. MORRILL. I do not suppose that that would ever be the case. Surat cotton, valued usually at one third less than American cotton, will most likely always be used for some purposes.

[Here the hammer fell.]

Mr. BOUTWELL. I withdraw the amendment.

Mr. KASSON. I move *pro formâ* to amend the amendment by striking out "three" and inserting "four." I desire to refer to the effect of placing the tax too high upon the quality of the article that gets into the hands of the people. We all know that the high price of wool has resulted in the insertion, in all woolen fabrics which we are compelled to use, of a large amount of shoddy. And it is precisely in that direction that a heavy tax would produce the effect in this case; it would lead to a largely increased introduction of an inferior kind of cotton. I refer to this in addition to what I said before in regard to the practical operation of this tax in increasing the price of cotton goods in the markets at home.

I beg again to say, in connection with this subject, what in effect was suggested by the gentleman from New York, [Mr. GRISWOLD,] that the consumption of this material by the English manufacturers is very much dependent upon the price at which they can obtain it. Suppose we put on a tax of five cents per pound, or the high tax per bale as suggested

by another gentleman, to be paid by the producer, or secured to be paid before the cotton leaves the plantation, which is substantially the effect of this amendment, that very moment you reduce the price of the labor of every freedman in the southern States. In proportion as you facilitate the production of cotton and increase the demand for it at home and abroad, just in that proportion do you enhance the price of the labor of the freedmen of the South.

Mr. UPSON. Let me inquire of the gentleman whether it is not a fact that at some seasons cotton has been raised and sold for six cents per pound.

Mr. KASSON. Unquestionably, and some qualities even lower than that. What I apprehend is that the production of American cotton may hereafter exceed possibly the demand which will exist for it at the high price at which our taxes will permanently fix it. It is this apprehension which makes me hesitate very much to vote for this tax of five cents per pound at the beginning. I should prefer to wait until we can ascertain what is to be the effect of the increase of two per cent. in our taxation.

Mr. GRISWOLD. I desire to state to the gentleman that I believe it is an established fact that at twenty-five cents per pound American cotton takes the preference in the markets of the world over every other kind of cotton.

Mr. KASSON. I should be glad to know the authority upon which that is stated, for I noticed that in the remarks of the gentleman from Vermont, the chairman of the Committee of Ways and Means, he cited the testimony of certain gentlemen in this country, and I was reminded of what transpired before the Committee of Ways and Means in the last Congress in reference to the tax upon tobacco. There were certain gentlemen who advocated most strenuously the imposition of a high rate of tax upon the raw material, declaring that we had the monopoly of the markets of the world, and that it made no difference what tax we might impose. When we followed up those inquiries, it was found that certain gentlemen back of the witnesses held a very large amount of tobacco on hand, then deposited in Europe, the price of which tobacco, would, by an increased tax, have been enhanced to such a degree as absolutely to make a fortune for the holders of it. I do not know that anything like this was the fact with the gentlemen who have testified in reference to the article of cotton; but I mention the incident to show the danger which is to be guarded against in cases where the personal interests of a witness may seriously affect his testimony.

Mr. HOOPER, of Massachusetts. I understood the gentleman from New York to say that American cotton at twenty-five cents per pound has the preference in the markets of the world over the cotton of any other country. I desire to inquire on what authority he makes that statement, as it seems to me—

[Here the hammer fell.]

Mr. MORRILL obtained the floor.

Mr. STEVENS. If the gentleman from Vermont will yield to me a moment, I desire to say, as some gentleman has spoken of cotton having been sold at six cents per pound, that gentlemen in whom I have full confidence, who have traveled through the South within the last two years, assure me that with free labor cotton can be everywhere produced there at one cent a pound.

Mr. WILSON, of Iowa. With the consent of the gentleman from Vermont, I wish to put a question or two to the advocates of the reduction of this tax, for the purpose of eliciting an answer upon a practical feature of this question.

The amendment which is proposed by my colleague [Mr. KASSON] will reduce the amount of tax proposed to be collected under the provisions of this bill to the extent of about nine million dollars. The amendment offered by the gentleman from Massachusetts [Mr. Hooper] would reduce the amount to the extent of about twenty-seven million dollars. Now, I wish those

who advocate a reduction of this tax to state from what source they expect to make up that amount of money. The light which they may throw on this subject may have some effect upon my vote on these propositions relative to the tax on cotton.

The Committee of Ways and Means, in preparing this bill, have had in view the raising of a certain amount of revenue. If we reduce that amount by these amendments we must increase the tax upon some other articles or must include as subjects of taxation some articles which are not now embraced in the bill. I hope, therefore, that those who favor this reduction will give us some light as to the articles on which they propose an increase of taxation, as well as the articles not now included which they propose to embrace in the bill.

Mr. MORRILL. The gentleman from Iowa [Mr. KASSON] has made some allusion to the testimony taken before the revenue commission. That remark shows that the gentleman knows nothing at all about the character of the men who gave that testimony; for I undertake to say that there are no men in this country who stand higher where they are known—and they are widely known—than the gentlemen who gave their testimony before this commission.

Let me make a single remark in relation to another point suggested by the gentleman from Iowa, the difficulty of collecting this tax from the people of the South. This bill has been prepared with great care, and is now presented after repeated revision. This tax will only be collected in the South when it goes to the large manufactories. There will not be a dollar collected of planters on their own plantations on cotton for their own use. When it is removed from the district, however, then the tax will also be collected.

In conclusion let me say, if gentlemen strike out this amount, they must be prepared to levy an equal tax in some other quarter.

Mr. KASSON withdrew his amendment.

Mr. RAYMOND. I move *pro forma* to raise the tax to six cents. I do it merely to get an opportunity of saying I think five cents, the amount of tax reported by the committee, is one which the cotton crop will bear, at present at least. The immense sum by which the revenue provided for will be reduced if any change is made in the tax on cotton, seems to be conclusive that no change should be made.

The testimony which the committee has taken and especially what the commission took during their investigation on this subject, if gentlemen will examine it, I think they will find is conclusive on this point that five cents is a very fair medium tax on cotton. The chairman of the committee has submitted some of this testimony. More of it is published in this summary of the report, appendix No. 3, from which extracts might be read to the House to throw light on this subject. But there is no time in this form of debate to go into that. Mr. Derby a recognized authority on cotton in England, says, in his opinion, an excise tax should be levied, and that five cents is not too high.

All who accede to this amount of tax desire a drawback should be made on manufactured goods when exported. It seems to me we cannot do better than follow the recommendation of the committee. If any member of the House has the facts which will overthrow the evidence upon which that recommendation is made, then we will have some substantial argument to go upon.

It is urged this will be a discouragement to cotton culture. If it were a necessity the tax now fixed should be a permanent tax there would be weight in that argument. No one supposes the price of cotton will rule lower for a year or two to come. It is not the expectation of those who are most directly concerned in the manufacture of cotton goods. If five cents is not too high now and should prove to be too high when the next Congress revises the internal revenue system it can be reduced.

We are fixing it upon the price cotton will rule for the next two years.

Mr. MORRILL. I move that the committee rise to close debate.

The motion was agreed to.

The committee accordingly rose; and the Speaker having resumed the chair, Mr. DAVES reported that the Committee of the Whole on the state of the Union had, according to order, had the Union generally under consideration, and particularly House bill No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL moved that debate be closed in ten minutes on the pending section of the bill.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. HOOPER, of Massachusetts. Mr. Chairman, the proposition, I understand now, is to raise the tax to six cents. The gentleman who made that proposition said, if the tax be reduced below five cents it will be necessary to substitute some other tax to make up that amount. I think the gentleman is mistaken. By the returns from the Treasury Department it appears the revenue for nine months of this year has been \$410,000,000. The estimates for the remaining three months of the year, which have been made on a very low scale, give \$91,000,000 additional, making \$501,000,000 as the total revenue of the year. From the actual data, my own impression is, the revenue of the year will not be less than five hundred and twenty millions. The Secretary of the Treasury says that \$350,000,000 of revenue will give him not less than fifty millions to appropriate toward the payment of the public debt next year; and he places that as the maximum amount of revenue which ought to be raised for the year commencing the 1st of July next.

Now, I say the reduction of tax we have proposed in this bill, without anything additional upon cotton, would not amount to the difference between \$350,000,000 and the revenues of the present year, even with considerable allowance for the falling off of production the next year; and of that I have no apprehension. The South has come in, and we are preparing for thirty instead of twenty million people. I think, at the same rate of tax, the revenue for the next year will be as great as for the present year. I think we need have no apprehension on that score if we levy a tax on cotton as it was during the past year, and at the rate imposed while the war continued, a rate which the last Congress refused to increase after an animated debate.

I hope the tax will not be raised; that cotton, a southern production, will not be singled out as the only article upon which we shall impose increased taxation.

Mr. STEVENS. The gentleman has spoken of the amount of revenue. I wish to know whether he considers it exceptional, or does he suppose, if our present rate of tax remains, that amount will be realized?

[Here the hammer fell.]

Mr. BOUTWELL. When I was upon the floor before, I made a statement as to the amount of cotton introduced into Great Britain for consumption; that while the amount of American cotton between the years 1861 and 1865 fell off more than one million and a half bales, the total decrease of cotton consumed in England was only three hundred and thirty-six thousand bales. I say, also, that by the same tables, between the years 1861 and 1865, all the cotton imported into England, a portion of which was exported to the Continent in 1861, was over a million, exclusive of American cotton, while in 1865 the amount of cotton imported into England other than American cotton was two million bales and over, showing in four years the amount of that cotton was double.

Mr. DODGE. It strikes me the subject before the House to-night has a wider range than has been given to it in this debate. While we are looking at the income to be derived from cotton alone, we must not forget cotton is the basis upon which our importations are to be made in the future, and on any provision we make for the payment of the public debt we look to the duties on imports. We cannot have large importations unless we have some large article to export. There is nothing more important, to my mind, than that our country should gain as soon as possible the position we held in European markets previous to the war. We must not forget during these five years most gigantic efforts have been made to produce cotton in India; that where they produced cotton at a great disadvantage on account of the distance and cost of transportation, now, by means of railroads built by English capital, they are producing immense amounts of cotton. It strikes me, as a matter of importance to the United States, we should, as soon as possible, return to our normal condition, and raise not only twenty-five hundred thousand but five million bales of cotton. When we do that the price of cotton cannot be sustained above twelve and a half cents per pound.

Mr. MORRILL. I ask whether the gentleman does not know that they have raised cotton so extensively in India as to produce a famine because of the non-production of food, and that an order has also been issued by the Pacha of Egypt by which the land devoted to the culture of cotton will be largely restricted in amount for the same reasons.

Mr. DODGE. That was very natural. It arose from the high price of cotton and the immense stimulus given to its production. All that will be exported; they will not raise so much as to starve hereafter. We are to meet a tremendous competition from India, such as we have not met before; and I apprehend no act can be passed by this Congress which will give English capitalists more than the imposition of this tax.

Mr. BOUTWELL. I withdraw my amendment to the amendment.

The question recurred on Mr. UPSON'S amendment; and being put, the said amendment was disagreed to.

The second section was then read, as follows:

SEC. 2. *And be it further enacted*, That the aforesaid tax upon cotton shall be levied by the assessor on the producer, owner, or holder thereof. And said tax shall be paid to the collector of internal revenue within and for the collection district in which said cotton shall have been produced, and before the same shall have been removed therefrom, except where otherwise provided in this act; and every collector to whom any tax upon cotton shall be paid shall mark the bales or other packages upon which the tax shall have been paid, in such manner as may clearly indicate the payment thereof, and shall give to the owner or other person having charge of such cotton a permit for the removal of the same, stating therein the amount and payment of the tax, the time and place of payment, and the weight and marks upon the bales and packages, so that the same may be fully identified; and it shall be the duty of every such collector to keep clear and sufficient records of all such cotton inspected or marked, and of all marks and identifications thereof, and of all permits for the removal of the same, and of all his transactions relating thereto; and he shall make full returns thereof, monthly, to the Commissioner of Internal Revenue.

No amendments were offered.

The third section was read, as follows:

SEC. 3. *And be it further enacted*, That the Commissioner of Internal Revenue is hereby authorized to designate one or more places in each collection district where an assessor or an assistant assessor and a collector or deputy collector shall be located, and where cotton may be brought for the purpose of being weighed and appropriately marked: *Provided*, That it shall be lawful for the assessor or assistant assessor and the collector or deputy collector to assess and cause to be properly marked the cotton wherever it may be in said district, their necessary traveling expenses to and from said designated place, for that purpose, being paid by the owners thereof.

Mr. SHELLABARGER. I move to amend that section by striking out in the seventh line the words "lawful for" and inserting in lieu thereof the words "the duty of." Also, by inserting at the commencement of the tenth line the word "provided;" and also by striking out in the eleventh line the word "being," and inserting "be" in lieu thereof; so that it will read:

That the Commissioner of Internal Revenue is hereby authorized to designate one or more places in each collection district where an assessor or an assistant assessor and a collector or deputy collector shall be located, and where cotton may be brought for the purpose of being weighed and appropriately marked: *Provided*, That it shall be the duty of the assessor or assistant assessor and the collector or deputy collector to assess and cause to be properly marked the cotton wherever it may be in said district: *Provided*, Their necessary traveling expenses to and from said designated place, for that purpose, be paid by the owners thereof.

Mr. MORRILL. I have no objection to that amendment.

The amendment was agreed to.

The fourth section was then read, as follows:

SEC. 4. *And be it further enacted*, That all cotton having been weighed and marked as herein provided, and for which permits shall have been duly obtained of the assessor, may be removed from the district in which it has been produced to any one other district, without prepayment of the tax due thereon, upon the execution of such transportation bonds or other security, and in accordance with such regulations as shall be prescribed by the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury. The said cotton so removed shall be delivered to the collector of internal revenue or his deputy forthwith upon its arrival at its point of destination, and shall remain subject to his control until the taxes thereon shall have been paid; but nothing herein contained shall authorize any delay of the payment of said taxes for more than ninety days from the date of the permits; and when cotton shall have been weighed and marked for which a permit shall have been granted without prepayment of the tax, it shall be the duty of the assessor granting such permit to give immediate notice of such permit to the collector of internal revenue for the district to which said cotton is to be transported, and he shall also transmit therewith a statement of the taxes due thereon, and of the bonds or other securities for the payment thereof, and he shall make full returns and statements of the same to the Commissioner of Internal Revenue.

Mr. KASSON. It strikes me that there is an omission in that section to which I desire to call the attention of the chairman of the Committee of Ways and Means. It provides that the cotton shall remain under the control of the collector or his deputy until "the taxes thereon shall have been paid," but says nothing of the necessary charges of its custody. I move to insert after the word "thereon," in the thirteenth line, the words "or any necessary charges of custody thereof."

The amendment was agreed to.

Mr. KASSON. I now move to strike out the word "one" where it occurs in the fifth line, so that the section will read:

That all cotton having been weighed and marked as herein provided, and for which permits shall have been duly obtained of the assessor, may be removed from the district in which it has been produced to any other district, without prepayment of the tax due thereon, &c.

I would inquire if it was the intention of the Committee of Ways and Means not to allow more than one removal.

Mr. MORRILL. The design of the committee was to allow the cotton to be moved from the place of production without prepayment of the tax to the port of destination, whether it be Savannah, New York, or Boston.

Mr. KASSON. Let me say that an important question is involved in this matter. It is of very great importance, when you levy a tax upon the raw material before it gets into consumption, that you allow the utmost freedom of transit and changing of hands, so that the

tax may be collected as near the point of consumption as possible. This was the principle settled by the former Committee of Ways and Means on questions of this kind; and I am very desirous that the chairman of the Committee of Ways and Means shall consent to such liberty in the transactions of commerce as would be involved in the authority to make any number of changes of location under the security of bonds and under regulations to be prescribed by the Secretary of the Treasury. This is a very heavy tax, and it is going to be very inconvenient to commerce unless you, as far as possible, emancipate commerce from unnecessary restrictions; and as the cotton cannot be removed from the district until a permit is given, let there be free transit from one point to another in the district.

Mr. MORRILL. I think if the gentleman will read the section he will see that the party may move the cotton to any other district upon giving the proper bonds or other security.

Mr. KASSON. There may be one removal. I want more than that.

The amendment was disagreed to.

Section five was then read, as follows:

SEC. 5. *And be it further enacted*, That it shall be unlawful from and after the 1st day of September, 1866, for the owner, master, supercargo, agent, or other person having charge of any vessel, or for any railroad company, or other transportation company, or for any common carrier, or other person, to convey, or attempt to convey, or transport any cotton—the growth or produce of the United States—to any point out of the district in which it shall have been produced, unless each bale or package thereof shall have attached to or accompanying it the proper mark or evidence of the payment of the revenue tax and a permit of the collector for such removal, or the permit of the assessor, as heretofore provided, under regulations of the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury. And any person or persons who shall violate the provisions of this act in this respect shall be liable to a penalty of \$100 for each bale of cotton so conveyed or transported, or attempted to be conveyed or transported, or to imprisonment for not more than one year, or both; and all vessels and vehicles employed in such conveyance or transportation shall be liable to seizure and forfeiture by proceedings in any court of the United States having competent jurisdiction. And all cotton so shipped or attempted to be shipped or transported beyond the collection district in which it was produced, without payment of the tax, or the execution of such transportation bonds and other security, as provided in this act, shall be forfeited to the United States, and the proceeds thereof distributed according to the statute in like cases provided.

Mr. HOOPER, of Massachusetts. I move to amend this section by striking out after the words "United States," where they first occur, the words "to any point out of," and inserting the words "from any point in;" so that that portion of the section will read, "transport any cotton, the growth or produce of the United States, from any point in the district in which it shall have been produced," &c.

And I also move to amend by inserting after the words "subject to the approval of the Secretary of the Treasury," the following:

Nor to convey or transport any cotton from any State, in which cotton is produced, to any port or place within the United States without a certificate from the collector of internal revenue of the district from which it was brought, and such other evidence as the Secretary of the Treasury may prescribe, that the tax has been paid thereon; and such certificate and evidence as aforesaid shall be furnished to the collector of the district to which it is transported, and his permit obtained before landing, discharging, or delivering such cotton at the place to which it is transported as aforesaid.

As the section now stands, without this amendment, no railroad company, or common carrier, or any party could transport cotton in any part of the United States without having a permit from the collector of the district from which the cotton is taken, to make the transportation. We have provided in the previous sections for the tax on the cotton being paid before it is shipped from the State where the cotton is produced. When that shipment is made, this amendment proposes that evidence shall be had that the tax has been duly paid before the shipment was made. My object is that when the cotton arrives at New York, or Boston, or Cincinnati, the transportation of it shall be free like that of any other article; that the railroad that conveys it shall not be respon-

sible for the fact that the tax has not been paid upon it.

I believe this amendment has the sanction of the Committee of Ways and Means.

Mr. MORRILL. I am not quite sure that I fully understand the amendment of the gentleman from Massachusetts, [Mr. Hooper.] I will ask the gentleman if his amendment will cut off the right of transporting cotton in bond from one port to another.

Mr. HOOPER, of Massachusetts. There has been no power given by the previous sections to transport from one port to another. The power given in section four is to transport from the district where the cotton is produced to any one other district, meaning to cover the district from whence the cotton is shipped. For instance, cotton produced anywhere in Alabama or Louisiana may be sent from the district where it is produced to the port of New Orleans, from which it is usually shipped, and the tax on the cotton can be paid at New Orleans.

Mr. WILSON, of Iowa. I would inquire of the gentleman if the latter part of section five does not provide that this transportation may be in bond. The amendment which the gentleman proposes requires the tax to be paid before any person can transport cotton from the district.

Mr. HOOPER, of Massachusetts. From the district where it is produced.

Mr. WILSON, of Iowa. Yes, sir; from the district where it is produced. I understand that under the fourth section cotton raised in Tennessee may be transported to Charleston, South Carolina, in bond, and the tax there paid. But under the amendment of the gentleman from Massachusetts [Mr. Hooper] the tax must be paid before the shipment is made.

Mr. HOOPER, of Massachusetts. I beg the gentleman's pardon. The amendment allows the shipment to be made from Tennessee to Charleston. But it is confined to one district, the district of Charleston. There the duty must be paid. When it is shipped from Charleston to go to the North, to New York for example, a permit or certificate from the collector at Charleston must be obtained, and shown to the collector at New York to satisfy him that the tax on this cotton had been paid when it was shipped from Charleston. Then the collector at New York gives his permit to land it, and after that it is free to be transported anywhere, without imposing upon the railroad, the wagons, or the vessel the trouble of ascertaining that the tax has been paid.

Mr. KASSON. Let me ask the gentleman from Massachusetts whether it will not be necessary in that case to make provision for properly stamping or certifying the bale as free. We have these other provisions requiring that it shall be verified as liable to tax; and now the gentleman proposes that at a certain time it shall be discharged from that liability. But in the same market there will be other bales which will be liable to tax; and how will the discrimination be made after the cotton once leaves the ship?

Mr. HOOPER, of Massachusetts. In reply to that question, I beg to call the gentleman's attention to the fact that all the cotton has to be inspected and marked when the tax is paid, or before it is paid. My object is to provide for what actually occurs, that in handling these bales in the course of the different shipments these marks become erased. What I propose is that after the cotton arrives at New York or elsewhere in the North, it shall be assumed that the tax has been paid although the cotton may not have these marks upon it.

I am told that now, by the regulation, every bale of cotton must have attached to it a tag showing that the tax has been paid. But in point of fact those tags get destroyed in the course of the handling and shipment of the article. If you should examine the cotton in the factories of New England you would find that nine bales out of ten were without tags, or any other evidence that the tax had been paid. Under the bill, as it reads without the

amendment which I offer, it would be impossible for any railroad company to take the responsibility of transporting a bale of cotton.

Mr. MORRILL. I think the amendment is right.

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out the word "and" in the twenty-seventh line of the fifth section, and inserting in lieu thereof the word "or."

The amendment was agreed to.

The next section was read, as follows:

Sec. 6. *And be it further enacted*, That upon articles manufactured exclusively from cotton, when exported, there shall be allowed as a drawback an amount equal to the internal tax which shall have been assessed and paid upon such articles in their finished condition, and in addition thereto a drawback or allowance of as many cents per pound upon the pound of cotton cloth, yarn, or other articles manufactured exclusively from cotton and exported, as shall have been assessed and paid in the form of an internal tax upon the raw cotton entering into the manufacture of said cloth or other article, the amount of such allowance or drawback to be ascertained in such manner as may be prescribed by the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury; and so much of section one hundred and seventy-one of the act of June 30, 1864, to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, as now provides for a drawback on manufactured cotton, is hereby repealed.

Mr. LYNCH. I move to amend by striking out, in the second line of this section, the words "when exported;" and also the words "and exported," in the eighth line.

Mr. Chairman, as has been said by one gentleman, a member of the Committee of Ways and Means, the consumer of the cotton goods must finally pay this tax as provided by the bill. The effect of my amendment will be to relieve the consumer from this tax, and place it only upon such portions of the crop as is exported. It will accomplish what the gentleman from Pennsylvania [Mr. STEVENS] seeks to accomplish by a constitutional amendment, the success of which is, I think, very doubtful.

This bill is presented as one designed to reduce the taxes of the people; yet it is proposed to put a tax of five cents per pound on cotton goods, which are consumed mainly by the poorer classes of the people. The wealthy people use silks, linens, &c., while the poor use more of the cotton goods. If this amendment be adopted, the consumers of cotton goods in this country will be relieved of the tax, while it will be placed on the exported cotton. I presume this will satisfy those persons who go for an export tax upon cotton, and also that class of gentlemen here who are in favor of reducing the tax; for it will reduce the tax to just the amount of the drawback upon the amount manufactured in the United States. You raise revenue simply on the amount exported. As to the amount consumed in this country, the tax upon it would be paid finally by the consumer here.

Mr. MOORHEAD. The gentleman's proposition would amount to a tax on exports.

Mr. LYNCH. Certainly it would.

Mr. MOORHEAD. Can you do that constitutionally?

Mr. LYNCH. I suppose no one will doubt the constitutional power to collect the tax in the first place; and I think there can be no doubt that the Government has the right to remit this tax by way of drawback.

It seems to me we ought not to put this heavy tax upon the poorer class of the community, while we are reducing the taxes generally in this bill.

Mr. MORRILL. I am somewhat surprised at the motion of the gentleman from Maine. Although he has always said he was in favor of the tax, yet in his motion he is in favor of refunding the tax we are proposing to levy.

Mr. LYNCH. I will say that I intended to propose an increased tax of ten cents per pound, and then to have given this drawback. But I did not get an opportunity to offer that amendment.

Mr. MORRILL. The gentleman not having had an opportunity to offer that will see that he ought not to have offered this. Of

course we understand on whatever we consume or manufacture of this cotton we pay a tax; but the object is to get not only a tax upon that used by ourselves, but on what is consumed and purchased by others.

There is another objection. We have been desirous to avoid all constitutional scruples as to levying this tax. If we levy it upon our own people they have to pay the precise tax paid by those abroad. We obviate all objection on the ground that this is an export duty in disguise.

Mr. HARDING, of Illinois. I move to make the drawback six cents.

The CHAIRMAN. That is not germane to the pending amendment.

Mr. HARDING, of Illinois. I move to strike out the words "when exported."

I understand the effect of this proposition to give this drawback in favor of manufactured goods which are exported is to give a premium to the manufacturers of cotton goods. It holds out an inducement to manufacture cotton goods for exportation, and will of course increase the manufacture of cotton goods in this country to some extent.

If they can make four cents by exporting it, or whatever the amount may be, it is to that extent a discrimination in favor of the manufacturer sending his goods to a foreign market. Or he will charge that on the consumers at home. With the heavy tax upon cotton it will not be exported at all. It will amount to fifty per cent. of its cost. The manufacture of cotton goods will then be done almost entirely in this country, because it will be done fifty per cent. cheaper in this country than in England. It will be sufficient to put it into manufactured goods before exported. These cunning gentlemen will manufacture every bale into goods and get the drawback.

With the increased price who gets the money? The manufacturer. He takes the cotton bales and turns them into cotton padding or anything else he pleases. That is the effect of this bill. We will get no revenue. As soon as they get the spindles at work they will turn them into rope or something else for exportation.

The principle upon which the revenue law is passed is violated by this provision. We tax that article which enters into the consumption of every man, woman, and child, white or black, in the country, and especially the largest portion is used by the poorer classes. The tax is heaviest upon those who wear coarse cotton goods. They must pay this tax, and they almost exclusively, as has been said by the gentleman from Maine, although those who have the means of paying these taxes are by these means exempted. The tax will ultimately be extracted from the toiling millions of the country.

I protest against indirect taxation of the absolute necessities of life. My constituents are clothed almost exclusively in cotton goods. They use some woollens but mostly cotton goods. They sleep on cotton, they walk in cotton, and no matter what the price of corn is they must pay the tax. I am opposed to it. I am opposed to anything like these drawbacks on cotton goods. If manufacturers turn this cotton into the manufactured article let it go to foreign countries without drawback. By making a discrimination between cotton goods and the raw cotton you do violate the principles referred to.

[Here the hammer fell.]

Mr. PAINE. I rise to ask the gentleman from Vermont [Mr. MORRILL] a single question. He stated that he was in favor of imposing a tax on cotton manufactured in the United States and consumed in the United States so that a tax might also be imposed upon cotton exported to foreign countries.

Mr. MORRILL. Upon raw cotton exported.

Mr. PAINE. I understand him now as in favor of imposing a tax on manufactured cotton made in the United States so that he may be able to impose a tax upon raw cotton exported to foreign countries. Now, it seems to

me that all constitutional objections to the amendment proposed by the gentleman from Maine [Mr. LYNCH] could be obviated if the gentleman from Vermont would state, as I understood him to state, that he is in favor of imposing a tax on cotton manufactured in the United States and consumed in the United States, in order to be able to impose such a tax on cotton manufactured in the United States and consumed abroad. If that should be done, then if a drawback is allowed on cotton exported to foreign countries manufactured in the United States, it might with equal propriety be allowed on cotton manufactured in the United States and consumed at home. Because, if no discrimination is made in cotton manufactured and consumed here and against cotton manufactured here and consumed abroad, there can be no evasion of the constitutional provision. And it seems to me if we can, without invading the constitutional provision, do something for the poor men of the country who consume cotton manufactured here we ought to do it.

Now, it is true, as the gentleman from Illinois [Mr. HARDING] has said, that most of the consumers of cotton in this country are poor men. They do not wear silks and broadcloths as do the rich; and if a tax is imposed upon cotton manufactured in this country and consumed here, it must ultimately be paid by those who are least able to bear it.

I am in favor of fostering the manufacture of cotton. I shall vote for protection here whenever the opportunity shall offer. But I cannot see why we should take this mode of fostering domestic manufacture, whether in cotton or anything else, by a discrimination in favor of the purchaser in a foreign market and against the purchaser in our own market; in favor of the foreign consumer and against the home consumer.

I am in favor of the proposition of the gentleman from Pennsylvania, [Mr. STEVENS,] and I desire, as he does, to foster domestic manufactures; but I do not wish to do it at the expense of home consumers and for the benefit of foreign consumers. I would do it in such a way that the poor people of this country who consume cotton goods mainly may not have this heavy burden to bear.

The CHAIRMAN. Debate is exhausted on this amendment.

Mr. HARDING, of Illinois. I withdraw it.

Mr. STEVENS. I move to strike out the word "exported." I believe it is there somewhere.

I agree with the gentleman from Maine [Mr. LYNCH] if you could fairly reach what he is at; that is, if he would make it ten cents, and then withdraw the home duty so as to leave it on the exported article, it would come to just what I propose in my constitutional amendment which I sent to the committee the other day. I think there never was a grander time in the world for the manufacturing of all the cotton for the world wherever civilized man exists. An export duty of ten cents on cotton would give to your home manufactures the markets of the world. That is the true way to protect home industry and to wrest from foreigners a revenue which shall pay off your national debt. That is what ought to be done.

I suggest to the gentleman from Maine [Mr. LYNCH] that I would go for an amendment of ten cents provided it was not liable to the objection, as a gentleman here suggests, of chasing the old fellow around the stump; for it is whipping the devil around the stump there is no mistake. [Laughter.]

Mr. LYNCH. No matter, if you can only hit him. [Laughter.]

Mr. STEVENS. Now, as to the effect which the gentleman from Illinois [Mr. HARDING] speaks of, I should be glad if this measure did have that effect, if it did induce our people to manufacture every dollar's worth of the cotton we raise, and send it abroad in a manufactured shape. I should be glad if our institutions and laws were so framed that in Illinois there would be hundreds of thousands of spindles; that the

engines which in Europe do the work of twenty million men should be planted all over this country to do the work here, so as to increase still further the necessity for laboring men and augment their wages.

My friend from Wisconsin [Mr. PAINE] says that he wants to see the provision so fixed as to favor the poor men who are clothed in cotton. Who makes the cotton? Who manufactures it? Is it not the poor man? Why not so arrange it that you can raise his wages? You can do it by increasing the manufacturing interests of this country. When you have done that, when you have given the laborer his wages, he can afford to pay for what he consumes, and when you have done that you will double the price of the products of Wisconsin and Illinois; you will have a market at home for your products and not have to send them abroad to feed the laborer of Europe. But I do not despair of seeing the constitutional amendment allowing an export duty on cotton passed before the close of the session; if my friend from Iowa [Mr. WILSON] will only report it back, I am sure we shall pass it, and that the country will approve it, and then our country will become the great hive of manufacturing industry for all the civilized nations of the world this side of the Indies.

[Here the hammer fell.]

Mr. STEVENS. I withdraw my amendment.

Mr. MARSHALL. I move *pro formâ* to strike out all after the word "drawback" in the third line and insert in lieu thereof "one half cent per pound." I do it merely for the purpose of submitting a remark or two in regard to the subject of taxation upon cotton.

I am opposed on principle to the whole tax; at least I think if there is any at all, it should be very small in amount. And it is for this reason: in raising revenue to support the Government, we should endeavor, as far as possible, to impose the burdens of the Government upon the wealthy, and not upon the poor.

The effect of this tax upon cotton is manifestly to shift the burdens of the Government from the rich to the poor. The cotton fabrics of the country are consumed almost exclusively—the heavy articles especially—by the laboring white men of the country, and by the poor freedmen. By reducing the tax upon incomes, and increasing it upon cotton, you are shifting the burdens of the Government from the rich to the poor, and putting the tax directly upon the poor men of the country which ought to be imposed upon the wealthy men of the country.

This tax upon cotton will not be felt by the wealthy monopolist whose family are clothed in silks and satins, and in expensive imported goods from foreign countries. He will pay no part of it. The wealthy man who can afford to wear fine linen will pay no part of it; but the poor and humble men at the South, at the West, and at the East, and all over the country will bear the burden of the tax that is imposed by this provision of the bill. And I must say here, that while there are many features of this bill of which I approve, if these clauses are retained I shall feel compelled to vote against the entire bill when it is submitted for the determination of a vote of the House.

This clause which we are immediately considering I regard as exceedingly objectionable. What is the effect of it? You propose to raise the tax to five cents per pound on the raw cotton of the country; and when it is manufactured here, and the poor man of the country buys his shirt or his calico or the humble garments to clothe his wife and children, he must bear the burden of this tax; but when it is exported to Germany or France, or any other foreign country, you take off this tax; you lay the burden upon the poor men of this country, while you are furnishing shirts and other garments to the men of other countries at a lower price than you are furnishing them for to the citizens of your own country. It is an unjust and, it seems to me, a most outrageous dis-

crimination against the poor of the country, in favor of the rich of this country and the people of foreign nations.

It seems to me that the system of legislation here for the last few years has been to discriminate in favor of the wealthy, in favor of the manufacturers, in favor of the bondholders, in favor of the capitalists and monopolists of the country, and to impose the burdens of the Government upon the agriculturists, upon the poor men of the West and of the South, and even the poor men of the East, shifting it from the shoulders of the wealthy who ought to bear the principal burden of the Government.

[Here the hammer fell.]

Mr. GRISWOLD. The main object, I suppose, of the bill under consideration is the raising of revenue, and I presume it will be conceded by all that the more generally you can distribute the tax the less onerous it is.

Now, I desire, for the information of the gentlemen who have made use of the argument that this tax will oppress the poor of the country, that the Clerk will read from the report of the revenue commission the extract I have marked showing the bearing of this tax on cotton.

The Clerk read as follows:

"The above proposed rate of taxation on cotton, it is believed, will not prove in any degree detrimental to any national interest, and will yield a revenue, at twenty-two dollars per bale, of \$22,000,000 for every million bales produced and sold for consumption. With a crop of three million bales, and a tax of five cents per pound, the Government might derive an annual revenue of \$66,000,000; or of \$88,000,000 on a crop of four million bales, which would be less than the crop of 1859-60. Of this sum—if the consumption of the United States shall reach, in either of these years, the consumption of 1860—the inhabitants of the United States would pay about twenty-one million dollars; and it is believed that there are few taxes which can be levied which would be so slight a burden to the consumer. The consumption of cotton per head in the United States, at the highest point ever attained to, has not exceeded twelve pounds. A tax of five cents per pound would therefore be an average of about sixty cents to each individual per annum. (See Special Report No. 3.) As the crop of the present year, in the opinion of competent persons consulted by the commission, is not likely to be less than two million bales, and if good seed can be obtained may exceed this figure, the commission are of the opinion that the Government may safely rely for the fiscal year ending June 30, 1867, upon a revenue from this source of at least \$40,000,000.

"With an increase of the crop, in subsequent years, beyond two million bales per annum, accompanied by a consequent reduction of the market price of the same, a corresponding reduction of the proposed rate of tax may probably be found expedient; but, in any event, the commission believe that for the future an average revenue from cotton of at least \$50,000,000 may undoubtedly be relied upon."

Mr. MARSHALL. I withdraw my amendment.

Mr. ALLISON. I move to strike out this entire section.

The CHAIRMAN. That motion is not germane to the amendment of the gentleman from Maine, [Mr. LYNCH], which is pending, to strike out the words "when exported" and also the words "and exported."

Mr. RAYMOND. Is debate exhausted on the pending amendment?

The CHAIRMAN. It is.

Mr. RAYMOND. I move, *pro formâ*, to strike out the word "exported" from the amendment of the gentleman from Maine, [Mr. LYNCH]. I do it merely for the purpose of having an opportunity of saying that I think there is much in the argument of the gentleman from Illinois [Mr. MARSHALL] that is entirely misplaced. The appeal that he makes on behalf of the poor of this country is entirely misplaced, is based on a wrong estimation of the facts.

He asserts that cotton goods are used exclusively by the poor, while the rich use linen, silk, and other expensive articles. Now, while it is true that the poor use little but cotton, it is also equally true that the rich use far more cotton than the poor do, and pay far more of the tax upon cotton in proportion.

Now, I desire to call the attention of the gentleman and of the House to this fact in addition. If this section of the bill stood by itself, and there were no compensating clauses

in other parts of the bill, there might be some force in the argument of the gentleman. But as we go on through the bill we will find various sections bearing almost exclusively upon the wealthier classes of the community. It is not right, therefore, to make an argument against any particular section because it applies to a certain class more than to another. When we come to the portion relating to the income tax we will find enough to offset anything that may be in this section.

I trust the argument brought to bear against this particular section will not be considered to have any special weight. It seems to me that it is important to allow a drawback on cotton exported when manufactured in order to enable our manufacturers to compete with the manufacturers of other nations in foreign markets. We have hitherto had access to the markets of China and the Indies for our poorer qualities of cotton goods, and have held our own there against the looms of England and other nations. In order to maintain that ascendancy we must allow a drawback on goods exported. It seems to me but simple justice to our manufacturers, who export to foreign markets where they must contend with the manufacturer of England, to allow the drawback here proposed. It is not an excessive drawback. All those who testified in favor of a tax upon cotton also testified that in order to maintain our foothold in those markets a drawback equivalent to the excise tax will be absolutely necessary.

I now withdraw my amendment to the amendment.

Mr. MORRILL. Before the amendment of the gentleman from New York [Mr. RAYMOND] is withdrawn, I desire to say a few words. The debate has wandered widely from the proposition of the gentleman from Maine, [Mr. LYNCH.] But it may be as well to confess that upon this section rests the whole question in relation to the imposition of a productive tax upon cotton. So far at least as I am concerned it certainly does. I shall not be in favor of the tax if we so hamper it as to secure all the trade in cotton manufactures now and forever to British looms and spindles.

The question arises here, and it is suggested by the gentleman from Illinois, [Mr. HARDING], that we are made to pay more for our cotton goods at home, in consequence of allowing this drawback upon manufactures exported. Now, with all respect for that gentleman, I do not conceive that to be the fact of the case.

Mr. UPSON. Will the gentleman from Vermont [Mr. MORRILL] allow me to ask him a question?

Mr. MORRILL. I prefer not to be interrupted now. If we do not allow this drawback, then the result will be that we shall not manufacture the amount of cotton we have hitherto done, or shall not manufacture any increased amount to send abroad. Now, would it not be to the advantage of this country if we were to admit raw silk, and the means of manufacturing it, and laborers to manufacture it, to come here and manufacture a large amount of silk goods such as we now import from abroad, even if we allowed them to be exported and reimported to this country? Would not so much added to the industry of the country be a public benefit? Would it not be a blessing to the State of Wisconsin and the State of Illinois to have one hundred thousand more laborers employed than they now have consuming their products? Certainly that would be a desirable result.

As to this drawback making our products here any higher for our people, I say, with all respect, that that proposition is an absurdity; for the only duty that is levied upon our goods is levied upon the raw cotton and upon the manufactured cotton. Does it make any difference in regard to the prices of what we consume, whether there shall be one million more bales of cotton manufactured in this country or not? Certainly not. But by the introduction of improved machinery and the employment of a larger force of laborers in manufac-

turing cotton, we should inevitably in a short time reduce the cost of even what we consume at home.

As I stated in my remarks of yesterday, we allow the same principle to apply to any other article of manufacture. For one, I would be very glad to apply it to everything in the way of manufactures that it is possible to make provision for, so that we may accurately ascertain the amount of duty that has been paid upon the raw material. Suppose, for instance, we could provide some means by which we could ascertain the duties paid upon the raw materials used in the article of shovels, manufactured by the distinguished gentleman from Massachusetts, [Mr. AMES,] a large sale of which he has hitherto enjoyed in Australia on account of the superior quality of the article he made. He is now perhaps in some danger of competition from manufacturers abroad, so that that trade may become extinct. Would it not be a proper course of legislation if we could reach the matter precisely and ascertain the amount of duties paid by him upon the iron and steel he uses, to allow him a drawback upon the shovels he may manufacture and send to Australia? And the same remark applies to boots and shoes, to agricultural implements and to steam engines in which our artisans particularly excel.

That is all we propose to do in relation to this article of cotton. Even if the amount manufactured should be no more than was manufactured before the war, I want to set in motion all those factories that have been stopped since the war of the rebellion began even in the South. Take the one hundred and eighty-five cotton manufactories in a single State, the most of which are now idle; pass this bill, and we at once set them in motion again.

Does any gentleman object? I cannot see for myself how any gentleman will object. If we succeed in manufacturing the whole cotton crop I would gladly give it up, because instead of a revenue of forty-four we would have added to the wealth of the country more than one hundred million.

Mr. PAINE. I rise for the purpose of asking the gentleman from Vermont if he can inform us how large a proportion of the cotton crop is manufactured in the United States, in order that the House may judge how large a proportion of the internal revenue of the United States would be lost if a drawback be allowed.

Mr. MORRILL. From one quarter to one third—perhaps not more than one fifth usually of the cotton crop is used in America, and not more than one tenth of that is manufactured by us for export. The amount is very trifling.

Mr. RAYMOND, by unanimous consent, withdrew his amendment.

The question recurred on Mr. LYNCH's amendment, and it was disagreed to.

Mr. ALLISON. I move to strike out the entire section.

Mr. Chairman, the only theory on which this tax on raw cotton can be justified, and the only theory on which it is justified, is that we have the monopoly of the production of cotton. The testimony taken before the revenue commissioners, as well as that taken before the committee, was to the effect that we would have the monopoly of the production of cotton in this country.

The proposition of the committee is to take from the Treasury of the United States whatever amount of revenue we collect from the raw cotton manufactured in the United States for exportation and placing it in the hands of manufacturers of cotton goods.

For one I am in favor of protecting the manufacture of cotton wherever it needs protection, but the testimony is that the manufacturers do not need any protection. It is true they cannot manufacture what is needed in this country. It is therefore that I am not prepared to take money out of the Treasury of the United States, when it has been placed there to raise revenue, and to place it in the hands of the manufacturers of cotton goods, to specially stimulate that interest.

I do not think for the next three or four years we will have erected many new manufactories of cotton goods. The cost of machinery is too great. There are manufactories enough to manufacture what is needed for this country, and I am not willing to take money out of the Treasury to encourage that industry. I would be willing to encourage it, but not to take money from the Treasury that we put there to pay the interest on our debts and to meet current expenses.

The evidence is that the manufacturers of cotton goods need no protection at home; that they can compete successfully with British manufacturers of cotton. I know gentlemen say there is a certain class of cotton articles in this country in which we cannot compete with British manufacture, low-price cotton goods, but they are a small amount. But we have not exported, for the last four or five years, any great amount of cotton goods.

A leading gentleman of a manufacturing county of Massachusetts said, before the committee and before the revenue commissioners, that the tax to-day was paid by the manufacturer of cotton, and not by the consumer—why? Because of the great advance in cotton. We allow a drawback on the exportation of manufactured goods, and we also allow two cents drawback on raw cotton. I think that is sufficient until we test the effect of this law. Therefore I am in favor of letting the drawback remain as it is. I believe this tax on raw cotton is an experiment. I think we can stand a small duty on cotton. I do not believe, when we produce from five to six and ten million bales, we can afford to levy a heavy tax when exported from the country.

[Here the hammer fell.]

Mr. BLAINE. What is the average duty on manufactured cotton goods abroad?

Mr. ALLISON. Twenty-eight per cent.

Mr. BLAINE. Do I understand the gentleman to say that with an average duty of twenty-eight per cent. abroad and an excise duty of five per cent., American manufactures can compete with foreign manufactures?

Mr. ALLISON. That is not my statement. My statement is only the testimony of Mr. Atkinson, a distinguished manufacturer of Boston, who said to the Committee of Ways and Means that the manufactures of cotton could compete in the future in the finest articles.

Mr. BLAINE. Of course that gentleman must have meant that with the existing rate of duties, both external and internal, we could compete. He could not have meant anything else than that. I admit that. If we need an import duty of twenty-eight per cent. to enable us to compete here, to place us on a level at home, it is a simple absurdity our competing with any foreign market. Therefore, unless we give to the American manufacturers the advantages we propose in this section, we just simply give up all idea, we surrender here and now all pretense of competing anywhere except on our own soil.

Mr. WILSON, of Iowa. I would ask the gentleman whether cotton manufacturers at the present time are not able to compete with foreign manufacturers in a great many articles.

Mr. BLAINE. I do not pretend to say but they do.

Mr. MORRILL. I will state that for the last two or three months our manufacturers have been doing a losing business, and many have stopped.

Mr. BLAINE. I do not hesitate to say that it is a perfect absurdity to attempt in this country to compete with these manufactures, for we have demonstrated over and over again that with from twenty-five to forty per cent. before our excise taxes were put on, we could not compete with them. Therefore, to take the ground of the gentleman from Iowa, [Mr. ALLISON,] and strike that drawback section out, is simply giving up all and surrendering to British and other foreign manufacturers. That must be the inevitable result.

[Here the hammer fell.]

Mr. RANDALL, of Pennsylvania. I move

that the committee rise for the purpose of adjourning.

Mr. MORRILL. Dispose of this section first.

Mr. SPALDING. We cannot get through. Mr. RANDALL, of Pennsylvania. If the vote can be taken now, I will withdraw it.

The question being taken on the amendment of Mr. ALLISON to strike out section six, no quorum voted.

Tellers were ordered; and the Chairman appointed Messrs. RANDALL of Pennsylvania, and KUYKENDALL.

The committee divided; and the tellers reported—ayes 14, noes 56; no quorum voting.

Mr. ANCONA. I raise the point of order that there being no quorum present it is necessary that the roll shall be called.

Mr. MORRILL. I regret that the gentleman makes that point, but if he insists of course we shall have to adjourn. I was in hopes we should sit until ten o'clock each night.

Mr. ANCONA. I will withdraw the point of order if the gentleman will move an adjournment at ten o'clock.

Mr. MORRILL. I will as soon as we take the question on striking out this section. I think the House is ready to vote on it.

Mr. ANCONA. I will withdraw it with the understanding that the committee rise.

Mr. RANDALL, of Pennsylvania. This is a very important question and we ought to have a quorum.

The question being again taken on striking out the section, there were—ayes 20, noes 60; no quorum voting.

Tellers were ordered; and Messrs. PERHAM and ELDRIDGE were appointed.

The committee divided; and the tellers reported—ayes 28, noes 65.

So the motion to strike out the section was disagreed to.

The Clerk commenced to read the seventh section.

Mr. MORRILL moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 518, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no conclusion thereon.

And then, on motion of Mr. WINDOM, (at ten o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BAXTER: The petition of Hon. Russell S. Taft, and Hon. A. L. Catlin, and others, citizens of the city of Burlington, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Hon. Amasa Pound, and 42 others, citizens of Lowell, Orleans county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Joseph Marsh, and 64 others, citizens of Hinesburg, Chittenden county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of C. C. Burton, and 27 others, citizens of St. Alban's Bay, Franklin county, Vermont, praying for an additional tariff on foreign wool.

By Mr. BEAMAN: The petition of H. B. Tucker, and others, citizens of the counties of Ingham, Eaton, Jackson, Calhoun, and Hillsdale, Michigan, praying for an extension of the land grant to aid in the construction of the Amboy, Lansing, and Grand Traverse Bay railroad.

By Mr. DAWES: The petition of Thomas Allen, of Massachusetts, for the allowance of a claim.

By Mr. DENISON: The petition of O. De Mesnil, proposing to introduce into the United States a new mode for the towing of boats on chains or cables.

By Mr. ECKLEY: The petition of 96 wool-growers of Carroll county, Ohio, asking an additional duty on wool.

Also, the petition of 30 wool-growers of Smithfield, Jefferson county, Ohio, on the same subject.

By Mr. HOLMES: Remonstrance of Dwight H. Clarke, and others, citizens and practicing attorneys of Chenango county, New York, against passage of act reorganizing the Federal judiciary.

By Mr. KELSO: A petition from the citizens of Springfield, Missouri, for a law regulating inter-State insurances of all kinds.

By Mr. McINDOE: The petition of C. Moser, and others, asking that a mail route be established from Alma, Buffalo county, Wisconsin, to Durand, Pepin county, Wisconsin.

Also, the petition of Hugh Douglas, and others, asking for the extension of mail route No. 13151 from Melrose, Jackson county, Wisconsin, to Sparta, Monroe county, Wisconsin.

Also, the petition of O. L. Maxson, asking that mail route No. 13166, from Reed Landing, Minnesota, to Bay City, be extended to Prescott, Wisconsin; also, for the establishing of a mail route from River Falls, Pierce county, Wisconsin, to Brooksville, St. Croix county, Wisconsin.

Also, the petition of Otis B. Lapham, and 310 others, in relation to the disposition of the grant of land to the State of Wisconsin to aid in the construction of a railroad from Portage City, or Berlin, or Fond du Lac, or Doty's Island, to Bayfield, on Lake Superior.

Also, the petition of H. Lewis, and 63 others, praying for the passage of a law for the regulation of inter-State insurance.

Also, asking a mail route from Manston, Juneau county, Wisconsin, by Germantown, to Werner, Juneau county, Wisconsin.

By Mr. MORRILL: The petition of Isaac H. Morgan, and others, citizens of Poultney, Rutland county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of J. R. Parish, and 55 others, citizens of Randolph, Orange county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Hon. K. M. Bell, and 36 others, citizens of Lapeham, Orange county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Hon. Augustus P. Hutton, and 42 others, citizens of Bethel, Windsor county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of T. A. Roundy, and 103 others, citizens of Windsor county, Vermont, praying for an increase of tariff on wool equal to protection given to the manufacturers of woollens.

By Mr. ORTH: The petition from officers and soldiers of Indian brigades, asking for bounties.

By Mr. PAINE: The petition of George W. McCalvy, and others, citizens of Wheatland, Kenosha county, Wisconsin, for increase of duty on foreign woools.

Also, the petition of Thomas Slade, and others, citizens of Wheatland, Kenosha county, Wisconsin, for increase of duties on foreign woools.

By Mr. WASHBURN, of Massachusetts: The petition of Franklin Childs, and 41 others, tobacco-growers in the town of Conway, Massachusetts, asking for increased protection against the importation of cigars.

Also, the petition of George W. Groves, and 33 others, tobacco-growers in the town of Sandorland, Massachusetts, for the same purpose.

By Mr. WOODBRIDGE: The petition of William H. Hull, and 80 others, citizens of Wells, Rutland county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Seymour Harwood, and 58 others, citizens of Rupert, Bennington county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Horatio Templeton, and others, citizens of Washington county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Jason P. Lord, and 42 others, citizens of Keedsboro, Bennington county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of S. W. Webster, and 42 others, citizens of Stamford, Bennington county, Vermont, praying for an additional tax on foreign wool.

Also, the petition of Charles M. Bruce, and 44 others, citizens of Danbury, Rutland county, Vermont, praying for an additional tariff on foreign wool.

IN SENATE.

WEDNESDAY, May 9, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of Charles W. Whitney, praying for additional compensation for building the iron-clad gunboat Keokuk; which was referred to the Committee on Naval Affairs.

Mr. COWAN presented the petition of John A. Wood, and others, representing that they are engaged in running coal to market down the Ohio river from Pittsburg, and that in the prosecution of that business they are much annoyed and suffer great loss of property by the bad navigation of the upper Ohio river, and praying that Congress will grant the necessary assistance for the purpose of preventing the evil of which they complain; which was referred to the Committee on Commerce.

He also presented twenty-one petitions numerously signed by citizens of Delaware county, Pennsylvania, praying for such a modification of the internal revenue laws as will tend to relieve the manufacturing and laboring interests from the oppressive burdens under which

they now suffer; which were referred to the Committee on Finance.

Mr. WILLEY. I present the memorial of one hundred and sixty-two citizens of Harper's Ferry, West Virginia, setting forth the fact that they purchased homesteads in that village from the Government of the United States, and contributed to the building up of the town, with the assurance of the Government that the armory established there would be permanent; but in consequence of the results growing out of the war the armory has ceased to employ any hands there in the service of the Government, so that work has been discontinued, and they are nearly ruined in consequence of the depreciation of their property growing out of these facts; and they conclude by asking that the Government may dispose of the property owned by it at the junction of the rivers to a manufacturing company or otherwise, so that the property may be still valuable, otherwise they will be utterly ruined. I ask the reference of this memorial to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. CRESWELL presented the petition of George C. Cooper and John G. Mitchell, on behalf of a large number of citizens of Prince George county, Maryland, praying for the establishment of a post route from Buena Vista to Mitchellville and Coopersville, in that county; which was referred to the Committee on Post Offices and Post Roads.

Mr. POMEROY presented the memorial of Lucy B. Armstrong, in behalf of certain stewards of the Wyandot and Quindaro mission, Kansas conference of the Methodist Episcopal church, praying for an appropriation of \$6,000 for the purpose of building churches and enclosing the graveyards of the Wyandot Indians with permanent enclosures; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN.

On motion of Mr. STEWART, it was Ordered, That John Graham have leave to withdraw his petition and other papers from the files of the Senate.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Enos Kelly, of Napoli, Cattaraugus county, New York, setting forth that he has not a dollar's worth of property in the world, and that of seven sons who entered the service of the United States at the outbreak of the rebellion, he lost three, and praying that he may be granted a pension, asked to be discharged from its further consideration, and that it be referred to the Committee on Military Affairs and the Militia; which was agreed to.

Mr. WADE, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 289) to provide for the probate of and for the recording of wills of real estate situated in the District of Columbia, and for other purposes, reported adversely thereon.

He also, from the same committee, to whom was referred a bill (H. R. No. 482) to incorporate the Howard Institute and Home of the District of Columbia, reported it without amendment.

Mr. LANE, of Kansas, from the Committee on Pensions, to whom was referred the petition of Mrs. Sarah J. Purcell, praying for a pension, submitted a report, accompanied by a bill (S. No. 314,) for the relief of Sarah J. Purcell. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. CLARK, from the Committee on the Judiciary, to whom was referred the petition of George W. Martin, praying for an investigation of an alteration which he alleges to have been made in the executive record of the Senate, whereby the confirmation of his nomination as a military storekeeper in the Army was not communicated to the President, in consequence of which he failed to receive his commission, submitted a report thereon, accompanied by the following resolution:

Resolved, That immediately upon the close of each

session of Congress, the Secretary of the Senate shall make a list of all nominations not acted upon by the Senate, and after having made a record thereof, shall transmit the same to the President.

The report was ordered to be printed.

Mr. GRIMES, from the Committee on Naval Affairs, to whom was referred a joint resolution (H. R. No. 130) to carry into immediate effect the bill to provide for the better organization of the pay department of the Navy; reported it with an amendment.

Mr. WILLEY, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 295) repealing the thirty-fourth section of the declaration of rights of the State of Maryland so far as the same has been recognized or adopted in the District of Columbia, reported it without amendment.

Mr. EDMUNDS, from the Committee on Pensions, to whom was referred a bill (S. No. 72) for the relief of Ruth Ellen Grelaud, widow of John H. Grelaud, deceased, submitted an adverse report thereon; which was ordered to be printed.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 97) in addition to the several acts for establishing the temporary and permanent seat of government of the United States, and to resume the legislative powers delegated to the cities of Washington and Georgetown and the levy court in the District of Columbia, reported it with amendments.

He also, from the same committee, to whom was referred a bill (S. No. 265) to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes, reported it with amendments.

He also, from the same committee, to whom was referred a bill (H. R. No. 510) to incorporate the Academy of Music of Washington city, reported it with an amendment.

Mr. MORRILL. The same committee, to whom was referred a bill (S. No. 305) to amend an act entitled "An act concerning notaries public in the District of Columbia," approved April 8, 1864, have instructed me to report that legislation on the subject is inexpedient. I move that the bill be indefinitely postponed.

The motion was agreed to.

BILLS INTRODUCED.

Mr. DOOLITTLE. I have received a letter from the Secretary of the Interior, relating to the Sioux Indians, accompanied by a bill. I ask leave without previous notice to introduce the bill that it may be read twice, referred to the Committee on Indian Affairs, and printed.

There being no objection, leave was granted to introduce a bill (S. No. 312) to restore to certain bands of Sioux Indians the balance of certain annuities heretofore confiscated; which was read twice by its title, referred to the Committee on Indian Affairs, and ordered to be printed.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 313) to regulate the transportation of nitro-glycerine, or glycin oil; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 315) to regulate appointments to and removals from office; which was read twice by its title.

Mr. SUMNER. I should like to have that bill read at length, if there be no objection.

Several SENATORS. Oh, no; let it be printed.

Mr. SUMNER. As the subject is under discussion before the Senate now, I should really like to have it read.

Mr. HENDERSON. It is not lengthy.

Mr. SHERMAN. It is very unusual to read bills at length when they are introduced. I ask that it be printed.

The PRESIDENT *pro tempore*. The order to print will be entered, if there be no objection.

Mr. EDMUNDS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 316) to establish a post route from West Alburg, Vermont, to Champlain, in the State

of New York; and for other purposes; which was read twice by its title, and referred to the Committee on Commerce.

NATIONAL THEOLOGICAL INSTITUTE.

Mr. WADE. I am directed by the Committee on the District of Columbia, to whom was referred the bill (H. R. No. 352) to incorporate the National Theological Institute, to report it back without amendment, and recommend its passage, and I am requested to ask for its immediate consideration. Those who have it in charge are exceedingly anxious that it should pass now on account of the great synod that is about to be held here in reference to it. If there be no objection—and there can be no objection to it that I can see—I ask that it be put on its passage now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It proposes to create and declare Abram D. Gillette, Edgar H. Gray, Edmund Turney, Zalmon Richards, Robert J. Powell, William T. Johnson, Henry Beard, Charles H. Morse, Joseph C. Lewis, John S. Poler, David Rees, D. W. Anderson, Daniel C. Eddy, Leonard A. Grimes, Justice D. Fulton, William R. Williams, Isaac Westcott, Howard Malcom, Joseph H. Kennard, Newton Brown, T. Dwight Miller, and all persons who shall or may be associated with them, and their successors, a body corporate and politic, in deed and in law, by the name of "the National Theological Institute," with the usual powers of a corporation. The object and purpose of this corporation is to be for the education of persons for the Christian ministry, and those associated with them as assistants, in such course of theological and general studies as may be deemed proper for that purpose; but no person is to be excluded from the advantages of education afforded by the institute on account of theological belief.

The bill was reported to the Senate without amendment.

Mr. POMEROY. I simply want to inquire of the Senator reporting the bill whether this is a corporation confined to this District by its terms.

Mr. MORRILL. It is.

Mr. POMEROY. I listened to the reading of the bill, and I thought that by its terms it was not confined to the District. It simply says that they may have a right to do anything not inconsistent with the laws of the District; but if I heard it aright, it is not confined to the District by express terms.

Mr. WADE. Their principal place of business is here, and if they do business in other States they expect to get acts of incorporation for it.

Mr. SHERMAN. I do not like, even by implication, to assent to the proposition that the Congress of the United States cannot do as much in this District as any State may do within a State.

Mr. WADE. Of course they can.

Mr. SHERMAN. In every State of the Union corporations are incorporated by a general law, and they go all over the United States and have the rights of persons. So far as this bill is concerned I do not raise the point, but I do not for a moment admit, even by implication, that Congress ought to surrender the power that we have in this District, to make corporations with the power of corporations all over the United States of America or Europe, Asia, or wherever they may choose to go.

Mr. WADE. There is nothing unusual in this corporation. It is a mere ordinary church corporation for the establishment of a theological institute, and has nothing in it that does not relate to that particular thing. It locates it in the District, and that is all there is about it. Where they will do business, I do not know, and I do not care.

Mr. POMEROY. I hope the Senator will not consider that I was objecting to the bill. I only thought that if he intended to confine it to the District, he ought to say so in the bill itself. I do not object to it.

The bill was ordered to a third reading, read the third time, and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 567) to amend an act to establish the grade of vice admiral in the United States Navy; and

A bill (H. R. No. 568) to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress relating to passports.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled joint resolution (H. R. No. 137) to provide for the exemption of crude petroleum from internal tax or duty, and for other purposes; and it was thereupon signed by the President *pro tempore* of the Senate.

COMMANDER CHARLES HUNTER.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred the bill (S. No. 307) authorizing the restoration of Commander Charles Hunter to the Navy of the United States, to report it back with an amendment.

Mr. ANTHONY. I hope the Senator will ask for the present consideration of that bill. There will be no objection to it.

Mr. GRIMES. I ask the Senate now to proceed with its consideration.

By unanimous consent, the bill was considered as in Committee of the Whole. The amendment of the Committee on Naval Affairs was to strike out all after the enacting clause and insert the following:

That the President of the United States be, and he is hereby, authorized to restore Charles Hunter, late a commander in the Navy, to the position which he held on the retired list of the Navy when dismissed therefrom.

Mr. GRIMES. I will state that at the outbreak of the rebellion, Commander Charles Hunter was an officer of the Navy on the retired list. He was appointed to the command of a vessel which was employed in keeping up the blockade. In the discharge of his duties he pursued a blockade-runner, and ran her ashore upon the coast of Cuba, and destroyed her while he was within a marine league of the shore. The Spanish Government took umbrage at that action of an officer of this Government, and, in obedience to their demand upon this Government, he was dismissed from the service. It is now deemed proper by the Administration that he should be restored to his former position; and it is but justice to Captain Hunter that I should send to the table, to be read by the Secretary of the Senate, a letter from the Secretary of State, and also one from the Secretary of the Navy, upon this subject.

The Secretary read the following letters:

NAVY DEPARTMENT,
WASHINGTON, May 5, 1866.

SIR: I have the honor to propose for the consideration of the Committee of the Senate on Naval Affairs a resolution authorizing the President to restore Charles Hunter to the position which he held on the retired list of the Navy.

The inclosed copy of a letter from the honorable Secretary of State explains the circumstances under which it was deemed proper to remove Commander Hunter from the public service. As no other reason than one of "public policy" required his separation from the service, and no such reason now forbids his reinstatement, it would seem but just, by restoring him to the Navy, to remove any undeserved stigma which his dismissal might attach to him.

I am, very respectfully, your obedient servant,
GIDEON WELLES,
Secretary of the Navy.

Hon. J. W. GRIMES, Chairman Committee on Naval Affairs, United States Senate.

DEPARTMENT OF STATE,
WASHINGTON, April 16, 1866.

SIR: In the opinion of this Department, no reason of public policy now exists against the restoration of Commander Charles Hunter to the position in the Navy of the United States which he held when he was cashiered pursuant to a complaint of the Spanish Government for violating its territorial jurisdic-

tion by chasing ashore on the island of Cuba the insurgent steamer General Rusk *alias* *Blanche*.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. GIDEON WELLES, Secretary of the Navy.

The amendment was agreed to.

The bill was reported to the Senate as amended; the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time and passed.

SMITHSONIAN REPORT.

Mr. ANTHONY. The Committee on Printing, to whom was referred the resolution for printing extra copies of the Report of the Smithsonian Institution, have instructed me to report it back with an amendment, by way of substitute, and to ask for its present consideration.

By unanimous consent, the Senate proceeded to consider the resolution; and the amendment reported by the committee was agreed to; so as to make the resolution read as follows:

Resolved, That five thousand additional copies of the Report of the Board of Regents of the Smithsonian Institution for the year ending 30th June, 1865, be printed; two thousand for the use of the Smithsonian Institution and three thousand for the use of the Senate: *Provided*, That the aggregate number of pages contained in said report shall not exceed four hundred and fifty pages, without wood-cuts or plates except those furnished by the Institution.

Mr. POMEROY. I should like to inquire of the Senator from Rhode Island if he can give any assurance to the Senate about the time we shall get this Report in printed form. I make this inquiry because about three months ago, on his motion, we voted for printing a large edition of Bancroft's oration, and we have not yet got them. I have no objection to voting this order if we can be assured that we shall have the copies during this session, or, indeed, at any time during our lives. We voted also for printing another oration, delivered by my friend from Maryland, [Mr. CRESWELL,] and we have not got that yet. It occurs to me that we ought not to increase this public printing if we cannot get it done.

Mr. RIDDLE. As a member of the Committee on Printing, I will answer the question of my friend from Kansas. The difficulty in getting out the oration of Mr. Bancroft arose from the fact of the printers not having been able to get the steel plate of Mr. Lincoln to put in the book. The delay is not the fault of the printing office. That, however, does not interfere with other printing.

Mr. ANTHONY. I presume this will be printed with the usual rapidity. The pressure on the printing office has been very great during the war, but it is now in a very great degree removed, though not entirely. Unless Congress should be disposed to enlarge the facilities for the public printing, it is impossible that the work can all be done as rapidly as it used to be in quiet times. The Senate yesterday reduced sixty per cent. a very large document, and I think now that the work which is ordered will go on as rapidly as practicable. My friend from Delaware has explained the reason of the delay in printing the oration of Mr. Bancroft. They have been waiting for a steel plate of the late President. The oration delivered by my friend from Maryland [Mr. CRESWELL] will be out very soon. The Public Printer received only a few days ago a single order to print three million blanks for the internal revenue branch of the Treasury Department.

Mr. GRIMES. I thought they had a printing office of their own.

Mr. ANTHONY. Not for such purposes as that, only for engraving.

Mr. GRIMES. They print reports.

Mr. ANTHONY. They have a little printing office there; but this job I speak of will employ seventeen presses for some time. This is the usual resolution that has been adopted every year.

The resolution was agreed to.

Mr. ANTHONY. I am instructed by the Committee on Printing, to whom was referred a resolution to print one thousand copies of

the eulogies delivered upon the late Hon. Solomon Foot, for the use of his widow and family, to report it back and recommend its passage. I ask for its present consideration.

There being no objection, the Senate proceeded to consider the following resolution:

Resolved, That one thousand extra copies of the addresses and funeral sermon delivered in the Senate on the death of Hon. Solomon Foot, a Senator from the State of Vermont, heretofore ordered to be printed for the use of the Senate, be printed for the use of the widow and family of the deceased.

The resolution was agreed to.

DEPOSITS OF PUBLIC MONEY.

Mr. GRIMES submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Committee on Finance be instructed to inquire into the expediency of providing by law that no public moneys shall be deposited by any public officers elsewhere than in the office of the sub-Treasurer in any city where there is a sub-Treasury, nor elsewhere than in the Treasury of the United States in the city of Washington.

NEW YORK POST OFFICE.

Mr. DIXON. I move that the Senate now proceed to the consideration of House joint resolution No. 66, in relation to the courts and post office in the city of New York.

Mr. CHANDLER. I would ask if the House joint resolution No. 116 was not the unfinished business of yesterday at the close of the morning hour.

The PRESIDENT *pro tempore*. It is not the practice of the Senate, when a motion is made to take up a bill, to give precedence to the unfinished business of the morning hour. The question is on the motion of the Senator from Connecticut to take up House joint resolution No. 66, relative to the courts and post office of New York city.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution, which proposes to appoint the mayor and postmaster of the city of New York, the district attorney for the United States at New York city, the president of the Chamber of Commerce of the State of New York, and Jackson S. Shultz, of New York city, a commission to select a proper site for a building for the post office and for the accommodation of the United States courts in the city of New York. They are to report to the Postmaster General and the Secretary of the Interior, at their earliest convenience, the selection upon which they, or a majority of them, may agree, and the price at which the site can be purchased by the Government for the purposes contemplated in the resolution; and if the report shall meet the approbation of the Postmaster General and the Secretary of the Interior, they shall communicate it, with such additional suggestions as they think proper, to Congress.

The first amendment reported by the Committee on Post Offices and Post Roads was in line six, after "Jackson S. Shultz," to insert "Charles H. Russell, and Moses Taylor."

The amendment was agreed to.

The next amendment was after the word "resolution," in line fourteen, to insert "if a new site should be selected;" so that the clause will read:

That they report to the Postmaster General and the Secretary of the Interior, at their earliest convenience, the selection upon which they or a majority of them may agree, and the price at which such site can be purchased by the Government for the purposes contemplated in this resolution, if a new site should be selected.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. The amendments were ordered to be engrossed and the joint resolution to be read a third time. It was read the third time and passed.

ASIATIC CHOLERA.

Mr. CHANDLER. I now move to take up House joint resolution No. 116.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R.

No. 116) to prevent the introduction of the cholera into the ports of the United States, the pending question being on the amendment reported by the Committee on Commerce in the nature of a substitute.

Mr. CHANDLER. I do not propose to go largely into the discussion of this question. Whether this measure will prove effective or not, I cannot say. I have not had, perhaps, as much experience in the matter of cholera as some other Senators. I have only had the disease twice, and have only spent about four or five years of my life in attending upon patients afflicted with it, [laughter,] and I do not pretend to know as much about it as the Senator from Pennsylvania, [Mr. COWAN.] Eminent surgeons throughout the world have had doubts as to the character of this disease. Great Britain, France, and the Powers of Europe appointed a commission to visit the East and ascertain the sources, the dangers, and the symptoms of the disease. Had they been aware of the learning, the knowledge, and the information contained in this Senate, they never would have sent that commission to the East or anywhere else. They could have got all the information they desired from the Senator from Pennsylvania, who, I regret, is not in his seat. During the debate yesterday, that Senator said:

"If there is any one thing I think well settled, it is that cholera is not contagious in that sense of the word which would enable you by means of some legislative enactment to keep it out of the country. I think for the credit of the body in that respect, we ought to avoid this mode of dealing with that which is now pretty well understood."

Again, he said:

"It is an epidemic instead of a contagion. It exists in the air; and hence there was great propriety in the jest of some Senator the other day who proposed to refer the whole subject to the ventilation committee."

Now, sir, that is a question that had never been settled until yesterday. The most eminent surgeons on earth had been in doubt as to whether it was contagious, infectious, or atmospheric. That point being settled, and probably settled to the satisfaction of the Senate, they may deem that no further action is necessary upon this resolution. As I remarked yesterday, the Committee on Commerce have had this resolution under consideration for two months. There was a great diversity of opinion in the committee as to the propriety of action on the subject. The medical profession, not having been aware that the point was settled, appointed a convention in Baltimore, which assembled on Friday last, I believe. In that medical convention were eminent men from Canada and other British Provinces, from New York, Baltimore, and Philadelphia, and the most eminent medical talent in the United States. They deemed the subject of sufficient importance to send a delegation from that convention here to advocate the passage of some such measure as this. A meeting of the Committee on Commerce was called, which was attended by all the members except the Senator from Maryland, [Mr. CRESWELL,] and they unanimously decided to recommend the Senate to adopt this plan, which that delegation said would be effective.

I made the suggestion to the man of that delegation who seemed to have the most experience on this subject that this disease was by many considered not to be contagious, but rather infectious or atmospheric. He replied that last fall they had in the harbor of New York one hundred and fifty cases of Asiatic cholera, but the board of health put their hands upon it and held it in the bay, and not a single case reached the city of New York, although the train was laid, and New York city was never in a better condition for its reception and for its terrific ravages than it was at that time. The opinion of these medical men differs materially from the opinion of the Senator from Pennsylvania, and yet I have no doubt the Senator from Pennsylvania must be correct. I never knew him to be wrong in anything—politics, religion, law, or anything else. He knows this thing to be so, and of course it is settled; and I suppose the Senate will adopt the learned opinion of the Senator from Penn-

sylvania and reject the opinion of the medical convention which assembled at Baltimore! I leave the case in the hands of the Senate. If they think that the knowledge and information of the Senator from Pennsylvania is greater than that of the convention that visited the East during this summer to investigate this subject, and greater than that of the convention which assembled in Baltimore, and greater than that of the medical faculty of the world, I hope they will adopt the views of the Senator from Pennsylvania and reject those of the medical faculty. The Senate will vote upon this question as they see fit.

Mr. MORRILL. I should like to have the original resolution, as it came from the House, read. I believe it has not yet been read.

The Secretary read as follows:

Resolved, &c. That the President be, and he hereby is, authorized to make and carry into effect such orders and regulations of quarantine as in his opinion may be deemed necessary and proper, in aid of State or municipal authorities, to guard against the introduction of the cholera into the ports of the United States; and the President is further authorized to empower the military and naval commanders in ports and places in the States that have been or are in insurrection to enforce such quarantine regulations as may be deemed necessary for the purpose of guarding against the introduction of cholera or yellow fever, and to provide for the proper care and treatment of patients. And such an amount of money as may be necessary to carry into effect this joint resolution is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. MORRILL. Perhaps the attention of the Senate should be called to the action of the House of Representatives in contrast with the action of the Senate committee. It will be seen that the resolution from the House, for which the Senate committee substitutes its own resolution, provides for a method of treating this subject in coöperation with the States. The President is authorized to make rules and regulations to coöperate with the State and local authorities. That is the chief feature of the House resolution. The resolution reported by the Committee on Commerce of the Senate, which is proposed as a substitute for that, inaugurates a system independent of the local authorities and independent of the States; and it is different in some other respects. The object of the two resolutions, of course, is the same, to prevent the spread of the cholera.

The question which I desire the Senate should understand and should consider is, whether it is advisable to invest the President and his Secretaries with the powers of quarantine and sanitary regulation over the whole country. The statement of that question will show the Senate at once the importance of this measure and the magnitude of the undertaking; and they must judge for themselves as to the probability of its being effective. A measure authorizing the President and his Cabinet to use the war power of the country and the Treasury of the country to make, in the first place, a system broad enough to quarantine all the ports on the coast, and a sanitary system or a cordon of sanitary posts extensive enough to guard your whole frontier, and also to be effective in all the cities and towns throughout the whole country, the Senate will see at once will be very comprehensive and very extensive, and involves the exercise of very extensive powers; and whether so spread out and so acting independent of the States—to raise no question now of the right to do so—by any possibility, within a reasonable time, it could be made effective as a practical question, it seems to me admits of very serious doubt. I ought to say, therefore, calling the attention of the Senate to these two propositions, that it seemed to me that the measure, as it came from the House of Representatives, was preferable in two particulars: first, that it avoids all questions of authority; and secondly, that it proposes to coöperate with the systems already in existence. The city of New York, the great metropolis, for instance, has a very effective system to-day of quarantine and health police, more so than could be perfected by this Government in twelve months if it should set to work to-day to do it. Now, are we to act independent of that, or to coöperate with it? Just as you

settle that question so will you settle whether you will amend the resolution as it comes from the House, and adopt the proposition of the committee, or concur in the resolution as it came from the House.

I was in favor of the House resolution because it proposed to confer with the States and with the cities and avail itself of the local systems of quarantine and health police, organized and as they have existed for fifty years. It may be said that our authorities can avail themselves of that; but that is not the theory of the bill. The theory of the bill is that it is to be independent, that a system is to be organized here by these Secretaries, and that it is to be carried out over the whole country. It seems to me that you will lose entirely the efficiency which is desirable and which you would secure if, instead of that, you cooperated with the systems already in force.

For these reasons—not to argue the question in any way, but merely to make suggestions—because of the doubt on the question of authority, and especially because efficiency will come from cooperating with the States, it seemed to me that the House resolution was preferable; but of course I rise to make no hostility to the measure. It seemed, however, to me to be advisable, as nobody had stated the precise position in which the measure was presented to the Senate, that I should make this statement.

Mr. EDMUNDS. Mr. President, it appears to me that the amendment which the Committee on Commerce have recommended to this joint resolution very much improves it as sent from the House of Representatives. The honorable Senator from Maine has correctly stated the essential difference between the two propositions, that of the House being to authorize the President to act in aid of the State and local authorities, and which proposition, therefore, necessarily implies the consent of the State and the municipal authorities who are invested by local regulations with present power over the subject, while the Senate amendment proposes to make a uniform system of quarantine under the paramount regulations of the General Government, which shall be coextensive, irrespective of State and municipal lines and boundaries, with the disease which it is sought by both processes to exclude from the country; and the simple question is, which is the most likely to attain the desired end?

Now, I think it must be admitted by my friend from Maine that the cholera will not pay any regard to State lines. It does not know anything about State rights; it does not recognize the distinction between Federal and State authority; and, therefore, while one regulation may exist in New York which shall require a quarantine, if you please, of thirty days, another may exist at Jersey City which only requires a quarantine of ten days, another at New London, in Connecticut, or at Newport, in Rhode Island, having a different length of time and a different process of security; so that the result is without uniformity, that a regulation which is enforced with safety and security in one city, operating to the temporary disadvantage and injury of its commerce and disturbance of its trade, is evaded in an adjacent city to the advantage of its commerce and its trade, and by means of which the pestilence which we all seek to exclude is introduced into the country.

It appears to me that this is a subject which concerns the general welfare of the people of the United States, irrespective of State or local organizations and irrespective of State boundaries. It concerns the general welfare, and therefore, in my judgment, it is the highest duty of the General Government to promote that general welfare if anything can be done by exercising its paramount authority over the subject. My friend from Maine suggests that there is doubt as to the authority of the United States. I think he will reconsider that doubt and change his opinion, if it be his opinion that we have not the power, when he recurs to the

cases which have been decided on the subject of the introduction of passengers, known as the passenger tax cases, in which the Supreme Court of the United States held, and rightly held, that the States, while Congress undertakes to regulate commerce at all, have no authority to regulate the admission of persons or merchandise from foreign countries into this. Therefore this concerns, in the most eminent and exact sense, that power which is granted by the Constitution of the United States to us under the head of the regulation of commerce; and inasmuch as we must all agree that it concerns us all, inland States and inland districts as well as the sea-board ones, ought we not—assuming that we can frame and pass any law which will have any prospect of attaining the result—to go as far as prudence and as courage will allow to accomplish it? Most certainly we should.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. CHANDLER. I hope the unfinished business will be permitted to lie over informally. I think this will not take long.

Mr. SHERMAN. It is very manifest that this will take time.

Mr. CHANDLER. I think but very little.

Mr. EDMUNDS. I will not occupy three minutes.

Mr. SHERMAN. I will not interrupt the Senator from Vermont in the midst of his speech.

The PRESIDENT *pro tempore*. If there be no objection the unfinished business of yesterday will be laid aside in order to proceed with the joint resolution now before the Senate. No objection being made, it is laid aside informally.

Mr. EDMUNDS. I think it was made manifest before the Committee on Commerce—and it is a subject so serious that I cannot regard it in the jocose light that my friend from Pennsylvania did yesterday—it was made manifest before the Committee on Commerce by the concurrent testimony of many doctors, who for once did not disagree, that cholera is the subject of preventive regulations; that it is capable, in a very large degree at least, of being excluded from districts, territories, and countries by the enforcement of sanitary and quarantine regulations; and a very eminent instance of that fact and a very strong proof of it is found in what we know of the history of cholera in Europe last fall. The quarantine in the Italian ports on the Mediterranean was very strictly enforced, and consequently the cholera passing from the East went by those Italian ports to the ports of France, and at last first reached the Italian territory by way of the railroad from Paris, having gone completely around the sea-board and returned into that country from the interior, where the quarantine regulations were not enforced. Therefore it behooves us most certainly to try the experiment, and to try it upon that scale of uniformity and of severity which is commensurate with the danger of this pestilence, which certainly is as dangerous as any pestilence or any evil can possibly be.

It has appeared to me, with all deference to my friend from Maine, that we ought to go to the length of intrusting these large powers to the Government as we did in the case of the rinderpest, which is a case in point as to the power, and to authorize the Secretaries of War and the Navy and the Treasury to put in force with uniformity and impartiality a system which will operate for the protection of the whole country.

Mr. SUMNER. Mr. President, I must say that in reflecting upon this question I find that I traveled with my friend from Maine through his inquiries and his doubts, but it was only to arrive substantially at the conclusion of my friend from Vermont. I thought that the criticism of my friend from Maine was in many respects, at least on its face, just; I went along with him, and yet I hesitated in adopting the conclusion which he seemed to intimate. I

doubt, if we proceed under the House resolution, whether we shall do the work thoroughly. I doubt whether that resolution can be made sufficiently effective for the occasion. Indeed, I may go further and say I am satisfied, all things considered, that it cannot be effective for the occasion. We then have the substitute proposed by the committee of our own body. Against that there is certainly this remark to be made, that it is novel. I am not aware that any such proposition has ever before been brought forward. It has, therefore, to meet the argument of novelty; but when you consider it, certainly it has in its favor the great argument of efficiency. If adopted, it will be effective for the purpose. But then the question remains behind, to which the Senator from Maine has directed our attention, whether this proposition of the committee is not something more than even a novelty, whether it is not a departure perhaps from the just principles of our institutions. I am not inclined to say that it is anything more than a novelty. I admit that it is such. It does invest the Government with large and perhaps unprecedented powers in order to meet a peculiar case where a stringent remedy must be applied.

But, as the chairman of the Committee on Commerce suggests to me, the powers are temporary. I am not ready to say that such powers cannot be intrusted to the Government. I believe they can be; but while I agree in that, and am ready to vote for intrusting these powers to the Government, yet, if I can have the attention of my friend, the chairman of the committee, I should like to ask him why these powers are to be placed under the direction of the Secretary of War rather, for instance, than of the Secretary of the Treasury.

Mr. CHANDLER. They are placed jointly in three Secretaries, the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury.

Mr. SUMNER. I do not mean to express any decisive opinion on the question, but I mean to call the attention of the Senate to it, that it may go for what it is worth. The language is:

That it shall be the duty of the Secretary of War, with the cooperation of the Secretary of the Navy and the Secretary of the Treasury, whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy, to adopt an efficient and uniform system of quarantine against the introduction into this country of the Asiatic cholera through its ports of entry, &c.

Mr. CHANDLER. With the permission of the Senator, I will state that all the southern cities are now guarded by United States soldiers, and naturally, those points being more exposed, it would come more directly under the Secretary of War than any other Secretary. The condition of things on the northern frontier is the same.

Mr. SUMNER. I proposed simply to call attention to the point; I do not intend to pass upon it myself; only I must say that on the face of the proposition it does seem to me as if it was to make this proceeding for a quarantine a military transaction, as if it was to a certain extent to continue military power for this purpose. I cannot say that I have scruples on that point; but still I am not disposed to vote for such a proposition, at least without fully considering, and I desire that the chairman of the committee should consider whether it is expedient that this quarantine proceeding shall be placed under the direct charge, management, and control of the military power, or whether it shall be placed where in times past it has been, with the Treasury Department, which has, as I need not remind the Senate, the direction of the custom-house and of the revenue, and also, I may say, the direction of the revenue cutter which is the police power in our harbors.

The question I ask is, whether the Department which thus far has had charge of the police of our harbors, which controls the hospitals there, to say nothing of the custom-house, should not be intrusted with control with reference to the quarantine? Thus far it has had

exclusive control with reference to the quarantine. We are now, to a certain extent, to dispossess it and put the War Department in the front. If Senators are disposed to do so; if my honorable friend, the chairman of the committee, thinks, after having his attention called to it, that upon the whole it is advisable that the War Department should be put in the front, and that the others should but follow up in the rear, I am not going to raise any question, because I start with the idea that this bill must be made effective for the purpose. I believe the House bill cannot be effective for the purpose; and therefore I am ready to accept the bill of the committee, if after having called attention to this point the committee feel that upon the whole it is advisable to proceed with the bill in its present form.

Mr. MORRILL. I did not intend to do more than to call the attention of the Senate to the bill coming from the Committee on Commerce, of which I happen to be a member. Having dissented from the bill, I thought it was perhaps advisable that I should state the distinction between the proposition which came from the other House and that reported by the committee. As the Senator from Massachusetts apprehends, the measure proposed by the committee is a war measure. There is no question of that. It addresses itself to the war power; it seeks to find its authority nowhere else; and I think it will be difficult for anybody to find an authority so broad as is contemplated by it; outside of the war power, with which, in the last four or five years, we have become so familiar. It proceeds on the idea of using the war power; and in aid of the war power it puts at the disposal of the Government the entire means of the Treasury. They are not appropriated in so many words, but those Secretaries are empowered to use all the means at their command. Of course that includes the military and naval forces, and, in aid of them, the resources of the Treasury.

I did not care to raise the questions which the honorable Senator from Massachusetts has so rightly apprehended. It was on account of the extraordinary powers to which he has referred that I shrank from the consideration of the bill, I admit. I thought it inadvisable, and I intimated some doubt about the power to which the honorable Senator from Vermont has so properly alluded. After a proclamation of peace, which has come to us, the effect of which I never could exactly understand, and which I think it will be left to future historians and commentators to define, and after peace has come to us in a general way, why we should pass a bill putting at the discretion of the President of the United States, through the Secretary of War and the Secretary of the Navy, the entire military and naval power of the country to fight the cholera, is what I cannot exactly comprehend as a question of constitutional power. The measure reported by the committee, I say, proceeds upon that idea, and invokes that authority, and does not find its authority anywhere else.

My honorable friend from Vermont suggests for my consideration that the authority is clearly justifiable upon the ground of the decision of the Supreme Court in the passenger cases so familiar to the country and to the Senate. But let me suggest to him whether there is an analogy between the facts of the cases. There we were proceeding under the commercial authority of the Government—not under the war power, but under the power to regulate commerce. The fact was, in those cases, as the honorable Senator doubtless recollects, that the States of New York and Massachusetts had imposed a tax of one dollar a head upon persons who should be imported into this country under the regulations of commerce prescribed by Congress. The United States, in whom is the supreme authority over questions of commerce, having regulated the importation of such persons, of course the States could not interpose. The States were in direct conflict with the asserted and conceded authority of the Government of the Uni-

ted States. That was a case not like this, of war, but a case of commerce. I therefore submit to my honorable friend whether the cases are at all analogous, whether the facts justify the comparison; and I suggest to him that this is more analogous to the license cases. Under the authority of Congress importers were authorized to import into this country from abroad ardent spirits, and having brought them in under the authority of Congress they claimed the right to sell them, and they claimed that the sale was authorized, and that under their police powers the States had no right to interfere with the disposition which they should choose to make; but there the court drew the distinction between the authority of the State and the authority of the General Government; and whereas they said that over foreign commerce the jurisdiction of the General Government is supreme and exclusive, yet when once the foreign article has been introduced within the limits and jurisdiction of the State entirely, the State may then apply to its police regulations, either of health, sanitary regulations, or what not, and may impose such conditions and limitations on the article so imported under the authority of the Government of the United States as the State, in its own judgment, having exclusive jurisdiction of all matters of police in its own State, shall determine to be necessary for the protection of its own people.

Now, apply that doctrine to this case. We are to fight the cholera; where? I concede that we may fight it on our exterior limits, either by weapons of war or through the agency of the Treasury Department, as suggested by the honorable Senator from Massachusetts; but can you enter the States and fight it over the railroads and the turnpikes and the common highways, and in the cities and the towns, and visit the houses and take possession of all the cities and towns in any district of country? For that is what is implied in cordons for sanitary purposes. You absolutely for the time being have the custody socially, politically, civilly, economically, in every sense which is intimate, of the entire American people, houses, lanes, streets, everything as perfectly as the police regulations of the several States and the cities and towns. Can you do that? If so under what power? If we were in a state of war, there is nothing which we could not do against a foreign enemy. I doubt whether we can do it against an enemy such as the cholera; but against the enemy that invades, you can do any or all of these; but can you do any one of them in this case under the war power? I question very much whether it can be done. Certainly it cannot be done under the authority suggested here; under the power to regulate commerce. The cholera is not commercial in its character; it is pervasive, and it invades everywhere and knows no Federal or local lines. I agree with my honorable friend from Vermont that it knows no State boundaries nor any boundary whatever.

My honorable friend from Vermont suggested—I do not know that he meant to be committed to it—something about the general welfare. Whether he intends to draw the authority for this bill from that provision of the Constitution which speaks of the general welfare, I do not know. I hardly think there is anything in the history of the country which authorizes so broad an interpretation of that provision of the Constitution. But the answer to that suggestion would be that this bill does not proceed on that idea. Suppose, however, that any specific authority could be drawn, or ever had been drawn, from the phrase of the Constitution relative to the general welfare, which I am not aware there ever was, would anybody contend that, under the language of the Constitution in regard to providing for the general welfare, a general system for doctoring the American people against cholera, for that is what it is, could be provided by Congress? The power involved in this bill assumes, if it is effective, to go the whole extent of doctoring the American people upon the great emergency of the cholera, providing dry and wet nurses of all

descriptions, medicines, sanitary regulations, cordons, and what not; there is no limitation. Whatever is needed to be done in the premises to prevent the introduction of cholera, and control it after it is here, is to be done by authority of the General Government, by physicians, by police regulations, &c. Whatever may be done, may be done, and is to be done, in contemplation of this bill, by authority of the General Government.

So much for the authority. I rose in the first place simply to suggest what was obvious upon the reading of the two measures, that the proposition of the House of Representatives proceeded upon the idea of the General Government doing something in aid of the State institutions which already exist, sanitary and otherwise, in the several States, as it very properly may to render those local and State institutions effective. There are a thousand ways in which that may be done. The Government has now in all the States a great variety of hospital stores and other stores which might very properly be delivered over to the State authorities. In that way the aid of the Government might be very efficient; but I have no faith at all in the operation of the measure reported by our committee. If you take the matter out of the hands of the State authorities; if you undertake to inaugurate a system here at Washington which is to supplant their regulations and be independent of them, I have no belief that you will render the scheme efficient. That is my difficulty.

Mr. EDMUNDS. Mr. President—

Mr. SHERMAN. I must interpose and call for the regular order of business. This debate is evidently going to be much longer than was anticipated.

The PRESIDENT *pro tempore*. The unfinished business having been laid aside informally, is liable to be called up at any moment.

POST OFFICE APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, the pending question being on the amendment of Mr. TRUMBULL, to add the following as an additional section to the bill:

SEC. —. *And be it further enacted*, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall, before confirmation by the Senate receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term, during the recess of the Senate and since its last adjournment.

Mr. WILSON. Mr. President, the country clearly understands why the amendment proposed by the Senator from Illinois upon this bill is moved. It grows out of an apprehension, of which there are significant signs, that executive patronage is to be used to influence the action of the country, to influence the public sentiment upon the great question of reconstruction. It seems to me that it is legitimate and proper upon this proposition that the action of the President, the condition of the country, and the relations of the men who made him President of the United States should now be discussed.

I propose, Mr. President, to notice very briefly one or two of the observations made yesterday by the Senator from Wisconsin [Mr. DOOLITTLE] and by the Senator from Pennsylvania, [Mr. COWAN.] The Senator from Pennsylvania set out with the declaration that the President had been charged by me with a betrayal of the Republican party. When I indicated to him that I had made no such charge, the Senator repeated it and reasserted it. Sir, the record shows that I made no such charge against the President of the United States. I have endeavored at all times and on all occasions, in public and in private, to prevent any disagreement between the President and Congress, any disruption of the ties which bound him to the men who brought him into power.

A year ago, within thirty days after the assass-

sination of Mr. Lincoln, I learned from various sources that there was a class of public men among us who hoped to have a new cast of the Administration, a reorganization, a reconstruction of political parties. It was more than hinted by some of these persons that the radicals would be "sloughed off," that the extreme men of the rebel States would be "sloughed off," and that there would be a great political organization composed of conservative men. The belief was expressed by these managers that the President of the United States would be the founder of a great party, as were Jefferson and Jackson. It was a new era, just the lucky moment to found a great party of the future—a party that would take care of its founders.

Sir, I confess these hints gave me some anxiety, some alarm for the country. I am among those who believe in the faith and creed, in the motives, objects, and purposes of that political organization which made Mr. Lincoln President in 1860, which carried the country through the fire and blood of civil war, and reelected Mr. Lincoln in 1864. I believe it to be a liberty-loving and patriotic organization, composed of the noblest, the truest men of our country, and that an overwhelming majority of the thoughtful, reflecting, conscientious, Bible-reading, and God-fearing men of the country are in its ranks. Every sentiment that great organization has ever breathed has been for liberty, for patriotism, for justice, for humanity, for the elevation of every being who breathes God's air or walks His earth. I do not claim that its public men are better than the public men of other parties who have gone before us or of other parties that have existed in our time; but the great masses, the rank and file, the men who give the votes, are swayed and controlled by as lofty motives as ever animated the bosom of humanity. Thus believing, I felt it to be the duty of patriotism and of liberty to labor by day and by night to prevent a rupture and to preserve the integrity of that political organization that held the control of nearly all the States and of the national Government. Animated by that desire, during the last autumn, for six weeks, before vast throngs of men in Pennsylvania, New Jersey, and New York, I maintained everywhere that there need be no difference among us, that there must be no rupture, that there should be none. I came here in December animated by that spirit, resolved that no word or act of mine should precipitate a disruption of the great Union party of the country. It was only when the civil rights bill, the dearest measure I ever yet supported in the twelve sessions I have been here, was vetoed; it was only when the 22d of February speech was made and a determination avowed to maintain the President's policy against any policy that might be devised by the Congress of the United States, that I thought the disruption of the ties that bound the President to the great Union party of the country possible if not probable.

The Senator from Pennsylvania said another thing, which, as he was replying to some remarks of mine, I choose to notice now. He spoke of the hate that animated some of our people. Sir, I can say before my conscience and my God that during these thirty years of struggle between the irrepressible forces of anti-slavery and slavery in America, I have never entertained one sentiment of unkindness toward my countrymen of the slave holding States. As I have gazed upon the graves of neighbors and of kindred who have fallen in this war, I have never had a feeling of revenge. I have felt that this struggle, which was a contest of ideas, of thoughts, of acts, and of blood, was a logical and philosophical contest. It was a contest between men trained in the spirit of liberty; that spirit which embraces in its affections all the children of men of every clime and race; that spirit which pulls not the highest down, but lifts the lowest up, on the one hand, and on the other the dark, malignant spirit of slavery, which shrivels the mind and debases the

soul. For two hundred years the one side had been trained to the love of freedom, justice, and humanity, and the other had been trained in the spirit of caste. It was a contest of giants; it was the "irrepressible conflict," and it came to blows; and when it did come to blows it rocked the continent with its power. We have triumphed. Slavery dies a traitor's death, and leaves a traitor's name in the history of the Republic. Liberty, patriotism, justice, humanity, all that is noble, all that inspires men to lofty deeds were with us in that contest. I look upon the contest as one that could not well be avoided. We have triumphed; and I want no more blood, no more confiscations. I want none of their houses, or their lands, nor anything that is theirs. From the day that Kirby Smith surrendered his army to this hour, no person from the rebel States has asked a favor from me that I have not freely given. I mean to give act, vote, and thought to elevate, improve, and build up that war-blasted section of the country. What I say of myself I can, I am sure, say of the great masses of the State I represent. We would build the church, erect the school-house, send the teacher, send capital, send skill, do everything to build up the war-worn and waste places in the rebel States.

The Senator from Pennsylvania, as usual with him, was very boastful; he was prophetic. I have heard that Senator make predictions before. I remember that during the late long and bloody war that Senator, who opposed many of the measures advocated by the majority on this floor and sustained by the Administration, often predicted the direst disasters from the enactment of those measures. When the confiscation bill was pending he opposed it. When the proposition was made to make free the slaves captured from the rebels in the places our Army should take possession of or who should come within the lines of our Army, the Senator declared it a disruption of the Union and a desecration of the sacred charter of the Constitution. The Senator gave his vote against that measure recommended by President Lincoln to aid the loyal States in emancipation; and yet he told us yesterday that he supported the President now, as he did once before, and we had to submit before, and we would have to submit now. The Senator opposed the repeal of that dark act that blackened the legislation of the country—the fugitive slave law. To that measure of humanity, of justice, of the organization of labor—the Freedmen's Bureau—that Senator gave his persistent opposition. To the act allowing the negro to give testimony, an act of simple justice, that Senator gave his opposition. To the act to make free the wives and children of the men who were fighting the battles of the country, that Senator also gave his opposition. In fact, most of the leading measures of the Administration of Mr. Lincoln met, as is well known, his stern opposition, and those measures were carried by those of us here whom he then branded as radicals, and whom he now continues to brand as radicals.

The Senator told us that he belongs to one wing of the party and that we radicals belong to the other. I must say I would like to see the wing of the party to which that Senator belongs in the State of Pennsylvania. If he belongs to the very tip of the tail of the party in Pennsylvania I have yet to see it. The Senator well knows that during the past three years he has had the sturdy opposition of the Republican press of Pennsylvania and of the Republican masses of Pennsylvania. I remember, in 1863, when the contest, so important to the country, between Judge Woodward, the representative of opposition to the war, on the one hand, and Governor Curtin, who had contributed so much to carry on the war, on the other, stirred Pennsylvania to its profoundest depths, that the Senator took no part in the contest. I remember, in 1864, when the contest was between Mr. Lincoln, whose friend he now professes to be, and the nominee of the Chicago platform party, he had little voice or counsel to give, except very severe criticisms

upon the Administration, and not very stinted laudations of General McClellan. To-day all the Republican presses but one in Pennsylvania support the general policy of Congress. There are one or two others that give a sort of divided support to Congress and to the President. I will not remind the Senator of the action of the Republican convention a few weeks ago, or of the action of the Legislature of his own State. Surely their action is an indication of the temper of the people of his great Commonwealth.

The Senator tells us now that we radicals do not belong to the Republican organization. Sir, they have a delegation from Pennsylvania in the other House, and no one man among them of the Republicans stands where that Senator stands. In truth, every indication in that State shows that at least ninety-nine out of every one hundred of the Republicans of that State are with Congress. We radicals do not belong to the party! I should like to see the party with the radicals weeded out.

Why, sir, I have not a doubt of the fact that in the free States to-day there is not a representative or a senatorial district in which the Johnson men can elect a man opposed to Congress to their State Legislature without the votes of Democrats. Here are thirty-nine Republican Senators. How many of them are outside of the ranks of the branded radicals? There are one hundred and forty Republicans in the House. How many of them are outside of the ranks of the radicals? Sir, you can put all the Johnson men in the Senate and House of Representatives on one side of one of the street cars on the avenue. They could be packed on the front and rear, and they could carry their market baskets, too. [Laughter.] Of one hundred and eighty members they have, perhaps, ten, and they are stronger here, by far, than they are in any portion of the free States to-day.

Sir, let any one of these much reproached radicals start for his home, and from the moment he leaves yonder depot until he reaches his home he will receive an ovation, hearty God's blessings, from almost everybody, and he may travel for days and never hear a word said in favor of "my policy" from any party or set of men. The Senator from New York [Mr. HARRIS] went home the other day, and I venture to say he met nothing but approving smiles and applauding words from the men who made this Administration. There is not one percent. of the Republicans of New York who do not approve of the votes he has given in this Congress. And when the other Senator from New York the other day gave his vote in favor of the civil rights bill, it brought the instantaneous applause of the galleries, and it was repeated by the hundreds of thousands of the Union men of the great State of New York. So it is with all these Senators about me and of the members of the House of Representatives. They never had so much the confidence, the respect, and the love of the people as they have now, and if any one man of them is specially singled out for opprobrium he is from that moment dearer to the people than ever before.

Although I do not like to make predictions, I will venture to say, in answer to what was said by the Senator from Pennsylvania and the Senator from Wisconsin, that in almost every State the Republican party is stronger now than it was a year ago. We gave seventy-eight thousand majority for Abraham Lincoln and Andrew Johnson in 1864 in Massachusetts. I would pledge my life that we can give one hundred thousand majority for impartial suffrage in Massachusetts now, and that where we have one Republican against it we have fifty Democrats for it. I will make this suggestion to the Senator from Pennsylvania—and he and I will remember it when we meet, if we live, in December next—that he will find that not more than an average of one per cent. of the Republican party of the country has been led off into any stray movements.

Do the Senator from Pennsylvania and the Senator from Wisconsin believe that they can

go to the country—appeal to the Republicans to elect Representatives or elect Legislatures against us? They will not elect, in the free States, a single Republican against us, unless they do it with the aid of those who are ever opposed to us. I say to our friends in Pennsylvania and Wisconsin and everywhere else, that these Senators, who tell us they are fighting within our ranks, mean to go beyond our ranks; they mean to make combinations with the men who stood on the Chicago platform in 1864, and with the traitors whose bayonets were in front of our legions in the rebel States. Without that countenance and that support, there is nothing of them, and can be nothing of them. Sir, how is it with Wisconsin? One paper there, started within a few weeks, supports the policy advocated by the Senator from Wisconsin. The Legislature, with scarcely a dissenting vote among the Republicans, have spoken in condemnation of their Senator, and asked him to resign his seat.

Mr. HOWE. With the leave of the Senator, I should like to correct him on one point. He does not quite do justice to the Union party of Wisconsin. He enumerates one paper there that supports the policy of the President and of my colleague and of the Senator from Pennsylvania. I believe there is no Union paper of that kind. There is a paper which was started a few weeks ago, and I suppose it is the one alluded to by the Senator from Massachusetts, which supports the person of the President and of my colleague very actively; but I believe it has never ventured to support their policy. It regrets the defeat of the Freedmen's Bureau bill and the defeat of the civil rights bill.

Mr. WILSON. I am much obliged to the Senator for the correction he has made. Then it appears that none of the old journals of the party sustain "my policy" or support the Senator from Wisconsin, [Mr. DOOLITTLE.] We all know that that Senator is a gentleman of talent and personal character, for whom we have great respect. It is a great thing for a people to pronounce against such a Senator or to pass a vote asking him to resign his seat. It requires an immense pressure coming from the body of the people, and can only come from men actuated by the purest motives and loftiest purposes. The fact that it is done is only another evidence of the depth and strength of the feelings of the people in favor of giving equal, universal, and impartial liberty to the four million men whom we have made free by this war. I tell you, sir, if there be one thing down deep in the heart and soul of the American people, it is the purpose to see that these poor bondmen are free in fact as well as in name. They remember that Abraham Lincoln, in his immortal proclamation of emancipation, pledged the faith and the power of the Government to make them free. They have passed a constitutional amendment clothing us with full powers to make them free; and they have resolved upon it, and they will not be baffled. They have vowed it on bended knee before Almighty God. I tell the Senators from Wisconsin and Pennsylvania that it is that motive animating the heart and impelling the action of our people that makes them doubtful of the policy of the President. It is no hostility to the President; it is no personal hostility to the Senator from Wisconsin, for I think he is among that class of men who would excite personal hostility as little as almost any man I know.

The action of the people of Wisconsin in regard to the Senator is the most striking evidence of our time of the love of the people for liberty, justice, and humanity. Does the Senator expect to go before these people and have them reverse their action? Does he believe he can elect a single member to Congress from that State by the votes of the Republicans who will support the policy indicated by the President and oppose the action of Congress? Does he believe he can elect a Representative in his State by Republican votes to the Legislature that will do it? Every victory won by that

Senator and by the Senator from Pennsylvania over us is to be won by coöperation with the men who stood on the Chicago platform in 1864, pronounced the war a failure, and denounced Abraham Lincoln as a tyrant.

Sir, I know not what we have done that God should send afflictions upon us. I know not why the hearts of loyal, devoted, and true men that have been wrung with anguish during five years of bloody strife should be made longer sorrowful! We put this Administration in power. We took Mr. Johnson, placed him on the ticket with Abraham Lincoln, when he had not a vote in America to give us. We did not nominate him because he would give us strength or power. He had proved true to the country when his State, section, and political friends proved false; he rendered service to the country, and we recognized it. We had hundreds of able men in the field and in the civil councils, but we passed by them and nominated him. We put aside the ever faithful Hannibal Hamlin, by the votes of his own New England, to nominate Mr. Johnson. We put this Administration in power, and it went into power to do precisely this: to put down this rebellion; to cement the Union; to put down slavery, to exterminate it root and branch; to make the bondmen citizens of the Republic, and clothe them with the rights of manhood. Sir, I say to the Senator from Wisconsin, who talks so much of suffrage, that one year ago, after the surrender of Kirby Smith, it was in the power of the Administration to impose just such terms as it believed the good of the country required upon the rebel States. They were defeated, conquered, humiliated. They expected some punishment for their crime of treason. They expected the bondmen would be put under the protection of just and equal laws. Many of their leading men not only expected suffrage, but were ready for it. A systematic effort was made last spring to tone down the sentiment of the country. Sir, had the Administration seized that glorious opportunity we could have established impartial suffrage; we could have proclaimed universal amnesty; these seats would have been filled; and law and order, harmony and peace, would have reigned all over the country.

But the Senator from Wisconsin told us that this Administration was pursuing precisely the policy of Mr. Lincoln. I deny it altogether. Mr. Lincoln organized Tennessee by the loyal men of Tennessee. Traitors had to take the back seat. He organized Louisiana by the loyal men of Louisiana, although their numbers were not many. In the State of Louisiana they made a constitution emancipating slaves, leaving it to the Legislature to fix suffrage; established nine hours as the measure of time of a day's work, and they made liberal provisions for education. They made one of the most liberal constitutions ever framed in America. Our friends told us that their Legislature would give suffrage, and the moment we had the relations restored here that suffrage would come to the freed people. Some of us thought so, and if we had admitted them and the war had continued, I do not doubt it would have been so. What is the result under this Administration? They have elected two Senators in place of the men elected by the Legislature under Mr. Lincoln. They have elected five Representatives, all of them rebels. Not one of them can take the oath. All their State officers are rebels.

Tennessee, Arkansas, and Louisiana were organized under Mr. Lincoln by the loyal men of those States. They went for freedom. They adopted a progressive policy; not so fast as we desired, nor so far, but still it was all in the right direction. Some of us thought it would be safe to admit their Senators and Representatives; others thought otherwise. I am content with the result. But what has been the organization under this Administration? Mr. Lincoln, with Mr. Johnson's approval, organized the States that he organized with loyal men. He compelled the rebels to take, as Mr. Johnson well said, "the back seats." The Legislature elected by the loyal men of Virginia in the days

of Mr. Lincoln selected Mr. Underwood and Mr. Segar to represent the State in the Senate of the United States. Both of these gentlemen now are and have been devotedly loyal to the Union. Of the delegation of eight members to the House chosen under the reconstruction policy of Mr. Johnson, two signed the secession ordinance and were active rebels during the rebellion. Mr. Chandler, of the Norfolk district, has ever been loyal. Three only of the delegation, I am assured, can conscientiously take the prescribed oath. The three judges of the court of appeals, recently appointed by Governor Peirpoint, and sixteen judges of the circuit court were active rebels to the end of the war. One only of the nineteen judicial nominations made by Governor Peirpoint was a loyal man, and he was rejected by the Legislature, receiving only nine votes. Every State officer elected by the Legislature of Virginia at its recent session was an active rebel. No Union man stood any chance whatever to receive any office at the hands of that Legislature.

North Carolina was organized by the election of Governor Worth, a rebel, over Governor Holden, professedly loyal, the election of a Legislature that elected two United States Senators who cannot take the required oath, and by the election of an unbroken delegation of disloyal men to the House of Representatives. South Carolina was reconstructed by the election of Mr. Orr, a disloyal civilian, over Wade Hampton, a disloyal soldier; by the election of Perry and Manning, identified with the rebellion, to the Senate of the United States, and a delegation to the House of Representatives, none of whom can take the oath, unless it be Governor Aiken.

Reconstructed Georgia sends the rebel vice president, Alexander H. Stephens, and the unrepentant rebel, Herschel V. Johnson to the Senate, and an entire delegation of traitors to the House of Representatives. Unrepentant rebels reorganized the government of Florida, elected a disloyalist for Governor, one Senator and her Representative, and sent Governor Marvin, a loyal man, to fill the term that expires on the 4th of March next. Judge Marvin was elected Senator for that brief period as a matter of policy, but he has not the shadow of a chance for reelection. Reconstructed Alabama made Robert M. Patton, a bitter secessionist, Governor, and elected Lewis E. Parsons and George S. Houston Senators of the United States, although it was admitted that they could not take the prescribed oath of office; Langdon, a bitter rebel; Freeman, a colonel in the rebel army; Battle, a brigadier general in the rebel army; and two other secessionists, one of whom was a member of the rebel congress,* to the Congress of the United States.

Reorganized Mississippi elected General Humphries, of the rebel army, Governor over Mr. Fisher, supposed to be partially loyal; Governor Sharkey, who may be able to take the oath, and General Alcorn, of the rebel service, Senators of the United States; Colonel Reynolds, of the rebel army, Mr. Pierson, Mr. Harrison, and Mr. West, so compromised by the rebellion that they cannot take the oath of office, and Mr. Peyton, a consistent Union man, to the House of Representatives.

Louisiana, reorganized under Mr. Lincoln by her few loyal men, passed under the policy of Mr. Johnson into the hands of her leading secessionists. Her Legislature, pronounced by Governor Wells in a recent telegraphic dispatch to the President to be in favor of reactionary measures, elected Mr. Hunt and Mr. Boyce, who registered themselves when General Butler had command of New Orleans as enemies of the country, United States Senators, to crowd out Mr. Hahn and Mr. Cutler, elected by her loyal Legislature. She elected to the House of Representatives, Mr. Martin, a register of voters under the rebel government; Jacob Barker, editor of the Advocate, twice suppressed for disloyalty; Robert C. Wickliffe, of the rebel army, who was captured

at Port Hudson, Mr. King, and Mr. Ray, active and influential secessionists.

Texas has not completed the work of reconstruction and reorganization. Governor Hamilton, one of the truest and noblest Union men of the South, and a few true and tried Union men are bravely struggling to make Texas loyal to the Union and to liberty, but I fear they are struggling in vain. In a few weeks the government of Texas will pass into the hands of unrepentant rebels, and disloyal men will be selected to represent her in the Congress of the United States. Of fourteen Senators chosen in the States reconstructed under Mr. Johnson's policy, two only, Governor Marvin and Judge Sharkey, can take the oath of office. Of the Representatives chosen from the seven States, five only can take the oath prescribed by the laws of the country.

By the election of these Governors and Legislatures, these Senators and Representatives, the people of these States have manifested in the most signal manner that they are unrepentant though subjugated rebels. Tried, true, and loyal men are proscribed, hunted down, put under the ban of public opinion. Can that policy that has put down the loyal men of the rebel States and clothed rebels with power pass unquestioned by a patriotic people or their representatives? The late rebel States are a part of our common country, within the Union, subject to the authority of the Government. Their people are as amenable to the laws of the country as they were the day they raised the standard of rebellion. They undertook to break up the Union and establish a government of their own; they fought four years to dismember the Union, and they signally and ingloriously failed. These States are members of the Union, but their practical relations with the Government are not yet completely established. The demand is now made and persistently pressed upon the country that these States that have defiantly chosen unrepentant secessionists shall be clothed with political power, that they shall come into these Chambers without any conditions, qualifications, or reservations. From the Potomac to the Rio Grande, ninety-five out of every hundred of the loyal men are earnestly opposed to this demand. These loyal men of the South, wronged, outraged, and oppressed, are vehemently opposed to that policy that allows rebels to mark and brand them for their fidelity to their country. Tennessee, the President's own State, is strongly opposed to this policy which tends to make treason respectable and loyalty "odious."

When this presidential policy was inaugurated the nation was comforted with the assurance that it was but an experiment; that if it failed, the Congress, the representatives of the people, could correct all errors and mistakes. Mr. Seward more than once telegraphed that the final action was in the Congress of the United States; but when Congress met in December last, when it manifested its intention to investigate, to examine, to exercise its high powers, Democratic presses and politicians rained upon Congress their fiercest maledictions. But Congress, cheered by the potential voice of the people, has investigated and examined, and will, I trust, fearlessly discharge the high duties imposed upon it by the needs of the country. Let Congress promptly submit to the people a constitutional amendment not to pay the debts incurred in support of the rebellion, not to pay for four and a half million slaves emancipated, not to permit one man in the rebel States to be equal in the Electoral College and in the House of Representatives to two men in the loyal States, and to admit any rebel State when it accepts that amendment, and the people will sustain the action of the Thirty-Ninth Congress and elect another House of Representatives that will adhere with unwavering fidelity to the amendment till it shall become a part of the organic law of the land. Most cheerfully would I accept the proposition of the Senator from Nevada [Mr. STEWART] for impartial suffrage and universal amnesty; but if I cannot secure that great measure of justice and mercy, I will

cheerfully act with friends who have preserved the unity of the Republic and achieved the freedom of a race.

Mr. COWAN. Mr. President, it may be well now to recur to the origin of this debate, for it really seems to have no relation to the subject-matter at present before the Senate. I rose yesterday to say to the honorable Senator from Massachusetts [Mr. WILSON] that I thought he was in error in every way, politically as well as morally, in attempting to get up a quarrel with the President of the United States, in assailing his motives, in expressing apprehensions of his future conduct, and particularly in personally attacking him for two appointments which he had made. I regretted the language which the Senator made use of both toward the President and toward the persons to whom I have just referred. I stated what that language was; it was not denied at that time, although there was a dubious shake of the head which might have been taken for a denial; but I reiterated it, and I reiterate it again, and I have only to ask in this connection the candor of the gentleman himself to confess that he has toned down his speech, and that the "record" to which he appeals is not a witness who has not been tampered with on this occasion.

Mr. WILSON. If the Senator will give way I will state that not a single word or line in reference to the President was touched in the report. The Senator charged that I had accused the President of betraying the party. There is no such word there, nor anything like it. I was sure of it at the time and I looked at the report and found that I was correct. If the Senator will consult the reporter he will find that he is mistaken.

Mr. COWAN. I ask the honorable Senator if he did not soften the charge against the marshal of western Pennsylvania recently appointed; whether he did not change the word "penitentiary" to "prison?"

Mr. WILSON. I did.

Mr. COWAN. That is sufficient for my purpose. I do not wish to enter into any personal controversy with the Senator. He has a right to do with his speeches as he pleases before they are sent to the country. I have no complaint whatever to make of that; but I think it would be well in all cases where a controversy has arisen as to the identical words of a Senator, he should leave his speech to be published according to the notes of the reporter. If I misunderstood the Senator from Massachusetts yesterday, I of course was willing to make any retraction or apology which was necessary in order to set him right. I thought I did not misunderstand him, and being positive in my opinion at that time I asserted that he had made use of that word which implied treachery on the part of the President. I say it is enough, though, that he admits that that speech has undergone supervision in some of its parts.

There would have been no dispute if the President had not been attacked yesterday, if his appointees had not been attacked. It was that attack which I met, and it was that error, as I conceived it, which I desired to correct. But, sir, this is not the first time, it is not the only time, that these attacks have been made. It is well known to the country that ever since the President announced that he was opposed to the imposition of negro suffrage upon the southern States, but was willing to leave that question to the States themselves, there has been a systematic and continuous warfare upon him; and it is upon that question that the party is divided, if it be divided at all. My honorable friend thinks it is not divided; and as it is not necessary to speculate on this point just at this time, I will simply say that we shall all be wiser about it after next fall.

What is party fealty, Mr. President? What is the criterion as to whether a man is a good party man or as to whether he is a bad party man; whether he betrays his party or whether he is faithful to it? Is it that he always votes with the majority upon every question that is submitted to the Senate? I certainly do not

understand that to be the rule; and if it is the rule, I am free to say I am not a party man and never can be made one under any circumstances, and I think it would be a sorry day for the country and for the Senate if men were to become so slavish as to do that thing. If this is a free country, and if it is to be governed upon the great principles of liberty of which we hear so much, thought and opinion must be free; men must be as free to dissent as they are to agree, and as free to agree as they are to refuse. What, then, does a man agree to when he belongs to a party? As I understand it, when a national convention meets it establishes certain principles, and the members of the party, as gentlemen, agree to stand upon those principles and abide by them. This is not positive. A man may change his mind even upon these principles; and when he does it, and honestly avows it, he honestly avows himself out of the party. But as to every other thing, not embraced in that platform, and as to all other things to which he never assented, I never heard that any gentleman was bound to lay down his private opinions and yield them to a majority. A majority may be right; it may be oftener right than a minority, but we have no evidence of it heretofore in the history of the world.

Now, I think it would not be very difficult for me to demonstrate that the honorable Senator from Massachusetts, according to the tenor of his speeches, is to-day a Democrat. Why? The last half hour of the speech he has just made was nothing but a verification of Democratic predictions. I am a Union man; I have always been a Union man; and I was a Union man because I had faith in the Union; and I not only had faith in the Union, but I had faith in the people of the Union. I not only had faith in the people of the Union North, but I had faith in the people of the Union South; and I have to-day. What was the burden of the last half hour of the Senator's speech? It was to show that union is impossible. What were we told, at the outbreak of the war, by the Democrats? They said, "You are all wrong in making war; you cannot preserve the Union by war; you will only widen the breach, and you will only make it more difficult than ever to compromise your differences." What was said by the Union men? They said, "The southern people are misled by factionists; they have not had a fair opportunity of determining in this matter; a large majority of them have always been in favor of the Union, and always opposed to its disruption; if they are properly supported and properly treated, and the factionists are put down and the conspirators routed in every direction, the people will come back to their allegiance if we treat them as we ought to treat our fellow-citizens and men with whom we expect to live in union and harmony; they will behave very well, and everything will go on just as it did before."

What was asserted in the Chicago platform of 1864, of which the honorable Senator complains? That the war was a failure. A failure in what way? That the war was a failure because it could not restore the Union. The men who made the Chicago platform, I suppose, were just as honest as the honorable Senator himself, and I suppose they had quite as much stake in the Union. This is another thing, I regret to hear, to have one half the people made out to be traitors. If I thought I lived in a community where one half the people were traitors, or where one half the people could not be trusted with the administration of the Government, I would leave it. What did the men who met at Chicago in 1864 say? They said the war was a failure. They did not mean to say that it was a failure because it did not kill anybody, because it was not full of great battles, because it did not cover the earth with blood and slaughter and desolation. They did not mean to say that; but they meant to say "You cannot reconcile your differences with the southern States in that way, and so far it is a failure." What did the Union men say? "No; it is not a fail-

ure; just wait until the war is over and then we will heal our differences, and we will unite as before; everybody will be under the dominion of the Constitution and the laws." That was what Union men said, and it was upon that theory that the war was conducted.

What then? The war is over; the southern people submit, and submit to whom? Not to the honorable Senator from Massachusetts, or to the Senate of the United States, or to the President of the United States, or to anybody else. Nobody asked them to do so; they had no right to do so; but they submit to the Constitution and the laws. If there is a rebel in the South to-day you have his neck in your halter. What more do you want? "Terms" do you say? What right has an officer of the law, when a resisting felon yields himself, to talk to him about "terms?" The felon, the vilest though he may be, covered with crimes of the deepest dye, has a right to say to the officer, "Who imposes terms? I am under the law." These men are under the law; they have come back and done precisely what all wise and good men, I think, said they would. They regret their folly. They have suffered and atoned for it. Talk about punishing! Was there ever a people so punished on earth before? I ask Senators in all candor and sincerity, is there a man on the earth who would be willing to inflict any further punishment upon the people as people? Is it not the law and the rule of history and of politics that war purges the people? What man ever attempted, and succeeded in the attempt, to punish a conquered people? Nobody. No just man of good sense ever tried it, and no one ever tried it but what failed.

Then the rebellion is put down and we attempt to restore the Union. The honorable Senator from Massachusetts gets up and the whole burden of his speech here is to prove that the Union cannot be restored, that the southern people are just as bad as ever, that they are just as rebellious as ever, and that, in fact, the rebellion exists there just the same as it ever did; except that it is not carrying muskets, or standing behind cannon, or riding a trooper's horse. That is the argument. Now, I ask him wherein that differs from the Chicago platform of 1864. How far is he away really in opinion from his Democratic friends who were in favor of that platform? I cannot see it, I must confess; and, sir, what is more, I am unwilling to verify that remarkable passage in that platform. I did not believe it at the time it was made; I do not believe it now. I believe with my friend from Wisconsin [Mr. DOOLITTLE] that the Union will restore, and that it will restore immediately, and that all that is necessary to restore it is for a few men to forget their animosities, to turn their attention in a charitable direction instead of that of crimination. If it will not restore, why are we sitting here? If it is impossible to reconcile this difference between the loyal and the rebellious States, if it is impossible that the hearts of these people can ever come into union with us, what do we expect to come from it? Hold them as vassals, as conquered people? What benefit shall we derive from that, and how long will you hold them? You will hold them precisely as long as you have force to hold them and no longer. It is certainly not to be expected that men of our race would submit to any domination of any kind imposed upon them longer than that.

Mr. President, the doctrine that the rebel States are in that condition, that their people are in that condition, is disunionism; instead of reconstruction it is obstruction—I believe that was the word used by the Senator from Wisconsin. Impregnate the people with that idea, satisfy them of its truth, and the Union is gone beyond a peradventure, because gentlemen will remember that a Union is not a thing of force, a Union is not a thing to be imposed upon a people. A Union imposed upon a people is called by another name; it is a yoke, and that yoke will be thrown off whenever the first and fitting opportunity occurs;

and any speech, any utterance made with the intent of establishing that fact to-day is disunion, and it is of the same kind with and will have the same result as those speeches had and were intended to have at the outstart of the rebellion, in which we were told, "Union is impossible; you cannot restore it by war." It is in the same spirit and will be followed by the same result as the declaration of the Chicago platform of 1864 that the war was a failure.

Mr. President, as I stated before, this discussion arose upon the question whether the President of the United States had been true to his party fealty. I asserted yesterday that he had been, and I defied any gentleman to put his finger upon any part or parcel of the Chicago or Baltimore platforms of 1860 and 1864 respectively, the published platforms of the party, to which he had not adhered literally and distinctly, and I say that he is standing there upon them to-day, and I defy contradiction. To make the matter short, I have to say to the honorable Senator who boasts about the popularity of his wing of the party, and about the strength he has with the people, that he durst not now avow his principles, and he approached them very cavalierly even after he was obliged in this present speech to allude to them. What are they? Does he believe those States are in the Union or out of the Union? Are they States or are they not States? Are their people our vassals, or are they people having the same rights that we have under the Constitution and the laws, subject to such punishments as the laws inflict upon them? Is he in favor of negro suffrage, or "impartial suffrage," as he calls it? If so, I should like to meet him in Pennsylvania where he has been talking to such multitudes upon that subject. I will promise him a good reception there, and as handsome entertainment as a Pennsylvania landlord can serve for the occasion; and they are famous for having good things to eat and good places to stay at. Let that be avowed. I have no quarrel with one who believes in universal negro suffrage; but announce it, avow it, put it in your platform, and let us discuss it.

Mr. SUMNER. I am for it.

Mr. COWAN. The other Senator from Massachusetts [Mr. SUMNER] is for it, and he has said so. He avows it. I have the highest respect for him and his principles, and no difficulty whatever about them. But put it into your platform. The President says that question belongs to the States. Does it? Is it solely within the province of a free State to determine who shall be the depositaries of political power within that State? If it is, the President is right. If, however, the other States under this Confederacy and the powers which they enjoy under the Constitution have a right to amend it so as to take away from free States that power, then avow that, and put it down and make it your platform and stand upon it. I have a right then, if I choose, to get upon it, I suppose, but you have no right if I do not get upon it, to say that I have abandoned any previous platform. Nobody has a right to say that I have not been faithful to my party obligations because I do not happen to vote with the honorable Senator from Massachusetts [Mr. WILSON] and his friends.

Now, I will say further to that Senator that I was a member of the Republican party, the party that adopted the Chicago platform of 1860, the party that denounced John Brown for his raid into Virginia. The honorable Senator and his set as I call them—because I really think they never had a party, they never amounted to more than an abolition society—the people who entertained the views and insisted upon the doctrines which he says now ought to be the doctrines of the American people, and perhaps it may be so, had no part or lot, with their extraordinary schemes and measures, in the Chicago platform of 1860. I ask in all candor, suppose somebody at that time had mentioned in that platform, or could have got a plank inserted in it, that the Republican party were in favor of negro suffrage, where would the

honorable Senator have been with his tremendous majority to-day that he talks about? Put it in your platform in the coming election, and I can show where he will be after the next election in Pennsylvania. I do not profess to know anything about Massachusetts, and indeed I do not profess to care a great deal. She is of great importance when newspapers are to be printed and speeches are to be made; but when the votes come to be counted she is not of so much importance, and almost anybody can tell a long while before hand what she is going to do upon any question. Her people have a very large margin within which to display themselves. If there is a hundred thousand majority in favor of the Republican platform as announced by her representatives, there is plenty of room for a diminution without much danger.

Mr. SUMNER. She is a sure State.

Mr. COWAN. She is a sure State, but we have a much narrower plank to travel on in Pennsylvania. Our people are divided in opinion there; they do not all go one way. We have half a million voters, and I suppose that eight or ten thousand men will turn the scale one way or the other.

Mr. SUMNER. We are outspoken in Massachusetts. If you adopted Massachusetts ideas perhaps you would have the same majority.

Mr. COWAN. I do not know about that. We have been entertaining Massachusetts ideas for a very long while, and I must confess that they have never attained to any very warm reception there. Massachusetts is supposed, on the part of the Teutonic tribes who inhabit the State from which I come, to be somewhat vagarious in her political notions, somewhat visionary. I suppose they have not yet forgotten the time when you cut off the ears of our Quakers for going up there and trying to propagate their notions among you. It may be that that still sticks in the minds of our people. I do not know why it is, but they have not very high regard for the politics of Massachusetts, nor, I may say, for its poetry, either, in Hiawatha.

But to come back; I am taken to task for the votes which I gave during the war. I want simply to state a few of the things which guided me during the war. In the first place, we were in the war, and I was utterly and totally opposed to any discussion of the causes of the war; I was utterly and totally opposed to the discussion of any of the issues which had divided the people of the North in the past; and above all I thought it was of the utmost importance for every patriotic man to avoid giving offense to the Democratic party, constituting as it did about one half of the people. I was, moreover, opposed to every measure, no matter by whom concocted, that was calculated in any way, either directly or indirectly, proximately or remotely, to revive any dissensions between the Republican party and the Democratic party during the war. And who did revive them? If the Democratic party stands before the country to-day a great party, almost equal to yours, by virtue of whose schemes does it stand there? By virtue of whose projects? Upon what meat did it feed? I can tell the honorable Senator; it fed upon the measures, and the very measures, which he blames me for opposing. About the very first item of grand political capital which was given to the Democrats of the North was the confiscation bill. Was Mr. Lincoln in favor of that? Was that a measure of his? I opposed it.

Mr. CRESWELL. Let me ask the Senator if Mr. Johnson did not advocate a very general confiscation bill in some of his public speeches in Tennessee.

Mr. COWAN. I cannot tell anything about that. I was not talking about him in this connection.

Mr. CRESWELL. The gentleman will find that to be the case.

Mr. COWAN. That may be—

Mr. CRESWELL. Especially in the speech in which he accepted his nomination.

Mr. COWAN. The question is not what Mr. Johnson did twenty years ago, or five years

ago, or six years ago, or at any other time; the question now is, whether he stands upon the platform of the Republican or Union party, its published, declared platform before the world. I suspect that if gentlemen here were to go back to their own old records in order to establish a character for consistency, they would not succeed very well. I do not know, indeed, how my friend from Maryland would succeed, for if I have been correctly informed—

Mr. CRESWELL. I think I could measure it squarely and fairly with the gentleman from Pennsylvania.

Mr. COWAN. That may all be. I do not make the allusion for the purpose of reflecting upon the honorable Senator; but I have only to say that I found upon my table the other day what purported to be a copy of resolutions, I think offered by him in his State, and which looked to me very strongly like secession, in the early part of this difficulty. I do not blame the Senator for that; I have no want of charity for a man who fell into an error of that kind.

Mr. CRESWELL. The gentleman of course will not blame me for that, inasmuch as I never offered such a resolution. I never offered a resolution which intimated that I or any part of the people of Maryland were in favor of secession, and no such resolution was ever adopted anywhere with my consent.

Mr. COWAN. I do not know how that is. I only state this fact to justify what I hinted.

Mr. CRESWELL. I say it is not a fact.

Mr. COWAN. It is a fact that the resolutions are here and were put upon the desks of members. It is not such a very great distance but that the record, I suppose, may be found.

Mr. CRESWELL. Not at all; the record can be produced.

Mr. COWAN. I suppose the correctness of the resolutions laid upon our tables can be verified. Now, Mr. President, let us see what the platform is, as announced at Baltimore; let us get back to the platform. I do not know who was the author of this instrument. I was not a member of that convention, nor was I present, and therefore I have no means of knowing who the scrivener was; but I find in that platform this first resolution:

"Resolved, That it is the highest duty of every American citizen to maintain, against all their enemies, the integrity of the Union and the permanent authority of the Constitution and laws of the United States."

I think I do remember a time when, if a gentleman had offered that resolution in this body, he would have been hooted at from all radical quarters as having "Constitution on the brain." Yes, the platform declares that the highest duty is to maintain the integrity of the Union and the authority of the Constitution and laws. I have insisted upon that always; I insist upon it now. It is the remedy that I suggest now for the difficulties under which the country labors. The President has a plan of policy; what is it? The Constitution and the laws; that is the whole of it. Certain gentlemen here wish to introduce an entirely new plan; they wish to remodel the Constitution and they wish to change the laws. Now, what ought to be done in a case of that kind, if men want to preserve the harmony of the party, if they are satisfied that on the safety of the party depends the safety of the country? Is it not the most rational thing in the world that they should come back at once to some point where we could agree? You cannot make a party by continually introducing new schemes, as Wendell Phillips said the other day, blinding the pilot with the storm of constitutional amendments, upon no one of which can any half a dozen men agree. When a measure is introduced as a party measure, and it cannot command the undivided support of the party, the man who persists in it afterward is guilty of the division, and if division and separation and defeat results, it is to be attributable to him, not to the slave who puts his head into the collar and follows with servility a majority.

I am asked by a Senator whether I belong to the Wendell Phillips party. I never belonged to the Wendell Phillips party; but I

consider Wendell Phillips as the outspoken, grand man of that party; he is the typical man of that party; and whether he wins or loses he has the advantage at least of speaking out his desires and his designs. There is no concealment about Phillips, which is one good trait in his character.

I ask, then, instead of blinding the pilot with a storm of constitutional amendments, can we not come back to something on which we can all agree? Can anything be more simple? We have sworn to support the Constitution. Cannot we agree upon that? We have compelled the President to swear that he will see that the laws shall be executed. Cannot we agree upon that? The rebels have agreed to that, too; have they not? They have laid down their arms; they submit themselves to that same authority; and your authority is established everywhere all over the States lately in rebellion.

Now, if we could concoct a new measure upon which we could all agree, I would say that would be meritorious; but when you concoct measures, and cannot agree upon them, why persist in making them tests? As I understand, there has been such a divergence between Agamemnon and Achilles, even so late as yesterday, that Troy is not likely to be taken soon. Agamemnon has taken Briseis, the captive of Achilles, and insists upon carrying her away into captivity as his prize, notwithstanding by the laws of war she is claimed by the other. That is significant, to start upon. When the Achilles of the House and the Agamemnon of the Senate divide and differ, such poor doctors as we are may well disagree, and as we are all members of a common family, although belonging to different wings, why is it that we cannot compromise and agree, upon what? That of which above all other things our country has reason to be proud, her Constitution and her laws, and trust to time to work out the proper results.

The question is asked, why not try rebels and execute them? As I said before, surely no man can thirst for vengeance against communities, against States, against people. However much he might desire to see an individual mischievous rebel punished, surely the women and children and the Union men of the southern States have suffered their share for any folly of which they may have been guilty in this war, and especially so when we remember that at the outstart of the war this Government had forgotten its duty. What is a Government created and instituted for? It is that it shall be a standing organization for the protection of the people. If the people could get up a governmental organization as soon as a conspirator could usurp an organization you could put off having a Government until the contingency happened; but a Government is a standing organization of the people, whose duty it is to protect the people against hostile and usurping organizations seeking to rule them. In 1861 there were conspiracies against the General Government all over the southern States. They were covered over with societies whose sole business it was to overawe and terrify the people, rendering necessary to them that very protection which it was the duty of the Government to afford them. What, under the circumstances, did this Government do? Does any sane man believe that if this had been a Government vigorous, concentrated with its forces, knowing its duty, it would not have throttled the rebellion upon the instant, that it would not have dispersed the vigilance committees, dissolved the order of the Lone Star, and punished as criminals all the men who were engaged in getting up the plot to overturn the Union? The Government did not do this. It allowed itself to be kicked out of the possession of seven States ignominiously. What, then, was it expected that the people should do? Was it expected that they were able to stand up against their State governments; that they were able to resist the organized bands of the various kinds of secessionists who were plotting together for the dismemberment of

the Union? The man who supposes they were able to do so in the absence of their Government, which was not there to protect them, which had gone away and left them helpless and defenseless in the face of that tide of secession, has not reflected on the nature of government enough to qualify him to govern anybody.

Allegiance and protection are reciprocal. I owe allegiance to the Government of the United States, and the Government of the United States owes me protection; and when I fall under the power of another organization, of a third party, and I obey that party when the Government of the United States is not there to protect me, that Government is derelict, and not me. There are men, I admit, strong, sturdy, and willful enough even to stand up against a State organization and refuse obedience to it; but they are the *rari nantes in gurgite vasto*; they are the stray swimmers in that pool. There are very few of them. Most people submit to the authority that is over them, to its insignia and to its emblems, and especially in this country where the General Government is a confederacy of States, the States themselves being in effect the governments most directly in contact with the people, and to which they have been in the habit of looking for the administration of their laws.

I say, then, that it is one of the principles of the Baltimore platform that—

"Every good citizen should maintain the integrity of the Union"—

I suppose that meant that everybody in the Union should have the right which the Union confers on him—

"and the permanent authority of the Constitution and laws of the United States; and that, laying aside all differences and political opinions, we pledge ourselves as Union men, animated by a common sentiment and aiming at a common object, to do everything in our power to aid the Government in quelling by force of arms the rebellion now raging against its authority, and in bringing to the punishment due to their crimes the rebels and traitors arrayed against it."

Has the President violated any part of that? Fix your tribunal; put your judge upon it; get your machinery ready, and five hundred chief criminals, with Jefferson Davis at their head, or five thousand if you demand them, are at your service. I suppose it is not intended that the President should be common prosecutor; I suppose it is not intended that he should usurp the functions of the judiciary; and I suppose it is not intended but that the American people now at this time are qualified to pass upon the question of crime. I do not know but that perhaps I am wrong in saying that; it is pretended that they are not qualified to play the part of public prosecutor; because we passed a law the other day by which an office for that purpose was created so as to put in it somebody to play public prosecutor, but he was not to prosecute traitors; he was not to prosecute rebels; he was not to bring them to criminal punishment, but he was to punish judges and magistrates who did not put the negro on an equality with the white man before the laws of the South. I say I suppose, however, that if rebels are to be punished, there are American citizens of intelligence enough, love of country enough, desire enough to bring them through the ordinary channels of the administration of justice into the clutches of the law; and I say on the part of the President, and I say it for him, fix your tribunal, get your machinery ready, and you can have five hundred of them to try to-morrow. We will not be particular about the selection; you can select them yourselves; but it is time that the blame was thrown from his shoulders because he does not himself, in some way not known to the law, bring them to trial when it was utterly impossible, according to the decision of the Chief Justice of the United States, that he could do anything. These men could not, under his ruling, be put to trial unless you undertook to try them by military commissions; and that the Supreme Court of the United States has decided, and very properly, I think, to be extra-judicial. If you can make out a case

before a military tribunal; if you have the evidence by which you can show that these men violated the laws of war, then they are properly triable before a military tribunal. You cannot try them for treason before it. That is pretty clear, I think.

I go on to the next resolution, which is also significant of the position which this party occupied in 1864:

"That we approve the determination of the Government of the United States not to compromise with rebels or to offer any terms of peace except such as may be based upon an unconditional surrender of their hostility and a return of their just allegiance to the Constitution and laws of the United States."

That is right. If we had any right to make war at all, our right was founded in the fact that these people were bound by the Constitution and laws. If we had any authority to strike with the sword at all, that was the source from which we derived it; and having struck for that purpose, this resolution declares that it is fit and proper that nothing less shall satisfy us. Have they returned to their allegiance? Are they submissive to the Constitution and the laws? Then they have accepted our terms. What is now proposed? Now, it is proposed to ratify the ordinances of secession next. First you ratify the Chicago platform of 1864 by declaring the war to be a failure and that the Union will not restore, and then you propose to ratify the secession ordinances, you propose to treat these States as though they were out of the Union and to make terms with them in order that they shall come back. Think of it! Make terms!

Mr. EDMUNDS. I should like to ask a question of my friend from Pennsylvania; whether, in his opinion, the political crime of treason does not justly involve the political punishment of a forfeiture of political rights on the part of the traitor?

Mr. COWAN. I can answer that very distinctly, and without a moment's hesitation. The political crime of treason, or any other crime in this country, incurs just such forfeiture as the laws impose upon it, and no more and no less; and I have no doubt that my learned friend from Vermont will see in an instant that that is vital and is essential to the very theory of our Constitution and laws. This is a Government of law, and not of arbitrary will on the part of anybody.

Mr. EDMUNDS. I would remind my friend that my question was whether, in his opinion, the political crime of treason did not justly involve the forfeiture of the political rights of the traitor as a theory of government. I was not discussing the question of indictments at law, but the general principles of government.

Mr. COWAN. Well, Mr. President, if the honorable Senator means that the Congress of the United States can impose as a forfeiture upon a community for rebellion the loss of their political rights, I deny it *in toto*; and I deny further that the Congress of the United States can impose for any offense any punishment whatever upon anybody. It is expressly provided in the Constitution that no bill of attainder shall be passed and no *ex post facto* law made; and what for? For the very purpose of preventing that. What did the Parliament of England do after a rebellion? It sat down and put the names of leading traitors into an act of Parliament, Parliament being the judge, being clothed with the judicial authority, and by an act of Parliament imposed the penalties of treason upon all those named in it. That was a bill of attainder. It was called a bill of attainder when the blood of the persons charged with crimes was corrupted, when they could not inherit, when nobody could inherit through them. If it imposed any less punishment it was called a bill of pains and penalties; and if this Congress were to pass a bill by which any State in this Union or the people of any State were deprived of any of their rights as a punishment, that would be, properly speaking, a bill of pains and penalties. The Supreme Court of the United States have decided that, as the greater includes the less, bills of attain-

der being forbidden, bills of pains and penalties are also forbidden.

The Constitution provides again that no *ex post facto* law, no law shall be passed which imposes a punishment upon an offense which was not the punishment due to the offense when it was committed. I know you do not like the law. The law has been the bugbear all the way. After a war of four or five years, to get back to the Constitution and the law is difficult. Of course none of you want the law; you do not appeal to the law; you appeal to the committee of fifteen; you appeal to a constitutional amendment; you appeal to some new regulation that is to be made. Why not appeal to the law? If a deprivation of political rights can be imposed upon a community, where is the law for it, where is it found? It is not found in our Constitution; it is not found in the history of the country; it is not found anywhere here; and this is a Government of written law.

Mr. EDMUNDS. May I ask my friend from Pennsylvania if it is not found in the general laws of nature, by which all communities are entitled to exclude from the functions of society persons who are dangerous to it?

Mr. COWAN. I am sorry that every man in the nation is not fully and thoroughly impregnated with the doctrine that there is no such thing as absolute power in this land. Communities have power in a state of nature; but communities have found that when they delegate that power belonging to them in a state of nature to parliaments, omnipotent parliaments, parliaments abuse power; they found when they delegated it to monarchs that monarchs abused the power; and our fathers when they established this Government limited its powers, and they said to their rulers, "You shall have no power except that which we delegate to you." Now, I agree that if this was the Parliament of Great Britain, omnipotent, not bound or fettered by any constitution of delegated powers, we might do that; we might impose upon a State the penalty of forfeiture of political rights for what we supposed was political treason. But that is not the case. It is not true. The law is different. This is a Government of law, written, express law; and he who attempts under it to exercise any authority or control whatever over his fellow-men, by way of punishment, must show that he has the law on his side.

But I was going on to state that the resolutions of the Baltimore platform forbade any offer of terms to the States in rebellion. I am opposed to-day to any offer of terms. When you offer terms to your antagonist you mean that he has a right to reject them. If you offer terms to the southern States, what do you mean? Do you mean that they may reject them? If you do not, it is a very strange proposition of terms. And suppose they do reject them, what then? You have either to satisfy yourselves with that which you have now, or you have to enforce your terms by another war. You make a war first to compel them to come to the terms of the Constitution and laws, and then you make war to compel them to other and new terms!

Mr. President, the common sense of the American people never will agree to reconcile itself with that doctrine; and to talk about "indemnity for the past and security for the future" is as utterly idle as the idle wind that blows about the very topmost dome of the Capitol. "Indemnity for the past and security for the future" is well enough in foreign wars and in disputes between foreign Governments; but who ever heard of a sovereign stipulating for terms with his rebellious subjects? The terms are that you must submit to the law; and when the rebellion is put down and you are in the grasp of the law, the law is satisfied. Offer terms to rebels! Terms to the rebel States! If you do that you ratify the ordinances of secession, and you admit that they are out and that they are treating with you on equal footing. We made the war to

compel these people to observe the Constitution and the law. Are you satisfied? If you want more you must put them on a footing to treat with you, or else you must compel them to more; and when you compel them to more, where is your right?

Mr. President, it is said here that an attempt has been made to reconcile with the President of the United States. Why, sir, I can say that this war upon the President is a war of that society of which I spoke; I can say that its inspiration comes not only from people in this country, but one half of it comes from England, where one half of the society is; and I can tell you, sir, that the programme of the war upon the President was published in a letter from England in one of the leading journals in this country written before this Congress met, in which it was laid down that the President must be attacked and that the President must be restrained even to the verge of war. I refer to a letter of Professor Newman to a friend in this country. The professor is well known. The person to whom the letter was written is unknown. If he is present, he can avow it. That letter was dated November 8, 1865, and it contains, not only the *animus* of this war upon the President, but it contains exactly and particularly the *animus* of the party who assail the President.

"My dear friend"—and I may remark at the outstart that its tone is almost as lugubrious and doleful as that of my friend from Massachusetts when he tells us of his praying men and women on their bended knees beseeching Heaven to protect them against the President, or against the doubts of the President—

"MY DEAR FRIEND: I confess that it makes me sorrowful to write to you. I have indeed put it off on that account."

He had evidently been written to before and had not answered as promptly as was proper.

"In your war I was never gloomy. I did not lose heart after Fredericksburg. But I am becoming gloomy now. Nor can I get comfort from other minds. All whom I meet that were your warm friends in the war are more or less sad, some direly so; but those who were your bitter enemies think President Johnson 'very judicious,' and seem highly contented."

That is a favorite argument with this set, and always has been; it is not a question what you say or what you believe, but what does somebody else say. I suppose that nothing could so far condemn a man in their eyes as that the Democratic party should approve of what he does. Why is that? I think a man should be thankful for having the approval of an opposition. I think it shows that his conduct is, as this writer says, "judicious," when even his political opponents approve it. Remember these men say they stood by Lincoln. Professor Newman goes on to say:

"You all had the fond hope—and in spite of Mr. Lincoln's weakness, so had I—that this was to be your only civil war. You fought it with magnificent, unsparing energy, in order to give peace forever to your children. But the ghastly vision now rises over me, and makes me sick, that you are doomed to follow in the bloody routine of the Old World. With us it is an axiom, that kings have to be deposed and a dynasty exiled before they cease to conspire against the constitution."

That may be an axiom, but it has not proved true in Europe. The King generally goes back there, or has done so far. They roll their heads sometimes off the scaffold, but they restore the son, or the heir in some way usually gets to the throne afterward.

"I now miserably forebode that you will have a civil war to decide whether President or Congress is to set the policy of the Union."

Here is the Englishman talking as good Massachusetts doctrine as if he had been bred and born there. You will have to have a civil war between the President and Congress in order to determine who shall set the policy of the nation? Did not this writer know that the policy was set in the convention at Baltimore? Did he not know that neither the President nor Congress set policies here except each in its own department? There was no policy about it. The question was to compel a parcel of recalcitrant people to return to their obedience to

the Constitution and the laws. That was the question; but he assumes that there was to be a war, and I will show you he advised it, too:

"All is in train for it, unless the next Congress sternly call the President to account. Nothing is clearer than that he has pretended to do things experimentally and provisionally, with the express aim of so entangling matters that the Congress should have no choice but to ratify all that he has done and have no real direction of the public policy."

The same doctrine that we hear continually, the same apprehensions, the same misapprehensions, of the motives of the President, and the same charge made against him of criminal motive!

"It is just what Aberdeen or Palmerston have systematically done with the English Parliament, but would hardly dare to do in so terrible a crisis as yours."

This, by the by, is exceedingly characteristic; this gentleman, as he goes along, cannot help taking a turn at his own Government. He seems to have a universal disposition to scold and find fault, and never be satisfied with anything; but that is characteristic of this class of people. They seem never to be satisfied and never to know what they want.

"The first error was in not prosecuting Buchanan in the summer of 1861. The next was in enduring Mr. Lincoln's Louisiana constitution, and his reply to Congress that he meant to violate the confiscation act if he saw it to be for the public good."

That ought not to have been endured! Mr. Lincoln should have been "sternly" restrained at that point!

"Out of President Lincoln's high-handed settlement of affairs without Congress is developed the present policy of President Johnson."

I suppose this is authority enough to show that the President is treading faithfully in the footsteps of his predecessor. It is so understood across the water, and that, I should think, would be conclusive of it.

"The conduct of Louis Napoleon"—

I beg my friend's attention to this, because, perhaps, he has read it, and it is at the bottom of his apprehensions—

"The conduct of Louis Napoleon in 1849, 1850, 1851, shows what a President, elected by the people and independent of the Parliament for four years, can do if he have large patronage."

There is the apprehension. There is that which makes the knees tremble and the hand unsteady; the fear that in this contest between the President on the one hand and Congress on the other, the President, with his patronage, may succeed. It is not very complimentary to the people, I confess; but still a good joke comes from the head of the table.

"He has unity of action"—

I hope he will have—

"promptitude, continuity. Congress has factions and long debates and long vacation; and when it comes to debate, finds itself too late. Your President's course (unless violently arrested) assures to you many years of instability and alarm, and therefore many years of high expenditure and high patronage, during all which time you will become accustomed to the Executive forestalling and superseding the legislative. Out of this it will be almost a miracle if so vast an Executive do not (like that of old Rome) involve you in another civil war, even if the negro question was to blow over in ten or twelve years' time."

That is the nitro-glycerine that is concealed in the cargo of the ship of state. Your pilot is treacherous; he contemplates running her upon the shoals; and he will do so and perhaps destroy her, even if this combustible material were not there ready to blow her to pieces in ten or twelve years' time!

I will not detain the Senate much longer with this. I only desire to give you this gentleman's advice to his friends here, and I beg the attention of Senators to it, because it seems that it was followed:

"As your President is not at all deficient in understanding, I do not like to tell you what I think of this sentence; but he might surely be asked by a negro to explain wherein is the virtue of such patience. Sidney Smith would say that A exercises sublime patience with B, while B is tormenting C."

That is a solecism that we have heard matched here very frequently. In order to have this understood I must give the "sentence" here alluded to. It is:

"If the southern States go wrong, the power is in

our hands; we can check them at any stage, to the end, and oblige them to correct their errors; we must be patient with them."

"Does the President seriously say that when the Federal troops are withdrawn, the State militia constituted, State rights restored, you have any power of 'obliging' the States to 'correct their errors' except by a new civil war? Mr. Seward (in same paper) tells us at Auburn, for our comfort, that there cannot be a new civil war. It is comforting to the white race, but it is the knell of despair to the colored race."

Do you want another war for the colored race? That seems to be this man's opinion.

"It secures that the 'South shall be victorious,' as Wendell Phillips puts it; and from despair alone will come a negro uprising and war of races. This would bring on you lasting disgrace, instead of that moral glory which you had all but earned; it might make your whole future as stained as that of bloody old Europe. This conversation of the President, following on his heartless speech to the colored soldiers (so unlike his Nashville speech, in October, 1864,) exhibits him as one who cannot come right except by external constraint; and Mr. Seward's speech is the warrant that the whole Cabinet is going wrong. (Have they corrupted him?) I see no possibility of Congress bringing him right by a mere defensive policy; it must assume the aggressive against him, to give it a chance of success. The mildest form of attack, I think, would be to invite him to explain his apparent neglect of the act of Congress which forbids any one who has been in overt rebellion to hold office or draw pay from the Federal Government."

How many resolutions have we had in obedience to that mandate? And was not the first resolution offered this session, addressed to the President, exactly that kind of one? Was it not in pursuance of this suggestion?

"Also, his allowing the reorganization of State militia should be solemnly denounced as initiating the means of a new rebellion."

Mr. SAULSBURY. Will my honorable friend allow me to ask him to whom that letter was addressed, if he can inform me?

Mr. COWAN. The person to whom it is addressed is unknown. It is written by Professor Newman, from London, November 8, 1865. I could read much more of the same import, and if I had time I should be glad to refresh the memory of my friend from Massachusetts by reading a few sentences from the Anti-Slavery Standard written by a gentleman who signs himself L. B., and who is unquestionably a man of ability and of great acuteness as a writer. He says:

"The moral sense of the country, organized into the Liberty party of 1844"—

That is the word I was struggling for some time ago—the Liberty party of 1844. That was the party—

"was weakened in the Free-soil movement of 1848, and still further diluted in the Republican party of 1854."

Getting smaller and smaller and more beautifully less.

"In 1860 the first irreparably fatal step was taken by the nomination of Mr. Lincoln at Chicago. The success of the Republican party, whoever its nominee, had already been insured. That success, a part of the prearranged programme of the secession conspirators, was predestined"—

It is hard to suppose that the Chicago convention of 1860 had any notice of that predestination, I think; and they were not to blame for taking Mr. Lincoln on that account—

"was in the air"—

Epidemic!

"was patent to the commonest political intelligence. The heart of the country beat for Frémont."

A good deal. It beat in 1864. It beat along for Chase and for a good many people besides Mr. Lincoln, we were told. [Laughter.]

"The heart of the country beat for Frémont, but Republican politicians declared him unavailable. Seward had openly apostatized upon his return from Europe, and his nomination had happily become impossible. The perfidious pretense of a necessity for 'compromise,' the usual readiness of honest Republicans to accede to 'conservative' demands, gave us Lincoln."

I wish they would concede a little now; we might perhaps succeed better.

"The people accepted him upon trust, and have not yet learned how grievously they were deceived. Succeding to the Government in 1861, the leaders of the Republican party took hold of power with the feeble grasp of men conscious of their unfitness to rule. They waited for events—they did not make or control events. From 1861 to 1864, in a period of revolution and civil war, in a crisis which should have called forth the loftiest qualities of administrative ability,

the Republican majority in Congress contented itself with merely tiding over temporary difficulties. Campaigns were planned and battles fought, not so much for the purpose of crushing the rebellion as to carry an election in New Hampshire or Pennsylvania. In all those eventful years the voice of a statesman was not heard in the Halls of Congress."

Think of the impudence of the fellow! [Laughter.]

Mr. NYE. He had not read your speeches.

Mr. COWAN. I believe the Senator from Nevada was not in the Chamber at the time alluded to.

"Not until Sumner, breaking the bonds of silence imposed upon him by party discipline and the timid policy of his associates, first took up the cause of the people against the Administration on the question of the final recognition of Louisiana, and defeated for the time the purposes of Mr. Lincoln, was there any action taken by the representatives of the Republican party commensurate to the occasions before them."

I believe that is the same learned Theban who has been doing mischief recently.

"All through the war they had allowed the policy of Mr. Lincoln to prevail, without one word of indignant public protest, with scarcely one instance of the exercise of their prerogatives as the sovereign law-making power of the nation, to arrest the downward course of public affairs."

And so on; it is full of animadversions of that kind.

Now, Mr. President, to get at the secret, what is at the bottom of all this? What is wanted? What will satisfy this Liberty party of 1844, which has been so unfortunate and so much abused and so much thwarted from that day down to the present? What does it want to-day? If negro suffrage will satisfy it, say so. If in addition to negro suffrage there must be negro eligibility to office, say so, put it down, make it into a platform. If, in addition to all that, in order to give effect to these rights conferred upon the negro, there must be social equality, put it down and let us know it, let us draw the lines, and it will not take very long to determine with the people which wing of the party is the one they will favor, notwithstanding the immense amount of machinery that is now brought to bear under the name of the representatives of the party.

Again, what is the condition of these States? Are they in or are they out? Put it down. Are their people subject to us, subject to the will of the conqueror, subject to the political forfeitures of which the honorable Senator from Vermont spoke? If that is a plank in your platform, put it down. If the Union is dissolved, if it cannot exist any longer, put it down; let the lines be drawn; but I say, until your programme is announced, until your platform is made, until you have stated your ultimates, do not assail the President for leaving his party, do not assail anybody else for leaving it, after having urged all the measures for having voted against which I have been taken to task, because every one of them is in direct violation of both the Chicago and the Baltimore platforms. I may say that the principal item of our Chicago platform which has any relation to the politics of to-day is that the perpetuity of the Union depended on the maintenance of the rights of the States, accompanied, as I said before, with a denunciation of old John Brown and his raid upon Virginia. Who assails the rights of the States to-day? Is it the President? Who attempts to hold them within the grasp of a bill of attainder or a bill of pains and penalties by this Congress? Is it the President? Not at all. Sir, the men who stand by the President are those who stand by the principles announced in those platforms, and who have stood upon them; and it is the men who go away after false lights, who wander in dangerous places, who cook up Freedmen's Bureau and civil rights bills, and who get up all these things, to say the very least, of doubtful constitutionality, that depart from the platforms.

Mr. President, I was taken to task here to-day very strongly for voting against the repeal of the fugitive slave law. I must confess I did not expect that from my friend. That was "the unkindest cut of all." If I was in the

habit of talking Latin I would have said *et tu Brute*; or have pronounced the last word as a monosyllable. [Laughter.] If I remember aright there was a caucus of the Republican party, and that caucus decided to repeal the obnoxious fugitive slave law of 1850. As a member of that caucus I adhered to its determination, as I believe I did in all cases where I did not give notice that I would not. It came into the Senate and it was characterized by a most spicy and vigorous debate, in which our present Presiding Officer, not the Senator now in the chair, [Mr. ANTHONY,] but the President *pro tempore* of the Senate, [Mr. FOSTER,] took the side of the caucus, and the honorable Senator from Massachusetts who sits on the outer ring [Mr. SUMNER] took the other side. The law of 1850 was repealed, but, without any cause and without any consultation with the members of the party, over-zealous gentlemen insisted upon repealing the old fugitive slave law which had the signature of Washington upon it, which had been made by the very founders of the Government, and which had been hallowed by fifty-seven years of undisputed and indisputable operation in this country.

Mr. SUMNER. The fugitive slave law "hallowed!"

Mr. COWAN. The fugitive slave law was hallowed by fifty-seven years of undisputed sway in this country.

Mr. SUMNER. That is a confusion of terms.

Mr. COWAN. There is no confusion of terms when you stand upon the bargain; but it was a confusion of terms for the honorable Senator to take the oath at the desk to support the Constitution of the United States, and then declare, as I understood that he did, that he was not to be bound by the fugitive slave clause. A gentleman making a bargain ought to stand upon it; and if he does not stand upon it, if he does not intend to stand upon it, he ought not to make it. That was the law. It was a law that had not been complained of; nobody had complained of it. It was due to the border States, who were standing by us in the contest, to retain it. I voted against the repeal of that law; and the whip of the majority, cracked sharply as it can be cracked upon that subject, had no terrors for me. I voted against the repeal of that law, and would vote against the repeal of it to-morrow, because the repeal was utterly and totally useless and unnecessary. It was done, perhaps, by way of saying to the South, "Now we've got you; see what we can do!" I would rather they had been here when we did it.

Now, Mr. President, I presume that will settle this account so far. The honorable Senator from Massachusetts [Mr. WILSON] has referred to my own State; he has referred to the action of a Republican convention there; he has referred to the action of the Legislature of that State. I suppose that he is correctly informed of the action of those bodies; but I have not been. I have not been officially informed of any such transactions as those to which he alludes. If the Legislature passed any resolution reflecting on me, they never gave me a copy of it. If the convention did so, they did not give me a copy of it. I feel, however, that at some time or other I may be obliged to say something in reply to those resolutions, taking them merely from rumor. I believe they made a request with which I have not complied, and I suppose that there are very few members of the body who would comply with a request of that kind, drawn up very politely, that they should leave their seats and give them up to some other man who had a majority of the Legislature all ready to elect him. No doubt it would have been very comfortable to those who get up the request; but I did not look at it in that light. I did not feel that my duty to my constituents obliged me to be so deferential to a packed Legislature as to yield to a request of that kind, and I trust to appeal from Philip drunk to Philip sober on that question.

Mr. DOOLITTLE. Mr. President, the Sen-

ator from Massachusetts [Mr. WILSON] has been pleased to allude to resolutions adopted by the Legislature of Wisconsin in relation to myself. It is not my purpose to speak upon that subject to-day; but those resolutions are of such a character that I shall ask the indulgence of the Senate on some proper occasion to speak on them and give my views at length. I shall not, therefore, dwell upon that subject now. There is, however, one point which I wish to mention before I take my seat—a point not stated by the honorable Senator from Pennsylvania.

In the convention of 1864, upon the platform of which Mr. Lincoln and Mr. Johnson were elected, the Union party assembled at Baltimore declared solemnly in the face of the world the terms on which the rebels should submit, and declared for an amendment to the Constitution of the United States which they would press; and because they stated the terms and stated the amendment to the Constitution upon which they would insist, and stated no other terms and no other amendment, the man or the party that stands up now to insist upon additional terms or additional amendments is going beyond the platform of the Union party which elected Mr. Johnson and Mr. Lincoln.

Mr. President, I do not stand here to charge other men that they are false to the Union party or the creed of that great party which gave us power; but I stand here to resist that charge when it is brought against me, or brought against the Administration or the President. When it is averred by gentlemen on this floor that he proves false to his party, false to its creed, false to its fundamental ideas, I hurl back the charge and say to those gentlemen, it is you who abandon the creed of the party and not the President. The first resolution of the Baltimore convention states that "it is the highest duty of every American citizen to maintain against all their enemies the integrity of the Union and the permanent authority of the Constitution and laws of the United States; and that laying aside all differences and political opinions, we pledge ourselves" to the prosecution of the war upon this basis alone. The Constitution, the integrity of the Union, the supremacy of both, was our platform, and we asked all men to vote for our candidates and fight our battles to victory upon that basis. What terms did we say were to be given to the rebels? What does our platform say about the terms? In 1864, in the midst of this gigantic war, and when we were pressing the rebels to the point of surrender, what did we say? What were the terms? That is the question.

"Resolved, That we approve the determination of the Government of the United States not to compromise with rebels, or to offer any terms of peace except such as may be based upon an unconditional surrender of their hostility and a return to their just allegiance to the Constitution and laws of the United States, and that we call upon the Government to maintain this position, and to prosecute the war with the utmost possible vigor to the complete suppression of the rebellion, in full reliance upon the self-sacrifice, patriotism, heroic valor, and undying devotion of the American people to their country and its free institutions."

We declared what the terms should be to the rebels—no compromise, but surrender to the Constitution and the laws; and we determined to prosecute the rebellion to the end on that basis, and upon that alone. We went further, and declared in reference to an amendment to the Constitution what we would demand and all that we demanded; and what was it?

"Resolved, That as slavery was the cause and now constitutes the strength of this rebellion, and as it must be always and everywhere hostile to the principles of republican government, justice and the national safety demand its utter and complete extirpation from the soil of the Republic; and that while we uphold and maintain the acts and proclamations by which the Government in its own defense has aimed a death-blow at the gigantic evil, we are in favor, furthermore, of such amendment to the Constitution to be made by the people in conformity with its provisions, as shall terminate and forever prohibit the existence of slavery within the limits of the jurisdiction of the United States."

That is the amendment we demanded; we did not demand any other. In the platform of 1864 did we demand suffrage, unqualified and universal, to the negroes of the South as a con-

dition of the surrender of the rebellion? Not at all. I say that the man or the party who stands up to say that that is a part of the creed of the great Union party which put Mr. Johnson in power speaks falsely. It is not true. I hurl back the charge. It is he who undertakes to insert this new programme that is false, to the party, false to the creed upon which it won its victory. Whether it was urged from England, in the letter of Newman, whether it was urged by Wendell Phillips, of Massachusetts, whoever has urged this new idea, it has been war upon the creed of the Republican Union party of 1864, upon which Mr. Johnson was elected; and therefore those who undertake to charge him with betraying the cause or the creed of the party because he refused to assume that great power in his hands to enforce negro suffrage upon the people of the South against the will of the States, and who assert that he is false to the great idea of the party, or false to human freedom, make a charge that is utterly without foundation. The charge rests on those who make it.

What has Mr. Johnson said about the question of suffrage in the southern States? He has said always just what Mr. Lincoln said: It is a question which belongs to the States; it belongs to the States of the South, and it belongs to the States of the North. They are to judge for themselves. If they choose to extend suffrage to the negroes, it is well; if they refuse it, the responsibility is on them alone; the Federal Government has not the constitutional power to assume to enforce it. Sir, this whole war upon the Administration, as well as the war upon myself as a humble supporter of the policy of Mr. Lincoln, which was inherited by Mr. Johnson on this very question, has grown out of the fact, and that alone, that so far as I am concerned, in the State of Wisconsin, in the convention of the Union party which laid down its principles last fall, I as a member of that convention and as chairman of the committee on resolutions refused to adopt what certain men, in my judgment carried away by their fanaticism, if not almost insane on this subject, insisted that we should adopt, a resolution declaring in favor of universal negro suffrage at the South as a condition precedent to the southern States being recognized and their representatives admitted into the Congress of the Union.

Sir, the Senator from Massachusetts wonders why it is that God, in His inscrutable providence, has suffered this great affliction to come upon us, that Mr. Johnson should stand upon the same ground which was occupied by Mr. Lincoln, refusing to exercise the power which the Constitution gives to no department of the Government, to impose upon the States of the South the conditions of suffrage. Why, he asks, has God, in His providence, suffered this great affliction to come upon us? Mr. President, I do not deem it an affliction. That there is a President occupying the presidential chair this day who believes and maintains the rights which the Constitution reserves and defends in the several States, that he is willing to defend the rights of the States, is in my judgment one of the greatest blessings that God, in His providence, ever vouchsafed to this country.

Sir, this country has been in great peril, peril of dissolution, a peril out of which we have escaped at last; but a peril equally as great is impending over it. What is that peril? Not a separation of the territory which constitutes the Union, but the wiping out of the States, the destruction of the rights of the States, the trampling under foot of that which is absolutely essential to the liberty of the citizen. I tell the Senator from Massachusetts that there is, and there can be, no liberty for the individual citizen unless you defend the rights of the States. In defending the rights of the States you defend the liberty of the citizen, for there alone can it be defended. This Government cannot defend the rights of the individual citizen; it covers a whole country; it is impossible in the nature of things that it can defend the individual citizen all over the

country. He must be defended by domestic legislation, the municipal tribunals, the local laws, the independence and action of the judiciary and the officers of his own State.

Sir, as I read the providences of Almighty God that are transpiring before us in this great crisis, I look upward toward heaven and thank the Almighty Ruler of the universe that He does permit now to occupy the presidential chair a man who from his convictions and by all his education is determined to protect, preserve, and defend the rights which belong to the States under the Constitution. That is the way I read the teachings of Providence in this great crisis.

Mr. President, I had occasion to remark—and for it I have personally been criticised very much by some of the public press and other persons in my own State—that the people of the northern States to a very great extent were being imposed upon by false reports that are coming up from writers, correspondents of newspapers and others from the South; men some of whom are engaged in the business of plunder, who desire this state of anarchy to continue, who fear that if the Government is perfectly restored their occupation, like Othello's, will be gone; men who are plundering in cotton and the other products of the South. I made this statement and I believe it to be true, and the remark which I made in reading an extract from what was stated by a gentleman of the State of Alabama, who in his letter to me said that the state of opinion and feeling at the South was being caricatured at the North, drew from Colonel Tarbell of the State of New York, of the New York volunteers, a letter from which I will read a few extracts. I never read letters without mentioning the name, for the reading of anonymous communications is a practice that I never indulge in. I refer to it as evidence of the fact which I stated. I say this statement which I made on a former occasion called from him this letter:

"DEAR SIR: Allow me to say that I have been in the States of Georgia, Alabama, and Mississippi since December last; that I was a Whig and am a Republican, and hence looked closely at southern society. I have no hesitation in denouncing the reports in northern newspapers of outrages upon the blacks and upon northern settlers as utter fabrications or malicious exaggerations. I traveled by rail, by water, on horseback, on foot, in company and alone, by day and by night, totally unarmed except a pocket knife, purposely, openly and frankly declaring to every one I was a Yankee and Black Republican. I met others who had traveled on horseback from Florida to Mississippi, who, like me, were Republicans, and I do assure you I would sooner travel throughout the South than the North, so far as personal safety is concerned.

"To go from here to the South is like passing out of the work of the week into the Sabbath; all is quiet, all are trying to work for a living, for all are on a level and compelled to work with their own hands. Yankeeland does not present a more active, industrious scene than the whole South, nor could Yankees display more energy, ingenuity, recuperative power in starting on nothing.

"To say that the South is 'caricatured' in the North does not express it; she is slandered, vilified, wickedly, infamously belied. Were the South to come North she would not recognize herself; if she did she would disown herself. Were the North to go South she would be astounded at the misrepresentations and falsehoods and with the cruelly unjust and erroneous sentiments prevailing here. The North is all wrong, not in its consistent anti-slavery sentiments, but in its impressions of southern character. The negroes are neither hated nor ill-treated, northern settlers are not molested; the South accepts the situation in good faith."

I will not read all this letter, but one or two more extracts. The writer says further:

"There are just grounds of complaint against the Freedmen's Bureau officers. Most of them are interested in plantations, and so many are corrupt and incompetent that the service, the Government, and the North are scandalized by their conduct."

"Let me go further, and assure you that the South cannot be forced into another outbreak. The southern people are loyal."

"You will also perhaps remember the report of the seizure of a boat laden with cotton on the Tombigbee river, which was charged to the account of guerrillas. Having been in the vicinity, I am enabled to state authoritatively that politics had nothing to do with the affair. The fact was that the party was a combination of northern and southern men to steal on a grand scale. It was simply the culmination of a grand system of cotton stealing in which Union officials had participated."

"I have personally known of cases of vagabonds from the North arrested by State laws for actual crimes, yet appealed to and received military protection on the false plea of persecution because of northern sentiments! Because a landlord would not allow a black man to eat at his table with his white guests, his hotel was closed by an officer."

"But not to be too lengthy, I assure you, sir, that this terrific public opinion that is driving the North to the support of the startling and dangerous centralization of power in Congress is based upon falsehood and misrepresentation."

"As I expect to be judged by my Maker at the great day of final judgment, I state to you solemnly that from extensive travels in these States, from conversations with all classes and colors, and after listening to hundreds, I believe before high Heaven that all these newspaper reports of hatred to and outrages upon blacks by whites and of the molestations of northern settlers are baseless, wicked fabrications, concocted and reported expressly to create this fearful public opinion which should sustain the change of the fundamental principles of the Constitution, devised by our forefathers with a wisdom and foresight they themselves scarcely comprehend."

Mr. President, the reports of General Grant, the reports of General Sherman, the reports of General Steedman, the reports of those men who have been sent as agents, traveling throughout the South in all its length and breadth, speak in very much the same character of the mass of the people of the South. There are exceptions, it is true. There is anarchy in some places. Bad men, wicked men, drunken men may engage here and there in riots and in oppression, but the great mass of the people of the South this day accept the terms which we laid down in the platform of 1864; that is, "unconditional surrender to the Constitution and laws of the United States." They have gone further, they have adopted the amendment to the Constitution of the United States forever abolishing slavery, and putting it out of the power of any State to establish slavery forever. They have done all that we demanded in the platform of 1864. More than that, sir, under the advice of Mr. Johnson, as President, while they were reorganizing their governments, they went further; they repudiated the rebel debt by their constitutions. They accepted the situation, accepted it in good faith.

I undertake to say, therefore, Mr. President, that all this war which has been waged upon Mr. Johnson and his policy since the present Congress began its session has been a war without cause. He has stood upon the policy of his predecessor on the points to which I have referred. He has stood upon the platform of 1864. I carry the war into Africa, and I say you are the men that are betraying your party and your creed in making these charges against Mr. Johnson and his policy.

Mr. SUMNER. I wish the Senator would carry Africa to the war.

Mr. DOOLITTLE. I do not precisely understand the force of that great witticism of my friend from Massachusetts, but I presume it is all right.

Mr. SUMNER. The Senator says he wishes to carry the war into Africa. I merely wish that he would carry Africa into the war.

Mr. DOOLITTLE. Mr. President, I have said nothing in relation to the resolutions of Wisconsin to-day. As I have stated, on some occasion I purpose to take up those resolutions to discuss them so far as they have bearings upon me personally; and when the question goes home to the people of Wisconsin, I shall look with confidence to their decision. I know that the convention of the Union party of Wisconsin last fall unanimously resolved in favor of the resolutions submitted by me in that convention, one of which was that the doctrine that these States are out of the Union is absolutely false and unfounded, and that there is not a sane man to be found North or South who will advocate that doctrine. That was one of the resolutions of the Union party of Wisconsin. They are sustained, and sustained even by the action of the reconstruction committee, for they abandon this idea that they are States out of the Union, recognize them as States in the Union to which they propose to submit some constitutional amendments for their ratification, recognizing them as States, organized as States, with the power of States to give or to

withhold their consent from constitutional amendments.

Mr. CONNESS. Mr. President—

Mr. DOOLITTLE. No; I do not propose to be interrupted now, as I am nearly through, and the Senator can then take his time.

Mr. CONNESS. The Senator does not understand me. I do not wish to interrupt him; I was about to ask him whether he desired to finish to-night, and if not, I would move to proceed to the consideration of executive business.

Mr. DOOLITTLE. It is too late to consider executive business to-day, and I am willing to come at once to the close of my speech if we can come to a vote. If the Senate is ready to vote I will sit down now. ["No, no."]

Mr. CONNESS. My purpose was not to interrupt the Senator at all.

Mr. DOOLITTLE. Mr. President, my friends will find, when they come to deal with me on this question, that I am neither to be driven from the doctrines of the Union party because they attack me and charge me with treason, nor am I to be driven from the doctrines and the platforms of that party because the Democracy now resolve in favor of the same doctrines and the same platform. I am neither frightened by the one nor by the other.

I have stood in the midst of rising and dissolving parties. I have been at their birth and at their funeral; and these charges which are made here upon me of desertion of party are as the idle wind when I stand by the principles of the Constitution and those great principles to which during my life I have been devoted; and what I say of myself I can say with a great deal more force of him who is the subject of continual denunciation in both Houses of Congress. I refer to the President of the United States; a man who acts from conviction, in my judgment; with whom his belief that a thing is right or a thing is wrong, that a thing is constitutional or a thing is unconstitutional, is like a religion. He will stand upon his belief, though you may take him to the scaffold or the cross. That is the kind of material that he is made of, and I thank God for it.

Mr. President, the pending amendment is based upon the idea of an attack upon the President of the United States. It means that; it means nothing else. It grows out of a fear that the present Executive will exercise the same power which every Executive has exercised from the beginning of the Government. It is not founded on principle. It is founded on a fear that is unfit, in my judgment, to control the minds of statesmen in a great crisis. It is based upon the idea of attacking the President, attacking his administration, of throwing around this Executive some kind of cords or leashes that have never been thrown around any others. That is the way it originates. It is unjust toward the President. It is not warranted by anything that he has done, and it is what we ought not to enter upon or suffer ourselves to be drawn into.

Mr. NYE. The question before the Senate, if my memory serves me, is on an amendment to a bill making appropriations for the Post Office Department. I think that a stranger, who had not been present at the time the amendment was introduced and discussed, would be at a loss to determine what the question under consideration was for the last two days. As was suggested by my friend from Oregon, [Mr. NESMITH,] most of the gentlemen engaged in the debate have got so far from the post office that it will trouble them to get their mails. [Laughter.]

As to the amendment proposed by the Senator from Illinois, [Mr. TRUMBULL,] I have no particular anxiety, and certainly no fears. It is a question that I am ready to vote upon. I am in favor of the amendment, because I have always believed since I have been able to reflect upon the question that the power of absolute removal and appointment should be limited. I have no particular fears, and I mention this to quiet the nerves of my apparently

agitated friend from Wisconsin, that the present President would abuse this function. I do not believe that the simple removal or appointment of an officer gives much additional strength to him, but I know from sad experience that it brings a horde of additional weaknesses.

I would not occupy a moment in this debate after it has been so long protracted were it not for the fact that I have been an ardent and earnest supporter of the Union party of this nation. I was born into the party that begot it, as early as the distinguished champion of all the Presidents, the Senator from Wisconsin. I entered this list in 1848, and the Senator from Wisconsin was with me in that early struggle.

Mr. DOOLITTLE. If the honorable Senator will allow me, I will state that I drew up in the convention at Syracuse, New York, and introduced the "corner-stone" on which the Free-soil organization of 1848 was founded.

Mr. NYE. It is quite likely that the Senator drew it, as he is the author of most good things, in his own judgment. Whoever drew it, or whoever introduced it, I believed it then and have ever since. As the Senator has drawn me into this point, he will pardon me for saying that there was a period when he slipped a little off the "corner-stone," in the State of Wisconsin, and was elected by the Democratic party a judge in that State.

Mr. DOOLITTLE. I desire to say to the gentleman that the Democratic party in the State of Wisconsin had adopted that corner-stone resolution as a part of its creed.

Mr. NYE. Quite likely, and it has not adhered to it much longer than the gentleman did. When I read that, knowing he was the author of the corner-stone, I asked myself the question that was asked Peter when the Saviour came from the garden and found him off guard, whether he could not watch with me one hour.

Mr. DOOLITTLE. I have watched almost twenty years for this, and fought for the victory, too.

Mr. NYE. I understand perfectly well the history and origin of the Union party, and its faithful servants. I say I should not have been drawn into this discussion now were it not for the sensitiveness that I feel in regard to the honor of that party. Sir, since the formation of parties in this country there has been no party, and there never will be another, that has crowned itself with as unfading glory as the Union party of this nation. I admire all of its adherents, and the Senate will bear me witness that in the heat of all this debate I have not uttered one word prejudicial to the integrity, honor, or loyalty of the distinguished gentleman of whom my friend from Wisconsin appears to be the special guardian. I am going to watch, and while I watch I shall not forget to pray that he never may be guilty of that unpardonable error, that one unpardonable sin of bringing a wound or a stain upon the character of that party that has elevated him to the proudest position on earth. I am going to watch, not without anxiety, to see who brings the first wound upon this party that has saved the nation, and has given to the world a lively demonstration of the word that my distinguished friend from Pennsylvania said he had been looking for, liberty.

Having forgotten the principle he had forgotten also the name, [laughter,] and I was glad that he read an anti-slavery paper to find the word that he had been so long looking for, liberty. To him it was lost. I advise him to consult more the anti-slavery papers to refresh his memory upon the principles on which he was sent to this Senate.

Mr. President, it seems to be the especial charge of the Senator from Wisconsin to defend the President. One year ago last February I came into this august body, and the first speech I listened to was a speech from my distinguished friend defending Mr. Lincoln; the last one I have listened to is defending Mr. Johnson; and if the angel of death should spread his wings over the White House to-night and another

President were to come in to-morrow, I suppose the first speech we should hear after that sad event would be one in defense of the incoming or the in-come President.

Mr. DOOLITTLE. Certainly, if he was right and was attacked.

Mr. NYE. I do not need any indorser.

Mr. DOOLITTLE. And I should defend the Senator from Nevada if he were unjustly attacked.

Mr. NYE. Thank you for that. Sir, there is something the matter, or my friends from Pennsylvania and from Wisconsin would not be so nervous. There is some parting of old ties; there is something in the breeze that they snuff; there is something in the signs of the times that agitates them, for my oracular friend from Pennsylvania is never moved by usual breezes. As his colleague said, he was elevated above the breezes of the earth and shook the flag of some department here so high that the winds did not affect it. [Laughter.] Then, sir, it becomes us to inquire what is the matter. I have heard it rumored that the President was not acting in consonance with Congress. I presume that same rumor has reached the ears of his two distinguished champions here, or they would not be so ready in his defense. If that be true, what is the reason? What has Congress done? Over and over again I have heard it reiterated—and my distinguished colleague chimed in beautifully the other day with that—that Congress had done nothing. Then the sin of Congress is the sin of omission, not of commission.

Now, I wish to ask my distinguished friend from Wisconsin a question. Did he expect, when this country was turned upside down, when it was upheaved in every part, that it would be quieted and settled by the word either of Congress or the President? When it has been tossed on the stormy billows of a tempestuous sea for four years, and when the storm that woke those billows had been gathering for thirty years or more, did my distinguished friend, who boasts so much of his faith, ever believe he could step forth upon those troubled waters and with a word speak peace and quiet to an upheaved continent? If his faith leads him up to that point, mine never has so led me. I have expected that long months and perhaps long years would be necessary to heal and cicatrize the wounds that this wicked rebellion imposed upon us; and whoever has dreamed that "my policy" or yours was to calm the troubled waters in a day has dreamed of a thing as impossible as for the Senator from Wisconsin to speak a word into existence.

Peace, said the distinguished Senator, is what the country wants and demands. Sir, peace, with all her beauties, was what we had when this wicked storm was evoked by spirits as devilish as they who heated the furnace seven times hot through which Meshach, Shadrach, and Abed-nego passed. They lighted the lurid torch of war. Were the Republicans to blame for that? My distinguished friend says, and no doubt truly, that he had the honor of making the first speech for the congressional amendment, though I have searched the Globe carefully and cannot find it; the index does not give it; but I ask him, had he any part in evoking this war? No. Had the Republican or Union party any part in it? No. They walked steadily forward in the pathway of constitutional right and elected a President in accordance with the provisions of the Constitution. I had labored with my friend from 1848 to produce that result, and often have I heard his eloquent notes—and when I say they were out in their full force anybody who was not within hearing it was not worth while to summon, for he was not within the jurisdiction of the court [laughter]—loud, sonorous, long, showing the wicked iniquity of the slaveholders, predicting with prophetic certainty precisely what would occur, that in the end if they would not listen to the charmer it would result in bloody war.

Sir, that war has come, by no aid, by no part

taken by the Union party of this country. Who did do it? The rebels. My friend undertakes to show from the Baltimore platform that when they had complied with a certain condition which he read, the war should be over. Sir, a platform is a kind of constitution for a party; it never goes into special enactments. I do not suppose that the Baltimore platform any more than the Chicago platform—if it is proper to use that expression now—attempted to settle the details and point out the manner in which this controversy should be settled.

And right here, sir, let me say, that my friend, in order to a successful defense of the present Executive, deems it important over and over again in this body to show that he is treading in the footsteps of his illustrious predecessor. Once for all I wish to say that Mr. Lincoln had no policy upon the reconstruction of these States based upon the condition of things when we mourned his untimely taking off. He had tried the Louisiana policy of one tenth of loyal men, and the result demonstrated that the policy of allowing one out of ten to govern a State was a fallacy. He was honest at the time in attempting to gather in from this wild waste of States some one that was loyal and would come back. The effort was laudable and commendable, but it failed. Beyond that, I assert, from the nature of things, that Mr. Lincoln had no policy. The shouts of rejoicing had not yet died away; this nation was literally intoxicated with joy over the surrender of the wicked foe; and while we were in the midst of this rejoicing, even his self-poisoned mind was incapable of framing and had not time to frame a policy upon the condition of things at the period of that surrender.

Sir, if I had any fault to find with the President, whom the Senator has so ably defended, it would be this: that having started out to establish what he called in his message an experiment, it has now become a settled policy, and whoever differs from that policy is alien from him and from the Union party. I have never come to the conclusion that all of the head or heart of the Union party was in one man. I have never had an aspiration to imagine how I would feel if I were President; but it seems to me that if I were, I should come here to this Chamber and to the other end of the Capitol, or send for them to come to me, the selected representatives of a great party, and see what it was best to do under the circumstances. I can pick twenty men in this circle who are not inferior in intelligence or less earnest or honest in their convictions than the President of the United States. I can point out twenty men in this circle who have kept their fingers upon every position of the Union party from the time it was born until it was victorious—men that have watched it and its interests while the present Chief Magistrate of this nation was denouncing its organization. I make no war with him on that subject. I thank God that if he is born again, it was not to oppose but to share in its glories; but above all men on this earth, he should be the last to tarnish its luster or weaken its power. I do not say that he is going to do it, but there are a few suspicious circumstances.

My friend from Delaware, [Mr. SAULSBURY]—and I know he will pardon me for alluding to him—but a few months ago was hurling all manner of anathemas at Mr. Lincoln, and in doing so he honestly conceived that he was right. What has put a new song in his mouth when your President and mine is pursuing exactly Lincoln's policy? The moment that I make rebels feel good with any political action of mine—and I have no reference to my friend from Delaware—I shall think that I have done something wrong.

Sir, the day has not arrived when the chief executive officer of this nation constitutes the nation. I read in my younger days, with some satisfaction, that the Congress of the United States was the breathing, vital, living power of this nation, that spoke laws into existence and blotted them out; that it was a selection as well chosen in other States as in Wisconsin,

where their ablest men were selected to come here—for what? To do as the President tells you, so help you God? No, sir; I never took any such oath, and do not intend to do so; but to come here and frame such laws as the interests of the hour demand.

Now, suppose this question before it had been agitated here at all had been put to the plain, simple people who sent us here, and the question had been asked of them, where is the power that is to rebuild these waste places and heal these breaches that have been made? In their simplicity they would have answered, "The power lies in the law-making authority, in the Congress of the United States." They have no more respect for a President's policy than they have for the Senator from Wisconsin's policy—both ardent, both devoted, both faithful. The Senator has declared his policy. His people reject it. All I ever want, in order to find out what the judgment of the people is upon any question, is to get a dozen men together in a neighborhood and talk to them, and they will tell you what the judgment of the whole community is. There were more than a hundred men congregated in the Legislature of Wisconsin, and their deliberate judgment is, by a resolution that they passed, that the Senator does not represent the wishes of the people of that State. If that be true of the Senator from Wisconsin, it is certainly true as to regards the policy of the President of the United States, for their policy is identical. Be it true or false, I think there is a propriety in consulting this body in regard to this great question.

Sir, there is scarcely a man within this circle but wears the outward badge of mourning for victims immolated upon the altar of this accursed rebellion; and the signs of outward woe are but a faint representation of the more indescribable and heartfelt sorrow within. It seems to me that the signs of the times and the exigencies demand that no man should rear a policy not subject to amendment, not subject to consultation with others, and make it like the bed of Procrustes, of a certain length and certain width, upon which all must lie, or fall under the ban of executive power. I do not know how others may feel, but I should not dare to go back to my mountain people and tell them I had been mute here when I saw such an attempt made.

Sir, neither the Senator from Wisconsin, nor the Senator from Pennsylvania, nor any man with brains, has a right to complain of the tardiness of Congress. Rebellion in its worst and most aggravated form has shaken the very pillars of our institutions to their base. I tell the Senator from Wisconsin now, and he will find it to be the truth, that the frosts of ten more winters will gather upon his brow ere this chasm is healed and perfected and closed. "Take back the States." Certainly we will. When? Just as soon as it is safe to take them back. Does the Senator from Wisconsin, the advocate of the policy of the lamented Lincoln, mean to tell us that his policy was to take back unwashed, red-handed rebels into the power of this Government? He shakes his head. He dare not say it.

Mr. DOOLITTLE. I will say to the honorable Senator that neither Mr. Lincoln nor Mr. Johnson—

Mr. NYE. Do not be too fast. I would have excused you if you said no. I will come right along to Mr. Johnson in a moment.

Mr. DOOLITTLE. I desire to say in relation to that point, if the Senator does not wish to misrepresent me, as the charge has been made again and again that I am for the admission of rebels, that it is not so. All I claim is that the loyal representatives from these States shall be admitted.

Mr. NYE. Sir, who are rebels?

Mr. DOOLITTLE. I say the men who come here who are loyal, who can take the oath prescribed by law, should be admitted.

Mr. NYE. Will the Senator from Wisconsin answer me one question: who are rebels?

Mr. DOOLITTLE. If the Senator desires an answer I will give it.

Mr. NYE. Yes, sir, I do.

Mr. DOOLITTLE. Rebels, as a matter of course, are those who have adhered to this rebellion against the Government of the United States.

Mr. NYE. I thank the Senator for his definition. Then they are all rebels. That is just what I was going to assert, and it will have a double force indorsed as it now is. They being rebels, give me the evidence of their repentance. What is that evidence? Not a paper comes from the South, and not one of these pilgrims here who are seeking to get the evidence in their pockets to enable them to enroll their names upon the muster-roll of American infamy, but is as loud-mouthed as the Senator from Wisconsin in denouncing the action of Congress. They do not return as the prodigal son returned, and say to this nation, "I have sinned against thee and in thy sight, and am no more worthy to be called thy son; let me be as one of thy servants." They come up here in the same spirit that they left. They demand that the doors of the Senate of the United States shall be thrown open to them, and the seats newly cushioned, as a reward for their infamy, their treachery, and their indescribable cruelty.

Sir, I am not to be driven from the honest discharge of my duty here by an appeal to any man's policy. My people commissioned me to come here to guard against a repetition of this wicked rebellion, and though the moon may twelve times fill her horn before it can be done, yet faithfully will I sit here and guard the very portals of the temple against the admission of men who only await another opportunity, by adopting another set of tactics, to hurl this temple of liberty and freedom down. Sir, it is little more than a year since Lee's army surrendered. If I had been going to adopt a policy, I would have hung some rebels first before I granted one pardon. Would not you? [To Mr. DOOLITTLE.] Upon that point, and to show exactly what the now President of the United States thought of the Baltimore platform and its duties, I desire to read an extract from the speech that he made at Nashville accepting that nomination. After the eulogy that the distinguished Senator passed upon the talent and honesty of the President, I trust he will not undertake to say now that the President did not understand that platform as well as he does. He said:

"And let me say that now is the time to secure these fundamental principles while the land is rent with anarchy and upheaves with the throes of a mighty revolution. While society is in this disordered state and we are seeking security, let us fix the foundation of the Government on principles of eternal justice which will endure for all time."

I join the distinguished President in that sentiment; and that is the labor of this Congress, to fix these principles upon a basis of eternal justice that shall abide for all time. Does the distinguished Senator from Wisconsin mean to assert here that the principles of eternal justice would be subverted by permitting the men whose hands are red with the destruction of this Government to come back here to legislate?

Mr. DOOLITTLE. Certainly not. I have said a hundred times over that only loyal men should be admitted.

Mr. NYE. I am very happy to hear that the Senator agrees with me, and if he will keep agreeing with me I will get him right after awhile.

Mr. DOOLITTLE. I will say to my honorable friend that as far as Mr. Johnson has spoken, to my knowledge, he has never intimated that one of these rebels should be admitted here. The charge is unfounded.

Mr. NYE. I am happy, then, to agree with the President of the United States and his distinguished indorser. Hearken a little further. Again he says:

"But in calling a convention to restore the State, who shall restore and reestablish it? Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization?"

Right there I want to call the attention of the Senator from Wisconsin to the attitude of

things now. I assert that none others have attempted to form a State government except the men who come within this description, who, the President says, should not share in it. That being the case, what does he mean when he talks to us about passing laws here for States that are without representation when they are taxed? Does the Senator mean that in order to impose taxation upon these rebels they must necessarily have rebel representatives here? Who ever heard of a criminal sitting on his own jury? These men have been engaged with the strong hand of arms in tearing down this temple of freedom and of liberty, and who ever heard of rebels being consulted about the way the temple should be built up that they had attempted to destroy? Sir, the whole thing is in such confusion that I can see through it. I agree with the President that none of these men should be here; but who come here?

Mr. CONNESS. Worse than that; who send them here?

Mr. NYE. Who come here? I am something of a Yankee myself, and you judge the package by the sample article outside; and as a sample of one of these reconstructed States comes this lean, lank, cadaverous Cassius-looking Stephens, [laughter,] who has got treason in every liniment of his face, and never laughs. Who sent him? Loyal men, do you think? Was he, the second in command of this most wicked rebellion, sent here by loyal men? Sir,

"Can such things be,
And overcome us like a summer's cloud,
Without our special wonder?"

O consistency, what a jewel! Alexander H. Stephens as a sample article for loyalty! He believes, as he swears now, in that mother and parent of secession, the doctrine that my friend has become the distinguished champion of—State rights. I had hoped that that ghost had disappeared with the rebellion. He swears that he believed, and his people believed, and believe now, in the right of the States to secede; and yet the distinguished Senator from Wisconsin comes here and tells us that they accept the issue, and reads a letter from Tarbell, whom I have known longer than he has, from Smithfield, Chenango county, and whose judgment is not worth as much as the Senator's. Tarbell against Stephens! Tarbell must go down, of course, for Stephens is the honored representative of a loyal State!

But again, sir, treason is odious and must be punished. Will the Senator from Wisconsin tell me how he proposes to punish it?

Mr. DOOLITTLE. I will, if the Senator will allow me to answer.

Mr. NYE. Certainly.

Mr. DOOLITTLE. Sir, six months ago I introduced a bill, which I had hoped long ere this would have been a law, providing for the obtaining of juries in criminal cases in United States courts, which was referred to the Committee on the Judiciary, and has been reported by them, but has not been acted upon—a bill which provides that when jurors are summoned by the courts they shall not be declared incompetent by reason of opinions formed upon history or newspaper reports. I will state to the Senator another thing on that point. The Supreme Court holds that a civilian or a man not in the Army cannot be tried by a military commission.

Mr. HOWARD. I do not understand the decision to go so far.

Mr. DOOLITTLE. The decision goes to just that length. We have got to try them in court and by a jury; and so far as the President is concerned, the published documents which we have seen show that he has made an effort to have a court held where Davis could be tried for treason.

Mr. NYE. That answers the question; and the bill that the Senator introduced was in fact supplemental to aid in their being acquitted if they were tried. I read that bill with some care. Will you go down to Virginia and find twelve men who did not sympathize with this rebellion, and who would take the oath and say they were not prejudiced by these news-

paper opinions? Not at all. Their minds are made up that no crime has been committed. Sir, somebody has been at fault; treason has not been made odious; or we must acknowledge the infirmity of our Constitution and laws to punish treason. There is not a hamlet in the State of the Senator but what demands that treason shall be made odious.

But, sir, the delay in passing the bill of the Senator from Wisconsin has about done away with the necessity for its application, because they are almost all pardoned, and those who are not are being pardoned every day. The men who have saved their twenty thousand dollars out of the general wreck, and given the balance of their fortune to tear down this Republic are, as we learn from every day's report, and in every newspaper, receiving executive pardons. The clerk told me the other day there were three hundred thousand applications for pardons, and if you take three hundred thousand of these twenty thousand dollar men that are left, you need not trouble yourselves much about the balance.

Mr. DOOLITTLE. I will ask the Senator how many, in his judgment, ought to be tried and executed.

Mr. NYE. I shall be entirely satisfied, under the present circumstances, if you try one.

Mr. DOOLITTLE. Then let us pass that bill, so that we can have a jury, and no difficulty in trying a man in any State.

Mr. NYE. Does the Senator from Wisconsin mean to stand here and say that it needs the passage of a bill or any new law to convict a rebel that has declared himself one in this country—an *ex post facto* law, that the gentleman or his coadjutor has talked so wisely about to-day?

Mr. DOOLITTLE. If the Senator will allow me on that point, this bill is simply in relation to the qualification of jurors; it is not an *ex post facto* law, and not liable to any objection of that sort.

Mr. NYE. And I repeat, it is a bill to aid in their acquittal.

Mr. DOOLITTLE. That is not true.

Mr. NYE. I say in its effect. I do not say you intend it, by any means.

Mr. DOOLITTLE. It has no such effect, either. If the Senate and House of Representatives will pass it, there will be an opportunity to see whether a man can be tried.

Mr. NYE. There is where the Senator from Wisconsin—

Mr. DOOLITTLE. These charges—

Mr. NYE. I believe I have the floor.

Mr. DOOLITTLE. I do not wish to interrupt the Senator, but this conversation seems to be going around.

Mr. FESSENDEN. I call the Senator to order.

Mr. NYE. I have a right to say that in my judgment that bill, if it should pass, while I charge no such intention upon its author, would be a bill that ought to be entitled "A bill supplemental to aid in the acquittal of traitors." I assert a thing that cannot be gainsaid. There has not been any efficient effort to make treason odious. Has there? Where is C. C. Clay to-day—a man who was charged, and it was reported upon proof ample to hold him, as a *particeps criminis* in the assassination of Lincoln—a name that I need only mention when an army of associations cluster around him that I cannot describe. Where is Clay? Paroled; which means discharged. Where is Davis? *Pro forma*, in prison; visited by the officers of this Government; with family associations all clustering around him; and let me inform the Senator from Wisconsin, he, too, will be paroled before he is tried. Where is the attempt at the fulfillment of that guarantee that treason should be made odious?

Mr. President, I do not want blood; I am a man of peace; and I believe I have as much of the welling up of humanity in me as the distinguished Senator from Wisconsin. I never saw a man in trouble but I sympathized with him. But, sir, above all these sympathies here is reared a standard of eternal justice. I called upon the President this morning, with a friend

from central New York, to ask him to pardon a man who had served out a part of his time for passing two fifty-cent counterfeit currency pieces. He was not pardoned when I left. Whether he will be or not I do not know. But where is the justice of that Government, where slumbers its sense of justice, that would incarcerate a poor man for passing one dollar's worth of its coin that is counterfeit, and sets these men whose skirts drip with loyal blood at large? Away with such an administration of justice! It is an outrage upon the sacred name of justice.

Sir, treason has not been made odious, nor will it be. Is treason made odious when right under the very guns of our Army, in a captured city, the city of Mobile, toasts are drunk to the pirate Semmes—let it not be said that I call him a hard name; it is the name designated by the law; the name written in heaven and on earth—and the President of the United States in the same sentence or at the same sitting? There is not a traitor on the face of the earth but would court such odium as that.

But let me call the attention of the Senate to another thing. In this city to-day walk men who have trod the fiery furnace of affliction as Union men from 1861 until the rebels laid down their arms at Richmond. They are starving, begging for employment, while men who were baptized early into this rebellion and who have been engaged in it throughout are holding offices of power and emolument in this country. We are told that Union men cannot be found to fill them. Let me tell the Senator from Wisconsin and those who say that, I can find you one hundred thousand maimed soldiers of this Republic who will go there and fill those offices with honor to themselves and fidelity to the Government. Why look for jewels in a toad's head? Why look for men fit to hold offices among those who are yet reeking in the very smoke of the rebellion, and whose only regret is that they failed in the attempt? That is not making treason odious. That kind of odium breaks down the amenities of society and makes Union men seek shelter in the caves and the recesses of the mountains.

My distinguished friend from Wisconsin has pointed forward to the day when he shall meet his people in judgment on this question, boasting in his own strength. Let me tell the Senator that there is a more potent power than the human voice, a more pungent teacher than stump speakers; and it is the irresistible and resistless power of truth. It finds a lodgment in every hamlet, around every hearth-stone, and in every heart. Let no man hereafter presume to trifle with the just demands of the American people. They bring judgment to the question. They are hewing their way through the difficulties that surround us, and the men who do not hew with them, they will hew down.

Sir, we have been educated in the deepest and bloodiest calamity. Every hearth-stone has a tongue, more eloquent than senatorial tongue, that tells a story of the outrages and the wrongs of this rebellion. Everywhere the people cry out against the "deep damnation of the taking off" of the immortal Lincoln. Everywhere they demand that their servants shall step to the music of the necessity of the hour. He that falls back will be a straggler and lost. Sir, the party is not behind; the Union party is going to meet it; it is the party that is in the advance.

My distinguished friend from Delaware the other day said he rejoiced the time had come when the Democratic party could hang out their banners upon the outer wall. That is what ails you. You hang them out, and the people look for the old stars and stripes and do not see them. They see too many stars and bars. Keep your banners in if you want to win, for the moment you hang them out upon the outer wall, it is an advertisement to the world that there is danger of the devil's return to rule. [Laughter.] Keep your banners in.

Mr. SUMNER. If the Senator will give way, I move that the Senate do now adjourn.

Mr. SHERMAN. Upon that I should like to have a division of the Senate.

Mr. FESSENDEN. The Senator from Nevada has not closed, I understand.

Mr. SHERMAN. But I desire to know whether the Senate wish to continue this debate.

Several SENATORS. It is half past five o'clock.

Mr. SHERMAN. I know it is time to adjourn, but I wish to know whether the Senate desire to continue this debate.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator from Massachusetts moves that the Senate do now adjourn.

Mr. SHERMAN. As I see my friends are in favor of continuing this debate, I shall not persist in opposition.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 9, 1866.

The House met at twelve o'clock m. Prayer by Professor B. N. MARTIN, of New York.

The Journal of yesterday was read and approved.

GRADE OF VICE ADMIRAL.

Mr. RICE, of Massachusetts. Yesterday morning I asked the unanimous consent of the House to introduce a bill to amend an act to establish the grade of vice admiral in the United States Navy.

The object of the bill is to give to Vice Admiral Farragut a secretary. I wish to say now to the House that this eminent and conspicuous officer of the Navy has no assistance whatever in the discharge of his duties. The law allows him no staff, and all the burdens incident to his position are cast upon him individually. And although still in the vigor of health, his eye-sight has become very much impaired by the service through which he has passed, and as his correspondence devolves entirely upon himself, it is absolutely necessary that he should have this assistance. I am certain that no gentleman will object to it. The gentleman from Illinois [Mr. ROSS] objected to the bill yesterday under a misapprehension of its object, and he has consented to withdraw his objection. I ask unanimous consent to introduce the bill.

No objection was made, and the bill was received and read a first and second time.

The bill proposes to allow Vice Admiral Farragut a secretary with the rank and sea pay and allowances of a lieutenant of the Navy.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. RICE, of Massachusetts, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PASSPORTS.

Mr. WILSON, of Iowa, by unanimous consent, from the Committee on the Judiciary, reported a bill to repeal section twenty-three of chapter seventy-nine of the act of the third session of the Thirty-Seventh Congress relating to passports; which was read a first and second time.

Mr. WILSON, of Iowa. In relation to this subject I have received the following note from the Secretary of State:

DEPARTMENT OF STATE.
WASHINGTON, April 25, 1866.

SIR: I beg leave to call your attention to an act third session Thirty-Seventh Congress, chapter seventy-nine, approved March 3, 1863, relative to the granting of passports "to any class of persons liable to military duty in the United States." As it was strictly a war measure, and the cause for which it was enacted has ceased to exist, I would suggest that it be repealed.

I am, sir, your obedient servant.

WILLIAM H. SEWARD.

Hon. JAMES F. WILSON, Chairman Judiciary Committee, House of Representatives.

The section which it is proposed to repeal is as follows:

"Sec. 23. And be it further enacted, That so much of the act approved the 18th of August, 1863, entitled, 'An act to regulate the diplomatic and consular system of the United States,' as prohibits the grant-

ing of passports to any other than citizens of the United States, shall be, and is hereby, repealed so far as its prohibition may embrace any class of persons liable to military duty by the laws of the United States."

I move the previous question on the bill.

The previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

RECONSTRUCTION.

Mr. SPALDING demanded the regular order of business.

The House accordingly resumed the consideration of the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States, reported from the joint committee on reconstruction.

The motion to recommit the joint resolution had been made by Mr. STEVENS.

The pending question was upon the motion of Mr. GARFIELD to amend the motion to recommit by adding instructions to the committee to report the proposed amendment to the Constitution with the third section stricken out.

Upon this question Mr. SMITH was entitled to the floor for one minute; but he was not present.

Mr. BROOMALL. Mr. Speaker, it was to be expected that the measure now before the House would meet the opposition and denunciation of the unrepentant thirty-three of this body. The gentlemen who have voted on all occasions upon the rebel side of all questions that have been before the country for six years could hardly be expected to change their position at this time.

Mr. ROSS. Will the gentleman allow me to ask him a question?

Mr. BROOMALL. Allow me at once to say that I have but thirty minutes, and will not yield any of my time to anybody.

I say, Mr. Speaker, that it was not to be expected that those gentlemen would change their front upon short notice at this late day. But it is useless to waste arguments upon them in favor of this measure.

It was also to be expected that the six Johnsonian new converts to Democracy would also oppose and vote against this measure; commencing with the gentleman from New York, [Mr. RAYMOND], who, I believe, has the disease in the most virulent form, thence down to the gentleman from Kentucky, [Mr. SMITH], who preceded me on this question, and who has the mildest and most amiable type of the infection. Upon them, too, arguments are useless.

There must then be thirty-nine votes against the measure, and I want there to be no more. I want every member of this House outside of those thirty-nine to vote for it heartily and earnestly. I want every man to come to the conclusion to which I have come, to vote, if not for that which he wants, for the best that he can get; to vote for the report of the committee if he can get it, just as he would have voted for something better; and if he cannot get the measure reported, then to vote for the next best.

It is not what I wanted. How far short of it! But the necessity is urgent, and we must take what will obtain the votes of two thirds of both Houses of Congress, and the ratification of three fourths of the actual States of this Union, those entitled to a voice upon the question.

Now, what is this that is submitted for our action? I will consider the several propositions briefly: I am only sorry that I am limited to so short a space of time. We propose, first, to give power to the Government of the United States to protect its own citizens within the States, within its own jurisdiction. Who will deny the necessity of this? No one. The fact that all who will vote for the pending

measure, or whose votes are asked for it, voted for this proposition in another shape, in the civil rights bill, shows that it will meet the favor of the House. It may be asked, why should we put a provision in the Constitution which is already contained in an act of Congress? The gentleman from Ohio [Mr. BINGHAM] may answer this question. He says the act is unconstitutional. Now, I have the highest respect for his opinions as a lawyer, and for his integrity as a man, and while I differ from him upon the law, yet it is not with that certainty of being right that would justify me in refusing to place the power to enact the law unmistakably in the Constitution. On so vital a point I wish to make assurance doubly sure.

I know that the unrepentant Democracy of this body voted against the civil rights bill upon the allegation that it was unconstitutional. And I rather expect to see them exhibit their usual consistency by voting against making it constitutional upon the ground that it is so already.

That measure, however, will meet with no opposition from those on whom the country depends for its safety, because if it is not necessary it is at least harmless. If we are already safe with the civil rights bill, it will do no harm to become the more effectually so, and to prevent a mere majority from repealing the law and thus thwarting the will of the loyal people.

The second proposition is, in short, to limit the representation of the several States as those States themselves shall limit suffrage. That measure has already received the sanction of all who can possibly be expected to vote for the proposition now before the House; because the joint resolution which passed this body by more than two thirds, and was defeated in the Senate, proposed to submit a similar change in the Constitution to the States for ratification. There is, therefore, little necessity for argument upon this point.

But I will ask, why should not the representation of the States be limited as the States themselves limit suffrage? It is said that this is intended to prevent the southern States from having the representation now based upon their black and non-voting population. The terms of the proposed measure do not so limit it. But I will admit that mainly it will operate only on that population, and in the South. And why not? If the negroes of the South are not to be counted as a political element in the government of the South in the States, why should they be counted as a political element in the government of the country in the Union? If they are not to be counted as against the southern people themselves, why should they be counted as against us? The fact is, the negro of the South does vote, or rather he has his vote cast for him. He is voted by his white and hardly more loyal neighbor—I would say brother only that I might be suspected of having some reference to the Democratic bleaching process which so confuses southern genealogies.

If the blacks were permitted to vote instead of being voted, according to the doctrine of chances they would vote right half the times by mere guessing, be they ever so ignorant; and this is greatly more than can be said of their white neighbors for the last half dozen years. I will not say that this is more than can be said of the northern friends of those neighbors for the same period; but I will not risk my reputation for veracity by denying the proposition.

The next proposition proposes to disfranchise until 1870 a certain portion of the southern people. Now, I am sorry to see that opposition to this feature of the measure comes from this side of the House. I regretted very much yesterday to hear the gentleman from Ohio [Mr. GARFIELD] and the gentleman from Maine [Mr. BLAINE] oppose this feature of the joint resolution. I am sure they have not well considered it. Let us see who it is we propose to deprive of suffrage until 1870, and to what extent.

First, we do not propose to do what was done at the close of the Revolution, to disfranchise throughout all time to come the active and willing participants in the mischief, but only until the year 1870, only for the next four years. Again, we do not propose to deprive all the voters of the South of the privilege of voting, but only the willing aiders and abettors.

Look at the words of the proposition:

All persons who voluntarily adhered to the late insurrection, giving it aid and comfort.

Now, who are they, and how many are there of that class? This is an important inquiry. It has been said broadly, with the air of sincerity, and as if it were susceptible of being demonstrated, that these people number nine tenths of all the voters of the South. This is a grand mistake. The white population of the eleven States not now represented in the Government was in 1860 five million six hundred thousand in round numbers. Counting the voters as one fifth—and that is about the ordinary ratio of voters to population—we have one million one hundred and twenty thousand voters in those eleven States. Do we propose to disfranchise all these? Do we propose to disfranchise nine tenths of them, as has been said here? By no means.

According to the best estimates that can be made upon the subject—and all are mere estimates, for we are without the means of obtaining accurate information—there were altogether in the southern army about eight hundred thousand men. How many of them were negroes I do not know. I know that the southern Democrats at first entertained the notion of their northern friends, that the negro would not do for a soldier, but after several years of conscription and draft, both wings of the party began to think he would. Toward the close of the rebellion the South commenced to muster the negro into the service. Suppose there were fifty thousand of them—it is true that is but a guess, there may have been twice as many or half as many—this would leave seven hundred and fifty thousand white men actually participating in the rebellion in the field.

Now, let us bear in mind that the masses of the people in the South rendered aid and comfort to the rebellion only in the field. The great leaders of the Democracy rendered, it is true, aid and comfort in various other ways. But they constituted the few. I speak of the masses of the people only; and I repeat that they rendered aid and comfort, within the meaning of this provision, in the field only. We may therefore take seven hundred and fifty thousand as the number of the individuals in the South who rendered aid and comfort to the enemy, not counting (because the number is so inconsiderable) the comparatively few though powerful leaders who rendered aid and comfort outside of the army.

But, sir, we do not propose to disfranchise even these seven hundred and fifty thousand. Some of them were killed; how many we do not know. We do know that our own dead numbered nearly three hundred thousand; and we have every reason to believe the confederacy suffered to the same extent that we did in that matter. Supposing two hundred and fifty thousand of the rebel army were lost, we have five hundred thousand actual voters in the South to be disfranchised by this measure if they come within the meaning of it. But do they come within the meaning of this provision? Why, sir, it does not embrace the unwilling conscripts; it does not embrace the men who were compelled to serve in the army. How many were there of these? I do not know; but I do know that after the first few months in the war of the rebellion the southern people refused to volunteer, and were required to be forced into the army. How many were there of these so forced? If I were allowed to guess, I would say very nearly all. At least it would be fair to say three hundred thousand of these people belonged to the unwilling class who were forced into the army by rigid conscription laws and the various contrivances of the leading rebels. This will leave two hundred thou-

sand; and I say now it is utterly impossible, in my opinion, that the number of people in the South who can be operated upon by this provision should exceed two hundred thousand, if, indeed, it should reach the one half of that number. Is this nine tenths of the voters of the South? Why, it is about one in every twelve.

I am just reminded by my colleague [Mr. WILLIAMS] that the report of the committee shows us that these eleven States furnished forty-two thousand soldiers to the Union Army. I suppose no one on this side the House will pretend that the pending measure will disfranchise them, whatever may be the desire on the other side. These men can take the "test oath." Why can they not fill Federal offices in the South?

It is looked upon, Mr. Speaker, as a monstrous piece of tyranny that we should ask one out of twelve of the voters to stand aside for four years, to take a back seat, in the classic language of the White House, as a part expiation—if the word is not itself a mockery used in that connection—in part expiation of so enormous a crime. Let it be understood that we do not propose to disfranchise these people for State purposes. They are allowed their own local government, if the people of the States will permit them to vote. They will only not be allowed to control this Government, and they ought not to be allowed to control it. So far as we are concerned, we give them local government to the fullest extent to which we have it ourselves. It is known to every gentleman in this Hall that by far the largest portion of the business of government is done in the States. With respect to this largest portion, we leave it to these States to grant or refuse suffrage, without regard to the condition, the opinions, or the crimes of those claiming it. So much for that.

Now, I know we have it from high authority that in all the southern country there are not enough of men who can take the oath prescribed by the law to hold the Federal offices. I know that is asserted, but I have no belief in it whatever. I am satisfied that it is not true. I do not know why that assertion has been so boldly made unless for the purpose of enabling the Democrats of this body and the new converts to obtain a repeal of the "test oath," and thereby to give seats in Congress to some of their southern political friends. I do not know why otherwise that notion was started, but that it is not true any reflecting man who will read the history of the last five years must see. We know what the truth is. It is this: the manner in which the present Administration has punished treason has made it not odious, but indeed the only popular institution of the South, so that if a man can take the oath he is afraid to let his neighbors know it. Treason has been made popular in the South, and loyalty odious. A man who has always been loyal is compelled by public opinion, forced upon and encouraged in the South by the Administration, compelled, I say, to deny his loyalty, and to simulate treason. Where are the forty-two thousand southern Union soldiers?

The third of these propositions is to prevent the payment of the rebel debt by the United States or any of the rebel States, and to prevent compensation from ever being made for slaves. Is there anybody here who has any objection to that? The former measure has received the sanction of the House heretofore by the requisite two-thirds vote, and might be passed by as a thing settled upon. Is there any reason why we should guard against the payment of the rebel debt? It is strange that there should be necessity for it; but that there is such necessity no one here can doubt. A large portion of this debt is held abroad. The foreign allies of the Democratic rebellion contributed their money to aid the party here; and if the Government of the United States does not provide irrevocably that they shall lose the investment, it will be false to every duty it owes to its citizens. But there is a considerable

portion of this debt held by southern Democratic leaders; and it is to guard against the paying of this that the great necessity exists for putting this provision into the Constitution. It may be that the punishment of our country for its national sins is not yet complete. It may be that in the future an inscrutable Providence intends, for our full punishment, to restore to power for a time the Democratic party. What would be the result then? We know what would be the result. I want to put it out of the power of the Government to pay the rebel debt, that our friends on the other side of the House may not at some time be tempted by their old habit of obedience to the southern task-master. These men who have voted upon that side of all questions can hardly be expected to withhold their votes when their possible future leaders shall demand that the rebel debt be paid as far as they are concerned. The only way to guard against that effectually is to put the provision itself in the Constitution prohibiting any portion thereof from ever being paid.

The latter branch of the fourth section prohibits the giving of compensation for slaves. Now, a prominent Democratic member of this House, whose name I will not mention without his consent, yesterday told me that when the Democratic party—he did not say "if," but "when," and he did not even blush to say it—when the Democratic party came to be restored to power it would demand payment for emancipated slaves or the repudiation of our national debt, and I confess I believed him.

Can any man doubt what the position of the Democratic members of this body will be with fifty-eight added to their number from the rebel States—fifty-eight Representatives of those whom they have for years obeyed and who will demand this of them?

Mr. LE BLOND. Mr. Speaker, I demand the name.

The SPEAKER. The gentleman declines to be interrupted.

Mr. BROOMALL. If any man hesitates to believe with me, let him look over the files of the Congressional Globe for the last four years, and then if he is not convinced I will concede that he is beyond the reach of conviction.

They say that we offered in 1861 to pay for these slaves. So we did, and if the offer had been accepted we would have gained largely by it. The cost of the war, counted only in dollars, would have largely paid for all the slaves. But the offer was not accepted, and it will never be renewed with the consent of the loyal people. Let our political opponents call the dead to life, let them restore to their homes three hundred thousand murdered American citizens, and then let them pay the debt which we contracted in putting down their rebellion, and we will renew our offer. We will then pay for their slaves and gain largely by the transaction.

Mr. Speaker, this measure has been spoken of as the punishment to be imposed upon the South. Why, is this all that is proposed to be inflicted upon men who have been guilty of crimes so monstrous? Is there to be no further punishment than this? Is treason not to be rendered odious? In fact, this is not a punishment at all. These people have now no rights. They are the conquered, we the conquerors; and the conquered, as everybody knows, must look to the conquerors for their future political and civil position. We propose to grant rights, we propose to give favors, but we propose to leave out one in every twelve for four years in thus giving the favors. It is not as punishment, it is as a means of future security, that this provision is asked to be incorporated in the Constitution. We have beaten the enemy in the field. He is at our mercy. In a spirit of unparalleled magnanimity, we propose to restore the *status ante bellum* as far as is consistent with our future safety. Why, there never were such terms as these offered to any vanquished people by the victors. Look through all history and find its parallel. In every other country what has

been the penalty allotted to treason, to rebellion that fails to make itself revolution? Death, banishment, confiscation. Look at England in the Indies and in Jamaica! Yet we propose not even punishment, not even the enforcement of existing laws.

These people have murdered two hundred and ninety thousand of our fellow-citizens. The man Probst, who in Philadelphia has been tried and sentenced to be hanged for murder, killed eight persons. That poor, miserable, petty scoundrel only killed eight; these people have killed two hundred and ninety thousand. He is to be hanged, and Alexander H. Stephens, who was one of the main supporters of the rebellion, is to be allowed a seat in the Senate of the United States. What a mockery of human justice!

Sir, the time will come when the poor, ignorant Dutchman who committed his petty crime will be brought to the same bar with Vice President Stephens who aided in the murder of so many of the good and the true men of our country, and these things will all be made even. There is a necessity for a future world that the immense inequalities of the present one may be rectified.

Let it offend no Democratic sensibilities that I should contrast Probst and Stephens, the murderous Dutchman and the murderous conspirator. If there is any one man in the South peculiarly responsible to the widows and the orphans of those whose bones lie upon southern battle-fields or are worn as ornaments about the necks of high-born Democratic ladies, that man is Alexander H. Stephens. He sinned against light and knowledge. He was the great champion of the Union in the South. When he was bribed by the love of office into crime, what wonder that the great masses of the South followed him?

Why, even Probst was the pupil of Stephens. Probst was a soldier, serving by accident on the right side. Stephens made his school, inaugurated the war. Sir, read, if you can read, the miserable man's confession, and then ask yourself whether those horrible details could have been gone through by any one who had not learned the art of human butchery in the school of war.

Both these men "accept the situation;" both acknowledge that they have been defeated in a war upon society; but Stephens appears before a committee of Congress and actually claims rights, like the Pharisee in the temple; while poor Probst can only say, "Lord have mercy upon me a sinner."

Probably my Democratic friends may not like the comparison. Neither do I. I will not put the ignorant upon a level with the learned in responsibility. I will not apply the same rule to the private soldier and to the statesman. I will not compare the murderer of only eight with the murderer of two hundred and ninety thousand. Yet Probst is to be hanged, while the President of the United States and the Democratic members of Congress are at this moment asking exactly such a modification of the "test oath," as will allow Stephens a seat in the United States Senate! Oh, what a mockery of justice in this! Break down your prison doors. Repeal your criminal codes. Let it not be said that in enlightened America we only punish the poor, the ignorant, and the degraded!

To bolster up the pet theory of restoration founded on rebel rights, it is now denied that we have ever been at war. War supposes conquest as one obvious mode of termination, and conquest extinguishes political rights. This would not suit the purposes of those who think the South was right in her demands, but only blundered in the means employed to obtain them. Hence there has been no war, whatever the soldiers and the bereaved ones may think to the contrary.

The President of the United States, in his recent peace proclamation, has given us from a Democratic stand-point the military history of the country for the last five years. He says that in 1861 certain persons in certain States

conspired together to prevent the execution of the laws; that the Government resolved to put down the conspiracy, not in the spirit of conquest, but in that of self-preservation, and that the insurrection has now been suppressed; and this is all. This is the official report of the high Executive to his grand constituency.

From the cold official statement, who that did not feel and know these eventful years could imagine what scenes of human sorrow are embraced within the unwritten history of that period? There was an insurrection, and it has been suppressed. Has sated ambition forgotten the immense cost to the country of the process by which it became what it is? Why, in this brief history there are hundreds of thousands of treasons unpunished. In this the blood of more than a quarter of a million murdered victims cries aloud for retributive justice. And this the President of the United States calls insurrection. Why this history would exhibit great armies, such as the world has rarely seen; devastating whole States, and meeting in grand and terrible conflict—all the machinery of war in its largest possible extent.

But who shall write the details? Who shall tell the instances of individual suffering? Who shall say how many husbands and fathers asked but one day of absence from the Army to bury the wife or child and were of necessity denied? Who shall tell of the tired sentinel, awakened at his post after days and nights of toil, from dreams of home, to answer at the bar of the terrible court-martial for not doing what man could not do? Who shall tell of the secret sorrow of the unpensioned widow and orphan of him who fell from the ranks upon the long and weary march to die the death of the dog by the roadside and be marked upon his country's roll of dishonor as a deserter?

Yet the President of the United States calls the occurrences of the last five years insurrection, and tells us with true official coldness that it is suppressed! Surely sated ambition has overlooked the immense cost of what it feeds on. If this is insurrection, in the name of all that is horrible what is war?

America transcends her elder sister in the length of her rivers, in the height of her mountains, and in the tremendous energy of her people. And we are now told that that transcendancy extends even to the art of human butchery. When an American insurrection is so like the most devastating of European wars, the imagination shrinks with horror from contemplating what would be an American war. Surely the heart of the Executive is not in sympathy with the millions who made him what he is.

Mr. SHANKLIN. Mr. Speaker, the subject now before the House for its consideration is a matter, perhaps, of as much importance, and involves as many important interests to the American people, as any subject upon which the Congress of the United States can have to pass. Upon its solution may depend the weal or woe of the American people and their descendants. Those institutions, republican and free in their character, reared by the wisdom, the patriotism, and the sufferings of our revolutionary sires, and consecrated by their blood, may depend upon the action of this Congress upon this subject.

It becomes us, then, as the Representatives of a generous and confiding people, who hold these important interests and trusts in our hands, to divest ourselves as far as is possible of every angry passion, to banish every sectional prejudice or partiality, to discard personal interest and considerations, to break the lines of party, and to rise above considerations of that kind to a higher and purer sphere, that we may act for the general good of the whole country now and forever. If we could but do this our labors would be easy, our task would be more than half performed in its very commencement. But if, from the frailty of our natures and our passions, we are unable to assume a position of this sort let us at least approach our task with clean hands, pure hearts, and patriotic intentions.

Mr. Speaker, the subject which has been

submitted to this House for its consideration comes to us clothed with all the power and the commanding influence of a committee of the two Houses of Congress, selected, as charity compels us to suppose, on account of their experience, their wisdom, their justice, and their patriotism; and that which has been submitted to us is the work of five long and tedious months, and represents the views, sentiments, and principles of at least the majority of the House, or the party from which they were selected.

I therefore approach this subject with no ordinary degree of embarrassment and hesitancy; but my own convictions of truth and justice, of right and of duty, must control my action, and I am ready to take whatever responsibility may attach to it.

The joint resolution reported by the committee, and which is now before the House, is as follows:

ARTICLE—.

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person, within its jurisdiction, the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crimes, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for members of Congress, and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States, nor any State, shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States; or any claim for compensation for loss of involuntary service or labor.

SEC. 5. Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

That joint resolution presupposes and takes as an established fact that those States lately in rebellion are no longer members of the Union; that the ties which bound them to this Government have been severed, and that the people of those States are aliens and foreigners to this Government. That is the position which has been assumed by this committee, and upon that hypothesis this resolution and these measures are based. I do not design now to discuss the question whether these States are in or out of the Union. That question has been ably and elaborately discussed. Our minds are made up upon that subject. The mind of the public is made up upon that subject. But we all remember that at the commencement of this difficulty these States asserted that it was a constitutional right which they had to withdraw from the Union and form independent and separate governments themselves, and in obedience to this claimed right they passed their ordinances of secession. We took the ground, and rightfully too, as I believe, that they had no such right under the Constitution which had been framed by our fathers; that they owed allegiance to the General Government; that they must obey the laws and Constitution of the General Government, and that they could not withdraw from it. The issue was fairly made up. One party contended that they had the right of secession and to sever the ties which bound them to the Union; and the other party, as I think rightfully, took the ground that they had no such right; and the issue was made and submitted to the arbitration of arms.

Mr. Speaker, after four long years of bloody war, the most desolating that the world has ever seen; after the sacrifice of half a million of our Federal soldiers and citizens, and the slaughter, perhaps, of nearly as many more of the confederate people; after the expenditure of more than four thousand million dollars, a debt entailed upon this country, and which will be handed down for years and years to

come, our armies triumphed. These people who asserted this right of secession surrendered it; they said they would give up the contest. They laid down their arms and dispersed; and they then expected to come back into the room and to assume the places which they had occupied before. But they are met at the threshold with, "No, no; you are aliens and foreigners, and you cannot come into this Government unless upon such terms as we may propose to you."

You went to war to sustain the Constitution of the United States and to enforce all the provisions of that Constitution. We triumphed, and then we turn around and say that all their constitutional rights have been lost. We say to them, "You made war to go out of the Union; you have failed with your armies to accomplish your purpose to get out of the Union; and yet you are out of the Union. We fought to keep you in the Union and we triumphed, yet you are out of the Union." That is the result of this whole proposition, and the logic of the committee.

Mr. Speaker, there are two prominent and distinct ideas contained in this proposition. The first idea is to strike down the reserved rights of the States, those rights which were declared by the framers of the Constitution to belong to the States exclusively and necessary for the protection of the property and liberty of the people. The first section of this proposed amendment to the Constitution is to strike down those State rights and invest all power in the General Government. It is then proposed to disfranchise the people of the southern States who have gone into this rebellion, until the party in power could fasten and rivet the chains of oppression for all time to come, and hedge themselves in power, that they may rule and control those people at will. Those are the two ideas contained in this proposition.

Now, how do you propose to carry out that second idea? Is it by degrading, by humbling, by humiliating these people, and rendering them unworthy of the blessings of liberty or of being recognized as citizens? Do you expect to effect the object in that way? Do you expect, by the terms you propose to impose on those people, to render them willing serfs and slaves to your power? If they will submit to the burdens which you propose, then they ought not to come back into this Union; for they will be unworthy to hold the position of American citizens.

But how are you going to humble and degrade these people? By disfranchising them, by oppressing them with taxes, by denying them representation, by dragging them down to the loyal political and social equality with the servile African race. You may impoverish them, you may exterminate them, but you can never reduce them to the condition when they will kiss the hand that strikes them.

How long do you suppose it would take to bring you to that condition? How long would you struggle against those acts of oppression, those acts of tyranny, before you would bow in submission as slaves and serfs? Do you suppose these people in the southern States are intellectually, morally, or physically your inferiors? Certainly you do not believe that. They may be disloyal in the estimation of some. But I will assert that so far as we know these people from their past history, they are not your inferiors physically, morally, or intellectually.

The people of the southern States and the people of the northern States stood side by side in the great battles of the revolutionary war; they met in the councils of the nation; they were as brave upon the battle-field, as wise in the council, and as safe advisers as the people of the northern States. They were the peers and the equals of the people of the North.

In the war of 1812 they stood by the Government and they drove back the foreign invader. Were they your inferiors then? Does history establish that to be the fact? They were your equals wherever tried and wherever met.

In the war with Mexico, men from South

Carolina and men from Massachusetts and Rhode Island stood side by side on the battlefields upon the plains of Mexico. Were not the men of the South as brave and gallant as the men of the North? Did they shrink from responsibility? They were your equals in every point of view.

From the commencement of this Government down to the commencement of this unfortunate war they met in councils of the nation; they met in judicial forums; they filled executive, judicial, and ministerial offices side by side with men of the northern States, and in every station and position they were the peers and equals of the men of the North.

You have recently met them in this civil war, with five times their population and ten times their resources, and they kept your gallant and brave armies at bay for four long years. Their councils were as wise, their measures were as judicious for prosecuting the war and to effect the objects which they had in view as yours were. They kept you at bay. The cannon of their army were heard as often in this capital as your cannon were heard in their capital at Richmond. Does this prove that they are your inferiors? You overcame them by numbers, not because you were their superiors in wisdom, in gallantry, in bravery. I admit and assert that they erred in this matter. They claimed rights which did not belong to them. Thousands of them, however, believed that they had these rights. They acted upon that belief. But, sir, they have now surrendered all those claims. What policy will you now pursue toward them?

Mr. Speaker, if the doctrine of the party in power is true, that those States are out of the Union, that they have cut loose from their obligations to the Constitution, and taken themselves outside of the pale of that instrument, I ask you what have you gained by this war. We waged a war to prevent their going out; we waged a war for the purpose of enforcing the laws against them. We were successful, as gentlemen say. The people of the South waged a war to go out of the Union. They were unsuccessful. Yet the doctrine of the party in power admits that the rebels succeeded in accomplishing the object for which they fought.

I ask again, what have you gained? Have you kept them in the Union? You say that you have not. Have you maintained and supported and enforced the Constitution? You say that you have not. Then what have you gained by this war which has cost this nation so much blood and treasure? All that you have gained is that you have entailed upon yourselves and upon posterity a debt which bears the nation down, and will continue to bear it down as an incubus. You have freed, it may be said, four million slaves. Yes, you have freed four million slaves, who were productive laborers, who were contented and happy and well provided for, and you have thrown them upon society unprepared for their condition, destitute of that training and education which are necessary to enable them to protect themselves. You have converted one half of them into vagabonds. That is a part of the fruits of this war. You have done more. By the demoralization of these people, and by the policy which you have adopted in regard to them, you have imposed upon the people a debt which I will not attempt to estimate, for the purpose of supporting a pet institution called the Freedmen's Bureau.

Perhaps you have gained another object. You have through that bureau manufactured the materials that have filled the galleries of this Hall during the whole session. Crowds of these negroes have hung over us like a black and threatening cloud, while we were crucifying the Constitution of our fathers' and trampling under our feet the rights and liberties of the people in passing the Freedmen's Bureau bill, the civil rights bill, and the indemnity bill. They have joined in the shouts of triumph which have gone up when this House has trampled on the rights of the people and set at naught the provisions of the Constitution.

What more do you propose by this measure?

You deny to the States the right of repudiation. Yet, in the very act of denying that right, you yourselves commit an act of repudiation. You violate the honor of the nation, which is most solemnly pledged to payment for the slaves which were enlisted in the United States Army in loyal slave States. In my State, Kentucky, more than thirty thousand negroes enlisted in the Union Army. Before that enlistment an act was passed by this Congress, pledging the faith of the nation to payment for the slaves that might be enlisted in the Union Army in loyal slave States, not exceeding \$300 apiece. Has such compensation ever been made? It has not. The nation is pledged to the payment of that debt. The nation to-day owes to my State more than \$10,000,000 under the provisions of that act. Yet now you propose a constitutional provision denying both to the States and the General Government the right to pay such debts. By this measure you propose to violate the pledged faith of the nation; you propose to practice upon the people an outrage and a violation of their rights.

But, Mr. Speaker, we are asked by gentlemen here, and asked with an air of great confidence and triumph, "Do you want these rebels to take seats in Congress? Are you willing to admit to participation in the Government rebels who have sacrificed and slaughtered our people?" No, sir.

If these people are not pardoned and acquitted then they have no right, as they have violated the laws of the country, to enjoy all the blessings of the protection of this Government; but if they have been pardoned, if the political sins of which they have been guilty have been wiped out, do you think your garb of loyalty and patriotism is made of such flimsy stuff that association with these men would soil and contaminate it? The mighty host, we are told, that is gathered around the throne of the Most High is composed of pardoned sinners, the associates and companions of angels. But a pardoned rebel must not associate with the political Pharisees of this House!

Where are you going to? You are not willing to associate with pardoned rebels. I understand the distinguished gentleman from Pennsylvania, [Mr. STEVENS,] who is ever fruitful in resources in getting you in and out of difficulties, is going to set up a little concern of his own, and you who have been faithful to him in life ought not to desert him in death, and then you will be free from the contamination of pardoned rebels, mercy, and charity. Nor will you be haunted and tormented with the veto messages of Andrew Johnson, the wise patriot and statesman.

Mr. Speaker, there is but one other subject. What ought to be our policy here? Should it be tyrannical and oppressive, or should it be liberal? We are told we cannot trust these people. They have given up the right of secession; they have taken the oath to support the Government and the laws; what are you going to do with them? Are you going to hold them in subjugation? England has tried a policy of that sort toward a noble and generous people, the Irish. What has been the result of that policy? Has it been to conquer them? It has been to implant in the bosom of every Irishman a deep hatred of England. That hatred has descended from sire to son; and I hope it will continue to be transmitted until that noble and generous people will rise in majesty and power and secure their freedom. Russia has pursued a similar policy toward Poland. Has the result been to subjugate the gallant Poles? They are ready at any moment to rise in rebellion. Austria has pursued the same policy. The result has always been the same.

The southern people whom it is proposed to subjugate are a noble, brave people. They may have been deluded, they may have committed a great crime, but they are now anxious to unite with all of our people to sustain the Government. Will you receive them? Will you make them your friends? Will you rather make them your enemies? This question we must solve.

They would be a most invaluable friend. And in my opinion they would, if you would adopt a kind, generous policy toward them, receive them and extend to them equal State and individual rights, and that without delay. By your treatment prove to them that the war you waged against them was not a war of conquest or subjugation or from malice or vengeance, but a war to maintain the Constitution of our fathers and the rights of the Union of the States, as you declared it was when you took up arms and when the strife commenced. Redeem your pledged faith by your acts and your policy, and peace, friendship, and prosperity will once more cover our now distracted country. Then we can bid defiance to the enemies of our free institutions. No nation, however proud or domineering she may be, will dare insult our flag or deny our just rights. Generations unborn will rise up to praise and bless your memories.

Let me beseech you in the name and behalf of patriotism, justice, and a downtrodden and oppressed people, to cease your war on the President of your selection and choice, who has exhibited to the world the highest order of wisdom, patriotism, charity, justice, and devotion to the equal rights of man. We will once more see the charred cities and villages that now dot a large portion of our Union rise up in fresh and pure proportions; our desolated fields will again blossom as a garden of roses. But above all, under the wise and just lead of President Johnson, we will see our people gather around our country's altar, and under the flag of a restored nation renew their vows of obedience and devotion to the Constitution of our fathers. But should you who now hold the power in this House persist in your persecutions and relentless oppression, you may yet live to see the day when you will regret the folly and madness that now hurries you to the overthrow of your power. It may be the overthrow and destruction of the best Government that ever blessed mankind. That your measures of policy will lead to peace or harmony no dispassionate man can for a moment hope. You may discover when it is too late that you have pressed your unequal laws beyond the point from which you can retreat. You may bring down upon your country and Government the condemnation of all enlightened, civilized nations, and you may build up a nation of just enemies in your midst, and this land may again be drenched and deluged with fraternal blood. May we and our children be spared from that terrible ordeal, is the prayer of one who loves his whole country. Discharge your joint committee on reconstruction; abolish your Freedmen's Bureau; repeal your civil rights bill, and admit all the delegates from the seceded States to their seats in Congress, who have been elected according to the laws of the country and possess the constitutional qualification, and all will be well.

[Here the hammer fell.]

PENNSYLVANIA CONTESTED-ELECTION CASE.

The SPEAKER laid before the House papers in the Pennsylvania contested-election case of Koontz vs. Coffroth; which were referred to the Committee of Elections.

ATTORNEY GENERAL'S OFFICE.

The SPEAKER also laid before the House a communication from the acting Attorney General, transmitting, in compliance with a resolution of the House, a list of clerks, &c.; which was laid upon the table, and ordered to be printed.

RECONSTRUCTION—AGAIN.

Mr. RAYMOND. Mr. Speaker, I took occasion at an early stage of the session, while making some remarks on the general subject of restoration, to say that, in my judgment, the joint committee to which it had been referred, ought to lay the whole of their plan upon our tables before asking us to act upon any of its specific parts. I congratulate myself, sir, that, although when first made the demand was

received with anything but favor, the committee now concede its justice by complying with it. It seemed to me then, as it seems to the committee now, that when a proposition embracing several branches more or less interdependent and all essential to the object sought to be attained, justice and fair dealing required that Congress should have possession of the whole case before being required to act upon any of its parts. We may see the result of a different course in the recent experience of the British House of Commons. That House was called on to consider a scheme of parliamentary reform, consisting of two branches, one an extension of the suffrage, and the other a reapportionment of representation, or, as they style it, a redistribution of seats. The ministry submitted its programme for the first but withheld the second. Thereupon a portion of the ministerial party demanded to see the whole plan before acting upon part of it. The ministry refused to comply, and the result of their refusal was that, although they commenced the session with a majority of sixty, they carried the bill on its second reading by the meager majority of five, in a House of over six hundred members.

I am glad to see that the reconstruction committee does not imitate the obstinacy of the British ministry. After long delay and several attempts to carry single parts of its proposition, it now submits the whole of the plan by which it proposes to restore the Union. I must say that I see nothing in the report which required any such delay, nothing which depends for its validity or force upon the evidence which, with such protracted pain, the committee has spent five months in collecting. And it is fortunate for us that this is so, for Congress is not yet in possession of any considerable portion of the testimony. It has not yet been printed and laid upon our tables to guide our action.

But, sir, without dwelling further upon these preliminary matters, I will proceed to state the nature of the report which has thus been made. The programme of reconstruction reported by the committee consists of three parts: first, a series of five constitutional amendments, upon as many different subjects, each distinct from the other; and then two bills, one providing for the admission into Congress of Representatives from the States lately in rebellion upon certain conditions, and the other excluding from Federal offices for all time to come certain classes of persons who have been engaged in that rebellion. The House has ordered that these three propositions shall be taken up in succession, and the proposed amendments to the Constitution are the only topics which are properly before us for our action now. I concur fully in the suggestion of the President of the United States, that it would be wise, when acting upon amendments to the Constitution, that all the States to be affected by them should be represented in the debate. I do not understand him to hold, I certainly do not hold myself, that the presence of them all is essential to the validity of the action we may take; and inasmuch as they are to be submitted, if adopted by us, to all the States of the Union for their ratification, and as the assent of three fourths of all those States will be required to make them valid as parts of the Constitution, I am quite willing to take action upon them here even in the absence of those States which are as yet without representation.

And now, sir, with regard to these amendments, five in form, but only four in substance, I have this to say: that, with one exception, they are such as commend themselves to my approval. The principle of the first, which secures an equality of rights among all the citizens of the United States, has had a somewhat curious history. It was first embodied in a proposition introduced by the distinguished gentleman from Ohio, [Mr. BINGHAM,] in the form of an amendment to the Constitution, giving to Congress power to secure an absolute equality of civil rights in every State of the Union. It was discussed somewhat in that form, but, encountering considerable opposi-

tion from both sides of the House, it was finally postponed, and is still pending. Next it came before us in the form of a bill, by which Congress proposed to exercise precisely the powers which that amendment was intended to confer, and to provide for enforcing against State tribunals the prohibitions against unequal legislation. I regarded it as very doubtful, to say the least, whether Congress, under the existing Constitution, had any power to enact such a law; and I thought, and still think, that very many members who voted for the bill also doubted the power of Congress to pass it, because they voted for the amendment by which that power was to be conferred. At all events, acting for myself and upon my own conviction on this subject, I did not vote for the bill when it was first passed, and when it came back to us from the President with his objections I voted against it. And now, although that bill became a law and is now upon our statute-book, it is again proposed so to amend the Constitution as to confer upon Congress the power to pass it.

Now, sir, I have at all times declared myself heartily in favor of the main object which that bill was intended to secure. I was in favor of securing an equality of rights to all citizens of the United States, and of all persons within their jurisdiction; all I asked was that it should be done by the exercise of powers conferred upon Congress by the Constitution. And so believing, I shall vote very cheerfully for this proposed amendment to the Constitution, which I trust may be ratified by States enough to make it part of the fundamental law.

The second amendment which is proposed to the Constitution relates to the basis of representation. That has also been already before this House for its action, and I have always declared myself in favor of the object it seeks to accomplish. As I remarked on a previous occasion, I do not think the South ought to gain a large increase of political power in the councils of the nation from the fact of their having rebelled, as they will do if the basis of representation remains unchanged. But when it was presented before it came in a form which recognized by implication the right of every State to disfranchise a portion of its citizens on account of race, color, or previous condition of servitude, and provided that whenever any portion of any race should be thus disfranchised by any State, the whole of that race within that State should be excluded from enumeration in fixing the basis of representation. As the gentleman from Pennsylvania [Mr. STEVENS] said yesterday, it provided that "if a single one of the injured race was excluded from the right of suffrage, the State should forfeit the right to have any of them represented;" and he added that he preferred it on that account. Well, sir, I did not. When it was presented before, the distinguished gentleman from Ohio [Mr. SCHENCK] made a very powerful argument against it. He showed that it tended directly to discourage every southern State from preparing its colored population for enfranchisement; that it deprived them of all inducement for their gradual admission to the right of suffrage, inasmuch as it exacted universal suffrage as the only condition upon which they should be counted in the basis of representation at all. I thought that argument entitled to great weight. I have never yet heard it answered. The gentleman from Ohio converted me to that view of the subject, and although he relinquished or waived it himself, I could not. I voted against a proposition which seemed to me so unjust and so injurious, not only to the whites of the southern States, but to the colored race itself. Well, sir, that amendment was rejected in the Senate, and the proposition, as embodied in the committee's report, comes before us in a very different form. It is now proposed to base representation upon suffrage, upon the number of voters, instead of upon the aggregate population in every State of the Union. And as I believe that to be essentially just, and likely to remedy the unequal representation of which

complaint is so justly made, I shall give it my vote.

The third amendment embodied in this report is of an entirely different character. It provides that until the year 1870 all persons within the States lately in rebellion who "voluntarily adhered to the rebellion and gave it aid and comfort" shall be "excluded from the right of voting for members of Congress and for electors of President and Vice President of the United States."

Now, the first thing that strikes my attention in this is, that this amendment recognizes these States as States, and as States within the Union. How else, upon what other ground, are they authorized to be represented at all? The amendment does not confer upon them any right of representation. It does not confer upon their people any right of voting. It recognizes their right to representation. It recognizes the general right of suffrage as belonging to the people of these States. It simply limits that right thus recognized as existing. It excludes a portion of the people from exercising that right of suffrage which in the absence of such exclusion they would possess. Now, this discards entirely the doctrine that these States are Territories, the doctrine that they are conquered provinces, and that their people are alien enemies, out of the Union and without rights of any kind. And so far it has my hearty approbation.

But, sir, it proposes to exclude the great body of the people of those States from the exercise of the right of suffrage in regard to Federal officers. The gentleman from Pennsylvania, [Mr. BROOMALL,] in his very ingenious argument this morning, attempted to show that it would not exclude more than one in twelve of the voters in the southern States. But it seems to me idle to enter into such calculations, which depend on a series of estimates, each one of which cannot be anything more than a wild and random guess. I take it that we all know perfectly well that the great masses of the southern people "voluntarily adhered to the insurrection;" not at the outset, not as being originally in favor of it, but during its progress, sooner or later, they voluntarily gave in their adhesion to it, and gave it aid and comfort. They did not all join the army. They did not go into the field, but they did, at different times, from various motives and in various ways, give it aid and comfort.

Well, sir, that would exclude the great body of the people of those States under this amendment from exercising the right of suffrage. It is proposed to permit those only who did not at any time nor in any way thus adhere to the insurrection to vote for members of Congress and for presidential electors. I do not think they would number more than one tenth of the whole population. But even if they should number one eighth or one fifth they would still constitute but a very small portion of the people to be clothed with the exclusive powers of government. They would still constitute a government oligarchical and not republican in form. Yesterday the chairman of the joint committee on reconstruction, [Mr. STEVENS,] in his forcible remarks introducing this report, took ground against admitting the members-elect from Tennessee and Arkansas because they do not represent their constituents. "Do not tell me," said he, "that there are loyal representatives waiting for admission; until their States are loyal they can have no standing here, for they would merely misrepresent their constituents." And yet he proposes that we shall allow one fifth, one eighth, or one tenth, as the case may be, of the people of these southern States to elect members from those States, to hold seats upon this floor. Now, would not men thus elected in the most emphatic sense misrepresent their constituents? How can the gentleman from Pennsylvania favor such a proposition as this, which is certain to secure members who will not truly represent their States, when he refuses admission to the loyal delegation from Tennessee? By what process of reasoning

can he reconcile the admission of members in the one case, while he denies it so obstinately and scornfully in the other? It is true this provision is temporary; but the effect of it while it lasts must be to plant seeds of discontent and dissension in the southern States which will survive by scores of years the immediate cause out of which they grew.

The gentleman from Maine [Mr. BLAINE] yesterday made what seemed to me to be a very strong point—that this disfranchisement of the large body of the southern people would run counter to the terms of the amnesty proclamation of President Lincoln, which restored all but certain classes to their former rights. I think there is great force in that objection. But however this may be as a point of technical construction—and I shall not canvass it in that light—there is certainly great force in this objection, that this provision would be a departure, a retraction from the assurances given all through this war, by acts and resolutions of Congress and by proclamations of the President. Every declaration from any department of the Government conveyed to the South and to the whole country the assurance that the war was waged for the sole purpose of suppressing the rebellion, and that when it was over all the States would be restored to the Union in full possession of all their rights and on a footing of equality with the other States. I know it may be said that we were there in perplexity and in peril, and that it was essential to the harmony of public sentiment and to the vigorous prosecution of the war that these declarations and pledges should be made. I know, too, how general is the truth that “ease will retract vows made in pain.” But it is not a pleasing spectacle to see a great nation like this shrinking from the fulfillment of pledges under which it carried on the war, shrinking from the assurances it has given to the whole country, that upon the termination of the war the authority of the Constitution and the rights of the States should be restored. We should be at least as jealous of our honor now as we were of our safety then.

There is another objection which perhaps may not be entitled to much weight, but is worth consideration. This proposition to exclude the mass of the southern people from voting until 1870 exposes those who advocate and press it, it exposes the Union party to the suspicion, renders that party obnoxious to the charge of seeking to amend the Constitution for the purpose of influencing and controlling the presidential election of 1868. I make no such charge, but I know it will be made. Our vigilant opponents will not omit so tempting an opportunity to trace our action to motives of partisanship rather than patriotism. And I would not like to be put in a position where I shall be compelled to concede the charge, or where facts can be brought forward that would even seem to sustain it. It is quite true that the gentleman from Pennsylvania [Mr. STEVENS] accepted what he took to be a suggestion on my part the other day, that General Grant might be the candidate of the Union party for the Presidency in 1868, with great alacrity; and the eagerness with which he responded to that suggestion gave me the most comforting assurance that we shall have no dissensions upon that subject when the time shall come. I do not think it necessary, therefore, to insert such an amendment as this in the Constitution in order to secure the election of General Grant, if he should be presented as the Union candidate or by the country at large, without regard to party, as is by no means impossible. For wherever you find men who appreciate courage, skill, and patriotism in the field, magnanimity in the hour of victory, and wise moderation in political councils, there you will find men who will appreciate that illustrious commander as a candidate for any office which the American people may have to bestow. But upon these points I will not dwell.

I now come to another objection, which to my mind seems fatal to this amendment. This section seems to me to have been inserted for the express purpose of preventing the adoption

by the southern States of any of the amendments proposed to the Constitution. I will not say that this was the motive of the committee in reporting it, but that, I think, is the result which its adoption by Congress will secure. The adoption of all the proposed amendments, this one included, by each of the southern States, is made in the bill reported by the committee a condition essential to their admission to representation in Congress. Now, the amendments are to be adopted by the Legislatures of the several States. The Legislatures are elected by all the people—those who have voluntarily adhered to the insurrection as well as those who have not—for the gentleman from Pennsylvania [Mr. BROOMALL] laid special stress upon the fact that the people are still allowed full control of their State governments.

These Legislatures, thus elected, are expected to ratify all these amendments, to concede an equality of civil rights, to concede a great reduction of their political power in changing the basis of representation, to concede the repudiation of their debts and the denial of compensation for their slaves; and for what consideration? What do we offer them in return for all these concessions? The right to be represented on this floor, provided they will also consent not to vote for the men who are to represent them! Nay more, that they shall accept as the Representatives whom they thus get the right of having here men elected by a small minority of their people who are supposed and conceded to be hostile to them in political sentiment, and against whom they have been waging a bitter war! We offer them, in exchange for all these renunciations of political power and of material advantage, the privilege of being misrepresented in Congress by men in whose election they had no voice or vote, and with whose past political action and present political sentiments they have no sympathy whatever.

Why, sir, this not only “breaks the word of promise to the hope,” it does not even “keep it to the ear.” It is not merely a sham, it is a mockery. The very price by which we seek to induce their assent to these amendments, we snatch away from their hands the moment that assent is secured. Is there any man here who can so far delude himself as to suppose for a moment that the people of the southern States will accede to any such scheme as this? There is not one chance in ten thousand of their doing it.

Representation ceases to be of the slightest value to them under such conditions. They will not seek it or ask for it. They will infinitely prefer to take the chances of change in the political councils of the nation, to await the election of a Congress more propitious to their claims, especially under the comforting assurance which the gentleman from Pennsylvania [Mr. STEVENS] gave them some two months ago, when he said frankly that “it is of no importance by whom or when or how reconstruction is effected, for in three short years this whole Government will be in the hands of the late rebels and their northern allies.” They will readily wait “three short years” for representation rather than purchase the mockery of it we offer them at such a price.

The gentleman from Ohio, [Mr. SCHENCK,] in vindicating the policy of this exclusion of the southern people from the right of suffrage, insisted that it was necessary as a means of discipline; that they are not yet in a proper frame of mind to take part in the affairs of government; that they are at heart still unfriendly and hostile to our authority and institutions; and that we must treat them as parents do unruly children, that we must flog them for their offenses and then exclude them from the family table or shut them up in a closet until they come to a better and more submissive mood. Well, sir, this might answer if the eight million people with whom we are dealing would consent to be treated as children, and to regard us here in Congress as standing *in loco parentis* toward them. They might in that case submit tamely to the chastisement we propose, and

possibly profit by it. But they are not children. They are men, men tenacious of their rights, jealous of their position, brave, and proud of their bravery, of hot and rebellious tempers, and not at all likely to be subdued in spirit or won to our love by such discipline as the gentleman from Ohio proposes to inflict. We have chastised them already. We have defeated their hostility against the Government. And now what remains? They are to be our fellow-citizens. They must form part of the people of our country. They are to take part, sooner or later, in our Government unless we intend to discard the fundamental principle of that Government, the right of the people to govern themselves. And we cannot afford to have them, or to make them, sullen, discontented, rebellious in temper and in purpose, even if they are submissive in act.

We have nothing to do with the sickly sentimentality referred to by the gentleman from Pennsylvania [Mr. STEVENS] yesterday. Our object is not to deal in mercy toward them. We are to deal wisely—for their good and for our own. We are to make them friends, because we cannot afford to make or to keep them enemies. How shall we do this best? By what policy can it be best effected? By exclusion, by coercion, by hostile distrust? Can we coerce friendly feeling on the part of a hostile people? Has it ever been done? I would like the reader of history on this floor to point me to an instance in the records of any nation where great communities once disaffected have been brought back to friendly relations and feelings of kindly regard by such measures as are here proposed. Has Ireland been thus appeased? Has Poland? Has Hungary? Has Venice?

Why, sir, if history teaches anything, if any principle is established by the concurrent annals of all nations and all ages, it is that sentiment cannot be coerced; that opinions, even, cannot be controlled by force; and that with any people fit to be free or to be the countrymen of men who are free, all such efforts defeat themselves and intensify and perpetuate the hostilities sought to be overcome. Ireland offers us a signal example of this, and I am amazed that members upon this floor can shut their eyes or close their minds to the lessons which her sad history teaches. England, for her harsh dealings with that unhappy land hundreds of years ago, is paying the penalty to-day and will for all time to come. By mistakes in policy precisely such in kind as we are making now, England, hundreds of years ago, planted in Ireland the seeds of that disaffection which, in spite of all her attempts to undo the wrong, in spite of abundant legislation in redress of grievances, and for the good of Ireland, from time to time bursts out into feeble but bitter insurrection, and which to-day blooms into that shadowy phenomenon of Fenianism, which terrifies one continent and puzzles and poisons the other.

No, sir, this is not the way to deal with disaffected States. I have no sympathy with those in the southern States who have just emerged from rebellion. Never for an instant have I felt or shown the slightest toleration for their crime. From the first moment their purpose of rebellion was made apparent until the hour they laid down their arms, within my humble sphere and by the feeble means which were all I could command, I have demanded, urged, and waged the most vigorous and determined war that could be made upon them. That war has proved successful. The rebellion has been suppressed. Our mission now is of a different kind and must be fulfilled by agencies of another sort.

These, sir, are my objections to the third of these five amendments. The other four commend themselves to my judgment and will receive my support.

INTERNAL REVENUE BILL.

Mr. LAFLIN. I am directed by the Committee on Printing to report to the House a resolution that there be printed for the use of the House one thousand extra copies of the

modified internal revenue bill. I wish to announce that this number of bills has been printed and are in the hands of the superintendents of the folding-room. It will give five copies to each member.

The resolution was adopted.

RECONSTRUCTION—AGAIN.

Mr. McKEE. Mr. Speaker, in the short time allotted for this discussion it is not my purpose to go over the propositions embraced in the pending amendment to the Constitution. Nor do I regard it as necessary, at least so far as my own position is concerned, having already in this House voted for at least three of the propositions in substantially the same shape in which they are now presented. I desire more particularly to discuss the third section of this proposed amendment, as there seems to have been generated more opposition to this than any other, and it being a proposition I regard as one of the most vital of all.

It is, sir, perhaps as well to go back a little to look at the opposition and to examine into the record of this House. On the 14th of December last, after the meeting of the two Houses, a resolution was introduced into this House by the gentleman from Oregon [Mr. HENDERSON] in these words:

"Resolved, That treason is a crime and ought to be punished."

And on calling the yeas and nays not a solitary Representative in this House who answered to that call but voted in the affirmative, including every Democratic member, with the exception of four who were absent. What did that mean? Did this House then vote their sentiments, or did they not? Since that time, sir, from the Democratic side of the House I have not heard a word that would tend in the least to induce the country to believe they would carry out the resolution for which they then voted. On the contrary, the whole drift of their argument is that these men, having submitted, are now as loyal as those who fought on the side of the Government, and entitled to the same rights. Is this the manner in which they propose to punish treason? Is this the proposition for which we voted? It would have been better had the resolution read in this manner:

Resolved, That treason is a crime, and that traitors should be rewarded for its commission.

The course of this whole Democratic side of the House since the vote on the 14th of December has been in strict accordance with the proposition as I have read it; and I regret to say that even on the Republican side I find men to-day who are willing, aye pleading that these men having laid down their arms are now entitled to all the rights which we who stood by the flag of our country during the late struggle for our existence possess. They have set aside their own work, abandoned their own record. It is very fashionable in these days, I believe, to do that.

Perhaps we can gain nothing by going back to men's records, but I would ask gentlemen this question. They are well aware that by our laws treason is declared a crime, and a high penalty is affixed upon it. Now, sir, the simple question comes to us to-day, have we, the Representatives of the people of this great nation, moral courage enough to carry out that law, or will we turn our back upon those who sustained our country in the great struggle for its existence and say to the eighteen hundred thousand men who waged this war, "All your efforts to crush out treason amount to nothing; these traitors to-day are entitled to all the rights that you possess?" Sir, for one, I am tired of that sickly sentimentality.

It appears to me that in order to uphold the loyal people of this land something must be done by a law ingrafted into the Constitution to protect them in their loyalty. Look, if you please, at the States of Maryland, of West Virginia, of Tennessee, of Missouri, of Arkansas. Each one of these States during this struggle, or since its close, has passed laws by which they disfranchise forever those men

who gave aid and encouragement to the rebellion.

Now, sir, the question comes up to-day. The committee on reconstruction report a basis for settlement. They report to this House a proposition which disfranchises these men who have gone into rebellion even for the short space of a little more than four years, and we find it opposed by men who have always been against treason.

That is the proposition. And if it is voted down, how do we go out to the country? The representatives of the nation here assembled say to those five States which have adopted a disfranchising qualification in regard to their citizens, "Your action is wrong. You should not pass such an act. These men who waged war against the Government and against you have as much right to vote as you who have been true to your flag." It is not encouraging loyalty; it is crushing out those men who alone were true during the war, and putting the control of the State governments in their hands. For this cause alone, if for no other, I should say, do not strike out the proposition.

But, sir, it is perhaps true that the carrying out of this law might meet with some difficulty. But we find, in the disturbed state of our country which has resulted from the effects of this great war, that we must meet difficulty in all our efforts to restore peace, harmony, and quiet throughout the whole land. We are told that it is not fair nor just that the great mass should be disfranchised. Now, sir, in doing this we are but following the principles laid down by the lamented President Lincoln. His idea in regard to reconstruction was, if there were only one tenth of the people in any State who were loyal, as in Louisiana, that one tenth should reconstruct, rule, and control. And the idea was announced over and over again by his successor who to-day occupies the presidential chair.

Following out that great principle the people of Tennessee, one of the States declared to be in rebellion, organized a State government under the direction of President Lincoln and under the sanction of Andrew Johnson, then military governor of that State, and they have succeeded in enacting a law by which those who engaged in the rebellion are disfranchised and prohibited from exercising any of the rights of electors in the State which of right belong only to the loyal.

Now, sir, how do we hear this proposed amendment responded to by those who oppose it? We hear one of the gentlemen on this side of the House, from Ohio, [Mr. FROCK] calling upon the people of the South to have independence of spirit enough to rise up and reject it with scorn. And, as has been said by the gentleman from New York to-day, no matter what may be said of these people we may say this for them, that they are not fools, and they are not going to accept it. The inference, then, may be that we are fools in proposing it.

Well, sir, if we are to judge by their actions for the last five years, I think we should not make up our opinion very rapidly that they have not acted very foolishly in some things at least. It appears to me that they exhibited very little wisdom in going into the rebellion; it appears to me that they exhibited very little wisdom in its conduct; it appears to me that they exhibited no wisdom whatever in bringing on a great war; for if they had looked into the subject at all, they might have been satisfied that they could not destroy this Government. And they still show a want of wisdom, when, at the end of the war, having been crushed and having agreed to accept the issues of the war, to submit to the propositions by which we propose to reconstruct the Government, under the influence of the powers at Washington they have come to the conclusion that they are to be again trusted with the management of the affairs of this nation and are to be the rulers here. The sequel will show that they are misled and deceived.

Listen to what the Memphis Avalanche, one of the reconstructed organs of the South, says in reference to a recent law passed by the Le-

gisature of Tennessee, and then you will be prepared to judge whether these people are ready to accept our terms or not. I read from the Memphis Avalanche of the 5th of the present month:

"The despotic, infamous, and cowardly franchise bill has become what the régime at Nashville call a law. That is, it has passed a so-called Senate and a so-called House at Nashville, or, in other words, it has received the sanction of a gang of legislative loafers who exist at the public expense at the capital of the State, and call themselves the Legislature of Tennessee."

Such is the language used by the copper-head press all over the country in regard to the Congress which sits here to-day. But I quote further:

"It becomes the good people of Tennessee"—

I want the House to bear in mind that when this writer refers to the "good people of Tennessee," he refers to men who have been engaged in this wicked and infamous attempt to destroy our Government. He goes on:

"It becomes the good people of Tennessee to prepare at once to dispute the further encroachment upon their rights by the wretched despotism now in power at Nashville. Let the State have restored to it the constitution which existed before the war, and which has not, up to this time, been properly, legally, or constitutionally supplanted by any other organic system. What now professes to be the constitution of Tennessee is but an assumption, the creature of a mere mob, a dirty thing, having a dirty emanation, to which a brave and chivalric people have, because of their misfortunes, been compelled to submit, but which they loathe and despise from the utmost recesses of their noble but broken hearts."

This is the class of men to whom we are called upon to-day to extend our sympathies, and to place upon an equal footing with those who have never faltered in their devotion to the Union. But I read on:

"The time has now come when further endurance will entail upon the people additional and more humiliating oppressions."

Hear the language of these men, who to-day we are called upon to enfranchise, and to place upon an equal footing with ourselves. I desire to make one other quotation to show the spirit which animates these reconstructed rebels. I read from the Louisville Journal—a paper published in the interests of the "Conservative-Johnson-Union party"—on the 2d day of May, 1866, describing the convention of reconstructed rebels and Democrats for the State of Kentucky, held in the city of Louisville the preceding day. That paper uses this language:

"We assure the people of Kentucky that the peace, harmony, and safety of the State are more seriously imperiled now than they have been since the ruthless hordes of Buckner and Bragg were trampling down our soil. The same men whose treachery to the Commonwealth and the nation involved the country in civil war five years ago, the same men who robbed and encouraged the robbing of our banks, the destroying of our railroad bridges, the firing of the dwellings of our citizens, and sought to establish rebel provisional governments over our people, by which to coerce them into the whirlpool of treason, are perfecting a political organization in the State for the purpose of placing her political power exclusively in the hands of men who, having been whipped at their own game of powder and ball, are now seeking to use the ballot for the achievement of their revengeful political schemes."

I ask the Representatives of the people to-day if they are willing to turn over the loyal men in these States, who have passed these laws, to the tender mercies of men like these? That is the question we have to meet now on this proposition. There may be some objections to it; but if we can get nothing better it is a good thing to go before the people of the country with; and the people will answer in tones that will be gratifying to the heart of every loyal man who votes for it here.

But, sir, in order to obviate the objections that are made to this third section, I propose to amend the motion made yesterday by the gentleman from Ohio, [Mr. GARFIELD] to recommit the joint resolution with instructions to the committee to strike out the third section, by substituting therefor the following:

Recommit with instructions to strike out the third section, and insert in lieu thereof the following:

All persons who voluntarily adhered to the late insurrection, giving aid and comfort to the so-called southern confederacy, are forever excluded from holding any office of trust or profit under the Government of the United States.

That will obviate the objection that it would

be impracticable to enforce the provision depriving the men who were engaged in the rebellion of the right of voting. It will provide that they shall vote for none but those who have been loyal. The loyal men will be encouraged, because the nation will say to them, "You alone, who have remained true, shall hold office," following out the resolution of the House that "treason is a crime, and ought to be punished." As nobody expects now that any traitors will be hanged (which is the punishment provided by law) let us cut off their heads politically, and say to them, you can never hold office under this Government.

By this means we will affix the brand of treason upon the traitor's brow; and there I would have it remain until the snows of winter covered their graves.

In my opinion, we are compelled to do one of three things: we are compelled to adopt something of this kind to prohibit these men, who with treacherous hearts sought the very life of the nation, from again seizing the offices of the Federal Government, by excluding them forever from office; or we are to turn the loyal men in all the border States as well as throughout the whole South over into the hands of the traitors, with the probability that the nation itself will follow in the same wake. The second follows from the refusal to do the first; the first, in my opinion, being the only salvation for the Union and protection of Union men. There is one other course which might have the effect of saving the nation with the Union men of the South. That is, if you will enfranchise these traitors, then enfranchise all men; and in that way the vote of the loyal man may counteract the vote of the traitor. Now, so far as I am concerned, I have not arrived at the point yet when I can believe that all men should be enfranchised. But if I am asked which I would the sooner trust, I would answer that I prefer to trust the meanest black man with a loyal heart who ever wore the chains of slavery to the most intelligent traitor who has waged war against my country.

But this House is not prepared to enfranchise all men; the nation, perhaps, is not prepared for it to-day; the colored race are not prepared for it, probably, and I am sure the rebels are unfit for it; and as Congress has not the moral courage to vote for it, then put in this provision which cuts off the traitor from all political power in the nation, and then we have secured to the loyal men that control which they so richly deserve. We will then have rewarded them for their devotion, and punished treason as it deserves to be punished.

Let me ask gentlemen here, why do you want these men to vote? Why are you clamorous for the support of men who have been engaged in treason, and whose hands are yet reeking with the blood of more than three hundred thousand loyal slain? Simply that you may turn out of power the great Union party who alone have upheld the Government in this grand and glorious struggle for liberty; simply that you may hand the reins of Government over to the hands of that sickly, pale, copperhead party, which was only the left wing of Jeff. Davis's army during the late war. That is why you want to have them vote, and such would be the result of the policy if adopted. You do not want to have traitors punished. Why? Because you want their aid; you desire that they shall help you, just as you were willing to help them during the war which has just closed.

You talk about this question of State rights. We thought the war had killed that dogma. But you are now attempting to bring it to life again. And if you have power enough to do it with the aid of the votes of traitors you are willing to summon them here to these Halls and give them a share in our deliberations. Now, for one, I want none of it. I desire that the loyal alone shall rule the country which they alone have saved. I desire that the brave and war-worn veteran shall be rewarded for his toil and privation. I desire that the widows and orphans of the slain soldiers of the Republic shall be spared the insult of having traitors

make laws for them. I desire that the loyal heart of the nation shall continue in power the great party which sustained our armies in the field, and I desire that that party shall not be prevented from rewarding the heroes who survive with broken and maimed limbs and feeble bodies; shall not be prevented from dealing out pensions and bounties to the orphans of the slain soldiers of the Republic.

Permit these men to come back and assume their places here again, and I tell you to-day that having obtained equality for themselves you must go a little further and place their widows and their orphans upon our pension list, or they will not vote for any pension to yours. I want to prevent all that. And when the charge comes to me that I desire these propositions carried out in order to perpetuate the strength of a political party, I reply I do desire that party still to rule this land, because they alone having been loyal, they alone should rule.

Now, in regard to the section which forbids the payment of the rebel debt or compensation for slaves that have been emancipated, I most heartily support it. Having already put myself upon the record in favor of such a proposition, it is not necessary I should now say anything in regard to it. In order to secure the payment of the national debt, in order to prevent the payment of compensation for slaves who have become freemen, and the assumption of the rebel debt, the control of this Government must be by the loyal men of the land.

Mr. Speaker, I now yield to the gentleman from Iowa, [Mr. WILSON,] if he desires to occupy the few minutes I have remaining.

The SPEAKER. The time of the gentleman from Kentucky [Mr. McKee] will expire in four minutes.

Mr. WILSON, of Iowa. Mr. Speaker, I desired, when the gentleman from New York [Mr. RAYMOND] was speaking, to interrupt him, in order that I might understand fully the position in which he placed himself concerning his vote on the civil rights bill. I understood him to say that he voted against that bill because, as he believed, Congress had not the power, under the Constitution, to pass the bill, and that it would require such an amendment as is now proposed to clothe us with the power to pass such a measure. I could not at the time harmonize that in my mind with the record of the gentleman during this Congress relative to the principle involved in the civil rights bill.

The first section of that bill embodies its essential and vital principle. All the other sections provide merely for the enforcement of the principle embraced in the first section, which was simply a declaration that all persons without distinction of race or color should enjoy in all of the States and Territories civil rights and immunities. Now, sir, the gentleman himself introduced early in the session a bill, the second section of which provides as follows:

"That all persons born, or hereafter to be born, within the limits and under the jurisdiction of the United States, shall be deemed and considered, and are hereby declared, to be citizens of the United States, and entitled to all rights and privileges as such."

The first section proposes to amend our naturalization laws by striking out the word "white;" and the bill itself is intended to confer upon negroes and all other persons born within the United States, without distinction of color, the rights of citizens of the United States.

After that bill had been introduced by the gentleman from New York he made a speech, in which I find one of the propositions which he laid down as proper to be enforced by this Congress against the people of the southern States was in this language:

"I think, in the third place, we should provide by law for giving to the freedmen of the South all the rights of citizens, in courts of law and elsewhere."

Now, he did not mean that such provision should be made by a constitutional amendment; for in his fifth proposition he goes on to say:

"Fifth, I would make such amendments to the

Constitution as may seem wise to Congress and the States, acting freely and without coercion."

So that his third proposition had no reference to this. And in fact he precludes any such construction by using the term "law." He says:

"We should provide by law for giving to the freedmen of the South all the rights of citizens, in courts of law and elsewhere."

Now, sir, that proposition of the gentleman is broader than the provision of the civil rights bill. It involves the entire principle; and if we give a reasonable construction to the term "elsewhere," we may include in that the jury-box and the ballot-box.

It does seem to me, sir, that the explanation given by the gentleman for his vote against the civil rights bill cannot be supported upon this record. If the gentleman will say that he voted against that bill because of the sections following the first, that may raise a different question—

The SPEAKER. The half hour of the gentleman from Kentucky [Mr. McKee] has expired.

Mr. ELDRIDGE obtained the floor.

Mr. RAYMOND. I will inquire of the gentleman from Wisconsin [Mr. ELDRIDGE] whether he will not allow the gentleman from Iowa to finish what he has to say and allow me to reply. It need not come out of the gentleman's time. Let it be regarded as an independent portion of the debate.

Mr. ELDRIDGE. I will consent to that if the House will.

The SPEAKER. If the gentleman from Wisconsin does not claim the floor now, the Chair will recognize the gentleman from Iowa.

Mr. ROGERS. My information is that this bill is to be brought to a vote to-morrow. There are a number of gentlemen who wish to speak; and I suppose it is desirable to give as many an opportunity as possible.

The SPEAKER. The Chair understands that the bill is to be brought to a vote to-morrow; and there are some thirty gentlemen who desire to speak.

Mr. ROGERS. I do not think it fair that time should be taken in this way. I do not object myself; but I think as many members as possible should be allowed an opportunity to speak.

Mr. RAYMOND. I think that when one gentleman makes a personal point against another an opportunity should be allowed for a reply.

Mr. ELDRIDGE. I have no objection to yielding to the gentlemen if I can have the floor as soon as this personal question is disposed of. But I do not wish the time to come out of my thirty minutes.

Mr. HIGBY. I believe that we adopted, a day or two ago, a stringent rule as to the allotment of time in this debate; and I shall object to any departure from that rule.

Mr. WILSON, of Iowa. I have said nearly all I intended to say.

Mr. HIGBY. I do not withdraw my objection. Gentlemen will have an opportunity to be heard before this debate is closed. I have no idea of closing this debate to-morrow. I do not believe in it.

Mr. ROGERS. Nor do I.

The SPEAKER. The gentleman from Wisconsin will proceed.

Mr. ELDRIDGE. Mr. Speaker, I do not intend to make an argument on the merits of this joint resolution on the present occasion. On the 25th of January last I gave my views and made such arguments as occurred to me against a similar proposition to one of these then reported from the joint committee of fifteen as an amendment to the Constitution. I have not had occasion to change the views I then expressed. I still believe, as I did then, that we ought not to amend the Constitution so as to provide a fundamental law for a people not represented in the action on that amendment. I believe now as I did then, that all the States formerly composing the Union were then and are now States of the Union. I do not believe the rebellion was successful in any manner to accomplish seces-

sion. I do not believe it had the effect to take away any of the rights of the loyal citizens of any of the confederate States, but that our success was the preservation of all their rights under the Constitution in the Union.

But, Mr. Speaker, I am opposed to the recommitment of this joint resolution, and I believe that is the pending question before the House. I do not wish to express any sentiment of disrespect for the individuals composing that committee. I entertain for them entire respect as individuals, but I do aver that that committee has utterly and entirely failed to perform its duty, and has disappointed the country in the action it has taken. That committee to-day stands, in my judgment, between the representatives of the late so-called confederate States and the resumption of their proper duties and functions in the Union and in this Congress.

That committee, sir, was raised and organized in the spirit of party. The resolution by which it was raised did not originate in the House of Representatives, but in a party caucus outside of this Hall, and for party purposes. And the committee in what it has done has acted in the interest of party. It has done perhaps what that caucus and those composing it expected.

What has it done? It has deliberated for five months. It was by the resolution creating it organized for a special and specific purpose, distinctly and clearly expressed in the resolution, and I allege that after having performed that duty as required by the resolution, it ought to have reported and then been discharged.

The resolution organizing the committee is as follows:

"Resolved by the Senate and House of Representatives in Congress assembled, That a joint committee of fifteen members shall be appointed, nine of whom shall be members of the House and six of the Senate, who shall inquire into the condition of the States which formed the so-called confederate States of America, and report whether they or any of them are entitled to be represented in either House of Congress, with leave to report at any time by bill or otherwise; and until such report shall have been made and finally acted upon by Congress, no member shall be received into either House from any of the said so-called confederate States; and all papers relating to the representatives of the said States shall be referred to the said committee without debate."

Mr. Speaker, it appears that the duties of that committee were simply to inquire "whether the so-called confederate States of America are entitled to be represented in the two Houses of Congress." I ask, how have they discharged that duty? Have they reported to the House upon the subject referred to them, that any one of those States is or is not entitled to representation? Have they inquired, and if they have inquired, what information have they given us on that subject? Nothing, absolutely nothing. Their sessions have been secret; their acts and doings have been kept from the public and from this House. And when they have reported, it has been only a mass of testimony I presume no Representative upon this floor has had time or patience or opportunity to read, if he has had the inclination. It has not yet been printed. It has not been laid before the House yet for any available purpose. There is no opportunity for us to judge what is the nature and character of that testimony. The Public Printer has not been able to print it before we are called upon to act upon measures said to be shown to be a necessity by it.

The committee report no facts whatever and give us no conclusion. They simply report amendments to the Constitution. Was that the purpose for which the committee was organized? Was it to change the fundamental law of the land under which we of the loyal States assembled here? Was that the duty with which the committee was charged? Were they to inquire and report an entire change of the fundamental law of the nation which would destroy the States and create an empire? I say they were charged with no such duty. The resolution cannot fairly be construed as giving to the committee any such power, any such jurisdiction.

What, then, has been accomplished? Do we understand from the committee to-day any better the situation of these States than we did at the beginning of this Congress? Have they enlightened us upon the question whether those States are entitled to representation in Congress? I say, as I said before, the committee have not only stood in the way of the representation of those States in this Congress, but they have stood in the way of proper information to this House. If the members from the southern States applying for admission at the beginning of the session had been admitted to seats on the floor of Congress, we should have gained some information. They would have been able to give us official information of the wants and necessities of those States in their character as Representatives, upon their honor as such. But this committee has not deigned to give us a single fact, not even their conclusion upon the facts, if perchance there are facts, as I suppose there are, in that testimony which they have taken.

I ask, then, and I ask sincerely, has the committee entitled itself to have this matter recommitment to it for further action, and for what purpose, what action, is the recommitment to be made? Is it that the committee may go on *ad infinitum* to take testimony of such persons as they may see fit to be used in the coming election, without giving us the benefit of their conclusions, of their consultations, and of their examinations? When this committee was at first raised it was professedly for the purpose of aiding in the restoration of the Union, and providing for the representation of the absent States, but it has become only a partisan machine in the interest of the Republican party. Its effort and purpose, if we may judge from the reports which it has made, have been, not to furnish a way of restoration, not to ascertain if they were entitled to representation, but to prevent or delay indefinitely both representation and restoration. Every report that has been made has shown upon its face the evidence of a determination to delay, if not to destroy. And the chairman of the committee, in his speech of yesterday at the opening of this debate, said that the southern representatives must not be permitted to come in until we will it.

The committee stands, therefore, resisting the restoration of this Union, and I hope that no further business will be referred to it. It has rendered itself unworthy of the high duty with which it was charged by the resolution which I have read. It has not sought to give us information. It has not sought to furnish us with the evidence whether these States were fit for or entitled to representation. But it is reporting measure after measure that must cause not only delay during the present session of Congress, but delay even beyond this Congress. To adopt the remark of the gentleman from Pennsylvania [Mr. BOYER] the committee has been seeking how not to restore rather than to restore the Union. Every obstruction, every obstacle which they could contrive, they have placed in the way of restoration.

Now, is it proposed to restore the Union by adopting this amendment to the Constitution? I do not believe that the proposition looks to any such purpose; it has no such object. But the committee, seeing the hand-writing on the wall, seeing the public sentiment of the country in favor of restoration, seeing the disrepute into which it was falling, seeing the character which it had attained before the country, sought to appease and allay that popular sentiment by a compromise in regard to these questions of difference among themselves.

Why is it that the gentleman from Pennsylvania [Mr. STEVENS] gives up universal suffrage? Why is it that he and other gentlemen give up universal confiscation? Why is it that other gentlemen give up universal butchery of that people? It is a compromise of what they call principle for the purpose of saving their party in the next fall election.

The gentleman from Ohio [Mr. GARFIELD] said yesterday that they must strike out the

third section or the people would be suspicious that this thing was done in the interest of party. Suspicious! Does not the proposed amendment carry on its face the evidence that it originated in the interest of party? It is reported and speeches are made upon it in the interest of party and for party purposes.

The chairman of the committee [Mr. STEVENS] tells us that these States are not necessary to be counted in the submission of this constitutional amendment. He scorns and scorns the idea that they are entitled to the right of rejecting or approving it. And here is another inconsistency on the face of the resolution itself, which in the preamble reads, "that the following article be proposed to the Legislatures of the several States as an amendment to the Constitution." These States are recognized in the resolution itself; every section, line, and sentence recognizes them as States in the Union. The word "State" is used in the first section, which says, "nor shall any State deprive any person of life, liberty, or property without due process of law." That has reference only to the southern States, for there was never any necessity to apply it to the northern States.

So in the second section the word "State" is used in the same sense, and also in the third section, admitted on all hands to apply not to the northern but to the southern States exclusively. And yet the gentleman from Pennsylvania [Mr. STEVENS] tells us that the southern States are not to be counted in adopting or rejecting this proposed amendment.

The second section of the joint resolution is also inconsistent with the action of the committee. They reported the bill known as the "civil rights bill," which has become a law. What necessity is there, then, for this amendment to the Constitution if that bill was constitutional at the time of its passage? Is it not an admission that it was not? Ay, but the gentleman from Pennsylvania gives us here another party reason. He tells us that the time may come when the Democrats will get possession of Congress, and if you depend upon a mere act of Congress, that it will be repealed; and he seeks to evade the popular will and to thwart the popular desire by placing in the Constitution now, while a portion of the States are unrepresented, an amendment to the Constitution, so that the people cannot have their way about it. This is of itself an admission that the whole scheme is in the interest of party alone, to preserve and perpetuate the party idea of this Republican disunion party.

But there is one thing about this resolution which is most remarkable if those eleven States are out of this Union, and it is this: that notwithstanding the proposition here to amend the Constitution in three particulars there is not yet any plan or proposition whatever reported by this committee for the restoration of this Union, or for those States to be represented in Congress. If the gentleman from Pennsylvania is right, and these eleven States are still out of the Union, adopt this amendment without their voice being heard, if you please, adopt it by the vote of nineteen States, and still these States, according to the gentleman's theory, will be out of the Union. Where, then, is your reconstruction, where your restoration in this joint resolution? Where has the committee shown any disposition, any desire for a restoration of the Union? Have they up till to-day reported any measure whereby a restoration of the Union is to be accomplished, whereby these States are ever to be restored and recognized as in the Union? How, under the theory of the gentleman that they are not to be counted or considered, because out of the Union, are they ever under this measure to become members of this Union? If they are not now members will the adoption of this amendment to the Constitution make them members of this Union? Certainly not. They are no more in the Union then or entitled to representation in Congress than now.

Here, then, is another gross inconsistency, showing the purpose and the object of this

measure. The third section is admitted even by the friends of the other two to carry upon its face the purpose of disfranchising the people of these eleven States and preventing them from taking part in the representation of this country. It is said by the gentleman from Ohio that if that section is not stricken out the people will come to the conclusion that this is a party measure. Sir, I have said no one can doubt it in the light of the history of this committee. It was organized in a party caucus. The resolution authorizing it was brought into the House by the man selected to do it by that caucus. It was presented to the House and supported solely by the caucus party; and immediately everything brought into the House having relation to the representation of the southern States in this Congress was consigned without debate to this vortex of ruin, of destruction, and of disunion. We have therefore been able to gain no information from any source on the subject of reconstruction or restoration or representation of those States.

The resolution may have been differently intended; but from its face no one can come to the conclusion that it intended anything more than that the committee should be authorized to inquire into the fact as to whether these States were legally and constitutionally entitled to be represented in either House of Congress; and yet the committee, arrogating to themselves all power upon this subject, have repeatedly reported amendments to the Constitution without giving us one fact or one reason for it, or any information as to when our troubles will be ended and the Union restored.

The people of this country, as I remarked in the beginning, are dissatisfied with that committee. It has disappointed the country. Go to-day, if you dare, and submit to the people of the United States the question whether that committee should longer be intrusted with this subject, and what do you think the vote would be? I tell you that it would be ten to one that the committee had disappointed the expectations of the country; that it should be discharged; that its duties were ended; that it had been a failure; that it had stood in the way of restoration and peace.

I tell you further that the people of this country demand the present, immediate restoration of this Union. And you will find, when the elections come around again, that they will speak in thunder tones to you politicians. You cannot compromise with them by surrendering principle for mere expediency, for mere party purposes. You will have to face the music, for the people will demand it of you. They have struggled long and ardently for the Union; they have sacrificed lives and treasure for the Union; they have been ardently devoted to the Union, and they will not surrender it for party purposes; they will not consent to keep the people of the southern States in bondage, such as Ireland has suffered so long, for the mere purpose of retaining a party in power.

I do not wonder that the gentleman from Pennsylvania [Mr. STEVENS] prophesied the time as not being more than three or four years distant when the people will place in power men who will respect the Constitution, who will respect the Union and the sacrifices that have been made for it, and who are willing to restore, preserve, and perpetuate that Union.

Mr. WINDOM. Will the gentleman from Wisconsin [Mr. ELDRIDGE] yield to me a moment, for a question?

Mr. ELDRIDGE. Certainly, for a question.

Mr. WINDOM. I desire to ask the gentleman, as he has spoken of the Democracy of his district, whether his home organ, the *Fond-du-Lac Press*, represents the Democracy of the State of Wisconsin.

Mr. ELDRIDGE. It does not. There is no paper on earth which represents the Democracy of this country.

Mr. WINDOM. Will the gentleman allow me to send to the Clerk's desk, to have read, an extract from that paper?

Mr. ELDRIDGE. No, sir.

Mr. WINDOM. Will the gentleman allow me to read half a dozen lines from his home organ?

Mr. ELDRIDGE. No, sir, because I have already said that we do not recognize it or any other paper as the representative of the Democratic party. We recognize no one person as authorized to speak for the Democracy. We speak by our acts; we are for the Union and always have been, and do not propose to let you prevent a restoration of the Union if we can help it.

Mr. WINDOM. I will ask the gentleman if he himself considers Jeff. Davis a traitor. His home organ says he is not.

Mr. ELDRIDGE. You work it in in that way, do you? [Laughter.] Well, I will say that I think he is. So you see the organ, as you call it, and I do not always agree.

Mr. WINDOM. I did not know how that was.

Mr. ELDRIDGE. Now will the gentleman tell me whether he thinks that any one who seeks to prevent a restoration of the Union is a traitor?

Mr. WINDOM. In some certain circumstances I think he is.

Mr. ELDRIDGE. Well, "in some certain circumstances" I think he is, too. [Laughter.]

Mr. WINDOM. Will the gentleman allow me to read something from the papers in his own district?

Mr. ELDRIDGE. No, sir.

I believe, Mr. Speaker, I have said pretty much all I desired to say. Much is said for the purpose of prejudicing the public mind about the readmission of red-handed traitors into the councils of the nation, and the question often suggested as to whether we can become reconciled to them. Sir, the war is ended; peace has been agreed upon; and men who have been in arms have laid them down. There is an agreement that we will forgive them, and if the fraternal union of our fathers is ever restored we must. Do you expect that those people will ever become reconciled to you if you do not become reconciled to them? And can that ever take place if you talk as the gentleman from Kentucky [Mr. McKEE] has talked this afternoon? If you would hang them all; if you would crush them all; if you would hate them forever, do you think they can shake hands with you, and live upon terms of amity and friendship with you? You wonder that they are not instantly reconciled to you; you wonder that they do not at once forgive and forget the past. But who here of the prominent politicians of the Republican party has ever been able to forgive? You are the conquerors; you have triumphed. You can afford to be magnanimous. You can forgive without mortification. But can they do the same? Consider what they must suffer. I expect that it will be long years before these bloody days will be forgotten either in the North or in the South. But we must live together as one nation, as one people, and the sooner we can forget and forgive the better; the happier, the more prosperous and happy shall we be as a nation.

I did hope that a better and a kindlier feeling was growing up in the North; but when I hear men talking about branding traitors and making them wear the brand upon their foreheads until the snows of winter shall lie upon their graves, such hatred, such malignity, it seems to me, will not only keep alive, but perpetuate forever, sentiments of alienation and hostility. The Union of our fathers was a Union of fraternal feeling and mutual interest, and we must restore that Union, or the duty resting upon us will not be performed. If you are unable to forgive and forget the past you cannot expect the people of the South to forget and become reconciled to you. They may have been wrong; they were wrong; but this fact does not change the nature of men. Human nature is the same everywhere. I am prepared to forgive, in the interest of country and Union. Upon no other condition are we promised forgiveness by divine authority.

Mr. BOUTWELL. Mr. Speaker, the gen-

tleman from Wisconsin [Mr. ELDRIDGE] has made some remarks in derogation of the joint committee on reconstruction. I do not purpose to reply at length to those remarks. He has said that the action of the committee is a failure. We knew very well from the beginning that so far as he and his friends were concerned the labors of the committee would be a failure. He puts, however, in behalf, I suppose, of himself and his Democratic friends, one question which I feel bound to answer. He says, "The committee have not told us when our troubles"—meaning, I suppose, the troubles of himself and his Democratic friends—"will cease."

Mr. ELDRIDGE. Oh, no; the gentleman certainly misunderstood me. I meant the troubles which the Republicans themselves were making.

Mr. BOUTWELL. The troubles of the gentleman and his friends are very likely to increase.

But, Mr. Speaker, the chief object which I have now in view—and I trust that in seeking to attain that object I shall not go beyond the line of parliamentary debate into the domain of partisan controversy—is to show how the proposition now before us from that committee traverses the policy of the Democratic party with reference to the reconstruction of the Government.

I admit that the policy of the Democratic body is a simple policy. It is a policy easily comprehended. It is a policy in which for ten years, within my observation, they have been consistent. It is a policy which they laid down as early as 1856, in the platform made at Cincinnati, wherein they declared substantially—for I cannot recite the precise language of the declaration as it is many years since I read those resolutions—that it was the right of a Territory to be admitted into this Union with such institutions as it chose to establish, not even by implication admitting that the representatives of the existing Government had any right to canvass those institutions, or to consider the right of the Territory to be recognized as a State.

Now, sir, from that doctrine, which probably had its origin in the resolutions of 1798, the whole of their policy to this day has legitimately followed. First, we saw its results in the doctrine of Mr. Buchanan, announced in 1860, that, while the Constitution did not provide for or authorize the secession of a State from this Union, there was no power in the existing Government to compel a State to remain in the Union against its own judgment. Following that doctrine they come legitimately to the conclusion of to-day, in which they are supported, as I understand, by the President of the United States upon the one side, and, as I know, by the testimony of Alexander H. Stephens, late vice president of the so-called confederacy, upon the other. That doctrine is that these eleven States have to-day, each for itself, an existing and unquestionable right of representation in the Government of this country, and that it is a continuous right which has not been interrupted by any of the events of the war.

This is a simple policy. It is a direct policy. It is a policy which can be comprehended. It is the policy of the Democratic party. Now, whether the President of the United States or the humblest citizen of the country accepts or avows it, he has no right whatever to call it his policy. It is the policy of the Democratic party.

I wish to lay before the House a proposition, and I beg the attention of Democratic gentlemen to it. I have written out the proposition with some care, and I think that I state exactly, and I hope not unfavorably, the position of the Democratic party on this question. The proposition is this:

1. The Democratic party maintains that a State of the American Union cannot by its own acts separate itself from its associates.

2. That the events of this war, including the individual, organized, and public acts of the

people and governments of the eleven rebellious States, have not in any way changed the constitutional relations which previous to the war subsisted between those people and States on the one hand and the national Government on the other; and, as a consequence,

3. That those States respectively, and the loyal people thereof, have an immediate and unquestionable right of representation; provided, always, that in each case the person elected now is, and heretofore has been, loyal to the Government and a supporter of the Constitution of the country, of which fact each House is the sole judge on the question of the right of a claimant to a seat; and therefore,

4. That no legislation or amendment of the Constitution is necessary, or even proper, as a prerequisite to the full exercise of the right of representation in the Congress of the United States by the people and States lately in insurrection.

Mr. RANDALL, of Pennsylvania. If the gentleman will insert the words "the loyal people" I think he will state the position some Democratic gentlemen take.

Mr. BOUTWELL. That is the difference between the gentleman from Pennsylvania and his friend, Mr. Stephens, of Georgia. Possibly there may be no difference. Stephens insists that if a man be loyal to-day there shall be no inquiry into his previous character.

Mr. RANDALL, of Pennsylvania. I do not know by what authority the gentleman classifies me with Mr. Stephens.

Mr. BOUTWELL. I will not make any classification disagreeable to the gentleman. I wish to ask whether he means by the word "loyal" a man who declares himself to be loyal now, or does he propose to ascertain whether the man has heretofore been loyal?

Mr. RANDALL, of Pennsylvania. I mean to say, on the question of representation, that when a man comes from a State, competent to be qualified as you and I have qualified, we should admit him.

Mr. BOUTWELL. That is a proposition, and not an answer to the question.

Mr. RANDALL, of Pennsylvania. The gentleman has urged the great consistency of the Democratic party. If he will allow me, I will send to the Clerk's desk, to be read, a portion of the Chicago platform. I would like to show the inconsistencies of his own party.

Mr. BOUTWELL. I have no time for the inconsistencies of any party. When I have proved the consistency of the gentleman's own party I think he ought to be satisfied. They have been consistent in wrong-doing so far as the interests of the country are concerned, and upon the point I make an observation which I desire to have considered in connection with the distinction with which I preface it.

I do not say that every man who supports the propositions which I have stated here to-day gave aid and comfort to the rebellion and participated in treason, but the converse of this proposition is true, and the country ought to notice the fact. The instincts of men are higher than the reason of men, for through the instincts God teaches without the intervention of fallible logic and theories of reason. The instincts of men are right on all these matters. The affirmative proposition that I lay down is, that as far as there is any testimony before the country, every traitor of the South and every sympathizer with treason in the North sustains the policy of the Democratic party and the President. That is an alarming fact.

Mr. CHANLER. The gentleman dropped his voice and we have not been able to hear the last words which he uttered.

Mr. BOUTWELL. If I have said something that the gentleman from New York did not hear I commend him to the Globe of tomorrow morning, for I do not propose to make any change in what I said.

Mr. CHANLER. The gentleman's argument was evidently confined to his own party as we did not hear it here.

Mr. BOUTWELL. Now, then, we traverse these propositions, and if there be any gentle-

man upon this floor not identified with the Democratic party who still sustains what he understands to be the executive policy, I will offer him five minutes of the brief time remaining to me to show to the House and country where the policy of the President differs from the ancient and consistent policy of the Democratic party.

Mr. RANDALL, of Pennsylvania. I will show the gentleman.

Mr. BOUTWELL. The gentleman is not called upon.

With all kindness I desire to ask my friend who represents the sixth district of the city of New York [Mr. RAYMOND] whether he does not see that these propositions, which are sustained by the President and the Democrats throughout the country, if carried into effect portend the destruction of the Government.

First, chiefly we traverse the Democratic propositions by a resolution now before this House in this particular. We admit equality of representation based upon the exercise of the elective franchise by the people. The proposition in the matter of suffrage falls short of what I desire, but so far as it goes it tends to the equalization of the inequality at present existing; and while I demand and shall continue to demand the franchise for all loyal male citizens of this country—and I cannot but admit the possibility that ultimately those eleven States may be restored to representative power without the right of franchise being conferred upon the colored people—I should feel myself doubly humiliated and disgraced, and criminal even, if I hesitated to do what I can for a proposition which equalizes representation.

Can any party or any man defend the proposition now before the country to allow the States lately in rebellion to come in with their power undiminished, so that two rebel soldiers, whose hands are dripping with the blood of our fellow-men, whose opinions as to the right of this Government to exist are unchanged, shall exercise the political power of three loyal Union soldiers? Yet the gentlemen who support this proposition ask the country to accept these States here with their representation undiminished. And those echoing the language of Alexander Stephens are unwilling that the Constitution shall be amended in this particular until the return of the eleven States, thereby rendering it absolutely impossible that there shall be any adjustment of these difficulties after the return of those States.

I can do no less than say that I believe that the man of whatsoever party or State who adopts this proposition or uses his influence for its support by the people, is recreant to the cause of justice, of liberty, and of humanity on this continent. And yet, to that doctrine, so full of injustice, and so flagrant in principle, the Democratic party is committed. And in this hour of the nation's peril it is our sad misfortune that we are compelled to admit that he who has received the suffrage of a generous people for the second office in the gift of the country accepts that as his doctrine.

The justification of all this is "once a State always a State;" that there is no power in the General Government to resist this policy; and that we who say that nothing shall be done in the way of restoration to political power to those States until this inequality is adjusted, are ourselves disturbers of the public peace and advocates of disunion.

Well, sir, I am for a Union, and for that Union only in which there is substantial justice among the men and between the States composing it. I accept one fact, and no gentleman can escape the force of that fact, and that is, that these eleven States are not to-day represented in the Congress of this country, and with my consent they never shall be until this inequality is adjusted, or its adjustment provided for. That is the fact. How it has come to pass that they are not represented is not material to the business we have in hand. I accept the statement made by Mr. Lincoln in his last public address, that these States are out of their proper practical relations to the Union,

and I assert as a necessary and natural consequence that they cannot get into their proper relation except by our consent who represent the loyal States of this country. This is the material fact, and it is wholly unnecessary at the present time to inquire into the truth or falsity of the various theories which have been presented on the subject.

Some objection has been made by gentlemen on this side of the House, as well as the other, to the third section of the article reported by the committee. I freely confess that the adoption of the third section is not necessary to the subject-matter which we have in hand. My own views of reconstruction lead me in the opposite direction. I should prefer to include those who are our friends rather than exclude even those who are our enemies. But inasmuch as gentlemen on this floor are not prepared, as they say, to include those in the governing force of the country who have sustained the country, I see no safety in the present except in some sort of exclusion of those who are its enemies. We are to consider what sort of enemies these men are. We have defeated them in arms, but in the proposition of the Democratic party, we invite them to the only field in which they have any chance of success in the contest in which they have been engaged.

They have been beaten, and what do you ask, and what do you offer? You ask them to come into the councils of the nation where they have a chance of success, and where the only chance of success remains. Who are these men? They are the men who to-day are radically, honestly, persistently, and religiously opposed to this Government if this Government exercises its functions. The gentleman from Wisconsin [Mr. ELDRIDGE] may not have heard of what Mr. Stephens told the committee; and who is Mr. Stephens? Mr. Stephens was believed to be the most conservative, most Union-loving man in the whole southern country; and if the opinions to which I shall refer be his opinions, with how much stronger reason may we suppose that they are the opinions of those to whom formerly he himself was somewhat opposed. What does he tell us? He tells us that in 1861 he protested against the action of the secessionists, not because he believed that they had not a constitutional basis upon which to stand, but because he thought secession bad policy, and he says that to-day his opinions are unchanged; that is to say, Mr. Stephens believes that this Government has no right to exist if the insignificant State of Florida, for instance, thinks it ought not to exist; and what Mr. Stephens believes, according to his own testimony, is believed by the great majority of the people whom he represents in Georgia, and in various portions of the South, and whose views he understands. These are the men that you are invited to receive into the Government of the country, men who deny the right of this Government to exist.

It is said by gentlemen on the other side of the House that when they present a Representative here he must be a loyal man. I need not say to gentlemen acquainted with the technicalities of the law, that a loyal man, for all purposes of representation, is a man whose disloyalty cannot be proved. When we open the doors of the Senate and of this House to representatives from that section of the country, they will only have to present men who cannot be convicted of having participated actively and willingly in the work of treason; but they may send men here who represent treasonable and disunion opinions, and we shall have no power to protect ourselves against them. When ever was a more insidious idea presented to the people of this country than that there is any security in demanding merely loyal representatives? We are false to our duty if we do not go further and require that in each of these States, before they are allowed representation, the masses of the people shall be loyal, for the representative will reflect the views of the people. You cannot gather figs from thorns, or grapes from thistles. You

must wait, if it be necessary to wait, until there is a loyal controlling public sentiment in each one of these States. It is nothing to this country that Tennessee sends Mr. Maynard, a loyal man, here. We want to know what Tennessee is; and the circumstance that Mr. Maynard is himself a loyal man, if his State is not loyal, is a reason why he should neither ask to be received or we submit to his admission. And it is not sufficient that there be loyal districts in the State. A State is represented in the Senate and in the House as a State. There is no constitutional capacity for representation except through State organization. Representatives in this House are apportioned by the Constitution among the several States.

When we find that Tennessee is, as a whole, loyal to the Government, then we may accept Representatives from Tennessee, and trust to the people to send loyal men here. But if we accept Representatives from Tennessee because they, individually, are loyal, while Tennessee herself is disloyal, you will have thrust into this House and into the Government of the country disloyal men; and what does it portend? Mr. Stephens denies the constitutional efficacy of our amendment abolishing slavery. He says that slavery has been abolished by the States. He says that the law taxing the people of this country has no constitutional force, because they are not represented. Do you not see that his insidious and dangerous doctrines, which are responded to by the whole Democratic party of the country, portend the destruction of the public credit, the repudiation of the public debt, and the disorganization of society?

We are the conservative, the order-seeking, the Union-loving, the loyal men of the country. They who oppose measures for the pacification of the country with reference to the rights of the States and the rights of men are the disorganizers, the disloyal and dangerous men of this Republic.

Sir, it will be found that the Union party stands unitedly upon two propositions. The first is equality of representation, about which there is no difference of opinion. The second is, that there shall be a loyal people in each applicant State before any representative from that State is admitted in Congress. And there is a third; a vast majority of the Republican party, soon to be the controlling and entire force of that party, demand suffrage for our friends, for those who have stood by us in our days of tribulation. And for myself, with the right of course to change my opinion, I believe in the constitutional power of the Government to-day to extend the elective franchise to every loyal male citizen of the Republic.

If I have any time left I will yield it to the gentleman from Iowa, [Mr. WILSON.]

The SPEAKER. The gentleman from Massachusetts [Mr. BOUTWELL] has two minutes of his half hour left.

Mr. WILSON, of Iowa. That is so short a time I will not avail myself of it, as it will not admit of any reply from the gentleman from New York, [Mr. RAYMOND.]

SUFFRAGE IN THE TERRITORIES.

Mr. JULIAN, by unanimous consent, introduced a bill concerning the elective franchise in the Territories of the United States and the admission of new States into the Union; which was read a first and second time, referred to the Committee on the Judiciary, and ordered to be printed.

INCREASE OF PENSIONS.

Mr. TAYLOR, by unanimous consent, introduced a bill to increase the pensions of certain disabled officers of the volunteer service; which was read a first and second time, and referred to the Committee on Invalid Pensions.

LEAVE OF ABSENCE.

Mr. ORTH asked and obtained leave of absence for his colleague, Mr. FARQUHAR, for two weeks from last Monday.

RECONSTRUCTION—AGAIN.

Mr. STEVENS. I desire to give notice that unless the House shall feel otherwise inclined I will to-morrow, at three o'clock, call the previous question, and ask a vote on this joint resolution. Several of our friends wish to go away to-morrow evening, and I desire that they shall have the pleasure of voting for this measure before they leave the city.

Mr. SPALDING. Mr. Speaker, the report of the committee has elicited in this House a most searching criticism. It is approved and disapproved, either wholly or in part, according to the views entertained by the particular individuals who have obtained the floor.

It does not, in all respects, come up to the standard which my imperfect judgment had erected, but I have lived long enough to know that very few things of a public character can be accomplished without some abnegation of one's own notions of propriety, and a respectful deference to the opinions of others.

The joint committee on reconstruction was made up of able and patriotic men. They have labored assiduously for nearly six months, and have now given to us the result of their deliberations in certain proposed amendments of the Constitution, and sundry propositions for legislative enactment.

Regarding it as more important that some definite *projet* be presented by Congress to the people of the United States than that the plan itself approach very nearly to perfection, and fearing the effect of amendments upon the successful passage of the measures proposed through Congress, I have brought my mind to the conclusion that I shall best subserve the cause of patriotism and the country's good by voting severally and collectively for the measures reported by the committee.

We are in the process of legislation to bring back into the councils of the nation a class of citizens who during the last five years have avowed the most inveterate hostility to our Government and its free institutions, and who have waged a most cruel war against our people upon the battle-field. Does any sane man believe that the loyal people of the United States who have submitted to these great sacrifices, who have incurred the risk of losing the benefit of the free institutions handed down to them by our fathers, who have, by the bravery of their sons, put down this accursed rebellion upon the battle-field; I say, does any reflecting man suppose that we are so bereft of our senses as to admit these same men, "without a why or a wherefore," into the Halls of Congress to make laws for our government, and the government of our fellow-citizens at home, who are quite as loyal as ourselves? Sir, it is idle to say that any sane man expects it. It seems to me that the only question for our consideration is, what guarantees may Congress exact from this rebellious people—a people who not only fought us, but who declared time and again that they detested our principles of government, and that they would sooner unite with the monarchies of Great Britain and France than live under our free Government with the race they in derision termed "the Yankees?"

It has been said in high places that treason was the greatest of crimes, and that it should be made known for the benefit of all coming generations, and as an example to the civilized world that traitors would surely be punished. We have heard it said by those in authority that the leading traitors should be tried and hung, while the infatuated rank and file might be pardoned. That is very well; but I would inquire, what leading traitors have been hung? What leading traitor has been hung? What leading traitors or what leading traitor will be hung?

Mr. GRINNELL. Mrs. Surratt.

Mr. SPALDING. "Mrs. Surratt!" She was tried and sentenced and hung as an assassin, and not as a traitor.

Now, sir, we propose to amend the Constitution of the United States in several respects.

As to the first measure proposed, a person may read it five hundred years hence without gathering from it any idea that this rebellion ever existed. The same may be said of the second proposition, for it only proposes that, the bondsmen being made free, the apportionment of Representatives in Congress shall be based upon the whole number of persons who exercise the elective franchise, instead of the population.

The third section—and this is the one to which exception is taken by my friends on the right and left—proposes that no person who was actively engaged in rebellion against our Government shall have the right to vote for members of Congress or for electors of the President and Vice President of the United States until the year 1870. Is this exceptionable? Is it objectionable? If it be so, it is, in my judgment, for the reason that the duration of the period of incapacity is not extended more widely. I take my stand here that it is necessary to ingraft into that enduring instrument, called the Constitution of the United States, something which shall admonish this rebellious people and all who shall come after them that treason against the Government is odious; that it carries with it some penalty, some disqualification; and the only one which we seek to attach by this amendment is a disqualification in voting—not for their State and county and town officers, but for members of Congress, who are to be the law-makers, and for the Executive of the United States, this disqualification to operate for the short period of four years. Now, sir, will any patriotic, any loyal man object to putting this memorial upon the Constitution as they would put "*memento mori*" upon the head of a tombstone?

But, sir, there is another reason why we should ingraft this provision upon the Constitution. All our congressional legislation may be considered as ephemeral. I know that my friends on the other side of the House always take courage when we advance the idea that at some remote period they may gain possession of the controlling power in these Halls and carry measures according to the dictates of their own wisdom and sense of patriotism. Sir, let the effect fall where it may, and give consolation to whom it will, I still declare that all these matters are within the bounds, not only of possibility, but of probability, that at some not very remote period, if we admit Representatives from the rebel States into this Hall without qualification, the prospect is that, in conjunction with their friends who have so strongly sympathized with them during the four years of this recent strife, they will repeal many, if not all, of the measures which we have adopted for the welfare and the salvation of the country. Hence I insist that something of this sort should go into the Constitution, where it shall require not only the action of the Senate and the House of Representatives, but the action of the State Legislatures to erase it. For this reason, and because it is dangerous at this moment to receive these men here to make laws for the loyal people of the country, I go for the adoption of this third section, which disqualifies active and known rebels from participating in the election of Federal officers.

Mr. Speaker, much has said, much has been said—too much, sometimes, has been said—about the difference between Congress and the Executive of the nation. Sir, I look upon this subject in a somewhat different light from some of my friends whose superior wisdom I am proud to acknowledge. I feel that under our Government we owe some deference to the station of the President of the United States; and I feel that, however we may differ in sentiment with the incumbent of that high office, we ought, at all times and under all circumstances, to treat him respectfully. Hence I would have preferred, from the first hour of this Congress to the last, that there should have been no personal abuse of the incumbent of the presidential chair.

I honor my friends for standing up manfully

to their own opinions. There is a difference between the President and Congress; and, as I conceive, that difference amounts to this: the majority in Congress believe that it would be prejudicial to the best interests of our Government and nation to receive back, immediately and unconditionally, the men who were lately in rebellion. I believe this, as I believe any other great truth which was ever set before my mind for belief. I have no doubt upon the subject. Hence I cannot but be surprised that a gentleman who has gone through the rugged experience of the President of the United States should be willing and ready to trust those men now without having some of those guarantees which we are insisting upon. It is a difference of policy, as gentlemen say. Let it be a difference of policy. We will admit that our policy is to receive back these rebellious States with suitable guarantees.

It is the policy of the President of the United States, in the faith that they will conduct themselves loyally and properly, to receive them without these guarantees.

I suppose these to be the respective systems of policy of the President and of Congress. While we maintain steadfastly what we believe to be the rights of the legislative branch of this Government, while we adhere firmly to our opinions and go on legislating for such measures as we suppose the public good demands at our hands, and do it firmly, decidedly, independently, may we not, at the same time, do it without casting personal reproach upon or indulging in personal abuse of the incumbent of the presidential chair? Sir, I believe I have the character among my constituents of being sufficiently radical for all useful purposes. I am prepared to vote here with my party friends, side by side with him who goes for the most extreme measures, but at the same time I deny the necessity of using personal invectives toward the Executive of the nation or the heads of the Departments. It cannot be necessary. It is not justifiable. We have all business to transact for our constituents with the President and the Departments. We must necessarily be brought into contact with them, and we expect to be received and treated by them as gentlemen. Why cannot we speak of them without indulging in vilification and abuse?

I have already said that, believing in the wisdom, patriotism, and sagacity of the committee which has reported the measures under consideration, I shall avail myself of their praiseworthy labors and shall vote for one and all of their propositions. I am content to take the whole of them, and hope they will be put through both branches of Congress, so that the people may see that we have a policy as well as the President.

Mr. MILLER. Mr. Speaker, I am glad that the committee on reconstruction, through their honorable chairman, [Mr. STEVENS,] have reported to this House a proposition for certain amendments to the Constitution of the United States, which, if approved by two thirds of both Houses and then ratified by the Legislatures of three fourths of the several States, will become a part thereof.

The article of the proposed amendment contains five sections.

The first provides that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws.

The second section provides that Representatives shall be apportioned among the several States which may be included within the Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in re-

bellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

The third section prohibits, until the 4th of July, 1870, from voting for Representatives in Congress and for electors of President and Vice President of the United States, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort.

The fourth section provides that—

Neither the United States nor any State shall assume or pay any debt or obligation already incurred in aid of insurrection or war against the United States, or for any claim for compensation for loss of involuntary service or labor.

And the fifth section gives Congress the power to enforce by appropriate legislation the provisions of this article.

These proposed amendments now being under consideration, I will give my views briefly in regard to them.

As to the first, it is so just that no State shall deprive any person of life, liberty, or property without due process of law, nor deny equal protection of the laws, and so clearly within the spirit of the Declaration of Independence of the 4th of July, 1776, that no member of this House can seriously object to it.

The next, as to representation, I deem the most important amendment, and is in fact the corner-stone of the stability of our Government. In the Constitution of the United States of 17th of September, 1787, in section two, under article one, it is provided that—

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons."

The word "slave" was not very palatable to the venerable gentlemen who framed that Constitution, and therefore they used the words "all others," which, of course, meant slaves. Before the rebellion the slave States had a representation in Congress of nineteen for slaves and about five for free blacks, and slavery being now abolished, the other two fifths would add say thirteen more, making about thirty-seven Representatives from the black man's population. Now, conceding to each State the right to regulate the right of suffrage, they ought not to have a representation for male citizens not less than twenty-one years of age, whether white or black, who are deprived of the exercise of suffrage. This amendment will settle the complication in regard to suffrage and representation, leaving each State to regulate that for itself, so that it will be for it to decide whether or not it shall have a representation for all its male citizens not less than twenty-one years of age.

This amendment, Mr. Speaker, if adopted, will give the country a sufficient guarantee against any contingency that might arise in the admission of representatives from the States lately in rebellion—I mean such men as did not voluntarily engage in the rebellion, and can take the oath prescribed by existing laws. I do not regard the amendment of the constitutions of those States of much practical importance, for the same power that makes the amendments may unmake; but to annul an amendment to the Constitution of the United States requires the consent of two thirds of both Houses of Congress and a ratification by the Legislatures of three fourths of the several States or by a convention in three fourths thereof, as the one or the other mode of ratification may be proposed by Congress; and if this amendment is adopted it is not likely it will ever be altered so as to endanger the loyal States—I mean by the loyal States those States that aided us in putting down the rebellion.

Mr. Speaker, as we have now a large Union majority in both Houses, it is the time to pass the requisite amendments, so as to have the same submitted to the respective States for ratification, and I trust that the Governors of

those States whose Legislatures may have adjourned will, immediately after the approval of these amendments by Congress, convene the Legislatures in order that they may ratify them.

The third section, though it seems just on its face, I doubt the propriety of embodying it with the other amendments, as it may retard, if not endanger, the ratification of the amendment in regard to representation, and we cannot afford to endanger in any manner a matter of such vital importance to the country. I therefore, Mr. Speaker, propose to strike out this third section and submit it as a separate and distinct proposition, which certainly ought to meet the approval of all our friends. I cannot concur with the honorable gentleman from Massachusetts [Mr. BOWEN,] that every part of a State must be strictly loyal before allowed a representation in Congress. I fear if that doctrine should be carried out some of our northern States would be left without representation in Congress; that rule might, however, suit very well for Massachusetts where they seem to be nearly all of one opinion.

The honorable gentleman, to enforce his views, repeated a portion of what Alexander H. Stephens, late vice president of the so-called southern confederacy, stated before the committee on reconstruction. I do not think, Mr. Speaker, that the sentiment expressed by that rebel southerner ought to have any bearing upon the action of this House, except so far as to prevent him from ever having a seat in either branch of Congress or holding any office of honor, trust, or profit under the United States. The honorable gentleman from New York, [Mr. RAYMOND,] in his remarks, seemed to think we ought not to irritate the southern people. While I do not wish to inflict any unnecessary hardships upon those States, we certainly have right to demand of them a sure guarantee, and they ought to thank their God that they have been dealt with so leniently after inflicting upon the country a debt of nearly \$3,000,000,000, and causing such great affliction throughout the land.

I do not wish to be understood that I would screen the leaders of the rebellion from punishment, for on them rests the sin of misleading the great mass of the southern people. These people may be thankful if they are permitted to live within and under the protection of the United States, and enjoy their property, or a portion of it, without participating in the affairs of the Government whose very life they had attempted to destroy; but Congress does not object to a representation from those States when a sufficient guarantee is given by ratifying the requisite amendments to the Constitution of the United States, provided they send here loyal men.

I feel rejoiced that my worthy colleague [Mr. STEVENS] has consented to forego some of his views in order to meet those of his Republican friends in this House in regard to amendments; and I hope the same frankness will be manifested at the other end of the Capitol.

The fourth section is to prohibit the assumption by the United States, or any of the States, of the rebel debt incurred in aid of the insurrection or war against the United States, or any claim for compensation for loss of involuntary service or labor.

The importance of this amendment, Mr. Speaker, is manifest, as there is no telling what influence may be brought to bear upon Congress at some future day when southern people have seats upon this floor. And as to the States it is necessary, in order to encourage emigration to those States, that there should be some security against inflicting such debts upon those who may choose to settle there. This amendment is also demanded by the loyal people of the country, and is similar to one which passed this House by an almost unanimous vote in the early part of the session.

The fifth section gives to Congress the power to enforce the provisions of this article by ap-

propriate legislation. This of course is requisite to enforce the foregoing sections, or such of them as may be adopted, and is too plain to admit of argument; and in fact is not, as I am aware, contested by any gentleman in this House.

In conclusion, I would repeat, Mr. Speaker, what I had occasion once before to announce on the floor of this House, that the only three amendments I deem important to the Constitution of the United States as a sure guarantee were these, to wit:

1. That the representation in Congress shall be apportioned among the several States according to the qualified voters of each State;

2. That the rebel debt incurred in the late rebellion shall never be assumed by the United States or any State; and

3. To allow a tax or duty on exports, so that foreign countries which purchase cotton shall pay a duty thereon. And it is not probable that it would be imposed on any other staple exported, and besides, the duty thus derived would doubtless amount to a very large sum in aid of replenishing the Treasury. This latter might reach some of those who in the late rebellion were aiding the rebels.

It is true this latter proposition is not now before the House, but it is before the Judiciary Committee, and I trust that committee will soon report favorably, and I certainly cannot doubt its passage by a two-thirds vote.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 352) to incorporate the National Theological Institute; when the Speaker signed the same.

PROCEEDINGS BEFORE JUSTICES OF THE PEACE.

Mr. CULLOM, by unanimous consent, introduced an act to regulate proceedings before justices of the peace, and for other purposes; which was read a first and second time, and referred to the Committee for the District of Columbia.

COMPENSATION TO A CLERK.

Mr. CULLOM also, by unanimous consent, introduced the following resolution; which was read, and referred to the Committee of Accounts:

Resolved, That the compensation of John Bailey, assistant disbursing clerk, be, and the same is hereby, increased and made the same as that of the Journal clerk, beginning with the present Congress.

RECONSTRUCTION—AGAIN.

Mr. ELIOT. Mr. Speaker, at an early day during this session I offered for the consideration of the House the following propositions:

1. That the United States as conquerors in war now have the political power of the States recently in rebellion.

2. That, until action by Congress, the President, as Commander-in-Chief of the Army and Navy, has authority to organize and maintain government within said States.

3. That the said States are not entitled to take part in the government of the United States until Congress shall, on such terms as it may prescribe, confer upon them the power to act.

4. That, disclaiming all desire to impose on them hostile or burdensome conditions, and mindful only of irreversible guarantees against future disunion or secession and of plighted faith to all who have aided in the overthrow of this rebellion, we declare it to be an indispensable condition for the recognition of said States that their constitutions should secure to all the inhabitants thereof equal rights before the law without distinction of color or race.

The resolution embodying these propositions was referred, under the rule of the House, to the committee on reconstruction, and the action of that committee is now before the House in the form of a proposed amendment to the Constitution and of two bills, which will be considered in their order.

The proposed amendment contains five sections, and they are as follows:

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within this

Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

This amendment is not, as I believe, all that ought to be offered by that committee and passed by this House and made by the loyal Legislatures of the United States a part of our organic law; but it is right as far as it goes, and upon careful examination I find contained in it no compromise of principle. That being settled I am willing to defer to the opinions of other gentlemen, and be content with the best that can be obtained.

In the fourth proposition submitted by me in December last I stated what, in my judgment, we ought to demand. But that cannot be had. The time will come, I do not doubt, when in this Union of ours all men will stand equal before the law in their political and civil rights.

One amendment to the Constitution has been passed by this House and rejected by the Senate. I felt compelled to vote against it here although I regretted to be separated from friends whose judgment I respect. But for the reasons which I briefly gave at the time I could not unite with them upon the proposition then made.

The amendment now offered, while it is not all I could ask, is not open to the objections which then controlled my vote.

And now, Mr. Speaker, I shall very briefly give my reasons for sustaining the report of the committee and voting for the amendment which they offer to the House.

I support the first section because the doctrine it declares is right, and if, under the Constitution as it now stands, Congress has not the power to prohibit State legislation discriminating against classes of citizens or depriving any persons of life, liberty, or property without due process of law, or denying to any persons within the State the equal protection of the laws, then, in my judgment, such power should be distinctly conferred. I voted for the civil rights bill, and I did so under a conviction that we have ample power to enact into law the provisions of that bill. But I shall gladly do what I may to incorporate into the Constitution provisions which will settle the doubt which some gentlemen entertain upon that question.

The second section, Mr. Speaker, is, in my judgment, as nearly correct as it can be without being fully, in full measure, right. But one thing is right, and that is secured by the amendment. Manifestly no State should have its basis of national representation enlarged by reason of a portion of citizens within its borders to which the elective franchise is denied. If political power shall be lost because of such denial, not imposed because of participation in rebellion or other crime, it is to be hoped that political interests may work in the line of justice, and that the end will be the impartial enfranchisement of all citizens not disqualified by crime. Whether that end shall be attained or not, this will be secured: that the measure of political power of any State shall be determined by that portion of its citizens which can speak and act at the polls, and shall not be enlarged because of the residence within the State of portions of its citizens denied the right of franchise. So much for the second section of the amendment. It is not all that I wish and would demand; but odious inequalities are removed by it and representation will be equalized, and the

political rights of all citizens will under its operation be, as we believe, ultimately recognized and admitted.

The third section, Mr. Speaker, disables until July 4, 1870, those who voluntarily sought to destroy the Government from taking part in the election of President and Representatives in Congress.

Will any gentleman venture upon this side of the House to argue that such men should be restored at once to all their political rights within the Union? It is clear upon adjudged law that the States lately in rebellion, and the inhabitants of those States, by force of the civil war and of the Union triumph in that war, so far have lost their rights to take part in the Government of the Union that some action on the part of Congress is required to restore those rights. Pardon and amnesty given by the President cannot restore them. Those men cannot vote for President or for Representatives in Congress until in some way Congress has so acted as to restore their power. The question, then, is very simple: shall national power be at once conferred on those who have striven by all means open to them to destroy the nation's life? Shall our enemies and the enemies of the Government, as soon as they have been defeated in war, help to direct and to control the public policy of the Government? And that, too, while those men, hostile themselves, keep from all exercise of political power the only true and loyal friends whom we have had during these four years of war within these southern States.

Mr. Speaker, if this war has not been fought in vain; if our young men have not in vain offered up their lives in battle for their country; if the treasure and life of this land have not been sacrificed for naught, this thing must not be done.

But, Mr. Speaker, this section is not vital to this amendment. It may be stricken out, and the affirmative value of the amendment will yet be retained. I do not agree with those gentlemen who have contended that the amendment would be in effect deprived of its great value if the third section is omitted from it. The objection to it, the only objection which I remember to have heard, excepting that made by the gentleman from Ohio, [Mr. GARFIELD,] which was answered by his colleague, [Mr. SCHENCK,] is based upon the argument that the section would be practically inoperative. If that can be shown it should not be retained. But I have this to say in reply to this suggestion: there are two descriptions of persons who may be affected by this section. There are, first, the masses of men who do not direct affairs, but are themselves guided and controlled by others. There are, as we have reason to believe, multitudes of these men who had no heart for the rebellion, as they could see no profit to themselves even in its success. They were led into it, seduced into it, dragged into it; yet, being engaged, they may have so far voluntarily aided as to be within the letter of this section. From their early life these men had been accustomed to defer to the will of others. Now, there may be difficulty in applying this provision to such as these. Indeed, I am not anxious that it should be too generally applied. And it would probably be found, in the practical operation of this section, that such men were not so "voluntarily" acting as to be embraced by its terms. The will was wanting. They engaged in the rebellion more by force of the will of others than of their own. But this section would reach the solid rebels, the men of weight, of personal force, of high social character and position, the leaders in the various circles; these men would be reached. There might be doubt as to the others, but here there would be no doubt. In every community the leading men are known; because they were leaders they are known. They have controlled affairs, they have formed public opinion, they have swayed and directed and planned. Without these men of leading character, and strong will, and personal individual energy, the rebellion could not have gained its great propor-

tions. These men knew well what they wanted, and they knew well how they might most surely succeed. Whether in field or camp or council, in the army or in civil life, in cabinet or counting-room, in city or in country, these men are known; there can be no doubt as to them.

Now, when the whole efforts of these men were directed against the Government, I want to ask if there is any reason or propriety or decency or sense in permitting them now at once not only to be remitted to all political power, and thus to determine, so far as they can, by whom the legislation of Congress shall be conducted, and who shall be our President, but also to determine themselves the very questions involved in the reconstruction of the Government. We have become conquerors, have we not? Tell me, I pray you, when was the magnanimity of the conquering force ever taxed as the magnanimity of this nation would be by such a proposition? If this third section is stricken from the amendment I shall still support it. But unless I shall be satisfied by the arguments which I may hear that it will be so impracticable to enforce the provisions contained in it that it would be substantially inoperative, I shall vote to retain the provision in the amendment as reported.

Mr. Speaker, the fourth section of the amendment commends itself to all of us without argument. It does not need to be defended.

And for one, I am content to approve the action of the committee, and to commend it to the favor of the people whom we represent.

I can have no doubt that the duty is laid upon us by events which we could not control so to legislate that the restored Union shall be perpetual. Our people demand this now at our hands. The responsibility is fearful, but it is glorious too, if only we do right. Never had any Congress such questions to determine. They enter into the whole future life of the Republic. We have seen the false corner-stone knocked from beneath the temple. It must be replaced by a corner-stone of righteousness, solid and square and true. And that work is in our hands, and it must be done.

Now, Mr. Speaker, I believe if this amendment shall be adopted here and the bills reported shall be substantially enacted, the great work committed to us will be quickly and well accomplished. If it be possible let us act together. It is not possible that all of us can be fully satisfied. But this amendment is, in my judgment, safe and sure common standing-ground. Let us place ourselves upon it. There is room enough for all.

Mr. SHELLABARGER. Mr. Speaker, I desire to make a single suggestion in connection with the thought that has been uttered by my friend from Massachusetts, [Mr. ELIOT,] in regard to the practicability of executing a provision of the Constitution or law of Congress which should exclude from the elective franchise those who are disloyal. Now, sir, I admit and have always admitted the practical difficulties which are there. As I said before, I say to-day, I would not myself apply to the masses of the common people of the South any exclusion from the elective franchise. I would not extend it to a single person whom I was not compelled to extend it to by my duty to the public.

I make this general remark for the purpose of doing what I now do. I do not fully agree with my colleague who spoke yesterday, that it would require standing armies to execute this law or this provision of the Constitution, but I suggest to him, and to all other right-minded gentlemen in regard to this matter, this really is not surrounded by any practical difficulties after all, and will not require standing armies for its execution if we are to have any Government at all. In vindication of that proposition, let me remind my colleague, and all other gentlemen who make this objection, that there is a plain provision in the Constitution to which we may recur in execution of this amendment or this statute, as I hold we may give it the form of a statute. I will read it:

"The times, places, and manner of holding elec-

tions for Senators and Representatives shall be prescribed in each State by the Legislature thereof; but the Congress may at any time, by law, make or alter such regulations, except as to the places of choosing Senators."

Now, sir, there is the very law indicated in certain resolutions introduced by my friend from Rhode Island [Mr. JENCKES] on this subject for the execution of this provision. It indicates a method for the execution of any provision that Congress may put into the Constitution. It will not require standing armies. Here there is an act providing a method for holding elections in States for Federal offices. You can have registry laws. Upon this registry list you may place the names of men who are to be disqualified, and you may also have the names of all who are qualified to vote under the law. There they will stand, there they will be, to be referred to by your Government in the execution of its laws. And when it comes to this House or to the Senate to determine whether a man is duly elected you can resort to the ordinary process applicable to a trial in a contested-election case in either body, as to whether he has been elected by the men who were entitled to elect him.

That will not require a standing army, and it will be the application of the ordinary methods of carrying on a Government both of the Union and of the States.

I may add, however, in connection with this, that you can provide that the officers of election shall be Federal officers appointed by the Government of the United States, and the entire machinery that is used in regulating the elections can be provided.

[Here the hammer fell.]

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had passed, without amendment, bill of the House No. 352, to incorporate the National Theological Institute.

Also, a joint resolution (H. R. No. 66) relative to the courts and post office of New York city, with an amendment, in which the concurrence of the House was requested.

Also, Senate bill No. 307, authorizing the restoration of Commander Charles Hunter to the Navy, and Senate bill No. 305, to amend an act entitled "An act concerning notaries public for the District of Columbia," approved April 8, 1864; in which the concurrence of the House was requested.

INDIAN RESERVATIONS IN CALIFORNIA.

Mr. BIDWELL, by unanimous consent, introduced a bill in relation to Round Valley and other Indian reservations in northern California; which was read a first and second time, and referred to the Committee on Indian Affairs.

POST ROADS IN CALIFORNIA.

Mr. BIDWELL, by unanimous consent, introduced a bill to establish certain post roads in the State of California; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

RECONSTRUCTION—AGAIN.

Mr. WILSON, of Iowa. I rise, Mr. Speaker, simply to finish what I desired to say when the hammer fell as I was addressing the House before, and for the purpose, also, of giving the gentleman from New York [Mr. RAYMOND] an opportunity to submit anything in reply that he may desire.

I undertook, when I was on the floor before, to show that the remark the gentleman made to-day in justification of his vote against the civil rights bill was not in harmony with his action as a member of the House in the introduction of a bill guarantying the rights of citizens without distinction of race or color, and also in submitting to the House a proposition, which I read to the House, for the benefit of the freedmen.

I stated that I could not see that the position taken to-day was consistent with that presented by the bill and the proposition to which I re-

ferred, for it seems to me that the second section of the bill, as I have stated before, and the proposition to which I referred, embodied the principle of the first section of the civil rights bill.

I was about to remark, when my time expired, that if the gentleman intended his explanation to apply only to those portions of the civil rights bill which succeeded the first section, it might raise another question, namely, whether, after declaring all persons born in the United States citizens and entitled to all the rights and privileges of citizens, it would be competent for the Government of the United States to enforce and protect the rights thus conferred, or thus declared by the second section of the bill which the gentleman introduced.

Now, as I understand his remark to-day, it was directed to the principle involved in the first section of the civil rights bill which related to the rights to be protected by the provisions of that bill. That being conceded, the power to protect those rights must necessarily follow, as was laid down in the well-known case of *Priggs*. The Commonwealth of Pennsylvania, where the Supreme Court declared that the possession of the right carries with it the power to provide a remedy.

Now, sir, it seemed to me that there was an inconsistency between that record and the explanation of to-day, and as I do not wish to do the gentleman any injustice in this regard, I yield part of my time now for explanation.

Mr. RAYMOND. Mr. Speaker, I supposed it was a matter of very little consequence to any one but myself what my record might be. I do not wish here to enter into a detailed examination of that record. Those who are more concerned in regard to it than myself will probably do that for me here or elsewhere.

But with regard to my position upon this civil rights bill and the principles involved in it, I think I can explain in a very few words what it is so as to be understood by all. Almost at the very outset of this session, before the civil rights bill, which passed here and which is now the law of the land, had been reported, I introduced a bill proposing, first, to strike out the word "white" in the naturalization laws, and, secondly, declaring that all persons born in this country heretofore, or hereafter to be born, should be, and were thereby declared to be, citizens of the United States.

In some remarks that I submitted upon the subject I stated that my object was either to recognize the citizenship of the men lately freed from slavery, if that citizenship existed already, or to confer upon them citizenship if they were not now citizens, and Congress had power so to confer it.

I also said that I proposed a section in the bill which declared them to be entitled to all the rights, privileges, and immunities of other citizens of the United States, whatever those rights may be.

And it followed as a necessary inference that they were to have the same security for the enjoyment of those rights and the same remedy for their violation as any other citizen had; whatever laws Congress might make to protect other citizens in the enjoyment of their rights, they were also entitled to the protection of those laws. But the civil rights bill, when it came before us for our action, contained not only this declaration, in which I fully agreed, but it contained a provision by which the Government of the United States undertook to secure to them and to all other citizens the enjoyment of certain rights, and to provide for their violation certain remedies within State jurisdiction, where it seemed to me Congress under the existing Constitution had not the right so to act. It was this provision which rendered it impossible for me, with these opinions, to vote for the bill.

It was the remedy provided, one feature of which was giving power to the judiciary of the United States to imprison officers of the State courts for enforcing State laws, which I did not think Congress had the right to do; it was this

exercise of a power which I did not think that Congress under the Constitution possessed which constituted the reason why I voted against the bill, and I see nothing whatever in that vote inconsistent with my oft-repeated declaration that I was in favor of the principle of the bill, which was also embodied in the bill which I introduced for the purpose of securing to all the rights of citizenship with whatever power we possessed.

But now it comes before us in the form of an amendment to the Constitution, which proposes to give Congress the power to attain this precise result. I shall vote for that amendment cheerfully, because I think Congress should have that power. Now, I do not think there is any inconsistency in these two positions. If there is, the gentleman from Iowa [Mr. Wilson] is welcome to all he can make out of it. I do not feel at all embarrassed by it myself. And I submit to him that it is not of very great consequence to anybody but myself whether I am consistent or not.

Mr. WILSON, of Iowa. I admit that it is not of very great consequence whether the gentleman is consistent or not.

But there is one view of this question which I thought rendered it proper to call the attention of the gentleman and the House to this subject. The gentleman attempted to justify his vote, and in doing so referred to the pending amendment to the Constitution, and attempted to draw the conclusion that all those who might vote in favor of this amendment would be stultifying themselves if they had voted for the civil rights bill in the absence of this amendment. Now, if the gentleman will look to his remarks carefully, he will find that he referred, not to the second section, to which he now refers, nor to any other section but the first section, which declares against any discrimination in the exercise or enjoyment of rights among citizens of the United States in the several States. I quoted the provision of the bill which he introduced, and which, in addition to declaring them citizens, declared that they shall be entitled to all the rights and privileges as such.

Now, I submit to the gentleman that the Government of the United States cannot protect citizens in the enjoyment of these rights without going within the jurisdiction of the State. A citizen of the United States is always a citizen of the State in which he resides; and the rights which he possesses as a citizen of the United States can only be secured to him by laws which operate within the State in which he resides. Now, to show that the same class of rights were referred to by the gentleman, I call attention to the proposition contained in his speech made, I believe, in January last. He said that—

"In the third place, we should provide by law for giving to the freedmen of the South all the rights of citizens in courts of law and elsewhere."

"All the rights of citizens in courts of law and elsewhere" are broader terms than those used in the first section of the civil rights bill; but what I insist upon now is, that the gentleman being in favor of conferring these rights in courts and elsewhere, he must of course admit the power in the Government to enforce and protect those rights "in the courts and elsewhere." Therefore, the subsequent sections of the civil rights bill were but the result of that power, affirmed by the Supreme Court in the decision to which I have referred, to protect the rights which the citizen possessed.

Mr. RAYMOND. I desire to say, in reference to that point, merely that while in that speech and elsewhere I did declare myself to be in favor of extending and securing to all citizens their rights in courts and elsewhere, I did not declare myself in favor of the doctrine that Congress had the power to enforce those rights by such penalties as is prescribed in the civil rights bill.

Then, as to invading the jurisdiction of the States, the gentleman misunderstood me. I did not mean simply that the civil rights bill authorized Congress to enter into the territorial

jurisdiction of the State, I meant that it seemed to me that it trenched upon the exclusive legislative jurisdiction of the State. I did not say or intimate that every member of the House who voted for this amendment would stultify his vote for the civil rights bill, nor did I mean to impugn the motives of any member. I merely said that it seemed to me that by this vote the belief could fairly be inferred that Congress had not now that power.

The hour of half past four o'clock p. m. having arrived, the House, pursuant to order, took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

TAX BILL.

Mr. WASHBURN, of Illinois, moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended, and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURN, of Illinois, in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The Clerk resumed and concluded the reading of the seventh section, which is as follows:

SEC. 7. *And be it further enacted*, That it shall be the duty of every person, firm, or corporation, manufacturing cotton for any purpose whatever in any district where cotton is produced, to return to the assessor or assistant assessor of the district in which such manufacture is carried on, a true statement in writing, signed by him and verified by his oath or affirmation, and a duplicate thereof to the collector of said district on or before the 10th day of each month; and the first statement so rendered shall be on or before the 10th day of July, 1866, and shall state the amount of cotton which such manufacturer had on hand and unmanufactured, or in process of manufacture, on the 1st day of said month; and each subsequent statement shall show the whole amount in pounds, gross weight, of cotton purchased or obtained, and the whole amount consumed by him in any business or process of manufacture during the last preceding calendar month, and the quantity and character of the goods manufactured therefrom; and every such manufacturer or consumer shall keep a book in which he shall enter the quantity, in pounds of cotton, which he has on hand on the 1st day of July, 1866, and each quantity or lot purchased or obtained by him thereafter; the time when and the party or parties from whom the same was obtained; the quantity of said cotton, if any, which is the growth of the collection district where the same is manufactured; the quantity, if any, which has not been weighed and marked by any officer herein authorized to weigh and mark the same; the quantity, if any, upon which the tax had not been paid, so far as can be ascertained, before the manufacture thereof; and also the quantities used or disposed of by him from time to time in any process of manufacture or otherwise, and the quantity and character of the product thereof, which book shall, at all times during business hours, be open to the inspection of the assessor, assistant assessors, collector, or deputy collectors of the district, inspectors, or of revenue agents; and such manufacturer shall pay monthly to the collector within the time prescribed by law the tax herein specified, subject to no deductions, on all cotton so consumed by him in any manufacture, and on which no excise tax has previously been paid; and every such manufacturer, or person whose duty it is so to do, who shall neglect or refuse to make such returns to the assessor or to keep such book, or who shall make false or fraudulent returns, or make false entries in such book, or procure the same to be so done, in addition to the payment of the tax to be assessed thereon shall forfeit to the United States all cotton and all products of cotton in his possession, and shall be liable to a penalty of not less than one thousand nor more than five thousand dollars, to be recovered with costs of suit, or to imprisonment not exceeding two years, in the discretion of the court; and any person or persons who shall make any false oath or affidavit in relation to any matter or thing herein required shall be guilty of perjury, and be liable to imprisonment not less than two years nor more than five years: *Provided*, That nothing herein contained shall be construed in any manner to apply to or affect the liability of any person to any tax imposed by law on the goods manufactured from such cotton.

Mr. HOOPER, of Massachusetts. I move to amend by striking out in the eleventh line, on page 7, the word "amount," and inserting in lieu thereof the word "quantity;" also, by inserting, before the word "quantity," in the

fourteenth line, the word "whole;" also, by inserting after the word "quantity," in the fifteenth line, the word "consumed."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move further to amend by striking out in the fifty-sixth line, on page 9, the words "apply to or;" also, by striking out after the word "person," in the same line, the word "to," and inserting in lieu thereof the word "for."

The amendment was agreed to.

Mr. JENCKES. In lines fifty-three and fifty-four of this section there is a provision that any person making a false oath or affidavit shall be guilty of perjury, "and be liable to imprisonment not less than two years nor more than five years." I move to strike out the latter clause of that provision and insert these words:

And shall be subject to the punishment prescribed by existing statutes for that offense.

It is a singular fact, of which the committee should be aware, that the statutes of the United States prescribe two kinds of penalty for the offense of false swearing. The courts of the United States, not having any common-law jurisdiction over the offense, are governed by statutes, and by those alone, and if this provision of the bill should take effect in the manner prescribed here it would make a third statute penalty for the offense of false swearing. The existing statutes prescribe a penalty which is sufficient, being in fact more stringent than the one proposed here.

Mr. HOOPER, of Massachusetts. I think there is no objection to that amendment, and I hope that it will be adopted.

The amendment was agreed to.

The next section was read, as follows:

SEC. 8. *And be it further enacted*, That the provisions of the act of June 30, 1864, as amended by the act of March 3, 1865, relating to the assessment of taxes and enforcing the collection of the same, and all proceedings and remedies relating thereto, shall apply to the assessment and collection of the duty, fines, and penalties herein imposed, so far as the same are applicable, and not inconsistent with the provisions herein contained; and that the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, shall make all necessary rules and regulations for ascertaining the weight of all cotton to be assessed, and appropriately marking the same, and generally for carrying into effect the foregoing provisions of this act. And the Secretary of the Treasury is authorized to appoint all necessary inspectors, weighers, and markers of cotton, whose compensation shall be determined by the Commissioner of Internal Revenue, and paid in the same manner as inspectors of distilled spirits are paid.

Mr. HOOPER, of Massachusetts. I move to amend by striking out, in the seventh line of this section, the word "duty," and inserting in lieu thereof the word "tax."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move further to amend by striking out in the same line the word "herein."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move further to amend by striking out in the seventh and eighth line the words "so far as the same are applicable."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by striking out the words "herein contained," in the eighth and ninth lines, and inserting in lieu thereof the words "of the preceding sections of this act."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by inserting after the word "imposed," in the seventh line, the word "by."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I also move to amend by inserting before the word "appropriately," in the twelfth line, the word "for."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by striking out, in the fourteenth line, the words "of this act."

The amendment was agreed to.

Mr. PAINE. I apprehend that the gentleman from Massachusetts has made a mistake

in the amendment which has just been adopted on his motion. In the original language of the section, it is the proceedings and remedies which are stated or referred to as not inconsistent with the provisions of the act; but as it has been amended the language is, "tax, fines, and penalties not inconsistent with the provisions herein contained."

Mr. HOOPER, of Massachusetts. I think, if the gentleman will examine the amendment, he will find that it is correct. As amended the language reads, "shall apply to the assessment and collection of the tax, fines, and penalties imposed by and not inconsistent with the provisions of this act."

Mr. PAINE. The word "inconsistent" before referred to the proceedings and remedies; now it refers to something very different. Perhaps the gentleman intended that; but I supposed he did not.

The Clerk read the first and second paragraphs of the ninth section, as follows:

SEC. 9. *And be it further enacted*, That the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, as amended by the act of March 3, 1865, be, and the same is hereby, amended as follows:

That section five be amended by adding thereto the following: and any inspector or revenue agent or any special agent appointed by the Secretary of the Treasury, who shall demand or receive any compensation, fee, or reward, other than such as are provided by law for, or in regard to, the performance of his official duties, or shall be guilty of any extortion or willful oppression in the discharge of such duties, shall, upon conviction thereof in any circuit or district court of the United States having jurisdiction thereof, be subject to a fine not exceeding \$1,000 or to imprisonment for not exceeding one year, or both, at the discretion of the court, and shall be dismissed from office, and shall be forever disqualified from holding any office under the Government of the United States. And one half of the fine so imposed shall be for the use of the United States, and the other half for the use of the person, to be ascertained by the judgment of the court, who shall first give information whereby any such fine may be incurred.

Mr. HOOPER, of Massachusetts. I move to amend by inserting in the twenty-fourth line of the paragraph just read the word "the" before the word "information."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by striking out the word "incurred," at the end of the paragraph, and inserting in lieu thereof the word "imposed."

The amendment was agreed to.

The next paragraph of the ninth section was read, as follows:

That section fourteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that in case any person shall be absent from his or her residence or place of business at the time an assistant assessor shall call for the annual list or return, and no annual list or return has been rendered by such person to the assistant assessor as required by law, it shall be the duty of such assistant assessor to leave at such place of residence or business, with some one of suitable age and discretion, if such be present, otherwise to deposit in the nearest post office, a note or memorandum, addressed to such person, requiring him or her to render to such assistant assessor the list or return required by law within ten days from the date of such note or memorandum, verified by oath or affirmation. And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or if any person without notice, as aforesaid, shall not deliver a monthly or other list or return at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books or account containing entries relating to the trade or business of such person, or any other persons he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogatories under oath or affirmation respecting any objects liable to duty or tax as aforesaid, or the lists, statements, or returns thereof, or any trade, business, or profession liable to any tax as aforesaid. And the assessor may summon, as aforesaid, any person residing or found within the State in which his district is situated. And when the person intended to be summoned does not reside and cannot be found within such State, the assessor may enter any collection district where such person may be found, and there make the examination hereinbefore authorized. And to this end he shall thereupon and may exercise all the power and authority he has or may lawfully exercise in the district for which he is commissioned. The summons authorized by this section shall in all cases be served by an assistant assessor of the district where the person to whom it

is directed may be found, by an attested copy delivered to such person in hand or left at his last and usual place of abode, allowing him at the rate of one day for twenty-five miles he may be required to travel, computed from the place of service to the place of examination; and the certificate of service signed by an assistant assessor shall be evidence of the fact it states on the hearing of an application for an attachment, and when the summons requires the production of books, it shall be sufficient if such books are described with reasonable certainty. In case any person so summoned shall neglect or refuse to obey such summons according to its exigency, or to give testimony, or to answer interrogatories as required, it shall be lawful for the assessor, upon affidavit proving the facts, to apply to the judge of the district court for the district within which the person so summoned resides, or a commissioner of the circuit court of the United States, who is hereby authorized and empowered to perform the duties herein required, for an attachment against such person as for a contempt. It shall be the duty of such judge or commissioner to hear such application, and if satisfactory proof be made, to issue an attachment, directed to some proper officer, for the arrest of such person, and upon his being brought before him to proceed to a hearing of the case; and upon such hearing the judge or commissioner shall have power to make such order as he shall deem proper to enforce obedience to the requirements of the summons and punish such person for his default or disobedience. It shall be the duty of the assessor or assistant assessor of the district within which such person shall have taxable property to enter into and upon the premises, if it be necessary, of such person so refusing or neglecting, or rendering a false or fraudulent list or return, and to make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the assessor, and on his own view and information, such list or return, according to the form prescribed, of the property, goods, wares, and merchandise, and all articles or objects liable to duty or tax, owned or possessed or under the care or management of such person, and assess the duty thereon, including the amount, if any, due for special tax or income; and in case of the return of a false or fraudulent list or valuation, he shall add one hundred per cent. to such duty; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per cent. to such duty; and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such list or return as he may judge necessary, not exceeding thirty days; and the amount so added to the duty shall, in all cases, be collected by the collector at the same time and in the same manner with the duties; and the lists or returns so made and subscribed by such assessors or assistant assessors shall be taken and reputed as good and sufficient lists or returns for all legal purposes.

Mr. HOOPER, of Massachusetts. I move to amend by striking out in the seventieth line, on page 12, the word "him," and inserting in lieu thereof the words "such assistant assessor."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by inserting before the word "twenty" in the same line the word "each;" so that the clause will read:

Allowing such assistant assessor at the rate of one day for each twenty-five miles he may be required to travel.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move further to amend by inserting in the seventy-first line after the words "computed from" the words "his place of residence to."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move also to amend by striking out in the seventy-second line the words "to the place of examination."

Mr. BROMWELL. Mr. Chairman, it appears to me that the design of this provision must have been to give the party time to repair from his place of residence to the place where the examination is to be made; and if we make the language apply to the assistant assessor we give no time to the person summoned.

Mr. HOOPER, of Massachusetts. If the gentleman will examine the provision he will see that the object is to provide for the serving of the summons by the assistant assessor, and for his pay for the service in going from the place of his residence to the place where the summons is to be served. This provision has nothing to do with the examination. It merely relates to the summons for the examination.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend in the seventy-third line by striking out the word "an" and inserting "such," so

that it shall read "signed by such assistant assessor."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend in the seventy-eighth and seventy-ninth lines by striking out the words "according to its exigency," so that it shall read, "to obey such summons or to give testimony."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to insert the words "or a commissioner of the circuit court of the United States" before the words that now appear in the next line, "for the district within which the person so summoned resided." The two lines should be transposed.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to strike out of the eighty-fourth line the words "who are" and insert in lieu thereof "such judge or commissioner," so that it will read, "such judge or commissioner is hereby authorized and empowered," &c.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to insert after the word "duty" the words "or tax," in the one hundred and sixth line, in the one hundred and tenth line, and in the one hundred and twelfth line. Also, to insert "as" in the place of "with" in the one hundred and eighteenth line. Also, to strike out "duties," in the one hundred and nineteenth line, and insert "duty or tax." Also, the letter "s" in the word "lists" in the same line. Also, the words "lists and returns" in the one hundred and twenty-first line; so that that portion of the section shall read:

It shall be the duty of the assessor or assistant assessor of the district within which such person shall have taxable property to enter into and upon the premises, if it be necessary, of such person so refusing or neglecting, or rendering a false or fraudulent list or return, and to make, according to the best information which he can obtain, including that derived from the evidence elicited by the examination of the assessor, and on his own view and information, such list or return, according to the form prescribed, of the property, goods, wares, and merchandise, and all articles or objects liable to duty or tax, owned or possessed or under the care or management of such person, and assess the duty or tax thereon, including the amount, if any, due for special tax or income; and in case of the return of a false or fraudulent list or valuation, he shall add one hundred per cent. to such duty or tax; and in case of a refusal or neglect, except in cases of sickness or absence, to make a list or return, or to verify the same as aforesaid, he shall add fifty per cent. to such duty or tax; and in case of neglect occasioned by sickness or absence as aforesaid, the assessor may allow such further time for making and delivering such list or return as he may judge necessary, not exceeding thirty days; and the amount so added to the duty shall, in all cases, be collected by the collector at the same time and in the same manner as the duty or tax; and the list or returns so made and subscribed by such assessors or assistant assessors shall be taken and reputed as good and sufficient for all legal purposes.

The amendments were agreed to.

Mr. STEVENS. I want to call the attention of the committee to what has been suggested to me by an assessor, that although they are authorized to enter into a district and make an examination there is no provision for paying witnesses.

Mr. THAYER. If my colleague will yield I will offer an amendment to cover that suggestion.

Mr. STEVENS. And while I am up I will suggest another thing. The original law—and I do not see that there is any alteration in this—allows the assessor in case of an alleged fraud to enter into an examination, being himself the judge and jury, and after settling the question of fraud, to double the amount assessed.

Mr. MORRILL. I call the attention of the gentleman to page 116, where there is this provision:

The bills for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent parties, or otherwise by the collector of the district, on certificate of the assessor, at the rates usually allowed in said districts for witnesses in courts of justice.

Mr. THAYER. That only applies to cases of appeal.

Mr. STEVENS. I desire to state further that according to the construction of the law

the assessor is the final judge of fraud to any amount, so that a man may be fined \$100,000 and his property sold without remedy. I know a case in my county where, although there was a conflict of testimony, and an assessment made of \$60,000, not on an annual but on a monthly return, it could not be remedied. In such cases the party who is assessed may have his property sold according to law, and he can do nothing until after it is sold, and all that he can collect then is the amount of the error.

Mr. THAYER. I move to amend this section by adding at the end of line one hundred and twenty-two the following:

When the assessor is required or compelled to travel to make examinations, as provided in this section, he shall be allowed mileage and his necessary and proper traveling expenses; and the bill for the attendance and mileage of witnesses shall be taxed by the assessor and paid by the delinquent party, or otherwise by the collector of the district on the certificate of the assessor, at the rates usually allowed in said district for witnesses in courts of justice.

Mr. UPSON. I would suggest to the gentleman that in order to make his amendment conform to the one read by the chairman of the Committee of Ways and Means, he should strike out the word "bills" and insert "costs."

Mr. THAYER. My impression was that it did conform. I will accept that modification.

Mr. GARFIELD. Let me suggest a further modification: that instead of the words toward the close of the amendment, "at the rates usually allowed in said district to witnesses in courts of justice," he insert "at the rates allowed to witnesses in the district court of the United States." That will make it definite.

Mr. THAYER. I accept that modification also.

Mr. Chairman, there are two proceedings provided for by this section. One is a preliminary examination where there has been no return, or a suspected fraudulent return. In that case the assessor is obliged to make a preliminary examination, and he examines witnesses and persons, in effect the same forms of proceeding which he pursues subsequently upon a hearing upon an appeal taken. The effect of this amendment is simply to add this provision which the committee have already incorporated in that part of the section which relates to the hearing of appeals to the other part of the section which relates to the preliminary examinations. It is, of course, quite as necessary that provision be made for the payment of witnesses in the one case as in the other; and I presume the amendment will meet with the approval of the Committee of Ways and Means.

The amendment was again read.

Mr. GARFIELD. I did not observe the first part of that amendment, when it was read before, and I now desire to call the attention of the committee to what it seems to me would be a very great abuse that would grow up under it if it became a law. If we give assessors the right to go into other districts to assess delinquent or absent tax-payers, and allow them mileage and their actual expenses, they may make all sorts of trips. A man in Ohio may make a trip into Illinois, or a man in Massachusetts might make a trip into Ohio, and thus great expense might be incurred. I do not think it would be safe to make such a provision as this. It would open the door to much fraud. I hope the amendment will not be adopted in its present form.

Mr. THAYER. I do not think the committee will find in this amendment the terrible results apprehended by my friend from Ohio. I would like to know under what law an assessor can go into any district but his own to make assessments. I will yield to the gentleman to explain what he means by that.

Mr. ALLISON. By this very section an assessor is authorized to go from one district to another.

Mr. THAYER. I am willing to qualify my amendment so as to confine it to his own district. But we all know, who know anything about the operation of the law as it stands,

that cases constantly occur in which assessors are required to go into remote parts of their districts for the purpose of making these examinations. There are cases in which it is impossible to make an examination at the place where the office of the assessor is, because the examination, in order to be worth anything, must be made at the place where the business of the party is carried on. That renders it necessary for the assessor to go to the place of business; and oftentimes it is very distant from his place of residence. Now, sir, is it not proper, where an assessor is required to incur expense in traveling to a remote corner of his district to make an examination which is for the benefit of the Government, that he should receive at least his traveling expenses for that service? I do not see any liability to abuse in it, nor do I see any injustice to the Government.

Mr. GARFIELD. The gentleman will observe, and I wish him to give me his attention, that this whole section has relation solely to authorizing the assessor to go out of his district into another to find an absent delinquent tax-payer. Now, the gentleman proposes an amendment which will authorize the person thus going out, the person who has been authorized by this section as it now stands to go out of his district, to charge his actual expenses and mileage for thus going. The gentleman, if he will examine the section in connection with the amendment he has proposed, will find that it will accomplish precisely what I have suggested.

I will state in a few words what the object of this section is. For instance, there are in the city of New York a large number of persons who do business there but reside in Jersey City or in some other neighboring district. Now, it is necessary for the assessors to have some means of reaching them. This section was framed for the purpose of enabling them to go into other districts than their own, and through the assessors of those other districts summon delinquent tax-payers and there hold examinations of the cases. But we thought it not wise to allow those assessors mileage and traveling expenses for going into other districts, for the reason that if we did it they might make long journeys to distant districts and charge heavy fees for them.

Now, if the gentleman's amendment is adopted, I think it will be found to open the door very wide indeed. We provide in the section already that the assessor in the district to which the other assessor goes to make the summons, shall be the party to make the summons, for which he is to receive pay at the rate stated in the section for traveling from his own place of residence to the place where the summons is to be served. But we did not think it right to allow the assessor who travels out of his district mileage and traveling expenses. If the amendment of the gentleman can be offered to some section that relates to the assessor's own district, it may be appropriate; but it seems to me it is not appropriate here.

The CHAIRMAN. Debate is closed upon the amendment.

Mr. THAYER. I move *pro forma* to strike out the last words of the amendment, for the purpose of making an explanation. There would be force in the remarks made by the gentleman from Ohio, [Mr. GARFIELD,] if I could see that this section is to have the effect which he states. But I do not read it in that way; I find this provision in it:

And if any person, on being notified or required as aforesaid, shall refuse or neglect to render such list or return within the time required as aforesaid, or if any person without notice, as aforesaid, shall not deliver a monthly or other list or return at the time required by law, or if any person shall deliver or disclose to any assessor or assistant assessor any list, statement, or return which, in the opinion of the assessor, is false or fraudulent, or contains any understatement or undervaluation, it shall be lawful for the assessor to summon such person, his agent, or other person having possession, custody, or care of books or account containing entries relating to the trade or business of such person, or any other persons he may deem proper, to appear before such assessor and produce such book, at a time and place therein named, and to give testimony or answer interrogato-

ries under oath or affirmation respecting any objects liable to duty or tax as aforesaid, or the lists, statements, or returns thereof, or any trade, business, or profession liable to any tax as aforesaid. And the assessor may summon, as aforesaid, any person residing or found within the State in which his district is situated.

Mr. MORRILL. The amendment proposed by the gentleman from Pennsylvania [Mr. THAYER] I think has some merit in it. But I think it requires a little more careful consideration than we are likely to give it to-night. Therefore, I would suggest that it be passed over for the present, if the committee will consent that it may be considered at some other time.

Mr. THAYER. I will consent to that, and withdraw the *pro forma* amendment I submitted.

Mr. HOLMES. I move to amend that portion of the section which gives authority to the assessor to go out of his district to find the party assessed by striking out in the sixty-first line the words "may enter," and inserting in lieu thereof the word "of;" and by striking out in the sixty-second line the words "and there," and inserting "may;" so that the clause shall read:

And when the person intended to be summoned does not reside and cannot be found within such State, the assessor of any collection district where such person may be found may make the examination hereinbefore authorized.

That will obviate the objection made by the gentleman from Pennsylvania [Mr. STEVENS] in regard to there being no provision for mileage. If that is adopted it will render it necessary to strike out the sentence immediately following, to wit:

And to this end he shall there have and may exercise all the power and authority he has or may lawfully exercise in the district for which he is commissioned.

Mr. MORRILL. I will receive it as a suggestion, but will not accept it now as an amendment.

Mr. HOLMES. I am willing that the committee should consider it and report upon it.

Mr. STEVENS. I now offer an amendment to remedy the evil which I spoke of before, to come in at the end of the paragraph, line one hundred and twenty-two. I do not see any better place. If it should turn out that it is supplied elsewhere, of course it may be stricken out:

In lieu of the remedy now provided whereby fraud is or shall be charged to exist in any annual, monthly, or other list, or in any annual, monthly, or other returns, and the party charged with the said fraud shall deny the same, demand a trial, and shall tender sufficient bail for the amount of the alleged fraud, deficiency, and costs of suit, proceedings shall be suspended and suit be brought in the court of the United States for said district to recover the amount of the alleged deficiency or fraud, and the same shall be prosecuted to judgment as in other cases: *Provided*, That this section shall not be construed to take away the right to proceed by indictment as now provided by law.

Mr. ALLISON. I move to amend the amendment by inserting after the word "deficiency" the words "and also for the penalty."

The amendment to the amendment was agreed to.

Mr. JENCKES. I ask the gentleman whether it is consistent with the language of the section as it stands. As I understand it it provides for a suspension of proceedings and a commencement of a suit afterward.

Mr. STEVENS. It provides for proceedings by the assessor and then refers him to the court.

Mr. ALLISON. I would ask the gentleman from Pennsylvania how he proposes to have this security or bail decided upon, whether by the collector or by the court.

Mr. STEVENS. I suppose to the satisfaction of the assessor.

Mr. ALLISON. Then it should be inserted.

Mr. STEVENS. I will modify it by adding the words "to the satisfaction of the assessor."

Mr. WILSON, of Iowa. I suggest to the gentleman from Pennsylvania to pass this over and let the committee consider it. I understand some of the committee are of opinion that it is already provided for in the bill.

Mr. STEVENS. I will let it pass with the understanding that I may renew it.

Mr. JENCKES. I move to amend the section by striking out lines eighty-three, eighty-four, eighty-five, and eighty-six, as follows:

Or a commissioner of the circuit court of the United States, for the district within which the person so summoned resides, who is hereby authorized and empowered to perform the duties herein required, for an attachment against such person as for a contempt.

Also to strike out the word "commissioner" wherever it occurs afterward. I do not think a commissioner appointed by the Supreme Court of the United States should have power to issue an attachment for contempt in any case. That is a matter that belongs exclusively to the court, and should never be delegated to any other than a judge.

Mr. MORRILL. I shall not strenuously contend for this provision. It is in the present law. No change is made. It is a matter of very considerable convenience, because all the district courts are overloaded with business, and it is necessary that we should have some tribunals to dispose of these cases promptly.

Mr. JENCKES. That is all very true.

Mr. MORRILL. Let me add that these commissioners are quite as well qualified to discharge such duties as many of the judges themselves.

Mr. JENCKES. That may be, but I do not believe in delegating such powers as these to any others than the judges known to the Constitution and laws of the United States. I move, therefore, that the provision be stricken out.

Mr. THAYER. There seems to me to be one objection to the suggestion of the gentleman from Rhode Island, which ought to have some force in the determination of the question on his amendment, and that is, that if the court is substituted for the commissioner, it will necessarily increase the expenses of the working of the law, and also the trouble of it; because the commissioners are scattered over the different districts of the United States, and they can be applied to with much greater facility and at much less expense for this process than the judges of the United States courts.

Mr. JENCKES. That is true, but the gentleman from Pennsylvania will agree with me in the statement of what is an attachment for contempt. It is punishment without trial and without hearing, except upon affidavits, and at the pleasure of the judge or officer ordering it.

Mr. MORRILL. I hope the amendment will not be adopted. It would very much impair the efficiency of the law.

The question was put on Mr. JENCKES's motion, and there were—ayes 29, noes 38; no quorum voting.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. MORRILL and JENCKES were appointed.

The committee divided; and the tellers reported—ayes 44, noes 51.

So the amendment was not agreed to.

The Clerk read the next paragraph, as follows:

That section nineteen be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that the assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, if not, then in some newspaper in a collection district adjoining thereto, and by notifications to be posted up in at least four public places within each assessment district, advertise, by not less than ten days' notice, all persons concerned of the time and place within said collection district when and where appeals will be received and determined relative to any erroneous or excessive valuations, assessments, or enumerations by the assessor or assistant assessor returned in the annual list. And it shall be the duty of the assessor for each collection district, at the time fixed for hearing such appeal, as aforesaid, to submit the proceedings of the assessors and assistant assessors, and the annual lists taken and returned as aforesaid, to the inspection of any and all persons who may apply for that purpose. And the said assessor for each collection district is hereby authorized at any time to hear and determine in a summary way, according to law and right, upon any and all appeals which may be exhibited against the proceedings of the said assessors or assistant assessors, and the office or principal place of business

of the said assessor shall be always open when he is not necessarily absent therefrom during the business hours of each day, for the hearing of appeals by parties who shall appear voluntarily before him: *Provided*, That no appeal shall be allowed to any party after he shall have been duly assessed, and the annual list containing the assessment has been transmitted to the collector of the district. And all appeals to the assessor, as aforesaid, shall be made in writing, and shall specify the particular cause, matter, or thing respecting which a decision is requested, and shall, moreover, state the ground or principle of error complained of. And the assessor shall have power to reexamine and determine upon the assessments and valuations and rectify the same as shall appear just and equitable; but such valuation, assessment, or enumeration shall not be increased without a previous notice of at least five days to the party interested to appear and object to the same if he judge proper, which notice shall be given by a note in writing to be left at the dwelling-house, office, or place of business of the party by such assessor, assistant assessor, or other person, or sent by mail to the nearest or usual post office address of said party: *Provided, further*, That on the hearing of appeals it shall be lawful for the assessor to require by summons the attendance of witnesses and the production of books of account in the same manner and under the same penalties as are provided in cases of refusal or neglect to furnish lists or returns. The bills for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent parties, or otherwise by the collector of the district, on certificate of the assessor, at the rates usually allowed in said district for witnesses in courts of justice.

Mr. MORRILL. I move to amend that paragraph in line one hundred and forty-one by striking out after the word "and" the words "the said," and inserting in lieu thereof the word "such."

The amendment was agreed to.

Mr. MORRILL. In line one hundred and forty-two, after the word "assessor," I move to strike out the words "for each collection district."

The amendment was agreed to.

Mr. MORRILL. In line one hundred and forty-seven I move to strike out the word "always" where it occurs before the word "open," and also to strike out all after the word "open," to and including the word "therefrom," so that it will read:

And the office or principal place of business of the said assessor shall be open during the business hours of each day, &c.

The amendment was agreed to.

Mr. MORRILL. On page 16, line one hundred and sixty-four, I move to strike out the words "given by a note."

The amendment was agreed to.

Mr. MORRILL. In line one hundred and sixty-five, after the word "writing," I move to strike out the words "to be," and to insert "and" in lieu thereof.

The amendment was agreed to.

Mr. MORRILL. In line one hundred and seventy-three I move to strike out the word "bills," and insert "costs" in lieu thereof.

The amendment was agreed to.

Mr. MORRILL. I move to further amend the last sentence of this paragraph by striking out the word "otherwise," also by striking out the words "collector of," and inserting the words "disbursing agent for;" also by striking out the word "usually;" also by striking out the words "in said district for," and inserting the word "to" before the word "witnesses;" and also by striking out the words "courts of justice," and inserting the words "district courts of the United States." The sentence will then read:

The costs for the attendance and mileage of said witnesses shall be taxed by the assessor and paid by the delinquent parties, or by the disbursing agent for the district, on certificate of the assessor, at the rates allowed to witnesses in district courts of the United States.

The amendment was agreed to.

Mr. FARNSWORTH. I move to amend the first sentence of this paragraph by inserting after the words "four public places" the words "and of each post office;" so that it will then read:

That the assessors for each collection district shall, by advertisement in some public newspaper published in each county within said district, if any such there be, if not, then in some newspaper in a collection district adjoining thereto, and by notifications to be posted up in at least four public places, and at each post office within each assessment district, adver-

tise, by not less than ten days' notice, all persons concerned of the time and place within said collection district when and where appeals will be received and determined relative to any erroneous or excessive valuations, assessments, or enumerations by the assessor or assistant assessor returned in the annual list.

It is very important that the tax-payers shall have a fair opportunity of obtaining notice when they are assessed. This bill, as well as the old law, only provides that the assessor shall publish a notice in one paper in each county in his district, or, if there are no papers published there, then in one paper in the adjoining district, and to post up notices in four public places. The law makes no provision for paying the cost of these advertisements; and it is so, too, with regard to the collector. He must himself pay the cost of advertising. The consequence is that there is no inducement for him to take any extraordinary pains to give notice to the public, but, rather, some little inducement for him to withhold the notice, because by so doing he makes the cost for himself.

Now, it will not be requiring of the assessor much of a job if we require him to have a notice posted up at each post office in his district. It will be very easy for him to mail a notice to each postmaster with the request that he will post it up in the office. And the post office where all the people go for their letters and papers is of all places the one where they will be most apt to see the notice if it is posted up.

Mr. KELLEY. I have no objection to the amendment of the gentleman from Illinois [Mr. FARNSWORTH] as far as it goes. But I would suggest to him that however adequate it might be for the rural districts it would be very inadequate for large cities.

Mr. FARNSWORTH. I propose this in addition to the notice required by the paragraph as it now stands.

Mr. MORRILL. I desire to say to the gentleman from Illinois, [Mr. FARNSWORTH,] and to the committee, that the provision he proposes would impose a very onerous duty upon these officers. In some towns there are no less than five or six post offices, and a notice posted up at each of them would not become so generally known as an advertisement in a single newspaper. People who go to the post office do not go there for the purpose of looking at the walls to see what is posted on them. And in some districts it would impose upon these officers the duty of posting up not less than from one hundred and fifty to two hundred of these notices, without any adequate benefit resulting therefrom.

Mr. STEVENS. I would suggest to the gentleman from Vermont [Mr. MORRILL] that he alter it so as to require the notice to be posted up at each grog-shop and tavern.

Mr. MORRILL. I beg to inform the gentleman from Pennsylvania [Mr. STEVENS] that in Vermont we have reformed all that since he left the State. [Laughter.]

Mr. FARNSWORTH. In my district we have more post offices than we have taverns; the people receive more letters than they take glasses of grog. It may be different in Pennsylvania.

The gentleman from Vermont [Mr. MORRILL] says that the posting up these notices at the post offices will not be likely to bring the notice so much to the attention of the people as the advertising it in one single newspaper. In that I think he is mistaken.

In a great many districts in the West a large portion of the population is composed of Germans who read only a German paper. In many districts there are Democratic papers and Republican papers. If the notice is published in a single Republican paper, the Democrats of the district, who do not take that paper, fail to see the notice; and *vice versa*.

Then again there are in some counties local weekly papers which are taken by the people in the vicinity of the place where they are published; but those people do not take the paper published in a remote portion of the

county. Hence the publishing of the notice in a single paper in the district fails to reach thousands of people who go to the post offices to get their letters and who would see a notice posted up there. As to those who do not go to the post office their neighbors go there and would inform them of any notice affecting them if it were posted there. The post office in the local district is the place where people go to get the news, and that is the place to publish these notices.

Mr. ALLISON. Mr. Chairman, this provision for the publication of the notice has reference only to the hearing of appeals. Gentlemen will observe that by this section the assessor is required to keep his office constantly open, where persons aggrieved may go voluntarily and have their cases heard. Now, in some rural localities, as for instance in my own district, the district comprises twelve counties, and the sub-districts, in some instances, two counties. If we should require the assessor to post a notice at every post office in each sub-district, it would be necessary for him to have the aid of a very large number of assistants. Hence it appears to me this proposition ought not to be entertained for a moment. Persons aggrieved always have a remedy by going to the assessor's office and having their appeals heard there. I trust the amendment will not be adopted.

The amendment was not agreed to.

Mr. BENJAMIN. I move to amend by striking out lines one hundred and twenty-six and one hundred and twenty-seven and inserting in lieu thereof the following:

Shall publish by advertisement in one newspaper in each county within said district in which a newspaper is published.

I desire to call attention to the language employed in those two lines as they stand. They provide that notice shall be published by advertisement in some public newspaper published in each county within the district. I presume that there is not a newspaper published in each county of every district. I suppose the intention was, of course, that the notice should be published in one newspaper in each county, if there should be a newspaper published within the county. The same objection will not apply to my amendment, because I suppose there is no district in the United States in which there is no newspaper published.

Mr. MORRILL. I would say to the gentleman that there are such districts. It is not many years since a Representative in this House from the Accomac district of Virginia boasted that there was no newspaper published in his district. There are many districts in the southwestern States where no newspaper is published. This word "adjoining" was inserted to meet such cases.

Mr. BENJAMIN. Why should the notice be published in an adjoining district, when it can be published much nearer in another portion of the same district? In one particular county of a district there may be no newspaper published, while one may be published in an adjoining county. But in such a case, under the provision of the bill, as I understand it, the notice must be published in an adjoining district although, perhaps, one hundred miles distant.

Mr. GARFIELD. I have prepared an amendment which I think will accomplish what the gentleman from Missouri desires. I move to amend by striking out the one hundred and twenty-sixth, one hundred and twenty-seventh, and one hundred and twenty-eighth lines, and inserting in lieu thereof the following:

Shall by advertisement in the newspaper of largest circulation published in each county within said district, and, if there be none published in any county, then the newspaper of largest circulation in the collection district adjoining.

Mr. WILSON, of Iowa. I suggest to the gentleman from Ohio that his amendment will not reach the difficulty. There may be a newspaper published in every county in the assessment district except one, and according to the latter clause of the amendment it would

require it to be published in a newspaper outside of the district. It is to be published in a newspaper outside of the district if there should be one county in the district in which a newspaper is not published.

Mr. GARFIELD. The gentleman is mistaken. It says if no paper be published in the district, then in a newspaper of the largest circulation in the adjoining district.

Mr. WILSON, of Iowa. I may have been mistaken in reference to the gentleman's amendment.

The committee divided; and there were—ayes 34, noes 37; no quorum voting.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. ALLISON and THAYER were appointed.

The committee again divided; and the tellers reported—ayes fifty-six, noes not counted.

So the amendment to the amendment was adopted.

The amendment, as amended, was agreed to.

Mr. WILSON, of Iowa. This now provides for the publication in any newspaper in the district.

Mr. GARFIELD. It provides for the publication in the paper of the largest circulation in the district, and if there be no paper in the district, then in the paper of the largest circulation in the adjoining district.

Mr. COOK. I move in the one hundred and thirtieth line after the word "places" to insert as follows:

Shall mail a copy of said notice to each postmaster in his district to be posted up in his office.

Mr. FARNSWORTH. I send up to the Clerk's desk a letter I have received from a collector in reference to this subject of posting notices. It is from an intelligent man, and I desire to have it read.

The Clerk read as follows:

COLLECTOR'S OFFICE,
UNITED STATES INTERNAL REVENUE,
SECOND DISTRICT OF ILLINOIS,
ROCKFORD, April 30, 1866.

DEAR SIR: The present revenue law, section twenty-eight, provides "that each of the collectors shall, within twenty days after receiving his annual collection list of the assessors, give notice by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he or his deputy will attend to receive the same, which time shall not be less than ten days after such notification." Collectors had all supposed that this bill of advertising would be paid by the revenue department, as it is required by law, but the practice is to charge it against the collectors as a part of their expenses of administering the office, to come out of their salary and commissions. I want to call your attention to this for the purpose of saying that the effect of such practice of the department is necessarily to leave the tax-payers with such small opportunities of knowing anything about the time and place of payment that very many of them become liable to the ten per cent. addition and the twenty cents for notice, of which they complain more than they do at paying the whole assessed tax. My own habit has heretofore been to publish the notice two weeks in the paper instead of one as the law requires, and instead of putting up four notices in a county, I have had an average of fifty handbills struck off for each county, and mailed one to each post office in letter, asking the postmaster to stick it up in a conspicuous place, and keep it up till after the time of receiving taxes. I then send one with like request to each railroad station agent, and whatever there are left use to the best advantage to give the information a wide circulation. I do this, because it is fair to the people who pay the taxes that they shall have reasonable opportunity to become posted and save all costs and additions, and they complain bitterly if after all this they happen to overlook it. Suppose instead of doing this I should cut out four notices from the county paper, as I know is done by some collectors and put them up fairly, what chance have the masses of the tax-payers to get any information? The fact is, this is all that the law requires. No one could be blamed after meeting its provisions literally and also in spirit.

Now, the fact is, every provision should be made in the laws to make the matter easy and satisfactory as any reasonable man could ask. This advertising costs, as I do it, about twenty-five dollars for the handbills, and say thirty-five to forty dollars for the advertising in the papers. I have given you the details so that you could see the propriety of providing in the law for what is needed. The tax-payers will be grateful to any one who protects them. Really the advertising should be done at the expense of the Government, as the whole theory of the compensation is that the tax-payer goes to the collector and pays him his money. There is no fairness in Chicago in advertising in one paper. What chance have the Germans

of seeing such a notice in the Tribune or the Republican, or a Democrat either? There should be a discretion in the collector, and of course the cost should be provided for as are those of postage, stationery, &c. In my district all these notices ought to be in the paper at least two weeks, and nothing by way of notice less than I do is of much account. At any rate the four notices required by the law are merely a mockery, for while admitting the obligation to notify, what chance would the tax-payers of Kane county have of seeing any one of four notices. My hope is that you will get the next law to provide for reasonable notice at the expense of the Government. I do say that as a rule our people carry this tax cheerfully, and I want to see every reasonable provision to make it as easy as possible. If anything else occurs to me, I will write you again. I am sorry to see how long my letter is, but could not well make it shorter.

Yours, truly,
General J. F. FARNSWORTH, M. C.

Mr. JENCKES. I think that that assessor should have a word of commendation. He should be recommended to all assessors for faithfulness and diligence.

The committee divided; and there were—ayes 31, noes 37; no quorum voting.

The CHAIRMAN, under the rule, ordered that the roll should be called.

The Clerk proceeded to call the roll, and the following members failed to answer to their names:

Messrs. Anderson, Delos R. Ashley, James M. Ashley, Baldwin, Barker, Beaman, Bidwell, Bingham, Boyer, Brudagee, Bromwell, Broomall, Buckland, Chanler, Sidney Clarke, Cobb, Culver, Darling, Davis, Dawson, Deming, Denison, Dumont, Eckley, Eliot, Farquhar, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Abner C. Harding, Harris, Henderson, Hill, Hogan, Hotchkiss, John H. Hubbard, Edwin N. Hubbard, James R. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Julian, Latham, Loan, Marshall, Marvin, McCullough, McIndoe, Morris, Moulton, Newell, Nicholson, Noell, Orth, Pike, Pomeroy, Raymond, Ritter, Rogers, Rollins, Rousseau, Schenck, Shanklin, Sitgreaves, Sloan, Smith, Starr, Stillwell, John L. Thomas, Thornton, Robert T. Van Horn, Ward, Wentworth, and Wright.

The committee then rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and finding itself without a quorum had directed the roll to be called, and the names of the absentees to be reported to the House.

The SPEAKER stated that a quorum having answered to their names, the committee would resume its session.

The committee then resumed its session, (Mr. WASHBURN, of Illinois, in the chair.)

The question recurred on the amendment moved by Mr. Cook, and it was agreed to.

Mr. JENCKES. I move to strike out the following proviso:

Provided, That no appeal shall be allowed to any party after he shall have been duly assessed, and the annual list containing the assessment has been transmitted to the collector of the district.

Mr. Chairman, the amendment of the gentleman from Vermont [Mr. MORRILL] in the preceding line seems to cover this whole question enlarging the powers of assessor, giving him the full control of this assessment, leaving him to make rules in each particular case as to when the assessment shall be completed. These appeals may not be made according to the terms of this act, which are rather blind, and should be made, it seems to me, according to the rules the assessor may prescribe. A person may be absent in Europe or may be outside of his district at the time when by the ordinary rules the assessment should be considered as completed. When he returns, it seems to me, he should have the privilege of going before the assessor and having his case considered; not leaving it open indefinitely, but giving it, as the amendment of the gentleman from Vermont provides, to the assessor to provide a mode in which the case shall be considered.

The amendment was agreed to.

The Clerk read as follows:

That section twenty be amended by striking out all after the enacting clause and inserting in lieu thereof

the following: that the said assessors of each collection district, respectively, shall, immediately after the expiration of the time for hearing appeals concerning taxes returned in the annual list, and from time to time, as duties or taxes become liable to be assessed, make out lists containing the sums payable according to law upon every object of duty or taxation for each collection district: which list shall contain the name of each person residing within the said district, or owning or having the care or superintendence of property lying within the said district, or engaged in any business or pursuit which is liable to any tax or duty, when such person or persons are known, together with the sums payable by each; and where there is any property within any collection district liable to the payment of the said duty or tax, not owned or occupied by or under the superintendence of any person resident therein, there shall be a separate list of such property, specifying the sum payable, and the names of the respective proprietors when known. And the assessor making out any such separate list shall transmit to the assessor of the district where the persons liable to pay such tax reside, or shall have their principal place of business, copies of the list of property held by persons so liable to pay such tax, to the end that the taxes assessed under the provisions of this act may be paid within the collection district where the persons liable to pay the same reside, or may have their principal place of business. And in all other cases the said assessor shall furnish to the collectors of the several collection districts, respectively, within ten days after the time of hearing appeals concerning taxes returned in the annual list, and from time to time thereafter as required, a certified copy of such list or lists for their proper collection districts. And in case it shall be ascertained that the annual list, or any other list, which may have been, or which shall hereafter be delivered to any collector, is imperfect or incomplete in consequence of the omission of the names of any persons or parties liable to tax or duty, or in consequence of any omission, or understatement, or undervaluation, or false or fraudulent statement contained in any return or returns made by any persons or parties liable to tax or duty, the said assessor may, from time to time, or at any time within one year, enter on any monthly or special list the names of such persons or parties so omitted, together with the amount of tax for which they may have been or shall become liable, and also the names of the persons or parties in respect to whose returns, as aforesaid, there has been or shall be any omission, undervaluation, understatement, or false or fraudulent statement, together with the amounts for which such persons or parties may be liable, over and above the amount for which they may have been, or shall be, assessed upon any return or returns made as aforesaid. And all or any proceedings authorized by law for the ascertainment, assessment, or collection of any tax or duty, shall be held to apply, as far as may be deemed necessary, to the proceedings herein authorized and directed.

Mr. GARFIELD. I am authorized by the Committee of Ways and Means to offer a few amendments to this paragraph, some being mere verbal amendments.

The CHAIRMAN. If there be no objection the amendments will be considered *en masse*.

Mr. GARFIELD. I move to amend in the one hundred and eighty-sixth line by striking out the words "every object of duty and" and insert "subject of;" so it will read, "subject of taxation."

In line one hundred and ninety-four strike out the words "payment of the said duty or;" so it will read, "liable to the tax."

After the word "year," in line two hundred and twenty-one, insert the following, in order to render the meaning more definite:

Commencing from the time of the passage of this act or from the time of the delivery of the list to the collector as aforesaid.

In line two hundred and thirty-one, after the word "aforesaid," insert the following:

And shall certify and return said list to the collector as required by law.

Strike out the last sentence of the paragraph, beginning with the word "and" in line two hundred and thirty-one, and insert the following; it is a mere recasting of the sentence to make it more clear:

And all or any proceedings authorized by law for the ascertainment of the liability to any tax or duty, the assessment or collection thereof shall be held to apply as far as may be necessary to the proceedings herein authorized and directed.

The amendments were agreed to.

Mr. WARNER. I move the following amendment:

Add as follows:

But no reassessment shall be made, as aforesaid, in cases where assessments have been made *bona fide* upon manufactured goods, and when such goods have been sold upon the faith of the same.

Mr. GARFIELD. The committee have a section prepared on that very point, to which the gentleman can offer his amendment.

Mr. WARNER. I withdraw it for the present.

The Clerk read the next clause, as follows:

That section twenty-two be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that there shall be allowed and paid to the several assessors a salary of \$1,500 per annum, payable quarterly; and, in addition thereto, where the receipts of the collection district shall exceed the sum of \$100,000 and shall not exceed the sum of \$400,000 annually, one half of one per cent. upon the excess of receipts over \$100,000. Where the receipts of a collection district shall exceed \$400,000, and shall not exceed \$600,000, one fifth of one per cent. upon the excess of receipts over \$400,000. Where the receipts shall exceed \$600,000, one tenth of one per cent. upon such excess; but the salary of no assessor shall in any case exceed the sum of \$4,000. And the several assessors shall be allowed and paid the sums actually and necessarily expended, with the approval of the Commissioner of Internal Revenue, for office rent; but no account for such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner shall require, and shall have been audited and approved by the proper officer of the Treasury Department. And the several assessors shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for clerk hire; but no such account shall be approved unless it shall state the name or names of the clerk or clerks employed and the precise periods of time for which they were respectively employed, and the rate of compensation agreed upon, and shall be accompanied by an affidavit of the assessor stating that such service was actually required by the necessities of his office, and was actually rendered, and also by the affidavit of each clerk, stating that he has rendered the service charged in such account on his behalf, the compensation agreed upon, and that he has not paid, deposited, or assigned, or contracted to pay, deposit, or assign any part of such compensation to the use of any other person, or in any way, directly or indirectly, paid or given, or contracted to pay or give, any reward or compensation for his office or employment, or the emoluments thereof; and the chief clerk of any such assessor is hereby authorized to administer, in the absence of the assessor, such oaths or affirmations as are required by this act. And there shall be allowed and paid to each assistant assessor four dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor, and three dollars for every hundred persons assessed contained in the tax list, as completed and delivered by him to the assessor, and twenty-five cents for each permit granted to any tobacco, snuff, or cigar manufacturer; and the several assistant assessors in cities of more than ten thousand inhabitants shall be allowed, in the settlement of their accounts, a sum not exceeding \$300 per annum for office rent; but no account for such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner of Internal Revenue shall require, and shall have been audited and approved by the proper officer of the Treasury Department; and other assistant assessors, when employed outside of the town in which they reside, in addition to the compensation now allowed by law, shall, during such time so employed, receive one dollar per day; and the said assessors and assistant assessors, respectively, shall be paid, after the account thereof shall have been rendered to and approved by the proper officers of the Treasury, their necessary and reasonable charges for stationery and blank books used in the discharge of their duties, and for postage actually paid on letters and documents received or sent, and relating exclusively to official business: *Provided*, That no such account shall be approved unless it shall state the date and the particular item of every such expenditure, and shall be verified by the oath or affirmation of such assessor or assistant assessor; and the compensation herein specified shall be in full for all expenses not otherwise particularly authorized: *Provided, further*, That the Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors, revenue agents, and inspectors in Louisiana, Georgia, South Carolina, Alabama, Florida, Texas, Arkansas, North Carolina, Mississippi, Tennessee, Missouri, California, and Oregon, and the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent officers; but the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively.

Mr. THAYER. I move to amend on page 19, lines two hundred and forty and two hundred and forty-one, by striking out the words "shall exceed the sum of \$100,000 and," and by striking out in the two hundred and forty-third line the words "excess of;" and the words "over \$100,000."

Mr. Chairman, the effect of the amendment is to allow the assessor the commission of a half per cent. on the first \$100,000 received, which, by the terms of the existing act, is not allowed. I always thought it a niggardly provision which deprived those officers of that small commission on the first \$100,000. I am satisfied from the great reduction in this bill

and the great number of articles put upon the free list, that in a great many districts where this small allowance on the first \$100,000 is received, the compensation of these officers, upon whom devolves the practical labor of the revenue department of the Government will be inadequate. I have made a calculation which shows what will be the result on the compensation to be received by these officers, which is only one half of one per cent. They receive now for collecting \$200,000, \$2,000. That includes the \$1,500 salary they receive. They receive, where the receipts are \$300,000, \$2,500, and where the receipts are \$400,000, \$3,000. The effect of the proposed modification, which allows one half of one per cent. on the first \$100,000 as well as on the excess up to \$400,000, is simply to alter that, and where the receipts are \$200,000, to make it \$2,500 per annum, including the salary of \$1,500 allotted to them by law; where the receipts are \$300,000, they will receive a salary of \$3,000; and where the receipts are \$400,000, they will receive \$3,500. It seems to me these are not inadequate rates of compensation for a proper class of men to discharge these important duties.

Mr. MORRILL. I believe we have hardly tolerated the raising of any salaries. I live in a rural district, and there is no complaint of the salaries there.

Mr. THAYER. It is easy to kill any proposition of this kind by saying you propose the raising of salaries. The gentleman knows perfectly well the effect of that cry in this House, and therefore it is he makes that answer to my proposition. Now, sir, that is not the object of the proposition. It is to prevent this compensation from being reduced by reduction of receipts which your bill will occasion, and to make the compensation adequate to the men who have to discharge these duties.

The amendment was rejected.

Mr. MORRILL. In line three hundred and twenty-five, after the word "respectively," I move to insert the following:

The collectors of internal revenue acting as disbursing officers shall be allowed all bills of assistant assessors heretofore paid by them in pursuance of directions of the Commissioner of Internal Revenue, notwithstanding the assistant assessor did not certify to hours therein, or that two dollars per diem was deducted from the salary or compensation before the computation of tax thereon.

Mr. JENCKES. I rise to oppose the amendment. I oppose it because it is a rider on the proviso. My intention was to move that the proviso be stricken out. I see no reason why the Secretary of the Treasury should have power to make or provide for these exceptional cases. If we are to pass a law, it should be uniform throughout the United States, and we should not leave it to any executive officer to suspend the operation of it so as to provide a different compensation than that provided by law. The irregularity suggested in the amendment is one of that character. It would leave it to the executive officer to do away with a penalty. I hope it will not be adopted, and then I will follow it by a motion to strike out the whole proviso.

The amendment proposed by Mr. MORRILL was agreed to.

Mr. JENCKES. I move to strike out the following proviso:

Provided further, That the Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors, revenue agents, and inspectors in Louisiana, Georgia, South Carolina, Alabama, Florida, Texas, Arkansas, North Carolina, Mississippi, Tennessee, Missouri, California, and Oregon, and the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent officers; but the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively.

This act affects the compensation of assessors, assistant assessors, revenue agents, and inspectors throughout the United States. This proviso enables the Secretary of the Treasury

to increase the compensation within the districts named. Unless that power is given to him throughout the United States, so that it may be uniform, I object to the exception. I ask members of the House to look at it and see the effect it will have.

Mr. HIGBY. I do not know whether collections could be made in other States or not under a uniform law, but I do know that they cannot be made in the State of California. It has been tried and proved disastrous. I give members notice that the amount that will pay assessors in the eastern States will not pay them in California.

Mr. JENCKES. I have no objection to having a provision applicable to California.

Mr. MORRILL. I wish to say that the provisions here are precisely what they are in the existing law with the exception of some half a dozen other States in which the Commissioner informed us it was impossible to obtain a revenue unless we provided for the payment of the officers in this way.

Mr. WILSON, of Iowa. I find the States of Louisiana, Georgia, South Carolina, Alabama, Florida, Texas, Arkansas, North Carolina, Mississippi, and Tennessee, are provided for here.

Mr. MORRILL. There are many districts where there is no difficulty, but in others there is difficulty.

Mr. WILSON, of Iowa. The difficulty is, the proviso applies to all the districts in all those States. Now, I have no objection to applying it to some where it is impossible to get officers unless you give them additional compensation. I know some officers have been appointed there who are not now receiving the compensation because they cannot qualify. But I have a statement of one of these officers from South Carolina, made before the Committee on the Judiciary, that any number can be found, residents of South Carolina, who can discharge the duties and who can qualify according to law.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. RANDALL, of Pennsylvania. I give notice to the chairman of the committee that it is now five minutes to ten o'clock.

Mr. MORRILL. We shall adjourn at ten. The question being taken on the amendment of Mr. JENCKES, there were—ayes 37, noes 25; no quorum voting.

Mr. GARFIELD. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 613, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no conclusion thereon.

And then, on motion of Mr. DEFREES, (at five minutes before ten o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BEAMAN: The petition of A. J. Sutherland, and others, of Washtenaw county, Michigan, praying that Congress will pass laws regulating interstate insurances of all kinds.

By Mr. DAWSON: The petition of 80 citizens of Fayette county, Pennsylvania, asking increased protection for American wool.

By Mr. KERR: The memorial of Leonard Smith, late lieutenant, &c., for compensation for ten months and twenty-six days' service as lieutenant and regimental quartermaster of the twenty-second regiment Indiana volunteers.

By Mr. LAWRENCE, of Pennsylvania: A petition, numerously signed by citizens of Fayette county, Pennsylvania, for increase of duties on foreign wool.

By Mr. MOORHEAD: The petition of John Woods, and others, citizens of the county of Montgomery, Pennsylvania, praying for an increase of duty on foreign imports to protect American labor.

Also, the petition of Hon. H. W. Williams, Hon. Thomas M. Howe, Alexander Gordon, and others,

of Alleghany county, Pennsylvania, praying for the establishment of a Bureau of Education, and that provision be made for the education of all.

By Mr. WOODBRIDGE: The petition of Erastus Kelley, and 39 others, citizens of Clarendon Springs, Vermont, praying for an increased duty on foreign wools.

Also, the petition of Dr. W. C. Fox, and others, of Wallingford, Vermont, praying that medicines used by physicians may be placed on the free list.

IN SENATE.

THURSDAY, May 10, 1866.

Prayer by Rev. WILLIAM BROCK, D. D., of London, England.

The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of the Commercial Navigation Company, a corporation formed under the laws of the State of New York, praying for the passage of a law regulating the apprenticing of boys to be trained as seamen upon merchant vessels, uniform in its operation within the United States; which was referred to the Committee on Commerce.

He also presented the petition of James S. Hendrickson, and one hundred and thirty-four other soldiers, residents of Cleveland, Ohio, praying to be relieved from the tax on their pensions and urging the appointment of disabled soldiers in the civil service of the Government; which was referred to the Committee on Finance.

Mr. POLAND presented the petition of Simon Farnsworth, praying for a pension; which was referred to the Committee on Pensions.

Mr. DIXON presented the memorial of Marshall O. Roberts, and others, trustees of A. G. Sloo, who was a contractor for carrying the mails between New York, New Orleans, Havana, and Chagres, praying for the passage of an act authorizing the Postmaster General to settle for compensation due them for mail transportation which has not been paid for; which was referred to the Committee on Post Offices and Post Roads.

Mr. HARRIS presented a memorial of a convention of iron founders and manufacturers held at Syracuse, New York, in favor of exempting detached portions of their manufactures from taxation; which was referred to the Committee on Finance.

Mr. MORRILL presented the petition of Harriet B. Crocker, of Bath, Maine, praying for a pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of C. F. Johnson, praying for compensation for the alleged seizure of tobacco belonging to him by the United States forces at Lakeport, Louisiana, submitted an adverse report thereon; which was ordered to be printed.

REMOVAL OF INDIANS.

Mr. WADE submitted the following resolution; which was considered by unanimous consent, and agreed to:

Whereas it is understood that the Commissioner of Indian Affairs is now engaged in removing to and locating in one of the settled counties of Nebraska and contiguous to the settled portions of Dakota, the Indians who were engaged in the Minnesota massacre in the year 1862, by which nearly a thousand defenseless men, women, and children were murdered in cold blood; and whereas said Indians were driven from the State of Minnesota by the outraged people of that State in order to secure the future safety of the lives and property of its citizens; and whereas the removal and location of said Indians within our white settlements has been made without the consent and in direct opposition to the will of the citizens of northwestern Nebraska and Dakota, many of whom have purchased their lands from the Government and improved the same; and whereas it is apprehended that this act of the Government will destroy the value of private property and retard the settlement of the Territory of Dakota and northwestern Nebraska:

Therefore,
Resolved, That the Committee on Indian Affairs be instructed to inquire into the facts, and report to this House whether and to what extent the interests and safety of the people who have purchased the public lands and migrated with their families to those Territories on the assurance of the protection of the Government, as well as the interest of the Government

itself in the settlement and growth of the said Territories, are likely to be compromised by this act, and if so whether the same is necessitated by any considerations connected with the public interests; with leave to report such measures of relief as the circumstances of the case may in their judgment require.

BILL INTRODUCED.

Mr. HENDERSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 317) to amend an act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862," approved July 2, 1864; which was read twice by its title, referred to the Committee on the Pacific Railroad, and ordered to be printed.

APPROVAL OF A BILL.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President had approved and signed on the 9th instant an act (S. No. 90) enlarging the powers of the levy court of the county of Washington, in the District of Columbia.

ENROLLED BILL SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 352) to incorporate the National Theological Institute; and it was thereupon signed by the President *pro tempore*.

HOUSE BILL REFERRED.

The bill (H. R. No. 568) to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress, relating to passports, was read twice by its title, and referred to the Committee on the Judiciary.

SECRETARY TO THE VICE ADMIRAL.

The bill (H. R. No. 567) to amend an act to establish the grade of vice admiral in the United States Navy, was read twice by its title.

Mr. GRIMES. I move that the Senate proceed to the consideration of the bill at once.

The PRESIDENT *pro tempore*. It requires unanimous consent.

Mr. SUMNER. Before the Senate proceeds with the consideration of that bill, I desire to say that I have some notes on that subject which are at my room. I did not expect it to come up to-day.

Mr. GRIMES. What bill is it?

Mr. SUMNER. I understand that it is a bill in regard to the Vice Admiral.

Mr. GRIMES. It simply authorizes the appointment of a secretary to the Vice Admiral.

Mr. SUMNER. Then it is a different bill from what I apprehended it was from the reading of the title. I have no objection to it.

Mr. JOHNSON. I ask for the reading of the bill.

The Secretary read the bill, which proposes to amend the second section of the act to establish the grade of vice admiral in the United States Navy, approved December 21, 1864, by adding to it these words: "and he shall be allowed a secretary, with the rank and sea pay and allowances of a lieutenant in the Navy."

The bill was considered as in Committee of the Whole, by unanimous consent, reported to the Senate, ordered to a third reading, read the third time, and passed.

MAIL CONTRACTORS.

Mr. RAMSEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Postmaster General be, and is hereby, requested to furnish to the Senate a copy of a letter addressed to his Department by D. L. Yulee, formerly chairman of the Committee on Post Offices and Post Roads, dated in January, 1860, inquiring as to the effect of legislative action in increasing the pay of mail contractors, &c., also the answer of the Postmaster General thereto.

PUBLIC WORKS AT HARPER'S FERRY.

Mr. WILLEY submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the Secretary of War be requested to inform the Senate what is the present condition of the public works belonging to the United States at Harper's Ferry, in West Virginia; whether the Department is now using the same for any purpose, and, if so, for what purpose and to what extent; whether it is the purpose of the Department to have said works repaired and to resume the manufacture of arms there, and if not, whether in the opinion of the Secretary of War the property of the United States at Harper's Ferry is any longer necessary or advantageous to the public interest, and might not be sold or otherwise disposed of without detriment to the public good.

COINAGE OF FIVE-CENT PIECES.

Mr. SHERMAN. I move to postpone all prior orders and take up the bill (H. R. No. 397) to authorize the coinage of five-cent pieces. It will take only the time occupied in reading it, I think. I do not suppose there will be any objection to it.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that so soon as practicable after its passage there shall be coined at the Mint of the United States a five-cent piece, composed of copper and nickel, in such proportions, not exceeding twenty-five per cent. of nickel, as shall be determined by the Director of the Mint, the standard weight of which is to be sixty grains, with no greater deviation than four grains to each piece; and the shape, mottoes, and devices are to be determined by the Director of the Mint, with the approval of the Secretary of the Treasury; and the law now in force relating to the coinage of cents, and providing for the purchase of material, and prescribing the appropriate duties of the officers of the Mint and the Secretary of the Treasury is extended to the coinage herein provided for.

This coin is to be a legal tender in any payment to the amount of one dollar. It may be paid out in exchange for the lawful currency of the United States, (except cents, or half cents, or two-cent pieces, issued under former acts of Congress,) in suitable sums, by the treasurer of the Mint, and by such other depositaries as the Secretary of the Treasury may designate, and under general regulations approved by the Secretary of the Treasury.

From and after the passage of this act no issue of fractional notes of the United States is to be of a less denomination than ten cents; and all such issues at that time outstanding shall, when paid into the Treasury or any designated depository of the United States, or redeemed or exchanged as now provided by law, be retained and canceled.

If any person or persons not lawfully authorized shall knowingly make, issue, or pass, or cause to be made, issued, or passed, or aid in the making, issuing, or passing of any coin, card, token, or device whatsoever, in metal or its compound, intended to pass or be passed as money for the coin authorized by this act, or for coin of equal value, such person or persons are to be deemed guilty of a misdemeanor, and on conviction thereof to be punished by a fine not exceeding \$1,000, and by imprisonment for a term not exceeding five years, at the discretion of the court.

It is to be lawful for the Treasurer and the several Assistant Treasurers of the United States to redeem in national currency, under such rules and regulations as may be prescribed by the Secretary of the Treasury, the coin herein authorized to be issued, when presented in sums of not less than \$100.

Mr. SHERMAN. I move to amend the bill in section one, line eight, by striking out the word "sixty" and inserting "77.16," and in line nine to strike out "four" and insert "two;" so that the clause will read:

The standard weight of which shall be 77.16 grains, with no greater deviation than two grains to each piece.

This amendment is moved after conference between the Secretary of the Treasury, the

head of the Mint at Philadelphia, and the special committee having charge of this subject in the House.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read a third time. The bill was read the third time and passed.

DUTY ON LIVE ANIMALS.

Mr. CHANDLER. I move to take up House joint resolution No. 116.

Mr. FESSENDEN. I wish my friend from Michigan would give me a chance to pass a little bill which they say will save us a thousand dollars a day, and to which there can be no objection. It is a bill reported from the Committee on Finance, and it will cause no debate whatever. It is House bill No. 511, imposing a duty on live animals.

Mr. CHANDLER. Let my bill come up and then I will give away. I move to take up House joint resolution No. 116, to prevent the introduction of the cholera into the ports of the United States, and then it can be laid aside informally.

The motion was agreed to.

Mr. CHANDLER. Now I give way.

Mr. FESSENDEN. Now, if the Senator gives way, I should like to take up House bill No. 511, imposing a duty on live animals.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill. It provides that on and after its passage there shall be levied, collected, and paid, on all horses, mules, cattle, sheep, hogs, and other live animals imported from foreign countries, a duty of twenty per cent. *ad valorem*.

Mr. EDMUNDS. Since this bill was reported I have received information, which I believe to be true, that a good many persons, cattle dealers and others in the northern States along the frontier, have purchased cattle in Canada during the winter with the provision with the seller that they should remain in Canada until the spring, and that there are now in Canada a considerable number of cattle which are actually owned by citizens of the United States, and have been paid for under the law as it now stands admitting their importation free of duty. In order, as an act of justice, to authorize those people within a very limited period of time to withdraw their cattle upon the same terms they might have withdrawn them before, I offer the following amendment as a proviso:

Provided, That any such animals now *bona fide* owned by resident citizens of the United States, and now in any of the Provinces of British America, may be imported into the United States free of duty until the expiration of ten days next after the passage of this act.

That, I think, will do justice to that class of persons without doing any injustice to the revenue.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

ASIATIC CHOLERA.

The PRESIDENT *pro tempore*. The joint resolution (H. R. No. 116) to prevent the introduction of the cholera into the ports of the United States, is now before the Senate, as in Committee of the Whole, the question being on the amendment reported by the Committee on Commerce.

Mr. GRIMES. When this measure was under consideration yesterday and the day before, the Senate was assured that its passage was asked for by the medical profession, and especially by the Medical Association that recently assembled in the city of Baltimore. I believe we were told that the doctors for once failed to disagree, and that they appeared before the Committee on Commerce unitedly in favor of this proposition. I apprehend that

there is some mistake about this. I hold in my hand a letter written by Dr. M. L. Linton, of St. Louis, and addressed to the Baltimore American, in reply to an article which appeared in that paper containing substantially the same statement which was made here yesterday and the day before. I need not tell any person who is acquainted in the valley of the Mississippi river who Dr. Linton is, for he has a reputation coextensive with the limits of that valley as a gentleman of high professional attainments and great excellence of personal character. In this letter he says, addressing himself to the editor:

Mr. Editor: I notice in your report of the proceedings of the American Medical Association on the fourth and last day of its sessions some glaring mistakes.

It is well known to all who have attended to the proceedings of the association that it refused not only to memorialize Congress in favor of the system of quarantine, but that it refused even to ask Congress to test the utility of quarantine regulations. The majority of the association thought that quarantines had already been tested and found wanting often enough. At any rate, the vote was as I have stated; nevertheless, there was a minority in favor of petitioning Congress in favor of quarantine. This minority met at No. 47 Calvert street on the night of the 4th, and passed a resolution in favor of rigid quarantine measures; and appointed a committee of five to present and urge the petition.

The account in your journal goes on to say that "the meeting consisted of some seventy-five members of the association," and mentions Dr. Davis, of Illinois, as among them. Now, Dr. Davis was not there at all, nor can I find, after some hours of inquiry, any member of the association who was there. There were evidently not seventy-five present; nor did the few who may have met at No. 47 Calvert street meet at eight o'clock, for they did not arrive from Annapolis until about nine o'clock.

The main error, however, which I wish to correct is this: speaking of the Calvert-street meeting, your report concludes in these words:

"The meeting then adjourned, thus terminating the nineteenth annual meeting of the American Medical Association." Now, all the members of the association know that the final adjournment took place on the morning of the 4th, and that the little meeting at 47 Calvert street consisted only of one portion of the discontented minority that had been defeated in full convention. I hope you will make this correction, so that when the committee of five shall appear before the authorities with their petition, said authorities may know that said committee has been delegated and empowered and sent by a little outside meeting held at eight o'clock at No. 47 Calvert street, and not by the American Medical Association, which held its meeting in Concordia Hall, and adjourned on the morning of the 4th, to meet again at Cincinnati, May, 1867.

M. L. LINTON, M. D.,
Delegate from St. Louis, Missouri.

To the same effect I have a letter from one of my own constituents, Dr. M. K. Taylor, professor in the Iowa Medical College, also a physician of most excellent attainments, who attended the medical convention last week in Baltimore as a delegate from the Medical Association of the State of Iowa, which I will read:

NATIONAL HOTEL,
WASHINGTON, D. C., May 9, 1866.

Hon. J. W. GRIMES:

I see by the reports of the proceedings of the Senate yesterday that you opposed the establishment of a uniform system of quarantine for the United States, as asked for by certain medical gentlemen claiming to represent the American Medical Association, recently in session at Baltimore.

I am very glad that you have taken ground against such an impractical measure. We may just as well attempt to establish a cordon around the wind that blows. It will go over the country as it has done before, despite any and all quarantine regulations. The memorial which has been presented to the Senate did not emanate from the American Medical Association, but only from a few disaffected persons who were not satisfied with its action and got up a supplemental meeting after the association had adjourned. The principal leader in the affair was Dr. Sayre, of New York, and from the pertinacity manifested by him and a few of his friends I suspect there is an ax to grind.

The communication presented to the Senate does not represent the sentiment of the American Medical Association as a body in any sense.

I make this statement this morning as I shall leave for Keokuk this evening, and may not see you before I go, and I feel it necessary to apprise you of the facts before leaving the city. Dr. Hughes and family are here also. He leaves for New York this evening. He goes to Europe on Saturday.

I am, very respectfully, your obedient servant,
M. K. TAYLOR.

Mr. JOHNSON. Who is the writer of that letter?

Mr. GRIMES. Dr. Taylor, of Keokuk, Iowa, one of the delegates from that State to

the late medical convention in Baltimore, and a professor in the Iowa Medical College. So much, sir, in regard to the sentiment of the medical convention recently assembled in Baltimore.

Both of these gentlemen have had great experience in the treatment of cholera cases, and their opinions are entitled to great consideration.

As to the imputation that might perhaps be considered as being conveyed in this letter, that some of these parties at Baltimore may have an ax to grind, I of course do not adopt any such statements as that; still it is quite possible that it may be so. I am aware that in the State of New York there has recently been a very exciting controversy over the question of appointing health officers. I believe the Governor of that State has appointed certain officers who are not agreeable to the parties who are opposed to them; and if I am not misinformed this Dr. Sayre was one of those proposed for the position now held by Dr. William Parker. I will not undertake to say that Dr. Sayre could be influenced by any such consideration, but it is possible that men might be found who would be influenced by a consideration like this; that they would desire that Congress should pass a measure similar to the one which now lies on your table, and which we are asked to pass, for the purpose of dispensing with the whole quarantine organization established by the State of New York, and installing another set of officers under Federal authority in the places which they occupy; for, sir, that is the effect of this resolution, if it shall be adopted.

When this resolution was under consideration before, I misconstrued the first section of the substitute. I supposed that it provided for a commission, to be composed of the Secretaries of War, of the Navy, and of the Treasury. From a more careful examination of the wording of this section, I do not understand that it does that. I understand that it puts the whole control of this quarantine measure in the hands of the Secretary of War, and then directs that the Secretary of the Navy and the Secretary of the Treasury shall coöperate with the Secretary of War, under the direction of the Commander-in-Chief of the Army and Navy; that is, under the command of the President. The phraseology is very singular. I have never seen a bill or resolution submitted to the Senate before in such phrase as this:

"That it shall be the duty of the Secretary of War, with the coöperation of the Secretary of the Navy and the Secretary of the Treasury, whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy."

Whose concurrent action? The concurrent action of the Secretary of the Navy and the Secretary of the Treasury. The President, as Commander-in-Chief of the Army and Navy, is required to direct the concurrent action of the Secretaries of the Navy and of the Treasury to coöperate with the Secretary of War, the Secretary of War being, in effect, virtually and legally, as I understand it, placed in command of this whole organization. It would be sufficiently objectionable to me even if the resolution were drawn as I supposed it was drawn when it was under consideration before; but it is still more objectionable under the construction which I am compelled to place upon this phraseology. What does it mean if it does not mean that? If they wanted to create a board of the three Cabinet officers having control of the Army, the Navy, and the Treasury, it would have been very easy to have said so. I apprehend from the fact that they have not said so, but have directed that the Secretary of War, "with the coöperation of the Secretary of the Navy and the Secretary of the Treasury, whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy," to "adopt an efficient and uniform system of quarantine against the introduction into this country of the Asiatic cholera, through its ports of entry whenever the same may be threatened by the prevalence of said disease in countries having direct commercial intercourse with the United States."

Now, Mr. President, could these doctors believe that it was possible for any central government at Washington to adopt such steps as might be necessary, even if quarantines are of benefit, to establish a quarantine at Galveston, at New Orleans, at Key West, at Mobile, at Eastport in Maine, at the mouth of the Sacramento river or at the mouth of the Columbia, at Rouse's Point in Vermont, or at Pembina in the State of Minnesota? Would it not be safer for the country, as well as for the Treasury of the country, to allow these various quarantines, if we are going to have such a system, to be established by the local and police governments of the respective States? Is it possible for the Secretary of War, even with all the power that is conferred upon him by this measure, to properly direct when a quarantine shall be established at Galveston, and when it shall be removed, and to designate the officers who shall have charge of it?

I confess, Mr. President, that this is about the greatest machine that I have ever seen proposed to be created or that I have ever known attempted to be run by any Government on the face of the earth.

Another great objection to this system is that it is going to break up all your present quarantines. The Secretary of War—mind you, this joint resolution is all in the singular number; the second clause reads, "he shall also"—the Secretary of War—"enforce the establishment of sanitary cordons, to prevent the spread of said disease from infected districts adjacent to or within the limits of the United States." He can go within the territorial jurisdiction of any State, he can dispense with all of the quarantine and police regulations that he may find already established there, and establish such as he chooses to establish instead of them. You thus accustom the people to rely on the central Government to protect their lives and their health, instead of relying, as they hitherto have done, upon the local authorities to protect them; and in the future, when a disease shall be anticipated, when it shall be reported that we are to be visited by the yellow fever or the plague, we shall have importunities after importunities from the different sections of the country upon the Federal Government to interpose to protect the lives and the health of the citizens at the various points. The people at these distant points will cease to be self-reliant. It will establish a precedent which in the end will in every respect be disastrous.

This bill is not satisfied with accepting the agents of quarantine that have been deputed by the various States. If it did that I should have less objection to it; but it authorizes all of them to be abolished and a new organization to be created, new officers to be appointed, the salaries to be fixed, as I understand it, by the Secretary of War. It virtually places the whole Army and Navy and Treasury of the United States in the keeping of one man, and that is the Secretary of War. If you have any doubt as to what was the intention of this bill you have only to read it though. You will see that it everywhere says this power shall be conferred upon the Secretary of War. He is the sole one, and he can command the obedience and is put into the control both of the Navy Department and the Treasury Department; and the President is required—"shall direct" them—to act with him. "Whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy" is the language.

Mr. HOWE. The Secretary of War is not Commander-in-Chief of the Army and Navy.

Mr. GRIMES. No, sir.

Mr. SUMNER. The President.

Mr. GRIMES. Certainly. Perhaps the Senator from Wisconsin has not understood me. I say that this bill confers all this authority upon the Secretary of War. It says "that it shall be the duty of the Secretary of War, with the coöperation of the Secretary of the Navy and the Secretary of the Treasury, whose concurrent action"—to whom does that refer? The Secretary of the Navy and the Secretary of the Treasury, "whose concurrent action

shall be directed by the Commander-in-Chief of the Army and Navy." The President of the United States is required, it is imperative on him, to direct the coöperation of the Secretary of the Navy and the Secretary of the Treasury to carry out any of the views which the Secretary of War may entertain.

Mr. HARRIS. Mr. President, this bill contains very extraordinary provisions—

Mr. EDMUNDS. If the Senator from New York will allow me a moment, I desire to state that I was about to propose an amendment which would meet the objections of my friend the Senator from Iowa as he has stated them, or some of them at least, and which may possibly meet the objections of the Senator from New York. If the Senator from New York will give way for that purpose, I move to amend the amendment reported by the committee by striking out lines three, four, and five, and inserting in lieu of them the words, "That the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury shall constitute a board whose duty it shall be to cause," &c., and by striking out in line twelve the words "he shall" and inserting "they may."

Mr. HARRIS. Mr. President, I have sought to find the authority under which the framer of the proposition reported by the Committee on Commerce proceeded. It certainly is very extraordinary in its provisions. Coming as it does from the Committee on Commerce, I imagined that it might possibly be justified under the provision of the Constitution which authorizes Congress to regulate commerce, but I could not see that it had much to do with commerce. Then I went to that other elastic provision in the Constitution under which much of the doubtful legislation of the present day is sought to be sustained, that provision which requires Congress to guaranty to every State a republican form of government. I did not know but that it might be justified under that. [Laughter.] But finally, looking a little further, examining the bill a little closer, I came to the conclusion, inasmuch as this bill puts in requisition the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury, and over all these the Commander-in-Chief of the Army and the Navy, that it must be under the war power; and I believe that if this bill can be sustained at all it must be sustained under the war power.

Mr. CLARK. War on the cholera!

Mr. HARRIS. War on the cholera, as the Senator from New Hampshire says. I think that is it. I think that is the idea; I think that is the principle, if there is any principle about it, on which this bill is framed. Now, sir, it will not do at all. This bill is unconstitutional obviously. There is no power in Congress to pass a law like this.

Look at it, Mr. President. What are we attempting to do? Take my own State. We have in New York, I think, a very efficient, if it is not a uniform, system of quarantine regulation. We have within the last year established there a Board of Health, and upon that board there are some of the most eminent physicians in the State, able and efficient men, who are doing their duty with great fidelity. It happens that this board does not provide for all the doctors that are in New York. There are some who do not happen to be employed in carrying on this great work of quarantine, and of course they can suggest a better mode of doing the thing, and we have it in this resolution. We have there also a board of officers called commissioners of quarantine, who are actively engaged in the performance of their duty, for whose service a very large appropriation was made by our Legislature, with which we were able, in November last, to grapple with the cholera. A ship came from Havre freighted with cholera, with a large number of cases on board; but they were able to take care of it, and to keep it out of the city. We had a pretty rigid quarantine there, we thought. Then we have an efficient health officer with a sufficient number of assistants. On the whole, we have got a pretty fair system of quarantine.

Now, what does this resolution propose to do? To set aside the whole of that system, and take the whole power into the hands of the General Government, and to set the Secretary of War, with the cooperation of the Secretary of the Navy and the Secretary of the Treasury and the Commander-in-Chief of the Army and Navy, guarding the harbor of New York, and all the other harbors of the country. If it was not so serious a matter, I should regard it as very ridiculous. It is a thing utterly impracticable; it cannot be done.

It is said by those medical gentlemen who are endeavoring to frame this thing that it is very important to have it uniform. I apprehend that that is in itself entirely impracticable. You cannot adopt a uniform system of quarantine. Each harbor must take care of its own quarantine. I am entirely opposed to the measure.

Mr. EDMUNDS. The objections which the Senator from Iowa has made, mainly, are answered, I think, by the amendment which I have had the honor to submit. I have no knowledge of the origin of this resolution, and therefore I cannot explain the motives under which the precise phraseology was originally adopted. But all that the resolution now proposes to do, if my amendment be adopted, is simply to create a board composed of the Secretaries of War, of the Navy, and of the Treasury, who shall have authority over this subject; and the only question to which I propose to address myself now is that of the power of Congress to pass this resolution. It was objected yesterday by the honorable Senator from Maine, [Mr. MORRILL,] and is again objected to-day by the learned Senator from New York, [Mr. HARRIS,] that this exceeds our constitutional power. If it does, then we certainly ought not to pass it. If it does not, then in my judgment we ought to pass it. Now, what is quarantine? What is the precise thing which this resolution has in contemplation to be done? Is it not the regulation of the admission from foreign countries into the United States of persons and property? It is nothing more; it is nothing less. We are not undertaking to prescribe specifics for a pestilence or disease. The threatened existence of pestilence and disease is that which furnishes the motive for us to regulate the introduction of persons who may be infected with it within our borders.

Then, if I have correctly stated the proposition, the question is, have we authority to prescribe the terms and limitations under which persons and property may be received into the United States? And that is the whole question.

Upon this subject, rather than express my own feeble opinions, I beg leave to call the attention of the learned Senator from New York and the honorable Senator from Maine to the language of the Supreme Court of the United States, speaking in the passenger cases, decided in the January term, 1849, where the precise point in judgment was the constitutional question whether it was lawful or not for a State to impose regulations and limitations upon the introduction of persons into the United States; and it was held, without dissension, by an able and unanimous court that the right to regulate the introduction of persons and property into the United States was clearly a regulation of commerce. Mr. Justice McLean, in pronouncing the leading opinion in that case, said:

"Commerce is defined to be 'an exchange of commodities.' But this definition does not convey the full meaning of the term. It includes 'navigation and intercourse.' That the transportation of passengers is a part of commerce is not now an open question. In *Gibbons vs. Ogden*, this court says, 'No clear distinction is perceived between the powers to regulate vessels in transporting men for hire and property for hire.' The provision of the Constitution, that 'the migration or importation of such persons as any of the States now existing shall think proper to admit shall not be prohibited by Congress prior to the year 1808,' is a restriction on the general power of Congress to regulate commerce. In reference to this clause, this court says, in the above case, 'This section proves that the power to regulate commerce applies equally to the regulation of vessels employed in transporting men who pass from place to

place voluntarily, and to those who pass involuntarily.'

"To encourage foreign emigration was a cherished policy of this country at the time the Constitution was adopted. As a branch of commerce the transportation of passengers has always given a profitable employment to our ships, and within a few years past has required an amount of tonnage nearly equal to that of imported merchandise."

And then they proceed to pronounce the judgment of the court that these State regulations imposing a tax upon the introduction of passengers, which implies the power of course, and with it the exercise of it, to regulate the terms of their admission into the country, are unconstitutional and void. Therefore, of the subject upon which this resolution is to operate is the regulation of the introduction of persons and property, although the motive to it may be the prevention of the spread of pestilence and disease, is it not clearly within the very letter of the definition which I have read, the regulation of commerce? I do not appeal, as was intimated by the Senator from Maine yesterday, to the "general welfare" clause, although I think if we all in legislation looked a little to the general welfare in the exercise of our duties we should not be the worse for it. I do not appeal, as is supposed by my honorable friend from New York, to the war-making power merely because the power of the Secretary of War is invoked to execute this law. I appeal to that clear grant of constitutional power which is given to Congress to regulate the terms upon which persons and property may be imported into the United States.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 280.

Mr. EDMUNDS. I will ask unanimous consent that that order may be temporarily laid aside until we finish this resolution. I have but a word more to say upon it.

Mr. SHERMAN. I have no objection to the bill being laid aside until the Senator conclude his remarks, but there are other Senators who want to speak on this resolution, and I presume it would be debated all day. I have no objection to the Senator completing his remarks.

Mr. EDMUNDS. Then I shall not insist upon disposing of the resolution now.

The PRESIDENT *pro tempore*. The Senator from Vermont asks the unanimous consent of the Senate to lay aside the unfinished business of yesterday until he concludes his remarks. The Chair hears no objection.

Mr. EDMUNDS. I have only to add a word to what I have said, and I shall have done. It has been objected that this is an extraordinary grant of power to the Secretaries who have been named, to employ the resources of the United States, as they have been described, its armies, its navies, and its Treasury, to repel this pestilence. It may be extraordinary, but that is no objection to its exercise if the exigency of the occasion requires it. Now, in the case of ordinary legislation, as for customs, for instance, the law is executed by providing penalties for its infraction and forfeiture of the goods which may be introduced into the country in violation of law; but in the case of a pestilence, which is the object to be excluded, he who undertakes to legislate by way of punishment against persons who violate the law and bring in the pestilence, fails to do his duty to the country, because the pestilence once introduced, punishment to the person who introduces it is a very inadequate remedy indeed. Therefore, in a case of this description, as in the case of the bill which has already been passed excluding cattle on account of the cattle plague, it is absolutely indispensable that the executive force of the law should go along with the enactment, and that so much of the power of the country as is necessary should be exercised at the time of the prohibition by way of prevention and exclusion, instead of by way of punishment and penalty afterward. Therefore this is one of those classes of cases where, if it is right to act at all, it is indispensable that the executive force of the Govern-

ment should be brought to bear at the very moment of its execution by way of prevention rather than by punishment afterward.

POST OFFICE APPROPRIATION BILL.

The PRESIDENT *pro tempore*. The bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, is now before the Senate, the pending question being on the amendment proposed by the Senator from Illinois, [Mr. TRUMBULL,] upon which the Senator from Nevada [Mr. NYE] is entitled to the floor.

Mr. NYE. Mr. President, when the Senate adjourned last evening I was paying a passing respect to a remark made by the Senator from Delaware [Mr. SAULSBURY] in a speech on this question some days ago. But, sir, I propose now to return to the Senator from Wisconsin [Mr. DOOLITTLE] and the Senator from Pennsylvania [Mr. COWAN] for the purpose of determining whether they or others stand upon this Baltimore platform. The honorable Senator from Wisconsin says that no power on earth shall drive him from it; whether besieged by Radicals on the one side or by Democrats on the other, there he is to stand, and stand forever; and I understand the Senator from Pennsylvania to occupy the same attitude upon that platform. If that platform is large enough, if there is any room for others, I propose to stand there with them for awhile, until they push me off or they leave it. This Baltimore platform was the political direction, the scriptural direction—if such a term is applicable to politics—upon which the last battle was fought and won, and I propose to hang to it. It was said by a distinguished member of the Cabinet not long ago that in these flurries and gales some few would be washed overboard and some left. I propose to weather this gale by standing upon the deck of the Baltimore platform. In examining this platform, sir, you will find that it contains only two very important provisions, and the first is the most important:

"Resolved, That it is the highest duty of every American citizen to maintain, against all their enemies, the integrity of the Union and the permanent authority of the Constitution and the laws of the United States;"

I understood the distinguished Senator from Pennsylvania to say that the Democrats had got on to that portion of the platform. I trust that no power on this side will be exercised to drive one of them off. If they have been converted by the distinguished Senators from Pennsylvania and Wisconsin, so that they are content to stand upon that, it is a new era in their political history, one that will be noted with great favor as an instance of the wonderful power of the two Senators who have wrought the change—

"and that, laying aside all differences and political opinions, we pledge ourselves as Union-men, animated by a common sentiment and aiming at a common object, to do everything in our power to aid the Government in quelling, by force of arms, the rebellion now raging against its authority, and in bringing to the punishment due to their crimes the rebels and traitors arrayed against it."

That, sir, is the great cardinal principle of the Baltimore platform, and to every line and word of it I most heartily assent. It declared it to be our duty to maintain the Union, the Constitution, and the laws against all their enemies; but our Democratic friends did not see it in that light; they did not agree—and I refer to that portion of them who are now acting with the two distinguished Senators with whom I am holding this controversy—they did not agree then to that sentiment. If they did, that other convention which they now, with me, wish had never been held; at Chicago, would never have taken place. This platform, by the cogency of its reasoning and the potency of its argument, commanded the support of a large majority of the Union-loving men of this country. They had ascertained—and I congratulate the members of that convention, for I understand my friend claims to have taken a distinguished part in it—that the rebellion had reached that point where nothing but the force

of arms could put it down; and the Baltimore convention pledged themselves to the country that no other weapons should be used, and when it was put down it followed as a sequence, in the just judgment of the members of that convention, that "the punishment due to their crimes" should be "awarded to the rebels and traitors arrayed against it."

Mr. President, the distinguished Senator from Wisconsin three times thanked God during his speech that Andrew Johnson existed and held the office that he does. I shall three times three times thank God if he carries out the provisions of the Baltimore platform as expounded by himself. I suppose one reason for thanking God was the clear vision with which he saw his duty; and I am going to read now his own understanding, when that platform was fresh before him, of its meaning; and either President Johnson entirely misunderstood its meaning then or the distinguished Senator from Wisconsin does not interpret it truly now. In accepting the nomination for Vice President of the United States, Mr. Johnson said:

"The question is whether man is capable of self-government. I hold, with Jefferson, that Government was made for the convenience of man, and not man for Government. The laws and Constitution were designed as instruments to promote his welfare. And hence from this principle I conclude that Governments can and ought to be changed and amended to conform to the wants, to the requirements, and progress of the people and the enlightened spirit of the age."

Sir, I hold that as the announcement of a great and living truth. I do not suppose that it ever entered into the heads or hearts of the framers of that glorious instrument, our Constitution, that it was never to be altered, amended, or changed to meet the wants and exigencies of a progressive and advancing people. If it has so entered into the heart of my distinguished friend from Wisconsin, why does he boast now of being the foremost and first advocate of amending that instrument so as to keep pace with the progress of the times? So far, then, I indorse most cordially that sentiment which seems to be in union with the music of the times. But to proceed:

"And let me say that now is the time to secure these fundamental principles, while the land is rent with anarchy and upheaves with the throes of a mighty revolution."

What greater truth could be announced than that? And the Senate will remember that this is all under the authority of the Baltimore platform, as understood by its expounders.

"While society is in this disordered state, and we are seeking security, let us fix the foundations of the Government on principles of eternal justice which will endure for all time."

Most heartily do I, ranking among the radicals of this body—and I venture to speak for all who are thus designated—indorse the sentiment of the President of the United States.

"But in calling a convention to restore the State, who shall restore and reestablish it?"

A pregnant inquiry; and he answered it:

"Shall the man who gave his influence and his means to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers so freely poured out will have been wantonly spilled; all the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain."

Again let me pause to give in my most cordial and hearty adherence to that doctrine.

"Why all this carnage and devastation? It was that treason might be put down and traitors punished: Therefore I say that traitors should take a back seat in the work of restoration."

Again let me say that I most cordially concur in that; and that is the question that is now really under discussion. Let the traitors take a back seat, said the President. Sir, that sentiment was echoed from every hill-top and through every valley of this nation. So said Congress then, and so says Congress now. "Traitors to the rear," according to the order of the Commander-in-Chief. The Commander-in-Chief of the Army and Navy orders you to the rear; and why does the Senator from Wisconsin beckon them forward? "Traitors

to the rear; back seats;" is the order of the Commander-in-Chief of this great nation.

"If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely."

Will the distinguished Senator from either of the States I am now addressing tell me why these men should be allowed to partake in the great work of reconstructing all these States when Mr. Johnson at that day said they should not be allowed to aid in the work of reconstruction in a single State? This was carrying out the spirit of the Baltimore platform. He went upon the doctrine that "while the letter killeth, the spirit maketh alive." He had drank what the distinguished Senator from Wisconsin, from his remarks made upon it, seems never to have tasted, the spirit of the Baltimore platform; and speaking in that spirit he declared, "Traitors to the rear; back seats; you shall not be allowed even to aid in reconstructing Tennessee, though there be not five thousand loyal men in the State." Exactly right was the President then. Around that little nucleus, charged with the spirit and living fire and zeal of the glory of our institution, would have gathered and clustered an army of Union men as resistless in its march as the army of the Potomac when led by Grant. But, sir, in an evil hour—and I propose to turn the Senator from Wisconsin exactly to the point—that doctrine was departed from, and I shall examine now with entire fairness what I think led to the departure from that doctrine.

Sir, I am not through with this oracle. To what I shall now read I call the attention of his distinguished champions here:

"I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy."

So say I; so says every fair-minded man, that the traitor ceased to be a citizen; and in addition, so says the voice of the intelligent world; so says the law, before whose majesty the distinguished Senator from Pennsylvania bows with such respectful deference always. Sir, that enunciation was from the very fountain of truth. It welled up; it was the gushing of an honest-spoken sentiment, and it received an echo everywhere on this continent. What, sir, has it come to pass in fact that a man can be red-dyed with treason one day and washed as white in the waters of loyalty as the lamb the next? Away with reading your miraculous conversion of Paul! Sir, that miracle would cease to be quoted if this theory were adopted here—a miracle in view of Almighty power, a miracle in view of the just understanding of mankind, a miracle in the eyes of justice, and an overthrow of every principle of law. What did he mean by this? He said to traitors, "Your garments are red with the blood of treason," and he gave the same direction that was given by Elijah to the proud prince of old, "Go wash seven times in the waters of Jordan, and be healed." So I say to these traitors, go wash seven times seven in the waters of loyalty, and be cleansed.

But, Mr. President, I am not quite done with this speech:

"I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government."

Sir, human lips never uttered a more striking truth than that. That again awoke an echo in every heart, and raised and elevated the world's hope. Was it true then? If so, it is true now, and will remain true through all coming time. But I am not quite through:

"We say to the most honest and industrious foreigner who comes from England or Germany to dwell among us and to add to the wealth of the country. Before you can be a citizen you must stay here for five years." If we are so cautious about foreigners who voluntarily renounce their homes to live with us, what should we say to the traitor who, although born and reared among us, has raised a parricidal hand against the Government which always protected him?"

If language is to be understood at all in its usual signification, that means this, and no

more, that no man who had been engaged in this treason should have a less probation than the foreigner. So say I, and so says Congress.

"My judgment is, that he should be subjected to a severe ordeal before he is restored to citizenship."

So said an afflicted continent; and to what ordeal has he been subjected? I speak what is patent to the world, and what is recorded history to-day, when I say that the only ordeal to which he has been subjected is to have been under the special charge and kind care of a most indulgent and magnanimous Administration. Who would have believed from these utterances that Lewis E. Parsons would have been made provisional governor of Alabama—a man who partook, in the darkest hour of our trials, in the legislation of the State of Alabama, introducing resolutions which I had here the other day in my hand denouncing in the most unmeasured terms the loyal citizens of this country? And yet the ordeal to which he was subjected was to receive a commission to go down and be doctor-in-chief of a disease which he had diagnosed most thoroughly, rebellion, treason. He knew every bone, artery, fiber, vein, that pervaded it, for he had treated every one of them. Oh, what an ordeal that was to pass! And a severer ordeal still was to receive his salary for it, out of money that you and I are taxed to pay, and that, too, without taking the prescribed oath by Congress! Oh, how Parsons must have suffered! What a change in "my policy" from before till after election! I have no doubt, however, that the distinguished Senators to whom I am addressing the most of these remarks will be able to explain it. [Laughter.]

"A fellow who takes the oath"—

I beg the Senator's attention to this—

"A fellow who takes the oath merely to save his property, and denies the validity of the oath, is a perjured man, and not to be trusted."

He knew of what manner of men he spoke. So said the President of the United States; and, remember, all this time he was accepting the Baltimore platform as his guide. Now, there is a change, whether for the better or the worse we shall see by and by.

"Before these repenting rebels can be trusted let them bring forth the fruits of repentance."

Amen. That is precisely what Congress has said all the time: bring forth fruits meet for repentance; come here in a spirit of repentant submission; come here as the sinner should come; come as the felon should come; acknowledge your crime, and though your sins be as scarlet we will make them white as snow. Is that the way they come? No, sir. The distinguished Senator from Kentucky [Mr. Davis] told us the other day what he would do if he were President; he would call up *pro forma* the rebels who have been elected to Congress, and if he were President he would regard them as such. We who echo every sentiment which I have read are to be driven from these Halls to make room for these anything else than repentant rebels. Their second state is worse than their first. I know not whom that distinguished Senator echoes, but I have seen in nearly every print of the South, I have read in prints in this city recommendations that this high priest should dispose of this "irregular" Congress, that have no better indorsement than a loyal people, to make room for those whose skirts smoke now with the blood of this rebellion. I know not what may come. I entertain no particular fears for myself. If that issue come, let it come, and an outraged people will settle the question very quickly. Sir, if the votaries of treason have not had victims enough, let them invade these Halls and victimize the representatives of a great people. They are, it seems to me, more voracious than the grave, more unsatisfied than the horse leech's daughter that cried "Give," "Give," till there was no more to give. They are not satisfied with passing by the countless new-made graves; they demand additional victims here; that this Hall, so sacred in the recollections and in the history of the country, shall be made to run with loyal blood to make room

for those who but yesterday were trying to tear down its pillars.

Can an American Senate long discuss such a question? Has it come to this, that members sitting here with the high commission of a loyal people are to be threatened, and upon this floor, with an exercise of that power which would have made Nero blush to utter its name? Let it never be uttered here again; but I repeat, if liberty and freedom demand that further sacrifice, your victims are ready.

Sir, the sentences and utterances which I have read were the expressions of the now President of the United States just before the election. These utterances, these expressions, were like an electric touch to the wire; they electrified the whole community, and he was borne upon the shoulders of as loyal a people as ever breathed to the highest place of power on earth, borne there by the exertions of many of the members of this circle. But I am not quite done with this speech:

"He who helped to make all these widows and orphans, who draped the streets of Nashville in mourning, should suffer for his great crime. The work is in our own hands."

What work? To make them suffer. The work of making the rebels suffer, said the President, is in our hands. That portion of the work, if done at all, has been done so as not to excite the observation of the world. Who suffers? I will tell you, Mr. President who suffers; it is those who are fleeing from the presence of the unwashed rebels. This work is in our hands, said the President; he falters in it; Congress proposes to take up the work and do it without him. I ask the Senator from Wisconsin whether any of the rebels have suffered since the war.

"Ah! these rebel leaders have a strong personal reason for holding out."

What reason?

"To save their necks from the halter."

Why, sir, the hemp is not grown yet, nor sown, that will hang a rebel in this country. They held out and they are not hung. They held out longer than they ought to have done, and they have gone longer without hanging than they ought. So says an intelligent world, and so said, above all, the President himself. He said further—

"Treason must be made odious, and traitors must be punished."

I have often heard that quoted; but he did not stop there.

"Treason must be made odious, and traitors must be punished and impoverished."

That is a thing that hurts the traitor worse than anything else, to impoverish him. Where is the traitor that has been impoverished? What does impoverishing mean? It means confiscation. There has been none of that of any consequence that there was not a respectful obedience by the authorities of this country in returning the property to its much abused rebel owner! What, sir, return their property to the rebels when the great high priest of this Union party declared that they must not only be punished but impoverished! Why is not that promise kept? Sir, I do not ask that question alone; it is the voice of millions; why has not that promise been kept? Let him who made it answer, or his friends for him.

"Their great plantations must be seized, and divided into small farms, and sold to honest, industrious men."

Where is the great plantation that has been sold and divided among honest men as contradistinguished from its former owners? The Senator from Wisconsin when he replies will probably tell us where these confiscated estates are, and where these honest men have found homes on these cut up plantations.

"The day for protecting the lands and negroes of these authors of rebellion is past."

So said President Johnson. If he spoke prophetically, it has not turned out as he prophesied. Then he is no prophet. If he spoke by virtue of the power that was about to be conferred upon him, I think he has not exercised it.

Now, to every one of these living, breathing announcements, Congress says, amen. Then what is the occasion of any difference between the President and Congress? I venture to assert that I have not read in this whole speech a declaration that every member of this body who pretends to be loyal will not respond to as true. Remember, too, that all this was said under and by virtue of the Baltimore platform; said by this intelligent man when he accepted the nomination under that platform.

"The day for protecting the lands and negroes of these authors of the rebellion is past. It is high time it was."

I shall be pardoned for saying I think so too. It was high time that protection to rebels should cease. What have they done since to entitle them to the confidence of an outraged people? Let the history of the times answer. He next proceeded to give some Union officers what I have no doubt was a truthful reprimand:

"I have been most deeply pained at some things which have come under my observation. We get men in command who, under the influence of flattery, fawning, and caressing, grant protection to the rich traitor, while the poor Union man stands out in the cold, often unable to get a receipt or a voucher for his losses. The traitor can get lucrative contracts, while the loyal man is pushed aside, unable to obtain a recognition."

Then the President had on a holy glow of indignation at such outrages as these, and most properly; he spoke as became a man of feeling. It was an outrage; it is an outrage. Has it been changed? Go to the mountain gorges of Tennessee, and see the fresh-made tracks of the fleeing fugitives, the Union men, from the fury of their pursuers, the traitors. Who hunts the pursuers? No one. I therefore reiterate this same complaint on behalf of the fleeing fugitives who loved their flag better than their State, who are now finding homes at the sources of the rivers and in the gorges of the mountains. Far distant are they; but I stand here on their behalf to maintain the fulfillment of this promise. It is due to the dignity of this nation; our dignity demands it, and the people will have it.

I am now through with the particular speech from which I have been reading, but a little later, on the 24th of October, 1864, the present President's gushing heart gave forth other utterances. He was called upon by a few returning braves who represented a regiment which had been thrice recruited, because it had been thrice decimated in battle; a regiment of colored soldiers, and he addressed them thus:

"Negro equality, indeed," cried he; "why, pass any day along the sidewalk of High street, where these aristocrats more particularly dwell—these aristocrats whose sons are now in the bands of guerrillas and cut-throats who prowl and rob and murder around our city—pass by these dwellings, I say, and you will see as many mulatto as negro children, the former bearing an unmistakable resemblance to their aristocratic owners. Colored men of Tennessee, this, too, shall cease."

He changed the entire color of the African race in Tennessee from that day, by order. [Laughter.]

"Your wives and daughters shall no longer be dragged into a concubinage, compared to which polygamy is a virtue, to satisfy the brutal lust of slaveholders and overseers. Thenceforth the sanctity of God's holy law of marriage shall be respected in your persons, and the great State of Tennessee shall no more give her sanction to your degradation and your shame."

And having, in language which you all remember, promised to be their Moses, he added:

"I speak now as one who feels the world his country and all who love equal rights his friends."

What a pinnacle of exaltation that must be! I almost envy him who stands on it. Standing on it he would be expected to speak words of encouragement to these men:

"I speak, too, as a citizen of Tennessee. I am here on my own soil; and here I mean to stay and fight this battle of truth and justice to a triumphant end. Rebellion and slavery shall, by God's good help, no longer pollute our State. Loyal men, whether white or black, shall alone control her destinies; and when this strife in which we are all engaged is past, I trust, I know, we shall have a better state of things, and shall all rejoice that honest labor reaps the fruit of its own industry, and that every man has a fair chance in the race of life."

Sir, I often envy men when they seem to speak from this high exaltation. I have some-

times tried to reach it; but my wings are too feeble. The sentiments, however, that drop from such an exalted position make a deep lodgment in my heart. These utterances gave to a nation, white and black, needed words of encouragement; and the downtrodden slave breathed freer and deeper as these utterances were echoed to him. Congress, full of this inspiration—my distinguished friend from Illinois [Mr. TRUMBULL] first catching it—passed a bill to establish a Freedmen's Bureau to give power to carry out and perfect the essence of this exalted sentiment. The President, I need not say, refused to sign it. My distinguished friend from Wisconsin came panting in here one day in a hurry to say that if he had been present on the question of the passage of that bill he would have voted for it. I mourned over his disappointment that he could not have recorded his vote for so holy and righteous a measure. The distinguished Senator from Connecticut [Mr. DIXON] shared in the early glory of having voted for it. That little parchment came back; and where then were the regrets of my distinguished friend from Wisconsin? His disappointment had fled. Where then was the gushing sympathy with this immortal sentiment uttered by the distinguished Senator from Connecticut? When that dread question came, Shall this bill become a law notwithstanding the objection of the President? up went Wisconsin, or half of it, half of Connecticut, half of Pennsylvania—

Several SENATORS. The whole of it.

Mr. NYE. Well, one is always one way anyhow. My friend BUCKALEW is always wrong, or right, as may be the case. From that fearful flight, I am sorry to say, these gentlemen have never returned as they appeared when they left; they are changed men; they do not fraternize with those whom they used to fraternize with, but have made their beds constantly with new companions. How dare the Senator from Wisconsin and the conscientious Senator from Connecticut go back to these holy sayings of their President? What excuse can they give? The principal excuse was, I believe, the cost of the measure. Who ever expected that four million people who for centuries had bowed their necks to degradation could be lifted up to the platform of human equality and not have it cost something? Sir, whenever the time comes when I weigh a benefit to my fellow-man against dollars and cents I shall probably vote as they did. It will not do. The Freedmen's Bureau bill was killed, and it was killed in the house of its friends. I shall have no ghosts haunting me; I voted for it first and last, and my vote was prompted by the best feelings of my heart. Cost something! Sir, the unrequited toil of the slaves, the sweat from their brows had made rich the men that now bear their pardons in their pockets for their infamy, and rejoice that the Freedmen's Bureau bill was killed.

That awoke the first shouts of the dormant Democracy. "Hurrah for Johnson!" said the Democrats. It even evoked a gushing speech from my friend from Delaware, who had lived through Buchanan's administration. Both the Senators from Kentucky, the Senator from Delaware, the Senator from Connecticut, and the Senator from Wisconsin were holding sweet communion over the defeat of this bill, which was founded, I repeat, on the best impulses of the human heart.

But, sir, that is not all. This bill originated upon the hypothesis that the old law of last year establishing the bureau originally was dead. Here, however, the President exhibited a very unusual power. I am glad to see that he possesses it. He convinced the world that if he could destroy, he could create. While one bill was crucified and killed, he resurrected another; so that the opinion and judgment of Congress was indorsed, that measure having originated here. If it had been my case, I should have said to Congress, as the old bill is in operation I return this to you as not being necessary.

There came the first line of marked devia-

tion. Then came the civil rights bill, crowding upon the heels of the other. Indeed they were born together, twins in birth, mutual in operation, one being the aid and helper of the other. The civil rights bill did what the distinguished Senator from Maryland [Mr. JOHNSON] declared it was almost unnecessary to do, because it followed as a sequence when slavery was abolished; but that bill clothed this downtrodden people with the superb and indescribable garment of American citizen. Sir, who has not felt proud that his vesture was the citizenship of the United States of America? To us who inherit it how rich and how precious! To those who have it by the power and force of our arms how inestimable! If I had an angel's tongue I could not describe the ecstasy with which they receive it. If I had the wisdom of my friend on my left [Mr. SUMNER] and the tongue of Cicero I should be unable to describe the indescribable emotions of the transition from slavery to citizenship.

That bill, too, did not find favor at the other end of the avenue. That was misfortune number two. If it were proper for me, I would stop right here and do what would be irregular, pay a passing compliment to the firmness with which that occasion was met. Were I not a member of this body I should do so. As it is, I will simply say that over and above the President's objection the civil rights bill was carried, and there never had been such rejoicings in this nation since the morning stars shouted for joy. It was the resurrection and the life to four million people. It was a noble, manly vindication of the integrity and fixed purpose of this nation. It spoke freedom, not only to the millions here, but to the downtrodden and oppressed abroad. That bill is a law, and, thanks to Almighty God, there is no power now to recall it. It will stand an everlasting monument to the integrity of Congress. When the historian shall write the proudest victory of this war, the manly bearing and perseverance and determination of Congress in passing the civil rights bill will share the most prominent page. I hailed it then as an announcement to the world of the fixed purpose of the American Congress.

For that act the distinguished Senator from Kentucky [Mr. DAVIS] made those utterances which were suppressed in the Globe, in which he said that if he were President he would have this Congress out and another in. Sir, this Congress will not go out until it goes out by the limitation of the term of its existence, and then in every case probably, save my own, those who have been true and faithful will receive from a grateful constituency the indorsement, "Well done, good and faithful servant."

Now, sir, I have examined the Baltimore platform in view of the exposition made of it by the President himself; I have examined the passage of these two bills to see whether he was keeping on that track. I remarked yesterday, and I repeat, that I have said nothing harsh of the President of the United States, but there is something wrong, and I am looking for it. I think I find it in his Washington's birthday speech. It is proper for me to say that during these struggles, when the earth was heaving under our feet, and when nothing but the roar of cannon, the rattle of the drum, and the flash of steel was seen and heard all around us, Congress in its wisdom saw fit to pass a law prescribing an oath to guard against the return of red-handed rebels. It is known as the test oath. My friend from Wisconsin labored hard to show that the policy of the present President was the policy of his predecessor. Sir, Mr. Lincoln heartily approved of that oath; he signed the bill prescribing it; and I take it my friend from Wisconsin voted for it, as he does for most of the measures passed here, or as he did at that time. Now, in this birthday speech I see a birth of something strange. Let me quote a little from it. (Sutton & Murphy's Reporter, No. 15, page 16.)

"I repeat, I am for the Union."

That is good.

"I am for preserving all the States."

So am I.

"I am for admitting into the councils of the nation all the representatives who are unmistakably and unquestionably loyal."

So am I.

"A man who acknowledges allegiance to the Government and swears to support the Constitution must necessarily be loyal."

There is the mistake. As a proposition, I deny it. Breckinridge took that oath while perjury black as hell was smoldering in his heart. The president of your late confederacy had taken the same oath over and over again. Wigfall had taken it. Were they loyal? Sir, I deny the proposition that swearing makes a man loyal. If I could reconstruct the South to-day upon an oath, I would call them up and marshal them altogether and tell them to hold up their right hand and swear. Why, sir, these rascals have not only sworn to support this Government, but another, and they have broken both oaths. Will you tell me now that swearing makes a man loyal? No. My friend from Pennsylvania yields that point, and when he yields it, everybody else ought. [Laughter.]

But that is not all. There is a little more cat under the meal here. I will read that again, for it is not true:

"The man who acknowledges allegiance to the Government, and who swears to support the Constitution, must necessarily be loyal."

That would have done years ago; but experience, that stern and unflinching teacher, has taught us a great deal lately. Why, sir, they have sworn four times, and yet oath piled upon oath will never make a traitor loyal. Treason to the moral man is what consumption is to the physical man; he never gets well of it. [Laughter.] It taints the whole moral man; it is a disease incurable; nothing but death can stop it.

But let me quote a little further:

"A mere amplification of the oath makes no difference as to the principle."

That is, that an oath to support the Constitution is sufficient; and to require him to swear that he has not given aid or comfort to the rebellion is a mere amplification, which is of no use, and will not help the strength of the oath.

"Whatever test is thought proper as evidence and as proof of loyalty is a mere matter of detail, about which I care nothing."

I do.

"But let a man be unmistakably and unquestionably loyal, let him acknowledge allegiance to the Constitution of the United States, and be willing to support the Government in its hour of peril and its hour of need, and I am willing to trust him. [Applause.]

"Applause." But who by? By that horde of anything but loyal men that surrounded him on that occasion. I will not call names, but I chanced to be here in the early days of this rebellion, and I saw men shouting on the 22d of February who were not suspected of loyalty at that time. "Applause." What for? The test oath was to go. This mere amplification amounted to nothing! Let me inform the distinguished Senators from Wisconsin and Pennsylvania that right there the gulf becomes as wide, as deep, and as impassable as that between the rich man and Abraham's bosom. Right there I stop. I never will vote to let one of these rebels back here, on a simple oath to support the Constitution, to seize the reins of power. Others may do as they please; but on the day of judgment, when I stand in judgment for the deeds done here, that sin shall not be placed to my account.

I want to know if the distinguished Senator from Wisconsin desires this test oath repealed. [Mr. DOOLITTLE shook his head.] Then I congratulate him that he and I agree on that point. But, sir, this thing does not stop here. A recommendation has been sent here from the Executive Mansion requesting the repeal or modification of this oath, upon the plea that the men whom they want to place in power are covered all over with the stench of infamy,

and we are asked to let them up a little; some of them are not quite as bad as others. Sir, ever since the world began there have been two kinds of devils abroad, little devils and big ones, and the little devils have always been the most troublesome. [Laughter.]

Now, Mr. President, we have had the Baltimore platform and the birthday speech. We have had the utterances of the President upon that platform; and I am going to assume, without any disparagement to my friend from Wisconsin, that the President knew as well what the Baltimore platform was as he did. Now, I want my friend from Wisconsin to tell this Senate and the country wherein the policy of the present Administration—if you call the President alone the Administration—agrees with Lincoln's. Lincoln was a firm adherent of this test oath. He saw in it the anchor of our safety. While that existed the ship, however much tossed at her moorings, would be safely anchored in the haven of quiet and repose and safety. Sir, take away that anchor, and you will see these vacant seats filled by the men who vacated them with the avowed purpose of tearing this Government and rending it in pieces.

Mr. President, I remarked yesterday that I thought there was no blame to be attributed to Congress for not having acted more speedily. The work of restoring this country is a great work. The labor imposed upon the shoulders of this Congress is Herculean. They are to build up where treason has torn down. They are to heal these wounds as best they can. The man who had in his employ a person who had enveloped his house and his children in flames by the torch, and would take him back into his employ the next day, would be considered a fit subject for a lunatic asylum. The same rule of prudence, caution, and care should prevail here. The wounds upon our institutions are everywhere seen. The blood yet oozes freely from wounds that never can be healed. And yet my distinguished friend from Wisconsin says we must take them in! Sir, there is a little example before us on this subject. In olden time a copperhead was found stiffened with frost. A humane husbandman, like my distinguished friend from Wisconsin, put him in his bosom to warm him and thaw him out. What did the copperhead do? He stung him to death. After that example I do not propose that any of that breed shall find warming here. [Laughter.] My friend from Wisconsin, with his great gushing heart, wants to take such things in his bosom. Look out for your armpits. [Laughter.]

One thing more, sir, and I have done. I hope the Senate will pardon me for detaining them so long. I am alarmed at another doctrine that is broached by the distinguished Senators from Pennsylvania and Wisconsin, and they are not alone in it. It has got so here that we cannot discuss even a sanitary bill but the doctrine of State rights is brought up. The cholera is obliged to pay its respects to State lines. My friend from Wisconsin said the other day he was the advocate of State rights. So was Davis; so was Breckinridge; so was all this host of rebels that fled. It was that infernal heresy, as illustrated and demonstrated by them, that lighted the torch of rebellion. State rights! Mr. Stephens believes in that doctrine yet, for he swears that he believes now that the States have the right of peaceful secession. State rights with proper limitations undoubtedly exist; but I protest against the latitudinarian construction given to that term by the Senator from Pennsylvania, and the Senator from Wisconsin, which would again light this country with the torch of rebellion.

Mr. COWAN. What other can you give that you are against, besides that of secession? Everybody is against that. What other one do you oppose?

Mr. NYE. I am against all of these pretended State rights that mar the harmony of the action of the Federal Government. What State right are you in favor of?

Mr. COWAN. All of them.

Mr. NYE. Certainly; that is what I supposed, including secession and all others.

Mr. COWAN. No, sir. That is the fallacy of the gentleman's argument: that because secession is not a State right, and was not intended to be one, therefore all other State rights are to be ignored and forgotten.

Mr. NYE. I am not going to stop now to discuss in detail this doctrine of State rights, because I do not think it would be profitable. I do not know that I can exactly describe, and I do not know that the Senator can exactly, what he means by State rights. I speak of the interpretation that has torn this Government in fragments. They called it what we called it, State rights. They not only held the right of these States to secede, but they denied the right of the General Government to force them to remain in the Union. So held your great Pennsylvania leader, the then President, with whose friends you seem to be acting pretty much now. I hope my friend from Wisconsin will not get the nightmare, State rights, firmly seated on him. Why do you not talk about State wrongs? But a State can do no wrong; it is only the barrier that is seen in this General Government! I hope the Senator will not persist in this doctrine of State rights again. If he does, he will have to settle it with his own conscience and with an enlightened constituency.

But, Mr. President, "hurry" seems now to be the word. "My policy" is immediate. Three weeks ago I went over to Arlington heights. I counted there a great many graves, and they told me there were fourteen thousand dead soldiers reposing upon the heights of Arlington. Early in May, 1861, I stood upon those heights, and there was not a grave there. The inquiry naturally arose in my mind, why are so many here now? I found a quick and ready answer in a recurrence to the terrible revolution of the last four years. There lie mingled the remains of rebels and the remains of Union men. I noticed not unfrequently, as I passed along, the inscription "unknown" on the head-board of the Union soldier. Sir, in behalf of that unknown soldier, I require prudence at the hands of this Congress. There I got the inspiration, if I may use the expression, of extreme caution. I stand here the advocate of that unknown soldier; and in his name and by his memory I demand of the Congress of the United States that they shall tread cautiously in this great work of binding up the wounds of the country. In the name of all the dead, I demand it. In the name of mourning millions, I require at the hands of everybody who is engaged in this work to see to it that it is done in such a way as to render a recurrence of this terrible rebellion impossible. Stain not again the fair fields of this country with loyal blood; rear no more hecatombs of loyal bones; but stand here in this breach made by them, as the Romans stood, firm and determined that what you do shall be well done, and that it shall not require doing again. If all these recollections are not enough, in the name of the martyred Lincoln I demand prudence at the hands of the American Government. If that is not enough, I demand it in the name of the mangled living.

My friend from Wisconsin will pardon me, having great faith, as he says, in the final result, if I call his attention to another view. Sir, beyond the grave we shall meet an army of three hundred thousand dead, who will never again answer to roll-call on earth, but in the day of judgment they will be there. In their name and by their memory, by the immortal death they died and lives they lived, I demand that Congress and every department of this Government shall tread cautiously in this great work of reconstruction. Sir, my mind is made up. Encounter whatever opposition it may, from whatever source, I will be prudent. By all the sacred recollections of the past, I demand caution. By all that is garnered up in the rich treasure-house of the future, I demand caution. In the name of liberty and

freedom itself and its perpetuation, I demand caution in every step you take. Rush not madly on to any policy. See where your strength lies and follow that. See where the right lies, no matter whose policy it may be, and follow it, though the heavens fall.

Sir, I entertain no fears for the future of this country. It is written by the finger of Omnipotence Himself that this nation is to be the freest, noblest, happiest nation of the earth. Through whatever tribulations we may have to go I see through the mists and the fogs of the present its coming glory in the future. This continent is destined and dedicated as the abode of a happy and free people. If our sufferings have not yet been sufficient to bring us to the true consideration of what is demanded at our hands, it may be that we shall be called upon to wade through still deeper afflictions; but, sir, the spirit of this people will rise with the demand. It will carry on to perfection the great work commenced by our fathers here of making this the abode of the free and the home of the oppressed of every race and clime. [Applause in the galleries.]

The PRESIDENT *pro tempore*. There must be order in the galleries, or they will be cleared.

Mr. DOOLITTLE. Mr. President, I, too, like the honorable gentleman who has preceded me, have stood by the graves of the martyred thousands. I, too, have had pressed upon me all the solemn considerations which he so eloquently portrays. I have stood where the Senator has not stood; I have stood over the grave of my first-born son, who fell a sacrifice in this rebellion. I have been tried, not only by all the great considerations that can move the statesman, but I have been tried by the deepest emotions of the human heart. And standing over the grave of my best beloved, the pride of my life, I have raised my hand in the presence of Him who liveth and reigneth forever, and have sworn that I would never give over the struggle till the rebellion should be suppressed, the Union restored, and peace and prosperity returned once more to our country.

Sir, I made hundreds of speeches, not so able as that of the honorable Senator who has preceded me, but in the same vein, while we were in a state of war. I made them to nerve my countrymen to the conflict. I made them to fire their indignation. I made them to fill up the ranks of our Army, and rush our sons to the shock of battle. God Almighty! Does not the Senator know the difference between war and peace? We are not now in the midst of war. Peace has come upon this country, and the duties and responsibilities that rest upon us are those of peace, not of war. When we had the responsibilities of war upon us, and we were bound to nerve every arm and strain all our power to overcome a gigantic rebellion, there was no argument, no appeal, nothing that could be said to arouse the indignation and fire the heart of the country, that we did not say. But now when peace has come upon the country, shall we still go on with speeches to wage war? That is the question. I say that no principle of magnanimity demands or tolerates it; no principle of wise statesmanship will justify it; no spirit of Christianity can tolerate it for a moment.

Sir, I, too, like the honorable Senator, expect to meet that train of martyred dead when we all go to our final account; and the question I expect to be called upon to answer at that dread reckoning, will be, "In what manner have you treated a fallen and vanquished foe when he had surrendered?" Shall I treat him still as a foeman? Shall I treat him still with a spirit of vengeance; or shall I treat him as a Christian, as a man? Sir, there is nothing in history, nothing in statesmanship, nothing in Christianity, which tolerates or justifies a spirit of unrelenting vengeance which would still undertake to slaughter by wholesale those who have been engaged in rebellion.

But, sir, that the rebels should be punished

is true. As a mass they have been punished. Take the States and the people of the States that have been engaged in this rebellion—I speak of them as a mass—and they have already been punished sufficiently to satisfy a sense of justice when considered by any wise statesman or by any just-thinking man. That there may be individuals who have been most deeply engaged in this rebellion who still ought to be prosecuted and brought to trial and punished for their great crime, I do not doubt. For more than six months there has been pending in this body a bill to enable the courts, which alone can try these offenders, to obtain jurors which are necessary in order to have a jury at all.

I am sorry that the honorable Senator from Nevada has left the Chamber, for after putting to me so many pointed questions I desired to put some to him. I put this question to the Senator, and those who sympathize with him: how many do you wish to hang? Answer the question. Sir, the men who are continually denouncing the Executive for not prosecuting and hanging the leaders of this rebellion have never yet ventured to say, and they will not undertake to say, that this Government could or should or ought to go into a wholesale prosecution against those who have been engaged in the rebellion. A very few prosecutions would satisfy even those who are the most determined and bent upon the prosecution of those who have been engaged in the rebellion.

Is the Executive at fault for not entering upon the punishment of those men? How should he punish them? Should he order their execution without any trial? I am sorry the Senator has left his seat, but I wish to deal with him frankly. I wish him to answer that question. I ask those gentlemen who sympathize with what the Senator from Nevada has said, and denounce the President for not bringing these men to punishment, do you propose that he shall execute them, as Commander-in-Chief of the Army, without trial? Is there a man in this body who would undertake to say that? Is there one single man on the floor of this Senate who will say that the President of the United States ought to take Jefferson Davis, or any other person engaged in this rebellion, and order him to be shot or hanged without trial? There is not a man, with all this denunciation of the President, that dare stand up and say it.

Then the question arises, how are they to be tried? Some, perhaps, will say by a court-martial or a military commission. The Supreme Court have decided that civilians not engaged in the Army cannot be tried by a military commission or court-martial. What, then, are you going to do about it? If the President, under these circumstances, should order a court-martial to try men who are not civilians, men who are not in the Army, and condemn them, and sentence them, and shoot or hang them, the President would be guilty of a high misdemeanor in the violation of the Constitution of the United States. How, then, are they to be tried? They must be tried in the tribunals of justice. They must be indicted; they must be brought before a court; they must be arraigned and tried as other men are tried for the commission of offenses. I see that my honorable friend from Nevada is now present, and I desire to put the question to him, how many would you try, and in what manner would you try them? By military commission or in court?

Mr. NYE. Do you want me to answer now?

Mr. DOOLITTLE. I do.

Mr. NYE. If the Senator will give me a day or two to make up a list of the number that I would have hung, I will do it with pleasure. I cannot name them now.

Mr. DOOLITTLE. I do not ask the gentleman to specify the names; how many, in round numbers?

Mr. NYE. I would hang enough to fulfill the assertion of the President that treason should be made odious.

Mr. DOOLITTLE. How many, in the opinion of the Senator, would be necessary?

Mr. NYE. Five or six.

Mr. DOOLITTLE. Very well; that answers one question. Now, I ask the honorable Senator, in what way would you try them; by a military commission, or court-martial, or would you try them in court?

Mr. NYE. I want to answer that question in two ways.

Mr. DOOLITTLE. I should like to have a direct answer.

Mr. NYE. I should not have kept them until this issue had arisen as to how we should try them. I would have hung them then. If I had had my way I would have hung Jeff. Davis, no matter how I tried him. When the two great armies, that of General Sherman and the army of the Potomac, were mustered out in this city, I would have had them formed in a hollow square and hung him there, and the world would have said amen. I suppose now we shall have to try him by law.

Mr. DOOLITTLE. That is the answer of the Senator. I simply desired to get his opinion. His answer is, that he would have ordered Jeff. Davis to be executed without trial in the presence of the discharged soldiers of the grand Army of the United States. Mr. President, I undertake to say that such a proceeding as that on the part of the President of the United States would be held to be murder by all the enlightened judgment of the world.

But the Senator now goes further and says that inasmuch as he was not executed without trial, executed first and tried afterward, it has gone on so far now that he thinks the proper mode of trial is to try him in a court of justice according to law. We have advanced to that point in the argument. His opinion is, and we may understand, notwithstanding all this denunciation by the Senator of the President for not punishing these traitors, that he would now have five or six of the leading rebels of the country tried, and tried in court according to law. Sir, how will you do it? Can you try them in a court if the judge will not sit and hold it? Has not the President for months been urging upon one of the justices of the Supreme Court, within whose jurisdiction Jeff. Davis is, that he hold a court so that he can be tried; and has not the judge refused to hold the court upon the pretext that he desires the question to come before Congress, for its action in some shape, before he assumes to do it?

Mr. HOWARD. Mr. President—

Mr. DOOLITTLE. If my honorable friend will allow me, as I am dealing with another very strong man, I do not wish to deal with two strong men at once.

Mr. HOWARD. I merely wish to correct the Senator on that point.

Mr. DOOLITTLE. I must decline to yield to the Senator. I am in the midst of an argument, and do not like to be drawn off.

Mr. HOWARD. I will reply hereafter.

Mr. DOOLITTLE. Without a judge to hold a court, you cannot try one of these offenders. Not only a judge is necessary, but a jury is necessary; and here arises a practical difficulty, how can you obtain a jury? Sir, you know, everybody knows, that when you impanel a jury, by the decisions of very many of the courts, by the decisions of Chief Justice Marshall in the Burr trial, when you call a juror upon the stand, and the question is whether he can sit upon the jury or not, the question is raised whether he has formed any opinion based upon newspaper reports or information or history or rumor. If he has formed any opinion in the case he cannot sit on the jury. That is the ruling of several of the northern States, New York, Massachusetts, Wisconsin, and others. Chief Justice Marshall, in the Burr trial, ruled in that same way. I believe those rulings are wrong; but at the same time they are the rulings of the courts upon that important question. How, then, can it be corrected? There is no way to correct it except by a law which

shall declare that when jurors are called, the fact that a juror has formed an opinion based upon public rumor, based upon newspaper reports, based upon the history of the times, shall not exclude him from the jury-box provided the judge is satisfied that notwithstanding that bias of opinion he can still try the case and find a true verdict according to the evidence. For six months that bill, introduced by myself, has been in this body with a view to try to avoid a very practical difficulty, so that some of these men could be brought to trial.

Why, sir, let us take a practical case. Suppose this, instead of being the Senate of the United States, was a court, and your honor was the justice presiding, and we who are here present were all jurors summoned, and Jeff. Davis were here, and put upon his trial, and the men here were summoned one after another to the jury-box, and the counsel of Jeff. Davis should put the question to them, "Have you formed or expressed any opinion upon the guilt or innocence of the accused?" what would they answer? Is there an honest man who would not be obliged to say that from the history of the times, from newspaper reports, from his own information, he had formed an opinion? Suppose the Senator from Nevada were asked whether he had formed an opinion. He would be compelled to say he had. I see he is not now in his seat. Suppose the Senator from Michigan [Mr. HOWARD] was called. He would be compelled, as an honest man, to say that from what he had heard about it he had formed an opinion that Jeff. Davis was guilty. What would the judge say under this ruling? "Stand aside, sir." You would go on from one Senator or juror to another until the whole panel was exhausted, and you could not get a jury at all. There is no loyal man to be found that you could get upon a jury who had not formed or expressed an opinion. Sir, you could not get a jury at all.

Now, I ask the honorable Senator and those who stand with him, is it advisable for the President of the United States to put Jeff. Davis on his trial, when you are sure you cannot get a jury; when, if you put him to his trial he will be acquitted? Which is the best policy? I wish to have done with this eternal clamor and denunciation against the Executive for not bringing these men to trial. There is not, and there never was, and never can be conceived a charge so utterly groundless and without the shadow of a foundation as this charge brought against the Administration for not bringing these men to judgment.

That is one point in the honorable Senator's discourse of to-day to which I call attention. There is another point. He is denouncing the President for the exercise of the pardoning power. There are thousands and thousands of these men unpardoned. All the great leaders of the rebellion are still unpardoned—not merely the five or six whom the Senator would bring to judgment, but thousands upon thousands. They are to be found everywhere throughout the South. If he can conceive a mode in which to bring them to trial, if he can aid in bringing them to trial, he will perform a better service, perhaps, than in denouncing the Executive for not endeavoring to do what is both impossible and absurd for him to undertake to do in the present state of the case. The responsibility rests not upon the Executive; nor do I rest under the responsibility of this charge. I have done all that I could do to secure the enactment of a statute which alone will authorize any of these men to be put upon trial.

It is sometimes charged that the men who were engaged in the military service, the officers of the rebel army, General Lee and others, might have been tried by a court-martial and executed. Who does not know that the very terms of surrender on which the rebel soldiers laid down their arms provided expressly that if they went to their homes and kept the peace and obeyed the laws and the Constitution of the country, they should not be disturbed by the

military authorities? Who does not know that when an attempt was made to indict General Lee, and the question was referred to General Grant for decision, who made the negotiation with him, that General Grant spurned the idea that under the stipulations of that treaty General Lee was to be disturbed as long as he obeyed the conditions of the stipulation? I say again, banish from this Senate, banish from every assemblage of honorable men this clamor against the Administration for not trying and executing the men who have been engaged in this rebellion.

But the honorable Senator—I wish he were here—says and repeats it, "Where is Clement C. Clay? Paroled; permitted to go to his home in Alabama." I could turn him to the Senator from Massachusetts [Mr. WILSON] to answer where is Clement C. Clay, and why he was paroled. I have here the recently published letter of that Senator. I bring no charge against the Senator from Massachusetts for writing this letter which I am about to read, for he has become a convert to the new theory of reconstruction invented by the other Senator from Nevada, [Mr. STEWART,] to wit, that of universal amnesty.

"UNITED STATES SENATE CHAMBER."

Yes, sir, from this very Chamber, within a few feet of where stood the Senator who at the top of his voice asked "Where is Clement C. Clay," went forth the letter of appeal from the Senator from Massachusetts for his release:

UNITED STATES SENATE CHAMBER,
WASHINGTON, March 3, 1866.

SIR: Mrs. Clay, the wife of Clement C. Clay, is now in the city, and has requested me to obtain permission for her husband to go to his home on parole. His father is said to be at the point of death, his mother recently deceased, and, if there be no objections or reasons unknown to me why the request of Mrs. Clay should be denied, I have no hesitation in recommending its favorable consideration, if only from motives of humanity, as I have no doubt Mr. Clay will be forthcoming when his presence is again required by the Government.

I have the honor to be, sir, very respectfully, your obedient servant.

H. WILSON.

To the PRESIDENT OF THE UNITED STATES.

There is an answer to the question. The chairman of the Committee on Military Affairs of this body, in the humanity of his nature, for which I do not reproach him, made this powerful appeal to the President of the United States that Clay should be released upon parole, and pledged, so far as he could pledge himself for the honor of Mr. Clay, that he would return whenever the exigencies or the demands of the Government required it. I say, then, away with this denunciation against the Executive because he has permitted this man, from humanity's sake, to go upon his parole to the State of Alabama.

Mr. President, there seems to be a strange division in the opposition to the Republican Administration arising here in Congress; and I presume gentlemen will take no offense if I should classify this division that seems to spring up. First and foremost in Congress is that distinguished and veteran old leader, a Representative from Pennsylvania, who leads one branch of this distracted opposition now making war upon the Republican party. I refer to Hon. THADDEUS STEVENS. He is the leader and chieftain of what I will denominate the universal confiscation party. In this body stands the acknowledged leader of another wing of the opposition to the Republican party in the person of the honorable Senator from Massachusetts, [Mr. SUMNER,] which may be denominated the universal negro suffrage party. Then there is still another branch of this distracted opposition, of which I may say the honorable Senator from Nevada who has just taken his seat is the leader and chieftain—the hanging party. And last, but not least, comes that new party which, so far as I know, has yet obtained in this body but one recruit—the party which is led by the other Senator from Nevada, [Mr. STEWART]—the universal amnesty and universal suffrage party.

We see these parties distracted, arrayed

against each other in opposition to the policy of the Republican party which Mr. Johnson inherited from the Administration that went before him.

"Black spirits and white,
Red spirits and gray;
Mingle, mingle, mingle,
You that mingle may."

Now, Mr. President, I will turn to another point. The Senator from Nevada denounces me, as well as the honorable gentleman who sits beside me, [Mr. COWAN,] because we sustain here what are denominated State rights. Sir, I do stand here to defend State rights—not State wrongs, but the rights which do belong to the States under the Constitution; not a right to secede from the Union, not a right to break up the Government, not a right to overthrow the authority of the Government and form a new Government; but the rights which the Constitution does secure are just as sacred to me as any other right for which my heart ever aspired or my voice has ever pleaded. I tell you, sir—and that, in my judgment, is the great mistake of the men who are continually straining every nerve to centralize all power here in the Federal Government—I tell you, if it were the last word I ever uttered, that unless we can defend the rights of the States, it is in vain to hope that we can defend the rights of any individual citizen who resides within the States. For the great mass of human rights, the rights which I have in my family, in my wife, in my children, in my home, in all my surroundings, in my reputation, in my person, in all the great rights which I hold dear, I find my protection in the power and independence of the State in which I live. It is Wisconsin which defends my wife, my children, my homestead, all those near and dear liberties that cluster around and make life on earth desirable. The Federal Government defends Wisconsin from aggressions from abroad. The Federal Government defends Wisconsin in the enjoyment of free and unrestricted commerce and liberty with the other States of the Union. But, sir, when it comes home to the liberties of the individual citizen, I tell you that State rights, and State rights alone, are their protection; and the man who overlooks it does not understand the very foundation on which our liberties rest.

Sir, while I would give to this Government every power which the Constitution gives, while I am willing to sacrifice all that I have and all that I am to maintain its supremacy, I tell you with just as much earnestness that I am for defending the rights of the States under the Constitution from being aggressed and encroached upon by the insidious legislation of Congress. Let no man, therefore, stand up to charge me with believing in the doctrine of secession. The right to secede is not one of the rights of the States; but it is one of the rights of the States to defend and control their own domestic institutions. I say to gentlemen here who are pressing every nerve to concentrate all power in this Government that they are sleeping on a political volcano of which they form no conception—a volcano that will sweep them and the party that they sustain out of power, if they continue to trespass upon the rights of the States, with as much certainty, and consign them to as much condemnation as the old Federal party of 1800 ever received at the hands of the American people.

Sir, to defend the rights of the States is our great duty now. We have fought the battle for the Union. We have crushed all opposition to its supremacy. We have compelled every armed rebel to ground his arms and submit to its authority. All the war forces and war machinery of this great Government are waked up and are in full play. The train is made up, the engines are in motion, and all the danger is that now that the war which waked up these forces to engage in it have ceased, now that peace has come, we must still keep the war engines on the track, and the war powers in full operation.

In my judgment, that is the great mistake which the honorable Senator from Nevada makes. He does not realize that the war has

ceased. He is still making war on the South. He is still denouncing them as rebels. He is still firing the northern heart and treating them as if they were still in arms against the Government. Sir, that is not the duty of this hour. I know very well that when we were in the midst of this great war that with whatever force of language or of sentiment or of thought I have been endowed I have urged upon the people when the war was pending to wake up all these tremendous powers. I remember on one occasion to have used this language, on the 9th of February, 1864:

"War and not peace is our real situation. Whatever may have produced this state of things, war is upon us with all its necessities, with all its realities, with all its stern duties, and we must fight it through. At this hour, whatever will give strength to our armies in the field and bring revenue to support them, demands the first consideration of Congress and of every department of this Government. If left to me I would speak but one word, 'Fill up the ranks, press on the columns.' To spare the unnecessary shedding of blood; to save the resources of the country; to solve all financial questions, and put our credit upon a basis so strong as to command the money of the world, I would speak no other word but 'Fill up the ranks, press on the columns.' To secure liberty and Union; to secure peace with all the other nations by inspiring them with respect, and to put a final end to that conspiracy, founded on slavery, which makes war against us, I would still say, as the most radical and at the same time the most certain of all measures, 'Fill up the ranks, press on the columns.'"

That, sir, was the language of myself as a humble member of this body when we were in the midst of the war, when blows were to be struck and victories to be won or all to be lost. That was the language when I could feel in my soul that the very life of this country depended upon the many arms of her sons; whether the country was to live or die depended on whether we could crush the military force of the rebellion. Sir, we have crushed it, in the blessing of God, we have broken it down, it has surrendered; and now what is our condition? Peace. What are our victories now to be won? Moral victories. Then it was military victories, the war of forces; now it is a war of mind with mind, heart with heart, judgment with judgment, sentiment with sentiment, prejudices to be overcome, hearts to be warmed into affection to the Government; and the man who does not know that in a moral warfare magnanimity is more powerful than denunciation, that love is more attractive and powerful than hatred, knows nothing of the human heart. He has not read history, he has not studied statesmanship, he knows nothing of Christianity or of its divine teachings, who does not know that a fallen, stricken foe, surrendering to your power, is better governed by magnanimity than by vengeance, by love than by hate.

But, say these gentlemen, the President is abusing the power to pardon. I have in my hand one of the forms of this instrument which is executed as the pardon. It is executed upon conditions, and the conditions which are imposed have commanded the judgment and the admiration of the world. Sir Morton Peto—if my honorable friend from Massachusetts will allow me to quote a titled authority—Sir Morton Peto, when he returned from this country to Europe, spoke of the conditions which were contained in this instrument of pardon upon which the rebels renewed or declared their renewal of allegiance to the Government as a thing which would challenge the admiration of mankind. One would think, standing here and listening to the arguments of gentlemen like the Senator from Nevada, that we were in the court of St. Petersburg dealing with Poland, or that we were in the court of some of the tyrannical kings of England dealing with Ireland. "Confiscation!" "Hanging!" "Infernal rebels—give them no terms and no quarter!" "They are no longer to be regarded as worthy of the name of an American citizen," though they have surrendered, taken the oath of allegiance, laid down their arms, and for months and months, and for a whole year or more have shown by their acts and by their conduct that they are determined to live at peace and in subjection to the laws of the United States; and so well have they behaved that even the Senator himself, with all

the vengeance to which he could give utterance, declares here, when I put the question to him and brought him to the point, that he himself would not try but five or six.

I will just refer to one or two of the conditions which are contained in the pardon. The President grants to an individual—

"Full pardon and amnesty for all offenses by him committed, arising from participation, direct or implied, in the said rebellion, conditioned as follows: '1. This pardon to be of no effect until the said A B shall take the oath prescribed in the proclamation of the President, dated May 29, 1865.'"

And, sir, what is that oath? It is an oath by which the party solemnly swears—

"In presence of Almighty God that I will henceforth faithfully support, protect, and defend the Constitution of the United States, and the union of the States thereunder, and that I will in like manner abide by and faithfully support all laws and proclamations which have been made during the existing rebellion with reference to the emancipation of slaves. So help me God."

Every man who accepts this pardon takes it upon condition that he will support the emancipation proclamation of the President of the United States and all the laws of Congress passed in relation to the emancipation of the slaves. This binds them by the express condition of the pardon itself. If they violate it, if they refuse to obey those laws, if for any reason they shall violate this oath, not only the crime of moral perjury rests upon them, but the pardon itself becomes absolutely void. What further, Mr. President? This pardon contains another condition, that it is "to be void and of no effect if the said A B shall hereafter at any time acquire any property whatever in slaves or make use of slave labor."

The great majority of these pardons were issued before the constitutional amendment had been adopted by a number of States sufficient to ratify it. Bear in mind that the great object, one of the very greatest objects in view in the closing up of this rebellion was the utter extirpation of slavery; and every man who took a pardon bound himself to favor the proclamation of emancipation and bound himself never to own any slave labor or to buy or sell a slave. This was binding them in advance of the passage of the constitutional amendment. I undertake to say that no wiser, more politic, or more efficient instrumentality could be used in the southern States than to bind the men who sought pardon to favor emancipation and the emancipation proclamations and the extinction of slavery. Sir, to whom were these pardons given? Generally to those men who have property. If a man living in a State where slavery existed is not permitted himself to own slaves, does he desire that the institution of slavery should exist around him? Not at all. It makes it his interest, his policy, as well as his sworn duty, to do all in his power to extirpate slavery, what we were trying to do. Men are denouncing the President of the United States for doing the very thing for which we had been struggling in this contest, denouncing the pardons given by the President when they were the greatest instrumentality to influence that people and operate upon the minds of that people to bring them to favor the emancipation of the slaves and the adoption of this very constitutional amendment.

I say, then, let us hear no more of this denunciation here because the Executive in the exercise of that high power with which the Constitution has clothed him, has used his power in the most potent way possible to destroy the institution of slavery, at the same moment that he was binding them by oath, by interest, and by duty to support the Government of the United States.

Every pardon was accepted by the person receiving it upon these express conditions. I have before me the form of acceptance addressed to the Secretary of State:

HON. WILLIAM H. SEWARD, Secretary of State.

SIR: I have the honor to acknowledge the receipt of the President's warrant of pardon bearing date —, 186—, and hereby signify my acceptance of the same, with all the conditions therein specified.

There is one other point in the Senator's speech to which I wish to call attention. He

has repeated here time and time again during his discourse that the purpose on our part who sustain the policy of the Administration is to bring immediately into the Halls of Congress unwashed, bloody-handed rebels, with their skirts yet smoking with the blood of our sons. Mr. President, I hurl back the charge as utterly unfounded. There is no man here sustaining the policy of the Administration that has ever avowed any such doctrine as that. The immediate admission of unwashed rebels! No, sir, no!

It has been charged again and again, the newspaper press has been loaded down with these infamous falsehoods, for infamous they are, in charging upon the President or his supporters that it was their purpose to bring into Congress rebels to rule the Government. It is utterly false. But what have they contended for? They have contended that Congress should judge, the Senate for itself, the House of Representatives for itself, upon the admission of its members. My friend upon the right [Mr. SUMNER] smiles as I refer to this argument. It is an argument which he never has met and never can meet. I say that the Senate of the United States under the Constitution is made the sole judge when a person coming to its doors shall enter or shall not. I say that the President of the United States has no more to do with that question than the judges of the Supreme Court, and I would spurn any attempt by either President or court to overrule the Senate in its judgment on that question. Sir, I put a case not long ago in reference to the State of Maine; I will call it again to the attention of the Senate. It is necessary some times that things be repeated and repeated again and again. What was the case I put? A State may be interrupted by civil war or foreign war. If we were engaged with a war with England, her forces might come down the river St. John, perhaps, advance into the State of Maine, and capture a portion of the State, as she once did in the war of 1812. Suppose she should capture one of the congressional districts, could that district elect a member to the House of Representatives? No, sir. Suppose she should capture two, could those districts elect members to the House of Representatives? Not at all. Maine has five congressional districts. If Great Britain should capture all but one, could that one elect a member to the House of Representatives? Although foreign war had overrun four fifths of the State, four of the five congressional districts, still that one district would be entitled to its representation in the Congress of the United States. How would it be with the Senate? If the enemy should capture one district or two districts, Maine could still elect a Legislature; but suppose she was to capture four of the five districts of Maine, could Maine elect a Legislature? No, sir, Maine could not elect a Legislature. If she could not elect a Legislature, she could not elect a Senator. Could not the Senate judge of the fact whether Maine was in a condition to elect a Legislature, whether there was a Legislature to elect a Senator, as well as judge whether the Senator had been elected according to the forms of law? So, in such a case as that Maine might be entitled to a Representative in the House of Representatives when she would not be entitled to a Senator in this body.

It is just so with a civil commotion or civil war. A civil war may disturb one district in a State so that it cannot elect a Representative, and yet the other districts may. When they had a rebellion in Massachusetts long ago, and one of their congressional districts was overrun, perhaps it was so disturbed that they could not elect a member of Congress at that election, while all the other districts might. So if a whole State should be overrun by a civil commotion, it might not be in a condition to elect a Legislature at all. Could not the Senate judge of that? The Senate has the right to judge whether there is a Legislature to elect a Senator, and the supreme judgment is given to this body, and it does not belong to the other

House and it does not belong to the President and it does not belong to the Supreme Court; and I would no more regard the Sergeant-at-Arms of the House than I would regard the marshal of the Supreme Court or than I would regard the private secretary of the President if they should come here to tell us whom we should admit or whom we should exclude. No, sir, we by the Constitution are made the supreme judges of the fact whether Senators are elected, whether there is a Legislature to elect them.

Mr. President, gentlemen have supposed that on one occasion here they found the Senate voting that Congress must join in some act before members could be elected. True, sir; and when was it? We were in the midst of the war, and the question came up whether we should allow them to elect presidential electors to take part in the decision of the question of the Presidency. There was a bill pending here to organize all the southern States as Territories; the bill had passed the other House under the lead of Mr. Davis, and in this body was urged by the Senator from Ohio, [Mr. WADE.] Mr. BROWN, of Missouri, moved as a substitute for that bill a proposition which declared that during the insurrection those States should not elect electors for President and Vice President; that those States should not elect members of Congress until there was a proclamation made by the President in pursuance of an act of Congress to that effect; and it passed without any discussion on that question.

Mr. CONNESS. Will the Senator permit me to ask him a question?

Mr. DOOLITTLE. Certainly.

Mr. CONNESS. The Senator yields so seldom that—

Mr. DOOLITTLE. On this point I am willing to yield. I am not in any particular argument just here, and I am willing to be interrupted.

Mr. CONNESS. I propose to ask the Senator if he does not know that upon the question of the admission of Louisiana, under the recommendation of President Lincoln, it was never proposed, either by the President or anybody else, that the Senators from Louisiana should enter this body until both Houses, by the form of a joint resolution, had first settled the question; and I now ask in more concentrated form of the honorable Senator whether the then President of the United States, Mr. Lincoln, or himself, the honorable Senator, ever proposed to admit the Senators chosen in Louisiana, under that so-called State government, in any other manner than under the form of a joint resolution first.

Mr. DOOLITTLE. I will answer the Senator. I voted for the resolution, or struggled for the resolution, in that form, a resolution that was reported by the Senator from Illinois from the Judiciary Committee.

Mr. CONNESS. And in no other form.

Mr. DOOLITTLE. There was no other form presented; but the Senator from Illinois knows very well what my opinion was on that subject, and what his was, that it was not essential to the power of the body that there should be a joint resolution; but a joint resolution would receive the sanction of some members which the measure could not receive if it was put in the other form.

Mr. CONNESS. Now I will thank the Senator for one instant more of time and will not trouble him again. Did the Senator ever hear the then President of the United States, Mr. Lincoln, object to the passage of a joint resolution declaring Louisiana under that organization fit for union with the other States?

Mr. DOOLITTLE. No, sir.

Mr. CONNESS. Nor anybody.

Mr. DOOLITTLE. Nor did I ever object to it; and if you will introduce a resolution tomorrow declaring Tennessee entitled to representation I shall not object to it; but at the same time I do not surrender the power of this body to judge whether Senators shall come in, whether the other House agree to it or not.

That is the point with me. Whether we allow the House of Representatives to say we shall have Senators in this body from Tennessee or not is a mere matter of courtesy toward the House, not a question of power. I do not admit their power to control us on the question of the admission of members. We have the right to admit them if we choose to do it, whether the House join or not; but if a joint resolution is brought forward now I am perfectly free to vote for it. I never stand upon mere forms. It is only when the doctrine is avowed and urged that this body has not the power and the jurisdiction over the question, and when it is sought to gag this body and bind it hand and foot so that it cannot act upon the question until it shall receive the assent of a majority of the House, which may be controlled by some outside party caucus arrangement under the lead of the member from Pennsylvania, that I protest. I am not willing that the Senate of the United States should surrender that jurisdiction which the Constitution has vested in it absolutely without appeal and alone in the Senate. That is the point I make.

Mr. President, I have not referred to what the honorable Senator from Nevada brought forward and made so prominent in his speech to-day, to wit, my action upon the Freedmen's Bureau bill or the civil rights bill. I have purposely refrained from that for the reason that when those resolutions, to which I have already referred, of the Legislature of Wisconsin shall be taken up, and I be permitted to speak for myself and of my own action upon that subject, I intend to cover the whole subject at once and not trespass more than once upon the attention of the Senate, and therefore I have put these two questions aside for to-day.

I conclude, sir, by saying, as I said in conclusion yesterday, that the amendment now pending before the Senate is meant for and intended for nothing else than to declare a want of confidence in the Administration, to attack the Administration in that particular thing in which never in the whole history of the Government has Congress ever sought or attempted to attack an Administration before.

I object to the amendment, also, for the other reasons which have been stated, and they have been stated by others so clearly that I shall not occupy the time of the Senate in pursuing them further. I have risen simply to reply to one or two of the charges made to-day by the Senator from Nevada, namely, that the Administration had been derelict in not bringing traitors to trial, that the Administration had been derelict in the pardoning power; and to reply, also, to a charge which he made against me, though I do not think that he intended to charge me with it in an offensive sense, that I was an advocate of the doctrine of State rights. I have explained on this occasion to some extent the views which I entertain on that subject.

Mr. SAULSBURY. Mr. President, it was my intention to make some remarks in reply to the kind allusions of the honorable Senator from Nevada to myself; but I see that he is not in the Chamber. I am no sportsman. I am told, however, by sportsmen that while it is the best mode of shooting a bird to fire when he is on the wing, I never heard one say that it was wise to shoot when the bird was out of sight; and therefore I shall not trouble the Senate now, but shall take occasion when I shall see the Senator present, provided the occasion is a proper one, to return the compliment which he paid me yesterday.

Mr. HOWARD. Mr. President—

Mr. CONNESS. If the Senator from Michigan will give way I will move that the Senate proceed to the consideration of executive business.

Mr. SHERMAN. I appeal to my friend from Michigan. I suppose he desires to address the Senate upon political questions.

Mr. HOWARD. I desire to address a few words to the Senate.

Mr. SHERMAN. I will ask the Senator, as

the debate has become somewhat personal, whether we had better not dispose of this matter and get this bill out of the way. I would like it as a personal favor. This bill is under my charge, placed there in consequence of the sickness of the chairman of the Committee on Finance, and I should like to have it out of the way.

Mr. HOWARD. The Senator from Ohio is not more anxious to dispose of the present bill than I am, still I cannot very well suffer the occasion to pass without making a few remarks upon some of the numerous subjects which have been drawn into the discussion. If it is the desire of the Senate to go into executive session I will yield.

Mr. SHERMAN. Does the Senator desire to speak upon the particular subject pending—on the question of removals?

Mr. HOWARD. Mr. President, I propose to address the Senate on the bill and the various other subjects which have been regarded as cognate and relevant thereto by certain other Senators.

The PRESIDENT *pro tempore*. The question is on the motion to proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House had passed a joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States, two thirds of the members of the House having agreed thereto. At the suggestion of Mr. FESSENDEN, the joint resolution was read twice by its title, and placed upon the Calendar.

On motion, the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 10, 1866.

The House met at twelve o'clock m. Prayer by Rev. T. R. HOWLETT.

The Journal of yesterday was read and approved.

RECONSTRUCTION.

The SPEAKER. The first business in order is the consideration of the joint resolution reported by the committee on reconstruction, on which the gentleman from Pennsylvania [Mr. RANDALL] has the floor.

Mr. RANDALL, of Pennsylvania. Mr. Speaker, in discussing this question briefly, as I am compelled to do by reason of the limited time allowed me, I shall advert to the proposition now before the House as a whole, not undertaking a lengthy discussion of the various amendments which have been proposed, and I trust the chairman of the committee [Mr. STEVENS] will, when the proper time arrives, call the previous question, and in that manner induce a vote upon the main proposition as embraced in the whole five sections of the proposed amendment to the Constitution.

And for that purpose I desire to analyze the various sections of the proposed amendment. The first section proposes to make an equality in every respect between the two races, notwithstanding the policy of discrimination which has heretofore been exclusively exercised by the States, which in my judgment should remain and continue. They relate to matters appertaining to State citizenship, and there is no occasion whatever for the Federal power to be exercised between the two races at variance with the wishes of the people of the States. For myself, I would wish that the colored race should be placed in the same political condition as it occupies in Pennsylvania; but I would leave all this to the States themselves, just in the same manner as the elective franchise is permitted. If you have the right to interfere in behalf of one character of rights—I may say of every character of rights, save the suffrage—how soon will you be ready to tear down every barrier? It is only because you fear the people

that you do not now do it. I consider the Federal restraints upon the States in reference to rights of citizens as now in the Constitution safe and sufficient. I feel it, in consequence, my imperative duty to oppose this section. Grant this power, insert it in the Constitution, and how soon will the privilege of determining who must vote within the States be assumed by the Federal power? Gentlemen here admit that they desire this, but that the weak kneed of their party are not equal to the issue. Your purpose is the same, and but for that timidity you would now ingraft negro suffrage upon our Constitution and force it on the entire people of this Union.

The second section, to my mind, is ambiguous, and is liable to a doubtful construction. What does this amendment mean? Does it mean that those males over twenty-one years not allowed to vote shall not be counted in the basis of representation? If so, why not say so in terms; but if it means, as it may, that the diminution of representation is to be in proportion they bear to the voters, it may deny all or greatly abridge representation. Suppose, for instance, a State with one hundred thousand voters, and a similar number excluded, if proportions are considered this State would seem to have no Representative. I desire that my colleague, [Mr. STEVENS,] the gentleman having charge of this legislation, shall answer what they claim it to mean, so that the issue when before the country may be rightly understood.

In addition, this section makes an entire change in the basis of representation, which should in every country rest upon inhabitants. This is the safest and has been found to work the best. I do not consider there is any need to change, more especially when a large portion of our people with whom we hope for all time to live on terms of peace and equity are not now here to present their views and consider the effect this legislation will have upon their interest.

The injustice and the *animus* of the third section have been so fully stated by gentlemen on the other side that I will not consume my limited time in reproducing, but dismiss it with the remark that it is intended to secure what you most wish, an entire disagreement to the whole scheme by the eleven southern States, and a continued omission of representation on this floor. This brings me to another point in the argument of the gentleman from Pennsylvania who introduced this report.

The fourth section I need not discuss, because I believe if that proposition was presented to this House as a simple proposition it would be almost unanimously adopted. The gentleman from Pennsylvania [Mr. STEVENS] tells us—

"Upon a careful survey of the whole ground, we did not believe that nineteen of the loyal States could be induced to ratify any proposition more stringent than this. I say nineteen, for I utterly repudiate and scorn the idea that any State not acting in the Union is to be counted on the question of ratification."

In this respect let me say that the gentleman must fly directly in the face of the decisions of the Supreme Court of the United States; he has to put at naught the precedent established in reference to the amendment of the Constitution abolishing slavery; he has to overcome what is clearly the common-sense judgment of the people of this country upon this point. And moreover, I believe his opinion, as there expressed, is in contravention of the judgment of a majority of this House, with whom he is politically associated.

Such is the plan of the committee of fifteen, or what may perhaps be described as the congressional view of this vexed question. It is a plan of disunion, and it is a deception to call it otherwise; and the friends of the Union, by whatever name, must coöperate to defeat this measure, or the Union will sooner or later be destroyed by those who have arrogated to themselves to be its special defenders.

This proposition is worthy of having emanated from the tower of Babel. It carries with it a confusion of tongues and a confusion of purposes. One design, however, is clearly

apparent, and that is to secure the success of the Republican party, even in the event of the overthrow of the Union.

Now, Mr. Speaker, what have we in the opposition to this plan of procrastination and delay? The President, immediately upon his accession to the Presidency, took up the plan which Mr. Stanton informs us was the mode which Mr. Lincoln had marked out for himself; and he has steadily pursued it, regardless of threats and clamor, exhibiting a moral courage of the equal of which we have but rare instances in history. Thus guided by wisdom and prudence, he has brought us along until now the admission of loyal representatives in Congress from the late rebel States is all that is required to complete and make perfect our Union.

His plan is simple and effective, just and equitable; and acceptable, as I believe, to a vast majority of the people both North and South. What is this policy?

1. That the southern States are in the Union. Their ordinances of secession being null and void, they have never been out, and are legally entitled to representation in Congress.

2. That whenever the people in any of those States elect Union men, of whose loyalty there can be no question or doubt, it is the duty of Congress to admit them.

3. That all those claiming seats in Congress from the southern States who were prominently identified with the rebel government or rebel army should be immediately rejected and their constituents requested to elect loyal Union men in their places.

The issue is now made up, and to the people we must appeal. It rests with them whether we shall at once permit the people in the eleven States to do as Generals Grant and Sherman told the soldiers of their disbanding armies to do—go home, resume their occupations, be good citizens, and then promised them that they should not be disturbed.

No real and hearty peace can for years come from the course the majority in this House are pursuing. You are continuing to do with the loyal people of the South what the rebels did during the war, persecute and condemn them. All this is unjust, and is not the way to approach restoration. Let us leave the war-path, and return to the ways of friendship and peace.

Complaint is made, Mr. Speaker, of the support which the Democratic party, as a party, throughout the country is giving to the President in his plan of restoration. That should not surprise any one. The Democratic party, during the period of the war, have closely adhered to the Constitution and the laws of the country. They find in President Johnson that same disposition to adhere to the Constitution and the laws. The course of the Democracy, in their support of the President, is actuated by a devotion to principle. It does not emanate from any seeking for office or from any other sordid motive.

There is another matter to which I wish to direct the attention of the House, and through the House the attention of the country. I would suggest that in the view of just and reasonable men the time has arrived when this system of virulent abuse of the President of the United States should cease. It is time that there should be an end of these appeals to the morbid feelings and prejudices of the people of the North, appeals calculated to array the northern people against the people of the South, who have laid down their arms, and who, I believe, are now seeking in good faith to conduct themselves in allegiance to the Constitution. They have been punished severely, not more severely, perhaps, than they deserve. But why should we not accept their words as expressing their real sentiments? Why should we treat them as aliens and outlaws, a policy which must for a long time prevent us from securing the full benefits of our victory?

Gentlemen seem to fear that unless something is done by legislation to prevent it the great conservative men of the country, under the leadership of Andrew Johnson, will come into possession of the legislative branch of the

Government. Nothing can avert this. Your reckless extravagance, your unnumbered violations of law, your constant effort to change the organic law for party purposes; your persecutions of the President, who has planted himself upon the plan of restoration which Mr. Lincoln determined upon; and your careless mode of taxation, relieving affluent men and heaping the expenses of our debt upon those least able to bear it—all these point to your certain overthrow.

All these points are certain to have their effect. The Democracy, so far as I know, stand ready to operate with any party or set of men to crush out the party which started with a disposition to let the "South go," and now at the close of the war seek the same practical result—a continued separation of the States of the Union.

I now yield the floor to my colleague.

Mr. STROUSE. Mr. Speaker, any proposition to amend the Constitution of the United States would, a few years ago, have excited and aroused the greatest interest on the part of the people as well as of Congress. The good old charter produced by the inspired wisdom of the great and patriotic men who founded the Republic is ignored by the modern reformers. Amendments are offered and passed with as much haste and facility as a bill to admit a wilderness with a few hundred adventurers roving in it as a State in the Union. There is danger in this, danger to the country at large, danger to our institutions and liberties. The Constitution was never intended to be plastered and patched as latterly it is proposed to do, no more than the Union of States formed by the thirteen old colonies was ever designed to be broken or severed by secession or rebellion of any one or more States. We are prone to speak lightly of an amendment to the Constitution, as if it were no more than the passage of an ordinary act. I regret this exceedingly. Members of Congress, who are here to represent the great body of the people, should be extremely cautious how they tamper and tinker with the fundamental law. History should be our guide and counsel. The gradual undermining, changing, altering, and amending of the foundation so strongly built, so massively erected, so skillfully constructed by the master minds of the revolutionary patriarchs, may destroy the temple of the Republic which so majestically rested on it for eighty years.

What necessity is there now, Mr. Speaker, that demands the change which this bill calls for? I am answered that the necessity grows out of the war, that the South is vanquished, the negroes are liberated, and that therefore the organic law must be so amended that the emancipated slave shall in all respects be the equal of the white man. Well, I have listened patiently during this week to the many heavy and light speeches made here on the subject in hand by the friends and advocates of amendment and negro equality, from the chief engineer down to my dramatically tragic colleague who reads anonymous rebel letters for the instruction of this House, and yet I am not enlightened on the subject under discussion. Instead of debating this grave and serious question as becomes statesmen and jurists, we hear some six or eight stump speeches every day, and in truth, not very courteous or good at that. Gentlemen on the loyal side, as it is called, in place of arguing the point of difference among themselves, that is, whether the southern States are in or out of the Union, or whether they are conquered provinces and the people aliens, or States and the people citizens, indulge in political slang, abusing and vilifying the Democratic party by charges and accusations as groundless as they are discourteous. I honestly believed that the time had gone by for the utterance of such foul and false attacks and aspersions, and especially in this place. The Democratic party of the country and the Democratic members of this Congress require no defender here or elsewhere. The history of the United States is the history of the Democratic party; its creed is the Con-

stitution, and its principles have been for seventy-five years the operative cause of our country's rise, progress, strength, and greatness.

When I see members here so intensely loyal, who owe their present bombastic greatness to the kindness and generosity of the Democratic party, and who now traduce and malign their Democratic colleagues, I cannot help thinking that ingratitude is a crime and ought to be made odious. I am inclined to think that there are some furiously loyal gentlemen here, who, when they shall give an account of their stewardship to their constituents, may be politely informed, by virtue of the power vested in the people, that the private station is henceforth their post of honor, and *sic transit gloria mundi* for hypocritical loyalty, niggers, universal suffrage, bureaus, southern plantations, office, power, glory, bag, and baggage.

Mr. Speaker, my first inquiry is, are the southern States still States and integral parts of the Union, or have they, by the act of secession and war, brought themselves to a territorial condition, or the condition of a conquered foreign country, now reduced to provinces? The chairman of the reconstruction committee [Mr. STEVENS] answers affirmatively, and doubtless many others here hold the same opinion. If this be so, if that is the *status* of the southern States, then all your constitutional amendments, acts, conditions, prohibitions, and directions are in order and must be submitted to by the conquered and vanquished foreigners inhabiting Virginia, the Carolinas, Georgia, Louisiana, &c.

It cannot be that this monstrous doctrine is seriously entertained by a majority of this House. This point has been so thoroughly discussed that it were a waste of time to enlarge upon it. A short time ago, when I had the honor to address the House on a subject akin to this, I stated that our case, the late rebellion, is *sui generis*, which cannot be classed under any ordinary description of war, civil or foreign. The law of nations, as construed by these old and eminent authors in monarchical Governments in a past age, ought not and cannot be fairly applied at this day in our dealing with a portion of our own people, inhabiting a part and parcel of our own territory. A war with a foreign Power, or with a sovereign nation, would place the legal question involved in a very different light. We quelled the rebellion among our own citizens and in our own country. We conquered nothing. We have not more territory, people, or property than we had before. This, in my judgment, is the rational and natural deduction from the premises, in law and in fact.

And this is my opinion now, that the States are and never ceased to be, in law and in fact, constituent parts of our Union. If I am correct in this opinion, and it is the view taken by the most eminent lawyers and publicists of the country, then what necessity exists for these amendments of the Constitution? Let the States be represented in the Senate and House by men who can conscientiously qualify as members, and after that, when we have a full Congress, with the whole country represented, let any amendment that may be required be proposed, and let those most interested have an opportunity to participate in the debates and deliberations of matters of so much moment to every citizen. If it were not for the malignant party spirit, the overweening desire to perpetrate radicalism, proscription, and the centralization of power instead of enlightened statesmanship acting in a spirit of justice and equity, the States would now be in their proper positions *quo ante bellum*, contributing and adding to the general welfare and prosperity of the country, North and South.

While discussing the report of the committee with a learned friend of mine, he informed me that the subject was most ably treated in an editorial in the New York Times. The Times is acknowledged to be one of the ablest and most leading Republican papers in the United States. Fully concurring in the views therein

expressed, I beg to read the article for the benefit of this House. It is sound, patriotic, statesmanlike, and just, and well deserves the serious consideration of every truly patriotic man who loves his country, its history, and glory:

"As a plan of pacification and reconstruction, the whole thing is worse than a burlesque. It might be styled a farce, were the country not in the midst of a very serious drama. Its proper designation would be 'A plan to prolong indefinitely the exclusion of the South from Congress by imposing conditions to which the southern people will never submit.' This being the obvious scope and tendency of the proposition, we are bound to assume that it clearly reflects the settled purpose of the committee. So that the joint committee, appointed nearly five months ago to take exclusive charge of the question of reconstruction, now offer as the result of all their labors what would in fact render reconstruction forever impossible.

"There is an anomalous feature in the affair as it stands, which of itself reveals the monstrous nature of the pretensions set up by the committee. All the provisions of the proposed amendment imply the adoption of the extreme view in regard to the relation of the South to the Union. We must begin by assuming that what were States before the war are more Territories now; or this attempt to dictate terms as the condition of recognition becomes undisguised usurpation. We must assume, in fact, that the South is at this moment neither more nor less than an aggregate of Territories, waiting for admission as States, and from whose people Congress may therefore require compliance with certain proposals. And yet the amendment, on its face, declares the existence, as States, of all the States recently in rebellion, and presupposes the exercise by their several Legislatures of the highest constitutional attribute of State sovereignty. They have no right to representation in Congress, forsooth. They may not say yea or nay on the most trivial questions that come before Congress. They are not permitted to enjoy a particle of influence in matters affecting the finance, the trade, the industry, the foreign relations of the country, or any of its concerns, great or small. These privileges they are denied on the pretense that they are not within the Union, and therefore have no right to recognition as parts of the Union. Nevertheless, under the contemplated amendment, they are treated as sovereign States, whose ratification of the amendment is essential to its constitutional validity. They are to vote for or against a change in the Constitution of the Union of which, on the radical hypothesis, they are not present members! Could absurdity go further? Could the folly of this fanaticism be made more manifest?

"From the dilemma into which the committee have thus plunged there is no logical escape. If the southern States are in a condition by their Legislatures to ratify or reject a constitutional amendment, they must of necessity be qualified to send Senators and Representatives to Congress, subject only to the judgment of either House as to the eligibility of the persons sent. A State which may assist in the sovereign task of molding the Constitution under which Congress acts may surely demand a voice in what the Constitution creates. The greater right covers the lesser right in this or in other cases. On the other hand, if the southern States are not entitled to admission to Congress—if the point be established, as the radical detractors say it is, that these are States no longer, but Territories only, subject to the will of the conqueror—then it follows that they are not entitled to any lot or part in the business of amending the Constitution. Upon which horn shall the 'central directory' be impaled? Shall we take it that this prodigious amendment, this mighty mouse brought forth by a mountain after five months' parturition, does not mean what it says when it speaks of the States lately in rebellion as States still, with their sovereign functions unimpaired, though for a time interrupted? Or shall we conclude that the doctrine of State suicide is abandoned, the doctrine of subjugation given up, and the criminal blunder of which the radicals have been guilty in excluding the South from Congress at length confessed? Let there be explicit answers upon these heads of the subject. As it at present appears the position of the committee is utterly untenable.

"Aside from these points the worthlessness of the committee's proposition is obvious. It cannot by any possibility effect anything. We may confidently take it for granted that the people of the South will never under any circumstances acquiesce in their own disfranchisement for four years in reference to all that relates to the Federal Government. There is room for difference of opinion on the general merits of the reconstruction problem; on this point there can be none. The South has taken its stand on the ground of a common citizenship, and it will never accept as the price of congressional representation that which would be equivalent to an acknowledgment of four years' servitude or inferiority as the penalty of rebellion. Nor should it be asked to accede to terms of this nature. Punish the rebel leaders, if necessary, by banishment or otherwise. But to propose to punish a whole people to suit the partisan conveniences of those who dictate the penalty is an outrage upon justice and common humanity. With all their errors and faults, the southern people have shown that they are not cowards. They will not belie their nature by writing themselves down slaves at the bidding of a committee appointed to consider the question of reconstruction.

"If we would do aught to hasten the result which all moderate men admit to be exceedingly desirable it is necessary, without more ado, to discard the idea of constitutional changes as the condition precedent of the readmission of the South to Congress. That is the primary step toward reconstruction, practically

considered, and we should prepare to take it on the ground of existing rights, subject only to the lawful test of individual fitness. To talk of wholesale and almost indiscriminate punishment as a preliminary measure, to call for concessions implying the relation of supplicants petitioning for favors instead of citizens insisting upon their rights, to demand a confession of inferiority with one breath, while with another admitting the existence of constitutional equality, is to aggravate feelings already much too bitter, and to multiply difficulties which the joint committee have thus far vainly endeavored to overcome."

Mr. BANKS. Mr. Speaker, the measure before the House presents a basis upon which it is proposed the insurgent States shall be restored to the Union. It is, therefore, the most important question which can be presented to the House or to the country. It deserves the most mature consideration. I should have been glad if a more general and thorough discussion of the subject could have been had on these particular measures, but the House has decided otherwise. I desire to make a few suggestions as briefly as possible, chiefly in reference to what has been said by other gentlemen who have addressed the House. It is my belief that reorganization of governments in the insurgent States can be secured only by measures which will work a change in the basis of political society. I do not think this can be done by theoretical constitutional or statutory provisions. Anything that leaves the basis of political society in the southern States untouched leaves the enemy in condition to renew the war at his pleasure, and gives him absolute power to destroy the Government whenever he chooses. Therefore, sir, no proposition meets my entire approval that does not propose a radical change in the basis of political society in these States; but I do not, of course, expect the House to adopt my opinions, nor do I ask that they shall be embodied in these propositions which may be adopted.

There are two methods by which the change I propose can be made: one by extending the elective franchise to the negro; the other by restrictions upon the political power of those heretofore invested with the elective franchise, a part of whom are loyal and a part of whom are disloyal; a part of whom are friends and a part of whom are enemies.

I have no doubt that the Government of the United States has full power to extend the elective franchise to the colored population of the insurgent States. I mean authority; I said power. I have no doubt that the Government of the United States has authority to do this under the Constitution; but I do not think they have the power. The distinction I make between authority and power is this: we have, in the nature of our Government, the right to do it; but the public opinion of the country is such at this precise moment as to make it impossible we should do it. It was therefore most wise on the part of the committee on reconstruction to waive this matter in deference to public opinion. The situation of opinion in these States compels us to look to other means to protect the Government against the enemy.

The other has reference, of course, to the disfranchisement of those who are or may be considered public enemies. In regard to that section of the amendment relating to representation, I have this to say: while it is entirely equitable, and does not admit of question on that score from any quarter whatever, yet I do not think it will exert any controlling influence upon the political character of those States. It reduces the representation of the insurgent States some fifteen members. The reduction is not of paramount importance, whether they have more or less members, however loyal they might be. It is but just that they should be restricted to a fair share of representative power. But they do not seek to govern by opinion. They do not rely on ideas for success. They govern by force. Their philosophy is force. Their tradition is force. Whether they be few or many, they will have power whenever they are restored here. While, therefore, sir, I accord cheerfully with the proposition, it does not meet the emergency presented at this time.

The third proposition is one which disfranchises the enemies of the country. I approve that. I think it right in principle. I think it necessary at this time. If I had any opinion to express I should say to the gentlemen of the House that it is impossible to organize a government in the insurgent States and have the enemies of the country in possession of political power in whole or in part, in the local governments or in representation here.

It does not change the result, in my opinion, if you couple with this the franchise of the negro. Certainly it will be much better, if rebels are allowed to vote, that the privilege should be extended to the colored people. I propose, so far as I am concerned, to lose no opportunity to impress upon the country the necessity for the extension of suffrage to the colored men in the best and most effective way possible. But that question is not now presented.

Now, sir, what are the objections to the disfranchisement of the enemies of the country? And in speaking of them I mean those who organized and sustained rebellion against the Government of the United States for five years; who contemplated it for thirty years; who are ready now, not as friends, but as enemies of the Government, to accept whatever share of power may be accorded to them in a Government where the people have the entire power to do that which seems to them right and just. An enemy to the Government, a man who avows himself an enemy of its policy and measures, who has made war against the Government, would not seem to have any absolute right to share political power equally with other men who have never been otherwise than friends of the Government. That proposition would seem to recommend itself to the judgment of every man.

But it is said that there are certain practical difficulties in this matter which ought to control our judgment. It was intimated the other day that there had been some understanding when the enemies of the country laid down their arms that they were to return to power; an implication, if not an agreement, that we are to restore them to their full status as citizens of the United States, with local and representative power.

Now, sir, I do not agree to that at all. I think they had the most distinct information possible given from every department of the Government, by all its officers under all circumstances, that they were not to claim or receive political recognition or the recognition of political power. They surrendered because, as they say, they were beaten. They could not or did not choose to continue the fight any longer, and they laid down their arms, as I believe, with the conviction that it was impossible for them to prosecute the war any further.

The measures adopted by the Government at the time of the surrender show exactly its determination, which the enemy could not misunderstand. General Johnston of the rebel army proposed a treaty with the army of the Union in which it was stipulated that the rebels would lay down their arms on condition that the rebel State governments should be recognized, the Supreme Court deciding where conflicting governments existed, and that the people should be guaranteed their political rights and franchises as well as the rights of person and property. This was summarily rejected by the Government. President Lincoln, when applied to by General Grant for instructions, sent a dispatch written by his own hand, with the approval of President Johnson, directing General Grant to have no communication with General Lee unless for the capitulation of his army, and not to decide, discuss, or confer upon any political question. Certainly those officers who treated with General Grant could not have had any expectation of that kind.

The terms of surrender to General Grant were that the rebels were to return to their homes, not to be disturbed so long as they observed their parole and the laws in force

where they resided. The Attorney General decided that they had no right to return to the places where they resided before the war within the loyal States, and that to wear the rebel uniform was a violation of their parole and a fresh act of rebellion.

President Lincoln, as late as March, 1865, in a proclamation in which he referred to a bill passed by both Houses of Congress, declared that while he did not assent to all its provisions, he should be governed by its conditions in any settlement that he should undertake with the insurgent States. One of these conditions was that the mass of rebel leaders, civil and military, were to be forever excluded from political power. President Johnson, in his proclamation of May 29, 1865, which, I think I may say here, what I have said elsewhere at all times, presents a plan of settlement that would be entirely satisfactory to the country, and enable us to reorganize these governments immediately without detriment or danger—President Johnson, in his proclamation of amnesty of the 29th of May, 1865, declares that all persons in military or naval custody, as prisoners of war, including, of course, all the paroled officers and soldiers of the rebel army, were excepted from the act of amnesty and pardon. The proclamation enumerates thirteen or fourteen distinct classes of rebels, embracing nearly all the influential people of the rebel States, who were excepted from the benefits of that proclamation. These facts show that there is no ground for the supposition that the surrender of the rebels proceeded from any just expectation of being restored to power in the Government. And, so far as the President is concerned, his proclamation gives evidence that it was not his intention, even some months after the surrender, to receive them or recognize them as the representatives of political power.

It is said that the acts of pardon granted in individual cases, or the general charter of amnesty and pardon of the 29th of May, changes in some measure the political relation of the public enemies to the Government itself. I do not think so. A pardon does not confer or restore political power. A general act of amnesty differs from an individual pardon only in the fact that it applies to a class of offenders who cannot be individually described. It secures immunity from punishment or prosecution by obliterating all remembrance of the offense. But it confers or restores no one to political power. On the contrary, the general charter of amnesty, even if authorized by Congress, as it may be said to have been by the act of July, 1862, contains conditions and limitations of purpose which excludes any idea of restoring political power to public enemies who might be affected by its provisions. Amnesty and pardon are granted to all persons not in the excepted classes, "with restoration to rights of property" in cases where legal proceedings had not been instituted for its confiscation. So far as the charter of amnesty and pardon is concerned, by its own conditions and terms, by its express terms, all idea of extending to them political privileges or power is excluded.

But, sir, the effect of a pardon deserves to be a little more carefully considered. A pardon restores a criminal when pardoned to all the rights that can be conferred upon him by the authority granting the pardon. That is all. If the President of the United States, in addition to the authority to pardon which he has, had also the power to invest those people with political rights and he expressed it in his pardon, then they would not only be free from prosecution, but be invested with political rights; but the President has no such power. He has the simple power of pardon.

The power of declaring who shall exercise the franchise is in the first instance conferred upon the States by the first article of the Constitution; and in the second instance, by the provision conferring the right to judge of the election of its members, on the Congress of the United States, and without their concur-

rence the President has no right to invest franchise in anybody. Several of the States have in the exercise of their undoubted right disfranchised those regarded as public enemies. Congress has refused admission to persons claiming rights as members. By the several acts from 1861 to 1865 it has declared the inhabitants of the revolted States to be public enemies. It forbade all commercial intercourse or correspondence with them.* It passed laws for their punishment as traitors. Until these acts of the States and of the General Government are repealed by authority of the States and of Congress no person can exercise political power of his own right, or any other than a delegated power.

A pardon whether by individual act or by general amnesty does not, and cannot, change this condition of things. I suppose this principle to be so well established that it does not require the citation of authorities to maintain it. I venture to say that there is not in the history of law a single case of pardon which is held to invest persons with political power in a Government or State other than that controlled by the authority granting the pardon, or to restore other right than exemption from prosecution or punishment. It is a principle which has at least been recognized by the law department of the Government. I think Attorney General Cushing gave it as his official opinion explicitly that a full pardon cannot be held to restore political rights.

Now, it is said that this disfranchisement cannot be enforced. Why not? Because, forsooth, the States to be affected will not accept it. Very well. It is not necessary; there are twenty-five States represented in this House. Twenty-seven is the number necessary to amend the Constitution. The States of Tennessee and Arkansas will accept this proposition of disfranchisement without hesitation. They have already adopted the principle in the organization of their own State governments. It would be impossible otherwise for the loyal men of Tennessee and Arkansas to maintain governments, and their consent gives us the requisite number of States to make the amendment a vital part of the Constitution. If it be defeated at all, it will be defeated by the Republican States or by the Democratic States of the North. It will not be defeated by the insurgent States. There is, then, no justification for the opinion so strongly expressed, that this measure will fail because the rebel States will not consent to the disfranchisement of any portion of their own people. The proposition is for the loyal States to determine upon what terms they will restore to the Union the insurgent States. It is not necessary that they should participate in our deliberations upon this subject, and wholly without reason that they should have the power to defeat it. It is a matter of congratulation that they have not this power. We have the requisite number of States without them. It is said, again, that we cannot enforce it in these States because seven eighths or nine tenths of the people are enemies to the Government. That is not true. We do our cause great injustice, and we do the people of the South infinitely greater injustice when we accept and publish as our own the arguments of rebel enemies of the country. They say that the whole people of these States voluntarily made war against the Government. Mr. Speaker, it is not so.

I do not believe that there is a State in this Union where at least a clear majority of the people were not from the beginning opposed to the war; and could you remove from the control of public opinion one or two thousand in each of these States, so as to let up from the foundations of political society the mass of common people, you would have a population in all these States as loyal and true to the Government as the people of any portion of the East or West.

I know that the people of the South are filled at present with prejudice against the civilization, the institutions, and the people of

the North; but the moment they have felt the beneficial effects of that civilization, whenever they become acquainted with our people, as they will at no distant day, they will cordially and honestly fraternize with them. It requires a little time, but the result is inevitable.

During this terrible war, which has cost the people a million of lives, and of treasure inappreciable, the people of the South have been compelled to take up arms and sustain rebellion. In the Southwest it was made a crime, punishable in the severest manner, for any rebel soldier to declare publicly or to his comrades that this was the rich man's war and the poor man's fight. But it was nevertheless a fact. The people knew that it was the rich man's war and the poor man's fight. The legislation of the insurgent States exempted to a great degree the rich men and their sons on account of the possession of property, while it forced at the point of the bayonet, and oftentimes at the cost of life, the masses of the people to maintain their cause. There is nothing in the whole war more atrocious than the cruel measures taken by the rebel leaders to force the people who had no interest in it and were averse to sharing its dishonor and peril. And no public act, in my opinion, manifests more wisdom or a keener sense of justice than the exclusion by the President from the benefits of the charter of amnesty the rebels whose fortunes exceeded \$20,000. Would that it had been enforced against them!

Now, if by any means we could reach the masses of these people we should find loyal men in numbers and strength in all these States. The common people have no interest hostile to the United States. I do not mean that class of men best acquainted with public affairs, I mean the men who have borne no part in the important duties of public life—the common men, the laboring men. We shall find that ultimately, and at no distant day, they will become the truest and best friends of the Government; and this amendment, as I understand it, will contribute greatly to the beneficial result.

Sir, it does not exclude and it will not exclude nine tenths of the population of any of these States. How will it operate? It will begin with the beginning and it will go on to the end. In the first place, it will commence its operations in the States in the valleys of the Ohio and the Mississippi. In each one of those States there is a majority of the people, perhaps a large majority, who, if left to their own judgment, will be friendly to the Government of the United States. And thus from its operations, where it can be immediately applied, and where it will be immediately successful, it will produce the exact result which we desire, the immediate restoration of the governments of the States to the Union, the recognition of the loyal people, and the disfranchisement of the implacable and unchangeable public enemies of the Union, and the creation of State governments upon the sound and enduring basis of common interest and common affection.

Suppose, for instance, that until 1870 some of the southern States—South Carolina, Georgia, or Alabama—should decline to accept the terms of the amendment, and remain outside of the Union. Is it not better that they should be out than in, if that is their spirit? Will it do us any harm or them any good? I think not. On the contrary, the fact that some of the States may be admitted in 1866, as I believe they will be, and others perhaps in 1867, and so on until the last recalcitrant Commonwealth returns to the Union, shows this to be by far the best process that could be devised for the maintenance of our Government and its institutions and the restoration of States.

It was said by the gentleman from Ohio [Mr. GARFIELD] that there is no tribunal which can judge of the proper or improper enforcement of this provision. That is an error. In regard to the election of members of Congress here

is the tribunal. In regard to the election of Senators, the Senate at the other end of the Capitol is the tribunal, perfect, absolute, competent, and ready always to discharge this duty and make the right decision.

In regard to the choice of electors for President and Vice President of the United States, which seems to have caused more apprehension, the solution is equally simple, certain, and just. There is always a tribunal that is competent to judge whether this provision of the Constitution has been properly enforced. It is not altogether a new question. In 1844 the country escaped a revolution, as many persons think. They did not then, as now, comprehend the secret springs of that peril. In the State of Tennessee one hundred and seventy-five or one hundred and eighty men voted directly for Polk and Dallas as candidates for President and Vice President instead of for the presidential electors. If those votes given against the law were counted, then Mr. Polk would receive the electoral vote of that State. If they were excluded, then the electoral vote of the State would be given for Henry Clay. So closely hung the balance that for six weeks it was impossible to determine who had carried Tennessee. It ultimately became of little importance, because the vote of the great State of New York was given through Silas Wright to Mr. Polk. Had New York voted for Clay, Tennessee would have decided the election. We can now estimate the consequences of that departure from the letter of the law of a small number of Democrats in Tennessee. Had the question reached this House it would present exactly the problem the solution of which gives so much trouble to the honorable gentleman from Ohio, [Mr. GARFIELD.] And its solution removes the difficulty presented by him.

But that case does not stand alone. There is nothing new under the sun. In 1856 Wisconsin did not vote for electors on the day required by law. Her vote when presented here was not counted. If the vote of that State had decided the balance between General Frémont and Mr. Buchanan, it would have made trouble, because we now know that long and careful preparations had been made for rebellion and the opportunity only was wanting. The case presented in 1844 or in 1856 would have been more propitious than that offered by the election of Mr. Lincoln, because it would have concealed the real object of the conspirators, and secured an open and powerful support in the North. It presented the difficulty suggested by the gentleman from Ohio. But this is its solution. It exhibits the almost supernal wisdom of our frame of Government. It shows that the sacrifice of blood and treasure was well made to defend it.

In either of the cases presented by Tennessee or Wisconsin, the Congress would have been the tribunal to decide the issue. The two Houses would have met in convention according to the Constitution. If they agreed the question would have been decided, and the election of President declared in accordance therewith. If there was difference of opinion in regard to the question presented, the Senate would have withdrawn to its Chamber; the House would have remained in its seats; and then after mature deliberation, it may have been for weeks or months, each House would have determined what should be done. And should the two Houses not come to the same conclusion, and refuse to recognize an election, the President of the Senate, or in his absence the honorable Speaker of this House, would have administered the Government until another election could have been held. This would have been done by resolution of Congress within eighteen months from the 4th of March when the vacancy was found to exist. The Constitution is equal to every emergency, and what there is defective, if anything, the wisdom of the people will supply. If then, as lately, a portion of the States had determined

to break up the Government, they would then have appealed to arms, and been beaten, in the providence of God, as now. Men in every crisis of our history have predicted the failure of our Government, but it has stood every storm thus far, and will last, I trust, till time is no more. There is less chance of difficulty from this cause than ever before.

It is said again, on the other hand, that there has been no successful example of this plan of organization of Government. Mr. Speaker, America presents new illustrations of history and of government. But we are not left entirely without light. It will be so to the end. She is the pioneer of Christian nations. If we were without a guide, it would not be unwise for us to say that the powers of the Government should be intrusted to its friends and not to its enemies. In a dark night, on a stormy sea, the humblest man on ship-board would know enough to advise that the helm should be put in the hands of a man who wanted to save the ship, and not in his whose purpose was to destroy it. We are not left without guidance. Switzerland, the wisest Government on the face of the earth, one that has encountered greater difficulties with a higher degree of success than any other, has given us a lesson which we ought not to disregard.

In 1848 she suffered from rebellion not dissimilar to ours. She met it as we did. The insurgents were conquered. The revolt was suppressed. She organized governments in the cantons, as Mr. Lincoln undertook to organize governments here. The friends of her Government, soldiers and civilians, marched into the insurgent cantons, outlawed those engaged in the rebellion, and they organized governments on such principles as were consistent with the safety of the governments. They proceeded from canton to canton until all were restored. Power was maintained in the hands of its friends. The disloyal inhabitants of the disloyal cantons were deprived of the rights they had forfeited by crime. As the result of that policy, Switzerland to-day is as sound and safe a Government as there is on the continent of Europe. In a little time she readmitted her recalcitrant sons to their former privileges, and they now, through her liberality, enjoy, without endangering her institutions, the same rights which they enjoyed before the war. What wiser course could they have followed? What better example for us? If we need counsel, to what people can we turn with greater profit than to heroic Switzerland, that for centuries has nurtured republican principles in their purity and in triumph against the despotisms of Europe?

[Here the hammer fell.]

Mr. ECKLEY. Mr. Speaker, any question affecting the fundamental law of the land demands careful and mature deliberation; and it is only when the necessity is great that such changes can be justified. That necessity is upon us, and we cannot, in view of the past and our duty to the present and the future, postpone it.

My colleague [Mr. FINCK] has signaled the alarm at the proposition. Those of us who were members of the last Congress heard the same cry while the amendment was under consideration abolishing slavery, but we heeded it not. The amendment was adopted and ratified, and every person now rejoices, except a small faction known as copperheads, and they lament it only because of the loss of political capital.

The old ship has outdone worse storms than he and his colleagues can invoke from the people of the South, and she will outlive this; and we shall, I hope, all live to see the day when this proposition shall become a part of the Constitution, with the same acquiescence of its predecessor, that, like this one, was born amid the storms of southern rebels and northern copperheads.

The revolution in our affairs, caused by the gigantic struggle through which we have passed, renders such a change absolutely necessary.

Congress is the only organized power that can make it; and we should be craven in spirit if we shrunk from the responsibility. It is claimed that this presents questions entirely new in American politics. I do not think so. If we but follow the wise examples left us by our fathers we shall find in the footprints of the past a precedent for our action that will produce wise and salutary results.

I listened with pleasure to my honorable colleague as he described the terrific struggle through which the nation had passed; a struggle caused by these same rebels for whom he now pours out his sympathy; and I was really sorry that he stood so badly on the record during the time of that unnatural and wicked conflict. I was sorry that he and I did not stand side by side in resisting the attempts of these rebels on the nation's life, as we stood in former days when the Whig party was on earth, resisting the encroachments and demands of this same party. But, alas! how fickle is poor human nature at best. With what pleasure would I recur to the Journals of the Thirty-Eighth Congress if I could find the name of my colleague recorded in favor of any of the measures necessary to levy men, raise money, provide means, or even to punish a guerrilla for shooting down a soldier or a citizen. But with what sadness must I turn over that silent scroll to find the name of my honorable colleague, upon every measure necessary to sustain the Government and resist the rebellion, just where I should have found the name of Jefferson Davis, General Lee, Jacob Thompson, or any other of the rebel leaders, had they been placed as members upon the rolls of this House.

Mr. FINCK. I dislike to interrupt my colleague; but I desire to state what he ought to know very well, that during the Thirty-Eighth Congress I voted for every bill making appropriations to pay our men in the field.

Mr. ECKLEY. I desire my colleague to state whether he voted for the proposition to punish guerrillas.

Mr. FINCK. I will explain that.

Mr. ECKLEY. I trust the gentleman will not take too much of my time. I would like him to answer "yes" or "no."

Mr. FINCK. I will state the facts. There was upon the statute-book a law to punish guerrillas. The bill to which my friend refers was to amend that law and to take away from the President the power to revise the findings of the military courts. I voted against that bill; but I was in favor of punishing guerrillas.

Mr. ECKLEY. That is sufficient. The gentleman voted against the bill.

Sir, we must all bow to the decrees of fate, and I must grieve the loss of an early political associate; but with what indignation must I regard that party by whose winning smiles and lascivious caresses he has been seduced from the paths of virtue. What cup contains bitterness enough to pour upon their heads? What judgment is severe enough to be pronounced against them? Why, sir, in my State they would be prosecuted, under an act entitled "An act for the support and maintenance of illegitimate children."

I agree with my honorable colleague, that we have passed through a fearful ordeal; that we have made untold sacrifices, and that our flag in triumph floats over every inch of territory. I join with him in complimenting the gallant men by whose valor the nation was saved, and to whom we are indebted for victory and the peace we enjoy. To the God of battles and the God of peace do we make our acknowledgments and return our thanks. To our gallant Army in the field, to the Union party that sustained it there, will the present and future generations accord as the human agencies that saved the country from destruction against the combined attack of organized, armed rebels and organized, unarmed copperheads, each in their place in the rôle performing their part in the plan for the nation's overthrow. But to my colleague and the copperhead party no credit

is due. They may exhibit their fantastic tricks and play their political games for a little while, but their days are numbered, and the faithful chronicler of these sad events should consign them to the grave of oblivion,

"Unwept, unhonored, and unsung."

Peace, we are told, reigns throughout our borders. I wish I could believe that. But admitting its truth, are we not bound by every consideration to secure to the people, as well South as North, such safe grounds as will forever prevent its being broken? But what securities shall we demand; and in what manner shall they be obtained? By following the precedents of our past history will we find the path of safety.

Two instances of treasonable plots and conspiracies stain our former history. The one, an armed conspiracy to resist the execution of the laws, was organized in the State of Pennsylvania, known as the whisky insurrection. That, like the late rebellion, (though small in comparison,) organized its misguided followers, set the law at defiance, plundered the public mails, and murdered the officers of the law. The Government suppressed it by the power of arms, seized the insurgents, instituted prosecutions against them; but the leader and great instigator in this outrage upon the laws escaped the country and took shelter in foreign lands, thus evading justice and saving his life. His deluded followers were saved by executive clemency. Had Bradford, the instigator, been arrested he would certainly have suffered the fate of a traitor. So cautious was the Pennsylvania Assembly at its next meeting that it carefully scrutinized the claims of all members returned from the insurrectionary district, with a view of cleansing itself from all stains of treason by excluding all participants in the insurrection. Not even the talented and distinguished Gallatin could obtain a seat until he disproved the charge of his having been identified with this hostility to the execution of the laws.

The second occurred some years afterward, and was claimed to have covered a wider field. A prominent Democrat of the State of New York, who had been elevated to the second office in the gift of the people, was charged with having set on foot an armed expedition for the purpose of dismembering the Union. Burr crossed the mountains to the Ohio river, fitted out his flotilla of boats, and floated down the Mississippi. The key-note of alarm was sounded, the President issued his proclamation, the officers of justice were quick upon his track; he was arrested, indicted, and tried. The trial, the most important of any in this country, was conducted on both sides with almost superhuman ability. Nothing on either side was left undone. It is the only case in the history of the Government in which the President left his seat to personally superintend the trial. For want of evidence, under the ruling of that profound jurist and pure patriot, Chief Justice Marshall, Burr was acquitted, and with his acquittal fell all the indictments against those charged as accessory only in his guilt. No one ever doubted that if Burr had been legally convicted he would have made atonement to an outraged country with his life.

What Burr's real design was remains a mystery; and many innocent persons were doubtless implicated with him; some, perhaps, not so innocent. His expedition was fitted out, in part, in my own State; and among those induced to join him was John Smith, then a Senator in Congress from the State of Ohio. Smith was never tried by a civil tribunal, but, for his participation in the so-called conspiracy, was expelled from the Senate.

From these two incidents in history I deduce two things: first, the determination on the part of the Government to vindicate its authority and dignity by inflicting punishment upon such as have violated the law; and second, to expel from its councils such as have participated in treasonable designs. From these we learn the

duty of the Government generally and of Congress in particular; for these things have passed into history, and are not influenced by the opinions or prejudices of the present day; and it receives great force from the fact that both the justice and propriety have been approved by the American people for three quarters of a century. Placing ourselves upon these precedents, and relying upon the justice and wisdom of the past, we are not endangered by unexplored paths or the experiments of new adventures. Guarded by the wisdom and example of many Administrations, we but mete out to those of the present day the well-established law that in former times was administered to others for similar offenses, but of lesser magnitude.

How to secure the fruits of that victory and obtain a permanent peace is the question for solution. To admit such members of Congress as they would elect from the States lately in rebellion would secure neither, but lose us both, and we should permit them to gain everything, through congressional action, that they sought to accomplish by arms.

It is claimed that we have no right to exclude their Representatives. I think we have. We do not want another war, and we would be faithless if we did not secure such guarantees as would last through all time. If they have given up the idea of rebellion, they can assure us such guarantees as will secure them in their right of representation and the country in harmony forever. We should exact nothing of them unjust or inconsistent with reason, but we should insist upon that well-recognized principle that maintains in every civilized country, that the highwayman, burglar, and pirate are not fit to sit as administrators of the law.

Those who engaged in the rebellion and strove to overthrow the Government, of their own volition withdrew their allegiance, are not fit, without bringing fruits meet for repentance, to administer its affairs. The foreigner who comes to our shores because he loves our institutions and admires our form of Government, who never, by word or act, evinced hostility to it, is put upon five years' probation before we admit him to citizenship. The reasons that exclude him from citizenship are strengthened in excluding open and avowed traitors. Decency would demand from them at least modesty. They have committed a crime that in any other country they could expiate only with their lives; they ought now to rejoice that by five years of fasting and prayer they could regain the rights of citizenship. From the instances I have given no one who had done an act hostile to the Government ever after participated in its affairs, and no one who was suspected was permitted to hold any position until they had cleared themselves of all imputations, and proved their allegiance by a renewal of the covenant of their faith. Even Burr, one of the most ambitious of his day, lived and died in obscurity, declining all marks of distinction, and avoiding all political notoriety. And the instigator of the whisky insurrection chose to be an exile in the land of strangers, and never sought position under a Government against which he had made war. But that kind of delicacy is not a characteristic of the rebels of this day. Their acts of treason, of cruelty, and barbarity are urged as qualifications for political positions. Already the most prominent places in the rebel States are filled with the most virulent traitors. And scarcely had the smoke of battle cleared away, and the shout of victory died out on the air, before the vice president of the confederacy is demanding a seat in the United States Senate. Such impudence is without a parallel among men, and can only find a precedent in the temptations of the devil to the Son of Man.

That the rebels are conquered, is an admitted fact. That they have any loyalty, any love, for the peace of the country and permanency of the Government, is not manifested by anything they have done. It is true they say they

accepted the situation, so does the culprit. They say they laid down their arms. But their arms were forced from them. They say they disbanded their armies, but their armies were captured or scattered by the Union forces. Then what have they done to prove their submission to the law? They have neglected to pay their portion of taxes; they have expelled loyal citizens from the South; they have treated with brutality the freedmen, and enacted laws disgraceful to a Christian age or a Christian people. Those who engaged in the rebellion are as disloyal to-day as they were at any time during the war. Will any one pretend that they have changed? Will any one with truthfulness assert that they have any love for the Government of the United States, and would they not at any time rebel if there was a prospect of success?

In my judgment three things are necessary to be done before we can with safety restore them to their former relations with the Government:

1. Equal and just representation.
2. Security of life, liberty, and property to all the citizens of all the States.
3. To reject all debts or obligations incurred in aid of the rebellion.

The ratification of the constitutional amendment changed the condition of representation and rendered an amendment to the Constitution necessary in order to equalize the just basis of representation. Under the Constitution as it now stands they would count the entire population in the southern States. Before the Constitution was amended, they counted the entire free population and three fifths of the slaves; but there being now no slaves they would count all. In none of those States do they confer the right of suffrage on the colored population. This presents the anomaly of allowing five million white rebels to represent four million loyal blacks, and makes two white persons—rebels at that—in South Carolina equal to five white loyalists in Ohio, Pennsylvania, or New York. To this unjust demand I cannot and will not yield. If all other objections were removed, that one would be a justification for rejecting their Representatives. I could not return to my own gallant State and say to her loyal people and to the three hundred thousand gallant sons she sent to the field that by my vote I had reduced their political power until it required five of these scarred veterans to equal two of the rebels against whom they fought.

If South Carolina persists in withholding the ballot from the colored man, then let her take the alternative we offer, of confining her to the white basis of representation, and instead of the seven hundred thousand, her entire population, let her accept the two hundred and ninety thousand white population as the basis of her representation. For my purpose this sufficiently illustrates the operation of the rule, and the only practicable remedy is in an amendment to the Constitution changing the basis to the voting population, and making that a condition precedent to the admission of Representatives from the insurgent States. But it is said we should admit their Representatives, and if they are not loyal, turn them out. I hope we shall not be deceived by such a trick as that. Some of us have had experience in expelling a member. If Georgia was to send her Toombs here as a Representative, or Kentucky her Breckinridge, both gory with the blood of our murdered soldiers, both ardent supporters of the rebellion in every stage, supporting in every way, and when conquered, and its failure no longer a question, they would not risk their safety in this country, but sought refuge in Europe, not one vote on the other side could be had for their expulsion.

But how are members admitted here? By producing a certificate of election to the Clerk, who makes up the roll, calls it himself, and prepares them for qualifying. Much, then, depends upon the Clerk in the organization of the House. He could exclude them if he desired so to do. The experience of Congress

has taught us to beware of dangers from Clerks of their own selection. I heard of a Clerk once who decided that a certificate, setting forth that a person was duly elected a Representative, did not prove that he was elected according to law. As an apology for his fine-spun theory it was said he had partially lost his reason; but I think he had suffered, if possible, a worse calamity than that. He had united his fortunes with the disunionists, enough certainly to drive any man mad. When the Clerk makes up his roll, calls the members, they take the oath, how are you to get them out of their seats but by expulsion, which requires a two-thirds vote.

Let us look at this matter in its practical operation. Suppose we admit the Representatives from the rebel States, and the bloody General Forrest should be returned a member, who produced his certificate of election, was placed on the roll, answered to the call, and took the oath; could you expel him on account of his treason? Certainly not; unless you could expel all the rest from the insurgent States, and that you could not do. And it would be the merest folly to attempt it. It would then become a political question. The Democratic party would then all be here—the open rebels of the South, the three hundred thousand Knights of the Golden Circle, the sympathizers of the North; the prisons would be emptied, the galleys cheated, the Canadian refugees would be called home, and if that was not enough, they would resurrect the conspirators and call from the tomb of infamy the murderers of the Andersonville prisoners. Then they would have a Democratic party strong enough in this Hall to prevent the expulsion of one of their number. As to the provision disfranchising those who have participated in the rebellion, it is objected to, first, for want of power, and second, on the ground of expediency. Neither, in my judgment, are sound. As to the first, I have no doubt of the power under the Constitution as it is. Such is and has been its interpretation from the foundation of the Government. Under a congressional act persons convicted of a crime against the laws of the United States, the penalty for which is imprisonment in the penitentiary, are now and always have been disfranchised, and a pardon did not restore them unless the warrant of pardon so provided.

The second is equally unsound. It was formerly doubted whether it was expedient to restore the elective franchise to those who had been convicted of a crime. The objection rests upon the ground that the number to be disfranchised are so numerous. This is greatly exaggerated if we take as true what is said by southern men, for it is seldom you can find one who has not been opposed to secession and in favor of the Union all the time. Whether this be true or not it should be no argument against it. The reason for it proceeded upon the ground of self-preservation, by protecting the elective franchise and keeping it pure. Others may desire to make up a party, or to strengthen one already made, by incorporating in it the worst kind of criminals; but it will destroy the object and purpose of the principle referred to. I have no desire, and should take no pride in any such political association. And the country certainly derives no security from such political organizations. But suppose the mass of the people of a State are pirates, counterfeiters, or other criminals, would gentlemen be willing to repeal the laws now in force in order to give them an opportunity to land their piratical crafts and come on shore to assist in the election of a President or members of Congress because they are numerous? And let it be borne in mind that these latter offenses are only crimes committed against property; that of treason is against the nation, against the whole people—the highest known to the law.

The only objection I have to the proposition is that it does not go far enough. I would disfranchise them forever. They have no right, founded in justice, to participate in the administration of the Government or exercise political power. If they receive protection in their

persons and property, are permitted to share in the nation's bounties, and live in security under the broad ægis of the nation's flag, it is far more than the nation owes them.

Looking at the desolated fields of the South, the beggarly condition of the people, the army of maimed and helpless rebels, and the demoralized state of society, they must be the most stupid people in the world or they would ask to have them disfranchised themselves, and every loyal southern man does that. Nay, they should place them under such disabilities that they never could exercise political power again. The whole North is full of loyal refugees who do not dare return to their former homes. If they happen to have property there it is destroyed by those persons you propose to continue in power. Reject the amendment disfranchising rebels and you must widen the asylum in the North for those southern people who have sympathy with the Government. Let us have the courage to follow the example of the loyal people of Tennessee and Missouri, and exclude them from the ballot-box. Ask the gallant men of Tennessee what security they would have if the provision disfranchising rebels was repealed. They would tell you they would be overrun by rebels, and that the forty thousand gallant men who battled for the Union would be prostrated at the mercy of these disarmed traitors.

Let us now turn to the North and ask the million of gallant men who for four years stood like the mailed hosts of old between the nation and its destruction, and vanquished and drove back these hirelings of crime, and they will answer you, no rewards for treason. Ask the maimed and disabled soldier, and he will tell you that he did not think he was giving his leg or his arm to a Government whose representatives would vote away his political rights. Ask the widow, and in tears she will turn to her children and tell you that she was widowed, they were orphaned, they inherited poverty, she struggled in want, but she did not suppose that all this was to confer the power of the Government upon the murderer of husband and father. Ask the whole loyal people of the North, and you will receive for answer that you endanger the peace of the country by trusting the ballot in the hands of the traitor.

Mr. Speaker, I have not time to trace this subject further. I hope the report of the committee will be adopted; and in conclusion let me say to the one hundred and forty thousand people I have the honor to represent, that if they desire to have the rebels admitted into this House and the ballot placed in the hand of the traitor, they must select some other agent than me, for, so help me God, I will never vote to admit unconditionally a rebel Representative to a seat in this Hall or to place the ballot unrestricted in the hands of the traitor. In that way I shall contribute in rendering "treason odious."

Mr. LONGYEAR. Mr. Speaker, the questions before the House are not so much whether the rebellious States are in or out of the Union; or whether the Government has or has not the right to impose conditions upon their return to working relations with it. Those questions have already been settled by the uniform action and declarations of the executive, legislative, and judicial branches of the Government.

The Supreme Court, as long ago as 1862, declared, in the decision of the prize cases, (2 Black's Reports, 636, 667,) that "the present civil war between the United States and the so-called confederate States has such character and magnitude as to give the United States the same rights and powers which they might exercise in the case of a national or foreign war;" and, quoting Vattel for authority, the court further declared that "a civil war breaks the bands of society and Government, or at least suspends their force and effect."

The Thirty-Eighth Congress, at its first session, and while the war was still flagrant, by solemn enactment declared the State governments in those States subverted and overthrown, and imposed conditions upon their reconstruc-

tion. This enactment most unfortunately did not receive the signature of the President, although he approved of all its provisions in the proclamation which he issued soon after its passage. The same thing has been assumed and acted upon by Congress and by each House in numerous other enactments and resolutions since that time, many of which received the sanction of the late President Lincoln.

The present incumbent of the presidential chair, while he remained the Andrew Johnson of Tennessee for whom the great loyal masses of the nation gave their suffrages for Vice President of the nation in 1864, both before and since his elevation to that position, ay, and since by the hand of treason he became elevated to be the chief Executive of the nation, has declared that all government in those States and in each of them had ceased to exist; and not only that, but that the right to regulate suffrage and to impose conditions in the efforts of those who had been in rebellion to reconstruct State governments existed in the national Government. I will only quote a single but oft-repeated declaration of President Johnson upon this point. In each of his famous proclamations appointing provisional governors for the several States in rebellion, occurs this remarkable passage:

"Whereas the rebellion which has been waged by a portion of the people of the United States against the properly constituted authorities of the Government thereof, in the most violent and revolting form, but whose organized and armed forces have now been almost entirely overcome, has in its revolutionary process deprived the people of the State of [North Carolina, &c.] of all civil government."

The President in each of those proclamations also assumed to regulate suffrage and eligibility to office, as follows:

"Provided, That at any election that may be hereafter held for choosing delegates to any State convention, as aforesaid, no person shall be qualified as an elector, or shall be eligible as a member of such convention, unless he shall previously have taken and subscribed the oath of amnesty as set forth in the President's proclamation of May 29, 1865, and is a voter qualified as prescribed by the constitution and laws of the State of [North Carolina, &c.] in force immediately before the 20th day of May, 1861, [or otherwise as the case was,] the date of the so-called ordinance of secession."

These declarations and acts of the present Executive were made and done, too, after active hostilities had ceased, and the armed force of the rebellion had surrendered to or been broken and dispersed by the superior force of the national Government, events upon the happening of which it is contended by the advocates of State rights here and elsewhere the States in rebellion at once resumed all their rights as States of the Union, including, of course, the right of representation in Congress and the right to regulate suffrage and office in their own way.

Without stopping, then, to discuss these questions upon principle, I assume, as proven by authority of all the coordinate branches of the national Government, the following propositions:

1. That as a result of the rebellion, all civil government was destroyed in those States which were engaged in it.

2. That the people of those States can erect new State governments only by virtue of the authority and consent of the national Government, and upon such terms and conditions as the latter may prescribe.

3. And in this connection the national Government may regulate suffrage and eligibility to office, and make and establish such other regulations as may be necessary for its future security and perpetuity.

4. And it makes no difference in this respect whether such regulations are established by statute or by constitutional amendment. The loyal people who, by their Representatives and Senators constituting the Congress for the time being, have the power to propose constitutional amendments and enact laws for the common welfare, have equal power through their Legislatures or conventions to ratify and make effectual such constitutional amendments.

He who attempts to argue against these propositions does so against the uniform current

and logic of the swift-passing events of the last five years and their inevitable sequences, and will find all his high-sounding rhetoric return to him empty, like echo from adamantine cliff in a desolate forest.

I do not propose to discuss the question here whether the power to prescribe such regulations and conditions is in the Executive or in the Congress. I believe it is in Congress. The people believe it is in Congress, and the great masses of the loyal people both North and South are looking to Congress to-day for protection and security; and for one, I intend to do my duty toward them in that respect to the best of my ability.

The only question really open for discussion is, what regulations and conditions are necessary; and what shall be imposed to insure the future domestic tranquility of the people and the security and perpetuity of our national existence?

The amendments and bills reported by the committee on reconstruction fall far short of the expectations of the people, and I may say are short of what I may have desired. The fact is the people are always ahead of their legislators in all matters of reform. But so far as the report goes it is in the right direction, and I will not reject it for the sole reason that it does not go far enough. The constitutional amendment proposed by the committee, with a single objection, meets my hearty approval. That objection is to the third section, and it is not that it does not go far enough, nor that it goes too far, but that it comes too late. I would disfranchise every voluntary rebel in the land, and place him where the late Andrew Johnson of Tennessee, at a time when the patriotic predominated over the sinister elements of his nature, said he should be placed, "on the back seats" in the great work of restoring the body-politic to health and vigor. But that same Andrew Johnson, acting as President of the United States, and under authority, too, of an act of Congress has, in my opinion, placed it beyond our power to do this without a violation of the faith of the Government in the eyes of the whole world.

What is the case presented? Section three reads as follows:

Until the 4th day of July, 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for members of Congress and for electors of President and Vice President of the United States.

"All persons who voluntarily adhered," &c. Let us see what persons are included in this expression. It would seem that the word "all" is sufficiently comprehensive and can admit of no exceptions; but let us see if its use here is not delusive under the circumstances now surrounding the question. By authority of law, full pardon and amnesty have been granted—

1. To all rebels below a certain rank who should take a certain oath, &c.

2. To all below the rank of colonel who were worth less than \$20,000 at the commencement of the rebellion. This included, of course, the great mass of the southern people.

3. Nearly all of the classes above excepted have since received special pardons, and what remain are being pardoned now day by day, and before the proposed amendment can become part and parcel of the Constitution there will probably not be left a single unpardoned rebel in the whole land, from the highest to the lowest.

In the light of the events of the past five years, and of the fiendish barbarism practiced by these rebels during hostilities, and of the devilish hate still ranking in the bosoms of the great mass of them toward the Union and toward loyal men, these are humiliating facts; but still they are facts, and we must face them and not stultify ourselves in the eyes of the world by ignoring them.

Amnesty and pardon, although not strictly synonymous terms, have been used as such in this connection. Amnesty has the effect "to efface the crime and cause it to be forgotten."

This is the language of the authorities, and this the effect that has always been given to it by all civilized nations. It not only exempts the party from punishment, but remits him to all his former rights, natural, civil, and political, with simply two exceptions: first, where rights of third persons have intervened; and second, where the disability has been created by statute, and existed at the time of pardon. I concede that if the disability now proposed to be created had existed by the Constitution or by statute at the time of amnesty granted, it would remain until removed by the same formalities; but who ever heard of any civilized nation affixing to an offense a punishment or even a disability after the crime itself had been effaced, wiped out, obliterated by an amnesty or a pardon?

The eminent gentleman from Pennsylvania, the chairman of the committee on the part of the House, who reported this amendment, taking the same view of the law of the case as I do, tells us in effect that the disability is not intended to apply to such as have received pardon and amnesty. He tells us that if the amendment is adopted and becomes part of the Constitution, and one of the amnestied rebels comes to the polls and offers his vote for member of Congress, &c., and shows his pardon, then he has not adhered, &c., and is not included in the expression, "all persons who have adhered," &c. This is no doubt correct; but let me tell the gentleman that in this view of the case the amendment is meaningless, yes, worse than meaningless, it is cause of discord among the friends of the balance of the amendment, where the utmost harmony should be cultivated. If adopted, it would not stand in the way of a single rebel ballot. Long before it can be adopted, every one of the few unpardoned rebels now remaining will have received the extreme unction of pardon by his Excellency the President of the United States, and will have become a voter by the side of the most loyal, notwithstanding the prohibition. It would be a dead letter.

The provision would also be so easily evaded by appointing electors of President and Vice President through their Legislatures, as South Carolina has always done.

Let us then reject this dead weight, and not load down good provisions, absolutely essential provisions, by this, which, however good in and of itself, cannot be enforced.

I regard this provision, if adopted, both worthless and harmless, and therefore I shall vote for the proposed amendment as a whole, whether this be rejected or retained. I am heartily in favor of the whole amendment, except this section three, and should be in favor of that if I thought it could be given any effect; and I have said this much because of my anxiety that the main provisions of the amendment should prevail, and not be jeopardized by the retention of a worthless provision.

Rebels must be taken care of here in the Halls of Congress; and so long as the loyal people of the country remain true to themselves and the Government, traitors will be taken care of here. The sword of justice will continue to hang over the portals of these Halls, and no traitor will be allowed to pass their thresholds.

Mr. BEAMAN. Mr. Speaker, to say that I am not entirely satisfied with the plan for the reconstruction of the rebel States reported by the committee is probably to utter the sentiment of nearly every member of the House, including the members of that committee. It is most likely, also, that the expectation of the country will be somewhat disappointed. Mindful of the terrible struggle through which we have just passed, with all its sad incidents, the people are naturally earnest, anxious, and watchful. Impressed with the former teaching of your Chief Magistrate, they have come to believe that treason is crime, and ought to be punished; and that in any plan adopted for admitting the people of the rebel States to a participation in the government of the country, ample safeguards will be provided for future security.

Sir, I feel compelled to say that I do not think the report of the committee quite meets their just expectations. Nevertheless, so various are the views of gentlemen of the House, as well as of the individual members of the committee, perhaps it is as nearly satisfactory as any system that could have been agreed on with any well-founded hope of adoption. I am inclined, therefore, to support the joint resolution, though I hope it may be amended. I have serious objections to the third section, and I shall experience regret if, through the inflexibility of parliamentary rules, I am compelled to vote upon the original resolution without an attempt to amend it. It seems to me that the third section will be found useless in its results and impracticable in its operation, while it is calculated to foster irritation and bad blood among the people of the South. It makes a show on the face of it of accomplishing what it is impotent to perform; that is to say, it assumes until the 4th day of July, 1870, to "exclude all persons who voluntarily adhered to the late insurrection, giving it aid and comfort," from the right to vote "for electors for President and Vice President of the United States," yet we very well know that such a provision would be entirely inoperative, because electors for President and Vice President can be appointed by the Legislatures according to a practice that has always obtained in South Carolina. The provision does not extend to the election of Senators, and consequently it can operate only to affect the election of members of this House, and that only for a period of four years.

The State governments, the inspectors of election, the rejection or reception and canvassing of votes, the returns and certificates, in short the whole machinery of the elections will be in the hands and under the control of the very men whom you propose to disfranchise, and the difficulties that will arise in an attempt to execute the law are too obvious to require particular specification. This section looks as though it was intended for ornament rather than for use. Perhaps I should say it has the appearance of having been introduced to multiply the conditions of restoration, thereby rendering the scheme somewhat more imposing. It was doubtless the offspring of compromise, the result of a contest of adverse opinions, in which each one of the progenitors gave up so much of his paternity that the bantling is a mere shadow. It is, however, a shade too thin to blind the eye, and it might as well be removed altogether. The people are not likely to be blinded by so thin a veil, and it is folly to undertake to deceive ourselves. The people do not stand on punctilio. They want no expedient adopted in order to gratify their vanity, or to save a point of honor. They desire the adoption of no measure whose sole object is to assert their power over the rebels; that has already been established in the clash of arms. They want protection and security for the future, and to that end they believe it indispensable that the Government should be administered by loyal hands.

I do not know as there will be an opportunity to offer amendments to this joint resolution; but if permitted, I shall move to strike out the third section and insert in lieu thereof a section which I have taken in substance from the bill introduced from the committee by the gentleman from Pennsylvania. The provision which I would have inserted is, as follows:

SEC. 3. No person shall hereafter be eligible to any office under the Government of the United States who is included in any of the following classes namely:

1. The president and vice president of the Confederate States of America so called, and the heads of departments thereof.

2. Those who in other countries acted as agents of the Confederate States of America so called.

3. Heads of Departments of the United States, officers of the Army and Navy of the United States, and all persons educated at the Military or Naval Academy of the United States, judges of the courts of the United States, and members of either House of the Thirty-Sixth Congress of the United States who gave aid and comfort to the late rebellion.

The disability proposed by this amendment is quite inconsiderable, if we have regard to the magnitude and consequences of the late rebel-

lion, and I have no doubt it falls short of the public expectation. But inconsiderable as it is, it would at least prevent the intrusion of the arch traitor Jefferson Davis into the Senate of the United States, and would exclude permanently from this Hall the rebels who left it in 1861 for the field of blood. Nor could such a measure be deemed objectionable by any candid mind, whether it be regarded as a question of security for the future or as a punishment for past offenses. What other nation on the face of the earth would be so merciful, so forgiving? These men, by their flagitious crimes, have created a mortgage of billions upon the property of posterity that is to be. They have murdered hundreds of thousands of their fellow-men, and endangered our national existence. They have forfeited citizenship, property, life, which justice refuses to restore. But we forget justice, and remember only mercy. We give them back life, property, citizenship. And is not this enough? Shall we restore them to power, and make them our rulers? Such a determination should be preceded by another amendment to the Constitution. The word treason should be expunged from our organic law.

Mr. Speaker, I have little more to say. My views in regard to the great subject of reconstruction have been expressed in this Chamber more than once, and I do not wish to repeat them. But I desire to say that in my judgment the remainder of the joint resolution has great merit and ought to be adopted. I did look for more thorough and reliable protection for the loyal men in the rebel States than we are likely to secure. I did hope to see the rights of the freedmen completely established. I did believe that we should not ignore the services of the brave colored men who heroically bled in the defense of their country—a country from which thus far they have received injuries rather than blessings—and I did hope that a just, if not a grateful country, would insist that the preservers of liberty should enjoy some share of its fruits; that we should have the manhood and magnanimity to declare that men who have wielded the sword in defense of their country are fit to be intrusted with the ballot. But I am convinced that my expectations, hitherto fondly cherished, are doomed to some disappointment.

Yet I take this occasion to place on record the assertion, that if this generation shall fail fully to perform the duty that Providence seems to have imposed upon it, the blame will not rest wholly upon the Thirty-Ninth Congress. Every measure adopted for the security of the people against rebels must be carried by a two-thirds vote of each House. Against an antagonistic Executive a majority of Congress alone cannot adopt legislation needful to the condition of the country.

But I will not on this account abandon all. I will accept of the best arrangement available. I will vote for the substitute I propose, if I have an opportunity. I will vote simply to strike out the third section, if I can do no more; and failing in that, I will vote for the joint resolution as it stands.

Mr. ROGERS. Mr. Speaker, I have listened to the arguments made by the honorable gentlemen upon the other side; and out of five or six to whom I have attentively listened, only one has treated the minority on this side of the House with common courtesy or common respect. I am sorry that a grave and important question like this cannot be discussed by the representatives of the people of this country without indulging in vile vituperation of those who happen to disagree with the majority. Sir, I honor the distinguished gentleman from Massachusetts [Mr. BANKS] for the manner in which he has always treated us on this side, and for the ability with which he has discussed the questions which have come before this House for consideration. Sir, I think it is belittling the character of this House for a gentleman of such high standing and of so much intellect as the honorable gentleman from the Lancaster district of Pennsylvania [Mr. STEVENS] to commence his argu-

ment by charging us here with being nothing but "catamounts." Such a method of treating these great questions will not settle the present difficulties of the country, nor heal the bleeding wounds of the Republic. Such a course of proceeding will not bring back our country to the enjoyment of the blessings of civil liberty and those great principles of constitutional freedom for which our revolutionary fathers fought.

Sir, I had hoped that after the investigation we have had upon the different subjects which have agitated this Congress, the time had come when gentlemen upon both sides of the House would turn their hearts from bloody strife to a contemplation of the blessings of peace and union in this land.

I do not mean, sir, as is now proposed by the measure under consideration, to have peace by disunion, but I mean to have peace by restoring and referring to the instrumentalities by which the Constitution and the Union were first established by our fathers; and I believe, if these instrumentalities, which were founded in a spirit of compromise, charity, friendship, love, and affection, were employed in this House, the bonds which have been torn asunder by four years of bloody war will be again cemented together.

I believe while I am here sustaining the opposition to this joint resolution, I am fortified by one who holds the reins of power in the presidential chair, a patriot and statesman, a man whose whole ambition is to have back again that glorious Union, and the old flag with every star there emblazoned upon it the emblem of victory and of the unity of all the States, whether North or South. He wants all the States, as heretofore, to be represented in reference to the legislation of the country.

While the proposition which has been produced here is not so rabid as some of the propositions agreed to be submitted by this committee, yet I say that it is fraught with great danger and evil to the country, and the elementary foundations upon which the liberties of this Union have rested for seventy-five years are about to be thrown down and trampled in the dust; and that glorious flag which was carried in triumph during the last war is about to be trampled under foot, and the time has arrived when Andrew Johnson and the Democratic party have determined to put that flag upon their shoulders and to plant it upon the dome of the State capitol of South Carolina, and to have it waving there as it is over the dome of the Capitol of the United States, representing a union of love and equal representation.

Now, sir, I have examined these propositions with some minuteness, and I have come to the conclusion different to what some others have come, that the first section of this programme of disunion is the most dangerous to liberty. It saps the foundation of the Government; it destroys the elementary principles of the States; it consolidates everything into one imperial despotism; it annihilates all the rights which lie at the foundation of the Union of the States, and which have characterized this Government and made it prosperous and great during the long period of its existence.

This section of the joint resolution is no more nor less than an attempt to embody in the Constitution of the United States that outrageous and miserable civil rights bill which passed both Houses of Congress and was vetoed by the President of the United States upon the ground that it was a direct attempt to consolidate the power of the States and to take away from them the elementary principles which lie at their foundation. It is only an attempt to ingraft upon the Constitution of the United States one of the most dangerous, most wicked, most intolerant, and most odious propositions ever introduced into this House or attempted to be ingrafted upon the fundamental law of the Federal Union.

It provides that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life,

liberty, or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the laws. What are privileges and immunities? Why, sir, all the rights we have under the laws of the country are embraced under the definition of privileges and immunities. The right to vote is a privilege. The right to marry is a privilege. The right to contract is a privilege. The right to be a juror is a privilege. The right to be a judge or President of the United States is a privilege. I hold if that ever becomes a part of the fundamental law of the land it will prevent any State from refusing to allow anything to anybody embraced under this term of privileges and immunities. If a negro is refused the right to be a juror, that will take away from him his privileges and immunities as a citizen of the United States, and the Federal Government will step in and interfere, and the result will be a contest between the powers of the Federal Government and the powers of the States. It will result in a revolution worse than that through which we have just passed. It will rock the earth like the throes of an earthquake until its tragedy will summon the inhabitants of the world to witness its dreadful shock.

I believe it will be, if that contest comes between Federal and State powers, a time when nature will bleed with agony in every part. That, sir, will be an introduction to the time when despotism and tyranny will march forth undisturbed and unbroken, in silence and in darkness, in this land which was once the land of freedom, where the sound of freedom once awakened the souls of the sons and daughters of America, when from the mountain-tops to the shore of the ocean they drank in the love of liberty.

I assert that the second section of this proposed amendment is unparalleled in ferocity. It saps the foundation of the rights of the States, by taking away the representation to which they would be entitled under the present Constitution. When the gentleman from Ohio [Mr. BINGHAM] brought forward a proposition from the committee on reconstruction to amend the Constitution of the United States, interfering with the elementary principles of taxation and representation, the principles for which our fathers fought when they rebelled against the tyranny of King George and the English Parliament who undertook to tax the people of the colonies without representation, the proposition was defeated in this House upon the ground that it would destroy a fundamental principle, that there should be taxation only according to representation.

This, sir, is precisely such a proposition as that. It declares that if the southern people refuse to allow the negroes to vote, then all that portion of the male colored population of twenty-one years of age and upward shall be excluded in the basis of representation—shall not be counted in ascertaining how many Representatives the States are entitled to.

The honorable gentleman from Pennsylvania [Mr. STEVENS] has the frankness to state to the House what the object and purpose of the second clause are. He says:

"The effect of this provision will be either to compel the States to grant universal suffrage or so to shear them of their power as to keep them forever in a hopeless minority in the national Government, both legislative and executive."

Yes, gentlemen, it is but the negro again appearing in the background. The only object of the constitutional amendment is to drive the people of the South, ay, and even the people of the North, wherever there is much of a negro population, to allow that population not qualified but universal suffrage, without regard to intelligence or character, to allow them to come to the ballot-box and cast their votes equally with the white men.

Why do you not meet this question boldly and openly? Why do you undertake to deceive the people by offering to them an amendment which you say is based upon a principle of justice, that only the voting population shall be represented, when you admit by your leader in this House, the honorable gentleman [Mr.

STEVENS] who introduced into the committee this whole scheme of disunion and despotism, that the object of this amendment is to force the southern States to grant to the negro unrestricted suffrage?

Sir, I want it distinctly understood that the American people believe that this Government was made for white men and white women. They do not believe, nor can you make them believe—the edict of God Almighty is stamped against it—that there is a social equality between the black race and the white.

I have no fault to find with the colored race. I have not the slightest antipathy to them. I wish them well, and if I were in a State where they exist in large numbers I would vote to give them every right enjoyed by the white people except the right of a negro man to marry a white woman and the right to vote. But, sir, this proposition goes further than any that has ever been attempted to be carried into effect. Why, sir, even in Rhode Island to-day there is a property qualification in regard to the white man's voting as well as the negro. And yet Representatives of the eastern, middle, western, and some of the border States come here and attempt in this indirect way to inflict upon the people of the South negro suffrage. God deliver this people from such a wicked, odious, pestilent despotism! God save the people of the South from the degradation by which they would be obliged to go to the polls and vote side by side with the negro!

Mr. KELLEY. Will the gentleman yield?

Mr. ROGERS. I am always willing to yield, but in a half-hour speech I cannot.

The committee dare not submit the broad proposition to the people of the United States of negro suffrage. They dare not to-day pass the negro suffrage bill which passed this House in the Senate of the United States because, as I have heard one honorable and leading man on the Republican side of the House say, it would sink into oblivion the party that would advocate before the American people the equal right of the negro with the white man to suffrage.

And I do not believe that the gentlemen who favor this amendment believe that a single proposition contained in it will ever be adopted by three fourths of the States. Why do you not do something practical? We have been here something like six months. We have labored, toiled, and endeavored to bolster up the remains of the old Union, and you come in at this late day of the session with a proposition which you know—and I put it to the conscience of any man on the Democratic or Republican side of the House—will never be adopted by three fourths of the States.

Sir, I want some principle embodied in a constitutional amendment that the southern States will accept. I desire to see the Union restored, the Union of our fathers. I want peace, prosperity, happiness, greatness, grandeur, and glory such as characterized this nation when the Democratic party had control. I want you to put such a proposition before the people as shall meet their approbation. Do not pretend that you are in favor of the unity of the States when you offer a proposition which every reasonable, honorable, conscientious man must know will never be adopted by the States. Do you believe the people of the South will close their eyes to the teaching of ages and wait for shackles and chains to convince them that their liberties are endangered and allow no awakening convulsions to shake their rugged minds until despotism shall eat out their vitals?

I am not unmindful of the lessons taught us by the despotism of the Old World. I remember Poland and Hungary, and I stand here protesting against this measure which is more wicked than the tyranny practiced upon them. I believe under God that Andrew Johnson will plant the flag of liberty on every hill-top of this land until the tidings shall go forth to the civilized world that the United States of America are united in one bright constellation based upon equal representation.

You come out with another proposition, in the third section, to disfranchise a million voters, and I think I can say with safety that a speech has not been made on the other side wherein something was not said in favor of the enfranchisement of the human race, and yet you come here to-day, in the face of heaven and this Congress, and undertake to enunciate a doctrine that will, if carried out, disfranchise seven or eight million people, and that will put them in a worse condition than the serfs of Russia or the downtrodden people of Poland and Hungary until the year 1870. It is an entire change of front. You have been all the time maintaining the principle of representation based upon the voting population, and now, when these people have been so unfortunate as to be burdened with a free colored race, in consequence of the sins of northern fanatics and secessionists, you propose to disfranchise seven or eight million who had no original participation in the matter.

Why, sir, the Scriptures tell me that when Christ came upon the earth the fallen world had been doomed to punishment for the commission of sin and had been assigned to eternal damnation. And I am informed by the same Scriptures that Christ gave His body, His blood, and His soul as a propitiation for the sins of mankind. Now, I ask you to emulate the noble example of the Saviour of the world. Let us treat our southern brethren like men, like freemen, like fellow-citizens. And we will have a laurel crown placed upon our brows, if not here, then in heaven, and we shall receive the plaudit, "Well done, good and faithful servants of the Republic."

There is no honor in standing here and abusing the southern people. The revolution through which we have just passed was such a revolution as Abraham Lincoln, when a member of Congress some years ago, said that the people had a right to engage in as an effort to throw off a Government they did not like and to establish another that they preferred. The people of the South attempted to revolutionize the Government; they arrayed large armies against the United States and failed. And if we had failed in our revolution against Great Britain I have no doubt there would have been found in the Parliament of that country radicals who would have urged against us what the radicals here urge against the people of the South.

Our people have shed their blood and spent their treasure in profusion to preserve this Union. The bones of our brave soldiers are now bleaching upon the soil of Virginia. I have not yet forgotten that the sacred tomb of Washington, around which our soldiers gathered and renewed their vows to preserve the institutions of liberty bequeathed to us by our fathers, is in the soil of Virginia, one of the States which a majority of the members of this Congress are trying to keep out of this Union.

Rebellion or revolution never has been considered by the civilized world as having that odiousness and moral turpitude that attaches to men for the commission of heinous crimes. And when the honorable gentleman from Pennsylvania [Mr. KELLEY] undertakes to charge the great masses of the South as being murderers like Probst, he goes counter to the history of the world, and against the revolution which in the end gave Magna Charta to England, and which handed down to this country those bulwarks of liberty upon which our Declaration of Independence and our Constitution are founded. I say they are not murderers, they are not thieves, they are not felons; they are simply political convicts before the altar of patriotism. And the patriotic man who now sits in the presidential chair has, in the spirit of Christianity and humanity, extended to these men pardons, which I say, which the courts say, which tradition says, and which the history of the world says, relieve their recipients of all the effects consequent upon the crime.

Mr. KELLEY. As the gentleman has referred to me personally—

Mr. ROGERS. I cannot be interrupted, for I have but thirty minutes.

Mr. KELLEY. I have to say—

Mr. ROGERS. I cannot be interrupted.

The SPEAKER. The gentleman from New Jersey [Mr. ROGERS] is entitled to proceed without interruption.

Mr. KELLEY. As the gentleman misrepresents me—

Mr. ROGERS. I cannot yield.

Mr. KELLEY. And will not yield for an explanation.

The SPEAKER. The gentleman from Pennsylvania [Mr. KELLEY] is not in order and will take his seat.

Mr. KELLEY (taking his seat.) I must pronounce his statement false.

Mr. ROGERS. I say the gentleman must not come here and vilify the people of the South in this way by comparing them with murderers, and by bringing in the argument that they are as deserving of reprobation and punishment as the monster Probst. I say the masses of the people in the South are not to blame for this war at all. It was the leaders of the South, such men as Yancey and others there, and the fanatical demagogues of the North, some of whom the President has named, (I of course except those upon this floor,) who are guilty of this war.

Sir, you can never win the affections of any people by treating them in the manner in which you propose to treat those people by these measures. The gentleman from Pennsylvania [Mr. STEVENS] is an honest man; I give him credit for that, for I have taken particular notice and studied his caliber, and I believe he is honest in his opinions.

Yes, sir, the honorable gentleman [Mr. STEVENS] says that these persons can come in after the 4th of July, 1870. This resolution does not guaranty any such thing. We must refer to the bill with which the committee accompany the resolution. That bill provides that every State in this Union that is now unrepresented must, before being allowed to have Representatives here, even though they can take the test oath, ratify this constitutional amendment. Though this constitutional amendment should be ratified by three fourths of the States, not one of the eleven States now unrepresented can have representation here unless each State itself joins in ratifying it. Is that fair? It has been said by the honorable gentleman from Pennsylvania that nineteen States—three fourths of those that have never passed acts of secession—are sufficient for the ratification of this constitutional amendment. Why, then, do you seek to compel each of the southern States to ratify the amendment and alter its constitution and laws in conformity thereto, before you will admit here, on taking the usual oath, such honorable and loyal men as are now presenting themselves as Representatives from the State of Tennessee and the State of Arkansas?

Mr. FARNSWORTH. Mr. Speaker, in my half hour I shall confine myself to the amendments of the Constitution now under consideration. When the bill reported by the committee of fifteen comes up for action by this House I may desire to say something in regard to it.

I intend to vote for this amendment in the form reported, with the exception of the third section. It is not all I could wish; it is not all I hope may yet be adopted and ratified; for I am not without hope that Congress and the people of the several States may yet rise above a mean prejudice and do equal and exact justice to all men, by putting in practice that "self-evident truth" of the Declaration of Independence, that Governments "derive their just powers from the consent of the governed," and giving to every citizen, white or black, who has not forfeited the right by his crimes, the ballot. But I do not think it is becoming in a legislator to oppose some good because the measure is not all he wants.

The first section of the amendment proposed is as follows:

SEC. 1. No State shall make or enforce any law

which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of its laws.

So far as this section is concerned, there is but one clause in it which is not already in the Constitution, and it might as well in my opinion read, "No State shall deny to any person within its jurisdiction the equal protection of the laws." But a reaffirmation of a good principle will do no harm, and I shall not therefore oppose it on account of what I may regard as surplusage.

"Equal protection of the laws;" can there be any well-founded objection to this? Is not this the very foundation of a republican government? Is it not the undeniable right of every subject of the Government to receive "equal protection of the laws" with every other subject? How can he have and enjoy equal rights of "life, liberty, and the pursuit of happiness" without "equal protection of the laws?" This is so self-evident and just that no man whose soul is not too cramped and dwarfed to hold the smallest germ of justice can fail to see and appreciate it.

The second section of the amendments proposed is as follows:

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

I like this better than the one this House adopted some time since, and which was defeated in the Senate. That amendment I declared then, as I do now, that I did not like. It received my vote in common with many other members of this House, but with hesitation, doubt, and protest. I will not reiterate the reasons now; but, sir, I have no sympathy with nor approval for the denunciations which the gentleman from Pennsylvania [Mr. STEVENS] has seen fit to hurl at those Senators who differed with him and defeated the adoption of that amendment. I rather admire their patriotism, their courage, and their sense.

The amendment, however, now under consideration is free from what I considered the most objectionable features of the other.

The Constitution now provides for the apportionment of Representatives according to the "whole number of free persons" and "three fifths of all other persons." Consequently, before emancipation, three fifths of the slaves were enumerated, which gave to the slave States nineteen Representatives in Congress, and as many electors of President, based upon a constituency of slaves alone. But now there are no "other persons;" all are free; and when the other two fifths are added in the enumeration they will give the late slave States thirteen more Representatives and electoral votes than before, making thirty-two Representatives and electors for the four million emancipated slaves. Now, this amendment says to those States this: "If the freedmen are so degraded and ignorant as to be unworthy of enfranchisement; if they are not capable of governing themselves, but must be held in subjection to and governed by their late masters, then they are not fit to govern the country through the votes of others." They shall not by any such prestidigitation, be dead at the ballot-box, but alive here, dumb, without a voice for their own government, and with thirty-two voices on this floor, and thirty-two votes for President and Vice President. They shall not be used to swell their rebel masters into giants and dwarf the loyal and patriotic men of the free States into Tom Thumbs! If you deny to any portion of the loyal citizens of your State the right to vote for Representatives you shall not assume to represent them, and, as you have done for so long a time, misrepresent and

oppress them. This is a step in the right direction; and although I should prefer to see incorporated into the Constitution a guarantee of universal suffrage, as we cannot get the required two thirds for that, I cordially support this proposition as the next best.

This amendment, too, I fully believe, will in a reasonably short period bring universal suffrage.

The fourth section of this amendment, repudiating the rebel debt and claims for slaves, will be most heartily adopted and approved by every loyal man in the nation. Every man or woman who holds a Government bond, or who pays a tax, every crippled soldier or widow of a dead soldier, who holds a pension certificate, and everybody who hates treason and rebellion, and prays for the prosperity of the Government, will rejoice at its adoption.

The third section excludes all persons who voluntarily adhered to the rebellion, giving it aid and comfort, from the right to vote for members of Congress, and for electors for President and Vice President until the 4th of July, 1870. I cannot regard this section as of any practical value. I believe it to be difficult, if not impossible, of fulfillment; and I have fears that it may greatly embarrass, if not defeat, the adoption of the other sections should we pass it through this House.

If the rebels are to be disfranchised at all, they should be for a longer period. Again, some rebels are deserving of a total and lasting disfranchisement, while others who are embraced in this provision are not near so criminal. But such a provision would be taken to imply that all shall have the right to vote after July, 1870. Besides, there is a large class of men, both in the North and South, equally, yea, and more, guilty than thousands of the misguided men who will be disfranchised by this provision, who will not be affected by it. I allude to those politicians and others at the South who, keeping themselves out of danger, set on the ignorant and brave to fight for what they were told by these rascals were "their rights;" and to other politicians, editors, "copperheads," in the North, some of whom were and are members of Congress, who encouraged them and discouraged our soldiers.

How is it to be ascertained who "gave aid and comfort" to the insurrection? Is it by challenge and oath at the polls, or shall we have a registration throughout the United States with officers to settle and adjudge that question as to every voter? It seems to me, Mr. Speaker, that this provision is worse than useless, and will very much mar the beneficent effect of the other most excellent provisions of this amendment. Why, sir, the almost universal testimony from the rebel States is that the soldiers who fought us in the field accept their situation of "defeated and vanquished" with a much better grace than the politicians and non-combatants. They do not want to fight again. They are inspired with a wholesome respect for northern character and for the Government. They have ceased their bragging, and are willing to accept the position which the results of the war has placed them in.

Then, with the exception of the third section, I am heartily for the amendment, and if instead of that section we could incorporate a provision into the Constitution which should forever disqualify all the leading rebels from holding any office under the United States, thus making "treason odious" and traitors infamous, the country would hail it with joy.

But, Mr. Speaker, there are men in this House who are opposed to making any amendments to the Constitution, as they say, "until the revolted States are represented here." They say that those States are entitled "of right" to have their Senators and Representatives in this Capitol. They say that it is wrong to enact any legislation affecting those States without first "consulting them." This is the pretense. The real fact is they know very well that if each of those States had its two Senators in the other end of the Capitol, and the members which the present basis of representa-

tion gives them in this end, amendments would be impossible, for their votes, added to those already here, who have been upon their side throughout the war, will always prevent their adoption.

What would be the result in such a case? Mr. Speaker, I tremble for my country when I contemplate the possibility of such a conclusion to the bloody struggle we have gone through. Let me enumerate some of the calamities which will follow:

1. There would be the admission to Congress, and other places of power, of unrepentant and unwashed murderers and traitors.

2. The driving from their borders of every loyal man and woman who has been faithful to the Government.

3. Repeal of the civil rights bill, and grinding to the very depths of misery, compared with which slavery would be a boon, the four million freedmen.

4. Assumption by the General Government of the rebel debt, and payment to rebel masters for their slaves.

5. They would extend the pension laws to embrace the traitors who fought against the Government, and would pay the claims of rebels for damages by the war.

6. They would elect for the next President not Andrew Johnson, as some suppose, but Robert E. Lee, who might possibly reward his northern friends by giving places in his Cabinet to Fernando Wood, of New York, and Vallandigham, of Ohio.

Such is the picture. Why, sir, rather than such a consummation, a thousand times rather that we had never pulled trigger or drawn sword to maintain the integrity of the Government. Better, a million times better, that we had saved the blood its preservation has cost us. Why, sir, the very bones of the uncoffined dead would turn in their graves at such a result of their sacrifice. I know, and with shame confess it, that there are recreants and apostates among us, not many, I thank God, however, but some there are now in Congress, who have been trusted by an honest and confiding constituency, but who prefer to bask in the sunshine of executive favor, who rather "crook the pregnant hinges of the knee where thrift may follow fawning," and betray their trust; but their number is small.

The tribe of Judas has never been a very flourishing one, for those who do not, like Judas, in remorse hang themselves, very soon wither under the scorching indignation of mankind. There are not enough of them, I trust, to defeat what is absolutely demanded by the country. And the country does demand that we ingraft upon the organic law of the nation, placing them in the custody of the whole people, beyond the reach of party or faction, or of sudden passion, to repeal them, these or similar and stronger amendments. The preservation of the Government requires it. The rights and liberties of the loyal poor cannot be preserved without it. The financial credit of the Government will be ruined unless it is done. These things to me seem inevitable.

But those gentlemen upon the other side of the House, whose vocation seems to be to oppose every measure which is in the interest of the Government and of humanity, think it would be an excellent idea to have the rebels here, to themselves vote upon and fix the conditions of reconstruction. A most happy idea! Having failed to destroy the Government by a resort to arms, now only once let them in here under the old apportionment, which makes a rebel of South Carolina as big as two or three loyal men of Illinois, let them in with the blood of slain patriots yet dripping from their fingers, and the doubly damning crime of starving prisoners still blackening their souls, and then talk about amending the Constitution.

Sir, the Constitution makes Congress the judge of the election and qualification of its own members. The Constitution also declares that "the Government" (not the President) "shall guaranty to each State a republican form of government." When a Territory makes

application for admission as a State, the Congress has first to pass the law, and fix the terms for its admission.

The States in rebellion revolted, destroyed their State governments as States of this Union; fought us four years for a separate nationality; were vanquished. Now, who shall determine the conditions upon which Congress shall receive their Senators and Representatives again? Who shall say whether they have readopted a republican form of government?

The President seems to suppose it his prerogative. But the President will yet learn that he is not the "Government." He dictated to those States conditions, what they should and should not put into their constitutions, and cannot Congress, the representatives of the people, the real "Government," do the same?

The whole copperhead fraternity applaud the President. Rebels South and sympathizers with rebellion North glorify Andrew Johnson; the devilish company of traitors praise him; the confederates of Booth and Payne praise him; the importers of poisoned clothing praise him; the glorious company of Jeff. Davis, his cabinet, his congress, his generals, with all the enemies of freedom in our own land, glorify him; and the enemies of liberty and republican institutions throughout the world, all who were on the side of the rebellion and against us throughout the war, praise and magnify his name. These, together with a few Judases and Esaus, applaud Andrew Johnson. Yet he dictated conditions to the rebel States, and cannot the law-making power of the Government do the same?

Sir, it is high time that traitors and the world shall know that the same men who preserved the Government from destruction, who made the laws, furnished the means, and did the fighting necessary for its preservation and defense, ought to and will reconstruct and do what is necessary to maintain it. The same who dictated terms to rebels in the field ought to and will dictate the terms upon which, and which only, they may be received into fellowship and power again. Men to whom the people have intrusted positions of high honor and power may apostatize and betray them for a little season, but they are sure to be crushed under the wheels of the great car of the people's wrath.

There are some who suppose that men who have given limbs and health and the best years of their lives for the salvation of their country, can now be bought for a petty post office; that fathers who have laid their sons upon the altar of their country are to be turned aside with the hope of a little temporary, contemptible patronage. Such persons do not know the American people, the Union people of the North. They have sacrificed too much to turn back now; their patriotism is made of better material, of sterner stuff than that. A people, in whose every house there is either a returned soldier or the vacant chair of one who never will return, cannot be bought with any such stuff. And it is strange that men in high places do not know these things. Are they both blind and deaf? Why, sir, a man need not read the papers to find it out. If he will but put his ear to the ground he may still hear the tramp, tramp, tramp, of the men who marched with Sherman to the sea, and with Grant to Richmond and Vicksburg, still keeping time to the same music, and still animated and inspired by the same determination. The very air is vocal with the loud demands of the people; while the invisible spirits of half a million of the noblest men who ever lived, and who sleep the sleep which shall know no waking until the last great roll-call is sounded, beseech us that we do not let their sacrifice be in vain.

Mr. Speaker, I now yield the remainder of my time to the gentleman from Massachusetts, [Mr. DAWES.]

Mr. DAWES. Mr. Speaker, I do not intend to discuss the merits of this measure, for I give it, with the exception of the third section, my hearty support. I shall vote for the amend-

ment if I cannot get the section excluded. But I prefer not to stake the infinite good of the remainder upon the uncertainty of ever incorporating the third section in the Constitution. I desire now to call the attention of the House again to the question which I raised yesterday, and to which my colleague [Mr. BANKS] has referred in the remarks which he made a short time ago, namely, that of a possible contest in the Electoral College. I do feel that the question, notwithstanding the easy solution of it to which he has arrived, has more of a serious character in it than seems to have suggested itself to his mind; and with the indulgence of the House I will endeavor to show it.

There is no legislation in the land upon the subject. The only provision governing the counting of the votes of the Electoral College is in the Constitution itself; and it is in these words:

"The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates; and the votes shall then be counted."

But who shall decide, if there be a dispute, whether a vote has come from a man legally chosen? There is no tribunal yet erected to determine that fact. Chancellor Kent says that it is *casus omissus*, a case that has not been provided for by the framers of the Constitution; that there is no provision in the laws or the Constitution of the United States by which that may be determined. Whether or not it be beyond our power under the Constitution to make such provision, certain it is that we have made no such provision. Chancellor Kent said upon this point, as reported in the debate in connection with the very case which has been cited by my colleague, that of the Wisconsin vote in 1856, that it was a *casus omissus*, and neither law nor the Constitution itself had provided a solution of the difficulty. When the nation should be involved in such a contest he trembled for the result. He speaks of it in his Commentaries in the following words:

"The Constitution does not express by whom the votes are to be counted and the result declared. In the case of questionable votes and a closely contested election, this power may be important; and I presume, in the absence of all legislative provision on the subject, that the President of the Senate counts the votes and determines the result, and that the House are present only as spectators, to witness the fairness and accuracy of the transaction."

Upon the occasion alluded to by my colleague, Henry Winter Davis used this language:

"Now, sir, no strict constructionist, or wide or loose constructionist, can find any function confided to both Houses together or to one separately, which enables them to pass, preliminarily, upon the point whether one vote shall be counted or another rejected. No judgment is called for at all. On the contrary, the Constitution carefully avoids asking for any judgment by anybody upon a mere count."

The idea of referring this to the two Houses in their separate capacity for solution involves at once another difficulty. The two Houses in their separate capacity act as legislators, and legislators alone, and their functions are all prescribed by the Constitution itself. This is not one of them. They cannot as separate bodies act upon the genuineness of the election of a member of the Electoral College, for they have not been constituted for any such purpose nor clothed with any such power. They are not clothed with the judicial power of passing upon the validity of an election of President and Vice President; and suppose the Senate comes to one conclusion and the House to another, what is the result? Suppose the Senate in the Wisconsin case had determined that Mr. Buchanan was elected and the House in its separate capacity had determined that no one was elected, the Constitution requires that the House, thereupon, shall proceed immediately, yes, immediately is the command of the Constitution, without the concurrence of the Senate, to choose a President. Then comes the terrible peril in which this country will be involved, the ordeal through which it will have to pass where the House of Representatives determine one way and the Senate the other.

I do not mean to say it is not within our power under the Constitution to provide a tri-

bunal; upon that question there is no occasion to remark. I have only to say that as yet no such tribunal has been provided. On the occasion alluded to by my colleague it was the opinion of learned men both in the House and in the Senate that the country barely escaped a revolution. They did not decide, as I understood my colleague to say, by passing into their respective Halls whether the vote of Wisconsin should be counted or not. The question was not decided, and remains to be decided to this day. After being in convention and witnessing the opening of the votes, the Senate of its own motion left this Hall and went into their separate Chamber before the work was completed and there undertook to complete by concurrent action, by joint committee of the two Houses, what ever failed to be done here in the meeting of the two bodies, growing out of the dispute about the Wisconsin vote.

But, Mr. Speaker, they failed to accomplish anything. Their resolution was laid upon the table. So with a similar resolution in the House. To-day it has not been decided whether those votes of Wisconsin should be counted or not. Now, suppose the disputed vote had determined the result, and suppose the House differed in its conclusion with the Senate of the United States, and the House elected one man President and the Senate declared that another man was elected. It needs no argument and no suggestion from me to show the House the peril in which the nation would have been involved, and all this in a time of comparative peace. That is one objection I have to the third section in the proposed amendment of the Constitution unless you erect some tribunal to decide the question which may be made. It increases that peril by increasing the danger of a contest, and at a time, too, when there is not yet peace. The embers of war are still glowing. Still, as I said before, I am disposed to vote for it if that cannot be stricken out, but I will give it my hearty support, and so will every loyal heart, if not embarrassed by that clause.

Let me read, if I have a moment's time, what was said by a distinguished gentleman who has since been Governor of his State, Mr. Washburn, of Maine, when the peace of our country came so nigh being disturbed by the Wisconsin case:

"The Constitution provides that the President of the Senate, in the presence of the two Houses, shall open all certificates, and that the votes shall be counted, and the person having the greatest number of votes for President shall be President of the United States, if such number be a majority of the whole number of electors appointed; and so in regard to the Vice President. The votes shall be opened in the presence of the Senate and House of Representatives and then counted. By whom? There is no provision of the Constitution, or of law, that they shall be counted by the Senate or the House, or by a joint convention. There has been no joint convention; nor could there have been any. The assemblage here could do nothing for which it had not the authority of law, and there is no law authorizing the count of these votes by a joint convention, or prescribing the rules and regulations to be observed therein. It was the duty of the President of the Senate here, in the presence of the two Houses, to open the certificates, and to cause the votes to be counted. The Houses had directed how they were to be counted, by a teller appointed on the part of the Senate and two tellers appointed on the part of the House. These tellers made the count, and here, in the presence of us all, made their report to the President of the Senate; and the President of the Senate, in the presence of the two Houses, and in exact conformity with the provisions of the Constitution, did declare the whole number of votes, and did declare who had the majority. Nothing but that could have been done. There was no power on the part of the Senate, or on the part of the House, to interfere with the execution of this duty precisely as specified in the Constitution and in the resolution of the two Houses.

I hold, therefore, that no motion whatever can be made, and that the meeting, under the Constitution, the law of 1792, and the joint resolution, is *functus officio*. I have no doubt, sir, that there is here a *casus omissus*; that there is no law and no provision of the Constitution by which anything can possibly be done except what has been done by the President of the Senate in presence of the two Houses. I hold that he ruled aright when he refused to entertain the motions made to him, and when he announced from the chair, in presence of the Senate, and to the House, what had been declared to him by the tellers. That is all that he did, and all that he had authority to do. I am, at the same time, very clear that it is of the highest importance that there should be some legislation on this

subject. All that we can now do is to acquiesce in the decision that has been made, and to set ourselves to work immediately for the passage of a law which will prevent any trouble or difficulty of this kind in future. I received a letter but a few days ago from a gentleman eminent for his wisdom and ability, who states therein that the late Chancellor Kent, of New York, had told him that here was clearly a *casus omissus*; that there was no power, either in the House or Senate, or in a joint convention, to interfere and participate authoritatively in counting and declaring the votes and deciding upon their validity; and he said that the Chancellor added that he feared the time might come when the country would be shaken to its center on this point."

Mr. Seward and Mr. Collamer in the Senate, on the same occasion, expressed similar views, each declaring the impotency of the two Houses or any tribunal known to the law to solve the difficulty, and at the same time each rejoicing at the escape from peril which the immaturity of the vote in question had secured, but pointing out the terrible danger to which the nation would be exposed if ever a material vote in the Electoral College should be questioned.

[Here the hammer fell.]

EVENING SESSIONS.

Mr. WASHBURN, of Illinois. I rise to a privileged question, and move that evening sessions be hereafter dispensed with. I do so for the reason the House is so far ahead of the Senate that it is unnecessary for us to come here at night, and for the further reason that the reporters are utterly overwhelmed with labor.

The motion was agreed to.

RECONSTRUCTION—AGAIN.

Mr. BINGHAM obtained the floor.

Mr. BANKS. I ask the gentleman to allow me one moment to say a word of reply to my colleague.

Mr. BINGHAM. I am willing to yield if it does not come out of my time, otherwise I must proceed.

The SPEAKER. It will come out of the gentleman's time.

Mr. BINGHAM. Mr. Speaker, I beg the House to remember that the three several measures reported by the committee on reconstruction must be considered together as an entirety in order to determine the merit of the question immediately involved before the House in the adoption of the constitutional amendment. I do not believe myself, sir, that the purpose for which this committee was organized by the House would be fully attained if nothing more were to be done by the Congress of the United States than simply to send to the people of the several States the proposition reported by the committee for the amendment of the Constitution.

There are three measures, Mr. Speaker, and not, as some gentlemen seem to argue, but one, that have been reported by this committee. The first of these measures is a condition precedent to the reorganization and restoration to political power of any State lately in insurrection. That measure has more than once during this debate been lost sight of by gentlemen who have spoken.

No State lately in insurrection, according to one of the measures reported, in case it shall become a law of the United States, can ever exercise political powers in this Union until the pending constitutional amendment shall first have become a part of the Constitution of the United States, by the consent of the Legislatures of three fourths of the States now maintaining their constitutional relations to the Government, and by the subsequent consent of the insurrectionary State itself, the State also conforming its own constitution and laws to all its requirements.

Additional to this there is yet another measure reported by the committee to which I attach great importance, and to which I doubt not the loyal people of this country of every section will attach great importance. That is the bill which disqualifies forever from holding any office of honor or trust within the Republic every leading and marked actor in the late rebellion. By that bill the president and vice president of the late confederate States so

called will be excluded; the members of the Thirty-Sixth Congress who in any manner aided this rebellion will be excluded; all persons who were educated at the national academies, naval or military, who have been endowed by the people with the power of knowledge, a gift next in value to the gift of the understanding with which the breath of the Almighty has given them, are excluded; the persons who represented this confederacy of treason and crime in any part of the habitable globe are excluded; and above all and beyond all, all persons who in any manner subjected to untimely death by exposure or neglect or the slow torture of famine or poison the captive defenders of the Union, are forever excluded.

The mere statement and concession of the people's right to exercise this power, which is undoubtedly the sovereign right of the American people, by a congressional act, ought to have suggested to the honorable gentleman from Massachusetts [Mr. BANKS] that if it is needful in this great work of reconstruction further to disfranchise the participants in this rebellion, it can be done in like manner by an act of Congress, and without a constitutional amendment.

The franchise of a Federal elective office is as clearly one of the privileges of a citizen of the United States as is the elective franchise for choosing Representatives in Congress or presidential electors. They are both provided for and guaranteed in your Constitution. Why, then, prohibit rebels from the enjoyment of the first for life by an act of Congress and restrict the second for a term of years by a constitutional amendment? To be sure we all agree, and the great body of the people of this country agree, and the committee thus far in reporting measures of reconstruction agree, that the exercise of the elective franchise, though it be one of the privileges of a citizen of the Republic, is exclusively under the control of the States. But, sir, the committee never intimated and never intended to intimate by any measure they have reported that any State lately in insurrection can exercise either that power or any other until it is restored to its constitutional relation to the Union save by the express or implied consent of the Congress of the United States, nor that after being restored they can exercise that power contrary to the express conditions prescribed by Congress for their restoration. The power to prescribe these conditions is exclusively in Congress.

That is the philosophy of every measure of reconstruction now pending before the House. And that is wherein it is opposed to the opinions of gentlemen on the other side of the House who have spoken, I am sorry to say—and I say it without the slightest intention of giving offense to any man—not in the spirit of representatives of the people, but in the spirit of partisans. For myself, I cannot approach the discussion of this great question, which concerns the safety of all, in the spirit of a partisan. God forbid that I should approach this subject in any other character than that of a representative of the people—a representative of the people not unmindful of the oath which I took, sir, before your tribune.

Mr. WRIGHT. I rise to a question of order. The gentleman, by reflection, seems to infer that we do not represent the people, and that we are unmindful of our oaths.

The SPEAKER. That is not a point of order under parliamentary law, but an interruption without the consent of the member speaking.

Mr. BINGHAM. The want of the Republic to-day is not a Democratic party, is not a Republican party, is not any party save a party for the Union, for the Constitution, for the supremacy of the laws, for the restoration of all the States to their political rights and powers under such irrevocable guarantees as will forevermore secure the safety of the Republic, the equality of the States, and the equal rights of all the people under the sanctions of inviolable law.

I trust, Mr. Speaker, that after the roll shall have been called this day, and the departing sun shall have gilded with its last rays the dome of the Capitol, it will not be recorded by the pen of the historian that the sad hour had come to this great Republic which, in the day of its approaching dissolution, came to the republic of ancient Rome, when it was said Cæsar had his party, Antony had his party, Brutus had his party, but the Commonwealth had none!

I speak to-day, Mr. Speaker, to the party that is for the Republic; to the party that is for the Constitution; to the party that is for the speedy restoration to their constitutional relations of the late insurrectionary States, under such perpetual guarantees as will guard the future of the Republic by the united voice of a united people against the sad calamities which have in these late years befallen it.

Mr. Speaker, the final settlement of this grave question which touches the nation's life is at last with the people of the loyal States—the loyal people of the Union. To the end, therefore, knowing, as the committee did know, that parties must dissolve, that men must perish from the earth, but that the Commonwealth is for all time, if its laws be just and its people be faithful, they propose to the several States a perpetual covenant in the form of a constitutional amendment, never to be broken so long as the people adhere to their cherished forms of government, which, when ratified, will secure the safety of all and the rights of each, not only during the present generation, but throughout all generations, until this grand example of free government shall itself be forgotten. The amendment reported by the committee is as follows:

ARTICLE —.

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

The necessity for the first section of this amendment to the Constitution, Mr. Speaker, is one of the lessons that have been taught to your committee and taught to all the people of this country by the history of the past four years of terrific conflict—that history in which God is, and in which He teaches the profoundest lessons to men and nations. There was a want hitherto, and there remains a want now, in the Constitution of our country, which the proposed amendment will supply. What is that? It is the power in the people, the whole people of the United States, by express authority of the Constitution to do that by congressional enactment which hitherto they have not had the power to do, and have never even attempted to do; that is, to protect by national law the privileges and immunities of all the citizens of the Republic and the inborn rights of every person within its jurisdiction whenever the same shall be abridged or denied by the unconstitutional acts of any State.

Allow me, Mr. Speaker, in passing, to say that this amendment takes from no State any right that ever pertained to it. No State ever had the right, under the forms of law or otherwise, to deny to any freeman the equal pro-

tection of the laws or to abridge the privileges or immunities of any citizen of the Republic, although many of them have assumed and exercised the power, and that without remedy. The amendment does not give, as the second section shows, the power to Congress of regulating suffrage in the several States.

The second section excludes the conclusion that by the first section suffrage is subjected to congressional law; save, indeed, with this exception, that as the right in the people of each State to a republican government and to choose their Representatives in Congress is of the guarantees of the Constitution, by this amendment a remedy might be given directly for a case supposed by Madison, where treason might change a State government from a republican to a despotic government, and thereby deny suffrage to the people. Why should any American citizen object to that? But, sir, it has been suggested, not here, but elsewhere, if this section does not confer suffrage the need of it is not perceived. To all such I beg leave again to say, that many instances of State injustice and oppression have already occurred in the State legislation of this Union, of flagrant violations of the guaranteed privileges of citizens of the United States, for which the national Government furnished and could furnish by law no remedy whatever. Contrary to the express letter of your Constitution, "cruel and unusual punishments" have been inflicted under State laws within this Union upon citizens, not only for crimes committed, but for sacred duty done, for which and against which the Government of the United States had provided no remedy and could provide none.

Sir, the words of the Constitution that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States" include, among other privileges, the right to bear true allegiance to the Constitution and laws of the United States, and to be protected in life, liberty, and property. Next, sir, to the allegiance which we all owe to God our Creator, is the allegiance which we owe to our common country.

The time was in our history, thirty-three years ago, when, in the State of South Carolina, by solemn ordinance adopted in a convention held under the authority of State law, it was ordained, as a part of the fundamental law of that State, that the citizens of South Carolina, being citizens of the United States as well, should abjure their allegiance to every other government or authority than that of the State of South Carolina.

That ordinance contained these words:

"The allegiance of the citizens of this State is due to the State; and no allegiance is due from them to any other Power or authority; and the General Assembly of said State is hereby empowered from time to time, when they may deem it proper, to provide for the administration to the citizens and officers of the State, or such of the said officers as they may think fit, of suitable oaths or affirmations, binding them to the observance of such allegiance, and abjuring all other allegiance; and also to define what shall amount to a violation of their allegiance, and to provide the proper punishment for such violation."

There was also, as gentlemen know, an attempt made at the same time by that State to nullify the revenue laws of the United States. What was the legislation of Congress in that day to meet this usurpation of authority by that State, violative alike of the rights of the national Government and of the rights of the citizen?

In that hour of danger and trial to the country there was as able a body of men in this Capitol as was ever convened in Washington, and of these were Webster, Clay, Benton, Silas Wright, John Quincy Adams, and Edward Livingston. They provided a remedy by law for the invasion of the rights of the Federal Government and for the protection of its officials and those assisting them in executing the revenue laws. (See 4 Statutes-at-Large, 632-33.) No remedy was provided to protect the citizen. Why was the act to provide for the collection of the revenue passed, and to protect all acting under it, and no protection given to secure the citizen against punishment for fidelity to

his country? But one answer can be given. There was in the Constitution of the United States an express grant of power to the Federal Congress to lay and collect duties and imposts and to pass all laws necessary to carry that grant of power into execution. But, sir, that body of great and patriotic men looked in vain for any grant of power in the Constitution by which to give protection to the citizens of the United States resident in South Carolina against the infamous provision of the ordinance which required them to abjure the allegiance which they owed their country. It was an opprobrium to the Republic that for fidelity to the United States they could not by national law be protected against the degrading punishment inflicted on slaves and felons by State law. That great want of the citizen and stranger, protection by national law from unconstitutional State enactments, is supplied by the first section of this amendment. That is the extent that it hath, no more; and let gentlemen answer to God and their country who oppose its incorporation into the organic law of the land.

The second section of the amendment simply provides for the equalization of representation among all the States of the Union, North, South, East, and West. It makes no discrimination. New York has a colored population of fifty thousand. By this section, if that great State discriminates against her colored population as to the elective franchise, (except in cases of crime,) she loses to that extent her representative power in Congress. So also will it be with every other State.

Upon the third section of the amendment gentlemen are divided upon this side of the House as well as upon the other. It is a provision that until the year 1870 all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress or for electors for President or Vice President of the United States. This section imposes no other or further disability.

It seems to me, Mr. Speaker, that this section can bring no strength to the amendment, although I fully agree with the honorable gentleman from Massachusetts [Mr. BANKS] in the words which he so fitly uttered, it is within the authority of the people of the United States to disfranchise these parties. But, sir, I submit to the honorable gentleman, and I submit to the House, that if we have the power by a mere act of Congress, (as is conceded by the committee,) to take from rebels the franchise of office under the Government of the United States for life, as is provided in the bill reported by the committee, we can as well take from them until 1870, by an act of Congress, the right to vote for Representatives in Congress or for presidential electors, as is provided in the third section of this amendment.

Mr. STEVENS. And have it vetoed.

Mr. BINGHAM. My friend from Pennsylvania says, "and have it vetoed." I am not fearful of any veto at the other end of the avenue. I believe no veto can defeat the final passage of either of the measures reported to the House, nor can a veto defeat the final triumph of this constitutional amendment before the people. The success of the amendment here depends upon no veto. It does not go to the President for his sanction. Touching, however, the other question, the veto of the bill, even with the provision of the third section added to it, I do not believe for a moment, that the President will veto it, and for the reasons suggested, which I have not time to enumerate now, by the gentleman from Massachusetts in the citations he made from the President's proclamation of the 29th of May last and the just deductions he drew therefrom. I can vote for the amendment with the third section in as readily as without it. It raises no question of power; it imposes no unjust disability. It involves a question of policy, not of power. The sovereignty of the nation can unquestionably disfranchise the persons referred to, not only until 1870, but until seventy times seventy

shall have passed over them, if it pleases God to allow them so long to live upon the earth.

The question upon the third section, and the only question, is, what do we gain by putting it in the constitutional amendment? If thereby we endanger the adoption of the amendment in the Senate, or its final ratification by the requisite number of States, we should omit it. It has been said that the third section is incapable of execution if adopted. I beg leave to say to the House that in my opinion an amendment that is not to be executed to the full, and which is incapable of full execution, ought not to be put into the Constitution. My honorable colleague from the Columbus district, [Mr. SHELLABARGER,] in my judgment, suggested, in the few remarks which he made yesterday, the only method by which the Government of the United States can enforce the first clause of that section, and that is by making a registry law for congressional districts, and the election of Representatives to Congress all over the country, and appointing election officers to conduct the same. The first clause only of the third section can in that way be executed; but is there anybody here who proposes to send Federal election officers into Massachusetts or New York to control the elections of Representatives to Congress? The amendment, sir, is of universal application, and if adopted, it is to be enforced in every State in the Union. There are voters within the operation of this section in every State. I have no objection to their disfranchisement, but are you going to enforce the provision if adopted? If not, why retain it? Is it to be retained simply to furnish demagogues a pretext for raising the howl that we exclude rebels for four years only that we may control the next presidential election? Honest, intelligent, and reflecting men will scout such a suggestion, but the calculating and the careless or thoughtless may accept and act upon it to the hurt, the lasting hurt, of the sacred cause this day in your hands. How, I ask, can the last clause of this third section be enforced?

That clause of the section excludes until 1870 all rebels from voting for electors for President and Vice President of the United States.

I venture to say that by the very letter and intentment of the Constitution of our country, the great seal of a State, duly organized and exercising its functions within this Union touching the appointment of electors for President and Vice President of the United States, is final and conclusive upon Congress, except when the certificate shows that the electors were appointed on a day other than that prescribed by the Constitution or the laws. The Constitution has provided that these electors shall be appointed by each State in such manner as the Legislature thereof may direct; that the Congress may determine the time of choosing the electors and the day on which they shall give their votes, which day shall be the same throughout the United States, and that the electors shall certify their action.

If the State and the electors' certificates show that all these provisions have been complied with, Congress cannot go behind them and inquire who voted for the electors. If, on the contrary, the certificate from any State discloses that the electors did not meet on the day prescribed by law, as was the fact in the Wisconsin case, to which the gentleman from Massachusetts [Mr. BANKS] referred, of course the Congress could reject the vote from that State, but where the certificates are regular, where they show a due appointment of electors, that the electors were chosen on the day prescribed by law, and met and voted for President and Vice President on the day prescribed by law, Congress cannot go behind the certificates; neither can the two Houses of Congress, in joint convention or separately, investigate the question. The appointment of electors for President and Vice President of the United States is the act of a State and not of individuals. "Each State shall appoint," says the Constitution; therefore the act can

be evidenced only by the certificate of the State officials, under its great seal, which imports absolute verity. How could Congress say the appointment was not the act of the State against the certificate and seal of the State?

The remarks of some gentlemen to the effect that under the Constitution we could enforce the first clause of the section by inquiring into the election of members of the House or of the Senate, do not apply to the last clause, because the express language of the Constitution is that "each House shall be the judge of the elections and returns" as well as the "qualifications of its own members." There is no like grant in the Constitution that each House or both Houses in joint convention may inquire into the appointment of electors; therefore the second clause of the third section of the amendment is useless.

I venture to say that clause is useless unless, indeed, by implication Congress is to declare the express text of the Constitution as I have cited it repealed by the proposed amendment when adopted, and that by virtue of it Congress will prescribe by law the mode and manner of appointing electors for President and Vice President of the United States, in the face of the existing provision of the Constitution that "each State shall appoint the electors in such manner as the Legislature thereof may direct." Who will say, if this amendment is adopted, that the State Legislatures may not direct the manner and each State appoint electors? To what, then, are we reduced? This amendment does not disqualify any rebel or aider of the rebellion from voting at all the State elections for all State officers, nor does it disqualify them from being appointed presidential electors. It amounts, therefore, to this: though it be adopted, and made part of the Constitution, yet all persons "who voluntarily adhered to the late insurrection, giving it aid and comfort," may vote at all the State elections for State officers, and, being largely in the majority in every insurrectionary State, may elect the State Legislature, which may appoint electors for President and Vice President of the United States, and from aught in the amendment may appoint rebels as such electors.

It seems to me, sir, that it must by this time be apparent to members of the House that this clause of the amendment is never to be executed until that part of the text of your Constitution is stricken out; or in other words, that it will require another amendment to the Constitution to enforce this clause if adopted.

I trust, therefore, that when the vote comes to be taken on the pending motion to strike out which is offered by way of instruction to the motion to recommit, it will be adopted, and that afterward the House will, if it deems it important, put such a provision as to the election of Representatives to Congress as it has the lawful right to do in the bill of disfranchisement.

Mr. Speaker, there is another section which simply prohibits the United States or any State of this Union from ever assuming or paying any part of the rebel debt or making compensation for emancipated slaves. I do not believe that there is a man on this floor who can answer to his constituency for withholding his vote from that proposition. It involves the future fidelity of the nation. It is a declaration in solemn form, if accepted by the people, that the resources of this great country shall be used in the future, not to liquidate debts contracted in aid of rebellion, not to pay for emancipated slaves, but to maintain inviolate the plighted faith of the nation to all the world and especially to its dead and its living defenders.

Mr. Speaker, I trust that this amendment, with or without the third section, will pass this House. I trust that the disfranchisement bill, with or without additions, will pass this House. I trust that the enabling act for the restoration of the States that have been in rebellion will, with amendment, pass this House; so that the day may soon come when Tennessee—loyal Tennessee, loyal in the very heart of the rebellion,

her mountains and plains blasted by the ravages of war and stained with the blood of her faithful children fallen in the great struggle for the maintenance of the Union—having already conformed her constitution and laws to every provision of this amendment, will at once upon its submission by Congress irrevocably ratify it, and be without further delay represented in Congress by her loyal Representatives and Senators, duly elected and duly qualified and ready to take the oath of office prescribed by existing law.

Let that great example be set by Tennessee and it will be worth a hundred thousand votes to the loyal people in the free North. Let this be done and it will be hailed as the harbinger of that day for which all good men pray, when the fallen pillars of the Republic shall be restored without violence or the noise of words or the sound of the hammer, each to its original place in the sacred temple of our national liberties, thereby giving assurance to all the world that for the defense of the Republic it was not in vain that a million and a half of men, the very elect of the earth, rushed to arms; that the Republic still lives, and will live forevermore, the sanctuary of an inviolable justice, the refuge of liberty, and the imperishable monument of the nation's dead, from the humblest soldier who perished on the march, or went down amid the thunder and tempest of the dread conflict, up through all the shining roll of heroes, and patriots, and martyrs, to the incorruptible and immortal Commander-in-Chief, who fell by an assassin's hand in the capital, and thus died that his country might live.

Mr. STEVENS. Mr. Speaker, I rise to conclude the debate, but I will not move the previous question until I finish what I have to say.

I am glad, sir, to see great unanimity among the Union friends in this House on all the provisions of this joint resolution except the third one. I am not very much gratified to see any division among our friends on that which I consider the vital proposition of them all. Without that, it amounts to nothing. I do not care the snap of my finger whether it be passed or not if that be stricken out. Before another Congress shall have assembled here, and before this can be carried into full effect, there will be no friends of the Union left on this side of the House to carry it out as—

Mr. LE BLOND. Members are crowding the aisles on the other side and the open space in the center of the House so that we can neither see nor hear what is going on.

The SPEAKER. Members must resume their seats.

Mr. STEVENS. I should be sorry to find that that provision was stricken out, because before any portion of this can be put into operation there will be, if not a Herod, a worse than Herod elsewhere to obstruct our actions. That side of the House will be filled with yelling secessionists and hissing copperheads. Give us the third section or give us nothing. Do not balk us with the pretense of an amendment which throws the Union into the hands of the enemy before it becomes consolidated.

Gentlemen say I speak of party. Whenever party is necessary to sustain the Union I say rally to your party and save the Union. I do not hesitate to say at once, that section is there to save or destroy the Union party, is there to save or destroy the Union by the salvation or destruction of the Union party.

The gentleman from Ohio [Mr. BINGHAM] who has just taken his seat thinks it difficult to carry it into execution, and he proposes to put it into a bill which the President can veto. Will my friend tell me how much easier it is to execute it as a law than as a provision of the Constitution? I say if this amendment prevails you must legislate to carry out many parts of it. You must legislate for the purpose of ascertaining the basis of representation: You must legislate for registry such as they have in Maryland. It will not execute itself, but as soon as it becomes a law, Congress at the next

session will legislate to carry it out both in reference to the presidential and all other elections as we have the right to do. So that objection falls to the ground.

Gentlemen tell us it is too strong—too strong for what? Too strong for their stomachs, but not for the people. Some say it is too lenient. It is too lenient for my hard heart. Not only to 1870, but to 18070, every rebel who shed the blood of loyal men should be prevented from exercising any power in this Government. That, even, would be too mild a punishment for them.

Gentlemen here have said you must not humble these people. Why not? Do not they deserve humiliation? Do not they deserve degradation? If they do not, who does? What criminal, what felon deserves it more, sir? They have not yet confessed their sins; and He who administers mercy and justice never forgives until the sinner confesses his sins and humbles himself at His footstool. Why should we forgive any more than He?

But we are told that we must take them back as equal brothers at once. I shall not agree they shall come back except as supplicants in sackcloth and ashes. Let them come back and ask forgiveness, and let us then consider how many we will forgive and how many we will exclude. All I regret is, this is not sufficiently stringent.

Sir, they tell us, I hear several gentlemen say, that these men should be admitted as equal brethren. Let not these friends of secession sing to me their siren song of peace and good will until they can stop my ears to the screams and groans of the dying victims at Memphis. I hold in my hand an elaborate account from a man whom I know to be of the highest respectability in the country, every word of which I believe. This account of that foul transaction only reached me last night. It is more horrible in its atrocity, although not to the same extent, than the massacre at Jamaica. Tell me Tennessee or any other State is loyal of whom such things are proved!

I regret that the true men of these States cannot be brought in, but they cannot be brought in with rebel constituency behind them. They would misrepresent their States. Therefore I can never agree to let them in under the present state of affairs. Let us have probation; let us be sure that something more than mere willingness to come in has been felt by them.

Mr. Speaker, I do not intend to occupy many minutes. I was indeed astonished to find my respected colleague, I will not say so tender-hearted, but so lenient to those toward whom mercy is not rendered necessary. But I know so well his natural kindness of heart and his proximity to that eloquent divine who so lately has slaughtered whole herds of fatted calves, that I cannot be much surprised at it. But, sir, if he is so fond of such associates, let me suggest in all kindness to him that he can find better company nearer home. He lives very near Cherry Hill, where there is a State institution containing several hundred inmates who—

Mr. THAYER. Will the gentleman allow me to correct him in his geography? I do not live near Cherry Hill. I live on the top of Chestnut Hill. [Laughter.] And I would like to know the name of the distinguished divine to whom he refers. I cannot recollect any one.

Mr. STEVENS. It is the late Henry Ward Beecher. [Laughter.]

Mr. THAYER. I understood my colleague to say a neighbor of mine. Mr. Beecher lives about a hundred miles from me.

Mr. STEVENS. Well, that is in the neighborhood in this country, three thousand miles in extent. [Laughter.]

Mr. THAYER. The gentleman himself is about as near and much nearer to him in many things than I am. [Laughter.]

Mr. STEVENS. How near does my friend live to Cherry Hill?

Mr. THAYER. About ten miles.

Mr. STEVENS. Well, let him walk ten miles, instead of going two or three thousand South, and he will find, as I said, three or four

hundred inmates, whom, if he wishes to forgive and enfranchise, he will find at present a little restrained of their rights. They have done nothing but err. There is no blood upon their hands; they have only erred in committing such little acts as arson and larceny. Let him go to one of those corridors and cause it to be opened and they will flock around him, and he will see men who are not half as bloody and have not committed half as many crimes as the rebels whom he wishes to see immediately admitted here.

Now, sir, for my part I am willing they shall come in when they are ready. Do not, I pray you, admit those who have slaughtered half a million of our countrymen until their clothes are dried, and until they are reclad. I do not wish to sit side by side with men whose garments smell of the blood of my kindred. Gentlemen seem to forget the scenes that were enacted here years ago. Many of you were not here. But my friend from Ohio [Mr. GARFIELD] ought to have kept up his reading enough to have been familiar with the history of those days, when the men that you propose to admit occupied the other side of the House; when the mighty Toombs, with his shaggy locks, headed a gang who, with shouts of defiance on this floor, rendered this a hell of legislation.

Ah, sir, it was but six years ago when they were here, just before they went out to join the armies of Catiline, just before they left this Hall. Those of you who were here then will remember the scene in which every southern member, encouraged by their allies, came forth in one yelling body, because a speech for freedom was being made here; when weapons were drawn, and Barksdale's bowie-knife gleamed before our eyes. Would you have these men back again so soon to reenact those scenes? Wait until I am gone, I pray you. I want not to go through it again. It will be but a short time for my colleague to wait. I hope he will not put us to that test.

Mr. THAYER. Will the gentleman yield?

Mr. STEVENS. Yes, sir.

Mr. THAYER. This amendment does not affect the eligibility of the people to whom he refers. That portion to which I directed my remarks excludes them from voting; and I wish to ask my colleague in this connection whether he thinks he can build a penitentiary big enough to hold eight million people.

Mr. STEVENS. Yes, sir, a penitentiary which is built at the point of the bayonet down below, and if they undertake to come here we will shoot them. That is the way to take care of these people. They deserve it, at least for a time.

Now, sir, if the gentlemen had remembered the scenes twenty years ago, when no man dared to speak without risking his life, when but a few men did do it—for there were cowards in those days, as there are in these—you would not have found them asking to bring these men in, and I only wonder that my friend from Ohio [Mr. BINGHAM] should intimate a desire to bring them here.

Mr. BINGHAM. I beg the gentleman's attention one moment. I have not by one word or vote of mine ever justified him in saying that I consent ever to bring them in.

Mr. STEVENS. Never; but the gentleman wished to strike out a section and kill this amendment, the most popular before the people of any that can be presented.

Mr. BINGHAM. I ask the gentleman to indulge me a moment. The third section does not touch the question of their coming in.

Mr. STEVENS. Then why is it you oppose it? If it is going to hurt nobody, in God's name let it remain. If it is going to hurt anybody, it will be the men that deserve it.

Now, Mr. Speaker, I withdraw my motion to recommit, and move the previous question.

Mr. GARFIELD. In case the previous question is not seconded, will my motion to amend be in order?

The SPEAKER. A motion to amend will be in order if the previous question is not seconded.

Mr. GARFIELD. Then I hope it will be voted down, so that I may move this amendment:

All persons who voluntarily adhered to the late insurrection, giving aid and comfort to the so-called southern confederacy, are forever excluded from holding any office of trust or profit under the Government of the United States.

The SPEAKER. The question is on seconding the demand for the previous question.

The question being put, there were—ayes 90, noes 59.

Mr. FARNSWORTH. I demand tellers on seconding the demand for the previous question.

Tellers were ordered; and the Speaker appointed Messrs. FARNSWORTH and STEVENS.

The House divided; and the tellers reported—ayes 85, noes 57.

So the previous question was seconded.

The question recurred on ordering the main question.

Mr. DELANO. I demand the yeas and nays.

The yeas and nays were ordered; and the question being taken, it was decided in the affirmative—yeas 84, nays 79, not voting 20; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Banks, Baxter, Bidwell, Boutwell, Bromwell, Broomall, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Deftrees, Dixon, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Grider, Grinnell, Aaron Harding, Abner C. Harding, Harris, Hart, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, Ingersoll, Julian, Kelley, Kelso, Kerr, William Lawrence, Le Blond, Loan, Lynch, Marston, McClurg, McCullough, McIndoe, Mercer, Morrill, Moulton, Niblack, O'Neill, Orth, Paine, Patterson, Perham, Pike, Price, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Spalding, Stevens, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Ward, Elihu B. Washburn, Welker, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—84.

NAYS—Messrs. Alley, Ancona, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Beaman, Benjamin, Bergen, Bingham, Blaine, Blow, Boyer, Buckland, Bundy, Coffroth, Cullom, Darling, Davis, Dawes, Dawson, Delano, Deming, Dodge, Donnelly, Farnsworth, Ferry, Finck, Garfield, Glossbrenner, Goodyear, Griswold, Hayes, Henderson, Chester D. Hubbard, James R. Hubbard, Hulburd, James Humphrey, Jenckes, Kasson, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, Longyear, Marshall, McKee, McRuer, Miller, Moorhead, Morris, Myers, Newell, Phelps, Plants, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, Sitgreaves, Smith, Stillwell, Strouse, Taber, Taylor, Thayer, Trimble, Burt Van Horn, Robert T. Van Horn, Warner, Henry D. Washburn, William B. Washburn, Whaley, Williams, Winfield, and Wright—79.

NOT VOTING—Messrs. Brandegee, Culver, Denison, Farquhar, Hale, Hill, Hogan, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Marvin, Nicholson, Noel, Pomeroy, Sloan, Starr, Van Aernam, and Wentworth—20.

So the main question was ordered.

During the roll-call,

Mr. STROUSE stated that his colleague, Mr. DENISON, had been called away on account of sickness in his family.

The result having been announced as above recorded,

The joint resolution was then ordered to be engrossed and read a third time.

Mr. LE BLOND and Mr. ELDRIDGE demanded the yeas and nays on the passage of the joint resolution.

Mr. RANDALL, of Pennsylvania. I call for the reading of the engrossed joint resolution.

The SPEAKER. It is not on the Clerk's table.

Mr. HOOPER, of Massachusetts. I move the House adjourn, and upon that motion I call the yeas and nays.

The yeas and nays were ordered.

Mr. RANDALL, of Pennsylvania. I withdraw my call for the reading of the engrossed joint resolution.

Mr. HOOPER, of Massachusetts. Then I withdraw my motion to adjourn.

Mr. FARNSWORTH. I desire to inquire of the Chair if it is in order to move to recommend this joint resolution with instructions to amend.

The SPEAKER. That is not now in order pending the execution of the previous question. The previous question will not be exhausted until the joint resolution has been read the third time.

The joint resolution was then read the third time, as follows:

A joint resolution proposing an amendment to the Constitution of the United States.

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE.—

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within this Union according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever in any State the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Mr. STEVENS. I call the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE and Mr. LE BLOND called for the yeas and nays on the passage of the joint resolution.

Mr. ASHLEY, of Ohio. Does not the Constitution require that the vote upon the passage of an amendment to the Constitution shall be taken by yeas and nays?

The SPEAKER. The Constitution requires that the vote shall be taken by yeas and nays upon the passage of a measure over a veto. But it only says that the passage of an amendment to the Constitution shall be by a two-thirds vote of each House of Congress, but does not say that the vote shall be by yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 128, nays 37, not voting 19; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Barker, Baxter, Beaman, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Deftrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Ferry, Garfield, Grinnell, Griswold, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, James R. Hubbard, Hulburd, James Humphrey, Ingersoll, Jenckes, Julian, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McIndoe, McKee, McRuer, Mercer, Miller, Moorhead, Morrill, Morris, Moulton, Myers, Newell, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Spalding, Stevens, Stillwell, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Robert T. Van Horn, Ward, Warner, Elihu B. Washburn, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, Woodbridge, and the Speaker—128.

NAYS—Messrs. Ancona, Bergen, Boyer, Chanler, Coffroth, Dawson, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Harris, Kerr, Latham, Le Blond, Marshall, McCullough, Niblack, Phelps, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Taylor, Thornton, Trimble, Whaley, Winfield, and Wright—37.

NOT VOTING—Messrs. Brandegee, Culver, Denison, Farquhar, Hale, Hill, Hogan, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Marvin, Nicholson, Noel, Pomeroy, Sloan, Starr, and Wentworth—19.

So, two thirds voting in the affirmative, the joint resolution was passed.

When the name of Mr. RAYMOND was called, his response in the affirmative was received with applause on the floor and in the galleries.

During the call of the roll the following announcements were made:

Mr. TAYLOR. I desire to announce that my colleague, Mr. James M. HUMPHREY, is paired with another colleague, Mr. POMEROY.

Mr. DEMING. My colleagues, Mr. BRANDEGEE and Mr. HUBBARD, are both absent. If they were present they would both vote for this joint resolution.

Mr. ANCONA. My colleague, Mr. JOHN-SON, is still detained from his seat by illness.

Mr. RADFORD. My colleague, Mr. JONES, is absent on account of sickness; if he was here he would vote against this joint resolution.

The announcement of the vote, as above recorded, was received with applause on the floor and in the galleries.

Mr. ELDRIDGE. I rise to a question of order. I want to know if it is understood that the proceedings of this House are to be interrupted by those who come here and occupy the galleries.

The SPEAKER. The gentleman from Wisconsin [Mr. ELDRIDGE] makes the point of order that expressions of approbation or disapprobation from persons occupying the galleries are not in order. The Chair sustains the point of order. Members upon the floor and spectators in the gallery will observe the rules of the House and maintain order.

Mr. ELDRIDGE. I do not want our proceedings to be interrupted by the "nigger-heads" in the galleries. [Hisses in the galleries.]

Mr. STEVENS. Is it in order for members on the floor to disturb those in the galleries? [Laughter.]

The SPEAKER. Members upon the floor should not insult the spectators in the galleries.

Mr. STEVENS. I move to reconsider the vote by which the joint resolution was passed; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WAGON ROADS IN THE TERRITORIES.

The SPEAKER laid before the House a communication from the Secretary of the Interior, in reply to a resolution of the House of the 4th instant, in regard to certain wagon roads in the Territories of Idaho, Montana, Dakota, and Nebraska; which was ordered to be printed, and referred to the Committee on Territories.

CLERKS IN THE NAVY DEPARTMENT.

The SPEAKER also laid before the House a communication from the Secretary of the Navy, in reply to a resolution of the House of the 7th instant, in regard to the number of clerks employed in that Department, in what army they served, &c.; which was laid on the table, and ordered to be printed.

INDIAN EXPENDITURES.

The SPEAKER also laid before the House a communication from the Secretary of the Interior, in response to a resolution of the House of the 23d ultimo, relative to expenditures in the Indian service; which was ordered to be printed, and referred to the Committee on Indian Affairs.

COLORADO CITIZENS OF CHICAGO.

The SPEAKER also laid before the House an address to the Congress of the United States from the colored citizens of Chicago, which was ordered to be printed.

Mr. ROSS moved that the address be referred to the joint committee on reconstruction.

The motion was agreed to.

ADJOURNMENT OVER.

Mr. WASHBURNE, of Illinois. I move that when the House adjourn to-day it be to meet on Monday next. I would say that I

certainly would not make this motion if I thought that by sitting here to-morrow and next day we would facilitate the adjournment of this Congress one single day. But I know the situation of business in the Senate, and the situation of business in this House, and I am satisfied there is no necessity for us to press matters as we have been doing. We have done a pretty good week's work this week, and everybody is tired, and the Doorkeeper wants to-morrow and next day for the purpose of cleaning up this Hall and putting down the matting for the summer.

Mr. ASHLEY, of Ohio. I desire to say to the House that it is impossible that this work of fixing the Hall can be done inside of four days; and, therefore, there is no use in adjourning. If we meet, the committees can be called, and we can make considerable progress with our business.

The question was taken on agreeing to the motion of Mr. WASHBURN, of Illinois, and there were—ayes 78, noes 68.

Mr. FARNSWORTH called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 68, not voting 36; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Banks, Beaman, Bidwell, Blow, Boyer, Chanler, Cobb, Cofroth, Conkling, Davis, Dawson, Delano, Deming, Dixon, Dodge, Donnelly, Eldridge, Finck, Garfield, Glossbrenner, Aaron Harding, Abner C. Harding, Harris, Hart, Hayes, Henderson, Holmes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, Hulburd, Kasson, Kerr, Kuykendall, Latham, Le Blond, Longyear, Marshall, Marston, McCullough, McRuer, Moorhead, Morrill, Moulton, Niblack, Paine, Phelps, Pike, Radford, Samuel J. Randall, Raymond, John H. Rice, Rousseau, Sawyer, Schenck, Scofield, Shanklin, Shellabarger, Smith, Spalding, Stilwell, Strouse, Taylor, Francis Thomas, Trimble, Trowbridge, Upson, Burt Van Horn, Elihu B. Washburne, Whaley, Williams, James F. Wilson, Winfield, Woodbridge, and Wright—79.

NAYS—Messrs. Alley, Ames, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Benjamin, Bergen, Bingham, Blaine, Boutwell, Broomall, Reader W. Clarke, Sidney Clarke, Cullom, Darling, Dawes, Deffries, Driggs, Dumont, Eckley, Eggleston, Eliot, Fernsworth, Ferry, Goodyear, Grider, Grinnell, Griswold, Higby, James R. Hubbell, James Humphrey, Ingersoll, Jencks, Julian, Kelley, Kelso, Ketcham, Ladin, George V. Lawrence, William Lawrence, Loan, McClurg, McKee, Mercer, Miller, Morris, Myers, Newell, O'Neill, Orth, Patterson, Perham, Price, Ritter, Rollins, Ross, Sitgreaves, Taber, Thayer, Van Aernam, Ward, Warner, Henry D. Washburn, William B. Washburn, and Windom—68.

NOT VOTING—Messrs. Brandegee, Bromwell, Buckland, Bundy, Cook, Culver, Denison, Farquhar, Hale, Hill, Hogan, Hooper, Asabel W. Hubbard, John H. Hubbard, Edwin N. Hubbell, James M. Humphrey, Johnson, Jones, Lynch, Marvin, McIndoe, Nicholson, Neill, Plants, Pomeroy, William H. Randall, Alexander H. Rice, Rogers, Sloan, Starr, Stevens, John L. Thomas, Thornton, Robert T. Van Horn, Welker, Wentworth, and Stephen F. Wilson—36.

So the motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed, without amendment, a bill (H. R. No. 667) entitled "An act to amend an act to establish the grade of vice admiral in the United States Navy."

The message also announced that the Senate had passed House bills of the following titles with amendments, in which the concurrence of the House was requested:

An act (H. R. No. 397) to authorize the coinage of five-cent pieces; and

An act (H. R. No. 511) imposing a duty on live animals.

LEAVE OF ABSENCE.

Mr. SMITH asked leave of absence for Mr. VAN HORN, of Missouri, for three days.

Leave was granted.

Mr. McCULLOUGH asked leave of absence for Mr. HARRIS for one week.

Leave was granted.

Mr. BINGHAM asked leave of absence for Mr. SHELLABARGER for ten days.

Leave was granted.

Mr. RICE, of Maine, asked indefinite leave of absence for Mr. HOLBROOK.

Leave was granted.

Mr. ROSS asked leave of absence for Mr. THORNTON for one week.

Leave was granted.

TAXES ON IMPORTED SPIRITS.

Mr. DARLING, by unanimous consent, introduced a bill to refund certain taxes upon imported spirits; which was read a first and second time, and referred to the Committee of Ways and Means.

DUTY ON LIVE ANIMALS.

On motion of Mr. MORRILL, the House, by unanimous consent, proceeded to the consideration of Senate amendment to the bill (H. R. No. 511) entitled "An act imposing a duty on live animals."

The amendment of the Senate was read, as follows:

Add at the end of the bill the following: *Provided*, That any such animals now bona fide owned by resident citizens of the United States, and now in any of the Provinces of British America, may be imported into the United States free of duty until the expiration of ten days next after the passage of this act.

The amendment was concurred in.

Mr. MORRILL moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TELEGRAPHIC LINES.

Mr. SPALDING, by unanimous consent, introduced a bill to aid in the construction of telegraphic lines, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TAX ON TOBACCO AND CIGARS.

Mr. SCHENCK. I ask unanimous consent to present at this time an amendment to the tax bill, relating to tobacco and cigars. I desire that it may be printed, and referred to the Committee of the Whole on the state of the Union, so that it can be taken up in connection with the bill.

The SPEAKER. If there be no objection, it will be so ordered.

There was no objection.

EMPEROR OF RUSSIA.

Mr. BANKS. I move that, by unanimous consent, the Senate amendments to the joint resolution (H. R. No. 133) relative to the attempted assassination of the Emperor of Russia be taken from the Speaker's table and considered at this time.

There was no objection; and the amendments of the Senate were read, as follows:

In line five strike out the word "their."

Add the following as a new section:

SEC. 2. *And be it further resolved*, That the President of the United States be requested to forward a copy of this resolution to the Emperor of Russia.

The amendments were concurred in.

AMENDMENT OF PENSION LAWS.

Mr. BOYER, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Invalid Pensions be, and are hereby, requested to inquire into the expediency of so amending the pension laws as to place dependent fathers on the same footing with dependent mothers.

IRRIGATION AND CANAL COMPANY.

* Mr. HIGBY. I ask unanimous consent to introduce a bill granting right of way and making a grant of land to the Sierra Nevada and Contra Costa Irrigation and Canal Company, in the State of California.

Mr. WRIGHT. I object.

LAND-GRANT RAILROAD IN OREGON.

On motion of Mr. HENDERSON, Senate bill No. 99, entitled "An act granting land to the State of Oregon to aid in the construction of a military road from Albany, Oregon, to the eastern boundary of said State," was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

ADJOURNMENT OVER—AGAIN.

Mr. FARNSWORTH. I ask that by unanimous consent it be understood that no business shall be transacted in the House next Monday, but that immediately on meeting we shall adjourn. To-morrow and Saturday, with Monday, will not more than give the Doorkeeper sufficient time to put the matting upon the floor of the House and complete the other arrangements for the summer occupancy of the Hall. We have agreed to adjourn till Monday, and unless we now allow sufficient time for having this job thoroughly done, we shall very soon have another adjournment of two or three days. I trust there will be no objection to my proposition.

Mr. MILLER. I object.

The SPEAKER. An adjournment of this House under the Constitution cannot be for more than three days except with the concurrence of the Senate. The Speaker will therefore be obliged to take the chair at twelve o'clock next Monday; but if there should be no quorum in attendance those present can of course adjourn until the next day.

J. B. WALKER AND OTHERS.

On motion of Mr. HOOPER, of Massachusetts, by unanimous consent, the Committee on Banking and Currency was discharged from the further consideration of the petition of J. B. Walker, and others, officers of the New Hampshire Savings Bank, in Concord, New Hampshire; and the same was referred to the Committee of Ways and Means.

CLAIMS AGAINST VENEZUELA.

Mr. DRIGGS. A resolution which I offered the other day contained an error, being addressed to the Secretary of State, instead of the President. I ask unanimous consent to offer the following resolution for the purpose of correcting that error:

Resolved, That the President of the United States be respectfully requested, if not incompatible with the public interest, to cause to be furnished to this House a list of the claims of citizens of the United States now pending in the United States legation at Caracas, against the United States of Venezuela, with a brief indication of the causes of complaint and the reasons why payments have not been enforced during a long series of years, and what measures are necessary to bring these long-deferred claims to a speedy settlement.

There being no objection, the resolution was considered and agreed to.

RESOLUTIONS OF CALIFORNIA LEGISLATURE.

Mr. McRUER, by unanimous consent, presented resolutions of the Legislature of California indorsing the action of the delegation in Congress from that State in voting for the passage of the bill known as the Freedmen's Bureau bill; which were laid on the table, and ordered to be printed.

COMMISSIONER OF PUBLIC BUILDINGS.

Mr. LAWRENCE, of Ohio, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Commissioner of Public Buildings be directed to report to this House the number of clerks and employes in his official service, with the States from which they were appointed, and what were their occupations previous to their appointment, with the number who were in the Union Army, and the names, number, and residences of such, if any, as have been in the rebel army, and by whom those of the latter class were recommended for appointment.

CLAIMS AGAINST THE UNITED STATES.

Mr. WILLIAMS, by unanimous consent, introduced a bill to authorize the employment of additional counsel in cases of claims depending against the Government of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

WASHINGTON CANAL.

Mr. INGERSOLL. I desire to call the attention of the House to a matter affecting the sanitary condition of this city.

It is understood that workmen, under the direction of the city authorities, have commenced removing the deposit and sediment from the Washington canal, throwing this offen-

sive matter upon the banks. The subject has been referred to the Committee for the District of Columbia, who, having examined the question, deem it very injudicious and unsafe for the city authorities to allow such work to be done. Under the direction of the committee, I have prepared a joint resolution having in view the stopping of that work. I ask unanimous consent to report that joint resolution for consideration at the present time.

Mr. ALLEY. I object.

Mr. INGERSOLL. The gentleman ought to hear the resolution read before he objects.

Mr. WASHBURNE, of Illinois. I move that the House adjourn.

The motion was agreed to; and thereupon (at forty minutes past four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BANKS. The petition of Richard Mason, Augustus Brises, James H. Davis, George W. Lester, and 100 others, citizens of the United States, against the passage of the second section of the constitutional amendment now pending, and for a law granting equal political rights to all citizens without regard to race or color.

By Mr. J. HUMPHREY. The petition of William W. Gardener, and others, glass-blowers, in relation to revenue taxation.

By Mr. HULBURD. The petitions of sundry citizens of the counties of St. Lawrence, Franklin, and Jefferson, New York, asking an *ad valorem* duty and an increase of duty on imported flax.

Also, a remonstrance of sundry citizens of Oneida county, New York, against the bill to reorganize the Federal judiciary.

By Mr. HUBBARD, of New York. The petition of 72 citizens of the county of Chenango, New York, asking that a duty of ten cents per pound and ten percent *ad valorem* be levied on all unwashed foreign wools competing with American wools, the value whereof at the last port of export, including charges in such port, shall be thirty-two cents or less per pound, and that a duty of twelve cents per pound and ten percent *ad valorem* be levied on all like wools, the value whereof, including charges in port, shall exceed thirty-two cents per pound; and that the above rates of duties be doubled on washed wools and trebled on soiled wools.

Also, the petition of citizens of the town of Oxford, in the county of Chenango, New York, for a daily mail route from Unadilla, in the county of Otsego, to that place.

By Mr. McINDOE. The petition of R. O. Harris, and 67 others, praying that mail route No. 13122, in Adams county, Wisconsin, be altered and extended.

Also, a petition for the establishing of a mail route from Friendship, in Adams county, Wisconsin, by Arende, to Barnum, in said county.

By Mr. RICE of Maine. The petition of Dr. E. F. Sanger, and others, physicians of Penobscot county, Maine, for exemption of certain medicines from import duties.

By Mr. RADFORD. The petition of citizens of New York, for the regulation of inter-State insurances.

By Mr. WARD. The petition of numerous citizens of Heune, in Alleghany county, New York, in favor of increasing the tariff on wool.

IN SENATE.

FRIDAY, May 11, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. GRIMES presented concurrent resolutions of the Legislature of Iowa, in favor of the establishment of a Bureau of Education; which were ordered to lie on the table, and be printed.

Mr. GRIMES. I present the petition of C. W. Walker, and a large number of other citizens of Macgregor, in the State of Iowa, who pray that Congress will frame and pass a general law regulating the bridging of the upper Mississippi river, making provision therein that neither railroad nor water traffic be impeded or impaired. I present also another and similar petition from citizens of the same place, containing the same prayer. I move that these petitions be referred to the Committee on Post Offices and Post Roads.

The motion was agreed to.

Mr. MORGAN presented a memorial of the Long Island Historical Society, in relation to the unburied remains of soldiers on the battlefield of Shiloh; which was referred to the Committee on Military Affairs and the Militia.

Mr. DOOLITTLE presented a memorial of

citizens of Natchez, Mississippi, remonstrating against the proposed tax on cotton; which was referred to the Committee on Finance.

REPORTS OF COMMITTEES.

Mr. HOWE, from the Committee on Claims, to whom was referred a joint resolution (H. R. No. 103) to refer the petition of Benjamin Holiday to the Court of Claims, reported it with an amendment.

Mr. DAVIS, from the Committee on Claims, to whom was referred the petition of Mrs. M. J. Walker, praying for compensation for property taken and used by the United States forces at Vicksburg, Mississippi, in 1863 and 1864, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Augustus Hubbell, late captain and commissary of subsistence United States volunteers, praying that he may be allowed, in the settlement of his accounts, a certain amount of money which he alleges to have been stolen from him on the 17th of July, 1865, reported adversely thereon.

Mr. HENDERSON, from the Committee on Claims, to whom was referred the petition of Henry Roy de La Reintrie, praying that compensation be allowed him for effective and valuable services rendered to the Government of the United States in California in exposing fraudulent land claims against the Government, submitted an adverse report thereon; which was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Benjamin Tilley, praying for compensation for land in the city of Washington occupied by the Government as a part of the site on which Camp Fry is situated, submitted an adverse report thereon; which was ordered to be printed.

BILL RECOMMENDED.

On motion of Mr. LANE, of Kansas, the bill (S. No. 119) granting lands to the Leavenworth, Lawrence, and Fort Gibson Railroad Company to aid in extending their railroad and telegraph line from the southern boundary of Kansas to the northern boundary of Texas, in the direction of Galveston bay, was recommended to the Committee on Public Lands.

DEBATES OF THE SENATE.

Mr. CONNESS. I offer the following resolution:

Resolved, That the Committee on Printing be directed to inquire into the necessity of more correct reports of the debates of the Senate, and to report a remedy for the practice of changing and suppressing words spoken in debate in the Senate and substituting therefor matter not spoken.

I do not ask for the present consideration of the resolution, and I will not occupy the time of the Senate with it now, because when the resolution is considered I desire to submit some remarks in connection with it and in explanation of it. I am willing, therefore, that the resolution shall lie over for the present.

The PRESIDENT *pro tempore*. It will lie over under the rules.

ADJOURNMENT TO MONDAY.

On motion of Mr. ANTHONY, it was

Ordered, That when the Senate adjourn to-day it be to meet on Monday next.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the joint resolution (H. R. No. 133) relative to the attempted assassination of the Emperor of Russia, and to the amendment of the Senate to the bill (H. R. No. 511) imposing a duty on live animals.

PAY DEPARTMENT OF THE NAVY.

Mr. GRIMES. I move that the Senate proceed to the consideration of the House joint resolution No. 130. It is a small matter, and will not require the consumption of time.

The motion was agreed to; and the joint resolution (H. R. No. 130) to carry into immediate effect the bill to provide for the better

organization of the pay department of the Navy was considered as in Committee of the Whole. For the purpose of carrying out the provisions of an act to provide for the better organization of the pay department of the Navy, with the least delay possible, the joint resolution authorizes the President of the United States to waive the examination of such officers in the pay department of the Navy as are on duty abroad, and cannot at present be examined as required by law; but such examinations as are required by law are to be made as soon as practicable after the return of the officers to the United States, and no officer found to be disqualified is to receive the promotion contemplated in the act herein referred to.

The Committee on Naval Affairs reported the joint resolution with an amendment, to add as an additional section the following:

SEC. 2. *And be it further resolved*, That the Secretary of the Navy be, and he is hereby, authorized to retain or to appoint, under existing laws and regulations, such volunteer officers in the Navy as the exigencies of the service may require until their places can be supplied by graduates from the Naval Academy.

Mr. CONNESS. As I understand that amendment, it proposes simply to put the volunteer officers, who have now had years of experience, in the service temporarily out of the Navy as soon as their places can be supplied by graduates of the Naval Academy. It does not strike me as a very wise thing to be done, and I should like to hear from the honorable chairman of the Naval Committee his views on the wisdom of the amendment proposed. It will be remembered that the officers of the volunteer Navy had experience as seamen in the mercantile marine before they entered that branch of the naval service; and it appears to me that when experienced officers, many of whom have rendered efficient and valuable service during the war, are transferred into the Navy there should be a provision for their remaining there. I do not know why they should give place to graduates from the Naval Academy. I should like to hear from the chairman on the subject.

Mr. GRIMES. I think the Senator from California misapprehends the scope of this proposition. Under laws passed in 1861, 1862, and 1863, the Secretary of the Navy was authorized to appoint certain persons, such as might pass the board of examination, to certain grades in the volunteer service of the Navy; but there was a provision in the law declaring that they should cease to be officers of the United States whenever the rebellion ended. These officers are now scattered all over the world in various squadrons, and it is simply proposed to enact a law so that if the President of the United States should see fit to-morrow to issue a proclamation declaring that the rebellion has entirely ceased, from that moment these officers shall not cease to be, but shall continue in the service and draw their pay and perform their duty to the Government.

The question as to whether the volunteer officers shall be retained in the permanent Navy is not embraced in this joint resolution, but is embraced in another proposition which is under consideration in the Committee on Naval Affairs. This section simply retains these officers for the present, until there shall be subsequent legislation by Congress. That is the purport and scope of it. It was drawn in the Navy Department by gentlemen who entertain the same views in regard to the adoption of the volunteer officers into the Navy that the Senator from California entertains, as I understand from what he has said.

The amendment was agreed to.

Mr. GRIMES. I offer as an additional section the following:

And be it further resolved, That naval constructors shall hereafter be held to be staff officers in the Navy, and entitled to all the rights and privileges and subject to all the liabilities and duties of such.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in. It was ordered that the amendments be engrossed, and the bill be

read a third time. The bill was read the third time, and passed; and its title was amended by adding "and for other purposes."

PENSION BUSINESS.

Mr. LANE, of Indiana. I ask that the following order may be entered:

Ordered, That Friday next, after the expiration of the morning hour, be set apart for the consideration of bills and reports from the Committee on Pensions.

There is, perhaps, enough business of this kind to occupy an hour or two. It is important that we should dispose of it, and I propose to take next Friday for that purpose.

The order was agreed to.

J. W. GORDON.

Mr. ANTHONY. I move that the Senate proceed to the consideration of Senate bill No. 127.

The motion was agreed to; and the bill (S. No. 127) for the relief of Jonathan W. Gordon, late major in the eleventh regiment of infantry, was read the second time, and considered as in Committee of the Whole. It proposes to direct the Secretary of the Treasury, in settling the accounts of J. W. Gordon, late major in the eleventh regiment of infantry, to allow him a credit of \$600 on account of bounties paid enlisted men in accordance with the provisions of the act of July, 1862, but before that act went into effect.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ASIATIC CHOLERA.

Mr. CHANDLER. I now move to take up House joint resolution No. 116, to prevent the introduction of cholera into the ports of the United States.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution, the question being on the amendment proposed yesterday by Mr. EDMUNDS to the amendment reported by the Committee on Commerce.

Mr. CONNESS. I ask the consent of the honorable Senator from Michigan to let this subject lie over for a little while, that we may call up a bill concerning the Pacific coast which will not occupy a very long time.

Mr. CHANDLER. Will it lead to debate?

Mr. CONNESS. I think not at all. This subject of the cholera is a pretty dangerous one, and has proven to be a tedious one in this body, and we should like to be relieved from it a little while this morning with the Senator's permission.

Mr. CHANDLER. I hardly think the resolution will lead to any further debate. I desire simply to ask that the letter which I hold in my hand may be read.

Mr. CONNESS. If the Senator will not consent to my request, of course I shall not persist in it.

Mr. CHANDLER. I think this resolution will be disposed of sooner perhaps than the Senator's bill can be passed. I think there will be no further discussion upon it. I am perfectly willing to adopt the amendment of the Senator from Vermont and dispose of the question in that way. I have no feeling on the subject, but I ask in justice to the physicians and surgeons who were before the Committee on Commerce that the letter which I hold in my hand and now send to the desk may be read.

The Secretary read the following letter:

WASHINGTON, D. C., May 11, 1866.

DEAR SIR: I have had inserted in the National Intelligencer of this morning a notice correcting a misapprehension that seems to prevail to some extent that the medical committee on "cholera and quarantine," of which I am chairman, was delegated by the American Medical Association. When before the Committee on Commerce I stated that our committee was appointed at a meeting of medical men at Baltimore on the 4th instant, assembled on a call numerously signed by physicians from every part of the United States to petition the Government to adopt a general uniform system of quarantine at all our ports, and the "memorial" presented by Hon. Mr. MORGAN, which was adopted at said meeting, was headed "memorial of physicians," and no mention was made of the national convention ex-

cept that I stated verbally that those who signed the call of the meeting were members of that body.

It is true that the subject of quarantine and cholera was brought before the convention, and a "plan of quarantine," submitted by Dr. Marsden, of Quebec, and discussed at some length, when the whole matter was postponed till near the close of the session, when it was laid on the table by a vote of 68 to 60, only a little more than one third of the members being present. The question was not decided on the issue of contagion or non-contagion, portability or non-portability, quarantine or no quarantine, but on the expediency of petitioning Congress on the subject. A very general feeling prevailed in the convention that the medical profession ought not to proffer their advice, and thrust their opinions upon the Government, but wait until their opinions were asked. With this conviction many who believed in the infectious and portable character of cholera moved to lay the matter on the table, especially as at the late hour it was brought up there was no opportunity for a full discussion. In consequence many of those who were not satisfied with this disposal of the matter signed the call for the aforesaid meeting, who adopted the "memorial" which has been presented to the Senate.

CHARLES A. LEE, M. D.,

Hon. Mr. CHANDLER.

Chairman of Committee.

Mr. SUMNER. When the Senator from Vermont [Mr. EDMUNDS] rose yesterday, it may be remembered that I at the same time tried to catch the eye of the Chair. I had intended to say something very much in the sense in which he spoke. I should not have said it so well, and I was not prepared with the authority which he had in his hand, though I had intended to allude to it.

I should not say anything now but for the remarks of my friend from New York [Mr. HARRIS] who seemed so much at a loss where to find the power which it is now proposed to exercise. He was so much at a loss that he went beyond those bounds which he usually prescribes for himself in this Chamber, and indulged in an unwonted levity. Not content with showing, as he supposed, that the power did not exist where it was said to exist, he asked, with a humorous face, whether it was not found under the clause to guaranty a republican form of government. I am very glad to find that my excellent friend is disposed to look to that clause of the Constitution. It is a clause that has been very much neglected, but to my mind it is one of the most potent in the whole Constitution, full of beneficent power that it would be well if this Government now, at this crisis of its history, were disposed to exercise. In this clause are waters of healing for our distressed country. Follow this clause in its natural and obvious requirements, and you will have security, peace, and liberty under the safeguard of that Great Guarantee, the Equal Rights of all.

But I must remind my excellent friend that there is no occasion at this time for any resort to this transcendent source of power. The power from which this resolution is derived is obvious. My friend interrupts me to say that it is the war power. I say it is obvious, and I will show him in a moment that it is not the war power. It is a power that has been exercised constantly, from the beginning of our history, with regard to which there can be no question; because it is embodied in one of the clearest texts of the Constitution; because it has been expounded by a series of decisions from our Supreme Court, which are among the most authoritative in our history. It is the power to regulate commerce. My friend smiles; but he must not smile at the Constitution of his country. That reads as follows:

"Congress shall have power to regulate commerce with foreign nations and among the several States."

By this resolution it is proposed to regulate commerce with foreign nations. Have not all the regulations with regard to passengers been under this power? Have they not all been the regulation of commerce with foreign nations? Can there be any doubt on the question? Is it not as plain as language can make it? Why, sir, ever since I have been in Congress we have had annual bills for the regulation of passengers coming into our ports—bills of different degrees of stringency, laying one penalty here, and another penalty there, all in the execution of this unquestionable power.

Mr. GRIMES. Will the Senator allow me to ask him a question?

Mr. SUMNER. Certainly.

Mr. GRIMES. Will the Senator be kind enough to look at the second clause of the amended proposition, where it says:

That he—

That is the Secretary of War—

shall also enforce the establishment of sanitary cordons to prevent the spread of said disease from infected districts adjacent to or within the limits of the United States?

Not confining it to the lines between the States, but giving him authority to establish cordons within the jurisdiction of a State. I should like to know where the Constitution authorizes such a thing as that.

Mr. SUMNER. I am obliged to my friend even for interrupting me to call attention to that section, though he will pardon me if I do not answer him at this moment, but do so when I come to that part of the resolution.

Mr. GRIMES. Any time will do, so that we get it.

Mr. SUMNER. You will have it all. I am dwelling now on the question of the power derived from the positive text of the Constitution to regulate commerce with foreign nations. I say that in the execution of that power we have undertaken to apply all manner of restrictions and regulations to the transportation of passengers. We have gone so far as to provide for the quantity of water that shall be on board each ship in proportion to every passenger. We have subjected every ship to regulations while at sea, and again to other regulations after arriving in port. The exercise of the power has by practice been placed absolutely beyond question. Then, as I have already said, it is entrenched in the very best judicial decisions of our country. I submit that no person can raise a question with regard to it.

Mr. MORRILL. Will the Senator allow me to ask him a question?

Mr. SUMNER. Certainly.

Mr. MORRILL. About the question of regulating the importation of passengers from foreign countries nobody raises a question or a doubt. This is a question of quarantine, in its character police. Is there any precedent in the history of the United States where that power has been exercised by the general Government?

Mr. SUMNER. I am very glad the Senator presses that question. I meet it. Does the Senator mean to suggest that the same power that can reach to the sea, and determine even the quantity of water that shall be in the hold for each passenger cannot apply the minutest possible regulation when that same ship at least arrives in the harbor?

Mr. MORRILL. Will my friend allow me to answer him right there?

Mr. SUMNER. Certainly.

Mr. MORRILL. I maintain that when the passenger is landed and comes within the limits and jurisdiction of the State and within its police power, the commercial power of the Government ceases at that point, and the treatment of the passenger thereafter is within the police power of the State exclusively.

Mr. SUMNER. I think the Senator goes beyond the decision of the Supreme Court. He overrules that decision.

Mr. MORRILL. I am precisely on a line with the license cases, in which the principle was applied to the importation of liquors, in which the court settled that until they were landed the Government of the United States had exclusive jurisdiction, but when they were landed and were undertaken to be distributed the police power of the State intervened and became exclusive.

Mr. SUMNER. At a certain stage I admit that the police power of the State may intervene, but I do nevertheless insist as beyond question that the power of the United States is complete over every passenger vessel when it arrives in the harbor, so that it may be subjected to any regulations in the discretion of Congress for the public good with reference to passengers. Of course this is discretion to be exercised wisely for the public good, to the

end that the public health may not suffer. Strange if the national Government, which is our guardian against foreign foes, may not protect us against this fearful enemy.

Mr. MORRILL. I do not deny that; I agree to that—

Mr. SUMNER. Very well.

Mr. MORRILL. Now, my query is, can the power of commerce, that power which regulates the passengers on their passage to this country, follow the passengers entirely into the States and overrule the internal police of the States? That is the question.

Mr. SUMNER. Now the Senator puts a question which runs into the question already propounded by the Senator from Iowa, and to which I am coming in due course of time. I have not quite arrived at it. I was illustrating the power that the General Government would have in the harbor; and now let me give another illustration, which is familiar to my honorable friend; it is with reference to goods which arrive. I need not remind the Senator from Maine that when goods have arrived subject to duties the custom-house exercises its control according to the prescription of law, not only while those goods are water-borne, but after they have been landed, and if they have been landed in violation of the law, it pursues those goods even into the interior.

Mr. CHANDLER. To the Rocky mountains.

Mr. SUMNER. A Senator behind me says even to the Rocky mountains. It is enough to say that it pursues those goods into the interior. In short, the Constitution of the United States was not so absurd, nor have our courts been so absurd in its interpretation, as to recognize a power in the custom-house merely at the door of the granite structure, and to require that it shall stop there. No, sir, the power must be made effective. We have practically made it effective with reference to goods. We have also, to a certain extent, made it effective through decisions of the Supreme Court with reference to passengers. It now remains that we should carry it one stage further, and for the public good, and to secure the public health, which is a great part of the public good, to insist that this same power shall be applicable, just as we have already insisted that it is applicable, to the pursuit of goods. I cannot myself see the difference between the two cases. It seems to me that the power over goods imported at our custom-house under the acts of Congress, the power over passengers introduced into this country under acts of Congress, are both derived from the same source, and you can find no limitation for one and no expansion for one which is not equally applicable to the other. I insist, therefore, that on this simple text, the power to regulate commerce with foreign nations, you find ample power for this action. You must annul this text, or at least limit it by construction and dwarf its fair proportions, or the power of Congress to provide against cholera is perfect.

But Senators call my attention to the second clause of the resolution, which is as follows:

That he shall also enforce the establishment of sanitary cordons to prevent the spread of said disease from infected districts adjacent to or within the limits of the United States.

To my mind this clause may be treated under two different heads: first, it may be regarded as ancillary from the nature of the case to the power which is derived under the clause to regulate commerce with foreign nations. From the nature of the case, if you have the power to shut out cholera from the ports, you must be intrusted with an associate power to follow this same enemy even into the interior, precisely as you follow goods that have escaped the exercise of your power in the ports. I am willing, therefore, to put it even on the first clause of this constitutional provision, calling it simply ancillary. But I do not stop there, for annexed to the first clause are the words, "and among the several States." Congress has power to regulate commerce among the several States. Now, sir, assuming that commerce is,

as it has been described or defined by our Supreme Court, intercourse among men, embracing the transportation not only of goods but of passengers, and applicable to everything that comes under the comprehensive term intercourse, giving to it that expansive definition which I think you will find in some of the decisions of the Supreme Court, I ask you if you do not find under that second clause ample power also to regulate this matter. Congress has power to regulate commerce, communication, intercourse, transportation of freight and transportation of passengers among the several States. To make that effective, you must concede to it a power such as is described in the clause to which the Senator from Iowa has directed my attention:

It shall also enforce the establishment of sanitary cordons to prevent the spread of said disease from infected districts adjacent to or within the limits of the United States.

There is no reference here to State lines, and why? From the necessity of the case. The disease itself does not recognize State lines. The authority which goes forth to meet the disease must be at least on an equality with the disease, and can recognize no State lines. How vain to set up State rights as an impediment to this beneficent power.

I therefore conclude that the power over this subject is plenary, whether you look at the first clause of the Constitution to which I have called attention relating to foreign commerce, or the second clause relating to commerce among the States. It is full, it is complete. Hence I put aside the constitutional objection, whether urged seriously or in levity, as it was perhaps by my excellent friend from New York; I put it aside as absolutely out of the question and irrelevant. Congress has ample power over this whole question; and, sir, permit me to ask if it had not ample power over this whole question, where should we be as a Government at this time? Can we confess that a great Government of the world must fold its arms and see a foreign enemy, for such it is, crossing the sea and invading our shores and we unable to go forth to meet it? I do not believe that this transcendent Republic is thus imbecile. I believe that under the text of the Constitution, as well as from the nature of the case, it has ample powers to meet the enemy in the simple text of the Constitution regulating commerce. To my own mind the case seems too clear for argument.

And this brings me, sir, to the proposed amendment of the Senator from Vermont. He moves to strike out the clause to which I called attention myself the other day and to substitute certain words creating a commission. I objected to this clause the other day; I will read it now:

That it shall be the duty of the Secretary of War, with the cooperation of the Secretary of the Navy and the Secretary of the Treasury, whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy, to adopt an efficient and uniform system of quarantine against the introduction into this country of the Asiatic cholera.

I objected, it may be remembered, to this clause as placing this bill under the patronage of the war power. I did not think it needed that patronage, though I was willing to admit that it might need sometimes the exercise of the war authority; but I did not think that it needed to be derived from the war power. It was not from the nature of the case an exercise of this power, but it was clearly derived from the power over the commerce of the country; and I regretted, therefore, that the framers of the bill had seemed to put the war power in the forefront. Now, the Senator from Vermont meets that suggestion by an amendment to the effect that a commission shall be constituted, embracing the Secretary of War, the Secretary of the Navy, and the Secretary of the Treasury. I have no particular criticism to make upon that amendment; if the Senate consent to it, I shall certainly be disposed to join; but I think that a better form still may be adopted and one which shall place what we do more completely and unreservedly under that power of the Constitution from which I

think it is derived; that is, the power to regulate commerce. I would therefore propose that the duty shall be confided primarily to the Secretary of the Treasury, who, in the exercise of his powers, shall be aided by the Secretary of War and the Secretary of the Navy, under the direction of the President of the United States.

It seems to me that with that change the bill will be brought into absolute harmony with the Constitution, will be above criticism, and it will be amply effective. I would therefore, if I could have the permission of my friend the Senator from Vermont, propose the amendment in this form: to strike out in the third line the word "War" and insert "the Treasury;" to strike out in the fourth line the word "Navy" and insert the word "War;" and to strike out in the fifth line the word "Treasury" and insert "Navy," and then to strike out the words "whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy," and insert simply "under the direction of the President of the United States;" so that the clause would read:

That it shall be the duty of the Secretary of the Treasury, with the cooperation of the Secretary of War and the Secretary of the Navy, under the direction of the President of the United States, to adopt an efficient and uniform system of quarantine, &c.

In making this change we shall simply enlarge and expand the existing powers of the Secretary of the Treasury. He is now the head of the custom-house; he regulates the passenger system. Go further, and give him these additional powers that shall enable him, so far as he can, to prevent the introduction of disease into the country. All that we do will be in harmony with the practice of the Government, and I submit will be above question. The Government, in the exercise of admitted powers, will be, I trust, more than a match for the cholera.

Mr. EDMUNDS. Mr. President, as there are now two amendments pending, that of the committee and my own, and inasmuch as the amendment proposed by the Senator from Massachusetts reaches the same point that I had in view, and may be more satisfactory to Senators, with the leave of the Senate I withdraw the amendment I offered, in order that the Senator from Massachusetts may offer his.

Mr. SUMNER. That being withdrawn, I move now to amend the amendment of the committee in the way I suggested, by striking out in line three the word "War" and inserting "the Treasury;" by striking out in line four the words "the Navy" and inserting "War;" in line five by striking out "Treasury" and inserting "War;" and also by striking out the words "whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy" and inserting "under the direction of the President of the United States."

Mr. JOHNSON. Mr. President, the object of this resolution commends itself to the Senate, provided it can be accomplished. We all have an interest, in common with the whole country, in keeping the cholera out of the United States if we can; if we have the power by legislation to accomplish that purpose, it is our duty to exert it; but I am unable to agree with the honorable member from Massachusetts, that there is any such power under the authority with which Congress is clothed of regulating commerce with foreign nations and between the States. The other grounds on which it is supposed the resolution can be maintained, as far as the authority of the honorable member from Massachusetts is concerned, I understand to be abandoned. It is not to be maintained upon the war power, because there is no war, actual or anticipated, and before any authority can be exerted under the war power with which Congress is clothed, there must be a state of war. During the late rebellion we gave as broad an interpretation to that power, and perhaps broader than the framers of the Constitution designed; but it is immaterial now to inquire whether in the past during a war, or whether in the future if there should be a war, we can go to the extent

we have done, or whether in going to that extent we were justified or not, looking strictly to the true interpretation of the Constitution in that particular. I think all will agree that there must be a war before the power that grows out of a state of war can be exerted; and as nobody pretends that there is a condition of war now, or as far as we know that any war is anticipated, either with a foreign nation or among ourselves, the resolution upon the table cannot be justified upon that ground.

Nor does it profess, even if it could have been justified upon that ground, to be the exertion of the war power. It is intended to avoid disease, and nothing else. It is a sanitary regulation. It is a regulation to be accomplished by means of quarantine, or by quasi means of the same description. My friend from Massachusetts supposes—and the honorable member from Vermont yesterday, in proposing his amendment, put it upon that ground—that the measure can be maintained under the authority which Congress has to regulate commerce with foreign nations. My friend from Vermont will permit me to say that he misapprehends—I speak it with all respect—the principle upon which the passenger cases were decided. At that time the Supreme Court—a majority of the judges following what they supposed to be the rule established in the case of *Gibbons vs. Ogden*, in 9 Wheaton—were of the opinion that the authority conferred upon Congress to regulate commerce between the United States and foreign nations was exclusive, so that over that subject the States had no control whatever, and upon reasoning very plausible, and not only plausible, but very forcible, as stated in the opinion of Mr. Chief Justice Marshall, who gave the unanimous opinion of the court in the case of *Gibbons vs. Ogden*. But in the subsequent cases, in the passenger cases, and afterward more decidedly in what were called the license cases, a majority of the court came to the conclusion that the power was not an exclusive one, and that the States had a right to pass laws the effect of which was to regulate commerce in all cases in which such laws would not, in that particular, conflict with any existing laws which Congress might have passed. In other words, the court held that the power was, in one sense, a concurrent power; that if the United States thought proper to exercise their authority, about which there could be no doubt, but did not make an entire regulation, that which was not regulated fell within the scope of the power of the State. It is due to my own opinion and due to candor to say that I think the latter opinions of the Supreme Court in that particular were erroneous. My belief at the time was, and my belief now is, that the power was designed to be exclusive; and that, therefore, if Congress should fail to regulate entirely commerce between the United States and a foreign nation, Congress would have declared, by the failure to regulate, that what was being done with commerce as between the United States and foreign nations and the several States, was just in the condition in which Congress desired it to remain. In other words, the power of regulating commerce with which Congress is clothed is a power exerted in a case of that description by not regulating. The subject itself seems to be—and I speak now upon the authority of Mr. Chief Justice Marshall—one which necessarily must be entrusted to one power, to one Government; and if so, as nobody can doubt that the power is given to Congress by the Constitution, that power, in my opinion, is exclusive of like authority on the part of the States. But the received doctrine of the Supreme Court now is otherwise.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business, which is House bill No. 280, upon which the Senator from Michigan [Mr. HOWARD] is entitled to the floor.

Mr. CHANDLER. I hope that the special order will be laid aside informally. I think we can get a vote very soon on this question.

Mr. JOHNSON. I have no desire to go on; not the slightest.

Mr. CHANDLER. I think we can get a vote very soon on this measure.

Mr. JOHNSON. I think not.

Mr. CHANDLER. My colleague is willing to wait.

The PRESIDENT *pro tempore*. The unfinished business of yesterday can be laid aside by unanimous consent only.

Mr. JOHNSON. Not by my consent.

Mr. CLARK. I think we had better go on with the Post Office bill.

Mr. JOHNSON. I suppose there is no danger of the cholera coming here in the next two months.

The PRESIDENT *pro tempore*. Objection being made, the unfinished business will not be laid aside.

POST OFFICE APPROPRIATION BILL.

The Senate resumed the consideration of the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes, the pending question being on the amendment proposed by Mr. TRUMBULL.

Mr. HOWARD. Mr. President, the discussion upon the amendment offered by the honorable Senator from Illinois [Mr. TRUMBULL] now under consideration has taken so wide a range as almost to induce the belief that certain gentlemen who have spoken have become oblivious of the subject-matter of discussion. This liberality having been extended by the Presiding Officer to others, I trust I shall not fall under the censure of any gentleman if I avail myself of it also. I cannot, therefore, assure the Senate that in what I am about to say I shall confine myself very strictly to the amendment under consideration.

Mr. President, it has been declared during this discussion and on numerous other occasions, both in the Senate and out, that the so-called policy of the President of the United States, who holds his office, under the Constitution, by reason of the death of President Lincoln, is but the same policy enunciated and attempted to be carried out by the latter; and we have been told by the honorable Senator from Wisconsin, [Mr. DOOLITTLE], and the honorable Senator from Pennsylvania, [Mr. COWAN], in very energetic and emphatic tones, that this policy is the identical policy of Mr. Lincoln in regard to the reconstruction of the rebel States. I take issue with those Senators upon this question of fact. I deny that the policy of President Johnson is identically the policy of President Lincoln upon that most grave and important subject; and I shall show, or at least endeavor to show, in my feeble way, that the two lines of policy, that of Mr. Lincoln and that of Mr. Johnson, are in point of principle as wide apart as the poles; that while on the part of President Johnson there is an assertion of the absolute power of the Executive to interfere in the manner he has interfered for the restoration of the rebel States, while it is asserted in his behalf that he has this omnipotent power, and that it does not belong to Congress, Mr. Lincoln always, in his most solemn proclamations and acts, disclaimed that power and was ever careful to protest that he, as the executive branch of the Government, possessed no real power on the subject of the readmission of the rebel States into Congress. Let us recall a part of the history of the times and endeavor to see the exact position occupied by Mr. Lincoln touching the power of Congress and his own power over the question of the readmission of Senators and Representatives from the rebel States into Congress.

But before I come to that, let us, if it be possible, ascertain what this policy of Mr. Johnson actually is. Let us entertain clear ideas upon the subject, and ascertain what is the real essence, the gist of the controversy now existing between him and Congress. The best announcement of the policy of Mr. Johnson upon the subject of reconstruction is of course to be found in the most solemn paper he ever signed,

and that is his message at the opening of the present session of Congress. I have read that message with care, and studied it carefully and repeatedly, and so has the country. If there be any document in existence that is well comprehended both in Congress and out of it, it is that document. The following is a brief synopsis of the views of the President contained in that paper.

It assumes and asserts the power in the President to appoint provisional governors of the rebel States, to give them authority to call conventions, and to reestablish civil governments in them. This it claims as an executive power, a power derived under the Constitution, a power which he has exercised; but, sir, a power which in my judgment exists for him in no part of the Constitution. In this document he claims the right to reorganize civil governments as and for State governments in the rebel States, with all the powers, rights, and privileges of States of and in the Union. In short, he claims the power, as the Executive of the United States, to make peace with the States once in insurrection.

Sir, under what clause of the Constitution does the President find the power to proclaim and reestablish peace, after a state of war has intervened, whether with a foreign country with which we may happen to be at war, or a State or district declared by Congress to be in insurrection? He has not the power under the Constitution to make war, and for the same reason he has no power under the Constitution to make peace; and Congress has never in any statute given him any authority whatever to declare peace even in regard to the rebel States. Gentlemen will look in vain for any such authority. In the act of 1861 the President was authorized to declare certain States in insurrection; but, sir, Congress never gave to him any power to declare the insurrection to be at an end, much less to declare the insurrectionary districts again restored to the *status* they occupied before the war, or to declare that peace in the full constitutional sense of the term has been restored.

Mr. COWAN. Is there any necessity for a declaration that the rebellion is over? Is there any necessity in a case of this kind for a declaration that peace is restored?

Mr. HOWARD. That is by no means the question. The question is, not whether there be any necessity for granting such a power to the President, but whether it has been granted. I assert that Congress have never granted any such power to the President as to declare that peace in all its forms and in all its relations has been restored to the insurrectionary districts. Congress have taken good care to reserve to themselves this authority. I remind the Senate of the fact that the statute I allude to was drawn by the hand of one of the most cautious, circumspect, and profound constitutional lawyers of the country, Mr. Collamer, of Vermont. He carefully abstained from inserting any clause in that statute authorizing the President to declare that peace was restored.

But the message assumes that it is within the constitutional competency of the President to make peace with the insurrectionary States. It assumes this without the slightest recognition in any of its pages or paragraphs of the power or duty of Congress to legislate on this most important subject. In fact, the message ignores completely Congress and its authority, and treats the Executive as the only source of power over the conquered States. It does not consult or offer to consult Congress at all on the subject of reconstruction, and takes as little pains to refer this subject or any branch of it to Congress, as if there was no Congress; but with singular coolness asks the two Houses to judge, each for themselves, of the elections, returns, and qualifications of their own members. I will refer to the message itself. After stating that he had pursued a certain process in attempting to restore the rebel States to the Union, that he had done this thing, that, and the other, the President says:

"The amendment to the Constitution being adopted

it would remain for the States, whose power has been so long in abeyance, to resume their places in the two branches of the national Legislature, and thereby complete the work of restoration."

And this is all he says of the power of the Congress of the United States to legislate or in any way to act upon the question of the re-admission of the insurrectionary States into Congress. It is a plain and undisguised assumption that he, and he alone, has imparted to them the legal right to be again represented in Congress.

To make this certain he adds:

"Here it is for you, fellow-citizens of the Senate, and for you, fellow-citizens of the House of Representatives, to judge, each of you for yourselves, of the elections, returns, and qualifications of your own members."

Sir, had the seceding States been out of the Union for four years without war, had not a blow been struck nor a soldier marched against them, and had they seen fit to come back into the Union quietly, peacefully, and of their own accord, the message could not have been more silent as to the effect of the war upon their condition. On the part of the President of the United States the claim is put forth that he, and he only, has the right to resort to the measures necessary for the reconstruction of the States, and he has assumed, solely in virtue of the executive authority, to appoint provisional governors, without sanction of law—for there is no law nor a part of a law that authorizes him to appoint them—to impart to them power to convoke conventions and to give to those conventions certain power over the reformation of State constitutions, power to enact laws, power to call together Legislatures, and, in short, to cover the whole field of State legislation; and after having done all this he very coolly and very condescendingly says to Congress, "It now remains for you, gentlemen of the Senate, and for you, gentlemen of the House of Representatives, to judge"—of what? Of the fitness of the States for re-admission? No, sir. To judge of anything else? No, sir; but simply and solely to judge of the elections and qualifications of the Senators and Representatives that may have been elected from these States thus reconstructed under the executive decree. There is a complete denial on the part of the Executive of any authority in Congress to interfere, to inter-meddle, or to regulate in any manner whatever the internal concerns of the insurrectionary States, or to take any step with regard to their internal policy or their internal legislation.

To show that I am not incorrect in this, and in order that the country may be made aware of what the President has actually done under this high claim of power, I beg to call the attention of Senators to the circular letter addressed by Mr. Johnson soon after the cessation of actual hostilities to the various provisional governors of the insurrectionary States. I have here the commission which he issued to his numerous provisional governors. He, the President of the United States, assumes, of his own motion, without authority of Congress, without calling together Congress, or in any way consulting or proposing to consult them, to issue to each of these provisional governors this imperial commission, assuming to grant full legislative authority over the conquered States. After reciting in very laborious phrase the fact that he is President of the United States, that he is Commander-in-Chief of the Army and Navy, and adding what is not contained in the Constitution or the laws of the land, that he also is "chief civil executive officer of the United States," he says:

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States"—

I call the attention of the especial friends of the President to this singular language, and I shall ask them to explain it before this discussion ceases—

"Now, therefore, in obedience to the high and solemn duties imposed upon me by the Constitution of the United States, and for the purpose of enabling the loyal people of said State to organize a State government, whereby justice may be established,

domestic tranquillity insured, and loyal citizens protected in all their rights of life, liberty, and property, I, Andrew Johnson, President of the United States, and Commander-in-Chief of the Army and Navy of the United States, do hereby appoint A B [this is directed to Governor Holden] provisional governor of the State of North Carolina, whose duty it shall be, at the earliest practicable period, to prescribe such rules and regulations as may be necessary and proper for convening a convention composed of delegates to be chosen by that portion of the people of said State who are loyal to the United States, and no others, for the purpose of altering or amending the constitution thereof, and with authority to exercise, within the limits of said State, all the powers necessary and proper to enable such loyal people of the State of North Carolina to restore said State to its constitutional relations to the Federal Government, and to present such a republican form of State government as will entitle the State to the guarantee of the United States therefor, and its people to protection by the United States against invasion, insurrection, and domestic violence."

The authority conveyed by this commission is perfectly plenary, perfectly boundless in its scope and extent—"authority to exercise within the limits of said State all the powers necessary and proper to enable such loyal people to restore said State to its constitutional relations to the Federal Government."

Now, sir, I ask, under what clause of the Constitution of the United States is it that the President derives this boundless and undefined authority he has thus assumed to impart to his provisional governor? I assert that no such power is granted by the Constitution. There is nothing of the kind in it. As well might the President of the United States, in case of a conquest by the armies of the United States of a foreign country in the prosecution of a foreign war, assume to appoint a provisional governor and give him full power to call together a convention of the conquered people, to authorize that convention to frame a constitution for that people, to authorize them to elect a legislative body to enact laws, and, indeed, to launch and put in motion the whole machinery of civil government in a foreign land conquered by our arms, and to impart to the community thus framed and fashioned the right to be represented in the two Houses of Congress as one of the States of the Union, as to assume to give his provisional governors in the insurrectionary district the like authority.

Understand me, Mr. President; I do not assert that there was no necessity in the rebel States to make some provision against anarchy and for the preservation of order. I do not assert that a conquered people is to be left entirely to the results of war, anarchy, bloodshed, and private rapine. The laws of war and the laws of nations provide for the preservation of order and protection of private rights; and the general in the field is bound to afford this protection. That is by no means the question. The question is, what power has the President of the United States over the subject of legislation in the conquered country? Has the President of the United States this most important power? Is he the only legislative authority in the land whose duty it is to see to it that loyal governments are established, or does it belong to Congress? That is the point. I maintain that the power belongs to Congress, and to Congress alone. How was the necessity produced of any interference of this kind on the part of the United States? How has it happened that provisional governors became necessary? It was by the results of war. Who carried on the war? Was it the President? Who raised the Army? Who armed, clothed, disciplined, officered, drilled them? Congress, and not the President.

Sir, this claim of legislative authority on the part of the President, a claim perfectly distinct and outspoken so far as he is concerned, is, in my judgment, one of the most enormous usurpations of the power of Congress ever attempted; and if the Congress of the United States at this moment, the most momentous in the history of this Government, shall wink at the assumption, if they shall not stand up in their places here and manfully and resolutely assert their constitutional power over the whole subject, I look forward to the time when the will of the Executive of this nation

shall become the law of the land, and the authority of Congress dwindle in feebleness, and finally become lost in desuetude and contempt.

What, sir, was the plain duty of the President on the cessation of actual hostilities in the spring of 1865? The Constitution provides that the President shall, upon extraordinary occasions, convoke Congress for the purpose of taking their advice and enabling them to pass such acts of legislation as may be required. Sir, has there ever been any occasion in our past history, is it likely that another occasion will arise in our future history, more imperiously calling upon the Executive to convoke Congress and submit the whole matter to their judgment than that occasion? We had been engaged in one of the most bloody and ferocious wars known in history. At least eleven millions of the people of the United States had been for four years waging a relentless, wicked, rebellious war against the Government. The loyal States had sent to the field uncounted myriads of their sons to combat the enemy. There was scarcely a plantation from the Lakes to the Gulf of Mexico, scarcely a stream of water throughout the length and breadth of the land whose banks had not been dyed with the blood of the faithful or of the rebellious. More than one half the geographical extent of our territory lying east of the Rocky mountains had been in the acknowledged possession of the rebellion. We had sacrificed untold millions of dollars in the prosecution of the war to uphold the authority of the Constitution, and there was hardly a household throughout the loyal North in which there were not tears of lamentation over the loss of some dear one who had bravely gone to the field and sacrificed his life under the folds of the old flag. At the North we were divided by political parties. We had in our midst a party who had openly declared against the further prosecution of the war and pronounced it a failure, a party who for long anxious months were on the very eve of taking up arms also against the Government and acting as the allies of the rebels. The whole country, from center to circumference, was convulsed and thrown almost into anarchy by these great and perilous events. Our relations with foreign Powers had also become greatly entangled, and there was never an occasion when it was so necessary to call Congress together, take their advice, and appeal to them for proper legislation; and yet Mr. Johnson, acting I know not under whose advice, assumed to himself the whole task of restoring what he calls peace, and of reconstructing the rebel States, without convocation of the representatives of the States and the people, in utter disregard of their authority or the measures of legislation which they might think demanded by the public safety.

I complain of this course of conduct on the part of the Executive because I believe it to be a usurpation of the authority which pertains, not to him, but to Congress; and here is the gist of the controversy; here is the bone of contention. Mr. Johnson, backed by certain advisers, says to the country and to Congress, "The executive power is sufficient in the premises; the executive power has recreated and reconstructed the States; you, gentlemen of Congress, have nothing to do with this subject; you have no power of legislation over it; I, the Executive, I, Andrew Johnson, assume to myself the authority of declaring when a State is restored to the Union and when it is entitled to readmission by its Senators and Representatives into the Halls of Congress." This is the point. The policy of Mr. Johnson was plainly announced in his opening message. He had, forsooth, reconstructed the States, and he says to us, in very condescending terms, "It belongs to you now, gentlemen of either House, to judge merely of the qualifications of the members who shall be sent to you by my reconstructed States!"

Now, Mr. President, I come to the question of what was the policy of President Lincoln; and here I desire the particular attention of

the apologists of this great stretch of executive power. That I do not err in saying it is claimed in behalf of Mr. Johnson that he is but pursuing the same policy pursued by Mr. Lincoln, the following extract will sufficiently prove. In his 22d of February speech, already famous at home and abroad, and in which Mr. Johnson undertook to develop his policy and to eulogize it, he said:

"The very policy which I am pursuing now was pursued under his [Mr. Lincoln's] administration, and was being pursued by him when that inscrutable Providence saw fit to remove him, I trust, to a better world than this."

"The very policy which I am pursuing," is the language of President Johnson.

Again, the honorable Secretary of State, in the speech he made at the Cooper Institute in New York on the same evening, speaking of the same subject, used the following equally emphatic language:

"And it is the same plan that Abraham Lincoln projected before he was removed from his high trust, the same one that Andrew Johnson was executing for him in Tennessee."

That policy, sir, here asserted to be the same as that of Mr. Lincoln, is immediate readmission to Congress, without delay, without securities, without condition; and it is based upon this monstrous assumption, to which I have already alluded, that it is competent for the Executive to reconstruct the insurrectionary States; that it is for him and not for Congress to impart political power and legislative capacity to the people of the insurrectionary States. Now, sir, I assert that Mr. Lincoln never adopted any such principle, and I stand here in my feeble way to vindicate the memory of that great and good man from such an aspersion upon his character.

Mr. Lincoln, in his proclamation of the 8th of December, 1863, after declaring that he should recognize as the true government of the insurrectionary States the one which should be constituted according to the provisions of each of his proclamation, proceeds to use the following cautious and significant language, which seems to have been entirely overlooked or forgotten by the advocates of the immediate restoration policy:

"To avoid misunderstanding, it may be proper to say that this proclamation, so far as it relates to State governments, has no reference to States wherein loyal State governments have all the while been maintained. And for the same reason"—

That is, to avoid misunderstanding—

"it may be proper to further say that whether members sent to Congress from any State shall be admitted to seats constitutionally rests exclusively with the respective Houses, and not to any extent with the Executive."

Here is Mr. Lincoln's protest against his own authority so to construct an insurrectionary State as to impart to it the right of electing and sending members of the Senate and House of Representatives. He refused to recognize as within himself any such authority. He denied it in the most guarded language of which he was capable. Is that the doctrine of President Johnson to-day? Does he deny that to him pertains the power of imparting political rights to the insurrectionary States in such a way as to enable them legally and constitutionally to elect Senators and Representatives? No, sir. He asserts it; and he asserts that this having been done by virtue of his imperial decrees, all that remains for Congress to do is to pass, each House for itself, upon the naked, barren question of the sufficiency, the regularity, or formality or informality of the mere certificates of election which may be brought here.

He has assumed to enable the insurrectionary States to elect Senators and Representatives to come to these Halls and participate in our legislation. And this is the great point of controversy between us, the assumption on his part to interfere in the legislation of Congress and the denial of that authority on our part. Such is the gist of the controversy. "My policy" means immediate readmission into the two Houses of Congress in the persons of the Senators and Representatives elected by these

reconstructed rebellious States without qualification, without condition, and without taking security against a recurrence of the war.

Mr. Lincoln never adopted any such principle, but he denied it. He was careful, in order to avoid any misunderstanding on this most delicate question, so to express himself in his proclamation as to leave no ground of controversy or disputation. He asserts that the right of readmission belongs exclusively to Congress, and not to any extent to the Executive. That is not, however, "my policy," nor the doctrine of the advocates of "my policy."

Mr. President, allusion has been made to what is known as the dying speech of President Lincoln. Even that has been quoted on this floor in support of the pretensions of the Executive. Sir, this doctrine receives no support from the dying speech of Abraham Lincoln. On the contrary it receives from that speech a most stern and decisive rebuke. On that occasion President Lincoln said:

"As a general rule I abstain from reading the reports of attacks upon myself, wishing not to be provoked by that to which I cannot properly offer an answer. In spite of this precaution, however, it comes to my knowledge that I am much censured from some supposed agency in setting up and seeking to sustain the new State government of Louisiana. In this I have done just so much as, and no more than, the public knows."

A phrase in its tone and style entirely Lincolnian.

"In the annual message of December, 1863, and accompanying proclamation, I presented a plan of reconstruction, (as the phrase goes,) which I promised, if adopted by any State, should be acceptable to and sustained by the executive government of the nation. I distinctly stated that this was not the only plan which might possibly be acceptable; but I also distinctly protested that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States."

A full, solemn, plump disclaimer on the part of President Lincoln of the exercise of that assumed power which I am now combatting, the power asserted at present by President Johnson of the right of the rebel States to readmission into Congress.

Mr. COWAN. I beg the honorable Senator's pardon for interrupting him, but I know that he has no design to misrepresent the President; I think not, at least.

Mr. HOWARD. Not at all.

Mr. COWAN. Has not the President quite as distinctly, quite as plumply disclaimed on his part any attempt to influence Congress to admit members from the southern States upon this floor? Has he not said that that rests exclusively with each House of Congress? Mr. Lincoln said "the respective Houses of Congress." Is it not but fair to the President to say that he has never on any occasion or at any time claimed that he had the right to dictate to Congress whether they should receive this member or that member or the other? Is not the true question this: when a southern applicant for a seat comes here, shall the Senate of the United States decide upon it for themselves, and shall the House of Representatives decide for themselves, or shall a joint committee of the two Houses, and both Houses, decide the question rather than the respective Houses, as President Lincoln said, or each House as President Johnson has declared?

Mr. HOWARD. Mr. President, there is in the mind of the honorable Senator from Pennsylvania or in my own a great confusion of ideas. I am combatting this principle, to wit, that it is the right of the President of the United States so to reconstruct, reconstitute, or recreate the insurrectionary State governments as to enable them, in virtue of his executive decrees, to elect a Senator or Representative at all. That is the point. The mere formal question of the power of each House to decide upon credentials is one which I am not discussing. I go far behind that; I go down to the bottom, to the essence of the question, and deny the power of the President to impart to the people of any rebel State any political rights whatever; and I claim that that power belongs to Congress and to Congress alone. I have not said that Mr. Johnson had ever stated that he claimed he had the right to dictate

whether this House or the other should admit this particular member or the other particular member to a seat in the House. That is a side issue, as the honorable Senator from Pennsylvania readily sees if he understands the question. It has nothing to do with the real question I am discussing. That is the power of the President of the United States to impart political rights to enemies who have forfeited them by making war against the United States.

Mr. COWAN. The honorable Senator will allow me a word, so that we may understand each other; because I really desire to understand him, and I think he is fair enough to desire to understand other people. Do I understand the honorable Senator, then, to say here that, in the rebellion, the rebel States were utterly and entirely destroyed, had no existence whatever in the eyes of the Constitution and the laws, and that the President had no authority whatever to institute any measures for their rehabilitation and for their replacement in their order as States, and that it is in that of which he complains of the President?

Mr. HOWARD. I shall not now undertake, for it is unnecessary, to lay down the exact boundaries and limitations of the power of the President of the United States, as Commander-in-Chief of the Army and Navy, in regard to a conquered people. That is an immaterial question. However, in part answer to the gentleman's rather prolix interrogatory, I will say, that it is not competent for a military commander in the field, whether he be "Commander-in-Chief" or acting in any other capacity under the Constitution of the United States, to impart political or legislative rights to the conquered community. That is what I assert. The Commander-in-Chief holds the sword of physical force; all his acts as Commander-in-Chief are connected with the prosecution of the war as such, and go not a single inch beyond the necessities of the war. He has no authority to assume the legislative power that appertains to the Government who appoints him and whose servant he is, and undertake to exercise legislative authority in the country where he is the conqueror. Let the honorable Senator from Pennsylvania read the numerous cases in Roman history and in Grecian history, and indeed in all other histories in which such attempts have been made on the part of commanders in the field, and he will not find a single instance in which any attempt to exercise legislative authority over a conquered people has been tolerated by the Government at home.

Mr. COWAN. I wish to state distinctly to the honorable Senator from Michigan that my theory is as simple—

Mr. HOWARD. I do not wish to be interrupted by a statement of the gentleman's theory. He has stated it so often on this floor that I think I tolerably well understand it myself.

Mr. COWAN. I hope the honorable Senator will allow me. I want to make that statement just here as he is addressing his argument to me.

Mr. HOWARD. I am willing to allow almost anything; but I will not be interrupted to expose the Senate to the infliction of an essay—

Mr. COWAN. Of course I will not persist; but if the gentleman will not allow me to put the question here, I will put it at a time when he cannot avoid it.

Mr. HOWARD. The Senator will pardon me for saying that although my refusal in this case may not be entirely agreeable to him, it cannot be beyond his recollection that he, on some occasions heretofore, has shown a little intolerance of interruption.

When I was interrupted I was reading the dying speech of Mr. Lincoln. I must go back to it. He says:

"In the annual message of December, 1863, and accompanying proclamation, I presented a plan of reconstruction, (as the phrase goes,) which I promised, if adopted by any State, should be acceptable to and sustained by the executive government of the nation. I distinctly stated that this was not the only plan

which might possibly be acceptable; and I also distinctly protested that the Executive claimed no right."

Hearken to his language—

"that the Executive claimed no right to say when or whether members should be admitted to seats in Congress from such States. This plan was, in advance, submitted to the then Cabinet, and distinctly approved by every member of it. One of them suggested that I should then, and in that connection, apply the emancipation proclamation to the theretofore excepted parts of Virginia and Louisiana; that I should drop the suggestion about apprenticeship for freed people, and that I should omit the protest against my own power in regard to the admission of members of Congress."

Will the Senator from Pennsylvania have the goodness to listen to this language?

Such was the peculiar caution, on this mighty subject, of Abraham Lincoln. He disclaimed in the most distinct and emphatic terms both in his proclamation of the 8th of December, 1863, and in what is called his dying speech, made only a few days before his death, all authority in himself to impart to the States he was attempting to reconstruct any constitutional right to elect members of Congress, whether Senators or Representatives, in such a way as to give them a legal title to be admitted to seats. That is what he means and exactly what he means—nothing more, nothing less. That is by no means the doctrine of the present day. The claim now is that the right to elect, and consequently the legal right to have the party elected, if possessing the requisite personal qualifications, admitted to his seat in either House, has been imparted by the President's authority and under his commission, and that Congress are concluded and debarred any inquiry into the right claimed.

Again, sir, Mr. Lincoln did not confine himself to the peculiar mode of reconstruction mentioned in that proclamation. Early in July following, as the world knows, Congress with great unanimity passed a bill for the reestablishment of the rebel States, commonly known as the "Winter Davis bill," a bill which President Lincoln did not see fit to approve; but for his omission to approve it he gives, in the proclamation he issued on the 8th of July, 1864, the following reason:

"Now, therefore, I, Abraham Lincoln, President of the United States, do proclaim, declare, and make known, that while I am, (as I was in December last, when by proclamation I propounded a plan for restoration,) unprepared, by a formal approval of this bill, to be inflexibly committed to any single plan of restoration; and while I am also unprepared to declare that the free State constitutions and governments already adopted and installed in Arkansas and Louisiana shall be set aside and held for naught, thereby repelling and discouraging the loyal citizens who have set up the same as to further effort, or to declare a constitutional competency in Congress to abolish slavery in States, but am at the same time sincerely hoping and expecting that a constitutional amendment abolishing slavery throughout the nation may be adopted, nevertheless I am fully satisfied with the system for restoration contained in the bill as one very proper plan for the loyal people of any State choosing to adopt it, and that I am, and at all times shall be, prepared to give the executive aid and assistance to any such people, so soon as the military resistance to the United States shall have been suppressed in any such State, and the people thereof shall have sufficiently returned to their obedience to the Constitution and the laws of the United States, in which cases military governors will be appointed, with directions to proceed according to the bill."

Here it is apparent that Mr. Lincoln was not willing to be bound down even to his own plan as sketched in his proclamation of the 8th of December, 1863, but that he was entirely satisfied with the bill he had omitted to approve; and he solemnly promised, in his proclamation of July, 1864, that whenever military resistance should cease in any of the rebel States, and the people in those States were willing to return to their loyalty, he would give them his executive aid by appointing a provisional governor and giving governors the authority granted by the bill. Here were his two schemes, both of them liberal, and the last had the bill been approved, free from all constitutional objections.

Now, sir, let Mr. Lincoln be no longer quoted here or elsewhere as being the author of this enormous policy by which the whole power of Congress over the subject of reconstruction is to be absorbed into the single hand of the Executive. Do not desecrate the name of that

great and good man by imputing to him such a gross attempt to usurp the powers of Congress.

Mr. President, the honorable Secretary of State, in the prepared speech delivered by him at the Cooper Institute, in New York, on the 22d of February, simultaneously with the delivery of President Johnson's speech, to which I have alluded, speaking of the restoration of the rebel States, uses the following very strange language:

"Now, I am sure this plan is going to succeed."

That is, the plan of President Johnson; the plan of immediate, unconditional readmission into Congress.

"I am sure of it, because some plan must succeed."

He is perfectly sure that a particular plan is going to succeed, because he is sure some plan must succeed. When I was a school-boy, attending to my logic, had I uttered such a sentence, I think the professor would have told me it was a *non sequitur*. But let us proceed. The Secretary continues:

"And because this is the only plan which has ever been attempted, or which I think ever will be attempted."

The only plan! Had the honorable Secretary forgotten the plan of Mr. Lincoln, as different in principle from that of Mr. Johnson as light from darkness? He says:

"Certainly it is the only one that can be attempted with success."

Sir, we will try that issue. I make no boast; I throw out no menace and no defiance; but I say with confidence here to the friends of this policy that I will try that issue before the country. I know of nothing in it which should deter an honest man from espousing the negative; and I tell you, sir, that when this issue is fully and fairly presented to the people of the United States, when they come to understand what it is in its length and in its breadth, in its designs, in its purposes, in its enormous dangers, in its injustice, in its cruelties, and in all its deformities, you need not doubt that that honest and loyal and gallant people who have done so much to preserve the Government, to maintain its dignity and its honor, will utter a lasting and an indelible rebuke to the policy so confidently and so boastfully advocated by the Secretary of State. He says further:

"It is nearly executed already. The States are there—"

Hearken to this—

"The States are there, just as fully in the exercise of their State functions and powers and faculties as the State of New York is, at Albany, to-day."

What is the logical consequence of this? If the eleven rebel States are at the present time as legitimately and constitutionally in the exercise of their proper functions, and as much entitled to be represented in the two Houses of Congress as is the State of New York, and if Congress are wantonly and wickedly refusing to allow them the same privilege of representation here as is enjoyed by the State of New York, what is the consequence? What is the logical result of this position, or rather assumption, of the Secretary of State, that they are as perfectly rehabilitated, that they are as perfectly in the enjoyment of their State rights as is the State of New York?

Sir, I would not impute to the Secretary of State any unlawful intention; I do not; but I cannot read this language and fail to see that it at least squints at the possibility of an armed interference at some future day and the establishment by means of the executive sword of these reconstructed States regularly in Congress, with the full quota of Senators and Representatives. If they are constitutionally entitled to this representation, as much so as New York, it is wholly unconstitutional for us to keep them out, and clearly our sworn duty to let them in.

In short, according to the Secretary of State, the conduct of Congress upon this subject is usurpatory, tyrannical, revolutionary, and even treasonable. There is but one step between such a position and advising the employment of military force to carry out its purposes. He says:

"Representatives can come up and lay their hands upon the Bible and take the oath, and remain there."

Now, I think this is going to be done. It may not be done to-day. I thought it ought to be done on the first day of this session of Congress. Others thought it better to wait and inquire—take a recess. Then I thought it had better be done when the recess was ended. Others thought it had better be postponed, to the 1st of February. Now they are talking of postponing it until they can pass some law."

It is quite apparent that the Secretary deems no law necessary to the reintroduction of the Senators and Representatives of the rebel States into these Halls; he seems to have ignored entirely the effects of the war upon the rebel States and the legislation of Congress, and looks upon them as just as much entitled at this day to be readmitted here as the State of New York is entitled to enjoy the benefits of her present representation here. This readmission, he says, is all that remains to be done:

"And it is the same plan that Abraham Lincoln projected before he was removed from his high trust, the same one that Andrew Johnson was executing for him in Tennessee. It will be done."

"Then, as the Union is to be restored some time there is to be some plan which is practicable, and if there is some one, then some one who is in favor of it can tell me what that plan is and when it is likely to be adopted. I pause for a reply. I have never seen any other plan proposed. I have seen this plan suggested at two successive Congresses, that, notwithstanding the conditions of the States, they should be legislated into the condition of Territories, and should be governed by the military arm till they had performed sufficient acts of purgation, and should be brought in at some far-off period."

I read from the speech chiefly to show what the real doctrine is, known as "my policy;" that it is a claim on the part of the Executive that he in his decrees has reestablished these States and put them in possession of all their functions as States, without the assistance and without the sanction of Congress, and that therefore they are entitled to be represented now; and that for Congress to wait any longer, to keep them out by any statute or any measure it may see fit to resort to, is doing a great wrong to the insurrectionary States. Sir, we are doing no wrong to the insurrectionary States. I concur with the honorable Secretary of State when he says the time will come when they will be readmitted to the Union with all their rights and privileges, with their full complement of Senators and Representatives; but I do not hold that it is the duty of Congress to admit them now and immediately. I think we ought to take time to consider, that we ought to look especially to the condition of the southern people, and ascertain to our own satisfaction whether they are in such a social and political condition as to make it safe and secure for us to readmit them.

Sir, I reject, as entirely untenable, the principle, if it can be called a principle, that whenever a disloyal State sends to Congress a loyal representative that loyal representative ought to be admitted to his seat if he has been regularly elected. Upon this point a great deal has been said both in Congress and out of Congress. We are told that if they send here loyal Senators, our duty is to admit them; if they send here loyal Representatives, the duty of the House is to admit their Representatives. Sir, I deny it. That assertion is in direct inconsistency with the essential principle of republican government. What is a representative who is sent to the Congress expected to do? What is his leading characteristic? Is he not expected to represent the interests and the feelings of the constituency who send him? Certainly. Who expects that a particular constituency will elect a man to Congress and send him here as their representative, whose principles are utterly at war with theirs, or whose interests or principles or prejudices are inconsistent with theirs? And yet the honorable Senator from Connecticut holds, I believe, that we ought to admit the loyal representatives without the slightest reference to the character of the constituency whom they represent. Sir, that is a great fallacy.

Mr. DIXON. If the Senator had taken the trouble to listen to what I said, or to read it afterward, he would have seen that I expressly stated that the constituency should be loyal as well as the representative.

Mr. HOWARD. Perhaps I mistake the

Senator's views; but certain it is that the principle has been repeatedly advocated on this floor.

Mr. DIXON. The President said the same thing in the message from which the Senator has just read. The Senator will certainly find it in one of his messages.

Mr. HOWARD. I wish the Senator would look it up for me. I have not been so fortunate as to discover it. Mr. President, it is the character of the constituency that is to be represented in Congress by the person elected, and not that of the mere representative himself. He is but their servant and agent.

Mr. DIXON. If the Senator will allow me, I can repeat from recollection what the President says. The President says that each State ought to be represented when they present themselves, not only in an attitude of loyalty and harmony, but also in the persons of representatives whose loyalty cannot be questioned under any legal or constitutional test. That is his language.

Mr. HOWARD. I shall feel better satisfied when I read the exact language of the President, a little more secure as to what Mr. Johnson actually means. But, sir, the idea of allowing a representative who swears that he is loyal to come to Congress and take his seat, for no other reason than that he swears he is loyal, while at the same time the fact is his whole constituency is disloyal, unfriendly to the Government, and indisposed to uphold it, is to me a most inexpressible absurdity. It is the character of the constituency, and the constituency alone, that is to be looked to. Only a few months ago every one of these several southern constituencies was in open rebellion against the Government. There was not a single congressional district throughout the rebellious States that did not have within its limits a large majority, and the whole community had been declared public enemies by Congress. I was very glad the other day to hear the honorable Senator from Pennsylvania, who a year or so ago had spoken so eloquently here in favor of dealing gently with our southern brethren, who told us over and over and over again that the Union element was large and strong and powerful throughout the South, and that, in order to bring the war to a successful and speedy close, our best policy was to cultivate and befriend that portion of the rebel community—I was glad to hear him, the other day, acknowledge that those Union men, once so precious and so numerous, were but *rari nantes in gurgite vasto*; that they were few and far between, swimming, I suppose, almost out of sight of each other in the vast and stormy gulf of the rebellion.

Well, sir, such is the fact. It is a fact, and it has been recognized for four years past—a fact recognized by the laws of the United States and by the decision of the Supreme Court—that practically the whole southern people were hostile to the United States, hostile to this Government, anxious to overthrow it, determined to overthrow it, making sacrifices beyond those ever submitted to by any other portion of the human family to overthrow, not a bad, oppressive Government, but a Government which had never been felt by them except in the benefits it conferred upon them. How vain, how idle is it to pretend that within only a few months from the close of these bloody scenes it has transpired that a large majority or any majority or any considerable portion of the people of those States have become loyal and friendly to the Government, willing to go on and act the part of good citizens in upholding it and carrying out its purposes. I have been in the way of obtaining some information on the subject, which it may not be useless to lay before the Senate. I ask leave to read, for the purpose of showing what is the actual condition of the rebel population in the South, especially in Virginia, an extract from the testimony taken before the reconstruction committee of Hon. John M. Botts. The following question was put to him:

"What is the feeling of the ex-rebels in Virginia

generally toward the Government of the United States?"

He answered:

"At the time of the surrender of General Lee's army and the restoration of peace, I think there was not only a general but an almost universal acquiescence and congratulation among the people that the war had terminated, and a large majority of them were at least contented, if not gratified, that it had terminated by a restoration of the State to the Union. At that time the leaders, too, seemed to have been entirely subdued. They had become satisfied that Mr. Lincoln was a noble, kind-hearted, generous man, from whom they had little to fear; but when he was assassinated, and Mr. Johnson took his place, they remembered Mr. Johnson's declarations in the Senate of the United States before the war, his own treatment during the war by the secession party, and his declarations after he came to Washington as the Vice President of the United States, in one or more speeches, but especially in a speech in which he declared that treason was a crime which must be punished, they felt exceedingly apprehensive for the security of their property, as well as for the security of their lives; and a more humble, unpretending set of gentlemen I never saw than they were at that time. But from the time that Mr. Johnson commenced his indiscriminate system of pardoning all who made application, and from impositions which I have no doubt were practiced upon Mr. Johnson in pardoning the worst class of secessionists among the first, they became bold, insolent, and defiant; and this was increased to a very large extent by the permission which was immediately after the evacuation of Richmond given by General Patrick, the Democratic copperhead provost marshal of the army of the Potomac, to the original conductors of the public press before the rebellion to reestablish their papers, I believe without restriction or limitation upon any of the proprietors; since which time I think the spirit of disloyalty and disaffection has gone on increasing day by day and hour by hour, until among the leaders generally there is as much disaffection and disloyalty as there was at any time during the war, and a hundredfold more than there was immediately after the evacuation and the surrender of the army. This is the conclusion to which my mind has been brought by the licentiousness of the press and by communications which are made to me from all parts of the State, either verbally or by letter, from the most prominent and reliable Union sources."

And such is the concurrent testimony of a great majority of all the numerous witnesses examined before that committee; the great weight of proof is, that instead of producing quietude, peace, and contentment in the insurrectionary districts, the policy of Mr. Johnson in extending pardons and amnesty almost indiscriminately has had the effect to make the rebels and their friends more defiant and more contemptuous toward the Government.

Mr. President, I have stated that the business of reconstructing the States belongs exclusively to Congress, and not to the Executive; that that is a thing to be done by the exercise of the law-making power only. The President of the United States cannot make laws. He has no power of legislation whatever under the Constitution. On the other hand, the Constitution itself, in its first article, declares emphatically that "all legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives;" leaving no residuum of legislative power to be exercised by any other functionary of the Government, but giving the whole of it, without stint and in the broadest terms, to the two Houses of Congress. Now, I ask, what power has the President by an imperial decree to reconstitute, reconstruct, or rehabilitate, or recreate a State of this Union which for four long years had forfeited its political existence as a State by turning its arms as a community against the United States? What had become of these State powers during these four years of war? Mr. Johnson seems to hold that these States were never out of the Union, but always in the Union.

Mr. SAULSBURY. Will the honorable Senator allow me to ask him a question just there?

Mr. HOWARD. Yes, sir.

Mr. SAULSBURY. If the doctrine for which he now contends be true, I wish to ask the honorable Senator this question: after Tennessee had assumed to secede, and after Virginia assumed to secede, if they were out of the Union and not entitled to representation upon this floor, why did he, as a Senator, countenance the presence of the present President of the United States as a Senator on this floor from Tennessee and the Senators from Virginia as representing a State?

Mr. HOWARD. Mr. President, when I

first took my seat in this honorable body I found the two Senators from Virginia here already, but I am frank to say, in reply to the question of the honorable Senator from Delaware, that if the question had been put to me, as a Senator, after the secession of Virginia from the Union, or rather after she had taken up arms as a government against the Government of the United States, whether I would admit Senators elected by that State, no matter when, to come into the Congress I should have answered "No."

Mr. SAULSBURY. One other question: was not the honorable Senator a member of this body when my friend on my left [Mr. WILLEY] was admitted to a seat on this floor, and when the late Senator from Virginia, since deceased, was admitted to a seat on this floor, both occurring since the war commenced?

Mr. HOWARD. I do not remember whether I was a member of the body at that time or not.

Mr. SAULSBURY. I refer to Hon. Mr. Bowden.

Mr. HOWARD. I know the precedent had already been fixed by the action of the Senate before I took my seat here. The Senators from Virginia were in their seats, and I think there was a change afterward; but the question never was raised as to the propriety of recognizing the Senators from Virginia. It will be remembered, however, that the government of old Virginia has ever been recognized by the action of Congress. Although, as one of the results of the insurrection in that State, their civil government had become dissolved and destroyed, still there was a government, a government for the whole of Virginia, organized and in activity in western Virginia; and that government was recognized by the Congress as being the legitimate government of the State. I did not feel disposed to disturb the action of Congress on that subject. But I beg to put the question to the honorable Senator whether he objected to it.

Mr. SAULSBURY. Yes, sir; I did.

Mr. HOWARD. I am very glad to hear it.

Mr. SAULSBURY. One other question. The honorable Senator says that the General Government recognized the Legislature which sat at Wheeling as the Legislature of the whole of Virginia. Now, I wish to ask the Senator whether Virginia as a State, as a whole state, before its division into East and West Virginia, had not assumed to secede from the Union, and whether the military power of Virginia was not in possession of a great part of what is now West Virginia.

Mr. HOWARD. I believe the mere historical fact was this: upon the passage of the ordinance of secession, in April, 1861, by the Virginia convention, a new government for the State of Virginia was organized in West Virginia. It was recognized as the government of that State by Congress, and we have ever since recognized that government as the government of Virginia, and recognize it to this day. I believe there has been no interregnum whatever.

Mr. President, I was speaking of the condition of the rebel States during the war. It is often said that it is impossible for a State to get out or to be out of the Union; that these rebel States have always been in the Union; that they have tried to get out of the Union, but cannot get out of the Union; that that has turned out to be physically impossible; and the result, in the minds of some, is that they have always been in the Union and of the Union; that none of their faculties have been lost or impaired by the rebellion, and that on the cessation of the rebellion they are entitled to all the rights and privileges they ever possessed as members of the Union. Now, sir, what was the actual condition of the rebel States during the war is rather a barren question; but I have ever been of the opinion that the rebel States were actually out of the Union from the time they took up arms against the Government down to the time when their armies were surrendered or disbanded.

Mr. COWAN. What was the war for, then?

Mr. HOWARD. I will tell you what the war was for. There is no doubt about this fact, that there was a universal condition of armed hostility on the part of the seceding States against the Government. That is admitted. There is no doubt about the further fact that for four years and more the Government was engaged in armed hostility against these seceding States. I am not going into the question as to what is the foundation of all government, but I say to Senators, and especially to the Senator from Pennsylvania, that in contests between political communities I know of no law higher than physical force. Does he? Will he answer?

Mr. COWAN. I shall be glad to answer at some length, hereafter; but I will give the honorable Senator enough to start on now to carry him through. The several States of the Union are, in my judgment, political communities—

Mr. HOWARD. I beg leave to restate the question in order to avoid wandering.

Mr. COWAN. Then the gentleman does not want an answer.

Mr. HOWARD. Yes, sir; I want an answer. The question which I put to the honorable Senator is this: do you know of any higher law than that of physical force between contending political communities?

Mr. COWAN. I have only to reply that the question in itself is nonsense; there is no sense about it; and nobody could answer it directly as a question supposed to contain a sensible proposition. I know what the gentleman means by the question, and I will answer him at the proper time, or now if he desires it; but I do not want to interrupt him.

Mr. HOWARD. I am drawing my remarks to a close. I supposed the honorable Senator would treat my query very much in that way.

Mr. COWAN. If the Senator will allow me I will put it in shape and answer it.

Mr. HOWARD. Mr. President, for four years the contest between these two parties was that of force. For seven years the contest between the colonies and the mother country was a contest of force. The Declaration of Independence was just as unconstitutional an act, when construed in the light of British law, as was any of the ordinances of secession; and still the law which finally gave sanction and enduring solemnity and importance and effect to that immortal Declaration was the law of force; and the civilized world has recognized the independence of the United States as a nation from and after the 4th of July, 1776, although the contest between the parties endured for seven years after that date. Had the same results accrued in the contest between the United States and the seceded States, the Senator from Pennsylvania will not deny that the independence of each of those States would have been recognized as having taken effect from and after the date of the ordinances of secession. For four years these States, in one form or another, either separately or combined, prosecuted a war against the United States for the purpose of upholding their ordinances of secession.

Now, I ask the Senator from Pennsylvania, in case they had been successful, would the ordinances of secession have been void? No, sir; they would have been valid, upheld and established by this highest law between contending communities, physical force. So far as communities are concerned, so far as nations are concerned which are at war with each other, the question whether the war is right or wrong is entirely immaterial; and in our case the only question of any importance is, what was the actual condition of the rebel States during the war? Why, sir, they were as independent of the Government of the United States as is the Government of Mexico. We reconquered them, to be sure; but the States which we brought back into the Union, if we did bring back any States as such, were by no means such States as existed before the war. They were different. They were entitled to no other appellation than that of conquered country.

Yes, sir, we have a right to proclaim that they are conquered, as much conquered as ever Gaul or Germany was conquered by the Roman arms; as much conquered as Canada was conquered by the British forces during the Seven Years' war; as much conquered as was the British Government upon this continent in the triumph of our arms—conquered, subjugated. They lay at our feet. They had no legislatures of their own. There was no legislative authority whatever which we either recognized or were bound to recognize as the conqueror. There was no other will that could prevail, or that ought to prevail in the conquered territory but the will of the United States in Congress assembled—the will of the conqueror. It was for us, and for us alone, sitting in the two Houses of Congress to give the law to the conquered, not by any means the *væ victis*, not a law of vengeance, destruction, or desolation, but a law which should carry out the just purposes and wishes of the American people in regard to the rebel States; a law which in the end should restore them to their original condition and functions as States of the Union; and no Union man here or elsewhere has ever, so far as I know, contemplated anything else but that, ultimately, and within a reasonable time, and in a secure manner, these conquered States shall be brought back into the Union. It is necessarily the work of law, and law arising under the Constitution itself.

It is said that these States have the right of coming back to Congress. I grant it. They have a right to return to their allegiance and to be represented in the two Houses of Congress; but that right does not accrue, and cannot accrue, until the conqueror—the Congress of the United States—has seen that it is consistent with their interests, with the interests of their people, the interest of the whole people of the United States. We hold them to-day not by their own will, not by their willing fealty to the Government, not in virtue of their fidelity to the Constitution; but solely, in my judgment, even to-day, by virtue of this highest law known to communities—physical force. What keeps your provisional governors in their seats to-day? The Federal bayonet. What preserves even old Virginia to-day from a renewal of insurrection? What to-day hinders another conspiracy, the calling together of another southern congress, the election of another southern president, and a general secession of all these States? Is it the friendliness of the rebel communities toward the Government? Is it their love of the Union of the United States and the Constitution? Is it because they respect us? No, sir. If they had the power to-day, and were not resisted or prevented by the bayonet, I tell you that before forty-eight hours you would see combinations, conspiracies, legislative assemblies and conventions assembling together, and you would see these southern people again asserting the right of secession, again setting up for State independence, for independence as a southern confederacy, a new nation upon the face of the earth; and, in my opinion, that is to-day the great object they most cherish at their hearts.

Sir, they look upon themselves as a separate nation; their people cherish a love for a separate nationality; and the honorable Senator from Pennsylvania and the honorable Senator from Connecticut, if they have read as attentively as I have—and I have no doubt they have—ought to be just as well convinced that such would be the result as I am. Sir, it is the bayonet, to-day, that preserves the authority of the Government in the rebel States. Remove your military pressure, take away your Freedmen's Bureau, take away the small fragments of troops that now remain in the southern States and elect as President of the United States a man who does not believe in State coercion—elect another James Buchanan, and you will have, the moment he has entered upon his office, another general secession. Mr. President, for one, I desire to guard against such a contingency, I desire to take security from the conquered; I desire to impose on them some reasonable conditions that shall save me and

my posterity, my constituents and my countrymen forever against the recurrence of the evils through which we have just passed; and I say that this great duty, a duty almost too mighty and too weighty for the best wisdom of both Houses of Congress, still pertains to the councils whom the people have constituted in these Halls, not to the President.

Sir, in the month of February, 1865, while Hon. Mr. Collamer occupied the floor, he made use of language so forcible and so clear, upon the power of Congress over the rebel States, that I must again trespass upon the Senate by reading an extract. That gentleman had reflected long, carefully, and profoundly upon this whole subject. We all know the constitution of his mind, its remarkable strength and elasticity, the clearness of his conceptions, and the accuracy of his judgment. He gives us this as the result of his reflections. He says:

"Sir, are there not two sides and two parties to this war? It is the strangest war men ever heard of if it has but one side to it. I take it there are two parties to this war: the several States who have made it on the one side, and the national Government against whom they made it on the other; and I suppose the two parties must participate in the restoration of peace and quietness, and their restoration to their former condition, or a condition where they can perform their functions within the Government, as integral parts of the Union. It is for Congress to say men that state of things exist. Congress is not bound to receive their members or to treat them as being regular, loyal, integral members of this Union because they have succeeded fighting and succeeded military operations, until we have seen a return to loyalty and an obedience to their allegiance and the performance of their fealty, the true restoration of themselves to their former condition of loyalty and obedience; and that must be for Congress to decide."

If this is true, what authority has the President of the United States to decide that momentous question as to the fitness of the population of a rebel State to be reconstructed into a State, and to be represented in Congress? Can he judge of the fitness of those constituencies? Where in the Constitution does he find a warrant for passing such a judgment? Again, Mr. Collamer says:

"Sir, when will, and when ought, Congress to admit these States as being in their normal condition? When they see that they furnish evidence of it."

That is all that Congress is seeking to do now, to obtain the evidence of their fitness for restoration.

"It is not enough that they stop their hostility and are repentant. They should present meet fruits for repentance. They should furnish to us by their actions some evidence that the condition of loyalty and obedience is their true condition again, and Congress must pass upon it; otherwise we have no securities. It is not enough that they lay down their arms. Our courts should be established, our taxes should be gathered, our duties should be collected in those States," &c.

Again:

"The great essential thing now to insist upon, in my judgment, is that Congress shall do nothing which can in any way create a doubt about our power over the subject."

Weighty words, indeed, sir—that Congress should do nothing, even at that time, when the war was raging, calculated to create any doubt about the power of Congress over this whole subject.

"Indeed, it is right to assert at the proper time that we have that power; and how and when and in what manner we shall execute that power is in the discretion of Congress. I do not mean to occupy very much time with that; but one thing I have to say: I believe that when reestablishing the condition of peace with that people, Congress, representing the United States, has power in ending this war as any other war, to get some security for the future. It would be a strange thing if it were not true that this nation, in ending a civil as well as a foreign war, could close it and make peace by securing, if not indemnity for the past, at least some security for future peace. I do not believe that Congress is stripped of that power in relation to this or any other war; and here I do not wish to be understood as undertaking to assert the existence of such a power without some warrant in the Constitution."

And then he proceeds very learnedly and conclusively to show whence he derives the power. Now, Mr. President, as I have stated before, the great issue is, shall Congress decide the question of the right of the rebel States to readmission into this Union as they once were, or shall we tamely permit the President of the United States, without law, without our

consent, to take in his own hands this vast mass of legislative power which must necessarily be employed in their full reconstruction? *C'est le premier pas qui coute*—it is the first step always, that cost, in error.

If we wink at this assumption on the part of the President, good and patriotic man though he be—and I am not disposed to question his patriotism—it will be but setting a precedent for the future, and it is impossible to foresee to what extravagant extent these executive pretensions may be carried. Sir, upon a question so momentous, involving the safety and prosperity for all time of the whole United States, is it not, I ask gentlemen, becoming at least that Congress should maintain a firm, manly, and resolute stand? Call us what you may, Radicals, Black Republicans, Revolutionists, or what not; on this subject we occupy the very breach itself; we occupy the passage-way; we stand as did the three hundred Spartans when their country was invaded by the countless hordes of Persia. For one I propose to occupy this position so long as life shall last, or so long at least as I have the honor of a seat on this floor; and if I shall perish in the feeble resistance which I may be able to make to these executive pretensions; if the Constitution is to be swept away by fervor or fury, and we stripped of the just powers which the people have intrusted to us, I hope that there will be at least one of this Spartan band to survive the destruction, and who may be able to erect, as did the commonwealth of Lacedæmon upon the heights overlooking that famous pass where the three hundred fell, a monument to their courage and patriotism, inscribed with these words of eternal force and duration: "Go, traveler, tell to Lacedæmon that we died here in obedience to her sacred laws." I ask for no prouder monument.

And if there be any persons here or elsewhere who expect to drive me, as a humble member of this body, from the position I have taken; if there be a deluded class, either here or elsewhere, who expect to intimidate Congress, or who aim to intimidate Congress into a compliance with these executive edicts; if we are to have a *coup d'état*, as has been recommended to the President by more than one of the leading journals of the country published in his interest; if we are to have that policy carried out which has been more than once recommended by a newspaper in this city which is supposed to speak his sentiments and by his authority; if Congress is to be expelled by the point of the bayonet, and rebel Senators and rebel Representatives thrust into these Halls in despite of our votes, I have this to say, not boasting of peculiar personal courage, come on! I ask no favors! The first hand of violence that shall be laid upon a member of this body or the other body will be a signal for such an uprising of the loyal northern masses as shall teach him, whoever he may be, who puts himself at the head of the movement, that the people of the United States have not forgotten they are still a free people, and that they are represented, and intend forever to be represented, by a free American Congress. [Manifestations of applause in the galleries.]

Mr. COWAN. Mr. President, I think, in view of the danger which portends and which has been alluded to by the honorable Senator from Michigan, that this is a good time to be brave, and a good time to say stout things; and I am glad that he has availed himself of the opportunity. I am not so well pleased that he has claimed for himself the position of Leonidas and his Spartans in the pass of Thermopylæ, in his fight. There the three hundred stood against an invading horde of foreigners who sought their country. Where is the Senator standing now? Is he standing in the breach? Ay, sir, directly in the breach; but it is in that breach which the American people desire to heal. He stands in that chasm which they would bridge over. He stands in the mouth of that wound which they would close and cicatrize. That is his true position. He stands in the very breach which prevents the

Union, the Union for which this war of which he has spoken was undertaken, and for which it was carried through in the manner in which it was carried through.

The Senator alleged that the southern States during the war were out of the Union, and he appealed to me as to whether they were not out of the Union. Admitting for the nonce his postulate, I put the question, what was the war for? That he promised to answer, but that was what he did not answer. It is the answer to that question for which the American people look from that honorable Senator and those with whom he acts. What was the war for? If the ordinances of secession, if the rebellion, if the war, if anything which occurred during that time took the eleven States in question out of the Union, what was the war for? The Union man answers, it was for the purpose of supporting and sustaining and restoring the Union; if they were out, it was to bring them back; if they were not out, it was to keep them in. Has not that been the understanding of the American people, with the exception, perhaps, of a few extremists? Sir, that was the unanimous opinion of the Congress of the United States in July, 1861. That was the almost unanimous, if not the unanimous expression of the opinion of the loyal States as to the object and purpose of the war. Was it false? Did that resolution assert a falsehood, or was it a truth? Did it assert the true intention of the people, or was it a cover for a design which they chose to conceal, and which is only developed now in the face of the people?

I say to the honorable Senator from Michigan that the war was for the Union; it was to save the Union; it was to restore it and to compel the submission of those who desired to dismember the Union to the laws and the Constitution of the country. The honorable Senator is a member of the star-chamber committee of fifteen; he is a member of that committee which carries at its girdle the keys of the Union; he was appointed to inquire into the temper of the southern people; he was appointed to inquire whether the people of those States were fit to be restored to their rights under the Union; and now I say, as I said the other day, if what he says is true, he indorses the Chicago platform. He has established himself upon the platform that the war was a failure; and he flings out broadly, into the faces of American soldiers and American citizens, that instead of restoring to the Union and to the country and to their rights under the Union the people of the South, the war was a failure; and here, in the open face of day, in the presence of the people, he says the southern people are a conquered people, and that we hold them, to use his own language, by the point of the bayonet.

Mr. President, is that so? I do not undertake to take issue with the gentleman upon the fact as to whether the condition of that people be what he represents it to be or not. It is enough for me to know that that is the ground upon which he plants himself here; and I am exceedingly glad that he has so manfully avowed it. The rebellion, then, was successful in that: it took the rebel States out of the Union; it took their people out, as a matter of course, loyal and disloyal, false and true, faithful and unfaithful; and since they have been out, and since the reconquest has been made, if you please to call it so, or since the conclusion of the war, they have remained *dehors* the Union, and are held as a conquered people. If that is true, say so. We will meet you in the pass of Thermopylæ or at Philippi, if you please.

Mr. HOWARD. We will meet you at both places.

Mr. COWAN. Very well; we will meet you in the physical and in the spiritual. I believe the meeting in one of those cases was physical and the other spiritual.

Now, sir, I might ask here, by what title, by what right, by what authority was the honorable Senator, or anybody else, clothed in this Government to make conquests of his fellow-citizens? Is it because he appeals to what he

calls the highest law, the law of force? Does he propose to place himself upon that? He asked me, with an air of great triumph, if I knew of any higher law between contending communities than that of force. Sir, I know of no more stupid, brutal law than that of force. I know that it has to be resorted to, and I know that it is resorted to in the absence of reason, because it has obtained the name of the *ultima ratio regum*; or, in other words, when kings have no reason, they resort to force. Now, I was about to say, in answer to the Senator's question, but was prevented, that when communities contend, they may submit their differences to a test such as this, and then the Constitution and the laws are the highest law, and force has no place.

Mr. HOWARD. Then the use of force is unconstitutional?

Mr. COWAN. Not at all. It was perfectly constitutional and perfectly right with a just purpose in view, but perfectly unconstitutional, perfectly wrong, and without a single apology, if the end and aim and object was that which is avowed by the Senator from Michigan to-day. If the object was to compel the southern people—

Mr. HOWARD. Mr. President—

Mr. COWAN. I beg the honorable Senator's pardon. I will give him a chance to say anything he pleases at the proper time.

Mr. HOWARD. I hope the Senator will not misrepresent me, as he declines to yield the floor.

Mr. COWAN. If the purpose was to compel the southern people to fulfill their constitutional obligations, and to obey the laws of the Union, then we had a perfect right to do it. Our right was as perfect as that of the sheriff when he compels the felon to surrender to him, and based upon precisely the same ground. If, on the other hand, the war was for the purpose of conquering those people, holding them as our vassals, treating them as serfs and slaves, subject to the domination of one half of the Union, then, I say, it was an outrage upon all right, all authority, and had no warrant anywhere, either in the laws of God or the laws of man; and especially on the part of those who have descended from the signers of the Declaration of Independence, it would have been an atrocity. [Manifestations of applause in the galleries.]

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Order must be observed in the galleries.

Mr. COWAN. How did we justify ourselves in the first Revolution? What did we say to the mother country then and there? That every community, that every people had the right to choose their own form of government. I have heard the Declaration of Independence quoted here a thousand times over to establish absurdities which it never was intended to establish; but here is a great historical fact that no man dare deny; and that is, that the American Revolution was based upon the right of a people to govern themselves, and that nobody else had a right derived from heaven. If they had the right, whence did they derive it? From the gentleman's higher law of force? And then talk about standing in the pass of Thermopylæ, and talk about building monuments there!

"They fell devoted, but undying;
The very gale their names seemed sighing;
The waters murmured of their name;
The woods were peopled with their fame;
The silent pillar, lone and grey,
Claimed kindred with their sacred clay."

Why, sir, it is to desecrate that which has been sacred for three thousand years to allude to Thermopylæ in such a connection. What was the struggle of Leonidas? That Greece should govern Persia? No; it was to throw back the tide of the Persians, who insisted, according to this higher law of force, that the king of kings, Xerxes, had a right to govern Greece, had a right to hold its people as a conquered people and its provinces as conquered provinces.

Mr. President, let us look at this question

coolly. I ask again, by what warrant did we make this war? Was it because, as the question was put to me the other day, there is such a thing as political dominancy, political sovereignty, by which one people have a right to dominate another people? Who will dare to avow it upon this floor? Our warrant was the Constitution and the laws. We said to the southern people: you bound yourselves, States and people, with us in that Constitution; you assisted in making those laws; and now you refuse to fulfill your obligations; now, you undertake to secede and withdraw yourselves from the operations of the very law that you assisted to make under that Constitution; you provided that the Executive of the nation should swear to support the Constitution; you provided that he should see that the laws were faithfully executed; you provided that those laws should be paramount, that they should be higher than all other laws within their particular constitutional circle; you did all that, and we claim the right to compel you to stand upon them. Sir, we did. We compelled the recusants, we compelled the rebels, we compelled the traitors, if you please, to lay down their arms and yield obedience—to the Senator from Michigan or anybody? Not at all, sir. It was not by any especial virtue of his or mine; it was not on account of any superiority that we might assume over the southern people that we claimed the right to compel their surrender. We did it in the name of the Constitution and standing under the shadow of the majesty of the law. They surrendered to the law.

Mr. HOWARD. They surrendered to our arms.

Mr. COWAN. They surrendered to the law. Your arms compelled them to surrender to the law, but they surrendered to the law. The honorable Senator is a lawyer, and a good one, I should say, in many of the departments of that profession; and impressed as he is, impregnated as he is all through with the very spirit of the law, the moment that surrender was made the honorable Senator would not have dared to lift his hand to the worst rebel of them all. He would not have been guilty of the impropriety of which the Senator from Nevada [Mr. NYE] was the other day, when he said that he would have hanged Jeff. Davis without law. The honorable Senator knows that the man who would do so, the man who would violate the sanctity of the law and take a criminal out of the grasp of the law and execute his individual vengeance upon him, would be a murderer in fact and a murderer in law. The law is supreme over the American people, and it is to the law that we bow. We owe no allegiance to Presidents or to Congresses or to anybody else as the sovereigns in this country, and thank God for it! I hope the day may never come when we, as citizens of this great and free Republic, shall be held to obedience to anything but the law. Do you want to be slaves? Do you want to wear the collar and the harness of a man superior over you? If you do you are unworthy sons of revolutionary sires. I yield me to the law, but I yield to no man and no body of men; and without desiring to boast at all, I will make my boast there; I will never submit to wearing the collar and the harness of any man. I am willing to pay my obeisance humbly to the law. I am willing to yield to its requirements, even when I believe it to be unconstitutional; but I will obey the law and never obey the behests of any single man or body of men unless they are enforced upon me and I cannot resist it.

The honorable Senator set out by trying to show that Mr. Lincoln's plan of reconstruction was not President Johnson's plan of reconstruction. That was his object. He proposed to set that question entirely at rest, and I can state to you in a very few words how nearly he came to it. President Johnson, in his last annual message, declared that it was for each House of Congress to determine for itself upon

the admission of members of Congress from the rebellious States. That was his phrase; and that was all. Nobody pretends that President Johnson ever undertook to say that we should admit this man or that man or the other man, or that we should reject this one or the other one. Even the honorable Senator himself did not pretend it. What did he say? He gave a legal opinion in that respect. Was it a good opinion or was it a bad one? What does the Constitution provide in that case? Does the Constitution provide that this Senate shall determine who shall be members of the Senate and who shall not, or does it confer that power jointly upon the Senate and the House? It is very expressive on that subject. It is about as clear as it can be made. The Constitution confers the power upon each House separately. Then the Senator read Mr. Lincoln's opinion on that point, and Mr. Lincoln's phrase was the "respective Houses." What does that mean? Does that mean the Houses jointly or the Houses separately. I should not think it would require a very close or accurate criticism to determine that. There is the whole of it.

Now, Mr. President a very brief statement will set all this matter right. The States are corporations; they are legal persons, having no actual physical existence, but existing in contemplation of law for the purpose of carrying out the purposes of the trust, and the citizens of the several States are corporators; and in one of its aspects, and in this aspect, a State may be contemplated precisely as you contemplate a bank or a railroad or any other corporation. The officers of these corporations, the officers of rebel States, and a certain number of the corporators, if you please—I am not here disposed to quarrel as to the number or to dispute as to the number; that can be talked of hereafter—undertook to pervert the purpose of the corporation, undertook to carry the corporation bodily away from the original intent and purpose to which it was bound by the Constitution and the laws. What was the duty of the United States under these circumstances? Was it not their bounden duty to see that the citizens, the corporators, even if there were not more than a dozen of them faithful, should not be deprived of their franchise, and that this corporation should not be carried away without their will and consent? I say that if there was one man from the rebel States who came up and protested against this perversion of the State corporate authorities and being carried away by secession, the United States Government would have been bound to listen to him and to rescue him and restore him to his rights as guaranteed under the Constitution and the laws. Well, sir, that was the view the United States took of it. They took precisely the same view of it that a court of chancery takes of trusts. They were the custodian of the rights of the people, the general custodian; and they interfered that the trusts might be preserved; that the corporation might not be perverted from its original uses? What then? War resulted and the war was successful; resistance ceased. When that happened, there were two ways by which those corporations could be restored. Who could restore them? Gentlemen talk here about Congress restoring them; they talk about the President restoring them; they talk about anybody restoring them. I can say to gentlemen that in this country States are not made by Presidents, States are not made by Congress; State governments are not made by them. Neither the President nor Congress nor anybody else when this war was put down had a right to interfere in the restoration of the corporate rights of the citizens of the southern States. The question was to be referred to them. There were two ways of doing it. One was to allow the corporate officers to continue upon their profession of repentance and coming back within the purview of the original great charter.

Suppose, if you please, that Governor Brown, of Georgia, and the Legislature of Georgia, who had been in rebellion, professed repent-

ance and acknowledged the Government of the Union and their obligations to the Constitution and laws just as before, what would you have done with them? You could do one of two things. You could say, "Very well, that is all right; you may go on just as you are, provided you obey the Constitution and the laws, subject, however, to our right to hang you; we have the right to hang you if we choose to enforce it, but that is a question we will not decide now; in the mean time we will hold it in abeyance over your head, and you can go on and play Governor and Legislature." That was one way, and the President had a perfect right to do that. Nobody could quarrel with him if he had chosen to take that course.

On the other hand, the President had the perfect right to say to these men, "You have been engaged in rebellion; you have been in complicity with treason and unfaithful to the trust committed to you by your people; you are set aside, your office is vacated." What then? What would a court say in such a case, and I address some who have been judges? The court then appoint somebody to support the trust until the corporators meet together and elect for themselves.

Mr. HOWE. Let me ask the Senator where the President gets the authority to set aside the Governors and Legislatures of States.

Mr. COWAN. I should think that a man who had the power to do a thing indirectly would have power to do it directly.

Mr. HOWE. I ask the question where the President gets that power.

Mr. COWAN. I will tell you where he gets it. He gets it as the supreme Executive of the nation. He gets it by virtue of the warrant which the American people gave him to go down there and to suppress the rebellion, and to take all that he found in armed resistance to it. Had he not that power?

Mr. HOWE. He had the power to suppress the armed forces engaged in the rebellion; but where did he get the power to depose the Governor and the Legislature of a State; and judges, and municipal officers?

Mr. COWAN. Precisely from the same source that the constable gets it, precisely from the same source that the sheriff gets it, or the marshal gets it. He gets it under and by virtue of the law. He had the right to drive these people from their places by virtue of that authority.

Mr. HOWE. Then a sheriff, I understand, would have the same right as the President.

Mr. COWAN. Instead of saying to the man, "You must go out of your office," the sheriff could do it by arresting him, and why? Because if the sheriff, who has limited power, allowed the man to go out from his control, he would not be very likely to take him easily again; but the President had all these people in his net, and they could not very readily get out of it.

Mr. HOWE. Well—

Mr. COWAN. I decline to yield further; I do not want any more interpolations. I think everybody will understand me when I get through, and if not, I do not know that I can make myself any plainer.

There is the source of the authority. I do not say that was a better plan than the other plan. I have no quarrel about that. It was within the option of the President to take either of these plans. He had a right to arrest these people; he had a right to allow them to go at large on their parole, or, in other words, he had a right to admit them to bail, if you please, in that behalf; and he had a right to establish officers there to support the trust until the corporators, the citizens of the States, could come back and resume their functions and elect new officers true and faithful to their trust.

Mr. Johnson chose the latter of these courses. Where was the necessity for quarreling with it? Where did the quarrel come from? The southern people did not complain of it. Nobody ever heard Governor Letcher, of Virginia, or Governor Brown, of Georgia, or any

other southern man complain of it; but the complaint comes from our side. It comes from some of the people of the North who claim for themselves to be, *par excellence*, Union men. They are the men who quarrel with the action of the President in this behalf, and they quarreled with Mr. Lincoln from the very outstart upon the same principle. They passed a bill, which, I believe, authorized Mr. Lincoln to do what he was doing, or pretty nearly that, and he pocketed it. That was their support of Mr. Lincoln; and then, just in the thick of the election, in the very thick of the canvass, some of these excessive party men, some of these men who stand by the Union party at all hazards, as long as it has a big majority at its back, issued a protest charging Mr. Lincoln with being a usurper and a tyrant because he had pocketed this bill of theirs which they had passed, showing their plan by which the thing was to be done. I met a Dutchman in my State during that canvass, and he told me he had just been at a Republican convention, and he had heard one of these protestants make a speech, of course in favor of the Republican nominees. "Well," said I, "what did he say?" "Well," he said, "he was very hard on the President for about an hour, and then he got better." That was the kind of speech in which Mr. Lincoln was supported; the fore end of it, about an hour, was taken to abuse him for his usurpation and his tyranny in attempting to sustain and support these southern corporations for the benefit of their citizens; and then the last part of it was a little better, not so bad.

The honorable Senator from Michigan asks triumphantly, apparently—and indeed words seem to have so little meaning here that anything may be asked and nothing may be answered satisfactorily—where has the President power under the Constitution to confer political rights upon anybody? Nobody ever contended that the President conferred political rights upon any one; and I go further, and fling it back into the teeth of the advocates of this doctrine, that Congress cannot confer political rights upon anybody. What right has Congress to confer political rights upon the citizens of States? Thank God, the citizens of States hold their title by a higher one than Congress can confer. They derive their rights from the fact that they are States, free, independent States, bound only by their constitutional obligations. I have heard about as much balderdash here on the subject of State rights as I ever heard in my life; but have the States no rights? Is any man mad enough to pretend that States have lost all their rights because a few citizens claimed a right of secession, which never was a State right, and which, if it is a right, is a right to travel over a bargain you have made, and to break a law which you yourself assisted in the making of. The right of secession which has been claimed as a State right never was a State right; but the right to say who shall wield political power in a State is a State right. States have rights to make their own laws for the purpose of administering justice between their own citizens, and this General Government has no right to interfere in any way. States have their rights under the Constitution just as well as the General Government has rights over the States under the Constitution.

Then I say the President never pretended that he could confer political rights upon either the rebel States or the loyal States, or upon the people of one or the other; but what he did pretend to do was to stand over these people while they regained their lost rights, rights which they had lost in this war of rebellion; rights which had been in abeyance in that storm which swept over the country. He stood there the faithful guardian of the public weal, in order that they might come back and regain that which had been attempted to be taken from them.

Was that conferring political rights? What did the rebellion destroy? Did it destroy the

States? Did it destroy the rights of the people as States? Did it repeal the Constitution? Did it repeal the laws? If it did not, then what did it do? If it had succeeded, as the gentleman says, it might have done all that; but it would have succeeded not in virtue of law but in spite of it. It would have succeeded as a revolution, not as a legal right of secession. Then the suppression of the rebellion, if we are honest, if we are true, if we intend to stand upon the ground upon which we started out, restored the *statu quo ante bellum*. That is all. It just brought everything to the place of divergence, to the point of departure. What has the President done? Attempted to bring it back there.

This Government has three departments, an executive, a legislative, and a judicial. These three departments are distinct and independent of each other; coordinate. The President, the Executive of this Government, acknowledges the relations of these States to the Union. The Supreme Court of the United States, the highest judicial tribunal of the land, the other day opened its dockets and recognized the relations of these States and their citizens to the Union. The third department, Congress, has refused. Why? Because the honorable Senator from Michigan and certain other honorable Senators say it is not safe to admit them. Although in the bitterest war that ever was waged, in the greatest conflict of arms that the modern world at least has witnessed, we have been their vanquishers, we have compelled them to submission; although we have a population three times as many as theirs, and a representation two or three times as great as theirs, it is not safe to admit them! Would it not have been much more prudent to have taken Democratic advice at the outstart, if that is so? The Democrats said, "Why make war? Do not make war; if you do you will embroil and you will embitter this contest so that it never will be safe to admit them." Why did we make war? Because we believed that? Not at all. We made the war because we believed that men were governed by common sense, that they were actuated by motives of common interest, and that it would be perfectly safe to admit them the moment the rebellion was put down. That is why we made the war, and that is why we avowed the purpose. But times have changed, the tables are turned. Now, that party which was foremost in making the war, foremost in declaring its purpose, is foremost to declare that the war was a failure and that this thing cannot be done, and avows here openly again upon the floor of the Senate, and by a member of that committee who has a right to know, who has taken the testimony and selected the witnesses, I have no doubt, to prove it, that that people are utterly unfit to be restored to their rights, and that it is utterly unsafe that they should come back into the Union. Now, sir, if that is true, that is the most formidable declaration of disunion that I have ever heard; and that establishes disunion as a fact. I think no man I know of is mad enough to suppose that you can maintain a Union at the point of the bayonet. The honorable Senator from Michigan does not pretend that that is union. That may be conquest, but it is not union.

He has adopted another very strange theory. He says that in the committee of fifteen it has been shown beyond all peradventure that the constituencies of these men are disloyal; whether the men themselves are loyal or disloyal, whether they be traitors or whether they be true, is of no consequence; their constituencies are inherently and essentially disloyal; and then, although he talks of *non sequiturs*, he turns around and triumphantly asks, what are they here in Congress for but to carry out the treasonable will of their constituents? If ever there was a *non sequitur* in the world, that is one. I care not whether my constituents be treasonable or not treasonable, I am no there to commit treason for them. No man is bound to yield to any such unlawful desire

or further any such unlawful design of his constituents as that would involve.

The honorable Senator has spoken of the Secretary of State. Sir, I should think the patriotism of that man ought not to be impugned here. I think common decency, common respect for the character of a man whose history belongs to the world and to this age, who is known in both hemispheres, and sympathy even for the wounds that disfigure him, ought to entitle him at least in this Senate to a fair consideration, and that he should not be subjected here to misrepresentation and to the imputation of improper motives. It so happens that the honorable Secretary of State, whether wisely as the Senator from Michigan or unwisely according to the lights that he may have before him, holds that the President is right in this matter. Hon. William H. Seward, a name, I venture to say, as high and as proud as any that will grace the Valhalla of American heroes in the future, agrees with the President; and William H. Seward disagrees with the honorable Senator from Michigan.

And then Thermopylae is invoked, Leonidas and his Spartans are told into the pass, and the honorable Senator from Michigan is there in front of them! What for? To oppose Mr. Seward and Mr. Seward's perfect rehabilitation.

Mr. President, the American people are not going to be frightened out of their propriety about that. I think, and I believe it cannot be disputed, that if there is one voice in this land potential upon this question, potential for prudence, potential for moderation, potential for humanity generally, it is the voice of William H. Seward, and as many of your new recruits, as many of your new zealots as you can hatch out of the hot-bed of these turbulent times may come here and attempt to assail his motives and his designs, the American people, nevertheless, will remember him, and abide his counsel, or I am very much mistaken.

William H. Seward has given evidence, evidence such I may say as none of these modern zealots have given—he has given it as well as the President of the United States—that he is in favor of the country, and the whole country; that he is in favor of the freedom of the people, the whole people, not simply the freedom of the negro, but the freedom of the whole people; that he is in favor of giving to the American people their rights, and they can very readily believe that he will not adopt the conquering theory of the honorable Senator from Michigan. No man has ever heard him cry *væ victis*.

Mr. President, this theme is exhaustless; this subject has no limits, it can have none save in the Constitution and the laws. There is no reconstruction, there is no plan of reconstruction except that which is involved in obedience of the laws; and the man who supposes there is a hope of it is, in my judgment, still more mistaken than the man who now asserts that the Union is gone, and gone irreparably, from the hearts of the southern people. In either event this doctrine is disunion: in either event this doctrine shuts the door of hope.

Mr. President, I do not believe, I cannot believe, I will not believe now, standing over the graves of two or three hundred thousand American citizens fallen in the strife of the Union, that there can be no Union. What conceivable, what possible interest has any man to disseminate this doctrine among our people? Why is it that men go about from day to day trumpeting the unfitness of the southern people for a Union, and yet calling themselves Union men? Who has made the people of the North believe that this breach has been so widened, that this gulf is so impassable, that we never can be friends again with our southern brothers? Who is it that does it? Are they Union men, I ask? In the case of a quarrel between two men, what kind of a union friend would he be who would go from the one to the other and say, "He hates you, he hates you in the very innermost recesses of his heart," and

then go to the other and say, "He would stab you behind if he had a chance?" Would that beto make union, reconciliation, between these parties? And who does this thing? It is not the President who does it. It is not Mr. Seward who does it. It is not the Army who does it. It is not the Navy who does it. Who does do it? I will tell you, Mr. President, it is a faction in power here, tasting the sweets of power, enjoying its exercise, and they tell you that these people are unfit to come in; and why? Because, come in as they may, there can be no reconciliation with them. That is disunion again. What was said the other day in the House which sits at the other end of this Capitol? "Without some measure like a reconstruction measure, when we come back again these Halls will be filled with yelling rebels and hissing copperheads." What then is to be done? Usurp, grasp power yourselves, remodel the Constitution, remodel the laws, so that the few, not the many, can hold on to power. We may just as well come to it first as last; that is exactly what it means. Are you afraid the Democrats will get the power? If you are, that is disunion. A man who is afraid of the other party coming in, and who believes that that other party will destroy the Government, is a disunion man, because he believes that which is fatal to the very foundation of the fabric. I do not believe it, and I never did believe it. Much as I might belong to one of the great parties of the country, I never believed that the other would destroy the Government if it came into power. I believed it would not, and that is why I was in favor of this Government. That is the difference between us and most other Governments. In a monarchical form of government the people are not trusted; one party will not trust the other, and they set up an intermediate man and attempt to scaffold him around in such a way as to prevent a collision. We formed this Government upon the basis that either of the great parties of the country was safe to intrust it with.

You say that if the Union is restored and you give the people of the South their rights they will come in and they will join the Democrats, and then the Democrats will have a majority over the Republicans. Suppose it be so; I am perfectly willing, if we save the Union. I will execute a release of all my right for office, not only to-day, but in all time to come, if anybody will just insure the Union peace and harmony. I trust everybody would. I think there is no man so infatuated, personally and apart from his party ties and party connections, but would be willing to do the same thing. I do not believe a word of it, and I tell you that if the southern States were represented here to-morrow and came back and joined themselves with the Democrats of the North, they would meet with just the same resistance precisely from them that they now meet from the Republicans if they should attempt any further secession; and why? Just because it is as much the interest of one party in the North as it is the interest of the other party to preserve the Union, and nobody but a man who is desirous of making mischief and desirous of fomenting discord would ever take any other view of it. They may have different plans and different policies, but the great end and object of both is to preserve the Government, and what is more and what is better, to preserve themselves and their fortunes and their families, and to preserve a prospect for their children.

I am a Republican; and I am a Republican because I believe that; and I would as soon undertake to commit personal suicide or any other kind of suicide as to go out and preach among my fellow-citizens that one half of them were utterly diabolical and utterly corrupt, and desirous of overturning the whole of this fair fabric of liberty under which we lived so long and so happily. What is it but a proclamation of political suicide? I do not believe a word of it; and however much I might lament the contingency of a party opposed

to me getting into power, however much I might suppose it would affect in a small way the interests of my State or of my section, yet I am willing to bow to the behests of the people in that behalf. I await the action of their constitutional majority expressed through the constitutional forms; and the man who is unwilling to do that and unwilling to trust it is a secessionist, and belongs to precisely the same school of secession as that which flourished in 1860. That was secession. Had anybody invaded the rights of secessionists? Had anybody trenched upon the rights of the southern States? No; but the secessionists said, "Although you have elected your President by constitutional means and through the medium of a constitutional majority, yet we have a right to anticipate you." Anticipate what? Anticipate what the honorable Senator from Michigan anticipates and what every man who has no faith in the country and no faith in its institutions apprehends. "We anticipate," said they, "that your President will not be a constitutional President; that your party will not be a constitutional party. It has got the Abolitionists in it, and they have said that 'the Constitution is a covenant with death and a league with hell,' and they will abolitionize the whole country; they will destroy slavery; they will do this, that, and the other thing;" and what then? "We will get out before they come." That was secession. They would not trust the Republican party; that was it.

Now, we are told you cannot trust the Democratic party; you cannot trust either of the parties with the southern fraction of the Union in its place in the legislative Halls of the country. What are we going to do? Instead of standing upon the Constitution and the laws, for which we made the war, and standing there honestly, as brave men should, we have now a scheme to make a new Constitution and new laws. Is not this the same thing precisely that the secessionists said in the winter of 1861? Did they not say we must have new constitutions, we must have new laws, we must have the Constitution amended here, and the Constitution amended there? Why? Because they apprehended difficulties. Now, in the process of time, in the revolutions of the wheel of fortune, the very extreme northern radical party find themselves in the position of the secessionists, distrusting the Constitution, distrusting the law, distrusting the people, apprehending some difficulty; and that is to be mended by new constitutions and new laws and new guarantees. That is the word, I believe. That is a very fashionable word now.

Mr. President, how absurd is all this. Suppose that we pass these bills requiring new guarantees and imposing new conditions. Of course, as they do not now exist in the Constitution and in the laws, they are to be proposed to the southern States for their acceptance, and if you make a proposal to any one for his acceptance, in that is involved the right that he has to refuse, if he chooses. I put it to honorable Senators, suppose to-day you make your proposal to South Carolina to accept your new Constitution and your new series of laws, and suppose she refuses. What then? What are you going to do? Suppose the whole eleven refuse; what then? How are you going to make them do it? I agree, if they will all take up guns and attempt to shoot you, you might take up a whole parcel of guns and shoot a great many of them, and compel them to lay down their guns; but you cannot make them accept your proposition. Then, if you cannot compel it except by war, and you cannot compel it by war, unless they make war by way of resistance, what are you going to do? Just nothing. Then you have your trouble for your pains, and you will enjoy the delightful satisfaction of being backed down and backed out by those whom you proclaim to be conquered people, and whom you proclaim, upon the floor of the Senate, you hold by the point of the bayonet.

Sir, self-respect for this Government, self-respect for the American people, self-respect for our institutions and laws all forbid it. We have no terms to offer, we ought to have no proposals to make, except this: obey the Constitution and the laws. That we can compel them to do, but you cannot compel them to adopt new propositions and give new guarantees; and I should say that we have no right to do it, unless this Government is to be entirely changed in its nature, in the nature of its machinery, and in the rights which are to be conferred upon it; and if it is, in God's name, why not let us know it? If there is to be no such thing as State rights, if this is to be a consolidated Government, an actual *de facto* Government, administering the laws and justice among the people as the State governments now administer them, why not bring in that proposition and let us see it, let us meet it? If, however, it is to be such a Government as the one we have been proud of so long, let us preserve it; and instead of trying to patch it and mend it and change it and pervert it for a mere temporary political purpose, let us all stand by it proudly and strongly, and hand it down to our children with the same injunction with which we received it from our fathers, and then we shall have fulfilled our duties and we shall have performed the functions of American citizens.

The question is on the amendment of the Senator from Illinois; and the question has been ordered to be taken by yeas and nays.

Mr. JOHNSON. I ask for the reading of the amendment.

The Secretary read it, as follows:

SEC. 1. And be it further enacted, That no person exercising or performing, or undertaking to exercise or perform, the duties of any office which by law is required to be filled by the advice and consent of the Senate, shall before confirmation by the Senate receive any salary or compensation for his services, unless such person be commissioned by the President to fill up a vacancy which has happened by death, resignation, or expiration of term, during the recess of the Senate and since its last adjournment.

The question being taken by yeas and nays, resulted—yeas 16, nays 23; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Harris, Henderson, Howard, Howe, Lane of Indiana, Morrill, Nye, Pomeroy, Ramsey, Sprague, Sumner, Trumbull, and Wade—16.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Edmunds, Fessenden, Foster, Guthrie, Johnson, Lane of Kansas, McDougall, Morgan, Nesmith, Norton, Poland, Riddle, Saulsbury, Sherman, Stewart, Van Winkle, Wiley, and Wilson—23.

ABSENT—Messrs. Brown, Conness, Cragin, Creswell, Grimes, Hendricks, Kirkwood, Williams, Wright, and Yates—10.

So the amendment was rejected.

The amendments were ordered to be engrossed, and the bill to be read a third time. It was read the third time, and passed.

EXECUTIVE SESSION.

Mr. NORTON. I desire to call up Senate bill No. 263, to authorize the Winona and St. Peter's Railroad Company to construct a bridge across the Mississippi river and to establish a post route.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of executive business. That bill will create some discussion, and the hour is rather late, and there are some nominations that I think ought to be confirmed to-night.

Mr. NORTON. If the Senator from Maine will allow me, this bill has been reported from the committee with some amendments. It is quite short, and I do not think it will involve any discussion.

Mr. FESSENDEN. It is hardly a proper hour to take up a railroad bill.

Mr. NORTON. It is a short bill, and will involve no discussion, I think.

Mr. FESSENDEN. I cannot withdraw my motion.

The motion was agreed to; and after some time spent in the consideration of executive business, the doors were reopened, and the Senate adjourned.

IN SENATE.

MONDAY, May 14, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of Friday last was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented to the Senate a memorial of the Legislative Assembly of the Territory of Montana on the subject of a territorial library, setting forth that they have learned from reliable information that an appropriation was made by Congress for a territorial library for Montana, and that the library was purchased and put in charge of a Government official appointed for that Territory, and that, although that official has arrived in the Territory and departed from it again, the library has not come to hand; and they therefore ask the action of Congress in the premises. The memorial was ordered to lie on the table, and be printed.

The PRESIDENT *pro tempore* also laid before the Senate a resolution of the Legislative Assembly of the Territory of Montana, protesting against the proposed division of that Territory; which was ordered to lie on the table, and be printed.

Mr. WADE presented the petition of Mrs. Sarah E. Brewer, praying for an extra pension in consequence of the loss of her husband and two sons in the Army; which was referred to the Committee on Pensions.

Mr. WADE also presented a memorial of many colored persons, praying Congress to enact a law by which all able-bodied loyal male citizens over eighteen and under forty-five years of age shall be drilled and inspected in each judicial district of the rebellious States once in three months without regard to color or race, that life, liberty, and property may be made secure; also, praying Congress to enact a law by which no naturalized citizen of the United States who has levied war against the Government shall be permitted to occupy any position under the United States; which was referred to the Committee on Military Affairs and the Militia.

Mr. RAMSEY presented the memorial of Commander B. M. Dove, protesting against the action of the Naval advisory board, and praying to be restored to his proper rank in the Navy; which was referred to the Committee on Naval Affairs.

Mr. KIRKWOOD. I present a memorial from citizens residing in and near the village of Tabor, county of Fremont, Iowa, who represent that they have approved the decision of Congress not to receive any persons as representatives of the States recently in rebellion until Congress shall declare such States entitled to representation, and asking that no one of those States be declared entitled to representation until impartial suffrage is secured to all its loyal citizens. I ask the reference of this memorial to the joint committee of fifteen on reconstruction.

It was so referred.

Mr. SPRAGUE presented the petition of the Franklin Institution for Savings of Providence, Rhode Island, and the petition of Providence County Savings Bank of the town of North Providence, praying that savings banks having no capital, and whose banking is confined to receiving deposits and loaning the same for the benefit of depositors only, and which are now subject to a duty of five per cent., may be exempted by law from paying any further internal revenue tax; which were referred to the Committee on Finance.

Mr. WADE presented a memorial of voters and property holders in Alexandria city and county, Virginia, praying that that city and county may be reannexed to the District of Columbia; which was referred to the Committee on the District of Columbia.

Mr. CONNESS presented the petition of Martha A. Estill, administratrix of the estate of James M. Estill, praying for the payment of a balance claimed to be due for beef furnished to the United States Indian commis-

sioner in the years 1851 and 1852, in the State of California, to supply an expedition to the Klamath country to settle difficulties with the Indians; which was referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred the petition of William A. Phillips, late commanding officer of the Indian brigade, and others, praying that bounty may be allowed to the first, second, and third Indian regiments under the act of July 22, 1861, reported a joint resolution (S. R. No. 87) to provide for the payment of bounty to certain Indian regiments; which was read, and passed to a second reading.

Mr. CONNESS, from the Committee on Post Offices and Post Roads, to whom was referred a joint resolution (H. R. No. 77) for the relief of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mail from Boise City to Idaho City, in the Territory of Idaho, reported it with an amendment.

BILL INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 89) to provide for the payment of claim of Martha A. Estill, administratrix of the estate of James M. Estill, deceased; which was read twice by its title, and referred to the Committee on Indian Affairs.

RECOMMITTAL OF A REPORT.

Mr. NYE. I move, by the consent of the chairman of the Committee on Revolutionary Claims, to recommit the report that was made in the case of Frederick Vincent, administrator of James Le Caze, late of the firm of Le Caze & Mallett, for the payment of money advanced during the revolutionary war, to that committee.

The motion was agreed to.

COURTS IN MISSISSIPPI.

Mr. HARRIS. I am instructed by the Committee on the Judiciary, to whom was referred the bill (S. No. 310) to change the place of holding the courts of the United States for the northern district of Mississippi, to report it back without amendment, and I ask that the bill may be considered now.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which provides that the district courts of the United States for the northern district of Mississippi now required to be held at the town of Pontotoc shall hereafter be held at the town of Oxford.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. SUMNER. I should like to know from the Senator from New York the reason for this proposed change.

Mr. HARRIS. The place for holding the courts for the northern district of Mississippi is now Pontotoc, which is a dilapidated town, inaccessible, with no railroads running through it, and with no convenience for holding a court there. It is proposed to change it to some town on the railroad, a convenient place where the courts can be accommodated. It is the desire of the new district judge that this change should be made.

The bill was passed.

RECONSTRUCTION.

Mr. STEWART. I desire to offer, for the purpose of amendment to the joint resolution (S. R. No. 78) reported by the committee of fifteen, the proposition which I now submit. It defines what is meant by "citizens," in the first article of the proposed constitutional amendment, and strikes out the third section as reported by the committee.

I also desire to offer, as a substitute for the two bills reported by the committee, a bill embodying both of those bills in one; and providing, further, that when the constitutional amendment, as I propose to change it, shall

have been adopted by the requisite majority, and any State lately in insurrection shall have consented to the conditions named in the bill, that State may be admitted, with an alternative offering them, as I proposed before, with a slight limitation, amnesty for an extension of suffrage by themselves in their State constitutions. I propose, in other words, to give them the alternative of enfranchising or disfranchising—of disfranchising as proposed by the committee, or of enfranchising and receiving amnesty.

The PRESIDENT *pro tempore*. The Chair will state that the bills and joint resolution to which the Senator proposes to offer amendments, are not now before the Senate; but this will be regarded by the Chair as notice that the Senator will, when these questions come up, propose the amendments which he has now submitted.

Mr. STEWART. I desire now simply to have an order for their printing.

The proposed amendments were received informally, and ordered to be printed.

SOLDIERS' AND SAILORS' ORPHANS' FAIR.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 88) authorizing the Secretary of War to grant the use of certain lumber for the fair for the Soldiers' and Sailors' Orphan Home; and there being no objection, it was read three times and passed. It proposes to authorize the Secretary of War to grant the use of lumber, not demanded by the Department for immediate use, for the erection of temporary buildings in the city of Washington for the national fair for the benefit of the Soldiers' and Sailors' Orphan Home.

LAW LIBRARY OF J. L. PETIGRU.

On motion of Mr. HOWE, the joint resolution (S. R. No. 79) to authorize the purchase, for the Library of Congress, of the law library of the late James L. Petigru, of South Carolina, was read the second time and considered as in Committee of the Whole. It proposes to authorize the Joint Committee on the Library to contract with the heirs of the late James Louis Petigru for the transfer of the law library left by him to the Library of Congress; and to appropriate the sum of \$3,000 to carry into effect the purpose of the resolution.

Mr. WILSON. I should like to hear an explanation of this resolution. I do not know why this library should be bought. There may be a good reason for it; if so, I should like to hear it.

Mr. HOWE. Mr. President, it is a collection of books amounting to nearly sixteen hundred volumes, collected by the late James L. Petigru, of South Carolina. There is a need for more books in the Law Library; they are especially required for the use of the Court of Claims, which makes very heavy drafts upon the present Library, so that when the Supreme Court and Congress are both in session it is very difficult to get books from the Law Library to supply the demand made. There are a great many calls upon it, and very often books required by parties in Congress are in use by parties employed in the Supreme Court.

The possession of these books would be of great value to the Library, and that is one reason why we sought to make this purchase. The purchase has been urged upon us by a great many individuals for another reason. It has been thought by a great many very desirable that the United States should own the library formerly possessed by Judge Petigru. I never had the advantage of a personal acquaintance with Judge Petigru, but I believe it is known to very many members of this Senate and to the country at large that Judge Petigru was, in his lifetime, not the one, but almost the only one friend which the United States had in the city of Charleston holding the social position that he did. I hear it said on all hands that through all the difficulties which have occurred

between the State of South Carolina and the United States Judge Petigru has uniformly been found on the side of the United States; that while almost everybody about him proved disloyal, he was uniformly found loyal; and I have seen testimony, not open to controversy, that at different times during the history of the Government, he rendered most signal services to the United States. I have seen a letter from a former President of the United States testifying to the fact that during his Administration—I refer to the Administration of Mr. Fillmore—Mr. Petigru was the only man he could find, of sufficient attainments, who would venture to take the office of district attorney of the United States in that district.

Moved by these considerations, a great many gentlemen have urged upon us the propriety of putting the library collected by him on the shelves of the Congressional Library. The purchase is not a very large one. It has been reported that Judge Petigru died in impoverished circumstances; that he left his widow nearly destitute. The money to be paid for the purchase of this library would be of essential help to her in her old age, and I am informed that it is really all that she has to maintain herself during the remainder of her life, which cannot be very much protracted. I hope, therefore, there will be no objection to making this purchase.

Mr. FESSENDEN. I wish to inquire how much it is proposed to give for this library.

Mr. HOWE. The price is not to exceed \$5,000.

Mr. FESSENDEN. I was consulted with reference to this proposition privately before it was acted upon in committee, and I gave my opinion very decidedly against it. I was not present when it was considered in the Committee on the Library, and therefore I do not feel bound by anything that was done there, because I gave no opinion in committee on the subject. Had I been there, I should have opposed the measure. I admit the merits of Mr. Petigru. He was unquestionably a good Union man, a very distinguished man, a very true man to the Union; a very independent man, who incurred risks on account of his Union sentiments; and so far I recognize his merits; but, sir, my objection to this resolution is twofold. In the first place, because a man remained true to his duty, whatever might be the circumstances under which he remained true and under which he was situated, living in the southern States, where, to be sure, it required a great deal of virtue, I do not think it would be safe to recognize the principle that therefore, because he had happened to be an eminent man, we are to provide for the support of his widow or family in any way. There were a great many people in the South who were not in eminent positions who made as great sacrifices, because they sacrificed all they had, being poor persons, not eminent persons, not distinguished persons, but having an equal degree of public virtue, who have remained true to the Union, and who have lost all. I do not see the propriety, unless you mean to go through with it and apply it to all, of picking out one particular person, because he happened to be more eminent and more distinguished than the others, and making provision for the support of his family, he being in civil life, and rendering no active service, but simply remaining true to his duty and refusing to concur in the rebellion. The precedent would be a bad one. I recognize no more merit in him than I would in a humbler person, one of less distinction, perhaps of none, but yet who sacrificed all he had rather than desert the country to which his allegiance was due; and I see no reason why, if we begin this, we should not go through with it. I regard this proposition as simply a mode of doing indirectly what we could not constitutionally and properly do directly.

In the next place, we know nothing about this library. If it is worth \$5,000 it will sell for that; but unquestionably it is just like other lawyers' libraries—a library that probably cost him \$5,000, but would sell for very little. It is

perfectly well known that law-books which cost a man five dollars originally may, in the course of time, be bought very readily at auction for half a dollar or a dollar. It is very difficult for many of them to be sold at all. A library that is picked up by a lawyer in the course of practice in a great many years is really of but very little money value. New books have taken the place of old ones; new editions have taken the place of old ones; and the older editions are really good for nothing in a money point of view, except as waste paper, at the end of the time when the lawyer terminates his business. That is the case with my library. It is not very valuable, but it cost me some money; it would not sell for the sixth part of what I gave for it; and that is the case with all the libraries of old lawyers. We know nothing about the value of this library. No inquiry has been made on the subject. That is probably the character of it; it is the character of the library of every lawyer who has taken the trouble to acquire one that I ever saw. They are of but little money value. They were of value to the individual who owned them while he lived, because he was accustomed to the books, and they served him in place of others.

In the next place, this being a miscellaneous library of that sort, picked up in that way, it can clearly be of no value to us. It would not be fit to put into the Congressional Library, and probably would not be worth the room it would take in the Law Library. We unquestionably have different copies of all the books we own. It is not pretended that these volumes are rare ones or of the best editions; and it would only be lumbering the shelves probably with mere waste paper if we had them.

This is, then, merely an indirect way of giving \$5,000 to this widow for what is really of no value to us, what we do not want, and should consider of no value, perhaps, if we had; books that would not be purchased by us from other persons to put into the Library, either the Law Library or any other. I disapprove of the principle of the thing, and I especially disapprove of the way in which it is done. If we have any power to do it, let us do it directly, and give her \$5,000, rather than attempt to do a thing of this description. That it is brought to us, and we are asked to give this money for it, only proves that it is perfectly well known that the works are not worth anything of any consequence to be sold in any other way.

On these grounds I think the proposition is a very improper one. We cannot begin to support the families of persons in the southern States or elsewhere, however eminent they may have been, who simply remained true to their duty and died poor. We have no proof whatever that Mr. Petigru suffered anything or lost any property particularly on account of the difficulties that occurred. I believe, as he was a very old man, a very eminent man, and a non-combatant, the general understanding and agreement was that he was to be let alone. I have not heard of any outrages being practiced upon him or upon his family in any way; and with regard to his family themselves, his children are not all very loyal persons. Some of them may be. One of them, at any rate, I have good reason to believe is not so. I dare say the widow is a very estimable woman; but taking it on the whole I think the thing is very improper, bad as a precedent, founded on no principle, and the way in which it is done is a mere sham. I do not like it in any shape and shall vote against it.

Mr. HOWE. Mr. President, I am sorry to hear the Senator from Maine say that he will vote against this proposition. It is true he was not in the committee when this matter was considered; but the proposition received the assent of every member of the committee who was present, and I was in hopes it would receive his assent, though I had not an opportunity of consulting him about it. I hope the Senator will at least reconsider his opposition, so far as to concede that this is not a sham way of doing anything. It is a real, actual, *bona fide* way of asking the Congress of the United

States to appropriate a sum not exceeding \$5,000 to purchase these books, this library. I do not discover any sham in that.

Mr. FESSENDEN. Do you know anything about its value?

Mr. HOWE. I never have seen the library. I have seen a catalogue of the books. I have seen appraisals put upon them by book men in New York. They differ in their estimates. They value them at from \$3,000 to \$5,000.

Mr. FESSENDEN. Did they see the books?

Mr. HOWE. I do not know whether they have seen the books or not. It was supposed by the committee that \$5,000 would be the full value of the library. I think it was the disposition of the committee to pay the full value of the library; it is my disposition. We could get along without these books. The Library does not ache for them. If it did, we could get them in other quarters. I concede all that; and I confess that my desire was stimulated to make this purchase by what I had known of the political relations and conduct of the former owner of the library. I do not propose to the Senate to make a direct appropriation to reward Mr. Petigru for his fidelity to the Government under which he lived and whose protection he enjoyed. That is not my purpose. But if that man, who was true while he lived, when almost everything about him was false to the core, left anything of value to this Government which it is desirable to us to own, I do think the fact that he was true, the fact that the purchase of that value would be a benefit to her whom he may fairly be supposed to have loved better than anything else on earth—that fact, I say, seems to me not a sham, but a real additional reason why we should make the purchase.

The reasons why we should make the purchase are, first, that it will supply not a sham but an actual want in the Library; second, that it will give us value for the money we appropriate; third, that it will furnish relief to the wife of one who while he lived the Government had great reason to be grateful to. It furnishes no precedent whatever that will be of any danger. It furnishes simply a precedent in which we purchase property that we want.

Mr. FESSENDEN. I ask the Senator what proof there is that we want it.

Mr. HOWE. Well, Mr. President, the Librarian who has charge of the Congressional Library did say to the committee that it would be of great convenience; it was composed in the main of a class of works which were very convenient for reference in the practice of the Court of Claims, and would relieve the books now on the shelves very much of the demands made by those practicing in that court.

That is the evidence upon which I made the remark that we needed it. It is not a precedent which calls upon us to vote a bounty or a gratuity to every one who under adverse circumstances shall have been true to the Government of the United States. No such thing is proposed, and I must deprecate the remark thrown in by the Senator from Maine that not all the family of the late Judge Petigru are loyal or have been loyal to the Government. I never have heard any imputation upon the loyalty of his widow. It is for her benefit, and her benefit alone, as I understand, that the money which is proposed to be paid for this library is to go. If his children were less faithful than he, one or all of them, it is enough to say that they are not to be benefited in any way by this purchase, or I am greatly misinformed.

I must say, Mr. President, in conclusion, that I do think it is well enough for the Government of the United States to show a little gratitude for any exhibition of distinguished fidelity. I can myself subscribe to the truth of what the Senator from Maine has said, that his fidelity is no more to be commended than that of a person less distinguished in social life than himself, less eminent in position than himself, and yet I am not sure that it is entirely correct as he states it. I think I can under-

stand that the temptations thrown about a man in Judge Petigru's position, that the inducements to him to be untrue and unfaithful to the Government, might be stronger than those around a person less eminent than himself; and if so, he is to be distinguished and commended for his fidelity in proportion to the temptations he had to go astray. Without entering at large upon the merits of Judge Petigru, for I am in no position and in no mood to attempt any eulogy upon him, if the Senate do not feel any gratitude I cannot invoke any or create any. If they do feel any disposition to be grateful for such services as he rendered, here is an opportunity to show the gratitude of the Senate in as cheap a way as gratitude was ever exhibited to a man in the world. You can do it without much cost to yourselves, and I think, under the circumstances, you had better do it.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, and was read the third time.

Mr. FESSENDEN. I ask for the yeas and nays on the passage of the joint resolution.

The yeas and nays were ordered.

Mr. JOHNSON. I ask the honorable chairman of the committee if there is any catalogue of the books.

Mr. HOWE. Yes, sir. There was a catalogue shown to the committee.

Mr. JOHNSON. They are all old editions, are they not?

Mr. HOWE. The editions were not given upon the catalogue.

Mr. JOHNSON. If they are old editions, as I am rather fearful they are, they are comparatively worth little or nothing. Their places are occupied by new editions with additional notes. No one thinks now of buying the older editions, what may be called the classical law-books. I would ask the honorable chairman also to whom the money is to be paid.

Mr. HOWE. To the widow.

Mr. JOHNSON. It says "the heirs." Who are the heirs?

Mr. HOWE. It was intended to be made to the widow.

Mr. JOHNSON. She certainly cannot be entitled to the whole.

Mr. GRIMES. The resolution does not propose to buy them.

Mr. JOHNSON. It authorizes the committee to contract with the heirs.

Mr. GRIMES. Not to purchase but to "transfer" the library.

Mr. FESSENDEN. There is no proof whatever in regard to it. The catalogue was sent to New York. It is an old lawyer's law library. The Senator from Maryland and I know very well that they are worth very little.

Mr. JOHNSON. I have some reason to know. I was unfortunate at one time to lose the whole of my own, and I had to buy a library, and I purchased Mr. Wirt's law library, more recent than this, and I think I gave for the whole of the library he had \$3,000.

Mr. HOWE. How large a library?

Mr. JOHNSON. Four thousand or five thousand volumes. I know he kept his library full up to the day of his death, was in the habit of buying all the books, and all the editions I got from his estate were good editions; and I only gave \$3,000. I am satisfied it was twice as large a library as Mr. Petigru's. Although Mr. Petigru was one of the most eminent men at the bar, he was so situated for the last twenty years, I think, that he was not buying modern books. I believe there was a law library in Charleston where he resided, and I suppose he used that. It is a very common thing now in all the cities for the courts to have a library of their own, or for the bar to have a library to which all resort; and there are very few lawyers who keep up with the books; and I rather fear it will be found that that was the case with Mr. Petigru.

No man in the Senate could be more anxious to show respect for his name than myself. I think the last letter he wrote he addressed to me, and I published it after his death in the

Intelligencer, in which he regretted what his State had done, her determination to secede, and spoke with all the love and devotion to the Union that any of us could feel, and stated that he really had hoped, as he was living when the Constitution was adopted, that he should not die after the Union formed by the Constitution was at an end. As far, therefore, as personal motive could animate any member of this Senate—and I am sure every member of the Senate is willing to do all he can to show respect for the memory of a man like that—I should be influenced, but I cannot agree to buy a library like this on the same ground on which I would give \$5,000 to the family.

Mr. HOWE. If the yeas and nays can be withdrawn I should like to have the resolution laid over. I see the purchase is to be made of the heirs.

Mr. CLARK. It can be laid over without withdrawing the call for the yeas and nays.

Mr. HOWE. Let it lie over; it will have to be amended I see.

The PRESIDENT *pro tempore*. It is moved that the further consideration of the resolution be postponed until to-morrow.

Mr. HOWE. Perhaps the vote ordering the resolution to be engrossed for a third reading ought to be reconsidered.

The PRESIDENT *pro tempore*. In order to amend it, it would be necessary to reconsider that vote. The Chair will put that motion to reconsider now if the Senator makes it.

Mr. HOWE. Yes, sir.

The motion to reconsider was agreed to.

The PRESIDENT *pro tempore*. It is now moved that the further consideration of the joint resolution be postponed until to-morrow.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. SPRAGUE. I desire to submit a motion that my colleague, Senator ANTHONY, be granted leave of absence for one week.

Mr. SHERMAN. I have no objection to granting the leave, but I wish to know what is the effect of it. It seems to be a new habit which has sprung up recently, or else an old habit revived.

Mr. SPRAGUE. It is, as I understand, a simple courtesy of the Senate. That is all.

Mr. SHERMAN. I have no objection if it has no other effect.

Mr. SPRAGUE. That is my understanding.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had passed, without amendment, the bill (S. No. 310) to change the place of holding the courts of the United States for the northern district of Mississippi.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the joint resolution (H. R. No. 66) relative to the courts and post office of New York city, and the amendments of the Senate to the bill (H. R. No. 397) to authorize the coinage of five-cent pieces.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore* of the Senate:

A bill (H. R. No. 511) imposing a duty on live animals;

A bill (H. R. No. 567) to amend an act to establish the grade of vice admiral in the United States Navy; and

A joint resolution (H. R. No. 133) relative to the attempted assassination of the Emperor of Russia.

BRIDGE AT WINONA.

Mr. NORTON. I move to take up Senate bill No. 263.

The motion was agreed to; and the Senate,

as in Committee of the Whole, proceeded to consider the bill (S. No. 263) to authorize the Winona and St. Peters Railroad Company to construct a bridge across the Mississippi river, and to establish a post route, which had been reported by the Committee on Post Offices and Post Roads with amendments.

The first amendment was at the end of section one to insert the following words:

And in case of any litigation arising from any obstruction or alleged obstruction to the free navigation of said river, the cause may be tried before the district court of the United States of any State in which any portion of said obstruction or bridge touches.

The amendment was agreed to.

The next amendment was to strike out section two, as follows:

SEC. 2. *And be it further enacted*, That any bridge built under the provisions of this act shall be built as a draw-bridge, with a pivot or other form of draw, and with a span over the main channel of the river, as understood at the time of the construction of the bridge, of not less than one hundred feet in length on each side of the central or pivot pier of the draw; and one of the next adjoining spans shall not be less than two hundred and twenty feet in length: *Provided*, That said pivot draw shall be constructed at an accessible and navigable point in the river, and the piers of said bridge shall be parallel with the current of the river, as near as practicable: *And provided also*, That said draw shall always be opened promptly, upon reasonable signal, for the passage of boats whose construction may not at the time permit of their passing under the permanent spans of said bridge, except that said draw shall not be required to be opened when engines or trains are passing over said bridge, or when passenger trains are due; but in no case shall unnecessary delay occur in the opening of said draw after the passage of such engines or trains.

And to insert in lieu thereof the following:

SEC. 2. *And be it further enacted*, That any bridge built under the provisions of this act may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken and continuous spans: *Provided*, That if the said bridge shall be made with unbroken and continuous spans, it shall not be of less elevation in any case than fifty feet above extreme high-water mark as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the span over the main channel of the river shall be three hundred feet in length, and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in length in the clear between piers on each side of the central or pivot pier of the draw, and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than thirty feet above low-water mark, and not less than ten above extreme high-water mark, measuring to the bottom chord of the bridge, and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That said draw shall be opened promptly upon reasonable signal for the passage of boats, whose construction shall not be such as to admit of their passage under the permanent spans of said bridge, except when trains are passing over the same; but in no case shall unnecessary delay occur in opening the said draws after the passage of trains.

Mr. DOOLITTLE. I should like to inquire of the gentleman who has this bill in charge whether the description of the draw and spans of the bridge is the same in this amendment as was inserted in the bill allowing the construction of bridges at Quincy and Hannibal.

Mr. RAMSEY. This bill was considered by the Committee on Post Offices and Post Roads, who had the other bridge bills in charge; and it is similar to the one we passed a few days since. The bill, however, is in charge of my colleague.

Mr. DOOLITTLE. The same width of draw?

Mr. RAMSEY. Yes, sir.

Mr. DOOLITTLE. The same height above high-water mark?

Mr. RAMSEY. The same height and the same span.

Mr. DOOLITTLE. I do not know that I have any objection to the amendment, but I wish to ask my honorable friend from Minnesota to let this bill lie over till to-morrow. I wish to have an opportunity to look into it. It is a matter that deeply concerns the interests of Wisconsin and some of the great thoroughfares of that State. It may be that I shall be

compelled, after an examination, to offer an amendment to allow the building of a bridge also at La Crosse, across the river. I shall not make any objection to this amendment if it provides for the same sized spans which were required in the bill for bridges at Hannibal and Quincy.

The PRESIDENT *pro tempore*. The question is on the amendment reported by the committee, to strike out the second section of the bill and insert a substitute in lieu thereof, which has been read.

The amendment was agreed to.

Mr. DOOLITTLE. I now ask that this bill be postponed until to-morrow; and I make a motion to that effect. I have not had, and I do not know that my colleague has had, an opportunity to look carefully into this matter. It very much affects Wisconsin. We will at the earliest opportunity consult in relation to it and look into the bill, and as I have already stated we may perhaps desire to submit the amendment to which I have referred.

Mr. NORTON. I hope the Senator from Wisconsin will not persist in his motion to postpone the bill, certainly not with a view to offer an amendment providing for the building of a bridge at La Crosse. That is an entirely separate bridge connecting separate and distinct roads. There will be certainly no objection on our part to the passage of a separate bill for the building of a bridge at La Crosse, but it seems to me there can be no propriety or necessity for adding it as an amendment to this bill. This bill is reported from the Committee on Post Offices and Post Roads with the same provisions as to details, the draw, and other matters of construction, that were contained in the bill passed a short time since for the building of a bridge at Quincy. I hope the Senator will not insist on his motion. If he desires the construction of a bridge at La Crosse, we certainly shall make no objection to a bill for that purpose.

Mr. DOOLITTLE. I will state to my honorable friend from Minnesota that I have not given very much attention to this subject, but it has been stated to me that the State of Wisconsin, when application was made to the Legislature, refused to grant to a company the right to build a bridge at the point which is referred to in this bill. At the present time there is no railroad in Wisconsin which reaches the Mississippi river at this point. The great railroad which reaches across our State, the most northern road, reaches the river at La Crosse. Opposite the Mississippi river at La Crosse, as I understand, a railroad is already in progress which now extends, I think, into Minnesota some twenty or thirty miles from the river, and there is the point where two railroads would communicate if they had a bridge. But at this point, Winona, there is, as I understand, only a road, commenced at Winona running westward into the State of Minnesota. There is not yet any railroad in Wisconsin reaching the river opposite to Winona.

Mr. HENDERSON. How far is that from La Crosse?

Mr. DOOLITTLE. About forty miles above La Crosse.

Mr. HOWE. Twenty-nine miles.

Mr. DOOLITTLE. By the river I think it is forty miles; perhaps in a direct line it is not more than twenty-nine. I hope my friend from Minnesota will consent to let this bill go over. I have no disposition to delay or prevent action upon it, but I desire that my colleague and myself shall have an opportunity to look into it, which, I confess, I have not as yet had the opportunity to do.

Mr. NORTON. I have no objection to the bill going over, as the unfinished business, so that it can come up to-morrow. It is very important that this bill should pass, for the reason that the company who ask for the privilege of building this bridge propose to build the road on the east side of the river. There are now some seventy miles of road running west of the river, but there is a distance of about twenty-eight miles to build on the east side of the

river, which they propose to build this summer, and it is important that they should have the authority to erect this bridge. If the bill can go over so that it can come up to-morrow as the unfinished business, I shall not object.

Mr. SUMNER. I will make a motion which will allow the bill now pending to go over, substituting another for the consideration of the Senate. I move that the Senate now postpone the pending and all other orders, and proceed with the consideration of House bill No. 11. I think we can finish that to-day, if we take it up.

Mr. MORRILL. I desire to take up a bill that is very important, and I appeal to the Senator to allow me to do so. It is a bill to prevent smuggling, which it is important should be considered as soon as possible.

Mr. SUMNER. I know the importance of the Senator's bill, but I submit that we ought not to enter upon that until we have disposed of this little bill; it is a very short bill.

Mr. MORRILL. As the Senator has not the special charge of the bill which he moves to take up, I cannot appeal to him; but I had a conversation this morning with the chairman of the Committee on Commerce, who has the special charge of it, and obtained his consent, I thought, to proceed now with the bill to which I have referred and in which he is vastly more interested than I am. It is a bill that ought to be considered. It is a bill to prevent smuggling. The public service is suffering, I am told, for the want of it.

Mr. SUMNER. I think we can dispose of the other bill to-day.

Mr. MORRILL. I think it very likely you can, but we can dispose of this also. The Senator's bill has passed the other House, and only needs the consideration of the Senate, while this bill has received the consideration of neither House. It is very much demanded, I am told, by the Treasury Department. It is a bill that has occupied a good deal of the time of the Department and of the committee, and certainly needs the consideration of this body at the present time. I thought I had the consent of the honorable chairman of the committee who takes an interest in the Senator's bill, to proceed with this. I suggest to the Senator that we can vote upon that bill at almost any time, and then it will be concluded, while this bill is in its incipency and requires the action of both bodies. I hope my friend will allow this bill to be taken up.

Mr. SUMNER. I am in favor of the bill which the Senator has in charge, but I understand he is not in favor of the bill which I now move to take up.

Mr. MORRILL. Not exactly.

Mr. SUMNER. Therefore we are not on a perfect equality. I am disposed to be more liberal to him than he is to me. It seems to me, therefore, the Senator rather takes an unfair advantage in pressing against me a bill which he knows I am in favor of when he himself is against the bill that I wish to have considered. I think, as we have had the bill which I move to take up under consideration so many days, we had better take it up to-day and finish it, and make an end of it.

Mr. MORRILL. I do not think you ought to antagonize that bill against this.

Mr. SUMNER. I know you are against the bill.

Mr. MORRILL. I will try the question, and if the Senate say so, very well.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts to postpone the present and all prior orders and proceed to the consideration of the bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States.

Mr. GRIMES. Do I understand that the two bills now antagonized against each other are the Camden and Amboy bill, proposed by the Senator from Massachusetts, and the bill that comes from the Treasury Department to prevent smuggling on the frontier?

Mr. MORRILL. Yes, sir.

Mr. GRIMES. Then, those in favor of the bill from the Treasury Department will vote "nay."

Mr. SUMNER. Oh, no; that is not so; I am in favor of that bill.

Mr. DOOLITTLE. The motion is to postpone the Mississippi bridge bill, and the Senator from Massachusetts moves to take up this Camden and Amboy bill, and the Senator from Maine moves to take up the bill to prevent smuggling. Now, cannot the question be divided, and let it be taken first on the motion to postpone, and then on the motion to take up? I ask for a division of the question, so that the vote may first be had on postponing the Mississippi bridge bill; and then the question will arise which we will take up, the Camden and Amboy bill or the bill to prevent smuggling.

Mr. CONNESS. I hope my friend from Massachusetts will withdraw his motion for the present and let us pass this bill for the prevention of smuggling. It is an important bill and will excite no discussion and will not occupy much time; and then I will vote with the Senator to take up his bill. I do not want to vote against him; and I hope he will take this course. The bill of the Senator from Maine will not occupy much time, and it is public business that ought to be attended to.

The PRESIDENT *pro tempore*. The suggestion that the motion be divided, in the opinion of the Chair cannot be granted, inasmuch as the question is not one that can be divided. The motion of the Senator from Massachusetts was to postpone the present and all prior orders and proceed to the consideration of a given bill. The motion is not susceptible of division, in the opinion of the Chair, in the manner in which it now comes before the Senate.

Mr. SUMNER. At the suggestion of a friend of the bill that I wish to bring forward, following his suggestion, somewhat against my own judgment, I withdraw my motion; but I wish it understood that I shall renew it hereafter.

The PRESIDENT *pro tempore*. The Senator from Massachusetts withdraws his motion, and the question now is on the motion of the Senator from Wisconsin to postpone the consideration of the bill before the Senate to authorize the building of a bridge across the Mississippi until to-morrow.

The motion was agreed to.

PREVENTION OF SMUGGLING.

Mr. MORRILL. I move that the Senate now proceed to the consideration of Senate bill No. 222, further to prevent smuggling, and for other purposes.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was read at length.

The PRESIDENT *pro tempore*. The amendments reported by the Committee on Commerce will be read.

Mr. MORRILL. If the Senate will indulge me, I will make a general statement in regard to this bill, as perhaps I ought to do before the amendments are acted upon. This measure was prepared at the Treasury Department; and though the details are pretty extensive, the changes in the law are not very radical, and perhaps they will all be comprehended in a general statement that the provisions are intended to alter the several statutes bearing upon the question of smuggling, from 1791 down to the present time. Most of those statutes are not embodied in this act, and it does not profess to be a revision of that system, but is amendatory of the law touching the general subject of the acts to prevent smuggling, and there are sundry new provisions. These new provisions apply chiefly to the northern, north-eastern, and northwestern frontiers, and are suggested by the relations which have sprung up in a few years past between the British Provinces on this continent and that region of our country.

The bill does not seek to change particularly

in any way the officers of the customs. I am not aware that it adds new officers or that it in any way directly changes the compensation.

Mr. JOHNSON. Does it not abolish some?

Mr. MORRILL. I think not.

Mr. JOHNSON. I so understand its reading.

Mr. MORRILL. I believe there is no authority to abolish any officers except in a contingency. The main feature of the bill is to amend the statutes to prevent smuggling, according to the experience of the Treasury Department, to render them more efficient, and to add such additional sections as have been suggested by the exigencies of the times. These are the chief features of the bill, and I believe all the details will be found to fall under this general statement. The several sections and amendments thereto, having reference to the old statutes, statutes which are not new, very nearly explain themselves, so that I do not feel called upon to make any extended explanation of the sections in detail. I shall be glad to explain any section to which my attention may be called.

The PRESIDENT *pro tempore*. The Secretary will read the amendments reported by the Committee on Commerce in their order.

The Secretary read the first amendment, which was in section two, line five, to strike out "an officer" and insert "a collector, naval officer, or surveyor."

The amendment was agreed to.

The next amendment was in section two, line nine, to strike out the word "other" before "envelope."

The amendment was agreed to.

The next amendment was in section two, line eighteen, to strike out the word "implied," and insert the word "engaged."

The amendment was agreed to.

The next amendment was in section two, line nineteen, after the word "violation," to strike out the remainder of the section, in the following words:

And the Secretary of the Treasury shall have power, from time to time, to appoint such agents of the Treasury Department as, in his opinion, the exigencies of the revenue service may require, who shall be entitled to such reasonable compensation as he shall prescribe; and the twenty-seventh section of the act entitled "An act for enrolling and licensing ships and vessels to be employed in the coasting trade and fisheries, and for regulating the same," approved February 18, 1793, and the sixty-eighth and seventieth sections of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March 2, 1799, are hereby repealed.

The amendment was agreed to.

The next amendment was in section three, line ten, to strike out the word "other" before the word "envelope."

The amendment was agreed to.

The next amendment was in section three, line twenty-five, after the word "concealment," to insert the words "and all the equipage, trappings, and other appurtenances of such beast, team, or vehicle;" so that the clause will read:

And every such vehicle and beast, or either, together with teams or other motive power used in conveying, drawing, or propelling such vehicle, goods, wares, or merchandise, and all other appurtenances, including trunks, envelopes, covers, and all means of concealment, and all the equipage, trappings, and other appurtenances of such beast, team, or vehicle shall be subject to seizure and forfeiture.

The amendment was agreed to.

The next amendment was in section three, line twenty-seven, after the word "forfeiture," to strike out the following words:

In like manner as is now by law, or shall be by this act, provided in regard to such goods, wares, or merchandise.

The amendment was agreed to.

The next amendment was in section four, line eight, after the word "law," to insert "such goods, wares, and merchandise shall be forfeited, and;" so that the section will read:

That if any person shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any goods, wares, or merchandise contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such goods, wares, or merchandise after their importation, knowing the same to have been imported contrary to law, such goods, wares, and merchandise shall be forfeited, and he or she shall,

on conviction thereof before any court of competent jurisdiction, be fined in any sum not exceeding five thousand dollars nor less than fifty dollars, or be imprisoned for any time not exceeding two years, or both, at the discretion of such court.

The amendment was agreed to.

The next amendment was in section four, line thirteen, after the word "court," to strike out the following words:

And the guilty knowledge of the defendant, when convicted of the fact, shall in all cases be presumed unless he or she prove the contrary.

And to insert in lieu thereof:

And the *onus probandi* shall lie upon the defendant where probable cause is shown for such prosecution, to be judged of by the court before whom the prosecution is had.

Mr. JOHNSON. It seems to me that this is a departure from all the rules which experience has proved to be just and righteous. The object of the section is to prevent the illegal importation of certain articles of merchandise mentioned in it. I think the Senate had better look at it, for the amendment changes the section very materially. The section provides:

That if any person shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any goods, wares, or merchandise, contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such goods, wares, or merchandise, after their importation, knowing the same to have been imported contrary to law, such goods, wares, and merchandise shall be forfeited.

As the bill originally stood, in the event of a prosecution, it provided that "the guilty knowledge of the defendant when convicted of the fact"—that is to say, when convicted of the fact of receiving, buying, or selling goods that had been improperly imported—"shall in all cases be presumed, unless he or she prove the contrary." That is contrary to all ideas of law.

Mr. MORRILL. That is stricken out.

Mr. JOHNSON. I know that is stricken out. The committee have stricken that out because, in the judgment of the committee, it is liable to objection; but they substitute for it what, according to my view, makes it almost as obnoxious as the passage they propose to strike out. They propose to substitute for it the following:

The *onus probandi* shall lie upon the defendant where probable cause is shown for such prosecution, to be judged of by the court before whom the prosecution is had.

Now, what is "probable cause" for a prosecution? What must a judge say is probable cause? That the goods have been imported contrary to law by somebody, and secondly, that the man prosecuted has received or bought or sold them. The fact of the illegal importation connected with the fact of the reception or the buying or the selling the judge may consider as sufficient probable cause to believe that the man is guilty, and cast upon him the burden of proving his innocence. I know of no case in which a rule of evidence so harsh as that has been adopted. It is a very good thing to prevent smuggling in order to secure as much revenue as we can; but it is paying very dearly if we accomplish that object by breaking down the landmarks which have heretofore been supposed by all the jurists of the country necessary to protect the individual citizen against an improper prosecution.

Now, it seems to me, it would be better to leave the case to stand upon the rules of evidence applicable to all offenses. Why is it necessary to say in this case, more than in any other case, that the defendant shall have thrown upon him the burden of proving his innocence? In all cases, if there be proof before the jury reasonably tending to the conviction of the offender, because reasonably establishing his guilt of the offense, he is called upon to defend himself. You do not want any additional statute in order to cast upon the offender who may be prosecuted the burden, in a case of that description, of proving his innocence; and the object, therefore, of this provision is to place him in a much worse situation than he is placed in now. Whenever the court, not the jury, shall think that the man is guilty upon the evidence which the prosecution has produced,

then a verdict is to be pronounced against him unless he proves his innocence. The judge, therefore, will be bound to tell the jury, "I think—it is perfectly immaterial what you think—that the man is guilty upon the evidence already adduced, and you must find him guilty"—that is the necessary result, provided the law is carried out—"you must find him guilty, unless he, by evidence, assures you that he is not guilty." It seems to me, and I submit it to the honorable member from Maine, that that is going infinitely further than in any country that I know of it has ever been supposed necessary to go where the rights of the individual citizen are regarded at all. We might all be placed in that situation.

Mr. MORRILL. Oh, no; it only applies to smugglers.

Mr. JOHNSON. You might buy goods from them without knowing it. There are a few smugglers, perhaps, on the coast of Maine; I think it very likely that a great deal of the smuggling has been in that neighborhood. My friend might be in Castine and might buy goods that had been improperly smuggled in Castine. Suppose he should be prosecuted. The proof against him would be that the goods had been smuggled in and that he had bought them. That is a very good ground for prosecuting; and the only thing to be proved is, that he did know (in the absence of this legislation) that they were smuggled; but if you adopt this amendment it is not necessary to prove that. They will prove the fact of the illegal importation and the fact of the purchase, and then call upon him to prove that he did not know that they were illegally imported; otherwise he would be subjected to the forfeiture. I do not see the occasion for it. I repeat, that in all cases, no matter what the character of the offense is, if the prosecution produces evidence which, in the judgment of reasonable men, under the direction of the court, tends to criminate the offender, if the jury do their duty, unless it can be explained away, they convict him; but this goes a great way beyond that. It assumes guilt from the mere fact that the party has bought or sold the goods illegally imported, and casts upon him the burden of proving his innocence.

Mr. SUMNER. It seems to me that the Senator from Maryland exaggerates the character of this proposition. No one knows better than that very experienced lawyer, that questions of what are called the weight of evidence or the *onus probandi* are ordinary questions of law, that is, there is a certain rule of law which determines that under certain circumstances the *onus probandi* is on the one party or the other. I take it that that is only what is called common learning; you find it in all the books: that the court must determine in advance where the *onus probandi* is. Now, if I understand it, this statute undertakes to determine in advance, in certain cases, where the *onus probandi* shall be. It lays down a rule in that respect. I admit that the rule may seem to be somewhat stringent. I admit, also, that it may be a departure from the common practice. But the question in my mind is, whether when we are dealing with cases like those of smuggling, we are not justified in making the rule more stringent and in departing from what may be the common practice. I therefore bring the question right to that point, and I ask the experienced Senator from Maryland whether in dealing with smuggling, from all our experience, from our knowledge of such cases, from the known habit of smugglers to evade all existing laws and regulations, we are not justified in bringing, if possible, an increased stringency of rule to bear upon them. I must say I think we are. It seems to me that is what this statute precisely does. It makes the rule more stringent against smugglers. The question is whether in making it more stringent against smuggling there is a departure from principle. I have already suggested that it is a most common practice to determine in what cases the *onus probandi* shall be one way or the other.

Then we come to the next question here: under what circumstances shall the *onus probandi* be upon the defendant? It is where probable cause is shown for such prosecution. I presume that I do not err when I say that it is not a phrase of the common law. Probable cause is not strictly a phrase of the common law. It is a phrase of the ancient Roman jurisprudence, and derived from the ancient Roman jurisprudence.

Mr. JOHNSON. From the prize law and the admiralty law.

Mr. SUMNER. Is not the admiralty law derived from the Roman jurisprudence?

Mr. JOHNSON. Certainly.

Mr. SUMNER. It is a phrase of the ancient Roman jurisprudence, derived from that, entering into the jurisprudence of all continental Europe, and all that portion of our own jurisprudence which is dependent upon the ancient Roman jurisprudence, the admiralty law, as the Senator from Maryland suggests, and also in England the law administered in consistorial courts. Now, in the Roman law, to go back to that, we find that the term probable cause plays an immense part. There is not a term in Roman jurisprudence, I presume, more important than that. Where a party could show "probable cause" for anything that he did it was a justification. I presume one could not err under the law of nations if he said that a public ship overhauling a merchantman on the ocean, having probable cause to suspect that the ship was not what it purported to be; then the very fact of probable cause under such circumstances would be a sufficient defense; so important has the rule of probable cause, in the original Roman jurisprudence, and in those different countries who derived their jurisprudence from ancient Rome, been regarded.

Now, as I understand it, this phrase is imported into our statutes; it is not unknown in them before. Of course it occurs constantly in our revenue statutes, but there again, I take it, it is derived from this same original source. Now, it is proposed to declare that where probable cause is shown for a prosecution, the burden of proof shall be changed. As I have said, by that jurisprudence from which the phrase is derived, where probable cause is shown, it is a defense for any authorities in any seizure they make. They do not err. If the seizure be a ship, or if it be a man, or if it be any article of property, there is no mistake if the Government shows probable cause; and so, on the other hand, if there is probable cause to believe a man to be guilty, the burden of evidence under that jurisprudence absolutely changes and he has got to bring forward his evidence in order to overthrow that probable cause.

And now, to give a practical application to all this, it seems to me that in this clause there is simply an attempt, and I must say it seems to me a proper attempt, to give an increased stringency to the law for the repression of smuggling, by making the showing of probable cause the occasion for a change of the *onus probandi*. I do not think there will be any mistake if we shall adopt it.

Mr. MORRILL. The Senator from Massachusetts has said, perhaps, in defense of this proposition all that need be said, except that I desire to call the attention of the Senate to the fact that this is not a new provision, and then it seems to me that on the question of the burden of proof it is not that departure which the Senator from Maryland seems to think. It simply puts the burden of proof on the party only when the court shall say under the facts adduced that the burden of proof ought to lie on him. That is all it says. How does that differ in principle from the case of larceny? Where the goods are found in the possession of the party charged, the burden of proof is on him to explain. Suppose he does not explain. The court would tell the jury undoubtedly in such a case that he having been in possession of the goods, it is his duty to explain the charge of having come wrongfully by them; they are lost; they are found on him; now if

he fails to explain, the court would say to the jury in such a case as that the burden of proof is on him, he must explain to your satisfaction, and failing to do it, the implication is one of guilt.

Nowhere this section sets out certain facts: "any person who shall fraudulently or knowingly import" &c., going on to state the facts under which certain things may be done, "knowing the same to have been imported contrary to law," &c., shall be subject to a penalty. The law provides that he may do that thing properly; he may do it legally and properly; and if he is charged with doing it wrongfully, and the facts appear, the facts are presented to the court, so that in the judgment of the court the burden of proof ought to be on him, then precisely in this case, as in the case where a man is charged with larceny, the court may say that the burden of proof is on him and they may instruct the jury against him. The burden of proof lies there under the authority of this statute, unless he vindicates himself. The only difference in the world is that we apply it here to a transaction which of itself is legal under the statute except for the guilty intent; and when the facts, in the judgment of the court, authorize an inference of his guilt, then he is to stand precisely on the general principle in criminal proceedings.

But this statute is not new; it has existed since 1799 substantially. I will read the provisions of the act from which I suppose this provision was taken. It is the act of 1799, chapter twenty-two, seventy-first section. That section concludes as follows:

"But the *onus probandi* shall lie on the claimant only where probable cause is shown for such prosecution, to be adjudged of by the court before whom the prosecution is held."

Mr. JOHNSON. That applies to property.

Mr. MORRILL. There is no difference between that provision and this, except that in the statute of 1799 it applies to property; property was proceeded against there, and now this is a proceeding against the person. The principle is precisely the same. It seems to me that in principle it is not so objectionable as is supposed by the Senator from Maryland, and then in practice I am sure that any other rule would be found to be extremely mischievous.

Mr. HOWE. I was not able to agree with the committee upon this amendment, and since listening to the remarks of the Senator from Maryland I am no nearer agreeing with them than I was before. I think if the impropriety of this proposed amendment could be demonstrated, the Senator from Maryland has demonstrated it. There are two ways in which this amendment may be regarded. If you look at the literal import of the words proposed to be inserted here, it seems to me it provides what nobody in the world would agree to. I am entirely agreed that the words proposed to be struck out should be struck out; so far I accede to the amendment; but as to inserting the words proposed to be inserted, I am utterly opposed to it.

The fact to be tried is a single one. It is not the selling of imported goods contrary to law, or the buying of goods which have been imported contrary to law. These are not crimes, not made so, not regarded so by the section. The offense here provided for is the selling or buying imported goods with a knowledge that they were imported in violation of the law. It is doing these things, with knowledge of the illegal character of the act. That is what the section is driving at. That is what it is proposed to punish. The cause upon which the defendant is arraigned is, for instance, the purchasing of goods, or the concealing of goods, or the buying of goods, knowing them to have been imported contrary to the law. This amendment proposes to say that the burden of proof shall lie on the defendant in case the judge says there is probable cause for the prosecution. What burden of proof?

Mr. BUCKALEW. It does not tell what.

Mr. HOWE. If you look at the words it would be the burden of proving the complaint. If the judge should say that the district attorney had probable cause for commencing the prosecution, when he gets so far that he can say that, then he must say "now the burden of proof is upon the defendant to establish the complaint to maintain the indictment." I think that is the literal meaning of the amendment; but it probably is not the meaning which the committee intended to give it. But, in the most favorable view you can take of it, it is dividing a single issue into two propositions and submitting one of them to the court and reserving the other to the jury. The court is to say, when so much of the case has been proved as that, if not explained or not controverted by the defendant, the jury must find a verdict of guilty. That much of the issue is left to the court, and the rest of it is reserved for the jury. The court says when the *prima facie* case is made out. The jury is left to say when the *prima facie* case is rebutted.

The fact of possession is a circumstance always proper to be submitted to the tribunal to establish the guilt, whether of importing or buying with knowledge that the goods were imported contrary to law; it is a circumstance going to show guilt; it is proper to be submitted to the jury; but it is proper for the jury to say what weight should be given to that circumstance as to every other circumstance. If that is the only circumstance which is proved in the case, the court cannot help but say that there was probable cause for a prosecution; but when the court says that, rings his bell, and says "here is probable cause for the prosecution," then he says in effect to the jury "now you must from this time forward in the trial of the cause hold this man guilty until he, taking the burden of proof upon himself, satisfies you by his own evidence, by his own efforts, by what he shall marshal before you in the nature of proof, that he did not know anything about it; until he shows this negative you must assume the affirmative," the affirmative being that he did know. That rests upon the allegation of the indictment.

Any circumstance, therefore, which shall induce the court to say that the district attorney was not to blame for commencing the prosecution, that he had probable cause for commencing the prosecution, any circumstance that enables the court to say that the district attorney is not guilty, calls upon the defendant in fact to prove that he is not guilty. I think this is a very great advance upon any rule of evidence that I ever heard of in the trial of criminal causes. The Senator from Massachusetts says we may be justified in adopting more stringent rules in these cases. I think smuggling is a very bad thing and ought to be put down; but I do not know that smuggling is a greater crime than burglary, or than murder, or than treason. This is a rule of evidence, I take it, we should not tolerate in the trial of either of those crimes, and I do not know why we should tolerate it in trying the crime of smuggling.

Mr. EDMUNDS. Mr. President, there is very great force indeed in the observations which have been submitted by the honorable Senator from Maryland in opposition to this amendment of the committee as it stands now, and inasmuch as I was not able to be present in the committee when this bill was considered, I venture to offer an amendment to the amendment reported by the committee, which I think will relieve it of the objections made by the Senator from Maryland, and will put it precisely upon the footing of the act of the 2d of March, 1799, which is in force to-day on this subject, and which has been found in the courts of the United States to be absolutely indispensable in cases of the seizure of smuggled goods. The amendment which I propose is to insert after the word "*probandi*" the words "in cases of seizure," and in the same line to strike out the word "defendant" and insert the word "claimant," so that the amendment,

if adopted, will cause the section to read "and the *onus probandi* in cases of seizure shall lie upon the claimant where probable cause is shown for such prosecution," &c.

The act of 1799, which may be called the constitutional basis of all our revenue and importation laws, provides, in the seventy-first section, the following rule of evidence in causes of this nature:

"In actions, suits, or informations to be brought where any seizure may be made pursuant to this act, if the property be claimed by any person, in every such case the *onus probandi* shall lie upon such claimant."

And in a succeeding part of the section:

"But the *onus probandi* shall lie on the claimant only where probable cause is shown for such prosecution to be adjudged of by the court before whom the prosecution is had."

It is well known by everybody who has had any experience in the prosecution or defense of these seizure causes that the most which the Government, in ninety-nine cases in a hundred, can do is to prove the unlawful importation presumptively; that is, to prove the fact that the particular goods in question have been introduced into the United States without the payment of duty; and then, pursuant to the act of 1799, it is the duty of the court to call upon the defendant to show a reasonable ground of excuse or exculpation against the *prima facie* presumption which the illegal importation without the payment of duty ought justly to raise.

It has been found in practice—and in my knowledge within the short period of my acquaintance with legal affairs, it has been practiced constantly—that a clause of the description which I now name has not been only useful but indispensable to the Government, without being in the least degree prejudicial and injurious to any just claimant who has not really and truly intended to evade the laws providing the revenue. Therefore it appears to me that if we adopt the amendment which I have suggested, and leave it on the basis of the act of 1799, we shall put the law in a position where nobody can reasonably find fault with it.

Mr. JOHNSON. With due deference to my friend from Maine and my friend from Vermont, I think they misapprehend the act of 1799 altogether, if they suppose that the principle contained in that act in the section referred to justifies such a provision as is the one now before the Senate. The act of 1799 in the section referred to, which is, I suppose, the only one in the law supposed to bear at all on the subject before the Senate, provides for two classes of cases. The first is, that if any officer seizing goods is sued he may give the act in evidence to show the authority under which he was acting. Where he is sued or molested for anything that he does by virtue of the act, in defense of such suit the provision is that he may give in evidence under the general issue this act and the special matter that he may be able to submit. In order to protect the officer against improper suits by persons who may find fault with what the officer is doing, it gives to the officer, who becomes the defendant in such suits of course, in the event that the plaintiff fails, double costs; and then it provides—

"And in actions, suits, or informations to be brought, where any seizure shall be made pursuant to this act, if the property be claimed by any person, in every such case the *onus probandi* shall lie upon such claimant."

What is that? The officer seizes goods and he is sued in an action of replevin or any possessory action, or he is sued in an action of trover; and then the law provides, as it has a clear right to provide—such was the law before—that in such a case as that, the claimant being plaintiff is to make out his own case. He is to prove that the goods were his, and he is to prove that they were not improperly imported. The officer, being authorized expressly by the terms of the act to rely upon the act and upon special matter in his defense, is in possession of the goods, and he is sued by the alleged owner to recover the goods or in damages;

and in such case as that the statute declares that the party suing, the alleged claimant, shall make out his case. There is no doubt about that, and the latter part of the section to which my friend from Maine adverted is intended merely as an explanation of that part which I have just read. It says this:

"But the *onus probandi* shall lie on the claimant only where probable cause is shown for such prosecution."

That is for the benefit of the claimant. If the claimant sues and the defendant does not show probable cause, he is not compelled to prove anything; but if the defendant does show that there was probable cause for the seizure, then the *onus probandi* is cast upon the claimant. But that is not this case. Here is a prosecution against a person for a penalty. He may be confined and imprisoned under the provisions of this act. Now, what says the statute? Prove all that the Government need prove; prove the importation; prove the buying or the selling; prove the possession by the defendant who is prosecuted of the goods proved to have been imported; and then he is guilty—not a matter to be left to the jury, but so far the whole matter is with the court. If the court is satisfied that the case as it stands upon the evidence offered on the part of the prosecution presents a probable cause of guilt, then it is made the duty of the court to tell the jury "the case now stands in that situation that there must be a verdict of guilty unless the defendant satisfies you of his innocence." I say that that is contrary to anything to be found in the books, as far as my recollection goes.

The honorable member from Massachusetts said very properly that the term "probable cause" is not so familiar to common-law lawyers as to those familiar with the Roman law. He seemed to suppose that that phrase was not known to the common law. In that I think he is mistaken. Those words are in our statutes; they are familiar in cases of prize and in all cases of admiralty.

Mr. SUMNER. Under the Roman law.

Mr. JOHNSON. If a party seizes a vessel during war, or seizes her under the revenue acts, and he is sued by the alleged owner, who proves to be the real owner, he escapes personal responsibility by proving to the satisfaction of the judge that he had probable cause for the seizure; and the certificate of that probable cause is a defense in any action which may be brought forward by the owner of the goods to recover damages sustained by him in consequence of the seizure. That is for the protection of the officers of the Government, and is a wise provision. They would be very unwilling to capture vessels as prizes of war, or to seize them for an alleged violation of the revenue acts if they were to be responsible on the contingency that it should turn that the vessel was not prize of war or if there was no ground for the seizure. But that is not this case, nor anything like it. Under the desire to prevent smuggling—an object that we all have at heart—it is proposed by this bill, as I think, to change all the rules of evidence. The honorable member says that the judge is in the habit frequently of stating in the trial of cases before him upon whom is the burden of proof cast. That is true; but does he say that to the jury in a criminal case? Has he any right in a criminal case to tell the jury, "In my opinion the man is guilty?" In a civil case, if the judge thinks, upon the evidence, that the case as it stands in point of law casts upon the defendant the burden of proving his defense, or that it stands in such a situation that it casts on the plaintiff the burden, changes the *onus*, he tells the jury so; but that is a question of law which may be carried up to the courts above, and his mistake corrected if he happens to make a mistake. This, however, cannot be carried up; there is no review of this; the judgment of the judge below is conclusive in the sense that it cannot be reviewed, and it is conclusive upon the action of the jury. If I understand

this section, it is put there for the very purpose of being conclusive. It is to tell the jury virtually, "The man is guilty unless he satisfies you that he is innocent."

Mr. EDMUNDS. With all respect, sir, I cannot help thinking that my friend from Maryland is the person who misapprehends the scope of this clause of the seventy-first section of the act of 1799 rather than myself. The language which operates upon this subject is "actions, suits, or informations." The term "informations," as used in this act against property where any seizure is made pursuant to the act, is a technical term perfectly well known to the law and to lawyers. It is what is in the admiralty practice, in the cases of seizure *in rem*, called a libel of information; but in the more condensed language of the statute it is simply termed an information. When goods are seized by a customs officer for a breach of the revenue laws an information is filed against them; and if any party fails to come forward and claim the goods they are condemned without any hearing at all upon the mere seizure. If any person comes forward, according to the rules of the court, and makes oath that he is the owner of the goods, he is then entitled to enter his claim; and the term "claimant" is a technical term perfectly well understood by everybody who practices in those courts as indicating, not the plaintiff in an action at common law, not the defendant in an action of trover or trespass, but the party in a court of admiralty who, in a proceeding *in rem*, comes upon the record as making a formal claim to the property.

My conclusion, therefore, is that these provisions of the act of 1799 respecting the *onus probandi* in cases of seizure being upon the claimant, are provisions which by the very letter as well as the spirit of the act apply to prosecutions against the property itself where a claimant, technically and legally known as such, appears in court and claims the property. In those cases, if I correctly understand the act of 1799, probable cause having been made out on the part of the prosecution, the *onus probandi* is then turned over to the claimant who asks that the property may be delivered to him, to explain the circumstances under which he introduced it.

Now, what is "probable cause?" It is very difficult to define the distinction between the meaning of the term "probable cause" and the meaning of the term "*prima facie* evidence." It would puzzle anybody except a Philadelphia lawyer to make any sensible and satisfactory distinction between these two terms. Then in a case of property—I leave aside, for a moment, entirely that part of it which relates to condemnation and fine as to the person—is it too hard to say to a claimant who comes into court and asks that property may be delivered up to him, *prima facie* evidence having been brought forward on the part of the Government that the property is justly subject to forfeiture, "You shall not be entitled to receive it out of court again until you bring forward some proof to meet this *prima facie* or probable evidence which has been adduced against you?" In my judgment it certainly is not.

Then the question is whether this bill which we have under consideration goes beyond the act of 1799; and I may say, indeed, before I come to that, that my experience on the border in the practice in the circuit and district courts of the United States, presided over by Judge Smalley and Judge Nelson, has been precisely in accordance with the construction which I put upon the act of 1799. When I began, not many years ago, in those courts, I was quite as restive with my common-law education about this notion of the *onus probandi* being upon the party whose goods were seized as anybody could be; I did not like it; my clients did not like it, for I generally appeared for the claimants, not being district attorney; but the inviolable practice in that district (and I have no doubt in the southern district of New York, where very large numbers of these cases occur) has been, as a matter of course, without debate,

to apply the provisions which I have read from the act of 1799 to every cause of prosecution against property under the revenue acts; and probable cause being shown, to then call upon the defendant to overcome it if he could.

Now, to come to the act which we have in question; this fourth section provides for two descriptions of things: one is the forfeiture of merchandise which may be illegally imported, and the other is the punishment of the person who shall be guilty of the illegal and fraudulent importation. So far as the application of this rule of evidence to a case of distinct prosecution against a person by which he may be deprived of his liberty is concerned, I entirely agree to what has been said by the Senator from Maryland that it is going beyond what the law has been hitherto and is going beyond the just principles which ought to furnish security in cases where liberty is involved; but when you limit it, as my amendment proposes to limit it, to cases of seizure of goods provided for in that section, and to cases where a party voluntarily appears in court and claims the property, then it appears to me that it is not asking too much to require such a claimant, probable cause having been made out against the property, to introduce some proof in order to authorize the court to give it up to him. In most cases, in all cases of admiralty seizure, of maritime jurisdiction, that is not a question for a jury at all; it is only in cases of municipal seizure that a jury has anything to do with it; so that with the amendment which I have had the honor to submit it appears to me that we are only standing exactly upon the theory and practice under the act of 1799.

Mr. WILLIAMS. Mr. President, I feel a little interest in this bill as I live on the northwestern frontier where there is more or less of the business of smuggling, and I know that there is a necessity for stringent legislation upon that subject. I believe that this amendment which is proposed by the Committee on Commerce to this bill is not objectionable, and I am not very certain that the bill as it originally stood would be too strong in its application to cases of this description. To import goods into the United States is a lawful business, though goods may be imported contrary to law, and in that respect the business of importation stands upon a different footing, as it appears to me, from other kinds of business to which reference has been made during this discussion for illustration. Larceny is not a lawful business, burglary is not a lawful business, arson is not a lawful business; but the importation of goods is a lawful business, and therefore there is greater difficulty in detecting a violation of law in that business than under other circumstances that have been suggested by those who object to this amendment. This amendment, as I understand it, where probable cause appears for a prosecution, transfers the *onus probandi* to the defendant. I do not think that this provision contravenes the provisions of law applicable to criminal prosecutions in other cases as has been suggested. Now, where a man is prosecuted for larceny and has possession of the stolen goods within a reasonable time after the commission of the crime, that time is presumptive evidence of his guilt, and it becomes necessary for him to explain that possession and rebut the presumption which arises from that fact. Where goods have been imported contrary to law, and they are found soon after their importation in a man's possession, this amendment simply requires him to explain that possession and show how he came to have in his hands goods that had been imported contrary to law.

Mr. CLARK. Suppose the Senator should turn his attention to the case of a man who has counterfeit money in his possession, which is an offense where there is an intent to pass it, would it be quite just to impose the burden of proof on the man who happened to have the money? A man may buy an article which has been imported contrary to law, not knowing it, in the same way that he may have a counterfeit bill and not know it. The law does not

impose upon the man having the counterfeit bill the *onus* of the proof showing that he did not know that it was counterfeit. It is a case more analogous to this than the one put by the Senator, I think.

Mr. WILLIAMS. I think not, because the case which I put is the case where a man is found in the possession of goods to which he has no right by law, and in this case the man is found in the possession of goods to which he has no right by law, so that the cases, as it seems to me, are analogous cases.

Upon the northwestern frontier it is customary for persons to go on board vessels at Victoria and come around to Portland with trunks and packages, and to violate the revenue laws in that way; and when a prosecution is commenced against the master of the vessel, although the fact of the importation contrary to law is established as a general rule, the defense that he makes is that he was ignorant of the fact that the goods were brought upon his vessel or that they were brought into the port of Portland contrary to the law. Now, if the law be that the fact that he has imported those goods in violation of the law is probable cause of prosecution, and he understands it to be the law, then it will make him diligent, and when goods are brought on board his vessel he will see to it that they are goods that can be transported, or on which the duties are paid, and that they are not brought into the ports of the United States contrary to law.

In that respect I think this provision will be of advantage. It will make it necessary for masters and those who have the management of ships to be more diligent to prevent smuggling. Trunks of opium, for instance, are taken on ships at Victoria and brought to Portland. When the master of the vessel is prosecuted for smuggling, the fact that a trunk filled with opium has been brought from a British port to an American port contrary to law is undeniable, but the master undertakes to defend himself upon the ground that he was ignorant, that he did not know that there were such goods on board his vessel, and if he is inattentive to his duties he may successfully make that defense; but if, when the fact is established that he has imported these goods contrary to law, he is then compelled to show that he did not know that the goods were on board the ship, it seems to me that he will be more diligent and take more pains to see that the laws of the country are maintained in this respect.

It seems to me that to declare that when probable cause for the prosecution is established the *onus probandi* shall be on the defendant, is not a proposition that is objectionable as urged by gentlemen who oppose it, and that in cases of this description it is absolutely necessary. Possession of the goods by the man who transports them or by any person after they are transported is probable cause if the goods are found in his possession within a reasonable time. That constitutes probable cause; and what does the court say to the jury when a man is prosecuted for smuggling or prosecuted for assisting in smuggling and the fact appears to the court and jury that these goods after their arrival at the port were in the possession of the individual prosecuted? Now, the court say "the possession of these goods at this time, within a short time after they arrive in the port, is probable cause." If a long time elapsed, their possession would not amount to probable cause, as in a case of larceny; but if the goods that are smuggled into the port are found soon after in the possession of an individual who is prosecuted for a violation of this law, the court would say to the jury, "Gentlemen, this fact that the goods were in the possession of this man is probable cause for the prosecution, and it is necessary that he should explain this possession and show that it is consistent with his innocence."

That is all, it seems to me, that this provision amounts to, and it is not an unreasonable provision; and I think that, considering the difficulties in maintaining prosecutions for violations of this law and the various arts and

expedients that are resorted to by men engaged in this business, this is not a rule too stringent and it will be found to operate well in practice.

Mr. CONNESS. Mr. President, if the illustrations given by the honorable Senator from Oregon were to be taken as an exemplification of how this section was to be applied, I should hesitate very much before I should vote for the proposed amendment. The honorable Senator says that the captains of ships and the owners of ships must be made responsible when they bring goods into the country which are contraband goods, which are dutiable, but upon which the duties have not been paid; that they must be subject to punishment. I think he gives us an illustration that would, in the cases to which he calls our attention, prohibit all trade whatever. I submit to the Senator himself, in regard to the ships trading between Oregon and the British port of Victoria, in British Columbia, and between that port and the ports of California, that it is simply impossible for the captains of those vessels to know the contents of every trunk that comes on board. How can it be done? Must a captain demand that every trunk and every package shall be opened before it goes on his ship? I apprehend not; and yet if a trunk is found to contain opium when it arrives at Portland in Oregon, or San Francisco in California, in possession of a passenger without the knowledge of the captain, it being impossible for him to know, he having exercised all the vigilance possible—

Mr. JOHNSON. In a passenger's private baggage?

Mr. CONNESS. In his private baggage I am speaking of. His ship is at stake; although his ship may not be forfeited by the law, he knows that he will be subject to continuous and expensive prosecutions and litigations with all the diligence that he can exercise; and incited by these consequences, he is yet to be held responsible. I think it would be the interest of every man to put his money into something else than into American ships under such circumstances.

Mr. WILLIAMS. The Senator will allow me to say that is not my position. I simply say that he ought to be responsible unless he can show that he was ignorant of the fact, and therefore innocent. When the master of a vessel imports goods into the United States contrary to law, the *onus* of proving his innocence ought to be upon the master, in my opinion.

Mr. CONNESS. Does the Senator not use a term not exactly the best there, when he speaks of the master of a vessel importing goods? The master of a vessel commands the ship. The cargo is taken on board. The cargo consists of goods imported by merchants in Portland or in San Francisco. They are the importers. They know the contents of the cargo. The captain cannot possibly know; he is not the importer in any sense as I understand it. He simply commands the ship and sees that his ship is safe from port to port. It is true that the law holds him not to be in complicity with the violation of the revenue laws, and that is right. But if he have no such complicity at all, why shall you construct a law that shall hold him for knowing the contents of every private package brought on board of his ship? If that were the effect of this amendment I could not vote for it; but I do not so understand the amendment. I may misunderstand it, but if that be its effect I think it ought not to be adopted. All that the laws of the United States can hold our ship-masters and ship-owners to is the honest exercise of all the vigilance that they can employ to prevent smuggling. When they have yielded that much, they should certainly not be held responsible further than that.

The PRESIDING OFFICER, (Mr. HARRIS in the chair.) The question is on the amendment offered by the Senator from Vermont [Mr. EDMUNDS] to the amendment of the committee to insert after the word "*probandi*" the words "in cases of seizure," and to strike out the

word "defendant" and insert the word "claimant;" so that the amendment will read:

And the *onus probandi* in cases of seizure shall lie upon the claimant where probable cause is shown for such prosecution, to be judged of by the court before whom the prosecution is had.

Mr. HOWE. It strikes me that that changes the character of the proposed amendment entirely. It provides for a proceeding *in rem* while the committee's amendment has reference to a proceeding *in personam*.

Mr. MORRILL. So far as the burden of proof is concerned, it is precisely in harmony with the act of 1799.

Mr. HOWE. It changes the character of the whole section. It is a provision which has nothing to do with the residue of the section. The section then will read that if a man buys goods illegally imported, knowing them to be illegally imported, he shall be fined and imprisoned, and the burden of proving something shall lie upon the claimant, if probable cause is shown.

Mr. EDMUNDS. My friend, the Senator from Wisconsin, has forgotten, I fear, the amendment which has already been adopted in the eighth line of this section, which declares, as a consequence of this illegal importation, knowing it to be an illegal importation, the goods, wares, and merchandise shall be forfeited. It is to that part of the section that this second amendment will apply, if my amendment be adopted.

The amendment to the amendment was agreed to.

Mr. HOWE. I ask for the yeas and nays on the amendment as amended.

Mr. MORRILL. Take the yeas and nays in the Senate; let us get on with the bill.

Mr. HOWE. Very well.

The amendment, as amended, was adopted.

The next amendment was in section seven, line three, after the word "days" to insert the words "after the facts shall come to their knowledge;" in line four, to strike out the words "seizure may be made or forfeiture," and to insert "fine or personal;" in line twelve, to strike out the words, "in addition to proceedings for forfeiture of any property which may be seized, he," and to insert the words "such district attorney;" in line sixteen, before the word "personal," to insert the words "fines and;" in line seventeen, to strike out the words "such district attorney;" in line eighteen, to insert the word "he" before the word "shall;" in line twenty, after the word "instituted," to insert "in which case he shall report the facts to the Secretary of the Treasury for his direction;" in line twenty-one, to insert the words "fines and" before the word "personal;" in line twenty-nine, to strike out the word "his" and to insert "such collectors," and also to insert the word "or" before the word "penalty;" and in line thirty to strike out the words "or forfeiture" before the word "imposed;" so that the section will read:

SEC. 7. *And be it further enacted*, That it shall be the duty of the several collectors of customs to report within ten days after the facts shall come to their knowledge to the district attorney of the district in which any fine or personal penalty may be incurred for the violation of any law of the United States relating to the revenue, a statement of all the facts and circumstances of the case within their knowledge, together with the names of the witnesses, and which may come to their knowledge from time to time, stating the provisions of the law believed to be violated, and on which a reliance may be had for a condemnation or conviction; and such district attorney shall cause suit and prosecution to be commenced and prosecuted without delay for the fines and personal penalties by law in such case provided, unless upon inquiry and examination he shall decide that a conviction cannot probably be obtained, or that the exercise of public justice does not require that a suit or prosecution should be instituted; in which case he shall report the facts to the Secretary of the Treasury for his direction, and for expenses incurred and services rendered in prosecutions for such fines and personal penalties the district attorney shall receive such allowance as the Secretary of the Treasury shall deem just and reasonable, upon the certificate of the Judge before whom such prosecution was had; and if any collector shall in any case fail to report to the proper district attorney, as prescribed in this section, such collector's share of any fine or penalty imposed or incurred in such case shall be forfeited to the United States, and the same shall be awarded to such

persons as may make complaint and prosecute the same to conviction.

The amendment was agreed to.

The next amendment was in section eight, line two, after the word "where" to insert the words "a vessel or;" in line four to strike out the word "the" and insert the word "such" before the word "vessel," and after the word "vessel" to strike out the words "of which he is so the owner, master, or manager;" so that the section will read:

SEC. 8. *And be it further enacted*, That in any case where a vessel or the owner, master, or manager of a vessel shall be subject to a penalty for a violation of the revenue laws of the United States, such vessel shall be held for the payment of such penalty, and may be seized and proceeded against summarily, by libel, to recover such penalty, in any district court of the United States having jurisdiction of the offense.

The amendment was agreed to.

The next amendment was in section ten, line ten, to insert the words "without reasonable excuse" before the word "neglect;" so that the section will read:

SEC. 10. *And be it further enacted*, That every officer or other person authorized to make searches and seizures by this act shall, at the time of executing any of the powers conferred upon him by this act, make known, upon being questioned, his character as an officer or agent of the customs or Government, and shall have authority to demand of any person within the distance of three miles to assist him in making any arrest, search, or seizure authorized by this act, where such assistance may be necessary; and if such person shall without reasonable excuse neglect or refuse so to assist, upon proper demand, he shall be deemed guilty of a misdemeanor, and shall forfeit a sum not exceeding two hundred dollars, nor less than five dollars.

The amendment was agreed to.

The next amendment was in section eleven, line three, after the word "act" to insert "or any other act relating to the customs, or the registering, enrolling, or licensing of vessels, now in force;" and in line twelve to strike out the word "respectable" and insert "competent;" so that the section will read:

SEC. 11. *And be it further enacted*, That in all cases of seizure of property subject to forfeiture for any of the causes named in this act, or any other act relating to the customs, or the registering, enrolling, or licensing of vessels now in force, when, in the opinion of the collector or other principal officer of the revenue making such seizure, the value of the property so seized shall not exceed \$500, he shall cause a list and particular description of the property so seized to be prepared in duplicate, and an appraisal of the same to be made by two sworn appraisers under the revenue laws, if there are such appraisers at or near the place of seizure; but if there are no such appraisers then by two competent and disinterested citizens of the United States, to be selected by him for that purpose, residing at or near the place of seizure, &c.

The amendment was agreed to.

The next amendment was in section twelve, line twenty-six, after the word "sale" to insert "from time to time," and at the end of line twenty-seven to add "in all;" so that the proviso to the section will read:

Provided, That the collector shall have power to adjourn such sale from time to time for a period not exceeding thirty days in all.

The amendment was agreed to.

The next amendment was in section thirteen, line five, after the word "restoration" to strike out the word "and" and to insert the words "of the."

The amendment was agreed to.

The next amendment was in section fifteen, line seven, to strike out "\$1,000" and insert "\$500;" so that it will read:

SEC. 15. *And be it further enacted*, That whenever seizure shall be made of any property which, in the opinion of the appraisers, shall be liable to perish or waste, or to be greatly reduced in value by keeping, or cannot be kept without great disproportionate expense, whether such seizure consist of live animals, or goods, wares, or merchandise, and when the property thus seized shall not exceed \$500 in value, and when no claim shall have been interposed therefor as is hereinbefore provided, the said appraisers, if requested by the collector or principal officer making the seizure at the time when such appraisal is made, shall certify on oath in their appraisal their belief that the property seized is liable to speedy deterioration or that the expenses of its keeping will largely reduce the net proceeds of the sale, &c.

The amendment was agreed to.

The next amendment was to strike out the sixteenth section, in the following words:

SEC. 16. *And be it further enacted*, That whenever

any seizure shall be made under this act, and the appraised value of the property seized shall not exceed \$500, the collector of customs may at his own risk deliver the same for safe keeping to any person, upon such person executing to such collector a bond, with good sureties, in a penal sum double such appraised value, conditioned that he will redeliver to such collector, in as good condition as when delivered to him, and free of expense or charges, such property on demand, to answer to any proceedings pending or to be instituted for a condemnation thereof; and such collector shall proceed and make advertisement as is hereinbefore provided the same as if such property had remained in his possession; and if such property shall not be forthcoming to be sold at the time and place appointed for the sale thereof, said collector shall account for such appraised value of the property as though the same had been sold, and the obligors in said bond shall be liable thereon to said collector for said appraised value and all expenses attending the seizure and other proceedings.

The amendment was agreed to.

The next amendment was in section seventeen, line two, after the word "Treasury," to strike out the words, "shall have authority to remit, in whole or in part, and upon such terms as he shall judge proper, all fines, penalties, and forfeitures, not exceeding \$1,000 in value, incurred or accruing from any infraction of the revenue laws, and he;" in line six to strike out the word "also;" and in line seven to insert the word "fines" before the word "penalties;" and after the word "penalties" to insert the words "and forfeitures;" so that the section will read:

SEC. 17. *And be it further enacted*, That the Secretary of the Treasury shall have authority to ascertain the facts upon all applications for remission of fines, penalties, and forfeitures incurred or accruing under the revenue laws, where the amount in question does not exceed \$1,000, in such manner and under such regulations as he may deem proper.

The amendment was agreed to.

The next amendment was to add at the end of the seventeenth section the following:

And he may thereupon remit or mitigate such fines, penalties, or forfeitures if in his opinion the same shall have been incurred without willful negligence or any intention of fraud.

The amendment was agreed to.

The next amendment was to strike out the nineteenth section, as follows:

SEC. 19. *And be it further enacted*, That nothing in this act contained shall be taken to abridge or limit any forfeiture, penalty, fine, liability, or remedy provided for or existing under any law now in force.

The amendment was agreed to.

The next amendment was in section twenty, line five, to insert the word "triplicate" before the word "invoice."

The amendment was agreed to.

The next amendment was to strike out section twenty-one, as follows:

SEC. 21. *And be it further enacted*, That whenever any collector or other officer of the customs entitled to a distributive share of the proceeds of any goods, wares, merchandise, or other property, which have been seized for an alleged violation of the revenue laws and appraised, shall consider such appraisal too low he may submit a full statement of the case, in writing, to the Secretary of the Treasury, who may, if, from a consideration of the facts set forth in such statement, he deems it to be for the interest of the revenue, direct that a second appraisal of such goods, wares, merchandise, or other property, or any portion thereof, shall be made, and may make such regulations relating thereto as he may deem proper.

The amendment was agreed to.

The next amendment was in section twenty-two, line fifteen, to strike out the words "forfeit and" before the word "pay," and also to strike out the word "penalty," and insert the words "tonnage duty;" so that the section will read:

SEC. 22. *And be it further enacted*, That if any goods, wares, or merchandise shall, at any port or place in the United States on the northern, northeastern, or northwestern frontiers thereof, be laden upon any vessel belonging wholly or in part to a subject or subjects of a foreign country or countries, and shall be taken thence to a foreign port or place to be reladen and reshipped to any other port or place in the United States on said frontiers, either by the same or any other vessel, foreign or American, with intent to evade the provisions of the fourth section of "the act concerning the navigation of the United States," approved March 1, 1817, the said goods, wares, and merchandise shall, on their arrival at such last-named port or place, be seized and forfeited to the United States, and the vessel shall pay a tonnage duty of fifty cents per ton on her admeasurement.

The amendment was agreed to.

The next amendment was in section twenty-three, line three, after the word "States," to

insert the word "plying;" and in line seven to strike out the word "shall" and insert the word "may;" so that the section will read:

SEC. 23. *And be it further enacted*, That all steam tug-boats, not of the United States, found and employed in towing documented vessels of the United States plying from one port or place in the same to another, shall forfeit and pay the sum of fifty cents per ton on the admeasurement of every such vessel so towed by them, respectively, as aforesaid, which sum may be recovered by way of libel or suit.

The amendment was agreed to.

The next amendment was in section twenty-four, line twenty-eight, to strike out the words "and in addition," and to insert "or said master, or other person, having charge of such vessel;" and in line thirty-one, after the word "years," to strike out the words "or both;" so that the clause will read:

But if it shall be found that the quantity or quantities of such articles or any part thereof so reported are excessive, it shall be lawful for the collector or other officer of the customs to estimate the amount of duty on such excess, which shall be forthwith paid by said master or other person having charge of said vessel, on pain of forfeiting a sum of not less than \$100 nor more than four times the value of such excess, or said master, or other person, having charge of such vessel shall be liable to imprisonment for a term of not less than three months nor more than two years, at the discretion of the court.

The amendment was agreed to.

Mr. SPRAGUE. I do not know that I have any objection to this twenty-fourth section, but I call attention to the fact that so far as goods denominated "sea stores," purchased by vessels trading or passing from one port to another, are concerned, they are to be hereafter free from duty. So much of the revenue laws as have reference to the imposition of duty on those goods are to be abolished. They are to be purchased in foreign countries and are to be free from taxation under our revenue system, and thus that portion of commerce is to be relieved from the burden that other trades are required to submit to. I simply desire to say that it is another inroad, as I understand it.

Mr. MORRILL. Oh, no; this is no inroad; it is a restriction, not a license. They do not pay now for sea stores, and this is to prevent a practice which has grown up on the frontiers of purchasing large quantities of sea stores.

Mr. SPRAGUE. I am very glad to hear that that is the fact.

The next amendment was in section twenty-five, line seven, after the word "States," to insert "under the laws of the United States;" and in line seven, after the word "States," to insert "or a vessel intended to be employed in such trade;" so that the section will read:

SEC. 25. *And be it further enacted*, That the equipments, and any part thereof, (including boats,) purchased for, or the expenses of repairs made in a foreign country upon, a vessel enrolled and licensed under the laws of the United States to engage in the foreign and coasting trade on the northern, northeastern, and northwestern frontiers of the United States, or a vessel intended to be employed in such trade, shall, on the first arrival of such vessel in any port of the United States, be liable to entry and the payment of an *ad valorem* duty of fifty per cent. on the cost thereof in such foreign country, &c.

The amendment was agreed to.

The next amendment was in section twenty-six, line two, to insert the word "registry" before the word "enrollment;" and to strike out the word "and" and to insert the word "or" before the word "license;" and in line three, after the word "granted," to insert the words "in lieu thereof;" so that the section will read:

SEC. 26. *And be it further enacted*, That if any certificate of registry, enrollment, or license, or other record or document granted in lieu thereof to any vessel, shall be knowingly or fraudulently obtained or used for any vessel not entitled to the benefit thereof, such vessel with her tackle, apparel, and furniture, shall be liable to forfeiture.

The amendment was agreed to.

The next amendment was in section twenty-eight, line two, after the word "merchandise," to strike out the words "of the growth, produce, or manufacture of the United States;" in line fifteen, to strike out the word "the" and insert the word "and" before the word "pay;" in line sixteen, to strike out "twenty" and insert "one hundred;" and in line seventeen,

to strike out "one" and insert "five;" so that the section will read:

SEC. 28. *And be it further enacted*, That no goods, wares, or merchandise taken from any port or place in the United States, on the northern, northeastern, or northwestern frontiers thereof, to a port or place in another collection district of the United States on said frontiers in any ship or vessel, otherwise than by sea, shall be unladen or delivered from such ship or vessel within the United States but in open day, that is to say, between the rising and setting of the sun, except by special license from the collector or other principal officer of the port for the purpose, nor at any time without a permit from such collector or other principal officer for such unloading or delivery. And the owner or owners of every vessel whose master or manager shall neglect to comply with the provisions of this section, shall forfeit and pay to the United States a sum not less than \$100 nor more than \$500: *Provided*, That the Secretary of the Treasury be, and he is hereby, authorized, from time to time, to make such regulations as to him shall seem necessary and expedient for unloading at and clearance from any port or place on said frontiers of ships or vessels at night.

The amendment was agreed to.

The next amendment was in section thirty, line five, after the word "two," to insert the word "of;" and in line eight to insert the word "of" before the word "the."

The amendment was agreed to.

The next amendment was in section thirty-one, line two, after the words "hereby is," to strike out the following words:

Authorized to abolish the office of collector and that of surveyor of customs, or either, in any collection district, the net annual revenue of which does not now or at any time hereafter shall not exceed the sum of \$10,000, and to connect such district with an adjoining district, if, in his opinion, it would be to the advantage of the public service or revenue, or to assign the duties of the office to a deputy collector or other officer; and the said Secretary is hereby further.

So that the section will read:

SEC. 31. *And be it further enacted*, That the Secretary of the Treasury be, and he hereby is, authorized, whenever he shall think it advantageous to the public service or revenue, to abolish or suspend the offices of naval officer, surveyor of customs, or any other subordinate office in any collection district of the United States.

The amendment was agreed to.

The next amendment was in section thirty-one, line fourteen, after the words "United States" to insert the following words:

Except in those enumerated in section nine of the act of May 7, 1822, and the amendment thereto, by the act of April 9, 1864, and the port of San Francisco.

Mr. JOHNSON. I should like the honorable member from Maine to explain that exception. I do not understand it.

Mr. MORRILL. It will be seen that the Secretary of the Treasury has authority by this section to abolish certain naval officers, surveyors, &c., except in the cases specified in a certain act, and those cases are those that apply to Portland, Boston, New York, Philadelphia, Baltimore, Charleston, New Orleans, and San Francisco. The offices at those places are deemed important; the other offices are not deemed important. It was not thought advisable to give this power over the officers at those important places, but at other ports where they are unimportant to the public service we give the Secretary this power.

Mr. JOHNSON. I am satisfied.

The amendment was agreed to.

The next amendment was in section thirty-one, line twenty, to strike out the word "district" and insert the word "customs;" so that the clause will read:

And to assign the duties of the office of surveyor or any other subordinate offices so abolished or suspended to a deputy collector or inspector of the customs.

The amendment was agreed to.

The next amendment was to strike out section thirty-two in the following words:

SEC. 32. *And be it further enacted*, That no collector, deputy collector, auditor, cashier, disbursing clerk, or other officer or employé of the customs, whose duty it shall be to make payments on account of the salary or wages of any inspector, appraiser, examiner, weigher, gauger, or other employé of the customs or internal revenue, shall make any payment to any such officer or other person connected with the customs or internal revenue on account of any salary or wages due to him or her by reason of any services rendered by him or her, unless such inspector, appraiser, examiner, weigher, gauger, or other employé shall have made and subscribed an oath that during the period for which he or she is to receive pay on account of his or her salary or wages, he or she has not received or accepted any money, either as a loan

or otherwise, or any gratuity, reward, pay, or compensation of any name, nature, or description whatsoever, nor any promises for the same, either directly or indirectly, nor purchased from any importer, (if affiant is connected with the customs, or "manufacturer," if affiant is connected with the internal revenue service,) consignee, agent, or custom-house broker, any goods, wares, or merchandise at less than regular retail market prices therefor, or placed himself or herself under any official obligations to any such importer, (or manufacturer, as the case may be,) consignee, agent, or custom-house broker in any way whatever, nor has any such payment, loan, gratuity, reward, present of any wines or liquors of any kind, cigars, nor any other goods, wares, or merchandise been received or accepted, or such purchase made or obligations incurred by any member of his or her family, or by any friend or friends for him or her or his or her family, from or to any importer, custom-house broker, or any other person whomsoever, for or on account of any official services rendered or to be rendered by him or her during the period for which he or she is to receive such payment, without duly paying over or delivering the same to the collector and reporting the name of donor. And any person who shall willfully and falsely take and subscribe said oath shall be deemed guilty of perjury, and on conviction thereof shall be punished by imprisonment at hard labor for a period of not less than two years and not to exceed ten years, and shall thereafter be disqualified from holding any office of trust or profit under the United States.

And to insert in lieu thereof the following:

SEC. 32. *And be it further enacted*, That no officer or clerk whose duty it shall be to make payments on account of the salary or wages of any officer or person employed in connection with the customs or the internal revenue service shall make any payment to any officer or person so employed on account of services rendered, or of salary, unless such officer or person so to be paid shall have made and subscribed an oath that, during the period for which he or she is to receive pay for salary or services rendered, neither he nor she, nor any member of his or her family, has received, either personally or by the intervention of another party, any money or compensation of any description whatever, nor any promises for the same, either directly or indirectly, for services rendered or to be rendered, or acts performed or to be performed, in connection with the customs or internal revenue, nor purchased, for like services or acts, from any importer, (if affiant is connected with the customs,) or manufacturer, (if affiant is connected with the internal revenue service,) consignee, agent, or custom-house broker, or other person whomsoever, any goods, wares, or merchandise, at less than regular retail market prices therefor. And any person who shall willfully and falsely take and subscribe said oath, and being duly convicted thereof, shall be subjected to the penalties and disabilities by law prescribed for the punishment of willful and corrupt perjury.

The amendment was agreed to.

The next amendment was in section thirty-three, line one, after the word "all," to strike out the following words:

Goods, wares, merchandise, or property of any kind seized under the provisions of this act or any other law of the United States relating to the customs, shall, unless otherwise provided for by law, be placed and remain in the custody of the collector or other principal officer of the customs of the district in which the seizure shall be made, to abide adjudication by the proper tribunal or other disposition according to law; and the.

So that the section will read:

SEC. 33. *And be it further enacted*, That all proceedings in regard to fines, penalties, and forfeitures by virtue of this act and not herein prescribed, shall be the same as are now provided by law in like cases; and all such fines, penalties, and forfeitures shall, after deducting all proper costs and charges, be disposed of and applied as provided for in the ninety-first section of the act entitled "An act to regulate the collection of duties on imports and tonnage," approved March 2, 1799.

Mr. JOHNSON. I ask the honorable member from Maine what is the object of striking that out. It provides that the goods seized shall remain in the possession of the collector. The provision seems to me to be a very wholesome one, and unless it is substantially covered by existing laws, one that ought to be adopted. It provides that the goods seized shall remain in the custody of the officer, to abide the decision of the court. That the committee propose to strike out. I should like to know from the member from Maine what are the reasons for striking it out.

Mr. MORRILL. My recollection of it is that it is stricken out because it does not happen to be relevant to this section, and is provided for in another section of the bill.

Mr. CLARK. We had better negative the amendment now, and that fact can be ascertained when the bill comes in the Senate.

Mr. MORRILL. I have no objection to that course being taken.

The amendment was rejected.

The next amendment was in section thirty-three, line seventeen, after the word "when" to insert the word "any" and to strike out the letter "s" in the word "officers;" in line nineteen to strike out the word "make" and insert the words "furnish information to the collector leading to a;" in line twenty to strike out the final "s" in the word "seizures," and also to strike out the word "they" and insert "he;" and after the word "distribution" in line twenty-one to insert the words "with such collector, naval officer, or surveyor;" so that the proviso will read:

Provided, That when any officer of the customs, other than the collector, naval officer, or surveyor, shall furnish information to the collector leading to a seizure, he shall be entitled to an equal share of the distribution with such collector, naval officer, or surveyor.

The amendment was agreed to.

The next amendment was to insert at the end of section thirty-four the words "or steamboat inspector."

The amendment was agreed to.

The next amendment was to strike out the thirty-fifth section, in the following words:

Sec. 35. And be it further enacted, That in all cases in which the fees and emoluments received by any collector or other principal officer of the customs are, in the opinion of the Secretary of the Treasury, insufficient to afford a reasonable compensation for the services of such officer, after payment out of the same of reasonable incidental expenses of the office, the said Secretary may direct that so much of the said incidental expenses as shall seem to him to be just, shall be paid out of the appropriation for paying the expenses of collecting the revenue; and the said Secretary shall have the same power in regard to incidental expenses which have heretofore been incurred, and which have not been settled and paid into the Treasury; and all fees paid into the Treasury by custom officers shall be placed to the credit of the fund for defraying expenses of collecting the revenue from customs.

The amendment was agreed to.

The next amendment was in section thirty-seven, line one, to insert the word "any" before the word "person," and in line two to strike out the word "whatever;" so that the section will read:

Sec. 37. And be it further enacted, That if any person shall, directly or indirectly, at any time make or offer to make to any officer of the revenue, or to any other person or persons authorized by this act to make searches or seizures, any gratuity or present of money, or other thing of value, or give or offer any bribe or reward, of whatever nature, with intent to influence or induce such officer or other person or persons to do any act in violation of his or her or their official duty, or to refrain from doing anything which, under the law, it is or shall be his or her or their duty to do, every person so offending shall be liable to indictment, as for a high crime and misdemeanor, in any court of the United States having jurisdiction for the trial of crimes and misdemeanors, and shall, upon conviction thereof, be fined not exceeding three times the amount so offered, promised, or given, and imprisoned in a penitentiary not exceeding three years.

The amendment was agreed to.

The next amendment was in section forty, line three, after the word "bushels" to strike out the words, "may, at the discretion of the collector," and to insert the word "shall;" and in line four, after the word "measuring" to strike out the words "in which case" and insert the word "and;" so that the section will read:

Sec. 40. And be it further enacted, That for the purpose of estimating the duties on importations of grain, the number of bushels shall be ascertained by weight instead of measuring; and sixty pounds of wheat, fifty-six pounds of corn, fifty-six pounds of rye, forty-eight pounds of barley, thirty-two pounds of oats, sixty pounds of peas, and forty-two pounds of buckwheat, avoirdupois weight, shall respectively be estimated as a bushel.

The amendment was agreed to.

The next amendment was in section forty-one, line eight, to strike out the word "the" and insert the word "any" before the word "district," and after the word "judge" to insert the words, "of the United States;" so that the section will read:

Sec. 41. And be it further enacted, That in order to facilitate the execution of the provisions of the seventh section of the act entitled "An act to prevent and punish frauds upon the revenue, to provide for the more certain and speedy collection of claims in favor of the United States, and for other purposes," approved March 3, 1863, relative to the seizure of "invoices, books, and papers," any district judge of the United States may hereafter issue his warrant or

warrants and direct the same to any collector or collectors of the customs in whose respective districts any such invoices, books, or papers may be thought to be.

The amendment was agreed to.

The next amendment was to strike out the forty-second section, as follows:

Sec. 42. And be it further enacted, That section eleven of the act of March 3, 1863, last above mentioned, be, and the same is hereby, amended so as to read as follows, to wit: that there shall be taxed and paid to district attorneys two per cent. upon all moneys collected or realized in any suit or proceeding conducted by them respectively, in which the United States are a party, excepting cases of prize of war. The act in relation to costs, approved February 26, 1853, shall not apply to such allowances; and the said section eleven is hereby repealed.

The amendment was agreed to.

The next amendment was in section forty-three, line eight, to strike out the word "removed" and to insert "subject to be removed," and in line nine to insert the word "to" before the word "forfeit;" so that the section will read:

Sec. 43. And be it further enacted, That if any collector of the customs, or other officer or agent, shall neglect or refuse to comply with the provisions of the first section of the act entitled "An act requiring all moneys receivable from customs and from all other sources to be paid immediately into the Treasury, without abatement or reduction, and for other purposes," approved March 3, 1849, he shall be subject to be removed from office and to forfeit to the United States any share or part of the moneys withheld to which he might otherwise be entitled.

Mr. JOHNSON. I should like to know from the Senator having the bill in charge why the neglect or refusal to comply with the act referred to in this section should not lead to a removal at once instead of leaving it dependent on the Secretary whether he will remove or not where an officer has clearly violated his duty.

Mr. MORRILL. We leave that to be judged of by the Secretary.

Mr. JOHNSON. I know you do. It is a very important provision as the law stands. The United States heretofore have lost an immense deal of money by moneys being retained by officers to meet possible suits against them. It is not necessary to mention names, but they have lost an immense deal of money in that way. In order to guard against that, a law was passed several years ago making it the duty of the officer, although threatened with suit, where moneys are paid under protest for duties alleged to be improperly exacted, to pay the money over to the Treasury at once. And if the suits terminated against him, then the Government paid it.

Mr. MORRILL. Suppose he had a good excuse.

Mr. JOHNSON. What excuse can he have for not paying the money over? The provision in this section is that "if any collector of the customs, or other officer or agent, shall neglect or refuse to comply with the first section of the act"—that is the act that makes it an imperative duty upon them, a duty found necessary by the losses which the Government sustained, to pay the money over at once—"he shall be removed from his office." I cannot imagine what possible excuse there can be for not paying the money over, and if there be no excuse it is to be of itself conclusive as to his removal. Instead of that, if this amendment should be adopted, it is left discretionary with the Secretary to remove or not to remove.

Mr. MORRILL. He is liable to removal, of course, without any provision of law. He is entirely within the power of the President or the Secretary of the Treasury unless we should succeed in limiting the power of appointment or removal, which seems somewhat unlikely at present. The provision is but a qualified provision. He is always within the power of the Secretary. It is made imperative in the bill as introduced that he shall be removed upon the happening of a certain contingency, which can never be made absolutely certain. The very title of the act referred to shows that there is to be a discretion—"An act requiring all moneys receivable from customs and from all other sources to be paid immediately into the Treasury, without abatement or reduction,

and for other purposes," approved March 3, 1849. The idea of the committee was that an officer might be acting very honestly and very properly, and believe that he had paid over everything that he had in his hands, and it might turn out upon a settlement that i. e. had money in his hands which he ought to have paid over. We supposed that instead of making the removal upon any assumed contingency absolute, the interests of the Government would certainly be protected if the Legislature fixed that as one of the causes which should subject an officer to removal. That is the only reason for the committee's adoption of this phrase.

Mr. JOHNSON. There is another objection to it. There ought to be, besides the liability to removal, some mode by which he could be compelled by a proceeding to pay over the money he had withheld.

Mr. MORRILL. That may be done under his bond.

Mr. JOHNSON. It is very doubtful whether this amendment would not change the meaning of the bond. If we adopt the amendment the committee propose, in case a collector or other officer, who has received money for the Government, does not pay it over, he may not be removed unless the authorities think proper to remove him, and may not forfeit anything. It makes, therefore, the liability to forfeiture to the United States depend upon the discretion of the superior officer. I think that is contrary to what has been the practice all along.

The amendment was agreed to.

The next amendment was, in section forty-five, line seven, after the word "shall" to insert the words "upon conviction thereof before the district court of his district;" so that the section will read:

Sec. 45. And be it further enacted, That if any collector of the customs, supervising or local inspector of steamboats, or other officer, shall neglect or refuse to make any of the returns or reports which he is required to make at stated times by any act of Congress or regulation of the Treasury Department, other than his accounts, within the time prescribed by such act or regulation, he shall, upon conviction thereof before the district court of his district, forfeit and pay, for the use of the United States, any sum not less than \$100 nor more than \$1,000.

The amendment was agreed to.

The next amendment was in section forty-six, line four, after the word "five" to strike out the following words:

And all of the third section, excepting the second and last provisos thereof, of the act entitled "An act to provide for the support of the Military Academy of the United States for the year 1838, and for other purposes," approved July 7, 1838.

So that the section will read:

Sec. 46. And be it further enacted, That the act entitled "An act for the more effectual recovery of debts due from individuals to the United States," approved March 3, 1795; and the act entitled "An act to extend for a longer period the several acts now in force for the relief of insolvent debtors of the United States," approved May 27, 1840, &c., be, and the same are hereby repealed.

The amendment was agreed to.

The next amendment was in section forty-six, line twenty-seven, after the word "nine," to strike out the following words:

And the fifth section of the act entitled "An act making appropriations for the civil and diplomatic expenses of the Government for the year 1841," approved March 3, 1841.

The amendment was agreed to.

The next amendment was to strike out section forty-seven, in the following words:

Sec. 47. And be it further enacted, That this act may be cited by the name of "the customs protective act of 1866."

The amendment was agreed to.

Mr. EDMUNDS. It has occurred to me that there is a serious difference in the provisions which the second and third sections of this bill make in respect to the forfeitures which shall be applied to water craft and land craft. By the second section the custom officers are authorized to stop and examine vessels; and by the term "vessels" is meant every description of machine by which transportation by water is to be effected; but it does not provide, in case any contraband goods are found on board, that there shall be any for-

feiture of the vessel; and that is in harmony with the existing law on the subject. In the case of a foreign sea-going vessel arriving at one of the Atlantic ports, if the master fails to deliver in a true manifest, the articles which are not mentioned in the manifest are forfeited, but not the vessel, and the captain is subjected to a fine. But the third section provides for the search and examination of land craft, if I may use that term—railroad cars, engines, express-wagons, whatever it may be—and then proceeds to provide that if contraband goods are found on board, the vehicle, that is, the railway train or the express-wagon or whatever it may be, shall be subject to forfeiture. It appears to me there is no such inherent distinction between carriage by land and carriage by water as to authorize us to allow a vessel which brings in contraband goods to go free and at the same time to condemn a railroad train which should do precisely the same thing. I call the attention of the committee to it because it is possible they have some explanation which will satisfy myself and other Senators on this point. It appears to me that there ought to be a reasonable approximation to uniformity.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) Does the Senator propose an amendment?

Mr. EDMUNDS. I do not.

Mr. MORRILL. I had an impression that the difficulty suggested by the Senator from Vermont was provided for in another section of the bill, but I am not certain that it is not provided for in the law as it stands, of which this is amendatory; and if so then it need not be provided for here. There have been several other suggestions of amendment made, and if it be the pleasure of the Senate I should be glad to have the bill lie over until to-morrow.

Mr. FESSENDEN. You had better have the amendments made in committee concurred in in the Senate, and then let it go over.

Mr. MORRILL. Is the bill in the Senate or in Committee of the Whole?

The PRESIDING OFFICER. In Committee of the Whole.

Mr. MORRILL. I should like to have the bill reported to the Senate, and such amendments as are not objected to concurred in, and then I should like to have the bill lie over until to-morrow for further consideration.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question now is on concurring in the Senate in the amendments made as in Committee of the Whole. The question will be taken on the amendments collectively, unless some Senator desires a separate vote.

Mr. CONNESS. I should like to have a separate vote on the amendment in the third line of the seventh section.

The PRESIDING OFFICER. That amendment will be excepted.

Mr. HOWE. I desire a separate vote on the last amendment to the fourth section.

The PRESIDING OFFICER. That amendment will be reserved.

Mr. WILLIAMS. I ask for a separate vote upon the amendment striking out the nineteenth section.

The PRESIDING OFFICER. That amendment will be reserved.

Mr. HENDERSON. Some amendments have been made in the latter part of the thirty-third section which I think the Senator having charge of the bill had better look over. If those amendments are concurred in now we may not be able to amend the section hereafter. I will therefore ask that the amendments to the proviso of the thirty-third section be excepted, and in the meantime the Senator from Maine can look into them.

Mr. MORRILL. I wish to have all the amendments in that section reserved, and also section thirty-five.

The PRESIDING OFFICER. Those amendments will be excepted. The question now is on concurring in the remainder of the amendments made as in Committee of the Whole.

The remainder of the amendments were concurred in.

The PRESIDING OFFICER. The Senator from Maine now moves that the further consideration of this bill be postponed until to-morrow.

Mr. MORRILL. I should like to have it made the special order for one o'clock if there be no objection.

Mr. CLARK. It will come up as the unfinished business.

Mr. MORRILL. Very well then; I will not make the motion to postpone, but let it come up as the unfinished business to-morrow.

EXECUTIVE SESSION.

Mr. WILSON. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 14, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of Thursday last was read and approved.

The SPEAKER. This being Monday, the first business in order is the call of States and Territories for bills on leave and joint resolutions, to be referred to appropriate committees, and not to be brought back by a motion to reconsider.

RECONSTRUCTION REPORT.

Mr. LE BLOND. I offer the following concurrent resolution, on which I demand the previous question:

Resolved, (the Senate concurring,) That the report of Major General J. B. Steedman and Brigadier General J. F. Fullerton, dated May 7, 1866, be, and the same is hereby, ordered to be incorporated in and published with the testimony taken by the joint committee on reconstruction, together with such other reports as they may from time to time make in pursuance of the commission under which they are acting.

Mr. WASHBURN, of Illinois. Must not this resolution, being presented under this call, be referred to a committee?

The SPEAKER. It must, under the rule.

Mr. LE BLOND. Then I withdraw the resolution.

CANAL COMPANY IN CALIFORNIA.

Mr. HIGBY introduced an act granting the right of way and making a grant of land to the Sierra Nevada and Contra Costa Irrigation and Canal Company in the State of California; which was read a first and second time, and referred to the Committee on Public Lands.

BRIGADIER GENERAL GEORGE WRIGHT.

Mr. BIDWELL introduced a bill for the relief of the representatives of the late Brigadier General George Wright, United States Army; which was read a first and second time, and referred to the Committee on the Judiciary.

PUEBLO LANDS.

Mr. BIDWELL also introduced a bill to quiet the title to the Pueblo lands of the town of Santa Barbara; which was read a first and second time, and referred to the Committee on Private Land Claims.

MAIL STEAMSHIPS ON THE PACIFIC.

Mr. BIDWELL introduced a bill to authorize ocean mail steamship service between the United States and the Sandwich Islands; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

TELEGRAPH LINE AT THE WEST.

Mr. CLARKE, of Kansas, introduced a bill to amend an act entitled "An act to amend an act entitled 'An act to aid in the construction of a railroad and telegraph line from the Missouri river to the Pacific ocean, and to secure to the Government the use of the same for postal, military, and other purposes,' approved July 1, 1862," approved July 2, 1864; which was read a first and second time, and

referred to the Committee on the Pacific Railroad.

AGRICULTURAL COLLEGES.

Mr. DONNELLY introduced a bill to amend an act donating public land to the several States and Territories which may provide colleges for the benefit of agricultural and mechanic arts, approved July 2, 1862; which was read a first and second time, and referred to the Committee on Public Lands.

CONSOLIDATION OF INDIAN TRIBES.

Mr. CULLOM introduced a bill for the consolidation of the Indian tribes, and to establish civil government in the Indian territories; which was read a first and second time, and referred to the Committee on Indian Affairs.

The SPEAKER proceeded, as the next business in order, to call the States and Territories for resolutions, commencing with the State of Pennsylvania, where the call rested last Monday, proceeding in the inverse order.

TENURE OF OFFICE.

Mr. WILLIAMS offered the following resolution, and demanded the previous question thereon:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of so altering the law as to abrogate the tenure of office at the pleasure of the appointing power, wherever the same now exists, and to make all official trusts determinable at times certain, subject only to the condition of good behavior, with leave to report by bill or otherwise.

The previous question was seconded, and the main question ordered.

Mr. LE BLOND. If I understand it, this resolution embraces the principle which was added to the Post Office bill in the Senate. If so I intend to move to lay it on the table.

The SPEAKER. It is only a resolution of inquiry.

Mr. LE BLOND. Very well.

The resolution was agreed to.

ADDITIONAL SECRETARY OF THE NAVY.

Mr. STEVENS introduced the following joint resolution; which was read a first and second time:

Resolved by the Senate and House of Representatives, etc., That an additional Secretary of the Navy shall be appointed whose commission shall expire at the end of six months from the 1st day of June next.

Mr. STEVENS. I will merely state that it is necessary to send a Secretary of the Navy abroad, and during the time that he is abroad it is necessary that another should be appointed. I call the previous question.

Mr. SPALDING. I wish the gentleman would explain the necessity for the passage of this resolution.

Mr. STEVENS. The Department find it necessary to send a Secretary abroad on account of some examination of navies and navy-yards in foreign countries, and by the peculiar law appointing an Assistant Secretary of the Navy, different from the others, in the absence or sickness of the head of the bureau the Assistant Secretary becomes the Secretary of the Navy *pro tempore*. It is necessary, therefore, to have one on the spot. I have limited the duration of the term to six months, so that under no circumstances shall it exceed the time when the man who is sent abroad shall return.

Mr. SPALDING. Allow me to say a word. I understood some time ago that the present Assistant Secretary of the Navy proposed to resign, and it was said that he had sent in his resignation. And now I understand that he proposes a tour to Europe, and that for his accommodation, he holding the office and receiving the pay of first Assistant Secretary of the Navy, we are called upon to make a second Assistant Secretary of the Navy.

Mr. STEVENS. I have stated what the head of the Department said. I know nothing more. He has not the time to go, and it was thought proper to have another appointed. I trust the gentleman will not object to it. It is but for six months.

Mr. SPALDING. I hope this House will hesitate before it gives its—

Mr. STEVENS. I demand the previous question.

The previous question was seconded, and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SCHENCK. I want to hear that joint resolution read again. I wish to know if this provides for another Assistant Secretary of the Navy in addition to the one who is to travel.

Mr. STEVENS. Yes, sir.

Mr. SCHENCK. Then I hope the joint resolution will not be passed.

Mr. STEVENS. I have no objection to the joint resolution being referred to the Committee on Naval Affairs.

Mr. HARDING, of Illinois. I move to lay the joint resolution upon the table.

Mr. STEVENS. I hope it will go to the Committee on Naval Affairs by common consent.

Mr. HARDING, of Illinois. Well, I withdraw my motion.

The joint resolution was then referred to the Committee on Naval Affairs.

Mr. PIKE. I ask that the Committee on Naval Affairs have leave to report at any time.

Mr. SPALDING. I object; and I move to reconsider the vote by which the joint resolution was referred, and also move to lay the motion to reconsider upon the table.

The latter motion was agreed to.

THE MEMPHIS RIOT.

Mr. STEVENS introduced the following resolution, upon which he demanded the previous question:

Resolved, That a committee of three members be appointed by the Speaker, whose duty it shall be to proceed, without unnecessary delay, to Memphis, in the State of Tennessee, to make an investigation into all matters connected with the recent bloody riots in that city, which began on the 1st instant, and particularly to inquire into the origin, progress, and termination of the riotous proceedings, the names of the parties engaged in it, the acts of atrocity perpetrated, the number of killed and wounded, the amount and character of the property destroyed, and report all the facts to the House; and the Sergeant-at-Arms or his deputy, and the stenographer of the House, are directed to accompany said committee; and that all the expenses of this investigation be paid out of the contingent fund of the House. The said committee shall have power to send for persons and papers, and examine witnesses under oath.

Mr. CHANLER. It seems to me that this is a matter which belongs to the executive department of the Government. At the same time, I do not wish to object to action being taken by the House.

The SPEAKER. The gentleman from Pennsylvania [Mr. STEVENS] offers the resolution; it is now before the House, and he calls the previous question upon it.

Mr. HARDING, of Illinois. I desire to move an amendment to the resolution, so that it shall extend to transactions at Chattanooga, where a few citizens were murdered.

Mr. STEVENS. Let the proposed amendment be read.

The amendment proposed by Mr. HARDING, of Illinois, was read, as follows:

Whereas it is publicly reported and believed that lately at Chattanooga and Memphis many inoffensive citizens of the United States were murdered, and that the portions of the Army of the United States at those points are seriously compromised in respect to good conduct in both cases: Therefore,

Resolved, That the Committee on Military Affairs be requested to inquire into and report to this House what was the conduct of the United States officers and troops in reference to the cases mentioned, and to inform this House whether the country may rely upon the Army to aid in the protection of the rights of the people, and what legislation is necessary, if any; and that the committee have power to send for persons and papers.

The SPEAKER. The amendment is scarcely germane to the pending resolution.

Mr. HARDING, of Illinois. I withdraw the amendment.

Mr. STEVENS. I insist on the demand for the previous question.

Mr. CHANLER. Inasmuch as I know that the gentleman from Pennsylvania, with his usual skill, will carry this measure in spite of

all opposition, I ask him to enlarge the powers of the committee, so that the inquiry shall extend to an examination of circumstances of a similar character whereby the lives of American citizens, including American troops, have been put in jeopardy by the Indians.

Mr. STEVENS. I should be very glad to accommodate the gentleman from New York, [Mr. CHANLER.] But his proposition covers so much ground that I am afraid one committee will not be able to conclude the investigation. I will very cheerfully vote for any resolution to send the member who chooses to move it on such an investigation. At present, I must call the previous question.

Mr. CHANLER. I ask the attention of the gentleman from Pennsylvania [Mr. STEVENS] for one moment. I know he is a universal philanthropist, and has heretofore extended his philanthropy over all the colored race. Why not extend it over all those who have suffered any violence or wrong? Why not include the recent murder in Pennsylvania—

Mr. WASHBURN, of Illinois. I call the gentleman to order; the previous question has been called.

The SPEAKER. Debate is not in order. The previous question was seconded and the main question was ordered.

Mr. ELDRIDGE. I call the yeas and nays on the passage of the resolution.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 87, nays 22, not voting 74; as follows:

YEAS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, DeFrees, Delano, Deming, Donnelly, Dumont, Eckley, Eggleston, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Hulburt, Jenckes, Julian, Kasson, Kuykendall, Ladin, William Lawrence, Loan, Longyear, Lynch, McKee, Mercer, Miller, Moorhead, Morrill, Orth, Paine, Patterson, Perham, Pike, Plants, William H. Randall, Alexander H. Rice, Rollins, Rousseau, Sawyer, Schenck, Stevens, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Windom, and Woodbridge—87.

NAYS—Messrs. Bergen, Chanler, Dawson, Denison, Eldridge, Finck, Goodyear, Grider, Aaron Harding, Kerr, Latham, LeBlond, Niblack, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Spaulding, Strouse, Taber, and Trimble—22.

NOT VOTING—Messrs. Ancona, Anderson, Barker, Beaman, Boyer, Brandegee, Buckland, Bundy, Cof-froth, Culver, Dixon, Dodge, Driggs, Eliot, Farquhar, Glossbrenner, Grinnell, Griswold, Hale, Harris, Hill, Hogan, Hotchkiss, Chester D. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kelley, Kelso, Ketcham, George V. Lawrence, Marshall, Marston, Marvin, McClurg, McCullough, McIndoe, McKuer, Morris, Moulton, Myers, Newell, Nicholson, Noel, O'Neill, Phelps, Pomeroy, Price, Radford, Samuel J. Randall, Raymond, John H. Rice, Scofield, Shellabarger, Sloan, Smith, Starr, Stillwell, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Wentworth, Whaley, Stephen F. Wilson, Winfield, and Wright—74.

So the resolution was agreed to.

Mr. STEVENS moved to reconsider the vote by which the resolution was agreed to; and also moved to lay the motion to reconsider on the table.

The latter motion was agreed to.

Mr. STEVENS. I desire to say at this time that I hope I will be excused from serving on the select committee just ordered, as the distance is rather further than I can conveniently travel.

APPROVAL OF THE PRESIDENT.

Mr. CHANLER submitted the following resolutions, upon which he called the previous question:

Resolved, That the independent, patriotic, and constitutional course of the President of the United States, in seeking to protect by the veto power the rights of the people of this Union against the wicked and revolutionary acts of a few malignant and mischievous men meets with the approval of this House and deserves the cordial support of all loyal citizens of the United States.

Resolved, That this House believes the Freedmen's Bureau unnecessary and unconstitutional, and hereby directs the chairman of the committee having charge

of that bureau to bring in a bill to repeal all acts and parts of acts inconsistent with this resolution.

Mr. SCHENCK. I rise to a question of order. My point of order is that there is an insolent attack upon Congress contained in the first resolution moved by the member from New York, [Mr. CHANLER,] for which he deserves to be dealt with by the House.

The SPEAKER. The Chair cannot rule these resolutions out of order upon the ground stated by the gentleman from Ohio, [Mr. SCHENCK.] It is a question for the House to determine whether the resolutions are unworthy the members of this House.

Mr. SCHENCK. It seems to me—

The SPEAKER. The gentleman from Ohio [Mr. SCHENCK] will suspend until the Chair shall have concluded his statement.

The argument of the gentleman from Ohio goes to the votes of members as to whether they will agree or disagree to the resolution. It does not touch the question of parliamentary law.

Mr. SCHENCK. Is it in order to move that the resolutions be rejected?

The SPEAKER. The question of agreeing or disagreeing to the resolution will determine that. If the resolution is not agreed to it is rejected.

Mr. STEVENS. I raise the question of reception.

The SPEAKER. The Clerk will read the forty-first rule, under which the question of reception is raised by the gentleman from Pennsylvania, [Mr. STEVENS.]

The Clerk read as follows:

"When any motion or proposition is made, the question, 'Will the House now consider it?' shall not be put unless it is demanded by some member or deemed necessary by the Speaker."

Mr. ROGERS. I move to lay the resolution on the table.

The SPEAKER. It is not yet before the House.

The question was upon considering the resolution at this time.

Mr. CHANLER. Upon that question I call the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 19, nays 84, not voting 80; as follows:

YEAS—Messrs. Bergen, Chanler, Denison, Eldridge, Finck, Goodyear, Grider, Aaron Harding, Kerr, LeBlond, Niblack, Ritter, Rogers, Ross, Shanklin, Sitgreaves, Strouse, Taber, and Trimble—19.

NAYS—Messrs. Alley, Allison, Ames, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Benjamin, Bingham, Blaine, Blow, Boutwell, Bromwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Dawes, Dawson, DeFrees, Deming, Donnelly, Dumont, Eggleston, Farnsworth, Ferry, Garfield, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburt, Jenckes, Julian, Kasson, Ladin, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McKee, Mercer, Miller, Moorhead, Morrill, Orth, Paine, Patterson, Perham, Pike, Plants, Alexander H. Rice, Rollins, Sawyer, Schenck, Spaulding, Stevens, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Windom, and Woodbridge—84.

NOT VOTING—Messrs. Ancona, Anderson, Barker, Beaman, Bidwell, Boyer, Brandegee, Buckland, Cof-froth, Culver, Davis, Delano, Dixon, Dodge, Driggs, Eckley, Eliot, Farquhar, Glossbrenner, Grinnell, Griswold, Hale, Harris, Hill, Hogan, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kelley, Kelso, Ketcham, Kuykendall, Latham, Marshall, Marston, Marvin, McClurg, McCullough, McIndoe, McKuer, Morris, Moulton, Myers, Newell, Nicholson, Noel, O'Neill, Phelps, Pomeroy, Price, Radford, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Rousseau, Scofield, Shellabarger, Sloan, Smith, Starr, Stillwell, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Wentworth, Whaley, Stephen F. Wilson, Winfield, and Wright—80.

So the House refused to consider the resolution.

Mr. SCHENCK. Mr. Speaker, a question of privilege, I believe, would not be in order at this time.

The SPEAKER. Not until the expiration of the morning hour.

Mr. SCHENCK. I give notice, then, that so soon as I can have the opportunity I shall

move a vote of censure upon the member from New York, [Mr. CHANLER.]

Mr. CHANLER. I would like to offer a resolution censuring the gentleman from Ohio, [Mr. SCHENCK;] but I suppose, as his party is in the majority, it would be a useless proceeding.

Mr. Speaker, I have another resolution which I desire to offer.

The SPEAKER. Is there objection to the gentleman from New York offering another resolution?

Several MEMBERS objected.

TAX ON NOTES OF STATE BANKS.

Mr. DAVIS. I offer the following resolution, on which I demand the previous question:

Resolved, That the Committee on Banking and Currency be directed to inquire into the expediency of repealing in whole or in part the tax imposed by law on the circulating notes of State banks after July 1, 1866; and that said committee have leave to report at any time by bill or otherwise.

Mr. WILSON, of Iowa. I object to that part of the resolution which proposes that the committee shall have leave to report at any time.

The SPEAKER. It will require unanimous consent for the adoption of that.

Mr. DAVIS. I modify the resolution by striking out the words "at any time."

The previous question was seconded and the main question ordered.

On agreeing to the resolution, there were—ayes 35, noes 30; no quorum voting.

Mr. ELDRIDGE called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 45, nays 63, not voting 75; as follows:

YEAS—Messrs. Barker, Bergen, Bundy, Chanler, Conkling, Darling, Davis, Dawson, Defrees, Denison, Eldridge, Finck, Goodyear, Grider, Aaron Harding, Hart, Holmes, Asahel W. Hubbard, Demas Hubbard, James R. Hubbell, Kerr, Kuykendall, Laffin, George V. Lawrence, Le Blond, Marshall, Mercier, Miller, Morrill, Niblack, Pike, Ritter, Rogers, Schenck, Shaanklin, Sitgreaves, Stevens, Strouse, Taber, Trimble, Burt Van Horn, Henry D. Washburn, Whaley, Stephen F. Wilson, and Windom—45.

NAYS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Banks, Baxter, Benjamin, Bidwell, Bingham, Boutwell, Bromwell, Broomall, Cobb, Cook, Dawes, Deming, Donnelly, Dumont, Eckley, Eggleston, Farnsworth, Garfield, Abner C. Harding, Hayes, Henderson, Hooper, Chester D. Hubbard, John H. Hubbard, Hulburd, Jenckes, Julian, Kasson, Kelso, William Lawrence, Loan, Longyear, Marston, McKee, Moorhead, Orth, Paine, Patterson, Perham, Platts, Price, William H. Randall, Alexander H. Rice, Rollins, Ross, Sawyer, Smith, Spaulding, Stilwell, Van Aernam, Ward, Elihu B. Washburne, William B. Washburn, Walker, Williams, James F. Wilson, and Woodbridge—63.

NOT VOTING—Messrs. Ancona, Anderson, Delos R. Ashley, Beaman, Blaine, Blow, Boyer, Brandegee, Buckland, Reader W. Clarke, Sidney Clarke, Cof-froth, Cullom, Culver, Delano, Dixon, Dodge, Driggs, Eliot, Farquhar, Ferry, Glossbrenner, Grinnell, Griswold, Hale, Harris, Higby, Hill, Hogan, Hotchkiss, Edwin H. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Kelley, Ketcham, Latham, Lynch, Marvin, McClurg, McCullough, McIndoe, McKuer, Morris, Moulton, Myers, Newell, Nicholson, Noell, O'Neill, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, John H. Rice, Rousseau, Seofield, Shellabarger, Sloan, Starr, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Warner, Wentworth, Winfield, and Wright—75.

So the resolution was not agreed to.

Mr. WASHBURNE, of Illinois. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 567) to amend an act to establish the grade of vice admiral in the United States Navy;

An act (H. R. No. 511) imposing a duty on live animals; and

Joint resolution (H. R. No. 133) relative to the attempted assassination of the Emperor of Russia.

OHIO CONTESTED-ELECTION CASE.

Mr. DAWES, from the Committee of Elections, submitted a report in the case of Follett against Delano, accompanied by the following resolution:

Resolved, That Hon. Columbus Delano is entitled to the seat occupied by him in this House as a Representative from the thirteenth district of Ohio in the Thirty-Ninth Congress.

The report was laid upon the table, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed a bill and joint resolution of the House of the following titles with amendments, in which he was directed to ask the concurrence of the House:

An act (H. R. No. 280) making appropriations for the Post Office Department during the fiscal year ending 30th of June, 1867, and for other purposes; and

A joint resolution (H. R. No. 130) carrying into effect the bill to provide for the better organization of the pay department of the Navy.

Also, that the Senate had passed a joint resolution and bills of the following titles, in which he was directed to ask the concurrence of the House:

A joint resolution (S. R. No. 88) authorizing the Secretary of War to grant the use of certain lumber for a fair of a Soldiers' and Sailors' Home;

An act (S. No. 127) for the relief of Jonathan W. Gordon, late major in the eleventh regiment of infantry; and

An act (S. No. 310) to change the place of holding the courts of the United States for the northern district of Mississippi.

CENSURE OF A MEMBER.

Mr. SCHENCK. I rise to a question of privilege, and submit the following resolution:

Resolved, That JOHN W. CHANLER, a Representative from the seventh district of the State of New York, by presenting this day a resolution to be considered by this House in the following terms: "*Resolved*, That the independent, patriotic, and constitutional course of the President of the United States, in seeking to protect by the veto power the rights of the people of this Union against the wicked and revolutionary acts of a few malignant and mischievous men, meets with the approval of this House and deserves the cordial support of all loyal citizens of the United States," has thereby attempted a gross insult to the House, and is hereby censured therefor.

Mr. Speaker, I ought perhaps to have proposed a resolution of expulsion, but did not, simply because I doubted whether the member from New York was capable of comprehending fully the offensiveness of the language used in his resolution.

I have also, it will be observed, described his insult as being not offered to the House but attempted, that being about as far, I think, as he was able to go.

Mr. ROGERS. I think the other side had better expel him as they hardly have members enough over there.

Mr. SCHENCK. The occurrence was so recent there is no necessity for argument, and I therefore demand the previous question.

Mr. FINCK. It is too late to introduce the resolution; it ought to have been done at the moment; other business has intervened.

The SPEAKER. If the gentleman will refer to the rule he will find it refers to words spoken in debate.

Mr. CHANLER. I hope the point of order will be withdrawn. I do not seek any technical protection.

Mr. ROGERS. Does the resolution reflect on any person?

Mr. SCHENCK. If the gentleman does not comprehend it I cannot enlighten him.

Mr. ROGERS. It names no members of Congress.

Mr. LE BLOND. I appeal to my colleague not to insist on the call for the previous question; to let the resolution be printed, and lie over for consideration and discussion.

Mr. SCHENCK. There is no possible discussion to my mind which can make this lan-

guage clearer than it is. It is a gross attempt at a gross insult, which only falls harmless because of the incompetency of the member from New York.

The previous question was seconded and the main question ordered.

Mr. CHANLER. Is the member accused to have no hearing?

The SPEAKER. No debate is in order, the previous question having been seconded.

Mr. DARLING. I hope my colleague will be allowed to be heard.

Mr. LE BLOND. I move that the resolution be laid upon the table; and on that I demand the yeas and nays.

Mr. SCHENCK. I suppose it is perfectly proper for me to make a remark.

The SPEAKER. Debate is not in order after the demand for the previous question.

Mr. SCHENCK. I do not propose any debate.

Mr. LE BLOND. The gentleman has cut off debate himself.

The SPEAKER. No debate is in order.

Mr. ROSS. Is it in order to refer it to the Committee of the Whole?

Mr. SCHENCK. I was about to say, by unanimous consent, that I would have no objection to the gentleman, who is named in the resolution, occupying any time he wishes, but I want no debate.

The SPEAKER. Is there objection?

Mr. ELDRIDGE. I object.

Several MEMBERS. Oh, withdraw it.

Mr. ROGERS. I hope the gentleman will withdraw it.

Mr. ELDRIDGE. I withdraw it.

The SPEAKER. The Chair hears no objection. The gentleman from New York [Mr. CHANLER] is entitled to speak, by the consent of the House.

Mr. CHANLER. Mr. Speaker, what object lies behind the resolution of the gentleman from Ohio [Mr. SCHENCK] it is impossible for me or this House to discern. What motive actuated myself in presenting that resolution I alone know; and for him to assume and to declare in the form of a resolution that the words which I have presented to this House constitute an insult to the House; for him to make that assertion puts the charge of offering the insult upon himself. If he feels the sting, let him suffer. I am not called upon to retract one word, and not one word will I retract. What I meant I will not reveal, for the reason that the words of that resolution are so plain and simple that no politically honest man, who believes in the right of free speech and of free debate, and who respects the privileges of this House, will for one moment consider exceptionable, or fail to understand as having a general political meaning. If I did mean to insult this House it would be a presumption far beyond any merit that I have ever assumed to have.

When the veto of the President of the United States fell upon this House like a thunderbolt he may have insulted this House. He may be so charged by the partisans of those who moved to sustain the previous question, and had he been a member of either body of Congress he would have been expelled for expressing the opinions contained in his veto, as he is now threatened with assassination, as he is now threatened with impeachment, and as he has to meet the hostility of the whole body of men organized as a majority on this floor. But that I should have the good fortune, through the mischievous malignity of any member of the House, by a resolution of censure, to be placed in a position of champion of the President for sustaining the policy of the Administration as displayed by the acts of the Executive, I am too proud to feel for one moment regret, although utterly unworthy of the honor. I meant not to thrust myself into a prominence so invidious, and into a position which I do not deem myself called upon to take, or capable to maintain. The responsibility of that position belongs to those who elected the Chief Magistrate. And if, because of the conscientious discharge of his duty, he is assailed here by

those who elected him, and defended here by those who had naught to do with his election, I cannot see the reason, logic, or political sequence in any form that will make a member reprehensible for rising in his seat and presenting a resolution as I have, admitted by the Presiding Officer of this House to be in order, and to be subject only to the action of the House. Sir, that any member should be held accountable and liable to censure for such action is a compliment, and as such I accept it.

And, sir, what have been the precedents offered by that side of the House in the treatment of public opinion as expressed by the Opposition? What course has been pursued with regard to the humble few who claim the right on this floor of opposing encroachments made by the majority upon the Constitution, as we honestly believe? Is there any language that can be found in Billingsgate or Hudibras, any low term of political reproach, any indecent slang, any hateful anathema, that is not made use of toward the minority here day after day, and put upon the wings of the press and carried to every quarter of this country?

Sir, is this done by one who is spotless or free from the reproach which he would apply to the humblest member on this side? Who is insulted when a Representative on this side is branded as unworthy? That member? No, sir. This House? No, sir; but the people—the people whom we represent; the constituency for whose interest we come here and in whose behalf we speak and vote. And if the people that I represent deem, as I believe they do, that the course of mischievous men has interfered with the wise, constitutional policy of the President, I will declare it, day by day and hour by hour, though all the forces of the opposite party here concentrated were to seek by every rule allowed by the practice of the House to stop my speech. What care I for the paper resolutions of any political organization in any political body, if I here conscientiously discharge my duties as a Representative? And I claim, in that capacity, to stand without reproach. I have never given a vote here or raised my voice in debate here without keeping within the rules and regulations of the House. What mistakes may be made in the impetuosity of debate, in the eagerness to fulfill our duty toward our constituents is aside from the motives with which we may be actuated. But no act of mine has ever cast reproach upon the constituency I represent, and no act of the member from Ohio can cast infamy on me. As to any personal rebuke which may fall upon myself, I look upon it as too ridiculous to need serious consideration. I regret, Mr. Speaker, that my resolution was not allowed to take the usual course without involving me in these personalities. I wish to say in regard to the resolution that it is as harmless a resolution as was ever introduced into this House.

The resolution only meets the line of argument which the majority on this floor have advanced from time to time by condensing what I deem a fitting reply in a few words. That is all there is in the resolution. Such resolutions are often presented. Why this stringent cord drawn around this particular resolution? Why the bow-string and the knot here? Why this lash which has driven the majority here to vote with such unanimity?

Do you suppose that your lash can reach any man on this side of the House? If you do, you are very much mistaken. The action of the few men who control this Congress and this Government is subject to very strict criticism; it is worthy of denunciation; it is worthy of the loudest anathemas; and as a Representative on this floor, had I the power of eloquence, I should seek to crush the majority by all the stinging and searching arguments which their own acts offer me.

We are few in numbers here, but not as few as the peculiar body which controls the action of both branches of Congress, contrary to the established rules and practice of American legislation. And because we oppose the action of this select committee and declare that it

shall not hold us responsible, those of us who offer resolutions of this character are held up as worthy of censure.

Now, what have these few constituting this committee done? Have they offered to this body one single reason for their course, one argument for their report, or introduced one legislative act which will enable the Executive, in the discharge of his public duties, to use the powers which the Constitution gives him to save the people. That, sir, is the select few, that is the body of men against whom that resolution was hurled, those and the people who support it; against those few in comparison with the great body of the people outside of this House who support the action of that select committee.

Gentlemen seem to think that because they hold seats here in the majority they rule this country. They think that the powers which have descended upon them from the hands of the people, according to the forms of the Constitution, give them unlimited control for all time to come. They think that the great plea of necessity under which, during the turmoils of war, they controlled the acts of the Government is valid now, and gives them the right to carry on a system of government they then established, a system peculiar in itself, opposed to the Constitution, and pronounced by an Executive chosen by themselves to be unconstitutional. Your term of office is limited, and the power you exercise is limited, and its end is near.

So much for that portion of the resolution. I have not at any time addressed the House upon that select committee, because it was like talking to the idle wind or firing at the insensible rock.

Now, with regard to the second part of the resolution—

Mr. SPALDING. Will the gentleman yield to me for a moment?

Mr. CHANLER. Certainly.

Mr. SPALDING. I desire to ask the gentleman if in his resolution he intended to malign the majority of this House or any portion of that majority.

Mr. CHANLER. Not at all. There is not a word in the resolution that applies to any organization or set of men whatever. I drew up that resolution with special view to avoid any such inference, and the Speaker, in his ruling, most justly remarked that it was a question for the action of the House. If I had insulted the body over which he presides, is he not competent, and has he not always shown a prompt readiness to do so, to check the consideration of the resolution at the very start? Of course I meant no personality whatever, and nothing but a malignant feeling on his part could have prompted the resolution of the gentleman from Ohio, [Mr. SCHENCK,] and I thank the other gentleman from Ohio [Mr. SPALDING] for directing that question to me. I did not deem it necessary for me to make such an avowal, for there is nothing in the resolution that calls for a motion of censure.

Now, sir, I wish that the true motives which actuated me in this case should not be misunderstood. I do not wish to delay the House, or to disturb or interrupt the proceedings before it. But it is due to this House and to myself that they should understand that there is a potent power and an admirable use in a minority. A minority of one man, if he is conscientious in the discharge of his duties, is as able a check upon improper parliamentary proceedings as a minority of fifty or of any number. Now, if the constituency which I represent upon this floor is to be turned upon and censured by the majority for saying what it thinks through its agent, why in the name of reason do you invite them to send a Representative here? If the majority of this House are to show this thin-skinned sensitiveness to the utterances of truths, how is there to be any minority worthy of that name in the system of American government? Are we, because we differ from them to cringe, and gather thrift by fawning?

Mr. DAWES. Will the gentleman from New York [Mr. CHANLER] yield for a question?

Mr. CHANLER. Certainly.

Mr. DAWES. I desire to read to the gentleman from New York a portion of one of the resolutions, and then ask him in good faith what he means by that portion of it:

Resolved, That the independent, patriotic, and constitutional course of the President of the United States in seeking to protect by the veto power the rights of the people of this Union against the wicked and revolutionary acts of a few malignant and mischievous men, &c.

Now, I desire to ask the gentleman from New York to whom he refers by the expression, "a few malignant and mischievous men," against whose "wicked and revolutionary acts" the "President of the United States is seeking to protect by the veto power the rights of the people of this Union."

Mr. CHANLER. Every malignant and malicious individual, [laughter,] collectively, connected with this Government or any other, who attempts to interfere with the President's power to protect the people, without regard to race or color, particularly the light brown.

Mr. DAWES. I wish the gentleman to answer me directly whether he meant by his resolution to refer to the majority of Congress who voted for the acts which the President has vetoed. Will he state whether he did or did not intend to include that majority or any portion of them?

Mr. CHANLER. In just so much as they did interfere with the rights of the people.

Mr. DAWES. I ask the gentleman whether he intended to include them.

Mr. CHANLER. No more and no less than I have stated. I have already made my declaration, in answer to the gentleman from Ohio, [Mr. SPALDING,] that I meant nothing whatever in the form of insult or personality as applied to this House or any member. It was a "glittering generality;" that is all.

Mr. DAWES. Will the gentleman answer one more question?

Mr. CHANLER. Certainly.

Mr. DAWES. Will the gentleman please to state to the House in what manner it is possible to include anybody else than the members of the House and of the Senate who voted for the acts against which he says the President is defending the people by the exercise of his veto power?

Mr. CHANLER. I allude to those who influence the men on the other side. I allude to those to whom the majority in Congress are responsible. I allude to those mischievous and malignant men who, using the pulpit for fuming revolutionary and wicked doctrines, have roused the people to acts of incendiarism and bloodshed. I mean all those infamous and wicked men who, for political purposes, have perverted every avenue to honor that they may gain wealth and position. Is the gentleman satisfied? Does the language apply to him? Does the galled jade wince, or does he feel that his withers are unwrung?

Mr. DAWES. If the gentleman has no objection to answering one more question, will he be kind enough to state to the House whose acts the President vetoed?

Mr. CHANLER. He can veto only the acts of Congress. The President, acting as President, can by his veto power strike only the acts of Congress. Every one must see that the gentleman's question is utterly useless. But what I mean is, that in these vetoes the President has struck broader and deeper than any act of Congress. He has roused in the hearts of the American people throughout this whole country a hope that had almost ceased to exist. He has struck a forcible blow against what I deem a most dangerous combination against the welfare of the country. I did not mean to say that any man on this floor is any more incendiary or revolutionary in his conduct than myself. Gentlemen on the other side daily indulge in charges against gentlemen on this side, calling them traitors, &c.; and am I to be called to account because I reply in a general assertion which touches no individual?

Am I to be arraigned here by a system of cross-questions because as a member I have said what I think?

Mr. DAWES. I perceive the gentleman does not understand my question; it is my fault, I presume. If he will allow me, I will again state it. I desire to understand fully what the gentleman meant by the language of his resolution; for my vote on the motion to censure him will depend entirely upon what he meant to do, not the propriety of what he did do. If a man does as well as he knows how to do, I do not propose to censure him.

I did not ask the gentleman what the President could veto; but inasmuch as he said the President was defending the people against the "revolutionary and wicked" acts of certain "malignant and mischievous" men, I asked him whether the President did veto any other acts than the acts of this House and the Senate.

Mr. CHANLER. Yes, sir; he vetoed every act of outrage that has been committed in this country. By the exercise of the veto power he showed himself an independent man—a man who looked to the Constitution for the warrant of his power.

Mr. DAWES. Mr. Speaker—

Mr. CHANLER. I decline to yield further. Mr. Speaker, I have nothing to do with the President of the United States. He was elected by one constituency and I by another. I am no there to defend him, and the gentleman knows it. It is asking a pigny to defend a giant when it is proposed to bring me into the arena to defend the President of the United States.

Sir, the President stands before you to-day as a giant, and there is no David in your ranks to bring him down. I do not presume to be his defender. I do not claim to be your superiors, but I do claim to be your equals, and I am not over proud of it either.

There is nothing more hostile to my inclinations and more at variance with the intention I had when this resolution was offered than the personality which has grown out of this debate. I hope my friends [turning to the Democratic members] are satisfied that while I boldly announced in the resolution what I believed true, I as boldly have maintained it in the foregoing remarks. I retract not one word. I accept the question of the gentleman from Ohio [Mr. SPALDING] as the suggestion of a friend. It enabled me to remove all impression that the resolution was meant to be obnoxious. I will answer no more questions. I mean no wrong, and I will suffer no wrong. I care not for the persecution of the malignant member from Ohio, [Mr. SCHENCK], or for the political censure of the majority of the Republican party in or out of this House. If by my defiance I could drive your party from this Hall I would do so. If by my vote I could crush you, I would do so, and put the whole party, with your leader, the gentleman from Pennsylvania, [Mr. STEVENS], into that political hell surrounded by bayonets, referred to by the gentleman from Pennsylvania [Mr. STEVENS] in his argument on Thursday last.

Now, vote upon this resolution of censure.

Mr. ELDRIDGE. I understand the gentleman from Ohio [Mr. LE BLOND] does not press the motion to lay upon the table, as the gentleman from New York prefers a direct vote on the resolution.

The question recurred on the adoption of the resolution, on which the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 72, nays 30, not voting 81; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Baker, Baldwin, Barker, Baxter, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Broomwell, Broomall, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Deming, Eckley, Garfield, Abner C. Harding, Hart, Hayes, Henderson, Higby, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Julian, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee, Mercour, Miller, Moorhead, Morrill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, Rollins, Sawyer, Schenck, Spalding, Stevens, Van Aernam, Warner, Elihu B. Washburne, William B. Wash-

burn, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—72.

NAYS—Messrs. Bergen, Darling, Davis, Dawson, Denison, Eldridge, Finck, Goodyear, Grider, Aaron Harding, Hogan, James K. Hubbell, Kerr, Laffin, Le Blond, Marshall, Niblack, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Smith, Strouse, Taber, Trimble, Burt Van Horn, Ward, and Henry D. Washburn—30.

NOT VOTING—Messrs. Ancona, Anderson, Delos R. Ashley, Banks, Beaman, Boyer, Brandegee, Buckland, Chanler, Coffroth, Conkling, Culver, Defrees, Delano, Dixon, Dodge, Donnelly, Driggs, Dumont, Eggleston, Eliot, Farnsworth, Farguhar, Ferry, Glossbrenner, Grinnell, Griswold, Hale, Harris, Hill, Hotchkiss, Asahel W. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kasson, Kelley, Kelso, Ketcham, Kuykendall, Latham, Marvin, McCullough, Melndoe, McKuer, Morris, Moulton, Myers, Newell, Nicholson, Noel, O'Neill, Phelps, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, John H. Rice, Scofield, Shellabarger, Sloan, Starr, Stilwell, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Wentworth, Whaley, Windom, Winfield, and Wright—81.

So the resolution was adopted.

Mr. SCHENCK moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SELECT COMMITTEE ON THE MEMPHIS RIOT.

The SPEAKER announced the following as the select committee on the Memphis riot ordered this morning: Messrs. WASHBURNE of Illinois, BOUTWELL of Massachusetts, and LE BLOND of Ohio.

FIVE-CENT PIECE.

On motion of Mr. KASSON, the House took from the Speaker's table House bill No. 397, to authorize the coinage of a five-cent piece, and concurred in the amendment of the Senate thereto.

Mr. KASSON moved to reconsider the vote by which the amendment was concurred in; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NEW YORK POST OFFICE, ETC.

On motion of Mr. DARLING, the House took up and concurred in the Senate amendments to House joint resolution No. 66, relative to the courts and post office of New York city.

TAXING SPANIAL BANKS.

Mr. BLAINE, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Whereas, by reason of the decision of the Supreme Court of the United States, stock of national banks is made subject to the same rate of taxation with other property by State and municipal authority: Therefore,

Resolved, That the Committee of Ways and Means be instructed to inquire into the expediency of removing all taxes levied by the national Government on said banks, except the half per cent. per annum on the average amount of their deposits.

Mr. BLAINE moved to reconsider the motion by which the resolution was agreed to; and also moved to lay that motion on the table.

The latter motion was agreed to.

WILLIAM JOSLIN.

Mr. HOLMES, by unanimous consent, introduced a bill for the relief of William Joslin, of Vermont; which was read a first and second time, and referred to the Committee on the Judiciary.

GEORGE R. FRANK.

On motion of Mr. COBB, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of George R. Frank, copies being left.

LEAVE OF ABSENCE.

Mr. FERRY asked and obtained leave of absence for his colleague, Mr. BEAMAN, for ten days.

Mr. PRICE asked and obtained leave of absence for his colleague, Mr. GRINNELL, for ten days.

POST OFFICE APPROPRIATION BILL.

On motion of Mr. STEVENS, the amendments to the Post Office appropriation bill by

the Senate were taken up from the Speaker's table and referred to the Committee on Appropriations.

UNITED STATES COURTS IN MISSISSIPPI.

Mr. WILSON, of Iowa. I ask unanimous consent to take from the Speaker's table Senate bill No. 310, to change the place of holding the courts of the United States for the northern district of Mississippi for action at the present time.

The bill was read a first and second time, and ordered to be engrossed and read a third time; and being engrossed, it was read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. HUBBARD, of Connecticut. I desire to state that when the vote was taken on Thursday last on the proposed amendment to the Constitution I was unavoidably absent. Had I been here I would have voted for it.

Mr. VAN AERNAM. I notice in the proceedings as reported in the Globe that I am recorded as not voting on the motion ordering the main question. I was here and voted.

Mr. DENISON. Mr. Speaker, I ask to be allowed to record my vote on the constitutional amendment.

The SPEAKER. That cannot be done.

Mr. DENISON. I would have voted against it had I been here.

EXECUTIVE COMMUNICATION.

The SPEAKER laid before the House a communication from the Secretary of War, in reply to a resolution of the House of the 10th ultimo, in regard to artificial limbs furnished to soldiers at the expense of the Government; which was laid on the table, and ordered to be printed.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. WASHBURNE, of Illinois, in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was on the motion of Mr. JENCKES, to strike out the following proviso on page 22, on which debate was exhausted:

Provided further, That the Secretary of the Treasury shall be, and he is hereby, authorized to fix such additional rates of compensation to be made to assessors and assistant assessors in cases where a collection district embraces more than a single congressional district, and to assessors and assistant assessors, revenue agents, and inspectors in Louisiana, Georgia, South Carolina, Alabama, Florida, Texas, Arkansas, North Carolina, Mississippi, Tennessee, Missouri, California, and Oregon, and the Territories, as may appear to him to be just and equitable, in consequence of the greater cost of living and traveling in those States and Territories, and as may, in his judgment, be necessary to secure the services of competent officers; but the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively.

Mr. MORRILL. I move to amend by striking out "Missouri."

Mr. Chairman, I have made inquiry at the Department and I find that this proviso is indispensable if we would collect any tax in the States and Territories mentioned. In a large portion of the State of Louisiana, and also in Tennessee, especially around Memphis and Nashville, it is utterly impossible to obtain men who are competent to discharge these duties without the payment of a little more salary than the law now allows. If the assist-

ant assessors are paid five dollars a day, as they have been for some time, I believe, it will not increase the expenses of the internal revenue department to any large amount, but in various portions of those States which are not yet reconstructed, if we would obtain any revenue, it is absolutely indispensable to allow for a small increase of pay; and as we heard from the gentleman from California [Mr. HENRY] the other day, it always has been necessary there to have a provision of this kind in order that we may collect taxes there, for they pay higher rates of wages there than we do on the Atlantic coast.

I trust the gentleman from Rhode Island will be content with the amendment I propose and will not insist on striking out the proviso. In Missouri, I believe, there are officers now appointed in all the congressional districts, and it may be possible, although somewhat inconvenient, to get along in that State without this increase of pay.

Mr. JENCKES. I should be better contented if the gentleman would extend this power over the whole United States and not restrict it as he proposes. This proviso gives the Secretary power to regulate the compensation of these officers in thirteen States and all the Territories. The inequalities in compensation arising out of the inequalities in service are as great in the States omitted as they can be in the States enumerated; and if the Secretary is to have the power of fixing the salaries of these officers in this large number of States and in all the Territories, why not extend the power to all the States and all the congressional districts?

Mr. MORRILL. If the gentleman desires an answer, I will say to him that, of course, we do not expect that this will be more than a temporary provision. Congress will meet again next December, and it is hoped that by that time we may be able to strike out a large part of the proviso, but until these States are in a better condition than they now are, it seems to me eminently proper that the proviso should remain.

Mr. JENCKES. This proviso is not clear enough. It says "the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively."

That does not seem to me to be a clear limitation. If the gentleman from Vermont, [Mr. MORRILL,] representing the Committee of Ways and Means, will move a distinct limitation of these rates of compensation, that they shall not exceed in any State a certain sum, either per diem or of annual compensation, it might obviate to a great extent the objection I make to this proviso.

Mr. MORRILL. How does the gentleman propose to amend it?

Mr. JENCKES. I propose no amendment; I ask the gentleman to fix a rate, either per diem or of annual compensation. Under this proviso, where these officers are paid an annual compensation, the Secretary may fix it at ten or twenty thousand dollars.

Mr. MORRILL. I shall have no objection to the gentleman's amendment if he will offer one to meet that difficulty.

Mr. JENCKES. I ask the gentleman who has had this subject under consideration to move a distinct limitation of pay, and then I will withdraw all objection to the proviso.

Mr. ASHLEY, of Ohio. I move to insert in the proviso, after the word "California," the word "Nevada."

The CHAIRMAN. That is not in order. There are two amendments already pending.

The question was taken on Mr. MORRILL's amendment to strike out the word "Missouri;" and it was agreed to.

Mr. MORRILL. I move now to amend the proviso by striking out the words "but the rates of compensation thus allowed shall not exceed the rates paid to similar officers in such States and Territories respectively," and to insert in lieu thereof the words "the sum of \$5,000 per annum."

The amendment was agreed to.

Mr. ASHLEY, of Ohio. I move to insert the word "Nevada" after the word "California."

The motion was agreed to.

Mr. WOODBRIDGE. I move to amend this paragraph by striking out the word "four," and inserting in lieu thereof the word "five," before the words "dollars for every day actually employed in collecting lists," &c.; also to strike out the words:

And other assistant assessors, when employed outside of the town in which they reside, in addition to the compensation now allowed by law, shall, during such time so employed, receive one dollar per day.

That portion of the paragraph will then read:

And there shall be allowed and paid to each assistant assessor four dollars for every day actually employed in collecting lists and making valuations, the number of days necessary for that purpose to be certified by the assessor, and three dollars for every hundred persons assessed contained in the tax list, as completed and delivered by him to the assessor, and twenty-five cents for each permit granted to any tobacco, snuff, or cigar manufacturer; and the several assistant assessors in cities of more than ten thousand inhabitants shall be allowed, in the settlement of their accounts, a sum not exceeding \$300 per annum for office rent; but no account for such rent shall be allowed or paid until it shall have been verified in such manner as the Commissioner of Internal Revenue shall require, and shall have been audited and approved by the proper officer of the Treasury Department.

If this amendment shall be adopted, it will give the assistant assessors, during the time in which they are engaged in performing the duties of their offices, the sum of five dollars a day. The provision as it now stands is that they shall have four dollars a day, and one dollar additional for each day they are performing duties outside of the town in which they reside.

A great deal of complaint has been found in my own district, in regard to the pay of assistant assessors; and a great many petitions have been presented asking Congress to increase their compensation. It is certainly the poorest-paid office, for the responsibility devolving upon the person who holds it, of all the offices under the Government. Although the provision here proposed may be sufficient in the cities, where the assessors are living at their homes, and where the duties of their offices keep them employed every day in the year, I am sure it will be unjust in its operation upon assistant assessors who live in the rural districts.

Now the proposition to give them a dollar a day extra for each day they are engaged in the duties of their office outside of the town in which they reside does not really provide what is just for these men. When these men, in a county like my own, are called upon to go out of the town in which they reside to perform the duties of their office, having no railroad communications to accommodate them, they are obliged to take a conveyance, either their own or one hired. And if they hire a conveyance, the price they will be compelled to pay for it will be equal to at least the half of the five dollars a day which they shall receive.

Now, I think that justice should be done to these officers. They are very important officers of the Government, and should be well enough paid to prevent there being any inducement held out to them either to do wrong or to neglect the duties imposed upon them. If my amendment is adopted, they will receive five dollars a day during the time they are engaged in the duties of their office, whether at home or elsewhere. The addition of one dollar a day for services in adjacent towns of the district by no means meets the additional expenses the officers are obliged to incur in procuring conveyances.

I think my amendment is a just one, and I hope it will meet with no opposition from my friend, the chairman of the Committee of Ways and Means, [Mr. MORRILL.]

Mr. DARLING. I think another amendment could be made to this paragraph which will give these assistant assessors the additional pay which is deemed necessary for them. It is to strike out the word "for" before the words "office rent" and insert the words "in lieu of;" thus giving them the sum of \$300 in

lieu of office rent, which they can account for as office rent or for any other necessary purpose.

Mr. WOODBRIDGE. I think my amendment is preferable.

Mr. MORRILL. I do not rise to oppose the amendment. It was thought by the Committee of Ways and Means that these officers should receive some additional pay, and they proposed it in the shape of an allowance for office rent. The most of them are compelled to have an office, and this sum of \$300 would enable the most of them to rent an office or a house sufficiently capacious to accommodate their families and furnish an office. I agree with my colleague [Mr. WOODBRIDGE] that it is necessary for us to have competent, vigilant men for these offices, men of integrity. And I do not object to the proposition in the form in which my colleague has offered it, if the House shall deem it more desirable than the form reported by the committee.

The amendment of Mr. WOODBRIDGE was then agreed to.

Mr. COOK. I move further to amend this paragraph by inserting after the words "and for postage actually paid on letters and documents received or sent, and relating exclusively to official business," the words, "and for money actually paid for publishing the notices required by this act;" so as to pay back to these officers the money they are actually required to pay out for the publication of the notices.

The amendment was agreed to.

Mr. DARLING. I move to amend by striking out in line two hundred and ninety the word "for" before the word "office," and inserting in its place the words "in lieu of;" so that the clause will read as follows:

And the several assistant assessors in cities of more than ten thousand inhabitants shall be allowed, in the settlement of their accounts, a sum not exceeding \$300 per annum in lieu of office rent.

This amendment will make the amount definite; and I think it is just and proper. These assistant assessors are very inadequately paid. In the city of New York men of the requisite ability can scarcely be induced to take these places. It is the poorest kind of economy to undertake to execute a law requiring so much official fidelity as this law requires, and at the same time, in consequence of offering paltry compensation, go begging for competent men to accept these offices. Such a system is calculated to invite into these positions a class of men who ought not to hold them.

Mr. SPALDING. This amendment, as I understand, proposes to give to the assistant assessor \$300 for office rent whether he hires an office or uses his own dwelling.

Mr. DARLING. Yes, sir.

Mr. SPALDING. I am in favor of that.

Mr. DARLING. It is just and proper, and there can be no reasonable objection to it. There is necessity for such a provision, not only in the city of New York, but in all other places where talent and efficiency are required in the execution of this law, which demands so much intelligence and fidelity on the part of the assistant assessors. Why, sir, I think it would be proper to give these men a salary of \$2,500 or \$3,000 per annum. I think that the Government would make money by paying such salaries, because more taxes would be collected and fewer frauds would be committed if the Government would induce the acceptance of these offices by a class of men who are now prevented from taking them because of the paltry compensation paid.

Why, sir, let the Government do as prudent men everywhere do in their business—employ the best talent for the execution of duties requiring talent and fidelity, and pay liberal salaries. The niggardly economy which is urged by many as the proper policy for the Government can only defeat the very object which the Government has in view—the obtaining of the largest amount of revenue. If more attention were given to obtaining officers possessing the requisite qualifications, paying them salaries commensurate with their abilities, our revenue law

would be better executed and we should hear less of collusion and fraud and corruption in the administration of the law. I trust, therefore, that the amendment which I have offered will prevail.

Mr. MORRILL. I trust that the amendment will not prevail. There are a great many districts in which the renting of an office is not necessary; yet under this amendment \$300 for this item would be paid in all cases. If the amendment should not prevail I shall offer an amendment striking out in line two hundred and eighty-nine the words "a sum" and inserting "such sum as the Commissioner of Internal Revenue may approve." I think that this will make the provision more acceptable to the House and perhaps to the gentleman from New York.

The amendment was not agreed to.

Mr. MORRILL. I now move to amend by striking out in line two hundred and eighty-nine the words "a sum" and inserting in lieu thereof the words, "such sum as the Commissioner of Internal Revenue shall approve;" so that the clause will read:

And the several assistant assessors in cities of more than ten thousand inhabitants shall be allowed, in the settlement of their accounts, such sum as the Commissioner of Internal Revenue shall approve, not exceeding \$300 per annum for office rent.

The amendment was agreed to.

Mr. MORRILL. I move further to amend by inserting after the word "authorized" in line three hundred and ten the following:

Provided further, That the Commissioner of Internal Revenue may, under such regulations as may be established by the Secretary of the Treasury, after due public notice, receive bids and contract for supplying stationery, blank books and blanks to the assessors, assistant assessors, and collectors in the several collection districts.

Mr. Chairman, all other Departments of the Government, I believe, are now required by law to advertise for bids and contract with the lowest bidder for materials of this sort. There appears to be no reason why this Department should not conform to the same rule.

The amendment was agreed to.

Mr. WOODBRIDGE. I move to amend by striking out in lines two hundred and eighty-seven and two hundred and eighty-eight the words "in cities of more than ten thousand inhabitants."

Sir, it is now provided by the second section that in cities of more than ten thousand inhabitants there shall be allowed to the assistant assessor, with the approval of the Secretary of the Treasury, a sum not exceeding \$300 per annum for office rent.

I think this distinction is invidious. I happen to reside in probably the smallest but certainly the oldest city in New England, and in my judgment the most respectable one I am acquainted with. [Laughter.] Now, the assistant assessor in my district ought to have an office as much as the assistant assessor in New York. I am not aware why a man living in the oldest city in New England should do duty in his kitchen or in his parlor for the public, instead of having an office for that purpose. I do not know why those who live in populous places are better entitled to have an office than those who live in smaller places. The latter certainly should be allowed some reasonable sum for office rent. If you have a population of nine thousand nine hundred and ninety-nine under the law you can have no allowance for office rent. It is a distinction in a republican form of government I do not believe in. I believe in every assessor being on an equality in respect to having some place where he can attend to his public duties. If I were an assessor I am quite sure I would not have an office in my house, which, as my castle and that of my family, must be held sacred, but would like to have some place elsewhere as an office. This distinction as to population is wrong. I believe whether the population be nine thousand or three hundred thousand the assessor should have an office in which to do his business.

The amendment was agreed to.

Mr. ALLISON. I move the following amendment in line three hundred and twenty-seven:

Amend section twenty-five by adding the following at the end of the section:

Provided further, That in calculating the commissions of assessors and collectors of internal revenue in districts whence cotton or distilled spirits are shipped in bond, to be sold in another district, one half the amount of tax received on the quantity of cotton or spirits so shipped shall be added to the amount on which the commissions of such assessors and collectors are calculated; and a corresponding amount shall be deducted from the amount on which the commissions of the assessors and collectors of the districts to which such cotton or spirits are shipped are calculated.

The amendment was agreed to.

The Clerk read as follows:

That section twenty-six be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in the adjustment of the accounts of assessors and collectors of internal revenue which shall accrue after the 30th of June, 1864, and in the payment of their compensation for services after that date, the fiscal year of the Treasury shall be observed; and where such compensation, or any part of it, shall be by commissions upon assessments or collections, and shall during any year, in consequence of a new appointment, be due to more than one assessor or collector in the same district, such commissions shall be apportioned between such assessors or collectors; but in no case shall a greater amount of the commissions be allowed to two or more assessors or collectors in the same district than is or may be authorized by law to be allowed to one assessor or collector. And the salary and commissions of assessors and collectors heretofore earned and accrued shall be adjusted, allowed, and paid in conformity to the provisions of this section, and not otherwise; but no payment shall be made to assessors or collectors on account of salaries or commissions without the certificate of the Commissioner of Internal Revenue that all reports required by law or regulation have been received or that a satisfactory explanation has been rendered to him of the cause of the delay.

Mr. MORRILL. I desire to ask unanimous consent that this paragraph be reserved until after we have come to the part relating to the salaries.

There was no objection, and it was ordered accordingly.

Mr. STEVENS. I ask unanimous consent to go back. I move to amend in the two hundred and thirty-ninth line, so that it will read, "where the receipts of the collection district shall not exceed the sum of \$100,000," &c.

Mr. DARLING. I suggest to the gentleman that he insert as follows: "Where the receipts of the collection district shall not exceed \$100,000 one per cent." That will carry out the gentleman's idea, and I think will be equitable.

Mr. STEVENS. I modify my amendment as follows:

Strike out, in line two hundred and forty, these words: "Shall exceed \$100,000 and," and also the words "in excess of."

Mr. MORRILL. That amendment has already been voted down when moved before by the gentleman's colleague, [Mr. THAYER.]

The amendment was disagreed to.

The Clerk read the next paragraph, as follows:

That section twenty-eight be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that each of said collectors shall, within twenty days after receiving his annual collection list from the assessors, give notice, by advertisement published in each county in his collection district, in one newspaper printed in such county, if any such there be, or otherwise in some newspaper in any adjacent county, and by notifications to be posted up in at least four public places in each county in his collection district, that the said duties have become due and payable, and state the time and place within said county at which he or his deputy will attend to receive the same, which time shall not be less than ten days after the date of such notification. And if any person shall neglect to pay, as aforesaid, for more than ten days, it shall be the duty of the collector or his deputy to issue to such person a notice, to be left at his dwelling or usual place of business, or be sent by mail, demanding the payment of said duties or taxes, stating the amount thereof, with a fee of twenty cents for the issuing and service of such notice, and with four cents for each mile actually and necessarily traveled in serving the same. And if such persons shall not pay the duties or taxes, and the fee of twenty cents and mileage as aforesaid, within ten days after the service or the sending by mail of such notice, it shall be the duty of the collector or his deputy to collect the said duties or taxes, and fee of twenty cents and mileage, with a penalty of ten per cent. additional upon the amount of duties. And with respect to all such duties or taxes as are not included in the annual lists aforesaid, and all taxes and duties the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to demand

payment thereof, in the manner last mentioned, within ten days from and after receiving the list thereof from the assessor, or within twenty days from and after the expiration of the time within which such duty or tax should have been paid; and if the annual or other duties shall not be paid within ten days from and after such demand, therefor, it shall be lawful for such collector or his deputies to proceed to collect the said duties or taxes, with ten per cent. additional thereon, as aforesaid, by distraint and sale of the goods, chattels, or effects, including stocks, securities, and evidences of debt, of the persons delinquent as aforesaid. And in case of distraint it shall be the duty of the officer charged with the collections to make, or cause to be made, an account of the goods, chattels, or effects distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods, chattels, or effects, or at his or her dwelling or usual place of business, with some person of suitable age or discretion, if any such can be found, with a note of the sum demanded, and the time and place of sale; and the said officer shall forthwith cause a notification to be published in some newspaper within the county wherein said distraint is made, if there is a newspaper published in said county, or to be publicly posted up at the post office, if there be one within five miles, nearest to the residence of the person whose property shall be distrained, and in not less than two other public places, which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days from the date of such notification, and the place proposed for sale not more than five miles distant from the place of making such distraint. And said sale may be adjourned from time to time by said officer, if he shall think it advisable to do so, but not for a time to exceed in all thirty days. And in any case in which any person, bank, association, company, or corporation, required by law to make return to the Commissioner of Internal Revenue, shall refuse or neglect to make such return within the time specified, the amount of tax or duty shall be estimated by the proper assessor or assistant assessor, and shall be certified by him to the Commissioner. And in all cases in which the person, bank, association, company, or corporation, required by law to make payment of taxes to the Commissioner, shall neglect or refuse to make such payment within the time required, the Commissioner shall certify the amount of tax due by such person, bank, association, or corporation, with all the penalties, additions, and expenses accruing to the collector of the proper district, who shall collect the same by distraint and sale, as in other cases. And the same proceedings may be had to enforce the collection of taxes which have already accrued and which still remain unpaid. And if any person, bank, association, company, or corporation, liable to pay any tax or duty, shall neglect or refuse to pay the same after demand, the amount shall be a lien in favor of the United States from the time it was due until paid, with the interests, penalties, and costs that may accrue in addition thereto, upon all property and rights to property belonging to such person, bank, association, company, or corporation; and the collector, after demand, may levy, or by warrant may authorize a deputy collector to levy upon all property and rights to property belonging to such person, bank, association, company, or corporation, or on which the said lien exists, for the payment of the sum due as aforesaid, with interest and penalty for non-payment, and also of such further sum as shall be sufficient for the fees, costs, and expenses of such levy. And in all cases of sale, as aforesaid, the certificate of such sale shall transfer to the purchaser all right, title, and interest of such delinquent in and to the property sold; and where such property shall consist of stocks, said certificate shall be notice, when received, to any corporation, company, or association of said transfer, and shall be authority to such corporation, company, or association to record the same on their books and records, in the same manner as if transferred or assigned by the person or party holding the same in lieu of any original or prior certificates, which shall be void, whether cancelled or not, and said certificates, where the subject of sale shall be securities or other evidences of debt, shall be good and valid receipts to the person holding the same, as against any person holding, or claiming to hold, possession of such securities or other evidences of debt. And all persons, and officers of companies or corporations, are required, on demand of a collector or deputy collector about to distraint or having distrained on any property and rights of property, to exhibit all books containing, or supposed to contain, evidence or statements relating to the subject or subjects of distraint, or the property or rights of property liable to distraint for the tax so due as aforesaid; *Provided*, That in any case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor if prior to the sale payment of the amount due or tender thereof shall be made to the proper officer charged with the collection of the full amount demanded, together with such fee for levying, and such sum for the necessary and reasonable expense of removing, advertising, and keeping the goods, chattels, or effects so distrained, as may be prescribed by the Commissioner of Internal Revenue; but in case of non-payment or tender, as aforesaid, the said officer shall proceed to sell the said goods, chattels, or effects at public auction, and shall retain from the proceeds of such sale the amount demandable for the use of the United States, with the necessary and reasonable expenses of distraint and sale, and a commission of five per cent. thereon for his own use, rendering the overplus, if any there be, to the person who may be entitled to receive the same: *Provided further*, That there shall be exempt from distraint the school-books and apparel necessary for a family; also arms, one

cow, fuel to an amount not greater in value than twenty-five dollars; provisions to an amount not greater than fifty dollars; household furniture kept for use, to an amount not greater than three hundred dollars; and books, tools, or implements of a trade or profession to an amount not greater than one hundred dollars.

Mr. MORRILL. I move to amend by adding in line three hundred and eighty, after the word "duties," the words "or taxes."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out in lines four hundred and seventy-five and four hundred and seventy-seven the words "or tender thereof."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out lines four hundred and seventy-eight, four hundred and seventy-nine, four hundred and eighty, and four hundred and eighty-one, as follows:

Such fee for levying, and such sum for the necessary and reasonable expense of removing, advertising, and keeping the goods, chattels, or effects so distrained, as may be prescribed by the Commissioner of Internal Revenue.

And inserting in lieu thereof the words "the fee and other charges;" so that the clause will read:

Provided, That in any case of distraint for the payment of the duties or taxes aforesaid, the goods, chattels, or effects so distrained shall and may be restored to the owner or possessor, if prior to the sale payment of the amount due shall be made to the proper officer charged with the collection of the full amount demanded, together with the fee and other charges.

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out the words "or tender" in the four hundred and eighty-second line; also, by striking out in the four hundred and eighty-sixth line the words "necessary and reasonable expenses of," and inserting in lieu thereof the words "fee and charges for;" so that the clause will read:

But in case of non-payment, as aforesaid, the said officers shall proceed to sell the said goods, chattels, or effects at public auction, and shall retain from the proceeds of such sale the amount demandable for the use of the United States, with the fee and charges for distraint and sale, and a commission of five per cent. thereon for his own use, rendering the overplus, if any there be, to the person who may be entitled to receive the same.

The amendments were agreed to.

Mr. MORRILL. I move further to amend by adding after the word "arms" in line four hundred and ninety-two, the words "for personal use."

The amendment was agreed to.

Mr. GARFIELD. I move to strike out the following in lines three hundred and fifty-eight, three hundred and fifty-nine, and three hundred and sixty:

In one newspaper printed in such county, if any such there be, or otherwise in some newspaper in any adjacent county,

And to insert in lieu thereof the following:

In the newspaper of largest circulation printed in such county, if there be any, and if not, then in the newspaper of largest circulation in the nearest adjoining county.

The clause will then read:

That each of said collectors shall, within twenty days after receiving his annual collection list from the assessors, give notice, by advertisement published in each county in his collection district, in the newspaper of largest circulation printed in such county, if there be any, and if not, then in the newspaper of largest circulation in the nearest adjoining county.

The question being put, no quorum voted.

Mr. ASHLEY, of Ohio, demanded tellers. Tellers were ordered; and the Chairman appointed Messrs. ASHLEY, of Ohio, and GARFIELD.

The committee divided; and the tellers reported—ayes 51, noes 15; no quorum voting.

The CHAIRMAN, under the rule, ordered that the roll should be called.

The roll was accordingly called; and the following members failed to answer to their names:

Messrs. Alley, Ancona, Anderson, Delos R. Ashley, Banks, Beaman, Boyer, Brandegee, Bromwell, Buckland, Bundy, Sidney Clarke, Coffroth, Culver, Delano, Deming, Dixon, Dodge, Driggs, Eliot, Farnsworth, Farquhar, Glossbrenner, Grinnell, Hale, Harris, Higby, Hill, Edwin N. Hubbell, James Humphrey, James

M. Humphrey, Ingersoll, Johnson, Jones, Kasson, Kelley, Kelso, Ketcham, Latham, Le Blond, Marvin, McClurg, McCullough, McIndoe, McKuer, Morris, Moulton, Myers, Newell, Nicholson, Noell, O'Neill, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Rousseau, Scofield, Shellabarger, Sloan, Smith, Starr, Strouse, Taylor, Thayer, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Wentworth, Whaley, Winfield, and Wright.

The committee then rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and finding itself without a quorum had directed the roll to be called and the names of the absentees to be reported to the House.

The SPEAKER stated that a quorum having answered to their names, the committee would resume its session.

The committee then resumed its session, (Mr. WASHBURN, of Illinois, in the chair.)

The question recurred on the amendment moved by Mr. GARFIELD.

Mr. ASHLEY, of Ohio. I withdraw my demand for tellers.

The amendment was then agreed to.

Mr. MORRILL. I move to strike out in lines four hundred and sixty-eight and four hundred and sixty-nine the words, "or supposed to contain."

The amendment was agreed to.

Mr. BENJAMIN. I move to amend by adding to the paragraph, at the end of line four hundred and ninety-seven, the following:

And the officers making the distraint shall summon three disinterested householders of the vicinity, who shall appraise and set apart to the owner the amount of property herein declared to be exempt.

A certain amount of property being declared exempt, I do not see in the bill any means of ascertaining the amount so declared. The owner of the property and the collector perhaps differ as to the value of certain articles that are exempt. It seems to me there should be some umpire to decide the matter.

Mr. MORRILL. I see no objection to the amendment. The whole exemption I regard as a mere matter of form. It is not likely that a case will ever occur where a person liable to any national taxes will not have a greater amount of property than is exempted.

Mr. JENCKES. I suggest instead of the officer making the distraint that he may call upon the assessor of the district to make the appointment of the appraisers.

Mr. MORRILL. That is better.

Mr. BENJAMIN. I accept the modification.

The amendment, as modified, was agreed to.

Mr. WASHBURN, of Indiana. I move to strike out the last proviso, as follows:

Provided further, That there shall be exempt from distraint the school-books and apparel necessary for a family; also arms for personal use, one cow, fuel to an amount not greater in value than twenty-five dollars, provisions to an amount not greater than fifty dollars, household furniture kept for use to an amount not greater than three hundred dollars, and books, tools, or implements of a trade or profession to an amount not greater than one hundred dollars.

And to insert in lieu thereof the following:

Provided further, That there shall be exempt from distraint such property as the tax-payer may select, not exceeding five hundred dollars in value.

The object of my amendment is to give to the tax-payer a choice of property that he may wish to have excepted from distraint. If he wishes to exempt a horse or a hundred dollars' worth of books or any other kind of property, he may do so, having the right of selection for himself.

Mr. MORRILL. I hope it will not be adopted.

The question being taken, there were—ayes 13, noes 47.

Mr. WASHBURN, of Indiana, withdrew the amendment.

Mr. CULLOM. I move to amend by adding after the word "notification," in line three hundred and sixty-six, the following:

And shall send a copy of such notice by mail to each postmaster in the county to be posted up in his office.

Mr. MORRILL. We have already voted down that amendment once or twice before, and I hope it will not be adopted now.

Mr. CULLOM. I do not understand that this amendment has been voted down.

Mr. COOK. I desire to say that this amendment was put in in relation to the notices to be given by the assessors, and now it is simply a question of giving notice when the taxes are to be paid or not giving such notice. The bill provides that notice shall be given by advertisement in one newspaper and at four other public places in the district. A large majority of the tax-payers, under that arrangement, get no notice at all. If this amendment should be adopted a large majority of the tax-payers will get notice.

I wish to call the attention of the committee to the fact that a large part of the irritation caused by this tax grows out of the fact that tax-payers are compelled to pay costs through not having received notice. I trust this amendment will be adopted. I insist that it is only a question between giving notice and not giving notice.

Mr. MORRILL. If gentlemen will read the section a little further on they will see that the evil they apprehend cannot possibly occur. This refers to the general notice published in the newspapers. But if the tax-payers neglect to pay after that notice they receive within ten days a personal notice. Certainly gentlemen will not require that they shall receive two personal notices.

Mr. COOK. They have to pay the cost of that subsequent notice.

Mr. CULLOM. I would ask the gentleman from Vermont what particular objection he has to the insertion of this clause. I suppose that the failure of the collector to send notices to the various postmasters would not cheat the Government out of any taxes at all. It is simply a duty enjoined on collectors for the purpose of getting the information among the people who have taxes to pay, so that they may have a further opportunity of being notified of the time when their taxes are to be paid. It is a matter of very little labor and expense, and it will certainly, in the rural districts of the country, enable a great many men to learn that they are called upon to pay their taxes at a particular time, when they would not, perhaps, know it otherwise.

Mr. MORRILL. The gentleman asks what particular objection I have to the adoption of this amendment. It is this: that it imposes very heavy increased duties upon the assessors, and that it would be necessary for each assistant assessor at least to provide himself with a copy of the Post Office book containing all the post offices in the United States, in order that he might be enabled to send notices to the different post offices in his district. In my own district, for instance, not less than two hundred such notices would be required, and in some of the large districts in the West there would be even more required. Besides, the notices in such places would be never seen or heard of.

Mr. ALLISON. I would like to ask the gentleman from Illinois [Mr. CULLOM] whose duty it would be to post up these notices which he proposes to send to all the postmasters.

Mr. CULLOM. The postmasters can do it.

Mr. ALLISON. Suppose they do not do it.

The CHAIRMAN. Debate is exhausted on the amendment.

The question was put; and there were—ayes 25, noes 13; no quorum voting.

Tellers were ordered; and Messrs. MORRILL and CULLOM were appointed.

The committee divided; and the tellers reported—ayes forty-eight, noes not counted.

So the amendment was agreed to.

Mr. CHANLER. I would like to draw the attention of the chairman of the Committee of

Ways and Means, who has this bill in charge, to a case of great oppression which has arisen.

The CHAIRMAN. Does the gentleman offer an amendment?

Mr. CHANLER. Yes, sir; I have an amendment to offer. I move to insert before the last proviso in this paragraph the following:

And that the assessor of each district shall at stated periods make a full and accurate report over his own signature, duly sworn to before a notary public, of all articles seized and held by him as forfeited for violations of this act by any person or persons, that such report shall specify the names of the owners of the articles so seized, together with the value of the same, and the particular section or sections of this act violated by such person or persons, whereby the said articles were forfeited to the Government; and such reports shall be addressed to the chief of the Bureau of Internal Revenue on the first of every month.

The object of this amendment is simply to authorize and require the assessor of each district to make a report to the chief of the Bureau of Internal Revenue in this city of all articles seized by him as forfeited under the law for violations of the internal revenue act.

Let me state a case that came under my observation, and in reference to which I made application for relief to the head of the bureau, with whom I had a conversation, which has led me to offer this amendment. A livery-stable keeper in good faith hired a horse and wagon to some persons to him unknown. Those persons left the city of New York and went over into the State of New Jersey. On the other side of the river they got possession of some boxes of cigars, not stamped or marked, and began to peddle them. The consequence was they were arrested by the authorities, and the horse and wagon belonging to the citizen of New York were seized and held by the assessor. The case was brought to my notice, and I applied to the bureau for relief. I asked the chief if it was optional for the assessor to seize, hold, and sell that horse and wagon belonging to an innocent party, and there was no redress. The answer of the chief of the bureau, as I understood it, was that there was no redress; and therefore I have offered this amendment.

If gentlemen will give their attention, I will state that they will find that by my amendment the assessor is called upon to make a return monthly to the head of the bureau of the articles seized by him, giving the value of each article and the name of the person from whom it has been seized; and thereby persons whose property has been seized can obtain ready redress, if they are entitled to it, from the only place where the law permits them to obtain relief.

I hope my amendment will meet with the approval of the chairman of the Committee of Ways and Means, [Mr. MORRILL:] or, if it does not, that he will at least explain that it is not necessary under the law.

Mr. MORRILL. I do not, perhaps, fully understand the amendment of the gentleman from New York, [Mr. CHANLER,] as I was unable to hear it all when it was read at the Clerk's desk. But so far as I do understand it, I am opposed to it, and hope it will not be adopted, for I think the public notice in the courts where cases of forfeiture are tried is sufficient, and where certainly all the persons who are interested would learn the cause of such forfeiture.

Mr. CHANLER. Will the gentleman from Vermont [Mr. MORRILL] allow me to ask him if there is any provision in the law regulating the internal revenue to enable the citizen, whose property has been seized by the assessor, to obtain speedy redress from the superior of that officer? As the law now stands, is not the person whose property has been seized completely at the mercy of the assessor? And is it not due to the citizen that he should have some means provided by which his property can be released if he is an innocent party? Does the law provide any such means now? I understand that the gentleman does not know, and still he opposes a good, sound remedy because he individually does not know whether that is the law or not. It certainly

cannot injure the law to put into it a provision requiring the assistant assessor in each district to make a monthly report, such as I have indicated, to the chief of the bureau here in Washington, by means of which the citizen can obtain speedy relief if entitled to it.

The question was taken on the amendment of Mr. CHANLER, and upon a division there were—ayes 17, noes 35; no quorum voting.

Mr. MORRILL moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. WASHBURN, of Illinois, reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no conclusion thereon.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled Senate bill No. 310, to change the place of holding the courts of the United States for the northern district of Mississippi; when the Speaker signed the same.

DIRECT TAX IN INSURRECTIONARY STATES.

Mr. GARFIELD, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Ways and Means be instructed to inquire whether any further legislation is necessary in reference to the collection of the direct tax in the States lately in rebellion.

PURCHASE OF PUBLIC LANDS.

On motion of Mr. STEVENS, Senate bill No. 203, entitled "An act to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in the market," was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

COMMITTEE ON TERRITORIES.

Mr. ASHLEY, of Ohio, by unanimous consent, submitted a report from the Committee on Territories in response to a resolution of the House, adopted February 26, 1866, asking for information as to the necessity of a clerk for that committee.

The report states that in the judgment of the committee a clerk is necessary for the transaction of their business.

The report was laid on the table, and ordered to be printed.

NAVIGATION OF ILLINOIS RIVER.

Mr. ROSS, by unanimous consent, introduced a bill to improve the navigation of the Illinois river: which was read a first and second time, and referred to the Committee on Commerce.

LEAVE OF ABSENCE.

The SPEAKER asked leave of absence for ten days for Messrs. UPSON and TROWBRIDGE. Leave was granted.

MAIL COMMUNICATION WITH BRAZIL.

Mr. ALLEY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Postmaster General be requested to report to this House the conditions of the contract made for the transportation of the mails between the United States and Brazil, and to state whether such conditions have been complied with by the company contracting to perform such service, and whether the steamships employed have been such as were required by the law authorizing the service; also, to state whether the Department has any information of the contract having been assented to and executed by the Brazilian Government, and further directing that no amount of the subsidy be paid unless the contract has been fully complied with on the part of the company and duly assented to by the Brazilian Government, as required by the act authorizing the service.

PASCHAL'S EDITION OF THE CONSTITUTION.

Mr. COOK, by unanimous consent, submit-

ted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency of purchasing from George W. Paschal, Esq., his copyright in a limited number of his edition of the Constitution of the United States, with his notes of judicial and legislative decisions thereon, together with the copious index thereto; and that said committee report by bill or otherwise.

Mr. DAVIS moved that the House adjourn.

The motion was agreed to; and thereupon (at fifty minutes after three o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BOUTWELL: The petition of William H. Wood, and others, of Baltimore, Maryland, and Charles C. Sewall, and others, of Medford, Massachusetts, in favor of a Bureau of Education.

By Mr. BROOMALL: The petition of citizens of Delaware county, Pennsylvania, praying for such change in the internal revenue and tariff laws as shall enable the manufacturers of the United States to compete with those of other countries with success.

By Mr. COOK: The petition of citizens of Grundy county, Illinois, for protection for American wool.

By Mr. CLARKE, of Ohio: The petition of Jonathan Palmer, and others, citizens of Clermont county, Ohio, praying for a modification of the tax on common tobacco.

By Mr. DONNELLY: A petition signed by citizens of Alexandria, Douglas county, Minnesota, for the establishment of a new land district in Minnesota, with the office at Alexandria.

By Mr. EGGLESTON: The petition of Colonel H. L. Burnett, and others, citizens of Ohio, praying for the passage of a law to equalize bounties to soldiers and sailors and to increase the rate of pensions.

By Mr. HART: The petition of banks and bankers of Rochester, New York, asking for an extension of the time fixed by law for the taxation of ten percent on the circulation of State banks.

By Mr. HIGBY: The memorial of Martha A. Estill, asking the payment of a claim against the Government.

By Mr. HUBBARD, of New York: The petition of numerous citizens of the village of Norwich, in the county of Chenango, New York, for a mail route from said village to the village of Sidney Plains, in the county of Delaware.

By Mr. LAWRENCE, of Pennsylvania: The petition of citizens of Washington county, Pennsylvania, for an increase of duties on foreign wool.

By Mr. PAINE: The remonstrance of Frank Abbott, and others, citizens of Marquette county, Wisconsin, against the change of the route of a certain land-grant railroad therein named.

By Mr. PERHAM: The petition of James L. Perham, for a pension.

Also, the petition of Mrs. Nancy Bills, for compensation for destruction of property by order of United States officers.

By Mr. ROLLINS: The petition of Stephen Thayer, and 35 others, citizens of New Hampshire, praying for an increase of duty on imported cigars.

IN SENATE.

TUESDAY, May 15, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.

The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Postmaster General, transmitting, in compliance with a resolution of the Senate of the 10th instant, a copy of a letter from D. L. Yulce, formerly chairman of the Committee on Post Offices and Post Roads, to the Post Office Department, dated January 9, 1860, inquiring as to the effect of legislative action in increasing the pay of mail contractors, &c., and a copy of the reply of the Postmaster General thereto: which, on motion of Mr. RAMSEY, was referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

RECONSTRUCTION.

Mr. FESSENDEN. Before the Senate proceeds with the regular business of the day, I wish to say a word in reference to the report of the committee on reconstruction, or rather the joint resolution which has been passed by the House of Representatives, and is now upon the table of the Senate, reported by that committee. Many inquiries have been made of me by gentlemen as to when I proposed to call up the resolution which has been passed by the other House, for action here. I desire now to state that I have consulted, informally, the members of the reconstruction committee.

on the part of the Senate, and we have come to the conclusion that we shall ask the Senate to proceed to the consideration of that resolution on Monday next; and I beg also to express the hope that when it is taken up we may devote the entire hours of the Senate, with the exception, of course, of the morning hour each day, strictly to the consideration of that business, and with the expectation, or the hope at least, that we shall be able to dispose of it in the course of the week.

Mr. JOHNSON. Does the Senator say that he has consulted all the members of the committee?

Mr. FESSENDEN. I consulted all who were present at the time. I did not consult the Senator from Maryland because he was not in his seat. I will now only repeat the hope I before expressed, that we may take up the subject on Monday next and confine ourselves to its consideration, with the idea that we may be able to finish it in the course of next week.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented a memorial of the Legislative Assembly of the Territory of Montana, praying for the establishment of a branch mint in that Territory; which was referred to the Committee on Finance, and ordered to be printed.

He also presented a memorial of the Legislative Assembly of the Territory of Montana, praying for the alteration and extension of the southern boundary of that Territory; which was referred to the Committee on Territories, and ordered to be printed.

He also presented an address of colored citizens of Chicago, Illinois, dated April 23, 1866, expressive of their gratitude to the Senate and House of Representatives for the passage of the civil rights bill recently vetoed by the President of the United States; which was ordered to lie on the table.

Mr. JOHNSON. I present the petition of Mary Good, an aged lady of Baltimore, who states that her daughter, an only child, on whom she depended for support, was killed on or about the 16th of August, 1865, by a shot fired by a sentinel intended to have been aimed at a deserter from the military service of the United States. She states that she was wholly dependent on this daughter, and thinks she has made out a case for the interposition of Congress, either to vote her a small sum of money in gross to support her, she being upward of seventy years of age, or to give her a pension. I move the reference of the petition to the Committee on Pensions.

The motion was agreed to.

Mr. MORGAN. I present the memorial of the Chamber of Commerce of the State of New York against the proposed tax of five cents per pound upon cotton. I ask that the memorial be referred to the Committee on Finance, and inasmuch as the subject is one of very considerable interest at this time, and as this memorial contains some valuable information in relation to the importation of cotton into Liverpool for several years from India, Egypt, and Brazil, I move that it be printed for the use of the Senate.

The motion was agreed to.

Mr. COWAN presented a petition of mechanics and laborers in manufacturing establishments, praying for such an adjustment of the tariff of duties on imports as will afford ample protection to the labor and industry of the country; which was referred to the Committee on Finance.

Mr. SUMNER presented the petition of Hopestill Bigelow, praying to be allowed eleven years' back pay, claimed to be due him as a pensioner of the war of 1812; which was referred to the Committee on Pensions.

Mr. SUMNER. I also offer the petition of H. W. Johnson, president of Dickinson College, Carlisle, Pennsylvania, asking, in the name of four million freedmen who now call for education, that education which slavery forbade, and in the name of a still larger number of "poor whites," who need that instruction

which slavery withheld, and finally in the name of justice, humanity, and religion, asking that free education be secured to all the children of the United States. I do not know that there is any committee of this body to which this petition can be, with any particular propriety, referred, but the Judiciary Committee is that to which all petitions go which have no other natural destination, and I therefore move its reference to the Committee on the Judiciary.

The motion was agreed to.

Mr. YATES presented a petition of citizens of Illinois, praying for an increase of the duty on importations of foreign wool; which was referred to the Committee on Finance.

He also presented a memorial of women of Illinois, praying that universal suffrage and enfranchisement may be granted without regard to sex; which was referred to the joint committee on reconstruction.

Mr. NYE presented the memorial of Richard Chinery, praying for compensation for beef cattle furnished for the use of destitute and suffering Indians in California, in the years 1851 and 1852, under contract with the then Indian commissioner for the northern district of that State; which was referred to the Committee on Indian Affairs.

PAPERS WITHDRAWN.

On motion of Mr. MORGAN, it was

Ordered, That the Committee on Claims be discharged from the further consideration of the petition of E. Brown, Jr., and that he have leave to withdraw his petition and other papers.

REPORTS OF COMMITTEES.

Mr. SHERMAN. The Committee on Finance, to whom was referred the bill (S. No. 300) to reduce the rate of interest on the national debt, and for funding the same, have directed me to report it with amendments, and if it is the pleasure of the Senate I should like, as the honorable Senator from Maine has announced his purpose to take up the reconstruction subject next week, to have this bill set for Thursday if there be no objection.

Mr. FESSENDEN. I object to having that fixed. I want to take up several of the appropriation bills during this week, that are on the table.

Mr. SHERMAN. Do you want the whole week?

Mr. FESSENDEN. I do not know that I shall, but I should not like to have any special order made.

Mr. SHERMAN. Then I will simply give notice that I shall endeavor to get this bill up some day this week in order to have the action of the Senate on it.

Mr. FESSENDEN. My particular objection is that I gave notice to the committee that I am opposed to that bill and shall object to its being taken up at any time so far as I am concerned, if I can prevent it.

Mr. SHERMAN. The Senate must pass judgment on that point.

Mr. FESSENDEN. It does not meet my approbation in any particular, and therefore I do not want any day fixed for it at any rate.

ASSISTANT SECRETARY OF THE NAVY.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs to report a bill (S. No. 318) to authorize the appointment of an additional Assistant Secretary of the Navy.

The bill was read a first time by its title and passed to a second reading.

Mr. GRIMES. I will venture to ask the Senate to suspend its rules in order to proceed to the consideration of this bill. I think there will be no hesitation in passing it with the explanation that I shall be able to give of the necessity of it.

The PRESIDENT *pro tempore*. The bill will be put on its second reading now, if there be no objection, and then the question of its consideration will be open.

The bill was read a second time at length. It proposes to authorize the President of the United States, by and with the advice and consent of the Senate, to appoint an additional Assistant Secretary of the Navy, who shall per-

form the same duties and receive the same salary as is by law allowed to the present Assistant Secretary of the Navy. The office thus created is to cease by limitation in six months from the approval of this act.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The bill was reported to the Senate without amendment.

Mr. GRIMES. It is due to the Senate that I should state the reasons why the Committee on Naval Affairs have proposed that such a bill as this should be passed at this time.

A few days ago the two Houses of Congress united in passing a joint resolution congratulating the Emperor of Russia upon his escape from assassination. When that resolution came from the House of Representatives to the Senate, on the suggestion of the chairman of the Committee on Foreign Relations [Mr. SUMNER] it was amended so as to authorize and direct the President of the United States to transmit the resolution to the Emperor. The present Assistant Secretary of the Navy had filed his resignation, to take effect from to-day, and, as the agent of the Navy Department, was about to visit Europe for the purpose of inspecting the various navy-yards, ships-of-war, and improvements in each, and improvements in ordnance and naval appliances that have been perfected by the European nations during the last few years. I suppose it is not unknown to the members of this body that foreign nations, and especially the British, are in the habit of sending naval officers here to examine with the utmost minuteness everything of that description that is done by us. It is probably known to the members of this body that there is attached to the British legation Captain Buythesa, one of the most competent men in the British navy. He is employed for no other purpose than to make such investigations as it is proposed by the Navy Department that the present Assistant Secretary of the Navy shall make during the months of this summer.

When the resolution congratulating the Emperor of Russia was adopted by Congress, it was suggested by the Secretary of State, and by some other persons connected with the Administration, that Mr. Fox should be deputed to carry the congratulatory resolution to Russia; and it was also suggested to him that he should withdraw his resignation as Assistant Secretary, for the reason that it would give more *éclat* and would be more acceptable to the Russian Government if he went in his official capacity, as second in authority in the Navy Department, than if he went as a private individual.

It is for that reason that this bill has been reported. Added to this consideration is the fact that on account of the peculiar phraseology of the law organizing the Navy Department, no one, in case of the absence, from sickness or otherwise, of the Secretary of the Navy, can perform the duties of that Department except the Assistant Secretary; and in order to guard against accidents, or the possibility of anything of that kind happening, it is proposed to pass this bill. Mr. Fox proposes to start in the Miantonomoh, an iron-clad ship, a class of improved impregnable vessels, for which this country is indebted to him more than to any other person in the world except to Mr. Ericsson, now lying at Halifax and ready to go—the best iron-clad ship, I believe, in the world, and which, we hope, and he believes, will safely cross the Atlantic. I believe the appearance of that ship in European waters would have a greater tendency to promote peace between the nations of Europe and this country than all the diplomats we shall be likely to send to Europe during the next thirty years.

I will say, furthermore, that this can be attended with no additional expense. The whole sum that will be appropriated, should this bill be passed into a law, will be \$1,750, which will not be so much as would be the expense of sending a special messenger to the Emperor

of Russia, as the President is required to send if he does not adopt some such plan as this.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

CIRCUIT COURT IN VIRGINIA.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes, have instructed me to report it back with an amendment; and I ask for its present consideration. It merely changes the place of holding the court from Norfolk to Richmond, and fixes the time. I presume there will be no objection to it.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment reported by the Committee on the Judiciary was to strike out the following clause:

And special or adjourned terms of said court may be held at such time and on such notice as may be ordered and prescribed by the Chief Justice of the Supreme Court of the United States, with the same power and jurisdiction as at regular terms. And said court, at any such regular, special, or adjourned terms, shall have power to issue and enforce all writs and process, make all orders, and do all acts necessary for the due administration of justice and the exercise of their jurisdiction.

So as to make the bill read as follows:

Be it enacted, &c. That the circuit court of the United States in the district of Virginia shall be held at the city of Richmond, commencing on the first Monday in May and on the fourth Monday of November, in each year; and the said court may adjourn its session, now authorized, from Norfolk to Richmond, and there hold the same, and transfer to said last-named place all records, files, process, and property pertaining to said court. And all proceedings and process in or issuing out of said court, which are or may be made returnable to any other times or places appointed for holding said court than herein prescribed, shall be deemed legally returnable on the day specified and at Richmond, and not otherwise; and all suits and other proceedings in said court which stand continued to any time or place shall be deemed continued to the place and time prescribed by this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. It was ordered that the amendment be engrossed and the bill read a third time. The bill was read the third time and passed.

BILLS INTRODUCED.

Mr. VAN WINKLE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia; which was read twice by its title, and referred to the Committee on Finance.

He also asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 319) to apportion the issue of the national currency to the several States and Territories and to the District of Columbia; which was read twice by its title, referred to the Committee on Finance, and ordered to be printed.

Mr. HARRIS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 320) to amend an act entitled "An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State," approved March 3, 1863; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. NYE asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 91) to refer the claim of Frederick Vincent, administrator of Le Caze & Mallet, to the Court of Claims; which was read twice by its title.

Mr. NYE. I presume there will be no objection to the resolution, and I ask for its present consideration. It is simply a proposition to refer a claim to the Court of Claims. The resolution was read at length.

Mr. CONNESS. Is it not establishing an entirely new rule?

The PRESIDENT *pro tempore*. Is the

present consideration of the joint resolution objected to?

Mr. TRUMBULL. This would be conferring a new jurisdiction upon the Court of Claims by an act of Congress. I do not know that it is objectionable, but I think it ought to be examined in reference to the principles involved.

Mr. NYE. Let it be referred to the Committee on the Judiciary.

Mr. TRUMBULL. If it has already been examined by a committee and reported I do not desire to have it referred.

Mr. NYE. Let this resolution go to your committee. I did not know it was to change any rule. I move that it be referred to the Committee on the Judiciary.

The motion was agreed to.

ASIATIC CHOLERA.

Mr. CHANDLER. I move that the Senate now proceed to the consideration of the joint resolution (H. R. No. 116) to prevent the introduction of the cholera into the ports of the United States.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution, the pending question being on the amendment of Mr. SUMNER to the amendment reported by the Committee on Commerce.

Mr. JOHNSON. Mr. President, when this measure was before the Senate a few days since I had stated in part my reasons for supposing that it was not within the constitutional power of Congress to pass it, and I have but a word or two to add in addition.

The honorable member from Massachusetts [Mr. SUMNER] placed the authority to pass this measure upon the commercial power conferred upon Congress by the Constitution. According to his interpretation of that power, there is hardly anything that might not be done, not only by Congress with the assent of the States, but by Congress in spite of the States. I think the honorable member and the Senate will find upon turning to the cases to which he alluded, the passenger cases, and more particularly to the license cases and the case of *Houston vs. Moore*, reported, I think, in 5 Wheaton, that this principle has been over and over again proclaimed as the true one with reference to the power of Congress under that clause; that it does not in any manner conflict with the police power of the States; that it therefore does not conflict with any power which the States may deem necessary to preserve the health or the morals of their citizens; that it does not, consequently, conflict with the power which the States have ever been supposed to possess, not as a concurrent, but as an exclusive power, to establish quarantine. The passenger cases, upon which my friend from Massachusetts perhaps in the main relied, were cases involving the validity of an act of the Legislature of New York, which imposed a tax upon every captain or officer of a vessel, one dollar and a half or two dollars—I forget the exact amount—for each passenger landed in New York; and subjected him to a penalty unless he paid the tax; and it appropriated the proceeds of the tax to two purposes, one of which was for a hospital, and the other, I think, for the insane. The opinion of the Supreme Court, as pronounced by Mr. Justice McLean, placed the invalidity of that law entirely upon the ground that it affected the vessel and the rights of the master and the passengers, not after they were landed but before they were landed. It was intended to be a license for the authority to land, and was intended to appropriate the sum which the party was obliged to pay in the nature of a license for some State purpose. But the honorable member will find if he will look at the opinion of the judge to whom I allude, that throughout he not only recognized the authority of the States to establish quarantine, but treated that authority as an exclusive one. And on looking at the other case to which the honorable member referred, that of *Gibbons*

vs. Ogden, reported in 9 Wheaton, the honorable member will find that Chief Justice Marshall, in speaking for the whole court, recognized the validity of State quarantine laws, not only as laws passed in the exercise of a concurrent power, but as laws valid, because the States possessed exclusive power over the subject.

Now, what is proposed to be done by this act? Passing by the supposition that it will accomplish its purpose, supposing that the Army and the Navy can be used practically for the purpose of preventing the malaria, if it be a malaria, caused by the air's being infected by the presence of the disease brought here by persons who may be laboring under the disease, it gives to Congress the authority to go into the States and establish hospitals or quarantine, or do anything else which in the judgment of the three Secretaries, who are constituted a board for that purpose, may be necessary to keep out the disease, if it can be kept out, or arrest its spread. Where is that power to terminate? If Congress has the authority to legislate upon the subject, if the preservation of the health of the country is one of the objects intrusted to Congress at all, it is a power not limited to the seaport, not limited in its exercise to the city, but it must be coextensive with the entire country; and if the cholera after making its appearance in the city of New York is supposed, in the judgment of the board, to be likely to spread all over the State of New York, unless it shall be arrested by the Army and the Navy and by the measures which they shall be recommended to adopt by physicians in order to keep the disease from spreading, they can go all over the State and establish hospitals, establish quarantine, so as to impede commerce strictly territorial, strictly internal.

In the cases adverted to not a single judge doubted that the internal commerce of the States was never submitted to regulation by Congress under the commercial power. Indeed, the very terms in which the power is communicated exclude the idea that it was intended to embrace internal commerce. The power conferred is the power to regulate commerce between foreign nations and the United States and commerce among the States. Marshall, therefore, in the case alluded to of *Gibbons vs. Ogden*, admitted, as clear beyond dispute, as a proposition never disputed anywhere during the deliberations of the Convention or by any judicial opinion pronounced in any case in which the question arose, that the internal commerce of the States was with the States exclusively. If that proposition be true, (and I am sure my friend, the Senator from Massachusetts, will not deny it,) does it not follow that what you propose to do is without authority provided it conflicts with that proposition? A man wants to go from the city of New York to Albany with his vessel, or to travel on the canal from Albany to the extreme lakes. That commerce is clearly internal; but, like foreign commerce, it may be the means of spreading the disease; and if Congress, under the authority to regulate commerce, has a right to prevent the spread of the disease, or the introduction of the disease, it must have an authority to prevent it from spreading anywhere or from being introduced anywhere. It may for the first time be introduced into Albany or into any of the towns situated upon the canal which connects the Hudson with the lakes; and what I say of New York is applicable to all the other States. What do you propose to do? To let the doctors get together and advise the board, which you are about to constitute by this resolution, formed of the three Secretaries. The disease may be introduced into Albany, or, if it makes its first appearance in the city of New York, it may find its way into Albany. They will therefore call upon the Secretaries to establish a quarantine at Albany, and as quarantine may not answer the purpose absolutely, as the disease may find its way into Albany in spite of the quarantine, and one or more cases may be found occurring in Albany, then the way to prevent the spread of the disease is to do what we do with the

small-pox disease—establish hospitals; so that under the power which Congress is supposed to have over the health of the country, they may establish small-pox hospitals and cholera hospitals everywhere throughout the States. I maintain, therefore, with due respect to the members of the Senate who think there is authority to pass this resolution, that it is contrary to the best-established principles in relation to the construction of the Constitution in the particular relied upon not only the best established but principles that never have been questioned by the Supreme Court at any time. Without troubling the Senate further, I submit that it seems to me the proposed measure is clearly beyond the power of the Government.

Mr. SUMNER. The Senator from Maryland has called the attention of the Senate to the decisions of the Supreme Court which, in his opinion, bear decisively on this question; but, sir, with the ingenuity of a practical lawyer he has omitted to call the attention of the Senate to that decision which, perhaps, of all others, is the most applicable to this question. With the permission of the Senate I will make up for the deficiency of the learned Senator, or at least endeavor to do so, by calling attention to the case, which, unless I mistake, in its precise language is applicable to the pending question. I refer to the case of the *United States vs. Coombs*, in the twelfth volume of Peters's Reports. There you will find one of the able and well-considered judgments of the late Mr. Justice Story, particularly treating of this question. By "this question" I mean the power of Congress under the clause of the Constitution giving to Congress the power to regulate commerce with foreign nations and among the several States. I will read a passage from his judgment, page 78, as follows:

"The power to regulate commerce includes the power to regulate navigation, as connected with the commerce with foreign nations and among the States. It was so held and decided by this court, after the most deliberate consideration, in the case of *Gibbons vs. Ogden*, 9 Wheaton, 189 to 198."

All that the Senator will of course recognize; for, indeed, he has already admitted it in what he has said and cited. The learned judge then proceeds:

"It does not stop at the mere boundary line of a State; nor is it confined to acts done on the water, or in the necessary course of the navigation thereof. It extends to such acts, done on land, which interfere with, obstruct, or prevent the due exercise of the power to regulate commerce and navigation with foreign nations and among the States. Any offense which thus interferes with, obstructs, or prevents such commerce and navigation, though done on land, may be punished by Congress, under its general authority to make all laws necessary and proper to execute their delegated constitutional powers."

Those are the pointed words of Mr. Justice Story.

Mr. MORRILL. Will the Senator allow me to ask him a question?

Mr. SUMNER. Certainly.

Mr. MORRILL. That is to regulate commerce.

Mr. SUMNER. To regulate commerce.

Mr. MORRILL. Does the Senator mean to be understood that a regulation in regard to cholera, a disease, is a regulation of commerce?

Mr. SUMNER. I do, certainly.

Mr. MORRILL. Then the cholera is commerce?

Mr. SUMNER. No; cholera is not commerce, but cholera comes from passengers.

Mr. MORRILL. Then is the regulation of it commerce, or is it the treatment of a disease? Is it a regulation of health or a regulation of commerce?

Mr. SUMNER. The Senator will pardon me if I say it is one of those matters which runs in several directions. It is connected with passengers, and it may be viewed in its connection with passengers.

Mr. MORRILL. As a disease, not as commerce. It is connected with passengers as a disease and to be treated of in the nature of health, quarantine, sanitary regimen, or whatever you please, but not in the nature of commerce to be regulated.

Mr. SUMNER. Now, I will ask my learned friend, is he not too refined when he undertakes to say that in regulating passengers you may not regulate them so far as concerns their health; that you may regulate passengers in every other way except so far as concerns health? I assume, and I put it to my learned friend, that if under the commercial power you can regulate the introduction of passengers, that carries with it, necessarily, all the incidents of health, because you may apply to the introduction of passengers certain sanitary requirements. I do not see how, logically, the Senator can avoid that conclusion.

Mr. MORRILL. I ask the Senator whether, when you have reached the point that you have got to treat the passenger for his health, the power of the General Government does not cease, and the police power of the State for the protection of the public health at that very point necessarily intervene.

Mr. SUMNER. To that my reply is just this: that the jurisdiction having once attached, it must, from the nature of the case, continue to the end; otherwise the utility of the jurisdiction would fail.

Mr. MORRILL. I beg to suggest to the Senator that it never did attach to the passenger as touching his health; and the moment it becomes necessary to treat him for his health, then the power to regulate commerce ceases, as a matter of course.

Mr. SUMNER. The Senator says it never did attach to the passenger so far as his health is concerned. How can he say that? Does it not attach to the passenger absolutely? You by your statutes require a certain allowance of water and a certain allowance of food on board a ship. Does not that go to the health?

Mr. CONNESS. And a certain allowance of room on a ship.

Mr. SUMNER. And a certain allowance of room in the ship; a certain allowance of air. Does not all that concern the regimen of health? Now, we propose to go further, and by a careful system of regulations to look still further at the condition of health, and to surround it with still further safeguards; not merely to require a certain amount of food and a certain amount of air and a certain amount of space, but to go still further according to all the suggestions of modern science in order to prevent the introduction of this disease. To my mind, the conclusion seems inevitable, it is just as clear as that $A + B = X$, or that two and two make four. I cannot imagine any conclusion more direct. If you concede that you may make regulations with reference to a passenger, I know of no regulations more important, more absolutely founded upon this constitutional requirement, than those regulations which concern his health. And now the Senator seems to suggest that this is an exercise of power for the first time. How so?

The PRESIDENT *pro tempore*. The morning hour having expired, the Chair is under the necessity of calling up the order of the day, being the unfinished business of yesterday.

Mr. CHANDLER. I ask that the unfinished business go over informally that we may have a vote on this measure.

The PRESIDENT *pro tempore*. The unfinished business of yesterday can be laid aside by unanimous consent. No objection being made, the unfinished business will be laid aside, and House joint resolution No. 116 will be continued before the body.

Mr. SUMNER. I do not understand that this is an exercise of power for the first time. It is nothing more, perhaps, than a new application of an old power or an expansion of an old power to a new condition of circumstances; and perhaps I may say enlarging this old power, because the circumstances require the enlargement. I do not understand that any new fountain is opened; no new source is drawn upon; no new principle is invoked; we go back to the original text of the Constitution which has been so often applied in kindred cases, and we insist upon its application now.

If I understand the argument of the Senator,

it is that all quarantine regulations belong to the States exclusively. Am I right in that?

Mr. MORRILL. Most of them.

Mr. SUMNER. The Senator, I understand, says they belong exclusively to the States.

Mr. MORRILL. Yes.

Mr. SUMNER. If I carry that argument of the Senator still further, it would be practically to say that the Government of the United States might make all possible regulations with reference to passengers water borne, but could not touch them in regard to sanitary regulations the moment they entered our harbors. That is certainly the inevitable conclusion, and permit me to say it is an absurdity. I will not consent thus to despoil this Government of a power which to my mind seems so essential to the national health.

Now, if you go back to one of the early statutes, for instance, the statute entitled "An act respecting quarantines and health laws," which bears date February 25, 1799, it will be perceived that while the quarantine is left to a certain extent under the control of the States, the United States officers are directed to assist the State officers in enforcing the quarantine. Here is a clause which I will read:

"And all such officers of the United States shall be, and they hereby are, authorized and required faithfully to aid in the execution of such quarantines and health laws, according to their respective powers and precincts, and as they shall be directed from time to time by the Secretary of the Treasury of the United States."

In that statute it will be seen that the quarantine was placed under a mixed government, partly of the State and partly of the United States. Certain United States officers were directed to aid State officers in enforcing quarantine, and the United States officers were from time to time to receive instructions from the Secretary of the Treasury. How could that be if the United States had no jurisdiction over this matter?

Mr. MORRILL. They are to do it, by the very terms of the act, in aid of the State; they took no jurisdiction.

Mr. SUMNER. I will come to that. The Senator reminds me that it was by the very terms of the act in aid of the State; and now allow me to call the attention of the Senator to what he will remember perfectly well in the early history of our country, that the bounds of the jurisdiction of the Federal and State governments were then unsettled. Take, for instance, one of the greatest cases in our history, that of the fugitive slave bill which was passed in 1793. The Senator will remember that the seizure of fugitive slaves was intrusted under that act to State officials, and also to certain United States officials; but the jurisdiction was recognized as concurrent. It was only at a late day when the relations between the State and Federal jurisdiction were better comprehended that the Supreme Court decided that that jurisdiction could not be confided to the State authorities.

Now, I submit that you will find in this statute of 1799 relating to quarantine a jumble or a confusion not unlike that which you will find in the fugitive slave act of 1793; that is, a recognition of a concurrent jurisdiction in the State and Federal governments over this question. This measure which is now before the Senate would follow out, I take it, the general principle or reasoning of later years and assure the jurisdiction to the Federal power, or, as I always like to call it, the national rather than the Federal power. It would secure it to the national power, and to my mind it properly belongs to the national power, and no ingenuity of the Senator from Maine, my excellent friend, can satisfy me that it ought not to be intrusted to the national power. It is essentially a national object, and can be performed effectively and thoroughly only through the national arm. If you intrust it to the different local authorities, you will have as many systems as you have States or communities, and you cannot bring your policy to bear with that unity which it ought to have in dealing with so deadly a foe. You should be able to carry into this matter

something of the combination and directness of war. At the same time I beg to say, as I have heretofore said, that I do not recognize this in any respect as a military measure; I treat it absolutely as a commercial measure; I derive it from a commercial power, and by the amendment which I have introduced I would place it under the direction of the Secretary of the Treasury.

Mr. MORRILL. Mr. President, in reply to the last position of the honorable Senator from Massachusetts, I desire to call his attention to the phraseology of his own amendment and see whether he treats it solely as a commercial question. "It shall be the duty of the Secretary of the Treasury, the Secretary of War, and the Secretary of the Navy to adopt an efficient and uniform system of quarantine." If it is a commercial question, what has the Secretary of the Navy to do with it?

Mr. SUMNER. Does the Senator wish an answer?

Mr. MORRILL. I should like to have an answer.

Mr. SUMNER. The amendment that I have moved charges this duty upon the Secretary of the Treasury, in conjunction with the Secretary of War and the Secretary of the Navy, under the direction of the President of the United States. He has that to do with it which the statute gives to him, and he has it because the statute gives it.

Mr. MORRILL. So I see; but I ask the reason why, if it is a commercial measure, you connect the military and the naval power of the Government with it. That is the question.

Mr. SUMNER. Because it may be necessary to act with regard to it on the water; and who would be more competent to advise upon such a matter than the Secretary of the Navy? Or it may be necessary to use military force, and who more competent to supply it than the Secretary of War?

Mr. MORRILL. I have elicited all the answer I expected; it is all the answer that could be given; whether it is a reason or not I submit to the Senate. It is all that the utmost stretch of ingenuity could give. There is no possible reason for associating either the War or the Navy Department with it, except that you want to bring to bear upon the question the power of the Navy and of the Army. Now, is that so? So far as you desire to go upon the water to enforce a quarantine, if you have a right to enforce it the Secretary of the Treasury has a military power at his command always to enforce the revenue laws; and there is no more necessity, on that score, of associating the Secretary of the Navy, I submit to the honorable Senator, to enforce a quarantine than there would be to enforce the laws preventing smuggling. The association is incongruous; and it is either from the fact that you desire to get a power that you are conscious you have not under the authority to regulate commerce, or, I submit, that it is an association of a power not necessary; and so of the War Department.

This is strictly a commercial question, says the honorable Senator. I submit that it is not in any sense. In the first place, cholera is not the subject of commerce; and in the second place, the immigrants are not the subject of commerce; they are the subjects of navigation, one of the incidents of commerce. They enter into that element, and not in any sense are they the subjects of traffic, which is the chief characteristic of commerce. They are simply an incident to commerce in the sense that navigation is an incident to commerce; but when you come to consider the subject of the introduction of immigrants into the country, they lose that character entirely.

Now, I desire to call the attention of the honorable Senator to this question in another aspect. I maintain that all sanitary regulations touching the health of the people of this country within the jurisdictional limits of the several States are matters of police regulation, using that term in its strict and legal sense. Anything of that kind is a police regulation; it has to do simply with the health of the peo-

ple, and it belongs to the States exclusively; and there is not a single instance in the history of this country where the Government of the United States has attempted to trench upon it; but in numerous instances the courts have settled that the police regulations of the States are independent of the General Government and exclusively within the power of the States, and that under the power to regulate commerce the Government of the United States has no authority whatever to interfere with them. Now, what is quarantine?

Mr. CONNESS. Will the Senator permit me to ask him a question?

Mr. MORRILL. Certainly.

Mr. CONNESS. I do not propose speaking on this subject, but I desire to ask the Senator from Maine, if he denies all power on the part of the Government of the United States over this subject, how he reconciles the statute of 1799, which has been quoted by the Senator from Massachusetts, which gave a joint power. I should like to hear the Senator upon the exercise of that joint power.

Mr. MORRILL. The answer to that suggestion is that the statute does not propose to give a joint power. If the Senator will look at that statute he will find that the power of the United States is subordinated to the power of the States. It simply authorizes the Secretary of the Treasury to do an act in cooperation with the States, and that implies no joint power, but it implies a subordinated power.

Mr. SUMNER. It is a concurrent power.

Mr. MORRILL. No, not a concurrent power. It is in aid of the States. Anybody can aid. That is not an assumption of power.

Mr. SUMNER. That is a concurrence.

Mr. MORRILL. It is simply in aid of the States.

Mr. CONNESS. Now, how may a party having no right to exercise a power aid in that power, or perform a part of it rightfully, when it has not the right or the power to perform the whole of it? I should like to hear the Senator on that point.

Mr. MORRILL. I think the answer to that is quite obvious, that the Government of the United States did not claim the right to exercise the power concurrently. It might offer to do an act which might prove to be acceptable to the State. That would not be offensive, and that was precisely the character of the act of 1799, as I understand it.

Now, what I am undertaking to demonstrate is that the quarantine power which the States exercise is a police power, belongs exclusively to the States, has been so regarded from the earliest period. What is a quarantine? What is the right of quarantine or the power of quarantine? It is simply to say that a vessel on its way to a particular port, destined to a particular port, must not land, must tarry at a given point for a certain period of time, until an opportunity has been given to the local authorities to inspect the condition of the vessel, to see whether it is dangerous to the public health for it to land. That is the power. That power is internal; that power is police; that power is entirely independent of the commercial power and has so been settled in repeated instances. In the license cases that question was elaborated at very great length and it was settled distinctly that the police power existed independent of the power to regulate commerce, and was exclusively in the States.

Now let me call the attention of the honorable Senator from Massachusetts as to the condition of affairs in his own harbor. Quarantine regulations exist in the harbor of Boston by the power of the city. Did anybody ever question it? The Supreme Court of the United States have said they properly exist and that they are exclusively within the power of the State government, and the General Government, under its power of commercial regulation, has no right to interfere with them. Here is a circular in which the surgeon general of that State says:

"By the general statutes of this Commonwealth.

quarantine regulations and other matters relating to the public health are solely under the direction and control of the various municipalities of the State."

That is true of Boston, and true of every other city in the country where these regulations have been made. Now, here is a more elaborate statement of the same principle in the regulations of the Board of Health of the city of New York, where they say:

"It shall be the duty of the said board to give all information that may be reasonably requested respecting any threatened danger to the public health to the health officer of the port of New York and to the commissioners of quarantine of said port, who shall give like information," &c.

Showing that under the regulation of the States the very powers which are claimed to be exercised by this measure and to be conferred upon the Secretaries of War, Navy, and the Treasury, are exercised and have been exercised from the earliest period by the authorities of the States, and are said to have been properly exercised by the decisions to which I have referred.

If anything could make this more plain, and show, I will not say the absurdity, but the questionable propriety of this power, it is the second clause of the first section:

2. That he shall also enforce the establishment of sanitary cordons.

I ask my honorable friend from Massachusetts if he will undertake to say that the establishment of sanitary cordons is the exercise of a commercial power.

Mr. SUMNER. Under the circumstances, clearly yes.

Mr. MORRILL. Well, what is a sanitary cordon? What is the literal definition of it? Has it anything on earth to do with commerce? What is the establishment of a sanitary cordon? The literal meaning of it is a military post. That is the definition. It is a post established by the military power of the Government for sanitary purposes.

Mr. SUMNER. "Sanitary cordon" is a sanitary line.

Mr. MORRILL. Drawn by whom?

Mr. SUMNER. Drawn by the Government.

Mr. MORRILL. Drawn by the military authority of the Government and maintained by the military power of the Government.

Mr. SUMNER. A sanitary cordon under this joint resolution would be a line drawn according to the requirements of this resolution. It would not be under the military power of the Government, but under the commercial power attaching to passengers.

Mr. MORRILL. A military cordon is established on the frontier by the military power of the Government to prevent the intercommunication of the people one way and the other for fear of contagion. That is the definition of it; that is the interpretation, and that is the history of it. Now, is there commerce in that? Does that invoke the commercial power? It is simply police; it is an establishment on the frontier of a State for the protection of the public health. That is what it is; nothing more nor less. It comes within the police power, and that police power is exclusively in the States.

Mr. HOWE. Will my friend allow me to ask him whether such a regulation, such a line as that in the interior of a State, would not be just as much a sanitary cordon as one drawn on the frontier?

Mr. MORRILL. To prevent intercommunication between subordinate communities?

Mr. HOWE. Yes, sir.

Mr. MORRILL. I should say it would.

Mr. HOWE. I understood you to speak of the frontier.

Mr. MORRILL. I did not mean frontiers of independent nations, but between any distinctive communities. But would the Senator from Wisconsin, or the Senator from Massachusetts say that the General Government had a right to establish sanitary cordons throughout the States, between the several counties, towns, and cities? That is the principle of this bill. That is so purely local and so purely within the police regulations of the States that I hardly think the argument would be

attempted to be pushed so far. I do not wish to say any more about it.

Mr. HOWE. I am not going to argue this question at any length. I care but very little whether this bill pass or not. I do not think it a very important matter whether the United States assume the exercise of the power which is asserted in this bill or not at the present juncture. I think it of immense importance that the United States should not admit that they have not the power which is asserted here. The newspapers say this morning that two vessels in the harbor of New York are lying at anchor under the quarantine regulations of that city with cholera on board. Those two vessels are not said to be American vessels, but I assume that they are stamped with the national authority, sailing the seas by the national permission, bearing the national flag. They have been brought to anchor, not in the port to which they were destined and where they wish to unload, but short of that; and the question which I wish should not be lost sight of is, where resides the authority to bring those two national ships to anchor, to stop them on their route short of their point of destination?

My friend from Maine says it is in the city of New York if they are bound to New York, or it is in the State of New York if they are bound to a harbor in New York. This bill asserts, I think in terms, that it is in the nation, that by no authority short of that can they rightfully be stopped. That we have conceded the exercise of this power for sanitary purposes to the different municipalities or the different States, from the foundation of the Government, I suspect is true. I do not know that there has been any departure from it. The nation has not seen fit to assume the responsibility of taking this sanitary interest under its care, has permitted the exercise of this power to the several States and municipalities; but that the Constitution leaves it to them, I do not believe, Mr. President, at all. That the Constitution does not give it to us, to the national authority, I never can be made to concede. It is the exercise of a very high prerogative, striking at the very freedom of all our commerce, for the power which can stop one of your vessels on her route a hundred feet from the dock to which she is destined and where she wants to unload—wherever you find the power that can do that, you find the power that can arrest every one of the ships belonging to your commerce. If you say that it is in the several States, your power to regulate commerce, for which as much as for anything you formed this Government, is the merest bagatelle in the world; it is worth nothing.

As I said before, I do not care whether we assume the responsibility now at this juncture or not. The Senator from Pennsylvania [Mr. COWAN] told us the other day, as if with authority, that it is entirely useless, that this disease, cholera, is not contagious, is not infectious, cannot be fenced up, and it is useless to attempt it. I do not know how that is. I am not a medical man. I do not know but that medical authorities are disagreed upon it; I believe they are. This proposition says nothing more than that the several officers named shall be a board of commissioners to take the control of this matter. If they are instructed or shall become satisfied that this disease is not contagious, is not infectious, is not portable, that there is no danger to be apprehended from it growing out of our commercial relations with other countries, then I think we ought in the interests of our commerce to say to the municipal authorities of New York and of every other city, "You must not stop the national ships on the highways, let them come to their regular docks, and let them be discharged in the due course of their business." We ought to relieve them from that embarrassment. We ought to make up our minds to one of two things, either that this is a national enemy, to be guarded against, to be shut out, or that it is not a national enemy, and therefore relieve our commerce from all disabilities and all burdens by reason of it.

Mr. CHANDLER. I hold in my hand a very able document prepared by distinguished physicians and surgeons who have had great experience in regard to the cholera, from which I shall merely read an extract or two, as I do not wish to occupy the time of the Senate, my desire being to get a vote. In this paper they give a number of instances showing the character of the disease. Let me read from it:

"The ship *Swanton*, from Havre, arrived at New Orleans on the 11th of December, 1848, nine days after the New York arrived at Staten Island, with two hundred and eighty emigrants on board. Thirteen passengers had died with cholera on the passage. No quarantine was instituted, and the ship came to the wharf. The day after the arrival of the passengers in the city the cholera broke out and became epidemic.

"The *Atlanta*, from Havre, arrived at New York on the 22d of November last, with a large number of German emigrants; many had died of cholera on the passage. The disease was confined exclusively to the steerage passengers. A strict quarantine prevented the introduction of the disease into the city.

"It will be recollected that the steamship *England* put into Halifax on the 9th of last month with some twelve hundred passengers and a crew of one hundred men, with a large number of German passengers who had come from places infected with cholera; one hundred and sixty cases of the disease occurred on board, and fifty deaths during the passage. Owing to strict quarantine at Quebec, the disease was checked there, and the ship is now at quarantine in New York, the passengers having been landed after undergoing the usual quarantine."

The cholera has been in New York harbor since the 2d day of last November, six months and a half, all the time, and it has never yet landed. There was one case of what was called sporadic cholera, produced by circumstances connected with that particular case, but not a single case of Asiatic cholera has landed. The Senator from Vermont [Mr. EDMUNDS] brought a very important fact to the knowledge of the Senate the other day in his remarks, and that was that by a strict quarantine in the Italian ports the cholera passed by the whole of Italy, and was finally introduced into Italy across the Alps from France, where the quarantine was not so strict.

It is an old saying that those who know nothing fear nothing. I happen to know just enough of cholera to desire to keep it down in New York bay if we can. I do not know that quarantine regulations will keep it there, but having kept it there for six months and fourteen days I hope they may keep it there for six months and fourteen days longer.

The object of this measure is to establish a uniform system of quarantine. The cholera has been held in New York harbor by the New York quarantine laws. There are no quarantine laws in New Jersey, and it could be landed to-morrow morning, and spread through New Jersey, and brought into New York through Jersey City but for the care and vigilance of the New York quarantine officers. In Boston there are no quarantine laws, and the Bostonians have sent a circular asking shippers to bring their ships to Boston because there are no quarantine laws there, and no trammels upon commerce. It is well known to all that it is utterly useless to enforce a strict quarantine in New York and leave all the adjacent ports open. If the cholera were to land in Boston it could be transported to New York in eight hours. If it were to land in Jersey City it could be transported there in thirty minutes.

The object of this measure, as I have said, is to establish a uniform system of quarantine, and I simply ask for a vote upon it. I believe that if the disease has been kept in New York harbor for six months and fourteen days without landing, it may, under a rigid system of quarantine, be kept there longer and perhaps forever. But, sir, suppose through our non-action, or through our injudicious action, the cholera should land and a hundred thousand lives be lost, I certainly should feel that there was a weight of responsibility and of guilt resting upon me if I did not press this measure for favorable action by the Senate. I now simply ask that a vote may be taken and the proposition adopted.

As to the question of the constitutional right and power of this Government in the premises, while I do not question the sincerity of my

friend from Maine and others who see a constitutional obstacle to passing a railroad or a quarantine bill, I have no such difficulties and apprehensions as they seem to entertain. I do not think we shall injure the Constitution if we keep out the cholera, and I hope the Senate will pass the resolution in the form proposed by the Committee on Commerce.

The PRESIDENT *pro tempore*. The Chair has received a communication from a very eminent gentleman of the medical faculty on this subject, which, if there be no objection, the Chair will have read.

The Secretary read it as follows:

NEW YORK, May 11, 1866.

DEAR SIR: In the reported proceedings of the Senate I have noticed the recent introduction of a joint resolution authorizing the establishment by the Secretaries of War, the Navy and the Treasury, of a uniform system of quarantine to avoid the introduction of Asiatic cholera through our ports of entry. I respectfully ask permission to suggest a modification of, or an addition to, the proposed measure, in order to reach the root of the evil, and prevent the occurrence of the disease in question on board passenger ships, whereby not only the necessity of subjecting them to quarantine may be greatly diminished, but likewise the lives of the passengers saved.

It is believed to be the unanimous opinion of those members of the medical profession on both sides of the Atlantic who have studied the habitudes of this disease that the circumstances which favor its development are peculiar and well understood, and that to a great degree they are identical with those provocative of typhus fever, (known as ship fever when occurring at sea,) and that both these diseases are as clearly preventable under the rigid enforcement of the laws of hygiene as is small-pox by vaccination.

Numerous instances might be cited to prove that this result is attainable, but I will here refer to but one fact to show how completely dependent is the sanitary condition of emigrant passengers upon the supervision and conduct of the ship's officers. By a report on quarantine made to the British Parliament by Lords Carlisle and Ashby, and two of England's most eminent sanitarians, Edwin Chadwick and Dr. Southwood Smith, we learn that under the system of convict transportation to New South Wales, which prevailed prior to 1801, the contractors were paid for each passenger embarked on board their ships. It being thus their interest to receive the largest possible number, the passengers were admitted without reference to their comfort or health, and the neglect of their sanitary necessities produced a mortality of from thirty-three to fifty per cent. Yet we are told there was no omission palpable to common observation, or that could be distinctly proved as matter of crimination to which responsibility might be attached. The attention of the authorities being at length aroused to the subject, an alteration was made in the terms of the contract, by which payment was to be made only for those landed alive, instead of for all those embarked.

The effect of this change was the immediate employment of competent men and the thorough application of suitable hygienic measures, whereby the mortality was reduced to one and a half per cent.

The two emigrant vessels recently arrived at this port, namely, the *Virginia* and *England*, presented equally striking illustrations of the evil effects of the neglect of sanitary measures. With their great overcrowding and disregard of ventilation, disinfection, and cleanliness, ship fever or cholera was the inevitable consequence, which no sensible person can doubt might have been wholly avoided by the exercise of proper precautions, to the saving of hundreds of lives, as well as obviating the necessity of quarantine.

To prevent, therefore, the introduction of cholera by vessels, the vessels themselves and all their contents need but to be kept under the constant supervision and control of sanitary law.

Further information on this grave topic with regard to the necessities of the case and the means of relief may be had by consulting the report of the select committee of the Senate on "the sickness and mortality on board emigrant ships," Thirty-Third Congress, first session, No. 386, August 2, 1854.

It is greatly to be regretted that in the discussions relating to and the enactment of laws for the suppression of epidemics by quarantine, &c., too little attention is given to that most valuable feature of sanitary science and practice, the prevention of disease. I would therefore respectfully suggest that in the resolution referred to, power should be given to enforce such regulations on all passenger vessels as may be deemed essential to this important end.

Very respectfully,

JOHN H. GRISCOM, M. D.

Hon. LA FAYETTE S. FOSTER,
President of the United States Senate.

P. S. I observe by this morning's paper the probability of the failure of the joint resolution. In that event it is earnestly to be hoped that some measure may be adopted by Government, independently of quarantine, for the enforcement of sanitary regulations on shipboard, it being demanded by science, by humanity, and by the best interests of the country. Recent improvements in all matters pertaining thereto will greatly facilitate their application.

JOHN H. GRISCOM.

The PRESIDENT *pro tempore*. The question is on the amendment proposed by the Senator from Massachusetts [Mr. SUMNER] to

the amendment reported by the Committee on Commerce.

Mr. GRIMES. What is the amendment to the amendment? I should like to hear it read.

The Secretary read the amendment to the amendment, which was in line three of the amendment of the committee, to strike out the word "War" and insert "the Treasury;" in line four, to strike out the words "the Navy" and insert "War;" and in line five to strike out the words "Treasury, whose concurrent action shall be directed by the Commander-in-Chief of the Army and Navy," and insert "Navy, under the direction of the President of the United States;" so that the amendment will read:

That it shall be the duty of the Secretary of the Treasury, with the cooperation of the Secretary of War and the Secretary of the Navy, under the direction of the President of the United States, to adopt an efficient and uniform system of quarantine against the introduction into this country of the Asiatic cholera through its ports of entry whenever the same may be threatened by the prevalence of said disease in countries having direct commercial intercourse with the United States.

2. That he shall also enforce the establishment of sanitary cordons to prevent the spread of said disease from infected districts adjacent to or within the limits of the United States.

3. That said Secretaries are hereby authorized to use the means at their command to carry out the foregoing provisions.

4. That it shall be the duty of the Secretary of State to open a correspondence with the foreign Powers whose proximity to the United States will endanger the introduction of Asiatic cholera into this country through their ports and territory, soliciting their cooperation with this Government in such efforts to prevent the introduction and spread of said disease: *Provided*, That this resolution shall continue in force from its passage until the second Monday in December, A. D. 1866, and no longer.

The amendment to the amendment was agreed to.

The PRESIDENT *pro tempore*. A verbal amendment was proposed by the Senator from Vermont, [Mr. EDMUNDS,] striking out the word "he" in the twelfth line and inserting "they," to make the language correct, so that it will read, "that they shall also enforce the establishment of sanitary cordons," &c. That correction will be made if there be no objection. The question now is on the amendment as amended.

Mr. MORRILL. On that question I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HARRIS. I move further to amend the amendment by striking out in line three the words "it shall be the duty of" and inserting after the word "Treasury" in the same line the words "shall be authorized in aid of the State or municipal authorities;" so that it will read:

That the Secretary of the Treasury shall be authorized, in aid of the State or municipal authorities, with the cooperation of the Secretary of War and the Secretary of the Navy, under the direction of the President of the United States, to adopt an efficient and uniform system of quarantine, &c.

It will be perceived that the object of my amendment is, instead of authorizing directly these Federal authorities to take this whole matter into their hands to the exclusion of the State authorities, to provide that they shall act in aid of them and in cooperation with them. It is, in effect, authorizing the General Government, as it was in the resolution that came from the House of Representatives, to aid the State and municipal authorities in enforcing their quarantine.

Mr. CHANDLER. I will ask the Senator if he understands his amendment to authorize them to act where the State or municipal authorities do not act. The object of the committee's amendment is to enable them to act where no action is taken by the State or municipal authorities. Unless the Senator's amendment gives that power, it does not effect the object contemplated in this measure. I hope the amendment will not be adopted unless it does give that power. The expectation is that they will act in aid of the municipal authorities, but we wish to give them the power to act where the municipal authorities fail to act.

Mr. HARRIS. I prefer the original resolution as it came from the House of Representatives, and the amendment that I have offered

substantially accomplishes the same thing. If Senators have a preference for the proposition reported by the Committee on Commerce, I desire to insert this feature of the original resolution in the committee's amendment. My preference would be to vote down their amendment and adopt the resolution as it came from the House.

Mr. CHANDLER. I hope that will not be done.

The amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment reported by the Committee on Commerce, on which the yeas and nays have been ordered.

Mr. HENDERSON. Before the vote is taken I wish to say that in voting against this amendment of the committee I do not desire to negative the power of Congress on this subject. I have heard no complaint against State laws on the subject of quarantine in this discussion, and I think it altogether likely that the quarantine regulations now established by the different States and the different cities are much better than would be established in the course of any short time under this act of Congress. The difficulty will be that, needing the quarantine immediately, in overthrowing those very excellent quarantine regulations at New York and other points, we may, in the conflict of jurisdiction, fail to get any good quarantine regulations at all. I have heard no complaint against those regulations. Gentlemen have urged none that amount to anything. If I understand it properly, the regulations of New York are perhaps superior to any regulations ever established in this country. They are the most perfect that can now be established; and inasmuch as we need the benefit and advantage of an establishment of this character at present, and will need it for the next few months, I think it better not to interfere with it. In case of the passage of the amendment I am very well assured that we shall have a conflict in jurisdiction. It is not necessary to bring about that conflict if the States are doing their duty; and it is reasonable to suppose that they will not do their duty? In the protection of their own citizens against the ravages of this disease they will necessarily have to protect the interior of the country.

Within the last few minutes I have referred to the legislation of Congress on this subject. In 1796 Congress passed the following act:

"That the President of the United States be, and he is hereby, authorized to direct the revenue officers and the officers commanding forts and revenue-cutters to aid in the execution of quarantine, and also in the execution of the health laws of the States, respectively, in such manner as may to him appear necessary."

Afterward, in 1799, a similar act was passed. The officers of the United States were directed simply to aid the officers of the States and to carry out the quarantine regulations adopted by them. In 1832, when we were threatened with the cholera, Congress passed another act, not assuming any jurisdiction over the subject at all, but carrying out the views entertained in 1796 and also in 1799. That act, passed on the 13th of July, 1832, is in the following words:

"That if in the opinion of the Secretary of the Treasury the revenue-cutters, revenue-boats, or revenue officers, employed or authorized to be employed for the purposes of the revenue, should be sufficient to aid in the execution of the quarantine and health laws of any State or the regulations made pursuant thereto, the said Secretary may cause to be employed such additional revenue-boats and revenue officers as he may deem necessary for that purpose, the said revenue-boats to be of such size and description as he may see proper. This act to continue in force until the 4th of March, 1833."

That was in 1832, when surely we were threatened much more imminently with the ravages of this disease than we now are.

Mr. CHANDLER. I should like to ask the Senator from Missouri if the quarantine regulations of 1832 proved perfectly satisfactory to him and efficacious in preventing the landing and spread of the cholera.

Mr. HENDERSON. That was rather be-

fore my day. I do not like to confess that I know much about the quarantine regulations of that time. But, sir, I have failed to find any legislation of Congress on this subject except in aid of the State laws in 1832 and 1833. All the legislation of Congress from the origin of the Government down to the present time, so far as I have been able to find, has been simply in aid of State laws, and even when we were threatened with the worst forms of disease, cholera, yellow fever, and other diseases, Congress has never undertaken to interfere with the State regulations. The Senator will find no legislation assuming jurisdiction over this subject. I do not pretend to say that Congress has not the power. In fact, like the Senator from Wisconsin, I say what I am now saying before I vote on this subject because I shall vote against the amendment, and I desire to say this much in order to declare that I believe Congress has the power. I believe they have full and entire power. The Senator from Michigan is correct on that subject.

But if we, on account of the fact that we are now threatened with the appearance of this disease among us, when the States, for the protection of their own citizens, have adopted the most perfect system, as I understand, of quarantine, undertake to assume jurisdiction over it on the recommendation of a few physicians who perhaps—I do not pretend to say that such is the fact—may be interested in putting themselves prominently forward as the champions of some new system of quarantine, may it not produce danger and difficulty, and, in fact, aid in the dissemination of the disease instead of preventing it? Under the circumstances I think it is better to vote down the amendment and to adopt the joint resolution as it came from the House. If we do anything on this subject, let us assist the States. If any reasonable complaint exists against the quarantine regulations of the different States, if it be probable or possible that they have neglected to protect their own citizens, and in consequence of this neglect the disease may spread into the interior of the country, then, perhaps, it may be necessary for us to adopt some regulation to protect citizens in the interior, when those upon the sea-board will not protect themselves; but I can scarcely think it possible. We have now State governments in all the States. They have one in Louisiana; they have one in South Carolina; they have one in each of the different States; and will they not go to work to protect themselves? I think, under the circumstances, we had better let the State regulations stand; and if we do anything whatever, our officers whom we appoint here can make such suggestions to the State Legislatures, perhaps, as may induce a better system of legislation than they have. I think it, therefore, much better to take the original resolution that came from the House and not to assume at present a jurisdiction which I admit we possess, but which will bring about a conflict and perhaps destroy any good and perfect system of quarantine.

Mr. CHANDLER. I admit that the quarantine at New York has been efficacious, and there is no intention or expectation that the Government will interfere where the quarantine is efficacious. The object of this measure is to make it uniform; that where the States or municipalities have failed to do their duty, the General Government shall have the power to step in and compel its being done. It is absolute.

I shall vote against the House resolution as it came to this body, because it is totally inefficient. It is utterly useless to have even a very efficient system of quarantine in New York harbor if there is no quarantine at all in New Jersey. It is absolutely useless to have an efficient quarantine in New York and fail to have it in Norfolk, because it is well known the moment the cholera lands it spreads. It may come into New York the back way, as it came into Italy across the Alps. No one who has ever been in Italian cities will say they are not more liable to the ravages of cholera than the

cities in France. Take Naples, that actually breeds the material that furnishes victims for the cholera; and yet the cholera passed by Naples and landed at Marseilles; it passed Genoa and Rome and all the Italian cities, and was finally brought from Marseilles across the Alps into northern Italy. If we keep the cholera out of New York and let it land in Philadelphia, or if we keep it out of New York and let it land in Boston, there is no use of keeping it out of New York. The object of the proposition reported by the committee is—and I shall vote against any measure that does not give that power—to make the quarantine uniform throughout the United States, or place it in the power of the Secretaries to make it so. I hope the amendment of the committee will be adopted as it stands. If it should be defeated, I shall vote against the House resolution, because I do not deem it of any sort of consequence whatever.

Mr. HENDERSON. I desire to ask the Senator if he thinks the system of quarantine ought to be uniform throughout the United States. What is a perfect system of quarantine in one State may not be so perfect in another. This very uniformity of which he speaks would be a great objection to any system of quarantine.

Mr. CHANDLER. The language here is, that they shall adopt a "uniform and efficient system of quarantine."

Mr. HENDERSON. Then the inhabitants of the district are the best judges in regard to that. What may be a very perfect system at New York will not be so at New Orleans, and what may be perfect at New Orleans will not be so at New York, because these ports are differently situated.

Mr. CHANDLER. Are you not willing to trust this board with that power?

Mr. HENDERSON. I think we can trust the States a great deal better.

Mr. GRIMES. I have got a little light from what the Senator from Michigan has now said, in addition to what he has bestowed on the Senate on former occasions on this subject, and I should like to have a little more. I understand him to say it would be useless to establish quarantine at New York and not to establish it at Norfolk or Boston.

Mr. CHANDLER. If they have no quarantine there.

Mr. GRIMES. I want to know of the Senator if it is proposed or contemplated by the Committee on Commerce, who reported this amendment, or by himself as its chairman, that this quarantine shall be established simultaneously at New York, New Orleans, Boston, and all along the coast.

Mr. CHANDLER. Does the Senator desire an answer now?

Mr. GRIMES. Yes, sir.

Mr. CHANDLER. We do not expect that there will be any interference. We believe that these three gentlemen are men of common sense, and where they find an efficient system they will not interfere with it. Where there is no quarantine, and a ship comes in infected with the cholera, and we have a national ship or a revenue-cutter there, we expect this board will, at the very earliest moment, take measures to quarantine that ship, whether it be at Norfolk, New Orleans, or anywhere else.

Mr. GRIMES. I understand, then, that the Senator from Michigan does not contemplate, although this proposition would authorize them to do so, that this board will interfere with the quarantine regulations now established at the harbor of New York.

Mr. CHANDLER. Not at all.

Mr. GRIMES. But that inasmuch as he tells us there is no quarantine established at Boston, this board will at once close up the harbor of Boston, appoint its various officers, pay them such salaries as are probably paid to quarantine officers now at New York, although there may be no cholera there or any anticipation of the cholera coming. I merely wish to learn from the Senator from Michigan whether I apprehend him correctly.

Mr. CHANDLER. Do you wish an answer now?

Mr. GRIMES. Any time that will suit the convenience of the Senator.

Mr. CHANDLER. I desire to give all the light I can to the Senator from Iowa. In case a ship should come into Boston with the cholera on board, and one of his fleet or one of mine should happen to be there, I suppose either the Secretary of the Treasury or the Secretary of the Navy would order that ship to hold the vessel at quarantine instead of permitting her to land at the dock. As for dismissing any officers or appointing a board of health with salaries, and all that sort of thing, I do not expect them to do it; but I expect that they will enforce a quarantine, even should the citizens of Boston fail to enforce one.

Mr. GRIMES. I understand from what the Senator now says that so far as the city of Boston is concerned, taking that as an illustration, it is merely accidental whether anything will be done there or not. If a vessel having the cholera on board comes in there, and there happens to be a revenue-cutter or a ship-of-war there, she will take charge of it; but suppose there should not happen to be a naval vessel or a revenue-cutter there; then what?

Mr. CHANDLER. I have not gone through all the details of what might occur. I suppose I could imagine eight or ten thousand cases that might occur, but which may never arise, that I am not prepared now, at a moment's notice, to decide; but I infer that the three gentlemen named, or even the Senator from Iowa and myself and some other gentleman, were we put in charge of this matter, would adopt what seemed to be the best and most efficient system that we could, under the circumstances of the case that might arise.

Mr. GRIMES. I think enough has been said to satisfy the Senate that this measure proceeds upon this idea, and this idea alone, that the commission to be created by this resolution shall immediately proceed to organize, in anticipation of the advent of the cholera; that there shall be quarantine officers established at Boston, at Philadelphia, at Baltimore, and at Norfolk, whether there is any cholera there or not; and it must be so if you are going to have a uniform system; and I understand that that is the spirit of the resolution. The Senate can see what a vast machine this is going to be, if we are to establish a uniform system for every harbor on the coast of the Atlantic, every harbor on the Gulf of Mexico, and every harbor on the coast of the Pacific, all to be controlled by a central power here at Washington that cannot by any possibility be correctly informed as to the particular local circumstances attending each of those points where the quarantine is to be established.

Again, the Senator says that they do not intend to interfere with any quarantine already established.

Mr. CHANDLER. Which is efficient.

Mr. GRIMES. Which is efficient. Suppose this board should decide that the quarantine established at New York is not efficient; then, I suppose, they are to overturn it. Is not that the idea of the Senator?

Mr. CHANDLER. They have the power under this proposition.

Mr. GRIMES. And it is the intention that it shall be overturned, I take it.

Mr. CHANDLER. No, sir.

Mr. GRIMES. Not if it is not efficient?

Mr. CHANDLER. But it is efficient.

Mr. GRIMES. But suppose the Secretaries of War, of the Treasury, and of the Navy, here at Washington, influenced by such influences as may be brought to bear from New York upon them, are satisfied that it is not quite as efficient as they think it ought to be, as another set of doctors not in command there think it ought to be; then it is the duty of these departmental officers to overturn that system, as I understand it. I understand the Senator from Wisconsin, [Mr. Howe,] who advocates this measure, to assent to that proposition. Now, it will at once be observed that if they

do not overturn it you are not going to carry out the provisions of the law which requires it to be uniform, unless they adopt the New York system. Thus you make the system that has been established at New York the system that shall be established at San Francisco and New Orleans, in a different sort of climate and under different circumstances, and that carry on a different sort of commerce with altogether different ports in the world. Under the provisions of the amendment reported by the Committee on Commerce, you have either got to overturn the system they have in New York, or else you have got to establish the New York system as a sort of Procrustean bed upon which all the other establishments in the United States, on both sides of the continent, shall be built up; for the law expressly requires that the whole system shall be uniform throughout the United States, on your northern coast in Minnesota, and on your southern coast in Texas.

Mr. CHANDLER. The Treasury has agents in every exposed port to-day; the Navy has a great many agents; the Secretary of War a great many agents. The Senator, of course, can imagine anything. There are great powers contained in this measure, I admit, but it is not anticipated that those powers will be abused. I do not anticipate it, and I do not think the Senator from Iowa does. It is true under the powers contained in this proposition abuses might grow up. It is a temporary measure, which is to terminate on the second Monday in December next. It is expected that the present existing agencies of the several Departments will be instructed to adopt certain measures, and if it be necessary to appoint other agencies they will be appointed. However, I do not deem it necessary to answer the Senator from Iowa. I simply ask for a vote on this proposition.

The PRESIDENT *pro tempore*. The Chair will put the question the moment the debate is terminated. The question is on the amendment reported by the Committee on Commerce as a substitute for the original resolution.

The question being taken by yeas and nays, resulted—yeas 17, nays 19; as follows:

YEAS—Messrs. Chandler, Conness, Cragin, Edmunds, Howard, Howe, Morgan, Nesmith, Nye, Poland, Pomeroy, Ramsey, Stewart, Sumner, Wade, Wilson, and Yates—17.

NAYS—Messrs. Buckalew, Clark, Davis, Dixon, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Kirkwood, McDougall, Morrill, Norton, Riddle, Sprague, Van Winkle, and Wiley—19.

ABSENT—Messrs. Anthony, Brown, Cowan, Creswell, Doolittle, Johnson, Lane of Indiana, Lane of Kansas, Saulsbury, Sherman, Trumbull, Williams, and Wright—13.

So the amendment was rejected.

Mr. CHANDLER. I now move to lay the joint resolution upon the table, and ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 15, nays 23; as follows:

YEAS—Messrs. Chandler, Conness, Edmunds, Howard, Howe, McDougall, Nesmith, Nye, Poland, Pomeroy, Ramsey, Sumner, Wade, Williams, and Yates—15.

NAYS—Messrs. Buckalew, Clark, Cowan, Davis, Dixon, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Kirkwood, Morgan, Morrill, Norton, Riddle, Sherman, Sprague, Stewart, Van Winkle, Wiley, and Wilson—23.

ABSENT—Messrs. Anthony, Brown, Cragin, Creswell, Doolittle, Johnson, Lane of Indiana, Lane of Kansas, Saulsbury, Trumbull, and Wright—11.

So the motion was not agreed to.

Mr. CHANDLER. I ask that the joint resolution as it came from the House, be now reported to the Senate.

The Secretary read the resolution, as follows:

Resolved, That the President be, and he hereby is, authorized to make and carry into effect such orders and regulations of quarantine as in his opinion may be deemed necessary and proper, in aid of State or municipal authorities, to guard against the introduction of the cholera into the ports of the United States; and the President is further authorized to empower the military and naval commanders in ports and places in the States that have been or are in insurrection to enforce such quarantine regulations as may be deemed necessary for the purpose of guarding against the introduction of cholera or yellow fever, and to provide for the proper care and treatment of patients. And such an amount of money as may be necessary to carry into effect this joint resolution is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. CHANDLER. It will be noticed that this joint resolution places extraordinary power, not in the hands of a board, but of one individual. It will be seen by the first line of it that the President is "authorized to make and carry into effect such orders and regulations of quarantine as in his opinion may be deemed necessary and proper, in aid of State or municipal authorities," and the last clause of it provides:

And such an amount of money as may be necessary to carry into effect this joint resolution is hereby appropriated out of any money in the Treasury not otherwise appropriated.

By this resolution you authorize Andrew Johnson, President of the United States, to appoint ten thousand agents to go anywhere and do anything that he may say is in aid of State sanitary regulations. I will not discuss so monstrous a proposition. I will not vote for it. It is an improper resolution. I was willing to intrust great powers in the hands of three men, in some of whom certainly I have great confidence, but I am not willing to intrust all powers in the hands of one man in whom I have no confidence without limitation as to the number of men who may be employed, or the amount of money that may be appropriated.

Mr. SUMNER. It is a monstrous proposition.

Mr. CHANDLER. Yes, sir, it is a monstrous proposition.

Mr. McDUGALL. Mr. President, in the person of whom the Senator from Michigan speaks I have great confidence, but notwithstanding that, in my judgment, this resolution is an unwise resolution. It is giving a power into the hands of the Federal Executive which, used with great wisdom, might be used well; but a power with which he need not be intrusted, and his being intrusted therewith will be, in my judgment, of no value for our safety against the contagions that some people think threaten us. I am of the opinion that cholera is the child of fear, and not the offspring of contagion. I am of the opinion that all this business can be best conducted in the localities where it is best understood. Suppose a contagious disease should come across the Pacific and approach our western shores, what would the President of the United States or his council know of it? Nothing. If it should come in many sections of the southern coast, what would they know of it? I say again, nothing.

The philosophy of this disease is not yet altogether understood among the most wise, the *savans* of the world. Men have their own speculations upon it. I have mine. I mingled with it in its first advent into the United States. I saw it face to face, and I saw it without fear, and therefore I did not get it. This thing of legislating against pestilences is more child's play, shooting child's arrows at the moon. In localities it is well that they, taking care of their particular localities, guard themselves; but for the Federal Government to undertake such administration is a piece of absolute folly. People seem to forget, and Senators seem to forget, that we are a nation embracing a vast continent; that in the details of physical economy the man who lives in Boston knows nothing of the condition of the men who live at St. Louis and New Orleans, and much less of those who live at San Francisco. To undertake to establish rules and regulations here, to be administered at the center of this Federal Government, with regard to physical economy, is absolute folly. Science has not grown so large as to be able to instruct men how to teach these things at such distances. It is my opinion that the States themselves who have the charge of their own domestic police (for this is but a police regulation, and the police government belongs to the States and not to the Federal Government) will be best able to ascertain what the immediate necessity demands and act upon it with prudence and not with this extended power.

If it be proposed by Senators to consolidate the Government and place it in the hands of one man, then I remember it has been said

that one man, a wise man, governing a nation is better than a nation governed by a multitude; but that is not our system of government, and it is not the way we were established formerly. This resolution, as it stands, places a vast power that may be handled simultaneously by the executive officers without limit, without restraint, and for what purpose God Almighty will know when the thing has been done. It is wrong in principle, and against the whole policy of our Government. The whole proposition is radically wrong.

I only advance these observations because it is well for us once in a while to recur to the principles upon which our Government is based.

Mr. HENDERSON. I move to amend the resolution by striking out all after the word "to" in the eighth line down to and including the word "patients" in the fourteenth line, and to insert the following:

Direct the revenue officers and the officers commanding forts and revenue-cutters to aid in the execution of such quarantine, and also in the execution of the health laws of the States respectively in such manner as may to him seem necessary.

Mr. CLARK. Why not insert "Secretary of the Treasury" instead of "President?"

Mr. HENDERSON. I have no objection. I will move also to strike out the word "President" in the third line and insert "Secretary of the Treasury."

Mr. CLARK. He has charge of the revenue-cutters.

Mr. HENDERSON. I do not see why we need put the military and the Navy in operation about this thing. There is no necessity for it.

Mr. CLARK. The Secretary of the Treasury is the proper officer to enforce this resolution.

Mr. HENDERSON. I have adopted the language of the act of 1796 in drawing this amendment. I will modify it by striking out the words "forts and" before the words "revenue-cutters." There is no necessity of requiring commanders of forts to assist in this matter. The revenue-cutters will be sufficient.

The PRESIDENT *pro tempore*. The amendment as modified will be read at the desk.

The Secretary read the amendment, which was in line three to strike out the word "President" and insert "Secretary of the Treasury," and in line eight after the word "to" to strike out the following words:

Empower the military and naval commanders in ports and places in the States that have been or are in insurrection to enforce such quarantine regulations as may be deemed necessary for the purpose of guarding against the introduction of cholera or yellow fever, and to provide for the proper care and treatment of patients.

And to insert in lieu thereof:

Direct the revenue officers and the officers commanding revenue-cutters to aid in the execution of such quarantine, and also in the execution of the health laws of the States respectively in such manner as may to him seem necessary.

So that the resolution will read:

That the Secretary of the Treasury be, and he hereby is, authorized to make and carry into effect such orders and regulations of quarantine as, in his opinion, may be deemed necessary and proper, in the aid of State or municipal authorities, to guard against the introduction of the cholera into the ports of the United States; and the Secretary of the Treasury is further authorized to direct the revenue officers and the officers commanding revenue-cutters to aid in the execution of such quarantine, and also in the execution of the health laws of the States respectively in such manner as may to him seem necessary. And such an amount of money as may be necessary to carry into effect this joint resolution is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The amendment was agreed to.

Mr. EDMUNDS. I offer the following amendment, to be inserted at the end of the resolution:

Provided, That the authority hereby granted shall expire on the second Monday in December, A. D. 1866.

Mr. CLARK. I suggest to the Senator to say the first Monday in January, 1867, so that it shall not expire until a month after Congress comes together again; and then, if it be necessary, we can renew it.

Mr. EDMUNDS. I will so modify the amendment.

The amendment, as modified, was agreed to.

The joint resolution was reported to the Senate as amended, and the amendments were concurred in.

Mr. HOWE. I shall occupy the attention of the Senate but a moment. I simply wish to call their attention to what they are probably going to agree to. They are going to put substantially the same power in the hands of the Secretary of the Treasury, and incur precisely the same obligations, as were proposed in the amendment that was reported by the committee. There is this difference: the plan, the system, the style of quarantine is to be agreed upon by the States or the municipalities, and the Government of the United States is simply to be commanded by these local authorities and foot the bills. I thought if we had to pay for the fiddling we ought to have the right to name the tune and call the figures, [laughter,] and so I voted for the amendment reported by the committee. I do not care to see the United States dancing to the tune of all these municipalities; and therefore I shall not vote for the resolution as it stands. If the Senate does, no doubt it will be all right.

Mr. CLARK. I think there is a great deal of difference between the resolution as it now stands before the Senate and the amendment as reported by the committee—a very great difference as to the power. The resolution, as it now stands, authorizes the Secretary of the Treasury, if in his judgment anything of that kind is required, to make such orders and regulations as he shall deem to be necessary for the purpose of aiding the quarantine in various places where it is not efficient; but the proposition reported from the committee required the Secretaries named to adopt an efficient and uniform system of quarantine from one end of the country to the other. There is a very great difference, in my judgment, between quarantining every port in the United States in a uniform way, and aiding the authorities in the different localities to do what is absolutely necessary. Suppose a ship should come into the port of New Orleans. Under the committee's proposition you would have to send to the Secretary of War and the Secretary of the Treasury and the Secretary of the Navy to establish a quarantine there. As the resolution stands at present, the inhabitants of the port establish their quarantine, and if it is not found to be efficient, or there is any regulation necessary, the Secretary of the Treasury makes his regulation, and asks the revenue officers and the revenue-cutters to enforce that quarantine. That is a very different matter from what was proposed in the committee's proposition.

Nor do I understand that by this resolution the General Government is dancing an attendance upon the State governments. I have no partiality or preference as to which shall go in the van. I understand the object to be to prevent the cholera from coming into the United States; and if, in any port, the State governments are not efficient, I have no objection to the national Government coming in to aid it to be done.

Mr. CHANDLER. It cannot be done under this resolution.

Mr. CLARK. The Senator from Michigan says it cannot be done under this resolution. I ask him why.

Mr. HOWE. I will answer the Senator, if he will permit me.

Mr. CLARK. I shall be glad to have the Senator answer.

Mr. HOWE. It is simply because if the city of New York adopt some quarantine regulations there, the General Government has the right, under your resolution as it now stands, if you pass it, to come in with her Treasury and pay the expenses of carrying out those regulations; and under those regulations a ship may be prevented, if she has cholera on board, from coming to the dock and spreading it; but if the city of Brooklyn sees fit not to adopt any such regulations the vessel can go over there and the United States cannot help herself.

Mr. CLARK. Allow me to suggest to the

Senator from Wisconsin that that does not answer my question. He does not answer the statement that I made.

Mr. HOWE. Then I did not understand the question.

Mr. CLARK. Then you should not have attempted to answer it.

Mr. HOWE. I thought I did understand it.

Mr. CLARK. I suggested that I had no objection to the General Government aiding the States, and the Senator from Michigan said that that could not be done, and I asked him why.

Mr. HOWE. I did not understand the question.

Mr. CLARK. I thought you did not.

Mr. HOWE. I plead guilty. I do not know that I was to blame for it altogether.

Mr. CHANDLER. I understood the Senator to say that where the States had no system, he did not object to the national Government enforcing a system.

Mr. HOWE. That is precisely the way I understood him.

Mr. CHANDLER. That is what I understood and what my colleague says he did say; and that is what I answered.

Mr. CLARK. The Senator will bear in mind and remember exactly what I was saying and the line of remark I was making, that I had no objection—the Senator from Wisconsin will remember it, because it was an allusion to a remark that he had made about the national Government dancing attendance on the State governments—that I had no objection to the national Government aiding the State governments. The Senator from Michigan says it cannot be done.

Mr. CHANDLER. I said it could not be done where no system was adopted by the local authorities.

Mr. CLARK. Let us see, Mr. President, whether it cannot be done. These gentlemen contend that the national Government have plenary power. That is the basis on which their proposition goes. Now, take it for granted that there is no quarantine in the State of New Jersey, and the Government have plenary power to establish it, why cannot the Secretary of the Treasury do it under this resolution by his revenue-cutters and revenue agents?

Mr. CHANDLER. Because the resolution does not give him the authority to do so.

Mr. HOWARD. They are to be used in aid of the State quarantine.

Mr. CLARK. To be used in aid of the States, not of a particular State. Where the States have failed to do it, then the General Government may do it.

Mr. HOWARD. Take a case where there is an utter absence of all such regulations on the part of the State, where the State has employed no force and no agency whatever in the shape of quarantine regulations; what power does this resolution give to the United States authorities to interfere in that particular State in any way on the subject of quarantine?

Mr. CLARK. If the Senator from Michigan is disposed to construe the language so technically, it is the easiest thing in the world to amend the resolution in that particular, and say, where the State fails to do it then the General Government may do it.

Mr. CHANDLER. That was the committee's proposition.

Mr. CLARK. I am entirely willing that the resolution should be amended in that particular, if Senators desire it, if that is the carping objection they make to it.

Mr. CHANDLER. That is the only difference between the two resolutions.

Mr. CLARK. The Senator from Michigan says that that is the only difference between the two resolutions!

Mr. CHANDLER. The chief difference.

Mr. CLARK. Pray, where did the Senator learn the English language or its force? The bill as reported from the Committee on Commerce overruled State legislation entirely, if the Secretaries chose to do so, to make the sys-

tem efficient and uniform everywhere. It seems to me that the measure as it now stands, with the amendment, if Senators desire the amendment to be added, would accomplish a great deal; it is a very different thing from what was reported from the Committee on Commerce.

Mr. MORRILL. I want to call the attention of my friend from Wisconsin [Mr. HOWE] to a single remark that he let fall. That Senator is always critical; he means to be just, I have no doubt, but when he says that this resolution provides for the payment of all the expenses incurred by the States in their systems of quarantine, touching this subject-matter, he is very wide of the mark, I beg to say. The Government by this measure does not propose to pay the expenses of the States for anything they may do for the protection of the public health in the States. The Secretary of the Treasury would not be authorized to pay the first shilling of the expenses of the local authorities. He is simply authorized to aid the States, and as much money as is necessary to pay for what the Government does is to be appropriated for that purpose for the aid it renders, not what the States do. We pay for the aid which we authorize the General Government to give; we do not authorize the Secretary of the Treasury to pay the expenses of the sanitary and health regulations of the States by any means. I suggest, therefore, to my honorable friend that his criticism, while it is a little harsh, is a little unjust.

Mr. HOWE. If I have done injustice to this resolution, I feel condemned. The man that would deliberately do injustice to such a resolution as this, I think would be unjust to cholera itself, for I do not know of anything more obnoxious in itself than the resolution except cholera, the naked and pure article.

Mr. President, I do not know but that I ought to accept without qualification the criticism of my friend from Maine. He says that the resolution does not intend that the Government shall pay for anything that the States do, but only for what the Government does in aid of the States. I guess it is a pretty correct statement; but how far it circumscribes my idea of the extent of the expenditure is a question to be considered. Grant that the national Treasury will only pay for what the nation does, how will the work be divided? The city of New York and the city of Boston and each of the other cities threatened with the introduction of cholera, will say "We want quarantine regulations; we want an officer here that shall command a ship coming from an infected port, into quarantine; that is what we want." That the State will do, and there will be no payment for saying that; but the Secretary of the Treasury will say to the collector or the deputy collector, or some health officer that he designates for that duty, "Take your stand there at the gateways of that port, and order all these vessels into quarantine as they approach;" and for that the national Treasury pays; for this service—

Mr. GRIMES. The detention of the vessel?

Mr. HOWE. For keeping the officer there, and whatever is necessary to put her into quarantine and detain her there. That is all the expense there is under any system, and that the national Treasury pays for; but for the mere head-work, for the mere application, for the simple decision of the port or city authorities adjacent to the port where they want these regulations established, there is no payment to be made and no expense incurred.

Gentlemen have inveighed a great deal against the danger growing out of the use of this word "uniform." What is the danger? What does it mean? It means nothing in the world more than that no matter to what port a vessel is destined, if she has cholera on board, she may be ordered into quarantine, or for the purpose of examination she may be stopped and searched. This is just as necessary in one port as another; and doctors say, and I believe, that it is of no sort of use in any port unless it be observed in all ports. It does not follow that there is to be a multitude of new officers em-

ployed under this bill, or under the amendment reported by the committee which you have rejected. Very likely the collector or deputy collector can exercise the power, and there is one everywhere where a vessel is authorized to unload; and very likely this officer himself is equal to the emergency. I do not know what regulations this board of commissioners would adopt; I do not know what regulations the Secretary of the Treasury would adopt. I only say that I was not very much in favor of the Government's taking this work upon its hands at all; and therefore I was not very much in favor of the adoption of the amendment reported by the committee. I voted for it mainly because I found so many here denying that the Government had any authority in the matter. I voted rather to assert the authority than because I wanted to have it exercised; but I am utterly opposed to our intervening at all under the direction of the several municipalities.

Mr. HENDERSON. If the Senator from Wisconsin will turn to the law that was adopted in 1799, and which has been referred to, I think he will see that at least Congress at that time supposed that it was altogether proper to pass a law similar to the one we now have under consideration, not for the purpose of making it the duty of the officers of the United States to carry out State laws and to bring about an expense upon the Treasury by so doing, but for the purpose of making it obligatory upon the Federal officers in the discharge of duties under the United States to obey those State laws. If I understand this resolution, it means nothing more and nothing less than that.

The Senator assumes that in all probability at New York they may have quarantine regulations, but that at the city of Brooklyn they may have none. That is presuming that the people of New York are willing that the cholera may enter into the State through Brooklyn, but not through the city of New York. Is such a presumption at all reasonable? We must rely something upon the people of the respective States.

The Senator complains that we leave it to the different cities to adopt any sort of quarantine regulations they choose, and we in this resolution make it the duty of the Federal officers to carry it out, and thereby entail an expense upon the Government. Let me ask if it is possible that any expense can come to the Government under this resolution. It authorizes the Secretary of the Treasury to employ the revenue officers in the execution of such orders as he may make upon the subject. I did not move to strike out that clause which appropriates whatever sum may be necessary, though I can see no use in it; but I submit to the Senator from Wisconsin whether it is possible that one dollar of expense can be entailed in the execution of this resolution. I cannot conceive that a dollar of expense can come upon the United States in consequence of it.

Mr. HOWE. Then strike out that clause, and close the Treasury.

Mr. HENDERSON. I have no objection; I did not put it there. In the amendment which I offered I made it obligatory upon the Secretary of the Treasury, in carrying out these regulations, to employ officers already upon duty, and who are receiving their salaries. Is it possible that it will be necessary to pay them additional salaries? I think not. The Senator is altogether mistaken when he supposes that under this joint resolution any additional expenditure can be made. I cannot conceive of anything of the sort.

The Senator asks, why, then, is it necessary to make it obligatory upon these officers to observe the quarantine laws of the States? I agree with him as to the supremacy of the laws of Congress, so that if under an act of Congress a ship is authorized when it comes to the port of New York to discharge its freight immediately it can do it independent of the quarantine laws of the State. What is the meaning of this resolution? It is to make the officers of the Federal Government obey the State

quarantine laws—to put it in the power of the Secretary of the Treasury to make it obligatory upon them to obey those laws and not to disregard them. The Senator from Wisconsin will recollect that there are laws, the revenue laws, which permit vessels, when they arrive at a port of the United States, within a certain time to land and discharge that freight in warehouses of the United States. Suppose that the law of the State of New York prohibits a vessel from landing there on account of the fear of contagious diseases; there is a conflict of jurisdiction at once; there is a conflict between the Federal law and the State law. Now, suppose that the collector of customs at New York city, obeying the Federal law, should order a vessel up into the port of New York, and order it to discharge its freight and passengers there against the quarantine laws of the State of New York, or of the city of New York, passed under State authority, the Senator will see at once that a conflict of jurisdiction would arise. The law of 1799 provides for a case of that sort. The idea there was to give the power to the Secretary of the Treasury to make the revenue collectors and all the officers in the discharge of Federal duties in the respective ports obey the quarantine laws of the States, and that is the only meaning of this resolution now. If gentlemen insist that there are some cities in the United States that have adopted no quarantine regulations, and that it is necessary that they should be adopted, an amendment may be added, but I do not think it is necessary. The people of Brooklyn, if cholera is to visit the United States, will guard and protect themselves against its introduction there just as efficiently as the people of New York. So will the people of New Orleans, the people of Richmond, the people of Portland, the people of New London, and the people of every other city. The first section of the act of 1799 is in these words:

"That the quarantines and other restraints, which shall be required and established by the health laws of any State, or pursuant thereto, respecting any vessels arriving in, or bound to, any port or district thereof, whether from a foreign port or place, or from another district of the United States, shall be duly observed by the collectors and all other officers of the revenue of the United States, appointed and employed for the several collection districts of such State respectively, and by the masters and crews of the several revenue-cutters, and by the military officers who shall command in any fort or station upon the sea-coast."

Suppose a military officer commanding there now should absolutely refuse to regard the quarantine laws of the respective States, ought there not to be some power vested in some officer of the Government to restrain and control those men and make them obey those quarantine regulations?

"And all such officers of the United States shall be, and they hereby are, authorized and required faithfully to aid in the execution of such quarantine and health laws, according to their respective powers and precincts, and as they shall be directed, from time to time, by the Secretary of the Treasury of the United States."

So the Senator will see that this resolution now is in perfect accordance with the law of 1799. The second section of that act provides:

"That when by the health laws of any State, or by the regulations which shall be made pursuant thereto, any vessel arriving within a collection district of such State, shall be prohibited from coming to the port of entry or delivery by law established for such district, and it shall be required or permitted by such health laws, that the cargo of such vessel shall or may be unladen at some other place within or near to such district, the collector authorized therein, after due report to him of the whole of such cargo, may grant his especial warrant or permit for the unloading and discharge thereof under the care of the surveyor, or of one or more inspectors, at some other place where such health laws will permit."

So the law now, instead of inflicting any expense upon the Government, only gives power to the Secretary of the Treasury to order the officers of the United States to conform to and assist in carrying out the laws that may be adopted in the respective States.

Mr. HOWE. The Senator either misapprehends the state of the resolution, or else I misapprehend the force of it. This power to direct the revenue officers is an additional power, a power in addition to the power given

by the first clause; there the Secretary of the Treasury is clothed with the authority to make orders and regulations.

Mr. HENDERSON. Let me ask the Senator if it is at all likely the Secretary of the Treasury will employ other officers than the officers of the Treasury already in the different ports of the United States in the execution of these quarantine laws? If so I am willing to limit his power; but I cannot imagine that the Secretary of the Treasury, already having command of the revenue officers in the different ports, will put the United States to any additional expense, but that he will employ the officers of the revenue-cutters in that way.

Mr. HOWE. My friend from Missouri and myself can end this controversy very suddenly, I think. Just make the resolution that it only authorizes him to employ the revenue officers in the execution of the local quarantine regulations, and shut up the Treasury, and I do not care how it is.

Mr. HENDERSON. Strike out the latter part of the resolution; that shuts up the Treasury.

Mr. HOWE. That shuts up the Treasury, but it does not cut out the first part.

The PRESIDENT *pro tempore*. The question is on ordering the amendments to be engrossed, and the joint resolution to be read the third time.

Mr. JOHNSON called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 27, nays 12; as follows:

YEAS—Messrs. Buckalew, Clark, Davis, Dixon, Doolittle, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Johnson, Kirkwood, Lane of Kansas, Morgan, Morrill, Norton, Poland, Pomeroy, Sprague, Stewart, Sumner, Van Winkle, Wiley, and Wilson—27.

NAYS—Messrs. Chandler, Conness, Howard, Howe, McDougall, Nye, Ramsey, Biddle, Trumbull, Wade, Williams, and Yates—12.

ABSENT—Messrs. Anthony, Brown, Cowan, Cragin, Creswell, Lane of Indiana, Nesmith, Saulsbury, Sherman, and Wright—10.

The joint resolution was read the third time, and passed.

Mr. HENDERSON. I desire to amend the title of this joint resolution, so as to read, "A resolution respecting quarantine and health laws." I think that would be a better title, and I move that amendment.

The title was so amended.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, its Chief Clerk, announced that the House of Representatives had agreed to the amendments of the Senate to the bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes.

The message further announced that the House of Representatives had passed without amendment the joint resolution (S. R. No. 88) authorizing the Secretary of War to grant the use of certain lumber for the fair for the Soldiers' and Sailors' Orphan Home.

The message also announced that the House of Representatives had passed a joint resolution (H. R. No. 134) relative to appointments in the Military Academy of the United States; in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolutions; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 310) to change the place of holding the courts of the United States for the northern district of Mississippi;

A joint resolution (S. R. No. 88) authorizing the Secretary of War to grant the use of certain lumber for the fair for the Soldiers' and Sailors' Orphan Home;

A joint resolution (H. R. No. 66) relative to the courts and post office of New York city; and

A bill (H. R. No. 397) to authorize the coinage of five-cent pieces.

ADMISSION OF COLORADO—VETO.

Mr. EDWARD COOPER, Secretary to the President of the United States, appeared below the bar and delivered the following message:

Mr. President, I am directed by the President of the United States to return to the Senate in which it originated, a bill (S. No. 74) entitled "An act for the admission of the State of Colorado into the Union," with his objections in writing.

APPOINTMENTS AND REMOVALS.

Mr. HENDERSON. I desire to call up a bill that I introduced a few days ago—Senate bill No. 315—to regulate appointments to and removals from office. I desire merely to call it up, with a view of referring it to the Judiciary Committee. The committee, I understand, meets to-morrow morning and I desire that it shall be referred to them for action.

The PRESIDENT *pro tempore*. The Chair will entertain the motion to commit.

The motion was agreed to.

PREVENTION OF SMUGGLING.

Mr. MORRILL. I call up the special order. The PRESIDENT *pro tempore*. That is now before the Senate, being Senate bill No. 222, to further prevent smuggling, and for other purposes.

Mr. HOWARD. I move to set aside all other orders and take up Senate bill No. 109.

Mr. FESSENDEN. I hope not. This is the special order which was laid over yesterday; and I want to take up some appropriation bills as soon as it is disposed of.

Mr. HOWARD. The bill to which I call attention has been up once.

Mr. MORRILL. This is the unfinished business of yesterday. We can soon finish it. The only question is on concurrence in some amendments.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan.

Mr. MORRILL. The Senator is not aware, perhaps, that this bill comes up as a special order and is now before the Senate.

Mr. CHANDLER. It can be finished in five minutes.

Mr. HOWARD. Very well. I withdraw the motion.

The PRESIDENT *pro tempore*. The bill (S. No. 222) further to prevent smuggling, and for other purposes, is before the Senate; and the question is on concurring in the amendments made as in Committee of the Whole, which were excepted out of the general scope of amendments that were concurred in. The first excepted amendment will be read.

The Secretary read the first excepted amendment which was in section four, line thirteen, to strike out the words "and the guilty knowledge of the defendant, when convicted of the fact, shall in all cases be presumed unless he or she prove the contrary" and in lieu thereof to insert the following:

And the *onus probandi* in cases of seizure shall lie upon the claimant where probable cause is shown for such prosecution, to be judged of by the court before whom the prosecution is had.

Mr. MORRILL. I should like to make a verbal amendment to which nobody will object, in that amendment, to use the phrase "burden of proof" instead of "*onus probandi*."

The PRESIDENT *pro tempore*. That correction will be made if there be no objection.

Mr. JOHNSON. I think there were two amendments proposed by the committee, one to strike out and the other to insert. I suppose they can be divided.

The PRESIDENT *pro tempore*. A motion to strike out and insert is not divisible.

Mr. JOHNSON. That seems singular.

The PRESIDENT *pro tempore*. If the motion to strike out and insert shall be rejected, a motion to strike out will then be in order; but under the rules of the Senate a motion to strike out and insert is one motion and not divisible.

Mr. CONNESS. I hope the Senator from

Maine, who has charge of the bill on behalf of the committee, will change the form of his motion and move first to strike out so as to simplify the matter, in order that we may vote separately on the propositions.

Mr. JOHNSON. As I understand the ruling of the Chair, the amendment proposed is one that cannot be divided; but if it shall be voted down we can then move to strike out the clause as it stands in the bill. Before the vote is taken I beg leave to add another remark or two to those which I submitted yesterday to the Senate against this amendment.

The honorable member from Massachusetts [Mr. SUMNER] yesterday, said, in regard to the burden of proof, or the *onus probandi*, as it is classically termed—my friend from Maine does not like the classic language, [laughter]—that it was a very common thing in court that the *onus probandi* or burden of proof is changed from one to the other of the litigants as the case may progress. That is all true; but how is it done in a civil suit? It is left by the court to the jury to say that if they believe that the fact was so and so, then it is for the other side to satisfy them that notwithstanding this fact the plaintiff is not entitled to recover, or whatever the effect may be. Now, what is the effect of this amendment? I am not bringing now the arts of the practicing lawyer, which my friend from Massachusetts seems to suppose I am always resorting to.

Mr. SUMNER. Oh, no.

Mr. JOHNSON. He does me great injustice in any such supposition. If I have any of the arts belonging to the practicing lawyer, I do not bring them into this forum knowingly; and let me say that if my friend from Massachusetts had been at the bar as long as I have been, I think, perhaps, some of his speeches would be, as far as the law is concerned, a little more sound than they are. [Laughter.]

The effect of this amendment is to take from the jury the finding of the fact. If this section passes as it is, instead of telling the jury that if they believe that the goods were imported contrary to law, and if they believe that the defendant, if he is prosecuted, as having bought goods, or being in possession of goods illegally imported, really bought the goods in fact, or was found in possession of the goods, then they must convict unless he shall be able to account for his purchase or possession; instead of leaving it to the jury to find the fact that the goods were imported illegally, and that if imported illegally they came into the possession of the defendant against whom the prosecution is instituted, it leaves it to the court to say, as I understand it, that the case as it stands upon the proof is one in which in point of law there must be a conviction unless the defendant can absolve himself from the supposed *prima facie* evidence of the facts offered on the part of the Government. It is, therefore, in my judgment to deprive a party charged in a criminal prosecution of the security which the common law gives and which the Constitution of the United States expressly gives, of having the offense with which he may be charged passed upon by a jury; and of the right he has to have all the facts passed upon by the jury, to have the evidence offered on the part of the Government as well as the evidence offered on the part of the traverser or accused heard by the jury. If this means anything it means to say that importation illegal in fact and possession in fact is to be considered as possession with a knowledge of the illegal importation, unless the party can clear himself of it by affirmative evidence; and the jury have nothing to do but to convict, taking away from the jury the right to find whether the fact charged existed or not, whether the importation was an illegal importation or not, or whether the defendant was a purchaser of the goods or found in possession of the goods thus illegally imported. Unless I am grossly mistaken, it very materially interferes with the security which the Constitution gives to every man charged with an offense, of having the matter investigated by a jury.

Mr. SUMNER. The Senator from Mary-

land reminds me that I do not bring to this discussion the large professional experience which we all know belongs to him. Sir, nobody can regret that more than I do, nor am I unwilling that the Senator should remind me of it. I bring to the question nothing but an honest judgment.

Mr. JOHNSON. I do not doubt that.

Mr. SUMNER. I bring to the question nothing but an honest judgment, with some slight recollection of early professional study. That is all I pretend to do. But bringing such as I have to the discussion, the Senator from Maryland will pardon me if I suggest to him what it seems to me are two mistakes on his part on this occasion.

In the first place, he argues on this proposition as if we were to bring it to the test of existing law. Now, bringing it to the test of existing law, I am not going to argue that the proposition could be sustained; but the question is whether it is not in our power to declare a new rule applicable to this case to meet what I said yesterday was the stringency that seemed to be required, and there I differ with the learned Senator. It does seem to me that it is clearly within our province to lay down this rule, and if it is within our province I think that the exigency demands it; and therefore the Senator will pardon me if I put aside absolutely all his ingenious argument, which is founded on existing law, and which goes to show that according to existing law this cannot be done.

I put it all aside; but then I am not willing to stop there. I remind the learned Senator—and no one needs to be reminded of it less—that there is a whole class of legal presumptions, presumptions of law in contradistinction to presumptions of fact, which when they occur are considered the grounds of conclusion in a case. Certain facts appear; to those the court apply not a conclusion merely of fact, but an absolute conclusion of law, and that we call a presumption of law. How often that occurs in criminal proceedings; I will not go into details, but the Senator will remember them, I dare say, by the dozen, much more freshly than I should. Suffice it to say they do occur; and now, as I understand it, here is simply one more presumption of law which it is proposed to add to other presumptions of law.

The other mistake which it seems to me my honorable friend fell into—I have mentioned one—was one which we all know in the excellence of his disposition and from long professional habit he is disposed to fall into—that is, to become the attorney general of criminals. He falls into that character easily. In short, my learned friend seems to have a warm side for criminals; and whenever any proposition is brought forward which promises to give a new restraint to crime, my learned friend finds some objection; he receives the criminal on his warm side; he embraces him and he resists the statute. Now, I think he is under that influence to-day. He resists this proposition because if adopted it will be a new restraint upon crime, it will help to prevent smuggling, and to that end certainly it will be a benefaction to the country.

Mr. HENDERSON. I certainly have no desire to enter into the discussion of the legal question that has grown up between the two Senators. I desire simply to regulate my own vote on this subject, and I should like to make an inquiry of the Senator having charge of the bill, in order to ascertain the extent of this provision and what is the meaning of it; for I really do not understand it. The first part of the section provides for the punishment of a person who "shall fraudulently or knowingly import or bring into the United States, or assist in so doing, any goods, wares, or merchandise contrary to law, or shall receive, conceal, buy, sell, or in any manner facilitate the transportation, concealment, or sale of such goods, wares, or merchandise, after their importation, knowing the same to have been imported contrary to law."

The Senate will see that the first clause pro-

vides that before the party can be guilty he shall fraudulently or knowingly import or assist in the importation of goods against the law, that is, with a design not to pay custom duties. The second clause of it applies to those individuals who shall attempt to sell and to assist in the transportation through the country of goods that are thus fraudulently brought in. The Senate will see that it requires, first, a fraudulent knowledge of the improper importation; and secondly, even if he assists in receiving, buying, or selling the goods, it must be with a knowledge that they were imported contrary to law. Now, suppose that a prosecution is lodged against an individual thus situated. He has either imported the goods into the country and failed to pay the duties, or he has purchased the goods after they are imported. What is necessary to be established in order to produce a conviction? Is it not a knowledge of the fact? Is it not necessary for the prosecution to show that the party thus affected must have shown of the violation of the law? Then it rests upon the United States to establish guilt, to show a guilty knowledge. There can be no question about that fact; and the original bill it seems provided that if the fact itself were shown, that is, if the party was found in the possession of goods that had not paid duty, or if the party had bought goods that had been thus imported, whether he knew the fact of the illegal importation or not, guilty knowledge should be presumed. "The guilty knowledge of the defendant, when convicted of the fact, shall in all cases be presumed unless he or she prove the contrary."

I can understand that provision. That will produce uniformity in the administration of justice under this bill. When the fact is once established against a party that he is found in possession of goods fraudulently brought by somebody, then guilty knowledge is to be presumed against him. Where a party has struck another with a deadly weapon, he is presumed to have done it with the intention to kill, because of the fact that it is a deadly weapon; and when once that fact is shown, the presumption of law arises that the assault was with intent to kill and malice is presumed from the act itself, and it then devolves upon the defendant to show facts that will exculpate him; it devolves upon him then to remove the presumption which would naturally arise from the use of a deadly weapon. Now, the intention of the committee originally evidently was that if goods were imported and the duty not paid, the party who is in possession of the goods is to be presumed in a prosecution to have had guilty knowledge of the fact of illegal importation.

Mr. MORRILL. Not merely possession, but possession surrounded by such circumstances as in the opinion of the court to lead to such an inference.

Mr. HENDERSON. There is the difficulty. If the Senator will provide some fact which being established the presumption of guilt will arise unless the defendant can exculpate himself, I will vote for it; but I cannot vote for the amendment as it now stands—"and the burden of proof shall lie upon the defendant where probable cause is shown for such prosecution."

Take a case. A man is prosecuted and it is shown that he commanded a vessel which brought goods into this country. Am I to understand, as would seem to be inferred in the argument of the Senator from Oregon [Mr. WILLIAMS] yesterday, that he commanding the vessel is to be supposed to be guilty when the fact is once established that the goods came in his vessel? Or is it his duty to land the goods and to let the revenue officers attend to that matter, or must he know that the goods have paid duty?

In one part of the United States it may be supposed that the court in trying the party under circumstances of this sort will say that the mere fact of the delivery of goods by the master of the vessel and the non-payment of duties on

them is a *prima facie* case from which his guilt is to be presumed, because they will say that that thing itself constitutes probable cause. Or I will give the Senator another instance. Say that goods are imported into this country by A, and in the course of five days thereafter B is found in possession of them, and B is prosecuted. Now, I desire to know of the Senator if B is to be presumed guilty when the fact is shown that the goods were improperly imported and had not paid duty. So recent a possession as that certainly ought to constitute some evidence of guilt; it ought to constitute a *prima facie* case anyhow, and make it obligatory on the defendant to show facts exonerating him. But is that the intention of the section? One court may say that five days' possession is so very recent that the party in possession of the goods will be presumed guilty, and it devolves on him then to show that he is not guilty. Another court in another section of the country may say it requires twenty days; another may say it requires forty days, or that forty days' possession is yet so recent that probable cause is made out against the party.

I merely suggest these difficulties. If the section is left as it is now proposed by the committee, there can be no uniformity in the establishment of guilt in the courts of the United States. There is no *prima facie* case except that which is framed in the breast of the court itself. Is that the intention of this section?

Mr. MORRILL. Yes.

Mr. HENDERSON. If that be the intention I cannot vote for it; but if the Senator will say that one fact being established—I care not what that fact may be—if he will say that the importing of goods by an individual who is owner of the goods, and the neglect or refusal to pay the duties being established against the party, however innocent his intention may be, a *prima facie* case of guilt shall arise against him, and it shall devolve on him, then, to show that he is innocent, I am willing to vote for it; or if he will say that although the party did not import the goods himself, but was an innocent purchaser of the goods, I am willing to say that on the fact of the purchase of goods improperly imported being established the presumption of guilt shall arise until the man establish his innocence.

Mr. MORRILL. Establish it to whose satisfaction?

Mr. HENDERSON. Let there be uniformity; let the establishment of the fact go to the court, because then there will be uniformity. The court will certainly always instruct the jury hypothetically, that if the jury are satisfied from the evidence in the case that A imported the goods illegally and that B purchased the goods from A, they will presume B to be guilty unless he shows that he innocently purchased them. That would make a perfectly clear case. The court would instruct upon the fact and instruct the jury of course hypothetically. This would leave it to the jury to say whether the original fact upon which the presumption is to be based has been established or not. But I really cannot see the meaning of this proposition as it stands, because the section in the first part of it requires that there shall be guilty knowledge, and it devolves upon the Government to prove that fact; but in the latter part of it it is distinctly stated that the burden of proof shall rest upon the defendant to show his innocence where probable cause is shown for the prosecution. Then this "probable cause" is left to the discretion, left in the bosom of each and every judge, and there is no uniformity in the practice.

I hope the amendment will not be adopted in its present shape. I am perfectly willing to take that portion of the section proposed to be struck out, for I think that covers all that could be desired. I understand the design of the committee is to reach all guilty parties. Although we allow the presumption of guilty knowledge in a case of this sort, the defendant may show himself to be innocent, or may produce evidence tending to show his innocence, or at least bring it within a reasonable doubt;

and the court will instruct the jury, of course, according to the criminal law of the land, that the man's guilt must appear beyond any reasonable doubt, and every other reasonable hypothesis must be excluded in order to convict the defendant. It may very easily be shown that he had no knowledge, or at least a *prima facie* case may be shown by him, that he had no knowledge of the violation of the law originally in the importation of the goods. But to leave it within the discretion of a judge in Oregon to say what is probable cause, and a judge somewhere else to say that something else is probable cause, it seems to me, is placing the liberty of the citizen in jeopardy, and too much in jeopardy for us to let this provision stand. I think it ought to be stricken out and the original clause left as it was, or else the section left without either. It would then devolve upon the prosecuting attorney in every case to show the guilty knowledge; but I have no objection to saying that the guilty knowledge shall be presumed when the fact itself of a violation of the law shall have been established, and it shall then devolve upon the defendant to show that he did not possess that knowledge; that is, that the *prima facie* case shall be taken against him; but beyond that I am not willing to go.

Mr. HOWE. I asked to have this amendment excepted and to have a special vote upon it. I did it for two reasons: first, I am utterly opposed to the amendment as reported by the committee. I do conceive the effect of it to be neither more nor less than practically to transfer the trial of the issue from the jury to the court, because the issue is guilty or not guilty; that is all there is of it; the Government says the defendant is guilty, and he says that he is not. Practically the Government goes on and marshals its testimony, makes out as strong a case of guilt as it is able to do. The defendant has no testimony, or has it and introduces it. This statute says that whenever the trial stops or before it stops, if the court sees fit to do so, the court may say, "Gentlemen of the jury, here is a case of guilt made out; now I instruct you to find this man guilty, unless the testimony subsequently satisfies you that he is innocent." That is one reason why I object to it.

But I wish to call the attention of my friend from Maine to an amendment that has been incorporated here since the bill came from the committee, which seems to me to be entirely foreign to the whole purpose of the section in which it stands. I ask to have the amendment as it now stands reported.

The Secretary read the amendment, which was to strike out the words "and the guilty knowledge of the defendant, when convicted of the fact, shall in all cases be presumed unless he or she prove the contrary;" and to insert in lieu thereof the following: "and the burden of proof in cases of seizure shall lie upon the claimant where probable cause is shown for such prosecution, to be judged of by the court before whom the prosecution is had."

Mr. HOWE. The whole purpose of the section is to punish men for importing goods contrary to law, or buying them or selling them after they have been imported contrary to law; and it declares that if a man imports goods in violation of law, that is without paying the duties, the goods shall be forfeited and he shall be punished so and so; and the purpose of the amendment reported by the committee was to regulate the proof on the trial of such an issue, but the amendment as it now stands is that in case of seizure (which is a case not contemplated by the section,) the burden of proof shall be on the claimant, who is a new party, a party that cannot be present upon any trial contemplated by the section—the burden of proof shall be upon the claimant on such and such conditions which is entirely foreign, as it seems to me, to the whole purpose of the section. I think that it ought to be corrected, if no more.

Mr. MORRILL. It seems to me that the

objection of the Senator from Wisconsin is well taken to the proposition of the Senator from Vermont. It will be seen at a glance that the provision of the section is simply as to the punishment of the person; it provides a remedy in cases where any person "shall fraudulently and knowingly import or bring into the United States," &c., any goods improperly imported. The penalty is provided for the person who shall do the acts prohibited; and the provision is that upon such an issue as that, the *onus probandi* shall be on him, the court having found certain things. I think that is the statement of the whole case; and on the trial of that issue this rule applies. Now, the amendment of the Senator from Vermont [Mr. EDMUNDS] is, that upon a question of seizure this principle shall apply, which would make it apply to goods when no such issue is proposed by the section.

Mr. POLAND. It seems to me that the Senator from Maine does not precisely understand his own bill. This fourth section provides that where goods are illegally imported the goods shall be forfeited and the person illegally importing them shall be subject to fine and imprisonment. The provision in relation to the burden of proof would apply to both classes of cases—to proceedings against the goods where they were libeled in the district court and where some person came in as a claimant; and would also apply to cases where a prosecution was brought, where a man was indicted or informed against for having illegally imported goods, or having goods illegally imported in his possession, with knowledge. Now, I entirely agree with the Senator from Maryland that in a prosecution against a man where you treat him as a criminal, where you institute proceedings against him for the purpose of subjecting him to fine and imprisonment, it is altogether wrong to undertake to interfere with the common-law rules of evidence. He is entitled to have his case go to the jury untrammelled by any such provision; and as I understand the effect of the amendment which my colleague proposed, and which was adopted yesterday, it relieves it entirely of any application to that class of cases; it merely makes it apply to cases where a proceeding is instituted against the goods; what is known—that is a technical term—as a seizure case, that is, where certain goods are libeled as having been unlawfully imported.

It seems to me there is nothing wrong in our saying that where the fact of illegal importation is proved, then if the party should excuse himself upon the ground of some accident or some inadvertence, the burden of proof should be upon him; and as I understand, the effect of this amendment is to confine it merely to that class of cases, to proceedings against the goods. To be sure in this section they do not go on and provide anything in relation to the mode of proceeding against the goods in order to procure a forfeiture; but that is already provided for by other laws, and, indeed, I do not know but by some other section in this bill. At any rate we have other statutes that apply to that class of cases, and this amendment merely confines this rule of evidence, as I understand it, to proceedings against goods, and entirely takes away the effect of this clause in relation to the burden of proof in relation to prosecutions against the person.

Mr. MORRILL. Which prosecution of the goods, the Senator will allow me to say, is not contemplated by this section, and therefore it is irrelevant, to say the least of it.

Mr. POLAND. It leaves this section to apply to seizure cases merely, proceedings against the goods. Perhaps it may not exactly be cognate to the section itself, and it is perhaps unnecessary, because I think the act of 1799, that was referred to yesterday, establishes precisely the same rule in seizure cases, and unless this bill repealed it there was no necessity for having this clause in.

Mr. MORRILL. That was the answer I was about to make to the Senator. My understanding of the bill is a little different from his. This

provision certainly is not necessary at all in the view the Senator from Vermont takes of it.

Mr. POLAND. If you leave the act of 1799 in force, it is not.

Mr. MORRILL. The case of a libel against the property is already provided for by other acts. But the Senator will see that this section by no possibility can apply to the property by the very use of the language, "*the onus probandi* shall lie upon the defendant where probable cause is shown for such prosecution." That is, as to a prosecution against the person, not a libel against property.

Mr. POLAND. I understand the section now to read, as amended, "and the burden of proof in cases of seizure shall lie upon the claimant."

Mr. MORRILL. Yes, sir; but I am speaking of the intent of this section. It was to provide a remedy against the person, and not against the property. We have a remedy against the property in the laws already provided for. Now we propose to provide an additional remedy against the person, and the amendment of the Senator from Vermont, [Mr. EDMUNDS,] ignoring that part, makes a provision for a proceeding against property. That amendment ought not to be accepted, first because it has no application to the bill and is not necessary, and whether the Senate will accept this provision or not is a question that is entirely independent of that; whether they will do it or not depends upon whether the Senate is disposed now to apply the same principle as to the burden of proof against a man who is charged with violating the law that has been uniformly applied against his property when you were proceeding *in rem* against it. That is all there is about it.

Mr. POLAND. It is very true that this section does not provide specifically for proceedings by way of libel in what are termed seizure cases, but it does provide for the forfeiture of goods. The subject is not entirely foreign to this section, as the Senator from Maine says. It provides that where goods are illegally imported the goods themselves shall be forfeited and the person illegally importing them shall be liable to be punished by fine and imprisonment. As the bill was drawn it intended to make this change in relation to the burden of proof apply to both classes of cases, to proceedings against goods, what are known technically as seizure cases, and also to prosecutions against the person for illegally importing them or having them in possession after they were illegally imported with knowledge.

There is nothing new in reference to this. We had statutes before which forfeited goods that were illegally imported, and statutes providing for proceedings of that character. We had also statutes before this that provided penalties for smuggling. There is nothing new in this unless it provides a higher penalty, a greater penalty than the law did before. As this last clause of the section stood originally, and as the amendment that the committee proposed to it stood until amended, it applied to both classes of cases where goods were liable, and where a person who was prosecuted for being a smuggler, for illegally importing goods. In both classes of cases, upon the fact of illegal importation being proved, the burden of proof was thrown on the individual. It seems to me just and right, so far as the proceeding against the goods is concerned, and perfectly competent for us to say—violating no rule of law, no constitutional provision, not invading this particular right of trial by jury, and of having them pass on all the facts of the case—"If you illegally import goods, and the fact of the illegal importation be shown, the goods shall be forfeited unless you have some excuse that you are able to produce and show; we cast the burden on you." But when you proceed against the man as a criminal, undertake to charge him with a crime, and subject him to fine and imprisonment, then I think the principle that the committee undertook to establish here is all wrong; but the amendment that my colleague

proposed, and which we adopted yesterday, it seems to me relieves it of all difficulty, and it is precisely proper that it should be passed in the form in which we amended it.

Mr. JOHNSON. I have no doubt that the honorable member from Vermont is right that we have the power to make the law as the amendment suggested by his colleague would make it; but that is the law now in relation to seizures. The seventy-first section of the act of 1799 says that in all cases of seizures of goods liable to forfeiture the burden of proof shall be cast upon the claimant. When this section says that goods illegally imported shall be forfeited, it brings the goods within the operation of the act of 1799; and that provides precisely what would be provided for by the amendment suggested by his colleague, as I think the honorable member will admit.

I endeavored to distinguish the rules prescribed by the section of the act of 1799, relied upon yesterday, from the principle contained in the amendment of the committee, and I am glad to find that the honorable member from Vermont [Mr. POLAND] agrees that that distinction was well taken, and I understood his colleague, who offered the amendment which is now before the Senate, to agree also in the same view.

The fourth section has two objects. The first is to provide that the goods illegally imported shall be forfeited. That is one of their amendments, and the second is that the party who imports or the party who comes into possession of the goods knowing them to have been illegally imported shall be personally liable to punishment if convicted.

I have no doubt that the act of 1799 in the provision referred to was clearly within the authority of Congress; and of course we could provide in the same way now; and that is all that is done by the amendment suggested by my friend from Vermont, [Mr. EDMUNDS.] But it seems to me that it is unnecessary, because the law will be precisely the same. If we pass the fourth section unchanged in the particular in which it provides that the goods imported shall be liable to be forfeited, then we bring the goods under the operation of the act of 1799, which authorizes the Government to proceed by way of libel against the goods, and the act then provides that whoever comes in and claims the goods as his own shall be compelled to establish his case. That is reenacting the act of 1799, and that is all, as I think.

Mr. GUTHRIE. There is a great necessity for a rigid enactment to prevent the smuggling of imported goods into the country; and in the customs' laws we have always provided for seizures, and under the internal revenue laws goods are liable to seizure after they pass from the hands of the manufacturer if the duties have not been paid. It is impossible to enforce these laws without some such provision.

I have made up my mind to vote for this bill without question, without doing any injustice to my conscience. I take it for granted that every man who imports goods enters them at the custom-house if he intends to do honestly, and I take it for granted that every man who purchases imported goods takes care that he deals with individuals who comply with the law. When I was Secretary of the Treasury I was hunting for the means to prevent smuggling on the Canada coast, and a gentleman introduced to me an individual who he said could give me all the information I desired on that subject, and sent him to me with a little note. I told him that the friend who introduced him wished him to tell me all he knew on the subject. "Well," said he, "when I was engaged in smuggling there was very little profit unless the duty was twenty-five per cent. We had to pay ten per cent. for running the goods across; it had to be done in the night. Then we had to make an allowance of ten per cent. to the merchants who purchased of us, or they would not buy of us, and we could not hide the goods when we got them across; and if there was not five or ten per cent. left to us there was no profit in the busi-

ness." He explained to me how it was done, and I expect that he gave me a very accurate account.

I think we must go on the presumption that every man who comes into the possession of goods that have been imported into the country is bound to know that they have been regularly entered and the duties paid, and it is his business to know, if he is a regular trader. If a man goes to New York or Boston or any of these eastern ports to buy goods, or if he purchases on the Canada borders, it is his duty to know that the goods have been entered at the custom-house and have paid the duties. If he does not know it, and you make your law so that he is not bound to know it, you encourage smuggling. I am willing to vote for this bill because I think in all our laws on this subject we must assume that it is the duty of the individual who purchases goods upon which there is duty levied to see that they have been regularly entered and the duty paid; and a declaration in your law that he is presumed to know that fact, and that he is guilty if he does not know it is perfectly correct. You will never enforce your revenue laws without such a principle, in my judgment.

Mr. HENDERSON. I understand that if we concur in this amendment, in prosecutions in criminal cases the burden of proof will not lie on the defendant; there will be no presumption against him.

Mr. MORRILL. That is so; that is the effect of it.

Mr. HENDERSON. Is it in order to amend the clause intended to be stricken out before the vote is taken on the other?

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The Chair thinks that it is in order to amend the portion proposed to be stricken out.

Mr. HENDERSON. My idea is that the establishment of some fact as against the defendant in a criminal prosecution ought to raise a presumption of guilt against him. I think recent possession of goods illegally imported ought to raise the presumption of guilt.

Mr. CLARK. That is a matter for the jury.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole.

Mr. MORRILL. I want the first question to come upon the amendment moved by the Senator from Vermont, [Mr. EDMUNDS,] which was to the original amendment, applying it to cases of seizure alone.

Mr. EDMUNDS. Mr. President—

Mr. McDOUGALL. Allow me to ask a question. Why make a new law of evidence in maritime law? Is there any cause for it?

Mr. EDMUNDS. There is no cause whatever. It is the old rule.

Mr. McDOUGALL. Then why make the provision here?

Mr. EDMUNDS. That is just what I am about to explain. The amendment which I offered in committee was agreed to. This amendment of the Committee on Commerce being under consideration in Committee of the Whole yesterday, I proposed the amendment which has been named. That amendment to the committee's amendment reporting the bill was agreed to. Then the whole amendment was agreed to in committee and reported, so that the only question now possible before the Senate is on agreeing to the amendment reported by the Committee of the Whole, if I correctly understand parliamentary law.

Mr. MORRILL. Now, allow me. The Senator from Wisconsin [Mr. Howe] took exception to the amendment of the Senator from Vermont alone, and stated that he desired to try that question of the proposed amendment of the Senator from Vermont applying the rule to cases of seizure. That was the proposition.

Mr. EDMUNDS. If the Senator from Wisconsin undertook to make that reservation, it was totally beyond his power and that of the Senate regularly to grant it, because there was no such question pending.

Now, I wish to say a single word on the merits of this question. It is true in my opinion, as my honorable friend from Maryland [Mr. JOHNSON] says, that we are simply in these cases of seizure reenacting what the law now is. I agree to what he states about that. We are also ten lines above reenacting what the law is as to the forfeiture of the goods. That is the law now in both cases. The difficulty we shall get into in the courts where those who are engaged in smuggling retain the astutest counsel they can find, will be this: if we reenact the law as to forfeiture and do not reenact the law as to the burden of proof, it will be immediately contended that we intended to drop it, that we have created a new code, that we have provided a fresh forfeiture, and have failed to provide for the old rule of evidence, and therefore that rule no longer applies; and half the judges of the country will decide so. It is, however, my opinion that the law is the other way; but at all events if we have the cause of forfeiture in we had better have the law of evidence in.

Mr. JOHNSON. It will do no harm.

Mr. EDMUNDS. Certainly not.

Mr. MORRILL. I will settle this question then. We are in the Senate now, and I move to strike out the amendment proposed in committee.

The PRESIDENT *pro tempore*. An amendment to the amendment is in order.

Mr. MORRILL. I maintain that the clause as it stands is obviously useless, for this reason: the section does not provide nor propose any remedy for goods forfeited; that is provided for by the act of 1799, which also provides the rule upon which the trial of the proceeding shall be had, and therefore it is not necessary in this bill. Now, the only reason for stating the rule of evidence in this bill is because, contrary to all the other acts, we propose to proceed against the person by a prosecution, and in proceeding against the person by a prosecution we say the burden of proof shall be on him in certain conditions. Now, it would be perfectly incongruous to say that in a proceeding, which is the only one provided for by this bill, against the person, cases of seizure shall be proceeded with in a certain way; that is, in a proceeding, the only one provided, which is against the person, you are to make your evidence apply to cases of seizure. That raises the question, and it is the only question raised.

Mr. EDMUNDS. I should like to inquire, in this precise connection, what was the purpose of the Committee on Commerce in introducing into this section the amendment in the eighth line reenacting the law as to the forfeiture of goods. Why did the committee amend by inserting that clause? It is the law already.

Mr. MORRILL. No, I do not say it is the law already; but I say if you proceed against the goods as for forfeiture the remedy is that provided for by the act of 1799.

Mr. EDMUNDS. Yes; but what is the object of introducing into the section this fresh clause relative to the forfeiture of the goods?

Mr. MORRILL. Because the forfeiture of the goods depends on the manner in which they shall be introduced into the country.

Mr. EDMUNDS. It always has, has it not?

Mr. MORRILL. No, sir; not as provided for in this section.

Mr. HENDERSON. This permits a seizure in such cases as were not provided for before.

Mr. MORRILL. That is what I say. It adds additional circumstances under which goods shall be forfeited.

Mr. EDMUNDS. If that be true, then most certainly there is a new forfeiture here, not already provided for, and we must in that case apply the new *onus probandi* or we shall lose it.

Mr. MORRILL. That does not follow by any means. All I mean to say, and all that it is necessary to say for this argument, is that there is no provision in this section for a procedure against the goods; there is no provision in this bill to proceed against the goods; and therefore the idea of providing for the

burden of proof against goods is not pertinent. It should be against the person. So the question is simply whether it is the sense of the Senate that we ought to change the rule in the case of a prosecution against the person. On that I submit that there are two sides.

Mr. EDMUNDS. One word more. My friend from Maine says that there is no provision in this section for a proceeding against goods, and therefore there is no occasion for a provision regulating the rule of evidence in such cases; but there ought to be a provision regulating the rule of evidence in a proceeding against the person, because such a proceeding is here contemplated. Now, I undertake to declare, without the fear of successful contradiction, that there is exactly the same provision for a proceeding against goods forfeited in this section as there is against the person who has incurred the penalty—exactly as much and no more. But it appears to me to be perfectly plain that there is no provision for a proceeding in the proper sense of the term, against either. The section is merely penal. As applied to goods, the necessary penalty must be forfeiture, because that is the only way you can punish the thing. As to the person, it is fine. The section, therefore, declares that goods brought in under the prohibited circumstances shall be forfeited, and that the person who brings them in shall suffer a fine. That is all. It does not organize the court which is to condemn the goods; it does not organize any admiralty or maritime or seizure court, and provide for libels and answers and claims and proofs and decrees. It does not organize any common-law court, with a jury, to hear, try, and determine an indictment against the defendant for a violation of this law; but it simply, as applied to each class of the objects, provides for imposing a penalty. The penalty against goods is forfeiture necessarily; the penalty against the person is fine. Now, then, as applied to goods, the committee thought it necessary to introduce an amendment to the original bill which declares a forfeiture of goods; and they have thought it necessary to introduce as against the person a clause which provides for a penalty. Then they thought it necessary as to both classes of cases, because, as the amendment originally stood, it applied to both, that the *onus probandi* should be upon the defendant where probable cause was shown. I thought it wise, upon the argument of my friend from Maryland, who demonstrated, as it appears to me, the propriety of such a rule in an ordinary criminal cause, to limit the application of that rule to those cases which were analogous to the old limitation as applied to that description of proceeding. That amendment has been agreed to, and I hope it will not be stricken out.

Mr. CONNESS. I desire to ask the honorable Senator from Maine, who has reported this bill and prepared this section particularly, if it has been found that without this section, which proposes a penalty as against the person and proposes to put the burden of proof upon the person charged with the offense, the existing law is insufficient. Is the reason for preparing and introducing this section that it has been found that the existing laws providing for a penalty against the person are insufficient?

Mr. MORRILL. In the judgment of the Treasury Department, that was so. The bill was framed at the Treasury Department as originally expressed.

Mr. CONNESS. I would sooner take the opinion of some of the gentlemen of the Senate who are practitioners of the law, members of the bar, than the opinion of the Treasury Department on such a point. I think I can throw some light on this case.

Mr. MORRILL. I thought the honorable Senator asked as to the fact, not as to the law.

Mr. CONNESS. I desire to be understood, because I think I understand something about the difficulty that lies behind this section. My question was, did those who prepared this section prepare the provisions that are made here as against the person who commits the offense

because existing statutes were insufficient in that respect, or was it for some other purpose?

Mr. MORRILL. It was simply to enable the Government to prosecute more successfully guilty persons. That was the object, and that alone.

Mr. CONNESS. So they are of opinion, then, at the Treasury Department that guilty persons mostly have escaped.

Mr. MORRILL. That was the opinion.

Mr. CONNESS. To that point I desire to call the attention of the Senate. The existing revenue laws provide for giving one half, I believe, of the amount of the value of seized goods to the customs officers—to the collector, to the naval officer, and to the surveyor of the port.

My experience is (and I have had a little light upon what I am going to say) that the customs officers of the United States have but in rare instances ever instituted prosecutions against persons, when they could seize the goods, and then the persons would fail to claim them, would abandon them, and thus allow a division of the goods that would be profitable to the officers. I can state in reference to the port of San Francisco alone, that in proportion to the amount of business done, which is very great, as many attempts have been made at smuggling or fraudulent importation as, perhaps, at any other port in the Union; and the cases are few and far between (perhaps there never have been half a dozen all told) where prosecutions have been instituted and carried out against the persons engaged in perpetrating the crime. On the contrary, my opinion is—and I have filed at the Treasury Department before this time, official evidence going to show upon the sworn affidavits of subaltern officers of the customs at that port, that again and again information was presented to the collectors, naval officers, and surveyors that fraudulent importations were being made, that the laws were being violated, and the criminals pointed out, but those officers in place of causing arrests to be made and stopping the crime there, refused to do anything of the kind, but bided their time until such a period as they could seize the largest amount of goods, and then upon an abandonment of the goods by the parties who perpetrated the crime, where there could be a division of the goods with them, they abandoned the prosecution and the prosecution was never pressed.

Now, I undertake to say—I cannot speak with certainty, for I am not sufficiently acquainted with the law—that it will be found upon an investigation that the existing laws, without this portion of the act before us, are sufficient already for the punishment of persons engaged in infracting and violating the law; and that the better remedy to compel that to be done would be to take away this immense incentive that exists under the present law in the profits which are given to customs officers by the seizure and confiscation of goods. I have heretofore suggested to the Treasury Department that the law be changed in that respect, and one of the Secretaries, I believe, was in favor of it; indeed, he told me on one occasion that he would recommend such a change as would give a reasonable per centage to the officer, and make it not so much his duty to compromise with crime and get the goods as it was under the existing law. If really the difficulty is in what I point out, if the reason why persons have not been prosecuted and convicted is that this great incentive exists, the incentive should be removed and the law allowed to remain as it is in this respect and officers compelled to do their duty under the law.

I apprehend that the Treasury Department are entirely in the fog, entirely in error in this respect. They have arrived at their conclusions by the Commissioner of Customs, and other officers in that Department. They saw that there were a great many seizures and but few criminal prosecutions; and the disparity between the fraudulent importations and the consequent seizures and the number of prosecutions, led them to the erroneous conclusion

that some additional statutory enactments were necessary to prevent that condition of things.

I have no doubt, from the knowledge I have of these affairs that has come to me now for a series of years, that what I state is really the condition of the case, that the law is sufficient already for the punishment of the crime; but that as long as the reward is so great for compromising crime you cannot punish any person. Now, the question is whether you shall make your laws unnecessarily vindictive and throw the burden of proof, in the trial of a person, upon him, when under the law, as it exists, no sufficient effort has ever been made to convict.

Mr. MORRILL. I move to amend the amendment by striking out the words "in cases of seizure" from the words which the amendment proposes to insert.

The amendment to the amendment was agreed to; there being, on a division—ayes 18, noes 9.

Mr. EDMUNDS. I now move to strike out the whole.

Mr. FESSENDEN. That is the very question now.

Mr. EDMUNDS. If it is proper to amend the amendment reported by the Committee of the Whole, in one respect it is in all. Now, I move to amend the pending amendment by striking out the words "and the guilty knowledge of the defendant, when convicted of the fact, shall be presumed unless he or she shall prove the contrary;" and also the provision that the burden of proof shall lie upon the defendant where probable cause is shown.

Mr. FESSENDEN. I suggest to the Senator that he will meet it more simply by just taking the vote on concurrence with the amendment made in Committee of the Whole. If that be rejected, if we do not concur, then he can move to strike out the words which may remain.

Mr. EDMUNDS. If that is the whole of the proposition it is the same question.

Mr. FESSENDEN. If we reject the amendment a motion can be made to strike out the original words, and in that way he can put all out.

Mr. EDMUNDS. If I correctly understand the present question it is on agreeing to the amendments reported by the Committee of the Whole, and one of those amendments reported by the Committee of the Whole has just been amended by striking therefrom the words which the Senator from Maine [Mr. MORRILL] proposed to strike out. Now, having agreed to that, the amendment reported by the committee or what remains of it meets my disapproval decidedly. I entirely agree with the Senator from Maryland that it ought not to be adopted as it now stands. If that is the whole of the amendment we can take the question just as well upon agreeing or disagreeing to the amendment. Is that the whole of the amendment now pending?

The PRESIDING OFFICER. The Chair understands it to be the whole of the amendment.

Mr. EDMUNDS. Then I ask for the yeas and nays on the adoption of the amendment.

Mr. HENDERSON. Is it in order to amend that portion by moving to strike out the same matter and insert other matter?

The PRESIDING OFFICER. The Senator will state his amendment.

Mr. HENDERSON. I desire to strike out the whole of the matter in this section after the word "and," in line thirteen, and to insert:

In all cases where it is proved that any person has imported or brought into the United States, or assisted in so doing, any goods, wares, or merchandise contrary to law, and in cases where any person shall receive, conceal, buy, or sell any such goods, wares, or merchandise contrary to law, it shall be presumed that such person had guilty knowledge of such violation of law, and the burden of showing the contrary shall be upon the party so offending.

Mr. MORRILL. I do not suppose it is in order to move that at this time. The question, I think, must be on concurrence in the amendment made in Committee of the Whole, as

amended; but if I understand the amendment of the Senator from Missouri, it does not differ materially from the amendment proposed by the committee.

Mr. HENDERSON. The difference is this: my amendment declares that upon the establishment of a fact a presumption shall arise; whereas as it now stands it leaves to the court at any stage of the proceedings to declare that the defendant is guilty and that it devolves on him to show his innocence. My amendment establishes a rule, instead of leaving it entirely in the breast of the court.

Mr. MORRILL. I understand it to be substantially this, that provided the Government shall establish the fact of the illegal importation or the fact that aid and assistance were given to facilitate the transportation, then upon the proof of those facts the inference of guilt shall follow.

The PRESIDING OFFICER. The Chair thinks the amendment of the Senator from Missouri is not in order at this time, as it proposes to strike out that which has been partly concurred in and partly not concurred in, and the very question is whether the Senate will concur in that portion.

Mr. HENDERSON. I withdraw it for the present.

The PRESIDING OFFICER. The question is, Will the Senate concur in the amendment made as in Committee of the Whole, as amended?

Mr. HOWE called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 25, nays 15; as follows:

YEAS—Messrs. Chandler, Cragin, Creswell, Fessenden, Foster, Grimes, Guthrie, Howard, Kirkwood, Lane of Kansas, Morgan, Morrill, Nye, Pomeroy, Ramsey, Sherman, Sprague, Stewart, Sumner, Van Winkle, Wado, Willey, Williams, Wilson, and Yates—25.

NAYS—Messrs. Buckalew, Conness, Davis, Dixon, Doolittle, Edmunds, Harris, Henderson, Hendricks, Howe, Johnson, McDougall, Norton, Poland, and Trumbull—15.

ABSENT—Messrs. Anthony, Brown, Clark, Cowan, Lane of Indiana, Nesmith, Riddle, Saulsbury, and Wright—9.

So the amendment as amended was concurred in.

The next excepted amendment was in section seven, line three, after the word "days," to insert "after the facts shall come to their knowledge;" so that the section shall read:

That it shall be the duty of the several collectors of customs to report, within ten days after the facts shall come to their knowledge, to the district attorney of the district in which any fine, or personal penalty may be incurred for the violation of any law of the United States relating to the revenue, a statement of all the facts and circumstances, &c.

Mr. EDMUNDS. As the law now stands, if I correctly understand it, it is the duty of the collector of customs or other customs officer making a seizure to report that seizure to the district attorney within ten days after the seizure in order that proceedings may be instituted against the property, when the claimant may, by giving bail or other security, receive his property from the officer, and a trial may be had. This amendment proposes to change that law, and to only make it the duty of the collector to report to the district attorney after the facts come to his knowledge. That means all the facts, I take it; and he may therefore postpone making a report to the district attorney as long as in his discretion it may seem to be desirable. The consequence will be that the district attorney cannot take any proceedings against the property until he gets this report, and the claimant cannot take any proceedings or steps whatever to recover the possession of the property until that is done. In my judgment, it is giving too large a discretion to the collector of customs to effect a purpose of that description. I hope, therefore, that this amendment will not be concurred in, in order that it may be made the duty of the collector or the informing officer to report to the district attorney within a definite time after the seizure, as the law is now.

Mr. MORRILL. I am satisfied that the Senator is right, and that the amendment is obnoxious to the difficulties he suggests, and

I hope it will be stricken out. I did not so understand it at first.

The amendment was non-concurred in.

Mr. McDOUGALL. I ask the permission of the Senate to call up, with a view to its reading, the veto message received some time since from the Executive.

Mr. CHANDLER. Let us finish this bill first. We can dispose of it in five minutes.

Mr. McDOUGALL. I only desire to have the message read, which should be done at once out of respect to the Executive, and then it can be ordered to be printed and go over until tomorrow.

Mr. MORRILL. Let us dispose of this bill before taking that up. We shall be through in a very short time.

Mr. McDOUGALL. Very well.

The next excepted amendment was to strike out the nineteenth section of the bill in the following words:

SEC. 19. And be it further enacted, That nothing in this act contained shall be taken to abridge or limit any forfeiture, penalty, fine, liability, or remedy provided for or existing under any law now in force.

Mr. MORRILL. That section, I am inclined to think, on further reflection, ought to remain. It was stricken out after the bill was sent to the committee, and the committee gave their assent to striking it out; but since action was taken on striking it out yesterday, I have been to the Treasury Department, and I am afraid that if that section is stricken out certain rights of the Government in forfeitures and penalties which have been provided for in former acts will be impaired. No harm can arise from its being in the bill, and it is safest, on the whole, I think, to allow the section to stand. I therefore hope that the Senate will not concur in the amendment striking out that section.

Mr. EDMUNDS. I agree with my friend from Maine that the section ought not to be stricken out, but I suggest to him whether it would not be well to add "except as herein otherwise specially provided," so as to guard against any double forfeitures or double penalties.

Mr. FESSENDEN. That can be done afterward. Let us non-concur first in the amendment to strike out the section, and then the Senator can amend it.

The amendment was non-concurred in.

Mr. EDMUNDS. I now move to amend this nineteenth section by adding the words, "except as herein otherwise specially provided."

The amendment was agreed to.

The next excepted amendment was in section thirty-three, line seventeen, after the word "when" to insert the word "any;" and also to strike out the letter "s" in the word "officers;" in line nineteen to strike out the word "make" and insert "furnish information to he collector leading to a;" in line twenty to strike out the final "s" in the word "seizures;" and also to strike out the word "they" and insert the word "he;" and in line twenty-one after the word "distribution" to insert the words "with such collector, naval officer, or surveyor;" so that the proviso will read:

Provided, That when any officer of the customs, other than the collector, naval officer, or surveyor, shall furnish information to the collector leading to a seizure he shall be entitled to an equal share of the distribution with such collector, naval officer, or surveyor.

Mr. MORRILL. I desire to make a single statement about that provision and the effect of it. As the law now is, one half the money arising from seizures is distributed among the collector, surveyor, and naval officer.

Mr. JOHNSON. Equally?

Mr. MORRILL. Yes, sir; one half of the whole seizure is distributed among those officers. As it has been amended, this proviso is that the one half shall be divided between the collector, naval officer, or surveyor, and any other officer of the customs furnishing the information leading to the seizure, and that would include appraisers, measurers, &c., which is said to be against the policy of the law. On

account of the peculiar duties attached to those officers they have always been excluded. There is no necessity for any change of the law so far as informers are concerned. The committee were under a misapprehension when they amended this proviso, thinking it ought to be extended to all persons who gave information. That is the law now. We have only, therefore, added a further division between another class of officers, which I am told at the Treasury Department is against the policy of the law, on the ground of the peculiar duties that they perform. They are measurers and appraisers, whose duty it is to fix the value of the goods, and therefore they ought not to be subject to this temptation. I hope, therefore, the amendment will be non-concurred in and then I propose to strike out the whole of that proviso.

The amendment was non-concurred in.

Mr. MORRILL. I now move to amend that section by striking out the proviso at the end of it, in the following words:

Provided, That when officers of the customs other than the collector, naval officer, or surveyor shall make seizures, they shall be entitled to an equal share of the distribution.

The amendment was agreed to.

The next excepted amendment was to strike out the thirty-fifth section of the bill, in the following words:

Sec. 35. And be it further enacted, That in all cases in which the fees and emoluments received by any collector or other principal officer of the customs are, in the opinion of the Secretary of the Treasury, insufficient to afford a reasonable compensation for the services of such officer, after payment out of the same of reasonable incidental expenses of the office, the said Secretary may direct that so much of the said incidental expenses as shall seem to him to be just shall be paid out of the appropriation for paying the expenses of collecting the revenue; and the said Secretary shall have the same power in regard to incidental expenses which have heretofore been incurred and which have not been settled and paid into the Treasury; and all fees paid into the Treasury by customs officers shall be placed to the credit of the fund for defraying expenses of collecting the revenue from customs.

Mr. JOHNSON. I should like to know of the Senator from Maine the reasons for striking out that section.

Mr. MORRILL. I will state all I know in regard to it. It will be seen that this section gives the Secretary of the Treasury authority to pay the expenses at places where the revenue does not produce sufficient to meet the expenses in certain ports. It confers additional power to meet such cases. The necessity for it, it is said, has arisen in the southern ports. The committee had no evidence when it struck out this section of any such case, and had no information of the necessity for it. The information that I have obtained at the Treasury Department this morning is that it is necessary to meet a certain class of cases that have arisen in the insurrectionary States. In opening ports there the business is light, the expenses are large, and this additional authority is deemed by the Secretary of the Treasury to be necessary to meet the new state of circumstances.

Mr. JOHNSON. Why do you propose to strike it out?

Mr. MORRILL. We struck it out before we knew these facts, and the question now is on concurring in the amendment to strike it out.

Mr. FESSENDEN. I will inquire of my colleague whether the object sought to be obtained cannot be accomplished substantially by retaining the last part of the section. Heretofore in the disturbed condition of things in the southern States it may have been necessary to incur additional expense in this way; but now that there is no such trouble down there, I am a little averse, unless very good reasons can be given for it, to clothing the Secretary of the Treasury with the power to increase, according to his own judgment, the compensation of officers. I think, from a casual glance I had of it, we might make a distinction between the two classes of cases.

Mr. MORRILL. Very well. I hope the Senate will non-concur in the amendment to strike out the section, and then I will move to amend it by striking out all after the enacting

clause down to and including the words "revenue and" in the tenth line.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole striking out this section.

The amendment was non-concurred in.

Mr. MORRILL. I now move to strike out all of the section after the word "that" in the first line down to and including the words "revenue and" in the tenth line.

Mr. JOHNSON. That will not do. You will have to change it further.

Mr. MORRILL. Why?

Mr. JOHNSON. Because the subsequent part of the section refers to what you propose to strike out. It reads, "and the said Secretary shall have the same power." What power?

Mr. MORRILL. Then I will strike out the word "same."

Mr. JOHNSON. Then what "power" is referred to?

Mr. FESSENDEN. My impression was, after reading the section, that it could not be amended; that it had better be redrawn.

Mr. MORRILL. There is no difficulty in the particular referred to by the Senator from Maryland, because the Secretary has the power now to pay the incidental expenses that have been incurred.

Mr. FESSENDEN. If he has the power now there is no need of the section, and you had better strike it all out.

Mr. JOHNSON. I think it had better be kept in, because they get nothing down there now. I suggest to my friend from Maine [Mr. MORRILL] that the section had better remain as it was originally drafted.

Mr. McDUGALL. I desire now to renew the suggestion I made a short time since, as there seems to be some misunderstanding and difficulty about this bill, that we take up some other business that belongs to the business of the day. I therefore move to postpone everything else and take up the message of the President of the United States returning with his objections to the bill for the admission of Colorado into the Union.

Mr. FESSENDEN. I hope that will not be taken up to-night. It is very late.

Mr. WILSON. Has the bill to prevent smuggling been disposed of?

The PRESIDING OFFICER. That bill is still before the Senate.

Mr. McDUGALL. I have possession of the floor and have not yielded it.

The PRESIDING OFFICER. The Senator from California is entitled to the floor.

Mr. McDUGALL. I insist on my motion that all other business be suspended, and that the Senate proceed to the reading of the message of the President of the United States returning the Colorado bill to this body.

Mr. MORRILL. I am very desirous of disposing of the bill before the Senate. I think we can pass it in five or ten minutes more.

Mr. McDUGALL. Oh, no; it cannot be done.

The PRESIDING OFFICER. Does the Senator from California withdraw his motion?

Mr. McDUGALL. I only want to have the message read and ordered to be printed; that is all.

Mr. MORRILL. You had better withdraw it for the present.

Mr. McDUGALL. Very well.

The PRESIDING OFFICER. The motion is withdrawn, and the question is on the amendment of the Senator from Maine to the thirty-fifth section of the bill.

Mr. MORRILL. I withdraw that amendment. It has been suggested to me that the section had better stand as it is in the bill.

I will inquire how the question stands in regard to that section.

The PRESIDING OFFICER. The Senate did not concur in the amendment made as in Committee of the Whole, and therefore the section now stands in the bill.

Mr. MORRILL. Very well; then I will

make no motion in regard to it. I move further to amend the bill in section thirty-one, line twelve, after the word "naval officer," to strike out the words "surveyor of customs;" so that it will read:

That the Secretary of the Treasury be, and he hereby is, authorized, whenever he shall think it advantageous to the public service or revenue, to abolish or suspend the office of naval officer, or any subordinate office, in any collection district of the United States, &c.

The amendment was agreed to.

Mr. EDMUNDS. I wish to move an amendment to the third section of the bill. It is to add the following proviso:

Provided, That no railway car or engine shall be subject to forfeiture by force of the provisions of this act, unless it shall appear that the owner, or agent of the owner in charge thereof at the time of such unlawful importation or transportation thereon or thereby, was a consenting party, or privy to such illegal importation or transportation.

It is well known to everybody on the northern frontier that it is perfectly impossible for railway companies to guard against the introduction of contraband goods, to some extent or other, in their trains. They take, like a carrier by the sea, the manifests and invoices of the owner, and the contents of the packages are stated, and they put them in their trains and bring them along. Now, by the force of this section as it stands, while in the same case a steamboat on Lake Champlain or Lake Michigan, for instance, would not be forfeited by bringing in a contraband package, a railroad train from Montreal to St. Albans, in Vermont, or from Montreal to Portland, in Maine, would be subject to forfeiture. That I believe to be unjust; and therefore my object is to limit these cases of forfeiture on railway trains doing an immense business, and which cannot get information about all these things, to cases where the conductor in charge, the agent of the owners, had guilty knowledge of the fact.

Mr. FESSENDEN. I wish to ask the Senator from Vermont if he has looked at that section; I have not; but I have got the impression that it gives extraordinary powers with reference to stopping railroad trains.

Mr. MORRILL. No, sir; it does not mention railroad trains.

Mr. FESSENDEN. But it speaks of all sorts of vehicles. Now, if the officer, because he finds two or three contraband packages, is to take the whole train into his possession, it would create a confusion with regard to transportation that would be very onerous indeed, and that ought to be guarded against. That kind of transportation does not stand like anything else. A train is a vehicle, according to the definition given here, and if the officer finds that there are smuggled goods on board he is to take possession of the vehicle, the car, the engine, &c. Now, where these trains are coming from another section the consequence would be that if an officer found any contraband packages on board he would stop the train and take possession of it. That would create infinite difficulties, because a railroad train is so unlike any other kind of transportation; and that ought to be carefully guarded against. If Senators have examined the section carefully, so as to be sure that that consequence would not follow, and it would create no particular difficulty, I will not object. I have not examined it myself sufficiently to determine that question.

Mr. EDMUNDS. I think we shall be obliged to submit to the inconvenience which has been mentioned by the Senator from Maine. It will be impossible to have the inspection laws vigorously and faithfully executed unless the officer has power to stop a train for the purpose of inspection, if he thinks it necessary and proper to do so, just as he may stop a vessel or anything else. Of course, it is a large power, and may be abused; but I am satisfied, from the means of observation I have had, that it is a power which it is necessary for the protection of the revenue should be confided to these officers. There is not much danger of their abusing this power of inspection. They

must have the power to stop the train for the purpose of inspection. That is about the substance of it.

Mr. FESSENDEN. I know that; but if the train is to be forfeited then, of course, they take possession of the train.

Mr. EDMUNDS. I propose to provide for that in the amendment which I have offered.

Mr. MORRILL. I should like to have the amendment read at the desk.

The Secretary read it.

Mr. MORRILL. The difficulty that occurs to me is about establishing the ownership. The language of the amendment is "the owner or agent of the owner." Ought it not to be so broad as to include any of the agents of the company, the conductor or any officer?

Mr. HENDRICKS. I do not think a train ought to be forfeited for the act of the conductor.

Mr. EDMUNDS. That part of the amendment provides that if the responsible party, the manager in charge of the train, has the guilty knowledge, then the train or car is subject to forfeiture; but if the responsible manager, or the conductor, is not guilty of any impropriety, then I think it would be too hard, if the engine-driver, or stoker, or brakeman should happen to be smuggling in a small keg of brandy, that the owner should be subjected to the forfeiture of the train for that reason. I think that is going too far.

Mr. CHANDLER. Then say the agent of the company.

Mr. EDMUNDS. I have said the owner, and that must be the company or the private person who owns the car or engine. Many of the northern roads are not owned by companies, but by private persons, who are trustees. Hence the term "owner, or agent of the owner in charge," it appears to me, covers both classes of controlling parties, the proprietor or the agent of the proprietor who has control of the train. If any language can be found to express the idea better, I shall certainly be very glad to accept it.

Mr. MORRILL. I do not know but that that answers the purpose; but it seems to me it will not be possible to bring a guilty knowledge of the fact to the owner.

Mr. EDMUNDS. It is in the alternative.

Mr. CHANDLER. Say "owner or agent."

Mr. EDMUNDS. That is exactly the language of my amendment.

Mr. FESSENDEN. Had you not better put in the word "superintendent?" All these companies have superintendents.

Mr. EDMUNDS. Very well; I have no objection to inserting the word "superintendent" after the word "owner," or in place of it, as may be most agreeable.

Mr. CLARK. Let the amendment be read with that word in.

The PRESIDING OFFICER. The amendment will be read as modified.

The Secretary read it, as follows:

Provided, That no railway car or engine shall be subject to forfeiture by force of the provisions of this act unless it shall appear that the owner, superintendent, or agent of the owner in charge thereof at the time of such unlawful importation or transportation thereon or thereby was a consenting party, or privy to such illegal importation or transportation.

The amendment, as modified, was agreed to.

Mr. HOWE. The second and third sections of this bill speak of the seizure, search, and examination of all trunks, packages, and envelopes. It seems to me that language is broad enough to cover the United States mails. I suppose it is not the purpose of the bill to authorize the examination of the United States mails.

Mr. MORRILL. Of course not.

Mr. HOWE. I propose to offer an amendment to prevent such a construction.

Mr. EDMUNDS. There is no danger of such a construction being placed upon this language. It is the language usually employed in these bills.

Mr. HOWE. If gentlemen are perfectly confident that it will bear no such construction,

and will receive no such construction, I do not care to press it.

The PRESIDING OFFICER. The Senator from Wisconsin withdraws his amendment.

Mr. HOWE. I will suggest another amendment, in section three, line thirty-nine, to strike out the word "appoint," and insert the words "for the employment of;" so that the clause will read:

And the Secretary of the Treasury may from time to time prescribe regulations for the search of persons and baggage, and for the employment of female inspectors for the examination and search of persons of their own sex.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time and passed.

HOUSE BILL REFERRED.

The joint resolution (H. R. No. 134) relative to appointments in the Military Academy of the United States was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

CONSULAR AND DIPLOMATIC BILL.

Mr. FESSENDEN. For the purpose of having the bill which I wish to take up in the morning left as the unfinished business, I move that the Senate proceed to the consideration of the consular and diplomatic appropriation bill.

Mr. SUMNER. There is House bill No. 11, on which the Senate has been engaged for several days, and on which we are just on the verge of a vote, which I think had better be taken up.

Mr. FESSENDEN. What bill is that?

Mr. SUMNER. It is the New Jersey railroad bill.

Mr. FESSENDEN. We shall not get through with that for six weeks to come.

Mr. SUMNER. We have got to the end of the discussion upon it.

Mr. FESSENDEN. I shall not withdraw my motion for that.

The PRESIDING OFFICER. The Senator from Maine moves to take up the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes.

Mr. SUMNER. I should like to interpose the other bill.

Mr. FESSENDEN. The Senator can try a vote upon it. You cannot interpose it unless you vote my motion down.

Mr. SUMNER. Then I hope the Senate will not take up the appropriation bill until the other bill is disposed of.

Mr. TRUMBULL. Let us adjourn.

Mr. SUMNER. Very well; I think we had better adjourn.

Mr. FESSENDEN. Oh, no; let us have a vote on this question first.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine.

The motion was agreed to—ayes twenty, noes not counted.

EXECUTIVE SESSION.

Mr. FESSENDEN. I now move that the Senate proceed to the consideration of executive business.

Mr. McDUGALL. I have twice before asked, and now again ask, for the reading of the veto message of the President. I merely desire to have it read and printed. I want to see what it is. I am not informed. It is a matter of importance, and it should be read. That is all I desire.

Mr. STEWART. Take an order to print without reading it.

Mr. McDUGALL. No; it should be read and printed.

Mr. FESSENDEN. I insist on my motion.

Mr. McDUGALL. This can be done in five minutes.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine.

Mr. McDUGALL. On that question, I

call for the yeas and nays. I want to see whether—

Mr. SUMNER. Order!

Mr. McDUGALL. Mr. President, I address you, and I have the floor. When a message comes to this body from the President of the United States, without regard to the individual, but out of regard to his high office, it is, as a matter of courtesy, the duty of the Senate on the first opportunity to hear what he may have to say why he did not indorse the proceedings of the two Houses of Congress. That is a courtesy that has always been observed, and never unobserved, I think, until this day; at least, this will be the first time when it has been refused.

Mr. FESSENDEN. I will simply say in answer to that—

Mr. McDUGALL. I am speaking to the question, sir. It is in the course and order of proceeding that a message of the President of the United States should be read to the House to which he sends the message on the first opportunity, not interfering with the pending business; and that would be the pending business of the moment. It should have been read some hours since. It has not been read as yet. I do not know what it is. I want to see what advice is contained in the counsel he may convey to me as a Senator of the United States and to other Senators of the United States; for under the system of Government under which we live, when the tribune of the people says, "I forbid" for "I have cause; I think you are in error; I think passion may have been uppermost and reason may have been overthrown;" we should receive his message with all the consideration which belongs to a high body of which he is an equivalent, not a superior. It has come here, and has been on our desk, now, for hours. There is, it seems to me, a perverse, adverse spirit not disposed to extend to his statement of his objections the courtesy that always has been extended to men who occupied his high place in years gone by. We are not happy in wandering from our former paths. We are wandering, and wandering into the wilderness. How soon we may get lost, none but Him alone knoweth. I say it is our bounden duty to hear that message read now, and have it printed for the advice of the Senate. I ask that it may now be read and printed; and that is the motion which I made some time ago, when I had the floor, but waived it. It is my right to move it now, and I make that motion that the message be read and printed.

Mr. FESSENDEN. The question now is simply on the call for the yeas and nays, as I understand it, on the motion to go into executive session.

The PRESIDING OFFICER. On the motion to go into executive session the Senator from California asks for the yeas and nays.

Mr. FESSENDEN. That is the motion before the Senate, and the only one that can be in order. They have not yet been ordered.

Mr. McDUGALL. Very well; I trust they will not be ordered until this thing be done.

Mr. FESSENDEN. I wish simply to say that if by any possibility the motion I have made could be construed into any disrespect of the Chief Magistrate, that at this late hour we let his message go over until the morning before having it read, in order that we may have a full Senate, I certainly would withdraw it for that purpose; but as I have no such intention, and as the idea of disrespect to the President is entirely imaginary, I shall insist on my motion and let the yeas and nays be taken upon it if Senators call for them. That is the motion before the Senate.

Mr. McDUGALL. I do not charge the Senator from Maine—

The PRESIDING OFFICER. It is the duty of the Chair to suggest that on the question of going into executive session extended debate is not allowed in the Senate.

Mr. McDUGALL. I shall not go beyond the question of going into executive session.

The PRESIDING OFFICER. Upon that

question a mere expression of opinion is allowed.

Mr. McDUGALL. I will confine myself to that, and all my remarks have relation to that.

The PRESIDING OFFICER. But the question of going into executive session is not debatable.

Mr. McDUGALL. Very well. Allow me to remark, then, to the Senator from Maine—and I want it marked down with exact periods—this is the first time that for hours a message from the President upon an important public question, a brief message, requiring no time to read it, has been denied a hearing in the Senate of the United States, when this was the body to whom the bill was returned; and I hold it to be a vindictive assault upon the Chief Executive.

The PRESIDING OFFICER. Upon the motion to go into executive session the Senator from California asks for the yeas and nays.

The yeas and nays were not ordered.

The PRESIDING OFFICER. The question now is on the motion of the Senator from Maine to proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 15, 1866.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

ADDRESS FROM SWISS CANTONS.

The SPEAKER, by unanimous consent, laid before the House an address from Swiss Cantons in favor of emancipation, &c.; which was referred to the Committee on Foreign Affairs, and ordered to be printed.

RECONSTRUCTION.

Mr. WILSON, of Iowa. I ask unanimous consent to present, that it may be printed, an amendment which I intend to offer to House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights.

The SPEAKER. If there be no objection, the proposed amendment will be ordered to be printed.

There was no objection.

The amendment proposes to strike out all after the enacting clause in the first section of the bill, and insert the following:

That whenever the above-recited amendment shall have become part of the Constitution of the United States, and any State lately in insurrection shall have ratified the same, and shall have modified its constitution and laws in conformity therewith, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such: *Provided*, That if any State after ratifying said amendment, and conforming its constitution and laws therewith, shall establish an equal and just system of suffrage for all male citizens within its jurisdiction who are not less than twenty-one years of age, the Senators and Representatives from such State shall be admitted as aforesaid, without being required to await the action of other States on such amendment: *And provided further*, That nothing in this section contained shall be so construed as to require the disfranchisement of any loyal person who is now entitled to vote.

LEAVE OF ABSENCE.

Mr. BROMWELL asked leave of absence for Mr. Moulton for ten days.

Leave was granted.

AMERICAN COTTON COMPANY.

Mr. ASHLEY, of Ohio, by unanimous consent, introduced a bill to incorporate the American Cotton Company of the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

SOLDIERS' AND SAILORS' ORPHANS' FAIR.

On motion of Mr. LYNCH, by unanimous consent, a joint resolution (S. R. No. 88) authorizing the Secretary of War to grant the use of certain lumber for the fair for the Sol-

diers' and Sailors' Orphan Home, was taken from the Speaker's table, and read a first and second time.

It proposes to authorize the Secretary of War to grant the use of lumber, not demanded by the Department for immediate use, for the erection of temporary buildings in the city of Washington for the national fair for the benefit of the Soldiers' and Sailors' Orphan Home.

The joint resolution was ordered to be engrossed for a third reading; and being engrossed, it was accordingly read the third time and passed.

Mr. LYNCH moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

DUNDAS PATENT.

Mr. WASHBURN, of Illinois. I ask unanimous consent to submit the following resolution:

Resolved, That the Secretary of the Interior be directed to communicate to this House whether any application has been made for the reissue of the Dundas patent for cultivator, and if so, by whom, and at what time, and upon what grounds, and to transmit to this House copies of all the papers and documents connected with the application; and also to state what effect it will have upon the agricultural interest to reissue said patent and have the same relate back and cover the essential improvements made since the year 1851. And also further to communicate what further legislation is necessary to protect the interests of the public in regard to such reissues of patents.

Mr. JENCKES. I object to the resolution.

Mr. WASHBURN, of Illinois. It is a matter which strikes at the interest of every agriculturist of the country. It is only for information.

Mr. JENCKES. I do not object to its introduction for reference to the Committee on Patents.

Mr. WASHBURN, of Illinois. I desire to get the information for reference to the Committee on Patents.

Mr. JENCKES. It should come from the committee.

REIMBURSEMENT TO WEST VIRGINIA.

On motion of Mr. HUBBARD, of West Virginia, Senate bill No. 280, to reimburse the State of West Virginia for moneys expended for the United States in enrolling, equipping, and paying military forces to aid in suppressing the rebellion, was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

Mr. WASHBURN, of Illinois. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. HUBBARD, of West Virginia, also presented joint resolutions of the Legislature of West Virginia on the same subject; which were referred to the Committee of Claims, and ordered to be printed.

MEMPHIS RIOT.

Mr. BOUTWELL asked to be excused from service on the select committee on the Memphis riot.

It was ordered accordingly.

POST OFFICE APPROPRIATION BILL.

Mr. KASSON, from the Committee on Appropriations, reported back Senate amendments to House bill No. 280, making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes.

First amendment:

Insert at the end of the first section of the bill the following:
To enable the Superintendent of the Naval Observatory to carry out the object of Senate resolution of March 19, 1866, for report of Isthmus routes to the Pacific ocean, \$1,500.

Mr. KASSON. The committee recommend concurrence.

The amendment was concurred in.

Second amendment:

Strike out the following words: "To take effect so

soon as Brazil shall have performed the condition on her part provided in the law authorizing said service;" so it will read:

SEC. 2. *And be it further enacted*, That the following sums, or so much thereof as may be necessary, be, and the same are hereby, appropriated for the year ending June 30, 1867, out of any money in the Treasury not otherwise appropriated:

Mr. KASSON. The committee recommend concurrence.

The amendment was concurred in.

Third amendment:

Add the words just stricken out, so that the paragraph will read:

For the mail steamship service between the United States and Brazil, \$150,000: *Provided*, That this appropriation shall take effect only when Brazil shall have performed the condition on her part provided in the law authorizing said service.

Mr. KASSON. The committee recommend concurrence.

The amendment was concurred in.

Fourth amendment:

Add:

SEC. 4. *And be it further enacted*, That the Postmaster General be, and is hereby, required to report to the Secretary of the Treasury annually, prior to the 1st day of November of each year, his estimate of the money required for the service of the Post Office Department for the ensuing fiscal year: which estimate shall be reported to Congress with the printed estimates of appropriations required by the joint resolution of the 7th of January, 1846.

Mr. KASSON. The committee recommend concurrence.

The amendment was concurred in.

Fifth amendment:

Add:

SEC. 5. *And be it further enacted*, That the balance of the appropriation of \$100,000 under the thirteenth section of an act to establish a postal money-order system, approved May 17, 1864, which may remain unexpended at the close of the present fiscal year, may be used as far as necessary to supply deficiencies in the proceeds of the money-order system during the fiscal year commencing July 1, 1866.

Mr. KASSON. The committee recommend concurrence.

The amendment was concurred in.

Sixth amendment:

Add:

SEC. 6. *And be it further enacted*, That all advertising notices for proposals for contracts for the Post Office Department, and all advertising notices for proposals for contracts for the Executive Departments of the Government required by law to be published in the city of Washington, shall be hereafter advertised by publication in two daily newspapers in the city of Washington having the largest circulation; and to no others: *Provided*, That the charges for such publications shall not be higher than what is paid by individuals for advertising in such papers: *Provided also*, The publications shall be made in each of said papers equally as to frequency; and that the circulation of such papers shall be determined upon the 10th day of June annually; and the publishers of all papers competing for such advertising shall furnish a sworn statement of their *bona fide* paid circulation of each regular issue for the preceding three months; and shall in like manner certify under oath that such circulation has not, during the said three months, been increased by any gratuitous circulation, by a reduction in price below the ordinary and usual price of such papers, or by any other means, for the purpose of obtaining the official advertising: *Provided*, That the charge for such advertising shall not be greater than is paid for the same publications in other cities; or at a higher rate than is paid by individuals for like advertising.

Mr. KASSON. The committee recommend concurrence in this amendment. There are one or two repetitions in it, but it is not worth while to send it back to the Senate.

The amendment was concurred in.

Mr. KASSON moved to reconsider the vote by which the amendments were concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BREVET PROMOTIONS IN THE ARMY.

Mr. SCHENCK, by unanimous consent, introduced the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of War be directed to communicate to this House, at as early a day as practicable, a statement of every promotion by brevet of officers in the regular Army made since the 12th day of April, 1861, and that he indicate, in the list furnished, the absolute or full rank in the line or staff of each officer so brevetted, the time from which such brevet rank takes effect, whether the appointment or nomination has been confirmed by the Senate, and if so, at what date; specifying and setting forth, also, in each case the particular "gallant ac-

tion" or the exact kind of "meritorious conduct" or service, and in what arm of the service or department rendered, for which such brevet promotion was conferred, whether the same be mentioned or described in the letter of appointment or commission or not.

PENSION AGENTS.

Mr. TAYLOR, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Whereas it is the practice of United States pension agents to deduct from the pensions of widows, orphans, and decrepit soldiers, wherever they draw their pensions, the sum of forty or fifty cents under the pretense that it is a fee allowed by law for making out pension papers, which practice has become the cause of much complaint; Therefore, be it

Resolved, That the Committee on Invalid Pensions be, and are hereby, instructed to inquire into the expediency and propriety of so amending or modifying the present pension laws, if that be necessary, as will require pension agents to pay full pensions to those who are or may be entitled to receive them, and to report by bill or otherwise.

COMMISSIONER OF PUBLIC BUILDINGS.

The SPEAKER laid before the House a communication from the Commissioner of Public Buildings and Grounds in reply to a resolution of the House of the 10th instant in regard to clerks employed, their former occupation, &c.; which was laid on the table, and ordered to be printed.

APPOINTMENTS TO THE MILITARY ACADEMY.

Mr. SCHENCK, from the Committee on Military Affairs, to which was referred House joint resolution No. 184, relative to appointments to the Military Academy of the United States, with leave to report at any time, reported back the same with an amendment in the nature of a substitute, as follows:

That the age for the admission of cadets to the United States Military Academy shall hereafter be between seventeen and twenty-two years; but any person who has served honorably and faithfully not less than one year as an officer or enlisted man in the Army of the United States, either as a volunteer or in the regular service, in the late war for the suppression of rebellion, and who possesses the other qualifications prescribed by law, shall be eligible to appointment up to the age of twenty-four years.

And be it further resolved, That cadets at the Military Academy shall hereafter be appointed one year in advance of the time of their admission, except in cases where by reason of death or other cause a vacancy occurs which cannot be thus provided for by such appointment in advance; but no pay or allowance shall be made to any such appointee until he shall be regularly admitted on examination as now provided by law; nor shall this provision apply to appointments to be made in the present year; and in addition to the requirements necessary for admission, as provided by the third section of the act making further provision for the corps of engineers, approved April 29, 1812, candidates shall be required to have a knowledge of the elements of English grammar, of descriptive geography, particularly of our own country, and of the history of the United States.

Mr. THAYER. I would like to ask the gentleman from Ohio a question. By what time, in the ordinary course of human events, does he think a man who enters the Military Academy at the age of twenty-four years can be made captain?

Mr. SCHENCK. That would depend very much upon whether we continued in a state of peace or became again involved in war.

Mr. THAYER. I think that about the time he is ready to be appointed captain he would be in a condition to go upon the retired list.

Mr. SCHENCK. The House will understand that the provision to which the gentleman from Pennsylvania [Mr. THAYER] now directs attention is simply this: we propose to extend the age at which a person may enter the Military Academy to seventeen years instead of sixteen years, as it now is. That has been recommended by more than one board of visitors, in consequence of the fact that the young men are found not to be able physically to endure the hardship of the service at West Point at the age of sixteen years. And we propose to make it seventeen years, and then put a year on the other end, making the maximum age at which they can enter twenty-two years instead of twenty-one years.

And the committee further propose that in the cases of those who have served faithfully for one year in the last war, either in the volunteer service or in the regular Army, shall have the benefit of two years, in consideration of that service, in entering the Academy at

West Point. Of course, this provision will exhaust itself in the course of the next three or four years, for there will then be no candidates to which it can apply. The committee thought it but proper that this should be held out as a sort of bonus or compensation to these young men for that portion of their time which has been cut out of their lives, as it were; that there should be added to the time when they can enter the Military Academy the term of two years, so they may have the opportunity of obtaining the benefit of a further military education, if they can get the appointment, in addition to the practical military education they have obtained in the field. It does not amount to much; but it is something.

Mr. THAYER. I would vote cheerfully for anything that would benefit the class of officers to whom the chairman of the Military Committee [Mr. SCHENCK] has referred; but it seems to me to be a very equivocal kind of benefit to propose that a gentleman of the age of twenty-four years shall be allowed to enter the Military Academy, for by the time he graduates and is eligible to appointment as a brevet second lieutenant he will be twenty-eight years of age.

Mr. SCHENCK. The gentleman may perhaps not be aware that in filling the five hundred and sixty-four vacancies in the grades of first and second lieutenants of the regular Army, it is found that the candidates for those positions include not merely those who have served in the late war as lieutenants, but many captains and field officers, and even some who have attained the rank of brigadier general in the volunteer service. It is found that men who have obtained some experience of military life during the war, and have acquired some practical knowledge of the service, desire to continue in the service, even in instances where they have become brigadier generals. In almost numberless cases, where they have become field officers, they are willing to be turned back and enter the service again as second lieutenants. Now, if that can be taken as a sample of what may be expected, there will be found many young men whose devotion to civil pursuits has been interrupted by the war, who will be glad to enter West Point even up to the age of twenty-four years, if vacancies shall occur in the districts in which they reside and they can secure the appointments.

I now call the previous question.

The previous question was seconded and the main question was ordered; and under the operation thereof the substitute was agreed to.

The joint resolution, as amended, was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RECONSTRUCTION.

Mr. MORRILL. I now call for the regular order of business.

The SPEAKER. The first business in order is House bill No. 543, to provide for restoring to the States lately in insurrection their full political rights, which was reported from the committee on reconstruction, and made the special order for Wednesday last, after the reading of the Journal, and now reached for the first time.

Mr. STEVENS. I learn that the Senate will not probably proceed to the consideration of the joint resolution proposing an amendment to the Constitution of the United States, which we have sent to them, until this day week. It will therefore be very awkward to proceed to the consideration of this bill until the Senate shall have acted one way or the other upon the joint resolution we have sent them, inasmuch as this bill recites the proposed amendment to the Constitution of the United States as having been acted upon and submitted to the Legislatures of the several States. I therefore move to postpone the further considera-

tion of this bill until after the reading of the Journal until this day two weeks.

Mr. BINGHAM. I hope that this bill will not be postponed for so long a time as the gentleman from Pennsylvania [Mr. STEVENS] has proposed. The recital in this bill can no more be urged against the consideration of it before the Senate shall act upon the constitutional amendment recited in it than it could be urged against the enacting clause of any bill originating in this House, that because the Senate had not acted upon and passed it the House could not truthfully declare and enact the words "be it enacted by the Senate and House of Representatives." The suggestion of the gentleman from Pennsylvania [Mr. STEVENS] would have as much force in the one case as the other. I hope, therefore, this House, if they deem this bill of any importance, will not postpone its consideration any longer than until after the reading of the Journal on Monday next. Let the House do its duty. If it is necessary to pass the entire scheme for the reconstruction of the States lately in insurrection, as reported by the joint committee on reconstruction, then let the House do its duty, its whole duty, and leave the responsibility with the Senate, where it belongs. Suppose the Senate do not act on the constitutional amendment for two weeks or four weeks or two months; are we to stand idle here looking on to see whether the Senate will act upon the amendment before we act upon the other measures necessary to the restoration of the insurrectionary States?

The American people expect this Congress to present to them a system of measures full and complete for the restoration of the States lately in insurrection, depending alone for final consummation upon the sovereign will of the organized States of this Union and the people of the disorganized States, acting under your law.

In this connection I desire to make one other remark. There are now one or two State Legislatures in session. If it shall be the pleasure of this House to amend the bill now under consideration so as to permit the States lately in insurrection, by the solemn ratification of the amendment to the Constitution which is proposed to them, and by conforming their own constitutions and laws thereunto, to be represented in the Congress of the United States, then it becomes a matter of some importance that Congress shall give them the opportunity to do so while their Legislatures are in session. The House has a duty to perform to that end as well as the Senate. So far as I understand, there is but one Legislature of a State lately in insurrection now in session, and that is the Legislature of the State of Tennessee. Now, I do not know that it will be the pleasure of the House to change this bill in the respect I have indicated; if that change is to be made, then the sooner the House make that change the better, so that the Legislature of Tennessee may indicate its readiness, upon the passage of the bill of the Senate, to accept the terms.

But whether the House shall make that change or not, it is well known that there is a Legislature of a northern State now in session—I mean the Legislature of the State of Connecticut. And therefore, if this bill is to pass in the form in which it came from the committee, it is important that it should pass, as well as the joint resolution proposing the amendment to the Constitution of the United States, in order to allow the Legislature of Connecticut to ratify your amendment, with the knowledge that until it is made part of the Constitution the insurrectionary States cannot be admitted to representation, and thus take that step for the restoration of those States and the reestablishment of the Constitution and the laws over every rood of the lately insurgent territory.

I hope, therefore, if the gentleman from Vermont [Mr. MORRILL] desires to take up and consider the revenue bill, that this bill for reconstruction and restoration will not be postponed longer than until Monday next after the reading of the Journal.

The SPEAKER. This bill could not come up next Monday immediately after the reading of the Journal, for the morning hour of that day has been set apart especially for another measure.

Mr. BINGHAM. Then say Tuesday next, after the reading of the Journal.

Mr. STEVENS. I must say that I do not understand what the gentleman from Ohio [Mr. BINGHAM] means. I thought it was understood that this bill should take the course I have indicated, but it so happens that my friend from Ohio never agrees long to what he and the rest of the committee may agree to at any time upon any particular point.

Mr. BINGHAM. I beg the gentleman's pardon; I never understood any such thing.

Mr. STEVENS. I do not understand the force of the objection of the gentleman from Ohio when he says that we ought to go on and pass this bill so that it may be presented to the Legislatures now in session. These bills which have been reported from the joint committee on reconstruction are not to be presented to the Legislatures now in session or to any Legislatures, whether now in session or not. It is only the proposed amendment to the Constitution of the United States which is to be submitted to the Legislatures of the several States for their action. Therefore, whether we proceed to pass this bill to-day or two weeks hence will not make a particle of difference in that respect.

The gentleman is mistaken; a confusion of ideas has taken possession of his mind, generally so clear, when he supposes that it is necessary to proceed with the consideration of this bill now in order to enable the proposed amendment to the Constitution to be ratified by the State Legislatures. The moment the Senate shall pass the amendment, if they do pass it, it will be sent to the Legislatures of the various States for their action, whether we pass this bill or not, and before we have passed any bill.

Mr. BINGHAM. With all respect to my venerable friend, I must say that the "confusion of ideas" is with himself. The remark I made was this, that if this bill be amended the Legislature of one of these insurrectionary States is now in session—

Mr. STEVENS. The gentleman mentioned several northern States.

Mr. BINGHAM. I mentioned the several northern States in regard to the other matter. In regard to the several northern States, if the bill is to pass as reported by the committee, it might become a matter of very serious consideration with the Legislature of a northern State whether it should not before action upon the question look into the conditions of this bill and ascertain the will of Congress, to wit, that this constitutional amendment must first become a part of the Constitution of the United States before any State lately in insurrection, by adopting it and conforming its own constitution and laws to it, can be restored to representation in Congress. That becomes a very serious matter in this respect, if we want speedy restoration of these States. If this bill is to pass as it came from the committee and without amendment, it will, I submit to the House, be necessary that the Legislatures of all the northern States, except those whose Legislatures may be in session, shall be convened as soon as practicable for the purpose of ratifying this amendment and laying the foundation, according to the very terms of your bill, for the restoration of the late insurrectionary States. As the measures stand before the House, if they are not changed in one line or word, they are to be taken as an entirety, and the whole people of this country, therefore, have a direct interest in the final action of Congress upon them, and ought to know our final action before being called upon to act upon them. If the measures be finally passed as they now stand, the constitutional amendment must be first ratified by the northern States or three fourths of the States now represented in Congress before any of the insurrectionary States may ratify it, reorganize their government, and be admitted to

representation. Upon that state of the case, I am sure gentlemen who desire the speedy restoration of those States cannot favor any unnecessary postponement of this bill.

Mr. STEVENS. Mr. Speaker, the proposed amendment to the Constitution may be a good and perfect amendment, without any reference to the bills which are to be passed in furtherance of that amendment or to carry it into effect, or what is more, without reference to bills making exceptions with regard to those who shall hold office. It may be that the bill disfranchising or rendering ineligible to office certain persons in the southern States may or may not pass; but how does that affect the constitutional amendment? Not in the least. There is no reference to it in the constitutional amendment. So also with regard to the other bills which declare certain things with regard to those States. Each of them stands by itself. One may fall and the other may stand, without affecting the constitutional amendment at all. None of those bills are submitted to the States of the Union; none of them are submitted to the northern States. Therefore the plea of the gentleman amounts to nothing.

But the first bill which now comes before us for consideration recites that Congress has submitted to the Legislatures of the different States certain propositions for amendment of the Constitution, reciting the very amendment which we have sent to the Senate. Now, it is not true that Congress has submitted such an amendment to the respective State Legislatures. As it stands at present, that recital is a falsehood upon the face of the bill. Now, in what position would this House place itself if we should go on and pass this bill making that recital, and the Senate should fail to pass the measure which we have recited as passed? It would make us look ridiculous. It is an absurdity to ask it; and I do not understand why it should be asked, unless to render this House more ridiculous than it can be made in any other way.

I trust, therefore, that the business of the House will not be needlessly interrupted and the time of the House wasted in the consideration and passage of bills which may become nugatory by the action of the Senate. When the Senate shall have concurred in our action on the constitutional amendment it will be time enough for us to go on and pass the bill reciting the action of both branches of Congress. I think, therefore, that this day two weeks hence, when we shall have got through other business now before us, it will be time enough to take up this bill. The constitutional amendment, as I have learned this morning, will not come up in the Senate till Tuesday of next week; and a week will probably be required to discuss the proposition.

Mr. WILSON, of Iowa. I trust that the gentleman from Pennsylvania [Mr. STEVENS] will consent that the postponement shall be until after the expiration of the morning hour on the day named. Let us have the morning hour for reports of committees.

Mr. SCHENCK. With the permission of the gentleman from Pennsylvania, I would make a further inquiry, not merely as to the propriety of having this special order come up after the morning hour so as to save the current business of the House, but as to the necessity of postponing at all House bill No. 544, declaring certain persons ineligible to office under the Government of the United States. All the reasons assigned by the gentleman from Pennsylvania [Mr. STEVENS] apply to that bill.

A part of the scheme reported by the committee on reconstruction is the House bill No. 544, declaring certain persons ineligible to office under the Government of the United States. It seems to me as a part of the scheme of reconstruction it should be taken up and postponed with the other bill. Thus we will so far indicate to the Senate and the country what we are ready and prepared to do in reference to one item in this account rendered from the committee on reconstruction.

Mr. STEVENS. I have not spoken of that bill because I believe it comes up to-morrow.

The SPEAKER. The Chair will state if this bill be postponed the other bill will come up immediately.

Mr. STEVENS. I am only speaking of the one now before the House. I agree to the suggestion of the chairman of the Committee on the Judiciary that this bill shall be postponed until after the morning hour.

The SPEAKER. That will put it behind House bill No. 450, to reduce and establish the pay of officers, and to regulate the pay of soldiers of the Army of the United States.

Mr. STEVENS. Then I will let it stand as it is.

Mr. WILSON, of Iowa. I suggest to the chairman of the Committee on Military Affairs that, by unanimous consent, that bill shall follow after the morning hour. It will lose nothing by it.

Mr. SCHENCK. Although we are prepared and disposed to go on with that bill, I am willing it shall come in after the bills on reconstruction, unless it shall come up in regular order before. This I do with the understanding it will induce the gentleman to save the morning hour to the current business.

Mr. BINGHAM. I move that the bill be postponed for one week, to come up after the morning hour; and on that motion I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken, and it was decided in the negative—yeas 55, nays 73, not voting 55; as follows:

YEAS—Messrs. Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Bidwell, Bingham, Brandegee, Bromwell, Broomall, Reader W. Clarke, Cobb, Cook, Culom, Dawes, DeForest, Delano, Deming, Donnelly, Driggs, Eckley, Eggleston, Ferry, Griswold, Hayes, Henderson, Higby, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbard, Hulburd, Jenckes, Kasson, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Marston, McKee, Moorhead, Newell, Perham, Plants, Price, William H. Randall, Schenck, Spaulding, Stillwell, Van Aernam, Henry D. Washburn, Welker, Whaley, and Windom—55.

NAYS—Messrs. Ancona, Baxter, Benjamin, Bergen, Blaine, Blow, Boutwell, Boyer, Chanler, Sidney Clarke, Conkling, Darling, Davis, Denison, Dumont, Eldridge, Finck, Garfield, Glossbrenner, Goodyear, Grider, Aaron Harding, Abner C. Harding, Hart, Hogan, Holmes, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, Ingersoll, Julian, Kelley, Kerr, Ladin, Latham, Le Blond, Loan, Longyear, McClure, McCullough, McRae, Mercer, Miller, Morrill, Niblack, Nicholson, Orth, Paine, Pike, Ritter, Rogers, Rollins, Ross, Sawyer, Shanklin, Sitgreaves, Stevens, Strouse, Taber, Taylor, Thayer, Francis Thomas, Trimble, Bart Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Williams, James F. Wilson, Stephen F. Wilson, Woodbridge, and Wright—73.

NOT VOTING—Messrs. Allen, Allison, Banks, Barker, Beaman, Buckland, Burd, Coffroth, Culver, Dawson, Dixon, Dodge, Eliot, Farnsworth, Farquhar, Grinnell, Hale, Harris, Hill, Hooper, James Humphrey, James M. Humphrey, Johnson, Jones, Kelso, Lynch, Marshall, Marvin, McAdoo, Morris, Moulton, Myers, Nocli, O'Neill, Patterson, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Rousseau, Scofield, Shellabarger, Sloan, Smith, Starr, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Wentworth, and Winfield—55.

So the motion was disagreed to.

The question then recurred on the motion to postpone for two weeks, after the morning hour.

The motion was agreed to.

INELIGIBILITY OF REBELS.

The SPEAKER stated the next business in order to be a bill (H. R. No. 544) declaring certain persons ineligible to office under the Government of the United States.

Mr. STEVENS. I move that be postponed to the day following the bill just disposed of.

Mr. PRICE. Is that debatable?

The SPEAKER. To a limited extent, but not as to the merits of the whole question.

Mr. PRICE. I cannot consent to let the vote be taken without saying a few words why the bill should not be postponed. The bill is looked on by all loyal men North and South as vital to the interests of this Government, and I am amazed that we do not pass it at once.

The people have been asking, and nobody has been able to answer the question, why the

committee have failed for so long a time to give us something definite to act upon; and now after nearly six months have elapsed and the country has been advertised that the bill is before the House and the people have been demanding that something ought to be done in reference to the question, a motion is made very coolly to postpone it for two weeks longer. And I am informed by my friend on my right [Mr. BRANDEGEE] that the motion to postpone the previous bill received the united vote of the Democratic party. That, sir, ought to go on record. The last bill had it, and the fair presumption is that this bill will have it. I will not charge that, because I would fain hope even against hope that the Democratic party here will not vote to postpone this bill as they voted to postpone the last. They are not accountable, however, for our action, and I enter my solemn protest, for one, against the further postponement of this question, which is one of such vital interest to the country.

If rebels are to be disfranchised let us say so at once and not dodge the issue. We are as well prepared to act upon the question now as two weeks or two months or two years hence. We have considered the matter from every standpoint for six months, and if members of this House are not prepared to vote upon it, I think I am safe in saying that everybody out of Congress is prepared to do it if they have an opportunity. Go into any part of the country to-day and talk to your constituencies, and you will be met by this question, "Why do you not give us some platform of principles or indicate to us what you propose to do in reference to allowing these States to come back into the Union, and upon what terms you propose to readmit them?"

Hitherto we have said to the people, "The committee have had the matter under consideration and we expect a report soon." But now the bill is reported and is on our files, where it has lain for two weeks, and when the matter is brought up for consideration after so long a time, after such an intense anxiety has been exhibited by the people for the immediate consideration of the question, the motion is very coolly made to postpone it for two weeks longer.

Sir, no man can tell what even a day may bring forth, much less two weeks; and I undertake to say, without fear of successful contradiction, that if this Congress is not prepared to vote on this bill to-day, it will not be prepared two weeks hence, nor at any future time. I do hope, for the sake of consistency, that this Congress will not vote to postpone it, but will take it up and act upon it, and say to the people of the country what we propose to do in reference to the readmission of these men.

Mr. CONKLING. Mr. Speaker, I agree, for one, entirely with what the gentleman from Iowa [Mr. PRICE] has said, and with what was said by the gentleman from Ohio, [Mr. BINGHAM]; and I think it would be a great mistake to suppose that on the part of the committee there is any intention or desire whatever to postpone the consideration of this question; that is, to postpone it in the sense which has been suggested.

Now, I understand that it is a mere practical question of wisdom in conducting legislation, whether we had better take up these bills before the Senate has acted, blind as we must be, of course, as to the particular action the Senate will take, and act upon them finally, or whether we shall wait and see whether the action of the Senate upon the proposed constitutional amendment renders it desirable for us to amend or in any way change these bills.

That is the whole question as I understand it. The purpose of the chairman of the committee is to bring about at the earliest possible day final action upon this bill; that is to say, at the earliest day when it can be safely and understandingly taken.

Undoubtedly, sir, we ought to have a policy. Undoubtedly we ought to show what we all feel, a willingness to act at once upon this question; and I beg to assure the gentleman from

Iowa, [Mr. PRICE]—and I am certain I can speak for the whole committee—that they have every wish to carry this bill through at once, without delay; and the only difference between the gentleman from Iowa and the chairman of the committee is as to the best mode of reaching one and the same result.

Mr. HIGBY. I would like to ask the gentleman a question, and that is, whether the action of Congress upon this bill as proposed will depend upon the results of the action upon the proposed constitutional amendment in the Senate, or whether we cannot act upon this as an independent question, without reference to the joint resolution to amend the Constitution?

Mr. CONKLING. I answer the gentleman from California [Mr. HIGBY] that whether we can or cannot is entirely accidental. Suppose the Senate should make some amendment to the joint resolution we have sent them, which amendment would render it necessary to modify one or both of these bills, even the bill of which he now speaks, the bill declaring certain persons ineligible to office under the Government of the United States. Suppose, for example, that the Senate should strike out the third section of the proposed amendment of the Constitution, or should so modify it as to embrace only certain limited clauses, and the gentleman from California or any other member of this House should want to enlarge somewhat the scope of this bill, he will see at once that it will be very necessary to have it before us still subject to modification.

Mr. HIGBY. Suppose the proposed amendment to the Constitution does not pass the Senate; would there be any objection to both branches of Congress acting upon this bill and passing it?

Mr. CONKLING. If the gentleman from California [Mr. HIGBY] wishes to inquire of me, for I have no right to speak for anybody else, whether with or without the proposed constitutional amendment I should be in favor of this disability bill, I will answer him that I should. I say that, constitutional amendment or no constitutional amendment, I am opposed to the ring leaders of this revolt ever being allowed again to hold any offices of emolument or trust under the Government of the United States. I agree with the gentleman from California that that measure is just as strong if the constitutional amendment shall fail in the Senate or before the Legislatures of the several States as it would be if the amendment should pass.

But I submit to him, and I am sure he will agree with me, that it is far safer for this House to have before it both of those measures, so as to adapt them as perfectly as they may be adapted to the action of the Senate, than it would be to go on blindly now and pass either of them before we know certainly what will be the result of the action of the Senate upon the proposed amendment.

And now, unless it will cut off some gentleman who desires to speak, I will demand the previous question upon the motion to postpone.

Mr. BINGHAM. Will the gentleman withdraw for a moment his demand for the previous question?

Mr. CONKLING. Certainly.

Mr. BINGHAM. I have felt desirous, because I supposed it was the wish of the House, that we might be permitted to proceed with the consideration of the revenue bill until they shall have completed it, which I suppose would be by Tuesday next. And therefore I have been disposed, with the consent of my friend from Iowa, [Mr. PRICE], to move to postpone the further consideration of this bill, No. 544, until after the reading of the Journal on Tuesday next; believing that the House in the interim can dispose of the pending revenue bill.

Mr. CONKLING. I will suggest to my friend from Ohio [Mr. BINGHAM] that the result of his motion, if agreed to, would be to reverse the order in which this bill was reported to the House by the committee.

Mr. BINGHAM. I understand that. But

these bills are in no manner dependent upon or connected with each other. The one now under consideration contains no recital of any portion of either of the other measures, and has no connection with either of them.

Mr. CONKLING. As the gentleman from Pennsylvania [Mr. STEVENS] made the motion to postpone the further consideration of this bill I prefer that he take the floor upon it.

Mr. STEVENS. The House can postpone it or consider it now.

Mr. BINGHAM. I have no objection to considering it now.

Mr. MORRILL. I hope it will not be considered now. I presume that the members of the House would prefer to go on and finish the internal revenue bill. I am anxious that the morning hour shall commence, that we may have some work done upon the special order, the revenue bill.

Mr. STEVENS. I now call the previous question on my motion to postpone the further consideration of this bill till two weeks from to-morrow after the morning hour. If the House prefers to go on with the bill now they can vote down the motion to postpone.

The previous question was seconded and the main question ordered.

The motion of Mr. STEVENS to postpone was agreed to; there being—ayes 62, noes 37.

Mr. PRICE called for the yeas and nays.

The yeas and nays were not ordered.

Mr. PRICE called for tellers on ordering the yeas and nays.

Tellers were not ordered.

Mr. PRICE. I see that gentlemen are afraid to go on the record.

PURCHASES OF PUBLIC LANDS.

Mr. STEVENS. I move to reconsider the vote by which Senate bill No. 203, entitled "An act to enable the New York and Montana Iron Mining and Manufacturing Company to purchase a certain amount of the public lands not now in the market," was referred to the Committee on Public Lands.

The SPEAKER. That motion will be entered.

AMERICAN COTTON COMPANY.

Mr. ASHLEY, of Ohio. I move to reconsider the vote by which the bill introduced by me this morning, to incorporate the American Cotton Company of the District of Columbia, was referred to the Committee for the District of Columbia.

The SPEAKER. The motion will be entered.

AMENDMENT OF TERRITORIAL ACTS.

The SPEAKER announced, as the unfinished business of the morning hour, House bill 508, to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico.

Mr. ASHLEY, of Ohio. I move to amend the bill by striking out all after the enacting clause and inserting the following:

That the several acts establishing territorial governments for the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico, and all acts amendatory thereof, be, and the same are hereby, amended as follows, to wit: The Legislative Assemblies of each of the Territories named shall pass no special acts conferring corporate powers, but they may authorize the formation of corporations (except for banking purposes) under general laws, which may be altered or repealed at any time; and the property of all corporations which may hereafter be organized, or which now exist, shall be subject to the same taxation as the property of individuals.

SEC. 2. And be it further enacted, That the Legislative Assemblies of the Territories aforesaid, respectively, shall, at their first session after the passage of this act, provide by general laws for the organization of associations for commercial, manufacturing, and mining purposes, for ferries, bridges, turnpikes, and toll-roads, for churches, colleges, and literary and other associations, and for the incorporation of cities and villages, restricting their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent the abuse of such power.

SEC. 3. And be it further enacted, That the Legislative Assemblies of each of the Territories aforesaid shall, at their first session after the passage of this act, prescribe by law the manner in which all corporations heretofore authorized by acts of said Terri-

torial Legislatures shall reorganize under general laws: *Provided*, That all corporations or associations now duly organized in pursuance of law, and engaged in legitimate business, shall have precedence of any proposed new association, in reorganizing under such general acts of incorporation as may be passed: *And provided further*, That such reorganization shall be within one year from the date of the adjournment of the first Legislative Assembly in each of the aforesaid Territories after the passage of this act.

Sec. 4. *And be it further enacted*, That all special charters granted by any of the Legislative Assemblies of either of the Territories herein named to associations which have not been organized are hereby declared void, and all persons who may have secured special grants for forges, bridges, turnpikes, toll-roads, or special grants for any purpose, shall be subject to such general laws as the Legislative Assemblies of the Territories aforesaid are authorized and required to pass.

Sec. 5. *And be it further enacted*, That all acts and parts of acts of any of the Legislative Assemblies of the Territories aforesaid, granting to associations or to individuals the exclusive right to go upon and occupy any part of the public domain or to the exclusive use of the timber or water-powers thereon, or the right to the exclusive use of water to be taken from lakes, rivers, or streams be, and the same are hereby, declared null and void: *Provided*, That nothing in this act contained shall be construed in anywise to invalidate any vested rights of persons acquired under the existing laws of either of said Territories in any mines, nor to invalidate any corporation or mining company within any of said Territories organized under and in pursuance of any State law or law of Congress.

Sec. 6. *And be it further enacted*, That no person now appointed, or who may hereafter be appointed, by the President to any office in either of the aforesaid Territories shall receive any compensation out of the Treasury of the United States, or out of any contingent fund for services or as compensation for his salary until he shall have entered upon the discharge of his official duties within the Territory; nor shall any officer thus appointed be paid for the time he may be absent from the Territory if absent without authority of the President of the United States.

Sec. 7. *And be it further enacted*, That in case of the death, absence, or inability of any judge of the United States superior courts for any Territory, at the time when the courts for his judicial district are appointed by law to be held, a judge of either of the districts in such Territory, not then occupied, is hereby authorized and may hold court in such district during the absence or inability of any judge, and all judgments, decrees, and orders of said court shall be as binding as if the same were held by the judge appointed therefor.

Sec. 8. *And be it further enacted*, That the Legislative Assemblies of the Territories aforesaid shall hereafter have no power or authority to grant divorces, but divorces may be granted by the courts of the United States in each of said Territories for such cause as may appear to them good and sufficient: *Provided*, That both parties shall reside in the Territory where the application for divorce is made: *And provided further*, That public notices shall be given by advertisement in at least two newspapers published in said Territory, stating the court before which the application will be heard and the causes for which the divorce is demanded.

Sec. 9. *And be it further enacted*, That within the Territories aforesaid there shall be no denial of the elective franchise to citizens of the United States because of race or color, and all persons shall be equal before the law. And all acts or parts of acts, either of Congress or of the Legislative Assemblies of the Territories aforesaid, inconsistent with the provisions of this act, are hereby declared null and void.

Sec. 10. *And be it further enacted*, That all acts and parts of acts inconsistent with the provisions of this act be, and the same are hereby, repealed.

Mr. KASSON. I desire to suggest an amendment to the chairman of the committee.

The last proviso of the third section reads as follows:

And provided further, That such reorganization shall be within one year from the date of the adjournment of the first Legislative Assembly in each of the aforesaid Territories after the passage of this act.

In order that this may not nullify existing corporations, the words "of this act" should be stricken out, and the words "by such Assembly of the act herein required" should be inserted. We cannot, of course, compel the Legislative Assembly to pass those general laws; and if it should neglect to pass them, this section, as now worded, would actually terminate the legal existence of those corporations, not by their fault, but by the fault of the Legislature.

Mr. ASHLEY, of Ohio. I accept the amendment which the gentleman suggests.

Mr. KASSON. Let me suggest further that at the end of the fourth section the words "are authorized and required to pass" should be stricken out, and the words "shall enact as required by this act" should be substituted.

Mr. ASHLEY, of Ohio. I accept the amendment which the gentleman suggests.

Mr. LEBLOND. I desire to move an amendment to strike out the ninth section.

Mr. ASHLEY, of Ohio. After the bill is

perfected I will yield to the gentleman that he may make that motion. I now yield to the gentleman from Washington Territory, [Mr. DENNY.]

Mr. DENNY. I desire to move to amend the substitute by adding the following as a new section:

And be it further enacted, That where the secretary of any Territory has heretofore performed, or hereafter shall be required to perform, the duties of acting Governor by reason of the absence from the Territory of the Governor, or during a vacancy in said office, said secretary shall be entitled to receive, for the actual time during which the said duties of Governor devolve upon him by law and are actually performed by him, a sum sufficient to make his salary equal to the salary of the Governor.

Mr. ASHLEY, of Ohio. I accept that. I will yield to my colleague to move his amendment, and then I will demand the previous question.

Mr. LE BLOND. I move to strike out the ninth section, as follows:

Sec. 9. *And be it further enacted*, That within the Territories aforesaid there shall be no denial of the elective franchise to citizens of the United States because of race or color, and all persons shall be equal before the law. And all acts or parts of acts, either of Congress or of the Legislative Assemblies of the Territories aforesaid, inconsistent with the provisions of this act, are hereby declared null and void.

Perhaps the last sentence should be left in, for it may have reference to other laws.

Mr. ASHLEY, of Ohio. No, there is a general repealing clause.

Mr. LE BLOND. Then I embrace the whole section.

Mr. ASHLEY, of Ohio. I demand the previous question.

Mr. WRIGHT. I demand the yeas and nays.

Mr. SPALDING. If that be stricken out I will vote against the bill.

Mr. DAVIS. I desire to call the attention of the chairman of the Committee on Territories to the language of the third section. I think he will find it is more general than desirable. It provides as follows:

Sec. 3. *And be it further enacted*, That the Legislative Assemblies of each of the Territories aforesaid shall, at their first session after the passage of this act, prescribe by law the manner in which all corporations heretofore authorized by acts of said Territorial Legislatures shall reorganize under general laws: *Provided*, That all corporations and associations now duly organized in pursuance of law, and engaged in legitimate business, shall have precedence of any proposed new association, in reorganizing under such general acts of incorporation as may be passed: *And provided further*, That such reorganization shall be within one year from the date of the adjournment of the first Legislative Assembly in each of the aforesaid Territories after the passage of this act.

There may be special corporations for religious and benevolent purposes. These are not usually the subject of general laws. I move to insert after the word "corporation" where it first occurs these words, "except for benevolent purposes."

Mr. ASHLEY, of Ohio. In my State, literary, religious, and benevolent corporations are organized under general law. But I am willing to accept the amendment.

Mr. SPALDING. Does the bill provide there shall be no more corporations granted other than those now in existence?

Mr. ASHLEY, of Ohio. The bill allows the Legislative Assemblies to pass general laws like those of Ohio and New York in reference to corporations.

Mr. STROUSE. Mr. Speaker, the chairman of the committee will allow me to say a word. I never saw this substitute in the committee-room, and I am quite sure several members of the committee have not seen it. A proposition to change the organic acts of all the Territories is a new thing to me. Yet I have failed but once to attend the meetings of the committee. I know nothing of the substitute except what I have heard here. I ask, therefore, that the chairman will not press through so hurriedly a bill to change the fundamental laws of all the Territories.

I do not know what has been stricken out from the original bill or what remains. There are objectionable features in the bill which ought to be understood before they are adopted.

We ought not to ask the House thus hastily to consider them. I say this in no unkindness to the chairman. It is a matter of duty to the House.

Now, sir, I do not know that a single Delegate from the Territories has asked for this. We have no memorial from the people for any such purpose. Yet, sir, we are asked to change their organic acts, and to impose laws upon the Territories which we cannot impose upon the States. We propose to impose upon the people of the Territories what they do not ask for, so far as I know. Why is this? We are here to say there shall be no distinction on account of race or color in reference to the elective franchise in the Territories. Why not make it general throughout the United States, in the States as well as the Territories? Why confine it to the brave men who have gone out to explore and open up the wilderness, when they do not ask for it?

Mr. Speaker, it ought to be thoroughly investigated, and not passed hurriedly as though it were only for the construction of a bridge across the Potomac.

Mr. ASHLEY, of Ohio. Mr. Speaker—

Mr. HOOPER, of Utah. Will the gentleman yield for an amendment?

Mr. ASHLEY, of Ohio. I cannot yield for the gentleman to offer an amendment of the character he indicates.

Mr. HOOPER, of Utah. I want to offer it and to give my reason for it.

Mr. ASHLEY, of Ohio. I was somewhat surprised to hear my colleague say that he was not present when this bill, No. 508, was ordered to be reported. The substitute I did not claim to be authorized to report by the committee. Most of the members were absent, and after consultation with some gentlemen, I offered on my own responsibility the substitute, which consists simply in striking out one section and five lines of another. I found in my journey over the Territories last year that a bill of this kind was necessary. The majority of the legislation in the new Territories consists simply in shingling them over with special corporations in which, in the main, the officers of the Territories are personally interested.

Mr. WRIGHT. Will the gentleman allow me to ask whether this special legislation of which he speaks is in character like the gift enterprises we have been carrying out here?

Mr. ASHLEY, of Ohio. Some of it is. I desire to have the same laws applied to those Territories which we have in some of the old States, such as New York, Ohio, and Illinois, where, after experience, a system of incorporation has been introduced compelling all associations to carry on business under a general law.

Mr. HARDING, of Illinois. I would ask the gentleman whether he proposes to depart from the precedents of legislation in reference to the Territories that have prevailed in the past.

Mr. ASHLEY, of Ohio. Yes, sir.

Mr. HARDING, of Illinois. You propose to legislate in reference to their Delegates, their bridges, their canals, their mills, their corporations, their schools, their churches, and everything else. You propose to legislate in reference to their domestic matters. Now, why not leave them to the control of the laws of the United States, as administered by the Supreme Court, and let them manage their own affairs, subordinate to the general laws of the land, as they have done heretofore? If they burn their fingers, let them cure them. Why undertake to apply this new system?

Mr. ASHLEY, of Ohio. I want this bill to pass so as to secure the people against combinations in their Legislatures, the majority of whom being transient persons grant special privileges to the few which obstruct the settlement of the country, hinder its prosperity, and are of no special interest to any persons except those who get the charters. If men want to organize for legitimate purposes they can do so under a general law quite as effectively and

certainly more honestly than a majority of them do under special acts of incorporation.

Mr. HARDING, of Illinois. You deny to the Legislature the power to give an exclusive right to the enjoyment, for instance, of water flowing across public lands in any case, I believe. Now, we had in the Territory of Illinois a law which authorized a party to enter upon the public land adjoining a dam, he owning one side of a stream. Why not allow a man the right to build a dam across a stream and rest one end of it on Government land?

Mr. ASHLEY, of Ohio. There is nothing in this bill to prevent parties from organizing under the general law for every conceivable business purpose.

Mr. ELDRIDGE. The third section, it seems to me, provides for additional benefits and privileges to those corporations existing at the time of the passage of this act. It gives them preference to others. It seems to me, therefore, that the purpose of the bill is to give additional value to such corporations as have already organized or have procured acts of incorporation.

Mr. ASHLEY, of Ohio. Not at all.

Mr. ELDRIDGE. Is there not something lying back of this bill of that sort?

Mr. ASHLEY, of Ohio. Not at all. My friend from Wisconsin [Mr. ELDRIDGE] is too good a lawyer not to know that a special act of incorporation is more valuable than an organization under a general law. Under a general act of incorporation the existing associations have a right to reorganize.

Mr. ELDRIDGE. The gentleman's answer is quite satisfactory, excepting in this particular: the gentleman says that an organization is no more valuable under a special act than under a general law—

Mr. ASHLEY, of Ohio. I say that, as a rule, it is more valuable under a special act than under a general law.

Mr. ELDRIDGE. Whether that is so or not depends upon the powers granted. But here certainly is a provision that all corporations or associations now duly organized in pursuance of law shall have precedence of any proposed new associations.

Mr. ASHLEY, of Ohio. That corresponds precisely with the law we passed in regard to banks. When the national banking system was established, we provided that an existing banking association located in any city or village might organize and have precedence over a new association. The object is, in the first place, to guard existing vested rights; and in the next place, to encourage the organization of associations under the general law.

Mr. ELDRIDGE. But does the bill limit the number of corporations that shall organize under the general law?

Mr. ASHLEY, of Ohio. That matter is left to the discretion of the Legislature. I suppose that the Legislature would not limit the number.

Mr. ELDRIDGE. What advantage, then, can the existing corporations have over other corporations which may hereafter be organized, if the latter may be created without restriction as to number?

Mr. ASHLEY, of Ohio. It is to be left to the discretion of the Legislature whether the number shall be unrestricted.

I now yield to my colleague, [Mr. LE BLOND.] Mr. LE BLOND. Mr. Speaker, I propose to occupy the attention of the House but a moment; and I should not do so but for the fact that the ninth section of this bill applies to these Territories a principle which I believe has never before been adopted in the organization of any Territory of the United States. By this bill Congress assumes in reference to suffrage in the Territories a power which I believe it has never before exercised in the history of this Government. Now, sir, speaking for myself alone, I say that I do not believe Congress has any power to say to the people of the Territories, "You shall extend the right of suffrage to all your citizens irrespective of color." This bill inaugurates a new system. It is the carry-

ing out, in my judgment, of a political scheme. And in saying this, I ought to be exceedingly careful lest my distinguished colleague [Mr. SCHENCK] should charge me with uttering sentiments reflecting upon the judgment and action of this Congress; for he seems to be peculiar in his notions as to the propriety of language to be used in this House.

But, sir, I conceive that this provision of the bill before us has and can have no other purpose than to carry out this cherished idea that all men should be made equal before the law.

I am aware that my colleague from the Cleveland district [Mr. SPALDING] will vote against this bill if the ninth section be stricken out, and if left in of course I shall vote against it. I have made the motion to strike out this section because it raises directly the issue whether we in this Congress are in favor of granting the right of suffrage to all classes irrespective of color. Gentlemen can now upon this proposition place themselves right before their constituents by declaring whether they are in favor of it; for let me say to gentlemen that those who vote against striking out this section place themselves on record as favoring equal suffrage throughout the whole country.

Sir, if this Congress has the constitutional right to pass a provision of this kind, and if it is proper to bestow the right of suffrage upon the colored people of the Territories, the principle applies equally to the States. Gentlemen cannot escape this conclusion.

Mr. SPALDING. I desire to ask my colleague whether the majority of this House has not already made its record of this question by the vote on the bill regulating suffrage in the District of Columbia.

Mr. LE BLOND. That is very true. I thank my friend for a suggestion. But what follows? A number of gentlemen on the other side of the House turn round and say that a handful of men on this side have forced them to vote against their real sentiments—that they were in favor of a property or educational qualification for voters in this District. A large number of gentlemen claiming to constitute the conservative element upon the other side of the House say to-day that they were opposed to the suffrage bill in the shape in which it passed.

Mr. SPALDING. What was the action of the Democratic side of the House on that question?

Mr. LE BLOND. We were opposed to the whole thing. We voted against it. Our record is against granting suffrage to the colored race under any circumstances whatever by the Congress of the United States. The power is with the States.

Mr. SPALDING. If I recollect aright, the gentleman and his political associates voted with me to sustain the previous question.

Mr. LE BLOND. Because we wanted that those who claim to be conservative men, but who blow both hot and cold, should be put on the record before their constituents. We determined that they should "face the music," as became men, and if they were sincere in the speeches they made in opposition to that bill they would vote against its passage and defeat it by our help.

Let me say one word in reference to the constitutional amendment which passed this House last week. Gentlemen upon that side of the House spoke in opposition to the bill. We again believed them sincere. We hoped and expected to defeat the bill, as we had a right to do, giving full faith and credit to what honorable gentlemen said in their speeches. We had no right to expect anything else than that they would vote against it if brought to a vote upon the bill as it came from the committee on reconstruction. Such being our views, what was our duty? We were opposed to the bill. For one I am opposed to any change in the Constitution as long as there are States unrepresented here.

Our duty was to force a vote upon the bill as reported, and we succeeded. But again we were doomed to disappointment; for the very

gentlemen who spoke so forcibly against the bill, when it came to a vote voted in its favor. Now they attempt to throw the responsibility of its passage upon the few Democrats on this side of the House. If, sir, they can go back to their constituents and convince them that thirty Democrats passed that measure, they possess more convincing powers than I think they do, and have a more pliable constituency than I believe they have.

I am aware that such members as have a press under their control are using it for that purpose, but the sequel this fall will determine how far they have or can succeed in deceiving the people. I shall call for the yeas and nays on my motion to strike out, and will then see how many conservatives will write home charging that thirty Democrats are responsible for negro suffrage in all the Territories of the United States.

I thank my colleague for his courtesy in yielding to me.

Mr. ASHLEY, of Ohio, demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. WRIGHT demanded the yeas and nays on Mr. LE BLOND's motion.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 36, nays 76, not voting 72; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Bergen, Boyer, Chanler, Dawson, Denison, Eldridge, Finck, Glossbrenner, Goodyear, Grider, Aaron Harding, Chester D. Hubbard, Edwin N. Hubbard, Kerr, Kuykendall, Latham, Le Blond, Marshall, Niblack, Nicholson, Phelps, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Strouse, Taber, Taylor, Trimble, Whaley, and Wright—36.

NAYS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Banks, Baxter, Blaine, Blow, Boutwell, Brandegee, Broomall, Sidney Clarke, Cook, Cullom, Darling, Davis, Dawes, Deming, Donnelly, Dumont, Eggleston, Farnsworth, Ferry, Garfield, Griswold, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McRuer, Mercer, Miller, Moorhead, Morrill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Rollins, Sawyer, Spaulding, Thayer, Francis Thomas, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—76.

NOT VOTING—Messrs. Alley, Barker, Beaman, Benjamin, Bidwell, Bingham, Bromwell, Buckland, Bundy, Reader W. Clarke, Cobb, Coffroth, Conkling, Culver, Deftrees, Delano, Dixon, Dodge, Driggs, Eckley, Eliot, Farquhar, Grinnell, Hale, Abner C. Harding, Harris, Henderson, Hill, Hogan, James R. Hubbard, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Ketcham, Laffin, George V. Lawrence, Marvin, McCullough, McIndoe, McKee, Morris, Moulton, Myers, Newell, Neill, O'Neill, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Schenck, Seofield, Shellabarger, Sloan, Smith, Starr, Stevens, Stillwell, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Henry D. Washburn, Wentworth, Winfield, and Woodbridge—72.

So the House refused to strike out the ninth section.

The substitute was then agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. LE BLOND demanded the yeas and nays on the passage of the bill.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 43, not voting 51; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baldwin, Banks, Baxter, Bidwell, Bingham, Blaine, Boutwell, Broomall, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Deftrees, Deming, Donnelly, Dumont, Eggleston, Farnsworth, Ferry, Garfield, Griswold, Abner C. Harding, Hart, Hayes, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, Mercer, Miller, Moorhead, Morrill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Rollins, Sawyer, Schenck, Spaulding, Thayer, Francis Thomas, Van Aernam, Burt Van Horn, Ward, Warner, Elihu B. Washburne, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—79.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Benjamin, Bergen, Boyer, Chanler, Darling, Davis, Dawson, Denison, Eldridge, Finck, Glossbrenner,

Goodyear, Grider, Aaron Harding, Hogan, Chester D. Hubbard, Edwin H. Hubbell, Kerr, Kuykendall, Latham, Le Blond, Marshall, Niblack, Nicholson, Phelps, William H. Randall, Ritter, Rogers, Ross, Rousseau, Shanklin, Sitgreaves, Stevens, Strouse, Taber, Taylor, Trimble, Henry D. Washburn, Whaley, and Wright—43.

NOT VOTING—Messrs. Barker, Beaman, Blow, Brandegee, Bromwell, Buckland, Bundy, Coffroth, Conkling, Culver, Delano, Dixon, Dodge, Driggs, Eckley, Eliot, Farquhar, Grinnell, Hale, Harris, Henderson, Hill, James R. Hubbell, James Humphrey, James M. Humphrey, Johnson, Jones, Kasson, Ketcham, Laffin, George V. Lawrence, Marvin, McCullough, McIndoe, McKee, McNair, Morris, Moulton, Myers, Newell, Noell, O'Neill, Pomeroy, Radford, Samuel J. Randall, Raymond, Alexander H. Rice, John H. Rice, Scoville, Shellabarger, Sloan, Smith, Starr, Stillwell, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Wentworth, and Winfield—61.

So the bill was passed.

Mr. ASHLEY, of Ohio, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MEMPHIS RIOTS.

Mr. LE BLOND. I find it impossible for me to serve on the committee appointed to investigate the Memphis riot. I ask, therefore, to be excused from service on the same.

The gentleman was accordingly excused.

The SPEAKER subsequently announced that he had appointed Messrs. BROOMALL and SHANKLIN to fill the vacancies upon the select committee to investigate the late Memphis riot, which vacancies had been caused by the resignation of Messrs. BOUTWELL and LE BLOND.

MESSAGE FROM THE PRESIDENT.

Several messages in writing from the President of the United States were delivered to the House, by Mr. EDWARD COOPER, his Private Secretary; who also informed the House that the President had approved and signed bills of the following titles:

An act (H. R. No. 238) to amend an act entitled "An act relating to *habeas corpus*, and regulating judicial proceedings in certain cases," approved March 3, 1863; and

An act (H. R. No. 352) to incorporate the National Theological Institution.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed House bill No. 563, to regulate the time and fix the place for holding the district court of the United States in the district of Virginia, and for other purposes, with an amendment; in which the concurrence of the House was requested.

Also, Senate bill No. 318, to authorize the appointment of an additional Assistant Secretary of the Navy; in which the concurrence of the House was requested.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill and joint resolutions of the following titles; when the Speaker signed the same:

An act (H. R. No. 397) to authorize the coinage of five-cent pieces;

Joint resolution (H. R. No. 66) relative to the courts and post office of New York city; and

Joint resolution (S. R. No. 88) authorizing the Secretary of War to grant the use of certain lumber for the fair for the Soldiers' and Sailors' Orphans' Home.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVIS in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled

"An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was on the motion of Mr. CHANLER to insert before the last proviso, on page 29, the following:

And that the assessor of each district shall at stated periods make a full and accurate report over his own signature, duly sworn to before a notary public, of all articles seized and held by him as forfeited for violations of this act by any person or persons, that such report shall specify the names of the owners of the articles so seized, together with the value of the same, and the particular section or sections of this act violated by such person or persons, whereby the said articles were forfeited to the Government; and such reports shall be addressed to the chief of the Bureau of Internal Revenue on the 1st of every month.

Mr. MORRILL. I believe this proposition was voted down yesterday, only there was not quite a quorum present.

The amendment was disagreed to.

Mr. DAVIS. I offer the following amendment to be inserted in line four hundred and eighteen, after the word "days":

And any collector or assistant collector who, having postponed, or agreed, or consented, in writing, with the debtor or any creditor of the debtor, to postpone to a day certain any sale authorized by this act to be made, shall, in fraud of such agreement or consent, proceed to sell the property so advertised before the time fixed therefor by such agreement or consent, shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by fine not less than \$1,000 nor more than \$10,000, in the discretion of the court; shall forfeit his office, and shall, moreover, be liable to any party aggrieved by such act to all damages which may be sustained or suffered by reason thereof.

I offer this amendment for the purpose of correcting an evil which I presume has not often been experienced under the provisions of the existing law, but which has been experienced in some cases. A collector seizes the property of a party who has made himself amenable to the penalty of the law, and advertises it for sale. That property may be valuable, and upon it the creditors of the party may look for their security.

In a case to which I have reference a collector seizes the property of the party thus amenable to law, worth perhaps fifty or sixty thousand dollars, while the penalty amounts to \$20,000. He advertises the property for sale. The owner of it is in debt nearly the value of the entire estate. A creditor having a claim to the amount of \$20,000 sends an agent to ascertain the condition of the property and see whether it is worth while to attend the sale and make arrangements for the purchase of it in case it shall be sold. He applies to the collector, who, after explaining the nature of the property to him, says if it is any accommodation to him to be present on the day of the sale and bid, he will be happy to have him do so, and he will postpone the sale with that understanding, to suit his convenience, to a certain day in order that he may go home to raise the money and come again and attend the sale. The sale is accordingly postponed for ten days upon the written agreement with the collector. And yet on the day on which that property was originally advertised to be sold it is put up and sold, and bid in for \$20,000 by the collector or some friend, and when the creditor returns to attend the sale and purchase the property he is met with the declaration that the title is already gone.

Now, such cases may exist under this bill, and there is no provision for the punishment of a party who shall be guilty of such a fraud. Therefore it seems to me due to the American people that they shall have their rights protected by some provision which shall prevent the perpetration of such frauds.

I know it may be said, and will be said, perhaps, by the chairman of the committee, that such a case will not occur; but such a case has occurred; and we all know the liability of human nature to err. We know the tendency which exists in human nature to yield to corrupt influences. I think, therefore, we should impose penalties for any malfeasances by a public officer under the provisions of this act. I hope the amendment will be adopted.

Mr. BOUTWELL. It seems to me this is

an effort to provide by a general law a remedy for an evil which probably has never arisen but in a single instance, and is not likely to arise again. Here are provisions for the adjournment of sale from day to day, at the discretion of the officer, not to exceed thirty days in all. Now, I understand the proposition of the gentleman is that if the collector shall give information of any sort that he intends to postpone the sale, and he does not do it, he is to be held guilty of a misdemeanor.

Mr. DAVIS. It does not mean that. It means that where the collector shall agree in writing with the creditor that the sale shall be postponed for any time within thirty days, and shall not postpone it in accordance with the agreement, but shall sell the property before the time agreed upon, the collector shall be held responsible for the damage which the party suffers.

Mr. BOUTWELL. I object to holding out any inducement to a public officer to make private agreements. As the law will stand if this bill passes, collectors are obliged to give public notice of the time and place of sale. When the time arrives and the collector chooses to postpone the sale for considerations which shall be satisfactory to him, he may do so for a period not exceeding thirty days. I object to the proposition because it implies that a public officer may give private pledges to parties interested that such a proceeding shall not take place, he already having given public notice that the sale is to take place. It seems to me the proposed amendment implies an arrangement which it is not proper for a public officer to make. As it now stands whatever he does he is bound by and must do in the face and before the eyes of the public, and any subarrangement which he makes ought not to be tolerated by the law.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. DAVIS. I move, *pro forma*, to strike out the last word, "thereof."

The very object I had in view in proposing this amendment is to prevent any agreement by way of collusion between the officers and anybody else. And let me say to the gentleman that the notice which is spoken of as being required to be published in the papers is a notice published in the district where the officer resides or where the property is located. The case to which I referred was one where it was advertised in Pennsylvania, and the creditor residing in New York heard by accident of the advertisement of the sale of the property and sought to protect himself. On going to the collector the collector agreed to a postponement, as he had a right to do under the law and as he was bound to do in consideration of the position of the creditor. And if he had given public notice of the sale as the law required him to do, stating the day to which the postponement was made, all would have been right. But as a public officer, bound to protect as far as his duty would prompt him the interest of the creditor, he proceeds to make the sale on the day originally advertised, and thus by fraud and collusion with somebody violates the agreement upon which the creditor had relied.

Mr. HUBBARD, of Connecticut. I would ask the gentleman whether a public officer who has acted thus fraudulently or wrongfully is not liable by an action at common law.

Mr. DAVIS. There is no provision in this act for it.

Mr. HUBBARD, of Connecticut. But would he not be liable under the common law?

Mr. DAVIS. I do not wish to see a man who is liable to conviction or indictment under the common law holding the responsible office of collector under the Government of the United States. I can see no objection whatever to this amendment.

The amendment was not agreed to.

Mr. BENJAMIN. I propose to amend in line four hundred and ninety by inserting after the word "distrain" the words "and sale, if

belonging to the head of a family;" so that it shall read:

That there shall be exempt from distraint and sale, if belonging to the head of a family, the school-books and apparel necessary for a family.

Mr. MORRILL. I have no objection to that.

The amendment was agreed to.

Mr. EGGLESTON. I move to amend the exemption clause by inserting after the word "cow," in line four hundred and ninety-two, the words "two hogs."

I think that, in providing for this exemption of certain things, the pig should go with the cow. This corresponds with the law of almost all the States in reference to exemption from execution.

The amendment was agreed to.

Mr. MORRILL. I move to amend as follows:

On page 25, before the word "demand," in line three hundred and eighty-four, insert the words "give notice and."

On the same page, before the word "demand," in line three hundred and ninety, insert the words "notice and."

In the same line strike out the word "therefor."

Strike out the word "chattels" in lines three hundred and ninety-eight and four hundred.

So that the clause will read:

And with respect to all such duties or taxes as are not included in the annual lists aforesaid, and all taxes and duties the collection of which is not otherwise provided for in this act, it shall be the duty of each collector, in person or by deputy, to give notice and demand payment thereof, in the manner last mentioned, within ten days from and after receiving the list thereof from the assessor, or within twenty days from and after the expiration of the time within which such duty or tax should have been paid; and if the annual or other duties shall not be paid within ten days from and after such notice and demand, it shall be lawful for such collector, or his deputies, to proceed to collect the said duties or taxes, with ten per cent. additional thereto, as aforesaid, by distraint and sale of the goods, chattels, or effects, including stocks, securities, and evidences of debt, of the persons delinquent as aforesaid. And in case of distraint, it shall be the duty of the officer charged with the collection to make, or cause to be made, an account of the goods or effects distrained, a copy of which, signed by the officer making such distraint, shall be left with the owner or possessor of such goods or effects, or at his or her dwelling or usual place of business, with some person of suitable age and discretion, if any such can be found, with a note of the sum demanded, and the time and place of sale.

The amendment was agreed to.

Mr. HOLMES. It will be seen that while this section provides for serving notice of the sale, there is no provision for any fixed time intervening between the service of the notice and the day of sale. It will be found that there is a provision for the publication and posting of the notice not less than ten nor more than twenty days. It appears to me that the same provision should be extended to the personal service of the notice. I move, therefore, to amend by inserting after the word "notification" in line four hundred and fourteen, on page 26, the following words:

To the owner or possessor of the property, and the publication and posting of such notice as herein provided.

So that the clause will read as follows:

Which notice shall specify the articles distrained, and the time and place for the sale thereof, which time shall not be less than ten nor more than twenty days from the date of such notification to the owner or possessor of the property, and the publication and posting of such notice as herein provided, &c.

The amendment was agreed to.

Mr. WOODBRIDGE. I move to amend by inserting after the word "hogs," in line four hundred and ninety-two, the words "ten sheep and the wool thereof."

Mr. MORRILL. I would like to inquire of my colleague how much ten sheep, such as he is in the habit of keeping, would probably be worth.

Mr. WOODBRIDGE. I do not know precisely. I suppose something over three or four dollars a head. It seems to me that this is a very proper amendment.

Mr. MILLER. I move to amend the amendment by striking out "ten" and inserting "five."

The amendment to the amendment was agreed to.

Mr. SCHENCK. I move further to amend the amendment by adding the following proviso:

Provided, That the aggregate market value of the sheep so exempted shall not exceed fifty dollars.

Mr. WOODBRIDGE. I have no objection to that.

The amendment to the amendment was agreed to.

Mr. NIBLACK. I move to amend the amendment so as to provide, in reference to these sheep, that there shall be "no distinction of race or color." [Laughter.]

The amendment to the amendment was not agreed to.

The amendment as amended was agreed to.

Mr. MORRILL. I move to amend by striking out in the four hundred and thirty-ninth line the word "interests" and inserting "interest."

The amendment was agreed to.

Mr. SPALDING. I move in line four hundred and ninety-one to insert before the word "apparel" the word "wearing;" so that it will read "wearing apparel."

The amendment was agreed to.

Mr. HOLMES. I move to amend by inserting after the words "one cow, two hogs, and five sheep" these words: "and the necessary food for such animals for a period not exceeding thirty days."

The amendment was agreed to.

The Clerk read as follows:

That section twenty-nine be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in all cases where the property liable to distraint for duties or taxes under this act may not be divisible, so as to enable the collector by a sale of part thereof to raise the whole amount of the tax, with all costs, charges, and commissions, the whole of such property shall be sold, and the surplus of the proceeds of the sale, after satisfying the duty or tax, costs, and charges, shall be paid to the owner of the property, or his, her, or their legal representatives; or if he, she, or they cannot be found, or refuse to receive the same, then such surplus shall be deposited in the Treasury of the United States, to be there held for the use of the owner, or his, her, or their legal representatives, until he, she, or they shall make application therefor to the Secretary of the Treasury, who, upon such application, shall, by warrant on the Treasury, cause the same to be paid to the applicant. And if any of the property advertised for sale as aforesaid is of a kind subject to tax or duty under the provisions of this act, and such tax or duty has not been paid, and the amount bid for such property is not equal to the amount of such tax or duty, the collector shall purchase the same in behalf of the United States for an amount not exceeding the said tax or duty. And in all cases arising under this act where property subject to tax, but upon which the tax has not been paid, shall be seized upon distraint, or otherwise, and sold, the amount of such tax shall, after deducting the expenses of such sale, be first appropriated out of the proceeds thereof, to the payment of said tax. And if no assessment of tax or duty has been made upon such property, the same shall be made in like manner as elsewhere provided for the assessment of taxes upon property of like nature. And all property so purchased may be sold by said collector, under such regulations as may be prescribed by the Commissioner of Internal Revenue. And the collector shall render a distinct account of all charges incurred in the sale of such property to the Commissioner of Internal Revenue, who shall, by regulation, determine the fees and costs to be allowed in cases of distraint and other seizures; and the said collector shall pay into the Treasury, the surplus, if any there be, after defraying the charges.

Mr. MORRILL. I move the following amendments:

In line five hundred and seven strike out the words "her or their;" in line five hundred and eight strike out the words "she or they;" and in line five hundred and eleven "her or their."

The amendments were agreed to.

Mr. MORRILL. I move in line five hundred and thirty-five to strike out the word "costs" and to insert the word "charges;" in line five hundred and thirty-six, before the word "cases," insert the word "all;" in line five hundred and thirty-eight strike out the word "the" and insert the words "fees and;" and in line five hundred and thirty-six strike out the word "and" where it last occurs, and insert these words: "or where necessary expenses for making such necessary distraint or seizure have been incurred, and in case of sale."

The amendments were agreed to.

Mr. DAVIS. I move to insert in line five hundred and thirteen, after the word "applica-

tion," these words: "and satisfactory proofs in support thereof."

The amendment was agreed to.

Mr. THAYER. I wish to call the attention of the committee to the fact that the provision in line five hundred and nineteen makes it mandatory on the revenue officers to buy the property in all cases where the amount bid is not equal to the taxes in arrear. I think that should be left discretionary with the officers. The Government might be compelled to buy an elephant.

Mr. MORRILL. The gentleman is correct.

Mr. THAYER. I move to strike out "shall" and insert "may."

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

That section thirty be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in any case where goods, chattels, or effects, sufficient to satisfy the taxes or duties imposed by this act upon any person liable to pay the same, shall not be found by the collector or deputy collector, whose duty it may be to collect the same, he is hereby authorized to collect the same by seizure and sale of real estate; and the officer making such seizure and sale shall give notice to the person whose estate is proposed to be sold, by giving him in hand, or leaving at his last or usual place of abode, if he has any such within the collection district where said estate is situated, a notice, in writing, stating what particular estate is proposed to be sold, describing the same with reasonable certainty, and the time when and place where said officer proposes to sell the same; which time shall not be less than twenty nor more than forty days from the time of giving said notice. And the said officer shall also cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and shall also cause a like notice to be posted up at the post office nearest to the estate to be seized, and in two other public places within the county; and the place of said sale shall not be more than five miles distant from the estate seized, except by special order of the Commissioner of Internal Revenue. At the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at the minimum price, including the expense of making such levy, and all charges for advertising, and an officer's fee of ten dollars. And in case the real estate so seized, as aforesaid, shall consist of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses, charges, and fees, aforesaid, to such several tracts or parcels, or to any of them, in estimating the minimum price aforesaid. And if no person offers for said estate the amount of said minimum price, the officer shall declare the same to be purchased by him for the United States, and shall deposit with the district attorney of the United States a deed thereof, as hereinafter specified and provided; otherwise the same shall be declared to be sold to the highest bidder. And said sale may be adjourned from time to time by said officer for a period not exceeding thirty days in all, if he shall think it advisable so to do. If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again sell said estate in the same manner. If the amount bid shall be then and there paid, the officer shall give his receipt therefor, if requested, and within five days thereafter he shall make out a deed of the estate so sold to the purchaser thereof, and execute the same in his official capacity, in the manner prescribed by the laws of the State in which said estate may be situated, in which said deed shall be recited the fact of said seizure and sale, with the cause thereof, the amount of tax or duty for which said sale was made, and of all charges and fees, and the amount paid by the purchaser, and all his acts and doings in relation to said seizure and sale, and shall have the same ready for delivery to said purchaser, and shall deliver the same accordingly, upon request therefor. And said deed shall be *prima facie* evidence of the truth of the facts stated therein, and if the proceedings of the officer as set forth have been substantially in pursuance of the provisions of this act, shall be considered and operate as a conveyance to the purchaser of all the rights in law or equity which the delinquent tax-payer had in the premises at the time the lien of the United States attached to said estate. The surplus, if any, arising from such sale shall be disposed of as provided in this act for like cases arising upon sales of personal property. And any person whose estate may be seized for taxes, as aforesaid, shall have the same right to pay or tender the amount due, with all proper charges thereon, prior to the sale thereof, and thereupon to relieve his said estate from sale as aforesaid, as is provided in this act for personal property similarly situated. And any collector or deputy collector may, for the collection of taxes or duties imposed upon any person or for which any person may be liable by this act, and committed to him for collection, seize and sell the lands of such person situated in any other collection district within the State in which said officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district. And the owners, their heirs, executors, or administrators, or any person having an interest therein or a lien thereon, or any person on their behalf, shall have liberty to redeem the land sold as aforesaid, within one year from and after recording the

said deed, upon payment to the purchaser, or, in case he cannot be found in the county where the lands are situated, to the collector, for the use of the purchaser, his heirs, or assigns, of the amount paid by the purchaser, with interest on the same at the rate of twenty percent. per annum. And it shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed; which record shall be certified by the officer making the sale. And it shall be the duty of any deputy making sale, as aforesaid, to return a statement of all his proceedings to the collector, and to certify the record thereof. And in case of the death or removal of the collector, or the expiration of his term of office from any other cause, said record shall be delivered to his successor in office; and a copy of every such record, certified by the collector, shall be evidence in any court of the truth of the facts therein stated. And when any lands sold, as aforesaid, shall be redeemed as hereinafter provided, the collector shall make an entry of the fact upon the record aforesaid, and the said entry shall be evidence of such redemption. And when any property, personal or real, seized and sold by virtue of the foregoing provisions shall not be sufficient to satisfy the claim of the United States for which distraint or seizure may be made against any person whose property may be so seized and sold, the collector may, thereupon, and as often as the same may be necessary, proceed to seize and sell, in like manner, any other property liable to seizure of such person, until the amount due from him, together with all expenses, shall be fully paid.

Mr. BENJAMIN. I propose to offer a substitute for this entire paragraph. And as it is an important and lengthy substitute, in order that the Committee of Ways and Means may have time to consider it, I would propose that this section be passed over for the present, by unanimous consent; and when the committee rises, I will ask leave to have my substitute printed.

Mr. MORRILL. I have no objection to passing from this paragraph before it is finally acted upon. But I have some amendments I desire to offer to it, in order to perfect it, before the question shall be taken upon the substitute of which the gentleman from Missouri [Mr. BENJAMIN] gives notice.

Mr. BENJAMIN. Very well.

Mr. MORRILL. I move to strike out the word "chattels," near the beginning of the paragraph.

The amendment was agreed to.

Mr. MORRILL. In the sentence which now reads, "at the time and place appointed, the officer making such seizure shall proceed to sell the said estate at public auction, offering the same at the minimum price, including the expense of making such levy, and all charges for advertising, and an officer's fee of ten dollars," I move to change the word "the" to the word "a," before the words "minimum price."

The amendment was agreed to.

Mr. MORRILL. After the words "with interest thereon at the rate of twenty per cent. per annum" I move to insert the following:

And said collector shall forthwith deposit the same separately in the Treasury of the United States, to be thereafter subject to like provision as provided in the preceding section of this act.

The amendment was agreed to.

Mr. WRIGHT. I move to amend this portion of the paragraph by striking out the word "twenty," and inserting the word "ten," before the words "per cent. per annum."

The amendment was agreed to.

Mr. WASHBURN, of Indiana. I move to amend the clause which now reads, "shall have the liberty to redeem the land sold as aforesaid, within one year from and after recording the said deed," by striking out the words "one year" and inserting the words "two years," so as to make this provision accord with our tax laws in the West, which permit redemption within two years, instead of within one year only.

Mr. MORRILL. The House has just adopted an amendment to this sentence reducing the rate of interest to be paid when this property is redeemed from twenty to ten per cent. That amendment, I think, will of itself go far to prevent any property from being sold under

this act, for nobody will want to purchase property under circumstances when it will very likely turn out no purchase at all, and the proposition of the gentleman from Indiana [Mr. WASHBURN] is going still further in the same direction. One year is certainly long enough, as long as is generally allowed by States, for the redemption of such property. And therefore I hope the amendment of the gentleman from Indiana will not be adopted.

Mr. WASHBURN, of Indiana. My experience goes to show that in all States where land becomes liable to sale for taxes, two years is little enough time to allow for its redemption. A tax sale is a very oppressive sale at the best; whether ten per cent. interest upon redemption is enough or not is another question. But the deed being given within five days of the sale, the allowing but one year for redemption cuts off almost all chance for redemption. I think two years is little enough time, and I hope my amendment will be adopted.

The question was taken; and upon a division there were—ayes 25, noes 33; no quorum voting.

Tellers were ordered; and Mr. WASHBURN of Indiana, and Mr. GARFIELD were appointed. The Committee again divided; and the tellers reported—ayes 47, noes 48.

So the amendment was rejected.

Mr. THAYER. In the clause which now reads, "if the amount bid shall be then and there paid, the officer shall give his receipt therefor, if requested, and within five days thereafter he shall make out a deed of the estate so sold to the purchaser thereof and execute the same in his official capacity," &c., after the word "execute" I move to insert the words "and acknowledge." In a subsequent portion of this paragraph it is taken for granted that the deed is to be recorded. Of course, in order to be recorded it must be acknowledged or proved in some manner. The effect of my amendment is to require the officer to acknowledge the deed as well as to execute it.

The amendment was agreed to.

Mr. HOLMES. I move to amend this sentence, near the commencement of this paragraph, "and the said officer shall also cause a notification to the same effect to be published in some newspaper," &c., by inserting before the word "cause" the words, "at least twenty days prior to such sale." As the paragraph now stands, no time is fixed within which this notification is to be published.

The amendment was agreed to.

Mr. HOLMES. I move to strike out the words "shall also cause a like notice," in another portion of the same sentence which now reads "and shall cause a like notice to be posted up at the post office nearest to the estate to be seized."

The amendment was agreed to.

Mr. BENJAMIN. I move to insert, near the commencement of the paragraph, after the words "authorized to collect the same by seizure and sale of real estate," the words "belonging to the person owing the tax."

Mr. MORRILL. That amendment would interfere with the enforcement of the law in regard to distilleries, which may now be seized and sold, whether the real estate belongs to the person owing the tax or not, if it is allowed to be used for illegal purposes.

Mr. BENJAMIN. Then I will withdraw that amendment.

I move to insert the words "in which the real estate to be sold is situated" after the sentence "and the said officer shall also, at least twenty days prior to such sale, cause a notification to the same effect to be published in some newspaper within the county where such seizure is made, if any such there be, and to be posted up at the post office nearest to the estate to be seized, and in two other public places within the county."

The amendment was agreed to.

Mr. BENJAMIN. I move to insert after the

words "shall proceed to sell the real estate" the words "or so much thereof as may be necessary."

The amendment was agreed to.

Mr. HOLMES. I move to amend by inserting the words "including affidavits showing the due service, publication, and posting of the notice of sale, as herein provided," before the words "the amount of fees and expenses," in the sentence which now reads, "and it shall be the duty of every collector to keep a record of all sales of land made in his collection district, whether by himself or his deputies, in which shall be set forth the tax for which any such sale was made, the dates of seizure and sale, the name of the party assessed, and all proceedings in making said sale, the amount of fees and expenses, the name of the purchaser, and the date of the deed; which record shall be certified by the officer making the sale."

The amendment was agreed to.

Mr. DAVIS. I desire to move an amendment to the following sentence: "and in case the real estate so seized, as aforesaid, shall consist of several distinct tracts or parcels the officer making sale thereof shall offer each tract or parcel for sale separately, and shall, if he deem it advisable, apportion the expenses, charges, and fees aforesaid to such several tracts or parcels, or to any of them, in estimating the minimum price aforesaid." I move to insert after the words "distinct tracts or parcels" the words "or can be divided with benefit to the debtor or his creditors without detriment to the United States."

I offer this amendment for the reason that according to the general terms of this bill it might be held that a farm conveyed to its present occupant under one title, although capable of subdivision, must all be sold by the officer; that the whole farm must be sold unless it came from different parties, or was in distinctly marked tracts or parcels. The amendment I propose will give the officer the discretionary power to sell only a portion of the farm, to be subdivided in such manner as might not injure the Government, and yet benefit the other parties interested in the estate.

Mr. HOOPER, of Massachusetts. An amendment has already been adopted which I think accomplishes what the gentleman from New York [Mr. DAVIS] desires. The words, "or so much thereof as may be necessary," have been inserted after the words "shall proceed to sell the real estate."

Mr. DAVIS. I offered my amendment to carry out the idea of the gentleman who offered that amendment. The bill now says that this real estate shall be sold, each tract or parcel separately, if it shall consist of several distinct tracts or parcels. But the amendment of the gentleman from Missouri [Mr. BENJAMIN] would not authorize the officer making the sale to go on and subdivide any tract or parcel, and for that reason I have offered my amendment.

Mr. MORRILL. If the gentleman deems his amendment important, I would suggest to him to insert after the words "shall offer each tract or parcel for sale separately," the words "or any portion thereof."

Mr. DAVIS. I accept that in lieu of the amendment I have offered.

The amendment was agreed to.

Mr. LOAN. I move the amendment I send up to the Clerk's desk to be read.

The Clerk read as follows:

Amend by striking out the following: If the amount bid shall be then and there paid, the officer shall give his receipt therefor, if requested, and within five days thereafter he shall make out a deed of the estate so sold to the purchaser thereof, and execute the same in his official capacity, in the manner prescribed by the laws of the State in which said estate may be situated, in which said deed shall be recited the fact of said seizure and sale, with the cause thereof, the amount of tax or duty for which said sale was made, and of all charges and fees, and the amount paid by the purchaser, and all his acts and doings in relation to said seizure and sale, and shall have the same ready for delivery to said purchaser, and shall deliver the same accordingly, upon request therefor. And said deed shall be *prima facie* evidence of the truth of the facts stated therein, and,

if the proceedings of the officer as set forth have been substantially in pursuance of the provisions of this act, shall be considered and operate as a conveyance to the purchaser of all the rights in law or equity which the delinquent tax-payer had in the premises at the time the lien of the United States attached to said estate. The surplus, if any, arising from such sale shall be disposed of as provided in this act for like cases arising upon sales of personal property. And any person whose estate may be seized for taxes, as aforesaid, shall have the same right to pay or tender the amount due, with all proper charges thereon, prior to the sale thereof, and thereupon to relieve his said estate from sale as aforesaid, as is provided in this act for personal property similarly situated. And any collector or deputy collector may, for the collection of taxes or duties imposed upon any person or for which any person may be liable by this act, and committed to him for collection, seize and sell the lands of such person situated in any other collection district within the State in which said officer resides; and his proceedings in relation thereto shall have the same effect as if the same were had in his proper collection district. And the owners, their heirs, executors, or administrators, or any person having an interest therein or a lien thereon, or any person on their behalf, shall have liberty to redeem the land sold as aforesaid, within one year from and after recording the said deed, upon payment to the purchaser, or, in case he cannot be found in the county where the lands are situate, to the collector, for the use of the purchaser, his heirs or assigns, of the amount paid by the purchaser, with interest on the same at the rate of ten per cent. per annum.

And insert in lieu thereof the following:

If the amount bid shall be then and there paid, the officer shall give his receipt therefor, if requested, and within five days thereafter he shall make out, execute, acknowledge, and deliver to the purchaser on request a certificate reciting the seizure and sale of said property, the cause thereof, the amount of the tax or duty and all costs for which said sale was made, and of all his acts and doings in relation thereto, and the amount paid by the purchaser. The acknowledgment shall be made before an officer of and in the form required by the laws of the State or Territory in which the real estate sold is situate, and when said certificate is filed in the office of the recorder of land titles in the county in which the real estate sold is situate, it shall impart notice to all parties in anywise interested in said real estate from and after the seizure of the same by said officer. Any person having any interest in or any lien on said real estate or any part thereof, or any person in their behalf, may redeem said real estate within one year from the date of the filing of the certificate of the sale thereof as aforesaid upon the payment to the collector of the district in which said real estate is situate for the use of said purchaser, his heirs or assigns, of the amount paid by the purchaser, with interest on the same at the rate of ten per cent. per annum, and on the payment of the same to the collector he shall give to the person making the payment a certificate referring to the sale of said real estate by said collector, and of the certificate thereof delivered by him to the purchaser, giving the date thereof and describing the real estate sold and certifying that said real estate had been redeemed by the payment of the amount of said sale, the penalty thereon, and all costs and charges on account thereof, and by whom and on whose behalf the same was made. If said real estate is not redeemed as aforesaid before the expiration of one year from the time of the filing for record of said certificate of sale as hereinbefore provided, the collector of the district in which the real estate is situate, on the production of the certificate of sale with the certificate of the recorder of land titles for the county in which the land is situate indorsed thereon or annexed thereto, shall, if it appear that one year has elapsed since the filing for record of said certificate of sale, make, execute, acknowledge, and deliver to the purchaser, his heirs or assigns, a deed for said real estate, reciting the seizure and sale of said real estate, the cause thereof, the amount of the tax or duty and all costs for which the sale was made, and all his acts and doings in relation thereto, the amount paid by the purchaser, the execution of a certificate of sale, and the time the same was filed for record with the recorder of land titles of the county in which the real estate is situate as appears by the recorder's certificate indorsed thereon and conveying to the grantee said real estate, and said deed shall operate as a conveyance to the grantee therein all the right, title, estate, and interest in law or equity which the delinquent had in the premises at the time the lien of the United States attached to said estate, and said deed and all recitals therein shall be *prima facie* evidence of the facts therein contained. Any surplus money arising from such sale shall be disposed of as provided in this act for like cases arising upon sales of personal property.

Mr. LOAN. Mr. Chairman, as this section now stands no proper provision is made for giving due notice of proceedings by recording these papers. The section does not provide in any way for securing the rights of third parties. It seems to me judicious that the devisable title should depend upon the certificate duly recorded with the land titles of the proper county, and that if the party interested should fail to redeem the property sold within the time limited in the act, then the collector shall proceed to make a deed and convey the absolute title. That is the object which I think will be obtained by the amendment.

Mr. MORRILL. Practically this section is perhaps of less importance than any other in the whole law. I am not aware that it has been required in a single instance thus far in the execution of the law throughout the whole United States. I do not suppose that this section will be called into operation for five years to come. The committee have, therefore, proposed but few amendments and those chiefly verbal.

Now, Mr. Chairman, I perceive there is a disposition to make this section entirely ineffectual. If many more amendments should be ingrafted upon it, I should be quite willing that the whole section should be stricken out. I hope, however, that no further amendment will be adopted unless the Committee of Ways and Means on consideration should conclude to offer the substitute presented by the gentleman from Missouri, [Mr. BENJAMIN,] which seems to have been carefully prepared, and which will be printed, so that we may compare it with the section as it stands.

Mr. LOAN. I would suggest that the paragraph be passed over until that proposed substitute be printed, and then let this be acted on at the same time.

Mr. BENJAMIN. I think that my colleague will find that the substitute I propose covers the point embraced in his amendment.

Mr. LOAN. Then I have no objection to a vote being taken on this proposition now.

The amendment was not agreed to.

Mr. WRIGHT. I move to amend by inserting after the word "again," in line five hundred and eighty-four, the words "advise and," and inserting after the word "manner" in the next line the words "as hereinbefore provided;" so that the clause will read as follows:

If the amount bid shall not be then and there paid, the officer shall forthwith proceed to again advertise and sell said estate in the same manner as hereinbefore provided.

Mr. MORRILL. I see no objection to that.

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

That section forty-one be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that it shall be the duty of the collectors aforesaid, or their deputies, in their respective districts, and they are hereby authorized to collect all the duties and taxes imposed by this act, however the same may be designated, and to prosecute for the recovery of any sum or sums which may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be incurred or imposed by virtue of this act, shall be sued for and recovered, in the name of the United States, in any proper form or action, or by any appropriate form of proceeding, *que tam*, or otherwise, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any other court of competent jurisdiction. And taxes or duties may be sued for and recovered in any proper form of action before any circuit or district court of the United States for the district within which the liability to such tax may have been or shall be incurred, or where the party from whom such tax is due may reside at the time of the commencement of said action. But no such suit shall be commenced unless the Commissioner of Internal Revenue shall authorize or sanction the proceedings: *Provided*, That in case of any suit for penalties or forfeitures brought upon information received from any person, other than a collector, deputy collector, assessor, assistant assessor, or inspector of internal revenue, the United States shall not be subject to any costs of suit, nor shall the fees of any attorney or counsel employed by any such officer be allowed in the settlement of his account, unless the employment of such attorney or counsel shall be authorized by the Commissioner of Internal Revenue, either express or by general regulations.

Mr. HOLMES. I move, on page 37, to strike out the following words:

Provided, That in case of any suit for penalties or forfeitures brought upon information received from any person other than a collector, deputy collector, assessor, assistant assessor, or inspector of internal revenue, the United States shall not be subject to any costs of suits.

Mr. MORRILL. I hope that motion will not prevail. The gentleman will see that it is provided the fees of any attorney or counsel employed by any such officer shall not be allowed in the settlement of his account unless the employment of such attorney or counsel shall be authorized by the Commissioner of

Internal Revenue, either express or by general regulations.

The amendment was disagreed to.

Mr. ALLISON. I move to amend in line six hundred and ninety, so that it will read "expressly or."

The amendment was agreed to.

Mr. GARFIELD. I move the following amendment:

Page 37, after line six hundred and eighty-nine, insert:

That section forty-four be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that the Commissioner of Internal Revenue, subject to regulations prescribed by the Secretary of the Treasury, shall be, and is hereby, authorized, on appeal to him made, to remit, refund, and pay back all duties erroneously or illegally assessed or collected, and all duties that shall appear to be unjustly assessed or excessive in amount, or in any manner wrongfully collected, and also repay to collectors or deputy collectors the full amount of such sums of money as shall or may be recovered against them or any of them in any court, for any internal duties or licenses collected by them, with the costs and expenses of suit, and all damages and costs recovered against assessors, assistant assessors, collectors, deputy collectors, and inspectors, in any suit which shall be brought against them or any of them by reason of anything that shall or may be done in the due performance of their official duties; and all judgments and moneys recovered or received for taxes, costs, forfeitures, and penalties shall be paid to the collector as internal duties are required to be paid: *Provided*, That where a second assessment may have been made in case of a list, statement, or return which in the opinion of the assessor or assistant assessor was false or fraudulent, or contained any understatement or undervaluation, such assessment shall not be remitted, nor shall taxes or duties collected under such assessment be recovered, refunded, or paid back unless said list, statement, or return was not false or fraudulent, and did not contain any understatement or undervaluation.

Mr. Speaker, the forty-fourth section of the law as it now stands provides for refunding all the taxes in cases where there have been wrong assessments. That is perfectly proper, but there has been a ruling in the northern district of New York that in cases of fraudulent lists returned under the exact terms of the law the money may be refunded. This amendment has been moved at the request of the Commissioner of Internal Revenue. It provides that the section which relates to refunding shall not apply to persons who have had additional assessments in consequence of fraudulent returns. It is to correct that now case which seems to have arisen in the administration of the law. The amendment was agreed to.

Mr. WRIGHT. Provision is made as to the method in which suits shall be brought in the district and circuit courts. I move to insert these words:

And in all such cases the defendant shall be entitled to a trial by jury.

Mr. ALLISON. I do not know that I fully comprehend what the gentleman from New Jersey proposes. If these cases are to be tried by the courts undoubtedly either party may be entitled to a jury. If they are not to be tried by a court there is no tribunal to summon a jury. I do not think this amendment ought to be adopted.

The amendment was rejected.

The Clerk read the next paragraph, as follows:

That section forty-eight be amended by striking out all after the enacting clause and inserting the following: that all goods, wares, merchandise, articles, or objects on which taxes are imposed by the provisions of law, which shall be found in the possession, or custody, or within the control of any person or persons, for the purpose of being sold or removed by such person or persons in fraud of the internal revenue laws, or with design to avoid payment of said taxes, may be seized by any collector or deputy collector who shall have reason to believe that the same are possessed, had, or held for the purpose or design aforesaid, and the same shall be forfeited to the United States; and also all articles of raw materials found in the possession of any person or persons intending to manufacture the same into articles of a kind subject to tax or duty under this act, for the purpose of selling such manufactured articles in fraud of said laws, or with design to evade the payment of said tax or duty; and also all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles on which taxes are imposed, as aforesaid, and intended to be used by them in the fraudulent manufacture of such raw materials, shall be found, may also be seized by any collector or deputy collector, as aforesaid, and the same shall be forfeited

as aforesaid; and the proceedings to enforce said forfeiture shall be in the nature of a proceeding *in rem* in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any person who shall have in his custody or possession any such goods, wares, merchandise, articles, or objects subject to tax as aforesaid, for the purpose of selling the same with the design of avoiding payment of the taxes imposed thereon, shall be liable to a penalty of \$500, or not less than double the amount of taxes fraudulently attempted to be evaded, to be recovered in any court of competent jurisdiction; and the goods, wares, merchandise, articles, or objects which shall be so seized by any collector or deputy collector may, at the option of the collector, be delivered to the marshal of said district, and remain in the care and custody of said marshal, and under his control until he shall obtain possession by process of law, and the cost of seizure made before process issues shall be taxable by the court: *Provided, however*, That when the property so seized may be liable to perish or become greatly reduced in price or value by keeping, or when it cannot be kept without great expense, the owner thereof, the collector, or the marshal of the district, may apply to the assessor of the district to examine said property; and if, in the opinion of said assessor, it shall be necessary that the said property should be sold to prevent such waste or expense, he shall appraise the same; and the owner thereupon shall have said property returned to him upon giving bond in such form as may be prescribed by the Commissioner of Internal Revenue, and in an amount equal to the appraised value, with such sureties as the said assessor shall deem good and sufficient, to abide the final order, decree, or judgment of the court having cognizance of the case, and to pay the amount of said appraised value to the collector, marshal, or otherwise, as he may be ordered and directed by the court, which bond shall be filed by said assessor with the United States district attorney for the district in which said proceedings *in rem* may be commenced: *Provided*, That in case the aforesaid bond shall be executed before the process is served upon the property, the marshal shall serve notice upon the bondsmen, and the court shall have jurisdiction of the matter the same as if process had been served upon the property so appraised and returned as aforesaid; but if said owner shall neglect or refuse to give said bond the assessor shall issue to the collector or marshal aforesaid an order to sell the same; and the said collector or marshal shall thereupon advertise and sell the said property at public auction in the same manner as goods may be sold on final execution in said district; and the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, shall be paid to the court aforesaid, to abide its final order, decree, or judgment.

Mr. MORRILL. I move to strike out lines six hundred and ninety-nine and seven hundred, as follows:

Who shall have reason to believe that the same are possessed, had, or held for the purpose or design aforesaid.

The amendment was agreed to.

Mr. MORRILL. I move to strike out the words "articles of" in line seven hundred and two.

The amendment was agreed to.

Mr. MORRILL. I move to strike out the following words in lines seven hundred and nine, seven hundred and ten, and seven hundred and eleven:

On which taxes are imposed, as aforesaid, and intended to be used by them in the fraudulent manufacture of.

And to insert in lieu thereof the word "or;" so that it shall read:

And also all tools, implements, instruments, and personal property whatsoever, in the place or building, or within any yard or inclosure where such articles or such raw materials shall be found, may also be seized by any collector or deputy collector, as aforesaid.

The amendment was agreed to.

Mr. MORRILL. I move to strike out in line seven hundred and thirty-two, after the word "provided," the word "however."

The amendment was agreed to.

Mr. MORRILL. I move to strike out after the word "commenced," in line seven hundred and fifty-one, the following:

Provided, That in case the aforesaid bond shall be executed before process is served upon the property, the marshal shall serve notice upon the bondsmen, and the court shall have jurisdiction of the matter the same as if process had been served upon the property so appraised and returned as aforesaid.

And to insert in lieu thereof, the following:

Provided further, That in case said bond shall be executed and the property returned before seizure thereof by virtue of the process aforesaid, the marshal shall give notice of the pendency of proceedings in court to the parties executing said bond by personal service or publication, and in manner and form as the court may direct, and the court shall thereupon have jurisdiction of said matter and parties in

the same manner as if such property had been seized by virtue of the process aforesaid.

Mr. WRIGHT. I have a word to say on that amendment. The proceeding under this section is similar in all respects to proceedings *in rem* in what we term cases of attachment, and I cannot conceive that this House will, upon a little reflection, undertake in this way to adopt a proposition of this kind, which I deem unfair and unjust to those whom I may term defendants in such cases.

There is a provision in the law by which an assessor may advise, and his advice seems to have the authority of law. It is well known that in all cases of proceedings by attachment, and in fact in all other cases, it is necessary for the court to have jurisdiction of the person and of the subject-matter; and in proceedings *in rem* it is necessary for the court to have jurisdiction over the property as well. But in no case, as I understand the law, in any State of this Union, can any man's property be taken, advertised, and sold upon the mere *ipse dixit* of an assessor or assistant assessor or collector. In all cases of attachment the defendant, by coming in and giving up all, may have a right of trial by jury. This right is denied to him if this section is to be adopted. I appeal to gentlemen if I am not correct in my understanding of it. There can be no trial by jury, no opportunity for the defendant to appear before the court, because the notice is not to be given to him, but to his bondsman. Can that be called justice?

I desire to have a provision inserted in this section that when notice is given to the bondsmen only, who are not owners of the property, the court fails of its jurisdiction. We are not doing justice to these men by undertaking to declare that that which according to law does not give them jurisdiction shall authorize these officers to proceed and divest a man of his property without the intervention of the court or without authority of law.

I am willing to go for any proceeding that will secure to the United States Government whatever amount may be due to it, but justice demands, inasmuch as there may be mistakes on the part of assessors and collectors, that notice should be given to the parties in interest, and that they shall be allowed to go before a court. If a question of fact is made, a party has in ordinary proceedings in a court of justice the right of a trial by jury. If it is a question of law he can go before a court and have justice done him equally well.

I trust the chairman of the committee will look at this matter in the light I have presented it, and with his known intelligence will suggest a better section than the one that is now under consideration.

Mr. GARFIELD. Almost every point the gentleman has made is against what is now the law. All the committee have done is to repeat it at great length with some limitations and restrictions.

The amendment was agreed to.

The Clerk read the next two paragraphs, as follows:

That sections fifty-three, fifty-four, fifty-five, fifty-six, fifty-seven, fifty-nine, sixty-two, sixty-three, sixty-four, sixty-five, sixty-six, sixty-seven, sixty-eight, sixty-nine, and seventy be, and the same are hereby, repealed.

That section seventy-one be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that no person, firm, company, or corporation shall be engaged in, prosecute, or carry on any trade, business, or profession, hereinafter mentioned and described, until he or they shall have paid a special tax therefor in the manner hereinafter provided.

Mr. LE BLOND. I move that the committee now rise.

Mr. MORRILL. Wait until half past four o'clock.

Mr. ELDRIDGE. There is hardly a quorum present now.

Mr. LE BLOND. I must insist on my motion.

The question was taken; and upon a division there were—ayes 29, noes 54.

So the motion was not agreed to.

The next paragraph was then read, as follows:

That section seventy-two be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that every person, firm, company, or corporation engaged in any trade, business, or profession on which a special tax is imposed by law, shall register with the assistant assessor of the assessment district, first, his or their name or style, and in case of a firm or company, the names of the several persons constituting such firm or company, and their places of residence; second, the trade, business, or profession, and the place where such trade, business, or profession is to be carried on; third, if a rectifier, the number of barrels he designs to rectify; if a peddler, whether he designs to travel on foot, or with one, two, or more horses; if an innkeeper, the yearly rental value of the house and property to be occupied for said purpose; if not rented, the assistant assessor shall value the same. All of which facts shall be returned duly certified by such assistant assessor, both to the assessor and collector of the district; and the special tax shall be paid to the collector or deputy collector of the district as hereinafter provided for such trade, business, or profession.

Mr. MORRILL. I move to insert the words "or mules" after the words "or with one, two, or more horses."

The motion was agreed to.

Mr. MORRILL. I move to strike out the words "if not rented, the assistant assessor shall value the same."

The motion was agreed to.

The next paragraph was read, as follows:

That section seventy-three be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that any one who shall exercise or carry on any trade, business, or profession, or do any act hereinafter mentioned, for the exercising, carrying on, or doing of which a special tax is imposed by this act, without payment thereof as in that behalf required, shall, for every such offense, besides being liable to the payment of the tax, be subject to imprisonment for a term not exceeding two years, or a fine not exceeding \$500, or both, one moiety of such fine to the use of the United States, the other moiety to the use of the person who shall first give information of the fact whereby said forfeiture was incurred.

Mr. WRIGHT. I would like to ask the chairman of the Committee of Ways and Means [Mr. MORRILL] in what courts these persons are to be tried, and what courts are to inflict the penalty.

Mr. MORRILL. The courts of the United States, of course.

I move to amend by striking out the words "one moiety of such fine to the use of the United States, the other moiety to the use of the person who shall first give information of the fact whereby said forfeiture was incurred;" and insert in lieu thereof the words, "and such fine shall be distributed between the United States and the informer, if there be any, as provided by law."

The amendment was agreed to.

Mr. PRICE. I move to amend this paragraph by striking out the word "without," before the words "payment thereof as in that behalf provided," and inserting the words "and shall refuse," so that it will read, "and who shall refuse payment thereof," &c. It is a possible case that an innocent party may be taken up under this law and imprisoned. Now, what I wish is, that if he shall refuse to pay after the demand is made he shall then be punished, and not without.

Mr. MORRILL. It is made the duty of persons engaged or about to engage in any business, for which a special tax is required, and which takes the place of a license, to go and obtain a license. The proposition of the gentleman from Iowa [Mr. PRICE] would make it necessary for the assessor to go around and find out all such cases. It might be very inconvenient for him to travel over a whole district or enough of it to find out what parties are engaged in all sorts of business.

The amendment was not agreed to.

The next paragraph was read, as follows:

That section seventy-four be amended by striking out all after the enacting clause, and inserting, in lieu thereof, the following: that the receipt for the payment of any special tax shall contain and set forth the purpose, trade, business, or profession for which such tax is paid, and the name and place of abode of the person or persons paying the same; if

by a rectifier, the quantity of spirits intended to be rectified; if by a peddler, whether for traveling on foot, or with one or two or more horses or mules, the time for which and the date or time of payment, and (except in the case of auctioneers, produce brokers, commercial brokers, patent-right dealers, photographers, builders, insurance agents, insurance brokers, and peddlers) the place at which the trade, business, or profession for which the tax is paid shall be carried on: *Provided*, That the payment of the special tax imposed shall not exonerate from taxation the person or persons, (except lawyers, physicians, surgeons, dentists, cattle brokers, horse dealers, peddlers, produce brokers, commercial brokers, patent-right dealers, photographers, builders, insurance agents, insurance brokers, and auctioneers,) or firm, company, or corporation in any other place than that stated; but nothing herein contained shall prohibit the storage of goods, wares, or merchandise in other places than the place of business, nor the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares, or merchandise shall be kept for sale at said office. And every person exercising or carrying on any trade, business, or profession, or doing any act for which a special tax is imposed, shall, on demand of any officer of internal revenue, produce and exhibit the receipt for payment of the tax, and unless he shall do so may be taken and deemed not to have paid such tax. And in case any peddler shall refuse to exhibit his or her receipt, as aforesaid, when demanded by any officer of internal revenue, said officer may seize the horse, wagon, and contents, or pack, bundle, or basket of any person so refusing, and the assessor of the district in which the seizure has occurred may, on ten days' notice, published in any newspaper in the district, or served personally on the peddler, or at his dwelling-house, require such peddler to show cause, if any he has, why the horses, wagon, and contents, pack, bundle, or basket so seized shall not be forfeited; and in case no sufficient cause is shown, the assessor may direct a forfeiture, and issue an order to the collector or to any deputy collector of the district for the sale of the property so forfeited; and one half of the same, after payment of the expenses of the proceedings, shall be paid to the officer making the seizure, and the other half thereof to the collector for the use of the United States. And all special taxes imposed after the 1st day of May in any year shall be paid for and until the 1st day of May next succeeding, and shall be the ratable proportion of the whole amount of tax imposed for one year, and estimated from the first day of the month in which such tax is imposed.

Mr. MORRILL. I move to strike out the word "and" before the words "date or time of payment," and insert the words "payment is made," in the commencement of the paragraph.

The amendment was agreed to.

Mr. MORRILL. At the commencement of the proviso I move to amend by inserting after the word "tax" the word "herein;" and also to strike out the words "exonerate from taxation" and insert the words "exempt from an additional special tax;" so that the sentence will read:

Provided, That the payment of the special tax herein imposed shall not exempt from an additional special tax, &c.

The amendment was agreed to.

Mr. MORRILL. I move to insert the words "doing business" after the word "corporation" and before the words "in any other place than that stated."

The motion was agreed to.

Mr. MORRILL. I move to strike out the word "prohibit" and insert the words "require a special tax for" after the words "but nothing herein contained shall," and before the words "the storage of goods, wares, or merchandise," &c.

The motion was agreed to.

Mr. MORRILL. I move to insert the words "or mule" after the words "said officer may seize the horse," and also insert the words "or mules" before the words "wagon and contents, pack, bundle, or basket so seized shall not be forfeited."

The motion was agreed to.

Mr. MORRILL. I move to amend by striking out lines eight hundred and sixty to eight hundred and sixty-four, as follows:

And all special taxes imposed after the 1st day of May in any year shall be paid for and until the 1st day of May next succeeding, and shall be the ratable proportion of the whole amount of tax imposed for one year, and estimated from the first day of the month in which such tax is imposed.

And inserting in lieu thereof the following:

And all such special taxes shall become due on the

1st day of May in each year, or on commencing any trade, business, or profession upon which such tax is by law imposed. In the former case the tax shall be reckoned for one year, and in the latter case proportionately for that part of the year from the first day of the month in which the liability to a special tax commenced to the 1st day of May following.

The amendment was agreed to.

Mr. HOLMES. One portion of the pending paragraph provides for seizing the horse, wagon, and any other property of any peddler who shall not exhibit a license; and it further provides that notice of such seizure and of the time for his appearance before the assessor may be published in any newspaper of the district or may be served personally or may be left with his family. I can see that this provision may be liable to great abuse. The publication may be made in a newspaper many miles from the place of seizure, so that the party will know nothing about it.

I move, therefore, to amend by striking out the following:

And the assessor of the district in which the seizure has occurred may, on ten days' notice published in any newspaper in the district, or served personally on the peddler or at his dwelling-house, require such peddler to show cause if any he has.

And inserting in lieu thereof the following:

And shall immediately serve upon such peddler a notice in writing requiring him to show cause before the assessor of the district in which such seizure shall be made, at a time and place therein stated, which shall not be less than six days nor more than fifteen days from the day of such service.

Mr. MORRILL. Mr. Chairman, I hope that this amendment will not be adopted, for the reason that it will be impossible in a great many instances to reach these peddlers unless the process is exceedingly summary. I have not so much sympathy for the peddlers as my friend from New York has. I know that in a great many instances these persons, who flock to all public gatherings, such as musters and agricultural fairs, appear in a place one day and disappear the next; so that it will be impossible to reach them by the process proposed by the gentleman. I know that heretofore a large amount of fraud has been committed by these peddlers, and that they—the smaller sort, such as peddle jewelry and other gimcracks—require the unceasing vigilance of the revenue officers.

Mr. HOLMES. This section provides that the property of these peddlers may be seized. Now, the party who makes the seizure has certainly an opportunity to serve notice upon the peddler. I cannot see the force of the objection, urged by the chairman of the committee.

The amendment was not agreed to.

The Clerk began the reading of the next paragraph, commencing on line eight hundred and sixty-five, when—

Mr. LE BLOND moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

EMPLOYÉS IN STATE DEPARTMENT.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit a report of the Secretary of State in answer to that part of the resolution of the House of Representatives of the 7th instant which calls for information in regard to the Clerks employed in the Department of State.

ANDREW JOHNSON.

WASHINGTON, May 15, 1866.

The message, with the accompanying documents, was laid on the table, and ordered to be printed.

MEXICO.

The SPEAKER also laid before the House a message from the President, transmitting, in answer to a resolution of the House, information concerning discriminations made by the so-called Maximilian Government in Mexico against American commerce, or commerce from particular American ports; which was ordered to be printed, and referred to the Committee on Commerce.

ECUADOR.

The SPEAKER also laid before the House a message from the President, transmitting correspondence in reference to the non-payment by Ecuador of the first installment under the convention of 1862; which was ordered to be printed, and referred to the Committee on Foreign Affairs.

THOMAS FOSTER.

On motion of Mr. HUBBARD, of West Virginia, leave was granted for the withdrawal from the files of the House of the papers in the case of Thomas Foster.

HARRISON HEERMANCE.

On motion of Mr. KETCHAM, leave was granted for the withdrawal from the files of the House of the papers in the case of Harrison Heermance.

E. C. WILLETT.

On motion of Mr. BIDWELL, leave was granted for the withdrawal from the files of the House of the papers in the case of E. C. Willett.

SOLDIERS' AND SAILORS' UNION.

Mr. McKEE, by unanimous consent, introduced a bill to incorporate the Soldiers' and Sailors' Union of Washington city; which was read a first and second time, and, with the accompanying memorial, referred to the Committee on Military Affairs.

LEAVE OF ABSENCE.

On motion of Mr. SCHENCK, leave of absence was granted to Mr. BINGHAM for two weeks.

And then, on motion of Mr. ALLISON, (at four o'clock and thirty-five minutes p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. CULLOM: The petition of numerous citizens of Sangamon county, in the State of Illinois, in favor of Congress imposing a national tax of two dollars per head on dogs.

Also, the petition of a large number of citizens of Sangamon county, Illinois, asking that Congress shall levy a specific duty upon wool.

By Mr. CLARKE, of Ohio: The petition of J. W. Pomprey, of Brown county, Ohio, asking pay for services rendered the United States as a detective.

By Mr. DAVIS: The petition of the trustees of New York Central College, for recognition and confirmation of title to certain tracts of land in Oregon and in Washington Territory.

By Mr. JULIAN: The petition of Eleanor C. Ransom, asking an appropriation to reimburse her for losses sustained in the service of the United States during the late rebellion.

By Mr. LAWRENCE, of Ohio: The memorial of Miss H. H. Webber, and 26 others, clerks in the Post Office Department, asking for equal pay to those employed in the Treasury Department, and for proportional amount of the \$244 provided for clerks of small salaries.

By Mr. PHELPS: The petition of James Hooper, of Baltimore, Maryland, claiming compensation for loss of bark General Berry, destroyed by rebel privateer Florida.

By Mr. RANDALL, of Kentucky: The petition of P. P. Ballard for the establishment of a post route over the new turnpike from Richmond via the mouth of Tate's creek to Lexington, Kentucky.

By Mr. WELKER: The petition of William Botimer, and others, late officers in the thirteenth United States colored heavy artillery, asking pay for recruiting men for that regiment in the State of Ohio.

By Mr. WOODBRIDGE: The petition of Doctors G. J. Lock, E. A. Whipple, and H. M. Hall, of Danby, Vermont, praying that medicines used by physicians may be exempted from taxation.

IN SENATE.

WEDNESDAY, May 16, 1866.

Prayer by Rev. Dr. PHILLIPS, of London, England.

The Journal of yesterday was read and approved.

ADMISSION OF COLORADO—VETO.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate of the United States:

I return to the Senate, in which it originated, the bill which has passed both Houses of Congress, entitled "An act for the admission of the State of Colorado into the Union," with my objections to it becoming a law at this time.

1. From the best information which I have been able to obtain, I do not consider the establishment of a State government at present necessary for the welfare of the people of Colorado. Under the existing territorial government all the rights, privileges, and interests of the citizens are protected and secured. The qualified voters choose their own legislators and their own local officers, and are represented in Congress by a Delegate of their own selection. They make and execute their own municipal laws, subject only to revision of Congress—an authority not likely to be exercised, unless in extreme or extraordinary cases. The population is small, some estimating it so low as twenty-five thousand, while advocates of the bill reckon the number at from thirty-five thousand to forty thousand souls. The people are principally recent settlers, many of whom are understood to be ready for removal to other mining districts beyond the limits of the Territory if circumstances shall render them more inviting. Such a population cannot but find relief from excessive taxation if the Territorial system, which devolves the expense of the executive, legislative, and judicial departments upon the United States, is for the present continued. They cannot but find the security of person and property increased by their reliance upon the national executive power for the maintenance of law and order against the disturbances necessarily incident to all newly organized communities.

2. It is not satisfactorily established that a majority of the citizens of Colorado desire or are prepared for an exchange of a territorial for a State government. In September, 1864, under the authority of Congress, an election was lawfully appointed and held for the purpose of ascertaining the views of the people upon that particular question. Six thousand one hundred and ninety-two votes were cast, and of this number a majority of 3,152 was given against the proposed change. In September, 1865, without any legal authority, the question was again presented to the people of the Territory with the view of obtaining a reconsideration of the result of the election held in compliance with the act of Congress, approved March 21, 1864. At this second election 5,905 votes were polled, and a majority of 155 was given in favor of State organization. It does not seem to me entirely safe to receive this last mentioned result, so irregularly obtained, as sufficient to outweigh the one which had been legally obtained in the first election. Regularity and conformity to law are essential to the preservation of order and stable government, and should, as far as practicable, always be observed in the formation of new States.

3. The admission of Colorado at this time as a State into the Federal Union appears to me to be incompatible with the public interests of the country. While it is desired that Territories sufficiently matured should be organized as States, yet the spirit of the Constitution seems to require that there should be an approximation toward equality among the several States comprising the Union. No State can have more than two Senators in Congress; the largest State has a population of four millions, several of the States have a population

exceeding two millions, and many others have a population exceeding one million.

A population of one hundred and twenty-seven thousand is the ratio of apportionment of Representatives among the several States. If this bill should become a law, the people of Colorado, thirty thousand in number, would have in the House of Representatives one member, while New York, with a population of four millions, has but thirty-one. Colorado would have in the Electoral College three votes, while New York has only thirty-three. Colorado would have in the Senate two votes, while New York has no more.

Inequalities of this character have already occurred, but it is believed that none have happened where the inequality was so great. When such inequality has been allowed, Congress is supposed to have permitted it on the ground of some high public necessity, and under circumstances which promised that it would rapidly disappear through the growth and development of the newly admitted State. Thus, in regard to the several States in what was formerly called the "Northwest Territory," lying east of the Mississippi, their rapid advancement in population rendered it certain that States admitted with only one or two Representatives in Congress would in a very short period be entitled to a great increase of representation. So when California was admitted on the ground of commercial and political exigencies, it was well foreseen that that State was destined rapidly to become a great, prosperous, mining, and commercial community. In the case of Colorado, I am not aware that any rational expediency, either of a political or commercial nature, requires a departure from the law of equality which has been so generally adhered to in our history.

If information submitted in connection with this bill is reliable, Colorado, instead of increasing, has declined in population. At an election for members of a Territorial Legislature held in 1861, 10,580 votes were cast. At the election before mentioned, in 1864, the number of votes cast was 6,192; while at the irregular election held in 1865, which is assumed as a basis for legislative action at this time, the aggregate of votes was 5,905. Sincerely anxious for the welfare and prosperity of every Territory and State, as well as for the prosperity and welfare of the whole Union, I regret this apparent decline of population in Colorado, but it is manifest that it is due to emigration, which is going out from that Territory into other regions within the United States, which either are in fact, or are believed by the inhabitants of Colorado to be, richer in mineral wealth and agricultural resources. If, however, Colorado has not really declined in population, another census or another election under the authority of Congress would place the question beyond doubt, and cause but little delay in the ultimate admission of the Territory as a State, if desired by the people. The tenor of these objections furnishes the reply which may be expected to an argument in favor of the measure derived from the enabling act which was passed by Congress on the 21st day of March, 1864. Although Congress then supposed that the condition of the Territory was such as to warrant its admission as a State, the result of two years' experience shows that every reason which existed for the institution of a territorial instead of a State government in Colorado at its first organization still continues in force.

The condition of the Union at the present moment is calculated to inspire caution in regard to the admission of new States. Eleven of the old States have been for some time, and still remain, unrepresented in Congress. It is a common interest of all the States, as well those represented as those unrepresented, that the integrity and harmony of the Union should be restored as completely as possible, so that all those who are expected to bear the burdens of the Federal Government shall be consulted concerning the admission of new States, and that in the mean time no new State shall be prematurely and unnecessarily admitted to

a participation in the political power which the Federal Government wields—not for the benefit of any individual State or section, but for the common safety, welfare, and happiness of the whole country.

ANDREW JOHNSON.

WASHINGTON, D. C., May 15, 1866.

The PRESIDENT *pro tempore*. The question is on the reconsideration of the bill. Shall the bill pass, the objections of the President of the United States to the contrary notwithstanding?

Mr. WADE. I move that the message be printed and referred to the Committee on Territories, together with the bill.

Mr. SUMNER. I ask, is that the proper way?

Mr. FESSENDEN. I do not think it is usual to refer a bill in this stage. It cannot be amended.

Mr. JOHNSON, and others. Let the message be printed and laid on the table.

Mr. WADE. If the course which is proposed is unusual, and I do not know but that it is, I will move simply that the message be printed and laid on the table.

Mr. SUMNER. Mr. President—

The PRESIDENT *pro tempore*. The motion is not debatable.

Mr. SUMNER. The question of printing is debatable.

Mr. CLARK. You can call for a division of the question.

Mr. SUMNER. I merely wish to ask why we should not proceed to vote at once and dispose of the matter.

Mr. HENDRICKS. I desire to modify the motion of the Senator from Ohio, so that the bill shall be made the order of business for some particular hour; I am not choice about the hour.

The PRESIDENT *pro tempore*. The motion to lay on the table, in the opinion of the Chair, supersedes that motion; and it is not amendable in that form. The question is on the motion of the Senator from Ohio, that the message and bill be laid on the table and printed.

The motion was agreed to—ayes 17, noes not counted.

RELATIONS WITH ECUADOR.

The PRESIDENT *pro tempore* laid before the Senate the following message from the President of the United States:

To the Senate and House of Representatives:

I transmit to Congress a copy of a correspondence between the Secretary of State and the acting chargé d'affaires of the United States at Guayaquil, in the republic of Ecuador, from which it appears that the Government of that republic has failed to pay the first installment of the award of the commissioners under the convention between the United States and Ecuador of the 25th November, 1862, which installment was due on the 17th of February last. All debts of this character from one Government to another are justly regarded as of a peculiarly sacred character, and as further diplomatic measures are not in this instance likely to be successful, the expediency of authorizing other proceedings, in case they should ultimately prove to be indispensable, is submitted to your consideration.

ANDREW JOHNSON.

WASHINGTON, May 9, 1866.

Mr. SUMNER. I move that that message of the President, with the accompanying papers, be printed, and referred to the Committee on Foreign Relations.

The motion was agreed to.

PETITIONS AND MEMORIALS.

Mr. LANE, of Indiana, presented a memorial of the board of trustees of the Indiana Agricultural College, praying for a modification of the act of July 2, 1862, granting to the several States a quantity of land equal to thirty thousand acres for each Senator and Representative in Congress for agricultural col-

loges; which was referred to the Committee on Agriculture.

Mr. YATES presented a memorial of assistant assessors under the internal revenue law in the ninth district of Illinois, praying for increased compensation; which was referred to the Committee on Finance.

Mr. HARRIS. I have received a memorial the disposition of which has been a matter of doubt with me. It is numerous signed by citizens of Cortland county, New York. It speaks of grievances that have long existed, and very earnestly; but what those are I am unable to discover; and, on the whole, as the meaning and construction of a written instrument is a question of law, I propose to refer it to the Committee on the Judiciary.

The memorial was referred to the Committee on the Judiciary.

FRESH-WATER BASIN FOR IRON-CLADS.

Mr. GRIMES. I am instructed by the Committee on Naval Affairs, to whom was referred a resolution of the city council of the city of Portland, in the State of Maine, in relation to the preservation of iron-clads, to report the same back, accompanied with a joint resolution.

Mr. FESSENDEN. I should like to have that resolution taken up and passed now. It is only for the appointment of a commission.

Mr. JOHNSON. I should like to have it read.

The joint resolution (S. R. No. 92) authorizing the appointment of examiners to examine a site for a fresh-water basin for iron-clad vessels of the United States Navy was read a first time by its title.

Mr. JOHNSON. Are they to examine sites anywhere?

Mr. GRIMES. No, sir.

The PRESIDENT *pro tempore*. Does the Senator from Maryland ask for the reading of the joint resolution at length?

Mr. JOHNSON. If what has been read states the substance of it I do not.

Mr. GRIMES and Mr. FESSENDEN. That is the title merely.

Mr. JOHNSON. Then I ask for the reading of the resolution.

The Secretary read the resolution, which proposes to direct the Secretary of the Navy to appoint a board of examiners to examine a site at or near the city of Portland, State of Maine, for a fresh-water basin for iron-clad vessels of the United States Navy, and to ascertain the advantages and cost of the site, and report to Congress during the present session.

Mr. JOHNSON. I have not the slightest objection to that; but why should it be confined to the city of Portland? Why not authorize them to examine sites anywhere?

The PRESIDENT *pro tempore*. The joint resolution is not before the Senate at present for consideration.

Mr. JOHNSON. I beg pardon. I thought it was under consideration.

Mr. FESSENDEN. I should like to have it taken up if there is no objection, because the time named in it for a report is so short.

Mr. JOHNSON. I do not object to it of course.

Mr. CLARK. The clause directing a report during the present session of Congress had better be stricken out.

Mr. JOHNSON. It cannot be done in the time mentioned. What I suggested was, that it was limiting the authority of the board. Is the resolution now before the Senate?

The PRESIDENT *pro tempore*. It is not.

Mr. FESSENDEN. I should like to have it taken up and considered now.

There being no objection, the joint resolution was read a second time, and considered as in Committee of the Whole.

Mr. JOHNSON. I was about saying before that I did not exactly understand why the board to be appointed under the authority of this resolution was to be limited to the examination of a site at Portland.

Mr. FESSENDEN. I will explain it, if the Senator will allow me. There is an important public work going on in Portland by which the Presumpscot river, which is near Portland, is brought by a canal directly into the harbor of Portland, a little outside of the city. The engineer in charge of the work says it is perfectly practicable, at a very small expense, to give the Government all the room it needs for the purpose of laying up in fresh water—not in fresh and salt water, but in absolutely fresh water—these iron-clads; that it may be done at the expense of some two or three hundred thousand dollars, and any number of acres of land may be covered by a little wall across the mouth, and it will furnish all facilities of that description. I have been very anxious not to urge the matter upon Congress, and have brought in no bill on the subject, or anything of the kind; but at the very beginning of the session I endeavored to prevail on the Secretary of the Navy to have this site examined and reported upon. I could get no encouragement from him that he would allow anybody to examine it and make a report. He brought up certain objections, all of which, I thought, were entirely untenable. He was urged strongly to just get the facts, by a commission appointed by himself, who could say whether it was fit for this purpose or not, and how much it would cost, &c.

Mr. JOHNSON. He could have done that, if he pleased.

Mr. GRIMES. He had not the authority.

Mr. FESSENDEN. He could send down any man to do it, if he had chosen to do so. He did not say he had not the authority; he did not make that a point. He could have sent, not a commission, but an engineer—there are engineers in the employ of the Navy Department—or any one of his officers to look at it, and there would be no difficulty about it. I could not prevail upon him to do it. Finally a letter was handed to him by a gentleman, and he made the reply, substantially, that until the question of League Island was disposed of he would not have it examined.

Mr. JOHNSON. The Senator will permit me to ask him whether this site in Maine has ever been examined by anybody.

Mr. FESSENDEN. It has been examined by the engineer engaged upon the work of which I have spoken; and he says that this can be done.

Mr. JOHNSON. That I understand; but has anybody examined it for the Government?

Mr. FESSENDEN. No, sir.

Mr. JOHNSON. So that they have had no opportunity of comparing the two sites, the one proposed at Portland and the one at League Island?

Mr. FESSENDEN. No, sir; and I cannot get an examination. I stated to the Secretary distinctly, "Sir, I have no opinion about it; I urge nothing in regard to it; I ask nothing in regard to it except simply that you will ascertain the facts for yourself by one of your own officers;" and up to this time I have not been able to get him even to move to let the facts be known to Congress or to anybody else. Therefore it is that I want this resolution passed to direct him to send a commission there to examine and report. That is all.

Mr. FOSTER. [Mr. POMEROY in the chair.] Mr. President, I move to amend the resolution by adding after the words "Portland, Maine," the words "and also New London, Connecticut."

Mr. FESSENDEN. I hope the Senate will not do that. New London, Connecticut, has already been examined by a commission. There has been an examination and a report upon New London. The Senator will not, I take it, contradict that fact. I do not want so much put upon this commission that they cannot make a return at this session of Congress. The examination at Portland can be made in the course of a week; but if others are put on, it nullifies the whole thing. Connecticut has already had its commission to examine New London and to report upon it; and the report

is here. Now, I do not intend or desire to push this matter of Portland; I have no opinion on the subject even, except that I do not see why it might not be done there; but there are a great many considerations that I am not able to understand, probably, or to explain; still I want a report on that as well as upon New London; but I do not want another for New London put on to this resolution.

Mr. FOSTER. It is far from my purpose to interfere with or thwart the object which the honorable Senator from Maine has in view. The proposed amendment is not offered with any such design. The Senator is not quite correct in saying that New London has had an examination and report already on this subject. There has been, it is true, an examination by a board appointed by the Secretary of the Navy as it regards the fitness and the desirableness of New London as a site for a navy-yard. But this is a distinct question.

Mr. FESSENDEN. It was put precisely upon this ground, as a place for iron-clads.

Mr. FOSTER. Of course I will not contradict what the Senator states.

Mr. FESSENDEN. It was brought up in opposition to League Island.

Mr. FOSTER. It is true that League Island and New London came in competition; but the principal cause for the examination of both places was to ascertain the best site for a navy-yard. That was the general purpose of the board; and the matter of iron-clads came in as an incident, and was by no means the principal cause for the appointment of the board; nor was their examination directed to that end only. The question of iron-clads, as I admit, came in; but the examination for a fresh-water basin specially for the protection of iron-clads has not yet been intrusted to any commission. There has been no committee for such a purpose; there has been no examination of New London for such a purpose, nor of League Island for such a purpose, but for the establishment of a navy-yard. The very reason that the honorable Senator gives, so far as it goes, is a reason why this resolution should be amended in this manner, because it will not consume much of the time of the officer or officers who may be detailed for this purpose; for so far as the examination has already progressed at New London, it may be taken and will serve as an aid to the board who are making the examination, and will not be an impediment.

I repeat, again, that I am by no means inclined to thwart the purpose of the Senator from Maine; but I am desirous that New London shall not be lost sight of in this examination, and that the peculiar advantages of that harbor, both as a naval station and a navy-yard generally, and particularly as a site for the object which this resolution has in view, should attract the attention of Congress. It is not by any means either to delay or impede the honorable Senator's object that I move the amendment.

Mr. FESSENDEN. I do not know what the motive may be; but the effect is to prevent my getting the report that I want to get; and I do not think it is quite just or reasonable, because there has already been a thorough examination of New London; we know all about it. There is no danger of its being lost sight of, for I—and I presume all other Senators—have been perfectly overwhelmed with communications and newspapers from New London with regard to it ever since the matter was started originally. I have no objection to the Senator's having a commission if he wants one; but I do not think this resolution should be embarrassed with it, because I have been trying all the session to get a report on this site during the present session of Congress. I simply want an examination and report; and I really hope the object I have in view will not be embarrassed by piling on another site and another and another, and thus defeating all. I should like to have this resolution stand by itself and get the report of a commission on this site. If there had been no examination and report in regard to New London, I should

not object to the amendment of the Senator from Connecticut; but it is a little hard, I think, to crowd upon an original proposition an old one which has already excited so much attention and been examined on its own merits. This is a single matter, not with reference to a navy-yard, but to find what merit there is in this place for the purpose named; I do not know that there will turn out to be any.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Connecticut.

Mr. RIDDLE. Is the amendment open to amendment?

The PRESIDING OFFICER. It is.

Mr. RIDDLE. I move to amend the amendment by adding, after the word "Connecticut," the words "and New Castle, Delaware," a place which has been examined thoroughly by men outside of the committee, and it is deemed very appropriate for this purpose.

Mr. JOHNSON. I shall vote for the original resolution with great pleasure, and shall vote against both the amendments, the one proposed by the Senator from Connecticut and the other proposed by the Senator from Delaware. But there is a position, as I understand, the examination of which perhaps will not interfere in any way with a report by the commission within a very limited time. At the head of Severn river, near Annapolis, there is an extraordinary sheet of fresh water, such as is not to be found, I understand, even in the State of Maine; it is called the Round bay. The water is perfectly fresh; it has a depth of some thirty and forty feet, and has capacity to float an immense navy. What I desire—and I shall not offer an amendment if the honorable member from Maine thinks it will interfere in any way with his object—what I should like to have would be to have a board examine into that site and say whether that would not answer the purpose. In relation to the proposed site at Portland, as far as I know anything about it, and that is only from reading a letter that I have received from the engineer who is now employed on some works connected with the harbor there, which it is supposed may be used, I am very favorably impressed with it. I have received a long private letter explaining the exact situation of the river proposed to be used. Without, of course, knowing a great deal upon such matters, I have come to the conclusion that what he proposed was very practicable, and that the site itself would be an admirable one for the purpose for which it is supposed to be adapted by the resolution proposed by the Senator from Maine; but I am not sure that this site would not be as good. If the honorable member thinks it will interfere in any way with his object, I shall not offer the amendment, but shall propose it as a separate resolution at some other time.

The PRESIDING OFFICER. The first question is on the amendment of the Senator from Delaware to the amendment of the Senator from Connecticut.

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question now is on the amendment proposed by the Senator from Connecticut.

Mr. FOSTER. I cannot believe that this amendment will occasion any such delay as the Senator from Maine suggests. The officers who go to Portland will of course pass New London on their way if they go from this section of country, and if they come from the other section, and come this way, they must pass New London. It is certainly perfectly feasible and practicable for the officers who may be charged with this duty at Portland to make an examination at New London with very little delay. The report in regard to both harbors may be had instead of only one, and that without any such delay as to embarrass the measure at all. If it shall turn out on the examination that the officers cannot examine both places, and that Portland will thereby be prejudiced, I shall be perfectly

willing, after that shall be ascertained, to abandon my amendment, and have the report made leaving out New London. If it shall be ascertained by the Senator that the officers in charge of this work cannot make an examination of both harbors so that we can have the comparison I shall then consent to change the resolution, and have the harbor of Portland examined and a report made on that alone; but I repeat I have no idea that this examination will occasion a delay of three days. It will be wholly unimportant so far as the delay to Portland is concerned, and I do think that there can be no injury to the Senate, to the country, to anybody if we have this examination so that we can compare the two harbors of Portland and New London together, and so decide on their relative and absolute merits.

The previous examination which has been alluded to, so far from being a reason why this should not be done, is a reason why it should, and is a conclusive reason against what is now urged by way of delay. That examination will probably aid the officers so far in making the present one that in a very short period of time the examination can be made so as to be satisfactory. I do hope that this amendment will be adopted.

Mr. HENDRICKS. I move to strike out that portion of the resolution which fixes any particular place of examination, so that a board appointed by the Navy Department shall make an examination generally. I suppose Senators are aware of the fact that this is a new necessity growing out of the construction of an iron navy. It is desirable to have fresh water in which to float these vessels to avoid the destruction which is incident to their being kept continually in salt water. This subject has never been investigated, I presume, because there has never been a necessity for the investigation before. I cannot, however, see the propriety of going to any one point and that only. Is it not better to say to the Department, "Examine generally and ascertain where is the best point for the floating of the iron-clads in fresh water?" If the best point be at Annapolis certainly that point ought to be selected. If the best place is at Philadelphia that ought to be selected. If, on the other hand, Portland, in Maine, be the best point we ought to select that. Certainly a very satisfactory examination, and such an examination as would enable Congress to legislate upon the subject, would be secured by a resolution authorizing a general examination. Suppose a commission go to Portland, Maine, and report that that is a very suitable place. That report will not inform Congress whether it is the best location, because that commission would not have examined the other points. It seems to me that it is far better just to say that a commission shall be appointed to examine generally, and surely the Senator from Maine is not afraid of that investigation, for if his place be the best, then, of course, the board will select it; if it be not the best I know that he is too patriotic to desire its selection.

The PRESIDING OFFICER. The amendment of the Senator from Indiana will be in order when the present amendment shall have been disposed of. Not being an amendment to the pending amendment, it is not in order.

Mr. McDUGALL. In confirmation of the same view which the Senator from Indiana has presented, I desire to say a word. This subject is one that has attracted the attention of Senators and members of Congress for some years past, and it is one on which there has been great difference of opinion. I have an opinion of my own, which has been obtained with some carefulness. There is a large sheet of fresh water that enters into Tappan bay within sixteen or twenty miles of New York city; and that, with a dam and locks, can be made to float, in fresh water, a navy, convenient to business, convenient to the service. It is my impression, not altogether my conviction, but my impression, that that is the true point in which to locate the place where iron-clads

are to be taken care of in fresh water when not needed on the ocean.

I think, however, the matter should be carefully inquired into by competent officers, who will regard the public service and not local interests. Of course, in this I have no local interest, but my attention was called to all these points long since, and I made it somewhat a matter of study; and my impression is that Tappan bay, above New York city, on the Hudson, is the most convenient, and would be the best point for this particular service. I am told by engineers that with a dam and locks, at small expense to the Government, fresh water enough to float a navy can be had, right there, convenient to all the machine-shops and to all the works of the first city of the Union. My impression is that that would be the best place; but I should like to have it inquired into by men who profess to understand this business as a science. I think it should be done. It is customary, in careful legislation, to have commissions appointed about questions of this kind, commissions of men of particular skill in their particular department; and I think a commission should be sent out to examine, and their report should be received as authority on the subject. It would govern me. I would not like to be governed entirely by my own particular opinions, for my information is not so extended as I should desire to have it in order to feel that I am perfectly informed.

Mr. FESSENDEN. I have no doubt many Senators have places in their eye, and are very learned on this subject. I do not profess to know anything about it. It is not a matter upon which I have an opinion with reference to what should be the place. I only say that at present there is a large public work going on at Portland, which is to go on whether this basin shall be made there or not—a work undertaken by a private company. The engineer of that work, a man of great experience and skill, known, I believe, to the honorable Senators from Michigan, has given the opinion that at a very small expense this thing can be accomplished there. Whether it can or not, I do not profess to know. As I stated before, I have made every effort to get some information on the subject, to let somebody look at it who was capable of judging, and who was an officer of the Government—just to that extent, no more—and make a report. I have utterly failed, because the Secretary of the Navy will not look at any place except League Island. That is the fact about it. He will not even permit the Department or himself or anybody else to have any information on the subject. This work is going on there day after day, and the facts can be ascertained. I do not know, even if this basin could be made at Portland and made at a slight expense, that it would be the proper place; I do not pretend to say that it would be. I merely want an examination made and the evidence with regard to it placed before the Department and before Congress that we may have the use of it.

With that view, as it is very late in the session, and I want the report to come in at this session, I ask simply for the appointment of this commission. My friend from Connecticut, who has had New London examined and treated of, wishes to put New London on here. Anybody can see what the result must be. It will probably take a week to make a thorough examination of this place, and then the report is to be made; but if they are to go from that to New London, it will take just double the time, and if then to some other place the time is just so much increased. We are now getting toward the close of the session, and we can get the testimony with regard to Portland at this session. I do not wish the resolution to be embarrassed by these other places which gentlemen have had ample opportunity to investigate for themselves, and to offer their own resolutions and accomplish their own purposes; but they have not chosen to do that, and instead of taking that course they wait until a proposi-

tion is made with regard to one place and then try to load it down with theirs. I do not like that kind of practice. I do not think it is exactly the way we ought to treat each other.

Now, as to the suggestion which the honorable Senator from Indiana makes, that will defeat the resolution altogether; and I suppose that is what he is driving at. It just makes a general roving commission to go all over the country and examine all the territory of the United States and see where a place can be found. The result is perfectly manifest. The proposition is very plausible and very smooth, like everything else that my honorable friend from Indiana does; but if you look through it, you see what the result is. We shall get no information, probably for years, on the subject.

The PRESIDING OFFICER. (Mr. POMEROY in the chair.) The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday.

Mr. SHERMAN. What is the unfinished business?

The PRESIDING OFFICER. It is the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending June 30, 1867, and for other purposes.

Mr. FESSENDEN. Let that bill come up. I should oppose anybody else going on with any business that would interfere with that; and therefore I shall not ask that the appropriation bill be laid aside for the purpose of disposing of this resolution.

Mr. GRIMES. I wish to say one word; not on the subject of this resolution, but in justice to the Secretary of the Navy. According to my construction of the law and the duties of the Secretary of the Navy, he had no more authority to comply with the request of the Senator from Maine than I have. Suppose I had gone to the Senator from Maine, when he was Secretary of the Treasury, and asked him to send an engineer to the town where I live, for the purpose of selecting a proper site to establish a custom-house. We have got a surveyor of customs there, but no appropriation has ever been made for the establishment of a custom-house, and Congress has never contemplated any such thing. If I had made such a proposition he would have laughed at me. But the gravamen of the charge, I believe, is that the Secretary of the Navy will not interfere with anything or listen to anything as long as League Island is under consideration. What evidence is there of that? Did the Secretary tell the Senator from Maine so?

Mr. FESSENDEN. He told another gentleman so. I have it in a letter that he so stated.

Mr. GRIMES. He told another gentleman, who told another gentleman so, who wrote the Senator from Maine so. That is the kind of information we have. As I said when I rose, I have nothing to say in regard to this proposition, but simply to say, in justice to the Secretary of the Navy, that I think he had no more authority to detail an engineer—he had not any engineer, in the first place—

Mr. FESSENDEN. Then you do not agree with him on that point.

Mr. GRIMES. He had not any engineer for any such purpose as this. There is an engineer stationed in the Bureau of Yards and Docks, an engineer who superintends the construction of buildings, but no engineer who is capable, so far as I know, and judging from what I know, I doubt whether he is capable even to perform the duties he is assigned to perform, no one capable of entering upon the investigation of any such grave subject as is proposed by this resolution.

Mr. FESSENDEN. I wish to say one word in reply to that. The Secretary of the Navy made no such point to me. He did not state that he had no authority to do this, nor did he even suggest it.

Mr. CONNESS. As this resolution is now before the Senate, I hope we shall get a vote upon it before the appropriation bill is taken up.

Mr. FESSENDEN. I would rather not

take the vote upon it. I want to go on with the appropriation bill. I should object to any body else proceeding, and therefore I shall not ask that this resolution be proceeded with now.

The PRESIDING OFFICER. House bill No. 261 is before the Senate.

Mr. McDOUGALL. I merely wish to suggest that the amendment I proposed to the amendment of the Senator from Connecticut—

The PRESIDING OFFICER. That question is not before the Senate at this time.

Mr. McDOUGALL. I only wish to present it, that by the courtesy of the Senate it may be considered as before the body.

The PRESIDING OFFICER. It may be received by unanimous consent.

Mr. McDOUGALL. I ask the Secretary to read it as an amendment to the amendment.

The PRESIDING OFFICER. The amendment of the Senator from California will be received and will be read when the joint resolution is again before the Senate.

Mr. HARRIS. Before the appropriation bill is proceeded with, I desire to make a report from a committee.

The PRESIDING OFFICER. The consular and diplomatic appropriation bill is before the Senate, but by unanimous consent the Chair will receive reports and other morning business.

REPORTS OF COMMITTEES.

Mr. HARRIS, from the Committee on Private Land Claims, to whom was referred the memorial of William Syphax, praying to be confirmed in his title to a tract of land in the Arlington estate, (so-called,) Virginia, granted to his mother by the late G. W. P. Custis in the year 1862, reported a bill (S. No. 321) for the relief of Maria Syphax; which was read and passed to a second reading.

Mr. CLARK. The Committee on Claims, to whom was referred the petition of D. D. Sublett, praying for compensation for services rendered in taking the eighth census in the county of Morgan, State of Kentucky, have directed me to make an adverse report thereon, there being power to pay the claim at the Department. I move that the report be printed. The motion was agreed to.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred a bill (H. R. No. 462) granting pension to Mrs. Sally Andrews, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Mrs. Sarah E. Brewer, praying for an extra pension in consequence of the loss of her husband and two sons in the Army, reported adversely thereon, there being no proof to sustain the prayer of the petitioner, and asked to be discharged from its further consideration; which was agreed to.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 296) to incorporate the America Fire and Marine Insurance Company of Washington, District of Columbia, reported it without amendment.

He also, from the same committee, to whom was referred a bill (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company, reported it with an amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 558) to amend the charter of the Washington Gas-Light Company, reported it without amendment.

Mr. WILLIAMS, from the Committee on Claims, to whom was referred the petition of Joseph W. J. Holmes, sr., praying for compensation for property destroyed in Columbia, South Carolina, by the United States forces under General Sherman, submitted an adverse report thereon; which was ordered to be printed.

Mr. SPRAGUE, from the Committee on Military Affairs and the Militia, to whom was referred the petition of James S. Fish, and others, of the home guard of Rockcastle and Lincoln counties, in Kentucky, praying for compensation for services rendered during the

threatened raid of the rebel John Morgan in 1862, submitted a report accompanied by a joint resolution (S. R. No. 94) providing for the payment of certain Kentucky militia forces. The joint resolution was read and passed to a second reading, and the report was ordered to be printed.

Mr. YATES, from the Committee on the District of Columbia, to whom was referred a bill (S. No. 290) to incorporate the National Life and Accident Insurance Company of the District of Columbia, reported it without amendment.

PASSPORTS.

Mr. TRUMBULL. The Committee on the Judiciary, to whom was referred the bill (H. R. No. 568) to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress, relating to passports, have had it under consideration, and have directed me to report it back with an amendment; and as it is a short bill, I ask that it be put on its passage. It will take but a moment.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill, which repeals section twenty-three of an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending June 30, 1864, and for the year ending the 30th of June, 1863, and for other purposes."

The Committee on the Judiciary reported the bill with an amendment, to add at the end of the bill, "and hereafter passports shall be issued only to citizens of the United States."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the bill to be read the third time. It was read the third time and passed.

DIRECT TAX IN WEST VIRGINIA.

Mr. VAN WINKLE. I am directed by the Committee on Finance, to whom was referred the joint resolution (S. R. No. 90) to suspend temporarily the collection of the direct tax within the State of West Virginia, to report it back without amendment and recommend its passage; and as the mischief intended to be cured is now going on, I should be glad if the Senate would indulge me with the present consideration of the resolution; it can occupy but a moment or two at most.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the joint resolution.

Mr. VAN WINKLE. The circumstances which have led me to introduce this resolution are briefly these: at the time this direct tax was imposed, the State of West Virginia was not in existence; nevertheless we admitted the obligation of the tax to be laid upon our lands. Commissioners were appointed to collect the tax in the State of Virginia, and they have been operating for some time. We have had no notice of any intention to collect that tax within our limits, and as late as the 4th of this month the commissioners appointed by the State of Virginia have issued a notice requiring the people in a certain district of West Virginia to pay their taxes at once. Several of the counties within that district are those that have been most devastated by the war; and the Legislature of West Virginia at its late session remitted and released the State tax for four years on that very district. But, sir, we have a claim, as the Senate will remember, against the United States amounting to twice as much as our share of the direct tax, and in the bill which has already passed the Senate for the payment of that claim, it is provided that our share of the direct tax of the old State of Virginia is to be deducted from the amount found due us. This collection is producing a great deal of distress in those counties. As I have already said, they are the counties in the State which are perhaps least able to bear it, although I presume the process will go on.

This resolution proposes simply to suspend the collection of this tax until the 1st of March next, which will enable the Legislature to hold its annual session, or until the accounts of the State with the General Government are adjusted, which will probably be done and the money paid in the course of two or three months. We are able to pay this tax, if we had any permission to do it. We do not ask the abatement which was allowed to other States who were allowed to pay it, and we are not included in the relief bill that has been proposed in the House of Representatives, which refers only to the rebel States. As this cannot be of any injury to the Government, and as a balance of money on any fair adjustment of accounts is actually due to the State of West Virginia, I trust this relief will be granted by the Senate.

Mr. TRUMBULL. I notice in reading over the resolution that it provides for a suspension of the collection of this tax until the 1st of March next, or until an adjustment shall be made with the State. That would put it in the power of the Secretary of the Treasury to suspend it forever, or of the State, if they did not make an adjustment. I apprehend the Senator does not mean that it should have that construction. I suggest to him whether the phraseology should not be altered so as to provide that it shall be suspended until March, unless the accounts are sooner adjusted.

Mr. VAN WINKLE. Very well.

Mr. TRUMBULL. I suppose that was the intention.

Mr. VAN WINKLE. I accept that amendment.

The PRESIDING OFFICER. The joint resolution has not been read at length to the Senate. It will now be read.

The Secretary read the joint resolution, which directs the Secretary of the Treasury to suspend the further collection within the State of West Virginia of any part of the direct tax imposed by the act of August 5, 1861, until the 1st day of March next, or until the adjustment of the claims of the State against the United States.

Mr. VAN WINKLE. I move to amend the resolution by striking out the words "or until" and inserting "unless the claims of the said State against the United States are sooner adjusted." A bill has already passed the Senate appointing a commissioner to adjust those claims.

The PRESIDING OFFICER. The Senator from West Virginia moves to amend the resolution in the seventh line by striking out the words "or until" and inserting "unless;" and in the eighth line by striking out the words "adjustment of the;" and at the end of the resolution by inserting the words "are sooner adjusted;" so that it will read:

That the Secretary of the Treasury is hereby authorized and directed to suspend the further collection within the State of West Virginia of any part of the direct tax imposed by the act of August 5, 1861, until the 1st day of March next, unless the claims of the said State against the United States are sooner adjusted.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in.

The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

BILLS INTRODUCED.

Mr. STEWART asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 322) to transfer the Bureau of Indian Affairs from the Department of the Interior to the War Department; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. DOOLITTLE subsequently said: The Senator from Nevada [Mr. STEWART] introduced a few moments since a bill to transfer the Bureau of Indian Affairs from the Department of the Interior to the War Department; which was referred to the Committee on Military Affairs.

I think that bill should be referred to the Committee on Indian Affairs.

The PRESIDING OFFICER. Does the Senator make that motion?

Mr. DOOLITTLE. Yes, sir.

Mr. STEWART. I do not see the necessity for that change. As the proposition is to transfer the Indian Bureau to the War Department I do not know why it might not go to the Committee on Military Affairs, and I think it quite important that it should go to that committee.

Mr. CLARK. It seems to me it certainly ought to go to the Committee on Indian Affairs, the committee who naturally consider such subjects, and not the Committee on Military Affairs. They know the condition of affairs in the Indian Bureau, and it is not supposed that the Military Committee do. It should go to the committee that is conversant with the matter proposed to be changed.

Mr. STEWART. I beg the Senator's pardon. I doubt whether anybody is familiar with Indian affairs. We hear constantly that it is the most mixed and discordant branch of the public service. Any one traveling through the Indian country will see that the whole system is a very defective one. The general knowledge of the system is defective; every one knows that it is defective; and certainly what little knowledge a party here may have of the details, will not be very important in considering the propriety of this change.

The PRESIDING OFFICER. Extended debate on the question of reference is not in order.

Mr. STEWART. I hope the bill will be referred to the Committee on Military Affairs.

The PRESIDING OFFICER. The Senator from Wisconsin moves that this bill be referred to the Committee on Indian Affairs.

Mr. NESMITH. Is the question debatable?

The PRESIDING OFFICER. The Senate has usually allowed a limited debate on the question of reference, but extended debate is not in order. It is not in order to give extended reasons why it should be referred to one committee or the other.

Mr. KIRKWOOD. Has the bill not been already sent to the Committee on Military Affairs?

The PRESIDING OFFICER. It has not been referred to any committee.

Mr. NESMITH. I desire to state that the Committee on Indian Affairs had this whole subject under consideration, and a sub-committee, consisting of some members of the Committee on Indian Affairs of the House and some of the Senate, gave their attention to the subject during the last summer, made very extensive investigations, and have collected a great many facts in a report bearing on the subject. It is a subject upon which the Committee on Military Affairs, as a committee, I apprehend, have no particular knowledge. I know that a great deal of information on this subject, which it is necessary to have in order to act understandingly upon it, has been collected by the Committee on Indian Affairs, and I believe every principle of propriety would send the bill to that committee.

Mr. STEWART. On that statement I withdraw my objection to its reference to the Indian Committee.

The PRESIDING OFFICER. The bill, then, will be referred to the Committee on Indian Affairs.

Mr. WILSON asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 323) to fix the military peace establishment of the United States; which was read twice by its title, referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

Mr. MORGAN asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 324) for the relief of John Hastings, late surveyor and depository of public moneys at Pittsburgh; which was read twice by its title, and referred to the Committee on Commerce.

Mr. CLARK subsequently said: The Sen-

ator from New York, who is not now in his seat, [Mr. MORGAN,] introduced a bill for the relief of John Hastings, and an order was made referring it to the Committee on Commerce. The Committee on Claims has had that matter under consideration for quite a number of years, and last year there was a bill passed for his relief, and I wish the order referring this bill to the Committee on Commerce to be suspended until the Senator from New York comes in, when I will move to refer it to the Committee on Claims, where it ought to go.

The PRESIDING OFFICER. That course will be taken if there be no objection. The Chair hears no objection.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 325) to give certain powers to the levy court of the county of Washington, in the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. KIRKWOOD asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 93) for the appointment of a commission to examine and report upon certain claims of the State of Iowa; which was read twice by its title.

Mr. KIRKWOOD. I move that the joint resolution be referred to the Committee on Military Affairs and the Militia, and printed.

Mr. DOOLITTLE. I suggest that it should go to the Committee on Claims, and not to the Committee on Military Affairs.

Mr. CLARK. What is the nature of it?

Mr. DOOLITTLE. It is in relation to certain claims of the State of Iowa.

Mr. KIRKWOOD. I think it had better go to the Committee on Military Affairs. The claims grow out of military affairs.

Mr. JOHNSON. For moneys expended during the war?

Mr. KIRKWOOD. Yes, sir.

Mr. DOOLITTLE. For raising troops?

Mr. KIRKWOOD. Yes, sir; for raising troops.

The joint resolution was referred to the Committee on Military Affairs and the Militia, and ordered to be printed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. W. K. MEHAFFEY, one of its Clerks, announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes;

A bill (H. R. No. 591) for the relief of Thomas D. Burrall;

A bill (H. R. No. 589) for the relief of Delia A. Jacobs, late Delia A. Fitzgerald;

A bill (H. R. No. 508) to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico; and

A bill (H. R. No. 590) for the relief of William Mann and Jacob Senneff.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes; and it was thereupon signed by the President *pro tempore*.

ORDER OF BUSINESS.

Mr. NESMITH. I move that the Senate proceed to the consideration of House joint resolution No. 103.

Mr. FESSENDEN. I must object to it. I have now given way for half an hour, and cannot consent to the taking up of any other bill.

Mr. NESMITH. This is a very brief resolution, which will not probably occupy two minutes. It merely proposes to refer a case to the Court of Claims.

The PRESIDING OFFICER. The appropriation bill is really before the Senate, and any objection will prevent the taking up of the joint resolution.

Mr. FESSENDEN. The Senator can take it up to-morrow just as well.

Mr. NESMITH. I should be very much obliged to the Senator if he would allow me to take it up now.

Mr. FESSENDEN. If I did not have to oblige anybody else, I would do it with all my heart.

Mr. NESMITH. I presume there will be nobody else.

Mr. FESSENDEN. Well, I will not object.

Mr. SPRAGUE. Mr. President—

Mr. FESSENDEN. I cannot give way any further. I objected to my friend from Oregon taking up a resolution, but I said I would give way to him if I did not have to oblige anybody else. Now I see the whole business of the Senate is coming in.

The PRESIDING OFFICER. Objection being made, the appropriation bill is before the Senate.

Mr. SPRAGUE. I have been trying all the morning to present a petition.

Mr. FESSENDEN. It can be presented just as well to-morrow as this morning.

Mr. SPRAGUE. I desire that it may go to the Committee on Commerce to-day, in order that it may be acted on to-morrow.

Mr. FESSENDEN. It is exceedingly disagreeable to me to object in any case, but I have given way for thing after thing for half an hour after the regular time. I did say to the Senator from Oregon that I would give way to his resolution, but he has lost the floor. If, however, Senators will agree to stop there, I will give way so far as to allow the Senator's petition to be presented and my friend from Oregon to call up his resolution, which will give rise to no debate, as I understand.

Mr. SPRAGUE. I will agree to that.

The PRESIDING OFFICER. The petition will be received, if there be no objection.

PETITIONS AND MEMORIALS.

Mr. SPRAGUE presented a memorial of citizens of Rhode Island interested in the navigation of Narragansett bay, praying that the light now kept at Nayatt Point may be removed to the beacon at Cononicut Point, proposed to be constructed; which was referred to the Committee on Commerce.

He also presented a memorial of the Soldiers' and Sailors' Union of Washington, District of Columbia, praying for the passage of a law creating them a body politic and corporate; which was referred to the Committee on Military Affairs and the Militia.

Mr. FESSENDEN. Now my friend from Oregon can get up his resolution.

Mr. NESMITH. I will give way for fear of disturbing the equanimity of my friend from Maine. I prefer to let the matter go over and take the risk.

Mr. FESSENDEN. I am very much obliged to the Senator.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 477) further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes—to the Committee on Commerce.

A bill (H. R. No. 508) to amend the organic acts of the Territories of Nebraska, Colorado, Dakota, Montana, Washington, Idaho, Arizona, Utah, and New Mexico—to the Committee on Territories.

A bill (H. R. No. 589) for the relief of Delia A. Jacobs, late Delia A. Fitzgerald—to the Committee on Patents and the Patent Office.

A bill (H. R. No. 590) for the relief of William Mann and Jacob Senneff—to the Committee on Patents and the Patent Office.

A bill (H. R. No. 591) for the relief of Thomas D. Burrall—to the Committee on Patents and the Patent Office.

CONSULAR AND DIPLOMATIC BILL.

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes.

The first amendment reported by the Committee on Finance was in line fifty-two of section one, to insert "including loss by exchange thereon;" so as to make the clause read:

For salaries of consuls general, consuls, commercial agents, and thirteen consular clerks, including loss by exchange thereon, namely.

Mr. FESSENDEN. With regard to that, I should like to ask my friend from Ohio, as I was not present in the committee when the bill was considered, why those words "including loss by exchange thereon" are to be inserted here when they occur on page 5, line ninety-eight, before the appropriation. I do not see why you want the words in both places.

Mr. SHERMAN. The last one ought to be stricken out.

Mr. FESSENDEN. Very well, one or the other should be stricken out. The amendment may be adopted and the words stricken out in line ninety-eight afterward.

The amendment was agreed to.

Mr. FESSENDEN. I move to amend as we go along, to strike out the words "including loss by exchange thereon" in line ninety-eight of section one.

Mr. SHERMAN. That was the purpose of the committee, undoubtedly.

The amendment was agreed to.

The next amendment reported by the Committee on Finance was in line sixty-two of section one to insert "Barcelona" after "Boulogne;" in line sixty-seven to insert "Hankow" after "Hong Kong;" and in line seventy-two to insert "Nantes" after "Nice," among the consulates provided for in schedule B.

The amendment was agreed to.

The next amendment was to strike out the proviso in schedule C, section one, line ninety-eight, "Provided, that the compensation of the consuls at Malta, St. John, (Canada East,) Nice, Lisbon, Santa Cruz, and Tampico, is established at \$1,500 each, annually, and the salary of the consul at Nassau (New Providence) is established at \$3,000," before the gross appropriation of \$420,000 for salaries of consuls general, consuls, commercial agents, and consular clerks, and to insert the following proviso after the appropriation:

Provided, That the compensation of the consuls at Malta, St. John, (Canada East,) Nice, Lisbon, Santa Cruz, Tampico, Prince Edward Island, Barcelona, and Nantes, is established at \$1,500 each, annually, and the compensation of the consuls at Nassau, (New Providence,) and Hankow is established at \$3,000 each, annually.

Mr. SPRAGUE. I should like to ask the chairman of the Committee on Finance what the compensation of the consul at Nassau was prior to the war. I know that in the Committee on Commerce the compensation was proposed to be increased, and I should like to know what the compensation was before the war, as it is proposed now to make it \$3,000. My impression is that it was then \$1,500; and if it was \$1,500 before, why is it necessary that it should be \$3,000 now?

Mr. FESSENDEN. I was not present when this bill was considered in the Finance Committee, and I cannot very well answer.

Mr. SHERMAN. This is really a reduction. The Secretary of State thought it ought to be \$3,000. I think the present salary is \$4,000.

Mr. FESSENDEN. It is \$2,000 now, and the increase is to \$3,000.

Mr. SHERMAN. Four thousand dollars is the present salary.

Mr. FESSENDEN. It is \$2,000 in the list I have here.

Mr. SHERMAN. But it was raised during the war to \$4,000.

Mr. FESSENDEN. Then the increase ceased with the war; and it is \$2,000 now, and this amendment increases it to \$3,000.

Mr. SHERMAN. If so, it can be stricken out.

Mr. SPRAGUE. I move that "Nassau, (New Providence,)" be stricken out of this amendment.

Mr. FESSENDEN. I am told that it is a very expensive place, and probably \$3,000 is not too large a salary.

Mr. GRIMES. It is not more expensive than other places where you pay only \$1,500.

Mr. FESSENDEN. It is a very important point.

The PRESIDING OFFICER. Does the Senator from Rhode Island insist on his amendment?

Mr. SPRAGUE. Yes, sir; I move that "Nassau, (New Providence,)" be stricken out of the amendment of the committee. I also move to insert "Nassau, (New Providence,)" after "Nantes," in line seventy-two of section one, in order that it may be established at \$1,500; otherwise it may be continued at \$4,000 as at present.

Mr. FESSENDEN. It is \$2,000 according to the recently published list. It was raised temporarily during the war, and is now \$2,000. There are a great many cases where an increase was temporarily made during the war; but the recently published list of diplomatic and consular officers of the United States, dated March, 1866, states the salary at Nassau at \$2,000.

Mr. SPRAGUE. Then I am willing to leave it at \$2,000, and my amendment is simply to strike out of the amendment of the committee the words "Nassau, (New Providence,)"

The amendment to the amendment was agreed to.

Mr. POLAND. I propose to amend the amendment of the committee by inserting after the word "annually" where it first occurs the words "that at Nice to commence December 14, 1865." The consulate at Nice had a salary of \$1,500, the same as is provided by the amendment of the committee, which was to continue according to the terms of the law until the close of the war. That salary actually ceased on the 14th of December last. During this period a gentleman from my State, one who was many years associated with me upon the bench, has filled the place as consul. He was obliged, in consequence of the health of his family, to resign his place upon the bench and go abroad. The salary is very meager, \$1,500 a year, not half enough to support himself and family. It is a very expensive place to live, and one where the consuls of other nations have very much larger salaries than we provide for our consul, and a place where the duties of the consul are constantly increasing, and largely increasing. Our European squadrons winter at Nice, or some portion of them, so that the duties of the place have been altogether larger than ever before. Judge Aldis, the consul, has been performing the duties during the whole of this time without any salary. The fees are very small, I think less than \$100 during the last year. It is a place that is very largely resorted to by persons from this country and from all countries for health. Most of the foreigners there are persons who are invalids, and those from this country need the attention and sometimes the assistance of an agent of this Government. It is only bare justice that the salary should commence when the former salary ceased, on the 14th of December.

Mr. FESSENDEN. I can only say with regard to this case that the facts are undoubtedly as stated by the honorable Senator from Vermont. When this gentleman went out he supposed the salary to be \$1,500, because it was raised to \$1,500 during the war. We now propose with regard to some half a dozen of

these places, where we are satisfied that we must have consuls and that the fees will not pay them, to give them a salary of \$1,500. That is right enough; but if we go back in one case to make up the deficiency between the period when the salary ceased and the beginning of the next fiscal year, I do not see why the same rule should not be applied to all the other places where we have paid a salary of \$1,500 during the war. If we begin this system with regard to Nice there is the same propriety in going through with it in regard to all these other consulates. As the policy has been as a general rule not to go backward and pay arrears of salary, the committee do not recommend anything of that kind. It is a matter for the Senate to decide whether it is worth while to make up to this gentleman who is consul at Nice what he would have received had the salary been \$1,500, from December until the present time. It strikes me that the difference is not very great, and if it really costs no more to live there than the salary amounts to, this little addition will not give him much.

Mr. POLAND. It is very true, as the honorable Senator from Maine says, that the amount of half a year's salary of \$1,500 is not a very large sum; but when the salary is not more than half enough to support the gentleman and his family at the place, it becomes a matter of some importance. I will say, in reference to the gentleman who holds this small consular position, that he is a gentleman who is amply qualified to represent us at any of the courts of Europe. He is in the place, and I know that when he went there, although as the law then stood the salary was only to last during the war, he was informed by Mr. Seward, Secretary of State, that the position of that place and the wants of the Government were such that undoubtedly the salary would be continued. He was told that although as the law then stood it was only a temporary position, the salary undoubtedly would be made permanent, and that he might rely on that when he received the appointment. In reference to many of the other cases which the Senator named, where the salary ceased at the same time, the consuls' fees are larger than the salary provided. One object of the Government in providing a salary instead of fees was, that the fees in some cases would be a much larger compensation than the salary of \$1,500 which the bill provides, so that the Government really makes a saving by taking away the fees and reducing the officer to a salary of \$1,500; but that reason does not apply to this case. I trust that the amendment will be adopted.

Mr. SUMNER. I know Mr. Aldis very well, and have known him for many years. I need add nothing to what the Senator from Vermont has said with regard to his eminent merits. He was one of the Senator's associates upon the bench of the supreme court of Vermont, and I have regarded it as a substantial benefit to our country that he was willing to accept this post. He conferred with me before he did accept it, and I most earnestly counseled him to accept it, if he could make up his mind under the circumstances to leave the country; for I desired to secure his services there. I shall, therefore, vote for this amendment; and I make this distinction between this case and the others, that in this case we actually have evidence with regard to the character of the incumbent and to the necessity of this increase. I have conferred with my friend, the Senator from Vermont; I know the evidence that he has, and I also have some evidence myself direct from Nice, all showing the necessity of this increase; and since I am informed of that necessity, and am familiar with the merits of the incumbent, and as the amendment is now moved, and I am to vote upon it, I shall vote in favor of it.

Mr. FESSENDEN. In addition to the objection which I before stated, there is another difficulty in the way, and that is that in the mean time, from the time the salary ceased up to the 1st of July next, this officer will have been receiving his fees; and this amendment gives him a proportion of \$1,500 from last Decem-

ber, so that he would be getting the salary for the same time that he was receiving the fees.

Mr. POLAND. I will modify that.

Mr. FESSENDEN. I do not see any reason applicable to this case which is not applicable to every other one that we have. This officer may be, and unquestionably is, a gentleman of high character and standing; but a consul is a consul, and if we do this in one case there is no reason why we should not do it in others where the salary has not been received.

Mr. EDMUNDS. I think there is a special reason which applies to this case that has not yet been wholly stated; and it may apply to some others, or it may not. Until some others are suggested to which it does apply, I shall take it that it does not apply to any others. That reason is that Nice is the winter naval station for our Mediterranean fleet. They have been there most of the time, if I am correctly informed, this winter, or at least a considerable period of the time.

Mr. GRIMES. It is not the headquarters of the Mediterranean fleet; the headquarters is Lisbon.

Mr. EDMUNDS. I of course yield to the statement of the chairman of the Committee on Naval Affairs as to where the technical headquarters of the fleet is. I have not been there myself, and I cannot say; but if I am correctly informed by the newspapers, and from private information from Nice and from Florence, the Mediterranean fleet, or some considerable portion of it, has spent some time this winter at Nice; and I think the chairman of the Naval Committee will not dispute me on that. I have credible reason to believe that this gentleman who has been referred to, and who is a gentleman, has been obliged by those ordinary courtesies and duties belonging to consuls, where any American citizens or sailors are, to spend a sum of money which would equal the amount of this small salary for the short time during which it is proposed to allow it to him, in those necessary acts of hospitality and assistance which any man who represents his country in any position abroad feels bound to incur, and which, of course, ordinarily uses up a very large part of his salary. This gentleman, in this instance, if I am correctly informed, has done this, and therefore it appears to me that there is a special reason which applies to his case, and which may not apply to the others, for having the salary which he has really expended in the appropriate duties of his consulate, and in those hospitalities which, to be sure, the law does not oblige him to perform, but which a decent sense of respect for his countrymen requires him to perform, should, to this small degree, be made up.

The amendment to the amendment was rejected—ayes seven, noes not counted.

Mr. POLAND. One objection to the amendment I offered before was that it was not equal and exact justice to all. I now propose to amend the amendment of the committee by adding to it this proviso:

And provided, That in each of the consulates named in this schedule, where the salary has ceased, under the provisions of the act of August 2, 1861, the salary shall commence at the time the former salary ceased.

Mr. FESSENDEN. I hope that amendment will not be adopted. It is to make up arrears to all these consuls.

The amendment to the amendment was rejected.

The amendment of the Committee on Finance, as amended, was agreed to.

The next amendment of the committee was in line one hundred and thirteen of section one, to increase the appropriation "for interpreters to the consulates in China, and to the consular court at Bangkok in Siam" from \$6,800 to \$8,300.

The amendment was agreed to.

The next amendment of the Committee on Finance was to add as an additional section the following.

SEC. 3. *And be it further enacted, That all fees collected by any consul or commercial agent not mentioned in schedule B or C, or by any vice consul or com-*

mercial agent appointed to perform their duties, or by any other person in their behalf, shall be accounted for to the Secretary of the Treasury in the same mode and manner as is provided for in section eighteen of the act approved August 18, 1856, entitled "An act to regulate the diplomatic and consular system of the United States." And when the fees so collected by any consul or commercial agent amount to more than \$2,000 in any one year the excess for that year shall be paid to the Secretary of the Treasury in the mode provided for by said act.

Mr. FESSENDEN. This amendment was reported on the strength of statements made to the committee by various gentlemen, that some of the consularships which are paid by fees alone afforded to the consuls very large salaries, it is estimated as high as \$10,000 in some instances, and in one case even as much as \$20,000. They have vice consuls and commercial agents at different places under them, covering a large extent of territory, and receive all the fees. The places paid by fees in this way embrace some of the best positions in Europe. It was stated on very good authority, and I have no doubt is the fact, that many of them actually receive very large pay from their fees, much larger than any of the consuls at regular salaried posts. The difficulty, however, about it is, that it is rather troublesome to get at it. Our consular system now is working admirably well. The fees being accounted for to the Treasury, and the consuls generally being paid by salaries, the system has now got to be almost self-supporting; it costs very little. The fees very nearly pay the salaries provided for; I do not know exactly how nearly. In those consulates, however, where the consuls are paid by fees entirely, they do not account for the fees, and they amount in some cases, as we are informed, to a very considerable sum—much more than we pay to consuls who receive salaries. I find that after this amendment was drawn and reported, a communication was sent to the State Department requesting information with regard to it and the opinion of the Department in relation to it. In reply we received a communication from the Secretary of State, which I send to the desk and ask to have read.

The Secretary read the following communication:

DEPARTMENT OF STATE,
WASHINGTON, April 25, 1866.

SIR: In reply to your letter of the 23d instant, I have the honor to state that the proposed section was doubtless drawn up with the commendable and very desirable object of preventing any consular officer from receiving an undue amount of compensation from his fees.

Nevertheless, I am of opinion that laws already existing furnish ample safeguards against the apprehended inconveniences, while they are not liable to some of the objections which seem to me to lie against the proposition now presented.

Those objections are:

1. The proposed section requires a certain class of consular officers to report their fees to the Secretary of the Treasury, instead of, as at present, to the Secretary of State, by whom they are submitted to Congress and to the President. As the Department of State is charged with the appointment, direction, supervision, and removal of these officers, it would seem to be essential to a proper discharge of its functions that they should report to it.

2. The proposed section appears to have been drawn up under the erroneous impression that all the fees received constitute a merely personal compensation to the consular agent receiving them. It is to be considered that out of these fees are also to be paid the office rent, clerk hire, and all other expenses incurred in the performance of the services for which the fees are exacted. It is also to be remembered that section fifteen of the act of August 18, 1856, already provides that "every consular agent shall be entitled, as compensation for his services, to such fees as he may collect in pursuance of the provisions of this act, or so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency within the limits of which such consular agent shall be appointed, shall be entitled to the residue, if any, in addition to any other compensation allowed him by this act for his services therein." Inasmuch as the duties and labors of every such consul are proportionately increased by every such agency over which he has supervision and for whose acts he is responsible, to abrogate this portion of the act, as this proposition seems to contemplate, would be to require the consul in such cases to assume additional labors and responsibilities, attended probably by increased expenses, for which he is to receive no compensation, or else to discourage the appointment of agencies which the growth of American trade in his district really demands.

3. Values and prices, as well as the duties, responsibilities, and expenditures of consular officers, vary so greatly in different parts of the world that a uniform limit of \$2,000 would be, in different localities,

of very unequal value—in some too little, in others too great; and in others, (after the usual deductions above mentioned are made,) would leave to the consular agent no compensation whatever. A limitation of the compensation of consuls and commercial agents to a fixed and equal sum at all posts, is not in accordance with previous legislation upon the same subject, which seems to have been intended to graduate the compensation according to the amount of labor, the amount of responsibility, and the amount of expenditure, &c., required at each post.

4. The President has the power, and it has usually been the practice of the Department to recommend its exercise, to nominate and appoint, by and with the advice and consent of the Senate, full consuls responsible directly to this Department, (with such compensation as Congress may decide to be suitable for the particular place in question,) to all places where the increase of business seems to warrant it, instead of continuing subordinate consular agents, who are responsible only to the consuls by whom they were appointed.

It can hardly be deemed necessary to guard against any neglect on the part of the executive department to take such action, for the amount of the fees received at every port is, as before stated, duly submitted to Congress and printed every year, showing precisely where such changes are needed.

If under the present system any consular officer is likely to receive too much compensation for his services, the true remedy would seem to be either to diminish the amount of the fees exacted or else give him a fixed salary. Compensation of all public officers of the United States is expected to be graduated either according to work or according to time. The proposition in question does not seem to carry out either of these objects, since it does not guaranty a fixed salary, but pays for a certain amount of work, and then requires an additional amount to be performed without any pay at all.

5. It would also seem to make it the interest of consular agents to discourage consular business whenever it exceeds a certain amount, whereas it is for the advantage of revenue and of trade that all such business should be performed promptly, willingly, and effectually.

It is not deemed necessary or expedient, therefore, to recommend a change in the present system. That it works justly to the Government and the consular officers is best shown by the fact that, as at present administered, the consular service has been for the past three years, and for the first time in the national history, steadily and gradually reaching a point where it will soon become a self-supporting system, paying all its own expenses.

The amount paid for compensation of consuls and commercial agents during the last four fiscal years, and the amount of fees received during the same years, are as follows:

Amount of salaries and loss in exchange from January 1, 1861, to June 30, 1862.....	\$482,141 89
Fees.....	125,371 64

Difference.....	\$306,769 75
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1862.

Amount of salaries and loss in exchange for fiscal year ending June 30, 1863.....	\$405,400 37
Fees.....	152,982 94

Difference.....	\$252,417 43
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1863.

Amount of salaries and loss in exchange for fiscal year ending June 30, 1864.....	\$363,779 99
Fees.....	254,218 34

Difference.....	\$109,561 65
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1864.

Amount of salaries and loss in exchange for fiscal year ending June 30, 1865.....	\$358,761 64
Fees.....	287,108 00

Difference.....	\$71,653 64
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Amount paid from United States Treasury for year ending June 30, 1865.....	\$71,653 64
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From this deduct list of consulates at which the salaries have been reduced and discontinued, at average rate of returns for last fiscal year, and there is a further reduction of amount required to pay consular salaries of.....

Leaving an apparent deficit of.....	\$17,265 85
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It is not doubted that the increase of fees at some points, and the reduction of salaries at others which have already taken place during the present fiscal year, will, at its termination, show that the consular system is now practically self-supporting. But it is doubtful whether the proposed change would not weaken its efficiency, and thus again make it a drain upon the Treasury.

I have the honor to be, sir, your obedient servant,

WILLIAM H. SEWARD.

Hon. WILLIAM P. FESSENDEN, *Chairman of Committee on Finance, United States Senate.*

Mr. GRIMES. It ought to be known at the State Department how much salary is received by a good many of these consuls, because I understand there have been persons appointed from that Department to the most valuable consulships in Europe. They have an admirable opportunity there to select the best places, and I guess it will be discovered by an exam-

ination of the official list that they have generally selected places where the consuls are paid by fees. If any gentleman desires to be accurately informed on this subject, if he will go to the office of the Fifth Auditor of the Treasury, he will there get some authentic information. I am told by officers who have charge of the consular business there that there are consuls in the employment of the United States who receive salaries of from eight thousand to twenty-five thousand dollars.

Mr. JOHNSON. In fees?

Mr. GRIMES. In fees alone—at such places as Leeds and Bradford, and places of that kind in Yorkshire and Lancashire. It is in consequence of some law that was passed since the beginning of the rebellion requiring triple invoices.

Mr. SUMNER. That is the secret of the whole thing.

Mr. GRIMES. That requirement is really an imposition upon the importing merchant.

Mr. FESSENDEN. No, it is necessary to protect the revenue. It has been a very great protection.

Mr. CHANDLER. I think that this amendment is eminently necessary, and I hope it will prevail. It will be remembered by many of the older Senators that some years ago the consular system had become corrupt; very great corruptions had crept into it. For example, the consul at Liverpool received as much as forty or fifty or sixty thousand dollars per annum. Congress took up the entire consular system and reviewed it, and fixed the salaries, the intention being to fix a salary at every important point. Then there were some unimportant points which were not deemed of sufficient consequence to justify the payment of a fixed salary, and those we left open to be paid by fees. The intention was to fix a salary at every point where the business would really warrant the payment of a salary to the consul. Upon that principle the whole consular system was reorganized. This was, perhaps, ten or twelve years ago. Since that time some of the points that were not then deemed of sufficient importance to authorize a fixed salary have now become points of great business importance, and I am informed that now the same evils have crept into those places which existed prior to the reorganization of the system, that some of the consuls, as the Senator from Iowa says, receive, perhaps, eight or ten or fifteen thousand dollars a year, when if the places had been of sufficient importance to warrant the payment of \$1,500 a year the salary would have been fixed at \$1,500. As the Senator has suggested, I believe that these fat pickings are generally selected by those who are not particularly well known to Senators, and without any special reason being given for their obtaining such appointments.

I hope that this amendment will prevail, and that a limit of \$2,000 will be fixed. If when the system was reorganized these places had been deemed of sufficient importance to justify the payment of a salary at all, \$1,500 would have been fixed as the limit; they would have been placed in schedule C. If this amendment shall not prevail, I shall propose to put them in that lower schedule.

Mr. FESSENDEN. I think that probably would be an error the other way. I notice that many of these consulates are at very important places, where a great deal of business is done. Take, for instance, Sheffield. The consul there is paid by fees. The consul at Manchester, which is about the same sort of place, has a salary of \$3,000. Sheffield probably is equal in importance to Manchester.

Mr. CHANDLER. It is now; it was not then.

Mr. SUMNER. More important.

Mr. FESSENDEN. It is more important, perhaps. Then there are Falmouth, Plymouth, and Bradford. They are all said to be places of importance.

Mr. GRIMES. Bradford is very important.

Mr. SUMNER. Bradford is a great center.

Mr. FESSENDEN. They have commercial

agents and vice consuls whom they have to pay out of their fees. I should think that \$3,000 might safely be fixed as a limit. My only doubt about the amendment was whether \$2,000 would be too small at some of these large places.

Mr. SUMNER. I think it would be.

Mr. FESSENDEN. If we amend the amendment by inserting \$3,000 in place of \$2,000 it will probably be right, and perhaps by the next session we can get the information we ought to have in reference to all these places, so that we may fix the proper salary at each.

Mr. CHANDLER. I do not object to that.

Mr. FESSENDEN. I feel disposed, therefore, to move to amend the amendment by striking out \$2,000 and inserting \$3,000 in the eleventh line, and then to let it stand; and I make that motion.

The amendment to the amendment was agreed to.

Mr. SHERMAN. I desire to amend the amendment further by inserting the word "such" after the word "any" in line ten, so as to read, "when the fees so collected by any such consul or commercial agent," so as to confine the operation of the section to these particular cases.

Mr. FESSENDEN. That is right.

The amendment to the amendment was agreed to.

Mr. JOHNSON. I ask the honorable chairman whether the act of August 18, 1856, referred to in the particular amendment, does not require the consuls to report to the State Department.

Mr. FESSENDEN. I think not; but the amendment was not drawn by me but by the Senator from Ohio.

Mr. JOHNSON. I understood the letter from the Secretary of State to the Senator from Maine to say that by the law as it now stands they make a report to the State Department.

Mr. FESSENDEN. That is those who are paid by fees.

Mr. JOHNSON. And he objects to this particular amendment on the ground that so far as it is concerned you are taking the consuls away from the State Department.

Mr. FESSENDEN. I think by that act they report to the Secretary of the Treasury.

Mr. SHERMAN. The intention was to extend the provision of the old act which applied only to scheduled or salaried consuls to the consuls who receive compensation in fees.

Mr. JOHNSON. That I understand.

Mr. SHERMAN. The eighteenth section of the act of August, 1856, provides that—

"All fees collected at any of the legations, or by the consuls general, consuls, and commercial agents mentioned in schedules B and C, and by vice consuls and vice commercial agents appointed to perform their duties, or by any other persons in their behalf, shall be accounted for to the Secretary of the Treasury, and held subject to his draft."

Whoever drew the communication for the State Department, made a mistake, because the language of the law was followed in drawing this section.

The amendment, as amended, was agreed to.

The PRESIDING OFFICER. The amendments reported by the Committee on Finance are now completed.

Mr. CHANDLER. I am instructed by the Committee on Commerce to propose this amendment to come in at the close of the first session in the bill:

For repairs of cemetery, fences, and sexton's house belonging to the United States in the city of Mexico, \$1,500, to be expended under the direction of the President of the United States.

I have a report of the Committee on Commerce on this subject which can be read if desired. The appropriation is for the repairs of the cemetery in the city of Mexico where our soldiers are buried.

Several SENATORS. State the substance of it.

Mr. CHANDLER. The cemetery is out of repair; the fences are down; and the consul at the city of Mexico and our late minister in Mexico united in recommending that this

appropriation be made for the repairs of the cemetery. That is the substance of the report, but it can be read, if Senators desire to hear it.

Mr. SUMNER. I do not think it is necessary.

Mr. FESSENDEN. I suggest whether this item had better not be put on some other bill.

Mr. CHANDLER. It is a consular recommendation, and the Committee on Commerce proposed to put it on this bill.

Mr. FESSENDEN. But it is not a consular matter.

Mr. CHANDLER. It may as well go on this bill as any other.

Mr. FESSENDEN. In that I differ from the Senator. It strikes me as singularly inappropriate to this bill. It may well go on the miscellaneous bill at the end of the session, where we insert various miscellaneous items. I think it ought not to go on this bill. I do not object to the appropriation, but I do not think this is the proper place for it. We never do put things of that sort in this bill. It has nothing to do with the consular and diplomatic service.

Mr. CHANDLER. It may just as well go on this bill as any other.

Mr. FESSENDEN. There is no propriety in putting on this bill something entirely inappropriate to it, when there are other bills to which it would be appropriate.

Mr. CHANDLER. I think it more appropriate to this bill than any other.

Mr. FESSENDEN. There are no consuls buried there.

Mr. CHANDLER. It is a matter brought to our notice by a recommendation of one of our consuls. I think it belongs quite as much to this bill as to any other.

Mr. FESSENDEN. I do not think it is to be put on the consular and diplomatic bill merely because a consul advised it, when there are other bills to which it would be appropriate.

Mr. CHANDLER. The committee thought it better to put it on this bill, and therefore instructed me to report it here.

Mr. FESSENDEN. Probably it did not occur to the committee that this was not the proper place for it.

Mr. CHANDLER. What place would be more proper?

Mr. FESSENDEN. The miscellaneous appropriation bill at the end of the session; it would be very proper there.

Mr. SUMNER. I am sure that more than once similar appropriations have been put on this bill. I remember that at least once I moved such an appropriation to the civil and diplomatic bill to repair the cemetery at Constantinople.

Mr. FESSENDEN. Is the money to be expended by the consul?

Mr. CHANDLER. Under his supervision. I think this is the place for it.

Mr. SUMNER. I think it may come in here.

Mr. FESSENDEN. If it is a proper appropriation I suppose there will be no harm done by putting it here; but I should like to hear the evidence.

Mr. CHANDLER. Let the report be read.

The Secretary read as follows:

The Committee on Commerce to whom was referred the letter of Hon. William H. Seward, Secretary of State, bearing date March 5, 1866, indorsing communications from Marcus Ottenberg, relative to the condition of the American cemetery at the city of Mexico, report:

That by the provisions of the act of Congress, approved September 28, 1850, \$10,000 was appropriated for purchasing, walling, and ditching a piece of land near the city of Mexico for a cemetery or burial ground for such of the officers and soldiers of our Army as fell in battle or died in and around said city, and for the interment of American citizens who had died or may die in said city. The money thus appropriated was expended by direction of the President of the United States for the object specified in the act. Seven hundred and fifty American officers and soldiers who died in and about the city of Mexico during the war, were interred in the ground thus acquired, and since the war a large number of American citizens have also been interred there. The American consul now represents that the cemetery is in a neglected and dilapidated condition, and estimates that it will require \$1,500 to repair the cemetery, the sexton's house, and for other necessary repairs in and about the premises. The committee

recommend that \$1,500 be appropriated for the purposes specified, to be expended under the direction of the President.

The amendment was agreed to.

Mr. SUMNER. I am directed by the Committee on Foreign Relations to move an amendment to come in on page 2, line sixteen, after the word "dollars," in the shape of a proviso:

Provided, That an envoy extraordinary and minister plenipotentiary appointed at any place where the United States are now represented by a minister resident shall receive the compensation fixed by law and appropriated for a minister resident and no more.

I should like to make a brief explanation of this amendment. It will be perceived from its place that it comes after the appropriation for salaries of envoys extraordinary and ministers plenipotentiary and ministers resident. The object in one word—that I will state precisely before proceeding into detail—is to authorize the Government to employ in its discretion persons with the title of envoys extraordinary and ministers plenipotentiary where it now employs ministers resident, but without any increase of salary. This subject has occupied the attention of the committee for several years; it has been more than once, I think, brought before the Senate. The committee in their recent consideration of it, I think, were unanimous that the good of the service, especially in Europe, required that this change should be made. From all the information that comes to us, it appears that our ministers at the courts where they have only the title of ministers resident play a second part to gentlemen with the title of envoy extraordinary and minister plenipotentiary, though representing Governments which we certainly should not consider in point of rank in the world on an equality with ours. They are second to them; in short, to use a familiar illustration and simply in order to bring the difference home to the Senators, when they call upon business or appear anywhere they bear the same relation to the envoys extraordinary of those smaller Governments that, for instance, a member of the other House when he waits upon the President of the United States, as we know, bears to the Senators. The Senator is admitted to the President, when the member of the other House, as we know, waits. It is so now with the ministers resident of the United States as compared with persons of a higher title at the courts to which they are accredited, although those gentlemen with a higher title represent what I have already said we should regard as inferior Powers.

I hold in my hand, by way of illustration, the last Almanac of Gotha, for 1866, which is the diplomatic authority for the world, and has been now for about a century; and by way of example, I turn to the diplomatic list for the Netherlands, where it will be remembered we are represented by a patriotic citizen, well known to most of us, and who was connected with the press, Mr. Pike, with the title of minister resident. By looking at the list, I find at this same court that the Grand Duchy of Baden is represented by an envoy extraordinary and minister plenipotentiary, that Belgium, the adjoining country, and with a population much inferior to our own, is represented by an envoy extraordinary and minister plenipotentiary; that Denmark, a nation which now, since she has been shorn of the two provinces of Schleswig and Holstein, has not a million and a half of population, is represented by an envoy extraordinary and minister plenipotentiary. Spain, of course, is represented by an envoy extraordinary and minister plenipotentiary. Even the Grand Duchy of Hesse is so represented; so is the kingdom of Italy; so is the Duchy of Nassau; so is Portugal, so is Prussia, and so on. In transacting business the American minister resident at the court of the Hague is always treated as second to all these representatives. I have alluded to the relations which we bear to the head of the executive department here as compared with members of the other House. I doubt not that Senators know there is an advantage in that in the dispatch of business, in having access promptly and perhaps with a certain

consideration which does not always attach to those of the inferior rank.

That, in brief, is an outline of the present condition of things. I think there are none of the courts where our representatives do not complain that they suffer personally and in the public interests which they represent through this inferior position, and the object of this proposition now moved is to relieve this evil. It is to secure to these representatives the advantages which we covet for our country to the end that their own respectability may be enhanced and that they may transact the public business with the most effect.

It is not proposed—and now I come to the suggestion which the Senator from Iowa has made in a whisper—it is not proposed that there shall be any increase of salary.

Mr. CONNESS. That will come next year.

Mr. SUMNER. I will come to that.

Mr. GRIMES. That is not the suggestion I made. The suggestion I made in a whisper, which the Senator seems to have heard, is that Mr. Pike, the gentleman to whom he alludes, in a letter to me ridiculed this whole proposition.

Mr. SUMNER. I think he must be the only one, then, that does it.

Mr. GRIMES. That may be. I have no correspondence with any but him.

Mr. SUMNER. I should like to see the letter.

Mr. GRIMES. I think the Senator from Maine has seen it.

Mr. SUMNER. Very well. I will finish what little I have to say. I can only say, that from my experience in this matter, with some opportunities of observation and reflection, and with no personal interest in it whatever, with no desire to advance the interest of any human being, and at this moment having no one of our functionaries in view, simply speaking for the interests of my country, as I understand them, abroad, I am satisfied that they would be promoted by this change. And now comes the remark of the Senator from California that next year will be the demand for an increase of salary.

Mr. CONNESS. Perhaps it may be a year further on.

Mr. SUMNER. Perhaps the year after, or ten years from now. I do not know that it may not come; but I bring this forward in good faith. I do not bring it forward merely by myself; I bring it forward now as the representative of the Committee on Foreign Relations on this floor, after having carefully considered it, and believing, as I do, that the public interests will be promoted by it.

Now, a question may arise as to the form in which it is presented. I should like to have the Secretary read the proposition before I comment on it.

The Secretary read the amendment.

Mr. SUMNER. It will be observed that the proposition does not undertake to empower the President, or to direct him, to make this change, but it assumes, according to a certain theory of the Constitution, that under the Constitution it is in the discretion of the President to send ambassadors, envoys extraordinary, or ministers resident, or any other diplomatic functionary in his discretion. Congress having only the discretion of supplying the means.

The Constitution says:

"He [the President] shall have power by and with the advice and consent of the Senate to make treaties, provided two thirds of the Senators present concur, and he shall nominate, and by and with the advice and consent of the Senate shall appoint, ambassadors, other public ministers, and consuls."

It was in pursuance of this provision of the Constitution that in 1856, when our consular and diplomatic system was revised, the following provision was enacted; and here again you will observe that the provision does not undertake to empower the President to appoint ambassadors, envoys extraordinary, or other diplomatic functionaries, but it assumes that he may do it, and proceeds to supply the salary. The provision is as follows:

"That ambassadors, envoys extraordinary, and min-

isters plenipotentiary, ministers resident, commissioners, chargés d'affaires, and secretaries of legation, appointed to the countries hereinafter named in schedule A, shall be entitled to compensation for their services, respectively, at the rates per annum hereinafter specified; that is to say, ambassadors and envoys extraordinary and ministers plenipotentiary, the full amounts specified therefor in said schedule A; ministers resident and commissioners, seventy-five per cent.; chargés d'affaires, fifty per cent., and secretaries of legation, fifteen per cent. of the said amounts respectively.

Now, the proposition which I have moved proceeds, in harmony with this, simply to declare that where the President shall undertake to appoint an envoy extraordinary or minister plenipotentiary to any court where we are now represented by a minister resident there shall be only the salary of a minister resident. Proceeding with the theory of this act and a certain theory of the Constitution, the President has the power already to appoint to all these courts an envoy extraordinary and minister plenipotentiary if in his discretion he shall see fit, but there is no salary appropriated by law. If the amendment now offered should be adopted it would be in his discretion, at any of the courts where he shall see fit, to change our representative from a minister resident to an envoy extraordinary, but without any increase of salary; and the simple question remains whether it is not fit to give this discretion to the President. He is not called upon to exercise it. There are places where he may think it better to continue the minister resident.

Mr. FESSENDEN. He can do it now.

Mr. SUMNER. But there is no salary; the salary would not apply. The object of my amendment is to supply the salary in such cases. That is all. I have heard it observed that though the President may now, under the Constitution, appoint to any place an envoy extraordinary and minister plenipotentiary, he is, to a certain extent, restrained in the exercise of that power by the want of an appropriation to support an envoy extraordinary and minister plenipotentiary at such a court. This proposition meets that difficulty precisely. It empowers him, if he sees fit at any court, to raise the minister resident there to the rank of envoy extraordinary, to transfer the salary which he now has as minister resident to the other office. Legislation is required to enable him to do that.

I come again, then, to the simple question of expediency in the case. That is to be determined, I take it, by the testimony we receive from Europe. I should certainly be disposed to respect very much the testimony of the gentleman whom the Senator from Iowa quotes if it were given fairly on the facts. That is the reason why I said I should like to see his letter. I should respect it very much; but then I am free to say that I speak on this matter somewhat from my own individual observation for many years, almost for my whole life; and I have no hesitation in giving the opinion that the diplomatic interests of our country in Europe, at the courts where we are now represented by ministers resident, would be promoted by this change; and that was the opinion of the committee with which I have the honor to be associated, after the most careful consideration of it, not only this year, but during some years past.

Mr. WADE. Perhaps I ought to say a word on this subject, as I first moved it in committee. I did so upon information which I had received from some of our ministers abroad, gentlemen with whom I was formerly acquainted, who in letters to me mentioned that they were laboring under this disadvantage—not a disadvantage to themselves, but a disadvantage to the country. I suppose the object of sending a minister abroad at all is that he may have a position which will enable him to exercise as much influence as the Government that sends him can properly clothe him with.

Mr. FESSENDEN. I should like to know the name of the Senator's correspondent.

Mr. WADE. The one to whom I refer particularly is Mr. Harvey, representing this country at the court of Portugal. Perhaps I ought not to state anything about this, but all he said

on the subject is of a public character, and it is not derogatory to any gentleman to communicate it to the public. Mr. Harvey disclaims all desire for an increase of salary.

In this country we do not stand much upon the different grades or positions which diplomatic agents possess; they are altogether artificial; I think as little of them, perhaps, as anybody else; but in Europe it is different; they judge of men's importance frequently according to their name or grade or standing. Long custom there has made distinctions between the various grades of these officers. In the public law, the different order and dignity of the various grades of diplomatic agents is perfectly well understood and always has been. If a nation sees fit to be represented there by a minister of an inferior grade, it labors under an apparent disadvantage; he is not considered by his associates as being on an equal footing with those of them that are of the first rank. A minister of the first rank may, for instance, go into the presence of the emperor, or king, or highest officer of the State and communicate with him directly, where, by the etiquette of the nation, a minister of an inferior grade would not be permitted to do so, but would have to communicate with some subordinate officer.

Now, when we are entitled to consider ourselves among the first nations of the earth in point of population, of influence, of respectability, and in every point of view, I think it is a modesty that works to our disadvantage for us to refuse to send agents abroad with titles which will, in the estimation of those to whom we send them, place us upon a position as high as other nations. I am informed that by this course we detract from our influence abroad, and I should expect that would be the case, because foreign nations are not apt to rate a people much higher than they see fit to rate themselves. This amendment will cost us nothing. It is simply conferring a rank which is considered important abroad, although it is not deemed important among us, because we do not stand so much on this kind of etiquette as they do in Europe. As they do regard it of consequence, and as it is just as easy for us to give the highest title as the lowest, why should we not do it? It will give us an advantage abroad, and put us on a footing with other countries represented by the highest grades of diplomats. If we do not rate ourselves equal to them, we shall not be rated so by the customs of those nations. That is all there is about it. I do not think it needs an elaborate argument. I think it is a very cheap way of obtaining the influence we ought to have if we send diplomatic agents abroad at all.

Here let me say that if I could have my own way about it I never would have a resident minister abroad. I would abolish the whole of them. I do not think they are of any kind of importance to us. I do not think they do any good in our relations with Europe. There may be barbarous nations with which we have communication where a resident minister all the time may be of some service; but with those nations of Europe with whom we are in constant communication, having treaties well understood with each other, there is no more need for and no more importance to be attached to a resident minister than there is to have such agents sent by these States to each other. Now, if a difficulty springs up between this country and a European nation, we hardly ever settle that controversy by means of our minister there; we generally send a special agent to do that special business, and that is the way we ought to do the whole of it and rid ourselves of the entire incumbrance of this whole matter. But if we will have ministers abroad, let us have them of the first class; let us rate ourselves as we really are, on a standing and dignity with any nation of the earth. Let us do it unless we will abolish them, and if you will go that way with me I should like it much the best. That is all I have to say about it. It is a cheap way of rating ourselves as we ought to be rated and that to our advantage.

Mr. SUMNER called for the yeas and nays, and they were ordered.

Mr. SHERMAN. Since the yeas and nays are to be called I feel bound to state, very briefly, the position I occupy in regard to this matter. I am perfectly willing, in order to meet the argument of my colleague and of the Senator from Massachusetts, to give the rank provided for, but I do not wish to do it in such a way that it will inevitably draw with it an increase of pay. The objection to the amendment proposed by the Senator from Massachusetts is this: the law now confers upon an envoy extraordinary the salary of \$10,000 a year; it is so fixed by law, and at the next session we shall undoubtedly have an application from every person appointed under this proviso for the legal salary, and we cannot refuse to grant it to him. The legal salary affixed to this title of envoy extraordinary and minister plenipotentiary is by the law, first, \$17,500 to a certain class named, then to another class \$12,000, and to another class \$10,000, and this compensation being fixed by law the persons appointed under this proviso will undoubtedly apply for the salary. I have submitted to the Senator from Massachusetts an additional section that will accomplish his object and the object of my colleague without involving this danger, and if that amendment is satisfactory to him—he now has it before him—I am perfectly willing to vote for it.

Mr. SUMNER. Very well. This would practically carry out the idea the committee had.

Mr. SHERMAN. I ask that it be read, and I do not think any one will object to that.

Mr. SUMNER. Let it be read. I do not think it quite so precise and pertinent to the case as the proposition of the committee.

Mr. SHERMAN. It avoids the objection which I have suggested.

The Secretary read the amendment suggested by Mr. SHERMAN, as follows:

And be it further enacted, That the salary of envoy extraordinary and minister plenipotentiary to countries not specially named in schedule A, of the act approved August 18, 1856, entitled "An act to regulate the diplomatic and consular systems of the United States," and to be hereafter appointed, shall be \$7,500.

Mr. SHERMAN. The language of the schedule already read by the Senator from Massachusetts is, that the salary of envoy extraordinary and minister plenipotentiary to "Great Britain and France" shall be "each \$17,500;" to "Russia, Spain, Austria, Prussia, Brazil, Mexico, and China, each \$12,000; all other countries, each \$10,000."

We have no envoy extraordinary to any other country than those named specifically.

Mr. FESSENDEN. Your amendment will reduce them to \$7,500.

Mr. SHERMAN. No, it only affects the third class and no other. It says "in countries not specifically named in schedule A" the salary of a minister plenipotentiary shall be \$7,500.

Mr. FESSENDEN. Now the salary of those not named is \$10,000. By this you reduce it to \$7,500.

Mr. SUMNER. There are none now appointed under the third clause.

Mr. SHERMAN. There are none under the third clause of this schedule. There are ministers plenipotentiary at \$17,500, and some at \$12,000, but none at \$10,000. None have been appointed under that third clause; so that the effect is to provide that the compensation of an envoy extraordinary and minister plenipotentiary and of a minister resident to all the countries not specifically named in this schedule shall be \$7,500. That gives them the incidental advantages of getting in to see the king a little sooner than otherwise.

Mr. SUMNER. I am perfectly willing to accept that substitute.

The PRESIDING OFFICER. The Senator from Massachusetts can withdraw his amendment by unanimous consent, the yeas and nays having been ordered.

Mr. GRIMES. I trust this amendment will

not be adopted, because it will do away, I apprehend, with the real spirit that instigated the original proposition, which was to follow up the honor with the purse. Some of these gentlemen have peculiar claims upon this Government for the consideration that it is proposed to bestow upon them. The gentleman from whom the Senator from Ohio [Mr. WADE] received his letter on this subject, urging that we should pass a law to this effect, has a peculiar claim upon the Government of the United States.

Mr. WADE. I did not say that he asked us to pass any such law. I said that I understood from him that he labored under this difficulty.

Mr. GRIMES. Yes, sir; that he labored under this difficulty, and the natural inference would be that he desired to have the difficulty removed; and the Senator from Ohio, in his capacity as one of the members of the Committee on Foreign Relations, has proposed to remove it by elevating him in rank. He is the gentleman known to the country as the man who telegraphed to Charleston, South Carolina, that Fort Sumter was about to be relieved, and the result was that fire was immediately opened by the rebels upon the vessel that went there to relieve the beleaguered men in that fortification.

Mr. WADE. You are wrong.

Mr. GRIMES. No, sir, I am not wrong. Mr. James E. Harvey was the man, and stands on the record as the man—and I am prepared to prove it—who telegraphed through to Charleston that Fort Sumter was about to be relieved, and in consequence of that the rebel fire was opened upon Fort Sumter. He is the man who has within a short time written a most infamous letter, written as it was by a minister representing this country abroad, to the Secretary of State, which he has seen fit to publish in the New York Times. I have only seen copious extracts from it and have not had an opportunity to read the whole of it, in which he denounced Congress in the most unmeasured terms, and if I understand the force of language he intimates that it would be well for the President of the United States to eject us from the Halls of Congress. This is one of the gentlemen whom it is proposed to elevate in rank from ministers resident to envoys extraordinary and ministers plenipotentiary.

Now, Mr. President, if we are going to give him the honor let us not cut ourselves off from the opportunity, at a future day during this session, or when the consular and diplomatic bill shall be under consideration at the next session of Congress of also conferring upon him a part of the Treasury of the United States in consideration not only of the services that he renders as foreign minister, but also in consideration of the services he rendered to the country while he was here, and the services he is rendering to us by the private communications which he keeps up with the Secretary of State and which the Secretary of State publishes as electioneering documents in his organ in New York.

Mr. WADE. I am very sorry that on a question of this sort, which is purely of a public character, having no reference that I know of to the conduct of any individual on earth, the character of a gentleman should be dragged in here to be stigmatized before the public when there is no occasion for it. If the Senator from Iowa has any particular grief against this minister I wish he had taken some other way and some other occasion to vent his feelings on the subject. I do not think that this is the place or the occasion or the issue for that kind of spleen. The gentleman has gone back to the time the rebels fired on Fort Sumter and the communication that he says Mr. Harvey made to them. I know something about that letter. It was investigated at the time, when Mr. Harvey was most ungenerously charged with about the same thing that he has been charged with here to-day. All that he did—all his communications with South Carolina, with everybody, and anybody—was done with the knowledge of the President and his Cabinet, and at their request.

Mr. GRIMES. That is not denying what I stated.

Mr. WADE. It is not denying it, but it is taking the sting out of it. If he was acting in conformity to the wishes of his Government he was not in communication with traitors, unless they were all traitors together, which the gentleman will not pretend.

Now, sir, what has the character of Mr. Harvey to do with the question that is before us? This proposition does not apply to any minister in particular. If one half what the Senator has said is true, and if the authorities that govern Mr. Harvey do their duty, he will not be minister very long. If he uses his position to assail Congress and to put up the President of the United States, as many have done, to drive Congress out, if the President ought not to be displaced, he will not leave this minister one hour in his position after such advice. I know nothing about that. I am not the advocate of any man or any man's conduct here, and least of all do I wish to discuss a gentleman's character here upon a question in which it is not involved and having nothing to do with it.

Sir, what is the question? It is no more nor less than this: have we given our ministers abroad that rank that enables them to be as useful to the country as they are capable of being if we bestow it upon them? That is all there is of it. I do not wish to confer rank upon any man in order to gratify any vanity he may have on the subject. I care nothing about that. That is the furthest thing in the world from my intention. But as I said before, if there are different grades and ranks of these diplomatic agents, and in Europe some are considered of more influence and respectability than others, it does not become a great nation like this, in my judgment, to put its diplomatic agents upon the lowest footing where they will be considered by European Governments as standing in an inferior position; and that applies to the whole of them—not to Mr. Harvey any more than the rest of them—but to all of them together. Why, then, discuss the character of a single one of our diplomatic agents in order to rebut this question or to explain it? It has no bearing upon the question, and ought not to have been introduced here.

Mr. FESSENDEN. Whatever we may do, if we should adopt the amendment proposed by my friend from Ohio, [Mr. SHERMAN,] the result, in my opinion, will be the same. We shall have, in a very short time, a statement that this rank of minister plenipotentiary cannot be supported on so small a salary with that dignity which the position requires. But I enter my entire dissent to the idea that the influence of our ministers abroad depends upon whether they are called by one title or another. The thing itself is preposterous so far as my own judgment is concerned. The influence which a man would have at a foreign court depends, in the first place, somewhat perhaps upon his own capacity, but more, unquestionably, upon the power of the Government that he represents. It is the rank of his Government and the power that it has among the nations of the earth that gives him power abroad. The idea that it is required for the protection of the interests of this country in foreign courts that we should change the title and the rank of our ministers is one that does not address itself with any sort of force to my mind. I have no doubt there may be some little matters of etiquette in which a higher rank would be convenient to the ministers themselves, and that is all there is of it.

Now, sir, I will venture to say—and the Senator from Massachusetts and the Senator from Ohio [Mr. WADE] will contradict me if I am not right about it—that there are but two men among all our ministers resident who have ever said a word on this subject. One of them is the minister to Belgium and the other is the minister to Portugal. I have never heard of anybody else that made any disturbance about it. I know that an effort was made here two years ago to force the minister to Belgium into

a higher position because, as it was said, Leopold was our great friend, although I believe it turned out afterward that he was not, and that his influence had really been turned against us, and because Belgium was such a very important country, having about five millions of people, although it is not so important in the way of trade to us as the Netherlands, having no foreign possessions. That was for his benefit. He is the last man abroad that I would attempt to dignify or to please by raising his rank, for reasons which I shall not give. I would have said, until this morning, that I felt differently toward Mr. Harvey, the minister to Portugal; but if the statement which I have read is true, which professes to be extracts from a letter of his published in the New York Times, he has been guilty of a grave indecorum; and instead of passing a bill by which he could be by any possibility raised in rank, he ought to be kicked out, because it was an interference with what, being a foreign minister, it was improper for him to interfere with, if the letter was actually written, and I suppose there is no doubt about it; and in the next place, it was a very unnecessarily impertinent letter with reference to some branches of the Government, he being a foreign minister.

Mr. JOHNSON. What letter does the honorable member refer to?

Mr. FESSENDEN. I refer to a letter which is said to be printed—I have not seen the letter itself—in the New York Times. It is reviewed in an article sent to me in Wilkes's Spirit.

Mr. JOHNSON. I have not seen it.

Mr. FESSENDEN. The review I saw was in Wilkes's Spirit, in which it was stated that it was a letter published in the New York Times, and directed to the Secretary of State. I thought very well of Mr. Harvey when he was here. He was a very good correspondent, and very much of a gentleman in his manners, and a man of talent undoubtedly. Whether this is true or not, I do not know; I only say, if he has written such a letter, I do not know that he has expressed opinions with reference to Congress that would be at all disagreeable to the Secretary of State. I presume he knew to whom he was writing, and how his letter would be received.

Mr. JOHNSON. If the honorable member will permit me, I will say that I think there must be some mistake about it.

Mr. FESSENDEN. I do not believe there is a particle. Wilkes publishes a part of the letter. I hope there is, for the credit of Mr. Harvey.

Mr. JOHNSON. I do not know that Wilkes is the highest authority in the world.

Mr. FESSENDEN. He gives extracts from the letter.

Mr. JOHNSON. There may be in the letter, taken in the whole, matters that explain away particular extracts.

Mr. FESSENDEN. They cannot possibly explain the language that was quoted from the letter.

Mr. JOHNSON. Do I understand it to be a letter to the Department?

Mr. FESSENDEN. Yes, sir.

Mr. JOHNSON. Published by the Department?

Mr. FESSENDEN. So I understand. I cannot say that the letter exists, because I have not seen it, but I have seen what purported to be extracts from it published in Wilkes's Spirit.

Mr. JOHNSON. It would be an extraordinary thing, and the fault almost as much of the Secretary as of the correspondent, if he has received an official letter from a minister abroad censuring Congress and published it.

Mr. FESSENDEN. It was not an official letter. Letters are marked "official," I believe, where they are particularly meant to be kept private; if not marked "official" they may be published. I suppose this was written for publication.

Mr. JOHNSON. That would make it no better so far as the Secretary is concerned.

Mr. FESSENDEN. With the opinion the honorable Senator may have of the Secretary I have nothing to do. I have never compared notes with him on that subject. I am not commenting on the Secretary's conduct in publishing the letter, if it has been published. I only say that if such a letter was written by Mr. Harvey to the Secretary, he understood perfectly well to whom he was writing, and how it would be received and appreciated.

Mr. JOHNSON. The honorable member from Maine does not seem to understand me in what I said just now.

Mr. FESSENDEN. I beg the Senator's pardon.

Mr. JOHNSON. What I meant to say was that I could hardly believe it possible that the Secretary of State would publish, or consent to have published, a letter written to him, whether official or private, censuring Congress. If he has done it, what I did say was, that I think he has offended just as much against good taste, to say nothing stronger, as the writer himself.

Mr. FESSENDEN. I do not remember the particular language; I only remember, generally, in casting my eye over it, that it was very offensive. I cannot say that he mentioned Congress specifically, according to my recollection, but it was easy to understand it.

Mr. JOHNSON. I think we ought to see it.

Mr. FESSENDEN. However, with that I have nothing to do further than this: I was merely saying that so far as I knew—and I beg the Senator from Massachusetts and the Senator from Ohio to correct me, if I am in error—there is no man abroad who has written on this subject or said anything about it except these two gentlemen, the minister to Belgium and the minister to Portugal. If there are any others, I should like to know it. I can understand, with regard to those gentlemen, why they would like it very well indeed. The only question for us to consider is, in the first place, the danger that will arise hereafter with reference to salaries, which may be greater or may be less; and, in the next place, whether it is advisable to take it for granted, as is stated here, that the rank and influence and power of this country depend upon whether these gentlemen who represent us are called one thing or another. I do not believe it. If I thought the rank or influence or position of the country abroad depended upon the rank or title of its diplomatic representative, instead of depending upon what the country is and what it is known to be, I might vote for the amendment; but merely to gratify these gentlemen I do not think it is right.

Mr. SUMNER. I have no feeling on this question at all—not the least; nor do I approach it as a political question. I see no individual in it. I do not see Mr. Harvey or Mr. Sanford. I see nobody here to oppose and nobody to favor. I see nothing in it but my country and its service abroad. Sir, I think I am as sensitive as any other Senator with regard to that just influence that belongs to my country as a republic great and glorious in the history of mankind. I believe that I am duly proud of it, and conscious of the weight that it ought to carry wherever it appears. I know that the name of my country stands for something now in the world, and that whoever represents that country on the ocean or in the diplomatic service has, alone, a great and powerful recommendation. But I also know too much of human history and too much of human nature not to know that men everywhere are influenced more or less by the title of those who approach them.

Mr. FESSENDEN. Governments are not; men may be.

Mr. SUMNER. My friend says Governments are not so influenced, men may be; but let me remind my friend that Governments are composed of men. My friend knows perfectly well that if he sends a general on a particular service, he by his presence produces a more certain effect and a prompter result than if he sent a colonel or a major. My other friend, who represents the Naval Committee on this floor, [Mr. GIMES,] knows very well that if

he sends an admiral on any service, if it be only of compliment, he produces at once a greater effect than if he sends a lieutenant.

My friend, the Senator from Iowa, has just induced us to send the Assistant Secretary of the Navy to Europe, because in that way he thought he should give more *clat* to a certain service. I united with him in that effort. Why did he do that? Why not allow one of the common clerks of the Department to carry that resolution? The Senator from Iowa on that occasion knew full well that if he sent the Assistant Secretary of the Navy he should do more than if he sent a simple clerk of the Department; and therefore I am brought, to the precise point, that whatever may be the rank of our country in the world, and how much soever we may be entitled at all courts where our representatives are, to the highest precedence, yet such is human nature that our position is impaired by the rank of the agent that we send. I wish to give to our agent all those artificial accessories and incidents which the law of nations allows. I follow the law of nations. Why does the law of nations authorize or sanction, and why do our Constitution and statutes, following the law of nations, authorize and sanction this difference of rank, except because it was supposed that if you sent a person of a higher rank you could obtain a corresponding degree of influence? That is the theory which underlies the whole question of rank. It runs into the Army; it runs into the Navy; it runs into Congress; it runs into all the business of life; and the simple question is, whether now, in the diplomatic service of your country, in dealing with your foreign agents, you will discard a principle of action which you follow in everything else.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) Is the Senate ready for the question?

Mr. SUMNER. I think I should prefer to have the vote taken on the proposition as it came from the committee. On considering the other proposition I see that it requires some amplification in order to be perfectly clear and not to come in contact with one or two appointments that have already been made under the old statute. For instance, we have envoys extraordinary and ministers plenipotentiary at Chili and at Peru. They are not in the schedule. They come under the third clause of the statute. I think, therefore, if the Senate are disposed to adopt the conclusion of the committee, they had better follow the proposition which has been most carefully considered and digested and I think is in complete harmony with the existing statutes.

The PRESIDING OFFICER. The question then will be on the amendment reported by the Committee on Foreign Relations, upon which the yeas and nays have been ordered.

The question being taken by yeas and nays, resulted—yeas 15, nays 17; as follows:

YEAS—Messrs. Dixon, Doolittle, Harris, Henderson, Hendricks, Howe, Johnson, Morgan, Norton, Pomeroy, Sprague, Sumner, Wade, Wilson, and Yates—15.

NAYS—Messrs. Buckalew, Clark, Conness, Cragin, Davis, Edmunds, Fessenden, Foster, Grimes, Lane of Indiana, Nesmith, Riddle, Sherman, Stewart, Trumbull, Van Winkle, and Wiley—17.

ABSENT—Messrs. Anthony, Brown, Chandler, Cowan, Creswell, Guthrie, Howard, Kirkwood, Lane of Kansas, McDougall, Morrill, Nye, Poland, Ramsey, Saulsbury, Williams, and Wright—17.

So the amendment was rejected.

Mr. SUMNER. I am directed by the Committee on Foreign Relations to move another amendment, on page 6, line one hundred and twenty-seven of section one, to insert at the end of the clause with reference to the salaries of our commissioners and consuls general at Hayti, Liberia, and Dominica:

And the title of these diplomatic representatives shall be hereafter minister resident and consul general.

The title now at those three places is commissioner and consul general. By the diplomatic statute of the United States a commissioner receives the same pay as a minister resident, and by our statute law he is of the

same rank; but it seems that practically he is not so recognized at the court where he is accredited. At any rate, he is not so recognized in the island of Hayti. The Secretary of State has referred to the Committee on Foreign Relations a recent dispatch from the commissioner and consul general there on this subject, with a recommendation that the Senate should take it into consideration, and take such steps with regard to it as they should think best. The committee have considered it, and the result is the proposition now before you. I will read from this dispatch a brief extract. It is under date of "Port-au-Prince, Hayti, April 21, 1866:"

"Confirming a doubt whether I should add a single line to the already voluminous pages which I send you by this mail, I cannot help asking your attention to two suggestions which seem to me important and urgently called for at the present time.

"The first is that the functions and title of the office held by General Cazeneau and myself—

General Cazeneau has not yet been confirmed for any office—

"be changed to those of minister resident, so that we can have direct access to the heads of the Governments to which we are respectively accredited.

"Experience has made clear to my mind two facts: "1. That an active exercise of the influence of our Government upon the two republics on this island is essential not less to their welfare and progress than to the maintenance of proper relations between ourselves and the Antilles.

"2. That this influence cannot be exerted, if the representatives of our Government are kept at the official distance from the springs of political influence which they now occupy.

"To illustrate both these points: the relations between this and the sister republic are now in a crisis. The parties seem bent on quarreling. If anything saves them from such an event, it will be the influence of foreign Governments, particularly our own."

"I cannot but think that if at this moment I could go directly to his Excellency I could do service at once to my country and to these poor, distracted republics which would be of incalculable value. And it tries me, when the case is so urgent, to be compelled to stand aloof—a sort of lay figure.

"The change I ask would add nothing to the expenses of the Government, and would cost no material inconvenience in any way. It would be a proper compliment to a sister republic, and would withdraw an indignity which we seem to impose on this Government by denying to it the kind of representation we make near other Governments which are less important in themselves and which occupy much less close geographical and political relations with us."

This is the argument which is presented by this functionary accredited to Hayti. I can see no objection to the change.

Mr. GRIMES. Why not include the Sandwich Islands?

Mr. SUMNER. That has already been done. It was done last year. Our representative to the Sandwich Islands is now called a minister resident.

Mr. FESSENDEN. I will ask the Senator if it will increase the salaries.

Mr. SUMNER. Not at all.

Mr. FESSENDEN. The one at Liberia now gets \$4,500.

Mr. SUMNER. Yes, sir.

Mr. FESSENDEN. This will give them \$7,500 each.

Mr. SUMNER. The salary at Hayti is \$7,500.

Mr. FESSENDEN. What are the others?

Mr. SUMNER. Dominica \$7,500 and Liberia \$4,500. No increase of salary is intended, and I will add to the amendment the words "with no increase of salary."

Mr. FESSENDEN. I should like to hear the amendment as it now stands.

The Secretary read it, as follows:

And the title of these diplomatic representatives shall hereafter be minister resident and consul general, with no increase of salary.

The amendment was agreed to.

Mr. SUMNER. I move to insert on page 5, line one hundred and eight, after the word "Nantes" the words "St. Catharine's, in Brazil." I am directed to make this motion by the committee which I represent.

Mr. FESSENDEN. I should like to hear the reasons for it.

Mr. SUMNER. The explanation of this amendment is as follows: St. Catharine's, in Brazil, is a port where, in times past, the consul has been paid by fees only, until during the

rebellion it was put on the \$1,500 list. The object of my motion is now practically to continue it on that list. We are represented there by a gentleman of peculiar merit, who has gained the confidence of the Department, and of all who are familiar with his services there, by his fidelity and ability. I mean Mr. Lindsay, of New Bedford, Massachusetts. Of course, if his salary is stopped, and he is remitted to his fees, he will not be able to continue there. It is regarded as important by those familiar with the place, and who transact business there, that a person of Mr. Lindsay's character should be our consul there. It was only a few days ago that I presented to the Senate a petition, which was duly referred to the Committee on Commerce, from citizens of New Bedford on this subject. Perhaps I have never presented to the Senate a petition more respectfully signed; every signature representing the greatest respectability, and, I may add, the largest wealth. As it is very brief I will read it:

"The undersigned, citizens of New Bedford, in the State of Massachusetts, interested in the whale fisheries, respectfully represent: that St. Catharine's, in Brazil, is an important place of resort of our whaling fleet, and it is essential to our interests that the consulate at that place should be filled by an American competent to the performance of his duties; that the present incumbent, Benjamin Lindsay, Esq., we regret to learn, will be compelled to relinquish the post unless the salary of the office, which has ceased by the termination of the war, shall be restored; and as the fees of the office are very inconsiderable, the result will doubtless be the transfer of its duties to some foreign and incompetent person. We therefore respectfully pray that the salary of the consulate at St. Catharine's may be restored."

This is signed by John H. Clifford, and a large number of other citizens whom I have already described.

I have also here a letter from a gentleman well known, formerly a member of the House of Representatives, Hon. Charles B. Sedgwick, of Syracuse, earnestly recommending that this consulate should be placed in the \$1,500 list. This is all I have to say about it. It seems to me from what I understand, and from my inquiries at the State Department—for I have made it the subject of conversation there—that it is important that we should be well represented at this place. Perhaps what I have said may serve to distinguish this case from other cases, and will induce the Senate to allow it to be restored to the \$1,500 list. I hope it may.

Mr. FESSENDEN. I suggest to the Senator that he had better insert it after the word "Barcelona," in the one hundred and sixth line.

Mr. SUMNER. Very well; I will move to insert it after the word "Barcelona," in the one hundred and sixth line.

The amendment was agreed to.

Mr. SUMNER. I have another amendment to offer, to come in at the foot of page 6, which I send to the Chair:

For further compensation of the commissioner under the treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies \$3,000, in full for his services and personal expenses.

Mr. FESSENDEN. What is that for?

Mr. SUMNER. I will tell you. The commissioner mentioned is Hon. Alexander S. Johnson, late chief justice of the court of appeals of the State of New York. He was commissioner in 1864, under an act which I have in my hand, entitled "An act to carry into effect a treaty between the United States and her Britannic Majesty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies."

By that act it is provided:

"That the compensation of the commissioner shall be \$5,000, in full for his services and personal expenses."

The question in the committee at the time was very seriously considered whether he should be allowed a certain salary or given what we familiarly call a round sum for the whole business. It was understood that we should require the services of a thoroughly capable man, a man of high character, who

could be placed in association with the commissioner appointed on the side of the British Government. The interests that were to go before them were very considerable; and it appears from a communication, which I shall have read in a minute, that they have already amounted to \$5,000,000. At that time it was supposed that the services might be completed within five or six months, certainly within a year, and it was on that account that the compensation was placed, as it was, at \$5,000. But instead of being completed within a year, the service is still going on, and I understand will not probably be completed before next January. Meanwhile, this distinguished gentleman whom we enlisted in this service is necessarily withdrawn from, I may say, the career in which the Senators from New York, I believe, will testify, he was so eminent, and he is left simply for this long service of more than two years with the sum of \$5,000. On taking the case into consideration, the committee thought it advisable to recommend an addition of \$3,000, by way of completing what I will again call the round sum for his services. I will send to the desk a letter which has been received from the commissioner himself in which he sets forth the case.

Mr. FESSENDEN. I think it is a private claim.

Mr. SUMNER. Oh, no, it is not. It is for salary.

The PRESIDING OFFICER. The communication will be read if there be no objection.

The Secretary read it, as follows:

ALBANY, April 28, 1866.

DEAR SIR: When it was proposed to me to accept the place of United States commissioner under the treaty for the final settlement of the claims of the Hudson's Bay and Puget Sound Agricultural Companies it was understood that the matter would be finished in four or five months. I was appointed in July, 1864, but did not succeed in meeting the British commissioner until the succeeding January. We then found that looking to the nature and gravity of the claims amounting to \$5,000,000, and involving very important questions of public law as well as a difficult inquiry of fact, we were not in the possession of the requisite evidence on which we could proceed to a decision. We therefore set on foot the procurement of testimony on the part of the claimants of the United States and it is now ascertained that the matter will not be ripe for hearing before January, 1867.

You will readily understand that this is a very different state of things from that contemplated when the compensation of this commissioner was fixed, and that an engagement of the sort interferes necessarily with other associations.

Under these circumstances I think it right to ask that Congress should make a further provision upon that subject.

Your obedient servant,

ALEXANDER S. JOHNSON.

Hon. IRA HARRIS, United States Senate.

Mr. FESSENDEN. I should think this was a case where provision ought to be made; but the question in my mind is, whether it may not be considered in the nature of a private claim, and if so, improperly on this bill. It seems that the original law provided that \$5,000 should be paid in full for these services. That \$5,000 he has received, and he has gone on to perform services which were not anticipated at the time the law was passed and he accepted the office. Now, if he has a claim upon Congress on that account, it should be provided for in an act passed for that purpose, and I raise the point for the decision of the Senate. It strikes me it comes entirely within the rule.

The PRESIDING OFFICER. Does the Senator make the point of order?

Mr. FESSENDEN. Yes, sir. I make the point that this is a private claim and cannot be put upon an appropriation bill.

Mr. HARRIS. It really seems to me there is but little in this point of order. This gentleman has been performing services for the Government for now nearly a year and a half for which he has received \$5,000. He is still to go on and complete those services. I admit that when the provision was made for his compensation it was supposed that those services would be of much less value than they have proved to be. Under the circumstances, he asks for further compensation for services yet to be rendered. It cannot be regarded

as a private claim. He is to go on for the best part a year yet in performing and completing the services for which he was appointed. It seems to me to come directly within the provision of a bill of this kind to provide for services yet to be rendered.

Mr. FESSENDEN. I suggest to the Senator that perhaps the difficulty may be avoided if the amendment is put in a different shape. If the Senator will offer an additional section to the bill providing that the services of Mr. Johnson may be continued until a specified time, making it a provision of law, and that for the additional services to be performed by him he shall receive the sum of \$3,000, I suppose, if it is recommended by a committee, it would be in order. But simply to put in this bill an appropriation of \$3,000 in this way I think is out of order. I make the point in this case reluctantly, but I make it because I feel obliged to make it. The law is exhausted. If he has rendered these services it is a claim against the Government. If you want to provide for a continuance of these services, and payment for them, that can be done in a separate section.

Mr. JOHNSON. It comes recommended from the committee, does it not?

Mr. FESSENDEN. Not in the shape that I suggest. It comes from them merely as a recommendation of \$3,000 more to be appropriated.

Mr. JOHNSON. It does not come in the shape the Senator suggests, but the honorable chairman of the Committee on Foreign Relations can put it in that shape.

Mr. SUMNER. I will put it in any form to suit the views of Senators. The vote of the committee was that the chairman be directed to move on this appropriation bill an additional \$3,000 for Judge Johnson as further compensation for his services.

Mr. JOHNSON. I suggest to my friend from Massachusetts to let the amendment be passed over for a moment, and then he can redraw it so as to meet the suggestion of the chairman of the Committee on Finance.

Mr. SUMNER. I am perfectly willing to accept any form. I will draw it to meet the suggestion of the Senator from Maine.

Mr. NESMITH. I have some familiarity with the proceedings of this commission, having been before it several times to testify, and know perhaps as much as almost any person of the facts to be brought before them for decision. The commission I do not think will be able to get through in a year. The amount of business before them is very great, and the testimony is scattered from the summit of the Rocky mountains to the Pacific ocean, and up and down the ocean for several degrees of latitude; and I do not apprehend that they will get through in a year. I think if any provision is to be made for extra compensation or increased compensation to Judge Johnson it should be made now. He has served very much beyond the time that the compensation provided for by law was adequate to; and I do not believe they will be able to complete the business in less than twelve or eighteen months. They have to take a great deal of testimony. I hope, therefore, that the amendment will be adopted to this bill.

Mr. HENDRICKS. It does not strike me that this amendment is a violation of the rule of the Senate. An existing law provides a compensation for this officer. This amendment simply changes that compensation. The existing law says his compensation shall be \$5,000. This modification of the law is that it shall be \$8,000. In view of the services rendered, the Senate can judge better now of what they are worth than before the services were rendered at all. If the services were entirely completed, I think the point made by the chairman of the Committee on Finance would be well made; but as this is, during the pendency of the service, a modification of the rule of compensation, I cannot see that it is a private claim.

Mr. FESSENDEN. I felt it my duty to raise the point. If the Senate overrule me, I cannot help it.

Mr. HENDRICKS. The Chair is to decide the question.

The PRESIDING OFFICER. The Chair prefers to take the sense of the Senate on the question whether the amendment shall be received in the form in which it is now offered.

The question being put, the amendment was received.

The PRESIDING OFFICER. The question now is on the adoption of the amendment. The amendment was agreed to.

Mr. SUMNER. I offer this to come in as a new section after section two:

And be it further enacted, That there be paid to the several clerks of the Department of State, twenty per cent. of the compensation now allowed to each, to commence from the 30th of June, 1865, and to continue until repealed by Congress; and a sum sufficient for this purpose is hereby appropriated out of any moneys in the Treasury not otherwise appropriated.

Mr. FESSENDEN. I hope that will not be adopted.

Mr. SUMNER. I send to the Chair a petition that has been pending for some time before the committee on this subject, which I ask to have read.

The Secretary read as follows:

To the Senate and House of Representatives:

The petition of the undersigned, clerks in the Department of State, humbly represent that their salaries which were fixed when gold was current and the prices of the necessities of life were comparatively low, are now entirely inadequate to their support with the most rigid economy. Indeed, some of them who have been more fortunate than others in the enjoyment of small incomes from private sources, have from time to time been obliged to sacrifice the principal from which those incomes were derived, to provide themselves and their families with shelter and the plainest clothing and food. Many of them might earn more by obtaining employment elsewhere, but some of these have been so long in office, that, in all humility, they deem it their duty to remain until it shall be otherwise decreed, at almost any sacrifice, believing that the knowledge and experience which they have gained is not their property, but a valuable one to the public, in whose service those qualifications have been acquired.

At the last session of Congress an appropriation was made for additional compensation to clerks in the Treasury Department. Your petitioners have no doubt of the wisdom of that measure, but regret that they may not have been deemed worthy of a similar boon.

Supposing, however, that the apparent partiality referred to may have been occasioned by an oversight your petitioners appeal to your sense of justice to place them on a similar footing with the clerks in that Department in respect to compensation.

And your petitioners, as in duty bound, will so ever pray.

W. HUNTER,
GEORGE E. BAKER,
JOHN A. JONES,
R. S. CHEW,
WILLIAM HOGAN,
R. S. CHELTON,
JOSEPH SMITH,
H. D. J. PRATT,
THOMAS C. COX,
H. R. DE LA REINTREE,
JOHN P. POLK,
FERD. JEFFERSON,
GEORGE BARTLE,
H. N. GILBERT,
ROBERT A. WILSON,
S. S. BENEDICT,
A. TUNSTALL WELCH,
M. S. SCHERMERHORN,
GEORGE L. BERDEN,
H. B. HASWELL,
W. MARTIN JONES,
THEODORE W. DIMON,
E. HAYWOOD,
GEORGE G. GAITHER,
JOHN KRANSE.

Mr. SUMNER. I do not know that there is any necessity for me to add anything to that petition. It speaks for itself. It states the whole case. But perhaps I should add one word at least with regard to one of the public servants there, the gentleman who heads the petition, Mr. Hunter. He is one of the oldest public servants now connected with the Government. He has been in the Department of State for more than thirty years. He may be called the living index to that Department; and I believe I do not err if I say that in all the public service there is no person whose integrity is more absolutely above suspicion. Placed in a position of the greatest public trust, where all the foreign correspondence of this Government passes under his eye, that which comes to the Government and that which leaves the Government, I believe he has passed a life

absolutely without blame. He has been in a position where, had his integrity been open to the least seduction, he might have been tempted. No human being imagines that he has ever for a moment yielded. He has discharged his very important trusts on a very humble salary. I think the Senator from Maine knows him well enough to know that he has brought to those functions an ability of a peculiar character. And now, in the decline of life, he finds himself with simply the smallest salary of a clerk, on which he can with difficulty subsist; and yet all the time rendering these important services and discharging these very considerable trusts, absorbed in the business of the office, so that he takes it home with him every night. It goes with him in the evening and it returns with him in the morning, and then it fills the whole day. I think that such a public servant does deserve recognition in some form. I have for a long time felt that his compensation was grossly inadequate. I have thought that his salary ought directly to be raised; but after consideration of the question in committee, and after consultation with others who were supposed to be good advisers in the matter, it was thought best to make a recommendation such as I have now moved, being the addition of twenty per cent. to the compensation of all the clerks in the Department. The argument for that, let me add, seems to me to be completely enforced in the petition from these gentlemen which has been read at the desk. I can see no objection to it, especially after what we have done for the clerks of the Treasury. Are not these public servants at the State Department as worthy as those public servants at the Treasury?

Mr. FESSENDEN. What the Senator has said shows that he has not investigated the subject about which he is speaking. In the first place, the salaries of the clerks of the Treasury Department generally have not been increased at all, in any way.

Mr. SUMNER. Some of them have.

Mr. FESSENDEN. We made a provision a year or two ago for the female employes who received \$600 a year, and for the messengers, the mere laborers of the Department, giving them an additional percentage; but we refused utterly to raise the salary of the clerks generally. What we did was simply this, and it was the only way to reach it: in the Treasury Department there are several clerks whose services are absolutely indispensable; they are very able men, and men who could be heads of bureaus, who were absolutely necessary to the working of the Department. They were leaving us at the rate of eight or ten a week. Why? Because they got salaries of \$1,800 and \$2,000, when they could go out of the Department and receive \$3,000, \$3,500, and \$4,000; and we were losing them fast, so that we could not carry on the business of some of the bureaus. You could not supply their places; that was out of the question; and for that reason an appropriation was made out of which the Secretary was empowered to increase the salaries of certain clerks where he thought the public interests required it. It was the only way in which the business of the Department could be kept on at all. But we utterly refused to apply any portion of that appropriation to raising the salaries generally of the clerks in the Department. Since then, the clerks who did not get any of it, and who are overpaid, or paid amply—the first-class clerks, for instance, who get \$1,200, the most of whom do not earn any more than that, and of whom you could get five thousand at any time—made a howl about it, and said, "Here you have been raising the salaries of persons who receive the biggest compensation, and not given those who receive the least anything." That is true in point of fact; but the reasons are perfectly obvious. We were obliged to do it. There is a very great difference in the men. We could get plenty of boys at \$1,200 a year, and it is all they earn, and probably amply pay for them; but you cannot get accomplished, able men, who are fit to be presi-

dents and cashiers of banks, for anything like that sum. The new banks that were made in the country were taking these men out of the Treasury Department every day in the week, and the only way of meeting the difficulty was precisely in the mode I have suggested.

Now, these clerks of the State Department come in and ask for an increase of twenty per cent., when that twenty per cent. increase has not been given in any case to any of the clerks in any of the Departments. I will say to the Senator, if he proposes to make an increase of the pay of the clerks there, the proper way to do it is to ask the Secretary of State to recommend it in the first place. The difficulty with the Secretary of State is, that he will not recommend anything. He just sits there and says, "Go to Congress," and will not let us know his opinion. If he thinks that the salaries in his Department ought to be increased, let him take the responsibility of saying so under his hand, and saying what class of clerks ought to be paid an increase, and how much, and then we will consider it; but we cannot get a word, and do not get a word, from the State Department on the subject. They will recommend nothing; but they will let the clerks come here petitioning, without giving us the information as to how much they ought to receive and what classes ought to be made of them.

In the next place, this is not the proper place to put it. It should be put where we put all such provisions, on the executive and legislative appropriation bill, which covers all the expenses of all the Departments, and not on the diplomatic and consular bill.

Mr. MORGAN. That bill has not yet been passed.

Mr. FESSENDEN. No, sir. The Senator from Massachusetts will have abundance of time to get information on this subject, and prepare his amendment, and move it on that bill; but it should not be placed on this bill. In the first place, the amendment is improper. It raises the whole of these salaries twenty per cent., without any distinction, without our knowing anything about it; and then it is put in the wrong place. Therefore I object entirely and absolutely to this proposition.

But while doing that, I cannot close without saying that I concur fully in all that has been said by the honorable Senator from Massachusetts with reference to the merits and the claims of Mr. Hunter, the chief clerk of that Department. He has been there for years, and especially through the war, without saying a word, on a very inadequate salary—one of the most faithful and valuable men in the Government. He is absolutely poor and hardly able to scratch along. Much of the time he has been acting Secretary of State. He has received but a small salary without complaining, absolutely poor, with a family upon him. He is one of the most valuable men there is, or has been, connected with the Government for years. I coincide with what the Senator from Massachusetts said of him, and I think we ought to increase his salary. That is my opinion, and I should be glad to have an opportunity to do it.

Mr. SUMNER. Let us do it now.

Mr. FESSENDEN. This is not the place to put it on, and I object entirely to having it here. Why insist on having it here?

Mr. SUMNER. I will tell you. I have a reason.

Mr. CONNESS. I hope the Senator from Massachusetts will withdraw the amendment now pending and substitute for it a proposition to increase, and increase to a respectable extent, the salary of Mr. Hunter; and I beg to say to the honorable chairman who has this bill in charge, that although it may appear irregular to affix it here, the compliment well deserved will be the greater to Mr. Hunter if we embrace the earliest opportunity to render him a measure of simple justice. I will not undertake to add anything to the well-earned reputation of that distinguished gentleman and faithful public servant; but I am prepared to

say that, notwithstanding the objections of the chairman of the Finance Committee, I will vote on this occasion or any other occasion to increase Mr. Hunter's salary; and I hope the honorable chairman will not object to it on this bill.

Mr. FESSENDEN. I will very thoroughly throughout, because it is irregular. There is no occasion for putting on here what belongs to the other bill. There is no reason why it should be put in here. He will get his money just as soon if we increase his salary on the other bill as on this.

Mr. SUMNER. The Senate seems not disposed to accept the proposition in the form in which I have presented it. I had thought that the form which is now on your table would on the whole be the most acceptable, and I thought also it was in harmony with what had been done with reference to the Treasury Department. I am to a certain extent corrected by the Senator from Maine in that respect, though the Senate will observe that the statement in the petition which has been read at the desk is to the effect that the clerks of the Treasury Department have had an increase of twenty per cent. on their compensation. That is the statement there. I confess I made no inquiry on that subject. I took the statement as it appeared in that petition, and I thought it advisable that what we did should be applicable to all the clerks in the Department of State; but Senators around me seem to think otherwise; I do not wish to have a division upon it; and therefore I will withdraw that proposition.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SUMNER. At the same time I thank my friend from California for the earnest support which he promises in advance to the amendment which I propose to substitute in its place; and I thank the Senator from Maine for the good words which he has said in favor of the proposition practically; and I think I shall show in one minute that the objection of form which he makes does not apply. I will send, therefore, to the Chair this proposition, which, as it is in my own handwriting, I will read:

That the compensation of William Hunter, Esq., chief clerk of the Department of State, be at the rate of \$3,500 a year; and a sufficient sum is hereby appropriated for this purpose out of any moneys in the Treasury not otherwise appropriated.

Mr. GRIMES. What is the salary now?

Mr. FESSENDEN. Two thousand dollars.

Mr. SPRAGUE. That is right.

Mr. FESSENDEN. Oh, no; it is too high.

Mr. SUMNER. And now for the question of form; this amendment is to come in after section two, which is in these words:

That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, an officer in the Department of State, to be called "Solicitor to the Department of State," at an annual salary of \$3,000.

Mr. FESSENDEN. That is here now.

Mr. SUMNER. I say that is here now; and I say, because that is here now I put immediately after it the proposition with reference to Mr. Hunter. If this proposition with reference to the Solicitor is proper in form, on this bill, all the Senate will see that the proposition with reference to the chief clerk of the Department of State must be equally in form. There can be no objection to one, in point of form, which does not hold to the other.

Now, I am in favor of both propositions; and even if either proposition should seem to be a little out of the way, a little of a defection from that straight line which the Senator from Maine likes to run with in all his appropriation bills, yet I think the goodness of the cause which he himself has so ably commended must induce him to forget for a moment the sternness of duty and to allow his bill to depart for a moment from that straight line which he likes so much to pursue. I think, therefore, the objection of form fails simply because in this very bill we have another proposition which has already passed the House of Representatives, which has passed the committee that the Sen-

ator from Maine represents on this floor, which in point of form is identical with that which I now offer.

The PRESIDING OFFICER. The amendment will be read.

The Secretary read the amendment, which was at the end of section two to insert:

And that the compensation of William Hunter, Esq., chief clerk of the Department of State, be at the rate of \$3,500, and a sufficient sum is hereby appropriated for this purpose out of any moneys in the Treasury not otherwise appropriated.

Mr. GRIMES. Everybody agrees that Mr. Hunter is a very valuable public servant, and has been for a long time, and I suppose that everybody would be willing to recognize his services in making him proper compensation; but it seems to me the form of this is exceedingly objectionable. If we adopt this and specify to-day that such a sum shall be paid to William Hunter, as chief clerk of the Department of State, to-morrow some other Senator will get up and pronounce a eulogy on some other clerk of the Department, and propose to give him a higher salary.

Mr. SUMNER. When that is done we shall consider that case.

Mr. GRIMES. But we shall have our appropriation bills loaded down; that is exactly the way it will be done. It will be done whenever an appropriation bill comes up, and we shall be placed here in a very delicate situation. We shall be called upon to pass on the merits of men that we know, that we meet every day in social life, and whether we decide for them or against them will be considered according as we may vote.

Mr. CONNESS. There is not another case like this in the public service.

Mr. GRIMES. I am not certain of that. There are men who have been in the public employment here for forty years, and who have done labor just as assiduously, probably, as Mr. Hunter. They and their friends think so, at any rate. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 16, 1866.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

RICHARD CHENERY.

Mr. McRUER, by unanimous consent, introduced a bill for the relief of Richard Chenery; which was read a first and second time, and referred to the Committee on Indian Affairs.

SAFETY OF STEAMBOAT PASSENGERS.

Mr. WASHBURN, of Illinois. Mr. Speaker, there is a bill which has been ordered to be reported by the Committee on Commerce in regard to the safety of passengers on steamboats. It contains very many important provisions which the public interests demand should be passed without delay. As I am compelled to be away after to-day, the committee have instructed me to ask that the bill shall be considered this morning.

It contains a provision in reference to nitroglycerine, a new and dangerous substance.

It also contains a provision in reference to crude petroleum. A construction has been given to the law which prevents the shipment of that article. The committee, after full examination, think there should be a modification of that ruling as it interferes with commerce in this most valuable product.

It is House bill No. 477, further to provide for the safety of the lives of passengers on board of vessels propelled in whole or in part by steam, to regulate the salaries of steamboat inspectors, and for other purposes.

The bill was read.

Mr. ANCONA. I ask whether the bill contains a provision regulating the compensation of pilots on the Ohio river.

Mr. WASHBURN, of Illinois. Nothing whatever regulating the compensation of pilots.

There is a provision in regard to pilots, but it has nothing to do with compensation.

Mr. BERGEN objected, but afterward withdrew his objection.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. FINCK demanded the yeas and nays on the passage of the bill.

The yeas and nays were not ordered.

The bill was then passed.

Mr. WASHBURN, of Illinois. I move to reconsider the vote just taken; and also move that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONTESTED ELECTION.

Mr. DAWES presented additional papers in the case of Fuller vs. Dawson; which were referred to the Committee of Elections.

CORRECTION OF THE JOURNAL.

Mr. DARLING. I rise to a question of privilege. I am recorded as not voting yesterday on the proposition to strike out the ninth section of the bill to amend the organic acts of the Territories. I never dodge. I voted in the negative on striking out that section.

The SPEAKER. The Clerk did not hear the gentleman's response. The Journal will be corrected.

PERSONAL EXPLANATION.

Mr. SCHENCK. I am recorded as not voting on the proposition to strike out the ninth section of the territorial bill. The reason was that I happened to be absent. I was called out by a constituent. Had I been here I would have voted against striking out that section.

Mr. COBB. I, too, was absent when that vote was taken. I would have voted against striking out the ninth section. I was attending to my duties as chairman of the Committee on Enrolled Bills.

ORDER OF BUSINESS.

The SPEAKER. The first business in order in the morning hour is the calling of the committees for reports, commencing with the Committee on Patents.

DELIA A. JACOBS.

Mr. MYERS, from the Committee on Patents, reported a bill for the relief of Delia A. Jacobs; which was read a first and second time.

The bill was read in full. It authorizes the Commissioner of Patents to extend the patent for an improved method of dressing tree-nails for seven years to Delia A. Jacobs, late Delia A. Fitzgerald, the original term having expired August 28, 1863.

Mr. TAYLOR. I call for the reading of the report.

Mr. MYERS. I will explain this in a few words. The bill is simply to correct an error that occurred in the Patent Office. An extension was refused on the supposition that certain testimony, showing that the extension was to inure to the benefit of the applicant, was not submitted. The Commissioner appeared before the committee and stated that the evidence was in his office at the time, but was not brought to his notice. We desire to correct that error and allow the extension.

Mr. TAYLOR. I ask the gentleman from Pennsylvania when the patent expired.

Mr. MYERS. It expired August 28, 1863. The application, however, was made in due time. Further than that, there is a provision in the bill to prevent any injury accruing to others by the delay.

Mr. TAYLOR. I would ask whether other persons have not engaged in the business.

Mr. MYERS. It appeared fully that no other persons have been using this patent since its expiration. There is a general desire that this administratrix, who was the widow of the patentee, shall have the benefit of the extension.

Mr. TAYLOR. It seems that it is some time since the patent expired, and other parties may have engaged in the business.

Mr. MYERS. No other parties have engaged in this business, so far as the committee have been able to ascertain. There is, as I have stated, a general desire that the error occurring in the Patent Office should be corrected, and that this party should not suffer by it, the requisite testimony having been on file at the proper time.

Mr. BOUTWELL. I wish to say that from hearing the bill read I do not understand that any person who may have machines for doing this work, which were made during the period of time since the expiration of the patent, is authorized to continue the use of them.

Mr. MYERS. There is a provision incorporated in the bill that no parties shall be held to account for damages by such reason.

Mr. BOUTWELL. That is in the bill, undoubtedly; but there is no provision that people who have built machines while there was no patent shall be authorized to continue the use of the same without being liable. That is a well-recognized principle in such cases, and ought to be incorporated in this bill.

Mr. MYERS. I have no objection whatever to accepting an amendment of that kind, but I think it is already covered.

Mr. BOUTWELL. I then move to amend by inserting the words "or build or use machines."

Mr. MYERS. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to, and the bill ordered to be engrossed and read a third time.

Mr. HARDING, of Illinois. I call for the reading of the report.

Mr. MYERS. There is a report, but it is lengthy, and to save time I will state the particulars.

Mr. HARDING, of Illinois. If the gentleman will yield a moment I will state my objections.

Mr. MYERS. I will yield.

Mr. HARDING, of Illinois. I understand that this case presents these facts: a patent was issued for an invention, which has expired, and the period allowed for an application for an extension of the patent has expired some years since.

Mr. MYERS. Yes, sir.

Mr. HARDING, of Illinois. How long since?

Mr. MYERS. Two or three years.

Mr. WASHBURN, of Illinois. I will ask the gentleman from Pennsylvania [Mr. MYERS] if this is the same bill that was rejected last year.

Mr. MYERS. Precisely the same bill which was before the House last year, and which failed because at that time the question asked by the gentleman from Illinois [Mr. WASHBURN] could not be answered for want of the necessary testimony before the committee. We now have that testimony.

Mr. HARDING, of Illinois. I wish to call the attention of the House to a practice which I think is a fraud upon the people of this country. After these inventions have been brought before the public, and have probably become of great public utility, and have been enjoyed by the inventor for the period of time provided by the patent laws, the period of the patent expires. After that time, no notice of an extension having been given, the citizens of the country enter into the business of manufacturing the machines thus patented.

Mr. MYERS. If the gentleman will allow me a word, I think he need not pursue that line of argument any further. We have placed in the bill a provision for the protection of all persons such as those to whom he refers.

Mr. HARDING, of Illinois. For all persons who have machines?

Mr. MYERS. Yes, sir.

Mr. HARDING, of Illinois. I go beyond that. I call attention to the fact that in many instances where patents have expired establishments have been put up for the manufacture of the machines, involving the expenditure

of a large sum of money. They make a few machines, and the use of those machines is protected by this exception. But what is to be done for the large establishments? Why simply this: the renewal of the patent gives the patentee an opportunity to go and levy black mail upon every man making these machines, or he must shut up shop and sacrifice a large amount of money.

Mr. MYERS. If the gentleman will allow me a word I think I can satisfy him on that point. There was evidence before the committee that there was no party whatever who had entered into this business.

Mr. HARDING, of Illinois. How searching and general was your investigation?

Mr. MYERS. Enough to prove a negative—pregnant, at all events.

Mr. HARDING, of Illinois. I have reference in my own mind to an invention in relation to plows, which expired some years ago. The people of the West and of the country generally entered into the manufacture of that article. There were large shops erected for that purpose. Then comes up an application for a renewal of the patent, and if the inventor obtains the renewal he can go and levy black mail upon all who are now engaged in the business.

Mr. WASHBURN, of Illinois. Does my colleague refer to the Dundas patent for a cultivator?

Mr. HARDING, of Illinois. Yes, sir.

Mr. WASHBURN, of Illinois. The reissue is to go back to 1851, covering all improvements since then, and subordinating all agricultural interests to a few patent sharks.

Mr. HARDING, of Illinois. There is this case then: a man invests money in this manufacture, and as soon as he gets a good start in it the inventor comes here and gets authority from the Commissioner of Patents to go back and levy black mail, and I am opposed to it.

Mr. MYERS. The gentleman from Illinois [Mr. HARDING] could not have heard the statement I made in regard to this matter. This is the case where the administratrix, lately the widow of the inventor, is applying to have a mistake corrected which occurred in the Patent Office. The application was made in time, but was rejected because certain requisite evidence was supposed not to be there. But the Commissioner of Patents reports to the committee that he made a mistake, that the evidence was in his office. Even if all the ideas of the gentleman in this case were correct this lady would have the right to a rehearing.

But it was further shown that this lady now is almost entirely supported by the little pitance that has been given her during this interim, as it was given her during the original term of the patent, by William H. Webb and James Udall, distinguished citizens of New York, who obtained rights under the patent.

Mr. HARDING, of Illinois. I withdraw my remarks as far as they apply to the widow, but I stand by the general principle.

Mr. MYERS. The gentleman may have a weakness for widows; but I have a weakness for justice, and this is a just application.

Mr. TAYLOR. I desire to ask the gentleman one question, and that is this, whether or not this lady has not sold to other parties the interest which this legislation proposes to confer upon her.

Mr. MYERS. That was the very point upon which the application was rejected in the Patent Office; and the Commissioner of Patents now certifies that there was testimony in his office at the time, that the extension would inure to her benefit.

Mr. TAYLOR. I would like the gentleman to answer that question directly, whether or not this lady has any direct interest in this patent.

Mr. MYERS. Yes, sir; it is upon proof of that fact that the bill has been reported.

Mr. JENCKES. The concluding sentence of the bill answers the gentleman's question. Will the Clerk please read that?

The Clerk read as follows:

And provided, also, That the Commissioner shall be satisfied before granting the extension that it will inure to the benefit of said Delia A. Jacobs.

Mr. MYERS. I think that entirely meets the objection suggested by the gentleman from New York, [Mr. TAYLOR.] I now demand the previous question.

The previous question was seconded and the main question ordered, which was upon the passage of the bill.

On the question there were—ayes 62, noes 31.

Mr. WASHBURN, of Illinois, called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 88, nays 81, not voting 64; as follows:

YEAS—Messrs. Ancona, Anderson, James M. Ashley, Baker, Baldwin, Banks, Barker, Benjamin, Bergen, Blow, Boutwell, Boyer, Brownell, Bundy, Rander W. Clark, Conkling, Darling, Davis, Dawes, Delano, Denison, Dodge, Donnelly, Driggs, Dumont, Eggleston, Eliot, Ferry, Finck, Garfield, Goodyear, Grider, Hart, Higby, Hogan, Holmes, Hotchkiss, Asahel W. Hubbard, James Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Jenckes, Julian, Kasson, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Laflin, George V. Lawrence, Le Blond, Loan, Longyear, Lynch, Marston, McCullough, McKee, McRuer, Mercer, Miller, Moorhead, Morris, Myers, Niblack, Nicholson, O'Neill, Perham, Samuel J. Randall, Rogers, Scofield, Shanklin, Sitgreaves, Streuse, Taber, Thayer, Trimble, Van Aernam, Burt Van Horn, Ward, Warner, William B. Washburn, Welker, Williams, Stephen F. Wilson, Winfield, and Woodbridge—88.

NAYS—Messrs. Alley, Allison, Ames, Bidwell, Brandegee, Broomall, Cobb, Cook, Cullom, Dawson, Deming, Eckley, Aaron Harding, Abner C. Harding, William Lawrence, Morrill, Paine, Pike, Plants, Price, Ritter, Rollins, Ross, Sawyer, Sloan, Spalding, Taylor, Elihu B. Washburn, Henry D. Washburn, James F. Wilson, and Windom—31.

NOT VOTING—Messrs. Delos R. Ashley, Baxter, Beaman, Bingham, Blaine, Buckland, Chanler, Sidney Clarke, Coffroth, Culver, Defrees, Dixon, Eldridge, Farnsworth, Farquhar, Glossbrenner, Grinnell, Griswold, Hale, Harris, Hayes, Henderson, Hill, Hooper, Chester D. Hubbard, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Latham, Marshall, Marvin, McClurg, McIndoe, Moulton, Newell, Noel, Orth, Patterson, Phelps, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rousseau, Schenck, Shellabarger, Smith, Starr, Stevens, Stilwell, Francis Thomas, John L. Thomas, Thornton, Trowbridge, Upson, Robert T. Van Horn, Wentworth, Whaley, and Wright—64.

So the bill was passed.

Mr. MYERS moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

WILLIAM MANN AND JACOB SENNEFF.

Mr. MYERS, from the Committee on Patents, reported a bill for the relief of William Mann and Jacob Senneff; which was read a first and second time.

The bill, which was read at length, authorizes the Commissioner of Patents to hear and determine upon the application of William Mann for an extension of his letters patent dated July 11, 1852, which will expire July 11, 1866, and upon the application of Jacob Senneff for an extension of his letters patent dated January 13, 1852, which expired January 13, 1866, and to decide upon said applications with like effect as though the said applications had been duly filed ninety days before the expiration of said letters patent; and the Commissioner of Patents is directed to publish forthwith notice of said applications for the extension of said letters patent, with like effect as though said publication had been made sixty days before the expiration of said letters patent.

Mr. WASHBURN, of Illinois. I hope the report will be read.

Mr. MYERS. There is no report in these cases. I will state very briefly the reasons for the applications.

In the case of Mr. Mann, he was in Europe, and was not aware that ninety days' notice must be given of the application for an extension. Sixty days yet remain before the expiration of that patent. In the case of Jacob Senneff, he was in the Army, and therefore could not attend to the renewal of his patent. It is simply to allow the Commissioner to hear as though full notice had been given. One lacked thirty days of the time, the party being

abroad, while the other was in the service of the United States.

Mr. WASHBURNE, of Illinois. It is the fault of the party if he went "swelling" through Europe.

Mr. MYERS. I never talk of the gentleman's swelling about when he takes his trips, but I think he is harsh in reference to these parties.

Mr. WASHBURNE, of Illinois. What are these patents for?

Mr. MYERS. Mr. Mann's patent is for an improvement in copying paper, and Mr. Senneff's for an improved heddle.

Mr. WASHBURNE, of Illinois. What is a heddle?

Mr. MYERS. A heddle is a part of a loom used in weaving, part of the harness.

Mr. WASHBURNE, of Illinois. I object to this practice of reporting bills without reports and asking them to be put at once on their passage.

Mr. MYERS. I think the objection of the gentleman from Illinois is captious. It does not matter what the patent is for, as we do not decide in reference to the extension of these patents. That is a question for the decision of the Commissioner of Patents. We have satisfied ourselves the statement is true that the parties did not know their patents were so near their expiration.

I will say that I was prepared this morning to report a bill for the relief of William Mann. The case of Senneff was added to the bill, and very properly, because it had been recommended by the Committee on Patents, but I was absent when it was passed upon. Both are good cases and stand upon the same ground, and it is right they should be embraced in the same bill. I will yield to the chairman of the Committee on Patents for a moment.

Mr. JENCKES. I wish to say a word about the patent of Senneff. It is a case addressed simply to the discretion of Congress. He was one of the persons who originated the Volunteer Refreshment Saloons in Philadelphia, to provide for soldiers passing to and fro through that city during the war, and afterward he entered the United States hospital service and was detained there during the time his application should have been made. He lost his chance of obtaining an extension of his patent because of his benevolence and patriotism. All that we propose is to give him a chance to make his application. His invention is an improvement in heddles, an ingenious arrangement for dividing threads in the loom.

Mr. DAWES. The gentleman from Pennsylvania did not say whether the patent had expired.

Mr. JENCKES. It expired in January, 1866.

Mr. DAWES. What is the condition of the parties who have invested their capital in looms since January?

Mr. JENCKES. All who have purchased since then are entitled to use them. It will refer to those only after the extension, if any extension be granted. There is also a limitation in the bill.

Mr. DAWES. If a reissue be granted does it not date back?

Mr. JENCKES. No, sir. The reissue of the patent will not give the patentee the authority to recover a dollar from those who have purchased since January. The committee were satisfied of that before they agreed to report the bill.

Mr. WASHBURNE, of Illinois. I understand this is to cover a case outside of the law which requires application to be made within ninety days. The application has not been made here, and these parties are only in the same condition with a hundred others. The parties have neglected to make application.

Mr. JENCKES. They did not neglect to do so, and that is the reason why we have recommended the passage of the bill. These are exceptional cases.

Mr. WASHBURNE, of Illinois. That is not a sufficient excuse.

Mr. MYERS. My friend from Illinois hav-

ing made his speech, I shall in a few moments call the previous question.

What I desire to say to the House, and I hope it will be listened to, is this: this bill authorizes the Commissioner to proceed to grant a hearing, not a rehearing, of the applications in the cases of these two patents just as though a notice of ninety days had been given. The error in the one case was that the party was in Europe, and there are still sixty days of the time remaining. In the other case the party was in the service of his country, and we report that he was not aware of the time when the letters patent expired.

Now, if this House votes against these two propositions it will be equivalent to saying that this soldier who has forfeited a few months' time shall not have the benefit of even applying for an extension; and in the other case that a worthy citizen who has been abroad, and who mistook the date of his letters patent by a month, shall not have a right even to be heard before the Commissioner of Patents. This bill only proposes to give that right. It trenches upon no rights of other parties. It simply allows a hearing, and does not decide the question of granting the extensions at all.

Mr. DAWES. I would ask the gentleman if he is quite certain that if we authorize by act of Congress a renewal to-day, as of January, of the other two patents which did expire in January, we shall not trespass upon the rights of other people. I suggest to him whether, as a safeguard, he had not better put a protective clause in the bill, unless the patent law is clear on that point.

Mr. MYERS. I have no objection to it. It so happens that I was not present at the meeting of the Committee on Patents when the application of Mr. Senneff was before them.

Mr. JENCKES. There is no objection to it.

Mr. MYERS. To render assurance doubly sure we will put that in.

Mr. JENCKES. In accordance with the suggestion, I move to amend by inserting the following:

But no person shall be held liable for damages for using or making said heddles after the expiration of the original term of said patent and before the renewal of the same.

Mr. MYERS. I now demand the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the amendment was agreed to, and the bill ordered to be engrossed and read a third time.

The question recurring on the passage of the bill—

Mr. WASHBURNE, of Illinois, demanded the yeas and nays on its passage.

The yeas and nays were not ordered.

The bill was then passed—ayes 63, noes 31.

Mr. MYERS moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

THOMAS D. BURRALL.

Mr. BROMWELL, from the Committee on Patents, reported a bill for the relief of Thomas D. Burrall; which was read a first and second time.

The bill was read in full. It authorizes the Commissioner of Patents to grant an extension for seven years to the petitioner for an improved corn-sheller, commencing with the expiration of the original term, December 6, 1866.

Mr. BROMWELL. The report is not very long, if the House desire to hear it read. I can state the substance of it.

Mr. HARDING, of Illinois. Let the report be read.

The report was accordingly read.

Mr. HARDING, of Illinois. Will the gentleman yield?

Mr. BROMWELL. For a moment.

Mr. HARDING, of Illinois. For a moment! Mr. Speaker, I have heard for a good many years of this invention. Will my col-

league inform me when it is claimed to have been made?

Mr. BROMWELL. In 1845.

Mr. HARDING, of Illinois. It is therefore twenty-one years of age. All this time it has been dragging its slow length along for a fortune in Illinois. It is of full age. Now, sir, while I do not wish to be discourteous to my colleague, nor to oppose any interest of his constituents, I do suggest to him with great respect that there are other constituents besides this inventor who are interested in this question.

Now, it is stated, I believe, in the report just read, that this claim or invention has been infringed upon by many machine makers in that State. At least I infer that fact. I will state to the House that there are very many machines invented in Illinois for shelling corn, and I believe some few in other States in the West, and the effect of this reissue will be that in all cases where these new inventions have infringed upon this indorsed and confirmed right there is to be a lawsuit or a settlement made by which a considerable amount of money will be extracted from those infringers. The interests of agriculture in the West are not so flourishing and so prosperous that this Congress should step in and take away the rights of the people for the benefit of an individual. And now a gentleman has declared upon the subject of renewing patents that he stands for justice; that he yields nothing to the presentation of the widow or the hospital cases that have just been passed.

Now here comes a suggestion that there is some old man in this case. These things have of course no weight with the House; they are not designed to have any; the gentleman stands sturdily upon the ground of justice and demands of Congress that we shall recognize the rights of men. That is what I will always do; I never refuse to do it.

Now, I understand there is a contract between the Government and all men who will make useful inventions, by which they shall have the use and benefit of their inventions for a limited period of years; no more, no less. When that period runs out, then the invention belongs to the public; it becomes their property. Now, who knows but what if this man had not been fencing with this subject some smarter man in my district would have made a much better machine? It does not follow that because there is money in this thing it should be continued for that purpose. The invention, if there is anything in it, belongs to the public, and not to this individual.

A case has just been passed upon, where one man was in a prosperous hospital business, and another was abroad as a foreign minister or something of that kind. Now here comes a man who has been receiving large rewards for an invention during twenty-one years, and now he wants to continue the same business. Now I am opposed to it upon the general principle that it is giving away the rights of the people to an individual, and to the lawyers and others who are to prosecute his rights against an oppressed people for the purpose of obtaining money without earning it, or being entitled to it by strict law. These are my sentiments.

Mr. BROMWELL. I now call the previous question.

The previous question was seconded and the main question ordered, which was upon the passage of the bill.

Mr. BROMWELL was entitled to the floor.

Mr. DAWES. Will the gentleman yield to me for a moment?

Mr. BROMWELL. Certainly.

Mr. DAWES. I do not intend to make an indiscriminate warfare upon the renewal of patents; but I desire to make a discrimination between them, and put each one upon its merits. I understand this to be a bill to extend by act of Congress a patent which has already existed twenty-one years, not to refer it to the Commissioner of Patents for examination.

Mr. BROMWELL. The gentleman is mistaken; the bill provides that this patent shall be extended, if the Commissioner of Patents

upon a full hearing shall deem it proper to do so.

Mr. DAWES. Then in that respect I was misinformed; the bill is better in that regard than I had supposed. If the bill is passed, the case ought to be referred to the Commissioner of Patents.

But I wish to call the attention of the House to the reasons upon which this bill is based. As I understand, the reason is given that this is an old man who has not yet received any fair remuneration for his invention. Now, is there any reason shown why he has not yet received a fair remuneration? Has the committee given any good reasons for it?

A few days since the committee reported a bill proposing to refer to the Commissioner of Patents to decide whether a patent should be renewed which had been in existence for twenty-one years. The ground upon which that bill was based was that during nearly all the last seven years of the patent, the patentee, from the character of his patent, had been deprived from receiving any benefit from it. His patent was one in relation to the production or preparation of cotton; and during the whole of the late war he was shut out from any use of it whatever, and had therefore made nothing from it. But the House on a full hearing of that case said by positive vote that that was no reason why the case should be referred to the Commissioner of Patents, and they refused to give the patentee an opportunity for a rehearing. I thought that was wrong; I thought it was hard. I asked the House to refer that case to the Commissioner of Patents; but the House concluded otherwise.

Now, I do not see any better reason, I do not see any good reason for referring this case to the Commissioner of Patents. If my friend from Illinois [Mr. BROMWELL] will show me as good a reason in this case as I thought existed in the other case I would vote for it; for I do not stand up here to oppose all these cases indiscriminately. But I desire to see a good reason for extending any further a patent which has already existed twenty-one years.

I will listen to the gentleman from Illinois, and see if he can show any good reason why this bill should pass.

Mr. BROMWELL. I wish merely to say a few words in answer to my colleague from Illinois [Mr. HARDING] and to the gentleman from Massachusetts, [Mr. DAWES.]

In the first place, as to the cotton press mentioned by the gentleman from Massachusetts, I think it is safe to say that the House never did hear that question discussed, because there was so much noise in the House while the gentleman who reported the bill was trying to show the reason for the extension of that patent. I admit that there was more reason for the extension in that case than in this.

But with all due deference to my colleague's views touching the right of the public in these inventions, allow me to say that in all these cases some principle of equity must be, and doubtless will be, recognized by this Congress. Many of these inventors devote the best years of their lives to a struggle to perfect their inventions; and it is these inventions and improvements that have transformed this country from a wilderness into what it is. Many of the men who have brought forward the most valuable of these inventions have led lives of poverty and vexation and have died poor.

The period of fourteen years has been named in the law as being, in general, and all things considered, a proper time during which the inventor shall enjoy the exclusive benefits of his invention. But is this period never to be varied by any considerations of equity? What do these bills which have been brought forward propose? They propose that the officer whom the law has appointed to consider questions of this nature, a competent man with legal knowledge, shall, by means of a bill of this kind, have jurisdiction to hear and determine the question between the inventor and the public at large upon principles of common equity. Shall this be denied? If the Commissioner is not a man of sufficient

knowledge and judgment to hear such cases properly, then authorize the appointment of a chancellor for that office and let him hear such cases; for these questions resting on equitable considerations continually arise.

Now, sir, the committee did not report any of these bills until they had been satisfied that the cases were such as to call for such interpolation. The case at present before the House is that of a man exceedingly old and exceedingly poor. His means, whatever they may have been, are completely exhausted. He has a son who has attempted to carry on the manufacture of these corn-shellers for the benefit of the old man. This is the only resource left for the support of that old man, after a life-time expended in efforts to perfect inventions, some of which have been valuable, but the term of which has expired, so that the public has now the benefit of them all.

This bill expressly protects the rights of every person who may, since the expiration of the patent, have been possessed of one of these machines. The bill can hurt no one. It is not necessary that the "watch-dog of the Treasury" should fight these bills. They seek to take nothing from the Treasury. The question simply is whether this Congress is willing that the officer appointed by the law to hear such matters shall be endowed with jurisdiction to do justice in certain cases in which the law, by reason of its generality, operates harshly.

I am not prepared to say that this case presents stronger claims than any other. On the contrary, I think that there have been before the House cases equally entitled to favorable consideration, and I have no doubt that such cases will come before us again. I know, indeed, that some such cases will be reported soon. But I think that in this case there are sufficient reasons to induce us to allow the Commissioner of Patents to hear the application and decide it as he deems right in view of the rights of the public and the inventor.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. BROMWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MAIL SERVICE.

The SPEAKER, by unanimous consent, laid before the House a communication from the Postmaster General, transmitting, in compliance with the act of Congress of July 2, 1836, abstracts of offers received, contracts made, and allowances made to contractors for additional services, &c.; which was laid on the table.

The SPEAKER. By the law of 1864, this document is not to be printed except by special order of the House.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending section was as follows:

That section seventy-four be amended by striking out all after the enacting clause, and inserting, in lieu thereof, the following: that the receipt for the payment of any special tax shall contain and set forth the purpose, trade, business, or profession for which such tax is paid, and the name and place of abode of the person or persons paying the same; if by a rectifier, the quantity of spirits intended to be rectified; if by a peddler, whether for traveling on foot, or with one or two or more horses or mules, the time for which and the date or time of payment, and

(except in the case of auctioneers, produce brokers, commercial brokers, patent-right dealers, photographers, builders, insurance agents, insurance brokers, and peddlers) the place at which the trade, business, or profession for which the tax is paid shall be carried on: *Provided*, That the payment of the special tax imposed shall not exonerate from taxation the person or persons, (except lawyers, physicians, surgeons, dentists, cattle brokers, horse dealers, peddlers, produce brokers, commercial brokers, patent-right dealers, photographers, builders, insurance agents, insurance brokers, and auctioneers) or firm, company, or corporation in any other place than that stated; but nothing herein contained shall prohibit the storage of goods, wares, or merchandise in other places than the place of business, nor the sale by manufacturers or producers of their own goods, wares, and merchandise, at the place of production or manufacture, and at their principal office or place of business, provided no goods, wares or merchandise shall be kept for sale at said office. And every person exercising or carrying on any trade, business, or profession, or doing any act for which a special tax is imposed, shall, on demand of any officer of internal revenue, produce and exhibit the receipt for payment of the tax, and unless he shall do so may be taken and deemed not to have paid such tax. And in case any peddler shall refuse to exhibit his or her receipt, as aforesaid, when demanded by any officer of internal revenue, said officer may seize the horse, wagon, and contents, or pack, bundle, or basket of any person so refusing, and the assessor of the district in which the seizure has occurred may, on ten days' notice, published in any newspaper in the district, or served personally on the peddler, or at his dwelling-house, require such peddler to show cause, if any he has, why the horse, wagon, and contents, pack, bundle, or basket so seized shall not be forfeited; and in case no sufficient cause is shown, the assessor may direct a forfeiture, and issue an order to the collector or to any deputy collector of the district for the sale of the property so forfeited; and one half of the same, after payment of the expenses of the proceedings, shall be paid to the officer making the seizure, and the other half thereof to the collector for the use of the United States. And all special taxes imposed after the 1st day of May in any year shall be paid for and until the 1st day of May next succeeding, and shall be the ratable proportion of the whole amount of tax imposed for one year, and estimated from the first day of the month in which such tax is imposed.

Mr. DELANO. I move to amend as follows:

In line eight hundred and fifty-six strike out the words "one half of," and in lines eight hundred and fifty-eight and eight hundred and fifty-nine strike out the words "to the officer making the seizure, and the other half thereof."

Mr. Chairman, as the section now stands the peddler making a forfeiture of his "traps" is liable to be condemned by the action of the assessor, and one half of the forfeiture is to go to the assessor. I propose the amendment for the purpose of striking at the whole system of bounties to informers who are themselves the assessors. I will read the general provision on page 130, which does not cover this case:

And provided further, That no collector, deputy collector, assessor, assistant assessor, revenue agent, revenue inspector, or other officer or person connected with the Treasury Department, or any of the branches thereof, shall be entitled to receive or shall be interested in any share allowed to an informer under the internal revenue law.

I respectfully suggest to my distinguished friend, the chairman, that does not include this case; and to make the bill homogeneous the amendment should be adopted.

Mr. MORRILL. I had intended to make the amendment myself.

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

That section seventy-five be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that upon the death of any person having paid the special tax for any trade, business, or profession, it may and shall be lawful for the executors or administrators, or the wife or child, or the assignee or assigns of such deceased person to occupy the house or premises, and in like manner to exercise or carry on, for the residue of the term for which the tax shall have been paid, the same trade, business, or profession, in or upon the same house or premises as the deceased before exercised or carried on, without payment of any additional tax. And in case of the removal of any person or persons from the house or premises for which any trade, business, or profession was taxed, it shall be lawful for the person or persons so removing to any other place to carry on the trade, business, or profession specified in the tax receipt at the place to which such person or persons may remove without payment of any additional tax: *Provided*, That all cases of death, change, or removal, as aforesaid, shall be registered with the assistant assessor, together with the name or names of the person or persons making such change or removal, or successor to any person deceased, under regulations to be prescribed by the Commissioner of Internal Revenue.

Mr. MORRILL. I move, in line eight hun-

dred and seventy, to strike out the words "assignee or assigns," and insert "legal representatives."

The amendment was agreed to.

Mr. DARLING. I move to go back to offer the following amendment:

Insert in line seven hundred and seventy-five, after the word "provided," the following:

The several rates hereinafter stated for business tax shall be assessed annually and in all cases wherein an additional amount is dependent upon the amount of his or their sales, such sales shall be registered monthly, and the additional tax shall be assessed and collected as in the case of tax upon manufactures.

Mr. MORRILL. I object.

The Clerk read the next paragraph, as follows:

That section seventy-six be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that in every case where more than one of the pursuits, employments, or occupations, hereinafter described, shall be pursued or carried on in the same place by the same person at the same time, except as hereinafter provided, the tax must be paid for each according to the rates severally prescribed: *Provided*, That in cities and towns having a less population than six thousand persons according to the last preceding census, one special tax may embrace the business of land-warrant brokers, claim agents, and real-estate agents, upon payment of the highest rate of tax applicable to either one of said pursuits.

Mr. MORRILL. I move to strike out the word "may," in line eight hundred and ninety-eight, and insert "shall be held to;" so that it will read:

One special tax shall be held to embrace the business of land-warrant brokers, &c.

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

That section seventy-seven be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that no auctioneer shall, by virtue of having paid the special tax as an auctioneer, sell any goods or other property at private sale, or employ any other person to act as auctioneer in his behalf, except in his own store or warehouse or in his presence; and any auctioneer who shall sell goods or commodities otherwise than by auction, without having paid the special tax imposed upon such business, shall be subject and liable to the penalty imposed upon persons dealing in or retailing, trading, or selling goods or commodities without payment of the special tax for exercising or carrying on such trade or business; and where goods or commodities are the property of any person or persons taxed to deal in or retail, or trade in or sell the same, it shall and may be lawful for any person exercising or carrying on the trade or business of an auctioneer to sell such goods or commodities for and on behalf of such person or persons in said house or premises.

Mr. MORRILL. I move to strike out the word "or," in line nine hundred and six, and insert the words "nor shall he;" so that it will read:

That no auctioneer shall, by virtue of having paid the special tax as an auctioneer, sell any goods or other property at private sale, nor shall he employ any other person to act as auctioneer in his behalf, &c.

The amendment was agreed to.

The Clerk read the next two paragraphs, as follows:

That section seventy-eight be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that any number of persons, except lawyers, conveyancers, claim agents, patent agents, physicians, surgeons, dentists, cattle brokers, horse dealers, and peddlers, doing business in copartnership at any one place, shall be required to pay but one special tax for such copartnership.

That section seventy-nine be amended by striking out all after the enacting clause and inserting, in lieu thereof, the following: that there shall be paid, annually, on the 1st of May, or on commencing any trade, business, or profession, a special tax, as hereinafter stated, respectively, that is to say.

Mr. MORRILL. I move to strike out all after the word "following" in the last paragraph, and insert in lieu thereof these words:

That a special tax shall be, and hereby is, imposed as follows, that is to say.

The amendment was agreed to.

The Clerk read the next two paragraphs, as follows:

1. Banks chartered or organized under a general law with a capital not exceeding \$50,000, and bankers using or employing a capital not exceeding the sum of \$50,000, shall pay \$100; when exceeding \$50,000, for every additional thousand dollars in excess of \$50,000, two dollars. Every incorporated or other bank, and every person, firm, or company having a place of business where credits are opened by the

deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a bank or as a banker under this act: *Provided*, That any savings bank having no capital stock, and whose business is confined to receiving deposits and loaning or investing the same for the benefit of its depositors, and which does no other business of banking, shall not be subject to this tax.

2. Wholesale dealers, whose annual sales do not exceed \$50,000, shall pay fifty dollars; and if exceeding \$50,000, for every additional thousand dollars in excess of \$50,000, one dollar. Every person shall be regarded as a wholesale dealer under this act whose business it is, for himself or on commission, to sell or offer to sell any goods, wares, or merchandise of foreign or domestic production, not including wines, spirits, or malt liquors, whose annual sales exceed \$25,000. And the special tax to be paid by any wholesale dealer shall not be estimated on a less amount than his sales for the previous year, unless he has made or proposes to make some change in his business that will, in the judgment of the assessor or assistant assessor, reduce the amount of his annual sales; nor shall the payment of the special tax as a wholesale dealer exempt any such person acting as a commercial broker from the payment of the special tax imposed upon commercial brokers: *Provided*, That any tax understated may and shall be again assessed; and no person paying the special tax as a wholesale dealer in liquors shall be required to pay an additional special tax on account of the sale of other goods, wares, or merchandise on the same premises: *And provided further*, That in estimating the amount of sales for the purposes of this section, any sales made by or through another wholesale dealer on commission shall not be again estimated and included as sold by the party for whom the sale was made.

Mr. MORRILL. I move to strike out the word "exceeding," in line nine hundred and fifty-five, and insert the words "their annual sales exceed;" also, to insert before the word "one," in the next line, the words "they shall pay;" so that it will read:

And if their annual sales exceed \$50,000 they shall pay one dollar.

The amendment was agreed to.

Mr. MORRILL. I move to insert after line nine hundred and fifty-six the following:

And the amount of all sales within the year beyond \$50,000 shall be returned monthly to the assistant assessor, and the tax on sales in excess of \$50,000 shall be assessed by the assessors and paid monthly as other monthly taxes are assessed and paid.

The amendment was agreed to.

Mr. MORRILL. It is now necessary to strike out after the word "and" in line nine hundred and sixty-two, down to and including the word "shall" in line nine hundred and sixty-seven, and to insert the word "shall" in line nine hundred and sixty-eight; so that the clause will read:

And the payment of the special tax as a wholesale dealer shall exempt any such person, &c.

The amendment was agreed to.

Mr. MORRILL. I move further to strike out after the word "that," in line nine hundred and seventy-one, down to and including the word "and," in line nine hundred and seventy-two; so that it will read:

That no person paying the special tax as a wholesale dealer in liquors shall be required to pay an additional special tax, &c.

The amendment was agreed to.

Mr. HUBBARD, of Iowa. I move to strike out line nine hundred and thirty-four to nine hundred and forty inclusive, and to insert in lieu thereof:

All banks chartered or organized under a general law shall pay \$100.

Mr. MORRILL. I raise the point of order that we have passed that paragraph.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PRICE. I move to strike out "one dollar" in line nine hundred and fifty-six and insert "two dollars;" so that it shall read:

Wholesale dealers, whose annual sales do not exceed \$50,000, shall pay fifty dollars; and if their annual sales exceed \$50,000, for every additional thousand dollars in excess of \$50,000, they shall pay two dollars.

The object of the amendment is this: in the section immediately preceding we make banks and bankers pay two dollars for every additional thousand dollars over \$50,000. This section proposes to make wholesale dealers pay one dollar on a thousand on their sales above \$50,000.

Gentlemen who are acquainted with the business will understand that the profits of one are about equal to the profits of the other, and the wholesale dealer can well afford to pay two dollars on \$1,000 of sales during a year.

Mr. MORRILL. As the present bill is one mainly reducing the tax, I hope we shall not adopt the amendment proposed. For one I am disposed to allow the people of the United States to have all the goods they may have occasion to consume at the lowest possible rate, and a tax imposed in this form would necessarily enhance the price.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. PRICE. I move *pro forma* to make it \$1 50. I want to show the fallacy of the argument of the gentleman. He proposes to give the people cheap goods. Will he tell me how much more a man will have to pay for a yard of muslin which is usually retailed at twenty-five cents when the wholesale dealer has to pay an additional dollar tax on a thousand dollars' worth of goods? It would be going a little further with infinitesimal arithmetic to get at that result than I am able to cipher.

Mr. MORRILL. As a matter of experience, we know that our city horse railroad companies put on a whole cent extra to cover a tax of one eighth of a cent. And when we put on a tax of six cents on a ton of coal, there was not a single instance where the price did not immediately rise at least twenty-five cents. And so it has been in a great many other instances. This tax takes the place of a license. Some large wholesale dealers now pay seventy or eighty thousand dollars a year in the form of a license or special tax. I think it is enough.

Mr. PRICE. I withdraw the amendment to the amendment.

Mr. EGGLESTON. I move *pro forma* to make it \$2 75. I wish my friend from Iowa [Mr. PRICE] would withdraw his amendment. So far as the business classes of the community are concerned they are not only taxed once and twice but in many cases five and six times. And now the gentleman proposes where a man sells more than \$50,000 that he shall pay a tax of two dollars on every thousand dollars, or double the rate proposed in the bill. It applies to all commission merchants, all brokers, all classes of men who sell property which has been consigned to them. Take a firm that sells at one half per cent. commission. In the first place you make them pay a license and then you tax them on the sales. You will tax the business out of existence. I say that one dollar is high enough. I withdraw my amendment to the amendment.

The question recurring on the amendment of Mr. PRICE, it was disagreed to.

The Clerk read the next paragraph, as follows:

3. Retail dealers shall pay ten dollars. Every person whose business or occupation it is to sell or offer for sale any goods, wares, or merchandise of foreign or domestic production, not including spirits, wines, ale, beer, or other malt liquors, and whose annual sales exceed \$1,000 and do not exceed \$25,000, shall be regarded as a retail dealer under this act.

Mr. BALDWIN. I move to amend by adding the following:

Provided, however, That when the annual sales of a retail dealer exceed \$25,000, for every additional thousand dollars in excess of \$25,000 he shall pay one dollar.

As the law now stands, and as it has heretofore been executed, a retail dealer who sells \$25,001 is charged as a wholesale dealer and required to pay a license of fifty dollars. That seems to me unreasonable and unjust. It seems to me more just and reasonable that retail dealers should be graded in this way, so as to pay a dollar for every additional thousand dollars, rather than to be required to pay fifty dollars for a wholesale license because their sales barely exceed \$25,000.

Mr. MORRILL. I hope the amendment will not prevail. It is necessary to make some line of demarkation between a retail dealer and a wholesale dealer. At whatever point

you draw the line if the dealer exceeds the amount of course he becomes liable to a higher tax as a wholesale dealer. It is a small amount which the retailer is required to pay. The moment the amount of sales exceeds \$25,000 the man becomes a wholesale dealer. We must have some line of demarkation.

Mr. DAVIS. It is provided in the bill that persons and corporations in certain branches of business shall pay a tax upon their annual sales. It is also provided, I believe, that they shall pay the tax before commencing business. I desire to know how the amount of this tax is to be ascertained.

Mr. MORRILL. The tax upon the annual sales does not commence until those sales shall have exceeded \$50,000, though a special tax of a fixed amount is paid at the outset.

The amendment was not agreed to.

The Clerk read as follows:

4. Wholesale dealers in liquors whose annual sales do not exceed \$50,000 shall pay fifty dollars, and if exceeding \$50,000, for every additional thousand dollars in excess of \$50,000, one dollar. Every person who shall sell or offer for sale any distilled spirits, fermented liquors, or wines of any kind in quantities of more than three gallons at one time to the same purchaser, or whose annual sales, including sales of other merchandise, shall exceed \$25,000, shall be regarded as a wholesale dealer in liquors.

Mr. HUBBARD, of Iowa. I move to amend by striking out "one dollar" and inserting in lieu thereof "two dollars."

I understand that this business of selling liquor is very profitable, and if so, I think the liquor sellers are able to pay the sum I propose.

Mr. MORRILL. Mr. Chairman, I suppose the object of Congress to be to obtain as large a revenue as possible from liquors; but I conceive that the more legitimate way to reach that object is to levy the tax upon the liquor; and if, as proposed in the bill, we allow the tax to remain at two dollars per gallon, it seems to me that ought to satisfy us. I hope, therefore, that the amendment will not prevail.

The amendment was not agreed to.

Mr. MORRILL. I move to amend by inserting after the word "dollar" in line nine hundred and ninety-two the following words:

And such excess shall be assessed and paid in the same manner as required of wholesale dealers.

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting after the word "dollars" where it last occurs in line nine hundred and ninety-one the words "they shall pay."

The amendment was agreed to.

Mr. PRICE. Hopeless as the attempt may appear, I will make one more effort to amend this section. I move to amend by striking out the word "fifty" in line nine hundred and eighty-nine and inserting in lieu thereof "one hundred;" so that the clause will read:

Wholesale dealers in liquors whose annual sales do not exceed \$50,000 shall pay \$100.

Under this bill as it stands the wholesale liquor dealer selling \$50,000 worth of liquor annually will pay only fifty dollars; while a banker doing business right alongside of him, with a capital of \$50,000, pays a license of \$100, and pays also upon every additional \$1,000 double the amount which the liquor dealer pays. It appears to me that men in the liquor business can afford to pay a tax of \$100, which is not as much as men in honest branches of business pay on a corresponding amount of capital.

The amendment was agreed to.

The Clerk read as follows:

5. Retail dealers in liquors shall pay twenty-five dollars. Every person who shall sell or offer for sale foreign or domestic spirits, wines, ale, beer, or other malt liquors in quantities of three gallons or less, and whose annual sales, including all sales of other merchandise, do not exceed \$25,000, shall be regarded as a retail dealer in liquors under this act.

Mr. HARDING, of Illinois. I move to amend by striking out "twenty-five," in the first line of the paragraph just read, and inserting in lieu thereof "fifty."

Mr. Chairman, while I have great respect for the opinions of the chairman of the Committee of Ways and Means, I distrust the notion

that we are going to realize much revenue from distilled spirits by a tax of two dollars a gallon. I think the gentleman will concede that the experiment has not in the past been very successful. Members of the House are, I suppose, fully aware that, within the last year at least, the larger proportion of distilled spirits in the United States has paid little or no tax. What has been paid has been divided among informers, detectives, and the Government.

Mr. MORRILL. The gentleman will have an opportunity to discuss this question at a latter stage of the bill.

Mr. HARDING, of Illinois. I think the discussion is apropos now.

Mr. Chairman, the practice has been to manufacture distilled spirits illegitimately, making it out of dollar corn, and then smuggle the article into the market. When once in the market, it can be sold in the groceries by paying a license of twenty-five dollars. I propose to catch some of it in this way, by a charge of fifty dollars for the privilege of selling.

Mr. MORRILL. I would not object if it were the sentiment of the country that all these beer shops and groceries should be suppressed; but I warn gentlemen, if they can enforce the law, the Government will get no revenue at all. If you adopt this increased tax, a poor widow or a maimed soldier who is keeping a small beer shop will have to pay this large tax; and hotel keepers will be compelled to pay this in addition. I hardly think Congress will be disposed to raise the tax.

The amendment was disagreed to.

The Clerk read the next paragraph, as follows:

6. Lottery ticket dealers shall pay \$100. Every person, association, firm, or corporation who shall make, sell, or offer to sell lottery tickets or fractional parts thereof, or any token, certificate, or device representing or intending to represent a lottery ticket or any fractional part thereof, or any policy of numbers in any lottery, or shall manage any lottery, or prepare schemes of lotteries, or superintend the drawing of any lottery, shall be deemed a lottery ticket dealer under this act: *Provided*, That any person doing the business of lottery ticket dealers shall give bond, in the sum of \$1,000, with sureties, to be approved by the collector of the district, conditioned that he will not sell any ticket or supplementary ticket of such lottery which has not been duly stamped according to law.

Mr. DARLING. I move to amend in line ten hundred and five by inserting the word "policy" after the word "ticket." I shall next move to strike out "one hundred" and insert "one hundred and fifty."

If we are to legalize this iniquitous traffic, I want to get the largest possible amount of revenue. I am satisfied, from the information I have received, that the Government is defrauded out of at least \$9,000,000 a year in the way of taxes under the present law. All of the small dealers have been subject to the monopolists who carry on the business, particularly in New York city, the same as the banking business. It is carried on with a magnitude that would astonish the House. Every man who wants to go into the business is subject to the orders of the large dealers. I desire that every man who goes into the business, no matter how small his business may be, shall pay the tax directly to the Government, and that he shall give bond to the United States that he will pay the tax into the United States Treasury. That is the reason I move the amendment.

Mr. MORRILL. We have already tried the policy of extreme taxation in relation to lottery dealers. We placed the tax as high as \$1,000. It proved to be a bad policy, and we did not derive much revenue at all. Since the amount has been fixed as it is the Government is in receipt of a considerable amount of revenue. Let me say it is to ferret out, and seize the parties who sell these tickets, and that we may know who they are that this license or special tax is imposed.

After all this is done, we impose a tax upon all of their sales of five per cent. If we succeed in collecting this special tax we shall collect the other also.

The law is amended in one respect. Under

the existing law one or two parties in New York have enjoyed a monopoly; others dealing in lotteries have been dealing in them surreptitiously and in violation of law, or have been made to pay tribute to one or two men. The present bill changes all that. I hope the amendment will not prevail.

The amendment was rejected.

Mr. DAVIS. I offer the following amendment:

Insert in line ten hundred and nineteen: *And provided moreover*, That nothing herein contained shall be construed to authorize the sale of lottery tickets in any State where such sales are prohibited by the laws thereof.

Mr. HOOPER, of Massachusetts. That is already in the bill.

Mr. DAVIS. Then I withdraw my amendment.

Mr. DARLING. I move to amend the proviso by striking out the word "any" and inserting the word "every" before the words "person doing the business of lottery ticket dealers," &c.

The amendment was agreed to.

Mr. DARLING. I move to further amend the same sentence by inserting after the words "lottery ticket dealers" the words, "or dealers in policy of numbers." What I want to get at is this: I want to prevent if possible the spread of this nefarious and iniquitous practice in our large cities, which is entailing so much ruin and distress and suffering upon the families of poor people. It is a species of gambling which is carried on to an extent that, in my judgment, inflicts more misery, more sorrow, and more suffering upon families than the use of intoxicating drinks, or at least quite as much.

Now, I do not mean, if I can help it, that any person shall be authorized to do this business unless he takes out a license and is put under heavy penalties that he will pay the tax due to the Government under the law. And therefore I want to include, not only those who sell lottery tickets, but those who do a business far worse, that of selling policies of numbers, which are sold principally to the poor, the degraded, and the ignorant.

Mr. HOOPER, of Massachusetts. I want to call the attention of the gentleman from New York [Mr. DARLING] to a description of lottery ticket dealers which renders his amendment unnecessary. The attention of the committee was called to this subject, and they made a provision to meet the point the gentleman refers to, by inserting it in the description of lottery ticket dealers.

Mr. DARLING. Where is that?

Mr. HOOPER, of Massachusetts. In the part of the paragraph which reads:

Every person, association, firm, or corporation which shall make, sell, or offer to sell lottery tickets or fractional parts thereof, or any token, certificate, or device representing or intending to represent a lottery ticket or any fractional part thereof, or any policy of numbers in any lottery, or shall manage any lottery, or prepare schemes of lotteries, or superintend the drawing of any lottery, shall be deemed a lottery ticket dealer under this act.

Mr. DARLING. The gentleman from Massachusetts [Mr. HOOPER] is right, and I will withdraw that amendment.

I move to amend by inserting in the proviso, before the words "or supplementary ticket," the words "or policy of numbers." I want to make it so clear and distinct that there will be no escape from a proper construction of the law.

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

7. Horse dealers shall pay ten dollars. Any person whose business it is to buy or sell horses or mules shall be regarded a horse dealer under this act: *Provided*, That one special tax having been paid, no additional tax shall be imposed upon any horse dealer for keeping a livery stable, nor upon any livery stable keeper who may also be a horse dealer.

Mr. MORRILL. I move to strike out at the end of the paragraph the words "who may also be a horse dealer," and insert in lieu thereof the words "for dealing in horses."

The amendment was agreed to.

Mr. BENJAMIN. I move to amend the first sentence so that it will read:

Horse dealers whose annual sales do not exceed \$10,000 shall pay ten dollars; and if exceeding the sum of \$10,000, one dollar for each additional thousand dollars.

My amendment is intended to make this paragraph correspond with the paragraph in regard to cattle dealers. In this paragraph there is no limit to the amount of sales that horse dealers may make under a license of ten dollars. In the case of cattle dealers there is a limit of \$10,000, and I think this paragraph should be modified accordingly. Or if a horse dealer with a license of ten dollars can sell without any limitation as to the amount of his sales, then the provision in regard to cattle dealers should be the same. This business of horse dealing is a large business in some localities; there is an immense amount of capital invested in it; and it strikes me there should be some limit on the amount of capital invested or the amount of sales under a license of ten dollars.

Mr. MORRILL. I do not know that I have much objection to the amendment of the gentleman from Missouri, [Mr. BENJAMIN.] But I do not believe there are a dozen men in the United States who do so large a business in horse dealing as to render them liable to the proposed increased tax.

Mr. BENJAMIN. I beg to inform the gentleman that there are more than that number in my district alone.

Mr. MORRILL. They are very fortunate men. The business is very much reduced from what it was for the last three or four years, when the Government had occasion to employ this kind of men.

Mr. DELANO. I would inquire of the chairman of the Committee of Ways and Means [Mr. MORRILL] if he is willing to have this amendment adopted, and also allow the proviso to remain which allows a party to be a livery stable keeper also without paying an additional tax. I would prefer the paragraph as it is. I shall certainly move to strike out the proviso if the amendment of the gentleman from Missouri [Mr. BENJAMIN] shall be adopted.

Mr. MORRILL. I think the paragraph better remain as it is; that is my view of it.

The amendment of Mr. BENJAMIN was not agreed to.

The Clerk read the next paragraph, as follows:

8. Livery stable keepers shall pay ten dollars. Any person whose business it is to keep horses for hire, or to let, or to keep, feed, or board horses for others, shall be regarded as a livery stable keeper under this act.

No amendment being offered,

The Clerk read the next paragraph, as follows:

9. Brokers shall pay fifty dollars. Every person, firm, or company, except such as have paid a tax as a bank or banker, whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for themselves or others, shall be regarded as a broker under this act: *Provided*, That any person having paid the tax as a banker shall not be required to pay any tax as a broker.

Mr. MORRILL. I move to strike out the words "except such as have paid a tax as a bank or banker," as that is provided for in the proviso.

The amendment was agreed to.

Mr. MORRILL. I move to amend the proviso by inserting the word "special" before the words "tax as a banker."

The amendment was agreed to.

Mr. MORRILL. I move further to amend the proviso by striking out the word "any" and inserting the words "a special" before the words "tax as a broker."

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

10. Pawnbrokers using or employing a capital of not exceeding \$50,000 shall pay fifty dollars; and when using or employing a capital exceeding \$50,000, for every additional thousand dollars in excess of \$50,000, two dollars. Every person whose business or occupation it is to take or receive, by way of pledge, pawn, or exchange, any goods, wares, or merchandise,

or any kind of personal property whatever, as security for the repayment of money lent thereon, shall be deemed a pawnbroker under this act.

Mr. MORRILL. I move to amend this paragraph by inserting after the words "two dollars" the words "and such excess shall be assessed and paid in the same manner as required of wholesale dealers."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by inserting the words "shall pay" before the words "two dollars."

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

11. Land-warrant brokers shall pay twenty-five dollars. Any person shall be regarded as a land-warrant broker within the meaning of this act who makes a business of buying and selling land-warrants, or of furnishing them to settlers or other persons.

No amendment being offered,

The Clerk read the next paragraph, as follows:

12. Cattle brokers, whose annual sales do not exceed \$10,000, shall pay ten dollars; and if exceeding the sum of \$10,000, one dollar for each additional \$10,000. Any person whose business it is to buy or sell or deal in cattle, hogs, or sheep shall be considered as a cattle broker.

No amendment being offered,

The Clerk read the next paragraph, as follows:

13. Produce brokers, whose annual sales do not exceed the sum of \$10,000, shall pay ten dollars. Every person other than one having paid the special tax as a commercial broker or cattle broker, or wholesale or retail dealer, or peddler, whose occupation it is to buy or sell agricultural or farm products, and whose annual sales do not exceed \$10,000, shall be regarded as a produce broker under this act.

No amendment being offered,

The Clerk read the next paragraph, as follows:

14. Commercial brokers shall pay twenty dollars. Any person or firm whose business it is, as a broker, to negotiate sales or purchases of goods, wares, or merchandise, or to seek orders therefor in original or unbroken packages, or to negotiate freights and other business for the owners of vessels, or for the shippers, or consignors, or consignees of freight carried by vessels, shall be regarded a commercial broker under this act.

Mr. MORRILL. I move to amend by striking out after the word "merchandise" the words "or to seek orders therefor in original or unbroken packages."

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

15. Custom-house brokers shall pay ten dollars. Every person whose occupation it is, as the agent of others, to arrange entries and other custom-house papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise, shall be regarded a custom-house broker under this act.

No amendment being offered,

The Clerk read the next paragraph, as follows:

16. Distillers shall pay \$100. Every person, firm, or corporation who distills or manufactures spirits shall be deemed a distiller under this act: *Provided*, That distillers of apples, grapes, or peaches, distilling or manufacturing less than one hundred and fifty barrels per year from the same, shall pay fifty dollars; *And provided further*, That no tax shall be imposed for any still, stills, or other apparatus used by druggists and chemists for the recovery of alcohol for pharmaceutical and chemical or scientific purposes, which has been used in those processes.

Mr. INGERSOLL. I move to amend this paragraph by striking out "\$100" and inserting "\$1,000" as the tax to be paid by distillers.

I have this much to say in support of my proposition: unless you guard and protect the legitimate manufacturer of this article, you will fail to derive any considerable amount of revenue from this source.

In one district in the State of New York where three years ago the census shows there was no distillery, there are now thirty distilleries. And so it is in the State of Pennsylvania. In the northern district of Georgia, where but a few years ago there was no distillery, the internal revenue collector of the district reports that there are now fifteen hundred distilleries. In one district in Virginia where there were formerly no distilleries there

are now several hundred of them. Those distilleries are making, in a great measure, contraband whisky, which is being sold in the various markets of the country for less than the Government tax.

Rectified whisky in the city of New Orleans is sold at \$1 75 per gallon—twenty-five cents less than the amount of the Government tax. Unless the legitimate manufacture of whisky is protected by law, the Government will obtain no revenue from this business, while the country will be flooded with whisky. All the evil consequences of the manufacture and consumption of the article will be experienced, while there will be no adequate compensation to the Treasury of the United States. Unless we adopt a system similar to that carried out in Great Britain, the Government taking charge of the manufacture of this article and recognizing those engaged in its manufacture as agents of the Government, we shall get, comparatively speaking, no revenue.

The manufacture of whisky in the United States ought to produce to the Government a yearly revenue of \$80,000,000. This is the amount of the estimate formerly made by the Committee of Ways and Means; and this amount could be realized under a proper system. Estimating that the annual consumption of whisky during the last two years has been forty million gallons per annum, a tax of two dollars per gallon should yield to the Treasury \$80,000,000. But if we allow every little distillery to be run for a license of twenty-five dollars, we shall have the country flooded with contraband whisky, and the Treasury will obtain but little revenue. If the license be fixed at \$1,000, we drive this contraband trade out of existence, thereby protecting the legitimate manufacturer, who can thus afford to pay a license of \$1,000, and also a tax of two dollars per gallon.

Mr. HOOPER, of Massachusetts. I would like the gentleman to explain what he means by a "legitimate manufacturer."

Mr. INGERSOLL. I mean one who pays his license, who makes his regular monthly returns, as required by law, and pays two dollars on every gallon of whisky that he manufactures. Sir, it is known to the revenue officers of the country that under the present system not one gallon out of every four gallons manufactured pays any tax to the Government.

Mr. Chairman, I desire to submit some statistics relative to the manufacture of this article during the last fiscal year. The table which I submit emanates from the internal revenue department:

Collections returned on distilled spirits for the first six months of the fiscal year ending June 30, 1866.

July, 1865.....	\$352,252 15
August.....	267,457 88
September.....	755,682 06
October.....	1,306,025 23
November.....	3,050,671 28
December.....	3,762,134 21
Total for six months.....	9,554,202 81
January, 1866.....	3,751,469 91
February.....	3,592,677 46
March.....	2,439,124 42
Total returns to date.....	\$19,337,474 60

NOTE.—The collections for February and March will be somewhat increased, as all returns have not yet been received.

Thus it appears that the Government, instead of receiving, as it should, \$80,000,000 per annum from this source, receives annually only about twenty-four million dollars.

[Here the hammer fell.]

Mr. STEVENS. I entertain just the contrary view to that of the gentleman from Illinois, [Mr. INGERSOLL;] and I move to amend his amendment by inserting, in lieu of what he proposes, to strike out, the word "fifty," so as to make the amount fifty dollars instead of \$100, as it now stands in the bill.

Now, Mr. Chairman, we do not expect to raise any large amount of revenue from the licenses of these distilleries. Anybody who knows anything about the matter must know that the amount received from licenses is a

mere bagatelle compared with the whole amount of taxation derived from this branch of business. The object of requiring a license to be taken by distillers corresponds with the object of requiring a license for the manufacture of cigars. The purpose is that the officers of the Government may know who are engaged in distilling, so that they may require proper returns. If we induce every distiller to take out a license then the officers of the Government have a clue as to who are manufacturing whisky. But if the amount of license be fixed at \$1,000 not one in twenty of these distillers will take out a license. The majority will prefer to risk the chances of being detected in the illicit manufacture, and the Government officers will not have the means of tracing them which they have when licenses are taken out.

Besides that, sir, there are all over the country very small distilleries, making perhaps twenty-five gallons a day. They cannot afford to pay a large license.

There are in several parts of the country small distilleries running out perhaps in the course of a year from four hundred to five hundred gallons. Now twenty-five dollars license and then raising the tax on the distilled article is, I think, a great deal. After all, the revenue to the Government comes from the tax on the distilled article.

My friend from Illinois, [Mr. INGERSOLL,] represents larger operations than those I have referred to. He represents men who distill a thousand gallons a day. What is a thousand dollars to them if they can crush out all other distilleries than those at Peoria? What is a thousand dollars to them in comparison to the enormous profits which they are enabled to make?

I am sure the gentleman would be glad to have the monopoly confined to Peoria. They have had the monopoly there this year. Also understand that a great many of them there were caught in attempts to defraud the Government.

I am in favor of leaving the license at twenty-five dollars, and not increasing it as is proposed to fifty dollars.

I agree with the gentleman that down South there may be thousands of gallons distilled which do not pay tax to the Government. It is I suppose because the Government cannot find loyal men enough to take the oath and support "my policy." [Laughter.] I am told that one half of the whisky in the United States is now made in the southern States.

[Here the hammer fell.]

Mr. INGERSOLL. Mr. Chairman, I rise to oppose the amendment. I have no sympathy with the large distilleries in Peoria or the small distilleries in Pennsylvania. I believe the distilleries in Peoria and elsewhere are generally carried on by Democrats. Of course they support "my policy" as it is termed.

But, sir, I am looking at the interests of the revenue of this Government. I desire to state here in regard to the administration of the revenue law as it is applicable to the manufacture of whisky, that in the large distilleries the collector appoints what is called an inspector whose duty it is to remain there night and day if necessary to watch and supervise operations, and to see that they return the exact number of gallons that is manufactured.

Mr. STEVENS. That is the way they do with the distilleries in my county, but they found three of these inspectors who received \$5,000 a year each from these distilleries for the purpose, I suppose, of watching. [Laughter.]

Mr. INGERSOLL. I presume that is so. Of course you will find here and there a fraudulent agent. But, sir, if you do not watch these distilleries, I will guaranty you will get but little revenue. If you employ honest men, the Government will get its proper revenue.

The gentleman from Pennsylvania says that it is not the license that goes to make up the amount of the revenue, but the tax on the article. I am aware of that; but in order to get that tax you must have the manufacture of whisky, to a certain extent, under the control

of the Government. If you do not, as I have said, you will get but little revenue. The small distilleries in Pennsylvania, Kentucky, or anywhere else, paying a license of twenty-five dollars, and having no one to supervise them, may return only one barrel on which the tax is paid, and will sell as many other barrels of whisky on which no tax is paid. They may make \$100 profit each day, and I have no doubt many of them do, from illicit traffic in this article. The Government, of course, gets nothing in the way of tax on this contraband whisky. You cannot detect them, because you have no one there to watch them. If you put up the license to \$1,000, and have an agent in every distillery, together with severe penalties for violation of the law, I have no doubt the Government will secure the collection of the tax.

I am speaking in the interest of the revenue, and not in the interest of the manufacturer, whether he be a large one or a small one. I ask whether twenty-five millions is an adequate revenue from this source. It ought to be eighty millions.

[Here the hammer fell.]

Mr. STEVENS. I withdraw my amendment. Mr. HOOPER, of Massachusetts. I will renew the amendment simply for the purpose of calling attention to the thirty-third section on page 155 of this bill, where it is required that an inspector shall be appointed for every distillery established according to law.

I concur with the gentleman from Pennsylvania that the object to be secured by having the rate of special tax a smaller sum is to induce everybody who distilled to come and pay for a license. With a tax of \$1,000 it is certain the small distiller would not and could not pay it. Then I think there will be more fraud in the large distilleries than the small ones. If I am not mistaken, in the neighborhood of the gentleman from Illinois, [Mr. INGERSOLL,] among the largest distilleries there were found some heavy frauds.

Mr. INGERSOLL. I will state how that is, because I wish to defend every manufacturer from any unjust imputation on his character. Within my knowledge in the Peoria district, so far as the manufacturers are concerned, I think there is but one house that has ever had any charge preferred against it for any fraud, large or small, upon the revenue connected with the manufacture of whisky. That is the only case that I am aware of in the fifth district.

Mr. STEVENS. What was the amount of the fraud?

Mr. INGERSOLL. I think the amount of the whisky alleged to have been made in fraud of the revenue law was between four and five hundred barrels.

Mr. HOOPER, of Massachusetts. I do not mean to charge fraud upon the gentleman's district; but I know that in Illinois there have been large frauds committed.

Mr. MORRILL. It is evident that in regard to the policy of having a high or low tax on the business of distilling liquors, there is a wide difference of opinion among members of the House. The revenue commission have reported a bill for our action, adopting the policy somewhat of England, that is, of confining the business to a few large distilleries. But in this country, I think, where the business is already established—and there is a large amount of property invested all over the country in small distilleries—it would be rather hard to suddenly adopt a policy that would crush the business of these men and destroy their property without notice.

I am willing for one to go to some extent on that line of policy. I believe that in the end we may find it to be the only policy by which we can squeeze out of this manufacture the large amount of tribute that evidently is intended to be done not only by the people but by Congress. With that view the committee have raised the amount of special tax from fifty dollars to \$100. I believe that is as far as we ought to go now, and it is a just compromise between the conflicting opinions that undoubtedly now prevail.

In another part of the paragraph it will be found that a less rate is imposed upon those who distill apple brandy or apple jack where the amount is less than one hundred and fifty barrels a year.

The CHAIRMAN. Debate is exhausted and the amendment is withdrawn.

Mr. HOOPER, of Massachusetts. I do not withdraw it. I insist upon a vote.

Mr. PAINE. I rise to a point of order. Has not this precise amendment once been voted down?

The CHAIRMAN. The gentleman from Pennsylvania [Mr. STEVENS] withdrew it, and the gentleman from Massachusetts [Mr. HOOPER] renewed it.

Mr. PAINE. The House voted down the amendment of Mr. STEVENS, I believe, and then he informed the House that he withdrew it.

The CHAIRMAN. The Chair did not announce the result when the gentleman from Pennsylvania [Mr. STEVENS] rose and stated that he withdrew it.

Mr. PAINE. There was a vote upon it.

The CHAIRMAN. The Chair does not sustain the point of order, inasmuch as the gentleman from Pennsylvania withdrew the amendment before the Chair announced the vote. The same amendment is now offered by the gentleman from Massachusetts, [Mr. HOOPER.] No further debate is in order upon it.

The amendment to the amendment was disagreed to.

The question recurred on the amendment offered by Mr. INGERSOLL to strike out "\$100" and insert "\$1,000."

Mr. HENDERSON. Are remarks in order on that amendment?

The CHAIRMAN. No debate is in order. The gentleman can move *pro forma* to strike out "one thousand" and insert "two hundred."

Mr. HENDERSON. Very well. I move to insert "eleven hundred." I was going to renew the motion to insert "fifty," with a view of stating, not that I was in favor of reducing it to fifty dollars, but that I was in favor of the amendment of my friend from Illinois, [Mr. INGERSOLL.] I think the first business of the Government is to so adjust the tax as to have as little distillation as possible, and to make as much profit as possible out of what is manufactured; the least possible amount of liquor with the greatest possible revenue from it.

Now, I cannot understand how it is that a thousand-dollar tax will increase the distillation of liquor. That is to my mind very strange. I have heard it stated here by several gentlemen that by thus increasing the amount of tax you will increase the number of distilleries. If it is so, and they all pay their tax, we certainly will get more revenue. But I am impressed with the belief that it will not have the effect to increase the number of distilleries; that is to say, if the Government is able to enforce the laws which it makes. I do not believe that the Government has come to that point that it cannot enforce its laws, and consequently I am fully satisfied that the high tax, with vigilant prosecution of the laws, will reduce the number of distilleries, and at the same time increase the amount of the revenue. My principle would be to reduce the amount of liquor and increase the revenue.

[Here the hammer fell.]

Mr. HENDERSON. I withdraw the amendment to the amendment.

Mr. LAFLIN. I move to strike out "one thousand" and insert "twelve hundred."

I was very glad indeed to hear the chairman of the Committee of Ways and Means assert that the revenue commission, in making their propositions of amendment to the revenue laws, had endeavored, as far as possible, to follow the example set by England. As was remarked by the chairman of the committee when he first introduced this bill, this subject of internal revenue is an entirely new one with us, and I commend to the judgment of this House whether it is not for our interest to fol-

low, as far as we can, the example set to us by a nation which has had a long experience on this subject.

We find that Great Britain has adopted the plan of taxing all luxuries to the very greatest extent, and it raises over \$50,000,000 annually from its tax on distilled spirits. By reference to the report of the revenue commission of that country it appears that in the year 1863-64 England raised \$50,666,775, and in 1864-65 \$53,200,385 on spirits.

Now, sir, what is our experience? We have a population nearly as great as that of England, and the statistics of our returns show that we consume fully as much in amount as England does. And yet according to the returns of the internal revenue it appears that in 1863 we raised a revenue of \$3,229,990, in 1864 a revenue of \$28,431,797, and in 1865, when we taxed whisky two dollars a gallon, we raised only \$15,995,702.

Now, what are the facts with reference to the production and consumption of whisky in this country? Prior to 1860 this country produced one hundred million gallons of whisky annually. If the same amount was produced to-day and the tax of two dollars a gallon was collected we should receive \$200,000,000. But we find since the tax of two dollars has been imposed that the amount consumed in this country is forty-five million gallons annually, which instead of yielding a revenue of \$90,000,000 has only yielded a little over \$15,000,000.

Mr. STEVENS. The gentleman must recollect that when we were about to impose the tax of two dollars for six months there was not a distillery that did not run night and day up to the time when the tax commenced; and from that time until within three months scarce a distillery ran at all, because they had laid in an immense quantity at the old tax.

Mr. LAFLIN. I understand that, but at the same time, during 1864, when we had a tax of \$1.50, we only raised \$28,000,000. It is estimated that seven eighths of all the whisky produced in this country is used for drinking purposes.

Now, what is the fact in regard to the number of distilleries? In 1860 there were eleven hundred and ninety-three distilleries in the United States. Now the number is estimated at five thousand. Why? Because under the stimulus of high prices people all over the United States have engaged in distillation on a small scale, some of them producing at the rate of one hundred gallons a year. It is said to be a fact, and I have not seen it denied, that every manufacturer of small stills has more orders on hand than he can fill. And it is said that in the State of Georgia there are fifteen hundred distilleries in one district.

[Here the hammer fell.]

Mr. DODGE. Mr. Chairman, all that we require in regard to this question of whisky is a law sufficient to find out these small distilleries. I fail to perceive the force of the suggestion made by the chairman of the Committee of Ways and Means, that a small tax of twenty-five dollars will induce men who are carrying on an illicit traffic in cellars and garrets to come forward and make known the fact that they are engaged in this business. I hope, sir, that we shall fix a tax so large and frame a law so stringent that every manufacturer of distilled spirits, whether he makes a thousand gallons a day or five gallons a day, will be found out, so that the Government shall receive from him the entire amount of revenue contemplated by the law.

We may rest assured, sir, that a tax of twenty-five dollars will never bring to light men who are seeking to carry on an illicit traffic. If the tax be fixed at \$1,000 or \$1,500 there would be an object in finding them out. In the city of New York we have now a law fixing the license at \$200 and \$150. Last year, when only a small tax of ten dollars was required for selling liquor, there were in that city more than nine thousand places in which intoxicating drinks were sold. Under our present system, where it is an object to detect every

individual selling liquor without a license, the city is receiving \$1,000,000 of revenue annually from this source. If men will manufacture, if men will sell, if men will drink alcohol, let them pay the tax which the Government imposes.

The amendment to the amendment was not agreed to.

Mr. HOTCHKISS. I move to amend the amendment by striking out "\$1,000" and inserting the following:

Distillers distilling less than fifty thousand gallons annually shall pay \$100; those distilling fifty thousand gallons, or over, annually, shall pay \$200.

Mr. Chairman, it appears to me that this is a more reasonable proposition than to make distillers indiscriminately pay \$1,000. The latter system would simply break up the small distilleries and give a monopoly of the business to the large manufacturers. I do not see that any good is to be gained by it. It would not diminish the amount of whisky distilled. It would simply leave the monopolists at liberty to increase the price of the article for their own benefit.

Experience has shown that the amount consumed is not decreased by an increase in the price; and I see no reason why we should enact an oppressive law with the view to obtain revenue, or to effect a moral reform. I am as hostile to the manufacture and the use of whisky as any gentleman on this floor can be, but I do not think it wise for us to attempt to enact oppressive laws to suppress this traffic, because I do not think that we would effect the object.

Let us have, however, a discrimination between large establishments and the smaller ones. I do not know how much a small establishment manufactures annually, but I suppose that the quantity would not exceed fifty thousand gallons. Those manufacturing more than that quantity will be required by this amendment to pay \$200. Gentlemen more familiar with this branch of the business can, if they deem it proper, move to increase the license fee in proportion to the amount manufactured.

Mr. MORRILL. I do not know but that I, for one, would be willing that the Government should forego all revenue from this source if we could entirely suppress the distillation and consumption of the article throughout the country. But, believing that to be impossible, I am for obtaining the largest possible amount of revenue on the smallest consumption of the article. I believe, however, that in this case moderation is true wisdom. Our own experience, corresponding with that of other countries, has shown that when we undertake to levy an exorbitant tax we always defeat our object. If we now undertake to levy a tax of \$1,000 upon every distillery in this country, not one fourth of these distilleries will ever be reached at all. Why? Because we give a sufficient amount to make it an object for parties to conceal the fact—to hide their stills in garrets and cellars.

As I said in my opening speech, it is true the manufacturers in small copper stills have been exceedingly busy for the last two years. They are spread over all parts of the country. If we leave this tax at the moderate sum proposed by the Committee of Ways and Means, I believe we can collect it. I am therefore opposed either to reducing or increasing it.

There is in the paragraph a provision by which distilleries of apples, grapes, and peaches shall be taxed a less amount. We do not expect to extract so much revenue from them. These distilleries are located in Pennsylvania, Kentucky, and New Jersey, and are small establishments—to accommodate their neighborhoods. Unless they shall be allowed to remain, those who have large peach or apple orchards will find they will have no sale for their fruit. If we are to have whisky or brandy at all I would as soon have it from apples or peaches as from anything else. I hope we shall allow the bill to stand as it is.

I move that the committee rise for the purpose of closing debate on this paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL moved that all debate on the pending paragraph of the tax bill in the Committee of the Whole on the state of the Union be closed in five minutes after its consideration shall be resumed.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The CHAIRMAN stated the question to be on Mr. HOTCHKISS's amendment to the amendment.

The amendment to the amendment was disagreed to.

The question then recurred on Mr. INGERSOLL's amendment, and it was also disagreed to.

Mr. RANDALL, of Kentucky, moved after the word "manufacture," in line ten hundred and eighty-nine, to insert the words "fifty and," and after the word "dollars," in line ten hundred and ninety-one, to add the following:

And those distilling or manufacturing less than fifty barrels per year from the same shall pay twenty dollars.

The committee was divided; and there were—ayes 35, noes 47; no quorum voting.

Mr. ALLISON demanded tellers.

Tellers were ordered; and Messrs. RANDALL, of Kentucky, and ALLISON, were appointed.

The committee was again divided; and the tellers reported—ayes 50, noes 43.

So the amendment was agreed to.

Mr. INGERSOLL. I move to strike out the proviso as amended.

The motion was disagreed to.

The Clerk read the next paragraph, as follows:

17. Brewers shall pay \$100. Every person, firm, or corporation who manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute thereof, shall be deemed a brewer under this act: *Provided*, That any person, firm, or corporation, who manufactures less than five hundred barrels per year, shall pay the sum of fifty dollars.

No amendment being offered,

The Clerk read the next paragraph, as follows:

18. Rectifiers who shall rectify any quantity of spirituous liquors, not exceeding five hundred barrels, packages, or casks, containing not more than forty gallons to each barrel, package, or cask, shall pay twenty-five dollars; and twenty-five dollars additional for each additional five hundred such barrels, packages, or casks, or any fractional part thereof. Every person, firm, or corporation, who rectifies, purifies, or refines spirituous liquors or wines by any process, or mixes distilled spirits, whisky, brandy, gin, or wine, with any materials for sale under the name of whisky, rum, brandy, gin, wine, or any other name, shall be regarded as a rectifier under this act.

Mr. HARDING, of Illinois. I move to strike out the word "rectifiers." I notice in a subsequent portion of this bill a direct blow at the only prosperous manufacturing business we ever have had in the West. We are situated far from market; the products of our soil

are abundant in the forms of rye and corn; and we have been able heretofore to compete successfully in the business of manufacturing alcohol with our friends in the East who are so generally superior in manufactures. But if this paragraph shall pass that interest in the West will be destroyed.

Now, I wish to call the attention of the House to the unfairness of this paragraph. I say what I mean; I use the word "unfairness" intentionally. It is known to the country that the business of manufacturing alcohol is performed by two modes. The mode which has been successfully performed in the West is the redistillation carried on by continued processes in the same establishment in which the spirit is manufactured. By continued redistillation it is rectified to the standard of alcohol.

Now this bill, infamous in this particular, the vile brood of a local interest—I have no reference of course to the chairman of the Committee of Ways and Means, [Mr. MORRILL] for he evidently has been imposed upon—this bill provides that alcohol and spirits shall not be made in the same establishment. Why? There is no other reason that can be given than that it is because we can manufacture alcohol out of the cheap corn of the West, in the same establishment where spirits is made, at such a rate that no man who buys his spirits in New York or New England can compete with us. And therefore it is that obstacles must be put in the way of the successful manufacture of alcohol in the West.

And how is that done? This bill requires our distiller to take his spirits out of the whisky distillery, put it in barrels, put it into bond, then take it out of bond, and put it into another establishment where it is to be made into alcohol. And when I asked why this was done, one of the heads of bureau informed me that it was to enable the eastern manufacturer to compete with the western manufacturer. Now here in this instance the man is not allowed to produce alcohol in any particular quantity by rectifying, or if he does he has to pay this additional tax for every few hundred gallons that are rectified.

Mr. ALLISON. I am quite as anxious as my friend from Illinois [Mr. HARDING] to protect the interests of our western friends who are engaged in this business. The provision that he objects to is a mere repetition of the existing law; and I have yet to hear of a single rectifier of whisky or manufacturer of alcohol in the West who complains of this license.

The provision prohibiting the rectifying of whisky or the manufacture of alcohol upon the same premises or in the same establishment where high-wines are distilled, is in another part of this bill, and has no reference whatever to this subject. I think that it is a provision that should be adopted, perhaps with some modification; because it is well known that under the existing law most of the frauds that have been discovered have been in the cases of parties who manufacture alcohol upon the same premises where they distill high-wines, without having their high-wines inspected.

This provision is evidently a just one. It certainly is a just one now, when we have doubled the tax upon the manufacture of distilled spirits, but leaves the tax as it exists in the present law upon the manufacture of alcohol and the rectifying of whisky.

I hope the amendment of the gentleman from Illinois [Mr. HARDING] will not be adopted.

The amendment of Mr. HARDING, of Illinois, was not agreed to.

The Clerk read the next paragraph, as follows:

19. Coal-oil distillers shall pay fifty dollars. Any person, firm, or corporation, who shall refine, produce, or distill crude or refined petroleum or rock oil, or crude coal oil, or crude or refined oil made of asphaltum, shale, peat, or other bituminous substances, or shall manufacture coal illuminating oil shall be regarded as a coal-oil distiller under this act.

Mr. MORRILL. I move to strike out the

word "coal" before the words "illuminating oil."

The amendment was agreed to.

The Clerk read the next paragraph, as follows:

20. Keepers of hotels, inns, or taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the estimated yearly rental of the house and property intended to be so occupied, as follows, to wit: when the rent or valuation of the yearly rental of said house and property shall be \$200, or less, shall pay ten dollars; and if exceeding \$200, for any additional \$100 or fractional part thereof in excess of \$200, five dollars. Every place where food and lodging are provided for and furnished to travelers and sojourners, in view of payment therefor, shall be regarded as a hotel, inn, or tavern, under this act: *Provided*, That keepers of hotels, taverns, and eating-houses, in which liquors are sold by retail, to be drank upon the premises, shall pay an additional tax of twenty-five dollars. The yearly rental shall be fixed and established by the assessor of the proper district at its proper value; but if rented, at not less than the actual rent agreed on by the parties. All steamers and vessels upon waters of the United States, on board of which passengers or travelers are provided with food or lodgings, shall be subject to and required to pay twenty-five dollars: *Provided*, That if there be any fraud or collusion in the return of actual rent to the assessor there shall be a penalty equal to double the amount of the tax required by this section, to be collected as other penalties under this act are collected.

Mr. MORRILL. In the sentence which now reads, "the yearly rental shall be fixed and established by the assessor of the proper district at its proper value," I move to insert the word "assistant" before the word "assessor," and the word "assessment" before the word "district."

The amendment was agreed to.

Mr. MORRILL. I move further to amend this paragraph by striking out the following:

Provided, That if there be any fraud or collusion in the return of actual rent to the assessor, there shall be a penalty equal to double the amount of the tax required by this section, to be collected as other penalties under this act are collected.

And inserting in lieu thereof the following:

Provided, That any person who shall make a false or fraudulent return of the annual rent mentioned in this paragraph shall be subject to a penalty therefor of double the amount of the tax.

The amendment was agreed to.

Mr. PIKE. I move to amend by inserting at the close of the first sentence in this paragraph the following proviso:

Provided, That no license shall be required when the rent or valuation of the yearly rental shall be less than \$100.

The object of my amendment must be apparent to any one. It is merely to exempt from this tax a class of people who keep small country wayside inns, which can hardly be called inns or taverns, except for the purposes of this act; places which are kept for the benefit of passers-by rather than for profit.

The amendment was not agreed to.

Mr. STEVENS. I move to amend this paragraph by striking out the following proviso:

Provided, That the keepers of hotels, taverns, and eating-houses, in which liquors are sold by retail, to be drank upon the premises, shall pay an additional tax of twenty-five dollars.

In the first place, this proposes to tax tavern-keepers on a pretty high rental. Now, a tavern-keeper, everywhere that I know anything about, is a man who keeps a house of public entertainment, including liquor to be drank upon the premises. Retailers of liquor that is not to be drank upon the premises are a different class of persons and are taxed differently.

It is proposed by this paragraph to tax all tavern-keepers twenty-five dollars more for selling liquors to be drank on the premises than if they sold none. Now, a tavern where no liquors are sold is no tavern. All taverns, except now and then a temperance house, as it is called, sell what we propose to charge twenty-five dollars for. In Pennsylvania a man licensed to keep a tavern is allowed by the law to sell liquors.

A tavern-keeper pays \$200 a year rental, for what? To allow a man to call there and get a little bread and milk. He can get nothing to drink there unless the tavern-keeper pays twenty-five dollars extra. I therefore propose to strike out this proviso.

Mr. PIKE. The committee have just refused to adopt a very reasonable proposition: I made in regard to small taverns. I hope they will not adopt the proposition of the gentleman from Pennsylvania, [Mr. STEVENS], which I consider a very unreasonable one. This paragraph provides that tavern-keepers whose rent does not exceed \$200 per annum shall pay a license tax of ten dollars. The proposition of the gentleman from Pennsylvania is to allow a man to take out a tavern license of ten dollars, and then go into the retail liquor business.

Mr. STEVENS. Only to sell liquor to be drank on the premises.

Mr. KUYKENDALL. Retail liquor dealers always sell liquor to be drank on their premises.

Mr. PIKE. If it was to apply only to those who did not sell liquor to be drank on the premises, then we would have to keep an inspector always on the premises to see if the liquor sold was or was not drank there. The effect of the amendment of the gentleman from Pennsylvania [Mr. STEVENS] will be simply to allow tavern-keepers to retail liquors to any extent under the license of ten dollars. I hope the amendment will not be adopted.

Mr. THAYER. I was the author of this proviso in the old law, and therefore I feel called upon to defend it now. I believe that no provision in the law has been more popular than this one. I think it is a tax which nine tenths of every community will approve.

Now, without this provision in the law, any man who shall take out a small license for an eating saloon could sell any quantity of liquor without paying any additional tax at all. And a man who sells thousands and thousands of dollars' worth of liquors, as they do in the first-class hotels of this country, could carry on a retail liquor trade under this ten-dollar license—a trade exceeding in its profits the legitimate business of entertaining travelers, and not pay one cent additional to the Government for the purposes of revenue.

I do not consider it necessary to say much in defense of such a provision as this. I cannot conceive in what manner a tax can be laid which will be more universally approved, or more justly imposed than by this provision.

Mr. PRICE. Let me ask the gentleman whether he does not think it possible in this age of the world to keep a tavern without selling whisky.

Mr. THAYER. I do think it possible; and where that is the case, of course no tax is to be paid for liquor sold.

Mr. HENDERSON. Mr. Chairman, I view this question very differently from my friend from Pennsylvania, [Mr. STEVENS], who seems to think that public houses where liquor is not sold do not generally keep anything in the shape of refreshments, except bread and milk, or something of that sort. According to my observation, those houses that keep no liquor keep much the best provisions. Hence, I think that my respected friend, in the remark which he made, was not in earnest, but was only practicing upon the House an innocent joke.

Mr. MORRILL. For the purpose of terminating debate on this paragraph I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of House

bill No. 513, all debate upon the pending paragraph and the amendments thereto terminate in one second.

The motion was agreed to.

TAX-BILL—AGAIN.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was on the amendment of Mr. STEVENS to strike out the following:

Provided, That keepers of hotels, taverns, and eating-houses, in which liquors are sold by retail, to be drank upon the premises, shall pay an additional tax of twenty-five dollars.

The amendment was not agreed to.

Mr. BENJAMIN. I move to amend by inserting, after the word "act" in line eleven hundred and thirty-five the following:

Provided, That a payment of such special tax shall be construed to authorize the person so keeping a hotel, inn, or tavern to furnish the necessary food for the animals of such travelers or sojourners, without the payment of an additional special tax as a livery stable keeper.

Mr. MORRILL. I see no objection to that.

The amendment was agreed to.

Mr. PIKE. I move to amend by inserting after the word "dollars," in line eleven hundred and thirty-eight, the following:

Provided, That in case the receipts of any keeper of a hotel do not exceed \$500 a year, no license shall be required.

The amendment was not agreed to.

Mr. SCHENCK. I move to amend by striking out the following:

The estimated yearly rental of the house and property intended to be so occupied as follows, to wit: when the rent or valuation of the yearly rental of said house and property shall be \$200 or less, shall pay ten dollars; and if exceeding \$200, for any additional \$100 or fractional part thereof in excess of \$200, five dollars.

And inserting in lieu thereof the following:

The charge per diem they make against their guests as follows, to wit: when they charge five dollars per day, or over, they shall pay \$2,000 per annum; when they charge less than five dollars per day, and not less than three dollars, they shall pay \$1,000 per annum; when they charge less than three dollars a day, and not less than two dollars per day, they shall pay \$100 per annum; when they charge less than two dollars per day, they shall pay a tax of fifty dollars per annum.

So that the clause will read:

Keepers of hotels, inns, or taverns shall be classified and rated according to the yearly rental, or, if not rented, according to the charge per diem, &c.

Mr. PIKE. I move to amend the amendment by adding the following:

And when they charge \$1 50 or less per day they shall not be required to pay tax.

The amendment to the amendment was not agreed to.

The amendment was not agreed to.

The Clerk read as follows:

21. Keepers of eating-houses shall pay ten dollars Every place where food or refreshments of any kind, not including spirits, wines, ale, beer, or malt liquors, are provided for casual visitors and sold for consumption therein, shall be regarded as an eating-house under this act. But the keeper of an eating-house having paid the tax therefor shall not be required to pay a tax as a confectioner, anything in this act to the contrary notwithstanding.

Mr. STEVENS. I move to strike out in line eleven hundred and fifty-two these words, "not including spirits, wines." An eating-house, as we understand it, includes the sale of oysters and fermented liquors, ale, beer, and other malt liquors. The words I have mentioned ought of course to be stricken out, and the section ought then to remain so that these eating-houses shall be allowed to sell, as they have always heretofore, ale, beer, and other malt liquors.

Mr. MORRILL. This is exactly according to the existing law.

The amendment was disagreed to.

The Clerk read the next paragraph, as follows:

22. Confectioners shall pay ten dollars. Every person who sells at retail confectionery, sweetmeats, confits, or other confections, in any building, shall be regarded as a confectioner under this act. But wholesale and retail dealers, having paid the tax therefor, shall not be required to pay the tax as a confectioner, anything in this act to the contrary notwithstanding.

Mr. MORRILL moved to insert the word "special" before the word "tax."

The amendment was agreed to.

The Clerk read the next paragraphs, as follows:

23. Claim agents and agents for procuring patents shall pay ten dollars. Every person whose business it is to prosecute claims in any of the Executive Departments of the Federal Government, or procure patents, shall be deemed a claim or patent agent, as the case may be, under this act.

24. Patent-right dealers shall pay ten dollars. Every person whose business it is to sell, or offer for sale, patent rights, shall be regarded as a patent-right dealer under this act.

25. Real-estate agents shall pay ten dollars. Every person whose business it is to sell, or offer for sale, real estate for others, or to rent houses, stores, or other buildings or real estate, or to collect rent for others, shall be regarded as a real-estate agent under this act.

26. Conveyancers shall pay ten dollars. Every person, other than one having paid the tax as a lawyer or claim agent, whose business it is to draw deeds, bonds, mortgages, wills, writs, or other legal papers, or to examine titles to real estate, shall be regarded as a conveyancer under this act.

Mr. MORRILL moved, in line eleven hundred and eighty-one, before the word "tax" to insert the word "special."

The amendment was agreed to.

The Clerk read the next two paragraphs, as follows:

27. Intelligence office keepers shall pay ten dollars. Every person whose business it is to find or furnish places of employment for others, or to find or furnish servants upon application in writing or otherwise, receiving compensation therefor, shall be regarded as an intelligence office keeper under this act.

28. Insurance agents shall pay ten dollars. Any person who shall act as agent of any fire, marine, life, mutual, or other insurance company or companies, to negotiate or procure insurance for which he receives any commission or other compensation, shall be regarded as an insurance agent under this act: *Provided*, That if the annual receipts of any person as such agent shall not exceed \$100, he shall pay five dollars only: *And provided further*, That no special tax shall be imposed upon any person for selling tickets or contracts of insurance against injury to persons while traveling by land or water.

Mr. HOTCHKISS. I ask unanimous consent to go back in order to move an amendment.

There was no objection.

Mr. HOTCHKISS moved in line eleven hundred and seventy-eight after the word "others" in the paragraph relating to real-estate agents to insert these words, "except attorneys being licensed as such."

Mr. HOOPER, of Massachusetts. There are no licenses provided for in this bill. They are all special taxes.

Mr. HOTCHKISS. I modify my amendment, then, so as to "say special tax" instead of "license."

The amendment was agreed to.

Mr. LYNCH. I move to amend as follows:

Strike out in lines eleven hundred and ninety-two and eleven hundred and ninety-three the words "ten dollars" and insert these words: "whose annual receipts exceed \$100 and do not exceed \$500 shall pay five dollars; when over \$500 and not exceeding \$5,000, ten dollars; when over \$5,000, fifteen dollars." Also, strike out lines eleven hundred and ninety-eight and eleven hundred and ninety-nine to and including the word "only" in line twelve hundred.

Mr. Chairman, the effect of this amendment will be to exempt insurance agents who receive less than \$100 and to increase the tax from ten to fifteen dollars on all those who receive more than \$1,000. There are very few who receive less than \$100, while there are a great many whose annual receipts are large, running up, in some instances, to \$200,000 per annum.

Mr. MORRILL. The gentleman will perceive that in levying this special tax it is a sort of protection to those who pay the tax against those who do not. Now, if the gentleman's

amendment is adopted it will allow all his neighbors to go into the same kind of business without the payment of any tax provided their receipts do not exceed \$100. I hope it will not be adopted. The amount to be gained by the other part of the gentleman's amendment is so small and the burden upon the parties to keep the account would be so great that I think it will hardly be worth while to adopt it.

The amendment was disagreed to.

Mr. MORRILL. I move to strike out the word "to" in line eleven hundred and ninety-five and insert "shall."

The amendment was agreed to.

The Clerk read the next two paragraphs, as follows:

29. Foreign insurance agents shall pay fifty dollars. Every person who shall act as agent of any foreign fire, marine, life, mutual, or other insurance company or companies shall be regarded as a foreign insurance agent under this act.

30. Auctioneers whose annual sales do not exceed \$10,000 shall pay ten dollars, and if exceeding \$10,000 shall pay twenty dollars. Every person shall be deemed an auctioneer within the meaning of this act whose business it is to offer property for sale to the highest or best bidder: *Provided*, That the provisions of this paragraph shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sales made by or for executors or administrators.

Mr. MORRILL. I move to strike out the word "for," in line twelve hundred and thirteen, and insert the words "at public;" so that it will read, "at public sale."

The amendment was agreed to.

Mr. HOLMES. I move to strike out the word "or," in line twelve hundred and eighteen, and to add to the paragraph the words "or guardians of any estate held by them as such;" so that it shall read:

Nor public sales made by or for executors, administrators, or guardians of any estate held by them as such.

Mr. MORRILL. I think that is right.

The amendment was agreed to.

Mr. DAVIS. I suggest to the chairman of the committee the propriety of amending this paragraph by including in the exemption sales made by any mortgagee under foreclosure.

Mr. MORRILL. I think that ought not to be excepted. It is one of the most profitable sales we have.

Mr. DAVIS. I will then move to amend by adding to the end of the paragraph these words:

Nor by any mortgagee under mortgage foreclosure.

The amendment was not agreed to.

Mr. HOTCHKISS. I move to amend by adding to the paragraph the words "and lawyers paying a tax as such."

Mr. MORRILL. I do not know that I understand the gentleman's amendment. I doubt if we ought make such an exception as will allow lawyers to act as auctioneers.

The amendment was disagreed to.

Mr. ELDRIDGE. I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

TAXES IN ALABAMA.

The SPEAKER laid before the House a communication signed by R. M. Patton, Governor of Alabama, without the seal of the State, in regard to taxes; which was referred to the Committee of Ways and Means, and ordered to be printed.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had

passed House bill No. 568, to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress, with an amendment, in which the concurrence of the House was requested.

Also, that the Senate had passed a bill and joint resolution of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 222) further to prevent smuggling, and for other purposes; and

A joint resolution (S. No. 90) to suspend temporarily the collection of the direct tax in the State of West Virginia.

ENROLLED BILL SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 280) making appropriations for the service of the Post Office Department during the fiscal year ending the 30th of June, 1867, and for other purposes.

Mr. MORRILL. I move that the House proceed to the business on the Speaker's table.

The motion was agreed to.

JOSEPH NOCK.

The first business was Senate joint resolution No. 71, referring the petitions and papers in the case of Joseph Nock to the Court of Claims; which was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Post Office and Post Roads.

DANIEL WINSLOW.

The next business was Senate bill No. 149, for the relief of Daniel Winslow; which was taken from the Speaker's table, read a first and second time, and on motion of Mr. LYNCH referred to the Committee on the Judiciary.

GEORGE HENRY PREBLE.

The next business was Senate bill No. 176, for the relief of George Henry Preble, a commander in the Navy of the United States; which was taken from the Speaker's table, read a first and second time, and referred to the Committee on Naval Affairs.

AMOSKEAG MANUFACTURING COMPANY.

The next business was Senate bill No. 225, for the relief of the Amoskeag Manufacturing Company; which was taken from the Speaker's table, read a first and second time, and referred to the Committee on Claims.

FIRST CONGREGATIONAL SOCIETY, WASHINGTON.

The next business was Senate bill No. 253, to incorporate the First Congregational Society of Washington; which was taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

CAPTAIN JOHN H. CROWELL.

The next business was Senate bill No. 278, for the relief of Captain John H. Crowell, an assistant quartermaster of the United States Army; which was taken from the Speaker's table, read a first and second time, and referred to the Committee on Claims.

NOTARIES PUBLIC, DISTRICT OF COLUMBIA.

The next business was Senate bill No. 305, to amend an act entitled "An act concerning notaries public for the District of Columbia," approved April 8, 1864; which was taken from the Speaker's table, read a first and second time, and referred to the Committee for the District of Columbia.

COMMANDER CHARLES HUNTER.

The next business was Senate bill No. 307, authorizing the restoration of Commander Charles Hunter to the Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

JONATHAN W. GORDON.

The next business was Senate bill No. 127,

for the relief of Jonathan W. Gordon, late major in the eleventh regiment of infantry; which was taken from the Speaker's table, read a first and second time, and referred to the Committee of Claims.

ASSISTANT SECRETARY OF THE NAVY.

The next business upon the Speaker's table was Senate bill No. 318, to authorize the appointment of an additional Assistant Secretary of the Navy.

Mr. RICE, of Massachusetts. I ask that that may be put upon its passage now.

The SPEAKER. The motion of the gentleman from Vermont [Mr. MORRILL] was to proceed to business upon the Speaker's table for reference only.

Mr. RICE, of Massachusetts. I suppose it can be considered now by unanimous consent.

Mr. MORRILL. Let the bill be passed over for the present and remain on the Speaker's table.

No objection was made.

PREVENTION OF SMUGGLING, ETC.

The next business upon the Speaker's table was Senate bill No. 222, to further prevent smuggling, and for other purposes.

Mr. MORRILL. Let that be passed over for the present.

No objection was made.

DIRECT TAX IN WEST VIRGINIA.

The next business was Senate joint resolution No. 90, to suspend temporarily the collection of the direct tax within the State of West Virginia; which was taken from the Speaker's table, read a first and second time, and referred to the Committee of Ways and Means.

Mr. ELDRIDGE moved to reconsider the various votes by which the bills and joint resolution had been taken from the Speaker's table and referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TRANSPORTATION AND COAL COMPANY.

Mr. INGERSOLL, by unanimous consent, introduced a bill to incorporate the Washington Transportation and Coal Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was referred; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PRIZE PROCEEDINGS, ETC.

Mr. DARLING, by unanimous consent, introduced a bill to amend an act entitled "An act to regulate prize proceedings," &c., approved June 30, 1864; which was read a first and second time, and referred to the Committee on Naval Affairs.

UNITED STATES CIRCUIT COURT, VIRGINIA.

Mr. LAWRENCE, of Ohio, moved to take from the Speaker's table Senate amendment to House bill No. 563, to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes.

The motion was agreed to.

The amendment of the Senate was read. It is to strike out all after line seventeen on page 1 to the end of the bill.

Mr. LAWRENCE, of Ohio. I move that the House non-concur in the amendment of the Senate, and ask for a committee of conference.

The motion was agreed to.

COLLECTION OF DUTIES ON IMPORTS.

Mr. BOUTWELL, from the Committee on the Judiciary, reported back House bill No. 141, to amend an act entitled "An act further to provide for the collection of duties on imports;" which was ordered to be printed and recommitted.

TAX ON CIRCULATION OF STATE BANKS.

Mr. LYNCH. I ask unanimous consent to

submit the following resolution for consideration at this time:

Resolved, That the Committee on Banking and Currency be directed to inquire into the expediency of so amending the act of March 3, 1865, imposing a tax of ten per cent. upon all State circulation after July 1, 1866, as to exempt from said tax all national banks which have applied for and have not received the amount of national bills to which they are entitled under section twenty-one of the national currency act: *Provided*, That the total amount of the circulation of said banks does not exceed the amount of national circulation to which they are entitled under said section.

Mr. ANCONA. I object.

PROTECTION OF SOLDIERS' GRAVES.

Mr. BANKS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire and report what measures may be necessary for the further protection of the graves of soldiers of the United States who have been buried within the limits of the insurgent States.

WASHINGTON LAND AND BUILDING COMPANY.

Mr. MERCUR, by unanimous consent, introduced a bill to incorporate the Washington Land and Building Company; which was read a first and second time, and referred to the Committee for the District of Columbia.

And then, on motion of Mr. THAYER, (at twenty minutes of five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By the SPEAKER: The petition of Governor Morton, and the other trustees of the Indiana Agricultural College, asking an amendment to the law granting lands to agricultural colleges.

By Mr. CONKLING: The petition of citizens of Oneida county, New York, asking a readjustment of the tariff on flax.

By Mr. DAVIS: The petition of Jedediah Barber, J. D. Sliter, Thomas D. Challan, and 208 others, citizens of Cortland county, New York, praying for increased protection to the growers of American wool.

Also, the like petition of John L. Booran, J. M. Clark, and 82 others, citizens of said county.

By Mr. EGLESTON: The memorial of Charles Kahn, Jr., of Cincinnati, Ohio, claiming \$1,395 25 as compensation for forty-three head of cattle.

By Mr. ORTH: The petition of trustees of Indiana Agricultural College, asking for a modification of the law of Congress donating lands for such college.

By Mr. LYNCH: The petition of Henry E. Earl, Jr., for pension.

Also, the memorial of Board of Trade of Portland.

By Mr. MOORHEAD: The petition of Lyon Short & Co., and others, citizens of Pittsburg, Pennsylvania, praying for the passage of an act of Congress authorizing the Cleveland and Mahoning Railroad Company to extend their road to the city of Pittsburg, Pennsylvania.

By Mr. MYERS: The petition of William Mann, of the city of Philadelphia, that the Commissioner of Patents be granted authority to hear his application for an extension of his patent for "improvement in copying paper" as though the ninety days' notice required by law had been given.

By Mr. FAINE: The petition of W. M. Blair and A. J. Frame, president and cashier of the Waukesha National Bank, of Waukesha, Wisconsin, respecting the taxation of national banks by State and municipal authorities.

Also, the petition of G. Buckley, cashier of First National Bank of Elkhorn, Wisconsin, on the same subject.

Also, the petition of O. Bell and W. A. Ray, president and cashier of the National Bank of Delavan, Wisconsin, on same subject.

Also, the petition of S. Marsh and C. M. Blackman, president and cashier of the First National Bank of Whitewater, Wisconsin, on same subject.

By Mr. WRIGHT: The petition of John L. Success for relief.

IN SENATE.

THURSDAY, May 17, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* laid before the Senate a communication from J. H. Screment, accompanied by an address to the President and Congress of the United States by the Swiss committee in favor of emancipated slaves, expressing their gratification at the abolition of slavery in the United States, and their earnest wishes for the prosperity of the American people; which was referred to the Committee on Foreign Relations.

Mr. YATES presented the petition of Mrs. Nancy A. Stokes, of Williams county, Illinois, praying for a pension; which was referred to the Committee on Pensions.

Mr. SHERMAN presented a memorial of citizens of Pittsburg, Pennsylvania, praying the enactment of a law authorizing the Cleveland and Mahoning Railroad Company to extend its route from the west line of the State of Pennsylvania to the city of Pittsburg; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Harriet B. Crocker, of Bath, Maine, praying for a pension, submitted a report, accompanied by a bill (S. No. 326) granting a pension to Mrs. Harriet B. Crocker. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Katharine F. Winslow, praying for a pension, submitted a report, accompanied by a bill (S. No. 237) granting a pension to Mrs. Katharine F. Winslow. The bill was read and passed to a second reading, and the report was ordered to be printed.

He also, from the same committee, to whom was referred the petition of Mrs. Abigail Ryan, praying for a pension, submitted a report, accompanied by a bill (S. No. 328) for the relief of Mrs. Abigail Ryan. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. POMEROY, from the Committee on Public Lands, to whom was referred a bill (H. R. No. 391) to create the office of surveyor general in Idaho Territory, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (S. R. No. 85) explanatory of and in addition to the act of May 5, 1864, entitled "An act granting lands to aid in the construction of certain railroads in Wisconsin," reported it without amendment.

He also, from the same committee, to whom were referred a memorial of the Legislature of Wisconsin, asking the assent of Congress to the route of the land-grant railroad from Portage to Bayfield, and thence to Superior; a resolution of the Legislature of Wisconsin in favor of a change of the route of the land-grant road from Portage to Superior; and also a resolution of the Legislature of Wisconsin relating to the construction of the Portage and Superior railroad, asked to be discharged from their further consideration; which was agreed to.

He also, from the same committee, to whom was referred a bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river, reported it with amendments.

He also, from the same committee, to whom was recommitted a bill (S. No. 224) to aid in the construction of a southern branch of the Union Pacific railway and to secure to the Government the use of the same for postal, military, and other purposes, reported it with an amendment.

Mr. KIRKWOOD, from the Committee on Public Lands, to whom was referred a bill (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reservation, Wisconsin, reported it without amendment.

He also, from the Committee on Pensions, to whom was referred a bill (H. R. No. 434) for the relief of Isabella Strubing, reported it without amendment.

He also, from the same committee, to whom was referred the petition of Mrs. Margaret Kaetzel, praying for a pension, submitted a report, accompanied by a bill (S. No. 329) for the relief of Mrs. Margaret Kaetzel. The bill was read and passed to a second reading, and the report was ordered to be printed.

Mr. WADE, from the Committee on Territories, to whom was referred a bill (H. R. No. 178) amendatory of the organic act of Wash-

ington Territory, reported it without amendment.

He also, from the same committee, to whom was referred a bill (H. R. No. 202) to amend an act entitled "An act to provide a temporary government for the Territory of Montana," approved May 26, 1864, reported it without amendment.

He also, from the same committee, to whom was referred a joint resolution (H. R. No. 32) to facilitate communication with certain Territories, reported it without amendment.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (H. R. No. 555) for the relief of Charles Brewer & Co., reported it without amendment.

• Mr. NORTON, from the Committee on Claims, to whom was referred the petition of James B. Johnson, praying for compensation for property destroyed on the 14th of March, 1864, by a band of guerrillas under the command of one Anderson, submitted an adverse report thereon; which was ordered to be printed.

Mr. POLAND, from the Committee on the Judiciary, to whom was referred a petition of judges of the United States courts and citizens of the District of Columbia, praying that provision may be made for the payment of counsel fees for defending persons who are not able to employ counsel, reported that no legislation is needed on the subject, and asked to be discharged from its further consideration; which was agreed to.

Mr. HARRIS, from the Committee on Public Lands, to whom was referred a bill (S. No. 320) to amend an act entitled "An act for a grant of lands to the State of Kansas, in alternate sections, to aid in the construction of certain railroads and telegraphs in said State," approved March 8, 1863, reported it without amendment.

BRIDGE ON LAKE CHAMPLAIN.

Mr. EDMUNDS. The Committee on Commerce, to whom was referred the bill (S. No. 316) to establish a post route from West Alburg, Vermont, to Champlain, in the State of New York, and for other purposes, have instructed me to report it back with an amendment and recommend its passage, and I am also authorized to ask for the present consideration of the bill.

By unanimous consent the bill was considered as in Committee of the Whole. It proposes to declare the railroad bridge across Lake Champlain at Rouse's Point, connecting the Ogdensburg and Lake Champlain railroad, in the State of New York, with the Vermont and Canada railroad, in the State of Vermont, to be a lawful structure and a postal route. It further authorizes the Ogdensburg and Lake Champlain Railroad Company, their successors or assigns, and the Vermont and Canada Railroad Company, their successors or assigns, to keep up, maintain, and use the bridge for the transportation of the mails, and for the benefit of the general commerce between those two States, and the transportation of persons and property; and also authorizes them, in place of the float now in use forming part of the bridge, to construct and maintain two suitable draws, one at least sixty and one at least ninety feet in width, which shall be opened whenever required for the passage of vessels, except during and for fifteen minutes prior to the passage of mail trains.

The amendment reported by the Committee on Commerce was to add to the bill the following clause:

And which draws shall be so constructed and managed as at all times to afford reasonable and proper facilities for the passage of vessels: *Provided*, This act shall be subject to amendment or repeal at the pleasure of Congress.

The amendment was agreed to.

Mr. HENDERSON. I ask the Senator from Minnesota if the bill is now in the shape in which the bill was that was passed the other day for constructing a bridge at Quincy.

Mr. HARRIS. This is a bill in relation to a bridge on Lake Champlain.

Mr. HENDERSON. I beg pardon; I thought it was for the Mississippi river.

The bill was reported to the Senate as amended; the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

NITRO-GLYCERINE.

Mr. EDMUNDS. I am instructed by the Committee on Commerce, to whom was referred the bill (S. No. 313) to regulate the transportation of nitro-glycerine or glynnoin oil, to report it back with amendments, and with a recommendation that it pass; and, on account of its importance to passengers traveling to the Pacific coast, I am instructed to ask for its present consideration.

Mr. GRIMES. Oh, no; let us have it printed.

Mr. CONNESS. There is no necessity for printing it.

The PRESIDENT *pro tempore*. Objection being made, the bill will lie over under the rule.

Mr. FESSENDEN. I would rather that it should lie over. I want the unfinished business of yesterday to come up.

Mr. CONNESS. Not in the morning hour, I hope.

Mr. FESSENDEN. I refer to the unfinished business of the morning hour. It was a resolution offered in the morning hour, and is the business of the morning hour. I do not wish to interfere with the presentation of memorials and reports; but I understand that the resolution to which I refer is the unfinished business of the morning hour. It was being discussed when the morning hour expired yesterday.

Mr. CONNESS. I do not wish to persist in asking for the immediate consideration of the bill; but it appears to me that it is one of such transcendent importance that it ought to be passed at once.

Mr. GRIMES. It ought to be printed first.

Mr. CONNESS. There is nothing in it that the whole Senate cannot understand on hearing it read. It will excite no debate, I apprehend, and can be finished in five or ten minutes. It will be remembered that the memorial presented to this body, calling for the passage of such a bill as this, asked for its passage under a suspension of the rules. The Treasury Department preferred that the preparation of this bill should be made by the Solicitor of that Department; and we have waited for nearly three weeks for it. This article has been transported on our passenger vessels. Only recently twenty-five pounds of it were carried out on a Pacific steamer, in the state-room of a passenger, enough to blow that ship to atoms, with its thousand lives.

Mr. FESSENDEN. I will not object to it if it will not occasion any debate.

Mr. CONNESS. It will not.

The PRESIDENT *pro tempore*. The objection being withdrawn, the bill is before the Senate as in Committee of the Whole, and will be read.

The Secretary read the bill. It provides that hereafter it shall not be lawful to transport, carry, or convey the substance or article known or designated as nitro-glycerine or glynnoin oil, upon or in any ship, steamship, steamboat, vessel, car, wagon, or other vehicle used or employed in transporting passengers by land or water, between a place or places in any foreign country, and a place or places within the limits of any State, Territory, or district of the United States, or between a place in one State, Territory, or district of the United States and a place in any other State, Territory, or district thereof; and any person, company, or corporation who shall knowingly violate these provisions is to be liable to a fine of not less than \$5,000 at the discretion of the court, to be recovered by an action of debt, one half to the use of the informer.

In case the death of any person shall be caused, directly or indirectly, by the explosion of a quantity of this substance or article while it is being placed upon or in any ship, steam-

ship, steamboat, vessel, car, wagon, or other vehicle, to be transported, carried, or conveyed therein or thereon in violation of this act, or while it is being so transported, carried, or conveyed, or while it is being removed from such ship, steamship, steamboat, vessel, car, wagon, or other vehicle, every person who knowingly placed, or aided, or permitted the placing of the substance upon or in such ship, steamship, steamboat, vessel, car, wagon, or other vehicle to be so transported, carried, or conveyed, is to be deemed guilty of murder in the first degree, and on conviction is to suffer death by hanging.

It is not to be lawful to ship, send, or forward any quantity of this substance or article, or to transport, carry, or convey it by ship, steamship, steamboat, vessel, car, wagon, or other vehicle of any description upon land or water between a place in a foreign country and a place within the United States, or between a place in one State, Territory, or district of the United States, and a place in any other State, Territory, or district thereof, unless it shall be securely inclosed, deposited, or packed in a metallic vessel, separated from all other substances, and the outside of the package containing it to be marked, painted, or labeled, in a conspicuous manner with the words, "Nitro-glycerine, dangerous." Any person, company, or corporation who shall knowingly violate the provisions of this section is to be liable to a fine of \$3,000, at the discretion of the court, to be recovered by an action of debt, one half to the use of the informer.

The district court of the United States within the district in which any offense against the act shall be committed, or if committed in or upon any ship, boat, vessel, or vehicle beyond the territorial limits of any district, then within the district from which it departed, or in which it shall first arrive, is to have jurisdiction to try and punish the offenders by fine or death, as the case may be, under the provisions of this act.

The act is not to be so construed as to prevent any State, Territory, district, city, or town within the United States regulating or prohibiting the traffic in or transportation of this substance between persons or places lying or being within their respective limits, or from prohibiting its introduction into such limits for sale, use, or consumption therein.

The first amendment of the Committee on Commerce was in section one, line five, after the word "convey" to insert the words "ship, deliver on board, or cause to be delivered on board;" so that it will read:

That hereafter it shall not be lawful to transport, carry, or convey ship, deliver on board, or cause to be delivered on board the substance or article known or designated as nitro-glycerine, &c.

The amendment was agreed to.

The next amendment was in section one, line twenty-three, to strike out the words "to be recovered by an action of debt;" so that the clause will read:

And any person, company, or corporation who shall knowingly violate the provisions of this section shall be liable to a fine of not less than \$5,000, at the discretion of the court, one half to the use of the informer.

The amendment was agreed to.

The next amendment was in section two, line twenty, to strike out the words "murder in the first degree" and to insert "manslaughter."

The amendment was agreed to.

The next amendment was in section two, line twenty-two, after the word "suffer" to strike out the words "death by hanging" and to insert "imprisonment for a period not less than ten years."

The amendment was agreed to.

The next amendment was in lines twenty-five and twenty-six of section three, to strike out the words "to be recovered by an action of debt."

The amendment was agreed to.

The next amendment was in lines eleven and twelve of section four, to strike out the words "by fine or death as the case may be."

The amendment was agreed to.

Mr. FESSENDEN. I should like to inquire how the bill stands now with reference to punishment.

Mr. EDMUNDS. The bill now makes the crime of shipping this article on board of passenger vessels, or the transportation of it with knowledge, manslaughter where death happens in consequence of the act, and punishes the crime of manslaughter by imprisonment for ten years or upward. The shipping on board a passenger vessel where death or any other accident does not occur is made merely a misdemeanor, punishable by fine; and the rest of the bill requires that when it is shipped by freighting vessels or cars it shall be securely packed and marked.

The bill was reported to the Senate as amended, and the amendments were concurred in.

The bill was ordered to be engrossed for a third reading, and was read the third time and passed.

BILL INTRODUCED.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 95) amendatory of a resolution regulating the investment of the naval pension fund, approved July 1, 1864; which was read twice by its title, and referred to the Committee on Naval Affairs.

RECONSTRUCTION.

Mr. WADE submitted an amendment which he intends to offer to the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States when it comes up for consideration.

The amendment was received, and ordered to be printed.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President of the United States had approved and signed, on the 16th instant, the following act and joint resolution:

An act (S. No. 310) to change the place of holding the courts of the United States for the northern district of Mississippi; and

A joint resolution (S. R. No. 88) authorizing the Secretary of War to grant the use of certain lumber for the fair for the Soldiers' and Sailors' Orphan Home.

FRESH-WATER BASIN FOR IRON-CLADS.

Mr. FESSENDEN. I now move to take up the joint resolution (S. R. No. 92) authorizing the appointment of examiners to examine a site for a fresh-water basin for iron-clad vessels of the United States Navy.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution, the pending question being on the amendment of Mr. FOSTER, to insert after "Maine" the words "and also New London, Connecticut."

Mr. FESSENDEN. I hope that will not be inserted.

The amendment was rejected.

The joint resolution was reported to the Senate without amendment.

Mr. SHERMAN. I have no objection to the examination proposed. I only want to enter my disclaimer now against the inference that was drawn from the report on the iron-clads. We appointed a commission to examine into the cost of the iron-clads, and that seemed to be the principal argument for passing the bill for the relief of those who built the iron-clads. I hope the honorable Senator from Maine, when this report comes in, will not consider that because we without objection vote for a commission to examine into the propriety of this work we are thereby foreclosed from any examination into the propriety of that report.

Mr. FESSENDEN. Of course not. It has no sort of connection with it; not the slightest in the world.

The joint resolution was ordered to be engrossed for a third reading, was read the third time and passed.

BENJAMIN HOLLIDAY.

Mr. NESMITH. I move that the Senate proceed to the consideration of House joint resolution No. 103.

The motion was agreed to; and the joint resolution (H. R. No. 103) to refer the petition of Benjamin Holliday to the Court of Claims was considered as in Committee of the Whole.

It provides that so much of the claim of Benjamin Holliday as relates to damages for change of route by military orders and property taken by the military authorities and appropriated to the use of the Government be referred to the Court of Claims for adjustment.

The Committee on Claims reported the joint resolution with an amendment, which was in line four, to strike out the words "damages for change of route by military orders and;" so that the joint resolution will read:

That so much of the claim of Benjamin Holliday as relates to property taken by the military authorities and appropriated to the use of the Government be referred to the Court of Claims for adjustment.

Mr. TRUMBULL. I do not know anything about this particular case; but I am entirely opposed to referring by joint resolution, which amounts to a law, special cases in this way to the Court of Claims. We have a general law giving that court jurisdiction of a certain class of cases. If the law is not broad enough, enlarge it; but this way of coming in and giving the court jurisdiction of a particular case, some favorite case, I do not think is right, unless it is done under some very peculiar circumstances. There may be some circumstances in this case which justify that species of legislation; but it is certainly a very bad way to be conferring upon a court of general jurisdiction of a particular class of cases like this special jurisdiction of some special case.

Mr. POMEROY. The Senator must be aware that the Committee on Claims who pass on this class of claims have the opportunity of hearing testimony only on one side; the Court of Claims have an opportunity to examine witnesses on both sides, and I think it is safer for the Government to let claims be tried where witnesses can be examined on both sides.

Mr. TRUMBULL. I entirely concur with the Senator from Kansas. I think so, too. I am not objecting to the court, but it is to giving the jurisdiction of a particular case in this way; and unless it is an exceptional case I do not think it ought to be done.

Mr. CLARK. This is a joint resolution from the House of Representatives. As it came to the Senate it was referred to the Committee on Claims and read in this way: "That so much of the claim of Benjamin Holliday as relates to damages for change of route by military orders and property taken by the military authorities and appropriated to the use of the Government be referred to the Court of Claims for adjustment." The Committee on Claims came to the conclusion to recommend to the Senate to strike out that part of the claim which was for damages for change of route, and to let the other part of the claim for property alleged to be taken by military orders go to the Court of Claims, and no more; and we think that is a better tribunal than the Committee on Claims and the Senate.

Mr. POMEROY. I do not wish to contest the amendment, but I have this to say: Benjamin Holliday, who had the overland contract, made his stations every fifteen miles on a given route, and built houses. The military authorities told him to abandon all those and to go on to another line, because they could protect him from the Indians on that other line. It is a question of equity whether he ought not to have some compensation for the abandoned houses and stations that he had built at great expense.

Mr. CLARK. I ought to say that the Committee on Claims examined the claim so far as to see precisely what it was. I doubt very much whether he can set up any military order in the case; but we concluded to let the whole matter go for adjudication to the Court of Claims.

Mr. POMEROY. If he cannot set up any military order, the resolution was a very harmless thing as it was before.

Mr. CLARK. I think the amendment should be agreed to.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be engrossed, and the joint resolution to be read a third time. It was read the third time and passed.

MARYSVILLE AND PORTLAND RAILROAD.

Mr. STEWART. I move to take up Senate bill No. 123.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, on the navigable waters of the Columbia river, in Oregon.

The PRESIDENT *pro tempore*. The Committee on Public Lands reported a substitute in lieu of the original bill, striking out all after the enacting clause. The substitute only will be read unless the reading of the original bill shall be asked for.

The Secretary read the words proposed to be inserted, as follows:

That the California and Oregon Railroad Company, organized under an act of the State of California, to protect certain parties in and to a railroad survey, to connect Portland, in Oregon, with Marysville, in California, approved April 6, 1863, and such company organized under the laws of Oregon as the Legislature of said State shall hereafter designate, be, and they are hereby, authorized and empowered to lay out, locate, construct, finish, and maintain a railroad and telegraph line between the city of Portland, in Oregon, and the Central Pacific railroad, in California, in the manner following, to wit: the said California and Oregon Railroad Company shall construct that part of the said railroad and telegraph within the State of California, beginning at some point (to be selected by said company) on the Central Pacific railroad in the Sacramento valley, in the State of California, and running thence northerly, through the Sacramento and Shasta valleys, to the northern boundary of the State of California; and the said Oregon company shall construct that part of the said railroad and telegraph line within the State of Oregon, beginning at the city of Portland, in Oregon, and running thence southerly through the Willamette, Umpqua, and Rogue River valleys to the southern boundary of Oregon, where the same shall connect with the part aforesaid to be made by the first-named company: *Provided*, That the company completing its respective part of the said railroad and telegraph from either of the termini herein named to the line between California and Oregon before the other company shall have likewise arrived at the same line, shall have the right, and the said company is hereby authorized, to continue in constructing the same beyond the line aforesaid, with the consent of the State in which the unfinished part may lie, upon the terms mentioned in this act, until the said parts shall meet and connect, and the whole line of said railroad and telegraph shall be completed, including all necessary grounds for stations, buildings, workshops, depots, machine-shops, switches, side tracks, turn-tables, water stations, or any other structures required in the construction and operating of said road.

Sec. 2. *And be it further enacted*, That there be, and hereby is, granted to the said companies, their successors and assigns, for the purpose of aiding in the construction of said railroad and telegraph line, and to secure the safe and speedy transportation of the mails, troops, munitions of war, and public stores over the line of said railroad, every alternate section of public land designated by odd numbers, to the amount of ten sections per mile on each side of said railroad, and contiguous hereto; and when any said sections or parts of sections shall be found to have been granted, sold, reserved, occupied by homestead settlers, preempted, or otherwise disposed of, other lands, designated as aforesaid, shall be selected by said companies in lieu thereof, within twenty miles of said road, under the direction of the Secretary of the Interior; and as soon as the said companies, or either of them, shall file in the office of the Secretary of the Interior a map of the survey of said railroad, or any portion thereof, not less than sixty continuous miles from either terminus, the Secretary of the Interior shall withdraw from sale public lands herein granted on each side of said railroad and not more than twenty miles therefrom: *Provided*, That forty-two hundred miles of said road most mountainous and difficult of construction, namely, one hundred miles northwardly from the line between California and Oregon, and one hundred miles southwardly from the said line, the lands to be granted shall be double the amount per mile hereinbefore provided, designated as hereinbefore provided, to be selected as the Secretary of the Interior may direct: *Provided further*, That this grant shall not defeat or impair any preemption, homestead, swamp land, or other lawful claim existing at the time of the final location of the line of said railroad; and all reservations by the Government are hereby excepted from the provisions of

this act. The lands herein granted shall be applied to the building of said road within the States, respectively, wherein they are situated.

Sec. 3. *And be it further enacted*, That the right of way through the public lands be, and the same is hereby, granted to said companies for the construction of said railroad and telegraph line, and the right, power, and authority are hereby given to said companies to take from the public lands adjacent to the line of said road, earth, stone, timber, water, and other materials for the construction thereof. Said right of way is granted to said railroad to the extent of one hundred feet in width on each side of said railroad where it may pass over the public lands, including all necessary grounds for stations, buildings, workshops, depots, machine-shops, switches, side tracks, turn-tables, water stations, or any other structures required in the construction and operating of said road.

Sec. 4. *And be it further enacted*, That whenever the said companies, or either of them, shall have twenty or more consecutive miles of any portion of said railroad and telegraph line ready for the service contemplated by this act, the President of the United States shall appoint three commissioners to examine the same, and if it shall appear that twenty consecutive miles of railroad and telegraph shall have been completed and equipped in all respects as required by this act, the said commissioners shall so report under oath to the President of the United States, and thereupon patents shall issue to said companies, or either of them, as the case may be, for the lands hereinbefore granted, to the extent of and continuous with the completed section of said railroad and telegraph line as aforesaid; and from time to time, whenever twenty or more consecutive miles of the said road and telegraph shall be completed and equipped as aforesaid, patents shall in like manner issue upon the report of the said commissioners, and so on until the entire railroad and telegraph authorized by this act shall have been constructed, and the patents of the lands herein granted shall have been issued.

Sec. 5. *And be it further enacted*, That the grants aforesaid be made upon the condition that said companies shall keep said railroad and telegraph in repair and use, and shall at all times transport the mails, troops, munitions of war, supplies, and public stores upon said railroad, and transmit dispatches by said telegraph line for the Government of the United States, when required so to do by any Department thereof, and that the Government shall at all times have the preference in the use of said railroad and telegraph at fair and reasonable rates of compensation, not to exceed the rates paid by private parties for the same kind of service.

Sec. 6. *And be it further enacted*, That the said companies shall file their assent to this act in the Department of the Interior within one year after the passage hereof, and shall complete said railroad and telegraph before the 1st day of July, 1875; and the said railroad shall be of the same gauge as the Central Pacific railroad of California, and be connected therewith.

Sec. 7. *And be it further enacted*, That the said companies named in this act are hereby required to operate and use the portions or parts of said railroad and telegraph mentioned in section one of this act for all purposes of transportation, travel, and communication, so far as the Government and public are concerned, as one connected and continuous line; and in such operation and use to afford and secure to each other equal advantages and facilities as to rates, time, and transportation, without any discrimination whatever, on pain of forfeiting the full amount of damage sustained on account of such discrimination, to be sued for and recovered in any court of the United States, or of any State of competent jurisdiction.

Sec. 8. *And be it further enacted*, That in case the said companies shall fail to comply with the terms and conditions of this act, by not completing said road and telegraph within the time required, or by not keeping the same in repair and fit for use, but shall permit the same for an unreasonable time to remain unfinished, or out of repair and unfit for use, Congress may pass an act to insure the speedy completion of said road and telegraph, or put the same in repair and use, and may direct the income of said road and telegraph to be thereafter devoted to the use of the United States to repay all such expenditures caused by the default and neglect of said companies or company, as the case may be.

Sec. 9. *And be it further enacted*, That the said California and Oregon Railroad Company and the said Oregon Company shall be governed by the provisions of the general railroad and telegraph laws of their respective States, as to the construction and management of the said railroad and telegraph line hereinbefore authorized, in all matters not provided for in this act. Wherever the word "company" or "companies" is used in this act it shall be construed to embrace the words "their associates, successors, and assigns," the same as if the words had been inserted or thereto annexed.

Sec. 10. *And be it further enacted*, That all mineral lands shall be excepted from the operation of this act; but where the same shall contain timber, the timber thereon is hereby granted to said company: *Provided*, That the term mineral lands shall not include lands containing coal and iron.

The amendment was agreed to.

Mr. WILLIAMS. I move to amend the first section by striking out all after the word "completed," in the thirty-seventh line, to the end of the section.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The Chair will inquire whether that is an amendment to the amendment of the committee.

Mr. WILLIAMS. Yes, sir.

The PRESIDING OFFICER. It is not in order to amend that amendment, it having been agreed to in committee; but when the bill comes into the Senate it can be done.

The bill was reported to the Senate as amended.

The PRESIDING OFFICER. The question is on concurring in the amendment made as in Committee of the Whole, which is now open to amendment.

Mr. WILLIAMS. I move to strike out all after the word "completed" in the thirty-seventh line of the first section to the end of the section, as the words are repeated in another section of the bill.

The Secretary read the words proposed to be stricken out, as follows:

Including all necessary grounds for stations, buildings, workshops, depots, machine-shops, switches, side tracks, turn-tables, water stations, or any other structures required in the construction and operating of said road.

The amendment to the amendment was agreed to.

Mr. WILLIAMS. I move to amend the second section of the amendment, in line twelve, by striking out the words "designated as aforesaid."

Mr. POMEROY. I wish to call the attention of the Senate to the fact that by striking out these words, "designated as aforesaid," it will give these companies the even sections outside of the ten-mile limit. The committee have never agreed to that. We give the odd sections and reserve the even sections; but if you strike out the words "designated as aforesaid" it allows them to take the even sections out of the first ten-mile limit to make up the deficiency.

Mr. JOHNSON. Is that the purpose?

Mr. POMEROY. That is the purpose of this amendment. The committee are opposed to it.

Mr. JOHNSON. It never has been done.

Mr. POMEROY. We have never reported a bill to allow them to take both odd and even sections. There is a great pressure upon the committee to induce them to do so; all these railroad companies desire it; but we have refused, up to this time, to grant anything of that kind. In the history of this legislation there is one such instance on record, I believe, where the roads crossed each other, and one company got the even sections and the other the odd; but I think it is against the manner in which we have disposed of the public lands to grant anything of this kind. We reserve the even sections, because it is supposed they will sell for twice as much as the odd sections that are given away. That is the principle upon which we report these bills. I admit that in the mountain regions of Oregon, perhaps, they will never get enough agricultural land to make a road; but that is the fault of the country; it is not the fault of the committee. We cannot guaranty the land all to be good. We reported this bill precisely in harmony with our system, in the way we have reported them all. If the Senate now agree to this amendment proposed by the Senator from Oregon, it will be considered as an instruction to the Committee on Public Lands to report these bills hereafter with a provision giving both the even and odd sections.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order, which is the unfinished business of yesterday.

Mr. WILLIAMS. I hope the Senator from Maine will allow us to get through with this bill.

Mr. FESSENDEN. I would rather not give way. I declined yesterday finishing a resolution in which I was particularly interested for the reason that I desired to go on with the appropriation bill when the hour arrived.

Mr. WILLIAMS. There is to be no other amendment proposed to this bill, and I am willing the Senate should vote at once upon this amendment.

Mr. FESSENDEN. If it creates no debate I will not object.

Mr. WILLIAMS. There will be no debate. The PRESIDENT *pro tempore*. The special order will be laid aside informally if there be no objection on the part of any member of the Senate. The Chair hears no objection. The question is on the amendment offered by the Senator from Oregon to the amendment made as in Committee of the Whole.

The amendment to the amendment was rejected.

The amendment, as amended, was concurred in.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended so as to read: "A bill granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon."

CONSULAR AND DIPLOMATIC BILL.

The PRESIDENT *pro tempore*. The special order, being the bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending 30th June, 1867, and for other purposes, is now before the Senate, as in Committee of the Whole, the pending question being on the amendment proposed by the Senator from Massachusetts, [Mr. SUMNER,] to insert at the end of section two the following words:

And the compensation of William Hunter, Esq., chief clerk of the Department of State, shall be at the rate of \$3,500 a year; and a sufficient sum is hereby appropriated for this purpose out of any money in the Treasury not otherwise appropriated.

Mr. FESSENDEN. It does not state where the compensation is to begin.

Mr. SUMNER. I presume with the passage of this bill.

Mr. FESSENDEN. You should say "from and after the 30th day of June next."

Mr. SUMNER. I should like to have it embrace the last year.

Mr. FESSENDEN. That language will not embrace it, and we never go back in such cases.

Mr. SUMNER. Could we not say "from the 1st of January?"

Mr. FESSENDEN. Oh, no; we should not do that; it would make a bad precedent.

Mr. SUMNER. Then I will insert the words "from and after the 30th of June next."

Mr. FESSENDEN. I wish the Senator would put his amendment in the shape of a new section. It now comes directly after section two.

Mr. SUMNER. I propose that it shall come there.

Mr. FESSENDEN. But you make it come in as a part of section two. It should be a new section.

Mr. SUMNER. I desire to have it as a new section. The Clerk can change it in that respect.

Mr. FESSENDEN. Let it be read again as it now stands.

The Secretary read it, as follows:

And be it further enacted, That from and after the 30th day of June, 1866, the compensation of William Hunter, Esq., chief clerk of the Department of State, shall be at the rate of \$3,500 a year, and a sufficient sum is hereby appropriated for this purpose out of any money in the Treasury not otherwise appropriated.

Mr. FESSENDEN. I will state to the Senator that in the legislative and executive appropriation bill there is an appropriation to pay his present salary, which is \$2,200, and all that it is necessary for the Senator to insert in this amendment is "an amount necessary to pay the additional salary herein provided for is hereby appropriated," &c. Otherwise you make two appropriations, one in the legislative and executive bill, and one here, for the same purpose.

Mr. GRIMES. It ought not to be here at all.

Mr. FESSENDEN. I know that, but I want to perfect it as well as I can. I suggest to the Senator from Massachusetts to make his amendment read, "and the amount necessary to pay the increased compensation herein provided for is hereby appropriated," &c.

Mr. SUMNER. Let it be so changed. When I drew it, I thought that any subsequent bill might be altered with reference to this.

The PRESIDENT *pro tempore*. The amendment will again be reported as modified.

The Secretary read it, as follows:

And be it further enacted, That from and after the 30th of June, 1866, the compensation of William Hunter, Esq., chief clerk of the Department of State, shall be at the rate of \$3,500 per annum; and the amount necessary to pay the increased compensation herein provided for is hereby appropriated out of any money in the Treasury not otherwise appropriated.

Mr. HENDRICKS. The Senator from Massachusetts reported from the committee a proposition, not the one that is now before the Senate. I do not understand that this particular proposition comes before the body with the indorsement of the committee, but I understand that it is his own proposition.

Mr. SUMNER. I beg the Senator's pardon; he will allow me to interpose an explanation. In the committee the subject was discussed in the alternative, and I was authorized, in my discretion, to present to the Senate a proposition in the alternative, as at the moment should seem best. The committee first inclined in favor of the proposition which is now under consideration, but on a second thought it seemed that it might be better to include all the employés of the Department of State, and I was instructed to act accordingly. I presented, therefore, it will be remembered, yesterday, a general proposition, applicable to all the clerks in the employment of the Department of State. That seemed to find little favor; Senators were against it; and I then withdrew it, and substituted the proposition now before the Senate; and on that occasion I assigned some reasons in favor of the proposition which seemed to meet a very generous response from all sides. There seemed to be a general opinion that we ought to do something for this very faithful and eminent public servant.

Mr. HENDRICKS. The proceedings yesterday misled me. I knew that the Senator had stated to the Senate that he was authorized by his committee to propose the amendment which he did propose, and then when he perceived that that did not meet with the favor of the body I understood him to withdraw it of his own motion and propose the amendment now before us. It is a very disagreeable thing to oppose any proposition of this sort, but I cannot see the propriety of selecting one chief clerk of a Department and giving him a compensation so much above the compensation given to other chief clerks. If \$3,500 is the proper sum to give a chief clerk in a Department as salary, I am in favor of it, but if it is not, I am at a loss to know how we shall estimate the value of the services of an eminent man. Are we going to pay particular officers because they are so much better than other officers, or are we going to have a uniform standard of compensation? If Mr. Hunter goes out of his office, his successor then is to have another compensation than that now given to him, I presume. We pay the man, and do not affix the salary to the office. It seems to me that is not right. If his services are very eminent and you feel it proper to do so, pay a sum in gross for them; but do not establish that which will be a precedent in other cases.

As I said at the last session, I am very earnestly in favor of giving an increased compensation to the clerks in the different Departments. I think they are very ill-paid. My knowledge, having been at one time connected with one of the bureaus, justifies me in saying that the compensation given to the clerks of the Departments is not adequate, in view of the talent which is to be found in the Departments, and in view of the expense of supporting families in this city; but I think it is a very unfortunate mode of arriving at justice to take out a particular individual and give him an extraordinary compensation, and say then that all the rest of the starving families of those employed in the Departments shall go without pay. This is to be an argument against doing justice to the other clerks. I do not think we ought to

do it. I think Congress ought to come squarely up and meet the responsibility of the case, and give to the clerical force of the different Departments a proper compensation. I shall not vote for this amendment, for five reasons I have given.

Mr. TRUMBULL. It seems to me the form of this amendment is objectionable. It proposes to pay a person by name a particular salary, not to the officer. Is that usual? I would inquire. So far as my recollection of the statutes extends, the salary is affixed to the office, not to the person. The judge of a court, the head of a Department, the head of a bureau, has so much salary; but here is a provision to give a person by name so much salary. I should like to inquire if that is not unprecedented.

Mr. FESSENDEN. Entirely so.

Mr. SUMNER. I believe it is unprecedented, and the fact that it is unprecedented is a reason for it on the present occasion. The case of Mr. Hunter was presented last evening as exceptional. He is exceptional in the length of his service, in the character of the labor that he has performed, and in the trust which he has enjoyed. Mr. Hunter is exceptional in all these respects; and in drawing the proposition now before the Senate, I thought it better to treat the case as exceptional, so that it should not in any respect be a precedent.

That brings me to the position of the Senator from Indiana. He thinks we ought to embrace all the clerks in the Departments at once.

Mr. FESSENDEN. All the chief clerks, as I understood him.

Mr. SUMNER. I understood that he went even further, and meant all the clerks and employés in the Departments; he thought they were underpaid. I am sure that those in the State Department, where I am most familiar, are underpaid. I think we ought to do something for them: the committee with which I am associated think we ought to do something for them; and it was on that account that yesterday I brought forward the proposition which, yielding to remonstrances from Senators about me, I finally withdrew. I say this to the Senator from Indiana that he may see that I go along with him in that desire. I yielded reluctantly to the expression of opinion about me, and withdrew the proposition. What next? I became satisfied that there was at least one member in that body in the service of the Department of State, whose position, as I have said already, was absolutely exceptional; that if you were disposed to neglect others, you ought not to neglect him; that he had a claim—I may call it even by that very strong term—upon his country, after thirty years of service, for a compensation that should enable him to enjoy, not luxury, but a certain degree of comfort as years begin to creep upon him. When I expressed that opinion, I found there was a general accord about me. Senator after Senator rose to bear his testimony to the extraordinary merits of Mr. Hunter; and the only question at that time—I think the Senator from Indiana was not in his seat—was interposed by the Senator from Maine as to the propriety of making this motion on the bill now before the Senate. I think that I answered satisfactorily that objection.

Then the question was left open simply on the merits of this individual case. Has not Mr. Hunter rendered services to this Government which at his period of life make it proper for us to individualize him by name for the increased compensation which is now proposed? In individualizing him by name, you make no precedent except where you can show similar services. It is not a precedent for raising the salary of any other chief clerk, nor raising any other salary unless where you can exhibit a long series of services under peculiar circumstances such as we can exhibit in the case of this gentleman. I hope, therefore, that the proposition will not be opposed, and I hope that the Senator from Indiana will withdraw his opposition and let it pass unanimously. Let us make this

offering to a good and faithful public servant who has served all the Administrations from John Quincy Adams down to this day, and I believe has enjoyed the confidence of all.

Mr. JOHNSON. Mr. President, the Committee on Foreign Relations, as has been stated by the honorable chairman, were unanimous in thinking that the compensation of all the clerks in the Department of State should be raised. They therefore authorized him, as he has said, to propose an amendment increasing them twenty per cent. That was offered in good faith, and of course supported in good faith by all the members of the committee; but we have found that it is impossible to have it done. The Senate entertain a different opinion; and the committee are not only now aware that in their judgment at least an additional compensation should be given to Mr. Hunter, but that the Senate almost universally concur in that opinion. I submit, therefore, to my friend from Indiana whether it is actually just, because he is unable to compensate all the clerks of the Department, to refuse to compensate one as to whose services we all concur and in whose increased compensation we all unite.

I agree with him that they are very badly paid, and I have often been surprised at their being able to live at all with the salaries they receive, not merely in the Department of State but the clerks in the Departments generally. I think it very bad policy to keep them in the service of the country at a rate of compensation evidently not adequate to their support. It appears to me to present temptations that they may be unable to resist. I have no reason to suppose that they have not been able to resist them; but I think it is bad policy to have in the employ of the Government, particularly in the Treasury Department, officers of this description who have very much to do with the actual administration of the finances of the country, upon salaries which are certainly inadequate to support even any one of them who may be without a family; and how they live as some of them do, with families consisting of a wife and several children, how they even manage to feed them, much less to educate them, has always been a mystery to me. I would therefore unite most cordially with the honorable member from Indiana in having them all increased; but that we are not able to accomplish now. I hope he will permit us at least, and those who think with him that the chief clerk of this particular Department is not paid enough looking to his long and faithful service, to adopt this amendment which gives him a rate of compensation by no means exaggerated.

Mr. GRIMES. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. GRIMES. I desire to say that I am perfectly content to pay Mr. Hunter \$3,500, and if the Senator from Massachusetts will put his proposition in such a shape that I can consistently do so, I will vote for it with great pleasure. We all know the services Mr. Hunter has rendered to the country in that Department. I believe that it would be well to have a second Assistant Secretary of State there; and if the Senator from Massachusetts will put his amendment in that shape I will vote for it most cheerfully; but this idea of singling out Mr. Hunter as the only clerk in all the Departments of the Government who is to receive an additional compensation is invidious, unkind to the rest of the clerks, and will be attended with very bad consequences. I think, in the future. I can see very well how we are going to be annoyed, when other appropriation bills come up, with clerks, friends of ours, who will come here and be constantly importuning to have themselves named, and then we shall have a personal discussion upon the merits and qualifications of each one of those clerks whose name may be suggested by a member from his State or by a member of the Senate who may be interested in him.

Mr. SUMNER. There is an easy answer to my friend from Iowa, and if I can have his

attention I think he will be satisfied, though he is not very easily satisfied where he has made up his mind the other way. I am told that not very long ago a proposition was made to Mr. Hunter that he should become what the Senator from Iowa proposes now, Assistant Secretary of State. He did not enter into the idea; it was not agreeable to him; and for this reason: he saw that the office of Assistant Secretary of State would be a political office to be changed with the change of Administration. He had been there as a public servant knowing only his country for more than thirty years, and he preferred to continue with the humbler title, so I am assured, rather than have another title which might subject him to the vicissitudes of our politics. Now, if we should carry out the idea of the Senator from Iowa, which I know he presents in good faith, we know not that Mr. Hunter would not at the close of this Administration be ejected, with others in a similar situation. I wish to give him this compliment now in his declining years and to assure to him a position from which according to the course of things under our Government he will not be ejected. I wish to give him something which shall be an assurance of the future.

Mr. FESSENDEN. I shall vote against this proposition, for the reason which I before gave. I was anxious to have it put into good shape in case the Senate should pass it, and therefore suggested the modification. I shall vote against it, not that I am opposed to Mr. Hunter having an increase of salary, for I think he ought to have it, because I esteem him to be a very valuable man, and he has been there so many years that he is almost indispensable. With regard to the objection which the Senator from Massachusetts makes to the suggestion of the Senator from Iowa, I will only say that he will be equally liable to removal as chief clerk as he would be as Second Assistant Secretary; but my own opinion is that no Administration coming in there could or would dispense with him, whatever position he might fill. Mr. Hunter is not a political man in any sense. In my judgment no new Secretary of State could get along for twenty-four hours without Mr. Hunter's aid and his knowledge of the affairs of the office. A man might write dispatches exceedingly well; but as to managing the office, he could not do it unless he had more experience than any new man has, coming in there, or any man gets who stays there for years. He is the *factotum*, in my judgment, in regard to most of the things done there.

But my objection is twofold. I stated it frankly to the honorable Senator. I do not like it on this bill. To be sure, there is a provision on this bill which looks something like it, but that was put on in the other House, and we did not see fit to strike it out, it being here, because we did not want to differ with the House of Representatives on that subject. But that does not, to my mind, justify putting on another incongruous provision. I think the proper place for a provision creating a new civil office, and providing a salary for it, is on the legislative and executive appropriation bill, which is now on our tables and will be taken up by and by.

In the second place, I do not like the idea of naming a particular individual in this way, although it might have the effect the honorable Senator supposes. To name him personally, and give him the additional compensation as chief clerk, would be productive of the evils which are spoken of. I would rather make for him something in the nature of a permanent position, as suggested by the Senator from Iowa. That he ought to have an increase of salary, from his very long services and his position in the Department, acting, as he does very frequently, as Secretary of State, I am entirely satisfied; and that I should be willing to vote for; but in the position in which the honorable Senator from Massachusetts has seen fit to place the proposition, it cannot receive my vote, although I do not feel disposed to make any active and strenuous opposition to it.

Mr. SUMNER. Do I understand that the Senator would be for a proposition to make him Assistant Secretary?

Mr. FESSENDEN. Not on this bill.

Mr. GRIMES. You can carry it in that shape.

Mr. SUMNER. It is just as much in order on this bill as is the proposition to make a Solicitor.

Mr. FESSENDEN. I admit that.

Mr. GUTHRIE. The chief clerk of this Department, I have no doubt, is very essential to the office, and no new Secretary would like to undertake the business without the information possessed by him, or by some one who had been for some time in the office, and had taken some pains to understand the business. This gentleman knows more about our relations with all the Governments of the world than any other individual in the State Department. He has been there a very long time; he has frequently discharged the duties of Secretary of State, and he is very inadequately paid. I confess that I thought, when the place of Assistant Secretary of State was created, it should have been offered to him, and he should have had the additional compensation which that place would have given him. I am in favor, however, of giving him additional compensation in some form, because it is a real necessity at the present time. If gentlemen can put the proposition in any more appropriate form than that in which it is now presented, I shall be glad, because I feel constrained, knowing this individual and his essential services to the Government, to vote for an increase.

The PRESIDING OFFICER. (Mr. CLARK in the chair.) The Secretary will call the roll on the amendment of the Senator from Massachusetts.

Mr. FESSENDEN. I understand that the Senator from Massachusetts proposes to withdraw the amendment and offer one in a different form.

Mr. SUMNER. I was about to substitute a proposition following out the suggestion of the Senator from Iowa, and I am drawing it up now.

Mr. FESSENDEN. I will move one or two amendments in the mean time.

Mr. SUMNER. Very well.

The PRESIDING OFFICER. Does the Senator from Massachusetts withdraw the present amendment?

Mr. SUMNER. For the present.

The PRESIDING OFFICER. It may be withdrawn by unanimous consent, the yeas and nays having been ordered. The Chair hears no objection and the amendment is withdrawn.

Mr. FESSENDEN. I move to amend the bill by adding at the end of section two these words:

To commence on the 1st day of July, 1866, and the amount necessary to pay the same is hereby appropriated.

Mr. TRUMBULL. I suppose it will be in order to move to strike out the whole of section two, after that amendment shall have been made, because I intend to make that motion.

The PRESIDING OFFICER. That motion will then be in order.

Mr. TRUMBULL. I do not think we should go on making these Solicitors.

Mr. FESSENDEN. Let him perfect the section first.

Mr. TRUMBULL. Very well.

The amendment was agreed to.

Mr. FESSENDEN. I move in line ninety-nine of section one to insert the word "five" after "twenty" and before "thousand;" so as to make the gross appropriation for salaries of consuls general, consuls, and commercial agents \$425,000. We have provided for some new salaried officers here, and it may be well therefore to add \$5,000 to the appropriation.

The amendment was agreed to.

Mr. TRUMBULL. I now move to strike out section two of the bill.

Mr. SUMNER. I hope the Senator will allow me to finish my amendment.

Mr. TRUMBULL. I hope the Senator does not mean to put it on as an amendment to section two.

Mr. SUMNER. I am not going to put it on section two, but to have it as a provision by itself.

Mr. TRUMBULL. Very well, then, it is in order for me to move to strike out section two, and I do so.

Mr. SUMNER. I believe it is not in order until the committees get through with their amendments.

Mr. TRUMBULL. I suppose it is in order at any time for me to make a motion in reference to the bill whenever I can get the attention of the Chair.

Mr. SUMNER. Is it not the rule of the Senate that the committees are first to get through with their amendments? I was going on with the business of my committee and have not yet got through.

The PRESIDING OFFICER. Does the Senator from Illinois withdraw his motion?

Mr. TRUMBULL. No, sir. There is no other motion before the Senate with reference to the bill; and I move to strike out section two.

Mr. SUMNER. If I can have the floor on the business that was pending I will move a section to come in immediately before section two, from the Committee on Foreign Relations.

Mr. FESSENDEN. I ask the Senator from Massachusetts if he is authorized by the committee to recommend the creation of a new office.

Mr. SUMNER. This is carrying out the main idea of the committee.

The PRESIDING OFFICER. The amendment of the Senator from Illinois is in order, unless withdrawn.

Mr. TRUMBULL. It is not a matter of much importance, but it is very manifest that the Senator from Massachusetts, unless he is the committee himself, cannot make these motions from any committee. He has not charge of the bill.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Illinois. That Senator moves to strike out section two. The section will be read.

The Secretary read section two, as amended, as follows:

SEC. 2. *And be it further enacted*, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, an officer in the Department of State to be called Solicitor to the Department of State, at an annual salary of \$3,000, to commence on the 1st day of July, 1866; and the amount necessary to pay the same is hereby appropriated.

Mr. TRUMBULL. In making this motion, I am not governed by any considerations of objection to having a law officer for the State Department, if one be necessary; and I am not prepared to say that it may not be necessary to have advice in connection with that Department; but the question which influences me is this: before the war the Law Department of the Government was the Attorney General's Department, and all the other Departments—the State, the War, the Navy, the Post Office, the Interior—whenever a question arose about which there was a doubt in the construction of a law, referred that question to the Attorney General's office. There was an exception, I think, in the case of the Treasury Department, which has had a Solicitor for some years, and perhaps it is necessary that there should be a Solicitor in the Treasury Department, not for the purpose of advising that Department as to the construction of laws, but for the purpose of aiding in the collection of claims.

Mr. JOHNSON. The Solicitor of the Treasury was appointed for the very purpose of superintending the prosecution of suits or the defense of suits in which the Treasury was concerned; but when the Secretary desired any opinion he always consulted the Attorney General.

Mr. TRUMBULL. So I supposed; whenever a legal opinion was desired by the Secretary of the Treasury, it was obtained from the

Attorney General, and the Solicitor in the Treasury Department was appointed merely to attend to the collection of claims, and there may be a propriety for such an officer there. But during the war the War Department had a Solicitor attached to that Department, and so also had the Navy Department. The Post Office Department has now a Solicitor, and a bill is pending, I think, to give an Assistant Solicitor to the Treasury Department.

Mr. GRIMES. The office of Solicitor of the Navy Department expires with the war or within one year thereafter.

Mr. TRUMBULL. I was not aware of that limitation. This is a provision now to establish a Solicitor in the State Department. In my opposition to it I am governed entirely by general considerations. I think that the Attorney General's Department should be an independent Department of the Government, and the construction of the laws to govern all the Executive Departments, the Interior, the Treasury, the War, the Post Office, the State, the Navy, should be the same and should come from the Attorney General's office. If the Attorney General has not now sufficient force in his office give him one, two, or half a dozen assistants, I care not how many, so that the public service requires them, and let one of those assistants, if you please, attend to business that peculiarly pertains to the War Department, or pertains to the State Department. By having them all together and all under one head you will have one construction of the laws. That is not the case now. A member of the Senate stated to me the other day—I think the Senator from Nevada; some Senator, I know—that he had been around from one Department to another and had found conflicting constructions of statutes which subjected parties doing business with the Government to a great deal of difficulty, expense, and uncertainty. This ought not to be. There should be a head to the Law Department of the Government as well as to every other.

I will state here that I have had some consultation with the Attorney General on this subject, and that a bill can be prepared which shall place this whole matter under one head. I think it very improper to be making a Solicitor for each one of the Departments. If we are to go on with that system we might as well abolish the Attorney General's office; we do not need it at all. Instead of doing this, let us increase the force of the Attorney General's office as much as may be necessary to give all the advice that is needed in the construction of laws to the various Departments.

I would not interfere with the Solicitor of the Treasury Department because, as was stated by the Senator from Maryland, he is not placed there for the purpose of construing statutes and fixing the rules by which the Departments of the Government are to be governed, but rather to attend to the collection of claims, and that Department may need such an officer. I suppose, from the fact that the office was established there a long time ago, that it is necessary; but the Government having for eighty years been able to get along without a Solicitor in the State Department, and having been able to get along through the war without such an officer, it can, I think, continue to get along without such an officer now, if there is a law officer to whom the State Department can apply for the construction of laws applicable to that Department. I hope the Senate will consent to strike out this second section, and let us have some uniform rule in reference to these Departments.

Mr. FESSENDEN. I hold in my hand a letter from the Secretary of State on this subject, which I will read:

DEPARTMENT OF STATE.
WASHINGTON, February 6, 1866.

SIR: The great number of claims of citizens of the United States on foreign Governments and of the citizens and subjects of foreign countries on this Government growing out of the late civil war and the importance of the principles involved in them, make it indispensable, in my judgment, that the head of

this Department should have the assistance of a professional gentleman properly to dispose of those subjects. To that end I recommend that an appropriation be inserted in the civil and diplomatic appropriation bill of \$3,000 for the compensation at that rate by the year of an officer to be called the Solicitor to the Department of State.

I have the honor to be, sir, your obedient servant,
WILLIAM H. SEWARD.

Hon. WILLIAM P. FESSENDEN, *Senate*.

The recommendation of the Secretary, it will be observed, is that it be inserted in the civil and diplomatic appropriation bill. There is no such appropriation bill at present. There is the legislative, executive, and judicial bill, and the diplomatic and consular bill. In former times, there was but one bill entitled as the Secretary has stated.

I differ with the honorable Senator from Illinois on this subject. I do not see the propriety of making so large an establishment of the Attorney General's office. With regard to the Treasury Department, my experience satisfied me that they could not get along there at all without a Solicitor. Questions are arising every day upon which you must have an immediate decision, and the officer to examine the papers and give the decisions should be an officer who is subject to the control and under the direction of the Secretary of the Treasury. He cannot send questions that arise there, involving the examination of papers to see what the statutes are on the particular subject, to the Attorney General's office and wait until the Attorney General, or somebody under his direction, is in a condition to advise him with reference to it. The office of Solicitor of the Treasury Department has existed now for over twenty years, and the business of the Solicitor is now very large. It is true it may originally have been the case that he was appointed merely to look after claims, although I am inclined to think that is not so; it has not been so within my recollection; but the business he has to do now is multiform. There is a great variety of questions arising every day for the Secretary to decide, upon which he wants to know what the law is, and know it immediately, and it is impossible for him to examine them, and he sends them to the Solicitor to have an immediate opinion. The Solicitor lays aside other business which can be disposed of afterward, and attends to the directions of the Secretary of the Treasury. I am satisfied that that officer is indispensable.

I can understand from the letter of the Secretary of State why at the present time he needs this officer, and why he has not needed him before. During the war, claims were not presented to any considerable extent to that Department; before the war there were none; but he says very properly, and we can understand it, that out of the war have grown many claims of foreigners upon our Government, and of our citizens upon foreign Governments. Those must be undoubtedly attended to through communications made by the Secretary of State. He is the person to communicate with foreign Governments upon all these subjects; and with the variety of matters arising there it is impossible for him to examine these questions personally. I have no doubt about it. The duties which he is called upon to perform in the ordinary course of correspondence, &c., are enough to occupy all his time.

Now, then, there being this large number of claims there at the present time, he must have an opinion, upon those claims, of somebody else, which he can understand and appreciate, or else he must examine them himself and form his own opinion. He cannot examine them himself. They are peculiar to and appropriate to his office, and he would be exposed to a great deal of inconvenience if he were obliged to send every claim that comes from foreign Governments or from foreigners, or from our citizens upon foreign Governments, to the Attorney General's office, to an officer not under his control or direction, to be examined, and a report made by the Attorney General; and as the answer must be made by the Attorney General himself, it would lay a very

considerably increased burden upon him. To be sure, as the Senator from Illinois says, you may make the Attorney General's office as large as he states it, with half a dozen Assistant Attorneys General, and they may be divided, one for the Treasury Department, one for the State Department, and one for every other Department, if needed. How far they will be needed for other Departments I do not know; but my own belief is that the same rule would apply to the State Department, with reference to these classes of claims, that applies to the Treasury Department. I am satisfied that no Secretary of the Treasury, with the business that is to be done there, the great variety of cases that arise in regard to which he must have the statutes examined, and have an opinion upon which he can act, which he cannot do himself, could get along if he was obliged to send all that current business out of his office to get an opinion of somebody else, at his own convenience, and subject to the interruptions of others. He must have it at the instant; and, to a certain extent, the same must be true of the Secretary of State as regards all these questions directly before him. The officer to look up the information to be stated to him should, in my judgment, be an officer under his control and direction, and should do what he wants done at the time he wants it done, and he ought not to be subjected to another Department to get the information required. That is my belief with regard to it; and I shall be opposed altogether to changing our system, which has worked exceedingly well in the Treasury Department, if it is proposed to make a new arrangement of the law, as suggested by the honorable Senator from Illinois.

So in the War Department. During the war the Secretary of War could hardly have got along if he had been obliged to send all these questions out of his Department to the Attorney General—everything that arose there to be taken up and decided—and receive the information required when the business of the Attorney General's office would allow it to be done.

I am very unwilling, when a system has been found to be a good one in its operations, for the sake of symmetry merely, or what would be supposed to be symmetry—because it goes no further than that—to change that whole system and enlarge the Attorney General's office. I think that each Department should be independent, so far as the current business is concerned. To be sure, every Secretary is entitled to the opinion of the Attorney General. My practice was, when an important matter arose upon which I wished very particular to rid myself of responsibility, to pass it over to somebody else, to get the opinion of the Attorney General; but, as a general rule, I think it would be better that the ordinary current business and responsibility should be left with the Department where the question arises. I therefore, for these reasons, am opposed to the proposition of the honorable Senator from Illinois, and think it would not be wise to adopt it.

Mr. HOWARD. I concur entirely with the honorable Senator from Illinois in the views which he has presented to the Senate in favor of striking out the second section of the bill. I doubt very much the propriety of multiplying the subordinate law officers in the various Departments of the Government. It leads undoubtedly to a diversity of decision and opinion in those various Departments, whereas it is necessary that there should be harmony and uniformity in the construction given to the laws during the course of their administration. It is made the duty of the Attorney General, by law, to give advice and legal opinions to the various heads of Departments and to the President of the United States whenever he is called upon to do so; and although we may appoint a Solicitor for the Department of State, it will still be the right of the Secretary of State to call upon the Attorney General for his opinion upon any question that he may see fit to submit to him; so that the duty of the Attorney General is by no means lighter by the retention

of the second section of this bill, and the appointment of a Solicitor under it.

Owing to the complicated nature of the Treasury Department, Congress, many years ago, saw fit to create the office of Solicitor of the Treasury. I have heard no complaint, it is true, of that; still, it has always appeared to me that the most consistent course would have been to confide all questions of law that arise even in that Department to the Attorney General, so that his decisions may be uniform, and so that his construction of the various acts of Congress may be uniform, and be understood to be uniform throughout the United States.

During the war, owing to circumstances of which we are all aware, Congress authorized the appointment of a Solicitor to the War Department, and I believe the country has not complained of that appointment. There seemed to be a necessity for the employment of such an officer owing to the great multiplicity of questions that arose during the war and the pressing necessity of an immediate decision upon them from time to time. I think that necessity at present has ceased, and I think we may dispense with the services of the Solicitor of the War Department without injury to the public service.

But, sir, the questions which ordinarily and naturally come before the Secretary of State are of a character on which, it seems to me, it is necessary there should be a decision of the highest law officer of the Government. In that Department are considered from time to time questions of international law of the gravest and highest importance—questions which of all others deserve to be submitted to the calm consideration of the Attorney General, and ought not to be left, in my judgment, to the decision of any inferior law officer. Questions respecting the true construction to be given to treaties, indeed all questions that relate to international law, must naturally come before the Attorney General of the United States; and I object to submitting those questions, or any of them, to an inferior law officer without the concurrence of the Attorney General of the United States. I see no necessity, I must confess, for placing a Solicitor under the control of the Secretary of State. If any question of importance arises in that Department, the Attorney General is the proper functionary to determine it for the Government. He, and he alone, ought to be held responsible for the decision of the question, in case the Secretary of State should deem it necessary to take his opinion. It seems to me the creation of this office of Solicitor to the State Department is entirely an anomaly; it is without necessity so far as I can see, and I shall vote to strike out the second section for that reason.

I do not see the necessity of giving the Secretary of State a Solicitor to act under his especial instructions and control. It is generally supposed that the Secretary of State is, or should be, a gentleman of such intelligence and such information as to make it unnecessary to refer ordinary questions of law to the Attorney General; that he is competent himself to decide most of the questions which come before him; and I think undoubtedly that is true in the case of the present Secretary of State. I do not see the necessity, as I remarked before, of treating another office to accommodate some favorite, under the control and direction of the Secretary of State, and I shall vote against it.

Mr. SUMNER. After the very full and accurate statement made by the Senator from Maine, I should deem anything from me superfluous had it not so happened that my attention was drawn at least three years ago to this very question. It is fully three years ago that I received a communication from the Secretary of State similar to the one which the Senator from Maine has read to-day, and from that time to the present my attention has been drawn to the necessity of this office. It has often been the subject of conversation when I have been at the Department of State. I made myself, at least three years ago, acquainted

with what I might call the necessity of such an office there. Senators all recognized the necessity of such an office during the war in the War Department; and my friend from Michigan, I think, voted for it. I thought at the time there was an equal necessity for the office in the State Department growing out of the new condition of things, carrying with it a class of business for the consideration of that Department which it had never had before.

That brings me to the precise point which has been presented by the Senator from Illinois, and afterward by the Senator from Michigan, that this office is not necessary in the Department of State; and they proceeded to argue that whatever in the way of legal opinion may be required in the Department of State should be referred to the Attorney General. It seems to me that my friends, when they press that argument, do not take into consideration the precise nature of the business which it is proposed to submit to a Solicitor in the State Department. If it were what perhaps may be compendiously called the great business or the great questions of law that may arise in that Department, I should agree with both of those Senators, that it would be advisable that they should be submitted in the most solemn form possible to the highest law officer of the Government. Probably if such questions should arise in the Department of State, requiring any legal opinion, they would be so submitted. But, as I understand it, the necessity which it is proposed to meet now is of entirely a different character. It refers to matters of what I may almost call current business, occurring, if not daily, at least weekly, on which the Department must express its opinion. For the most part, this business grows out of claims, first, by our citizens on foreign Governments, and secondly, by the subjects of foreign Governments on our Government.

Now, for instance, to take the first class, the claims of our citizens on foreign Governments; we all know that there is a large class of claims growing out of the depredations of the Alabama and other cruisers that have sailed out of British ports, amounting to millions of dollars. Before these claims can be presented to the British Government they must be reduced to some form. They should at least undergo some consideration on the part of some functionary of our Government to the end that we should not put forward mere shadows. Our Government owes it to itself to ascertain that the claims have a certain validity, at least in form. How can that be done? As I understand it, only through some legal officer, some person familiar with that business, who can attend to it specially, and in whom the Secretary of State can rely. It may be said that the Secretary of State can attend to it himself. How so? Absorbed in correspondence of a political character, or of a diplomatic character with foreign Powers, he can have no time to enter into the duties of a solicitor or of an attorney to grind out a claim and reduce it to form in order that it shall be properly presented to a foreign Power. That is a service which ought to be rendered in the Department, under his eye, by some person in whom he has adequate confidence.

That is one side of the case—claims of our citizens on foreign Governments. Then comes the other side—claims of foreign Governments on ours. The relations which I bear to the business of the Senate have made me perfectly familiar with that class of business. It is within my personal knowledge that but few of the Governments of Europe at this moment have not very large claims on our Government, growing out of the recent rebellion. I say nothing of the validity of the claims. Suffice it to say that they are presented. Those claims are entitled at least to a respectful consideration; they should be entertained to a certain extent, so that when our Government passes upon them, they may at least have a reasonable degree of knowledge with reference to them. But can the Secretary of State obtain that reasonable degree of knowledge? For

instance, there are claims at this moment presented by the minister of Prussia, and I understand that the subjects of the claims are scattered throughout the whole country. Can the Secretary of State himself, by his own study, qualify himself to deal with those claims? Then there is another set of claims presented, which also comes within my own knowledge personally, by the minister of the Hanse Towns, and the subjects of those claims are scattered also throughout the whole surface of our country. Must not the Secretary of State be aided by some professional person in the first audit of those claims? I submit clearly that he must. I might go through, also, with other nations, and show you the constant recurring necessity of such an officer in aid of the Department of State.

I submit, therefore, that my learned friends, when they would transfer this duty to the Attorney General, do not conceive adequately what it is. They imagine that we propose this officer merely to decide on what I have already called great questions of jurisprudence; but it is no such thing. Such questions would naturally go to the Attorney General; but the business which the officer it is now proposed to establish must consider, would not, in the ordinary course of things, go to the Attorney General. The Department of State could not be conducted on that system. It must be handled at home; and to that end, I agree that an officer to be called a Solicitor should be appointed there; who should be in the Department, always within call and ready to give his counsel and aid and diligence to the Secretary of State.

Mr. FESSENDEN. I wish to add also that Senators, I think, misapprehend the question, from a want of familiarity with the business which is transacted at the Departments. Take, for instance, the Treasury. A question comes up for the Secretary to decide under the statute. He must decide it under the statute. That is a matter of business occurring every day. There are more or less of them. Then some question comes up and he is not exactly familiar with the application of the law to the facts; there is some doubt about it; it is not clear; and yet it is before him for decision. Now, what used to be the way of doing that? He had some clerk in the Department who had some legal knowledge. He would at once pass it over to that clerk to examine the case, and state what the law was and the sections of the law. It is the business in his own Department; he cannot send out the paper to be examined by another Department, to get a formal opinion on the subject. There is no time for it, and no necessity for it. In view of that, and of the inconvenience arising there, it was found necessary to have an officer of a higher grade than a mere clerk, whose opinions would be better than you were likely to get from a man receiving a small salary serving there, although he might be a creditable lawyer. For that reason the office of Solicitor was established.

Now, it comes to the same thing in the Department of State. Strike this section out, and what would the Secretary of State be obliged to do? He must pick out some clerk in his Department to do this work, and to report on the cases to him. That will be the amount of it. But on account of the war there is a great variety of these questions that require something better than the opinion he could get from a clerk upon the subject. He wants an officer of a higher grade, to be continually at his hand, to state the facts and the questions of law arising out of each case. The idea that all these papers, this infinite variety of claims and subjects in each Department, must be sent out of that Department to another—every-day business—to be examined, would create infinite confusion. It could not be done, and would not be done.

Mr. HOWARD. It has been done for about eighty years past.

Mr. FESSENDEN. I say it has always gone on inside of the Department; and the

question here is not whether you will have them sent out to another Department, but whether you will have an officer of a higher grade and of more intelligence—a man whom you cannot get for \$1,800, the salary of a fourth-class clerk—to advise the Secretary as to the facts on these questions. They cannot send these papers out of the Department. If they were required to be sent to the Attorney General's office they would lumber up that office to such an extent that you would require a new building entirely for his Department, with the number of papers that would come into his possession, and it would lead, in my judgment, from the little observation I have had, to infinite delay and infinite confusion in the Departments. That is what I think about it. The real question is, not whether you will send them to the Attorney General—for that is impossible; you cannot send the business of other Departments there—but whether these questions, the infinity of them that now arise, growing out of the war and claims on both sides, are of importance enough to allow the Secretary an officer, with the pay of \$3,000, an officer of a higher class than he is at present able to employ. That is the simple question; because, to attempt to carry out the idea of the Senator from Illinois on the subject would, in my judgment, be an entire failure, and must necessarily be so.

Mr. TRUMBULL. How could it be a failure when this Government has been carried on in that way always until 1860?

Mr. FESSENDEN. It has not been carried on in that way.

Mr. TRUMBULL. There had been no Solicitor in any Department except the Treasury before 1860.

Mr. FESSENDEN. I will tell you how it has been carried on. Great questions, as the Senator supposes, arising in the Treasury Department, are sent to the Attorney General for an opinion. That has always been done; that will be done now; but I tell him there are hundreds of questions coming up from day to day in the Departments that you never think of sending out of the Department, and which could not be sent out of the Department without making confusion in the business of the Department. You cannot do it in the way the Senator proposes; it would not be done; and the only question is, whether you will have an officer of a higher grade to attend to these matters or not. There has not been a necessity for such an officer in the Department of State until at present. But the Senator must see that there will be a very large number of these claims. The Secretary of State has been able hitherto, from the very little business to be done in the Department, to attend to those questions and examine them himself. He would only receive one occasionally. Now they come in in very large numbers. That is the difference.

Mr. TRUMBULL. I never contemplated that every question in regard to the settlement of a claim and every question in regard to what a statute was, was to be sent out of the Department. I never supposed that. I supposed that the Government would be conducted just as it had always been conducted up to 1860; that when the question involved was the construction of a statute of general importance, about which there was a dispute, it would be referred to the law officer of the Government, and that construction would govern the Secretary of the Interior as well as the Secretary of War. But how is it now? Why, sir, the district attorneys in the United States are receiving instructions one way from one Department and another way from another Department; and what are they to do? I have had a letter within a few days from the district attorney for the northern district of New York—I believe it is in my committee-room now—in which he says he has had one sort of instructions from the Attorney General and conducted his business one way under those instructions, and that now he ascertains that the suit which he was conducting in the court is taken out of his hands by an instruction

from one of the Departments of the Government.

Mr. GRIMES. What Department was it?

Mr. TRUMBULL. That came from the Treasury. The case was connected, in some way, with the revenue. He was prosecuting the suit; and he writes me that the suit had been settled for three weeks, and he knew nothing about it, without the knowledge of the court or anybody else—a case pending in court.

Mr. FESSENDEN. Very likely, and very properly.

Mr. TRUMBULL. No, not very properly. Surely the Senator from Maine does not mean that there should be that want of harmony between the different Departments of the Government. He does not mean that when he, as an attorney, is prosecuting a suit, his client, or anybody else should settle that suit without giving him notice.

Mr. FESSENDEN. If it is within the power and jurisdiction of the Secretary of the Treasury to adjust it, it is very proper that he should adjust it.

Mr. TRUMBULL. If he did adjust it he should not do it in that way. I know the Senator would not like a client of his to do that if he was attending to a suit for a private party in a court.

Mr. FESSENDEN. Let me say to the honorable Senator from Illinois that the business of the Treasury Department is not conducted exactly as he used to conduct his law office in the State of Illinois. That is the difference between the two cases. One is a little larger than the other, and involves other questions.

Mr. TRUMBULL. Undoubtedly; but I suppose we may illustrate great things by small ones.

Mr. FESSENDEN. Not always.

Mr. TRUMBULL. It is not an improper illustration, I think, when speaking of a practice which prevails, where an officer of the Government is charged with a duty and is in the exercise of that duty, and he finds that another Department of the Government, without any notice to him, has disposed of the business which is intrusted to him. I know very well the Senator from Maine does not think that proper, because the district attorney might be putting the Government to expense by summoning witnesses and preparing to try a case in court which had been disposed of without his knowledge. That should not be. That is a small matter, the Senator says. I only mention it by way of illustration.

Now, I do not propose that every question that arises in the Departments is to be sent to the Attorney General's office for a legal opinion. I never contemplated any such thing as that. That was not the practice of the Government during the first seventy years of its existence. Until 1860 no such thing as a Solicitor in the various Departments of the Government was known, with the single exception of the Treasury Department. Since then we have been multiplying these officers. Now, if you will notice the letter of the Secretary of State, it is not simply in regard to claims that he desires to have a Solicitor appointed in his Department, but he says that important principles of law are to be settled, international principles. If international principles of law are to be settled, they should not be submitted to a Solicitor employed in one of the Departments of the Government, but they ought to go to the head of some Department. They are the most important questions that can be settled, and may involve the honor and faith of the nation.

Mr. FESSENDEN. They go to the head of the State Department.

Mr. TRUMBULL. Very well. In England we know that the opinions of the law officers of the Crown are taken when great questions of international importance are involved of a legal character, and I apprehend it would be so here. It ought to be so here.

Mr. SUMNER. But in the British Foreign Office there is a person whose particular duty it is to grind out these particular classes of claims.

Mr. TRUMBULL. I apprehend that the general class of this business that is spoken of would never go to the Attorney General's office, and therefore the objection does not obtain which the Senator from Maine makes.

Mr. FESSENDEN. Who is to do it?

Mr. TRUMBULL. Let it be done just as it was always done before 1860. This was a great Government before that.

Mr. FESSENDEN. I know it was; but then we did not have these claims.

Mr. TRUMBULL. The Department did not have this Solicitor then. We had a war in 1812; we had a Mexican war; and we have been able to conduct the Government without having an Attorney General in each of the Departments of the Government, for that is what this proposition amounts to. The objection to it is the diversity it leads to in the construction of law; the same opinions do not obtain in the different Departments of the Government. I think it would be much better for the public service that there should be one officer to put the construction upon a statute which is to govern all the Departments of the Government. It is a matter of public interest, as I conceive, and best for the public service. I have suggested it to the Senate. The Senate will do with it what it thinks proper. I think the practice of establishing these Solicitors in the different Departments is a very bad one. If the Senate think differently, they will retain this section. That is all there is of it. I have discharged my duty with respect to it.

Mr. FESSENDEN. Let me ask the Senator another question. In the Internal Revenue Bureau there are a large number of questions arising every day. They have an officer there—he is not called a Solicitor—to whom those questions are referred and to whom a salary is paid—I do not know how much—under the general authority giving additional compensation, where it is absolutely necessary, to certain officers, more than the amount allowed by law; I believe he gets \$2,500. Does the Senator suppose that all the questions of law arising there, which come up every day, can be settled at the Attorney General's office?

Mr. TRUMBULL. Of course not.

Mr. FESSENDEN. Then you must have a Solicitor of that bureau—it is absolutely necessary; or you must have a man, no matter what you call him—you may call him a clerk, if you please—but an able lawyer, a man who can take up the questions and examine and settle them; unless you mean to declare that, in addition to all the immense business he has to do, the head of that bureau must settle all these questions and examine them for himself. This has got to be a very great concern of late years, and you cannot take questions that arise in the bureaus of the Departments appropriate to them, and send them out of the Departments to be settled.

Mr. TRUMBULL. I suppose the Commissioner of Internal Revenue is appointed for the very purpose of executing the internal revenue law. Most of it is matter of detail. It is not upon every section of the law that there will be a controversy. He establishes rules and regulations to carry the law into effect. Occasionally some questions of doubt in the construction of a statute may arise, on which it would be very proper for him, probably, to take the opinion of the head of the Department, the Secretary of the Treasury, and through him of the Attorney General. I believe the bureaus do not apply directly to the Attorney General's office. I am not quite sure what the practice of that is; but I suppose the application for the opinion comes from the head of the Department. But most of these questions are settled by the heads of the bureaus. It is not to be presumed that there is to be a controversy about every section of a statute or the execution of it.

Mr. FESSENDEN. Does the Senator know that within the first two years of the establishment of that bureau there were legal questions of construction settled which were published in a volume of about four or five hundred pages?

Mr. TRUMBULL. Undoubtedly; and a great deal of that there was no controversy about in the world. Very few of its points were controverted points. Some construction was to be put upon the statute and the mode of executing it, and the Commissioner at that time had to inaugurate the system.

But I have said all I desire to say about this matter, and detained the Senate longer than I had any intention of doing in reference to it. I regard it as a matter of general importance in the administration of the Government affairs to preserve uniformity of decision, and harmony in the Government, and between the different Departments of the Government. I have thought it better that we should not create these law officers of the different Departments. I believe the Senate understand it. I shall be satisfied with whatever decision they make. My motion is to strike out this section, with a view, if it is stricken out, of increasing the force in the Attorney General's office sufficiently to discharge what I suppose would be the proper duty to be discharged by the Law Office.

Mr. SUMNER. I will only make one remark. It seems to me the Senator from Illinois strangely forgets the change in the condition of things. He asks why we should not go on now as we have for the previous sixty years. There is a very sufficient answer: the machinery of the previous sixty years is not adequate to the work which we have to do now. In some places you are obliged to change the machinery; in other places you are obliged to add to it. We are told that new occasions teach new duties, and I believe that the great occasion of our war has taught new duties to the Government of this Republic. There is no part of the Government which can be conducted now and in times to come as it was conducted before. A larger machine will be required. New persons must be summoned to the work, and among those who are to be summoned to the work is the officer which the Senator from Illinois seems so much disposed to oppose.

Mr. JOHNSON. The object of this amendment, as I understand, is to provide a Solicitor for the State Department. The opinion I am about to express I have entertained ever since I have had any knowledge of the actual operation of the Government. It is certainly advantageous to the several Departments of the Government, as far as the ordinary business of each Department is concerned, that they should have some one who would undertake what might be considered rather the clerical duty, or the duty that should belong to the head of the Department; but since these Solicitors have been provided for, as is the case in the Treasury Department and in the War Department and, I believe, in the Navy Department, the practical result, I think, has been that the Attorney General has very seldom been consulted on any question.

Another result of the failure to consult the Attorney General has been that different constructions have been placed upon the same laws, very much, as I think, to the injury of the public service. I had supposed that when an Assistant Secretary of the Treasury was provided for, and an Assistant Secretary of War—we have two or three of them—and an Assistant Secretary of State—and I believe my friend from Massachusetts proposes to increase the number, to which certainly I have no objection—that with the aid of these Assistant Secretaries the business of the offices would be properly conducted, and that there could be no occasion at all for any extra aid upon questions of law other than that which is to be had by a reference to the Attorney General's office. The honorable member from Illinois is right in saying that the act of 1789—and there is no subsequent law, that I am aware of—which creates the office of Attorney General, makes it his duty to answer all questions propounded by the President or by the heads of Departments. No bureau officer, no one less than the head of a Department, has a right to con-

sult the Attorney General. It is very obvious that the wholesome operation of the Government depends very much upon the uniformity of the construction which can be given to the laws.

Now, in relation to the Department of State, the honorable member from Massachusetts, who from his situation as chairman of the Committee on Foreign Relations has become very familiar with the actual condition of the Department, says there are pressing now upon the Department claims made by citizens of foreign countries and claims which our citizens suppose they have upon foreign Governments; but it seems to me that claims of that description, of all others, are the claims which should be submitted to the Attorney General—I mean, not the details of the claims, but the principle upon which those claims are to be placed. It would never do, and I do not know that the Secretary of State, or that the President would consent if the Secretary of State was disposed to do it, to make a claim upon a foreign Government without taking the advice of the law officer of the Government; but it may be that acting upon the authority of the Solicitor, and throwing himself upon that authority, the Secretary might present claims against a foreign Government or might resist claims upon our Government made by the subjects of a foreign Government which ought to be submitted to the judgment of the higher officer of the Government. I do not mean to say anything of the actual condition of things as they exist; but it is to be presumed, and I suppose it is true now, that the Attorney General of the United States must be more competent to advise on all questions of this description than any subordinate legal officer who may be employed by the Government at a salary of \$3,000 or \$3,500. So far, therefore, as my opinion is concerned, I am adverse to the creation of the office of Solicitor in any of these Departments.

Mr. FESSENDEN. I will ask the Senator to compare the two propositions. The honorable Senator from Illinois admits, in argument, that the Attorney General cannot do this business, he cannot give these opinions, but it must be done by subordinates, and he says the subordinate officers to be employed should be employed in the office of the Attorney General. Where is the difference? If you have got to have the officers and got to pay them, why send them all to the Attorney General, when the questions to be settled are right in the different Departments? You do not care to have the Attorney General's opinion except upon a statement of principle.

Mr. JOHNSON. The honorable member will permit me to say that I suppose if these Solicitors were placed in the office of the Attorney General, they would be subject to his control.

Mr. FESSENDEN. Exactly; and therefore the different Departments would lose the control of their own business. If they have got fifty claims in the Department of State, which the Secretary cannot look at, which cases are to be made up and stated, which can be done by any good lawyer, if he can get a good lawyer, instead of having that work done in his own office, in his own time, and under his own eye, he must send it to the Attorney General for some subordinate in his office to do the same thing, who is to be paid the same amount. As I said before, the effect is to run the Departments into each other and create infinite confusion.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois to strike out the second section of the bill.

Mr. SUMNER. I ask for the yeas and nays upon that motion.

The yeas and nays were ordered; and being taken, resulted—yeas 18, nays 14: as follows:

YEAS—Messrs. Chandler, Clark, Cowan, Davis, Grimes, Hendricks, Howard, Howe, Johnson, Kirkwood, Morrill, Nesmith, Riddle, Sprague, Stewart, Trumbull, Wilson, and Yates—18.
NAYS—Messrs. Buckalew, Cragin, Dixon, Fessenden, Foster, Guthrie, Harris, Lane of Indiana, Mor-

gan, Norton, Pomeroy, Sumner, Willey, and Williams—14.

ABSENT—Messrs. Anthony, Brown, Connors, Creswell, Doolittle, Edwards, Henderson, Lane of Kansas, McDougall, Nye, Poland, Ramsey, Saulsbury, Sherman, Van Winkle, Wade, and Wright—17.

So the amendment was agreed to.

Mr. SUMNER. Now I send an amendment as a new section to the Chair, to come in precisely where the one just struck out was:

And be it further enacted, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, a second Assistant Secretary of State, in the Department of State, at an annual salary of \$3,500, to commence on the 1st day of July, 1866; and the amount necessary to pay the same is hereby appropriated.

A Senator near me says he will not go for this amendment unless I put in the name. It is perfectly well known that it is intended to give an opportunity to appoint Mr. Hunter, and the authorities, I presume, will take notice. There is no need of inserting his name; and the remark of the Senator is simply a criticism for an excuse. I hope the Senate will adopt the amendment without a division.

Mr. FESSENDEN. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. CLARK. It is perfectly apparent to everybody that this attempt to appoint an Assistant Secretary is to get an increase of salary; not for the wants of the service, but to give Mr. Hunter an increase of salary. I am not in favor of any such proposition. If the wants of the service absolutely required a second Assistant Secretary of State I would be willing to vote for it.

Mr. TRUMBULL. Is the advice and consent of the Senate required to this appointment?

Mr. CLARK. The advice and consent of the Senate is required; but this office is not now proposed to be created because the Government needs it, but simply to give an increase of salary to Mr. Hunter. It is only another evidence of how men will squirm around to get more pay.

Mr. SUMNER. The Senator says this is simply to give an increase of salary. It is to make a place for a valuable public servant. There is the simple fact. When I proposed to give an increase of salary outright to him as chief clerk, Senators said that that was contrary to precedent, it would be a bad precedent for the future. "Make a new office, Assistant Secretary of State, and see that he is appointed to that." Now, I have done what I could in order to bring that about, and Senators then come forward and say, "But you are creating a new office as an apology for giving a man additional salary." Sir, I accept the statement. It is in order to give an additional salary to a well-deserving public servant, and it is because in no other way can we give him adequate compensation.

Mr. COWAN. It is perfectly right.

Mr. SUMNER. I know it is perfectly right, and it ought to be done.

Mr. TRUMBULL. We have the avowal, then, and it is indorsed by the Senator from Pennsylvania, that it is perfectly right in this time of taxation and great debt to create an office, a place, for no other purpose in the world than to pay a salary.

Mr. SUMNER. Very well; to reward a faithful public servant.

Mr. DAVIS. I understand that a bran new principle is to be introduced into our Government; and that is, that a new place shall be created for every deserving officer. I am opposed to that principle.

Mr. COWAN. I think the Senator from Massachusetts has stated the question just about as well as it could be stated. Honorable Senators will not vote a valuable officer that which they admit themselves to be a sufficient compensation for him. Why? As I understand, because he is called a clerk. The honorable Senator from Massachusetts proposes to change his name; that is the whole of it; and I think he is perfectly right in availing himself of that privilege now, in order to

achieve what I look upon as a good purpose in the end.

The question being taken by yeas and nays, resulted—yeas 18, nays 17; as follows:

YEAS—Messrs. Cowan, Cragin, Dixon, Foster, Grimes, Guthrie, Harris, Howe, Johnson, Nesmith, Poland, Pomeroy, Ramsey, Sprague, Stewart, Sumner, Wilson, and Yates—18.

NAYS—Messrs. Buckalew, Chandler, Clark, Davis, Fessenden, Henderson, Hendricks, Howard, Kirkwood, Morgan, Morrill, Norton, Riddle, Sherman, Trumbull, Willey, and Williams—17.

ABSENT—Messrs. Anthony, Brown, Connors, Creswell, Doolittle, Edmunds, Lane of Indiana, Lane of Kansas, McDougall, Nye, Saulsbury, Van Winkle, Wade, and Wright—14.

So the amendment was agreed to.

Mr. SUMNER. I offer this amendment to come in as a new section at the end of the bill:

And be it further enacted, That the salary of any envoy extraordinary and minister plenipotentiary hereafter appointed shall be the salary of a minister resident and nothing more, except when he is appointed to one of the countries where the United States are now represented by an envoy extraordinary and minister plenipotentiary.

Mr. TRUMBULL. We acted on that once.

Mr. SUMNER. I beg the Senator's pardon; we voted on a different proposition which had something of the same idea. The proposition which is now submitted is substantially the proposition of the Senator from Ohio, [Mr. SHERMAN.] The Senate will see its application if I call their attention for one minute to the consular and diplomatic act of 1856, which undertakes to fix the salaries of envoys extraordinary as follows: here is what is called schedule A; there are three clauses to schedule A: "Great Britain and France, each \$17,500;" the second clause is "Russia, Spain, Austria, Prussia, Brazil, Mexico, and China, each \$12,000;" and then comes clause third, "all other countries, each \$10,000."

In point of fact I understand that under this third clause we have now envoys extraordinary and ministers plenipotentiary in Peru and Chili. The object of the section which I have offered is to declare that in all other cases except those on which Congress has already acted, and which I have now named, where an envoy extraordinary and minister plenipotentiary shall be appointed, his salary shall no longer be what it may be under this act, \$10,000, but it shall be \$7,500; in short, it shall be reduced to the salary of a minister resident. The proposition accomplishes, to a certain extent, the purpose aimed at in the proposition which I moved yesterday from the committee; but it has a different form, and I am indebted substantially to the Senator from Ohio for that form. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SHERMAN. My friend from Maryland [Mr. JOHNSON] asks me a question which I will answer to the Senate itself. He asks what is the meaning and what is the effect of it. I will state that schedule A, of the diplomatic and consular law, provides for three classes of envoys extraordinary and ministers plenipotentiary: first, to France and Great Britain, where the salary is \$17,500; second, to several countries named where the salary is \$12,000; and then it provides in the third clause that envoys extraordinary and ministers plenipotentiary to all other countries shall have a salary of \$10,000. We have some of each of the three classes. The Senator from Massachusetts wishes to give an additional title to ministers resident without any additional pay. To accomplish that, this amendment adds another grade of envoys extraordinary, so that a person who now holds the office of minister resident may be nominated to the Senate and confirmed as envoy extraordinary, and if he is sent to any country not specifically named, and at which we have not now an envoy extraordinary, he is to get but \$7,500. I cannot see what objection there can be to this.

Mr. SUMNER. It is in point of fact a reduction of salary.

Mr. SHERMAN. Certainly. The effect is to make another class, class number four, of

envoys extraordinary. The objection made yesterday by the Senator from Iowa was rather personal in its character, that it raised the salary of gentlemen to whom he had objection. Under this section it is a new office, and they must be sent here for confirmation; it is a fourth class of envoys extraordinary, and it fixes their salary at \$7,500, the salary of a minister resident. I do not see any objection that can be made against it now. The objection made to the proposition yesterday and the reason I voted against it was because the inevitable effect of the proposition yesterday I thought would be to lead to an increase of salary to the officers appointed under it, because as the law fixed their salary at \$10,000, and as they had performed the duties of an office the salary of which was fixed at \$10,000, they would naturally claim it, and there was no exclusion of that claim in the amendment offered yesterday.

Mr. JOHNSON. I ask the chairman of the committee, or my friend from Ohio, whether this amendment would interfere with the salaries of the ministers who are now abroad.

Mr. SUMNER. Not at all.

Mr. GRIMES. But I understand that under this proposition those persons who are now ministers resident can be sent in to-morrow, if the bill passes to-day, as ministers plenipotentiary, and then they will get the increased salary under the other schedule.

Mr. SHERMAN. Oh, no.

Mr. SUMNER. The Senator from Iowa is mistaken, first, as to sending them in. If they are sent in, then the Senator from Iowa will have an opportunity of opposing their confirmation. Take the two gentlemen to whom reference has been made so often in this discussion—the ministers resident at Brussels and at Lisbon. Suppose they are nominated to-morrow, each as envoy extraordinary and minister plenipotentiary. It will then be for the Senator from Iowa to make his opposition. The time has not yet come. Why oppose a general principle, which I insist is beneficent in its application and for the good of the Republic, because under that two gentlemen, or one gentleman, to whom he is opposed may be sent in? Let the gentlemen be sent in, and then let the Senator from Iowa institute his opposition, but not oppose a principle which in itself is so essentially beneficent.

Mr. TRUMBULL. What is the principle?

Mr. SUMNER. The principle is that you reduce the salaries of envoys extraordinary from \$10,000 to \$7,500; you create a new class.

Mr. TRUMBULL. Allow me to ask a question right there. I understood the Senator from Massachusetts to say, in reply to a question from the Senator from Maryland, that it did not reduce anybody's salary.

Mr. SUMNER. I was right when I said that.

Mr. TRUMBULL. It does not reduce it, and yet now you say it does reduce it.

Mr. SUMNER. If the Senator from Illinois would only trouble himself to understand the question he would not speak as he does. As I understood the Senator from Maryland, he asked me whether this would reduce the salary of any actual minister, to which I replied no; and I can show that to the Senator if he will only attend.

Mr. TRUMBULL. I am listening.

Mr. SUMNER. For instance, the first class of envoys extraordinary is to Great Britain and France; the salary is \$17,500 to each country. That is not touched. The second class of envoys extraordinary is to "Russia, Spain, Austria, Prussia, Brazil, Mexico, and China, each \$12,000." That is not touched. Then comes the third clause, "all other countries, \$7,500." Under that third clause the Government has already appointed envoys extraordinary and ministers plenipotentiary to Peru and Chili. These two cases are saved out by the language of the proposition, and now the consequence is, that in future appointments

of envoys extraordinary and ministers plenipotentiary to countries not already provided for by the legislation of Congress, the salary will be \$7,500 instead of \$10,000; so that in point of fact we create a fourth class of envoys extraordinary and ministers plenipotentiary.

Mr. CONNESS. Will the Senator answer me a question?

Mr. SUMNER. Certainly. I am always happy to hear the Senator from California.

Mr. CONNESS. If it be deemed necessary or wise by the executive department to raise a minister resident to the rank of minister plenipotentiary, must his name be sent in to the Senate for confirmation under this proposition?

Mr. SUMNER. It must be, and the Senator from California can have the opportunity of voting against any of these gentlemen.

Mr. GRIMES. I desire to correct the Senator from Massachusetts in one respect. I did not allude yesterday to the minister resident of this Government at Belgium; I did allude to the one at Lisbon, and I am prepared if necessary to allude to him a little more extensively to-day than I did yesterday. But my objection to this proposition is that it proceeds upon altogether a different idea than the true American idea on this subject; and that is, that our consequence abroad is to be regulated by the rank which we see fit to confer upon our ministers. The only illustration the Senator has given us as to the necessity of the passage of this provision was given yesterday, when he said that a Senator had an introduction at the White House in preference to a member of the House. But does the member of the House have any the less influence when he reaches the ear of the President, than the member of the Senate who preceded him a few minutes in his introduction?

Mr. CONNESS. That depends on circumstances entirely.

Mr. GRIMES. In this case it will depend entirely on the character of the man who is sent and the character of the country that stands behind him, and not on the rank or the pay that we bestow upon him.

Mr. SHERMAN. If the American minister resident is invited to dinner and an envoy extraordinary and minister plenipotentiary from some little German State should be invited also, that envoy extraordinary would take precedence. On account of that misfortune, I am perfectly willing to give the higher title.

Mr. CLARK. Would he not have the same dinner?

Mr. SHERMAN. He might have the same dinner, but he would have to tag at the end of the line.

Mr. GRIMES. It seems that the upshot of all this is that we are to make a new schedule and a new grade, in order to enable a certain set of men to sit higher at table when they are invited to dinner than they otherwise would. That is the sum and substance of the whole thing. It proceeds upon anything else than the idea that should stimulate citizens in a republican Government.

Mr. SUMNER. I do not like to discuss things forever that have been discussed so often; I have said so much on this matter that I feel ashamed to add another word; and yet, as the Senator from Iowa returns to the assault, perhaps I may return to the defense.

I tried to show last evening that in introducing this proposition I was simply acting on the practice of this Government in other respects, and upon the practice of mankind universally, everywhere; and my friend from Ohio [Mr. WADE] reminds me that the argument of the Senator from Iowa, a few days ago, was one of the strongest illustrations of what I said. He induced the Senate to agree to appoint a new Assistant Secretary of the Navy merely to allow the actual Assistant Secretary to go abroad because his presence could give a little more *clat* to a certain service. That is his argument, and under his argument, yielding to its pressure, we appointed a new functionary in the Department of the Navy.

Now, if I can have the attention of the Senator from Iowa for one moment, I wish to put to him a practical question. If he had important business, say with the mayor of New York, which he wished to present in the best way possible, I have no doubt my friend would count naturally upon his own character, and justly; he would believe that any agent of his presenting himself to the mayor of New York would be well received; he doubtless would be well received; but if, for instance, there were two persons whose services he might employ, one with the rank of general and the other with the rank of colonel, each equal, perhaps, in abilities and in fitness, I have no doubt that my friend, who will not listen to me, however, while I am addressing him—

Mr. GRIMES. I am all attention.

The PRESIDENT *pro tempore*. Senators, according to the rules, must address the Chair.

Mr. SUMNER. I have no doubt my friend would select for his service the general rather than the colonel. He knows enough of human nature to know that the general, on his arrival, would have a prompter reception than the colonel. It is useless to say in reply that behind the agent is the same personage. I assume all that, but I wish to secure to that same personage the best reception possible, and the highest facilities for his representative when he arrives at his destination. I wish now to secure the same thing for my country, and I believe—I do not like to bring my own personal testimony into a matter like this—but I believe, according to such opportunities of observation as I have had, now running over a considerable period of my life, that the interests of the country would be promoted by this change. I believe that business would be facilitated and opportunities of influence afforded.

I make no allusion to such topics as have been playfully introduced into this discussion; it is a matter of comparative indifference what place a man may have at a dinner table; but I do wish to secure facilities in business and respect for the representatives of my country to the largest degree possible.

The question being taken by yeas and nays, resulted—yeas 18, nays 16; as follows:

YEAS—Messrs. Cowan, Cragin, Dixon, Foster, Guthrie, Harris, Henderson, Johnson, Morgan, Norton, Pomeroy, Sherman, Sprague, Sumner, Wade, Williams, Wilson, and Yates—18.

NAYS—Messrs. Buckalew, Chandler, Clark, Davis, Edmunds, Fessenden, Grimes, Hendricks, Howard, Howe, Kirkwood, Lane of Indiana, Ramsey, Riddle, Trumbull, and Wiley—16.

ABSENT—Messrs. Anthony, Brown, Conness, Creswell, Doolittle, Lane of Kansas, McDougall, Morrill, Nesmith, Nye, Poland, Saulsbury, Stewart, Van Winkle, and Wright—15.

So the amendment was agreed to.

Mr. BUCKALEW. I move an amendment on page 2, line twenty-nine of section one, to strike out the word "eighty" and insert "fifty."

Mr. JOHNSON. Does that reduce the amount of the secret service fund? Let it be read.

The Secretary read the amendment, which was to strike out "eighty" and insert "fifty;" so that the clause will read:

For contingent expenses of foreign intercourse, \$50,000.

Mr. BUCKALEW. This covers the secret service fund.

Mr. SUMNER. I wish the Senator would be good enough to give some reason for the change. If he has any facts to present I should like to hear them.

Mr. BUCKALEW. Mr. President, this is a time of peace, and an extraordinary appropriation which was proper during the war I suppose is no longer necessary. That is my only reason for moving the amendment.

Mr. TRUMBULL. In looking at the appropriation for the fiscal year 1860-61, which was the last year before the war, I notice that the appropriation for contingent expenses of foreign intercourse was \$40,000. In this bill it is \$80,000. The Senator from Pennsylvania, as I understand him, moves to strike out \$80,000 and insert \$50,000, making the appropriation

\$10,000 more than it was before the war. My attention has been called to this appropriation and also to the appropriation immediately before it, "for contingent expenses of all the missions abroad, \$60,000." The appropriation "for contingent expenses of all the missions abroad" for the fiscal year 1860-61 was \$20,000. It is three times as much now. I do not know that the increase is not right; but it seems to me the explanation should come from those who treble the expenses for incidental expenses as they existed before the war. It is doubled with reference to the appropriation which the Senator from Pennsylvania has moved to reduce, and it is trebled in reference to the other one. Unless there is some explanation showing why it is necessary to have three times as large a contingent foreign mission fund now as there was in 1861, and twice as large a fund for contingent expenses of foreign intercourse, I shall be inclined to vote for the amendment of the Senator from Pennsylvania.

Mr. SUMNER. The Senator from Illinois has very frankly told us that he has no facts on the question; that he knows nothing, in short, about it, and that he really knows no reason for the reduction proposed. How does the case stand? Here is a bill which has come, in the first place, from the House of Representatives, where it was considered after having been reported by the proper committee there. When reported there it was founded upon estimates which I presume that committee had carefully considered. I know something of its habits of business, and I presume those estimates were carefully gone over. The bill then came to the Senate, and was referred to the Committee on Finance. To what extent they considered these items, which had already been considered by the committee of the other House, I have no means of knowing. I have not the honor of being a member of that committee. I presume, however, they were, to a certain extent, considered, or at least there is a habit on the part of our committee to recognize, to a certain extent, the labors of the kindred committee in the other House. And now the question is whether we here, having no knowledge on the subject, shall presume to open this appropriation which has already passed the House on the recommendation of the committee of that body having it properly in charge. I am free to say I have no special information on the subject; my attention has not been called to it. I did not imagine that there would be any proposal to change one of these estimates. I have made no inquiry at the Department of State on the subject, nor have I received any communication.

Mr. JOHNSON. Is this larger than the sum appropriated during the last three or four years?

Mr. FESSENDEN. The same as it was last year.

Mr. SUMNER. I supposed it was about the same.

Mr. FESSENDEN. One argument of the Senator from Massachusetts I was particularly struck with; that is that this matter had been considered by the committee of the other House. Well, the committee of the House considered very carefully the second section on a request made by the Department. The Department had given its reasons for that section, stated the necessity for it, and the committee of the House had considered it very carefully and put in the second section; but the Senate has struck it out on the idea that by and by we can change the Department of the Attorney General. I take it for granted that the honorable chairman of the Committee on the Judiciary will feel bound now to bring in a bill in which that matter will be all arranged, because that was what he predicated his motion upon. We are therefore in the habit sometimes of not being governed by the House when it advises a thing, even if it is indorsed by a committee of this body.

Now, sir, with reference to these two items, it is a fact unquestionably, as stated by my honorable friend from Illinois, that before the

war the appropriation for one of these contingencies was \$20,000, and for the other, \$40,000. When the war came on it was represented, undoubtedly with truth, (I had something to do with raising these items,) that necessarily in time of war the communications abroad would be very great and very frequent, and that there would be a great many occasions when money must be spent; and I took the responsibility of advising that these estimates be raised for that reason. Now, I have taken a little pains to inquire what this means. The first provision is for the ordinary expenses of our missions—postages and little items of expense.

Mr. SUMNER. Sending the dispatch-bag.

Mr. FESSENDEN. That is a considerable expense, but much less than it used to be, because the Department used to send special agents with those bags, but now they go by mail. That item of expense, as Mr. Hunter informed me this morning, is reduced instead of being enlarged. I took pains to inquire why this large appropriation should be kept up and I could not get any advice on that subject at the Department of State. The Secretary is not there. Mr. Hunter, who communicated very freely, said the money had been spent very carefully and cautiously under both these items of appropriation. The first item of \$60,000 is confined to the ordinary expenses of our missions abroad; I suppose arrangements about books sent out, and things of that sort—I do not know what exactly. I cannot for the life of me understand why, if our missions abroad have not been increased largely, now that we have got back to a time of peace what used to cost \$20,000 should now cost \$60,000. I feel bound to say that I cannot understand why it should be.

With regard to the \$80,000 item, the principal portion of it is for secret service. During the war they were obliged to have a great many agents in reference to blockade-running. That is all at an end. They were obliged to employ a good many spies; they were obliged to send messengers in different directions; and that made the expense large. I take it also that, as seems to be customary now the way the affairs of the world are conducted, something was spent to pay men for writing articles on our side in foreign newspapers. Then special agents were sent out; Bishop Hughes went once, Thurlow Weed went once, and divers other gentlemen.

Mr. JOHNSON. Counsel were sent out—Mr. Evarts, for example.

Mr. FESSENDEN. Yes, counsel were sent out to attend to some matters. That was during the war when questions arose which rendered these expenses necessary. I confess that I cannot understand, now that we have got back to a time of peace, why those expenses should be continued which were then represented to be necessary on account of the war, and which undoubtedly were. True, something may be required with reference to our troubles on the border, though those are principally revenue matters; with regard to our fishery difficulties there may be some special agents required, and also with regard to Mexican affairs. But when the main matter which increased the expenses so largely has been disposed of, I cannot see for myself why it is necessary to continue such large appropriations for these items. At the same time I confess that I have been unable to get any specific information on the subject why it should be so, because the Secretary himself is absent from the city.

As to the estimates acted upon by the House of Representatives, I suppose they were submitted to the Committee on Appropriations there just as they were to our committee here. I was not present when the committee acted on this bill; but I take it for granted they looked at these items and then at the estimates. They saw that the estimates came in, \$60,000 and \$80,000. They did not know why, and they passed the \$60,000 and the \$80,000. This is all the information we had.

Mr. GRIMES. I suppose it was made up from the bill of last year.

Mr. FESSENDEN. Yes, the amount appropriated last year was taken instead of going back to the year before the war.

Mr. COWAN. I suppose there is no mode by which anybody can ascertain the disposition made of this fund. I suppose it is not intended that there should be.

Mr. FESSENDEN. I suppose there is no committee, except perhaps the committee of the other House on the expenditure of the State Department, that could look into it. I was told by Mr. Hunter—and I have no doubt it is true—that the money we have appropriated heretofore for these purposes has been expended economically and carefully under the direction of the President. I have no doubt that whatever we appropriate now will be so expended.

Mr. TRUMBULL. I suppose we could ascertain how it is expended except the secret service money; the other contingencies are reported.

Mr. COWAN. The secret service money is what I referred to.

Mr. TRUMBULL. That is never inquired into. That is only a part of this appropriation.

Mr. FESSENDEN. It would undoubtedly be laid open to a committee of Congress, if a committee should inquire into it, but I do not think there is any necessity for that. The money is undoubtedly properly spent. Whatever complaints may be made in regard to the Secretary of State in other particulars, or in any particular by anybody, no one, certainly, pretends that he is a dishonest man in regard to money.

Mr. JOHNSON. Does the honorable member understand that the whole of these appropriations have to be expended?

Mr. FESSENDEN. I have no information on the subject. There has been no call for a deficiency at any rate. The fact stands before us, that in the year 1860–61, before the war, \$20,000 and \$40,000 were the appropriations that were deemed necessary for these expenses. We have got through with the extraordinary expenses of the war, and now, in time of peace, the estimates that come in for this service are just the war estimates. It is for the Senate to judge whether they will continue them or not.

The PRESIDENT *pro tempore*. The question is on the amendment of the Senator from Pennsylvania.

The amendment was agreed to.

Mr. TRUMBULL. I think upon the same principle we had better reduce the \$60,000 item, which is just three times what it was in 1860–61; it was \$20,000. I will move now to reduce it one half, to \$30,000. I move to strike out "sixty" and insert "thirty" in line twenty-seven of section one.

Mr. JOHNSON. Perhaps that does not stand on the same footing with the other. The other was the secret service fund, was it not?

Mr. TRUMBULL. This is "for the contingent expenses of all the missions abroad, \$60,000." In 1860–61 the appropriation was "for contingent expenses of all the missions abroad, \$20,000."

Mr. JOHNSON. I was about to say that I suppose none of the missions abroad have been diminished. There are just as many now as there were before, and that appropriation was necessary to meet them abroad.

Mr. CONNESS. Only during the war.

Mr. JOHNSON. They are all there now.

Mr. CONNESS. They were all there during the war.

Mr. JOHNSON. They have not been diminished that I know of; and that estimate was an estimate to meet the contingent expenses of the missions which were abroad; and it would not be advisable, perhaps, to reduce it now.

Mr. TRUMBULL. Twenty thousand dollars answered before the war. The expenses were put up in consequence of the war and in consequence of the difficulty of communicating, as I presume. It seems a large portion of this money has gone for arrangements in regard to the trans-

mission of dispatches. Now, no reason is given for increasing this item to \$60,000. The chairman of the committee gives no reason for increasing it from \$20,000 to \$60,000. I think it would be safe to put it at \$30,000. I admit it is doing it very much at random, and I would not vote to reduce it at all if anybody could give a reason why it should be \$60,000; but it seems to me if \$20,000 answered before the war, \$30,000 will do now.

Mr. JOHNSON. The chairman of the committee of course knows nothing but what he collects from the estimates. I suppose that when the State Department estimated \$60,000 as necessary to meet expenses of this description, it was only because they knew that it would be required, and I think it would be perhaps hazardous to strike it down one half now without any information that the estimate made by the Secretary is an extravagant one.

Mr. SUMNER. It seems to me it is a leap in the dark. I do not think we should take it.

Mr. TRUMBULL. It is incumbent on the Senator from Massachusetts to show why it is increased, not for us to show why it should be diminished. Let him show the necessity for the increase; it is an affirmative proposition; and that is not shown; but then I only wish to say in regard to it, that if we reduce this item to \$30,000 it will bring attention to it; the bill has to go back to the House of Representatives, and if any information comes in showing it to be necessary—

Mr. FESSENDEN. I can now give my friend a little information on the subject. My clerk has taken the pains to go back to 1851 to find out the appropriations annually. In 1851 the appropriation for the contingent expenses of all the missions abroad was \$40,000. So it went along. In 1854 there were two appropriations, both amounting to \$82,000; in 1856, \$96,000; in 1857, \$75,000; in 1858, \$75,000; in 1859, \$50,000; in 1860, \$50,000; and in 1861, \$20,000; and then it went up to \$40,000, \$50,000, and \$60,000. If we put it now at \$60,000, it is not so high as it was in 1857 and 1858; but I presume there was included, probably, in some of these appropriations the loss by exchange. For contingent expenses of foreign intercourse the appropriation was \$60,000, from the year 1856 down to 1860 inclusive. In 1861 it was reduced to \$40,000, and in 1862 it was \$40,000. In 1863 it was put up to \$100,000; that was on my motion; and since then it has been \$80,000.

This shows that the year 1860–61 was an exceptional year, for what reason I do not know.

I think, therefore, that it would not be safe under the circumstances to go below \$40,000 in this particular clause, and perhaps we ought not to go below \$60,000 in the clause which my friend from Pennsylvania moved to reduce to \$50,000.

Several SENATORS, (to Mr. TRUMBULL.) Say \$40,000.

Mr. TRUMBULL. I will modify my amendment, and move to strike out "sixty" and insert "forty," so as to make this appropriation \$40,000.

Mr. SUMNER. Again I say the Senator leaps in the dark. He does not know why he reduces it to \$40,000. The Senator from Maine has already given us estimates for preceding years showing that sometimes it has gone even above the estimates for this year. The estimate before us is one that has been supplied to the committee in the other House from the Department. They had a reason for it. We do not know what the reason is. I am not informed of it. My attention has not been directed to this subject. Had it been, I should have looked into it.

The amendment was agreed to.

Mr. FESSENDEN. I would suggest to the Senator from Pennsylvania whether he had not better raise the other item, which he moved to strike down, to \$60,000 instead of \$50,000.

Mr. BUCKALEW. I move, then, to reconsider the vote adopting my amendment.

The motion to reconsider was rejected; there being, on a division—ayes 9, noes 18.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendments made as in Committee of the Whole?

Mr. FESSENDEN. I ask for a separate vote on the amendment striking out section two.

The PRESIDENT *pro tempore*. The Chair will take the question on the amendments made as in Committee of the Whole collectively, except that which the Senator from Maine has asked to have excepted.

The amendments were concurred in.

The excepted amendment was to strike out the second section, as follows:

And be it further enacted, That the President be, and he is hereby, authorized to appoint, by and with the advice and consent of the Senate, an officer in the Department of State to be called "Solicitor to the Department of State," at an annual salary of \$3,000, to commence on the 1st of July, 1866, and the amount necessary to pay the same is hereby appropriated.

Mr. SUMNER called for the yeas and nays, and they were ordered; and being taken, resulted—yeas 21, nays 18; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Davis, Edmunds, Grimes, Guthrie, Hendricks, Howard, Howe, Johnson, Kirkwood, Morrill, Poland, Ramsey, Riddle, Sherman, Sprague, Stewart, Trumbull, and Wade—21.

NAYS—Messrs. Cowan, Cragin, Dixon, Fessenden, Foster, Harris, Morgan, Norton, Pomeroy, Sumner, Van Winkle, Williams, and Yates—13.

ABSENT—Messrs. Anthony, Brown, Buckalew, Creswell, Doolittle, Henderson, Lane of Indiana, Lane of Kansas, McDougall, Nesmith, Nye, Saulsbury, Willey, Wilson, and Wright—15.

So the amendment was concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. LLOYD, Chief Clerk, announced that the House of Representatives had passed without amendment the joint resolution (S. R. No. 61) to extend the time for the construction of the Western Pacific railroad, and the bill (S. No. 186) amendatory of an act to provide for the reports of the decisions of the Supreme Court of the United States.

The message further announced that the House of Representatives had passed the following bill and joint resolutions, in which it requested the concurrence of the Senate:

A bill (H. R. No. 597) to authorize the use in post offices of weights of the denomination of grammes;

A joint resolution (H. R. No. 140) to enable the Secretary of the Treasury to furnish to each State one set of the standard weights and measures of the metric system; and

A joint resolution (H. R. No. 141) to authorize the President to appoint a special commissioner to facilitate the adoption of a uniform coinage between the United States and foreign countries.

The message also announced that the House of Representatives had disagreed to the amendment of the Senate to the bill (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. WILLIAM LAWRENCE of Ohio, Mr. FRANCIS THOMAS of Maryland, and Mr. JOHN L. DAWSON of Pennsylvania, managers at the same on its part.

MILITARY ACADEMY BILL.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of the West Point Academy appropriation bill.

The motion was agreed to; and the bill (H. R. No. 37) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867, was considered as in Committee of the Whole.

The bill had been reported from the Committee on Finance with amendments, the first of which was in line seventeen to increase the

appropriation "for increase and expense of the library" from \$1,000 to \$2,000.

The amendment was agreed to.

The next amendment was in line twenty-four to increase the appropriation "for repairs of officers' quarters" from \$1,500 to \$10,000.

The amendment was agreed to.

The next amendment was to insert these items after line thirty:

For reflooring academic buildings and barracks, \$6,000.

For the purchase of fuel for warming mess-hall, shoemakers' and tailors' shops, \$2,000.

For materials for quarters for subaltern officers, \$3,000.

The amendment was agreed to.

The next amendment was to strike out the following provisos at the end of the bill:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862; *And provided further*, That no part of the moneys appropriated by this or any other act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States, appointed after the 1st day of January, 1866, until such State shall have been returned to its original relations to the Union under and by virtue of an act or joint resolution of Congress for that case made and provided.

Mr. WILSON. I hope we shall have an explanation of that amendment.

Mr. FESSENDEN. The first proviso is entirely unnecessary:

That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office, and for other purposes," approved July 2, 1862.

That is the law now, and we propose to strike the proviso out, because it is a mere repetition of the existing law. The next proviso, "that no part of the moneys appropriated by this or any other act shall be applied to the pay or subsistence of any cadet from any State declared to be in rebellion against the Government of the United States," &c., if it should stand, would prevent the President from appointing any cadet from those States even though nominated by loyal Representatives. It can apply to only a very few individuals, and it was thought to be invidious and unwise to insert such a provision. Most of the vacancies in the rebel States have been filled up by the nominations of cadets from the free States. I suppose there are some from Iowa appointed for Virginia, and some from Massachusetts appointed for Mississippi. There are but a few of them left; how many I do not know, but the number is very small. It looked to the committee to be rather small business to say, while there are more or less loyal people down there, that the President should not have the power, on the nomination of a Representative who may be loyal, to fill up these places. It is throwing very small stones at the object we propose to hit. We thought it best to reach that object directly.

Mr. WILSON. I have certainly no objection to striking out the last proviso, but the proposition to strike out the first struck me as rather strange.

Mr. FESSENDEN. We have struck it out in all the bills, and the Senate have agreed to it, because it is only repeating what the law now is.

Mr. WILSON. With the Senator's explanation I am entirely satisfied.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. HOWE. In reference to the amendment just made touching the appointment of cadets from the southern districts the proviso was struck out, I understand. I wish to inquire if there is any authority under the law for appointing cadets from those districts until there are Representatives here to nominate them.

Mr. FESSENDEN. I do not know that there is. If not, they will not be appointed at

all. If there is nobody to nominate they cannot be appointed.

Mr. TRUMBULL. Will not the practice of appointing be continued unless we stop it? Why not make it certain that it cannot be done?

Mr. FESSENDEN. When some have been appointed from the free States during the war it would be very invidious to refuse a few appointments on the nomination of loyal Representatives.

Mr. RAMSEY. I should like to inquire of the chairman of the committee having this bill in charge whether there is any provision prohibiting the appointment of a cadet at West Point who has served in the rebel army. There is a case of that kind in the Naval Academy where a young man was appointed who had served in that army. I think that at this time probably it would be well to put in a provision against such an appointment.

Mr. FESSENDEN. I do not think it is to be presumed that that will be done. If it was done in one case by misunderstanding probably it will not be done again. I do not think it worth while to take it for granted such a thing will occur. I do not think there is any danger of it.

Mr. RAMSEY. What is to prevent it?

Mr. FESSENDEN. I think we have some law on the subject preventing payment to any such persons. It is a matter that I care nothing about. The Finance Committee came to the conclusion that it was not worth while to interfere with the matter, but that it was better to let it stand as it now is.

The amendments made as in Committee of the Whole were concurred in.

The amendments were ordered to be engrossed and the bill to be read a third time.

Mr. WILSON. Is it too late to move an amendment?

The PRESIDENT *pro tempore*. The bill is not amendable after it has been ordered to its third reading.

Mr. WILSON. I move a reconsideration of the last vote for the purpose of allowing me to offer an amendment.

Mr. SHERMAN. What is it proposed to offer?

Mr. WILSON. I wish to add a provision that nothing in this act shall be construed to authorize or permit the appointment as a cadet of any person who has served in any capacity in the military or naval service of the so-called confederate States during the late rebellion; but any such appointment shall be held to be illegal and void.

Mr. FESSENDEN. There is no objection to that.

The PRESIDENT *pro tempore*. The Senator from Massachusetts moves to reconsider the vote by which the amendments were ordered to be engrossed and the bill to be read a third time.

The motion was agreed to.

Mr. WILSON. I now move to amend the bill by adding as a new section the following:

And be it further enacted, That nothing in this act shall be construed to authorize or permit the appointment as a cadet of any person who has served in any capacity in the military or naval service of the so-called confederate States in the late rebellion, but any such appointment shall be held illegal and void.

Mr. TRUMBULL. The Senator from Massachusetts will not accomplish his purpose by that. His amendment is that nothing in this act shall be construed to authorize this. There is nothing in this act about it. He wants to put in a provision that nobody who has served in the rebel service shall be appointed a cadet, but this amendment would simply limit appointments under this act.

Mr. WILSON. I will put it in this shape:

And be it further enacted, That no person who has served in any capacity in the military or naval service of the so-called confederate States during the late rebellion shall hereafter receive an appointment as a cadet at the Military Academy.

Mr. JOHNSON. I am inclined to think that there were a good many young men of some fifteen or sixteen years of age who were em-

ployed as clerks in the military or naval service of the rebels who, perhaps, ought not to be excluded. They were most of them in a state of starvation; they were obliged to take some employment in order to live; and I think it would be better to leave the matter to the Government. The cadets are appointed by the members of Congress, I believe, except some fifteen or twenty who are appointed by the President at large. I think it would be better to leave it to the Government.

Mr. WILSON. We educated at West Point some young men that turned traitors. Now, I am against educating at West Point any men who have been traitors. I think any person who has served in the rebel army or navy should never enter West Point, or the Naval Academy, never be educated by this Government.

Mr. SHERMAN. I would ask my friend from Massachusetts why he does not extend his amendment to the Naval Academy. I produced testimony here of the most conclusive character that a young man in the Naval Academy had served willingly in the rebel service, and yet he is now being educated at the Naval School. I think the provision ought to extend both to the Army and the Navy. The joint resolution which I introduced and sent to the Committee on Naval Affairs relative to the case to which I allude I have not heard of since.

Mr. GRIMES. I will state to the Senator from Ohio that that testimony which he introduced before the committee, and which he thought was so conclusive, turned out, upon a more thorough investigation, to be somewhat more doubtful than he imagined, and the young man alluded to was appointed upon the recommendation of the very men who wrote the letters to the Senator from Ohio on the subject.

Mr. SHERMAN. The testimony was very conclusive that the young man had been in the rebel service.

Mr. GRIMES. The case has not been acted on yet; and it is due to the young man that I should say, as he is still in the Academy, that he was never in the rebel service proper. He joined in the State of Kentucky a home guard, was never sworn into service, and very shortly after he found out the way in which the guard was to be used he abandoned it entirely and never took service under the rebel flag.

Mr. SHERMAN. He was in Backner's guard, and the testimony was that he and all his family were against the Government all the time during the war.

Mr. GRIMES. When all the testimony shall be presented I think the Senator will be satisfied that the *ex parte* testimony upon which he pronounces judgment here against that young man may possibly be erroneous.

Mr. SHERMAN. It may be. I do not vouch for it.

Mr. CLARK. We need not try that case; but it seems to me very proper that the amendment should apply to the naval as well as to the military department of the Government.

Mr. GRIMES. I am perfectly willing that it should be applied to the Naval Academy.

Mr. JOHNSON. This is the West Point bill.

Mr. CLARK. The naval bill has gone through. There is no other bill to come on which we can put it. I will move that amendment, "Military or Naval Academy."

Mr. WILSON. I accept that amendment. The PRESIDENT *pro tempore*. The amendment, as modified, will be read.

The Secretary read it, as follows:

And be it further enacted, That no person who has served in any capacity in the military or naval service of the so-called confederate States during the late rebellion shall hereafter receive an appointment as a cadet at the Military or Naval Academy.

Mr. CONNESS. That would leave such a person in, if now there. It says, "shall hereafter."

Mr. JOHNSON. Do you want to turn them out?

Mr. CONNESS. Yes, turn out anybody of that kind, certainly. I should like to know

whether the Senator from Maryland would not turn such a person out.

Mr. JOHNSON. No, I would not. I can imagine a great many boys that I would not turn out, boys in the situation in which I suppose a good many of them to have been. If they had gone in when they were seventeen or eighteen years of age, with knowledge on their part, it would be a different thing; but I can very readily believe there were boys of twelve, thirteen, or fourteen years of age who went into that service without having any idea at all that they were offending against the Government, and who may be just as true and loyal now as our own sons.

Mr. CONNESS. I can very readily believe that there were thousands and tens of thousands who went into the rebellion that did not know what they were about. I think the leaders did not know what they were about. If they did they never would have gone in.

Mr. JOHNSON. They did know what they were about.

Mr. CONNESS. We differ about that. But while it may be true, as stated by the Senator from Maryland, that there are many boys who participated in the rebellion who ought not to be held to a very strict responsibility for it, or punished for it, I think this country has a great many boys in it who are more worthy than they, and who ought to be promoted in preference. If the fact be as stated that there is a boy in the Naval Academy or at West Point of the class referred to, he should not remain there, in my judgment. We have had enough experience of furnishing talent, organized and educated talent, to the enemies of the country at the expense of the national Treasury. There ought to be an end to it. I hope that those who offered the amendment will change it in that respect.

Mr. FESSENDEN. I suggest to my friend that I do not think you can carry it on this bill so far as to legislate for an individual case; and there is only one, and about that there is great doubt whether it would apply to him or not.

Mr. CONNESS. If the form were changed it would apply to the case.

Mr. FESSENDEN. But it is not pretended that there is more than one case about which there is any question, and that is very doubtful. I hope this bill may not be incumbered any further.

Mr. CONNESS. I have no strenuousness about it.

Mr. DOOLITTLE. I observe from the reading of the amendment that there is no distinction taken between those who voluntarily went in and those who were forced into the rebel service. There ought certainly to be a distinction. Some boys may have been conscripted in against their will, forced in at the point of the bayonet, and who ought not to be held responsible to any such rule as this.

Mr. GRIMES. They were not conscripted at the age alluded to.

Mr. DOOLITTLE. Suppose they were forced into the service, are they to be excluded for that reason? It is one thing as to those that went in voluntarily; it is another as to those that were forced in. I think there certainly ought to be a distinction. The amendment ought to say that those who voluntarily engaged in the service should be excluded. I move to amend it by inserting that word "voluntarily."

Mr. FESSENDEN. I hope not. If you put in "voluntarily," they will prove, every one of them, that they went in involuntarily. To exclude all is the only way to keep them out.

Mr. DOOLITTLE. I ask the Senator from Maine if he desires to keep out those who were forced to go in.

Mr. FESSENDEN. I would rather not run the risk of getting rebels in by putting in the word "voluntarily."

Mr. DOOLITTLE. I think that there is a great difference in engaging in a service, whether one goes in voluntarily, of his own free will, or

whether he is forced in at the point of the bayonet. In the one case I should feel very different toward the individual than I would in the other.

Mr. GRIMES. It cannot apply to this case, because nobody was conscripted in the rebel lines under the age of eighteen, and no conscription has been made within the rebel confederacy within two years. No one can go to the Naval Academy after he is eighteen years of age.

Mr. JOHNSON. I thought they conscripted those of fourteen toward the close.

Mr. GRIMES. I think not. They went in voluntarily, if they went in at the age of fourteen, I think.

Mr. JOHNSON. Of course, many went in voluntarily at fourteen; but my recollection is that the conscription was as low as fourteen toward the close.

Mr. SHERMAN. There is no great hardship in excluding any of these persons; there are plenty left from whom to make a choice.

Mr. DOOLITTLE. I will take the sense of the Senate on the question I suggested, by moving to insert the word "voluntarily" before "served;" and I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. EDMUNDS. As I am to go on the record and am very sensitive on this question, I wish to state the reason why I shall vote "nay." It may be, possibly, that those who have been involuntarily in the rebel service are not as bad as those who went in on their own motion; but the country is full of boys, the sons of heroes who have fought on the right side of this rebellion, who are deserving of these places if anybody in the world is; and without going into the question of the precise degree of consideration that ought to be accorded to involuntary rebels, if I may use such a term, there are enough who are not open to suspicion to fill all these places. That is my reason for voting against the amendment.

Mr. HOWARD. I beg to inquire in what way the question is to be settled whether a person was in the rebel service voluntarily or involuntarily, and who is to settle it.

Mr. CLARK, and others. Let us settle it here by a vote.

Mr. HOWARD. I think we had better settle it here, and leave no question of that kind to be adjudicated by anybody else.

Mr. DOOLITTLE. It is not very long since I was reading over the report of the reconstruction committee, and one of the articles of amendment to the Constitution which they provided was that those men who voluntarily adhered to the rebellion should not vote until a certain time. How is that to be settled?

Mr. HOWARD. By law.

Mr. DOOLITTLE. But it is a fact whether they went in voluntarily or involuntarily; you cannot settle it by a law. It is a question of fact, and upon that question of fact whether they went in voluntarily or involuntarily depends the guilt or the innocence, just as in the commission of any other offense. The idea of holding a person responsible for what he does under compulsion, by force, at the point of the bayonet, driven by a squad of men who perhaps took a young man and forced him into the army at the peril of his life, is a very different thing from what it is when he voluntarily goes in of his own accord.

Now, Mr. President, in relation to these appointments to the Naval Academy, and to the Military Academy, they are appointments, so far as I understand, that are generally apportioned throughout the country to each congressional district. The various congressional districts of the country claim the right to have these scholars or cadets sent from the districts, and in order to select the one most proper to be put at the Academy, the right has been given by law to the members of Congress to select them. Now, the right being given by law to the members of Congress to select, suppose

there is a member of Congress from Kentucky, or Tennessee, or Maryland, or Virginia, or any of those States where some of the boys have gone into the rebellion, who has an appointment to make. It becomes a question for this Representative to determine, and determine for himself; he has the right to make the selection, and we by law now assume to declare, if this amendment is adopted, that he shall not select any young man who has been in the rebel service, who went in voluntarily, but he may select one if he has been conscripted and forced to go in. I do not see any injustice in it, and I think that we ought to draw the distinction between the voluntary and involuntary rebels, between the rebels who of their own intent made this rebellion, and those who were forced into it when military authority or power was established over them. I would carry that distinction out in very many ways, holding those responsible who moved in it, who voluntarily went into it, not those who were forced into it.

Mr. CLARK. We have had in this matter a bitter experience. We had a great many young men educated at the Military Academy and at the Naval School who, in the country's emergency, turned enemies to the country. I do not want that that experience ever should be repeated, or that there should be a possibility of its being repeated if there should be again another war. "Then," suggests the Senator from California, [Mr. CONNESS,] "we had better be careful." That is what I desire to do; and I desire to say to those gentlemen who may have the appointments from those districts which are located in the rebel or confederate country, "You shall not appoint anybody who has ever been in that service," and I would not leave to any such member to say whether the service had been voluntary or involuntary, but I would make the fact that he had been in that service conclusive against him. It is a very different thing to give a vote to a man who has been voluntarily or involuntarily in the service of the confederacy from what it is to put a boy who has been in that service in the Army or Navy, where he may do you mischief.

I do not want, as I said in the beginning, that our experience should be repeated. I think for the present we had better keep our Academies, Naval and Military, pure from any such influence, and if by and by, as years roll around, we find the loyalty of the country returning, so that circumstances will warrant it, then it will be time enough to extend the law; but now we should make the exclusion final.

Mr. JOHNSON. I think my friend from New Hampshire rather exaggerates what has heretofore occurred at the Military Academy. I had occasion some time ago, with the aid of the gentleman who is now at the head of the Academy, to look at the number who had joined the rebellion, among those who had been educated at the Academy, and it was comparatively a very small percentage; and I think it may be safely said now, looking to the experience that those who joined it have had, that no man who will ever be educated there in the future will be found raising his arm against the Government. If there are men who have suffered more, perhaps, than any others during the rebellion, it is those who have forfeited their claim to public confidence by having joined the war against the Government by whom they were educated. And when my friend from New Hampshire speaks of the experience we have had in the past, I think he misapplies the term as applicable to the question before the Senate. We have had no such experience as to teach us how to act in the particular case now before us. When those who were educated there and who did join the rebellion were sent to the Military Academy we were at peace with each other; no man dreamed at that time that there would be such a war as afterwards unfortunately turned out; and I suppose no boy ever was sent to the Academy who during the period of his education or for years afterward thought of raising his hand against the Government; and those who were most conspicuous in the service of the rebellion were men who had

fought very gallantly and with great skill, and had contributed in a great measure to raise the military reputation of the country in defense of the United States in the war with Mexico. Their fault has been (and it is a fault which I do not think the Senate exactly appreciate) that they were educated in that part of the United States where the doctrine of secession was taught as a constitutional doctrine, really believed in. The effect of that teaching was not confined to the South; a great many men at the North entertained the same opinion; a great many at the North before the rebellion and during the rebellion avowed the same opinion. At the time the fugitive slave act was pending before Congress, and more strikingly after it had become a law and it was called in question in some of the States, a great many men who have been thoroughly true to the Union except in that particular, were resolved to resist by force the execution of that law, and avowed that determination.

Mr. CLARK. Does the Senator allege that as any excuse for these men who were false to the Government?

Mr. JOHNSON. Not at all. I am excusing them from ignorance. The reason I referred to it was merely for the purpose of palliating in some measure what had been done. No one is further from justifying it than I am. Nobody regretted it or condemned it more than I did; but while regretting it and condemning it, I could not help feeling upon my own judgment the influence of the considerations to which I have alluded, that although they committed a crime, in my judgment, against the United States, and were guilty of the offense of treason, the highest of all crimes provided against in the Constitution, yet they were made to believe, and I have no doubt in hundreds of instances did conscientiously believe, that it was no crime. But they have waked up now—that I have no doubt of—to a conviction that in the past they committed a great blunder. Now, without mentioning names, and no question that any Senator can put to me can induce me to mention the name, because it would be indecorous, and therefore no Senator will ask me, I met a southern gentleman who was a member of the Peace Convention, of which I happened to be one, in the cars here the day before yesterday; he was a southern man, very warm, very decided, very zealous, and, as I thought and told him at the time, if he succeeded in controlling the deliberations of the convention war would certainly be the result, and that their institution of slavery, to which they were so much attached, would necessarily fall. He looked careworn when I saw him the day before yesterday only. I recognized him and he recognized me, and he immediately took his seat by me, and said, quite in a sorrowful tone, and I have no doubt in great sincerity, "You were right, and I was wrong; I admit that I was wrong; God forgive me." I have no doubt he spoke with as much sincerity as a man can feel; and that he was sincere, equally sincere, when he was a member of that convention I have no doubt, not the slightest.

I only refer to these things for the purpose of showing that there are circumstances which should induce us to grant some little indulgence to our brethren of the South, and especially to the boys of the tender age of some twelve, thirteen, or fourteen, who were led away by the example of those around them, upon whose judgment it was very natural that they should rely.

Mr. CLARK. Mr. President, supposing the facts and considerations to be as stated by the Senator from Maryland, supposing these people did go into secession from false notions of education, nevertheless the fact is so that many men who were educated at the Military Academy engaged in the rebellion. They had the benefit of an education which qualified them all the more to do mischief toward this Government. So in the Naval Academy. Now, does not that experience teach us to be cautious? And would it be wise to appoint young men who have been engaged in the rebellion into these places to be

educated, when, as said by the Senator from Vermont, there are so many young men who have been engaged on the other side, or who are the children of heroes on the other side, who would desire these places? I desire to say nothing in disparagement of any person who repents of the evil he has done, but I certainly would not give a man who had committed treason an opportunity to commit it again, and make that treason all the more effectual, by educating him in the service of the United States. Treason committed once is enough for all time to come; there should be no opportunity of renewing it. I think we should not put these boys into these schools.

Mr. HOWE. If the question were whether one of these young men should be sent to the penitentiary for life or should pay the forfeit of his life upon the scaffold, the inquiry whether their service in the rebellion had been voluntary or involuntary I think would be a pertinent one, and it would be proper for us to examine and determine that fact before executing either of those sentences. That is not the question. Undoubtedly, as the Senator from Maryland has said, this rebellion originated in a faulty education. Undoubtedly he is quite correct in saying that that education was not all obtained in the districts in which the rebellion had its origin; that we participated, were to some extent responsible for that education. Let us get rid of that responsibility hereafter. The only part we ever had in that education was in sitting and hearing the "right" asserted and the threat made year after year and never taking any steps to guard against it. And now we are in danger of perfecting that education by showing the world that we cannot to-day, with all we have seen of the fruits of that education, bring our minds to discriminate between loyalty and disloyalty, between fidelity to the Government and treason against the Government.

Mr. President, the Senator from Maryland thinks that they have got over the effects of that education; that they have now been brought to see that they have committed, not a crime—he does not say that—but a blunder; and in evidence of that he recites a conversation that he had a day or two since with one who participated in that blunder, which I prefer to call a crime. It suggested to me the fact that this morning I received a newspaper which contained a notice of a demonstration made I think in the city of Raleigh in commemoration of the life and services of General Jackson of the rebel army, known as Stonewall Jackson. It also contained quite a lengthy account of a similar demonstration made, if I recollect aright, in the city of Lynchburg, in Virginia, where the whole city formed a procession, the city authorities, all the societies, the fire companies, everything like an organization in the city turned out into the street to do honor to the memory of General Jackson; and who was General Jackson? One of the renowned chiefs in the perpetration of that which the Senator from Maryland characterizes as a blunder—

Mr. JOHNSON. I did not say so.

Mr. HOWE. I so understood.

Mr. JOHNSON. The honorable member is generally so fair that I am sure he will do me justice. I did not say it was a blunder alone; I said it was a crime—the offense of treason. That may be called a blunder in one sense, but not a blunder as contradistinguished from the blunder of a crime—a pretty fatal blunder.

Mr. HOWE. I certainly did not mean to misquote the Senator from Maryland; I prefer his own language. Then he was the man who took a leading part in the perpetration of that crime. While they are doing honor in this way to these men whom the Senator from Maryland and myself agree in characterizing as criminals, have we any reason to suppose that they have learned really to regard that conduct even as a blunder? They think it an honor, they think it a credit, they think it a glory, and by all these demonstrations they are trying to teach us that it is a glory; and while

they are so careful to shower these honors upon all those who have died in that cause what are we doing?

Sir, I saw not long since a statement in the papers which I cannot help but credit, that an application was made to one of the officers in this Government, on the part of the cadets in the Military Academy at West Point, for permission to inscribe upon the guns there, which had been captured from the rebels, the names of the fields on which they had been captured, and that permission was refused for a very amiable motive, I have no sort of doubt. The argument was, that as these gentlemen were coming back, we must leave nowhere any mementoes that could taunt them with, what? With the fact that there had been a difference, that there had been a war, that they had been criminals. I recollect of hearing that statement read from the papers one morning at a table where were sitting two crippled soldiers, each one of whom had lost part of a hand; and I recollect very distinctly, and shall recollect a great while, the manner with which one of them said to the other, "Well, my friend, it is time for you and me to go and bury ourselves; if we remain here on the earth these crippled hands of ours will forever be a reproach to these returning brothers that are coming back." We cannot allow the fact that the people of the United States captured a gun from their enemies to be inscribed on the gun for fear those enemies will have their feelings hurt! And when it is suggested here that cadets shall not be educated at this school of ours from districts which have no Representatives in the other House, objection is made to that. We object to it in the face and eyes of the fact that notwithstanding the law requires every one of those cadets to be nominated by the member from the district, these appointments are being made constantly from the districts where there is no Representative to make the nomination. When it is proposed to correct that, we strike it out. We say it is too small a matter for the Senate, and we strike it out.

Now, here is a proposition to prohibit the appointment of an individual to receive the advantages of that school who has been in this traitorous service, and it is proposed that we shall discriminate anew; that we shall not adopt that in those broad terms, but that we shall raise another question, whether his service was voluntary or involuntary, a question which we cannot try, which we cannot determine. As I said in the outset, if we were determining the question whether we would hang one of these men, I would stop and cavil on the question whether his crime was the result of choice or the result of force; but when we are determining only as to what class of young men shall be educated at the expense of the United States and for the military service of the United States, I think we shall run no risk of doing wrong to anybody if we say we will take those pupils from the class who have heretofore been loyal and true to the Government.

The question being taken by yeas and nays, resulted—yeas 8, nays 33; as follows:

YEAS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Guthrie, Hendricks, and Johnson—8.

NAYS—Messrs. Chandler, Clark, Conness, Cragin, Creswell, Edmunds, Fessenden, Foster, Grimes, Harris, Henderson, Howard, Howe, Kirkwood, Lane of Kansas, Morgan, Morrill, Norton, Nye, Poland, Pomerooy, Ramsey, Sherman, Sprague, Stewart, Sumner, Trumbull, Van Winkle, Wade, Wiley, Williams, Wilson, and Yates—33.

ABSENT—Messrs. Anthony, Brown, Lane of Indiana, McDougall, Nesmith, Riddle, Saulsbury, and Wright—8.

So the amendment to the amendment was rejected.

Mr. TRUMBULL. I offer the following as an amendment to the amendment, to come in at the end of it:

Nor shall any vacancy in the Military Academy, from any congressional district, be filled while said district remains unrepresented in the Congress of the United States.

Mr. SHERMAN. I ask the Senator if that will not affect the appointments of soldiers that have been made from our Army to fill up these

vacancies. During the war vacancies from the southern States were filled up by soldiers selected from the ranks.

Mr. TRUMBULL. It is intended, and that is the design of the amendment, to take away from the President the authority to fill up these vacancies. It has been a question of construction, whether there was authority to fill vacancies where there was no Representative to make the recommendation. I think the general understanding of the law is that the President has no authority to fill up these vacancies; but still it has been exercised to some extent, and I believe we should make it certain.

Mr. SHERMAN. Does it go back?

Mr. TRUMBULL. No, sir; it is merely for the future. If there is any question about that, I will put in the word "hereafter."

Mr. WILSON. The word "hereafter" is in the preceding amendment.

Mr. TRUMBULL. Very well; then it is not necessary here. I do not intend it to go back. If the Senate concur in it, the object of the amendment is simply this: that the vacancies from the unrepresented districts in the rebellious States shall not be filled by appointment by the President.

Mr. FESSENDEN. That is simply reenacting the proviso we struck out substantially. We struck it out on a vote of the Senate. I stated the reason that actuated the committee in advising the Senate to strike out that proviso. The greater portion of these appointments have already been made, and the vacancies filled up by President Lincoln, and taken from the several free States. Some from the State of Illinois were appointed for Mississippi, or some State down there. There are a few left, which it is for the advantage of the community, if we want to keep our Academy full, should be filled up. I will state one single thing that operated in the minds of the committee. We thought after allowing—if there was any such authority—President Lincoln to fill up the biggest part of them from the free States, it was rather small game to undertake to say that Mr. Johnson, being President, should not fill up the residue of them, if he had the power, from these States themselves. This is saying the same thing over again. I shall not vote for the amendment to the amendment for the reason that that is my opinion about it.

Mr. TRUMBULL. The Senator from Maine misunderstands the spirit of the amendment that I have offered. He attributes it—that would be the inference—to a desire to take from Mr. Johnson, because he is President, the power to fill up these vacancies, having allowed the power to be exercised by the President heretofore. Now, I say in all sincerity that I did not have Mr. Johnson in my mind in reference to it, as to his being President, or anybody else. My understanding of the law has been that these appointments should only be made on the recommendation of the Representative from the district. However, the law is not very clear on that subject. I think it ought to be specific, and that is the object of my amendment. I would have offered it just as quickly if Mr. Lincoln were President as I do now that Mr. Johnson is President. It is not intended as a reflection upon the present President, and I did not have such a thing in view.

Mr. FESSENDEN. That is precisely the effect of it.

Mr. TRUMBULL. I think Mr. Lincoln did wrong in filling up these vacancies, because in my judgment that was not the intention of the law. I will not say that he violated the law, for the law is not very clear upon the subject. I once looked into it and had some doubts as to whether the President was bound to appoint on the recommendation of a Representative in Congress. That has been the practice, and I think it should be made certain. I do not regard it as such a small matter. If we undertake to fill up the Military Academy on the recommendation of the Representatives from the congressional districts we should abide by it.

Mr. FESSENDEN. There either is authority

in the President, or there is not. If there is not, he cannot appoint.

Mr. HOWE. He does appoint.

Mr. FESSENDEN. Very well. Now I say those appointments were made without complaint on our part, without raising the question of authority at all.

Mr. TRUMBULL. We did raise it before.

Mr. FESSENDEN. No, sir, the question was not raised; no complaint whatever was made about it.

Mr. TRUMBULL. It has been discussed in the Senate heretofore.

Mr. FESSENDEN. It was not discussed until after the appointments were made, and after the State of Illinois and the State of Iowa and the State of Maine, for aught I know, had the advantage of sending young men to West Point as representing southern districts; and we submitted to it with a good grace, at any rate. Now, there are a few left; and it is proposed to take away the power, if it exists, just at this time. If it does not exist, the President will not exercise it; at least, it is to be presumed that he will not. We have got a full corps of professors in the Academy, and there are a few places in it vacant. It is important to the country that they should be filled up. Now that peace has returned, it would be a mean thing, in my judgment, to fill up those, in addition, from the northern States, if there are those who are not rebels that can be found in what were lately the confederate States; and we have already inserted a provision that they shall not be taken from anybody who served in the rebel army. I suppose we have power to put this provision on; but I am opposed to it for the reason that it looks, as I said before, as if we were just aiming it at the President with reference to the exercise of this power, if he has it; and if he has not got it, it is not to be presumed that he will exercise it; and therefore I am opposed to the amendment.

Mr. COWAN. It has just struck me that if we were to read in history now, after a lapse of one hundred and twenty-one years, that a member of the English Parliament, after the battle of Culloden, had moved in that Parliament that no Highland youth who had engaged in that rebellion should be educated in English colleges, what would we think of it? When Hoche suppressed the rebellion in La Vendée, what would we think if a member of the French Convention had got up and moved that no La Vendean who had taken part in that rebellion should have *entrée* into the Ecole Polytechnique?

Why, Mr. President, I should think the part of wise men would be to get the young men of the South educated with our young men in the colleges of the North, in the national schools. What is to be the effect of a contrary policy? Are we to make these young men patriots, defenders of the country, and attached to its institutions by exclusions of this kind? Mr. President, I fear me much for this policy.

I had a conversation to-day with a Senator of this body. At one time in my life, in my youth, I was wise enough, foolish enough, enterprising enough to project an expedition into Texas to aid General Houston in liberating Texas from the yoke of Mexico. I am free to-day to say that at that time, at the age of twenty years perhaps, I did not know what the quarrel was about. I did not stop to inquire what the quarrel was about. I had a notion that our people were fighting with some other people; that this blood of ours was in contest either with Indians or Mexicans or some other race for domination in Texas; and I was with our own people. My friend with whom I had this conversation said to me, "I was a soldier in the Mexican war; I went into it at the age of sixteen; and I am free to say that at that time I did not know what the precise point of quarrel was between this country and Mexico; I did not stop to inquire; my country was at war; and although sixteen years of age I volunteered, and I was present at the battles of Monterey and Buena Vista."

Mr. President, think of it, and Senators think

of it! Would you exclude young men of that age, because they engaged in a contest in which all their neighbors and all their people were more or less involved, from the advantages which are extended to other young men of the country, and embitter and make more hostile to our institutions those young men? I think the true policy would be to endeavor, so far as we can, to get the young men of the South, those who have been misled and carried away into the rebellion, to come to the North, to come to our schools, and intermingle with our people, now that the great bone of contention has been gnawed to pieces in the struggle, that we may all harmonize together and feel that we have a common interest in defending a common republic.

I am satisfied from all the lessons of history that this policy of proscription, this policy of imposing punishments not fixed and regulated by law, not following upon conviction in a court of justice, is not only bad policy, not only a blunder, but a crime. I have no sympathy for the leaders of the rebellion; I have no sympathy for the bad men who fomented it, and who taught the various sections to hate each other; but for the people, for the youth of the people, I have no condemnation, particularly after what has taken place, and after they have suffered the calamities of war. That I take to be the just penalty, and they stand acquitted when it is paid.

Now, as was said by the Senator from Maine, and better said than I can say it, the idea that this remnant which belongs to the South by the Constitution and the laws, that the chances which remain to her since she has submitted should be taken away is painful; a melancholy example, I fear, of how far the passions of men may lead them to disregard, not only their true interests, but those of the country.

Mr. WILSON. The speech the Senator from Pennsylvania has just made, and the statement he has made to us in regard to his campaign in Texas, gives to me a key to his line of policy here, and I think I now know him a great deal better than I did. I will say to the Senator that it seems to me a very strange thing that we are discussing in the Senate of the United States to-day whether we shall send men who have fought in the rebel armies to West Point to educate them at the public expense with the sons of men who have given their lives in the defense of the country. What will the young men of this country, whose fathers and brothers and friends have fallen in this war, think of the Congress of the United States if we send men who have fought in the rebel armies, and perhaps shot down their fathers and brothers and friends, to West Point to be educated with them? I am surprised that any Senators here should advocate a policy of that character. I am willing that the young men of the South should be educated, and educated in our colleges and schools, anywhere and everywhere, at their own expense. I hope they will be educated, and taught better than they have been taught in the years of the past; but for the Government of the United States to permit the men who have served in the rebel armies to be educated at West Point at the public expense seems to me to be to elevate treason and to put a mark of dishonor upon fidelity to the country. It is a fact everywhere manifest about us that every effort is being made that can be made to make rebellion and treason respectable.

As to the amendment just moved by the Senator from Illinois, I agree with the Senator from Maine that we had better keep it off this bill. I am willing to do anything that is liberal and fair toward the people of the rebel States; but, sir, to take the men from their armies and put them with the young men of this country to be educated at West Point, or at the Naval School, seems to me little less than elevating treason at the expense of loyalty to the country.

The PRESIDENT *pro tempore*. The question is on the proposed amendment to the amendment.

Mr. TRUMBULL. I ask for the yeas and nays upon it.

The yeas and nays were ordered.

Mr. POMEROY. This amendment prevents the doing of a thing which I think would be very commendable if it could be done. There are in all the districts of the South some very loyal young men who have been in our Army. This amendment would prevent the President from appointing those young men to the Military Academy. I do not know that they would stand the ghost of a chance to get appointed; but it would prevent their being appointed if they stood a chance. I would like to see some of the young men in the South, who have suffered the loss of all things, who have been truer to our cause than the needle to the pole, because they would not turn even in the presence of the metals, appointed to our Military Academy; but this amendment prevents that.

Mr. TRUMBULL. If the Senator from Kansas will allow me, I will ask him whether he is for changing the law, and taking away from the member of the House the right to recommend the appointment from his district. The object of this amendment is to execute the law as it has been understood, I believe, ever since this Academy was established. These whole forty appointments, if there are so many vacant, if you will not adopt some such measure as this, may, under the practice that is prevailing, every one of them be made from the District of Columbia. Is the Senator for leaving the law in that way? When we have established an institution and undertaken to fill it up by students from each congressional district in the United States, is he now for throwing it open, and telling the President to appoint, if he pleases, from the District of Columbia fifty persons? He will not, by voting this amendment down, give the appointments to these congressional districts. The President has a certain number, ten, at large, that he can appoint annually. The object of this amendment is to prevent the appointment in vacancies from congressional districts until there is a Representative to recommend somebody from the district.

Mr. GRIMES. How does this amendment change the law as it now stands?

Mr. TRUMBULL. According to my understanding of it, perhaps not at all; but there is a dispute about the law. It is contended by some that the Secretary of War or the President has the right to appoint every single person to West Point irrespective of the recommendations of the Representatives in the congressional districts. This fixes the law.

Mr. HENDRICKS. I wish to ask the Senator from Illinois if that is not in fact the law, and if it is not a matter of usage simply that appointments are made upon the nominations of members of the House?

Mr. TRUMBULL. I think it is partly a matter of usage; but there is some color of law for it. I think there is a statute that rather recognizes this as the law; if not, a regulation.

Mr. HENDRICKS. I have understood that it was a matter of usage simply. I never investigated the law myself.

Mr. GRIMES. Mr. President, two years ago General Sherman, when in command at Vicksburg, directed an inquiry to be made among the various regiments that composed his army for the young men who had most distinguished themselves and were best qualified to make soldiers, and he instituted an examining board who investigated as to their merits, and among the young men thus selected were four very good young men from my own State. They were selected and are now at West Point. Now, as I understand it, the proper, legitimate, and logical sequence of the adoption of this proposition is that they will be turned out.

Mr. TRUMBULL. Not at all.

Mr. GRIMES. I know this proposition does not do that; but the logical sequence would be that they ought to be turned out, and that we should adopt an amendment to-morrow to turn them out, because there was no law by which

they could have been appointed. I am not going to place them in any such category as that.

The question being taken by yeas and nays, resulted—yeas 14, nays 23; as follows:

YEAS—Messrs. Chandler, Clark, Conness, Cresswell, Edmunds, Harris, Howard, Howe, Kirkwood, Nye, Sprague, Sumner, Trumbull, and Wade—14.

NAYS—Messrs. Buckalew, Cowan, Davis, Dixon, Doolittle, Fessenden, Foster, Grimes, Guthrie, Henderson, Hendricks, Johnson, Lane of Kansas, Morgan, Norton, Pomeroy, Sherman, Stewart, Van Winkle, Willey, Williams, Wilson, and Yates—23.

ABSENT—Messrs. Anthony, Brown, Cragin, Lane of Indiana, McDougall, Morrill, Nesmith, Poland, Ramsey, Riddle, Saulsbury, and Wright—12.

So the amendment to the amendment was rejected.

The PRESIDENT *pro tempore*. The question now is on the amendment of the Senator from Massachusetts.

The amendment was agreed to.

The amendments were ordered to be engrossed and the bill to be read a third time. It was read the third time and passed.

ORDER OF BUSINESS.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of the fortification bill. I merely desire to take it up so as to have it as the order of the day for to-morrow.

Mr. VAN WINKLE. I desire to suggest to the Senator that to-morrow has been assigned by a resolution of the Senate for the consideration of the business of the Committee on Pensions, after one o'clock.

Mr. FESSENDEN. I desire to finish this bill this week, if it be possible, to get it out of the way. It is an appropriation bill.

The PRESIDENT *pro tempore*. It is moved that the Senate proceed to the consideration of the bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1867.

Mr. HENDRICKS. I do not think the chairman of the Committee on Finance ought to call up the bill that he now proposes to take up, with a view of making it the order for to-morrow, or to have it before the Senate so as to exclude the special order, in the absence of my colleague, the chairman of the Committee on Pensions, because, as I understand, the business of that committee has been made the order for to-morrow at one o'clock. I think he ought to postpone his motion until my colleague is in the Senate. I believe he is not well to-day, and is not here now.

Mr. KIRKWOOD. I think that matter can be arranged perhaps; but I do not know.

Mr. HENDRICKS. I dare say, if my colleague were here, he would not interpose any objection.

Mr. FESSENDEN. Let us take it up, and if the Senator is here in the morning I will leave it to the Senate to decide upon the two bills. I only want this to take precedence of anything else, and it is absolutely necessary now, as the business is laid out, to get through with the appropriation bills.

Mr. HENDRICKS. I do not question that.

Mr. FESSENDEN. We shall probably not sit on Saturday, and I should like to have this bill taken up, and then we can arrange the matter to-morrow.

Mr. HENDRICKS. Do you expect a session on Saturday?

Mr. FESSENDEN. Probably not.

Mr. SHERMAN. The bill to fund the public debt ought to be taken up at some time; and I desire now to have some understanding about it. The appropriation bills are matters of course, and will pass of course—the fortification bill with the rest. There is no question about that. The funding bill is from the same committee. The very weight of the appropriation bills will carry them through. Now, I submit it to the Senate, as I cannot agree with the Senator from Maine on the subject, whether we ought not to take up the bill with regard to funding the public debt, so as to enable the Secretary of the Treasury to determine upon the loan which he intends to put upon the market. I say to the Senate it is a matter of vital

importance that that question should be settled one way or the other as speedily as possible. If the Senate shall vote down the proposition, the Secretary will pursue another course. The fortification bill is a matter of no moment. I say that, knowing the condition of public business. There is ample time to consider it. It is a bill that will pass at any time, on its own merits and weight. Now, I submit whether as Monday is set aside for the report of the reconstruction committee, which will probably take a long time, whether we ought not to take up the funding bill, which I regard as the most important now pending, and on which there ought to be some action. I shall, therefore, contrary to the general usage in these matters, vote against the motion of the Senator from Maine, because I think the funding bill, from the same committee, ought to have the preference at this time.

Mr. FESSENDEN. I do not know of anybody but the Senator from Ohio who regards this funding bill as of any consequence to be taken up.

Mr. SHERMAN. I am not to be put off by remarks of that kind. The Senator may have his opinion. I have mine. I have just as good a right to my opinions as he has to his. He knows that the fortification appropriation bill is not of any importance, and it is brought up for the purpose of preventing the vote on the funding bill.

Mr. FESSENDEN. That is not so.

The PRESIDENT *pro tempore*. Senators must observe order, and not interrupt each other in debate.

Mr. SHERMAN. The Senator has already displayed too much feeling. The other day, when I reported the bill, he said he would prevent it from coming up at all times. We are accustomed somewhat to his impatient remarks; but at the same time I have my duty to perform, and I say here now, representing a majority of the Finance Committee, that I have the right to have this question heard, at least, unless he should outvote me. Upon questions of this kind I do not like to have any personal feeling. I desire that the funding bill should be brought to the consideration of the Senate. It is a matter of vital importance, and therefore I intend, representing the majority of the committee, to antagonize that bill against the bill now proposed to be taken up. This fortification bill is a matter of no moment whatever. The Senator knows as well as I do that it will pass. It cannot operate until the 1st of July next, and can have no effect and no influence whatever until then, while this funding bill, if it is to pass at all, ought to be passed promptly. That is the condition of the public business, and I therefore shall vote against the motion. If there is a special order to-morrow that overrides both, we have got to submit.

Mr. TRUMBULL. It is manifest that we are accomplishing no business to-night, and I move that the Senate adjourn.

Mr. FESSENDEN. I should like to have the Senator withdraw that motion for a moment until I make an explanation. I must reply to the Senator from Ohio, and then he may renew it if he pleases.

Mr. TRUMBULL. I will withdraw it at a personal request, if the Senator wishes to say anything; but I think we had better adjourn.

The PRESIDENT *pro tempore*. The motion to adjourn is withdrawn.

Mr. FESSENDEN. Mr. President, I gave notice early this week that I should call up the appropriation bills during this week—three of them—in order to dispose of them; that we were getting to a period of the session when they ought to be taken up and disposed of, those of them that we intended to dispose of at this period; and I did it quite as much for this reason as for any other, that the Senator from Ohio had been at me continually to take up the appropriation bills and get them out of the way.

Mr. SHERMAN. That was long enough ago, when you could have done it then.

Mr. FESSENDEN. Exactly; and the longer the time was deferred, the more necessary it was to get at them some day or other. While I was detained from my seat in the Senate by illness the Senator from Ohio took up one or two of those bills in order to pass them; he deemed it so important. I gave notice early in the week that I should take up the bills, if I could, this week, because next week is set aside for the consideration of other business.

Now the Senator regards his funding bill as of importance. I do not. The remark that I made the other day was simply this: that he reported it with the consent of the Committee on Finance, not that the majority agreed to it, as he knows very well.

Mr. SHERMAN. I do not know any such thing.

Mr. FESSENDEN. If the Senator had listened to the remarks that were made and the reasons that were given by members of the committee why they allowed it to be reported, he would have known it.

Mr. SHERMAN. The Senator is out of order in making such an allusion.

The PRESIDENT *pro tempore*. Senators will address the Chair, and not interrupt each other while debate is proceeding.

Mr. FESSENDEN. When the Senator reported the bill I made the remark that I was opposed to it because I had given notice in the committee that I should oppose it, and I deemed it quite as much my duty to say that in order that it should not go to the country that that bill met with the entire concurrence of the Committee on Finance, and I made the remark because I knew the use that would be made of the report if that statement had not accompanied it.

Now, sir, the Senator regards that bill as of great importance. I made the remark that I did not know anybody else that did regard it of so much importance to be taken up immediately. Perhaps he can make out that it is, and perhaps there are others who think so; but still my remark is a correct one, that I do not know anybody else who regards its being taken up immediately as of much consequence.

I do not doubt that the appropriation bill which I have mentioned will pass at some time or other before we adjourn; but it is necessary to have these things in progress. We have the Army bill behind. That has not passed. We have the principal appropriation bill behind, the executive and legislative bill, which has not yet been taken up; and we have the question of reconstruction to dispose of, which will take some considerable time.

My view of the matter, therefore, as having charge, in some degree, of the business of the Senate in connection with these measures that must be passed at some time, was that, at this late period of the session, some of those bills should be swept out of the way. I have been continually met with this funding bill.

Well, sir, I do not think myself, and the Senator will pardon me for expressing it again, that it is of so much consequence, because I am opposed to it. I take it that I had a right to say I was opposed to it, and to say that I was not in favor of it, because I was opposed to it in every shape. The remark, I take it, was pardonable. And now I really do not think that the Senator had the right, after I gave notice so long ago as Monday that I wanted to take up these bills, and after he has been urging me continually to take them up and get them out of the way, to interpose the bill to which he seems so much attached. That is my notion with regard to it. I may be wrong, but still I entertain that opinion.

Mr. COWAN. Now, let us adjourn.

Mr. SHERMAN. Just one word. I undoubtedly did say to the Senator, expressing my opinion, that he should have taken up the appropriation bills some time ago when all these formal bills, about which there is little debate, could have been acted upon and got out of the way, leaving the important bills until the close of the session, as is usual. Undoubt-

edly I did say that, and undoubtedly that was the proper course.

But here is the trouble: the Senator and I differ in regard to an important bill. He has undertaken to say what has occurred in committee. I think that that was improper; certainly it was in violation of the rule. I take it that every person who votes in committee votes his sentiments; and therefore, as I was authorized to report this bill, it was reported by the majority of the committee. I do not controvert with the Senator about what occurred there. The members are here present; and they know very well whether or not they gave their assent to the bill. I only wish to say that that bill is considered, not only by myself, but by others, as of the highest importance. The Senator must have seen two or three letters from the Secretary of the Treasury on the subject, asking us to pass that bill. I state to the Senate, now, the fact that the question as to the loan that will be put upon the market is waiting for our action upon that bill. That is a fact that my honorable friend must know as well as myself.

Under these circumstances, to bring up the fortification appropriation bills just at this time, when the Senator has blocked out the business for next week and the week after, crowding out this important bill which he does not happen to agree with, against the report of the committee, of which he is chairman, and therefore the most influential member, and crowding in these little bills that have laid on our table for weeks, did seem to me to justify the remark I made, that it was done for the purpose of crowding off that funding bill.

Mr. FESSENDEN. The Senator must recollect that I gave notice on Monday of this week that I should take up these bills in order to pass them, and his bill was not decided on in committee until Tuesday.

Mr. SHERMAN. I will state further that the Senator spoke about two bills, the diplomatic and consular bill and the West Point bill. The fortification bill is a matter of no moment, and will take no time. Under these circumstances, I have a right to say, from the evidence before us, that the Senator desires, as a part of his parliamentary opposition to this bill, to interpose other bills to prevent it coming up, because when else can we take it up if we do not take it up now? Under the circumstances, I say, I am justified in saying it. All I desire is to submit this proposition, which I can demonstrate to be not only extremely important but a measure which in my judgment will save the Government in a short time \$20,000,000 a year, to the deliberate judgment of the Senate. If the Senate shall vote the bill down, I shall have no regrets. It is only a question of public economy. It is not a question that affects me in the slightest degree either way. That is the feeling I had, and I felt in interposing now that I was performing an unpleasant duty. I desire to bring that bill (even against the opposition of the Senator from Maine) to the consideration of the Senate, and after it is heard and debated—it will be debated by me very briefly—I am willing to take the judgment of the Senate upon it.

Mr. TRUMBULL. I renew the motion to adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 17, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

HENRY PACKARD.

Mr. BANKS, by unanimous consent, introduced a joint resolution authorizing the settlement of the accounts of Henry Packard, deceased, late assistant paymaster of the United States Navy; which was read a first and second time, and referred to the Committee on Naval Affairs.

CONTESTED ELECTION.

Mr. DAWES. I submitted a few days ago a report from the Committee of Elections, in the case of Follet vs. Delano. I desire to call up that case to-morrow immediately after the morning hour and have it disposed of without debate. I trust that members meanwhile will send for the report and read it; and I will, in compensation, relieve the House from any debate on my part.

Mr. SPALDING called for the regular order.

The SPEAKER announced, as the first business of the morning hour, the call of committees for reports, beginning with the Committee on Public Buildings and Grounds.

COINAGE, WEIGHTS, AND MEASURES.

Mr. KASSON. The Committee on a Uniform System of Coinage, Weights, and Measures have prepared a report which needs some slight revision before it is sent to the printer; and I therefore propose that while the report shall be considered as presented now, I may retain it for revision, with the understanding that it may be handed to the Clerk after revision and be printed.

The SPEAKER. If there be no objection, it will be so ordered.

METRIC SYSTEM OF WEIGHTS AND MEASURES.

Mr. KASSON, from the Committee on Coinage, Weights, and Measures, reported a bill to authorize the use of the metric system of weights and measures; which was read a first and second time.

The bill, which was read, proposes to enact that, from and after the passage of the act, it shall be lawful throughout the United States to employ the weights and measures of the metric system; and no contract or dealing or pleading in any court shall be deemed invalid or liable to objection because the weights or measures expressed or referred to therein are the weights and measures of the metric system.

The second section provides that the table in the schedule annexed to the bill shall be recognized in the construction of contracts and in all legal proceedings as establishing in terms of the weights and measures now in use in the United States the equivalents of the weights and measures expressed therein in terms of the metric system; and said table may be lawfully used for computing, determining, and expressing, in customary weights and measures, the weights and measures of the metric system.

Mr. KASSON. I suppose it is not necessary to read in detail the tables giving those equivalents.

The committee have deemed it wise to frame a bill which in its terms is simply permissive and initiative of this great reform. In England, though a compulsory act was at first proposed, it was finally resolved to adopt a mere permissive measure; and under the present circumstances of this country the committee considered it best to frame a bill of the same nature. After some popular acquaintance with the system the Congress will be better able to fix the time for its ultimate exclusive adoption.

As the facts connected with this subject and the reasons for the measure proposed are fully stated in the report, I will not, in the present pressure of business, detain the House with any additional remarks, though I will cheerfully explain any point on which any gentleman may desire information. The committee, after very patient and elaborate investigation, have agreed unanimously on their report. If no gentleman desires to discuss the bill I will call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. KASSON moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. KASSON. Mr. Speaker, I also report from the Committee on Coinage, Weights, and Measures, a joint resolution to enable the Secretary of the Treasury to furnish to each State one set of the standard weights and measures of the metric system. This resolution is necessary to carry into effect the bill which we have just passed, and conforms to the former resolution of Congress providing for the distribution of the common standards.

The joint resolution was read a first and second time.

It proposes to authorize and direct the Secretary of the Treasury to furnish to each State, to be delivered to the Governor thereof, one set of the standard weights and measures of the metric system for the use of the States respectively.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. KASSON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST OFFICE WEIGHTS.

Mr. KASSON, from the same committee, reported a bill to authorize the use in post offices of weights of the denomination of grammes; which was read a first and second time.

Mr. KASSON. Mr. Speaker, this is to carry into effect the policy already adopted by the Post Office Department in connection with its foreign correspondence in the use of gramme weights. The bill has been submitted to the Post Office Department and no objection has been taken to it.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. KASSON moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

METRIC SYSTEM—AGAIN.

Mr. NIBLACK. I desire to ask the gentleman from Iowa whether the bill for a metrical system proposes to go into effect immediately, or designates some future day when it is to go into effect.

Mr. KASSON. It proposes to go into effect as a permissive measure immediately; that is to say, all the arts, trades, corporations, and individuals who may desire to adopt it can do so. It is not now made compulsory at any time, as the committee did not feel authorized to make any such provision prior to its introduction by law, and the beginning of its use. We only desired to legalize it so that those who desired to use it might be able to do so without violating the laws now in force in some of the States, which this measure will to that extent repeal.

Mr. NIBLACK. The gentleman's explanation is satisfactory to me.

UNIFORM COINAGE COMMISSIONER.

Mr. KASSON, from the same committee, reported a joint resolution to authorize the President to appoint a special commissioner to facilitate the adoption of a uniform coinage between the United States and foreign countries; which was read a first and second time.

Mr. KASSON. Mr. Speaker, I will say in explanation of the joint resolution that it is in execution of the recommendations of the report of the committee, as well as of Mr. Jefferson, Mr. Adams, and the other distinguished men who have taken part in this movement of reform. They all recognize the necessity of international action to arrive at the proper result.

Congress a few years ago passed a joint resolution that only partially carried out the object. A commissioner was authorized to be appointed for the purpose of consulting with the Government of Great Britain. He went there with indefinite instructions. The English

Government expressed a willingness to entertain any proposition, but there was no authority sufficiently certain to give it force and effect. It therefore failed to produce any practical benefit. The committee thought that, in connection with the meeting of the commissioners next year at Paris, from various foreign Governments, if we appointed a special commissioner expressly charged with this matter we might at least pave the way for the result so much desired. That is the whole effect of the joint resolution.

Mr. LAWRENCE, of Ohio. Mr. Speaker, I believe this to be totally unnecessary. I cannot understand why all this business cannot be performed by our diplomatic representatives abroad. This special commissioner seems to me to be an unnecessary officer, entailing an unnecessary expense. I only desire to call attention to the fact, and I hope the joint resolution will not pass.

Mr. KASSON. I think the gentleman's objection can be answered conclusively. In the first place the questions involved are those of science and art, referring to the basis of coin and the relations it shall bear to weights and measures. I know of but one minister of the United States abroad at this time who would be personally competent to undertake the necessary negotiations. In the second place, it will be impossible to take away any of our ministers from their respective capitals to attend to this special duty in meeting these commissioners from foreign Governments. We have hardly ever been able to effect any special reform through general diplomatic officers. In every instance, so far as I know, the initiative has been taken here and elsewhere by special commissioners. It is done for postal and for commercial conventions.

Mr. LAWRENCE, of Ohio. Have foreign nations appointed commissioners with whom our commissioner is to negotiate?

Mr. KASSON. They are all appointing commissioners to meet at the Industrial Exhibition of next year.

Mr. LAWRENCE, of Ohio. Are any of them authorized to negotiate upon this subject?

Mr. KASSON. If the gentleman had heard the resolution read he would have found that it provided for the appointment of a special commissioner with reference to this subject, to act in conjunction with commissioners to be appointed by all nations which are invited to join for this express purpose. The whole object of the resolution is practical—to secure one single commissioner from each country who shall be specially charged with that function. I certainly can see no objection to it. The resolution expressly provides that there shall be no salary paid to the commissioner, and I think it will commend itself to the judgment of every member that a special commissioner is indispensable for this purpose. I call the previous question.

Mr. LAWRENCE, of Ohio. I hope the gentleman will allow me a word.

Mr. KASSON. I withdraw it.

Mr. CONKLING. I call for the reading of the joint resolution.

The joint resolution was again read.

Mr. LAWRENCE, of Ohio. I desire to call the attention of the House to the fact that here is a proposition to appoint another commissioner to the Paris Exhibition. We have already authorized the appointment of ten, and before they get through with that Exhibition I do not know but we shall have a congress of American citizens sent there to represent all the great interests of this country. Now, if we cannot get along with ten commissioners I think we had better dispense with the commission entirely. This is simply an appendix to what has already been commenced, and I hope we will stop the appointment of further commissioners to this Exhibition.

Mr. KASSON. I have done my best to enable my friend from Ohio [Mr. LAWRENCE] to understand this resolution. I hope now I shall enable him really to comprehend its purpose. If he had spent weeks and months in the exam-

ination of the history of this question in this country, the report of Jefferson, the recommendation of Madison, the action of scientific bodies at home and abroad, the action of foreign Governments upon the subject, all of which have been considered by the committee that instructed me to report this resolution, he would then know that there is no one subject that can come before an international or other congress that has more important relations to the commercial and social intercourse of the world than this one; and that it is a question whether money shavers shall actually accumulate enormous fortunes in every country of the world, at the unnecessary cost of travelers and traders, and whether we shall be able to know when we draw a bill on a foreign country how much we are paying for it and how much we get by it. I assure him and the members of this House that the question is one the importance of which increases every hour with the increasing intercourse of the world.

Secondly, I say that we have not a solitary commissioner yet appointed to Paris, nor a law authorizing one. That measure may fail. God forbid that it should fail; but whether it fails or succeeds it is absolutely necessary that there should be authority of law to designate a special commissioner who shall have what these other special commissioners have not, diplomatic authority to negotiate upon this subject with which he is charged. The commissioners to be appointed by the bill that formerly passed the House are to be selected among manufacturers and agriculturists and all practical classes of the community; but we want to send some one who is acquainted with the general history of coinage of this country and of the world, who knows the proper proportion between the precious metals and alloy, who knows the systems prevailing in different countries, and who can properly negotiate, and by authority, with the several Governments concerned. This the other commissioners are not and ought not to have authority to do.

Now it becomes a question whether we shall take the recommendation of Jefferson and Adams and all the distinguished men who have sought this great desideratum, as regards the commercial intercourse of the world, and appoint a special commissioner without salary, or whether this most important object shall be defeated by a single objection.

Mr. BANKS. In reference to the suggestion of the gentleman from Ohio, [Mr. LAWRENCE,] I desire to say that the proposition presented by the Committee on Coinage, Weights, and Measures, as I understand it, is distinct entirely from that embodied in the proposition for a representation of our industry at the Paris Exposition. I do not desire to go into a discussion of that question at all; but in reference to this measure let me say to the gentleman from Ohio and to the members of the House that its object is to pave the way for the establishment of reforms that will enable every man who travels in any country to carry in his own pocket an exact representation of the values of weights and of measures that exist in any civilized country. Whenever this system shall be established a man may carry in the coin he has in his pocket an exact test of the measures, weights, and values that exist in other countries through which he travels. That is certainly an object of great importance to the people of this country, and if this be an inquiry only, costing little or nothing, I hope the joint resolution will be passed.

I have seen this morning very intelligent persons from England who say that in a brief visit to this country they have given as much time and trouble to learn the relative values of our fractional and other currency as to study of institutions of greater importance. I suppose that every man who has traveled knows the inconveniences and the losses that result from the difficulty in comprehending the different standards of weights and measures and money values in other countries. I hope the joint resolution will pass.

Mr. KASSON. The gentleman is perfectly

right in his suggestion of the unnecessary expense and inconvenience that attend the present system. So long as every Government and principality in Europe has a local and peculiar coinage, the traveler must undergo a shave at every frontier, and merchants are liable to perpetual mistakes in the rendition of their accounts.

Mr. LAWRENCE, of Ohio. The gentleman does not seem to comprehend exactly the point of the objection which I make to this resolution. I do not object so much to the purpose sought to be attained as to the means by which it is sought to be attained.

Now, we have already, so far as this House is concerned, authorized the appointment of ten commissioners. They are to be scientific men, the representatives of all the interests of this country. Why not clothe one of those representatives with the powers contemplated by this resolution? Why add another commissioner? That is the point I make. Now, we have been a little slow to see the absolute necessity of this system which my friend says has been so ably presented by Jefferson and Adams and others. We seem to have got along very well without it.

I should not object that one of those ten commissioners should be clothed with all the authority contemplated by this resolution, but I do object to the unnecessary expense of an additional commissioner for this purpose.

Mr. KASSON. Let me add once more, so as to be distinctly understood by the House, that there is no salary attached to this office. These special commissioners to whom the gentleman has referred have no special charge of this subject, and have no power whatever to negotiate with foreign Governments, and it is absolutely necessary that the commissioner charged with this question should have the power to negotiate. I demand the previous question.

The previous question was seconded and the main question ordered.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. KASSON demanded the previous question on the passage of the joint resolution.

The previous question was seconded and the main question ordered.

Mr. LAWRENCE, of Ohio. I demand the yeas and nays on the passage of the joint resolution. If this joint resolution shall be voted down, I hope the House will understand that the committee can be directed to move that some one of the ten commissioners already authorized shall be clothed with all the necessary power.

Mr. KASSON. Mr. Speaker, I cannot refrain from expressing some surprise at the obstinacy of my friend from Ohio in a matter to which I see clearly he has not given a personal examination. Let me say again that the reasons for providing for the appointment of this commissioner are that the Senate may not concur in our measure providing for representation at the Industrial Exposition. Even if the Senate should concur in that, no one of the commissioners thus appointed can possibly perform the duties of this commission under that act. The third reason is that if the effort is worth the enterprise of an entire century—for it is an enterprise of an entire century—I think the great American Republic will not very much injure its dignity or its honor in that direction, if it should allow to the commissioner who shall contribute to this great result his personal expenses. Nothing more than that is proposed by this measure.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 65, nays 38, not voting 80; as follows:

YEAS—Messrs. Alley, Ancona, Delos R. Ashley, Baker, Banks, Baxter, Bergen, Bidwell, Boutwell, Brandegee, Reader W. Clarke, Conkling, Cullom, Davis, Dawes, Dawson, Eliot, Griswold, Hart, Higby, Holmes, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbard, Hulburd, Jenckes, Julian, Kasson,

Kelley, Kelso, Knykendall, Laffin, Latham, George V. Lawrence, Longyear, Lynch, Marvin, McClurg, McKuer, Mercer, Miller, Morris, Myers, Newell, Niblack, Nicholson, O'Neill, Paine, Phelps, Pike, Sawyer, Schenck, Stevens, Strouse, Taber, Thayer, Francis Thomas, Burt Van Horn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Woodbridge—65.

NAYS—Messrs. Ames, Baldwin, Benjamin, Brewster, Sidney Clarke, Cobb, Cook, Denison, Dumont, Eggleston, Eldridge, Farnsworth, Finck, Goodyear, Aaron Harding, Abner C. Harding, John H. Hubbard, Kerr, Ketcham, William Lawrence, Le Blond, Marston, McCullough, McKee, Orth, Perham, Plants, Price, Ritter, Rollins, Seefeld, Sitgreaves, Sloan, Spalding, Stilwell, Trimble, Ward, and Henry D. Washburn—38.

NOT VOTING—Messrs. Allison, Anderson, James M. Ashley, Barker, Beaman, Bingham, Blaine, Blow, Boyer, Broomall, Buckland, Bundy, Chanler, Coffroth, Culver, Darling, Defrees, Delano, Deming, Dixon, Dodge, Donnelly, Driggs, Eckley, Farquhar, Ferry, Garfield, Glossbrenner, Grider, Grinnell, Hale, Harris, Hayes, Henderson, Hill, Hogan, Hooper, Hotchkiss, Asahel W. Hubbard, James R. Hubbard, James Humphrey, James M. Humphrey, Ingersoll, Johnson, Jones, Loan, Marshall, McIndoe, Moorhead, Morrill, Moulton, Noel, Patterson, Pomeroy, Radford, Samuel J. Randall, William H. Randall, Raymond, Alexander H. Rice, John H. Rice, Rogers, Ross, Rousseau, Shanklin, Shellabarger, Smith, Starr, Taylor, John L. Thomas, Thornton, Trowbridge, Upson, Van Aernam, Robert T. Van Horn, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, and Wright—80.

So the joint resolution was passed.

Mr. KASSON moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PAY OF COMMITTEE CLERK.

Mr. KASSON. I am directed by the Committee on Coinage, Weights, and Measures to report the following resolution:

Resolved, That the clerk of the Committee on Coinage, Weights, and Measures be allowed six dollars per diem for the forty days during which he has been employed as such.

The services of the gentleman who has acted as the clerk of the committee have been exceedingly valuable. His time night and day has been devoted exclusively to the work of the committee. He is a gentleman coming from New Haven, being a learned mathematical professor in the college at that place. Four dollars per day, the usual compensation to a committee clerk, would scarcely pay the hotel bill of this gentleman, putting out of view his traveling expenses.

On agreeing to the resolution, there were—ayes 40, noes 30; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. Kasson and BERGEN.

The House divided; and the tellers reported—ayes forty-seven, noes not counted.

Mr. WARD. I demand the yeas and nays. I desire that gentlemen who are in favor of increasing salaries at this time shall go on the record.

The yeas and nays were not ordered.

The resolution was agreed to.

LEAVE OF ABSENCE.

Mr. EGGLESTON asked leave of absence for Mr. HAYES for ten days.

Leave was granted.

MESSAGE FROM THE PRESIDENT.

A message in writing from the President of the United States was delivered to the House by Mr. EDWARD COOPER, his Private Secretary, who also informed the House that the President had approved and signed bills and joint resolutions of the following titles:

An act (H. R. No. 511) to impose a duty on live animals;

An act (H. R. No. 397) to authorize the coinage of five-cent pieces;

An act (H. R. No. 567) to amend an act to establish the grade of vice admiral in the United States Navy;

Joint resolution (H. R. No. 66) relative to the courts and post office of New York city; and

Joint resolution (H. R. No. 123) relative to the attempted assassination of the Emperor of Russia.

UNIFORM BANKRUPT LAW.

Mr. JENCKES, from the select committee on a bankrupt law, reported a bill to establish a uniform system of bankruptcy throughout the United States; which was read a first and second time.

The question was upon ordering the bill to be engrossed and read a third time.

Mr. JENCKES. The bill which was referred to the select committee on bankrupt law, on the motion of the gentleman from New York, [Mr. CONKLING,] was the bill that was formerly reported by that committee, without any of the amendments ingrafted upon it during its consideration by this House.

The bill now reported is the bill originally reported as amended in the House, with some other amendments to meet the objections then made to it. With the permission of the House I will briefly explain what those additional amendments are, and take up no time in explaining the other portions of the bill, as the bill has already been fully discussed with these exceptions.

The principal of the amendments now proposed is one relating to the duties of the officers styled messengers. By the original bill, in cases of voluntary bankruptcy, these messengers were required to take possession of the property belonging to the bankrupt, and retain it until the appointment of the assignee. By the bill as now reported, these messengers have no such duties to perform with regard to the property of the petitioner. The custody of the property remains in the possession of the petitioner until an assignee is regularly appointed by the court, when he takes possession of it and has full and final control over it. The responsibility of the care and custody therefore remains with the bankrupt, as the owner of the property, in the intervening time. As a check upon any waste of the property in the mean time, or of any disposition of it adverse to the provision of the law, the bankrupt is required to satisfy the court, and of course to satisfy the creditors, who watch over the proceedings until the discharge is granted, that he has made no such waste or fraudulent disposition of his property, before he can obtain his discharge.

Mr. CONKLING. We are very anxious on this side to hear what the gentleman from Rhode Island [Mr. JENCKES] is saying, but at present we are unable to do so. I would suggest to him, therefore, that he take a place nearer the center of the Hall, so that we can hear him.

Mr. ELDRIDGE. Mr. Speaker, I hope the gentleman from New York [Mr. CONKLING] will not insist upon the gentleman from Rhode Island [Mr. JENCKES] going over to that side of the House to make his speech. We very rarely have an opportunity to hear what is going on upon that side, or taking any part in the business of the House, however much we may desire it, and I trust we shall not be denied the pleasure of hearing the gentleman from Rhode Island [Mr. JENCKES] on this occasion.

Mr. JENCKES. If the House were more quiet I could easily be heard in all parts of the Hall.

Mr. Speaker, the whole of this explanation may be summed up in one sentence. The duties of these messengers are dispensed with in all cases of voluntary bankruptcy. The responsibility thrown upon them by the bill as originally reported is now thrown upon the petitioning debtor. And unless the debtor satisfies the court that he has acted honestly in every respect in regard to his property between the time of his application and the time of receiving his discharge, then he is not to receive the benefit of this act.

I will explain another amendment made in this bill. It is in regard to the payment of the officers called registers. By the original bill those officers were to be paid a salary, to be raised from the fees to be paid in each case. By the proposed amendment they are to be paid according to the services they render. And there is a provision inserted in the bill

giving the commissioners power to reduce these fees in certain classes of cases, so that no exorbitant compensation can be received by any one of these officers.

It is also required that one or more of these officers shall be appointed in each county of the United States, so that it shall be convenient for every party transacting business in this court to have one of those officers as accessible as the county clerk now is. It is also provided that these officers shall be appointed upon the nomination and recommendation of the Chief Justice of the Supreme Court of the United States. That officer is designated because he is to have the supervision, confirmation, and establishment of the rules of practice which are to form the code of practice in the courts of bankruptcy, if this bill shall become a law.

These, I believe, are all the respects in which the bill now reported differs from the bill formerly before the House.

Mr. PAINE. I wish to inquire of the gentleman from Rhode Island [Mr. JENCKES] whether he alludes to the bill which was last voted on by the House as amended or to the bill formerly reported from the committee.

Mr. JENCKES. I refer to the bill which was last voted on by the House, containing all the amendments incorporated into it by a vote of the House. I have been explaining the additional amendments reported by the committee. I will state to the gentleman from Wisconsin [Mr. PAINE] that the bill now reported embraces the amendment in which I suppose he is particularly interested, protecting the homesteads in all the northwestern and other States where there is a homestead law.

Mr. DAVIS. Mr. Speaker, I desire to say a few words in favor of the passage of this bill. Among the powers lodged in Congress by the Constitution of the United States is one to establish uniform laws on the subject of bankruptcy. I suppose it was intended that these laws should not only be uniform but enduring. Congress hitherto has failed to carry out the duty enjoined on it by the Constitution in establishing uniform and permanent laws on the subject of bankruptcy.

Now, sir, the experience of this country ever since its organization is like the experience of every other civilized country. There are times and emergencies when men require the interposition of the Government to relieve them from misfortunes where their energy and enterprise have involved them in liabilities to which they are unable to respond.

In 1842 Congress passed a bankrupt law which was for the benefit of the debtors almost entirely. Yet in the purview of the Constitution it was the duty of Congress to pass a law for the creditors as well as for the debtors. When that law was passed thousands and tens of thousands of men whose energy and enterprise added to the aggregate wealth of the country were struck down by the revulsion of 1836 and 1837. They availed themselves of the benefit of that law and again applied their energies to the development of the resources of the nation. The country has become richer from their labor.

Unfortunately, however, that was not continuing legislation. Since then Congress has done nothing either for the benefit of debtor or creditor. Session after session bankrupt laws have been introduced and have been defeated, and in the mean time the men who have met with misfortune, against which they could not struggle, have gone down under the pressure of liabilities. They have remained idle, as they can do nothing with the heavy hand of the creditors upon them. In many States the debtors were liable to be put in prison for debt; but advancing civilization has either obliterated entirely or materially modified that law. But while debtors may not be imprisoned for debt, yet the country will lose the benefit of the energy and enterprise of these men because of the pressure of their liabilities. We ought at once to relieve them.

I believe there is no measure before Congress which is entitled to a more careful con-

sideration than this one for the relief of men who have been borne down by various disasters which have swept over the country since 1836. By the passage of this measure we relieve these unfortunates, and at the same time provide means by which the creditors may collect from the debtors. I do not suppose this law is perfect. I do not suppose any law we can pass will be perfect. It is, however, the basis upon which we can erect a more perfect superstructure, and I hope it will receive the favorable consideration of the House.

Mr. HOLMES. Mr. Speaker, it is well known that when this bill was before the House a few weeks ago, I voted against it. I did not do so because I was opposed to a bankrupt law, but for reasons peculiar to this bill in the form in which it then was. My objections were to the details, and not the principles of the bill. These objections have been entirely removed in the bill as it now stands.

The most important objection, as I regarded it, was to the unnecessary and expensive provision by which the marshal was required to take charge of the property of the bankrupt on the presentation of the petition, and hold it until an assignee was appointed, receiving mileage and his expenses, in addition to a reasonable compensation for the custody of the property. This, in my judgment, was unnecessary, and in the district in which I reside would have been very expensive. This feature of the bill has been entirely removed, and the property remains in the hands or custody of the bankrupt until an assignee is appointed, and a provision has also been inserted that if he is guilty of fraud or negligence in the custody of it, or in failing to deliver it to the assignee when appointed, his discharge shall not be granted.

The expenses necessarily incurred in taking the benefit of the former bill were too high, I thought; and, as one of my colleagues truthfully suggested, it would cost a man more to take the benefit of it than to pay his debts. The fees to officers for specific services have also been reduced, and the entire costs and expenses of the proceedings are reduced, in my judgment, not less than one third. A register is provided in every county, so that parties and their attorneys will easily and readily be accommodated in the preliminary proceedings, which can be taken before that officer. In the form in which the bill now is I shall cheerfully vote for it and hope it will pass.

Mr. JENCKES. I move that the bill be printed.

The motion was agreed to.

The SPEAKER. The morning hour has expired; the bill will come up again on Tuesday next in the morning hour.

SUPREME COURT DECISIONS.

Mr. WILSON, of Iowa, by unanimous consent, reported back from the Committee on the Judiciary, Senate bill No. 186, amendatory of an act to provide for the reports of decisions of the Supreme Court of the United States.

The bill was read. It allows eight months instead of six for the publication of the reports.

The bill was read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. LE BLOND asked and obtained leave of absence for his colleague, Mr. FINCH, for two weeks from to-morrow.

WESTERN PACIFIC RAILROAD.

Mr. PRICE, from the Committee on the Pacific Railroad, by unanimous consent, reported back Senate joint resolution No. 61, to extend the time for the construction of the first section of the Western Pacific railroad.

The joint resolution was read. It extends the time for the construction of the first twenty

miles to the 1st of January, 1867, on certain conditions named.

The joint resolution was read the third time and passed.

Mr. PRICE moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CALIFORNIA LAND GRANTS.

Mr. JULIAN, from the Committee on Public Lands, by unanimous consent, reported back House bill No. 441, to confirm the selection and location of certain lands granted to the State of California by the United States, and for other purposes; which was ordered to be printed, and recommitted to the Committee on Public Lands.

Mr. ALLISON moved to reconsider the vote by which the bill was recommitted; and also moved to lay that motion on the table.

The latter motion was agreed to.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending paragraph, as amended, was as follows:

30. Auctioneers whose annual sales do not exceed \$10,000 shall pay ten dollars, and if exceeding \$10,000 shall pay twenty dollars. Every person shall be deemed an auctioneer within the meaning of this act whose business it is to offer property at public sale to the highest or best bidder: *Provided*, That the provisions of this paragraph shall not apply to judicial or executive officers making auction sales by virtue of any judgment or decree of any court, nor public sale made by or for executors, administrators, or guardians of any estate held by them as such.

Mr. HOTCHKISS. I move to amend the paragraph by adding these words:

Nor to attorneys in the ordinary prosecution of their business.

The CHAIRMAN. Debate is exhausted on this.

The question being taken on the amendment, no quorum voted.

Mr. CONKLING. I understand the chairman of the committee does not object to this amendment. I think it can be adopted without a quorum.

The amendment was accordingly adopted.

The Clerk read as follows:

31. Manufacturers shall pay ten dollars. Any person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise, not otherwise provided for, exceeding annually the sum of \$1,000, or shall be engaged in the manufacture or preparation for sale of any articles or compounds, or shall put up for sale in packages with his own name or trade mark thereon any articles or compound, shall be regarded as a manufacturer under this act.

No amendment being offered,

The Clerk read as follows:

32. Peddlers shall be classified and rated as follows, to wit: when traveling with more than two horses or mules, the first class, and shall pay fifty dollars; when traveling with two horses or mules, the second class, and shall pay twenty-five dollars; when traveling with one horse or mule, the third class, and shall pay fifteen dollars; when traveling on foot, the fourth class, and shall pay ten dollars. Any person, except persons peddling only newspapers, Bibles, or religious tracts, who sells or offers to sell at retail goods, wares, or other commodities, traveling from place to place, in the street or through different parts of the country, shall be regarded a peddler under this act: *Provided*, That any peddler who sells or offers to sell dry goods, foreign or domestic, by one or more original packages or pieces at one time, to the same person or persons, or who peddles jewelry, distilled spirits, fermented liquors or wines, shall pay fifty dollars: *Provided further*, That manufacturers and producers of agricultural tools and implements, garden seeds, fruit and ornamental trees, stoves and hollow ware, brooms, wooden-ware, and powder, delivering

and selling at wholesale any of said articles, by themselves or their authorized agents, at places other than the place of manufacture, shall not therefor be required to pay any special tax.

Mr. MORRILL. I move to insert after the word "only" in line twelve hundred and thirty-six the words "charcoal or;" also, after the words "wooden-ware" in line twelve hundred and forty-seven to insert "charcoal."

The amendments were agreed to.

Mr. DAVIS. I move to insert after "wooden-ware" the words "stone-ware."

Mr. ALLISON. I would like to know why that amendment is offered.

Mr. DAVIS. I wish simply to include earthen or stone-ware, so as to give the manufacturers the same privilege that is extended to the manufacturers of wooden-ware.

Mr. MORRILL. Stone-ware is never peddled; and I hope the gentleman will not press his amendment.

The amendment was disagreed to.

Mr. PIKE. I move, on page 59, line twelve hundred and forty-three, to strike out the words "distilled spirits."

The amendment was agreed to.

Mr. PIKE. I move to strike out, in the next line, the words "fermented liquors or wines."

The amendment was agreed to.

Mr. LOAN. I move to insert in line thirteen hundred and thirty-six, after the word "newspapers," the word "magazines."

The amendment was agreed to.

Mr. BOUTWELL. Have the words "distilled spirits" been stricken out?

The CHAIRMAN. That amendment has been adopted, and no debate upon it is in order.

Mr. BOUTWELL. I move to insert in line twelve hundred and thirty-four, after the words "on foot," the words "or by public conveyance."

The amendment was agreed to.

Mr. THAYER. I move to insert in line twelve hundred and forty-one, after the word "sell," the words "distilled spirits, fermented liquors, or wines."

Mr. GARFIELD. That is right.

The amendment was agreed to.

Mr. BERGEN. I move to insert in line twelve hundred and thirty-seven, after the word "commodities," the words "or the produce of his farm or garden;" so that the clause will read:

Any person, except persons peddling only newspapers, magazines, Bibles, or religious tracts, or the produce of his farm or garden, who sells or offers to sell at retail, goods, wares, or other commodities, traveling from place to place, in the street, or through different parts of the country, shall be regarded a peddler under this act.

Farmers and gardeners travel through the cities and sell the produce of their farms and gardens. As the law now stands, without this amendment they would be compelled to pay for a license. I think they ought not to be compelled to pay it, and I therefore offer this amendment.

Mr. GARFIELD. I hope that amendment will not pass. If a man goes peddling his own produce, he ought to be considered a peddler and to pay a tax.

The amendment was agreed to.

Mr. GARFIELD. I move to insert in line twelve hundred and forty-eight before the word "powder" the word "gun;" so as to make it read "gunpowder."

The amendment was agreed to.

The Clerk read as follows:

33. Apothecaries shall pay ten dollars. Every person who keeps a shop or building where medicines are compounded or prepared according to prescriptions of physicians, or where medicines are sold, shall be regarded as an apothecary under this act. But wholesale and retail dealers who have paid the special tax therefor shall not be required to pay a tax as an apothecary, anything in this act to the contrary notwithstanding; nor shall apothecaries who have paid the special tax be required to pay the tax as retail dealers in liquor in consequence of selling alcohol, or of selling or of dispensing, upon physicians' prescriptions, the wines and spirits official in the United States and other national pharmaco-

peias, in quantities not exceeding half a pint of either at one time, nor exceeding in aggregate cost value the sum of \$300 per annum.

Mr. BENJAMIN. I move to amend by inserting in line twelve hundred and sixty-two after the word "alcohol" the words "for medical purposes."

Mr. STEVENS. There is a great deal of the article used for mechanical purposes as well as for medical purposes.

The amendment was disagreed to.

Mr. ALLISON. I move to strike out in lines twelve hundred and fifty-eight and twelve hundred and fifty-nine the words "anything in this act to the contrary notwithstanding."

The amendment was agreed to.

The Clerk read as follows:

34. Photographers shall pay ten dollars. Any person or persons who make for sale photographs, ambrotypes, daguerreotypes, or pictures, by the action of light, shall be regarded a photographer under this act.

No amendment being offered,

The Clerk read as follows:

35. Tobacconists shall pay ten dollars. Any person firm, or corporation whose business it is to sell at retail cigars, snuff, or tobacco, in any form, shall be regarded as a tobacconist under this act. But wholesale and retail dealers, and keepers of hotels, inns, taverns, and eating-houses, having paid the special tax therefor, shall not be required to pay the tax as tobacconists, anything in this act to the contrary notwithstanding.

No amendment being offered,

The Clerk read as follows:

36. Butchers shall pay ten dollars. Every person whose business it is to sell butchers' meat at retail shall be regarded as a butcher under this act: *Provided*, That no butcher having paid the special tax therefor shall be required to pay the tax as a retail dealer on account of selling other articles at the same store, stall, or premises: *Provided further*, That butchers who sell butchers' meat exclusively by themselves or agents, and persons who sell shell-fish or other fish, or both, traveling from place to place, and not from any shop or stand, shall be required to pay five dollars only, any existing law to the contrary notwithstanding; and shall not be required to pay the tax as a peddler for retailing butchers' meat or fish. And no special tax shall be imposed for selling shell-fish or other fish from hand-carts or wheelbarrows.

Mr. MORRILL. I move to amend the first proviso by inserting before the words "tax as a retail dealer" the word "special."

The amendment was agreed to.

Mr. MORRILL. I move to amend the last proviso by striking out the words "and shall not be required to pay the tax as a peddler for retailing butchers' meat or fish."

The amendment was agreed to.

The Clerk read as follows:

37. Proprietors of theaters, museums, and concert halls, receiving pay as entrance money, shall pay \$100. Every edifice used for the purpose of dramatic or operatic or other representations, plays, or performances, not including halls rented or used occasionally for concerts or theatrical representations, shall be regarded as a theater under this act: *Provided*, That when any such edifice is under lease at the passage of this act, the tax shall be paid by the lessee, unless otherwise stipulated between the parties to said lease.

No amendment being offered,

The Clerk read as follows:

38. The proprietor or proprietors of circuses shall pay \$100. Every building, tent, space, or area where feats of horsemanship or acrobatic sports or theatrical performances are exhibited, shall be regarded as a circus under this act: *Provided*, That no special tax paid in one State shall exempt exhibitions from the tax in another State. And but one special tax shall be imposed under this act for exhibitions within any one State.

No amendment being offered,

The Clerk read as follows:

39. Jugglers shall pay twenty dollars. Every person who performs by sleight of hand shall be regarded as a juggler under this act. The proprietors or agents of all other public exhibitions or shows for money, not enumerated in this section, shall pay ten dollars: *Provided*, That a special tax in one State shall not exempt exhibitions from the tax in another State. And but one special tax shall be imposed under this act for exhibitions within any one State.

Mr. MORRILL. I move to amend the last section of this paragraph by striking out the word "imposed" and inserting the word "required."

The amendment was agreed to.

Mr. NIBLACK. I move to amend by inserting after the words "sleight of hand" the

words "including spirit rappings and other kindred manifestations."

Mr. THAYER. I wish to remind the gentleman from Indiana [Mr. NIBLACK] that by a judicial decision in the State of New York that is embraced in the terms "jugglery" and "sleight of hand."

Mr. NIBLACK. I think my amendment better be inserted here.

Mr. THAYER. It will be mere redundancy.

Mr. NIBLACK. I want to make it certain. The amendment was not agreed to.

The Clerk read as follows:

40. Proprietors of bowling-alleys and billiard rooms shall pay ten dollars for each alley or table. Every place or building where bowls are thrown or billiards played, and open to the public with or without price, shall be regarded as a bowling-alley or billiard room, respectively, under this act.

Mr. DAVIS. I move to amend the first sentence of this paragraph by striking out the words "alley or," so that it shall read, "proprietors of bowling-alleys and billiard rooms shall pay ten dollars for each table."

Mr. THAYER. I would suggest that ten-pins are not played on a table. [Laughter.]

Mr. DAVIS. I withdraw my amendment.

The Clerk read as follows:

41. Proprietors of gift enterprises shall pay fifty dollars. Every person, firm, or corporation who shall sell or offer for sale any article of merchandise of any description whatsoever, or any ticket of admission to any exhibition or performance, with a promise, express or implied, to give or bestow, or in any manner to hold out to the public the promise of gift or bestowal of any article or thing for and in consideration of the purchase by any person of any other article or thing, shall be regarded as a proprietor of a gift enterprise under this act: *Provided*, That no such proprietor, in consequence of being thus taxed, shall be exempt from paying any other tax imposed by law, and the special tax herein required shall be in addition thereto.

Mr. SCHENCK. I move to amend the first sentence of this paragraph by striking out the words "pay fifty dollars" and inserting "be put in the penitentiary."

The amendment was not agreed to.

Mr. LAWRENCE, of Ohio. I move to amend by striking out "fifty dollars" and inserting "one hundred and fifty dollars" in the first line of the paragraph.

The amendment was agreed to.

Mr. WILSON, of Iowa. I move to amend by inserting the words "real estate or" after the words "the promise of gift or bestowal of any," &c.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by striking out the words "to the public" before the words "the promise of gift or bestowal," &c.

The amendment was agreed to.

The Clerk read as follows:

42. Owners of stallions and jacks shall pay ten dollars. Every person who keeps a male horse or a jack for the use of mares, requiring or receiving pay therefor, shall be regarded as the owner thereof, and shall furnish a statement to the assessor or assistant assessor, which shall contain a brief description of the animal, its age, and place or places where used or to be used: *Provided*, That all accounts, notes, or demands for the use of any such horse or jack, the owner or keeper thereof not having paid the tax as aforesaid, shall be void.

Mr. EGGLESTON. I move to amend the first sentence in this paragraph by striking out "ten dollars" and inserting "five dollars."

The amendment was not agreed to.

The Clerk read as follows:

43. Lawyers shall pay ten dollars. Every person who for fee or reward shall prosecute or defend causes in any court of record or other judicial tribunal of the United States or of any of the States, or give legal advice in relation to any cause or matter whatever, shall be deemed to be a lawyer within the meaning of this act.

Mr. EGGLESTON. I move to amend by striking out in line thirteen hundred and fifty-four the word "ten," and inserting in lieu thereof the word "fifteen;" so that the clause will read: "Lawyers shall pay fifteen dollars."

The amendment was not agreed to.

The Clerk read as follows:

44. Physicians, surgeons, and dentists shall pay ten dollars. Every person (except apothecaries) whose business it is, for fee and reward, to prescribe remedies

or perform surgical operations for the cure of any bodily disease or ailment, shall be deemed a physician, surgeon, or dentist, within the meaning of this act.

No amendment being offered,

The Clerk read as follows:

45. Builders and contractors shall pay ten dollars. Every person whose business it is to construct buildings, or ships, or bridges, or canals, or railroads by contract, whose receipts from building contracts exceed \$2,500 in any one year, shall be regarded as a builder and contractor under this act.

No amendment being offered,

The Clerk read as follows:

46. Assayers, assaying gold and silver, or either, of a value not exceeding in one year \$250,000, shall pay \$100, and \$200 when the value exceeds \$250,000 and does not exceed \$500,000, and \$500 when the value exceeds \$500,000. Any person or persons or corporation whose business or occupation it is to separate gold and silver from other metals or mineral substances with which such gold or silver, or both, are alloyed, combined, or united, or to ascertain or determine the quantity of gold or silver in any alloy or combination with other metals, shall be deemed an assayer for the purpose of this act.

Mr. McRUER. I move to amend by inserting "shall pay fifty dollars" after the words "assayers, assaying gold and silver or either;" and by striking out the following words:

Of a value not exceeding in one year \$250,000, shall pay \$100, and \$200 when the value exceeds \$250,000 and does not exceed \$500,000, and \$500 when the value exceeds \$500,000.

So that the clause will read:

Assayers, assaying gold and silver, or either, shall pay fifty dollars.

I see no reason, Mr. Chairman, why the large tax proposed in this paragraph should be imposed upon this branch of manufacturing industry called assaying. This business is frequently carried on by persons of very small capital. It is here provided that where more than \$500,000 is assayed, a tax of \$500 shall be paid. I see no reason why this branch of industry should be taxed at this exorbitant rate. We have already passed by a section in which manufacturers are taxed ten dollars—no more; and I do not know why a scientific man engaged in assaying or refining gold or silver should pay this heavy tax. I believe that this bill provides for no other tax analogous to this. I hope that my amendment may be adopted, and that the tax will be reduced to the sum of fifty dollars, without any regard to the amount of gold and silver assayed.

Mr. MORRILL. In reply to the gentleman from California [Mr. McRUER] I will say that in addition to the license or special tax which is paid by manufacturers, they are required to pay a tax on their products. This tax paid by assayers is about all the tax that we get on these products, gold and silver. In addition to the tax in this form we get only a fraction of one per cent.

Mr. McRUER. I beg leave to say in reply to the gentleman, that all this gold and silver is liable to a tax of one half of one per cent. upon its total value, whenever it is assayed, which tax must be collected by the assayer and paid over to the Government. The same principle does not apply to anything else which is really a raw product of industry. I do not object to this small tax of one half of one per cent., because it is not a great burden; but I object to the principle, because it is not applied to any other product of industry. The man who delves from the earth by the sweat of his brow and the force of his muscle gold or silver to the value of \$1,000 should not be taxed for that any more than the man who produces \$1,000 worth of some industrial product. Still I do not propose a change in the law in this respect. But, sir, I see no reason why an assayer, if he does a certain amount of business, should pay a tax of \$500 a year, while a manufacturer doing business to the extent of millions, pays only ten dollars. This tax on assayers must operate as a serious burden upon a class of men employed in a legitimate branch of scientific pursuits. I trust that my amendment will be adopted.

Mr. MORRILL. This tax, it will be seen, is, comparatively speaking, very small. Where the party assays \$250,000 annually, he pays \$100; where the amount is more than \$250,000, and not more than \$500,000, the tax is

\$200; and where the amount assayed exceeds \$500,000, a tax of \$500 is required to be paid. The amount of the tax is not exorbitant, and it is imposed upon parties who can easily pay it. The product itself is subject to a very small tax. I trust that the amendment will not be adopted.

The amendment was not agreed to.

The Clerk read as follows:

47. Miners shall pay ten dollars. Every person, firm, or company who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having paid the tax therefor, as a manufacturer, and no other, shall be regarded as a miner under this act: *Provided*, That this shall not apply to any miner whose receipts from his mine shall not exceed annually \$1,000.

Mr. MERCUR. I move to strike out the words "employ others in" and insert "carry on."

Mr. Chairman, I do not know how it is in the mines where the precious metals are procured, but in the coal mines this phraseology would result disastrously to the miners. "Miners" is a technical term. Persons are called miners who have no interest in the mines at all. A is put in with one or two laborers. He is called a miner, though he has no interest in the sale of the coal. It may be thought the proviso to the bill would exempt him from the effect of this tax, but on looking it will be seen it does not apply to any person who is a miner.

Mr. STEVENS. I am opposed to this or any other amendment of the paragraph. I think the paragraph ought to be stricken out. I think there ought to be no notice taken of miners, and I therefore move to strike out the whole paragraph.

The CHAIRMAN. That motion is not now in order.

Mr. MERCUR. I withdraw my amendment for the present, so that my colleague may make his motion to strike out.

Mr. STEVENS. I move to strike out the whole paragraph.

Mr. Chairman, I do not know how many this would embrace. Every man who mined limestone for his farm, every man who mined a little coal for his furnace, all these men, and ten thousand others like them, would be embraced. It would be a most vexatious thing to embrace so many persons. As these things are all taxed when manufactured, I hope there will be no objection to striking the paragraph out.

Mr. MORRILL. I hope the motion of the gentleman from Pennsylvania will not prevail. I am not sure that the amendment of his colleague may not be a proper one.

This matter has been debated in this House heretofore. When adopted and incorporated into the present law it was fully and carefully considered, and it was acceptable to the House on all sides.

It will be noticed that it does not apply to any persons except those who employ others in mining. It is also restricted to those whose receipts shall exceed \$1,000. If any go beyond that they ought to be taxed.

Mr. MOORHEAD. The gentleman says it only taxes those whose receipts shall be \$1,000. The receipts of these men are not from the mines but from labor; and the proposition really is to tax labor.

Mr. MORRILL. I will obviate that objection by moving to strike out "his mine" and insert "mining."

Mr. BIDWELL. I move to strike out "gold, silver, and copper."

Mr. Chairman, I hope an interest so important will not be stricken down without giving the members who represent it, and those who are most deeply concerned, full opportunity to be heard. The business of mining for precious metals in this country is but imperfectly understood. There appears to me to be an anxiety to place a tax on this interest which, in my judgment, is improper and onerous, and which can only lead to defeating the purpose which it is intended to accomplish.

Mining, as I have said, is a different business from all others. You cannot carry on mining alone. There was a time in California when a man could start out with pick and shovel and pan. But that time has passed, and it may be forever. You cannot carry on mining alone, at least you cannot carry it on alone successfully on the Pacific slope. What if you make thousands or hundreds of thousands if you are the loser when the balance is struck? I will say that the vast majority of those who carry on the business of mining find their aggregate expenses exceed their aggregate receipts.

As to coal lands in California, while there have been some operations, in nine cases out of ten they have failed. They have to go very deep; the veins are very thin and narrow, and the coal of very poor quality. You have imposed upon them a tax of twenty dollars an acre for the coal lands, which they have to explore at great expense to know whether the lands are underlaid with coal. While I do not wish to misrepresent the mining interest in the least, and while I desire that every productive industry shall be taxed as nearly equally, fairly, and equitably as possible to maintain this Government, I do say that a tax of ten dollars as provided in this bill will be a great wrong, an absolute wrong. The gross receipts cannot be the measure of the taxation the mining interests can bear. I do hope that the motion of the gentleman from Pennsylvania will prevail, and that the section will be stricken out, and I do it with no purpose to escape any just responsibility in the proportioning of the public debt.

[Here the hammer fell.]

Mr. BLAINE. I do not think the amendment of the gentleman from Pennsylvania, from the Pittsburg district, ought to prevail.

I think that during the whole progress of this bill, with all due respect to the gentleman from Pennsylvania and the gentleman from California, I have seen no motion made more groundless than this. We place a tax upon every trade and calling we can find out, and I undertake to say that it is a fact that the miners, whether in the Pennsylvania coal mines or in the California gold mines, are infinitely better able to pay taxes than the builders, contractors, lawyers, physicians, and surgeons. It is especially provided that there shall not be a tax unless the receipts exceed \$1,000 per annum, and then the tax is only ten dollars.

Mr. CULLOM. Suppose you insert the words "who shall be proprietors."

Mr. BLAINE. That raises the question who are proprietors. That gets up a difficulty between those who own the coal lands and those who lease them.

Mr. CULLOM. Say then "the proprietor or lessee."

Mr. BLAINE. Let me make a motion to strike out.

The CHAIRMAN. No amendment is now in order.

Mr. MORRILL. I withdraw my amendment.

Mr. BIDWELL. I will withdraw my amendment also, and accept the amendment of the gentleman from Maine.

Mr. BLAINE. I move to strike out in line thirteen hundred and ninety-three the words "from his mine;" so that it shall read:

Provided, That this shall not apply to any miner whose receipts shall not exceed annually \$1,000.

Mr. MOORHEAD. What does the gentleman mean by receipts amounting to \$1,000, when a man employs two or three men whom he has to pay?

Mr. BLAINE. That would not be included in his receipts.

Mr. MOORHEAD. I think it would. I think a man employing two or three men would be taxed under this section.

Mr. BLAINE. So would a builder or contractor. I repeat that you cannot well go back and relieve every other trade, calling, and business, and I do not believe that there is any class so well able to pay a tax as the miners in the coal mines of Pennsylvania or in the

gold mines of California; and I only wonder that the tax upon them has not been increased.

Mr. McRUER. I wish to say, in reply to the gentleman from Maine, [Mr. BLAINE,] that there is not a single tax in this whole bill analogous to this. This is a direct tax upon the labor employed in producing the raw material.

Mr. BLAINE. What is the tax upon cotton?

Mr. McRUER. This is a tax on the gold. There is a tax on cotton; but I beg leave to say that with these two exceptions there is not a tax imposed on any product of labor, being the raw material. Cotton is an exception to all the other agricultural products of the country, and this is an exception, as it taxes the labor employed in producing the raw material. [Here the hammer fell.]

Mr. KELLEY. I feel that there is not a gentleman in the House who, if he properly understands this subject, will vote for this amendment. The tax proposed is a direct tax upon wages and labor, at least so far as Pennsylvania is concerned.

Mr. BLAINE. The gentleman will allow me to correct him. This refers "to every person, firm, or company who shall employ others in the business."

Mr. KELLEY. I was coming to that. The miner, being a skilled hand, who employs an unskilled laborer to assist him, is to pay a tax first upon the wages, and next, should he reach the point of an income, on his income. In nineteen cases out of twenty, if not in ninety-nine out of one hundred, you will make him pay ten dollars on his earnings. I do not want to exclude any man from taxation who owns or rents a mine, or works it as a capitalist; I simply want to guard the laboring men in our mines from having to pay, first, a tax of ten dollars for the privilege of laboring there, and then an income tax.

Mr. MORRILL. If the gentleman will withdraw his amendment, I will renew it.

Mr. BLAINE. I withdraw it.

Mr. MORRILL. I renew the amendment. Sir, it is not my purpose to advocate any tax in this bill that does not appear to my judgment to be just. I think that if we are to make any exemptions it would not be just for us to do it on this subject of mining. There have been more favors distributed in this bill to the interests of miners than to any other class whatever. We propose entirely to exempt such raw materials as lead and copper and iron and zinc and tin and gold, &c., from any tax, and if we are to derive anything at all from these various interests it must be by levying a special tax in this way.

Now, let us see whether the laborer is more oppressed in this business than in any other. It deny it. I say that when you come to the manufacture of boots or shoes, or to the carpenter, or blacksmith, or tailor, we do not employ the same terms we do in this paragraph; we do not say that he shall only be taxed if he employs others, but we say that if he manufactures goods or articles exceeding \$1,000, even if he employ only his own family, he shall be taxed. I must say that this attempt to get an exemption for miners strikes me as being uncalled for. These men are engaged in, perhaps, a business the most profitable in the country. We find all over the country that men are anxious to obtain investments in enterprises of this sort, and the wages paid to those employed are higher than hardly any other kind of business will allow.

Mr. KELLEY. A single suggestion. I am as anxious as the gentleman can be that the proprietors of mines shall be taxed. I want the same thing that he does.

Mr. MORRILL. I cannot yield to the gentleman for a speech. He will have his chance hereafter.

Now, I think that this will present itself to the House as a legitimate subject for a special tax, and I agree with my friend from Maine [Mr. BLAINE] that if this tax is abandoned we ought to abandon many others. I trust we shall not abandon it. I withdraw the amendment.

Mr. SCHENCK. I renew it. It strikes me that there is an attempt to make an invidious

distinction between this class of proprietors and others in relieving them from taxation. The committee has been careful to define the character and description of the persons who should constitute miners, and thus, it appears to me, they remove, by doing so, such objections as that which is made to this system of taxation of that particular class.

There might be some objection if it was simply proposed to tax every miner ten dollars. But as the paragraph goes on to define that no person shall be held to be a miner except one who employs others, for the life of me I cannot see the distinction between the man so employed because he also employs others and a carpenter who builds a scaffold and undertakes to construct a house. It is said that a miner employs another to work for him and works himself with him, and is as much a laboring man as the one he employs; and therefore this is but taxing labor.

So does a carpenter. A carpenter, in our portion of the country at least, whatever may be the case in other parts of the country, climbs a scaffold and nails boards or shingles on a building in company with one or more journeymen or apprentices whom he employs, and therefore he is in precisely the same category as the description of persons in this paragraph called "miners."

The object is to reach the contractor, as it were. The man may or may not work himself, but he employs others to work for him, and thus induces capital to be employed in the business, out of the profits of which he is to pay those he employs. Now, unless the gentleman can draw a distinction between the man who mounts toward heaven and the man who goes down in the other direction, then I cannot understand why the miner in the shaft should be relieved from this tax any more than the carpenter on the scaffold or ladder.

By reference to paragraph thirty-one, it will be found that every manufacturer is required to pay a special tax of ten dollars. Who is the manufacturer? He may be a shoe-maker or a blacksmith, who works on his bench or at his forge, and has no apprentice or journeyman in his employ or person employed with him to be paid out of the proceeds of the capital he has invested in the business and his labor. If he be a sole laborer you define him to be a manufacturer and compel him to pay a tax.

Mr. HOOPER, of Massachusetts. What is the effect if the employer employs the men and each is taxed as a manufacturer?

Mr. SCHENCK. We do not propose to tax the hands, but the man who employs them. What I speak of is the attempt to make a difference in principle between the man who employs hands and works with them and the man who employs hands but does not work with them. In the western country most of our manufacturers, our shoe-makers, carpenters, and blacksmiths work with the hands they employ. While we place no tax upon the laborer himself by the definition here, we impose it upon the man who invests capital along with his labor.

Mr. HOTCHKISS. I move to amend this paragraph by adding to it the following:

Nor to laborers actually working at mining in the employ of another.

The CHAIRMAN. That amendment is not in order at this time, not being germane to the pending amendment.

Mr. HOTCHKISS. I understand there will be no objection to it.

The CHAIRMAN. Still it is not in order at this time. The pending question is upon the amendment of the gentleman from Ohio, [Mr. SCHENCK.]

Mr. HOOPER, of Massachusetts. I rise to oppose that amendment. I think the committee misunderstands the objection that is raised to this paragraph as it now stands. When it was introduced last year, it was expressly understood that it should not apply to the working miner, to the laborer who worked in the mine, but only to the proprietor of the mine. And it was thought then that sufficient provis-

ion had been made in the law to guard against any misconception of it.

I hold here in my hand a petition from some fifty laboring miners, who state that the tax of ten dollars is imposed upon them, because by the custom of mining coal it is usual for a miner to have with him a laborer, the miner being paid so much a ton for the coal he raises, out of which he pays the laborer. The assessor claims that the miner employs others, and charges him with the tax of ten dollars.

Now, if this paragraph shall be stricken out, and I may be allowed to go back to the paragraph imposing a tax upon manufacturers, I would propose an amendment there which should include miners who are by this paragraph intended to be taxed. In no case is the journeyman in any manufactory taxed. There may be cases where a man carrying on business alone pays tax as a manufacturer; but when he extends his business and employs others, those whom he employs are not required to pay tax as manufacturers. By no part of this bill except this section are workmen required to pay the tax.

After all, Mr. Chairman, the whole tax derived from this source is scarcely worth the time we have consumed in its discussion; for the total amount raised in this way throughout the country does not reach \$4,000.

Mr. MORRILL. That has been in consequence of an imperfect administration of the law, and the returns, I think, of 1864, were only for part of the year. This year the tax will amount to much more.

Mr. Chairman, for the purpose of terminating debate on this paragraph I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

REORGANIZATION OF THE ARMY.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

EXECUTIVE MANSION,
WASHINGTON, May 17, 1866.

SIR: I have the honor to submit herewith a communication from the Secretary of War, inclosing one from the Lieutenant General, relative to the necessity for legislation upon the subject of the Army.

ANDREW JOHNSON.

Hon. SCHUYLER COLFAX,
Speaker of the House of Representatives.

Mr. SCHENCK. I move that this message, with the accompanying documents, be referred to the Committee on Military Affairs, and be ordered to be printed.

The motion was agreed to.

Mr. HOOPER, of Massachusetts. I ask that the letter of General Grant be read.

The SPEAKER. If there be no objection, the communication of the Lieutenant General will be read.

There was no objection, and the Clerk read as follows:

HEADQUARTERS ARMIES OF THE UNITED STATES,
WASHINGTON, D. C., May 16, 1866.

SIR: In view of the long delay in the lower House of Congress in agreeing upon a plan of reorganization of the Army suitable to our present requirements, and the urgent necessity for early action, I am induced to present the matter to you officially, and to ask the attention of Congress to it, believing that when they have the matter fairly before them they will do what should be done speedily.

At the present time settlements are springing up with unusual rapidity in the district of country between the Missouri river and the Pacific ocean, where heretofore the Indian was left in undisputed possession. Emigrants are pushing to those settlements and to the gold fields of the Rocky mountains by every

available highway. The people flocking to those regions are citizens of the United States and are entitled to the protection of the Government. They are developing the resources of the country to its great advantage, thus making it the interest as well as duty to give them military protection. This makes a much greater force west of the Mississippi necessary than was ever heretofore required.

A small military force is required in all the States heretofore in rebellion, and it cannot be foreseen that this force will not be required for some time to come. It is to be hoped that this force will not be necessary to enforce the laws, either State or national; but the difference of sentiment engendered by the great war which has raged for four years will make the presence of a military force necessary to give a feeling of security to the people. All classes disposed to obey the laws of the country will feel this alike. To maintain order the Government has been compelled to retain volunteers. All white volunteers have become dissatisfied and claim that the contract with them has been violated by retaining them after the war was over. By reason of dissatisfaction they are no longer of use, and might as well be discharged at once, every one now remaining in service. The colored volunteer has equal right to claim his discharge, but as yet he has not done so. How long will existing laws authorize the retention of this force, even if they are content to remain?

The United States Senate passed promptly a bill for the reorganization of the Army, which, in my opinion, is as free from objection as any great measure could possibly be, and which would supply the minimum requisite force. It gives but a few thousand additional men over the present organization, but gives a large number of additional battalions and companies. The public service guarding routes of travel over the plains and giving protection in the southern States demands the occupation of a great number of posts. For many of them a small company is just as efficient as one with more men in it would be. The bill before Congress, or the one that has passed the Senate, gives increased number of companies, by diminishing the number, rank and file, of each company. It is an exceedingly appropriate measure in this particular, for it provides for the increase when occasion requires more men. The company is the smallest unit of organization that can be used without materially injuring discipline and efficiency.

The belief that Congress would act promptly on this matter, if their attention was called to it, has induced me to respectfully ask your attention to it. If you agree with me in this matter, I would also ask, if you deem it proper, that this, with such indorsement as you may be pleased to make, be laid before Congress, through the Speaker of the House.

Very respectfully, your obedient servant,
U. S. GRANT,
Lieutenant General.

Hon. E. M. STANTON, *Secretary of War.*

Mr. THAYER. Mr. Speaker, I should like to move that this communication be referred to the Committee on Military Affairs, with instructions to report for the consideration of the House the military bill which passed the Senate, and which is now in the hands of that committee.

The SPEAKER. This communication has already been referred to that committee, on the motion of the gentleman from Ohio, [Mr. SCHENCK.] It was afterward read by unanimous consent. The gentleman from Pennsylvania [Mr. THAYER] can only attain his object by moving to reconsider the vote by which the communication was referred. If the motion to reconsider should prevail, the question would recur on the motion to refer, and then the motion to add instructions would be in order.

Mr. THAYER. I move, then, to reconsider the vote by which the communication was referred to the Committee on Military Affairs.

Mr. STEVENS. I move that the motion to reconsider be laid on the table.

The motion of Mr. STEVENS was agreed to—ayes seventy-two, noes not counted.

So the motion to reconsider was laid on the table.

LEAVE OF ABSENCE.

Mr. LAWRENCE, of Ohio, asked leave of absence for Mr. DELANO and Mr. HUBBELL, of Ohio, for one week.

Leave was granted.

CLOSE OF DEBATE.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of House bill No. 513, all debate upon the pending paragraph and the amendments thereto terminate in five minutes.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into

the Committee of the Whole on the state of the Union, on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The CHAIRMAN stated the pending question was on Mr. SCHENCK's amendment.

Mr. BLAINE. The gentleman from Ohio, [Mr. SCHENCK,] consents to modify the amendment so it will read "whose receipts as such shall not exceed annually \$1,000."

The amendment, as modified, was agreed to.

Mr. HOTCHKISS. I move to strike out the word "laborer" and to insert the word "person."

The amendment was adopted.

Mr. BIDWELL. I move to strike out "gold."

Mr. Chairman, mining for gold and silver is very different from mining for other metals, and I think there should be a distinction between them. In one case, men can employ their capital with an almost certain prospect of being repaid, while those who engage in mining for silver and gold are differently situated. They have to go into wild and almost inaccessible mountain regions without any certainty of any return. You may ask why men will do this. It is almost inexplicable. It lies as deep as human nature itself. The poet tells us,

"Hope springs eternal in the human breast."

These men travel forty miles a day and suffer all manner of hardships, and they not only lose all their time but very often all their money. I hope the amendment of the gentleman from Pennsylvania will prevail. I withdraw my amendment.

The question recurred on Mr. STEVENS's amendment.

The committee divided; and there were—ayes 33, noes 40; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. BIDWELL and THAYER.

The committee was again divided; and the tellers reported—ayes 57, noes 38.

So the amendment was agreed to.

The Clerk read as follows:

48. Express carriers shall pay ten dollars. Every person, firm, or company engaged in the carrying or delivery of money, valuable papers, or any articles for pay, or doing an express business, whose gross receipts therefrom exceed the sum of \$600 per annum, shall be regarded as an express carrier: *Provided*, That but one special tax of ten dollars shall be imposed upon any one person, firm, or company in respect to all the business to be done by such person, firm, or company on a continuous route, and the payment of such tax shall cover all business done upon such route by such person, firm, or company anywhere in the United States, and such tax shall be required only from the principal in such business, and not from any subordinate.

Mr. ALLISON. I move in line thirteen hundred and ninety-nine to strike out "\$600" and to insert "\$2,000."

I do this for the purpose of protecting a class of honest, industrious poor people who are engaged in the business of teaming and draying. They are compelled to take out a license of ten dollars when their receipts exceed \$600. It compels every man who drives a team in the county or a dray in the town to take out a license. It in effect taxes labor. It seems to me to be straining at a gnat while we are swallowing a camel. The committee were willing that some larger sum should be inserted, but could not agree on the particular sum. I think \$2,000 is as small as it should be.

Mr. MORRILL. I object to \$2,000 as too large, but I will not object to making it \$1,000. I move to amend the amendment by inserting \$1,000 instead of \$600.

Mr. ALLISON. I rise to oppose the amend-

ment. If the committee will turn to paragraph forty-five they will see that builders and contractors are exempt to the extent of \$2,500. Now, these teamsters are compelled to pay out a considerable sum of money during a year for the purpose of taking care of their horses, wagons, &c., so that \$1,000 will be entirely too small a sum. And then many of them, as my colleague suggests, are compelled to pay a local license. Now, it seems to me we ought to give this class of persons an exemption such as mechanics have, namely, \$1,000 after paying their expenses. A man who employs simply one team will earn more than \$1,000 a year, nearly one half of which he will be compelled to pay out during the year. I think we ought to increase the exemption certainly to \$1,500, if not \$2,000.

The question being put on the amendment to the amendment, to strike out "\$2,000" and insert "\$1,000," no quorum voted.

Tellers were ordered; and the Chairman appointed Messrs. MORRILL and ALLISON.

The committee divided; and the tellers reported—ayes sixty, noes not counted.

So the amendment to the amendment was adopted.

The amendment, as amended, was then adopted.

Mr. LAWRENCE, of Ohio. I move to amend by inserting after the word "carriers," in the first line of paragraph forty-eight, the words "and agents;" so that it shall read, "express carriers and agents shall pay ten dollars." Express agents now do not pay any license. This bill proposes to tax the drayman who hauls goods from express offices if his income exceeds \$1,000 a year. It also taxes manufacturers of every description. It did propose to tax miners also. Now, these express companies derive an immense revenue from their business. It is a very profitable business, and I know of no reason why their numerous agents and collectors all over the country should not pay a license or tax as well as the draymen who haul goods for the agency or as artisans or manufacturers in their several occupations. I hope the amendment will prevail.

The amendment was agreed to.

Mr. WILSON, of Iowa. I move to amend by striking out the words "or any articles" in line thirteen hundred and ninety-seven. I offer this for the purpose of confining this provision to express carriers and express agents doing an express business, and leaving out entirely draymen and teamsters. I think this tax should only be levied on those doing an express business either as express companies or as agents of express companies. These draymen and teamsters are quite as worthy of our favor as those who have been exempted by the striking out of the forty-seventh section.

Mr. MORRILL. I hope the amendment will not prevail, and for the reason that I indulge the hope that on the second sober thought the House will reinstate paragraph forty-seven when the bill comes before the House; and for the further reason that the proposition of the gentleman from Iowa will be found to include, as I think, more than he intends. There are express agents who do a large amount of business in carrying packages containing articles of merchandise and who rarely carry anything else, and to exempt these would be entirely wrong. It would diminish the receipts so that there would be but very few companies in the whole country that would be liable to any tax at all. If we confine express companies to what they receive from carrying money and valuable papers we should derive scarcely any revenue at all.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. WILSON, of Iowa. I move to amend the amendment by striking out the word "article," for the purpose of replying to the gentleman from Vermont.

The gentleman says if my amendment should prevail only those who are engaged in carrying

or delivering money or valuable papers would be required to pay a special tax by this section. Now, if the gentleman had read the section he would have found that all the persons to whom he alludes would be brought within the provision of the section by the terms "or doing an express business." That is a complete answer to his argument in opposition to the amendment. It will include all persons carrying "money or other valuable papers or doing an express business;" but it will relieve persons who are not engaged in that business, namely, teamsters and draymen, from this special tax. And they certainly, I repeat, are as much entitled to relief as those embraced in the forty-seventh paragraph, which the gentleman says he hopes on a sober second thought the House will replace. It will be quite as easy to replace the language of this paragraph after the adoption of my amendment as to replace the forty-seventh paragraph.

Mr. MORRILL. I desire to remind the committee that the constant effect of our action is to reduce the amount of revenue to be received under this bill. That is all I have to say.

Mr. WILSON, of Iowa. I withdraw the amendment to the amendment.

The question was taken on the amendment proposed by Mr. WILSON, of Iowa, and it was disagreed to—ayes fifteen, noes not counted.

Mr. ALLISON. I desire to add at the end of the paragraph another proviso, to which I think the gentleman from Vermont [Mr. MORRILL] will not object. It is as follows:

Provided, That draymen and teamsters who drive their own drays or teams shall not be required to pay such tax.

The amendment was disagreed to.

Mr. ALLISON. I propose to modify the amendment or to offer it in a new form, so as to read as follows:

Provided further, That draymen and teamsters, who drive their own drays or teams, or employ others to drive them, shall not be required to pay this tax.

The amendment was disagreed to.

Mr. ALLISON. At the end of line fourteen hundred and eight I move to insert the following additional proviso:

Provided further, That draymen or teamsters owning one dray or team shall not be required to pay such tax.

Mr. MORRILL. I have no objection to that. The amendment was agreed to.

Mr. MORRILL. I offer the following amendment, to come in at the end of the paragraph just considered:

That section eighty be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

Manufacturers of ground coffee and spices shall pay \$100. Any person who manufactures or prepares for use and sale by grinding or other process coffee, spices, or mustard, or adulterated coffee, spices, or mustard, or any article or compound intended for use in the adulteration of or as a substitute for coffee, spices, or mustard shall be regarded as a grinder of coffee or spices under this act: *Provided*, That any person who shall roast coffee shall be required to pay the special tax hereby imposed on grinders of coffee and spices.

The amendment was agreed to.

Mr. MORRILL. I omitted to make a verbal amendment. In lines fourteen hundred and seventeen and fourteen hundred and eighteen I move to strike out the words "or estimated amount."

The amendment was agreed to.

Mr. MORRILL. In line fourteen hundred and twenty-three I move to strike out the words "or is liable to be increased."

The amendment was agreed to.

The Clerk read as follows:

That section eighty be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that the special tax shall not be imposed upon apothecaries, confectioners, butchers, keepers of eating-houses, hotels, inns, or taverns, tobacconists, or retail dealers, except retail dealers in spirituous and malt liquors, when their annual gross receipts shall not exceed the sum of \$1,000, anything in this act to the contrary notwithstanding; the amount, or estimated amount, of such annual receipts to be ascertained or estimated in such manner as the Commissioner of Internal Revenue shall prescribe, and so of all other annual sales or receipts where the tax is graduated by the amount of sales or receipts, and where the amount of the tax has been

increased, or is liable to be increased by law above the amount paid by any person, firm, or company, or has been understated or underestimated, such person, firm, or company shall be again assessed, and pay the amount of such increase: *Provided*, That when any person, before the passage of this act, has been assessed for a license, the amount thus assessed being equal to the tax herein imposed for the business covered by such license, no special tax shall be assessed until the expiration of the period for which such license was assessed.

No amendment being offered,

The Clerk read as follows:

That section eighty-one be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that nothing contained in the preceding sections of this act shall be construed to impose an additional tax upon any person as a dealer for the sale of goods, wares, and merchandise made or produced and sold by the manufacturer or producer at the manufactory or place where the same is made or produced, and at the public office or place of business, as provided in this act; nor upon any vintners who sell wine of their own growth at the place where the same is made; nor upon apothecaries, as to wines or spirituous liquors which they use exclusively in the preparation or making up of medicines; nor shall any provisions be construed to tax physicians for keeping on hand medicines solely for the purpose of making up their own prescriptions for their own patients; nor shall farmers be taxed as manufacturers for making butter or cheese, or for any other farm products.

Mr. MORRILL. I move, in line fourteen hundred and forty-one, to strike out the words "business as provided in this act" and to insert in lieu thereof the following:

Provided, That no goods, wares, or merchandise shall be kept for sale at such office.

The amendment was agreed to.

Mr. MORRILL. I move to amend this paragraph by adding to it the following proviso:

Provided, That the payment of any tax, by this act levied or provided, shall not be held or construed to exempt any person carrying on any trade, business, or profession herein specified from any penalty or punishment provided by the laws of any State for carrying on such trade, business, or profession within such State; nor in any manner to authorize the commencement or continuance of such trade, business, or profession contrary to the laws of such State, or in places prohibited by municipal law; nor shall the payment of any tax herein provided be held or construed to prohibit or prevent any State from placing any duty or tax for State or other purposes on any trade, business, or profession taxed by this act.

Mr. SPALDING. I move to amend this paragraph by inserting after the words "for making butter or cheese" the words "with milk from their own cows." I move this amendment for the reason that in my section of country there are manufacturing establishments—"cheese factories" as they are called—where the proprietors buy up large quantities of milk and curd and manufacture large amounts of cheese. I think they ought to be taxed.

Mr. MORRILL. I see no objection to that amendment.

Mr. GARFIELD. I would ask my colleague [Mr. SPALDING] if he better not make his amendment to the next line, and insert after the words "or for any other farm products" the words "of their own farms." Will not that accomplish what the gentleman desires?

Mr. SPALDING. Not quite.

The amendment of Mr. SPALDING was then agreed to.

Mr. VAN HORN, of New York. I move to amend this paragraph by adding to it the following:

Provided further, That no manufacturer who has paid one or more special taxes shall be required to pay any additional special tax for peddling the surplus goods of his own manufacture.

I had intended to move this amendment to the paragraph in relation to peddlers, and if the chairman of the Committee of Ways and Means [Mr. MORRILL] will consent to turn back to that paragraph so that I can move the amendment to it, I will do so; otherwise I will offer it here.

Mr. MORRILL. I have no objection to the amendment being offered and considered; but I shall oppose its adoption whenever and where ever it may be offered.

Mr. VAN HORN, of New York. Then I withdraw the amendment at this point, and move to amend the paragraph relating to peddlers by adding to the following sentence—

Any person, except persons peddling only newspa-

pers, magazines, Bibles, or religious tracts, who sells or offers to sell at retail, goods, wares, or other commodities, traveling from place to place, in the street, or through different parts of the country, shall be regarded a peddler under this act—

a proviso in the following words:

Provided, That no manufacturer who has paid one or more special taxes shall be required to pay any additional special tax for peddling the surplus goods of his own manufacture.

I believe that this is a very proper amendment, and I hope the committee will adopt it. There are a great many small manufacturers in the country who pay one or perhaps more special taxes; and if they have a surplus of goods of their own manufacture they ought to be allowed to peddle it out without being required to pay any additional special tax.

Mr. MORRILL. I trust this amendment will not be adopted. We have provided a uniform system for manufacturers, requiring that they shall have fixed places, and fixed places only, where they may keep their goods, and an office or place where they may sell them. If the committee shall adopt the proposed amendment of the gentleman from New York [Mr. VAN HORX] you will render the whole subject indefinite. What is the surplus manufacture? Anybody who chooses will be able to go about and peddle, and who can say whether what he peddles is or is not the surplus of his manufacture? Then, again, the tax placed on the peddler is for a specific kind of business. A man who finds it profitable to go about the country and seek a market for his goods can afford to pay a special tax. I hope the amendment will not be adopted.

The amendment was not agreed to.

Mr. HOOPER, of Massachusetts. As we have concluded the portion of this bill relating to special taxes I ask leave to go back to the paragraph in relation to manufactures, which is as follows:

31. Manufacturers shall pay ten dollars. Any person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise not otherwise provided for, exceeding annually the sum of \$1,000, or shall be engaged in the manufacture or preparation for sale of any articles or compounds, or shall put up for sale in packages with his own name or trademark thereon any articles or compounds, shall be regarded as a manufacturer under this act.

I desire to move, for the purpose of accomplishing the object I had in view in the paragraph relating to miners, to insert after the words, "one thousand dollars" the words "or carry on the business of mining."

Mr. MORRILL. I must object to that.

The Clerk read as follows:

That section eighty-six be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any person, firm, company, or corporation manufacturing or producing goods, wares, and merchandise, sold or removed for consumption or use, upon which duties or taxes are imposed by law, shall, in their return of the value and quantity, render an account of the full amount of actual sales made by the manufacturer, producer, or agent thereof, and shall state whether any part, and if so, what part, of said goods, wares, and merchandise, has been consumed or used by the owner, owners, or agent, or used for the production of another manufacture or product, together with the market value of the same at the time of such use or consumption; whether such goods, wares, and merchandise were shipped for a foreign port or consigned to auction or commission merchants, other than agents, for sale; and shall make a return according to the value at the place of shipment, when shipped for a foreign port, or according to the value at the place of manufacture or production, when removed for use or consumption, or consigned to others than agents of the manufacturer or producer. The value and quantity of the goods, wares, and merchandise required to be stated as aforesaid shall be estimated by the actual sales made by the manufacturer, or by his, her, or their agent, or person or persons acting in his, her, or their behalf. And where such goods, wares, and merchandise have been removed for consumption or for delivery to others, or placed on shipboard, or are no longer within the custody or control of the manufacturer or his agent, not being in his factory, store, or warehouse, the value shall be estimated at the average of the market value of the like goods, wares, and merchandise at the time when the same became liable to tax.

Mr. MORRILL. I move to amend by striking out in line fourteen hundred and seventy-five the words "her or their;" and also by striking out after the word "agent" in the same line the words "or person or persons acting in his,

her, or their behalf;" so that the clause will read thus:

The value and quantity of the goods, wares, and merchandise required to be stated as aforesaid shall be estimated by the actual sales made by the manufacturer, or by his agent.

The amendment was agreed to.

The Clerk read as follows:

That section eighty-seven be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any person, firm, company, or corporation who shall now be engaged in the manufacture of tobacco, snuff, or cigars, or who shall hereafter commence or engage in such manufacture, before commencing, or, if already commenced, before continuing, such manufacture for which they may be liable to be assessed under the provisions of law, shall, in addition to a compliance with all other provisions of law, furnish to the assessor or assistant assessor a statement, subscribed under oath or affirmation, accurately setting forth the place, and, if in a city, the street and number of the street where the manufacturing is, or is to be, carried on, the name and description of the manufactured article, and, if the same shall be manufactured for or to be sold and delivered to any other person or party, the name and residence and business or occupation of the person or party for whom the said article is to be manufactured or delivered, and generally the kind and quality manufactured or proposed to be manufactured; and shall, within the time above-mentioned, give a bond to the United States, with one or more sureties to be approved by the collector of the district, in the sum of \$3,000 for each cutting machine kept in use, in the sum of \$1,000 for each screw-press used for making plug or pressed tobacco, in the sum of \$5,000 for each hydraulic press used, in the sum of \$1,000 for each snuff mill used, and in the sum of \$100 for each person employed by said person, firm, company, or corporation in making cigars, conditioned that he will comply with all the requirements of law in regard to any persons, firms, companies, or corporations, engaged in the manufacture of tobacco, snuff, or cigars; that he will not employ others to manufacture cigars who have not obtained the requisite permit for making cigars; that he will not engage in any attempt, by himself or by collusion with others, to defraud the Government of any duty or tax on any manufacture of tobacco, snuff, or cigars; that he will render truly and correctly all the returns, statements, and inventories proscribed for manufacturers of tobacco, snuff, and cigars; that whenever he shall add to the number of cutting machines, presses, snuff mills, or cigar-makers, used or employed by him, he will immediately give notice thereof to the collector who holds the bond, and will pay to the collector of the district all the duty or taxes which may or should be assessed and due on any tobacco, snuff, or cigars so manufactured, and that he will not knowingly sell, purchase, or receive for sale any such tobacco, snuff, or cigars, which has not been inspected, branded, or stamped as required by law, or upon which the tax has not been paid if it has accrued or become payable. And the said bond may be renewed or changed from time to time, in regard to the amount and sureties thereof, according to the discretion of the collector, under the instructions of the Commissioner of Internal Revenue. And every person, firm, company, or corporation aforesaid shall obtain and exhibit, whenever demanded by any officer of internal revenue, a certificate from the collector, setting forth the kind and number of machines, presses, snuff mills, and number of cigar-makers for which the bond has been given. And if any person or agent of any firm, company, or corporation shall manufacture for sale tobacco, snuff, or cigars of any description without first obtaining the certificate aforesaid, and furnishing the bond herein required, such person or agent shall be subject, upon conviction thereof, to a penalty of \$300, and in addition thereto shall be liable to imprisonment for a term not exceeding one year, at the discretion of the court.

Mr. MORRILL. I move to amend by inserting after the word "or" in line fifteen hundred and two the words "to whom it is."

The amendment was agreed to.

Mr. MORRILL. I move further to amend by striking out the words "within the time above mentioned," in line fifteen hundred and four.

The amendment was agreed to.

Mr. MORRILL. I move also to amend by striking out in line fifteen hundred and seven the word "in," between the words "kept" and "use," and inserting in lieu thereof the word "for."

The amendment was agreed to.

Mr. MORRILL. I move further to amend by striking out the words "used for," in line fifteen hundred and eight, and inserting in lieu thereof the words "kept for use in."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out in line fifteen hundred and ten the word "used," and inserting in lieu thereof the words "kept for use."

The amendment was agreed to.

Mr. MORRILL. I move to amend by strik-

ing out in line fifteen hundred and eleven the word "used," and inserting in lieu thereof the words "kept for use."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out in lines fifteen hundred and fifteen and fifteen hundred and sixteen the words "any persons, firms, companies, or corporations engaged in."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out "and," in line fifteen hundred and twenty-seven, and inserting in lieu thereof the words "that he."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out "has," in line fifteen hundred and thirty-two, and inserting "have" in lieu thereof.

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out the words "amount and," in line fifteen hundred and thirty-six.

The amendment was agreed to.

Mr. MORRILL. I move further to amend by striking out "obtain and," in line fifteen hundred and forty.

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting after "collector," in line fifteen hundred and forty-one, the words "who is hereby authorized and directed to issue the same."

The amendment was agreed to.

Mr. MORRILL. I move further to amend by striking out the following:

And if any person or agent of any firm, company, or corporation shall manufacture for sale tobacco, snuff, or cigars of any description without first obtaining the certificate aforesaid, and furnishing the bond herein required, such person or agent shall be subject, upon conviction thereof, to a penalty of \$300, and, in addition thereto, shall be liable to imprisonment for a term not exceeding one year, at the discretion of the court.

And inserting in lieu thereof the following:

And any person, firm, or corporation manufacturing tobacco, snuff, or cigars of any description, without first furnishing the bond in the cases herein required, shall be subject to a fine of \$300, and in addition thereto, upon conviction thereof, shall be liable to imprisonment for a term not exceeding one year, at the discretion of the court.

The amendment was agreed to.

The Clerk read as follows:

That section eighty-eight be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that it shall be the duty of the assistant assessor of each district to keep a record, in a book or books to be provided for the purpose, to be open to the inspection of any person upon reasonable request, of the name of any and every person, firm, company, or corporation who may be engaged in the manufacture of tobacco, snuff, or cigars in his district, together with the place where such manufacture is carried on and place of residence of the person or persons engaged therein; and the assistant assessor shall enter in said record, under the name of each manufacturer, an abstract of his monthly returns; and each assessor shall keep a similar record for the entire district.

No amendment being offered,

The Clerk read as follows:

That section eighty-nine be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that in all cases where tobacco, snuff, or cigars of any description are manufactured, in whole or in part, upon commission or shares, or where the material from which any such articles are made, or are to be made, is furnished by one party and manufactured by another, or where the material is furnished or sold by one party with an understanding or contract with another that the manufactured article is to be received in payment therefor or any part thereof, the duty or tax imposed by law thereon, when paid by the manufacturer, may be collected at the time, or at any time subsequently, of the party for whom the same was made or to whom the same was delivered, as aforesaid, or of the person or party who made the same, as the assessor shall deem best for the collection of the revenue. And in case of any fraud or collusion by which the Government shall be defrauded, or attempted to be defrauded, by a party who furnishes the material and by the maker of any of the articles aforesaid, such material and manufactured articles shall be liable to forfeiture; and such articles shall be liable to be assessed the highest rates of tax or duty imposed by law upon any article belonging to its grade or class.

Mr. ALLISON. I move to strike out all after the word "revenue" in line fifteen hundred and eighty-three down to and including the word "forfeiture" at the end of line fifteen

hundred and eighty-seven, and to insert in lieu thereof the following:

And in case of any fraud on the part of either of said parties in respect to said manufacture, or of any collusion on their part with intent to defraud the revenue, such material and manufactured articles shall be liable to forfeiture.

The amendment was agreed to.

The Clerk read as follows:

That section ninety be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any person, firm, company, or corporation, now or hereafter engaged in the manufacture of tobacco, snuff, or cigars of any description whatsoever, shall be, and hereby is, required to make out and deliver to the assistant assessor of the assessment district a true statement or inventory of the quantity of each of the different kinds of tobacco, snuff, or cigars, tin-foil, licorice, and stems held or owned by him or them on the 1st day of January of each year, or at the time of commencing business under this act, setting forth what portion of said goods was manufactured or produced by him or them, and what was purchased from others, whether chewing, smoking, fine-cut, shorts, pressed, plug, snuff, or prepared snuff, or cigars, which statement or inventory shall be verified by the oath or affirmation of such person or persons, and be in manner and form as prescribed by the Commissioner of Internal Revenue; and every such person, company, or corporation shall keep in books an accurate account of all the articles aforesaid thereafter purchased by him or them, the quantity of tobacco, snuff, snuff-flour, or cigars, of whatever description, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture; and he or they shall, on or before the 10th day of each month, furnish to the assistant assessor of the district a true and accurate abstract of all such purchases, and sales or removals, which abstract shall be verified by oath or affirmation; and in case of refusal or neglect to deliver the inventory, or keep the account, or furnish the abstract aforesaid, he or they shall forfeit the sum of \$500, to be recovered with costs of suit; and he or they shall, on or before the last day of each month, pay to the collector the taxes on the said tobacco, snuff, or cigars of whatever description, sold, consumed, or removed for consumption or sale, or removed from the place of manufacture during the preceding month, as aforesaid; and in case the taxes shall not be paid within five days after demand thereof, the said collector may, on one day's notice, distrain for the same, with ten per cent, additional on the amount thereof, subject to all the provisions of law relating to licenses, returns, assessments, payment of taxes, liens, fines, penalties, and forfeitures, not inconsistent herewith in the case of other manufacturers; and such tax shall be paid by the manufacturer or the person who furnished the materials or was otherwise interested in said business, as the assessor may deem best for the collection of the revenue. And it shall be the duty of any manufacturer or vendor of tin-foil or other material used in manufacturing tobacco, snuff, or cigars, on demand of any officer of internal revenue, to render to such officer a correct statement, verified by oath or affirmation, of the quantity and amount of tin-foil or other materials sold or delivered to any person or persons named in such demand; and in case of refusal or neglect to render such statement, or of cause to believe such statement to be incorrect or fraudulent, the assessor of the district may cause an examination of persons, books, and papers to be made in the same manner as provided in the fourteenth section of this act: *Provided*, That manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, may be transferred, without payment of the tax, to a bonded warehouse established in conformity with law and Treasury regulations, under such rules and regulations and upon the execution of such transportation bonds or other security as the Secretary of the Treasury may prescribe, said bonds or other security to be taken by the collector of the district from which such removal is made; and may be transported from such a warehouse to any other bonded warehouse established as aforesaid, and may be withdrawn from bonded warehouse for consumption on payment of the tax, or removed for export to a foreign country without payment of tax, in conformity with the provisions of law relating to the removal of distilled spirits, all the rules, regulations, and conditions of which, so far as applicable, shall apply to tobacco, snuff, or cigars in bonded warehouse. And no drawback shall in any case be allowed upon any manufactured tobacco, snuff, or cigars, upon which any tax has been paid either before or after it has been placed in bonded warehouse.

Mr. ALLISON. I move to strike out after the word "suit" in line sixteen hundred and twenty-two down to and including the word "revenue" in line sixteen hundred and thirty-seven, that being a provision contained in another section.

The amendment was agreed to.

Mr. ALLISON. I move to insert before the word "provided" in line sixteen hundred and forty-nine, the following:

And all the provisions of law relating to manufacturers generally, so far as applicable to and not inconsistent herewith, shall be held to apply to the manufacture of tobacco, snuff, and cigars: *Provided*, That the tax imposed upon the manufacture of tobacco, snuff, and cigars shall be assessed on or before the time of removal from the place of manufacture, and shall be payable at the time of such removal, unless

removed to a bonded warehouse. But nothing herein shall exonerate the manufacturer of tobacco, snuff, and cigars from liability to tax in case of sale before such removal.

The amendment was agreed to.

Mr. ALLISON. It will now be necessary to insert the word "further" after the word "provided."

The amendment was agreed to.

Mr. THAYER. I move to add to the paragraph the following:

In any port of entry within which is embraced more than two collection districts the Secretary of the Treasury is hereby authorized to place all the bonded warehouses in said port under the charge of one collector of internal revenue to be by him designated; and the collector so designated shall have entire charge and control of all matters connected with said bonded warehouses and the property stored therein.

I offer this to obviate what is represented to me to be a very great inconvenience to the business interests of that class of persons who have occasion to deposit goods in those bonded warehouses. But, sir, instead of making a speech on the subject myself, I will ask the Clerk to read a communication which I hold in my hand signed by over fifty firms in the city of Philadelphia, setting forth the particular inconvenience which this amendment is proposed to remedy.

The Clerk read the letter, as follows:

PHILADELPHIA, March 9, 1866.

DEAR SIR: We beg leave to address you upon a subject which we regard as important to the business men of this city generally, but especially to those who are engaged in the trade of manufactured tobacco, distilled spirits, and refined petroleum. You are aware that the existing internal revenue laws give to the owners of such property the right to place it in bonded warehouse, whence it can be removed for exportation free from tax, and for consumption upon payment of same.

Bonded warehouses established for such purpose are located, we believe, in every district of this city or port, and are by law placed under the supervision of the collector of internal revenue of the particular district in which so located. Before any property can be placed in bonded warehouse the owner or consignee is required to pass an entry, and give bond to the collector of the district having charge of the warehouse in which it is designed to store the property; and upon its removal either for export or consumption the same form has to be again complied with.

Understanding, as you do, the location of the several congressional districts of this city, you will readily perceive the great trouble and delay which must necessarily occur in having to visit almost daily the several collectors' offices, situated, as they are, so distant from each other. It not unfrequently happens that parties desirous of exporting such articles are required on the same day to go to three or four collectors' offices for the transaction of the required business for a single operation. The inconvenience, trouble, loss of time, together with the pecuniary sacrifices which must occasionally occur, when prompt and immediate action is necessary, must be obvious; and such promptness of action is not attainable under the present system.

We assume that the policy of the Government is to afford all possible facilities to trade not inconsistent with a proper fulfillment of the laws; and hence we beg leave to suggest to you a modification of the internal revenue law, which, without injuriously affecting the rights of the Government, will remedy the evils to which we have adverted, and which are obstacles in the way of constantly increasing business operations. The modification of the law which we would propose is, that all the bonded warehouses in this port shall be put under the supervision of one collector, who shall be chargeable with all matters connected with the property stored therein, and that such collector shall be appointed by the Secretary of the Treasury.

Under such regulations all the requirements of the law in reference to such business could be fulfilled at one office. The advantage of the arrangement must be apparent to every one.

If your judgment in this matter is in accord with the views herein expressed we will feel greatly obliged if you will adopt such course as in your judgment is best calculated to secure the object in view.

We are, sir, very respectfully, yours.

Hon. RUSSELL THAYER,

House of Representatives, Washington, D. C.

Mr. THAYER. The committee will perceive that the amendment simply gives authority to the Secretary of the Treasury to put these several bonded warehouses in a port of entry in the charge of a single officer, if, in his opinion, the public convenience requires it.

Mr. HOOPER, of Massachusetts. It seems to me that that amendment would introduce a good deal of confusion into the Department. There is, already, under the law, an officer designated in all ports of entry for the conduct of all business connected with the exportation of goods. That, it seems to me, covers this

difficulty; and I think it would be decidedly objectionable to place all the warehouses under the control of one collector.

Mr. THAYER. Mr. Chairman, the object of this amendment is to remedy the very confusion to which the gentleman refers. In large ports of entry, like Philadelphia or New York, there is one of these bonded warehouses in each congressional district; and every consignee, or owner of vessels, who has, perhaps, a cargo or consignment arriving every day, has to go about to these bonded warehouses; has to run far and near, corresponding with the area of these congressional districts, in order to transact his business, instead of going to one officer, as the gentleman intimates he may. The law requires him to go to the collector of internal revenue for that district in order to transact his business; and in my city he is often obliged to go to five different offices, situated many miles apart, in order to do business relating to a single transaction.

Mr. HOOPER, of Massachusetts. The business of a single transaction must surely be with a single collector.

Mr. THAYER. It is not. It is with five collectors. That is the difficulty. It is with the collector of internal revenue for the particular congressional district, and must be so by law.

Mr. HOOPER, of Massachusetts. Why should he go to five collectors?

Mr. THAYER. Because he is obliged to go to the collector of the particular district in which the bonded warehouse is situated, and there is a bonded warehouse in every collection district in the city of Philadelphia.

Mr. HOOPER, of Massachusetts. I do not see the necessity of his going to more than one.

Mr. THAYER. Perhaps the gentleman does not; but the law requires him to do it; in point of law he is obliged to go to five. Now, my amendment simply proposes to give the Secretary of the Treasury discretionary authority to place these bonded warehouses under the care of a single officer in such cases as in his opinion the public convenience may require, and that is all.

Mr. STEVENS. I would like to hear that amendment read again. I want to see how extensive it is.

The amendment was again read.

Mr. STEVENS. Is that all? It does not affect my people, and I have no objection to it. We have got only one collector.

The amendment was agreed to.

The Clerk read as follows:

That section ninety-one be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that all manufactured tobacco, snuff, or cigars, whether of domestic manufacture or imported, shall, before the same is used or removed for consumption, be inspected by an inspector appointed under the fifty-eighth section of the act to which this is an amendment, who shall mark or affix a stamp upon the box or other package containing such tobacco, snuff, or cigars, in a manner to be prescribed by the Commissioner of Internal Revenue, denoting the kind, quantity, or number contained in each package, with the date of inspection and the name of the inspector and the collection district. The fees of such inspector shall in all cases be paid by the owner of the manufactured tobacco, snuff, or cigars so inspected. And the penalties for the fraudulent marking of any box or other package of tobacco, snuff, or cigars, and for any fraudulent attempt to evade the taxes on tobacco, snuff, or cigars so inspected, by changing in any manner the package or the marks thereon, shall be the same as are provided in relation to distilled spirits by existing laws. And all cigars manufactured after the passage of this act shall be packed in boxes. And any manufactured tobacco, snuff, and cigars, whether of domestic manufacture or imported, which shall be sold or pass out of the hands of the manufacturer or importer, except into a bonded warehouse, without the inspection marks or stamps affixed by the inspector, unless otherwise provided, shall be forfeited, and may be seized where ever found, and shall be sold, one half of the proceeds of such sale to be paid to the informer, and the other moiety to the United States. The Commissioner of Internal Revenue shall keep an account of all stamps delivered to the several inspectors; and said inspectors shall also keep an account of all stamps by them used or placed upon boxes containing cigars, and of all tobacco, snuff, and cigars inspected, and the name of the person, firm, or company for whom the same were so inspected, and return to the assessor of the district a separate and distinct account of the same, and also return to the said Commissioner, on demand, all stamps not otherwise accounted for, and shall give a bond for a faithful performance of all the duties to

which he may be assigned, and to return or account for all stamps which may be placed in his hands.

Mr. STEVENS. I move to amend that paragraph by inserting in line sixteen hundred and ninety-two after the word "boxes" the words "or paper packages;" so that it will read:

And all cigars manufactured after the passage of this act shall be packed in boxes or paper packages.

Mr. MORRILL. That is right.

The amendment was agreed to.

Mr. MORRILL. In line sixteen hundred and ninety-eight I move to strike out "one half of" and to insert in lieu thereof "and;" and in lines sixteen hundred and ninety-nine and seventeen hundred to strike out the words "to be paid to the informer, and the other moiety to the United States;" and to insert in lieu thereof the following: "shall be distributed between the United States and the informer, if there be any, as provided by law;" so that the same will read:

Any manufactured tobacco, snuff, and cigars, whether of domestic manufacture or imported, which shall be sold, or pass out of the hands of the manufacturer or importer, except into a bonded warehouse, without the inspection marks or stamps affixed by the inspector, unless otherwise provided, shall be forfeited, and may be seized wherever found, and shall be sold, and the proceeds of such sale shall be distributed between the United States and the informer, if there be any, as provided by law, &c.

The amendment was agreed to.

Mr. GARFIELD. I move to amend near the close of the paragraph by inserting the word "shall" before the words "return to the said Commissioner," &c.

The amendment was agreed to.

The Clerk then read as follows:

That section ninety-two be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that if any person other than the manufacturer shall sell, or consign, or remove for sale, or part with the possession of any manufactured tobacco, snuff, or cigars, upon which the taxes imposed by law have not been paid, with the knowledge thereof, such person shall be liable to a penalty of \$100 for each and every offense. And any person who shall purchase or receive for sale any such tobacco, snuff, or cigars, which has not been inspected, branded, or stamped as required by law, or upon which the tax has not been paid, if it has accrued or become payable, with knowledge thereof, shall be liable to a penalty of fifty dollars for each and every offense. And any person who shall purchase or receive for sale any such tobacco, snuff, or cigars, from any manufacturer who has not paid the special tax, shall be liable for each and every offense to a penalty of \$100, and, in addition thereto, a forfeiture of all the articles, as aforesaid, so purchased or received, or the full value thereof. And every person, before making any cigars after the passage of this act, shall apply for and procure from the assistant assessor of the district in which he or she resides, a permit authorizing such persons to carry on the trade of cigar making, for which permit he or she shall pay said assistant assessor the sum of twenty-five cents. And every person employed or working at the business of cigar making in any other district than that in which he or she is a resident shall, before making any cigars in such other district, present said permit to the assistant assessor of the district where so employed or working, and procure the indorsement of said assistant assessor thereon, authorizing said business in said district, for which indorsement the assistant assessor shall be entitled to receive from the applicant the sum of ten cents. And it shall be the duty of every assistant assessor, upon application of any person residing in his district, to furnish a permit, or to indorse upon the permit of the applicant, if resident in another district, authority to pursue the trade of cigar making within the proper district of such assistant assessor; and said assistant assessor shall keep a record of all permits granted or indorsed by him, showing the date of each permit, the name, residence, and place of employment of the party named therein, the name and district of the officer who originally granted the same, or who may have made any subsequent indorsements thereon, and the name or names of the party or parties by whom the person named in such permit is employed, or, if working for himself or herself, stating such fact; and every person making cigars shall keep an accurate account in a book of all the cigars made by him or her, for whom, and their kind or quality; and, if made for any other person, shall state in said account the name of the person or persons for whom the same were made, and his or their place of business, and shall, on the first Monday of every month, deliver to the assistant assessor of the district a copy of such account, verified by oath or affirmation that the same is true and correct. And if any person shall make any cigars without procuring such permit, or the proper indorsements thereon, or neglect to keep such account in a book, he or she shall be punished by a fine of five dollars for each day he or she shall so offend, or by imprisonment for such time as the court may order for each day's offense, not exceeding thirty days in the whole, upon any one conviction. And if any person making cigars shall fail to make the return herein required, or shall make a false return, he or

she shall be punished by a fine not exceeding \$100, or by imprisonment not exceeding thirty days. And any person furnished with such permit may apply to the assistant assessor or inspector of the district to have any cigars of their own manufacture counted; and on receiving a certificate of the number, for which such fee as may be prescribed by the Commissioner of Internal Revenue shall be paid by the owner thereof, may sell and deliver such cigars to any purchaser, in the presence of said assistant assessor or inspector, in bulk or unpacked, without payment of the duty. A copy of the certificate shall be retained by the assistant assessor, or by the inspector, who shall return the same to the assistant assessor of the district. The purchaser shall pack such cigars in boxes or paper packages, and have the same inspected and marked or stamped according to the provisions of this act, and shall make a return of the same, as inspected, to the assistant assessor of the district, and, unless removed to a bonded warehouse, shall pay the duties on such cigars within five days after purchasing them, to the collector of the district wherein they were manufactured, and before the same have been removed from the store or building of such purchaser, or from his possession; and any such purchaser who shall neglect for more than five days to pack and have such cigars duly inspected, and pay the duties thereon according to this act, or who shall purchase any cigars from any person not holding such permit, the duties thereon not having been paid, shall be deemed guilty of a misdemeanor, and be fined not exceeding \$500, and be imprisoned not exceeding six months, at the discretion of the court, and the cigars shall be forfeited and sold, one fourth for the benefit of the informer, one fourth for the officer who seized or had them condemned, and one half shall be paid to the Government. And if any person, firm, company, or corporation shall employ or procure any person to make any cigars, who has not the permit or the indorsement thereon required by this act, he, she, or they shall be punished by a fine of ten dollars for each day he, she, or they shall so employ such person, or by imprisonment not exceeding ten days. And if any person shall be found making cigars without such permit, or the indorsement thereon, the collector of the district may seize any cigars, or tobacco for making cigars, which may be found in possession of such person, and the same shall be forfeited to the United States and sold; and one half of the proceeds shall be paid to the United States, one fourth to the informer, and the other fourth to the collector making the seizure.

Mr. GARFIELD. I move to amend by striking out the words "or hers," "or she," "she or they," wherever they occur in this paragraph.

The amendment was agreed to.

Mr. THAYER. I would ask the gentleman from Ohio [Mr. GARFIELD] if the word "assistant" should not be stricken out before the word "assessor."

Mr. GARFIELD. The gentleman is right. I move that amendment.

The amendment was agreed to.

Mr. THAYER. I move to amend by inserting the words "wherein the same were manufactured" after the words "shall make a return of the same, as inspected, to the assessor of the district."

The amendment was agreed to.

Mr. MORRILL. I move to amend, at the close of the paragraph, by striking out the following:

And one half of the proceeds shall be paid to the United States, one fourth to the informer, and the other fourth to the collector making the seizure.

And inserting in lieu thereof the following:

And the proceeds of such sales shall be distributed between the United States, the informer, if there be any, and the collector making the seizure, as provided by law.

The amendment was agreed to.

Mr. STEVENS. One portion of this paragraph reads as follows:

And every person making cigars shall keep an accurate account in a book of all the cigars made by him or her, for whom, and their kind or quality; and, if made for any other person, shall state in said account the name of the person or persons for whom the same were made, and his or their place of business, and shall, on the first Monday of every month, deliver to the assistant assessor of the district a copy of such account, verified by oath or affirmation that the same is true and correct.

I move to amend by inserting, at the close of the sentence I have read, the following proviso:

Provided, That journeymen cigar-makers and apprentices who work for others shall not be considered as included within this proviso.

I will state briefly the object of this amendment. By the law as it now stands, and as it has been construed, a man may have twenty journeymen employed at making cigars. Not only the employer and his book-keeper are required to make out every night a full return

of all the work done in the shop, but every journeyman and every apprentice working there must keep his book and make out his nightly return to be handed to the assessor.

Now, I suppose that construction of this provision was never intended; but it is a construction which has been put upon it. I know it may be said that this is a sort of check upon the employer: the workmen are all made spies upon the employer. It may have that effect in some instances, but it is so entirely perplexing that very few workmen will be found who are willing to work under this provision if so construed. I know that in my town last year the workmen refused to work, and turned out and paraded the streets until the assessors agreed to take the returns of the employers and book-keepers, and dispense with the returns of the workmen.

Now, I do not know anything more irritating than this very provision requiring every journeyman when he goes home at night to set down in his book and make out an account of his day's work to be returned to the assessor. This provision is very stringent upon the owners, employers, and book-keepers, and it should not, I think, impose this task upon the laboring classes.

Mr. MORRILL. I regret to be compelled to oppose the proposition of the gentleman from Pennsylvania, [Mr. STEVENS.] I have no doubt there is some hardship caused by this provision; but I cannot conceive that it is anything like the hardship that the gentleman has represented.

As I understand it, these parties are employed to make cigars by the thousand; and they have to keep an account with their employers to show what they have done, and what their wages amount to. The gentleman says that they must make these returns every night; but in point of fact they are not required to make the returns except once a month.

Experience has taught us that without such a provision as this in the law we have no clue by which to reach the manufacturer and find out whether he makes a true or a fraudulent return. The Government was formerly defrauded to a large extent by collusion between the manufacturer and the persons taking out tobacco to manufacture for him. This provision has been found a very effectual one thus far in the practical operation of the law. It has been found, I believe, to be a sure preventive of collusion such as I have referred to. I trust that the amendment will not be adopted.

The question being taken on the amendment, it was declared not agreed to.

Mr. STEVENS. I call for a division.

Mr. MORRILL. As there is evidently not a quorum present, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 518, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. McDONALD, its Chief Clerk, informed the House that the Senate had passed a joint resolution of the House (No. 103) to refer the petition of Benjamin Holliday to the Court of Claims, with an amendment, in which he was directed to request the concurrence of the House.

The message further informed the House that the Senate had passed bills and a joint resolution of the following titles, in which the concurrence of the House was requested:

An act (S. No. 313) regulating the transportation of nitro-glycerine or glynn oil;

An act (S. No. 316) to establish a post route from West Alburg, Vermont, to Champlain, in the State of New York, and for other purposes; and

Joint resolution (S. R. No. 92) authorizing the appointment of examiners to examine a site for a fresh-water basin for iron-clad vessels of the United States Navy.

Mr. INGERSOLL moved that the House do now adjourn.

The motion was agreed to; and thereupon (at half past four o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. CONKLING: The petition of citizens of Uden, New York, asking extension of time for State banks to retire their circulation.

By Mr. DUMONT: The petition of the board of trustees of the Indiana Agricultural College.

By Mr. GARFIELD: The petition of 65 citizens of Geauga county, Ohio, asking for increased protection on American wool.

By Mr. HARDING, of Illinois: The memorial of citizens of Oquawka, Illinois, against obstructive bridges across the upper Mississippi.

Also, the memorial of citizens of Rock Island, against the building of obstructive bridges across the upper Mississippi.

By Mr. INGERSOLL: Two petitions from citizens of Peoria county, Illinois, one praying an increase of duty on imported wool, and twenty-five cents per pound duty on foreign shoddy and woolen rags; and one praying a tax of two dollars per head on all dogs.

Also, two petitions from citizens of Knox county, Illinois, one praying an increase of duty on imported wool, and twenty-five cents per pound duty on foreign shoddy and woolen rags; and one praying a tax of two dollars per head on all dogs.

By Mr. LAFLIN: The petition of citizens of Jefferson county, New York, in favor of an increased tariff on imported flax and flax tow.

By Mr. LATHAM: The memorial of ladies of French Creek, West Virginia.

By Mr. LONGYEAR: The petition of William Clapp, and 56 others, citizens of Jackson county, Michigan, asking for an increased duty on wool.

By Mr. MARVIN: The petition of sundry citizens of Fulton county, New York, asking an *ad valorem* and an increased duty on imported wool.

By Mr. MARSTON: The petition of Joseph H. Graves, and 290 others, citizens of Portsmouth, New Hampshire, praying that Congress will fix eight hours for a day's labor.

By Mr. ROLLINS: The petition of Seth Eastman, and 35 others, citizens of Concord, New Hampshire; James A. Smith, and 34 others, citizens of Rhode Island; George H. Phelps, and 20 others, citizens of Lee, Massachusetts; A. P. Rand, and 31 others, citizens of Westfield, Massachusetts; Jacob Stone, and 32 others, citizens of Newburyport, Massachusetts; and Taylor, Symonds & Co., and 33 others, citizens of Providence, Rhode Island, severally praying for the passage of just and equal laws for the regulation of inter-State insurances of all kinds.

IN SENATE.

FRIDAY, May 18, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. TRUMBULL presented the petition of William M. Riggs, claiming compensation for services rendered as a scout and guide to the Union forces in the State of Tennessee during the years 1864 and 1865, accompanied with the evidence of the services which he performed; which was referred to the Committee on Claims.

Mr. WILSON. I present the petition of George W. Graham, and thirty-six others, watchmen in the Treasury building. They set forth that the whole number of watchmen in that building is thirty-seven, twenty-six of whom served in the Army, six were exempt by reason of age, and five for disability. They say they are on duty fifteen hours out of the twenty-four, while watchmen in the other public buildings are only on duty fifteen hours out of forty-eight, and they therefore ask for an increase of compensation. I move its reference to the Committee on Finance.

The motion was agreed to.

Mr. POLAND presented the petition of A. D. Prindle, and thirty-one others, citizens of Franklin county, Vermont, representing that the duty on foreign wool by the existing tariff is wholly insufficient to furnish proper protection to the wool-growers of this country, and praying that the same may be increased; which was referred to the Committee on Finance.

Mr. WADE presented the petition of William A. Otis and S. A. Mather and other officers of the savings bank at Cleveland, Ohio, praying that deposits in savings banks may be exempt from taxation; which was referred to the Committee on Finance.

Mr. SUMNER. I offer the petition of colored citizens of Baltimore, in which, among other things, they ask Congress to strike out the second clause of the proposed amendment to the Constitution, which has already passed the House of Representatives, and which is now pending before the Senate, and to substitute therefor these words: "No Congressman shall sit as such who is not elected by at least one half of all the loyal men of his party, without regard to color or race, if citizens of the United States and over twenty-one years of age."

As that subject is now before the Senate, the committee having made their report, I move that this petition be received and that it lie upon the table.

The motion was agreed to.

Mr. SUMNER. I offer the petition of John J. Varannes, who calls himself "a soldier for the Union," wherein he represents that the arch-rebel Jefferson Davis should be punished for his many crimes; and he proceeds to say there is great danger that if tried by a civil court secessionists may get on the jury and consequently he may be acquitted or the jury may disagree. Accordingly, he asks that he may be tried by a court-martial, and prays that the Senate may direct his Excellency the President to convene a court-martial with powers to try Jefferson Davis. In offering this petition I desire to say that I express no opinion with regard to its prayer. I am willing, however, to add, as the subject is directly before us, that in my opinion a trial of Jefferson Davis at this moment by a jury at Richmond will be one of those great comedies which hereafter will excite the derision of history. I know of no committee to which this may more appropriately be referred than the Committee on Military Affairs; and I ask its reference to that committee.

The PRESIDENT *pro tempore*. That reference will be ordered.

REPORTS OF COMMITTEES.

Mr. CLARK. The Committee on Claims, to whom were referred two petitions of sundry voters in the State of Florida, praying for compensation for property destroyed by the rebel authorities, have had that matter under consideration and directed me to report that the prayer of the petitioners cannot be granted. I ask that it be disposed of at once. It is a very short matter.

The report was concurred in.

Mr. WILLIAMS, from the Committee on Claims, to whom were referred resolutions of the Legislature of New York, in favor of the payment of claims of the militia of that State who served in the war of 1812, asked to be discharged from their further consideration; which was agreed to.

Mr. SPRAGUE, from the Committee on Military Affairs and the Militia, to whom was referred a memorial of the Soldiers' and Sailors' Union of Washington, District of Columbia, praying for the passage of a law creating them a body politic and corporate, asked to be discharged from its further consideration and that it be referred to the Committee on the District of Columbia; which was agreed to.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a joint resolution (H. R. No. 134) relative to appointments to the Military Academy of the United States, reported it without amendment.

He also, from the same committee, to whom the subject was referred, reported a joint resolution (S. R. No. 96) providing for the transfer of certain clerks to the office of the Quartermaster General; which was read and passed to a second reading.

He also, from the same committee, to whom

was referred a joint resolution (S. R. No. 86) to provide for the publication of the Official History of the Rebellion, reported it without amendment, and submitted a report in writing; which was ordered to be printed.

Mr. CRAGIN, from the Committee on Naval Affairs, to whom was referred a bill (H. R. No. 422) for the relief of Mrs. Ann E. Smoot, widow of Captain Joseph Smoot, reported it with an amendment.

Mr. NORTON, from the Committee on Claims, to whom was referred a bill (H. R. No. 354) for the relief of Edward P. McKinney, of Binghamton, New York, late captain and assistant commissary of subsistence, reported it without amendment.

BILL RECOMMENDED.

On motion of Mr. POMEROY, it was

Ordered, That the bill (S. No. 224) to aid in the construction of a southern branch of the Union Pacific railway, and to secure to the Government the use of the same for postal, military, and other purposes, together with the amendments thereto, be recommitted to the Committee on Public Lands.

PRINTING OF A BILL.

On motion of Mr. POMEROY, it was

Ordered, That the bill (S. No. 169) granting lands to make up deficiencies of former grants in aid of the completion of the Tomah and Lake St. Croix and the St. Croix and Lake Superior railroads, in the State of Wisconsin, be printed and recommitted to the Committee on Public Lands.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred to the Committee on Finance:

A bill (H. R. No. 597) to authorize the use in post offices of weights of the denomination of grammes; and

A joint resolution (H. R. No. 140) to enable the Secretary of the Treasury to furnish to each State one set of the standard weights and measures of the metric system.

The joint resolution (H. R. No. 141) to authorize the President to appoint a special commissioner to facilitate the adoption of a uniform coinage between the United States and foreign countries, was read twice by its title.

The PRESIDENT *pro tempore*. The joint resolution will be referred to the Committee on Finance.

Mr. SUMNER. I think that last joint resolution should go to the Committee on Foreign Relations.

Mr. SHERMAN. These bills ought to go together to the same committee. They were all reported from a special committee of the House and ought to go together; they are kindred bills. The metric system—that, I believe, is the name given to it—is a system proposed to be adopted in regard to coinage and weights and measures.

Mr. SUMNER. I have no wish certainly to draw them to the committee with which I am associated; only it seemed to me from the title that perhaps the latter resolution belonged to that committee.

Mr. CONNESS. They are financial measures.

Mr. SHERMAN. I think they had better go to the Committee on Finance.

The PRESIDENT *pro tempore*. The original reference to the Committee on Finance will stand, no objection being made.

Mr. SUMNER afterward said: Several bills came from the House of Representatives this morning relating to the metric system. I thought at the time they should be referred to the Committee on Foreign Relations. One or two of them were referred without notice to the Committee on Finance. I understand from the Senator from Ohio that the Committee on Finance, so far as they have considered the question, are not disposed to proceed with those bills, and the Senator himself has suggested to me that a special committee would be more appropriate. It will be remembered that there is a special committee on this subject in the other House. I have therefore thought it advisable to move the appointment of a special committee on this subject, to which these

bills—there are three already, and I think there is a fourth on your table—should be referred. I move that a special committee of five be appointed by the Chair, to which all bills and measures relating to the metric system shall be referred.

Mr. HENDERSON. It seems to me that the Finance Committee is the most appropriate committee for measures of this description. I scarcely see the necessity of raising a special committee on the subject. It will, perhaps, more appropriately go to the Committee on Finance than to any other, unless there be some special reasons that I have not heard.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Massachusetts.

The motion was agreed to.

CIRCUIT COURT IN VIRGINIA.

The PRESIDENT *pro tempore*. A bill (H. R. No. 563) amended by the Senate is returned from the House of Representatives accompanied by the following resolution:

IN THE HOUSE OF REPRESENTATIVES,
May 16, 1866.

Resolved, That the House non-concur in the amendment of the Senate to the bill (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes, and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. TRUMBULL. I believe it is in order to move to recede from the Senate amendment and agree to the bill as passed by the House originally. If so, I make the motion. The amendment which the House has disagreed to, I will state to the Senate, was striking out the latter part of the bill which gave to the judges of the court authority to appoint special terms and to adjourn the court from time to time. It was thought by the Committee on the Judiciary that the laws already conferred that power, and hence we struck out that provision in the bill as it came from the House. The House has disagreed to it, and I move that the Senate recede from its amendment and then the bill will be passed.

The motion was agreed to.

TRANSMISSION OF SOLDIERS' MEDALS.

Mr. SHERMAN asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 97) to authorize certain medals to be distributed to veteran soldiers free of postage.

Mr. SHERMAN. Perhaps the Senate are willing to pass the resolution now. The State of Ohio gave medals to veteran soldiers, and the Legislature adjourned at the last session without making an appropriation for their distribution. They are now on hand for distribution, and this simply provides that they may be sent through the post office free of postage. If any Senator desires a reference I have no objection to its being referred; but if not, as the medals are there, I should like to have it passed so that it may go to the other House.

Mr. WADE. Let it be passed at once; there can be no objection to it.

The joint resolution was read at length. It proposes to authorize the adjutant general of the State of Ohio to distribute through the mails free of postage to veteran soldiers enlisted in Ohio certain medals furnished by the General Assembly of that State, and to provide that in such case the envelope inclosing the medals shall be franked in the mode prescribed by the Postmaster General.

The joint resolution was read three times and passed.

BRIDGE AT WINONA.

Mr. NORTON. I move to take up Senate bill No. 263, which was laid aside the other day on the motion of the Senator from Wisconsin, [Mr. DOOLITTLE.]

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 263) to authorize the Winona and St. Peter's Railroad Company to construct a bridge across the Mississippi river, and to establish a post route.

The bill was reported to the Senate as amended.

The PRESIDENT *pro tempore*. The question is, Will the Senate concur in the amendments made as in Committee of the Whole?

Mr. NORTON. I will state to the Senator from Wisconsin [Mr. HOWE] that the amendments that have been adopted were the amendments proposed by the Committee on Post Offices and Post Roads.

Mr. HOWE. There is one of those amendments that I thought there was a question about. I wish to call attention to the amendment to the first section. Is not that a new principle?

Mr. RAMSEY. It is embraced in all the other bills that have been reported here by the Post Office Committee. It is to avoid a difficulty that occurred in the litigation in regard to the Rock Island bridge. I believe the proceedings were first had in the district court of the United States for the State of Iowa; and I think it was there held that they had jurisdiction but to the thread of the stream, and hence had not jurisdiction of the whole matter of the bridge. This is to give that jurisdiction to the courts.

Mr. HOWE. I have no objection to it.

Mr. RAMSEY. The amendment was suggested by those who have in charge the interests of navigation at St. Louis.

The PRESIDENT *pro tempore*. The Chair will put the question on concurring in the amendments collectively, unless a division of them be asked.

The amendments were concurred in.

Mr. HOWE. I move to amend the first section of the bill by inserting after the word "Wisconsin" in the ninth line, the words "or between La Crosse, in the State of Wisconsin, and the opposite bank of said river, in the State of Minnesota, as may be agreed by the Legislatures of Minnesota and Wisconsin;" so that the section will read:

That the Winona and St. Peter's Railroad Company, a corporation existing under and by virtue of the laws of the State of Minnesota, be, and the same is hereby, authorized and empowered to erect, maintain, use, and operate a bridge across the Mississippi river, between the city of Winona, in the State of Minnesota, and the opposite bank of said river, in the State of Wisconsin, or between La Crosse, in the State of Wisconsin, and the opposite bank of said river, in the State of Minnesota, as may be agreed by the Legislatures of Minnesota and Wisconsin, subject to the conditions and limitations hereinafter provided.

Mr. NORTON. I hope this amendment will not be adopted for several reasons; chiefly from the fact that this company, the Winona and St. Peter's Railroad Company, has no authority to build a railroad to a point on the Mississippi river opposite the city of La Crosse. This company is building a road west from the city of Winona, and also has a charter authorizing it to construct a road on the east side of the river from a point opposite the city of Winona to intersect with the Milwaukee and La Crosse road. This company has no authority, nor is there any company in the State of Wisconsin incorporated that has authority to build a railroad from Winona to La Crosse. There is a road in process of construction from La Crosse, or opposite La Crosse, westwardly, running through Minnesota, now running perhaps twenty or thirty miles. To the construction of a bridge at that point to connect those two roads, there is no objection on the part of the people of Minnesota; certainly none on the part of the persons interested in the construction of this bridge at Winona.

The effect of the amendment proposed by the Senator from Wisconsin is to inaugurate, or rather to continue, a local contest between the city of La Crosse and the city of Winona. The Senator from Wisconsin proposes to amend the bill by authorizing the construction of a bridge either at Winona or La Crosse as the Legislatures of Wisconsin and Minnesota may agree. The result of that would be that the Legislature of Wisconsin, consulting the interests of the city of La Crosse, would insist upon the construction of the bridge at La Crosse, and would not consent to the construction of a bridge at

Winona; and the Legislature of Minnesota would withhold its consent to the construction of a bridge at La Crosse, and insist upon its being at Winona. The consequence would be, the Legislatures not agreeing, that there would be no bridge built.

Now, sir, the interests of the two States will be subverted and there will be no conflict of interest between these points if we allow the construction of a bridge at La Crosse when the railroad companies touching the river at that point and opposite to it shall desire it; and to that the State of Minnesota has no sort of objection; and we think that the State of Wisconsin ought to have no objection to the construction of a bridge at the city of Winona, where the Winona and St. Peter's Railroad Company now have some seventy miles of road, and are engaged in the construction of a road on the east side of the river. The effect of the amendment proposed by the Senator from Wisconsin, if adopted, will be inevitably that there will be a disagreement between the States of Wisconsin and Minnesota on this subject, and consequently no bridge will be built. I hope it will not be adopted.

Mr. HOWE. It seems to me the Senate will not refuse to agree to this amendment. There is a very large interest in the State of Wisconsin and in the State of Minnesota which is opposed to the bridging of this great natural highway at all; but it is very generally conceded that the interests of commerce tending between the East and the West do require bridges at certain points; and this necessity has been recognized in two or more instances by the Senate of the United States. But I think every Senator will agree that there is no commercial interest that requires a bridge, which is a sort of highway, to be constructed across that river except at points where the river is touched by railroads both from the West and from the East. Where there is a mere ferry across the river now, connecting two common roads, there can be no commerce over such a point of sufficient importance to warrant the building of a bridge; but where railroads, which are great highways, ministering to great commercial wants, touch the river on each bank there may be a just claim set up for furnishing a bridge connecting those two great artificial highways.

This bill proposes the bridging of the river at a point called Winona, in the State of Minnesota. There is a railroad touching the river at that point from the West, but there is no railroad in existence touching it from the East. It connects with no road on this side. It is alleged that if this bridge be authorized, a road will be built from the point opposite Winona, on the Wisconsin side, to connect with the roads east; but at La Crosse, which is about thirty miles below Winona, on the same river, there is a road touching the river from both sides.

Mr. NORTON. Will the Senator allow me, just here, to say that neither of the railroad companies touching at La Crosse, neither the Minnesota company nor the Wisconsin company, is now asking for the privilege of building a bridge there.

Mr. HOWE. No, Mr. President; neither of them is here asking for a bridge at this time.

Mr. NORTON. Nor are they asking it of the States.

Mr. HOWE. I state the fact that at that point, which is about thirty miles below Winona, there are three artificial highways already constructed and touching the river on both banks; and it would seem to me that if a bridge were to be built anywhere in that region, across the river, there is the proper place.

It is said that the company which has constructed the road touching the Mississippi at Winona is not authorized to go down to the river to the point opposite La Crosse and does not want to go down on that side. That is very likely to be the case with that company; but we understand that there is no difficulty in the way of their coming down there if they wish. But here is the fact: this company has sought permission of the State of Wisconsin to

build this bridge at Winona, and the State has refused to give her assent. Whether she has acted wisely or not it is not for me to say. It certainly is not for me to say that she has acted unwisely. I am bound to suppose that her own Legislature knows her own interests and is truly subserving those interests. But the friends of this project insist upon it that it is of great service to the State of Wisconsin to have that traffic which they say is coming to the Mississippi from the West carried through the State of Wisconsin. If it is, Wisconsin knows it, and if it is, Wisconsin will consent to have the river bridged. But I must conceive that the State of Wisconsin knows better where she wants the bridge than I can know, and I think it is not unreasonable to suppose that she knows better than this Senate. If she wants that commerce enough to allow the bridge to be built at Winona, then the company owning the road on the other side have only to say, "We will not cross the river anywhere else," and Wisconsin will have the privilege of taking the traffic over the river at that point or not taking it at all.

I do not see anything unfair or unreasonable in this. Hitherto the State of Wisconsin has refused her assent to the building of a bridge at Winona, and now this very grave and serious question is presented to the Senate: will you compel the State of Wisconsin to consent to the building of a bridge at that point against her protest? I have heard it argued very gravely here, and insisted upon repeatedly, that Congress cannot impose any such obligation upon a State or any such burden upon a State; that it is absolutely beyond the constitutional power of Congress to authorize the building of a highway within the State, whether a bridge or a railroad, against the assent of the State. Here the State refuses, has refused, her consent. I really hope the Senate will not compel the State to give her consent. She has just as much interest in having this traffic pass through her borders, perhaps, as Minnesota has in sending it through. I do not doubt but that the two Legislatures can agree as to the point where the bridge shall be built; but I do think it is just as fair that Wisconsin should be consulted about it as that Minnesota should be allowed to dictate the point, and I hope the Senate will give her that privilege.

Mr. NORTON. Mr. President, the State of Minnesota certainly has no disposition to dictate to the State of Wisconsin upon this subject, or upon any other; and at the same time that she has no such disposition, she is certainly not disposed to allow the State of Wisconsin to dictate to her what shall be the system of railroads within her State. The road built by this Winona and St. Peter's Railroad Company is one of the land-grant roads built in pursuance of and in carrying out the general railroad system of Minnesota. The proposition of the Senator from Wisconsin is to compel Minnesota to change that railroad system and construct a road some forty miles to make an eastern connection which she can make in twenty-seven and a half miles. Neither the people of the city of Winona, nor this company, nor the State of Minnesota has any sort of objection to the construction of a bridge at La Crosse whenever the railroads at that point or the State of Wisconsin shall want it. We are entirely willing that they shall construct a bridge there, and we think that it is not asking too much that the State of Wisconsin should consent to the construction of this bridge at Winona.

As I said before, there is no railroad company in Minnesota authorized to construct a road from Winona to La Crosse on the west side of the river. There is a road through southern Minnesota touching the river opposite La Crosse. That is a land-grant road, and one being constructed in pursuance of the general railroad system of the State. The company constructing the road touching at Winona have authority from the State of Wisconsin to construct a road on the east side of the river a distance of twenty-seven and forty-seven one hun-

dredths miles to a point on the Milwaukee and La Crosse road. Now if we should be compelled in Minnesota to construct a road on the west side of the river and cross at La Crosse we should be required to construct a road fifteen miles longer to reach the same point on the east side of the river, and at a cost estimated from surveys on the west side of the river of something nearly three quarters of a million dollars more than the cost of a road on the east side connecting at the same point with the Milwaukee and La Crosse road. It is true the road on the east side of the river is not yet constructed, but it is in process of construction, and I am assured will be constructed this summer. This company desire the privilege of building the bridge, so that by the time the road is constructed, or nearly by that time, the bridge may be completed and afford a continuous connection and communication with the lakes.

The Senator says that Wisconsin has refused to consent to the construction of this bridge. The Senator will allow me to say that he is misinformed. The truth is, that late in the session of the Legislature of Wisconsin application was made for the consent of that State to construct this bridge, that the bill in the House passed through the Committee of the Whole, but owing to the pressure of business, it being near the end of the session, it was not reached and was not acted upon, and in point of fact there was no refusal on the part of the Legislature of Wisconsin to consent to the construction of this bridge.

Now, I think I can explain to the Senate in a very few words the precise condition of this matter. La Crosse lies some forty miles below Winona. It is the terminus of the Milwaukee and La Crosse road on the east and of the Southern Minnesota railroad on the west side of the river. Winona is the terminus of the Winona and St. Peter's road on the west side and the terminus of the La Crosse, Trempealeau, and Prescott road on the east side of the river. I am informed, and I have had an opportunity to know something myself in regard to the fact, that the only interest in the State of Wisconsin that opposes the construction of this bridge at Winona is the local influence of the city of La Crosse. We are entirely willing that that local interest shall be subserved so far as it may be by the construction of a bridge at that point; and all we ask of them is that they will not object to the construction of this bridge at the city of Winona, which is certainly quite as much required and demanded by the business and commercial interests of the two States as is the construction of a bridge at La Crosse. I hope that the Senate will not, by the adoption of this amendment, place this matter in the position that it would be in of continuing a contest between those two States which must inevitably result in the failure to construct any bridge at all.

Mr. RAMSEY. I understand my colleague is willing to accept this bill with an amendment making it subject to the assent of the State of Wisconsin.

Mr. NORTON. Certainly; I have no objection to that. I do not understand the Senator from Wisconsin as urging that, but that it should be left to the States to choose between these two points. If the Senator from Wisconsin will propose an amendment requiring this company to obtain the assent of the Legislature of Wisconsin to the construction of this bridge at Winona I shall not object to it; but I do object to his leaving it in the alternative, for the Legislature to select one of these two points. If the Senator will propose an amendment to authorize the construction of both these bridges I have no objection to its being put on this bill, or I will favor a bill providing for the construction of a bridge at La Crosse.

Mr. HOWE. Mr. President, that would be partial justice, but not complete. The Senator from Minnesota says, that while he does not wish to dictate to the State of Wisconsin where bridges shall be built across this river, he does not wish the State of Wisconsin to dictate to

the State of Minnesota her railroad system. We do not propose any such thing. When he crosses the thread of the Mississippi river he is in Wisconsin with his railroads, and not in the State of Minnesota. While they are constructing railroads and bridges in the State of Minnesota, of course they can take the direction of their own Legislature; but when they come into the State of Wisconsin, we think the State of Wisconsin ought to be consulted. So much for that point.

But the Senator says that he is willing, if I will propose such an amendment, to allow this bill to be amended so as that it shall not be operative except upon the consent of the Legislature of the State of Wisconsin. I say that is partial justice, not complete, because then Congress says to the State of Wisconsin, "If you want that traffic to come through your State, and consent to the building of that bridge at Winona, you can take it, not otherwise." I ask Congress to say to the two States, "You may have the choice of allowing the river to be bridged at either of the two points." The bridge cannot be built at La Crosse without the consent of the State of Minnesota; it cannot be built at Winona without the consent of the State of Wisconsin. Both States are put upon an equal footing, and have equal authority over the question. Nothing can possibly be fairer than that, and then Congress does not coerce either of the States.

My friend from Minnesota says that this is a controversy between the cities of La Crosse and Winona. Not at all. If it be so, I do not represent La Crosse here in the controversy; I represent the State of Wisconsin. I only know—and I cannot concede that I am mistaken on the point—that the State of Wisconsin has hitherto refused to allow this bridge to be built at Winona; has refused to consent to it. The Senator says it was by reason of want of time.

Mr. NORTON. I will inquire of the Senator if he is informed that the Legislature of Wisconsin acted upon the proposition and refused to adopt it.

Mr. HOWE. No, sir. I am not informed that they rejected any such bill, but I am informed that they refused to assent to any such bill.

Mr. NORTON. Did they act upon the bill at all? Did they consider it?

Mr. HOWE. I understand they did consider it through the whole winter. I understand there was an active lobby there.

Mr. NORTON. If the Senator will allow me, I think he will find that he is mistaken. His information is as to an amendment of the charter of the La Crosse, Trempealeau, and Prescott Railroad Company. An amendment to that charter was the matter which was protracted there, but this subject was not acted upon.

Mr. HOWE. I make no affidavits here. I only state what is reported to me. I understand there was a lobby in attendance upon the Legislature during most of the session urging this project.

Mr. NORTON. Not upon this subject; it was upon the other.

Mr. HOWE. So I am informed. The Senator may be more correct than myself. The fact is—there is no denial of that—that Wisconsin has not assented to the building of this bridge.

Mr. NORTON. That is true; she has not.

Mr. HOWE. The Senator says that he is perfectly willing that a bridge shall be built at La Crosse, if they can have a bridge at Winona. That would put the commerce, up and down the river, to the necessity of encountering two bridges within thirty miles of each other.

Mr. NORTON. Forty.

Mr. HOWE. My friend says it is forty. I will not say that it is not forty miles by the course of the river, but, as I find by the map, Winona is just about two townships due north of the latitude of La Crosse.

Mr. RAMSEY. And just as many west.

Mr. HOWE. But La Crosse is about three

townships further east than Winona; so that if a road were built along the west bank of the river, from Winona to La Crosse, it would make a southing of two townships, or twelve miles. It would make an easting, it would get on its way to the East, about three townships, and when it gets to La Crosse it is in connection with the railroad already striking the river at that point. Now, I am informed—I do not seek to enforce the truth of this upon the Senate, because it is not a question that I think the Senate has any particular interest in considering—that the bridge, supposing there is to be but one, would better accommodate the State of Minnesota—not the city of Winona [Mr. NORTON. That we will judge of]—but the State of Minnesota, better at La Crosse than at Winona. Why? Because all the commerce from every part of the State could strike the river at La Crosse, without going more than twelve miles south of Winona, and is all the time going east; but if the bridge be built at Winona, it is away north of some of the finest agricultural districts in Minnesota. This is what I am told; but, as my friend says, that is for Minnesota to consider, and not for me. I only ask that you will allow Minnesota to consider it, to consider it not for herself alone, but in conjunction with the State of Wisconsin; allow the two States to consider it, and let them determine.

The Senator says that that will defeat the bridging of the river at all. Why? Because the two States will not agree. Then will you impose upon either of the States the burden of having a bridge built within its borders where it does not want it? I do not ask you to impose the burden upon Minnesota in reference to La Crosse. Why should they ask you to impose it upon Wisconsin in reference to Winona?

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the special order. By an order of the Senate, to-day, at one o'clock, is fixed for the consideration of bills reported by the Committee on Pensions.

Mr. NORTON. I hope we shall be allowed to get a vote on this bill. If this company are to be allowed to construct this bridge, it is very important that they should know it at once, so that they may enter upon its construction this summer; and if that privilege is not to be allowed them, we would like to know it.

The PRESIDENT *pro tempore*. The special order can be laid aside only by unanimous consent, without a motion.

PENSION LAWS.

Mr. LANE, of Indiana. I move that the Senate proceed to the consideration of House bill No. 863, supplementary to the several acts relating to pensions, this day having been specially set apart for the consideration of bills and reports from the Pension Committee.

The PRESIDENT *pro tempore*. The bill is before the Senate under the order.

The Senate, as in Committee of the Whole, resumed the consideration of the bill, the pending question being on the amendment proposed by Mr. VAN WINKLE to add as an additional section the following:

Sec. —. *And be it further enacted*, That the fourteenth section of an act entitled "An act supplementing to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be, and the same is hereby, repealed, and that the widows and children of colored soldiers and sailors who have been or may be hereafter killed, or who have died or may hereafter die of wounds received in battle, or of disease contracted in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pensions provided by law, without other evidence of marriage than proof, satisfactory to the Commissioner of Pensions, that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, not less than two years next preceding the enlistment of the man; and the children born of any marriage so proved shall be deemed and taken to be the children of the soldier or sailor party thereto: *Provided, however*, That if any such soldier or sailor, and the woman alleged to be his widow, resided previously to the enlistment of the former in any State in which the marriage between them might have been legally solemnized, the usual evidence of marriage shall be required.

Mr. VAN WINKLE. When this bill was

under consideration some five weeks since, or very nearly five weeks since, I endeavored to explain the object of this amendment to the Senate; but as that length of time has elapsed, I will do so again as briefly as I can. The amendment is printed and has been on the tables of Senators for that length of time. I will first read the section which it is intended to amend, and then I can point out easily the difference between the two propositions. Section fourteen of the act approved July 4, 1864, provides—

"That the widows and children of colored soldiers who have been or who may be hereafter killed, or who have died or may hereafter die of wounds received in battle, or who have died or may hereafter die of disease contracted in the military service of the United States, and in the line of duty, shall be entitled to receive the pensions now provided by law without other proof of marriage than that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period next preceding the soldier's enlistment not less than two years, to be shown by the affidavits of credible witnesses: *Provided, however*, That such widow and children are free persons: *Provided further*, That if such parties resided in any State in which their marriage may have been legally solemnized the usual evidence shall be required."

I stated on a former occasion that this section which I have just read was drawn up by the late Senator from Vermont (Mr. Foot) at the third conference meeting upon the bill of which it is a part, and that it had seemed to prove satisfactory to all parties. Nevertheless, there are some additions, perhaps, that should be made to it, for it was considered at midnight and in a hurry, and there is also something in the change of circumstances since then which has induced me to offer the amendment now before the Senate. One difference is that this amendment is made to cover sailors as well as soldiers. Another is that this fourteenth section required the fact of marriage to be proved by the affidavits of credible witnesses. I have substituted for that "proof satisfactory to the Commissioner of Pensions." I have introduced a clause to meet a case where the wife of such a marriage may have died and where the children are the proper parties to receive the pension. While children are alluded to in the original section, it does not seem to cover a case such as I have stated, of the death of the mother where the children will be the only applicants. I have simply introduced the words, "and the children born of any marriage so proved shall be deemed and taken to be the children of the soldier or sailor party thereto." The preceding part of the amendment provides that the woman shall be deemed to be the wife.

I have also in the proviso to my amendment inserted the words "previously to the enlistment of the former in any State" so as to confine the proviso to the fourteenth section of the act of 1864, which is as follows:

"That if such parties resided in any State in which their marriage may have been legally solemnized, the usual evidence shall be required."

In the events of the war, many of these people were driven from their homes, and some of them into the free States, or States in which a marriage might have been legally solemnized between them; but under the circumstances it is hardly to be expected that they could have had an opportunity to avail themselves of the ceremony. I have therefore changed the words, so as to require simply that if previous to the enlistment of the soldier they lived in a State where their marriage could have been solemnized, the usual evidence of marriage shall be demanded. Since the close of the war, and since the Freedmen's Bureau has been in operation, it has been almost compelling, if it was necessary, but inciting at least and advising, these people who had lived in the relation of man and wife, to have a legal ceremony solemnized between them; and I believe it has been pretty extensively done. This amendment, as the Senate will perceive, is certainly in the interest of their widows and children; and I believe from my knowledge of the subject and the customs that prevailed among them when they were in a state of slavery, of always having something in the nature of a marriage

ceremony between them, and knowing that many of them who were well disposed otherwise, lived as faithful to their marriage vows as other people—I think it is but justice to them that these pensions should be secured to them, and that something, at any rate, of this nature should be adopted in an amendment to the section which I have read.

Mr. GRIMES. I will inquire of the Senator from West Virginia if he supposes it is absolutely necessary that the last clause of the proviso to this amendment shall be retained, which requires that if they shall have cohabited together during the last two years preceding the period of enlistment, that shall not be evidence alone, but that the soldier or widow shall produce record evidence of the fact of marriage. It seems to me it is very possible, altogether probable, that although in some of the States they may have been authorized to be married by the laws of the State, yet that that law has not been complied with, and the marriage has not been solemnized, the public sentiment being in opposition to any such thing. Now, if we are going to allow—and I think the committee is right in that—the fact of cohabitation for two years to be sufficient evidence, why not permit it to be so in all?

Mr. VAN WINKLE. I will explain further than I have done. I thought that the proviso as it originally stood, that is, that if such parties resided (not saying at what time) in any State in which their marriage could have been legally solemnized the usual evidence should be required would cut out many proper cases. I presume that if an application is made even now for a pension by one of these parties the Commissioner would feel himself bound to inquire whether the man had at any time previous to the application resided in a State where the marriage might have been legally solemnized, and in such case would require record proof. In reflecting on the circumstance which I mentioned a little while ago, that some of these people were driven from their homes undoubtedly and driven into the free States, or into States where their marriages might have been solemnized, and were there as soldiers with perhaps their wives attending them in the camp, it seemed to me that it was almost an impossibility that a marriage could have been solemnized between them in such cases, and it is very unlikely that under such circumstances they would have thought of it.

Since the end of the war the Freedmen's Bureau has been doing what it could, and no doubt has been successful to a very great extent, in inducing these persons who had theretofore lived together as man and wife to have a legal ceremony performed between them. Now, if the old proviso prevails—and I think that if the Senate does not accept the one I offer that ought to be stricken out—those of this class who were driven into a free State, or into a State in which a marriage might have been solemnized, will find themselves under the necessity of producing record evidence of the marriage, when the fact is that they never had any legal ceremony of marriage. My impression is—I leave it to the better judgment of the Senate—that the modification I have proposed in this proviso is only justice to these people whose thoughts had not been called to the subject, and perhaps whose knowledge in regard to it did not lead them to know that the marriages under which they were living were, in fact, not sanctioned by law.

As I stated the other day, there was nothing on the statute-book of Virginia which forbade a marriage between colored persons. The difficulty there arose simply under the common law as they had interpreted it in that State, that persons in the condition of slavery, being subject to their masters, could make no contract, not even the contract of marriage; nor, as my colleague mentioned on that occasion, was a contract made by them with respect to their own freedom regarded as binding in any way. I presume this was the case through most of the southern States, although I believe that in Delaware, and perhaps also in South Carolina,

very recently before the war, marriages were authorized under certain circumstances between colored persons. I think that throughout all the rest of the southern States a ceremony of marriage between colored persons was never legalized, although in most cases a ceremony of some kind was performed. Generally a colored man read the service of some of the churches, and the parties stood up and assented to it as formally, perhaps, as they would have done if the person had been a legal officer. My own impression is that this proviso should remain as I have modified it.

Mr. GRIMES. I am not going to propose any amendment; I wanted merely to call the attention of the committee and of the Senate to the points that occurred to me, and another one I will suggest. The amendment proposed by the Committee on Pensions provides that the widow or heirs of a colored soldier who had cohabited with his wife two years preceding the enlistment shall be entitled to a pension. We all know that these colored people were not enlisted until the lapse of two years after the commencement of the rebellion, and in many instances not till after the lapse of three years. During those three years they had left their former masters, and had left their wives with them in many instances, had come North or had come to the District of Columbia, running away and leaving behind them their families, not cohabiting with their wives. Under the law as it is proposed to be enacted, would not the wives of those persons be excluded from deriving a pension, and is it the design of the committee to thus exclude them?

Mr. VAN WINKLE. I did not, when I replied to the gentleman before, advert to the fact that striking this proviso from my amendment would in fact strike it out from the old law. I began by remarking that if this was stricken out the other should be stricken out. I have no objection to striking out the proviso entirely.

Mr. GRIMES. I am not proposing any amendment; I am not familiar enough with the subject to undertake to do that. I am only calling the attention of the Senator and his associates to these points, so that they may be guarded against.

Mr. VAN WINKLE. I will make no objection to striking out that proviso. I will accept it as an amendment to my amendment, if I am at liberty to do so.

The PRESIDENT *pro tempore*. The Senator can modify his amendment.

Mr. VAN WINKLE. I strike out the proviso.

Mr. JOHNSON. How does it read as modified?

The Secretary read it, as follows:

Sec. —. And be it further enacted, That the fourteenth section of an act entitled "An act supplementary to an act entitled 'An act to grant pensions,' approved July 14, 1862," approved July 4, 1864, be, and the same is hereby, repealed, and that the widows and children of colored soldiers and sailors who have been or may be hereafter killed, or who have died or may hereafter die of wounds received in battle, or of disease contracted in the military or naval service of the United States, and in the line of duty, shall be entitled to receive the pensions provided by law, without other evidence of marriage than proof satisfactory to the Commissioner of Pensions, that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, not less than two years next preceding the enlistment of the man; and the children born of any marriage so proved shall be deemed and taken to be the children of the soldier or sailor party thereto.

Mr. LANE, of Kansas. I desire the attention of the chairman of the committee. That will really not accomplish his object at all. It is "two years next preceding the enlistment." I am sure that a large proportion of the men of the colored regiments that I organized had been separated from their wives for two years before the enlistment. They had fled from Missouri and Arkansas into Kansas, and there enlisted, leaving their wives in Missouri and Arkansas. Now, I suggest that in the phrase "two years next preceding the enlistment of the man" the words "next preceding the enlistment" be stricken out, so that proof of two years' cohabitation, without reference to the

time of the enlistment, will draw the pension. I speak of it in reference to the regiments I organized, and it holds good of the regiments organized in the District of Columbia and in the free States, everywhere; the soldiers, the men, fled from their families and enlisted, leaving their families in servitude. I move to amend the amendment by striking out the words "next preceding the enlistment of the man;" so as to read:

That the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, not less than two years.

Mr. JOHNSON. In many of these cases in point, they not being conscious of any impropriety or immorality in it, they had a good many wives, and if the proof of marriage is made to depend upon the fact of cohabitation, if they should die there might be half a dozen wives claiming pensions. It is more especially true of those who were driven away from their homes, some of them one, two, or three years before the rebellion. I venture to say that in all such cases (if they contracted marriage in that form) they contracted matrimony where they went, and if the last marriage contracted in that way is to exclude the former great injustice might be done to the former wife. In some of the States they were permitted to marry, and I dare say in very many instances the wives that they left were wives that became such by a legal contract of marriage; that is, a contract made in pursuance of law. The Supreme Court have decided that it is not necessary that there should be any ecclesiastical ceremony about it; that all that is needed is an agreement to marry followed by cohabitation. That is marriage. But that would not be the case where the laws prohibited their marriage, as was the case in some of the States.

Mr. LANE, of Kansas. Could we not reach the object by fixing some date, say the 4th of July, 1861, and require proof of cohabitation for two years previous to that? I am indebted to the Senator from Iowa for this suggestion. I think the pension should go to the wife who was such at the time the rebellion commenced.

Mr. POMEROY. I submit that the widows of those who have taken wives since the rebellion commenced have just as good claims as the widows of those who had wives before.

Mr. LANE, of Indiana. This matter was up at the last session of Congress, and was finally arranged by a committee of conference. I believe there were three committees of conference before an agreement was arrived at, and the words now in the statute were proposed by Senator Foot, of Vermont, after the most careful consideration, as furnishing the best rule which we could possibly agree upon, and that was two years' cohabitation preceding the enlistment. I believe that rule embraces more meritorious cases than any other, and I think it is the safest rule. If we say that proof shall be required of two years' cohabitation before the rebellion commenced it will not provide for many cases where colored soldiers, who had no wives before the rebellion, married after the commencement of the rebellion. I think the words used by Senator Foot were best, and they are the words of this amendment.

Mr. JOHNSON. What is to become of the wives of those who married after enlistment?

Mr. LANE, of Indiana. They are not provided for here.

Mr. JOHNSON. Ought they not to be?

Mr. LANE, of Indiana. They are provided for, I suppose, under the general provision relative to those residing in States where marriages were legalized. If the man is living he gets the pension himself; but if he is dead, his minor children and widow get the pension, upon proof of marriage, where they lived in a State in which marriage among colored people was legalized.

Mr. LANE, of Kansas. I am confident the chairman of the committee would not express that opinion with the knowledge that I have; for I assure him that two thirds of the members of the regiments I organized had been

separated from their wives for more than two years—had, in fact, been driven away from their homes.

Mr. LANE, of Indiana. That does not affect the question of cohabitation, unless they have adopted another wife since. Temporary absence, for any time, however long, would not affect the question of cohabitation, it seems to me, but the wife would still be the wife. Even if the husband were away for five years, proof of cohabitation having been made, that relation would be presumed to continue, unless there was a divorce.

Mr. GUTHRIE. As I understand this amendment it does not say which wife is to have the pension. Now, as a matter of fact, we who live in communities where there are many negroes know that very often they have two or three wives, and we also know that a great many of them having wives have left home and taken other wives afterwards. There is nothing in this amendment to designate, in such cases, which wife shall have the pension.

Mr. GRIMES. It seems to me that it will be well to put in some definite time, say the 4th of July, 1861, at the place where the Senator from Kansas proposes to strike out these words. The chairman of the Committee on Pensions says that in that case a great deal of trouble might be occasioned, because a good many soldiers have married wives since then. That may be true; but in all such cases there can be record evidence of the marriage produced. We are only intending, now, to cover the cases of parties who were not authorized to be married and could not be married under the laws of the States where they lived prior to the rebellion. If we provide here that proof of cohabitation for two years prior to the 4th of July, 1861, shall be required, then it seems to me we obviate the objection made by the Senator from Maryland and the Senator from Kentucky as to which wife we pay, if there be more than one, and we avoid all the troubles which are involved in that suggestion.

Mr. VAN WINKLE. Of course it will be seen by every Senator that the subject itself is one of difficulty, and what seems to be necessary in the case is to establish some reasonable rule by which the Commissioner of Pensions may be directed. It strikes me that the section which I propose by way of amendment, and the language of the amendment as I have modified it, provides as good a rule as can be established. If you say "previous to the rebellion," or previous to any date in the past, you leave the interval between that date and the enlistment of the soldier when he may have gone off, and almost criminally abandoned, so far as humanity is concerned, his wife and children. I do not know that any cases of difficulty have arisen under this particular part of the existing law, as yet, but if there have, or if any such shall hereafter arise, and the rule works hard in any particular case, it will be competent for Congress to give special relief. If those cases seem to be numerous, or sufficiently numerous to justify it, no doubt then some amendment will be introduced into the pension laws, on the strength of the experience thus gained, which will meet the cases. The best reflection I am able to give the subject is that the rule as it stands in the amendment I offer is the most reasonable we can adopt under the peculiar circumstances presented to us.

Mr. DAVIS. I would suggest to the honorable gentleman from West Virginia that probably this language would answer: "that the first living wife should have the benefit of the pension."

Mr. VAN WINKLE. I think it would hardly be safe to admit the fact that there is more than one wife in these cases.

Mr. DAVIS. We know there are with negroes. They sometimes have three or four at the same time, and they change them very rapidly sometimes, too. I think that the woman who is the first wife of the negro is the proper recipient of this bounty. He may change his wife half a dozen times, as many of them do;

still I think the first wife ought to receive the pension, and I think the gentleman ought to adopt a rule to give it to the first wife.

Mr. LANE, of Indiana. Perhaps the wives changed their husbands as often as husbands changed the wives. [Laughter.]

Mr. DAVIS. That would not change the rule in relation to the pension that is to be given to the widows of deceased soldiers.

Mr. VAN WINKLE. I will say, in reply to the Senator from Kentucky, that if there are two women claiming to be the wife of the soldier the matter will have to be adjudged of by the Commissioner of Pensions; and if any questions or difficulties arise in relation to this matter the Commissioner of Pensions must settle them, if the law will permit him to settle them. If not, and there is no case for relief, it will come, as we have daily cases coming here, for the special action of Congress. As I have suggested, a year or two's experience will determine whether this law as it stands is proper. If not, the very experience got at the Pension Office will enable us to introduce a suitable amendment. I retain the impression that the provision as it stands in the old section and in the amendment is better suited to the case than any that has been suggested.

Mr. EDMUNDS. I do not think the amendment as it stands is exactly as it ought to be on account of the fact that it would require proof of cohabitation down to the very period of enlistment, and I think we, most of us, understand the fact to be that many persons were separated from their wives for a considerable period before they enlisted; and at the same time I am not entirely satisfied with the amendment to the amendment which is offered, for the reason that in many cases it will allow proof of marriage upon mere presumption when other proof is attainable. If this amendment is not agreed to, so that I can have an opportunity, I shall then propose to amend the original amendment by striking out the words in the thirteenth, fourteenth, fifteenth, and sixteenth lines, "that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period, not less than two years next preceding the enlistment of the man," and insert in lieu of them the words, "which in civil actions would raise the presumption of the marriage of white persons;" so that the clause will read:

Shall be entitled to receive the pensions provided by law without other evidence of marriage than proof satisfactory to the Commissioner of Pensions, which in civil actions would raise the presumption of the marriage of white persons.

Of course the law as to white persons is perfectly well understood in civil actions; that length and degree of cohabitation which under the circumstances satisfies a reasonable man that the relation really existed, whether the proof comes down to the very point of time at which the inquiry is instituted, or whether it shows the relation to have existed at some previous period. There is a well-settled rule of law in civil actions, which prevails in all the States I believe, substantially alike; and it appears to me that such a provision would cover all the cases and would not be open to any objection which occurs to me. If, therefore, the pending amendment to the amendment should not be agreed to, I should then offer the one which I have named.

Mr. HENDERSON. I hope no change will be made in the provisions of this amendment. It is precisely the law of July 4, 1864. It makes no change in that law on this subject, and I have heard no complaint in our State, where we had a large number of negro troops, in regard to that law. If the change suggested by the Senator from Vermont be made, in all probability a different construction will be given to the provision by the Second Auditor from that which he has given to the present law of 1864, and much confusion would inevitably result from the change. I have heard no complaint whatever in our State in regard to the law, and I should regret very much to see a change made. I think it is much better, now that we have become accustomed to the proof

necessary under the act of 1864, that it should remain as it is.

Mr. HARRIS. What is the act of 1864?

Mr. HENDERSON. The provision to which I allude is contained in the fourteenth section of the act of July 4, 1864, to be found on page 401 of the Acts of 1863-64, in these words:

"That the widows and children of colored soldiers who have been or who may be hereafter killed, or who have died or may hereafter die of wounds received in battle, or who have died or may hereafter die of disease contracted in the military service of the United States, and in the line of duty, shall be entitled to receive the pensions now provided by law without other proof of marriage than that the parties had habitually recognized each other as man and wife, and lived together as such for a definite period next preceding the soldier's enlistment not less than two years, to be shown by the affidavits of credible witnesses."

I have not found any complaint in regard to this provision requiring proof of cohabitation for two years next preceding the time of enlistment, and we had a large number of negroes in the service from our State. The only complaint I have heard in that State is that there is no act enabling bounty and back pay to be drawn upon the same terms. The Second Auditor here requires the best proof of marriage in order to enable the payment of back pay and bounty, because he says, and perhaps correctly, that the change of the law in regard to pensions allowing proof of cohabitation to be received without a certificate of marriage does not authorize him to change it in regard to bounty and back pay.

Mr. VAN WINKLE. Allow me to suggest to the Senator that the Senate has already passed a bill introduced by the Senator from Massachusetts [Mr. WILSON] on the subject of bounty and back pay, and that is what drew my attention to the subject in relation to pensions. I furnished to him the amendment which I had drawn, at his request, and he said he would take it to the committee of the House. I presume, therefore, the matter of bounty and back pay is under consideration in the other House.

Mr. HENDERSON. Knowing the difficulty on this subject, at an early period of the session I offered a resolution instructing the Committee on Military Affairs to inquire into it. I should like to amend this provision so as to include claims for bounty and back pay, because the same proof that is good in the one case ought to be good in the other.

Mr. President, I will state that not as much difficulty can arise in this matter, according to my knowledge of the subject, as Senators seem to think. I know that it is sometimes the case that negroes have a plurality of wives, or that they cohabit with a plurality, but I believe they regard, as white people do, some particular one as the wife. I do not see the difficulties to spring from this provision that Senators seem to fear. I have heard of no difficulty in all the adjudications of this question. I have heard of no contradictory claims. I have heard of no two women claiming to be the wife of the same negro, although we had a large number of negro soldiers from my State. I believe the claims are very satisfactorily adjusted here; and it is as well known in communities where the negroes live which is the wife, and who has been regarded as the wife for the last six, eight, or ten years, as it is perhaps in the case of white people.

It was at first required by the Second Auditor that record evidence of the marriage should be filed; that is, that a certificate should be filed. It is well known that in the slave States no such certificate was ever authorized in regard to colored persons. It was only authorized in the case of white persons. The distinctive word "white" ran through all our laws. That evidence of the marriage could not be furnished, but my impression is that there is no inconvenience from the rule now provided. I desire to vindicate the negroes from the charge of practical Mormonism brought against them, for I do not believe the evil exists to one half of the extent implied by the argument of the Senator from Kentucky and other Senators.

I think no difficulty will arise from the adoption of the amendment as it is.

The PRESIDING OFFICER, (Mr. POMEROY in the Chair.) The question is on the amendment of the Senator from Kansas [Mr. LANE] to the amendment of the Senator from West Virginia, [Mr. VAN WINKLE.]

The amendment to the amendment was rejected.

The PRESIDING OFFICER. The question is on the amendment of the Senator from West Virginia.

Mr. HENDERSON. I hope the Senator who has charge of this bill will not object to include in this provision claims for bounty and back pay. I move to amend the amendment by inserting after the word "pension" in the eleventh line the words "bounty and back pay."

Mr. VAN WINKLE. I must object to the introduction of those words, not because it is not very proper that bounty and back pay should be awarded on the same proof as pensions, but because it is introducing matter foreign to the subject of pensions. There are a series of laws in reference to bounty and back pay, and another series of laws in reference to pensions. Our laws are certainly confused enough without voluntarily introducing any more confusion into them.

Another reason for objecting to this amendment is the fact, to which I have already adverted, that the Senator from Massachusetts, who is not now present, did propose an amendment to a military bill, where it was appropriate and pertinent, in reference to this very subject of bounties and back pay; and that amendment was adopted by the Senate and sent to the House of Representatives. I have already stated that it was that action which called my attention to the necessity of something similar in reference to pensions. I stated, however, to that Senator an objection I had to that amendment as it was passed. I did not see it until after it had been passed by the Senate; I was not present at the moment of its passage. He requested me to give him a copy of what I had prepared in relation to pensions, and said he would take it to the committee of the other House and have it inserted there, in relation to bounties and back pay. As the matter has been brought to the consideration of Congress, and will probably be provided for, though in some slightly different form, in a bill yet pending in the other House, I think we should not attempt to insert it here.

Mr. HENDERSON. I am always averse to interfering with bills of this character, coming from committees; but I regret very much that the Senator from West Virginia makes objection to this amendment, because it is nothing but right that it should be adopted. It allows no back pay or bounty which is not already provided by law. The only change that it makes is the change that I indicated a few moments ago. The pension is now allowed upon proof of cohabitation, without a certificate of marriage; but the Second Auditor refuses absolutely to allow back pay on the same testimony. For instance, a great many colored soldiers who went from my State have fallen in the southern States. The widow or children can get the pension; but no matter how much may have been due to that soldier as back pay, they cannot get it unless evidence of marriage is furnished that cannot be furnished, namely, a certificate of marriage; because there was no law authorizing such certificates in our State in those cases. Hence it is that the back pay is lost to the widow and children where the colored soldier has fallen in battle. So it is with the bounty. If you put in this amendment the words "bounty and back pay," they will not be paid, unless in cases where they are due under the law. This amendment will not allow the soldier's wife or heirs to draw bounty or back pay unless in cases where it is allowed by law, and where the widow or children cannot draw it now for the simple reason that they cannot produce the evidence of marriage that the Second Auditor requires.

This has produced a great deal of complaint. I have been written to again and again this winter by these colored people and their agents in my State, and I called the matter to the attention of the Military Committee some time ago by a resolution requesting them to report a bill upon that subject. I really do not know whether it has been done, and I regret very much that the Senator from West Virginia objects to this amendment. He says himself that the provision is perfectly proper and just, and should be passed, and he objects to it simply because to put it on this bill will produce confusion in the law. He says that this is strictly a pension bill, and that if we put on it a provision in regard to back pay and bounty it will produce confusion.

It ought to be remembered that before the Second Auditor go all these claims for pension, back pay, and bounty; and this is the proper place exactly for the amendment, because by this bill his attention will be called to the point in regard to pensions, and when he finds that the law on the subject of pensions requires him to take the same evidence in regard to bounty and back pay he will at once do so. This is the proper place, and it produces no confusion to insert it here. The Second Auditor is familiar with the administration of these laws, and when he comes to find this amendment he of course will apply it to claims for bounty and back pay in the same way as to pensions. There is a crying evil on this subject. The widows and children of these soldiers are entitled to bounty and back pay just as much as they are to pensions, and they ought to have them. It is nothing but just to the families of colored soldiers that they should be enabled to receive the bounty and back pay due as well as the pension.

I hope the Senator will withdraw his objection to my proposition. I think it can produce no confusion. I know his very great care about laws. He does not like to mingle inappropriate and unfit things together. I know how particular he is in regard to the language of his bills. I know how careful he is; but I cannot perceive that any confusion is likely to arise, and inasmuch as this provision has been carefully prepared by him, and the amendment I propose can very easily and simply be inserted so as to insure perfect and entire justice to the negroes in his State and in mine and in other border States where so many of them served, I think this is the proper place, and I hope he will withdraw his objection. It cannot produce any confusion, because all these claims go to the same officer, the Second Auditor. They are adjudicated and audited by him, and they cannot be paid except upon his certificate.

Mr. VAN WINKLE. I am reluctant to make objection to a matter of this kind, which really would not hurt the bill that I have charge of, except so far as it is introducing a matter foreign to it. The objection may seem captious; but that is not my purpose. I think the gentleman is mistaken in saying there is no provision now on the subject, because I recollect distinctly that during the first session I was here, in 1863-64, an amendment was offered by the Senator from Massachusetts, [Mr. WILSON,] and it appeared to me not to meet the case. I then went to him in his seat and suggested to him the fact that something in the nature of a marriage took place between these people, and he modified his amendment, and I presume it passed, although I cannot find it here on the moment.

Mr. HENDERSON. It did not. It never passed.

Mr. VAN WINKLE. He again offered at this session an amendment to a military bill intended to cover it. He introduced into it some provisions which I thought would tend to prevent his object being accomplished, and I took to him this language of Senator Foot in the amendment of the pension bill of last year, and also a paper I had drawn up for a modification of it in reference to pensions. He had one provision in his amendment, I know, that I thought would tend to defeat his object

almost entirely. Now that matter is under consideration by another committee. We passed that here, and they may perhaps to-day pass it in the other House, and then we shall have two rules on the object. I think it is better not to introduce these words here, because they are under consideration in a bill that has passed this body and gone to the other House, and which, if they amend it, must come back here; and if that amendment of the Senator from Massachusetts prevails, it is for the very purpose for which the gentleman wishes to introduce this amendment. I think the House will certainly strike out what I thought were objectionable words in that provision as it passed here. I will say that proof was required that something in the nature of a marriage ceremony had taken place. I suggested to the Senator from Massachusetts that that was a thing which took place, when it did occur, in the presence of very few persons, and it might be very difficult of proof in that way; but as these persons had become scattered and were living together, the fact was a matter of public notoriety and could be easily proved.

I would not be captious, and if it was merely on account of the first objection I made, that this amendment makes the bill incongruous, I should not insist on the objection. But I think the gentleman's object can be accomplished in another way, and we may as well be relieved from it on this pension bill.

The amendment to the amendment was agreed to.

Mr. EDMUNDS. A little while ago I suggested that I should offer a particular amendment which was named. On consultation with the members of the Pension Committee, I am disposed not to offer the amendment which I spoke of; but I do propose to amend the amendment of the Senator from West Virginia in the eighth and ninth lines by striking out the words "in battle." That part of the section now confines the right to pensions to the widows and children of those who have died or who may hereafter die of wounds received in battle or of disease contracted, &c. The term "battle," in my opinion, is not broad enough to cover many cases of death and of injury which are really received in the military service; and if the words be stricken out, then it will authorize pensions wherever they met their death in the line of their duty in the service of the United States.

Mr. VAN WINKLE. I accept that amendment. The language which the gentleman proposes to correct is the language of the original section, but the whole series of pension laws are as his amendment would make it. I therefore accept the amendment.

The PRESIDING OFFICER. The modification will be made. The question is now on the amendment as amended.

The amendment, as amended, was agreed to.

Mr. VAN WINKLE. I offer, on behalf of the Committee on Pensions, another amendment to the bill, to be inserted as a new section after section three:

And be it further enacted, That every pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any way granted or arising by or under the laws of the United States relating to pensions, shall be void and of no effect; and no sum of money due or to become due to any pensioner under the laws aforesaid shall be liable to attachment, levy, or seizure by or under any legal or equitable process whatever, whether the same remains with the Pension Office, or any officer or agent thereof, or is in course of transmission to the pensioner entitled thereto, but shall inure wholly to the benefit of such pensioner.

I will state to the Senate that this matter was brought to the attention of the committee by a letter from a gentleman holding a high position in one of the eastern cities who stated that money on its way to a pensioner had been attached *in transitu*, and the municipal court of that city had upheld it. I was under the impression that the laws forbade that; and I looked over the whole series of laws, and I found two clauses which resembled the first part of this amendment, but both of them referred to the pensions granted by those acts.

I have therefore adopted, I believe, with a very slight variation, if any—I do not know of any—in the first part of this amendment the provisions of the former laws, making them apply to all pensions, and I have added a clause at the close to meet precisely such a case as was brought to the notice of the committee, that of a seizure under attachment or trustee process of money that was *in transitu* from a pension agent to the pensioner. I trust there will be no objection to this amendment.

Mr. JOHNSON. Is that provision found in the general pension laws?

Mr. VAN WINKLE. It is found in two laws, one, I think, regulating the pensions of the war of 1812, and one regulating the pensions of the Mexican war; both have language prohibiting "any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any way granted by this act."

That is in both, and consequently there is no such law, as everybody supposed there was, referring to pensions granted since 1861.

Mr. JOHNSON. Does this amendment embrace all pensions?

Mr. VAN WINKLE. Yes, sir.

Mr. JOHNSON. It is not confined to pensions under this act.

Mr. VAN WINKLE. It embraces all pensions, and is so intended.

The amendment was agreed to.

Mr. VAN WINKLE. I have another amendment to offer to that of the committee, to come in as a new section after section three:

And be it further enacted, That no claim agent or other person shall hereafter charge or receive more than fifty cents for preparing the papers necessary to enable a pensioner to receive a semi-annual payment of his pension; nor shall any pension agent charge or receive more than twenty-five cents for administering an oath to a pensioner, under a penalty of five dollars in each case.

This matter has been brought to the notice of the committee by a pension agent in one of the largest eastern cities. He states that persons are charging for the service of filling a very short blank and administering an oath from one to two dollars. I believe that most of the States in taxing affidavits have remitted the costs in cases where the affidavits are for the purpose of obtaining pensions. It is certainly wrong that persons should be allowed to charge these exorbitant prices.

The amendment was agreed to.

Mr. VAN WINKLE. I have another amendment, and I believe it is the last. It is a new section, to come in as section ten:

And be it further enacted, That section four of an act entitled "An act to grant pensions," approved July 14, 1862, is hereby so amended that the provisions thereof shall apply to and include the orphan brother or brothers, as well as sister or sisters, under sixteen years of age, of a deceased officer or other person named in section one of the above entitled act, who were dependent upon him for support, in whole or in part, subject to the same limitations and restrictions.

This amendment came to us from the House committee, who had intended to insert it in the bill originally, but accidentally omitted to do so. The section of the act of 1862 to which it refers provides that where a soldier dying has left or may leave an orphan sister or sisters under sixteen years of age, the pension shall go to such sister or sisters. It is palpable that many may have left an orphan brother or brothers under that age, who are as equally helpless as the sisters. It seems only fair that the section should be extended to those infant brothers, as well as to infant sisters.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in.

It was ordered that the amendments be engrossed and the bill read the third time. The bill was read the third time and passed.

Mr. LANE, of Indiana. I move, now, to take up the bill (S. No. 239) for the classification and graduation of invalid pensions.

The motion was agreed to.

Mr. LANE, of Indiana. I move the indefinite postponement of this bill, the same

subject-matter having been disposed of in the bill we have just passed.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed, without amendment, the following bills:

A bill (S. No. 132) to prevent and punish kidnapping; and

A bill (S. No. 316) to establish a post route from West Alburg, Vermont, to Champlain, in the State of New York, and for other purposes.

The message further announced that the House of Representatives had passed a bill (H. R. No. 596) to authorize the use of the metric system of weights and measures, in which it requested the concurrence of the Senate.

CORDELIA MURRAY.

Mr. LANE, of Indiana. I move to take up House bill No. 216.

The motion was agreed to; and the bill (H. R. No. 216) for the relief of Cordelia Murray was considered as in Committee of the Whole. It provides for the payment to Cordelia Murray, widow of George W. Murray, of the pension granted to George W. Murray, by an act of Congress approved December 20, 1864, entitled "An act for the relief of George W. Murray."

Mr. VAN WINKLE. This bill was before the Senate on the last day that the Committee on Pensions had for such business, and it was then suggested that the language was a little obscure. I have examined the original act, and I find that it does not disclose what the pension shall be except by description. I move now to amend this bill by inserting after the word "Murray," in the fifth line, the words "a pension equal in amount to."

The amendment was agreed to.

The bill was reported to the Senate as amended; the amendment was concurred in.

The amendment was ordered to be engrossed and the bill to be read a third time. The bill was read the third time and passed.

JOHN HOFFMAN.

On motion of Mr. LANE, of Indiana, the bill (H. R. No. 205) granting a pension to John Hoffman, of Madison county, in the State of New York, was considered as in Committee of the Whole. It provides for placing the name of John Hoffman, of Madison county, New York, on the pension-roll, at the rate of eight dollars per month, to continue during his natural life.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

BETSEY NASH.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 445) for the relief of the legal representatives of Betsey Nash. It proposes to extend the provisions of the act of Congress approved March 3, 1857, for the relief of Betsey Nash, to her legal representatives, and to provide for paying the amount appropriated by that act to them; but the sum paid is not to exceed the amount due Betsey Nash at the time of her death.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ANNA G. GASTON.

Mr. VAN WINKLE. I move now to take up Senate bill No. 261.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 261) for the relief of Mrs. Anna G. Gaston. It is a direction to the Secretary of the Interior to place upon the pension-roll the name of Mrs. Anna G. Gaston, of the city of Washington, widow of Albert G. Gaston, deceased, late

lieutenant in the sixteenth regiment of Virginia volunteers, from the date of the discharge of her husband from the military service of the United States, on account of disability arising from disease contracted in the service, until the date of his death, namely, from the 5th day of May, 1863, to the 7th day of February, 1865, and to cause to be paid to Mrs. Gaston a pension at the rate of seventeen dollars per month for that time, without prejudice to the pension heretofore allowed her by the Commissioner of Pensions.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, was read the third time, and passed.

JAMES FOSTER.

Mr. LANE, of Indiana. I move to proceed to the consideration of the House bill No. 463, for the relief of James Foster.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. The Secretary of the Interior is directed by the bill to place the name of James Foster, late of the United States ship Germantown, on the pension-roll, and pay him the sum of six dollars per month.

Mr. LANE, of Indiana. I move the indefinite postponement of that bill on account of an adverse report. We thought the case was not sufficiently proved.

The motion was agreed to.

JOHN GORDON.

Mr. LANE, of Indiana. I move to take up the bill (H. R. No. 464) for the relief of John Gordon.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill. By its provisions the Secretary of the Interior will be directed to place the name of John Gordon, late of company G, ninth United States infantry, upon the pension-roll at the rate of eight dollars per month, to continue during his natural life.

Mr. GRIMES. Let us hear the report.

The Secretary read the report made by the Committee on Invalid Pensions of the House of Representatives, from which it appears that John Gordon enlisted at Saco, Maine, on the 21st of March, 1847, under Captain Woodman, and was placed in company G, Captain Lyman Bissell, ninth United States infantry, in which he continued to serve until his return from Mexico. He was discharged at Newport, Rhode Island, in the summer of 1848. While in the service and in the line of duty, in the fall of 1847, at the city of Mexico, he commenced to have attacks of fever and ague, which continued, and in the spring following a fever and ague sore broke out on his left hand. This continued until after his discharge, the summer following, and unfitted him for military duty. After his discharge the sore healed up but left the end of the finger contracted, bent, and stiffened, one of the fingers being bent flat to the hand. His hand is in consequence useless, and he is unable to gain a livelihood by manual labor. Application was made at the Pension Bureau for a pension, but was rejected by the Commissioner of Pensions because he says it is not sufficiently proven that the fever and ague sore was in consequence of the intermittent fever. This evidence cannot be obtained on account of the death of the regimental surgeon who attended him. Captain Lyman Bissell has testified that his sore was so caused. The assistant surgeon of the regiment was not with the regiment and could know nothing concerning the case. The committee deem this case a just one, and therefore report a bill for his relief.

The bill was reported to the Senate without amendment.

Mr. GRIMES. Am I right that this disability occurred in the Mexican war?

Mr. LANE, of Indiana. Yes, sir.

Mr. GRIMES. The Senator from Indiana is from a fever and ague country and has lived there a long time; and I should like to know

whether his experience and observation satisfy him that the fever and ague is in the habit of producing such results as are mentioned in this report.

Mr. LANE, of Indiana. This is a report from the House of Representatives. The facts are all reported to us. The evidence of his captain is that this sore upon the hand which caused the total disability of the hand was caused by the fever and ague. The reason why the surgeon did not testify is because he is dead, and the assistant surgeon was not with the regiment at the time; but his captain swears that the sore was the result of fever and ague and that the hand was totally disabled. I do not know what particular quality of the disease it is that makes the sore break out on the hand; but I have heard of fever sores. We took the report of the committee of the House, and supposed that that was sufficient to authorize the reporting of this bill. The matter was investigated before our committee, and it was thought very probable that the whole injury resulted from that fever.

Mr. VAN WINKLE. I will say to the Senator from Iowa that I have been hearing of ague sores all my life, although I never lived much in an ague country. We do not have any in West Virginia, but before I moved there they used to have the ague in that country, and ague sores were a very common result of that disease.

Mr. TRUMBULL. I beg to inquire of the Senator whether it grew out of his services in the Army.

Mr. VAN WINKLE. The intermittent fever, the fever and ague, occurred while he was in the Army and in the service. This was a consequence of that disease. The committee were well satisfied of that fact from an examination of the particular evidence supplied.

Mr. GRIMES. Who supplied this evidence? Some surgeon, as I understand, in the State of Maine.

Mr. VAN WINKLE. It is furnished by his captain; and I believe the rules of the Pension Office are that where the certificate of the surgeon cannot be procured, owing to his death or any other circumstances, the certificate of the commanding officer is the next best proof.

Mr. GRIMES. I have lived for thirty years right on the bank of the Mississippi river, and we have ague there, and I have had a good deal of observation of that disease, and I confess I never heard of such a case as this before. I never heard of such a fever sore as the one mentioned here. I have heard of fever sores breaking out on the lips in little blotches, and I have heard of white fever swellings, but I have never heard of such a disease as this appearing from the ague and exposure in the Army. I move that the bill be indefinitely postponed.

Mr. LANE, of Indiana. I hope the Senator from Iowa will modify his motion so as to let it go over until to-morrow.

Mr. GRIMES. Very well; or recommit it.

Mr. LANE, of Indiana. I move, then, that this bill be recommitted to the Committee on Pensions.

The PRESIDING OFFICER, (Mr. POMEROY in the chair.) The Senator from Iowa withdraws his motion, and the Senator from Indiana moves that the bill be recommitted to the Committee on Pensions.

The motion was agreed to.

ADJOURNMENT TO MONDAY.

On motion of Mr. HENDERSON, it was Ordered, That when the Senate adjourn it be to meet on Monday next.

SPENCER KELLOGG.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 260) granting a pension to Spencer Kellogg. The Secretary of the Interior will be directed by this bill to place the name of Spencer Kellogg, of Oswego county, New York, on the roll of invalid pensions, and to pay or cause to be paid

to his legally appointed guardian the sum of twenty dollars per month, until Spencer Kellogg shall have attained the age of sixteen years. The act is to take effect on the 6th day of September, 1865.

Mr. GRIMES. Let us hear the report read.

The Secretary read the report made by the Committee on Invalid Pensions to the House of Representatives. It appears that Spencer Kellogg, the father of Spencer Kellogg, the ward of Orville C. Brown, was fourth master of the United States gunboat Oswego, and was captured by the enemy while in the discharge of his duty on or about August 15, 1862, and executed in the city of Richmond, Virginia, on the 25th of September, 1863, by the rebels, charged with being a spy. The muster and pay rolls of the gunboat were lost. Congress by a joint resolution approved June 30, 1864, directed the name of Mary Kellogg, widow of Spencer Kellogg and mother of the ward of Orville C. Brown, to be placed upon the pension-roll with the pension incident to the rank of her late husband. She died on the 6th of September, 1865, leaving a son, the only child of Spencer Kellogg, to wit, Spencer Kellogg, the ward of Orville C. Brown, now about three years of age. The committee, believing the relief asked for by the petitioner just and right, report a bill for his relief.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

ANNA E. WARD.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 459) for the relief of Anna E. Ward. It provides for placing the name of Anna E. Ward, of the city of Washington, District of Columbia, widow of the late Joseph D. Ward, second Kentucky volunteers, on the list of pensioners, and for paying to her the sum of eight dollars per month during her widowhood, and in the event of her marriage or death, then to the minor children of Joseph D. Ward, subject to the limitations and restrictions of the pensions laws.

The Committee on Pensions reported the bill with an amendment, to insert in the eighth line after the words "eight dollars per month" the words "to commence from and after the passage of this act, and to continue."

The amendment was agreed to.

Mr. GRIMES. Let the report be read.

The Secretary read the report made by the Committee on Invalid Pensions in the House of Representatives. It appears that Joseph D. Ward, late a surgeon in company H, second Kentucky volunteers, was, on the 22d of February, 1847, at the battle of Buena Vista, in Mexico, and, while in the discharge of his duties, received three grape or canister shot wounds, one in his breast, another fracturing the bones of his right arm so as to render amputation necessary, and a third ball injured his left arm so seriously as to deprive him almost entirely of its use; that by reason of these wounds he was totally disabled; and, on the 4th of February, 1865, died, leaving the petitioner, a widow with two children, girls, one eleven and the other three years of age, and the aged and invalid mother of her deceased husband dependent upon her for support. The committee deem the case a just one, and therefore report a bill for her relief.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

CORNELIUS CROWLEY.

On motion of Mr. LANE, of Indiana, the bill (S. No. 275) for the relief of Cornelius Crowley, was read a second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Cornelius Crowley, late a private in company F, third regiment United States infantry, on the pension-roll, at the rate

of eight dollars per month, to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHRISTINA ELDER.

On motion of Mr. VAN WINKLE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 345) for the relief of Christina Elder. It proposes to direct the Commissioner of Pensions to pay to Christina Elder, of the city of New York, the pension to which Jessie Elder was entitled at the time of her death, as the mother of Lieutenant Colonel Alexander B. Elder, tenth regiment New York volunteers, under the provisions of the act of Congress approved July 14, 1862.

The Committee on Pensions proposed to amend the bill by striking out all after the enacting clause and inserting the following:

That the Secretary of the Interior is hereby directed to pay to Christina Elder, of the city of New York, the arrears of pension to which Jessie Elder, mother of the said Christina Elder and of Alexander B. Elder, late lieutenant colonel of the tenth regiment of New York volunteers, would have been entitled had the certificate of W. T. Otto, acting Secretary of the Interior, countersigned by Joseph H. Barrett, Commissioner of Pensions, and bearing date on the 25th day of November, in the year 1865, in favor of the said Jessie Elder been granted in her life-time.

The amendment was agreed to.

Mr. CONNESS. Is there a report in that case? If there is, I should like to have it read.

The Secretary read the following report, submitted by Mr. VAN WINKLE, from the Committee on Pensions, on the 25th of April:

The Committee on Pensions, to whom was referred House bill No. 345, entitled "An act for the relief of Christina Elder," respectfully report:

That the said Christina Elder is the sister of Alexander B. Elder, deceased, late lieutenant colonel of the tenth regiment of New York volunteers, and the daughter of Jessie Elder, also deceased, in whose favor, as the mother of the said Alexander B. Elder, a certificate was granted by the then acting Secretary of the Interior to the effect that, under the provisions of the pension act of 1862, she was entitled to receive pay at the rate of thirty dollars per month, commencing on the 31st day of October, 1861, and continuing during her widowhood. The said certificate bears date on the 25th day of November, 1865; but it appears that the said Jessie Elder died on the 31st day of October, in the same year, twenty-five days previous, in consequence of which no part of the pension therein mentioned could be legally or ever was paid to the said Jessie Elder or her representatives.

It further appears that, from the time of the death of the said Alexander B. Elder until that of the said Jessie Elder, which occurred in her eightieth year, her daughter, the said Christina Elder, by the labor of her hands, supported and provided for her infirm and helpless mother, at an expense quite equal to what the latter would have been entitled to receive by virtue of the said certificate had it been granted in her life-time.

Under these circumstances the committee recommend that the arrears of pension which would have been payable to the said Jessie Elder had the said certificate been granted twenty-five days earlier be paid to the said Christina Elder, and for this purpose herewith report an amendment of the bill referred to them as above, and recommend that the same be adopted, and the bill so amended passed.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

MARTHA J. WILLEY.

On motion of Mr. VAN WINKLE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 494) for the relief of Martha J. Willey. It proposes to direct the Secretary of the Interior to place the name of Martha J. Willey, widow of George W. Willey, late a corporal in company F, seventh regiment New Hampshire volunteers, on the pension-rolls, at the rate of eight dollars per month, the pension to commence on the 18th of April, 1865, and to continue during her widowhood; and in the event of her marriage or death, then to the minor children of George W. Willey, subject to the limitations and restrictions of the pension laws.

Mr. GRIMES. Let us hear the report in that case read.

The Secretary read the report made by the Committee on Invalid Pensions of the House

of Representatives. The petitioner, who is the widow of George W. Willey, corporal in company F, seventh regiment New Hampshire volunteers, alleges in her petition that her late husband was under the command of Colonel Abbott in the late war to suppress the southern rebellion; that he enlisted at Dover, New Hampshire, on or about the 29th of November, 1861, and served faithfully as a soldier in that company until his death on the 18th of April, 1865. It is further alleged that he was a reenlisted veteran, and enlisted in the field at Fernandina, Florida, on the 29th of February, 1864. The Government gave as a gratuity thirty days' furlough to those who reenlisted. Willey was taken sick with congestion of the lungs before the termination of his furlough, and died at Dover, New Hampshire, on the 18th of April, 1865. The committee find the facts fully sustained by the proof, and report a bill for the relief of the petitioner.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. REBECCA IRWIN.

On motion of Mr. VAN WINKLE, the bill (S. No. 291) granting a pension to Mrs. Rebecca Irwin, was read a second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Mrs. Rebecca Irwin, widow of Archibald Irwin, late a private in battery C, first Rhode Island light artillery, on the pension-roll, at the rate of eight dollars per month, to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RETURN OF A BILL.

Mr. MORRILL. With the permission of the Senator from West Virginia, I should like to offer a resolution requesting the return of a bill, which was passed under a misapprehension, from the House of Representatives. It will take no time.

Resolved, That the Secretary be directed to request the House of Representatives to return to the Senate the bill of the Senate No. 305, to amend an act entitled "An act concerning notaries public for the District of Columbia," approved April 8, 1864.

The report in that case was for the indefinite postponement of the bill, but by some mistake or other it has been passed.

The resolution was considered, by unanimous consent, and agreed to.

MRS. JOANNA WINANS.

On motion of Mr. VAN WINKLE, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 493) granting a pension to Mrs. Joanna Winans. Its purpose is to require the Secretary of the Interior to place the name of Mrs. Joanna Winans, mother of George W. Winans, late an acting assistant paymaster in the United States Navy, on the roll of naval pensioners, at the rate of twenty dollars per month, to continue during her widowhood.

The Committee on Pensions reported the bill with an amendment, in line eight, after the word "widowhood," to insert, "the said pension to be paid out of the naval pension fund."

The amendment was agreed to.

Mr. GRIMES. I ask for the reading of the report in this case.

The Secretary read the report of the Committee on Invalid Pensions in the House of Representatives. It appears that George W. Winans, the son of the petitioner, was an acting assistant paymaster in the United States Navy. On the 23d of May, 1864, he received a leave of absence for one week from Fleet Captain A. K. Pennock. At Mound City, on the day of the expiration of his leave of absence, and when going on board the steamer Black Hawk, and before he had formally reported, he was accidentally drowned. The proof is very conclusive that the petitioner was at the time of the death of her son, and still is, a widow

in destitute circumstances; and for several years has been wholly dependent upon him for support.

The bill was reported to the Senate as amended, and the amendment was concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

JANE D. BRENT.

On motion of Mr. VAN WINKLE, the bill (S. No. 298) granting a pension to Jane D. Brent was read a second time and considered as in Committee of the Whole. It provides for placing the name of Jane D. Brent, of Detroit, Michigan, widow of Thomas Lee Brent, late a captain in the Army of the United States, on the pension-roll, at the rate of twenty dollars per month, until her marriage or death, and after either event the pension is to be continued to Mary Brent, daughter of Thomas Lee Brent, if then under the age of sixteen years, until she attains that age.

Mr. GRIMES. Let us hear the report read.

The Secretary read the following report from the Committee on Pensions submitted by Mr. VAN WINKLE on the 2d of May:

The Committee on Pensions, to whom was referred the petition of Jane D. Brent, respectfully report:

That it appears that Captain Thomas L. Brent, the late husband of the petitioner, entered the Army of the United States, from West Point, in 1835, and remained therein until his death, which occurred at Fort Leavenworth on the 11th of January, 1858, having been in active service in the wars in Florida and Mexico. The petitioner, in March last, applied to the Commissioner of Pensions to have her name placed on the pension-roll as the widow of Captain Brent, accompanying her application with satisfactory proof of her identity, marriage, and continuance of widowhood; but owing to the want of positive proof that her husband died of a disease caused by his service in war, as required by the act of July 21, 1848, in order to enable her to obtain a pension under that act, her application has been suspended by the Commissioner, and she has been advised to apply to Congress for relief.

The committee find in the papers submitted to them strong presumptive evidence that Captain Brent died of disease contracted in active service in the line of his duty in Mexico, during the continuance of the war with that country. Brevet Colonel and Surgeon John M. Cuyler, of the United States Army, certifies that he was one, and the senior, of the medical officers who were with Captain Brent during his last illness, and that the disease of which he died was chronic pleurisy. He adds, "There is no doubt, I imagine, he was in the discharge of his official duty when seized by the disease that eventually terminated his life."

Major Lewis Cass, jr., certifies that he was stationed at Meer during the fall of 1847, and at Monterey in the succeeding spring, as inspector general, and was then in frequent communication with Captain Brent, whose health was not good, which the captain "justly and correctly" ascribed to the climate of Mexico; that his health continued to grow worse, and not unfrequently incapacitated him for duty, and he complained of weakness and debility, with difficulty of breathing. Major Cass thinks his disease was pleurisy, and adds that Captain Brent's habits were temperate and regular.

It is evident that Captain Brent's disease was contracted while in the service of the United States. He ascribed it, at a time when he could have no motive to deceive, to the climate of Mexico; and as the war with that country was then in progress, and he was a conspicuous actor in it, having been, as the committee are informed, brevetted a captain for gallant and meritorious services at Buena Vista, there is hardly room for doubt that the disease of which he died was directly caused by his service in the Mexican war, in the line of his duty.

The committee therefore report a bill granting a pension to the petitioner.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

JANE E. MILES.

On motion of Mr. VAN WINKLE, the bill (S. No. 299) granting a pension to Jane E. Miles, was read the second time and considered as in Committee of the Whole. It provides for placing upon the pension-roll the name of Jane E. Miles, of Somersworth, New Hampshire, widow of William D. Miles, late a landsman in the naval service of the United States, at the rate of eight dollars per month, from the 22d day of March, in the year 1865, to continue during her widowhood; the pension to be paid out of the naval pension fund.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

39TH CONG. 1ST SESS.—No. 168.

SARAH J. PURCELL.

On motion of Mr. VAN WINKLE, the bill (S. No. 314) for the relief of Sarah J. Purcell, was read the second time and considered as in Committee of the Whole. It proposes to direct the Secretary of the Interior to place the name of Sarah J. Purcell, widow of Charles W. Purcell, acting captain of artillery, on the pension-roll, at the rate of twenty dollars a month, from the 27th day of September, 1864, to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

RUTH ELLEN GRELAUD.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 72) for the relief of Ruth Ellen Grelaud, widow of John H. Grelaud, deceased. Its purpose is to direct the Secretary of the Interior to place the name of Ruth Ellen Grelaud, widow of John H. Grelaud, deceased, late a captain of artillery in the United States Army, upon the pension-list, at the rate of the half pay proper he was entitled to at the time of his death, commencing on the 17th of August, 1857, and to continue during her life or widowhood.

Mr. LANE, of Indiana. The Committee on Pensions have made an adverse report on this bill, and I move that it be indefinitely postponed.

The motion was agreed to.

MRS. SALLY ANDREWS.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 462) granting a pension to Mrs. Sally Andrews. It directs the Secretary of the Interior to place the name of Sally Andrews, of Buxton, York county, Maine, widow of the late Elisha Andrews, quarter gunner on board the *Levetta Adams*, on the pension-list of invalid pensioners, and pay or cause to be paid to her the sum of eight dollars per month during her widowhood.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MRS. HARRIET B. CROCKER.

On motion of Mr. LANE, of Indiana, the bill (S. No. 326) granting a pension to Mrs. Harriet B. Crocker, was read a second time and considered as in Committee of the Whole. The Secretary of the Interior is directed by the bill to place the name of Mrs. Harriet B. Crocker, mother of Henry B. Crocker, late a private in company G, one hundred and fifteenth regiment Ohio volunteer infantry, on the pension-roll, at the rate of eight dollars per month, to commence from the 4th of October, 1862, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. KATHARINE F. WINSLOW.

On motion of Mr. LANE, of Indiana, the bill (S. No. 327) granting a pension to Mrs. Katharine F. Winslow, was read a second time and considered as in Committee of the Whole. Its purpose is to direct the Secretary of the Interior to place the name of Mrs. Katharine F. Winslow, mother of Cleveland Winslow, late lieutenant colonel of the fifth New York Veteran volunteer infantry, on the pension-roll, at the rate of thirty dollars per month, to commence from the 7th of July, 1864, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

MRS. ABIGAIL RYAN.

On motion of Mr. LANE, of Indiana, the bill (S. No. 328) for the relief of Mrs. Abigail Ryan was read a second time and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Mrs. Abigail Ryan, widow of Thomas A. Ryan,

late a sergeant in company E, seventeenth regiment West Virginia infantry volunteers, on the pension-roll, at the rate of eight dollars per month, to commence from the 27th of March, 1865, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. WILLELY subsequently entered a motion to reconsider the vote by which the bill was passed.

MARGARET KAETZEL.

On motion of Mr. LANE, of Indiana, the bill (S. No. 329) for the relief of Mrs. Margaret Kaetzel, was read a second time, and considered as in Committee of the Whole. Its purpose is to direct the Secretary of the Interior to place upon the pension-roll the name of Mrs. Margaret Kaetzel, widow of Nicholas Kaetzel, who was a civilian employed in the service of the United States at the arsenal at Columbus, Ohio, and that she be paid a pension at the rate of eight dollars per month, to commence from the 5th of April, 1865, and to continue during her widowhood.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

ISABELLA STRUBING.

On motion of Mr. LANE, of Indiana, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 434) for the relief of Isabella Strubing. It directs the Secretary of the Interior to place the name of Isabella Strubing, widow of private Damon Strubing, deceased, late of company E, forty-sixth regiment Pennsylvania volunteers, on the pension-roll, and pay or cause to be paid to her the sum of eight dollars per month from the 30th of May, 1864, and to continue during her widowhood, and in the event of her death or marriage, to the minor children of Damon Strubing until they shall have attained the age of sixteen years.

Mr. GRIMES. Let us hear the report in that case.

The Secretary read the report made by the Committee on Invalid Pensions of the House of Representatives. By the evidence in the case it is proved that Damon Strubing, the husband of the petitioner, when *en route* with his regiment, on veteran furlough, after having reenlisted, and while passing through Louisville, Kentucky, on the 2d of January, 1864, fell and broke his left hand. Having partially recovered the use of his hand he obtained permission from the surgeon who attended him to return to his regiment, which was then at Dalton, Georgia. Strubing, by direction of the lieutenant colonel of his regiment, whom he met on his way, reported to Surgeon James Bryan, then in charge of the United States general hospital at Pittsburg, Pennsylvania. Surgeon Bryan gave him a certificate showing that he was, by reason of the injury in his hand, unfit for duty, and also gave him permission to return to his home, at Reading, Pennsylvania. On the 30th of May, 1864, while riding in a train of the Pennsylvania railroad the train ran off the track and broke a number of cars. Strubing being one of the passengers had his leg badly shattered, and was also severely burned and scalded, from the effects of which he died in a few hours afterward. The Commissioner of Pensions declines to place the name of his widow on the pension-roll in the absence of a certificate from a commissioned officer of his company showing that at the time of his death he was in the line of his duty, which cannot be obtained. The committee are of the opinion that the case comes within the spirit and intent of the act granting pensions to the widows of deceased soldiers, and therefore recommend the passage of the bill.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MARIA SYPHAX.

On motion of Mr. HARRIS, the bill (S. No. 321) for the relief of Maria Syphax was read

a second time and considered as in Committee of the Whole. It proposes to release and confirm to Maria Syphax, her heirs and assigns, the title to a piece of land, being part of the Arlington estate, in the county of Alexandria, in the State of Virginia, upon which she has resided since about the year 1826, bounded and described as follows, to wit: beginning at the intersection of the south line of said Arlington estate with the center line of a small run, said point of intersection being about one fourth of a mile from the southwest corner of said Arlington estate, running thence westerly along said south line seven chains and forty links; thence in a northeasterly direction, on a line making an angle of thirty-five degrees with the said south line, twenty-two chains and thirty-eight links; thence at right angles, in a southeasterly direction fifteen chains and sixty-seven links to the said south line of the Arlington estate; thence westerly along the said south line of the said Arlington estate nineteen chains and ninety-two links, to the place of beginning, containing seventeen acres and fifty-three hundredths of an acre of land, be the same more or less.

Mr. MORRILL. I should like to inquire of the Senator from New York, the chairman of the Committee on Private Land Claims, what are the grounds on which this bill is placed.

Mr. HARRIS. The person named in this bill is a mulatto woman. She was once the slave of Mr. Custis. Mr. Custis at the time she married, about forty years ago, feeling an interest in the woman, something perhaps akin to a paternal instinct, manumitted her, and gave her this piece of land. It has been set apart to her, and it has been occupied by her and her family for forty years. Under the circumstances, the committee thought it no more than just, the Government having acquired title to this property under a sale for taxes, that this title should be confirmed to her.

Mr. HOWARD. Will the Senator from New York be good enough to state in whom the title runs?

Mr. HARRIS. The title runs to this woman and her heirs.

Mr. MORRILL. That is satisfactory.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

HOUSE BILL REFERRED.

The bill (H. R. No. 596) to authorize the use of the metric system of weights and measures was read twice by its title.

The PRESIDING OFFICER. This bill will be referred to the select committee on that subject when appointed by the President *pro tempore* of the Senate.

EXECUTIVE SESSION.

Mr. CONNESS. I move that the Senate proceed to the consideration of House joint resolution No. 77. It will not occupy a moment of time.

Mr. GRIMES. What is the title of it?

Mr. CONNESS. A joint resolution for the relief of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mail from Boise City to Idaho City, in the Territory of Idaho. It will not occupy a moment.

Mr. GRIMES. This day was devoted, by an order of the Senate, to the consideration of pension bills, and there are a great many Senators not present who ought to be here when these questions that are now proposed to be taken up are called up. It seems to me that at this stage of the day we had better proceed to the consideration of executive business, of which we have a great deal to do; and I therefore make that motion.

Mr. CONNESS. I think that is very unkind in the Senator. This joint resolution has been considered by one of the standing committees of this body. It is a House resolution. It was first passed by the House, after being considered by a committee of that body, who made a report upon it. It then came to this body, and

was considered here by one of the standing committees of the Senate and reported by it. If the Senator desires that no other business shall be considered to-day, and is in a hurry to adjourn, and will put it on that ground—

Mr. GRIMES. I have this to say: in the estimation of the Senator there is nothing in this resolution, or very little; but if he had been here as long as I have, he would have discovered that on the same claim and in the same manner we have passed little bills intended to appropriate money for the carrying of the mails, that, in one instance, in a case at Louisville, amounted to \$1,500,000 before we got through with it; and in another case, on the upper lakes, where we supposed at the time we passed the bill, it only amounted to some eight or nine thousand dollars, it amounted to between one and two hundred thousand dollars. I do not know anything about the merits of this resolution, and I do not feel at this time as though I was capable of undertaking such an investigation as I would wish to make into it, after the experience I have had on this subject.

Mr. CONNESS. The Senator is very much frightened by his experience on this subject. I am very sorry that a bill of the kind described by him ever passed this body while the Senator, usually so watchful, was in his place. I should not think that such a bill could possibly pass his vigilance. But I beg him to believe that this resolution does not contain a claim for \$100,000, nor any respectable fraction of that sum. The parties who performed the service are here, and have been waiting patiently and anxiously. The services have been long performed and paid for by them. The resolution simply authorizes the Postmaster General to pay as much as he shall find and ascertain to be their due, after it has been fully and completely investigated. The committee recommend an amendment which relates to a similar claim already passed by this body, but not yet acted upon by the House of Representatives, I believe. Now, although this day has been devoted to pensions, certainly nearly all the Senators are in their seats, and there is sufficient time—for it is not yet half past three o'clock—to examine this resolution. I hope we shall proceed with it. It will not occupy a moment of time.

The PRESIDING OFFICER. The Senator from Iowa moves that the Senate proceed to the consideration of executive business.

Mr. CONNESS. I hope that motion will not be carried under the circumstances.

Mr. WILSON. Will the Senator from Iowa withdraw it for a moment?

Mr. GRIMES. Vote it down if you do not want an executive session.

The motion was agreed to; there being, on a division—ayes 14, noes 13; and, after some time spent in the consideration of executive business, the doors were reopened.

COMMODORE THOMAS TURNER.

Mr. HENDRICKS. I ask the Senate to take up Senate bill No. 251, for the relief of Commodore Thomas Turner.

The motion was agreed to; and the bill was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Treasury to pay to Commodore Thomas Turner \$6,741 out of any prize money in the Treasury, in full for his claim to share in the prize money realized upon the condemnation and sale of the vessels Cherokee, Aries, and St. John.

Mr. HENDRICKS. I will state that upon this subject there is a difference between the court at Boston that ordered the condemnation of these three vessels and the Department, the court holding that the commodore is entitled to his prize money, and the Department not so holding. The committee think he ought to have the prize money along with the rest of the officers.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

FRANCIS A. GIBBONS.

On motion of Mr. WILLIAMS, the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 386) for the relief of Francis A. Gibbons. It directs the Secretary of the Treasury to pay the sum of \$563 19 to Francis A. Gibbons, being money paid by him for property purchased at a quartermaster's sale in the city of Baltimore, Maryland, on the 15th of February, 1863, under the direction of Colonel Belger, assistant quartermaster, which was not delivered to the purchaser.

The bill was reported to the Senate without amendment, ordered to a third reading, and was read the third time.

Mr. TRUMBULL. I should like to know what that case is. Is there a report?

Mr. WILLIAMS. There is a House report accompanying the bill. The bill has already passed the House.

Mr. TRUMBULL. Will the Senator explain what it is?

Mr. WILLIAMS. I will simply state that Mr. Gibbons purchased at a quartermaster's sale, in the city of Baltimore, a certain number of bushels of damaged corn. He paid for the corn before its delivery, and when the corn was measured out to him there was not as much corn as he had purchased and for which he had paid by \$500. The proof is clear and conclusive on the subject. He has paid to the United States \$500 of money for which he received no equivalent. He simply asks the Government to pay him back that amount of money.

The bill was passed.

SAMUEL STEVENS.

On motion of Mr. HOWE, the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reservation, Wisconsin. The bill authorizes Samuel Stevens, a Stockbridge Indian, to enter and purchase the tract of land known as lot No. 126, in the Stockbridge reservation, in the county of Calumet and State of Wisconsin, under the "act to authorize the issuing of patents for certain lands in the town of Stockbridge, Wisconsin, and for other purposes," approved March 3, 1865. It also directs the Commissioner of the General Land Office, upon the entry and payment therefor, to cause a patent, in due form of law, to be issued to Samuel Stevens, in conformity with the act above mentioned.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. FESSENDEN. I move that the Senate adjourn.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 18, 1866.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

FOREST CULTURE.

Mr. DONNELLY, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That in view of the almost complete absence of woods and forests in the interior regions of the continent, and of their paramount importance in the settlement and occupancy of the country, the Committee on Public Lands be directed to inquire whether a system cannot be devised whereby the planting of woods and forests may be encouraged in regions destitute of timber by liberal donations of public lands in alternate sections to individuals or corporations, and the reservation of the adjoining sections by the Government at an increased price, as in the case of railroad grants; the lands so granted, or a proportional part thereof, to be planted with trees adapted to the climate and the needs of the community.

COINAGE, WEIGHTS, AND MEASURES.

Mr. KASSON, by unanimous consent, submitted the following resolution:

Resolved, That three hundred extra copies of the

report on a uniform system of coinage, weights, and measures be printed for the use of the committee making the report, and one thousand for the use of this House.

The SPEAKER. This resolution will be referred, under the law, to the Committee on Printing.

PROTECTION OF THE FRONTIER.

Mr. BURLEIGH, by unanimous consent, introduced a bill to provide for the better protection of the frontiers of the United States and Territories thereof; which was read a first and second time, and referred to the Committee on Military Affairs.

PREVENTION OF KIDNAPING.

Mr. WILSON, of Iowa. I ask unanimous consent to report from the Committee on the Judiciary, for consideration at the present time, Senate bill No. 132—an act to prevent and punish kidnaping.

The SPEAKER. The Clerk will read the bill, after which the Chair will ask for objections, if any.

The Clerk read the bill, which provides that if any person shall kidnap or carry away any other person, whether negro, mulatto, or otherwise, with the intent that such other person shall be sold or carried into involuntary servitude or held as a slave; or if any person shall entice, persuade, or knowingly induce any other person to go on board any vessel or to any other place, with the intent that he or she shall be made or held as a slave, or sent out of the country to be so made or held, or shall in any way knowingly aid in causing any other person to be held, sold, or carried away, to be held or sold as a slave, he or she shall be punished, on conviction thereof, by a fine of not less than five hundred nor more than five thousand dollars, or by imprisonment, not exceeding five years, or by both of said punishments.

The second section provides that if the master or owners, or person having charge of any vessel, shall receive on board any other person, whether negro, mulatto, or otherwise, with the knowledge or intent that such person shall be carried from any State, Territory, or district of the United States, to a foreign country, State, or place, to be held or sold as slave, or shall carry away from any State, Territory, or district of the United States any such person, with the intent that he or she shall be so held or sold as a slave, such master, owner, or other person offending shall be punished by a fine not exceeding five thousand nor less than five hundred dollars, or by imprisonment not exceeding five years, or by both of said punishments. And the vessel on board which said person was received to be carried away shall be forfeited to the United States.

There being no objection the bill was ordered to a third reading, and was accordingly read the third time and passed.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the bill was passed; and also moved to lay that motion on the table.

The latter motion was agreed to.

BRIDGE AT ROUSE'S POINT.

On motion of Mr. HULBURD, by unanimous consent, Senate bill No. 316, to establish a post route from West Alburg, Vermont, to Champlain, in the State of New York, and for other purposes, was taken up from the Speaker's table and considered.

The bill was read. It declares the railroad bridge at Rouse's Point, connecting the Ogdensburg and Lake Champlain railroad and the Vermont and Canada railroad, a lawful structure, to be known as a post route, and in place of the present float it authorizes the construction of suitable draws.

Mr. LE BLOND. That bill, I believe, has not been before the proper committee. It contains a very important feature, and I think it had better be referred to the Committee on the Post Office and Post Roads.

Mr. HULBURD. If my friend will allow me, I will state that this has been before the

Committee on the Post Office and Post Roads, and examined by them, and they are willing that it should take this direction. I will likewise state that there is great urgency for the passage of this bill, inasmuch as these men must either renew the float at once or put in a draw, and it is necessary that they should know what to do.

Mr. LE BLOND. I do not understand that this bill comes into the House from the Committee on the Post Office and Post Roads. They may possibly have examined it, but they have not given in a report on the measure.

Mr. ALLEY. I will say for the information of the gentleman that this bill was carefully considered by the Committee on Post Offices and Post Roads in the Senate, and passed the Senate unanimously. It has been referred to the Committee on the Post Office and Post Roads in the House, and was partially considered in that committee, and the judgment of the committee was expressed favorably in regard to it.

I will say further that it is deemed by the parties in interest to be of great importance that the bill should pass at the present time. It will be sometime before our committee will be called, and I told the gentleman from New York [Mr. HULBURD] that our committee would have no objection to its passage. That is the position so far as the committee is concerned in regard to this bill.

Mr. LE BLOND. I withdraw my objection.

The bill was ordered to a third reading, and was accordingly read the third time and passed.

Mr. HULBURD moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. THAYER. I call for the regular order of business.

REFORM SCHOOL IN DISTRICT OF COLUMBIA.

The SPEAKER stated that the regular order of business was the call of the committees for reports of a private nature, the pending question being upon the bill reported from the Committee for the District of Columbia by Mr. BALDWIN, being House bill No. 379, to establish in the District of Columbia a reform school for boys.

Mr. BALDWIN. I propose now to state briefly the reasons for reporting this bill, to explain some of its provisions, and to ask for a vote upon the amendment proposed by the committee.

The reasons for reporting the bill seem to us very conclusive and urgent. There is in the District of Columbia no suitable provision for the confinement of juvenile offenders; nor is there any such provision for the confinement of older offenders as is demanded by our civilization. There is nowhere probably greater or more pressing need of such an institution than within this District. An act of Congress approved March 3, 1865, sought to make provision for juvenile offenders by authorizing the Secretary of the Interior to contract with the managers of State institutions for their confinement and support. The Secretary sought diligently to carry out the purpose of that act, but after a faithful effort he failed to make the provision which the bill required. I believe he made one contract for the confinement of a few offenders, and that was all he was able to accomplish, the managers of State institutions being unwilling to make contracts, or finding something in their charters to forbid it. He then turned to the officers of the Guardian Society, and urged them to prepare such an institution on the tract of land known as the "Government farm." They proceeded to do it, and through his aid the Secretary of War transferred to them and deposited on the Government farm for their use a large amount of lumber from abandoned hospitals. They proceeded with the work and expended about five thousand dollars raised by private subscription to establish the institution required. They erected a large building capable of ac-

commodating some fifty or more inmates; but from lack of funds they could not complete their operations. The officers of the Guardian Society then petitioned Congress for an appropriation, and their petition was referred to the Committee for the District of Columbia. They asked for means to enable them to carry out their object; and this was favored by the Secretary of the Interior. A reference to this matter can be found in the report of the Secretary of the Interior to the present Congress.

On considering that petition, and consulting with these gentlemen and with the Secretary of the Interior, it seemed to the committee wiser and better to take this property and project out of the hands of private parties and establish in the District a public reformatory institution in the usual way, with a board of trustees. It seemed the only sure way to have a suitable institution for juvenile offenders established here without great expense, there being already from fifteen to twenty thousand dollars' worth of property that will all be transferred to the trustees to be appointed. This is in accordance with the wishes of the society, and it has the cordial approbation of the Secretary of the Interior. By assuming an outstanding debt of about fifteen hundred dollars the arrangement can be made, and the bill now reported to the House aims simply, in its provisions, to carry out this policy, to establish such an institution, which can be done at small cost to the Government and to the municipalities of the District; and there will be a saving of a great amount of property which must go to ruin if this is not done. There is nothing but this in the provisions of the bill. All that the bill proposes is to make provision for the establishment of this institution. It contains nothing else.

I will now ask that the amendments to the bill reported by the Committee for the District of Columbia be voted upon by the House; and I will say, as preliminary to that, that the proposed amendments aim principally to correct errors made by the printers or in transcribing the bill for the printers.

Mr. DAVIS. I wish to inquire if there is not now an institution of a precisely similar character existing in this District under a charter from Congress for the same purposes.

Mr. BALDWIN. There is such an institution, the Guardian Society of the District of Columbia, and it is that institution which has presented a petition to this Congress; it is that institution with which the Secretary of the Interior and the committee have dealt in this matter. The officers of that society cordially approve the bill. I have here a statement from the officers of that institution showing their accordance with and approval of this measure.

Mr. DAVIS. Having been a member of the Committee for the District of Columbia, I desire to say that I have been informed by one of the officers of this society that the passage of this bill would conflict with their rights under their organization.

Mr. PLANTS. I do not know if it would be in order at this time to make a motion in reference to this bill. But I am advised by persons interested in the Guardian Society, already incorporated by Congress, that this proposed bill comes in direct conflict with their interests. There is a Guardian Society already in existence here who had expended some ten or twelve thousand dollars before they were incorporated, and they were incorporated about 1862. They have now before the Committee on Public Buildings and Grounds, as I am advised, a bill asking some slight amendments to their act of incorporation, embracing substantially the provisions of this bill.

The gentleman from Massachusetts. [Mr. BALDWIN,] I understand, announces that it was by the assent or agreement of this Guardian Society that this bill has been brought in. I do not know what the facts may be in this case; but I am informed by persons belonging to that society that that is an entire mistake; that only one or two dissatisfied individuals who once belonged to the Guardian Society,

but who have broken away from it, are now acting in opposition to it.

As the bill in relation to that society is now before the Committee on Public Buildings and Grounds, I would much prefer that action on this bill should be delayed until that committee shall report, or what would probably be better, that this bill be referred to that committee for its consideration. I think it would be unjust to the existing society, that has already expended twelve or fifteen thousand dollars in pursuance of this same object, to supersede it by another corporation for the same object. I am not advised fully of the position of the two proposed institutions; but I have been requested by some of the officers of the Guardian Society to make this statement to the House when this bill came up for consideration.

Mr. BALDWIN. I will repeat the statement I have already made; that we had before us the memorial from the Guardian Society for an appropriation. And we had a consultation with Mr. Harlan, the Secretary of the Interior, and with the agents of the Guardian Society in regard to the appropriation. And it is with the sanction of the Secretary of the Interior and the officers of that society that we have proceeded in this matter. I hold in my hand a communication from the officers of that society approving this bill. I cannot suppose that the gentleman from Ohio [Mr. PLANTS] has had any communication with the members of that society, or with more than one gentleman who was formerly an officer of that society, but at its last organization was left off as secretary of the society. There can be nothing clearer than that we are dealing with that society.

Mr. WELKER. I desire to say one word in reply to the suggestion made by my colleague [Mr. PLANTS] in relation to this Guardian Association. There was a corporation of that kind, a private corporation, that undertook to take charge of the same class of criminals that is provided for in this bill. This private corporation has met with many difficulties in carrying out the objects of this organization. They have had quarrels among themselves, and we have had both parties before the Committee for the District of Columbia while this measure was under consideration. I have no doubt that one of the parties has made the suggestion to my colleague which he has placed before the House, but the other party acquiesces fully in the passage of this bill.

The idea is, that it is better not to have two private corporations to take charge of the juvenile offenders who may be convicted by the courts, but to consign them to a public institution. And upon considering these quarrels, we deemed it best that there should be a bill providing a public institution for that purpose, as better subserving the interests of the District of Columbia in that respect than either branch of this divided Guardian Association that the gentleman speaks of.

Now, as I understand it, the regular officers of the Guardian Association acquiesce fully in what we propose to do by this bill. The minority of that association, who failed to get control of the Guardian Association, do object to this bill, and make this representation: that great injustice will be done by the passage of this bill. But the regular representatives of this Guardian Society have appeared before the committee, and acquiesce fully in the bill we have reported. And therefore I hope this bill will pass.

Mr. PLANTS. I wish simply to state to the House that I know nothing whatever about this controversy. I was approached by a gentleman who represented himself as one of the trustees of the Guardian Society which was incorporated, who made the statement to me which I have laid before the House. I have understood from him that their act of incorporation was now before the Committee on Public Buildings and Grounds, they asking for some slight amendment to it. And all I have

asked was that this bill should be passed over until that committee can report. I am not prepared to take sides upon this question, if there is any quarrel or controversy at all, for I know nothing about it.

Mr. BALDWIN. The reasons for the passage of this bill are extremely urgent. We have had the fullest consultation with the Secretary of the Interior in regard to this matter. He recognizes the importance of the institution, and approves in the most cordial and emphatic manner the bill we have now before us. I call the previous question.

The previous question was seconded and the main question ordered.

The amendments reported by the committee were read, as follows:

First amendment:

In section two, line four, strike out "two" and insert "one;" so that the clause will read: "One of whom shall be nominated for appointment by the mayor of Washington."

The amendment was agreed to.

Second amendment:

In the same section, after the word "Georgetown," insert the following:

One by the levy court of the county of Washington.

The amendment was agreed to.

Third amendment:

In the same section, line thirteen, after the word "years," insert the words "to be determined by the President."

The amendment was agreed to.

Fourth amendment:

In section four, line eight, strike out the word "sanction" and insert in lieu thereof the word "approve."

The amendment was agreed to.

Fifth amendment:

In the same section, line six, insert after the word "Interior" the words "to fix the salaries of said officers subject to the approval of the Secretary of the Interior."

The amendment was agreed to.

Sixth amendment:

In section five, strike out the words "satisfactory to them" and insert "to be approved by the board of trustees."

The amendment was agreed to.

Seventh amendment:

In the same section, line six, strike out "to" and insert "by."

The amendment was agreed to.

Eighth amendment:

In section eight, line two, after the word "guilty," insert "in a court in the District of Columbia."

The amendment was agreed to.

Ninth amendment:

In the same section, line eight, after the word "guilty," insert "in a court in the District of Columbia."

The amendment was agreed to.

Tenth amendment:

In section nine, line two, insert after the word "years" the words "residing in the District of Columbia."

The amendment was agreed to.

Eleventh amendment:

In the same section, lines nine and ten, strike out "for such a term or time as in his judgment the case requires," and insert "there to remain for such a term or time as the trustees may deem best."

The amendment was agreed to.

Twelfth amendment:

In the same section, line five, after the word "governed," insert "them."

The amendment was agreed to.

Thirteenth amendment:

In section twelve, line thirteen, strike out the words "in writing."

The amendment was agreed to.

Fourteenth amendment:

In section thirteen, lines five and nine, strike out "these" and insert "the."

The amendment was agreed to.

Fifteenth amendment:

In section sixteen, line seven, strike out "Treasury" and insert "Interior."

The amendment was agreed to.

Sixteenth amendment:

In section sixteen fill the first blank by inserting

"\$4,500," the second blank by inserting "\$1,000," the third blank by inserting "\$500."

The amendment was agreed to.

• Seventeenth amendment:

In the same section strike out all after the word "Interior" in line twenty-five to the word "collect" in line twenty-seven, and insert the following:

Shall secure an assessment of taxes in such delinquent city or county sufficient to cover the amount required, and the expenses of collecting the same, and appoint a collector who shall.

The amendment was agreed to.

The bill, as amended, was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. BALDWIN moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

SALES AND GIFTS IN THE DISTRICT.

Mr. WELKER, from the Committee for the District of Columbia, reported back House bill No. 564, to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as the same applies to the District of Columbia.

The question being on ordering the bill to be engrossed and read a third time,

The bill was read at length. It provides that the thirty-fourth section of the declaration of rights of the State of Maryland, so far as the same has been recognized and adopted in the District of Columbia, be repealed and annulled; that all sales, gifts, and devises, prohibited by the said section or any law passed in accordance therewith, shall be, when hereafter made, valid and effectual.

Mr. THAYER. As this may give rise to extended debate, I make the point of order that it is not a private bill. It will of course shut out the private business if it gives rise to debate.

Mr. WELKER. I understand the bill is in order under the call from the Committee for the District of Columbia.

The SPEAKER. Private bills relate generally to individuals or corporations. May's Parliamentary Practice states that private bills "are for the interest of an individual, a public company or corporation, a parish, a city, a county, or other locality." It must not be a general bill in its enactments, but "a bill for the particular interest or benefit of a person or persons." As an illustration, a pension bill for the relief of a soldier's widow is a private bill, but a general bill granting pensions to any class of such persons as a class instead of as individuals is a public bill. This appears to be a public bill.

Mr. WELKER. I ask the gentleman from Pennsylvania [Mr. THAYER] to withdraw his objection. It will take but a moment. I can explain the whole matter in a word to the satisfaction of the House.

Mr. THAYER. I withdraw the objection, reserving the right to renew it if lengthy debate arises.

Mr. WELKER. Under the bill of rights of the State of Maryland, adopted in 1776, there is a provision which renders void all bequests and devises of property, real or personal, for the use and benefit of religious denominations or benevolent purposes of a religious character. In the organization of the District of Columbia that part of the law of Maryland was not annulled in the part of the territory originally comprised of the State of Maryland, and to-day in the District of Columbia no person has any right to make any gift, devise, or bequest to any religious denomination for benevolent or religious purposes. The object of this bill is simply to remove that provision of the law so far as the District of Columbia is concerned.

The occasion of the introduction of this bill, or a special reason for it, is that a gentleman desires to leave a gift of this character for the benefit of a church, and on examination of the laws of the District his counsel has advised him that he cannot make any such gift. The

purpose of the bill is to repeal that law. I demand the previous question.

Mr. JENCKES. Will the gentleman allow me to make an explanation? Since the bill of rights in the constitution of Maryland was in force that State has adopted another constitution. Would it not be proper to refer to the date of that first constitution in which this clause is contained?

Mr. WELKER. By an act of Congress in 1801 this provision of the law of Maryland was incorporated as the law of the District of Columbia, so that it is in force notwithstanding the abrogation in Maryland.

Mr. JENCKES. I suggest the insertion of the date of the constitution in which the clause is contained.

Mr. WELKER. It refers to the thirty-fourth section of the bill of rights. That I deem sufficient, because there is but one bill of rights in that State.

Mr. JENCKES. There is another constitution containing a declaration of rights which consists of more than thirty-four sections.

Mr. WELKER. I will then ask consent to insert a reference to the bill of rights adopted in 1776.

The amendment was accordingly made. The bill was then ordered to a third reading; and it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

NATIONAL SAFE DEPOSIT COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with an amendment, Senate bill No. 177, to incorporate the National Safe Deposit Company, in the District of Columbia, with a recommendation that it pass.

The bill was read. It constitutes A. R. Shepherd, William S. Huntington, S. P. Brown, G. W. Riggs, Nathaniel Wilson, G. H. Plant, and others, a body politic and corporate by the name and style of the National Safe Deposit Company of Washington.

The second section provides that the capital stock of said company shall consist of a sum not exceeding \$200,000, divided into two thousand shares of \$100 each, and that so soon as one fourth of the shares have been subscribed for, and twenty-five dollars per share paid at the time of subscribing, and the balance secured to be paid, then this company shall be competent to transact all kinds of business for which it is established.

The third section provides that the corporators shall open books of subscription for the capital stock of this company at such time and in such suitable place in the city of Washington as they may think proper, and shall receive the installments on the stock of said company provided for in section second, and shall deliver the money so paid to the board of directors so soon as they shall be appointed and prepared to receive the same.

Section four provides for the election of officers.

Section five provides that the president, vice president, and directors of said company shall be, and they are hereby, authorized and empowered to receive and keep on deposit all such valuables, gold, silver, or paper money, bullion, precious metals, jewels, plate, certificates of stock, or evidence of indebtedness, deeds or muniments of title, or other valuable papers of any kind, or any other article or thing whatsoever, which may be left or deposited for safe keeping with said company, and shall be entitled to charge such commissions or compensation therefor as may be agreed upon, and for the complete preservation and safe keeping thereof shall construct, erect, lease, or purchase, such fire-proof and burglar-proof building or buildings, vaults, iron, or composition safes, or other means which may become necessary, and generally to transact and perform all

the business relating to such deposit, and safe keeping or preservation of all such articles or valuables as may be deposited with said company, and also to invest the capital or funds of the said company, or such money or funds as may be deposited with said company for that purpose, from time to time, in the public funds of the United States, or in any stock or property whatsoever, and to dispose of the said stocks, money, and property in such manner (not contrary to law) as to them shall appear most advantageous to said company.

Section six relates to dividends.

Section seven relates to rules and regulations for the management of the affairs of the company.

Section eight provides that nothing herein contained shall be taken or construed to give the corporation hereby created the power to issue or circulate as currency any bill, note, token, or evidence of indebtedness of its own creation.

The amendment reported by the committee is as follows:

Provided, That each stockholder shall be held individually liable for all debts and liabilities of said corporation to the extent of double the amount of stock so owned by said stockholder.

The amendment was agreed to; and the bill, as amended, was ordered to be engrossed and read a third time.

Mr. RANDALL, of Pennsylvania. I would like to know exactly what this is. It is a bank, if I understand it, and if so why not bring it under the operation of the banking law?

Mr. INGERSOLL. It has no powers of a bank. The bill follows the provisions in relation to the charter of like institutions in New York and Massachusetts. It simply incorporates certain individuals into a body-politic with power to erect a building, put therein iron or fire-proof safes, to receive on deposit bonds, title papers, jewels, and other valuable things, and hold them in safe keeping for the owners for such time as they may desire and at a stipulated price to be agreed upon by them.

Mr. WILSON, of Iowa. I want to ask the gentleman from Illinois, as this is a somewhat lengthy bill, whether this incorporation is not to be substantially a bank of deposit? It occurs to me, from the reading of the bill, that this incorporation will be clothed with power to do business as a bank of deposit. I understand the last clause to provide that they shall not have authority to issue notes to circulate as money; and that, I understand, is the only limitation in the bill on their powers as bankers. Now, if that is the character of the bill, I think it had better be printed, so that we may examine it.

Mr. SPALDING. How would this company differ from the bank here that exploded the other day?

Mr. INGERSOLL. I have this to say: that there is no authority in the bill allowing this company to pay interest on any deposit; it may receive bank bills, bonds of the United States, or anything else that the owner is willing to pay a certain price to have kept safely. But if there be any fear that the company may exercise the powers of a bank, I will move as an amendment, that they shall not receive money on deposit. That is not the intention. I will move to add this proviso:

Provided, That nothing herein contained shall be deemed to authorize the said corporation to pay interest on deposits of money, securities, or any other property deposited with it.

Mr. HUBBARD, of Iowa. Are they authorized to discount notes and bills of exchange?

Mr. INGERSOLL. They are not.

Mr. WILSON, of Iowa. It does seem to me that the provisions of this bill are too broad, and I hope it will not pass.

Mr. SPALDING. I think the bill had better be referred to the Committee on Banking and Currency.

Mr. WILSON, of Iowa. Is there any express language in the bill confining the operations of this incorporation to the District of Columbia?

Mr. INGERSOLL. There is nothing in the

bill which gives them a right to exercise their powers outside of the District of Columbia.

Mr. WILSON, of Iowa. I submit to the House that if there is no language in the bill restricting the operations of this company to the District of Columbia they may establish themselves in any State throughout the country. I take it that the House would hardly be willing to establish an incorporated company of that character, and I suggest that the bill be amended.

Mr. INGERSOLL. I differ with the gentleman on that point, but I will offer this as an addition to my amendment, to save any question of this character.

And provided further, That the operations of this company shall be confined to the District of Columbia.

Mr. RANDALL, of Pennsylvania. I desire to know whether, if the motion for the previous question shall not be sustained, it will be in order to move to refer this bill to some committee for further examination.

The SPEAKER. If the previous question shall not be sustained, a motion to refer the bill will be in order.

Mr. RANDALL, of Pennsylvania. Then I hope the House will not sustain the previous question, and that the bill may be referred to the Committee on Banking and Currency, so that the effect of the bill may be thoroughly known.

Mr. EGGLESTON. If these parties can receive this property on deposit, and have a right to sell it, what is to prevent them from charging such rates as the parties depositing may agree to pay? It amounts to establishing a pawnbroker's shop, to be legalized by Congress.

Mr. INGERSOLL. I will say in answer that the company have no right to dispose of any article deposited with them except upon an agreement made with the depositors.

Mr. WILSON, of Iowa. I would ask the gentleman if all pawnbrokers, in disposing of the articles left with them, do not have an agreement with the parties as to the mode in which the property shall be disposed of, and if this bill does not provide by law that this company shall do what pawnbrokers usually do.

Mr. INGERSOLL. I must decline to yield any further. I will say in reply to the gentleman from Iowa that I never had any dealings with pawnbrokers, and know nothing of their mode of doing business. There is nothing in the bill but what is legitimate and proper. It has passed the Senate, and I have proposed amendments limiting the business of the company, and giving further security to depositors.

Now, with the explanation that has been made, if the House is not willing to second the call for the previous question then they can vote it down. I have answered as many questions as I deem necessary.

Mr. HOOPER, of Massachusetts. I would ask the chairman of the Committee for the District of Columbia [Mr. INGERSOLL] if there is anything in this bill that prohibits disbursing officers of the Government from depositing public funds in this institution.

Mr. INGERSOLL. No, sir, there is not. I suppose that the disbursing officers of the Government are controlled by the statutes and the orders of their superiors, and not by the provisions of this bill. There is no prohibition in this bill against disbursing officers putting their public funds in this institution, any more than there was in reference to their depositing in the Merchants' National Bank of this city.

I move the previous question. If the House do not desire to second it, they can vote it down.

Mr. RANDALL, of Pennsylvania. I hope the House will vote it down.

The question was taken; and upon a division there were—ayes twenty, noes not counted.

So the previous question was not seconded.

Mr. RANDALL, of Pennsylvania. I move that this bill and the pending amendment be referred to the Committee on Banking and Currency.

Mr. HENDERSON. I would like to ask

the gentleman from Illinois [Mr. INGERSOLL] a question in regard to this bill before I vote upon it.

Mr. RANDALL, of Pennsylvania. I cannot yield the floor for any such purpose. I call the previous question on the motion to refer.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to refer was agreed to.

Mr. RANDALL, of Pennsylvania, moved to reconsider the vote by which the bill and the pending amendment were referred to the Committee on Banking and Currency; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolution and a bill of the following titles; when the Speaker signed the same:

A joint resolution (S. R. No. 61) to extend the time for the construction of the first section of the Western Pacific railroad; and

An act (S. No. 186) amendatory of the act to provide for reports of the decisions of the Supreme Court.

LINCOLN SQUARE, ETC.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported a bill providing for grading East Capitol street and establishing Lincoln square; which was read a first and second time.

The bill was read in full. It authorizes the Commissioner of Public Buildings to grade East Capitol street from Third street east to Eleventh street east, and to cause the square at the intersection of said street with Massachusetts, North Carolina, Tennessee, and Kentucky avenues, between Eleventh and Thirteenth streets east, to be inclosed with a wooden fence, and the same shall be known as "Lincoln square;" and the sum of \$15,000 is appropriated for that purpose.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question was upon the passage of the bill.

Mr. INGERSOLL. I call the previous question on the passage of the bill.

Mr. SLOAN. Does not this bill go to the Committee of the Whole, as containing an appropriation?

The SPEAKER. This bill does contain an appropriation. But it is too late to raise that point of order, the bill having already been read the third time without objection.

Mr. FARNSWORTH. Is this a private bill?

The SPEAKER. It is too late to raise that point of order now.

Mr. FARNSWORTH. Will it be in order to move to refer this bill to the Committee of the Whole?

The SPEAKER. If the previous question is not seconded that motion will be in order.

The question was taken; and upon a division there were—ayes 28, noes 31; no quorum voting.

Tellers were ordered; and Messrs. INGERSOLL and ELDRIDGE were appointed.

The House again divided; and the tellers reported—ayes fifty-nine, noes not counted.

So the previous question was seconded.

The main question was then ordered; and under the operation thereof the bill was passed.

Mr. INGERSOLL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CANAL AND SEWERAGE COMPANY.

Mr. INGERSOLL, from the Committee for the District of Columbia, reported back, with an amendment, Senate bill No. 190, to incorporate the District of Columbia Canal and Sewerage Company.

Mr. WINDOM. I would inquire of the Chair if this is a private bill. We have had three or four general bills considered this morning, and I think it is hardly fair to other committees that the time set apart for private business should be taken up by general business.

The SPEAKER. The Chair is of opinion that this is a private bill within the rule.

Mr. F. THOMAS. As the morning hour has nearly expired, I hope the gentleman from Illinois [Mr. INGERSOLL] will consent to withdraw this bill at this time and report it on some future day. Does the Chair decide this to be a private bill?

The SPEAKER. In the opinion of the Chair, this is a private bill, being for a corporation. The Chair made a decision at some length some days ago in regard to what should be considered public and what private bills, quoting precedents from the parliamentary practice of Great Britain.

Mr. F. THOMAS. Will the gentleman from Illinois [Mr. INGERSOLL] consent to the suggestion I made a moment ago?

Mr. INGERSOLL. I cannot consent to it.

Mr. F. THOMAS. The bill can hardly be read through during the remainder of the morning hour. I think the gentleman better withdraw the bill now and report it on some future day.

Mr. INGERSOLL. I cannot consent to withdraw it, but I am willing that it shall go over for consideration until next Friday. I want it to be considered as unfinished business, to come up at that time.

Mr. F. THOMAS. I must ask the Speaker's permission to state the peculiar characteristics of this bill.

Mr. INGERSOLL. I must object to that, as I have already consented to the arrangement that this bill should go over to next Friday.

Mr. F. THOMAS. Then I rise to a point of order.

Mr. INGERSOLL. I desire to report another bill in regard to a hospital.

Mr. F. THOMAS. Will the gentleman consent to withdraw the sewerage bill?

Mr. INGERSOLL. I must decline to do that.

Mr. F. THOMAS. I do not desire the bill to be before the House at all, if I can prevent it, until the parties interested can be heard before the committee.

Mr. INGERSOLL. I make the point of order that what the gentleman from Maryland [Mr. F. THOMAS] is saying is not upon a point of order.

Mr. F. THOMAS. The gentleman will hear me through. I therefore raise the point of order, because I want the bill recommended by the committee to take the course I have indicated. Now, in regard to the character of this bill—

Mr. INGERSOLL. I raise the point of order that this is no point of order.

The SPEAKER. The gentleman from Maryland [Mr. F. THOMAS] is stating his point of order.

Mr. INGERSOLL. I would have no objection to the gentleman going on if I did not wish to pass this hospital bill.

Mr. F. THOMAS. I was about to say this is no ordinary bill; and when I have stated its character I think the Chair will rule that this is a public corporation.

Mr. INGERSOLL. I rise to a point of order.

The SPEAKER. The gentleman from Maryland is occupying the floor upon a point of order, and is now stating it.

Mr. F. THOMAS. This bill, Mr. Speaker, proposes to seize \$400,000 worth of property of the Chesapeake and Ohio Canal Company. It therefore affects parties outside of the District of Columbia. The Chesapeake and Ohio Canal Company, under a charter granted by Congress, and by the States of Maryland, Virginia, and Pennsylvania, has made a very expensive structure at the mouth of this little stream—

Mr. INGERSOLL. Mr. Speaker, is that in order?

The SPEAKER. The Chair thinks the gentleman from Maryland is now arguing the merits of the bill.

Mr. F. THOMAS. No, sir; I am about to explain its character.

The SPEAKER. The gentleman from Maryland raises the point of order that this is not a private bill. The Chair decides that it is a private bill.

Mr. F. THOMAS. I believe that the Speaker has not read the bill, or he would not so decide. I say this with great respect.

The SPEAKER. Private bills relate generally to individuals or corporations. May's Parliamentary Practice states that private bills "are for the interest of an individual, a public company or corporation, a parish, a city, a county, or other locality." It must not be a general bill in its enactments, but "a bill for the particular interest or benefit of a person or persons." Under this principle, which is laid down with a number of illustrations in the volume referred to, the Chair has no doubt that this bill is a private bill and can be reported on private bill day. Whether the bill should pass or not is a question for the House to determine.

The morning hour has expired, and the bill goes over till next Friday.

CONTESTED ELECTION.

Mr. DAWES. I rise to call up the resolution reported by the Committee of Elections in the case of Follett vs. Delano. I stated to the House yesterday that if members would take the trouble to read the report I would not occupy any time in the discussion of the case. I have no doubt that gentlemen have read the report; and I shall not therefore detain the House by any remarks in explanation of it.

The case involves a question which is of considerable importance as a question of practice. The committee, I may also mention, found some difficulty in settling questions of law arising in the case, but no difficulty as to matters of fact. If the members of the House are satisfied with the positions as to law and practice embraced in the report, they will find no difficulty, I apprehend, in voting for the resolution of the committee.

The resolution reported by the committee was read, as follows:

Resolved, That Hon. Columbus Delano is entitled to the seat occupied by him in this House as the Representative from the thirteenth district of Ohio in the Thirty-Ninth Congress.

Mr. DAWES. If no gentleman desires to oppose this resolution, I call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. DAWES moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

Mr. DAWES, from the Committee of Elections, reported the following resolution; which was read, considered, and agreed to:

Resolved, That there be paid to Charles Follett, Esq., out of the contingent fund of the House, the sum of \$1,500 in full for time spent and expenses incurred in contesting the right of Hon. Columbus Delano to a seat in this House as a Representative from the thirteenth district in Ohio.

Mr. DAWES moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. HUBBARD, of West Virginia, asked leave of absence for Mr. LATHAM for one week. Leave was granted.

EQUALIZING BOUNTIES.

Mr. SCHENCK, from the Committee on Military Affairs, reported a bill to equalize the bounties of soldiers, sailors, and marines who

served in the late war for the Union; which was read a first and second time, referred to the Committee of the Whole on the state of the Union, and ordered to be printed.

Mr. SCHENCK. I give notice that on some early day, when members shall have had an opportunity to examine the bill, I will ask that the Committee of the Whole on the state of the Union be discharged from the consideration of the bill, and that it be put on its passage.

TELEGRAPH LINES.

Mr. ALLEY, from the Committee on the Post Office and Post Roads, by unanimous consent, reported back House bill No. 575, to aid in the construction of telegraph lines, and to secure to the Government the use of the same for postal, military, and other purposes; which was read a second time, ordered to be printed, and recommitted to the Committee on the Post Office and Post Roads.

PRIZE MONEY.

The SPEAKER laid before the House a communication from the Secretary of the Treasury, in reply to a resolution of the House of April 9, 1866, on the subject of prize money; which was laid on the table and ordered to be printed.

CONTESTED ELECTION.

The SPEAKER laid before the House additional testimony in the contested-election case of Koontz vs. Coffroth; which was referred to the Committee of Elections.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was on the amendment offered by Mr. STEVENS to add to the paragraph in relation to cigar-makers the following:

Provided, That journeymen cigar-makers and apprentices who work for others shall not be considered as included within this proviso.

The question being put on the above amendment, no quorum voted.

Tellers were ordered; and the Chairman appointed Messrs. ASHLEY, of Ohio, and JENCKES.

The committee divided; and the tellers reported—ayes 51, noes 43.

So the amendment was agreed to.

Mr. STEVENS. I move to strike out the word "five," in line seventeen hundred and ninety-seven, and to insert in lieu thereof "fifteen;" so that the clause shall read, "shall pay the duties on such cigars within fifteen days after purchasing them." Also, the same amendment in line eighteen hundred and two, so that the clause shall read, "and any such purchaser who shall neglect for more than fifteen days to pack and have such cigars duly inspected, and pay the duties thereon," &c.

The amendments were agreed to.

Mr. WILSON, of Iowa. I move the following amendment:

That section ninety-three be amended by striking out all after the enacting clause, and inserting, in lieu thereof, the following: that all goods, wares, and merchandise, or articles manufactured or made, except refined petroleum, refined coal oil, gold and silver, spirituous and malt liquors, manufactured tobacco, snuff, and cigars, by any person or firm where the product shall not exceed the rate of \$1,000 per annum, and shall be made or produced by the labor of said person or firm, or by his or their family, shall be, and are hereby, exempt from tax. Where the product shall exceed such rate, and not exceed the rate of \$3,000, the tax shall be levied, assessed, and collected only upon the excess above the rate of \$1,000 per annum; and in all other cases the whole annual product, including any business or transaction where one party has been furnished with materials or any

part thereof, and employed by another party to manufacture, make, or finish the goods, wares, and merchandise, or articles paying or promising to pay therefor, and to whom the same are returned when so made and finished, shall be assessed, and the tax paid thereon by the producer or manufacturer: *Provided, That whenever a producer or manufacturer shall use or consume, or shall remove for consumption or use, any articles, goods, wares, or merchandise which, if removed for sale, would be liable to taxation, he shall be assessed upon the salable value of the articles, goods, wares, or merchandise so used or so removed for consumption or use.*

Mr. Chairman, I offer this amendment in the interest of the small manufacturers and the mechanics of the country. I offer it as a protection to that class of labor which fights its own battle with little aid from machinery. It affects mainly the hand-workers of the nation who depend more on their toil than they do upon capital for the profits which a year's business may secure to them. Its effects will be exhausted principally in shielding such as earn their bread by the sweat of their brows from unnecessary taxation; and this is the sole object of the amendment.

The only change which this amendment makes in the present law is to exempt from the manufacturer's tax \$1,000 worth of the products of all manufacturers whose annual productions do not exceed \$3,000 in value. So just a proposition as this ought not to require much discussion to win for it the approval of every member of the committee.

It will be remembered that the law defines a manufacturer to be—

"Any person, firm, or corporation who shall manufacture by hand or machinery any goods, wares, or merchandise, exceeding annually the sum of \$1,000, or shall be engaged in the manufacture or preparation for sale of any articles or compounds, or shall put up for sale in packages with his own name or trade-mark thereon any articles or compound, shall be regarded as a manufacturer."

This definition embraces almost every mechanic in the whole country, for there are very few whose productions do not annually exceed \$1,000 in value, when both labor and materials are included in the computation. The profit to the mechanic, including the value of his own labor, often proves to be an insignificant part of the \$1,000 of aggregate valuation placed upon his productions; and to him a tax of five per cent. upon the total result is grievously burdensome. All such taxation is opposed by every consideration of sound public policy. Productive industry should be fostered until it becomes strong enough to stand alone. The tax-gatherer should not be sent into the workshop until the workman has secured for himself and his family a reasonable support from the toil of his hands.

It is hard for hand labor to compete with machine labor, and to the former some advantage should be given. Without this great establishments crush out and destroy the lesser ones, as great fish are said to swallow up small ones. A combination of capital and machinery, if put on an equality in the tax laws with muscle, soon wear it out and drive its owner from the market. There is not a village in all the land whose mechanics do not feel how inexorably true this rule is. The great manufactories in the East play havoc with the mechanic shops of the West. And when this is done our workmen have not the advantage of resorting to the great workshops and manufactories for employment, as the mechanic of the East may. Our western mechanics when crushed out by the competition resulting from a combination of capital and machinery must change their pursuits and seek in some field new to them a support for themselves and their families.

We extend to the eastern manufacturer protection against the manufactures of the Old World through our tariff laws. Of this I do not complain; but at the same time, I must insist that our internal revenue laws shall be so framed as to protect, in some degree, the mechanics and small manufacturers of this country against the encroachments of those great establishments which have grown up under the fostering care of our tariff laws. It is true that the protection which the eastern manufacturer enjoys under our tariff laws would

extend the same advantage to him in any other part of the United States; but in the West our manufacturing interests are in their infancy, and therefore it is that I say the tariff laws protect and foster eastern manufacturers. In the course of time I hope the West, by the development of manufacturing establishments, will share equally with all other sections of the country in the advantages springing from the tariff laws of the Government; and as one means looking to this end, I desire the adoption of this amendment as a protection to those who are to constitute our western manufacturers in the future.

The West must resort to manufacturing. Everything used and consumed in the West ought to be there manufactured. While it is the greatest food-producing region in the world, it should be one of the greatest manufacturing sections also. Cheap food and the comparatively low price of raw material are advantages which will some day tell in favor of the West. But to reach that day we must take present care of our workmen and mechanics.

The amendment which I have offered does not go as far and accomplish as much as I should like, but it seems to be the best that can be done at this time, and will afford some measure of relief. When I cannot get all I want it would not be wise to refuse a part.

Mr. MORRILL. I hope this amendment will not be adopted. There were in 1864 above sixty-three thousand manufacturers in the country who were taxed for licenses. I suppose that at least one half of that number manufactured less than \$3,000. Therefore, if the amendment proposed by the gentleman should be carried, it would create a large deficiency in the revenue. It is giving an absolute bonus of fifty dollars to every manufacturer whose annual products exceed \$3,000. They all sell in the same market, and if not subjected to the same tax those who are excepted have the advantage in the market. I might be very well content, living in New England as I do, where of course we shall receive the benefits of the amendment proposed by the gentleman from Iowa in a much larger degree than those who reside in his own region. But I think it is more than we ought to concede at the present time. It would be making too large a reduction of the revenue. The law as it is, exempting \$600 from taxation, gives the small manufacturers \$30 advantage. I do not see why we should allow any more, for it is nothing less than paying them a bonus of twenty dollars out of the Treasury. I therefore hope the amendment will be rejected.

The CHAIRMAN. Debate is exhausted on the amendment.

Mr. WILSON, of Iowa. I move to amend the amendment by striking out the last word. The argument of the chairman of the committee, that this is going to greatly reduce the revenue of the Government, is an entire fallacy. If you allow the exemption of \$1,000 to every manufacturer in the United States it only amounts to about three million dollars. But this proposition is to allow it only to manufacturers whose products do not exceed in value the sum of \$3,000 per annum. Therefore it will not exceed \$1,000,000. But that, the gentleman says, is a bonus to the small manufacturers. Sir, that objection was not thought of when the committee voted in favor of retaining in the bill the section which allows a drawback of five cents a pound on all exported cotton goods, which is a bonus to the great manufacturers of the country, those who are receiving protection under the tariff laws in addition to that of the drawback of five cents a pound on cotton goods exported, taking out of the Treasury, as was shown at the time by my colleague, [Mr. ALLISON,] who is a member of the Committee of Ways and Means, more than three times the amount of money which this amendment would do in the way of reducing the aggregate amount of tax to be derived from the bill as reported by the committee.

Now, sir, I think it is time for us to establish the principle that our laboring men, our small

manufacturers, shall be relieved from this unnecessary taxation until they reach a point beyond that which is required for the support of themselves and their families. After you have passed the limit of \$3,000 provided for by my amendment, then let your manufacturers be called upon. But send not the tax-gatherer into all your workshops where no machines are found, where only hand labor is performed. Let them have this protection. It is nothing but equal, fair, and just, and I hope the committee will indorse it.

I withdraw the amendment to the amendment.

Mr. SLOAN. I move to amend the amendment by striking out "\$3,000" and inserting "\$4,000," and I hope the amendment which I have proposed will prevail. There is no doubt in my mind that the system of taxation inaugurated in this country has borne more heavily upon the small manufacturers than upon any other class; and all will agree that they are among the most deserving of all classes in our community. While the manufacturing men with large capital have been fostered and have been growing richer, the business of the small manufacturers in every branch has been depressed throughout the country.

Now, in regard to licenses, the man who manufactures but one or two thousand dollars a year pays the same license as he who manufactures half a million or a million dollars, and it is of vital importance in the newer States, where we have none of these very large manufacturing establishments wielding a capital of millions of dollars, that we should foster the interest of the smaller manufacturers. They are the germ from which, if properly fostered, will grow up these large establishments which will in time pervade the West. It is, in my judgment, one of the most meritorious propositions that can be addressed to the committee. These small manufacturers have been oppressed by being required to pay double and triple taxes on articles which they were compelled to purchase from the larger manufacturers; and it is a step in the right direction to relieve from these accumulated taxes those who manufacture a less amount than \$4,000 mainly with their own hands.

I regret exceedingly that the chairman of the committee has felt called upon to oppose the proposition which the gentleman from Iowa has made, calculated, as it is, to foster and build up our home industry. Three or four thousand dollars is a small sum in itself, and I think that in manufactures where but that sum is produced, at least the amount of \$1,000 ought to be exempted entirely from taxation. I trust that upon reflection the able chairman of the Committee of Ways and Means will consent to this proposition. If he desires to make this revenue system, burdensome and oppressive as it is, popular with the people, here is an opportunity for him to do it.

[Here the hammer fell.]

Mr. MORRILL. Mr. Chairman, I have sometimes indulged a hope that in the course of a year or two we might be able to dispense with that taxation which now presses so heavily upon our home manufactures. But, sir, observing the tendency of the action of this committee, I am almost discouraged, and fear that we may not reach that happy time for some considerable period longer. I perceive that the tendency all over the House is to take such action for the benefit of individual interests as largely to reduce the amount of revenue to be derived under this bill.

I think the proposition of the gentleman from Iowa will not hold when he comes to contrast it with the action of this committee in relation to exported manufactures of cotton. If anything is a fallacy, it seems to me that that portion of the gentleman's argument might justly be so called. It has no sort of relation to a measure of this kind. That was merely a question whether our manufacturers should work or should not work, whether such articles should be made here or in Great Britain. It was simply a question whether we should give our own peo-

ple employment or not. This is a question of how much we shall give to this smaller class of workmen. I am as sensible to their wants and requirements as any man can be. My people would receive as much benefit from this as any other. But I do think that when we have gone as far as the existing law goes, we have gone, perhaps, as far as we can well do in strict justice to all parties. If the gentleman will consent to modify his amendment so as to exempt only \$1,000, and strike out the remaining portion of it, I will not object to it.

Mr. WILSON, of Iowa. Does the gentleman mean by that remark that he desires \$1,000 to be exempted to all the manufacturers of the country?

Mr. MORRILL. To all manufacturers who do not manufacture over the amount of \$1,000 a year.

Mr. WILSON, of Iowa. That is the present law, and such an amendment would make no change in the law.

Mr. MORRILL. Well, I move to strike out that portion of the gentleman's amendment.

The CHAIRMAN. There is an amendment to the amendment already pending.

Mr. SLOAN. I withdraw my amendment to the amendment.

Mr. ALLISON. I renew it for the purpose of saying a word or two. The proposition in the ninety-third section of the existing law only applies to that class of manufacturers who, themselves or by their families, produce to the amount of \$1,000 by the existing law, or to the amount of \$3,000 as provided in the amendment of my colleague, [Mr. WILSON.] Therefore, this applies only to that class of persons who are engaged themselves in the various classes of manufactures. It does not apply to the men who employ hands, or a large amount of machinery. I think that it is a just amendment, and that the Committee of Ways and Means ought to consent to it as proposed by my colleague.

We all know that the manufacturers all over the country are protesting against this tax upon the industry of the country. I doubt not that it is the most obnoxious and burdensome tax we impose upon people; and I think we should relieve them of it as rapidly as we can. This is a step in the right direction; by first attempting to relieve the small manufacturers who are struggling to build up a business in the West as well as in the East. I hope next year we shall be able to reach a larger class, and relieve them, and levy the taxes on the luxuries of the country, upon which I believe we can raise a sufficient revenue. I trust, therefore, that the amendment of my colleague will prevail, and I withdraw my amendment to it.

The question recurred on the amendment offered by Mr. WILSON, of Iowa.

Mr. MORRILL. I move to strike out from the amendment the words "whose product shall exceed such rate, and not exceed the rate of \$3,000, the tax shall be levied, assessed, and collected only above the rate of \$1,000 per annum."

Mr. HARDING, of Illinois. I am opposed to striking out the second clause of the proposed amendment of the gentleman from Iowa. I desire simply to say, without detaining the House, that I am in favor of his amendments.

I hold, Mr. Chairman, that it is only legitimate to tax the wealth and luxury of the country. I hold it to be utterly opposed to correct principle to tax the means by which incomes are produced and also to tax the incomes. I hold such a system to be unequal in its effects. You tax a small manufacturing establishment which produces only \$3,000 a year, and you also tax its income. What will you do with the gentleman who sits in his office and by skill and ingenuity produces an income of \$3,000 a year? What does he pay under the income tax? It is the production of his wealth. Wealth is able to pay taxes; poverty is not. Now, the man who produces his income from his farm or from his factory should be taxed in the same way, on the product which he returns as income, and he should not be taxed

in addition on the ax, the hoe, the shovel, or the machine by which he works and delves to get that income. It is an inequality which is wrong. It is a tax upon the means by which wealth is produced.

Now, there are exceptions to this rule. We should tax the improvident investments of men and articles of luxury and extravagance. Put your tax upon such things, but by no means put it on the means by which incomes are produced. I am in favor of exempting all plows, threshing-machines, and those other machines which help to augment the resources of the country.

[Here the hammer fell.]

The question was taken on Mr. MORRILL'S amendment to the amendment, and it was disagreed to.

The question was taken on the amendment offered by Mr. WILSON, of Iowa, and it was agreed to.

The Clerk read as follows:

That section ninety-four be amended by striking out all after the enacting clause and inserting in lieu thereof the following: That upon the articles, goods, wares, and merchandise hereinafter mentioned, except where otherwise provided, which shall be produced and sold, or be manufactured or made and sold, or be consumed or used by the manufacturer or producer thereof, or removed for consumption, or for delivery to others than agents of the manufacturer or producer within the United States or Territories thereof, there shall be assessed, collected, and paid the following taxes, to be paid by the producer or manufacturer thereof, that is to say:

On candles, of whatever material made, a tax of five per cent. *ad valorem*.

On gas, illuminating, made of coal wholly or in part, or any other material, when the product shall not be above two hundred thousand cubic feet per month, a tax of ten cents per one thousand cubic feet; when the product shall be above two and not exceeding five hundred thousand cubic feet per month, a tax of fifteen cents per one thousand cubic feet; when the product shall be above five hundred thousand and not exceeding five million cubic feet per month, a tax of twenty cents per one thousand cubic feet; when the product shall be above five millions, a tax of twenty-five cents per one thousand cubic feet. And the general average of the monthly product for the year preceding the return required by this act shall regulate the rate of tax herein imposed. And where any gas-works have not been in operation for the next year preceding the return as aforesaid, then the rate shall be regulated upon the estimated average of the monthly product: *Provided*, That the product required to be returned by law by any gas company shall be understood to be, in addition to the gas consumed by said company or other party, the product charged in the bills actually rendered by the gas company during the month preceding the return; and all gas companies are hereby authorized to add the tax imposed by law to the price per thousand cubic feet on gas sold: *Provided further*, That all gas furnished for lighting street lamps or for other purposes, and not measured, and all gas made for and used by any hotel, inn, tavern, and private dwelling-house, shall be subject to tax whatever the amount of product, and may be estimated; and if the returns in any case shall be understated or underestimated, it shall be the duty of the assistant assessor of the district to increase the same as he shall deem just and proper: *And provided further*, That gas companies located within the corporate limits of any city or town, whether in the district or otherwise, or so located as to compete with each other, shall pay the rate of tax imposed by law upon the company having the largest production.

Mr. HOTCHKISS. I move to strike out in line eighteen hundred and forty-four, all after the words "cubic feet" down to and including the words "cubic feet" in line eighteen hundred and fifty-one. I hope the chairman of the Committee of Ways and Means will agree to that.

Mr. MORRILL. I cannot agree to it.

Mr. HOTCHKISS. Then I desire to call the attention of the committee to the peculiarity of this provision in the law. Ostensibly it seems to be a tax upon gas companies, and a tax upon them in proportion to the amount they manufacture; but when you come to read the section through, you find that it is a tax upon the consumer, and the consumer is not taxed in proportion to the amount of the article that he consumes, but in proportion to the amount produced by the company; that is to say, if you consume gas that is produced by a small company, you pay ten cents per thousand cubic feet; but if the company that supplies you is a large company, that manufactures upward of two hundred thousand cubic feet, then you must pay fifteen cents per thousand cubic feet for all the gas you consume.

It is a very singular provision of law, and I do not know upon what principle it is based. It is for this reason that I asked the chairman of the Committee of Ways and Means [Mr. MORRILL] to accept the amendment I have offered. I asked him to accept it because I did not wish to expose to this committee the absurdity of this provision.

It is no answer to my objection to say that a large company can produce gas cheaper than a small company can produce it. That is not so, and they charge the same prices that the small companies do; and any increase of expense or price is visited upon the consumer. I think that under any circumstances a tax of ten cents per thousand cubic feet is large enough.

The large companies are located in the large towns where labor costs more and materials are more expensive; and you are breaking down these gas companies, while you are relieving every other light from taxation. You take off the tax from petroleum and coal oil, and all we now ask is that you shall not make the tax upon gas so burdensome upon consumers that they cannot use it at all.

Mr. MORRILL. I am extremely obliged to the gentleman from New York [Mr. HOTCHKISS] for his exceeding great reluctance to expose the absurdity of the existing law, and therefore the absurdity of this bill. And I am as reluctant as he can be to do anything of the kind, to expose the absurdity of his argument.

Mr. HOTCHKISS. That is all fair.

Mr. MORRILL. If the gentleman had studied the subject so as to understand it, he probably would not have made this motion. This subject underwent a thorough examination two years ago by the Committee of Ways and Means. We had before us the representatives of gas companies from all parts of the country, from Cincinnati, Chicago, Philadelphia, New York, and from many other towns and cities. The bill prepared at that time was based upon the information we derived from those men who knew something about the manufacture of gas. We ascertained then that the smaller companies could not manufacture gas so cheaply as the larger ones in any of those places, and that there must be a difference in the amount of taxation we imposed upon them, or it would not bear equally upon the different companies. And not only all the smaller companies but the larger companies agreed that the different rates proposed by the existing law were correct and proper in themselves. I trust, therefore, that the amendment of the gentleman from New York [Mr. HOTCHKISS] will not prevail.

The amendment of Mr. HOTCHKISS was not agreed to.

Mr. STEVENS. I do not know as I fully understand this paragraph; at all events I will move to amend it by striking out the following:

And all gas companies are hereby authorized to add the tax imposed by law to the price per thousand cubic feet on gas sold.

I was a member of the Committee of Ways and Means when the bill now a law was under consideration. I supposed then, as I presume we all did, that we were taxing gas companies to some extent. And we proposed a tax higher in proportion to the number of cubic feet they made upon the ground that the small companies found it cost more in proportion to produce a few thousand cubic feet than it did the large companies to produce hundreds of thousands of cubic feet. After the production has reached a certain amount all the increased cost is for material, the cost for labor being the same. We therefore proposed to tax the larger companies a higher rate, because we supposed they could better afford to pay it than the smaller companies.

But how has it resulted practically? Just in proportion as the companies could make the gas more cheaply, just in that proportion has the consumer been taxed. If the companies made their large quantities of gas so cheaply that they could afford to pay the higher tax, that tax has been charged upon the consumer and

the companies have paid no tax. Now, unless you will adopt the amendment I have proposed, instead of taxing the companies in proportion to the facilities with which they make their gas, and the profits they derive from its manufacture, we will be taxing the consumer in proportion to the facilities with which the companies make the gas. Now, I cannot understand why we should do that.

Now, I take some humiliation to myself for having agreed to this when this subject was before the Committee of Ways and Means two years ago. I confess that I then fell into the absurdity that my friend from New York [Mr. HOTCHKISS] did not want to expose here. And now I suppose I have fallen into the other absurdity that my friend from Vermont [Mr. MORRILL] referred to a few moments ago. But upon looking over this paragraph I cannot see how it is that we charge these companies one cent.

Mr. MOORHEAD. Cannot the companies which produce gas in large quantities produce it so much cheaper than the small companies that the consumer can afford to pay the additional tax?

Mr. STEVENS. The consumer pays all the tax.

Mr. MOORHEAD. He gets his gas cheaper.

Mr. STEVENS. He does not get it any cheaper in the end, if you add a tax to it, because it can be made more cheaply.

Mr. MORRILL. I shall be compelled to refresh the memory of my friend from Pennsylvania, [Mr. STEVENS,] who has been so busy upon the Committee on Appropriations that he hardly recollects the reasons for this provision. Of course it will be seen at once that it is not necessary to put this provision in the law in regard to any manufacturer that is not in some way limited by local law as to price. Of course the manufacturer of any article, whether it be gas or anything else, can charge the private citizen whatever he pleases.

Mr. STEVENS. Then why not strike this out?

Mr. MORRILL. I know many gas companies that have not raised their price at all since this tax was imposed, but they have paid the tax notwithstanding the increased price of coal.

But this provision meets only such cases as these: many cities and villages have chartered companies with the express limitation that they shall furnish the gas for street lamps at a rate named in the charter, and the price of coal having more than doubled within the last three or four years they have been compelled to manufacture gas not only at a loss but to pay the tax upon the amount consumed for municipal purposes, and this provision is intended only to remove the difficulty these companies will labor under if this provision is not inserted in the law. It is a proper and necessary provision, and should not be stricken out.

Mr. LE BLOND. I move, *pro formâ*, to amend the amendment by striking out the last word.

I trust that the motion to strike out this clause will prevail, for two reasons. First, I think it is of but little consequence whether this provision is retained or stricken out, so far as the action of these companies is concerned, for it is very apparent that the companies will charge the tax upon the consumer in the end. The consumer will have to pay it. It will not come out of the company. Another reason why this clause should be stricken out is, that I do not conceive this Congress has authority to say to these companies in the respective States, "You may charge this tax upon the consumers." This is a matter that should be left to the States alone. All that this Congress can ask is, that the States pay the amount with which they are assessed in this particular, leaving the States to regulate the rest.

Mr. EGGLESTON. I agree fully with my colleague in his remarks in reference to the propriety of striking out the clause which has

been referred to; and I also concur in the remarks of my distinguished friend from Pennsylvania. I think that the Committee of Ways and Means have certainly been in error in reporting this bill in this shape. I think that the gas companies in all the cities of the United States have been making money enough to enable them to pay this tax themselves. I will say to the chairman of the committee, that so far as the cities of the West are concerned, in almost all cases, so far as my knowledge extends, the payment of this tax is imposed by the companies upon the consumers, private and public. In many cities the gas companies have contracts for ten, fifteen, or twenty years, and their stock is selling at two or three hundred per cent. above par; yet they collect this tax from the consumers, whether individuals or municipal corporations. This is certainly wrong.

Let me put a case. Suppose that a gas company makes a contract with the city of Cleveland to furnish gas to that city for fifteen years at a certain price. Under the provision of this bill the company will add the tax to the price of the gas, and they will collect it by law. This is decidedly wrong. We make no such provision in reference to other taxation. Other manufacturers are not thus provided for. We must remember that gas companies are monopolies. When they get a contract to light a city they get an exclusive contract. They will not take a contract unless they get it for the entire city. I believe that these companies should have no greater privileges than individuals engaged in any branch of manufacturing.

Mr. LE BLOND. I withdraw the amendment to the amendment.

Mr. GRISWOLD. I renew it. I desire, Mr. Chairman, to correct a statement made by the gentleman from Ohio, [Mr. EGGLESTON,] who has just taken his seat. I cannot say what may be the financial condition of gas companies in the State which he so well represents here, but so far as regards those in my own State I venture the assertion that, instead of being highly remunerative to the stockholders, five out of six of those companies, during the last five years, have not made dividends equal to the legal interest on the capital invested.

Let me suggest, also, to my venerable friend from Pennsylvania, [Mr. STEVENS,] that the price of the gas made by these different companies is in proportion to the amount of gas they make and the cost of manufacture, just as much as in regard to any other article of manufacture. I desire to say to him, further, that in most cases the gas companies in the State of New York are restricted as to price by their charters; and I know of my own knowledge that within the last five years not only have those companies been unable to declare dividends, but if they had not had the option of adding this tax to the price charged for gas they would have been obliged to discontinue business. It is literally true that gas companies, instead of being highly remunerative associations, have, within the last five or six years, been among the least remunerative corporations in the country. I withdraw the amendment to the amendment.

Mr. DODGE. I move to amend by inserting after the word "companies" in line eighteen hundred and sixty-three the words "whose rate of charge is restricted by charter;" so that the clause will read:

And all gas companies whose rate of charge is restricted by charter are hereby authorized to add the tax imposed by law to the price per thousand cubic feet on gas sold.

Mr. GRISWOLD. The amendment of my colleague may be very well, so far as it goes; but most of the companies in the State of New York are to a certain extent, if not entirely, restrained by their charters in reference to the price they may charge for gas. In many cases, for instance, where a charter is granted by a city, the company is bound during the continuance of the charter to furnish the city with gas at a stipulated price, that price in most

cases merely covering the cost, and being sometimes less than the cost of manufacture.

Mr. LE BLOND. I would like to ask the gentleman from New York [Mr. GRISWOLD] one question. In cases where the authorities of the respective States in which these gas companies are located have fixed the price to be paid, does the gentleman propose by such a law as this to override the action of the States?

Mr. GRISWOLD. I propose that we shall do in regard to gas companies just as we do in reference to any other manufacturing companies. When our internal revenue law was enacted it provided specially that where contracts as to price had been made the party making the contract should have a right to add the tax.

Mr. LE BLOND. I would like the gentleman to state whence, in his view, Congress derives the power to override the action of States in matters of this kind.

Mr. GRISWOLD. Let me say to the gentleman that I do not conceive that the question of State rights has anything to do with this matter.

Mr. LE BLOND. Well, I think it has everything to do with it.

Mr. MORRILL. I desire to say merely a word or two lest the House should be led astray by the statements as to the immense profits of these companies. I am somewhat acquainted with the history of quite a number of these corporations in the United States, and I am satisfied that but few of them have made large profits. One company in New York, the Manhattan Company, another in Boston, and I believe one or more out West, have made large profits; but, taking them generally, throughout almost the whole country, you can buy their stock at less than par.

Mr. Chairman, in relation to the provisions in this respect of the bill now before us, I think that we had better leave them as they are. It is not contended that the amendment proposed will affect the price of gas to the ordinary consumer. With regard to ordinary consumers the companies, whether this clause be in or out of the bill, will have the same right to add the tax or not, as they deem proper. The effect of the provision in the bill is simply this: that where in cities these companies are bound by their charters, or by requirement of law, to furnish gas at a certain rate, they are allowed to add to that rate the amount of the tax.

Mr. EGGLESTON. I move *pro forma* to amend the amendment of the gentleman from New York [Mr. DODGE] by striking out the last word.

I desire to correct a misapprehension into which members may have been led by some of the statements which have been made. It has been said that the price charged by these companies has in many cases been so low that they could not realize any profit. My friend on my left [Mr. GRISWOLD] says that the price in his city is four dollars per thousand feet. Now, I undertake to say that gas can be furnished in his city for three dollars per thousand feet, and still give an immense profit to the company manufacturing it.

The distinguished chairman of the committee states, as I have understood him, that in the eastern cities the gas companies are so benevolent toward the consumers that they actually refuse to add this tax to their bills. Then, again, he tells us that the stock of these companies is not remunerative—that the companies are poor. If this be the fact, all I can say is that they are model corporations. I believe that we should now place a firm hand upon these monopolies, and say to them that they shall pay their proportionate share of taxes as well as individuals who do business as manufacturers. When you say to the plow-maker and to the maker of reaping-machines that they shall not add the tax to the cost of manufacture you ought not to give to the gas companies the power to add it to their manufacture.

I know what I am talking about. I know that the stock of gas companies in Ohio is worth two hundred per cent., and yet in every instance they put the tax on their bills. I want it taken off.

[Here the hammer fell.]

Mr. CONKLING. The theory on which this section is based no doubt is this: that the great gas companies, the very extensive manufacturers of gas, can make that article cheaper than the smaller companies; that because they can make it cheaper they will do so; that the price of gas in the large cities will therefore be less than in the smaller cities; and further, that for the same reason the consumer can afford to have the great companies pay a larger tax and yet the net cost to him not be as great as it would be if the smaller companies supplied it, paying a less tax and incurring a greater cost in the manufacture of gas. That, I think, is a fair statement of the theory upon which this section is based.

Now, what is the fact in practice? Surely we all know—certainly my colleague knows—that in the city of New York the gas consumer pays a larger price than we pay in the city of Utica. I find it to be the fact in practice that the great gas companies charge a higher price, and then they take the tax which they have to pay, without even disguising it in name, and put it in so many words upon the bill, so much in addition for taxes, and the consumer pays it.

Now, unquestionably this is a great evil, and I think the amendment of the gentleman from Pennsylvania [Mr. STEVENS] looks in the right direction; and I think the amendment of my colleague [Mr. DODGE] would be better if in place of saying "where the rate is fixed by charter" he would modify it by saying "where it is restricted by law."

Mr. DODGE. I accept that modification.

Mr. EGGLESTON. I withdraw my amendment to the amendment.

Mr. DAVIS. I renew it. I desire to say that I believe under the present law no great injustice is done to anybody. And I believe I know something about the manufacture of gas. I think my colleague [Mr. CONKLING] is mistaken when he says that he pays less for gas in the city of Utica than he would have to pay in the city of New York. My impression is that gas costs a dollar a thousand more in the city of Utica than in New York. It certainly costs more in Syracuse, and I presume it must in Utica. In New York the price is limited by the charters of the respective companies, and they have been appealing in vain for the last two or three years to the Legislature for authority to increase the price to the consumer, because they were unable to pay a dividend on their stock.

The Manhattan Company, in New York city, it is true, as was said by the chairman of the committee, has been prosperous. But why? Because in 1851, anticipating the great trouble which we were to have in this country, they bought three or four hundred thousand tons of coal in England, and imported it at a low price. Consequently they have had this large amount on hand, and have been able to manufacture at the old price, while companies not thus restricted have raised the price one or two hundred per cent.

I wish to say a word in reply to a suggestion made by the gentleman from Ohio, [Mr. LE BLOND], who asks whether we have power to make this provision, as it now exists in the law. I believe that in regard to every contract of this nature, and every tax of this nature, the national Government is supreme. The Government has the power of taxation, and no State has any authority to say to the national Government that a tax levied for national purposes may not be repaid in some way to the company or to the party who pays it.

Mr. LE BLOND. If the gentleman will allow me a moment, I do not question the right of Congress to tax, but I do question the right of Congress to say that this tax that we have levied shall be charged over against the con-

sumer and thus increase the rate that he is required to pay by the amount of the tax that the Government levies, when the States themselves may have limited the price that those contractors shall furnish gas. You simply do away with the law of the States in that matter, and it does not reach the question of the right of Congress to tax at all.

Mr. DAVIS. The gentleman then puts it on the ground that there is no authority under the Constitution to impair the validity of a contract. That proposition I deny.

[Here the hammer fell.]

Mr. DAVIS. I withdraw the amendment to the amendment.

The question recurred on the amendment offered by Mr. DODGE, as modified at the suggestion of Mr. CONKLING, to insert the words "whose rate of charge is restricted by law" so that the clause will read, "and all gas companies whose rate of charge is restricted by law are hereby authorized to add the tax imposed by law to the price per thousand cubic feet on gas sold;" and it was not agreed to.

The question recurred on the motion of Mr. STEVENS, to strike out the paragraph.

Mr. LAWRENCE, of Ohio. I move, *pro forma*, to strike out the last word.

This proposition, it seems to me, is very objectionable as it stands in the bill. In name it proposes to tax the gas companies when in fact it exempts them from all taxation. It is a delusion and a fraud upon its face, and it is a kind of legislation which we ought not to encourage. I do not quite agree with my friend from Ohio, that we have not the power to provide by law that this tax may not be added to the price of gas. I suppose that the high power which Congress exercises in enacting a tax law is sufficient to enable us to frame any provision which may be necessary to make the tax effectual, and if it be necessary to provide by law that the tax may be added to the consumer we have power to do so. And while we have power to do that we have power also, it seems to me, to say it shall not be added.

What I want to propose—and I will suggest it to the chairman of the committee—is that instead of striking out this clause we strike out these words, "and all gas companies are hereby authorized," and to insert "and no gas company shall;" so that it will read:

And no gas company shall add the tax imposed by law to the price per thousand cubic feet on gas sold.

Then if it is found that gas companies do not make dividends, let the Legislatures authorize them to increase the price. But let us not by law profess to levy a tax on gas companies when in fact we are doing no such thing, but exempting them.

[Here the hammer fell.]

Mr. MORRILL. That would be a very singular proposition, and one for which I do not suppose anybody intends to vote. The proposition to strike out this part of the law authorizing a company to add the tax will not benefit the consumers, for whatever amount of loss from corporations they will be subject to on that account they will be likely to add to the price charged to consumers of their gas.

I move that the committee rise to terminate debate on this paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that when the House resolve itself again into Committee of

the Whole, debate on the paragraph under consideration be terminated in five minutes.

The motion was agreed to.

ORDER OF PROCEEDING TO-MORROW.

Mr. SCHENCK. I move that to-morrow be appropriated to the usual debate on the President's message.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. SPALDING. I cannot agree with my colleague from Ohio, [Mr. LAWRENCE,] if I understand him correctly, that this paragraph is within the scope of our legislative power; and I cannot agree with the learned gentleman from the Syracuse district, of New York, [Mr. DAVIS] that we have power, as the Congress of the United States, to make this legislation operative upon the people of the different States. Now, although we can exert the high and sovereign power of taxation, for all necessary purposes for our Government, yet we cannot go into the States and change individual contracts there under the laws of the State. If I have a contract for my gas under the laws of the State of Ohio, the price being limited by the laws of that State to so much per thousand cubic feet, I would like to know what law of Congress can reach me in Ohio, and make me pay a higher rate than I have agreed with the gas company to pay.

Now, this provision, which it is sought by this motion to strike out, simply provides that all gas companies shall be authorized to add the tax imposed by law to the price per thousand cubic feet on the gas sold by them.

It is said that this will act as a hardship in States where the price of gas is limited. If so, it is an indirect means of doing away with the laws of such States. We must impose taxes to the extent we deem necessary, and then leave it for the different State Legislatures to apply the remedy. If they find that they have restricted their gas companies so as to make this tax too onerous for them, they themselves will agree that the tax may be added to the contract price. But I hold that we cannot do it. I am so much of a "State-rights man" that I hold to that doctrine. I believe, if I know anything about the laws and Constitution of my country, that we have no right to go into the States and legislate in this way. That is my objection to the amendment.

Mr. LAWRENCE, of Ohio. I withdraw the amendment to the amendment.

The question recurred on the amendment proposed by Mr. LAWRENCE, of Ohio, and being put, it was disagreed to.

The question then recurred on Mr. STEVEN's motion to strike out the entire clause; and being put, it was agreed to.

Mr. HOTCHKISS. I move, in line eighteen hundred and forty-six, to strike out the word "ten" and insert in lieu thereof "five." I do it for the benefit of the small companies, which the chairman of the Committee of Ways and Means has conceded cannot live under the present tax.

The amendment was not agreed to.

The Clerk read as follows:

On illuminating, lubricating, or other mineral oils, marking not less than thirty-six nor more than fifty-nine degrees Baume's hydrometer, the product of the distillation, redistillation, or refining of crude petroleum, twenty cents per gallon; and all coal oils between the specific gravity, by the Baume's test, of

thirty-six and fifty-nine degrees, inclusive, shall be deemed refined illuminating coal oil, and any person or persons who, for purposes of sale or consumption, shall mix any of the heaviest paraffine oils with the refined illuminating oils, or with the naphtha, or either one with the other, shall be deemed manufacturers of coal oil, and must be duly taxed as such, and said oil thus mixed, either with or without further distillation, shall pay the tax of illuminating, refined coal oil, if after said mixing or distillation said oils mark by Baume's hydrometer between said points of thirty-six and fifty-nine degrees.

Mr. MORRILL. I move to strike out all after the word "gallon" in line eighteen hundred and eighty-two down to the end of the paragraph, and to insert in lieu thereof the following:

And all such oils between the specific gravity by Baume's test of thirty-six and fifty-nine degrees, inclusive, shall be deemed refined illuminating oil, and any person or persons who, for purposes of sale or consumption, shall mix any of the heavier paraffine oils with illuminating oil, or with naphtha, or either one with the other, shall be deemed a manufacturer of illuminating oil, and taxed as such, and said oil thus mixed, either with or without further distillation, shall be subject to a tax of twenty cents per gallon, if after said mixing or distillation the product marks by Baume's hydrometer between the said points of thirty-six and fifty-nine degrees inclusive.

The amendment was agreed to.

Mr. SCOFIELD. I move to strike out in line eighteen hundred and eighty-two the word "twenty," and to insert "ten" in lieu thereof; and also to strike out the word "twenty" in the amendment just adopted and to insert "ten" in lieu thereof.

Mr. Chairman, when this tax upon rock oil was imposed two years ago, ten cents a gallon was the amount fixed upon it. It was considered at that time a very high tax; and, as compared with the tax imposed upon gas, it would be a very high tax now. Last year the tax was doubled. My amendment proposes to go back to the tax first levied upon this article two years ago, and place it at ten cents per gallon. If you make it twenty cents a gallon, you make it more than double the tax imposed on any other illuminating substance by this bill. In the clause that immediately follows the tax on coal oil is only ten cents per gallon, and the tax on the same amount of light derived from gas is not more than half the amount of the tax imposed on this substance.

We must remember that this is an article consumed altogether by the poorer classes of society; and that it is in itself a moralizer and enemy of vice and crime. I think the committee ought to consent that this tax upon light should be reduced to ten cents per gallon. For one, I would make the tax upon light so low that the humblest dwelling of the poorest man in the land could be made cheerful and nice; so that when he returns from his day's labor, instead of stopping at the gas-lit grocery he may come home, having a few cents left with which to purchase a paper, and sit down, and look upon the questions pending before Congress, so that he may censure by his vote his member if we impose too heavy taxes upon him.

Mr. MORRILL. I hope the gentleman will be content with his motion as we are content with his speech, and will not press it to a vote. The motion is to reduce the tax on petroleum one half, and, of course, to reduce the amount of revenue from that source one half.

It will be recollected that when this tax was first imposed it was the intention to obtain a large amount of revenue from this article on the ground that it was a better and cheaper article for light than anything else that could be obtained. We have not been deceived in that respect. It is an article that competes with everything else. There is no article that gives a more beautiful light, neither oil, tallow, nor gas, that can be afforded so cheaply. I must remind the committee, also, of the fact that we have already relieved crude petroleum from any tax. It was exempted by a special bill, and it is also exempted in this bill. I trust the gentleman and his constituents will be satisfied with that, and that this amendment will not prevail.

The question was taken on Mr. SCOFIELD's amendment, and it was disagreed to.

The Clerk read as follows:

On illuminating, lubricating, or other mineral oils marking not less than thirty-six nor more than fifty-nine degrees Baume's hydrometer, the exclusive product of the refining of crude oil produced by a single distillation of coal, shale, asphaltum, peat, or other bituminous substance, not otherwise provided for, ten cents per gallon.

Mr. MOORHEAD. In line eighteen hundred and ninety-eight I move to strike out the words "a single." Those words are improperly there and ought to be stricken out.

Mr. GARFIELD. That is right as it stands.

Mr. MORRILL. I am not aware that that expression is wrong; I have received no information but what those words should remain. As I understand it, it is right as it is.

Mr. GARFIELD. A single distillation from coal is called crude oil. The point in this whole paragraph is to levy a lighter tax on oil produced from coal when refined; and in order to make this tax correspond with the tax on crude petroleum, we say that oil refined from crude oil made by a single distillation of coal shall bear a burden of only ten cents per gallon; whereas that refined from crude petroleum shall bear a burden, as provided in the paragraph above, of twenty cents. I think the paragraph is right as it stands.

Mr. MOORHEAD. I withdraw my amendment.

The Clerk read as follows:

On oil, naphtha, benzine, benzole, or gasoline marking more than fifty-nine degrees Baume's hydrometer, the product of the distillation, redistillation, or refining of crude petroleum, or of crude oil produced by a single distillation of coal, shale, peat, asphaltum, or other bituminous substances, a tax of ten cents per gallon: *Provided*, That distillers and refiners of illuminating, lubricating, or other mineral oil, naphtha, benzine, benzole, or gasoline, shall be subject to all the provisions of law applicable to distillers of spirits, with regard to special taxes, bonds, returns, assessments, removing to and withdrawing from warehouses, liens, penalties, drawbacks, and all other provisions designed for the purpose of ascertaining the quantity distilled, and securing the payment of duties, so far as the same may, in the judgment of the Commissioner of Internal Revenue, and under regulations prescribed by him, be deemed necessary for that purpose.

Mr. SPALDING. I move to amend this paragraph by adding to it another proviso, as follows:

Provided further, That distillers and refiners of coal or mineral oil, whose production shall not exceed twenty-five barrels per day on a monthly average, shall not be required to make returns oftener than once in thirty days.

I will explain in a few words the object of this amendment, which is for the purpose of accommodating the smaller refiners. As the law now stands they are required to make a return once in ten days. Heavy capitalists can bear that, but the smaller refiners should not, I think, be required to report oftener than once in thirty days.

Mr. GARFIELD. I think the amendment of my colleague [Mr. SPALDING] is a proper one.

The amendment was agreed to.

The Clerk read as follows:

On spirits of turpentine, ten cents per gallon.

No amendment being offered,

The Clerk read as follows:

On coffee, roasted, and all articles intended for use as substitutes for coffee, or for the adulteration of coffee, and all compounds and mixtures prepared for sale, or intended for use, as coffee or as a substitute for coffee when roasted and prepared for sale, but not ground, whether of domestic manufacture or imported, a tax of one cent per pound.

Mr. MORRILL. I move to strike out this paragraph, and insert in lieu thereof the following:

On coffee, roasted or ground, ground spices and dry mustard, and on all articles intended for use as substitutes for or as adulterations of coffee, spices, or mustard, and upon all compounds and mixtures prepared for sale, or intended for use or sale as coffee, spices, or mustard, or as substitutes therefor, one cent per pound: *Provided*, That the exemption of \$1,000 of annual value of productions manufactured shall not apply to any of the above specified articles.

The amendment was agreed to.

The Clerk read as follows:

On molasses produced from the sugar-cane, and not from sorghum or imphee, a tax of three cents per gallon.

No amendment being offered,
The Clerk read as follows:

On sirup of molasses or sugar-cane juice, when removed from the plantation, concentrated molasses or melado, and cistern bottoms, of sugar produced from the sugar-cane and not made from sorghum or imphee, a tax of three fourths of one cent per pound.

Mr. STEVENS. I would suggest to the chairman of the Committee of Ways and Means [Mr. MORRILL] that there ought to be some provision made in this bill to prevent the imposition of a tax upon sugar or sirup made from other things than those here mentioned.

Mr. MORRILL. The provision the gentleman from Pennsylvania [Mr. STEVENS] indicates will more properly come in when we reach that part of the bill relating to articles exempt from taxation.

Mr. STEVENS. I mentioned this because by a very absurd construction of the law, although we specified in the old bill what kinds of sirups and sugar should be taxed, the Department held that a manufacturer of sugar or sirup from corn stalks or other articles not here mentioned should be taxed.

The Clerk read as follows:

On sugars not above number twelve Dutch standard in color, produced from sugar-cane and not from sorghum or imphee, other than those produced by the refiner, a tax of one cent per pound.

No amendment being offered,

The Clerk read as follows:

On sugars above number twelve and not above number eighteen Dutch standard in color, produced directly from the sugar-cane and not from sorghum or imphee, a tax of one and one half cent per pound.

No amendment being offered,

The Clerk read as follows:

On sugar above number eighteen Dutch standard in color, produced directly from the sugar-cane, and not from sorghum or imphee, a tax of two cents per pound.

No amendment being offered,

The Clerk read as follows:

On the gross amount of the sales of sugar refiners, including all the products of their manufactories or refineries, a tax of two and one half of one per cent. *ad valorem*. Provided, That every person shall be regarded as a sugar refiner, and pay the taxes levied by law, whose business it is to advance the quality and value of sugar upon which a tax has been paid, by melting and recrystallization, or by liquoring, claying, or other washing process, or by any other chemical or mechanical means, or who shall advance the quality or value of molasses, concentrated molasses, or melado, upon which a tax has been paid, by boiling or other process.

Mr. MORRILL. I move to amend the proviso by striking out the word "levied" and inserting the word "required" after the words "and pay the taxes."

The amendment was agreed to.

Mr. MORRILL. I move to insert the words "or duty," after the word "tax" near the close of the paragraph.

The amendment was agreed to.

Mr. GARFIELD. I move to amend this paragraph by striking out the words "by boiling or other process" at the close of the paragraph, and inserting the same words before the words "advance the quality or value of molasses," &c.

The amendment was agreed to.

Mr. STEVENS. There is one phrase here which I do not know that I understand, and I rise to inquire the meaning of it. The first sentence of this paragraph reads:

On the gross amount of the sales of sugar refiners, including all the products of their manufactories or refineries, a tax of two and one half of one per cent. *ad valorem*.

What is meant by "a tax of two and one half of one per cent. *ad valorem*?" How much is that upon a hundred dollars?

Mr. MORRILL. I think that is as plain as the English language can make it. It is one half as much as five per cent. This is the usual phrase employed in bills of this character.

Mr. STEVENS. It means two and a half per cent.?

Mr. MORRILL. Yes, sir.

Mr. HOOPER, of Massachusetts. I think if it means "two and a half per cent.," it would be better to have it say so; and I therefore move to amend this paragraph accordingly.

Mr. MORRILL. The gentleman will see that one half is the half of something. The half of what? The half of one. I believe this is strictly accurate as it is now.

Mr. HOOPER, of Massachusetts. I will withdraw my amendment.

The Clerk read as follows:

On sugar candy and all confectionery made wholly or in part of sugar, valued at not exceeding twenty cents per pound, a tax of two cents per pound; exceeding twenty and not exceeding forty cents per pound, a tax of four cents per pound; when exceeding forty cents per pound, or sold by the box, package, or otherwise than by the pound, a tax of ten per cent. *ad valorem*.

Mr. ALLISON. I move to insert after the words "not exceeding twenty cents per pound" and the words "not exceeding forty cents per pound" the words "including the tax."

The amendment was agreed to.

Mr. RANDALL, of Pennsylvania. I move to insert as a new paragraph the following:

On free-trip passes over railroads conveying passengers by steam, there shall be a ten-cent stamp affixed to each; on all six-months passes over such railroads there shall be affixed to each stamps amounting to \$2 50; and on all annual free passes over such railroads there shall be affixed to each stamps amounting to five dollars.

I desire to state, in support of this proposition, that free passes are a luxury. [Laughter.] I suppose no one will contradict that. Moreover, it is a source of revenue which the Committee of Ways and Means have failed to reach. And let me say further, that gentlemen who suppose that this provision will not raise a considerable revenue are very much mistaken. I am credibly informed that the railroad passing through my State issued, during a single year, annual passes to the number of four thousand.

Mr. PLANTS. Have you one? [Laughter.]

Mr. RANDALL, of Pennsylvania. No, sir; I have not. But if I had I should be willing to have it taxed. By this provision you would realize from that road alone a revenue to the Government of from twenty to twenty-five thousand dollars. I think that, as we are putting a tax upon every other article of use or comfort, this article ought also to be taxed. I hope the gentleman from Vermont [Mr. MORRILL] will not object to it.

Mr. MORRILL. I am not prepared to say whether I am opposed to it or not. But I should object to its being inserted here, because this portion of the bill does not relate at all to stamps. It will come in more appropriately when we reach the part of the bill relating to stamps.

Mr. RANDALL, of Pennsylvania. I am very willing to withdraw my amendment now and offer it where the gentleman from Vermont has indicated. I am, however, very glad he sees the propriety of it.

The Clerk read as follows:

On chocolate and cocoa prepared, a tax of one and a half cent per pound.

No amendment being offered,

The Clerk read as follows:

On gunpowder, and all explosive substances used for mining, blasting, artillery, or sporting purposes, when valued at thirty-eight cents per pound or less, a tax of five per cent. *ad valorem*; and when valued at above thirty-eight cents per pound, a tax of ten cents per pound.

Mr. MORRILL. I move to amend this paragraph by inserting the words "including the tax" after the words "when valued at thirty-eight cents per pound or less."

The amendment was agreed to.

Mr. MORRILL. I move to insert the words "including the tax" after the words "valued at above thirty-eight cents per pound."

The amendment was agreed to.

Mr. THAYER. I move to amend this paragraph by inserting the words "gun-cotton" after the word "gunpowder." There are two classes or descriptions of gunpowder embraced in this paragraph; the common or ordinary powders which are used for blasting purposes, subjected to a tax of five per cent. *ad valorem*; and the powders that are subjected to a tax of ten cents per pound, which embrace the fancy

powders, such as sporting powder, powder for fire-works, &c.

Now, gun-cotton, I believe, is used almost exclusively for blasting purposes, and I think it should be placed in the division embracing the explosive substances, which are subjected to the lighter tax. It costs to produce it more than thirty-eight cents per pound; and unless my amendment is adopted it will fall under the second class, and be subjected to a tax of ten cents per pound. I hope there will be no objection to it.

Mr. GARFIELD. If gun-cotton costs more than thirty-eight cents per pound it will not be freed from the higher tax by inserting it where the gentleman proposes, for that portion of the paragraph relates to explosive substances that cost less than thirty-eight cents per pound including the tax.

Mr. MORRILL. If the gentleman from Pennsylvania [Mr. THAYER] considers his proposition an important one, I think he better embrace it in an independent paragraph, to be inserted; and then move to amend this paragraph by inserting after the words "explosive substance" the words "not otherwise provided for."

Mr. GARFIELD. It is suggested that the gentleman can accomplish his purpose by moving to insert the words "and gun-cotton" before the words "a tax of five per cent. *ad valorem*."

Mr. THAYER. I will modify my amendment to that effect.

The amendment was agreed to.

The Clerk read as follows:

On varnish or japan, made wholly or in part of gum copal, or other gums or substances, a tax of five per cent. *ad valorem*.

No amendment being offered,

The Clerk read as follows:

On glue and gelatine of all descriptions, in the solid state, a tax of one cent per pound.

No amendment being offered,

The Clerk read as follows:

On glue and cement, made wholly or in part of glue, to be sold in the liquid state, a tax of forty cents per gallon.

No amendment being offered,

The Clerk read as follows:

On pins, solid head or other, a tax of five per cent. *ad valorem*.

No amendment was offered.

Mr. MYERS. I move to insert the following as an additional paragraph:

On plain photographs, ambrotypes, daguerreotypes, or other pictures by the action of light a tax of five per cent. *ad valorem*.

I presume there will be no objection to this amendment. I had understood that the chairman of the Committee of Ways and Means [Mr. MORRILL] was to have reported it. I will wait to hear from him if there is any objection to it.

Mr. MORRILL. Most certainly there is.

Mr. MYERS. I would like to hear what the objections are. If the gentleman declines to give them, then I will state in a few words why I think this amendment should be adopted.

These photographs are really works of art and ought to be exempted from taxation, as other works of art are by a subsequent section of this bill, which also exempts books, maps, charts, productions of stereotypers, electrotypers, lithographers, engravers, &c.

The photographers, however, do not ask to be entirely exempted from taxation. But the tax of five per cent. *ad valorem* which I propose will be a smaller tax than the one now imposed. It is a reduction to which I think they are entitled.

In the next place, it is absolutely an advantage that we should do away with stamps upon photographs, both for the protection of the interests of the public and the interests of the photographers. Every gentleman in this House who has had photographs taken, or who has examined them, knows that the canceling of these stamps also tends to deface the photographs when they are packed together in a case or otherwise. Generally speaking, photographers do not affix these stamps and cancel them until the photographs ordered are called

for, and in that case the purchaser, after he has taken them away, often finds that the front or face side of the picture is somewhat marred by the stamps attached to the reverse side of the picture laid against it or the mark of the ink with which it is canceled or defaced. But in other cases, where the pictures are put up beforehand, the injury falls upon the photographer, who loses all the pictures thus defaced.

Mr. Chairman, there is among those engaged in this business a very general demand for the adoption of such a provision as I now propose; and I had understood that the committee would favor it. There are, probably, twenty thousand photographers in the United States. They are men generally well known to the communities in which they do business, and honorable, and their returns of sales will be as reliable as those of any other citizens.

I understand that the chief objection made to this proposition is based on the fact that there is a small number of traveling photographers from whom the tax might not be collected if we should do away with the provision requiring stamps to be placed upon the pictures. But, sir, these traveling photographers are by the very provisions of this bill almost exempted from taxation. Frequently the photographs made by men of this class are of so small a size that stamps cannot be affixed to them, or they are furnished at so low a price as to be exempt under a subsequent provision of this bill. Besides that, sir, the number of this class is extremely small as compared with the number of those who do a regular business in some fixed place, and if they attempt to defraud—which they are no more likely to do than others—detection is tolerably sure to follow. The amendment which I propose contemplates nothing more than simple justice to the photographers, while it would also be of great advantage to the public.

Mr. MORRILL. Mr. Chairman, probably no tax provided for in this bill is more just than that which the gentleman from Pennsylvania proposes to remove; and there is no case in which there is greater reason for requiring the affixing of a stamp, if we mean to realize any revenue.

The gentleman speaks of the small number of the traveling photographers. Let me say to him that these are as fifty to one compared with those who have fixed places of business. And from these traveling photographers we should derive no revenue without such a provision as that which he proposes to strike out.

It is true that we do propose, in another part of this bill, to exempt from taxation "photographs or any other sun picture, being copies of engravings or works of art, when the same are sold by the producer at wholesale at a price not exceeding ten to fifteen cents each, or are used for the illustration of books, and on photographs so small in size that stamps cannot be affixed."

This provision is intended to refer to small photographs, some of which are not larger than the ordinary quarter of a dollar, and some even smaller. These we propose to exempt entirely. But as to those of larger size, which are taken upon paper—such photographs as the gentleman buys for himself and for his beautiful children—the gentleman of course is not unwilling to pay for them. There is a very large sale of these little *souvenirs*, and of course they yield a large revenue.

As to the suggestion that these works are injured by the cancellation of the stamps, I must say that that does not necessarily follow. When ordinary care is taken there is no difficulty in drying the ink without injuring the pictures. It is only when the stamps are canceled in a rough and hurried manner—as, for instance, by throwing sand upon the ink—that any injury can result. If time is allowed for the ink to dry or the usual soft paper is placed between the cards, no difficulty can arise.

Mr. MYERS. For the purpose of saying a few words in reply to the gentleman from Vermont, [Mr. MORRILL,] I move to amend my amendment by striking out the last word.

Mr. Chairman, there is one part of the gentleman's remarks which I can heartily accept. I will not deny the beauty of my children. But I must say that I do not like to have their photographs defaced by ink marks which have been transferred to the face of the picture, as is the case with a photograph which I have now before me. I object to having the pictures of my children—beautiful as the gentleman concedes they are—thus disfigured.

Now, sir, on page 133 of this bill, just preceding the paragraph which my friend has quoted, is another paragraph exempting from taxation "paintings and statues and groups of or of statuary produced by artists as works of art." These photographs are essentially works of art, too; and were it not that the photographers are willing to pay a proper tax to the Government, I would ask that they should be exempted altogether. But they have no such request to make. They only ask a modification of the law, by which they shall be relieved from that which is an inconvenience, vexation, and loss to themselves and the public who patronize them.

Let me give another reason why the amendment should pass and the taxation on this class of artists should be reduced somewhat, as is proposed. Within the last four or five years alcohol, sulphuric ether, acetic acid, and the other chemical materials used in the manufacture of photographs have advanced in price more than two hundred and fifty per cent. But the principal question is, shall we collect tax from these men in the objectionable shape of stamps, or impose an *ad valorem* duty upon the amount of their sales, trusting them to make proper returns, as we trust other classes of manufacturers?

By imposing the *ad valorem* duty and dispensing with the provision requiring stamps to be affixed to these photographs we greatly accommodate the public at large, while we save the photographers from a large annual loss; for in a package of pictures the face of one is placed against the back of the other, and thus the ink on the stamp as well as the stamp itself, as I have said, often defaces the picture. By an *ad valorem* tax the Government would realize its proper amount of revenue; and certainly five per cent. *ad valorem* is a sufficient tax upon these pictures.

Mr. MORRILL. I have merely to say that these photographs are articles of luxury, and those who purchase them can afford to pay the tax.

Mr. MYERS. I withdraw the amendment to the amendment.

On agreeing to the amendment, there were—ayes twenty, noes not counted.

Mr. MYERS. I withdraw the amendment for the present.

Mr. THAYER. I desire to call the attention of the committee to the fact that in the amendment which was adopted in regard to gun-cotton the object which the committee contemplated was not accomplished, and it is necessary to make an addition. I trust that by unanimous consent the committee will revert to that paragraph, in order that the necessary amendment may be made.

The CHAIRMAN. Is there any objection?

There was no objection; and Mr. THAYER moved to amend by inserting, before line nineteen hundred and sixty-four, the following words: "on gun-cotton a tax of five per cent. *ad valorem*."

The amendment was agreed to.

Mr. THAYER. A slight additional amendment is necessary, and I move to amend by inserting after the word "purposes," in line nineteen hundred and sixty-five, the words "not otherwise provided for."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out in line nineteen hundred and seventy-five the words "to be."

The amendment was agreed to.

The Clerk read as follows:

On screws, commonly called wood screws, a tax of ten per cent. *ad valorem*.

On clocks and time-pieces, and on clock movements, when sold without being cased, a tax of five per cent. *ad valorem*.

On all soaps valued at above three cents per pound, not perfumed, and on salt-water soap, made of coconut oil, a tax of five mills per pound.

On all other perfumed soaps a tax of three cents per pound.

On all uncomounded chemical productions, not otherwise provided for, a tax of five per cent. *ad valorem*.

On essential oils of all descriptions a tax of five per cent. *ad valorem*.

On all furniture, or other articles made of wood, sold in the rough or unfinished, not otherwise provided for, a tax of five per cent. *ad valorem*. Provided, That all furniture, or other articles made of wood, previously assessed, and a tax paid thereon, shall be assessed a tax of five per cent. *ad valorem* upon the increased value only thereof when sold in a finished condition.

On salt, a tax of three cents per one hundred pounds.

Mr. PLANTS. I move to amend by striking out the following: "on salt a tax of three cents per one hundred pounds."

Mr. Chairman, I make this motion because, as I believe, such a tax as this ought not to be imposed upon the article of salt. It is an article of prime necessity. I represent a district of Ohio in which pretty much all the salt made in that State is manufactured. I am familiar with the condition of that branch of industry there. I know that during the last year a furnace costing some thirty thousand dollars, and manufacturing twenty thousand bushels of salt per month, paid an internal revenue tax of \$700 per month—about eight thousand dollars a year; while at the same time the manufacture of the salt, conducted in the most economical manner, cost more than the market value of the article. The consequence was that a furnace of that kind, running through the year, paid to the Government about eight thousand dollars internal revenue tax, and found itself at the end of the year so much in debt that it was obliged to suspend; so that the Government gets nothing for the present.

Mr. Chairman, I think that an article of such prime necessity ought to be relieved from tax so far as possible. As matters have stood heretofore, the manufacture of salt could not be carried on with any profit, and it has in many cases been productive of loss to the manufacturer.

Mr. HENDERSON. I move, *pro forma*, to strike out the words "three cents."

I am glad that the views of the gentleman from Ohio [Mr. PLANTS] and my own meet on this subject. I intended to make the same motion that he did. I have no doubt this amendment would reduce the revenue to a considerable extent, but I think that might be very easily made up by imposing an additional tax on luxuries, such as liquors and tobacco.

I withdraw the amendment to the amendment.

Mr. MORRILL. I move to amend by inserting "one half," after the words "three cents," merely for the purpose of saying that the present tax on salt is seven cents and two mills per hundred pounds, and the Committee of Ways and Means thought it was an interest that ought to be relieved, and therefore they proposed to reduce it to three cents. And I presume, with the contemplated action on the tariff bill, they will also be able to give some further relief to this interest. I think it should not be entirely exempt from tax, and that it is advisable for the friends of the salt interest to retain the rate proposed.

I withdraw my amendment to the amendment.

The question recurred on the motion of Mr. PLANTS to strike out the paragraph.

Mr. PLANTS. I will modify my motion by moving to insert "one" instead of "three." If it is not thought advisable to strike out the whole section I think this reduction would be a very material relief to the manufacturers of salt. It looks like a small item to be sure—three cents on a hundred pounds—but when you come to manufacture large quantities experience proves that the more salt is made the more unfortunate the owners of the work are. I admit that there is some relief proposed in the exemption of some articles that go into

the manufacture of salt. Under the old law we paid taxes on coal, on barrels, and on almost every item that went into the manufacture, and then seven cents and a fraction on every hundred pounds of salt manufactured, and then—no, we were fortunately relieved from paying any income tax, because we had none to be taxed upon after all that.

Mr. MORRILL. We have relieved this interest as far as we thought it prudent to do. The enumeration of what we have done ought to satisfy the gentleman that we have done all that can reasonably be required. We have taken off more than one half the tax and exempted coal and casks and barrels entirely.

Mr. HARDING, of Illinois. I move to insert "two" in place of "one." I am in favor of striking out this tax. The income I am informed is very small; I do not know exactly how much.

Mr. ALLISON. Three hundred and fifty thousand dollars.

Mr. HARDING, of Illinois. For last year I suppose. The principle upon which I oppose this tax is this, that it operates unequally. The largest portion of salt is consumed in the packing of beef and pork, and some sections, of course, consume much more than others. In the manufacturing districts at the East comparatively little is consumed. The burden of the tax will fall upon the agricultural interest of the country almost entirely.

I withdraw the amendment.

The question being taken on the amendment of Mr. PLANTS to strike out "three" and insert "one," it was not agreed to.

The Clerk read as follows:

On reapers, mowers, threshing-machines, scales, brooms, and wooden-ware, a tax of three per cent. *ad valorem*.

Mr. WOODBRIDGE. I move to amend by adding the following:

Provided, That when any parts of reapers, mowers, threshing-machines, or scales shall be once assessed and a tax previously paid thereon, the amount so paid shall be deducted from the tax on the finished article.

Mr. WILSON, of Iowa. I ask the gentleman to withdraw that for the present and let me offer an amendment to strike out "reapers, mowers, and threshing-machines." If that is carried he can then add his proviso so far as relates to scales.

Mr. WOODBRIDGE. I withdraw it.

Mr. WILSON, of Iowa. I now move to strike out "reapers, mowers, and threshing-machines."

I see that the object which I aimed at is partially accomplished by the provision on page 135, where the committee place in the free list "plows, cultivators, harrows, straw and hay cutters, planters, seed-drills, horse-rakes, and winnowing-mills." Now, I can see no greater propriety in exempting these articles from the tax imposed by the bill than those which I propose to strike out in the paragraph under consideration. It is simply a relief to the great food-producing portion of our population, the agriculturists, and that is the sole object I have in offering the amendment. There is no class of our people so poorly remunerated for the amount of capital and labor invested in their pursuit as the agriculturists; and it is for the purpose of granting them the partial relief that may be derived from the removal of this tax that I offer this amendment.

Mr. MORRILL. Mr. Chairman, the list of articles used by agriculturists is very extensive; and it is conceded that there are many of those articles that might with some propriety be exempted from taxation. But the Committee of Ways and Means were compelled to select from that list. We found that the wants of the Treasury would not permit us to exempt all. If we were to exempt all agricultural machines and tools, hoes, shovels, scythes, axes, sickles—I might go on with a never-ending list—we should relieve the Treasury from an inconceivable amount of revenue. The tax we now propose upon these articles is only three per cent. *ad valorem*, and they are articles made by men who own patents, and can get whatever price

they please for them. The consumer will gain very little by any reduction we may make. The tax that we shall get will hardly make any change in prices; for they are articles which afford large profits and command great prices, and these prices are already fixed. I trust, therefore, that this committee will coincide with the Committee of Ways and Means, and refuse to strike out the tax on these articles.

Mr. PAINE. I rise to move an amendment; but before doing so I desire to ask the chairman of the Committee of Ways and Means what will be the tax upon reapers, mowers, &c., if we strike out this paragraph.

Mr. MORRILL. Five per cent.

Mr. PAINE. I move, then, so to amend the bill as to transfer these three articles, reapers, mowers, and threshing-machines, to the free list, among plows, cultivators, &c.

Mr. WILSON, of Iowa. I will state that my intention is to move to insert these articles in the free list when we reach it; but we must strike them out here.

The CHAIRMAN. It is not in order to take up the free list at this time; the committee has not yet reached that paragraph.

Mr. PAINE. I am very anxious to vote for the amendment of the gentleman from Iowa, provided these three articles can be exempted from taxation; but I am very unwilling to vote for it if it will impose upon them a tax of five per cent. I move, therefore, to add at the end of line two thousand and three the words "reapers, mowers, and threshing-machines shall be exempt from taxation." The clause will then read:

On scales, brooms, and wooden-ware a tax of three per cent. *ad valorem*; reapers, mowers, and threshing-machines shall be exempt from taxation.

Mr. HART. I hope the amendment offered by the gentleman from Iowa [Mr. WILSON] will be adopted by the committee. I see no propriety in taxing these three items of manufacture while others are exempted. The gentleman from Vermont [Mr. MORRILL] stated that the Committee of Ways and Means had selected a few articles from the large list of agricultural implements, but that they found it impossible to include a large number of items on that list, such as shovels, axes, &c., and that they have selected only a few. It will be observed that in that selection they have taken "machines" not "tools."

Mr. MORRILL. I beg the gentleman's pardon. If he will look at page 135 he will find that they exempt "plows," "cultivators," "harrows," &c.

Mr. HART. A plow is not a farming "tool." Now, in reply to a remark made by the gentleman from Vermont, [Mr. MORRILL], I happen to know that so far as threshing-machines are concerned the patents are about exhausted, and that there is not a threshing-machine patent in the country that is worth anything. As to the immense profits which are alleged to have been derived from these manufactures, in my district these machines were manufactured very extensively, and I know that during the past four or five years these interests have rather suffered than otherwise. I certainly think that these three items should be stricken out in justice to the manufacturers of these peculiar machines. They are about the only machines used for agricultural purposes which are not included in the free list.

Mr. GRISWOLD. I move to amend this paragraph further by inserting the words "plantation hoes." I do that because a plantation hoe is a peculiar instrument. The manufacturer of the ordinary hoe, as I understand, requires but little or no protection in this country. But the plantation hoe is a peculiar instrument manufactured for the South. It is very heavy, and in consequence of there being no machine labor upon it, it is impossible for the manufacturer in this country to compete with the manufacturer of England in this respect, if he is required to pay a tax upon it.

Mr. MORRILL. I must oppose the amendment of the gentleman from New York, [Mr. GRISWOLD.] I find that there are various gentle-

men charged with amendments for exemptions which they will offer if this amendment carries, and there will be no end to them. The Committee of Ways and Means have recommended to wholly exempt from tax plows, cultivators, drills, &c., and the reduction of the tax on these patented articles from six per cent. to three per cent., or one half.

Now, I ask gentlemen if they cannot afford to wait another year before they appeal to us for any further exemptions. My friend behind me [Mr. STEVENS] is ready to ask that brooms and wooden-ware be exempted from taxation. Another member will ask for the exemption of shovels, and another for the exemption of edge tools. I trust the Committee of the Whole will think that we have gone as far in the exemption of articles from taxation as it is advisable to go at this time.

The amendment of Mr. GRISWOLD was not agreed to.

The question recurred upon the amendment of Mr. PAINE.

Mr. LAWRENCE, of Ohio. I move to amend the amendment of the gentleman from Wisconsin [Mr. PAINE] by inserting the words "horse-powers, corn-shellers, and winnowing-machines."

Mr. ECKLEY. That is already provided for.

Mr. LAWRENCE, of Ohio. Then I withdraw my amendment.

The amendment of Mr. PAINE was not agreed to.

The question recurred upon the amendment of Mr. WILSON, of Iowa, to strike out the words "reapers, mowers, threshing-machines."

Mr. STEVENS. I think that we better strike out "brooms and wooden-ware," and I move to amend the amendment in that way. They are so small articles that I hardly think a tax should be imposed upon them.

The CHAIRMAN. The amendment of the gentleman from Pennsylvania [Mr. STEVENS] is not germane to the amendment of the gentleman from Iowa, [Mr. WILSON.]

Mr. STEVENS. Then I move to amend the amendment by striking out all but the letter "s." [Laughter.] And I will confine myself to my amendment by saying that while all but the letter "s" should be left in, I think that "brooms and wooden-ware" should be stricken out. Now, if the gentlemen of the Committee of Ways and Means had come to the help of the woman who scrubs with her broom and the woman who cooks in her wooden-ware, it seems to me there would be some propriety in their action.

Mr. WILSON, of Iowa. Our women out West do not do that.

Mr. STEVENS. What! do you not scrub any out West? [Laughter.] You ought to.

Mr. WILSON, of Iowa. We do not cook in wooden-ware. [Laughter.]

Mr. STEVENS. They cook in wooden-ware with us; they bake and stew, especially stew. [Renewed laughter.]

Now, I do not know anything that can bear taxation better than reapers and mowers and threshing-machines. The farmer is pretty well relieved from taxation, as he ought to be. And there is no class of people who get off so well as the farmer. I believe the farmers in my county are taxed as high as any in the United States. The most of them have machines of this kind, that can do the work of eight or ten men each, and thus they can afford to pay the tax imposed here.

Now, I should be glad if we could get along without any tax at all. And when our wise Secretary of the Treasury shall have consolidated his bonds so as to have them five per cent. all around, and pay three per cent. in negotiating them, and make them payable in gold instead of currency—make them about ten per cent. instead of what they are now; when he does all that, we may be able to do without taxes; but we cannot now. I withdraw my amendment to the amendment, and let the letter "s" come out with the rest. [Laughter.]

The question recurred upon the amendment of Mr. WILSON, of Iowa.

Mr. SLOAN. I move to amend the amendment by adding to it a motion to insert the words "pig iron," in place of what the gentleman from Iowa [Mr. WILSON] proposes to strike out, so that our revenues shall not suffer in consequence of striking out those articles. I think pig iron with this tax will produce a much larger revenue than the articles my friend from Iowa proposes to strike out. And I think it can much better bear taxation than the agricultural interests of the country. I am informed that the iron interest is in a far more prosperous condition now than agricultural interests generally.

The question was taken upon Mr. SLOAN's amendment to the amendment, and it was not agreed to.

The question recurred upon the amendment of Mr. WILSON, of Iowa; and being taken, upon a division, there were—ayes 37, noes 29; no quorum voting.

Tellers were ordered; and Mr. WILSON, of Iowa, and Mr. LE BLOND, were appointed.

The committee again divided; and the tellers reported—ayes 58, noes 35.

So the amendment was agreed to.

Mr. WOODBRIDGE. Mr. Chairman, I was opposed to striking out the articles which have been stricken from the bill. But, most assuredly, since they are stricken out, there should, in justice, be at least an exemption in reference to scales. I therefore move to amend by adding, at the end of the paragraph, the following:

Provided, That when any parts of scales shall have been once assessed, and a tax previously paid thereon, the amount so paid shall be deducted from the tax on the finished article.

Mr. Chairman, I will state my reason for offering this amendment. In the manufacture of scales various articles, such as rods, screws, and bolts, are used. These, when constructed, are taxed separately. Under the existing law they are taxed \$3 60 per ton. The scales when completed, with these articles as constituent parts, are taxed six per cent. upon the gross value. In this way a double taxation is imposed on the manufacturer. It is certainly unjust that articles should thus be taxed twice. If the different articles which enter into the structure of scales are subjected to a separate tax, they should not be included in the assessment when estimating the gross value of the finished article. Duplicate taxation is always unjust.

Mr. GARFIELD. I rise to oppose the amendment of the gentleman from Vermont, [Mr. WOODBRIDGE.]

The taxation upon the articles mentioned in this paragraph has been reduced from six to three per cent. for the very purpose of favoring them, and for the further purpose of avoiding the complex system which we should have if the small parts which enter into the structure of scales, threshing-machines, mowers and reapers, were exempted from their proportionate share of the tax upon the gross value of the finished articles. In collecting the tax upon the completed articles, it would be very difficult to compute and allow the deduction for every little screw, or bolt, or rod, on which a separate tax might previously have been paid. Such a system as that would be extremely vexatious; and for the purpose of avoiding such a system, the committee concluded to fix the tax on the finished article at three per cent. *ad valorem*, instead of five per cent., which is the rate imposed on engines and other large machinery where the amount of tax previously paid on particular parts can readily be calculated. The gentleman's amendment would involve us in the very difficulties which the committee sought to avoid.

Mr. WOODBRIDGE. For the purpose of replying to the gentleman from Ohio, [Mr. GARFIELD,] I move to amend the amendment by striking out the last word.

Mr. Chairman, I am quite surprised at the remarks which the gentleman has just made. I

think that the idea advanced by him is a new offspring of his brain; for when I spoke to him in reference to this matter two or three days ago, he conceded that there was eminent propriety in such an amendment as I have proposed. But it seems the gentleman has just discovered that a desire to avoid such a system as that proposed in the amendment was the reason which induced the Committee of Ways and Means to propose a reduction of the tax on scales from six to three per cent. *ad valorem*.

Now, sir, my impression is that the reason actuating the committee in making this reduction was the propriety and justice of a policy of reduced taxation upon articles in general use and necessary for the increasing business of the country, and that they found that such a reduction could be made without interfering with the collection of the needful amount of revenue for the support of the Government.

It appears to me that the amendment which I propose will not involve us in any such difficulties as the gentleman from Ohio apprehends. The various articles used in the manufacture of scales are ordinarily made and finished in the shop where the scales are constructed. They are subject to a separate taxation; and then when put into the scales are taxed over again at the rate of three per cent. on their value. My amendment will not increase in the least degree the difficulty of collecting the tax.

The trouble will be just as great whether the amendment is passed or not. These various articles are manufactured in large quantities, and are used as scales are constructed, and there can be no difficulty in designating how much of this or that article is used in the construction of one or fifty or five hundred scales. So that the argument of the gentleman amounts to nothing.

It is always best to do right when we know what right is. A tax is always a blow and a burden. It is necessary to be imposed for the support of the Government, and is a just burden upon the subject in consideration of the protection which Government affords; but certainly it is unwise and unjust to duplicate taxation. If it were necessary to impose a tax of six per cent. on scales I am the last man that would object to it. I am for taxing all articles sufficiently and with discrimination and discretion to raise the revenue that Government requires; but in imposing the tax I would do justice to all and injustice to none as far as possible. And I assert it as a principle that there should not be duplicate taxation where it can possibly be avoided.

Now, I know that the manufacture of scales in this country has not been a remunerative business. There is one firm in my State which has existed thirty years or more, and has amassed a fortune. There are other scales coming into use made by other manufacturers. There is one new manufactory within my own district, where I know there has been no money made as yet; no dividend has been paid upon the stock. I also happen to know that I have had some stock of that kind myself which turned out as my investments usually do—not a dollar of interest and a loss of the principal. I hope this amendment will be adopted, because it is right. It is not class legislation, nor legislation for the benefit of individuals, but the assertion of a principle.

Mr. GARFIELD. I do not wish to retail any private conversation between the gentleman and myself, or any of our private opinions that we have exchanged outside.

Mr. WOODBRIDGE. If the gentleman will allow me, I beg pardon for any reference to the gentleman's views. I would not have called upon him if I had not such great consideration for his integrity and good judgment. I supposed the gentleman was sincere in his approval of the amendment.

Mr. GARFIELD. I only want to say that the gentleman will recollect that a short time afterward I told him plainly, in his seat, that I thought the amendment was not a proper one.

Mr. WOODBRIDGE. According to my

recollection that was since I introduced the amendment.

Mr. GARFIELD. It was an amendment in regard to engines to which he referred. I thought it was a very proper one, and I admitted at the time that the principle ought to be ingrafted wherever it could be, namely, that we shall not duplicate taxes by taxing parts of a machine and afterward taxing the machine when it is put together. But let it be understood that when we take away the duplicate tax we leave the tax *ad valorem*. In this case the *ad valorem* tax is reduced to three per cent. And another thing is done. The transitory tax which is added to these machines in another part of the bill is taken away, which leaves this interest still more free.

As I said before, it would be a very vexatious and troublesome tax to collect, and I trust the gentleman's amendment will not prevail.

Mr. WOODBRIDGE. I withdraw the amendment to the amendment.

The question being taken on the original amendment offered by Mr. WOODBRIDGE, it was not agreed to.

Mr. WOODBRIDGE. I move to strike out the word "scales" and to insert at the end of the paragraph the following: "scales shall be put upon the free list."

Mr. Chairman, we had a good deal of talk here in regard to farming. It seems to be an extremely popular occupation.

Mr. SPALDING. If the gentleman will allow me, I wish to move to strike out the whole paragraph.

Mr. WOODBRIDGE. No, sir. The gentleman can make that motion afterward. It is very popular and very acceptable, doubtless, to agriculturists for gentlemen to get up here and say that we ought not to oppress that honorable class of men who do so much for the welfare of their country. Well, sir, I am an agriculturist myself, and most of my constituents are agriculturists. They constitute at least one of the most independent, intelligent, and patriotic class of men that the sun ever shone upon; but, sir, I am informed that farmers, as a class, pay less taxes, in proportion to their means, than men engaged in any other occupation. You get but little income from the farmers who own high-priced sheep, or from those who cultivate thousands of acres of our western prairies. Honorable and high-minded as they are, they are not the men who yield the money for the support of the Government. It is the manufacturers who return the income that rolls the wheels of Government, and yet gentlemen say we must strike the tax off this and the other article because the farmers use them; and our legislators do not always seem to be independent enough to act in accordance with their own judgments, but rather pander to what they suppose to be the popular sentiment, so as to have the farmers say "This is the man who looks after our interest; we must return him to Congress."

Sir, I will never lend myself to a cry of that kind, whether I come to Congress or stay at home; I respect the farmer, because he is manly, and is at the very foundation of society. His is the earliest and noblest occupation known to civilized life. But, at the same time, I do not believe in giving up principles of right merely for the purpose of coaxing and flattering those who have so much to do in electing members of Congress.

Now scales are used, it is true, on farms, and every farmer wants one to weigh his beef, his hay, his wool; but it is not merely because the farmer wants them that I propose the amendment.

[Here the hammer fell.]

Mr. MORRILL. As this paragraph has been fully and eloquently discussed, I hope the question will be taken.

The amendment of Mr. WOODBRIDGE was not agreed to.

Mr. WASHBURN, of Massachusetts. As the committee have stricken out so much of this paragraph, I suppose there will be no

objection to striking out "brooms and wooden-ware," and I make that motion. The great expense of the articles of wooden-ware, tubs, and pails, consists of iron hoops and wires and various articles which pay a tax of five per cent.

Mr. MORRILL. I hope that will not be stricken out.

The question was taken upon the amendment; and on a division, there were—ayes 35, noes 33; no quorum voting.

Tellers were ordered; and Mr. WASHBURN, of Massachusetts, and Mr. Ross, were appointed.

Mr. MORRILL. As there is evidently not a quorum present, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. WILLIAM J. McDONALD, its Chief Clerk, announced that the Senate had passed with amendments bills of the following titles, in which he was directed to ask the concurrence of the House:

A bill (H. R. No. 37) making appropriations for the support of the Military Academy for the year ending the 30th of June, 1867;

A bill (H. R. No. 216) for the relief of Cordelia Murray;

A bill (H. R. No. 261) making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1867, and for other purposes;

A bill (H. R. No. 459) granting a pension to Anna E. Ward;

A bill (H. R. No. 462) granting a pension to Mrs. Sally Andrews; and

A bill (H. R. No. 493) granting a pension to Mrs. Joanna Winans.

The message further announced that the Senate had receded from their amendment to the bill (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes.

The message further announced that the Senate had postponed indefinitely the bill of the House (No. 408) for the relief of James Foster.

The message further announced that the Senate had passed without amendment the following bills of the House:

An act (H. R. No. 265) granting a pension to John Hoffman, of Madison county, in the State of New York;

An act (H. R. No. 434) for the relief of Isabella Strubing;

An act (H. R. No. 445) for the relief of the legal representatives of Betsey Nash;

An act (H. R. No. 460) granting a pension to Spencer Kellogg; and

An act (H. R. No. 494) for the relief of Martha J. Willey.

Also, that the Senate had passed the following bill and joint resolution, in which the concurrence of the House was requested:

An act (S. No. 123) granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad, in California, to Portland, in Oregon; and

A joint resolution (S. No. 97) to authorize certain medals to be distributed to veteran soldiers free of postage.

MILITARY ACADEMY APPROPRIATIONS.

On motion of Mr. STEVENS, the amendments of the Senate to House bill No. 37, making appropriations for the support of the Military Academy for the year ending the 30th of

June, 1867, were taken from the Speaker's table and referred to the Committee on Appropriations.

DIPLOMATIC APPROPRIATIONS.

On motion of Mr. STEVENS, the amendments of the Senate to House bill No. 261, making appropriations for the consular and diplomatic expenses of the Government for the year ending the 30th of June, 1867, and for other purposes, were taken from the Speaker's table and referred to the Committee on Appropriations.

ASSISTANT SECRETARY OF THE NAVY.

Mr. RICE, of Massachusetts. I ask unanimous consent to take from the Speaker's table Senate bill No. 318, to authorize the appointment of an additional Assistant Secretary of the Navy.

Mr. LAWRENCE, of Ohio. I object.

Mr. RICE, of Massachusetts. Then I move to proceed to business on the Speaker's table.

The question was taken, and upon a division there were—ayes 31, noes 31; no quorum voting.

Mr. INGERSOLL. I move the House do now adjourn.

The motion was agreed to; and accordingly (at twenty-five minutes to five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BROMWELL: The petition of Charles H. Wood, and others, citizens of Iroquois county, Illinois, praying for a Bureau of Insurance.

Also, the petition of citizens of Macon county, Illinois, praying for a mail route from Decatur, Illinois, to Newburg, Illinois.

By Mr. BLOW: The memorial of the Union Merchants' Exchange of St. Louis in regard to the Senate bill providing for draw-bridges on the Mississippi river.

By Mr. DODGE: The petition of Duncan, Sherman & Co., Brown, Brothers & Co., and others, of the city of New York, against a tax of five per cent. a pound on cotton.

By Mr. HUBBARD, of Connecticut: The petition of James C. Cooke for relief as to time of filing application for renewal of patent.

By Mr. MARVIN: The petition of 123 citizens of Saratoga county, New York, asking an increase and an *ad valorem* duty on foreign wool.

By Mr. MORRIS: The petition of F. D. Mason, Esq., and others, of Geneva, New York, asking for a law in relation to inter-State insurance companies.

Also, the petition of Joseph Hershey, jr., of Goshen, New York, and others, asking for an increased duty on imported wool.

By Mr. O'NEILL: The memorial of the officers of the Entomological Society of Philadelphia, asking for an appropriation of \$3,000 per annum to be expended in the publication and circulation of the monthly periodical called the *Practical Entomologist*.

By Mr. ROLLINS: The petition of A. J. Prescott, and 19 others, citizens of Concord, New Hampshire, James Dean, and 22 others, citizens of Lowell, Massachusetts, A. G. Duffer, and 32 others, citizens of Providence, Rhode Island, severally praying for the passage of an act regulating inter-State insurances of all kinds.

By Mr. SITGREAVES: The petition of glass manufacturers, praying a reduction of duties on glass-ware.

By Mr. STILLWELL: The petition of Governor Morton, and others, trustees of the Indiana Agricultural College, praying for an amendment to the act granting lands to the States to institute agricultural colleges.

By Mr. VAN AERNAM: Resolutions of the Legislature of New York, in favor of equalizing bounties to soldiers and sailors who enlisted in 1861 and 1862.

By Mr. WARD: The petition of 125 citizens of Bath, New York, in favor of increasing the tariff on wool.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 19, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

The Journal of yesterday was read and approved.

CLERKS IN THE DEPARTMENTS.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

In further response to the resolution of the House of Representatives of the 7th instant, calling for information in regard to clerks employed in the various Executive Departments, I transmit herewith reports from the Secre-

tary of the Navy, the Secretary of the Interior, and the Postmaster General.

ANDREW JOHNSON.

WASHINGTON, D. C., May 17, 1866.

The message, with the accompanying documents, was laid upon the table and ordered to be printed.

LEAVE OF ABSENCE.

Mr. BENJAMIN. I desire to ask leave of absence for myself on account of sickness in my family. I cannot tell how long I may be absent.

No objection was made, and indefinite leave of absence was granted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. McDONALD, its Chief Clerk, informed the House that the Senate had passed, with amendments, bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (H. R. No. 345) for the relief of Christina Elder; and

An act (H. R. No. 363) supplementary to the several acts relating to pensions.

The message further announced that the Senate had passed, without amendment, the following bill:

An act (H. R. No. 386) for the relief of Francis A. Gibbons.

The message further announced that the Senate had passed the following bills, in which the concurrence of the House was requested:

An act (S. No. 251) for the relief of Commodore Thomas Turner;

An act (S. No. 261) for the relief of Mrs. Anna G. Gaston;

An act (S. No. 275) for the relief of Cornelius Crowley;

An act (S. No. 291) granting a pension to Mrs. Rebecca Irwin;

An act (S. No. 298) granting a pension to Jane D. Brent;

An act (S. No. 299) granting a pension to Jane E. Miles;

An act (S. No. 309) to authorize Samuel Stevens, a Stockbridge Indian, to enter and purchase a certain tract of land in the Stockbridge reservation of Wisconsin;

An act (S. No. 314) for the relief of Sarah J. Purcell;

An act (S. No. 321) for the relief of Maria Syphax;

An act (S. No. 326) granting a pension to Mrs. Harriet B. Crocker;

An act (S. No. 327) granting a pension to Mrs. Katharine F. Winslow; and

An act (S. No. 329) for the relief of Mrs. Margaret Kaetzel.

PROTECTION OF THE FRONTIER.

Mr. ROSS. I desire to enter a motion to reconsider the vote by which the bill to provide for the better protection of the frontiers of the United States and Territories thereof was referred to the Committee on Military Affairs.

The SPEAKER. The motion will be entered on the Journal.

EQUALIZING BOUNTIES.

Mr. BLAINE. I wish to enter a motion to reconsider the vote by which House bill No. 602, to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union, was referred to the Committee of the Whole on the state of the Union.

The SPEAKER. The motion will be entered on the Journal.

PRESIDENT'S ANNUAL MESSAGE.

The SPEAKER. By order of the House, no business is in order to-day but debate upon the President's annual message as in Committee of the Whole, upon which the gentleman from Ohio [Mr. ASHLEY] is entitled to the floor.

RECONSTRUCTION.

Mr. ASHLEY, of Ohio. I am not prepared to go on to-day, and therefore I will yield the floor to the gentleman from New York, [Mr. MORRIS.]

Mr. MORRIS. Mr. Speaker, if ambition begat treason; and if treason begat rebellion; and if the rebellion begat reconstruction; and if reconstruction begat the amendment of the Constitution of the United States and the measures which accompany it, now pending in Congress, it may well be that the joint committee on reconstruction is only one of the several instruments rendered essential in perfecting, rather than the originator of, this series of acts in the great drama of events made necessary to save the nation and to restore it to homogeneous concord. It may well be, also, that these schemes are severally indispensable to check the growth of the poisonous shoots which are likely to spring from the remaining roots of the so recently felled tree of treasonable planting. Be this as it may, they are fitting themes for the historian, and perhaps for the legislator; but in what I have to say I shall allude to these subjects and the incidents connected with them so far only as in my judgment they may be pertinent in establishing the following affirmations:

1. The incidents connected with the revolt of the southern States have, in no respect, abridged the powers or the jurisdiction of the Government of the United States.

2. These incidents have changed the relations of these States toward the General Government and they have affected some of their rights.

3. The relations thus changed and the rights thus affected can be restored to these States only by the legislative branch of the Government.

4. These relations and these rights should be restored as speedily as the interests of all the parties concerned will permit.

What are the facts?

Eleven of the United States passed ordinances of secession. They insisted that the mere act of their passage absolved them from all allegiance to and effectually severed their relations with the General Government, and that thereby they were rendered sovereign and independent. This pretense was denied by the General Government, and their ordinances were pronounced utterly void. An appeal to arms was taken, a remorseless war was waged, in the prosecution of which these States were overpowered and disarmed. They now propose to resume their former position under the Government they sought to destroy. Hence the question which now divides Congress and the country. In the discussion of this, I inquire:

1. Did the passage of those ordinances, or the waging of this war, abridge any of the powers or the jurisdiction of the national Government over these States?

I aver that at the passage of these acts of secession and at the commencement of this war for all national purposes the General Government had unquestioned jurisdiction over the entire territory and the inhabitants of these States severally. This jurisdiction grew out of a covenant, by virtue of which the covenantees instituted the Government of the United States. Under this covenant were vested rights of nearly a century's growth; by its very terms was plighted faith as sacred as oaths can make; here also were obligations as imperative as is Christian duty. Nothing less, therefore, than mutual consent or successful revolution could annul its binding force. Neither of these is pretended. Necessarily, therefore, the powers and the jurisdiction of the General Government have been, and now are, as absolute and unbroken over every foot of the soil and over every person within the boundaries of these States as it was at the hour it was first established by our fathers.

I here leave my first and preliminary to my second affirmation I inquire—

What is a State?

In the language of Bouvier, it is "a body of persons united in one community for the defense of their rights." Or, as defined by Halleck, it is "a body-politic, a society of men united together for mutual advantage and safety."

These authors define sovereign and independent States. We have none such in our Government.

The original thirteen colonies, after severing their relations with Great Britain, entered into a "perpetual Union." This Union not meeting their expectations, afterward, and for the purpose of "a more perfect Union," the people of these colonies, then States, framed and adopted the Constitution of the United States. Thus the people, of their own volition, carved out of the then existing States and created the General Government. By this voluntary act each State passed under and became a subordinate part of a new Government, established expressly for national purposes. This new Government being clothed with certain definite powers, which were taken from, thereby of necessity lessened the powers of, these States. For national purposes this new Government is sovereign; for municipal purposes, the States are each sovereign; in all else they are subjects. Aggregated, the national and the State Governments make a unit. It requires this aggregation to constitute complete sovereignty. They are a compound, in which the original and the new elements are clearly discernible, and yet, as chemical affinities, they intermix, neutralize, and unite.

"As the body is one, and hath many members, and all the members of that one body being many, are one body," so it is in our Government. It must be obvious, then, that whosoever attributes absolute sovereignty to any State, or who in his reasoning applies the definitions I have cited, without restriction, when speaking of these States, will mislead himself as well as those who listen to him. But as far as the municipal organism of our States is involved, these definitions do apply; but in their relations to the General Government it must be evident they do not. Failing to discriminate in this, has led to much confusion. Some have supposed that the mere derangement of the organic relations of a State with the General Government destroyed it. Whereas, in truth, these relations may not only be deranged, but even suspended, and yet the State remain as perfect and as actually in the Union as if they were wholly undisturbed. But of this hereafter.

2. Have the incidents of the revolt of the southern States or has the consequent war changed the relations of these States toward the General Government or affected any of their rights?

A State sustains the same relation to the entire members of the Union that one man does to the aggregate individuals of a State. One is a corporate the other a natural being. Either of them, entirely alone, were independent. Connected with others, neither can claim this prerogative. As individuals, they each have duties to perform, obligations they cannot ignore, and rights which they may forfeit.

The man Adam had a right to the tree of life. The man Payne had a right to natural life. The State of South Carolina had a right to be represented in the councils of the nation. By disobedience these rights were severally forfeited. Will any one question this as to the individuals I have named? Why, then, is it not true of South Carolina? No loyal man will pretend that this State, during her armed hostilities against the General Government, was entitled to a place in its councils. Why? Clearly by reason of her armed hostility. But this armed hostility grew out of an enmity which antedated it. These overt acts were an incident, not the cause, of this enmity. It is true these hostilities are at an end; but did they cease from choice or from necessity? If from necessity, it may well be that the enmity which prompted these acts still remains; in which event only her weapons, her mode of warfare, may be changed and not her *animus*. My point is, this hostility was only an outgrowth of a settled enmity. If, then, this enmity remains, what hinders a similar outbreak at any moment? May a State violate its compact with the General Government and again

resume it at will? South Carolina, of her own act, withdrew her Representatives from this Hall and then made war upon the Government. May this Government exercise the privilege accorded the humblest citizen, of holding an enemy in duress till he make some reparation or give sureties to keep the peace? Self-preservation, if not self-respect, requires this much. No prudent family permits its enemies to share in its councils or in its confidence. No properly organized Government intrusts its administration to those who purpose its overthrow. The alarming feature in our national affairs at this time, in my judgment, is that any one dare entertain the proposition to admit traitors upon this floor. The man who stops to reason when tempted to sin is half consenting. The legislator who permits himself to negotiate with crime stands on quicksand—a step may engulf him. But I am anticipating; I therefore resume my subject.

Take either of the authorities I have cited defining a State, and whether we contemplate South Carolina before, during, or since her revolt, as far as municipal organism is concerned, she comes within its spirit and letter. There never has been a time when she was not "a body of persons united together in one community for the defense of their rights." It has ever been, and now is, "a body-politic, or a society of men united together for mutual advantage and safety."

Territory is essential; this remains as it ever has. Persons are requisite; these exist now as they have at all times. Their union is an ingredient; that these persons are united for a common intent is painfully apparent. Why, then, is not South Carolina a State? She is. She lacks nothing as far as municipal organism is involved; but as far as her relations with the national Government are concerned she lacks much. She is without a connecting link. This has been severed. She and her joint wrongdoers are off the track and badly damaged; they need repairs, readjusting upon the rail, and connecting links. They belong to the corporation; they are subject to its control, and they may be coupled on immediately or they may be held for further repairs. *These repairs should be thorough.* Defects which are known to have produced their present wreck should be remedied, and great precaution should be taken for future safety and security. A mistake in this may imperil all. I go further, and as an illustration aver: Adam and Payne were as really men, but bad ones, after as they were before their disobedience. So South Carolina was as actually a State, but a rebellious one, after as she was before her rebellious acts. Adam still owed fealty and was as subject to the laws of his Maker as though he had never transgressed. Similar is the position of South Carolina.

Sir, can a man or the inhabitants of any territory be within the jurisdiction of a Government and subject to its laws and yet be alien? I can see how the exercise of this jurisdiction may be interrupted and the execution of these laws suspended, but I cannot as readily perceive how a State can be "blotted out" and yet all that goes to make it up remain.

I now adopt and repeat the interrogatory of my colleague from New York, [Mr. RAYMOND,] and inquire:

"If they [the rebel States] were out of the Union, when did they become so? They were once States in the Union. If they were out of the Union, it was at some specific time and by some specific act."

This is a pertinent and a practical question. The honorable gentleman from Ohio, [Mr. SHELLABARGER,] whose logic and elquence are irresistible, repeated the same interrogatory, and in reply to it, says:

"In respectfully answering him, [Mr. RAYMOND,] let me ask and answer some questions of similar legal aspect. What in civil war is the specific act and time which changes in law an 'insurrectionary party' into a 'belligerent'? I answer in the language of the Supreme Court, when in fact 'the regular course of justice is interrupted by revolt, rebellion, or insurrection, so that the courts of justice cannot be kept open.'"

I do not perceive the force of this answer, for

surely the honorable gentleman does not mean to affirm that the condition of things he describes carries a State out of the Union. If it does, secession is easy indeed. Insecurity to this alarming extent would paralyze every arm, destroy all confidence, and render Governments little else than nurseries of anarchy and bloodshed.

The state of things so graphically described by the honorable gentleman should, as it did, constrain the Executive of the nation to exercise the duty devolving upon him under article four, section four, of the Constitution—this is all. Under this provision of the Constitution the President of the United States did invoke the military arm of the nation. This arm, as wielded by General Grant and his brave comrades, suppressed the "revolt," dispersed the "insurgents," and these "insurrectionary States," with suspended rights, still remain in the Union subject to its control and amenable to its laws.

The honorable gentleman, in further reply to my colleague, says:

"I answer him [Mr. RAYMOND] that it was that specific act which turned her citizens into traitors, took from her the loyal courts, statutes, constitution, tribunals, offices, and Legislature, and which filled them with traitors and kept them there. And if the gentleman still desires the specific time when it happened, it will answer all the purposes of my argument to reply, that it happened about four years before the time when he has told us it did, to wit, before she 'surrendered.'"

With an emphasis peculiar and very becoming the eloquent gentleman, he exclaimed:

"The destruction and superseding of all loyal government and law in South Carolina was a fact, not a law."

Does this meet the point of the interrogatory of my colleague?

These incidents, announced with so much force by the honorable gentleman, are evidences of crime, nothing more, and nothing less. Crime does not change the *status*, only the relations of a State. The fact that the inhabitants of a State are guilty of treason and of usurpation cannot carry it out of the Union; the fact does not absolve from, but it actually renders the actors amenable to law. The honorable gentleman well says, "The destruction and superseding of all loyal government and law in South Carolina was a fact, not a law." The argument proves too much. An alien cannot commit treason against the Government of the United States; a State cannot become alien by ordinance, by treason, nor yet by rebellion. Nothing less than successful revolution and the ability on the part of the malcontents to maintain their independence, in spite of the Government against which they have rebelled, can invest them with alien rights; this only will justify any nation in recognizing the independence of such revolutionists, and nothing less than this can carry a State out of the Union. It is the power, the might of the rebellious subject which the sovereign cannot overcome, that severs all the ties which bound them, and clothes it with national robes. If a State is out of the Union, it is alien; if alien, then is it independent. One view preserves, the other destroys the Union.

Upon a careful examination I find no authorities in conflict with the views I have now expressed. True, the very able and distinguished chairman of the Committee on Appropriations [Mr. STEVENS] holds a counter-view, but he founds it, as I understand him, upon authorities he cited in a recent speech. I have examined these authorities, and as I construe them, not even one of them sustains his peculiar view. For illustration, take the first citation from Vattel:

"When the parties in rebellion occupy and hold in a hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against their former sovereign; the world acknowledges them as belligerents, and the contest is war."

This is all true. But what kind of war? I answer, it is civil war, the existence of which does not, as alleged by the honorable gentleman, "break all the ties that bound" the bel-

ligerents before its commencement. On the contrary, the continuance of these "ties" is absolutely indispensable to its existence. The moment these are severed civil war must expire. In this event the war necessarily becomes public. But no one claims that we have had a public war. And no one disputes but that we have had civil war—bloody, wicked, remorseless. Every fireside attests it; every household mourns its cruelty. No one denies that this war assumed such proportions that the insurgents were recognized as belligerents. But this by no means changes the *status* of these States. Their relations only are affected. In the first relation, the insurgents are traitors, amenable to civil law, the penalty of which is death. In the second relation, as belligerents they escape the rigor of the civil code. The fact that the insurgents in civil war are recognized as belligerents is equivalent to saying, you are so swollen by numbers that from motives of humanity belligerent rights must be accorded to you.

Why, sir, the circumstance that these malcontents were recognized as belligerents only, is proof conclusive that in the estimation of the nations of the earth these States are and ever have been in the Union and subject to its control; otherwise, with the strong and known desire on the part of many of them to do so, instead of recognizing them as belligerents merely, they would have acknowledged their independence. Wheaton alleges that—

"Until the revolution is consummated, while the civil war involving the contest for the government continues, other States [foreign Powers] may remain indifferent spectators of the controversy, still continuing to treat the ancient Government as sovereign and the Government *de facto* as a society entitled to the rights of war against its enemy."

From this authority there can be no doubt that these "rights of war" apply to the party resisting the "ancient Government" only during the contest for the supremacy. This being determined by a surrender of the malcontents, the reason for the application of these rights no longer existing, their application must cease also, and the contestants are necessarily remanded to the position of an offended sovereign and of an offending subject.

I insist this is the true relation which now exists between the national Government and these rebellious States.

I further insist that to restore these States to their normal relations without any restrictions is to make no distinction between virtue and vice. To restore them without prescribing any conditions is contrary to precedent, in conflict with analogy, repugnant to justice, in opposition to the spirit of the Baltimore platform, the repeated and well-known views of the present Executive of the nation, his immediate predecessor, and both branches of Congress. The differences, therefore, which now exist among the loyal men of this country are only as to the detail. They are no more variant than were the views which divided the patriots who finally harmonized in establishing our present form of government after the revolutionary war. I cite one further authority. Wheaton, at page 40, says:

"The habitual obedience of the members of any political society to a superior authority must have once existed in order to constitute a State; but a temporary suspension of that obedience and of that authority, in consequence of civil war, does not necessarily extinguish the being of a State, although it may affect for a time its ordinary relations with other States."

It seems to me this authority is in point, and that my second affirmation is established.

3. The relations of these States thus changed and the rights thus forfeited can be restored only by the legislative branch of the Government.

Provisions are or may be made for the restoration of the relations and the rights of which I have spoken. By whom? Is it by the trespasser? No; but it is by the being or the power against which the trespass was committed. These provisions are as old as they are universal. Adam could not restore himself, neither could Payne, nor can South Carolina. In no instance is this restoration a matter of right, but purely of grace. There

are conditions-precident. Repentance is the door and good works the evidence of its sincerity. But who is to judge of this?

In our Government sovereignty or the power of which I have spoken is in the people. Its exercise is intrusted to agents. The first of these enacts, the second interprets, and the third executes the law. They are three, yet one. They are one, yet three. They each have an orbit. The departure of either from this imperils each as certainly as a like departure in any celestial body from its orbit imperils itself and others. They are counter-checks, breaks upon the governmental engine. If the legislative branch of the Government is hasty or unwise, the Executive stays its action, and enables it to take a "second sober thought." If the Executive errs, the legislature may by the concurrence of two thirds of its members correct the error. If the legislative and the executive branches unite in error, the judicial branch may remedy their joint mistake. These provisions are wise, and though they may be inconvenient or even abused in some instances, yet we cannot afford to abrogate them.

If, therefore, the insurrectionary States have forfeited, or if any of their rights are suspended, the sovereign power of the Government alone can grant relief. But to which of its agents must they apply? Not to the judicial, for she only interprets; not to the Executive, for he only executes the law. There is but one remaining. Practically, therefore, it is of but little moment whether we regard the governments of these States as dead, suspended, or only deranged. As a precedent, it may be otherwise. Equally unimportant is it whether we treat these States as in or as out of the Union; for in either view it requires the same interposition to reconstruct, restore, or to resurrect them. But we have authority in point.

The powers and the duties of Congress under article four, section four, of the Constitution of the United States were examined and defined by the Supreme Court of the United States in a controversy involving analogous principles in a case reported in 7 Howard, 42. The mooted question grew out of the fact that within the State of Rhode Island two several State governments were organized. The real point to be determined was as to which of these was the true government. This question Congress had decided incidentally prior to its being raised in court. The court say:

"Under this article of the Constitution it rests with Congress to decide what government is the established one in a State. For, as the United States guarantees to each a republican government, Congress must necessarily decide what government is established in a State before it can determine whether it is republican or not."

The power being unquestioned, the propriety of its exercise is all that remains.

Mr. Speaker, if men were indifferent to the future political control of this Government; if the position of Executive of this nation were unsought; if the patronage within its gift were of no value; if selfishness had no place in political parties, the business of reconstruction were easy. There are so many stand-points, the lust of power is so seductive, that patriots even need the prayers of the good. I invite gentlemen to the stand-point where the controlling thought, the central idea, the settled purpose is, that loyal men, and they only, shall rule this nation; that loyal men, and they only, shall fill its places of honor and of trust. If this is the President's stand-point I am with him. If this is the congressional stand-point, I am with it. If in this the Executive and Congress agree, they should act in concert. I most cordially concur with the President, that—

"If there be five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely."

The mere detail of reorganization is of but little consequence. But the crowning fact, the cardinal doctrine, that loyal men must and shall rule this nation, like the stone cut out of of the mountain, shall increase until it fills the entire land.

Sir, the inquiry as to what governments now exist in these States, is a matter wholly for Congress. It is not a usurpation, it is not coveted by Congress, but it devolves upon this branch of the Government. The exercise of this prerogative is not to prevent the restoration of these States, but to promote this object. Congress is only an agent. From the murmurings of some, one might well infer that Congress were the offending party, and that these traitors are innocent and persecuted patriots.

4. The relations and the rights of these States should be restored as speedily as the interests of the parties concerned will permit.

Reconstruction is the natural fruit of the rebellion. If this fruit is bitter, attribute it to its wicked planting and more pernicious culture. The process of reconstruction involves such weighty interests that no desire, be it ever so worthy, for a speedy restoration of these States will justify a sacrifice of these interests. The question, in my judgment, is not *may*, but to what extent *shall* Congress interfere with the municipal affairs of these States? My reply is, to any extent that the common good may require. When these States were threatening the life of the nation no one doubted the right of the Government to defend itself. To this end it raised armies, fought battles, captured and disarmed their forces. This was not that they were alien enemies, but for the reason they were rebellious subjects. Our Government did this for the same reason and by the same authority that the ministers of the law arrest criminals or suppress a riot. The right to do this exists at all times. Crime only gives occasion for its exercise. But for the rebellion the exercise of this right would have remained inoperative. The exercise of this power is incident to sovereignty. It was to secure these and kindred rights that the General Government was established. Vattel says:

"A nation or a State has a right to everything that can help to ward off imminent danger and to keep at a distance whatever is capable of causing its ruin. And this from the very same reason that establishes its right to the things necessary to its preservation."

More particularly, allow me to say, the Thirty-Ninth Congress of the United States is not acting for the present only, but also for coming ages. The General Government, the government of each State, no matter what its *status*, the citizens of each and their successors are interested in the business of reconstructing these States. Four million human beings just emerging into the sunlight of freedom; the millions to whom the perpetuity of our Government has ever been a cherished object; the vast numbers enervated and corrupted by a system that degraded and then sought to destroy our Government, and especially the loyal men of the rebellious States, are looking to this Congress in hope. Shall we disappoint or fail to protect them? Vattel asserts:

"The body of a nation cannot abandon a province, a town, or even a single individual who is a part of it, unless compelled to by necessity."

Sir, there is a sublimity, yet a simplicity in truth. There is a conception so pure that all men do it reverence. There is a stand-point so elevated that no one fails to perceive the truth who occupies it. It is just where "justice and mercy meet and embrace." The enforcement of law is not inhuman; the Government that chastens its erring is not an enemy of its subjects; the parent who enforces obedience is not unmerciful to his child; these are evidences of the faithful discharge of Christian duty. Mr. Speaker, there is, there never has been, any opposition to, no hatred of, the South. The opposition is to traitors, the hatred is of treason; the object, to reform the first and to prevent a recurrence of the last. Is this exceedingly wicked?

Ours is not a Government for the white, nor is it a Government for the black; but it is a Government for man. To legislate for any class, irrespective of another, is equally unjust and ruinous to both. The attempt to do this

has drenched our land in blood and filled it with sorrow.

Sir, it is claimed that the inhabitants of these States recently in armed rebellion are repentant. Where is the evidence? Do they manifest it by murdering Union men, by electing traitors to offices of trust, or are we to believe it from their arrogance of manner and the assumptions of their press?

The prodigal made no attempt to destroy, he only abandoned his father's house; and after wasting his substance he proposed to return. What was his language? "Father, I have sinned against heaven and before thee, and am no more worthy to be called thy son; make me as one of thy hired servants." There was evidence of contrition. Let these more than prodigal States manifest this spirit, and evidence their sincerity by appropriate acts, and the "fatted calf" will be cheerfully slain.

Suppose we were the conquered, and they the conquerors. What would they exact? Sir, should we receive these men, these conspirators, whose unwashed hands yet drip with the blood of our slain; they as well as their descendants, our constituents, and our posterity the universe of man would pronounce the Thirty-Ninth Congress of the United States of America as infamous as imbecile.

Look at it. Our soldiers sacrificed home and all of its joys, turned their wives and their children over to the charities of the nation, and then they offered themselves upon the altar of their country. By this patriotic devotion they saved our Government from its enemies. In memory of this heroism, in reward of this love of country, it is proposed to admit their unrepentant enemies into these sacred Halls to enact laws, and to make provisions for the protection and the subsistence of their widows and their orphans. In their agony, may not these insulted ones exclaim:

"Had it pleas'd Heaven
To try me with affliction; had he rained
All kinds of sores, and shames, on my bare head;
Steept me in poverty to the very lips;
Given to captivity me and my utmost hopes;
I should have found in some part of my soul
A drop of patience; but (alas!) to make [my country]
A fixed figure, for the time of scorn
To point his slow unmoving finger at,
Maddens my brain."

Sir, I can never, I will never consent to admit any man as a peer upon this floor whose garments are crimsoned in patriot blood. I should fear the avenging thunderbolts of an offended God. What! Shall we voluntarily surrender to traitors the citadel the defense of which has cost so much? Has victory reduced our Government to the alarming condition that it must be administered by its enemies? If it has, then is victory disaster, patriotism a crime, and devotion to country calamitous indeed. These traitors could not take our capital by force; we therefore yield it to them, that they may yet triumph.

I would compel the rebellious inhabitants of these States to protect the loyal men within their borders. I would require them to send loyal men to these Halls as representatives. I would have them understand, now and forever, that by reason of their criminal acts, no leader in this rebellion, no man who has been educated at the expense of the Government or who has ever held an office under it and then sought its overthrow, can ever hope to fill any position of trust, or exercise the elective franchise. I would impress upon each of these men the sentiments so well and so truthfully expressed by President Johnson, "That the traitor has ceased to be a citizen; and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship, and sought to destroy our Government." I would enforce these doctrines if it took an army of two million men. This being done, in my judgment, these traitors should still thank Almighty God and an indulgent Republic that their conditions are made so easy. What! When I have repulsed and disarmed the assassin, must I take the

villain into my house and allow him to share in its control?

There should be some discrimination between innocence and guilt, between loyalty and disloyalty. Is the punishment I suggest too severe? Listen to the President of the United States. On the 22d day of February, 1866, he declared, "I came into power under the Constitution of the country and by the approbation of the people. And what did I find? I found eight million people who were in fact condemned under the law, and the penalty was death." I inquire, how can they escape? By submitting to "the situation;" by simply recognizing the rights of others.

Mr. Speaker, there are others than these criminals who are entitled to a hearing. Ages of privation, centuries of wrong and oppression have rendered them weak. They, as well as the eight million people now under the penalty of death, are asking to be heard. Are they entitled to a hearing? Let us examine the position of each. The condition of one is self-imposed; the sorrows of the other were wantonly inflicted. The first are trespassers; the last have been trespassed against. One is the dispoiler; the other the dispoiled. One class were made strong and powerful by a beneficent Government; they used this power for its overthrow. The other class have been enfeebled and impoverished by that same Government, and yet they sustained it in its hour of trial. One has been guilty of inexcusable ingratitude, the other has been a living exemplification of that more than human prayer, "Father, forgive them, for they know not what they do." One has been and now is a bitter, implacable enemy; the other has been friendly under almost irresistible provocation to hate. Which, then, has the highest claim? The first committed treason against the Government of their own choice; a Government under which they had acquired wealth and power. The last have been loyal to that same Government, yet in its counsels they have never been heard, and under it they have been degraded and beggared. One has fared sumptuously and been clothed in purple and linen; the other has lain at his gate wounded and sick and fed upon crumbs. I will not say one shall be "comforted" and the other "tormented." I only refer to an ancient record supposed to be authoritative.

But it is alleged the black man is ignorant, unfit for citizenship. Grant it. But who made him so? Who robbed him of his earnings and then barred the school-house? Unfitted for citizenship! He is guilty of no crime. He is not under the "penalty of death." His rights have been unjustly withheld—the others were forfeited by law. He solicits the rights for which he has patiently waited and prayed for centuries. Yet, being denied them, he has obeyed the law, served his oppressors, and waited and prayed, and waited. The other imperiously demands the rights he forfeited under a law in the enactment of which he participated, and he now insists he is cruelly wronged because these rights are not restored to him contrary to law. And what is more deplorable still, these criminals, "these people under the penalty of death," claim superiority, and with an impudence peculiar to unmixed wickedness, with an arrogance begotten of slavery, not only claim the right to play the tyrant over these ignorant, enfeebled and helpless black men, but with an effrontery unparalleled in history, they ask that they may participate in the duties and powers of administering the Government of the United States of America with honest and loyal white men.

"I charge thee, fling away ambition:
By that sin fell angels; how can man, then,
The image of his Maker, hope to win by 't."

Mr. Speaker, if I have succeeded in my purpose I have shown—

1. That neither the acts of secession nor the war have in any way abridged the powers or the jurisdiction of the General Government over the insurrectionary States.

2. That these States are still in the Union,

but by reason of their criminal acts, they have forfeited the right of being represented in our national councils.

3. That the legislative branch of our Government only can restore this right and relieve these States from their present disabilities.

4. That these disabilities should be removed and these States should be restored as speedily as the safety and the interests of the several parties concerned will permit.

In conclusion. I remark, *men die, principles never*. The individual who orders his life and shapes his course for no purpose other than to secure the popular applause of to-day; the party that is actuated by no loftier impulses than expediency; the Government that ignores the cardinal principles of justice and truth, must expect an ignominious grave. Statesmen and philosophers pass away and they are forgotten. But principles live on. In the ages when inscriptions which chronicle the fame of the wisest, no matter how deeply engraven, shall have been entirely effaced, these principles, radiant as were they when the stars hymned their first song of praise, shall speed on, shall prosecute their work until the "will" of the Sovereign of all shall "be done in earth as it is in heaven."

Mr. PATTERSON. Mr. Speaker, the able and protracted debate on this floor and in the Senate upon the subject of reconstruction has been of an extraordinary character. It has involved largely first truths in political philosophy, and reminded one rather of the solemn and earnest discussions in the Convention of 1787 than of the forensic encounters of an ordinary Congress.

Nor has the interest been confined to these Halls. The people of the whole country have followed these debates from day to day with a profound sense of the reach and magnitude of the principles involved in the issue. No graver or more difficult questions ever perplexed a legislative assembly.

The prudent hand of free labor has given the products of three generations and pledged the wealth of the children to maintain the integrity of the Government; the blood of half a million victims, innocent of the crime of oppression, has redeemed four millions of a despised race from a debasing servitude, and thrown them, poor, ignorant, and helpless, upon our charity and justice.

These precious results of popular sacrifices and sufferings must be made secure against the subtle craft and embittered hate of an experienced and powerful foe by the statesmanship of this Congress, upon whom Providence has devolved the task of perpetuating the Republic and of insuring the liberty and welfare of its entire population in this and the generations to come.

Posterity will hold us accountable for the improvement of this splendid opportunity of civil liberty. It is the offspring of the ages, and has been brought to the birth in our time, amid the shock and agony of revolution, for the realization of grand and beneficent purposes in the divine economy. The Machiavelian dogma, that it matters not whether we act or how we act in these unsettled and pregnant times, is dangerous teaching.

In this transition period, when a mistake might be fatal to liberty, the people will not be lulled into security by any Circean form of speech. Nor will they long submit in patience to the narrow ambition and unthinking zeal which attributes to a question of temporary policy the importance of essential principles, and stakes the permanent welfare of the country upon a personal triumph. They demand wise but decisive action, and hold in healthy contempt subtle dialectics and musty precedents which there is no power to enforce, and which each nation accepts or rejects as will best subserve its interests. Justice and public safety are to them the natural and supreme law, and by them they will test our work. They demand that these shall be realized in the setting up and readjustment of the disorganized States. They will never consent that we should

put liberty to sleep upon any Procrustean bed made by the fathers, much less strangle it in the cast-off garments of its own childhood.

American liberty is equality before the law, and the protection of person and property. No emancipation is complete which does not secure these primary rights to the freedman. Nothing less will satisfy public opinion or accord with the spirit of the amended Constitution. Political heresy must be excluded from places of power, and never again permitted to scatter its poison into the fountains of legislation. It is the simplest dictate of legal justice and political prudence that the leaders of the rebellion, who have been foiled in their attempt to destroy the Government, but not purged of their purpose or their hate, should be banished forever from the halls of legislation, the courts of justice, and the seats of administration. It is equally clear that time should be allowed to remove the prejudices and soften the asperities of a hostile population, ere they are permitted to exercise the elective franchise and sway the forces of political power. Can these grand results of the revolution be fixed by permanent guarantees in the present discordant state of public sentiment? I answer unhesitatingly, they can and will be. The common sense and common patriotism of the people, which have baffled the force and the machinations of treason, which have brought the latest and mightiest conflict for civil liberty to the most splendid triumph of history, will not in these first days of restored peace be cheated of the fruits of victory by the craft of politics or the passion of parties. With such a past, our faith may repose upon the people and the God of nations for the future. Differences of opinion and strong language are to be expected and tolerated upon great and abiding questions of national polity. A party which can boast of an undisturbed unity of sentiment in a formative epoch like this, has either become too corrupt or too imbecile to be of service to the State.

We are reminded that leading Republicans in Congress and out of Congress are in conflict; so were Hamilton and Madison in the Constitutional Convention, but they stood together in the production of the Federalist, that immortal argument for the adoption of our organic law so largely the result of their combined wisdom and forbearance. We should invoke upon our deliberations the spirit that blended firmness and moderation, and harmonized without the sacrifice of principle, conflicting views and interests in the councils of our fathers. Some among us would have universal suffrage, while others would exclude *in perpetuo* all who have participated in rebellion from the political rights which attach to citizenship. These things may be right. Are they possible? Can abstract justice be realized in any form of human institutions? Men are not made for Governments, but Governments for men, and must be adapted to their circumstances and wants.

Self-government is not possible for savages, nor absolutism for an educated and virtuous people. Between these extremes there must be political gradations to meet the varying conditions of society. So in the restoration of the States to their Federal relations, we cannot ignore the past or blink out of sight the numbers who have been in arms against us. Vattel, in defining the conduct due to insurgents, says it should be "such conduct as shall at the same time be most consonant to justice and the most salutary to the State. Subjects who rise against their princes without cause deserve severe punishment; yet even in this case, on account of the number of delinquents, clemency becomes a duty in the sovereign."

Neither can we shut our eyes to the general ignorance, inexperience, and subserviency of the emancipated. I do not counsel, and would not allow any concessions which would jeopardize the safety of the Government or the welfare of the freedmen; but we cannot wholly disregard, in laying down our platform of recon-

struction, the opinions, or the prejudices even, of the thirty thousand men of Tennessee who fought with us, and of the other thousands of other States who, standing in the very path of the terrible tempest, never wavered in their loyalty as it swept away their all, and brought to their hearth-stones unutterable forms of woe and death.

But, sir, while I am anxious for harmony among the friends of the Government, I spurn with a righteous scorn the arrogant claims and insulting advice of the State criminals who have been put upon the stand to testify in respect to the amiable deportment and loyal attitude of a population which the Government has not yet dared to let slip from its mailed hand, and to signify upon what conditions these squelched rebels will deign to resume their functions in the Union. The impudent and unblushing assurance with which these rebel leaders, after their utter overthrow and humiliation, rehearse their defunct dogma of State sovereignty, and plead their constitutional right to an exemption from all disabilities, and a resumption of all privileges, is such a burlesque and mockery of the stern realities of the time as the genius of Aristophanes never reached. Guilty of every political crime, and deserving a thousand fold the taints and forfeitures of treason, they assert their innocence in the face of an insulted but magnanimous people. Standing above the graves of three hundred thousand victims of their wrath, these men who have made the very air hot as the shirt of Nessus with their poisoned words of malediction and denunciation against the Government, insist upon being propitiated, and demand admission to the forum of legislation, the halls of justice, and the seats of administration. Are we not turning this bloody tragedy of revolution into a comedy of errors? Why, sir, the culprit at the bar pleads the magnitude of his crime as a ground of acquittal! Nay, he even claims the right to ascend the judgment seat and pass judgment upon his accuser, and threatens ere long to assume the place of the executioner.

"O judgment, thou art fled to brutish beasts,
And men have lost their reason."

With all deference to the opinion of others, I think these men have no business here but to plead for pardon. The court which takes testimony from the criminal sits upon a rotten throne. The Government which seeks counsel and support from its enemies is both weak and treacherous. Sir, it is the right of those whose political tenets are universal liberty and universal justice, and who have hallowed their creed with their blood, to make conditions of return and to rebuild the shattered fabrics of State governments on principles which will obviate future antagonisms and conflicts in the sisterhood of States. I would pay to these fallen chiefs the tribute due to men who were brave in a bad cause, and would give them the privilege to live and die in unmolested obscurity. "All is not lost," even to them. They invoked war upon the land, and in the bloody carnival the slaves have done what their fathers did, asserted their inalienable right and made themselves free. The Nemesis of national justice has swept away the opulence which they had wrung from unrequited toil, has deprived them of the power to dispense an elegant and magnificent hospitality in the sweat of other men's brows; but Providence has kindly left them the consolation of their hounds and fighting cocks. As they sit amid the ruins and desolations of their great plantations, their chastened spirits may still find fit utterance in the sweet lyric of Cowper:

"I am monarch of all I survey,
My right there is none to dispute;
From the center all round to the sea,
I am lord of the fowl and the brute."

When we look simply at the future peace and safety of the Republic, the work of reconstruction seems simple and unperplexed.

That the governments of the insurgent States should be reorganized by and maintained in the hands of men sincerely loyal, is too nearly self-evident to admit of argument. It is equally

obvious that this can be reached only by requiring as conditions- precedent to restoration—

1. That the civil and military leaders of the rebellion, who naturally create and direct the public opinion of the South, should be made ineligible to office under the United States Government.

2. That the rights of the freedmen and the safety of the Government be secured by granting suffrage to the liberated or withholding it temporarily from the disloyal.

3. That the elective franchise and an equal distribution of political power shall be protected by a decrease in the basis of representation, where impartial suffrage is denied, by such a proportion of the whole population as the disfranchised males above twenty-one years of age bear to the whole male population above that age.

There is no injustice in such requisitions, and they are imperatively demanded for public safety. There is no hardship in withholding political power from men who have violated the most solemn oaths, have destroyed untold wealth, and decimated the population of the land in an effort to overthrow its Government.

Is it not our paramount duty as guardians of the Republic to throw around it such safeguards of law as shall protect it against the machinations of a yet powerful foe, until treasonable purposes shall have passed away or become innocuous? I am constrained to believe that no loyal man would hesitate for a moment to give a cordial support to these measures were not his reason perplexed or his desires overruled by a theory of the indestructibility of States which dominates his better judgment and his patriotism. I fully concur, sir, in the opinion entertained by gentlemen around me, that the insurgent States did not perish, either by their ordinances of secession or their acts of war; but I differ *in toto* from the conclusion that they have a right to representation in Congress simply because of their existence as States. If the present governments of the rebel States have been organized by those who had forfeited all their political rights, and are held in their power, they have no legal existence or right of representation more than the revolutionary governments which have been overthrown. The national Legislature, to whom alone the right belongs, must in some way signify when their political *status* has been properly restored before they can rightfully claim seats within it. The right of a Government to make use of the means necessary to its own existence is the supreme law of every State. It was that reserved and sovereign right of the Government which conferred upon us the power to refuse representation during the pendency of the struggle, and the same imperative law of public necessity demands the continued exclusion of the representatives of that rebel power till the loyal people of the South, who have never worshipped at the altars of treason, shall have reconstructed their State governments upon principles consistent with the genius of civil liberty and upon conditions which we shall dictate as essential to the future peace and welfare of the Republic. It is not for treason to sit in judgment upon itself, nor for the enemies of the Government to become chief counselors of the State.

The war has wrought great changes, not only in the social condition, but the civil structure of the late slave States. They cannot return as they were originally, and it is proper that Congress, to whom belongs the right of determining the conditions upon which States shall be organized and of making them parts of the Union, should decide when these States have been properly reorganized and fitted to renew their legitimate functions in the Union. This is a responsibility which we, whom the people have made depositaries of their will, cannot innocently yield or repudiate, and for another to assume it would be a usurpation of power such as would not be tolerated in the coarsest and most absolute despotism to be found on the map of the world. And yet, sir, on this very question of the right of Congress to impose

upon the rebel States conditions- precedent to representation, the issue is to be made and contested before the people, and we had better meet it fully and fairly upon this floor.

The war was a logical and inevitable result of the conflicting views entertained by the northern and southern schools of politics in respect to the nature of our Government. They who regard it as simply a league, necessarily transferred sovereignty to the independent States of which it was composed, and held that the State was entitled to their highest allegiance and could secede at pleasure. We, on the other hand, who held that the Union was a Government *de facto*, denied the right to withdraw, and contended that the Federal Government could claim supreme allegiance and coerce the people of a State. With social and industrial systems in constant and complete antagonism, it must ultimately happen that sectional interests would be thought paramount to the advantages of the Union, and then the final arbitrament of force must come, as it did. But when it came, was it the purpose of the South to overthrow the State governments? Certainly not, for it was in their interests that they rebelled. They renounced their allegiance to the Constitution and attempted to transfer it to another. They did not desire to inaugurate anarchy, but to construct a new confederacy out of the existing States. When peaceful measures failed they attempted forcibly to sunder the umbilical cord which bound them to the parent State, to expel Federal authority in all its forms from their borders, and to transfer the States without lapse or essential modification of their governments to a new federal league. This they did in fact, but not in law. It was simply a suspension of Federal authority. Their ordinances of secession passed by Legislatures were void, for the States, as such, are not parties to the Union, and have no more power to break the bond than a board of trade or city council. Their ordinances of secession passed in conventions were equally void, first, because the Constitution has no provision for self-destruction in what way; and secondly, because the Government was originally organized by a three-fourths vote of all the States, and could only be disorganized, if that were possible by peaceful means, by a similar vote. Eleven States only instead of twenty-four made the attempt, and hence their work was a nullity.

Did they effect their object in the conflict of arms? They established a civil power which had a *de facto* existence and exercised the functions of government for four years. Did it acquire an existence *de jure*? I think not. If it did, then the rebels dismembered our territory and became alien enemies upon a foreign soil, for they could not have become alien enemies upon our own soil. If it did, then they can only be held as prisoners of war and can claim exemption from the guilt and the punishment of treason. If it did, they cannot be required in law or justice to pay taxes levied upon the States during their separate existence; and have a right to insist that the liabilities which they incurred as an independent power shall be assumed and honorably discharged by the General Government, on their readmission to the Union. If it did, they are to-day in the condition of conquered territory and should be brought into the Union, like other States, by a vote of Congress, and not by the supererogatory work of constitutional amendments. If it did, then the rebels played the double part of victors and vanquished in the final scene of the drama, and have been asking and receiving pardons from a defeated foe. It is clear, sir, that the slave States never reached the dignity of an independent confederacy. There has never been a moment when they have not been regarded and treated as a part of the Union. Their *de facto* government was never recognized by other Powers as belonging to the community of nations, and was treated by us as a fiction during the pendency of the contest. The brave men who fell on a thousand battle-fields, and the mighty host

of not less heroic men who survive, are entitled to the glory of having preserved the integrity of the Union and the supremacy of the Government.

But though the right of the Government to collect customs, hold courts, maintain military power, and exercise all other functions of Federal authority in the insurgent States, has remained unbroken, yet it has been assumed, and much legal learning marshaled to prove, that the local governments perished. I admit the great skill and ability of the advocates of this theory, but have failed to be convinced of its truth. I am unable to see how the numerous citations which have been made from distinguished publicists are applicable to the state of things which here exist. The local governments of the seceding States had an uninterrupted continuity of existence until the fall of the confederacy, and were then destroyed, not by the enemies, but by the friends of the Union. The legitimate governments were usurped by a revolutionary power, which administered them in the interests of treason and in defiance of Federal authority. There was a continuity, but not an identity of existence, when a loyal was transferred into a disloyal State. The former passed over its form, but not its life, to the new State, and hence did not necessarily perish, either at its birth or its demise. It was neither a metamorphosis nor a metempsychosis of the State. It was not a case of death, but of suspended animation. The insurgents maintained the old forms, in order the better to concentrate and wield their power, but in law they had no municipal governments in operation from the beginning to the close of the war, for a State can come into existence only by an act of Congress. They are simply municipal organizations for home purposes, and not governments in the purview of international law. Hence they do not come into existence by the recognition of foreign Powers, and their *status* is to be determined by constitutional rather than international law, the same as cases are decided in court by statute law, where there is a statute, to the exclusion of common law. Under the Constitution, I know of no way in which a State can perish. If the people should resort to their reserved right, and sunder their relations to the Federal Union by successful revolution, undoubtedly the State would cease to exist as a part of the Government. But this case does not occur until the revolution has been recognized as a success by other Christian Powers. This position, I think, will not be controverted by gentlemen familiar with public law.

The loyal people of the South were overpowered and held in duress by an armed mob, and their governments rendered inoperative by force during the period in which the slave power was testing the ability of the Federal Government to maintain its supremacy.

But the usurpation has been crushed and the rebel power subverted, and now the governments of the States revert to the loyal people of the South, who have a right to claim protection and immunity at our hands while they reorganize their governments on principles which we may deem essential to the republican form guaranteed by the Constitution and to the future peace and safety of the Republic. Says Chief Justice Chase:

"It is my opinion the States remain States. The rebel governments of the southern States have been destroyed. All the machinery of these governments has come to an end; and now, holding, as I do, that these States remain States, the second process of reorganization is that the governments now revert into the hands of the southern people. They are to rebuild the governments of these States."

It is not designed by the series of measures now pending to construct a platform for the admission of new States, though it may become such, but to put the organization of the disrupted governments into the hands of loyal citizens, and to preserve them in their custody till time shall have removed, or at least soothed, the passions and prejudices of these troubled times. The justice and wisdom of such a policy will hardly be questioned by any friend of the

Government; but in organic legislation what ever is just and wise has the force of law. The late President Lincoln, in speaking of reconstruction, says:

"An attempt to guaranty and protect a revived State government constructed in whole or in preponderating part from the very element against whose hostility and violence it is to be protected is simply absurd."

The present Chief Magistrate, too, speaking out of the fulness and bitterness of his experience, said:

"But in calling a convention to restore the State, who shall restore and reestablish it? Shall the man who gave his means and his influence to destroy the Government? Is he to participate in the great work of reorganization? Shall he who brought this misery upon the State be permitted to control its destinies? If this be so, then all this precious blood of our brave soldiers and officers, so freely poured out, will have been wantonly spilled; all the glorious victories won by our noble armies will go for naught, and all the battle-fields which have been sown with dead heroes during the rebellion will have been made memorable in vain. Why all this carnage and devastation? It was that treason might be put down and traitors punished. Therefore I say that traitors should take a back seat in the work of restoration. If there be but five thousand men in Tennessee loyal to the Constitution, loyal to freedom, loyal to justice, these true and faithful men should control the work of reorganization and reformation absolutely. I say that the traitor has ceased to be a citizen, and in joining the rebellion has become a public enemy. He forfeited his right to vote with loyal men when he renounced his citizenship and sought to destroy our Government."

The bill reported by the committee proposes the temporary disfranchisement of rebels, while the amendment offered by the gentleman from Massachusetts provides for a system of suffrage which shall include all males above the age of twenty-one. These two measures fairly involve a discussion of the grounds and the policy of suffrage.

The theory has been advanced that the family is the unit of society and the rightful source of political power. This, though beautiful as an abstraction, does not, I apprehend, solve the problem of suffrage. If the right to vote springs from the family relations, how many votes shall the family cast? If but one, who shall cast it? Do you say the father, who is the natural representative and defender of the family? But suppose the father is superannuated and feeble, would he be called upon in an emergency to shoulder his staff, when staggering under the weight of eighty years, to defend either his family or his country? Would not his stalwart but unmarried son, sustained and impelled by the vigor of thirty summers, rather be summoned to stand in the breach when the rights and privileges of either his family or the State are invaded? As, under such circumstances, the son would more ably defend, so would he not more safely exercise the suffrage of the family than the father? But the theory deprives him of the privilege and the State of the advantage of a vote. If, now, all the family but this son were cut off, and he left alone, is he still to be deprived of all political rights till he becomes the head of a family? Would not this be a limitation rather than an extension of the precious privilege of suffrage, and tend to transfer the sovereignty of the majority to an aristocratic minority?

Suppose, again, the head of the family is a Mormon, and the husband of a score of wives: is the political power of twenty families to be given to the saintly patriarch of Utah? Sir, such a policy would turn the current of history, swiftly flowing into civil freedom, backward toward the patriarchy of the infant world. I dismiss the theory, and turn to one more plausible though equally fallacious. I refer to the dogma that suffrage is an inalienable natural right.

Now, sir, I contend that it is not a natural right at all. It does not exist in a state of nature, but is created by the organization of civil society. It is the method by which the ultimate sovereignty of the people is expressed in the administration of government, and hence is purely a political right. Voting is not an end but a means, and should be extended or limited according as the one or the other will best subserve the ends for which Governments are made. In a republic the privilege should be

as near universal as the well-being of society and the perpetuity of government will allow. The axiom of political equality, and the dogma that all just powers of government are derived from the consent of the governed, which we have laid in the foundations of our civil institutions, forbid any restriction upon suffrage, except when overridden by the higher law of public safety. This is the only and sufficient justification for withholding the privilege from aliens, minors, and females. Properly speaking, any conditions of suffrage in the nature of personal qualifications, made for the public good, are not restrictions, and can only become such when individuals fail to reach the standard which their own good and the welfare of society demands. This is self-exclusion from a full participation in the privileges of freedom for which the Government should not be held responsible. Rational liberty is the offspring of law, and must be maintained by law. But law in a free Government is an expression of national sentiment, and can only be executed when in accord with the public mind. I do not mean in accord with the views and wishes of all men, or sections even—for then it might not be a "terror to evil doers"—but with the prevailing sentiment of the people.

It is essential, therefore, for the preservation of liberty, that the law should embody intelligence and virtue of a high order. Republics are the latest and the best results of an advanced civilization, and are the civil forms in which the will and ideas of those for whom and by whom Governments are established have sought the highest condition of man. But were you to establish a republic among the unthinking and unrestrained barbarians of the South Sea islands, it would be subverted before a twelvemonth. A savage people cannot be a free, self-governing people. Where the passions of men are not under the restraint of the developed reason and conscience, they will not be a law unto themselves, but must be restrained by force. Transport to our shores ten million corrupt and ignorant Chinamen, a thing by no means impossible, and give them unlimited suffrage, and straightway your institutions would be subjected to radical and essential changes, if not to complete subversion.

For these, among other reasons, I hold that the question of suffrage is not to be determined by an appeal to our original rights, but by a consideration of its probable effects upon the public welfare and the perpetuity of the Government. This I contend for, not because I wish to exclude freedmen from the ballot-box, but because I would trace our political privileges to their true source. I would place upon defensible and impregnable grounds the exclusion of amnestied but unrepentant rebels from any part or lot in the work of reconstructing the Union, shattered by their hands, and which they are still anxious to destroy. We have no right to exclude any man from the privilege of suffrage unconditionally, but we have the same right and are under the same obligation to require of him for its exercise those conditions of intelligence and virtue without which republics cannot exist, as we have to make preparation and fitness a prerequisite for the discharge of official and ministerial duties. This is demanded of us by all the force of our obligations to preserve and perpetuate good government.

The political axiom that taxation and representation are correlative rights, which the fathers laid down in justification of their act of revolution, has been reiterated here and elsewhere as an irrefutable defense of universal suffrage. But the argument is false in philosophy and defective in logic. It assumes that suffrage should be as universal as representation, which is the very question at issue. Taxation does not necessarily carry with it the right to vote. Men may be required to pay taxes for the support of a Government which protects them in the enjoyment of their civil rights, even where public safety requires a restriction of their political rights. This holds in the case of females and aliens, and may be applied with even greater force to native-born citizens who

have been in arms against their Government. Ignorance may exclude from the ballot-box, but treason must. Whether the entire adult male population made free by the proclamation of January 1, 1863, and by the late amendment of the Constitution, numbering some seven hundred thousand, shall at once be admitted to the full enjoyment of all the political privileges of American citizens or not, is simply and solely a question of political well-being. A deprivation of civil rights is a defeat of the ends for which Governments are organized, and is an abuse of power, but a Government based upon political equality presupposes a degree of intelligence and virtue, and hence may properly demand the qualifications essential to its own existence in those who exercise its privileges.

We cannot settle the question of suffrage by reference to abstractions. Civil institutions are not a creation of the pure reason, but are an outgrowth of the experience of ages, and must be maintained by practical wisdom; but it is beset with difficulties. Free Governments are impossible among uncivilized peoples. When the masses are but partially or viciously educated, as in South America and Mexico, and even in parts of Europe, they have but a precarious and fitful existence. Then, an addition to the existing body of electors, of seven hundred thousand men wholly destitute of mental discipline and a practical knowledge of affairs, if not fatal to free government, might render it undesirable. But here, where the great majority of the people are under the restraints of a Christian education, we have a reserve of conservative power, which would seem to be abundantly able to counteract any dangerous tendencies resulting from such an increase. It may be more safe to give them the privilege to vote than to leave them like the pent-up fourth estate in Europe, a discontented and factious force under the State, perpetually seeking to redress its real or imaginary wrongs by mobs and revolutions. Every British ministry for half a century has been obliged to protect itself against this class of the population, by holding an army in one hand and a reform bill in the other.

The fact that the freedmen are concentrated at the South throws some doubt and perplexity into the problem. If they were scattered over the whole country the gift of suffrage to this people would not hazard or materially affect any State or national interest whatsoever. The whole body is less than the number of foreigners naturalized every ten years, and would constitute but one seventh of the entire voting population of the country. A Government which has sufficient power of assimilation to maintain its character and its stability against the ignorance and prejudice brought in by an annual increase of the foreign vote of a hundred thousand need not entertain an apprehension of evil to result from the vote of seven hundred thousand natives who have been taught the virtue of self-restraint and the value of liberty in the school of oppression. There can be but little danger from a race so docile and apt to learn. We should bear in mind, too, that though themselves enslaved, they have grown up in the midst of free institutions and have had the moral discipline of suffering. Remember, also, what unswerving loyalty they exhibited in the darkest and most hopeless hour of the war, when the pampered children of the Republic had yielded to the sorcery of treason and gone into a foul revolt against liberty and the Government of their fathers. With what incorruptible fidelity they fed and guided through all snares and dangers our starving soldiers escaping from the infernal lazaretto of a power which renounced alike the laws of war and the instincts of humanity. With what alacrity they leaped into the bloody arena when the hazard of life was made the price of their liberty. With what dauntless heroism they fought and fell, side by side with the bravest and manliest of the land, for the integrity of a Government which had been to them the house of bondage. Why, sir, these despised chattels of the traitor-

ous chivalry grappled with their masters in the deadliest breach, and fought with a firm and desperate courage where bullet and shell made wildest havoc with your ranks, and their ashes mingle with the dust of your noble dead from the rivers to the sea and the Gulf. Have not such deeds redeemed the race from dishonor and distrust, and entitled them, not only to a protection of their civil rights, but to an impartial enjoyment of the privileges of citizenship? It seems to me, sir, to be a legitimate result of the war, and as though to withhold it would be a violation of the gratitude, the honor, and the plighted faith of the Republic.

But, sir, I would not insist upon my views or make my convictions an obstruction to the restoration of a cordial union and fraternal intercourse with the South. We must ask nothing more, we must accept nothing less than what is necessary to the future peace and safety of the country. The suffrage of colored men, though limited by intelligence and military service, would undoubtedly be offensive and humiliating to the South, for it would conflict with pride of caste and with settled convictions that political subordination is the divinely appointed condition of black men. It is idle for us to expect that legislation or victories will supplant the inveterate prejudices of a century.

Time is an important element in moral triumphs, for the progress of ideas in general society is slow. But we have a right to insist, both as conquerors and the friends of freedom, that theories that have covered the land with shame and sorrow and well-nigh wrecked the Government shall nowhere again take forms of law or turn our legislative halls into the arenas of discord and passion.

We have been told that the appearance of the freedmen at the polls would be the signal for an indiscriminate war of extermination, and in the next breath that it would enhance the political power of their former masters. If, now, the desire of the South to realize both of these objects did not neutralize their efforts for either, the past is an assurance that the power of the Government would be ample to crush sedition, while the untarnished record of the negro during the war and his quiet but earnest pursuit of knowledge and the legitimate fruits of industry now, are to us a pledge of his future loyalty to liberty.

The southern argument that the ballot should be withheld on account of race or color rests in unalloyed prejudice, which has grown up from a false education and a vicious social system. It is indefensible on any principles of human nature or sound logic. A reference to facts and history shows abundantly that there is no natural repugnance between races or colors. What is sometimes regarded as such is only a false class pride, made obstinate by long-continued, artificial, and enforced distinctions in social condition, which becomes obvious and palpable when the races are brought together upon a common level of political equality.

Why, sir, these sticklers for an incompatibility of race, if you will but perpetuate the inequality and wrong of a barbarous age, will mix and circulate freely and gladly in this wide mosaic of society, and even mingle their blood till all the nice distinctions of color are blended and lost in a universal smut of the cuticle. These puerile conceits which we have been wont to hear pronounced with solemn and assured gravity by politicians of the southern school will soon follow into obscurity or contempt the outrage and wrong in which they were engendered—"Opinionum commenta delet dies, naturæ judicia confirmat."

But the paramount argument for a system of suffrage which shall admit freedmen and exclude rebels from the franchise of the ballot is the necessity of securing at the South a party whose loyalty is unimpeachable, to renew and maintain municipal governments in the insurgent States, true to the principles which have prevailed in the late struggle of arms. This will be specially imperative, if we adopt the theory of the Executive, that these States are

still in the Union. My own opinion has been that our condition was without precedent, either in our own or foreign history, and that the theory of reconstruction which was most direct and simple, and which could receive the general and cordial support of the people, provided it was in the interest of impartial rights, was most legitimate, and should shape the policy of the Administration.

We have just emerged, sir, from a grand revolution. The principles involved, and which have gained the final mastery, have no less intrinsic value and are not less vital to the welfare of those who shall enter into our labors than were those for which our fathers staked their lives, and for the transmission of which they renounced the whole proud inheritance of the fatherland and built anew the fabric of civil government. Is there any "powerful charm" in the wizard past which should hold this generation spell-bound? Our responsibilities to the future are not less than were those of the past to us. The authority of legal maxims and venerated parchments is not so high as the cry of justice and the demands of public safety.

Sir, we are under a covenant of blood to the loyal dead and the loyal living and to their children after them to see that what the people have gained in the field is not lost in the forum. We cannot shirk this grave responsibility under the pretext of public necessity, and be guiltless. The people will hold us in the discharge of our solemn obligations. The divine law does not require us to do equal justice to "white" men, but to all men; and if we cannot find the statute upon the tables of the law-givers, we may find it written upon the heart by Him who "hath made of one blood all nations of men for to dwell on all the face of the earth."

We cannot afford to lose time in restoring the rebel States to the full exercise of their functions in the Federal Government. The Union cannot long lie asunder in time of peace. There is a silent, irresistible force in the tide of events, a recuperative power in the great industries of the country, stronger than political parties, which will enforce an early reorganization of these States. If we do not adopt some just and feasible plan for the reconstruction of the disorganized South, the people will reconstruct this House. Nothing should be done in a spirit of exasperation and revenge. The safety of the Republic and the cause of national liberty alone should dictate terms. The freedom of all must be "maintained," and the peace and security of the Government assured by retaining it in the hands of its friends. But while we battle with an inflexible will for the realization of these indispensable conditions of reunion, we shall do well to bear in mind that in bringing back eleven great States to their allegiance we cannot secure full and exact justice as in the ordinary administration of law; that retaliation, if possible, would not restore our treasure or bring back our dead, and that time, which obliterates the trenches of war, will soften our sense of wrong and take something from the severity of our demands.

Practical statesmanship to-day does not consist in determining what we would do if we could, but what we can do if we will, and then in doing it. Let me not be understood as palliating the guilt or counseling a feeble dispensation of justice to the master spirits who raised and directed this storm of blood. To-day they are building the tombs of dead traitors, and inciting the rabble to the red-handed work of negro extermination. They are attempting, by processions, songs, and eulogies to corrupt the current of history and redeem from eternal infamy the memory of their comrades in perjury, murder, and treason. These things must cease. We must have but one history, and our monuments must teach the wisdom and glory of loyalty. It cannot be otherwise than that the latest and most resplendent chapter in our national records, the statutes of the last half decade, and the next; the very tribute which industry casts into the public treasury; nay, that the prevailing sentiments and familiar

speech of the loyal country should be a bitter and perpetual reproach to these men. Would you, then, place them here to baffle legislation, where every debate would be to them as terrible as the fiery tracery upon his palace walls to the doomed monarch of Babylon? Place them here and you make this place a bedlam to us and an inferno to them. Bitter dissensions would constantly arise, which would finally dismember and ruin the Republic. Once within these walls their purpose would find fit expression in the language of Beelzebub to the infernal council:

"Untamed reluctance and revenge, though slow,
Yet ever plotting how the conqueror least
May reap his conquest, and may least rejoice
In doing what we most in suffering feel."

It is an indispensable condition of peace to both North and South that the guilty authors of the war, whose pride and passions would rankle with the shame of defeat, should be forced into obscurity where they will be stripped of the prestige of distinction and the power of place.

Our policy should be to punish the leaders, but to elevate and inspire with confidence the masses who have been cheated or forced into rebellion. We should no longer bandy the epithets of "fanatical Yankee" and "southern tyrant," nor nurse sectional animosities and prejudices as groundless as the childish sentiment the poet has cast into the pleasant epigram:

"I do not love you, Dr. Fell,
The reason why I cannot tell,
But this alone I know full well,
I do not love you, Dr. Fell."

While we should shrink from no duty, and shirk no responsibility which the safety and welfare of the country demand, our abiding aspiration and effort should be to lay wide open the channels of trade and intercourse between the North and South, and to bind the two sections together by the bonds of mutual interest, and the yet stronger ties of common ideas and common patriotism. If we are to be one people, the deep, dark chasm which has opened in our history, which puzzles the skill of the wisest, must be spanned by frank and manly concessions and a mutual forbearance until the growth of other times shall have obliterated the horrid breach. The men who have trodden the paths of war, and whose graves lie thick and beautiful on southern plains, as the stars that keep watch in the deep vault of heaven; the heroes who survive and the heroes who went down in the rage and wrath of battle, like grass in the swath of the mower; they who at New Orleans and at Mobile, with rudder set and sails spread to the breeze, sailed as into the very mouth of hell, and brought forth the twin demons of treason and bondage to the light of justice and liberty, have made it impossible that a slave should ever again crouch and tremble beneath the flag of the Republic. To us belongs the duty of assuring the safety and perpetuity of the Union. Let us do our work in the spirit of Christian charity, and in our admiration of men of noble natures and heroic mold, who dared to stand like heroes at the threshold of their homes, and to fall like men at their hearth-stones, in defense of a bad and wicked cause, let us forget our wrongs and foster a spirit of patriotism and of brotherhood, which shall embrace every State and every citizen in our broad and sea-girt domain, rich in its mountains and rich in its plains, blessed in its climates and blessed in its peoples.

Mr. ROSS. Mr. Speaker, it is known, at least by my constituents, that I was not a supporter of the last Administration, and did not cast my vote for the election of the present incumbent of the presidential chair; nor have I any retractions to make or apologies to offer for such opposition. Educated in the principles of the Democratic party, with an abiding faith in their correctness, I cheerfully gave my aid to the election of its chosen standard-bearers, thinking it the best and safest policy to intrust in its keeping the destinies of the country; nor have these opinions been shaken by subsequent events, but confirmed. I thought that

conciliatory measures and wise counsels would preserve the Union and avert the calamities of a civil war. To this end I favored the peace offerings tendered in Congress by Mr. Crittenden and Mr. Douglas. Some of the measures of the Administration, which I regarded as infringing upon the Constitution, the reserved rights of the States, and the liberties of the citizen, I strenuously opposed. This difference of opinion with and opposition to the Administration has sometimes called forth from its friends the unjustifiable charge of disloyalty to the Government and sympathy with treason. The inference is unfair, and no hypothesis could be more foreign to the truth. At the last presidential election eighteen hundred thousand votes were cast outside of the States in rebellion against the policy of the Administration. These men were not disunionists; they were true friends of the Constitution and the perpetuity of civil liberty. They would have preserved the Union peaceably if possible, but forcibly if necessary. The Union preserved in its pristine purity is worth all the sacrifices, vast as they have been, of blood and treasure. Whether they were right or wrong, whether the one or the other policy would have been best, is no longer a practical question; what is done cannot be recalled.

Let us turn from the dead past to the living, practical issues before us. First and greatest in magnitude and importance is the restoration of the Union with amicable, fraternal relations between its different sections. It rises infinitely above all others, and merits the profound and dispassionate consideration of Congress and the country. Half a million of our brave men and untold millions of treasure have been lavishly bestowed to suppress rebellion, enforce the laws, and maintain the Union. The objects for which the war was prosecuted were authoritatively enunciated by resolutions introduced in both branches of Congress by Messrs. Johnson and Crittenden, and obtained with great unanimity its concurrent sanction. On this congressional platform, acquiesced in by every department of the Government without change or modification, the war was prosecuted, the rebellion suppressed, peace restored, and the Union maintained. Such, at least, was the judgment of the country up to the time of the meeting of the present Congress. Everywhere, on land and sea, our arms had been triumphantly victorious; the insurgents were routed and vanquished, laid down their arms and sued for peace. Animosity began to give way, sectional bickering was hushed, business and confidence began to revive; the country was tired of strife and war, the national heart yearned for peace, quiet, unity, and fraternity. The Executive had inaugurated and was successfully carrying out a policy for the restoration of civil authority, which for its wisdom and justice commended itself to the country and the civilized world. Such was the condition of national affairs when Congress convened.

These bright visions and cherished hopes received their first rude shock when the honorable Speaker, in his serenade speech, sounded the key-note of opposition to restoration—that we should “make haste slowly.” The sentiments enunciated in that carefully prepared speech, by one of the ablest and most distinguished of his party, foreshadowed unmistakably the purpose to thwart the Executive in his policy for the restoration of the Union. A caucus was called. Mr. STEVENS’s anti-restoration resolution adopted, the Clerk refused to place on the roll or call the name of any member from either of the eleven southern States. As soon as the House was thus organized the caucus resolution was adopted, creating the celebrated joint committee of fifteen on reconstruction, to which were to be referred without debate all credentials and other matters appertaining to members from the eleven southern States, thereby ignoring the standing Committee of Elections in each House and depriving them of their right to “judge of the elections, returns, and qualifications of its own members.”

This committee was created for the purpose of preventing restoration; to destroy, not to restore, and thus far it has successfully carried out the objects and purposes for which it was ushered into existence. They are opposed to the restoration of the Union, and it will never be restored as long as they have the power to prevent it. The resolution creating this committee and defining its duties is in palpable conflict with the plain provisions of the Constitution. Permit me to call your attention to it. Article one, section five, provides that “each House shall be the judge of the elections, returns, and qualifications of its own members.” Now, while this resolution stands as valid and is executed it virtually annuls this constitutional provision that “each House shall be the judge,” &c. “of the qualifications of its own members.” By the terms of this resolution both Houses must judge of the qualifications, &c., of each, instead of each House judging of its own members. By referring all credentials to this committee you deprive this House of being “the judge,” or of even expressing an opinion on the subject; neither House can act separately as the “judge;” but it requires both Houses, acting jointly, to be the “judges.”

By the Constitution each House is to act separately in judging of the qualifications of its own members, while by the resolution this right is denied, as it requires the concurrent action of both Houses before the members can be admitted to either. If three fourths of the members of this House desire to admit a member from Tennessee it cannot be done without the consent of the Senate, wherefore I hold that the resolution is in violation of the Constitution as it prohibits each House from the exercise of the constitutional right to judge of the qualifications, &c., of its own members, as this House cannot act upon the subject without the concurrent action of the Senate. By this new rule all propositions for the admission of members from the southern States must be referred, without debate or vote, to the joint committee on reconstruction. How, then, can this House judge of the qualifications and admit a member when it desires to do so? It may be said by rescinding the resolution. But can one House repeal a joint resolution? Thus the Constitution is held in abeyance by joint resolution of Congress.

Again, article one, section two, of the Constitution provides that “each State shall have at least one Representative;” and by article one, section three, the Senate of the United States shall be composed of two Senators from each State, chosen by the Legislature thereof, for six years; and each Senator shall have one vote. Yet Congress has been in session for over five months, and in palpable violation of this plain constitutional provision has persistently refused any representation either in the Senate or House from eleven States of the Union, although from some of them, at least, loyal Senators and Representatives, duly elected and qualified, with legal credentials, have been knocking at our doors asking admission, unless they would consent to abandon the great fundamental principle which lies at the basis of our form of government, that each State has the exclusive right to determine who shall exercise the elective franchise, and to manage and control her own domestic institutions and civil polity in her own way, subject only to the Constitution of the United States and the laws made in pursuance thereof. Congress can only lawfully exercise the delegated powers, all others “are reserved to the States respectively, or to the people.” Many of the States now represented in Congress do not conform to the invidious discriminations of the disunion committee. Why not exclude their members for the same reason?

Sir, I have not been disappointed in the action of the committee charged with the specific duty of reconstruction. According to all parliamentary rules and usages, it should have been constructed with a majority favorable to the object with which it was specially intrusted. I fear

this orphan child of reconstruction will never receive much nourishment from the breast of its unnatural, unfriendly mother. Like military courts-martial, the committee was organized to convict. Their object has been to dismember and destroy, not to restore or build up. This “central directory” has held its star-chamber meetings in secret conclave. Still the country could readily divine what such a committee would naturally be doing. After two months’ session with the credentials of members from eleven States before them, the first bantling ushered into the presence of the House, nurtured on the fructifying pap of the “committee of public safety,” was a constitutional amendment to deprive these unrepresented States of some twenty or thirty Representatives in Congress, to which they are entitled under the Constitution, and without permitting them to be heard by Representatives or otherwise. It is sought to enforce an odious constitutional provision upon eight million people, against their will, and without their assent.

Then a very modest appropriation of \$10,000 is asked for to enable them to manufacture testimony in favor of disunion and against the restoration policy of the Administration. Such a request was promptly granted by such a Congress. Next, twenty-five thousand extra copies of voluminous *ex parte* testimony, prepared by the secret junta, are ordered to be printed, expressly as a campaign document, to be used for the purpose of engendering sectional strife and exciting personal animosities and bitterness between the people. Thus increased taxes are imposed upon the people to further party schemes, disserve the Union, and misrepresent and malign the President.

After three months of the most excruciating labor the “directory” introduce another proposition to admit the State of Tennessee into the Union. The State of Tennessee out of the Union! If so, then the rebellion was a success, the Union severed, and the Government destroyed. Sir, is this theory of a dismembered Union and dead States true? If so, when, where, and by what means was it accomplished? The insurgents passed ordinances of secession. Did we acknowledge their binding force or validity? Surely not; we held them as absolutely null and void. They claimed the right to take certain States out of the Union, and, to enforce it, appealed to the arbitrament of arms. We denied the right and accepted the tendered wager of battle. They waged war against the Government for the purpose of taking the States out of the Union; we prosecuted it on our part to keep them in the Union; and inasmuch as it is admitted that the contest was decided in our favor, it is difficult to understand how the committee come to the sage conclusion that the insurgent States are out of the Union. If this theory be true, the present incumbent of the executive chair is ineligible to the office of President, not having been prior to his election “fourteen years a resident of the United States.”

Sir, the sophistical theory of a dismembered Union is false and fallacious, and cannot stand the scrutinizing test of investigation. According to the reasoning of the committee, the singular anomaly is presented that the States, in some mysterious manner, without any person knowing when, where, or how, actually got out of the Union, though the rebellion collapsed and the Government triumphed. It is urged that the States were guilty of treason, and, therefore, dead States, out of the Union. Every lawyer knows that a State cannot commit treason. Tennessee, never having been out, requires no enabling act at our hands for readmission. Though temporarily overrun by rebellion, she is not obliterated or torn by ruthless hands from her orbit. She still stands as one of the States in the national constellation, without any constitutional right or lawful authority on her part to secede or on ours to force her out.

The Union of these States can only be destroyed or dismembered by consent or force. Consent has not been given, and force has been

overcome by force. Thank God, the terrible fratricidal conflict is terminated. The Union has survived the shock and still lives. The nation's blood and treasure have not been sacrificed for naught. If these eleven States are actually out of the Union, why were some of their Representatives retained in Congress, without objection, after the passage of their ordinances of secession and during the prosecution of the war? In August, 1861, Congress imposed a direct tax on these eleven States of between five and six million dollars, which recognized them as being in the Union. In March, 1862, in apportioning representation among the States, fifty-seven members were assigned to the eleven States whose Representatives are now excluded from this Hall. Why apportion them Representatives in Congress if they were out of the Union?

Article four, section three, of the Constitution provides that "no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the States concerned as well as of the Congress." Under and by virtue of this provision the State of Virginia was divided, the State of West Virginia admitted by the consent of the Legislature of Virginia, thereby recognizing her as a State in the Union, and the action of her Legislature as valid in giving their consent to her dismemberment.

It is well known that President Lincoln always recognized and regarded the States within the Union, and urged in public and private upon his party the admission of Representatives from the State of Louisiana into Congress. In the adoption of the constitutional amendment abolishing slavery the States lately in rebellion were distinctly recognized as being in the Union, for that purpose, by the Administration. The Supreme Court of the United States recently, with but one dissenting voice, decided to take up and dispose of the business in said States, thus adjudicating that they are States in the Union, and not Territories or conquered provinces.

Sir, I have now shown that for the last four years every department of the Government, executive, legislative, and judicial, has uniformly recognized them as States in the Union, and repudiated the suicidal dogma of a destroyed Union and dead States. The chairman of the committee on reconstruction mooted his favorite theory of conquered territory and dead States in the Thirty-Eighth Congress, but with all his popularity as a party leader and acknowledged ability he was unable to control twenty votes of his own party in favor of the proposition; and when introduced by him in the Baltimore convention was voted down by an overwhelming majority in the house of his own friends. Now, since the meeting of this Congress, new light seems suddenly to have dawned upon the darkness. Heretofore an intimation that the Union was disrupted or severed was regarded as disloyal, but now it constitutes the very quintessence of patriotism. Now, the President and his Cabinet, as well as the brave officers and soldiers who periled their lives that the Union might live, are to be ostracized and repudiated because they refuse to keep step to the revolutionary strides of these radical destructionists.

Mr. Speaker, can it be possible that honorable members are serious when they propose to hold as conquered provinces, and govern by military force eleven States, with eight or ten millions of people, for an indefinite period of time without representation? Will they obliterate these States, and strike eleven stars from the national galaxy? Would they create a Hungary, a Poland, or an Ireland? Shall we turn upon our fathers, abjure our past history, and take to our embrace theories of government drawn from the despotisms of the Old World? I implore gentlemen to pause and consider before they peril all we hold most dear by taking a step so pregnant with danger: to let reason and justice, and not passion or party

considerations, control their action. A great responsibility from which we cannot, if we would, divest ourselves devolves upon this Congress. Why should we longer delay the full and complete restoration of the Union? Is there anything to be gained by procrastination? If, as is alleged, there still exists in some parts of the South unkind and even bitter feelings toward the North, it is not likely that oppression and tyranny on our part or the enforcement of the anti-American doctrine of "taxation without representation" will tend to diminish it or increase their respect and love for us. The southern people committed a grave error, and were guilty of a great wrong in waging war against a beneficent Government; and they have been greatly humiliated and severely punished. In their penury and penitence they ask to come back. Like the prodigal son, they have wandered far from their father's house, wasted their substance in riotous living, have been feeding upon husks, have come to themselves and turned their faces homeward. Now, what shall we do? Shall we imitate the elder brother by getting angry, or the kind-hearted father who saw the returning prodigal when afar off, and went forth to meet him? Sir, for myself I am frank to say I have no heart to turn my back upon the returning penitent. If there are still roots of bitterness springing up in the hearts of this people, the surest and most expeditious way to eradicate them is by justice tempered with mercy. Two antagonistic plans, radically different, are pending before Congress and the country:

1. The plan of the committee of fifteen, of a severed Union, dead States, conquered provinces, and public enemies, to be taxed without representation and governed by arbitrary force.

2. The plan of the President: that the ordinances of secession were void; that the States still live and are in the Union; that taxation without representation is against the genius of our Government; that legally elected loyal Representatives should be admitted to their seats in Congress.

On these issues I cannot doubt as to my duty, and shall cordially support the restoration policy of the Administration in preference to the destructive policy of Congress. One will build up, the other destroy; one is life, the other death, to the nation. It is my deliberate conviction, founded upon the best information at my command, that the controlling minds on that committee neither desire nor intend that the Union shall ever be restored. They fan the dying embers of sectional prejudice and passion; they pretend that there is danger of another outbreak in the South, and that the freedmen will be reenslaved, and thereby hope to conceal their covert designs upon the liberties of the people, and more effectually break down the reserved rights of the States, undermine the foundations of constitutional liberty, and erect upon its ruins a consolidated despotism. I say it in sorrow, not in malice, and sincerely hope I may be mistaken.

Mr. Speaker, paradoxical as it may appear, there are persons in this country, nurtured in our midst, basking beneath the protecting ægis of our flag, inimical to our free institutions, hostile to our form of government, ready to overturn it whenever a favorable opportunity is presented; nor, sir, are they confined to the south side of Mason and Dixon's line. The "hammering" has been going on at both ends; at the South it has now ceased. If like obstructions impede our progress at the other end of the line, they must get out of the way, or a like remedy must be applied. The great mass of our people are devotedly attached to our institutions and form of government, and will not tolerate treason or disunion in any section. History is replete with instances in which friendship and devotion have been assumed for the purpose of stealthily disarming apprehended danger and destroying the victim. We may find, when too late, that we have nurtured in our bosoms venomous reptiles ready to strike with poisoned fangs at the heart of the cherished and revered institutions of our fathers.

Forewarned we are forearmed, while those who betray with a kiss are most to be dreaded and shunned.

Sir, why are the threescore and ten constitutional amendments thrust upon the consideration of the present Congress? More in number than in all previous Congresses combined. It is a circumstance pregnant with meaning, ominous of the deep-seated hatred and utter contempt with which that instrument is regarded by a majority of the members of this Congress. Indeed, it is thought unfashionable and in bad taste to speak a word in praise of the old Constitution. If all these amendments were adopted there would scarcely be anything left of it. To us, truly, has ignorance been bliss; for over three fourths of a century we have been plodding along with our old Constitution. Washington, Madison, Franklin, Hamilton, and their compeers, made it. The benighted and sluggish intellects of such men as Jackson, Clay, Webster, and Benton, were impervious to this latter day light, and died in blissful ignorance that a Constitution they had lived under and cherished was so radically defective in protecting the rights and liberties of the people. How weak and frail is human judgment! How strange and inscrutable are the ways of Providence, that the nation should have been suffered to grope its way in darkness so long! But now, suddenly and miraculously as the conversion of the Apostle of the Gentiles, pretended statesmen in the Thirty-Ninth Congress rise up, men assuming to have more purity than Washington, more intellect than Madison and Jefferson, and discover that our form of government is a failure; that our admirable Constitution, with all its symmetrical checks and balances, is an abhorrent thing, to be detested and spurned, and wholly unfit for this moral and enlightened age!

Mr. Speaker, I am sometimes oppressed with serious misgivings, whether gentlemen who find so many radical defects in our Constitution are really in favor of the form of government under which we live. I prefer to let well enough alone, to—

"Bear those ills we have,
Than fly to others that we know not of."

And I trust it will not be esteemed discourteous to the House when I announce that I have as much confidence in the capacity and integrity of the men who made our Constitution as I have in the "central directory," which, if not checked in their revolutionary schemes, will destroy it. I concur in and commend to the House the views of the President so felicitously expressed in relation to amending the Constitution.

Now, I submit, Mr. Speaker, for the candid and dispassionate consideration of the House, whether the paramount interest of the country does not demand at our hands that we should stop this tinkering with the Constitution and apply ourselves to the necessary and legitimate business before us. The people expect and will demand this at our hands. They are grievously oppressed with onerous taxes; let us try and ameliorate their condition and lighten those heavy burdens. Retrenchment of expenses should commence at once in every branch and department of the public service. The tariff should be repealed or reduced to a revenue standard; the lords of the loom are amassing princely fortunes at the expense of the consumer. The Army and Navy should be at once reduced to a peace establishment. The internal revenue is oppressive and bears very unequally, especially on mechanics and artisans; the \$600 exemption should be increased to \$1,000, and large incomes of \$20,000 and upward should pay a higher tax, say twenty to twenty-five per cent. The laws in relation to fishing bounties is class legislation for the benefit of the few at the expense of the consumer, and should be repealed. The nation's gratitude, as well as the claims of justice to our country's brave defenders, demand the passage of a law for the equalization of bounties. These important measures are kept

back and neglected in the prevailing mania of this Congress to get rid of the old Constitution.

If we will take up the necessary business, sink the partisan in the patriot, and leave President making to the people, to whom it properly belongs, we still have time and opportunity to render invaluable services to the country. I am not unmindful that you have sacrifices to make and prejudices to overcome in rising above party to the higher plans of statesmanship. I will not claim exemption from its influence; perhaps we have all been more or less subject to its bonds. From boyhood I have been identified with the Democratic party; it may have committed some errors—no finite organization is perfect—still I have an abiding faith in the correctness of its principles and the purity of its motives, and would sooner confide the safety and destiny of our country to its keeping than any party that ever existed in the tide of time; and yet I have ever held in contempt a mere partisan for the sake of party. Our paramount duties and obligations to the country rise infinitely above all such paltry ties and considerations.

Against the judgment and clear convictions of those with whom it has been my pride to act, the people by decisive majorities have sustained the party in power; that expression of opinion, though not according with our judgment, is at least entitled to our respect; consequently, upon entering upon the duties of this Congress I accepted the situation, without any disposition to interpose factious opposition to such measures as the people had indorsed; with an anxious desire to coöperate in the adoption of such measures as would secure enduring peace, prosperity, and unity to the whole country. It, however, soon became apparent that a breach between the President and the radical portion of the party was inevitable, that new political affiliations were forming, old issues becoming obsolete, new ones coming up, and in these mutations strange bed-fellows and old antagonism thrown together.

Viewing the situation merely from a party stand-point, the Opposition would have affiliated with the disaffected faction and opposed the Administration. Such was not our course. Being in favor of the Union and a restoration of fraternal relations between the different States, we gave these measures our support, although inaugurated by an Administration which we had opposed. I am neither an opposer or follower of President Johnson, but will sustain him when right and oppose him when wrong. He has said and done many things, and probably will again, in which I cannot concur. Nevertheless, Mr. Speaker, candor and justice require me to say I am deeply impressed with the conviction that President Johnson, considering the new and embarrassing circumstances by which he is surrounded, is doing the best he can for the restoration of the Union and the interest of the whole country, and thus believing, I would be unworthy the high trust confided to me, and of the constituency I have the honor to represent, if I failed to sustain him. I see no reason to impugn his motives, doubt his honesty, or question his capacity. He has served the country long and faithfully in important official positions. His early political training and antecedents are such as to give hope to the friends of the Union and constitutional liberty.

This is no time for captious or factious legislation. The Union of the States and the liberties of the people are imperiled; their true friends must stand unitedly together battling against secession and disunion wherever, North or South, they may show their hydra head or cloven foot. On these issues the President is right, and we must sustain him and hold up his hands. Now, I submit to all candid and fair-minded men whether the ribaldry and vituperation daily heaped upon the President by this radical faction is just and fair. Is he a dog to be muzzled, or a slave that dare not speak? Is an American President to crouch like a whipped spaniel at the feet of revolu-

tionary disunionists or treasonable malplotters? When he communicates his views to the Senate, founded upon information derived from the Lieutenant General and others, in relation to the condition of affairs in the southern States, as he was bound to do by his duty and oath of office, he is charged by a leading radical Senator with making a "white-washing report," intending to convey the impression that he had perjured himself by furnishing a false report. When he intimates to a Senator his opinion in regard to amending the Constitution, the chairman of the committee of fifteen [Mr. STEVENS] tells the House that kings have lost their heads for slighter offense, and brands him as a "usurper."

These are grave charges to be made against the President of their own choosing. Of what heinous crime has Andrew Johnson been guilty, that he should be thus abused by these Robespierres and Dantons? Is it because he is the friend of the people and the people's Government, and opposed to traitors and treason North and South? Has he not breasted the storm, stood firm and unmoved as an adamant rock, while the surging waves of disunion and treason dashed wildly and madly around him? Has he not always been the fearless and incorruptible champion of the rights and liberties of the people? Ah, there is the rub; they know he is too firm to be forced and too pure to be bought. Southern traitors unsuccessfully tried both. He denounced and fought them until they acknowledged themselves whipped, laid down their arms, and sued for pardon. Then his generous nature revolted at the meanness of wreaking vengeance upon a subdued and fallen foe. Criticisms have been indulged in, that in 1861 treason was not nipped in the bud, but then, as now, he scented the danger in the tainted air, and was among the first to raise his warning voice and denounce the treasonable conspiracies against the integrity of the Union.

If these maligners are for the Union, the President is not in their way; but if against it, they will find they have a hard road to travel; but when they show penitence, and retract their disunion sentiments, executive clemency will wipe out all their guilty stains. He is generous and humane, but when they attempt to drive him they will find him firm and unmoved, except by the right.

Mr. Speaker, the country has cause of gratitude that in this national crisis, in this day of extreme peril, the right man is in the right place. All is not lost that is in danger. The President stands as a wall of fire between the people and the revolutionary disunionists who would undermine the foundations of the Government that they might perpetuate their power, revel in peculation and public plunder.

Southern treason is among the things of the past. Northern disunionists must also be put down. The friends of the Union must stand firm and united, encouraging the heart and strengthening the hands of their great champion. As Aaron and Hur stayed up the hands of Moses that Israel might prevail against Amalek, so may our Aarons and Hurs stay up the hands of our Moses, that they may be steady, and before the going down of the sun on the November election our Joshuas will discomfit and utterly overthrow and put out of remembrance these disunion Amaleks. Mr. Speaker, I have an abiding faith that an overruling Providence shapes and directs the destinies of men and nations; that the same protecting hand that lead forth the children of Israel and gave them victory over their enemies; that watched over our feeble colonies in their infancy; gave us Washington to organize and lead our raw recruits and undisciplined militia against the mercenary hirelings and trained veterans of despotism; that gave us such men as Madison, Jefferson, Hamilton, and their compeers to found and establish the best Government the world ever saw; that gave us Jackson to nip treason in the bud, and by the wise and fearless exercise of the veto power throttled the United States Bank, has in these latter days vouchsafed to the nation

the incorruptible Johnson to protect and defend the Constitution and preserve and maintain the rights and liberties of the people. His marked character renders him peculiarly adapted to the present crisis.

Springing from the people in the humble walks of life, his sympathies and associations have been with the laboring masses. He refers with pride and pleasure to the log cabin and the reminiscences of western frontier life where he spent his boyhood days. Starting out in life in the humble avocation of a tailor, without the advantages of an early education or rich and influential friends, he has by strength of intellect, application to business, untiring energy, and laudable ambition made his mark in the world, occupying alternately nearly every honorable position from justice of the peace to President. What a proud commentary is here presented for the contemplation of the friends of our free institutions. It is quite natural that Mr. Johnson should cherish a warm attachment and profound reverence for such a Government. He was devoted to and confided in the people, and they never forsook him. It is said he is a "usurper," a grave charge; but the public mind will feel at rest when advised that it emanates from the committee of fifteen, which was organized to convict. His "usurpation" consisted in the exercise of a constitutional prerogative of expressing his opinions on public affairs.

Again he is charged with being a "usurper" for vetoing the Freedmen's Bureau. Sir, that act is the crowning virtue in his life, and the brightest chaplet in his crown. A "usurper" would have accepted the proffered power and patronage, greater and more unlimited than was ever conferred on any President. If a usurper or tyrant, why did he decline it? Would the "directory" have rejected such immense patronage? Never. A measure which, if controlled by a "usurper," would have converted the Government into a military despotism. It provides for dividing the country into districts, with sub-districts of counties, parishes, &c., with hordes of officers, not elected by or amenable to the people on whom they are quartered, with summary power to try, convict, and punish without judicial process, trial by jury, writ of error, or appeal. These officers and agents may be white or black, and a negro may be sent from some other State to Illinois to sit in judgment on our civil officers and others and punish them "by fine not exceeding \$1,000, or imprisonment not exceeding one year, or both," and they need not wait the slow process of execution, but ample provision is made for enforcing the judgment by the military, which may also consist of negroes.

It further provides for furnishing at Government expense, in each district, "the freedmen, their wives, and children, with provisions, clothing, fuel, and other supplies, medical stores, medical aid, transportation," &c. Nor is this all. The freedmen were to be educated and have school-houses erected at the public expense. Why should this odious distinction be made in this law against the whites on account of color? A person so fortunate as to have a black skin (a circumstance not under their control) can have "provisions," "clothing," "fuel," "and other supplies," "medical stores," "medical aid," "transportation" with school-houses and education at the Government expense, while the proscribed whites on account of prejudice against their color by this Congress may be hungry and naked and cold, without medical aid or medical supplies, or school-houses, or education, or free passes, and not a dollar can they get from the national coffers. The widows and orphans of our brave white soldiers, who gave their lives that the Union might live, are deprived by reason of their unfortunate color, though many of them are quite needy, from participating in this governmental charity bestowed upon colored persons with such munificence by this Congress.

A short time since a bill was forced through this House by a party vote, and under the pressure of the gag law, appropriating some

\$10,000,000 for the Freedmen's Bureau. And if the vetoed bill had become a law, the expense of this bureau would have been doubled or trebled. Except for the President's veto this vast burden would have been permanently entailed upon the labor and industry of the country, and coerced by the tax-gatherer from an overburdened people. I am unwilling to vote a tax on my constituents to support in idleness any class of people, white or black. I see no reason why a black man should not earn his support by the sweat of his brow as well as white men. And yet it is known that the galleries of this Hall have for the last five months been crowded with colored persons, who are housed, fed, and clothed at the public expense.

Mr. Speaker, I have no unkind feeling toward the unfortunate colored people; they are free; be it so. I hope it may prove to them a blessing, and am opposed to any law discriminating against them in the security and protection of life, liberty, person, property, and the proceeds of their labor. These civil rights all should enjoy. Beyond this I am not prepared to go, and those pretended friends who urge political and social equality, and conferring special privileges like those in the vetoed bill, are, in my judgment, the worst enemies of the colored race.

But it is objected that on the 22d of February the President made a speech at the White House to the people, in which he indulged in some strictures upon prominent persons as to their loyalty. When a Senator he was bold and fearless in his denunciations of conspirators and traitors against the integrity of the Union, and I know of no reason why he should be less so when representing the whole people as President of the United States. Indeed I have faith that the national inquest by a decisive majority will indorse the sentiments enunciated in that able and patriotic speech.

Again, his traducers charge that he actually suffered unfettered Democrats to stand around him listening to his speech; and that, too, without invoking the aid of provost marshals to hunt them down and incarcerate them in the military bastille on Capitol Hill. Sir, this is a charge of so grave a character I will not presume to interpose a justification. The speech is before the country, and approved by the people. It is well it was made. He is bound by the Constitution and his oath of office to "preserve, protect, and defend the Constitution of the United States," and "take care that the laws be faithfully executed." He is the representative of and directly amenable to the people, and when there is a revolutionary conspiracy plotted by a secret "directory" to disrupt the Union, subvert the Constitution, and flieh from the people their liberties, it is meet and proper, as well as his solemn duty, to appeal to the people, expose the perfidious treachery, and denounce the traitors. He had before he made that speech evinced extraordinary forbearance. A majority in Congress had excluded Representatives from eleven States, and virtually decided that the Union was destroyed. His motives and policy of restoration had been bitterly assailed and malignantly misrepresented by the star-chamber conclave and their abettors. They had besmeared him with their choicest Billingsgate, such as "usurper," "whitewasher," "tyrant," "traitor," "copperhead," "rebel," &c. Disparaging comparisons were drawn between him and certain negroes—Fred. Douglass and others. If he had kept silent under such provocations his meekness and humility would have obscured, if not totally eclipsed, that of Moses, the Israelitish lawgiver. He appealed to the patriotism and intelligence of the people, the true source of all power, in vindication of himself and his policy against the assaults of his enemies.

The occasion on which those fitly spoken words and golden sentiments were enunciated will form a memorable epoch in our history. From that day the power for evil was broken. Bad men are held up to the withering rebuke and contemptuous scorn of an outraged and

indignant people, and the surging waves of fanaticism are stayed. "The man at the other end of the avenue" has spoken; the faction is paralyzed; the country breathes freer. Their cheeks blanch with terror as they hear the rumbling of the "earthquake." The volcano in its convulsive eruptions has ejected from its crater a solid column of pure Tennessee marble, so firm and immovable that the angry billows of disunion and the howling tempest of treason may dash around its lofty summit, spend their fury in vain, and fall harmless at its adamantine base, and "the gates of hell shall not prevail against it." The majority in Congress may, for the temporary respite left them, scold and snarl at their inevitable destiny; they may denounce the Administration, retard but not prevent the restoration of the Union. The President will stand firm; the people, irrespective of party, will rally to his standard when the integrity of the Union is menaced by open enemies or pretended friends. It is no time for the true friends of the country to fall out by the way; personal considerations and party schemes should remain in abeyance until the Union is restored.

The country has at no time within the last five years been in more imminent peril than at present; the radical majority in Congress are inaugurating measures of the most revolutionary character, which, if carried out, will inevitably involve the country in another fratricidal civil war. Calling themselves a Union party, these gentlemen oppose all measures for the restoration of the Union. Pretending to be a constitutional party, they endeavor to break down its safeguards and destroy it. Assuming to be an administration party, they denounce and oppose the Administration, its policy and friends. One Senator and three members of the House who were legally elected and justly entitled to their seats were voted out that they might increase their majority so as to pass their unconstitutional measures over the veto of the President. No member's seat is secure who opposes their schemes as long as they require votes to carry their measures. Obstacles are brushed out of their way like cobwebs; they stoop to conquer, and hold that the end sanctifies the means. They hope to perpetuate their power and political ascendancy by excluding from Congress and the ballot-box all who oppose their revolutionary schemes.

Mr. Speaker, I cannot flatter myself that I shall be able to present any arguments or considerations to this House which will induce gentlemen to pause and consider. I wish I could. The only hope left is in an appeal to the people, the patriotic masses, who love country more than party. Our patriotic fathers laid broad and deep the solid foundations upon which the magnificent superstructure of civil and religious liberty were reared; for near eighty years, in peace and war, it has answered all the purposes of a most perfect government. It may have faults; what form of human government has not? It has furnished protection and security to all classes of our citizens wherever our flag floats, at home and abroad, on the land and the sea. Our national progress and prosperity, in power, wealth, and civilization, has been a marvel to ourselves and eclipsed the nations of the world. Why experiment with so rich and precious a boon? If we are blessed with a better Government than is to be found elsewhere had we not better bear with it until we know that amendments will insure improvements? It has cost a vast amount of blood and treasure, and is worthy of preservation. It is the only true model for free representative government. It is the asylum of the oppressed, and a secure refuge from the crumbling despotisms of the Old World. We receive with open arms and greet with a hearty welcome the downtrodden people as they come flocking to our shores.

The eyes of the world are upon us. The great experiment of the capacity of man for self-government is being tested. The despotisms and monarchies of the Old World prophesy

our utter failure, and that faction and party are the rock upon which we will strike and crumble into fragments. In the meanwhile the friends of free government in the Old World look wistfully on with emotions alternating between hope and fear. This munificent inheritance of free government, bequeathed to us by our cherished and revered ancestry, founded upon the corner-stone of the right of the people to govern, is all our most cherished hopes or loftiest ambition could desire.

A great and responsible charge has been committed to our keeping. As our mental vision looks at the vista before us, seeking to pierce the veil which hides from us the obscure future, we are solemnly impressed with the conviction that the imperiled destiny for weal or woe of this generation, as well as of unborn millions, hang tremblingly in the balance. It is my ardent desire, my sincere hope, that we may severally so discharge our respective duties, under the vast responsibilities that devolve upon us, as to redound to the true interest, highest honor, and perpetual glory of our common country. That when we leave these representative halls for the last time, to be occupied by those who succeed us, when we sever our public relations and retire from this congressional forum, around which cluster many fond and endearing remembrances, to the sanctity of the domestic circle and the quiet shades of private life, we may feel the proud satisfaction of having conscientiously acted our part in this momentous national crisis, in this convulsive struggle for the Constitution of our country and the liberties of the people. I have no higher ambition, no loftier aspiration.

THE TARIFF.

Mr. NEWELL. Mr. Speaker, during all the years of the history of the country the subject of a tariff for revenue and protection purposes has agitated the public mind. With some the question of the revenue has been its primary and that of protection its secondary object; while with others protection has been looked upon as its primary and revenue its secondary consideration. By all parties, and nearly all writers, however, the necessity of a tariff for revenue, which of course would incidentally protect native industry, has been acknowledged and advocated. Nor is the United States an exception to all other civilized and even partially civilized nations as respects the use and necessity of a tariff for the purpose of revenue. The student of history can scarcely point to a country noted for the industry and prosperity of its people which does not owe a great portion of such industry and prosperity to the operation of a judicious system of revenue raised from imports. Even in the cases of countries which at the present day stand forward as the special champions of free trade, their principal revenue is derived from tariffs heavily discriminating against the products of other communities and nations. In no single instance, indeed, do we find absolute free trade to be the rule in any one nation. On the contrary it is not even the exception to the prevailing policy of civilization at the present day, which seeks to build up native industry as the parent seeks to prepare the child, by a course of discipline, instruction, and practical application of these for the varied duties of everyday life. As well might the parent send forth his child ignorant and unskilled in the means of procuring a livelihood as for a young nation to strive to contend with an old one in those peculiar branches of industry which require a large measure of skill and a vast accumulation of capital for their successful and profitable production in competition with the combined talent, industry, and wealth of old and settled communities.

The advocates of free trade forget that national art requires the protecting hand of the central Government as individual art does the fostering hand of the parent. In fact, in leaving the confines of the mere savage condition of society, every step toward a higher and better civilization is made under the protecting

ægis of government and law, while, as one phase after another of industrial progress is reached, the people are compelled to legislate to protect the rights of every particular class and every special industrial development; in other words, to provide that the weak are not overpowered by the strong, but that every individual capacity in man has a chance to bring forth fruits meet for the sustentation and preservation of the whole society. Thus the history of civilization has been simply the history of a series of progressive steps by which man has subdued nature to the various uses of society by the organization of labor under the protection of the central authority. In the feudal ages, the free cities were originally communities, under the lead of elected chiefs, organized for mutual protection against the free traders, the robbers, and banditti of those periods. In time their chiefs ceased to protect, and, indeed, became the oppressors of their people. Then the people appealed for protection to the central governments, the emperors. Thus feudalism was protection from those who preferred plunder to honest toil; and modern society, under the lead of national unity, is simply the protection of the whole people, their art and industry, from the adverse competition of communities, in which, under exceptional conditions of civilization, the largest amount of labor consistent with continued existence is extracted from the impoverished and famishing many by the wealthy and pampered few. It is as necessary, in modern times, that society should protect itself from the competition of those who grew rich by oppressing the poor, as in ancient times it was necessary to protect itself from those outside robbers and barbarians who preyed directly upon its weaker members.

The so-called democratic idea, that neither from oppression of the rich or powerful at home nor from the competition of the same classes in our intercourse with foreign nations should society protect itself, would end in anarchy and civil war, and finally in a return to the savage state in which the law of brute force and the condition of native stupidity would have their most perfect development. Free traders contend "that is the best Government which governs the least." But how, then, is it that as civilization gives place to barbarism, Governments become more complex, more varied in their duties, and more extended in the spheres of their action? Either our boasted civilization is a failure and barbarism preferable thereto, or the facts of history give the lie to the theories of free-trade philosophers. Thus, although free trade and simple Governments, with limited central powers, may be the normal conditions of a barbaric people, protection and complex Governments, with extended central powers, are the normal conditions of civilized nations. Barbaric nations, composed of tribes acknowledging but a limited allegiance to a central authority, are weak, both as regards internal order and external defense; while on the other hand, civilized nations, composed of communities acknowledging an extended allegiance to a central authority, are strong both for purposes of internal order and external defense. In considering the question of a tariff for revenue or protection, then, we should, at once dismiss from our minds the fallacy that because it tends to the centralization of power it is consequently opposed to the liberties of the people. This is merely the clap-trap of the political demagogue, and, like the cry of State rights, so successfully used to lead the ignorant and unwary into rebellion against the central authority, should have no weight with the more intelligent and better-educated citizen.

Another free-trade fallacy is, that the protection extended by a tariff on imports to the manufacturing portion of the community is at the expense of the agricultural classes, who, in return for their outlay in increased prices for manufactured articles, receive no compensating benefits whatever. I will not go into a lengthy disquisition upon this branch of the subject. To do so would be but to travel over

ground heretofore so often occupied by abler parties. I will say, however, in passing, that the superior markets for agricultural products created by home manufactures must always largely counterbalance the enhanced prices of manufactures, while the tendency of protection to foster such manufactures must ever be to cheapen their products. Capital and labor are always attracted to the most profitable sources of investment, thereby facilitating the tendency to greater cheapness of production. This is the recognized and universal law which governs supply and demand, and is uniform under all conditions of human society. But admitting, for the sake of argument, that in order to foster and encourage manufactures in a merely agricultural condition of society, it is necessary to tax the general public in the outset, on account of certain conditions of labor or capital in older communities, I contend that such tax is a necessary condition of that stage of civilization which calls for its imposition. Nations, like individuals, have their periods of childhood, youth, and manhood. It is necessary that the child should be instructed in the duties of the life upon which he is to enter, and that instruction must be at the expense of individuals or the State at large. Modern civilization recognizes the positive duty and necessity of State education. Now, a merely agricultural people are in a condition of imperfect development. They are in the childhood of national existence. Let them remain in such condition and they will never attain to that acme of prosperity or of civil or military distinction which falls to the lot of their more progressive neighbors. Indeed, in time they become the prey of their more powerful and prosperous rivals. If the State finds it absolutely necessary to tax itself for the education of its children in the theoretical duties of life, why should it not find it still more necessary to tax itself for the purposes of the practical application of those duties?

It will be noticed that the time and expense incurred in preparing an individual for the duties of life are apparently out of all proportion to the benefits derived from those duties. So the expense of preparing a new people, a young and growing nation, for the actual strife of existence appears out of all proportion to the results. But such an expense must be cheerfully borne, or the nation will never take its proper rank among its sister States. As regards modern civilization, what strength has a merely agricultural community? It has the strength of brute force, as compared to modern science and skill, with all their improvements in arts and arms. The southern States of our Republic gloried in this strength; boasted of their agricultural wealth, declared cotton to be king, and defied the intelligence, skill, and science of the North. We all know the result. And such result must always follow a contest between a purely agricultural people and a country in which agriculture, manufactures, and commerce are blended in one harmonious whole, each dependent on all, and all combining to protect and preserve each. But as a child must force itself or be forced by its preceptors or parents to prepare itself for the duties of life, so must a merely agricultural people force themselves or be forced to prepare themselves for a more advanced condition of civilization, in which employments are more varied, and the resources of the nation more perfectly developed. Protection, then, like education, though possibly an abnormal condition of national manhood, is the normal condition of national adolescence.

Since the formation of this Government the opposing ideas of two great men have been struggling for the mastery, and that struggle, apparently, culminated in the late rebellion. For a time it was doubtful whether the followers of Thomas Jefferson or of Alexander Hamilton would control the Government, but the struggle at length, apparently, terminated in favor of the former.

Now, Mr. Jefferson and his followers had a horror of progress in the direction of that civ-

ilization which was the rule as respects every leading nation in christendom; while Mr. Hamilton and his followers saw that, even if we would not, the circumstances of our geographical position compelled us to follow in the wake of older countries or to relapse into mere barbarism. Mr. Jefferson would fain have preserved the United States in a mere agricultural condition of existence. He looked upon large cities as sores on the body-politic, and his followers regarded banks and manufacturing corporations as soulless monsters which were continually devouring the substance of the people. Mr. Hamilton, on the other hand, accepted the conditions of modern civilization as the normal state of society, and desired to prepare the people for participation in their blessings and for the mitigation of their evils. Thus we find the Democracy taking for its mission the attempt to preserve society in its merely agricultural condition, in that period of happy childhood, to advance out of which, in the view of that party, was but to encounter nothing but disappointment, distress, and finally universal decay and death. The mission of the Whig and Republican parties, on the other hand, is to prepare the nation for that higher condition and more varied walks of industry which are essential to advanced civilization. The extreme conservatism of the Democratic party was illustrated in its attempt to preserve even slavery itself, the most simple and child-like form of human industry, and one only suited to the most primitive condition of merely agricultural existence. It is not to be wondered at, then, that a party so conservative of a condition of society, which rendered manufacturing industry in its modern form totally impossible, would oppose all measures for the protection of such industry itself. It was not thus so much the principle of protection itself which the older Democratic lights opposed as the attempt to elevate manufactures in the United States to that position and standing in the community which would give them a controlling voice in the councils of the nation and a social status of the most towering proportions. No doubt the leaders of the Democracy instinctively felt that as manufacturing industry prospered, a system founded on an entirely opposite principle must decay; that the wealth and progress of New England would be a standing reproach to the poverty and stationary character of southern civilization. To this day your fanatical secessionist denounces the thrift of New England, and your provident New Englander the shiftlessness of the South. They represent the extremes of our national civilization.

I have said that a merely agricultural country is but in its adolescence, and lacks the bone and sinew of manhood. To be sure it may give raw recruits in abundance to a wealthier and more powerful neighbor on which it is dependent. In this way did Scotland in early times, and does Ireland to this day, supply England with men to fight its battles. In this way does India supply Great Britain with the raw material by which its outlying dependencies are kept in subjection. In this way does Russia draw from her vast steppes those agricultural laborers who fill the ranks of her monster battalions. But it is the manufacturing and commercial elements of those countries, and the aristocratic families in alliance with them, which direct all this brute force for good or evil. Even the sinews of war are directly contributed by manufactures and commerce. What could we have done in the late war for national existence if it had not been that the manufacturing and commercial interests of the country were on our side? An agricultural country cannot stand the taxation necessary to an expensive and long-continued war. Southern finances broke down at the very outset of the rebellion, while northern gathered strength with its progress. Because we were then an agricultural country, we could not sustain the vast accumulation of the old continental money. And on the other hand, the manufacturing interest of Great Britain enabled her to wage a war of a quarter of a century with Napoleon

and to subsidize all Europe against him. Had she been a merely agricultural country he might have portioned out Europe as he pleased among the members of his family.

But let me illustrate the wealth and power which manufactures give to a nation in modern times by reference to the sources of our own internal revenue. These sources will show at once the superiority of a manufacturing, as regards the sinews of war, over a merely agricultural people. In round numbers, the receipts of internal revenue for the fiscal year 1865 were \$211,000,000. Of this amount the New England States, together with the sea-board States of New York, Pennsylvania, and New Jersey, contributed nearly \$150,000,000, while all the western States and Territories, including those on the Pacific slope, contributed but about \$40,000,000. And in the western States and Territories those portions devoted to manufactures and commerce contributed the great bulk of the revenue. Thus one district in Illinois contributed more than all the others. And so of other States. Here is food for earnest reflection. If manufactures can contribute such immense sums for purposes of the highest public good—the preservation of the life of the nation—how much can they not contribute for purposes of private use and benefit? Besides contributing thus largely to the public necessity, manufacturing districts also absorb a much larger proportional amount of the national circulation, thus not only saving interest to the Government, but also, by increasing the avenues of industry, furnishing employment to thousands of people. To illustrate, let me take the boot and shoe trade of Massachusetts. The capital invested in this trade last year was \$10,037,474; the gross value of stock used \$25,040,544; the value of boots and shoes manufactured \$52,915,245; the number of male persons employed in manufacture 42,626; of females 12,534; total 55,160. These persons manufactured during the year 7,249,921 pairs of boots and 24,620,660 pairs of shoes.

But this boot and shoe trade is but one of those important branches of manufacture in New England which have contributed so much to the wealth, prosperity, and happiness of her people. Some twenty-six of the leading cities and towns of New England produce products valued at from one to thirty-six million dollars each, and give employment to a large number of persons, male and female. It is calculated that the consumption in the United States of iron, steel, copper, lead, zinc, woolen and cotton goods, leather, and glass is not less than \$1,000,000,000 in value. In a few years this consumption will be increased one half. Now, suppose we were compelled to purchase all this vast amount of production from abroad, it is evident that it would exceed all the gold, cotton, and all other commodities annually exported, besides leaving us in debt for over one half the amount. But we should also be compelled to pay greatly enhanced prices for the articles imported, as the demand would be materially increased, while Great Britain and France would obtain complete control of our markets. Fortunately for us, however, the foreign imports for 1864–65 did not much exceed \$100,000,000 in value. For 1865–66 I regret these imports will probably exceed double this amount; but should our manufacturing establishments be broken up, the effect upon the country would be fearful to contemplate. In some parts of the West agricultural products could not be given away; wheat would decline to twenty-five cents per bushel; wages would fall in proportion; the fate of Ireland, Turkey, and Spain, which are reduced to mere dependencies of the wealthy manufacturers of Great Britain, would be ours. The public generally are not aware that nearly ninety per cent. of the manufactured goods consumed in this country are the product of the United States. If they were, the freetrader's cry, that protection is obtained at the expense of the consumer, would be robbed of half its terrors. The truth is the foreign import, like our foreign export of agricultural products into Great Britain, is,

at least, in periods of normal trade and commerce, but a tithe of the home consumption. It serves, however, to give the foreign manufacturer a lever by which he can operate injuriously on our home market; at one time lowering prices to a point entirely unremunerative to the native manufacturer, and then, when that manufacturer is compelled to succumb to the pressure, raising them to figures far higher than those from which they had fallen. In this way the foreign manufacturer and capitalist extracts the loss he had been at in the effort to break down the home manufacturer and capitalist from the pocket of the home consumer. In a few months in this manner he may destroy the labors of years, throw thousands out of employment, and cause a depression of our home industry which will take years to recover from, a destruction of capital which it will take a decade to recreate, and a disorganization of labor which may never be restored.

It is the internal trade, created by our manufactures, that builds up the country and unites every distant portion of it as with hooks of steel. Behold our vast network of railroads; see the amount of business performed by these roads; the immense number of persons to whom they give employment, from the artificer who builds the complicated engines and magnificent passenger cars to the laborer who constructs the track and keeps it in repair. Then glance at our river and lake steamboats, our canal-barges, our coastwise steamers and ships of all kinds. What is our foreign trade, extensive as it is, and attracting as it does the admiration of the world, to all this traffic, involving an outlay of thousands of millions and giving employment to hundreds of thousands of industrious and enterprising people? But nearly all this great travel and traffic is supported by our home manufactures. It is well known that a vast amount of the immense agricultural products which center in Chicago, Milwaukee, Detroit, Buffalo, and other inland cities never reaches the sea-board, but is manufactured or consumed at various points on the route. Thus New England and Pennsylvania, and even New York, are better markets for the West than Great Britain or France. In the case of these latter countries other nations enter into competition with our products shipped to them, which compels shippers to regulate their prices accordingly. On the other hand, the West has no competitor in our home markets save Canada, and I trust the repeal of the late reciprocity treaty will do away with the injurious effects of that also. But even the expense of shipment from the West to the East eats up the profits of the agriculturist. During the past year corn has been consumed for fuel in portions of Illinois and Iowa. Does not such a fact prove the absolute necessity of a home market for agricultural products and its great benefit in increasing the purchasing power of a community? How immensely is the purchasing power of Pennsylvania increased by her manufacture of iron and her production of coal? How much poorer would she not be were she compelled to import all these vast amounts of the prime necessities of modern civilization? Would not her furnaces die out, her railroads become useless, her great cities decay, and the entire community tend toward barbarism? But what would take place in Pennsylvania in the event of the cessation of her iron and coal trade would only be a sample of what might be seen all over the United States were our manufacturing industry prostrated at the feet of foreign competition and foreign capital. We must preserve this great internal trade and industry, built up at the cost of so much blood and treasure, from the competition of the cheap labor of Europe.

Free trade presents to the American people but two eventualities. Either we must, under its influence, see our manufactures destroyed, or we must reduce the wages of labor to the European standard. In the first event we would place not only ourselves, but the foreign laborers, at the mercy of the capitalists of Europe. In the second, we would introduce into Amer-

ican social life that degradation of labor which is little better than slavery itself. America would then cease to be the refuge of the oppressed of every clime, while the gulf, at all times, unfortunately even in the most favored countries, separating the rich from the poor, would be so widened that mutual hate and distrust would inflame men's minds and create materials which the political demagogue would be constantly fanning into the flame of revolution. In a country and political community in which universal suffrage is the acknowledged inherent right of the people, a state of things in which the interests of labor and capital would be at variance precisely in the ratio that the numbers on one side and the amount on the other increased, and in which the masses had the means of destroying the existing order in their own hands, the political condition would be fearful to contemplate. On the other hand, the only hope for the continuance of republican institutions lies in such an adjustment of the rewards of industry that the laborer shall not only be properly compensated, but be left free to select that employment which is in consonance with the bent of his genius. Every man is born with an aptitude for some particular pursuit in life. It is this diversity which tends to that variety, as necessary in the economy of artificial or industrial life as it is in the economy of nature itself. All men cannot be farmers or physicians or lawyers. On the other hand, the more we are able to vary the industry of a country the greater the number of avenues to employment which we provide. In old, agricultural communities manufactures must be created for the employment of the surplus population or that population must vegetate in idleness, degenerate into vicious habits, or emigrate to other countries. This is but the history of the social life of every people. Now, the factory would not only keep the young men at home, but also create a market for the products of the old. Thus the community would progress toward the goal of social existence, which is when the three great industrial interests of life—agriculture, manufactures, and commerce—are so blended and harmonized as to act and react upon one another, and thus become so mutually dependent that an injury done to one would be felt as an injury to the whole.

But by this comparison between a merely agricultural country and one in which manufactures have been so developed as to add immensely to its wealth and prosperity, I do not mean to be understood as at all disparaging the relative importance of agriculture itself. On the contrary, I regard agriculture as the parent and basis of all other industries and arts, which repose upon it as the child upon the bosom of its mother, and draw their sustenance therefrom. The hardy tillers of the soil also not only sustain but help to save the country. No other branch of industry, in any nation, can send so many or such stalwart men to the field of battle, while from the ranks of the farming classes the cities and towns are constantly recruited with fresh material to replace the worn-out toilers in all professions and trades, in the arts as well as the sciences, in law as well as medicine. It is only that form of society I deplore which rests content in an undeveloped national condition, entirely constituted of persons devoted to but one branch of industry, and that but very imperfectly organized. For be it noted how the inventions of the mechanic and the information of the merchant tend to develop the resources by which the agriculturist adds to the wealth of a country. How far ahead is the farmer of the present day, in all that regards the application of science to his peculiar branch of industry, of the farmer of a half or even quarter of a century ago. During the intervening period some of the most important agricultural implements have been invented and put to practical use. The reaping, threshing, and other machines now add the labor of hundreds of thousands of men to the producing power of the country, while improved machinery of all kinds helps to lessen the toil and increase the

productive forces of the husbandman. And are not these inventions and new mechanical appliances the products of the manufacturing industry of the country? And do they not add a thousand fold to the power and importance of agriculture; to its power as a great national interest; to its importance as shedding luster upon those engaged in it, and adding millions to the wealth of the people? Agriculture acts upon all other industrial interests; but these latter, in order to the perfection of national industry, should in turn react upon it. Agriculture is the sun around which manufactures and commerce revolve. But the sun must have its planets and satellites, or its genial influences, and all the blessings of its light and heat must be dissipated in the vacuum of an irresponsive space. In a true industrial system, however, agriculture gives sustenance to manufactures and commerce, while the latter in turn consume her products and increase her powers of production indefinitely. It will thus be seen that the interests of agriculture, manufactures, and commerce are so mutually blended as to be utterly inseparable, and that he who disparages one at the same time disparages all.

I have thus, in this imperfect manner, endeavored to set forth some of the benefits of manufactures to the people and the nation. Among other advantages, I find that manufactures create a home market, diversify the products of industry, increase the avenues of labor, develop internal and external trade and commerce, add to the amount of revenue, and form a basis for the absorption of a large volume of national circulation, thus internally and externally strengthening the national body, enabling it to preserve order and promote industry at home, and to make itself feared as well as respected abroad. To foster and protect an interest fraught with such blessings to the people should be the aim of every patriot. And fortunately the late war, so costly in blood and treasure to the country, has put it in the power of the national Government, without injury to other interests, to place the manufactures of the country on a basis of enduring prosperity. This can be done by so apportioning taxation that its principal burdens shall be made to fall upon the foreign manufacturer and on the realized wealth of the country. Thus of the immense revenue raised in Great Britain, a country most clamorous for free trade as respects other nations, the proportions are as follows:

	Per cent.
Customs.....	32
Excise.....	28
Stamps.....	134
Land and assessed taxes.....	5
Income and property.....	11
Post office.....	54
Miscellaneous.....	5

The revenue commission laid down this principle when it urged—

"The abolition or speedy reduction of all taxes which tend to check development, and the retention of all those which, like the income tax, fall chiefly on realized wealth."

Previous to the war our tariffs were of course imposed without reference to an internal taxation, which did not then exist. Since the war this system has been continued, notwithstanding that the principal burden of taxation now falls upon the manufacturing industry of the country. Thus the internal revenue raised during the fiscal year of 1865 was \$211,129,529; while the revenue derived from imports was but \$84,928,260. For the present fiscal year the estimate of internal revenue amounts to the large sum of \$272,000,000. Now, it is evident that to expect the import duties to increase in like proportion at present tariff rates would be to expect that our home manufactures would be overwhelmed with foreign importations. For be it remembered, (and I desire to draw particular attention to this point,) while the internal tax, principally borne by our manufacturers, as I have shown, has been added to the burdens of the manufacturer, the tariff on imports has not been proportionally increased. By this means the benefit derived from the tariff to the manufacturer is alto-

gether nullified by the internal tax on articles the manufacture of the country. To such a height has this grievance risen that there is scarcely a manufacturing interest in the country which has not its representatives at your doors praying for the reduction or removal of the burdens under which it labors. To such an extent have these burdens reached that I very much fear the result will be to totally crush out a great many branches of manufactures now in their infancy and struggling for existence. Give such branches relief and they will in a few years be placed on a footing of prosperity and permanence which will bear a taxation that would now sweep them out of the field of their operations. In this connection I beg to read the following letter from a prominent iron manufacturing firm in my district. It is only a sample of hundreds of the same description from manufacturers all over the country:

TRENTON, NEW JERSEY, February 21, 1866.

DEAR SIR: Facts in regard to the state of business are worth a thousand theories, when you legislate in regard to the tariff and the internal revenue system. You know how long we have been engaged in the manufacture of iron at Trenton, and that we have both capital and experience. During the last six months of 1865, the price of gold was nearly uniform, so that no profit or loss occurred from the fluctuations in the cost of importing foreign iron.

The result of our six months' operations at Trenton was a loss of \$33,702 14, without charging any interest on capital, or any allowance for our personal services. In other words there was an actual loss of capital to the amount of \$33,702 14.

During the six months we paid on the work turned out at Trenton internal taxes to the amount of \$27,177 53. Therefore it is plain that all the internal revenue derived from our business was taken out of capital, and was in effect actually destructive of our means to carry on business. If no internal taxes had been levied there would still have been a loss of nearly seven thousand dollars.

It is obvious, therefore, that we must shut up our works unless either the tariff on foreign iron is increased, or the internal revenue duties repealed, or both modified so that it is possible to conduct business without loss.

The loss on our product amounted to about six dollars per ton, which will be a fair guide in adjusting the new duties. Either the foreign duty must be raised six dollars per ton, or the internal revenue duties reduced six dollars per ton, or the two systems so adjusted that the difference between the foreign duty and the internal duty shall be six dollars per ton greater than it now is, or we must stop business.

You are at liberty to use this letter in any desirable way, and we ask that the facts may be laid before the Committee of Ways and Means in order that the exact truth from a responsible source may be known.

With great respect, we have the honor to be, very truly, your obedient servants,

COOPER, HEWITT & CO.

Hon. W. A. NEWELL, M. C., Washington city, D. C.

In view of the statements in the above letter, for the truth of which I can vouch on the words of honorable men and respected citizens of my State, it is evident that if the Government fails to place the great manufacturing interests of the nation in such a position that they can move on and be self-sustaining, attracting the capital and skill of the country and the world to them, it will fail to protect its own interests; it will fail to provide the means to meet the interest on the national debt and for the final redemption of that debt; it will fail, in fact, to preserve its own existence; while, on the other hand, it will enable the foreign manufacturer to draw out of the country the very capital needed at home for the organization of manufacturing industry, and for the realization of such a scale of profits on that industry as shall be the future dependence of the Government in the levying of the taxes for its support.

Take the single article of steel, for instance, the manufacture of which had been greatly increased under the tariff previous to the war, and during the war by the high rates of exchange operating as a protection from foreign competition. If an *ad valorem* duty of twenty per cent. is levied upon steel the Treasury will receive \$200,000 from the importation of every \$1,000,000 in value. The advocate of a revenue tariff would claim that this would be the easiest way to collect a revenue; and it would at first sight seem so, but that importation takes out of the country the whole \$1,000,000 of capital never to return it. We can derive no future benefit from it, as we derived none from the

operations which produced the steel. It is wholly lost to the country. On the other hand, if the steel is produced here it gives employment to five hundred men, directly or indirectly. It secures steady work and good wages to miners of iron and coal, machinists, fire-brick makers, builders, farmers, merchants, and in fact every branch of industry in the country, including law, medicine, and divinity. The whole \$1,000,000 that the steel thus costs is spread about, circulated broadcast, to support our own people instead of being sent abroad to sustain a rival country. And this article of steel is one of the items which needs protection; for this reason I name it. But you cannot name an industry that is not benefited by the introduction of the manufacture of steel into the United States. Yet foreign steel is now able to compete successfully with the home article, and our steel works are all, or nearly all, either losing money or idle for fear of loss.

But some will say "if we cannot compete with Great Britain we ought not to manufacture." We could compete with her if we could bring our mechanics to work for the starvation wages paid in that country. But surely no man will have the hardihood to say that it is the interest of our Government to crush our people down to the level of those classes. The principle that wherever an article could be produced the cheapest, there it should be manufactured, and the world thence draw its supply, has its advocates; but such a principle tends to the centralization of capital in the hands of a few, who would not only have the power to compel their mechanics to work at their own prices, but, also, the world at large to pay such prices for their wares as they chose to set upon them. Many and many a time have we, as well as other countries, been compelled to pay enormous prices to the manufacturers of Great Britain on account of our own short-sightedness. Taking the article of steel again, if we do not produce it, the foreign manufacturers combine and charge us a high price for it. They are restrained from doing so now by the desire to break up the trade here. It is well known that the competition among ourselves brings down the price of manufactured staple articles to the lowest paying point. The fear is sometimes expressed that the moment a protective tariff is levied on steel, so as to shut out the foreign, the price would go up. So it would, for the moment. But even in that case the Government would only be passing funds from one citizen to another, and there would be no national loss of capital. So soon as the home manufacture became thoroughly established, the competition would bring down prices to the lowest paying point, so that the consumer would soon get his supply as low as it could be profitably afforded.

And I am glad to see that many of the English manufacturers are recognizing the policy of the Government in this matter as the true one for the interests of the country, and are bringing their capital to this country in order to carry on their business here, instead of trying any longer to draw out our capital in exchange for their products. This policy brings not only capital but skilled labor into the country, which is what we so much need. At Harrisburg, Pennsylvania, the celebrated Sheffield (England) cutlery, Westenhelm & Co., are building an immense factory for the manufacture of various articles into which steel enters largely. It will give employment to a very large number of hands, for whom suitable homes are also being erected. One of the large thread manufacturers of England is also about to supply our market, by manufacturing the article here, employing his own capital with which to carry on his operations. Is not this much better than that we should send the cotton to England, at a large expense and risk, perhaps in foreign bottoms, and import the manufactured article in the same manner? There is now being erected in Essex county, in my State, a large establishment for the manufacture of watches. A village is also being

built for its accommodation; a railroad station is to be established at the place, and thus value is at once added to the taxable property of the county, population to the country, income to the Government, and capital brought into the country to carry on the business. It can no longer be claimed that we are not old enough, that we cannot supply ourselves.

We have, on the other hand, the elements of success in every branch of industry. With the proper tariff encouragement, such establishments as those I have referred to will extend all over the country, and into every branch of manufacturing industry. No part of the nation will be the special receptacle of the increased wealth which will flow in upon us. Such settlements will be made in the great West to meet its wants, and in the South to rebuild its waste places. The capital, the energy, the experience, and the really valuable industry of the Old World will be transplanted here; the capital for more rapid increase; the energy to seek out new enterprises upon which to expend itself; experience to turn itself to account; and an industrious population to receive a better return for its labor.

One of the reasons why the capitalists and manufacturers of Europe favored the breaking up of this nation and sympathized with the free traders and secessionists was that they saw we were finding out that protection was necessary to the development of our internal resources, and such development would soon bring a young but active competition against them into the markets of the world. Now, seeing that the efforts to break up the Government is a failure they are turning their eyes to this country as a magnificent field for their own means, industry, and enterprise. Let them come; there is room enough for all of them. We are rich in mineral resources. Protect the industry that would develop them, and we shall soon be strong enough to cope with the poorest paid labor in the world, on account of our improved processes and perfected machinery. All the metals and minerals are produced here in abundance except tin and nickel.

But without a proper modification and increase of the tariff we shall have prostration, "hard times," no internal revenue to the Government, and most discouraging prospects for new enterprises as well as established trades. With a proper tariff comes activity in all branches; new enterprises go forward, followed by a development of all our great resources, prosperity everywhere, and an abundance to be taxed, with willingness to pay. National prosperity greater than before known will succeed our present prostration; national strength will rise and show itself in what is now a national weakness—the union of capital and labor. Do not be afraid to tax a manufactured article because you may not be aware that it is made here in sufficient quantity to supply the market. Put on the tariff, and the foreign maker will come with all his capital, his implements, and his labor to manufacture here.

A few weeks since the celebrated political economist, John Stuart Mill, in a speech in the British House of Commons, asserted that within the next hundred years England will cease to be the manufactory of the world. Her coal and iron have heretofore given her great advantages. But her coal is being mined with more and more difficulty, cost, and risk of human life. Some of the mines have reached a depth of three thousand feet, rendering ventilation difficult. The London Times, in a recent editorial, strongly urges economy in the use of fuel, thus indorsing the statement of Mr. Mill. The time will come when the vast manufactures which now give England her supremacy in the world will be transferred to the coal and iron fields of Pennsylvania and the West and Southwest. Shall we encourage our people to make an early advance toward the position nature has intended we shall occupy in the future, or shall we let slip the golden opportunity to seize hold of which, at the proper moment, is the sure gerund of success in the case of nations as well as men?

But not only have Mr. Mill and the London Times warned the British people of the danger which threatens her manufacturing and commercial supremacy on account of the prospective failure of her supply of coal, but I observe in the papers of to-day that Mr. Gladstone, Chancellor of the English Exchequer, in his speech on the budget delivered in the British Parliament on the 3d instant, reiterates the same views, and points to the United States as a country rich in mineral resources and possessing boundless coal deposits. He asserts that we fulfill all the conditions in the future, the limitation or absence of which in England it is to be feared will one day compel labor and movable capital to emigrate to the United States. This remarkable admission of one of the ablest of living statesmen should be accepted as pointing out the future destiny of the United States as a great manufacturing country.

I regret also to state that the effects of the heavy internal taxation are already operating to the benefit of foreign manufacturers and increasing their importations in a most alarming manner, as will be seen from the following table of importations at New York since June 1, 1865-66, compared with the importations for the same time in 1864-65:

FOREIGN GOODS MARKETING AT NEW YORK.			
	1865-66—peace.	1864-65—war.	
July.....	\$19,674,662	\$10,684,485	
August.....	26,404,412	15,507,970	
September.....	25,586,747	12,075,000	
October.....	21,852,063	10,159,743	
November.....	22,064,390	10,104,219	
December.....	19,047,205	10,670,234	
January.....	27,219,868	11,711,178	
February.....	26,560,301	11,472,456	
Total, eight months.....	\$188,406,653	\$92,385,285	

If our exports were increasing in a corresponding ratio there would be some comfort and satisfaction in the above exhibit. But this is not the case. The exports at New York, of all descriptions of produce, including specie, for eight months of the years as above, have been:

	1865-66. July 1 to Feb. 28.	1864-65. July 1 to Feb. 28.
Domestic produce.....	\$142,651,804	\$147,535,193
Foreign reexports.....	2,351,824	16,022,312
Specie.....	16,601,290	25,881,554
Total.....	\$161,604,918	\$189,439,059
Average price of gold.....	143 ¢ cent.	232 ¢ cent.

This exhibits a falling off of exports in 1865-66 and an increase of imports, which would indicate that the country is rushing headlong into debt, and at a rate excelling the speed of the most fashionable of modern spendthrifts. The ready sale of our bonds in Europe accelerates the pace at which we are involving ourselves, publicly and privately, with foreign manufacturers and capitalists. The lowering of the price of gold also tends to encourage that over-importation which its former high price repressed. This renders an increase of import duties absolutely imperative. New goods from abroad are sold at a great advance for currency, while our gold-bearing bonds are made the medium of remittance. These bonds will always hereafter be a medium of foreign investment as long as they are made to bear six per cent. interest in specie. Now, however, on account of the difference in exchange, they are obtained at a rate that readily yields nine and ten per cent. The Comptroller of the Currency, in his Report for 1865, page 7, estimates the amount of our securities sent abroad in five years at \$713,000,000, and says:

"Our only resource to pay the balance against us has been, and still is, the sale of our securities abroad."

But if we add to this amount of our securities sent abroad as above stated by the Comptroller, the amount sent abroad in previous periods, estimated at least \$500,000,000, we have a debt owed by us in Europe amounting to \$1,213,000,000. At the rate at which our imports are now going on, say nearly \$350,000,000 yearly, an immense sum will be required to pay the balance of trade against

us, swelled as it will be with the interest on our securities, which is payable in specie. Whereas, in order to keep the balance of trade in our favor, we ought to sell at least \$100,000,000 worth yearly more than we buy, we are on the other hand buying more than that amount yearly than we sell. Now, it is as easy to see that such a state of things can no more last than to expect that a man will live if a physician takes more blood daily from him than his system will make in the ordinary process of digestion and manufacture of the chyle into venous and arterial circulation. Our duties on imports should also be specific rather than *ad valorem*, as is the case to a great extent in Great Britain, Belgium, and other European countries. This would prevent the immense frauds on the revenue, now of daily occurrence, and which are winked at by custom-house officials. Belgium, a rich and prosperous country, has three hundred and thirty specific to sixty-six *ad valorem* duties; while the United States has two thousand four hundred and thirty-nine *ad valorem* to four hundred and seventy-nine specific duties. The *ad valorem* duties collected in England from 1845 to 1852, were one and a quarter per cent. of the whole amount, while our customs are some forty per cent. *ad valorem*, offering a premium on fraud such as is held out nowhere else in the world. I have seen it stated in the public journals that the frauds in the New York custom-house range from twelve to twenty-five million dollars yearly.

Mr. Speaker, I have the honor to represent, in part, a State which for its territorial extent is not excelled by any other in the Union as a manufacturing State. And I refer with especial pride, in this regard, to the district represented by my distinguished friend and colleague, [Mr. WRIGHT], which is only second in the Union in the amount of revenue it returns for the support of the General Government. The amount of tax returned in that district last year was \$2,629,033 82; in the fourth district of New York, \$4,457,835; and in the first district of Pennsylvania, \$2,877,938 82. Our constituents have consequently a deep interest in the question now before us. But New Jersey is also great in agricultural as well as manufacturing resources. It is located between the great cities of the Atlantic seaboard; traversed with railroads; of varied and productive soil and unlimited natural resources for improvement. It is destined to be the garden of the vast populations of those cities. In its agricultural products it stands at the present time first in the list of States in proportion to the extent of its territory; in the value of its lands, according to the last census report, the first, notwithstanding its hundreds of thousands of acres of salt marsh and unproductive forests. The products of the State will be immeasurably increased when her present system of internal improvements shall give way to the more beneficent system of general legislation, an event I trust destined soon to be consummated. My constituents are chiefly an agricultural people; as intelligent, prosperous, and honorable a constituency as ever intrusted a Representative with their interests on this floor. While they cultivate the soil they encourage and engage in manufactures; they foster colleges, seminaries, high, normal, and model schools, seats of science and learning. They contribute their full proportion to the support, advancement, and elevation of mankind; and I will say for the benefit of those who delight in deriding New Jersey, that my congressional district is equaled by no other agricultural district in this broad land in the amount and value of its agricultural productions, or in the value of the land composing it for agricultural purposes. In its natural advantages for improvement, or in its proximity to market. Extending, diagonally, nearly from New York to Philadelphia, it is bounded on the one side by an hundred miles of a sea-board, with its immeasurable advantages for summer resort and abundant natural productions; and on the other by a broad river which bears its products to the sea. It is a district of revolutionary renown, around which cluster many

glorious memories of that patriot age. There the Father of his Country sustained his greatest trials, there it was that he achieved his greatest triumphs, on the memorable fields of Trenton, Princeton, and Monmouth; and there, too, repose the hallowed remains of men who sealed their devotion to liberty and right with their blood. It is a grand and noble district. I ask no greater honor than to be its Representative, and my only ambition is to faithfully represent it in all its varied interests.

But great as New Jersey is in proportion to her territory as an agricultural, she is destined

to be yet greater as a manufacturing State. The revenue paid on manufactures and productions by New Jersey for the fiscal year ending June 30, 1865, was exceeded only by that of New York, Pennsylvania, Massachusetts, Ohio, and Illinois; and if we except distilled spirits, by the first four only of those States. In proportion to population New Jersey paid on manufactures a larger tax than either, except Massachusetts, the tax *per capita* being as follows: Massachusetts, \$12 64; New Jersey, \$6 59; New York, \$6 14; Pennsylvania, \$5 81; Ohio, \$3 81; Illinois, \$2 92.

But the following table will more fully illustrate the value and importance of New Jersey as a manufacturing State. It is a comparative statement showing the district that returned the largest revenue, and its amount, on several articles of manufacture in New York, New Jersey, and Pennsylvania, also the whole collections on the articles and the tax *per capita* on each of those States, for the fiscal year ending June 30, 1865, prepared by my friend, Mr. Whitman, the admirable Deputy Commissioner of Internal Revenue, to whom I am indebted for other statistical matter:

ARTICLES.	District of New Jersey returning the largest tax.	Amount of tax.	District of New York returning the largest tax.	Amount of tax.	District of Pennsylvania returning the largest tax.	Amount of tax.	Relative position of N. J. district in respect to amount of tax as compared with those of N. Y. and Pa.	Total collections in New Jersey.	Total collections in New York.	Total collections in Pennsylvania.	Tax per capita in New Jersey.	Tax per capita in New York.	Tax per capita in Pennsylvania.
Carriages and other vehicles....	5	\$84,898 66	8	\$20,821 55	4	\$46,688 23	1	\$96,968 78	\$147,911 52	\$136,115 02	\$0 14	\$0 04	\$0 05
Copper and lead in ingots, pigs, &c., spelter and brass.....	5	31,336 99	4	904 37	11	9,283 11	1	31,377 88	2,318 15	10,850 16	05	0006	004
Diamonds, emeralds, &c., and all other jewelry.....	5	156,820 95	32	116,787 90	1	19,551 13	1	157,333 59	155,930 97	25,231 79	23	04	009
Fermented liquors.....	5	210,643 56	9	187,593 62	2	85,119 50	1	217,718 44	1,148,390 59	527,327 28	32	30	13
Furniture or other articles made of wood.....	5	52,599 71	5	78,517 71	1	50,037 11	4	69,451 07	645,881 92	292,072 14	10	17	10
Glass, manufactures of.....	1	91,655 84	3	28,971 08	22	169,556 72	2	100,673 69	89,643 17	226,715 42	15	02	08
Iron, manufactures of, not otherwise provided for.....	5	164,999 08	5	124,762 63	2	183,288 61	2	286,157 02	779,919 13	723,035 07	43	20	25
Leather of all descriptions, curried or finished.....	5	141,157 30	30	100,867 78	3	46,499 14	1	153,677 13	521,519 24	271,762 22	23	13	09
Leather, manufactures of, not otherwise provided for.....	5	119,339 11	4	37,271 82	1	58,048 85	1	127,745 73	185,019 56	161,360 28	19	05	06
Pottery ware, manufactures of.....	2	15,449 72	6	4,537 32	4	3,555 46	1	24,121 41	15,649 02	12,681 98	03	004	004
Saleratus and bicarbonate of soda.....	5	7,306 04	6	14,410 62	3	403 07	2	7,306 04	20,478 45	614 96	01	005	0002
Silk, manufactures of.....	4	62,093 76	8	17,117 88	4	3,865 84	1	73,890 36	41,572 47	8,011 80	11	01	003
Soap, fancy, scented, honey, cream, &c.....	5	30,344 17	32	6,329 71	4	6,878 99	1	30,347 79	14,637 99	18,329 57	05	004	006
Steam engines, including locomotives and marine engines.....	4	119,774 35	7	31,306 62	4	106,509 63	1	153,751 94	163,104 62	204,200 39	23	04	07
Steel, in ingots, bars, sheets, &c., over eleven cents per pound.....	5	30,176 49	23	3,580 41	22	66,142 58	2	35,867 43	14,583 45	86,676 87	05	004	03
Thread, yarn, and warps, sold before weaving.....	4	58,303 34	14	22,131 90	5	30,761 53	1	58,303 34	53,031 58	125,441 00	09	01	04
Varnish or Japan.....	5	16,977 19	7	20,876 77	4	5,356 23	2	17,337 18	84,007 78	11,460 78	03	02	004
Zinc, oxide of.....	5	23,112 94	-	-	11	14,681 54	1	26,836 42	-	14,081 54	04	-	005
Materials not otherwise provided for.....	5	328,866 63	4	578,731 91	1	889,560 03	4	526,141 00	2,594,816 95	1,211,596 40	78	67	42
Total manufactures and productions.....	5	2,620,033 82	4	4,457,835 00	1	2,377,938 82	2	4,431,358 67	23,820,044 51	16,885,367 84	6 50	6 14	5 81

The tax *per capita* is computed on the basis of the population of the eighth census, which for the above States was as follows: New York, 3,880,735; New Jersey, 672,035; Pennsylvania, 2,906,215.

Some of the reasons which constitute New Jersey so important a manufacturing State are to be found in the fact of its proximity to large cities where supplies for materials are abundant and good markets for sales of easy access. Then its railroad, canal, and river communications are unexcelled. Its water power is magnificent. It is also in near proximity to coal mines. Within its borders living is cheap, taxes are low, the health of its people unsurpassed. As I have shown, it already ranks high as a manufacturing State. It has long been noted for its large production of glass, and for its iron of a very flexible, ductile, and tensile quality, which are produced in the first and second districts; for its steel of the finest manufacture; for its zinc, including paint from that article, which has become admired the world over; for its enameled leather; and for many other articles which enter largely into the industry of the country. Of late, new branches of industry have sprung up in the State; chief among which is a manufactory of white-ware at Trenton, with a capital of \$1,000,000, and which employs over one thousand persons, although in operation but a few years. If this branch of industry is but appropriately encouraged by protection, that part of the State will indeed become the Staffordshire of America. This great interest, I regret to say, now languishes for want of protection; and I respectfully call the attention of the Committee of Ways and Means especially thereto.

In connection therewith I beg the Clerk will read the following letter from the secretary of the company. I do so because this branch of manufacture is a new one in the country. Immense quantities of crockery are now imported. It is a bulky and expensive article to transport, while it requires an unusually large proportion of manual labor in its production, thus giving employment to a large population.

The Clerk read as follows:

TRENTON, NEW JERSEY, February 21, 1866.

MY DEAR SIR: I received yesterday a note from F. Kingman, Esq., with your request for some statistics relating to the manufacture of crockery. You desire further that they shall be in the form in which we wish them to appear before Congress. This it is perhaps rather difficult to comply with, inasmuch as we have not digested any particular "form" of presentation for our statements. Indeed it might be troublesome to put into a few brief sentences all we think necessary to say in our own behalf. I will, however, state our case in as concise and workable shape as may be, at the same time thanking you for your kind expression of a wish to aid us in this matter.

It will be needful, in the course of this, to repeat portions of my letter of January 17. And first the following statement of relative values of potters' materials in England and America, gold taken at a par valuation:

Kaolin, or China clay, ton of 2,000 pounds worth in Trenton \$23; in Staffordshire \$10. Ground flint, same weight, worth in Trenton \$19; in Staffordshire \$9. Ground felspar, same weight, worth in Trenton \$20; in Staffordshire \$12. Coal, ton of 2,240 pounds, worth in Trenton \$5; in Staffordshire \$2. Labor is paid at rates at least one hundred per cent. higher than those of the English manufacturers. There are, in addition to above, other minor articles, chemicals, &c., which will range at about same ratio of difference. This statement was made up from the best information we have upon the subject; the English values being supplied by reliable persons lately connected with the "potting" interest in Staffordshire, while the American rates are those actually paid by us when gold was at par.

The most important items by far of this statement are "coal" and "labor." Indeed all other items of the cost of production of our wares are of comparatively minor importance. It is closely estimated that seventy-five per cent. of the producing cost is absorbed by these two heavy items of expense.

Our processes of manufacture are accomplished almost entirely by manual labor; and heat must be used without stint. Perhaps no machine will ever be made to manipulate clay like the human hand, although it is probable that invention may smooth this rugged way somewhat. But the inventive genius native to our soil has not found time during the turmoil of war for these new charges lately transplanted from a land where labor-saving and fuel-saving machinery would not seem worthy of consideration, because of the plentiful supply of workmen, and the coal at their doors.

Labor and coal, then, are the main points in which we must compete with England. That labor is more easily and cheaply obtained there than here does not require proof.

We have said in the statement above that we pay not less than one hundred per cent. advance on a gold basis upon English rates of labor. This we believe to be a low estimate. Much of our ware is made "by piece," and we know of many articles for which we paid in gold times three times as much as the English manufacturer.

Taking the coal used by the latter of all kinds, and two dollars per ton will be found a high estimate, while we now pay (in currency) eight and one half dollars, and have paid within two years over thirteen dollars.

Observe the quantity of coal used by any pottery, and you will be struck by this statement of difference in favor of the Englishman.

And now the argument for a protective system may be fairly and rightly strengthened by the following

brief narration of the rise and progress of this manufacturing interest in our city during the last few years.

Before the rebellion a few small potteries were here, struggling hard to maintain a somewhat precarious existence. The skilled laborers who were here, Englishmen, asked and obtained their own prices. The duty at that time was thirty-five per cent. *ad valorem*.

With the war came the advance on gold. However much we may deplore the inflation produced by a depreciated currency, certain it is that the high price of gold was, in the absence of more tariff, a benefit and protection to us. At once others saw this evident fact, and soon new firms began to appear; intelligent, practical workmen, uniting with capitalists to build new potteries, and to take advantage of the temporary "protection" of the times. More hands were brought over from England, boys were apprenticed to learn the various trades, and from a nucleus of four factories we now have altogether twelve larger ones, employing about one thousand hands and representing nearly one million dollars of invested capital. This sum may appear small when compared with the capital in many other kinds of manufacture, but any potter knows that \$1,000,000 worth of crockery, or rather the crockery produced by working \$1,000,000, would make a small mountain if it could be piled together.

Potting is a very bulky business, requiring a great deal of room and much labor for a comparatively small money value. The Staffordshire potteries cover a large district of country. It is usually a non-speculative trade, prices keeping generally steady in common times. The men engaged in it, both manufacturers and dealers, are honest, non-speculative men, who do not often fail and cheat their creditors.

It seems clear, then, from the fact that this business has so greatly increased during the war, that what it wants (and we think what it ought to have, for the benefit of the governmental revenue) is "protection." That this need not mean "prohibition" is plain from the fact that foreign goods were largely imported and sold when we had the protection of from two hundred to two hundred and eighty per cent. premium on gold. People will have their plates and cups and saucers, and they ought to be able to enjoy their daily bread without the aid of John Bull. The Government cannot lose by adding this privilege to the birthright of an American citizen; in this case "without distinction of color" we suppose it will have to be.

We have had but five per cent. additional duty put upon foreign goods during the war, and if Congress desires to foster and assist the introduction of new branches of art into the country, they should not be unwilling to protect us when circumstances will no longer do so. "Gold is much lower now," it may be said, "and yet you flourish." True, but we are only sustained for a short time by the pressing needs of those now in process of "reconstruction," assisted by the anger of Neptune and Æolus, who have wrecked or damaged a great deal of crockery lately. It is almost certain that in the coming summer Britannia will have it all her own way, and that we shall be "fallen among the pots."

To know what kind of ware is made here, be particular to notice that our goods come under the second clause of paragraph four, section nine, of the tariff act of July 1, 1864, beginning, "on all other earthen, stone, or crockery ware, forty per cent." Were this made sixty per cent., it would not in the least diminish the revenue by keeping out any foreign earthenware, merely because of the increased duty, but we should feel that the manufacture of crockery was on a pretty sure footing in this country; and there is every reason to believe that it would continue to increase rapidly, paying large excise taxes into the national Treasury. If any change were made in this section of the tariff, it would be necessary, also, to change the duties upon china, white and decorated; these, however, would seem nearer to the class of luxuries than the other, and there would not be the same hesitancy felt to put duty upon them. All kinds of ware, china as well as common, should be made in the United States, and will be, if Congress will help us.

Trenton is not the only point, although it is the principal one, at which crockery is manufactured. The best American ware is made here, but all parts of the country are more or less interested with us in the success of this business, for every State has some pottery interest.

I remain, sir, very respectfully, yours,

JAMES P. STEPHENS,
Secretary Manufacturing Pottery.

Hon. WILLIAM A. NEWELL, Washington, D. C.

Mr. NEWELL. On the subject of window and hollow glass, a most important branch of industry, I have also before me the following interesting letter from a well known and honored constituent. Indeed, all the information I have from all parties engaged in manufacturing industry is to the effect that further protection is absolutely necessary, for the reasons I have given in the former portion of my remarks:

BALSTO, April 22, 1865.

DEAR SIR: Unacquainted with any other member of the New Jersey delegation in Congress, I venture to address you upon a subject of great interest to all engaged in the manufacture of window glass. A committee was appointed at a meeting of glass makers to represent their grievances and the state of their business to the commission raised to revise the United States excise and revenue laws, and I have no doubt of the faithful performance of their duty; but as yet I have seen no indication of relief from Congress in our branch of business. We report monthly under oath the gross amount of our sales, and after making such deductions as are allowed by law, pay six per cent. on those sales. This, during the war, was done

with great cheerfulness, inasmuch as every reputable citizen desired to aid the Government to the full extent of his ability, and the constant inflation of the currency enabled him to secure remunerative prices for articles made. But upon the fall of Richmond a change occurred, and many manufactured articles were greatly reduced in price, and window glass fell below the cost of production and heavy losses were sustained. As window glass is a perishable article when kept in packages in warm weather, it was necessary to make sacrifices during the last summer to avoid greater sacrifices anticipated by the importation of foreign glass, induced by the rapid fall of gold and general depression in the industrial community. On all these losses the Government has inexorably levied the tax of six per cent. It would seem that taxes should be uniform and equal, and imposed upon goods in possession or upon profits, and not upon absolute losses.

Now, there are two large paper mills in this vicinity, each of which produces monthly more than twice the money value that I do, with less capital and trouble, and by law are taxable only three per cent. on their sales. This remission of one half the tax paid by other manufacturers was brought about by newspaper editors and demagogues with the view of reducing the price of printing paper and by the argument clamorously urged that the diffusion of education and knowledge could only be accomplished by means of paper. But as the factories above mentioned, and most others in this country, make nothing better than common wrapping paper for grocers and hardware dealers, it is difficult to see how they can be deemed to assist in disseminating learning. I would remark that the present system of levying and collecting excise duties is expensive, cumbersome, and inquisitorial, and that the law seems to be calculated to oppress the honest and to provoke the dishonest to the commission of crime. Though I have written this hurried note without consulting any one engaged in the business, I think from former interviews with Hon. A. K. Hay, and other glass makers, that they will concur in the statements and opinions herein expressed.

With the hope that you will also concur and be able to afford relief to our depressed trade in the rearrangement of the tariff and excise laws, and with an apology for my importunity,

I am respectfully yours,

T. H. RICHARDS.

Hon. WILLIAM A. NEWELL.

I am happy to know that the Committee of Ways and Means have greatly relieved this important branch of industry by exempting window glass from excise duty.

Another branch of manufacture lately established in my State is that of watches. A large manufactory of that description has lately been organized near Newark. An extensive flax factory has also been established in Paterson, the seat of the largest paper, cotton, silk, thread, and locomotive factories in this country. And lately the most beautiful fabric of silk-velvet and tapestry has been produced in Newark which will compare favorably with the best articles of European manufacture. A branch, also, of Clark's spool cotton manufacturing establishment at Glasgow, which supplies thread for the civilized world, is shortly to be located at the same place, bringing six hundred Scotch female operatives.

In conclusion, Mr. Speaker, in view of the great needs of the manufacturing interests of my district and State and of the country generally; in view of the fact that we must rely almost altogether upon these interests for the means to meet the interest on our now colossal public debt, I feel it my duty to demand of this House that protection which is absolutely necessary, not only for the welfare of those interests, but for the preservation of the Government. From all these great industrial interests of the country we have cries of distress coming up daily to our doors. Will we heed them? Or, on the other hand, will we allow the principles and policy which came near destroying this nation to be again the principles and policy of the Government? If the latter, then woe to the stability of our institutions and the perpetuity of the freedom they were created to preserve.

An increase in our revenue tariff on importations is the only way which I see open to us in order to remedy the evils of over importation. It will increase the prosperity of home manufactures: it will check foreign importations, and gradually prepare the way for a safe return to specie payments.

The policy of European manufacturers and capitalists, which is based on the principle of cheapening labor, in order to compete with foreign countries, is fraught with revolution and ruin to American interests, and even to

the stability of our institutions. The very nature of our Government and the social habits and customs of our people demand that the laborer should have such a fair and reasonable share of the profits of industry as will enable him to enjoy, not only the comforts, but even the luxuries of life. Here education is universal. Here one man is as good as every other man. Here the doctrine of human rights, socially, politically, morally, and religiously, has received its widest application. By no possible means can you unite in America a social aristocracy with our political democracy. I warn gentlemen of the folly of such an attempt. What do these ten-hour and eight-hour movements indicate but a steady determination on the part of the American mechanic to assert the principle that he is not a mere beast of burden; that there are other faculties within him than those that are merely instinctive, as it were, for the preservation and sustentation of life; that the ideal as well as the actual, the artistic as well as the mechanical, the beautiful as well as the useful in him needs to be unfolded and developed? The same God who fashioned the dark brown earth created the flower that springs therefrom,

"A thing of beauty and a joy forever."

The Scripture says that "man shall not live by bread alone." Neither can we brutalize the image and likeness of his Maker by ill-paid drudgery and unrequited toil without violating the eternal principles of truth and justice and suffering fearfully therefor. By the late war we vindicated the right of man to his own labor and the enjoyment of the fruits thereof. Having rescued the negro from the bondage of chattelism, let us not permit the white man and the negro together to be crushed under the iron heel of a European civilization, which claims that the only way to build up national industry and prosperity is by reducing the laborer to the lowest minimum of compensation that will support existence.

Mr. HUBBARD, of Iowa, obtained the floor, but yielded to

Mr. SPALDING, who moved that the House do now adjourn.

The motion was agreed to; and accordingly (at four o'clock and five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. CONKLING: The petition of A. P. Seymour, and others, praying a change in the law taxing the circulation of State banks.

By Mr. LAFLIN: The remonstrance of citizens of Watertown, Jefferson county, New York, against the passage of the bill to reorganize the Federal judiciary.

IN SENATE.

MONDAY, May 21, 1866.

Prayer by Rev. Dr. FEASTON, of Birmingham, England.

The Secretary proceeded to read the Journal of Friday.

Mr. WADE. I move that the further reading of the Journal be dispensed with. There is no necessity for reading the action of the Senate on all those pension bills that were passed on Friday.

The PRESIDENT *pro tempore*. The reading of the Journal can be dispensed with by unanimous consent only. No objection being made, its further reading will be dispensed with.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a message from the President of the United States, transmitting a copy of the correspondence between the Secretary of State and Cornelius Vanderbilt, of New York, relative to the joint resolution of the 28th of January, 1864, upon the subject of the gift of the steamer Vanderbilt to the United States; which, on motion of Mr. MORGAN, was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. WADE presented a communication addressed to him by the Secretary of War, transmitting information in relation to the petition of Mrs. Sarah A. Brewer, widow of Major General Anson L. Brewer, praying for a pension; which was referred to the Committee on Pensions.

Mr. CHANDLER presented a memorial of the Board of Trade of Bay county, Michigan, praying for an appropriation by Congress for the improvement of the harbor at the mouth of Saginaw river; which was referred to the Committee on Commerce.

PAPERS WITHDRAWN AND REFERRED.

On motion of Mr. JOHNSON, it was

Ordered, That the petition and other papers in the case of Lydia Cramer, executrix of Moses Shepherd, be taken from the files of the Senate and referred to the Committee on Claims.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was referred a communication from the Secretary of War, covering a letter from General Dyer, chief of Ordnance, in relation to the legislation necessary to fix and establish the position of the Chicago and Rock Island railroad at Rock Island, Illinois, so as to enable the War Department to occupy that island for military purposes, reported a bill (S. No. 330) making further provision for the establishment of an armory and arsenal of construction, deposit, and repair on Rock Island, in the State of Illinois; which was read and passed to a second reading.

He also, from the same committee, to whom was referred a bill (H. R. No. 3) to revive the grade of general in the United States Army, reported it with an amendment.

Mr. POMEROY, from the Committee on Military Affairs and the Militia, to whom was recommitted the bill (S. No. 224) to aid in the construction of a southern branch of the Union Pacific railway, and to secure to the Government the use of the same for postal, military, and other purposes, reported it with an amendment.

BILL RECOMMITTED.

Mr. WADE. I move that the bill (S. No. 239) to provide for the probate of and for the recording of wills of real estate situated in the District of Columbia, and for other purposes, which was reported adversely by the Committee on the District of Columbia, be recommitted to that committee.

The motion was agreed to.

BILLS INTRODUCED.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 331) requiring agents of the Post Office Department to give bond in certain cases; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

Mr. NESMITH asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 332) to provide for the construction of a wagon road from White Bluffs, in Washington Territory, to Helena, in Montana Territory; which was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

Mr. POMEROY. I ask leave to introduce a bill of which no previous notice has been given. I do it by request.

There being no objection, leave was granted to introduce a bill (S. No. 333) to incorporate the American Cotton Company of the District of Columbia; which was read twice by its title, and referred to the Committee on the District of Columbia.

ELECTION OF SENATORS.

Mr. WILLIAMS submitted the following resolution; which was considered by unanimous consent and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency and practicability of providing a uniform and effective mode of securing the election of Senators in Congress by the Legislatures of the several States, and that they have leave to report by bill or otherwise.

MRS. ABIGAIL RYAN.

Mr. WILLEY. On Friday last I entered a motion to reconsider the vote on the passage of the bill (S. No. 328) for the relief of Mrs. Abigail Ryan. I ask leave of the Senate now to withdraw the motion to reconsider that bill, finding that it is all correct.

Leave was granted.

LEONARD ST. CLAIR.

Mr. LANE, of Indiana. On Friday last, by a mistake, House bill No. 371, to grant a pension to Leonard St. Clair, was omitted to be acted upon. I ask that it may now be taken up and passed. It was omitted on Friday by a mere mistake, not being marked on my docket. I move now to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 371) to grant a pension to Leonard St. Clair.

The Secretary of the Interior will be directed by the bill to place the name of Leonard St. Clair on the pension-rolls of the United States as a pensioner, at the rate of eight dollars per month.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

GOODRICH AND CORNISH.

Mr. CONNESS. I move that the Senate proceed to the consideration of House joint resolution No. 77.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 87) for the relief of Ambrose L. Goodrich and Nathan Cornish, for carrying the United States mail from Boise City to Idaho City, in the Territory of Idaho. It proposes to authorize the Postmaster General to audit and settle, as to him may appear just and equitable, the demand of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mail on route No. 16001, from Boise City to Idaho City, in the Territory of Idaho, from the 5th of July, 1864, until the 1st of July, 1865. The Committee on Post Offices and Post Roads reported the joint resolution with an amendment, to insert at the end of it the following:

And also to audit and settle, in like manner, the demand of Daniel Wellington and J. C. Dorsey, for extra services in carrying the United States mails on route No. 14602, between Carson City and Aurora, in the State of Nevada, from July 1, 1862, to June 30, 1865.

Mr. CONNESS. There is a report accompanying the joint resolution from the House of Representatives.

The PRESIDENT *pro tempore*. Does the Senator ask for the reading of the report?

Mr. CONNESS. Perhaps it is best that the Senate should hear it. It is a very short report. However, if there is no demand for its reading, I shall not insist upon it.

Mr. CLARK. I wish to have it read.

The Secretary read it, as follows:

The Committee on Post Offices and Post Roads, to whom was referred the joint resolution for the relief of Messrs. Goodrich & Cornish, report as follows:

That during the fiscal year 1864-65, Messrs. Goodrich & Cornish, at the general request of the citizens of Idaho, carried the United States mails between Boise City and Idaho City three times a week, as appears from the testimony of the postmasters at the places named, and that they have received no compensation for said service; that in consequence of the discovery of new and attractive mines in that Territory a large mining population had emigrated there, who were entitled to mail facilities, for which no provision had been made by the Government. Therefore the committee recommend that the Postmaster General be authorized to audit and settle the claim of Messrs. Goodrich & Cornish as to him may seem just and equitable.

Mr. CLARK. I am a little sorry that the committee have not reported something further in regard to the facts in this case.

Mr. CONNESS. There are other papers and letters from the Post Office Department on the subject.

Mr. CLARK. I should like to have some information as to the services rendered, and what may be the amount required under the joint resolution.

Mr. CONNESS. If the letters from the

Second Assistant Postmaster General accompanying the resolution are read they will give that information.

Mr. CLARK. I do not know, of course, what papers precisely the Senator refers to; but perhaps it would be as well if the Senator could give us the information himself.

Mr. CONNESS. I cannot at this moment without examining these letters.

Mr. CLARK. Would it not be better to let it lie over until some examination can be had?

Mr. CONNESS. I have no objection to letting the joint resolution lie over until the Senator can examine it.

The PRESIDENT *pro tempore*. The joint resolution before the Senate will be laid aside by common consent.

Mr. CONNESS subsequently said: I ask the Senate now to resume the consideration of House joint resolution No. 77, as I understand there is no objection to it.

There being no objection, the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution, the question being upon the amendment reported by the Committee on Post Offices and Post Roads to add to it the following words:

And also to audit and settle, in like manner, the demand of Daniel Wellington and J. C. Dorsey, for extra services in carrying the United States mails on route No. 14602, between the towns of Carson City and Aurora, in the State of Nevada, from July 1, 1862, to June 30, 1865.

Mr. HENDRICKS. I would inquire how much is the amount of this claim.

Mr. CONNESS. I will say to the Senator that after this amendment is adopted, I propose to limit the claim in both cases.

Mr. HENDRICKS. I ask the Senator if the two cases stand on the same ground.

Mr. CONNESS. I will say that the last claim has already been passed upon by the Committee on Post Offices and Post Roads of this body, and the Senate has passed a bill for the relief of the parties, which is now lying in the House of Representatives. We propose to add to it this resolution and put both in one measure. I propose, however, to limit both.

The amendment was agreed to.

Mr. CONNESS. I now move to amend the resolution by inserting after "1865" in line ten, the words, "provided the amount to be allowed shall not exceed \$8,000."

The amendment was agreed to.

Mr. CONNESS. I now offer the following amendment, to come in at the end of the resolution as amended:

Provided, That the amount to be allowed shall not exceed \$20,000.

I will say that that is the amount provided for in the bill for the relief of Wellington & Dorsey which has already passed the Senate.

The amendment was agreed to.

The joint resolution was reported to the Senate as amended; the amendments were concurred in. It was ordered that the amendments be engrossed and the resolution read a third time. The resolution was read the third time and passed. Its title was amended by adding the words, "and of Daniel Wellington and J. C. Dorsey for extra services in carrying the mail."

SURVEYS OF UPPER MISSISSIPPI.

Mr. RAMSEY. I move that the Senate proceed to the consideration of Senate bill No. 139.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 139) to provide for surveys of the upper Mississippi and Minnesota rivers.

The bill as introduced by Mr. RAMSEY proposed to appropriate \$20,000, or so much thereof as may be necessary, for the survey, under the direction of the Secretary of War, of the upper Mississippi river from or near the falls of St. Anthony to the upper or Rock Island rapids, with a view to ascertain the most feasible means, by economizing the water of the stream, of insuring the passage at all navi-

gale seasons of boats drawing four feet of water.

The second section proposed to appropriate \$5,000 for an examination and survey, under the direction of the Secretary of War, of the Minnesota river from its mouth to the mouth of the Yellow Medicine, in order to ascertain the practicability and expense, by slack-water navigation or otherwise, of securing the continued navigability of that stream during the usual season of navigation.

The Committee on Commerce reported the bill with an amendment to strike out the second section.

Mr. RAMSEY. Mr. President, the bill before us provides for an examination and survey of the Minnesota and the upper Mississippi rivers in order to ascertain the character of the obstructions to their navigation, and the means adapted and expenses incident to their removal. The examinations are proposed to be made under the direction of the Secretary of War by engineers of the Topographical corps, aided by the practical experience of river experts. They are to be made in accordance with a prudent custom, which requires a particular examination and an estimate before appropriating money for objects of improvement. In this way desultory and inordinate expenditures are avoided; useless or frivolous projects are detected; the merits of every proposition are thoroughly investigated, and Congress is enabled to judge of the proportion between the cost of an improvement and its value. During the late war appropriations for the improvement of our great rivers and harbors were in a large measure suspended. That this economy, under the circumstances, was justifiable and wise few, I presume, will venture to dispute. And in view of the present condition of the Treasury all of us, Mr. President, will admit the necessity of restricting future expenditures in this direction to the smallest sums commensurate with the importance of the objects sought to be attained.

In regard to the improvement of the Minnesota river, for the survey of which the bill, as originally introduced, appropriates \$5,000, I will merely remark that if the result of the examination shall indicate that any very considerable sum will be required to render the river navigable at all seasons, except when obstructed with ice, I may not apply to the national Treasury for the money to make the improvement; but as the stream, though perhaps the most important tributary of the upper Mississippi, flows almost entirely within the limits of the State of Minnesota, I may ask Congress to authorize Minnesota to undertake the improvement in such way as she may see fit, either in her State capacity or by appeal to private enterprise. For this reason, Mr. President, I hope that the amendment to the bill which has been reported from the Committee on Commerce may be rejected, and that my honorable friend from Michigan, the chairman of the committee, will not urge its adoption in consideration of the importance of the examination, and the very moderate sum appropriated to make it.

But, Mr. President, the bill further provides an appropriation of \$20,000 for the survey of the upper Mississippi river, from the Rock river rapids to the head of navigation, a distance of some five hundred miles, in order to ascertain some practical mode of making this portion of the river navigable for boats drawing four feet in those cycles of low water which occur with us at regular intervals, and seem to be governed by certain and well-defined physical laws. I hope that no Senator will be deterred from approving this appropriation by any apprehension that it will initiate a large and uncertain expenditure; for I think that I shall be able to show that the improvement which is desired may be effected at a very moderate cost. What is wanted is a practical, sensible examination or survey—not a refined, scientific investigation of the regimen and hydraulics of the river, which might prove curious rather than useful.

If the Department to which this survey is proposed to be intrusted will designate competent officers who will be willing to consult practical and intelligent river men, I have no doubt but that the survey can be completed in a single season, and a feasible plan of improvement recommended which can be accomplished with little expense.

The improvement of this great artery of commerce, Mr. President, is a national work. When completed it will so increase facilities for effecting commercial exchanges, and so reduce the cost of transit of the great staple products of the Northwest to the Atlantic and the Gulf, that no part of the country will lose by the improvement, but all will gain. I therefore ask the indulgence of the Senate while I present a few considerations sufficient, in my opinion, to commend the improvement of the upper Mississippi river to the favorable consideration of Congress and of the country.

In doing this I propose to enter into no discussion of the constitutional authority of the Government to make the improvement. I assume that the possession of this authority, in the broadest amplitude, has been most emphatically settled by a series of acts which have received the sanction of the people of the United States, and of every department of the Federal Government; and that in the discussions that have taken place in and out of Congress upon the various provisions of the Constitution under which the exercise of this authority is claimed, and more especially upon the intent and objects of the framers of the Constitution in conferring on Congress the power "to regulate commerce with foreign nations and among the States," the argument is exhausted.

If the practice of appropriating money from the Treasury of the United States for the improvement of the navigation of the Mississippi river and its tributaries is of more recent origin than the practice of appropriating money from the same source to render navigation safe and easy on the Atlantic coast, it is readily answered, that in the earlier days of the Government but a very inconsiderable portion of the population of the United States had passed the Alleghany mountains; that steam had not then conquered a current too rapid for ascending navigation; that by the treaty of San Lorenzo el Real, in 1795, the southern boundary of the United States was fixed at the thirty-first degree of latitude north of the equator, and the western boundary in the middle of the channel or bed of the Mississippi river from the northern boundary of the States to the thirty-first degree of north latitude; that thus the greater part of the valley of the Mississippi belonged to Spain, who claimed the exclusive right to navigate the river south of the thirty-first parallel, and a right in common with us to the residue; and that, although by the treaty of Paris, of the 30th of April, 1803, Napoleon ceded to the United States the colony or province of Louisiana, with the same limits that it had in the hands of Spain, when it was ceded by that Power to France, by the treaty of St. Ildefonso, of the 1st of October, 1800, conflicting claims and pretensions to portions of the Territory were not definitely adjusted until the Administration of Mr. Monroe, when the boundary line between Spain and the United States, west of the Mississippi, was fixed with precision by an article of the same treaty, in virtue of which the Floridas were acquired.

Provision for the improvement of the seaboard was made in one of the earliest acts of the first Congress, under the present Constitution of the United States, entitled "An act for the establishment of light-houses, buoys, beacons, and public piers," approved by President Washington on the 7th of August, 1789. Similar laws were enacted on the 22d of July, 1790, on the 3d of March, 1791, on the 2d of March, 1793, on the 2d of March, 1795, on the 30th of May, 1796; and since then, with a few special exceptions, provision for the same purpose has been made in the general appropriation laws. The history of this legislation

is thus summed up by President Jackson in his message of December, 1830:

"The practice of defraying out of the Treasury of the United States the expenses incurred by the establishment and support of light-houses, beacons, buoys, and public piers, within the bays, inlets, and harbors, and ports of the United States, to render the navigation thereof safe and easy, is coeval with the adoption of the Constitution, and has been continued without interruption or dispute."

That the power under which these expenses have been and are being incurred is as applicable to the Mississippi river as to the Atlantic coast, and is as full and perfect in reference to one as the other, is attested by the general course of legislation upon the subject. The earliest appropriation for the improvement of the navigation of the Mississippi river is to be found in an act of Congress, approved 24th May, 1824. Since then Congress has at various times made appropriations for the improvement of the Mississippi, Ohio, Missouri, Arkansas, and Red rivers, amounting in the aggregate to \$3,703,800. The latest legislation in the premises was in 1853, when appropriations were made for continuing the improvement of the Des Moines rapids and for removing obstructions in the mouth of the river, by a two-thirds vote of both Houses of Congress, over the vetoes of President Pierce.

Even those theorists who have admitted with the greatest reluctance any degree of authority in Congress to make what are commonly called internal improvements, have time and again conceded the constitutionality of such improvements as may follow the examination and survey proposed in the bill before us. At a convention assembled in the city of Memphis, on the 12th of November, 1845, Mr. Calhoun, in considering how far the aid of the General Government could be invoked for purposes of internal improvement, said:

"As to the improvement of the valley of the Mississippi—what, then, can the General Government do? The invention of Fulton has, if I may be allowed the expression, turned the Mississippi river and its tributaries into an inland sea, of equal importance in its navigation with the Chesapeake and Delaware bays. It is, therefore, a matter peculiarly within the jurisdiction of the Federal Government, and deserving in the highest degree of its police and protection. This is not a matter to be left to individual States. It is one of high national importance. We may safely lay down as a rule, that whatever can be done by individuals they ought to accomplish; whatever is peculiarly within the province of States they should effect; and whatever is essentially within the control of the General Government, it should accomplish. I believe the free and uninterrupted navigation of these inland seas (so to speak) is within the peculiar province of the General Government."

Again, the national importance of the improvement of the Mississippi river is discussed with great ability in an elaborate report made to the Senate by Mr. Calhoun on the 26th of June, 1846, from the select committee to whom the resolutions and memorial of the Memphis convention were referred. Though we may reject many of the conclusions of this report, and deem many of the distinctions taken to be unsound and delusive, we will not dissent from the unanimous opinion of the committee that Congress has the power, under the Constitution, to improve the navigation of the Mississippi river; and that it is clearly embraced in the power to regulate commerce among the States.

Now, Mr. President, having regard to relative population; to the respective amount and value of commerce, tonnage, and navigation; or to the general proposition that the internal trade of all nations greatly exceeds their external, I hold it to be undeniable that the appropriations heretofore made for the improvement of the Mississippi and its waters have not been in a just and fair proportion to those for improvements on the Atlantic coast. Without going into any minute calculation, it may be safely asserted that the expenditures for the one have very many times exceeded those for the other. To these expenditures upon our eastern frontier I certainly interpose no objection. On the contrary, I approve of them all, believing the objects to be general, not local; national, not sectional. I advocate no narrow, contracted, or selfish system of legislation; but I do claim that while vast sums have been appropriated

for the survey, fortification, and improvement of the sea-board, and for the support of a Navy to protect our ocean commerce. equal attention has not been accorded to objects of public improvement in the interior, standing on the same ground of constitutional authority and the same principles of public policy.

The waters of the Mississippi drain an area of 1,244,000 square miles. They are navigable by steam 16,674 miles; and according to an estimate of Mr. Benton, are boatable 50,000 miles, of which 30,000 are computed to unite above St. Louis, and 20,000 below. The commerce which floats upon these waters moves, not to a local market, but to the markets of the world. It enriches the whole Atlantic commercial region. It is a copious source of revenue to the canals, railways, and navigating interests of the East. The cities of Boston, New York, Philadelphia, and Baltimore are participators in it, in common with St. Paul, St. Louis, and New Orleans. This commerce affects the exchanges of the world, supplies the elements by which alone foreign commerce can be conducted, and contributes to the customs revenue by furnishing the commercial marine the outward-bound freight which is to be exchanged for the return cargo. For internal trade is the foundation of foreign commerce, which is called into being and sustained by the domestic commodities furnished for export. In another form, it is an extension of it, distributing its freights. Each react upon the other, and any attempted discrimination in favor of one to the prejudice or exclusion of the other defeats itself.

In the upper Mississippi valley are situated the great food-producing States. Four of these States—Minnesota, Wisconsin, Iowa, and Illinois, as well as the new Territories erected west of Minnesota and a vast region extending north far into British North America, to which a railroad is now in progress of construction from St. Paul—are directly interested in the improvement of the upper Mississippi river. But are these the only parties interested? By the census returns of 1860 it appears that New England raises barely a sufficiency of wheat to feed her population three weeks; and that for six months in the year even New York is dependent on the Northwest for her breadstuffs. The tables which are annually laid upon our desks from the Treasury Department show that the products of the Northwest have, during the recent war, sometimes constituted as high as seventy per cent. in value, of all our domestic exports, exclusive of specie. Is not the proposition a true one, that in the same proportion they have contributed to the customs revenue and sustained the public credit? One thousand dollars' worth of Minnesota wheat exported to Europe will purchase there in exchange \$1,000 worth of duty-paying articles. From the returning imports the Government, under existing tariffs, derives an average duty in gold of at least thirty per cent., or \$200. Whatever, therefore, by cheapening existing rates of transportation, stimulates production, enlarges the basis of foreign commerce; and in the improvement of the navigation of the upper Mississippi, not alone the grain-growers and stock-raisers of Minnesota, Iowa, Wisconsin, and Illinois have a direct interest, but also the inland carrier, the eastern consumer, the ocean navigator, the consumer abroad, the foreign importer, the buyer of imported fabrics, the miners of Montana, Idaho, and British North America, and the national Treasury itself.

The late civil war, Mr. President, has so changed the character of our foreign commerce that the leading staples of the South no longer constitute, as formerly, the bulk of our exports. Food has for a number of years taken the place of cotton, rice, and tobacco, and it is reasonable to suppose that for some years to come the settlement of European balances will largely depend upon the exportation of food. I regret that this should be so. I regret that the industry of my own State is confined, too exclusively, I think, to the culture of grain. I know that owing to our distance from eastern

and foreign markets this culture has been unremunerative to our farmers; that in exporting the products of our harvest fields we are exporting the substance and richness of our soil; and that if we continue so unprofitable a business under existing disadvantages, depending upon railroads for distant transportation, we must decline to poverty. Hence the pressing and patent necessity for improving the great natural artery which has been fashioned to our hands by the Almighty Architect. The cost of transportation by the Mississippi river has been estimated at three mills per ton per mile, while by railroads of ordinary grades the usual estimate is from twelve and a half to thirteen and a third mills. This gives a difference in favor of river transportation of more than three hundred per cent. The experience of the last few years has demonstrated that bulky commodities will not bear the charges of railroad carriage for any great distance. Where articles are perishable, or where time is an element of value, railroads can be used to advantage; but the fact is notorious that during the past year, with an average price for wheat in New York city of more than two dollars per

bushel, the same wheat at shipping points on the Mississippi river in Minnesota has brought during the winter an average of but eighty-five cents per bushel; to us a ruinous disparity.

Let me also call the attention of Senators to the fact that though nearly four million dollars have at various times been expended for the improvement of different portions of the Mississippi river and its leading tributaries, not one dollar of this sum has at any time been expended to improve the long line of navigable river which lies between the rapids of Rock Island and the falls of St. Anthony, and which is the natural drainage of a region larger than all of western Europe, and as fertile as any upon which the sun shines. Without referring to the present rapid development of outlying settlements in Dakota, Montana, and British North America, all more or less interested in this improvement, I will cite from the United States census the increase which was had in population; in cultivated lands, in agricultural products, and in domestic animals in the bordering States of Minnesota, Wisconsin, Iowa, and Illinois, from 1850 to 1860:

	Minnesota.	Wisconsin.	Iowa.	Illinois.	Totals.
Area of square miles.....	83,531	53,924	55,045	55,405	247,905
Population, 1850.....	6,077	305,391	192,214	851,470	1,355,152
Population, 1860.....	172,123	775,881	674,918	1,711,951	3,334,873
Improved land, 1850.....	5,035	1,045,499	824,682	5,039,545	6,914,761
Improved land, 1860.....	554,397	3,746,036	3,780,253	13,251,473	21,332,159
Wheat, bushels, 1850.....	1,401	4,286,131	1,630,581	9,414,575	15,232,688
Wheat, bushels, 1860.....	2,195,812	15,812,625	8,433,205	24,159,500	50,601,142
Corn, bushels, 1850.....	18,725	1,988,979	8,636,789	67,646,984	68,309,487
Corn, bushels, 1860.....	2,987,570	7,565,290	41,116,994	115,296,779	166,966,633
Oats, bushels, 1850.....	300,582	3,414,672	1,524,345	10,087,241	15,056,840
Oats, bushels, 1860.....	2,202,050	11,059,270	5,879,653	15,336,072	34,477,045
Rye, bushels, 1850.....	125	81,253	19,916	83,364	164,658
Rye, bushels, 1860.....	124,259	888,534	176,055	961,322	2,150,170
Barley, bushels, 1850.....	1,216	209,682	25,093	110,795	346,786
Barley, bushels, 1860.....	128,130	678,932	454,113	1,175,651	2,438,889
Swine, head, 1850.....	734	159,276	323,247	1,915,907	2,399,164
Swine, head, 1860.....	101,252	333,957	921,101	2,279,722	3,636,092
Cattle, head, 1850.....	2,002	183,433	136,621	912,036	1,234,092
Cattle, head, 1860.....	119,003	512,866	536,254	1,505,581	2,673,704

Remarkable, Mr. President, as is the progress thus indicated in the decade from 1850 to 1860 in these four States, these returns but faintly show the present situation of the same States. Notwithstanding the decline of immigration, and the stagnation of business in many portions of the country during the war, the material advancement of the Northwest in the last five years has been unparalleled by any equal period of peace. I will not occupy the time of the Senate with statistics of the increase, in population and productions during the last five years, of the States of Wisconsin, Iowa, and Illinois, but will content myself with submitting a few statements which will illustrate the progress of Minnesota in this period—a State with which I am most familiar, and from which the growth of the other States may be inferred. The State of Minnesota has 2,746 miles of shore line of navigable waters.

In 1865 the number of steamers registered at the single port of St. Paul was 89, with a registered tonnage of 3,088.52, with a carrying capacity of 4,973 tons, and valued at \$607,500. The number of arrivals and departures of steamers at St. Paul in 1865 was 2,117.

Three steamboat companies transact business on the upper Mississippi—the Northwestern Packet Company, from Dunleith and Dubuque to St. Paul; the Northern, from St. Louis to St. Paul; and the La Crosse and Minnesota Steam Packet Company, from La Crosse to St. Paul. Details of the business done by the latter company in 1864 and 1865 have been furnished me, which I herewith submit, premising that by multiplying the sums total by three a sufficiently accurate estimate of the business upon the upper Mississippi river in 1864 and 1865 can be arrived at:

Receipts by the La Crosse and Minnesota Steam Packet Company at La Crosse, Wisconsin, during the season of navigation of the year 1864, from March 20 to November 27.

Shipping points.	Wheat, bushels.	Flour, barrels.	Merchandise down.	Merchandise up.	Merchandise tons.
Trempealeau.....	73,488	1,025	3,333	140,235	70
Winona.....	761,733	2,393	69,116	9,126,422	3,563
Fountain City.....	41,840	-	-	198,143	99
Minneapolis.....	88,970	-	7,010	1,235,403	617
Wabashaw.....	33,680	-	1,456	532,375	266
Reed's Landing.....	156,002	1,230	2,753	2,655,650	1,326
Lake City.....	120,929	-	700	914,289	457
Red Wing.....	300,168	-	4,435	2,240,042	1,120
Prescott.....	104,491	4,525	7,332	1,208,556	604
Hastings.....	263,093	5,500	36,924	4,139,703	2,069
St. Paul.....	312,357	11,510	1,537,552	19,374,349	9,187
Hudson.....	81,746	-	-	735,991	368
Stillwater.....	25,240	1,615	-	1,181,354	540
Totals.....	2,863,747	27,798	1,701,121	41,581,521	20,790

multiplying the difficulties. Let us bear these facts in mind, and the remedy at once suggests itself: close up these sloughs or a sufficient number of them, direct the water into one channel, and its immense volume will open to itself an "unvexed course to the sea."

A line of piles driven diagonally and filled in with fascines at the head of each slough will so turn the force of the current as to cause permanent deposits of sands upon the face of the barrier, which in a few years, by the growth of vegetation, will become self-sustaining, and always secure such outlet against further waste.

This assertion does not rest on mere conjecture, but has been verified by the experience of the summer of 1864, when the labor of twenty men, one day, in merely driving a few stakes and filling in with brush, raised the water in the channel ten inches between St. Paul and Pine Bend, and secured navigation for small boats through, which otherwise could not have reached above Prescott.

We do not propose in any case to attempt to change the channel of the river or dig canals, but simply to stop the leaks and make all the water available for navigation.

Having thus briefly given our views as to the obstructions caused by diverted forces, we come to the matter wherein the river cannot by its own force contribute to its own improvement.

The Upper Rapids of the Mississippi, as they are known, extend from Le Claire, in Iowa, to Davenport, and consist of a series or succession of boulders and projections interspersed with many reaches of smooth and deep water.

For an average of perhaps three months in each year these rapids are impassable for loaded boats, and all freight has to be taken over in barges and lighters and reshipped at Davenport, thereby causing a vast loss in time and money. Added to this is the Rock Island bridge, stretching diagonally across the channel, and which is never passed without danger, and proves a perfect barrier in windy weather.

The rocks projecting into the channel of the river can all be removed and perfectly safe and deep navigation secured by the judicious expenditure of a few hundred thousand dollars. The most dangerous rocks in Hell Gate, East river, have been successfully taken out, and in fact we need not go so far for an illustration, but look at the improvements made in the Lower Rapids, in spite, we may almost say, of the stupidity and inefficiency of the parties in charge.

That rocks can be cut off and removed from under water are indisputable facts; that the work can be done by contract rapidly and cheaply all will admit; and that all internal improvements attempted by the Government directly have been either failures or completed at a cost vastly beyond what the same would have been done for by individuals, are also facts.

The difference in cost between the plan here proposed and a canal around the rapids, can hardly be estimated. Probably the locks alone would be double the cost of removing all obstructions, and aside from that, the delay in passing so many boats up and down, would cause a loss in a few years equal to the original outlay.

Nature has given us this noble river almost perfect to our hands. It has hitherto answered our purpose with all, and furnished us a cheap communication with the ocean, but the time is coming, and in fact now is, when that line of communication must be made perfect, and then the powerful tug, with its four barges laden with their forty thousand bushels of wheat, can float uninterruptedly from the falls of St. Anthony to New Orleans, and return laden with the sugar and cotton of the South.

Multiply railroads as we may; stretch them from the East and the West, and yet a few years finds them crowded with local business which their simple construction has developed. The Mississippi is our chief dependence; its capacity is unlimited; it requires neither switches nor double tracks; it only requires a limited outlay to render it perfect for all time.

G. A. HAMILTON.
RUSSELL BLAKELEY.

We the undersigned having had long experience in the navigation of the upper Mississippi cordially approve of the plan proposed above for its improvement.

D. S. HARRIS,

H. L. BEEDLE,
WILLIAM F. DAVIDSON,
EDWARD H. BEEBE,
N. F. WEBB.

These gentlemen are among the most enterprising and experienced navigators of our western rivers, and where they are known, as they are throughout the valley of the Mississippi, their approbation of the views of Messrs. Hamilton & Blakeley will commend the plan to the favorable consideration of the public and I trust to that of the Congress of the United States. Should it receive the approbation of the engineers to be detailed by the Secretary of War, if the bill under consideration receives the favorable action of Congress. I am informed by excellent authority that four feet of water can always be obtained between St. Paul and Prescott, Wisconsin, and five feet below the latter point to Dunleith, at a probable cost not exceeding \$250,000.

As I believe I can best accomplish my purpose in having the honorable Committee on Commerce, who have now before them the bill from the House of Representatives making the

From Maine to Florida, from Minnesota to Louisiana, all are equally interested in the question of cheap food; and any appropriation and expenditure for the improvement of this river is of national importance and equally benefits all.

Polk and the other means of transportation, we shall at once be surprised at the disproportion existing between them. There are three lines of railways connecting the Mississippi with the lakes, which are available in a greater or less degree to Minnesota, Wisconsin, and northern Iowa: these are, first, the Milwaukee and St. Paul road, extending from La Crosse to Milwaukee, which can receive and forward about twenty thousand bushels of wheat each day, which will require some sixty cars for its transportation, and which together with merchandise and passengers, is about the limit of its ability, with its present facilities for elevating; second, the Milwaukee and Prairie du Chien road, connecting the points its name indicates, and which elevator has a possible capacity of forty thousand bushels per day; third, the Illinois Central road, from Dunleith to Freeport, and thence by the Northwestern road to Chicago, whose elevator has a possible capacity of twenty thousand bushels a day.

The route by the way of Savannah and Racine is too far down the river, and its equipment and facilities are too limited to be of much benefit or to exercise any marked effect on the general result; it is not therefore considered in this connection. The same reasons, but with increased force, apply to the Rock Island road, which has a local business equal to its utmost capacity.

The Illinois Central road, for a greater part of the year, is blockaded with freight from the Dubuque and Sioux City road, and is forced to neglect its local business in order to furnish an outlet for the country immediately contiguous, and cannot be relied upon for the transportation of a bushel or a pound from above McGregor.

The Prairie du Chien road has at least half its capacity absorbed by the contributions of the McGregor Western road, and at the present rate of increase, will in a few years be unable to move more than that connection will demand.

We now come to the La Crosse route, which is the principal outlet on which Minnesota and Wisconsin must depend, and while that road is now taxed to its utmost capacity, the question arises, what are we to do in the time to come?

The capacity of all roads is vastly increased by laying another track the entire distance, but there is no probability that the present owners of either of the upper roads will embark in an enterprise requiring such an outlay for many years to come, even if it should ever be their policy.

The Lake Superior road, should it ever become a fact, will, in connection with the Minnesota Valley road, open an outlet for five or six months in the year, and if the necessary accessories of elevators and a line of propellers are provided, prove of immense value to the commerce of the Northwest; but the benefits arising from these lines of communication are necessarily local, and will be confined to the country north and west of St. Paul. The great markets of the world are situated at the outlets of navigable rivers, which in this country are at the East and South; produce will not come up the Mississippi to reach the lakes at Superior, unless it is transported at a loss, and no fact is better known and understood in transportation than this, namely, that whenever you divert freight from its only legitimate course, which is the most direct and the shortest, you have to compete with lines possessing these advantages, and rates which are remunerative to the direct route prove losing ones to the indirect. The Minnesota Central road will only add to the burdens now imposed upon the La Crosse and Prairie du Chien routes to the lakes by opening up a communication with a rich and productive part of Minnesota. Its continuation south and a connection with the Northern Missouri railroad will open a line of communication with St. Louis, and furnish that great market to Iowa and Minnesota; but all experience shows that a railroad through a rich and productive country is in a few years hardly able to transport more than it creates and develops.

In view of these facts, what remains for the country but to make available the great highway prepared for us by nature, and by a judicious expenditure render perfect that which is nearly so already: that highway whose capacity is unlimited, and which can bear the mighty burdens of the three hundred million people who will one day live on its course?

The question now is simply as to the best way of doing what all admit must be done; and on this point we beg to offer the following suggestions as the result of our own experience confirmed by that of many prominent river men: first, as to the cause of the low water in the channel; this, it must be evident to all, cannot be because there is not enough water in the river, but because it is spread over so vast a width and divided into so many channels.

From bluff to bluff, a dike leads from one to four miles, this vast high way spreads out, offering many routes divided by islands, sand bars, and deposits of drift; and, of course, is better than all others, but even this varies at different seasons, and is liable to changes and dangers. The islands which form so remarkable and picturesque a feature in the upper Mississippi, are formed by primary deposits of sand, which by the wonderful fecundity of nature, are soon covered with vegetation, and permanently divert the water from its direct course. Every such diversion reduces the volume of water, and consequently lessens the current, which effect causes new deposits, and they, in turn, new islands, thereby increasing and

	From	Wheat, bushels.	Flour, barrels.	Wool, pounds.	Ginseng, pounds.	Hides, pounds.
St. Paul.		141,655	43,712	150,560	226,454	965,873
Illasins.		288,751	13,810	35,610		116,460
Prescott.		151,368	5,448	6,750	26,200	12,005
Red Wing.		333,363		4,500		24,630
Lake City.		178,307				
Red S.		83,839				
Wabasha.		57,217				
Minneiska.		57,048		102,620		226,480
Winona Elevator.		551,580	4,500			
Frempelton.		45,393	6,500			
Mendota, Minnesota river.		1,58,563	10,520			
Newport.		1,58,608				
Hudson.		75,200				
North Pegin.		17,650				
Chippewa river.		18,246				
Alm.		28,746				
Patula City.		38,850				
Fountain City.		21,630				
Total.		2,792,926	90,490	300,060	252,654	1,375,449

Shipments from La Crosse, Wisconsin, by the La Crosse and Minnesota Steam Packet Company for the same time as above to various points above La Crosse;

Merchandise, assorted, tons.....	16,847
Salt, barrels.....	11,876
Railroad iron, tons.....	10,320

From the mouth of the Minnesota to the Rock Island rapids, the Mississippi is characterized by almost innumerable wooded islands. The main volume of the stream is confined to one channel, but branches from it ramify in various directions, forming sloughs, as they are generally named, and making its water course with inclosed islands, seldom less than a mile in width. The low water in the channel of the river is caused by the numerous diversions created by these islands. Each slough subtracts a large amount of water from the main channel, and by decreasing the current allows the formation of deposits. To ascertain the cheapest and most feasible mode of stopping these leaks, and rendering all the water in the river available for navigation, is the object of the examination proposed in the bill before us. That this can be done at a very moderate cost, and in a very simple way, I am well satisfied. In a paper prepared by a skillful engineer and by a gentleman with an experience upon the river of more than twenty-five years, it is suggested that a line of piles driven diagonally and filled in with fascines at the head of each slough, will so turn the force of the current as to cause permanent deposits of sand upon the face of the barrier, which, in a few years, will become self-sustaining, and always secure such outlet against further waste. As this paper possesses much practical interest I will here ask the indulgence of the Senate while I read it:

The time seems to have arrived when the improvement of the upper Mississippi river should no longer be a problem without a solution. The vast increase in the productions of the northwestern States, their vast exports of wheat and other provisions, and their corresponding importation of all articles except food, demand that this question, second in importance to none that has been before Congress since internal improvements were first made a part and parcel of the policy of the country, should be met and answered.

It is unnecessary, at this late day, to speak of the importance of the Mississippi river, that great spinal column through which circulates the vitality which feeds and sustains so large a proportion of the people of this country and of Europe, and without which civilization would not have reached beyond the lakes at this time.

The interests of not only the States in the valley of this mighty river, but of the whole country, de-

usual annual appropriations for the improvement of rivers and harbors, accept this bill as an amendment to that, I shall, Mr. President, after having now called the attention of the Senate to the subject-matter, permit the bill to be passed over informally for the present.

The kindred measure, likewise so important to the preservation of the navigation of the upper Mississippi river, which sometimes since I presented to the Senate—I mean the Senate joint resolution No. 64, in these words:

Whereas the Mississippi river is one of the greatest highways of inland commerce in the world, affording, together with its connecting rivers, many thousands of miles of navigable waters for the cheap transportation of agricultural, mineral, manufacturing, and other bulky products; and whereas to insure safety and economy in such transit the navigation of said stream must be protected from all obstructions, whether natural or artificial, especially as the methods of transfer on barges towed by steamers, and requiring much larger channel-way than heretofore, are now coming into general use on the western rivers; and whereas the necessities of land travel and railway connection render it very desirable that the proper steps should be taken for bridging said stream at such points as may be found practicable for effecting continuous freight lines from west to east, and under such conditions of structure, as to height, channel-way, position of piers, and plan of operation, whether by draw or otherwise, as will not, by any possibility, operate to render the navigation of said stream dangerous to the lives of passengers or the safety of cargoes; and whereas it is proper that the Congress of the United States should protect the navigation of this highway of inland waters from the obstructions of private persons or interested corporations, and yet should concede such privileges in regard to bridging the same as may not interfere with the rightful claims of river commerce, and in order to do so should be furnished with accurate information on the points stated to guide its legislation and prevent it from doing any wrong in the premises: Therefore,

Be it resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of War be directed to appoint a commission, to consist of three officers of the corps of Engineers of the Army, to examine and report at the present session of Congress, if practicable, and if not, before the next session of Congress, upon the subject of the construction of railroad bridges across the Mississippi river at such localities and upon such plans of construction as will offer the least impediment to the navigation of the river; and that the sum of \$10,000, or so much thereof as may be necessary, be, and the same is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to defray the expenses of said commission.

I trust it may receive the favorable consideration of that committee and be ingrafted as an amendment upon the bill now before them.

The PRESIDENT *pro tempore*. The bill will be regarded as postponed for the present, no objection being made to that course.

QUARTERMASTER GENERAL'S CLERKS.

Mr. WILSON. I move to take up the Senate joint resolution No. 96, providing for the transfer of certain clerks to the office of the Quartermaster General.

The motion was agreed to; and the joint resolution was read the second time and considered as in Committee of the Whole. It provides that thirty-seven clerks of the first class, two of the second class, and one of the fourth class, from the ordnance department, ten of the first class from the subsistence department, and four of the first class from the office of the Secretary of War, shall be transferred to the office of the Quartermaster General, and proposes to appropriate \$65,800 for the payment of their salaries for the fiscal year ending June 30, 1867.

Mr. FESSENDEN. Where does this come from?

Mr. WILSON. I will simply say in regard to this matter that the resolution is based upon a recommendation of General Meigs. He desired to have these clerks classed higher, but the committee thought they would transfer them to his office in the same classes they are in at present.

Mr. FESSENDEN. I ask whether the matter has been submitted to and received the approbation of the Secretary of War.

Mr. WILSON. It was sent to us indorsed by the Secretary of War.

Mr. FESSENDEN. Approved by him?

Mr. WILSON. I understood so.

Mr. FESSENDEN. I think, from the recent course taken with regard to the clerks in the different Departments, that the proper place

for this measure would be on one of the appropriation bills.

Mr. WILSON. If the Senator desires that course to be taken, I have no objection to letting this resolution lie over and be put upon the Army appropriation bill when it comes here.

Mr. FESSENDEN. The Army appropriation bill is here.

Mr. WILSON. It can lie over until we take up that bill.

Mr. FESSENDEN. In the mean time I think the Committee on Military Affairs had better inquire whether it meets the approbation of the Secretary of War. I am very unwilling to act in matters of this kind until they receive the real approbation and recommendation of the head of the Department.

Mr. WILSON. The resolution was sent to us by the War Department. I accept, however, the suggestion of the Senator from Maine, and will consent to this resolution lying on the table for the present, and I will make an effort to have it put upon the Army appropriation bill when it comes up.

The PRESIDENT *pro tempore*. The bill will be laid upon the table, if there be no objection.

RECONSTRUCTION.

Mr. FESSENDEN. I desire to make a remark to Senators, in consequence of the notice which I gave a week ago that I should to-day call up the joint resolution reported by the committee on reconstruction, which has already been passed by the House of Representatives. I am obliged, to-day, to ask the indulgence of the Senate, and to say that I shall not desire them to proceed with that matter until Wednesday. I am utterly unable, myself, to take charge of it; but whatever may be my own condition on Wednesday, I shall expect the Senate to proceed with the consideration of the subject. I defer calling it up until Wednesday morning, when I hope to have the attention of the Senate to it.

MILITARY ACADEMY APPOINTMENTS.

Mr. WILSON. I move to take up the House joint resolution No. 134, relative to appointments to the Military Academy of the United States.

The motion was agreed to; and the joint resolution was considered as in Committee of the Whole. It provides that hereafter the age for the admission of cadets to the United States Military Academy shall be between seventeen and twenty-two years; but any person who has served honorably and faithfully not less than one year as an officer or enlisted man in the Army of the United States, either as a volunteer or in the regular service, in the late war for the suppression of the rebellion, and who possesses the other qualifications prescribed by law, shall be eligible to appointment up to the age of twenty-four years. Cadets at the Military Academy are hereafter to be appointed one year in advance of the time of their admission, except in cases where, by reason of death or other cause, a vacancy occurs which cannot be thus provided for by an appointment in advance; but no pay or allowance is to be made to any such appointee until he shall be regularly admitted on examination as now provided by law; nor is this provision to apply to appointments to be made in the present year. In addition to the requirements necessary for admission as provided by the third section of the act making further provisions for the corps of Engineers, approved April 29, 1812, candidates shall be required to have a knowledge of the elements of English grammar, of descriptive geography, particularly of our own country, and of the history of the United States.

Mr. JOHNSON. Will the honorable chairman of the Committee on Military Affairs state what is the reason for requiring the appointments to be made a year in advance?

Mr. WILSON. This joint resolution comes from the Committee on Military Affairs of the House of Representatives. The chairman of that committee was last year, a member of

the Board of Visitors at West Point, and was very anxious to have the changes made in the law which this resolution proposes. The first change is to raise the minimum age of admission from sixteen to seventeen, so that boys shall not enter so young as heretofore, but shall be more mature. Then it provides that young men who have served in the Army, either as officers or as soldiers, may be admitted up to twenty-four years of age. The object of the provision requiring the appointments to be made a year in advance is to give the persons appointed an opportunity during that year to fit themselves to enter the Academy. Then the resolution provides for increasing the standard of admission now required. Very little is required by this increase. I think it ought to be much larger than it is, and that the institution ought not to be a primary school; it ought to be a higher school; but there is objection to that. The increase here provided for is very slight indeed—English grammar, history of the United States, and small matters of that kind.

Mr. JOHNSON. The honorable member will permit me to ask him if there is no qualification required now. There is, I think, a pretty rigid one.

Mr. WILSON. But very little qualifications are required now. This is an addition to those qualifications. I should like the Secretary to read that portion of the joint resolution.

The PRESIDENT *pro tempore*. The reading of that portion of the joint resolution being asked for, it will be again read.

Mr. HENDRICKS. Before the reading of that section, I wish to call the attention of the Senator from Massachusetts for a moment to the fact, and I suppose it will be recollected by him, that the Senator from Rhode Island [Mr. ANTHONY] presented to the Senate, at the last session, a proposition, which had a good deal of strength in the body, changing the mode of appointing cadets to West Point. It was then presented to the Senate under circumstances which prevented its full consideration. I was not willing to support it at that time, because its merits could not then be fully understood and considered. It was proposed as an amendment to an appropriation bill. All Senators know that the proposition could not very well be considered in that connection, with the opposition to it as legislation upon an appropriation bill; but as it is a very important proposition, I think, more important, perhaps, than any provision of this bill, if it have any merit at all, it is due to the Senator from Rhode Island that we should wait until he returns before we propose to change the present plan. I cannot state to the Senate what was the proposition of the Senator from Rhode Island, but I think it was that there should be a board in each State for the examination of candidates; that the member of Congress from the district should present the names of a certain number of young men, and those young men should go before the board, and should be examined with a view to their physical qualifications for the military service, their intellectual qualifications and capacity, and also with regard to their education; that they should be examined by the board in advance, so as to prevent so many failures in the institution. I am not prepared to say that I am in favor of the proposition of the Senator from Rhode Island; but to say the least, it is worthy of the consideration of the Senate; and if the Senator from Massachusetts will not object, I will move to postpone this bill for a reasonable time until the Senator from Rhode Island shall return.

Mr. WILSON. I have certainly no objection to the bill going over for that purpose, although I must say to the Senator that I expect little to come of the postponement. It will be found very difficult to devise any plan that will be satisfactory to Congress, and especially to the House of Representatives, changing the mode of appointment of cadets at West Point. However, at this stage, I will allow the bill to lie over. It is from the House of Representatives; no amendment is

proposed to it; and I will allow it to lie over until the return of the Senator from Rhode Island.

The PRESIDENT *pro tempore*. The joint resolution now before the Senate will be postponed by common consent, no objection being interposed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (S. No. 379) to establish in the District of Columbia a reform school for boys;

A bill (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland so far as it applies to the District of Columbia; and

A bill (H. R. No. 601) to grade East Capitol street and establish Lincoln square.

ADMISSION OF COLORADO—VETO.

Mr. HENDRICKS. I move to take up the bill which was vetoed by the President of the United States for the admission of the State of Colorado. I think a proposition of that sort ought to be considered.

Mr. WADE. I hope we shall not take up that bill now. I hope it will be permitted to lie awhile before we take it up.

Mr. HENDRICKS. The Senator from Ohio, who is to some extent responsible for this measure as chairman of the Committee on Territories, desires not to take up the bill to-day; but if he is willing to say to-morrow at one o'clock, so that all Senators shall know that the bill is to come up at that time, I am willing to modify my motion, and will move to take up the bill with a view to making it the special order for to-morrow at one o'clock. Perhaps before taking up a measure of this sort, we ought to give notice a day in advance, so that Senators may be here. I have therefore no objection to modifying my motion so as to move to take the bill up with the view to make it the special order for to-morrow at one o'clock. I will state to the Senator that I name to-morrow for the reason that the Senator from Maine has notified the Senate that on the next day he expects to call up a question which will occupy, unquestionably, the Senate for a number of days; what length of time none of us is now able to say. It is proper that within a reasonable time the message of the President of the United States should receive the consideration of the Senate, and I do not think that we ought to wait until the Senate has disposed of the reconstruction proposition. Therefore I think it is right that we should either to-day or to-morrow take up this bill. My present motion is to take it up; and then if it is taken up I shall move to make it the special order for to-morrow at one o'clock.

Mr. WADE. I hope the bill will not be taken up now. I do not think we can at this time definitely fix a proper time to consider the bill. The Senate is very thin. I believe several members are now absent. I do not know when they will be here. When it is taken up the Senate ought to be full, and I cannot say that that will be to-morrow or the next day. I do not think it is best for us at the present time to take it up, and I hope we shall not do so.

Mr. SUMNER. There are one or two of the Senators who are now absent who are to be here to-morrow, which is the time proposed by the Senator from Indiana for the consideration of this question. I think that we may expect to-morrow a reasonably full Senate. I am inclined to think, still further, that we ought not to postpone the consideration of the question. I do not think that a veto message of the President has ever before in our history been so long postponed. It has been considered from day to day, and discussion has been allowed to go on until a conclusion was reached. I am not aware that any message of that character has ever been laid upon the table and there allowed to sleep as if it was not to be proceeded

with. It seems to me that the Senate ought to proceed with it at an early day, that the question may be definitively settled. As it stands now, the question is not definitively settled. It is an open question still whether the State of Colorado shall be received into the Union. It ought to be closed.

Mr. WADE. I have had some little experience as to these veto messages, not so much nor so often formerly as now; but I know very well they have been treated precisely as any other measure has been treated here. There is no reason that I know of why they should be considered in any other light than any other measure that is important before the body, and they have always been so considered. The Senator from Massachusetts says that we have proceeded immediately to take them up and consider them, and not laid them on the table. That is not my experience. When what was called the homestead bill, in the days of Mr. Buchanan, was vetoed, it lay here nearly three months, if I am not greatly mistaken, before it was finally settled. It was laid on the table, and adjournments took place, precisely as upon any other question that was deemed by the body important, and which they wished to discuss. I see no reason why we should at this time take up this message. I do not think we are ready to dispose of it properly at the present time, and I do not think the friends of the measure ought to take it up at this time.

Mr. HENDRICKS. I certainly would not ask the Senate to consider a bill when it could not be properly considered; but the Senator from Ohio has not stated any reason why the Senate is not prepared to consider this bill. It was pressed upon the attention of the Senate more than a month ago. It was said we were in a condition to consider it then. We did consider it and rejected the bill. Then, again, there was a motion to reconsider, and after further protracted debate a different result was arrived at in the Senate, somewhat astonishing to some of us. After two debates in the Senate upon the bill it finally went to the President of the United States. He did not agree with the Senate in its last vote; he thought the Senate was right in its first vote. Now that question is before us, presented as an important question by the President of the United States for our consideration. I know of no reason why the Senate is not prepared to consider it. The Senator from Ohio gives no reason. The question of the admission of a State into the Union is a very grave and important one. It loses none of its gravity and importance by the fact that it is now accompanied by the veto of the President of the United States. It is due, I think, to the dignity of that message that it should be considered at an early day. For this reason I have moved to take the bill up with the view of making it the special order for to-morrow.

Mr. WADE. The Senator asks me why I am not ready to take up this bill now, and I am very frank, as I am on all occasions, to tell him the reason. I am a friend to this measure, notwithstanding the veto of the President. I have come to the conclusion that this Territory ought to be admitted as a State for a good many reasons that might be assigned, but which it would not be proper to argue now. I wish to deal with this question as I do with all others that I am in any way intrusted with the charge of. I do not think the bill is as likely to be successful if we take it up now as it would be if we were to postpone it a little longer, and when I have a measure at heart that I intend to pass I intend to take every honorable means that I can to pass it. I do not think it is politic now for the friends of the bill to take it up. That is all I have to say about it. As one of the friends of the measure I hope it will not be considered now, and for the reason I have given.

Mr. HENDERSON. The Senator from Indiana thinks that this matter ought to be considered immediately because, he says, a month ago the Senate considered the measure

and rejected it, but afterward adopted the measure and sent it to the President who has vetoed it, and now a proper courtesy on our part requires that we should consider it immediately. I do not know but that the suggestion of the Senator from Ohio ought to be listened to from another consideration besides that which he has given. It seems that Colorado had a very hard time of it. We passed an enabling act, two years ago, saying to the people of Colorado that if they desired a State government, they might vote upon the proposition, adopt a State government, and we would receive them. At the first vote after the enabling act was passed, Colorado rejected the proposition. Upon a reconsideration of the question, however, the people of that Territory adopted the proposition, and now send us a State constitution, and ask for admission. The President took the matter into consideration, because it suited him, or directly in accordance with the provisions of the enabling act itself, I believe, the President was authorized by a proclamation to admit the State; but instead of doing so, he sent the proposition for admission to us, and said, "I leave this matter to Congress." Congress took it into consideration. It is true that the Senate, upon the first vote, like the people of Colorado, rejected the proposition, and left the State out. The President said to us that he was willing to leave it to us, and whatever we might do on the subject, I understood, he was perfectly willing to give his sanction to. However, the Senate, after first rejecting it, reconsidered the proposition and then adopted it, and said to the people of Colorado that they could be admitted. This shows a change, not only on the part of the people of that Territory, but a change, after reconsideration, on the part of Congress. Now, sir, let us give a little time to the President of the United States. I am satisfied, upon all the precedents and all the history of Colorado, that if he has a short time, he will send us, in the course of a few days, a message withdrawing his veto message. Let him have the same time that the people of Colorado had to consider the proposition, and the same time the Senate had to reconsider it, and in all probability he will come to as correct a conclusion as the people of Colorado and the Senate of the United States.

Mr. FESSENDEN. I voted against the admission of Colorado, but I am quite willing to leave the question of when this veto message shall be taken up, within reasonable limits, to the friends of the measure. As I differed from them with very great reluctance, and was disposed, if I could, to vote with them, I am certainly not disposed to press its consideration at a time which is inconvenient to them and against their wishes. I am willing that they should take their own time, and shall therefore vote with my friend from Ohio on the motion to take up this question, he being chairman of the committee which has the bill in charge. I think it is proper to comply to a reasonable extent with his wishes on the subject.

But I rose merely to say that I can see no occasion for the suggestion that by deferring the consideration of this bill a discourtesy would be committed toward the President. It so happened that the message was not read upon the day on which it was laid on the table. It was suggested by a Senator at that time, who was desirous that it should be read on that day, that not to read it then would be not treating the President with that respect which was due to him as President in relation to the message itself. It also so happened that before that suggestion was made I had made a motion to go into executive session; and I replied at that time that nothing like a want of respect or a disposition to treat the President with disrespect existed, so far as I was concerned. I see that the idea has been caught at and that some presses have taken pains to represent that there was intentional discourtesy on the part of the Senate.

Now, sir, I wish to repel that idea here, and utterly. It so happened that when that message came in we were engaged in a debate and the consideration of a bill. The message was not read but was laid on the table of course, and we proceeded with that bill to a late hour in the day, when we were all fatigued. The time arrived at which we usually adjourn, but it was absolutely necessary for certain purposes to have an executive session that evening, and I moved an executive session, not willingly but because it was necessary, thinking we could dispose of the matters that required immediate attention then. Then was interposed the question of reading the veto message. I insisted upon my motion, for I thought at that late hour it was hardly worth while to take up a message which was to be listened to at any rate with respect and attention, and have it read at that period of the evening, but it might as well come up in the regular order of business the next morning. I think still that was the correct course. I utterly repel the idea for myself and for all others of the slightest intention on the part of anybody (because I know that it did not exist) to do anything that was at all out of the way, or improper, or disrespectful to the President of the United States. As is well known, I am not in the habit of treating any officer of this Government who is charged with public duties with any disrespect whatever, either in words or acts, and I believe that to be the general disposition of the Senate itself.

I only notice this because it shows a disposition to make a mountain out of a mole-hill, and construe what was merely an ordinary proceeding in the course of business into something that was not intended or in any way designed; and, I will add, on the suggestion of my friend from New Hampshire, [Mr. CLARK,] that these questions are not questions of courtesy, at all; they are questions of business. We pass a bill; we send it to the President; when he gets ready, within a certain time which is limited, he returns the bill to us, if he sees fit, with his objections. When we get ready and think that the time has properly arrived to consider them, we consider them and come to our own conclusions. It is a matter of business deliberation in which the good of the country is involved, the ordinary course of legislation, which has reference to the good of the whole, and not a mere courtesy to an individual, whatever may be his position, whether he happens to be the President of the United States, who objects to a bill, or whether he happens to be a chairman of a committee who may have charge of the bill, or anybody else who is interested in the bill and desires to be heard upon it, or that a particular course should be taken. It is for the Senate to decide; and on all these questions, as an individual I am to act with reference to the question itself, and not with reference to what may be the wishes of others in relation to it. When it comes before me, as a Senator I act in my own time and in my own way, if agreeable to the majority here, which upon each question has a right to decide. And now, sir, I say that if we should conclude that the proper time for the consideration of the objections of the President to the bill has not yet arrived, it is to be construed, so far as I am concerned, and I trust all others, into a mere opinion that we will consider it at another time when we are better prepared in our own judgments to take it into consideration.

Mr. HENDRICKS. In the main I agree with the Senator from Maine in his suggestions upon the question of business. I think it would be better that we should consider all such questions as questions of business rather than questions of courtesy. But the Senator is aware of the fact that it is usual, because perhaps the question is a grave one, and because of the weight that is given to an executive communication, to consider veto messages and bills accompanying them at an early day after they are communicated to the Senate. A very lengthy postponement of it is likely to be understood

by many as an intentional one, as a matter of discourtesy to the President.

The Senator is aware of the fact that when the Senate pass a bill, and the House of Representatives amends that bill in important particulars, and sends it back here, we consider those amendments at an early day; perhaps because it comes up in the course of business, but also, I think, for the reason that there is a question in dispute between the two Houses, and that question ought to be settled. Then when there is a question of difference between the President and the Senate, that question of difference ought to be settled at an early day, I think, as a question of business.

To the suggestion of the Senator from Ohio I have no particular objection, of course. He has a right to select a time when he thinks he can carry his measure instead of losing it. I do not quarrel with him about that, and on this particular question I think the opinion of the Senator from Ohio is entitled to a great deal of weight. A year or two ago the Senate passed the enabling act upon the assurance given to the Senate by him that there was a large population in Colorado, he thought about sixty thousand or over, and that the current of immigration was setting in very rapidly into Colorado, and that there soon would be a very large population, fully justifying the admission of the State. Then, when the bill came up a month or so ago, the Senator said that in all that he was mistaken, that he was misled, and that there seemed to be a much less population there than he had supposed. Clearly the evidence justified the opinion that the Senator then expressed, for no man can question that there is much less than sixty thousand inhabitants in that Territory, and at that time the Senator thought it to be his duty, without having either the fear or respect of vetoes before his eyes, to oppose the admission of Colorado on the ground that the population of the Territory was so inconsiderable. The other day when the bill passed he was not able to show us that there had been any increase of population since he said to the Senate that the population was too small to justify the admission. It is possible that if we postpone this bill now the Senator will again change his opinion. The Senator from Missouri [Mr. HENDERSON] suggests that if we give the President an opportunity he may change; but I have more reason to hope that the Senator from Ohio, having already occupied three grounds upon this question, may occupy a fourth directly if we give him some time. But I think the question ought to be considered.

One word in reply to the Senator from Missouri. He intimated that the President, in communicating this business to the Senate at an early day of the session, had said that the subject was referred to Congress and that he would abide by the decision of Congress. The President, in that communication, did not say so; it does not authorize that construction to be put upon his communication. The President first states the facts; then he says:

"The proceedings in the second instance for the formation of a State government having differed in time and mode from those specified in the act of March 21, 1864, I have declined to issue the proclamation for which provision is made by the fifth section of the law, and therefore submit the question for the consideration and further action of Congress."

That is all. No opinion is expressed by him, no intimation expressed by him. The President could issue no proclamation upon that proceeding out in Colorado. The law did not authorize it; it was not justified by any law either of the General Government or of the Territorial Legislature; it was an irregular proceeding, a party proceeding, gotten up by the chairmen of the committees of the different political parties of the Territory, and the election was not such as is usually held. Delegates to the convention were appointed by county conventions, as if you were appointing delegates to a political convention in a State or Territory. It has none of that regularity which we expect in such grave proceedings when a State is to be brought into the Union.

But, Mr. President, it is not proper now to discuss the merits of the question. In the absence of any sufficient reason why the bill should not be considered, I think it is due to the importance of the question, to the importance of any executive communication, that we should consider it at an early day. If the Senate decides otherwise, I am individually entirely content.

Mr. WADE. I did not intend to say anything more about this matter, but the Senator from Indiana has insinuated that I have vacillated a good deal on this question. I agree that my course upon it has not been entirely what would seem consistent to one unacquainted with all the facts of the case. I voted against this bill at first, and on the reconsideration I voted for it. I gave no reasons for my last vote, because I do not care so much about giving reasons generally for the course I take here. I suppose that my reasons are to be judged by my votes. My votes always manifest the strongest reasons. Whoever searches the record will find my opinions much oftener from my votes than from anything I say in the Senate. But I think I had very good reason in this case to change my vote between the time I first voted against the bill and afterward on the reconsideration voted for it. Although I was upon the committee that reported the bill, and endeavored to obtain all the facts within my reach, I found that I had not got hold of all the facts that really existed in the case, when the bill was reported. When the bill was reported I differed from the other members of the committee on Territories who thought that there were sufficient reasons for permitting the State to come in. But after that vote was given we had a great deal of additional light thrown upon the subject from the records of the different departments of this Government showing the population to be greater than was supposed when the bill was first up, and when that vote was given, and that the wealth and the ability of the Territory to maintain a State government were infinitely greater than any member of the Senate had before supposed. I believe the fact to be that no Territory in the West had shown at the time of its admission as a State a greater amount of wealth or equaled the amount of taxation paid in this Territory.

I shall detain the Senate but a moment further, for I am not going to argue the question nor enter into a lengthy explanation as to my votes on the subject. I wish simply to ask whether ever before in the history of this Government there was a veto by a President of a bill for the admission of a State. You may trace every Administration from the time that States were first admitted till now, and this is the first instance when an Administration has seen fit to veto a bill which Congress had passed admitting a State into this Union. There has been no uniformity in regard to the practice of Congress in the admission of new States, and consequently they have been admitted sometimes with a larger and sometimes with a smaller population, and that has hardly formed any criterion. It has been said, and I think properly said, as a general thing, there should be about population enough for a Representative in Congress; but that rule has not been adhered to; we have vacillated one way and the other just as the circumstances of the case seemed to require. But the question is one peculiarly within the jurisdiction of Congress, and less than any other within the province and observation of the President of the United States. This is the first instance where the people of a Territory wanted to come into the Union and where Congress had passed an enabling act for that purpose, that the President has turned round and put his veto upon the bill for their admission, so as to keep them out. You cannot find any other instance in which it has been done, and you will probably never find one again. We have not been very exacting of the Territories when they desired to become States. Generally, whenever the people of a Territory have come together and said they were able to maintain a State government, Congress has

rather considered the question as one belonging to them than to anybody else. We are not the guardians of Territories so as to say that when they are willing to relieve the General Government of the burden of sustaining a territorial government and they are able to maintain themselves we will prevent them from doing it; but we have generally accommodated them and said, "If you are willing to relieve us from the burden of sustaining a territorial government and to take upon yourselves a State government, we are very glad to invite you in." That has been the general course of Congress, but it has been departed from by the President upon this occasion, and I am not going now to scrutinize his reasons for it. He may have good reasons. Undoubtedly they are satisfactory to himself; but they are not quite as satisfactory to me and I hope they are not to many members of this Congress. His action is novel, and I hope it will not be repeated by any Executive hereafter when Congress gives its assent to the admission of a State. But I am not going to argue that point now. If I have voted both ways upon this subject, I have only to say that the evidence was made to appear very differently on the different occasions when the measure was up, and that is the reason I changed my vote.

Mr. SUMNER. Mr. President, I am unwilling that this question shall be treated as a question of courtesy to the President of the United States. I prefer that it shall be regarded, as I think it really is, simply as a question on the order of business. I believe it is in that way that the Senator from Indiana has chosen to present it—a question on the order of business. Now, looking at it in that light, it does seem to me that the Senate ought not longer to postpone its consideration. It has been already unduly postponed; postponed, I think, longer than any such measure ever before was postponed.

But as I have said, it is simply a question on the order of business, and it is not a question of principle, nor am I disposed to regard it as a question of courtesy; therefore I am very much disposed to follow what seems to be the inclination of the Senate. I do not wish to interpose any individual opinions of mine to go across those of Senators who have this measure specially in charge. If the Senate is not disposed to proceed with its consideration to-day, if there is obviously a majority against it, I am perfectly willing for one that for the present it should subside. At the same time I cannot say that without expressing the opinion that the Senate does owe it to itself and to the question at issue not to allow its consideration to be too long postponed.

Having said this, perhaps I have said enough in reply to the practical observations that have been made by Senators who have preceded me; but there seems to have been a disposition to open the main question; different Senators have expressed their opinions with more or less fullness on that. I shall not follow them in that. This is not the time for such a discussion. That time may come. It has already been before in this Chamber, and then I had ample opportunity to say what I chose to say. Perhaps hereafter I may deem it proper to take another opportunity; but so far as I am personally concerned I am in no haste to speak. I have no disposition to press the matter.

I cannot take my seat, however, without making one remark in reply to my friend from Ohio. He says that he is for the admission of Colorado now, notwithstanding the veto of the President. To that I reply that I am against the admission of Colorado now, notwithstanding the veto of the President. I, for one, mean always to stand by the principle that no State shall be received into this Union from this time forward with a constitution which disavows the first principle of the Declaration of Independence. On that principle I stand, and I shall take advantage of every opportunity that is given to me to uphold it, whether by any Senator on this floor or by the President of the United States.

Mr. KIRKWOOD. I was out of the Chamber at the time when this matter was called up, and I desire to ask whether the question now is on taking up the bill at this time for consideration.

The PRESIDING OFFICER, (Mr. CLARK in the chair.) The question is on taking up the bill and making it the special order for to-morrow at one o'clock.

Mr. KIRKWOOD. I am very anxious to get before the Senate, if it be possible, prior to Wednesday, and to have the action of the Senate upon it, a bill reported by the Committee on Public Lands, which is a very important one. It relates to the public lands in the States that have been in rebellion. It is a bill which has already been passed by the House of Representatives, and has come to the Senate, and I look upon it as one of the most important measures, perhaps, upon which we shall act during this session. I hope that the bill will not be taken up at this time, but that an opportunity will be afforded to take up the bill to which I allude.

Mr. JOHNSON. The motion made by the honorable member from Indiana is not to take up the bill now, except for the purpose of affixing some day on which it shall be considered. He has proposed to-morrow. Perhaps that is too short a time, and as the friends of the bill ought to have, in some measure, the fixing of the time at which it is to be considered, I would suggest to them that they name some day when the matter shall be considered.

I regretted very much to see the Senate a few days since refuse to take up the message; and I also regretted to see that treated as an intention by the Senate to act discourteously toward the President; and I still more regretted to see it stated that that was considered to be the purpose of the honorable member from Maine and those who agreed with him at that time and who objected to the consideration of the message. I certainly never supposed that the honorable member from Maine intended any such thing or was capable at any time of showing any discourtesy to any branch of the Government. As far as I am concerned his disclaimer was perfectly unnecessary. And I am equally sure that the majority of the Senate could not have contemplated any such discourtesy to the President; but I submit to the friends of the bill for the admission of Colorado whether it is not proper that some day should be fixed on which the subject may be considered. If to-morrow is too soon, say to-morrow week or this day week; we shall all then be notified of the time when the matter is to be called up and can all be at our posts to vote as we may think it our duty to vote. I will add that although so far no discourtesy has been designed to be shown to the President of the United States, yet perhaps it would look a little discourteous, whether designed or not, if we should refuse to fix some day at which the question shall be considered. I appeal, therefore, to my friend from Ohio to name some day next week or this week on which he will agree to take the measure up.

It is not my purpose, because the matter is not before the Senate, to answer one of the suggestions of the honorable member from Ohio, which would have been more proper, perhaps, if the bill were before Senate than simply on a motion to take it up, that this is the first time when a President of the United States has vetoed a bill for the introduction of a State into the Union. That may be true; but it is not the less true that he has the constitutional right to veto it; just as much right to veto a bill of that description as any other bill that the Congress of the United States may pass. The honorable member is mistaken in supposing, too, as he seems to suppose, that this measure comes before us by force of an enabling act. I do not understand that to be the condition of things. What the enabling act authorized the people of the Territory to do was to vote under certain restrictions and at certain times, and at the election held under the authority of that act they rejected the con-

stitution by a majority of some three or four thousand.

But I conclude with asking the honorable member from Ohio, or the friends of this measure, whether it is not advisable, looking to the wishes of all the members of the Senate, that some day should be set aside at which this measure should be considered.

Mr. WADE. I should not say another word if it had not been insinuated that if we treat this measure as we do other measures the President will be somehow called in question in regard to it.

Mr. JOHNSON. I have not said so.

Mr. WADE. You appealed to us, saying that if we delayed it might be so construed, or so understood, or something of that kind. Now, I disclaim all such considerations and all idea that such an effect can follow. I do not know whether the President supposes, or anybody else supposes, when he has exercised his constitutional right that nobody denies him, and has sent a bill back here for our reconsideration, that we should not treat it precisely as we do any other question, or any other message coming from him, I care not what. Why should we not treat it as we do his annual message, or any other message, with regard to which we act precisely as we do with reference to any other question that is before us? If we are not ready to take it up we postpone it; and the President has no right to consider that he is treated with any courtesy or any discourtesy whatever we may do with it, unless we treat him with disrespect in relation to it.

Our time, our manner, our way of dealing with the veto message of the President is within our own power, precisely the same as every other question. There is no difference between it and other measures, in that respect, in my judgment; and therefore I have forbore to say anything about the question of courtesy, nor will it influence my action because it cannot affect the President at all. We are entirely independent, as he is independent, any further than he is bound by the Constitution within ten days to make up his mind and send back a bill either approved or disapproved, and he generally has taken the longest time in which to do it. There is no reason why he should not do so, if he is not ready to make up his mind earlier; and it is no discourtesy to us that he goes to the extreme of his rope on the subject. It can be no discourtesy to him if we take our time to consider his message. There is no question of courtesy or discourtesy in the matter at all.

As to the manner of taking up this bill, my course upon it is precisely what it has been with every other bill of which I have had charge. I am anxious that the bill of which I am in favor should pass; and if I stand behind it to conduct it through the Senate, I will always, so far as I can, make use of all honorable means to secure its passage. If I think one time is more favorable to it than another, I will take that time, if the Senate will give it to me. I do not think the Senate ought at present to fix a time for the consideration of this bill, because several Senators are absent and there is a very important measure just before us, and about to come up which will take some time. I do not know that we ought now to fix a time for this matter. I prefer to leave it under the control of the Senate, from day to day, without making it a special order.

Here let me say that I have never been able to understand the reason why Senators are so intent upon making questions special orders. They have no more force than other bills which are not made special orders. A Senator can move at any time to take up a bill, and the order of business is entirely within the control of a majority of the Senate from day to day. I may add that if I am to conduct this bill I shall take no longer time than I think is necessary to bring it fairly before the body, taking no advantage of one side or the other, seeking nothing but the deliberate judgment of the Senate upon it, and desiring action when all can be present. If it was so now that that

could be done, I should not delay the measure a moment; I would as soon have the vote taken to-day as any other day. There are several Senators absent, however, who ought to be here to pass their judgment upon it. I cannot tell when they will be back. When they are here, if any Senator suggests to me that he wants the bill taken up, and I can see no good reason to the contrary, I shall very cheerfully move to take it up, and that without any attempt to take advantage of one side or the other. I expect always to act in subordination to the deliberate will of a majority of this body fairly expressed. I never ask for any snap judgment on any measure I have in charge, however strongly I may feel on the subject. That is not my habit, and it will not be on this occasion. I want the bill to pass, but I want a fair expression of the Senate upon it, with all present who see fit to be present. The question of amending the Constitution is coming up in a day or two, and we have been told that when it is once up we ought not to depart from its consideration until we get through with it. I think, then, that at this time we ought not to take up this bill for action. I think it had better lie on the table as it is, with my assurance that, so far as I am concerned, at the earliest time when it can be taken up so as to get a full expression of the Senate upon it, it shall be done.

Mr. HENDRICKS. With the permission of the Senate, at the suggestion of gentlemen around me I will modify my motion so as to take up the bill with the view of making it the special order for to-morrow week. I want no snap judgment, to use the language of the Senator from Ohio; and I am glad to hear him say that he does not. I was a little afraid perhaps that he did, from the fact that one evening here, when a couple of Senators were sick, he insisted upon a vote just then, and said he had a right to take advantage of their sickness. I do not want any snap judgment on this question.

Mr. WADE. I have no objection to having the bill made the special order for to-morrow week, with the understanding, however, that it will be of course superseded at the will of those having charge of the reconstruction matter, if that should then be under consideration. I have no objection to naming that time, hoping that the Senate will then be full, and if it should not be, I can move a postponement.

Mr. HENDRICKS. If the report of the committee of fifteen should be the business then before the Senate, of course it would take precedence of a special order, so that there can be no difficulty upon that question.

Mr. WADE. Very well, then, I have no objection to that. It is some time ahead, and I hope we shall be ready then.

Mr. HENDRICKS. I should like to have a further understanding with the Senator from Ohio. I shall go with him, if there is any considerable portion of the friends of this bill absent at the time who cannot be here and that want to vote on it, to postpone it until they can be here. If it is the will of this body that Colorado shall come in under the circumstances, I want her to come in. I do not want to pass any bill here because I find some Senators absent, and I shall always vote to postpone a measure until there can be a full hearing upon it. Now, if it should so happen at the time the measure is taken up that there should be an absence on the other side of the Senate, I shall want to postpone it, and I hope the Senator from Ohio will meet me in that sentiment. I shall want to postpone it, if it shall be found at the time that there is any considerable number of Senators who are opposed to the bill absent, and I want the same position to be assumed by the Senator from Ohio, in that event, that he assumes in regard to an absence on his side of the Senate. Then, sir, I modify my motion so as to make the bill the order of the day for to-morrow week, and then everybody will know it is coming up.

The PRESIDING OFFICER. The Senator from Indiana moves to take up the bill

(S. No. 74) for the admission of the State of Colorado into the Union, and to make it the special order for Tuesday week. The Chair will divide the question, because it requires two different votes. The first is carried by a majority and the other by a two-thirds vote. The first question is on the motion to take up the bill.

The motion was agreed to.

The PRESIDING OFFICER. The Senator from Indiana now moves that the bill be made the special order for Tuesday week, at one o'clock.

The motion was agreed to, two thirds of the Senate voting therefor.

FORTIFICATION APPROPRIATION BILL.

Mr. FESSENDEN. I move that the Senate proceed to the consideration of the fortification appropriation bill.

Mr. SHERMAN. I hope the Senator from Maine will not press the consideration of that bill, because I represent, in behalf of the Committee on Finance, a very important bill, which I should like to bring to the consideration of the Senate. The bill he now proposes to take up is the same one which he proposed to take up on Thursday last. There is no necessity for pressing it now. Last week he gave notice of his intention to call up to-day a question in which the whole country feels a great interest, and I did not intend to resist its being taken up. Why not now take up the report of the committee on reconstruction, and proceed to dispose of it? There is no occasion for proceeding to the consideration of the fortification bill now, and I trust therefore it will not be pressed.

Mr. FESSENDEN. If the honorable Senator will take pains to inquire a little he will perhaps come to the conclusion that it is hardly worth while to press his bill this morning. I made my motion, supposing he would not do so. If he would inquire of the Secretary of the Treasury, who, I see is present, he would not insist upon his motion now, I think.

Mr. SHERMAN. I do not act here as the agent of the Secretary of the Treasury; I act on my own responsibility.

Mr. FESSENDEN. I will give a reason, then, why the Senator's bill should not be taken up. I had a resolution in my hand on Friday, which I did not get a chance to offer, calling for some information which I deemed it necessary to have before that bill came up. On presenting it to the Secretary of the Treasury to see if I could get the information, he remarked to me that he was not quite ready to afford it, and that he would not advise that that bill be taken up until I could get the information which I required; and on that suggestion I supposed the bill would not be pressed now. I should be unwilling to proceed with it under these circumstances because I am not prepared to do so.

With regard to the bill which I have called up, the fortification bill, I do not know that it is of great importance that it should be taken up this morning instead of another day, except that I desire, as I said before, to have it out of my way, because there are other matters to which I must afterwards give my attention, and I do not like to be embarrassed with it. It is a very short matter; and if the Senate will allow it to come up it can be disposed of in less than half an hour without the slightest difficulty in the world. Then my object will have been accomplished; and if the Senator from Ohio is disposed to ask the Senate to take up his bill notwithstanding the fact that I am not ready, I suppose after he has stated his views, I can secure a postponement if I desire it. Although he represents a very important bill from the Committee on Finance, I believe I have the honor of representing an important bill from the Committee on Finance, also, which has been before this body, reported, and on the table for several weeks, while his has been before the body not yet for a single week, for it was reported, I believe, last Tuesday—not a week ago.

Under the circumstances, I do not mean to have any further controversy, either of an "excited" or an unexcited character, with the honorable Senator from Ohio on that subject. The question is for the Senate to decide. If they decide that the Senator from Ohio shall be allowed to take up his bill to the exclusion of other business, and proceed with it under the circumstances, very well. I am not more interested in it than anybody else.

Mr. SHERMAN. I came here this morning with the expectation that the Senator from Maine would call up the joint resolution reported from the committee of fifteen, which has excited so much attention; and I have yet heard no reason given why it has not been called up. Perhaps a reason was given when I was not in my seat; but I see no reason myself why that subject should not be proceeded with, or if there is a reason, it should be stated to the Senate. We must conduct our business with some kind of order, and when notice is given of a proposition to take up a particular measure of great importance, we ought to know the reason why it is not done.

Mr. FESSENDEN. I will state to the Senator that I gave notice this morning why I could not call up that report until Wednesday.

Mr. SHERMAN. I did not hear it. Then I will state further to the Senate that I show little feeling about this matter, chiefly from what occurred here on Thursday. I represented a bill which was reported from the Committee on Finance. I had no interest in it. It was a bill prepared at the Treasury Department, and came to us in the ordinary course of business, and was reported by the committee without the assent of the chairman. That bill, standing before the Senate, has just as good a right to be heard as if it had the assent of the chairman of the committee; and yet, when I endeavored to bring it up on Thursday, he treated it in a very discourteous and improper manner. It was late in the day, and perhaps he was fatigued, and I was not disposed to hold the Senator to a very rigid account; but when I read over the debate which occurred in the Senate then, it seems to me now that he must perceive that the whole of that debate on his part was discourteous, unkind, and uncharitable to the committee of which he is a member. When a bill was reported from that committee by me as representing a majority I considered that it had just the same right in the Senate precisely, and should receive the same consideration, as if it had obtained the consent of the chairman, and that it was not necessary to have his consent in order to have it reported. But he announced when the bill was reported, much to my surprise, that he would not only vote against it and oppose it, as he had a perfect right to do, but that he would not allow it to be taken up if he could help it, or words to that effect. When I endeavored to get it up on Thursday he showed a great deal of feeling against it.

I know the Senate will bear me witness that in our relations to each other, and in regard to the business of the Senate, I have generally deferred to the wishes of the chairman of the Finance Committee; but when he endeavors to set up his opinion and his wish against the order of business reported from the Committee on Finance, I think he ought to give to the decision of the committee the same consideration that the members of the committee usually give to his motions when he makes them. For this reason on Thursday, for the first time, I believe, I resisted the taking up of a bill reported by him; and I did it only because I understood his purpose to be to oppose the bill I reported by direction of the committee; an unreasonable opposition, an opposition that was extraordinary in its character, and urged with a good deal of heat. Now the Senator states a reason for desiring delay. If he had communicated it to me I would not have antagonized with his bill. He now states that he desires information from the Treasury Department. If he really desires that information—and, as a matter of course, what he says is conclusive

on that point—I do not wish to urge this bill against his wish to acquire that information. After the fortification bill is disposed of I may desire to call up the bill for the purpose to-morrow of presenting my views to the Senate on the subject, and then if the Senator desires delay for the purpose of obtaining information from the Treasury Department I will not object.

As I stated on a former occasion, the bill in my charge is one of great public importance, intended to reduce the interest on the public debt, carrying out perhaps a favorite idea with me, that we should not in time of peace present to the world the spectacle of paying a higher rate of interest on our public securities than any Christian nation of these times, and going into the markets of the world with our bonds at a lower rate for gold than any nation of Christendom, I believe. It was to enforce this view, to save, if I could, this undue amount of interest, that I presented this bill and urged it on the consideration of the Senate. I will no longer urge it at present, after the declaration of the Senator from Maine that he desires information; and as the reconstruction question is postponed until Wednesday, I will not now resist the taking up of the fortification bill, but I shall ask the indulgence of the Senate to take up the funding bill to-morrow, so that I may be able to present my views upon it.

Mr. FESSENDEN. After I had given notice that I would have no further controversy with him on this subject, it was quite unnecessary for the Senator from Ohio to repeat what he chose to say on Thursday evening, that I had conducted in an improper manner with reference to this matter. I think, having said that once—and even then I suffered it to pass without reply, although I really felt the remark somewhat—it was rather unnecessary that he should have taken pains to repeat it this morning. Now, sir, it so happens, I believe—I must say it, although I do not like to talk about myself—that I am the only man in this Senate who never is suffered to get in the slightest degree excited without having somebody in the Senate and somebody out of the Senate make remarks upon it. [Laughter.] If I allow my voice to rise above its ordinary pitch it is remarked that I am under excitement, and the newspapers seem to think it a very considerable thing. [Laughter.] Well, sir, I think it proves that I am so universally acknowledged to be an amiable man and an excellent-tempered man that when I do get excited it is worthy of remark, which is not true of any other member of the Senate, because they may have all sorts of fights here and it does not seem to amount to anything; nobody says anything about it; it seems to be treated as a matter of course. My friend from Maryland [Mr. JOHNSON] may get into a heat and it is treated as a matter of course, and nothing is said about it. So with my friend from Iowa, [Mr. GRIMES], and my friend from Massachusetts, [Mr. SUMNER], and everybody else. [Laughter.] But, sir, let that pass.

I did feel somewhat annoyed about the charge that was made, coming from a member of the committee, and the gentleman who is second on the committee. I was annoyed that he took pains to express his opinion that my course of conduct in regard to this matter was improper; and I really felt hurt this morning that he should have taken pains to repeat it.

Mr. SHERMAN. I felt it, and therefore I said it.

Mr. FESSENDEN. The Senator had expressed his feelings once, and I think that after three nights sleep he might have got over that annoyance sufficiently to have held his tongue on a subject on which he had already once spoken. I think he must have been a little excited, although he does not show it so much in the tones of his voice.

Now, sir, allow me to say, that the honorable Senator reported his bill by order of the majority of the committee, not a particular order that he should report it, but after the vote was taken, that it should be reported by the consent of the chairman of the committee, whose busi-

ness it was to report it if he chose to do so; but he chose, as a matter of courtesy, to pass it over to the honorable Senator who had introduced it. That is the way it came to be reported by the Senator; otherwise it would have been reported by me, and been under my charge as chairman of the committee. That is the simple fact about that. I gave notice in the committee (as I always do when I intend to act in that way) that when the bill came into the Senate I should oppose it by all means in my power; and when it came into the Senate and was reported apparently with the assent of all the committee, I stated the same thing. I know and understand what effect these financial measures have upon the money market always, and that they are made a matter of trade and speculation; and I for that reason took pains to say that the committee was not unanimous upon the bill, and that I myself was opposed to it. I went no further at that time.

Sir, I have a perfect right to say, and any member of a committee has a right, when he understands that a bill is reported not with the approbation or sanction or pledge of the majority of the committee to it, but simply by leave of the committee in order that it may be brought into the Senate and presented to the Senate, to state that fact. It has been done repeatedly, and I had a perfect right to say, as I did say, that the bill, although reported with the consent of a majority of the committee, was not reported as the decision of the committee. The Senator's opinion of the impropriety of that thing he may entertain; but I maintain that I had a perfect right to do it and there was nothing improper in it, and I should do the same again under like circumstances if I chose to do it. That is all there is of that.

When the Senator remarked that he should bring his bill up, and when he antagonized that to mine, I said, it is true, that I was opposed to taking up his bill, not only for the reason that I wished another to come up, but for the reason that I was opposed to it and hoped it would not come up at all; but I meant by that to express nothing more than I had said before; and that was, that I was opposed to his bill. The Senator, however, chose to understand that as an indication that I meant to try every parliamentary method to prevent action on his bill. That was an intention which did not exist in point of fact; which I never thought of. I meant merely to state that I was opposed to it and hoped it would not come up. I remain of the same opinion still. Undoubtedly the Senate will take it up in its own good time, and then we shall have action upon it. I have no feeling about it, not the slightest in the world; but burdened as I am with business, and in fact unfit to do any business at all, and having staring me in the face in the course of a few days the tax bill, which I must take the principal charge of, if I am able to do so, or pass it over to the honorable Senator from Ohio, and the reconstruction business, I did wish to clear the table of these little matters which ought to go to the House of Representatives. Now, sir, I do not feel that I am under any special responsibility for the business of the Senate; but, so far as I am, I hope the Senate will indulge me in all reasonable requests.

The PRESIDING OFFICER. The question is on the motion of the Senator from Maine.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense, for the year ending June 30, 1867.

The bill was read.

The Committee on Finance reported one amendment to the bill; which was on page 2, after line eighteen to insert:

For Fort Popham, Kennebec river, Maine, \$50,000.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The amendment was ordered to be en-

grossed and the bill to be read a third time. The bill was read the third time and passed.

FUNDING THE NATIONAL DEBT.

Mr. SHERMAN. I now move to take up the funding bill with a view to have it assigned for to-morrow at one o'clock.

Mr. FESSENDEN. I will say to the Senator from Ohio that I do not mean to oppose the taking up of the bill, but it may be that after it is taken up to-morrow and he has stated what he wishes to say upon it, I may then desire further time to consider it.

Mr. SHERMAN. I shall have not the slightest objection to the Senator's taking time in order to obtain further information and discuss the proposition. All I desire now is that it may be taken up and made the special order for to-morrow.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 800) to reduce the rate of interest on the national debt, and for funding the same.

Mr. SHERMAN. I move that the bill be postponed to and made the special order of the day for to-morrow at one o'clock.

The motion was agreed to.

CHANGE OF NAME OF VESSELS.

Mr. MORRILL. I move to take up Senate joint resolution No. 52.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution (S. R. No. 52) authorizing the Secretary of the Treasury to change the name of the steamboat City of Richmond to City of Portland.

The Committee on Commerce reported the joint resolution with an amendment to add the following:

And also the owner of the schooner Lucinda Van Valkenburg to Camden.

Mr. WILSON. I desire to hear why these changes are proposed. It seems to me to be very injurious to change the names of vessels unless there is a positive necessity for it. Great wrongs have been perpetrated in this way.

Mr. MORRILL. The practice is quite uniform. There is never any difficulty or danger in this class of cases, provided proper caution is exercised. I know there have been instances, as the Senator from Massachusetts supposes, where vessels that had a bad reputation have had their names changed. That is always injurious, and the committee, in no instance that I know of, of late, have reported a bill upon such a state of facts. The facts in this case are these: this steamer City of Richmond is a new steamer, eighteen months old, I think, and has been purchased by a company who are running her now between Portland, in the State of Maine, and St. John. They have a fancy that it would suit their convenience better to have her name changed to City of Portland. There is no public necessity for it, of course, as there is not in any of these cases, but the facts are such in this case that no injurious effect whatever can come of it.

Mr. WILSON. That is all I want to know.

The amendment was agreed to.

Mr. MORRILL. While I am up I will explain that amendment. It is to change the name of a schooner on Lake Ontario, I think. It is a very small matter any way. I have here a note addressed to the Senator from New York, [Mr. MORGAN], in which the party desires the name of this vessel changed, simply as a matter of convenience, because her present name is an unconscionably long one and a hard name to spell. The facts in this case are not unlike those in the case of the City of Richmond. She is a new vessel.

Mr. GRIMES. Is she a British vessel?

Mr. MORRILL. Oh, no; she is an American-built vessel.

Mr. GRIMES. Both of them?

Mr. MORRILL. They are both American-built and both new vessels.

The joint resolution was reported to the

Senate as amended, and the amendment was concurred in. The joint resolution was ordered to be engrossed for a third reading, was read the third time, and passed.

MINERAL-WATER BOTTLES.

Mr. MORRILL. I now move that the Senate proceed to the consideration of Senate bill No. 265.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 265) to protect the manufacturers of mineral waters in the District of Columbia, and for other purposes. It provides that all manufacturers and vendors of mineral waters and other beverages in bottles, upon which their names or their mark or marks shall be respectively impressed, may file with the clerk of the supreme court of the District of Columbia description of such bottles and of the name or marks thereon, and cause the same to be published for not less than two weeks successively in a daily or weekly newspaper published in the District of Columbia. It is to be unlawful for any person or persons hereafter, without the permission of the owner or owners, to fill with mineral waters or other beverages any such bottles so marked, or to sell, dispose of, or to buy, or to traffic in any such bottles so marked and not bought by him or her of such owner or owners; and every person so offending is to be liable to a penalty of fifty cents for every bottle so filled, or sold, or used, or disposed of, or bought, or trafficked in, for the first offense; and of five dollars for every subsequent offense, to be recovered as other fines in the District of Columbia.

The Committee on the District of Columbia reported the bill with two amendments. The first amendment was in section one, line four, after the word "beverages" to insert "by law allowable;" so that it will read:

That all manufacturers and vendors of mineral waters and other beverages by law allowable in bottles, &c.

The amendment was agreed to.

The next amendment was to strike out the third section of the bill in the following words:

SEC. 3. *And be it further enacted*, That the fact of any person other than the rightful owner thereof using any such bottles for the sale therein of any beverage shall be *prima facie* proof of the unlawful use or purchase of such bottles as aforesaid, and any owner or owners, or agent of such owner or owners, who shall make oath or affirmation before any justice of the peace that he has reason to believe, and does believe, that any of his bottles, stamped and registered as aforesaid, are being unlawfully used or are concealed by any person or persons selling or manufacturing mineral waters or other beverages, that the said justice of the peace shall thereupon issue a process, (in the nature of a search-warrant,) directed to any policeman, commanding him to search the premises, wagons, cars, or other places of the offender or offenders where said bottles are alleged to be, and if upon such search any bottles so marked shall be found, to bring the same, together with the person or persons in whose possession they may be found, before said justice of the peace, there to be dealt with according to the provisions of this act.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. JOHNSON subsequently entered a motion to reconsider the vote by which the bill was passed.

ORDER OF BUSINESS.

Mr. SUMNER. I now move that the Senate proceed to the consideration of House bill No. 11.

Mr. MORRILL. I should like to know what that bill is.

Mr. SUMNER. It is a very well-known bill.

The PRESIDING OFFICER. The Senator from Massachusetts moves to take up the bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States.

Mr. MORRILL. I hope that will not be taken up.

Mr. SUMNER. Let us dispose of it to-day.

Mr. MORRILL. That bill involves a constitutional question. I hope the Senator will allow me to-day to clear the Calendar of matters pertaining to the District of Columbia. I have here half a dozen very small measures that I have been waiting some time to get an opportunity to pass, and if I do not get to-day I am sure I shall not get a day this fortnight. I think the public interests will be much better subserved by passing these practical measures than by going into the discussion of an abstract constitutional question to-day. I wish to dispose of these bills now, and it is possible that we can pass the Senator's bill afterward. These bills are small matters which will take no great time anyway.

Mr. SUMNER. I do not like a remark that the Senator has just made.

Mr. MORRILL. I will withdraw it, then, for the sake of conciliation. I do not know what it was.

Mr. SUMNER. He speaks of a certain bill that has already passed the House of Representatives twice, and been on the point of passing the Senate, I do not know how many times, and has just failed, through the extraordinary and superhuman exertions of my excellent friend, as an abstraction. I believe the bill that I wish to have proceeded with is a practical measure; that there is nothing abstract in it. It is to meet and cope with the railroad monopoly in New Jersey. But if I can have the Senator's favor hereafter on another occasion—

Mr. MORRILL. I will favor the honorable Senator with all I have to say on that bill the first time he gets it up, if he will allow me this indulgence to-day, which will not be much.

Mr. SUMNER. Then I hope the Senator will bear in mind that one good turn deserves another, and if I make no opposition to his proceeding with his measures to-day, he will be very indulgent to this measure which has the sanction of the House of Representatives, and has come here for the sanction of the Senate.

Mr. MORRILL. The honorable Senator does not require me to state my opposition until I accept that compromise.

Mr. SUMNER. Under these circumstances I withdraw my motion.

ACADEMY OF MUSIC OF WASHINGTON.

Mr. MORRILL. I ask the Senate to proceed to the consideration of House bill No. 510.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 510) to incorporate the Academy of Music of Washington city. It authorizes Max Strakosch, William G. Pope, Max Maretzek, W. G. Metzgerott, Joseph J. May, B. F. Isherwood, John G. Clark, Henry C. Sherman, Carl Bergman, and F. C. Adams, or any five of them, to receive subscriptions to the capital stock of a company to be denominated the Academy of Music of Washington, District of Columbia, which company is to have the usual powers and privileges of a corporation. The capital stock is to consist of ten thousand shares at fifty dollars a share. The president and directors are to be authorized, on behalf of the company, to purchase and hold in fee-simple, or lease for a term of years, real estate in the city of Washington sufficient to enable them to erect thereon a building suitable for operatic, dramatic, and other entertainments, in such manner, and upon such terms, as may be by them deemed for the best interests of the company.

The Committee on the District of Columbia reported the bill with an amendment to strike out the seventh section of the bill, in the following words:

SEC. 7. *And be it further enacted*, That the said company are hereby authorized to borrow money to an amount not exceeding their capital stock, upon bonds to be issued by said company, secured upon their property and franchises: *Provided*, That no bond shall be issued for a less sum than \$100, and bearing a greater rate of interest than seven per cent. per annum.

Mr. MORRILL. I am rather inclined to

hope that the Senate will negative this amendment. This seventh section authorizes the company to borrow money on mortgage of the franchise and capital stock. The committee, as a general statement, were rather opposed to the principle. I did not suppose it was of very much importance anyway, but those who are interested in the enterprise have called upon us to say that they deem this section very important to the success of the academy. On the whole, as I suppose no possible injury can result from it, I am rather inclined to hope that the Senate will allow the Academy of Music to have their own way on that subject.

The amendment was rejected.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

PERSONAL EXPLANATION.

Mr. WILSON. Some days ago, in debate, I alluded to Lieutenant Colonel McKelvy, nominated as marshal for western Pennsylvania. I stated that he had been tried by a court-martial and ordered to be dismissed, and would have been dismissed the service and imprisoned had it not been for the interference of friends. I received a communication from a gentleman of character and standing making that statement, stating that he would have been not only dismissed the service, as he was ordered to be by a court-martial, but would have been imprisoned had it not been for the interference of General Moorhead, of his district. I have since had placed in my hands a copy of the record of the trial, and I rise simply to say that on examining the papers, they do not justify the statement made to me and which I repeated to the Senate. I have no disposition certainly to do him the least injustice in the world, and I therefore make this explanation.

METROPOLITAN MINING COMPANY.

Mr. MORRILL. I now move the Senate to take up for consideration Senate bill No. 178.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 178) to incorporate the Metropolitan Mining and Manufacturing Company. It authorizes John Ford, George D. Williams, Thomas W. Hyde, Oliver Edwards, Charles H. Herd, Samuel A. Fulton, Charles Otis, Charles A. Eccleston, George W. Holmes, Joseph E. Hollis, John F. Brodhead, and Lewis P. Moody, or any five of them, to receive subscriptions to the capital stock of a company to be denominated the Metropolitan Mining and Manufacturing Company. The capital stock of the company is to consist of twenty thousand shares of \$100 each.

The president and directors are to be authorized, on behalf of the company, to purchase and hold by deed for a term certain or in fee-simple, lands and other real estate, and to carry on the business of mining for iron ore and other native minerals, and manufacturing and preparing the same for market; and to issue bonds not exceeding one half of the capital stock, upon such terms as may be deemed for the best interests of the company; but no bond is to be issued for a less sum than \$100, or bearing interest at a rate exceeding six percent. per annum.

The Committee on the District of Columbia reported the bill with an amendment, in section one, line nine, after the words "Metropolitan Mining and Manufacturing Company" to insert "of the District of Columbia."

The amendment was agreed to.

Mr. GRIMES. I will inquire of the chairman of the Committee on the District of Columbia where this company is to do its mining.

Mr. MORRILL. The Senator will see that I propose to confine the company to the District of Columbia. They will have no power outside of the District.

Mr. GRIMES. I ask for the reading of the amendment again.

The Secretary again read it.

Mr. GRIMES. I do not understand that that limits the power of the company to trans-

act its business entirely within the District of Columbia. That is merely fixing the name of the company. This corporation has very large powers. As the bill now stands, it seems to me they can transact their business anywhere in the world.

Mr. POMEROY. I do not know that there is any law against a company incorporated in the District going wherever any State has a mind to let them go. I do not know anything about this company. I never paid any attention to it until this moment. I know that one State, the State of Iowa, for instance, will make a corporation, and that corporation will do its business in New York. My State, and all the States, will incorporate a company, and the first we know of the company their office is in New York or Boston, and they are doing business there. Now, I do not know but that Congress has as much right as a State in this respect. Of course Congress cannot incorporate, or at least ought not to incorporate, a company to allow it to do business in a State against the laws of that State; but if it is in harmony with the laws of the State, I do not know that that is an objection which ought to defeat the bill. I confess, in regard to this company, I cannot conceive what business they are going to do in the District; but then I am not posted as to that. I never heard of it before. But the simple provision that they may do business outside of the District is only giving to a corporation of the District the same power given to the corporations of every State, because there is no State in the Union which does not create corporations that carry on their business outside of the State. Of course they have to do it in accordance with the laws of the State where they live, and in harmony with those laws, not against them. So with this company; I suppose it can travel all over the United States.

Mr. GRIMES. I think the Senator is mistaken in point of fact. I think there are a great many States that refuse to incorporate companies to go beyond the State to transact business. I do not believe that the State of which I am a citizen ever has, or ever will, consent to charter a corporation whose whole business shall be transacted beyond its jurisdiction. It is not good faith to the other States. One State refuses to grant to certain persons a franchise, and then they go over the State line, and there, by some hocus pocus in legislation, secure a franchise from another State and then come back into the State that has already refused the franchise and do business there. I do not know anything about this company. I understand the Senator from Maine proposes to amend the bill so as to limit it, but it may be possible—I do not suppose it is in this instance—that these identical men endeavored to obtain a charter, for instance, in Pennsylvania or Nevada, and were refused, and now they come here to the national Government and ask us to give them just such a charter as has been refused by those local Legislatures, and then go into Pennsylvania or Nevada and transact the very kind of business which the authorities of those States refused to bestow upon them the authority to do. Suppose we grant this charter and the State of Nevada or the State of Pennsylvania denies them the privilege of exercising their franchise; do you not suppose they will insist upon exercising it under this law? They will insist that here is the imperial Legislature of the country that has granted them the franchise, and that that franchise overrides all State authorities on the subject.

Mr. POMEROY. The Senator from Iowa did not entirely comprehend the point I made. I did not say that the State of Iowa and the other States inserted in the act of incorporation itself a provision that they might go anywhere, but they go without such a provision. The Senator will be reminded that some railroad companies of his State have their offices and do their business in New York. The same remark is true of my State and of all the western States. There is nothing in the charter about it.

Mr. GRIMES. But the entire property of those railroad companies is in my State; their entire business is done there, with the single exception that the treasurer's office is kept elsewhere; and they are incorporated under our law.

Mr. POMEROY. The meetings of the stockholders must be held within the jurisdiction of the authority making the corporation, but the directors' meetings are not held there at all. Take, for instance, the Hannibal and St. Joseph railroad, in the State of Missouri. They have never had a directors' meeting there, but the stockholders' meetings are always held there.

Mr. HENDRICKS. I think the Senator from Kansas is mistaken upon the law of this question. After very great argument, and in a very important cause, it has been decided in the State of Indiana that a corporation has a life only in the State that creates it by her laws, and can exercise its franchises by its board of directors only in that State. I think in 1 Black the same doctrine is incidentally decided by the Supreme Court of the United States in regard to the Ohio and Mississippi Railroad Company. I do not think the board of directors can hold a meeting outside of the State in which the company is incorporated unless that State and the other State both concur in the proposition that they may do so.

Mr. POMEROY. The point I was making is a matter of almost every-day occurrence. There is hardly a week that the directors of corporations created by the laws of Missouri and Iowa and Kansas do not meet in New York or Boston to do the business. It a matter which occurs constantly; and it is because the capitalists are there.

Mr. GRIMES. What does that prove? They are not the corporators.

Mr. POMEROY. They have the functions of the corporation.

Mr. GRIMES. They are the mere agents of the corporation, and have no more authority than the president of the road has, when he goes to buy iron or anything else.

Mr. POMEROY. All the authorities of the corporation are exercised for the time being by the board of directors.

Mr. GRIMES. Only such as are delegated to them.

Mr. POMEROY. The directors always have delegated authority. They are chosen in the first instance by the stockholders in the State; but, after having been chosen by the stockholders in the State, they have, during the time they are in office, the entire control of the franchise. The only point I wished to make in this connection was—I know nothing about this company—that if a State could make such a corporation, why could not the General Government do it. The State of New York has a general law, under which corporations are constantly being organized to go all over the country. You find companies incorporated under the general incorporation act of the State of New York doing business in every State of the Union. It is a matter of constant occurrence that parties who have franchises from the States have their offices and do their business wherever they find it for their interest to do it, even outside of the State that created their corporation; but their directors are all chosen inside the State, and the stockholders' meetings are always held there.

Mr. MORRILL. I will explain this bill as I understand it. In the first place it associates certain gentlemen together as a body politic and corporate, and declares that "it shall be lawful for the said corporation to have a common seal, sue and be sued, plead and be impleaded, and have and exercise all the rights, privileges, and immunities for the purpose of the corporation hereby created." The rest of the sections, down to the section giving certain power, are taken up with the organization of the company. The sixth section, which bears on this question of authority, reads as follows:

SEC. 6. *And be it further enacted*, That the president and directors are hereby empowered and fully au-

thorized, on behalf of said company, to purchase and hold by deed for a term certain or in fee-simple, lands and other real estate, and to carry on the business of mining for iron ore and other native minerals, and manufacturing and preparing the same for market.

That seems to be the full scope of the bill. There is another section which touches on the question of authority, and I believe that is all there is, and that is the fifth section:

SEC. 5. *And be it further enacted*, That the president and directors for the time being shall have power to ordain, establish, and put in execution such rules, regulations, ordinances, and by-laws as they may deem essential for the well-government of the institution, not contrary to the laws and Constitution of the United States or of this act, and generally to do and perform all acts, matters, and things which a corporation may or can lawfully do.

So that the question of power would seem to be about this: these persons are associated as a body politic and corporate, with the privilege to use a common seal, and with the great privilege of being sued and to sue. Then they are to have the right as a body-corporate, an artificial person, to purchase and receive the title to real estate for the purposes of carrying on the business of mining and manufacturing.

Mr. GRIMES. Where are they to do that?

Mr. MORRILL. Wherever they can make the bargain. They are an artificial person, and being so, there is no limitation that I know of either in the Constitution of the United States, or any of the States, that they shall not be at liberty to make the bargain. There is nothing more common than for persons associated into a corporation, and thereby becoming artificial persons, to have the right to trade, the right to make bargains, the right to sue in any of the courts of the States, the right to carry on business. Why not? Is that against the policy of the law in any particular whatever? Is there any State or national law that is opposed to the policy of two persons associating themselves together as an artificial person and doing what is perfectly legitimate and lawful to be done by contract in those States? That is this bill and nothing more.

Mr. CLARK rose.

Mr. MORRILL. Before the Senator gets up to criticize I want to anticipate a difficulty which I am afraid he saw and which I did not see until I read it just now, and that is in the fifth section, giving to the directors authority to make "by-laws not inconsistent with the laws of the United States." I think that might be obnoxious to the criticism of my friend from Iowa, that they might claim to do some things by virtue of this authority which would not be permitted in the States. I move, therefore, to amend the fifth section by inserting, after the words "United States," in the sixth line, the words, "or of any State," so that the authority to be exercised under this bill shall always be in submission to the laws of the States.

Mr. HENDRICKS. I think this is rather a grave matter, in view of the fact that this corporation cannot exercise any of its functions or franchises in this District. There is no mining to be done here. Now, I wish to ask the Senator whether, under the clause of the Constitution which confers upon Congress the power of exclusive legislation over the District of Columbia, it is proper for us to pass a bill creating a corporation when we know that that corporation is not for the District of Columbia, when we know that it is not to transact business in the District of Columbia, but with a view to mining somewhere else. Is that within the spirit of the provision of the Constitution conferring upon Congress the power to legislate for this District? It does not seem to me to be within the spirit of that provision.

Mr. CLARK. I was going to call the attention of the Senator from Maine to much the same consideration that has been presented by the Senator from Indiana; and that is the question whether there are any persons as proposed in this corporation who contemplate undertaking the business of manufacturing within this District. If there be an association of gentlemen who desire to manufacture or to mine here, and who think it necessary to have an act of incorporation to enable them to do so success-

fully and properly, I have no objection to granting them an act of incorporation; but if it is an act of incorporation to bring into existence an artificial person to run all over the Union, then I say we ought not to grant it. What would be the result if every State in the Union should come to enacting corporations of that kind? Suppose the State of New York should pass acts of incorporation authorizing a body of gentlemen to mine all over the country; the State of New Hampshire should pass acts of incorporation authorizing people to manufacture all over the country; and the State of Pennsylvania should pass acts of incorporation, if they could do so, authorizing people to bank all over the country, and then you set these fictitious persons running all over the country to find some opportunity of doing business; what would be the condition of the country? It seems to me that these acts of incorporation should be made auxiliary to the business of the country. Where this necessity is shown first, or a convenience in any way of operation, then we ought to grant it. I have no great opposition to granting acts of incorporation to proper parties within the District; and if in the prosecution of that business in the District they find it necessary to go into other States and operate there, I have no objection. If, for instance, you should incorporate an insurance company to do business in this District, and they should find it necessary to run into all the States of the Union in a legitimate way, I have no objection to it. But I have a very great objection to incorporating this company for the purpose of sending them elsewhere, when they are not doing or desirous of doing business here. The Senator from Maine, undoubtedly, knows whether these people propose to go into business here; whether they are an association of gentlemen undertaking it here, or whether he is creating an artificial person to enable it for speculative purposes, or for some purpose outside of the District, to do business. I think he will see a very great objection to doing that. I think we should not pass this bill without grave consideration.

Mr. WADE. I voted in committee for this incorporation, and for several others like it. Some of them, I believe, have passed. I have not been able to see the importance of the arguments that have been made against this bill. A corporation is, in law, an artificial person for any purpose that may be described in the charter of incorporation. The States are in the habit everywhere of granting acts of incorporation for certain prescribed modes of business, and when the parties are incorporated they do business all over the Union. They can do, unless the law prohibits it, just what a natural person may do lawfully, and nothing more. The object of the incorporation is barely for the purpose of perpetual succession. When a great business is contemplated that requires more capital than ordinarily belongs to one individual, and a great many, in order to carry it on, have to concentrate their means together, it is convenient for them to have a charter of incorporation, because, without it, when any member of the company dies, the whole company is dissolved, and it passes into the hands of administrators. Therefore these acts of incorporation do nothing more than to enable them to continue their business, notwithstanding the death of some of the parties.

As to the objection of their doing business outside of the authority that grants the incorporation, almost all your important corporations do that. Why, sir, look at your insurance companies of Hartford, Connecticut. They are doing business all over the United States to the amount of millions, and I do not know but of hundreds of millions, everywhere. Look at your companies for transportation, all over the country, everywhere. Your banking institutions do business in every State, all over the Union, without any objection whatever. In short, they can do just what a natural person may lawfully do, and they cannot do any-

thing more. All the advantage the company has by being incorporated is, as I said before, that they may do business wherever they please, and on the death of some of the members, their company is not entirely dissolved. A great business cannot be carried on without it, and as they get no additional advantage in a State over a natural person prosecuting the same business, I do not know why it should not be granted if it is a lawful business. The States, of course, may put them under such restrictions as they please, and some of the States perhaps have prevented foreign corporations transacting business within their limits, or have modified the terms of their charter, and prescribed under what circumstances and limitations they may do business. But in the absence of any such thing a corporation may do all lawful business that a natural person can do. They cannot do anything more. It strikes me there is really but little in this objection that if we incorporate them here they will do business somewhere else. I expect they will; but if they do a lawful business, beneficial to themselves and the community, such as mining or manufacturing, I do not see how anybody is to be injured by it. If any State objects to it, they may fence them out, probably; but they do not see fit to pass acts of prohibition against these corporations generally, and therefore I think they have been beneficial, and I see no kind of objection to it.

Mr. GRIMES. I move to amend the bill—

Mr. MORRILL. I have some other measures which will not lead to debate, and I will allow this bill to pass over by common consent and call up some other bill.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed until to-morrow.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read by their titles and referred as indicated below:

A bill (H. R. No. 379) to establish in the District of Columbia a reform school for boys—to the Committee on the District of Columbia.

A bill (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland, so far as it applies to the District of Columbia—to the Committee on the District of Columbia.

A bill (H. R. No. 601) to grade East Capitol street and establish Lincoln square—to the Committee on Public Buildings and Grounds.

AMERICA FIRE INSURANCE COMPANY.

Mr. MORRILL. I now ask the Senate to take up for consideration Senate bill No. 296.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 296) to incorporate the America Fire and Marine Insurance Company of Washington, District of Columbia. It authorizes J. L. Kidwell, Francis Wheatley, Esau Pickrell, J. B. Davidson, and Thomas I. Davis, of Georgetown, District of Columbia; and Benjamin Beall, B. L. Jackson, Joseph F. Burr, Augustus E. Perry, and Frederick Koonce, of Washington, District of Columbia, or any five of them, to receive subscriptions to the capital stock of a company to be denominated the America Fire and Marine Insurance Company of Washington, District of Columbia. The company are to have the usual powers and privileges of a corporation. The capital stock is to consist of twenty thousand shares of fifty dollars each.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CHESAPEAKE AND POTOMAC TIDEWATER CANAL.

Mr. MORRILL. I ask the Senate to take up for consideration Senate bill No. 281.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 281) to authorize the Chesapeake Bay and Potomac River Tide-

water Canal Company to enter the District of Columbia.

Mr. WILLEY. The Committee on the District of Columbia have reported an amendment as a substitute for the entire bill, and I therefore suggest that the reading of the original bill be omitted.

The PRESIDENT *pro tempore*. The reading of the original bill will be dispensed with, if there be no objection, and the amendment only be read.

The Secretary read the proposed substitute, as follows:

That the Chesapeake Bay and Potomac Tidewater Canal Company, incorporated by the General Assembly of the State of Maryland, at the January session thereof, 1836, by an act entitled "An act to incorporate the Chesapeake Bay and Potomac River Tidewater Canal Company," be, and the same are hereby, authorized to extend their canal from the point where it strikes the boundary line of the District of Columbia, thence in and through the said District to the Anacostia river at any point thereon above Bidding's bridge.

Sec. 2. And be it further enacted, That the said company are hereby authorized and empowered to take, purchase, and hold, for the purposes of this act, so much real estate and other property as shall be necessarily required for the proper construction of the extension aforesaid, and for the construction of all proper and convenient basins, locks, reservoirs, docks, and wharves, to be connected with said extension. And where the said company shall not be able to procure such real estate by purchase from the owner thereof, or the owner thereof shall be a *femme covert*, infant, *non compos mentis*, imprisoned, or resident beyond the District of Columbia, then application may be made by the president of said company to the chief justice of the supreme court of the District of Columbia for the appointment of three persons, who shall be freeholders in said District, as a commission of inquest of damages, and who shall go upon and inspect any property proposed to be taken by said company for the purposes contemplated by this act; and before any person so appointed as such commissioner shall proceed to act, he shall take an oath or affirmation that he will fairly and truly value the damages sustained by the owner or owners of any property by the use and occupation of any such real estate, water rights, or other property, by said company; and said commission shall reduce their inquiry or finding to writing, and sign and seal the same, and it shall then be returned to said chief justice, who shall file the same in the office of the register of deeds of the city of Washington. But no such inquiry shall be had until after ten days' notice thereof has been served on the owner of the real estate so to be taken, when he resides in the District of Columbia, or by publication of notice in one or more of the daily newspapers published in the city of Washington for twenty days where such owner resides beyond the said District. When the owner is a *femme covert*, the notice shall be to her and her husband; when he is a minor, to his guardian; and when he is *non compos mentis*, to his committee, or the person having the charge of his estate. The said report shall be confirmed by the supreme court of the District of Columbia at its next term after the return of said report, unless for cause shown to the contrary. And where good cause is thus shown, the said chief justice shall set aside said inquest, and appoint another similar commission, who shall qualify in the same manner, and whose inquiry shall be taken, returned, filed, and confirmed, or set aside for good cause shown, in the same manner as the first inquiry was taken, returned, filed, and confirmed, or set aside. And such commission or inquiry shall be renewed as often as may be necessary, until the inquiry made shall be confirmed. Such inquiry shall describe the property taken by metes and bounds, and the valuation thereof shall be paid or tendered within ten days after the confirmation of such inquiry by said district court; and when such valuation or damages are so paid or tendered, said company shall have a full and perfect right to enter upon, use, occupy, and enjoy any property so valued during its corporate existence, and all expenses incurred by such inquiry shall be paid by said company.

Sec. 3. And be it further enacted, That it shall be lawful for said company to levy, demand, and receive such even tolls and rents for the use of the wharves and docks of said company on said extension, or for freight transported by said company, or for the passage through said extension of boats, rafts, or any other water craft, as a majority of the directors at any regular meeting shall assess therefor: *Provided*, That the Congress of the United States shall at all times have power to increase or reduce such tolls or rents.

Sec. 4. And be it further enacted, That said canal extension, when completed, shall forever thereafter be esteemed and taken to be a public highway for the transportation of all goods, commodities, or produce of every kind and description, and for all canal-boats, rafts, or other water crafts of every kind whatever, upon the payment of such tolls or rents as are authorized to be imposed by this act.

Sec. 5. And be it further enacted, That the said company shall permit all public property belonging to the United States to pass through said canal extension free of all charge or toll; and the said company shall, from time to time, as may be required, lay before Congress a just and true account of their receipts and expenditures on said extension, with a statement of the clear profits thereof.

SEC. 6. *And be it further enacted*, That, subject to the aforesaid provisions of this act, all and singular the provisions of the aforesaid act of the General Assembly of the State of Maryland, entitled "An act to incorporate the Chesapeake Bay and Potomac River Tidewater Canal Company," relating to the powers, liabilities, and authority of said company, in operating and using their canal, shall take effect and apply to the extension aforesaid in the District of Columbia.

SEC. 7. *And be it further enacted*, That this act shall be deemed a public act, and shall take effect and be in force from and after its passage, and shall be subject to alteration or repeal by Congress.

Mr. WILLEY. I move to amend the amendment in section one, line twelve, by striking out the word "Bidding's" before the word "bridge" and inserting the word "Benning's."

The PRESIDENT *pro tempore*. That correction will be made as it is a clerical mistake. The question is on the amendment reported by the committee as a substitute for the original bill.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed. Its title was amended so as to read: "A bill to authorize the Chesapeake Bay and Potomac River Tidewater Canal Company to enter the District of Columbia, and extend their canal to the Anacostia river at any point above Benning's bridge."

COLORED SCHOOLS IN WASHINGTON.

Mr. MORRILL. I now move to take up Senate bill No. 247.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 247) donating certain lots in the city of Washington for schools for colored children in the District of Columbia.

The Commissioner of Public Buildings is required by the bill to transfer to the trustees of colored schools for the cities of Washington and Georgetown, in the District of Columbia, for the sole use of schools for colored children in the District, all the right, title, and interest of the United States in and to lots numbered one and two in square numbered five hundred and fifty-four, and lots one, two, and eighteen in square nine hundred and eighty-five, in the city of Washington, those lots having been designated and set apart by the Secretary of the Interior to be used for colored schools for present purposes.

The Committee on the District of Columbia reported the bill with amendments. The first amendment was in line four, to strike out the word "transfer" and to insert the words "grant and convey."

The amendment was agreed to.

The next amendment was in lines nine and ten, to strike out the words "one and two in square numbered five hundred and fifty-four, and lots;" so that the clause will read:

All the right, title, and interest of the United States in and to lots numbered one, two, and eighteen in square nine hundred and eighty-five.

The amendment was agreed to.

The next amendment was at the end of the bill to strike out the words "for present purposes," and to insert:

And whenever the same shall be converted to other uses they shall revert to the United States.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. MORRILL. I now ask the Senate to consider Senate bill No. 246.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 246) relating to public schools in the District of Columbia. It provides that the eighteenth section of the act entitled "An act to provide for the public instruction of youth in the county of Washington, District of Columbia, and for other purposes," approved June 25, 1864, shall be so construed as to require the cities of Washington and

Georgetown to pay over to the trustees of colored schools of those cities such a proportionate part of all moneys received or expended for school or educational purposes in them, including the cost of sites, buildings, improvements, furniture, and books, and all other expenditures on account of schools, as the colored children between the ages of six and seventeen years, in the respective cities, bear to the whole number of children, white and colored, between the same ages. The money is to be considered due and payable to the trustees on the 1st day of October of each year, and if not then paid over to them, interest at the rate of ten per cent. per annum on the amount unpaid may be demanded and collected from the authorities of the delinquent city by the trustees.

The trustees may maintain an action of debt in the supreme court of the District of Columbia against said cities of Washington and Georgetown for the non-payment of any sum of money arising under the act of June 25, 1864.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

WASHINGTON GAS-LIGHT COMPANY.

Mr. MORRILL. I move to take up House bill No. 558.

The motion was agreed to; and the bill (H. R. No. 558) to amend the charter of the Washington Gas-Light Company was considered as in Committee of the Whole. It proposes to amend the charter of the Washington Gas-Light Company in the third section by substituting the word "February" for "January;" and also to increase the capital stock of the company \$500,000, subject to the same liability as is provided in the eleventh section of the original act of incorporation, approved July 8, 1848.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

RAILROAD CONNECTION AT WASHINGTON.

Mr. MORRILL. I move that the Senate proceed to the consideration of Senate bill No. 264.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 264) to grant certain privileges to the Alexandria, Washington, and Georgetown Railroad Company in the District of Columbia.

The bill proposes to give the consent of Congress to the Alexandria, Washington, and Georgetown Railroad Company using steam power in drawing cars on the structure across the Potomac river erected by that company, under the provisions of the act entitled "An act to extend the charter of the Alexandria and Washington Railroad Company, and for other purposes," approved March 3, 1863, and along the railway now laid by the company, or which may be hereafter laid, under the provisions of that act, along Maryland avenue and First street west, in the city of Washington, to the present depot of the Washington branch of the Baltimore and Ohio railroad, subject always, and in all particulars, to such restrictions and regulations concerning the use of such steam power as the corporation of Washington may, by its ordinances, at any time impose upon, or at any time require of, the railroad company.

Mr. GRIMES. I understand that that bill grants to this company the power to run its trains through Maryland avenue and across Pennsylvania avenue at the foot of the Capitol grounds.

Mr. MORRILL. And across the bridge.

Mr. GRIMES. And across the bridge?

Mr. MORRILL. Yes, sir.

Mr. GRIMES. I hope that such a bill will not be passed. That is a question that has been brought before Congress for eight years, to my certain knowledge, and I believe we have always refused to grant the privilege. By some sort of legerdemain this company has during the war exercised, as a sort of war right, the

privilege to run steam cars from the depot of the Baltimore and Ohio road down to the bridge; but I always understood it was to cease with the war. I see by the newspapers that it is constantly attended with destruction of property, and I believe in several instances with loss of life. The understanding was that a connection was to be made by a tunnel on the other side of the Capitol.

Mr. JOHNSON. That was the proposition made by the Baltimore and Ohio Railroad Company some years ago.

Mr. MORRILL. I think the Senator from Iowa is misinformed, perhaps, about the facts.

Mr. GRIMES. What facts?

Mr. MORRILL. The general facts. This bill makes no alteration in, gives no additional right beyond, the act of 1863 authorizing the Alexandria, Washington, and Georgetown railroad to extend its road by Maryland avenue and make connection with the Baltimore and Ohio road, and also to build a bridge across the Potomac river; but it was not to use the motive power of steam except by the consent of the city of Washington and of Congress. The inference, perhaps, might be fairly enough that Congress would give its assent. Now, as a matter of fact, all that time and something more, since the passage of that act, this road has been operated by steam and is so operated now. I suppose nobody would think it desirable to limit the use of steam over their own bridge. On Maryland avenue there is no objection of course to the use of steam. It is a very broad street and the use of steam there would find its parallel in most of the large cities of the country—in Philadelphia, for instance, and Baltimore. The cars run for a much larger distance through a much more dense population in the city of Baltimore.

Mr. FESSENDEN. Not by steam.

Mr. MORRILL. Yes, by steam, both at this side of the city and on the other. Through the most dense part of the city, for a short distance the cars are drawn by horses; but the distance you go by steam before you reach the depot in Baltimore is much greater than the distance from the bridge up Maryland avenue. The only point of difficulty about this at all, to my mind, was whether they ought to operate this road by steam in front of the Capitol, across from Maryland avenue to the depot; but that has been done for three long years and more; it is done every day. The accident to which the Senator alludes—there was an accident—was caused by an engine coming in collision with a horse car; but it was the fault of the horse car and not the fault of the railroad. The corporation of Washington have given their assent, and the bill is predicated upon the assent which has been obtained from the city of Washington.

Mr. FESSENDEN. Does the bill allow them to pass in front of the Capitol grounds on the west?

Mr. MORRILL. Yes, sir; but I have no objection to that being stricken out.

Mr. GRIMES. Strike out all after "1863" in the tenth line.

Mr. MORRILL. We have a bill now before our committee, and I think it has been reported in the House, changing the location of this route, as it manifestly ought to be, from the rear to the front, requiring them to tunnel under the streets in front of us. That is contemplated and that will be done; but I suggest whether gentlemen really believe there is any necessity at this moment for interfering with the practice which has obtained now for three years.

Mr. GRIMES. Then what is the use of passing the last part of this bill?

Mr. MORRILL. The reason is obvious. While this road was being run by the War Department under the war power we did not any of us feel exactly like running against the engine driven by such a power; but now they have surrendered it to the company and the company do not feel that they are authorized to run the road by steam, as it has been run for the last three years, without the consent of Congress, and I think they are very right about it.

Mr. GRIMES. I move to strike out all after "1863" in the tenth line.

The Secretary read the words proposed to be stricken out, as follows:

And along the railway now laid by said company, or which may be hereafter laid, under the provisions of the said act, along Maryland avenue and First street west, in the city of Washington, to the present depot of the Washington branch of the Baltimore and Ohio railroad, subject always, and in all particulars, to such restrictions and regulations concerning the use of such steam power as the corporation of Washington may, by its ordinances, at any time impose upon, or at any time require of, the said railroad company.

Mr. FESSENDEN. Now read the first ten lines.

The Secretary read as follows:

That the consent of Congress be, and the same is hereby, granted to the Alexandria, Washington, and Georgetown Railroad Company to use steam power in drawing the cars of said company on the structure across the Potomac river erected by said company, under the provisions of the act entitled "An act to extend the charter of the Alexandria and Washington Railroad Company, and for other purposes," approved March 3, 1863.

Mr. FESSENDEN. That bridge runs right along side of the Long bridge, as it is called. The objection before was that it would make the bridge dangerous to travel on.

Mr. HENDERSON. This is a new bridge, right by the side of the other.

Mr. MORRILL. A little distant from it. There will be no difficulty on that score.

Mr. GRIMES. If the amendment which I have proposed shall be adopted, it will give to this railroad company the privilege of passing over the railroad bridge by steam; but it will deny to them, or rather it will fail to confer upon them, the right to pass along Maryland avenue and in front of the Capitol grounds on the west by steam. This company has from the time it changed its ownership been constantly grasping after these privileges. As an army takes a fortification, it has been approaching the proposition that is now before us by parallels and by regular approaches, until finally it has a bill here which gives it unlimited sweep right through the city, and where, certainly as long as I have been here—eight years—and a good many years before, I know Congress utterly refused to allow them to pass with steam power. One of the schemes for enlarging the public grounds around the Capitol is to take in the very ground over which this road now passes. Grant them this franchise, and then where will you be if you conclude in the future to extend the grounds in that direction?

Mr. JOHNSON. We can alter or repeal the act.

Mr. GRIMES. But of what value is a provision reserving the power to alter or amend one of these charters?

Mr. JOHNSON. It depends on Congress.

Mr. GRIMES. But there is an appeal at once made to vested rights. There never was an interference with a charter made yet, and I presume never will be as long as the Government stands. The reservation of the power does not amount to a thing; it never was exercised and it never will be exercised. I would just as lief grant a charter without any reservation of the right to alter or amend as to grant it with that. But I understand that this railroad company have the privilege now from the city authorities of running through Maryland avenue; I do not want to cut them off immediately from running through Maryland avenue; but if you pass this bill the way it is now they will not any longer talk about coming up and making a tunnel east of the Capitol and avoiding Maryland avenue and First street west; they will have got all they want.

Mr. MORRILL. They are very anxious for the tunnel.

Mr. WADE. Put a limitation on them.

Mr. FESSENDEN. I have tried to stand in the way of this thing for several years. They had a bill up here formerly to tunnel Capitol hill, and that bill I was willing to allow to pass with certain amendments which I deemed very essential to the preservation of our own rights and the rights of the people here; and after it

was amended they abandoned the bill. If they could not have it just according to their own notion, and if a time was fixed within which they must get it done or lose their privileges—that was one of the amendments—they chose to abandon the bill, and we have not heard of it since. Their first application was precisely what it is now, and the Senate never would consent to encourage for a single day the proposition which they first brought forward and insisted upon so long, to pass directly in front of the Capitol grounds where there is so much passing on foot continually across Pennsylvania avenue. We have been obliged, however, to submit to it during the war. Now it would be very much safer, if they really mean to get a bill to authorize a tunnel and to go down the other way, to let the matter stand just as it is at present, let them go on at their own hazard, because nobody has interfered with them, they having permission of the city of Washington, and we not interfering. It would be better to do that than it would be to pass a bill giving them this right, because, as the honorable Senator from Iowa says, we all know that when they once get the right by law and get the power that is acquired under it, it is almost useless in a legislative body to attempt to deprive them of it.

I hope the day is not very far distant when we shall extend the Capitol grounds. It is very evident to everybody that the grounds now are disproportionately small for the building which stands here. I remember several years ago I had a long conversation with Senator Douglas on the subject. He took a great deal of interest in the matter, and I took a good deal of interest in it, and we both walked over the ground, looked all around, and came to our conclusion as to what ought to be done with reference to the Capitol grounds in our judgment. We did not think there could be any dispute about it whenever Congress got time to do it. We agreed that we would, if we could, go on the Committee on Public Buildings and Grounds, and see if we could bring it about; but when the committee was made up we were not put on. I thought then, and think now, that when we do move in that matter, we ought to go to Third street west, taking in the two squares between First and Third streets, and go out to the depot on the north, and as far on the south side. We own the land on one side of Pennsylvania avenue all the way to Third street, and we ought to take in the other side.

Mr. JOHNSON. Permit me to ask whether a bill did not once pass to that effect.

Mr. FESSENDEN. No, sir; no such bill.

Mr. JOHNSON. Did it not pass the Senate; I mean?

Mr. FESSENDEN. No.

Mr. GRIMES. There was a report made in favor of it.

Mr. FESSENDEN. No, never a report made in favor of that. There was afterward a report made by Mr. Bayard, as chairman of the Committee on Public Buildings and Grounds, but it did not go as far as that.

Mr. JOHNSON. You proposed to go to Third street?

Mr. FESSENDEN. Our idea was that when we did move we ought to go to Third street on the west, to the depot building on the north, and as far on the south. We thought that on the west front we should go to Third street just as far as our public grounds extend on the one side of Pennsylvania avenue. Whether that will ever be done or not I do not know; but certainly the grounds should be extended somewhat on the west front, and if we are to extend them on that front of the Capitol it would be very unwise for us to embarrass ourselves with a permission given by law to a railroad company to establish themselves there, because we should be troubled with claims for damages and things of that sort, and it would be said that we were interfering with rights heretofore granted, and claims would be urged upon Congress and of one kind and another. My own idea has been always that the cars ought to cross above instead of going around where

they do. They ought to cross the river above instead of running on a bridge alongside the Long bridge. I think so still. It would be somewhat more expensive to them undoubtedly; but it would be a great deal more convenient for the public. They would be more out of the way, and they would leave the lower part of the city and the principal avenues undisturbed. To do that they would have to go a little further round, and therefore it would cost them a little more; and I have always found in my experience in regard to railroad bills that when the interests of a railroad came in collision with the interests of the public before legislative bodies the interests of the public always have to give way. It is so invariably. It has been always found that they could not stand against the interests of a railroad company, for some mysterious reason or other that I never could exactly comprehend, even if I could see how the thing was brought about.

Now, I have an objection to their running a steam engine across their bridge right alongside of the Long bridge. If the Long bridge is to stand, there must always be a great deal of travel over it by carriages of all descriptions, and a great many horses to and fro; and as the country across the river settles still more the travel will increase; and to have an engine come steaming along directly by the side of that bridge, with horses and carriages on the bridge as they often are very thick, will, in my apprehension, lead to a great many very serious accidents. I always objected to it on that account.

I state these things with regard to this proposition to give by law the right to pass here by the Capitol. I am opposed to it utterly; but as to the other matter of crossing the bridge, I do not take so much interest in, as I do not risk my own neck down there.

Mr. HENDRICKS. I rise simply to answer one or two points made by the Senator from Maine. The present Committee on Public Buildings and Grounds has, to some extent, examined the question of the extension of the Capitol grounds. In so far as I know, that committee is only divided in regard to one question, and that is, whether it is well to take in the squares immediately north and south of the grounds east of the Capitol. I do not think it is proposed by any member of the committee now to extend the grounds on the west to Third street. So far as I am concerned, although there is great weight in the name of Senator Douglas brought in in favor of that enterprise, I should not think it proper to entertain the proposition now. The cost of securing those grounds would be enormous. They are not necessary, and I do not believe that the greatness of this country consists at all in the extent of the pleasure grounds for the accommodation of the people of the city of Washington. My judgment is that one line of railroad connecting the North with the South, even through the great city of Washington, is worth a hundred or a thousand acres of pleasure grounds.

I do not know anything about this particular bill; I did not know it was here; but I should dislike very much to see us return to the old proposition of being carried from the depot here across the Potomac river in carriages or in omnibuses. I never saw anybody inconvenienced by the running of these trains along the public grounds. This is a great matter, the connection of the northern and southern railways. At the last session of Congress, or at the session before, you granted the privilege of constructing a bridge across the Ohio river. You were content that the steamboat navigation of that great stream should be obstructed to some extent that you might make one connected line of road between the North and the South, connecting the Indiana roads and the Kentucky roads. I favored it, although to some extent it interfered with the navigation of that great river; and why? Because it was of prime importance as a public measure to connect the great lines of railroads of the southern States with those of the northern States. So

here, the road between this city and Baltimore is, to some extent, a trunk road, connecting the State of Virginia and those lying to the south of it with the States lying to the north.

This is a question of commerce, not a question of pleasure grounds, not a question whether the people of Washington can come and hear the music on Wednesday and Saturday evenings. I think that is unimportant. I should like to see this elegant building surrounded with sufficient and suitable grounds. We all agree about that; but that we should cut off a great line of commercial communication for the accommodation of a few people in this city is a proposition that to me has no force. I live in a city of a good deal of progress, which within four or five years has doubled its population, and why? Because there are eight first-class railroads that concentrate there, and we have furnished a union depot almost in the very heart of the city, where the traveling community from all portions of the world can come in and step from car to car without expense or delay. In that city there is no delay in transshipment, no hack hire, no omnibus business, but the old and the young can step right in that splendid depot from one train of cars to another, and they come in and out of the city by steam power running through the main streets of the city of Indianapolis, and there is no inconvenience about it. At the crossings of the streets we have men stationed to admonish the people of the approach of the cars. I say that that railroad connection in the city of Indianapolis is worth hundreds of thousands of dollars to the city and to the whole country, and the advantage to the traveling community of all sections of the country is incalculable. It is a great thing to make these connections; and what is it to run through these broad streets? Our streets in Indianapolis, where the trains run at the rate of six miles an hour, are narrow compared with these immense avenues. Our streets are thronged with people pursuing commerce, trade, and manufactures, and yet there is no serious inconvenience. The cars go along, and the people look out for them. The avenue here proposed to be used, Maryland avenue, is comparatively a deserted street. It looks well enough; we keep it up; but if we put a railroad track down there, more people will go over that street in the railroad cars in a week when proper relations are restored, than now travel for months on the avenue. You scarcely see anybody on the avenue; and yet we keep up this broad avenue; we pay the expenses of it as a promenade, I suppose, and we are not to allow the channels of commerce to pass through it. I do not think it is good for much else than to lay down a first-class railroad on. I have a little objection to the railroad passing by in front of the public grounds, but not much. If people want to come up here and listen to the debates of Congress, let them look out for the cars; let boards be put up, as they are with us, to admonish the people that trains are coming. There is no great inconvenience about it.

Mr. GRIMES. This railroad company is not required even to do that.

Mr. HENDRICKS. It is suggested to me that some people may get killed. I know people are sometimes killed at Indianapolis, but that seems to be almost a necessity of commerce and trade, and we cannot help it. People who travel in cars are liable to be killed. People crossing the railroads in their wagons on the roads through the country are occasionally killed; but we cannot help that. There is no inconvenience here that amounts to anything.

I do not know whether I am really in favor of this bill, but I did not want to consent to the plausible propositions of the Senator from Maine.

Mr. FESSENDEN. The speech of the Senator from Indiana satisfied me, if I needed any satisfaction on that point, of the truth of the remark I made, that when you put the interest of the public in competition with a railroad bill, the former does not stand any

chance at all. The thing, as I said before, is mysterious, but men's minds work so. I do not care anything about Maryland avenue; I would as lief the cars should run through that avenue as not; what I object to is crossing Pennsylvania avenue at this point, and running along the Capitol grounds. I object to anything that will furnish a permanent difficulty in the way of extending the Capitol grounds. I think there is something on this earth of value to a people besides money and commerce and trade. I think that when a great Government like this has put up a building like this, the grounds around it ought to be of suitable extent. If they are large enough, so be it. I do not see any necessity for extending them on the east; but I do for extending them toward the river. It is, however, a matter of taste, a matter of opinion. I do not say that my opinion is good for much on such a question; but such was my opinion at the time when the proposition to which I have alluded was made. If it had been carried out at that time the expense would not have been as enormous nor so great by any means as it will be now. The expense then would have been comparatively small. It may perhaps be too expensive now, and it may be too late to accomplish the object; but it is a thing which of all others I should like to have done, because I hope the time will arrive—of course I shall not live to see it—when a building like this which is a glory to the country shall be surrounded by grounds of suitable extent. The sooner we begin to provide for them the better; and when we have done it, I think that a little spot on the face of the earth of a hundred acres or so might be spared for the Capitol of a great nation like this, even to the extreme inconvenience of a railroad company of requiring them to take another direction around the grounds instead of going through them. This is the whole argument, that it would cost them a little more money, they would have to go a little further to get on one side clear of the Capitol grounds, where we meet, and where we are to meet. It would be a little more expensive to them; but I think that there are arguments of sufficient consequence if we could only find them, why a private company should be put to a little more expense and inconvenience rather than that they should put everybody else to inconvenience and subject everybody else to danger. It may be, however, that I am mistaken, and that there is nothing which ought to come in competition with the interests of a railroad company.

Mr. HENDRICKS. I think one remark of the Senator from Maine was not exactly just. I was not interposing for and I do not refer to, the interests of any railroad company. I said I did not know this company. I did not know what the interest was, and my whole argument was, that a mere matter of taste or the pleasure of people here should not stand in the way of a great railroad connection.

Mr. FESSENDEN. Then my friend from Indiana misunderstood me. I am not troubling myself about the convenience of the people of Washington particularly, but here is our Capitol, here are our public grounds; we ourselves pass directly every day from the foot of them across the avenue. What I contend for is that we ought to have grounds suitable to the building we occupy, the Capitol of the nation; and it is totally inconsistent with that idea and totally unnecessary, too, that we should have a railroad company driving its engines and its cars directly through these grounds or directly across the foot of them, where we must necessarily pass to and fro every day when Congress is in session, when they can find another mode of crossing at perhaps some additional expense to themselves. I agree with the Senator that it might be very important and very well to have a connection across this city, north and south, but I do not see the absolute necessity that it should go in one direction rather than another. That never has been proven to my satisfaction.

Mr. HENDRICKS. The remark of the

Senator that I objected to was that my few remarks had satisfied him that when a railroad company is on the one side and the public interest on the other, he always saw that the railroad company won the field.

Mr. FESSENDEN. I will say to the Senator exactly what I meant by that. I had made the remark before that it always turned out to be so, and when I saw so very sensible and so very clear-headed a man as my honorable friend from Indiana taking that line of argument, it satisfied me of the truth of my previous remark.

Mr. HENDRICKS. I will tell you what I think it ought to have satisfied the Senator of—that the true interests of the country must be respected. Now, I do not know this company, and I care nothing about it as a company, whether it makes profit or not; but to make a railroad connection I do care about. That is of prime importance; and this thing of tunneling around to the east of the Capitol I do not believe anything in. I do not think it will ever be done. I have no faith in that, not a particle. I do not believe there will ever be any tunnel made there.

Mr. FESSENDEN. I do not either, if they can cross down here.

Mr. HENDRICKS. Where the grounds are level.

Mr. FESSENDEN. That I do not want them to do.

Mr. GRIMES. I withdraw my amendment and substitute in place of it an amendment in the thirteenth line striking out "and First street west."

Mr. JOHNSON. I ask the honorable member how that affects the bill.

Mr. GRIMES. It will leave the company the privilege of crossing the bridge and Maryland avenue, but will not grant them the privilege of crossing Pennsylvania avenue or First street in front of the Capitol grounds.

Mr. JOHNSON. It is very important, as I think, that there should be a continuous communication. That it ought not to be in front of the Capitol, I admit, except as a temporary provision. That the Capitol grounds ought to be extended, I also agree with the Senator from Maine. But I do not know that any actual inconvenience has occurred, or, except upon one occasion, any accident has occurred, from running the cars across in front of the grounds as they now stand. I think the Baltimore and Ohio Railroad Company once applied for permission to connect their road with the Virginia roads by tunneling here to the east, and that application, I think, they have renewed. I have no doubt that if Congress will give them the privilege of making a connection in that way they will avail themselves of it; but in the mean time it would be very injurious to the people South and North that they should be stopped at Maryland avenue. They must then make the connection with the Baltimore and Ohio road above, either in omnibuses or horse cars, or by walking, and they must dispose of their baggage in the same way. If the honorable member will limit the privilege that this is to give, to some three or four or five years, I think it would answer his purpose.

Mr. MORRILL. I think I ought to explain this bill a little further. I am sure the Senate do not quite understand it. I have already said that what the bill now contemplates has actually been practiced, not by this company, but by the War Department, for the last four years, and there has been no practical inconvenience resulting from it. They have now built a bridge at great expense across the Potomac river and are running, I am told, some ten trains a day between this place and the city of Alexandria. Now, if they should be restricted to the Potomac river, to simply crossing the river, it will be seen at a glance what the inconvenience to the public would be here, and would be between the Baltimore and Ohio depot all this distance to be made good in some way, by carriages, &c. I think there is something in the argument of my colleague

as to the crossing here in front of the Capitol grounds; and if it was intended to be a permanent thing, I would not give my consent to it. But I know the fact that a bill is already pending to change the location from Maryland avenue around to the east side of the Capitol, and there pass by a tunnel to a connection on the north side into a common depot with the Baltimore and Ohio railroad.

Now, I suggest whether it is worth while to interrupt the communication that has been made for four years in front of us here. For the present, why not allow the company to continue to practice what has been so safely practiced for the last four years, until a communication can be made on the east side of the Capitol? The amendment proposed by the Senator from Iowa relieves the matter very much, because it gives the company the right to cross the bridge and the right to come up Maryland avenue, but it leaves the connection between Maryland avenue and the Baltimore and Ohio railroad depot unprovided for. If that is the sense of the Senate, that they ought not to make the connection, I am content.

Mr. HENDERSON. As a member of the Committee on the District of Columbia, I have had more or less occasion to look into this matter. In fact, I was upon a sub-committee to examine the scheme of tunneling the ground east of the Capitol. I went around and examined it. I do not know that I could form any correct conclusion from any examination I might make on a subject of that sort, but I should dislike very much, from what I know of this matter, to see the amendment of the Senator from Iowa adopted. I would much rather see a proposition giving the company the right to continue the use of steam upon these streets, for a short time, say for twelve months or two years. I would amend the bill by inserting after the word "granted," in the fourth line, the words "for a period of two years from the date of the passage of this act;" and then I would add a proviso that trains should not be drawn through Washington city, or along the bridge over the Potomac river, at a greater rate of speed than five miles an hour, or if the Senate choose to say six miles an hour I shall be satisfied. In 1863 we had some legislation on this subject, and we provided by the first section of the act approved March 3, 1863—

"That the Alexandria and Washington Railroad Company be, and the same is hereby, authorized to extend their said railroad from the south side of the Potomac across said river to and along Maryland avenue to the Capitol grounds, and across Pennsylvania avenue along First street to Indiana avenue, and thence to the Baltimore and Ohio depot; and that all the ordinary rights, privileges, and liabilities, incident to similar corporations are conferred upon said company for that purpose: *Provided, however,* That the same shall be subject to alteration, amendment, or repeal: *And provided further,* That the cars shall not be drawn on the streets aforesaid, or on the structure across the Potomac river mentioned in the second section of this act, by steam power, without the consent of Congress and of the corporate authorities of the city of Washington thereto."

By one of the provisions of that act I understand that the company have been propelling their cars by steam over Maryland avenue and along First street, west of the Capitol, ever since that time. At that time authority was given to build a railroad bridge across the Potomac river, very near to what is termed the Long bridge. The company constructed a very valuable bridge, a very good railroad bridge, and are now using it. It is true it is near the Long bridge. The Senator from Maine [Mr. FESSENDEN] thinks it would be very dangerous to persons crossing the Long bridge, especially in carriages, to have railroad trains propelled by steam across the railroad bridge. I can state to the Senator, upon some inquiry into the matter, that I have never heard of a single accident on the bridge since trains have been propelled across by steam. We can best judge matters of this sort by experience and by actual test. For three long years they have been using steam power on this bridge, and not a single accident has occurred upon the Long bridge in consequence of it.

Mr. GRIMES. How long?

Mr. HENDERSON. I said three years ago, but I take that back. It is three years ago since we gave authority to build the bridge. It was constructed, I think, within about twelve months. They have been using steam upon the bridge now for about eighteen months or two years, and not a single accident has occurred in consequence of it. I have heard of but one accident from the use of steam, even upon First street west, and that has been alluded to, I believe, by the Senator from Maine, and it turned out in that case that it was not the fault of the railroad company, but the fault of the driver of the horse car.

Now, the question arises whether it would be advisable to abandon this direct communication between the Baltimore and Ohio railroad and the Alexandria railroad, or rather to use horse power in drawing the cars through this city, thus obstructing to a certain extent trade and travel between the North and the South, because this is the only line that affords direct railroad communication. The Baltimore and Ohio railroad cars go through with steam a portion of the city that is more densely populated, or at least as much so as Maryland avenue.

Mr. JOHNSON. Where?

Mr. HENDERSON. They use steam coming into their depot on the north side.

Mr. JOHNSON. But there are no houses there.

Mr. HENDERSON. I can hardly see any houses on Maryland avenue to be injured or endangered by the use of steam.

Mr. JOHNSON. The Philadelphia railroad goes through a large extent of the settled part of Baltimore by steam.

Mr. HENDERSON. Yes, that is on the other side; and on this side also the Baltimore and Ohio railroad in approaching the depot in the city of Baltimore passes through a portion of that city much more densely populated than is any part of the city of Washington where it is proposed to run these cars by steam. This is done in almost every city of the Union. It is done in Chicago; it is done in Cleveland; it has been done in the city of St. Louis during the whole period of the war, and I do not now remember any case of an accident having occurred in consequence of it. Possible accidents have occurred; but certainly very few, if any, in consequence of the use of steam. I have not heard of a building being burned, or even of any collision between the drays upon the wharves at St. Louis and the steam engines.

I do not propose to give the permanent use of First street west. I have the same objection to that which the Senator from Maine presented. In fact that right is worth a great deal to this company; it is worth an immense amount to them. The truth of the matter is, that the Baltimore and Ohio Railroad Company is very anxious to secure the privilege of tunneling the ground for half a mile or three quarters of a mile on the east of the Capitol, and thus to get a permanent connection between the northern and southern lines of railroad in this country. They estimate the cost of that work at more than a million dollars, and they are very willing, indeed very anxious, to secure that privilege at the hands of Congress. I would not grant the privilege of using First street as a permanent privilege, but I would give them the temporary use of the street while the tunnel is being constructed, by means of which they can get under ground on the northern side of the city, and keep under ground until they approach the canal south of New Jersey avenue.

Mr. FESSENDEN. That is where they should go.

Mr. HENDERSON. A tunnel can surely be constructed on the eastern side of the Capitol by means of which to make the connection, and it ought to be done. I would not cut off the privilege which is now being exercised at present. I would let them pass through the city and across First street, because we are not proposing just now to extend the Capitol grounds; we are not prepared to do so; and it is of very great moment indeed, now that the country has been restored, to its old commer-

cial relations, anyhow, that the connection should be as perfect as possible. This is the only point at which it can be made.

I would suggest another fact that I have had some occasion to examine as a member of the Committee on the District of Columbia. I was not aware that such a bill was here. It is not the bill which we had before us, and which was given in my charge. That bill was for the purpose of tunneling on the east side of the Capitol; and I examined the matter, and at the request of the parties interested, agreed to let it lie until a bill should come from the other House on the subject. I do not know what course of action the other House has taken on the bill that was pending there. There is a bridge at Georgetown that belonged to the Alexandria Canal Company; and the Senator from Ohio [Mr. WADE] and myself have had a duty devolved on us to make some examination into that. It is an interference, as now constructed, with the harbor at Georgetown; and the inhabitants of Georgetown are exceedingly anxious, now that they desire to extend their wharf facilities and their coal facilities, to remove the bridge, or to be enabled to put a draw in it, so that commerce may go for some two or three miles further up the river, and that they can use that portion of the wharves at Georgetown west of the bridge for coaling purposes, and that sailing vessels can be taken up there. In order to do that, we have to interfere with the chartered privileges of the Alexandria Canal Company. A draw cannot be put into the bridge when used as an aqueduct, but can if used as a bridge; and in all probability legislation may be had during this session by which that bridge at Georgetown, with certainly very superior piers, with very little expense may be made a means of communication across the Potomac of far better character than now enjoyed through the Long bridge. It is now dangerous, as I understand, or becoming so, to cross upon the Long bridge at all, not from the passage of railroad trains, but because of the character of the structure itself.

Mr. WADE. They have not passed on that bridge for a long time.

Mr. HENDERSON. I now understand that it was dangerous; I did not know that fact before.

Mr. FESSENDEN. I suppose, then, the reason that no accidents have happened is because nobody crosses it.

Mr. HENDERSON. There was crossing there after the company commenced using steam. I would state that upon an examination of the subject I think it is likely that we can secure the bridge at Georgetown. The Canal Company owes the Government \$300,000 loaned in 1837. No attention has ever been paid to it. The canal is very unprofitable stock in the hands of the company. It is worth nothing. Indeed, it is doubtful whether the company would ever again use it as a canal. Certainly if we take the past experience of the canal, the profits of the business will not pay for the necessary repairs in order to use the bridge as an aqueduct again. Under the circumstances, inasmuch as the travel is now passing over the bridge at Georgetown almost entirely, and inasmuch as no inconvenience can arise from using steam across the railroad bridge, which is a very superior structure, and the company deserve a great deal of credit for constructing such a work as it is, and inasmuch as commerce would require that if we can use with anything like security the streets of the city in order to connect the lines of railroad we should do so, I think we had better pass the bill, limited as I have suggested.

The Senator from Iowa is a friend of intercommunication, and even went so far, the other day, as to see no objection to bridging the Father of Waters.

Mr. MORRILL. At Burlington.

Mr. HENDERSON. I believe he made no objection at any point to very low structures. I suggest to him that he had better withdraw

his amendment, and let us give for a period, say of two years, the privilege to use steam over the line where it has been used for the last three years; and within those two years I have no doubt we shall pass a bill authorizing a tunnel, because they can make it perfectly secure, and within that time perhaps they may complete the tunnel east of the Capitol.

Mr. FESSENDEN. Why not pass the tunneling bill, and in that bill tell them they must have their tunnel done in a certain time, and until that time expires they may use this crossing?

Mr. HENDERSON. I have no objection to that course of proceeding.

Mr. FESSENDEN. Then you would make one dependent on the other.

Mr. HENDERSON. I have no charge of this bill.

Mr. FESSENDEN. Your committee has charge of the question.

Mr. HENDERSON. It is as the Senator from Maine [Mr. MORRILL] may see fit in regard to it.

Mr. MORRILL. Well—

Mr. HENDERSON. I have no doubt we shall pass that bill. It was put in my charge. I am ready to report it at any time. I have it not here; it is at my room.

Mr. MORRILL. With that understanding, I ask that this bill be laid aside, and I will call up another.

The PRESIDENT *pro tempore*. It is moved that the further consideration of this bill be postponed until to-morrow.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed without amendment the joint resolution (S. R. No. 97) to authorize certain medals to be distributed to veteran soldiers free of postage.

The message also returned to the Senate, in compliance with its request, the bill (S. No. 305) to amend an act entitled "An act concerning notaries public for the District of Columbia," approved April 8, 1864.

The message further announced that the House of Representatives had passed a concurrent resolution for the appointment of a joint committee of the two Houses to investigate the action of the Freedmen's Bureau and its officers, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 186) amendatory of an act to provide for the reports of decisions of the Supreme Court of the United States;

A joint resolution (S. R. No. 61) to extend the time for the construction of the first section of the Western Pacific railroad;

A bill (H. R. No. 265) granting a pension to John Hoffman, of Madison county, in the State of New York;

A bill (H. R. No. 368) for the relief of Francis A. Gibbons;

A bill (H. R. No. 434) for the relief of Isabella Strubing;

A bill (H. R. No. 445) for the relief of the legal representatives of Betsey Nash;

A bill (H. R. No. 460) granting pension to Spencer Kellogg;

A bill (H. R. No. 494) for the relief of Martha J. Willey;

A bill (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes;

A bill (S. No. 132) to prevent and punish kidnaping; and

A bill (S. No. 316) to establish a post route from West Alburg, Vermont, to Champlain,

in the State of New York, and for other purposes.

FREEDMEN'S BUREAU.

The PRESIDENT *pro tempore* laid before the Senate the following concurrent resolution from the House of Representatives:

Resolved by the House of Representatives, (the Senate concurring.) That a joint committee consisting of two Senators and three members of the House of Representatives be appointed to investigate the action of the Freedmen's Bureau and its officers in the States where the bureau has been in operation, with power to send for persons and papers and examine witnesses under oath; and that said committee make personal examination, and report the facts to Congress; and said committee is authorized to employ a stenographer and clerk. The Sergeant-at-Arms of the Senate or House, or either of their deputies, is directed to accompany the committee; and the committee shall have power to report at any time. And the expenses necessarily incurred by said committee shall be paid out of the contingent funds of the Senate and House in equal proportions.

The PRESIDENT *pro tempore*. What order will the Senate take upon this resolution?

Mr. JOHNSON. Let it lie on the table for the present.

The motion was agreed to.

Mr. TRUMBULL. I move that the resolution be printed, so that we may see what it is.

The motion was agreed to.

LIFE AND ACCIDENT INSURANCE COMPANY.

Mr. MORRILL. I now ask the Senate to take up for consideration Senate bill No. 290.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 290) to incorporate the National Life and Accident Insurance Company of the District of Columbia.

Mr. TRUMBULL. We have passed to-day quite a number of bills incorporating companies, and this seems to be a bill of considerable importance. I move that the Senate do now adjourn, and let it go over.

The motion was agreed to; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 21, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of Saturday was read and approved.

The SPEAKER stated as the first business in order the calling of the States for bills and joint resolutions on leave to be referred to the appropriate committees and not to be brought back into the House on a motion to reconsider, commencing with the State of Maine.

RIGHTS OF LOYAL CITIZENS.

Mr. LAWRENCE, of Ohio, introduced a bill to protect the rights of action of loyal citizens; which was read a first and second time, and referred to the Committee on the Judiciary.

PUNISHMENT OF CRIME.

Mr. LAWRENCE, of Ohio, introduced a bill to define and punish certain crimes therein named; which was read a first and second time, and referred to the Committee on the Judiciary.

UNITED STATES COURTS.

Mr. LAWRENCE, of Ohio, introduced a bill to amend an act to establish the judicial courts of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

NATIONAL CURRENCY.

Mr. DUMONT introduced an act to amend an act entitled "An act to provide a national currency secured by pledge of United States bonds, and provide for the liquidation and redemption thereof," approved June 3, 1864; which was read a first and second time, and referred to the Committee on Banking and Currency.

MILITARY RESERVE AT FORT GRATIOT.

Mr. TROWBRIDGE introduced a bill to amend an act granting the right of way over the military reserve at Fort Gratiot, Michigan;

which was read a first and second time, and with an accompanying letter from the Secretary of the Interior referred to the Committee on Commerce.

PAY OF LETTER CARRIERS IN SAN FRANCISCO.

Mr. McRUER introduced a joint resolution authorizing the Postmaster General to pay additional salaries to letter carriers in San Francisco; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

ACTING ASSISTANT SURGEONS.

Mr. DONNELLY introduced a bill relating to acting assistant surgeons in the United States Army; which was read a first and second time, referred to the Committee on Military Affairs, and ordered to be printed.

PORTS OF DELIVERY IN NEBRASKA.

Mr. HITCHCOCK introduced a bill to constitute Omaha and Nebraska City, in the Territory of Nebraska, ports of delivery; which was read a first and second time, referred to the Committee on Commerce, and ordered to be printed.

TRADE AND INTERCOURSE WITH INDIANS.

Mr. BRADFORD introduced a bill in relation to trade and intercourse with Indian tribes; which was read a first and second time, and referred to the Committee on Indian Affairs.

The call of the States and Territories for bills and joint resolutions being now completed, the Speaker proceeded to call the States and Territories, in an inverse order, for resolutions, commencing with the State of New York.

FREEDMEN'S BUREAU.

Mr. LAFLIN introduced the following resolution, upon which he demanded the previous question:

Resolved, That the Commissioner of the Bureau of Freedmen, Refugees, and Abandoned Lands be directed to communicate to this House the reports recently made concerning the action of the bureau by Generals Steedman and Fullerton and by Generals Whittlesey and Sewell and such other reports recently made and not heretofore communicated to Congress as may be in the possession of that bureau.

The SPEAKER. This being a call for executive information, it requires unanimous consent for its consideration to-day.

Mr. LE BLOND. I desire to move an amendment to the resolution. I desire to have these reports published in connection with the testimony taken by the reconstruction committee, that they may go to the country for what they purport to be.

Mr. LAFLIN. It would be impossible to have that done now, because the printing of the report of the reconstruction committee is in such a condition that it would be impossible to do it.

Mr. LE BLOND. I ask if the report of the committee on reconstruction has been published.

Mr. LAFLIN. It has not yet been delivered, but it is in print.

The SPEAKER. The Chair would state that if the resolution gives rise to debate it goes over under the rule.

Mr. LE BLOND. I simply wish to say that my understanding is that the report is being printed, but that it is in that condition that the reports of these generals can be added to it, and it ought to go to the country in that shape.

Mr. LAFLIN. I demand the previous question.

Mr. RANDALL, of Pennsylvania. I desire to know if an objection does not make this resolution go over.

The SPEAKER. It would not do so now. The resolution has been debated since it was introduced, and it is too late to make the point.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TAX ON COTTON.

Mr. DODGE presented memorials from the Chamber of Commerce of New York, in relation to the proposed tax of five cents per pound on cotton; which were referred to the Committee of Ways and Means, and ordered to be printed.

TAX ON STATE-BANK CURRENCY.

Mr. DAVIS submitted the following resolution, upon which he called the previous question:

Resolved, That the Committee on Banking and Currency be authorized and directed to inquire into the expediency of exempting the currency of State banks outstanding on the 1st day of July next from the tax of ten per cent. now provided by law until the 1st day of July, 1887, or until some day previous thereto.

The previous question was seconded and the main question was ordered; and under the operation thereof the resolution was agreed to.

Mr. DAVIS moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

The call of States and Territories having been concluded,

The SPEAKER stated the next business in order during the morning hour was the consideration of resolutions which have laid over under the rule, debate having arisen thereon.

INSURGENT STATES.

The first business under this rule was the following preamble and resolution introduced by Mr. McCLURG on the 5th of February last:

Whereas it is clearly manifest that the continued contumacy in the seceding States renders it necessary to exercise congressional legislation in order to give to the loyal citizens of those States protection in their natural and personal rights enumerated in the Constitution of the United States, and in addition thereto makes it necessary to keep on foot a large standing army to maintain the authority of the national Government and to keep the peace; and whereas the country is already overburdened by a war debt incurred to defend the nationality against an infamous rebellion, and it is neither just nor politic to inflict this vast additional expense on the peaceful industry of the nation: Therefore,

Resolved, That it be referred to the joint committee of the Senate and House to inquire into the expediency of levying contributions on the seceding States to defray the extraordinary expenses that would otherwise be imposed on the General Government; and that said committee be instructed to report by bill or otherwise.

Mr. McCLURG. I call the previous question on the passage of the resolution.

Mr. RANDALL, of Pennsylvania. Will the gentleman from Missouri [Mr. McClurg] amend his resolution by inserting after the word "protection" the words "and representation?"

Mr. HOGAN. Oh, no.

Mr. RANDALL, of Pennsylvania. Oh, yes.

Mr. BRANDEGEE. I would suggest to the gentleman from Missouri that this resolution does not specify the committee to which he proposes to refer this subject. It merely says "that it be referred to the joint committee of the Senate and House."

Mr. McCLURG. I will modify the resolution so that it shall read "the joint committee of fifteen."

Mr. NIBLACK moved to lay the preamble and resolution on the table.

Mr. LE BLOND called the yeas and nays.

The yeas and nays were not ordered.

The motion to lay on the table was not agreed to.

The question recurred upon seconding the previous question.

Mr. RANDALL, of Pennsylvania. Is it in order to move the reference of this resolution to the Committee on the Judiciary?

The SPEAKER. The previous question is called; if that call is not seconded, that motion will be in order.

Upon seconding the call for the previous question, there were, upon a division—ayes 40, noes 24; no quorum voting.

Tellers were ordered; and Messrs. McCLURG and NIBLACK appointed.

The House again divided; and the tellers reported—ayes 68, noes 25.

So the previous question was seconded.

The main question was then ordered, which was upon agreeing to the resolution.

Mr. LE BLOND called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 73, nays 25, not voting 85; as follows:

YEAS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Beaman, Bidwell, Boutwell, Brandegee, Reader W. Clarke, Cobb, Cook, Cullem, Dawes, Defrees, Deming, Donnelly, Driggs, Dumont, Eckley, Eliot, Abner C. Harding, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Julian, Kelley, Kelso, Ketcham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McKee, Mercer, Moorhead, Morrill, Morris, Moulton, O'Neill, Paine, Patterson, Perham, Pike, Plants, Price, John H. Rice, Rollins, Sawyer, Schenck Scofield, Sloan, Spalding, Stevens, Trowbridge, Upson, Van Aernam, Ward, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—73.

NAYS—Messrs. Ancona, Chanler, Davis, Dawson, Denison, Eldridge, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Kerr, Laffin, Le Blond, Marston, McCullough, McRuer, Myers, Niblack, Nicholson, Phelps, Samuel J. Randall, Ritter, Rogers, Ross, Sitgreaves, Taber, Taylor, Thayer, Whaley, Winfield, and Wright—25.

NOT VOTING—Messrs. Alley, Delos R. Ashley, Baldwin, Banks, Barker, Baxter, Benjamin, Bergen, Bingham, Blaine, Blow, Boyer, Bromwell, Broomall, Buckland, Bundy, Sidney Clarke, Coffroth, Conkling, Culver, Darling, Delano, Dixon, Dodge, Eggleston, Farnsworth, Farquhar, Ferry, Finck, Garfield, Grinnell, Griswold, Harris, Hart, Hayes, Hill, Hotchkiss, Chester D. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Jenckes, Johnson, Jones, Kasson, Kuykendall, Latham, Marshall, Marvin, McIndoe, Miller, Newell, Noell, Orth, Pomeroy, Radford, William H. Randall, Raymond, Alexander H. Rice, Rousseau, Shanklin, Shellabarger, Smith, Starr, Stilwell, Strouse, Francis Thomas, John L. Thomas, Thornton, Trimble, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, and Wentworth—85.

So the resolution was agreed to.

The preamble of the resolution was agreed to.

Mr. McCLURG moved to reconsider the votes by which the preamble and resolution were agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PUNISHMENT OF REBELS.

The next resolution lying over under the rule was the following, submitted by Mr. HENDERSON on the 19th of February last:

Resolved, That it is the sense of this House that all just and righteous Governments are intended, not to confer rights and privileges upon the subjects thereof, but to secure to each and every individual the full, free, and untrammelled exercise and enjoyment of all those rights which God has bestowed upon him.

Resolved, That the safety, prosperity, and happiness of the people require that just and adequate penalties be annexed to the violation of law, and that those penalties be inflicted upon transgressors, not for the purpose of retaliation or revenge, but to insure subordination and obedience.

Resolved further, That we will stand by and sustain the President in executing the laws of the United States upon a sufficient number of leading rebels in each of the States lately in insurrection against the national Government to vindicate the majesty of the law, to sustain the confidence of loyal people, and to warn the refractory for all time to come.

Mr. HENDERSON. I do not deem it necessary to occupy any time in the discussion of these resolutions. I believe that the sentiments embodied in them are correct, and ought to be sustained. With the view of disposing of the matter as speedily as possible, I call the previous question.

Mr. ROSS. I would inquire of the gentleman from Oregon whether he had not better modify his resolution so as to include northern rebels, and let them all be tried, "without distinction of race or color."

Mr. HENDERSON. I insist on the demand for the previous question.

The previous question was seconded.

Mr. NIBLACK. I would suggest that it would be proper to indicate about how many of these leading rebels ought to be executed. The language of the resolution is very indefinite. While we are instructing the President, I think we ought to state about the number that we want executed, and we ought also to name them.

Mr. BRANDEGEE. I object to debate.

The SPEAKER. The previous question has been seconded, and debate is not in order.

The main question was ordered; and under the operation thereof the resolutions were adopted.

Mr. HENDERSON moved to reconsider the vote by which the resolutions were adopted; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

QUALIFICATION OF ELECTORS.

The next resolution lying over under the rule was the following, submitted by Mr. DEFREES on the 26th of February last:

Resolved, That it is the opinion of this House that Congress has no constitutional right to fix the qualification of electors in the several States.

Mr. DEFREES. I call for the previous question.

On seconding the call for the previous question there were—ayes 32, noes 53; no quorum voting.

The SPEAKER, under the rules, ordered tellers; and appointed Messrs. DEFREES and JENCKES.

The House divided; and the tellers reported—ayes 30, noes 66.

So the previous question was not seconded.

Mr. ROGERS. I move to lay the resolution on the table, and on that motion I demand the yeas and nays.

Mr. BRANDEGEE. Mr. Speaker, if the motion to lay on the table should not prevail, will it be in order to move to refer the resolution to the Committee on the Judiciary?

The SPEAKER. It will.

Mr. BRANDEGEE. I hope, then, that the motion to lay on the table will not prevail.

Mr. LE BLOND. I hope that the resolution will not be referred, for that will be to bury it.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 12, nays 97, not voting 74; as follows:

YEAS—Messrs. Baldwin, Boutwell, Bundy, Reader W. Clarke, Eliot, Garfield, Jenckes, Julian, Longyear, Lynch, Stevens, and Williams—12.

NAYS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Delos R. Ashley, Baker, Baxter, Beaman, Bidwell, Brandegee, Chanler, Cobb, Cook, Cullem, Davis, Dawson, Defrees, Deming, Denison, Driggs, Dumont, Eckley, Eldridge, Farnsworth, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Abner C. Harding, Henderson, Higby, Hogan, Holmes, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, James M. Humphrey, Ingersoll, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Le Blond, Loan, Marvin, McClurg, McCullough, McRuer, Mercer, Moorhead, Morris, Myers, Niblack, Nicholson, O'Neill, Paine, Perham, Phelps, Plants, Price, Samuel J. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Sawyer, Scofield, Sitgreaves, Sloan, Spalding, Stilwell, Taber, Taylor, Thayer, Trowbridge, Upson, Ward, Henry D. Washburn, William B. Washburn, Welker, Whaley, James F. Wilson, Stephen F. Wilson, Windom, Winfield, and Wright—97.

NOT VOTING—Messrs. James M. Ashley, Banks, Barker, Benjamin, Bergen, Bingham, Blaine, Blow, Boyer, Bromwell, Broomall, Buckland, Sidney Clarke, Coffroth, Conkling, Culver, Darling, Dawes, Delano, Dixon, Dodge, Donnelly, Eggleston, Farquhar, Ferry, Finck, Grinnell, Griswold, Harris, Hart, Hayes, Hill, Hooper, Hotchkiss, James R. Hubbell, James Humphrey, Johnson, Jones, Kasson, Latham, Marshall, Marston, McIndoe, McKee, Miller, Morrill, Moulton, Newell, Noell, Orth, Patterson, Pike, Pomeroy, Radford, William H. Randall, Raymond, Rousseau, Schenck, Shanklin, Shellabarger, Smith, Starr, Strouse, Francis Thomas, John L. Thomas, Thornton, Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, and Woodbridge—74.

So the House refused to lay the resolution on the table.

Mr. BRANDEGEE. This is a judicial question, and one of great importance. I therefore move it be referred to the Committee on the Judiciary, and on that I demand the previous question.

Mr. RANDALL, of Pennsylvania. It is a simple constitutional question.

Mr. LE BLOND. I move to amend the motion by adding that it be referred with instructions to report favorably and at any time.

The SPEAKER. It would require unan-

imous consent to move instructions to report "at any time."

Mr. LE BLOND. Then I will leave those last words off.

The SPEAKER. If the previous question should not be seconded the motion to amend will be in order.

Mr. LE BLOND. Will not the gentleman accept my amendment?

Mr. BRANDEGEE. No, sir; we want to get at the bounty bill.

The previous question was seconded and the main question ordered.

Mr. ANCONA. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on the motion to refer the resolution to the Committee on the Judiciary, it was decided in the affirmative—yeas 86, nays 80, not voting 67; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Bidwell, Boutwell, Brandegee, Bromwell, Bundy, Reader W. Clarke, Cobb, Cook, Cullom, Davis, Dawes, Deming, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Garfield, Griswold, Hale, Abner C. Harding, Henderson, Holmes, Hooper, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Ladin, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKee, Mercer, Moorhead, Morris, Myers, O'Neill, Paine, Patterson, Perham, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Sloan, Spalding, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Burt Van Horn, Ward, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—86.

NAYS—Messrs. Ancona, Dawson, Defrees, Denison, Eldridge, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Kerr, Kuykendall, George V. Lawrence, Le Blond, McCullough, Niblack, Nicholson, Samuel J. Randall, Ritter, Rogers, Ross, Sitgreaves, Stilwell, Taber, Taylor, Henry D. Washburn, Winfield, and Wright—80.

NOT VOTING—Messrs. Banks, Barker, Benjamin, Bergen, Bingham, Blaine, Blow, Boyer, Broomall, Buckland, Chanler, Sidney Clarke, Coffroth, Conkling, Culver, Darling, Delano, Dixon, Dodge, Eggleston, Farquhar, Ferry, Finck, Grinnell, Harris, Hart, Hayes, Higby, Hill, Hotchkiss, Chester D. Hubbard, James R. Hubbell, James Humphrey, Johnson, Jones, Kasson, Latham, Marshall, McIndoe, McKuer, Miller, Morrill, Moulton, Newell, Noell, Orth, Phelps, Pike, Plants, Pomeroy, Radford, Raymond, Rousseau, Shanklin, Shellabarger, Smith, Starr, Strouse, John L. Thomas, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, and Whaley—67.

So the resolution was referred to the Committee on the Judiciary.

Mr. BRANDEGEE moved to reconsider the vote by which the resolution was referred; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed a bill (S. No. 328) for the relief of Mrs. Abigail Ryan, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed House bill No. 371, to grant a pension to Leonard St. Clair.

Also, that the Senate had passed joint resolution of the House No. 77, for the relief of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mail from Boise City to Idaho City, in the Territory of Idaho, and of Daniel Wellington and J. C. Dorsey, for extra services in the carrying of the mail, with an amendment, in which the concurrence of the House was requested.

FREEDMEN'S BUREAU.

Mr. ELIOT. I ask unanimous consent to offer the following resolution:

Resolved by the House of Representatives, (the Senate concurring.) That a committee consisting of two Senators and three members of the House of Representatives be appointed to investigate the action of the Freedmen's Bureau and of its officers in the States where the bureau has been in operation, with power to send for persons and papers and examine witnesses under oath; and that said committee make personal examination and report the facts to Congress; and said committee is authorized to employ a stenographer and clerk. The Sergeant-at-Arms of the Senate or House, or either of their deputies, is directed to accompany the committee, and the committee shall have power to report at any time. All the expenses necessarily incurred by said committee, shall be paid

out of the contingent funds of the Senate and House in equal proportions.

Mr. ROSS. I think we had better leave that to General Grant and General Sherman. The country would have no confidence in any report made to Congress by a committee. I object to its consideration.

Mr. ELIOT. I move to suspend the rules for the purpose of offering the resolution.

Mr. ELDRIDGE. On that I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on the motion to suspend the rules, it was decided in the affirmative—yeas 92, nays 30, not voting 61; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Boutwell, Brandegee, Bromwell, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Davis, Dawes, Deming, Dodge, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Garfield, Griswold, Hale, Abner C. Harding, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Jenckes, Julian, Kelley, Kelso, Ketcham, Ladin, William Lawrence, Loan, Longyear, Lynch, Marvin, McClurg, McKuer, Mercer, Moorhead, Morrill, Morris, Myers, O'Neill, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Sloan, Spalding, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Ward, William B. Washburn, Welker, Williams, James F. Wilson, Stephen F. Wilson, and Windom—92.

NAYS—Messrs. Ancona, Chanler, Dawson, Defrees, Denison, Eldridge, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Kerr, Kuykendall, George V. Lawrence, Le Blond, Niblack, Nicholson, Ritter, Rogers, Ross, Sitgreaves, Stilwell, Taber, Taylor, Henry D. Washburn, Whaley, Winfield, and Wright—30.

NOT VOTING—Messrs. Banks, Barker, Benjamin, Bergen, Bidwell, Bingham, Blaine, Blow, Boyer, Broomall, Buckland, Coffroth, Conkling, Culver, Darling, Delano, Dixon, Eggleston, Farquhar, Ferry, Finck, Grinnell, Harris, Hart, Hayes, Hill, James R. Hubbell, James Humphrey, Johnson, Jones, Kasson, Latham, Marshall, Marston, McCullough, McIndoe, McKee, Miller, Moulton, Newell, Noell, Orth, Phelps, Pomeroy, Radford, Samuel J. Randall, Raymond, Rousseau, Shanklin, Shellabarger, Smith, Starr, Strouse, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, and Woodbridge—61.

So (two thirds voting in favor thereof) the rules were suspended.

Mr. ELIOT demanded the previous question on the resolution.

The previous question was seconded and the main question ordered, being upon the adoption of the resolution.

Mr. LE BLOND. I demand the yeas and nays on agreeing to the resolution, and call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. LE BLOND and ELIOT were appointed.

The House divided; and the tellers reported—ayes twenty-three, noes not counted.

So the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 84, nays 27, not voting 72; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Blaine, Brandegee, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Deming, Dodge, Donnelly, Driggs, Dumont, Eckley, Eliot, Farnsworth, Garfield, Griswold, Abner C. Harding, Henderson, Higby, Holmes, Hooper, Hotchkiss, John H. Hubbard, Ingersoll, Jenckes, Julian, Kelley, Ketcham, Ladin, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McKuer, Mercer, Moorhead, Morrill, Morris, Myers, O'Neill, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Spalding, Stevens, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Burt Van Horn, Ward, William B. Washburn, Welker, Williams, Stephen F. Wilson, Windom, and Woodbridge—84.

NAYS—Messrs. Ancona, Chanler, Dawson, Denison, Eldridge, Glossbrenner, Goodyear, Grider, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Kerr, Kuykendall, Le Blond, McCullough, Niblack, Nicholson, Samuel J. Randall, Ritter, Rogers, Ross, Sitgreaves, Taber, Taylor, Winfield, and Wright—27.

NOT VOTING—Messrs. Banks, Barker, Benjamin, Bergen, Bidwell, Bingham, Blow, Boutwell, Boyer, Bromwell, Broomall, Buckland, Coffroth, Conkling, Culver, Darling, Davis, Defrees, Delano, Dixon, Eggleston, Farquhar, Ferry, Finck, Grinnell, Hale, Harris, Hart, Hayes, Hill, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, Hulburd, James Humphrey, Johnson, Jones, Kasson, Kelso, Latham, George V. Lawrence, Mar-

shall, McIndoe, McKee, Miller, Moulton, Newell, Noell, Orth, Phelps, Pomeroy, Radford, Raymond, Rousseau, Shanklin, Shellabarger, Sloan, Smith, Starr, Stilwell, Strouse, Thornton, Trimble, Van Aernam, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, Wentworth, Whaley, and James F. Wilson—72.

So the resolution was adopted.

Mr. ELIOT moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MEDALS FOR OHIO SOLDIERS.

Mr. SCHENCK. I ask the unanimous consent of the House to take from the Speaker's table a joint resolution which has been passed by the Senate authorizing the military authorities of the State of Ohio to frank some medals which are given to the veteran soldiers of that State. It is joint resolution of the Senate No. 97, to authorize certain medals to be distributed to veteran soldiers free of postage. I ask that it be put upon its passage if there is no objection. It is needed very much at this time. The medals are ready for distribution.

The joint resolution was read a first and second time. It was then ordered to a third reading; and it was accordingly read the third time and passed.

Mr. SCHENCK moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

SIOUX INDIANS.

Mr. STEVENS asked unanimous consent to offer the following preamble and resolution:

Whereas it has been alleged that the Sioux Indians of Minnesota who were engaged in the massacre in that State in 1862 have been removed therefrom and a location for their permanent residence selected in one of the organized and settled counties of Nebraska contiguous to the white settlements of Dakota, and but a short distance above the capital of that Territory; and whereas most if not all of the lands suitable for cultivation in the neighborhood of said contemplated location is said to have been purchased from the Government and is now held by private individuals: Therefore,

Resolved, That the Secretary of the Interior be requested to inform this House whether any arrangement has been made or is contemplated for the purchase of private lands or other property for the accommodation of said Indians, and if so, the quantity of lands and improvements so purchased or to be purchased, and the names of the parties from whom said purchase has been or is to be made, and the amount which has been or is to be paid for said purchase; and also the total number of acres of land held by individuals, whether in a private or corporate capacity, embraced within the exterior boundaries of said reservation, and by what authority said Indians have been removed and located, and the said purchases, if any, have been or are to be made.

Mr. ALLISON. I do not object particularly to the resolution, but I think it—

The SPEAKER. If the gentleman objects to the resolution, it is not before the House; if he does not object, it is before the House.

Mr. ALLISON. Will the gentleman consent to the reference of this resolution?

Mr. STEVENS. I cannot consent to the reference. It is merely a call for information.

Mr. ALLISON. I will make no objection. The resolution was then agreed to.

COINAGE, WEIGHTS, AND MEASURES.

Mr. LAFLIN, from the Committee on Printing, reported the following resolution, upon which he called the previous question:

Resolved, That three hundred extra copies of the report on a uniform system of coinage, weights, and measures be printed with covers for the use of the committee making the report, and two thousand copies for the use of the House.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. LAFLIN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

Mr. MORRILL obtained the floor.

Mr. ELDRIDGE. Will the gentleman from Vermont [Mr. MORRILL] yield to me to offer a resolution?

Mr. MORRILL. I will yield to hear it read.

ROW IN MOBILE.

Mr. ELDRIDGE. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That a committee of three members of this House be appointed by the Speaker, with authority to proceed forthwith to Mobile, in the State of Alabama, to investigate the "row" referred to in the following dispatch, to wit:

"REPORTED SERIOUS ROW IN MOBILE.—The Cincinnati Commercial has a dispatch from Atlanta, dated May 17, which says: 'The negroes had a row among themselves in a church in Mobile, on Sunday, which resulted in the killing of five and the wounding of a great many more.'"

And that said committee be authorized to send for persons and papers, the expenses to be paid out of the contingent fund of the House.

Mr. PRICE. I object.

Mr. ELDRIDGE. Is it in order to move to suspend the rules for the purpose of introducing this resolution?

The SPEAKER. That motion would be in order if the gentleman from Vermont [Mr. MORRILL] will yield for that purpose.

Mr. MORRILL. I cannot yield for that purpose.

Mr. GARFIELD. Will the gentleman yield to me to offer a resolution?

Mr. MORRILL. I will.

DIRECT TAX IN INSURGENT STATES.

Mr. GARFIELD. I ask unanimous consent to submit the following resolution for consideration at this time:

Resolved, That the President be respectfully requested to furnish to this House information as to the collection of the direct tax in the States lately in insurrection, what amount of the said tax has been collected in the several States, what amount of property is held by the Government under the sales authorized by law, and how much has been received from such sales.

The resolution was agreed to.

Mr. GARFIELD moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

EVENING SESSIONS.

Mr. MORRILL. I move that on and after to-day, until otherwise ordered, the House shall take a recess from half past four to half past seven o'clock p. m.

Mr. GARFIELD. I ask the gentleman from Vermont, [Mr. MORRILL] to modify his motion, so as to have evening sessions commence to-morrow.

Mr. MORRILL. I cannot do that. I am willing that the House shall decide the question.

Mr. GARFIELD. Then I move to amend the motion by striking out "to-day" and inserting "to-morrow."

The question was taken, and upon a division there were—ayes 47, noes 46.

Mr. SPALDING called for tellers.

Tellers were not ordered.

The amendment was accordingly agreed to.

The question recurred upon the motion of Mr. MORRILL as amended; and upon a division there were—ayes 61, noes 38.

Mr. WINDOM called for tellers.

Mr. SPALDING called for the yeas and nays.

Tellers were not ordered, and the yeas and nays were not ordered.

The motion of Mr. MORRILL, as amended, was accordingly agreed to.

WHITEHALL, NEW YORK.

Mr. GRISWOLD, by unanimous consent, introduced a bill to provide for making the town of Whitehall, New York, a port of delivery; which was read a first and second time, and referred to the Committee on Commerce.

NOTARIES PUBLIC FOR THE DISTRICT.

The SPEAKER laid before the House the following message from the Senate:

IN SENATE OF THE UNITED STATES,
May 17, 1866.

Resolved, That the House of Representatives be requested to return to the Senate the bill (S. No. 305) to amend an act entitled "An act concerning

notaries public for the District of Columbia," approved April 8, 1864.

Attest:

J. W. FORNEY,
Secretary.

The SPEAKER. This bill has been referred to the Committee for the District of Columbia. If there be no objection, the committee will be discharged from the further consideration of the bill, and it will be returned to the Senate as requested.

There was no objection.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

EMPLOYÉS IN EXECUTIVE MANSION.

Mr. SPALDING. I ask the gentleman from Vermont to yield to me a moment. I wish to call up a bill authorizing the President to appoint certain officers of his household. It should have been acted on some time ago.

Mr. MORRILL. I have no objection to yielding if the bill will not give rise to debate.

Mr. SPALDING. It will give rise to no discussion. If it should I will not press its consideration.

Mr. MORRILL. If it should cause debate I must insist on my motion.

Mr. SPALDING. With the consent of the gentleman, I move that the Committee of the Whole on the state of the Union be discharged from the further consideration of House bill No. 211, entitled "A bill to authorize the President to appoint certain officers of his household, and fixing their salaries," and that the House proceed to the consideration of the bill.

The motion was agreed to.

The bill was read at length.

The first section provides that in addition to the officers of his household already authorized by law, the President of the United States be authorized to employ one Assistant Secretary, and a number of clerks not exceeding four.

The second section enacts that the Private Secretary of the President be paid an annual salary of \$4,000, the Assistant Secretary an annual salary of \$3,000, and each one of said clerks an annual salary of 1,800.

The third section provides that the steward of the President's household shall receive an annual salary of \$2,000, and said steward shall be held to a rigid accountability for the plate, furniture, and other public property under his charge in the President's House, during his continuance in office, and shall give a bond to the United States in such sum as the Secretary of the Interior shall deem sufficient, and to be approved by him, for the faithful discharge of his trust.

Mr. SPALDING. I offer the following amendments:

In section one, line six, after the word "Secretary" insert "one stenographer."

In section two, line four, after the word "dollars" insert "the stenographer an annual salary of \$2,500."

Mr. Speaker, I demand the previous question.

Mr. BRANDEGEE. I should like to ask the gentleman from Ohio [Mr. SPALDING] whether the stenographer's duty is to be to take down the President's speeches. [Laughter.]

Mr. SPALDING. I promised that there should be no debate on the bill. I will simply state that these respective officers are necessary for the President's household. An appropriation for these very officers has already been inserted in the general appropriation bill in the Senate. There is no doubt at all that these officers are all strictly necessary.

Mr. PRICE. Does not this bill increase the number of employés about the President's House beyond what it has ever been before?

Mr. SPALDING. Not at all.

Mr. PRICE. The bill states that these officers are to be "in addition to the officers of his household already authorized by law."

Mr. SPALDING. These officers are now detailed from the Treasury Department and the War Department because the President has not the power to appoint them. This bill

is designed to supersede the necessity of having officers detailed from these Departments.

Mr. PRICE. I think that the House is not prepared to vote on this bill without some discussion and a little more information than we now have. I will move to refer the bill—

Mr. SPALDING. I have demanded the previous question.

The SPEAKER. If the previous question should not be seconded, a motion to refer will be in order.

Mr. SPALDING. The bill has already been reported unanimously from the Committee on Appropriations.

Mr. STEVENS. For what is a stenographer wanted?

Mr. SPALDING. For short-hand writing.

Mr. STEVENS. For whom?

Mr. SPALDING. For the President.

Mr. STEVENS. I believe no provision of that kind was reported by the Committee on Appropriations.

Mr. SPALDING. I withdraw my amendment, and demand the previous question on the bill as reported by the committee.

On seconding the previous question, there were—ayes 38, noes 31; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. SPALDING and PRICE.

The House divided; and the tellers reported—ayes 56, noes 44.

So the previous question was seconded and the main question ordered.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. SPALDING. I demand the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. PRICE. I demand the yeas and nays.

The yeas and nays were ordered.

The question being taken on the passage of the bill, it was decided in the affirmative—yeas 80, nays 28, not voting 75; as follows:

YEAS—Messrs. Alley, Ames, Ancona, Delos R. Ashley, Baldwin, Baxter, Bidwell, Blaine, Bundy, Chandler, Reader W. Clarke, Conkling, Cullom, Davis, Daves, Dawson, Defrees, Deming, Denison, Driggs, Dumont, Eckley, Eldridge, Glossbrenner, Goodyear, Griswold, Hale, Aaron Harding, Abner C. Harding, Higby, Hogan, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, James M. Humphrey, Jenckes, Julian, Kerr, Ketcham, Kuykendall, Ladin, George V. Lawrence, William Lawrence, Le Blond, Longyear, Lynch, McRuer, Moorhead, Morrill, Morris, Myers, Niblack, Nicholson, O'Neill, Patterson, Phelps, Pike, Samuel J. Randall, William H. Randall, Ritter, Rogers, Rollins, Ross, Scofield, Sitgreaves, Spalding, Stilwell, Taylor, Thayer, Francis Thomas, John L. Thomas, Ward, Henry D. Washburn, William B. Washburn, Whaley, Winfield, Woodbridge, and Wright—80.

NAYS—Messrs. James M. Ashley, Baker, Brandegee, Bromwell, Sidney Clarke, Cobb, Cook, Henderson, Asahel W. Hubbard, John H. Hubbard, Hulburd, Kelley, Kelso, Loan, McClurg, McKee, Mercur, Paine, Perham, Plants, Price, Sawyer, Schenck, Sloan, Trowbridge, Upson, Williams, and Stephen F. Wilson—28.

NOT VOTING—Messrs. Allison, Anderson, Banks, Barker, Beaman, Benjamin, Bergen, Bingham, Blow, Boutwell, Boyer, Broomall, Buckland, Coffroth, Culver, Darling, Delano, Dixon, Dodge, Donnelly, Eggleston, Eliot, Farnsworth, Farquhar, Ferry, Finck, Garfield, Grider, Grinnell, Harris, Hart, Hayes, Hill, Hotchkiss, James R. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Kasson, Latham, Marshall, Marston, Marvin, McCullough, McIndoe, Miller, Moulton, Newell, Noel, Orth, Pomeroy, Radford, Raymond, Alexander H. Rice, John H. Rice, Rousseau, Shanklin, Shellabarger, Smith, Starr, Stevens, Strouse, Taber, Thornton, Trimble, Van Aernam, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburn, Welker, Wentworth, James F. Wilson, and Windom—75.

So the bill was passed.

Mr. GARFIELD. I move to amend the bill by striking out the words "of his household" and inserting the words "of the Executive Mansion." Those words are, I think, inappropriate. I presume my colleague has no objection.

Mr. SPALDING. I have.

Mr. GARFIELD. I then move that amendment; and on that I demand the previous question.

The previous question was seconded and the main question ordered; and under the opera-

tion thereof the motion to amend the title was agreed to.

The title, as amended, was agreed to.

Mr. SPALDING moved to reconsider the vote by which the bill was passed and the title amended; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles; when the Speaker signed the same:

An act (S. No. 316) to establish a post route from West Alburg, Vermont, to Champlain, in the State of New York, and for other purposes;

An act (H. R. No. 563) to regulate the time and fix the place for holding the circuit court of the United States in the district of Virginia, and for other purposes;

An act (S. No. 132) to prevent and punish kidnapping;

An act (H. R. No. 494) for the relief of Martha J. Willey;

An act (H. R. No. 460) granting a pension to Spencer Kellogg;

An act (H. R. No. 625) granting a pension to John Hoffman, of Madison county, in the State of New York;

An act (H. R. No. 386) for the relief Francis A. Gibbons;

An act (H. R. No. 434) for the relief of Isabella Strubing; and

An act (H. R. No. 445) for the relief of the legal representatives of Betsey Nash.

NATIONAL BANKS.

Mr. DUMONT, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Banking and Currency be, and they are hereby, instructed to inquire into the expediency of repealing so much of the national banking act as requires a redemption of the circulating notes of said banks abroad.

MESSAGE FROM THE PRESIDENT.

A message was received from the President of the United States, by Mr. EDWARD COOPER, his Secretary, informing the House that he had approved and signed an act making appropriations for the services of the Post Office Department during the fiscal year ending June 30, 1867, and for other purposes.

A message in writing was also communicated.

STEAMER VANDERBILT.

The SPEAKER laid before the House the following communication from the President of the United States; which was laid on the table, and ordered to be printed:

To the Senate and House of Representatives:

I transmit to Congress a copy of the correspondence between the Secretary of State and Cornelius Vanderbilt, of New York, relative to the joint resolution of the 28th of January, 1864, upon the subject of the gift of the steamer Vanderbilt to the United States.

ANDREW JOHNSON.

WASHINGTON, May 16, 1866.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, an act (H. R. No. 510) to incorporate the Academy of Music of Washington city.

Also, that the Senate had passed a joint resolution (S. R. No. 52) authorizing the Secretary of the Treasury to change the name of the steamboat City of Richmond to City of Portland, and the schooner Lucinda Van Valkenburg to Camden, in which the concurrence of the House was requested.

Also, an act (H. R. No. 255) making appropriations for the construction, preservation, and repairs of certain fortifications and other works of defense for the year ending June 30, 1857, with an amendment, in which the concurrence of the House was requested.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The CHAIRMAN stated the question to be on the amendment offered on Friday last by Mr. WASHBURN, of Massachusetts, to strike out in line two thousand and two the words "and wooden-ware," on which tellers had been ordered.

The CHAIRMAN appointed Messrs. BRANDEGEE and NICHOLSON to act as tellers.

The committee divided; and the tellers reported—ayes 33, noes 60.

So the amendment was disagreed to.

Mr. MORRILL. On page 89, line two thousand and two, I move to insert before the word "brooms" the words "pumps, garden engines, and hydraulic rams;" so that the paragraph will read:

On scales, pumps, garden engines, hydraulic rams, brooms, and wooden-ware, a tax of three per cent. *ad valorem*.

Mr. STEVENS. I suppose the gentleman does not intend to tax the common wooden pumps that are put into wells. I move to insert the word "metallic" before pumps.

Mr. MORRILL. I hardly think the amendment is necessary. The persons who manufacture wooden pumps seldom manufacture enough to be subject to any tax at all. It would be better, therefore, to leave the paragraph as it is. If you put in the word "metallic" it would include all sorts of pumps.

The question was taken on Mr. STEVENS's amendment to the amendment, and it was disagreed to.

The question recurred on Mr. MORRILL's amendment, and it was agreed to.

The Clerk read as follows:

On tin-ware of all descriptions, not otherwise provided for, a tax of five per cent. *ad valorem*: *Provided*, That in all cases in which such ware shall be delivered to agents or peddlers employed by the manufacturer for the disposal of the same, such ware so delivered shall be deemed to have been sold at the time of delivery, and the tax to be paid thereon shall be computed upon the value known to the trade as the five-pound rate or price for tin-ware.

On iron, not otherwise provided for, advanced beyond blooms, slabs, or loops, and not advanced beyond bars, and band, hoop, and sheet iron, not thinner than number eighteen wire gauge, and plate iron not less than one eighth of an inch in thickness, a tax of three dollars per ton: *Provided*, That a ton shall, for all the purposes of this act, be deemed and taken to be two thousand pounds.

Mr. MOORHEAD. In line two thousand and thirteen I move to insert before the word "blooms" the words "muck bar."

The amendment was agreed to.

Mr. MORRILL. In line two thousand and twelve I move to strike out the words "not otherwise provided for."

The amendment was agreed to.

Mr. DAVIS. In line two thousand and sixteen I move to strike out the word "three" and insert "two" in lieu thereof, so as to make the tax two dollars a ton.

Mr. MORRILL. I trust that amendment will not be adopted. I think the gentleman from New York and others ought to be satisfied with the rate here proposed upon iron, and not risk its being raised higher.

The amendment was disagreed to.

The Clerk read as follows:

On band, hoop, and sheet iron, thinner than number eighteen wire gauge, plate iron, less than one eighth of an inch in thickness, and cut nails and spikes, not including nails, tacks, brads, or finishing nails, usually put up and sold in papers, whether in papers or otherwise, a tax of five dollars per ton: *Provided*, That rods, bands, hoops, sheets, plates,

spikes, and nails, not including such as are usually put up in papers as before mentioned, manufactured from iron upon which the tax of three dollars has been levied and paid, shall be subject only to a tax of two dollars per ton in addition thereto, anything in this act to the contrary notwithstanding.

On stoves, and hollow ware in all conditions, whether rough, tinned, or enameled, and castings of iron, not otherwise provided for, a tax of three dollars per ton.

On tubes made of wrought iron, a tax of five dollars per ton.

Mr. ANCONA. I move to amend by striking out the clause:

On tubes made of wrought iron, a tax of five dollars per ton.

I suppose that this must have been a mistake, as I find by reference to the act as it now stands, items of the same class were included in the free list. I do not know why a discrimination should be made against this particular article, and I move to strike out that clause.

Mr. MORRILL. If you strike out this clause this article will be subject to a duty of five per cent. *ad valorem*. Five dollars per ton is much less. I hope the motion will not prevail.

The amendment was disagreed to.

Mr. ANCONA. I move, then, to add at the end of the clause the following proviso:

Provided, That tubes made of wrought iron, upon which a tax of three dollars has been levied and paid, shall be subject only to a tax of two dollars per ton in addition thereto.

Mr. MORRILL. I must object to that proposition. A tax of five per cent. on tubes made of wrought iron is a very low tax, not exceeding half of what we impose on other manufactures. I hope the amendment will not be adopted.

Mr. ANCONA. I move to amend my amendment by striking out the last word.

The chairman of the Committee of Ways and Means does not seem to present any reasons why this amendment should not be adopted. I find that some articles, such as hubs, nails, and spikes, under the same head in the law as it now stands, are relieved of this duplicate tax, and he has presented no reason why wrought-iron tubes should not be placed on the same footing. I trust my proviso will be adopted, and I now withdraw the amendment to the amendment.

The question was taken on the amendment, in the nature of a proviso, and it was disagreed to.

The Clerk read as follows:

On steam, locomotive, and marine engines, including the boilers, and all their parts, a tax of five per cent. *ad valorem*: *Provided*, That when such boilers or any other parts of engines, as aforesaid, shall have been once assessed, and a tax previously paid thereon, the amount so paid shall be deducted from the taxes on the finished engine.

Mr. MORRILL. I move to amend the proviso by striking out the words "such boilers or any other parts of" and inserting in lieu thereof the words "the boilers or tubes, wheels, tires, axles, bells, shafts, cranks, wrists, or headlights of such."

Mr. DAVIS. I desire to call the attention of the gentleman from Vermont [Mr. MORRILL] that by his amendment the portions of the engine not enumerated would be subject to the additional tax.

Mr. MORRILL. The Committee of Ways and Means have gone as far as it is possible in exempting particular parts and have the law properly executed.

The amendment was agreed to.

Mr. MORRILL. I move to strike out the words "and all their parts" and the words "as aforesaid."

The amendment was agreed to.

Mr. BALDWIN. Mr. Chairman—

Mr. GARFIELD. Mr. Chairman—

The CHAIRMAN. The members of the committee reporting the bill are first entitled to the floor to move amendments to perfect the bill.

Mr. GARFIELD. I move to amend by inserting after the word "boilers," where it first occurs in the paragraph, the words "and on railroad cars."

The amendment was agreed to.

Mr. GARFIELD. I move to amend the proviso by inserting after the word "engines" the words "or cars," and also by inserting after the words "finished engine," the word "or car."

The amendment was agreed to.

Mr. BALDWIN. The gentleman from Ohio [Mr. GARFIELD] has moved the very amendments I desired to propose; and therefore I have none to move. [Laughter.]

The Clerk read as follows:

On boilers of all kinds, water tanks, sugar tanks, oil stills, sewing-machines, lathes, tools, planes, planing-machines, shafting and gearing, a tax of five per cent. *ad valorem*.

No amendment being offered,

The Clerk read as follows:

On iron railings, gates, fences, furniture, and statuary, a tax of five per cent. *ad valorem*.

Mr. MORRILL. I move to strike out the word "iron" before the word "railings," and also to insert the words "made of iron" after the word "statuary."

The motion was agreed to.

The Clerk read as follows:

On copper and brass tubes, nails, or rivets, sheet lead, and lead pipes and shot, a tax of five per cent. *ad valorem*.

No amendment being offered,

The Clerk read as follows:

On goat, calf, kid, sheep, horse, hog, and dog skins, tanned or dressed in the rough, a tax of five per cent. *ad valorem*.

No amendment being offered,

The Clerk read as follows:

On goat, calf, kid, sheep, horse, hog, and dog skins, curried or finished, a tax of five per cent. *ad valorem*: *Provided*, That all goat, calf, kid, sheep, horse, hog, and dog skins previously assessed in the rough, and upon which taxes have been actually paid, shall be assessed on the increased value only when curried or finished.

Mr. MORRILL. I move to amend by striking out the words "previously assessed in the rough" and inserting after the words "upon which taxes" the words "or duties."

The amendment was agreed to.

The Clerk read as follows:

On patent, enameled, and japanned leather and skins of every description, a tax of five per cent. *ad valorem*: *Provided*, That when a tax has been paid on the leather in the rough, the tax shall be assessed and paid only on the increased value.

Mr. DAVIS. I suggest to the gentleman from Vermont [Mr. MORRILL] that the words "or duty" should be inserted after the word "tax," as in the preceding paragraph.

Mr. MORRILL. The gentleman is right.

The amendment was agreed to.

The Clerk read as follows:

On oil-dressed leather, a tax of five per cent. *ad valorem*.

No amendment being offered,

The Clerk read as follows:

On leather of all descriptions, tanned or partially tanned, in the rough, a tax of five per cent. *ad valorem*.

No amendment being offered,

The Clerk read as follows:

On leather of all descriptions, curried or finished, a tax of five per cent. *ad valorem*: *Provided*, That all leather previously assessed in the rough and upon which duties have been actually paid, shall be assessed on the increased value only when curried or finished.

No amendment being offered,

The Clerk read as follows:

On wine made of grapes, a tax of five cents per gallon.

Mr. STEVENS. I move to strike out this paragraph.

Mr. MORRILL. Before the question is taken upon that motion, I desire to move to perfect the paragraph by inserting after the word "wine" the words "further advanced than juice or must."

Mr. McRUER. I desire to oppose that amendment.

Mr. STEVENS. Is it not better to strike out the whole paragraph?

Mr. McRUER. I am willing to have that done.

The motion of Mr. MORRILL was agreed to.

Mr. MORRILL. I move to further amend by adding the following proviso:

Provided, That grape juice, or must, when sold im-

mediately from the vineyard to vintners, shall not be taxed.

The amendment was agreed to.

The question recurred upon the motion of Mr. STEVENS to strike out the paragraph.

Mr. STEVENS. This is one of those agricultural products which I think it is the interest of this country to encourage. It may become a very ruling interest in some of our States, especially in California and other States, but it requires some encouragement. We get but a small amount of revenue from this tax, I believe some thirty-four thousand dollars only. And yet this tax is quite an annoyance to that interest, and I hope, therefore, this paragraph will be stricken out, and allow these producers to go on for the present at least without any tax until they get a foothold.

From what I have heard and read there is no country in the world better calculated for the production of grapes and wine than the country upon the Pacific coast. And if we give this interest the proper encouragement I look for our native productions of wines to take the place of those of Italy, France, and Madeira. I hope, therefore, that for the present we will not put our heavy hand upon this infant lest it should become deformed.

Mr. MORRILL. I trust the motion of the gentleman from Pennsylvania [Mr. STEVENS] will not prevail. I think the amendments the committee have already adopted will remove all the just or legitimate complaints of vine-growers in this country. We have provided that wine shall not be taxed until it passes from the hands of the grape-growers, if they sell it in the form of juice or must. If it shall be sold when it reaches the stage when it is called wine, or when it has passed from the condition of juice or must it is to be taxed. Certainly there is no article upon which we can more properly levy a tax. We are giving this interest a great amount of encouragement. We are levying extraordinary duties upon the sale of beer, and upon spirits of all descriptions, and I am perfectly willing, for one, that we shall levy such import duties as shall give the growers of grapes and manufacturers of wines any amount of encouragement in the home market for the sale of their products. But it does seem to me that, when we levy a tax of fifty cents or a dollar upon a gallon of foreign wine, this small pittance of five cents a gallon can be legitimately and properly borne by the makers of wine in our own country. I think, Mr. Chairman, that we have met in the proposition as it now stands all just complaints on this subject; and I may say that we have no complaints whatever except from California. In Ohio, a State producing probably half as much wine as California, no objection is made even to the existing form of the tax. There are others of the western States which, I suppose, are destined to become large producers of wines from grapes.

Now, sir, it strikes me that there are no men who can be more properly subjected to a tax than those who buy this juice and must, and manufacture it, selling the wine for the high prices which we know they demand and obtain throughout the country. I know that the wines made in California and in other parts of our own country are very pure, and are much more desirable in many respects than foreign wines now introduced into the country at a low rate upon an *ad valorem* duty. For one, I am willing to give our native wine all the protection that it requires; but in order that we may do so, I trust that no gentleman will come here and claim that this article should be entirely exempt from bearing any of our present great burden of taxation.

To be sure, we received last year only about thirty-four thousand dollars from this source. But I suppose that the receipts of the Treasury this year from this source will be very largely increased. I have no doubt that this year the amount will be at least double the sum received last year; and I expect that within a year or two a very large revenue will be derived from this source. I think we should not now set

the precedent that wine manufactured in this country shall be entirely exempt from tax so long as we impose a heavy tax upon all other liquors and beverages.

Mr. BIDWELL. I move to amend the amendment by striking out the last word. No gentleman upon this floor is more anxious than I am to see our taxation fall upon precisely those articles which can best bear it. On this subject I can only speak in regard to California. Understanding well, as I think I do, the condition of the wine-growing interest upon that coast, I can say that the smallest tax that you can impose upon the wine-growing interest in California would be burdensome, for the reason that that interest has not yet attained a self-sustaining position. Those in possession of vineyards most advanced, those who are manufacturing wines upon the largest scale, are not doing it at a profit upon their investments. The reason is plain. They have to contend there against many expenses which are not encountered in other sections of the country. In the first place, the cost of labor is much higher. All materials out of which are made the casks in which to keep this wine must be imported from this side of the continent. It will not do to put the wines into old casks, for wines spoil very quickly. When a cask has been used for other liquors, it is almost impossible to purify it sufficiently to make it fit to keep wine in.

Besides, it is impossible to draw the line of distinction between the condition of the grape juice in the form of must and the condition in which you would call it wine. When it is first expressed, it is grape juice or must, after it is perfectly fermented it ceases to be must. But when does that fermentation cease? With some kinds of wine it may cease in two years; with other kinds it may not cease in five years. So long as the wine contains impurities which continue to be fermented and it requires to be racked off and the cask purified, it is liable to spoil upon your hands. It is not a wine that you can pronounce a merchantable article, and which should be taxed.

Let me make one further remark. Vineyards in California are even now only in their infancy. When a vineyard is planted, from four to ten years must elapse before it even pays expenses, much less produces any profit. Hence the smallest tax which you may put upon that interest must be onerous. In California last year some seventeen thousand dollars of tax was collected. Now, there are some five or six revenue districts in that State, and the collection of the revenue must require in each district perhaps two persons, each at a salary of not less than \$1,000 per annum. Hence the revenue collected scarcely exceeded the cost of collecting it.

[Here the hammer fell.]

Mr. MORRILL. I will merely say, Mr. Chairman, that we have by our legislation largely increased the price of all descriptions of domestic wines, and it appears to me no more than fair that the Government should derive some revenue from what is produced here at home. I am not convinced that the prosecution of this business throughout the country is not one of the most profitable that can be engaged in.

Mr. BIDWELL. I withdraw the amendment to the amendment.

Mr. HIGBY. I renew it. I wish to draw the attention of the chairman of the committee and of members of the House to a portion of this bill. It is true we have not yet reached it, but I have no doubt the chairman of the committee and others will press its adoption with the same tenacity that they have shown in regard to so large a portion of this bill. On page 164 of the bill I find this provision:

That on all wines, liquors, or compounds known or denominated as wine, made in imitation of sparkling wine or champagne, and put up in bottles under the label, name, designation, or similitude of any imported wine, or wine of foreign growth or manufacture, or with the appearance or pretense of being imported wine, or wine of foreign growth or manufacture, there shall be levied and paid a tax of six

dollars per dozen bottles, each bottle containing more than one pint, or three dollars per dozen bottles, each bottle containing not more than one pint.

I suppose it is a well-known fact that there are no wines raised in this country but what are classed or classified as mentioned in this section, which I believe is an addition to the original law upon this subject, and no doubt it is intended to be a tax and would be a very heavy tax on all wines that are raised in this country. I am looking to the action of this House with regard to that section. Probably it will be adopted. If it is, it will certainly be a very heavy burden upon the culture of the grape and making of wine in this country.

It is a well-known fact in the State of California that grape juice in its first stage is a very cheap article, selling at from twenty-five to thirty-five cents per gallon by thousands and thousands of gallons. The small jobbers are those who will have to bear this burden of five cents a gallon. It takes time to become valuable. One year adds to the value of the wine one or two hundred per cent.; two years doubles it, and so on. The man who has money can purchase at great advantage because the tax, amounts to nothing against capital invested for a number of years. But the small men are to be burdened and distressed by that little tax whereas the provision on page 164 is the one that will come upon the capitalist.

[Here the hammer fell.]

Mr. MORRILL. I desire to correct the gentleman from California so far as to say that the wines provided for on page 164 are not wines made from grapes at all. They are merely wines manufactured in the cities from a small portion of spirits, sugar, and some other articles. If the gentleman will notice the commencement of the section he will see that it refers solely to imitation wines. It does not include the real wines that we are considering at all.

Mr. HIGBY. I withdraw the amendment to the amendment.

Mr. LAWRENCE, of Ohio. I move to strike out "five" and insert "ten;" so that it will read: "on wine made of grapes, a tax of ten cents per gallon."

We all desire to get this bill into a shape in which each product of the country will render its just tribute of taxation. Now, I think there is no one product which pays better for the amount of capital and labor invested than does the article of grape wine. It is not an absolute necessity. It is a luxury; and the theory upon which this bill, to some extent, proceeds is, that it is not our policy to tax sources of productive industry except so far as they produce luxuries. This is one of the luxuries which will bear more, I think, than five cents tax per gallon. We tax leather five per cent., candles five per cent., and many other articles the same. We tax wooden screws which enter into the manufacture of a great many other articles, five and ten per cent.; and we tax matches one cent a box, while we propose by this provision to tax this article of luxury, indulged in as a general rule only by the wealthy, a thing not essential to life or to comfort, five cents a gallon. That is less than one cent a bottle. We propose to tax wine one cent a bottle, while we tax matches one cent a box.

Now, sir, I am perfectly willing, when the tariff bill shall come up, to impose such a duty upon foreign wines as will give to our home manufacturers command of the home market. But I am unwilling that this article of luxury should escape with less than ten cents tax on each gallon manufactured in this country. There is no article that can endure a tax better. It is a mere article of luxury; and the theory of this bill is that luxuries should be required to pay large revenues to the country. I hope my amendment will prevail.

Mr. SPALDING. I rise to oppose this amendment. I represent a district which is very considerably interested in the production of wine. But my constituents are entirely willing to bear their share of this internal tax levied upon wine or other articles, provided

the people may not be distressed thereby. There are certain articles of prime necessity in regard to which the taxes should be light; but so far as regards this duty of five cents a gallon upon our native wine I have no objection, so far as our producers are concerned, to its imposition. I object, however, to the amendment offered by my colleague to raise it to ten cents. I agree with the committee as regards the rate imposed.

Mr. McRUER. I move *pro forma* to insert seven instead of ten cents. It is with some reluctance that I rise to say that I am in favor of striking out the tax proposed in this bill, which applies particularly to my own State. I probably have the honor to represent the largest wine-growing district in the country, and I desire to say that I have no intention nor desire to relieve my district from its fair share of public burden. I consider it not only a duty, but a privilege, for them to bear what is justly imposed upon them.

Mr. Chairman, the production of California wine is an exception to all other agricultural pursuits in this country. Perhaps it is not generally known that a person who plants a vineyard has to wait patiently for five long years before he can get the first remunerative profit on the culture of grapes. It is entirely different from all other agricultural pursuits, where in a few months you can realize on your products. The wine-grower has to wait many years, and this, in a country where capital and labor are very high and where wine-growing is in its infancy, is an important consideration. Though our soil is admirably adapted to the cultivation of the grape, it does not necessarily follow that we can make as good wine as is made in Europe. It is yet an experimental thing, and must often result in failure.

It may not be generally known that what is termed wine in California, the product of the grape that has undergone the process of fermentation and is recognized as wine, although technically it might be known as something else, sells there for about thirty cents a gallon. That is about the current price that the manufacturer of that wine realizes for the raw product. The present expense of package in order to transport it to market is, this last year, ten cents a gallon. The average cost in placing it in market at San Francisco, for export or consumption, is almost equal to the cost of bringing it from France. And although this is an interest that we think very highly of and desire to cultivate, and which the State of California exempts from all taxation, still it is a fact that the people who have cultivated the grape there for the last five or ten years have not made it a profitable investment.

[Here the hammer fell.]

Mr. KELLEY. I rise to oppose the amendment. I consider ten cents to be an inordinate tax on this article. Indeed, I think wine should have had no tax upon it. I understand a tax of five cents a gallon is equivalent to a tax of fifteen or twenty per cent. upon the article. That is a higher rate than we have proposed on most other products.

Gentlemen say it is an article of luxury. It ought not to be an article of luxury, and if we look to the health and temperance of our people we will not treat it as a matter of luxury. Could our home-grown wines abound so that all our people could drink them, as they do in France and Germany, we would present in our morals a blessed contrast to our present condition. Wherever wine is cheap—pure native wine—the people are temperate. It enters into their daily use. Wherever it is dear, as in England and Scotland, intemperance marks in an important degree the life of the lower orders of the people.

This is a new branch of industry. Its machinery, its customs, are not yet established. I would take the whole tax off until we shall have vineyards in every part of the country and our manufacturers shall be so skilled in the production of wine that we will say in this country, as they do in France when they want

to indicate the extreme poverty of a laboring man, "Why he is so poor that he does not drink wine for his dinner." We make a great mistake when we impose any tax on a new branch of industry that connects itself in so important a way as this does at once with the sanitary condition of the people, and with their morals. Sir, the American people are more afflicted with that terrible disease dyspepsia than any other; and why? Because almost every other people on the face of the globe, at least within the bounds of Christendom, indulge in acid wines, and they are cheap. Instead of that, here such wine is a luxury. It is continually prescribed to the rich dyspeptic, while the poor laboring man on the shoe-maker's or tailor's seat cannot get the specific, because it is so expensive. I would cheapen it by removing all taxation from it.

[Here the hammer fell.]

Mr. McRUER. I withdraw the amendment to the amendment.

Mr. CLARKE, of Ohio. I move to strike out "ten" and insert "three."

The gentlemen who have spoken in regard to this tax seem to assume that this is an article produced without any expense. Now, sir, there is no article produced from the ground that costs more money in producing it than wine does. Almost everything used by the producer of the grape requires the expenditure of money. Nor is that all. There is no business so precarious as this in the region of country where I reside, which is the wine region of Ohio. The crop is by no means a certain one. In two out of five seasons the grape cultivator may expect a failure.

Now, if you wish to tax the cultivation of this article out of existence a proposition to tax it five or ten cents a gallon is well enough. But if it is to be encouraged, as it ought to be, especially on the grounds suggested by my friend from Pennsylvania, [Mr. KELLEY,] then such a tax is manifestly excessive.

This is one of the most important interests in my section of country. In some portions of it we can raise nothing else. We go upon the hill-sides and make them contribute to the industry of the country. The amendment moved by the chairman of the Committee of Ways and Means taxing this article while in the condition of must at five cents per gallon, really amounts to ten cents, for every run after it passes the press it is losing and wasting, and when ready for the market in the character of wine it has lost one half of the capacity it had when taken from the press. I ask gentlemen to consider these facts.

Mr. WRIGHT. It is the first duty of the Congress of the United States to provide a system of taxation that will enable us to pay the interest upon the national debt, and to fund a certain portion to meet the principal of that debt upon some future occasion.

A proposition is made here to tax native wines, and I desire to call the attention of the House to this consideration. You are well aware that the introduction of lager beer into this country has done a world of good in aid of the temperance societies of the nation. We are manufacturing wines in this country, and intend at no distant day to manufacture them so cheaply that they may be a substitute for whisky, to the end that there may be a greater degree of sobriety among the people, while the masses of the people may enjoy their creature comforts.

Now, what is the effect of this bill? The gentlemen of wealth can afford to pay the duty imposed, for after all the tax comes out of the pocket of the consumer. If you impose a tax upon these native wines it of course has to come out of the consumer. Where are you then? You are denying the masses of the people those beverages in which you indulge yourself. In this remark I am not to be understood as speaking personally. You first put a duty on foreign wines, and raise the price of them so high that no poor man can enjoy them, and then, when you come to our native wines, that should be enjoyed by the masses of the

people, as if to punish them for desiring to enjoy these luxuries, you propose to put on them also.

I have no desire to occupy the time of the House. I only desire to say that by taxing the people on all sides, and then taxing the man who has an income, you are putting on too heavy a burden for the country to bear.

I have no interest in this matter, except to call the attention of the House to it.

Mr. CLARKE, of Ohio. I withdraw my amendment.

Mr. MORRILL. I renew the amendment, *pro forma*, for the purpose of saying this: that after we have proposed a tax of two dollars per gallon on whisky, such as is consumed by the laboring men, the men who get out the coal and make the iron, and then come to an article that is consumed only by gentlemen who can afford to pay a tax, I think our law would not look very well if we should make such a luxury free. I move that the committee rise for the purpose of terminating debate on this paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had to come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of House bill No. 513, all debate upon the pending paragraph and the amendments thereto terminate in three minutes.

Mr. BIDWELL. I suggest to the gentleman that he make it ten minutes.

Mr. MORRILL. To accommodate the gentleman from California I will modify my motion, and say eight minutes.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. MORRILL. I withdraw my amendment.

Mr. BIDWELL. I renew it. I feel persuaded that if the true condition of the wine-producing interest of California could be understood by this House no tax would be imposed upon it, unless it was done with the purpose of crushing that interest. After wine is made in California you then have to transport it seventeen thousand miles around Cape Horn in order to find a market. You have to pass twice through the tropics, during which time the wine is liable to spoil on your hands. You have to pay interest and insurance upon the risks of the ocean, all of which accumulates immensely the expense.

I have already said that even the smallest tax would be a burden. It takes fourteen pounds of grapes to make a gallon of wine. Those grapes at the vineyard where they are raised are worth perhaps a cent a pound. When you have expressed the juice it is worth from twenty to thirty cents a gallon, including all the cost of labor.

But that is not the cost of the wine. The labor upon it, the cask in which you have to put it, the cost of transporting it to San Francisco, a distance of four or five or six hundred miles oftentimes in California, in many cases where there are no railroads; all these things enhance the cost. And taking everything into consideration, labor, transportation, &c., you cannot produce wine in California for less than from ninety cents to \$1 25 a gallon. Now, if Congress wishes to crush this interest then impose this tax. Five cents a gallon, as low as it appears, is one third of the value, after deducting the cost of labor, &c. I think that we ought rather to encourage this interest in order to do away with strong drinks and substitute for them a beverage pure, healthful, and invigorating. I am not a wine drinker myself, nor am I an advocate for wine drinking. But if you will foster this interest upon the Pacific coast in a short time we will be able to produce all the raisins and all the wine and all the brandy that will be required in the United States or upon the American continent. But put your tax upon it at this time and you will crush it in its infancy just as it is struggling into existence.

I hope that the amendment of the gentleman from Pennsylvania [Mr. STEVENS] will prevail, and that this paragraph will be stricken out. The entire amount of tax upon wine collected in the United States during the past year, I understand, was but a little over thirty-four thousand dollars. Now, is it worth while to crush out an interest that may become one of the first interests of this country for such a small sum as that? I really think not; and I hope, therefore, this paragraph will be stricken out.

Mr. PRICE. We started out upon the proposition that we are to tax luxuries in this bill. I suppose no one will object to that proposition. It is admitted on all sides that our taxes ought to be levied mainly upon the luxuries of the country. If wine is not a luxury, then we do not want to tax it. But if, as has been supposed heretofore in the history of this country, wine is among the luxuries of the country, then we want to tax it.

Now, if I had not thought it would have been a work of supererogation, I would have moved to increase this tax to twenty-five cents a gallon. You have imposed a tax of two dollars a gallon on whisky; yet wine will make a person as drunk as whisky will, though it may require a little more of it perhaps. But I am told by those who have tried it that being drunk on wine is the meanest kind of drunkenness. I speak from information only, for I have never had any experience in that matter.

But the most singular argument used upon this floor to-day is the argument of the gentleman from Pennsylvania [Mr. KELLEY] calling the attention of the House to the morality of France, which he says is to be directly traced to their habit of wine drinking, and my friend from California [Mr. BIDWELL] indorsed the proposition. Now, in all my reading and experience, this is the first time in my life that I have ever heard France held up as an especial example of morality. Now, I am willing to make a compromise with those gentlemen. If they can show that France is a more moral country than this because they drink more wine and less water there, then I will be willing to strike this out; provided they will agree that if the morality of France is not equal to the morality of this country they will agree to put a tax of twenty-five cents a gallon on wine.

Mr. KELLEY. Will the gentleman allow me a moment?

Mr. PRICE. I cannot yield now out of three minutes, of course. But I will meet the gentleman any evening and talk over the matter with him for an hour.

Mr. THAYER. Over a bottle. [Laughter.]

Mr. PRICE. A bottle of water. Now what does this bill propose to do? You propose to put a tax of two dollars a gallon on whisky, the beverage the poor man exercises the privilege of getting drunk on, and only five cents a

gallon on wine, the beverage the rich man exercises his privilege of getting drunk on. I would like to know how much tax on a drink of wine that is. I know of no system of arithmetic by which you could tell what it would amount to.

Now, I think wine can bear a tax of twenty-five cents a gallon, or even fifty cents a gallon, just as well as whisky can bear a tax of two dollars a gallon. And I am not certain but it can bear a tax of two dollars a gallon as well as whisky can.

The question was upon the amendment of Mr. CLARKE, of Ohio, to the amendment of Mr. LAWRENCE, of Ohio, to strike out "ten" and insert "three," making the tax upon wine three cents a gallon.

The amendment to the amendment was not agreed to.

The question recurred upon the amendment of Mr. LAWRENCE, of Ohio, to strike out "five" and insert "ten," so as to make the tax upon wine ten cents a gallon.

The amendment was not agreed to.

The question was upon the motion of Mr. STEVENS to strike out the paragraph as amended.

Mr. MORRILL. I will ask the Clerk to read the paragraph as amended, so that members may understand it.

The Clerk again read the paragraph as amended, as follows:

On wine made of grapes further advanced than juice or must, a tax of five cents per gallon: *Provided*, That grape juice or must when sold immediately from the vineyard to vintners shall not be taxed.

Mr. STEVENS. I ask for tellers on my motion to strike out this paragraph.

Tellers were ordered; and Messrs. PRICE and KELLEY were appointed.

The committee divided; and the tellers reported—ayes 40, noes 54.

So the motion to strike out the paragraph was not agreed to.

The Clerk read as follows:

On all other wines or liquors known or denominated as wine, not made from currants, rhubarb, or berries, produced by being rectified or mixed with other spirits, or into which any matter whatever may be infused to be sold as wine, or by any other name, and not otherwise provided for in this act, a tax of fifty cents per gallon: *Provided*, That the return, assessment, collection, and the time of collection of the duties on such wines, and wine made of grapes, shall be subject to the regulations of the Commissioner of Internal Revenue. And any person who shall willingly and knowingly sell or offer for sale any such wine made after the passage of this act, upon which the tax herein imposed has not been paid, or which has been fraudulently evaded, shall, upon conviction thereof, be subject to a penalty of \$100 or to imprisonment not exceeding two years, at the discretion of the court.

Mr. MORRILL. I move to amend this paragraph by striking out the words "other wines or" in the first line, and inserting the word "grapes" before the word "currants" in the next line.

The amendment was agreed to.

Mr. MORRILL. I move to amend the paragraph near the close by striking out the word "penalty" and inserting the word "fine."

The amendment was agreed to.

Mr. LAWRENCE, of Ohio. I move to amend this paragraph by making the tax one dollar a gallon instead of fifty cents a gallon, as it now reads. And I desire to say a few words upon that amendment.

It will be seen that this paragraph proposes to levy a tax upon "liquors known or denominated as wines" which are not manufactured from grapes, currants, rhubarb, or berries. It is, in other words, a tax upon that description of liquors denominated wines which are mere compounds, mere villainous compounds, generally a fraud upon the public, and a fraud upon all who drink them. We ought not to encourage the production of that kind of liquor. I hope, at least, that this paragraph will be so amended as to levy a tax of one dollar a gallon instead of a tax of fifty cents a gallon.

Now, it seems to me that the only objection that can be urged to this amendment is that it may be exceedingly difficult to collect so heavy

a tax as one dollar a gallon on this kind of liquor. The law will, undoubtedly, be evaded to some extent. But wherever it is possible to collect the tax of fifty cents a gallon, it seems to me it will be equally possible to collect a tax of one dollar a gallon. In the hands of vigilant and faithful officers the tax will be collected. And as well for the purpose of revenue as for the purpose of discouraging the manufacture of this kind of liquor, I hope this amendment will prevail.

Mr. MORRILL. I trust this amendment will not prevail, because we propose to derive some revenue under this provision. If the amendment of the gentleman from Ohio [Mr. LAWRENCE] should prevail, this provision will prove utterly nugatory as an enactment, for we shall not collect a single dollar under it.

All that parties have to do, in order to make these wines, is to obtain the receipts, which every gentleman here has doubtless seen in temperance tracts and papers. Any business man who has whisky can make these wines, because the other materials are easily procured. They are easily mixed and easily rectified. The process requires no machinery, and the fact is easily concealed. We already tax the article of chief cost, in the form of whisky or spirits, a heavy percentage—two dollars a gallon. Now, if the committee is in favor of collecting any revenue at all upon this article, I hope the amendment as now proposed will not prevail.

I am as ready as the gentleman from Ohio [Mr. LAWRENCE] to concede that these are villainous compounds. But I know that at the present time, instead of being made in this country, they are made abroad. Parties have moved their establishments into foreign countries where they can obtain whisky or alcohol at a much less price, and where they can manufacture these cheap wines and send them here at a less price than the duty which the gentleman proposes to place in the internal revenue bill. For instance, our tariff law imposes upon wines worth fifty cents or less a gallon a duty of twenty-five cents a gallon and twenty per cent. *ad valorem*. These wines can, therefore, be made abroad, and pay the duty here, and then be sold for less than a dollar per gallon. These articles can be manufactured in France or in Germany, and sent here at less than a dollar a gallon.

Mr. LAWRENCE, of Ohio. We can provide for all that by a new tariff.

The CHAIRMAN. Debate is exhausted on this amendment.

The amendment was not agreed to.

Mr. DAVIS. I move to amend by striking out "one" in line two thousand and ninety-two and inserting in lieu thereof the word "five," so that the clause will read:

Shall, upon conviction thereof, be subject to a penalty of \$500 or to imprisonment not exceeding two years, at the discretion of the court.

I will state my reason for offering this amendment. I see that the term of imprisonment authorized under this section is two years. Now, if the fine were increased to \$500, I think that the court would in most cases impose the fine rather than the imprisonment; and I believe it would be wiser.

Mr. MORRILL. I see no objection to the amendment.

The amendment was agreed to.

The Clerk read as follows:

On cloth and all textile or knitted or felted articles or fabrics of cotton, wool, or other materials, before the same has been dyed, printed, or bleached, and on all cloth painted, enameled, shirred, tarred, varnished, or oiled, a tax of five per cent. *ad valorem*.

No amendment being offered,

The Clerk read as follows:

On thread, a tax of five per cent. *ad valorem*.

Mr. MORRILL. I move to amend by inserting after the word "thread" the words "and twine."

The amendment was agreed to.

The Clerk read as follows:

On articles of clothing manufactured or produced for sale by weaving, knitting, or felting; on hats, bonnets, and hoop-skirts; on articles manufactured

or produced for sale as constituent parts of clothing, or for trimming or ornamenting the same, and on articles of wearing apparel manufactured or produced for sale from India rubber, gutta-percha, or paper, or from fur, or fur skins dressed with the fur on, a tax of five per cent. *ad valorem*.

Mr. MORRILL. I move to amend by striking out in line twenty-one hundred and six the words "or paper."

Mr. GARFIELD. When the Committee of Ways and Means agreed to recommend this amendment, the facts relating to the matter were not as fully stated, I believe, as they should have been, or the amendment would not have been recommended. The object in striking out the words "or paper" was to exempt paper collars from this *ad valorem* tax of five per cent. Since the action of the committee on this subject, I have learned that paper collars are manufactured by one very large establishment which has a monopoly of the manufacture, and there are very few things in the whole country that can bear the burden of a tax better than a manufacture of that sort. I think, therefore, that the amendment should not be agreed to. The object of the committee, in agreeing to present the amendment, was to help the manufacturers of paper collars; but I believe the amendment would not have been recommended had the committee known that these collars are manufactured by a monopoly that has the control of this entire business.

Mr. LAFLIN. The fact, as I understand, is not, as the gentleman asserts, that the manufacture of paper collars has become a monopoly. The truth, as I understand, is that there are two or three or perhaps seven or eight concerns that claim to possess exclusively a certain patent for the manufacture of paper collars. Forty or fifty other establishments, representing a very large interest, are acting against those concerns. The competition has reached such a point that it is now almost within the power of this monopoly to destroy the other establishments. It is the interest of this combination or monopoly that this tax should be levied, since it would give them the power to crush all competition.

Mr. MORRILL. I withdraw the amendment.

Mr. HOOPER, of Massachusetts. I move to amend by striking out in lines two hundred and one and two hundred and two, the words, "hats, bonnets, and." I make this motion that I may move hereafter to insert these articles in the paragraph with ready-made clothing, gloves, mittens, &c., which are subjected to a tax of one per cent.

Mr. MORRILL. I feel compelled to oppose this amendment; for if the tax on these articles should be reduced, or if they should be exempted, it will cause a very large reduction of the revenue. Every man wears a hat; every woman wears a bonnet. Of course, therefore, the amount of business in these articles is immense; and they are articles which can bear this tax as well as anything else. A hat that sells for ten dollars would not sell at any lower price, if we should take off the tax. Then there is a large and very profitable trade in braid and straw bonnets. If the tax on these should be reduced, it would largely diminish the revenue. I hope, therefore, that the amendment will not prevail.

The amendment was not agreed to.

The Clerk read as follows:

On boots and shoes, a tax of two per cent. *ad valorem*, to be paid by every person making, manufacturing, or producing for sale boots and shoes, or furnishing the materials or any part thereof, and employing others to make, manufacture, or produce them: *Provided*, That any boot or shoe-maker making boots or shoes to order as custom work only, and not for general sale, and whose work, exclusive of the materials, does not exceed annually in value \$1,000 shall be exempt from this tax.

Mr. RANDALL, of Pennsylvania. Mr. Chairman, I move to amend by striking out in line twenty-one hundred and sixteen the word "one" and inserting in lieu thereof the word "two;" so that the clause will read:

Provided, That any boot or shoe-maker making boots or shoes to order as custom work only, and not for general sale, and whose work, exclusive of the materials, does not exceed annually in value \$2,000 shall be exempt from this tax.

The Committee of Ways and Means have very wisely, in my judgment, sought to exempt from taxation those shoe-makers who do a small amount of business. I think, however, they have not carried this exemption far enough. There are, I am informed, many of these people who do a business the work of which amounts to \$1,500 or \$2,000 annually. I hope, therefore, that the chairman of the Committee of Ways and Means will assent to my amendment. Although it may seem a small matter, it is a very important matter to these small shoe-makers.

Mr. MORRILL. I cannot consent to the amendment of the gentleman from Pennsylvania. If gentlemen will examine this paragraph they will find that this tax applies only to work, exclusive of all materials. A shoe-maker or boot-maker doing work for custom purposes solely must be a very diligent man if he makes more than \$1,000 worth of work annually, exclusive of materials. Besides, the committee will observe that we have reduced the tax upon these articles from six per cent. to two per cent. Hence the amount of tax is very small under any circumstances. I trust the amendment will not prevail.

Mr. LE BLOND. I desire to offer an amendment to the amendment, to strike out in line twenty-one hundred and eight the word "two" and insert in lieu thereof the word "five;" so that the clause will read:

On boots and shoes a tax of five per cent. *ad valorem*.

Also by striking out in line twenty-one hundred and fourteen to twenty-one hundred and sixteen, the following words:

And whose work, exclusive of the materials, does not exceed annually in value \$1,000, shall be exempt from this tax.

This amendment will accomplish in part the same object which is sought by the gentleman from Pennsylvania in his motion. If "two" be stricken out and "five" inserted we shall adopt in this paragraph the same rate of taxation which is applied to manufacturers in the previous paragraph.

Then as to the second branch of my amendment, I will say that those who manufacture boots and shoes for customers alone, even in our small towns in the western country, certainly manufacture every year more than \$1,000 worth of boots and shoes.

Mr. MORRILL. Not exclusive of material.

Mr. LE BLOND. I think so.

Mr. MORRILL. Oh, no!

Mr. LE BLOND. I think the work itself will amount to more than \$1,000 even among the small shoe-makers throughout our country.

Certainly the shoe-makers are a class of persons who above all others ought to be exempt from any taxation. I hope that the entire paragraph will be stricken out. That will exempt the shoe-makers altogether.

The CHAIRMAN. Neither of the gentleman's amendments is germane to the amendment; and therefore neither is in order now.

Mr. MORRILL. I move *pro forma* to amend the amendment by inserting "\$1,500" instead of "\$2,000."

If the amendment proposed by either the gentleman from Pennsylvania [Mr. RANDALL] or the gentleman from Ohio [Mr. LE BLOND] prevails it would amount to a total exemption of the business of boot and shoe making. I suppose that the gentleman from Ohio may not be aware of the manner in which this business is done. Should his amendment prevail we should have no work but custom work. The men who are engaged in this business would employ every shoe-maker and boot-maker in the country to make their custom work to the full amount that they would be allowed to make under the law free of tax. The boss manufacturers would buy the work of their journeymen and we should get no revenue. Therefore I hope the amendment will be rejected and that the paragraph will be allowed to stand as it is.

Mr. RANDALL, of Pennsylvania. I do not think my proposition is an unreasonable

one at all. I want to exempt the man who does a moderate amount of business from all tax if I can. I want to relieve the men who do custom work as far as possible, the men who employ a few apprentices and perhaps two or three journeymen.

Mr. MORRILL. I withdraw the amendment to the amendment.

Mr. ALLEY. I move to amend the amendment of the gentleman from Pennsylvania by inserting in the first line of the paragraph the word "one" instead of "two" as it now stands; so that it will read: "on boots and shoes a tax of one per cent."

The CHAIRMAN. That is not in order. It is not germane to the amendment of the gentleman from Pennsylvania. The gentleman may move to amend by striking out "\$2,000" and inserting "\$1,500."

Mr. ALLEY. No matter about the amendment. I intended to move, and shall do so at the proper time, the amendment I have indicated, making the tax one per cent. on boots and shoes instead of two. I think that will satisfy the gentleman from Pennsylvania, [Mr. RANDALL.] I know it will satisfy those he represents. These parties have been to me from the several States and conferred with me on the subject, and I know what the feeling generally is in relation to this matter. I am in hopes that the committee will agree to that reduction. I think that the information that they have received must convince them that the reduction ought to be made.

I see no reason why this should be put at two per cent. It seems to me the same arguments that induced the committee to reduce the tax on clothing to one per cent. should have induced them to reduce this also to the same. And if they do, I think it will satisfy the gentlemen who represent the interest of these small manufacturers or small shoe-makers who feel that they are greatly oppressed by this tax.

And now one word why this should be done. In the first place, there is a tax upon the hides of ten per cent. Then there is a tax on leather, under this bill, of five per cent. Then there is an additional tax of five per cent. upon the increased value in the currying; and then all the other materials that go into the shoes that are imported pay a tax of from twenty-five to fifty per cent. Now, it seems to me that there really should be no tax upon boots and shoes since they are taxed in so many forms upon all the materials that are used. The boots that are manufactured in the country to-day are paying, in various forms, a tax of nearly twenty per cent. Under all these circumstances there should be a reduction of at least one per cent. That, I think, would be quite satisfactory to the small shoe-makers who work upon the bench and employ a few apprentices and perhaps two or three journeymen, as suggested by the gentleman from Pennsylvania, [Mr. RANDALL.] If the gentleman will accept my amendment in lieu of his own, I think it will obviate the whole difficulty and satisfy the parties whose interest he represents.

Mr. RANDALL, of Pennsylvania. I withdraw my amendment for the present, to see whether the gentleman's amendment prevails. Perhaps in the end I may be satisfied. If not I will ask the privilege of renewing mine.

Mr. MORRILL. I move that the committee rise for the purpose of terminating debate. I shall only ask the committee to consider these paragraphs in reference to clothing and boots and shoes.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the special order terminate in one minute after the committee shall resume the consideration of the subject.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. MORRILL. All I have to say in relation to this matter is this: The Committee of Ways and Means are quite ready to admit that shoes and boots may be exempted with as much propriety as anything else, but we made as many reductions as we thought the Treasury at this time could possibly afford; and any reduction on these articles would make a very large difference. I do hope that the committee will allow these provisions to stand, as we reduce the amount of the tax from six per cent., as it now is, to two per cent., and that ought to satisfy all parties.

Mr. LE BLOND. I wish to ask the chairman of the Committee of Ways and Means a question.

The CHAIRMAN. No debate is in order. The question was taken on Mr. ALLEY's amendment, and it was disagreed to.

Mr. RANDALL, of Pennsylvania. I move, in line twenty-one hundred and sixteen, to strike out the word "one" and insert "two." The amendment was disagreed to.

Mr. LE BLOND. I move to amend in line twenty-one hundred and eight by striking out the word "two" and inserting "five;" so that it will read: "on boots and shoes a tax of five per cent. *ad valorem*," &c.

I wish to call the attention of the chairman of the Committee of Ways and Means to this provision, and to inquire of him why a distinction is made between "clothing" and "boots and shoes."

The amendment was disagreed to.

Mr. MYERS. I move to insert after line twenty-one hundred and sixteen the following:

And where such work shall exceed annually in value \$1,000, the tax of one per cent. shall be on the amount of work in excess of \$1,000.

The amendment was disagreed to.

Mr. STEVENS. In line twenty-one hundred and sixteen, I move to insert after the word "thousand" the words "five hundred;" so that the provision will read:

Provided, That any boot or shoe maker making boots or shoes to order as custom work only, and not for general sale, and whose work, exclusive of the materials, does not exceed annually in value \$1,500, shall be exempt from this tax.

The amendment was disagreed to.

The Clerk read as follows:

On ready-made clothing, gloves, mittens, moccasins, caps, and other articles of dress for the wear of men, women, and children, not otherwise assessed and taxed, a tax of one per cent. *ad valorem*, to be paid by every person making, manufacturing, or producing for sale clothing, gloves, mittens, moccasins, caps, and other articles of dress, or furnishing the materials or any part thereof, and employing others to make, manufacture, or produce them: *Provided*, That any tailor, or any maker of gloves, mittens, moccasins, caps, or other articles of dress to order as custom work only, and not for general sale, and whose work, exclusive of the materials, does not exceed annually in value \$1,000, shall be exempt from this tax; and articles of dress made or trimmed by milliners or dress-makers for the wear of women or children shall also be exempt from this tax.

Mr. MYERS. I move to insert, in line

twenty-one hundred and twenty-nine, after the words "one thousand," the following:

And where such work shall exceed annually in value \$1,000, the said tax of one per cent. shall be on the amount of work in excess of \$1,000.

I think if the House understood this amendment they would vote for it. I speak in reference to both these paragraphs—both the one in reference to boots and shoes, and that in reference to clothing. It was the intention that a certain amount should be exempted, but it will be noticed that as the provision now stands, if the amount of work done exceeds by one dollar the sum of \$1,000, the shoe-maker or tailor will have the tax imposed upon him for his whole work and his whole material.

It is for the purpose of explaining more clearly what I think was the meaning of the committee that I offer this amendment. It provides, in other words, that material and work shall only be taxed over the amount which was intended to be exempted.

Mr. MORRILL. I hope that amendment will not be adopted.

Mr. MYERS. I move to amend my amendment by striking out the last word. I should like to hear some better reason from the chairman of the Committee of Ways and Means than that he hopes this amendment will not be adopted.

Mr. MORRILL. The question has already been discussed sufficiently for every member of the committee to understand it, and if the gentleman is satisfied with his speech I am, and I do not like the task of discussing these matters over and over again.

Mr. MYERS. What I want to say is this: in many instances parties purchase materials for clothing and have it made up. And by this provision, without my amendment, if the work exceeds a thousand dollars, the tailor or boot-maker is charged not only for all his work under one thousand dollars, but also upon the articles that enter into that work; in many instances articles which he has not bought at all, but which have been bought by a third party and brought to him to be made up.

Mr. MORRILL. I find that it is necessary to say a few words. The gentleman cannot have read the paragraph. The amount taxed is to be exclusive of the material.

Mr. STEVENS. Do I understand that the \$1,000 worth is to be absolutely exempt from taxation, or only when the amount is \$1,000 or less? Suppose it shall amount to \$1,005, is the whole \$1,005 to be taxed, or only the excess over the \$1,000?

Mr. MORRILL. Only the excess, according to an amendment that has already been adopted on the motion of the gentleman from Iowa, [Mr. WILSON.]

Mr. STEVENS. I suppose the object of the committee is to exempt, at all events, the \$1,000 for these small operators. But it seems to me that according to the language of this paragraph that the man who does \$999 worth of work will be wholly exempt from the tax, while the man who does \$1,001 worth will have to pay the tax on the whole \$1,001. That cannot be the intention of the committee.

Mr. MYERS. If it exceeds \$1,000, under the language of this provision, even the materials are taxed.

Mr. STEVENS. I am not attending to that point now, but I am referring to the fact that I suppose the intention was to exempt \$1,000 in all cases and to tax the excess. But it seems to me this paragraph does not effect that object; for if the amount exceeds \$1,000 the whole amount is taxed; if it does not exceed that amount it is not taxed at all.

The amendment of Mr. MYERS was not agreed to.

Mr. DAVIS. I move to strike out at the close of the paragraph the words "and articles of dress made or trimmed by milliners or dress-makers for the wear of women or children shall also be exempt from this tax." I do not understand why this exception should be made.

Mr. MORRILL. I will answer the gentleman, if he desires an answer. If the gentle-

man goes to a merchant and buys material for a dress, under the construction by the Internal Revenue Bureau of the law as it now exists, if he carries it to a dress-maker and has it made up, the dress-maker has not only to pay a tax on the work but upon the estimated value of the goods. This is to remedy that difficulty.

Mr. DAVIS. Suppose the dress-maker is herself the vender of the goods?

Mr. MORRILL. The tax is applied to the whole value of the goods, which we thought to be wrong.

Mr. DAVIS. I withdraw the amendment.

Mr. HALE. I move to amend by striking out the last word for the purpose of inquiring of the gentleman from Vermont [Mr. MORRILL] what is the correct understanding of this paragraph. As I read it now, it provides that if a tailor or maker of gloves, &c., manufactures work to order, and not for general sale, to the amount of \$1,000 for the labor, exclusive of the material, he pays no tax. But if he manufactures any amount in excess of \$1,000, exclusive of the material, he is then taxed, not only on the amount of his labor, the \$1,000 as well as the surplus, but also on the material which he has made up. I can read the paragraph in no other way. I will ask the chairman of the Committee of Ways and Means if that is the correct construction of this paragraph, and if it is, is it just?

Mr. ALLISON. I will say in reply to the gentleman from New York [Mr. HALE] that my colleague [Mr. WILSON] proposed an amendment to a former part of this bill, relating to section ninety-three of the present revenue law, which was adopted, by which all manufacturers are exempt from taxation to the amount of \$1,000, and are taxed only upon the excess above \$1,000 and to \$3,000, and above \$3,000 they are taxed on the whole amount; so that if a manufacturer manufactures only \$3,000 worth, he is taxed only upon the excess over \$1,000. And I see no reason why that provision does not apply to this paragraph as well as to all other paragraphs relating to manufactures. And I see no reason why large manufacturers who manufacture over \$3,000, perhaps \$100,000 or \$1,000,000, should not pay the tax upon the first \$1,000 as well as upon the rest.

Mr. MORRILL. I think there may be some difficulty in the law as it stands; but if the amendment of the gentleman from Iowa shall be adopted I will ask the committee or the House to go back to this section to make it conform to that amendment.

Mr. HALE. With that understanding, I withdraw my amendment.

Mr. STEVENS. I am not satisfied with this paragraph as it stands. I move to amend by inserting after the word "tax," in line twenty-one hundred and thirty, the words "and then only on the excess over \$1,000."

The amendment was not agreed to.

The Clerk began to read the next paragraph, beginning with line twenty-one hundred and thirty-three, when

Mr. MORRILL moved that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

BUSINESS OF EVENING SESSIONS.

Mr. MORRILL. I suppose that it is the understanding of the House that the evening sessions to be held to-morrow evening and on subsequent evenings shall be devoted exclusively to the consideration of the tax bill. If that is not the understanding, I shall move to

suspend the rules that such an order may be made.

The SPEAKER. Is there any objection to the understanding that the evening sessions shall be devoted exclusively to the consideration of the tax bill?

There was no objection.

PAY DEPARTMENT OF THE NAVY.

Mr. RICE, of Massachusetts. I move that the House proceed to the consideration of business on the Speaker's table.

The motion was agreed to.

The first business on the Speaker's table was Senate amendments to joint resolution (H. R. No. 130) to carry into immediate effect the act to provide for the better organization of the pay department of the Navy.

The amendments of the Senate were read, as follows:

First amendment:

Add the following as a new section:

SEC. 2. And be it further enacted, That the Secretary of the Navy be, and he is hereby, authorized to retain or to appoint under existing laws and regulations such volunteer officers in the Navy as the exigencies of the service may require until their places can be supplied by graduates from the Naval Academy.

The amendment was concurred in.

Second amendment:

Add the following as a new section:

SEC. 3. And be it further enacted, That naval constructors shall hereafter be held to be staff officers in the Navy and entitled to all the rights and privileges and subject to all the liabilities and duties of such.

The amendment was concurred in.

Mr. SCHENCK. I move to reconsider the vote by which the first amendment of the Senate to this bill was concurred in. I desire some explanation of that amendment, for it seems to me a most singular provision. It proposes that certain volunteer officers may be retained or appointed to hold their positions until others shall be educated at the Naval Academy, who are then to step in and take their places.

Mr. RICE, of Massachusetts. The gentleman from Ohio will not, I think, object to the amendment when he understands it.

Mr. SCHENCK. I shall be glad to hear it explained.

Mr. RICE, of Massachusetts. I will explain it. The fact is that the number of officers in the regular Navy is insufficient at present for the demands of the service. This amendment proposes simply that the Secretary of the Navy shall have authority to continue such volunteer officers in the naval service as the emergencies of the service may require until regular officers can be instructed by graduation from the Naval Academy. If all the volunteer officers were discharged to-day it would be impossible to carry on the naval service, there not being regular officers enough for that purpose. This provision is simply for the purpose of continuing temporarily these volunteer appointments.

Mr. SCHENCK. Then, if I understand the provision, it is this: that these volunteer officers—acting officers as they are called in the Navy—may, if they will accept such a tenure of office, be continued indefinitely by the Secretary of the Navy, to be turned adrift so soon as he shall have educated at the Naval Academy others to take their places.

Mr. RICE, of Massachusetts. That has always been the tenure of office of these men.

Mr. SCHENCK. No, sir; not during the war.

Mr. RICE, of Massachusetts. The gentleman from Ohio will recollect that a bill has already passed the House authorizing the transfer of a certain number of volunteer officers to the regular Navy. Those are to be transferred absolutely. It is not, however, considered desirable that every place in the Navy shall now be filled by the transfer of volunteer officers; but by the provision of the amendment a further portion of the volunteer officers may be employed in the Navy so long, and only so long, as the exigencies of the service require.

Mr. SCHENCK. I understand it is proposed by this amendment to say to the men

who have served through the war, "You have helped us fight our battles; we will retain you beyond the time the law now provides, but you must not think that you are to be retained for any considerable length of time, or longer than one, two, three, four, or five years, until there shall have entered a sufficient number on the royal road to take your places, for then you shall be turned adrift. It will be too much for you to expect that you should be retained in the service any longer than till such time as we can raise a number of midshipmen at Annapolis to take your places." That is really the proposition as I understand it.

Now, sir, I think, at the close of the war, we ought to have a sufficient number of officers, either in the Army or Navy, who are qualified to fill the vacancies existing. But as to this mockery of taking a number of these officers with the understanding that they are to go with the Navy after having gone through the war, but are to be turned out whenever a new group can be raised at Annapolis, I protest against it.

Mr. RICE, of Massachusetts. I entirely agree with the gentleman. I have myself reported a bill from the Naval Committee authorizing the transfer of one hundred and fifty volunteer officers from the volunteer to the regular service in order to make up with the graduates of the Naval Academy the number of officers of the Navy which the law now requires. The fact is, that the present exigencies of the service require for a time a larger number of officers than the law allows, and the object of this amendment is, that so long as the exigencies of the services require more officers than the law allows to the regular service the Secretary of the Navy may be authorized to continue the appointments of these officers. I certainly have no objection, if the House sees fit to increase the number of officers in the regular Navy, to its being done. But that is a subject that cannot be attended to in the short time that we have to consider it at this time, and if it will meet the wishes of the gentleman from Ohio I will move to refer the bill to the Committee on Naval Affairs.

Mr. SCHENCK. I should very much prefer that. The gentleman sees the very difficulty, and therefore has a bill prepared to authorize the taking of a number of these volunteer officers to fill these places. But in the mean time this bill also may have passed, which will defeat the gentleman's object if this amendment is concurred in.

Mr. BRANDEGEE. I move to refer the bill to the Committee on Naval Affairs.

The SPEAKER. The pending motion is to reconsider the vote by which the amendment of the Senate was concurred in, but if there is no objection it will be considered as reconsidered and referred to the Committee on Naval Affairs.

INTRODUCTION OF CHOLERA.

The next business on the Speaker's table was the consideration of the amendment of the Senate to joint resolution of the House No. 116, to prevent the introduction of cholera into the United States; which was referred to the Committee on Commerce.

PENSIONS.

The Senate amendments to the following bills were next taken from the Speaker's table, and referred to the Committee on Invalid Pensions:

An act (H. R. No. 216) for the relief of Cordelia Murray;

An act (H. R. No. 459) granting a pension to Anna E. Ward;

An act (H. R. No. 462) granting a pension to Mrs. Sally Andrews;

An act (H. R. No. 493) granting a pension to Mrs. Joanna Winans;

An act (H. R. No. 345) for the relief of Christina Elder;

An act (H. R. No. 363) supplementary to the several acts relating to pensions; and

An act (H. R. No. 371) granting a pension to Leonard Sinclair.

PASSPORTS.

The bill of the House (H. R. No. 568) to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress, returned from the Senate with an amendment, was next taken from the Speaker's table, and the amendment of the Senate was read, as follows:

At the end of the bill add the following:
And hereafter passports shall be issued only to citizens of the United States.

Mr. RANDALL, of Pennsylvania. Let me ask if that means that persons who have declared their intention to become citizens shall not be entitled to passports.

The SPEAKER. Such persons are not now entitled by law to passports.

Mr. RANDALL, of Pennsylvania. I think that amendment had better be referred to a committee.

Mr. GARFIELD. I move that the bill, with the amendment, be referred to the Committee on the Judiciary.

The motion was agreed to.

BENJAMIN HOLLIDAY.

Joint resolution (H. R. No. 103) to refer the petition of Benjamin Holliday to the Court of Claims, returned from the Senate with an amendment, was next taken from the Speaker's table, and referred to the Committee on Indian Affairs.

GOODRICH AND CORNISH.

The joint resolution of the House (H. R. No. 77) for the relief of Ambrose L. Goodrich and Nathan Cornish for carrying the United States mails from Boise City to Idaho City, in the Territory of Idaho, returned from the Senate with amendments, was next taken from the Speaker's table, and referred to the Committee on the Post Office and Post Roads.

FORTIFICATION BILL.

The bill of the House (H. R. No. 255) making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the year ending June 30, 1867, returned from the Senate with amendments, was next taken from the Speaker's table, and referred to the Committee on Appropriations.

ASSISTANT SECRETARY OF THE NAVY.

The bill of the Senate (S. No. 318) to authorize the appointment of an additional Assistant Secretary of the Navy, was next taken from the Speaker's table, and read a first and second time.

Mr. RICE, of Massachusetts. I call the previous question on the passage of that bill.

Mr. ANCONA. You cannot pass it. I shall insist on a division, and there is no quorum here.

Mr. RICE, of Massachusetts. Let me say a single word in reference to this bill. It is substantially the same bill which was referred to the Committee on Naval Affairs of this House a few days ago, which has been considered by that committee, and unanimously agreed to. I believe that this bill passed the Senate without any dissent whatsoever. It simply provides that there shall be, for six months, an Assistant Secretary of the Navy, who shall act during the absence of the present Assistant Secretary of the Navy, who is going abroad, there being no officer who, in the absence of the Secretary and of the Assistant Secretary, can attach the official signatures to papers. The gentleman who is going abroad has been in the service ever since the beginning of the war, and all that it is proposed to grant him is leave of absence equivalent to that granted to volunteer officers of the Navy when mustered out, so as to allow them one month's leave for every year's service they have rendered during the war. It is a very small amount. The Government are very anxious, indeed, that the bill shall pass, and I insist upon the demand for the previous question.

Mr. RANDALL, of Pennsylvania. Is there a quorum present?

The SPEAKER. The Chair thinks there is not a quorum present.

Mr. ROSS. I move that the House do now adjourn.

Mr. RICE, of Massachusetts. I hope not.

The SPEAKER. This bill will come up as unfinished business to-morrow morning immediately after the reading of the Journal.

Mr. THAYER. I appeal to the gentleman from Illinois [Mr. Ross] to withdraw his motion to adjourn for a moment.

Mr. ROSS. I will do so.

MARIA SYPHAX.

On motion of Mr. THAYER, by unanimous consent, the bill of the Senate (S. No. 321) for the relief of Maria Syphax was taken from the Speaker's table, read a first and second time, and referred to the Committee on Private Land Claims.

And then, on motion of Mr. ROSS, (at five minutes to five o'clock p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:
By Mr. DAWES: The petition of M. B. Whitney, and 36 others, citizens of Westfield, Massachusetts, asking for protection against unjust State laws in reference to insurance.

By Mr. COOK: The petition of F. W. Mattheissere & Hegeler of La Salle, Illinois, for increase of protection to the manufacture of spelter and sheet zinc.

By Mr. GARFIELD: The petition of the superintendent, principals, and masters of the public schools of Boston, praying for the establishment of a national Bureau of Education.

By Mr. HULBURD: The petition of 93 citizens of Columbia county, New York, asking increase of duty on imported flax.

By Mr. HUBBARD, of West Virginia: The petition of Edgar T. Harris, asking that his name may be placed on the pension-list of the United States.

By Mr. McKEE: The petition of James Taylor, for services as surgeon in the United States Army.

By Mr. RICE, of Massachusetts: The petition of Davis Foster, lieutenant fourth Massachusetts volunteers, for reimbursement for loss of clothing by sinking of United States transport Fanning.

IN SENATE.

TUESDAY, May 22, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY.
The Journal of yesterday was read and approved.

EXECUTIVE COMMUNICATION.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 10th of January last, information relative to the payment of \$100 bounty to the ten regiments of Missouri State militia mustered into the service of the United States; which, on motion of Mr. GRIMES, was ordered to lie on the table, and be printed.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I present the petition of Abraham Lansing, a citizen of Cambridge, Massachusetts, asking for a pension on account of services in the war of 1812, and very peculiar injuries which he received, and from which he is now in his old age suffering. I move the reference of this petition to the Committee on Pensions.

The motion was agreed to.

Mr. SUMNER. At the same time I move that the papers of Abraham Lansing, accompanying his petition for an invalid pension, presented in 1860, be taken from the files of the Senate and referred to the Committee on Pensions.

The motion was agreed to.

Mr. MORRILL presented twelve petitions of citizens of Maine, and a petition of Samuel Batchelder and other citizens of Massachusetts, praying for an appropriation to repair the United States piers and other property at Saco, Maine, and to improve the navigation of Saco river; which were referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom was

referred a bill (S. No. 207) to provide for the equalization of the bounties to soldiers in the late war of rebellion, reported it with an amendment, and submitted a report in writing; which was ordered to be printed.

Mr. CHANDLER, from the Committee on Commerce, to whom the subject was referred, reported a bill (S. No. 334) to prevent the wearing of sheath-knives by American seamen; which was read and passed to a second reading.

BILLS INTRODUCED.

Mr. CHANDLER asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 335) supplementary to the several acts relating to the establishment of the Treasury Department; which was read twice by its title, referred to the Committee on Commerce, and ordered to be printed.

Mr. WILLIAMS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 336) granting lands to aid in the construction of a railroad and telegraph line from Salt Lake City to the Columbia river; which was read twice by its title, referred to the Committee on Public Lands, and ordered to be printed.

LIFE AND ACCIDENT INSURANCE COMPANY.

The PRESIDENT *pro tempore*. If there be no further morning business, the Chair will call up the unfinished business of yesterday, which is the bill (S. No. 290) to incorporate the National Life and Accident Insurance Company of the District of Columbia. The bill was read yesterday, and is now before the Senate as in Committee of the Whole, and open to amendment.

Mr. WILSON. I desire to ask the Senator from Maine [Mr. MORRILL] who has charge of this bill, whether proper care is taken in regard to the paying in of the stock of this company. On reading the bill, it seems to me that care is not taken that the capital stock of the company shall be paid in. I think these corporations ought to be held responsible at any rate until the stock is paid in. The public ought to have that security. Provision is made for the payment of five dollars of the assessment, and then five dollars more at the end of thirty days; but it seems to me there is no subsequent provision requiring the stock to be paid up, and they are exempted from personal liability. In making these corporations, I think we ought to be very careful to make corporations with actual capital paid in. I throw out this as a suggestion to the Senator. It does seem to me that proper care is not taken that the capital stock subscribed for shall be paid up.

Mr. MORRILL. The Senator from Illinois, not now in his seat, [Mr. YATES,] reported this bill. It was referred to him for examination, and he reported that it was merely a transcript of a similar bill, incorporating a company of the same kind in the State of Maryland, at Baltimore; that the persons presenting this bill had followed that law. It was drawn, therefore, on the strength of that legislation.

Mr. CLARK. I suggest that of all corporations in the world a life insurance company should be thoroughly guarded and made secure to those people who are involved in it.

Mr. JOHNSON. I see here no security at all that the capital shall be paid up.

Mr. CLARK. Of all corporations, those of this character should be made thoroughly secure, because if a man puts his earnings in a corporation of this kind to be useful to his heirs in case of his death, he wants it to be made sure to those heirs.

Mr. MORRILL. As the Senator who reported this bill is not in his seat, I move that the further consideration of it be postponed until to-morrow.

The motion was agreed to.

HOMESTEADS IN SOUTHERN LAND STATES.

Mr. KIRKWOOD. I move to take up House bill No. 85.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 85) for the dis-

posals of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida.

It provides that hereafter all the public lands in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida shall be disposed of according to the stipulations of the homestead law of 20th May, 1862, entitled "An act to secure homesteads to actual settlers on the public domain," and the act supplemental thereto, approved 21st of March, 1864, but with this restriction, that no entry shall be made for more than a half quarter section, or eighty acres; and in lieu of the sum of ten dollars required to be paid, there shall be paid the sum of five dollars at the time of the issue of each patent; and that the public lands in those States shall be disposed of in no other manner after the passage of this act. No distinction or discrimination is to be made in the construction or execution of this act on account of race or color; and no mineral lands are to be liable to entry and settlement under its provisions.

The first amendment reported by the Committee on Public Lands was to insert in line twenty, after the word "lands" in the proviso at the end of the bill, the words "or lands mainly valuable for timber and not suitable for cultivation;" so that the proviso will read:

And provided further, That no mineral lands or lands mainly valuable for timber and not suitable for cultivation shall be liable to entry and settlement under its provisions.

The amendment was agreed to.

The next amendment reported by the committee was to add as an additional section the following:

And be it further enacted, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the Army or Navy of the United States, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of five dollars, he or she shall thereupon be permitted to enter the amount of land specified: *Provided, however,* That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if, at the expiration of such time or at any time within two years thereafter, the person making such entry, or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at the time a citizen of the United States, shall be entitled to a patent, as in other cases provided by law: *And provided further,* That in case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and sum of money herein specified.

Mr. POMEROY. I think it my duty, at any rate, to inform the Senate what this amendment is, and how it changes the old law. It changes the old law only in one respect, I think. The old law obliges the person availing himself of the benefit of the homestead act to take an oath that he has never been engaged in the rebellion. If this amendment shall be adopted and become the law, he will have to swear that he will bear, in the future, true allegiance to the Government of the United States. In other words, it allows poor men who have been engaged in the rebellion to get eighty acres of land of the public domain by taking an oath that they will hereafter bear true allegiance to the Government of the United States. That is

the essential modification. He is to occupy and cultivate and have continued possession of the land for five years before receiving title to it. It was discussed for some time in committee, and it was the opinion of the committee, nearly unanimous, perhaps quite so, that no better provision could be made for poor men who had been engaged in the rebellion than to let them have eighty acres of land on the public domain, even though they take simply an oath that they will hereafter bear true and faithful allegiance to the Government of the United States. As the law now is, all who have been engaged in the rebellion are excluded from the public domain. The committee were of opinion that this amendment might be justified under the circumstances. I thought I ought to state that to the Senate, because this amendment repeals, in fact, so much of the old law as debarred the rebels from homestead settlement on the public domain.

The amendment was agreed to.

The next amendment was to insert as an additional section the following:

SEC. 3. And be it further enacted, That all the provisions of the said homestead law, and the act amendatory thereof, approved March 21, 1864, so far as the same may be applicable, except so far as the same are modified by the preceding sections of this act, are applied to and made part of this act as fully as if herein enacted and set forth.

The amendment was agreed to.

Mr. HENDRICKS. There was one point in which I could not agree with the committee, and that is, that in the States named in the bill no person shall be allowed to acquire under the homestead law more than eighty acres of land. I think that is unnecessary. I think the experience of the western country shows that one hundred and sixty acres of land is desirable to make a good farm upon, and I do not see any occasion for reducing the amount in these States below that allowed in other States to be acquired under the homestead law. I therefore move to amend the first section by striking out all after the word "sixty-four" in line ten down to and including the word "patent" in the fifteenth line, so that the party will be allowed to enter one hundred and sixty instead of eighty acres of land. My observation teaches me, and I think the Senator from Iowa, who has charge of this bill will agree, that farmers desire, as far as possible, to secure as much as one hundred and sixty acres of land.

I will remark to the Senate that by this bill the public lands in these southern States cannot be acquired in any other mode than under the homestead law. Farmers down there will not hereafter be able to buy any lands for their families and for their children, but the children will have to secure lands for themselves under the homestead law. I am not entirely sure that that is good policy, but certainly it is going too far to say that a man shall not in any event, for himself and his children, secure more than eighty acres. I do not think it tends to develop the prosperity of the country so to restrict the purchase. Under the law of the United States lands that are liable to private entry may be purchased at one entry to the extent of a section of land. This is a great reduction to go down to one hundred and sixty acres, but to say that only eighty acres shall be purchased under the homestead law is going entirely too far, I think.

Mr. POMEROY. I will state in a single word the views of the committee on that subject. This bill came to us from the House of Representatives. They considered the matter; and in view of the fact that in the States named there is a great landless population of loyal men, colored men, lately slaves who have for a lifetime been shut out from the public lands, and almost all the valuable land in these States has already been acquired and taken possession of in large estates by the first settlers, the white people, the object of this bill is to cut the public land up into small homesteads; and it need not be disguised that it is aimed particularly for the benefit of the colored men, those who have not been able hitherto to acquire home-

steads on the public domain in these States. There is not a great quantity of public land left there, but it was the view of the committee, that what was left should be by law cut up into small farms not exceeding eighty acres, and that without distinction of color every citizen of the United States should have the right to hold and to enjoy and after five years have a title to eighty acres of the public land.

Mr. WADE. I wish to ask the Senator to what States this provision applies.

Mr. POMEROY. It applies to all the States in rebellion that have got public lands, namely, Alabama, Mississippi, Louisiana, Arkansas, and Florida. Texas has no public land. We only include in this bill those States that have got public lands. The object of the bill is simply to allow a class of population who are now shut out from the public lands, to acquire, if this bill should become law, eighty acres for themselves, under the homestead bill, and only eighty.

Mr. KIRKWOOD. The chairman of the committee has stated very correctly the idea of the committee in reporting the bill as it stands; and yet, since the bill has been reported by the committee, I have been induced somewhat to change my own opinion upon this point, not for the reasons alluded to by the Senator from Indiana, but for others that I will now state. Since the bill was reported I have had a conversation with a gentleman from Florida, which is one of the States included in this bill. He suggested to me this idea, which seems to me to be reasonable: he says that if we restrict the amount of a homestead in these States to eighty acres, leaving the amount of a homestead in other States at one hundred and sixty acres, our action will tend to divert immigration from the States named. For instance, the commissioner of immigration of Iowa, if we have such an officer, is in New York, and there is a similar officer or agent there from Florida, each endeavoring to induce immigration to his State. The agent of Iowa says to the immigrant, "If you go to Iowa you can get a homestead of one hundred and sixty acres of the public land;" and the agent of Florida says, "If you come to Florida you can get a homestead of eighty acres of the public land, and only that much." The result, as he argued—and it seemed to me very forcibly argued—would be that immigrants seeking homesteads would go to those States in which they could secure one hundred and sixty acres of land, and would pass by those States in which they could get only eighty acres of land. This argument, when presented to me, struck me very forcibly. Although I may not agree with some Senators in regard to some matters concerning these seceded States, I certainly do not desire to do them any injustice; I do not desire to take any action that will injure their material interests, and I am strongly inclined, for the reason stated by me, to agree with the Senator from Indiana that it would not be good policy to restrict the homesteads in these States to eighty acres. If we do so it will certainly give to those States where there are public lands in which the homestead is not restricted the advantage of inducing immigrants to go to those States, and it will tend to keep emigration from the States named in this bill. For this reason, therefore, although I felt otherwise in committee, I am now strongly disposed to favor the amendment offered by the Senator from Indiana. I think it would be but fair to these States.

Mr. POMEROY. The reasons that seem to have influenced the Senator from Iowa do not operate upon me. We ought to bear in mind that these lands have been in market for a long time, and no foreigner coming to this country is going to be attracted to the southern States that have been in rebellion on account of the public lands. If foreigners are attracted there, it is for other reasons. They go there, if they go at all, to take possession of abandoned homesteads, or of large homesteads that are being cut up, where the Government has no title, where the Government parted with its

title many years ago. What I claim as an excellence of this bill, if it has any excellencies, is that there are about three million people in those States who never have had access to the public lands, and this bill will devote the remnant of poor lands left there to them, first and foremost; and I think it is our duty to do so rather than to open them up to all Europe. We are under greater obligations and there is a higher sense of duty resting upon us to provide for the landless of our own country rather than to have the nationalities of Europe entering into competition with those poor men who have been loyal to us and yet whom we have never allowed to have a foot of land. The object of this bill is to save the lands for this class of our people, who have become our fellow-citizens, and now must have a footing in the soil; and the only way they can get it is to secure it to them upon the public lands in these States. The white men who own the large farms there are not going to sell them to the colored men, and for another reason, the colored men cannot buy them; they have been stripped of everything. True, thank God! they are free; but they have nothing but their hands to rely upon for support, and they want land. The object of this bill is to let them have the land in preference to people from Europe or anybody else. I hope the amendment will not prevail, but that we shall pass the bill as the House of Representatives passed it in this respect.

Mr. HENDRICKS. When the bill enlarging the powers of the Freedmen's Bureau was before this body I agreed to that section which reserved from sale and all other disposition by the Government three million acres for the benefit of the colored people. I desire, now that they are free, to see them possessed of homes; and so far as this bill goes in that direction I am in favor of it. While I do not support the proposition that they shall be endowed with political rights and powers, I do desire to see them made the owners of lands. But, sir, I do not like to see the system which has disposed of our public lands so beneficially to the people broken up by restricting the sales to the limited quantity of eighty acres. I ask Senators to consider this proposition. While we are willing to legislate for the benefit of the colored people reasonably and properly, we certainly ought not to disregard altogether the rights and the interests of the eight million white people in that country and the interests of foreigners who may immigrate into those States.

Senators desire, I presume, to have the southern States populated as far as possible by men from the North and by men coming from other countries—that is an argument I have heard repeatedly here—so that the political power of those States shall be taken from the men who have exercised it so prejudicially to the country and be placed in the hands of men who will be faithful to the country. That has been an argument in which there was a great deal of force. The Senator from Iowa says the bill as it now stands would have a tendency to exclude from those States a population which gentlemen desire to see seek settlement and homes within their limits. Suppose we say that these lands shall not be disposed of as this bill does in any mode except under the homestead law, and then only to the extent of eighty acres of land, how is the head of a family at all to provide for his boys? How is he to secure a home for them? He cannot buy it within the limits of those States; he is confined to a small tract himself, that makes a farm not susceptible of further partition, and when he dies some one of the children must take it and the rest seek homes elsewhere. That has not been our policy heretofore. We have allowed larger entries than this, and it has promoted the prosperity of the country.

Therefore I think that this restriction to eighty acres ought to be stricken out; and I do not think the Senator from Kansas, the chairman of the committee, is justified in saying that if we allow homesteads to the extent of one

hundred and sixty acres there will not be enough lands in these States to provide for all whom he desires to provide for. There is a large amount of public lands in these States; I am not prepared to say at this time just the amount. Florida has an enormous quantity of public land undisposed of, and I think there is a large quantity in Arkansas and some in Louisiana; I cannot say just how much. A few years ago I did know, but I cannot state now.

The proposition is to strike out this restriction, and then the bill will stand thus: that no man can purchase in these States any land beyond a one hundred and sixty acre tract, and he can only get a title to that after he has lived upon it five years, and this right is secured to the colored people as well as to the white. It seems to me that is a fair bill.

Mr. KIRKWOOD. I have just sent to the committee-room for some information in regard to the amount of public lands in these States, derived from the Commissioner of the General Land Office, and I have it here. It appears that the quantity of surveyed unsold public lands in the States named in this bill is, in—

	Acres.
Arkansas.....	9,298,012.70
Alabama.....	6,732,058.08
Florida.....	19,379,635.61
Louisiana.....	6,223,102.45
Mississippi.....	4,760,736.03
Total.....	46,398,544.87

I was, as I before said, strongly in favor of the eighty acre limitation until the suggestion to which I have alluded was made to me by the gentleman from Florida to whom I have referred. Now, it is but a balancing of reasons whether we shall fix it at eighty acres or one hundred and sixty acres. There is, however, one consideration which operates very much upon my mind: whatever we do here, unfortunately, is misrepresented among the people to be affected by this bill. There are men who make it their business to misrepresent all we do, and to give to it not only the worst possible construction, but constructions wholly impossible. Now, if we make a distinction between the amount of the homestead in these States and the amount of the homestead in other States, that fact will be seized upon by this class of men to further prejudice these people against our action here. That is the reason why I should be willing to see the limitation of eighty acres stricken out, and one hundred and sixty acres inserted in lieu of it. Another reason operating on my mind is that this limitation will really tend, or may at least tend, to retard immigration to these States of persons from other States, a thing that I much desire to see. I am strongly impressed with the belief that we had better leave the amount of the homestead in these States precisely as it is in the other States, making no distinction between these and the other States, and then there will be no cause for complaint.

I fully concur in the propriety of withholding the public lands from sale in the States named, and allowing them to be taken only as homesteads. We all know there are large amounts of land scrip now in circulation; and as soon as the land offices in those States are opened again, the best of the lands will be swallowed up in large amounts by persons holding this scrip, and the poor men of that region will not be able to get hold of the lands. I will vote for the bill either with the eighty or the one hundred and sixty acre limitation; but I think it would be better for us to leave the homesteads in these States at one hundred and sixty acres, as in the other States.

Mr. CONNESS. I wish simply to say that I agree entirely with what has been said by the honorable Senator from Iowa, more, however, upon the merits of the proposition itself than upon the policy and justice of keeping this bill in exact conformity with the general laws. I do not think that one hundred and sixty acres is too large an amount for a homestead in a new country. Taking how land averages, I do not think that less than that is worthy of settlement upon. It is very true that

less than that is often taken; but more than that is frequently needed. Both for the reason of the policy and justice of having a universal rule applicable alike to all the States, and because one hundred and sixty acres is little enough for a homestead upon wild land, I shall vote for the amendment, and I think the chairman of the committee ought to accept it. I think it is reasonable and right.

Mr. POMEROY. The chairman of the committee will accept anything that is the pleasure of the Senate. I only desire to say that this amendment does not meet with my approval individually, but if the Senate choose to change the bill as it came from the House of Representatives in this respect, of course that will be all right. The Senator from California neglects, I think, to consider one fact, that the population of the South who are entirely landless are not as ambitious to get one hundred and sixty acres or three hundred and twenty acres as the population of the States of the West and of California. These people will be entirely contented with forty acres, even. The fact is that they have no land at all, and there is no way for them to get it except to get tracts of the public land. If the public lands in those portions where they are valuable for settlement could be cut up into twenty-acre tracts, so that these poor colored people could get each of them twenty acres, it would be a godsend to them. To say that they have got to take one hundred and sixty acres is requiring them to take a farm of the magnitude of which even they have no conception.

Mr. CLARK. Why not put it in the alternative, give them eighty or one hundred and sixty acres?

Mr. HENDRICKS. That is the law now.

Mr. POMEROY. The bill, as it stands, is that they shall not take more than eighty acres, and that implies that they may take less, any legal subdivision, as low as forty acres. I do not desire to prolong the discussion, but only to say that I think we had better pass the bill as it came from the House in this respect; that is, to let the population who are landless in the South have eighty acres, if they please, and less, if they choose, but not more.

Mr. CONNESS. I think if one hundred and sixty acres of land is a good thing for a white man, it is a good thing for a black man; and I think if it is good for a man in the West, it is good for a man in the South. I do not know really any reason for applying this rule of restriction.

The amendment was agreed to.

The bill was reported to the Senate as amended. The amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read the third time and passed.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed a bill (H. R. No. 211) to authorize the President to appoint certain officers of the Executive Mansion, and fixing their salaries; and a bill (H. R. No. 612) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1859," in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had passed, without amendment, the bill (S. No. 318) to authorize the appointment of an additional Assistant Secretary of the Navy.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills and joint resolution; which were thereupon signed by the President *pro tempore*:

A bill (H. R. No. 371) to grant a pension to Leonard St. Clair;

A bill (H. R. No. 510) to incorporate the Academy of Music of Washington city; and

A joint resolution (S. R. No. 97) to authorize certain medals to be distributed to veteran soldiers free of postage.

FUNDING THE NATIONAL DEBT.

Mr. HENDERSON. I move to postpone all prior orders and proceed to the consideration of Senate bill No. 285.

The PRESIDENT *pro tempore*. The morning hour having expired it becomes the duty of the Chair to call up the special order for today, being Senate bill No. 300. That bill is before the Senate, and the Senator from Missouri moves to postpone it and all prior orders for the purpose of taking up the bill named by him.

Mr. HENDERSON. As the Senator from Ohio is entitled to the floor on the special order, if my bill is called up I will let it be passed over informally to hear his remarks, as I understand his bill is to be passed over anyhow after his remarks.

Mr. SHERMAN. But the funding bill is now the special order.

Mr. HENDERSON. I do not desire to interfere with the Senator from Ohio.

The PRESIDENT *pro tempore*. The motion is withdrawn. The special order is before the Senate.

The Senate proceeded, as in Committee of the Whole, to consider the bill (S. No. 300) to reduce the rate of interest on the national debt, and for funding the same. It proposes to authorize the Secretary of the Treasury, if he shall deem it expedient for the purpose of funding the national debt and reducing the rate of interest thereon, to issue registered or coupon bonds of the United States, in such form and of such denominations as he may prescribe, payable, principal and interest, in coin, and bearing interest at the rate of not exceeding five per cent. per annum, payable semi-annually, such bonds to be made payable in not over thirty years from date, to be issued to an amount sufficient to cover all outstanding or existing obligations of the United States, and to be disposed of in such manner and on such terms, not less than par, as the Secretary of the Treasury may deem most conducive to the interests of the Government. The expense of preparing, issuing, and disposing of the bonds is not to exceed two per cent. of the amount disposed of, and the bonds, and the proceeds thereof, are to be exclusively used in taking up or retiring the obligations or indebtedness of the United States other than United States notes. The bonds thus issued are to be known as "the consolidated debt of the United States," and to be exempt from taxation in any form by or under State, municipal, or local authority; and in consideration of the reduction of the rate of interest effected by the negotiation of these bonds, they and the interest thereon and the income therefrom are to be exempt from the payment of all taxes or duties to the United States.

The amount of interest saved by a substitution of five per cent. bonds for other Government securities is to be applied to the payment of the principal of the national debt, and for the purpose of insuring the payment thereof, and in lieu of the sinking fund contemplated by the act of February 25, 1862, the sum of at least \$30,000,000, including the saving of interest, is to be annually applied to the reduction or extinguishment of the debt in such manner as may be determined by the Secretary of the Treasury, or as Congress may hereafter direct.

For the purpose of enabling the Secretary of the Treasury to prepare for the funding or payment of the outstanding Treasury notes bearing interest at the rate of seven and three tenths per cent. per annum, the holders of such notes are required to advise the Secretary of the Treasury, in such manner as he may prescribe, at least six months before their maturity, whether they elect that the notes shall be paid at maturity or shall be converted into bonds of the United States commonly designated as five-twenty bonds; and the right

on the part of the holders of converting the Treasury notes into bonds shall be deemed and taken to be waived as to each and every note in relation to which notice shall not be given as thus prescribed, and the same shall be paid at maturity in lawful money of the United States.

Mr. SHERMAN. There are two or three amendments reported by the committee which may as well be acted upon now.

The PRESIDENT *pro tempore*. The amendments reported by the committee will be read.

The first amendment was in section one, line sixteen, to strike out the words "preparing, issuing, and," and in line seventeen to strike out the word "two" and insert "one;" so that the proviso will read:

Provided, That the expense of disposing of such bonds shall not exceed one per cent. of the amount disposed of.

The amendment was agreed to.

The next amendment was in section one, line eighteen, at the end of the proviso to add, "which said one per cent., or so much thereof as may be required, is hereby appropriated."

Mr. EDMUNDS. With the consent of the Senator from Ohio, I will move to amend that amendment by adding after the word "appropriated" the words "for that purpose," which will make the meaning a little more explicit. It is a mere verbal amendment.

Mr. SHERMAN. I have no objection to that.

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was in section two, line four, after the word "taxation" to strike out the words "in any form."

Mr. FESSENDEN. How will the section read then?

The Secretary read as follows:

That the bonds issued under this act shall be known as "the consolidated debt of the United States," and the same shall be exempt from taxation by or under State, municipal, or local authority, &c.

Mr. SHERMAN. The amendment is simply to conform to the language of the existing law.

The amendment was agreed to.

Mr. SHERMAN addressed the Senate in explanation and support of the bill. [His speech will be published in the Appendix.]

Mr. CLARK. I suppose nobody expects action upon the bill at the present time. I differ very materially from the Senator from Ohio in regard to some positions which he has taken on this bill, especially with regard to the matter of taxation, not, however, upon the constitutional power, but upon the expediency of it. But I do not propose to address the Senate at the present time, nor am I certain that I shall do so at any time. If nobody else desires to address the Senate at this time, I will move that the further consideration of the bill be postponed until to-morrow, so that the Senate may proceed to other business.

Mr. FESSENDEN. I suppose it is not intended that this bill shall stand in the way of the business set for to-morrow.

Mr. SHERMAN. Not at all. I will state to Senators, though, that I should like to have a vote on this bill within a reasonable time.

Mr. CLARK. There will be no objection to that, I take it.

The motion to postpone was agreed to.

HOUSE BILLS REFERRED.

A bill (H. R. No. 211) to authorize the President to appoint certain officers of the Executive Mansion and fixing their salaries; and the bill (H. R. No. 612) to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending 30th of June, 1859," were severally read twice by their titles, and referred to the Committee on Finance.

RAILROADS IN KANSAS.

Mr. HENDERSON. I move to take up Senate bill No. 285, granting lands to the State of Kansas to aid in the construction of the

Kansas and Neosho Valley railroad and its extension to Red river.

Mr. HENDRICKS. I hope that bill will not be taken up this afternoon. I had intended to examine it with some care, but have not been able to do so. It is a very important grant, not only in respect to its effects upon the public lands, but also in its effect upon other roads to which we have heretofore made grants of lands. I do not desire to defeat an early consideration of the bill, of course; but I am not prepared to discuss it this afternoon, and I should prefer that it should stand over. I had not an opportunity to examine the bill on the committee; I was absent at the time the committee considered it. I ask the Senator to let it lie over a day or two.

Mr. WILSON. I hope the bill will be laid over, as requested by a member of the committee reporting it.

Mr. HENDERSON. I know but little about this bill myself. Some of the members of the other House from my State, who have taken an active part, have requested me to call it up. I believe it is a bill making the usual railroad grants. I know but little about these railroad grants; I never yet have had charge of a bill that made a grant of an acre of land in this body. I have been requested to have early action on this bill; I have glanced through it, and I understood from members of the Committee on Public Lands that it contains nothing more than the usual grants; that there is nothing extraordinary in it, as the Senate will see by examining it. It proposes to make a grant of alternate sections of lands for the building of a railroad through the eastern tier of counties in Kansas. The people in the western portion of my State feel very considerable interest in it. If the Senator from Indiana wishes time to examine the bill of course I should dislike very much to insist upon taking it up now, but I presume there is nothing in it that the Senator cannot examine within ten minutes anyhow. However, I give notice now that I shall call up the bill at the very first opportunity. It is a road in the State of the Senator from Kansas, and his constituents are as much interested in it as are the people of my State.

Mr. POMEROY. I only feel the same interest in this road that I do in all the others in my State. I want the Senate to proceed to the consideration of the bill at a very early day. It is not vital, I suppose, that it should be proceeded with this afternoon. I have only to say, in reference to it, that the bill is drawn with all the care with which the committee could draw a bill, and I think when the Senate come to consider it there will be no objections to the form of the bill as drawn.

It may compete, perhaps, with other interests that object to it, but there can be no objection to the bill itself in point of form. I want very early action on the bill, for the reason that the session of Congress is drawing to a close, and the Committee on Public Lands in the other House, as I learn, has not yet been called on for reports, and if we do not act upon the bills reported by our Committee on Public Lands in this body until after that committee is called upon we shall not be able to secure their passage at this session. If they are to get through the other House at all it is very important that they should be acted upon before that committee is called for reports there, and I am informed that it will only be a few days before they are called upon to report. I leave, however, the charge of the bill to the Senator from Missouri, as his constituents perhaps feel an equal interest in this bill with any other section of the country, and I shall entirely follow his lead in regard to it. If the Senator from Indiana will be better prepared to-morrow, and will say that he will consent to proceed with the consideration of the bill to-morrow, it would be more satisfactory; but if it is to be put off indefinitely it will not be very satisfactory.

Mr. HENDRICKS. I cannot say to the Senator from Kansas that I shall be prepared

to-morrow to present to the Senate what I think are the objections to this measure. I took the bill home with me yesterday evening and intended to examine it with some care. I succeeded in reading it once, but was so much interrupted that I was unable to finish it. I also addressed a note to the Commissioner of the General Land Office requesting a map of the surveys of the State of Kansas, with the different railroads for which grants of land have been made designated thereon, to be sent to me. I have not received that.

I desire now to say to the Senator from Missouri that he is mistaken in supposing that this bill is in the language usually employed in bills granting lands to the States. I think it is not; at least that was my impression when I read the bill yesterday evening; but I do not wish to discuss it now. I think when the Senate come to consider it they will find it to be a measure not meeting with their approval. There are three bills in regard to grants of lands to the State of Kansas now pending, and I think it is about time the Senate should pay a little attention to the grants of public lands to railroads, and I propose when these bills come up, if I have the power, to attract some little attention of the Senate to the question. The lands are going by millions of acres to corporations, and I propose now, before three additional grants are made for roads running parallel within a few miles of each other to a State which has received such enormous grants as the State of Kansas has, to invoke the attention of the Senate.

Mr. POMEROY. There are two observations which I desire to submit in reply to the Senator from Indiana. The first is that there are no grants proposed for three roads running parallel with each other. Second, there are not ten thousand acres of land in the whole grant to this road in my State, and I believe not five thousand. I will leave that point, however, to the report of the Commissioner of the General Land Office when it is received. There are other interests of which I will speak when the bill does come up, that perhaps explain the reason why the Senator from Indiana objects to the bill.

Mr. HENDRICKS. Perhaps I am not exactly accurate in saying that the three roads run parallel with each other. One road runs from Kansas City in a southern direction parallel with a road to which we made a grant of lands two years ago. Another runs from Fort Riley down toward Fort Smith, across one of the roads to which we made a grant two years ago—not exactly parallel, but they are in the same neighborhood, lapping one upon the other.

Mr. POMEROY. The road of which the Senator speaks from Lawrence has already a grant of public lands.

Mr. HENDRICKS. So I say.

Mr. POMEROY. And the road from Fort Riley has already a grant of lands.

Mr. HENDRICKS. I say so.

Mr. POMEROY. No additional grant is asked for those roads. Then there are no three roads before Congress asking for grants of land.

Mr. HENDRICKS. That question will be pretty fully discussed. I apprehend, when we take up the bill. I think it is a grant of public lands; I do not agree with the Senator in that. If it is not, the bills ought not to have been before the Committee on Public Lands. I know just where the one grant stops and where the other commences. But I am not prepared to discuss the question, and I do not intend to go into it.

Mr. WILSON. Does the Senator from Missouri withdraw his motion?

Mr. HENDERSON. Yes, sir; I withdraw it for the time being, with the single remark that I know but little about these grants, as I said before, and I am sorry that the Senator from Indiana should have suffered himself to get excited on a subject of this sort.

Mr. HENDRICKS. No excitement in the world.

Mr. HENDERSON. The Senator seemed to be very earnest anyhow, if not excited; decidedly so. I was requested by some members from my State in the lower House, particularly by Mr. VAN HORN, from the Kansas City district, who feels very considerable interest in this matter, to urge the bill through the Senate. I did not expect to excite even earnestness in the opposition of any gentleman, because, though, as I have already stated, I know but little about these grants, I am satisfied from the statements made to me that the bill is in the usual form. I have never introduced a bill into this body for the incorporation of a railroad company or asking for a grant of lands for railroad purposes; and although a western man, I have doubted very much the propriety of squandering the public lands as I have seen it done. But in all kindness I must submit to the Senator from Indiana, who is a member of the Committee on Public Lands, that I have never known of his opposition to any railroad grant until the present occasion. This is the first one I have ever heard him oppose.

Mr. HENDRICKS. Then I have been unable to attract the attention of the Senator from Missouri. I know that two grants were proposed to be made recently to the State of California and one to the State of Nevada, which I opposed as earnestly as I could in this body, because they were not according to the system which we had agreed upon. There was a pretty close vote upon them, but the bills were passed.

Mr. HENDERSON. I must have been absent at the time the Senator from Indiana speaks of, for I have known of no opposition of his to such grants. Indeed, I thought that he had been rather profligate, if I may use that expression, in regard to grants of public lands; that he had been rather free in voting such grants where I thought they ought not to have been given. I say so without intending to reflect at all upon the Senator. Believing that to have been his course, I was a little surprised at his earnestness in opposition to this bill. However, as he wants time to examine the bill, and as I never wish to press a measure that Senators desire time to examine, I will let it stand over for the present.

Mr. HENDRICKS. I desire to say just one word in reply to the Senator from Missouri. I do not think I have sought, in advocating any of these grants, to squander any of the public lands. I have been a friend to such measures as I thought of importance, where the Government in a particular locality had not done what I thought was its proportion in the development of the country. But I am not in favor of giving lands away simply because we can. I want to see the right of it before it is done.

The PRESIDENT *pro tempore*. The Chair understands the Senator from Missouri to withdraw his motion.

Mr. HENDERSON. Yes, sir.

MRS. W. L. HERNDON.

Mr. CONNESS. I move to take up House bill No. 193. It is a small bill for the relief of Mrs. Herndon, which was once laid over on an objection; but I believe there is now no objection to it. I move to take it up.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 193) for the relief of Mrs. William L. Herndon. It is a direction to the Secretary of the Interior to cause a copyright to issue securing to Mrs. William L. Herndon, to her heirs, assigns, and legal representatives, the exclusive right to republish the book entitled *Exploration of the Valley of the Amazon*, heretofore published under order of Congress, and to publish the same for the term of fourteen years from the passage of the act.

Mr. CONNESS. Mrs. Herndon is the widow of Lieutenant Herndon, of the United States Navy, who was in command of the steamship *Central America*, which was lost in the Atlantic ocean a few years since. It is unnecessary

for me to do more than call attention to his case. The country remembers how gallantly he stood by his ship until all her passengers were sent off, and how he went down with her. His widow, a most estimable and excellent lady, who has never ceased to feel the pride that a true woman should in her husband, asks the privilege of the Government of the United States to extend to her the copyright of the book spoken of in the bill, the report of Lieutenant Herndon's explorations in the valley of the Amazon, published by the Government and now out of print, her purpose being to make additions, biographical and otherwise of her husband, and cause its republication. I hold in my hand a letter which I have received from her stating her case, but I suppose the Senate will not ask me to have it read.

Mr. GRIMES. Where is she?

Mr. CONNESS. She is at New York at the present time. I will not occupy the time of the Senate by reading the letter, and as it is a private letter perhaps it would not be proper to do so. I will say, however, that she states intelligibly and well her purpose and what she desires. The matter has been examined in both Houses by the proper committees.

Mr. CLARK. I desire to inquire of the Senator whether he has examined to see if anybody else has any claim on any portion of the book, as, for example, the plates, if there be any.

Mr. CONNESS. There is none whatever. The committee's examination, I believe, has been entirely complete in that respect. The book has been for many years out of print; I remember it very well; I read it with a great deal of care when it was published; it is a most interesting volume, and is now called for, as this lady states, from book-sellers.

Mr. CLARK. I have no objection to the bill if nobody else has any claim.

Mr. CONNESS. I will not occupy the attention of the Senate longer.

The bill was reported to the Senate, ordered to a third reading, read the third time, and passed.

ROCK ISLAND ARSENAL.

Mr. WILSON. I move to take up Senate bill No. 330, which I reported yesterday morning.

The motion was agreed to; and the bill (S. No. 330) making further provision for the establishment of an armory and arsenal of construction, deposit, and repair on Rock Island, in the State of Illinois, was read the second time and considered as in Committee of the Whole.

It proposes to direct the Secretary of War to fix and establish the position of the Chicago and Rock Island railroad on the island of Rock Island, so as to best accord with the purposes of the Government in its occupancy of that island for military purposes; and in order to effect this he is authorized to grant to the railroad company a permanent location and right of way on and across Rock Island, to be fixed and designated by him, with such quantity of land, to be occupied and held by the company for railroad purposes, as may be necessary therefor; and the grant is to be made on such terms and conditions, previously arranged, as will best effect and secure the purposes of the Government in occupying the island. The Secretary of War is to grant to the Chicago and Rock Island Railroad Company such other aid, pecuniary or otherwise, toward effecting the change in the present location of their road on Rock Island as may be adjudged to be fair and equitable by the board of commissioners authorized under the act of April 19, 1864, entitled "An act in addition to an act for the establishment of certain arsenals," and may be approved by him.

The bill also proposes to extend the provisions of the act of April 19, 1864, so as to include the small islands contiguous to Rock Island, and known as Benham's, Wilson's, and Winnebago Islands; and to appropriate \$200,000 to liquidate claims for property in Benham's,

Wilson's, and Winnebago Islands, and for property in Rock Island which has been taken, in pursuance of law, for military purposes, or so much thereof, and no more, as may be necessary to pay the respective claimants such amounts as may be reported by the board of commissioners authorized by the act of April 19, 1864, and ordered by the United States circuit court to be paid to each; and also to appropriate \$100,000 to secure water-power at the head of Rock Island, and \$100,000 to erect storehouses for the preservation of arms and other munitions of war, and to establish communication between Rock Island arsenal and the cities of Davenport, Iowa, and Rock Island, Illinois.

The bill was reported to the Senate, and ordered to be engrossed for a third reading.

Mr. GRIMES. I rise to inquire of the chairman of the Committee on Military Affairs how much of the money appropriated under the first clause of the fourth section is to be expended in purchasing Benham's, Wilson's, and Winnebago Islands, and how much is to be expended in the payment of claims to that portion of Rock Island that has been purchased of other individuals.

Mr. WILSON. I do not know that I can answer the Senator precisely in regard to the amount necessary to purchase these three small islands. But the Ordnance department very strongly recommend the purchase of these islands, especially the upper one. I think that but a very small portion of the \$293,000 appropriated in the bill is for the purpose of paying for the land. We had a map furnished us by the Ordnance department, showing the position of all these islands; and General Dyer, the head of that department, in a letter sets forth the necessity for their possession by the Government. I do not know that an estimate has been made of the precise amount that these small islands will cost. They are very small islands, one of them only a couple of acres, one seven acres, and the other but a mere dot in the river. I do not think they will cost a great deal. The department say that it is for the interest of the arsenal there to have these three small islands.

Mr. GRIMES. This clause provides for an appropriation of \$293,600, or so much thereof as may be necessary, to purchase Benham's, Wilson's, and Winnebago Islands, and to pay for the property on Rock Island, which has been taken in pursuance of law for military purposes. I am somewhat familiar with that island and the country around there. Rock Island has always been reserved by the Government for military purposes. When all the surrounding country both in Iowa and Illinois was sold that was reserved except two tracts, one on the west side of it next to the Iowa channel, which by act of Congress was granted to a gentleman who formerly lived there by the name of Davenport, embracing, I think, about one hundred and forty acres, and a piece of land that was granted to a party who built a dam at the upper end of the island.

It is desirable that the Government should secure that land which we have already granted away, and I understand that it has been appraised at a very large price; I do not know how much; probably, though, we shall be compelled to take it at that appraisement. What I want to know is, how much of this money is to be expended for the purchase of property on Rock Island proper, and how much of it is to be used in purchasing these small islands. Wilson's Island I know something about, and I cannot conceive of what earthly use it can be to the Government. It has been made since I have known that country; it has been made within thirty years by accretion, and upon it have grown up some cotton-tree saplings as large as a man's leg and I think not much larger.

The second item says:

To secure water power at the head of Rock Island, \$100,000.

Is that for the building of a dam or is it to secure the title to the land which we have

already conveyed under authority of an act of Congress to the party that went there and made a claim some twenty-five years ago? I only seek information in regard to it. I know that it is important that these appropriations should be made. That is the place of all others on the continent where there should be an arsenal, and a large one. Such has been the conviction of all the military officers who have examined the subject for the last thirty years; but I should like to know exactly what is proposed.

Mr. TRUMBULL. I do not know that I can give the Senator from Iowa the precise information that he desires, though I saw General Rodman, who is in command at Rock Island, when he was here, and he showed me the maps and explained to me the necessity, as they supposed, for having these islands. I do not suppose the price is fixed. The act which I have before me of 1864 authorized the condemnation of property and prescribed the means of condemning it. A portion of Rock Island belongs to private individuals, and some of that property has been condemned, I think, and probably these islands have not been condemned. The bill under consideration here provides for paying the claimants such amounts as may be reported by the board of commissioners authorized by the act of April 19, 1864. That act provides for the appointment of commissioners by the court, I think. I have not had time to read it to-day, but I recollect the act provided for the appointment of commissioners by the United States court to condemn the lands.

Mr. GRIMES. The information I want is where is the necessity for the purchase of these three islands, what are called islands here, and how much it is proposed to pay for them. There must be some information furnished by the War Department.

Mr. TRUMBULL. The last inquiry I can answer. It is proposed to pay for them whatever the commissioners appointed by the court find them to be worth. That is the provision of the bill. What that may be I cannot say, and I do not suppose anybody knows; probably persons acquainted there could tell something about it. It is here provided that we shall pay whatever amount shall be found by the commission authorized by the act of April 19, 1864, to assess the damages for taking private property on Rock Island, Illinois, for a military arsenal. That fixes that.

Mr. GRIMES. That does not extend to these other islands.

Mr. TRUMBULL. This bill provides that they are to be paid such amount as may be reported by the board of commissioners authorized by the act of April 19, 1864. This board is appointed according to that act. The act of 1864 authorized the Secretary of War

"To take and hold full, complete, and permanent possession in behalf of the United States, of all the lands and shores of the island of Rock Island, in the State of Illinois, the same, when so possessed, to be held and kept as a military reservation by the War Department, upon which shall be built and maintained an arsenal for the construction, deposit, and repair of arms and munitions of war, and such other military establishments as have been or may be authorized by law to be placed thereon in connection with such arsenal."

That act further provided:

"That if it shall appear upon examination by the Attorney General of the United States of the titles of the land on Rock Island taken and occupied by the Secretary of War for an arsenal and other military purposes, as provided in the foregoing section, that any part or parcels thereof are now the property of, and are rightfully possessed by, any individual or corporation as his or their own private property, the value of such private property so taken, and a just compensation for any damages caused by such taking, shall, if mutually agreed on by the Secretary of War and the rightful owner or owners thereof, and approved by the President, be paid by the Secretary of the Treasury to said rightful owner or owners so agreeing, out of the appropriations made or to be made for the construction of said arsenal: *Provided*, That before such payment shall be made, the said owner or owners of such private lands so taken, or such of them as shall agree, shall by good and sufficient deed or deeds, in due form of law, and approved by the Attorney General of the United States, fully release and convey to the United States all their and each of their several and respective rights in and titles to such lands so taken.

"Sec. 3. And be it further enacted, That if the Secre-

tary of War shall not agree with any private owner or owners of land so taken for the use of the United States for military purposes, or if any such owner or owners shall refuse to accept the sum to be paid to him or them by the Secretary of the Treasury as and for the true value thereof, or shall from any other cause neglect or fail for the space of twelve months after such taking to execute and deliver the deed or deeds thereof needful, in the opinion of the Attorney General of the United States, to convey to the United States the title of said lands taken, there shall forthwith be selected three competent persons, who shall be named and appointed by the President, and shall by him be constituted a board of commissioners, whose duty it shall be to hear the parties interested, who may appear before them upon reasonable notice of time and place, and ascertain the true value of the land taken."

These commissioners are to assess the value of this land.

Mr. GRIMES. Exactly, on Rock Island.

Mr. TRUMBULL. By this bill on all these islands.

Mr. GRIMES. Where is that authority conferred upon them by this bill?

Mr. TRUMBULL. I understood it to do so.

Mr. WILSON. This bill gives the authority.

Mr. GRIMES. No, it does not.

Mr. TRUMBULL. This bill authorizes it. The Senator will find it in the fourth section:

To liquidate claims for property in Benham's, Wilson's, and Winnebago Islands, and for property in Rock Island which has been taken, in pursuance of law, for military purposes, \$293,600, or so much thereof, and no more, as may be necessary to pay the respective claimants such amounts as may be reported by the board of commissioners authorized by the act of April 19, 1864, and ordered by the United States circuit court to be paid to each.

Mr. GRIMES. This bill does not revive that act at all.

Mr. TRUMBULL. Perhaps the bill is defective. I have not examined it very carefully.

Mr. JOHNSON. Let me ask the Senator what is the date of the act to which he referred just now.

Mr. TRUMBULL. April 19, 1864.

Mr. JOHNSON. Then that is the end of it.

Mr. TRUMBULL. I think the bill probably contains all that is necessary.

Mr. WILSON. If the Senator will allow me, the third section of the bill provides—

That the provisions of the act, approved April 19, 1864, entitled "An act in addition to an act for the establishment of certain arsenals," be so extended as to include the small islands contiguous to Rock Island, and known as Benham's, Wilson's, and Winnebago Islands.

Mr. TRUMBULL. It will be seen that by that section the provisions of the act of April 19, 1864, are extended so as to embrace these three islands, and then the amount to be paid is the amount that is assessed by these commissioners. I do not suppose anybody can know what the amount will be until the assessment is made.

I wish to say, in reply to the other question asked by the Senator from Iowa, that in a conversation which I had with General Rodman he explained what he supposed to be the necessity of having these islands, and my recollection of it is that they desire to have these islands in connection with the water power which they want to use in some way, and they think it necessary to have control over them. I do not suppose they are very valuable. The War Department deem it necessary in their arrangements to have these islands; perhaps the Senator from Massachusetts can explain why; but as to the price, that will depend upon the assessment.

Mr. WILSON. I have here a letter of General Dyer to the Secretary of War in regard to this whole matter. General Dyer says, in his letter:

"The act of April 19, 1864, before referred to, gives authority to the Secretary of War to take and hold full, complete, and permanent possession, in behalf of the United States, of all the lands and shores of the island of Rock Island, in the State of Illinois; and the only additional legislation that will be necessary to effect the same in regard to the small contiguous islands, known as Benham's, Wilson's, and Winnebago Islands, will be to extend the provisions of that act so as to include them. Their ownership and occupancy by the United States are necessary for carrying out the military purposes of the act, in addition to the ownership and occupancy of the lands and shores of Rock Island already provided for."

He does not state why it is necessary, but that

is the statement of this officer. We sent to the War Office for a map. The committee at first was rather opposed to purchasing these islands. Wilson's Island contains an area of seven and six tenths acres, Winnebago about one acre, and Benham's Island two acres. They desire to connect the main island of eight hundred acres with the upper island by a dam for water power. These small islands can cost but a very small amount at any rate. Rock Island consists of eight hundred acres, and the sum claimed is \$293,600. General Dyer says that sum is unquestionably too large, and the commissioners will doubtless cut it down; but he desires to secure these three small islands, and says it is necessary to do so for Government purposes. On the map sent to us from the War Department the dam connects the upper island—I have forgotten which one it is—with the main island in order to secure water power. I suppose the object is to connect the two islands by a dam for the purpose of securing water. An appropriation is here made of \$100,000 for the purposes of water power. The cost is not set down here precisely, nor the reasons why they need it; but General Dyer states that it is necessary for Government purposes, and General Rodman, who was here one or two days ago, makes the same statement.

Mr. KIRKWOOD. With reference to the upper island, it is evident, I think, that it is necessary for the use of the establishment at Rock Island. There is, as the Senator from Massachusetts has stated, a dam for connecting it with the larger island making good water power. It is now in use for a saw-mill, and may be used hereafter for Army purposes. There is a small island at the lower end of Rock Island composed of deposits, I think.

Mr. WILSON. A mere speck on the map.

Mr. KIRKWOOD. Yes, sir; I think the purpose of getting possession of it is the fear that it might get into the hands of an individual and might be made a source of annoyance to the Government in the use of the larger islands. I think it is to give the Government unrestrained control of the whole of them, to prevent their being used in such a way as to annoy the Government establishment at any time.

Mr. WILSON. According to the statement made, one of the reasons for obtaining possession of the lower islands is to prevent booths for drinking, &c., from being erected. It is said it will not cost much to secure these islands. The upper island is desired in order to build a dam to get water.

Mr. KIRKWOOD. In regard to the expense of procuring the title to the land on this island, I understand it is not to be bought, but commissioners have been appointed to condemn it. The sum named in the bill is entirely beyond the value of the land. There is no question about that.

Mr. TRUMBULL. This sum is not for that particular purpose alone; it is for other purposes.

Mr. KIRKWOOD. I understand that commissioners are appointed to take the land and condemn it at its true and proper value, and pay that to the parties. I hope the bill will pass.

The bill was read a third time and passed.

AMENDMENT OF POSTAL LAWS.

Mr. VAN WINKLE. I ask the Senate to proceed to the consideration of House bill No. 281, to amend the postal laws.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill.

Mr. VAN WINKLE. Before the bill is read I will ask the Secretary to insert a word which has been accidentally omitted in the printing of the bill. It is the word "not," in line twelve of the sixth section, after the word "imprisoned."

The PRESIDENT *pro tempore*. That is a clerical mistake, and will be corrected.

The Secretary read the bill. It provides that from and after the 1st day of April, 1866,

prepaid letters shall be forwarded, at the request of the party addressed, from one post office to another without additional postage charge; and returned dead letters are to be restored to the writers thereof free of charge.

The second section repeals the tenth section of the act entitled "An act to establish salaries for postmasters, and for other purposes," approved July 1, 1864; and so much of the twenty-eighth section of the act entitled "An act to amend the laws relating to the Post Office Department," approved March 3, 1863, as requires postage to be charged at the prepaid rate, to be collected on the return delivery of letters, indorsed with a request for their return to the writers; and all letters bearing such indorsement are hereafter to be returned to the writers thereof without additional postage charge.

The third section of the bill proposes to amend the third section of the act entitled "An act to establish a postal money-order system," approved May 17, 1864, so as to authorize the issuing of a money order for any sum not to exceed fifty dollars, and the charge or fee for an order for a sum not exceeding twenty dollars is to be ten cents; for an order exceeding twenty dollars twenty-five cents.

The fourth section provides that a money order shall be valid and payable when presented to the deputy postmaster on whom it is drawn within one year after its date, but for no longer period; and in case of the loss of a money order a duplicate thereof is to be issued without charge, on the application of the remitter or payee, who shall make the required proofs; and postmasters at all money-order offices are required to administer to the applicant or applicants in such cases the required oath or affirmation free of charge.

The fifth section requires all railroad companies carrying the mails of the United States to convey without extra charge, by any train which they may run over their roads, all such printed matter as the Postmaster General shall, from time to time, direct to be transported thereon with the persons in charge of the mails designated by the Post Office Department for that purpose.

By the sixth section it is provided that every person who shall willfully and maliciously injure, deface, or destroy any mailable matter deposited in any letter-box, pillar-box, or other receiving boxes established by authority of the Postmaster General of the United States for the safe deposit of matter for the mails or for delivery, or shall willfully aid and assist in injuring such mailable matter so deposited, either by pouring into such boxes oil, water, or other fluid, or by any other means, on being duly convicted shall, for every such offense, be fined not less than \$100 nor more than \$1,000, or be imprisoned not less than one year, nor more than three years, at the discretion of the court.

The seventh section authorizes the Postmaster General, whenever it shall become expedient, in his opinion, to substitute a different kind of postage stamps for those now in use, to modify the existing contract for the manufacture of postage stamps so as to allow to the contractors a sum sufficient to cover the increased expenses, if any, in manufacturing the stamps so substituted.

The eighth section proposes to amend section two of the act entitled "An act to establish salaries for postmasters, and for other purposes," approved July 1, 1864, by adding the following: "Provided, that when the quarterly returns of any postmaster of the third, fourth, or fifth class show that the salary allowed is ten per cent. less than it would be on the basis of commissions under the act of 1854, fixing compensation, then the Postmaster General shall review and readjust under the provisions of said section."

The Committee on Post Offices and Post Roads reported the bill with various amendments. The first amendment was in section one, line three, to strike out the word "April" and insert "May."

Mr. VAN WINKLE. I move to amend the amendment by inserting "July."

The amendment to the amendment was agreed to.

The amendment, as amended, was adopted.

The next amendment was in section one, line four, after the word "prepaid" to insert the words "and free;" so that the section will read:

That from and after the 1st day of July, 1866, prepaid and free letters shall be forwarded, &c.

The amendment was agreed to.

The next amendment was in section six, line eight, after the word "aforesaid" to strike out the words "either by pouring into such boxes oil, water, or other fluid, or by any other means."

The amendment was agreed to.

The next amendment was in section six, line eleven, after the word "not" to strike out the words "less than one hundred nor;" and in the same line to strike out the words "one thousand" and insert "five hundred," and in the twelfth line to strike out the words "less than one year nor;" so that the clause will read:

Every such offender being thereof duly convicted shall, for every such offense, be fined not more than \$500, or be imprisoned not more than three years, at the discretion of the court.

The amendment was agreed to.

Mr. RAMSEY. At the instance of the Committee on Post Offices and Post Roads, I offer another amendment, to come in as an independent section:

And be it further enacted, That whenever the Postmaster General shall require special agents of the Post Office Department to collect or disburse the public moneys accruing from postages, such special agent or agents, when so employed, shall, prior to entering upon such duty, give bond in such sum, and in such form, and with such security as the Postmaster General may approve.

The amendment was agreed to.

Mr. KIRKWOOD. I desire to call the attention of the Senator having charge of this bill to the fourth section, relating to the reissuance of money orders where they have been lost. I suggest the propriety of requiring the giving of a bond by the person to whom the second order is issued, in case the first one should ever again be brought forward. It is usual I think in cases of this kind in banking institutions; and it is usual for Congress, where we provide for issuing new bonds where the original ones have been lost, to require the party receiving the new bond to give his own bond to hold the Government harmless.

Mr. VAN WINKLE. That subject was canvassed in the committee, and the opinion was that it was not necessary to introduce the provision. These money orders are not like bonds or drafts that can be paid by any person. They must come back to the post office for payment. When one is reported lost, notification is immediately given to all the money-order post offices; and it is impossible that any evil of the kind suggested could occur. This section is intended to facilitate the business where, perhaps by the fault of the Post Office establishment, the money order has got astray. It is not believed that the Government will sustain any loss from that money order falling into the hands of an improper person. I think, therefore, that the amendment suggested, although it would be very proper in most such cases, is not required in this.

The bill was reported to the Senate as amended, and the amendments were concurred in and ordered to be engrossed, and the bill to be read a third time. It was read a third time and passed.

OTWAY H. BERRYMAN.

Mr. WILLEY. I ask the Senate to take up Senate bill No. 284.

The motion was agreed to; and the bill (S. No. 284) for the relief of the children of Otway H. Berryman, deceased, was read a second time and considered as in Committee of the Whole. It directs the proper accounting officers of the Treasury to allow and pay to the

children of Otway H. Berryman, deceased, the sum of \$2,100 02, being the amount of losses sustained by Otway H. Berryman while commanding and acting as purser of the United States schooner Onkahye; but it is not to exceed the amount which a purser would have received for performing the same duties on board of the vessel.

Mr. FESSENDEN. If there is a report in that case, I should like to hear it.

Mr. WILLEY. There is a report accompanying the bill which I ask may be read.

The Secretary read the following report submitted by Mr. WILLEY, from the Committee on Naval Affairs, on the 25th of April:

The Committee on Naval Affairs, to whom was referred the petition of Otway H. Berryman, praying to be allowed the amount of money paid by him in adjusting his accounts as acting purser, have had the same under consideration, and beg leave to report:

That this memorial was presented to the Senate and referred to the Committee on Naval Affairs, at the first session of the Thirty-Second Congress. On the 10th day of August, 1852, Mr. Mallory, of said committee, made a favorable report, accompanied by a bill. No further action was taken on the bill at that Congress.

At the first session of the Thirty-Third Congress the memorial was again referred to said committee. On the 15th of February, 1854, Mr. Mallory again made a favorable report, accompanied by a bill. On the 7th of July, 1854, this bill was passed by the Senate; but it was never acted on by the House of Representatives.

At the first session of the Thirty-Fifth Congress this memorial was again referred to said committee, and Mr. Mallory again made a favorable report, accompanied by a bill, which was passed by the Senate on the 16th of April, 1860. The House of Representatives failed to pass upon it.

At the Thirty-Sixth Congress Mr. Hammond, of the Committee on Naval Affairs, made a favorable report on the claim, accompanied by a bill, which was passed by the Senate on the 6th of April, 1860. But the House of Representatives again failed to consider the bill.

Since the passage of the bill last aforesaid the petitioner has died, and since his death his widow has also departed this life, leaving four children who are in indigent circumstances.

The committee adopt the last report made as aforesaid, which is as follows:

That the grounds relied upon by Lieutenant Berryman are substantially those which induced Congress to grant relief to Lieutenant Charles G. Hunter in 1858, and your committee cannot distinguish between them.

Lieutenant Berryman assumed the command of the United States schooner Onkahye in October, 1846, under an order from the Navy Department, dated the 20th October, 1846, and he immediately entered upon special duty, and performed active and arduous service in the Gulf of Mexico, to Brazil and Chagres, during twenty-two months, which was terminated by the total shipwreck of the vessel on a sunken reef in July, 1848.

With his command he was ordered to perform the duties of purser to the vessel, and these duties he performed throughout the whole period of his command.

No adjustment of his accounts took place until his return to the United States, when it was found that he had actually expended as purser more money, by \$2,235, than he could produce the requisite vouchers for. This sum he paid to the Government, and his accounts were balanced accordingly.

The memorialist alleges that he has diligently and faithfully kept and disbursed the means intrusted to him as purser to pay the lawful liabilities of the Government, and that the omission to take and return the proper vouchers for all his expenditures was alone the result of his ignorance of, and his want of practice in, the duties of purser.

The memorialist has a family to support, dependent upon him. He had a small landed estate, which he sold to pay his deficiency, and himself and family have thereby become subjected to great pecuniary embarrassment.

Your committee, from an examination of the memorial and its accompanying papers, and from inquiries also at the Navy Department, are satisfied that the memorialist, whose character and standing as an officer and a man are irreproachable, did faithfully disburse the means intrusted to him in the payment of the proper liabilities of the Government; and that his ignorance of his accounts, and of the importance of carefully preserving vouchers for every expenditure, was due to his general want of familiarity with the duties of his incidental post of purser. He received no compensation for the performance of these duties, nor could he receive any legally. His deficiency is the result of no misapplication of the means of the Government, of no want of due care and diligence in guarding and preserving them. The Government has had the benefit of the expenditure and of his services—services which his education and training as an officer of the Navy did not make him at all peculiarly fitting to perform. They belong wholly to another department of the Navy and to men differently educated. They are imposed on officers in command of public vessels by the Government for its own convenience, and it should, unless some fraud is established, bear the losses of its own neglect in not appointing the proper officer to perform these services.

The amount of disbursements by memorialist as

purser, during the period referred to, for which he obtained credit at the Department, was \$21,951 50.

Your committee deem it a proper case for relief, and report a bill accordingly.

Mr. JOHNSON. Is this bill reported by a committee?

The PRESIDENT *pro tempore*. By the Committee on Naval Affairs.

Mr. JOHNSON. Unanimously, I believe.

Mr. GRIMES. Yes, sir.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

EXECUTIVE SESSION.

Mr. CRAGIN. I move that the Senate proceed to the consideration of House bill No. 453, for the relief of Cornelius B. Gold, late acting assistant paymaster United States Navy.

Mr. DOOLITTLE. I desire to move an executive session.

Mr. CRAGIN. This is a very brief bill, and will not take five minutes.

Mr. DOOLITTLE. It is important that we have an executive session. There is a matter pending which should be disposed of, and I move that the Senate now proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 22, 1866.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

The SPEAKER stated that the absence of the Chaplain, Mr. BOXTON, for the past week was on account of illness.

DISBURSING OFFICERS OF PUBLIC WORKS.

Mr. CULLOM, by unanimous consent, introduced a bill to amend an act entitled "An act making appropriations for sundry civil expenses of the Government for the year ending the 30th of June, 1859;" which was read a first and second time.

The bill was read at length. It proposes to amend a proviso of the act of June 30, 1859, so that it shall read as follows:

Provided further, That where there is no collector at the place of location of any public works herein specified the Secretary of the Treasury shall have power to appoint a disbursing agent for the payment of the moneys that are or may be hereafter appropriated for the construction of any such public works, with such compensation as he may deem equitable and just; and all laws and parts of laws in conflict with the provisions of this section be, and the same are hereby, repealed.

The bill was then ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

LETTER CARRIERS OF SAN FRANCISCO.

Mr. McRUER asked unanimous consent to report back from the Committee on the Post Office and Post Roads, for action at this time, joint resolution H. R. No. 142, authorizing the Postmaster General to pay additional salaries to letter carriers of San Francisco.

Objection was made.

SUSPENSION AND RESTORATION OF PENSIONS.

Mr. SCHENCK, by unanimous consent, submitted the following preamble and resolution; which were read, considered, and agreed to:

Whereas the Commissioner of Pensions, on the 10th day of June, 1865, issued certain instructions and forms for the restoration to the pension-rolls of the names of persons who were dropped therefrom in pursuance of an act approved February 4, 1862, entitled "An act authorizing the Secretary of the Interior to strike from the pension-rolls the names of such persons as have taken up arms against the Government, or who may have in any manner encouraged the rebellion:" Therefore,

Resolved, That the Secretary of the Interior be directed to report to this House the names and places of residence of all persons who were dropped from the pension-rolls in pursuance of said act, and who have been at any time since restored thereto; and of all persons whose application for restoration may still be pending, with the date of such restoration or application, and the amount of annual pension allowed or claimed in each case; also, whether arrears of pensions for any period of the rebellion have been allowed

or claimed in any such cases, and the amount of arrears allowed or claimed in each case; also an estimate of the amount required to pay the arrears of pensions which accrued during the late rebellion to persons dropped from the rolls in pursuance of the provisions of said act; and also the precise proofs upon which in each case the restoration was allowed or the pending application based, and on whose order or by whose decision and under what provision of law such restoration of pension or payment of arrears of pension has been directed or authorized.

Mr. SCHENCK moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

A. WALKER.

Mr. BIDWELL, by unanimous consent, introduced a bill for the relief of A. Walker for losses sustained in the Mexican war; which was read a first and second time, and referred to the Committee of Claims.

ORDER OF BUSINESS.

Mr. HARDING, of Illinois. I demand the regular order of business.

Mr. INGERSOLL. Will the gentleman from Illinois [Mr. HARDING] yield to me for a moment?

Mr. HARDING, of Illinois. I am anxious to get through with the public business. I do not want to have evening sessions; still I am willing to attend them if they are necessary. But I cannot consent to taking up the time of the House, which should be devoted to the regular business of the House, by special business.

Mr. MORRILL. I think we better go on with the regular business.

ASSISTANT SECRETARY OF THE NAVY.

The SPEAKER. The regular order is the unfinished business of yesterday, being the consideration of Senate bill No. 318, authorizing the appointment of an additional Assistant Secretary of the Navy.

The question was upon ordering the bill to be read a third time.

Mr. RICE, of Massachusetts. I took occasion just before the adjournment yesterday to explain the object and purpose of the bill now under consideration. I suppose it is quite fully understood by the House, and I have no desire to consume time valuable for other purposes in any further discussion of this bill. And therefore I now call the previous question.

Mr. ROSS moved that the bill be laid on the table.

On the motion there were—yeas 35, noes 55; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Mr. Ross, and Mr. RICE of Massachusetts.

The House divided; and the tellers reported—ayes 28, noes 65.

So the bill was not laid on the table.

Mr. BRANDEGEE. Would it be in order, Mr. Speaker, to move to amend the bill so as to give the Secretary of the Navy leave to go abroad? [Laughter.]

The SPEAKER. No amendment is in order pending the demand for the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was ordered to a third reading, and read the third time.

The question being on the passage of the bill,

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 69, nays 41, not voting 73; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Baxter, Beaman, Bergen, Bidwell, Blow, Boutwell, Brandegee, Conkling, Davis, Dawson, Deming, Dixon, Dodge, Donnelly, Driggs, Eldridge, Ferry, Griswold, Hale, Henderson, Higby, Holmes, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, Edwin N. Hubbell, Ingersoll, Jencks, Julian, Kelley, Kuykendall, Lallin, Le Blend, Loan, Longyear, Marvin, McClurg, McRuer, Moorhead, Morrill, Myers, Niblack, Nicholson, O'Neill, Perham, Phelps, Pike, Price, Alexander H. Rice, John H. Rice, Rollins, Scofield, Spalding, Ste-

vans, Stilwell, Thayer, John L. Thomas, Trowbridge, Burt Van Horn, Welker, James F. Wilson, Windom, Winfield, and Woodbridge—69.

YAYS—Messrs. Ancona, Delos R. Ashley, Baker, Baldwin, Boyer, Chanler, Cobb, Cook, Cullom, De-frees, Denison, Dumont, Eckley, Goodyear, Grid-der, Aaron Harding, Abner C. Harding, John H. Hub-bard, Hulburd, James M. Humphrey, Kerr, Ketcham, George V. Lawrence, William Lawrence, Marshall, McKee, Morris, Paine, William H. Randall, Ritter, Rogers, Ross, Sawyer, Sloan, Taylor, Francis Thomas, Trimble, Van Aernam, Ward, Henry D. Washburn, and Wright—41.

NOT VOTING—Messrs. Anderson, Banks, Barker, Benjamin, Bingham, Blaine, Bromwell, Broomall, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cockroft, Culver, Darling, Dawes, Delano, Eggleston, Eliot, Farnsworth, Farquhar, Finck, Garfield, Gloss-brenner, Grinnell, Harris, Hart, Hayes, Hill, Hogan, Hooper, James R. Hubbell, James Humphrey, John-son, Jones, Kasson, Kelso, Latham, Lynch, Mar-son, McCullough, McIndoe, Mercer, Miller, Moul-ton, Noell, Orin, Patterson, Plants, Pomeroy, Radford, Samuel J. Randall, Raymond, Rousseau, Schenck, Shanklin, Shellabarger, Stigrenaves, Smith, Starr, Strouse, Taber, Thornton, Upson, Robert T. Van Horn, Warner, Elihu B. Washburne, William B. Washburn, Wentworth, Whaley, Williams, and Ste-phen F. Wilson—73.

So the bill was passed.

Mr. RICE, of Massachusetts, moved to re-consider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

BANKRUPT LAW.

The **SPEAKER**. The morning hour has commenced; and agreeably to order, the House resumes the consideration of the bill (H. R. No. 598) to establish a uniform system of bank-ruptcy throughout the United States. On this bill the gentleman from Rhode Island [Mr. JENCKES] is entitled to the floor, fourteen min-utes of his hour remaining.

Mr. JENCKES. In the bill as printed there are several errors and inaccuracies; and on behalf of the committee I desire to move amendments to correct them.

I move to amend by striking out the word "county," in the third line of the third sec-tion, and inserting in lieu thereof the words "congressional district."

The amendment was agreed to.

Mr. JENCKES. I move further to amend by striking out in the fourth line of the eleventh section the word "five" and inserting in lieu thereof the word "three;" so that the clause will read:

That if any person residing within the jurisdiction of the United States, owing debts provable under this act exceeding the amount of \$300, shall apply by petition, &c.

The amendment was agreed to.

Mr. JENCKES. I also move to amend by striking out in the twenty-seventh and twenty-eighth lines of the twenty-eighth section the words "at the time such dividend is given." Those words are superfluous.

The amendment was agreed to.

Mr. HOLMES. I suggest to the gentleman from Rhode Island that in the thirty-fourth line of the eleventh section the word "five" should be "three."

Mr. JENCKES. The gentleman is correct. I move to amend by striking out "five" in the line the gentleman mentions and inserting "three."

The amendment was agreed to.

Mr. JENCKES. Mr. Speaker, in closing this debate I wish to state and to reply to some general objections that have been raised to legislation upon this subject.

1. The first objection is, that no law should be passed which authorizes the discharge of a debt without payment in full, or which cancels the obligation of a contract. All bankrupt laws on this principle would be pronounced inexpedient and unjust.

My reply is, that in the progress of civiliza-tion it has become repugnant to the consciences of enlightened nations that there should be any longer *servitude for debt*. There are two parties to every contract, and there are uncer-tainties with regard to the performance of it by each. All commercial nations have dis-covered that it is as necessary for the prompt

transaction of business, the preservation of mercantile honor, and the encouragement of trade and enterprise, to provide a remedy for the honest, unfortunate debtor against the per-secution of some grasping creditor, as to pro-vide a remedy for the creditor against a fraud-ulent debtor. The security, even the life of trade, requires that the relief provided by law should be mutual. Otherwise, honesty is con-founded with fraud, and misfortune with crime.

A well-adjusted system of bankrupt law pro-vides the desired remedy; and while it strength-ens rather than weakens the creditor's rights and powers, it rewards unfortunate honesty with emancipation. Hereafter, if this bill be-comes a law, imprisonment for debt, that relic of barbarous ages which still lingers in some of the States, will cease to exist and can never be restored. The energies of the unfortunate debtor will no longer be lost to his family and his country. The past, with its retrospect of embarrassment and misfortune, will no longer cast its baneful shadow over his mind, his future will no longer be uncheered by hope. The pur-suit of happiness, the road to honor, a career of industry and enterprise, with its rewards, will again be opened to him, and he will enter anew, as a redeemed man, into the life and prosperity of the State.

2. Another objection is, that although the power to pass a system of laws on the subject of bankruptcy is clearly granted to Congress by the Constitution, yet it is inexpedient for Congress to exercise it. Such an argument might have weight if this bill were brought forward as a party measure, or if it were partial and unequal in its operation, and did not tend to produce the beneficial results it aims at. But the most ingenious and suspicious mind has failed to discover any partisan character in it, and the closest criticism, in and out of Congress has not disclosed any of the other obnoxious qual-ities. It cannot be pretended that State legis-lation can afford adequate relief, for its power over the subject is limited, and over the per-sons ceases entirely at the States' boundaries.

At the time of the adoption of the Federal Constitution, Rhode Island had a perfect bank-rupt law, discharging the debt as well as the person of the debtor, but the Supreme Court declared it to be unconstitutional and null. New York once passed a similar law which met the same fate before the same tribunal. The power resides solely here; and being sole and exclusive it implies a corresponding duty, which is the exercise of that power for the ben-efit of the people. The Republic has a right to the free and unfettered services of all its citizens, and every interest of the State de-mands that they should have the free exercise of their faculties in all the pursuits of life. It is contrary to wise policy to permit one class to hold another in a bondage where freedom from incarceration only makes the suffering more intense. With ruined fortunes, blasted hopes, paralyzed energies, how can those irre-trievably insolvent, contribute to the welfare of the family or the prosperity of the country? Not alone the miseries of these men, but the material interests of the Republic demand the exercise of this beneficent power. Nor is there any considerable opposition to it from that class who may be supposed to be ben-efited by the present state of the law. The great creditor interests of the country, to their honor be it spoken, have appealed to you to nationalize the relation of debtor and creditor by the passage of this bill. After one unpar-alleled revulsion in trade, and another caused by unexpected war, and after the vast fluctua-tions of a five years' state of war, they have discovered that their true interest requires that the law should be so framed as to bring about the most prompt settlements, and give each party the quickest and most thorough relief.

I had the pleasure of submitting to this House the most weighty testimony ever offered on this subject to any legislative body in the world. These Chambers of Commerce and Boards of Trade and their constituencies do not fear that

any rogue, or willful rebel who threw his prop-erty into the scales of rebellion with himself, will escape through the meshes of this bill while creditors are vigilant and courts are honest. They wish to meet their debtors, North and South, under the common protection of national law. Their enlightened self-interest has risen to the degree of wise statesmanship. Cannot this Congress be as magnanimous, as just, and as wise?

3. Others object to the system because they say it is retroactive, and avow their willingness to accede to it were it wholly prospective and applicable only to contracts made after the bill shall have become a law. If this be urged on constitutional grounds, it meets with a perfect answer in the decisions of the Supreme Court. Nothing can be clearer than the language of Chief Justice Marshall explaining the clause in the Constitution under which this bill is framed, and that which contains the prohibi-tion upon the States.

Far more cogent, if not altogether conclu-sive, is the constitutional argument against legislation to take effect only on future con-tracts. Some date must be fixed in such a statute before which contracts must remain binding, and beyond which they may be an-nulled. The business of the country must go on, with or without such a statute, and debts must be contracted on the usual credits. A man fails a month after the day designated. From the obligations contracted within that month he may be discharged, but he must remain in the chains of all his previous liabil-ities although they may run back through a period of twenty years. In fact, as the evi-dence of debt may be a judgment or specialty, no statute could give equal and full relief to all debtors on this principle, unless its opera-tion should be postponed until twenty years after its passage.

Such an enactment would be an absurdity. As a present measure of relief, a purely pros-pective statute, to take effect from its date, would be worse than a mockery; it cuts a man into fractions; it severs his business and his life; one half, or some other fraction of him may be bond, the other, free. It breathes the spirit of the terrible Roman statute which gave the living body of the debtor to be cut in pieces by his creditors—a horrid dividend. It would be as unjust to the creditor as to the debtor; they should all be treated alike, and stand equal before the law. It would discriminate against some and favor others; some would take the dividend, and the balance of their claims would still be valid; others would be compelled to discharge their whole debt for the same dividend. Such a statute could not be uniform in its operation, and would there-fore be unconstitutional. For, as I have main-tained in this debate, the constitutional re-quirement in a bankrupt law is, that it should be uniform in its effect upon the relation of debtor and creditor. That is a personal rela-tion. Their rights are personal rights; their contracts are personal contracts; their rem-edies are by personal actions, and the relief granted by a bankrupt law is a discharge from these personal actions. The effect should be uniform upon all, or the constitutional re-quirement is violated.

But this statute cannot properly be called retroactive even in the sense that all remedial statutes are retroactive. It is not within the prohibition of *ex post facto* laws. It takes effect upon the business of the country as it is, in the same manner that the two previous sta-tutes took effect at their respective dates. The warrant to enact it is found in the clear and explicit language of the Constitution, and to a bill like this, with less propriety than perhaps to any other, can the term retroactive or retro-spective be applied in the offensive sense that it changes existing rights and liabilities without notice; for every contract that has been made since the ratification of the Constitution has been entered into with full knowledge of its contents, and subject to the power of Congress

to pass at any time a law by which that contract might be annulled.

About the details of the bill, as originally reported, the committee have never been tenacious. I merely carried out their instructions in contending for what they had carefully considered and prepared, and in insisting upon the provisions of the bill as they were, until something better was offered. Since the last reference of the bill, friends of the measure, not upon the committee, have submitted amendments which the committee have become satisfied were improvements on the original plan.

These have in every instance been incorporated into the bill as now reported. None of them were matured and offered while the bill was under discussion in the House. If they had been, they would have been promptly accepted then. I was instructed to sustain and defend the bill in the spirit of the teaching of the Roman poet, which forms a maxim in his art:

"Si quid novisti rectius istis,
Candidus imperi; *pi* non, his utere mecum."

And whenever the better have been imparted they have been gladly accepted.

Mr. Speaker, I now call the previous question.

Mr. PAINE. I desire to move an amendment to strike out from the bill the provisions with reference to compulsory or involuntary bankruptcy, sections thirty-nine, forty, forty-one, and forty-two. I do not suppose that this amendment will meet the approval of the gentleman from Rhode Island; but I ask him to yield to me that I may test the opinion of the House upon the matter.

Mr. JENCKES. That point was raised during the course of the discussion, and as the sense of the House has already been tested, I decline to withdraw the previous question for that amendment.

Mr. STEVENS. I hope the gentleman will withdraw the call for the previous question to let me move the postponement of this harricari until December next. [Laughter.]

Mr. JENCKES. I decline to withdraw the demand for the previous question.

The House divided; and there were—ayes 59, noes 35.

Mr. BLAINE demanded tellers.

Tellers were not ordered.

So the previous question was seconded.

The main question was ordered to be put.

Mr. STEVENS moved that the bill be laid upon the table; and on that motion demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 49, nays 73, not voting 56; as follows:

YEAS—Messrs. Anderson, Delos R. Ashley, Baker, Bidwell, Blaine, Sidney Clarke, Cobb, Cook, Dawson, Defrees, Dumont, Eckley, Eldridge, Goodyear, Grider, Aaron Harding, Abner C. Harding, Henderson, Chester D. Hubbard, Edwin N. Hubbell, Ingersoll, Julian, Kelso, Kerr, William Lawrence, Loan, Lynch, Marston, McClurg, McKee, Niblack, O'Neill, Orth, Paine, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Ritter, Rollins, Ross, Sawyer, Schenck, Sitgreaves, Stevens, Welker, James F. Wilson, and Winfield—49.

NAYS—Messrs. Alley, Allison, Ames, Ancona, James M. Ashley, Baldwin, Banks, Baxter, Beaman, Bergen, Boutwell, Boyer, Brandegee, Chanler, Conkling, Davis, Dawes, Deming, Dixon, Dodge, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Garfield, Griswold, Hale, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James M. Humphrey, Jenckes, Kelley, Ketcham, Ladin, George V. Lawrence, Longyear, Marvin, McCullough, McRuer, Moorhead, Morris, Myers, Nicholson, Phelps, Pike, Radford, Alexander H. Rice, John H. Rice, Rogers, Rousseau, Scofield, Sloan, Spalding, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Williams, Windom, Woodbridge, and Wright—73.

NOT VOTING—Messrs. Barker, Benjamin, Bingham, Blow, Broomwell, Broomall, Buckland, Bundy, Reader W. Clarke, Coffroth, Cullom, Culver, Darling, Delano, Denison, Eggleston, Farquhar, Finck, Glossbrenner, Grinnell, Harris, Hart, Hayes, Hill, James R. Hubbell, James Humphrey, Johnson, Jones, Kasson, Kuykendall, Latham, LeBlond, Marshall, McIndoe, Mercier, Miller, Morrill, Moulton, Newell, Noell, Patterson, Pomeroy, Raymond, Shanklin, Shellabarger, Smith, Starr, Stilwell, Strouse, Thornton, Robert

T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Whaley, and Stephen F. Wilson—56.

So the House refused to lay the bill upon the table.

During the vote,

Mr. CULLOM stated he was paired with Mr. WENTWORTH, who was for the bill, while he was against it.

Mr. DENISON stated he was paired with Mr. NOELL, who would vote for the bill, while he was against it.

Mr. KUYKENDALL stated he was paired with Mr. RAYMOND, who would vote for the bill, while he would vote against it.

Mr. ALLISON stated that his colleague, Mr. KASSON, who would vote for the bill, was paired with Mr. BENJAMIN, who would vote against it.

Mr. LE BLOND stated he was paired with Mr. GRINNELL, who was for the bill, while he was against it.

The vote was then announced as above recorded.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. JENCKES demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. HARDING, of Kentucky, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 68, nays 59, not voting 56; as follows:

YEAS—Messrs. Alley, Allison, Ames, James M. Ashley, Baldwin, Banks, Baxter, Beaman, Bergen, Blow, Boutwell, Brandegee, Chanler, Conkling, Davis, Dawes, Dixon, Dodge, Donnelly, Driggs, Eliot, Farnsworth, Ferry, Griswold, Hale, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, James M. Humphrey, Jenckes, Kelley, Ketcham, Ladin, Longyear, Marvin, McCullough, McRuer, Moorhead, Morris, Nicholson, Phelps, Pike, Radford, Alexander H. Rice, John H. Rice, Rousseau, Scofield, Sloan, Spalding, Taber, Taylor, Thayer, Francis Thomas, John L. Thomas, Trimble, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, Williams, and Woodbridge—68.

NAYS—Messrs. Ancona, Anderson, Delos R. Ashley, Baker, Bidwell, Blaine, Boyer, Sidney Clarke, Cobb, Cook, Dawson, Defrees, Deming, Dumont, Eckley, Eldridge, Glossbrenner, Goodyear, Grider, Aaron Harding, Abner C. Harding, Henderson, Higby, Chester D. Hubbard, Edwin N. Hubbell, Julian, Kelso, Kerr, George V. Lawrence, William Lawrence, Loan, Marshall, Marston, McClurg, McKee, Myers, Niblack, O'Neill, Orth, Paine, Patterson, Perham, Plants, Price, Samuel J. Randall, William H. Randall, Ritter, Rollins, Ross, Sawyer, Schenck, Sitgreaves, Stevens, Stilwell, William B. Washburn, Welker, James F. Wilson, Windom, and Winfield—59.

NOT VOTING—Messrs. Barker, Benjamin, Bingham, Broomwell, Broomall, Buckland, Bundy, Reader W. Clarke, Coffroth, Cullom, Culver, Darling, Delano, Denison, Eggleston, Farquhar, Finck, Garfield, Grinnell, Harris, Hart, Hayes, Hill, James R. Hubbell, James Humphrey, Ingersoll, Johnson, Jones, Kasson, Kuykendall, Latham, LeBlond, Lynch, McIndoe, Mercier, Miller, Morrill, Moulton, Newell, Noell, Pomeroy, Raymond, Rogers, Shanklin, Shellabarger, Smith, Starr, Strouse, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Whaley, Stephen F. Wilson, and Wright—56.

So the bill was passed.

During the roll-call,

Mr. CULLOM said: I have paired with my colleague, Mr. WENTWORTH. He would have voted for the bill, and I against it.

Mr. KUYKENDALL. I have paired with the gentleman from New York, Mr. RAYMOND. He would have voted for it, and I against it.

Mr. ALLISON. My colleague, Mr. KASSON, who would have voted for this bill, has paired with the gentleman from Missouri, Mr. BENJAMIN, who would have voted against it.

Mr. INGERSOLL. Mr. Speaker, I voted "no" on the call of the Clerk. The chairman of the committee informs me that the gentleman from New York, Mr. POMEROY, who is absent, has written to him that he understood the pair that he made with me a month ago still continues; that he supposes that the pair applied to the old bankrupt bill, which was defeated, and also to this, that takes its place. If that is so, I wish to withdraw my vote.

Mr. GARFIELD. I have paired with the gentleman from New York, Mr. DARLING, who

would have voted for the bill, and I would have voted against it.

Mr. JENCKES moved to reconsider the vote by which the bill was passed; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

The SPEAKER stated as the next business in order the calling of the select committee on freedmen's affairs for reports.

WILBERFORCE INSTITUTE.

On motion of Mr. ELIOT, the committee on freedmen's affairs was discharged from the further consideration of the memorial of J. H. Irwin for an appropriation for Wilberforce Institute, and the same was referred to the committee on education.

FREEDMEN'S BUREAU.

Mr. ELIOT. The select committee on freedmen's affairs have instructed me to report a bill to continue in force and to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees, and for other purposes."

The bill was read a first and second time, and the question was upon ordering it to be engrossed and read a third time.

The Clerk commenced the reading of the bill, but before concluding the morning hour expired.

On motion of Mr. ELIOT, by unanimous consent, the bill was ordered to be printed.

ENROLLED BILLS SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles; when the Speaker signed the same:

An act (H. R. No. 510) to incorporate the Academy of Music of Washington city;

An act (H. R. No. 371) to grant a pension to Leonard St. Clair; and

Joint resolution (S. R. No. 97) to authorize certain medals to be distributed to veteran soldiers free of postage.

WITHDRAWAL OF PAPERS.

On motion of Mr. DRIGGS, by unanimous consent, leave was granted to withdraw from the files of the House the papers in the case of John C. Jacoby, copies being left.

LAWS OF ARIZONA.

The SPEAKER laid before the House a copy of the laws of Arizona Territory; which was referred to the Committee on Territories.

CLERKS IN THE WAR DEPARTMENT.

The SPEAKER laid before the House a communication from the Secretary of War, transmitting a list of clerks in his Department, in compliance with a resolution of the House of the 7th instant; which was referred to the select committee on the civil service of the United States.

EQUALIZATION OF BOUNTIES.

Mr. SCHENCK. A motion has been entered to reconsider the reference of the bill for the equalization of bounties to the Committee of the Whole. Some suggestions have been made in reference to a change of phraseology, there being two or three ambiguities in the bill, and it may be well to revise it. I ask, therefore, to have it recommitted to the Committee on Military Affairs, so that we may act upon it at the next meeting on Thursday, and report it back.

The motion to reconsider prevailed; and the bill was accordingly recommitted to the committee with authority to report at any time.

WITHHOLDING SOLDIERS' MONEY.

Mr. DRIGGS, by unanimous consent, introduced a bill to punish attorneys and others for withholding moneys collected for officers, soldiers, and sailors; which was read a first and second time, and referred to the Committee on Military Affairs.

CHANGES OF REFERENCE.

On motion of Mr. DRIGGS, the Committee on Public Lands was discharged from the further consideration of House bill No. 522, to provide for the construction of a wagon road from Columbus, Nebraska Territory, to Virginia City, Montana Territory.

On motion of Mr. SAWYER, the Committee on Invalid Pensions was discharged from the further consideration of the petition of Joseph Blick, the father of Henry Blick; and the same was referred to the Committee on Military Affairs.

MUSIC IN THE PUBLIC GROUNDS.

Mr. WRIGHT, by unanimous consent, submitted the following resolution; which was read and referred to the Committee on Public Buildings and Grounds:

Resolved, That the Commissioner of Public Buildings be directed to replace the orchestra platform recently removed from the President's grounds by the erection of a new one, and also to erect one upon the Capitol grounds.

EXECUTIVE MANSION.

Mr. RICE, of Maine. I ask the unanimous consent of the House to offer the following concurrent resolution:

Resolved by the House of Representatives, (the Senate concurring,) That the standing Committees of the two Houses on Public Buildings and Grounds be, and they hereby are, constituted a joint committee to examine the several sites and grounds which may be proposed for the purposes of a new Executive Mansion and residence, to inquire as to the necessity and expediency for such new accommodations for the President, and to consider such prices, plans, and estimates touching the same as may be presented, and that they report by bill or otherwise.

Mr. FARNSWORTH. I object.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The Clerk read the pending paragraphs, as follows:

On cotton upon which no tax has been levied, collected, or paid, and which is not exempted by law, a tax of two cents per pound, which shall be and remain a lien thereon until said tax shall have been paid, in the possession of any person or persons whomsoever: *Provided*, That this paragraph shall be and remain in force until July 1, 1866, and no longer.

On all manufactures not otherwise provided for, of cotton, wool, silk, worsted, flax, hemp, jute, India-rubber, gutta-percha, wood, glass, pottery-ware, leather, paper, iron, steel, lead, tin, copper, zinc, brass, gold, silver, horn, ivory, bone, bristles, wholly or in part, or of other materials, a tax of five per cent. *ad valorem*: *Provided*, That on all cloths or articles dyed, printed, or bleached, on which a tax shall have been paid before the same were so dyed, printed, or bleached, the said tax of five per cent. shall be assessed only upon the increased value thereof: *And provided further*, That any cloth or fabrics or articles, as aforesaid, when made wholly or in part of thread, yarn, or warps, imported, or upon which a duty shall have been assessed and paid, shall be assessed and pay a tax on the increased value only thereof; and when made wholly by the same manufacturer shall be subject to a tax only of five per cent. *ad valorem*.

Mr. MORRILL. On page 95, line twenty-one hundred and fifty-two, I move to strike out the words "wholly or in part;" so that the proviso will read:

And provided further, That any cloth or fabrics or articles, as aforesaid, when made of thread, yarn, or warps, &c.

The amendment was agreed to.

Mr. SPALDING. I move to insert at the end of the paragraph the following additional proviso:

And provided further, That brown earthen and common or grey stone-ware shall be subject to a tax of two and one-half per cent. *ad valorem* and no more.

I believe that this amendment will not meet

with any opposition from the Committee of Ways and Means, and I hope it will be adopted. It refers only to the cheap pottery for kitchen purposes.

Mr. MORRILL. I have not consulted the Committee of Ways and Means, but I am in favor of that amendment myself.

The amendment was agreed to.

The Clerk read as follows:

On all diamonds, emeralds, precious stones, and imitations thereof, and all other jewelry, a tax of five per cent. *ad valorem*: *Provided*, That when diamonds, emeralds, precious stones, or imitations thereof, imported from foreign countries, or upon which import duties have been paid, shall be set or reset in gold or any other material, the tax shall be assessed and paid only upon the value of the settings.

Mr. LAWRENCE, of Ohio. I hope I can have leave to go back to the paragraph preceding the one just read for the purpose of striking out the words "flax and jute."

Mr. MORRILL. I must object.

Mr. LAWRENCE, of Ohio. I move to amend the paragraph just read by striking out in line twenty-one hundred and fifty-eight the word "five" and inserting "ten," and also by striking out the proviso.

I hope the committee will give their attention to this provision. It will be seen that this provision designs to assess a tax of five per cent. "on all diamonds, emeralds, precious stones and imitations thereof, and all other jewelry." Now, I object to that paragraph because the tax upon these articles is not sufficiently high as compared with the other articles enumerated in this bill.

I do not see the propriety of levying the same tax upon these articles, confessedly articles of mere ornament and luxury, wholly unnecessary for any valuable purpose. I cannot see the propriety of levying the same tax upon these articles that you assess upon thread, leather, candles, screws, and many other articles that enter into the manufacture of articles of necessity, and articles for the use of the mechanic, the artisan, and laborer all over the country. It seems to me that we should impose as large a tax as possible upon these articles of mere luxury, so as to derive as much revenue as practicable.

I do not wish to discuss this matter at any length. But I hope the amendment I have offered will prevail, and that we will assess at least a tax of ten per cent. upon these articles which can bear it much better than other articles which are taxed the same amount.

Mr. MORRILL. If the gentleman had had some experience in this matter he would see the impolicy of levying any higher rate of duty than is proposed in this bill. Consider the subject in its foreign relations; the tax was formerly placed at five per cent. In the tariff act of 1861 it was raised to ten per cent. And I am informed by those who are engaged in the business that they can contract for diamonds and precious stones, whether set or unset, delivered in New York free of duty, for seven and a half per cent. Should we undertake to levy a high tax upon these articles it would prove to be wholly fallacious. If the gentleman means by his amendment to throw this business entirely into the hands of foreigners, then his course is a proper one. But if he is willing to continue the little amount of business that we have already in this country in these articles, then the present tax is high enough. It is all that we can collect, and I hope that the rate here proposed will not be changed.

Mr. LAWRENCE, of Ohio. I move to amend my amendment by making it twelve per cent., for the purpose of saying that I am not troubled with the objection which is urged to my amendment by the distinguished chairman of the Committee of Ways and Means, [Mr. MORRILL.] I would not propose to throw this business entirely into the hands of foreign manufacturers. But I understand we are to have reported a tariff bill in which we can provide for all that. I would levy such duty on the importation of those articles as would enable the home manufacturer to produce all these

articles, or, if you please, to exclude them entirely from the country.

There is no difficulty whatever in remedying the difficulty presented by the gentleman from Vermont [Mr. MORRILL] simply by levying such a duty on the importation of these articles as will completely shut them out, or levy such a tax as will give the home manufacturer the command of this trade. I do not understand the philosophy that is so often presented here, when we are insisting upon an increased tax upon articles of luxury, by saying that we cannot collect the tax. I know no reason why high taxes cannot be collected upon articles of luxury as well as upon articles of necessity. The tax can be collected by vigilant officers. If it be necessary we can add provisions to this law which will enable officers to collect thoroughly all the tax that may be levied by the law.

I hope the amendment I have offered will prevail, and that we will increase the duty upon these articles, so that we may derive more revenue from these articles than we will if the tax should be left at five per cent. I am sure if the committee will give their attention to this subject they will have no objection to the amendment I have proposed.

Mr. MORRILL. I should have no more objection than the gentleman from Ohio [Mr. LAWRENCE] has to levying a greater tax upon these articles, if it could be collected. But the gentleman does not seem to appreciate the objection to that, which is that these articles are and will be smuggled if the tax upon them should be raised. The experience of the whole world is against the argument of the gentleman from Ohio, that you can impose a great tax upon these articles. Take for instance the article of watches; a very large amount of the watches which are brought into this country from abroad are smuggled. Precious stones are not bulky articles, and they are not produced to any extent in this country, and if we are to get any revenue at all from such articles, we must fix the tax at a low rate. They come into the country in letters, in ladies' dresses, in gentlemen's pockets. It is impossible for the gentleman from Ohio [Mr. LAWRENCE] to reach his object by the amendment he has proposed, and I trust his amendment will not be adopted.

Mr. LAWRENCE, of Ohio. I withdraw my amendment to my amendment.

The amendment of Mr. LAWRENCE, of Ohio, was not agreed to.

Mr. GARFIELD. I desire consent to recur to the following paragraph:

On articles of clothing manufactured or produced for sale by weaving, knitting, or felting; on hats, bonnets, and hoop skirts; on articles manufactured or produced for sale as constituent parts of clothing, or for trimming or ornamenting the same, and on articles of wearing apparel manufactured or produced for sale from India-rubber, gutta-percha, or paper, or from fur, or fur skins dressed with the fur on, a tax of five per cent. *ad valorem*.

I am satisfied that the amendment proposed on yesterday, to strike out the words "or paper," should have been adopted.

No objection was made to recurring to the paragraph referred to.

Mr. GARFIELD. I now move to strike out the words "or paper."

Mr. HOOPER, of Massachusetts. I have some doubt as to the expediency of the proposed amendment. The reason paper was included in that paragraph was that there is no tax upon the raw material, for we have relieved paper entirely from tax. We therefore thought it right that the manufacturer of paper clothing should be included in the tax of five per cent. It is the only tax it will pay, either as raw material or as manufactured articles.

Mr. GARFIELD. The action of the committee yesterday was based upon what we then understood to be the fact that the whole business of making paper collars is in the hands of a monopoly controlling entirely the manufacture. That, so far as we were then informed, appeared to be the truth. But we have since

had a statement from gentlemen well acquainted with the business, and we find that instead of the business being in the hands of a monopoly, there is a very heavy competing interest, so that these paper collars are now sold at a very reduced rate. If we should take off the tax provided for in this paragraph and place this article with other articles of clothing, this branch of business will have the advantage which I think it ought to have. The question simply comes to this: whether we shall charge upon collars made of linen a different rate of tax *ad valorem* from that charged on collars made of paper. The paper collar is certainly worn by a class of men less able to pay a tax than those wearing collars of more costly materials. It seems to me, therefore, that we ought to liberate this article from tax.

The gentleman from Massachusetts [Mr. HOOPER] states that the raw material from which these collars are made has been exempted from tax. So much the better, I reply; for this is a home manufacture almost exclusively; whereas linen is an article very largely imported. I hope the amendment will prevail.

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out "or," in line twenty-one hundred and sixty-one, and inserting in lieu thereof the word "and."

The amendment was agreed to.

The Clerk read as follows:

On bullion, in lump, ingot, bar, or otherwise, a tax of one half of one per cent. *ad valorem*, to be paid by the assayer of the same, who shall stamp the product of the assay as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe by general regulations. And all sales, transfers, exchanges, transportation, and exportation of gold or silver assayed at any mint of the United States, or by any private assayer, unless stamped as prescribed by general regulations as aforesaid, are hereby declared unlawful; and every person or corporation who shall sell, transfer, transport, exchange, export, or deal in the same, shall be subject to a penalty of \$1,000 for each offense, and to a fine not exceeding that sum, and to imprisonment for a term not exceeding two years nor less than six months. No jeweler, worker, or artificer in gold or silver shall use either of those metals except it shall have first been stamped as aforesaid, as required by this act; and every violation of this section shall subject the offender to the penalties contained herein. No person or corporation shall take, transport, or cause to be transported, export or cause to be exported from the United States any gold or silver in its natural state, uncoined or unassayed, and unstamped, as aforesaid; and for every violation of this provision every offender shall be subject to the penalties contained herein.

Mr. MORRILL. I move to amend by striking out in line twenty-one hundred and eighty-three the word "section" and inserting in lieu thereof the word "provision;" so that the clause will read:

And every violation of this provision shall subject the offender to the penalties contained herein.

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out in line twenty-one hundred and ninety the word "contained" and by inserting after the word "herein" the word "provided."

The amendment was agreed to.

Mr. GARFIELD. I move to amend by striking out in lines twenty-one hundred and eighty-three and twenty-one hundred and eighty-four the following words:

And every violation of this provision shall subject the offender to the penalties contained herein.

That clause is not necessary, as it is repeated in the last sentence of the paragraph.

The amendment was agreed to.

Mr. GARFIELD. I move to amend by striking out in line twenty-one hundred and eighty-nine the word "provision" and inserting in lieu thereof the word "paragraph."

The amendment was agreed to.

Mr. McRUER. I move to amend by striking out this whole paragraph. I desire to call the attention of the committee to the fact that the tax provided for in this paragraph is the only tax in this bill that does not attach to the article taxed and go forward to be paid by the consumer. This is a direct tax upon the labor employed in mining gold. The tax must be paid by the miner, because the Government has de-

clared by law that an ounce of gold, whether it cost a day's or a month's labor, shall be worth only so many dollars and cents.

Now, while there is great propriety in taxing, and taxing heavily, gold and silver which enter into articles of manufacture, plate, jewelry, &c., because the consumer or the wearer must eventually pay the tax, it is manifestly unjust and contrary to the whole theory and principle of this bill to require that this tax be paid by the miner. I know that there is an impression here that it is a very easy thing to dig gold and silver. Men see or hear of the millions of gold landing at the port of New York from San Francisco; but they do not know anything about the miner who spends oftentimes years in unprofitable labor in order to get this gold from the earth.

There is in this tax a principle which does not apply to any other single provision in this bill. Gold and silver bullion are worth only so many dollars and cents. This tax cannot be attached to them, but must be paid by the labor which produces them, whether that labor is profitable or not. I hope, therefore, the justice of the committee will see that this paragraph ought to be stricken out, and that the tax should only be placed upon gold and silver bullion manufactured into articles of luxury.

Mr. STEVENS. It was reduced to this small sum, as it was thought, by the common consent of the Representatives from the Pacific slope. We of other parts of the country thought it should be larger. The reason for this is obvious. The gold mines are owned by the Government of the United States, and we have laid no royalty upon these mines. The only return the Government can get for the treasure taken is this small percentage. Every other Government charges five times as much. The Government of Mexico charges a much larger royalty. Some means were sought to get a return by the Government for their own treasure taken out by these miners, and for a long time no way was found to be satisfactory. Finally the tax was reduced to this small percentage on bullion. It comes from those who own mines, and is paid as a royalty. A man in Pennsylvania who owned a coal mine and allowed it to be worked would charge five times as much. This tax is very small, and I hope there will be no further objection to it.

Mr. HIGBY. I move to strike out the last word in order to make a brief statement in reference to the history of this matter. I know very well the feeling of this House on this subject. I know the struggle we had to get the tax down even to the present rate. The bill as originally reported to the Thirty-Eighth Congress put on a tax of three per cent., to be paid in gold. On motion of a Delegate from Idaho, the words "to be paid in gold" were stricken out. Thereupon a member of the Committee of Ways and Means rose and moved to increase it from three to five per cent., which went through like a whirlwind. It then went from the House to the Senate, and the Senate have the merit of reducing it down to one half of one per cent. When it came back to the House in that form the delegation from California was consulted as to whether we would object to the tax as reduced. I said then, as I say now, that it is manifest injustice to tax at all the digging of gold out of the mines. While I do not think my colleague's motion will be adopted, still I shall cheerfully vote for it. I withdraw my amendment to the amendment.

Mr. DAVIS. I move to insert in line twenty-one hundred and eighty-one after the word "use" the words "bullion of." My object, Mr. Chairman, in offering this amendment, is to protect the small manufacturers of gold and silver wares in our country towns as well as in our cities. If the original terms of the paragraph I desire to amend shall be retained, it will be seen that no manufacturer can use old metal, either of gold or silver, old spoons, watch-casings, or jewelry settings which he may have received, as is customary, in exchange for his wares, without having such articles or their

product taken to the assayer and stamped, unless he is willing to subject himself to the severe penalties of this act. This, I think, is unfair, unnecessary, and unjust. The large manufacturers in New York and other principal cities use, I suppose, bullion to a great extent, but the small manufacturers using limited amounts depend principally upon old coin and old articles which have been injured or the fashion of which has changed. My amendment will give to them a deserved protection from the inconvenience, annoyance, and injustice to which they will be otherwise subjected.

Mr. WRIGHT. In looking at the latter part of this paragraph I do not quite see the effect of the following:

No person or corporation shall take, transport, or cause to be transported, export or cause to be exported from the United States, any gold or silver in its natural state, uncoined or unassayed, and unstamped, as aforesaid; and for every violation of this provision every offender shall be subject to the penalties herein contained.

Would the Adams Express Company, or any other express company, for sending abroad a box containing unstamped metal be liable to be sent to State's prison?

Mr. MORRILL. Unless this provision is in we shall be unable to collect the tax. This is simply a provision that compels the payment of this tax before it can be exported.

Mr. DAVIS. I move *pro forma* to amend the amendment by striking out "of." The chairman of the committee is in error in saying that no complaint has ever been made in regard to the existing law. I have complaints now from manufacturers in my own district.

Mr. MORRILL. What do they want?

Mr. DAVIS. Simply that they shall be allowed to work gold and silver ware and jewelry without being obliged to go to the assayer. I withdraw the amendment to the amendment.

Mr. BIDWELL. I renew it. It strikes me that this provision, as it now reads, would be entirely inoperative. It says that "all sales, transfers, exchanges, transportation, and exportation of gold or silver assayed at any mint of the United States" are declared unlawful. There is no penalty except in regard to such as is assayed, because in the latter part of the section the same penalty is provided against the transportation or exportation of "gold and silver in its natural state, uncoined or unassayed and unstamped."

Now, I would like to know how you are going to fix a stamp on gold which is not assayed, in the form of dust, for instance. And I desire further to know whether that penalty of \$1,000 will apply to the miner who digs out his hundred dollars of gold in the course of two or three months and goes down to some village in order to exchange it. I believe it will so apply, according to the reading of the section, and thereby create the greatest dissatisfaction throughout the entire mining region of the Pacific slope. And I may say, the greatest injustice. All that is necessary for a proper understanding of this question and to dispel the idea of attempting to raise a revenue from the miners in this way, would be for members of Congress to go to the mining region. They never would think of imposing such a tax after witnessing the labors of those who, at the sacrifice of life and property, have gone to labor in the mines. If anything should be done it should be rather to pay these men a bonus for the gold they dig.

You say these precious metals belong to the Government. They belong to it just as much as does the center of this globe, and no more, and they would be no more benefit to the Government, unless they were extracted, than is the gold that lies at the center of the globe.

I am almost afraid that this House may come to the conclusion that because we have asked for certain exclusions in regard to the interests of California we desire to escape all taxes. But I beg to assure the House that such is not the case. If you will only place the tax upon those articles and those industries which can bear it we will say nothing. If you will single out the mines which are paying fortunes almost every month, I will say amen. But when you

attempt to place it indiscriminately you do injustice. Every man who goes into the mining region, and risks his means and his life, does so because he hopes to be able to strike something rich, like those mines which are paying dividends. If you can fix this tax so that it will fall on the net proceeds, I have no objection, even if you make it fifty per cent.

[Here the hammer fell.]

Mr. KELLEY. I oppose the amendment of the gentleman from California. I invite the attention of the House especially to this clause:

No jeweler, worker, or artificer in gold or silver shall use either of those metals except it shall have been stamped as aforesaid, as required by this act.

The amount of tax received by the Government from the branches of business involved in this provision would be but a small percentage of the whole tax imposed. Indeed, it would be almost inapplicable as to the amount involved to the artificer. I know by experience, Mr. Chairman. For twelve years, each day of my life, when in health, was given to labor in one of those branches of business. Jewelers, especially in the smaller shops, melt but a few ounces of gold, sometimes but a few pennyweights, and to force them to have a mint stamp put upon each melting before they can use it, would be the destruction of most of the shops in our larger cities. It would give to the Government no compensation for the amount of industry it would impair. Fashions of jewels change. People will carry their jewelry to an establishment and have it transformed from the fashion which is passing away to that which is coming in vogue. A small worker has but little capital. He looks to the stock provided by the old goods, with a small addition, and if after having melted it, he must carry it or send it to the mint to be stamped and taxed before he can work it up, he will be taxed inordinately and fruitlessly. It may not have been the intention of the committee to embrace such cases, but the phraseology of the bill clearly has that effect, and I hope it will be stricken out. That is the understanding, I find, of all the gentlemen to whom I have spoken. And when gentlemen remember how the Departments have construed the law; when they remember how the mantua-maker, the widow, perhaps, of a soldier supporting her children, has found that she must abandon her business because the material she used was taxed, as well as her labor, while an unmarried woman, who could go from home to work, escaped taxation, they will see that this will be the effect, and that all our small working jewelers, all the men who are struggling up to become employers of the little capital they may have accumulated, as well as their own skill, will be taxed by this; and I ask either that the language of the clause be so clearly modified that no such construction can be put upon it or to strike out a clause calculated to impede the industry of the country.

Mr. BIDWELL. I withdraw the amendment to the amendment.

Mr. MORRILL. I renew the amendment for the purpose of saying that the provision as it now is, I believe, will stand the test of criticism. I am satisfied that the gentleman from Pennsylvania has not fully considered the entire paragraph. This tax is to be levied upon and paid by the assayer and not by the miner, and then the language is, that "no jeweler, worker, or artificer in gold or silver shall use either of those metals except it shall first have been stamped as aforesaid, as required by this act," &c.

Mr. KELLEY. The gentleman will observe that the language is "shall use either of these metals."

Mr. MORRILL. Yes; but go on; "except it shall first have been stamped as aforesaid."

Mr. KELLEY. Yes.

Mr. MORRILL. That refers back to the tax paid by the assayer "who shall stamp the product of the assay as the Commissioner of

Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe by general regulations."

Mr. KELLEY. All I ask is that the phraseology shall be so guarded as not to be susceptible of this construction.

Mr. MORRILL. Unless you allow the provision to stand as it is, of course these bars unstamped might be used to any extent.

Mr. BIDWELL. This clause provides that "no person or corporation shall take, transport, or cause to be transported, export or cause to be exported from the United States, any gold or silver in its natural state, uncoined or unassayed, and unstamped, as aforesaid," &c. I would ask the gentleman if that would not apply to the persons who take the gold or silver out of the mine and take it to market.

Mr. MORRILL. That provision refers merely to exportations from the United States. I withdraw the amendment to the amendment.

The question was taken on Mr. DAVIS's amendment, and it was disagreed to.

Mr. KELLEY. I move to insert after line twenty-one hundred and ninety the following:

Provided, That nothing herein contained shall apply to the reworking of old gold or silver not in lump, ingot, or bar as aforesaid.

Mr. MORRILL. Although I consider it a matter of infinitesimal consequence, I do not object to the amendment.

The amendment was agreed to.

Mr. STEVENS. In lines twenty-one hundred and eighty-five and twenty-one hundred and eighty-six I move to strike out the words "transport or cause to be transported."

Mr. MORRILL. I have no objection to that.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. In lines twenty-one hundred and eighty-seven and twenty-one hundred and eighty-eight I move to strike out the words "uncoined or unassayed or unstamped" and to insert in lieu thereof the words "not coined nor assayed nor stamped."

The amendment was agreed to.

The Clerk then read as follows:

On snuff, manufactured of tobacco or any substitute for tobacco, ground, dry, or damp, pickled, scented, or otherwise, of all descriptions, when prepared for use or sale, a tax of forty cents per pound.

Mr. PRICE. I move to amend that clause by striking out "forty" and inserting "fifty" in lieu thereof, so as to make the tax fifty cents per pound. I offer that amendment for the reason that it has been suggested to me that this dampening or pickling is done with the cheap wines that we talked about yesterday; and if that be the case, then it may very readily pay a tax of fifty cents per pound. I know nothing of the quality of the tobacco out of which snuff is manufactured. But if it be dampened or pickled by the manufactured wines, about which we heard so much yesterday, then I propose to put this additional tax upon it. And as an additional reason for my amendment I ask the Clerk to read the extract which I send to his desk.

The Clerk read as follows:

"DRUNKENNESS AND DEBAUCHERY IN FRANCE.—We have been accustomed to think that, through the cheapness of light wine, the mechanics and agriculturists of France were free from the coarser and lower forms of drunkenness. But poor brandies are cheaper than poor wines; and such is the degradation of much of the French rural and manufacturing population that they resort to the former for exhilaration and forgetfulness. Here is a sad picture of debasement and debauchery, terribly suggestive of the effects of ignorance and poverty in dwarfing the race and belittling nations:

"Even in France there are towns where women rival men in the habits of intoxication. At Lille, at Rouen, there are some so saturated with it that their infants refuse to take the breast of a sober woman. In the mountains of the Vosges, infants drink *caude-vie*. On Sunday, in the churches, the air is literally infected with the smell of *caude-vie* made from potatoes. In those mountains there are no more frequent causes of idiocy and imbecility, for in general the dwellings are healthy and the water is excellent. The great misfortune is that the children of habitual drunkards are idiots, so that the punishment follows from generation to generation, from the guilty and degraded father to the innocent children. In the manufacturing towns the mayors are

obliged to take measures against the cabarets that supply *caude-vie* to children, for there are drunkards of fifteen as there are laborers of eight; and morally and physically they present a melancholy spectacle. No one can believe, no one will venture to say, that the wretched people who haunt the public houses to ruin and to poison themselves have any excuse for so doing."

During the reading of the paragraph, Mr. ANCONA said: I rise to a point of order, that the extract now being read is not pertinent to the amendment now pending.

The CHAIRMAN. The Chair overrules the point of order. The Clerk will proceed with the reading.

The Clerk concluded the reading of the paragraph as above.

Mr. PRICE. That is a picture of the country where they have cheap wines.

Mr. HIGBY. What kind of wine do they make from potatoes? [Laughter.]

Mr. PRICE. I was referring to the cheap-wine country.

Mr. KELLEY. I do not know what is the authority for the extract which has just been read; but I do know that it is very unreliable. I do not believe that my friend from Iowa [Mr. PRICE] ever wrote it; I do not think he would commit himself so far. Let him turn to Kay's work upon the laboring classes of Europe, and he will find there the most elaborate contradiction of the cardinal points of the statement that has just been read, and the most ample verification of my theory on yesterday, that where the cheap wine prevails there is an almost entire absence of intemperance, inebriety, and all those excesses that mark the life of the British laboring population and which too often mark the life of our American laboring population.

Mr. STEVENS. I would ask my colleague [Mr. KELLEY] what effect it has upon snuff. [Laughter.]

Mr. KELLEY. I am not responsible for introducing the subject in this connection.

Mr. STEVENS. I only want to know.

Mr. KELLEY. I have heard somewhere that there is an affinity between the use of tobacco and the use of strong drinks. But I do not know that there is any affinity between the use of tobacco and the use of sour wines.

Mr. GARFIELD. The gentleman from Pennsylvania [Mr. STEVENS] suggests there is not a very obvious connection between this debate on wine and the section before the House, which relates wholly to snuff.

The late Dr. Hitchcock, of Amherst College, in his little book entitled "A Zoological Temperance Convention," makes one of his animals say that wine and tobacco are intimately connected philologically. Bacchus was god of wine; and when you pass to the third case in the declension of his Grecian name you reach the weed under discussion, namely "Ho Bacchos," "Tou Bacchou," "To Baccho"—*Anglicè* tobacco.

Mr. KELLEY. If I wanted to establish the charge of aristocracy against any portion of my countrymen, I could not do it more thoroughly in the minds of the aristocratic classes of Europe than by arranging our taxes and so controlling our imports as to keep from the poor these wines, the use of which is so promotive of temperance and health, and confine the use of them to the wealthy classes.

Mr. PRICE. I move to amend my amendment so as to make it forty-five cents instead of fifty cents. I do this for the purpose of saying to the gentleman from Pennsylvania [Mr. KELLEY] that he probably would believe Horace Greeley upon this subject quite as much as he would the author he has referred to as authority. And I am authorized to say, and no gentleman who understands the question will dispute it, that Horace Greeley indorses the statement the Clerk has read from the desk in reference to the prevalence of drunkenness in countries where cheap wines abound. It is the almost universal testimony of those who have investigated this matter that the use of cheap wines in any country is productive of anything else than temperance and morality. And that

is the issue I have made with the gentleman from Pennsylvania, [Mr. KELLEY.]

Mr. HALE. Mr. Chairman—

Mr. PRICE. I cannot yield. I am attending to the gentleman from Pennsylvania now.

Mr. HALE. I rise to a question of order: that this debate is not relevant to the paragraph under consideration.

The CHAIRMAN. The Chair sustains the point of order.

Mr. PRICE. I thought the Chair had overruled that point of order.

The CHAIRMAN. The point of order which the Chair overruled was raised by the gentleman from Pennsylvania, [Mr. ANCONA.] [Laughter.]

Mr. MORRILL. I move that the committee rise, that we may terminate debate on this paragraph.

Mr. HENDERSON. I should like to have an opportunity to say a few words.

Mr. MORRILL. I merely desire to say that yesterday we progressed to the extent of only four pages of the bill. To-day we have not made that much progress. I trust that the committee will sustain me in the effort to cut off debate when a reasonable length of time has been allowed so that the facts can be understood. I believe that the committee do not require argument so much as facts.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the special order terminate in three minutes after the committee shall resume the consideration of the subject. This will give the gentleman from Oregon [Mr. HENDERSON] an opportunity to submit a few remarks.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. HENDERSON. Mr. Chairman, I am in favor of a high rate of taxation upon the articles of tobacco, cigars, and snuff. I think that tobacco and the articles made from it are now altogether too cheap and too easily obtained by those who use them. I regard the use of these articles as one of the nuisances that curse the country, and I believe that they ought to be taxed as highly as possible. If the tax received should not increase the revenue, I hope it will decrease the use of tobacco. I regard the use of this article as a barbarous practice; and in confirmation of this idea I refer to the trade-signs which I see on Pennsylvania avenue. At the door of every tobacco store I see the figure of a half-naked savage or a crazy negro, or a monster representing, I suppose, a heathen god or some other imaginary being, holding out tobacco, cigars, and snuffs; as much as to say, "If you want to be a heathen, a savage, or a monster, use tobacco."

And I see that the practice is prevailing to an alarming extent, so much so that even little boys are using tobacco. I see little negro boys, not more than four feet high, walking the streets with cigars in their mouths, costing perhaps twenty-five cents.

Mr. GARFIELD. Is not that a "civil right?" [Laughter.]

The amendment was not agreed to.

The Clerk read as follows:

On cavendish, plug, twist, and all other kinds of manufactured tobacco, not herein otherwise provided for, a tax of forty cents per pound.

No amendment being offered,

The Clerk read as follows:

On tobacco twisted by hand, or reduced from leaf into a condition to be consumed without the use of any machine or instrument, and without being pressed, sweetened, or otherwise prepared, a tax of thirty cents per pound.

Mr. HARDING, of Kentucky. I move to amend by striking out in line twenty-two hundred and one the word "thirty," and inserting in lieu thereof the word "ten," so as to provide for a tax of ten cents per pound.

Mr. Chairman, a tax of forty cents per pound on manufactured tobacco is perhaps about reasonable; but tobacco put up in twists merely is not worth one fourth or one fifth of the value of the manufactured article. Manufactured tobacco sells for four or five times as much as tobacco which is merely twisted. Hence the tax proposed in this paragraph is altogether unreasonable.

In the West tobacco is prepared in this way, simply twisted up by hand, without any machinery, and without any expenditure of capital whatever. It is furnished in this shape by those who raise it, most generally negroes, who raise perhaps one or two hundred pounds, and sell it prepared in this rough way at the country stores.

Well, now, this tobacco will not sell in market for more than twenty cents per pound. Twenty-five cents per pound is a high price. Yet here is a tax of thirty cents, while on manufactured tobacco worth five times as much the tax is only forty cents. The result will be to break this up and men will buy the tobacco and twist it themselves. Any man can twist up as much in two hours' time as will last him for a year. It will therefore cut off entirely this source of revenue. Men cannot afford to pay this tax. It is wholly confined to those who raise small quantities. You will find the tobacco in small quantities in the little stores. There is no expensive machinery about it. It is altogether unreasonable this tax should be imposed. I therefore move that it shall be reduced to ten cents.

Mr. MORRILL. This was originally inserted into the law both for the protection of the revenue and the regular manufacturer of tobacco. We found in Kentucky that large quantities of this tobacco were twisted up, put into paper, and labeled, "This tobacco has paid no tax." It was to protect the Government and the honest manufacturers, and it is still found to be necessary.

Mr. HARDING, of Kentucky. I withdraw my amendment and move to reduce the tax to fifteen cents.

Mr. Chairman, the tax moved by the committee in their bill will defeat the very object which the gentleman from Vermont declares they had in view. You cannot prevent the men who wish to avail themselves of the privilege of twisting this tobacco. Why, sir, you can go to a tobacco-raiser and buy fifty pounds, twist it up, and lay it away. The whole object of twisting it is to preserve it so that it will not crumble. You cannot force people to buy manufactured tobacco by this extremely high tax. If you allow the tax to remain at a reasonable figure such as I propose, this will go on as it has done heretofore. If, on the contrary, the bill is allowed to remain as it is the Government will collect no revenue at all. This operates upon the poor class of people, and not upon the large planters, who of course send their tobacco to the regular market in hogsheads. I withdraw the amendment I

have just offered, and renew my previous amendment that the tax shall be reduced to ten cents.

The committee divided; and there were—ayes 26, noes 67.

So the amendment was disagreed to.

The Clerk read as follows:

On fine-cut chewing-tobacco, whether manufactured with stems in or not, or however sold, whether loose, in bulk, or in rolls, packages, papers, wrappers, or boxes, a tax of forty cents per pound.

No amendment being offered,

The Clerk read as follows:

On smoking-tobacco of all kinds, including that made of stems, or in part of stems, and imitations thereof, a tax of twenty cents per pound.

Mr. MORRILL. I move to insert in line twenty-two hundred and six after the word "kinds" these words: "not sweetened, nor stemmed, nor butted."

The amendment was agreed to.

Mr. MORRILL. I move to insert after line twenty-two hundred and five the following:

On smoking-tobacco sweetened, stemmed, or butted, a tax of forty cents per pound.

The amendment was agreed to.

Mr. SCHENCK. I move to strike out "twenty" in line twenty-two hundred and eight and insert "ten." I propose to follow up this amendment, which relates to cheap, ordinary fine-cut smoking-tobacco, with an amendment which shall also make it possible to manufacture cheap cigars.

The present amendment, confining itself exclusively to fine-cut smoking-tobacco, I will in a word explain. So far as tobacco is concerned, while it related to that which is used for chewing, I made no proposition because it does not affect any interest I represent, but so far as smoking-tobacco is concerned, either fine-cut or used in the manufacture of cigars, it does largely affect a great industrial pursuit in my State and in the West, and affects it, even with the amendments to the existing law proposed in this bill, to a ruinous extent. Fine-cut smoking-tobacco is largely manufactured from the tobacco leaf raised in the western States. This tobacco leaf is a different article from the southern tobacco. Southern tobacco has a glutinous or gummy character which enables you to manufacture from it plug, cavendish, and the various forms of chewing-tobacco. But that same tobacco seed sown in our north-western States produces an article which is not capable of being manufactured at all into chewing-tobacco. It is dry, and is used only for the purpose of smoking.

I spoke of fine-cut. I mean smoking-tobacco. This smoking-tobacco, made out of leaf raised in Ohio, Indiana, Michigan, Pennsylvania, and in all the Northwest, burdened by this tax which is now proposed of forty cents, cannot be produced or used at all, and the proposed tax will therefore defeat the object sought of affording a revenue to the Government.

Let me tell you how it operates. This same smoking-tobacco, as manufactured before the Government tax was levied upon it, was made somewhat in this way and at this cost: mixing the leaf and the stem in the proportion used, it was worth two and a half cents a pound. Making this half leaf and half stem by the process of cutting and drying and putting it into a condition fit for smoking-tobacco cost an average of five cents a pound, making a total of seven and a half cents. Now, if you put upon that a tax of twenty cents, as proposed by this bill, you will make the entire cost twenty-seven and a half cents per pound, or more than three times the original cost of labor and stock to the producer. If you bring the tax down to ten cents it will still amount to about seventeen and a half cents, tax included, and the Government will get its full share, and more than its full share, at the lowest price for which the article can possibly be sold.

The effect of the adoption of the provision in the bill as it stands will be to destroy the manufacture of smoking-tobacco out of our common leaf at the West. This leaf can be bought anywhere at ten cents a pound; but in what

condition is it bought? It is not cut for the purpose of smoking. It is not manufactured in any way. Step into any little grocery store in the West and ask for smoking-tobacco and the keeper produces a roll of ordinary leaf twisted up, weighs it out and hands it over the counter at ten cents a pound. It is carried away by the purchaser and cut at his own house with a common knife or rubbed to pieces and smoked, and no revenue whatever is derived from it. The effect, therefore, of the existing law, or of any law which charges more than something like ten cents a pound upon this product, will inevitably prevent any revenue, and at the same time deprive the people of the advantage of the use of it in this country.

[Here the hammer fell.]

Mr. MORRILL. I have no question but what it is the purpose of the House to leave the law so that we shall obtain a large revenue from this source, but I very much doubt whether when we get through with this bill the law will be such as to accomplish that object. As it now stands the law is more effective than we have ever had. We are receiving a larger amount of revenue than we have ever before received from this source. The present law in relation to this particular article perhaps is somewhat oppressive in this: that the manufacturers are not able to dispose of their stems, and these to a large amount are now on hand. And in order to accommodate the trade and not to be oppressive in any quarter, the committee have, after hearing gentlemen from all parts of the country, West as well as North and South, come to the conclusion that it would be better to fix the tax so as to embrace smoking-tobacco in one description, so as to include stems or not, as the parties might choose, and let the price regulate that matter. As the law now stands the tax on smoking-tobacco of all kinds and imitations thereof, not otherwise provided for, is thirty-five cents per pound. On smoking-tobacco made exclusively of stems it is fifteen cents a pound. The committee came to the conclusion, after a long and patient investigation, that to impose one rate was better for all interests and perhaps might give the Government an equal amount of revenue. They therefore agreed upon the rate of twenty cents per pound instead of thirty-five, only five cents more than it now is on smoking-tobacco made exclusively of stems, and fifteen cents less than under any other provision in the law as it now stands. We believe that that will be satisfactory. Certainly, if we expect to derive any considerable amount of revenue, it ought not to be reduced below that.

The amount of revenue received from all kinds of tobacco in the three quarters of the present fiscal year is almost nine million dollars. The amount received for the whole of the year 1865 was only \$8,000,000, and in 1864 \$7,000,000, showing that the law as it now stands is better at any rate than any laws heretofore enacted. I trust the committee will reach the conclusion that we ought not to change this provision as reported by the Committee of Ways and Means.

MESSAGE FROM THE SENATE.

The committee rose informally for the purpose of receiving a message from the Senate, by Mr. FORNEY, its Secretary, informing the House that the Senate had passed House bill No. 85, for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, with an amendment, in which he was directed to ask the concurrence of the House.

Also, that the Senate had passed, without amendment, House bill No. 193, for the relief of Mrs. William L. Herndon.

TAX BILL—AGAIN.

Mr. LAWRENCE, of Ohio. I move to amend the amendment by inserting "five cents."

The bill under consideration is designed to amend the internal revenue laws of the United States in many respects, and especially to furnish relief to the great mechanical and indus-

trial interests of the country, many of them now heavily taxed. The able chairman of the Committee of Ways and Means [Mr. MORRILL] has furnished us an exhibit and an estimate of the workings of the entire revenue system, as follows:

Treasury receipts for fiscal year ending June 30, 1865.
 Customs..... \$84,928,000
 Internal revenue..... 209,464,000
 Miscellaneous..... 35,175,126

Total receipts, exclusive of loans..... \$329,567,126

Estimated Treasury receipts for fiscal year ending June 30, 1866.

Custom receipts to April 1, 1866, (actual)..... \$128,967,375
 (coin)..... 243,890,548
 Internal revenue to April 1, 1866, (actual)..... 243,890,548
 Miscellaneous (actual) premium on gold, &c..... 37,183,300

Actual aggregate receipts to April 1..... 410,041,232
 Estimated custom receipts, April 1 to June 30..... 30,000,000
 Estimated internal revenue, April 1 to June 30..... 60,000,000
 Estimated miscellaneous, April 1 to June 30..... 1,500,000

Total aggregate receipts from all sources for the fiscal year ending June 30, 1866..... \$501,541,232

Estimate of receipts for the fiscal year ending June 30, 1867.

Customs..... \$125,000,000
 Internal revenue..... 250,000,000
 Increase on cotton..... 15,000,000
 Increase on spirits..... 15,000,000
 Miscellaneous..... 10,000,000

Requirements of the Secretary of the Treasury..... 425,000,000
 Treasury..... 350,000,000

Available for reduction of taxation... \$75,000,000

The internal revenue for the fiscal year ending June 30, 1867, if the present revenue laws should continue in force, with the proposed increase on cotton, is estimated at \$260,000,000. The bill now under consideration is designed to reduce this \$75,000,000, and to that extent relieve mechanical industry, employments, and labor from the burdens which now to some extent oppress them.

A few illustrations will show this. By the law as it now stands a tax is levied as follows:

"On ready-made clothing, boots and shoes, gloves, mittens, and moccasins, caps, hats, and bonnets, or other articles of dress not otherwise assessed and taxed as such, for the wear of men, women, or children, six per cent. *ad valorem*: *Provided*, That any tailor, boot or shoe maker, hat, cap, or bonnet maker, milliner, or dress-maker, exclusively engaged in manufacturing any of the foregoing articles to order as custom work and not for sale generally, who shall make affidavit to the assessor or assistant assessor, that the entire amount of such manufactures so made does not exceed the sum of \$1,000 per annum, shall be exempt from duty."

The bill now under consideration changes all this and reduces the tax as follows:

On boots and shoes, two per cent. *ad valorem*; to be paid by every person making, manufacturing, or producing for sale boots and shoes, or furnishing the materials or any part thereof, or employing others to make, manufacture, or produce them: *Provided*, That any boot or shoe maker making boots or shoes to order as custom work only, and not for general sale, and whose work does not exceed annually in value \$1,000, shall be exempt from this tax.

On ready-made clothing, and on gloves, mittens, moccasins, caps, and other articles of dress for the wear of men, women, and children, not otherwise assessed and taxed, one per cent. *ad valorem*: to be paid by every person making, manufacturing, or producing for sale clothing, gloves, mittens, moccasins, caps, and other articles of dress, or furnishing the materials or any part thereof, or employing others to make, manufacture, or produce them: *Provided*, That any tailor, or any maker of gloves, mittens, moccasins, caps, and other articles of dress to order as custom work only, and not for general sale, and whose work does not exceed annually in value \$1,000, shall be exempt from this tax: and articles of dress made or trimmed by milliners or dress-makers for the wear of women and children shall also be exempt from this tax.

Then by this bill there is a large list of articles entirely exempt from taxation. This exemption will give great satisfaction to the people and encouragement to productive industry. Among these are plows, cultivators, harrows, straw and hay cutters, planters, seed-drills, horse-rakes, winnowing-mills, and many others, generally articles of necessity or the products of mechanical industry. These articles, heretofore taxed, but now exempt, with

the other reductions in taxes made by the bill, would have produced \$75,000,000 annually, if the present law had continued in force. But I cannot now enumerate the changes in detail.

While I am free to concede the great improvement which this bill will introduce in our revenue system, I desire to point out briefly some changes in the bill which it seems to me should be made.

The law now in force levies a tax—

"On all cigars, cheroots, and cigarettes, made wholly of tobacco, or of any substitutes therefor, ten dollars per thousand cigars.

On smoking-tobacco of all kinds, and imitations thereof, not otherwise herein provided for, thirty-five cents per pound.

"On smoking-tobacco made exclusively of stems, and so sold, fifteen cents per pound."

There are other provisions affecting imported, New England, and southern tobacco, but as they do not materially affect western tobacco, I do not propose to allude to them now. The bill now before us changes the present law as follows:

On smoking-tobacco of all kinds, including that made of stems or in part of stems, and imitations thereof, a tax of twenty cents per pound.

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper, or binder, and not over three and a half inches in length, the market value of which (tax included) is not over six dollars per thousand, a tax of two dollars per thousand; when the market value is over six dollars and not over ten dollars per thousand, (tax included,) and on cheroots, and cigars known as short-sixes, and on any cigars made with or without pasted or twisted heads, the market value of which (tax included) is not over ten dollars per thousand, a tax of four dollars per thousand.

On all other cigars, cheroots, and cigarettes, made wholly of tobacco, or of any substitute therefor, a tax of ten dollars per thousand.

My colleague [Mr. SCHENCK] proposes to amend this by levying ten only instead of twenty cents per pound on smoking-tobacco and imitations thereof, and by striking out the provisions as to cigarettes and cigars, and by inserting in lieu thereof a provision as follows:

On cigarettes or small cigars made of tobacco, inclosed in a wrapper or binder and not over three and a half inches in length, and on cigars made with twisted heads, the market value of which, exclusive of the tax, is not over six dollars per thousand, a tax of two dollars per thousand.

On cheroots and cigars known as short sixes, and cigars made with pasted heads, the market value of which, tax included, is not over twelve dollars per thousand, and on all cigarettes and cigars, the market value of which, exclusive of the tax, is over six dollars and not over twelve dollars per thousand, a tax of four dollars per thousand.

On all cigarettes, cheroots, and cigars, the market value of which, exclusive of the tax, is over twelve dollars and not over twenty dollars per thousand, a tax of ten dollars per thousand.

On all cigarettes, cheroots, and cigars, the market value of which, exclusive of the tax, is over twenty dollars and not over forty dollars per thousand, a tax of twenty dollars per thousand.

On all cigarettes, cigars, and cheroots, the market value of which, exclusive of the tax, is over forty dollars per thousand, a tax of forty dollars per thousand.

The tobacco raised in Ohio and other western States generally known as "seed-leaf" is used mainly for smoking-tobacco (cut and dry) and common cigars. It is not employed in the manufacture of chewing-tobacco or fine cigars, which are made from the more expensive Havana and Connecticut tobacco. The present law was not only oppressive but ruinous and destructive to the growth and manufacture of western tobacco. The reason of this is presented in a preamble and resolution of the General Assembly of Ohio, adopted February 13, 1866, as follows:

"Whereas by enactment of the Congress of the last session, the excise upon cigars is levied at the uniform rate of ten dollars per thousand; and whereas this rule compels Ohio seed-leaf—worth in the market ten cents per pound—to pay a tax of four hundred and fifty per cent. *ad valorem*, while Connecticut tobacco—the market price of which is twenty cents per pound—pays only two hundred and twenty-five per cent., and imported Havana tobacco—rated at \$1 50 per pound—pays only thirty-three per cent.; and whereas this discrimination against the product of Ohio and other western States has cut off the demand for and if continued is likely to put a stop to the growing of tobacco in these States; and whereas this rule levies the heaviest per cent. of taxation on that kind of tobacco mainly used by the class least able to pay, and touches but lightly the high-priced luxury of the richer class: Therefore,

"Be it resolved by the General Assembly of the State of Ohio, That the present rule of assessing the internal revenue on cigars is unequal, unjust, and oppress-

ive to the agricultural interest of this State; and that our Senators and Representatives in Congress be, and hereby are, earnestly requested to use their influence to secure such a change in the law as shall levy a tax *ad valorem*, or such other modification as in their judgment will remove the objection herein urged against the present law."

The result of the law has been that as it requires nearly the same labor to make a thousand cigars from tobacco of high or low price, while the tax is the same on all alike, the latter or western tobacco is effectually driven out of the market.

This is by no means an insignificant branch of industry. The report of the commissioner of statistics of Ohio for the year 1864 shows a product of tobacco as follows:

County.	Pounds.
Montgomery.....	7,720,223
Belmont.....	2,248,944
Brown.....	2,681,503
Clermont.....	1,006,756
Greene.....	1,319,913
Miami.....	1,045,154
Morgan.....	1,761,569
Monroe.....	3,361,603
Noble.....	4,399,168
Preble.....	1,114,029
Warren.....	1,400,516
Washington.....	1,516,516
Butler.....	887,441
Darke.....	528,499
Guernsey.....	869,282
Hoeking.....	334,194
Shelby.....	321,421
Highland.....	242,435
Lawrence.....	203,512
Athens.....	653,370
Ashtabula.....	253,635
Hamilton.....	119,203
The third congressional district raised.....	1,121,209
Total in State.....	37,022,323

There are a number of other counties that produce large amounts.

One of the most intelligent men of my district, who fully understands this subject, writes me:

"Your own district loses money to the amount of \$200,000 this year by this single enactment, while Ohio, Indiana, Illinois, and Michigan, all States that grow low-priced tobacco lose millions of dollars. Give us an *ad valorem* tax on cigars, and immediately the low-priced tobacco of the West (now excluded by the product of New England and the South, which have had a common interest) will come into market. Now it is rotting in our fields and tobacco-houses.

"More than this, the Government, by this change, will get more revenue, because the amount of cigars consumed will be much greater. Now low-priced cigars, always used in the greatest number, are almost excluded, but under an *ad valorem* tax they will again be freely manufactured and largely consumed."

One effect of the law has been that large amounts of western tobacco have been used for smoking in the leaf unmanufactured. In this form it has been sold and extensively consumed, thus affording no revenue to the Government. An *ad valorem* tax properly adjusted would permit the manufacture into cut-and-dry smoking-tobacco, and thus a large revenue would be derived. The Tobacco Cutters' Association, of Michigan, in their memorial to Congress say:

"From facts ascertained, we find that farmers and others have been (owing to the high price of smoking caused in consequence of the high rate of tax) largely engaged in growing and preparing tobacco for their own use, thereby lessening the amount of revenue the Government would otherwise derive from that source, besides tending, in a great degree to injure the business of the manufacturers."

And the effect of the law has been well described by the memorial of an Ohio Tobacco Growers' Association, as follows:

"In addition to this unhappy feature in the present law, an equally injurious change was made in making the tax on smoking, cut of stems fifteen cents, while on all other kinds thirty-five cents was placed. By this unfortunate stroke, all smoking cut out of anything else than stems, was effectually prohibited, and all home demand for lugs and common Ohio seed out of which the article had been cut before, was killed; and cutters, that before run from one to three machines, and used from one to three hogheads of lugs per day in smoking, have not run a machine or cut a hoghead since, and are now accumulating much capital of unavailable 'shorts' that necessarily grow out of the making of chewing-cut. By these changes in the previous law, seed leaf declined from eighteen and twenty cents to six and eight, and lugs from eleven and thirteen to six and seven, entailing losses on the districts producing these styles and grades of several million dollars. Home demand being thus cut off, our growers of the styles named were bound hand and foot, and turned over to the tender mercies of Europe for a market.

"As a set-off to this picture of depression, we merely

mention that, by the same change, that tax on Connecticut and Havana cigars was reduced at fifteen dollars, and Connecticut seed leaf went up from eighteen and twenty-two to thirty and thirty-five."

The present bill is a great improvement on the law as it now stands; but if the tax of twenty cents per pound on smoking-tobacco is levied, it will with the cost of the raw material and of manufacturing so enhance the price to the consumer that the leaf in its unmanufactured state will be largely consumed by many, and it will so approximate the price of cigars that smoking-tobacco will be comparatively driven out of the market. For the interests of the revenue and of the producer, the manufacturer and the consumer, I will urge the first amendment proposed by my colleague, [Mr. SCHENCK.]

I am aware that a reduction from thirty-five cents, the rate now fixed by law, to twenty cents, as proposed by the bill, is an improvement, but the rate proposed by my colleague of ten cents per pound is decidedly preferable. This is absolutely necessary if we would permit the use of western tobacco in the manufactured state, cut and dry for smoking.

But the present law, so far as it relates to common cigars, is equally destructive to the production of western tobacco. Under the present law the tax per cent., as paid by three distinct kinds of tobaccos, is as follows, allowing twenty pounds of tobacco for one thousand cigars: twenty pounds Havana, at \$1 55, equals thirty-one dollars, which, at ten dollars tax, is equal to thirty-three per cent.; twenty pounds Connecticut, at twenty-two and a half cents, equals \$4 50, which, at ten dollars tax, is equal to two hundred and twenty per cent.; twenty pounds New York, Pennsylvania, and Ohio, at eleven cents, equals \$2 20, which, at ten dollars tax, is equal to four hundred and fifty per cent.

I object to the present law so far as it relates to western tobacco, because—

1. It is unjust in principle. Western tobacco is worth from six to eleven cents per pound, while Connecticut is worth twenty-two. To require the same tax on all alike is a discrimination against the low-priced article.

2. It has operated practically to destroy the product of western tobacco.

The Ohio association, before referred to, in their memorial say:

"The particular depression for which we think the law clearly responsible relates to Ohio seed leaf and Kentucky lugs. By making the tax on all grades of cigars ten dollars, cigars made of Ohio seed leaf, which were dear before at thirteen dollars, had seven dollars additional tax put on them, and with it a complete extinguisher on their sales. And as the manufacture of these cigars furnished demand for the bulk of the Ohio seed used in the United States, with the destruction of this trade almost all demand for Ohio ceased, and not one case of Ohio seed has been used since, where before a hundred found consumption; and prices of the article went down accordingly."

"The inequality and injustice of this tax is readily seen, and were it not for the fact that all sales of Ohio seed, for home consumption, had entirely ceased, perhaps our people, with their boundless resources, might still rest satisfied, making a virtue of necessity, change their farm products, let their tobacco houses go to destruction."

3. The destruction of the western product diminishes the national revenue from tobacco.

It will be seen the bill of the Committee of Ways and Means proposes to remedy the injustice of the present law by levying a tax of four dollars per thousand on all cigars the market value of which, tax included, is not over ten dollars per thousand, and on all other cigars a tax of ten dollars per thousand. Only two grades of tax are proposed.

Now, let us inquire what will be the effect of this. Cigars made of Connecticut tobacco will cost less than ten dollars per thousand and will pay a tax of four dollars per thousand. Cigars made of Ohio and other western tobacco will cost less than ten dollars per thousand and they will pay a tax of four dollars per thousand. Western tobacco worth from seven to ten cents per pound will pay as much tax as Connecticut worth twenty-two. The tax will fall on the producer mainly, for it will require nearly the same labor to manufacture common

cigars of western tobacco as the finer cigars of Connecticut tobacco. This unequal tax will enable eastern manufacturers to sell the finer cigars so nearly the price of those made of western tobacco that common cigars of western tobacco will be driven from the market, or produced only to be consumed unmanufactured, or cut and dry, or exported at ruinous rates. Will any gentleman tell me why this discrimination should be made against western or low-priced tobacco? Or why should common cigars pay as much tax as the fancy "cigarettes" or the cigars "inclosed in a wrapper or binder?" The amendment proposed by my colleague will remedy all this inequality. It proposes to adopt the rule of equality by classifying cigars and thus approximating an *ad valorem* tax. It will tax common cigars two dollars per thousand; a finer article four dollars per thousand. Still finer classes respectively ten, twenty, and forty dollars per thousand; these last classes being generally manufactured by Havana fillers and Connecticut wrappers. The general scope of the amendment is to protect the home article and to give the western product a living chance along with the eastern.

There are some other particulars in which I hope the bill reported by the committee will be changed, though I cannot advert to them all now. It proposes to tax manufactures of flax, hemp, jute, and silk five per cent. *ad valorem*. The manufactures of flax, jute, and hemp are in their infancy and cannot bear tax at all. A tax is equivalent to their destruction. The production of flax and hemp is one of the agricultural interests of the West which should not be destroyed by taxation, but rather encouraged. Silk is a luxury and can bear a tax higher than ordinary articles which enter into daily consumption. By this bill diamonds, emeralds, precious stones, and jewelry are only taxed five per cent., while thread, candles, leather, screws, and many other articles are taxed an equal rate. This, in my judgment, is wrong. Let diamonds, jewelry, and all articles of unnecessary ornament or luxury bear at least double the tax if not still more, as I would make it, than that imposed on articles of ordinary consumption or necessity.

By the present law the tax on incomes over \$600 and under \$5,000 is five per cent., and on incomes over \$5,000 the tax is greater. The bill now before us levies one uniform rate on all incomes over \$1,000. I have two objections to this. I would tax incomes over \$5,000 greater than those of a less sum. The discrimination is founded on the greater capacity of the wealthy to pay and not on any hostility to capital. The amount of income exempt from tax should not be fixed at a uniform sum but should depend on the number and age of children each head of a family might have to support. The exemption is designed for the support of families, and the amount of it should be made to depend on the number of the family. A man like John Rogers, with "nine small children and one at the breast," needs and should have a greater sum exempt than one who has rendered the country no such service and has no equal need for income exempt.

There are some axioms of political economy which should not be overlooked. Taxation should mainly be levied upon wealth realized in the form of property or incomes rather than upon the sources of productive wealth, the means by which wealth is created. Hence it has always been regarded unwise to cast onerous burdens on useful labor or industry in any form, upon the mechanic, the producer, the artisan, and the laborer. A tax upon the implements or products of useful labor discourages industry and impairs the production of wealth. The necessities of a nation may be such as to require a resort to taxes of this description to a limited extent, but when this may be so they should be levied with great discrimination.

There is a class of products which may, under these or other circumstances, be properly taxed, and sometimes heavily taxed. Mere articles

of expensive luxury or indulgence, from which England derives the larger part of her revenue, may be appropriate subjects of taxation. This bill has kept these principles in view, and though by no means perfect, it is a great improvement upon the law as it stands, and with the modifications which time and experience may suggest, will contribute much to wipe out an immense national debt entailed upon us by treason, rebellion, and traitors, their aiders and abettors. As the people annually make their contributions of national taxes let them remember that traitors and their allies rendered them necessary, and let them at the polls see to it that they shall no more be intrusted with political power.

I withdraw my amendment to the amendment.

The question being taken on the amendment offered by Mr. SCHENCK to strike out "twenty cents" on smoking-tobacco and insert "ten cents," no quorum voted.

Tellers were ordered; and the Chairman appointed Messrs. SCHENCK and ANCONA.

The committee divided; and the tellers reported—ayes 48, noes 46.

So the amendment was agreed to.

Mr. MYERS. I offer an amendment to come in after all these paragraphs.

The CHAIRMAN. There is but one paragraph under consideration at this time.

Mr. MYERS. Then I offer it to that. I move to strike out the paragraph and to insert in lieu thereof what I send to the desk.

The Clerk read the amendment, as follows:

That on and after the 1st day of July, 1866, in lieu of the duties on manufactured tobacco and cigars now imposed by the several acts to provide internal revenue to support the Government, there shall be paid by the producer, owner, or holder, upon all tobacco produced within the United States and upon which no tax has been levied or collected, a tax of twenty cents per pound upon the said tobacco in the leaf or unmanufactured; and such tax shall remain a lien thereon and be levied and collected as provided for in this act in the case of cotton; that all tobacco of domestic growth shall be bonded in Government warehouses, and shall be weighed and marked, and on permits given, as in the case of cotton, may be removed from the district in which it has been produced to any other district without prepayment of the tax due thereon upon the execution of bonds or giving security, as shall be prescribed by the Secretary of the Treasury: *Provided*, That there shall be an allowance or drawback on all tobacco equal in amount to the duty paid thereon, and no more, when exported; no drawback, however, to be allowed for such duties if less than ten dollars.

Mr. MYERS. Mr. Chairman, in the last Congress I stood almost alone in the advocacy of a tax such as I have proposed by this amendment. In the present Congress upon my motion a resolution was adopted instructing the Committee of Ways and Means to report upon the expediency of such a tax. Now, sir, I have scarcely a hope that such an amendment will pass this House with the committee against it, but I think it due to the manufacturers of tobacco in the United States, who have held conventions in all our great cities and unanimously asked that this tax may be made specific and uniform in order to protect the Government and themselves against fraud, that their proposition shall not be passed by in silence.

Mr. HOOPER, of Massachusetts. I would inquire of the gentleman whether these were conventions of manufacturers or producers of tobacco.

Mr. MYERS. They were conventions of the manufacturers of tobacco. But it is no matter of whom the conventions were composed, if the tax they propose is just and if it will enable the Government to get as much revenue as by the proposition of the committee.

Now, who is there to complain of a tax of the kind I have suggested? Certainly the Government should not, for by this means the Government would receive the tax earlier than in the other way; and it would receive it more surely, because there are not half as many avenues for fraud at the first production of the article as there are afterward. When it is in the course of manufacture the tobacco goes into the hands of thousands of operators, who make it up in out-of-the-way places and defraud

the Government. Besides, we shall get a larger share of revenue in this way. According to statistics the production of tobacco in this country in 1865 was one hundred and eighty-five million pounds. Deducting two thirds as the amount exported, the revenue from this source at twenty cents per pound would be \$12,000,000, or \$1,000,000 more than is received under the present mode of taxation. The revenue commission claim that the revenue hereafter by the present system from tobacco will be \$18,000,000 annually; but that is a mere guess. I have only to say that if we can obtain such a sum by that system it must be upon a far greater number of pounds of tobacco than was raised last year. In the year 1860 there were produced in this country four hundred million pounds of tobacco, upon which, under the amendment I have proposed, there would be obtained a revenue of \$28,000,000.

Who, then, will object to this species of tax? It is said the opposition comes from the tobacco-growers, and on account of this interest and the fear of seeming to levy any tax on the producers we must desist. To a similar objection when the cotton question was under consideration the distinguished chairman of the committee replied that the tax need not be paid by the planter; the cotton may be removed from one collection district to another in bond and the duties or tax will thus be practically paid by the purchaser. Under my amendment the manufacturer will virtually pay the tax on it when he removes it for consumption. Then tobacco-growers are in the ruts of usage, and must be educated to know their own interests. Nor can the consumer find fault; the duty falls on him in either instance, and if no higher it is no matter to him whether it be levied between its growth and manufacture or afterward; but the consumer really pays much less by this levy of twenty cents a pound on the raw tobacco.

The revenue commission state that 42,809.18 pounds of tobacco, "at the present rate of excise, would return an annual revenue of \$15,786,795." At twenty cents per pound the consumers would pay but little over \$8,000,000, and even adding twenty-five per cent. for losses in the manufacture only \$12,000,000, the additional tax being necessary under the present system to make up for the amounts which escape the tax. The manufacturers are nearly prostrated at present and ask for redress. The legitimate consumption of tobacco is not more than half what it was, Government being a loser equally with the honest manufacturer. The Louisville Board of Trade reported sales of but 35,112 hogheads of tobacco for the first ten months of 1865 against 63,332 for the same months of 1864. For the year 1865 the decrease in the returns of chewing-tobacco was fifty-eight per cent., and of smoking-tobacco sixty-two per cent., and all this time many thousand employes have been thrown out of business. The excise on tobacco in the leaf is found to work well in other countries and I hope will yet be adopted here.

Mr. MORRILL. I trust the gentleman from Pennsylvania [Mr. MYERS] will not deem me ungracious or unkind if I do not take time to reply to what he has said. I will merely say that I hope the amendment will not be adopted.

The amendment of Mr. MYERS was not agreed to.

The Clerk read as follows:

On cigarettes, or small cigars, made of tobacco inclosed in a wrapper or binder, and not over three and a half inches in length, the market value of which (tax included) is not over six dollars per thousand, a tax of two dollars per thousand; when the market value is over six dollars and not over ten dollars per thousand, (tax included), and on cheroots, and cigars known as short-sixes, and on any cigars made with or without pasted or twisted heads, the market value of which (tax included) is not over ten dollars per thousand, a tax of four dollars per thousand.

Mr. MORRILL. I move to amend this paragraph so that it shall read as follows:

On cigarettes, or small cigars, made of tobacco inclosed in a wrapper or binder, and not over three and a half inches in length, and cigars made with

twisted heads, the market value of which (tax included) is not over eight dollars per thousand, a tax of two dollars per thousand; when the market value is over eight dollars and not over twelve dollars per thousand, (tax included), and on cheroots, and cigars known as short-sixes, and on any cigars, the market value of which (tax included) is not over twelve dollars per thousand, a tax of four dollars per thousand.

The amendment was agreed to.

Mr. SCHENCK. For the paragraph as now amended we are very thankful, so far as it goes, because so far as it does go it rights a great wrong. But still, as it is not sufficient for all the purposes of justice, I will move to strike out this paragraph as amended, and substitute the following:

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, and not over three and a half inches in length, and on cigars made with twisted heads, the market value of which (exclusive of the tax) is not over six dollars per thousand, a tax of two dollars per thousand.

On cheroots and cigars known as short-sixes, and cigars made with pasted heads, the market value of which (exclusive of the tax) is not over eight dollars per thousand, and on all cigarettes and cigars, the market value of which (exclusive of the tax) is over six dollars and not over twelve dollars per thousand, a tax of four dollars per thousand.

On all cigarettes, cheroots, and cigars, the market value of which (exclusive of the tax) is over twelve dollars and not over twenty dollars per thousand, a tax of ten dollars per thousand.

On all cigarettes, cheroots, and cigars, the market value of which (exclusive of the tax) is over twenty dollars and not over forty dollars per thousand, a tax of twenty dollars per thousand.

On all cigarettes, cigars, and cheroots, the market value of which (exclusive of the tax) is over forty dollars per thousand, a tax of forty dollars per thousand.

I had the honor of having printed some time ago an amendment to this bill, which was substantially the same as the one I have just offered, except that I have changed the rate and made it exclusive of the tax instead of inclusive of it. I found that by following the idea introduced by the Committee of Ways and Means, and making the price inclusive of the tax, it would involve us in this absurdity: for instance, when the price of cigars is made up by including the tax, by imposing a tax of twenty dollars a thousand on cigars over twenty dollars a thousand, you would include the cigars originally costing six dollars a thousand in the higher classes. But the whole matter is made fair by leaving the tax entirely out of the computation of the price, and making the tax rest upon the price of the cigars exclusive of the tax, and while the same result is arrived at we are not involved in the absurdity I have stated.

Now, sir, to go back to the subject and purpose of this amendment generally, I might repeat to some extent what I said before in regard to smoking-tobacco. It is needless, however, to do so. It is sufficient to state that by the existing law, putting all upon a dead level, making all cigars pay ten dollars a thousand, you have utterly crushed out the whole western interest in the production of tobacco and its manufacture into cigars. I live in Dayton, Ohio, a little city of some thirty thousand inhabitants. Before you put your tax on as you have done, we were making there nine million cheap cigars. Now we do not make one. The whole interest has been destroyed. With the destruction of the interest in the manufacture of these common twisted-head cigars, the interest connected with the growth of the tobacco has likewise been destroyed. In the district which I represent we raise nearly one half of all the tobacco raised in Ohio; and the tobacco raised in that district, in that State, in all the western States, in the Northwest, and in Pennsylvania, is a tobacco from which are manufactured cigars of this cheap character.

By imposing a level tax, putting the same burden upon the cheap cigars used by the poor man as upon the finest cigar made of Connecticut or other leaf, you have crushed out completely the western interest; so that you are at present getting no revenue from us, while you are at the same time depriving our people of the opportunity of indulging this practice, which I do not advocate myself personally, any more than my friend from Oregon, [Mr. HENDERSON,] but which my people are interested in,

because they cannot now obtain cigars at all at a price within their reach.

Now, sir, my own impression is that it might be better, if it were practicable, to levy your tax upon the leaf. Without, however, a system of domiciliary visitation all over the country and a numberless swarm of office-holders, you could not collect the tax if levied in that way. Therefore the Committee of Ways and Means perhaps properly decided not to attempt taxation on the leaf. The next best thing, probably, would be to levy your tax altogether *ad valorem*, making every cigar, everything connected with this interest, pay taxation in proportion to the value invested and the price at which the article might be sold. That not being done, I propose, by a system of gradation and classification, to reach as nearly as possible what would be something like an *ad valorem* duty.

Gentlemen of the Committee of Ways and Means and others connected with the legislation upon this subject say that you cannot resort to an *ad valorem* duty for fear of the numberless frauds which will be committed. I do not know how strong that argument ought to be considered. They say the same thing with reference to classification, that it opens the door for more frauds. I think, however, that by a little wholesome legislation we might prevent frauds in either case. But certainly, as a question of principle, just in proportion as you approach the levying of taxation according to the value of the articles taxed, you approach that principle of justice which every man will feel ought to be regarded in apportioning the burdens of the Government.

[Here the hammer fell.]

Mr. MORRILL. Mr. Chairman, we are all fully aware of the ability and the tenacity of purpose of the gentleman from Ohio, [Mr. SCHENCK.] He does not yield a hair's breadth even when the committee are disposed to accommodate him. I rather think, however, that the Committee of Ways and Means have investigated this subject more extensively than the gentleman from the Dayton district of Ohio, [Mr. SCHENCK.] who appears to have looked at it only on the side of the lowest-priced tobacco. It is an old subject, and one which has been investigated at every session of Congress for the last four years, and one not without its perplexities. But having tested various provisions of law, tried each in turn, we ought now to profit by experience and hold fast to that which proves the best.

The gentleman's colleague [Mr. LAWRENCE] stated that the revenue commission, who had made a report on this subject, had not visited the West. The gentleman was mistaken. The revenue commission did not make any report on this subject, not having the time to devote to it. If they had had more time they doubtless would have fully investigated this question, as they did others. They commenced upon the subject, and took considerable testimony, which will doubtless be of value hereafter, if opportunity shall be given for the complete investigation of the whole question.

The gentleman from Ohio proposes to go back to a system of legislation which we have already tried and found it almost an entire failure. The universal testimony of all the assessors, collectors, inspectors, and other revenue officers here at Washington is against the proposition. Let me, as an illustration, show what the result was when we had a gradation of tax upon cigars.

Take the year 1864. The tax upon cigars at three dollars yielded about \$1,200,000; at eight dollars, \$1,108,743 78; at fifteen dollars, \$386,978 42; at twenty-five dollars, \$73,442; and at forty dollars, \$9,462. This shows conclusively the result of grading the tax will be that almost every cigar taxed will be taxed at the lowest duty.

I have a letter from a tobacco manufacturer at Detroit asserting the same fact. He goes on to say:

"When I called on you Tuesday last on the tobacco tax I forgot to say a word regarding the cigar tax. I

am not a manufacturer of cigars, but deal in them quite largely, and I noticed when we had the graduating tax that it made no difference what price we paid for the cigars the stamps were always the three dollar stamp. I am opposed in toto to a graduating tax. Whatever tax you put on have it uniform. If you adopt the graduated tax you will make a mistake. I believe cigars will pay a ten dollar tax easier than any other."

Now, gentlemen may suppose I am adhering a little too closely to the bill in not allowing or consenting to further exemptions and further reductions. Let me read a letter from a western collector. He says, in effect, that at the next session of Congress we shall have to go back to the old rates of taxation, and declares our bill will produce much less revenue than is anticipated. He advises that we move slowly. He also says that the Commissioner is now making a far less stringent enforcement of the law this year than last, and that this will make a wide difference in the revenue.

Now, Mr. Chairman, I am opposed entirely to the rate offered by the gentleman from Ohio, and to his whole system of estimating the amount of tax on the value of cigars excluding the tax, on the market value. There is no market value except upon cigars which have paid a tax. It is against the law that they shall be offered in market except those which have paid the tax. Therefore the gentleman's absurdity rests upon his own shoulders entirely.

[Here the hammer fell.]

Mr. PAINE. I differ altogether with the chairman of the Committee of Ways and Means as to the experience which the Government has had under the late law and under the law now in force. He has told you, and others have told me twenty times since this discussion commenced, that the old cigar tax was a failure, and that the system now in force is far preferable to that or any other. Now I say, sir, that the experience under the law enacted in 1864, and in force for a great part of 1865, and the experience of the country since the law of 1865 went into force, all go to show that the old law is better than the new one. I will refer to the figures. Let us refer to the taxes collected on cigars during the fiscal year ending June 30, 1865. For the first three quarters these taxes were collected under the old and not under the new law, and I call the attention of the committee to the result. The following are the figures which come to us in the report of the Commissioner of Internal Revenue, and from the assertions reiterated again and again in this House I appeal to the figures of that report. In the fiscal year ending June 30, 1865, the old law yielded, from cigars alone, a revenue of \$3,048,127 66. That law was replaced by the law now in force, which took effect April 1, 1865, that is to say, at the commencement of the fourth quarter of the fiscal year 1865. But the new law, which was in force during the last quarter, yielded only \$24,348 90. Gentlemen will see that the old law was twofold more productive than the new law during the same period of time.

Now, when we come down to the fiscal year ending the 30th of June, 1866, and contrast the revenue yielded by the new law, for the first three quarters ending on the 31st day of March last, with the revenue yielded in the fiscal year 1865 by the old law, which expired at the end of the first three quarters of 1865, we find the following results, which I read from a statement furnished me by the Commissioner of Internal Revenue. The old law yielded \$3,048,126 66, and the new law only \$2,556,518 70. From all these figures I say it cannot be demonstrated that the old law was a total failure and the new law a complete success. I appeal from the assumptions and assertions of those who clamor so loudly against an *ad valorem* or a graded tax to the facts and figures of the Commissioner himself. On the contrary, sir, considering the disadvantages under which that law operated, I declare my conviction that it unmistakably demonstrated the superiority of an *ad valorem* or graded tax to this dead level duty of the committee. For, under that law, where there was a gradation, and where the taxes were assessed on different

values, it was, as a matter of course, necessary that there should be a vast amount of machinery suggested and perfected by experience, and put in force by well prepared regulations. But such machinery was utterly wanting. That system had to run alone, so far as regulations were concerned. It only ran three quarters of a year, and there was no perfection in the instrumentalities for working out its results.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio. The distinguished chairman of the Committee of Ways and Means has reminded us that my colleague [Mr. SCHENCK] adheres to all his purposes with great tenacity. Sir, it is a virtue that he has learned, or might have learned, from the chairman of the Committee of Ways and Means himself. If the revenue commission had made a report upon this subject of the taxation of cigars and tobacco, and if that report had been in accordance with the views of the Committee of Ways and Means, I should have hesitated somewhat before asking this committee to change it. But, as I learn from the chairman of the Committee of Ways and Means, that commission did not investigate this subject at all. They made no report upon it; and I beg this committee, therefore, to remember that in voting down the recommendation of the Committee of Ways and Means they are not voting down the recommendation of the revenue commission. The single question now presented to the committee is this: shall cigars, which are manufactured out of the low-priced tobacco raised in Ohio and other western States, pay an equal amount of tax with cigars manufactured from the more expensive and valuable tobacco raised in Connecticut? That is the question presented for the consideration of the committee, and it seems to me that, as a question of naked justice, the proposition is so bold as to strike the conscience and the judgment of every man who hears me.

Mr. Chairman, the value of Ohio tobacco is generally from seven to ten cents per pound; that of Connecticut is twenty-two cents per pound. Now, if you levy the same tax on the cigars made from Connecticut tobacco that you do upon cigars made from Ohio tobacco, each costing an equal amount of labor, the result will be, as it has been under the existing law, that you give a monopoly of the market to the manufacturer of the Connecticut tobacco and drive out of the market the product of the Ohio tobacco. That has been the result under the present law. I can give a single instance in my own district, which, I apprehend, is but an illustration of what occurred elsewhere all over the western States. A farmer raised a small crop of tobacco, and during the winter went to work and manufactured it into cigars himself. When he came to hunt up the assessor, to pay the tax on the cigars, he found that he could not sell the cigars for a sufficient sum to pay the tax. The result was that he was compelled to destroy them. Now, that is to be the result of this bill, if you levy the same tax on cigars manufactured from Connecticut tobacco and those manufactured from Ohio tobacco.

The chairman of the Committee of Ways and Means tells us that he is opposed to the whole system of discrimination, to the whole *ad valorem* system. Why, sir, this very bill makes two grades of cigars, and taxes one two dollars per thousand and the other four dollars. If the principle be correct, extend it a little further, to all grades of tobacco.

[Here the hammer fell.]

Mr. LAWRENCE, of Ohio, withdrew his amendment.

Mr. STEVENS. I move to amend the amendment of the gentleman from Ohio [Mr. SCHENCK] by striking out the following:

On cheroots and cigars known as short-sixes, and cigars made with pasted heads, the market value of which (exclusive of the tax) is not over eight dollars per thousand, and on all cigarettes and cigars the market value of which (exclusive of the tax) is over six dollars and not over twelve dollars per thousand, a tax of four dollars per thousand.

On all cigarettes, cheroots, and cigars, the market value of which (tax included) is over twelve dollars

and not over twenty dollars per thousand, a tax of ten dollars per thousand.

On all cigarettes, cheroots, and cigars, the market value of which (tax included) is over twenty dollars and not over forty dollars per thousand, a tax of twenty dollars per thousand.

On all cigarettes, cigars, and cheroots, the market value of which (tax included) is over forty dollars per thousand, a tax of forty dollars per thousand.

And insert in lieu thereof as follows:

On all other cigars four dollars per thousand, and forty per cent. *ad valorem*, exclusive of the tax: *Provided*, That in assessing the said *ad valorem* duty the first ten dollar valuation shall not be assessed.

Mr. Chairman, I hardly understand why the Committee of Ways and Means, after the experiment of a year, should insist upon imposing the same amount of tax on cigars worth ten dollars and cigars worth ninety dollars. It is downright, clear, bold-faced robbery.

The result of the tax which these gentlemen propose is this: they put a tax of ten dollars on all cigars, no matter what their value. Now, in my county they made of what is called Pennsylvania seed leaf—the same tobacco that is raised in Ohio and New York—a cigar which cost, perhaps, \$12 50, and was worth about fifteen dollars. In Connecticut, or where they use the foreign leaf, they make cigars ranging from thirty to ninety dollars. The same tax, ten dollars, was imposed on both. What was the result? The year before that tax was laid, my county raised \$2,000,000 worth of tobacco; and this year they do not raise \$2,000 worth! The whole tobacco interest of Pennsylvania and New York is crushed out for the benefit of Connecticut. I only state this fact that gentlemen may be enabled to determine whether this heavy tax, which is thus destroying the tobacco interest of a large section of country, and building up that of a very small section, should be persevered in.

I do not like the proposition of the gentleman from Ohio, [Mr. SCHENCK.] He makes rests. Everything should pay according to its value. He makes a rest from ten to twenty dollars. There is no reason why cigars at fifteen and nineteen dollars should not pay in the same proportion as those at ten. But his amendment requires those priced at nineteen to pay just the same as those priced at ten. But if the price goes over that to twenty-one dollars, then the tax is doubled. Now, there is no reason for that. It is honest and just to make the article pay tax according to its value. Gentlemen tell us that you cannot enforce such a tax. Why, sir, only two pages before this in the bill, there are five articles on which you lay an *ad valorem* duty. Is there anything so peculiar in cigars that you cannot collect an *ad valorem* duty as well as you can on diamonds or anything else? Sir, there was never a system of taxation, foreign or domestic, in England or in our own country, which carried out a system of specific taxes. If you cannot make the tax specific on all articles, make it *ad valorem*. Tell me it is absurd to carry out this system! It was absurd under the old law because of the absurd constructions of the Department. They made constructions which gave you no tax at all. They said that it must be thirteen dollars before it could pay eight dollars. The result was that the manufacturers sold the material to the journeymen at a price agreed upon, and then the journeymen sold the manufactured article back at a price agreed upon, which price was assumed to be that upon which the tax was to be calculated.

[Here the hammer fell.]

Mr. SLOAN. I hope the amendment of the gentleman from Ohio [Mr. SCHENCK.] will be adopted. In my judgment, upon it depends the question whether the culture of tobacco in this country shall be confined to a few localities or whether it shall extend over a very large portion of the country, as it was extending very rapidly before the last revenue law went into operation.

I expected to hear from the chairman of the Committee of Ways and Means, [Mr. MORRILL,] when this amendment was proposed, the assertion which he has made, that we had tried the system of imposing taxes according

to value, and it had failed. And I also expected to hear him appeal to the House, as he has done, not to go back to that system for the reason that it had been tried and had failed. Now, I deny that that system has failed; I deny that it has ever had a fair trial.

Mr. STEVENS. It never was tried.

Mr. SLOAN. Under the first law for raising revenue there was a grading of taxes upon the values of tobacco. But there was no provision whatever put into the bill for the purpose of enforcing that graduation. And a construction was put on it by the then Commissioner of Internal Revenue which prevented the collection of the various grades of duties. If there was any failure about it, it was a failure in consequence of the incompetency and stupidity, if not something worse, of the then Commissioner of Internal Revenue.

The Committee of Ways and Means understand perfectly the operation of that law as it stood, and the mode in which it was evaded. Large manufacturers sold the material out of which cigars were made to their journeymen, at such price as they pleased, with the understanding that the journeymen should afterward sell back to them the manufactured article at a merely nominal price. And the then Commissioner of Internal Revenue ruled that that merely nominal price paid by the manufacturers to the journeymen for the cigars after they were made, should be conclusive evidence of the value upon which the tax was to be assessed. There was no discretion given to any Government inspector to inspect the cigars and judge himself of their price. And after an attempt, the most absurd, and, I may say, the most foolish that ever was made in the collection of revenue, it will not do for the Committee of Ways and Means to assert here that there has been a fair trial of the system of taxation according to valuations.

Now, what is the result of the system of taxation the committee now urge upon us to adopt? The tax is, say ten dollars on a thousand cigars. It takes about twenty-eight pounds of tobacco to make a thousand cigars.

Mr. GARFIELD. Twenty pounds.

Mr. SLOAN. From twenty to twenty-five pounds. That would make the tax about forty cents a pound on the tobacco used. If the tobacco from which the cigars are made is worth twelve cents a pound, that would make the price of tobacco when purchased in cigars about fifty-two cents a pound. If the tobacco used was worth six cents a pound, with the tax it would be worth in cigars about forty-six cents a pound. Remember that the cigars that are worth fifty-two cents a pound are made of tobacco worth twice as much as cigars that are worth forty-two cents a pound, for the tax added to the six cent tobacco is the same as the tax added to the twelve cent tobacco. And the difference between six cents and twelve cents a pound is the difference between a losing business and a profitable business to the producer.

Now, any person will purchase the cigar at fifty-two cents a pound rather than the cigar at forty-six cents a pound, for the one contains tobacco worth twice as much as the other. And hence the lower price cigars are entirely driven out of the market. It is a vicious system of taxation; and it is utterly surprising, with the light which the Committee of Ways and Means have upon this subject, that they should propose to continue such a system.

[Here the hammer fell.]

Mr. MORRILL. I move to amend the paragraph proposed to be stricken out, by striking out the words "on small cigars." Of course I realize the difficulty of reconciling all parties to any tax upon cigars. But it is true in relation to the law on this subject, as it is in relation to many other subjects, that when a tax is well known, and has been practically administered over the country for a year, there should be some substantial reason given for changing it if any change is proposed.

The complaints which were made in relation to this matter have, I believe, been fully met

by the proposition offered by the Committee of Ways and Means, which was to allow the tobacco made in the district of the gentleman from Ohio to be manufactured into a certain description of cigars at a very low rate of tax. By the proposition as it now stands cigarettes or small cigars, and cigars made with twisted heads—the peculiar kind manufactured in the section of country which the gentleman represents—the market value of which does not exceed eight dollars per thousand, will pay a tax of two dollars per thousand; and where the market value exceeds eight dollars and is not over twelve dollars, the tax will be four dollars. This, I think, meets all the actual wants of the gentleman's district. At any rate the Committee of Ways and Means were so informed by more than one gentleman interested in the manufacture. And the gentleman has already succeeded in reducing the tax on smoking-tobacco—if the House should allow it so to remain, as I hope it will not—from twenty cents to ten cents per pound, while as the law now stands it is twenty-five cents.

But the gentleman from Wisconsin [Mr. PARKE] has asserted that this system of taxation which he urges has not proved a failure. I gave the facts connected with the operation of that law, showing that we received a very contemptible and insignificant sum upon all the higher rates; that the only considerable amount of revenue that we did derive from that source was at the lowest rate fixed in the tax bill, three dollars per thousand. I have the statement of the Commissioner of Internal Revenue on this subject up to as late a date as March 5; and by this statement it appears that the amount of increase on cigars is five per cent.; on snuff eighty-seven per cent.; on tobacco (chewing and smoking) forty-five per cent.

In relation to the amendment of the gentleman from Pennsylvania, I do think that it will create a great amount of difficulty in ascertaining the value. The gentleman is mistaken if he supposes that we have no laws that are identical in principle with levying a uniform tax upon cigars. Take an article manufactured in his own district—old rye—the true "J. B.," of which the gentleman so well understands the value, which is made in these little copper stills, and sells for two dollars a gallon without any tax whatever; whereas whisky made from corn in the district of the gentleman from Peoria [Mr. INGERSOLL] will not bring more than fifteen cents per gallon without any tax. Yet we impose a uniform rate of duty upon whisky, whether made in the district of the gentleman from Pennsylvania or in that of the gentleman from Illinois.

Now, Mr. Chairman, all experience is against the system of taxation which it is urged should be applied to the subject of tobacco. The experience of the country which has been cited is directly in the teeth of the arguments, for no matter what the value of the tobacco the same rate of duty is levied.

Mr. LAWRENCE, of Ohio. They raise no tobacco in England.

Mr. BOUTWELL. Mr. Chairman, I think that the committee upon examination will see that the proposition of the gentleman from Ohio, to levy a tax upon the value of the cigars exclusive of the tax, is a very unwise provision. We tried that system in the beginning of the operation of the internal revenue law upon a great many articles made by manufacturers. Under that system we were exposed to every kind of fraud, which we resisted for a time by construction of the statute until the difficulty was remedied by legal enactment. Hence I think that the first thing to be agreed to is that the rule of taxation in the matter of cigars shall be the same that we apply in other cases, a tax upon the article at its value, the tax included. There is no other safe method of proceeding. Under any other system we shall experience all sorts of frauds.

Now, the committee propose that upon various kinds of cigars, the market value of which is not over eight dollars per thousand,

the tax included, there shall be a tax of only two dollars, and that where the market value exceeds eight dollars, and is not over twelve dollars, the tax shall be four dollars. It seems to me that this ought to meet the requirements of those sections of the country that produce tobacco for the manufacture of cheap cigars. It seems to me this arrangement will meet all the wants of the country.

Mr. MORRILL. I withdraw my amendment.

Mr. SCHENCK. I wish to modify my amendment before the vote is taken by inserting the word "other" at the end of the eleventh line. I now move, *pro forma*, to strike out the last words of the paragraph, with a view simply to say I do not appreciate the force of the argument which objects to ascertaining the value exclusive of the tax. The gentleman says there is no market value until the tax is laid and included in the computation. He says there must be first a sale and the tax included to get up the market value. I think so long as the rule of subtraction is to be found in our arithmetics we can find what is the market value exclusive of so much deducted from the market value which may be the amount of the tax as easily as we can put the tax on. As a gentleman near me says, it is only a question of arithmetic, of simple subtraction and addition, and nothing else.

But the gentleman from Vermont [Mr. MORRILL] says it will open the door to fraud; and so does the experienced gentleman from Massachusetts [Mr. BOUTWELL] who has just addressed the House. Why? Because we have not provided sufficiently against fraud in this legislation heretofore. The other day some gentlemen representing a New York tobacco interest called on me and finding I was not much impressed with the force of their argument, said, "If you will make this particular classification we will evade it, as we have done before." "How?" I inquired. "We will sell to our journeymen the leaf tobacco, let them manufacture it, then we will buy it back for just as much as will pay them reasonably their wages and call that the market value, and then we will sell for whatever we can get for it and pay the tax according to that market value."

Mr. STEVENS. That is the way in which it was done before.

Mr. SCHENCK. I say, therefore, all that is needed is to classify or adopt something approaching the *ad valorem* system, and have appraisements made so as to prevent these fraudulent appraisements. I will read an amendment I propose to offer further on in the bill as an amendment to the amendment intended to be moved by the gentleman from Wisconsin, [Mr. PAINE.] He proposes to require the appraisal shall be made by the inspecting and appraising officers under certain regulations, so as to prevent these fraudulent arrangements between the manufacturer and his journeymen. I propose to add to that the following:

And in addition to other regulations it shall be the duty of the inspector or assessor who appraises any cigars, cigarettes, or cheroots, to examine the manufacturer thereof or his agent under oath, which oath shall be administered by the inspecting and appraising officer and reduced to writing, and signed by such manufacturer or his agent with a view to ascertaining whether such manufacturer has any interest direct or indirect in any sale that has been made or any resale to be made of said cigars, cigarettes, or cheroots, by the concealment of which he seeks to obtain a false, fraudulent, or deceptive appraisalment.

I know oaths in custom-houses and under excise laws are taken most loosely and seem to have but little binding force ordinarily upon consciences; but oaths may be prescribed connected with a system of appraisalment, and the party shall endanger himself and put himself in jeopardy of the penitentiary if he undertakes to commit a fraud.

[Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. Mr. Chairman, it seems to me some gentlemen have been laboring under erroneous ideas. I believe if the committee generally understand the question they will be in favor of that form of tax that will produce the most revenue.

Now, for one, whatever course may be adopted, if we can encourage our home industry in producing the article by a certain system of taxation and at the same time secure the most revenue I believe the great majority will be in favor of that system whatever it may be. It is true that this or that individual may be in favor of a particular plan, because it is bounded by his own particular section. But I wish the committee for a moment to look at the amendment of the gentleman from Ohio, [Mr. SCHENCK.] The gentleman complains, as I understand him, of the present tax on account of the fact that the article of tobacco which sells for ten cents a pound is taxed the same as that which sells for twenty cents. But what is the remedy he proposes? The gentleman's amendment does not obviate the difficulty. He proposes by his amendment to tax the individual who manufactures cigars worth \$12 50 a thousand just as much as the one who manufactures cigars worth twenty dollars. Or if one manufacturer makes cigars worth forty dollars a thousand and another makes cigars worth forty-one dollars the gentleman would make the latter pay forty dollars extra tax, thereby carrying out the very plan and system which he objects to under the present law.

The gentleman says that under the present law he who raises tobacco worth ten cents a pound pays the same tax as he who raises tobacco worth twenty cents. And yet he brings in an amendment which proposes that the man who manufactures cigars worth forty dollars a thousand shall pay twenty dollars tax, but he who makes cigars worth \$40 50 a thousand shall pay forty dollars tax. What is that but introducing the same principle which he objects to under the present law?

I wish to say a word in regard to the statement of the gentleman from Pennsylvania, [Mr. STEVENS.] He says that the system which has been adopted has destroyed the trade in Pennsylvania, while it had operated in favor of tobacco-growers in Connecticut. Now, the fact is that in the Connecticut valley there was only one half the tobacco raised last year that was raised the year before, and scarcely a pound of it has been sold. While the gentleman's constituents complain about having their tobacco on hand, and not being able to sell it, the same fact is true in regard to the raisers of tobacco through the Connecticut valley, and instead of its being worth forty to fifty cents a pound they would be glad to sell it now at from twenty to twenty-five cents.

Mr. STEVENS. I would inquire whether they are planting tobacco this year.

Mr. WASHBURN, of Massachusetts. They did not plant last year, owing to the tax, but about one half what they planted the previous year, and the probability is this year they will not plant more than one half what they did last year. The gentleman asks, where is the difficulty? The constituents of the gentlemen from the West have their tobacco on hand and have not been able to sell it. The same is true in the Connecticut valley. Where, then, is the difficulty? It lies, not in the excess of tax, but under the tariff. As has been demonstrated during the past year imported cigars pay a tax of about ten dollars a thousand, and that is just about the amount of the excise tax. Accordingly they have been imported from Havana cheaper than the manufacturer can afford them here. And thus foreign cigars have come in and have taken the place of our own manufactured cigars. There is the difficulty. What, then, is the remedy? Raise the tariff. Make it so that he who uses tobacco shall be obliged to use the American production, and then you will find a very great difference in the state of things.

But now look at the bill as it stands. The fine-cut chewing-tobacco of about the same quality that is used in making the best cigars pays a tax of forty cents a pound, and it takes of this tobacco after the waste is thrown out about ten pounds to make a thousand cigars.

Now, under the present tax, take the very best cigars that are manufactured and you tax it a dollar a pound, while the same article in the form of fine-cut chewing-tobacco pays only forty cents.

[Here the hammer fell.]

Mr. PAINE. I hope the gentleman from Ohio [Mr. SCHENCK] will accept the amendment of the gentleman from Pennsylvania, [Mr. STEVENS.] It seems to me that it must be entirely acceptable to him in principle.

Mr. SCHENCK. After consultation with our friends from the West, I have concluded to accept the amendment proposed to my amendment by the gentleman from Pennsylvania.

Mr. SCHENCK's amendment as modified was read, as follows:

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, and not over three and a half inches in length, and on cigars made with twisted heads, the market value of which (exclusive of the tax) is not over six dollars per thousand, a tax of two dollars per thousand.

On all other cigars four dollars per thousand and forty per cent. *ad valorem*. Provided, That in assessing the said *ad valorem* duty the first ten dollars valuation shall not be assessed.

Mr. HUBBARD, of Connecticut. I move to strike out the last word of that amendment.

I have felt some regret, Mr. Chairman, at hearing the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Ohio [Mr. SCHENCK] and the gentleman from Wisconsin [Mr. PAINE] speak upon this question, as it seemed to me, under the influence of localities. The gentlemen seemed to vie with each other in the ambition to advertise to the country through the columns of the Globe that they grow a very inferior quality of tobacco in their States. [Laughter.] One would be satisfied, from listening to their arguments, that the article which they raise in their respective States is hardly fit to be boiled up into a concoction to kill the nits on their calves. [Laughter.]

Mr. STEVENS. Let me say to my friend from Connecticut that I admit that they raise tobacco and onions in his State far superior to those we raise in Pennsylvania.

Mr. HUBBARD, of Connecticut. If that be so, I want to know why it is that the gentleman envies us the superiority of our products.

The hour of half past four o'clock having arrived, the Speaker resumed the chair, and the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

TAX BILL.

Mr. DAVIS moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was on the following amendment offered by Mr. SCHENCK:

Strike out from line twenty-two hundred and nine to twenty-two hundred and eighteen inclusive, and insert in lieu thereof the following:

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, and not over three and a half inches in length, and on cigars made with twisted heads, the market value of which (exclusive of the tax) is not over six dollars per thousand, a tax of two dollars per thousand.

On all other cigars four dollars per thousand, and forty per cent. *ad valorem*, exclusive of the tax: Provided, That in assessing the said *ad valorem* duty the first ten dollars valuation shall not be assessed.

Mr. SCHENCK. Having accepted the amendment proposed to my amendment by the gentleman from Pennsylvania, [Mr. STEVENS,]

all that confusion which arose from having the expression "exclusive of the tax" instead of "the tax inclusive" is done away with. I am willing, therefore, to accommodate that portion of my amendment which remains, which is only one clause, to the ideas of the chairman of the Committee of Ways and Means, and although he is not here I will make that concession to him, and modify my amendment to that it shall read "the tax included," and provide that the tax shall be eight dollars instead of six dollars.

Mr. HUBBARD, of Connecticut. Not to be outdone in generosity by my friend, the learned gentleman from Pennsylvania, [Mr. STEVENS,] who admitted this afternoon that my State can beat his in growing onions, I will admit before the whole House that Pennsylvania can beat Connecticut in raising cabbages. [Laughter.] And I will admit that my learned friend represents the largest onion-consuming constituency in the world, as the uncooked article when sliced up is so very nice to flavorsour-kront. [Renewed laughter.] And I will say in the hearing of my friend from Wisconsin [Mr. SLOAN] that his State has very many advantages over mine, of which he has cause to be proud. His constituents can raise, peradventure, a hundred bushels of corn per acre, while mine can raise scarcely ten bushels per acre. I know very well that his constituents pay an income tax upon this, but they do not pay any tax unless their gains shall exceed \$1,000 a year.

I hardly know what acknowledgment I ought to make to the two learned gentlemen from Ohio [Mr. SCHENCK and Mr. LAWRENCE] for having advertised Connecticut tobacco, unless I admit what is generally conceded and understood, that the State of Ohio is great, if not the greatest in the business of producing wines.

I ought, perhaps, to apologize to the House for having detained them so long with these remarks. But the fault lies at the door of the gentleman from Pennsylvania, [Mr. STEVENS,] for he introduced into the debate the savory subject of leeks or onions, and I was compelled to reply to him.

Now, the State of Connecticut does not seek to obtain any advantage over the middle or western States; nor is she willing that they shall obtain any unjust advantage over her. This paragraph, as amended on the motion of the chairman of the Committee of Ways and Means, [Mr. MORRILL,] if I understand it, does not confer any advantages at all upon Connecticut with reference to this article of tobacco. And if the people of Connecticut, by their diligence and industry, have succeeded by long experience in raising a better article of tobacco upon her sterile soil, covered with rock, than can be raised on the rich soil of Pennsylvania, all I can say is, that other parts of the country, if opened to fair competition, will, within a short time, within a year or two, be enabled to go ahead of Connecticut in this interest. And I think it would be no more than just for me to say in the hearing of the gentleman from Pennsylvania [Mr. STEVENS] that if the rich soil of his State is not adapted to the raising of tobacco, then they ought to abandon that business and raise more corn and more wheat.

[Here the hammer fell.]

The question was upon the amendment of Mr. SCHENCK as modified at the suggestion of Mr. STEVENS.

Mr. PAINE. I rise to propose an amendment to which the gentleman from Ohio [Mr. SCHENCK] referred this afternoon. His amendment having been modified by accepting the amendment of the gentleman from Pennsylvania, [Mr. STEVENS,] I move to amend it by adding to it the following:

And the Secretary of the Treasury shall prescribe such regulations for the inspection and valuation of cigars, cheroots, and cigarettes, and the collection of the tax thereon, as shall in his judgment be most effective in the prevention of inequalities and frauds in the payment of such tax: *Provided*, That such regulations shall not be in violation of law.

Mr. SCHENCK. I have an amendment to offer to the amendment of the gentleman from

Wisconsin [Mr. PAINE] which I understand he is willing to accept.

Mr. STEVENS. I would suggest to the gentleman from Wisconsin [Mr. PAINE] that he better not embarrass the amendment of the gentleman from Ohio [Mr. SCHENCK] by offering his amendment at this time. He can offer it afterward as a new amendment if this shall be adopted.

Mr. PAINE. I will withdraw my amendment for the present.

The question recurred upon the amendment of Mr. SCHENCK.

Mr. DEMING. I move, *pro formâ*, to strike out the word "ten" and insert "five." So much has been said in this debate, since the subject of the battle of cigars has been introduced, about Connecticut tobacco, Connecticut seed leaf, and Connecticut cigars, that a stranger present in this Hall would suppose that it was the purpose of legislation on internal revenue here to strike down an interest which is assumed to be a flourishing one.

Now, it seems to me that if, in spite of all the changeable legislation upon the subject of tobacco and cigars, the Connecticut tobacco interest has contrived to live, but live at a "poor, dying rate," this is no reason why it should be either envied or assailed.

It has been stated here, and I presume stated correctly, that in Ohio and in the Northwest the tobacco and cigar interests are entirely broken down and dilapidated. We have even been told by one gentleman that in his city of thirty thousand inhabitants, where, previous to this taxation, they manufactured nine million cigars annually, they do not manufacture even one at the present time. Well, now, I am ready to assume all this as true. But I know very well this is the universal cry and the universal appeal of all interests that are attempting to escape taxation; and I must accept all these statements of constituents with many grains of allowance.

It has also been assumed here that the tobacco interest of the Connecticut valley is in a vastly flourishing condition, so as to excite the envy of the Northwest. I wish to state that this assumption is entirely unfounded—that the tobacco and cigar interests of the Connecticut valley were never more depressed than they are at the present time, and that we have no reason whatever to exult over our western brethren. The truth is that the tobacco interest in this country universally is depressed—the result, in my judgment, of four causes: first, excessive taxation; second, a low tariff; third, the poor condition of last year's crops; and fourth, the excessive influx of southern tobacco in consequence of the cessation of hostilities. The remedy is, not to tinker your revenue law every session for the purpose of elevating the interest of one section of the country to the depression of another, but in the first place to raise the tariff, and in the next place to wait for better crops and until the laws of trade shall regulate a glutted market.

Let me say, in regard to the amendment proposed by my distinguished friend from Pennsylvania, which has been accepted by my friend from Ohio, that its effect will be to destroy entirely the manufacture of the higher grades of cigars. But notwithstanding this taxation, we can enter into competition with you of the West in the manufacture of the lower grades of cigars. I doubt very seriously whether by this taxation you are promoting your own interests; for the Connecticut seed leaf, which is the subject of so much envy here, goes in large quantities to Cincinnati, to Chicago, to Detroit, and is there employed by cigar manufacturers for the purpose of manufacturing the higher grades of cigars. It goes also to Philadelphia and to Pittsburg; and while my distinguished friends are attempting to protect the cigar interests of some country districts, they are breaking up the manufacture of the higher grades of cigars in the cities. It is fortunate for us that no system of legislation can render western tobacco as marketable as eastern tobacco, unless you adopt some system of legis-

lation for preventing the soil of the Connecticut valley from growing better tobacco than the western soil. Now, it seems to me, that instead of varying your legislation, as you do, session after session, for the purpose of accommodating some local interests, you should wait until the laws of trade can regulate all the discrepancies of which you complain. I know very well that the adoption of the amendment proposed by the gentleman from Pennsylvania will utterly destroy the manufacture of the higher grades of cigars and turn the whole cigar interest of the country into the manufacture of cheap cigars.

I withdraw my amendment.

Mr. HOOPER, of Massachusetts. I move to amend the amendment of the gentleman from Ohio by striking it out and inserting in lieu thereof the following:

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, and not over three and a half inches in length, and on cigars made with twisted heads and on cheroots and on cigars known as short-sixes, the market value of which is not over eight dollars per thousand, a tax of two dollars per thousand.

On all other cigarettes and cigars, the market value of which is over eight dollars and is not over twelve dollars per thousand, a tax of four dollars per thousand.

On all other cigarettes and cigars a tax of four dollars per thousand, and in addition forty per cent. *ad valorem* on the value beyond twelve dollars per thousand, to be assessed on the excess beyond twelve dollars per thousand.

I believe the amendment I offer covers the object of the gentleman from Ohio [Mr. SCHENCK] and the gentleman from Pennsylvania, [Mr. STEVENS,] I think it speaks for itself, and I will make no further remarks.

Mr. STEVENS. It does not quite come up to my idea, because it says twelve instead of ten. It makes the tax more severe than I would make it. I ask my friend from Ohio whether it does not give us as much as we can get. I am willing to accept it.

Mr. SCHENCK. I am inclined to think it effects the object. It affords a little more room for the manufacture of cigars. I accept it with the understanding that it shall remain open to my friend from Wisconsin [Mr. PAINE] to make his amendment.

Mr. PAINE. I hope my friend from Ohio will accept the amendment.

Mr. SCHENCK. I accept it, and yield the floor to the gentleman from Wisconsin to offer his amendment in regard to appraisement, without which I think this legislation will not be perfect.

Mr. PAINE. I agree with the gentleman from Pennsylvania. I had better offer my amendment hereafter as an independent proposition. I will offer it hereafter, when the gentleman can submit his amendment to the amendment.

Mr. MORRILL. Mr. Chairman, in the multitude of amendments I fail to see any improvement of the bill reported to the House, while I feel quite sure the gentleman from Ohio [Mr. SCHENCK] and his coadjutors are destined to triumph in anything he shall demand. I shall content myself, so far as representing the Committee of Ways and Means, in having a vote in the House on whatever proposition may be introduced into the bill.

I am quite satisfied gentlemen are mistaken that it is the excise law which has really caused the depression in the tobacco trade. It is universal. It pervades all sections of the country. It is as much felt in the Connecticut valley as in Ohio or in Wisconsin. The difficulty, whatever gentlemen may say, was that at the close of the war, a large amount of tobacco was let loose from the South. Gentlemen may suppose tobacco can be grown in latitude forty-five or forty as cheaply as at the South, but they are mistaken. They will always produce tobacco at the South, especially the lower grades, cheaper than it can be done at the North. It has been in consequence of this influx of tobacco from the South that the tobacco trade has been depressed.

I will say, in addition, that the provision these gentlemen wish to put upon the law now exists,

and hence our woes, for the cigars imported are imported under the lowest valuation. We have no cigars paying a duty above the rate of fifteen dollars. It will operate in the same way if this provision be adopted.

There is another thing in regard to the introduction of foreign cigars. They are smuggled in. I wish some process could be found out by which we could prevent the large amount of smuggling now practiced. I have had occasion to say before the amount of smuggling of cigars is immense. I believe the regular steamships from New York to Cuba smuggle in more cigars than pay the duty.

And I will say further, in relation to this subject of cigars, that gentlemen must understand the pipe has grown somewhat more fashionable since the war, and that many who used cigars now use pipes.

[Here the hammer fell.]

Mr. STEVENS. I move *pro formâ* to strike out the word "the."

I want to state to the gentleman from Vermont facts are better than argument. He attributes the depression of the tobacco trade to the conclusion of the war in the South. If he will inquire he will find that in August, nine months before the war closed, every tobacco shop in my county shut up. There was not a single man who did not sell out because of the law.

Mr. SCHENCK. The tobacco of the South no more comes in competition with ours than cotton with wheat. Theirs is a gummy tobacco, used for plug and cavendish, and not fit for smoking, while ours is fit for smoking and not for chewing-tobacco.

Mr. STEVENS. It is very clear that the tobacco which we raise in Pennsylvania and Ohio, and all the West except Kentucky, is what is called the seed leaf, and the cigars made of that tobacco sell at twenty dollars a thousand, and it costs \$12 50 to make them, independent of the tax. But the tobacco of Kentucky, except the Clarksville tobacco, is always in hogsheads for exportation, and does not come in competition with the seed leaf of any kind whatever.

Mr. GRISWOLD. I desire to ask the gentleman from Pennsylvania whether at the time of the depression to which he alludes there was not in the market a greater amount of manufactured cigars than there ever had been before, manufactured in anticipation of the tax.

Mr. STEVENS. Undoubtedly, but could they have gone on and made them under the *ad valorem* tax? As it was, it was impossible to go on because the direct tax, together with the cost, was more than they could sell the cigars for.

Mr. MORRILL. I want to ask the gentleman a question. Does he not know the fact that in every instance where we increase largely our duties upon any article the effect of it is to stop or check business for a time?

Mr. STEVENS. I know it is so, and therefore the best way to get a greater number of cigars made is to take off the tax altogether. Under the prior law there were over five hundred million cigars made. Last year there were but three hundred and twenty-seven millions returned.

Mr. GRISWOLD. I would ask the gentleman if it is not the fact that cigars are offered in New York at this time at a less price than they can possibly be produced in this country.

Mr. STEVENS. I cannot tell about that. It may be true. I suppose there is a great deal of smuggling in New York. I have no doubt they carry it on to a considerable extent.

Mr. MORRILL. Now that the war is at an end.

Mr. RANDALL, of Pennsylvania. I congratulate the gentleman from Pennsylvania [Mr. STEVENS] on the announcement he has just made, that the war is at an end. [Laughter.]

Mr. STEVENS. No, sir; I understand it is not at an end.

Mr. RANDALL, of Pennsylvania. You said so.

Mr. STEVENS. No, my friend behind me said it was at an end. I believe the war is just beginning—the copperheads on one side and the patriot armies on the other. [Laughter.] [Here the hammer fell.]

Mr. WASHBURN, of Massachusetts. I wish to call the attention of the House to some statistics. Some were given by the gentleman from Wisconsin, [Mr. PAINE.] I have some here coming from the internal revenue department, which I think will not be disputed.

The number of cigars manufactured under a graduated scale, similar to the one introduced by the gentleman from Ohio, [Mr. SCHENCK,] that is, under the law which was passed two years ago, was 530,491,902. Under that graduated scale the revenue derived was \$2,667,405 19. Last year, under the specific duty of ten dollars, the whole number of cigars manufactured was 258,086,763. It will be noticed that that is less than half the number manufactured two years ago. But the revenue derived last year from less than half the quantity manufactured the year before was \$2,580,867 63. In a word, to sum it all up, members of the House will see that less than half the quantity produced an equal amount of revenue under this specific act.

Now, I wish to state this to show that what I said when I was up before to-day was correct. No person in this House, probably, believes that a less number of cigars were smoked during the past year than the year before. That a far less number was smoked two years ago than were used previous to any tax, no one will deny. But that the number smoked has decreased during the past year, when the tax was simply ten dollars a thousand, no one will maintain. How, then, do you account for the discrepancy that less than one half the quantity of cigars have paid the duty? Simply from the fact that such has been your tariff that a great amount of cigars used in this country have come in under a duty of ten dollars a thousand, making the tariff correspond to the excise tax. Accordingly, about half the cigars used during the past year have been manufactured abroad and imported into this country.

Well, the result has been this: that the raisers of tobacco not only in the West, but also in the Connecticut valley, have been unable to sell their tobacco to the manufacturer. When they go to him and ask him to purchase their tobacco the manufacturer in New York says, "No, we can import cigars at a less price than we can purchase your tobacco and pay the tax." Why? Because the tariff duty costs about the same as the excise tax, and cigars can be made at a less cost in foreign countries. Accordingly, the imported cigars take the lead in the market. But although we have manufactured half the quantity we have received the same amount of revenue as we had under the old law.

Now, what is the remedy for this evil? It is under the tariff. And here is a point upon which we shall not be divided by any sectional interest. When the question comes up in regard to the tariff, if there is a manufacture that is confined to New England, Pennsylvania, or any other particular section, the question is forced upon us as a sectional one, and it is objected that we are building up one section at the expense of another. I rejoice to know that this is a question in which every portion of the West as well as New England, Pennsylvania, and New York is interested. I doubt not we will unite together on this question, and that the tariff will be fixed as it should be, and we shall all agree at least on one point, namely, that if the community will use tobacco, if they will smoke and chew, let them use our own productions, let them use those we raise on our own soil, whether in the West or in the East.

One word further. If the tax is to be altered, instead of being forty per cent. *ad valorem*, as my colleague [Mr. HOOPER] proposes by his amendment, if you are going to get a revenue it ought not to be more than twenty per cent.

Just look at the tax on smoking-tobacco. The amendment which has been adopted is ten cents a pound. Now, the man who raises tobacco can sell it for smoking-tobacco, the same quality which he has to pay four dollars a pound for if it is manufactured into cigars, and pay his ten cents a pound. Now, I wish to call the attention of every member of the House to this fact, that those who use this article when they can get it by paying ten or twenty cents a pound and use it in this manner, are not going to pay from two to four dollars a pound manufactured into cigars.

[Here the hammer fell.]

Mr. STEVENS. I withdraw the amendment.

Mr. HOOPER, of Massachusetts. I renew the amendment of the gentleman from Pennsylvania, merely for the purpose of saying that I listened with great interest to the remarks made by my colleague, [Mr. WASHBURN,] because he has vindicated the importance of an amendment which I intended to propose before the section was passed. I will read it now for information:

Provided, That the tax assessed and paid on cigars, cheroots, and cigarettes of domestic manufacture under this act shall also be assessed and paid on all imported cigars in addition to any duties imposed on the same under the tariff.

That I think will obviate the objection raised by my colleague. I wish to refer to another remark of my colleague in reference to the effect of the different rates of duties on cigars. He will find on looking at the return from the internal revenue department that all the cigars manufactured were gradually getting into the lowest rate of duty; that manufacturers were getting up cigars upon which the duty assessed was only three dollars.

Mr. WASHBURN, of Massachusetts. Will my colleague [Mr. HOOPER] allow me to ask him a question?

Mr. HOOPER, of Massachusetts. Certainly.

Mr. WASHBURN, of Massachusetts. I desire to ask my colleague this question: as he has proposed an *ad valorem* duty, then why not dispense with any other duty but a simple rate of *ad valorem* duty, so that we can understand it? Put all upon the single basis of thirty per cent. *ad valorem* duty, and have no other duty. Then if cigars cost ten dollars a thousand, they will pay thirty per cent. upon their value; if they cost fifty dollars a thousand they will also pay thirty per cent. upon their value. If you are going to have an *ad valorem* principle why not have one single rate of duty?

Mr. STEVENS. If the gentleman from Massachusetts [Mr. HOOPER] will allow me to answer his colleague, [Mr. WASHBURN,] I will say that this is prepared with a view to prevent frauds where the price is less than twelve dollars a thousand. The rest pay a tax of forty per cent. *ad valorem* on the excess over twelve dollars a thousand.

Mr. HOOPER, of Massachusetts. I think my friend from Pennsylvania [Mr. STEVENS] has answered the question so successfully that I need say nothing further in reply to it.

But I wish to call attention to the effect of the valuation under the old system; if cigars were valued at twelve dollars a thousand, as it stands in the bill, the duty is four dollars a thousand, leaving net to the manufacturer the sum of eight dollars. If the value of the cigars is thirteen dollars, then the duty is ten dollars per thousand, leaving only three dollars to the manufacturer. Therefore if he increases the quality of his cigars so as to make them worth a dollar more than those he pays a tax of four dollars upon, he will get five dollars less for his own use than for the cheaper cigars, for by so doing he brings them under the operation of a higher rate of duty. And this *ad valorem* duty obviates that objection.

The great objection to the old system of fixing the duty upon the valuation was that you had to leave a space of five, six, or ten dollars to take up the difference in the value. Now, let us refer to the amendment of the gentleman from Ohio [Mr. SCHENCK] as at first proposed.

It says, "on cigars valued over twelve and not over twenty dollars, a tax of ten dollars per thousand." That would leave the cigar costing thirteen, fourteen, sixteen, eighteen, or nineteen dollars a thousand to bring less to the manufacturer than the cigar costing twelve dollars a thousand. Again, he says, "on cigars valued at over twenty and not over forty dollars, a tax of twenty dollars per thousand." And there the difficulty is increased. On a cigar costing twenty-five dollars a thousand the manufacturer would realize only five dollars besides the tax. This forty per cent. tax obviates that difficulty.

[Here the hammer fell.]

Mr. CONKLING obtained the floor, and said: I will yield to the gentleman from Massachusetts, [Mr. HOOPER,] for I desire to hear what he has to say on this subject.

Mr. HOOPER, of Massachusetts. I do not know but what I have said about all that I desired to say. I merely wanted to call the attention of members to the objections to the change of duty with the change of valuation. Until the value of the cigars had very much increased, without reaching the next higher rate of duty, the manufacturer received much less from them in consequence of their being subject to a higher rate of duty. If members have listened to me I think they will perceive the weight of those objections, and that this system now proposed will entirely obviate the difficulty.

Mr. CONKLING. I would ask that the amendment of the gentleman from Massachusetts [Mr. HOOPER,] be again read.

The CHAIRMAN. The gentleman from Massachusetts, [Mr. Hooper,] as the Chair understands, merely read his amendment for information, and not for the action of the House.

Mr. CONKLING. I mean the one that he offered, and which the gentleman from Ohio [Mr. SCHENCK] accepted.

The amendment was again read.

Mr. MORRILL. I would like to inquire of the gentleman from Massachusetts [Mr. HOOPER,] whether the tax is to be collected on the market value including the tax, or excluding the tax.

Mr. HOOPER, of Massachusetts. If the gentleman from Vermont [Mr. MORRILL] will tell me how it is in regard to every other article in the tax bill I will answer his question. I think in reference to every other article in the tax bill it is not so stated whether the tax is included in or excluded from the value. It is so in regard to the tax on manufactures of every description.

Mr. MORRILL. I beg the gentleman's pardon; the tax on manufactures is on the amount of sales.

Mr. STEVENS. How is it on diamonds and other precious stones?

Mr. MORRILL. On the sales.

Mr. HOOPER, of Massachusetts. Then I suppose the market value of cigars would be fixed by the actual sales, as there is a section in the bill which provides that the taxes shall be paid on the sales.

Mr. MORRILL. I perceive after all the resolution and tenacity of purpose of my friend from Ohio, [Mr. SCHENCK,] that it was not so much for the interest of Ohio and other interests that he was suffering so much grief; but it was because other parts of the country were happy; it is that which made him so miserable. It was for the purpose of getting a little more tax laid upon Connecticut seed-leaf tobacco. However, I think it is useless for us to continue this argument any further. I have little doubt the amendment will carry. I move that the committee rise for the purpose of terminating debate upon this paragraph and the pending amendments.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special

order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the special order terminate in one half minute after the committee shall resume the consideration of the subject.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was upon the motion of Mr. SCHENCK to strike out the paragraphs relating to cigars, cheroots, &c., and insert the following in lieu thereof:

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, of not over three and a half inches in length, and on cigars made with twisted heads, and on cheroots and on cigars known as short-sizes, the market value of which is not over eight dollars per thousand, a tax of two dollars per thousand.

On all other cigarettes or cigars, the market value of which is over eight dollars and not over twelve dollars per thousand, a tax of four dollars per thousand.

On all other cigarettes and cigars a tax of four dollars per thousand, and in addition forty per cent. *ad valorem* on the value beyond twelve dollars per thousand, to be assessed on the excess beyond twelve dollars per thousand.

Mr. WRIGHT. I move to amend the amendment by striking out the whole of it, and inserting in lieu thereof the following:

And be it enacted, That in lieu of all other taxes or imposts upon tobacco, the same shall be taxed in the hands of the growers at the rate of twenty cents per pound.

The amendment of Mr. WRIGHT to the amendment of Mr. SCHENCK was not agreed to.

The question recurred upon the amendment of Mr. SCHENCK, and being taken, upon a division there were—ayes 46, noes 48.

Before the result was announced,

Mr. SCHENCK demanded tellers.

Tellers were ordered; and Messrs SCHENCK and BRANDEGEE were appointed.

The committee divided; and the tellers reported—ayes 57, noes 46.

So the amendment was adopted.

Mr. MORRILL. I ask unanimous consent to have the privilege of offering the following amendment hereafter. It was the intention of the committee to have inserted the provision in the bill:

Provided, That the taxes assessed and paid on cigars, cheroots, and cigarettes of domestic manufacture, under this act, shall also be assessed and paid on all imported cigars in addition to any duties imposed on the same under the tariff.

Mr. STEVENS. It ought to provide the same amount of tax.

There was no objection, and the amendment was reserved.

Mr. PAINE. I now offer my amendment.

Add to the amendment last adopted:

And the Secretary of the Treasury shall prescribe such regulations for the inspection and valuation of cigars, cheroots, and cigarettes, and the collection of the tax thereon, as shall in his judgment be most effective for the prevention of inequalities and frauds in the payment of such tax: *Provided*, That such regulations shall not be in violation of law.

Mr. SCHENCK. I offer the following as an amendment to the amendment:

And in addition to other regulations it shall be the

duty of the inspector or assessor who appraises any cigars, cigarettes, or cheroots, to examine the manufacturer thereof for his agent, under oath, which oath shall be administered by the inspecting and appraising officer, and reduced to writing, and signed by such manufacturer or his agent, with a view to ascertaining whether such manufacturer has any interest, direct or indirect, in any sale that has been made, or any resale to be made of said cigars, cigarettes, or cheroots, by the concealment of which he seeks to obtain a false, fraudulent, or deceptive appraisalment.

Mr. PAINE. I accept the amendment as a modification of my own.

Mr. MORRILL. I ask that the amendment be reserved with the one I have just withheld.

There was no objection, and it was agreed to accordingly.

The Clerk read as follows:

That section ninety-nine be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that there shall be paid on all sales made by brokers and bankers, whether made for the benefit of others or on their own account, the following taxes and rates of tax, that is to say: upon all sales and contracts for the sale of stocks, bonds, foreign exchange, gold and silver bullion and coin, uncurrent money, promissory notes or other securities, a tax at the rate of one cent for every hundred dollars of the amount of such sales or contracts; and on all sales and contracts for sale negotiated and made by any person, firm, or company, not taxed as a broker or banker, of any gold or silver bullion, coin, uncurrent money, promissory notes, stocks, bonds, or other securities, not his or their own property, there shall be paid a tax at the rate of five cents for every hundred dollars of the amount of such sales or contracts; and on every sale and contract of sale, as aforesaid, there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale or contract, on which there shall be affixed a lawful stamp or stamps in value equal to the amount of tax on such sale, to be determined by the rates of tax before mentioned; and in computing the amount of the stamp duty or tax in any case herein provided for, any sum less than \$100 or any fractional part of \$100 of value or amount on which tax is computed, shall be accounted as \$100. And every bill or memorandum of sale or contract of sale, before mentioned, shall show the date thereof, the name of the seller, the amount of the sale or contract, and the matter or thing to which it refers. And any person or persons liable to pay the tax as herein provided, or any one who acts in the matter as agent or broker for such person or persons who shall make any such sale or contract, or who shall, in pursuance of any sale or contract, deliver or receive any stocks, bonds, bullion, coin, uncurrent money, foreign exchange, promissory notes, or other securities, without a bill or memorandum thereof as herein required, or who shall deliver or receive such bill or memorandum without having the proper stamps affixed thereto, shall forfeit and pay to the United States a penalty of \$500 for each and every offense where the tax so evaded, or attempted to be evaded, does not exceed \$100, and a penalty of \$1,000 when such tax shall exceed \$100, which may be recovered with costs of suit in any court of the United States of competent jurisdiction in the district, at any time within one year after the liability to such penalty shall have been incurred; and one half of the penalty recovered shall be awarded by the court to the person or persons who, in the judgment of the court, shall have first given the information of the violation of the law for which recovery is had. And the provisions of law in relation to stamp duties in schedule B of the act to which this is an amendment, shall apply to the stamp taxes herein imposed upon sales and contracts of sales made by brokers or bankers, and others as aforesaid. And there shall be paid on all sales by commercial brokers of any goods, wares, or merchandise a tax of one twentieth of one per cent. upon the amount of such sales; and at the end of every month or within ten days thereafter, every commercial broker shall make a list or return to the assistant assessor of the district of the gross amount of such sales as aforesaid for the preceding month, with the amount of tax which has accrued or shall accrue thereon, in form and manner as may be prescribed by the Commissioner of Internal Revenue, and pay to the collector the amount of tax thereon before the end of the month.

Mr. MORRILL. I move to amend as follows: line twenty-two hundred and twenty-five, after the word "brokers," strike out the word "and" and insert "banks or;" line twenty-two hundred and twenty-seven, strike out "and rates of tax;" line twenty-two hundred and twenty-nine, strike out "uncurrent money;" line twenty-two hundred and thirty-three, strike out "tax" and insert "paying a special tax;" line twenty-two hundred and thirty-four, after the word "broker," insert "bank or;" same line, after the word "bullion" insert "foreign exchange;" line twenty-two hundred and forty-six, strike out the words "any sum less than \$100 or;" line twenty-two hundred and sixty-nine, strike out "in the district;" line twenty-two hundred and seventy-eight, after the word "brokers" insert the word "banks;" and lines twenty-two hundred and eighty-two and twenty-

two hundred and eighty-three, strike out "at the end of every month or within ten days thereafter" and insert "on or before the 10th day of each month."

The amendments were agreed to.

Mr. DAVIS. I move to insert in line twenty-two hundred and sixty-two, after the word "thereto," these words, "with intent to evade the provisions of this act."

The amendment was not agreed to.

Mr. COOK. I move to amend by inserting at the end of the paragraph the following:

Provided, That in estimating sales of goods, wares, and merchandise for the purposes of this section, any sales made by or through another broker on commission shall not again be estimated and included as sales by the party for whom the sale was made.

This precise provision has been incorporated in another section of this bill on page 48. The effect of it is to prevent duplicate taxes. All the produce of the western country is sold, in the first place, to persons who purchase at the depots and villages on the canals and railroads of the country. That produce is sold through commission merchants at Chicago or Buffalo or St. Louis. Under the ruling of the Commissioner of Internal Revenue heretofore, a duplicate tax upon such sales has been paid—one eighth charged to the first purchaser, one tenth charged upon the same sale through the broker. This amendment is offered to prevent the duplication of these taxes. I will state, also, that the amendment has been submitted to the Committee of Ways and Means and approved by them.

Mr. HOOPER, of Massachusetts. I think that the gentleman misunderstands what it was to which the Committee of Ways and Means agreed. When a commission merchant takes out a license as a wholesale dealer, if a sale is made through another commission merchant, and he pays the tax as a wholesale dealer, the tax is not duplicated; but a sale by a broker, like an auctioneer, is a distinct and separate way of selling, and that mode of selling is taxed under this bill. It was not intended that the wholesale dealer, selling through a broker or selling by auction, should be exempt from tax as a wholesale dealer.

Mr. WILSON, of Iowa. I desire to understand more clearly from the gentleman from Massachusetts the views of the committee on this question. If a merchant, for instance, at Chicago buys ten thousand bushels of wheat, which he ships to a broker at Buffalo, where the wheat is sold, does the person at Chicago pay the tax, and also the broker at Buffalo? If the gentleman intends to be understood to say that under the bill as it stands the tax is to be duplicated in this way, then I certainly think the amendment of the gentleman from Illinois should be adopted, because the person who purchases the wheat at Chicago does so for the purpose of selling it at Buffalo through an agent. The sale at Buffalo is in fact a sale by the merchant at Chicago. Yet, as I understand, it is proposed to duplicate the tax by taxing the whole amount of the sale made by the broker at Buffalo, and also requiring the shipper at Chicago to pay the tax on the whole amount there. That is not right.

Mr. HOOPER, of Massachusetts. In reply to the gentleman from Iowa, I wish to state that we had before us merchants from Chicago, who directed the attention of the committee to this very subject, and who were entirely satisfied with the provision which we inserted on the fifty-eighth page, commencing on the nine hundred and seventy-sixth line, the effect of which is, that if they send to a commission merchant at Buffalo to sell for them, the tax shall not be duplicated in estimating their sales. But the business of a broker and the business of an auctioneer were considered entirely distinct from that of a merchant who takes out his license as a wholesale dealer; and the tax paid by the broker or by the auctioneer was considered as an additional tax to the tax paid by the commission merchant, so that if a merchant chooses to sell through a broker or through an auctioneer, the tax is to be paid.

Mr. WILSON, of Iowa. But, Mr. Chairman, the difficulty is, that when the sale is made through a broker both the broker and the owner of the goods are required to pay a tax, though it is but one sale. The party in Chicago does not sell to the broker in Buffalo, but ships to him a cargo of wheat to be sold for him. It is one transaction.

Mr. COOK. For the purpose of saying a word further on this subject, I move to amend the amendment by striking out the last word. The proviso on page 48 effects a very different tax from the one imposed in the section under consideration. For the purpose of fixing the amount of license to be paid by the wholesale dealer or by the broker, the sale, according to the proviso on the forty-eighth page, is not to be counted twice. Now, for the purpose of fixing the tax on sales, to be paid by the broker and the merchant, the same sale ought not to be counted twice. The effect of it is, that upon every pound of produce raised in the western country a tax is duplicated every time the produce changes hands between the producer and the final market. This is a tax which has worked oppressively and grievously. It is not just. Notwithstanding the remark of my friend from Massachusetts, I undertake to say that this provision was brought to the attention of the Committee of Ways and Means. The gentleman misapprehends, I think, the intention of the committee in relation to this subject. The very place where the amendment should come in, and the very words in which it should be couched, were certainly agreed upon between the committee and myself.

I withdraw the amendment to the amendment.

Mr. RANDALL, of Pennsylvania. I renew the amendment to the amendment, that I may have the opportunity to say a word or two on this subject.

I am in favor of this amendment, because I believe that these taxes, as provided in this section, have become burdensome and interfere directly with trade. There is, first, as the gentleman from Iowa has stated, a revenue tax paid by the owner. Then there is a tax levied upon the broker, who receives upon his sales but a half percent. commission. The tax levied upon that commission is, under the terms of this bill, one twentieth of one per cent. For example, a commercial broker sells \$500,000 worth of goods, upon which he receives a commission of one half per cent., which is \$2,500. That broker is taxed upon his sales one twentieth of one per cent., so that he pays to the Government \$250 out of his \$2,500—an enormous and most unjust rate of taxation. I think there is no part of this bill which burdens trade as much as this. I hope, therefore, that the amendment of the gentleman from Illinois will prevail, because it will facilitate the interchange of commodities between the West and the East.

I withdraw my amendment to the amendment.

Mr. COOK. In order to obviate the objection of the gentleman from Massachusetts, while still accomplishing my purpose, I modify my amendment so as to read as follows:

Provided, That in estimating sales of goods, wares, and merchandise for the purposes of this section, any sales made by or through another broker upon which a tax has been paid shall not be estimated and included as sold by the broker for whom the sale was made.

Mr. HOOPER, of Massachusetts. I think that is correct.

The amendment was agreed to.

Mr. THAYER. I move to amend by inserting after the word "thereto," in line twenty-two hundred and sixty-two, the words "with intent to evade the payment of said tax;" so that the clause will read as follows:

Who shall deliver or receive such bill or memorandum without having the proper stamps affixed thereto with intent to evade the payment of said tax, shall forfeit and pay to the United States a penalty of \$500, &c.

This, as will be observed, is in substance the same amendment that was offered by my

friend from New York, [Mr. DAVIS.] If the section as it stands is designed to impose these heavy penalties upon a mere inadvertence in the omission of the proper stamp, if it means for example to impose a penalty of \$1,000 for a mistake in the quality of the stamp which is put upon the note, without regard to the intent of the party incurring the penalty, then I say that such legislation is without any precedent, and is unjust and tyrannical. Sir, the language employed here either is designed to impose this penalty where the omission occurs from mere inadvertence or it is not so designed. If such is not the purpose, then there is no harm in the amendment, and it ought to be adopted. But if the object is to impose such heavy penalties as these upon a mere inadvertence which may happen to any man engaged in business, then I say it is impolitic and unjust.

Mr. MORRILL. Mr. Chairman, I fear that the amendment goes further than the gentleman from Pennsylvania desires. I think that it would certainly throw upon the Government the whole burden of proof that fraud was intended.

Mr. THAYER. I think that it would be the opinion of any lawyer, upon a question of this kind, that the omission of the stamp would give rise to a *prima facie* inference that the neglect was intentional with the purpose of evading the tax, and the only effect of the amendment is to throw open for explanation the conduct of the party prosecuted for the penalties. That is the only effect of the amendment. Without the amendment the penalty is incurred whether the intent to evade the revenue laws existed or not. With the amendment the man who willfully violates the law is equally exposed to punishment as now.

Mr. MORRILL. I do not suppose that it would be possible to convict a man of a crime unless it could be shown that there was a willful purpose to commit the crime. But I think this amendment will weaken the provision very much, as, if I understood it, it throws the burden of proof on the Government.

Mr. HALE. I desire to make a suggestion to the gentleman from Pennsylvania. I think the objection to his amendment may be obviated by a very simple change. I suggest to the gentleman that instead of inserting his amendment where he proposes, he add at the end of line twenty-two hundred and seventy-four this proviso:

Provided, That if it shall appear that the omission was without intent to evade the provisions of this section the penalty shall not be incurred.

Mr. THAYER. I will accept that modification of my amendment. My only intention is to screen those who act in good faith.

Mr. PRICE. I had such an amendment written out and intended to offer it. It is in these words:

Provided, The said omission to affix the stamp shall be with the intention to defraud the Government.

Mr. THAYER. I will offer the amendment in this shape. I move to insert at the end of line twenty-two hundred and seventy-four the following:

Provided, That when it shall appear that the omission to affix the proper stamp was not with the intent to evade the provisions of this section, said penalties shall not be incurred.

The amendment was agreed to.

Mr. MORRILL. I move to amend on page 100 by inserting in line twenty-two hundred and seventy-two, after the word "awarded," the words "and distributed;" and by striking out after the word "court" the words "person or persons," and inserting in lieu thereof the words "between the United States and the informer, if there be one, as provided by law;" and also by striking out in line twenty-two hundred and seventy-one the words "one half of."

The amendment was agreed to.

Mr. WRIGHT. I move to strike out the following clause:

And one half of the penalty recovered shall be awarded by the court to the person or persons who, in the judgment of the court, shall have first given

the information of the violation of the law for which recovery is had.

Mr. HOOPER, of Massachusetts. I think those words have been stricken out already.

The CHAIRMAN. The clause has just been amended. The Clerk will report it as it now stands.

The Clerk read as follows:

And the penalty recovered shall be awarded and distributed by the court between the United States and the informers, if there be any, as provided by law.

Mr. WRIGHT. My motion is to strike out that clause as amended, and I am moved to do it because I think the principle is a wrong one.

Mr. SCOFIELD. I rise to a point of order. The clause objected to has just been voted in, and a motion to strike it out is not in order.

The CHAIRMAN. The Chair sustains the point of order. The amendment of the gentleman from New Jersey is not in order.

Mr. MYERS. In line twenty-two hundred and eighty-one I move to strike out the words "one twentieth of one per cent.," and to insert in lieu thereof the words "at the rate of one cent for every \$100;" so that the clause will read:

And there shall be paid on all sales by commercial brokers of any goods, wares, or merchandise, a tax at the rate of one cent for every \$100 upon the amount of such sales, &c.

Mr. Chairman, I use these words because they are the words used in the tax provided for on page 99 in reference to stock-brokers and gold-brokers. There is no reason why commercial brokers should pay five times as much as stock-brokers; neither is there any reason why they should pay five times as much as commission merchants are required to do by another section of this act.

Mr. RANDALL, of Pennsylvania. I concur entirely with my colleague.

The CHAIRMAN. The gentleman is not in order in concurring. [Laughter.]

Mr. MORRILL. Mr. Chairman, I may say—

Mr. RANDALL, of Pennsylvania. I did not concur in my colleague's amendment, but only in some of his expressions.

The CHAIRMAN. The Chair so understood the gentleman, and the floor has been given to the gentleman from Vermont.

Mr. MORRILL. I will give the gentleman from Pennsylvania a part of my five minutes.

Mr. RANDALL, of Pennsylvania. Which part? [Laughter.]

Mr. MORRILL. Well, the first part. [Laughter.]

Mr. RANDALL, of Pennsylvania. I move to strike out "one twentieth" and insert "one fortieth," so as to make the tax "one fortieth of one per cent." I do it because I think the amendment of my colleague [Mr. MYERS] goes further than the House is willing to go. I think the House would be willing—I hope so at least—to go for one fortieth of one per cent.

A few moments ago I stated the burdensome character of the tax imposed on commercial brokers by this section. Out of \$2,500 profit the commercial broker has to pay one tenth part, or \$250. My amendment proposes that he shall only pay \$125.

Mr. MORRILL. Let me have the rest of my five minutes.

Mr. RANDALL, of Pennsylvania. I think that this is a burdensome tax, and I hope the House will so amend the section as to take only \$125 instead of \$250.

Mr. MORRILL. I cannot give the gentleman any more of my time.

Mr. RANDALL, of Pennsylvania. I will give you as much time as you wish. [Laughter.]

Mr. MORRILL. I wish to say that I had a letter yesterday from one of the largest commercial brokers in New York, and the tax here imposed is entirely satisfactory to him.

Mr. RANDALL, of Pennsylvania. I can explain that.

Mr. MORRILL. I hope the committee will not reduce the tax.

Mr. RANDALL, of Pennsylvania. Let me

answer that reference to the New Yorker. The New Yorkers charge the tax to the owners, whereas in all other cities it is not charged to the owners.

The amendment to the amendment was disagreed to.

The amendment of Mr. MYERS was then disagreed to.

Mr. FARNSWORTH. I move the following amendment:

Provided further, That the provisions of this section shall not apply to sales of flour, wheat, pork, and beef.

Mr. Chairman, I move that for the reason the articles mentioned are articles of prime necessity for poor men. They are substantial provisions every man has to have. And this tax comes out of the men who produce them or who consume them. In either case it is unjust. The farmers in the West are taxed most unmercifully. [Laughter.] Gentlemen who own large manufactories in the East may laugh, but I repeat there are no people so unmercifully taxed as the farmers of the West. They are taxed upon all the articles of husbandry. They are taxed upon everything they wear. They are taxed upon every particle of leather and every stitch of clothing. You tax the farmer again and again; he is taxed upon his income, and if he has a large family you do not allow enough above a thousand dollars to support them. You tax them upon every bushel of wheat. You tax them upon every hog they raise for market. You tax them on the sale of all these articles of beef, pork, and flour. These sales are always managed through brokers. Beef, pork, and flour are shipped to Chicago and Buffalo to be sold by these brokers, and this tax reverts and is deducted from the value of the goods to the producer. It is out of the producer or the consumer and is wrong in either case.

[Here the hammer fell.]

Mr. MORRILL. This is an old acquaintance which has been thoroughly discussed and every time defeated. The taxing of these articles when sold by brokers does not come out of the producer, but the sales reached are those made for the purposes of speculation. Daily in New York these contracts are made as in gold or bullion for the purposes of speculation. Beef, pork, and flour largely change hands in expectation of a rise or fall in the market. It is such sales as these that this tax reaches—very small on legitimate trade and none too large when it reaches speculators in bread and meal. I hope the amendment will be rejected.

The amendment was rejected.

The Clerk read as follows:

That section one hundred be amended by striking out all after the enacting clause, including schedule A and inserting in lieu thereof the following.

No amendment being offered,

The Clerk read as follows:

That there shall be levied, annually, on every carriage, gold watch, and billiard table, and on all gold or silver plate, the tax or sums of money set down in figures against the same, respectively, or otherwise specified and set forth in schedule A, hereto annexed, to be paid by the person or persons owning, possessing, or keeping the same on the 1st day in May, in each year, and the same shall be and remain a lien thereon until paid.

Mr. GRISWOLD. I move to strike out the words "gold watch," "gold and silver plate." I do this because I regard it as a petty, annoying tax, unworthy the system we are inaugurating at the present time. I find the whole revenue from gold watches was only \$9,000, and from gold and silver plate \$117,000.

Mr. GARFIELD. I am sorry to see the distinguished gentleman from New York deserting the committee. What can better bear taxation than gold watches, gold and silver plate, and luxuries indulged in by rich people?

The amendment was disagreed to.

The Clerk read as follows:

SCHEDULE A.
Carriage, phaeton, cart, hackney coach, or other like carriage, and any coach, hackney coach, omnibus, or four-wheeled carriage, the body of which rests upon springs of any description, which may be kept for use, for hire, or for passengers, and which shall not be used exclusively in husbandry or for the

transportation of merchandise, valued at exceeding \$500 and not above \$500 each, including harness used therewith, six dollars.

No amendment being offered,

The Clerk read as follows:

Carriages of like description, valued above \$500, each ten dollars.

On gold watches, composed wholly or in part of gold or gilt, kept for use, valued at \$100 or less, each one dollar.

On gold watches, composed wholly or in part of gold or gilt, kept for use, valued at above \$100, each, two dollars.

Billiard tables, kept for use, ten dollars.

Provided, That billiard tables kept for hire, and upon which a special tax has been imposed, shall not be required to pay the tax on billiard tables kept for use, as aforesaid, anything herein to the contrary notwithstanding.

Mr. ROSS. I move in line twenty-three hundred and twenty to insert after the word "use" the word "each."

The amendment was agreed to.

The Clerk read as follows:

On plate, of gold, kept for use, per ounce troy, fifty cents.

On plate, of silver, kept for use, per ounce troy, five cents.

No amendment being offered,

The Clerk read as follows:

Provided, That silver spoons or plate of silver used by one family to an amount not exceeding forty ounces as aforesaid, belonging to any one person, plate belonging to religious societies, and souvenirs and keepsakes actually given and received as such and not kept for use; also, all premiums awarded as a token of merit by any agricultural society, corporation, or association of persons, for any purpose whatever, shall be exempt from duty.

Mr. MORRILL. I move to insert in lieu of the last word "duty" the word "tax."

The amendment was agreed to.

The Clerk read as follows:

That sections one hundred and one and one hundred and two be, and the same are hereby, repealed.

Mr. MORRILL. I offer the following as a substitute for the next paragraph in the bill. It contains a few changes:

That section one hundred and three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: That every person, firm, company, or corporation owning or possessing or having the care or management of any railroad, canal, steamboat, ship, barge, canal-boat or other vessel, or any stage-coach or other vehicle engaged or employed in the business of transporting passengers for hire, or in transporting the mails of the United States upon contracts made prior to the passage of this act, or any canal, the water of which is used for mining purposes, shall be subject to and pay a tax of two and one half per cent. of the gross receipts from passengers and mails of such railroad, canal, steamboat, ship, barge, canal-boat, or other vessel or such stage-coach or other vehicle: *Provided,* That the tax hereby imposed shall not be assessed upon receipts for the transportation of persons or mails between the United States and any foreign port; but such tax shall be assessed upon the transportation of persons from a port within the United States through a foreign territory to a port within the United States, and shall be assessed upon and collected from persons, firms, companies, or corporations within the United States, receiving hire or pay for such transportation of persons or mails: *Provided also,* That any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any toll-road, ferry, or bridge, authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight of any description, over such toll-road, ferry, or bridge, shall be subject to and pay a tax of three per cent. of the gross amount of all their receipts of every description; but when the gross receipts of any such bridge or toll-road, for and during any term of twelve consecutive calendar months, shall not exceed the amount necessarily expended to keep such bridge or road in repair, no tax shall be assessed upon such receipts during any month next following any such term: *And provided further,* That all such persons, firms, companies, and corporations shall have the right to add the tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding: *And provided further,* That no tax under this section shall be assessed upon any person, firm, company, or corporation whose gross receipts do not exceed \$1,000 per annum.

Mr. WILSON, of Iowa. If I understand this proposition it will impose this tax upon the gross receipts of the railroads, steamboats, or canal companies for carrying passengers or freights. That is the effect of it. It will require the payment of two and a half per cent. upon the gross receipts from the carrying of freights and passengers. The object of the committee is, I suppose, to assess the tax merely on the receipts from passengers.

Mr. HOTCHKISS. There is one feature of this amendment that I would like to understand. I do not understand that this is a tax upon these companies. It provides—

That all such persons, firms, companies, and corporations shall have the right to add the tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitation which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding.

This is simply a tax upon their customers. I would like to have it explained by the chairman of the committee.

Mr. MORRILL. I will modify my amendment by inserting after the words "gross receipts" the words "from passengers and mails." I have only to say that the law is left exactly as it now is with the exception of exempting all freights, and the provision objected to by the gentleman from New York, [Mr. HOTCHKISS,] which authorizes the railroads to add this tax to their rates of fare, is one that has always existed, and is more required in the gentleman's own State, New York, than in any other.

Mr. SPALDING. I desire to ask the chairman of the Committee of Ways and Means a question.

Mr. MORRILL. Wait until I have answered the gentleman from New York.

Mr. SPALDING. Well, let us vote down the amendment.

Mr. MORRILL. If the gentleman will keep his temper until I reply to the gentleman from New York, he shall have a chance. The gentleman from New York knows very well that in his own State the roads are restricted—

[Here the hammer fell.]

Mr. SPALDING. I hope this amendment will not prevail. I am opposed to it. If I understand it correctly, it is the very provision we discussed here two years ago for one or two days, and the chairman of the committee then yielded to us and put this tax in another shape in his bill. It now purports to be a tax upon the gross receipts of steamboats, railroads, &c., from passengers, but really, according to the amendment, there is very little difference made between passenger steamers and freight steamers. It will be a tax of two and a half per cent. upon the gross receipts of all railroads, freight steamers, canal-boats, and everything else. The bill which is sought to be amended is tolerably distinct.

Mr. MORRILL. The gentleman will see that, as modified, it only applies to receipts from passengers and mails.

Mr. HOOPER, of Massachusetts. Will the gentleman from Ohio yield to me for a moment?

Mr. SPALDING. Certainly, sir.

Mr. HOOPER, of Massachusetts. This is a very important section, and I suggest that it be passed over informally, and that in the mean time the amendment offered be printed.

Mr. HOTCHKISS. I have moved an amendment to strike out the provision which imposes a tax upon passengers. The gentleman from Vermont, [Mr. MORRILL,] the chairman of the Committee of Ways and Means, says that in my State we need this provision. In that he is mistaken. In my State we have restricted the railroad companies to a certain charge upon passengers per mile, and we intend to hold the companies to that charge.

Mr. MORRILL. That was before any tax was levied.

Mr. HOTCHKISS. Precisely, and this steps in between the company and its passengers and changes the contract. We have provided by the legislation of the State of New York that these companies must abide by the provisions of their charters. We have more recently provided that no men shall ride upon their roads without paying their fares. I ask that my amendment be printed, together with that of the gentleman from Vermont.

The section was then passed over informally.

Mr. HOOPER, of Massachusetts. Would

it be in order to ask the consent of the committee that the amendments offered be printed?

The CHAIRMAN. The committee can give their consent, but that would not be an order to print.

The Clerk read as follows:

That section one hundred and seven be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that any person, firm, company, or corporation owning or possessing or having the care or management of any telegraphic line by which telegraphic dispatches or messages are received or transmitted, shall be subject to and pay a tax of three per cent. on the gross amount of all receipts of such person, firm, company, or corporation.

Mr. MORRILL. I move to amend by adding to the paragraph the following proviso:

Provided, That no returns shall be required of receipts not subject to tax.

The amendment was agreed to.

The Clerk read as follows:

That section one hundred and eleven be amended by inserting after the words "proprietors, managers, or agents of lotteries" the words "and all lottery ticket dealers."

No amendment being offered,

The Clerk read as follows:

That section one hundred and ten be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that there shall be levied, collected, and paid a tax of one twenty-fourth of one per cent. each month upon the average amount of the deposits of money, subject to payment by check or draft, or represented by certificates of deposit or otherwise, whether payable on demand or at some future day, with any person, bank, association, company, or corporation engaged in the business of banking; and a tax of one twenty-fourth of one per cent. each month, as aforesaid, upon the capital of any bank, association, company, or corporation, and on the capital employed by any person in the business of banking beyond the amount invested in United States bonds; and a tax of one twelfth of one per cent. each month upon the average amount of circulation issued by any bank, association, corporation, company, or person, including as circulation all certified checks and all notes and other obligations calculated or intended to circulate or to be used as money, but not including that in the vault of the bank, or redeemed and on deposit for said bank; and an additional tax of one sixth of one per cent. each month upon the average amount of such circulation, issued as aforesaid, beyond the amount of ninety per cent. of the capital of any such bank, association, corporation, company, or person. And on the first Monday of each month a true and accurate return of the amount of circulation, of deposit, and of capital, as aforesaid, and of the amount of notes of State banks or State banking associations paid out by them for the previous month, shall be made and rendered in duplicate by each of such banks, associations, corporations, companies, or persons to the assessor of the district in which any such bank, association, corporation, or company may be located, or in which such person may reside, with a declaration annexed thereto, and the oath or affirmation of such person, or of the president or cashier of such bank, association, corporation, or company, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, that the same contains a true and faithful statement of the amounts subject to tax as aforesaid, and shall transmit the duplicate of said return to the Commissioner of Internal Revenue, and within twenty days thereafter shall pay to the said Commissioner of Internal Revenue the taxes by law prescribed upon the said amounts of circulation, of deposits of capital, and of notes of State banks and banking associations paid out as aforesaid; and for any refusal or neglect to make or to render such return and payment as aforesaid, any such bank, association, corporation, company, or person so in default, shall be subject to and pay a penalty of \$200, besides the additional penalty and forfeitures in other cases provided by law; and the amount of circulation, deposit, capital, and notes of State banks and banking associations, as aforesaid, in default of the proper return, shall be estimated by the assessor or assistant assessor of the district as aforesaid, upon the best information he can obtain; and every such penalty, together with the taxes, may be recovered for the use of the United States in any court of competent jurisdiction. And in the case of banks with branches, the tax herein provided for shall be imposed upon the circulation of each branch, severally, and the amount of capital of each branch shall be considered to be the amount allotted to such branch; and so much of an act entitled "An act to provide ways and means for the support of the Government," approved March 3, 1863, as imposes any tax on banks, their circulation, capital, or deposits, other than is herein provided, is hereby repealed: *Provided*, That this section shall not apply to associations which are taxed under and by virtue of the act "to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof." And the deposits in associations or companies known as provident institutions or savings banks, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax or

duity on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person: *And provided further*, That any bank ceasing to issue notes for circulation, and which shall deposit in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury may prescribe, shall be exempt from any tax upon such circulation.

Mr. MORRILL. I will say to the committee that I do not expect that we shall be able to get through with this paragraph to-night. But I desire to offer some amendments which I think will not be objected to by any one, and then I will move that the committee rise. I move to amend the paragraph near the beginning by inserting the word "average" before the words "amount invested in United States bonds."

The amendment was agreed to.

Mr. MORRILL. I move to amend by inserting the words "paid out" after the words "and the amount of circulation, deposit, capital, and notes of State banks and banking associations," near the middle of the paragraph.

The amendment was agreed to.

Mr. MORRILL. And in the same sentence I move to amend by striking out the words "together with the taxes," before the words "may be recovered for the use of the United States in any court of competent jurisdiction."

The amendment was agreed to.

Mr. MORRILL. I move to amend still further by inserting at the close of the first proviso the following:

But the returns required to be made by such provident institutions and savings banks after July, 1866, shall be made on the first Monday in January and the first Monday in July in each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

The amendment was agreed to.

Mr. THAYER. I would suggest to the gentleman from Vermont [Mr. MORRILL] that another amendment should be made, so as to make the proviso read, "associations or companies known as provident institutions, savings banks, savings funds, or savings institutions." These associations are known by that name among us. Of course it will make no difference in the operation of this act.

Mr. MORRILL. I have no objection.

The amendment was agreed to.

Mr. MORRILL. I now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

And then, on motion of Mr. DAVIS, (at five minutes to ten o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. COBB: The memorial of M. Bolles, and others, for an increase of import duties on metallic zinc.

By Mr. CULLOM: A petition signed by numerous citizens of Sangamon county, Illinois, in favor of protection of American wool.

Also, another petition from citizens of same county, calling upon Congress to impose a tax of two dollars upon dogs.

By Mr. RICE, of Maine: The petitions of E. F. Bradbury, and others, and J. W. Wood, and others, of Dexter, Maine, asking for amendment of tariff laws so that American laborers in manufacturing establishments shall be protected "to the extent of the difference of the cost of capital and labor here and abroad, with the addition of the taxes paid by American industrial products from which the foreign are free."

IN SENATE.

WEDNESDAY, May 23, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented a memorial of manufacturers of stoves, praying that the tax on stoves may be reduced; which was referred to the Committee on Finance.

Mr. COWAN presented the petition of employes in John Wood & Brother's Pennsylvania Iron Works at Conshohocken, Pennsylvania, and the petition of Samuel Riddle, Wright Turner, and others, of Delaware county, Pennsylvania, praying for an increase of the tariff for the protection of American industry; which were referred to the Committee on Finance.

Mr. HENDERSON presented additional papers to accompany the petition of J. H. Ellis, paymaster, United States Army, to be reimbursed for Government moneys stolen from him at Fort Leavenworth, Kansas; which were referred to the Committee on Claims.

Mr. WILSON presented a petition of citizens of the State of Oregon and Washington Territory, praying for an appropriation by Congress for the payment of the claims growing out of the war to repel Indian invasions in 1855 and 1856, in accordance with the award of a commission authorized by act of Congress; which was referred to the Committee on Military Affairs and the Militia.

Mr. LANE, of Indiana, presented the petition of Margaret A. Farran, praying for a pension; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. CHANDLER, from the Committee on Commerce, to whom was referred a bill (H. R. No. 492) making appropriations for the repair, preservation, and completion of certain public works heretofore commenced under the authority of law, and for other purposes, reported it with amendments.

Mr. MORRILL, from the Committee on the District of Columbia, to whom was referred a bill (H. R. No. 564) to annul the thirty-fourth section of the declaration of rights of the State of Maryland, so far as it applies to the District of Columbia, reported it without amendment.

Mr. WILSON, from the Committee on Military Affairs and the Militia, to whom were referred sundry petitions and memorials, praying for the equalization of bounties to soldiers in the late war, asked to be discharged from their further consideration; which was agreed to.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Mrs. Sarah A. Brewer, widow of Major Brewer, late paymaster United States volunteers, praying for a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Sarah A. Holland, praying for a pension, reported adversely thereon.

He also, from the same committee, to whom was referred the petition of Mary Good, praying for a pension, reported adversely thereon.

BILLS INTRODUCED.

Mr. MORRILL asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 337) to incorporate the National Gas-Light Company; which was read twice by its title, and referred to the Committee on the District of Columbia.

Mr. RAMSEY asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 338) for the relief of Henry Great-house and Samuel Kelly; which was read twice by its title, and referred to the Committee on Post Offices and Post Roads.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced

that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States; and

A joint resolution (H. R. No. 142) authorizing the Postmaster General to pay additional salary to letter carriers in San Francisco.

THE METRIC SYSTEM.

The PRESIDENT *pro tempore*. In compliance with the order of the Senate directing the Chair to appoint a select committee on coins and weights and measures to consider several bills and joint resolutions from the House of Representatives on that subject, the Chair will announce the appointment of Mr. SUMNER, Mr. SHERMAN, Mr. MORGAN, Mr. NESMITH, and Mr. GUTHRIE.

CORNELIUS B. GOLD.

Mr. CRAGIN. I move that the Senate proceed to the consideration of House bill No. 453.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. No. 453) for the relief of Cornelius B. Gold, late acting assistant paymaster United States Navy.

It directs the proper accounting officers of the Government, in the settlement of the accounts of Cornelius B. Gold, late acting assistant paymaster United States Navy, to allow a credit of \$510 09 for clothing abstracted from a store-room in his charge while on duty in Mobile bay in the spring or summer of 1865; but no credit is to be allowed until the proper officers of the Government shall be satisfied by full and complete proof of the loss of the clothing herein referred to.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

HOUSE BILLS REFERRED.

The following bill and joint resolution from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 598) to establish a uniform system of bankruptcy throughout the United States—to the Committee on the Judiciary.

A joint resolution (H. R. No. 142) authorizing the Postmaster General to pay additional salary to letter carriers in San Francisco—to the Committee on Post Offices and Post Roads.

BRIDGE AT WINONA.

Mr. NORTON. I now move to take up Senate bill No. 263.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 263) to authorize the Winona and St. Peter's Railroad Company to construct a bridge across the Mississippi river and to establish a post route, the pending question being on the amendment offered by Mr. Howe, in section one, line nine, after the word "Wisconsin" to insert "or between La Crosse, in the State of Wisconsin, and the opposite bank of said river, in the State of Minnesota, as may be agreed by the Legislatures of Minnesota and Wisconsin;" so as to make the section read:

That the Winona and St. Peter's Railroad Company, a corporation existing under and by virtue of the laws of the State of Minnesota, be, and the same is hereby, authorized and empowered to erect, maintain, use, and operate a bridge across the Mississippi river, between the city of Winona, in the State of Minnesota, and the opposite bank of said river, in the State of Wisconsin, or between La Crosse, in the State of Wisconsin, and the opposite bank of said river, in the State of Minnesota, as may be agreed by the Legislatures of Minnesota and Wisconsin, subject to the conditions and limitations hereinafter provided, &c.

Mr. NORTON. I do not desire to discuss this amendment any further. The Senate perhaps will remember all that was said on the subject the other day. I will state, however, that the effect of this amendment will be to open a controversy between the Legislatures of the States of Wisconsin and Minnesota that

must inevitably result in a failure to construct a bridge at all connecting the roads either at La Crosse or at Winona. I hope the amendment will not be adopted.

Mr. HOWE. I cannot assent to that view of the effect of this amendment. It is not offered with any such design. It is offered for the simple purpose of allowing each of the two States to have a voice in settling the point at which these crossings shall be made. If the effect, however, were to be such as the Senator from Minnesota suggests, it seems to me that would be a conclusive reason why the Senate should not refuse to adopt it, because then the Senate would be inevitably placing itself in the attitude of imposing a burden upon one State in behalf of another or of a locality in another State, which I take it the Senate does not choose to do.

Mr. NORTON. Just one word. The railroad systems of the State of Minnesota and of the State of Wisconsin have settled the points at which these crossings ought to be; and it does not depend, and it ought not to depend, upon the Legislature of either of these States. The construction of the railroads of the State of Minnesota, according to the system of that State, makes it necessary to have a bridge at Winona; the railroad system of the State of Wisconsin may make it necessary to have one at La Crosse. The systems of these two States ought to settle the question as to the points where bridges are necessary, and it ought not to be made to depend upon the local interests or a clashing between the interests of the two States. As I said the other day, the Senate will remember, there is no company in the State of Minnesota authorized to construct a road on the west bank of the river from Winona to La Crosse; and without that, the proposition to Minnesota to make the crossing of the Winona and St. Peter's railroad at La Crosse would be simply nonsense, because we have no company in Minnesota authorized to construct a road there.

Mr. HOWE. The fact that there is no company in Minnesota authorized to build a road down the west bank of the river to a point opposite La Crosse is an argument which may be brought to bear in its full force upon the Legislature of Wisconsin, and it is to that Legislature I wish it referred. I do not wish the Senate of the United States to be influenced by that argument. If under the influence of it the Legislature of Wisconsin see fit to accept a bridge across the river at Winona they can do it; but it is not an argument why the Senate should impose one upon the State against her wish. I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Several SENATORS. What is the question?

Mr. HOWE. Senators tell me they do not know what the question is. I will state it. The bill as it stands authorizes the building of a bridge across the Mississippi river at Winona. If this amendment be adopted it will authorize the building of a bridge either at Winona or at La Crosse, which is about twelve miles due south from Winona, at one or the other of these points as shall be agreed upon by the Legislatures of the two States.

Mr. MORRILL. Suppose the Legislatures cannot agree?

Mr. HOWE. In that event it would not authorize the building of a bridge at either point; but we suppose that the two States know better for themselves than we can know whether they want a bridge across the river and where they want it.

Mr. NORTON. For the purpose of correcting a false impression that might be made by the remark of the Senator from Wisconsin that La Crosse is twelve miles due south of Winona, I desire to state that the fact is that by the course of the river it is forty miles from Winona to La Crosse, the river running in a southeasterly direction. The distance is forty miles; at least it has been so understood ever since I have been in that country.

Mr. RAMSEY. By land it is thirty-five miles according to recent survey.

Mr. NORTON. To get to the point on the La Crosse road at which we wish to intersect the La Crosse road on the east side of the river is fifteen miles further by La Crosse than it would be to build a bridge at Winona and go from there to that point on the La Crosse road, so that if the amendment of the Senator from Wisconsin is adopted Minnesota will be so far in the power of Wisconsin that she may possibly, in order that we may get an eastern connection, compel us to build fifteen miles more of road and at an expense of nearly three quarters of a million dollars more. That will be the position in which Minnesota will be if the amendment of the Senator be adopted.

Mr. HOWE. As to the geography of that country, I have stated that one of these points was twelve miles due south of the other. La Crosse, to be sure, is further east than Winona, but both of these roads are tending east. Just how far it is by the river I am not prepared to say. I understand it is twenty-nine miles. I concede that the Senators from Minnesota ought to know better than myself about that, however; they have traveled it oftener. But I hold in my hand a township map. There are two roads making to the Mississippi river, one touching opposite to La Crosse, and one at Winona. Due south of Winona these two roads are about a township and a half apart, being about nine miles distant from each other. That one touches the river further east than the other makes no figure in the case, because let the traffic come in on which road it will, it wants to come East, and it is not of any importance to that traffic whether it crosses the river on one meridian of longitude or the other.

Mr. NORTON. It makes no difference whether we cross at one point or the other, provided we have a road built, or some company has authority to build one to that point. We have no company in Minnesota authorized to build a road from Winona down to La Crosse.

Mr. HOWE. Provided the two States should agree to cross the river at La Crosse, then it would impose upon the St. Peter's company, which is the company now desiring to cross at Winona, the obligation of building nine miles to connect with the southern road instead of building twenty-seven miles, I think it is, to connect with the La Crosse road on the east side of the river.

The question being taken by yeas and nays, resulted—yeas 17, nays 18; as follows:

YEAS—Messrs. Anthony, Clark, Conness, Edmunds, Fessenden, Henderson, Howard, Howe, Kirkwood, Morgan, Morrill, Poland, Pomeroy, Sumner, Wade, Wilson, and Yates—17.

NAYS—Messrs. Buckalew, Cowan, Cragin, Davis, Foster, Grimes, Guthrie, Hendricks, Johnson, Lane of Kansas, McDougall, Norton, Ramsey, Riddle, Trumbull, Van Winkle, Wiley, and Williams—18.

ABSENT—Messrs. Brown, Chandler, Creswell, Dixon, Doolittle, Harris, Lane of Indiana, Nesmith, Nye, Saulsbury, Sherman, Sprague, Stewart, and Wright—14.

So the amendment was rejected.

Mr. HOWE. I should like to offer another amendment providing that the bill shall not take effect until the consent of the Legislature of Wisconsin is obtained.

Mr. NORTON. I have no objection to that amendment.

The PRESIDENT *pro tempore*. The Senator from Wisconsin moves further to amend the bill by inserting at the end of the third section the following proviso:

Provided, That this act shall not go into effect until the consent of the Legislature of Wisconsin is first obtained.

The amendment was agreed to.

The bill was reported to the Senate as amended.

Mr. HENDERSON. I move to amend the second section of the bill by striking out all after the word "act" in the twenty-first line down to and including the word "bridge" in the twenty-fourth line; also, by striking out the word "it" in the twenty-fifth line and inserting the word "aid;" and then by striking out all of the section after the thirty-first

line. I ask the Secretary to read the section as it will stand if amended as I propose.

The PRESIDENT *pro tempore*. The first question will be on concurring in the amendments made as in Committee of the Whole.

Mr. HENDERSON. I do not wish the Senate to concur in the amendment made in Committee of the Whole to the second section. I propose to amend that amendment.

The PRESIDENT *pro tempore*. As an amendment to the amendment made in Committee of the Whole, the motion of the Senator is of course first in order. The proposed amendment will be read.

The Secretary read the amendment, which was after the word "act" in the twenty-first line of the second section to strike out the following words: "may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans; provided, that if the said bridge;" in line twenty-five to strike out the word "it" and insert the word "and;" and also to strike out the proviso beginning at the thirty-second line in the following words:

And provided also, That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in length in the clear between piers on each side of the central or pivot pier of the draw, and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than thirty feet above low-water mark, and not less than ten above extreme high-water mark, nearing to the bottom chord of the bridge, and the piers of said bridge shall be parallel with the current of the river: *And provided also*, That said draw shall be opened promptly upon reasonable signal for the passage of boats whose construction shall not be such as to admit of their passage under the permanent spans of said bridge, except when trains are passing over the same; but in no case shall unnecessary delay occur in opening the said draws after the passage of trains.

So that the section will read:

That any bridge built under the provisions of this act shall be made with unbroken and continuous spans, and shall not be of less elevation in any case than fifty feet above extreme high-water mark as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the span over the main channel of the river shall be three hundred feet in length, and the piers of said bridge shall be parallel with the current of the river.

Mr. HENDERSON. I should like to have a direct vote of the Senate upon the proposition of building draw-bridges upon the Mississippi river, and the motion that I now make to amend the second section of this bill presents that naked question. If my amendment be adopted, no draw-bridge can be built at this point. The Senate passed a bill a few days ago enabling a company to build a draw-bridge or a bridge with continuous spans at Quincy; but I hope, from what I understand, that it will not meet with the concurrence of the other branch of Congress, if it be in order thus to refer to that branch, or at least it is somewhat doubtful. I desired, when that bill was before the Senate; to prevent the construction of draw-bridges upon the river at all; and I should like very much now for the Senate to come to a direct vote upon the question of the propriety of building draw-bridges upon that river.

I do not wish to detain the Senate, but I will state in addition to what I said the other day when a similar question was pending, that I learn that a gentleman at St. Louis proposes to construct there a bridge with continuous spans of four hundred feet, and guaranties the passage over it of the heaviest freight trains that are run upon any roads whatever.

Mr. COWAN. The Niagara bridge is eight hundred feet.

Mr. HENDERSON. But he proposes to do it with an iron truss bridge, not a wire bridge; and I understand he states that he prefers building a continuous span of four hundred feet to building two spans of two hundred feet each, and being required of course, as he would be, to build an additional pier in the river, that he can do it with much less cost of construction than would be required to put down the additional pier. I understand that one of the best

mechanics in the State of Missouri, and a man who has proved his ability to comply in every respect with his contracts, has consented to enter upon the work. I know it was objected, a few days ago when this question was under consideration, that such a bridge could not be built. This bill proposes only a span of three hundred feet. That fallacy has been disproved in the building of the bridge at Steubenville, Ohio. It is demonstrated beyond doubt that the most perfect structure can be made with spans of three hundred feet, and that it will have sufficient strength to bear the very heaviest burdens.

The Senator from Minnesota [Mr. RAMSEY] has proposed a resolution that I think this body ought to adopt before going into this business of bridging with pontoon bridges, as it were, the Mississippi river. He proposes to have a scientific board established to go out and examine the Mississippi river, and see at what points it may be safely bridged, and report the character of the bridges that under the circumstances ought to be constructed. It was strenuously urged the other day when a similar proposition was before the Senate that one bank of the Mississippi is always low, and that therefore it will be impossible to build these high bridges. It seems to me better to intrust the matter to a board of scientific men, a board of engineers. It could be done without cost to the Government, because we have the engineers here and we are paying them their salaries. They could very well discharge that duty. Let them go out and report to this body at the next session whether this thing is practicable or not. But, strange to say, the Senate of the United States, without ever having suffered a thing of this sort to be done before in all our history, all at once enters upon a scheme of bridge building upon the Mississippi river, laying down, as it were, pontoon bridges of a permanent character over that river at almost every conceivable point. Now, it is seen that so soon as the proposition of the honorable Senator from Illinois [Mr. TRUMBULL] has been adopted to build a bridge at Quincy, my constituents of course ask that one be built at Hannibal, within thirty miles of that town. It is then proposed by the Senator from Iowa [Mr. GRIMES] to build a bridge also at Burlington, and immediately upon the passage of that proposition a movement is made by the honorable Senator from Minnesota [Mr. NORTON] for a bridge at Winona, and of course the Senator from Wisconsin [Mr. HOWE] desires that La Crosse shall have the same privilege. We shall have propositions for not less than one hundred bridges across this river.

I will state further that there is no use of haste in this matter. The Mississippi river is now perhaps as high as it usually gets at this season of the year. It is all over the bottom lands everywhere. It is very high at the points where it is now proposed to throw these structures. Nothing can be done this summer toward bridging. No progress can be made in bridging the Mississippi river between now and next December; and why not let the Senator from Minnesota [Mr. RAMSEY] press his resolution, and have a board to go and examine, and let us act with some prudence, with some caution, with some discretion, when we act upon a question of such great importance as the bridging of that stream?

The commerce upon the Mississippi river to-day is more than all the foreign commerce of this country. There are not less than from thirty to forty thousand miles of navigable water upon the Mississippi river and its tributaries—not less than thirty-two thousand miles of navigable waters; and we propose, by establishing the precedent in the case of bridging the Mississippi, to allow the bridging of every one of those streams. It is a question of very great importance and I see no necessity, while the water is now from five to six feet over the bottom lands of the Mississippi river, for the Senate hastening to a conclusion upon this subject.

I do not object to the railroads of this coun-

try having every facility for crossing the navigable streams of the country. Indeed, I desire that it shall be done. I certainly want communication from the West to the East, and while I am acting as a member of this body or in any other capacity I will do nothing to obstruct commerce in its way from the West to the East or from the East to the West. It is a thing we want; but is it not going too far to say that the Mississippi river, a great river navigable for three thousand miles by the largest class of steamers, shall be covered over at every little town with a permanent pontoon bridge? Our eastern friends ought not to ask that, with the idea that it will largely benefit the railroads that point in their direction, and that it will facilitate commerce in that direction instead of toward the southern country.

Mr. FESSENDEN. Is it the East that is proposing to do this?

Mr. HENDERSON. No, it is our western friends. The Senator from Maine suggests very properly that it is not so much our eastern friends who are urging the passage of these measures as unfortunately the inhabitants of the little towns along the Mississippi river. I do think that our western friends ought to act with a little more prudence and a little more caution in matters of this character. Nothing can be lost between now and next December, and let us adopt the proposition of the Senator from Minnesota, [Mr. RAMSEY,] and if the engineers report between now and next December that it is impossible to build other than draw-bridges upon the Mississippi, I shall consent to do it.

I do not know that I can add anything more to what I have said. I regret very much that I have to trouble the Senate on this subject. I feel a very great interest in it, but I have no other interest than any other citizen of the great West. I have no interest in any railroad company or steamboat company upon the earth, not a dollar's worth of interest in anything of the sort; but as a western man I do feel an interest in preventing the pontoon bridging of the Mississippi river. I know that draw-bridges have been built upon navigable waters; but originally when that was done it was required that the draw should always be open except when trains were crossing on the bridge. I allude to this in order to show Senators what progress we are making on this subject. I say that originally it was required that the draw should remain open at all times except when trains were crossing the bridge, and then, and then only, was it closed, so as to leave the river open to navigation. But how is it in this bill? How was it in the bill which we passed the other day? The draw is required to be closed at all times except when steamboats are passing. We are conferring privileges upon the railroad companies and gradually making inroads upon the navigable waters of this country and closing them up. It cannot be denied that this is the course now being pursued. Perhaps the railroad companies deserve these privileges; it may be that they offer facilities for trade and travel to further the commercial intercourse of the country that the rivers do not offer; but I beg leave to differ from Senators when they thus insist. I know that all heavy freight can be carried upon the Mississippi river for one third of the money that any railroad company can carry it. I know that a barrel of pork or a barrel of whisky can be carried from St. Louis to New Orleans, and from New Orleans around to the city of Boston, for one third of the money for which it can be carried by any railroad company in this country directly; and it can be carried in that way for one third of the money, even after you have bridged the Mississippi river. That shows most clearly that we ought to be prudent and careful how we close up this great navigable thoroughfare. We are navigating the Missouri river now by a regular line of packets, thirty-two hundred and forty miles above the city of St. Louis, up to Fort Benton, and even above Fort Benton; and why are these great streams to be closed up by low bridges, the draws of which are required

at all times to be closed, except when steamers are passing? If bridges can be built with a continuous span of three hundred feet, so as to accommodate the railroads, I say it ought to be done. I have before stated to the Senate that a mechanic has asserted at St. Louis that he will build bridges with a span of four hundred feet, and they now propose to go on and construct a bridge at St. Louis with continuous spans of four hundred feet and fifty feet above high-water mark. That will accommodate the steamboat interest and the railroad interest, too.

Mr. President, if my proposition is adopted it only requires these bridges, if built between now and next December, to be built with continuous spans. I hope the Senate will consider the matter a little more seriously than it considered the proposition pending the other day. It can do this bridge company no harm, because they can do nothing between now and next December except to procure stone for the building of the piers, and that will answer just as well for a continuous-span bridge as for a bridge with a pivot and draw. The Mississippi river is so high that no pier can be built between now and next December. The Senator from Minnesota [Mr. NORTON] will scarcely contradict me on this point. Nothing can be done between now and next fall. The consent of the Wisconsin Legislature has yet to be obtained, as I understand, before this bridge can be built at all, by an amendment already adopted, and I wish to inquire of the Senator from Wisconsin when the Legislature of that State again meets.

Mr. HOWE. In January.

Mr. HENDERSON. In January next. This consent, then, cannot be had before next January. My amendment cannot harm the object of the Senator from Minnesota. If it be the desire of western members on this great river to bridge it in this way, I must submit; but I do enter my most solemn protest, as I have already entered it, against this work of constructing pivot and draw-bridges on that great river.

I have alluded to the increasing commerce of the country. In thirty years from to-day we shall all see how unnecessary and how idle and how absurd it was to construct these bridges, because by that time it will have been demonstrated by the American mechanics that bridges can be built with a span of four hundred feet to accommodate both the steamboat and the railroad interests of the country. It will have been demonstrated by that time that there was no necessity for building these pontoon bridges and fastening them to the banks of the river, thus obstructing the current of this great stream. This will be demonstrated in the next thirty years, and then we shall have to regret our folly in having filled the river with these structures.

The Legislature of Wisconsin does not meet till next January, so that nothing can be lost by my proposition. Let us send some engineers out to the Mississippi river, and let the Senate be informed on the subject. If continuous-span bridges can be erected, let that commission so report, and I for one shall say amen, and pledge the Senate that I shall make no further opposition to bridging the river. If they say that pivot and draw-bridges can be built, be it so; but if they say that continuous-span bridges can be built, I ask whether there is a Senator in the hearing of my voice who will then consent to construct these low bridges. I hope not. Sir, you are now putting in the way of the great lumber interest of Wisconsin obstructions that will seriously damage the commercial interests of that State and seriously damage the commercial interests of that great northwestern country; and yet Senators seem to think they are hastening to do them a great benefit. I cannot so think. I wish I could so think, provided they are right and I am wrong; but until I am further satisfied, I cannot believe that we are doing any good to the Northwest and the West by this course of proceeding.

The board proposed by the Senator from Minnesota [Mr. RAMSEY] can report by next

December; and as the Legislature of Wisconsin does not meet until January, the Senate may be informed on the subject long before permission to build the bridge can be obtained from the State of Wisconsin. Of course no company would be foolish enough to proceed with the construction of this great bridge under an act of Congress alone. They must have an abutment upon the soil of Wisconsin, and they must get the consent of the State of Wisconsin before they dare put an abutment upon her soil or within the jurisdiction of that State, and her consent cannot be obtained before next January.

Mr. FESSENDEN. Could they not erect the bridge if they owned the land on each side?

Mr. HENDERSON. I doubt that very much. I do not think a man by merely owning land within the sovereignty of a State has a right, by virtue of that, to erect a corporation endowed with the franchise of constructing a bridge and taking tolls on it. I think, under all the circumstances, that if this company insist on building the bridge between now and next January, if they insist on getting a part of the material there, it should be with the understanding that it shall be a continuous-span bridge until we can know more about this matter. It is of very great importance, in my judgment of vast importance; and yet we considered it the other day in the course of an hour and passed a bill setting the precedent for bridging this great stream with these pontoon bridges, as I call them. They are an immense obstruction; I have been so told since the passage of that bill by steamboat men. In fact the Chamber of Commerce of St. Louis has sent a large delegation here to protest against it in the name of the people of the West. I cannot say how far they represent the interest of the people of the West, but they are very earnest about it. Gentlemen may say it is because St. Louis is deeply interested in this matter. St. Louis has no more interest in it than any other part of the great West; any other portion of it is just as much interested as St. Louis; but they come here protesting and saying that with a span of one hundred and sixty feet, as we provided the other day, bridges on the river will materially and permanently injure commerce upon the river.

We can lose nothing by adopting my amendment and saying that if this company proceed to build at all until we can get a report, it shall be a continuous-span bridge, and I hope the Senator from Minnesota [Mr. RAMSEY] will push his resolution, urge it forward, and let the board proceed to the West to report upon this important question. It is an important matter, and it ought to be looked into with more care than we seem disposed to look into it now. I know that the learned Senator from Pennsylvania, [Mr. COWAN,] three years ago, discussed the question on behalf of his State in regard to the bridging of the Ohio river. Now they are proceeding to put up the right sort of structures on the Ohio river. Why not compel it to be done upon the Mississippi river? They are not putting up pivot and draw-bridges upon the Ohio river, but bridges that accommodate the commerce upon that river as well as the commerce across the river. It can be done, and done easily, and done to the great satisfaction, not only of the people of the West, but the people of this entire country. These great navigable streams, made by nature, are better than the railroads, even if they were made by the hand of the Almighty. As I have before said, you have nothing to do but to construct the cars to run upon these navigable streams, and companies and individuals can carry freight and passengers cheaper than the railroads, yea, for one third the cost of carrying them upon railroads. Why, then, shall we obstruct these great arteries of commerce made to our hands by nature and by the beneficence of the Almighty? Why shall we, in our puny efforts to make better the commercial channels made by Him, go to work and obstruct those channels, and say to man that we have improved upon the works of

nature? Mr. President, let us keep these channels, and let us build others. I do not object to building others; but my desire is to put no obstruction in the way of commerce, either upon the rivers or upon the railroads.

Mr. COWAN. Mr. President, I will vote for the amendment with great pleasure. I have had some considerable experience in the navigation of the western rivers, and I have a very clear and distinct opinion of my own that nothing could be more mischievous to the interests of the carrying trade of the country than the construction of bridges of the kind described by the Senator from Missouri, and especially when there is no necessity that they should be so erected. I have no hesitation in saying that it would be better for the United States to-day to appropriate \$1,000,000 for the construction of a bridge across the Mississippi river, ninety feet, or one hundred feet, if you please, above low-water mark, with a span of six or seven hundred feet; it would be a saving to the country, on the whole, if we were to appropriate \$1,000,000 to build a bridge of that kind, rather than build a draw-bridge upon a stream of that character. A draw-bridge is well enough upon tide-water, well enough upon still water; but it is impossible to protect the commerce of a river as against these draw-bridges in a sharp current at different stages of the water. I have no doubt that western men will regret their action in a very short time if they allow these great streams to be obstructed by erections of this kind.

Mr. HOWARD. Mr. President, I move to postpone the present and all prior orders, and that the Senate take up House joint resolution No. 127.

Mr. SUMNER. What is that?

The PRESIDENT *pro tempore*. The title of the joint resolution will be read.

The SECRETARY. It is a joint resolution proposing an amendment to the Constitution of the United States.

Mr. SUMNER. The question, I think, is on proceeding to the consideration of that resolution.

The PRESIDENT *pro tempore*. The motion of the Senator from Michigan is that the Senate postpone the present and all prior orders, and proceed to the consideration of the House joint resolution the title of which has just been read.

Mr. SUMNER. So I understood. Of course that opens no question of the merits, and I do not propose to say anything on the merits. I know not that I shall be able to take any part in this debate; but I cannot allow the resolution to be taken up without expressing my own individual opinion that it would be better if its consideration were postponed still longer. I believe that the country has gained much by the postponement that has already been had. On a former occasion I stated that we were able to have a better proposition at the end of April than we had at the end of March, and I believe now we shall be able to accept a better proposition just as the weeks proceed. We shall be better prepared for this question next week than we are this week, and the week after next we shall be better prepared than next week.

Why, sir, here is a vast mass of testimony which has been taken. It has been laid in dribbles, if I may so express myself, before Congress and the country, and never gathered together as a whole; it has never been analyzed; no conclusions have been presented from that testimony; and yet I take it that testimony was taken for some purpose, doubtless to enlighten Congress and enlighten the country; but the Senate is now asked to proceed without the opportunity of considering that testimony in any mature form. I think, sir, it is a mistake that we are asked to proceed with it under such circumstances. I think, sir, that delay for the arrangement of that testimony, and to the end that it may be presented in proper form for our consideration would be wisdom. I think it would be the highest statesmanship. I think from a con-

sideration of that testimony we shall be prepared to decide better than we are now, not only what we ought to do, but what we can do. For instance, here is a very considerable question which we shall be called to discuss, as to the extent to which certain persons engaged in the rebellion shall be excluded from the suffrage. I doubt not that the Senate is better prepared to discuss that question this week than it was last week, and I am sure it will be better prepared to discuss it next week than this week; and my reason is that the evidence on the subject is daily accumulating. It so happens that I heard last evening, myself, very important testimony from gentlemen in whom I have very peculiar confidence, just from the South, with regard to public opinion there, especially among those who have been recently in rebellion, all tending to show the necessity of some counteracting regulations or requirements on our part.

I say such evidence is constantly accumulating. I wish that Congress may have the full benefit of it, to the end that what we do shall be well done. The question is presented whether we shall proceed on a principle of inclusion or of exclusion. The Senator from Nevada [Mr. STEWART] adopts the principle of inclusion without exclusion. There are others who are disposed to adopt the principle of exclusion without inclusion; in other words, they would exclude certain rebels, but would not include those loyal persons whose misfortune it is that they were born with a skin not colored like our own. Now, sir, for myself it seems to me we have got to adopt both principles, the principle of inclusion and the principle of exclusion; but I do not think that the Senate is at this moment so well informed with regard to the facts which necessarily underlie the decision of that very great question. It is one of the greatest questions that has ever been presented in the history of our country or of any country. It should be approached carefully and solemnly, and with the assurance we have before us by all the testimony, all the facts, everything that by any possibility can shed any light upon it. Have we all that testimony? I doubt; and I content myself now with simply entering my own individual caveat against what seems to me the something like precipitation with which the measure is hurried.

Mr. FESSENDEN. I do not know, sir, that I shall take any part whatever in the discussion of the resolution which is now proposed to be taken up in the Senate. That will depend on circumstances not entirely within my control. But with reference to taking it up this morning, I beg leave to say that I differ entirely with the honorable Senator from Massachusetts as to the propriety of proceeding with it at the present time. The matter has been very long under consideration. If he has not informed himself of the amount of the testimony and of what the testimony is that has been taken, it is surely his own fault, because, not only has the principal part of the testimony been published in the newspapers, but it has been published in numbers or sheets and laid upon the tables or sent to Senators; and I presume he has received it, with others. If he wants it in a form all together, he can get that readily, but not bound. I suppose he would not require it to be bound before he reads it, and I believe that a copy unbound has been furnished to each Senator; I have received one.

Mr. TRUMBULL. There has been time enough to bind it. It could have been bound by this time.

Mr. FESSENDEN. A few numbers might; but the fact is that there are certain other papers to be included with the testimony that are not ready; for instance, there is an index to be prepared. There is no difficulty about that; and the complaint of the honorable Senator, I think, is not well founded in regard to there not having been ample opportunity for every Senator to inform himself, if he was so disposed, of the testimony. I agree with him, however, in one thing, and that is, that we have gained by delay. The Senate will remember that at

one time we were pushed very hard in all the newspapers in the country to have immediate action on the subject. It was necessary, however, to take testimony, and the progress of taking that testimony and its publication have had the most beneficial effect in informing the mind of the country and satisfying everybody, I think, that the matter has been better understood in consequence of the course that was adopted by the committee from necessity, because the committee was unable to come to a conclusion for the want of testimony in the first place.

Now, sir, as to taking more testimony, some time or other, some point must be fixed at which it should be closed; and that was fixed by the committee, and its determination has been acted upon. If we adopted the advice of the Senator from Massachusetts, to wait until we got every particle that by any possibility might throw light on the subject, we should wait until the next century, perhaps; there is no knowing how often witnesses might turn up, or what they might desire to say. The committee were satisfied that it had gone far enough, affording the most ample opportunity to everybody that desired to testify or desired to produce testimony. There has been no exclusion of anything that has been offered that looked as if it had a bearing on the subject.

We are late in the session. The House of Representatives passed this resolution two weeks ago, or perhaps more. It has been delayed here longer than it would have been, owing to circumstances to which it is not worth while now to allude. I thought it well, as chairman of the committee, that the resolution, after having been passed by the House of Representatives, should lie upon our table for awhile in order to give gentlemen ample opportunity to consider it, and then that a day should be fixed sufficiently far off to enable every one to know that the question was to come up. That time has come, and has passed by a couple of days; and late as we are in the session, with so much to do, so much upon our hands which is obstructed in a measure by this question, it is my deliberate judgment, and it was the deliberate judgment of all the members of the committee on the part of the Senate, that it should have been taken up last Monday.

I agree that public opinion is very apt to be changeable on such subjects; and as public opinion is apt to be changeable, I think we may as well follow our own judgments. It has appeared to do well hitherto, and I am inclined to think that we who have the management of the business know just as well as anybody else when it is advisable to take it up and what it is advisable to do. I can relate one anecdote which shows precisely how this matter is understood. A leading paper in the West, a very important paper, within a short time after the appointment of the committee of fifteen—I think within some two or three weeks afterward, but it may have been a month or two—came out with an article headed, "A Policy Wanted," and it blamed Congress exceedingly for not proceeding to act and define a policy on this subject. The argument was that the President had defined his policy, and that everything was going wrong because Congress had no policy; that it must at once bring in resolutions fixing what it intended to do and have it settled. I thought it was rather unkind to the committee that a leading newspaper should comment in the style it did upon the proceedings of Congress without knowing what the difficulties were, or really what the questions were, and how much embarrassment there was in arriving at a conclusion. But, sir, it went along until about a month ago or less, when the same paper came out with an article saying, "Don't be in too much of a hurry about this business; take time; there is no trouble about it; the country is gaining by delay; have the thing well understood and well matured before you act; don't be in a hurry." This was in the same paper; whether it was written by the same hand or not I do not know. Where there

are so many different opinions, and in the same press, too, very often, I come to the conclusion which I expressed before, that we may just about as well exercise our own judgment and do the best we can and leave the results to the future.

Now, sir, as I hope Congress may adjourn some time from the 1st to the middle of July, as I think it ought to do, and may if it attends to its business properly, and if nothing occurs to render a longer session necessary, I think we have arrived now—the last week in May—at a time when we ought to have this question out of the way. We may not agree with the other House in some points. In that case the resolution will have to go back to the House. The discussion upon it will take some time. While it remains undisposed of it stands in the way of other business. I should dislike very much to see a question of this importance crowded into the heel of the session. When it is a matter upon which we have resolved to act and settle before Congress adjourns, if we can settle it, we had better not leave it to the hurry of hot weather and a time when we may all be more impatient than we ought to be in considering a question of so much importance. I hope, therefore, that it will be proceeded with this morning.

Mr. SUMNER. I did not intend, and I hope I was not understood to make any formal opposition to proceeding with this measure. All that I aimed to do was to express an individual opinion which I have very strongly—I cannot help it—with regard to the time when it is best to consider the subject. I may be in error; it is probable that I am in error, since I find that most of those about me have a different opinion, and I am sure that have substantially at heart the same objects as myself. Most probably I am in error; but I have performed my duty, and in a humble way satisfy myself by making this declaration. I have ventured to file a *caveat*—perhaps that is too strong a term to use for so simple an expression as I intend now—but I did wish to bring the Senate seriously to consider whether they had before them all the evidence so arranged, with all its conclusions and results presented to them which they thought it best to have before they proceeded to the final decision of this great question. I must say I think they have not. However, others do not agree with me.

Mr. HENDRICKS. I wish to inquire of the Senator from Massachusetts to what time he would propose to postpone the consideration of this measure. In asking the question, I desire also to say that I agree with the Senator from Maine that Congress ought to adjourn at as early a day as he has suggested. Unquestionably this measure has to be considered before the adjournment. We know that practically, and I am in favor of meeting it at some early day, because I do not want to be kept here, personally, and I do not suppose other Senators desire to be kept into the very hot weather of the summer in this city. If the Senator from Massachusetts proposes a reasonable postponement, whatever reasons may govern him, whether they be different from those that may govern myself or not, I would be inclined to vote with him, but not for any very long postponement of it. If it could be postponed until the next session, I perhaps would agree to that, but to postpone it to the month of July, I would not agree to.

Mr. SUMNER. Does the Senator desire an answer?

Mr. HENDRICKS. Yes, sir.

Mr. SUMNER. I did not propose any motion. The Senator asks me a question. That I will answer with great pleasure. As far as I can pretend to determine or have an opinion, from the business of the Senate, I do not suppose the Senate can adjourn before the latter part of July. I have supposed that we should not get to such a point in our business that we ought to leave here till then. I have thought, then, that this great question of reconstruction ought to be reserved as the last serious considerable subject for discussion before

we leave. I have thought, therefore, it might perhaps be taken up properly during the last half of June, some three or four weeks from now; believing, as I do, that at that time we shall be better instructed on the general subject, better prepared to harmonize and to adopt a policy which will be most truly beneficent to the country. I am sure that the country is ready to adopt any policy which this Congress puts forth, and the stronger it is the better. The country is stronger than Congress, and I believe that Congress will be stronger than it is now if we wait till those very heats of summer which Senators so much deprecate.

Mr. CONNESS. Considering how long we have waited before action on this question, and how impatiently the country has waited, I must express the hope that the waiting will be brought to an end, and that we shall now come to deliberate and final action as soon as we can upon the great question before us. It will be remembered that the honorable Senator from Massachusetts advises us that his opposition to considering this question now is not a formal opposition; it is but an informal opposition that the Senator makes. That is not a distinction without a difference, it is true, for it furnishes sufficient difference to invite the proposition for delay from the other side. I hope the Senator will not be gratified. Indeed, I know he does not want to be gratified. I know in saying that I assume something; that is, I assume to know the Senator's mind better than he speaks it this morning; but it will be remembered that he spoke with a divided mind, and so advised us. It was not a formal opposition. It was but his informal opposition this morning to the consideration of the question; and in obedience to the idea that seems to have invested him for some time past, that the more delay we have the better we shall be prepared; that the longer we postpone the greater will be the result of our wisdom when we deliberate; that with that postponement we shall have more inclusion than exclusion, to use the Senator's terms. The Senator from Nevada and his inclusion will be the more welcomed by the honorable Senator from Massachusetts and appreciated, and the exclusion of the honorable Senator from Indiana, who leads the other side so well upon questions of the character now before us, will be, in a smaller degree, included in the result and the sum total of our judgment. But that these things may happen, that is to say, that we shall have the promise of their happening and occurring, given us by the honorable Senator, I am not, for one, willing to delay any longer. I am very glad to see that the Senator does not launch the thunders of his opposition to proceeding this morning. I knew that he would agree to go on, with an unwilling, half reluctant, half consenting, protesting, delightful enjoyment that we were to begin. That being the temper of the Senator, and I think the temper of the Senate and the country being to proceed, I should not feel at liberty to delay even for five minutes longer. Therefore I must express the hope that we shall now proceed with this great and greatest of questions that has ever been presented to the American people for consideration.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Michigan to postpone the present and all prior orders and proceed to the consideration of the resolution from the House of Representatives proposing an amendment to the Constitution of the United States.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives disagreed to the amendments of the Senate to the bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida; asked a conference on the

disagreeing votes of the two Houses thereon, and had appointed Mr. GEORGE W. JULIAN of Indiana, Mr. JOHN H. RICE of Maine, and Mr. ADAM J. GLOSSBRENNER of Pennsylvania, managers at the same on its part.

ENROLLED BILLS SIGNED.

The message also announced that the Speaker of the House of Representatives had signed the following enrolled bills; which were thereupon signed by the President *pro tempore*:

A bill (S. No. 318) to authorize the appointment of an additional Assistant Secretary of the Navy;

A bill (H. R. No. 193) for the relief of Mrs. William L. Herndon; and

A bill (H. R. No. 558) to amend the charter of the Washington Gas-Light Company.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President of the United States had approved and signed, on the 21st instant, the following acts and joint resolution:

An act (S. No. 132) to prevent and punish kidnapping;

An act (S. No. 186) amendatory of an act to provide for the reports of decisions of the Supreme Court of the United States;

An act (S. No. 316) to establish a post route from West Alburg, Vermont, to Champlain, in the State of New York, and for other purposes; and

A joint resolution (S. R. No. 61) to extend the time for the construction of the first section of the Western Pacific railroad.

HOMESTEADS IN SOUTHERN LAND STATES.

The Senate proceeded to consider its amendments to the bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, and,

On motion of Mr. KIRKWOOD, it was

Resolved, That the Senate insist upon its amendments to the said bill, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon.

Ordered, That the President *pro tempore* be authorized to appoint the managers at said conference on the part of the Senate.

RECONSTRUCTION.

The Senate, as in Committee of the Whole, proceeded to consider the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States, which was read as follows:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two thirds of both Houses concurring,) That the following article be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three fourths of said Legislatures, shall be valid as part of the Constitution, namely:

ARTICLE —.

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. Representatives shall be apportioned among the several States which may be included within the Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens shall bear to the whole number of male citizens not less than twenty-one years of age.

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

SEC. 4. Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

SEC. 5. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

Mr. HOWARD. Mr. President, I regret that the state of the health of the honorable Senator from Maine [Mr. FESSENDEN] who is

chairman, on the part of the Senate, of the joint committee of fifteen, is such as to disable him from opening the discussion of this grave and important measure. I was anxious that he should take the lead, and the prominent lead, in the conduct of this discussion, and still entertain the hope that before it closes the Senate will have the benefit of a full and ample statement of his views. For myself, I can only promise to present to the Senate, in a very succinct way, the views and the motives which influenced that committee, so far as I understand those views and motives, in presenting the report which is now before us for consideration, and the ends it aims to accomplish.

The joint resolution creating that committee intrusted them with a very important inquiry, an inquiry involving a vast deal of attention and labor. They were instructed to inquire into the condition of the insurgent States, and authorized to report by bill or otherwise at their discretion. I believe that I do not overstate the truth when I say that no committee of Congress has ever proceeded with more fidelity and attention to the matter intrusted to them. They have been assiduous in discharging their duty. They have instituted an inquiry, so far as it was practicable for them to do so, into the political and social condition of the insurgent States. It is very true, they have not visited any localities outside of the city of Washington in order to obtain information; but they have taken the testimony of a great number of witnesses who have been summoned by them to Washington, or who happened to be in Washington, and who had some acquaintance with the condition of affairs in the insurgent States. I think it will be the judgment of the country in the end that that committee, so far as the procuring of testimony upon this subject is concerned, has been not only industrious and assiduous, but impartial and entirely fair. I know that such has been their aim. I know that it has not been their purpose to present to Congress and the country in their report anything unfair or one-sided, or anything of a party tendency. Our anxiety has been to ascertain the whole truth in its entire length and breadth, so far as the facilities given us would warrant.

One result of their investigations has been the joint resolution for the amendment of the Constitution of the United States now under consideration. After most mature deliberation and discussion, reaching through weeks and even months, they came to the conclusion that it was necessary, in order to restore peace and quiet to the country and again to impart vigor and efficiency to the laws, and especially to obtain something in the shape of a security for the future against the recurrence of the enormous evils under which the country has labored for the last four years, that the Constitution of the United States ought to be amended; and the project which they have now submitted is the result of their deliberations upon that subject.

The first section of the amendment they have submitted for the consideration of the two Houses relates to the privileges and immunities of citizens of the several States, and to the rights and privileges of all persons, whether citizens or others, under the laws of the United States. It declares that—

No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

It will be observed that this is a general prohibition upon all the States, as such, from abridging the privileges and immunities of the citizens of the United States. That is its first clause, and I regard it as very important. It also prohibits each one of the States from depriving any person of life, liberty, or property without due process of law, or denying to any person within the jurisdiction of the State the equal protection of its laws.

The first clause of this section relates to the privileges and immunities of citizens of the United States as such, and as distinguished from all other persons not citizens of the United States. It is not, perhaps, very easy to define with accuracy what is meant by the expression, "citizen of the United States," although that expression occurs twice in the Constitution, once in reference to the President of the United States, in which instance it is declared that none but a citizen of the United States shall be President, and again in reference to Senators, who are likewise to be citizens of the United States. Undoubtedly the expression is used in both those instances in the same sense in which it is employed in the amendment now before us. A citizen of the United States is held by the courts to be a person who was born within the limits of the United States and subject to their laws. Before the adoption of the Constitution of the United States, the citizens of each State were, in a qualified sense at least, aliens to one another, for the reason that the several States before that event were regarded by each other as independent Governments, each one possessing a sufficiency of sovereign power to enable it to claim the right of naturalization; and, undoubtedly, each one of them possessed for itself the right of naturalizing foreigners, and each one, also, if it had seen fit so to exercise its sovereign power, might have declared the citizens of every other State to be aliens in reference to itself. With a view to prevent such confusion and disorder, and to put the citizens of the several States on an equality with each other as to all fundamental rights, a clause was introduced in the Constitution declaring that "the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States."

The effect of this clause was to constitute *ipso facto* the citizens of each one of the original States citizens of the United States. And how did they antecedently become citizens of the several States? By birth or by naturalization. They became such in virtue of national law, or rather of natural law which recognizes persons born within the jurisdiction of every country as being subjects or citizens of that country. Such persons were, therefore, citizens of the United States as were born in the country or were made such by naturalization; and the Constitution declares that they are entitled, as citizens, to all the privileges and immunities of citizens in the several States. They are, by constitutional right, entitled to these privileges and immunities, and may assert this right and these privileges and immunities, and ask for their enforcement whenever they go within the limits of the several States of the Union.

It would be a curious question to solve what are the privileges and immunities of citizens of each of the States in the several States. I do not propose to go at any length into that question at this time. It would be a somewhat barren discussion. But it is certain the clause was inserted in the Constitution for some good purpose. It has in view some results beneficial to the citizens of the several States, or it would not be found there; yet I am not aware that the Supreme Court have ever undertaken to define either the nature or extent of the privileges and immunities thus guaranteed. Indeed, if my recollection serves me, that court, on a certain occasion not many years since, when this question seemed to present itself to them, very modestly declined to go into a definition of them, leaving questions arising under the clause to be discussed and adjudicated when they should happen practically to arise. But we may gather some intimation of what probably will be the opinion of the judiciary by referring to a case adjudged many years ago in one of the circuit courts of the United States by Judge Washington; and I will trouble the Senate but for a moment by reading what that very learned and excellent judge says about these privileges and immunities of the citizens of each State in the several

States. It is the case of *Corfield vs. Coryell*, found in 4 Washington's Circuit Court Reports, page 880. Judge Washington says:

"The next question is whether this act infringes that section of the Constitution which declares that 'the citizens of each State shall be entitled to all privileges and immunities of citizens in the several States?'"

"The inquiry is, what are the privileges and immunities of citizens in the several States? We feel no hesitation in confining these expressions to those privileges and immunities which are in their nature fundamental, which belong of right to the citizens of all free Governments, and which have at all times been enjoyed by the citizens of the several States which compose this Union from the time of their becoming free, independent, and sovereign. What these fundamental principles are it would, perhaps, be more tedious than difficult to enumerate. They may, however, be all comprehended under the following general heads: protection by the Government, the enjoyment of life and liberty, with the right to acquire and possess property of every kind, and to pursue and obtain happiness and safety, subject nevertheless to such restraints as the Government may justly prescribe for the general good of the whole. The right of a citizen of one State to pass through or to reside in any other State, for purposes of trade, agriculture, professional pursuits, or otherwise; to claim the benefit of the writ of *habeas corpus*; to institute and maintain actions of any kind in the courts of the State; to take, hold, and dispose of property, either real or personal, and an exemption from higher taxes or impositions than are paid by the other citizens of the State, may be mentioned as some of the particular privileges and immunities of citizens which are clearly embraced by the general description of privileges deemed to be fundamental, to which may be added the elective franchise, as regulated and established by the laws or constitution of the State in which it is to be exercised. These, and many others which might be mentioned, are, strictly speaking, privileges and immunities, and the enjoyment of them by the citizens of each State in every other State was manifestly calculated (to use the expressions of the preamble of the corresponding provision in the old Articles of Confederation) 'the better to secure and perpetuate mutual friendship and intercourse among the people of the different States of the Union.'"

Such is the character of the privileges and immunities spoken of in the second section of the fourth article of the Constitution. To these privileges and immunities, whatever they may be—for they are not and cannot be fully defined in their entire extent and precise nature—to these should be added the personal rights guaranteed and secured by the first eight amendments of the Constitution; such as the freedom of speech and of the press; the right of the people peaceably to assemble and petition the Government for a redress of grievances, a right appertaining to each and all the people; the right to keep and to bear arms; the right to be exempted from the quartering of soldiers in a house without the consent of the owner; the right to be exempt from unreasonable searches and seizures, and from any search or seizure except by virtue of a warrant issued upon a formal oath or affidavit; the right of an accused person to be informed of the nature of the accusation against him, and his right to be tried by an impartial jury of the vicinage; and also the right to be secure against excessive bail and against cruel and unusual punishments.

Now, sir, here is a mass of privileges, immunities, and rights, some of them secured by the second section of the fourth article of the Constitution, which I have recited, some by the first eight amendments of the Constitution; and it is a fact well worthy of attention that the course of decision of our courts and the present settled doctrine is, that all these immunities, privileges, rights, thus guaranteed by the Constitution or recognized by it, are secured to the citizen solely as a citizen of the United States and as a party in their courts. They do not operate in the slightest degree as a restraint or prohibition upon State legislation. States are not affected by them, and it has been repeatedly held that the restriction contained in the Constitution against the taking of private property for public use without just compensation is not a restriction upon State legislation, but applies only to the legislation of Congress.

Now, sir, there is no power given in the Constitution to enforce and to carry out any of these guarantees. They are not powers granted by the Constitution to Congress, and of course

do not come within the sweeping clause of the Constitution authorizing Congress to pass all laws necessary and proper for carrying out the foregoing or granted powers, but they stand simply as a bill of rights in the Constitution, without power on the part of Congress to give them full effect; while at the same time the States are not restrained from violating the principles embraced in them except by their own local constitutions, which may be altered from year to year. The great object of the first section of this amendment is, therefore, to restrain the power of the States and compel them at all times to respect these great fundamental guarantees. How will it be done under the present amendment? As I have remarked, they are not powers granted to Congress, and therefore it is necessary, if they are to be effectuated and enforced, as they assuredly ought to be, that additional power should be given to Congress to that end. This is done by the fifth section of this amendment, which declares that "the Congress shall have power to enforce by appropriate legislation the provisions of this article." Here is a direct affirmative delegation of power to Congress to carry out all the principles of all these guarantees, a power not found in the Constitution.

The last two clauses of the first section of the amendment disable a State from depriving not merely a citizen of the United States, but any person, whoever he may be, of life, liberty, or property without due process of law, or from denying to him the equal protection of the laws of the State. This abolishes all class legislation in the States and does away with the injustice of subjecting one caste of persons to a code not applicable to another. It prohibits the hanging of a black man for a crime for which the white man is not to be hanged. It protects the black man in his fundamental rights as a citizen with the same shield which it throws over the white man. Is it not time, Mr. President, that we extend to the black man, I had almost called it the poor privilege of the equal protection of the law? Ought not the time to be now passed when one measure of justice is to be meted out to a member of one caste while another and a different measure is meted out to the member of another caste, both castes being alike citizens of the United States, both bound to obey the same laws, to sustain the burdens of the same Government, and both equally responsible to justice and to God for the deeds done in the body?

But, sir, the first section of the proposed amendment does not give to either of these classes the right of voting. The right of suffrage is not, in law, one of the privileges or immunities thus secured by the Constitution. It is merely the creature of law. It has always been regarded in this country as the result of positive local law, not regarded as one of those fundamental rights lying at the basis of all society and without which a people cannot exist except as slaves, subject to a despotism.

As I have already remarked, section one is a restriction upon the States, and does not, of itself, confer any power upon Congress. The power which Congress has, under this amendment, is derived, not from that section, but from the fifth section, which gives it authority to pass laws which are appropriate to the attainment of the great object of the amendment. I look upon the first section, taken in connection with the fifth, as very important. It will, if adopted by the States, forever disable every one of them from passing laws trenching upon those fundamental rights and privileges which pertain to citizens of the United States, and to all persons who may happen to be within their jurisdiction. It establishes equality before the law, and it gives to the humblest, the poorest, the most despised of the race the same rights and the same protection before the law as it gives to the most powerful, the most wealthy, or the most haughty. That, sir, is republican government, as I understand it, and the only one which can claim the praise of a just Government. Without this principle of equal jus-

tice to all men and equal protection under the shield of the law, there is no republican government and none that is really worth maintaining.

The second section of the proposed amendment reads as follows:

SEC. 2. Representatives shall be apportioned among the several States which may be included within the Union, according to their respective numbers, counting the whole number of persons in each State, excluding Indians not taxed. But whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged, except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens—

That is, citizens as to whom the right of voting is denied or abridged—shall bear to the whole number of male citizens not less than twenty-one years of age.

It is very true, and I am sorry to be obliged to acknowledge it, that this section of the amendment does not recognize the authority of the United States over the question of suffrage in the several States at all; nor does it recognize, much less secure, the right of suffrage to the colored race. I wish to meet this question fairly and frankly; I have nothing to conceal upon it; and I am perfectly free to say that if I could have my own way, if my preferences could be carried out, I certainly should secure suffrage to the colored race to some extent at least; for I am opposed to the exclusion and proscription of an entire race. If I could not obtain universal suffrage in the popular sense of that expression, I should be in favor of restricted, qualified suffrage for the colored race. But, sir, it is not the question here what will we do; it is not the question what you, or I, or half a dozen other members of the Senate may prefer in respect to colored suffrage; it is not entirely the question what measure we can pass through the two Houses; but the question really is, what will the Legislatures of the various States to whom these amendments are to be submitted do in the premises; what is it likely will meet the general approbation of the people who are to elect the Legislatures, three fourths of whom must ratify our propositions before they have the force of constitutional provisions?

Let me not be misunderstood. I do not intend to say, nor do I say, that the proposed amendment, section two, proscribes the colored race. It has nothing to do with that question, as I shall show before I take my seat. I could wish that the elective franchise should be extended equally to the white man and to the black man; and if it were necessary, after full consideration, to restrict what is known as universal suffrage for the purpose of securing this equality, I would go for a restriction; but I deem that impracticable at the present time, and so did the committee.

The colored race are destined to remain among us. They have been in our midst for more than two hundred years; and the idea of the people of the United States ever being able by any measure or measures to which they may resort to expel or expatriate that race from their limits and to settle them in a foreign country, is to me the wildest of all chimeras. The thing can never be done; it is impracticable. For weal or for woe, the destiny of the colored race in this country is wrapped up with our own; they are to remain in our midst, and here spend their years and here bury their fathers and finally repose themselves. We may regret it. It may not be entirely compatible with our taste that they should live in our midst. We cannot help it. Our forefathers introduced them, and their destiny is to continue among us; and the practical question which now presents itself to us is as to the best mode of getting along with them.

The committee were of opinion that the States are not yet prepared to sanction so fundamental a change as would be the concession of the right of suffrage to the colored race. We may as well state it plainly and fairly, so that there shall be no misunderstanding on the

subject. It was our opinion that three fourths of the States of this Union could not be induced to vote to grant the right of suffrage, even in any degree or under any restriction, to the colored race. We may be right in this apprehension or we may be in error. Time will develop the truth; and for one I shall wait with patience the movements of public opinion upon this great and absorbing question. The time may come, I trust it will come, indeed I feel a profound conviction that it is not far distant, when even the people of the States themselves where the colored population is most dense will consent to admit them to the right of suffrage. Sir, the safety and prosperity of those States depend upon it; it is especially for their interest that they should not retain in their midst a race of pariahs, so circumstanced as to be obliged to bear the burdens of Government and to obey its laws without any participation in the enactment of the laws.

The second section leaves the right to regulate the elective franchise still with the States, and does not meddle with that right. Its basis of representation is numbers, whether the numbers be white or black; that is, the whole population except untaxed Indians and persons excluded by the State laws for rebellion or other crime. Formerly under the Constitution, while the free States were represented only according to their respective numbers of men, women, and children, all of course endowed with civil rights, the slave States had the advantage of being represented according to their number of the same free classes, increased by three fifths of the slaves whom they treated not as men but property. They had this advantage over the free States, that the bulk of their property in the proportion of three fifths had the right of representation in Congress, while in the free States not a dollar of property entered into the basis of representation. John Jacob Astor, with his fifty millions of property, was entitled to cast but one vote, and he at the ballot-box would meet his equal in the raggedest beggar that strolled the streets. Property has been rejected as the basis of just representation; but still the advantage that was given to the slave States under the Constitution enabled them to send at least twenty-one members to Congress in 1860, based entirely upon what they treated as property—a number sufficient to determine almost every contested measure that might come before the House of Representatives.

The three-fifths principle has ceased in the destruction of slavery and in the enfranchisement of the colored race. Under the present Constitution this change will increase the number of Representatives from the once slaveholding States by nine or ten. That is to say, if the present basis of representation, as established in the Constitution, shall remain operative for the future, making our calculations upon the census of 1860, the enfranchisement of their slaves would increase the number of their Representatives in the other House nine or ten, I think at least ten; and under the next census it is easy to see that this number would be still increased; and the important question now is, shall this be permitted while the colored population are excluded from the privilege of voting? Shall the recently slaveholding States, while they exclude from the ballot the whole of their black population, be entitled to include the whole of that population in the basis of their representation, and thus to obtain an advantage which they did not possess before the rebellion and emancipation? In short, shall we permit it to take place that one of the results of emancipation and of the war is to increase the Representatives of the late slaveholding States? I object to this. I think they cannot very consistently call upon us to grant them an additional number of Representatives simply because in consequence of their own misconduct they have lost the property which they once possessed, and which served as a basis in great part of their representation.

The committee thought this should no longer be permitted, and they thought it wiser to adopt a general principle applicable to all the States alike, namely, that where a State excludes any part of its male citizens from the elective franchise, it shall lose Representatives in proportion to the number so excluded; and the clause applies not to color or to race at all, but simply to the fact of the individual exclusion. Nor did the committee adopt the principle of making the ratio of representation depend upon the number of voters, for it so happens that there is an unequal distribution of voters in the several States, the old States having proportionally fewer than the new States. It was desirable to avoid this inequality in fixing the basis. The committee adopted numbers as the most just and satisfactory basis, and this is the principle upon which the Constitution itself was originally framed, that the basis of representation should depend upon numbers; and such, I think, after all, is the safest and most secure principle upon which the Government can rest. Numbers, not voters; numbers, not property; this is the theory of the Constitution.

By the census of 1860, the whole number of colored persons in the several States was four million four hundred and twenty-seven thousand and sixty-seven. In five of the New England States, where colored persons are allowed to vote, the number of such colored persons is only twelve thousand one hundred and thirty-two. This leaves of the colored population of the United States in the other States unrepresented, four million four hundred and fourteen thousand nine hundred and thirty-five, or at least one seventh part of the whole population of the United States. Of this last number, three million six hundred and fifty thousand were in the eleven seceding States, and only five hundred and forty-seven thousand in the four remaining slave States which did not secede, namely, Delaware, Maryland, Kentucky, and Missouri. In the eleven seceding States the blacks are to the whites, basing the calculation upon the census of 1860, nearly as three to five. A further calculation shows that if this section shall be adopted as a part of the Constitution, and if the late slave States shall continue hereafter to exclude the colored population from voting, they will do it at the loss at least of twenty-four Representatives in the other House of Congress, according to the rule established by the act of 1850. I repeat, that if they shall persist in refusing suffrage to the colored race, if they shall persist in excluding that whole race from the right of suffrage, they will lose twenty-four members of the other House of Congress. Some have estimated their loss more and some less; but according to the best calculation I have been able to make, I think that will be the extent. It is not to be disguised—the committee have no disposition to conceal the fact—that this amendment is so drawn as to make it the political interest of the once slaveholding States to admit their colored population to the right of suffrage. The penalty of refusing will be severe. They will undoubtedly lose, and lose so long as they shall refuse to admit the black population to the right of suffrage, that balance of power in Congress which has been so long their pride and their boast.

It will be observed, however, that this amendment does not apply exclusively to the insurgent States, nor to the slaveholding States, but to all States without distinction. It says to all the States, "If you restrict suffrage among your people, whether that people be white or black or mixed, your representation in Congress shall be reduced in proportion to that restriction." It holds out the same penalty to Massachusetts as to South Carolina, the same to Michigan as to Texas.

Mr. CLARK. If the Senator will pardon me for a moment, I wish to inquire whether the committee's attention was called to the fact that if any State excluded any person, say as Massachusetts does, for want of intelligence,

this provision cuts down the representation of that State.

Mr. HOWARD. Certainly it does, no matter what may be the occasion of the restriction. It follows out the logical theory upon which the Government was founded, that numbers shall be the basis of representation in Congress, the only true, practical, and safe republican principle. If, then, Massachusetts should so far forget herself as to exclude from the right of suffrage all persons who do not believe with my honorable friend who sits near me [Mr. SUMNER] on the subject of negro suffrage, she would lose her representation in proportion to that exclusion. If she should exclude all persons of what is known as the orthodox faith she loses representation in proportion to that exclusion. No matter what may be the ground of exclusion, whether a want of education, a want of property, a want of color, or a want of anything else, it is sufficient that the person is excluded from the category of voters, and the State loses representation in proportion. The principle applies to every one of the States in precisely the same manner. And, sir, the true basis of representation is the whole population. It is not property, it is not education, for great abuses would arise from the adoption of the one or the other of these two tests. Experience has shown that numbers and numbers only is the only true and safe basis; while nothing is clearer than that property qualifications and educational qualifications have an inevitable aristocratic tendency—a thing to be avoided.

Mr. STEWART. I wish to call the attention of the Senator to the word "abridged" before he passes from that branch of the subject. I should like to understand the operation intended by that expression.

Mr. HOWARD. The word "abridged" I regard as a mere intensive, applicable to the preceding sentence, "but whenever, in any State, the elective franchise shall be denied to any portion of its male citizens not less than twenty-one years of age, or in any way abridged" to any portion of its male citizens not less than twenty-one "except for participation in rebellion or other crime, the basis of representation in such State shall be reduced in the proportion which the number of such male citizens"—that is, the number of citizens, as to whom it is either denied or abridged—"shall bear to the whole number of male citizens not less than twenty-one years of age."

I suppose it would admit of the following application: a State in the exercise of its sovereign power over the question of suffrage might permit one person to vote for a member of the State Legislature, but prohibit the same person from voting for a Representative in Congress. That would be an abridgment of the right of suffrage; and that person would be included in the exclusion, so that the representation from the State would be reduced in proportion to the exclusion of persons whose rights were thus abridged.

Mr. STEWART. Take a case of this kind: suppose that in the South they should allow the negroes to vote who had been in the Army, or who had educational qualifications; would those who did vote be included in the basis of representation, or would that be an abridgment of that class of persons so that they would all be excluded?

Mr. HOWARD. It is not an abridgment to a caste or class of persons, but the abridgment or the denial applies to the persons individually. If the honorable Senator will read the section carefully I think he will not doubt as to its true interpretation. It applies individually to each and every person who is denied or abridged, and not to the class to which he may belong. It makes no distinction between black and white, or between red and white, except that if an Indian is counted in he must be subject to taxation.

But as to the principle of representation, I beg to call the attention of Senators to two passages which I will read from the Writings

of Mr. Madison, whose reflections upon the right of suffrage were at once the most enlightened and profound, to show what were his ideas respecting the right of suffrage and the persons to whom it ought to be granted. It applies to this whole subject. They apply as well to the negro as to the white man. Mr. Madison has been discussing the question of confining the right of suffrage to freeholders, and he observes:

"Confining the right of suffrage to freeholders and to such as hold an equivalent property, convertible, of course, into freeholds. The objection to this regulation is obvious. It violates the vital principle."

Here my honorable friend from Massachusetts will observe what I regard as the vital principle of republican government; it is not representation because of taxation; it is this—"the vital principle of free government, that those who are to be bound by the laws ought to have a voice in making them."

That is the point; that those who are to be bound by the laws ought to have a voice in making the laws.

Mr. JOHNSON. Does the honorable member read from Madison's Writings?

Mr. HOWARD. The fourth volume of Madison's Writings, page 25.

Mr. SUMNER. Is that applicable to all without distinction of color?

Mr. HOWARD. Certainly it is, and whether they can read and write or not. The point is that the person who is bound by the laws in a free Government ought to have a voice in making them. It is the very essence of republican government. Again he observes, page 27:

"Under every view of the subject it seems indispensable"

I wish the attention of my honorable friend from Maryland to this, for I know how much he reverences the character and talents of James Madison—

"Under every view of the subject!"

"Every view of the subject," not a partial view, but every view which had presented itself or could present itself to the mind of that great man—

"it seems indispensable that the mass of citizens should not be without a voice in making the laws which they are to obey, and in choosing the magistrates who are to administer them. And if the only alternative be between an equal and universal right of suffrage for each branch of the Government, and a confinement of the entire right to a part of the citizens, it is better that those having the greater interest at stake, namely, that of property and persons both, should be deprived of half their share in the Government, than that those having the lesser interest, that of personal rights only, should be deprived of the whole."

Now, apply that great principle as broadly as it is laid down by Mr. Madison on the page from which I have read, and how can any man of true republican feeling, attached to the essential principles of our system of government, refuse the right of suffrage to the whole negro population as a class?

Mr. JOHNSON. Females as well as males?

Mr. HOWARD. Mr. Madison does not say anything about females.

Mr. JOHNSON. "Persons."

Mr. HOWARD. I believe Mr. Madison was old enough and wise enough to take it for granted there was such a thing as the law of nature which has a certain influence even in political affairs, and that by that law women and children were not regarded as the equals of men. Mr. Madison would not have quibbled about the question of women's voting or of an infant's voting. He lays down a broad democratic principle, that those who are to be bound by the laws ought to have a voice in making them; and everywhere mature manhood is the representative type of the human race.

I have but very little to say, Mr. President, as to the third section of this amendment. It reads as follows:

Sec. 3. Until the 1st day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

It is due to myself to say that I did not favor

this section of the amendment in the committee. I do not believe, if adopted, it will be of any practical benefit to the country. It will not prevent rebels from voting for members of the several State Legislatures. A rebel, notwithstanding this clause, may vote for a member of the State Legislature. The State Legislature may be made up entirely of disloyal elements, in consequence of being elected by a rebel constituency. That Legislature when assembled has the right, under the Constitution, to appoint presidential electors itself if it shall choose to do so, and to refuse to refer that question to the people. It is the right of every State. It is very probable that the power of the rebel States would be used in exactly that way. We should therefore gain nothing as to the election of the next or any future President of the United States. Rather than this, I should prefer a clause prohibiting all persons who have participated in the rebellion, and who were over twenty-five years of age at the breaking out of the rebellion, from all participation in offices, either Federal or State, throughout the United States. I think such a provision would be a benefit to the nation. It would ostracize the great mass of the intelligent and really responsible leaders of the rebellion.

Mr. CLARK. I will state to the Senator that I have drawn an amendment something of this kind, which I will read, to see how it would meet his view, if he will permit me at this time:

That no person shall be a Senator or Representative in Congress or permitted to hold any office under the Government of the United States who, having previously taken an oath to support the Constitution thereof, shall have voluntarily engaged in any insurrection or rebellion against the United States, or given aid or comfort thereto.

That would exclude all those who had taken an oath to support the Constitution of the United States, thereby acknowledged their allegiance to that Government, and had proved false to that oath by joining the rebellion.

Mr. HOWARD. I am by no means sure that I should not be quite willing to support such an amendment as that suggested by the honorable Senator from New Hampshire.

Mr. JOHNSON. Will the honorable member from New Hampshire inform me whether he proposes to offer that as an amendment?

Mr. CLARK. That was my idea in drawing it.

Mr. HOWARD. The fourth section of this amendment declares that—

Neither the United States nor any State shall assume or pay any debt or obligation already incurred, or which may hereafter be incurred, in aid of insurrection or of war against the United States, or any claim for compensation for loss of involuntary service or labor.

I take it for granted that no member of this body would oppose the adoption of this section of the amendment. I do not believe the people of the United States will object to declaring that the whole of the rebel debt shall be eternally repudiated and extinguished—a debt contracted in the prosecution of the most wicked war with which the earth was ever cursed, against a Government that was never felt by them except in the benefits it conferred. Such a debt can never be assumed or paid by the loyal people of the United States, and if suffered to remain in *quasi* existence it can only be left in that condition as a subject of political squabbling and party wrangling.

The assumption of the rebel debt would be the last and final signal for the destruction of the nation known as the United States of America. Whatever party may succeed in so wicked a scheme, by whatever name it may be called and under whatever false guises or pretenses it may operate, if it succeed in assuming this indebtedness, puts an end first to the credit of the Government, and then, as an unavoidable consequence, to the Government itself. I do not propose to spend time upon this branch of the subject. I simply refer to it as a necessity of such magnitude as in my judgment to demand our action and the action of the States of the Union without delay. It is necessary to act,

to extinguish this debt, to put it beyond the pale of party controversy, to put it out of sight, and to bury it so deep that it can never again be raised to life in such manner as to become a theme of party discussion. The amount of that debt is probably not less than five billion dollars. We do not know its exact amount, and I am not sure that it is possible ever to ascertain it; but if there should ever be a fair prospect of its assumption by the United States or by the States it is perfectly certain that the evidences of it would multiply thicker than the leaves in Vallombrosa. Those evidences are a great curiosity in the history of commercial affairs. I hold in my hand a specimen of the confederate currency. I will read it for the information of Senators and to give it a permanent registration among our proceedings:

RICHMOND, December 1, 1862.

No. 81413.

Six months after the ratification of a treaty of peace between the Confederate States and the United States of America, the Confederate States of America will pay to the bearer on demand \$100.

Signed by the Treasurer and countersigned by the Register of the Confederate States of America, at Richmond.

Such is the kind of commercial security upon which the rebellion was chiefly waged against us. The confederacy issued its promises payable six months after a treaty of peace should be ratified between these States and the United States. I hardly think that in a lawyer's office that would be regarded as negotiable paper. I doubt very much whether the bearer of such a security would be able to sue upon it, even in a court of South Carolina. It is payable not exactly upon the happening of a contingency, but upon the happening of what is and ever will be a total impossibility. "Six months after a treaty of peace." It is not yet due, and of course never will become due. It was never expected to become due by any man who had a thimble-full of brains; but was used as part of that vast system of humbug, deception, and imposture by which the southern people were deluded. Their bogus government never expected to pay it.

Sir, the peace of the country ought not to be disturbed or jeopardized by the agitation of any such question as the assumption of the rebel debt. It becomes the character and dignity of the Government, which has spent so much of treasure and blood in putting down this wicked rebellion, to give an assurance to the people of the United States, whether loyal or disloyal, and to all the people of the civilized world, that this rebel debt thus contracted is never to be paid, that it shall never be recognized as the foundation of any claim or any contract whatever; and such an assurance will be also an especial compensation to the holders of the "cotton loan" in England, which has created so much sensation both on the other side of the Atlantic and on this. I confess I am not without a little anxiety on this point. I wish to give those martyrs to the cause of the "confederate States of America," those who so generously lent that mushroom government their cold cash upon the promises contained in the cotton bonds, a final assurance as to the real value of their securities, and that they are never to look to the United States or to any State of the Union for indemnity on account of moneys advanced by them in the piratical scheme of destroying the Government of the United States. Sir, I do not believe in paying traitors, nor do I believe in indemnifying men abroad who, with their eyes open and a malignity in their heart beyond all parallel, gave them aid and comfort. Nor do I see the propriety of keeping this question open before the country, and enabling the foreign holders of cotton bonds to keep the political atmosphere of this country in a turmoil for the future with a view ultimately of getting their pay from somebody. It is time for us to put our hands upon this whole thing and to extinguish all hope.

The next clause is a very simple one. I have already remarked upon it; and shall spend

no more time upon it. It gives to Congress power to enforce by appropriate legislation all the provisions of this article of amendment. Without this clause, no power is granted to Congress by the amendment or any one of its sections. It casts upon Congress the responsibility of seeing to it, for the future, that all the sections of the amendment are carried out in good faith, and that no State infringes the rights of persons or property. I look upon this clause as indispensable for the reason that it thus imposes upon Congress this power and this duty. It enables Congress, in case the States shall enact laws in conflict with the principles of the amendment, to correct that legislation by a formal congressional enactment.

Mr. WADE. I move to amend the joint resolution by striking out all after the word "article" in line eight, and substituting the proposition which I send to the Chair to be read.

The Secretary read the words proposed to be inserted, as follows:

SEC. 1. No State shall make or enforce any law which shall abridge the privileges or immunities of persons born in the United States or naturalized by the laws thereof; nor shall any State deprive any person of life, liberty, or property without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. No class of persons as to the right of any of whom to suffrage discrimination shall be made, by any State, shall be included in the basis of representation, unless such discrimination be in virtue of impartial qualifications founded on intelligence or property, or because of alienage, or for participation in rebellion or other crime.

SEC. 3. The public debt of the United States, including all debts or obligations which have been or may hereafter be incurred in suppressing insurrection or in carrying on war in defense of the Union, or for payment of bounties or pensions incident to such war and provided for by law, shall be inviolable. But debts or obligations which have been or may hereafter be incurred in aid of insurrection or war against the United States, and claims of compensation for loss of involuntary service or labor, shall not be assumed or paid by any State nor by the United States.

SEC. 4. The Congress shall have power to enforce by appropriate legislation the provisions of this article.

Mr. WADE. I do not rise now for the purpose of arguing this question at any length; and it is with very great deference that I offer an amendment to the proposition reported by the committee who have had this particular subject under consideration so long. I know that they are infinitely more competent than I am to deal with it; but there are so many conflicting views in regard to this whole matter, and it is so vitally important to the interests of the country that we get the proposition upon which we shall unite as near right as we can, that after all it seems to me to be proper that every Senator who believes he can by possibility improve the plan which has been brought forward by the committee should offer his amendment for the consideration of the body. I do not know that the proposition which I have now submitted will be deemed an improvement upon what they have brought forward; but nevertheless there are some things in it that appear to me to be better, and an improvement upon their report.

In the first section of the proposition of the committee, the word "citizen" is used. That is a term about which there has been a good deal of uncertainty in our Government. The courts have stumbled on the subject, and even here, at this session, that question has been up and it is still regarded by some as doubtful. I regard it as settled by the civil rights bill, and, indeed, in my judgment, it was settled before. I have always believed that every person, of whatever race or color, who was born within the United States was a citizen of the United States; but by the decisions of the courts there has been a doubt thrown over that subject; and if the Government should fall into the hands of those who are opposed to the views that some of us maintain, those who have been accustomed to take a different view of it, they may construe the provision in such a way as we do not think it liable to construction at this time, unless we fortify and make it very strong and clear. If we do not do so

there may be danger that when party spirit runs high, it may receive a very different construction from that which we would now put upon it. I find that gentlemen doubt upon that subject, and I think it is very easy now to solve that doubt and put the question beyond all cavil for the present and for the future.

In the first clause of the amendment which I have submitted, I strike out the word "citizens," and require the States to give equal rights and protection of person and property to all persons born in the United States or naturalized under the laws thereof. That seems to me to put the question beyond all doubt.

The Senator from Maine suggests to me, in an undertone, that persons may be born in the United States and yet not be citizens of the United States. Most assuredly they would be citizens of the United States unless they went to another country and expatriated themselves, if they could do so by being adopted in that other country by some process of naturalization that I know nothing about; for I believe the countries of Europe—certainly it is so in England—have always held that a person born within the realm cannot expatriate himself and become a citizen of any other country or owe allegiance to any other country. I think, then, the first section of my amendment covers the whole ground.

Mr. FESSENDEN. Suppose a person is born here of parents from abroad temporarily in this country.

Mr. WADE. The Senator says a person may be born here and not be a citizen. I know that is so in one instance, in the case of the children of foreign ministers who reside "near" the United States, in the diplomatic language. By a fiction of law such persons are not supposed to be residing here, and under that fiction of law their children would not be citizens of the United States, although born in Washington. I agree to that, but my answer to the suggestion is that that is a simple matter, for it could hardly be applicable to more than two or three or four persons; and it would be best not to alter the law for that case. I will let it come under that well-known maxim of the law, *de minimis lex non curat*. It would make no difference in the result. I think it better to put this question beyond all doubt and all cavil by a very simple process, such as is the language of the first section of the amendment I have offered. I do not know that the corresponding section reported by the committee would leave the matter very doubtful; but that which I have proposed is beyond all doubt and all cavil now and hereafter, and it is as easy to adopt it as it is the other. I regard it as an improvement, and therefore I think it ought to be adopted.

The second section is in regard to the apportionment of representation; and here I like the provision I have proposed better than the corresponding one of the committee. There is no doubt or cavil about it; and it contains some elements which I think make it entirely preferable to the other proposition. There are some reasons, and many believe there are good reasons, for restricting universal suffrage, and upon such principles as not to justify the inflicting of a punishment or penalty upon a State which adopts restricted suffrage. It is already done in some of the New England States—in Massachusetts, for instance. I believe the constitution of that State restricts the right of suffrage to persons who can read the Constitution of the United States and write their names. I am not prepared to say that that is not a wise restriction. At all events, a State has the right to try that experiment; but if she tries it, under the report of the committee she must lose, in the proportion that she has such persons among her inhabitants, her representation in Congress. I do not think that ought to be so. I think we should leave the subject open to the States to act as they see fit about it. I think my amendment in this respect is plainer and more practicable than the proposition of the committee. The entire population is taken, in the first instance, as a basis. The census always discriminates between the black

and the white population, and it makes several other discriminations; and therefore it is, and will be at all times, perfectly easy and practicable to ascertain exactly how much of the population of a State shall be counted in the basis of representation under my amendment. Under the other proposition, it seems to me, you must have a census commission all the time in operation in order to keep pace with the variations that will take place from time to time.

Under this amendment you ascertain the classes of the population, and when any discrimination shall be made upon any of these subjects the whole of that particular class will be excluded. There is only one question to be determined. If the exclusion is because of race or color, the question is what amount of colored population is there in the State, and in exactly that proportion she is to lose representation. If any class is deprived of the privilege of voting there should certainly be some restriction on the representation of the State which excludes them. In that particular I think my amendment is a great improvement on the provision reported by the committee. My amendment is such that a calculation can very easily be made of what the restriction of representation is under it. I have not myself calculated it; but we know that some of the States would lose more than half their representation; South Carolina would, and I think Mississippi would, and some other of the States would lose largely if they excluded their colored population from voting; and I think they ought to be restricted in the proportion that the excluded portion bear to the whole.

In the next place, my amendment prohibits and renders null and void all obligations incurred in rebellion and insurrection against the United States or for the purpose of aiding rebellion or insurrection; and in that particular it is precisely the same as the corresponding section of the original proposition which was so eloquently defended and enforced by the Senator from Michigan. I agree with all that he said on that subject, and the proposition reported by his committee and the one I have submitted are the same in that respect; but then my amendment goes to another branch of this business almost as essential as that. It puts the debt incurred in the civil war on our part under the guardianship of the Constitution of the United States, so that a Congress cannot repudiate it. I believe that to do this will give great confidence to capitalists and will be of incalculable pecuniary benefit to the United States, for I have no doubt that every man who has property in the public funds will feel safer when he sees that the national debt is withdrawn from the power of a Congress to repudiate it and placed under the guardianship of the Constitution than he would feel if it were left at loose ends and subject to the varying majorities which may arise in Congress. I consider that a very beneficial provision, which is not in the original proposition.

This section of my amendment goes further, and secures the pensioners of the country. We ought to do something to protect those wounded patriots who have been stricken down in the cause of their country, and to put the security of their pensions and their means of support beyond the power of wavering majorities in Congress, who may at some time, perhaps, be hostile to the soldier. In the condition of things around us we have no great guarantee now that rebels will not ere long be in these Halls, deadly hostile to everything that shall benefit the soldier who was used as an instrument in their downfall and their conquest. Let the policy which I understand to be that now prevailing at the other end of the avenue be adopted, and we have no security and no guarantee that the widow of your dead soldier, who died in the cause of his country, will not be deprived of the pittance that we give her as a support. I am anxious to put the pensions of our soldiers and their widows and children under the guardianship of the Constitution of

the United States. They ought to be there, along with your public debt. I think no gentleman will deny that it is very essential that the debt incurred in this war should be placed under the protection of the Constitution of the United States, especially when we are now prosecuting a doubtful war with your Executive as to whether open and hostile rebels shall not have seats in Congress. If they are admitted here to act with their sympathizers at the North, who have constantly opposed every policy that looked to the remuneration of those engaged in the war on our part, who have been opposed to every war measure, who voted against paying your Army in the field, or doing anything to defend the country, what will be the result? Under the dictation of such a policy, should it prevail, who can guaranty that the debts of the Government will be paid, or that your soldiers and the widows of your soldiers will not lose their pensions? I hope that whether my amendment be adopted or not, any amendment to the Constitution which shall finally prevail will contain a clause like this.

Mr. President, I have stated nearly all the differences between my amendment and the proposition of the committee. I have left out of the amendment the third section of the resolution, because as the Senator from Michigan has said it does not seem to me to amount to much. Practically I do not believe it would have any effect. I am for excluding those who took any leading part in the rebellion from exercising any political power here or elsewhere now and forever; but as that clause does not seem to effect that purpose, and will probably effect nothing at all, I do not think it is of any consequence that it should have a place in the measure. I hope another clause will be placed there by the amendment suggested by the Senator from New Hampshire. I shall be very glad to see that adopted either as an amendment to my proposition, if it should prevail, or, if not, as an amendment to the original proposition.

I have seen other suggested amendments which I should like to have prevail. The Senator from Nevada [Mr. STEWART] has submitted a proposition which in my judgment is of the most important and essential character. Could my voice and my vote prevail to give efficacy to his proposition, he should not fail to have it. I am for suffrage to our friends in the South, the men who have stood by us in this rebellion, the men who have hazarded their lives and all that they hold dear to defend our country. I think our friends, the colored people of the South, should not be excluded from the right of voting, and they shall not be if my vote and the votes of a sufficient number who agree with me in Congress shall be able to carry it. I do not agree in this particular with the Senator from Michigan. He yields to the provision in the committee's resolution on the subject reluctantly, because he does not believe three fourths of the States can be got to ratify that proposition which is right and just in itself. My own opinion is that if you go down to the very foundation of justice, so far from weakening yourself with the people, you will strengthen yourself immensely by it; but I know that it is not the opinion of many here, and I suppose we must accommodate ourselves to the will of majorities, and if we cannot do all we would, do all we can. I propose for myself to contend for all I can get in the right direction, and finally to go with those who will give us anything that is beneficial. That is my doctrine. I wish and I hope that on due reflection the Senate will adopt the amendment of the Senator from Nevada, at least as an alternative to some of these propositions, leaving the States to take his proposition if they will in lieu of the one we give to them. I should like to see even that, for I believe they would take his in preference to the one we shall probably give them.

But, sir, notwithstanding I say all this, I am not finding fault with the doings of the com-

mittee. I know the difficulties of their task. I know the great variety of opinions that prevail on this subject. I know its importance. I know that the committee has been most unreasonably assailed from outside because it has not earlier brought forth its measures. My only wonder is that they could finish their labors and bring forward these propositions one after another as they have done, and so satisfactorily as they have. When I offer this amendment of mine, I only do it for the consideration of the Senate, and not because I have the vanity to suppose that I could improve anything they had agreed upon. It may be that after men have struck out a course of proceeding, have broken the road, and submitted their doings to us, it is easy to criticise and sometimes easy to amend. That is all I claim. I do not suppose that if I had been on the committee I could have drawn up a proposition so good as this is that they have brought forward; and yet it seems to me, having the benefit of what they have done, that looking it over, reflecting upon it, seeing all its weak points, if it have any, I could, without having the ability of that committee, suggest amendments that would be beneficial. I trust I have done so, or certainly I would not have brought this forward. If it meets the approval of the Senate I shall be glad, because to me it seems to be better; but if not, I shall go for their proposition. All I wished to do now was barely to bring my amendment before the Senate and submit it for their consideration. Hereafter, perhaps, I may or may not have something more to say about it.

Mr. WILSON. If the Senator from Ohio intends to press this amendment to a vote I trust he will consent to some modification of it. In the second section I think the word "property" should be stricken out. That section reads, "no class of persons as to the right of any of whom to suffrage discrimination shall be made by any State shall be included in the basis of representation, unless such discrimination be in virtue of impartial qualifications founded on intelligence or property, or because of alienage, or for participation in rebellion or other crime." I certainly think we ought not to put the word "property" as a qualification for suffrage in this country into the Constitution of the United States. If we are to have anything of that kind I think it should be a qualification on account of taxation, not on account of property, but taxation, paying a proportionate part to support the Government. I do not think such a qualification as this should go in the Constitution, and I cannot vote for this proposition as against the proposition of the committee. Then there are words in the third section that I think should be stricken out. Those words are, "and shall not be taxable by any State."

Mr. WADE. Those words are not in the amendment I have offered. They were in the amendment as first submitted and printed, but they are stricken out of the amendment as now offered.

Mr. FESSENDEN. I think the proposition had better be printed as it now stands amended.

Mr. WADE. Very well.

Mr. WILSON. I am very glad that the Senator from Ohio has stricken out those words which were in his original amendment. I wish simply to say upon that point, that for one, I can consent to vote for no proposition that does not go squarely to the country, that the national debt hereafter created shall be taxed like all other property. I do not believe in the wisdom of having two or three thousand millions of capital in this country placed beyond taxation. We did it in time of war, in an hour of need. I will adhere to that with all fidelity. It is as sacred as any pledge we ever made, as sacred as the blood of our soldiers. But I will consent to no measure that changes one dollar of that property into a new loan, and does not subject it to taxation equally and like all other property. I believe the safety of the debt itself demands that.

Mr. WADE. Nothing more need be said

about taxation, for that is not in the amendment I have offered. It was in the printed copy I first submitted; but on consideration I struck that out, thinking the amendment would be better without it, more acceptable to the Senate, and certainly more acceptable to myself. As to the suggestion of the Senator from Massachusetts that the word "property" should be stricken out I will say that there is no member of the Senate more opposed to making a property qualification for voting than I am. I never would vote for it nor submit to it if I could help it. But it is presented here only as one of those alternatives which the States may adopt. Some of them have adopted it before, and may do so again. It is only to be left optional with them to do this and other things. We do not recommend that they should do it; we do not recommend even an educational basis; we simply present the matter to the States. As a general thing the bias of my mind is entirely in favor of free suffrage to every man who is subject to the laws, in the language of Madison. That is the principle which would govern me if the matter were left to me; but we are now legislating with regard to the States, giving them a right to fix this matter for themselves.

If the State of which I am a member, where I could reach it, should undertake to prescribe a property qualification, you would find me opposed to it all the time. I am not very averse to an amendment of my proposition which shall strike out the word "property." I simply thought it would be as well to leave that matter to the States and not to restrict their representation if they should adopt a property qualification applied to all, giving equal suffrage, making no class discrimination. I am not very much opposed to striking out the word "property;" I should not like to lose a vote for my amendment on that account, although I did not suppose it was placed in my amendment in such a position as to subject me to the suspicion of being in favor of the property qualification. If the Senate is opposed to it, I am perfectly willing that that word shall be stricken out, as I think it can be without mutilating my amendment. I now move that the amendment be printed in the form in which I have submitted it.

The motion was agreed to.

Mr. WILSON. As amendments are being offered, I desire to submit an amendment, for the purpose of having it printed, to the second section of the article reported by the committee, and also an amendment to the third section.

Mr. JOHNSON. I ask for the reading of them.

The Secretary read the amendment proposed by Mr. WILSON to the second section, which was to strike out the section and in lieu of it to insert the following words:

Representatives shall be apportioned among the several States according to their respective numbers; but if in any State the elective franchise is or shall be denied to any of its inhabitants, being male citizens of the United States, above the age of twenty-one years, for any cause except insurrection or rebellion against the United States, the basis of representation in such State shall be reduced in the proportion which the number of male citizens so excluded shall bear to the whole number of male citizens over twenty-one years of age.

Mr. WILSON. Before the other amendment is read, I wish to state in a single word the distinction between the proposition just read and the section of the committee's proposition for which it is offered as a substitute. In the original proposition the language is "citizens of the State," in this it is "inhabitants being male citizens of the United States." I think the distinction is of vital importance. Now, let the Secretary read my other proposition.

The Secretary read the proposed amendment, which was to strike out section three, and in lieu of it to insert the following:

That no person who has resigned or abandoned or may resign or abandon any office under the United States, and has taken or may take part in rebellion against the Government thereof, shall be eligible to any office under the United States or of any State.

Mr. WILSON. I will simply say in regard to this proposition, which I desire to have

printed, that I am in favor of striking out the third section of the proposition of the committee, and I prefer simply to strike it out rather than to insert anything in place of it; but I submit this motion so that if we are to have anything inserted in its place, we shall give the people an opportunity of voting upon a proposition which says that the men who resigned or abandoned offices under the Government of the United States, whether civil or military, and engaged in rebellion, shall never hold any office under the Government of the United States, or under any State.

Mr. FESSENDEN. I wish to suggest to my friends that if they desire to offer amendments it would be better to move each amendment separately, either in the place of some section in the resolution reported by the committee, or as an addition. The difficulty of presenting propositions together as a substitute for the whole is that we are compelled to vote upon them as a whole. If a Senator wishes to substitute one provision for another, let that be a motion distinct by itself.

Mr. WILSON. Mine is.

Mr. FESSENDEN. But the honorable Senator from Ohio has moved a substitute for all the five sections of the article reported by the committee. Perhaps I might vote for some one of the sections he proposes, but I cannot for all together. The purpose can be accomplished by simply moving one section as a substitute for another, or by offering his amendments as additional provisions.

Mr. WADE. Well, I can take that course.

The PRESIDING OFFICER. (Mr. HENDRICKS in the chair.) But one of the amendments proposed by the Senator from Massachusetts is now in order. The Chair understands the Senator, however, to propose his two amendments simply with a view of their being printed. Is there any objection to the reception of both amendments with a view to their being ordered to be printed?

Mr. CLARK. I suppose these amendments are all offered for the purpose of bringing them to the knowledge of the Senate and having them printed, and that no rule of the body will be enforced upon them.

The PRESIDING OFFICER. If that be the unanimous wish of the Senate, it will be so ordered.

Mr. CLARK. I propose to offer as an amendment to the third section the proposition which I read some time ago to the Senate, but it would not be in order for me to do so now if any rule of the Senate was to be enforced upon it. I desire to offer an amendment to the third section, for the purpose of having it printed.

The PRESIDING OFFICER. If there be no objection the order will first be made to print the amendments submitted by the Senator from Massachusetts. The Chair hears no objection.

Mr. CLARK. I desire to offer this as a substitute for the third section of the committee's resolution:

No person shall be a Senator or Representative in Congress, or be permitted to hold any office under the Government of the United States, who, having previously taken an oath to support the Constitution thereof, shall have voluntarily engaged in any insurrection or rebellion against the United States, or given aid or comfort thereto.

I wish also to propose an amendment to the section in regard to the rebel debt, in these words:

Debts incurred in aid of rebellion or war against the United States are illegal and void, shall not be enforced in any court, or assumed or paid by the United States or any State, or by its authority; nor shall any compensation ever be made for the loss or emancipation of any slave.

I prefer to make the provision in regard to the rebel debt a little more specific and to go a little further. I am not content to say that it shall not be paid by the United States or any State, but I want to say that it shall not be enforced in any court, either in an action or by way of set-off; nor shall any debt incurred by any city or municipal corporation in aid of rebellion ever be paid. I do not want that any citizen of my State or any citizen of any other

loyal State who shall go down into that country shall ever be taxed to pay one cent of the rebel debt, and I want to say to the world that every particle of it is to be forever repudiated and remain unpaid, that we will not acknowledge it or suffer any of our courts to enforce it.

Mr. JOHNSON. Was the first amendment of the Senator proposed as a substitute for the third section?

Mr. CLARK. Yes, sir. The third section does not seem to be satisfactory to a great many persons, and yet I think something of the kind, looking toward the exclusion of many of those who participated in the rebellion from participation in the administration of our Government, is desirable. The section as it stands in the committee's plan provides that no person who has been engaged in the rebellion shall be allowed to vote until 1870. That is about four years off. Now, it will probably be a year and a half before this amendment can be agreed to by the States; they will be allowed to have until that time; and then it will only be an exclusion for a couple of years. I am afraid that the obstruction they will make to the adoption of the plan will be more serious than all the advantage we can derive from it. I much prefer that you should take the leaders of the rebellion, the heads of it, and say to them, "You never shall have anything to do with this Government," and let those who have moved in humble spheres return to their loyalty and to the Government.

Mr. HOWARD. Allow me to suggest to the Senator from New Hampshire, by way of amendment to the amendment offered by him to the third section, that he strike out the word "voluntarily," so as to exclude that class of persons absolutely without qualification.

Mr. CLARK. I shall have no objection to any amendment of that kind.

Mr. HOWARD. Any person who has taken an oath to support the Constitution as a member of Congress or as a Federal officer must be presumed to have intelligence enough if he entered the rebel service to have entered it voluntarily. He cannot be said to have been forced into it by pressure; but as the amendment of the honorable Senator now stands it leaves open as a question of fact whether he actually entered the rebel service voluntarily or involuntarily.

Mr. CLARK. I will adopt the suggestion of the Senator from Michigan, and I will adopt any other suggestion that seems proper in regard to this amendment. I throw it out merely as a general idea or proposition. It may not be satisfactory to all minds; it may need amendment; it may possibly go too far; but I throw it out to the Senate and desire to have it printed as embracing a general proposition the main feature of which I think should be agreed to, and as a substitute for the third section proposed by the committee.

Mr. HOWARD. I am inclined to think I will support that amendment with that modification.

Mr. CLARK. I do not propose further to discuss the subject, but submit the amendment and ask that it be printed.

The PRESIDING OFFICER. The amendment proposed by the Senator from New Hampshire will be printed, unless there be objection.

Mr. BUCKALEW. I desire also to submit an amendment with a view to have it printed.

The PRESIDING OFFICER. The Chair will receive the amendment and an order will be entered for its printing if there be no objection.

The amendment of Mr. BUCKALEW is to add to the resolution the following additional section:

SEC. 6. This amendment shall be passed upon in each State by the Legislature thereof which shall be chosen, or the members of the most popular branch of which shall be chosen next after the submission of the amendment, and at its first session; and no acceptance or rejection shall be reconsidered or again brought in question at any subsequent session; nor shall any acceptance of the amendment be valid if made after three years from the passage of this resolution.

EXECUTIVE SESSION.

Mr. GRIMES. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

WEDNESDAY, May 23, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

Mr. BERGEN asked indefinite leave of absence for Mr. TABER.

Leave was granted.

LETTER CARRIERS IN SAN FRANCISCO.

Mr. McRUER, by unanimous consent, reported back from the Committee on the Post Office and Post Roads a joint resolution (H. R. No. 142) authorizing the Postmaster General to pay additional salary to letter carriers in San Francisco.

The joint resolution, which was read, proposes to authorize the Postmaster General to pay to letter carriers in San Francisco such additional salary above that provided by law as may be necessary to procure competent persons for such service.

Mr. LE BLOND. I desire to suggest that this joint resolution ought to provide some limit. In its present form it gives to the Postmaster General unlimited power.

Mr. McRUER. I beg leave to say that it gives to the Postmaster General the same authority which has been given to the Secretary of the Treasury and the Commissioner of Internal Revenue, to pay only so much additional salary as may be necessary to secure competent persons to do the service. It is not to be presumed that he will give any more. Thus far, the letter delivery has not been established in San Francisco in consequence of the inadequate compensation allowed by law. This joint resolution only allows the Postmaster General to give a small additional compensation that may be necessary to secure carriers.

Mr. LE BLOND. I would suggest to the gentleman that the resolution does not limit the additional amount to be paid; it gives the Postmaster General unlimited power. If the resolution were so amended as to authorize him to allow additional pay, not exceeding a certain amount, it would limit the power of the Postmaster General. It seems to me it ought to do that.

Mr. McRUER. I do not think there is any necessity for that. It is not to be presumed that the Postmaster General will spend any more money for his Department than is absolutely necessary.

The joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. McRUER moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

HOMESTEADS IN SOUTHERN STATES.

On motion of Mr. JULIAN, by unanimous consent, Senate amendments to the bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, were taken from the Speaker's table and read, as follows:

First amendment:

Amend the first section by striking out all after the words "sixty-four" in line ten down to and including the word "patent" in the fifteenth line, so that the party will be allowed to enter one hundred and sixty instead of eighty acres of land.

The amendment was non-concurred in.

Second amendment:

Insert in line twenty, after the word "lands" in

the proviso at the end of the bill, the words "or lands mainly valuable for timber and not suitable for cultivation;" so that the proviso will read:

And provided further, That no mineral lands or lands mainly valuable for timber and not suitable for cultivation shall be liable to entry and settlement under its provisions.

The amendment was non-concurred in.

Third amendment:

Add as a new section the following:
And be it further enacted, That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before the said register or receiver that he or she is the head of a family, or is twenty-one years or more of age, or shall have performed service in the Army or Navy of the United States, and that such application is made for his or her exclusive use and benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person or persons whomsoever; and upon filing the said affidavit with the register or receiver, and on payment of five dollars, he or she shall thereupon be permitted to enter the amount of land specified: *Provided, however, That no certificate shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time or at any time within two years thereafter, the person making such entry, or if he be dead, his widow; or in case of her death, his heirs or devisee; or in case of a widow making such entry, her heirs or devisee, in case of her death, shall prove by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that no part of said land has been alienated, and that he will bear true allegiance to the Government of the United States; then, in such case, he, she, or they, if at the time a citizen of the United States, shall be entitled to a patent, as in other cases provided by law: And provided further, That in case of the death of both father and mother, leaving an infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of said infant child or children; and the executor, administrator, or guardian may, at any time within two years after the death of the surviving parent, and in accordance with the laws of the State in which such children, for the time being, have their domicile, sell said lands for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title by the purchase, and be entitled to a patent from the United States on the payment of the office fees and the sum of money herein specified.*

The amendment was non-concurred in.

Fourth amendment:

Add as a new section the following:
SEC. 3. And be it further enacted, That all the provisions of the said homestead law, and the act amendatory thereof, approved March 21, 1853, so far as the same may be applicable, except so far as the same are modified by the preceding sections of this act, are applied to and made part of this act as fully as if herein enacted and set forth.

The amendment was non-concurred in.

Mr. JULIAN. I move that the House appoint a committee of conference to act with a similar committee of the Senate on the disagreeing votes of the two Houses.

The motion was agreed to.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill (H. R. No. 193) entitled "An act for the relief of Mrs. William L. Herndon;" which was thereupon signed by the Speaker.

PREVENTION OF CHOLERA.

Mr. ELIOT. I ask unanimous consent to report back from the Committee on Commerce a joint resolution (H. R. No. 116) to prevent the introduction of cholera into the ports of the United States, with certain Senate amendments, in which the committee recommend concurrence.

The amendments were read, as follows:

First amendment:

In line one strike out the word "President" and insert in lieu thereof the words "Secretary of the Treasury."

Second amendment:

In line seven strike out the word "President" and insert in lieu thereof the words "Secretary of the Treasury."

Third amendment:

Strike out all after the word "to" in line seven down to and including the word "patients" in line thirteen, and insert in lieu thereof the following:

Direct the revenue officers and the officers commanding revenue cutters to aid in the execution of such quarantine, and also in the execution of the health laws of the States respectively, in such manner as may to him seem necessary.

Fourth amendment:

Add at the end of the bill the following:

Provided, That the authority hereby granted shall expire on the first Monday in January, A. D. 1867.

Mr. LE BLOND. Reserving the right to object, I wish to ask one question—whether this does not take from the President the appointing power and confer it upon the Secretary of the Treasury.

Mr. ELIOT. No, sir, not at all. I will state what I understand to be the reason of this change. As the House passed the resolution it provided that the President, through the Secretary of War, should when necessary authorize the military and naval forces to enforce through certain southern States quarantine laws. The Senate changed that whole provision so as to authorize the Secretary of the Treasury to direct revenue officers and officers commanding revenue-cutters to aid all the States in the enforcement of their different quarantine regulations. It has no reference to appointments at all. I call the previous question.

Mr. LE BLOND. I have not had an opportunity to examine the bill to see what the amendments are, and for the present I shall have to object to its consideration.

Mr. ASHLEY, of Ohio. The gentleman cannot do that now.

The SPEAKER. The gentleman reserved the right to object.

AGRICULTURAL REPORT.

Mr. ROSS, by unanimous consent, submitted the following resolution; which was read, and under the law referred to the Committee on Printing:

Resolved, That in view of the great demand for and high appreciation of the Report of the Commissioner of Agriculture for the year 1864, by the agriculturists of the country, the Committee on Printing be instructed to inquire into the expediency of having printed for distribution an extra number of copies, equal to the number published for the year 1863.

INDIAN SCHOOLS.

Mr. WINDOM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be directed to examine into and inform the House, as soon as practicable, how much money has heretofore been appropriated for the erection of school-houses and the maintenance of schools at the different Indian agencies within the Dakota Indian superintendency, and the manner in which the same has been expended, together with the present condition of said agencies and the manner in which the business of said superintendency and agencies has been conducted.

MARRIAGES IN DISTRICT OF COLUMBIA.

Mr. PATTERSON, by unanimous consent, introduced a bill for legalizing marriages, and for other purposes, in the District of Columbia; which was read a first and second time, and referred to the Committee for the District of Columbia.

PROPAGATION OF FOREST TREES.

Mr. BIDWELL, by unanimous consent, moved that the Committee on Agriculture be discharged from the further consideration of House bill No. 423, donating public lands to the American Forest Tree Propagation and Land Company, for conducting experiments respecting forest-tree culture calculated to prevent the destruction and encourage the production of forests in America, and that the same be laid upon the table.

The motion was agreed to.

FREEDMEN'S BUREAU.

Mr. PRICE demanded the regular order of business.

The SPEAKER stated the morning hour had commenced, and the House resumed the consideration of House bill No. 613, to continue in force and amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes.

The reading of the bill, begun yesterday, was then concluded.

Mr. ELIOT. I have two or three amendments to offer. I move in line five, section one,

to strike out "three" and insert "two;" so it will read:

That the act to establish a Bureau for the Relief of Freedmen and Refugees, approved March 3, 1865, shall continue in force for the term of two years from and after the passage of this act.

The amendment was agreed to.

Mr. ELIOT. I move in the third section after the word "clerk" to insert the words "not heretofore authorized by law."

The amendment was agreed to.

Mr. CHANLER. Is the printed bill upon our table?

The SPEAKER. It was ordered to be printed yesterday, and is now ready for distribution.

Mr. ELIOT. I move in section five to insert "one" instead of "three;" so it will read "one million acres."

The amendment was agreed to.

Mr. CHANLER. I desire to know wherein this bill differs from the one recently vetoed by the President.

Mr. ELIOT. I will answer that presently.

Mr. CHANLER. I expect the gentleman to answer it, for it is vital to the bill.

Mr. ELIOT. I now move to recommit the bill.

Mr. Speaker, I will endeavor to explain the bill, and to answer the inquiry of the gentleman from New York. I propose to take up the bill section by section.

The first section continues the bureau for a term of two years. Gentlemen will see that that differs from the bill vetoed by the President, which was indefinite in its duration. This continues the bureau for two years, and removes one objection. If it becomes necessary at the end of that time further to continue the bureau Congress will take whatever action may be deemed proper.

The second section provides the care of the bureau shall be extended to all loyal refugees and freedmen. This is necessary. The law of March, 1865, was passed before the amendment abolishing slavery. It was passed before any slaves were made free except by military order or military proclamation. There has been no law passed since the constitutional amendment was ratified. There has been no law, therefore, as I shall show in another connection, which embraces in its affirmative provisions any freedmen except such as were declared free by the action of their own States or by the military proclamation of commanders or of the President. All other freedmen who were the subjects of emancipation by constitutional amendment are not at this time guarded by any affirmative provision of law which Congress has enacted. The second section also varies from the previous law, which did not receive the sanction of the Executive. It defines the purpose of the law in the care of the freedmen, providing that such care shall only be extended to them as shall be necessary to enable them as speedily as practicable to become self-supporting citizens of the United States, and to aid them in making the freedom which has been conferred by constitutional amendment available to them and beneficial to the Republic.

The third section simply confers upon the President the power to appoint two assistant commissioners in addition to those authorized by the act of March, 1865. That act called for the appointment of a commissioner in each of the States which had been in rebellion. It was found absolutely necessary that the care of the bureau should be extended to other States, and under the authority of law there has been no power to appoint assistant commissioners excepting in those ten States. The object of this is, therefore, simply to authorize the appointment of two more assistant commissioners.

The bill which was heretofore passed called for a territorial division of the country into districts, and it was thought unwise by the President that such power should be given and that such districting should be had. This bill contains no such provision. It simply

authorizes the appointment of two assistant commissioners, and that the different commissioners, under the President, shall have charge each of one district to be assigned him by the President where his service can be best employed. The former bill was objected to upon the ground that it called for the appointment of officers, clerks, and agents in all parts of the United States, and that the possible expense might run up to a very large amount. The present bill avoids the districting of the country, and it confines the appointment of clerks or officers in this way: that the Commissioner shall, under the direction of the President, and so far as the same shall be in the judgment of the President necessary for the efficient and economical administration of the affairs of the bureau, appoint such agents, clerks, and assistants as may be required for the proper conduct of the bureau. It also provides that each agent or clerk, not being a military officer, shall have an annual salary of not less than \$500, nor more than \$1,200, according to the service required of him. It will be found that the amount of compensation that is fixed is so moderate and the limitation upon the appointment of clerks and agents so defined, that the bill cannot be fairly exposed to criticism of that kind. It provides that military officers may be detailed to duty, and distinctly confers upon the President the power, if in his judgment it is safe and judicious so to do, to detail from the Army all the officers and agents of this bureau; but no officer so assigned shall have increase of pay or allowances. It also provides that the Commissioner, when it can be done consistently with public interests, may appoint, as assistant commissioners, agents, and clerks, such men as have proved their loyalty by faithful service in the armies of the Union during the rebellion.

The fourth section of the bill is rendered necessary by an inadvertent omission in the law of 1865, which provided no mode under which the Secretary of War could under that law issue medical stores. Of course it was necessary that medical stores should be issued where no other means were at hand or possible to be obtained. But the law as passed in 1865 did not contain the authority which is put in this fourth section, to issue such medical stores and other aid as may be needful for the purpose named in the section. It will be found that the suggestion which was made, I think, by the gentleman from Ohio, [Mr. SHELLABARGER,] has been adopted by providing that no person shall be deemed "destitute," "suffering," or "dependent upon the Government for support," within the meaning of this act, who is able to find employment, and could, by proper industry or exertion, avoid such destitution, suffering, or dependence. The last part of this section is made necessary because of this fact, that we expect very shortly that the regular medical force of the Army will be reduced to the minimum required for the service of the Army. As soon as that is done the volunteer surgeons will be mustered out of the service, and then there will be no medical force which the bureau can have the aid of, because of the fact that there will be no surgeons retained in the regular Army, whose duties will not be required for the service; and it is deemed indispensable that a provision should be made simply authorizing the Secretary of War to continue in office, as surgeons of the bureau, the volunteer officers now employed, and to fill vacancies with other volunteer surgeons unless suitable surgeons of the regular Army can be assigned to duty. If such surgeons can be made available, it will be the duty of the Commissioner to employ them; but if the surgeons of the Army are reduced to the minimum number, and no other aid can be had, then the object of this provision is to provide some surgical and medical aid for the use of the bureau.

Section five is the same as was contained in the other law excepting that instead of three millions of the public lands in the five States

of Florida, Mississippi, Alabama, Louisiana, and Arkansas, the reservation is of one million acres; and I would say in regard to this section that if the bill which has just been reported from the Senate, and which has now gone to a conference committee, should become a law—I refer to the homestead law which passed this House some time ago—this section will become of no value, and will be stricken from the bill. That time will have arrived before, in the regular order of things, this bill shall have passed both branches of Congress. If that bill does not become a law, for reasons which I will attempt to show it is essential that this section should be retained. If it does become a law, the provisions of that law will enable the Department to provide for the freedmen without the aid of the fifth section of this bill.

The sixth section, as it is now reported, refers to the Sherman lands, and is substantially altered from the provision of the previous law. It now provides that when the former owners of those lands, which are now allotted to the freedmen, and which have been occupied, as it is known, by them under licenses from the Government, shall apply for a restoration, the Commissioner shall procure other lands, provided he can obtain them at an average price not exceeding twenty-five dollars per acre; that he shall assign them, in lots of forty acres, to the occupants of lands under General Sherman's order, requiring them to pay a fair rental for the lands and permit them to purchase, provided they will pay to the Government the full cost which the Government has incurred for the lands. The provision is that no sale shall be made of the lands purchased at a price less than the cost to the United States.

The seventh section very materially changes the former law which authorized the purchase of sites, and the erection of buildings for schools, and the carrying on of those schools; and it was made a subject of comment that the United States ought not to educate. It will be seen upon an examination of this section that all that it is proposed to do here is to procure buildings for the schools. The Commissioner is authorized to cooperate with private benevolent associations of citizens, and to provide proper sites and buildings, for purposes of education, whenever such associations shall, without cost to the Government, provide suitable teachers and means of instruction, and he shall furnish such protection as may be required for the conduct of such schools, and the property shall remain the property of the United States until sales are authorized by law. It will be seen that the object of this section is to provide school-houses and protect those school-houses, while the schools themselves are conducted by associations of benevolent individuals from the North and West, or from any part of the country where associations are formed for purposes of education. I can hardly imagine that any gentleman can object to a provision of that kind. It is perfectly plain that education cannot be secured to these freedmen unless the Government, for the present, shall protect the buildings in which the schools are conducted. It is needless that I should occupy time in efforts to prove that proposition.

The eighth section simply embodies the provisions of the civil rights bill, and gives to the President authority, through the Secretary of War, to extend military protection to secure those rights until the civil courts are in operation. When the civil courts shall again be in operation the whole jurisdiction hereby conferred ceases. Before that time there is no jurisdiction anywhere except in the military. Until that time there can be no redress of grievances and no administration of the rights which under the law are now possessed by the freedmen but by military aid. But as soon as the civil courts are reorganized and reestablished, then this bill provides that the jurisdiction conferred upon the officers of the bureau shall no longer exist. In other words, it is carrying out what has been done since the organization of the bureau in March, 1865.

The last section simply provides that the officers and employees of the bureau before entering upon the discharge of their duties shall take the oath prescribed by the first section of the act to which this is an amendment. [Some excitement was here manifested among members.] I hope, Mr. Speaker, that the interruption caused by the late news from Connecticut will not be taken out of my time.

Several MEMBERS. What is the news?

Mr. ELIOT. I understand the news is that Mr. Ferry has been elected by both Houses of the Connecticut Legislature a Senator of the United States. [Applause, promptly checked by the Speaker.]

Mr. LE BLOND. I move that business be suspended to allow members an opportunity to shout. [Laughter.]

The SPEAKER. How long a time does the gentleman from Ohio [Mr. LE BLOND] desire?

Mr. LE BLOND. Well, say five minutes.

Mr. ELIOT. We can defer that for the present. It will do just as well at another time. I prefer to proceed with my remarks now.

Mr. Speaker, wherever we turn in our legislative path we encounter questions of freedmen and freedmen's rights; they face us everywhere. No peace can come that will "stay" until the Government which decreed freedom shall vindicate and enforce its rights by appropriate legislation. Absent States may return to their allegiance pursuant to laws which you enact, but no true welcome will be found until some sufficient measure of justice shall be meted out to the men whom "military necessity" converted from slaves to citizens. No man, forever hereafter, can live upon our continent and be a slave. That much by the sword and by the law has been decreed. During all our national life, before the slaveholder's rebellion began, from time to time, by leading political parties in the free States it was passionately urged that somehow or other slavery must be abolished. But their action was not persistent and could never have been effective, because at one and the same point both parties stopped, and that point was short of freedom; for it was believed that Congress could not, under the Constitution, act concerning slavery within the States, and so this crime, which most of the fathers who framed our organic law detested, was, by contemporaneous construction of that law, placed beyond the reach of national legislation.

The power to adjust what were termed "domestic relations," which were held to include the relation between the white master who owned and the man of African descent who was the subject of bondage, was not regarded as included in the powers delegated to the United States or prohibited by the Constitution to the States, and therefore fell among the reserved powers of the States. Whether this was right or wrong, it was the accepted law, which only secession ordinances and flagrant war enabled us successfully to overrule, and now by military proclamation, compelled by necessity, but resting upon principles of eternal justice, and by State emancipation, and finally by constitutional amendment, universal freedom has been ordained. The knot which politicians could not untie during eighty years of peace the sword of Mr. Lincoln cut at one blow. The power to liberate, which is now confessed, involved the duty to protect, and the Freedmen's Bureau was its earliest legal recognition. I claim for Congress full power to protect, by fit legislation, the freedom which was thus for the avowed good of the Government conferred by the Commander-in-Chief and confirmed by subsequent law. "I do this as an act of military necessity," Mr. Lincoln said. But when he had done that act, which was rightfully done, according to the laws of war then operating in full force, the duty and the power of Congress were at once disclosed. Upon that power, thus derived, the right and the duty of Congress to establish the Freedmen's Bureau will be found to rest securely.

Since the establishment of this bureau an-

other source of power has been given to us by the people of the States acting through their Legislatures. The great amendment declares that—

"Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States or any place subject to their jurisdiction."

And by its second section confers upon Congress, by direct grant, "power to enforce this article by appropriate legislation." By this act alone freedom in every State was by the people suddenly conferred upon four million bondmen. Whether military power had effectually wrought its work or not that amendment was effectual. States that had emancipated might reenslave. But that amendment instantly, when ratified, worked perpetual freedom. States which had not formally united their fortunes with the rebel government became at once subject to the power of that amendment, and in a moment the bondmen within their borders were made free.

By necessary implication, if the second section had not conferred it, we should, I trust, have found and asserted the power to protect the freedmen. But there is the grant of power. And whatever legislation Congress—the sole and exclusive judge in the first instance, subject ultimately to the judgment of the highest judicial tribunal of the Union—shall deem to be appropriate to make fairly effective the great grant of freedom is thus authorized and enjoined. A race of men enslaved by force and kept in bondage for generations, not recognized as clothed with manhood; held, clothed, fed for service; denied education, knowing no relation of husband, wife, or parent, but only of master and slave, after two centuries of oppression is declared free—free at one moment, free where they happen to be, upon the plantation, within the homes of their former masters, and under the angry eye of owners who see their "property" transformed into "men," and made citizens by law. Now, what legislation do you deem appropriate to enforce that act of freedom? Manifestly some is needed; for if the startling facts that come to us from the recent rebel States, of fiendish oppression and brutal outrage, were wholly undisclosed, we yet should know that masters who had rioted in the lusts of slavery would not let their bondmen go in peace; or if they did, we still should know that a race prostrate for generations beneath the heel of tyrannous power could not have their freedom made effectual without our legislative aid.

And yet since that great amendment became a living law we have done nothing, literally nothing, to protect them. The Freedmen's Bureau was a necessity created by military law. It was a law before the amendment was ratified by three fourths of the loyal States. Now, another condition of facts exists, and every day lost by our inaction adds to the great weight we bear of duty undischarged. I remember that we have sent to the President one bill. It had been passed, as I know we all believed, with his substantial approval, not of all its provisions, perhaps, but of its scope and general character. But we were in error. Let us try again. I do not know that any utterance of mine within these Halls can reach the presence of that high officer whom I labored to lift up from among his fellows, while men who now attempt to win him from those who were his friends, by fulsome praise, were heaping abuse upon him mountain-high, and that not in loyal States alone, but in rebel communities, and among traitors red-handed with the blood of our slain sons, and armed to take the nation's life. But, sir, if I could be heard I would, in behalf of these freedmen, invoke his aid. Our action, without his cooperation must be partial and of imperfect effect. Among the thirteen powers conferred by the Constitution upon the President the "veto power" was given as a needful guard to the people's rights when laws ill-advised or rash or contravening the Constitution are enacted. Such power is itself controlled by a

two-thirds vote of Congress. But this bill, though passed, might be an imperfect weapon in the hands of officers even of willing loyalty, because every official arm, if it would strike effective blows in this direction, must be upheld by the moral power of the Executive. I would therefore invoke his aid in behalf of these millions of men who look up to him as the controller of their destiny. He knows how they are oppressed. Senators who claim to be loyal may deny the facts established by the mouth of many witnesses. But the President knows the truth. He knows the "slaveholder." He has felt the contempt and contumely and scorn with which the mean aristocrat knows how to crush all whom the Constitution designates as "other persons," and since the war for slavery began has had his home made desolate and has held life in hand while traitors jubilant with assured success have wreaked vengeance upon loyal men who owned no slaves.

Yes, sir, he knows these men. Unclothed of office, he could not now live in his own old home in Tennessee with the military arm of Government withdrawn. Those men stand before him now with simulated respect. There is no human toady upon earth that crouches so meanly to the man above him as the tyrant who arrogantly puts his foot upon the man beneath him. The President has verified that fact in ethics. They solicit and obtain pardon with bated voice, but no repentance has brought forgiveness; and if the concurring testimony of loyal men can substantiate any fact, and put it beyond fair denial, it is proved to us that in every State where the traitor flag supplanted the banners of the Republic, and in Kentucky none the less, the hatred which disloyal men have felt toward their Government is finding expression this day upon the head of the unprotected freedman.

Mr. Speaker, I propose right here to prove that statement. General Fisk, in his report to the Commissioner of the Bureau, dated January 6, 1866, says:

"There are some of the meanest unsubjugated and unconquered, rascally rebellious revolutionists in Kentucky that curse the soil of the country. They now claim that although the amendment to the Constitution forever abolishing and prohibiting slavery has been ratified, and proclamation thereof duly made, yet Congress must legislate to carry the amendment into effect, and therefore slavery is not dead in Kentucky. Others cling to the old barbarism with tenacity, claiming that the Government must pay Kentucky for her emancipated slaves. There are few public journals in the State which afford great comfort to the malcontents, but the majority of the people of Kentucky hail the dawn of universal liberty, and welcome the agency of the bureau in adjusting the new relations arising from the total abolition of slavery. I have succeeded in obtaining the services of many first-class, judicious, popular citizens to act as superintendents at the important points. The 'Blue Grass' region is in the best of hands. General Hay, at Hopkinsville, was a bad failure. He has been removed. I have consulted General Palmer in the appointment of every agent. I return to Kentucky on the 10th instant, by invitation of the Governor, and shall meet the principal planters of the State at Frankfort, in convention, on the 11th. I hope to do good unto them, and make the bureau a blessing to all Kentucky."

On the 23d of January, after the convention had been held, he writes:

"On the part of many of the politicians in Kentucky there is a bitter opposition to the bureau. Governor Bramlette is most cordial in his expressed approval of my official action, and, I think, earnest in his desire that the Assembly so legislate as to give the freedmen impartial justice. A majority of the legislators officially denounce the bureau, and pronounce its presence in Kentucky a usurpation of power, and the act of Congress by which it was established unconstitutional. Just now there is at Frankfort a heated canvass for a United States Senatorship in progress. Candidates for the position vie with each other in denouncing the Freedmen's Bureau. Men who have fought gallantly for the honor of their country's flag are willing to purchase promotion to the United States Senate at the expense of justice to thirty thousand of their fellow-citizens and fellow-soldiers too. The Legislature makes no progress in the enactment of laws applicable to the new condition of things, but lengthy resolutions denunciatory of the bureau, and requesting the President to immediately withdraw the odious institution from the State, are discussed in protracted debate, and voted upon affirmatively with astonishing unanimity. Neither myself nor any of my subordinates are accused of much wrong-doing. We are even complimented as being just and conservative gentlemen; but the Freedmen's Bureau and every soldier of the United

States must be immediately removed from Kentucky to prevent irritation, &c. If all the States were to so solemnly protest against the presence of United States troops within their borders, and the country should think best to gratify the clamor for immediate and entire removal that we hear from so many States, the Government would necessarily be compelled to rent a parcel of ground in Canada on which to erect barracks for the accommodation of its withdrawn troops.

"I assure you that in no portion of the country is this bureau more a positive necessity than in many counties of Kentucky; and for the sake of the nation's plighted faith to her wards, the freedmen, and in behalf of humanity and justice, I implore you and the President to listen to no request for its withdrawal from the State until the civil authorities, in the enforcement of impartial laws, shall amply protect the persons and property of those for whose protection and defense this bureau is set.

"I saw with my own eyes our fellow-soldiers, yet clad in the uniform of their country's Army, fresh from their muster out of service, who within the last ten days were the victims of fiendish atrocity from the hands of their former masters in Kentucky. These returned soldiers had been to their old homes for their wives and children, and had for this offense been knocked down, whipped, and horribly bruised, and threatened with shooting, should they ever dare to set their feet on the premises of the old master again and intimate that their families were free."

On the 14th of February General Fisk writes to the Commissioner of the Bureau as follows:

"GENERAL: Kentucky.—I regret that I am unable to report the bureau affairs progressing as smoothly in Kentucky as in Tennessee.

"The freedmen of the State are very generally disposed to enter into labor contracts for wages or a share of the crop, and most of them prefer remaining in their own State to emigration elsewhere. On the part of a large majority of the whites I believe there is an honest desire to adjust on a fair basis the new relations arising from the abolition of slavery, but the bureau is not a popular institution with them. They regard its presence among them as unauthorized—denounce its officials as usurpers and despots, and clamor for its immediate removal from the State.

"In obedience to orders, immediately upon the ratification of the constitutional amendment forever abolishing and prohibiting slavery, I extended over the more than two hundred thousand freedmen of Kentucky the supervision of this bureau, and appointed agents in a few counties only. Superintendents were selected from the citizens, and appointed upon the recommendations of the best men I could consult. The Kentucky Legislature has, by numerous resolutions, called upon Government to remove the bureau from the State; propositions to forever disqualify any citizen from holding an office in the State who might act as an agent of this bureau, were introduced and discussed. The official State paper (Louisville Democrat) has declared that, by the ratification of the constitutional amendment, the slavery question has become more unsettled than ever, and many of its readers, believing its doctrines, practice accordingly, and still hold freedmen as slaves. These influences in opposition to freedom have rendered it difficult to conduct the bureau affairs in Kentucky with that harmony and efficiency which have elsewhere produced good results.

"More than twenty-five thousand colored men of Kentucky have been soldiers in the Army of the Union. Many of them were enlisted against the wishes of their masters, and now, after having faithfully served their country, and been honorably mustered out of the service, and return to their old homes, they are not met with joyous welcome and grateful words for their devotion to the Union, but in many instances are scourged, beaten, shot at, and driven from their homes and families. Their arms are taken from them by the civil authorities and confiscated for the benefit of the Commonwealth. The Union soldier is fined for bearing arms. Thus the right of the people to keep and bear arms as provided in the Constitution is infringed, and the Government for whose protection and preservation these soldiers have fought is denounced as meddlesome and despotic when through its agents it undertakes to protect its citizens in a constitutional right. Kentuckians who followed the fortunes of John Morgan, and did all in their power to destroy the nation, go loaded down with pistols and knives, and are selected as candidates for high positions of honor and trust in the State. The loyal soldier is arrested and punished for bringing into the State the arms he has borne in battle for his country.

"That you may have a bird's-eye view of the protection afforded the freedmen of Kentucky by the civil law and authorities, I have the honor to invite your attention to the following extracts from communications received from our correspondents in that State.

"C. P. Oyler, of Covington, writes as follows:

"Jordan Finney and family (freedmen) lived in Walton, Kentucky; they owned a comfortable home. Two of the daughters were wives of colored soldiers, and lived with him. Returned rebel soldiers hereinafter named combined to drive this family from the State. They attacked the house three times, abused the women and children, destroyed all their clothing, bedding, and furniture to the value of \$500, and finally drove them from their homes. The names of the perpetrators, so far as known, are Allen Arnold, John Arnold, Franklin Yowell, Woodford Fry, L. Snow, and Robert Edwards; all live in Walton, Kentucky. An attempt was made to bring these parties to justice, but it failed, as colored testimony could not be received. This same man Finney has a daughter held as a slave by Mr. Widen Sheet, of Boone county, whom he values at \$1,000. Sixteen armed men resisted Mr. Finney and an expressman when they went

for the girl, and beat them cruelly with clubs and stones."

"An old colored man named Baxter was shot and killed by James Roberts for refusing to let Roberts in his house. The civil authorities will neither arrest nor punish said Roberts, as there is no testimony except of colored persons. (Reported by Thomas Rice, Richmond, Kentucky.)

"Lindsay Taylor, of Richmond, stabbed a negro on the 30th of January, for no cause save that the negro did not wish Lindsay to search his house. The civil authorities tried Taylor and acquitted him. (Reported by Thomas Rice, superintendent.)

"L. L. Pinkerton, superintendent of Fayette county, at Lexington, reports that, 'in his and the opinion of all whom he has consulted, the freedmen cannot receive their just rights without a considerable military force.'

"C. P. Oyler, Covington, writes: 'The civil officers, after the late action of the Kentucky Legislature in regard to the Freedmen's Bureau, refused to cooperate with me, and manifest a disposition to drive the bureau out of the State. It will be impossible to secure to freedmen their just rights without the aid of a military force. Colored people are driven from their homes and their houses burned.'

"William Goodloe writes: 'The counties of Boyle, Lincoln, and Mercer are infested with guerrilla bands. Outrages are mostly committed upon colored persons. The evidence of colored persons is not taken in court. I am powerless to accomplish anything without soldiers.'

Peter Branford, a returned colored soldier, in Mercer county, was shot by James Poore, a white man, without cause or provocation.

Judge Samuel A. Spencer, of Green county, writes: 'A great many colored men are beaten, their lives threatened, and they refused the privilege of returning home because they have been in the Army. I cannot accept the agency on account of the action of the Kentucky Legislature.'

"E. P. Ashcraft, of Meade county, writes: 'Richard, William, Jesse, and John Shacklett and Martin Taylor, returned rebel soldiers, have on different occasions attacked negroes with fire-arms, and say they intend no d—d niggers shall live on this side the Ohio. The civil authorities are powerless.'

"R. W. Thing, of Warren county, writes: 'An old negro was killed by gun-shot while attempting to run from a white boy eighteen years of age, to escape a whipping.'

"A freedman was attacked in his cabin and shot. He and his wife ran to the woods, with bullets flying thick and fast around them from five or six revolvers, the woman escaping with her life by tearing off her chemise while running, thereby presenting a darker-colored mark."

"A woman was stabbed by a white woman in the neck, the knife penetrating the windpipe, for giving water to a Union soldier in a tumbler."

"A woman and her son were horribly cut and mangled with the lash and then hung by the neck until so nearly dead that water had to be thrown in their faces to revive them to make them acknowledge that they had set a house on fire."

"A woman received a severe cut in the head from a club in the hands of a man who drove her from her home because her husband had joined the Army."

"There are several cases of robbery of colored persons by returned rebels in uniform, in Russellville, Kentucky. The town marshal takes all arms from returned colored soldiers, and is very prompt in shooting the blacks whenever an opportunity occurs."

"I have a case in hand to-day where a white man knocked down an old man eighty years of age because he asked for and urged the necessity of his pay for cutting eight cords of wood."

"There has been a large number of cases of women and children being driven from home on account of their husbands enlisting."

"It is dangerous for colored people to go into Logan, Todd, Barren, and the north part of Warren counties after their children."

"A freedman's wife left her former master and came to live with him, (her husband.) She was followed and shot at."

"A furloughed soldier of the twelfth United States colored artillery was murdered at Auburn, Kentucky, while sitting on his bed. The civil authorities do nothing in the case."

"An old freedman in Allen county, Kentucky, was shot and killed because he would not allow himself to be whipped by a young man."

"Major Lawrence, of the seventeenth Kentucky cavalry, reports that a negro was shot in one of the streets of Russellville last night. No cause whatever for it. Several negroes came to me to know what they should do, saying they had been robbed by a party of men wearing the Confederate States uniform. The judges and justices of the peace in almost every instance are rebels of very strong prejudices, who will not even take notice of the most hideous outrages, and if a case is turned over to them they will not administer justice. The action of the courts in southern Kentucky indicates that the day is far distant when a negro can secure justice at the hands of the civil law."

"In Grant county a band of outlaws, styling themselves 'moderators,' made an attack upon the colored citizens for the purpose of driving them from the State. They went late in the night to their homes, took them from their beds, stripped and whipped them until they were unable to walk."

"Colonel William P. Thomasson, of Louisville, Kentucky, writes that 'outrages and wrongs upon freedmen are numerous, especially upon returned colored soldiers. A few nights since a colored soldier just mustered out, with his money in his pocket and a new suit of clothes on his back, was waiting for the cars at Deposit station, a few miles from Louisville; four or five young rowdies of the place set upon him to

rob him. He was a light-colored man, and one of the robbers said to his fellows, "He is a white man; let him alone." A dispute arose as to his color, and he was taken into a grocery, a lamp was lit, and the question of his color settled. He was then robbed of his money, arms, and clothing, was stripped to his shirt, and told to run. He did run, and was shot at while escaping, and the shot took effect in his hand.

"I am in daily receipt of similar reports from our superintendents, judges, sheriffs, and military officers. Some of the writers dare not be known as giving this information, fearing assassination as the consequence.

"For narrating at a freedmen's commission anniversary meeting in Cincinnati, on the 18th ultimo, what I had myself seen of brutalities in the 'Blue Grass,' I have been denounced in the Kentucky Legislature as a liar and slanderer. A committee has been appointed to investigate the matter. I have furnished them the names of witnesses, and requested that their powers be enlarged, and they authorized to investigate the condition of the freedmen throughout the State; but I have good reason for believing that the committee will simply make a report that General Fisk is a great liar, and should be removed from office, &c. It is well to remember that a more select number of vindictive, pro-slavery, rebellious legislators cannot be found than the majority of the Kentucky Legislature. The President of the United States was denounced in the Senate as a worse traitor than Jefferson Davis, and that, too, before the bureau tempest had reached them.

"The entire opposition is political, a warfare waged against loyalty, freedom, and justice.

"I have endeavored to administer the affairs of the bureau in Kentucky precisely as in Tennessee; have studied to be conciliatory in every particular, and not to interfere in the least with the civil affairs of the State, except my duties and orders imperatively demanded it. As yet, the Legislature have enacted no laws securing impartial liberty and right, and I very much fear they will not at this session. The late letter of Major General Palmer, on Kentucky affairs, is truthful and candid. I wish her good people would heed his counsel and her lawmakers follow his wise suggestions.

"There are many old, infirm, and sick, and orphans in Kentucky who have been thrown upon the Government for support. Rations were issued to this class in December at a cost of \$4,993 56, eightfold the cost of sustaining the same class of persons in Tennessee the same month. In the latter State the people have much more generously treated the unfortunate freedmen, especially the families of fallen soldiers, than have the Kentuckians; hence the cause of the increased expense to the Government of providing for the destitute freedmen. Every effort is being made to secure homes for the widows and orphans in other States. A large number have been kindly received and provided for in Ohio and Indiana. The Western Freedmen's Aid Commission have rendered me valuable service in locating this class in comfortable permanent homes.

"In making this extended report of Kentucky affairs I wish nothing to 'extenuate or ought set down in malice.' It is best that you understand the case fully. I rejoice that there are so many persons in the State who treat the freedmen justly and generously. Outlaws in different sections of the State, encouraged by the pro-slavery press, which daily denounces the Government and its officials, make brutal attacks and raids upon the freedmen, who are defenseless, for the civil-law officers disarm the colored man and hand him over to armed marauders. In neither Tennessee, Georgia, Alabama, Mississippi, nor Arkansas, where I have had an opportunity of observation, does there such a fiendish spirit prevail as in some portions of Kentucky. I trust that ere long the better portion of the people will rise in their indignation and demand that justice be done to all the citizens of the State.

"It has fallen to my lot to officially stand by the death-bed of slavery in the United States. Kentucky's throes are but the expiring agonies of the great barbarism.

"I trust the Government will insist upon strict justice for every man, woman, and child who through the Red sea of civil strife has marched from slavery to freedom.

"I will try to do my whole duty, regardless of denunciations, jeers, and threats of assassination. I will give cheerful heed to your admonitions and counsels.

"While I remain in this position I desire the power to protect the poor, the weak, and the ignorant, who confidently look to this bureau for the protection which the State, made rich by their unrequited toil, yet fails to afford them."

Brigadier General Sprague, assistant commissioner for Arkansas, on the 10th of January, 1866, writes to the Commissioner:

"I see by the act of Congress organizing the bureau that its existence is limited to one year after the war. If it should not be extended, there is no hope for the freedmen of Arkansas, Texas, and that portion of the South remote from railroads and telegraphs. They will be starved, murdered, or forced into a condition more horrible than the worst stages of slavery. Our people's wrath over defeat would be poured upon the heads of the helpless ones once their slaves. I say this sorrowfully of our people, yet I know it is but too true—their prejudices give way slowly. By extending the existence of the bureau, what education and thought failed to do might be supplied by an influx of liberal-minded people.

"This is the language of a citizen whose intelligence and opportunities for judging entitle his statements to consideration. His statements are corroborated by all the testimony that reaches me from other parts of the State, and what is said of the southwestern portion is in the main true of the whole State.

I give it as my deliberate opinion that if the military was withdrawn from the State not a school for colored children would be allowed within its borders, and I doubt if an unspoken Union man would be allowed to remain. In this sparsely settled and isolated country the process of 'reconstruction' will necessarily be slow, and I am sorry to add that the influence and example of some of the men who have received special pardon was much better before their pardon than since, yet there is a perceptible improvement in the temper and sentiment of the people at large."

Inspector General William E. Strong, in his report of action and observation in Texas, says:

"In the interior of the State, one or two hundred miles from the prominent cities, away from the influence of Federal troops and Federal bayonets, at points where our Army has never penetrated, and where the citizens have but little fear of arrest and punishment for crimes committed, I assure you there is a fearful state of things. The freedmen are in a worse condition than they ever were as slaves. When they were held in bondage they were, as a rule, treated well; cases of extreme cruelty were very rare; it was for the interest of the master to take care of them, and not to ill-treat them. Now it is quite different; they have no interest in them, and seem to take every opportunity to vent their rage and hatred upon the blacks. They are frequently beaten unmercifully, and shot down like wild beasts, without any provocation, followed with hounds, and maltreated in every possible way. It is the same old story of cruelty, only there is more of it in Texas than any southern State that I have visited. I could cite many cases of cruelty that came under my own observation if it were necessary to do so. The planters generally seemed discouraged, and insisted that the system of free labor would never answer; that the negroes were idle and worthless, and showed no disposition to work, and were wandering about the country utterly demoralized, and were plundering and stealing indiscriminately from the citizens.

"It was also generally reported by the white people that the freedmen failed wholly to fulfill their contracts, and that when they were needed most to save the cotton crop, they would stop their work and leave them without any cause whatever. After a careful investigation, I do not find these charges against the freedmen to be wholly true.

"The entire crop raised in Texas—cotton, corn, sugar, and wheat—was gathered and saved by the 1st of December. Most assuredly no white man in Texas had anything to do with gathering the crops, except perhaps to look on and give orders. Who did the work? The freedmen, I am well convinced, had something to do with it; and yet there is a fierce murmur of complaint against them everywhere that they are lazy and insolent, and that there is no hope for a better condition of affairs unless they can be permitted to resort to the overseer's whip, and hounds.

"Two thirds of the freedmen in the section of country which I traveled over have never received one cent of wages since they were declared free. A few of them were promised something at the end of the year, but instances of prompt payment of wages are very rare. Not one in ten would have received any compensation for the labor performed during the year 1865 had it not been for the rigorous measures resorted to by Colonel De Grass, provost marshal general of the district of Houston, who sends into the interior frequently two hundred miles and arrests the parties who have been guilty of cruelty to the freed people, and where they have violated their contracts with them compels them to make fair and equitable settlements. Colonel De Grass has a small command of cavalry under his control, and he keeps it in motion constantly through the country, searching for parties who have murdered or maltreated the freedmen. I cannot speak too highly of the course pursued by the colonel. He displays the same earnestness of purpose and fearlessness in the discharge of his duty that he did in the old army of the Tennessee, and although his life has been threatened by the chivalric citizens of the country, yet he is not deterred by their threats from discharging his duty as he understands it. He is a true friend of the black people, and will not see them ill-used. I know that some of the lessons which he has taught the citizens in the vicinity of Houston will not soon be forgotten.

"I saw freedmen east of the Trinity river who did not know that they were free until I told them. There had been vague rumors circulated among them that they were to be free on Christmas day, and that on New Year's there was to be a grand division of all the property, and that one half was to be given to the black people."

In closing his report, General Strong says:

"In order to correct abuses and regulate the labor system thoroughly throughout the country General Gregory should have fifty good officers to assist; and if these could be placed on duty at the principal villages in the interior, for three hundred and fifty miles north of the coast, and a small force of troops sent with each assistant to enforce law and order, it would be but a short time before a decided improvement would be observed.

"It is the opinion of every staunch Union man with whom I conversed, and with nearly every officer on duty in the State, that if the United States troops were removed from Texas no northern man, nor any person who had ever expressed any love for northern institutions or for the Government of the United States, could remain with safety, and the condition of the freed people would be worse beyond comparison than it was before the war and when they were held in bondage."

Brigadier General Tillson, acting assistant

commissioner for Georgia, writes from Augusta under date January 15, 1866, as follows:

"In almost every case, as heretofore reported, the withdrawal of troops has been followed by outrages on the freed people; their school-houses have been burned, their teachers driven off or threatened with death, and the freed people by fraud, and even by violence, made to enter into unjust and fraudulent contracts. The responsible and educated classes are ashamed of these outrages, and loudly and justly claim that they should not all be judged by the people who are mean and cruel enough to practice these wrongs; but the convictions of the former never take form in action—seldom in a manly, open protest. It requires the most careful nursing and culture to keep alive even a show of justice toward the freed people.

"Nearly all the females and young men, and all the blacklegs and rowdies, are open and defiant in their expression of hate for Yankees and negroes. The simple truth is, that the only public opinion which makes itself felt is as bitter and malignant as ever.

"These are the facts, and any theory or policy which disregards or ignores them is of little account, no matter by whom advocated or sustained. Unless we keep a firm, just, kind hand upon these people, all our past labor will be thrown away.

"A large number of troops is not required; but the State is one of the largest, and unless small garrisons are kept at many points, most unfortunate results will certainly follow; labor will be insecure and untrustworthy, and industrial operations will be sadly interfered with. Some of the unpleasant consequences to be anticipated are already exhibiting themselves; as, for instance, the recent attack on the garrison at Brunswick.

"The people who have something to lose begin to appreciate the insecurity which follows the withdrawal of garrisons, and are asking to have them sent back.

"The highest and best interests of the State, as well as of the freed people, require an addition to the force now in the department."

Brigadier General C. H. Howard, specially appointed to examine into the condition of affairs in Georgia and Florida, in his report dated at Charleston, December 30, 1865, states at the close of his carefully prepared communication to the Commissioner of the bureau, as follows:

"As the result of this tour I beg leave to submit the following general considerations:

"I. Agencies of the United States Government, of some sort, similar to the existing bureau agencies, are for the present indispensable in every part of the two States visited.

"1. Great suffering and starvation would ensue among the refugees and freedmen in some sections were all Government aid withdrawn.

"2. Public sentiment is such that even should the laws be made impartial the negro could not obtain redress for wrongs done him in person or property.

"3. There seems to be a moral incapacity with the white residents to treat him fairly in the ordinary transactions of business, as, *exempli gratia*, in making contracts. His own inexperience in such things, therefore, renders necessary some agency to guard his interests.

"4. Existing theories concerning the education of laborers and the prejudice against the blacks are such as absolutely to prevent the establishment of schools for the freedmen, even though the expenses be paid by the benevolent associations of the North; and the many successful schools now in operation would be broken up in most places on the withdrawal of the Government agencies. The same general observations will apply to all missionary work by northern agents; and from special inquiry and investigation of this subject I am convinced that very little in the way of moral and religious instruction for the freed people is to be expected at present from the members and ministers of the southern churches. On the other hand, it is for the interest of the whites for the agencies to retrain, and the better class of thinking men expressed themselves unhesitatingly in favor of it.

"(1.) The prevailing want of confidence on the part of the freedmen in those who have been slaveholders makes it necessary to have a third party (and a United States official is better than any other) to induce the freedmen to enter into contracts. Many of the white residents told me that no contracts would have been effected but for the bureau officers.

"(2.) Such agents are needed often to secure the fulfillment of contracts on the part of the freedmen, both in explaining the exact meaning and force of the contract and enforcing it by different motives and means.

"(3.) For the protection of the whites against any hostile combinations of the blacks. This will be needed as long as the present public sentiment of the whites continues, insuring a corresponding distrust and hostility on the part of the blacks. Our agents have done much to allay such ill-feeling; but however unreasoning and ignorant the freedmen may be in any community, and however much their number may predominate over the resident whites, they will generally heed and be governed by the advice of United States officials.

"II. In order adequately to protect the persons and property of the freedmen, and promote their education, as well as for the proper regulation of labor for the benefit of all concerned, the present number of agents should be increased.

"III. United States troops are at present absolutely necessary as auxiliary to the agents.

"1. There is no other means of executing orders and insuring justice to the freedmen.

"2. In many sections United States agents would not be tolerated unless backed by military force. I was assured by respectable and influential residents of the country in some sections, that no northern man could reside there were it not for the presence of the bayonet, and that, in their opinion, such would be the case for ten years to come. I am not convinced of the truth of this statement, yet, with my own observation, I am led to conclude,

"3. That the troops should remain for protection of northern residents and to encourage emigration.

"4. As desired by the better part of the whites, to maintain good order and peace.

"5. Wherever United States troops are withdrawn a militia organization at once springs into life, which invariably tends to disturbances between whites and blacks, and to the latter is, I am convinced, an unmixed evil."

General Gregory, in writing from Galveston, Texas, December 9, 1865, says:

"In some portions of the State, and especially in the case where our troops have not been quartered, freedmen are restrained from their liberty, and slavery virtually exists the same as though the old system of oppression was still in force. The freedmen do not understand their true status, and their former masters, although acknowledging them to be free, practically deny the truth by their acts. With this class of men (and a few of the editors who still continue to misrepresent the object for which this bureau was instituted) we have more difficulty than any other as they refuse to pay the laborer his hire, and it seems almost impossible for them to deal justly and honestly with him. This is owing, perhaps, to the fact that heretofore they have had his labor without compensating him therefor. In this respect, however, there are evidences of improvement, and I trust that in the future there will be less cause for complaint on this account. They must pay them, if they expect to employ laborers worthy of their hire."

"Owing to the vast extent of territory embraced in my district, I find great difficulty in procuring a sufficient number of officers who can render me that assistance, as sub-assistant commissioners, which is necessary to a proper discharge of my official duties. But few, comparatively, feel and manifest that interest in the advancement of the freedmen that they should."

And now, Mr. Speaker, I present some more recent proof, drawn from the official records of the bureau.

Extracts from a report of Brevet Major G. B. Carse, dated Lexington, Virginia, March 18, 1866:

"I have the honor to report that during the month of February I investigated upward of fifty cases, of which many were of considerable importance. Some of assaults made upon the freedmen, others in regard to non-payment of wages for services rendered, &c.

"The great difficulty seems to be caused by the whites not being willing to pay for the labor after they have agreed to do so.

"I find some cases in which the former owners of these people have taken the whole amount of last year's hire from the parties to whom they hired their slaves during the hiring season of 1864 and 1865. In all cases where I have found this to be the case I have ordered that payment be made to the freedmen from the 10th day of April, 1865, at the same rates for which they were hired previous to the surrender. Many of the contracts at that time, i. e., previous to the surrender, were made payable in grain, and I have invariably caused grain to be paid or its equivalent.

"An ex-member of the Virginia State Legislature drew half of last year's hire for one of his slaves from a man named Teaford, to whom he had hired his slave previous to the surrender, and he has tried to get the balance, but the case was brought to my notice, and I have ordered Mr. Frazier (ex-member of the Virginia Legislature) to pay back the grain taken by him as hire from the 10th of April until the 1st of July, and also ordered Mr. Teaford to pay the freedman the full amount of grain due from the 1st of July until the time the freedman in question ceased to work for him.

"I have had a case reported to me in which a colored man was struck thirty-nine lashes by his former owner because he got an order or statement from General Darall last June and took it to his master to prove that he was a free man. I will report the facts in the case as soon as I have heard them from both parties.

"I am more inclined to think the people of the surrounding country are less inclined to do justice to the freedmen than I was when I arrived here."

"Unless there is a better disposition on the part of the citizens and their sons, and the cadets and students, I will have to send for troops. It seems impossible for these people to understand that the laws of the United States are supreme here. They seem to think nothing should occur or be said that does not accord with their ideas of right and wrong, and that an officer of the Government is a thing only to be tolerated."

"There does not seem to be any disposition on the part of the whites to help the aged and infirm freedmen."

An official letter of Colonel E. Whittlesey, of date March 23, 1866, speaking of North Carolina, says:

"In this connection I may add that under my Circular No. 1, several cases of petty larceny have been tried by civil courts, and the old barbarous punishment of whipping been inflicted. I have brought the

matter before the department commander, and am awaiting his action.

"I am satisfied that the negro has very little chance of getting his due before the civil courts of North Carolina at present. Still it is desirable to transfer jurisdiction to them as soon as possible."

Extract from report of J. W. Alford, inspector of finances and schools, dated March 17, 1866, Washington, District of Columbia:

"On my route from Richmond to Washington I fell in with a striking instance of the persecution of loyal men in the South. A company of seventy-five Quakers, old people, men, women, and little children, were on the train, fleeing from Randolph county, North Carolina, to homes they expected to find in the more quiet West. One hundred and twenty-five of their number, as they told me, were to follow them. They had been settlers in that county for many years; peaceable and prosperous. But their young men when conscripted into the rebel army refused to go, and fled as refugees to the mountains. Now, as they come back to peaceful employments the returned rebels persecute the whole community in every possible way, disturbing their social comfort, vexing them with petty lawsuits, threatening violence, and in some cases inflicting it. Their proverbial patience had become so exhausted and the fears of their women and children so excited that they could endure it no longer. Farms and pleasant homes could not be sold under such circumstances, but were abandoned, and with the little money saved by their frugality they hope to reach their destination in the State of Indiana.

"The whole story of this honest, simple-hearted people was very touching, enlisting deeply the sympathy of their fellow-travelers. Their means were evidently very scanty and their hearts were sorrowful. Aged women, unaccustomed to hardship, spent the night, from Aquia creek, on the deck floor of the crowded steamer, while little babes wailed themselves to slumber in the arms of mothers without their accustomed nourishment.

"There can be no mistake in such a case. These staid, excellent people have not left their chosen and long-cherished homes without sufficient reason."

NORTH CAROLINA.

From the general report for the month of February, 1866, of Colonel E. Whittlesey, assistant commissioner, the following paragraphs are extracted:

"The instances of petty annoyance and interference with the industry and enterprise of freedmen who are trying to do well are numerous. Their horses and mules are stolen, their fences torn down, their pigs killed, their arms taken away."

"The apprenticeship of children has given rise to many abuses and hardships. In some instances the civil authorities have undertaken to execute articles of indenture. At a single session of the county court in Sampson county several hundreds, it is reported, were 'bound out' to their former masters, in many instances the older children only being selected for this service, leaving the young children to be supported by their parents. I have directed the assistant superintendent of that county to proclaim all such indentures as are contrary to the regulations of this bureau null and void."

"The freedmen are not yet free from apprehension that their liberty will prove but a dream. They see so much ill-feeling exhibited toward them and hear so often that they are an inferior race and must always expect to be, that they are afraid to trust the whites. Could they be sure of full protection everywhere they would exert themselves more earnestly to acquire property and to improve their condition. Even now, with all the discouragements under which they labor, there are many cheering signs of progress."

SOUTH CAROLINA.

In a report made on the 28th of February, 1866, by Lieutenant Colonel John Deveraux, acting sub-assistant commissioner for Edgefield district, to Brevet Major General R. K. Scott, assistant commissioner, it is stated as follows:

"1. The total military force in Edgefield district is nineteen enlisted men of the twenty-fifth Ohio Veteran volunteers, commanded by a lieutenant, seven men of which force are stationed at Edgefield Court-house and twelve at Hamburg. Edgefield being one of the largest and most unruly districts in the State, this small force is entirely inadequate to exact the proper respect for the United States authorities.

"2. There are two organized bands of outlaws, one consisting of eight men and the other of thirteen men, led by an ex-confederate major named Coleman, at present raiding this district and committing with impunity the most fiendish outrages on Union men and negroes. They have murdered a number of negroes and one white man without provocation, and robbed and driven from their homes several northern men who have property here. Coleman, the leader, is a desperate character; he has exhibited to several persons whom I saw, eight ears cut from colored persons; he carries them in an envelope and shows them as trophies."

"It is my decided opinion that nothing will restore the supremacy of the laws and render the lives of Union men or freedmen safe in this part of the country but the hunting down and extermination of these desperadoes by a respectable force of cavalry, as they are mounted in the best manner and belong to the class mis-called (in the South) gentlemen, and no doubt are harbored and kept well posted by many of the inhabitants."

From an official brief (made up from reports received from the acting sub-assistant commis-

sioners and agents of the bureau in South Carolina) transmitted on the 16th instant by Brevet Major General R. K. Scott, to the Commissioner, the following extracts are taken:

COLLSTON DISTRICT.

"Here a planter had a man, his wife, and two boys under contract. They taking the small-pox through being placed in a house where the disease had prevailed, the planter sent them in a rain storm two miles into the woods, and then left them without food or clothing to die, although at the time he was in debt to them. They remained in the woods three weeks in great suffering until they were accidentally discovered by a colored man, who took them home and provided for them."

NEWBERRY DISTRICT.

"The freedmen are subjected to barbarous treatment by a band of outlaws. In one instance two freedwomen were taken from their houses, ravished, and otherwise maltreated. It is believed that regularly organized bands of outlaws infest some portions of the country for the express purpose of persecuting the freedmen. Their operations being carried on at a distance from the garrisons, which are infantry, it is very difficult to detect and arrest them, and the freedmen seldom dare to complain for fear of greater cruelties."

"A letter just received from the post commander at Greenville Court-house, shows a horrible state of affairs in that district. 'With but few exceptions, and those due to the presence of the United States troops, the freedmen were turned off the plantations without pay for last year's work. The contracts for this year show a disposition on the part of the planters to reduce wages to the lowest possible figure, and in very many cases to obtain, by deceit, the services of freedmen on terms far worse than nothing.'

"Cruelty and even death of freedmen at the hands of white civilians, are not uncommon occurrences. One party boasted to prominent men of the district that he had shot twenty-eight freedmen since 'the surrender' and offered his services to kill others if there were any particularly offensive to the community. 'One boy coming back to the plantation after having been away with United States troops, was in the presence of the other freedmen of the place deliberately shot, but he being only wounded thereby, a rope was placed round his neck when he was choked until dead.'

GEORGIA.

From a letter received February 7, 1866, by the Commissioner from General Tillson, assistant commissioner, the following paragraphs are extracted:

"The people of the State, who generally at first were strongly opposed to giving reasonable wages, influenced by the judicious course of the bureau, are exhibiting a readiness to pay the freed people fair wages. Very many say that their prospects were never so good before, and that the freed people were doing admirably. 'Whenever it could be brought to bear on such people (i. e., planters complained of in remote parts of the State) without an exception, the kind, conciliatory, but immovably firm course pursued by the bureau has induced them to change their intentions and act in a just and sensible manner.'

FLORIDA.

Accompanying Colonel Osborne's (assistant commissioner) report of the condition of freedmen's affairs in Florida, for the month of February, is a report from Lieutenant Quentin, sub-assistant commissioner in charge of bureau affairs for the counties of Madison, Taylor, and La Fayette. From the record of Lieutenant Quentin's report the following is extracted:

"This officer makes a generally favorable report of the condition and disposition of the freed people, and states that the better class of whites seem to be very well disposed toward the freedmen, although the lower class of whites are found to be quarrelsome toward their laborers, as well as abusive and greedy."

"There is so wide a difference between employer and employé in respect to their ability to transact ordinary business and to comprehend the force of a contract, and so great a desire rapidly to repair losses and regain fortunes, and withal so little desire on the part of employers to see the freedmen rise in any respect, that unless an enlarged benevolence is to govern in the settlements at the close of the year, little will have been accomplished for the colored man except to arouse him from a not too trusting confidence to an unpleasant and unconquerable suspicion."

LOUISIANA.

From a report made March 9, 1866, to Brevet Major General Baird, assistant commissioner, by James Cromie, captain and brevet major twelfth Veteran Reserve corps:

"I would also respectfully report that the number of colored persons in this (Calcasieu) parish before the passage of the ordinance of secession in this State was sixteen hundred, and from the information which I have received I believe there are at the present time twelve hundred. There are some white inhabitants who still insist upon holding these freedmen in their former state of bondage. Those citizens remaining in Lake Charles and vicinity desire very much to have an agent of the bureau sent to them in

order to regulate the employment of freedmen, and also in regard to the various question constantly arising among them under the new order of affairs connected with the emancipation of their former slaves."

TEXAS.

From the report of Brevet Brigadier General E. M. Gregory, assistant commissioner, of date February 28, 1866:

"I have the honor to report that from all sources information comes of encouraging results from the efforts of this bureau. Complaints are few, and its beneficent results frequently and frankly acknowledged. Fault-finding and accusation come only from that class of men who are but slowly learning to respect law, justice, and the rights of man, and who sullenly chafe under the restraints of a Government that sets metes and bounds to their unbridled wills."

"There are no indications of an increase of loyal sentiment in the State, though there is a visible abatement in the number and harshness of those cases of outrage and maltreatment coming under the cognizance of the bureau."

MISSISSIPPI.

The following are extracts from a report submitted January 12, 1866, to Colonel Samuel Thomas, assistant commissioner, by Captain J. H. Matthews, sub-assistant commissioner, stationed at Magnolia, Mississippi:

"On the 15th day of December, 1865, a negro reported at my office and informed me that his former master, Mr. Felix Allen, of Pike county, had sent him into Amite county, Mississippi, on business, and that he would call and see me on his return. On the ensuing day he returned to my office, most shamefully beaten, and stated that after he had performed his mission with Mr. Allen's son-in-law, he lodged for the night in the quarters on the place by direction of Mr. Allen's son-in-law; that while in bed about eleven o'clock p. m. some six or seven white men came and burst into the house, and with pistols drawn asked him what he was doing there, when he informed them that he was sent there by Mr. Allen, his master, and that if they would go with him to the white folks' house he would prove his statement; but 'no,' they told him, 'we don't care a damn for that, we want you to go with us.' When they had taken this man about a mile they were met by about fifty armed mounted men (supposed to be militia, and commanded by a man they called 'lieutenant') who ordered them to take him (the negro) off from the road and give him a flogging; and when they had proceeded about fifty yards from the road they threw him down and six or seven of them jumped into his face and bosom with their heels, stamping and kicking him."

"When this old negro (he was apparently sixty or sixty-five years old) returned to my office, he presented a most frightful appearance, his breast bone broken, and he spitting blood."

"I respectfully invite your attention to a murder committed by one John H. McGee, some nine months since, which would challenge the world for an equal in studied brutality, which was reported to me some time since, but for want of facts I did not feel warranted in reporting before. The negro was murdered, beheaded, skinned, and his skin nailed to the barn. Should this affair be investigated, I would refer you to Mr. Bunkly, at Bunkly's Ferry, who can give the names of parties knowing to the facts."

"Should they (the freedmen) remain where they are, under existing circumstances, their condition will not only be rendered worse than slaves, but the safety for the lives and the hopes for the future of this unfortunate race will depart forever."

The following report is dated Washington, March 27, 1866, from the assistant commissioner, General C. H. Howard, to Major General O. O. Howard, concerning Maryland:

GENERAL: I have the honor to submit the following partial report, in compliance with your circular dated March 2, 1866, concerning the status of the freedmen in Maryland:

Statute discriminations against the negroes on account of color.

1. No colored witness can testify in cases involving conflicting interests between white and black.

2. A negro convicted of an offense the punishment of which if committed by a white man would be confinement in the penitentiary, may be at the discretion of the court sentenced to receive not exceeding forty lashes.

3. A negro hiring to a white man for a term and refusing to enter his service, but hiring himself to another, unless it appear that his wages would be insecure, or that he received improper treatment from the first, two fifths of his wages in the hands of his second employer shall accrue as a lien to the first.

4. For a negro to belong to any secret society is a felony—the punishment a fine of fifty dollars.

5. No education of colored apprentices is required. (Practically, too, the provision of the law requiring that the parents of children shall be summoned, and their consent to the indenture obtained, or that their inability to provide for their children is shown, is in a majority of cases ignored.)

6. In Anne Arundel and Somerset counties, license to deal in merchandise cannot be obtained by a negro, unless recommended by a certain number of respectable freeholders. No white person, the partner of a negro, shall be granted a license; and if a white man employ a colored clerk, the penalty is fifty dollars.

7. In Charles county, no negro shall have or use

any sail or row boat without license from a justice of the peace.

8. In Kent and Queen Anne counties, "free negroes" that leave the counties and return shall be punished by fine and imprisonment.

9. In Prince George county, (fifth district,) negroes are not to assemble under pretense of public worship, except on certain days named in the statute, and generally it appears that the organic law of the State is not such as to prevent discrimination against the rights of the negro, by county or other local authorities. A State official writes from Annapolis, February 14, 1866, as follows: "The colored people have no protection; the white rowdies pick a chance when no white person is about to maltreat the freedmen, and because the colored people cannot testify against them, the rowdies go free. Where the negro is concerned it is very difficult to find a jury to convict the aggressor if he be a white person. I think the jurisdiction of the bureau should be extended to Maryland as soon as possible."

At the last sitting of the grand jury in Annapolis a magistrate was indicted for putting a white man who had assaulted and beaten a colored woman under bonds to keep the peace, on the complaint and affidavit of the woman, who came with the scars of the beating upon her person. At the same place, in November, 1865, a colored woman was sentenced to be sold for two years for persuading her children to leave their former master, to whom they were apprenticed. The children had secured places to work, and their wages for the year would have amounted to \$400.

In Prince George county a colored man named Jordan Diggs had four of his children taken from him and bound by his old master, against his consent and protest. The names of the children were included in a contract to labor for the present year, the wages amounting to \$500.

January 17, 1866, Charlotte Turner, colored, makes affidavit that William Preston, of Howard county, holds her children, Frank and Charles, aged respectively ten and nine years, illegally and against her consent.

February 5, 1866, Amos Hunt, a white resident of Washington, testifies that on the 3d of the same month he accompanied Sandy Henson, colored, to Surritt's, in Prince George county, to visit his (Henson's) daughter; that on his arrival at the place Henson was met by threats of violence and death by the man with whom his daughter is living, and was compelled to return without seeing her.

Richard Butler, colored, of St. Mary's county, testifies that he was assaulted and beaten without cause by one John A. Lloyd. Robert Avery, a constable, was present, and did not interfere to protect him or preserve the peace.

February 7, 1866, Essex Barbour, colored, late a soldier in the thirtieth regiment United States colored troops, makes affidavit that on the 3d of the same month he was assaulted and beaten at Chaptico, St. Mary's county, by four white men, one of whom is a returned rebel soldier, and makes it his business to injure colored people, more especially colored soldiers, at all times and places. "I have defended the country in the field, and most respectfully request that I may be protected at home."

February 17, 1866, Richard Spenke, colored, of St. Mary's county, complains of his employer, who, on the 16th of that month, assaulted and beat him seriously.

March 19, 1866, Maria Hutchinson, colored, complains and testifies that at Nottingham, Prince George county, on the 9th instant, her husband, Henry Hutchinson, late a colored soldier, was assaulted and seriously beaten by several white men; that her husband gave no cause of offense except asking one of the men if he had accused him of stealing; and that her husband is now confined in jail at Marlborough to answer a charge of having threatened the life of one of his assailants.

Philip Brown, colored, complains under oath that he was assaulted by a white man, in Montgomery county, on the 22d instant, while crossing the farm of the latter, and that he was shot at and wounded in the head by the same white man while riding quietly along the public highway on the evening of the same day. He has been a soldier; and when shot he heard a companion of the man who shot him say, "Shoot the d—n son of a b—h; he is nothing but a Union soldier."

The above are specimens of many similar affidavits regarding outrages in Maryland received at this office. The present civil law and its administration are found to be practically, and it may be said totally, inadequate to protect the negro in his rights of person and property. For example, often in these assaults upon the negro, by the white man colored witnesses only are present, and the testimony of colored men is not received when a white man is involved. Hence an indictment of the guilty party in the case is impossible.

The opposition to the efforts to educate the colored people in Maryland is bitter and wide-spread. Teachers have been stoned and blackened, and indignation meetings held and resolutions passed to drive them out. School-houses have been burned; colored churches, too, have been destroyed to prevent colored schools being opened in them.

Respectfully submitted,

C. H. HOWARD,

Brevet Brigadier General, Assistant Commissioner.

And now, Mr. Speaker, I will show that the existing law is not sufficient for the protection of these men. I have already said that the law was passed before the great amendment of the Constitution was ratified and made effective. It applied to those who were then freedmen from rebel States or from districts embraced in the operations of the Army. There

were no freedmen excepting those made such by State action or by the proclamation of Mr. Lincoln. What control or supervision does that law in its terms authorize over men subsequently declared free but who were then in bondage? It is not a sufficient answer to say that from the necessity of the case it has been demanded of the Government that all freedmen should be deemed to be under the care of the bureau. So, indeed, in the absence of legislation it was demanded. No sane man can doubt that in Maryland and in Kentucky it was the duty of the Government to stand between the freedman and those who would oppress him.

Now, Mr. Speaker, upon examination of the existing law it will be found that in its terms it was designed to apply to those persons who were made free by military proclamation. "Freedmen from rebel States or from any district of country within the territory embraced in the operations of the Army." No persons were such freedmen who had not been held in bondage by traitor owners in arms against the Government, or who had not been declared free within the terms of Mr. Lincoln's proclamation. Freedmen of Kentucky, Maryland, Missouri, and of such portions of Louisiana and Tennessee as were declared free by law, and not by military order, would not be embraced within the direct provisions of that law. The supervision and care of these men have been purely military and outside of the provisions of the law. But this should not be, now that Congress can act, clothed as they are with the power and loaded with the duty conferred and imposed by the second section of the amendment. It is a work which Congress ought to regulate and direct. How can we answer to constituent or to country if we willfully ignore our duty toward these men?

Mr. Speaker, I conjure the members of this House to examine the law and to consider this argument I present to prove the necessity of further legislation.

But this argument does not stand alone. The existing law gives to the bureau the management of "all abandoned lands;" and the fourth section is as follows:

"SEC. 4. And be it further enacted, That the Commissioner, under the direction of the President, shall have authority to set apart, for the use of loyal refugees and freedmen, such tracts of land within the insurrectionary States as shall have been abandoned, or to which the United States shall have acquired title by confiscation or sale, or otherwise; and to every male citizen, whether refugee or freedman as aforesaid, there shall be assigned not more than forty acres of such land, and the person to whom it was so assigned shall be protected in the use and enjoyment of the land for the term of three years at an annual rent not exceeding six per cent, upon the value of such land as it was appraised by the State authorities in the year 1860 for the purpose of taxation; and in case no such appraisal can be found, then the rental shall be based upon the estimated value of the land in said year, to be ascertained in such manner as the Commissioner may by regulation prescribe. At the end of said term, or at any time during said term, the occupants of any parcels so assigned may purchase the land and receive such title thereto as the United States can convey, upon paying therefor the value of the land as ascertained and fixed for the purpose of determining the annual rent aforesaid."

Under this section, most of the abandoned property which had been held by Treasury agents, and the confiscable lands and abandoned plantations, were placed, by order of the President, under the care of the bureau. The law intended that lands should be leased or sold to refugees and freedmen. The property was to be controlled by the bureau, and held not only as a means of support to freedmen but of revenue to the Government. It was intended that this bureau should sustain itself; and those men who knew most about the willingness of freedmen to work and the productiveness of lands abandoned, felt assured that not one dollar of money would be lost to the Government by the operation of the bureau. The Commissioner, in his report at the beginning of the session, says:

"From one to ten thousand acres in each of the several States have been used as colonies for vagrant and destitute freedmen. In South Carolina, Georgia, and Florida some land, the exact amount of which has been reported, has been actually divided and assigned to freedmen as contemplated in the act es-

tablishing the bureau. In these States the policy of setting apart lands for freedmen was initiated anterior to the establishment of the bureau, and under Field Orders No. 15, issued by Major General Sherman. A comparatively insignificant amount of town property is used as quarters for teachers and officers connected with the bureau, and as hospitals. With these exceptions, all property in the hands of the bureau is held as a means of revenue.

"Shortly after the organization of the bureau, parties whose property was held by it commenced to apply for restoration of their former rights. The policy first adopted by the bureau was to return estates to those only who could show constant loyalty, past as well as present—a loyalty which could not be established by the mere production of an oath of allegiance or amnesty. As the bureau held property by authority of an act of Congress for certain definite purposes, it was supposed that this tenure must continue to exist until those purposes were accomplished; that property must be surrendered only when it was evident that the control over it was unauthorized and improper.

"This course did not meet with the approval of the President, who gave orders that a pardon, either by special warrant or the provisions of his amnesty proclamation, entitled the party pardoned to demand and receive immediate restoration of all his property except such as had been actually sold under a decree of confiscation. Shortly after this decision was made known Circular No. 15, dated September 12, 1865, was issued from the bureau, and embodying the provisions of the act of Congress establishing it, promulgated for the first time definite rules regarding the restoration of this property to former owners.

"Authority to restore was vested in the assistant commissioners of the bureau. They were directed to turn over at once all property held as abandoned upon its appearing to their satisfaction that it did not fall within the terms of the definition laid down in the act approved July 2, 1864. They were also directed to restore property, when application was made for it, through the superintendents of the districts in which it was situated, accompanied by proof of claimant's title and of his pardon, either by special warrant or the terms of the proclamation of amnesty of May 29, 1865. It was provided, however, that land cultivated by refugees or freedmen should be retained until the growing crops were gathered unless the owner made full compensation for the labor expended and its products.

"Under the provisions of this circular the work of restoration has progressed very rapidly, and it is probable that when the year terminates little or no property will remain under control of the bureau."

Now, Mr. Speaker, the bureau has not yet been in operation one year. And yet the greater part of the abandoned and confiscable lands in all the rebel States which had been in the actual possession of the Commissioner, and substantially all valuable for cultivation, have been taken from him and restored to their former owners. Unless Congress shall act, where then are these men to be protected, and how can the bureau be made to support itself?

Let me give you one statement to show how this abandoned property was used. The assistant commissioner of the State of Mississippi, in his report of the 2d of January, 1866, says as follows:

"I wish to present a complete statement of the workings of the Davis's Bend colony for the year.

"The land was divided and leased, houses built, and a system of government organized as reported to you in previous communications. The people worked well, and have shown by their industry, perseverance, and management that they are capable of doing business for themselves, and will do best where the greatest encouragement is held out of future reward.

"There were on the Bend one hundred and eighty-one companies or partnerships who received land. These comprised thirteen hundred adults and four hundred and fifty children. About five thousand acres of land were divided among them. These people were left free to manage their own affairs; not even officers of the bureau were allowed to meddle with the pecuniary or domestic affairs. They have produced—

Corn, 12,000 bushels, worth at least.....	\$12,000
Vegetables, potatoes, melons, &c., sold.....	38,500
Cotton, 1,736 bales.....	347,200

Total amount of receipts.....	397,700
Paid for expenses.....	\$160,000
Paid to white partners for stock, supplies, &c.....	60,000
Paid receiving and disbursing officer of Freedmen's Bureau, for rations drawn.....	18,500

Total disbursements..... 238,500

Balance in hands of colonists.....\$150,200

"The people have raised their own crops, made their own sales, and put the money in their pockets; none of it passed through the hands of white people or officers of the Government of any department. The only opportunity there has been for any cheating has been in the settlement made with white parties who furnished supplies. We have guarded this in every way possible, and demanded that settlements should be made before our bureau officers.

"The home farm of five hundred acres was cultivated by transient people thrown upon our hands,

and by those who were, from any cause, unable to procure land.

Receipts from home farm, for two hundred and thirty-four bales of cotton.....	\$48,859 80
Paid to freed people for work by superintendents during the year.....	\$6,850
Paid to superintendents on all the plantations on the Bend, year's work.....	5,995
Paid for ginning, baling, and picking.....	4,675
Paid for freight, commissions, re-packing, &c.....	5,410

Total expenses..... 22,930 00

Amount turned over to receiving and disbursing officer.....	25,929 80
If to this amount we add amount received by said officer for rations issued colored planters.....	18,500 00

It will show the total amount received by the bureau from the home farm and the colonists.....\$44,429 80

"Five thousand bushels of corn were raised on the home farm and fed to Government stock, which was in use for the benefit of the people.

"The experiment has been a grand success, and proves what the people can do. I regret that they cannot have the opportunity of cultivating the same lands this season. Four of the plantations have been returned to the owners; the organization of the colony is broken up, and the people advised to seek employment and business elsewhere. I still retain the Davis plantations, and will lease them this year, but will charge the people a moderate rent, and not allow them to have the land free, as was done during 1865."

And here, sir, is a statement showing amount of money received and disbursed in the Bureau of Refugees, Freedmen, and Abandoned Lands for the State of Mississippi, at Vicksburg, from June 1, to December 31, 1865:

Disbursed 1865.

June. Expended for June.....	\$2,576 71
Balance to July.....	4,243 86
July. Expended in July.....	\$4,245 69
Balance to August.....	4,216 17
August. Expended in August.....	\$4,599 08
Balance to September.....	5,480 46
Sept. Expended in September.....	\$5,179 42
Balance to October.....	5,572 74
October. Expended in October.....	\$4,284 52
Balance to November.....	10,547 47
Nov. Expended in November.....	\$3,328 25
Balance to December.....	7,423 22
Dec. Expended in December.....	\$5,055 64
Vouchers due and remaining unpaid.....	2,115 49
Balance due Freedmen's Bureau.....	53,496 92
	\$60,668 06

Received 1865.

June. Amount on hand last statement.....	\$966 22
Amount received during month.....	5,854 35
July. Amount from June 30.....	\$4,243 86
Amount received during month.....	4,218 00
Error in bringing forward balance.....	\$3,461 86
August. Amount from July.....	\$4,216 17
Amount received during month.....	5,863 37
Sept. Amount from August.....	\$5,480 46
Amount received during month.....	8,271 70
October. Amount from September.....	\$8,572 74
Amount received during month.....	6,223 25
Nov. Amount from October.....	\$10,547 47
Amount received during month.....	204 00
Dec. Amount from November.....	\$7,423 22
Amount received during month.....	53,244 04
	\$60,668 06

Reconciliation.

Amount on hand June 30, 1865.....	\$966 22
Amount received from all sources.....	83,897 51
Total receipts.....	84,863 73
Total expenditures.....	31,348 80
Remaining in hands of receiving and disbursing officer.....	\$53,496 92

Colonel Whittlesey, assistant commissioner for North Carolina, at the close of his first quarterly report gives the following statement of the financial condition of his department:

"The financial condition of the bureau is clearly presented in the reports of Captain James, who, in addition to his duties as superintendent of the eastern district, has acted as financial agent, with the assistance of Captain Seely, assistant quartermaster. The duties of the department have been very great, and have been faithfully discharged by these officers. In July, Colonel Heaton, agent of the United States Treasury, turned over to the bureau a large amount of real estate in Wilmington, Newbern, and adjoining counties, which had been leased for terms varying from one month to one year. The collection of rents from several hundred lessees of tenements and farms has been a laborious work. But the examination and adjustment of claims for this property, and the restoration of it in accordance with the President's amnesty proclamations, has been more trying and perplexing. Nearly all, however, is now out of our hands, and unless a reexamination of these claims is forced upon us by applications for rents, on the ground that the property was not abandoned, we shall be able hereafter to devote all of our time to our appropriate work.

"The following summary of operations presents the leading facts to the foregoing report:

Receipts for the quarter.....	\$44,913 24
Current expenses.....	\$4,350 34
For soldiers' families from bounty fund.....	7,977 25
Remitted to Treasury.....	21,584 17
	33,911 76
Balance credited October 1, 1865.....	\$11,001 48

"Farms, 123; acres on farms cultivated, 8,540; acres of pine lands worked, about 50,000; freedmen employed on farms, 6,102; contracts witnessed, 257; freedmen employed under them, 1,847; marriages registered, 512; orphans apprenticed, 42; schools established, 63; teachers employed, 85; scholars attending, 5,642; cases of crime reported for trial, 12; cases of difficulty settled, reported in full, 257; cases not reported in writing, several thousand; rations issued, 508,924; value of, \$106,365 11; hospitals, 14; sick in hospitals, &c., attended by direction of the bureau, 54,441; deaths, whole number of freedmen reported in hospitals, camps, and towns, adjoining, 2,680.

"Reports of sick and deaths embrace all cases in the vicinity of stations, and with which the bureau has in any way been connected.

"Estimated crops: cotton, 858,700 pounds; corn, 32,715 bushels; sweet potatoes, 1,000 bushels; turpentine, 5,700 barrels; tar, 5,808 barrels."

So it is, Mr. Speaker, that the lands and sources of support and of revenue have gone from the bureau. I state the fact to be from the experience of less than one year that wherever the experiment has been tried with reasonable fairness the freedmen have demonstrated that the able-bodied men and women have not only supported themselves, but have been able to pay over to the Government in rent and produce substantially enough to provide for the old, the infirm, and the disabled.

And now, what should Congress do? If we will not act, or if having done all we can, no bill can be approved or passed, one of two courses must be pursued—either the power must be assumed of obtaining lands by lease or otherwise for the uses of freedmen, or else arrangements must be made by which freedmen able to work may find employment upon plantations and in the homes of former masters or owners of lands who have moved from northern States.

But, first, neither Congress nor President could properly permit the bureau to purchase or to lease lands without the authority of law, and so it will come to this, that when, as will soon be the case, no lands are left within the control of the Commissioner, all freedmen, old and young, able to work, or disabled by wounds, infirmity, or disease, must be provided for in some way or other upon lands owned, occupied, and improved for the personal profit of private owners.

Now, such owners will not want upon their farms useless laborers. They will not receive the men who have lost their arms or legs in your defense. They will not want feeble women, nor the old or infirm, or the children too

young to work. Especially they will not want those who are disabled by disease. Do you not see that all this multitude of non-producers must be a dead weight upon the Government? What will the Commissioner do with them? Where will he put them? You have freed them and their old owners do not want them. Where shall they go? What shall they do? There will be cases where the necessities of labor will compel land-owners to permit disabled parents to remain and to be fed upon their farms while the working season lasts in order to secure the services of the able-bodied sons. But those cases will be exceptional, and we have no right to take them into our consideration.

With lands assigned to the bureau where homes may be allotted to the freedmen and reasonable rents received from them, with rights secured to them to purchase upon fair terms, the able-bodied freedmen will take care of all their sick and their disabled, and will put into the Treasury of the Government enough to defray all the charges of this bureau. And now, if it be said by any one who claims that this is the white man's country, or by anybody else, that such a policy as this would disturb labor and prevent the plantations from being worked because freedmen would prefer their own homesteads to anybody's farm, the answer is obvious. This cannot be so if wages are offered which fairly pay for the work to be done. There is not a man upon the floor of this House that does not see in his own every-day experience this absurd argument refuted. If the freedman can pay his rent and keep his family together, old and young, and clear for himself twenty dollars a month, he will not willingly work for another man for eight or ten. Why should he? But give him the worth of his labor, and he will go quickly enough, and the women and the old men who cannot get wages will work his little land and stay at home. This is the law of labor. We all have the services of men who live at their homes when not at work; and so, as a general fact, has every northern householder. And those men employed all over the North are among the men who send us here and keep their eye upon us while we are here. Does any one know this fact better than the President knows it?

Now, sir, the same law of labor will hold good at the South as prevails at the North. The trouble is, that where for generations labor has been forced; where the minimum amount of food and clothing, without other pay, has been made to produce the maximum amount of work, those who employ labor are not willing to pay the fair value of labor. But when on the cotton plantation the land-owner is prepared to pay for skilled labor what it is fairly worth to the man who does the work, he will find willing hands to cultivate his staples. But there is another consideration which neither President nor Congress will feel disposed to disregard. "A fair day's pay for a fair day's work," is the golden rule of labor. In South Carolina there were at the last census of white population 291,388, and of colored population 412,820, of whom only 9,914 were free. There were in that State 16,217,700 acres of land, of which only 4,072,651 acres were improved. That land was owned by the white men. Here and there exceptional cases occurred; whether according to law or against the provisions of law I do not stop to inquire. But it is said that some men of African descent did own both land and slaves. But the rule was otherwise. The white men owned the land; the black men gave it its value.

But now a new condition of things is created by our own act. Every man is made free. There is no longer ownership of labor. Every fair man admits that these four hundred thousand freedmen, declared free first by military order and then by sacred enactment, must be for a season protected by the Government which released them from bondage. Would our duty be discharged; would the President who has felt through his whole life the oppressive power of southern capital; would he be-

lieve that we had discharged our duty if we say to the Commissioner of this bureau we will not give you any lands to work with; but take care of these freedmen; see that the gulf which separates servitude from freedom is bridged over somewhat, and aid their unaccustomed steps until they stand firmly upon that land of promise which we have opened to them? Find employment for them all, and see to it they have fair play; but especially see to it that the Government incurs no needless cost. Would that do? Where could you find employment at fair wages, and how could your Commissioner secure it to them? If you compel them to work upon the old plantations, under the old owners, in the old homes, giving them no hope in life and no choice of labor but to work there or to expatriate themselves and seek homes in other States, do you not see that the price of wages must be at the discretion of the owner of the land? If you compel the freedman to work there, what wages they will give he must take, or you must support him, or he must starve. But give to your Commissioner the power to procure lands for them; the freedmen will pay fair rent and will from their labor defray the expenses of your bureau, and will thankfully pay full price for the lands which you may sell them. And when such opportunities are given them you will yourselves make that golden rule of labor operative, and a fair day's pay for a fair day's work will be secured. My friends, is not this very plain? And I say to you now, and I would that every voting man in all your districts could hear what I say, that whatever else you may do you cannot "enforce" that great amendment by any legislation more "appropriate" than this.

But you see at once, Mr. Speaker, that the present law, passed before the people of the loyal States by their Legislatures ratified the amendment which you offered to them, is wholly insufficient in this respect. The lands provided for them by that law have passed substantially, excepting the Sherman lands which I will speak of presently, into the hands of their former owners. And your committee believed that upon a fair statement of existing facts you would not hold them guiltless if they did not propose some plan that would—without one dollar of cost to the Government, as we believe—in some small measure make real to these freedmen the liberty you have vouchsafed to them. We owe something to these freedmen, and this bill rightly administered, invaluable as it will be, will not balance the account. We have done nothing to them, as a race, but injury. They, as a people, have done nothing to us but good. The friends of slavery say we Christianized the African, and therefore we gave him blessing and not a curse. We enslaved him. That is what we did. If the African has become Christian in America he may thank God, not us. So Booth murdered our President. His fatal ball opened the avenue through which the spirit passed, and Lincoln stood before his God. The assassin lifted him from earth to heaven and so conferred a blessing. But he remained an assassin none the less. We reduced the fathers to slavery, and the sons have periled life to keep us free. That is the way history will state the case. Now, then, we have struck off their chains. Shall we not help them to find homes? They have not had homes yet. We have not let them know the meaning of the sacred name of home.

Why, sir, our humblest man, if God has given him strength enough of mind and body to make him accountable, may find some willing wife and lowly home. If he is a true man he will find there a heaven upon earth. No monarch upon his throne is more secure in the enjoyment of his rights than he. The invisible guardianship of law surrounds and keeps him safe. What he has is his own. His wife is his, and when he enters under the low roof at night, the day's work done, the sweet voices that call him father are the voices of his own. He may be poor and friendless outside of home, but he is rich there, and no mortal man in the Republic is strong enough to do him wrong

with safety, for the law is mightier than the strongest man. But these men whom you have freed have been slaves. Their fathers were torn away by felon hands from ancestral homes in their native land—heathen homes, perhaps, but I suppose God was there nevertheless—and within the borders of the rebel States no homes since then have been permitted to them or to their children. Slavery cannot know a home. Where the wife is the property of the husband's master, and may be used at will; where children are bred, like stock, for sale; where man and woman, after twenty years of faithful service from the time when the priest with the owner's sanction by mock ceremonies pretended to unite them, are parted and sold at that owner's will, there can be no such thing as home. Sir, no act of ours can fitly enforce their freedom that does not contemplate for them the security of home.

But let it be borne in mind that it is not intended by this bill to give freedmen homes at the cost of the Government. They will hire and pay full rent or they will buy and pay full price. But when a condition of things exists such as is now found in the late rebel States, where, as a race, the colored man could own no lands because held in slavery, and where because of his declared freedom the vindictive hatred of the old owners fastens itself upon him and would exclude him still from ownership of land, there does arise this necessity that we who have made them free should enable him from the fruits of his own industry and with his own means to procure for himself a home. And that is all that this bill proposes to do. Every man may now avail himself of the homestead law. That will secure him eighty or one hundred and sixty acres for a nominal sum of money. This bill withdraws one million out of fifty million acres of public lands in the five States, namely, Florida, Mississippi, Alabama, Louisiana, and Arkansas, and permits the freedmen to lease in lots of forty acres each and purchase at an agreed valuation. Let me read the fifth section of the bill:

SEC. 5. *And be it further enacted*, That for the purpose of rendering this bureau self-sustaining, and in the place of lands heretofore assigned to freedmen and thereafter withdrawn from the control of the bureau, the President shall reserve from sale or settlement under the homestead or preemption laws, and assign for the use of freedmen and loyal refugees, male or female, unoccupied public lands in Florida, Mississippi, Alabama, Louisiana, and Arkansas, not exceeding in all one million acres of good land. And the Commissioner shall cause the same, under the direction of the President, to be allotted and assigned from time to time, in parcels not exceeding forty acres each, to the loyal refugees and freedmen, who shall be protected in the use and enjoyment thereof for such term of time and at such annual rent as may be agreed upon between the Commissioner and such refugees or freedmen. The rental shall be based upon a valuation of the land, to be ascertained in such manner as the Commissioner may, under the direction of the President, by regulation prescribe. At the end of each term, or sooner, if the Commissioner assent thereto, the occupants of any parcels so assigned, their heirs and assigns, may purchase the land and receive a title thereto from the United States in fee, upon payment therefor of the value of the land ascertained as aforesaid.

There is no gift here. The freedmen pay for everything. And the lands assigned are public lands, which we have given to States and for schools and railroads and other uses which were national in their character. Millions of acres have been unwisely given away; but these lands, not given away, but sold for a price, will confer upon freedmen the inestimable blessings of hearth-stone and home.

The sixth section of the bill, as now reported, will not, I trust, be opposed in any quarter. Let me read it:

SEC. 6. *And be it further enacted*, That whenever the former owners of lands occupied under General Sherman's field order, dated at Savannah, January 16, 1865, shall apply for restoration of said lands, the Commissioner shall procure other lands by rent or purchase, not exceeding forty acres for each occupant: *Provided*, That such lands can be procured at an average cost not exceeding twenty-five dollars per acre, and before such restoration is made, shall allot and assign them to such occupants upon the terms and conditions named in the preceding section, or set apart for them, out of the public lands assigned for that purpose, forty acres each, upon the same terms and conditions: *Provided*, That no sale shall be made of lands so purchased at a price less than the cost thereof to the United States.

Why, Mr. Speaker, in some of the States the bureau has given much more aid to the white refugees than to the freedmen. The bureau has not confined its operation to the men who were made free.

In Alabama there had been on the 1st of April, eight hundred and seventy-nine thousand three hundred and forty-three rations issued to refugees and three hundred and sixty-four thousand two hundred and fifteen rations issued to freedmen, and in Arkansas there had been one million four thousand eight hundred and sixty-two rations issued to refugees, and seven hundred and fifteen thousand five hundred and seventy-two issued to freedmen. Now, sir, all we propose to do is to let freedmen have a chance to buy a home. No land is to be given away to him, but the Government that has made him free helps him to purchase a home. And this is all I desire to say in offering this bill for consideration. Its provisions have been carefully examined and will receive, I trust, the favor of the House. I have made a motion to recommit, and I propose to withdraw that motion and call the previous question unless some other members desire to debate this bill.

Mr. LE BLOND. There are persons who desire to debate this bill. I hope, therefore, the gentleman will not put the bill upon its passage now, but let it go over for a day or two. There are some very important features contained in this bill, and I think it should at least be amended in those respects. Whether intended or not, it is nevertheless true that this bill confers a power which I think is very objectionable. It is all objectionable, in my opinion, because I am opposed to the entire principle and theory of this bill.

But the fourth section is exceedingly objectionable. In that section there is a provision that authorizes this Government to furnish supplies to these colored people in the South. It is true it only purports upon its face to confer the power to furnish medical aid; yet the power is there given not only to feed but to clothe the colored people who have been slaves. That of itself is objectionable. It is class legislation; it is doing for that class of persons what you do not propose to do for the widows and orphans throughout the length and breadth of this whole country. In my judgment the entire theory of this bill is mischievous and it ought not to pass. It by no means ought to pass with a provision of the kind to which I have referred.

This system encourages idleness; and that is one of the great objections to the entire theory on which this bill is based. The evidence of this fact is brought before the American people in the report of Generals Steedman and Fullerton, showing that the system which you have already inaugurated is objectionable in every form in which you can view it. I am personally acquainted with General Steedman; and I know him to be a high-minded, honorable, and intelligent man. Whatever those two men have presented to the American people as facts existing in the southern States may be received as entitled to the fullest respect.

If, sir, that report be true, then it becomes the duty of this Congress to strike down that system at once, leaving these colored people, free as they are, to make a living in the same way that the poor whites of our country are doing. Give them no encouragement beyond the encouragement to industry which the resources of the country offer to every man who will labor. Why, sir, when we look at these galleries, and see them crowded day after day with stout, hearty, able-bodied colored men, who, to all appearance, draw their rations from the Government, and who seat themselves here in our galleries during the entire day, it is but an evidence that the system itself is mischievous, and ought not to be encouraged by the Congress of the United States. Let those people be thrown upon their own resources, and wherever labor is in demand you will find them going there seeking employment, and they will obtain it.

Gentlemen may appeal to the passions and prejudices of the people, and urge that this system should be continued as a punishment to be inflicted upon the southern people. But let me say to gentlemen that the period has gone by when the American people, taxed as they are almost to death for the purpose of supporting this Government, are going to contribute longer to the maintenance of this class of persons for the sole purpose of inflicting a punishment upon the southern people, who wrongfully undertook to destroy this Government. Sir, we do not propose to destroy ourselves in order to crush the southern people.

The SPEAKER. The morning hour has expired, and the bill goes over until to-morrow. The gentleman from Massachusetts [Mr. Eliot] has five minutes of his hour remaining.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled a bill (S. No. 318) entitled "An act to authorize the appointment of an additional Assistant Secretary of the Navy;" when the Speaker signed the same.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate had passed, without amendment, House bill No. 453, for the relief of Cornelius B. Gold, late acting assistant paymaster United States Navy.

The message further informed the House that the Senate had passed, with amendments, House bill No. 281, to amend the postal laws, in which amendments the concurrence of the House was requested.

The message further informed the House that the Senate had passed bills of the following titles, in which the concurrence of the House was requested:

An act (S. No. 284) for the relief of the children of Otway H. Berryman, deceased; and

An act (S. No. 330) making further provision for the establishment of an armory and an arsenal of construction, deposit, and repair on Rock Island, in the State of Illinois.

TAX BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair), and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The Clerk read as follows:

That section one hundred and fourteen be amended by inserting after the word "periodically" in the first sentence of said section the words, "or otherwise, or publishing any guide, almanac, catalogue, directory, or any other paper or book."

Mr. JENCKES. I believe that no vote was taken last night on the amendments offered to the paragraph preceding this. When the gentleman from Vermont offered them, I understood that no vote was to be taken upon them then.

Mr. MORRILL. As I understand it, the amendments which I offered last evening were adopted; but it was understood that the paragraph should be open to amendment this morning.

Mr. JENCKES. I did not understand that the last amendment offered by the gentleman was voted on last evening.

Mr. MORRILL. I thought it was. I presumed that no one objected to it.

The CHAIRMAN. According to the recollection of the Chair, the amendment was adopted; and the Globe sustains the Chair in

his recollection. But if the Chair hears no objection the amendment will be considered as again before the committee for action.

The Clerk read the amendment, as follows: Amend by inserting at the close of the first proviso the following:

But the returns required to be made by such provident institutions and savings banks after July, 1866, shall be made on the first Monday in January and the first Monday in July in each year, in such form and manner as may be prescribed by the Commissioner of Internal Revenue.

Mr. MORRILL. Mr. Chairman, I will say this amendment is to allow these institutions to make their returns and pay their taxes semi-annually instead of monthly, because it is almost impossible for them to keep accounts with so large a number of depositors and make returns monthly.

Mr. BRANDEGEE. That subject is not now before the House, as the amendment was agreed to last evening.

The CHAIRMAN. The Chair put the question to the committee, and there was no objection to taking up the amendment again.

Mr. THAYER. I understand the gentleman from Vermont said there would be no vote on the amendment last evening.

Mr. MORRILL. I referred to the paragraph, and stated that that would be open to further amendment.

The CHAIRMAN. The Globe corroborates the Chair. The amendment is before the House by unanimous consent.

Mr. BRANDEGEE. I rise to a point of order. The Chair asked whether there was objection and my colleague [Mr. DEMING] demanded that the amendment should be reported before he yielded his consent. After the amendment was read he rose and objected.

The CHAIRMAN. The Chair did not hear the objection, and the amendment is before the committee.

The amendment was agreed to.

Mr. BLAINE. I move the following amendment:

Insert after the word "thereof" in line twenty-four hundred and forty, as follows:

And provided further, That in lieu of all other taxes imposed on national banks there shall hereafter be levied, collected, and paid a tax of one half per cent. per annum on the average amount of their deposits.

Mr. Chairman, I wish to make a statement of one or two minutes on the question of taxation as it will hereafter affect the national banking system. By the decision of the Supreme Court of the United States the stock of national banks has become subject to local and municipal taxation. I know a great many gentlemen indulge the hope that that decision will be reversed or that Congress will declare the stock based on United States bonds exempted from all local taxation. I do not believe any gentleman here will live long enough to see either result attained. We must therefore make up our minds henceforth that the property of national banks is to be taxed by local authority as other property is taxed. I consider that is inevitably settled and permanent. It is no longer a theory; it has become a stubborn fact.

The question is whether we shall tax these national banks in an extraordinary manner by the national Government. We tax them two dollars per thousand upon their capital. We tax them five per cent. semi-annually on their net earnings. We tax them one per cent. on their circulation and one half per cent. on their average deposits—making thus an average aggregate taxation by the national Government of more than two per cent. on the capital of national banks.

I am informed this morning by the Comptroller of the Currency one half of one per cent. on the gross deposits on the present average in the banks will yield \$2,600,000, while all the expenses of the Currency Bureau will not be over \$260,000 a year. The tax which I propose will therefore yield ten times as much as all the expenses involved in conducting the Currency Bureau, and I include cost of engraving and renewing notes, clerk hire, and all incidental charges.

By our own action here, whether intended or not, these banks have lost the immunity which they thought they had when they were organized, that they were to be free from all local and municipal taxation. It is now from two to five per cent. throughout the United States. The city banks, with large deposits, may not care for it, while it will result in driving the country banks to the wall. I repeat it, sir, that, stand it as well as the city banks may, the currency banks, under the duplex system of taxation now in force from the General Government and the local authorities, will eventually destroy the weak banks in the country. We have no power over local taxation. That may be said to have passed from our control; but we do have power to relieve a large portion of the burden we now put upon them by national authority. I do not believe we should use these banks as a source of revenue, to the destruction of their business. If we get ten times as much out of them as they cost us, I think the General Government ought to be satisfied with it.

Mr. PIKE. The processes by which wealth is produced ought to be relieved. That we all agree to. But here is an attempt, at the expense of those processes, to relieve wealth itself. I protest, upon sound principles of political economy, against it, and I hope the attempt will not succeed. I am surprised that my colleague, with the history of our State before him, should make this motion. I have looked at the report of the Comptroller of the Currency, and I find the fact to be in regard to the banks of Maine, according to the returns of July and October last, that they pay a tax of less than one per cent. per annum on their capital.

Mr. BLAINE. I made my statement in view of the tax to be levied under the decision of the Supreme Court—not what has been but what is to be imposed hereafter.

Mr. PIKE. Now, then, our banks for a series of years have paid to the State one per cent. on their capital. The United States gathers less than one per cent. upon it and in return therefor furnishes them with their circulating notes. So that to-day the banks of Maine are paying a less amount to the General Government than they have heretofore paid to the State, and by law they are exempt from State tax. It is said that they have now to pay local taxes, in accordance with the decision of the Supreme Court. Well, local taxes are burdensome, but farmers, merchants, and everybody else have to pay them, and in the banking act it is provided specially that the national banks shall pay precisely the same tax that the State banks do. In my own State the local banks have always had to pay local taxes in addition to the one per cent. State tax, so the national banks to-day are upon the same footing precisely as the State banks were before the national bank act was passed, with this exception, that the General Government now furnishes their circulating notes which before, as State banks, they had to furnish themselves.

Now, sir, is this bank interest suffering? Will anybody say that it is suffering? No returns of dividends are provided for under the general law. I cannot ascertain from the Comptroller what dividends these national banks have made. But I suppose no man can doubt that from the beginning of the present national banking system until the present time, their dividends have been on average at least nine or ten per cent.

Mr. PRICE. I desire to ask the gentleman a question. I understand him to say that there is no means by which he can ascertain the amount of dividends of these national banks.

Mr. PIKE. I inquired of the Comptroller and he said he had none in the office.

Mr. PRICE. There is not a bank organized in the United States since the passage of the act that does not return to the Comptroller under oath the amount of dividends and when paid.

Mr. PIKE. I merely know what the Comptroller tells me, and I hold in my hand his published report and that does not give any returns. Now, I have no doubt the dividends of these

banks have averaged ten per cent. per annum. Some of them have paid enormous dividends. Take the national banks of this city. Does anybody doubt that the First National Bank of Washington has paid forty to fifty per cent. per annum?

A MEMBER. How about the Merchants' Bank?

Mr. PIKE. I do not know about the Merchants' Bank. There has been the same kind of rascality in that bank that has pervaded some other banks that we do not know so much about.

[Here the hammer fell.]

Mr. LYNCH. I move to strike out the last word in the amendment.

Mr. Chairman, I think it would be better if my colleague would withdraw his amendment, and allow it to be offered to the currency act, where it properly belongs. It is not appropriate to this bill, which provides only for the taxation of State banks, and not national banks. It provides that this section shall not apply to associations which are taxed under and by virtue of the act "to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof." The national currency act provides for the taxation of national banks. The amendment of my colleague does not properly belong to this bill.

Mr. BLAINE. What my colleague [Mr. LYNCH] suggests is a mere matter of form. The amendment as offered by me is entirely pertinent to the pending bill. I rise now to correct my other colleague's [Mr. PIKE's] figures. He is usually very accurate, but he is out of the line just now. I understand him to say that the national banks now in existence are no more heavily taxed by the national Government than the State banks formerly were by our State laws. Now, the gentleman knows that for years and years in Maine we had a tax of one per cent. only on the capital of the banks, as levied directly by State authority. Their circulation was not limited as is that of the national banks. No matter how much it was, they were not taxed on their circulation, and were not taxed for a license. They paid only one per cent. on their capital stock. The national banks pay for a license, five per cent. on their annual net earnings, one per cent. annually on their circulation, and a half per cent. on their deposits.

Mr. PIKE. The average tax, taking the July and October returns of 1865, on the circulation and deposits of Maine banks amounted to eighty-two one hundredths of one per cent. I take those two months because they give a fair average. Now, you have to add to that five per cent. on the dividends, and one fifth of one per cent. for a license, so that altogether the tax is less than one per cent. per annum.

Mr. BLAINE. All I maintain is, that whereas the old State tax was one per cent., the national banks pay more than double that tax.

Since this discussion commenced, the gentleman from Iowa [Mr. ALLISON] has placed in my hands a letter from a constituent of his which clearly shows how very heavily the tax on national banks foots up in certain localities. The bank referred to is a small one of but \$50,000 capital, and yet the taxes, national and local, for the past year amounted to \$3,467 87, or nearly seven per cent. on the capital of the bank. And this is no exceptional case. In many communities the taxes are fully as heavy as in the instance named, and in some places they are even higher. As to the question of profit, my colleague says that these banks have made dividends of ten per cent. Why, the bonds they have deposited in the Treasury, national securities, paying six per cent. in gold, would have divided ten per cent.

[Here the hammer fell.]

Mr. LYNCH. I withdraw the amendment to the amendment.

Mr. KELLEY. Mr. Chairman, there will come a time for the discussion of this whole banking system. It was adopted under exigencies, and may or may not be a permanent part of the system of the country. At any rate,

experience is suggesting that it needs improvement. The proposition of the gentleman from Maine, [Mr. BLAINE,] to remove all taxes but the tax on deposits, unless that taxation be made by gradual increase at fixed periods so as to prevent discounting upon deposits, would only be to strengthen one of its greatest vices. The chief vice of the system is discounting upon deposits. It aggravates every financial crisis. When money is abundant it tempts the banks to invite operators into speculation, and the moment contractions begin it exaggerates their virulence by hundreds of per cent. There should be no banking upon deposits, or at least not to an extent greater than sixty or seventy per cent. beyond the capital of the incorporation. I hope that when the banking bill comes before us it will be so restricted, and that the banks will be called upon to pay at least the taxes they now pay. These banks have paid dividends of from ten to one hundred per cent.—I can name one of them that declared a dividend of one hundred per cent.; and this is the last place in the world to begin remitting taxes. The Government keeps in these banks an average balance of from forty to sixty million dollars, and for the use of that money they can well afford to pay the taxes assessed upon them. I hope that when we consider this banking system again we shall prohibit the Government from keeping deposits in any of these banks, to be banked upon and scattered by the half million as was done by the bank in this city which lately exploded. If you transfer the tax to deposits, I venture to say that before this session closes you will so restrict the system of deposits as to diminish the collection of taxes from the national banks with their dividends and reserve profits averaging probably forty per cent. per annum.

Mr. BLAINE. Does the gentleman from Pennsylvania [Mr. KELLEY] understand that my amendment proposes any change in that respect?

Mr. KELLEY. The gentleman from Maine [Mr. BLAINE] proposes to put a tax upon deposits.

Mr. BLAINE. I do not propose to put any more tax upon deposits than is imposed now.

Mr. KELLEY. It will prove to be putting the tax upon the gas of the balloon after the balloon has exploded.

Mr. BLAINE. If the gentleman will explain to the House how taxing deposits is going to facilitate banking on deposits, he will give us some new light upon it.

Mr. KELLEY. The gentleman proposes to remove all other taxes and to leave the tax on deposits.

Mr. BLAINE. The present tax is a half of one per cent. upon the deposits. The amendment which I have proposed leaves that tax just where it now is. Therefore if you are going to stimulate discounts by taxing deposits, then you have done it already. The gentleman from Pennsylvania [Mr. KELLEY] maintains that if we put this tax on deposits it will stimulate these enormous discounts. I cannot see the point of the argument. I do not see the connection between the cause and presumed effect.

My proposition is just this: in view of local taxation we must lighten the national taxation; and I would take it off the country banks, where circulation is the great object, and leave it on the city banks, those of Philadelphia and New York and other large places where deposits in the course of mercantile transactions are very large. Probably the gentleman from Philadelphia [Mr. KELLEY] represents a large banking interest in that city; and it may do very well for him to resist this proposition. I represent a country district, and I want the city banks, with their enormous profits upon deposits, to pay the expenses of this system. I do not wonder that the gentleman from Philadelphia should resist that. But I want to put it there; I want those who are able to pay the tax to bear it. I want the sources of business, the country banks in the small communities, the

little rills away up in the mountains, before they get into the oceans of Philadelphia and New York, to get a chance to live.

Mr. KELLEY withdrew his amendment to the amendment of Mr. BLAINE.

Mr. BOUTWELL. I renew the amendment to the amendment.

Mr. LYNCH. I rise to a point of order. My point of order is, that the amendment of my colleague [Mr. BLAINE] is not germane to this paragraph.

The CHAIRMAN. The Chair overrules the point of order.

Mr. BRANDEGEE. It is too late to raise that point of order now, for the amendment has been received and debated.

Mr. BOUTWELL. While we have no means of knowing exactly what the profits of these banks are as a whole, the report of the Comptroller discloses some facts which will enable the House to judge whether they are able to bear the taxation which is proposed to be put upon them by this bill. On the 1st of July last, according to their returns, the aggregate of the banks had a surplus fund of \$31,000,000. They were also liable for dividends unpaid, that is, dividends which had been declared but which had not then been paid, to the amount of \$4,700,000 more. And they also had a profit account of \$23,000,000, the whole making an aggregate of profits of between \$58,000,000 and \$59,000,000, then undivided, upon a capital paid in of \$325,000,000, or nearly eighteen per cent. On the 1st of October last their surplus funds, which of course originated in profits previously made, amounted to \$38,700,000. Their unpaid dividends, that is, dividends declared out of profits earned but not paid, amounted to \$4,331,000 more, and their profit account proper, that is, the account not embraced either in unpaid dividends or surplus funds, amounted to \$32,350,000 more, making an aggregate of profits on the 1st of October last of \$85,000,000 on a capital paid in of about \$393,000,000, and showing that between July and October, a period of three months, after deducting all the dividends paid, they have carried their profits from \$53,000,000 up to \$85,000,000.

Mr. BLAINE. Does not that come from the sale of gold?

Mr. BOUTWELL. I do not know from whence it comes; I only know that it is there.

Mr. HOOPER, of Massachusetts. I merely want to state in regard to that little bank that the gentleman from Maine [Mr. BLAINE] says is now so heavily taxed, that I find upon looking over the returns that with only \$50,000 capital they have about \$190,000,000 drawing interest, upon which, if they get only six per cent., they will receive over \$11,000 of profits. And I understand that this little bank—one of these rills up in the mountains, as the gentleman describes them—pays semi-annual dividends of ten per cent., making twenty per cent. per annum.

Mr. BOUTWELL. I withdraw my amendment to the amendment.

Mr. KELLEY. Mr. Chairman, I move *pro forma* to amend the amendment by striking out the last word. My object in offering this amendment is simply to say a word in reply to the gentleman from Maine, [Mr. BLAINE.] The gentleman suggests that I represent a large banking capital in Philadelphia. I wish him to understand that if that banking capital derives as it does enormous profits from banking on deposits, I desire to impose a restriction upon it. I want to prevent, by legislation, the effect of which shall be gradual, the banking institutions of the country from banking on their deposits, whereby I affirm they stimulate and produce crises and aggravate them when they come.

My philosophy, which the gentleman could not comprehend, is this: if we now put all our taxes on the deposits, we shall not, when we come to consider the bank bill, be able to restrict the banking on deposits, because he and others will make the argument that if we do this we will release the banks from the tax-

tion. Now, I do not desire that the deposits, which I hope will not hereafter be as great a source of profit to the banks, shall be the only source of taxation. I wish that when we come to deal with the banking system we may be free to perfect it as experience may suggest. That is my philosophy.

Mr. Chairman, I withdraw the amendment to the amendment.

Mr. RANDALL, of Pennsylvania. Mr. Chairman, I consider that the best course we can pursue in reference to this question of State taxation and Federal taxation upon these banks is at this time to follow the Committee of Ways and Means in reference to this tax. I deem this not the proper time to touch that conflict which must arise between Federal and State taxation upon these banks. I would prefer to reserve that question till it shall be presented, as it will be shortly, by the Committee on Banking and Currency. Then we can take up and discuss the whole system of banking in reference to taxation. We can then decide also whether this House is prepared to continue a system of deposits in these national depositories without any adequate security therefor—a system which has led to such immense losses by the Government. I hope, therefore, that the House will follow the committee strictly in reference to this taxation.

Mr. MORRILL. Mr. Chairman, I believe that the loss of revenue by taking this out will amount to about seven million dollars. The subject has been hitherto considered in connection with the currency bill, and therefore it has not been introduced in connection with this bill, which merely relates to State banks and savings institutions. I think that the whole subject of the laws regulating national banks requires revision. I am satisfied that some relief must be given to those institutions or they will soon perish; I am willing, for one, to afford them some relief. But I prefer that the question should come up distinctly and separately in its proper place.

For the purpose of terminating debate, I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of House bill no 513, all debate upon the pending paragraph and the amendments thereto terminate in five minutes.

Mr. HARDING, of Illinois. I trust that will not be agreed to. I desire to have an opportunity to move to strike out the last proviso of the paragraph.

Mr. MORRILL. The gentleman will have an opportunity to move that amendment.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. BLAINE. The chairman of the Committee of Ways and Means did not hear me or he would have been relieved from the necessity of moving that the committee rise. There is an impression prevailing that the amendment belongs to the currency bill. I suppose the idea is to get Congress to enact a law absolutely prohibiting local taxation. I believe that to be a "harder lick" at the local revenues than this would be to the national revenues. We can better afford to remit the tax here than they can to forego it there. I think nothing in the currency bill will prove as acceptable as this would. But as I do not wish to press my amendment at a time when its friends would be somewhat divided, I now propose to withdraw it.

Mr. STEVENS. I had intended to offer an amendment to this section relieving the State-bank circulation, after the 1st of July next, from the ten per cent. tax, but understanding the Committee on Banking and Currency design to make a revision of the general currency act I shall withhold my proposition until then.

Mr. BALDWIN. I move to strike out in line twenty-four hundred and forty-eight, "five hundred," and insert "one thousand."

Mr. Chairman, my opinion is that the deposits in the banks described in this paragraph ought to be entirely exempted from taxation. They are banks having no capital stock, and do no other business than receive deposits to be loaned for the parties making the deposits, without compensation. A title to signify what these banks are would be "loan agencies." They are mere loan agencies. There is no more reason for taxing money put at interest through these agencies than for taxing money put at interest by other methods. In deference to the views of some gentlemen I waived the amendment I intended offering and submitted the one now pending. The depositors in these banks are generally poor people who make small gains and lay them aside quarterly or yearly. All their income from money invested through savings banks is taxed five per cent. without regard to its amount, while the income of richer people is exempt to the amount of \$1,000. In view of that tax, I suppose it is not more than just to exempt all deposits below \$1,000 from taxation.

Mr. MORRILL demanded tellers.

Tellers were ordered; and Messrs. MORRILL and BALDWIN were appointed.

The committee divided; and the tellers reported—ayes 44, noes 49.

So the amendment was disagreed to.

Mr. O'NEILL moved to strike out these words:

Provided, That this section shall not apply to associations which are taxed under and by virtue of the act "to provide a national currency secured by a pledge of United States bonds, and to provide for the circulation and redemption thereof," and the deposits in associations or companies known as provident institutions or savings banks, having no capital stock and doing no other business than receiving deposits to be loaned or invested for the sole benefit of the parties making such deposits, without profit or compensation to the association or company, shall be exempt from tax or duty on so much of their deposits as they have invested in securities of the United States, and on all deposits less than \$500 made in the name of any one person: *And provided further*, That any bank ceasing to issue notes for circulation, and which shall deposit in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury may prescribe, shall be exempt from any tax upon such circulation.

The amendment was disagreed to.

Mr. THAYER. I move to strike out in line twenty-four hundred and forty-two the word "or," and insert after the word "banks" the words "savings-fund and other savings institutions."

The amendment was agreed to.

Mr. HARDING, of Illinois. I move to strike out the following:

Provided further, That any bank ceasing to issue notes for circulation, and which shall deposit in the Treasury of the United States, in lawful money, the amount of its outstanding circulation, to be redeemed at par, under such regulations as the Secretary of the Treasury may prescribe, shall be exempt from any tax upon such circulation.

The amendment was disagreed to.

The Clerk read as follows:

That section one hundred and fourteen be amended by inserting after the word "periodically" in the first sentence of the said section the words "or otherwise, or publishing any guide, almanac, catalogue, directory, or any other paper or book."

Mr. ANCONA moved to add the following:

And that section one hundred and fourteen be further amended in the last clause so as to exempt all newspapers whose average circulation does not exceed three thousand copies from all taxes for advertising.

The committee divided; and there were—ayes 26, noes 40; no quorum voting.

The CHAIRMAN ordered tellers under the rule; and appointed Messrs. ANCONA and MORRILL.

The committee was again divided; and the tellers reported—ayes 28, noes 70.

So the amendment was disagreed to.

The Clerk read as follows:

INCOME.

That section one hundred and sixteen be amended by striking out all after the enacting clause and inserting in lieu thereof as follows: that there shall be levied, collected, and paid annually upon the gains, profits, and income of every person residing in the United States, a duty of five per cent. on the excess over \$1,000, and a like duty shall be levied, collected, and paid annually upon the gains, profits, and income of every business, trade, or profession carried on in the United States by persons residing without the United States, and a like duty shall be levied, collected, and paid annually upon the interest or dividends accruing upon investments within the United States, or upon bonds or other securities of the United States, or of corporations, or citizens thereof. And the duty herein provided for shall be assessed, collected, and paid upon the gains, profits, and income for the year ending the 31st day of December next preceding the time for levying, collecting, and paying said duty.

Mr. PIKE. I move to amend by striking out all after the words "United States" in line twenty-four hundred and sixty-six down to the end of line twenty-four hundred and seventy-five, and to insert in lieu thereof the following:

Or of any citizen of the United States residing abroad whether derived from any kind of property, rents, interest, dividends, or salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, a duty of five per cent. on the amount so derived over \$1,000 and not exceeding \$5,000, and a duty of ten per cent. on the amount exceeding \$5,000. And a like duty shall be levied, collected, and paid annually upon the gains, profits, and income of every business, trade, or profession carried on in the United States by persons residing without the United States and not citizens thereof.

This is a matter of considerable importance. The chairman of the committee states that the change proposed in this bill lessens the revenue \$17,000,000. The amendment proposes an exemption of incomes up to \$1,000; otherwise it is a reenactment of the old law. The question arises as to the propriety of assessing an income tax of five per cent. on one amount, and a tax of ten per cent. on a larger income. Of course it is only upon the net income, and a tax of ten per cent. upon net income is not higher than many other rates imposed in this bill. Now, if we give away by this provision in the bill as it stands seventeen millions of revenue, we must look elsewhere to supply the deficiency. If we retain the seventeen millions of tax we may relieve many small and weak manufacturers of the country. Every laboring man in the country pays a tax upon what he eats, drinks, and wears. And until we come to the point of relieving the great body of people in the country from onerous taxes upon every day's consumption it is a question whether or not the men who are able to pay should not pay this increased proportion of their income to the General Government.

I have examined the English law from which this income tax is derived, and I find that for several years the system in that country was ten per cent. on large incomes, seven and a half on more moderate income, and five per cent. on the smaller, not divided precisely as we divide them, but by different kinds of property. They have always pursued the system of apportioning taxes upon property and income. In one instance a specific tax was laid on those who kept servants, commencing with one pound on one servant and increasing until the men who had eleven servants paid six pounds on

each, thus recognizing the principle that the man of larger means should pay an increased tax in proportion to his means. That is a principle recognized by the bill of the Committee of Ways and Means when they exempt men of moderate income, up to \$1,000, from taxation altogether. And it is carrying out the same idea when you have apportioned this from five to ten per cent. The principle is also recognized in the taxation of gas companies, where the tax ranges from five cents on a thousand feet to ten, fifteen, and twenty-five per cent., in proportion to the amount produced. It is a fair principle of taxation and one that sound political economy should recognize, because the aim always should be to lay taxes on that portion of the community that can most easily bear them.

I do not know that I am personally interested in the matter, but the great mass of those who are particularly interested I know would very cheerfully pay this additional sum, for I have not yet heard of any remonstrance from any gentleman whose tax is more than five per cent. according to the existing law. No one of this class has ever sent a request to this Congress to be relieved from taxation, and if we wait until that patriotic class of men shall ask to be relieved from their burden, I apprehend we will have to wait a great while. On the other hand, we do have petitions from struggling manufacturers coming to us from all quarters of the land, asking for relief. Now, we all desire to relieve all the processes by which wealth is created. We all desire to relieve, as much as possible, the labor of the country from taxation, because by doing so we produce the best general result. It is for this reason that I hope the House will follow the English example, and for a few years to come retain this tax of ten per cent.

[Here the hammer fell.]

Mr. ROSS. I move to amend the amendment by inserting after the words "one thousand dollars" in line twenty-four hundred and sixty-eight, the following:

And not exceeding \$10,000; and a duty of ten per cent. per annum on the excess over ten thousand and not exceeding twenty thousand dollars; and a duty of fifteen per cent. per annum on the excess over \$20,000, and not exceeding \$40,000; and a duty of twenty per cent. per annum on the excess over \$40,000 and not exceeding \$60,000; and a duty of twenty-five per cent. per annum on the excess over \$60,000.

I concur in the views expressed so ably by the gentleman from Maine [Mr. PIKE] upon this subject. But his amendment does not go far enough. The highest rate it proposes to put upon income is ten per cent. Now, it was very properly said by him that we must get this tax out of men who have large incomes. We cannot get it out of those who have none. And there is no reason, in my judgment, when a man's income reaches twenty, forty, or sixty thousand dollars why he cannot afford to pay fifteen, twenty, or twenty-five per cent. upon it.

It will be recollected that the country was electrified a year or two ago by the announcement that the capitalists of this country were going to make an effort to pay off the entire debt of the country. An effort was made in that direction, and we were highly gratified at the patriotism and liberality of some of the distinguished capitalists of the country in coming to the relief of the poor men from the burden of debt heaped upon them. The only reason they did not succeed was that a few stingy, miserly millionaires refused to cooperate with them. Now, the patriotic capitalists of the country will be gratified at this effort on the part of Congress to enable them to come to the rescue of our country and make those who are unwilling to contribute their proportion come to the scratch and relieve the Government from its indebtedness. I ask the House to give this matter a fair consideration. Patriotic capitalists will not object. Those who have incomes of two and three hundred thousand dollars can afford to pay twenty or twenty-five per cent. on their incomes for the purpose of relieving the poor people of the country from the enormous burden which is

weighing them down and crippling their energies. I trust that this amendment will receive the favorable consideration of this House and that we will show that we are in earnest in endeavoring to relieve the poor people and placing the tax upon those who are able to bear it.

[Here the hammer fell.]

Mr. MORRILL. I oppose the amendment of the gentleman from Illinois, [Mr. ROSS.] The only question which is really before the committee is whether we had better forego this tax or some other. I am as ready as the gentleman from Illinois to admit that the men who receive two or three hundred thousand dollars income can afford to pay an increased tax, but that is not the question here. The question is, can we afford to take it in this manner? The principle that we apply must be a just one, and living in a republican form of government as we do, I cannot see on what principle the tax proposed by the gentleman from Illinois [Mr. ROSS] or the gentleman from Maine [Mr. PIKE] can be justified.

The example cited by my friend from Maine of England, which levies a tax of this kind, is no argument for us. There they have different classes. They have a titled class and distinctions of rank, and those classes ought to be made to pay for their titles. In this country we neither create nor tolerate any distinction of rank, race, or color, and should not tolerate anything else than entire equality in our taxation. So, then, I think the proposition cannot be justified upon any sound principle of morals. It can only be defended on the same ground that the highwayman defends his acts. It is saying to the man of wealth, "You have got the money and we will take it because we can make a better use of it than you will." And then it tends to create a great amount of fraud and false swearing. A man who is taxed only as high as his neighbor upon the amount he possesses is willing to pay his tax. Go beyond that and he believes himself to have been wronged and he will retaliate. But do you come to a man who owns five hundred sheep and say to him that he shall pay more than twice as much on his sheep as the man who has but two hundred and fifty? No. Do you go to the man who owns two hundred acres of land and say that he shall pay twice as much tax per acre as the man who has only one hundred acres? No. I say, then, that in a republican form of government we cannot justify this inequality of taxation.

Mr. SPALDING. May I ask to what tax the gentleman is now referring?

Mr. MORRILL. I am discussing the proposition that when the amount of income exceeds \$5,000, a tax of ten per cent., instead of five, shall be imposed.

Mr. SPALDING. May I ask the gentleman what the law is now?

Mr. MORRILL. The gentleman will have an opportunity to argue the question. I do not desire to discuss the matter in the form of a colloquy. The question arises here to-day, as I believe, whether this tax can be fairly justified on principle. If other gentlemen are persuaded, as I believe a majority of the House are persuaded, that it is just, I am not. But if gentlemen should reach the conclusion that it is justifiable upon principle, then the question arises whether this tax is one we ought to surrender or some other. I think, Mr. Chairman, that if gentlemen will look at the matter fairly, they will see that this is not such a tax as can be justified here and now with us, nor such as we can afford to incorporate permanently into our statutes.

Mr. SPALDING. Mr. Chairman—

The CHAIRMAN. No debate is in order, there being an amendment to an amendment pending. The gentleman, however, can move to amend the text of the bill.

Mr. SPALDING. I will do so. I move to amend by inserting after the word "dollars," in line twenty-four hundred and sixty-eight, the following:

And not more than \$6,000; and on the excess over

and above \$6,000, a duty of three per cent. per annum additional.

I must confess, sir, that I do not understand the chairman of the Committee of Ways and Means when he says that a tax of this character is not in accordance with the principles of justice, and further, that it is "highway robbery." According to my logic, a proposition of this sort does not come within either of those categories. When we lay a general tax of five per cent. upon every man's income over the sum of \$1,000, does not that take within its purview every man in the community subject to taxation? Then upon that annual revenue up to \$6,000, as my amendment proposes, a tax of five per cent. is to be paid—not by one man, but by every man in the community having that amount of income. The assessment is equal. The amendment further provides for an additional assessment of three per cent. upon the amount of income over \$6,000. Is not this just? Is it robbery? Why, sir, we adopted the other day a provision imposing a tax upon wooden bowls and upon corn brooms. We are prepared, too, it seems, to tax the brave soldiers who fought our battles during the last five years in every case where the amount of income is over \$1,000; but we are not prepared to say that gentlemen who have incomes of \$100,000 a year shall be taxed over and above the rate which we assess upon the income of the man of very moderate means. Now, as I have said time and again upon this floor, the tax is equal while the means of payment are unequal. The man who has the higher income has the greater means of payment and feels the tax less. The difference is in his favor. The poor man, to the extent of his modicum, pays his full tax. If he had a larger income he would of course be happy to pay the increased tax. Not so with the millionaires. They fix upon a moderate income of \$5,000, and say, "Here we take our stand and set the tax-gatherer at defiance, because it would be inequality, it would be injustice, it would be highway robbery to make us pay from our overflowing coffers a trifle upon the excess above what is required to meet the necessary demands of life." Why, sir, I cannot see upon what ground, in morals or in ethics or in logic, the argument of my learned friend from Vermont has a resting-place. There is nothing in it in reason, nothing in it in justice. And I trust that the reflecting men upon this floor will ponder well before they can be induced to change the very equitable mode of assessment which we adopted here two years ago, and which did make some difference between the rich man and the man of moderate means.

Mr. PRICE. I rise to oppose the amendment of the gentleman from Ohio, [Mr. SPALDING,] and I do so because I do not think it at all equitable. I do not think the amendment would make the tax bear equally upon all men, without regard to race or color. Now, sir, the matter is just this; and I want the attention of the gentleman from Ohio [Mr. SPALDING] to this proposition: we will suppose there are two men living neighbors to each other; the income of one is \$5,900, of the other it is \$6,100, a difference of just \$200 between their incomes. They are neighbors, engaged in the same business, and occupying the same position and standing in the community. But you tax the one at the rate of five per cent., while you tax the other, with only \$200 more income, at the rate of ten per cent. That is the way it works; you tax the man because he has the money.

Now, I want to defend the gentleman from Vermont [Mr. MORRILL] from the "highway robbery" charge. He did not say that it was highway robbery to take this tax; but he said that it was upon the same principle that the highway robber practices. And it is precisely as he stated. The highway robber goes out upon the highway, seizes a man by the throat, and says to him, "Your money or your life." The man looks at him and says, "Well, you cannot get any money from me, for I have none." The robber lets him go. But the

next man he meets, and to whom says, "Your money or your life," must disgorge because he happens to have some money. Now, the highway robber never robs the man who has no money. He treats them all alike; he takes money where it is, and where it is not he does not take it. Now, in my opinion we better treat all men alike in this matter of taxation. If one man is more economical than another, and saves more money, and so at the end of some years is in possession of more income in consequence of such economy, I do not think he should be punished for that which should be considered a virtue. They should all be treated alike, without reference to the incomes they may have.

Mr. SLOAN. I move *pro formâ* to amend the amendment of the gentleman from Ohio [Mr. SPALDING] by striking out the word "four" and inserting the word "three."

Mr. SPALDING. Will the gentleman from Wisconsin [Mr. SLOAN] yield to me a moment for the purpose of modifying my amendment?

Mr. SLOAN. I prefer not to yield now, as I have but five minutes. I was surprised to hear the chairman of the Committee of Ways and Means [Mr. MORRILL] indulge in such strong expressions as he used. He says that the proposed change in this tax could not be defended upon principle, and that it amounted to a robbery of a certain designated class of people. Now, I suppose if a perfectly just system of taxation could be devised and put in force, every man would be taxed just in proportion to his ability to pay the tax; not perhaps in proportion to the amount of property he may have, or what he may produce, but in proportion to his ability to pay his tax; in proportion to the excess which he has left after meeting all the legitimate demands upon him. Now, throughout the consideration of this bill the chairman of the Committee of Ways and Means has resisted strenuously all propositions to relieve from taxation many articles the tax upon which is oppressive and burdensome to the industry of the country. The tax upon those articles tends to depress and check the business and enterprise of the country. Here is a tax where we allow a liberal income of \$5,000 to be taxed at the common rate to which all are liable. On the excess beyond that amount a higher rate of tax is imposed.

Mr. HALE. I rise to a point of order. My point of order is that debate is exhausted upon the amendment moved by the gentleman from Illinois [Mr. ROSS] to the amendment moved by the gentleman from Maine, [Mr. PIKE,] and that the subsequent amendment of the gentleman from Ohio [Mr. SPALDING] is therefore out of order.

The CHAIRMAN. The amendment of the gentleman from Ohio [Mr. SPALDING] is an amendment to the text proposed to be stricken out by the amendment of the gentleman from Maine, [Mr. PIKE,] and therefore it takes precedence of the amendment proposed by the gentleman from Illinois, [Mr. ROSS.]

Mr. HALE. I would ask the Chairman how many amendments are now pending before the committee.

The CHAIRMAN. The Chair understands the amendment of the gentleman from Maine [Mr. PIKE] to be to strike out a portion of the original text. The gentleman from Illinois [Mr. ROSS] moves an amendment to the amendment of the gentleman from Maine. Pending those amendments, the gentleman from Ohio [Mr. SPALDING] proposes to amend the matter proposed to be stricken out by the amendment of the gentleman from Maine. That amendment takes precedence of the other amendments, as being for the purpose of perfecting the text proposed to be stricken out. And the amendment of the gentleman from Ohio itself open to an amendment which has been proposed by the gentleman from Wisconsin, [Mr. SLOAN.] Thus four amendments can be pending at the same time: an amendment to strike out and insert, and an amendment to that amendment; an amendment to amend the matter proposed

to be stricken out, and an amendment to that amendment.

Mr. SLOAN. The main objection urged to the exemption of articles from taxation, or to the reduction of the tax heretofore laid upon those articles, has been that it would reduce the revenue to a point lower than it would be wise or proper to reduce it. Now I find that in this article of income alone there are involved \$17,000,000 of revenue, an amount which I suppose will cover three or four times over all the taxes which have been lost by the amendments which the committee have made in exempting from taxation or reducing the tax upon those articles of prime necessity in common use in the industry of the country. And in a year or two all of them can be relieved from that tax. There are many items in this bill where relief can be afforded more justly and more equitably and more in accordance with the interests of the whole country, than by the change proposed by the committee.

Mr. MORRILL. I desire to say that I feel no particular interest in this question, or as to how it shall be disposed of. Perhaps I may have expressed myself a little too strongly. I did not intend to take any part in debating this question, but to let the House take its own course. I only wish to keep myself right on the record. I have been from the first opposed to the principle of the tax. Our urgent necessities during the war having ceased, I think we ought to relieve ourselves at the earliest moment from such a tax. The particular effect of it is to harass men of great enterprise in the country. I do not see how gentlemen, after they have accumulated a certain amount of property, will be willing to continue their adventures thereafter for fear of becoming subject to the tax. It will have the effect, too, of creating absenteeism. When men have acquired a large fortune they will be very apt to go elsewhere to expend it. That is all I have to say on that point.

Mr. SLOAN, by unanimous consent, withdrew his amendment.

Mr. PAINE. I renew the amendment. The chairman of the Committee of Ways and Means has pronounced the proposed amendment before the House discriminating in favor of incomes below \$1,000 and against those above that amount to be unjust and wrong. I am sorry. If that be robbery, he has come into this House with his garments stained all over with robbery. I take it he does not disapprove the bill he himself introduced. I take it he approves that provision which requires a man worth \$1,001 a year to pay a tax of five per cent. per annum, and yet exempts his neighbor who may only be worth \$999 from the payment of any tax whatever. If this be robbery to make it ten per cent. above a certain amount, what will be said of that discrimination which compels a man to pay a tax when his income is over \$1,000 and relieves him from taxation entirely when below that amount? But there is no robbery in either case. If the gentleman desires to put himself right on the record, let him wipe out what he has already written in this bill.

Now, Mr. Chairman, I want to read to the committee a few paragraphs from a little work—Report of the United States Revenue Commission—which I presume is the *vide mecum* of the Committee of Ways and Means. Let me read from page 17:

"The remedy, therefore, for the difficulties above pointed out and illustrated, save in a few striking instances, which have probably resulted from oversight in the framing of the law, must, in the opinion of the commission, be sought for in such a revision of the internal revenue system as will look to an entire exemption of the manufacturing industry of the United States from all direct taxation. (distilled and fermented liquors, tobacco, and possibly a few other articles excepted.) This the commission are unhesitatingly prepared to recommend."

Then let me read from the bottom of the same page:

"Assuming, then, that the policy indicated—which we may here restate in brief to be the abolition or speedy reduction of all taxes which tend to check development, and the retention of all those which, like the income tax, fall chiefly upon realized wealth—"

is accepted as the desirable future revenue policy of the country, the question next arises, in what manner and to what extent can it be carried out, and at the same time insure to the Government a revenue adequate to its necessities?"

Now turn to page 27 of the same report:

"*Incomes.*—In respect to the income tax the commission have not, from want of time, been able to give this subject the attention which its importance demands. Although in many respects an obnoxious tax, yet, failing as it does mainly on accumulation, it will probably be sustained with less detriment to the country than any other form of taxation, the excise on spirituous and fermented liquors and tobacco excepted. The discrimination at present in the rate levied on incomes under and in excess of \$5,000 is, however, unjust, being in fact a tax on the results of successful industry and business enterprise; and the commission recommend that this discrimination be abrogated, and the rate be equalized at five per cent."

You must not tax industry, but must tax the results of industry; and then further on they say you must not tax realized wealth. It is impossible to frame a tax bill from such contradictory recommendations as these.

[Here the hammer fell.]

Mr. DAVIS. I oppose the amendment, and I do it for the purpose of saying that I believe the action of this House would be very unwise if we discriminate on the subject of tax on incomes. If there is any principle settled in our Government it is that of uniform privileges. It runs through the Federal Constitution and it runs through every State constitution. And, sir, but for the exigencies the war imposed upon us I do not think we would at the last Congress have departed from that system. The capital of this country should be protected. It should be invited to investments of enterprise and industry. If we discriminate against capital we interpose obstacles to business, because if men are successful we tax them unfairly and unjustly. Why should a man, on the principle which is advocated here, who owns a farm of five hundred acres, not be taxed five times as much per acre as the man who owns a farm of fifty acres? That is the principle that is involved here. You discriminate in consequence of the amount of property which a man holds. You take away from the accumulation of industry that which would go into capital except for the interference of the Government. You turn that portion of the capital over to the coffers of the Government. You thus derange and decrease the business of the country. I hope the amendment will not be adopted.

Mr. PAINE. I withdraw the amendment to the amendment.

Mr. PIKE. I renew it. When I was interrupted before I was about to make a proposition which I think the Committee of Ways and Means will accept, and that is to strike out this section and the next three succeeding sections, and allow this whole matter to go over until next year. The tax for this year is already assessed. The instructions have already gone out. The change of law will not affect it in any particular, either in the assessment or collection. This Congress adjourns, finally, on the 4th of March next. There will be abundant time to regulate this matter between the 4th of March, when Congress adjourns, and the 1st of May, when the tax is assessed. In the mean time we shall have the benefit of the experience during the vacation. The revenue commission has come to the conclusion, and it is the same conclusion to which we have all come, that the amounts to be realized from the assessments made in this bill are exceedingly uncertain. They depend upon business to be done hereafter, and whether or not the expectations of the Committee of Ways and Means will be realized, or the revenue fall very far short of the calculations made by the Committee of Ways and Means, nobody knows. Perhaps one intelligent gentleman here can guess as well as another, but the experience which we shall have between now and the next 4th of March will determine this problem. It would be wise, then, to postpone the whole matter until next session. If the House does not assent to this proposition, I hope that they will assent to my amendment, which will continue the present law except to exempt incomes up to \$1,000.

I have one word to say in reply to the gentleman from Vermont, [Mr. MORRILL.] I cited the example of England in this matter of income tax. I did it because British legislation has always been of a conservative character with regard to property, and no man can be accused of demagoguism or of pandering unduly to the popular taste who follows the conservative example of British legislation. The chairman of the Committee of Ways and Means replies to me that they have rank there, that they have lords and commons, a queen and dukes, barons and knights. Now, if the income tax under British legislation was assessed in proportion to rank, the argument would be a good one, but, as he well knows, some of these lords and barons are as poor as church mice; they are entirely barren of income, as the gentleman from Iowa [Mr. WILSON] suggests, [laughter;] and consequently the reply made by the distinguished chairman of the Committee of Ways and Means is entirely *mal à propos*. Now, I have to say one word further. When the gentleman says that the Committee of Ways and Means in reporting this bill make no distinctions in rank, I reply that they have made two ranks—one is the great mass of the people who have less than \$1,000 income, and the other rank is that smaller class of people who have an income of more than \$1,000. I propose simply to add to the number of ranks, and make another over \$5,000. Will the chairman of the Committee of Ways and Means tell me the difference in principle?

[Here the hammer fell.]

Mr. MORRILL. I will answer the gentleman, although if he had noticed what I have said heretofore he would have already known what the answer is. As I said to the gentleman from Wisconsin, [Mr. PAINE,] we conceived that there was an inability on the part of a person with a small income, and who has a family to support, to pay any income tax. He must first support his family, and therefore we exempt \$1,000 for every man or family. That, I think, is a sufficient reason. The other point which the gentleman from Wisconsin alluded to, I think is "point no point"—that in reference to the exemption among manufacturers to the amount of \$1,000. The party, it will be remembered, has to sell his goods in the same market with all the rest of the country; and he gets the same price for those goods; and whatever is exempted is really a bonus given to the parties, on the same principle that we except \$1,000 of income because of the inability of those small manufacturers to pay the tax. The gentleman from Maine [Mr. PIKE] alluded to the fact that the income tax in England is not assessed in proportion to rank or title. Does not the gentleman know that the titled aristocracy of England own nearly all the land of England? I do not remember the precise number of land-owners there, but I think it is not beyond thirty thousand in the entire kingdom; and it is from this source, from rents, that the largest incomes are there derived. If the gentleman had investigated the subject he would have ascertained, also, that while formerly they had different rates of income tax in England, the present law is a uniform law, imposing the same tax upon all incomes.

Mr. PIKE. I withdraw my amendment to the amendment.

Mr. HALE. I renew it. A point has been made in favor of a discrimination between incomes up to \$5,000 or \$10,000, and incomes in excess of one or the other of those sums by a reference to the exemptions of incomes under \$1,000; and it has been strenuously contended by the gentleman from Wisconsin, [Mr. PAINE,] by the gentleman from Maine, [Mr. PIKE,] and by other gentlemen, that the fact that incomes up to \$1,000 are exempt from all tax is of itself a recognition of the principle that discriminations may be made according to the amount of the income of the party. With all deference to the chairman of the Committee of Ways and Means, who has given his reason for that exemption up to the amount of \$1,000, it strikes

me that he has failed to give the true reason for it, and the one which removes it entirely from the line of argument which these gentlemen have adopted. I apprehend that the reason why incomes up to the amount of \$600 under the present law, and \$1,000 under the proposed law, are exempt from tax is not that the possessors of small incomes are unable to pay a tax, but that the law intended that the average amount understood to be necessary for the support of a family should not be taxed. It was understood, two or three years ago, that \$600 was probably the average of the expense for the support of a family; now it is considered that \$1,000 is probably that average; and it is proposed to exempt that amount, not as a discrimination in favor of the poor man as against the rich man, but as the average expense of the support of a family to every man throughout the country; in other words, it is not a discrimination; it applies equally to every man; it is only incomes above that amount of average expenses that are subject to taxation.

Now, I put it to this committee whether there is on principle any sound reason whatever why a man possessing an income of \$100,000, if you please, should pay more than his ratio, his percentage on that income, more than the man with an income of \$5,000 pays? Sir, I do not believe it is equal or just. We have the power to do it, as we have the power to go further and say that if a man has an income of over \$5,000 the country shall take the whole. I do not know why it might not as well be done in that form as in the form proposed by the gentleman from Illinois, who runs the tax up by hundreds and thousands, increasing the grade until you get up to twenty-five per cent. I ask the gentleman, why does he not say that when a man's income exceeds \$80,000 he shall pay fifty per cent., when it exceeds \$100,000 he shall pay one hundred per cent., and when it exceeds \$200,000 he shall pay two hundred per cent.? It does seem to me that the principle upon which these taxes have always been assessed has been upon a principle of equality. In our local taxation, our State taxation, we do not say that a man who holds real estate or personal property beyond a certain amount shall pay a greater percentage upon his property than the man who holds a less amount. I submit that however gentlemen may treat this argument it simply results in the proposition that the rich men being in the minority shall have injustice done to them. I withdraw my amendment to the amendment.

The pending question was upon the amendment of Mr. SPALDING.

Mr. MORRILL. I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled a bill of the following title; when the Speaker signed the same:

An act (H. R. No. 453) for the relief of Cornelius B. Gold, late acting assistant paymaster United States Navy.

STATE LAWS CONCERNING FREEDMEN.

The SPEAKER laid before the House the following message from the President of the United States:

To the House of Representatives:

In answer to a resolution of the House, of the 27th ultimo, requesting a collation of the provisions in relation to freedmen contained

in the amended constitutions of the southern States, and in the laws of those States passed since the suppression of the rebellion, I transmit a report from the Secretary of State, to whom the resolution was referred.

ANDREW JOHNSON.

WASHINGTON, D. C., May 22, 1866.

The message, with the accompanying documents, was referred to the joint committee on reconstruction, and ordered to be printed.

CLERKS IN TREASURY DEPARTMENT.

The SPEAKER also laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith a report from the Secretary of the Treasury, made in compliance with a resolution of the House of Representatives, of the 7th instant, asking for information in respect to clerks employed in the several Executive Departments of the Government.

ANDREW JOHNSON.

WASHINGTON, D. C., May 22, 1866.

The message and accompanying document were referred to the select committee on the civil service of the United States, and ordered to be printed.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the special order terminate in one half minute after the committee shall resume the consideration of the subject.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was upon the amendment of Mr. SPALDING.

Mr. SPALDING. I will withdraw my amendment, as I mistook the scope of the amendment proposed by the gentleman from Maine, [Mr. PIKE.] I greatly prefer his amendment to my own, as he proposes to leave the law as it now stands, with the single change of exempting \$1,000 instead of \$600.

The question recurred upon the amendment of Mr. ROSS to the amendment of Mr. PIKE.

The amendment of Mr. ROSS was as follows:

Insert after the words "a duty of five per cent. on the excess over \$1,000" the following:

And not exceeding \$10,000; and a duty of ten per cent. per annum on the excess over \$10,000 and not exceeding \$20,000; and a duty of fifteen per cent. per annum on the excess over \$20,000 and not exceeding \$40,000; and a duty of twenty per cent. per annum on the excess over \$40,000 and not exceeding \$60,000; and a duty of twenty-five per cent. per annum on the excess over \$60,000.

The amendment was not agreed to.

The question recurred upon the amendment of Mr. PIKE, which was as follows:

Strike out all after the words "United States," where they first occur in the paragraph, and insert in lieu thereof the following:

Of any citizen of the United States residing abroad, whether derived from any kind of property, rents, interests, dividends, or salaries, or from any profession, trade, employment, or vocation carried on in the United States or elsewhere, or from any other source whatever, a duty of five per cent. on the amount so derived over \$1,000 and not exceeding \$5,000; and a duty of ten per cent. on the amount exceeding \$5,000; and a like duty shall be levied, collected, and paid upon the gains, profits, and income of every business, trade, or profession carried on in the United States by persons residing without the United States and not citizens thereof.

Mr. JENCKES. I move to amend the

amendment by striking out the last clause, as follows:

And a like duty shall be levied, collected, and paid annually upon the gains, profits, and income of every business, trade, or profession carried on in the United States by persons residing without the United States and not citizens thereof.

The amendment to the amendment was not agreed to.

On agreeing to the amendment of Mr. PIKE, there were—ayes 61, noes 34.

Mr. HALE called for tellers.

Tellers were ordered; and Messrs. HALE and PIKE were appointed.

The committee divided; and the tellers reported—ayes 57, noes 42.

So the amendment was agreed to.

Mr. ANCONA. I move to amend by adding at the end of the paragraph the following:

Provided, That the amount, \$1,000, exempt from the duty of five per cent. by this section, shall be held to take effect upon the assessments now being made, and to be collected upon incomes for the year ending December 31, 1865.

Mr. MORRILL. This cannot be carried out. The assessment has already been made.

On agreeing to the amendment, there were—ayes 12, noes 55; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers; and appointed Messrs. ANCONA and MORRILL.

The committee divided; and the tellers reported—ayes 14, noes 79.

So the amendment was not agreed to.

Mr. BERGEN. I move to amend by adding at the end of the paragraph the following:

No passport shall be issued from the State Department or by any minister, chargé, or consul, to any person unless he produces the receipt for all income taxes imposed on him from 1862 to the date of his application, nor shall any passport be renewed or viséd by any minister, chargé, or consul abroad, unless the same conditions be complied with.

The amendment was not agreed to; there being—ayes fourteen, noes not counted.

Mr. ROSS. I move to amend by inserting at the end of the amendment last adopted the following:

And a duty of fifteen per cent. per annum on the excess over \$50,000.

The amendment was not agreed to.

Mr. HUBBARD, of New York. I move to amend by inserting after the word "thereof" in line twenty-four hundred and seventy-five the following:

Provided, That every person, not being a householder, nor having a family residing in the United States, shall pay the aforesaid duty or tax upon the excess over \$500.

The amendment was not agreed to.

Mr. ANCONA. I move to amend by adding at the end of the paragraph the following:

Provided, That on all incomes derived from labor and fixed salaries the amount so levied and collected shall not exceed three per cent.

The amendment was not agreed to.

The Clerk read as follows:

That section one hundred and seventeen be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in estimating the gains, profits, and income of any person, there shall be included all income derived from interest upon notes, bonds, and other securities of the United States; profits realized within the year from sales of real estate purchased within two years previous to the year for which income is estimated; interest received or accrued upon all notes, bonds, and mortgages, or other forms of indebtedness bearing interest, whether paid or not, if good and collectable, less the interest which has become due from said person during the year; the amount of all premium on gold and coupons; the amount of sales of live stock, sugar, wool, butter, cheese, pork, beef, mutton, or other meats, hay and grain, or other vegetable or other productions, being the growth or produce of the estate of such person, not including any part thereof consumed directly by the family; all other gains, profits, and income derived from any source whatever; and the share of any person of the gains and profits of all companies, whether incorporated or partnership, who would be entitled to the same, if divided, whether divided or otherwise, except the amount of income received from institutions or corporations whose officers, as required by law, withhold a per cent. of the dividends made by such institutions, and pay the same to the Commissioner of Internal Revenue or other officer authorized to receive the same; and except the salary or pay received for services in the civil, military, naval, or other service of the United States, including Senators, Representatives, and Delegates in Congress from which the tax has been deducted. And in estimating the gains, profits, and

income of any person in addition to \$1,000 exempt from income tax, all national, State, county, and municipal taxes paid within the year shall be deducted from the gains, profits, or income of the person who has actually paid the same, whether such person be owner, tenant, or mortgagor; losses on sales of real estate within the year purchased within two years previous to the year for which income is estimated; the amount actually paid for labor or interest by any person who rents lands, or hires labor to cultivate land, or who conducts any other business from which income is actually derived; the amount paid out for usual or ordinary repairs; *Provided*, That no deduction shall be made for any amount paid out for new buildings, permanent improvements, or betterments, made to increase the value of any property or estate; *And provided further*, That only one deduction of \$1,000 shall be made from the aggregate income of all the members of any family, composed of one or both parents, and one or more minor children, or husband and wife; that guardians shall be allowed to make such deduction in favor of each and every ward, except that in case where two or more wards are comprised in one family, only one deduction shall be made in their favor; and that no deduction shall be allowed in favor of persons described as "trustees" under existing laws.

Mr. NICHOLSON. I move to amend by adding at the end of the paragraph the following:

And provided further, That when any person or persons, whose annual income from all sources does not exceed \$1,000, shall be possessed of any shares of stock or interest in any institution or corporation whose officers have withheld, as required by law, a per cent. of the dividends made by such institutions, and paid the same to the Commissioner of Internal Revenue or other officer authorized to receive the same, such person or persons shall be permitted to prove and declare, under oath or affirmation, the amount of their said annual income, and to show by certificate of the officers of said institution or corporation, the amount so withheld and paid over to them, whereupon the assistant assessor, if he shall be satisfied with the proof, shall certify the same to the collector of the district, who shall repay to the person or persons entitled the amount so withheld and paid.

Mr. Chairman, the object and necessity of this amendment will be apparent at a glance. The present law has in its practical operation borne most unjustly and partially upon a class of persons who are least able to suffer such injustice. If it is the purpose of this House to exempt incomes less than \$1,000, that object should be carried into practical effect. But it is well known that there is a large class of persons of small incomes who have not, under the present law received the benefit of the \$600 exemption, and who will not under this bill enjoy the exemption of \$1,000, unless some such amendment as that which I offer be adopted. They have been obliged to pay a tax of five per cent. upon the whole of their income. I refer especially to those whose income is derived from stocks, &c., in any corporation or institution the officers of which are required by law to withhold from the dividends, &c., of the stockholders a certain amount of tax to be paid over to the Commissioner of Internal Revenue. If the amount of income from this source exceeds \$1,000, the parties are afforded an opportunity of being credited with the amount; but if the income does not exceed \$1,000, no such opportunity is afforded. The tax is withheld by the bank or other institution; and under the present law it is impossible for the party to recover the tax thus unjustly deducted. This system operates injuriously upon a class of persons composed almost entirely of widows and orphans, whose investments are made under the order of a court, so that they have no control over the investment. The law in its operation heretofore has presented this anomaly: that while a certain amount of income has been exempt by law these parties have been unable to get the benefit of that exemption.

Mr. MORRILL. Mr. Chairman, on the face of the gentleman's proposition it seems to be somewhat fair, but the difficulties of carrying it into effect, if passed, are almost insuperable. In the first place, there are few people who own bank stock to the amount of \$1,000 who do not own something else. If any injustice be done by the provision in the bill, it will then only be in a very small number of cases. If we inserted the amendment into the law, it would give an opportunity to a great many readjustments, and it would lead to so many difficulties that I hope it will not be adopted.

The amendment was rejected.

Mr. THAYER. I move after the word "favor" in line twenty-five hundred and thirty-four to strike out to the end of the sentence, as follows:

And that no deduction shall be allowed in favor of persons described as "trustees" under existing laws.

Mr. Chairman, I move this amendment for the purpose of enabling me to ask some gentleman on the Committee of Ways and Means to explain what this means. I want the gentlemen of the committee to explain what this provision means which excludes trustees from the privilege of making in favor of the *cestui que trust* the deductions others are entitled to make by law. I will yield to the gentleman from Massachusetts to explain it.

Mr. MORRILL. I will say to the gentleman from Pennsylvania that that was introduced at the request of the Commissioner of Internal Revenue, who assigned a very good reason for it, but which has escaped my attention at the present time.

Mr. THAYER. I must insist on my amendment, as I have no idea of "going it blind" on the statement of any person.

Mr. HALE. What does the gentleman mean by "going it blind?" It is a thing strange to me.

Mr. THAYER. It is one of the expressions of the day, and means voting for a thing on the say-so of some other person when you do not know who the person is or what he says. [Laughter.]

Mr. HOOPER, of Massachusetts. I have no recollection of the provision or that it was adopted in committee.

Mr. MORRILL. It may be a proper provision as I understand it, without remembering the explanation furnished by the Commissioner of Internal Revenue. The guardian of the estate should pay the amount due without any deduction. A trustee should not get a deduction on his own account and on account of his trust also.

Mr. THAYER. Of course not. That is not the point affected by these words. The paragraph specifies that guardians shall make these deductions in favor of their wards, and then it says trustees shall not make these deductions. It says trustees under a deed, marriage settlement, or in any other way, shall not make these deductions. I ask the reason for it.

Mr. STEVENS. It is unreasonable, and there is no reason for it. [Laughter.]

The amendment was agreed to.

Mr. HUBBARD, of Connecticut. I move the following amendment:

On page 110, line twenty-five hundred and twenty-three, after the word "repairs," add:

And ordinary expenses when absent from home relative to matters connected with the business, trade, or profession of such person.

Mr. Chairman, I offer this amendment at the request of my friend from Pennsylvania, [Mr. MILLER.] If he were here he would doubtless explain the object of it much better than I can. I think it is in harmony with this part of the bill as proposed by the Committee of Ways and Means. It is well known that persons engaged in business are compelled to go abroad to promote the interests of the business in which they are engaged. A merchant, for instance, goes from home to purchase his goods. The judges of the court in my State are compelled to travel from county to county, and receive \$2,000, out of which they are compelled to pay \$500 and more for traveling expenses. I think this deduction should be allowed.

The amendment was rejected.

Mr. MORRILL. I move, in line twenty-five hundred and forty-seven, after the word "except" to insert the words "that portion of."

The amendment was agreed to.

Mr. WILSON, of Iowa. I move, before the word "loss," in line twenty-five hundred and seventeen, to insert these words:

Loss actually sustained during the year arising from fire, shipwreck, or incurred in trade, or debts

ascertained to be worthless, but excluding all estimated depreciation of values, and.

I offer this for the purpose of determining what loss may be deducted in addition to those now specified by the law. Last year it was held by the Commissioner that no loss should be deducted from the income which was not incurred in some business out of which the party derived a profit, and where the loss incurred overbalanced the amount of profit. Now, I propose to extend that so that all losses from the causes mentioned, either by fire or shipwreck, or incurred in trade, shall be deducted from the income. I think there can be no objection to it, and I believe the Committee of Ways and Means concur in the propriety of the amendment.

The amendment was agreed to.

Mr. DAVIS. I move to amend by inserting after line twenty-five hundred and thirty-six the following:

Provided, That any gains and profits of any company, association, or partnership which shall be returned and the tax thereon paid before the same shall be divided, shall to the amount on which such tax has been paid be exempt from tax when afterward divided.

Mr. HOOPER, of Massachusetts. I believe that is already provided for in the bill.

Mr. DAVIS. I do not find any such provision in it.

The amendment was not agreed to.

Mr. BERGEN. I move to amend by striking out the words "labor or" in line twenty-five hundred and nineteen, and by inserting after the word "interest" the words "and the actual cost of labor;" so that the clause will read:

The amount actually paid for interest and the actual cost of labor by any person who rents lands, or hires labor to cultivate land, or who conducts any other business from which income is actually derived.

The object of the amendment is this: as it now stands the farmer hiring men who board themselves charges their entire wages in his income account, while his neighbor who boards his own men and pays them ten dollars a month can charge but the ten dollars in his account. There should be an equality about it. The actual cost of the labor should be put in the bill in such a shape that the board might be reckoned in the one case as well as the other.

The amendment was not agreed to.

Mr. HALE. I move to amend by inserting after the word "purchased" in line twenty-four hundred and eighty-six the words "within the year or;" so as to make it grammatical, as follows:

Profits realized within the year from sales of real estate purchased within the year or within two years previous to the year for which the income is estimated.

Mr. MORRILL. No objection to that.

The amendment was agreed to.

Mr. HALE. I now move to insert after the word "family" in line twenty-five hundred and thirty-three the words "and have joint property interests;" so that it will read:

Except that in case where two or more wards are comprised in one family and have joint property interests only one deduction shall be made in their favor.

This proviso in the case of wards as it now stands seems to be ambiguous. "Except that in case where two or more wards are comprised in one family." That means, I suppose, simply a residence with their guardian as a part of one family. I presume it is only intended to cover the case of those so connected by relationship or by community of property that they would constitute what would be considered as one family for the purpose of taxation only, and that I think is properly reached by the amendment I propose. Not that their property shall be necessarily all joint property, but if they have any joint property interests and are members of one family they shall have exemption. On the other hand, if they have no joint property interest they should be treated as individuals.

The amendment was agreed to.

Mr. JENCKES. I move an amendment in order to meet a point not covered by the amendment of the gentleman from Iowa, [Mr.

WILSON,] to insert in line twenty-five hundred and eighteen, after the words "two years," the words "or upon sales of other property;" so that the clause will read:

Losses on sales of real estate within the year purchased within two years or upon sales of other property purchased more than two years previous to the year for which income is estimated.

The amendment already adopted excludes estimated depreciation of property, but does not cover actual losses from the sale of property purchased to be held as investments, or of which the title is derived in some other way more than two years previous.

Mr. GARFIELD. That would never do. It would allow a purchase twenty years ago to come in.

Mr. JENCKES. Not at all.

The amendment was not agreed to.

Mr. BIDWELL. I move to insert after the word "estimated," in line twenty-five hundred and nineteen, as follows:

But the term real estate as herein used shall not be deemed to include mining stocks or mining claims where the paramount title of the lands on which the mines or claims are situated is in the United States.

Mr. WILSON, of Iowa. It seems to me the gentleman is not accomplishing what he desires. This is a deduction. I suppose he does not desire that mining stock shall not be included in the deduction.

Mr. BIDWELL. My object is to prevent men from deducting losses incurred in mining claims and mining stocks, calling it real estate.

Mr. GARFIELD. The language of the amendment is "mining stocks or mining claims where the paramount title of the lands is in the United States." As a matter of course they would not be considered real estate. Mining stock never was considered real estate. The terms are so vague and indefinite that I think we ought not to incorporate them in the law—certainly not "mining stock."

Mr. BIDWELL. If I am correctly informed, there is a large number of persons who are escaping the payment of just taxes by saying that their losses in mining should be deducted from their sales of real estate. It is for the purpose of saving to the Government the revenue that is its just due that I want this put in.

Mr. GARFIELD. The purpose of the gentleman is all right, but I think we ought not to use so indefinite a term.

Mr. BIDWELL. I am willing to let it be passed by for further consideration.

The amendment was not agreed to.

Mr. DODGE. I move to insert after the word "estimated," in line twenty-five hundred and nineteen, the following:

Provided, That money received for leases of coal, ore, or limestone lands which exhaust the freehold shall be taxed as sales and not as income.

The object of the amendment is this: there are large quantities of lands in the State of Pennsylvania, and in other States, that are leased on a royalty, coal lands, for instance, for a period of ten or fifteen years, the lessees paying ten, twelve, or fifteen cents for the coal in the ground, and in the course of ten or fifteen years the entire amount of coal is exhausted and the land is worthless. This amount received from year to year is not income but it is the proceeds of the freehold. It is the property itself. In ten years when the coal is exhausted the land in the mountains becomes worthless. It is the habit of the assessors to collect from the farmers and others who have leased these lands the amount they have received for the property. It is the very life-blood of the property that is taken. They reckon that as income. At the expiration of the ten years there is no income left, and the owner has two or three hundred acres of land rendered valueless because of the excavation below, or because it was of no value except on account of the mineral that was there.

Mr. MORRILL. I trust the amendment will not be adopted, either in substance or in form. It will be seen if it is inserted that it will make nonsense of the rest of the paragraph. But it ought not to be inserted even upon its merits. There are many similar cases. Take the farmer

who raises tobacco. We may say he sells his land, because if he continues to cultivate tobacco on the same land from year to year in four years the land is worthless unless it is recuperated by putting on an amount of manure that would be equal to the value of the land.

Take the case of timber. If a man sells timber from his land he often sells off all the value there is in the land. Now, if we go into this question we shall be compelled to go much further than the gentleman proposes. Therefore I think we had better not adopt it.

The amendment was not agreed to.

Mr. DAVIS. I move to add at the end of the paragraph this additional proviso:

And provided further, That any gains and profits of any company, association, or partnership which shall be returned and the tax thereon paid before the same shall be divided, shall to the amount on which such tax has been paid be exempt from tax when afterwards divided.

I was told that that provision was already made in the bill. I find that the provision alluded to does not cover the point I had in mind at all. The provision in the bill is this:

And the share of any person of the gains and profits of all companies, whether incorporated or partnership, who would be entitled to the same, if divided, whether divided or otherwise, except the amount of income received from institutions or corporations, whose officers, as required by law, withhold a per cent. of the dividends made by such institutions, and pay the same to the Commissioner of Internal Revenue or other officer authorized to receive the same.

There are many cases where the corporation cannot divide it up. But by this provision the individual stockholder is required to return the undivided profits of the company or association, and when he returns that it is considered as a part of his income and taxed, and afterward when the company or association makes the dividend the company or association must pay the tax. Now, if we would do justice and prevent the payment of the tax twice over, it seems to me the amendment I have offered should be adopted.

Mr. HOOPER, of Massachusetts. If I understand the amendment of the gentleman from New York [Mr. DAVIS] I can see no necessity for it. No corporation makes a return; only persons are called upon to make returns. I think his amendment would only obstruct the operation of the law, and I hope it will not be adopted.

The amendment of Mr. DAVIS was rejected.

Mr. MORRILL. I move to insert a provision that was omitted by mistake. It is the provision of the present law, with the change to \$1,000 from \$600. I move to add to the paragraph the following:

And provided further, That in cases where the salary or other compensation paid to any person in the employment or service of the United States shall not exceed the rate of \$1,000 per annum, or shall be by fees, or uncertain or irregular in the amount or the time during which the same shall have accrued or been earned, such salary or other compensation shall be included in estimating the annual gains, profits, or income of the person to whom the same shall have been paid, in such manner as the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, may prescribe.

The amendment was agreed to.

The Clerk read as follows:

That section one hundred and eighteen be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that it shall be the duty of all persons of lawful age to make and render a list or return, in such form and manner as may be prescribed by the Commissioner of Internal Revenue, to the assistant assessor of the district in which they reside, of the amount of their income, gains, and profits, as aforesaid; and all guardians and trustees, or any person acting in any other fiduciary capacity, shall make and render a list or return, as aforesaid, to the assistant assessor of the district in which such guardian or trustee resides, of the amount of income, gains, and profits of any minor or person for whom they act as guardian or trustee; and the assistant assessor shall require every list or return to be verified by the oath or affirmation of the party rendering it, and may increase the amount of any list or return, if he has reason to believe that the same is understated; and in case any person, guardian, or trustee shall neglect or refuse to make and render such list or return, or shall render a false or fraudulent list or return, it shall be the duty of the assessor or the assistant assessor to make such list, according to the best information he can obtain, by the examination of such person, and his books and accounts, or any other evidence, and to add fifty per cent. as a penalty to the amount of the duty due

on such list in all cases of willful neglect or refusal to make and render a list or return, and in all cases of a false or fraudulent list or return having been rendered, to add one hundred per cent. as a penalty, to the amount of duty ascertained to be due, the duty and the additions thereto as penalty to be assessed and collected in the manner provided for in other cases of willful neglect or refusal to render a list or return, or of rendering a false and fraudulent return: *Provided,* That any party, in his or her own behalf, or as guardian or trustee, shall be permitted to declare, under oath or affirmation, the form and manner of which shall be prescribed by the Commissioner of Internal Revenue, that he or she, or his or her ward or beneficiary, was not possessed of an income of \$1,000, liable to be assessed according to the provisions of this act; or may declare that he or she has been assessed and paid an income duty elsewhere in the same year, under authority of the United States, upon his or her income, gains, and profits, as prescribed by law; and if the assistant assessor shall be satisfied of the truth of the declaration, shall thereupon be exempt from income duty in said district; or if the list or return of any party shall have been increased by the assistant assessor, such party may exhibit his books and accounts, and be permitted to prove and declare, under oath or affirmation, the amount of annual income liable to be assessed; but such oaths and evidence shall not be considered as conclusive of the facts, and no deductions claimed in such cases shall be made or allowed until approved by the assistant assessor. Any person feeling aggrieved by the decision of the assistant assessor in such cases may appeal to the assessor of the district, and his decision thereon, unless reversed by the Commissioner of Internal Revenue, shall be final, and the form, time, and manner of proceedings shall be subject to rules and regulations to be prescribed by the Commissioner of Internal Revenue.

Mr. HALE. I move to amend the paragraph by inserting after the words "and in case any person, guardian, or trustee shall neglect or refuse to make and render such list or return, or shall render a false or fraudulent list or return, it shall be the duty of the assessor or the assistant assessor," the following:

After notice to the party so neglecting or refusing, or making or rendering such false or fraudulent return, and after a reasonable hearing being afforded to such party.

The hour of half past four o'clock having arrived, the Speaker resumed the chair, and the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

TAX BILL.

Mr. GARFIELD moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVIS in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was upon the amendment of Mr. HALE, to insert after the words "and in case any person, guardian, or trustee shall neglect or refuse to make and render such list or return, or shall render a false or fraudulent list or return, it shall be the duty of the assessor or assistant assessor," the following:

After notice to the party so neglecting or refusing, or making or rendering such false or fraudulent return, and after a reasonable hearing being afforded to such party.

Mr. HALE. I do not propose to urge a vote to-night upon the amendment which I have proposed, after conversation with some of the members of the Committee of Ways and Means; but I wish to call the attention of the committee very briefly to what strikes me as a palpable defect of this paragraph, which ought to be remedied, and toward which the amendment I proposed was directed. When I proposed this amendment I did not consider it sufficient to cover the whole case. I offered it merely as pointing in that direction, and with a view of putting it into a proper form hereafter. This paragraph as it now stands corresponds in many respects with the provis-

ions of a previous section of the act which I understand has been considered in Committee of the Whole at a time when I was not present, but which I understand has been reserved for future consideration.

In both these sections—the fourteenth and the one now under consideration—very vague, general, and loose language is used, which is upon its face susceptible of what strikes me at least as very dangerous constructions. This paragraph provides that an assistant assessor may increase the amount of a list or return, if he has reason to believe that the amount is understated. It provides that in case of refusal to make a return he may prepare a return according to the best information he can obtain. It provides that, if he shall come to the conclusion that a party has rendered a false or fraudulent list or return, he shall have power to make a new return for the party. It does not provide in terms that he shall give any notice or hearing to the party interested in either of these cases; but it does provide that he may go on and impose a penalty, in the one instance of fifty per cent., and in the other of one hundred per cent. It has come within my personal knowledge that it has been assumed by assistant assessors that they have power on *ex parte* evidence, without any hearing of the party, to make up a corrected return in lieu of what they have been pleased to consider a false and fraudulent return, and to impose a penalty for such false and fraudulent return.

The CHAIRMAN. The gentleman's time has expired.

Mr. HALE. For the purpose of concluding what I desire to say, I move to amend the amendment by striking out the last word. Now, sir, I do not believe that such a construction of this paragraph was contemplated by the framers of the law. I doubt if that be the fair construction of the paragraph as it stands. If that be the proper construction of the paragraph, I certainly have no doubt that it is in violation of every principle of law, and it is, I believe, an unconstitutional provision. I therefore wish that this section and the fourteenth section, both upon the same general subject, and both seeking to attain the same general end, shall be so modified as to provide for a proper hearing, and a proper examination, both in the case where a person neglects to make a return, and where a person is charged with making a false return, and that in the latter case the question may be brought before a competent tribunal which shall have power, according to the Constitution, and according to settled principles of law, to impose the penalty which the law seeks to impose.

In conformity, therefore, to the suggestions which have been made by other members of the Committee of the Whole, including some members of the Committee of Ways and Means, I will, if it be acceptable to the committee, withdraw my amendment, with the understanding that this paragraph shall pass over for further consideration in connection with the fourteenth section, which has already been passed. I trust that a carefully prepared and proper substitute may be found both for this paragraph and for that, so that the objections which I have pointed out may be obviated.

The CHAIRMAN. Is there any objection to the understanding that this paragraph shall be reserved for action hereafter?

Mr. ALLISON. I will not object, if it be understood that it shall be open to amendment with reference only to the points presented by the gentleman from New York, [Mr. HALE.]

Mr. HALE. I desire that it should be amended purely with reference to the machinery of the act—the manner of making returns and imposing penalties.

The CHAIRMAN. If there be no objection, such will be the understanding.

There was no objection.

The Clerk read as follows:

That section one hundred and nineteen be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that the duties on incomes herein imposed shall be levied on the 1st day of May, and be due and payable on or before the

30th day of June, in each year, until and including the year 1870, and no longer; and to any sum or sums annually due and unpaid after the 30th of June, as aforesaid, and for ten days after notice and demand thereof by the collector, there shall be levied in addition thereto the sum of ten per cent. on the amount of duties unpaid, as a penalty, except from the estates of deceased and insolvent persons.

Mr. GARFIELD. With the consent of the committee, I desire to offer an amendment to the previous paragraph.

The CHAIRMAN. The Chair hears no objection.

Mr. GARFIELD. I move to amend by inserting at the end of line twenty-five hundred and ninety-six the following:

Provided further, That the list of incomes in the office of the assessor and collector shall be open to the inspection of the public; but neither the assessor nor collector shall furnish such list or any portion thereof for publication, nor permit the same to be copied for publication.

Mr. Chairman, one feature of the internal revenue law which has made it very odious indeed in many parts of the country, and perhaps justly so, is that provision under which the business of every man has been dragged into public view through the newspapers. This has very much disturbed the relations of business men toward each other. It has subjected men's affairs to what no man would willingly consent to. We all know that the reason why in the present law facilities were afforded for the publication of these lists was the apprehension that there might otherwise be in many cases a failure to make the proper return of income. But, sir, it is believed that the same object can be secured by providing that these lists shall be open to the inspection of the public, so that any man who desires to ascertain what income return his neighbor has made can have access to the list, but that the list shall not be furnished systematically for publication, and be paraded in the press simply to gratify public curiosity.

Mr. PRICE. Mr. Chairman, I am inclined to the opinion that the amendment ought not to pass, and for the very good reason that in my mind the publication of the amount given in by persons upon which they pay income tax has been increased from the fact that they knew it would be published. If a man makes a fair and honest return he has no objection to its being made known. If he does not make a fair and honest return then everybody ought to know it. It is different in allowing it to be published in the newspapers and in allowing men to go and see it. Not one man in five hundred will go into the office to see what the returns are. It will be poking his nose into every man's business. If it is in the newspapers every man will see it. Men will put in a larger income if they know it is to be published in the newspapers. An honest man has no objection to the world seeing what he does. A dishonest man may not want his return to be made public.

Mr. GARFIELD. I move to strike out the last word.

Mr. Chairman, the gentleman from Iowa is mistaken when he says an honest man has no objection to the public understanding about his private affairs. Suppose a man has had serious losses during the year, so that his income would be smaller than people expect it to be. Now, he would not want to let that be known so as to alarm his creditors and bring them all down upon him when otherwise he would come out safely. There is no reason in the world, unless the public interests require, that the private affairs of individuals should be brought out and paraded in the public papers. I admit that some sort of publicity is necessary to act as a pressure upon men to bring out their full incomes, but if the lists are left open for public inspection it will be an ample pressure upon them. I do not agree with the gentleman from Iowa that not one in five hundred would go to look at the lists. I know they do go now. If a man comes up to the county seat he is sure to inquire what is the income of his neighbors. I am satisfied it is all the publicity necessary to

effect the purpose without having the offensive feature. I am desirous of making the laws as efficient as possible without making them odious. I believe the feature I am now discussing is unnecessarily odious. I think my amendment will take away that odious feature. I withdraw the amendment to the amendment.

Mr. HALE. I move to strike out the last word, simply to say in response to the gentleman from Iowa, [Mr. PRICE,] who thinks no honest man can have any objection to his affairs being published to the world, it strikes me there are two classes of honest men who may have objection to the publication in the newspapers of their incomes: the one class being those who have large incomes and the other those who have not. [Laughter.]

Mr. PRICE. I trust the committee will observe the argument used for the purpose of keeping this information out of the papers. The first class, those who have large incomes, the gentleman says will object to have them published in the papers. He does not say why they will object. We have only his *ipse dixit*. He says the other class who have small incomes will object to it; he does not tell us why. It is a matter of opinion.

The gentleman from Ohio [Mr. GARFIELD] says a man who is in a failing business does not want the world to know it. If he is in a failing condition his creditors will know it without publication in the papers. But that is an extreme case, and when the gentleman has to resort to that sort of argument to bolster up his amendment he has a bad case. If you pass the amendment you will lose millions of dollars on that one item. I repeat, that an honest man has no objection to the world seeing his affairs at any time. If he is in a bad condition he has only to make the best of it. If the man is dishonest the world should know it.

Mr. HALE, by unanimous consent, withdrew his amendment to the amendment.

Mr. SCOTFIELD. I move to strike out the words "nor permit the same to be copied for publication," so that the amendment shall simply provide that the officer shall not furnish lists for publication. I would be glad if the gentleman from Ohio [Mr. GARFIELD] would accept that amendment. It seems that there is nobody on the other side to-night to raise the constitutional question. When anything good is to be done, or anything bad is to be stopped, we always hear from the other side that it is not constitutional. And I had looked for some gentleman over there to raise that question in regard to the amendment offered by the gentleman from Ohio, to say that all the proceedings of this Government, except the secret sessions of the Senate, are public. The newspapers of the country are the eyes of the country. And if the editors and their correspondents are to be denied access to these records for the purpose of giving them publicity the public can have no real information upon the subject.

Take a district like the one I have the honor to represent, two hundred miles in length, with the office of the assessor at one end of the district and the office of the collector at the other. How are the people to know who of their neighbors are returning proper incomes, when their returns have been given in and sent off one hundred and fifty or two hundred miles? Are they all to go that distance and examine the records, for the purpose of ascertaining whether their neighbors are cheating the Government and compelling them to pay too much? Or are their neighbors who wish to guard them in the same respect to travel two hundred miles to look over the records? Let the editor who resides in the town where the assessor has his office, send his clerk if he chooses or go himself and copy from the records. That I think is constitutional; it is free speech and nothing else.

Now, if the gentleman from Ohio [Mr. GARFIELD] wants to place a padlock on the records, I warrant you that every wealthy man in the House will vote with him on this subject. If the gentleman wants to put a padlock on the

return which the wealthy man makes, so that the poor man shall not see it, though the burden will fall upon him if the rich man does not pay his full share, then let him say so. But if he is willing that the public, if they go to the trouble to have it copied, shall have this record published, then I hope he will accept my amendment to his amendment, as it will still leave all of his amendment that is valuable, and will give the public an opportunity to know what is going on.

Mr. MORRILL. There are just two policies to be adopted in this matter: one is to provide that these lists shall not be published in the newspapers; the other is to allow them to be so published. If the amendment of the gentleman from Pennsylvania [Mr. SCOTFIELD] prevails, of course these lists are to be published as they have been hitherto. I think there have been few instances, when they have been heretofore published, that the collector or the assessor has been at the trouble and labor of furnishing a copy of the list. But the officer has permitted the newspaper reporter to take a copy. I must say that I feel somewhat indifferent in regard to this subject. But the argument upon the question has not been fully stated. There is no question that the publication of these lists has a tendency to increase the revenue. But is an inconvenience, and causes a great deal of complaint, not only among the wealthy, but among those who have moderate incomes. If a man has been doing a disastrous business, either in a mercantile or a manufacturing line of business, he does not quite like to have the fact immediately published to the world. If, on the contrary, he has been doing a very prosperous business, he does not like to have that fact published, because it might lead to serious competition.

Now, if we are to have any change at all, it should go at least as far as the amendment proposed by the gentleman from Ohio, [Mr. GARFIELD.] If we are to have no change, then we can vote down the amendment of the gentleman from Ohio or adopt the amendment proposed to that amendment by the gentleman from Pennsylvania, [Mr. SCOTFIELD.]

The question was upon the amendment to the amendment, to strike out the words "nor permit the same to be copied for publication."

The amendment to the amendment was not agreed to.

The question recurred on Mr. GARFIELD's amendment.

Mr. SPALDING. Is it in order to move to amend the amendment by striking out "neither" and "nor" and inserting "either" and "or" in lieu thereof?

The CHAIRMAN. It is.

Mr. SPALDING. Then I make that motion.

The amendment to the amendment was not agreed to.

Mr. SLOAN. I move to amend by inserting the words "but shall not prevent the same from being copied for publication."

The question was put; and there were—ayes 30, noes 45; no quorum voting.

Mr. SLOAN. I withdraw the amendment to the amendment.

The question recurred on Mr. GARFIELD's amendment.

Tellers were ordered; and Messrs. GARFIELD and SPALDING were appointed.

The committee divided; and the tellers reported—ayes fifty-six, noes not counted.

So the amendment was agreed to.

Mr. BERGEN. I move to insert at the end of the paragraph the following:

No passport shall be issued from the State Department, or by any minister, chargé, or consul, to any person unless he produces the receipt or other sufficient proof thereof for the payment of all income taxes imposed upon him from 1862 to the date of his application. Nor shall any passport be renewed or viséed by any minister, chargé, or consul abroad, unless the same condition be complied with.

Mr. MORRILL. I make the point of order that that amendment has once been offered and voted down.

Mr. BERGEN. Not as an amendment to this section.

Mr. MORRILL. I would say to the gentleman that his amendment is entirely impracticable, because one half of the people do not have any income at all.

The CHAIRMAN. The Chair overrules the point of order. The amendment is now offered to another section of the bill.

Mr. BERGEN. The object of this section is to catch dodgers. [Laughter.] I hold that every American citizen ought to pay his fair share toward the support of the Government. Now, many go to Europe and remain there to evade paying their share of the expenses of the Government. They claim the protection of the Government while they are there. When they are compelled to travel from place to place they call upon our ministers and other agents for passports. They then ask the assistance of our Government. The only way that I can see in which we can catch these parties and make them pay their share of our taxation is to refuse them passports until they have paid their share of our taxes. If my amendment would not reach such parties, I hope some member of the committee who is more conversant with the matter than I am will so amend it as to put the matter in such condition that they will be reached.

Mr. MORRILL. I hardly think that we should gather any very great increase of revenue from the provision of the gentleman if it should be adopted, and I think it is wholly impracticable. A passport is not so essential in visiting foreign countries that every person needs one. I do not think that one half of the persons going abroad stop to think of the necessity of taking a passport; and it will be noticed that this amendment applies to every one. Whether the party pays an income tax or not, he must show a receipt that he has paid one every year for the past four years.

Mr. BERGEN. I call for tellers on my amendment.

Tellers were not ordered.

The amendment was disagreed to.

Mr. MORRILL. On page 114, in line twenty-six hundred and eight, I move to strike out the word "and" and insert "or" in lieu thereof; so that it will read:

And to any sum or sums annually due and unpaid after the 30th of June, as aforesaid, and for ten days after notice and demand thereof by the collector there shall be levied in addition thereto the sum of ten per cent. on the amount of duties unpaid, as a penalty, except from the estates of deceased or insolvent persons.

The amendment was agreed to.

The Clerk read as follows:

That section one hundred and twenty be amended by striking out the proviso to said section and inserting in lieu thereof the following: *Provided*, That the tax or duty upon the dividends of life insurance companies shall not be deemed due until such dividends are payable; nor shall the portion of premiums returned by mutual life insurance companies to their policy holders, nor the annual or semi-annual interest allowed or paid to the depositors in savings banks be considered as dividends.

That section one hundred and twenty-three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that there shall be levied, collected, and paid on all salaries of officers or payments for services to persons in the civil, military, naval, or other employment or service of the United States, including Senators and Representatives and Delegates in Congress, when exceeding the rate of \$1,000 per annum, a duty of five per cent. on the excess above the said \$1,000; and it shall be the duty of all paymasters and all disbursing officers under the Government of the United States, or in the employ thereof, when making any payments to officers and persons as aforesaid, or upon settling and adjusting the accounts of such officers and persons, to deduct and withhold the aforesaid duty of five per cent., and shall, at the same time, make a certificate stating the name of the officer or person from whom such deduction was made, and the amount thereof, which shall be transmitted to the office of the Commissioner of Internal Revenue, and entered as part of the internal duties; and the pay-roll, receipts, or account of officers or persons paying such duty as aforesaid, shall be made to exhibit the fact of such payment. And it shall be the duty of the several Auditors of the Treasury Department, when auditing the accounts of any paymaster or disbursing officer, or any officer withholding his salary from moneys received by him, or when settling or adjusting the accounts of any such officer, to require evidence that the duties or taxes mentioned in this section have been deducted and paid over to

the Commissioner of Internal Revenue: *Provided*, That payments of prize money shall be regarded as income from salaries, and the duty thereon shall be adjusted and collected in like manner.

Mr. MORRILL. On page 115, in line twenty-six hundred and thirty-one, I move to strike out the word "and" and insert in lieu thereof the word "or."

The amendment was agreed to.

Mr. MORRILL. In line twenty-six hundred and thirty-two, I move to strike out the word "and" before "persons" and to insert "or."

The amendment was agreed to.

Mr. MORRILL. In line twenty-six hundred and thirty-four, after the word "and" I move to insert the word "they."

The amendment was agreed to.

Mr. MORRILL. At the end of the paragraph I move to add the following additional proviso:

Provided further, That this section shall not apply to payments made to mechanics and laborers employed upon the public works.

The amendment was agreed to.

Mr. GARFIELD. In line twenty-six hundred and forty-eight I move to insert after the word "revenue" the words "or other officer authorized to receive the same."

The amendment was agreed to.

Mr. ANCONA. I move to amend the paragraph by striking out all after the word "clause" in line twenty-six hundred and twenty down to the end of the paragraph. The effect of the amendment would be to so amend the law as it now stands as to strike out the section that requires the tax to be deducted from the pay of officers in the employment of the Government and give them the privilege of making the deductions that persons not in the employ of the Government are entitled to. I cannot see the propriety of making a discrimination against persons in the employ of the Government.

Mr. MORRILL. I am delighted to see the gentleman from Pennsylvania showing such a kindly disposition toward office-holders, but I trust we shall not adopt his motion. There is, perhaps, no class better able to pay this tax than the office-holders of the country. Until there is less ambition to accept of public station, with all the duties and costs of office, I think we may very well retain this tax.

The amendment was disagreed to.

Mr. WILSON, of Iowa. I wish to call the attention of the committee to an amendment which I think should be made in the paragraph which we have just passed. On page 107 an amendment was made to insert the words "or savings" after "provident."

The CHAIRMAN. That amendment was rejected.

Mr. WILSON, of Iowa. I understood that it was adopted.

The CHAIRMAN. The Chair is informed that it was not.

Mr. MORRILL. With a view to make the provisions identical, I move to insert in line twenty-six hundred and seventeen, after the word "in," the words "provident institutions or."

Mr. THAYER. I ask the gentleman to insert the words "savings institutions" also.

Mr. MORRILL. That amendment was rejected when the other section was under consideration, and I must object to it.

Mr. THAYER. I would inquire if the amendment was not adopted on page 107. The Clerk states that according to his recollection it was adopted.

The CHAIRMAN. The Clerks state that the amendment was not adopted.

Mr. THAYER. It ought to have been adopted.

The CHAIRMAN. Is any motion made in reference to the matter?

Mr. THAYER. I will ask unanimous consent to move that those words be inserted. They will not alter, in any respect, the sense; they simply adopt a term by which these insti-

tutions are known in certain parts of the country.

The CHAIRMAN. Is there objection to the offering of such an amendment?

There was no objection.

Mr. THAYER. I move, then, to amend by inserting after the word "banks," in line twenty-four hundred and forty-two, the words "or savings institutions."

The amendment was agreed to.

Mr. WILSON, of Iowa. I move to amend by inserting the words "or savings institutions" after the words "savings banks" in line twenty-six hundred and seventeen.

The amendment was agreed to.

Mr. GARFIELD. I move to amend by striking out the word "duty," in line twenty-six hundred and twenty-seven, and inserting in lieu thereof the word "tax;" also, by inserting after the word "dollars," in line twenty-six hundred and twenty-eight, the words "and a tax of ten per cent. on the excess above \$5,000."

The amendment was agreed to.

Mr. BERGEN. I move to amend by adding at the end of the paragraph the following:

It shall not be lawful for the State Department, or any minister, chargé, or consul, to issue a passport to any party, unless he produces receipts, or other satisfactory evidence of the payment of all income taxes imposed on him from 1863 to the date of his application; nor shall any passport be renewed or viséed by any minister, chargé, or consul abroad, unless the same conditions are complied with.

I think, Mr. Chairman, that if members of the House fully understand this matter, they will determine that this proposition should, in some shape or other, be adopted, so that persons may not go abroad to avoid the payment of the income tax, but that all may be compelled to contribute their just share to the support of the Government. This is the object of the amendment. It seems to me obviously proper, and I hope it will be adopted.

On agreeing to the amendment there were—

ayes twenty-one, noes not counted.

Mr. BERGEN called for tellers.

Tellers were ordered; and Messrs. BERGEN and PRICE were appointed.

The committee divided; and the tellers reported—ayes thirty-one, noes not counted.

So the amendment was not agreed to.

The Clerk read as follows:

That section one hundred and twenty-four be amended by inserting after the words "duty or tax" where they first occur in said section, the words "whenever the party interested in such legacy or distributive share or property or interest aforesaid shall become entitled to the possession or enjoyment thereof, or to the beneficial interest in the profits accruing therefrom, such duty or tax."

Mr. ALLISON. With a view of having a similar provision inserted in the next section, I move to amend by striking out this paragraph.

The amendment was agreed to.

Mr. HOLMES. I desire to move an amendment to section one hundred and twenty-four of the present law. The portion of the section which I wish to have amended is not incorporated in the bill before us, and I shall therefore be compelled to refer to the pamphlet edition of the amended tax law, as passed March 3, 1865. Members who have this pamphlet before them will find the section on pages 86 and 87. For the information of those who have not the section before them I will state that it provides for the taxation of legacies and distributive shares of personal property. The taxation is not uniform, but the more remote or distant the relationship of the party receiving the property to the party whose estate is to be distributed, the higher is the rate of taxation. There is no exemption from this taxation where the whole estate to be distributed amounts to \$1,000, except that contained in the proviso to the section, which I will read:

Provided, That all legacies or property passing by will, or by the laws of any State or Territory, to husband or wife of the person who died possessed, as aforesaid, shall be exempt from tax or duty.

The exemption here in favor of the wife is just and humane; that in favor of the husband, who is supposed to have sufficient ability to take

care of and support not only himself but the entire family, is, in my opinion, of very questionable propriety. But there is another class of persons liable to taxation under this section whose claim to exemption is at least as strong as that of the wife and mother, and much stronger than that of the husband and father; I refer to the minor children of a deceased party. I have been troubled in my own mind to find any reason which will justify the exemption of the father while the property of the children is subjected to taxation. It appears to me a sufficient calamity for a child of that age to be deprived of a parent without being subjected to taxation by the Government for the privilege of becoming an orphan. I think I am justified in saying that in a large majority of cases where the father dies the children are left with a property insufficient to provide for their education and for their support until they attain the period of their majority. I do not speak of estates where the parent dies insolvent, but where small estates, amounting to from \$1,000 to \$5,000, are left for distribution between the widow and the children. Where no will is made, the widow generally receives one third, while the remainder is equally divided among the children. The portion belonging to the minor children passes into the hands of trustees, executors, or guardians, the pay for whose services comes out of the children's share of the estate.

Now, sir, if there is a class of persons in the community who have a stronger claim than any others upon the justice and humanity of the Government; if there is any class on whom the hand of the Government should be laid only for the purpose of protection and not for the purpose of taxation, it is the class of persons to whom I have just referred. My own opinion is that this class of persons should be entirely exempted from taxation; but I find that such a proposition will encounter the opposition of the Committee of Ways and Means; and knowing how difficult it is to pass any amendment which that committee oppose, I have concluded to modify the proposition which I intended to offer and to submit an amendment which shall exempt from taxation the legacy or share of a minor child to the amount of \$1,000. Believing that in this shape the proposition will receive the concurrence of the committee, as well as the assent and support of every member of the House, I move to amend by inserting the following:

That section one hundred and twenty-four be amended by adding thereto the following proviso: *And provided further*, That any legacy or share of personal property passing as aforesaid to a minor child of the person who died, possessed as aforesaid, shall be exempt from taxation or duty under this section, unless such legacy shall exceed the sum of \$1,000, in which case the excess only above that sum shall be liable to such taxation or duty.

Mr. MORRILL. I am very much gratified to be able to approve the proposition of the gentleman from New York; but I am pained to inform him that he is simply proposing to reenact the existing law. To satisfy him on this point let me read from the commencement of section one hundred and twenty-four:

That any person or persons having in charge or trust as administrators, executors, or trustees, any legacies or distributive shares arising from personal property, where the whole amount of such personal property, as aforesaid, shall exceed the sum of \$1,000 in actual value, &c.

Mr. HOLMES. The language there is "where the whole amount of such personal property, as aforesaid, shall exceed the sum of \$1,000," and under that provision there is no exemption where the amount of the whole estate exceeds that sum. My amendment provides for an exemption to the amount of \$1,000 for each child. The law, as it now is, exempts the estate where the aggregate amount before division does not exceed \$1,000. If it exceeds that sum there is no exemption.

Mr. MORRILL. If that is the distinction which the gentleman makes I do not see any objection to the amendment.

Mr. HALE. I move to amend the amendment of my colleague [Mr. HOLMES] by striking

it out and inserting in lieu thereof the following:

That section one hundred and twenty-four be amended by striking out from the first subdivision thereof the words "lineal issue or;" also by inserting in the proviso, at the end of said section, after the words "husband or wife," the words "or lineal issue."

The effect of this substitute is to abolish entirely the inheritance of legacy tax in the case of lineal descendants. I conceive that this is the just and true policy. I do not believe that legacies in the line of lineal inheritance should be made the subject of taxation. I do not think that a tax of this sort is levied in the manner in which taxes ought to be levied so as to produce the least oppression. On the contrary, I believe that these taxes are felt to be more oppressive than all others. This substitute, if adopted, will leave subject to taxation all collateral inheritances and all legacies, except legacies to lineal descendants, who will receive their legacies free from tax precisely as does the husband or wife of the deceased person.

Mr. MORRILL. I hope the amendment of the gentleman from New York will not be adopted. The tax imposed upon lineal descendants or ascendants is only one per cent. There are many large estates where all the heirs, though lineal descendants, are not mere children but full-grown men.

Mr. WILLIAMS. Mr. Chairman, I move to strike out the last word to make a remark or two on this subject. I agree entirely with the remarks of my learned friend from New York [Mr. HALE] in support of the amendment he has just offered. It seems to me the argument made by my friend from New York, [Mr. HOLMES], is applicable to the whole subject-matter of this section and furnishes conclusive reason why it should not be adopted. I have been at a loss to understand why the catastrophe of death should be singled out as the opportune occasion for the exercise of the governmental power of taxation. I know the idea comes from the old feudal law, from the system of relief, one of the oppressive appendages of that system, which rested upon the idea that the tenure of the individual was a tenure for life, and the fee was the ultimate property of the suzerain, so that when the ancestor died it was necessary the estate should be "lifted up" again. Hence the word "relief," from the Latin *relevare*.

Gentlemen propose to reenact these oppressive incidents of the feudal tenure. I do not know why it is we should avail ourselves of the most deplorable catastrophe which can occur to a family—the loss of its head—to strip the children and those who are helpless of the patrimony which would otherwise descend to them. I suppose there is no case where the life of the founder of the family is not worth more to those who depend upon him for support than the property he has, and where the family would not exchange the one for the other. This is certainly not in accordance with the humane theory announced by the gentleman from Vermont when he opened the debate. He said:

"If a horse runs away with a carriage, or a locomotive gets smashed, it seems oppressive for the Government to seize the opportunity of such misfortune for levying a fresh tax."

This is also taxing calamity. It is no more than reviving one of the oppressive appendages of the feudal ages.

[Here the hammer fell.]

Mr. BOUTWELL. If we exempt the property of minor children it is as far as we need go. The amendment to the amendment was rejected.

Mr. HOLMES's amendment was adopted.

Mr. HOLMES. I move to insert the words "personal property." As it now reads it covers all kinds of property, real as well as personal.

The amendment was agreed to.

The Clerk read as follows:

That section one hundred and twenty-five be amended by inserting after the words "United States," in the first sentence of said section, the

words, "and every administrator, executor, or trustee, having in charge or trust any legacy or distributive share, as aforesaid, shall give notice thereof in writing to the assessor or assistant assessor of the district where the deceased, grantor, or bargainee last resided, within thirty days after he shall have taken charge of such trust;" and by inserting after the words "shall make out such lists and valuation as in other cases of neglect or refusal, and shall assess the duty thereon," the words "and in case of willful neglect, refusal, or false statement by such executor, administrator, or trustee, as aforesaid, he shall be liable to a penalty of not exceeding \$1,000, to be recovered with costs of suit."

Mr. ALLISON moved the following amendment:

Strike out line twenty-six hundred and fifty-nine, and insert in lieu thereof, the following:

That section one hundred and twenty-five be amended by inserting after the words "that the tax or duty aforesaid," the following: "shall be due and payable whenever the party interested in such legacy or distributive share, or property, or interest aforesaid, shall become entitled to the possession or enjoyment thereof, or to the beneficial interest in the profits accruing therefrom, and the same;" and.

The amendment was adopted.

Mr. WIESON, of Iowa. Does that affect the phraseology of the one hundred and twenty-fourth section of the original act?

Mr. ALLISON. Yes, sir.

Mr. WILSON, of Iowa. If it changes the language of section one hundred and twenty-five by being made an amendment to that section, it leaves the language of section one hundred and twenty-four in the original act still remaining as the law, so that the two provisions make nonsense.

Mr. ALLISON. The original act does not provide when this tax shall be due and payable. There is no provision in the law when it becomes due and payable.

Mr. HALE. I move to strike out the last word of the amendment for the purpose of suggesting to the gentleman who made the motion that it seems to me it requires some modification. Under the rule now held at the Commissioner's office, if a person is entitled to an annuity of \$100 for life, the tax is assessed on the present value of that annuity and deducted by the executor from the first payment of the annuity. Now, that is palpably wrong and unjust. For instance, a widow has left to her an annuity for her support. It is what she depends upon. Under the construction now adopted at the office of the Commissioner the whole tax on the present value of the annuity is deducted from the first installment of the interest. It is all wrong. It should only come out *pro rata* year by year.

Mr. ALLISON. I do not know what the gentleman from New York [Mr. HALE] proposes. We do not change the existing law except as to the time when this tax shall become due and payable. Now, it should be payable, it seems to me, at the time when the party comes into possession of the annuity. If the gentleman desires to change the law in that respect, any amendment that he will suggest to the committee will of course be considered. But I do not see why, if this tax is to be paid at once, it should not be paid upon the value of the estate at the time the beneficiary comes into possession or is entitled to receive the enjoyment of the property, whether in the shape of an annuity or of actual possession of the property.

[Here the hammer fell.]

Mr. HALE. I withdraw my amendment and substitute another, to insert after the word "thereof" in the amendment proposed by the gentleman from Iowa the words "or, in case of an annuity, payable on each installment of the said annuity as the same shall be due." I think the gentleman misapprehends what the ruling in this case is. A widow or any other person who is dependent upon an annuity for support, and who requires the payment of the first installment, is subjected to a deduction therefrom of the tax on the computed present value of the whole annuity. In other words, when a widow is to receive this year \$500 for her support, and next year \$500, the whole \$500 for the first year is wiped out by the tax on the present value of the whole annuity, leaving her destitute.

Mr. ALLISON. I suggest that the amendment proposed now does not meet what the gentleman desires to remedy, because it would then subject the annuity to an annual tax equivalent to the whole value of the property, which certainly ought not to be. It would take it out every year, whereas by the existing law the property of the estate is valued, and one tax is taken out, and that is the end of it. But the gentleman proposes to take this out every year.

Mr. HALE. My proposition will take the tax of \$500 out whenever \$500 is payable; no more and no less.

The amendment to the amendment was not agreed to.

The question recurred on the amendment of Mr. ALLISON, and it was agreed to.

The Clerk read as follows:

That section one hundred and thirty-seven be amended by inserting after the words "imposed by this act" the words "shall be assessed in the collection district where the estate is situate, and."

No amendment being offered,

The Clerk read as follows:

That section one hundred and thirty-eight be amended by adding thereto the words, "and every administrator, executor, or trustee, having in charge or trust any disposition of real estate or interest therein, subject to tax or duty under this act, shall give notice thereof in writing to the assessor or assistant assessor of the district where the estate is situate, within thirty days from the time when he shall have taken charge of such trust, and prior to any distribution of said real estate, together with a statement of the character and value thereof; and for willful neglect or refusal to do so, shall be liable to a penalty of not exceeding \$500, to be recovered with costs of suit."

Mr. ALLISON. I move to strike out the words "every administrator, executor, or trustee," in the first part of the paragraph, and insert in lieu thereof "such persons."

The amendment was agreed to.

Mr. ALLISON. I move to strike out the words "statement of the character" in the latter part of the paragraph, and insert in lieu thereof "description;" also, to insert after the words "value thereof" the words "and the person interested therein."

The amendments were agreed to.

Mr. HOLMES. I move to amend the paragraph by inserting at the close the following:

That section forty-one be amended by striking out the following proviso: "Provided, That if the estate of the successor shall be defeated in whole or in part by its application to the payment of the debts of the predecessor, the executor, administrator, or trustee so applying it shall pay out of the proceeds of the sales so made the amount so refunded."

The provision which I propose to strike out amounts to this: that if a party who has received real estate as heir or devisee and paid the taxes upon it, by this act shall find himself dispossessed of the whole or any portion of such estate by reason of the executor or administrator selling the same to pay the debts of the "predecessor," that the executor or administrator shall pay out of the proceeds of the sale so much of the tax as is to be refunded under the provisions of this act. Now, sir, the Government has received this tax, and this is the proposition: either to take it again from the pocket of the party who has paid it once, or from the creditor whose debts are to be paid. I do not see any propriety or justice in either of the provisions. It is simply in one case selling the property of the person who has paid the tax for the purpose of refunding it to him instead of making the Government repay it, and in the other of making the creditor whose debts are to be paid contribute to the payment of the tax, as a punishment, I suppose, for collecting his debt from the estate of the "predecessor." The Government having secured the tax ought to refund it, instead of collecting it again from the "successor" or compelling an innocent creditor to pay it.

Mr. ALLISON. I do not think this amendment ought to be adopted. The provision as it now stands is that if a party delays asserting his title, whether it be that of mortgagee or owner, until after the succession has passed, then that party shall refund to the beneficiary the amount of tax thus paid. Now, I think that is a just provision and that it ought to

pass. The Government of the United States ought not to be required to levy this tax, make the collection, and then have a mortgagee or owner of the land come in two, three, or five years afterward and assert his title.

The amendment was not agreed to.

Mr. WRIGHT. I move to amend by striking out the words "shall give notice thereof in writing to" in line twenty-six hundred and eighty-two and inserting "who shall receive notice thereof in writing from;" so that it will read:

And every such person having in charge or trust any disposition of real estate or interest therein, subject to tax or duty under this act, who shall receive notice thereof in writing from the assessor or assistant assessor of the district where the estate is situate, within thirty days from the time when he shall have taken charge of such trust, and prior to any distribution of said real estate, together with a description thereof.

I think when we employ and pay an officer of the Government it is his bounden duty either to take less pay or discharge his whole duty. How would it operate where an administrator of an estate with a very limited knowledge of the law shall have been selected? As soon as the thirty days expire the officers of the law will go and complain of him, and he is at once subjected to the payment of the penalty of \$500 named in the section, a part of which I have just read. We ought to use some caution in a matter of this kind, and I simply propose by my amendment to change it from devolving the duty upon the administrator, who may be ignorant of the law, and transfer it to the officer of the law, whose duty it is to see that no man escapes the performance of the duty which is required by law.

A word more and I have done. A year or two ago, when we had the Army bill up, I ventured to make the remark that there were too many tinkers about it. Now, it seems to me that that remark will apply in some measure to this bill. I fear me much that proper consideration has not been given to the various provisions of this bill. While I have the highest respect for the amiable chairman, and the competent committee who have had this matter in charge, it seems to me that in going over what we supposed to be the plain provisions of a just law, we have turned it by proposed amendments into a sort of metaphysical disquisition. And the Scotchman's definition of metaphysics, I think, will apply here: "When the mon that's listening dinna ken what the speaker means, and the mon that's speaking dinna ken what he means himsel, that's metaphysics."

Mr. SPALDING. I offer the following as a substitute for the amendment of the gentleman from New Jersey, [Mr. WRIGHT:]

It shall not be lawful for the State Department nor any ambassador, minister, chargé, or consul, to issue a passport to any party unless he produces receipts or other satisfactory evidence of the payment of all income taxes imposed on him from 1863 to the date of his application. Nor shall any passport be renewed or viséed by any ambassador, minister, chargé, or consul abroad, unless the same conditions are complied with.

Mr. MORRILL. While I know the resources of wit in that corner of the House to be ample, I shall regret to see the poverty of resources which will be displayed in the columns of the Daily Globe to-morrow; and therefore I must raise the point of order on the amendment of the gentleman from Ohio, [Mr. SPALDING,] that it has already been voted down three or four times, and besides, it is not germane to anything now under consideration.

The CHAIRMAN. The Chair sustains the point of order on the ground last stated by the gentleman from Vermont, [Mr. MORRILL.]

Mr. SPALDING. Will my amendment be in order at another stage of this bill?

The CHAIRMAN. The Chair cannot tell when it will be in order.

The question recurred on the amendment of Mr. WRIGHT.

Mr. UPSON. I think the objection raised to this paragraph by the gentleman from New Jersey [Mr. WRIGHT] is fully obviated by reading the closing sentence. The gentleman

argues as if it was meant to impose a penalty on a man for neglect, when made in ignorance of the law. The last clause says that "for willful neglect or refusal so to do he shall be liable to a penalty," &c. Therefore it seems to me that his amendment is unnecessary.

The amendment of Mr. WRIGHT was not agreed to.

The Clerk read as follows:

That section one hundred and forty-five be amended by inserting after the word "years" the words "from the time when such tax or duty shall have become due and payable."

No amendment being offered,

The Clerk read as follows:

That section one hundred and fifty be, and the same is hereby, repealed.

No amendment being offered,

The Clerk read as follows:

That section one hundred and fifty-two be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that it shall not be lawful to record any instrument, document, or paper required by law to be stamped unless a stamp or stamps of the proper amount shall have been affixed and canceled in the manner required by law; and the record of any such instrument, upon which the proper stamp or stamps aforesaid shall not have been affixed and canceled as aforesaid shall be utterly void, and shall not be used in evidence.

Mr. DAVIS. I desire to ask the chairman of the Committee of Ways and Means [Mr. MORRILL] whether there is any provision in this bill in relation to a title-deed which may have been left unstamped or have been improperly stamped through inadvertence.

Mr. MORRILL. There is a provision elsewhere in this bill providing that the deed may be stamped within a year.

Mr. DAVIS. Is there any provision by which the record of the deed in such case may be used in evidence for the purpose of substantiating the title? According to this paragraph, if the deed should be destroyed, the original paper destroyed, the record cannot be used, because it does not appear from the record that the original paper was stamped in the precise manner required by law. Therefore, there is no mode of deducing title through a defective record. I think that point ought to be provided for, if it is not now.

Mr. MORRILL. If the gentleman will look at the paragraph on page 122 of this bill, I think he will find that ample provision has been made upon the point to which he refers.

The Clerk read as follows:

That section one hundred and fifty-four be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that all official instruments, documents, and papers used by the officers of the United States Government, or by the officers of any State, county, town, or other municipal corporation, shall be, and hereby are, exempt from tax or duty: *Provided*, That it is the intent hereby to exempt from liability to taxation only such State, county, town, or other municipal corporations, in the exercise of functions strictly belonging to them in their ordinary governmental and municipal capacity, and not to any special exemption to individuals dealing with such corporations.

Mr. MORRILL. I move to amend the sentence "that all official instruments, documents, and papers used by the officers of the United States," &c., by striking out the word "used" and inserting the word "issued."

The amendment was agreed to.

Mr. MORRILL. I move to amend the proviso by striking out the word "only" after the word "taxation," and by inserting the word "only" before the words "in the exercise of functions strictly belonging to them," &c.

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out the words "and not to any special exemption to individuals dealing with such corporations."

The amendment was agreed to.

The Clerk read as follows:

That section one hundred and fifty-five be amended by striking out all after the enacting clause, and inserting in lieu thereof the following: that if any person shall forge or counterfeit, or cause or procure to be forged or counterfeited, any stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, which shall have been provided, or may hereafter be provided, made, or used in pursuance of this act, or shall forge, counterfeit, or resemble, or cause or procure to be forged, counter-

foited, or resembled, the impression, or any part of the impression, of any such stamp, die, plate, or other instrument, as aforesaid, upon any vellum, parchment, or paper, or shall stamp or mark, or cause or procure to be stamped or marked, any vellum, parchment, or paper, with any such forged or counterfeited stamp, die, plate, or other instrument, or part of any stamp, die, plate, or other instrument, as aforesaid, with intent to defraud the United States of any of the duties hereby imposed, or any part thereof; or if any person shall utter, or sell, or expose to sale any vellum, parchment, paper, article, or thing, having thereupon the impression of any such counterfeited stamp, die, plate, or other instrument, or any part of any stamp, die, plate, or other instrument, or any such forged, counterfeited, or resembled impression, or part of impression, as aforesaid, knowing the same respectively to be forged, counterfeited, or resembled; or if any person shall knowingly use any stamp, die, plate, or other instrument, which shall have been so provided, made, or used, as aforesaid, with intent to defraud the United States; or if any person shall fraudulently cut, tear, or remove, or cause or procure to be cut, torn, or removed, the impression of any stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of this act, from any vellum, parchment, or paper, or instrument or writing charged or chargeable with any of the duties hereby imposed; or if any person shall fraudulently use, join, fix, or place, or cause to be used, joined, fixed, or placed, to, with, or upon any vellum, parchment, paper, or any instrument or writing charged or chargeable with any of the duties hereby imposed, any adhesive stamp, die, plate, or other instrument, which shall have been provided, made, or used in pursuance of this act, and which shall have been cut, torn, or removed from any other vellum, parchment, or paper, or any instrument or writing charged or chargeable with any of the duties hereby imposed; or if any person shall willfully remove or cause to be removed, altered or cause to be altered, the canceling or defacing marks on any adhesive stamp, with intent to use the same or cause the use of the same after it shall have been once used, or shall knowingly or willfully sell or buy such washed or restored stamps, or offer the same for sale, or give or expose the same to any person for use, or knowingly use the same, or prepare the same with intent for the further use thereof; or if any person shall knowingly and without lawful excuse (the proof whereof shall lie on the person accused) have in his possession any washed, restored, or altered stamps, which have been removed from any vellum, parchment, paper, instrument, or writing, then, and in every such case, every person so offending, and every person knowingly and willfully aiding, abetting, or assisting in committing any such offense as aforesaid, shall be deemed guilty of felony, and shall, on conviction thereof, forfeit the said counterfeited stamps and the articles upon which they are placed, and be punished by fine not exceeding \$1,000, or by imprisonment and confinement to hard labor not exceeding five years, or both, at the discretion of the court.

Mr. GARFIELD. I move the following verbal amendment in line twenty-seven hundred and thirty-seven: strike out "debts" and insert "taxes;" and the same amendment in lines twenty-seven hundred and fifty-four and twenty-seven hundred and sixty-four.

The amendments were severally agreed to.

Mr. MORRILL. I move the following amendments:

In line twenty-seven hundred and forty-four strike out the word "respectively;" in line twenty-seven hundred and fifty-nine, after the word "stamp," insert "or impression of any stamp;" in line twenty-seven hundred and sixty-seven, before the word "cause," insert "to;" and in line twenty-seven hundred and fifty-eight strike out "debts" and insert "taxes."

The amendments were severally agreed to.

Mr. MORRILL. I move the following, to come in at the proper place:

After line twenty-six hundred and ninety-three insert the following:

That section one hundred and forty-seven be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any person liable to pay duty in respect to any succession shall give notice to the assessor or assistant assessor of his liability to such duty within thirty days from the time when he shall become entitled in possession to such succession, or to the receipt of the income and profits thereof; and shall at the same time deliver to the assessor or assistant assessor a full and true account of said succession, for the duty whereon he shall be accountable, and of the value of the real estate involved, and of the deductions claimed by him, together with the names of the successor and predecessor, and their relation to each other, and all such other particulars as shall be necessary or proper for enabling the assessor or assistant assessor to fully and correctly to ascertain the duties due; and the assessor or assistant assessor, if satisfied with such account and estimate as originally delivered, or with any amendments that may be made therein upon his requisition, may assess the succession duty on the footing of such account and estimate; but it shall be lawful for the assessor or assistant assessor, if dissatisfied with such account, or if no account and estimate shall be delivered to him, to assess the duty on the best information he can obtain, subject to appeal as hereinafter provided; and if the duty so assessed shall exceed the duty assessable according to the return made to the assessor

or assistant assessor, and with which he shall have been dissatisfied, or if no account and estimate has been delivered, and if no appeal shall be taken against such assessment, then it shall be in the discretion of the assessor, having regard to the merits of each case, to assess the whole or any part of the expenses incident to the taking of such assessment, in addition to such duty; and if there shall be an appeal against such last-mentioned assessment, then the payment of such expenses shall be in the discretion of the Commissioner of Internal Revenue.

That section one hundred and forty-eight be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that if any person required to give any such notice or deliver such account, as aforesaid, shall willfully neglect to do so within the time required by law, he shall be liable to pay to the United States a sum equal to ten per cent. upon the amount of duty payable by him; and if any person liable under this act to pay any duty in respect of his succession shall, after such duty shall have been finally ascertained, willfully neglect to do so within ten days after being notified, he shall also be liable to pay to the United States a sum equal to ten per cent. upon the amount of duty so unpaid, at the same time and in the same manner as the duty to be collected.

The amendment was agreed to.

Mr. WRIGHT. I move to insert in line twenty-seven hundred and twenty-seven these words: "the stamp or frank of any member of Congress or head of any bureau."

The amendment was rejected.

Mr. WILSON, of Iowa. I move in line twenty-seven hundred and forty-six after the word "used" to insert "or framed to be used."

The amendment was agreed to.

Mr. HALE. I ask unanimous consent that the paragraph commencing with line twenty-six hundred and ninety-nine be reserved for amendment hereafter.

There was no objection, and it was so ordered.

The Clerk read as follows:

That section one hundred and fifty-eight be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any person or persons who shall make, sign, or issue, or who shall cause to be made, signed, or issued, any instrument, document, or paper of any kind or description whatsoever, or shall accept, negotiate, or pay, or cause to be accepted, negotiated, or paid, any bill of exchange, draft, or order or promissory note for the payment of money, without the same being duly stamped or having thereupon an adhesive stamp for denoting the duty chargeable thereon, and canceled in the manner required by law, with intent to evade the provisions of this act, shall, for every such offence, forfeit the sum of fifty dollars, and such instrument, document, or paper, bill, draft, order, or note shall be deemed invalid and of no effect: *Provided*, That the title of a purchaser of land by deed duly stamped shall not be defeated or affected by the want of a proper stamp on any deed conveying said land by any person from, through, or under whom his grantor claims or holds title: *And provided further*, That hereafter, in all cases where the party has not affixed to any instrument the stamp required by law thereon, at the time of making or issuing the said instrument, and he or they, or any party having an interest therein, shall be subsequently desirous of affixing such stamp to said instrument, he or they shall appear before the collector of the revenue of the proper district, who shall, upon the payment of the price of the proper stamp required by law, and of a penalty of fifty dollars, and where the whole amount of the duty denoted by the stamp required shall exceed the sum of fifty dollars, on payment also of interest at the rate of six per cent. on said duty from the day on which such stamp ought to have been affixed, affix the proper stamp to such instrument and note upon the margin of said instrument the date of hisso doing, and the fact that such penalty has been paid; and such instrument shall thereupon be deemed and held to be as valid, to all intents and purposes, as if stamped when made or issued: *And provided further*, That where it shall appear to said collector, upon oath or otherwise, to his satisfaction that any such instrument has not been duly stamped at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp duty, or to evade or delay the payment thereof, then, and in such case, if such instrument shall, within twelve calendar months after the passage of this act, or within twelve calendar months after the making or issuing thereof, be brought to the said collector of revenue to be stamped, and the stamp duty chargeable thereon shall be paid, it shall be lawful for the said collector to remit the penalty aforesaid, and to cause such instrument to be duly stamped.

Mr. MORRILL. I move in line twenty-eight hundred, after the word "note," to insert "not being stamped according to law."

The amendment was agreed to.

Mr. ALLISON. I move in line twenty-eight hundred and thirty-one, after the word "instrument," to insert "or, if lost, a copy thereof duly certified by the officer having charge of the real estate records in the proper town or county."

Mr. WILSON, of Iowa. It seems to me if this is to have any effect at all it is to destroy the effect of the paragraph commencing on line twenty-six hundred and ninety-nine. That paragraph provides where the instrument has been unstamped the record of it shall be utterly void and shall not be used in evidence. If a party examines the record and finds it unstamped the unstamped deed so recorded is no notice to another subsequent purchaser. If it is the intention of the committee to go back and make this unstamped copy a correct record which we have already declared shall be utterly void and of no effect, then the amendment is proper. If that is not the intention then it is an improper one.

Mr. ALLISON. Undoubtedly the statement of my colleague is true. I think it is proper that we should go back and amend the paragraph to which he alludes. But I hope he will allow this amendment to pass. Of course if this paragraph is amended that will be also.

Mr. WILSON, of Iowa. Would it not be well for the committee to provide some amendment which will protect an innocent purchaser who has taken a title to lands when there may be an outstanding unstamped title—no stamp whatever upon the record? By sending in a copy of the record and having it stamped the holder of the outstanding title may deprive the innocent purchaser of his title.

Mr. ALLISON. I will withdraw my amendment if the committee will consent that this paragraph shall be considered in connection with the paragraph just passed over.

No objection was made.

Mr. GARFIELD. I move to amend the paragraph by striking out the word "duty" wherever it occurs and inserting "tax" in lieu thereof.

The amendment was agreed to.

Mr. MORRILL. Out of charity to the reporters, I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

And then, on motion of Mr. WRIGHT, (at a quarter past ten o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By Mr. BANKS: The memorial of James Jettow, of Massachusetts, contractor for construction of gunboats, for relief on account of losses sustained by reason of the high prices of labor and materials in the satisfactory completion of his engagements with the Government.

By Mr. ECKLEY: The petition of Jacob Harbough, and 146 others, wool-growers of Columbiana county, Ohio, asking increased duty on wool and an increase of tariff on imports.

By Mr. MARVIN: The petition of Obed Blowers, for payment of bounty due his son Samuel F. Blowers, who was accidentally killed before his muster into the United States service.

By Mr. ORTH: The petition from citizens of La Fayette, Indiana, on the subject of insurance.

By Mr. RITTER: The petition of Mrs. Nancy Hinton, whose husband was killed while fighting for the country, asking for a pension.

Also, the petition of Mrs. Martha Stout, whose husband was killed while fighting for the country, asking for a pension.

By Mr. WOODBRIDGE: The petition of Z. Nearing, and 37 others, citizens of Brandon, Rutland county, Vermont, praying for an additional duty on foreign wool.

Also, the petition of J. Stowe, and 36 others, citizens of Weybridge, Addison county, Vermont, praying for an increased protection on foreign wool.

Also, the petition of C. A. Paddock, and 25 others, citizens of Pownal, Benning county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Samuel Evars, and 42 others, citizens of Cornwall, Addison county, Vermont, praying for an additional tariff on foreign wool.

Also, the petition of Hon. Barnes Frisbie, and

others, citizens of Poultny, Rutland county, Vermont, praying for an increased duty on foreign wool.

Also, the petition of C. E. Sweet, and 42 others, citizens of Benson, Rutland county, Vermont, praying for an increased duty on foreign wool.

By Mr. WRIGHT: The memorial of Messrs. Smith & Brother, of Newark, New Jersey, in regard to the manufacture of pearl buttons and mother of pearl.

NOTICE OF A BILL.

By Mr. SPALDING: A bill for the relief of Lieutenant Colonel Frank Lynch, of the twenty-seventh Ohio volunteer infantry.

IN SENATE.

THURSDAY, May 24, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

HOMESTEADS IN SOUTHERN LAND STATES.

The PRESIDENT *pro tempore* appointed as the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the bill (H. R. No. 86) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, Mr. KIRKWOOD, Mr. WILSON, and Mr. DAVIS.

PETITIONS AND MEMORIALS.

Mr. GRIMES. I present the memorial of H. Nielander and sundry others, citizens of Lansing, in the State of Iowa, remonstrating against the passage of a law which will authorize the erection of bridges across the Mississippi river that will be obstructions to the navigation thereof. The subject, I believe, is before the Senate now, and I will therefore move that the memorial lie on the table.

It was so ordered.

Mr. HOWE presented the memorial of the Sugar River Valley Railroad Company, praying for a grant of lands to aid in the construction of their road from Freeport, Illinois, to Madison, Wisconsin; which was referred to the Committee on Public Lands.

Mr. SUMNER. I present the petition of George W. Lake, late second lieutenant of the ninth Veteran Reserve corps, in which he humbly prays Congress to take measures to secure the trial of Jefferson Davis by a military commission to be convened by the President of the United States under the authority of the Congress of the United States, and he proceeds to set forth sundry reasons in detail for his prayer. Among other things, he says "The American people demand the trial of Jefferson Davis by a military commission, so that justice may be done to the American people and the thousands of Union soldiers who have gone to their final resting-places through the traitorous acts of the said Jefferson Davis, as well as justice to the said prisoner." He then says that his petition is not drawn up out of a desire for revenge, but that the prisoner, Jefferson Davis, may have the proper mode of trial prescribed for all prisoners of war, and by which traitors have been tried before; that the American people consider Jefferson Davis a prisoner of war, captured by the Union forces; and they also consider that their representatives in Congress have the power to bring him to trial as soon as possible, in such a way as they think proper.

I offered the other day a petition somewhat similar in character to this, which was referred to the Committee on Military Affairs and the Militia. I ask the same reference of this petition.

It was so referred.

Mr. MORRILL presented the petition of Graham J. Lester, of New York, praying that the Secretary of the Treasury may be authorized to issue to him an American register for the Prussian-built bark Marget; which was referred to the Committee on Commerce.

Mr. CHANDLER presented the memorial of George W. Fisk, praying for compensation for services rendered as United States consul at Ningpo, China, and for damages incurred by reason of the protest and return of his

drafts to China; which was referred to the Committee on Commerce.

REPORTS OF COMMITTEES.

Mr. LANE, of Indiana, from the Committee on Pensions, to whom was referred the petition of Benjamin Franklin, a private in company H, second Minnesota volunteers, praying for a pension, submitted a report accompanied by a bill (S. No. 339) granting a pension to Benjamin Franklin. The bill was read and passed to a second reading, and the report was ordered to be printed.

BILL RECOMMENDED.

On motion of Mr. WILLEY, it was

Ordered, That the joint resolution (H. R. No. 24) for the relief of Lucretia M. Perry, widow of the late Nathaniel H. Perry, United States Navy, be recommended to the Committee on Naval Affairs.

DEPOSITS IN NATIONAL BANKS.

Mr. WILSON. I submit this resolution, and ask for its present consideration:

Resolved, That the Committee on Finance be instructed to inquire into and report upon the condition of the national banks in the city of Washington in the following particulars, namely: first, what amounts of Government funds have been deposited in said national banks or any of them, in the past twelve months; second, by whom, and under what authority such deposits were made; third, what amount and rate of interest, if any, has been allowed on such deposits, and to whom payments of interest, directly or indirectly, have been made.

By unanimous consent, the Senate proceeded to consider the resolution.

Mr. JOHNSON. I suggest to the honorable member from Massachusetts that he had better make his inquiry more extensive, perhaps, and propose to inquire as to deposits in the other national banks, for the same system has gone on elsewhere, I am told.

Mr. WILSON. I have no objection to make the resolution apply to other banks, if the Senator from Maryland so desires. I will simply say that rumors are rife in regard to the public moneys that have been deposited in these banks in this city, and I wish to have them investigated. I am willing, however, that investigation shall be made in regard to all the banks of the country. I regard the whole system as wrong, and I think it ought to be arrested, and certainly in all our large cities, where it can be done, the public moneys should be deposited in the Treasury.

Mr. JOHNSON. No doubt about that.

Mr. WILSON. I saw that there were the other day \$3,300,000 or \$3,400,000 of Government money deposited in this city in five national banks.

Mr. JOHNSON. A great deal more than that has been deposited.

Mr. WILSON. And one of these banks has recently failed, and failed under circumstances which, it seems to me, are certainly not creditable to some of the Government officers. I think it is time the system ceased. It is worse than the old "pet-bank" system in the days of General Jackson. I am for the sub-Treasury system out and out, and letting the Government take care of its own funds. We have heard a great deal, lately, about expansion, and still public money has been deposited in these banks, in some cases to enormous amounts, for the purpose of expanding credits. The whole system is wrong, and I desire to see an end put to it.

Mr. JOHNSON. The honorable member, I trust, did not suppose that I was hostile to the investigation.

Mr. WILSON. Certainly not.

Mr. JOHNSON. I am in favor of it; but the same reports to which the honorable member alludes as applicable to the banks here, I have heard as applicable to the banks almost everywhere. Whether they are well founded or ill founded I do not know; but it is very important to the interests of the Government that the matter should be investigated. I hope the honorable member will alter his resolution so as to make it general.

Mr. GRIMES. I trust the Senator from Massachusetts will consent to adopt the suggestion of the Senator from Maryland, and change his

resolution so as to apply to all of these banks. I am very glad that he has called the attention of the Senate and of the country to this subject. Some weeks ago I introduced a resolution directing the Committee on Finance to inquire and report to the Senate as to the propriety of requiring by law that all public moneys in cities or in the vicinity of cities where there is a sub-Treasury should be deposited in the sub-Treasury, and in the city of Washington in the Treasury of the United States. I supposed the Committee on Finance had that subject under consideration, but I have not heard anything from it. I do not know much about this subject of deposits, except from general rumor and newspaper reports. If there be any accuracy in the statements we see published, it seems to me this is a crying evil that should be remedied at once, and I trust that something will be done to save the Government from any further such losses as have occurred by the disastrous failure of the Merchant's Bank of Washington. It seems to me, if the present system shall be continued, we are liable to just such disasters as that, only on a still more momentous scale than the one that has occurred here right under our eyes.

Mr. WILSON. I propose to modify the resolution by striking out after the word "bank" the words "in the city of Washington;" so that it will apply to the national banks generally.

Mr. JOHNSON. That will do.

The PRESIDENT *pro tempore*. The resolution will be modified agreeably to the suggestion of the mover, who has the power to alter it.

Mr. FESSENDEN. I should like to hear it read as it now stands.

The Secretary read the resolution as modified.

Mr. FESSENDEN. I would recommend to the honorable Senator from Massachusetts either to provide for the appointment of a special committee on this subject or to send the resolution to the Secretary of the Treasury. I suppose that all the information asked for in the resolution, except in the last part with reference to the interest paid, which would require a specific examination, could be furnished at the Department without any difficulty. I should have no objection to the resolution going to the Committee on Finance but for this reason: we are now very near the last of the session, and the Committee on Finance have quite as much business before them as it is possible for them to attend to. In a very short time we shall have the tax bill, which will take up a great deal of our time, and probably occupy every day and every evening for some considerable period; and with the other bills and business on hand it would be impossible for that committee to make this inquiry, in my judgment. I therefore propose that some other direction shall be given to the resolution. As to the subject-matter of it, I think it is highly proper, and in the existing state of things essential, that such an inquiry should be made.

Mr. JOHNSON. I suggest to the honorable member from Massachusetts that he had better refer the subject to a special committee, as the Committee on Finance have more business than they can attend to, or as much, at any rate.

Mr. FESSENDEN. I think the Senator had better do that or send it to the Secretary of the Treasury.

Mr. WILSON. I will modify the resolution still further by changing it to a special committee.

Mr. HENDRICKS. I should like to hear the resolution read as modified.

The Secretary read it, as follows:

Resolved, That a select committee be appointed to inquire into and report upon the condition of the national banks in the following particulars, namely: first, what amounts of Government funds have been deposited in said national banks or any of them in the past twelve months; second, by whom, and under what authority, such deposits were made; third, what amount and rate of interest, if any, has been allowed on such deposits, and to whom payments of interest, directly or indirectly, have been made.

Mr. HENDRICKS. I wish to inquire of the

chairman of the Committee on Finance, or the Senator from Massachusetts, who I suppose has examined the subject, whether the national banks are not made depositories by the law.

Mr. GRIMES. They can be designated.

Mr. HENDRICKS. The Secretary of the Treasury is authorized by the law to make certain banks depositories of the public money.

Mr. CLARK. He designates which of the banks shall be depositories.

Mr. HENDRICKS. And upon such security as he may see fit to require.

Mr. SHERMAN. I will state that I have examined the law on this subject, in pursuance of the order of the Senate, and I do not see anything in the banking law that justifies any one depositing the public money in the national banks except the Treasury Department and the collectors of internal revenue. The habit that has sprung up of paymasters and disbursing officers depositing the public money in these banks, it seems to me, is a violation of the law.

Mr. CLARK. But the Senator will find that the Department does designate certain banks as depositories.

Mr. SHERMAN. I know that; but I say there is nothing in the law that directly contemplates the depositing of public money by disbursing officers in national banks, and such a practice is very wrong.

The resolution, as modified, was adopted.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had passed without amendment the joint resolution (S. R. No. 74) providing for the acceptance of a collection of plants tendered to the United States by Frederick Pech.

The message further announced that the House of Representatives had passed a bill (S. No. 167) to incorporate the Women's Hospital Association of the District of Columbia, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the joint resolution (H. R. No. 116) to prevent the introduction of cholera into the ports of the United States.

The message also announced that the House of Representatives had passed the following bills, in which it requested the concurrence of the Senate:

A bill (H. R. No. 466) erecting the Territory of Montana into a surveying district, and for other purposes; and

A bill (H. R. No. 616) for the relief of Lucinda Gates.

ENROLLED BILL SIGNED.

The message further announced that the Speaker of the House of Representatives had signed the following enrolled bill; which thereupon received the signature of the President *pro tempore*:

A bill (H. R. No. 453) for the relief of Cornelius B. Gold, late acting assistant paymaster United States Navy.

MILITARY ACADEMY APPOINTMENTS.

Mr. WILSON. I now move that the Senate proceed to the consideration of House joint resolution No. 134, relative to appointments in the Military Academy of the United States.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the joint resolution.

Mr. WILSON. The Senator from Rhode Island, I believe, has an amendment to propose to the resolution. It was laid over the other day to enable him to do so.

Mr. ANTHONY. I offer this amendment to come in as a new section:

And be it further resolved, That in all appointments of cadets to the Military Academy after the present year the person authorized to nominate shall nominate not less than five candidates for each vacancy, all of whom shall be actual residents of the congressional district, Territory, or District of Columbia, entitled to the appointment; and the selection of one

shall be made from the candidates according to their respective merits and qualifications, under such rules and regulations as the Secretary of War shall from time to time prescribe; but this shall not apply to the appointment of cadets authorized by the President of the United States.

This is in accordance with the recommendation of General Delafield, the head of the Engineer corps, and is also in the spirit of the recommendation of every Board of Visitors of the Military and Naval Academies for a number of years. General Delafield, in his last annual report, says:

"The difficulties that have been experienced for years past in training the minds and bodies of the young gentlemen sent to the Academy to prepare them for usefulness as members of the military profession arise mainly from the qualifications of the candidates being so exceedingly limited. While at the present time it may not be expedient to increase the standard for admission, I do urgently recommend that a selection from at least five candidates to be nominated for each appointment may be authorized by law, when every section of the country would more certainly have its due proportion of graduates entering the Army annually. Should this principle be authorized by law, the examination of the candidates could be ordered in several sections of the country, at convenient military posts, and thus save a great annual expense now incurred by partially educating and returning deficient cadets to their distant homes, insure a much greater proportion of members who could master the course of studies, and avoid the numerous and frequent discharges from the Academy for inability to acquire the requisite information and proficiency for a graduate of this institution."

The principle of this amendment was adopted by the Senate at the last session of Congress, but it failed to receive the assent of the House of Representatives. The amendment is now modified in such a way that I hope it will secure the assent of the other branch of Congress. It has been recommended by all the Boards of Visitors; it is recommended, so far as I know, by all the military officers and the naval officers and by all the educators of the country. It is a principle which has been adopted in every other military country. It has prevailed in France for more than seventy years, and military men know how much it has done for the renown and glory of the French power. It has been adopted in England since the Crimean war from the observation of the superiority of the French service over the English. A commission was appointed to inquire into that evident superiority, and upon the report of that commission the competitive system was adopted in the English service. It prevails in Austria; it prevails in Prussia; it prevails in Italy, and, so far as I know, in all military countries except Russia. What the practice there is I do not know.

Mr. HENDRICKS. When this joint resolution was called up the other day, I asked the postponement of it until the Senator from Rhode Island should return, with a view to his being heard upon this proposition. Since then I have reflected somewhat upon the proposition, and I believe it would be well to adopt it in its present shape. I think it would to a very large extent reduce the per cent. of appointees to that institution who are found not qualified for the position. I think it would be well enough to try it, to say the least of it.

The amendment was agreed to.

Mr. GRIMES. I desire to inquire of the chairman of the Committee on Military Affairs why it is that it is proposed to fix the age at twenty-two rather than the age that has been fixed heretofore.

Mr. WILSON. The ages now are sixteen and twenty-one. This proposes to make it seventeen and twenty-two. It was thought by many persons, and some of those connected with the institution, that sixteen was an age too young for admission, that seventeen was about the proper age; and therefore this change has been made to carry it up one year, and extend it one year beyond twenty-one excepting in some special cases of soldiers who have served in the war. Those, however, will be very limited.

Mr. GRIMES. I have not heard of any objection to the present limit; and I was fearful that probably this provision resulted from such a condition of things as happened two years ago when we changed the limit as to admission

to the Naval Academy. There happened to be a likely young boy who was a little over the age of seventeen and could not be admitted; and I believe that it was purely through the influence that was exerted by the friends of that young man that we changed the period to eighteen years. He was admitted, went to the Academy, was there three months, and was unable to make any progress in his studies, had not any adaptation to the profession at all, and was dismissed; and we have now upon the statute-book a limit of eighteen years in place of seventeen years, when every naval officer concurs in the opinion that the shorter number of years is the proper age for boys to go into the naval service. I do not know whether there is any such difficulty in the case of the Military Academy.

Mr. WILSON. This measure comes from the House of Representatives, and General SCHENCK, chairman of the Military Committee there, was one of the visitors at West Point last year. I am not sure that that board recommended this change, but I know they recommended the change in regard to waiting a year after the appointment.

Mr. NESMITH. With the permission of the Senator from Massachusetts, I will state that the board last year did recommend and almost every board for several years has recommended the change; and with the permission of the Senator, I will read the recommendation from the report of the Board of Visitors last year:

"Candidates may now be admitted between the ages of sixteen and twenty-one. We recommend that in future no one be received who is under seventeen or more than twenty-two years of age. The severity of the physical training and discipline is such that youths of sixteen often do not possess the requisite strength and power of endurance. A greater maturity of mind and body of those entering seems desirable."

That is the recommendation of the board last year.

Mr. WILSON. General Delafield strongly recommended carrying the minimum age to seventeen.

Mr. NESMITH. I desire to offer the following amendment:

And be it further resolved, That hereafter the Superintendent of the Military Academy may be selected from any corps of the Army.

At present the Superintendent is compelled to be selected from the Engineer corps, and it has been thought by a great many that, as the character of the institution has changed a good deal since its first organization, this is an unjust discrimination against other officers of the service; and I will read what the Board of Visitors last year recommended on that subject:

"1. We are of opinion that the law should be so changed as that the superintendency of the Academy may be thrown open to the whole Army instead of confining the selection, as now, to an officer of the Engineer corps. The institution having ceased to be only, or mainly, a school for engineers, as at first established, and having become the one great national military and polytechnic institute of our country, the reason for such exclusiveness no longer exists, and it is recommended that the appointment be free hereafter to every arm of the service."

Mr. WILSON. I doubt very much the expediency of this amendment. I know that many eminent men of the Army have been in favor of this change, but we do not know certainly how it may work; and if the change is made men may be appointed for other than military considerations. I certainly hope that the proposition will not be put upon this resolution now, for I am anxious to get the resolution through this morning, and we shall very soon probably have up the Army appropriation bill or some other bill to which this amendment can be moved; and as attention has now been called to the subject, Senators can reflect upon it. I hope it will not be pressed to a vote now; if it is, I shall vote against it.

Mr. NESMITH. I think it is exceedingly appropriate that this amendment should be put upon this resolution. This is a joint resolution in relation to the Military Academy, and I think there can be no more appropriate place for it. If the Senator from Massachusetts will consult the Army officers, and those of most distinction in the country, I think he will find that

they pretty unanimously concur in the idea that the superintendency of this institution ought not to be confined exclusively to one corps of the Army. There is no reason for it. There are many very distinguished officers serving in the line who might with propriety be selected to superintend the institution. I am opposed to this exclusiveness, and I believe the tendency of it has a deleterious effect upon the institution and upon the Army itself. For my own part, I am anxious that the amendment should be adopted, and that the superintendency of the institution shall be thrown open for the Secretary of War to select the person best fitted for that position from any corps in the service, whether he belongs to the line or the staff, whether to the engineers or the ordnance, the infantry, the cavalry, or the artillery. I think it is proper that the change should be made. There is no reason why the selection should be confined to the Engineer corps now. There was a reason for it, perhaps, when the institution was originated, for it was then strictly an engineer school. If it was strictly an engineer school now, it would be proper to confine the selection to an engineer officer; if it was a cavalry school, it would be proper that a cavalry officer should have charge of it; and so, if it was an infantry or artillery school, an officer of that branch should have charge of it. But now it embraces all branches of the service. I think the restriction which is now imposed on the Secretary of War in selecting the Superintendent should be removed, and that he should have authority to make the best selection he can from the entire Army. I do not think there is any more appropriate place for a provision making the change than this resolution. The Board of Visitors for several years have recommended this change. I have already read the recommendation made by the board of last year; and it is the very first recommendation which they made in their report, and I think they urge very good reasons for it.

Mr. GRIMES. I desire to inquire of the Senator from Oregon what are the deleterious effects he speaks of that have resulted from permitting this School to continue under the charge of the Engineer corps.

Mr. NESMITH. There is an exclusiveness about it that I think is improper in the Army. I do not think that an engineer officer is any better fitted to manage an institution of this kind than a cavalry or infantry or artillery officer. I think the wrong consists in the exclusion, and it causes dissatisfaction in other corps of the Army, and I know of no reason why it should continue. I know that the Boards of Visitors who have devoted their attention to the subject, have come to the same conclusion that I have. Officers in other corps of the Army see no reason why this superintendency should be confined to the Engineer corps, while the School is not a mere engineer school; and I think so myself.

The amendment was rejected.

The joint resolution was reported to the Senate as amended, and the amendment made as in Committee of the Whole was concurred in.

Mr. NESMITH. I now renew my amendment in the Senate, which was rejected in committee; and I ask for the yeas and nays on it. The yeas and nays were ordered.

Mr. GRIMES. Ever since the foundation of the Government, the Military Academy has been under the superintendency of the Engineer corps. I believe that the first time in my life that I ever heard special objection urged to it has been here to-day, although I think on some former occasion some member of this body did propose such an amendment as is now offered by the Senator from Oregon.

There are several reasons why the rule was established and enacted into a law that the Engineer corps should have the charge of the Academy. One was—and it is a principal reason with me now—that the moment you open it to the whole Army you make it much nearer a political office than it is now. There will be a constant scramble among the five thousand officers in the infantry, the artillery, the cav-

alry, the ordnance, and the engineers, to secure the superintendency of the Academy; and it will go, not on account of the merits of the particular person who may seek it, but because of the political influence that may be brought to bear in his behalf.

I am as much opposed, I believe, to any kind of exclusiveness as anybody ought to be; but it seems to me that the reason I have just given is a very substantial reason why the old system should be adhered to, especially when we know that it has thus far worked well. The reason why an engineer has been hitherto selected for this purpose and why the law requires him to be selected is that the Engineer corps is composed of what properly, I think, may be called the *élite* of the men who graduate at the Military Academy. They are the best educated men; they are the first two or three men in each class who graduate at the head of the class, the most accomplished men. Now, sir, if you owned the Military Academy yourself, and were going to educate your boys there, would you select a man who graduated at the foot of his class, or would you select a man who was confessedly the best scholar or one of the best scholars of the class? Taking the Superintendent from the Engineer corps leaves a range, it seems to me, sufficiently large. I think there are above the rank of first lieutenant some thirty-five or forty officers, the most accomplished men in the Army in point of education and accomplishments of every description; and without any substantial reason being given for it, except the mere recommendation of a board of civilians who went there, a part of them, I believe, at that time in the volunteer service, and each of whom thought he was perfectly competent to take charge of the Military Academy himself, and perhaps looked forward to the time when he would be Superintendent of the Military Academy, I do not think it is wise for us, without any further consideration than we have been able to give the subject here in this morning hour, to change the rule that has existed ever since the Academy was established in 1801.

Mr. NESMITH. The Senator from Iowa, I apprehend, is under a mistake in saying that this is a new question. I have often heard of it before. It is a question that has been agitated in the Army for many years, and I think has been embraced in several reports of the Boards of Visitors to the Academy. As to this proposition making a scramble in the Army or increasing the area of that scramble, I do not think there is any evil of that sort to be apprehended from it. If evils are to result from that scramble, we have them now in the Engineer corps, and I do not think it will be enlarged by enlarging the area from which this selection may be made. I do not think any evil is going to result from a scramble among Army officers to get a place where they do not properly apply for it, but where the Secretary of War, under the direction of the President, makes the selection from the officers that he considers the most competent.

Now, sir, in relation to this matter of graduating at the head of the class, I do not believe because a man happens to graduate at the head of his class at West Point that he has any superior capacity or qualification for training up young men as soldiers than the man who may happen to have graduated lower down. I know some very distinguished officers in the Army who have graduated at West Point very near the foot of the class, and I know some very great fools who graduated near the head of the class. I think, on an average, you will find about as much capacity along half way down the list of those who graduated in that institution as you will in those who graduated at the head. Those who graduated at the head are those who manifest superior capacity in mathematics and those questions that have no direct relation to soldiery or the capacity as soldiers, but a mere inclination derived from books and a capacity of demonstrating mathematical problems. I do not think that sort of qualification is entirely necessary to train a man up and make him a good soldier. Under

your old rule, Grant, Sherman, Sheridan, Hancock, and fifty other officers whom I might name, would be excluded, and I apprehend any of those officers would be just as competent to take charge of this institution and train up men for soldiers as any officer who can be selected from the Engineer corps. I believe they are better qualified for the position. They are men of more practical common sense, and they are likely to instill and inculcate such ideas into the young men who are there. I am opposed to this exclusiveness and to keeping the superintendency of this institution in any single corps of the Army. I believe this practice should be abolished. I believe the interests of the Army, the interests of the institution itself, and the interests of the country demand it; and I hope the amendment will be adopted.

Mr. FESSENDEN. I think the Senator from Oregon is mistaken in supposing that this proposition has ever been recommended before in any report of the Board of Visitors. I do not think that the Board of Visitors to the Military Academy, as it is generally made up, is very well calculated to advise anybody on the subject of military affairs. Once in awhile some persons are appointed who may be competent to do so; but on looking over the list, you find a distinguished clergyman, a distinguished lawyer, the editor of a newspaper—friends, probably, of the members who selected them, according to the rule of selection, from their several districts. I understand the rule to be that they represent all the States, not all at once, but in rotation, and the districts of the several States, also; and the selection of the person to visit the Academy is generally given to the member from the district; sometimes to a Senator who has a friend. Upon many matters of business that occur at the Military Academy, upon the state of the buildings, and the improvements necessary to be made there, and occasionally the scholarship—for sometimes a distinguished professor of a college is sent there to attend the examination, &c.—they might be competent to judge; but as to what is advisable in regard to military matters, I should say they were no more fit and no better qualified, ordinarily, to decide those questions than we are ourselves, if we were placed in the same relation, and I certainly should not think my information very good on that subject.

But, sir, my rule has been in public affairs, when I found that a thing had, in the long course of years, worked well and been productive of good, to stand by that rather than to try an experiment to see if I could make it better. The principle upon which the superintendency of the Academy was given to the Engineer corps has been correctly stated by the Senator from Iowa. The Military Academy is a school of instruction, not a school of practice exactly, for that practice makes but a small portion of what is taught there. Tactics are learned there, to be sure, and horsemanship, and other things connected with military service; but it is a school of instruction, that is, instruction in those things which a military man should know. Although, as the honorable Senator from Oregon intimates, a man may graduate at the head of his class and turn out to be of very little consequence afterward, yet, as a general rule, I think the principle is a safe one, that those who are the best instructed are the best qualified to oversee and direct instruction; and for that reason, as it is a school of instruction, the superintendency has hitherto been, by law, confined to those who graduate in the front rank of their respective classes. If you will look through the Army records you will find that those men have, generally speaking, made distinguished and valuable officers, and even in the field many of them have distinguished themselves.

That being the case, as it is a school, I think the man to be placed at the head of it should be a man who is able to judge of how instruction should be given in all the branches of education; and the engineers are the men who are the best instructed in all the branches.

Their rank is not made up from their proficiency in one study particularly, but in all branches, and, among other things, conduct and character. As this principle has been established and has operated so well and been productive of no evil, there is no motive to throw it open that I can imagine, except that occasionally a man may be found, who does not belong to that particular corps, who may be entirely competent to make a good Superintendent of the Academy; but it does not follow that a man who has distinguished himself in the field, and shown himself to be a very capable and able officer in the field, in the command of men, is a proper man to take charge of a military academy, a school of instruction. You may go through the ranks of our Army and pick out men who have distinguished themselves most, and among them you would certainly find a very considerable number who would not be competent, or the right kind of men, to place at the head of the Military Academy.

I have regarded this movement as one rather to gratify the pride of corps than anything else, and perhaps the pride and ambition of individuals. Now, there are other fields for the gratification of the ambition of leading and distinguished officers. They are not abused by being excluded, on account of their not belonging to this particular corps, from the exercise of this particular duty. The moment you throw it open, and admit half a dozen corps to be selected from, you will have, in the first place, rivalries among all the corps to see which shall furnish the Superintendent, and in addition the rivalries existing among many individuals seeking to be selected for that particular place, which perhaps is thought to be an honorable one. I have never known any great rivalry of any great consequence to exist among these officers for this position heretofore. There are but a few, perhaps, who would be considered as the proper men for it, but there are always a sufficient number from whom to select. But if you adopt this principle instead of having that quiet in regard to the Academy which it is desirable should exist, you would introduce the confusion and the rivalries that would result from making the number of men from whom to select so very large. I do not feel disposed to risk the institution itself, to risk its advantages, to risk its good and well-being, upon a struggle of this kind, which can have no other purpose than to open this position to a large number of men who might be ambitious to be placed in a situation for properly discharging the duties of which they had given no evidence whatever by any particular distinction in the line in which they ought to be distinguished in order to preside over a school of this character. For these reasons I hope the amendment proposed by the honorable Senator from Oregon will not be adopted.

Mr. NESMITH. I think the Senator from Maine is not entirely correct in his statement with reference to this Academy, and the character of the boards of annual visitors. He states that it is entirely a military question. On the contrary, it is a question of education, and those men who are qualified, as he himself states most decidedly on that question, are the very men who are competent to decide on this. He says they are generally educated men, presidents of colleges, editors of newspapers, and men who have practical knowledge upon the very questions which is there brought to their attention and consideration; that is, the question of education, education generally to fit men for the discharge of their appropriate duties in the Army.

The Senator says that an engineer officer is selected for the discharge of this important duty on account of his superior qualification and fitness. And he says that he is superior in all the branches of the service. There never was a greater mistake in the world. The engineer officer graduates at the head or near the head of his class because of his proficiency in, perhaps, a single branch, the branch of mathematics.

Mr. FESSENDEN. The Senator is entirely mistaken. His standing in the class is made up from his proficiency in all branches.

Mr. NESMITH. It is not on account of superiority in any other branch. Mathematics is the principal point upon which that selection is determined at the time the class graduates. Now, sir, when these men go forth from the Academy, the engineer officer who is so proficient in mathematics, in place of going into the field, in place of going into the artillery, the cavalry, or the infantry, or any other department of the Army, goes directly into an office, and there discharges the duty of an engineer for ten, fifteen, or twenty years; and without even having been placed in command of troops or having any direct contact with them, because he is expert in figures, he is supposed to go back to the Academy with superior qualification for the purpose of educating men to be soldiers. You may take an instance. A man, say, graduates number five in his class and becomes an engineer; another man graduates number six, and goes into the line of the Army. The man who graduates number six goes into the line of the Army with nearly as much knowledge of mathematics as the man who graduated number five, and in place of being cooped up in an office or discharging some clerical duty connected with the Army, this man goes into the field, serves five, ten, fifteen, or twenty years with the different corps, the cavalry, the artillery, and the infantry, and gains a superior knowledge of all those corps over the individual who is confined almost entirely in his duties to the summing up of columns of figures or demonstrating mathematical problems; this man, I say, acquires all the information of the different branches of the service, while the knowledge of the engineer who has graduated nearly at the head of the class and has remained in the engineer service, is confined to that particular department, and he goes back to the Academy, perhaps, competent to teach boys mathematics and demonstrate those problems and make them good mathematicians, but he has no knowledge upon the other qualifications requisite to make a man a good soldier.

If the young men who graduate at West Point were all to go into the Engineer corps, were all to become mathematicians and nothing else, as the engineers are, then it would be proper that an engineer officer should have the control of the institution; but, sir, on the contrary, out of a class of forty or fifty or sixty, five, six, or eight may go into the Engineer corps, while five sixths of the class go into the other arms of the service, and they go into them, under the present arrangement, without being under the tuition of a Superintendent who is capable of imparting those particular qualifications. So far as the Superintendent is concerned, so far as all the superior abilities, capacity, and training he brings to their culture are concerned, he is simply able to teach mathematics, and nothing more. I do not think the position occupied by the Senator from Maine as to an engineer officer knowing all about the Army, and all about the different corps, is correct. I think the history of the men who have graduated there, and the services they have performed in different corps, demonstrate very clearly that any other man who is a graduate from West Point and has been kept out of the engineers has more multifarious knowledge of the subjects and duties connected with the Army than a mere engineer has himself.

Mr. GRIMES. The sum and substance of the argument of the Senator from Oregon seems to be this: that if a man graduates at the head of his class, or near the head of his class, and becomes an engineer, he goes into an office or takes charge of the building of a fortification, while a man who was the twentieth of his class goes out and is stationed at Fort Ridgely, as a cavalry officer or an infantry officer, at a post remote from civilization and books and men, and he is going to acquire such a vast amount of information that he will be vastly superior to the engineer officer, who is employed in fortifying your coast. I believe that is the sum

and substance of the argument. If there be any validity at all in the Senator's proposition he ought to propose to exclude an engineer entirely from being selected to command at West Point.

Now, Mr. President, I do not pretend to deny that the fifth man of a class may be just as competent to command at West Point and superintend education there as the first; that is, in some instances; but what I object to is, that for the sake of getting one of those fifth men, who may be an exceptional man, you open the whole to confusion and competition between from five thousand to eight thousand officers, and in the course of a few years you will find a man selected and put in charge there who has never had any education at all, but who will be made the Superintendent because of the political influence that may be brought to bear in his behalf. That is what I am afraid of; and these excellent officers who have served and distinguished themselves so much, to whom the Senator from Oregon has alluded, having been educated at West Point, under the present system, the Academy having accomplished as much as it has, it having turned out to be such a complete success, I do not see really any urgent necessity that should impel Congress to make this change.

Mr. GUTHRIE. Mr. President—
The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House joint resolution No. 127.

Mr. STEWART. Mr. President—
The PRESIDENT *pro tempore*. The Senator from Kentucky is entitled to the floor.

Mr. STEWART. I rise to take the floor upon the special order.

Mr. GUTHRIE. I intended to say a word on the other subject.

Mr. WILSON. I ask the Senator from Nevada to allow us to take the vote on this question in relation to the Military Academy.

Mr. FESSENDEN. I hope not. It will be further debated, and I must adopt the rule, when the morning hour expires and the constitutional amendment comes up, of insisting upon going on with it.

Mr. ANTHONY. Suppose we take the vote without debate.

Mr. FESSENDEN. I must adopt the rule and not yield in any case.

The PRESIDENT *pro tempore*. The unfinished business of yesterday, being House joint resolution No. 127, is before the Senate.

WITHDRAWAL OF A PETITION.

Mr. TRUMBULL. I hope the Senator from Nevada will allow me to make a statement that will take but a moment before he begins. I ask leave to withdraw from the files a petition which I presented to the Senate some ten days ago, perhaps, from citizens of Augusta county, in the State of Virginia, which was referred to the Committee on Military Affairs. It was a petition stating that Union men in that locality were without protection from the local authorities, and asking that the military power be not withdrawn. Some days after that petition was presented to the Senate, the Senator from Delaware, not now in his seat, [Mr. SAULSBURY]—and I am sorry he is not here—applied to me for a copy of the petition. It purported to be signed by one hundred and six Union citizens of Augusta county, Virginia, and attached to it were affidavits that the parties signing it were *bona fide* citizens of that county. At the time the Senator from Delaware applied to me for a copy of it I informed him that it had been referred to the Committee on Military Affairs. I think the very day after I was applied to for this copy, I received a letter from the gentleman who sent me the petition, stating that its presentation in the Senate had led to inquiries by persons at Staunton, which is in that county, and that threats had been made against any persons there who had signed such a petition and sent it to the Congress of the United States, and

that they were determined to find out who the petitioners were, and he presumed that steps were being taken to get a copy of the petition with a view of persecuting the men who had sent it here. The letter requested me to interfere for their protection if I could do so, but I knew no way to do it. The matter rested there, until to-day I received another letter from this same gentleman at Staunton, dated May 20, 1866, in which he says:

"The rebels of this place through A. H. H. Stuart, of Staunton"—

He had informed me in his former letter that the prosecuting attorney there was also one of the persons who had made threats against these loyal men for sending a petition to Congress—

"The rebels of this place through A. H. H. Stuart of Staunton and Joseph Segar, as I learn, have gotten the names from Washington of the signers of the petition of the Union citizens of this county praying for troops, &c., which you recently presented to Congress. It was done for the purpose of injuring us in every possible manner, as events have proved. The rebels have even intimidated some of the signers, some six or seven, until they have actually signed cards in the rebel papers, denying that they signed the petition. I therefore respectfully request that you will cause to be forwarded to me immediately the original petition in order that those who procured the names may be relieved of this infamous charge against us of forgery. Is it possible, sir, that we have no rights (which in this case are guaranteed by the Constitution) because we are white, loyal men?"

I ask leave to withdraw the original petition with a view of sending it to the gentlemen who forwarded it to me that they may protect themselves, as far as this will enable them to do so, against the accusations which have been brought upon them; and I regret it is not in my power to propose some measure that shall protect them from the ignominy and persecution that is brought upon them for no cause save their loyalty to the country and the exercise of a constitutional right belonging to the humblest citizen in the land of petitioning Congress for a redress of grievances. A copy of the petition can be left with the committee, which I suppose will answer every purpose. I ask leave to withdraw the original petition, leaving a copy with the committee.

The PRESIDENT *pro tempore*. It is moved and seconded that the Senator from Illinois be authorized to withdraw from the Committee on Military Affairs the petition presented by him which was referred to that committee by order of the Senate some time since.

Mr. HOWARD. I beg to say that some weeks ago I received a letter from a gentleman of my acquaintance residing in Staunton, Virginia, requesting me to procure a copy of the petition to which the honorable Senator from Illinois has referred and forward it to him, he alleging in his communication to me that he had strong reason to believe that the signatures, or many of them, attached to the petition were forged, and that it was impossible to ascertain in Staunton or in the vicinity any person who had set his name to the petition. The letter which I received was written in a spirit quite hostile to the signers of the petitions or to those who sympathized with the object of the petition. I immediately resorted to the committee-room of the Committee on Military Affairs and made a personal examination of the petitions; there were two or three of them I believe. I examined the signatures with considerable care and ascertained that there was a certificate of authenticity attached to each one of the petitions, setting forth that the signatures were genuine and identifying the individuals who had signed them.

I replied to my correspondent stating what I had done, saying to him that under the circumstances I did not feel at liberty to furnish him with copies of those petitions, but at the same time informing him of the nature of the petitions and the mode in which they were authenticated, and assuring him that so far as I could discover I had every reason to believe that the signatures were all genuine and that the persons signing the petition were genuine persons.

That is all I know about it. It is my duty to state these facts to the Senate in order to

show with what perseverance it is that certain persons at Staunton have sought to obtain matter of accusation against persons who are supposed to have signed these petitions. I do not know, I confess, what good will result from the withdrawal of the petition.

Mr. TRUMBULL. It will enable these men to protect themselves against the charge of forgery.

Mr. HOWARD. If that is the sole object the Senator has in view, I shall have no objection to that, but I would not propose to have the petition withdrawn if any further wrangling or ill feeling was to be the result of the withdrawal of the petition.

Mr. TRUMBULL. The petitioner himself who sent it to me has asked leave to withdraw it.

Mr. WILSON. I have sent to the committee-room for the petition; and I find that there are four oaths made before proper officers to the genuineness of the signatures. I will say that Mr. Segar, one of the Senators-elect from Virginia, called on me and expressed a wish to obtain a copy of the petition and the names of the petitioners. He did not state to me why he wanted it, or for what purpose, except that it was thought by some persons that the signatures were not genuine. He went to my committee-room and my clerk made a copy for him. I did not suppose there was any improper purpose in it. I am sorry to learn, as I have learned, that this has been used for the purpose of oppressing, persecuting, and threatening the signers of the petition. I will have a copy of the paper made and return the original to the Senator from Illinois.

Mr. SUMNER. I hope the Senate will not take this step without considering its importance. I do not mean to oppose the taking of it, but I do wish to call the attention of the Senate to what I may call its gravity. I am not aware that a petition has ever before been withdrawn on a motion like that which is now made. A petition once presented comes into the possession of the Senate; it passes into its files and into the archives of the Capitol. I think we are about to make a precedent for the first time. I do not, however, say that the occasion does not justify the precedent. I incline to agree with my friend from Illinois that it does. We surely owe protection, so far as we can afford it, to these petitioners; and as the Senator from Illinois suggests that this is the best way, I am disposed to follow his suggestion; but in doing it, I wish that the Senate should take notice of the character of the step, and of the precedent that they are about to make.

But this is not all, sir. I wish the Senate to take notice that they are called to adopt this unusual precedent by the abnormal and brutal condition of the social system about these petitioners. The very fact which the Senator from Illinois now brings to the attention of the Senate, and on account of which he invokes an unprecedented exercise of power, is important evidence as to the condition of things in one of these rebel States. It goes to show that they are not yet in any just sense reconstructed, or prepared for reconstruction. Such an abnormal fact as this could not occur in any other part of our broad country. That it occurs here is to be referred peculiarly to those remains of rebellion which have not yet been subdued, but which you are now called upon, in the exercise of all the powers intrusted to you under the Constitution, solemnly to subdue. Therefore, sir, regard this transaction in a double light: first as an important precedent to be established in the business of the Senate; secondly, as illustrating a condition of things in the rebel States to justify every exercise of care and diligence on our part to the end that it shall not bring forth similar fruits hereafter.

Mr. FESSENDEN. I hope we shall now proceed with the regular business of the day, and I really must call upon our friends to be a little forbearing when that business comes up in its regular order. When it is called up it is usual to bring up something or other that a

Senator wants to get off his hands; and then everybody debates it, and time goes on, and it is not fair to the Senator who has the floor, nor is it exactly the thing with reference to the business of the Senate. I hope, therefore, unless there is a pressing necessity for this matter, that it will go over until to-morrow.

Mr. TRUMBULL. It is disposed of, I think.

Mr. FESSENDEN. Then I hope Senators will talk no more about it.

Mr. WILSON. If it is not disposed of let it go over until to-morrow.

Mr. TRUMBULL. The parties want the paper in consequence of these accusations. I suppose there will be no further debate about it.

Mr. FESSENDEN. Very well.

Mr. TRUMBULL. It is not an unusual thing to withdraw a paper from the files of the Senate.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Illinois, that he be permitted to withdraw this petition from the Committee on Military Affairs for the purpose stated by him.

The motion was agreed to.

RECONSTRUCTION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States, the pending question being on the amendment offered by Mr. WADE.

Mr. STEWART. Mr. President, I am satisfied that it is impossible for this Congress to fully agree as to what is expedient to be done to harmonize factions and restore peace to our distracted country. Every one is liable to estimate the sentiments of the whole country by the views of a few friends or a small portion of his constituents, modified by his own peculiar ideas and wishes. This has and will continue to produce an irreconcilable conflict of opinions upon all questions of mere expediency. There is very little difference of opinion among Union men as to what ought to be done if we had the power to do it. I have always been of the opinion that it was expedient to do right. In this case we must agree as to what is right and do it, for we cannot agree as to what is expedient or what is likely to return A, B, or C to Congress. The Union party are agreed that all men are entitled to life, liberty, and the pursuit of happiness, and they will indorse any necessary means to secure these inalienable rights to every American citizen. The more direct and positive the plan the better. All digressions from principle or compromises of human rights, whether by Congress or the President, only involve us in new difficulties and increase our embarrassments. The President's plan of restoration was unsatisfactory, because it ignored the rights and excluded from constitutional liberty four million loyal citizens guilty of no offense but fidelity to the Government, and at the same time deprived the friends of the Union of the co-operation of these loyal citizens in maintaining the integrity of the Constitution, the honor of our brave soldiers, and the financial burdens of the war; because it placed the State governments of the South in the hands of the very men who plunged the country into war for secession and the extension of slavery, and because it admitted into Congress an increased representation of the disloyal elements of the rebellion. Yet it was better than no plan, no restoration, no Union, and no peace. The paramount importance of speedy restoration made me hesitate to condemn the plan of the President for want of a better. I was unwilling to pull down without the material at hand with which to rebuild.

But in the progress of events, two noble sentiments became manifest to me upon which the people of the loyal North might unite; protection for the Union and the friends of the Union, and mercy to a fallen foe. The attainment of these humane objects promised restoration and peace. I reflected seriously upon a solution of our difficulties by an appeal which

addresses itself only to the most Christian qualities of humanity, and examined with great anxiety every plan presented. I found none which promised security for the future and protection for the friends of the Government, and at the same time extended mercy to its enemies. Every proposal was wanting either in justice or mercy. Mercy pleaded generous amnesty; justice demanded impartial suffrage. Both were buried beneath an ocean of prejudice. But the voice of an enlightened press and the arguments of earnest men in Congress inspired me with the hope that a direct proposition for a settlement of the questions at issue might finally succeed. I proposed pardon for the rebels and the ballot for the blacks. The general plan was, and still is, approved by the loyal press with no important exception, while every scheme based upon expediency alone has disappeared like the mist of the morning before the rising sun. Although the advocacy of the resolutions subjected me to some invidious criticisms by persons who judge the motives of others by their own, yet no one has attempted an argument against the humanity and justice of the propositions.

If those who have always entertained the same views upon all subjects cannot vote for my resolution because they think it inconsistent for me to advocate negro suffrage, I shall be satisfied if I can obtain the votes of those only who have held themselves open to conviction and have sometimes changed their opinions. Give me the votes of those who have changed with the progress of events during the last six years, and the balance may vote as they please. Those who, in the language of Mr. Lincoln, "adopt new views whenever they appear to be true views," are the only persons wise or useful in this age of progress. The world moves, and those who do not perceive it are dead to the living issues of the day. I have always advocated the necessity of taking the world as we find it, and following the logic of events. The development of new facts is constantly exploding old theories. The trouble is that some men do not seem to comprehend the new facts. The attempt to apply the theories of slavery to a condition of freedom is the most dangerous evil of the age, yet those who do this boast of their consistency. They were educated to believe that a negro was a slave, possessing no rights that a white man was bound to respect, and they believed it still, and they are astonished at the inconsistencies of the world and its tendency to recognize the rights of man.

In advocating this plan my only hope of success is predicated upon the principles involved, and although it may receive no favor and few votes now, I am profoundly impressed with the conviction, that if this Union is ever restored, it must be done with impartial suffrage and general amnesty. Gentlemen on all sides freely admit the justice of these principles, but express a fear that the country is not yet prepared to meet the issue. Let us not deceive ourselves; the people understand these questions better than we suppose. The leading minds of the nation have proclaimed from the beginning the doctrine of these resolutions. The people are in advance of Congress in their demands for justice, and in their magnanimous generosity to a vanquished enemy. All they demand is security for the future, and with it they proceed to the work of restoration "with malice toward none, with charity for all." To start right in this matter it is only necessary to adhere to first principles, and constantly bear in mind that—

"Mankind are all by nature free and equal,
'Tis their consent alone gives just dominion."

Protection and allegiance are reciprocal. It is the duty of the Government to protect; of the subject to obey. Where both these duties are performed by the respective parties, peace and order must follow. Monarchical government is founded upon the idea that the sovereign is the source of all power and the guardian of the rights of the people. Republican

government is founded upon the idea that the people are the only source of legitimate authority and the guardians of their own rights through the instrumentality of the ballot. The theory of monarchical government is that the sovereign only can be trusted; the theory of republican government is that the people must be trusted. Monarchical and republican Governments are the only Governments tolerable among men. The mixed forms of oligarchies and aristocracies are only a multiplication of tyrants to prey upon the people. Our fathers established a republican Government on the representative basis, and declared that all power emanated from the people, and that all men were equal in the right to exercise that power in a constitutional way at the ballot-box. But in practice they failed to come up to the high standard of their theory; they even tolerated slavery as an unavoidable evil, and from a supposed necessity ignored all the civil and political rights of the colored man, and even counted him as a chattel. It was a declaration of rights for all men, but a Government for white men only. The theory was good, the practice in this respect fatally defective. Disfranchisement and slavery in a portion of the Republic produced the results which might have been expected. The master exercised, both in the local and General Government, the power belonging to him as a freeman and the power belonging to his slaves. This created an inequality in the beginning. The slaveholder was more powerful than the non-slaveholder. This inequality and violation of republican principles produced arrogance and intolerance on the part of the slaveholding South, and jealousy and hatred on the part of the non-slaveholding North. Free labor was odious to the southern aristocracy, slave labor was still more odious to the Democracy of the North. For a time an effort was made by our statesmen to keep up a balance of power between the slave and non-slaveholding States, and all manner of expedients were attempted to compromise and reconcile the irrepressible conflict between slavery and freedom, but all to no purpose. Neither felt safe, or, indeed, was safe, while its antagonistic principle existed in the Government. The inevitable conflict came, and after four years of death, carnage, and desolating war, democracy was triumphant, and the aristocratic institutions of the South, based upon slavery and inequality of human rights, were overthrown and utterly crushed. The triumph of arms was complete. The question now presented is, shall the triumph of democratic principles be equally so? There are two great obstacles in the way, both based upon passion and prejudice, and each seems nearly insurmountable. One is hatred of rebels; and a demand that they shall be disfranchised and enslaved—for disfranchisement is slavery. The other is hatred of the negro, and a demand that he shall be disfranchised and robbed of the power of self-protection and virtually reenslaved. The great mass of the people of the South are either rebels or blacks, and if we yield to either demand the struggle is not ended. The democratic principle of the equality of all men in the right to protect themselves at the ballot-box will still be denied. The party left in power, whether it be black men or white men, will soon display all the meaner qualities of petty despotism, intolerance, arrogance, contempt for labor, and above all a fierce hatred for the democratic protective principle of the equality of man. If we yield to both these demands, and disfranchise both blacks and whites, what will become of our free Government, for which we were willing to sacrifice the last dollar and the last man? I am aware with what effect the argument for disfranchisement of rebels can be urged to the soldier, still heated with the conflict of battle; to the widows and orphans, destitute and sorrowing beneath the afflictions brought upon them by a wicked and cruel rebellion; with the laboring masses of the North, still smarting under the insults heaped by southern aristocracy upon the "mudsill" democracy of the

loyal States—in short, with every loyal man who loves the Union and hates its enemies. But it is not the part of men and Christians to appeal to these most natural sentiments of the human heart unless it be necessary to continue the conflict for the attainment of a great principle. Now is the time to declare for human rights and the equality of man before the law, and if that be still denied no human power can stay the conflict. But can we not now claim that the loyal men of this nation by their valor and by their sacrifices have won not only for themselves but for every man in all this broad land the glorious right of self-government, and that they and their posterity are to reap a rich harvest of blessings as the fruits of the free institutions they have rescued? May we not say to the South, "It was not your young men whose lives we sought, it was not your property we desired to destroy, but we found these sheltering and protecting and hedging about an institution in conflict with human liberty, and in conflict with the Union, and in destroying it we were compelled to overthrow its defenders; but if you have ceased to defend it and war upon the Union we will now cease to harm you?" All we want is justice for all men, and we will become the advocates of mercy for all men and amnesty and forgiveness for the past and a promise of friendship for the future. Let justice and mercy stand together, and the demands of each are satisfied.

"The quality of mercy is not strained;
It droppeth as the gentle rain from heaven
Upon the place beneath; it is twice blessed;
It blesseth him that gives and him that takes;
'Tis mightiest in the mightiest; it becomes
The throned monarch better than his crown;
His scepter shows the force of temporal power,
The attribute to awe and majesty,
Wherein doth sit the dread and fear of kings;
But mercy is above this scepter'd sway;
It is enthroned in the hearts of kings;
It is an attribute to God himself;
And earthly power doth then show likest God's,
When mercy seasons justice."

Let justice be done and then it becomes the duty of every loyal man to invoke mercy even for those who have attempted the destruction of our free institutions. We will then reflect that the South is not alone responsible for slavery and all its woes; that the North and civilized Europe have all played a part in planting this vile institution upon the most favored section of our common country; and that the whole nation has been clothed in sackcloth and ashes for this great crime. When the evil is removed and the rights of man acknowledged we will cease to inquire who is most to blame or who is most guilty, but we will labor to forget the past in view of the bright prospect of universal peace and universal justice. But while the war lasts, whether it be a conflict upon the battlefield or at the ballot-box, all men loyal to equal rights and even-handed justice will be arrayed in fierce antagonism with the enemies of liberty.

But it is said that the negro is ignorant. Grant it. That he is inferior to the white. Grant it. That the great mass of them will not vote intelligently. Grant it. But what are you to do with him? He must either exercise his own political rights or somebody must exercise them for him. You once trusted the duty of exercising both the civil and political rights of the blacks to the whites and it came near destroying every spark of republicanism they ever possessed. It destroyed all their love for democratic institutions, and caused them to make almost superhuman efforts to destroy the best democratic-republican Government ever organized.

It is now a fixed fact that it is not safe to add to the political and social power of the white man the political and social power of the black man. The white man cannot exercise that amount of power and remain a friend of free institutions; hence it becomes a necessity either to destroy the negro so that he shall no longer be a source of power to corrupt the whites, or to trust him with his own political and civil rights. One thing is certain, that the negro must have the ballot or have no friends; and being poor and friendless, and surrounded as he is by enemies, his fate is extermination.

But give him the ballot, and he will have plenty of white friends, for the people of the United States love votes and office more than they hate negroes. I need not allude to the kindly feelings the ballot secures for the poor, for you have plenty of illustrations at every election. There are many classes of poor people in the North who would be little better than slaves but for the power of the ballot, before which not only politicians but merchant princes and millionaires tremble; and the mighty Executive of forty million people bows in humble submission to the omnipotent power of the ballot. In a republic it is mightier than both pen and sword. Before slavery was abolished the master was interested in protecting the slave from ruffianism and violence, but now he has no protection but the sword or the ballot. We will not give him the former. We want no more blood. We must give him the latter or betray him from slavery, not to liberty, but to destruction. We talk of giving equal civil rights, but he answers in the language of the poet—

"So let them ease their hearts with prate
Of equal rights which men ne'er knew;
I have a love for freedom too."

Give him the ballot and he will secure his own freedom, which includes all the balance.

Freedmen's Bureaus, civil rights bills, are all very well in their way, but very expensive in their operation. They can effect very little in protecting or governing four million people. The government of a Freedmen's Bureau is not self-government, and the sooner we commence to give these people self-government the better. Immediate and universal suffrage may not be wise, but what danger can there be to allow all the negroes to vote with like educational, intellectual, and moral qualifications with the whites hereafter to become voters. If the rising generation of whites are unable to compete on equal terms in these respects with their late slaves, the negro must be regarded as superior. But there is no question of competition in it. It is simply a question of self-protection, and the negro must have the ballot for his own protection, and it must come to this before the conflict will cease. The whites who have been in this rebellion must also have the ballot and full enfranchisement or they must be driven out of the country, for if you retain them here disfranchised enemies, the extraordinary powers necessarily devolved upon the few whom you trust with political rights must make them tyrants. The principle is that a man to be free must exercise political power for himself. If he is not allowed to do this he is a slave. If he is allowed to do more he is to that extent a despot. Every attempt to govern the people of any State by a minority, however loyal that minority may be, is a mockery on republican institutions and will inevitably produce anarchy and discord. We must either abandon our principles or repudiate the idea of dealing with irresponsible minorities and calling them the people. There will be no peace or prosperity in Maryland, Missouri, or Tennessee until the people are enfranchised.

But we are told that if the rebels are allowed to vote those States will fall immediately into disloyal hands; that the power of those States will be used to embarrass the Government and to degrade and persecute loyal men. This is undoubtedly true if the rebels only are enfranchised; but that they will ultimately, and at no distant day, achieve the ballot no sensible man can doubt. In their struggle to obtain this, so necessary for their protection, millions of the American people will sympathize, aid, and approve their efforts, for the principle that a white man (who is allowed to live) ought to vote is too deep-rooted in the nature of the American people to be ignored or repudiated. But they tell us when this is done the life and liberty of every loyal man, both black and white, is in jeopardy. Grant it. Nobody is insane enough to doubt it. But what is the remedy? There are but two: military despotism by the General Government, or an exten-

sion of the franchise to the loyal as well as the disloyal; for in each of those States the majority of the whole people are to-day acknowledged to be loyal; and whether we are in favor of negro suffrage or not is not the question. The question is, shall this Government be in loyal or disloyal hands—in the hands of its friends or the hands of its enemies? It is too late for the Republican party to dodge the issue. There have been too many speeches made in this Congress in favor of negro suffrage to deny that it is a part of the Republican creed. There have been too many votes in this Congress sustaining the principle of suffrage to admit of any doubt of the real design and purposes of the Union party. If we deny our principles the proof of our insincerity will overwhelm us before the people. There is nothing left, if we would have a party, but to affirm and justify our principles. Any attempt to hide them is *prima facie* evidence that they are contraband of political warfare, and subject to confiscation before the tribunal of the people. I was slow in committing myself to the necessity of negro suffrage. My constituents were opposed to it; my education and mode of thinking had been opposed to it; but when I found the Union party committed to it; when I was thoroughly convinced that it alone would protect the negro and redeem the pledge of the Government that he should be free; when I was forced to the conclusion that the fifteen original slave States must shortly be handed over to the enemies of the Government to aid the Democracy in repudiating the national debt, and, perchance, paying the confederate debt, in making loyalty odious and treason honorable, in rewarding traitors and persecuting Union men, unless we extended the ballot to the friends of the Union for our mutual protection, I was resolved to meet the issue, and meet it squarely. Any attempt to conceal our designs will be proof positive of a conscious weakness and a want of faith in the correctness of our principles.

Mr. SAULSBURY. I desire to ask the Senator a question.

Mr. STEWART. I prefer not to be interrupted.

Mr. SAULSBURY. Does the Senator from Nevada say that the Democratic party of this country would, if they had it in their power, repudiate the national debt or would assume the confederate debt? I should like a frank answer. I only refer to it because I observe that the Senator has repeated an intimation which I have seen in the public press.

Mr. STEWART. I will answer the Senator very frankly. For myself, I think there is too much danger to run the risk of giving them the power, and I propose to retain it and not take the chances.

The second section of the constitutional amendment proposed by the committee can be justified upon no other theory than that the negroes ought to vote; and negro suffrage must be vindicated before the people in sustaining that section, for it does not exclude the non-voting population of the North, because it is admitted that there is no wrong in excluding from suffrage aliens, females, and minors. But we say, if the negro is excluded from suffrage he shall also be excluded from the basis of representation. Why this inequality? Why this injustice? For injustice it would be unless there be some good reason for this discrimination against the South in excluding her non-voting population from the basis of representation. The only defense that we can make to this apparent injustice is that the South commits an outrage upon human rights when she denies the ballot to the blacks, and we will not allow her to take advantage of her own wrong, or profit by this outrage. Does any one suppose it possible to avoid this plain issue before the people? For if they will sustain you in reducing the representation of the South because she does not allow the negro to vote, they will do so because they think it is wrong to disfranchise him. Why, then, I ask, will they not sustain you in

stopping the wrong at once? Why license the South to outrage equal rights for the small compensation of reduced representation? You do not license murder. Why not? Because it is a crime. Why should you barter away human rights and authorize oppression? Is that no crime?

It is most evident, sir, if we gain a victory at all it will be because the people are satisfied the black loyalist ought to vote; the verdict will be for suffrage. But the verdict will be surplusage. No judgment can be entered on it in favor of human rights. The issue in the pleadings is too narrow. The relief sought cannot be granted. The rebel State governments, with all their local machinery, must at once fall into the hands of the enemies of the Union, and both the black and white loyalists must then be turned over to the tender mercies of a fierce people smarting under a thousand imaginary wrongs and burning with unquenchable vengeance. But you say you will disfranchise the rebels, and the plan of the committee proposes continuance of test oaths, disfranchisements, exclusions from Federal office, &c. The accomplishment of this involves military despotism and the utter destruction of republican institutions in the South. This only aggravates the evils, adds to the calamities of our common country; for, instead of liberating four million blacks, you will have enslaved eight million whites. The President of the United States will become Dictator as well as President—Dictator of eleven States, President of twenty-five. Since it is evident that we must either have disfranchisement and military despotism or enfranchisement and liberty, there can be no doubt of the verdict of the American people. They have had more difficult questions to decide, and have decided on the broad principles of human rights. The united voice of the loyal North demands the opportunity to settle every question that can again disturb the peace or endanger the liberties of the people or the perpetuity of the Union once for all. The patriotic sentiments echoed from the mountains of Switzerland are reëchoed from the loyal American heart. Grant impartial suffrage and universal amnesty, and the great work is accomplished. I ask the Secretary to read the Swiss address.

The Secretary read as follows:

Address of the Swiss Conventions (Comités) (of Geneva, Lausanne, Neuchâtel, Tessin, and Berne) in favor of the freedmen, and of the Assembly convoked at Geneva on the 29th March, 1866, by the Geneva Convention.

To the President and

Congress of the United States of America:

Mr. President, Messrs. Members of Congress: For four years we have, as it were, lived with you, have borne your grievances, been rendered joyous at your deliverance, and have gloried in your success.

When the election of Lincoln announced to the world that you had had enough of the system which abused you, enough of complicity and compromise with slavery, of man-hunting ordained by slavery, of conquests for the profit of slavery, of politics in favor of the party of slavery, we gave thanks to God.

When your Union was disrupted by revolt, when your prosperity was crippled, (*écroulé*) when many voices had prophesied the dissolution of the Union, we hailed the commencement of a new and a better life for your people.

When military reverses menaced your noble cause, we still believed that it would not perish. When Europe lent, or seemed to lend, an intervention in favor of the South toward violating your blockades and in recognition of the rebel confederacy, we always believed that something would interpose itself between the design and the execution; that your grand principle would intervene, and through that you would become invincible.

When it was generally believed and said that peace negotiations would render nugatory the moral results of the war, that you would compromise with the prejudices and the institutions of the South, we always believed that you would not lay down your arms until you had destroyed your real enemy, that is to say, slavery.

When the death of Lincoln plunged us in mourning, we believed that Lincoln's successor would stake his honor on the continuance and the completion of his work.

Finally, when you have announced to the world that the constitutional amendment was adopted, that already there was no single slave upon the soil of the Union, we have heard within expressible emotion this glorious progress, this greatest event of our age.

It is this sentiment which we would manifest to-day as a duty. Of slight importance though the testimony may be, it shall not be said that the voice of Switzerland should not make itself heard in your

applause. You have far surpassed the hopes of those who hoped the most. At the same moment in which your trials terminated you pronounced the talismanic word of freedom. It will make itself heard throughout the New World; the Spanish treaty will be suppressed; you will annihilate Brazilian slavery. A whole race suffering in bondage shall be freed at the sound.

These are rare days in the history of mankind, when politics and the Gospel move hand in hand—these days of sunshine unobscured by a cloud.

After such days, in resuming the course of ordinary life, we should guard against dangers from contingencies, and set aside obstacles. To finish is more difficult than to begin; to make sure its application more arduous than the announcement of a principle.

The labors that await you to-day are not less important, and are more complex and difficult to surmount than those of yesterday.

But the one goes not without the other. Sad will be the condition of your enfranchised slaves if you make not citizens of them.

Between slavery and liberty—real liberty—there are no breathing-places. Thus, what do the enemies of the Union now predict? That freedom will destroy the freedmen; that, tired of them, you will succumb to the *ennui* of the fatiguing problem; that you will no longer listen to the voice of the poor negroes; that it will not matter to you whether they remain or depart, whether they live or die; that in the rude contact with your prejudices and contempt they will perish, as the Indians have perished; that your pharisaical abolition will find itself resulting in their extermination; that the pure glory of to-day will turn to shame on the morrow.

We protest against such dark presages: we ask that they may be branded with falsehood. We know that your acts will so brand them, and very soon.

The more you desire the dark question to cease troubling the United States the more you will feel that it must be disposed of. Unfinished questions have no pity for the repose of mankind. And how shall that completion be attained? But two things remain to be done: to maintain your Freedmen's Bureau and to suppress all civil and political distinctions on account of color. To refuse Federal protection to the slaves that were—a protection indispensable to the transition—is to give them up purely and simply to the laws, the administration, the tribunals of the South. It would be to decree the reestablishment of slavery with the addition of hatred, and, by consequence, of atrocity. To conserve political exclusion to the black race, as a race, would be to deny the principle, even the name, for which the North has so valiantly combated.

That prudent measures should accompany the conferring of the right of suffrage in the South—that, for instance, it should be limited to those who can read and write, without distinction of color—we can well understand. But what we cannot understand, nor can any of those who teach and sustained your cause, is the exclusion of the race. If the southern States were readmitted to Congress without imposing upon them, as a condition, the equality of races, we should bitterly deplore it; we would bow the head in humility and sadness, and await in fear a recommencement of those hostilities between the South and North, between the Republicans and the Democrats, the end of which had seemed only to have come round.

But what would most disturb all our hopes would be to see those freedmen who had spilled their blood for the defense of the Union rewarded for their devotion by being deprived of those rights which are, in all republican Governments, the appanage of those brave men who are called to bear arms for their country, at the same time that the rebels, who had torn the bosom of their country, and begged the intervention of the foreigner, not only reënjoy the rights they had before the war, but made the arbiters absolute of the fate of loyal citizens. To give to those guilty of high treason the power to reduce good citizens to the position of political pariahs—to reward treachery and to discourage patriotism—to give in to those who pronounced self-government impossible and self-annihilating.

That one condition necessary to future peace should be imposed on the rebel States, the sense, namely, of the above, we doubt not you understand, for you have already imposed upon them an affirmative vote upon the amendment abolishing slavery.

One step more, and your task is finished. By the side of the abolition of slavery it remains to you to equalize the races before the law. What is abolition without equality? It remains to you to decide that the rebel States, before reëntering Congress, should abolish all distinctions based on color. Political franchises in all respects should be enjoyed equally by blacks and whites. These guarantees obtained, open to them your arms and hasten toward a general reconciliation. Avoid any unnecessary prolongation of the present interregnum, (*régime exceptionnel*). Add to your other glories that of reëstablishing the power of your Government at the immediate close of a bitter civil war. Liberty is bold and strong; and of what use are her boldness and strength if she cannot trust and pardon?

It is repugnant to us to conceive your stopping half way, and conferring upon the former slaves liberty without equality, or, in other words, liberty without the conditions of freedom; liberty without dignity; liberty with an unopened future, without possible progress; liberty without that upon which it becomes great and attains its end; thus you would reconstitute a new slave party in Congress—further oppressions of slaves throughout the South. Seeking for peace you would reorganize war—servile war at first, for you cannot pronounce with impunity the words *RE FREE*; and when those whom you have declared free feel that they have neither protection nor rights, nor means of regular action, they are almost infal-

libly driven to employ other means. Civil war would follow. Is it possible that the blood of the blacks shed on the other side of the Potomac, that cruel oppressions, would not speed that war, and that the generous instincts of the North would not reawaken? They would complain, they would denounce iniquities, they would intervene morally, and the ancient quarrel would blaze forth again. As faithful friends we have better hopes for you. We have said much, convinced that you will easily perceive that there is a warm sympathy in the depths of our fears, and that our sincerity is strengthened by respect and by attachment.

May He who has guarded you and protected you thus far continue to guard and protect you to the end; that He may empower you to finish what you have begun—to treat as fellow-citizens and to love as brothers those who, thanks to you, are no longer in slavery; and that He may accomplish for you now and hereafter all those good wishes with which our hearts are filled.

J. H. SERMENT, and others, for Geneva.
ADOLPH CHRIST, and others, for Bâle.
ROBERT LISSOT, and others, for Neuchâtel.
F. BIANCHETTI, and others, for Tessin.
BERNARD, and others, for Berne.
M. BECHET, for the Canton De Vaud.
GENEVA, April 10, 1866.

Mr. STEWART. How truthful the remark that "unfinished questions have no pity for the repose of mankind." While four million blacks are struggling for the ballot as the only protection known in republican Governments for life, liberty, and property; while the military arm of this Government is outstretched to enforce disfranchisement of rebels and restrain them from warring upon the life of the nation and the rights of the disfranchised blacks, gentlemen may cry, "Peace! peace!" but there is no peace.

"For freedom's battle, once begun,
Bequeathed by bleeding sire to son,
Though baffled oft, is ever won."

The contest may be lost for years if left unsettled now, but there can be no repose for this country until the principles of the Declaration of Independence are fully acknowledged and practically enforced from ocean to ocean, from the Gulf to the Lakes.

I have often heard the appeal of earnest men in this great contest, and have too often hesitated at what seemed impractical or impossible, but before I could realize the grandeur of the design the work was accomplished. I hear the same warning voice of zealous reformers and earnest republicans proclaiming the simple truths of equal rights and generous amnesty; and as in the past the dark night of slavery and human bondage disappeared before the sunlight of humanity and justice, so in the future the clouds of prejudice and passion which envelope the rights of millions of American citizens will dissipate before the reason and patriotism of the loyal masses of the people.

What guarantees shall be demanded on the restoration of the South, and by what right do we demand guarantees? In proceeding to this branch of my subject I find my own views so well expressed in an able paper from the pen of Robert Dale Owen that I avail myself of his forcible language:

"To the Editor of the Chronicle:

"I take exception, in these days, to no contrarieties of opinion touching the proper mode of restoring harmony between the late belligerent sections of our country. That is a problem which may tax the best energies of the wisest among us, and in regard to the solution of which the ablest may differ. But if the task before us is difficult, it is not hopeless; not, I firmly believe, doubtful even. I have faith in the people. I have faith, stronger still, that God, who forsook us not in the gloom of the rebellion, will guide us now; when the scene of combat is changed from the field of battle to the election precinct and the legislative hall.

"The essential is, that we approach this great subject in a fitting spirit. It avails nothing to talk about the enormity of secession and the condign punishment it merits. The punishment of nations is in other hands than ours. If the judgments of God have not already stamped slavery as a sin and treason against a beneficent Government as a crime, in vain are the efforts of man in that direction.

"Nor let us, in our indignation, forget how that sin of slavery, the cause of the rebellion, originally came upon the South; against her own will; against her solemn protest. In December, 1770, the King of Great Britain commanded the Governor of Virginia, 'under pain of the highest displeasure, to assent to no law prohibiting the importation of slaves.' Virginia, in April, 1772, addressed the King in remonstrance, saying to him these remarkable words: 'The importation of slaves, a trade of great inhumanity, will endanger the very existence of your Majesty's American dominions.' Maryland and Carolina followed that lead.

"But aside from this, what so unphilosophical and unjust as the spirit of the Pharisee? It is due to a geographical accident that we were not born slaveholders in the city of Charleston. Dare we assert that if we had been we should have been juster men than they, more scrupulous about living by the labor of others? Shall we stand up, in the temple of our own self-righteousness, and say, 'God, we thank thee that we are not as other men, or even as these South Carolinians?'

"We can never, indeed, forget—God forbid that we should—the terrible consequences of treason; the hardships, the sufferings, the lost lives, the parents and widows bereaved, the countless thousands of homes made desolate among us. But to avert evils in the future better befits a Christian people than to avenge injuries of the past. Let us learn of the despised and the lowly. Is it we only who have injuries to requite? What were our sufferings during the war compared to the thousand wrongs perpetrated, throughout generations, against the millions of southern slaves? But though the iron entered into their souls, did they return evil for evil? Did they forget, when the day of liberation dawned, the words of the text, 'Vengeance is mine, I will repay, saith the Lord?'

"If there be among our people a revengeful element, let us not pander to it. If we impose conditions before we restore political rights to those who, defying law and Constitution by force of arms, became public enemies, it ought to be in defense, not in requital.

"If we impose conditions.' To a dispassionate looker-on it must seem strange that, here in the North, that should be a question at all. At the close of a four years' embittered war—producing a radical change in the legal and social condition of four million people, creating two vast antagonistic public debts, and entailing a thousand diversities of interest between millions on one side and millions on the other—it would be a thing incredible that government could be properly or safely resumed, without stipulation or precaution, as if nothing had happened. At such a juncture in our national affairs wise precautionary measures are as strictly a dictate of duty as they are clearly a matter of right."

"To us, and not to the 'unjust aggressor' who appealed to the wage of battle and lost, belongs, at this time, the right to decide what guarantees are needed for the public safety, and how that 'unjust aggressor' shall be rendered 'incapable of doing mischief with the same ease in future.' Dearly we paid for that right! We shall commit a folly unparalleled in the annals of nations if we neglect to use it.

"But if all things are lawful for us, all things are not expedient. Thus, though due time must be taken for the maturing and consummation of precautionary measures, yet, on the other hand, one section of a Republic containing a fourth of its inhabitants cannot, except for a season, safely be shut out from Federal representation. Therefore the political rights of the States lately in insurrection should be restored to them at the earliest day consistently with the peace and safety of the country.

"The dangers attendant on unconditional restoration, which threaten that peace and safety, seem to me three in number; two of a political, the other of a financial character."

I concur with Mr. Owen that the dangers to be apprehended are three in number: two political and one financial. But I classify them thus: the political dangers are, first, immediate and absolute control of the several southern State governments by persons still hostile to the Union; and second, the increased representation in Congress of the disloyal elements of the South. The first is by far the greater evil, but for it the report of the committee furnishes no remedy whatever. The second and the lesser evil is but partially provided for. It is not proposed to eradicate the evil, but if possible to diminish its extent by a small reduction of representation in the other House. I very much fear that this will rather intensify the rebel elements than induce an extension of suffrage. While the franchise is restricted to the whites the rebels will be sure of a full voice in the Senate and a united (though a reduced) vote in the House and complete control of their several State governments. The danger of a division of this immense power by the extension of suffrage would more than counterbalance the loss in the other House. They would submit to this small loss of power and attempt to obtain satisfaction therefor in a more unlimited control over the destinies of the race we have attempted to liberate. I doubt very much whether this change will benefit the black man. It relieves him from misrepresentation in Congress by denying him any representation whatever.

The financial danger, so far as it depends upon an assumption or payment of the rebel debt or compensation for emancipated slaves, is properly guarded against in the fourth section of the report. But the further and greater

financial danger which threatens our national credit grows out of the political dangers which I have mentioned. The commotions and agitations, and perchance civil wars, growing out of the unsettled political questions will disturb our financial system more than the rebels could possibly do by any efforts they might make to saddle upon a loyal people a debt incurred in the interest of slavery and secession. There are but two possible modes of escape from the political dangers which menace the peace and prosperity of our country. The first is disfranchisement of rebels by military power, for it can be done in no other way. To this I am opposed, because it violates the democratic principle and is utterly repugnant to free institutions; because it is against Christianity and humanity; because it is the usual and direct road to despotism; because it has been often tried, and its fruits have been in all ages, in all times, and in all countries, the bitter dregs of slavery, tyranny, human misery, and wretchedness; and because it must inevitably result in the destruction of the Union and the liberty of the people. The second is enfranchisement of the blacks. The trying times which Mr. Lincoln thought might come when the colored man could help "to keep the jewel of liberty in the family of freedom" are upon us. Two fifths of the people of the eleven States are colored, and are instinctively loyal and real friends of the Government. This two fifths was a great drawback upon secession, and after the emancipation proclamation, in spite of all efforts to deceive the blacks, they felt that the Government was their friend, and although they may have done very little effective fighting, still they aided us and injured the enemy in a thousand ways: by giving information, by kindness to prisoners, by the moral effect of enemies at home upon the cause of secession, and by the subtraction of their labor from the rebels and adding it to the resources of the Government.

After this proclamation the South became a house divided against itself, and the work of tearing down was half accomplished. Suppose to-day the South were united against the Government, and we became involved in a war with Great Britain or France, would we not expect a fearful struggle? But suppose we had two fifths of the people in the South as our friends, would we not regard that fact as a great acquisition of strength? Who can say that an emergency of this kind may never happen when we will need friends in the South as we did during the late war? And remember that the blacks are now free and capable of being more useful friends than they were as slaves. Suppose in settling with our enemies we should make no effectual provisions for the safety of our friends, but turn these State governments over to the late rebels, our friends would be at the mercy of our enemies and compelled to make terms. Would it be impossible, in that event, for our late enemies to convince our late friends that our friendship after all was of little value? And might not the act of emancipation be regarded by the blacks as a snare and a delusion rather than a blessing? Deserted by all the world, surrounded by their enemies, without means of self-protection, might they not under such circumstances sink in despair and relapse into a hopeless state of wretchedness and misery, awaiting in silence their fate of extermination, prepared for them according to the predictions of the late slaveholders? After all this might not the Union soldier in another war for liberty look in vain for the trusted black friend whom he found ministering to his wants in the darkest hours of the late rebellion?

But aside from their usefulness to us in aiding to sustain the Government, dare we offend a just God by failing to redeem the solemn pledge of liberty which this nation made to the slave? Has not the late war proved a sufficient warning that nations are punished for wrong and oppression and for disregarding human rights? But you still insist the negro is ignorant and ought not to vote. Are not

many of the whites also ignorant? This argument proves too much, and if practically put in force so as to exclude all ignorant men, both North and South, the reduction would be too great. But if you allow, as you must, ignorant men who are disloyal to vote, why not let ignorant loyal men vote? All that the friends of suffrage ask is, that the black should vote upon a like educational, property, and moral qualification with the white. Let the States place the standard where they will, provided a majority are not disfranchised and a government not republican set up in violation of the Constitution; but let it be impartial. We go even further, and, not wishing to disfranchise any who now vote, we propose to relieve them from restrictive qualifications which may hereafter be imposed on voters, but we insist that the ballot shall be placed within the reach of every American citizen of whatever race or color. Place any safeguards you please on the ballot, but make them impartial, and we will take the chances for the negro.

Does any one suppose that the Senators and Representatives from South Carolina would not soon have a loyal constituency if the ballot were within reach of the black man? In that State over one half of the people would be a solid column (a black column, if you please,) of loyalty. Does any one doubt that there would be whites enough to join them to obtain control of the State? Suppose those who join them are mere politicians, and they go with the negroes for office and spoils, would it be the first political combination formed for that purpose, and would not those who should obtain office and power by such means be compelled to respect the loyal sentiments of their constituents in order to retain power; and would not the ordinary desire of the politician to serve his friends prompt him to make equal laws and sustain the Union? The more this question is considered the plainer it becomes. I like a platform of principles which will bear examination and investigation. The simple fact is, give the people the ballot and the rulers are their servants, withhold it and the people exist at the will and sufferance of their rulers, and this rule applies South as well as North. Suppose you should withhold the ballot from the laboring classes of the North and allow capital to legislate for labor, aristocracy to make laws for democracy, how many civil rights bills and Freedmen's Bureaus would it require to secure freedom to the masses of the people and make them contented and happy?

But let Senators be warned by the grand demonstrations of the people in favor of these measures of protection for the blacks. Let this voice be understood. What does it mean? Is it difficult of interpretation? Not at all. It means that the blacks shall be free and that Congress shall demand full and complete securities for their freedom. In less than six months every Union man will see that there is no protection, no freedom, for the blacks without the ballot, and the universal sentiment of the loyal masses will demand the enfranchisement of the oppressed race. This is security for the future, self-supporting and self-sustaining security. It permits every man to protect himself, and his own self-interest will prompt him to do it well. It will not impoverish your Treasury and burden you with taxation. It will not consolidate your Government and destroy the legitimate functions of the States; but it will strengthen the foundations of the Republic and enlarge the base and prepare it for the grand superstructure which the builders of our institutions designed when they proclaimed in the Declaration of Independence the equality of every man in the right to life, liberty, and the pursuit of happiness, and the perfect equality of every man to strive to equal and to strive to excel his neighbor in everything great, good, and useful.

But I am asked, would you allow the leaders of the rebellion to return to Congress to insult the loyal North with their odious presence in the councils of the nation, there to plot treason and revive loyalty? I answer, no. I would take

the proper measures to prevent it. I would chain them to the ballot of the loyal blacks, and hold them in the strong grasp of a loyal people. They will not send them here. You may frame all the exclusion bills you please, but if you exclude loyalty from the ballot-box, and allow none but rebels with a small portion of loyal whites to vote, disloyalty will find expression in your national Legislature in the persons of lower and meaner men than the intellectual chieftains of the rebellion. The desire to exclude a few from office as an exception or an expression of a sentiment can accomplish no great good. It is not worth serious consideration. It is like disputing about an old whip in a negotiation for a first-class six-horse team. Exclusion from the franchise and office is idle. It is too difficult to accomplish, and no good results can possibly follow. We do not wish to punish the South. It has already been sufficiently scourged and humiliated by the inevitable results of a bloody war. The avenging hand of Providence has desolated and devastated their land and smitten down the first-born in every household, and if they will now let the bondmen depart from oppression in peace, with the ballot as their shield and buckler, why should we demand further vengeance? "Vengeance is mine, saith the Lord."

I will not attempt a description of the horrors of the civil war brought upon the South by the crime of slavery and the conspiracy for its perpetuation. In the language of Burke, "A storm of universal fire blasted every field, consumed every house, destroyed every temple." The furnaces of retribution for the sins of the people were heated seven times hotter than they were wont to be heated, and the vials of wrath were poured out in torrents on the heads of the conspirators, consuming slavery and destroying treason. Are we not satisfied? Cruel slavery and foul treason shall be no more in America unless we revive and resuscitate the former by disfranchisement and oppressions until it breed new treason to be expiated upon our children with more terrible vengeance than the sins of the fathers have brought upon us. It is no time for crimination and recrimination. This war was not the work of man but of God. Let the North mourn her dead heroes sacrificed in the cause of liberty and humanity, the noblest cause in which man can die. Let the South mourn her dead sacrificed for the crime of slavery, and let her respect the sacrifice and go and sin no more. Let the vengeance of man be stayed. The visitations of destruction and punishment are beyond our comprehension or control. Let not our small individual wrongs and personal prejudices, too insignificant for consideration when we contemplate the grand dispensations of Providence, delay us, or stand as barriers to the consummation of the great work of enfranchisement and liberty. I proclaim as the true platform of principles, which shall survive this Congress and the present age and serve as a landmark for the future, "Peace and good-will toward all men;" liberty and union; impartial suffrage and universal amnesty.

I appeal to every Union man to declare his faith and stand by his principles; deal honestly with himself and frankly with the South. It is time they understood the full extent of our demands. The opponents of equal rights never argue the right or wrong of impartial suffrage. They assume that it is a great political crime and then argue that the Union party is committed to it. If we join issue with them on this point we must fail, for we are committed to it, and they can prove it. Upon that issue we must lose before the people. But suppose we admit what is true and cannot be denied, and justify our conduct by declaring that we are in favor of impartial suffrage because it is right, and ask our opponents, do you object? If so, why? Dare you deny protection to the friends of the Union while you demand political rights for its enemies? Dare you say that a Union soldier shall not vote, but a rebel soldier shall? Dare you say that he who fed our starving

prisoners shall not vote, but that he who starved them shall? Dare you say that this Government shall punish its friends and reward its enemies? Dare you contend that four million loyal citizens shall be outlawed and trampled under foot and allowed to perish because our enemies are exasperated against them on account of their friendship for us, and at the same time ask enfranchisement for our enemies so that they may destroy our friends, menace our liberty, and embarrass our finances? Dare you deny liberty to the loyal and claim power and freedom for the disloyal? In politics as in law, if you join issue on a false plea you will lose your cause. It is false to say we are not in favor of impartial suffrage; and if we make that issue we shall be defeated. But it is true that all men are equally entitled to life, liberty, and the pursuit of happiness, and if our enemies dare join issue with us on these great principles we are sure of an overwhelming verdict from a loyal and liberty-loving people. Suppose we declare that when the rights of man are freely acknowledged and made secure, that we are in favor of amnesty and mercy for our enemies; dare our opponents say they are for vengeance and blood? Suppose we say that we are contending for justice, and when that is secure our enemies shall enjoy all the civil and political rights of American citizens; dare our opponents say that they shall not enjoy those rights? Suppose we rise to the true grandeur of this great contest and declare that we mean justice, humanity, liberty, and Union; dare our opponents say they mean wrong, oppression, secession, and slavery?

Let me appeal to the people of the South to cease contending for wrong and injustice, and learn to do right and love mercy. "Blessed are the merciful for they shall obtain mercy." Men of the South, put not your trust in modern Democracy. "Beware of false prophets which come to you in sheep's clothing but inwardly are ravening wolves." Have you not heard enough of their vain-glorious boasts of power to aid you? Did they not encourage you to rebel and promise you aid and comfort in your struggle to overthrow the Government, and did they not desert you in the hour of your greatest trial? Were they not invisible in war as they had been invincible in peace? Do you desire to be betrayed into another conflict with the overwhelming forces of liberty and union? Have not your efforts to destroy the Union and trample upon equal rights been sufficiently disastrous? Do you desire your homes to be again visited by war, pestilence, and famine? Has not the work of destruction satisfied you that there is a just God who takes vengeance on the oppressor and him who denies mercy to the poor and friendless? Think not that modern Democracy can shield you from the terrible retribution that awaits you if you longer deny the inalienable rights of man. A just God has declared oppression and wrong shall depart from the land, and the loyal millions who stand by the Union will execute His commands. For a time the arts of demagogues and the cohesive power of public plunder may seem triumphant, yet they do but seem. The same grand sentiment that rallied the loyal North to strike for liberty and union will still inspire the heart and nerve the arm to finish the work so gloriously begun. The little spring from which first gushed the waters of liberty has become a mighty torrent, sweeping slavery and oppression to destruction. Modern Democracy is but the flood-wood that maddens the rushing waters but cannot stay the flood. Regard not this floating trash but heed the loyal fountains from whence the torrent flows. Attempt no further obstruction of its course, but let it do its work and wash the crime of slavery from a land sacred to freedom. Attempt not impossibilities.

The chains of bondage are broken, the shackles have fallen from the limbs of the slave, and no earthly power can rob him of enfranchisement and liberty, the birthright of an American citizen. Engage not in this wicked

work, for the avenging hand cannot be stayed from those who still oppress. In such a conflict your own liberty is in jeopardy, and destruction and devastation threaten your country. Men of the South, let by-gones be by-gones and join in the glorious work of enfranchisement. Let your afflicted country have repose from this fearful strife. Give the ballot to the black man and retain it for yourselves and your posterity. The ballot is a gracious boon and none the less precious because enjoyed by the poor as well as the rich, the black as well as the white. It is the only guarantee of liberty. Is liberty less sweet when secured by all mankind? I appeal to the South in the name of the Father of the Revolution, in the name of justice and humanity, in the name of peace and union, and in the sacred name of Christianity itself to grant the ballot and receive the cordial friendship and fellowship of the brave and generous people of the loyal States. Let it be distinctly understood that if the evils of confiscation, disfranchisement, and military despotism come upon the South it will be because she refused to hear the truth from her friends, and refused to aid them to give her peace, but trusted to her enemies and those who would barter away her liberties in the vain hope of obtaining power for themselves.

Sir, my mountain home and the bold pioneers with whom I have passed all the days of my manhood, and whom I know well, call for no more blood, no more desolation, no more widows and orphans, no more accumulation of debt, but they hope for peace, union, and liberty for all. My constituents love the country and the whole country. There is no State in the Union that is not the native land of many citizens of Nevada. Their home is in the far-off mountains, but their affections cling to every village and hamlet in America. We have lived together upon the shores of the Pacific for near twenty years. The good and bad fortunes of a miner's life have been common to us all. We have learned to appreciate and respect men from all sections, and our destinies are so interwoven in our common pursuits and common interests that the continuance of this unnatural conflict disturbs and mars the happiness of all our people. Nevada advocates everything for security, nothing for revenge; everything for political safety, nothing for partisan power. Her prosperity depends to a great extent upon friendly and cordial relations among her citizens. The restoration of the South will bring peace and happiness to Nevada, and I should not represent her if I were not zealous in that work. I deny that blood, confiscations, disfranchisement, and military despotism is any part of the platform of the Union party to which I belong. If to be a radical means to thirst for human blood, love human misery, and hate mercy, then I am no radical. If to be a radical means to love the Union, the Constitution, and the free Government of the fathers, to do justice to all men and respect the rights of all, then I am a radical. I know not what others may do, but as for me I shall labor honestly and zealously to secure the adoption of any plan which offers any hope of peace and union on the principles of justice and humanity. I shall not despair until a plan looking to revenge and partisan rule shall have been adopted; a plan based on the worst passions of our nature shall have been sanctioned by this Congress, and then I shall lose all hope of any good results from our deliberations. I appeal to Senators to consider this momentous issue in the light of reason and Christianity, to be charitable for the sins of our common humanity, to deal justly, and love mercy.

I shall first offer my resolutions for amnesty and suffrage as a substitute. If I fail in that, I shall ask that they may be submitted as an alternative proposition, and if I am still unsuccessful, I will vote for the plan of the majority so long as it is a better plan than that of the President. But when Congress shall have committed itself to a platform which means either disunion or despotism, I shall await in despair

the evils that threaten our country, hoping that an all-wise Providence may avert the pending storm.

I have no disposition to find fault with the committee on reconstruction. I realize the difficulties which they have been called upon to encounter. That they have acted a noble part in their efforts to harmonize conflicting opinions no one has any just reason to doubt. I rejoice in the manner in which the report is presented and the liberal spirit manifested by the committee toward those who are anxious to aid in the perfection of their plan. I hope for good results when debate shall have terminated and final conclusions shall be presented to a generous public. I cannot believe that if Congress should finally reach the conclusion that the late rebels must be supreme in their local State governments, that they will then adopt measures to exasperate those whom they trust with the life, liberty, and happiness of the black man. If the generosity of the South is to be the only guarantee of a precarious existence that is to be secured for the negro, it is cruelty to him to enrage his master—for master he will be—with aggravating legislation. If you leave him in the lion's mouth do not exasperate the lion, but appease him if possible. If you have no means of security admit the South at once and extinguish the hope of liberty in the breast of the negro, and let him make the best terms he can for his hopeless life.

The President's plan is by far the best, if Congress only aggravates and enrages the South but fails to eradicate the acknowledged evils. The President, according to Mr. Seward, is willing to take votes as a basis of representation, which differs but little from, and I think is an improvement upon, the report of the committee in that regard. He also wishes the confederate debt and claims for emancipated slaves repudiated. If nothing better can be done, let Congress take any plan that will end the conflict; but if we have principles, as we profess to have, it is our duty to affirm and vindicate them. It will be time enough to say the States will not adopt a just plan when that experiment has been tried and failed. If we are to be defeated, let us fall with our face to the foe. I have no ambition to die in an irregular or guerrilla war. My motto is civilized warfare or a square surrender. The country will not justify a distinction without a difference. If there is no difference on questions of principle there ought to be no further cross-purposes between Congress and the President. The world will brand us as factionists and our efforts as a struggle for partisan power, if we rely too much on expediency.

I hope the Senate will pardon the frankness with which I have attempted to express my views. Let amnesty and suffrage be submitted, and allow each State to act separately, and if the South adopt it, the North must; and if the North does, how can the South refuse? It is safe to say she will not jeopardize her peace and security in any such way. Let the plan embody civil rights, impartial suffrage, and repudiation of both rebel debt and claims for emancipated slaves on the one hand, and universal amnesty and restoration of rebels to civil and political rights on the other hand, and the country will finish the work. And when it is done it will be well done.

The PRESIDING OFFICER, (Mr. WILLIAMS in the chair.) The question is on the amendment to the joint resolution proposed by the Senator from Ohio, [Mr. WADE.] Is the Senate ready for the question?

Mr. HOWARD. I suggest that the discussion be postponed until to-morrow, and I make that motion, that the further consideration of this subject be postponed until to-morrow at one o'clock.

Mr. JOHNSON. Is it in order to move to strike out the third section as it stands now without offering a substitute for it?

The PRESIDING OFFICER. Such a motion would be in order.

Mr. JOHNSON. I make that motion.

Mr. GRIMES. The question will stand, then, on that motion?

Mr. JOHNSON. Yes, sir.

Mr. HOWARD. I hope the vote will be taken on the motion to postpone the further consideration of the joint resolution until tomorrow at one o'clock.

The motion was agreed to.

Mr. SHERMAN. I have prepared a constitutional amendment, or rather an amendment to the proposition of the committee of fifteen, which more nearly meets my own idea than any proposition that has been made, and at the suggestion of others I submit it and ask that it be printed. I do not say that I shall offer it, because I desire to vote for that proposition which will combine the greatest strength, but as this expresses more nearly my own individual idea than any other, I will ask that it be printed.

Mr. GRIMES. Let it be read.

The Secretary read the proposed amendment, as follows:

Strike out sections two and three, and insert as follows:

Representation shall be apportioned among the several States which may be included within this Union according to the number in each State of male citizens of the United States over twenty-one years of age qualified by the laws of such State to choose members of the most numerous branch of its Legislature, and including such citizens as are disqualified for participating in rebellion.

Direct taxes shall be apportioned among the several States according to the value of the real and personal taxable property situated in each State not belonging to the State or to the United States.

The proposed amendment was ordered to be printed.

BOUNTY TO INDIAN REGIMENTS.

Mr. WILSON. I move to take up the joint resolution (S. R. No. 87) to provide for the payment of bounty to certain Indian regiments.

The motion was agreed to; and the joint resolution was read the second time, and considered as in Committee of the Whole. It requires the Secretary of War to cause to be paid to the enlisted men of the first, second, and third Indian regiments the bounty of \$100, under the same regulations and restrictions as now determine the payment of bounty to other volunteers in the service of the United States.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

OFFICIAL HISTORY OF THE REBELLION.

Mr. WILSON. I now move to take up the joint resolution (S. R. No. 86) to provide for the publication of the official history of the rebellion.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the joint resolution. In order to insure the publication in proper form, and at the least possible expense, of the reports and orders of commanding officers, and of all correspondence by telegraph or otherwise, and of all other documents of every description relating to the late rebellion, accumulated in the archives of the War Department since the 1st of December, 1860, as authorized by the joint resolution entitled "A resolution to provide for the printing of official reports of the operations of the armies of the United States," approved May 19, 1864, this joint resolution authorizes the Secretary of War to appoint a competent person to supervise the publication at the Public Printing Office, who is to receive a compensation for his services not to exceed \$2,500 per annum, to be paid monthly by the Secretary of the Treasury, but this compensation is not to be paid for a longer period than two years from and after the passage of the resolution.

It is to be the duty of the person so appointed, with the advice of the Superintendent of Public Printing, to prepare in a proper manner for publication the manuscript of the documentary history of the rebellion, sent and to be sent from the War Department to the Public Print-

ing Office, in strict accordance with the terms of the joint resolution of May 19, 1864, and in order to save unnecessary expense, to consolidate and eliminate therefrom, under the supervision of the Superintendent of Public Printing, such superfluous matter as will not affect the completeness and historical value of the whole; and he is to make regular reports of the progress of the work to accompany the report of the Public Printer to Congress; and the printing thereof is not to be commenced until a complete revision and arrangement of the manuscripts shall have been made.

Mr. WILSON. There is a report accompanying the resolution from the Committee on Military Affairs, which states the facts of the case perhaps with more brevity than I can state them now, and I should like to have that report read.

The Secretary read the following report, submitted by Mr. WILSON on the 18th instant:

The Committee on Military Affairs and the Militia, to whom was referred Senate resolution No. 86, to provide for the publication of the official history of the rebellion, having had the same under consideration, respectfully report:

That they recommend the passage of the joint resolution without amendment. During the first session of the Thirty-Eighth Congress a joint resolution was passed, and approved by the late President, providing for the publication at the public expense of the "reports of commanding officers, all correspondence by telegraph or otherwise, and documents of every description, in relation to the existing rebellion, to be found in the archives of the War Department since the 1st day of December, 1860." The object of the resolution was to perpetuate the proud record made by the armies of the Republic in their efforts for the maintenance of the Union, and to furnish a means for historical reference and professional instruction, by the compilation and publication in a compact, convenient, and permanent form of what may be termed the official military history of the rebellion.

The war for the suppression of the rebellion being still in progress at the time of the passage of the resolution, the War Department, owing to the pressure of public business and the unavoidable incompleteness of the official records during the continuance of active operations in the field, was not able to carry out its provisions immediately. Since the return of peace, however, the work of compilation has been commenced and pushed forward as expeditiously as circumstances would allow.

Under the broad terms of the resolution all that the War Department is required and authorized to do is to furnish *verbatim* and *literatim* copies, arranged in chronological order, of every report, dispatch, letter, and other documentary paper relating to the rebellion on file in its various bureaus, for publication to the Public Printer. Although no exact estimate of the quantity of matter which the latter is called upon to print at the public expense under the law as it now stands can be made, it is evident from what is already in his hands that it is so vast, and in part of such doubtful value, as to call, on economical and other grounds, for amendatory legislation.

It is believed safe to assume that, with the comprehensive scope of the resolution, it will require a large number of volumes to comprise all the matter compiled and to be compiled by the War Department, which will make the total expense of the whole series, inclusive of the engraving of the maps accompanying the reports, amount to several hundred thousand dollars. Upon due investigation the committee have come to the conclusion that a large saving of this sum can be effected without defeating the object of the resolution. There is much matter, especially among the reports, that can be properly left out without doing injustice to any one or impairing the completeness of the publication. Of the many hundreds of maps of different size and merit, the engraving of all of which would require a vast outlay, a great number could be entirely omitted or consolidated. By proper condensation and elimination tens if not hundreds of thousands of dollars could be saved.

Nor is this the only feature of the proposed work susceptible of improvement in the opinion of the committee. The form as well as the substance of the matter to be printed needs a thorough revision. Owing to the fault partly of the authors and partly of the copyists, many of the reports are not in a condition to be incorporated in an authoritative publication that is to form an authentic record of the deeds of the loyal armies, and find its way as such into every library at home and abroad, and mold the judgment of history. Bad grammar, misspelling of geographical names, and of names of distinguished officers, and other shortcomings, should be eradicated from the manuscript before it passes into the hands of the printer.

It has also been found that the method of compilation followed under the orders of the Adjutant General is not in accordance with the terms of the resolution. It directs that the reports and all correspondence, by telegraph or otherwise, be arranged and published in "chronological order." The Adjutant General has only transmitted so far, to the Public Printing Office, reports of commanding officers, which he desires to be printed in a succession of volumes, to be followed by another containing the correspondence. As required by the resolution, the reports and correspondence pertaining to the same subject should

be grouped together. It is obvious that the plan of publication adopted by the Adjutant General, if carried out, would seriously detract from the value of the volumes as a convenient means of reference, inasmuch as the orders, dispatches, letters, &c., of the War Department and commanding officers often form the key to an intelligent understanding of the operations to which they relate.

Again, the resolution requires that an index be prepared to each volume. The Adjutant General proposes to prepare a general one after the publication of the whole series. The effect of this deviation from the prescribed plan would be to render reference to the several volumes during the progress of publication a source of annoyance and perplexity. In the opinion of the committee a special index should accompany each volume, and a general one the series.

In order to insure the publication of the official military history of the rebellion in proper form, and at the least expense, the committee have deemed it best to recommend that the Secretary of War be authorized to procure the services of some competent person of ability and literary experience familiar with such work, whose duty it shall be to prepare the matter furnished by the War Department in the stated manner for the printer, and to supervise the printing of it. And for this purpose they recommend the passage of the accompanying resolution. They are confident that the small outlay of public money it authorizes will be a very economical investment and result in a large saving to the Treasury.

Mr. WILSON. I will briefly say that a resolution was passed two years ago providing for the publication of these official papers. It is a great undertaking, and it will cost several hundred thousand dollars. For the credit of the country, the work should be very carefully prepared. Besides that, if it is properly prepared, it will not cost more than two thirds as much as it will if it is printed on the plan provided by the present law. If the work is to be of real historical value, if it is to be any credit to the country, it should be well edited. It will make somewhere from thirty to fifty large volumes. The present plan is very defective indeed. In the first place, the documents and papers themselves are defective, with names misspelled, and are not well arranged. All this should be corrected. If we are to publish this work at all, it should be carefully prepared before it is put to press.

Mr. FESSENDEN. Do you mean to publish all the reports?

Mr. WILSON. Yes, sir; all the reports. Then there are several hundred maps that accompanied these reports. It will not be necessary to publish all those maps in order to illustrate the work, because many of them are almost duplicates of others. You want a revising mind over the whole. Whoever is to do this work should have some help, and I suppose the Department may detail clerks under him to do that kind of work. The work has to be done now in the Department.

Then there is another thing about it, and I am rather surprised at it. It would seem reasonable that whatever concerned one portion of the country or one army—General Sherman's army, for instance, in its movements and marches, all the public papers and telegraphic dispatches and reports in regard to it—should all go together because they illustrate each other; and so with the army of the Potomac; and so with all the other great military movements. Under the old resolution, the telegraphic dispatches and the reports are to be published separately, so that in order to understand them one has to read all these works. Then there is to be no index to the volumes until they are completed, and then a general index for the whole. Every volume should be indexed, and the subjects should be divided into their proper departments, so that any person wishing to learn about any of the movements of any of the armies under any of the generals would have it at his finger ends, all perfect, with the telegraphic dispatches, reports, and maps, and an index for the whole.

Now, sir, this is a simple proposition that some person shall be employed by the Secretary of War, at an annual salary of \$2,500, for two years, to supervise and arrange this work. I believe it will save one third of the expense that would otherwise be incurred under the present plan. If it is carried on under the plan already ordered, the work will cost from \$500,000 to \$750,000. I believe that the expenditure of this \$5,000 will not only make

this work such a one as we ought to have, if it is put in the care of a competent man, but it will save \$150,000 or \$200,000. I have not a doubt of that.

Mr. FESSENDEN. Would it not save more not to publish any of these things?

Mr. WILSON. The Senator from Maine asks if it would not save more not to publish any. That is very true; but my judgment is that these reports and papers ought to be published, and published at the earliest possible day. They are of great historical importance. They should be properly edited and go into our libraries and before the country for the information and instruction of our own people, and as a historical work. We have already ordered them to be published. Congress has passed a resolution providing for their publication; and a large amount of them are in the printing office now. The Superintendent of Public Printing has been holding back for some weeks in order to see if anything is to be done here on this subject. If not, he will commence the publication, imperfect as it is, and I believe nearly every page will have a defect upon it unless we put it under the eye of a competent man. I hope, therefore, if we are to have this work published at all, that the Senate will see to it that it is properly edited, and that it is a work worthy of the country.

Mr. GRIMES. I move to strike out in the sixth and seventh lines of the first section the words, "and of all other documents of every description relating to the late rebellion." This proposition is a very comprehensive one. As the resolution now reads, it says:

That in order to insure the publication in proper form, and at the least possible expense, of the reports and orders of commanding officers, and of all correspondence by telegraph or otherwise, and of all other documents of every description relating to the late rebellion, accumulated in the archives of the War Department, &c.

That includes the muster-rolls and all sorts of communications of every kind and description. Certainly the Senator does not propose to have published everything in relation to deserters, applications to have a man pardoned for desertion, court-martial proceedings, &c.

Mr. POMEROY. What is the force of the word "otherwise," there? That includes all the rest. You ought to strike out the word "otherwise."

Mr. GRIMES. No, sir. The language is, "all correspondence by telegraph or otherwise." That, I suppose, was intended to relate to the correspondence between officers in command of departments and divisions, and so on, and the War Department; but the words in the sixth and seventh lines that I have proposed to strike out would include every conceivable thing, it seems to me.

Mr. JOHNSON. I think this proposition ought to go to the Committee on Printing. The honorable member from Massachusetts seems to suppose that it will only cost some four or five hundred thousand dollars, but in all human probability it will cost one or two millions. It will cost a great deal more than that if these words are not stricken out. I suggest to my friend from Massachusetts whether we had not better ascertain in some way what would be the probable cost of a work of this description.

Mr. WILSON. I will say to the Senator that on the best information I can gather it will take from thirty to fifty volumes to complete this work.

Mr. GRIMES. How large volumes?

Mr. WILSON. Good-sized, large volumes. Different estimates as to the number of volumes are made by those who have made some examination into the subject; and it will cost of course to publish any number of them several thousand dollars a volume. If we allow the work to go on and be completed according to the existing law, it will cost from five hundred thousand to seven hundred and fifty thousand dollars. This proposition will reduce it down at least one third in expense and make a perfect work of it. I am willing, however, to strike out these words, or modify it so that

nothing will be published that is not a part of these reports.

Mr. JOHNSON. I suppose, whether these words are stricken out or not, that all the reports and all the correspondence made by the confederate army would be included. They are all in the War Office now. So far from its costing half a million dollars, I think it will cost some two or three millions before we are done with it. The honorable member's estimate, which he says he has made after as correct information as he could get, is not altogether as accurate, perhaps, as ought to be relied on. He says it will take from thirty to fifty volumes, leaving a margin of some twenty volumes. That is not much of an estimate.

Mr. WILSON. I will say to the Senator that it is simply an estimate. It is all that can be made. In the first place it is a guess, after such information as we could get. In regard to the number of volumes, some persons who have looked into the subject very carefully think the work will make fifty volumes; at any rate, all think it will make from thirty to fifty. Some of these reports are not yet in. There are a number to come in that are yet in the course of preparation.

Mr. JOHNSON. What is the resolution of 1864?

Mr. WILSON. That resolution provides for the publication of these papers.

Mr. JOHNSON. Everything?

Mr. WILSON. Yes, sir; everything pertaining to these reports.

Mr. JOHNSON. I think we had better stop that.

Mr. WILSON. This resolution provides for having them properly arranged. I think if the amendment proposed by the Senator from Iowa is adopted, it makes it very simple, and if we shall want to publish more hereafter, it can be done.

Mr. FESSENDEN. I did not know really, until I heard this resolution called up to-day, that a resolution had been passed for the publication of these reports. I believe it is the first time in the history of any country—I do not know that that is any objection to it—where the Government has undertaken to publish immediately everything connected with a long war. My idea is that the time has hardly arrived yet to make such a publication, and that if we were to publish these papers at all, we ought to proceed in a very different mode from that which is suggested. In the first place, there ought to be competent persons to make a selection from this mass of papers of what is to be published. Everybody can see that under this general publication order, with nobody, in fact, to control it, it will go to an interminable length, and that we shall be publishing a vast amount of material that is not of the slightest use in the world. An undertaking of this sort ought to be deliberate, and ought to be carefully provided for, in my judgment, if you undertake it at all. My notion is, generally, that it would be as well to leave the whole of them to be looked over by historians who will write the history of these events, and put in what it is necessary and advisable that the world should know. But if you want everything published for everybody to look at and search out what may be good and what may be useless, the better way is to proceed deliberately about it; have some competent persons appointed to make the selection; to edit the papers, in point of fact; to select that which ought to be published or is worthy of publication; to arrange it under its proper heads, with reference to specific campaigns and specific movements, and put everything that belongs to one subject together; and that is a work of time and labor, and ought to precede any attempt to print the papers.

Now, as far as we have gone it is perfectly manifest that the whole labor has been thrown away and is worse than useless, because full of mistakes; and mistakes will be just as likely to follow under the resolution now proposed, though not to the same extent. Some money

has been expended, though but a trifle in comparison to what this must cost. I think it would be better to reconsider the whole matter, to repeal the resolution of 1864, which is imperfect in itself, covers too much ground, leads to mistakes, and leads to no valuable results, and if then it is determined by Congress to publish these papers, to proceed as other people proceed who want to make papers valuable, to have them edited by competent persons and arranged so that the work may be something worth giving to the public. In that way you will accomplish two objects: in the first place you will cull out from the great mass what is good for something, and you will have that in a readable shape, and you will save a vast deal of money. But evidently to pass this resolution now on the statement of expense that my honorable friend from Massachusetts gives, is, to my mind, absurd. A margin of from thirty to fifty volumes is a very large one even for a guess. It shows manifestly that for anything my friend knows it may be a hundred.

Mr. WILSON. No.

Mr. FESSENDEN. Well, you cannot state the number. I have heard these papers described as being there by the cart load, and you cannot tell what number of volumes they will make. Clearly, if you get a publication of fifty volumes of the events of this war and the papers connected with it, without having the work edited, without having the subjects selected, without having the papers arranged, without having them properly indexed, nobody would give anything for the fifty volumes in his library, because he could not find what he wanted in them. He might just as well go to the War Office and hunt over the papers there to ascertain what there was that was good for something to be used.

Instead of passing this resolution in any shape, my judgment would be that we had better stop where we are, and repeal the resolution that was passed at the former Congress; and if you then decide to begin, begin a great work, (because it will be a great work,) as experience has proved the only proper method; let it be undertaken by competent persons as a work of time and not of hurry; and give to the people of this country at the end something that will be worth having, and will in a measure pay for the immense sum that we must expend in accomplishing it. In the present state of our finances I should rather hope the whole thing might be deferred to a better opportunity; but of that the Senate will judge. But if we are to undertake it, let us do it like sensible business people, and not push all this matter in a mass into the printer's hands to be published at vast expense, and to be good for nothing after we have got it.

Mr. WILSON. I agree with the Senator from Maine entirely; and the object of the committee in reporting this resolution is to have the thing properly done, if done at all. On the 19th of May, 1864, the Senate passed a resolution "to provide for the printing of official reports of operations of the Army of the United States." I will read this resolution, so that Senators may understand precisely what the law now is:

"That the Secretary of War be, and he is hereby, directed to furnish the Superintendent of Public Printing with copies of all such correspondence, by telegraph or otherwise, reports of commanding officers, and documents of every description in relation to the existing rebellion, to be found in the archives of his Department since the 1st day of December, 1860, to the present time, and during the continuance of said rebellion, which may be, in his opinion, proper to be published with said correspondence, reports, and documents, which shall be published in their proper chronological order."

"SEC. 2. And be it further resolved, That the Superintendent of Public Printing shall cause to be printed and bound (in addition to the usual number) ten thousand copies of such correspondence, reports, and documents, in volumes of not exceeding (as near as may be) eight hundred octavo pages each, which shall be distributed by the Secretary of the Senate as follows, to wit, five hundred copies to the War Department, one complete copy to each State library of every State in the Union, and five complete copies to public libraries in each congressional district of the United States, to be designated by the Representative of the present Congress from such district; and of the remaining copies three thousand shall be for

the use of members of the present Senate, and six thousand for the use of members of the present House of Representatives.

"Sec. 3. *And be it further resolved*, That it shall also be the duty of the Secretary of War to cause a complete index of the matter contained in each volume to be prepared and inserted therein.

"Sec. 4. *And be it further resolved*, That all resolutions adopted by either House of Congress, at its present session, directing the printing of any of the correspondence, reports, or documents, as above contemplated, be, and the same are hereby, rescinded."

This resolution rescinded all the orders made for publishing documents, and made this general provision.

Mr. FESSENDEN. I wish to make one other suggestion. I understand that we are in possession of a large mass of the confederate reports.

Mr. WILSON. They were not here when we passed the resolution of 1864.

Mr. FESSENDEN. If these papers are to be published they ought to be arranged by subjects; and all that we have of the confederate documents on the same subjects ought to be printed in juxtaposition, so that the whole subject-matter might be seen.

Mr. WILSON. That is what we want to do.

Mr. ANTHONY. I think that the documents in the archives of the War Department are not yet in a condition to be published. I think it is much better that the work should be prepared, or at least that very considerable progress should be made in it before the publication is commenced, because otherwise we may repeat the same experiment that has just been made. This resolution provides for some competent person at a salary of \$2,500 a year to undertake it. It would be the life-time of a man to do that work; it would take twenty men to perform that work as it ought to be performed, and I think it ought to be performed. I think that there should be a history of the war prepared from the documents in the possession of the War Department and from the rebel archives; and I would suggest that this resolution be recommitted to the Committee on Military Affairs, and that they report a plan for the prosecution of the work; and when the persons intrusted with this work shall report that they have made sufficient progress it will be time enough to commence the publication.

Mr. FESSENDEN. In the mean time we ought to suspend the resolution already passed.

Mr. ANTHONY. Yes, sir. If this resolution be recommitted to the Committee on Military Affairs they can report a plan for the preparation of the work, which should precede for some time the commencement of the publication; and in that resolution we can provide for the suspension of the work now going on. I fancy there is nothing doing on it now; but I do not know. This matter does not belong to the Committee on Printing, and I do not wish to interfere with it.

Mr. WILSON. I certainly have no objection to that suggestion; but the object of the committee was to do precisely what the Senator from Maine and the Senator from Rhode Island, and I suppose the Senator from Iowa, desire; that is, if this matter is to be published at all, that it shall be well arranged and made a perfect work. We cannot tell, I assure the Senate we have not the means to tell, and I do not believe any committee of the Senate can possibly tell precisely how this should be done, but we wanted to put it in the hands of a competent man to make out a plan and see that the work is done according to a good plan. I have no objection certainly to arresting the publication of the present work, to repealing the present law, and letting the Secretary of War appoint a proper man or a number of men if necessary and let them report a plan at the next session of Congress and how much it will probably cost and give us all the facts of the case. If that is thought best, I have no objection to the recommitment; but the object we had in view was to prevent the publication of this vast mass of documents without any arrangement, imperfect as they are sent to the printing office. I have no objection to a recommitment, with the understanding that we

are to report a proposition arresting the publication and authorizing the Secretary of War to appoint a proper man to prepare the work, and let a report be made at the next session of what they desire and about what it will cost.

Mr. SUMNER. We have already in our history had some experience by which we may be taught on this question. Senators have seen in their libraries, certainly in the Congressional Library, the large volumes known as the American Archives, of which there are portions of several series. When that series was commenced it was intended that it should embody all the papers, military and diplomatic, and also leading articles in newspapers, relating to the origin of our Revolution and the war of independence. The collection proceeded to the year 1776, under the editorship of Peter Force, of this city, a gentleman as competent, I suppose, as any person who could have been selected in the whole country, but it was subject to the final revision of the Secretary of State. Finally, when Mr. Force had prepared a volume for 1777, and all his papers were collected and laid before the Secretary of State, at that time Mr. Marcy, the latter gentleman refused to give his assent to the further publication of the volume, and you have that collection, originally ordered by a joint resolution of Congress, suspended at the year 1776, and primarily because Mr. Marcy did not feel willing as Secretary of State to give his final assent, as required by the resolution, to its publication. That is our experience with regard to one very important portion of our history, the war of independence; the documents are not yet published in one connected series; I do not know that they ever will be. And now, sir, it is proposed to publish another series, which will be perhaps more expensive even than that of the war of independence. The series of the war of independence, as you will observe, embraced newspaper articles in America and England illustrating the contest, and that of course gave to it a much larger size and development than the series now proposed.

But, as I have said, it is now proposed to begin another series. I would simply suggest that we may well consider whether it might not be advisable for us to complete the original series, and to illustrate the war of independence before we enter upon the work of illustrating this recent more terrible conflict. But, sir, suppose we do undertake the latter work, then I think all the suggestions that have been made, particularly by the Senator from Maine, suggesting caution, requiring care and editorship, of infinite importance. I agree with that Senator absolutely when he says the whole collection will be of very little value, it will be trivial, if it is not well edited, well arranged, and then well indexed.

Mr. FESSENDEN. And the larger it is the worse it will be.

Mr. SUMNER. Of course, the larger it is the worse it will be. Then Senators say that we must find a competent man. Who is the competent man? I do not know him now. I dare say he would come to light, perhaps, if we went about with a candle after him; but the competent man to gather together all this mass of documents and to put them in order, and then to make a proper and analytical index, would be a very rare man. He must be a man without any of the turbulent ambition that belongs to politicians; he must be disposed to quiet, willing to live at home with his books and his papers, and give himself day and night to serious toil. That is the character of man that you would require. I do not know where he could be found.

Mr. JOHNSON. You might find him in Boston.

Mr. SUMNER. In Boston if anywhere, perhaps. [Laughter.] But then I do not know him there, I am free to say.

Mr. FESSENDEN. Resign, and take charge of it yourself. [Laughter.]

Mr. SUMNER. My friend says I should resign and accept it. I do not know but that that is the best thing I could do, [laughter,]

but then I should despair of getting through with the work.

Mr. FESSENDEN. I would agree to serve as your clerk.

Mr. SUMNER. Then the work would surely be done. [Laughter.] All this brings us to the conclusion that what we do should be well considered and laid out in advance. I think, therefore, it is important that the resolution should be recommitted, that we should have the benefit of all the information we can get from the Department on the subject, and, if possible, provide in advance the method and the arrangement and the way in which the collection should be indexed. As much should be done in advance as possible. Now, sir, we may get some instruction on this subject from what they are doing in other nations. At this moment the Emperor of France is engaged in the publication of all the writings of his uncle, the Emperor Napoleon. That work has already proceeded to fourteen or fifteen quarto volumes, very elaborately edited, the purpose being to bring into the collection every scrap, military, diplomatic, or personal, which can be found proceeding from the late Emperor of France, the first Napoleon. That is done under special editorship. Some of the very first men in France are engaged as a committee in superintending it. Now, if we shall undertake our work, I think we ought certainly to do as well by it as the Emperor of France does by the work of his uncle.

Mr. HENDERSON. Having looked at the legislation on this subject, I desire to ask a question. I find that after the passage of the joint resolution referred to by the Senator from Massachusetts an act was passed in June, 1864, the second section of which provided "that the Secretary of War be, and he is hereby, authorized to appoint some competent person to edit the printing of the official reports of the operations of the armies of the United States." Now, I understand that this is further legislation on the same subject. I rose to ask whether the Secretary of War had gone to any expense in securing the services of any person to superintend this publication. I find, also, in the Army appropriation bill for 1864-65, passed June 15, 1864, an appropriation "for copying official reports of armies of the United States for publication, \$5,000." I presume that was in furtherance, also, of this same resolution, passed in May, 1864.

Mr. JOHNSON. Has the Senator that resolution before him?

Mr. HENDERSON. Yes, sir.

Mr. JOHNSON. Will the Senator be kind enough to read the second section?

Mr. HENDERSON. The Senator from Maryland asks me to read the second section of the resolution of May, 1864. It is in these words:

"Sec. 2. *And be it further resolved*, That the Superintendent of Public Printing shall cause to be printed and bound, in addition to the usual number, ten thousand copies of such correspondence, reports, and documents, in volumes of not exceeding (as near as may be) eight hundred octavo pages each, which shall be distributed by the Secretary of the Senate as follows, to wit, five hundred copies to the War Department, one complete copy to each State library of every State in the Union, and five complete copies to public libraries in each congressional district of the United States, to be designated by the Representative of the present Congress from such district; and of the remaining copies three thousand shall be for the use of members of the present Senate, and six thousand for the use of members of the present House of Representatives."

Mr. JOHNSON. I should like to know if the yeas and nays were called upon that.

Mr. HENDERSON. I think the best disposition, perhaps, that can be made of the resolution now pending is not to amend it, as suggested by the Senator from Iowa, but to make it a simple provision repealing what has hitherto been provided for.

Mr. GRIMES. It is proposed to recommit it with that view.

Mr. HENDERSON. I have no objection to that course. I was about to remark that the mere orders of the department commanders at the city of St. Louis have been recently published by Mr. O'Fallon, who was an assist-

ant adjutant general at St. Louis during the whole time. He has done it as a private matter of his own, and his work is a very valuable one. Those orders of the department commanders at St. Louis alone, leaving out the reports, make some four or five large volumes.

Mr. ANTHONY. It would take five hundred volumes for the publication, according to the original resolution.

Mr. HENDERSON. This book, as I say, makes four or five volumes, although it contains none of the reports of the commanders to the War Department, but simply the orders issued by the commanders. The whole work, under the resolution as it now stands, would certainly be not less than four or five hundred volumes. We ought not to proceed with such a work. As it now stands, it would include every telegraphic dispatch that came over the wires, and all correspondence, not only the reports of the commanders, but the report of every subordinate commander to his superior. Most of the members of Congress to whom it is provided that the book shall be delivered after it has been published will certainly be dead before the publication is completed.

Mr. WILSON. The work is to be a much larger work, of course, than was supposed at the time it was ordered. It was ordered two years ago, and it is much larger than was supposed at the time. The law to which the Senator has referred authorizes the Secretary of War to appoint a proper person, but no person has been appointed. It has been prepared in the office.

Mr. JOHNSON. Was not Dr. Lieber appointed?

Mr. WILSON. No; he was appointed to take care of the rebel archives and examine those.

Mr. GRIMES. Under what law?

Mr. JOHNSON. I thought under this law.

Mr. WILSON. I understand Dr. Lieber has care of the papers that were captured at Richmond and in the confederate States, and that there are a large amount of them. I do not know under what law it is, but he is appointed and is arranging those papers. The second section of this resolution is intended to modify the original act so that a great deal of the matter may be eliminated and left out. I think, however, the best disposition we can now make of the subject is to recommit it, according to the sense of the Senate, and have the matter acted on more fully.

The PRESIDING OFFICER. Does the Senator make a motion to recommit?

Mr. WILSON. Yes, sir.

The motion was agreed to.

HOUSE BILLS REFERRED.

The following bills from the House of Representatives were severally read twice by their titles, and referred as indicated below:

A bill (H. R. No. 466) erecting the Territory of Montana into a surveying district, and for other purposes—to the Committee on Public Lands.

A bill (H. R. No. 616) for the relief of Lucinda Gates—to the Committee on Pensions.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House of Representatives had signed the following enrolled joint resolutions; which were thereupon signed by the President *pro tempore*:

A joint resolution (H. R. No. 116) respecting quarantine and health laws; and

A joint resolution (S. R. No. 74) providing for the acceptance of a collection of plants tendered to the United States by Frederick Pech.

EXECUTIVE SESSION.

Mr. POMEROY. I move to take up Senate bill No. 233.

Mr. RAMSEY. I move that the Senate proceed to the consideration of executive business.

Mr. HENDRICKS. I hope not. The Sen-

ator from Kansas wants to call up a bill that I think ought to be disposed of.

Mr. RAMSEY. I insist upon my motion. The motion was agreed to; and after some time spent in executive session the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

THURSDAY, May 24, 1866.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

PREVENTION OF CHOLERA.

Mr. ELIOT. I ask the unanimous consent of the House to report from the Committee on Commerce a joint resolution (H. R. No. 116) to prevent the introduction of the cholera into the ports of the United States, with the amendments of the Senate thereto; and I ask the concurrence of the House in the amendments.

No objection was made, and the report was received, and the amendments of the Senate were concurred in.

Mr. ELIOT moved to reconsider the vote by which the amendments were concurred in; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

LYING-IN HOSPITAL.

Mr. WELKER, by unanimous consent, reported back, from the Committee for the District of Columbia, bill of the Senate No. 167, to incorporate the Women's Hospital Association of the District of Columbia, with several amendments.

The amendments were agreed to. The bill was then ordered to a third reading; and it was accordingly read the third time and passed.

Mr. WELKER moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The title of the bill was then amended so as to read, "An act to incorporate the Columbia Hospital for Women and Lying-in Asylum."

LUCINDA GATES.

Mr. TAYLOR, by unanimous consent, reported from the Committee on Invalid Pensions a bill for the relief of Lucinda Gates; which was read a first and second time.

The bill was read at length. It directs the Secretary of the Interior to place the name of Lucinda Gates, widow of the late Horace Gates, of Franklin, Vermont, on the pension-roll, at the same rate of pension during her widowhood, from the death of her husband, as was allowed her by special act approved July 4, 1864.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. TAYLOR moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MONTANA A SURVEYING DISTRICT.

Mr. STROUSE, by unanimous consent, reported back from the Committee on Territories House bill No. 466, erecting the Territory of Montana into a surveying district, and for other purposes.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STROUSE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

INDIANA AGRICULTURAL COLLEGE.

On motion of Mr. BIDWELL, the Committee on Agriculture was discharged from the further consideration of the petition of the trustees of Indiana Agricultural College, asking a modification of the laws of Congress

donating lands for said college, and the same was referred to the Committee on Public Lands.

AGRICULTURAL BUREAU.

Mr. BIDWELL, by unanimous consent, made an adverse report upon a resolution in regard to the expediency of removing the Department of Agriculture to one of the western States; which was laid on the table, and ordered to be printed.

PLANTS DONATED BY FREDERICK PECH.

Mr. BIDWELL, by unanimous consent, reported back from the Committee on Agriculture Senate joint resolution No. 74, providing for the acceptance of the collection of plants tendered by Frederick Pech, with a recommendation that the same do pass.

The joint resolution provides for the acceptance of the plants, and appropriates \$300 to enable the Commissioner of Agriculture to procure suitable cases for their protection.

The joint resolution was read the third time and passed.

Mr. BIDWELL moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

JOHN MOORE, DECEASED.

Mr. MYERS asked and obtained leave to withdraw from the files of the House the petition and papers in the case of the representatives of John Moore, deceased.

FREEDMEN'S BUREAU.

Mr. GARFIELD demanded the regular order of business.

The SPEAKER stated the morning hour had commenced, and the House resumed the consideration of House bill No. 618, to continue in force and amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes.

The pending question was upon the motion of Mr. ELIOT to recommit the bill.

Mr. ELIOT. Mr. Speaker, I had substantially concluded yesterday the remarks which I proposed to make to the House in presenting this bill for their consideration. And unless some gentleman upon this or the other side of the House desires to say something in regard to it, I will call the previous question.

Mr. STEVENS. I ask the gentleman from Massachusetts [Mr. ELIOT] to withdraw his call for the previous question that I may offer an amendment.

Mr. ELIOT. I will hear the amendment read.

Mr. STEVENS. I desire to offer an amendment to the sixth section of this bill, which provides that upon the expulsion of these freedmen from the Sea Islands the Government shall purchase lands for them at a rate not to exceed twenty-five dollars an acre. Now, that is more than I think the Government can well afford to do down there, when we own the lands there, forfeited under the act of 1862. This land has already been taken possession of, and I deny that there is power in any officer of the Government to restore it to its former rebel owners. I therefore desire to amend this section by striking out all after the words "the Commissioner shall," and inserting the words "refuse to surrender the same to them, they being forfeited to the United States by the former belligerent owners, and duly allotted to the freedmen."

Mr. ELIOT. I cannot yield for that amendment, and I will state why. If it be correct in point of law, as my friend from Pennsylvania [Mr. STEVENS] supposes, that the lands which have been assigned to these freedmen under General Sherman's order have been so forfeited that they now belong to the United States, then there will be power, without purchasing any lands under this section, to allot to the freedmen such of these lands as may be needed. If, on the other hand, there shall appear that the law is not as my friend supposes, unless this

provision is made the result will be that when the restoration shall have been completed which has been commenced there will be no power to protect or provide for these freedmen in the State where they belong, although they now occupy allotments made to them by the Government of the United States, and have occupied them up to the present moment.

Mr. STEVENS. By the provisions of this bill there is to be no opportunity to test the question of the legality of the title to these lands. The section says, "that whenever the former owners of lands occupied under General Sherman's field order, dated at Savannah, January 16, 1865, shall apply for restoration of said lands, the Commissioner shall procure other lands by rent or purchase, not exceeding forty acres for each occupant," provided they can be bought for twenty-five dollars an acre. Therefore the moment these former owners apply the lands are to be restored, without ever testing the question of right, and drive off the six thousand freedmen who are on them, and we are to buy other lands for them at twenty-five dollars an acre.

Mr. ELIOT. No, sir; the gentleman has not carefully examined this section, or he would have found that it is not open to that criticism. If the lands, as the gentleman believes, belong to the United States and should be allotted to the men who are there upon those lands, these men would have a perfect right to test the title. No power can prevent them from contesting, if they desire to do so, the right of any claimant who should present himself in opposition to them. All that this section provides is that before the restoration shall be made the allotment of these lands shall be substituted.

Mr. STEVENS. Does the gentleman mean to say that if this bill shall become a law it will not require imperatively the surrender of those lands?

Mr. ELIOT. Why, sir, nothing can be done here that will come between the men who are upon those lands and their rights. The gentleman says that the bill contains no provision for testing the law. I say that no power of this Congress can prevent those men from testing the law.

The SPEAKER. The hour of the gentleman from Massachusetts [Mr. ELIOT] has expired. The gentleman from Pennsylvania [Mr. STEVENS] is recognized as entitled to the floor.

Mr. STEVENS. I want to suggest that those are lands belonging to the United States, and if the United States orders them to be surrendered, they must be surrendered, and there is no court that can prevent it. But if you allow the law to stand as it now is without any such provision as this bill proposes, and if that is land forfeited to the United States, as I contend, there is no individual, however high in power, who can divest the United States of that land, and restore it to the former rebel owners. But Congress, being sovereign, has the right to give away the lands of the United States; and as the freedmen hold those lands only by the permission of the United States, they hold subject to the provisions of United States law.

Mr. Speaker, I will now move the amendment to which I have referred.

The SPEAKER. A motion to recommit is pending, and prevents any amendment from being offered, unless the gentleman from Massachusetts [Mr. ELIOT] withdraws it.

Mr. STEVENS. The gentleman had better give us an opportunity to test this question. I want to vote for this bill; but I never can vote for it with the sixth section in its present form.

Mr. ELIOT. I will withdraw the motion to recommit, and give the gentleman an opportunity to offer his amendment.

Mr. STEVENS. I move to amend by striking out all after the word "Commissioner" in the fifth line of the sixth section; and inserting in lieu thereof the words "shall refuse to surrender the land;" so that the section will read:

That whenever the former owners of lands occupied under General Sherman's field order, dated at

Savannah, January 16, 1865, shall apply for restoration of said lands, the Commissioner shall refuse to surrender said land.

This will leave the question of law that may arise to be decided by the courts.

Mr. Speaker, I am not going to delay the passage of this bill by any extended remarks. The gentleman from Massachusetts asks me to call the previous question, and I will do so in a few moments. I wish to say that by the act of 1862 this Congress ordered that the lands, not of rebels—for under the fourth section that applied only where they were convicted—but of belligerents, serving in the army of the belligerent government, should be seized and forfeited for the benefit of the United States, the title to be vested in the United States, and the proceeds of the land when sold to be paid into the Treasury. By our Freedmen's Bureau law, the abandoned lands were ordered to be seized and allotted among the freedmen. This has been done. The order of General Sherman, under the sanction of the Secretary of War, indeed by his orders, allotted the lands thus seized to six thousand freedmen, who have built homes upon them, of forty acres each, running to the water. They have built upon those lands comfortable dwellings, and they remain there at the present time. It is now sought to allow the rebels whose lands we thus seized to come back and expel the men to whom the Government allotted these freeholds, as it was bound to do in honesty and in law. Those freedmen are to be turned out. It does not do to say that the Government shall expend twenty-five dollars an acre for land for the purpose of placing these freedmen somewhere else, where they have no homes and no plantations to work. I say that would be cruel and unjust. As I promised my friend to call the previous question, I now do so.

Mr. DAVIS and others addressed the Chair.

The SPEAKER. Does the gentleman from Pennsylvania yield? If so, to whom?

Mr. STEVENS. I cannot yield. I have no power to do so.

On seconding the call for the previous question, there were—ayes 24, noes 43; no quorum voting.

The SPEAKER, under the rule, ordered tellers, and appointed Messrs. ELIOT and TAYLOR.

Mr. DAVIS. I desire to inquire of the Chair whether the previous question be voted down the bill will be open to amendment.

The SPEAKER. An amendment to an amendment is pending. An amendment can be offered to that amendment; or when that amendment is disposed of, another can be offered.

The House divided; and the tellers reported—ayes 44, noes 54.

So the previous question was not seconded.

Mr. DAVIS. I demand the previous question on the pending amendment, in order that I may have an opportunity to move one myself.

The previous question was seconded and the main question ordered.

The question recurred on Mr. STEVENS'S amendment.

Mr. RANDALL, of Pennsylvania, demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 79, nays 46; not voting 58; as follows:

YEAS—Messrs. Alley, Allison, Ames, Anderson, James M. Ashley, Baker, Baxter, Beaman, Bidwell, Blaine, Brandegee, Bromwell, Buckland, Bundy, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Deftrees, Deming, Dixon, Donnelly, Briggs, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Abner C. Harding, Henderson, Higby, Holmes, Hotchkiss, Asabel W. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbard, Ingersoll, Jencks, Julian, Kelley, Kelso, Laffin, William Lawrence, Loan, Longyear, Marston, McClurg, Moorhead, Morrill, Myers, O'Neill, Paine, Patterson, Plants, Price, Alexander H. Rice, John H. Rice, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Stevens, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Welker, Whaley, Williams, Stephen F. Wilson, Windom, and Woodbridge—79.

NAYS—Messrs. Ancona, Delos R. Ashley, Bergen, Boyer, Darling, Davis, Dawes, Dawson, Dodge, Eldridge, Eliot, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, Edwin H. Hubbell, Hulburt, James Humphrey, James M. Humphrey, Kerr, Ketcham, Kuykendall, George V. Lawrence, Le Blond, Marshall, Marvin, McCullough, Meltzer, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Rousseau, Sitgreaves, Stillwell, Strouse, Taylor, Trimble, Henry D. Washburn, William B. Washburn, and Winfield—46.

NOT VOTING—Messrs. Baldwin, Banks, Barker, Benjamin, Bingham, Blow, Boutwell, Brogman, Chandler, Coffroth, Culver, Delano, Denison, Ferry, Finck, Garfield, Grinnell, Griswold, Harris, Hart, Hayes, Hill, Hooper, Chester D. Hubbard, Johnson, Jones, Kasson, Latham, Lynch, McIndoe, McKee, Mercur, Miller, Morris, Moulton, Newell, Noell, Orth, Perham, Phelps, Pike, Pomeroy, William H. Randall, Raymond, Rollins, Shanklin, Smith, Starr, Taber, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, James F. Wilson, and Wright—58.

So the amendment was adopted.

During the vote,

Mr. CULLOM stated that his colleague, Mr. ORTH, was absent on account of illness.

The vote was then announced as above recorded.

Mr. STEVENS moved to reconsider the vote by which the amendment was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

EQUALIZATION OF BOUNTIES.

Mr. SCHENCK. The gentleman from New York [Mr. DAVIS] yields to me. I ask this courtesy because it is in relation to a matter in which the House take a deep interest. The Committee on Military Affairs have carefully revised the bill to equalize bounties of soldiers and sailors, and have directed me to report it back to be printed as revised, and recommitted to the committee, in order that to-morrow, after the morning hour, I may again report it back and call for the action of the House.

It was ordered accordingly.

FREEDMEN'S BUREAU—AGAIN.

Mr. DAVIS. Mr. Speaker, I move the following amendment:

Add at the end of section two as follows: And the powers conferred and the duties enjoined by the act hereby amended shall be applicable to all persons named or referred to in this section, and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

And strike out the remaining sections of the bill.

Mr. Speaker, I submit that amendment with no design of embarrassing the condition of the freedmen in this country. I do it because I believe it will meet all the requirements necessary and at the same time prevent much trouble in the future. The chairman of the committee who introduced the bill told us the main reason why it was proposed was, that the freedmen, under the proclamation of the President and by military operations, were technically under the provision of existing law, but that because of the action of State legislation and the adoption of the constitutional amendment hundreds of thousands besides require some protection, which this measure is designed to promote. The gentleman also informed us that it was necessary to extend the time for the operation of this bill. Now, the amendment which I have sent to the desk, leaving the provision as to the extension of the time unchanged, brings under the operation of the present bill every person who is made free either by State action or by the adoption of the constitutional amendment, and the only inquiry, therefore, which remains is, whether, under the existing law, there is not an adequate protection furnished to all who are brought within the operation of the law.

Now, sir, the administration of this bureau from the time of the passage of the original act to the present has been under the supervision of the War Department. All the forces which have been required by the head of the bureau have been given by the Government of the United States; and I believe General Howard makes no complaint whatever that any aid has been withheld from him by this Government. Under that bill we had authority to give to every freedman possession for a term

of years of a certain quantity of land. We have still that land belonging to the Government which can be allotted to the freedmen. There is no reason, therefore, why there should be any additional provisions on the subject, or any additional machinery. We have now all the means for the protection of the freedmen that are necessary, and if we add to the machinery which now exists we only incur additional expense to the Government, and impose upon the people increased and unnecessary burdens. At a time when the country is struggling under a weight of indebtedness, when its industry is depressed, when its finances are embarrassed, it seems to me we are proposing to do more than is essential or necessary in regard to that class of people in this country. We are inviting them to indolence rather than to labor. And while I believe we should protect them in every civil right, while we should give them equality before the law, I think the policy of the Government should be such as to induce every man to earn his bread by the sweat of his brow.

Sir, it is a fact well known, capable of being proved at any time, that this Government has issued thousands, and I might say millions, of rations to men who might have supported themselves if they had been willing to labor, and I am unwilling to see the charity of this Government thrown away upon the indolent and the undeserving. And while I say this I desire to speak in the most respectful terms of the gentleman who is at the head of the bureau. I believe there is no braver soldier, no purer Christian, no nobler philanthropist in the land than General Howard, and if he could be personally present over the wide area of his administration, I think we might intrust everything to his supervision and his care, and find no cause of complaint. But unfortunately the agents of this bureau are not all like him, and although there are many worthy and deserving men employed in it, there are cases where fraud has been committed and wrongs have been done, and I think we should be cautious about extending this system and making it a permanent institution of the country.

Another objection which I have to this bill is in reference to the sixth section, which opens the door to fraud on the part of those who are charged with the administration of this bureau. I do not know but the amendment proposed by the honorable gentleman from Pennsylvania [Mr. STEVENS] may dispose of this objection, but I barely allude to it for the purpose of showing the haste with which we sometimes legislate. The sixth section provides that forty acres may be set apart for every occupant of lands occupied under General Sherman's field order, and that such lands can be procured at an average cost not exceeding twenty-five dollars per acre. Thus if the Commissioner should have to purchase a quantity of land he might go on and pay \$150 per acre to any favorite party, to any person in his interest, or any subordinate might do it, and he might offset it by buying land that could be purchased for fifty cents an acre and which might be utterly worthless.

Now, sir, in the course of a few months, before any great injury can be visited upon the country by the failure of our legislation, we shall have an opportunity of determining what may or may not be necessary by way of amendment to this bill. You have already a committee of investigation and inquiry into the administration of the affairs of the Freedmen's Bureau, and in a few months we shall have a report from that committee. Then we shall know the facts of the history of the bureau, and whether any additional powers are necessary or whether there are any wrongs to be redressed. I therefore think it far wiser for us now to say that we will simply extend the operations of this law for a single year longer, bring all classes of freedmen within the purview of its operation, and then postpone the consideration of all else until the next session of Congress. Then, if it shall be necessary, a new bill can be introduced embracing the

remaining features of this bill, and we can have such legislation as shall be founded upon our experience and proved to be necessary between this time and that. I trust, therefore, that the amendment which I have proposed will be adopted.

Mr. ELIOT. I now call the previous question on the amendment and on the bill.

Mr. ROGERS. I hope the gentleman will not undertake to run this bill through so rapidly.

Mr. LAWRENCE, of Ohio. I hope the previous question will not be sustained.

Mr. ROGERS. I hope that gentlemen on the other side, in their magnanimity, will vote down the previous question.

Mr. ELIOT. I withdraw the call for the previous question.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, informed the House that the Senate insisted on its amendments to the bill of the House (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, disagreed to by the House of Representatives, and agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed Messrs. KIRKWOOD, WILSON, and DAVIS conferees on the part of the Senate.

FREEDMEN'S BUREAU—AGAIN.

Mr. BRANDEGEE. I yield to the gentleman from Pennsylvania [Mr. SCOFIELD] for the purpose of offering an amendment.

Mr. SCOFIELD. I move to amend the seventh section of the bill by striking out the following words—

And shall provide proper sites and buildings for purposes of education whenever such association shall, without cost to the Government, provide suitable teachers and means of instruction, and he shall furnish such protection as may be required for the safe conduct of such schools. And said property shall be and remain the property of the United States until sales thereof shall be authorized by law—

And inserting in lieu thereof the words "and afford them all proper protection." The amendment simply strikes out that portion of the section which authorizes the purchase of buildings for school-houses.

Mr. BRANDEGEE. I will now yield the floor to the gentleman from Ohio, [Mr. SHELLABARGER,] who desires to offer an amendment.

Mr. SHELLABARGER. I move to amend the sixth section, as amended, by adding at the end thereof the following proviso:

Provided, That nothing herein contained shall be construed to affect the right of any person to recover in the proper court any title or right of possession which such person may have in any of the land held under such field order.

Mr. BRANDEGEE. Mr. Speaker, I have not been convinced by anything that has been said in this debate or anything that I know of in the existing situation of affairs of either the necessity or the policy of passing this bill at this time. We have now a commission, a board of officers, sent down by the President of the United States to inspect the operation of the existing law; and this House, and I presume I anticipate not rashly when I say the other House, will concur in it. Congress have authorized a committee of the two Houses also to go into the southern States and inspect the operation of the existing law in reference to this subject. Now, it seems to me that we can act much more intelligently on this subject at the short session of this Congress, after hearing the reports respectively of the board of officers sent by the President and of the committee of the two Houses. We can then know precisely what the operation of the present bureau system is; what its hardships are, if any; what its benefits are, if any; and what modifications and alterations or improvements legislators acting here for the whole country ought to adopt.

Without reference, therefore, to the special merits of this measure, but with reference to policy and to the fact that we can act more intelligently upon the reports to which I have referred, I move to postpone the bill and the

pending amendments until the second Monday of December next, and upon that motion I demand the previous question.

The previous question was seconded, and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays on the motion to postpone.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 81, not voting 51; as follows:

YEAS—Messrs. Ancona, Bergen, Brandegee, Buckland, Darling, Davis, Dawson, Denison, Eldridge, Farquhar, Gossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, James R. Hubbell, Hulburt, James Humphrey, James M. Humphrey, Kerr, Ketcham, Kuykendall, Ladin, Latham, George V. Lawrence, Le Blond, Marshall, Marvin, McCullough, McRuer, Morris, Myers, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Rogers, Ross, Sitgreaves, Smith, Stilwell, Strouse, Taylor, Trimble, Burt Van Horn, Henry D. Washburn, Whaley, and Winfield—51.

NAYS—Messrs. Alley, Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Banks, Baxter, Beaman, Bidwell, Blaine, Blow, Boutwell, Bromwell, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Deming, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eliot, Farnsworth, Garfield, Abner C. Harding, Henderson, Higby, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Ingersoll, Julian, Kelley, Kelso, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee, Moorhead, Morrill, O'Neill, Paine, Perham, Pike, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spaulding, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Ward, William B. Washburn, Welker, Williams, James F. Wilson, Windom, and Woodbridge—81.

NOT VOTING—Messrs. Baldwin, Barker, Benjamin, Bingham, Boyer, Broomall, Bundy, Chanler, Coffroth, Conkling, Culver, Deftrees, Delano, Ferry, Finck, Grinnell, Griswold, Harris, Hart, Hayes, Hill, Chester D. Hubbard, Jenckes, Johnson, Jones, Kasson, McIndoe, Mercur, Miller, Moulton, Newell, Noell, Orth, Patterson, Phelps, Plants, Pomeroy, William H. Randall, Raymond, Rousseau, Shanklin, Starr, Taber, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburn, Wentworth, Stephen F. Wilson, and Wright—51.

So the motion to postpone was not agreed to.

Mr. ANCONA. My colleague, Mr. BOYER, is paired with Mr. CONKLING. Mr. BOYER would have voted to postpone had he been present.

Mr. CHANLER. If I had been present when my name was called, I should have voted "ay."

The SPEAKER. The morning hour has expired, and this bill accordingly goes over till next Tuesday.

On motion of Mr. ELIOT, the bill, with the pending amendment, was ordered to be printed.

REAPPRAISEMENT OF LANDS IN OHIO.

The SPEAKER laid before the House a communication from the Secretary of the Interior, transmitting papers in regard to the reappraisement of certain lands in Ohio, pursuant to the authority of the joint resolution approved May 5, 1866; which was laid on the table, and ordered to be printed.

HENRY P. BLANCHARD.

Mr. McRUER, by unanimous consent, introduced a bill for the relief of Henry P. Blanchard; which was read a first and second time, and referred to the Committee on Foreign Affairs.

FOREIGN MAIL SERVICE.

Mr. SMITH, by unanimous consent, introduced a bill to amend the act providing for carrying the mails from the United States to foreign ports, and for other purposes; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

EVENING SESSION DISPENSED WITH.

Mr. STEVENS. I move that the evening session for to-day be dispensed with.

The question was taken; and upon a division there were—ayes 64, noes 44.

So the motion was agreed to.

TAX BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The Clerk read as follows:

That section one hundred and sixty-three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that hereafter no deed, instrument, document, writing, or paper required by law to be stamped, which has been signed or issued without being duly stamped, or with a deficient stamp, nor any copy thereof, shall be recorded, or admitted, or used as evidence in any court until a legal stamp or stamps, denoting the amount of duty, shall have been affixed thereto by the collector, as prescribed by law: *Provided*, That any power of attorney, conveyance, or document of any kind, made or purporting to be made in any foreign country to be used in the United States, shall pay the same duty as is required by law on similar instruments or documents when made or issued in the United States; and the party by whom the same is issued, or by whom it is to be used, shall, before using the same, affix thereon the stamp or stamps indicating the duty required.

No amendment being offered,

The Clerk read as follows:

That section one hundred and sixty-five be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that if any person, firm, company, or corporation shall make, prepare, and sell, or remove for consumption or sale, drugs, medicines, preparations, compositions, articles, or things, including perfumery, cosmetics, lucifer or friction matches, cigar lights, or wax tapers, photographs, ambrotypes, daguerreotypes, or other sun pictures of any description, and playing cards, and also including ground or prepared mustards, wet or dry, preserved meats, fish, shell-fish, fruits, vegetables, sauces, sirups, jams, and jellies, when packed or sealed in cans, bottles, or other single packages, and ground coffee and ground pepper, Cayenne pepper, pimento, cloves, clove stems, mace, cinnamon, cassia, ginger, and other spices, and all compounds of mustard, or coffee, or spices, ground or adulterated, or mixed with other materials, and all articles and mixtures ground or prepared for sale, intended for use in the adulteration of mustard, or coffee, or spices, or for use as a substitute for mustard, or coffee, or spices, whether of domestic manufacture or imported, upon which a duty is imposed by law, as enumerated and mentioned in schedule C, without affixing thereto an adhesive stamp or label denoting the duty before mentioned, he or they shall incur a penalty of fifty dollars for every omission to affix such stamp; and for each and every omission to affix thereto the name or trade-mark of the manufacturer, together with the name of the article, and the quantity therein contained, when such packages consist of ground coffee, or of ground mustard, wet or dry, or of ground pepper, Cayenne pepper, pimento, cloves, clove stems, mace, cinnamon, cassia, ginger, or other spices, or of compounds, or substitutes for coffee, or mustard, or spices, he or they shall incur a penalty of fifty dollars.

Mr. MORRILL. I move to amend the sentence now reading, "and also including ground or prepared mustards, wet or dry," by striking out the words "ground or" and the words "wet or dry."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out the following:

And ground coffee and ground pepper, Cayenne pepper, pimento, cloves, clove stems, mace, cinnamon, cassia, ginger, and other spices, and all compounds of mustard, or coffee, or spices, ground or adulterated, or mixed with other materials, and all articles and mixtures ground and prepared for sale, intended for use in the adulteration of mustard, or coffee, or spices, or for use as a substitute for mustard, or coffee or spices.

The amendment was agreed to.

Mr. MORRILL. I move to amend the sentence "upon which a duty is imposed by law" by inserting the words "or tax" after the word "duty."

The amendment was agreed to.

Mr. MORRILL. I move to amend the sentence "an adhesive stamp or label denoting the duty before mentioned" by striking out the word "duty" and inserting the word "tax."

The amendment was agreed to.

Mr. MORRILL. I move to strike out the following at the end of the paragraph:

And for each and every omission to affix thereto the name or trade-mark of the manufacturer, together with the name of the article and the quantity therein contained, when such packages consist of ground coffee, or of ground mustard, wet or dry, or of ground pepper, Cayenne pepper, pimento, cloves,

clove stems, mace, cinnamon, cassia, ginger, or other spices, or of compounds, or substitutes for coffee, or mustard, or spices, he or they shall incur a penalty of fifty dollars.

The amendment was agreed to.

Mr. MYERS. I move to amend the paragraph by striking out the following words:

Photographs, ambrotypes, daguerreotypes, or other sun pictures of any description.

Mr. Chairman, I move this amendment now, in order that when we reach the section referring to stamps on photographs and other sun pictures I may move to strike that out and insert an amendment imposing on photographers a tax of five per cent. *ad valorem* on their sales—the same amendment which I withdrew at an earlier stage of the bill, rather than compel the Committee of the Whole to rise for want of a quorum. The chairman of the Committee of Ways and Means stated the other day that the objection which I made to the present mode of taxation had no force; but by subsequent inquiry and information I find my statement fully confirmed. I have received letters from the chief photographers of New York, Philadelphia, Boston, and Washington, stating, from statistics, that there is not one itinerant photographer to one hundred resident photographers, though it was stated here the other day that the itinerants were as fifty to one resident. But, Mr. Chairman, even if this were the fact, it would be of no consequence; for all or nearly all of the pictures taken by itinerant photographers are ferrotypes, which are taken upon tin, six at a time frequently, and which sell for less than ten cents apiece. They are sold in this city six for fifty cents. Hence most of the pictures taken by the traveling photographers are so small as by a subsequent section to be exempt from tax; so that the Government at any rate could lose but little tax upon their business, even if they should not make proper returns. They are as likely, however, to give a correct account of their sales, as to affix the stamps required by the present law, for in many instances the pictures are mounted on blank cards and the wrong-doer can never be known.

But, Mr. Chairman, there is among those engaged in the business of photographing a general demand that an *ad valorem* tax shall be substituted for the present system. Those who are dishonest evade the law now by willfully omitting to affix stamps on their pictures; while those who are honest frequently omit them unintentionally. I bought this morning hap-hazard five photographs; and I found that three of them had no stamps affixed. In other words, on these pictures, the Government lost six cents out of ten which it should have received. Of the pictures having no stamps affixed, one had no imprint of the photographer's name. With reference, then, to two of the pictures, the omission to affix the stamps was accidental; in one case it was omitted purposely. I think it apparent that the Government would be the gainer by the *ad valorem* system. Wherever there is a photographer carrying on business, the assessor can find from his books the amount of his sales as well as in any other business. If no books are kept by a traveling or other photographer, some return must be made, and the assessor will no doubt get at the facts. It is just to these photographers that they should no longer be required to pay upon their business a greater proportionate amount of tax than is levied upon other branches of business. They frequently sell six, seven, or eight pictures for one dollar, and are required to pay twelve, fourteen, and sixteen per cent. or more on their sales, a percentage which is much too large when we bear in mind the fact that nearly all the chemicals used in this branch of business have within the last few years advanced in price two hundred and fifty to three hundred per cent.

I will not repeat, Mr. Chairman, what I said the other day about the defacement of these pictures in consequence of the affixing of stamps. At any rate the stamps upon the pictures make them very unsightly. It is for the interest of the photographers and the Gov-

ernment and the public that this requirement in reference to affixing stamps should be no longer continued. I trust that my amendment will be adopted.

Mr. MORRILL. The gentleman from Pennsylvania [Mr. MYERS] has succeeded in repeating his speech much better than I can repeat mine. I do not perceive that he has presented any new argument. These photographs are a very fruitful source of revenue; and I trust that we shall not change the law in a way to cut off a large portion of the revenue we now receive.

The amendment was agreed to.

Mr. MORRILL. I suppose it is the understanding that we may go back to adopt an amendment imposing an *ad valorem* duty as proposed by the gentleman from Pennsylvania.

The CHAIRMAN. The Chair so understands.

The Clerk read as follows:

That section one hundred and sixty-nine be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that any person who shall offer or expose for sale any of the articles named in schedule C, or in any amendments thereto, whether the articles so offered or exposed are imported or are of foreign or domestic manufacture, shall be deemed the manufacturer thereof, and subject to all the duties, liabilities, and penalties imposed by law in regard to the sale of domestic articles without the use of the proper stamp or stamps denoting the tax paid thereon, and all such articles imported, or of foreign manufacture, shall, in addition to the import duties imposed on the same, be subject to the stamp tax, respectively, prescribed in schedule C, as aforesaid.

No amendment being offered,

The Clerk read as follows:

That schedule B, preceding section one hundred and seventy-one, be amended by striking out all the paragraphs relating to "gauger's returns" and "measurer's returns;" and by striking out all from "receipts for the payment of any sum of money," down to "weigher's returns, if for a weight not exceeding five thousand pounds, ten cents; exceeding five thousand pounds, twenty-five cents," inclusive, and inserting in lieu thereof the following: "receipts for any sum of money, or for the payment of any debt, exceeding twenty dollars in amount, not being for the satisfaction of any mortgage or judgment or decree of any court, or by indorsement on any stamped obligation in acknowledgment of its fulfillment, for each receipt two cents: *Provided*, That when more than one signature is affixed to the same paper, one or more stamps may be affixed thereto representing the whole amount of the stamp required for such signatures."

Mr. HOLMES. I move to amend by inserting the following:

That schedule B, preceding section one hundred and seventy-one, be amended by inserting immediately preceding the proviso relating to stamps on mortgages the following:

Upon any assignment or transfer of a mortgage the same stamp duty upon the amount remaining thereon as is herein imposed upon a mortgage for the same amount.

Also, strike out the words "mortgage or" in said proviso.

The amendment was agreed to.

Mr. HOTCHKISS. I move to strike out the following:

Receipts for any sum of money, or for the payment of any debt exceeding twenty dollars in amount, not being for the satisfaction of any mortgage or judgment or decree of any court, or by indorsement on any stamped obligation in acknowledgment of its fulfillment, for each receipt two.

Mr. Chairman, the object is to relieve all receipts from stamps. I think the inconvenience to the public is greater than any benefit to the revenue. I think we might make that small amendment in this schedule. It is a great annoyance to business men and to farmers, and to the great mass of men who do not carry stamps with them. Sometimes they want to give receipts, and do not have stamps, and cannot procure them. The revenue is not so great as to require that the public should suffer this annoyance.

Mr. MORRILL. The gentleman does not accomplish his purpose. I am opposed to his object as well as to the method he has adopted of carrying it out. This strikes out the stamps upon receipts on property and leaves only those on receipts for money.

I will say to the committee, I see it is almost useless to resist the reduction of taxes in any direction. This is also a fruitful source of revenue. Last year it exceeded \$300,000 a month,

and we cannot afford to give it up, especially with the limitation here only to amounts exceeding twenty dollars.

The amendment was disagreed to.

Mr. PRICE. I move to add the following at the end of line twenty-nine hundred and twenty:

Provided further, That all stamps upon checks, notes, receipts, bills of exchange, certificates and contracts of ten cents and less be dispensed with and abolished after the 1st day of October, 1866.

Mr. Chairman, the object of that is to get rid of the small stamps. Every gentleman here knows they are a source of great annoyance and perplexity, while they are not the source of much revenue. I do not propose to abolish stamps upon receipts or any kind of paper, but these small stamps. I want to get rid of these small stamps. It is not the amount the people pay, but the trouble of having to keep them constantly on hand. I have heard of but one opinion all over the country, and that is, we should get rid of the annoyance of these small stamps. I think the committee will be prepared to vote for the amendment.

Mr. MORRILL. I shall be much surprised if they are. The small stamps are the ones least complained of.

Mr. HALE. What proportion do the returns from small stamps bear to those from large ones?

Mr. MORRILL. They are the largest, ten times more than from large stamps. The inconvenience which existed when the law was first enacted no longer exists. Men are as much accustomed to have these stamps in their pockets as to have postage stamps. I have no idea we will surrender the system of stamps for many years. It is a tax we can much better afford than any other.

The amendment was disagreed to.

Mr. MYERS. I move to insert on page 88, line nineteen hundred and seventy-eight, the following:

Photographs, ambrotypes, and daguerreotypes, and other pictures taken by action of light, not herein exempted from tax, a tax of five per cent. ad valorem.

The amendment was agreed to.

The Clerk read as follows:

That schedule C be amended by striking out all after the words "playing cards" and inserting in lieu thereof the following:

For and upon every pack, not exceeding fifty-two cards in number, irrespective of price or value, five cents; for and upon every can, bottle, or other single package, containing meats, fish, shell-fish, fruits, vegetables, sauces, sirups, prepared mustard, jams or jellies preserved therein and packed and sealed, made, prepared, and sold, or removed for consumption in the United States, where such can, bottle, or other single package with its contents shall not exceed at the retail price or value the sum of twenty-five cents, one cent. Where such can, bottle, or other single package, with its contents, shall exceed the retail price or value of twenty-five cents, and shall not exceed the retail price or value of fifty cents, two cents. Where such can, bottle, or other single package, with its contents, shall exceed the retail price or value of fifty cents, for each and every twenty-five cents, or fractional part thereof, over and above the fifty cents as above mentioned, an additional one cent. Ground coffee, or any compound or mixture ground or prepared for sale and intended for consumption as coffee, or as a substitute for or adulteration of coffee, whether of domestic manufacture or imported, in packages not exceeding in weight one half pound, one half cent. And for each half pound in excess of one half pound, one half cent: *Provided*, That any fraction of a half pound shall be considered as one half pound and be stamped accordingly. Ground mustard, pepper, and Cayenne pepper, and cloves, clove stems, mace, ginger, cinnamon, cassia, pimento, or any compound or mixture, ground or prepared, intended to represent either of the articles as aforesaid, and for sale or consumption as such, or as a substitute for or adulteration of any of the said articles, in packages not exceeding in weight one fourth of a pound, one half cent. And for each one fourth of a pound in excess of one fourth of a pound, one half cent: *Provided*, That any fraction of one fourth of a pound shall be considered as one fourth of a pound and be stamped accordingly: *Provided further*, That any dealer may sell to any other dealer or manufacturer, for the purpose of being repacked, coffee, spices, or mustard, or adulterations of or substitutes therefor, in bulk of not less than one hundred pounds without payment of tax, on condition that the said packages are marked with the names of the dealer selling, and of the dealer or manufacturer purchasing such commodity, and the quantity thereof; but when sold for use or consumption must bear the name or trade-mark of the manufacturer, the quantity, and the proper stamp.

Mr. MORRILL. I move to amend by striking out all of the paragraph after the word "sold," in line twenty-nine hundred and thirty, and inserting in lieu thereof the following:

Or offered for sale or removed for consumption in the United States on and after the 1st day of October, 1866, where such can, bottle, or other single package, with its contents, shall not exceed two pounds in weight, one cent; where such can, bottle, or other single package, with its contents, shall exceed two pounds in weight, for every additional pound or fractional part thereof, one cent.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to insert after the word "amended" in line twenty-nine hundred and twenty-one the following:

Strike out the paragraph relating to cigar lights and wax tapers, and insert in lieu thereof the following:

On cigar lights, whether made in whole or in part of wood, glass, paper, or other material, in parcels or packages containing twenty-five lights in each parcel or package, one cent; when in parcels or packages containing more than twenty-five and not more than fifty lights, two cents; for every additional twenty-five lights or fractional part of that number, one cent additional, and.

Mr. RANDALL, of Pennsylvania. I ask leave to go back to add the following in relation to railroad passes, at the end of the paragraph, on page 126, after line twenty-nine hundred and twenty:

On all free-trip passes over any and every railroad conveying passengers by steam there shall be affixed on each a ten-cent stamp.

On all six-month free passes over such railroads there shall be affixed on each stamps amounting to \$2 50.

On all yearly free passes over such railroads there shall be affixed on each stamps amounting to five dollars.

All stamps so affixed to be effaced with initials of the holder of such free passes.

Mr. STEVENS. I object.

Mr. MORRILL. I hope the gentleman from Pennsylvania [Mr. STEVENS] will allow his colleague to offer this amendment. He gave notice and it was only by accident that it was not offered at the right time.

Mr. STEVENS. I like lucky accidents.

The Clerk read as follows:

That section one hundred and seventy-nine be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that where it is not otherwise provided for in this act, it shall be the duty of the collectors, in their respective districts, and they are hereby authorized to prosecute for the recovery of any sum or sums that may be forfeited by virtue of this act; and all fines, penalties, and forfeitures which may be imposed or incurred by virtue of this act shall and may be sued for and recovered, where not otherwise herein provided, in the name of the United States in any proper form of action, or by any appropriate form of proceeding, before any circuit or district court of the United States for the district within which said fine, penalty, or forfeiture may have been incurred, or before any court of competent jurisdiction; and where not otherwise herein provided for, such share, not exceeding one moiety, as the Secretary of the Treasury shall by general regulations provide, shall be to the use of the person who shall first inform of the cause, matter, or thing, whereby any such fine, penalty, or forfeiture shall have been incurred, and the remainder shall be to the use of the United States; and when any sum is paid without suit, or before judgment, in lieu of fine, penalty, or forfeiture, and a share of the same is claimed by any person as informer, the court or a commissioner of the circuit or district court of the United States, on application of the United States district attorney, shall determine whether any claimant is entitled to such share, and to whom the same shall be paid. And the several circuit and district courts of the United States shall have jurisdiction of all offenses against any of the provisions of this act committed within their several districts: *Provided*, That no informer or informers shall in any one case be entitled to or receive more than \$5,000. *And provided further*, That no collector, deputy collector, assessor, assistant assessor, revenue agent, revenue inspector, or other officer or person connected with the Treasury Department, or any of the branches thereof, shall be entitled to or receive, or shall be interested in any share allowed to an informer under the internal revenue law; and if any person coming within either of these exceptions shall receive from any informer, or from any applicant for an informer's share, either directly or indirectly, any sum of money or other valuable consideration for or in consequence of his services in obtaining such informer's share, or in consideration of his interest in such informer's share, such person shall, on conviction thereof, be punished by fine not exceeding \$10,000, or by imprisonment not exceeding one year, or both, at the discretion of the court, with costs of prosecution. It is hereby declared to be the true intent and meaning of the present and of all previous provisions of internal revenue acts granting shares to informers, that no right accrues or is

vested in an informer in any case until the fine, penalty, or forfeiture in such case is fixed by judgment or compromise, at which time the informer shall become entitled to his legal share of the amount so adjudged or agreed upon. And the Commissioner of Internal Revenue, under regulations to be prescribed by the Secretary of the Treasury, shall be and he is hereby empowered to compromise any case where the amount involved shall not exceed the sum of \$500.

Mr. ALLISON. I move to amend by striking out the words "not exceeding one moiety" in line twenty-nine hundred and ninety-six, and to insert after the word "provide" in the next line the words "not exceeding one moiety nor more than \$5,000 in any one case;" also to insert after the word "person" in line twenty-nine hundred and ninety eight, the words "to be ascertained by the court;" so that it will read:

And where not otherwise herein provided for such share as the Secretary of the Treasury shall by general regulations provide, not exceeding one moiety nor more than \$5,000 in any one case, shall be to the use of the person, to be ascertained by the court, who shall first inform of the cause, matter, or thing, &c.

The amendment was agreed to.

Mr. ALLISON. I move to strike out after the word "informer" in line three thousand and four, down to and including the words "district attorney" in line three thousand and six, and insert in lieu thereof the following:

The Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and under such general regulations as the said Secretary shall prescribe, upon application.

It will then read:

And when any sum is paid without suit or before judgment in lieu of fine, penalty, or forfeiture, and a share of the same is claimed by any person as informer, the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and under such general regulations as the said Secretary shall prescribe, upon application shall determine, &c.

The amendment was agreed to.

Mr. ALLISON. I move further to strike out the first proviso embraced in lines three thousand and eleven, three thousand and twelve, and three thousand and thirteen, and the words, "and" and "further" in the second proviso. That is embraced in the amendment just made.

The amendment was agreed to.

Mr. ALLISON. I move now to strike out all after the word "provided" in line three thousand and fourteen down to the word "exceptions" in line three thousand and twenty, as follows:

That no collector, deputy collector, assessor, assistant assessor, revenue agent, revenue inspector, or other officer or person connected with the Treasury Department, or any of the branches thereof, shall be entitled to or receive or shall be interested in any share allowed to an informer under the internal revenue law; and if any person coming within either of these exceptions.

And to insert in lieu thereof the following:

That no revenue officer or other person connected with or in the employ of the Treasury Department, or any branch thereof, shall be entitled to receive or shall be interested in any share allowed to an informer under the internal revenue law in any case with which such revenue officer or other person as aforesaid shall be hereafter in any manner officially connected unless such share shall be recovered by the judgment of a court of competent jurisdiction, and if any such officer or person as aforesaid.

And also to insert after the word "share" in line three thousand and twenty-five the words "as hereinbefore provided."

The amendments were agreed to.

Mr. ALLISON. I move to strike out the words, "and the Commissioner of Internal Revenue, under regulations to be prescribed by the Secretary of the Treasury, shall be, and he is hereby, empowered to compromise any case where the amount involved shall not exceed the sum of \$500," and to insert in lieu thereof the following:

Provided further, That the Commissioner of Internal Revenue, subject to the approval of the Secretary of the Treasury, and under such regulations as the said Secretary shall prescribe, shall be, and is hereby, authorized and empowered to compromise any case not pending in a court, or, if pending, with the approval of the court having jurisdiction of the case.

The amendment was agreed to.

Mr. O'NEILL. I move to insert after the

word "paid" in line three thousand and eight the following:

And that in all cases of seizure or suit, under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, or any supplement or supplements thereto, a sale shall be ordered by the proper authority, the United States marshal of the district in which such sale shall be ordered shall be authorized to employ an auctioneer, and to pay him out of the proceeds of such sale a commission not exceeding two and one half per cent. on the gross amount of such proceeds.

The object of this amendment is to remove a difficulty which occurs in some of the circuit and district courts. There is a difference of opinion between the judges of the circuit courts. In New York and Massachusetts and Maryland the judges invariably allow the marshal to have a commission on selling, or in other words, to employ an auctioneer who is skilled in selling, whereby the Government is benefited. In the courts of Pennsylvania the judges have generally thrown out these charges in the bills of the marshal.

Mr. ALLISON. Let me suggest to the gentleman that this amendment ought not to be inserted here. It would properly come in in section fourteen or section twenty or section twenty-eight. I presume there will be no objection to going back and considering this subject hereafter. Section fourteen has been reserved for future consideration, and the gentleman can offer his amendment to that section.

Mr. O'NEILL. I withdraw my amendment for the present.

Mr. WILSON, of Iowa. This section has been so modified by the amendments offered by the committee, that I am not certain whether the portion I propose to amend remains in it. I move, however, to strike out the following words:

It is hereby declared to be the true intent and meaning of the present and of all previous provisions of internal revenue acts granting shares to informers, that no right accrues to or is vested in an informer in any case until the fine, penalty, or forfeiture in such case is fixed by judgment or compromise, at which time the informer shall become entitled to his legal share of the amount so adjudged or agreed upon.

I find that this proviso is made retroactive, and I should like to know why that is done. I believe that there are some cases of claims of informers pending against the Bureau of Internal Revenue where very unfortunate compromises have been made by the Department. I believe there is one in which the informer, residing at Buffalo, New York, is interested, and in which he claims \$100,000 as his share of the penalties. That case, I believe, was settled by the Department in such a way that it resulted in a loss to the Government of about one hundred thousand dollars, and the informer gets nothing at all, although he presented the case in such a manner that all the facts were developed and the fraud of the parties was established. Now, if this provision is for the purpose of covering up these unfortunate acts of the Department to the detriment of those who have ferreted out these frauds, then I think it should be stricken out, or at least so much of it as is retroactive.

Mr. ALLISON. So far as I understand this provision, it is not put here for the purpose of covering up any transactions of the Department; but it is for the purpose of making that a part of the law which is now a matter of construction in the Internal Revenue Bureau. They have been very much annoyed by informers, by collectors and assessors who assume to be informers, who come in and prevent adjustment in proper cases by saying that they have an interest in the question of compromise and adjustment.

Mr. WILSON, of Iowa. I will ask my colleague [Mr. Allison] whether the informer in the case to which I have referred has prevented the adjustment or settlement of that case.

Mr. ALLISON. I am not familiar enough with the case to know whether or not the informer did prevent the adjustment of that particular case.

Mr. WILSON, of Iowa. Has not that case been adjusted?

Mr. ALLISON. I know it has been adjusted, but I do not know whether or not the informer in that case objected or assented to the settlement. But I know he now claims as his moiety the sum of \$150,000, when it was settled by the Government receiving, I believe, only \$200,000. Now, the object of this paragraph is to leave this question of settlement and compromise to the courts and the Commissioner of Internal Revenue and the Secretary of the Treasury, where it properly belongs, and whatever rights may hereafter accrue, or have heretofore accrued, shall be adjusted and settled without any collector or informer interfering with the question of adjustment, settlement, or suit, after the question is adjudicated either by the court or the Commissioner, with the approval of the Secretary of the Treasury. I believe it is a just and proper provision, and should be retained in the bill for the reason I have stated.

Mr. WILSON, of Iowa. After the explanation of my colleague, [Mr. Allison,] which I think is entirely satisfactory to the committee, and I have no doubt will be to the Department, I will withdraw my amendment.

Mr. ROSS. I move to amend this paragraph by adding to it the following:

And provided further, That no person shall be convicted on the testimony of an informer, unless the material part of his testimony shall be corroborated by other testimony.

I am opposed to this system of hiring informers; it is bad policy, it is a bad practice, and I think it will have a bad tendency. I am very much surprised that the committee should propose to inaugurate a system of that kind, and have paid informers, interested in large amounts, to testify against individuals for the purpose of procuring their conviction. The true theory is that the witness should stand impartial in giving his testimony before a jury; that is the old doctrine, the one adhered to in the old maxims of law. But by this provision we are ignoring this old fundamental principle, and making it the interest of an individual to perjure himself in order to convict some person that he may pocket the amount given as a bribe for the perjury. I can never give my assent to any system of that kind. I do not think these persons should be convicted unless they can be convicted as other persons are—by fair and impartial testimony, without hiring men to swear against them, and making it their interest to perjure themselves in order to convict somebody.

Mr. ALLISON. This provision is just what it is in the present law. And the jury will be able to judge of the testimony of the informer, just as they do of the testimony of other persons.

The amendment was not agreed to.

Mr. THAYER. I wish to call the attention of the Committee of Ways and Means to the fact that the modification which has been adopted on the suggestion of the committee with reference to the power given to the Commissioner of Internal Revenue to compromise renders some action necessary in regard to another section of the old law. The forty-fourth section of the act of 1865 gives the Commissioner a general power to compromise in all cases.

Mr. ALLISON. We have already amended section forty-four and stricken out everything with reference to the power of the Commissioner to compromise. Everything upon that subject is now embodied in the provision just adopted.

Mr. THAYER. Then it is all right.

Mr. HALE. I move to amend by adding at the end of the paragraph the following:

Provided, That whenever in any action for a penalty the informer may be a witness for the prosecution, the party against whom such penalty is claimed may be, and shall be, admitted as a witness on his own behalf.

This amendment will bring our law into conformity to the statutes already adopted by several States in reference to civil actions. I think the proposition will commend itself to the favorable consideration of every member of this com-

mittee. It seems to me palpably unjust that an informer who is directly interested in the recovery of the penalty should be a witness to enforce that penalty, while the party against whom it is claimed is precluded from being a witness. I have no desire to shut out the informer, provided the party against whom the penalty is claimed can be admitted. The amendment refers simply to civil actions for the recovery of a penalty.

Mr. ALLISON. If it applies only to civil suits, I see no objection to the amendment.

Mr. HALE. The language is, "in any action for a penalty."

Mr. HUBBARD, of Iowa. I move to amend the amendment by inserting before the word "action" the word "civil."

Mr. COOK. I would like to inquire whether this is not the law now; whether we have not already enacted that all parties may testify in civil suits in the United States courts.

Mr. ALLISON. That is the law now, I think, in such States as permit parties to testify; but where the State law prohibits parties, from testifying I believe they are not permitted to testify in the United States courts.

Mr. COOK. I think there is no such restriction. I am sure that in my own State everybody testifies in the Federal courts, while in the State courts no interested party is permitted to testify.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. HOLMES. I move to amend by striking out the words "at any time," in line three thousand and thirty-four, and inserting in lieu thereof the words "and when paid or collected;" so that the clause will read:

And when paid or collected the informer shall become entitled to his legal share of the amount so adjudged or agreed upon.

The amendment was agreed to.

Mr. MYERS. If the committee will give its consent to revert to a paragraph already passed, I move to amend by inserting after line twenty-nine hundred and twenty the words "that schedule C be amended by striking out the paragraph in relation to photographs."

There was no objection, and the amendment was agreed to.

Mr. PAINE. I move to amend by adding at the end of the paragraph the following:

Every person who shall receive any money or other valuable thing under a threat of informing or as a consideration for not informing against any violation of this act, shall, on conviction thereof, be punished by a fine not exceeding \$10,000 or by imprisonment not exceeding one year, or both, at the discretion of the court, with costs of prosecution.

I have observed, Mr. Chairman, that in the operation of the law now in force, there has grown up among a very disreputable class of men a practice of hunting out little infractions of the law or little delinquencies; and not content with hunting out offenses actually committed, they often bring about the perpetration of offenses by their own acts. Then having accumulated evidence against persons who have either deliberately or unintentionally violated the law, they make a speculation for themselves by a compromise, in virtue of which they agree for a consideration to withhold the information which they might give. This practice is a source of great vexation to citizens of the State in which I live, and has brought our internal revenue law into great disfavor among the people. This, I believe, might be obviated by some such provision as that which I propose.

Mr. MORRILL. The fine is too large.

Mr. PAINE. Then I modify it so as to make it \$2,000.

The amendment was adopted.

The Clerk read as follows:

SEC. 10. And be it further enacted, That sections two, five, eight, nine, and twelve of the act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865, be, and the same are hereby, repealed.

Mr. MORRILL. I move to insert in line two, after the word "nine," the word "ten." The amendment was agreed to.

The Clerk read as follows:

Sec. 11. *And be it further enacted*, That from and after the passage of this act the articles and products hereinafter enumerated shall be exempt from internal tax or duty: animal charcoal, or carbon, bees-wax, crude or unrefined, barrels and casks, other than those used for the reception of fluids, and packing boxes made of wood.

Mr. MORRILL. I move to insert "match-boxes made of wood or paper."

Mr. THAYER. Are these considered as separate paragraphs, and open to amendment as such?

The CHAIRMAN. They are.

Mr. HOOPER, of Massachusetts. I move to insert after the word "wood" the words "boxes of wood or paper for friction matches, cigar lights, and wax tapers."

Mr. MORRILL. I accept that as a modification of my amendment.

The amendment was agreed to.

The Clerk read as follows:

Bristles.

Mr. DARLING. I move to insert "and bone buttons." If there is any propriety in exempting bristles we should also exempt bone buttons.

Mr. MORRILL. I do not like to say that I do not care a button about this amendment, but if we exempt bone buttons the next member will get up and move to exempt ivory buttons and pearl buttons. I do not see why we should begin to exempt one without exempting all the others.

The amendment was disagreed to.

The Clerk read as follows:

Candle wicking, coffins, and burial cases.

Mr. STEVENS. I move to insert "corks made of corkwood or bark." I will mention until lately these were made by hand. Recently the ingenious people of Connecticut have invented machines for the purpose. The corkwood and bark which are already heavily taxed come from Spain. The tax is injurious to the business.

Mr. MORRILL. These articles are not of such recent introduction. Machinery has been long used in making them. They have been made in this country since the tariff of 1861, when the duty on cork was raised.

The amendment was disagreed to.

The Clerk read as follows:

Crucibles of all kinds; crates, and grain or farm baskets made of splints; crutches and artificial limbs, eyes, and teeth; deer-skins, dressed or smoked; feather beds, mattresses, palliasses, bolsters, and pillows; fertilizers of all kinds; flasks and patterns used by foundries.

Mr. BERGEN. I move to insert "retorts made wholly or in part of clay." Mr. Chairman, clay retorts are used in the manufacture of gas. Formerly they were imported, but lately they have commenced the manufacture of them in this country. They are the same articles as crucibles, and if they are not exempted they will not be able to compete with the foreign manufacture.

Mr. DEMING. I move to amend by adding "retort courteous." [Laughter.]

The amendment to the amendment was disagreed to.

The amendment was then rejected.

Mr. PRICE. I move to strike out line nineteen, which is "flavoring extracts, solely for cooking purposes." I cannot see why flavoring extracts for cooking purposes should be exempt from taxation. I hope these words will be stricken out.

Mr. HALE. I would inquire if this paragraph affects the interest alluded to by the gentleman from Connecticut, [Mr. HUBBARD,] yesterday. [Laughter.]

Mr. MORRILL. The gentleman from Connecticut [Mr. HUBBARD] is present, and is of age, and he can answer for himself. I should suppose he did not.

Mr. Chairman, these articles are used in almost every kitchen in the country, and they were put on the free list merely because they

are necessary articles in the rural districts. They may not be necessary in the cities where pine-apples, lemons, and oranges can be obtained; but in the country districts flavoring extracts are almost indispensable. They are used very extensively in the great Northwest.

The amendment was disagreed to.

Mr. PRICE. I move to strike out line twenty, which is "gold leaf and gold foil." If we cannot tax gold leaf and gold foil, then I do not know what we can tax. I am at a loss to know why these articles should be exempt from taxation. That is all I have to say. I do not think any extended remarks are needed on this subject.

Mr. MORRILL. If there is any article upon the free list that ought to be exempted it is gold leaf. The work of manufacturing it is as hard as that of the common blacksmith; and yet, by the tax law as it now exists, if a man by the sweat of his brow hammers out what makes up a book of it, he has not only to pay a tax on the value of the labor, but also a tax on the value of the gold used in addition. Now, these men who manufacture it are employed at so much per book; the gold is weighed out to them, and with hammer and anvil and gold-beater's skin they do the work, for very small wages, and then are required to return the exact amount of the gold received without diminution.

Mr. PRICE. I would inquire of the gentleman whether the laborer pays the tax or whether it is not paid by the proprietor, by the dealer.

Mr. MORRILL. I will state that the amount collected last year from this source throughout the United States was, I believe, less than \$100.

Mr. PRICE. The gentleman does not answer my question. It is not the laborer that pays the tax.

The amendment was disagreed to.

Mr. PRICE. I move now to strike out line twenty-one, which is "keys, actions, and strings for musical instruments." All the machinery of pianos and other musical instruments is not presumed to be used by the poor or the middle classes, but by the rich.

Mr. RANDALL, of Pennsylvania. The gentleman is interfering with the harmony of the tax bill. [Laughter.]

Mr. MORRILL. I do not know that it is necessary for me to make any explanation of this paragraph. It is designed merely to prevent the duplication of taxes. These parts of an instrument are made by one party and sold to the persons who manufacture organs used in churches and the musical instruments used in drawing-rooms, and especially the instruments used by those who have our special regard—those taken care of by the Freedmen's Bureau. I trust that we shall let the tax stand as it is.

The amendment was disagreed to.

Mr. MORRILL. I move to strike out lines twenty-two and twenty-three, which are "lamps and lanterns, the glass and metals of which have paid the tax assessed thereon." I offer that amendment for the reason that it would be almost impracticable to collect this tax.

The amendment was agreed to.

Mr. O'NEILL. I move to insert in line twenty-four, after the word "kinds," the words "and mead;" so that it will read "medicinal and mineral waters of all kinds, and mead, sold in bottles or from fountains."

The amendment was disagreed to.

Mr. DONNELLY. In line twenty-six I move to insert, after the word "coal," the words "and peat;" so that the clause will read: "mineral coal and peat of all kinds."

The amendment was agreed to.

The Clerk read as follows:

Oakum; paintings and statues, and groups of statuary produced by artists as works of art.

Mr. HOOPER, of Massachusetts. I move to strike out the provision in regard to paintings, &c., and to insert in lieu thereof the following:

Original paintings, statues, and groups of statu-

ary; and casts made thereof by the artist from the original design.

The amendment was agreed to.

The Clerk read as follows:

Photographs, or any other sun picture, being copies of engravings or works of art, when the same are sold by the producer at wholesale at a price not exceeding ten cents each, or are used for the illustration of books, and on photographs so small in size that stamps cannot be affixed.

Mr. MORRILL. In line thirty-two I move to strike out the word "ten" and insert "fifteen."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to strike out the words "and on photographs so small in size that stamps cannot be affixed."

The amendment was agreed to.

The Clerk read as follows:

Paper of all descriptions, books, maps, charts, and all printed matter, and book-binding.

Mr. MORRILL. I move to amend that paragraph by inserting after the word "descriptions" the words "except such as is manufactured and used exclusively for wearing apparel."

The amendment was agreed to.

The Clerk read as follows:

Productions of stereotypers, electrotypers, lithographers, and engravers; repairs of articles of all kinds; starch; soap, valued at not above three cents per pound; umbrellas and parasols, and umbrella sticks.

Mr. MORRILL. I move to amend the last paragraph by striking out the word "umbrella" where it occurs before the word "sticks" and inserting the words "frames for the same."

Mr. THAYER. I wish to make a suggestion to the chairman of the Committee of Ways and Means, and that is, that he add the words "and umbrella and parasol furniture." There is included in that designation the small parts of the umbrella called "notches," and also "handles" and "ferrules." They are parts of the umbrella and parasol, and they are not parts of any other article which is taxed. If the gentleman wishes to extend this degree of favor to the manufacturers of umbrellas and parasols, it is perfectly proper that he should include all the parts of those articles.

Mr. DARLING. Why not say all parts of the umbrella?

Mr. THAYER. The articles I speak of are known to manufacturers as umbrella and parasol furniture. They constitute the small parts or fixings of the umbrella. Now, the gentleman from Vermont has put into this paragraph the "sticks" and the steel frames, which it was perfectly proper that he should do, because there is a discrimination against these articles under the present adjustment of the tariff of at least forty per cent. I hope the gentleman will agree to the amendment.

Mr. O'NEILL. I ask my colleague to accept this amendment:

And the ivory, bone, and wood-work used in making umbrellas, parasols, and canes.

Mr. THAYER. Do not put in canes; they are luxuries.

Mr. O'NEILL. Well, strike out canes.

Mr. MORRILL. The makers of umbrellas and parasols were quite content with the provisions in relation to umbrellas and parasols as it was originally arranged. Since that time they have informed us that it would be a great favor if we would also exempt frames and handles. That exemption embraces the chief parts of the article; and, as we are not to get any revenue from the article when finished, this seemed to the Committee of Ways and Means to be a fair provision, and one that gentlemen representing the interest should accept. I hope that we shall not introduce any such word as "furniture" into this clause, which may be liable to all sorts of misinterpretation.

Mr. THAYER. I am sorry to hear from the gentleman from Vermont that this amendment cannot be made with the present adjustment of the internal revenue law and the tariff. That is a poor answer to make to a great industrial interest, or even to a humble industrial interest. Now, I wish the House to understand exactly how it is in regard to this matter. By the existing tariff silks pay a duty

of sixty per cent., alpaca pays a duty of fifty per cent., and fine gingham pay a duty of about fifty per cent. And those are the materials which, as we all know, are used for the covering of umbrellas and parasols. The duty paid upon the manufactured article complete, as it is imported into this country, is thirty-five per cent. Now, let gentlemen compare that duty with the duty which the manufacturer has to pay upon the raw material which he makes up into umbrellas and parasols, and they will see how injuriously this interest is affected by the total want of any proper adjustment between the tariff and the internal revenue laws. I suppose it was in consequence of this glaring injustice that the Committee of Ways and Means proposed to put this article upon the free list. But while they have put some of the parts of the article upon the free list they decline to put all the parts on. Now, I ask the Committee of Ways and Means to tell the House what consistency there is in any such position as that. How are they consistent when they say they will put umbrella sticks upon the free list, and will not put upon it the little steel notch which is put into the stick, by which the umbrella is held open or kept closed? How are they consistent when they put on the free list the parasol stick, and leave out of the list the little iron ferrule that is put by the manufacturer upon the end of the stick?

I hope there will be some degree of consistency at least in legislation of this character. If the committee propose to give this article protection against the present ruinous discrimination, let them do it in good faith, and not offer a mere crumb when they profess to give a loaf.

Mr. MORRILL. I move *pro forma* to strike out "umbrella sticks." I find that members here are more eager for these exemptions than are the men who are engaged in the business. Those men have many of them been here and before the Committee of Ways and Means, and they generally say that they will be content with any reasonable proposition, and they have professed to be satisfied with most of the provisions of this bill. But when we get before the Committee of the Whole, those members who particularly represent those manufacturers ask for a great deal more than the manufacturers themselves ever thought of. Give an inch and they ask a yard. There is not a single article among all those which have been subject to taxation which has been treated with more favor than umbrellas and parasols. And I trust this committee will not insert this miscellaneous language—"furniture"—which may mean one thing or another. If members are going to insist upon inserting every little article—like tips, nuts, slides, springs, thread—used in the manufacture of an umbrella, I shall be in favor of striking this all out.

Mr. PAINE. I move to strike out this line, "umbrellas and parasols, and umbrella sticks." I may be wrong in making this motion. But while what the gentleman from Pennsylvania [Mr. THAYER] has said satisfies me that some provision should be made for this branch of manufacture in the tariff on imports from foreign countries, in my judgment nothing he has said has amounted to an argument in favor of placing this on the free list, in an act relating exclusively to internal revenue. There may be some good reason why this branch of manufacture should be provided for in the tariff law; but why it should also be provided for in this free list I can conceive no good reason, and I have made this motion in the hope that the chairman of the Committee of Ways and Means [Mr. MORRILL] will give us some good reason why in this internal revenue bill we should make a discrimination in favor of this particular branch of manufacture.

Mr. MORRILL. I hope this line will not be stricken out.

Mr. ROSS. I hope it will be stricken out. Umbrellas and parasols are luxuries and should be taxed. [Laughter.]

The amendment of Mr. PAINE was not agreed to.

Mr. MORRILL. I withdraw my amendment to the amendment.

The question recurred upon the amendment of Mr. THAYER.

Mr. O'NEILL. I move a substitute for the amendment of my colleague, [Mr. THAYER,] which I think will not meet the views of the chairman of the Committee of Ways and Means, to add to this line, "and ivory, bone, and wood-work used in the making of umbrellas and parasols."

The amendment of Mr. O'NEILL was not agreed to.

Mr. THAYER. I modify my amendment so as to add to this line the words "and umbrella and parasol handles, ferrules and notches." When I proposed the words "umbrella and parasol furniture" I did so in perfect good faith, and I do not now conceive that the objection made by the chairman of the Committee of Ways and Means to the use of those words is a tenable objection, that possibly something might creep in which the words themselves do not import. But, sir, in order to obviate any possibility of misconception, I now propose the adoption of the words I have suggested, which are the designation of the small parts belonging to the umbrella and parasol. I hope that in this shape the proposition will meet the approbation of the committee.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

Mr. O'NEILL. I desire the unanimous consent of the committee to go back to line twenty-four and add—

Mr. BRANDEGEE. I object.

The Clerk read as follows:

Value of bullion used in the manufacture of wares, watches, and watch-cases, and bullion prepared for the use of platers and watch-makers.

Vinegar.

Mr. O'NEILL. I move to amend by inserting after the word "vinegar" the words "and mead, and beers made of fruit."

The amendment was not agreed to.

Mr. HOLMES. I move to amend by adding after the paragraph just read the words "ashes, pot and pearl."

The amendment was not agreed to.

The Clerk read as follows:

Steel, in ingots, bars, sheet, plate, coil, or wire, hoop-skirt wire covered or uncovered, and steel springs and axles made and used exclusively for vehicles, cars, or locomotives.

Mr. HUBBARD, of Connecticut. I move to amend by adding, at the end of the paragraph "clock springs and trimmings." This motion is not made in the interest of the clock manufacturer. He often does and he always can, if he chooses, make his own springs and trimmings. When he does so he pays no tax at all upon those articles. He pays his tax upon the clock when it is perfected and sold. But there have sprung up in the country some two or three or four establishments which are devoted alone to the business of manufacturing clock springs and trimmings. Most of the clock-manufacturers make these trimmings for themselves, and thus escape the payment of any tax upon them. But, sir, if the tax upon these articles be continued, these small manufactories of which I have spoken will all be broken down, because the clock-maker will not consent to be taxed upon his clocks and also upon the small articles which enter into their construction. Hence, rather than purchase these articles at a price enhanced by the imposition of the tax, the clock-manufacturers will make the articles for themselves, as most of them now do. Hence the Government will not realize a single dollar of revenue from this source, while these few small manufacturers who have undertaken to carry on this business by way of encouraging the division of labor will be driven out of the market and broken down. The main spring is the life and soul of the clock. The trimmings named in the amendment are the little ornaments intended to adorn a small time-keeper, so as to make it more

pleasing and more acceptable to the ladies of Lancaster and other towns in the district represented by our distinguished and not ungallant friend from Pennsylvania, [Mr. STEVENS.] [Laughter.] I hope the amendment will be adopted.

Mr. MORRILL. If the gentleman will substitute some other language for the term "trimmings" in his amendment, so as to make it more definite, I will not object to it. I suggest to him to make the amendment read "springs, faces, and hands for clocks."

Mr. HUBBARD, of Connecticut. I modify my amendment in that way.

The amendment, as modified, was agreed to.

Mr. MORRILL. I move to amend by striking out "and steel springs and axles made and used exclusively for vehicles, cars, or locomotives," and inserting in lieu thereof the following:

And car-wheels, thimble-skins, and pipe-boxes, and springs, tire, and axles made of steel, used exclusively for vehicles, cars, or locomotives.

The amendment was agreed to.

Mr. GRISWOLD. I desire to suggest to the Committee of Ways and Means whether it is not proper to add after the amendment just adopted the following:

Forgings of iron and steel, intended as part of machinery on which a tax is to be assessed and paid.

Mr. MORRILL. I must object to that amendment. I do not think it is what the gentleman really desires.

Mr. GRISWOLD. If it be not acceptable to the committee I will not press it.

The Clerk read as follows:

Wire made from wire less than number twenty wire gauge, upon which a tax has been assessed and paid as wire.

Mr. DODGE. I move to amend by adding at the end of the line "or wire rods." All wire rods pay duty, and it is from these rods that the wire is manufactured. There has been a great depression in this business, and when we compel them to pay tax upon the wire I do not see why we should compel them to pay an extra tax on the iron rods from which the wire is made. I hope the amendment will be agreed to.

Mr. MORRILL. I hope the amendment will not be agreed to, as it would embrace too much altogether. It would exempt not only what we have placed a tax of two dollars per ton upon, but all other rods of whatever metal, price or description.

The amendment was disagreed to.

The Clerk read as follows:

Metallic nickel, quicksilver, magnesium, aluminum, manganese, and cobalt; spelter; copper, lead, and tin, in ingots, pigs, or bars; metallic zinc, in ingots or sheets.

Mr. MORRILL. I move to strike out the word "metallic" in lines fifty-four and fifty-eight.

The amendment was agreed to.

Mr. MORRILL. I move after the word "magnesium" to insert the word "sodium." The amendment was agreed to.

Mr. MORRILL. I move to insert the words "German silver in bars or sheets." The amendment was agreed to.

Mr. SLOAN. I move to strike out "quicksilver." I understand we produce quicksilver in this country in very large quantities; that we have not only enough for our own use, but for the purpose of exportation. I am informed we export to foreign countries very large quantities, and I think it ought not to be exempted from the payment of tax.

Mr. MORRILL. I will state the motive which induced the committee to put quicksilver into the bill among articles on the free list. This is a metal which can only be used in something else or in the production of something which is subsequently taxed; and the quantity of revenue derived from this source has been exceedingly small. Its chief value is in its use by miners to extract the gold and silver from the ore. The committee therefore thought it belonged to that class which ought not to be taxed.

Mr. BIDWELL. I am opposed to striking "quicksilver" out of the free list, and I hope that the amendment will be rejected.

The amendment was disagreed to.

Mr. GARFIELD. I move to strike out the words "rolled sheet copper, sheathing copper, and yellow sheathing metal," and in lieu thereof to insert "copper and yellow sheathing metal not more advanced than bands or sheets."

The amendment was agreed to.

The Clerk read as follows:

Brass not more advanced than rods or sheets; hulls of ships and other vessels; masts, spars, and ship and vessel blocks.

Mr. DARLING. I move after the word "blocks" to insert "and tree-nails, wedges, and deck plugs."

The amendment was agreed to.

The Clerk read as follows:

Sails, tents, shades, awnings, and bags made by sewing or pasting; building stone of all kinds, including slate, marble, freestone, and soapstone.

Mr. MORRILL. I move to strike out "shades."

The amendment was agreed to.

Mr. MORRILL. I move to strike out the words "or pasting," and in lieu thereof to insert "from fabrics or other articles upon which a duty or tax has been paid."

The amendment was agreed to.

Mr. MORRILL. I move to insert "bags made of paper."

The amendment was agreed to.

Mr. MYERS. I move to insert "cordage and rigging." You have made the hulls, masts, spars, and everything necessary in the construction of vessels, free of tax, and I suppose that cordage and rigging were accidentally omitted by the committee. Rope-makers have more to contend with than the manufacturers of these other articles. The introduction of manilla rope comes into competition with them and has produced a depression in the business.

The committee divided; and there were—ayes 80, noes 36.

Mr. MYERS demanded tellers.

Tellers were ordered; and Messrs. MYERS and PLANTS were appointed.

The committee was again divided; and the tellers reported—ayes 50, noes 45.

So the amendment was agreed to.

Mr. ROLLINS. I move to insert "silx used in the manufacture of glass." The Committee of Ways and Means have no objection to it.

The amendment was agreed to.

Mr. FERRY. I move to add "and rock, ground, and calcined gypsum." I have the consent of the chairman of the committee to insert this amendment. Gypsum is used for building purposes, known as plaster of Paris; when ground as a fertilizer and as plaster; also for finished work or stucco. I have introduced in the amendment the general term gypsum.

The amendment was agreed to.

The Clerk read as follows:

Burrstones, millstones, and grindstones, rough or wrought; monuments of stone of all kinds, not exceeding in value the sum of \$100.

Mr. WILLIAMS. I move to add the following proviso:

Provided, however, That monuments exceeding the value aforesaid, erected by public or private contributions to commemorate the services of Union soldiers who have fallen in battle shall be exempt from taxation.

I need hardly say to the House, because everybody knows, that in almost every community throughout this nation people are erecting very costly monuments to the memory of the gallant men who have fallen in the service of their country, and that a tax upon private generosity exhibited in this way would be revolting to our sense of propriety. I think there will be no objection to this amendment.

The amendment was agreed to.

Mr. DAVIS. I move to strike out all of the paragraph in relation to monuments except the first three words, namely, "monuments of stone." I do not know upon what principle

it is that we should tax a monument erected either to the memory of the dead or in commemoration of any public event, or of anything worthy of commemoration. I do not know why we should be prevented from erecting in our cemeteries those monuments of art with which they are adorned. I can see no reason why we should foster foreign art rather than to invite the introduction of our own American stone, wrought by our own artists. There are many cases where we have already adorned and beautified these cemeteries by the introduction of our own American marble and other stone, and it seems to me it ought to be encouraged.

Mr. MORRILL. I trust this amendment will not be adopted unless the committee should suppose that they are at liberty to strike out an amount beyond what was first proposed by the committee in consequence of their action on the income tax.

I will state that my estimate of the amount of deficiency of the revenue was on the actual receipts of last year. No one expects the receipts from the income tax for the year to come will be more than one half what they were the past year. The amount to be received from the ten per cent. tax on incomes above \$5,000 will not be one third as much as was received last year. If we get \$5,000,000 from that source it will be all that any reasonable man can expect. The days of large income have passed away. We shall not see them again for years to come.

I object to this particular amendment for the reason that many gentlemen—not dead but alive, and I hope likely to live many years—are lavish in the expenditure of this money for family monuments. There is nothing in which they are more generous than in the erection of these monuments—monuments to the dead as well as to their own good taste. As the bill stands we propose to exempt all monuments below \$100. Those who erect and pay for monuments above that price are amply able to pay the taxes also. And now, by the amendment offered by the gentleman from Pennsylvania, [Mr. WILLIAMS,] which was a very appropriate one, we have exempted monuments in commemoration of our gallant soldiers. I trust these exemptions will be considered sufficient.

The amendment was not agreed to.

The Clerk read as follows:

Roofing slate, slabs, and tiles; Roman and water cements, and lime; brick, fire-brick, draining tiles, earthen and stone water-pipes.

Mr. MORRILL. I move to insert after "draining tiles," "cement, drain, and sewer pipes." Also to add "window-glass of all kinds."

The amendment was agreed to.

The Clerk read as follows:

Plows, cultivators, harrows, straw and hay cutters, planters, seed-drills, horse-rakes, and winnowing mills.

Mr. WILSON, of Iowa. I move to insert before the word "plows," "reapers, mowers, threshing-machines." This is in accordance with the amendment made by the committee a day or two since on page 89, line two thousand and one, where the words "reapers, mowers, threshing-machines" were stricken out. I gave notice at the same time I would move to insert them in this place in the free list. I have nothing to add to what I said then.

Mr. HARDING, of Illinois. Allow me to suggest the addition of "mills and apparatus for producing molasses or sugar from sorghum, beets, or corn."

Mr. WILSON, of Iowa. I would rather take the question on the amendment as it stands.

Mr. SHELLABARGER. I hope the gentleman will add "separators," an attachment to the threshing-machine for the purpose of separating the wheat from the chaff.

Mr. MORRILL. I suggest that we had better allow this amendment to be offered in an independent shape. A yea and nay vote will probably be called in the House on the question.

Mr. WILSON, of Iowa. I will add the word "separators;" so that my amendment

will be, "reapers, mowers, threshing-machines, and separators."

The amendment was agreed to.

Mr. PLANTS. I move to insert "sorgho mills, evaporators, and drainers."

Mr. HARDING, of Illinois. I suggest the addition of "mills and machinery for the manufacture of sugar, sirup, and molasses, from sorghum, imphee, beets, or corn."

Mr. PLANTS. I accept that. I think the machinery should be exempt from tax. The manufacture of sirup has been of vast advantage to the country in the last few years. It has been generally carried on upon the farm. Almost every farmer in the country manufactures it for domestic use or home consumption. The machinery for producing it costs from three to five hundred dollars, and the tax on the machine will be from fifteen to twenty-five dollars, which is quite a serious tax, and I think in accordance with the policy adopted in other matters this ought to be exempt.

Mr. MORRILL. There is no end to the amount that will be withdrawn from the revenue if all these additions are made to the free list. It will be much more than gentlemen are aware of. If any articles are to be exempted, it should be those articles used by the laboring men, and not the mowers, threshing-machines, and cultivators, which are made by parties who have the entire monopoly of the trade and can get any price they may ask, and which are purchased by men who are able to pay the highest price for them, and who will have to at any rate. The manufacturers of the hand-rake, and of other articles of common use, such as shovels, hoes, axes, scythes, spades, and manure-forks, certainly, it seems to me, ought to be looked after first, rather than the manufacturers of reapers and mowers. It is now proposed to exempt machines for the manufacture of sugar and molasses from sorghum. We do not tax at all the article that is made, and can we not afford to pay some tax on the machinery by which it is made?

Mr. WILSON, of Iowa. I move *pro forma* to strike out the last word. The gentleman from Vermont seems to forget that we treated him very kindly yesterday by putting about fifteen million dollars into this bill.

Mr. MORRILL. Not over \$5,000,000.

Mr. WILSON, of Iowa. I am guided only in my statement by what the gentleman said the other day at the opening of the debate. I read from his speech, as follows:

"In a republican form of government the true theory is to make no distinctions as to persons in the rates of taxation. Recognizing no class for special favors, we ought not to create a class for special burdens. Pursuing this principle a majority of the Committee of Ways and Means have agreed to that portion of the bill which makes the income tax after this year a uniform one of five per cent. upon the annual gains. The loss to the revenue will be large—about seventeen million dollars—and it will be for the House to say whether the bill shall stand as reported or whether relief in any other direction is more urgently demanded."

It may be that it is no more than \$5,000,000, but he misled us, when he opened this debate, into supposing that it was \$17,000,000, and so we very kindly put this amount in the bill yesterday. Therefore these amendments are entirely proper to-day.

Mr. MORRILL. It was very good reading so far as the gentleman went, but he did not read the whole of it.

Mr. WILSON, of Iowa. I took the whole paragraph.

Mr. MORRILL. He should have read this further explanation:

"It will be seen that I estimate a reduction in the revenue received from manufactures, on account of a depreciation of values, of about twenty-five per cent., and a reduction upon incomes and dividends of rather more than that amount."

If the gentleman will take pains to examine my estimate in detail he will very soon find out that I anticipated, for the year 1866-67, no such amount from income as was obtained last year. The deductions were computed, as a matter of course, upon the receipts of last year, and then, in addition, such as appeared probable on account of lower prices and less profits.

Mr. PAINE. I am in favor of including these articles in the free list, not only for the reason given, but for additional reasons. I am not opposed to an increase of revenue in this bill. When we made the tax on incomes above \$5,000 ten per cent. we manifested a desire to aid in that way the gentleman from Vermont in securing a revenue. And I think when I urged a tax upon umbrellas and parasols, and when I urged an increase of the tax upon cigars, I manifested a disposition not to diminish, but rather to increase the revenue; and that I avow to be my purpose now.

I believe that these sorghum machines deserve our especial consideration and favor. This sorghum is an interest which, if we can, we ought to foster and encourage in this country, for it is unlike all other agricultural interests, and if we can possibly so arrange our internal revenue laws as to foster and encourage the production of sugar from a plant that can be grown in almost every State of the Union, if we can do this without any serious diminution of the revenue, I think we should do it. And I believe the result of this amendment will be not to diminish the revenue of the Government, but by fostering this branch of industry and encouraging this production, tend to increase the revenue. And aside from that consideration I believe it to be our duty to look to this interest for the purpose of fostering and promoting the production of sugar from plants which can be grown all over the United States, so that the price of that very necessary article may be in the end diminished. I withdraw my amendment to the amendment.

The question was upon the amendment of Mr. PLANTS.

Tellers were ordered; and Mr. PLANTS and Mr. MORRILL were appointed.

The committee divided; and the tellers reported—ayes fifty-one, noes not counted.

So the amendment was agreed to.

Mr. LAWRENCE, of Ohio. I move to amend by inserting after the words "threshing-machines" the words "horse-powers." I wish to say a word upon that amendment. If I can obtain the attention of gentlemen, so that this amendment shall be understood, I think there will be no objection to it. I propose to put horse-powers upon the free list. The object of the amendment is simply to render the bill as it stands more clear and certain. I have no doubt but the bill as already amended, by putting threshing-machines on the free list, will also include the horse-powers connected with them. They ought to be included, at all events, for they are necessary parts of threshing-machines. Therefore, for the purpose of making the bill more clear and explicit, and also for the purpose of relieving from taxation these articles so indispensable for many of the purposes of agriculture, I hope the committee will adopt the amendment I have offered.

Mr. FARNSWORTH. I move to amend the amendment by adding to it the words, "and corn-shellers."

Mr. LAWRENCE, of Ohio. I accept that. Mr. STEVENS. "Corn-crackers" should be included. [Laughter.]

Mr. HOOPER, of Massachusetts. I move to amend the amendment of the gentleman from Ohio [Mr. LAWRENCE] by striking out the words "horse-powers," and inserting the words "all engines and machines driven by steam or horse power." That, I think, will cover all.

Mr. LAWRENCE, of Ohio. Oh, no!

Mr. GARFIELD. I am opposed to the amendment and to the amendment to the amendment. If we go much further in the work of exempting these machines from taxation we may as well adopt the proposition of the gentleman from Massachusetts [Mr. HOOPER] at once as to stop short of it. In my judgment, there is not a sufficient reason why a machine should be exempted from taxation that is applied to a particular use, and that the article produced by it is free from taxation. I can see no end to this mode of exemption; and I fear we are forgetting the purpose of this bill. We are trying to raise

revenue to supply the wants of the Government. But one by one the chief sources of revenue are being stricken out, because each member is trying to exempt the particular interest of his district, and thus we are in danger of losing the bulk of our revenue.

The amendment just adopted, exempting from taxation threshing-machines, reapers, and mowers, especially the latter, would interest my constituents as much as the constituents of any member upon this floor. But I have voted against their exemption, and many others of a similar nature, because I did not believe the interests of the whole country would warrant us making them wholly free from tax. I am not anxious to go on the record as having moved an amendment merely because it would benefit my constituents. I hold it to be my duty to look to the interests of the Treasury of the country and the financial interests of the Government, as well as the interests of particular localities. It would be gratifying to me if we could relieve all industry of the heavy burden of taxation; but I hope gentlemen will not forget that we have only a given margin for reduction, and that is fully reached in the bill as reported by the Committee of Ways and Means. If we take off the tax here it must be added in some other place.

The question was upon the amendment of Mr. HOOPER, of Massachusetts.

The question was taken; and upon a division there were—ayes nineteen, noes not counted.

So the amendment was not agreed to.

The question recurred upon the amendment of Mr. LAWRENCE, of Ohio.

Mr. SHELLABARGER. I move to amend *pro forma* by striking out the last word. I do this for the purpose of making a statement in reply to some suggestions which have been made by my colleague [Mr. GARFIELD] in regard to the drift and tendency of these amendments exempting implements of agriculture.

Now, Mr. Chairman, I think that in these amendments, by which some leading agricultural implements have been put into the free list, there is no departure from the current principle of taxation, nor from the principles of this bill. The able chairman of the Committee of Ways and Means, if I recollect aright, set out in this discussion by an allusion to what is a universally recognized principle of taxation—that we should avoid the taxing of those things which are peculiarly the sources of production and of the national wealth. It is just because this is a correct principle of taxation that we ought, it seems to me, to exempt from taxation that class of farming implements which are essential to agricultural production throughout our entire country, wherever there is an agricultural interest, and that is everywhere. These productions constitute the primary sources of the wealth of the country. It does seem to me, therefore, that the remarks made by the gentleman, that we violate correct principles and equality of assessments, are not well founded, so far as they relate to these exemptions, and that we should adhere persistently to the exemption from taxation of those articles which tend to increase these universal and primary sources of wealth—the agricultural productions of the country. The fact that they are primary, that they are essential, and that they are universal, has resulted in reducing all agricultural implements and all agricultural staples to minimum prices; in other words, they never attain extravagant rates of compensation. For this reason no speculations, no excitements enter into or affect their values. Hence it seems to me we should refrain from taxing these articles, because there are no margins which will enable them to pay the tax and still produce these implements to an extent equal to the demands of agriculture. The increased cost of their production caused by taxation cannot be added to any great extent to their prices. They will not admit of it. So far as they are burdened with taxation they are thrown out of use; and to that extent you strike down the very elements

and sources of national wealth. It does seem to me that in pursuing the policy of promoting this cardinal, leading, universal interest of the country, we are adhering to and not departing from the correct principle of taxation. I do hope that the committee will adhere constantly to the line of policy which has already been adopted, and that we will set free all that directly and essentially promotes the development of our great national agriculture.

Mr. GARFIELD. Mr. Chairman, I fully agree with the general sentiment of my colleague [Mr. SHELLABARGER] in regard to making the burden of taxation fall as lightly as possible upon all the sources of wealth. But we are not following that principle in this tax bill; nor do the gentlemen who advocate that principle apply it consistently. For instance, no one has proposed that we shall exempt from taxation all agricultural implements, including axes, spades, hoes, shovels, and every such implement of daily use by the farmer.

Mr. PAINE. If the gentleman will allow me to interrupt him, I desire to remind him that the bill contains a proposition to exempt everything that pertains to a ship. Consequently everything used by the shipping interest of this country is to be exempted from taxation.

Mr. GARFIELD. I dissent from the propriety of those exemptions as much as the gentleman can. Therefore his suggestion does not impair the force of the argument I am presenting. I say that no man here has proposed, so far as I know, to exempt from taxation all the implements of husbandry. As the bill has now been amended, we allow the burden to rest on the hoe and the shovel and the spade, and all the other simpler implements that the laboring man uses, while we exempt from taxation all the more complicated and costly machines, which the wealthier farmer uses, the machines which are protected by patents and from which both the manufacturer and the purchaser can make money to a far greater extent than it can be made by the man who uses the common implements of husbandry. Nobody here proposes that we shall lift the burden from all agricultural implements, while there is to be an exemption from taxation as regards implements made by corporations and used by the wealthier farmers all over the land.

If we shall adopt the principle announced by my colleague, we should exempt from taxation all these humbler implements, particularly those used in hand labor. If the gentleman would be consistent, let him push his argument to its legitimate results. But let us not under the pretense of relieving industry lift the tax entirely from those of the agricultural class who can bear it best. I believe that we have not pursued the true policy in reference to these machines. I have in my desk a letter from one of the leading firms of Ohio engaged in the manufacture of mowers and reapers, and they only ask that we shall reduce the tax to two or three per cent. Instead of that the tax has been removed entirely by the Committee of the Whole. We have given what they did not ask, and if this course is persisted in we must compensate for it by taxing some other interest to make up the deficiency.

[Here the hammer fell.]

Mr. SHELLABARGER, by unanimous consent, withdrew his amendment.

The question recurred on the amendment of Mr. LAWRENCE, of Ohio, and it was disagreed to.

Mr. FARNSWORTH. I move to insert "corn-shellers." I desire to take the vote on that separately. If threshing-machines are to be put in the free list corn-shellers ought certainly to be put there. It is a less expensive article. It costs less to manufacture the machine, and is more universally used in a corn country than the threshing-machine. Every farmer who raises any considerable quantity of corn has a corn-sheller, and it strikes me if any article should go into the free list it is that article.

Mr. MORRILL. I move to strike out "corn-shellers" and insert "hand-rakes;" and as

our southern brethren are not present to take care of their own interest, I will move also to insert "cotton-gins." I hope that the committee will be willing to stop there.

Mr. ALLISON. I move to amend by inserting "grain-cradles."

Mr. STEVENS. I think the gentleman ought to strike out the word "grain." [Laughter.]

Mr. MORRILL. I accept the amendment of the gentleman from Iowa as a modification of my own.

Mr. MORRILL's amendment, as modified, was agreed to.

Mr. MORRILL. I move to strike out these words:

Hubs, spokes, and felloes; wooden handles for agricultural, household, and mechanical tools and implements.

And in lieu thereof to insert the following:

Hubs, spokes, felloes, poles, shafts, and arms for carriages or wagons; wooden handles for plows, and for other agricultural, household, and mechanical tools and implements.

Mr. ALLISON. I move to insert, "pail and tub ears and handles."

Mr. MORRILL. I accept the amendment of the gentleman from Iowa.

Mr. STEVENS. I move to strike out "ears."

Mr. MORRILL. I am sorry the gentleman from Pennsylvania has joined with the Philistines to make havoc with the bill. This is a large item. They are manufactured by machinery. If we begin here we must exempt dog-churns, mop-handles, wash-boards, and all sorts of wooden-ware. There will be no stopping-place if we once begin on a field so extensive.

Mr. WASHBURN, of Massachusetts. Under the present tax law pail and tub ears and handles have been loaded down with taxation. The manufacturer of pail-ears pays a tax of five per cent. The manufacturer of pail-handles pays a tax of five per cent. The manufacturer of tub-ears and handles pays a tax of five per cent. The manufacturer also pays a tax upon the hoop-iron placed around them. He pays a tax upon the wire. He pays a tax of twenty cents a gallon upon the benzine which is used. He pays a tax upon the paint which is used. He pays a tax of from five to ten per cent. upon some ten or a dozen different articles which go to make up these pails and tubs. The consequence is that these articles which go into every family in the country cost to-day more than double what they did three years ago.

I wish to call to the attention of my friends from the West, who have exempted the manufacture of threshing and mowing machines, which is also carried on in my district, that it pays a larger per cent. than the manufacture of these articles. More than one half of the manufacturers of wooden-ware have failed during the past few years because they could not endure the tax. You have to pay now three dollars when you could before buy as many as you wanted for one dollar and a half. Now, what I am going to say is this, that in voting upon this bill as we have passed over it, our friends have said we will place a tax of five per cent. on the manufacture of leather, and then when the leather is manufactured into boots and shoes, we will levy an additional tax of two per cent. Now, here is an article which is needed by every man and woman in the land, no matter how poor they may be. It is one of the necessities of life, and yet my western friends join in placing a tax of seven per cent. on this necessary article which every individual has to use. But when you come to reapers and mowers and threshing-machines, which the rich only can use, you vote against imposing a tax.

[Here the hammer fell.]

The question was taken on Mr. STEVENS's amendment to the amendment, and it was agreed to.

The question recurred on Mr. MORRILL's amendment as amended.

Mr. MORRILL. I move to strike out the last word of what is proposed to be inserted.

I rise mainly for the purpose of leading the House to a correct impression in relation to this tax on pails and tubs. They were inserted in the bill as reported by the Committee of Ways and Means with the tax reduced from six per cent. to three per cent. We reduced the tax upon the benzine, which is used in their manufacture instead of turpentine, from twenty to ten cents per gallon. The tax upon all paints and oils it is also proposed to entirely remove. Now, if gentlemen propose to go on to the end of the chapter exempting articles and reducing the tax, I do not know when we shall get through the bill, or what will be left to be taxed.

I will now withdraw my whole amendment.

The CHAIRMAN. It is beyond the gentleman's power to withdraw it.

The amendment as amended was read, as follows:

Hubs, spokes, felloes, poles, shafts, arms for carriages or wagons, pail and tub handles, wooden handles for plows and other agricultural, household, and mechanical tools and implements.

Mr. MORRILL. I would like it to be understood that there was a motion made to insert "tub and pail ears and handles." That was a distinct and separate motion, and then the gentleman from Pennsylvania moved to strike out "ears."

The CHAIRMAN. The Chair will state that the gentleman from Vermont originally proposed an amendment without the words "pail and tub ears and handles," and then accepted an amendment suggested by the gentleman from Iowa [Mr. ALLISON] to insert "pail and tub ears and handles." The gentleman from Pennsylvania [Mr. STEVENS] then moved to amend his amendment, as thus modified, by striking out the word "ears," and that amendment has been adopted.

Mr. MORRILL. Then I hope we shall vote down the whole amendment.

The question was taken on Mr. MORRILL's amendment, as amended, and it was disagreed to.

Mr. MORRILL. I now offer the following amendment:

Spokes, hubs, felloes, poles, shafts, the arms for carriages or wagons, wooden handles for plows, and other agricultural, household, and mechanical tools and implements, and pail and tub ears and handles.

Mr. STEVENS. Is that in order? We have have just voted down the same amendment. I think it is hardly in order.

The CHAIRMAN. The gentleman from Vermont proposes the amendment in a different form.

Mr. STEVENS. Then I move to strike out the words "pail and tub ears" and to insert in lieu thereof "pails and tubs." I have nothing to say except that I hope the gentleman from Vermont will be a little more persevering. [Laughter.] I do not like to see a man give up so easily. It does not look well. [Laughter.] The chairman of the Committee of Ways and Means ought not to submit to what the House does. I call for tellers on my amendment.

Tellers were ordered; and Messrs. STEVENS and MORRILL were appointed.

The committee divided; and the tellers reported—ayes 38, noes 55.

So the amendment to the amendment was rejected.

Mr. MORRILL's amendment was agreed to.

Mr. PRICE. I move that the committee do now rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAVES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

The SPEAKER. The Chair desires to state, as it may have some bearing on the business of the House, that no gentleman desires to speak on Saturday next.

Mr. MORRILL. I desire to say that I shall insist upon going on with the tax bill until it is finished.

And then, on motion of Mr. GARFIELD, (at twenty minutes before five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BLOW: Petitions and protests of citizens of Canton, Louisiana, La Grange, and Keokuk and St. Louis, against the Senate bill providing for the erection of draw-bridges on the Mississippi river.

By Mr. HARDING, of Illinois: The petition of Amos Sanford, of Prairie City, Illinois, for pay for a horse.

By Mr. JULIAN: The petition of Thomas Nugen, praying Congress to grant him relief for damages done his property by the Union Army during the late war.

By Mr. MORRILL: The petition of C. F. Sturtevant and 48 others, citizens of Hartland, Vermont, praying for an increase of the tariff so as to protect American labor.

IN SENATE.

FRIDAY, May 25, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PETITIONS AND MEMORIALS.

Mr. MORGAN presented the petition of the American Atlantic Cable Telegraph Company, praying for such legislation as will enable them to lay a cable from some convenient location on the Atlantic coast of the United States to the island of Bermuda, and from thence to the Azores, and Lisbon, in Portugal; which was referred to the Committee on Commerce.

Mr. MORRILL presented petitions of municipal officers and citizens of Lyman, Kennebunk, and Biddeford, in the State of Maine, in aid of the petition of Samuel Batchelder, and others, for the repair of the United States piers and other property on the Saco river; which were referred to the Committee on Commerce.

Mr. HENDERSON presented a memorial of five hundred citizens of Marion county, Missouri, praying that no bridges with pivots and draws be authorized to be constructed over the Mississippi river; which was referred to the Committee on Commerce.

Mr. GUTHRIE presented the petition of C. S. Pennbaker, agent of the State of Kentucky, praying that a pension may be granted to Lieutenant W. B. Kelley, late of the first Kentucky cavalry; which was referred to the Committee on Pensions.

REPORTS OF COMMITTEES.

Mr. DOOLITTLE, from the select committee, to whom was referred the bill (S. No. 282) to reorganize the clerical force of the Department of the Interior, and for other purposes, reported it with amendments; and he presented accompanying letters and papers from the Secretary of the Interior, which were ordered to be printed.

BILLS INTRODUCED.

Mr. CONNESS asked, and by unanimous consent obtained, leave to introduce a joint resolution (S. R. No. 98) to amend an act entitled "An act to authorize the establishment of ocean mail steamship service between the United States and China," approved February 17, 1865; which was read twice by its title, referred to the Committee on Post Offices and Post Roads, and ordered to be printed.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 340) amendatory and explanatory of an act entitled "An act to regulate prize proceedings and the distribution of prize money, and for other purposes," approved June 30, 1864; which was read twice by its title.

Mr. HENDRICKS. I have been requested to present this bill; I do not know that I am

in favor of it; but I move its reference to the Committee on Naval Affairs.

The motion was agreed to.

COLONIZATION OF AFRICANS.

Mr. MORRILL submitted the following resolution; which was considered by unanimous consent, and agreed to:

Resolved, That the President be requested to communicate to the Senate the transactions of the executive government under the several acts of Congress of April 10, 1862, May 12, 1862, and July 17, 1862, for the transportation, colonization, and settlement of such persons of the African race as are mentioned in those acts respectively, and especially what colonization measures have been adopted, if any, the number of persons colonized, with expenses incurred.

WOMEN'S HOSPITAL.

The PRESIDENT *pro tempore* laid before the Senate the amendments of the House of Representatives to the bill (S. No. 167) to incorporate the Women's Hospital Association of the District of Columbia.

The first amendment of the House of Representatives was in section one, line three, after the first word "that" to insert the following among the names of the incorporators: "Abram D. Gillette, Byron Sunderland, William B. Matchett, Henry D. Cooke, William W. Corcoran, Charles Knap, J. H. Thompson, Moses Kelly, Ansel St. John."

Mr. MORRILL. I move that the Senate concur in that amendment.

The motion was agreed to.

The Secretary read the second amendment of the House of Representatives, which was in the first section, line three, after the name "Adelaide J. Brown" to strike out all the names to and including that of "Mary K. Lewis" in line seven, except that of "Mary W. Kelly," and to insert "Elmira W. Knap, Mary C. Havermer, Mary Ellen Norment, Jane Thompson, Maria L. Harkness, Isabella Margaret Washington, and Mary F. Smith."

Mr. MORRILL. I should like to have the names proposed to be stricken out read.

The SECRETARY. The names proposed to be stricken out are "Mrs. Jane L. Smith, Mrs. Harriet B. Blanchard, Mrs. Maria M. Carter, Mrs. Jane Farnham, Mrs. Ann J. Gillette, Mrs. Kathleen Carlisle, Mrs. Sarah C. Jones, Mrs. Mary K. Lewis."

Mr. MORRILL. I do not know anything about the circumstances, and I move that the bill and amendments lie on the table for the present.

The motion was agreed to.

PORTS OF DELIVERY.

Mr. WILLIAMS. I move that the Senate take up for consideration the bill (S. No. 196) to extend the port of entry of the collection district of the State of Oregon.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill, which had been reported from the Committee on Commerce with an amendment to strike out all of the bill after the enacting clause in the following words—

That the port of entry of the collection district of the State of Oregon be extended so as to embrace the city of Portland, and that vessels and ships be allowed to load and unload at said city, and that the Secretary of the Treasury be authorized to build or rent the necessary bonded warehouses at said city—

And to insert in lieu thereof the following:

That Council Bluffs, in the State of Iowa, shall be, and is hereby, constituted a port of delivery, and shall be subject to the same regulations and restrictions as other ports of delivery in the United States; and there shall be appointed a surveyor of customs to reside at said port, who shall, in addition to his own duties, perform the duties and receive the salary and emoluments of surveyor prescribed by the act of Congress approved on the 2d of March, 1831, providing for the payment of duties on imported goods at certain ports therein mentioned, entitled "An act allowing the duties on foreign merchandise imported into Pittsburgh, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places;" and the said town of Council Bluffs and the said port of delivery be, and is hereby, annexed to and made a part of the collection district of New Orleans, and all the facilities and privileges afforded by the said act of Congress of the 2d of March, 1831, be, and are hereby, extended to the said port of Council Bluffs.

Sec. 2. And be it further enacted, That Portland, in the State of Oregon, shall be, and is hereby, constituted a port of delivery, and shall be subject to the

same regulations and restrictions as other ports of delivery in the United States, and there shall be appointed a surveyor of customs to reside at said port, who shall, in addition to his own duties, perform the duties and receive the salary and emoluments of surveyor prescribed by the act of Congress approved on the 2d of March, 1831, providing for the payment of duties on imported goods at certain ports therein mentioned, entitled "An act allowing the duties on foreign merchandise imported into Pittsburgh, Wheeling, Cincinnati, Louisville, St. Louis, Nashville, and Natchez, to be secured and paid at those places;" and the said city of Portland and the said port of delivery be, and is hereby, annexed to and made a part of the collection district of the State of Oregon, and all the facilities and privileges afforded by the said act of Congress of the 2d of March, 1831, be, and are hereby, extended to the said port of Portland.

Mr. TRUMBULL. If I heard the bill correctly, it is a bill to establish a port of delivery for foreign goods away up near the source of the Missouri river. I do not know that there is a probability of there being any importations from Europe at that point. I should like to hear some explanation of the bill from the Senator from Maine, [Mr. MORRILL,] who I believe reported it, to know why it is necessary to establish a port of delivery at that point. It may be all right, but I did not suppose that foreign goods were landed there.

Mr. HENDERSON. That does not follow because it is a port of delivery.

Mr. WILLIAMS. I think I can assure the Senator that it is necessary so far as the city of Portland is concerned. This bill is reported from the Committee on Commerce as an amendment to a bill that I introduced. I have no interest in making the city of Council Bluffs a port of delivery, but I am interested, and it is not difficult to show, that the city of Portland, in Oregon, ought to be a port of delivery, as large quantities of foreign goods are brought there and delivered in that city.

Mr. TRUMBULL. That may be true in regard to the city of Portland, but I should like to know of the Senator from Oregon if he thinks that is true in regard to Council Bluffs.

Mr. WILLIAMS. I know nothing about Council Bluffs. I introduced a bill to make Portland, in Oregon, a port of delivery. That bill was referred to the Committee on Commerce, and they reported back the bill, with an amendment striking out what I introduced, and inserting this proposition, which includes Council Bluffs as a port of delivery.

Mr. TRUMBULL. I hope we shall have some explanation of the necessity of a port of delivery at Council Bluffs.

Mr. MORRILL. In reply to the Senator from Illinois, as he appealed to me, I will say that I had no special charge of this bill, and did not report it. I have only a general recollection that this amendment was drawn at the Treasury Department and said to be necessary to prevent smuggling in that region of the country. That is all I can say of it now.

Mr. TRUMBULL. I do not know how any smuggling is to be carried on at that point. Perhaps my friend from Iowa [Mr. KIRKWOOD] can tell us.

Mr. KIRKWOOD. The honorable Senator from Illinois is somewhat misinformed in locating Council Bluffs so far up on the Missouri river.

Mr. TRUMBULL. It is pretty far up.

Mr. KIRKWOOD. It is much nearer the mouth of that river than the sources of it. It is almost due west from the residence of my colleague, on the Mississippi, Burlington, at which place there is a port of entry or delivery; I do not know which. It is not nearly as far north as Dubuque, in the State of Iowa, at which place there is, I think, a port of entry and a custom-house. Dubuque is on the Mississippi river. Council Bluffs is immediately opposite the eastern terminus of one branch of the Pacific railroad, at Omaha, in Nebraska Territory. I am not familiar enough with the country to say whether a port of delivery be needed there or not; but I can say this, that if one be needed at Galena, in the State of Illinois, at Burlington, in the State of Iowa, and if a port of entry and a custom-house be needed at Dubuque, I can very well conceive

how and why a port of delivery may be needed at Council Bluffs. That is all I can say on the subject. We have a custom-house at Dubuque and a port of entry there, and I am satisfied that there is as much necessity for one and the other at Council Bluffs as there is at Dubuque.

Mr. TRUMBULL. We have had various ports of entry or delivery in the West, and I believe that some of them have merely given places for officers. I know I looked into this matter some years ago and ascertained that there were throughout the United States—I had at that time the tables before me—various points where we had ports of delivery where the salary amounted to more than all the duties which the officer collected. I do not know that that would be the case at Council Bluffs. I was inquiring rather for information. I think there are one or two in my own State that have been discontinued recently. We had them all along the Mississippi, and at one time there was a disposition to build custom-houses all over the country. The fact that a port of delivery has been established improperly at some place where it was not needed, is not a sufficient reason for establishing another. However, as I am not informed about this matter and the Senator from Maine thinks there was some reason for it at the Treasury Department, I suggest that the bill had better go over until we are better informed.

Mr. MORRILL. I was going to make that suggestion. I do not wish it to pass on my account.

Mr. TRUMBULL. If there is a reason for it, I have no objection; but I do not see why it should be.

Mr. GRIMES. I simply desire to say that I concur in what my colleague has said, that the same necessity exists, I think, for the establishment of a custom-house at Council Bluffs that existed for the establishment of one at Keokuk, or at Burlington, where I reside, or at Dubuque. I am not aware that there is any reason additional to those that exist as to the office in this place. The truth is, Mr. President, that the offices in that State of this description, as well as offices everywhere else of this character, ought to be abolished, and I am ready to vote to abolish them, and am not prepared to vote to establish any others. I was not aware that there was any such proposition as this here until I heard it read in the bill at the Secretary's desk. Burlington, where I reside, has been a port of delivery a great many years, long before I was a member of this body, and I think that there was one delivery of foreign goods there; I think there was once some railroad iron brought there which was delivered in bond. That is the only business of that description, so far as I know or have been informed, ever done there. During the war this office of surveyor of the port became of some value to the Government.

Mr. KIRKWOOD. Will my colleague allow me one moment? May it not be that this is asked for on account of the delivery of the iron at Council Bluffs or Omaha for the Pacific railroad?

Mr. GRIMES. I was going to state that. During the war these officers became of a good deal of value. To them was intrusted the business of looking after contraband articles that were being run over the railroads and taken down into Missouri and there furnished to guerrillas; and I have no doubt that all the expense the Government was put to in establishing and maintaining them was amply compensated. The Senator from Maine states that this proposition, as I understand, came from the Treasury Department.

Mr. MORRILL. I so understood, though I was not sure.

Mr. GRIMES. It may be possible, and quite probable, indeed, if that be so, that there is some substantial reason why the recommendation was made; and therefore I hope that the bill will be permitted to lie over until tomorrow, when we can ascertain something further about it. It may be, as has been suggested by my colleague, that in consequence of the

prosecution of the Pacific railroad, which ends on the other side of the river from Council Bluffs, it may be desirable that such an office should be established.

Mr. WILLIAMS. I am very confident, if this bill was prepared in the Treasury Department, that it is necessary to make Council Bluffs a port of delivery, because I know that I have addressed that Department on these subjects, and I find that they are very reluctant to extend any privileges involving expense unless there is an absolute necessity for it. So far as the city of Portland is concerned, there are immense quantities of foreign goods brought to that city. The trade of eastern Oregon, of a portion of Washington Territory, and of Idaho Territory, with British Columbia, is through the city of Portland, and there is a great necessity for making that place a port of delivery. It would be a great advantage to the persons concerned in that trade. I do not wish to have that proposition which I introduced loaded down with and defeated by a proposition of this kind, about which gentlemen seem to have question, when there can be no sort of question as to the correctness of the proposition which I submitted. But if it is deemed desirable the bill can lie over until to-morrow. I am sure that on inquiry it will be found, in the judgment of the Treasury Department, that this measure is necessary.

Mr. WILSON. Is this measure to go over? The PRESIDENT *pro tempore*. No motion to postpone it has been made.

Mr. POMEROY. I move to postpone the present and all prior orders and take up the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river. This is a bill which was called up by the Senator from Missouri [Mr. HENDERSON] the other day, but it then went over. I think we have time to consider it this morning during the morning hour.

Mr. HENDRICKS. I am opposed to considering that bill at this time. There is only half an hour left of the morning hour, and it will be discussed as a matter of course. What I desire to say on the bill I should like to say at the time we dispose of it. To make an examination of the bill this morning, and then let it go over to another morning, and then to discuss it and have it postponed again, is no way to have the discussion fully understood. I do not want very much of the time of the Senate when I speak upon it, but I want what remarks I make to be made at the time the vote is taken by the Senate; it is impossible to do so this morning.

Mr. WILSON. I hope the Senator from Kansas will withdraw his motion and let us finish the West Point bill we had up yesterday morning. I think we can get through with it in a few minutes.

Mr. POMEROY. Several efforts have been made to get up the bill to which I call the attention of the Senate. It is entirely with the Senate to say whether they will consider it now or at some other time. I know that all the bills from the Committee on Public Lands which have yet to pass the House of Representatives will have a very poor show there unless we pass them here before the Committee on Public Lands of that House is called for reports. It has not yet been called; and that is the only point there is in reference to this matter.

Mr. WILSON. I shall be much obliged to the Senator if he will not call up that bill this morning, but will allow me to have the West Point bill taken up and disposed of.

Mr. POMEROY. I would rather have a vote upon the question. If the pleasure of the Senate is to postpone the bill, I shall be entirely satisfied.

Mr. WILSON. I move, then, to take up—
The PRESIDENT *pro tempore*. There is already a motion pending to postpone the present and all prior orders and proceed to the consideration of Senate bill No. 285. The

question is on that motion of the Senator from Kansas.

The motion was not agreed to.

MILITARY ACADEMY APPOINTMENTS.

Mr. WILSON. I now move to postpone all other matters and take up House joint resolution No. 134, relative to appointments to the Military Academy of the United States.

The motion was agreed to; and the Senate resumed the consideration of the joint resolution, the pending question being on the amendment of Mr. NESMITH to add the following as a new section:

And be it further resolved, That hereafter the Superintendent of the Military Academy may be selected from any corps of the Army.

The question being taken by yeas and nays, resulted—yeas 18, nays 19; as follows:

YEAS—Messrs. Chandler, Davis, Doolittle, Guthrie, Hendricks, Howard, Kirkwood, Lane of Indiana, Lane of Kansas, Nesmith, Norton, Ramsey, Sherman, Stewart, Trumbull, Wade, Williams, and Yates—18.

NAYS—Messrs. Anthony, Clark, Conness, Cowan, Cragin, Fossenden, Foster, Grimes, Harris, Henderson, Howe, Johnson, Morgan, Morrill, Pomero, Sumner, Van Winkle, Willey, and Wilson—19.

ABSENT—Messrs. Brown, Buckalew, Creswell, Dixon, Edmunds, McDougall, Nye, Poland, Riddle, Saulsbury, Sprague, and Wright—12.

So the amendment was rejected.

The amendment heretofore made was ordered to be engrossed and the joint resolution to be read a third time. The joint resolution was read the third time and passed.

ADJOURNMENT TO MONDAY.

On motion of Mr. DOOLITTLE, it was Ordered, That when the Senate adjourn to-day, it be to meet on Monday next.

CAIRO AND FULTON RAILROAD GRANT.

Mr. POMEROY. I move to take up Senate bill No. 223.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point upon the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river; approved February 9, 1853, and for other purposes.

It proposes to revive and extend the act mentioned in its title, with all the provisions therein made, for the term of ten years, and all the lands therein granted, which reverted to the United States under the provisions of that act, are restored to the same custody, control, and condition, and made subject to the uses and trusts in all respects as they were before and at the time such reversion took effect.

There is also hereby granted, added to, and made part of the former donation of lands, and to be held and disposed of in the same manner as if included in the original grant, all the alternate sections and parts of sections, designated by odd numbers, lying along the outer line of lands heretofore selected, and within ten miles on each side thereof, excepting lands reserved or otherwise appropriated by law, or to which the right of preemption has attached; but this additional quantity of lands when added to the lands heretofore granted is not to exceed, in the aggregate, sufficient to amount to ten sections for each mile of railroad.

All the lands mentioned in this act, and granted by it, are to be reserved from entry, preemption, or appropriation to any other purpose than that contemplated, for the term of ten years from the passage of the act; but no person who has held any office or appointment under the government of the so-called confederate States, or who has borne arms against the United States, is to be a director in any railroad company receiving the benefit of this grant.

The Committee on Public Lands reported the bill with amendments. The first amend-

ment was in section two, line ten, after the word "preemption" to insert "or homestead settlement;" so that the clause will read:

Excepting lands reserved or otherwise appropriated by law, or to which the right of preemption or homestead settlement is attached.

The amendment was agreed to.

The next amendment was to add at the end of section two the following proviso:

And provided further, That said additional quantity of lands shall be disposed of only as follows: whenever proof shall be furnished, satisfactory to the Secretary of the Interior, that twenty consecutive miles of said railroad have been constructed, in a good, substantial, and workmanlike manner, then all of said additional lands lying along and opposite to said completed portion may be sold, and so on until the work is completed.

The amendment was agreed to.

The next amendment was in section three, line four, to strike out the word "from" and to insert the word "for;" and also to strike out the following proviso at the end of the section:

Provided, That no person who has held any office or appointment under the government of these so-called "confederate States," or who has borne arms against the United States, shall be a director in any railroad company receiving the benefit of this grant.

The amendment was agreed to.

Mr. POMEROY. The Senator from Missouri [Mr. HENDERSON] has an amendment that I should like to have reported to this bill.

The PRESIDENT *pro tempore*. The bill is still open to amendment.

Mr. LANE, of Kansas. I should like to have an opportunity of examining this bill and three others affecting the same section of country, which are pending before the Senate, and I will ask the chairman of the committee to let this bill lie over for the present, and I will agree with him at an early day to take them all up.

Mr. POMEROY. My colleague may not be aware that this is simply a revival of an old grant. In 1853 a grant of land was made to the State of Arkansas for a railroad. That grant lapsed in 1863, during the war. They built a little portion of the road, and abandoned it during the war. The State of Arkansas never had but one grant. I thought, and the committee thought, that that grant ought to be revived, so that the State may ultimately have an opportunity, within the next ten years, of building this road. This bill simply revives and enlarges the grant to ten sections per mile—the original grant was only six sections—and extends the time within which to complete the road for ten years.

Mr. TRUMBULL. I should like to inquire of the chairman of the committee reporting this bill if any portion of the route is through the Indian country, or through lands belonging to the Indians.

Mr. POMEROY. Not any portion of it, as I understand.

Mr. TRUMBULL. Then I should like to call his attention to the third section of the bill, which provides—

That all the lands mentioned in this act, and hereby granted, are reserved from entry, preemption, or appropriation to any other purpose than herein contemplated, for the said term of ten years from the passage of this act.

I submit to the Senate whether it is proper to tie up the public lands in that way. I am a member of the Indian Committee at the present session of Congress, and although not very familiar with Indian affairs, I find that in the making of treaties with the Indian tribes we are very much embarrassed by these grants of lands for railroad purposes. It is insisted that these grants take the lands, notwithstanding they have been reserved for the Indians, and that the United States, by passing a law of this character granting the public lands on each side of a railroad, obligates itself to remove the Indians so that the grant may take effect through their country. We shall have to appropriate several hundred thousand and probably millions of dollars at this session of Congress in consequence of railroad grants through Indian country.

Mr. POMEROY. There is no Indian country here.

Mr. TRUMBULL. I understand there is not in this bill; but we are notified by the other Senator from Kansas, [Mr. LANE,] that this is one of four bills, and a good many of the Kansas roads run through Indian country. I looked cursorily into the statutes and the treaties, and I was rather of the opinion that these grants of land through the Indian country which had been reserved to the Indians by treaty were nugatory; that they did not carry anything with the grant; that it was inconsistent with the treaty obligation of the Government. But it is replied to that that good faith requires the Government of the United States to make these grants good, that they have held out to capitalists that they shall have every alternate section of land for ten miles on each side of the road, and that they are bound to get the Indians out of the way.

I make these remarks not in reference to this special bill, which I trust will go over and be looked into, for it seems to me that this third section is objectionable. I do not believe in tying up the public lands of the country for ten years from settlement in this way.

Mr. POMEROY. The Senator from Illinois by reading the section carefully will see that it is only the alternate odd sections that are reserved for ten years. It is not the public lands.

Mr. TRUMBULL. I would not reserve them for ten years.

Mr. POMEROY. No railroad bill ever passed Congress that did not reserve for a limited period the odd-numbered sections, and the company were to get them as fast as they built the road. That is the provision in every bill. We do not reserve all the country from settlement. The even sections can be entered at any time all along the line of this road. This section simply reserves from settlement and preemption the odd-numbered sections for a distance of ten miles on each side of the road.

Mr. TRUMBULL. Will the Senator allow me to ask him if it has ever been the policy of the Government to reserve for such a lengthy period the lands from settlement?

Mr. POMEROY. Yes, sir.

Mr. TRUMBULL. Then I think we had better change that policy and allow the country to be settled.

Mr. POMEROY. These very lands, acre for acre, were reserved for ten years, from 1853 to 1863.

Mr. TRUMBULL. And now you propose to reserve them for twenty years.

Mr. POMEROY. Yes, sir; to give another ten years with which to build this road.

Mr. TRUMBULL. They have built no road, and yet you propose to keep this land out of market for twenty years.

Mr. POMEROY. They have built a part of the road.

Mr. CONNESS obtained the floor.

Mr. HENDRICKS. If the Senator from California will allow me, I wish to ask the Senator from Illinois one question. I feel the force of what he says, but I want to know of him how Congress can make a grant to a State to enable that State to build a railroad without taking the lands out of market. The grant is to the State of certain described lands. How is that grant to be made without taking the lands out of market? Will he make a grant to a State for a particular purpose, and yet allow from day to day the lands thus granted to be sold?

Mr. TRUMBULL. My objection was to the length of time they were reserved. These lands have been reserved for ten years already, and no road is built, and now you propose to reserve them ten years more.

Mr. HENDRICKS. I am not very particular about the number of years. This is a grant that was made more than ten years ago to aid in the construction of a road in Missouri and Arkansas. The Senator's own constituency have large interests in this very road; more, a great deal, as I understand, than the people of Arkansas. I think the president of the company is a citizen of Illinois, Mr. Bray-

man. It is upon his application that the time is now extended. The Senator knows that the financial trouble of 1857, and then the war coming on, prevented the construction of many railroads. This was one of the roads not constructed within the time limited by the act of Congress; but bonds have been issued and stock subscribed, and the committee thought it was but fair to allow a reasonable time for the completion of this road, as we have done in almost every other State where the companies have been unable to finish the road within the time fixed. The grants are made upon the condition that the roads shall be constructed within ten years. That has been the character of all the grants since the first grant made to the State of Illinois for the great Central road. The condition is that the road must be finished within ten years, else the lands granted shall revert to the Government. Now, the Senator knows that in 1857 a very severe financial crisis came upon the country and stopped almost all work upon railroads. It affected enterprises in Iowa, Wisconsin, and in other States; and during the last and the present session of Congress we have extended in some cases for five years, and in some cases, I believe, for eight years, the time within which the roads might be completed, giving a reasonable time for the completion of the roads. Now, if the Senator thinks that ten years is too long, let him propose an amendment; but certainly he will not defeat the investment of money already made, mainly by men from the northern States, in this particular road, upon the technical proposition that the time limited has expired.

Mr. CONNESS. This provision had attracted my own attention, and I was about to speak of it when the Senator from Illinois rose. I find it, at least in its objectionable form to my mind, in the first section, in the revival and extension "for the term of ten years from the passage of this act." I wish to say that I am in favor of continuing rights to this company or to any company who will build a road through the new territory; but I do not think that this is the right form of condition, nor that it is the usual form of condition; but if it be, I join the Senator from Illinois in saying that it is time to change it. The fair terms upon which a grant of the public lands may be given to a company should be distinctly stated. This may be considered as a new grant; but in reviving it, it should be continued to the same parties, in my opinion. But it has lapsed, and they have no rights in it; and it is, to all intents and purposes, a new grant to be made to them. Then I think the conditions that should accompany it should require that they begin the road within a given time, say two years, as provided in all the bills I have introduced asking for grants to railroad companies, and then require that they shall construct a certain number of miles each year thereafter, and that they shall construct the whole extent of the road within a given time, and that they shall be entitled to land continuous with the road as fast as they construct it. These are conditions which leave the title of the land in the United States in case the road shall not be built, and conditions also of the strongest kind, as I think, to induce the building of the road; but this seems to be a very loose and general provision, "that the above recited act," referring to an act that is not before us, "with all the provisions therein made, be and the same is hereby revived and extended for the term of ten years from the passage of this act." I am in favor of the bill; but I suggest that it ought to have another form. I think this is a very objectionable form. Grant lands, I say, for the construction of those great improvements which bring settlement and civilization into the far West, but require the parties to commence within a given time not distant, and to go steadily forward with the improvements, and then let their title accrue as they carry on the work. I think that these bills ought to have that shape and form.

Mr. TRUMBULL. In reply to the Senator

from Indiana, I wish to say that he did not answer at all the suggestion which I made. I was not objecting to a land grant, nor to reserving from sale a portion of the public lands in aid of such a grant. I did not object to the bill upon that ground, and propose to require that the Government should go on and sell the lands from day to day; but it seemed to me that the length of time here proposed, ten years, was an unreasonable time to tie up these lands. I quite agree with what the Senator from California has said, that where parties had rights which were interrupted by the rebellion, it is no more than proper that they should be continued; but the fact that people in the State of Illinois are interested in it, or that a gentleman from that State is president of the road, does not alter the propriety of making the grant, nor would it alter my course in reference to the bill. It seems to me that this third section ties up the land quite too long.

The other suggestions which I made in regard to these land grants generally were not applicable to this particular bill, because I understand this road does not go through the Indian country. I made those suggestions because I understood that there were other bills, as was stated by the Senator from Kansas, [Mr. LANE,] for roads which might probably go through the Indian country; and I had found in my action upon the Committee on Indian Affairs, that we were very much embarrassed in providing for the Indians, and the Government was put to expense in consequence of these land grants; and I think that when we make the grants they ought to be made in a way not to complicate our difficulties with the Indian tribes.

Mr. HENDERSON. I offer this amendment to come in as a proviso at the end of the third section of the bill:

Provided, That all lands heretofore given to the State of Missouri for the construction of the Cairo and Fulton railroad, or for the use of said road, lying in the State of Missouri, and all lands proposed to be granted by this act for the use or in aid of the said road herein named, and lying in the State of Missouri, shall be granted and patented to the said State whenever the road shall be completed through said State, which lands may be held by the State of Missouri and used for paying the State for the amount of bonds heretofore issued by it to aid said company, and all interest accruing or to accrue thereon.

In 1853 a grant of land was made by Congress to the State of Missouri for the use and benefit of this road, or to aid in its construction; and the State granted the lands to the company. There was a company organized called the Cairo and Fulton Railroad Company. There was a magnificent grant of lands, as I understand, given also to the State of Arkansas for the same purpose. A company was organized about the year 1854, 1855, or 1856, who obtained, in addition to the lands that were granted by Congress, a grant of some \$700,000 in bonds from our State; and they used those bonds, built some twenty-five or thirty miles of road with the proceeds of the bonds they sold, and the State of Missouri has been compelled ever since that time to pay the interest on the bonds. The company has never paid a dollar of interest since the issue of the bonds, I believe. I really do not know the condition of the lands, because I am not now so familiar as I was in 1856, 1857, or 1858 with the history and condition of this company; nor am I so well acquainted with the condition of these lands as respects the right of my State to them. Whatever lands of this grant are unsold now in the State of Missouri—and I do not know what quantity of lands there are unsold by the company—of course will be regranted under this bill. I desire that the State of Missouri shall hold a lien upon those lands and that Congress shall not revive this grant so as to pass the title out of the State of Missouri, but I desire that the State shall hold a lien on these lands or any lands that may be granted in this bill within the borders of that State in order to pay back to the State of Missouri the amount that she has already issued in aid of this road.

The company have not built road enough, as

I understand, to have properly and legitimately consumed the amount of bonds issued by the State of Missouri. In other words, I mean to say that with a most magnificent grant of lands they have never built any more road than they could build out of the State grant. We gave them the lands, and in addition to that gave them \$700,000 of bonds; and they have not used any money according to my impression, not, perhaps, one cent of money, except what the State of Missouri gave to them; and having used those bonds they have failed to pay back one dollar of interest; they have not reimbursed the State for the grant.

I make no opposition to the passage of the bill. It may be passed; I desire to see these railroad improvements put forward as rapidly as it can be done. I have no objection to it whatever. I do not look upon these railroad grants as damaging to the public, for the reason that we charge double price for the reserved sections of land, and I believe that the double price is more readily paid than the single price without the construction of the roads. I make no objection to it; but I do desire that my State shall be reimbursed now while I have an opportunity of doing it. I hope no objection whatever will be made to the amendment.

Mr. POMEROY. I think there is no objection to the amendment. The facts of which the Senator speaks were not before the committee; if they had been no doubt the committee would have reported such an amendment.

Mr. GRIMES. The Senator from Missouri himself confesses that he is not familiar with the facts in this case, and has not been since 1856, 1857, or 1858.

Mr. HENDERSON. Let me correct the Senator from Iowa. What I stated was that I am not now as familiar as I once was with the exact condition of the lands lying in my State. This road only runs thirty-seven or thirty-eight miles in my State. I do not now remember whether the State granted the lands to the company in fee and permitted the company to sell them. I do not know what amount of lands remain unappropriated or unsold under the old grant of 1853. I do not wish the Senator to understand that I am at all ignorant of the fact that the company have \$700,000 of the bonds of the State of Missouri, and that the State of Missouri originally owned these lands. Now, as I understand, the object of this bill is to revive the land grant which is now dead. I want this revival to inure to the benefit of the State of Missouri, so that we can hold a lien upon these lands. We did once hold a lien, and if the act is revived I want the benefit of that lien still. What I meant to say was that I am not exactly familiar with the title to the land; that is all. I do not like to state that I am fully acquainted with a fact when I am not.

Mr. GRIMES. It is quite evident that there is a conflict of interest between the State represented by the Senator from Missouri and some railroad company.

Mr. HENDERSON. I want them to pay us back.

Mr. GRIMES. And this is the method which the Senator proposes to adopt to collect the money from the railroad company. I understand that to be his purpose, to make them pay. Now, I suggest whether we had not better let that railroad company be heard before our Committee on Public Lands.

Mr. POMEROY. I will state to the Senator that the president of this road was before the committee. These facts were not presented at the time, but he has since written to me, and virtually drew this amendment himself. The Senator from Missouri has changed the phraseology, but the president of the road said that what the Senator from Missouri desired was just and right.

Mr. GRIMES. But it is not known what interest we are going to conflict with by this sort of legislation. I do not know anything about it. In fact I do not comprehend fully the statement that has been made by the Senator from Missouri. I should like to have some

report or some further explanation on the subject.

Mr. McDOUGALL. I think I understand the question pending. A grant of lands was made originally to the State of Missouri and conceded by the State to this company, and the bonds of the State were issued upon the company promising to pay the interest upon the bonds. It is a fact, I think, understood by persons who have been conversant at all with the subject, that the company has paid no interest. The concession to the company was based on its obligation to pay interest. In making the grant it is undoubtedly just that the State of Missouri should be protected, the concession having been to her in the first instance, and from her to the company, with the understanding that the interest would be assumed and paid by the company. That is understood, I believe, by every person who knows anything about railroading in the State of Missouri and the West. It is a simple statement of what we have done heretofore, and it is due to the State of Missouri that she should be protected.

Mr. GRIMES. I have examined this amendment since I addressed the Chair, and I think there does not seem to be the objection to it which I apprehended at the time I spoke.

Mr. LANE, of Kansas. Has not the State of Missouri entered upon and sold this railroad?

Mr. HENDERSON. I understand not. I believe it is advertised to be sold some time in June, but it has not yet been sold.

Mr. POMEROY. They could not sell public lands. This is a question of reviving a public land grant.

Mr. HENDERSON. Certainly. The State of Missouri holds a lien on the road and lands, too; and I do not want this act to operate to take that lien away from the State of Missouri. That is all I am aiming at. I do not want the effect of this act to be to deprive the State of its present lien on the lands. The State not only has a lien on the lands legitimately and properly, but a lien on the railroad itself; that is, on the bed of the road. Now, I believe that the State is proceeding to sell the road. I suppose, however, that if this grant is revived the company will get credit enough to go on with the road. I apprehend they will, and perhaps will pay off the State the amount of the bonds; but I do not want to put it in the power of the company to neglect to pay. I want a lien on the lands, and in all probability, then, Governor Fletcher will stop proceedings under the advertisement to sell. We hold that we have a lien, a legal lien, for the payment of our bonds upon the road. He perhaps will suffer them to proceed, having, perhaps, credit enough to put their own lands in the market, and raise the money to pay off the State bonds. If they do, of course we are satisfied, and the lands will then go to the company under my amendment, because the State only holds a lien upon them to satisfy this debt.

The amendment was agreed to.

Mr. POMEROY. To meet the suggestion, which was a very good one, of the Senator from California, I move to amend the bill by striking out, in the third line of the first section, the words, "the above recited act," and to insert the whole title of the original act.

Mr. LANE, of Kansas. I hope the bill will be passed by for the present.

Mr. POMEROY. If the special order is now to be taken up, I have no objection to that.

Mr. LANE, of Kansas. I desire time to examine the bill.

Mr. POMEROY. I should like to have this amendment adopted, first.

Mr. HENDERSON. I move that the Senate do now adjourn.

Mr. WILSON. I hope the Senator will withdraw that motion for a moment, to enable me to make a motion in reference to the committee provided for yesterday.

Mr. HENDERSON. I withdraw the motion.

DEPOSITS IN NATIONAL BANKS.

Mr. WILSON. I move that the select com-

mittee ordered yesterday to inquire into the condition of the national banks with respect to deposits of Government funds, consist of five members, and that the committee be appointed by the Chair.

The motion was agreed to.

JOHN GORDON.

Mr. VAN WINKLE. I move that the Senate proceed to the consideration of the bill (S. No. 294) for the relief of John Gordon.

The motion was agreed to; and the bill was read a second time and considered as in Committee of the Whole. It will be an authorization to the Postmaster General to pay to John Gordon, messenger in that Department, for extra services performed out of office hours during the administration of Postmaster General Campbell, any sum that he may, in his opinion, believe him to be entitled to, at the rate of \$250 per annum.

Mr. HENDERSON. Has this bill received the sanction of a committee?

Mr. VAN WINKLE. Yes, sir; and there is a written report.

The bill was reported to the Senate, ordered to be engrossed for a third reading, read the third time, and passed.

Mr. HENDERSON. I now renew my motion that the Senate adjourn.

Mr. VAN WINKLE. I hope the Senator will allow me to call up another little bill, a pension bill, which was accidentally omitted the other day when pension bills were being considered.

Mr. HENDERSON. I cannot withdraw my motion.

The motion was agreed to, there being, on a division—ayes 19, noes 7; and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

FRIDAY, May 25, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOXTON.

The Journal of yesterday was read and approved.

LEAVE OF ABSENCE.

The SPEAKER. The Chair asks leave of absence for the gentleman from Rhode Island, Mr. JENCKES, until Tuesday next.

No objection being made, leave was granted.

WITHDRAWAL OF PAPERS.

On motion of Mr. KETCHAM, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of Major D. C. Ruggles, late a paymaster in the United States Army, copies being left.

On motion of Mr. BIDWELL, by unanimous consent, leave was granted for the withdrawal from the files of the House of the papers in the case of the town of Santa Barbara.

CULTIVATION OF FOREST TREES.

Mr. DONNELLY, by unanimous consent, introduced a bill to encourage the growth of forest trees upon the western plains; which was read a first and second time, referred to the Committee on Public Lands, and ordered to be printed.

MAIL SERVICE.

Mr. HUBBARD, of Iowa, by unanimous consent, introduced a bill to repeal the fourth section of the act approved March 5, 1864, and the act approved January 20, 1865, to provide for carrying the mails; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

PENSIONS.

Mr. PERHAM, by unanimous consent, from the Committee on Pensions, reported back bill of the House No. 363, supplementary to the several acts relating to pensions, with the amendments of the Senate thereto, and moved that the amendments of the Senate be non-concurred in, and that a conference be asked on the disagreeing votes of the two Houses.

The motion was agreed to.

LAND GRANT TO MICHIGAN.

Mr. DRIGGS. I ask the unanimous consent of the House to report back from the Committee on Public Lands bill of the Senate No. 219, granting certain lands to the State of Michigan to aid in the construction of a ship-canal to connect the waters of Lake Superior with the lake known as Lac La Belle in that State.

Mr. SPALDING. I object, and call for the regular order of business.

MEMORIAL REFERRED.

Mr. DEFREES, by unanimous consent, presented the memorial of the trustees of the Indiana Agricultural College; which was referred to the Committee on Public Lands.

CORRECTION.

Mr. WRIGHT. I desire to state that I voted in the affirmative on the passage of the bankrupt bill, and that my vote is not recorded.

CANAL AND SEWERAGE COMPANY.

The SPEAKER. The morning hour has commenced, and the House will resume the consideration of Senate bill No. 190, to incorporate the District of Columbia Canal and Sewerage Company, reported from the Committee for the District of Columbia on Friday last, and on which the gentleman from Illinois [Mr. INGERSOLL] is entitled to the floor.

The pending question was upon ordering the bill to be read a third time now.

Mr. INGERSOLL. I move to amend the first section by changing the name of "Whitman Bestor" to "George L. Bestor," and to add the names of "Kingman F. Page, Charles H. Sherrill, and Amos C. Babcock."

The amendment was agreed to.

Mr. INGERSOLL. I move to add the following, "except in the mode and manner hereinbefore provided for," to section seven-teen of the bill, which now reads:

SEC. 17. *And be it further enacted, That nothing in this act contained shall be held or deemed, in any manner or way, to injure or impair any public or private rights or interests, or in any manner to affect the same beyond the mere transfer of the rights of the United States to said District of Columbia Canal and Sewerage Company.*

The amendment was agreed to.

Mr. INGERSOLL. Mr. Speaker, as I desire a vote on this bill to-day, I have concluded to occupy but ten minutes' time in explaining the bill. Then I shall yield ten minutes to be used entirely by the gentleman from Maryland, [Mr. F. THOMAS], or to be divided between him and my colleague on the committee, [Mr. McCULLOUGH], as they may see proper; and then I shall take ten minutes to close the argument, and shall then ask a vote on the bill.

Mr. F. THOMAS. Lest it should be inferred from my silence that such an arrangement would be agreeable to me, I have simply to say that it would be utterly impossible for me in ten minutes to explain the position I occupy in relation to this measure. I shall hope, therefore, that the gentleman from Illinois [Mr. INGERSOLL] will allow the usual latitude of discussion, or, if he does not, that the House will grant it. It is a matter of vast importance to my congressional district, as I will explain to the House if the opportunity be offered.

Mr. INGERSOLL. I am as anxious to accommodate the gentleman from Maryland [Mr. F. THOMAS] as any one can be; but I am anxious to dispose of this bill, in order that we may report other bills from the committee which are of importance to this District, and I do not propose to devote any more time to the consideration of this bill than is necessary for a full and fair understanding of its provisions.

Mr. McCULLOUGH. I have an amendment which I wish to offer to this bill. I wish to ask if I can offer it now.

The SPEAKER. It will be in order if the gentleman from Illinois [Mr. INGERSOLL] will yield for that purpose.

Mr. INGERSOLL. I cannot yield for that purpose now.

Mr. McCULLOUGH. I offered this amendment in the committee, and I understood the

chairman of the committee [Mr. INGERSOLL] to promise me that I should have an opportunity to offer it in the House.

Mr. INGERSOLL. Well, I will give the gentleman an opportunity to offer his amendment.

Mr. McCULLOUGH. That is all I want.

Mr. INGERSOLL. Will the gentleman state his amendment now?

Mr. McCULLOUGH. I desire to have the bill amended in the second section by striking out the words, "so as the manner of making the connection shall not injure or impair the bank of said canal and sewer where the connection shall be made."

Mr. INGERSOLL. Well, I believe I would prefer to have that amendment considered and disposed of now rather than at any other time.

Mr. McCULLOUGH. I offer the amendment, and if it is in order I would like to say a few words in explanation of it.

Mr. INGERSOLL. I will yield two minutes for that purpose.

Mr. McCULLOUGH. Mr. Speaker, this bill, as it passed the Senate and is reported to this House, gives to this corporation a power and control over the sewerage system of the city of Washington which every member of this House should be opposed to, in my opinion, who is desirous of seeing the health and prosperity of this city promoted. It will not be denied, I presume, that the free and untrammelled use of this canal is absolutely necessary to a proper sewerage of the city. In fact, without this it will be impossible to preserve the health and cleanliness of the city. Now, sir, if the provision which I ask to have stricken out remains this corporation has such control over this important matter as will greatly, if not entirely, prevent the authorities of Washington from using this canal as a deposit for the filth of the city. The provision which I ask to be taken out says that "the manner of making the connection shall not injure or impair the bank of said canal and sewer where the connection shall be made." This provision, in my opinion, Mr. Speaker, gives to this corporation the power to stop the city authorities from making such connection, when in the opinion of said corporation it will "injure or impair the bank of said canal and sewer." It certainly will give them the power to object and say that such connection will injure the canal, and will lead to a conflict of rights. In a great city such as this should be, such an important matter as its health and cleanliness should not be under the control of a private corporation; and for these and other reasons which will suggest themselves to members I move to strike out this provision.

Mr. INGERSOLL. In order to fully understand the effect of the amendment of the gentleman from Maryland [Mr. McCULLOUGH] I will read a portion of the section:

That the said company is hereby authorized and empowered to survey, locate, and lay out and construct a canal and sewer between the Anacostia river, commonly known as the Eastern branch, from a point thereon near its junction with the Potomac river, to a point on the old canal near Virginia avenue, which passes through the city of Washington; thence in, by, along, and through said old canal, to the western corporate limits of said city of Washington; and thence to the Chesapeake and Ohio canal at its terminus at Georgetown, in the District of Columbia. The said canal and sewer, when constructed, shall constitute and remain a depository and duct for the sewerage from the city of Washington, and from the property of the United States therein; and the proper corporate authorities of the city of Washington shall always have unrestricted and full power to determine where the sewers of said city shall connect with the said canal and sewer, and the manner in which said connections shall be made, so as the manner of making the connection shall not injure or impair the bank of said canal and sewer where the connection shall be made.

Now, the words proposed to be stricken out simply throw some protection around this canal and sewer by providing that—

The manner of making the connection shall not injure or impair the bank of said canal and sewer where the connection shall be made.

Now, it seems to me that it is but just to the corporation that the city of Washington shall not be allowed to make the connection of its

lateral sewers with this main sewer in such a manner as to destroy the banks of the canal, because the connection can be made in such a way as not to interfere with the canal in the least. The bill, as it stands, simply provides that the city shall have the unrestricted use of the canal for sewer purposes, making connections when and where it pleases, but in such a manner as not to injure or destroy the banks of the canal. This restriction upon the manner of making the connection the gentleman from Maryland desires to strike out. I object to such an amendment, and I hope it will not be adopted. I ask the previous question on the amendment.

The previous question was seconded and the main question ordered.

On agreeing to the amendment, there were—ayes 26, noes 28; no quorum voting.

The SPEAKER, under the rule, ordered tellers; and appointed Messrs. INGERSOLL and McCULLOUGH.

The House divided; and the tellers reported—ayes 41, noes 56.

So the amendment was rejected.

Mr. INGERSOLL. Mr. Speaker, I am, of course, aware that this bill does not command any general interest, because it is local in its application, and members who are not upon the Committee for the District of Columbia may, perhaps, take no interest in it; but I trust gentlemen will give sufficient attention to the explanation I desire to make as will enable them to give an intelligent vote upon the question.

This bill proposes to incorporate into a body-politic certain gentlemen named in the first section, with power to construct a canal along the line of this old ditch which has been a disgrace to the city for over sixty years. It is proposed to dig the canal ten feet below low tide, so that there shall be ten feet of living, pure water in the canal at all times. It is proposed that it shall be a commercial canal, and connect with the Chesapeake and Ohio canal at Rock creek, in Georgetown; thence proceeding by the line of this old canal, upon it as near as can be, to deep water on the Anacostia creek, or Eastern branch, as it is sometimes called. The bill proposes to convey to this corporation whatever interest the United States has, if it has any, in this old canal. It is yet to be settled whether the United States has any interest in this old canal or not. The corporate authorities of Washington claim that they have an interest in it. The committee think that the United States has an interest of some kind, but an interest of no particular value, and of no value at all in the present condition of the canal. We propose that, if the United States has any interest in this canal, we shall get rid of it, and give it to this corporation that proposes to construct a good commercial canal. It proposes that this old canal, now exhaling malaria and disseminating disease, shall be flooded with water within thirty days after the passage of this bill, so that the canal may conduce to the health of the city.

This bill originated in the Senate. It received a thorough examination at the hands of the Senate committee, and was reported by the chairman of that committee. After some discussion it was passed in the Senate without a dissenting voice, if my recollection is correct, though I may be mistaken about that. The Committee for the District of Columbia of the House have investigated this matter, and have concluded that this bill presents the only feasible plan for making this old "ditch" a useful structure for the benefit of the city of Washington.

In the year 1802 Congress chartered the first company for the construction of this canal, with a capital of \$80,000, on the condition that unless it should be completed within a certain period of time all rights and grants by virtue of the charter should cease and become void. That company became extinct. Another organization was incorporated in 1809 with similar restrictions and conditions. Thus

the matter continued from 1809 till 1833, no canal being completed by either of these organizations.

In 1833, this city corporation made some kind of purchase—for what consideration I know not; neither does the committee, nor do the corporators of the old canal. Those corporators had a capital stock of \$150,000, but what price they sold out for to the corporation of the city of Washington I do not know. But in 1832 or 1833 the city of Washington presented a bill to Congress declaring that they had made a bargain and purchase from this canal corporation, and asking Congress to vest in them whatever rights the United States had in this canal, because they believed, by reason of the neglect of that corporation to perform the duties imposed upon them by the charter, they had forfeited all rights to the canal to the Government of the United States in the canal. So an act was passed in 1833 giving to the city of Washington whatever rights the United States had in the canal, and the canal became the property of the city of Washington; but on the condition, mark you, that it should go on and complete the canal within one year from and after the passage of the act. Years rolled around and the city of Washington did next to nothing. They never made it a commercial canal. They never did anything, except to get money from the United States. They received \$20,000 on two different occasions to clean out the canal or to make some repairs. On another occasion, the city of Washington obtained \$150,000 out of the Treasury of the United States for the purpose of liquidating the debt they had contracted on the purchase of the canal from the original corporators. The Government of the United States has never received any consideration from the city in return for this expenditure, but the city has from that time up to the present collected wharfage and rent to the amount of several thousand dollars per year. The canal has been used for no other purpose than to spend money on or to get money out of the Treasury.

These men who seek to be incorporated claim that the city of Washington has never paid a dollar for the canal; if there was any money paid to the original corporators it was paid by the Government under act of Congress. The city of Washington has never paid a dollar. Instead of performing the conditions of the charter or the agreement with the Government it has violated them. Yet, sir, notwithstanding the fact, the city has had undisputed control of this "old ditch" or canal for nearly thirty-five years. They have done nothing with it except on three different times to receive from the Treasury of the United States \$190,000 in the aggregate. They may have spent some of it in cleaning the canal, but little for the purpose of constructing a canal which would be of any benefit to commerce.

The committee believe to leave this canal as it is it will never benefit any one—it will never benefit the city of Washington. The committee believe the city of Washington has forfeited whatever rights it had in it. It never had any real right. It made a contract with the original corporators, but subsequently Congress appropriated \$150,000 to pay that claim of the original corporators on the sale of the canal to the city. I suppose it paid the money to the original corporators, or put it into their own pockets or into the city treasury. There has been no money paid by the citizens of Washington or the city of Washington in its corporate capacity for this purchase of the canal. So the city of Washington loses nothing by the bill, but gains immeasurably if these parties construct a commercial canal in accordance with the provisions of the bill. It will be a source of revenue, and of great benefit to the city. It will cheapen the price of coal and building material of all kinds.

And so that we shall not trespass upon the rights of any person or body politic, it is provided that whatever rights, public, private, or corporate, in or to this canal shall be protected.

The corporation sought to be created by this act has no authority to take one cent's worth of property which belongs to the city of Washington or to any individual except by paying the full value of the property, to be ascertained in the usual mode when private property is taken for public uses.

The committee have proposed by this bill to authorize the construction of this canal by this corporation and to give it whatever rights or interest the United States Government has in this old canal. If the Government of the United States has any interest in it the committee have failed to see that it is of any advantage or of any value to the United States. If the corporate authorities of the city of Washington own the canal and it is of any value to them the bill provides that this corporation shall pay every dollar that it is worth before they appropriate it.

It is objected, as I have heard, that this bill authorizes this corporation to take all the land that may be made or reclaimed out of the waste land lying along the line of the canal for its own use. There is not one word of truth in it. The bill simply provides that this corporation shall have eighty feet in width for the canal and six feet additional on each side for a tow path, and nothing more. Any land beyond that that now belongs to the city of Washington or to the Government of the United States is reserved to the city of Washington or to the Government, so that this corporation does not get one single rod of ground additional.

It is objected, as I understand, by the gentleman from Maryland [Mr. F. THOMAS] that this bill proposes to seize several hundred thousand dollars' worth of the property of the Chesapeake and Ohio Canal Company. Now, I cannot for my life see wherein or by what provision of this bill such a statement is warranted. It does provide that this corporation shall have power to construct a canal from Seventeenth street west to Rock creek. I will admit that some forty years ago or more, when the Chesapeake and Ohio Canal Company was chartered, the charter authorized that company to build their canal to Seventeenth street west, and that it did extend it to that point and used it for a time. But there is a provision in that charter, also, that if the company shall fail to use any portion of the canal or keep it in repair for commercial purposes it shall forfeit its charter to that extent, at least that is my view of the law. The Chesapeake and Ohio Canal Company has the terminus of their canal at Rock creek, in Georgetown, one mile and a quarter west of Seventeenth street.

Twenty years have elapsed since the Chesapeake and Ohio Canal Company have used this part of their canal. It is now filled with sand, mud, and rubbish of one kind and another to such an extent that there has not a canal-boat passed through it for that length of time, as I am informed. There is at Seventeenth street an old lock with a gate, but it is filled up with earth to such an extent that it has not been opened for nine years. But yet the gate-keeper stays there, and he told me the other day that the gate had not been opened for nine years. And yet the company keep him there and pay him a salary. No wonder they pay no dividends if they conduct business in that manner.

If, however, the Chesapeake and Ohio Canal Company have any vested right in this old canal, which they have not used for twenty years, whatever right it has is still reserved. The bill does not propose to take anybody's property in any other manner than is usually done when you incorporate a company and give it authority to take and pay for such property as it may require to carry out the purposes of the incorporation. This company must have some right to take property, but it must be so guarded as to protect the rights of individuals and be compelled to pay for all the property taken before it is applied to the use of the corporation.

Such are the provisions of the bill under consideration. If there are any vested rights

in the Chesapeake and Ohio Canal Company to this portion of the old canal it will not be deprived of them. It simply authorizes the construction of a canal and the condemnation of property with payment therefor. If this old canal is in such a condition that it cannot be used, and if the right of the city in it is one of those rights that cannot be invaded by a corporation of this kind, all they have got to do is to apply to a court for injunction and stop this work at once. And precisely the same thing may be done by the Chesapeake and Ohio Canal Company. This bill confers no extra privilege and no extra rights upon this corporation. None whatever. It simply authorizes the construction of a canal just as if no "ditch" had ever been built through the city, and provides for the payment of all property, whether of the Chesapeake and Ohio Canal Company, the city of Washington, or of private persons. They are all protected.

The object of the bill is to give this city a commercial canal that will connect the coal regions of Maryland with this city. It is proposed, as a part of the contemplated improvement, to construct a canal from the Anacostia or Eastern branch to Annapolis, and from there there is a water communication by the Chesapeake bay from Annapolis to Baltimore, and so on to Philadelphia, and by canal already open to New York, which will shorten the distance to New York by water two hundred and fifty miles. It saves a sea voyage of five hundred and seventy miles from Georgetown to New York if these twenty miles of canal between the Anacostia and Annapolis shall be completed.

These are some of the objects sought to be attained by this bill, and in my opinion the work will be done. So far as the committee can judge, the men who propose to do the work are men of energy and ability. The committee have no idea that the city of Washington or the Government of the United States will ever build the work. This company propose to build it without a dollar's tax on the city of Washington or taxing the United States Treasury one farthing.

Mr. Speaker, as I wish to pass this bill this morning, I will yield in two minutes to the gentleman from Maryland, [Mr. F. THOMAS.]

Mr. F. THOMAS. Oh, no, sir; I could not accept the time. The gentleman intends it as a very polite proposition, and I have no doubt it is made in a very kind spirit.

Mr. INGERSOLL. I said that in two minutes from this time I would yield to the gentleman.

Mr. F. THOMAS. Oh! I beg your pardon.

Mr. INGERSOLL. I only want two minutes more myself. I would consider it highly improper to offer the gentleman but two minutes.

Mr. Speaker, this franchise is now said to be of considerable value to the city of Washington, and that there would be some great wrong done in allowing this company to build the work.

When the Committee for the District of Columbia was organized at the commencement of this session we were importuned by the authorities of the city of Washington to take this canal off the hands of the city; they besought the committee to take the old canal, which had been a disgrace and a nuisance, and fill it up, or dig it out, or do something with it in order to relieve the city from it. A proposition was made to build a sewer within the canal and then cover it all over with earth, and destroy it forever for any commercial purposes. All sorts of propositions were made to the committee; and when this bill was introduced into the Senate two months ago we heard no objection to it. It was carefully examined and considered, and it passed the Senate by an almost unanimous vote. After it had been considered by the committee of this House the city of Washington said, all at once, that some right of immense value was being disposed of to their injury.

Now, so far as Congress is concerned, I do not suppose it cares who makes the canal—

whether it is done by the Chesapeake and Ohio Canal Company, by the corporation of the city of Washington, or by any other corporation. If a private corporation will construct this canal free of expense to this city and to the Government, then I am in favor of that corporation; and I believe that is what this bill will accomplish.

Mr. FARNSWORTH. I find in the fourteenth section of this bill the following provision:

That the said company shall, within thirty days after the passage of this act, cause a constant stream of fresh water to be turned into and upon the said old canal, and to flow through the same from the western corporate limits of the city of Washington to the Anacostia river, and to continue so to flow until the 20th day of October next, in default whereof the said corporators of said company shall forfeit and be jointly and severally liable to pay to the United States the sum of \$2,000 recoverable on motion made by the mayor of the city of Washington or any other person, after ten days' notice thereof, duly served, in the supreme court of the District of Columbia, or any other court having competent jurisdiction:

I would ask my colleague [Mr. INGERSOLL] if this corporation will be liable to this forfeiture before they shall signify their acceptance of the terms of this act. I do not find any provision in this bill prescribing that this corporation shall signify their acceptance of this grant. Does my colleague suppose that this company can be made liable before they have done anything to signify that they are a party to this act?

Mr. INGERSOLL. No, sir; I do not think they could.

Mr. FARNSWORTH. Should there not be a provision in this bill providing that this company shall signify their acceptance of this grant within a certain time after the passage of this act?

Mr. INGERSOLL. I am willing to agree to any amendment of that kind the gentleman may offer. I will now yield the remainder of the morning hour, but one minute, to the gentleman from Maryland, [Mr. F. THOMAS.]

Mr. F. THOMAS. The gentleman from Illinois [Mr. INGERSOLL] proposes that I shall in the short space of ten minutes answer the argument which he has submitted to the House on a measure of vital importance to my constituency, and at the same time weave into the discussion all those elements which it has suited the peculiar views of the gentleman to leave out of his remarks. Now, it is for the House to determine whether such a proposition is reasonable in itself.

Now, when the gentleman from Illinois [Mr. INGERSOLL] shall have concluded his remarks I will ask the indulgence of the House to endeavor to explain fully and clearly the whole bearing of this proposition, which, as I have already stated, is of vast importance to the interests I represent; for this is by no means a local measure. I know I have the opportunity of consuming the next seven or eight minutes, and then this bill will go over, as a matter of course. But I will deal more courteously with the House, and ask them to postpone the further consideration of this bill until next Friday morning.

Mr. INGERSOLL. I am willing, if the House will consent, that this bill shall be discussed for two days, and then the gentleman can have all the time he desires, if the House will consent to give it to him. And I will join with the gentleman from Maryland in asking the House to give him all the time he wishes, or for two or three hours in addition to what he would have now, if we can have it, say to-morrow, instead of using up next Friday morning, which is private-bill day. I know there are several other committees that desire to introduce private bills, and the longer this bill is considered on private-bill days the longer the other committees will be crowded out. Now, if the House will give us to-morrow, or another hour to-day, or a night session, I will be willing that the gentleman from Maryland [Mr. F. THOMAS] shall take all the time he wants.

The SPEAKER. If this bill is debated until the close of the morning hour it will go over until next Friday morning; or if the

House shall meet to-morrow this bill would come up to-morrow morning, Saturday being private-bill day as well as Friday.

Mr. F. THOMAS. Before I utter another word I will ask the gentleman from Illinois if I am to understand that I have the floor as of right or as a concession from him. If I have it as a right I know how to act; if I hold it as a concession from him I also know how to act.

Mr. INGERSOLL. I want the gentleman from Maryland [Mr. F. THOMAS] to understand that it would be as gratifying to me as it would be to himself to have him occupy the floor as a right. But if the House will not allow us any more time than the morning hour of to-day and the morning hour of next Friday, I must ask a vote in the morning hour.

The SPEAKER. The Chair will state to the gentleman from Illinois [Mr. INGERSOLL] that this bill must be disposed of before any other committee can be called for private bills.

Mr. INGERSOLL. Will the gentleman from Maryland state how much time he wants?

Mr. F. THOMAS. I cannot tell that.

Mr. INGERSOLL. I will ask the Speaker how long before the morning hour will expire.

The SPEAKER. It will expire in four minutes.

Mr. SPALDING. Will the gentleman from Illinois yield to me to submit a motion to determine the question whether we are to have a session of the House to-morrow or not? I desire to move that when the House adjourns to-day it be to meet on Monday next.

Mr. INGERSOLL. I cannot yield for that purpose now. Now, I want to deal in all fairness with the gentleman from Maryland and to accord to him not only his rights but even more. I want to be as courteous and indulgent as it is possible for me to be. But I am aware that if he now takes the floor without restriction, then within one or two minutes the morning hour will expire, and he will have all the next morning hour, and then the bill will go over another week. And in that way this bill may be postponed four or five weeks. Now, if we are to derive any sanitary advantages from this bill, the sooner it is passed, if it is to be passed, the better. If the gentleman will say that he will yield after having occupied thirty minutes, I will yield to him with pleasure.

Mr. F. THOMAS. I hope the gentleman will excuse me if I say that to me one of the most unpleasant scenes that ever occurs on the floor of the House is the position that some gentlemen claim, to have the right to occupy the floor and say to other members who shall speak, how long they shall speak, and when.

Mr. INGERSOLL. I have this much to say in reply to the gentleman from Maryland, [Mr. F. THOMAS,] that it does seem to me that he is determined that I shall not be even courteous, though I am willing to yield to him all the time of the next morning hour that I can. But I cannot consent to give him more than thirty minutes. I want to know if the House desires to discuss this bill for three or four weeks, thereby preventing the reporting of any other private measure for that time. I will call the previous question unless the gentleman will consent to occupy but half an hour during the next morning hour.

Mr. F. THOMAS. I cannot promise anything like that.

Mr. INGERSOLL. I then call the previous question.

The question was taken; and upon a division there were—ayes 25, noes 75.

So the previous question was not seconded.

The SPEAKER. The morning hour has expired, and this bill goes over until the morning hour of the next private-bill day.

MESSAGE FROM THE SENATE.

A message was received from the Senate, by Mr. FORNEY, its Secretary, notifying the House that that body had passed Senate joint resolution No. 87, to provide for the payment of bounty to certain Indian regiments, in which he was directed to ask the concurrence of the House.

ENROLLED JOINT RESOLUTIONS.

Mr. COBB, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled joint resolutions of the following titles; when the Speaker signed the same:

A joint resolution (S. R. No. 74) providing for the acceptance of a collection of plants tendered to the United States by Frederick Peck; and

A joint resolution (H. R. No. 116) respecting quarantine and health laws.

HUBERT H. BOOLEY.

Mr. HOLMES asked and obtained leave to withdraw from the files the petition and papers of Hubert H. Booley.

SECURITY OF GOVERNMENT FUNDS.

Mr. HOOPER, of Massachusetts. I ask consent to report from the Committee on Banking and Currency a bill to secure and regulate the safe-keeping of public money intrusted to disbursing officers of the United States, that the same may be printed and recommitted, with leave to the committee to report at any time.

Mr. LE BLOND. I will have no objection to this bill being reported, ordered to be printed, and recommitted. But I must object to its being reported back at any time.

Mr. HOOPER, of Massachusetts. If the gentleman from Ohio [Mr. LE BLOND] will look at the bill, and see what it is, I think he will see that it is important that it should be passed at once. It is for the better security of public moneys intrusted to the disbursing officers of the Government.

Mr. LE BLOND. So far as that is concerned the Government has already the power to secure that. They should never have permitted these public funds to be intrusted to certain banks.

Mr. RANDALL, of Pennsylvania. I would ask that this bill be considered now. It is a most important bill; and I call for its reading so that the House may see how important it is.

The bill was read through.

Mr. LE BLOND. I withdraw my objection, if the gentleman from Massachusetts wants to put the bill upon its passage.

Mr. HOOPER, of Massachusetts. I hope the House will pass the bill; but I do not feel at liberty to take up the time of the gentleman from Ohio.

Mr. SCHENCK. I yield for that purpose.

Mr. HOOPER, of Massachusetts. I demand the previous question on the passage of the bill.

Mr. McRUER. I object.

Mr. HOOPER, of Massachusetts. I move, then, that the bill be ordered to be printed and recommitted; and that the committee have leave to report at any time.

There was no objection, and it was ordered accordingly.

EQUALIZATION OF BOUNTIES.

Mr. SCHENCK. Mr. Speaker, I am instructed by the Committee on Military Affairs to report back House bill No. 602, to equalize the bounties of soldiers, sailors, and marines, who served in the late war for the Union. The bill, as it now stands, is a substitute for the original bill reported by the committee. It has been printed, and in possession of the House since yesterday. I report back the substitute with a single amendment.

Mr. MORRILL. I am anxious to get through with the internal revenue bill this week, and we will be able to do so if we can have to-day and to-morrow. I ask the gentleman from Ohio whether he expects to take up much time.

Mr. SCHENCK. It is what I was going to explain, but in this House gentlemen anticipate and ask for explanation when it is about to be made. I was going on to say we report back the substitute with a single amendment, and propose to ask the action of the House on the substitute as slightly amended, and finally upon the bill as amended.

This is an act eminently of generous justice to the soldiers. I know there are a great many gentlemen in this House on both sides, but

particularly on the other side, to which the soldier has always looked for justice and favor, who desire to be heard at length in favor of the bill; but as I and all the committee reporting the bill are willing to forego any discussion of the subject, and desire to make no speeches whatever, but to put the bill on its passage, I trust there will be general consent on both sides to that treatment. If gentlemen have prepared speeches on this subject, I suggest those speeches be yet made on some Saturday afternoon, as they will, I have no doubt, have influence on the minds of Senators when the bill goes to that body.

The substitute was read, as follows:

That instead of any grant of land or other bounty, there shall be allowed and paid to each and every soldier, sailor, and marine who faithfully served as such in the Army, Navy, or Marine corps of the United States, and who has been, or who may hereafter be, honorably discharged from such service, the sum of eight and one third dollars per month, or at the rate of \$100 per year, as hereinafter provided, for all the time during which such soldier, sailor, or marine actually so served, between the 12th day of April, 1861, and the 19th day of April, 1865. And in the case of any such soldier, sailor, or marine, discharged from the service on account of wounds received in battle, or while engaged in the line of his duty, the said allowance of bounty shall be computed and paid up to the end of the term of service for which his enlistment was made. And in case of the death of any such soldier, sailor, or marine, while in the service, or in case of his death after discharge and before the end of his term of enlistment, if discharged on account of being wounded, as before provided, the allowance and payment shall be made to his widow, if she has not been remarried, or if there be no widow, then to the minor child or children of the deceased who may be under sixteen years of age.

SEC. 2. *And be it further enacted*, That in computing and ascertaining the bounty to be paid to any soldier, sailor, or marine, or his proper representatives, under the provisions of this act, there shall be deducted therefrom any and all bounties already paid, or payable under existing laws, by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, so that in no case shall the aggregate amount of bounty allowed and paid from all sources exceed eight and one third dollars for each month of actual faithful service, or at the rate of \$100 per year. And in the case of any sailor or marine to whom prize money has been paid, or is payable, the amount of such prize money shall also be deducted, and only such amount of bounty paid as shall, together with such prize money and any other bounty paid or payable by the United States, or by any State, county, city, town, or other municipal organization, or by any voluntary association, amount in the aggregate to the sum allowed by this act.

SEC. 3. *And be it further enacted*, That no bounty, under the provisions of this act, shall be paid to or on account of any soldier, sailor, or marine who served as a substitute in either the Army or Navy, or who was a captured prisoner of war at the time of his enlistment, nor to any one who was discharged on his own application or request, unless such discharge was obtained with a view to reenlistment, or to accept promotion in the military or naval service of the United States, or to be transferred from one branch of the military service to another, and who did actually enlist or accept promotion or was so transferred. And no bounty shall be paid to any soldier, sailor, or marine, discharged on the application or at the request of parents, guardians, or other persons, or on the ground of minority.

SEC. 4. *And be it further enacted*, That every petition or application for bounty made under the provisions of this act shall disclose and state specifically under oath, and under the pains and penalties of perjury, what amount of bounty, either from the United States or from any other source, and what amount of prize money, if any, has been paid or is payable to the soldier, sailor, or marine, by whom or by whose representatives the claim is made.

SEC. 5. *And be it further enacted*, That whenever application shall be made by any claimant, through any attorney or agent, the post office address of the claimant shall be furnished, giving the name of the county and State in which it is situated, and the amount of commission or fee which the attorney or agent is to receive for his service in the settlement of the claim, which charges in no case shall exceed the sum of five dollars; and every such application shall be accompanied by the written affidavit of the attorney or agent, that he has not charged, nor agreed for, and will not accept, more than such sum of five dollars for his services in the case. The Paymaster General, or proper accounting officer of the Treasury, upon ascertaining the amount due, shall cause to be transmitted to such claimant the full amount thereof, less the fee to be paid to the attorney or agent, which fee shall be paid to the attorney or agent in person, or transmitted to such address as the attorney may direct.

SEC. 6. *And be it further enacted*, That any attorney or agent who shall receive from any claimant a sum greater than five dollars for the prosecution of any claim under the provisions of this act, upon conviction thereof shall pay a fine not to exceed the sum of \$1,000, or imprisonment for a term not less than one year, or both, as the court or jury may adjudge, and shall be forever thereafter excluded from prosecuting claims of any nature whatever against the Government of the United States.

SEC. 7. *And be it further enacted*, That in case the payments shall be made in the form of a check, order, or draft upon any paymaster, national bank, or Government depository in or near the district wherein the claimant may reside, it shall be necessary for the claimant to establish by the affidavits of two credible witnesses that he is the identical person named therein; but in no case shall such checks, orders, or drafts be made negotiable until after such identification.

SEC. 8. *And be it further enacted*, That it shall not be lawful for any soldier, sailor, or marine to transfer, assign, barter, or sell his discharge, final statement, descriptive list, or other papers, for the purpose of transferring, assigning, bartering, or selling any interest in any bounty under the provisions of this act; and all such transfers, assignments, barters, or sales heretofore made are hereby declared null and void as to any rights intended so to be conveyed by any such soldier, sailor, or marine.

SEC. 9. *And be it further enacted*, That no adjustment or payment of any claim of any soldier, sailor, or marine, or of his proper representatives, under the provisions of this act, shall be made unless the application be filed within two years from the passage of the act; and the settlement of accounts of deceased soldiers, sailors, and marines shall be made in the same manner as now provided by law.

Mr. SCHENCK. I move the following amendment: page 3, line six, after the word "request," insert "prior to the 9th day of April, 1865." If members will look at the printed substitute they will find we exclude from bounty those who were discharged on their own application or request. The committee, on reconsideration, thought it ought to apply only to those who did not wait until the war was over. It will relieve from exclusion those who did not make the request to be discharged from the Army until after Lee's surrender.

Mr. WASHBURN, of Indiana. I would like to offer the following amendment: strike out from the sixth line of section two all after the word "States" down to the word "association" in the seventh line. In the ninth line strike out the word "all" and insert "such."

Mr. WARD. I ask the gentleman to let me move an amendment.

Mr. SCHENCK. In the first place amendment is not in order under the rules, as there is an amendment pending to an amendment; and in the second place the Committee on Military Affairs, with great unanimity and cordiality, agreed to report and have it acted on as it now stands. I demand the previous question.

The House divided; and there were—ayes 81, noes 24.

So the previous question was seconded.

Mr. WARD. Is there to be no means of discussing a bill which involves an expenditure of \$200,000,000?

The SPEAKER. Not when the previous question is seconded.

The amendment of the committee to the substitute was agreed to.

Mr. JULIAN. If the substitute be voted down, then the vote will come up on the original bill.

On motion of Mr. STEVENS, the original bill was read *in extenso*.

The question recurred on agreeing to the substitute for the original bill.

Mr. WARD. I ask the chairman of the Committee on Military Affairs to permit me to have an amendment reported which I desire to offer.

Mr. SCHENCK. I have no power over this subject; it is with the House; but I am perfectly willing the gentleman shall have his amendment read, if that is the point he desires.

Mr. ELDRIDGE. Mr. Speaker, is this offering of amendments going to be allowed generally?

The SPEAKER. It is not. It can only be amended, after the third reading, by a motion to recommit with instructions.

Mr. SCOFIELD. I would inquire whether the previous question is still operating.

The SPEAKER. It is; and no debate is in order except by unanimous consent.

Mr. ELDRIDGE. I object to debate, unless it can be made general.

Mr. BLAINE. I object also.

Mr. JULIAN. I demand the yeas and nays on agreeing to the substitute.

The yeas and nays were not ordered.

The question was put; and there were—ayes 93, noes 36.

Mr. ROGERS. I demand the yeas and nays. The SPEAKER. They have already been refused.

Mr. WILSON, of Iowa. I demand tellers. Tellers were ordered; and the Speaker appointed Messrs. WILSON, of Iowa, and SCHENCK. The House divided; and the tellers reported—ayes 84, noes 33.

So the substitute was agreed to.

The bill was then ordered to be engrossed; and being engrossed, it was ordered to be read a third time.

Mr. SCHENCK. I believe the previous question has exhausted itself on the third reading. I now demand it on the passage of the bill.

Mr. WARD. Is it in order now to move to recommit with instructions?

The SPEAKER. It will be if the previous question is not seconded.

Mr. BANKS. I hope the chairman of the committee will state the operation of this bill as compared with the original bill.

Mr. THAYER. I object to discussion.

The SPEAKER. The gentleman from Ohio, who reported the bill, has a right to occupy one hour.

Mr. SCHENCK. If the House will second the previous question I will go on and explain it. First, let us have the previous question seconded.

The previous question was seconded—ayes 75, noes 34—and the main question ordered.

Mr. ANCONA. I demand the yeas and nays on the passage of the bill.

Mr. SCHENCK. I propose very briefly, as many gentlemen request it, to state the differences between the substitute and the original bill. First, as to the original bill I shall say nothing, because it has been printed and on the tables of gentlemen for some time past.

The first change made in the bill is in the first section, at the close, where in limiting the direction to be given to this bounty to minor children, there is added the further clause that it shall be given only to those who are under sixteen years of age. The idea of the committee was that in this country when children arrive at the age of sixteen they are able to obtain some kind of employment sufficient at least to sustain themselves. It is in conformity with the pension law, limiting the extension of the bounty to those minors only who are under sixteen years of age. It saves many millions of dollars, though that was not the exclusive object.

In the second section the committee concluded, in their revision, to insert a provision that there should be taken into the computation, in order to determine whether a man had a sufficient bounty, whatever he had received from local authorities or from local voluntary associations got up by subscription for the purpose of relieving from the draft by putting men in the Army. This some gentlemen have seriously objected to. The reasons which prevailed with the committee were these: in the first place, there is a fairness about it. A man comes forward and asks to be put, as far as possible, upon the same footing as others—that is, to get under the provisions of this bill \$300 at least for his services in the Army, in addition to his pay and other allowances. The Government which he approaches in this way says to him, through its officials, "How much have you received from various sources?" If he has already received over \$300, which is what we propose to give, it is not a case of peculiar hardship. In dispensing this bounty we should not add anything to the sum already paid where a man has received \$300. All we promise is to make up the bounty to \$300.

Now, that will fall not hardly on those who entered the Army late in the war and got all the local bounties, for it so happens that those who got the local bounties got also the bounty from the Government and are outside of the provisions of this bill. The truth is that the bill only applies to and affords help to those

who enlisted in 1861 or in the early part of 1862 throughout the whole Union. Those who went into the Army in 1861 or early in 1862 got little or no bounty of any kind, and got from the General Government only either \$100 or nothing at all. Now, to those who received nothing this bill gives \$300, and to those who received \$100 enough to make up the amount to \$300. Later on in the war large local bounties were paid, while at the same time the Government of the United States was paying bounties. Such men are cut off from the operation of this bill.

Mr. HOTCHKISS. Will the gentleman allow me to ask him a question?

Mr. SCHENCK. No, sir; I cannot. With all due deference to the gentleman from New York, I detest these interruptions. At the end of my remarks I will answer any questions that gentlemen desire.

There is another effect of this amendment. If, by the legislation of Congress, you equalize bounties to the extent of taking care that every man shall at least have \$300 out of the United States Treasury, if he has not obtained it from any other source, and then turn these soldiers over to their States you will find them in every State going to their Legislatures and saying, "See here what the Congress of the United States has done; now we want you to equalize the bounties at home; and as some men have been paid \$1,000 and \$1,500 and others only \$300 or \$400, we want you to follow the example of the Government of the United States and equalize the bounties in the State as Congress has done throughout the United States;" and it will be very hard to resist that appeal when made under such a precedent; so that by taking the whole thing into account, we relieve the States from calls that may be made hereafter to equalize bounties in the States as Congress has equalized them throughout the United States.

Leaving the reference to that change, I come to the next alteration made. We cut off from the benefits of the bill substitutes. We have taken the ground that where a man was hired at some enormous cost to go into the Army for another, he went into the Army taking all the chances and has no proper claim on the Government for equalization of bounty with other soldiers who were either compelled to go or went voluntarily.

There have been such cases as this before the Committee on Military Affairs: a man being drafted, a relative, without hope of reward, volunteered to go in his place; in another instance, a returned volunteer, seeing the tears of the family of a poor man who was drafted and was unable to pay for a substitute, volunteered his services and took that man's place. But these are exceptional cases. We can only legislate for classes, and leave such men to the reward of an approving conscience and the kindness of their neighbors, who, instead of petitioning Congress, had better subscribe the \$300 for these men.

We have made another alteration. It was provided in the original bill that if a man had been discharged on his own application or request he should be cut out from the advantages of the bounty. In the revision we have inserted the words, "prior to the 9th day of April, 1865," which was the date of Lee's surrender, so as not to cut off from the bounty those men who thought the fighting was all over, and finding it very easy on application to the War Department at that time to get out of the Army, naturally did so. We save the bounty to every man who was discharged even at his own request and upon his own application, provided he did not make that application before the fighting was done.

We have inserted another provision, to which I suppose no gentleman will object, requiring that the attorney or agent, where one is engaged in the case, shall, in filing the papers of the applicant, file along with them his own statement verified by oath, under the pains and penalties of perjury, that he has not charged and will not accept any more than the fees

which the law allows. This is to prevent collusion between the attorney and the claimant, when the claimant finds the attorney unwilling to act under the law without such secret understanding.

I believe that I have stated now all the material differences between the substitute and the original bill; and I am now ready to answer the question of my friend from New York, [Mr. HOTCHKISS.]

Mr. HOTCHKISS. The inquiry which I desire to make is this: in many cases in my own district, in 1861, the State paid to the soldier seventy-five dollars bounty, and the local authorities \$225 bounty. In such cases, what is the soldier going to get under this bill? If the soldier in such a case gets nothing, are we to be subjected to taxation to pay bounties to soldiers raised in communities that gave no bounty?

Mr. SCHENCK. Mr. Speaker, I think I have anticipated an answer to that inquiry. I have said that the bill declares plainly—

Mr. HOTCHKISS. Let me ask further—

Mr. SCHENCK. I trust the gentleman will wait a moment till I have answered the question he has already put.

Mr. HOTCHKISS. I am charged and primed, and I cannot stop till I have discharged the whole load. [Laughter.] I want to know whether, where we in our State have paid more than three hundred dollars bounty, the soldiers of the State of New York will be obliged to pay back anything.

Mr. SCHENCK. I suppose the gentleman is now through, unless he is a revolver. [Laughter.]

Now, as to the first branch of the inquiry—the first barrel of the gentleman's gun—the bill itself answers it. The bill is framed entirely with this view: that every man who presents himself asking for this bounty of \$300 shall be interrogated as to how much he has received from various sources as bounty for serving his country in addition to his regular pay. If he has received \$300 or more, he is not to receive anything under this bill. While we do not propose to give any one more than \$300, nor to pay any one less than that amount, our object is that every man who has not received \$300 shall be raised up to that standard.

These remarks will serve to answer to a great extent the second branch of the inquiry; and my echo to the report of that second barrel of the gun, showing that it is only a blank cartridge, will be this—

Mr. HOTCHKISS. Perhaps I owed the gentleman an apology; but there is nothing in his Army bill against the use of revolvers. [Laughter.]

Mr. SCHENCK. The gentleman asks whether those who have received more than \$300 bounty will be compelled to disgorge. The reply to that is found also in the bill. There is nothing in the bill about paying back. There is nothing in the bill that can be construed to require that those who have received the bounties either of the General Government or of a State government or of any volunteer association or municipal organization of any kind shall pay back any part of that which they have received. I think the gentleman is now fully answered.

Mr. WARD. I desire to ask the chairman of the Committee on Military Affairs whether this bill does not provide for giving bounty to colored soldiers.

Mr. SCHENCK. Unquestionably it does. We hold that a soldier, a sailor, or a marine is one who belongs to the organized forces of the United States, wearing its uniform. We have therefore said nothing about color, because the bill covers them all.

Mr. WARD. So I understand. Now, I desire to ask the gentleman another question. I ask him whether there is not now in force a law by virtue of which the loyal owner of a colored man who volunteered in the United States service is entitled to recover \$300 for such colored man; and such being the law, the master being entitled to \$300, and the colored man being entitled, under this bill, to a

bounty, whether the colored soldier and his master together will not receive more than the white soldier. And I ask him whether he will not accept an amendment providing for the repeal of the law which provides for a commission to take proof of the fact of the slaves of loyal masters having entered the service, so that compensation may be made. I apprehend that before we give any additional bounty that law should be repealed.

Mr. SCHENCK. Well, that certainly is a revolver! [Laughter.] I do not know whether I can recollect the whole of the question. But to begin at the close of the gentleman's inquiries, I will say that I cannot accept any amendment, because the bill at its present stage cannot be amended, as I understand the rules, without a ~~re~~commitment for that purpose, unless by unanimous consent.

In the next place, I will say that the bill does not provide for paying anything to the former owner of a man who was a slave and was enlisted as a soldier of the United States. The bill is specific in its terms, and provides only for payment to the soldier, sailor, or marine himself.

Mr. WARD. That I understand.

Mr. SCHENCK. The gentleman asks, further, whether if the loyal owner has already received his bounty of \$100—

Mr. WARD. Of \$300.

Mr. SCHENCK. Or of \$300, whether he will not get something under this bill. I answer, no; he cannot possibly do so. There might possibly be a construction put upon the law by which the owner having got \$300 the negro could get \$300 more, on the ground that the negro, who had rendered the service, had received nothing. That is a question of construction. But being a question of construction for the courts, under the law as it now stands no subsequent legislation upon this subject can affect the contract, though we might so amend the bill, which I am unwilling to do, as to provide that where the master has received bounty, that bounty shall be deducted and paid to the negro. I do not suppose that the gentleman would desire that.

Mr. WARD. No, sir.

Mr. SCHENCK. But the gentleman says he would like to have passed an act repealing the law with reference to compensation of loyal owners of slaves enlisted, so that there shall be no further action under it.

Mr. WARD. Exactly.

Mr. SCHENCK. So would I; and I am perfectly willing to unite with the gentleman in securing the passage of a bill of that kind as a separate enactment; for I think there would be no difficulty in passing it; or I believe it very probable that members of the other branch of Congress, upon suggestion being made to them, would be willing to procure the insertion of such a provision in this bill. But, at the present time, the amendment of this bill cannot be effected without the delay of recommitment, with the necessity of going over this whole subject again. I prefer, therefore, that this bill shall now be passed, trusting that some repealing act may hereafter be adopted as a separate measure, or that a provision for the purpose may be incorporated in this bill as an amendment when the bill shall be considered by the Senate.

Mr. WARD. Will the gentleman allow me a moment to state the amendments which I intended to offer to this bill?

Mr. SCHENCK. I have no objection to permitting the gentleman to have his amendments read—or, at least, he might hand them to the reporters, and let them be incorporated in his remarks, so that he may be enabled to show what was the object he had in view, in which, so far as concerns the last point, I entirely concur.

Mr. WARD. The first amendment which I desired to offer was an amendment giving to the widowed mother who was entirely dependent upon a soldier now deceased the bounty to which he would have been entitled. I desired a further amendment striking out that

portion of the bill which charges the soldier with the local bounties. In addition to that, I desired to offer the further amendment which I have indicated. That is all that I wished to say.

Mr. BANKS. Will the gentleman from Ohio [Mr. SCHENCK] now yield to me for a moment?

Mr. SCHENCK. Yes, sir.

Mr. BANKS. I understand from the statement of the honorable chairman of the Committee on Military Affairs, from which this bill is reported, that as the bill now stands, the House having adopted a substitute, any State that has paid bounties up to the amount of \$300 will get nothing, under this bill, while it will be compelled to insist in paying the bounties to the soldiers of those States that have not granted any bounties. I ask the gentleman whether I am correct in my understanding of the effect of this bill.

Mr. SCHENCK. I apprehend that there are very few States in which bounties have not been given at all, either by the State or by the counties or other municipal organizations or by voluntary associations, and where the aggregate local bounty has not exceeded \$300. Where that is the case, of course no benefit will be obtained under this bill.

Mr. BANKS. I understand it to be this: that the State which has paid bounties to the amount of \$300 gets nothing, and is compelled at the same time to pay, or assist in paying, the bounties of States which have not paid them.

Mr. SCHENCK. Those States have the satisfaction of having treated their soldiers well.

Mr. BANKS. It is a surprise to the House that we should be called upon to vote for or against appropriations of this kind.

Mr. SCHENCK. I call for the vote.

Mr. ANCONA demanded the yeas and nays.

Mr. BANKS. I move to reconsider the vote by which the main question was ordered; and on that motion I demand the yeas and nays.

Mr. SCHENCK. I move to lay the motion to reconsider on the table.

The House was divided; and there were—aye 68, noes 42.

Mr. BANKS demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 77, nays 62, not voting 44; as follows:

YEAS—Messrs. Allison, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Baxter, Blaine, Boyer, Buckland, Bundy, Reader W. Clarke, Cobb, Darling, Dawson, Deffrees, Delano, Denison, Donnelly, Driggs, Eckley, Eggleston, Eldridge, Garfield, Grider, Hale, Aaron Harding, Higby, Hogan, Holmes, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, James M. Humphrey, Julian, Kelley, Kelso, Kerr, Kuykendall, George V. Lawrence, Le Blond, Longyear, Marston, Marvin, McClurg, McKee, McRuer, Moorhead, Morrill, Myers, Newell, Niblack, O'Neill, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Sloan, Spalding, Stevens, Stilwell, Strouse, Taylor, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Woodbridge, and Wright—62.

NOT VOTING—Messrs. Barker, Benjamin, Bidwell, Bingham, Blow, Boutwell, Broomall, Coffroth, Culver, Dodge, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hart, Hayes, Hill, Hulburt, Jenckes, Johnson, Jones, Kasson, Latham, McIndoe, Mercur, Miller, Moulton, Noell, Orth, Pomeroy, Raymond, Shanklin, Smith, Starr, Taber, Taylor, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Windom, and Winfield—44.

So the motion to reconsider was laid upon the table.

During the vote,

Mr. CULLOM stated that Mr. ORTH, was confined to his room by illness.

The vote was then announced as above recorded.

The question then recurred on the passage of the bill.

Mr. ANCONA demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 139, nays 2, not voting 42; as follows:

YEAS—Messrs. Alley, Allison, Ames, Ancona, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bergen, Bidwell, Blaine, Boyer, Bromwell, Buckland, Bundy, Chanler, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, Deffrees, Delano, Deming, Denison, Dixon, Dodge, Donnelly, Driggs, Dumont, Eckley, Eggleston, Eldridge, Eliot, Farnsworth, Farquhar, Ferry, Garfield, Grider, Griswold, Hale, Aaron Harding, Abner C. Harding, Henderson, Higby, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, James M. Humphrey, James M. Humphrey, Ingersoll, Julian, Kelley, Kelso, Kerr, Ketcham, Kuykendall, Laffin, George V. Lawrence, William Lawrence, Le Blond, Loan, Longyear, Lynch, Marshall, Marston, Marvin, McClurg, McCulloch, McKee, McRuer, Moorhead, Morrill, Morris, Myers, Newell, Niblack, O'Neill, Paine, Patterson, Perham, Phelps, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rogers, Rollins, Ross, Rousseau, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Sloan, Spalding, Stevens, Stilwell, Strouse, Taylor, Thayer, Francis Thomas, John L. Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, Woodbridge, and Wright—139.

NAYS—Messrs. Nicholson and Trimble—2.

NOT VOTING—Messrs. Barker, Benjamin, Bingham, Blow, Boutwell, Brandegee, Broomall, Coffroth, Culver, Finck, Glossbrenner, Goodyear, Grinnell, Harris, Hart, Hayes, Hill, Hulburt, Jenckes, Johnson, Jones, Kasson, Latham, McIndoe, Mercur, Miller, Moulton, Noell, Orth, Pomeroy, Raymond, Shanklin, Smith, Starr, Taber, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Windom, and Winfield—42.

So the bill was passed.

During the roll-call,

Mr. CULLOM said: The gentleman from Indiana, Mr. ORTH, is ill. If he was here he would vote for the bill.

Mr. RADFORD. My colleague, Mr. WINFIELD, is confined to his room by sickness. If here he would vote in the affirmative.

Mr. STILWELL. My colleague, Mr. HILL, is confined to his house by sickness. If here he would vote for the bill.

Mr. LE BLOND. My colleague, Mr. FINCK, is absent. If here he would vote in favor of this bill.

Mr. RANDALL, of Pennsylvania. My colleague, Mr. COFFROTH, is absent. If here he would vote for the bill.

Mr. RICE, of Maine. The gentleman from Minnesota, Mr. WINDOM, is absent. If present he would vote "ay."

Mr. ANCONA. My colleague, Mr. JOHNSON, is still detained by sickness. If here he would vote for the bill.

Mr. COBB. My colleague, Mr. MCINDOE, is absent by leave of the House. If here he would vote "ay."

Mr. CULLOM. My colleague, Mr. MOUTON, is absent. If he was here he would vote for the bill.

The vote having been announced as above recorded,

Mr. SCHENCK moved to reconsider the vote just taken; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

LEAVE OF ABSENCE.

Mr. ANCONA asked and obtained leave of absence for his colleague, Mr. DENISON, for two weeks from to-day.

APPRAISEMENT OF LAND IN OHIO.

On motion of Mr. LE BLOND, the report of the Secretary of the Interior, in relation to the appraisal of certain land in Ohio belonging to William Sawyer and others, was taken from the Speaker's table and referred to the Committee on Appropriations.

CONFERENCE COMMITTEE.

The SPEAKER announced that Mr. GLOSSBRENNER was excused from service on the con-

ference committee on House bill No. 85, in relation to the donation of lands in the southern States for homesteads, and Mr. ANCONA was appointed in his place.

ADJOURNMENT OVER.

Mr. SPALDING. I move that when the House adjourns to-day it adjourn to meet on Monday.

Mr. MORRILL. I desire the House should be long enough in session to finish the tax bill this week.

The motion was not agreed to.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending paragraph was as follows:

Tin cans used for preserved meats, fish, shell-fish, fruits, vegetables, jams, and jellies.

Mr. KELLEY. I move to strike out all after the word "for" and insert the words "for packing purposes only;" so that it will read, "tin cans used for packing purposes only." We have already included "packing-boxes made of wood." Now, packing-boxes are used for a variety of articles, and the amendment simply proposes to embrace all tin vessels made for packing purposes only. It may be said that crackers and other articles are sent out in tin cans. That is very true. There is no reason why they should not be, nor any reason why the box containing them, if made of tin, should be taxed while a wooden box in which they might be sent is exempt from tax.

Mr. MORRILL. These tin cans for preserved meats, fish, fruits, &c., are exempted because we have placed a stamp duty on those articles. The gentleman proposes to exclude from taxation by his amendment a great variety of articles—not only boxes and cans for crackers, but for such articles as blacking, soda powders, ground mustard, sardines, pill-boxes, and other articles too numerous to mention.

Mr. KELLEY. I suggest a modification.

Mr. MORRILL. My modification is to reject the amendment.

The amendment was not agreed to.

Mr. RANDALL, of Pennsylvania. I move to strike out the word "and" and to insert "spices and medicines."

The amendment was not agreed to.

Mr. MORRILL. I move to add the following as a new paragraph:

Sugar, molasses, or sirup made from beets, sugar-maple, or from sorghum or imphee.

The amendment was agreed to.

Mr. MORRILL. With the leave of the committee I will here offer such amendments as have been agreed upon by the Committee of Ways and Means, so that members may understand what are to be offered by the committee and what not, and where they are to come in.

Mr. THAYER. I have no objection if it is understood that we have not passed this paragraph.

Mr. MORRILL. I move to insert after line eighty-five "muriatic, nitric, and acetic acid."

The amendment was agreed to.

Mr. MORRILL. In line eighty-six, after the word "alum," insert "aluminous cake, patent alum, and sulphate of aluminum."

The amendment was agreed to.

Mr. MORRILL. After line ninety-two insert "nitrate of lead."

The amendment was agreed to.

Mr. MORRILL. I move to insert after line eighty-nine "borax and boracic acid."

The amendment was agreed to.

Mr. MORRILL. After line ninety-four insert "sulphur."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move also to insert "litharge and orange mineral."

The amendment was agreed to.

Mr. MORRILL. I move to insert after line one hundred and two "wine made of rhubarb, currants, and berries."

The amendment was agreed to.

Mr. MORRILL. In line one hundred and one, after "white lead," insert "red lead."

The amendment was agreed to.

Mr. MORRILL. In line ninety-six, after "soda," insert "sal-soda;" also, after the word "pot" insert "pearl ashes."

The amendment was agreed to.

Mr. MORRILL. I ask unanimous consent to make a verbal amendment to an amendment on page 76, offered by the gentleman from Pennsylvania, [Mr. THAYER,] which is as follows:

In any port of entry within which is embraced more than two collection districts the Secretary of the Treasury is hereby authorized to place all the bonded warehouses in said port under the charge of one collector of internal revenue to be by him designated; and the collector so designated shall have entire charge and control of all matters connected with said bonded warehouses and the property stored therein.

I move to insert after the word "shall" the words "under the regulations of the Secretary of the Treasury."

Mr. THAYER. I accept that.

The amendment was agreed to.

Mr. GARFIELD. I move to insert after line ninety "calcined magnesia, carbonate of magnesia."

The amendment was agreed to.

Mr. GARFIELD. In line ninety-five I move to add "alumino-silicate of soda."

The amendment was agreed to.

Mr. GARFIELD. In line one hundred and nine, after the word "distillation," I move to insert "lubricating oil made of crude petroleum not exceeding in specific gravity thirty-six degrees Baume's hydrometer."

The amendment was agreed to.

Mr. MORRILL. I ask unanimous consent that the clerk of the Committee of Ways and Means may make up this free list, when it is completed, in alphabetical order. It was reported in rather a confused state, and it will be still more so when we get through the bill.

No objection being made it was so ordered.

Mr. VAN AERNAM. I move to amend by inserting before the line commencing "hemp and jute," &c., the words "machines driven by horse power and used exclusively for cutting fire-wood, stave and shingle bolts." That is a small machine, running a cross-cut saw, and usually driven by one horse. I hope the chairman of the committee will raise no objection to my amendment.

The amendment was agreed to.

Mr. STEVENS. I hope the gentleman from New York [Mr. VAN AERNAM] will include "hand-saws" in his amendment. There are a great many wood-sawyers who go about with hand-saws, and they are now taxed as well as others.

The CHAIRMAN. It is too late for the gentleman from New York to accept anything, as his amendment has already been adopted.

Mr. STEVENS. Then I move to insert "hand-saws."

The motion was agreed to.

Mr. THAYER. I move to insert after "white lead" the words "sulphuric, muriatic, nitric, acetic, and other acids, when used in the chemical factory producing them for the production of other chemicals or salts."

Mr. HOOPER, of Massachusetts. I raise the point of order that this whole list is not open to miscellaneous amendment; only so much of it as has been read for amendment by the Clerk. Unanimous consent was given to

the chairman of the Committee of Ways and Means [Mr. MORRILL] to offer certain amendments to this free list which had been agreed upon by that committee; then we were to go back to where the Clerk had left off reading.

Mr. THAYER. I withdraw my amendment. The Clerk read as follows:

Hemp and jute prepared for textile or felting purposes; yarn and warp for weaving, braiding, or manufacturing purposes exclusively.

Mr. WASHBURN, of Massachusetts. I move to amend by inserting after what has just been read, "wooden-ware and brooms made from corn-brush or palm-leaf." In regard to this amendment I wish to say that a part of it was adopted yesterday and afterwards reconsidered through a misunderstanding of the vote by many around me. Now, all I wish to say is this: that I hope the Committee of Ways and Means will allow my amendment to be adopted, and when this bill and amendments get into the House, if the other amendments which have been adopted shall be voted down, then the vote can be taken on this amendment. These very machines which yesterday we voted to exempt are patented machines, the prices of which the manufacturers control and upon which the manufacturers make a great profit. But the articles which I move to exempt are articles which any person with \$300 can manufacture, but upon which the profits are very small. Take the article of brooms, for instance, manufactured from broom-corn. Under the present law there is no revenue derived from these articles, and therefore nothing will be lost by placing them upon the free list. By the present law the products of every manufacturer to the extent of \$1,000 are exempted. Take the State of Illinois, for instance, where probably more broom-corn is raised than in any other State. The custom adopted there is for the manufacturer to have his brooms manufactured in different towns. But if you impose a tax each farmer will employ a man to tie up his brooms, and then sell them to the manufacturer, up to the amount of \$1,000.

The gentleman from Pennsylvania [Mr. KELLEY] said the other day that he would make light so cheap that the poorest dwelling should not be destitute of it. Now, it seems to me that if there are any articles, particularly in these cholera times, that ought to be free from taxation, they are these articles of brooms and wooden-ware, so that there should be no excuse for not keeping dwellings clean and neat. I hope, therefore, the Committee of Ways and Means will not object to this amendment.

Mr. MORRILL. I certainly am not able to appreciate the argument that because we have already exempted something that should not have been exempted therefore we should go on still further in the same direction. I am ready to concede that these articles are as much entitled to exemption as some that have already been exempted by the action of the Committee of the Whole. But they are not more entitled to exemption than many other articles which might be mentioned, and upon which a tax is to be laid, such as mop-handles, washing-machines, wringing-machines, &c. Now, if we cannot halt somewhere in this work of exemption, as I have had occasion often to remark before, we shall soon not have any articles left upon which to lay any tax.

Now, sir, I propose a sort of compromise with my friend from Massachusetts, and that is this: I will move to strike out the words "wooden-ware," allowing brooms to remain in. I conceive that there is more merit in his suggestion as to brooms than with reference to the wooden-ware. If the gentleman will compromise on this I shall be satisfied. I move to amend the amendment by striking out "wooden-ware."

Mr. WASHBURN, of Massachusetts. Mr. Chairman, the gentleman from Vermont says that we might with the same propriety exempt washing-machines. Now, sir, the difference is simply this: a washing-machine or a wringing-machine is covered by a patent, and it is

an article which every family is not obliged to have; but wooden-ware includes articles which every family must use.

Mr. MORRILL. Then there is a greater necessity for the reduction on those machines, because they are articles everybody cannot afford to use, and in their absence a greater amount of the sweat of the brow must be expended.

Mr. WASHBURN, of Massachusetts. Well, Mr. Chairman, if the principle which the gentleman advocates is that we are to reduce the price of an article where it is controlled by a monopoly and where it will make no difference if a tax be imposed, that is a different principle from what I understood him to have adopted. I understand him now to maintain that while tin cans which are used to preserve meats and fruits are exempted, articles of wooden-ware, which every family must use, should not be exempted.

On agreeing to the amendment to the amendment, there were—ayes 28, noes 35; no quorum voting.

The CHAIRMAN, under the rule, ordered tellers, and appointed Mr. WASHBURN, of Massachusetts, and Mr. MORRILL.

The committee divided; and the tellers reported—ayes thirty-seven, noes not counted.

So the amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The Clerk read as follows:

Alum; aniline and anilino colors; bleaching powders; bichromate of potash; blue vitriol; copperas.

Mr. THAYER. I move to amend by adding the following:

Sulphuric, muriatic, nitric, acetic, and other acids when used in the chemical factory producing them for the production of other chemicals or salts.

Mr. HOOPER, of Massachusetts. Muriatic, nitric, and acetic acid have already been included.

Mr. MORRILL. All of those articles that ought to be in are already inserted.

Mr. THAYER. I withdraw the amendment. The Clerk read as follows:

Oxide of zinc; nitrate of lead; paints; painters' and paper stainers' colors; putty; sulphur; salaratus; sal soda; soda ash; caustic soda; litharge, and orange mineral; crude soda; aluminate of soda; bicarbonate of soda; and silicate of soda; yeast powders.

Mr. O'NEILL. I move to amend by adding "mead sold in bottles or from fountains, and beer made from fruit." I have understood, Mr. Chairman, that the Committee of Ways and Means had intended to insert mead in the free list.

Mr. MORRILL. I believe that the proposition was considered, but the whole committee voted against it.

Mr. O'NEILL. Then I think the committee must have voted under a misapprehension. The amendment was not agreed to.

The Clerk read as follows:

Sulphate of barytes, salts of tin, verdigris, white lead, red lead, whitening; wine made of rhubarb, currants, and berries, not otherwise provided for; vegetable, animal, and fish oils of all descriptions, not otherwise provided for, including red oil or oleic acid; and admixtures of the same with paraffine oil, not exceeding in specific gravity thirty-six degrees Baume's hydrometer; paraffine, paraffine oil, not exceeding in specific gravity thirty-six degrees Baume's hydrometer, the product of a residuum of distillation; lubricating oil made from crude petroleum, coal, or schale, not exceeding in specific gravity thirty-six degrees Baume's hydrometer; crude petroleum, and crude oil the product of the first and single distillation of coal, shale, asphaltum, peat, or other bituminous substances; tar and crude turpentine.

Mr. DARLING. I move to amend by striking out in the last line of this paragraph the words "tar and." My reason for offering the amendment is simply this: feathers are taxed; tar should also be taxed, as the two articles have heretofore been extensively used in connection with each other; and they should not now be separated in the matter of taxation.

Mr. KELLEY. I hope the gentleman will not insist on that amendment. He does not know, perhaps, that if he should induce this Congress to impose a tax on tar he might

involve us in another civil war. I find that those excellent friends of our sagacious Secretary of the Treasury who raise tar, the people of North Carolina, hold that all the laws made by the present Congress and all that have been made since 1861, are unjust, unconstitutional, and invalid, and that it is the duty of all raisers of tar to resist them at the point of the bayonet. In proof of this I ask the Clerk to read a short extract from the North Carolinian, of Wilson county, North Carolina, of the date of May 11. It is the editorial comment upon the notice that the North Carolinians are bound to pay taxes to this Government.

The Clerk read as follows:

OFFICE UNITED STATES DIRECT TAX COMMISSIONERS
FOR THE STATE OF NORTH CAROLINA,
WILSON, N. C., April 28, 1866.

Notice is hereby given to the owners of real estate in the county of Wilson that the direct tax laid upon all lands in the United States by an act of Congress of August 5, 1861, is now being collected in the State of North Carolina, in pursuance of an act approved June 7, 1862, and of an amendment of said act approved February 6, 1863, and of a further amendment of said act approved March 3, 1865; and notice is further given that for the reception of said tax upon the real estate of Wilson county, our office in Wilson, in said county, will be open on the 28th day of April, instant, and for sixty days following at Wilson Hotel.

As the laws of the United States exempt from taxation homesteads to the value of \$500, when the owners actually resided thereon at the date of the fixing of the tax, such owners and occupants are notified to appear at our office, in Wilson, during said sixty days, and show such fact.

JOHN R. FRENCH,
HIRAM POTTER, Jr.,
E. H. SEARS,

United States Direct Tax Commissioners for North Carolina.

"The above is simply the coolest piece of impudence we have ever seen. There can exist no longer a doubt in the minds of the southern people that they are expected to submit to taxation without representation.

"We are pledged to a support of the Constitution of the United States, and Heaven forbid that we should ever countenance or counsel disobedience to properly constituted authority, but a sense of duty compels us to declare that the southern people should never submit to this direct tax but at the point of the bayonet.

"The tax collector may or may not have the proper credentials, but in no case would we pay this tax until we had ascertained that it was right and proper to do so.

"The Government of the United States forced us into a war from which we emerged crippled in resources and prostrated financially. Men wearing the garb of United States soldiers outraged and murdered our defenseless women and children, stole our property, destroyed our very means of subsistence, under pretense of prosecuting war for the restoration of the Union and the supremacy of the Constitution, and now that Government, 'the best the world ever saw,' calls on us at the South to pay a direct tax on real estate, by an act of Congress of August 5, 1861, and in pursuance of an act approved June 7, 1862, and of an amendment of said act approved February 6, 1863, and of a further amendment of said act approved March 3, 1865.

"The southern States have been unrepresented in the Congress of the United States since March 1861, and this tax is therefore illegally, unjustly, and unconstitutionally levied."

Pending the reading,

Mr. HALE said: I rise to a question of order. It is that the article now being read by the Clerk has no pertinency to the subject under consideration by the committee.

The CHAIRMAN. The Chair overrules the point of order, for the reason that it is read as a part of the speech of the gentleman from Pennsylvania.

Mr. STEVENS. Do I understand my colleague to say that this is a part of the speech of the Secretary of the Treasury?

Mr. KELLEY. It is from the pen of one of the friends of the Secretary of the Treasury; those friends who agree with him that the laws are unconstitutional which are passed without the consent of southern members.

The reading of the paper was then concluded.

Mr. HALE. I move to amend the amendment by striking out the last word; and for the purpose of vindicating the propriety of my motion I send up an article which I request the Clerk to read.

The Clerk read, as follows:

"The New York Mercantile Journal is published weekly by the New York Mercantile Journal Company, No. 2 Franklin square; entrance 350 Pearl street, opposite Frankfort street.

Terms: One copy one year, \$3; a club of five, \$15. Including an extra copy free to the person get-

ting up the club. To city subscribers, delivered, \$3 50. Terms strictly in advance. No subscription received for a less term than one year.

"Mercantile houses must stand 2½ or BC and above as explained on the fourth page, in order to secure the admission of their advertisements in our columns.

"Rates for inserting firm name and address on fourth page or business directory: one line, one year in Roman, \$5 20; one line, one year in capitals, \$10 40.

"H. K. Heydon, is authorized to make contracts in connection with the journal. All orders, remittances, and communications must be addressed to the New York Mercantile Journal, No. 2 Franklin square, New York. Box 1919."

Mr. SLOAN. I rise to a point of order. The gentleman is out of order in his remarks, because they are not relevant.

The CHAIRMAN. The Chair sustains the point of order.

Mr. LE BLOND. I rise for the purpose of opposing the amendment to the amendment. I wish to inquire of the distinguished gentleman from Pennsylvania, as we have the benefit of the views of the Secretary of the Treasury in an indirect way, whether he will inform the House what position the Secretary of War takes on this or any other proposition.

Mr. KELLEY. I spoke of the Secretary of the Treasury; and he let the people know that he is less partial to tinkers than to cosiers.

Mr. MORRILL. I make the point that all this discussion is out of order.

The CHAIRMAN. The Chair sustains the point of order.

Mr. HALE's amendment to the amendment was disagreed to.

The amendment was then rejected.

The Clerk read as follows:

Illuminating gas manufactured by educational institutions for their own use exclusively; pig-iron; blooms, slabs, and loops; railroad iron, and railroad iron rolled; anvils; iron castings for bridges.

Mr. MORRILL. I move in line one hundred and fifteen, after "pig-iron," to insert "muck bar."

The amendment was agreed to.

Mr. BEAMAN. I move to strike out "castings for," so that it will read, "iron bridges." I understand that the chairman of the committee agrees to that amendment.

Mr. HOOPER, of Massachusetts. I move an amendment to the amendment, so as to make it read, "iron bridges and castings for iron bridges."

Mr. BEAMAN. I have no objection to that, and will accept it as a modification of my own amendment.

The amendment was agreed to.

Mr. BEAMAN. I move to insert "iron roofs for depots."

Mr. MORRILL. I think we have indulged the gentleman from Michigan as far as we ought to on the subject of iron. Some parts of these roofs are composed of wrought iron, some of sheet iron, and some of cast iron. We cannot afford now to go so far as the gentleman desires.

Mr. HOGAN. I move to strike out "depots," so that we may have the iron roofs of all houses exempted from tax.

The amendment to the amendment was rejected.

The amendment was also rejected.

The Clerk read as follows:

Malleable iron castings, unfinished; spindles and castings of all descriptions made for locks and machinery upon which duties are to be assessed and paid.

Mr. HOOPER, of Massachusetts. I move to strike out lines one hundred and twenty-one and one hundred and twenty-two, as follows:

Spindles and castings of all description, made for locks and machinery, upon which duties are to be assessed and paid.

And to insert in lieu thereof the following:

Spindles and castings of all descriptions made specially for locks, or for machinery, and not sold or used for any other purpose, and upon which a tax is assessed and paid upon the articles of which the casting is a part.

The amendment was agreed to.

Mr. MORRILL. In lines one hundred and twenty-four and one hundred and twenty-five after the words, "horseshoe nails" I move to insert the words "iron axles;" so that the clause will read, "railroad chairs; railroad, boat, and ship spikes; ax polls; shoes for horses, mules,

and oxen; rivets, horseshoe nails, iron-axes, nuts, washers, and bolts; vises, iron chains, and anchors; when such articles are made of wrought iron."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. In line one hundred and twenty-six I move to strike out the word "wrought," so that the clause will read, "vises, iron chains, and anchors; when such articles are made of iron which has previously paid the tax or duty assessed thereon."

The amendment was disagreed to.

Mr. BEAMAN. I move to amend, in line one hundred and twenty-three, by inserting after the word "chairs" the words "and fish-plates;" so that it will read, "railroad chairs and fish-plates," &c.

Mr. GARFIELD. What are fish-plates?

Mr. BEAMAN. They are merely substitutes for railroad chairs.

Mr. DARLING. Oh! no. Fish-plates are not substitutes for chairs at all.

Mr. PRICE. A fish-plate is a bar made to hold the ends of the rails together, instead of the chair.

The amendment was not agreed to.

Mr. ALLISON. I move to strike out the words "railroad chairs," and I do it for the purpose of asking the chairman of the Committee of Ways and Means whether or not this last sentence of the paragraph, "when such articles are made of wrought iron, which has previously paid the tax or duty assessed thereon," does not exempt only those articles made of wrought iron? Railroad chairs are made both of cast and wrought iron; and yet this clause would only exempt those chairs made of wrought iron.

Mr. MORRILL. The clause exempts all that was intended to be exempted. Chairs made of pig iron are not taxed, while chairs made of wrought iron are taxed in the form of iron.

Mr. ALLISON. I withdraw my amendment.

Mr. HOOPER, of Massachusetts. I offer the following as an additional amendment:

Pickles, when sold in gallons, and not contained in glass packages.

The amendment was agreed to.

The Clerk read as follows:

Stoves, composed in part of cast iron and in part of sheet iron or of soapstone or freestone, with or without cast iron or sheet iron: *Provided*, That the cast and sheet iron shall have paid the tax or duty previously assessed thereon: *Provided further*, That the exemptions aforesaid shall, in all cases, be confined exclusively to said articles in the state and condition specified in the foregoing enumeration, and shall not extend to articles in any other form, nor to manufactures from said articles.

Mr. HALE. In lines one hundred and thirty and one hundred and thirty-one I move to strike out the words "or of soapstone or freestone, with or without cast iron or sheet iron." I would ask the chairman of the Committee of Ways and Means why these articles should be put upon the free list, and whether the reason is that the only place in the country where they are made is in his district. [Laughter.]

Mr. MORRILL. I believe that most of them are made at a point directly south of the gentleman's own district, in Troy, New York. They are made of castings that have paid a tax, or of sheet iron that has paid a tax. This is one of the cases of the duplication of taxes. In relation to soapstone and freestone, I will say that I have had no applications from my district, so far as I remember, either before or since this bill was reported, in relation to that subject. All the applications have been from other parts of the country.

Mr. HALE. I withdraw my amendment.

Mr. WILSON, of Iowa. I renew it for the purpose merely of asking a question. This paragraph is drawn with some adroitness. When it was first read I supposed that it exempted all stoves; but I find now that it reads "stoves composed in part of cast iron and in part of sheet iron, or of soapstone or freestone, with or without cast iron or sheet iron." Now, if a stove is composed entirely of iron it is not embraced in this paragraph.

Mr. GARFIELD. The gentleman will see that upon page 91 "stoves, and hollow-ware in all conditions, whether rough, tinned, or enameled, and castings of iron not otherwise provided for," are taxed three dollars per ton. Now, the iron that helps to make up these soapstone and freestone stoves has already been taxed. This, therefore, would be a duplication of taxes. That is the reason for the exemption.

Mr. WILSON, of Iowa. But soapstone and freestone pay no tax at all. Freestone is free, and also soapstone. It seems to me, therefore, that stoves made of soap-stone or freestone should not be exempt, unless you also exempt stoves made of iron.

The gentleman says this is a very small matter. I do not so understand it. I understand that these stone stoves are entering very largely into use in certain sections of the country, and that the manufacturers of them are engaged in extending the business, by the means of agents and advertising, all over the country, and that they are enabled now to supply the demand for them. And yet those who use iron stoves are to be required to pay a tax of three per cent. *ad valorem*, while those who use freestone or soapstone stoves are not required to pay any tax. It does seem to me that if the one is exempted the other should be also. This is a provision in favor of an interest that is growing rapidly, and in favor of that section of country where, at present, these stoves are made exclusively.

Mr. GARFIELD. It would be perfectly proper for the gentleman to propose to put these articles under the three per cent. tax. The only reason why they were exempted was that the articles were so cheap as to make the amount of revenue to be derived from them trifling.

Mr. MORRILL. Let me say to the gentleman from Iowa that he is mistaken in supposing that this is a very large interest. In the first place, it is very difficult to find stone that will stand fire. I know that very little stone can be found in the whole country that will stand fire without cracking and crumbling. The tax upon stoves of any sort amounts to a very small sum. The tax of three dollars per ton is fifteen cents per hundred pounds, and a common cooking stove weighs about two hundred and fifty pounds, and sells for perhaps twenty-five to thirty dollars.

The amendment was not agreed to.

Mr. O'NEILL. I move to insert the following as an additional paragraph:

Articles manufactured in institutions for the blind, and institutions for the deaf and dumb, which are sold to aid in their support or the support of the pupils.

I presume there will be no objection to that amendment. It simply exempts the few articles made in institutions for the blind and the deaf and dumb, and sold for the benefit of those institutions.

Mr. MORRILL. I have no objection to that. The amendment was agreed to.

Mr. MYERS. I move to add at the end of line one hundred and thirty-seven the following proviso:

And provided further, That every person, firm, or corporation who shall have made any contract of purchase prior to the passage of this act without provision for the deduction of duties reduced or abolished by law enacted subsequent thereto, upon articles to be delivered under such contract, is hereby authorized and empowered to deduct from the price thereof so much money as will be equivalent to the duty from which said articles have been so subsequently exempted.

I think a provision of this kind comes in appropriately after the list of exemptions. It is analogous to a section in the original act declaring that the vendor might add to the amount of his contract the amount of the tax subsequently imposed by act of Congress. This amendment gives the vendee the right to deduct the amount from the contract made with him at the time when it was supposed the articles were not exempt. If the original section was proper, this is equally so.

Mr. MORRILL. I hope the committee will

not adopt such a provision as this, but will allow these parties to take their remedy under the law. Suppose a party under this provision should say that he would not allow the deduction, they would then have to go to law about it. I hope the amendment will be rejected.

The amendment was disagreed to.

Mr. MORRILL. I move to strike out after the words, "and in case said tax or duty is not paid on or before the last day of each and every month the collector shall," the words "add ten per cent. thereto, and make distraint therefor as provided in other cases under the law to which this is an amendment;" and insert in lieu thereof the words "proceed to collect the same in the manner provided by law; and so much of the eighty-third section of the act to which this is an amendment, is hereby repealed."

The amendment was agreed to.

The Clerk read as follows:

SEC. 13. *And be it further enacted*, That every person, firm, company, or corporation engaged in the manufacture or preparation for sale, by roasting, grinding, or other process, of coffee or spices, or of adulterated coffee or spices, or of any article or compound intended for use in the adulteration, or for use as a substitute for coffee or spices, or who shall put up for sale, either by himself or others, in packages with his or their own name or trade-mark, any manufactured or prepared article or compound, as aforesaid, shall be regarded and taxed as a manufacturer, and shall give a bond in such amount as the collector of the district may deem proper, conditioned that he or they will not sell or dispose of any article so manufactured or prepared by him or them without having paid the tax or affixed the proper stamps as required by law, and will comply with all the provisions of law relating thereto.

Mr. MORRILL. I move to strike out this section, as it has already been provided for in another part of this bill.

The motion was agreed to.

The Clerk read as follows:

SEC. 14. *And be it further enacted*, That apothecaries who manufacture, for their own dispensation and sales to consumers and to physicians, the medicines compounded according to the United States or other national pharmacopoeias, or of which the full and proper formula is published in any of the dispensatories now or hitherto in common use among physicians or apothecaries, or in any pharmaceutical journal now issued by or in incorporated college of pharmacy, shall not be regarded as manufacturers under this act. But apothecaries and all other persons who manufacture for the dispensing and sales of others, or who make and advertise any article, medicinal or otherwise, simple or compound, with any special proprietary claim to merit, or to special advantage in use or effect, whether such claim be based on the properties, qualities, price, or any other distinctive or distinguishing characteristic, whether real or pretended, of the articles so made and advertised, whether such article be or be not made according to the authorities above cited in this proviso, the maker or makers thereof shall be regarded as manufacturers under this act. And apothecaries shall not be regarded as retail dealers in liquors in consequence of selling or of dispensing, upon physicians' prescriptions, the wines and spirits official in the United States and other national pharmacopoeias, either simple or compounded, in quantities not exceeding half a pint of either at any one time, nor exceeding in aggregate cost value the sum of \$300 per annum.

Mr. MORRILL. I move to amend by striking out the words "proviso, the maker or makers thereof," after the words "the authorities above cited in this," and insert in lieu thereof the word "section."

The amendment was agreed to.

The Clerk read as follows:

SEC. 15. *And be it further enacted*, That no duty or stamp shall be required for any un compounded medicinal drug or chemical, nor any medicine compounded according to the United States or other national pharmacopoeia, or of which the full and proper formula is published in any of the dispensatories now or hitherto in common use among physicians or apothecaries, or in any pharmaceutical journal now issued by any incorporated college of pharmacy, and not sold or offered for sale, or advertised under any other name, form, or guise than that under which they may be severally denominated and laid down in said pharmacopoeias, dispensatories, or journals as aforesaid; nor medicines sold to or for the use of any person which may be mixed and compounded for said person according to the written receipt or prescription of any physician or surgeon. But nothing in this section shall be construed to exempt from stamp duty any and all medicinal articles, whether simple or compounded by any rule, authority, or formula, published or unpublished, which are put up in a style or manner similar to that of patent or proprietary medicines in general, and advertised in newspapers or by public handbills for popular sale and use, as having any special proprietary claim to merit, or to any peculiar advantage in mode or preparation, quality,

quantity, price, use, or effect, whether such claim be real or pretended.

Mr. MORRILL. I move to amend by striking out the words "of pharmacy and" after the words "issued by any incorporated college" and inserting in lieu thereof the word "when."

The amendment was agreed to.

Mr. MORRILL. In the sentence, "but nothing in this section shall be construed to exempt from stamp duty any and all medicinal articles," &c., I move to strike out the words "and all" before the words "medicinal articles."

The motion was agreed to.

Mr. MORRILL. Near the close of the section I move to strike out the words "quantity, price," after the word "quality."

The motion was agreed to.

The Clerk read as follows:

SEC. 16. *And be it further enacted*, That in case any goods or commodities for or in respect whereof any tax or duty is or shall be imposed, or any materials, utensils, or vessels proper or intended to be made use of for or in the making of such goods or commodities shall be removed, or shall be deposited or concealed in any place, with intent to defraud the United States of such duty or any part thereof, all such goods and commodities, and all such materials, utensils, and vessels respectively shall be forfeited, and in every such case, and in every case where any goods or commodities shall be forfeited under this act or any other act of Congress relating to the internal revenue, all and singular the casks, vessels, cases, or other packages whatsoever, containing or which shall have contained such goods or commodities, respectively, and every vessel, boat, cart, carriage, or other conveyance whatsoever, and all horses or other animals, and all things used in the removal, or for the deposit or concealment thereof, respectively, shall be forfeited; and every person who shall remove, deposit, or conceal, or be concerned in removing, depositing, or concealing any goods or commodities for or in respect whereof any duty or tax is or shall be imposed, with intent to defraud the United States of such duty or tax or any part thereof, shall be liable to a fine or penalty of not exceeding \$500.

Mr. GARFIELD. I move to insert the words "or tax" after the words "with intent to defraud the United States of such duty."

The motion was agreed to.

The Clerk read as follows:

SEC. 17. *And be it further enacted*, That the judge of any circuit or district court of the United States, or any commissioner thereof, may issue a search warrant, authorizing any internal revenue officer to search any premises, if such officer shall make oath in writing that he has reason to believe, and does believe, that a fraud upon the revenue has been or is being committed upon or by the use of said premises.

No amendment being offered,

The Clerk read as follows:

SEC. 18. *And be it further enacted*, That any person who shall sell, give, or purchase or receive any box, barrel, bag, or any vessel, package, wrapper, cover, or envelope of any kind, which has been stamped, branded, or marked in any way, so as to show that the contents or intended contents thereof have been duly inspected, or that the tax or duty thereon has been paid, or that any provision of the internal revenue laws has been complied with, whether such stamping, branding, or marking may have been a duly authorized act or may be false and counterfeit, or otherwise without authority of law, said box, barrel, bag, vessel, package, wrapper, cover, or envelope still bearing uncancelled or uneraser said stamp, brand, or mark, and being empty, or containing anything else than contents which were therein when said articles had been so lawfully stamped, branded, or marked by an officer of the revenue, shall be liable to a penalty of not less than fifty nor more than five hundred dollars; and all such boxes, barrels, bags, vessels, packages, wrappers, covers, and envelopes, with their contents, belonging to such offender, shall be forfeited to the United States. And any person who shall make, manufacture, or produce any box, barrel, bag, vessel, package, wrapper, cover, or envelope, stamped, branded, or marked, as above described, or shall stamp, brand, or mark the same, as hereinbefore recited, shall, upon conviction thereof, be liable to a penalty as before provided in this section. And any person who shall violate the foregoing provisions of this section, with intent to defraud the revenue, or to defraud any person, shall, upon conviction thereof, be liable to a fine of not less than \$1,000, and imprisonment for not less than six months; and all such articles, with their contents, belonging to said offender, shall be forfeited to the United States; and one half of said penalty, forfeiture, and fine, to be ascertained by judgment of court, shall go to the informer.

Mr. MORRILL. I move to amend at the commencement of the section by striking out "any person who" and insert "in case any person" before the words "shall sell, give, or purchase," &c.

The amendment was agreed to.

Mr. MORRILL. Before the words "shall be liable to a penalty of not less than fifty nor more than five hundred dollars," I move to insert the words "or falsely or fraudulently stamped, branded, or marked, such person."

The motion was agreed to.

Mr. MORRILL. I move to strike out the words "belonging to such offender," and "belonging to said offenders," before the words "shall be forfeited to the United States."

The motion was agreed to.

Mr. MORRILL. I move to strike out the words "and one half of said penalty, forfeiture, and fine, to be ascertained by judgment of court, shall go to the informer," at the end of the section.

The motion was agreed to.

Mr. HALE. I move to strike out "and" and insert "or" before the words "and imprisonment for not less than six months;" and also to insert after the words "six months" the words "or both such fine and imprisonment."

The motion was agreed to.

Mr. UPSON. I move to insert after the last amendment the words "at the discretion of the court."

The motion was agreed to.

Mr. LYNCH. I move to strike out the words "uncanceled or un erased" after the words "or envelope still bearing." I suppose this provision was meant to prevent the sale of packages the contents of which have been sold. Now, a package before the contents have been sold may have a canceled or erased stamp upon it; or after the contents have been sold the stamp may be on it canceled. The fact that the stamp is canceled or uncanceled will not affect the question of the sale of the contents; because, as I take it, the cancellation is while the package is full, and without being emptied it passes from the custody of the revenue officers. The cancellation must be made while the package is full. Hence, if we allow the package to be sold with a canceled stamp upon it, it can be filled again, and there is no means on the part of the officers to detect it.

Mr. HOOPER, of Massachusetts. I think there is weight in the suggestion of the gentleman. I move, as an amendment to the amendment, to strike out from the paragraph the words: "still bearing uncanceled or un erased said stamp, brand, or mark, and."

Mr. LYNCH. I think that striking out the words "uncanceled or un erased" would answer every purpose.

The amendment to the amendment was agreed to.

The amendment, as amended, was agreed to.

The Clerk read as follows:

SEC. 19. *And be it further enacted*, That where any whisky, oil, tobacco, or other articles of manufacture or produce, requiring brands, stamps, or marks of whatever kind to be placed thereon, shall be sold upon distraint, forfeiture, or other process provided by law, the same not having been branded, stamped, or marked as required by law, the officer selling the same shall, upon sale thereof, fix or cause to be affixed the brands, stamps, or marks so required, and deduct the expense thereof from the proceeds of such sale.

No amendment being offered,

The Clerk read as follows:

SEC. 20. *And be it further enacted*, That manual labor schools and colleges shall not be required to pay a manufacturer's or special tax while the proceeds of the labor of such institutions are applied exclusively to the support and maintenance of such institutions.

No amendment being offered,

The Clerk read as follows:

SEC. 21. *And be it further enacted*, That no suit shall be brought against any collector of customs or of internal revenue for any duty, license, special tax, or tax paid, unless such suit is brought within six months from the passage of this act, or within six months after the payment of such duty or tax.

No amendment being offered,

The Clerk read as follows:

SEC. 22. *And be it further enacted*, That section fifteen of the act of March 3, 1865, entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," be amended by striking out all after the enacting clause and inserting in lieu thereof the

following: that in any port of the United States in which there is more than one collector of internal revenue, the Secretary of the Treasury shall designate one of said collectors to have charge of all matters relating to the exportation of articles subject to tax under the laws to provide internal revenue; and at such ports as the Secretary of the Treasury may deem it necessary there shall be an officer appointed by him to superintend all matters of exportation and drawback, under the direction of the collector, whose compensation therefor shall be prescribed by the Secretary of the Treasury, but shall not exceed, in any case, an annual rate of \$2,000, excepting at New York, where the compensation shall be an annual rate of \$3,000; and such compensation, together with the office expenses of such superintendence, shall not be included in the maximum of the aggregate expenses of the office of said collector. And all the books, papers, and documents in the bureau of drawback in the respective ports, relating to the drawback of duties paid under the internal revenue laws, shall be delivered to said collector of internal revenue; and any collector of internal revenue, or superintendent of exports and drawbacks, shall have authority to administer such oaths and certify to such papers as may be necessary under any rules and regulations that may be prescribed under the authority herein conferred.

Mr. HOOPER, of Massachusetts. When the gentleman from Pennsylvania [Mr. THAYER] made the other day a motion in regard to the warehouses at a port of entry where there is more than one collector, I told him that I thought the bill already contained a provision of that kind. I find, however, that this section does not quite cover what is desired, and I wish to propose an amendment to include what is wanted in this section, as this relates to the same subject. I move to amend, therefore, by inserting at the beginning of the eleventh line the words "all bonded warehouses and;" so that the clause will read:

The Secretary of the Treasury shall designate one of said collectors to have charge of all bonded warehouses and all matters relating to the exportation of articles subject to tax under the laws to provide internal revenue.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by inserting before the word "exportation," in the same line, the words "storage or."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. I move to amend by striking out the word "shall," in the same line, and inserting in lieu thereof the word "may."

The amendment was agreed to.

Mr. THAYER. This provision as now amended covers all the ground of the former amendment. I hope, therefore, that by unanimous consent the previous amendment will be stricken out.

Mr. MORRILL. I hope that will be done.

The CHAIRMAN. If there be no objection that change will be made.

There was no objection.

Mr. MORRILL. I move to amend by striking out from lines twenty to twenty-three the following:

And such compensation, together with the office expenses of such superintendence, shall not be included in the maximum of the aggregate expenses of the office of said collector.

The amendment was agreed to.

The Clerk read as follows:

SEC. 23. *And be it further enacted*, That every person, firm, or corporation, who distills or manufactures spirits, or who brews or makes mash, wort, or wash, for distillation or the production of spirit, shall be deemed a distiller, under this act. And the making or keeping by any person of grain, mash, wash, or beer, prepared or fit for distillation, together with the possession by such person of a still or other apparatus capable of use for distilling, upon the same premises, shall be deemed and taken as presumptive evidence that such person is a distiller within the meaning of this act.

No amendment being offered,

The Clerk read as follows:

SEC. 24. *And be it further enacted*, That every person, firm, or corporation, who rectifies, purifies, or refines distilled spirits or wines by any process, or who, by mixing distilled spirits or wine with any materials, manufactures any spurious, imitation, or compound liquors for sale, under the name of whisky, brandy, gin, rum, wine, "spirits," or "wine bitters," or any other name, shall be regarded as a rectifier under this act.

The hour of half past four o'clock having arrived, the Speaker resumed the chair, and the House took a recess until half past seven o'clock p. m.

EVENING SESSION.

The House reassembled at half past seven o'clock p. m.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 294) entitled "An act for the relief of John Gordon," in which the concurrence of the House was requested.

The message further announced that the Senate had passed joint resolution (H. R. No. 134) relative to appointments in the Military Academy of the United States, with an amendment, in which the concurrence of the House was requested.

TAX BILL.

Mr. DAWES. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The Clerk read as follows:

SEC. 25. *And be it further enacted*, That if any person or persons shall carry on any business of distilling or rectifying without having paid the special tax as required by law, he or they shall, for every such offense, besides being liable to the payment of the tax upon the spirits distilled, also be liable to a penalty of one hundred per cent. in addition thereto, to be assessed by the assessor, and shall each be subject, upon conviction, to imprisonment for a term not exceeding two years; and upon sufficient information of such offense, the collector, deputy collector, or other authorized officer of the district in which the same shall be alleged to have been committed, may enter upon the premises of the person or persons by whom such offense is alleged to have been committed, using such force as may be necessary for that purpose, and may seize all spirits or spirituous liquors, and all materials for making or preparing the same respectively, and all vessels and utensils containing the same, and all stills or other apparatus capable of being used for distilling, and may hold the same. And the said collector, upon the assessment aforesaid having been made, and upon the conviction of the said person or persons, shall sell such stills, apparatus, and other materials, vessels, utensils, and liquors so seized, and shall apply the proceeds in satisfaction of such assessment, and of the fine, if imposed; and the said assessment and fine, or such part thereof as shall not have been so satisfied, shall, until paid, be a lien in favor of the United States, from and after the time when such assessment is made, or such fine laid, upon all property and rights to property of the person by whom such offense shall have been committed, and upon his interest in the lands and premises in which it shall have been committed, and upon all his property therein, and such lien may be enforced by levy and distraint by said collector, or by suit *in rem*; and when the personal property found shall not be sufficient to satisfy the same, such lands and premises may be seized, and upon the decree of the court the interest aforesaid sold, and proceeds applied in payment thereof. And the person or persons furnishing the information upon which such seizure shall have been made, or the officer who made such seizure, if having acted upon information obtained by himself, shall, upon the order of the Secretary of the Treasury, receive such part and in such proportions of a moiety of the said one hundred per cent. assessed penalty, and of a moiety of the said fine when recovered, as the Secretary of the Treasury shall determine.

Mr. HOOPER, of Massachusetts. I ask that, by unanimous consent, the committee go back to the eighteenth section and amend it by striking out in the fourth line the words "which has been."

There being no objection, the amendment was agreed to.

The Clerk read as follows:

SEC. 26. *And be it further enacted*, That every person, firm, or corporation, required to pay a special tax as a distiller, or as a rectifier, shall make and sign a notice in writing to the assessor of the district, stating the name or style under which, the name or names and the place or places of residence of the person or persons by whom, and the place where, the business is to be carried on, and its nature. If the business is that of a distiller, the notice shall also state the kind of stills or boilers to be used, the capacity of each, the name or names of the owner or owners of the land or premises on which the distillery is situated, and the nature of the title by which such

premises will be held and occupied. Any person or persons who shall make a false or fraudulent representation in such notice shall be liable to a fine of \$300, to be recovered with costs of suit.

No amendment being offered,
The Clerk read as follows:

SEC. 27. *And be it further enacted*, That no person or persons shall make or distill spirits until such person, with two or more good and sufficient sureties, to be approved by the collector within whose district the business is to be carried on, has entered, jointly and severally, into a bond to the United States in such sum as shall be hereinafter specified; and such bond shall be accompanied with satisfactory affidavits of the sufficiency of the sureties executing the same, and such approval shall be indorsed on said bond by the collector, and the affidavits be attached thereto; and a new bond may be required by the collector whenever either of the sureties shall die, become insolvent, or remove permanently out of the collection district; in any of which cases the party to the bond shall be conditioned that, in case any still or stills, or other implements to be used for distilling, shall be erected or used by him, his agent, or superintendent, he will, before using, or causing, or permitting the same to be used, report in writing to said assessor the capacity thereof, and give information from time to time of any change in the location, form, capacity, ownership, agency, or superintendence, which all or either of the said still or stills or other implements may undergo; that he will, from day to day, enter or cause to be entered, in a book to be kept for that purpose, the number of pounds or gallons of materials used, and the number of gallons of spirits that may be distilled by said still or stills, or other implements; that said book shall be open at all hours during the day to the inspection of any assessor, assistant assessor, collector, deputy collector, revenue agent, or inspector, who may make any memorandums or transcripts therefrom; that he will render to said assessor or assistant assessor, on the 1st, 11th, and 21st days of each and every month, or within five days thereafter, an exact account in writing of the number of pounds or gallons of material used for the purpose of producing spirits, the number of gallons of spirits distilled, and the number of gallons placed in warehouse; and that he will not sell, or permit to be sold, or removed for consumption or sale, any spirits distilled until the same shall have been gauged, inspected, proved, and deposited in the bonded warehouse, and the quantity thereof duly entered upon his books as aforesaid, with the name and place of business of the party to whom such spirits may be sold; that he will render all accounts and pay all taxes and penalties which he may become liable to render or pay under the laws of the United States; and that such party will faithfully comply with the requirements of law as well with regard to such accounts, duties, and penalties, as to all other matters and things whatsoever. And such bond shall be executed before the said collector of internal revenue, and shall be filed in his office, and a copy of the same, duly certified by him, shall be forthwith transmitted to the Commissioner of Internal Revenue at Washington; and the bond aforesaid shall remain in force until all the provisions and conditions of said bond have been fully complied with: *Provided*, That such bond shall not be required for a greater amount than double the amount of tax on the spirits that can be distilled by such still or stills or other implements during a period of fifteen days.

Mr. HOOPER, of Massachusetts. I move in line thirteen to strike out "party to."

The amendment was agreed to.

Mr. INGERSOLL. I ask whether the Clerk has read this evening any other sections than this one.

The CHAIRMAN. He has read those immediately preceding it.

Mr. INGERSOLL. I wish to ask the committee to postpone the consideration of the section relating to the manufacture of high-wines until we have a fuller committee. It is an interest in which the West is largely concerned. I see that the committee is slim this evening. I ask the chairman of the Committee of Ways and Means to allow these sections to be reserved.

Mr. GARFIELD. I have a verbal amendment to move. I move in line sixteen to strike out "him" and insert "such distiller."

The amendment was agreed to.

Mr. INGERSOLL. I ask the chairman of the Committee of Ways and Means whether he will consent to my proposition.

Mr. MORRILL. The gentleman will see that what we have passed is merely formal.

Mr. INGERSOLL. I understand there is a provision in the bill prohibiting the manufacture of alcohol on the same premises where whisky is manufactured. I only want to have the opportunity to make objection or to move amendments hereafter.

Mr. THAYER. I move in line thirteen to strike out "any" and insert "all."

The amendment was agreed to.

Mr. HARDING, of Illinois. I move to add the following at the end of line fifty-seven:

Provided, however, That any licensed distiller having also obtained a license to rectify spirits, shall and may complete the process of distilling spirits into alcohol by continuous distillation in the same manufactory in which the spirits are distilled, and in that case shall not be required to run the spirits into cisterns and to put the same in casks, barrels, or packages, or pay the duty or tax thereon until the completion of the process of distillation, when the provisions of law shall be applicable to the product, under regulations to be prescribed by the Secretary of the Treasury.

Mr. GARFIELD. I ask the gentleman from Illinois to postpone his amendment until we come to section twenty-nine.

Mr. HARDING, of Illinois. I shall be glad to accommodate the gentleman from Ohio.

Mr. GARFIELD. It is no accommodation to me; I only want to save time.

Mr. HARDING, of Illinois. The section is passed, I understand, which prohibits the manufacture of alcohol in the same establishment as whisky. It recognizes two systems, one distinct from the other.

Mr. HOOPER, of Massachusetts. No such section has yet been adopted.

Mr. HARDING, of Illinois. I ask that my amendment shall be considered now.

Mr. Chairman, I have looked over this bill with considerable care. I look on it as important that the interests which are connected with the protection of spirits, and which is expected to be a source of great revenue to the Government, should be allowed to be carried on with as little inconvenience as possible. It is not a matter of so much moment to me how high the tax upon spirits shall be as that no unnecessary inconvenience or obstruction shall be imposed upon the manufacture.

Mr. HOOPER, of Massachusetts. The gentleman will allow me to interrupt him. I will call his attention to the twenty-ninth section, where the subject is especially provided, and ask him to wait until we come to that section. It contains the restriction to which he objects.

Mr. HARDING, of Illinois. I withdraw my amendment for the present.

Mr. ALLISON. I ask consent to go back and amend section twenty-five by striking out the following, at the close thereof:

And the person or persons furnishing the information upon which such seizure shall have been made, or the officer who made such seizure, if having acted upon information obtained by himself, shall, upon the order of the Secretary of the Treasury, receive such part and in such proportions of a moiety of the said one hundred per cent. assessed penalty, and of a moiety of the said fine when recovered, as the Secretary of the Treasury shall determine.

The amendment was agreed to.

Mr. O'NEILL. I move to amend section twenty-eight by inserting in line thirty, after the word "therefrom," the following:

Any one of whom having made the inspection during the current day shall leave with the said distiller a certificate to that effect, which shall, upon being sworn, prevent the necessity of any further inspection during that day.

The clause will then read:

That said book shall be open at all hours during the day to the inspection of any assessor, assistant assessor, collector, deputy collector, revenue agent, or inspector, who may make any memorandums or transcripts therefrom, any one of whom having made the inspection during the current day shall leave with the said distiller a certificate to that effect, which shall, upon being sworn, prevent the necessity of any further inspection during that day.

My object in offering this amendment is to save trouble and vexation to the distillers from frequent, daily inspections. While I deem it necessary that a strict watch should be kept over distillers, I am anxious to see them relieved from too frequent visits of the revenue officers. Some check should certainly be put upon officials who for vexatious purposes may insist upon making these inspections.

Mr. MORRILL. If the amendment of the gentleman prevails, the effect of it would be to afford ample security for the commission of any amount of fraud after the inspector shall have once visited the establishment.

The amendment was not agreed to.

The Clerk read as follows:

SEC. 28. *And be it further enacted*, That upon every notice duly made, as herein provided, for making,

distilling, rectifying, or compounding spirits or spirituous liquors, and upon payment of the special tax imposed, and the due execution of the bond with sureties as required by law, such person or persons may use such utensils, machinery, and apparatus in the place or premises specified in the notice, and in such place or premises only: *Provided*, That any collector may refuse to receive such notice or approve of such bond, when, in his judgment, the location of the distillery is such as would enable the distiller to defraud the Government in respect to the revenue; and in case of such refusal, the distiller may appeal to the Commissioner of Internal Revenue, whose decision in the matter shall be final.

No amendment being offered,

The Clerk read as follows:

SEC. 29. *And be it further enacted*, That no person, firm, or corporation, shall use any still, boiler, or other vessel, for the purpose of distilling in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors are manufactured; and no still, boiler, or other vessel, shall be used as aforesaid in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, ether, or alcohol are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or any other business is carried on; and every person who shall use such still, boiler, or other vessel, for the purpose of distilling, as aforesaid, in any building or other premises where the above specified articles are manufactured, produced, or other business is carried on, or who shall procure the same to be done, shall forfeit such stills, boilers, or other vessels so used, and all the spirits distilled, and pay a fine of \$1,000, and be imprisoned for not less than six months nor more than one year, in the discretion of the court; and any person, firm, or corporation, who shall manufacture any still, boiler, or other vessel, to be used for the purpose of distilling, shall, before the same is removed from the place of manufacture, notify the collector where such still, boiler, or other vessel is to be used or sent, of the intention to send or set up the same, and of its capacity; and the time when the same is to be sent or set up; and no such still, boiler, or other vessel, shall be set up without the permit in writing of the collector for that purpose; and any person, firm, or corporation, who shall set up such still, boiler, or other vessel, without first obtaining a permit from the collector of the district in which such still, boiler, or other vessel is intended to be used, or who shall fail to give such notice, shall pay in either case the sum of \$500, and shall forfeit the distilling apparatus thus manufactured or set up in violation of law: *Provided*, That saleratus may be made or manufactured in any building or on any premises where spirits are distilled: *Provided further*, That any boiler used in generating steam or heating water to be used in such distillery may be located in any other building or on any other premises to be connected with such still or boiling tubs, by suitable pipes or other apparatus, or the steam from such boiler in the distillery may be conveyed to other premises to be used for manufacturing or other purposes.

Mr. MORRILL. I will say to the gentleman from Illinois [Mr. HARDING] that if he desires it I will move to pass over this section till to-morrow, when we can have a full House.

Mr. HARDING, of Illinois. I imagine that there can be no dispute upon the question which is raised by this amendment which I have proposed. There can be no objection to continuing the business as it has been done for years. The distillers all manufacture this high proof article, and we ask only that they may be allowed to continue the distillation of alcohol by a continuous process of distillation in the same room and by the same machinery. I only want to strike out the word "alcohol" in the section.

Mr. MORRILL. I will move to pass it over.

Mr. HARDING, of Illinois. I was in hopes it would be accepted.

The CHAIRMAN. If there is no objection it will be passed over.

Mr. INGERSOLL objected, but afterwards withdrew his objection.

Mr. GARFIELD. I understand there is only one point desired to be passed over, and that is simply the word "alcohol."

Mr. McKUER. I move to amend by inserting after the word "on," in section twenty-nine, the words "or in any dwelling house;" so that it will read, "or where liquors of any description are retailed, or any other business is carried on, or in any dwelling-house." It seems to me it would be a wise provision that no distillation should be carried on in any dwelling-house.

Mr. GARFIELD. I hope that will be adopted.

The amendment was agreed to.

Mr. COBB. I move to strike out in line four the words "beer, lager beer, ale, porter."

Mr. HOOPER, of Massachusetts. Include the words "or other fermented liquors."

Mr. COBB. I will include that.
Mr. STEVENS. I thought this was passed over till to-morrow.

Mr. COBB. Only the word "alcohol."
Mr. INGERSOLL. I beg pardon, the whole subject.

No objection being made, the section was accordingly passed over.

The Clerk read as follows:

SEC. 30. *And be it further enacted*, That every rectifier or wholesale dealer in distilled spirits shall enter daily, in a book or books kept for the purpose, under such rules and regulations as the Commissioner of Internal Revenue may prescribe, the number of proof gallons of spirits purchased or received, of whom purchased or received, and the number of proof gallons sold or delivered; and every rectifier or wholesale dealer who shall neglect or refuse to keep such record shall forfeit all spirits in his possession, together with the apparatus, tools, and implements used, and be subject to a fine of \$500, or an imprisonment for not less than six months nor more than a year, in the discretion of the court. And every rectifier shall mark with a stencil-plate on each package of five gallons or more of distilled or rectified spirits sold by him his name and place of business.

No amendment being offered,

The Clerk read as follows:

SEC. 31. *And be it further enacted*, That the owner or owners of any distillery shall provide, at his or their own expense, a warehouse suitable for the storage of bonded spirits, of their own manufacture only; or he or they may provide a secure room, in a suitable building, to be used as such warehouse; and no door, window, or other opening shall be made or permitted in the walls thereof, leading to any other room or building used for any other purpose, or into the distillery; and after a bond has been given, as herein-after provided, such warehouse or room, when approved by the Commissioner of Internal Revenue, on report of the district collector, is hereby declared to be a bonded warehouse of the United States, and shall be used only for the storing of spirits manufactured by the owner, agent, or superintendent thereof, and shall be under the custody of the inspector as herein-after provided; and shall be kept locked up by the proper officer in charge, at all times, except when he shall be present; and the tax on the spirits stored in such warehouse shall be paid before removal from such warehouse, unless removed in pursuance of law. And the owner or owners of such warehouse shall execute a general bond to the United States with two or more sureties, to be approved by the collector; and such bond shall be for not less than the amount of duties on the spirits to be covered thereby, and in such form, and containing such conditions, as shall be approved by the Commissioner of Internal Revenue, and may be changed from time to time by the collector in regard to the amount and sureties thereof.

Mr. HOOPER, of Massachusetts. I move to strike out the word "thereof" in the fifteenth line and insert the words "of such distillery."

The amendment was agreed to.

Mr. INGERSOLL. I move to insert in line six, after the word "warehouse," the words "but no dwelling-house shall be used for any such purpose;" so that it will read:

Or he or they may provide a secure room, in a suitable building, to be used as such warehouse; but no dwelling-house shall be used for any such purpose.

Mr. HOOPER, of Massachusetts. I see no objection.

The amendment was agreed to.

Mr. BIDWELL. I suggest to the chairman of the committee whether, after the words "stencil-plate," on page 153, line fourteen, the words "or otherwise" should not be added.

The CHAIRMAN. That section has been passed.

The Clerk read as follows:

SEC. 32. *And be it further enacted*, That general bonded warehouses, for the storage of spirits or other merchandise allowed by law to be placed in bond to secure the payment of the internal revenue tax thereon, or the exportation thereof, may be established under such rules and regulations and upon the execution of such bonds as the Commissioner of Internal Revenue may prescribe, and shall be in the immediate custody of store-keepers who shall be appointed for that purpose, whose compensation shall be paid monthly to the collector of the district by the owners or proprietors of such warehouse, and shall not exceed the rates which may be allowed to store-keepers of bonded warehouses established under the laws and regulations relating to customs.

No amendment being offered,

The Clerk read as follows:

SEC. 33. *And be it further enacted*, That there shall be appointed by the Secretary of the Treasury an inspector for each and every distillery established according to law, who shall take an oath faithfully to perform his duties; and who shall take an account of all the meal and vegetable productions or other substances to be used for the purpose of producing spirits, when put into the mash-tub or otherwise used; and shall inspect, gauge, and prove all the spirits distilled, under such rules and regulations as may be prescribed by the Commissioner of Internal Revenue;

and shall take charge of the bonded warehouse established for the distillery in conformity to law; and such warehouse shall be in the joint custody of such inspector and the owner thereof, his agent or superintendent; and when any spirits shall be placed in such warehouse, an entry therefor, in such form as shall be prescribed by regulations, shall immediately be made, and signed by the owner of said spirits, and shall have indorsed thereon a certificate of the inspector that the spirits mentioned have been duly inspected and received in said warehouse, and such entry and certificate shall be filed with the collector of the district; and whenever such warehouse is within the limits of any port of entry where there shall be a superintendent of exports, a duplicate of such entry and certificate shall forthwith be filed in the office of such superintendent; and said inspector shall also certify to the returns to be made by the distiller to the assessor; and shall not engage in any other business while holding the office of inspector; and he shall be paid such compensation as the Secretary of the Treasury may deem just and reasonable, at a rate not exceeding \$1,500 per annum, for the time during which he is engaged; and the amount of compensation thus paid for inspection shall be assessed by the assessor upon the distiller, and returned to the collector monthly; and in addition to the above compensation, such inspectors shall receive one eighth of one cent for each and every proof gallon of distilled spirits inspected by him and removed to the bonded warehouse, which shall be paid by the distiller or owner of the spirits; but no compensation shall be allowed to such inspector for more than one inspection of such spirits. And in case the duties of such inspector shall be greater at any time than he can perform, upon the joint application of the inspector and owner of such distillery, the collector may appoint an assistant inspector; and upon the refusal of the distiller to join in such application, the collector shall decide as to such necessity; and such assistant inspector shall qualify in the same manner and be subject to the same penalties as the inspector, and he shall be paid in the same manner as the inspector, at a rate not exceeding the sum of three dollars per day while so employed; and in case of disagreement as to the necessity of retaining the services of such assistant, between the owner of the distillery and the inspector, the collector shall decide as to such necessity, and his decision in the matter shall be final. And in case of absence by sickness, or from any other cause, of such inspector or assistant, the collector may appoint an officer to take temporary charge of such distillery and warehouse, who shall receive the same rate of pay as said inspector or assistant for the time he may be so employed, such amount to be deducted from the pay of the absent officer: *Provided*, That the owner, agent, or superintendent of any distillery who shall use, cause, or permit to be used, any materials for the purpose of producing spirits, or shall distill and remove any spirits in the absence of the acting inspector or assistant, without permission granted by the collector of the district, shall forfeit and pay double the amount of taxes on the spirits so produced, distilled, or removed, and in addition thereto a fine of \$1,000, to be recovered in the manner provided for other penalties imposed by this act: *Provided further*, That any person who shall ship, transport, or remove any spirituous or fermented liquors or wines, under any other than the proper name or brand known to the trade as designating the kind and quality of the contents of the casks or packages containing the same, or who shall cause the same to be done, shall forfeit the same, and shall, on conviction thereof, be subject to and pay a fine of \$500.

Mr. HARDING, of Kentucky. I move to strike out this whole section down to the last proviso. If the object is to break up the small distilleries throughout the country the adoption of this section will effectually accomplish it. It is utterly impossible that one out of a thousand of them can survive the operation of this provision. In addition to a provision for the appointment of a general inspector in each collection district, which has been regarded as sufficient heretofore, in addition to requiring every little distiller to build at his own expense a bonded warehouse and a receiving cistern, this section requires him to pay a salary for an inspector for his own distillery. After going to all the expense of building a warehouse and cistern he is to pay a salary "not exceeding \$1,500" and one eighth of a cent a gallon for the glorious privilege of distilling spirits, and paying two dollars a gallon on every gallon that he distills and sells. Now every man will see at once that this will crush all the small distillers, and the consequence will be the creation of a few large distillers, thus giving them the monopoly. You will compel all the small distillers to sacrifice their still-houses and all the machinery they have on hand.

Sir, the national bank system was no more successful in crushing out all the State banks than the large distilleries will be in crushing out all the smaller ones under this law. There are thousands of these small distilleries that cannot afford to pay a salary to an inspector

besides building a bonded warehouse and a receiving cistern at their own expense. This inspector is allowed to engage in no other business while he holds that office, but is to receive a salary at the expense of the distiller. Many of these distilleries run only six months, some of them only three months in the year, and during all this time there is to be a Government overseer or agent to see that each one of them measures his grain, to watch him when he is stirring his mash-tub, and inspect all his movements; and the balance of the year he is to do nothing but receive his salary. Where is the necessity of this when the bill provides that there shall be a general inspector for every collection district?

Mr. ALLISON. I desire to say a word in reference to this section. The object of the section, as of nearly every other section relating to this subject, is to prevent fraud, if possible, in the manufacture of distilled spirits. While in some degree the objections made by the gentleman from Kentucky [Mr. HARDING] may be true, that the tendency of this section will be to concentrate the business of distilling in the larger distilleries, yet that is not the absolute effect of this section. As to the pay of these inspectors, it is only at the rate of \$1,500 per year for the time during which they may be engaged.

Mr. HARDING, of Kentucky. But you do not allow them to be engaged in any other business while they hold the office of inspector.

Mr. ALLISON. Undoubtedly while the inspector is performing this duty, while the distillery is in operation, he is expected to be just where the gentleman from Kentucky [Mr. HARDING] says he will be, examining the meal-bags, the mash-tubs, and the corn-room, to ascertain the amount of material used. Of course, if the distillery is running only two months a year, the inspector will be paid for only the two months. The object of this section is to have every distillery supplied with an inspector, so that the Government may know at all times what amount of spirits are distilled in that distillery, and what amount of materials goes into it and is used in the distillery.

Mr. GRIDER. Will the gentleman from Iowa [Mr. ALLISON] allow me to ask him a question?

Mr. ALLISON. Certainly.

Mr. GRIDER. The distilleries in the West, especially in Kentucky, operate during the three winter months. It is proposed to have an inspector at each of these distilleries, and during the rest of the year he will have nothing to do.

Mr. ALLISON. That is very true. These inspectors are only employed, as I said before, during the time when the distilleries are in operation, and they are only paid for that time.

Mr. GRIDER. Then the result will be that if, in any particular county, there should be fifty distilleries you will have fifty inspectors on duty for three months of the year, and for the rest of the year you will have no use for them.

Mr. ALLISON. Very well; they are not paid except while employed.

Mr. STEVENS. I am not exactly satisfied with this section, and therefore I move to amend by striking out the words "such compensation as the Secretary of the Treasury may deem just and reasonable, at a rate not exceeding \$1,500 per annum," and inserting in lieu thereof the words "two cents per gallon for all spirits inspected." It is to be observed that by this section the cost of inspecting spirits is to be assessed upon the distiller. The inspector is to be paid \$1,500 a year; and the small distiller who distills only one hundred or two hundred gallons is bound to pay it, while the distiller who distills his one thousand or five thousand a day pays no more, except so far as the one eighth of one per cent. may go. Each one must pay a salary of \$1,500 a year to an inspector. Each distillery is to have an inspector placed in it, whether the amount distilled is five hundred or five thousand gallons a day. Now, I am

willing to have the inspector paid according to the amount of whisky he may inspect, but not that he shall be paid the same for inspecting for a small distillery as for one that distills three or four times as much. Therefore I think that this section of the bill should be carefully examined, as I cannot see that there is any justice in it.

Mr. HOOPER, of Massachusetts. I rise to oppose the amendment of my friend from Pennsylvania, [Mr. STEVENS.] I think there is very great objection to it. If it should be adopted I am afraid that we might lose the services of our friend from Illinois, [Mr. INGERSOLL.] He might wish to be appointed the inspector for some large distillery in his district, where they make, as I understand, from two thousand to six thousand gallons a day, for his compensation would then be from forty to one hundred dollars a day. I am afraid that might lead him or some other gentleman to withdraw from his place in this House for the purpose of getting such a position.

Mr. STEVENS. I will modify my amendment so that it shall be to strike out the words "such compensation as the Secretary of the Treasury may deem just and reasonable, at a rate," and inserting "two cents a gallon for all distilled spirits inspected, but." That portion will then read, "and he shall be paid two cents per gallon for all distilled spirits inspected, but not exceeding \$1,500 per annum."

Mr. HOOPER, of Massachusetts. Then I withdraw my objection. I think that is very fair.

Mr. MORRILL. I move *pro formâ* to amend so as to reduce the compensation to one cent per gallon.

I think, Mr. Chairman, that there ought to be no objection to this section as it stands. I think it is even an improvement upon the present law; nor does it vary greatly from that law. The present law requires these inspectors to be paid by the party employing them, and the rate of their compensation is fixed by the Secretary of the Treasury. He fixes it, I have no question, at as high a rate as is fixed in this bill. It is important that these inspectors should not be interested one way or the other as to the amount to be distilled, and that their pay should be sufficient to place them above temptation. The compensation should be ample and such as will enable the Government to engage the proper kind of men—competent, faithful, vigilant. The rate proposed is \$1,500 a year, and they will be paid at that rate, whether employed for thirty days, or sixty days, or six months, or twelve months. The proposition made by the gentleman from Pennsylvania is an extraordinary one. Even in the very smallest distilleries the pay would amount to a larger sum than the aggregate for the largest distilleries.

I trust, Mr. Chairman, that we shall leave the provision contained in the bill untouched. Certainly, judging from our past experience, it is of very great importance that we should frame such a law as will effectually collect the revenue. In years past, while nearly one hundred million gallons per annum have been distilled and only ten to fifteen million gallons were ever exported, we have obtained a tax the past year upon only ten or fifteen millions. The balance has been consumed either for drinking purposes or in the arts and manufactures. Everybody knows that we ought to obtain twice or three times the amount which we have heretofore received; and one of the first requisites in order to obtain any revenue whatever is to have a proper inspector in every distillery.

[Here the hammer fell.]

Mr. SCHENCK. I propose to amend by striking out "\$1,500 a year" and inserting "five dollars a day."

The CHAIRMAN. The amendment, in that form, is not in order.

Mr. SCHENCK. Well, then, for the purpose of saying what I wish to say I move to amend the amendment by striking out "two cents" and inserting in lieu thereof "one cent." It may be that the amendment of the

gentleman from Pennsylvania will prevail; but it seems to me open to a very obvious objection. He proposes that the pay shall be at the rate of two cents per gallon for all that is distilled, not to exceed, however, in the aggregate, \$1,500 a year. The operation of this would be that the inspector would continue on duty about a week, during which he would have made his \$1,500, and as after that he must work for nothing, he would then resign. Thus we should have in each of the different distilleries some fifty or sixty inspectors per annum.

If the gentleman would make the aggregate a per diem aggregate, he would obviate this objection. If he would provide that the inspectors shall receive a compensation in the shape of a percentage upon each gallon distilled, but that it shall be limited for each day that the inspector is on duty, the proposition would not be open to the objection I have stated. But unquestionably, under the proposition in its present form, after the inspector has made his \$1,500, which in a large distillery he will do in about a week, he will resign and make way for some other inspector, for he must work the rest of the year for nothing.

Mr. STEVENS. May I correct the gentleman? After they get above the \$1,500 they get in addition thereto one eighth of one per cent. for every gallon they inspect. This is intended only for the small ones.

Mr. SCHENCK. I would like the Clerk to read the amendment again.

The Clerk read the amendment.

Mr. SCHENCK. I do not know how that computation is to be made. An aggregate which is to be made at the rate of! What is it? I withdraw my amendment.

Mr. INGERSOLL. I renew the amendment. I believe, Mr. Chairman, this section, as reported by the committee, is in the best possible shape in which it can be passed, so far as the interests of the revenue are concerned. It is objected to this section by the gentleman from Pennsylvania [Mr. STEVENS] and the gentleman from Kentucky [Mr. HARDING] that it will have a tendency, if passed, to crush out the small stills. If that be so it is the best legislation which Congress can enact for the benefit of the revenue; for instead of these small stills being for the benefit of the revenue, under any circumstances, they are *steals* rather than stills. [Laughter.] I will say, so far as Peoria is concerned, it is willing that every still should go into Pennsylvania or anywhere else, provided you buy our corn. Buy our corn, and you may manufacture whisky where ever you please.

Now, sir, this ought to pay \$80,000,000 a year of revenue to the Government; and yet the chairman of the Committee of Ways and Means tells us for the last year it was only seventeen millions. In the southern States, where we have slight supervision of these stills, they are increasing like mushrooms in a night. Fifteen hundred are reported in one district in Georgia, where there was not one a little while ago. If you allow a law to go on the statute-book weak and loose, you will not have the rightful revenue returned. If you strike out \$1,500 a year, and pay two cents a gallon, in some distilleries the inspectors will receive \$1,500 in a few weeks. Peoria is not the only place where thousands of gallons are made in one day; but in Lawrenceburg, Brooklyn, and New York they have distilleries which manufacture from six to ten thousand gallons a day. Ten thousand gallons at two cents per gallon would be \$200; and of course when the inspector received his full pay he would resign. The Government demands good inspectors in order to make the proper calculations. It requires scientific accomplishments to make the calculations. It is made at different proofs; some at forty, some at sixty, and some at eighty, which is alcohol proof. If you pass the section as it is you will get your revenue. I admit you will to some extent drive out the small distilleries. I say so much the better for the country.

[Here the hammer fell.]

Mr. GARFIELD. Mr. Chairman, I am free to say, as I understand the nature of the business upon which this law rests and the purpose of the House in getting revenue from spirits, the section now under consideration is most vital to the efficiency of the law. Unless we can have a thorough system of inspection by which the Government may reach all distilled spirits we may abandon all hope of having complete returns of revenue from this source. We may, by making these provisions efficient, greatly relieve many other industries of the country. We may, as they have done in England, make this one of the six articles to pay the entire revenues of the country. We may relieve the agricultural interest, the mechanical, and other small industries of the country by laying the burden upon this article.

This article has this peculiarity in comparison with every other on which we lay tax: on this, as the tax now stands, the Government owns nine tenths interest in every gallon which is distilled, or near that. If one gallon escapes the tax the distiller saves nine tenths. It therefore becomes necessary to double and quadruple provisions to prevent illicit distillation. It has been said it would be a troublesome arrangement to put an inspector into every small distillery. Take a small distillery in Kentucky of five barrels a day, and that is a small distillery. Two hundred and fifty gallons a day would pay to the Government \$500. Allow three hundred working days in a year, and we have \$150,000 revenue derived from one distillery of five barrels a day. Now, there are distilleries which, if honestly administered, will pay the Government \$20,000 a day.

Now, the owner of a five-barrel still that pays to the Government \$150,000 a year, most certainly can afford to put an inspector over it and pay \$1,500 per annum for the performance of his duties. It has been found out in the progress of the operation of this law that these little copper distilleries have manufactured a great quantity of spirits. They are scattered all over the country, and especially in the South. In a single collection district of Georgia there are fifteen hundred such small stills.

[Here the hammer fell.]

Mr. INGERSOLL. I withdraw my amendment.

Mr. BROMWELL. I renew it. What I wish to say will not take me five minutes. This is the first time I ever heard a measure advocated calculated to crush out a common business, a certain pursuit, and to pile it up in the hands of a few. That is the argument of the gentleman from the Peoria district, [Mr. INGERSOLL.] Now, if the business of distilling is a lawful pursuit, the man who has not the good fortune to be possessed of a princely capital has a right at least to ordinary protection. But this bill comes in and literally devours him; it leaves a man with a small establishment nothing. What would be his fate under this bill? He might as well burn his property to-morrow if he cannot use it, or sell it or give it away. Now, while that is all true, I admit that it is also true that there is great difficulty in hunting down the little distilleries. But have we a right to destroy a man's property and business in order to make other men who are dishonest do right?

The gentleman from Ohio, [Mr. GARFIELD,] who is a member of the Committee of Ways and Means, says that even a small distillery would distill \$500 worth a day, and that the Government owns nine tenths of it. Why should not the Government then foot the bill for the inspection of its own interest?

Now, sir, the idea of this bill is that an inspector shall be appointed for every distillery. Think of the swarm of officers that will be required! If the distillery be small, it would swamp the man's business. If the distillery be large, he must be a very incompetent man to run a large distillery who cannot have an inspector appointed who will be convenient for his purposes. You will fill the country with inspectors who will be just such men as the owners and the distillers are. Why cannot

there be an inspector for a region of country for these small distilleries? Why not have such an arrangement that the large distilleries doing a great business shall be compelled to furnish an inspector, but that the small establishments shall be exempted? This paragraph provides that he shall hold no other office, engage in no other business while he holds this office, and shall have a compensation of \$1,500.

[Here the hammer fell.]

Mr. HALL. I rise to oppose the amendment proposed by the gentleman from Illinois, [Mr. BROWELL.] I beg leave to call the attention of the committee to the proposition which is before us in the consideration of this whisky tax, and to the revenue we have a right to expect from that one item, and to the receipts that the returns of last year show should have come from it. We are seeking here, not to affect any moral question, not to regulate the habits of the people, but simply to raise the greatest possible amount of revenue from the article that we believe of all others best able to sustain it.

Now, the returns for the last year show that forty-five million gallons of whisky, or about that, were consumed in this country, which should have produced, under the law, \$90,000,000. The returns show that we received a revenue of about seventeen million dollars, a tax on eight and a half million gallons, or less than one sixth of the whole amount.

Now, that revenue must either be made up by the enforcement of the law upon this article, or, as was well put by the gentleman from Ohio, [Mr. GARFIELD,] we must make it up upon other branches of industry. How is it to be done? Simply and only by an enforcement of the law most rigidly. The British Government from its excise realizes \$60,000,000 a year. Shall we be satisfied with a law so loosely drawn, so poorly enforced, as only to realize a revenue on one gallon out of every six we manufacture?

Now, let us take the small distilleries which it is urged are to be crushed out by this provision; this rate of tax simply makes an expense, for this inspector, of five dollars on every \$500 of revenue to the Government, taking \$500 as a basis. Is that an oppressive tax?

[Here the hammer fell.]

Mr. MORRILL. I move an amendment, to insert in lieu of the compensation now provided by the paragraph the words "five dollars per day." But, sir, as I am desirous to make as much progress in the bill as possible this evening, and as there are many provisions here that may excite some discussion, I move that the committee rise for the purpose of terminating debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the special order terminate in ten minutes after the committee shall resume the consideration of the subject.

The motion was agreed to.

LEAVE OF ABSENCE.

Mr. STEVENS. I ask leave of absence indefinitely for Mr. BLOW.

No objection was made, and leave was granted.

TAX BILL—AGAIN.

Mr. MORRILL moved that the rules be sus-

pending, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was upon the amendment of Mr. MORRILL, to strike out the words "such compensation as the Secretary of the Treasury may deem just and reasonable, at a rate not exceeding \$1,500 per annum," and inserting "five dollars per day," so that it will read, "and he shall be paid five dollars per day for the time during which he is engaged."

Mr. HOOPER, of Massachusetts. I move to amend the amendment by striking out the words "holding the office of inspector; and he shall be paid such compensation as the Secretary of the Treasury may deem just and reasonable, at a rate not exceeding \$1,500 per annum," and insert "employed as an inspector; and he shall be paid five dollars per day," so that the clause will read, "and shall not engage in any other business while employed as an inspector; and he shall be paid five dollars a day."

Mr. MORRILL. I will accept that amendment.

Mr. STEVENS. I will not insist upon my amendment but will withdraw it.

The question was upon the amendment of Mr. MORRILL as modified.

The amendment was agreed to.

Mr. DARLING. I move to amend by striking out the words "assessed by the assessor upon the distiller, and returned to the collector monthly," and insert "paid out of the public Treasury," so that it shall read, "and the amount of compensation thus paid for inspection shall be paid out of the public Treasury."

I hold it to be clearly the duty of the Government to pass such laws as may be necessary to protect itself against frauds on the revenue by the illicit distillation of spirits. But I contend that it is also the duty of the Government to pay the expenses of enforcing these provisions of its own laws, and not impose upon the class of small distillers this onerous and oppressive burden. I contend that there is as much honesty in the small distiller as there is in the large distiller. There is less incentive or motive to defraud the Government on the part of the man who distills but a few barrels a day than there is on the part of the man who distills fifty or a hundred barrels a day. In my own district there are large numbers of these small distillers; and I have yet to learn that there has been among them anything like the proportion of frauds discovered that have been perpetrated by the large distillers.

Now, I think the Government has no right to pass laws discouraging a man in the prosecution of any particular business because he is not able to employ the same amount of capital in pursuing that business that the large distiller has. I therefore trust that my amendment will prevail, and that the Government will pay from the public Treasury the expenses of this restriction, as the Government is to be benefited by their operation. I maintain that the revenue from this source will be largely increased by a diminution of the tax. I hold that a dollar tax upon whisky would produce a larger amount of revenue than the two dollar tax.

[Here the hammer fell.]

Mr. HARDING, of Kentucky. I move *pro forma* to strike out the last word of the amendment of the gentleman from New York, [Mr. DARLING.] I think the amendment proposed by him will test the soundness and sincerity of the argument used by gentlemen here that this tax is paid by the consumer and not by the

distiller. If that be so then they can have no objection to the amendment now offered by the gentleman from New York. If you will have an inspector over every distillery, then give him a compensation of five dollars a day, and pay him out of the public Treasury. Then this provision will not break down the small distillers, but they will still be able to go on with their business.

But the idea that in order to guard against illicit distillation it is necessary to adopt a provision which will break down these small distillers is wholly fallacious. I venture to assert that the larger the establishment the more fraud and villainy you will find in it. What is the necessity at all for this inspection? You provide for the appointment of an inspector in every collection district. And in addition to that you propose to provide for an inspector for every little distillery at an annual salary of \$1,500, to be paid by the distiller. It has been said by the gentleman from Ohio [Mr. GARFIELD] that some of these distillers do not produce more than four or five hundred gallons a day. He must know very little about the subject or he would know that there are thousands of distilleries that do not make more than one hundred gallons a day each. Now, it is not necessary to disguise this matter at all. The object of this proposition is to crush out all these small distilleries and put the whole business in the hands of the large distilleries.

Mr. MORRILL. I would remind the gentleman that we have already adopted an amendment providing that these inspectors shall be paid five dollars a day while employed.

Mr. HARDING, of Kentucky. And why not also provide that they shall be paid out of the public Treasury? And if it is necessary to guard all these little establishments, why not have an inspector in every manufacturing establishment in the North and East, to be paid at their own cost? Gentlemen say it will cost but little more. Now, does the gentleman undertake to say that, under the old law, every distiller has to pay the salary of an inspector? No, sir; under the old law there are inspectors for each collection district; and this bill retains them just as they are. The object, sir, is to break up all those little distilleries throughout the West. There is not one in a thousand that can stand out under such legislation. This is known to every man who is acquainted with the subject. Another object is to place the grain market within the grasp of those large monopolies, so that they can take the farmers' produce at their own price and distill it in their large establishments. The amendment will obviate to some extent the objection to the provisions of the section. If it is deemed necessary on the part of the Government to watch these little establishments, let it be done; but do it at Government expense, and not by a process that will crush out and destroy these small establishments, root and branch. I withdraw my amendment to the amendment.

Mr. SLOAN. I move to amend by striking out after the word "monthly" in the thirty-third line the following:

And in addition to the above compensation, such inspector shall receive one eighth of one cent for each and every proof gallon of distilled spirits inspected by him and removed to the bonded warehouse, which shall be paid by the distiller or owner of the spirits; but no compensation shall be allowed to such inspector for more than one inspection of such spirits.

The CHAIRMAN. That amendment is not germane to the pending amendment, and is not in order.

On the amendment of Mr. DARLING there were—ayes 42, noes 51.

Mr. HARDING, of Kentucky, called for tellers.

Tellers were ordered; and Messrs. DARLING and GARFIELD were appointed.

The committee divided; and the tellers reported—ayes 42, noes 51.

So the amendment was not agreed to.

Mr. SCHENCK. I move to amend by in-

serting after the word "spirits" in the fortieth line the following words:

No inspector shall continue on duty at one and the same distillery for more than sixty days continuously.

The amendment was not agreed to.

Mr. DARLING. I move to amend by striking out in lines thirty-seven and thirty-eight the words "by the distiller or owner of the spirits" and inserting in lieu thereof the words "out of the public Treasury."

The amendment was not agreed to.

Mr. RANDALL, of Kentucky. I move to amend by inserting at the end of the section the following:

And provided further, That the provisions of this section shall not apply to the distillers of apples, grapes, or peaches, who distill less than fifty barrels per year from the same.

The amendment was not agreed to; there being—ayes twenty-four, noes not counted.

Mr. HARDING, of Kentucky. I move to amend by striking out from line thirty-one to line thirty-three the following words:

And the amount of compensation thus paid for inspection shall be assessed by the assessor upon the distiller, and returned to the collector monthly.

The amendment was not agreed to; there being—ayes twenty-one, noes not counted.

Mr. O'NEILL. I move to amend by adding at the end of the section the following:

And provided further, That the distillers shall be entitled to a certificate of inspection from any person who, under the provisions of this act, may have made an inspection, upon which certificate shall be noted the time of the day at which said inspection was made, and also a statement, if such be the fact, that the distiller is complying with the law.

Mr. Chairman, the committee having voted down an amendment offered by me earlier in the evening with a view of decreasing the countless inspections to which distilleries are daily subjected, I now submit this one. The purpose in view is to require the person making the inspection to give a certificate to the distiller. This involves some trouble to the inspector, and would, perhaps, satisfy a subsequent one that the prior inspection showing the law had not been disregarded was sufficient, and thus his duties were rendered unnecessary. While we must protect the Government, we should strive to make the law as little irksome as possible, and avoid, if we can, the too numerous visitations of officials.

The amendment was not agreed to.

The question recurring on the motion of Mr. HARDING, of Kentucky, to strike out the section, the motion was not agreed to.

The Clerk read as follows:

SEC. 34. *And be it further enacted,* That there shall be appointed by the Secretary of the Treasury, in every collection district where the same may be necessary, one or more general inspectors of spirits, who shall each take an oath faithfully to perform his duties, in such form as the Commissioner of Internal Revenue may prescribe, and who shall be entitled to receive one quarter of one cent for each and every wine-gallon gauged and proved by him; and any owner, agent, or superintendent of any distillery or bonded warehouse who shall refuse to admit an inspector upon such premises, so far as it may be necessary for the performance of his duties, or who shall obstruct an inspector in the performance of his duties, shall forfeit and pay the sum of \$500, to be recovered in the manner provided for recovery of other penalties imposed by this act.

No amendment being offered,

The Clerk read as follows:

SEC. 35. *And be it further enacted,* That every owner of any still, boiler, or other vessel, used or intended to be used for the purpose of distilling spirits, as hereinbefore provided, or who shall have such still, boiler, or other vessel under his superintendence, either as agent for the owner or for his own account, or who shall use any still or other vessel as aforesaid, either as owner, agent, or otherwise, shall from day to day make true and exact entry, or cause to be entered, in a book, to be kept in such form as the Commissioner of Internal Revenue may prescribe, the number of pounds or gallons of materials used for the purpose of producing spirits, and the number of gallons of spirits distilled, and also the number of gallons placed in warehouse and the proof thereof, which book shall always be open for the inspection of any assessor, assistant assessor, collector, deputy collector, supervisor, or inspector, who may take minutes, memorandums, or transcripts thereof; and shall render to the assessor or assistant assessor of the district, on the 1st, 11th, and 21st days of every month, or within five days thereafter, an account in duplicate, taken from his books, of the number of pounds and gallons of material used in producing spirits, the

number of gallons of spirits distilled, and also the number of gallons removed to bonded warehouse and the proof thereof—which said account shall be verified by affidavit prescribed by law, and be certified by the inspector—and shall immediately forward to the collector of the district one of said accounts, and shall pay to the collector the taxes on the spirits so distilled before removing the same from the bonded warehouse, unless removed as provided by law. The entries to be made in the books of the distiller, as aforesaid, shall, upon the several days when the returns are to be made, as provided, be verified by the signature of the person or persons by whom such entries shall have been made, in the presence of the assessor or assistant assessor, or other proper officer, who shall append thereto his certificate of the execution of the same. The owner, agent, or superintendent of any distillery shall, in case the original entries required to be made in his books by this act shall not have been made by himself, subjoin to the certificate of the person by whom they were made the following certificate: "I do certify that, to the best of my knowledge and belief, the foregoing entries are just and true, and that I have taken all the means in my power to make them so." And any owner, agent, or superintendent who shall neglect or refuse to furnish the account and duplicate thereof, as herein provided, or who shall refuse to permit the said assessor or assistant assessor, collector or deputy collector, or inspector, to examine the books in the manner herein provided for, when requested, shall, for every such neglect or refusal, forfeit and pay the sum of \$500.

Mr. HOOPER, of Massachusetts. I move to amend by striking out in line thirty-one the words "to be."

The amendment was agreed to.

The Clerk read as follows:

SEC. 36. *And be it further enacted,* That, in addition to the special tax provided, there shall be levied, collected, and paid on all spirits that may be distilled and removed from the bonded warehouse for consumption or sale, of first proof, on and after the passage of this act, a tax of two dollars on each and every proof gallon; and the said tax shall be a lien on the spirits distilled, on the distillery used for distilling the same, with the stills, vessels, fixtures, and tools therein, and on the interest of said distiller in the lot or tract of land whereon the said distillery is situated, until the said tax shall be paid: *Provided,* That the tax on all spirits shall be collected at no lower rate than the basis of first proof, and shall be increased in proportion for any greater strength than the strength of first proof.

Mr. HARDING, of Illinois. I move to amend by striking out "two dollars" in line five, and inserting in lieu thereof "one dollar."

Mr. Chairman, in offering this amendment, I am actuated by the purest of motives in reference to the attainment of a large amount of revenue from this source. I have no interest in any distilling establishment, nor have many of my constituents. They are generally a sober, agricultural people, who produce very largely the gross grains which are grown upon the western prairies—mainly corn and rye. Heretofore in our isolated condition we have found a large market for our products in these distilleries which manufactured grains into spirits. They enabled us in a much easier way to transport our products to market. The effect of the tax of two dollars a gallon is to destroy the legitimate manufacture of any large quantities of these grains into high-wines and alcohol.

And let me say another thing. The premium is too high for legitimate manufacture, and so long as we continue it we can provide no legal machinery which will enable us to collect the full revenue. I notify the House that the experience of last year will be the experience of next year. With the temptations held out by this law we can have no expectation of a faithful performance of duty on the part of these inspectors. I have no expectation of it. I believe that a tax of two dollars a gallon on spirits is too great a temptation to be guarded against. If gentlemen will look into the machinery of this bill they will see it is required that the whole product of these distillations shall be run into vats every day. Some of these vats will contain six thousand gallons. Do gentlemen expect the temptation will be resisted by men who are receiving only five dollars a day? They have only to shut their eyes—

[Here the hammer fell.]

Mr. MORRILL. Our experience has shown that the cheating commenced about as rapidly at twenty cents and sixty cents as at two dollars. Believing the mind of every gentleman in the House is made up on this question, and that we do not want any discussion, I only rise to oppose the amendment *pro forma*.

Mr. HALE. I move to substitute one dollar and one cent.

Mr. Chairman, while I have had so far, and still have, every disposition to sustain the Committee of Ways and Means in the bill which is before the committee, it does seem to me, after the very elaborate argument reported by the revenue commissioners on this subject of the taxation of whisky, in which they very strongly demonstrate the impropriety of the present high tax and the propriety of lessening it, the question ought to be considered in a fuller House than we have to-night. I rise to suggest the propriety of passing over this section so that we may take it up in a day session when the House is fuller and an opportunity may be afforded for an interchange of views. Without expressing the intention of taking one side or the other, it seems to me to be a question which should not be voted on in a thin House.

Mr. MORRILL. If it were an original question very likely I might not disagree with the gentleman from New York, but I do not suppose any different result would be obtained if the House were fuller. I think it is the purpose of a very large majority of the House, as well as of the country, to try the two dollar rate until the law has been fully tested.

Mr. HALE, by unanimous consent, withdrew his amendment to the amendment.

The amendment was then disagreed to.

The Clerk read as follows:

SEC. 37. *And be it further enacted,* That proof spirit shall be held and taken to be that alcoholic liquor which contains one half its volume of alcohol of a specific gravity of .7939 at sixty degrees Fahrenheit, and the tax on all spirits shall be levied according to their equivalent in proof spirits; and the Secretary of the Treasury is hereby authorized to adopt, procure, and prescribe for use, such hydrometers, weighing and gauging instruments, meters, or other means for ascertaining the strength and quantity of spirits subject to tax, and to prescribe such rules and regulations as he may deem necessary to insure a uniform and correct system of inspection, weighing, and gauging of spirits subject to tax throughout the United States. And in all sales of spirits hereafter made, where not otherwise specially agreed, a gallon shall be taken to be a gallon of first proof, according to the foregoing standard set forth and declared for the inspection and gauging of spirits throughout the United States.

No amendment being offered,

The Clerk read as follows:

SEC. 38. *And be it further enacted,* That the owner, agent, or superintendent of any distillery established as hereinbefore provided, shall erect, in a room or building to be provided and used for that purpose, and for no other, two or more receiving cisterns, each to be at least of sufficient capacity to hold all the spirits distilled during the day of twenty-four hours, into one of which shall be conveyed each day all the spirits manufactured in said distillery during that day; and such cisterns shall be so constructed as to leave an open space of at least three feet between the tops thereof and the floor or roof above, and of not less than eighteen inches between the bottoms thereof and the floor below, and shall be separated in such a manner as will enable the inspector to pass around the same, and shall be connected with the outlet of the stills, boilers, or other vessels used for distilling, by suitable pipes or other apparatus so constructed as always to be exposed to the view of the inspector; such cisterns and the room in which they are contained shall be in charge of and under the lock and seal of the inspector; and on the third day after the spirits are conveyed into such cisterns the same shall be drawn off into casks or other packages, under the supervision of the inspector, and shall be immediately inspected, gauged, and proved, and the casks or packages marked, as herein provided, and be removed directly to the bonded warehouse before mentioned: *Provided,* That the spirits may be drawn off from said cisterns at any time previous to the third day, if so desired by the owner, agent, or superintendent of such distillery; and all locks and seals required under this act shall be provided by the Secretary of the Treasury, at the expense of the owner of the distillery, and shall be combination locks and susceptible of at least ninety-six changes, and the bits of the keys thereof shall be changed at least once a week, and shall always be in the custody of the inspector or assistant inspector, or the officer having charge of the distillery and warehouse.

Mr. STEVENS. I move to strike out that section. It is the most extraordinary contrivance I ever heard of since I read of the cells under old feudal castles. The man who invented it ought to have a patent. We are to have locks with ninety-six combinations and creepings in and about and around until it becomes a labyrinth more involved than Crete ever had. A man who went into it would have to take a thread with him to find his way out.

Mr. GARFIELD. I hope this section will

not be stricken out. I acknowledge that the provision is a stringent one, but it does not require them to rebuild. They have their cisterns already and it only requires that they shall inclose them and that the inspectors may have a key to the locks of the room in his possession and be able to go around and see that there are no secret pipes leading out by which a few barrels may be drawn out and sold without paying the tax. I know of no way except by some such thorough, stringent measure as this by which an inspection shall be made, so that we shall absolutely know what is done, how much is manufactured daily, and where it goes. It thus comes under the supervision of the Government itself. As a matter of course to do this we have got to point out with a great deal of particularity the mode of inspecting and securing the revenue from distilled spirits.

If any gentleman here knows any better way to do this as thoroughly and with less trouble and annoyance to the owner of the distillery, I shall be very glad to hear it, and should be very willing to adopt it. But the revenue commission that looked into this matter and compared it with the system in other countries have been able to devise no better, more simple, or cheaper means of effecting the object, and I hope it will prevail.

I will say, however, before I sit down, that a thing greatly desired by all countries, not yet attained, but which I hope is to be reached in this country, is the invention of a meter that may be fixed to a still by which all the fluid shall be measured as it is manufactured. It is declared that such an invention has been made by a citizen of the United States, and it is now being examined by the officers of the Coast Survey and the Smithsonian Institute; but it cannot be determined in time for the action of the internal revenue department or Congress this year. Therefore I hope we shall be permitted to use this system, however cumbersome it may appear to be, until another session of Congress, when, perhaps, we shall have found that the invention is a success, and will very much simplify this whole matter and render our revenue from this source more certain. But until that is done I hope this House will stand by the committee in maintaining this system of thorough inspection.

Mr. BROMWELL. I move to insert the word "three" in the place of "two" in line four.

I wish to ask the gentleman from Ohio [Mr. GARFIELD] if this section does not materially interfere with the business of carrying on distillation of alcohol. If the business of distillation is not to be put under the ban of moral considerations, which I think influences some minds, if it is to be left like any other business in this country, as a matter of money and business, we certainly do not wish to hamper and disturb it in its most profitable form.

Now, sir, in regions remote from market, the corn which is manufactured into whisky is also made into alcohol, and I would ask the chairman of the committee, or the gentleman who last addressed the committee, if the requirement of these cisterns and warehouses is not going to materially interfere with the business, of distilling alcohol. I do not know enough about this business to give any information as to it myself, but I understand that it is a great convenience and saving of labor and expense if the distiller is allowed to run his whisky directly into alcohol at his pleasure, without having it barreled or stored up in a bonded warehouse.

Now, sir, this will affect the western distillers injuriously, I think; for it is a great deal cheaper to ship alcohol to New York or the eastern market than it is to ship corn and let it be distilled at the East. Every western man can see that if a distillery is worth anything to the West, it is worth more for its purpose of making alcohol than whisky. I should, therefore, from my understanding of it, favor the motion of the gentleman from Pennsylvania [Mr. STEVENS] to strike out the

paragraph. I withdraw my amendment to the amendment.

The question was taken on Mr. STEVENS'S amendment, and it was disagreed to—ayes twenty-three, noes not counted.

The Clerk read as follows:

SEC. 39. *And be it further enacted*, That any person who shall knowingly and fraudulently use any false weights and measures in ascertaining, weighing, or measuring the quantities of grain, meal, or vegetable materials, molasses, or beer, or other substances to be used for distillation, or who shall fraudulently make false record of the same, or who shall destroy or tamper with any locks or seal which may be placed on any cistern, rooms, or buildings, by the duly authorized officers of the revenue, shall be guilty of a felony, and on conviction thereof shall be imprisoned for the term of two years, and pay a fine not exceeding \$1,000, in the discretion of the court; and any person who shall use any molasses, beer, or other substances, whether fermented on the premises or elsewhere, for the purpose of producing spirits, before an account of the same shall have been registered in the proper record book provided for this purpose, shall forfeit and pay the sum of \$1,000 for each and every offense so committed.

SEC. 40. *And be it further enacted*, That on all wines, liquors, or compounds known or denominated as wine, made in imitation of sparkling wine or champagne, and put up in bottles under the label, name, designation, or similitude of any imported wine, or wine of foreign growth or manufacture, or with the appearance or pretense of being imported wine, or wine of foreign growth or manufacture, there shall be levied and paid a tax of six dollars per dozen bottles, each bottle containing more than one pint, or three dollars per dozen bottles, each bottle containing not more than one pint; and the returns, assessment, collection, and time of collection of the tax on such imitation wines shall be subject to the regulations of the Commissioner of Internal Revenue. And any person who shall willfully and knowingly sell or offer for sale any such wine made after the passage of this act, upon which the tax herein imposed has not been paid, or which has been fraudulently evaded, shall, upon conviction thereof, be subject to a penalty of \$1,000, or to imprisonment not exceeding one year, at the discretion of the court.

Mr. HOOPER, of Massachusetts. I move to amend section forty by striking out the words "the label, name, designation, or."

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. In lines five and six I move to strike out the words "or wine of foreign growth or manufacture."

The amendment was agreed to.

Mr. PRICE. I move to amend that section in the ninth line by inserting after the word "pint" the words "and not more than one quart."

The amendment was agreed to.

Mr. WILSON, of Iowa. Unless the Committee of Ways and Means can give some reason for retaining the words I move to strike out the words "or similitude."

Mr. HOOPER, of Massachusetts. I suggest to the gentleman that he will accomplish his object by moving to strike out the words "similitude of;" and insert in lieu thereof "in imitation of;" so that the clause will read:

That on all wines, liquors, or compounds known or denominated as wine, made in imitation of sparkling wine or champagne and put up in bottles in imitation of any imported wine, &c.

Mr. WILSON, of Iowa. I accept that as a modification of my amendment.

The amendment, as modified, was agreed to.

Mr. WILSON, of Iowa. I move, also, to strike out in line six the words "appearance or." It seems to me that if a man puts up wine in bottles and it has the appearance of foreign wine, it is rather sharp to subject him to these penalties. It might be very difficult to put up wine in bottles that might not have the appearance of foreign wine.

The amendment was agreed to.

Mr. HOOPER, of Massachusetts. At the request of my critical friend from Maine, [Mr. BLAINE,] I move to amend the section in line six by striking out the letter "c" in the word "pretence" and inserting "s" in place of it. [Laughter.]

The amendment was not agreed to.

The Clerk read as follows:

SEC. 41. *And be it further enacted*, That every owner, agent, or superintendent of any distillery shall, at all times when required, supply all assistance, lights, ladders, tools, staging, or other things necessary for inspecting the premises, stock, tools, and apparatus belonging to such person or persons having paid the special tax aforesaid, and shall open all doors, and open for examination all boxes, packages, and all

casks, barrels, and other vessels not under the control of the inspector, when required so to do by any duly authorized officer, under a penalty of \$200 for any refusal or neglect so to do.

SEC. 42. *And be it further enacted*, That all spirits distilled shall, before the same are removed to the bonded warehouse, be inspected, gauged, and proved by the inspector appointed for that purpose, after the same has been drawn into casks or packages, each of not less capacity than twenty gallons, wine measure, and said inspector shall mark, by cutting or branding, upon the cask or package containing such spirits, in a manner to be prescribed by the Commissioner of Internal Revenue, the quantity and proof of the contents of such cask or package, with the date of inspection, the collection district, the name of the inspector, and the name of the distiller, and also the number of each cask in progressive order, such progressive number, for every distiller, to begin with number one with the first cask or package inspected after this act, and subsequently with number one with the first cask inspected on or after the last day of January in each year, and no two or more casks warehoused in the same year by the same distiller shall be marked with the same number, and the officer in charge of the warehouse shall refuse to allow any cask of spirits to be taken out therefrom which has not cut or branded thereon all the several particulars aforesaid, and in the manner required by this act. And the inspector or other revenue officer in charge of any distillery shall make a prompt return of all spirits inspected by him in accordance with the provisions of this act, and the name of the distiller, to the collector, and a duplicate thereof to the assessor of the district; and any person who shall fraudulently evade or attempt fraudulently to evade the payment of the tax upon any spirits distilled as aforesaid, by changing any marks upon any such cask or package, or in any other manner whatever, or who shall fraudulently put into such cask or package spirits of greater strength than that inspected and certified to by the inspector, shall pay double the amount of tax on each proof gallon of the quantity of such spirits, and forfeit and pay as a penalty the additional sum of \$500 for each cask or package so altered or changed, to be recovered as herein provided; and any inspector who shall knowingly put upon any such cask or package any false or fraudulent marks shall, on conviction, be imprisoned one year, and be liable to a fine of \$500, in the discretion of the court; and any person who shall fraudulently use any cask or package bearing inspection marks, for the purpose of selling any other spirits than that so inspected, or for selling spirits of a quantity or quality different from that so inspected, shall be imprisoned for a term of six months, or shall pay a fine of \$100 for each cask or package so used, in the discretion of the court; and any person who shall knowingly purchase or sell, with inspection marks thereon, any cask or package, after the same has been used for distilled spirits, or who shall fraudulently omit to erase or obliterate the inspection marks upon any such package or cask at the time of emptying the same, shall forfeit and pay the sum of fifty dollars for every cask so purchased or used, or on which the marks are not so obliterated. And any person who shall, with fraudulent intent, use any inspector's brands or plates upon any cask or package containing or purporting to contain distilled spirits, except in the employ of the inspector, or who shall knowingly make or use any counterfeit or spurious brand or plate upon any cask or package of distilled spirits, as aforesaid, shall be deemed guilty of a felony, and on conviction thereof shall forfeit the same, and shall pay a fine of \$1,000, and be imprisoned for not less than two nor more than five years. And any inspector who shall permit any person not employed by him to use any of his brands or plates, or who shall negligently or willfully leave such brands or plates where they can be used by any other person than those who may be in his employ, shall pay a fine not exceeding \$1,000, in the discretion of the court. And any inspector who shall employ any owner, agent, or superintendent of any distillery or warehouse under his supervision, or who shall employ any person in the service of such owner, agent, or superintendent, to use his plates or brands, or to discharge any of the duties imposed by this act upon such inspector, shall, for each offense so committed, be subject to the same fine last mentioned.

Mr. HOOPER, of Massachusetts. On line thirty-nine, in the forty-second section, I move to insert the words "not less than fifty dollars nor more than;" so that the clause will read:

And any inspector who shall knowingly put upon any such cask or package any false or fraudulent marks shall, on conviction, be imprisoned one year, and be liable to a fine of not less than fifty nor more than five hundred dollars, in the discretion of the court.

The amendment was agreed to.

Mr. THAYER. I move to insert in line thirty-eight, before the words "shall, on conviction, be imprisoned one year," the following:

And any inspector, assistant inspector, or officer temporarily in charge of any distillery under this act, who shall conspire with the proprietor of any distillery or with any other person or persons to defraud the United States of any revenue or tax derived from distilled spirits or any part thereof, or who shall with intent to defraud the United States of such revenue or tax make any fraudulent return, or entry of certificate of return, shall be guilty of a misdemeanor, &c.

The committee have prepared a very elaborate system of defenses here in regard to the payment of this tax to protect the Government

against frauds on the revenue. But after all it must be evident to every one that notwithstanding all the precautions to which you resort, notwithstanding all the building regulations and combination locks and everything else you have put into your bill, you must at last depend upon the good faith of the inspector. You must have some hold upon the inspector, or all your precautions will be worthless. You have provided every other precaution; but you have no sufficient precaution against his speculation. "*Quis custodiet ipsos custodes?*" Who is to inspect the inspector? Nobody. Now, I propose, by my amendment, to obtain a hold upon these inspectors, so that if the only persons whom we can hold for the payment of this tax shall play false to the Government they shall be punished in a manner adequate to prevent the commission of the offense in the future.

Mr. ALLISON. I only desire to say to the gentleman from Pennsylvania [Mr. THAYER] that I think the object he has in view is provided for in section forty-six of this bill.

Mr. THAYER. I do not think that is the case. I think my amendment better be inserted, and then if it shall be found that it is already provided for in another part of the bill it can be changed afterward.

The amendment was agreed to.

Mr. SCHENCK. The very excellent amendment, as I regard it, of the gentleman from Pennsylvania [Mr. THAYER] which has just been adopted, reminds me of one I attempted to have made in the thirty-third section of this bill, and if I am permitted to move it now, I think the chairman of the Committee of Ways and Means [Mr. MORRILL] will not object to it. My amendment was to prohibit any one inspector being on duty more than sixty days continuously in any one distillery. I therefore ask permission to go back to the section I have named in order that I may renew the amendment.

No objection was made.

Mr. SCHENCK. I move to amend section thirty-three by inserting after the sentence ending with these words, "but no compensation shall be allowed to such inspector for more than one inspection of such spirits," the words "and no inspector shall continue on duty at one and the same distillery for more than sixty days continuously." A large number of inspectors being employed, they may be changed from distillery to distillery without much inconvenience. As was remarked by the gentleman from Pennsylvania, [Mr. THAYER,] one of the great evils to be guarded against is the danger of collusion between the inspector and the distiller. Now, a distillery is a very seductive place, and an inspector who is constantly associated with the distiller and his men may become more intimate with them than he should be.

Mr. ELDRIDGE. I would ask the gentleman if he thinks we cannot find men who will remain honest more than sixty days.

Mr. SCHENCK. I have no doubt there are those who would continue honest for a longer period than that; but there are many who cannot remain honest for a single day. Every member here knows the effect of constant association. A gentleman here who sits at the same desk with another does not like to vote against him; and when he feels compelled to do so, he gets as far over on the other side as possible. You do not like to vote against the man who messes with you, with whom you have sat day after day at the same table. And that is precisely the danger to be apprehended from these inspectors, from long association with these distillers. After a time they become intimately acquainted with them, and if they do not become attached to them, they are "hail fellows well met" with the distillers and their men. The Methodist church understands this perfectly well, and they do not allow one of their preachers to remain more than two years continuously with the same congregation.

Mr. PRICE. The gentleman—

Mr. SCHENCK. I do not yield.

Mr. PRICE. I only want to say—

Mr. SCHENCK. I will not allow myself to be interrupted.

Mr. PRICE. But the gent—

The CHAIRMAN. The gentleman from Iowa [Mr. PRICE] is not in order, and will take his seat.

Mr. SCHENCK. There is a principle of human nature involved in this, whatever the gentleman from Iowa [Mr. PRICE] may think of it. Offering the amendment as I do in good faith, I hope the vote will now be taken, and the amendment adopted.

Mr. PRICE. I am in order now, I believe. I only want to say that the gentleman from Ohio [Mr. SCHENCK] is not posted on the subject of the Methodist church. He better make himself acquainted with that subject before he refers to it here.

The question was upon the amendment of Mr. SCHENCK.

Tellers were ordered; and Messrs. SCHENCK and GARFIELD were appointed.

Mr. MORRILL. The vote upon this amendment can be taken to-morrow. I now move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had made commendable progress therein, but had come to no conclusion thereon.

And then, on motion of Mr. ELDRIDGE, (at ten o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. DARLING: The petition of Field & Evans, manufacturers of pearl buttons, in the city of New York, for an increase of tariff on pearl buttons.

By Mr. DELANO: The petition of Nathaniel Bedell, and 500 others, citizens and wool-growers of Huron county, Ohio, praying for increased duty on foreign wools.

By Mr. LAWRENCE, of Pennsylvania: The petition of citizens of Washington county, Pennsylvania, asking for an increase of duties on foreign wools.

By Mr. MYERS: The petition of Dr. Benjamin Malone, late paymaster United States volunteers, who was robbed of funds drawn to pay troops with, and whose claim for relief has been reported upon favorably by Judge Advocate Turner.

By Mr. SAWYER: The memorial of the board of directors of the Sugar River Valley Railroad Company for a grant of land to aid in the construction of the Sugar River Valley railroad, from Freeport, in Illinois, to Madison, in Wisconsin.

By Mr. SLOAN: The petition of the board of directors of the Sugar River Valley Railroad Company for a grant of land to aid in the construction of a railroad from Freeport, Illinois, to the city of Madison, Wisconsin.

By Mr. F. THOMAS: The petition of John Todd, praying compensation for services rendered to the Army of the United States during the late war against the southern rebellion.

HOUSE OF REPRESENTATIVES.

SATURDAY, May 26, 1866.

The House met at twelve o'clock m.

The Journal of yesterday was read and approved.

ORDER OF BUSINESS.

Mr. MORRILL. I desire to ask unanimous consent that the morning hour to-day shall be dispensed with that we may proceed with the consideration of the tax bill. If this consent shall be given, I propose to yield to several gentlemen to present matters that will take but little time.

Mr. INGERSOLL. I object.

Several MEMBERS. Oh, no!

Mr. MORRILL. I hope the gentleman will withdraw his objection.

Mr. INGERSOLL. If the House considers it of more importance to dispose of the tax bill than to get the canal and sewerage bill out of the way, I do not know that I ought to insist

on my objection. I know that this sewerage bill does not interest the House; but it is desirable that it should be disposed of that other reports may be made. There are several committees that have been waiting for some time an opportunity to report.

It is, I observe, the general disposition of the House to take up the tax bill; and I will therefore withdraw my objection. In consideration of this, I trust the House will give unanimous consent that a morning hour of some early day, next Monday or Tuesday perhaps, shall be given to the disposition of the canal bill.

The SPEAKER. What day does the gentleman propose?

Mr. INGERSOLL. Tuesday.

The SPEAKER. Is there unanimous consent that the morning hour of next Tuesday shall be devoted to the consideration of the canal and sewerage bill?

Several MEMBERS objected.

Mr. INGERSOLL. Well, then, say Monday.

The SPEAKER. Monday cannot be assigned for that purpose.

Mr. INGERSOLL. Well, I withdraw the request.

PASSPORTS.

Mr. WILSON, of Iowa, by unanimous consent, reported back from the Committee on the Judiciary the bill (H. R. No. 568) entitled "An act to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress relating to passports," with a recommendation that the amendment of the Senate be concurred in.

The amendment of the Senate was read, as follows:

Add at the end of the bill the words, "and hereafter passports shall be issued only to citizens of the United States."

The amendment was concurred in.

Mr. WILSON, of Iowa, moved to reconsider the vote by which the amendment of the Senate was concurred in; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

RAILROAD AND TELEGRAPH LINE.

On motion of Mr. DAVIS, by unanimous consent, Senate bill No. 123, entitled "An act granting lands to aid in the construction of a railroad and telegraph line from the Central Pacific railroad in California, to Portland, in Oregon," was taken from the Speaker's table, read a first and second time, and referred to the Committee on the Pacific Railroad.

REPAIR OF POTOMAC BRIDGE.

Mr. STEVENS, by unanimous consent, reported from the Committee on Appropriations a joint resolution making an appropriation for the repair of the Potomac bridge; which was read a first and second time.

Mr. STEVENS. I hope the House will consent to consider and pass this joint resolution at the present time. The Long bridge has for a long time been out of repair, so as to be impassable. We are informed that if this appropriation be made, the bridge can be put in perfect order within a week, while if the work be delayed till the ordinary appropriation bill shall have passed, the necessary repairs cannot be made for some time.

The SPEAKER. The Clerk will read the resolution, after which the Chair will ask for objections, if any.

The joint resolution, which was read, provides for an appropriation of \$10,000 to enable the Commissioner of Public Buildings and Grounds to place the Potomac bridge in such repair as to render it permanently passable, the work to be done immediately after the approval of this joint resolution.

Mr. INGERSOLL. I desire to ask the chairman of the Committee on Appropriations whether the report of the civil engineer of the Interior Department with reference to the repairs of the Long bridge has been submitted to the committee.

Mr. STEVENS. I believe that no formal report has been submitted.

Mr. INGERSOLL. I may be allowed to state that some weeks since a formal report from the civil engineer of the Interior Department was presented to the Secretary of the Interior; and that report showed that an expenditure of \$16,200 would be required for making the necessary repairs of this bridge.

Mr. STEVENS. I believe we did receive such a report, but the Commissioner of Public Buildings has made an examination in company with a competent bridge-builder, and they have reported to the committee that \$10,000 will be sufficient to do the work.

There being no objection, the joint resolution was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time and passed.

Mr. STEVENS moved to reconsider the vote by which the joint resolution was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

PREVENTION OF SMUGGLING.

Mr. ELIOT. I move that Senate bill No. 222, entitled "An act further to prevent smuggling, and for other purposes," now on the Speaker's table, be ordered to be printed.

The motion was agreed to.

RICHARD W. MEADE.

Mr. WOODBRIDGE. I ask unanimous consent to introduce a joint resolution referring the claim of the estate of Richard W. Meade to the Court of Claims. The Senate, by its resolution at the last session of Congress, referred this back to the Court of Claims, but it was decided that the case must be referred by joint action of both Houses of Congress. I do not think there can be any objection to the reference.

Mr. LAWRENCE, of Ohio. I object. I think the matter should be referred for examination.

The joint resolution was introduced, read a first and second time, and referred to the Committee on the Judiciary.

BOUNTIES OF VETERAN VOLUNTEERS.

Mr. BROMWELL. I ask unanimous consent to introduce the following bill to compute the bounties of veteran volunteers so as to protect the rights of such:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in computing the amount of bounty money allowed by any law to veteran volunteers, the sum of \$100 heretofore received by any such veteran as part of his veteran bounty shall be exempt and in no way deducted from the bounty money allowed him; but that every veteran volunteer shall receive bounty at the rate of eight and one third dollars per month for the time of his service during the period of his first enlistment, in addition to and without in any way counting his bounty as a veteran.

There was no objection, and the bill was read a first and second time, and referred to the Committee on Military Affairs.

ADDITIONAL POLICE FORCE.

Mr. LATHAM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Public Buildings and Grounds be instructed to inquire into the expediency of authorizing the Commissioner of Public Buildings and Grounds to employ additional temporary police force in and around the Smithsonian grounds.

ARMORY AT ROCK ISLAND.

On motion of Mr. COOK, Senate bill No. 330, making further provision for the establishment of an armory and arsenal of construction, deposit, and repair on Rock Island, Illinois, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Military Affairs.

LEAVE OF ABSENCE.

On motion of Mr. ANCONA, leave of absence was granted to his colleague, Mr. Boxer, until June 4.

DUNDAS PATENT.

Mr. CULLOM, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Secretary of the Interior be

requested to communicate to this House whether any application has been made for the reissue of the Dundas patent for cultivators; and if so by whom, and at what time, and upon what grounds; and to transmit to this House copies of all the papers and documents connected with the applications; and also to state what effect it will have upon the agricultural interests of the country to reissue said patent and have the same relate back and cover the essential improvements made since the year 1851; and also further to communicate what legislation is necessary to protect the interests of the public in regard to such reissues of patents.

Mr. CULLOM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PERSONAL EXPLANATION.

Mr. LAWRENCE, of Pennsylvania. Mr. Speaker, I rise to a very brief personal explanation, and will consume only a moment. A few days since, in casual debate in the House, I referred to some of the recent appointments in western Pennsylvania, and especially the case of Colonel Samuel McKelvy, whose name was sent to the Senate for marshal of western Pennsylvania. I said in substance that he was dismissed from the service of the United States on charges implicating his integrity as a man and an officer. I made this statement on verbal information, which I considered perfectly reliable at the time. I have since examined the proceedings of the court-martial and find Colonel McKelvy was tried on a single charge, plead guilty, and was temporarily dismissed; but on a full explanation of the whole charge was restored. As I have no disposition to do any man injustice I have thought it due to myself to make this correction.

TAX BILL.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAVES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was on Mr. SCHENCK's motion to amend section thirty-three by inserting after the sentence ending with these words, "but no compensation shall be allowed to such inspector for more than one inspection of such spirits," the words "and no inspector shall continue on duty at one and the same distillery for more than sixty days continuously."

The amendment was disagreed to.

Mr. MORRILL. I call up the following amendment:

The Clerk read the amendment, as follows:

On page 103, line twenty-three hundred and thirty-nine, strike out from the beginning of the line to the end of line twenty-three hundred and fifty-five on page 104 and insert in lieu thereof the following:

That section one hundred and three be amended by striking out all after the enacting clause and inserting in lieu thereof the following: That every person, firm, company, or corporation owning or possessing or having the care or management of any railroad, canal, steamboat, ship, barge, canal-boat or other vessel, or any stage-coach or other vehicle engaged or employed in the business of transporting passengers for hire, or in transporting the mails of the United States upon contracts made prior to the passage of this act, shall be subject to and pay a tax of two and one half per cent. of the gross receipts from passengers and mails of such railroad, canal, steamboat, ship, barge, canal-boat, or other vessel, or such stage-coach or other vehicle: *Provided,* That the tax hereby imposed shall not be assessed upon receipts for the transportation of persons or mails between the United States and any foreign port; but such tax shall be assessed upon the transportation of persons from a port within the United States through a foreign territory to a port within the United States, and shall be assessed upon and collected from persons, firms, companies, or corporations within the United States, receiving hire or pay for such transportation of persons or mails. And so much of section one hundred and nine as requires returns to be made of receipts hereby exempted from tax when derived from transporting property for hire is hereby repealed:

Provided also, That any person or persons, firms, companies, or corporations, owning, possessing, or having the care or management of any toll-road, ferry, or bridge, authorized by law to receive toll for the transit of passengers, beasts, carriages, teams, and freight of any description, over such toll-road, ferry, or bridge, shall be subject to and pay a tax of three per cent. of the gross amount of all their receipts of every description; but when the gross receipts of any such bridge or toll-road, for and during any term of twelve consecutive calendar months, shall not exceed the amount necessarily expended to keep such bridge or road in repair, no tax shall be assessed upon such receipts during any month next following any such term: *And provided further,* That all such persons, firms, companies, and corporations shall have the right to add the tax imposed hereby to their rates of fare whenever their liability thereto may commence, any limitations which may exist by law or by agreement with any person or company which may have paid or be liable to pay such fare to the contrary notwithstanding: *And provided further,* That no tax under this section shall be assessed upon any person, firm, company, or corporation whose gross receipts do not exceed \$1,000 per annum: *And provided further,* That boats, barges, and flats, not used for carrying passengers nor propelled by steam or sails, which are floated or towed by tug-boats and used exclusively for carrying coal, oil, minerals, or agricultural products to market, shall be required hereafter in lieu of enrollment fees or tonnage tax, to pay an annual special tax for each and every such boat of a capacity exceeding twenty-five tons, and not exceeding one hundred tons, five dollars; and when exceeding one hundred tons as aforesaid shall be required to pay ten dollars; and said tax shall be assessed and collected as other special taxes provided for in this act.

Mr. MORRILL. The point in dispute was, I think, in relation to the right of railroads to charge the tax on their passenger fares. I believe it would operate very oppressively not to allow them in some parts of the country to charge it, especially horse railroads not now paying their expenses.

Mr. HOOPER, of Massachusetts. There is one amendment accidentally omitted. After the words "transporting passengers for hire" I move to insert "except hacks or carriages not running on continuous routes."

The amendment was agreed to.

Mr. HOTCHKISS. I thought it was understood that the amendment I offered was to be printed with the other amendments.

Mr. MORRILL. The whole matter was referred to the committee, and we reported this.

Mr. FARNSWORTH. I move to amend by striking out that portion which provides that these corporations may charge to the passengers the amount of this tax. It is the third proviso.

The question being taken on the motion to strike out the aforesaid proviso, no quorum voted.

Tellers were ordered; and the Chairman appointed Messrs. FARNSWORTH and DAVIS.

The committee divided; and the tellers reported—ayes sixty-seven, noes not counted. So the amendment was agreed to.

Mr. HOTCHKISS. I would inquire if the amendment, as reported by the committee, repeals the provision of section ten of the act of last year.

Mr. MORRILL. That section is already repealed.

Mr. HOTCHKISS. I desire to move an amendment so as to reserve horse railroads. I believe the proviso stricken out includes horse railroads, and there are many of them that cannot live at the present rates of fare if they have to pay this tax.

Mr. HOOPER, of Massachusetts. I move an amendment by inserting after the words "tug-boats" the words "or horses;" so that it will read, "which are floated or towed by tug-boats or horses."

The amendment was agreed to.

Mr. WILSON, of Iowa. I would inquire whether it was intended to exempt all boats carrying mails from tax upon the receipts from passengers.

Mr. HOOPER, of Massachusetts. My amendment simply applied to hacks and carriages not running on continuous routes.

Mr. WILSON, of Iowa. I think the section as amended will exempt coaches carrying mails from this tax.

Mr. PIKE. I would like to know why these

special exemptions should be made. I am willing to do the fair thing and strike out the tonnage tax all around.

Mr. WILSON, of Iowa. I think the section as amended on motion of the gentleman from Massachusetts [Mr. HOOPER] exempts all coaches carrying mails from the payment of taxes on receipts from passengers. If that is the intention of the committee I am entirely satisfied, but if it is not I think it had better be looked at.

Mr. MORRILL. As the amendment was reported by me from the Committee of Ways and Means, it certainly did not have that intent or meaning. I do not know exactly how or where the amendment of the gentleman from Massachusetts was inserted, or exactly what effect it may produce. It is possible that the gentleman from Iowa is correct, and that it would exempt stage-coaches. I think it might exempt more than the gentleman from Massachusetts intended. I suppose he merely intended to exempt the hacks that ply about our cities.

Mr. HOOPER, of Massachusetts. That is all that is embraced in it.

Mr. MORRILL. I ask the Clerk to read the amendment as amended.

The amendment as amended was again read.

The question was taken on Mr. MORRILL's amendment, and it was agreed to.

Mr. HOTCHKISS. I move to add to the amendment just adopted the following additional proviso:

Provided, That all such persons, companies, or corporations operating any horse railroad shall have the right to add the duty or tax to their rate of fare.

This amendment applies only to our street railroads. It is represented on the part of the friends of these roads that they have already made their rates of fare as low as they can reduce them and sustain their roads. I desire, for one, to encourage these roads in every town in the country that can sustain one. They are the poor man's railroad—the poor man's carriage. They provide him means of transportation when he cannot obtain it in any other way. They take the poor man to church on the Sabbath and take his children to school on week days. I hope the experiment will be tried for a few years, and if we find that they can bear a reduction upon their charges, or can bear additional taxation, we can lay it on with a heavy hand. But it is, after all, a mere experiment, and we can alter this provision if we find it does not work well.

Mr. STEVENS. I should a great deal rather see these railroad fares altered so as to enable them to charge enough. The idea of laying a tax upon railroads, and allowing them to charge it to the passengers, is not according to my views of legitimate legislation. I know that there is one railroad in this city that is doing well. I know another one that never will do well unless it has passengers. [Laughter.] I am opposed to this system. I would rather authorize them to charge more fare, and then we shall know exactly what we have to pay.

Mr. DODGE. I move to strike out the last word of the amendment. The remarks of my colleague from New York [Mr. HOTCHKISS] may be very correct in regard to the railroads in the smaller towns and cities; but we find in New York city that our street railroads there are very oppressive. They have obtained a right to run through our streets; they have obtained very valuable franchises on the condition that they would transport people from the lower to the upper part of the city, the poor men that the gentleman refers to, the mechanics, the men who cannot afford to walk two or three miles to their business. They got these valuable franchises because they would agree to carry passengers at a given fare. If this amendment passes they will be authorized to add this two and a half per cent. tax upon all these poor persons that the gentleman refers to. I hope the amendment, so far as horse railroads in the large cities are concerned, will not be adopted.

Mr. DAVIS. I believe that there is no measure of justice more worthy of our consid-

eration at this time than that proposed by the amendment of my colleague, [Mr. HOTCHKISS.] He has already stated the beneficial nature and character of these railroads; that they are designed, not only for the general convenience of the public, but for the special advantage of the poor. That is the case in all our large cities and flourishing towns; the poor derive vast benefit from them. Now, if you go to the city of New York, you will find that these railroads are the avenues by which the poor leave the city to pass a few hours in the country and breathe the pure country air. As a sanitary measure and institution I insist that these city roads are entitled to our encouragement.

It has been stated by my colleague from the city of New York [Mr. DODGE] that these railroad grants for the city of New York were obtained by the individuals controlling them from the Legislature of New York without compensation, and therefore he would create a prejudice against these corporations. Even if that were the case they are no less beneficial to the community when constructed. Now, the parties owning these roads at this time are not the men who procured these grants from the Legislature, but they are men who have paid a compensation for all they have. Since 1860, when these grants were made, every article required in the construction and equipment of railroads has enhanced in value more than one hundred per cent. I state it on my own personal knowledge, that a road which in 1861 could have been built for \$10,000 a mile will now cost \$25,000 a mile.

Mr. STEVENS. Now, I want to know, as a mere matter of arithmetic, one thing from the gentleman from New York, [Mr. DAVIS.] The poor people now can ride, or could ride without this law, for five cents; and it is proposed to add a cent to each fare. I want to know how much that takes off from their burdens.

Mr. DAVIS. It adds a great benefit to them. [Laughter.] That is the reason of my argument, for I say that upon a fare of five cents there is not a city railroad in New York that will support itself.

Mr. STEVENS. Suppose you add two cents to each fare, then that will double the benefit.

Mr. DAVIS. Undoubtedly it will. And I think it is perfectly proper for these corporations, whose fares are limited by their charters or by municipal regulations, to add the Federal tax to the rate of fare. Why should we apply a different principle to a railroad corporation than we apply to an individual? An individual has a right, if he be taxed by this Government, to add the amount of his tax to the commodities in which he deals. A corporation has no such power, because it is the creature of legislation. And therefore when we come to lay our hands upon them we should be careful to give them the means of relief.

Mr. DODGE withdrew his amendment to the amendment of Mr. HOTCHKISS.

Mr. MORRILL. I move that the committee rise for the purpose of closing debate on the pending paragraph.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CLOSE OF DEBATE.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the special order terminate in one minute after the committee shall resume the consideration of the subject.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was upon the amendment of Mr. HOTCHKISS to allow horse railroads to add their tax to their fares.

Mr. HARDING, of Illinois. I move to strike out the last word for the purpose of proposing an inquiry to the gentleman from New York, [Mr. DAVIS.] I want to know from him, why not apply the same principle to notes bearing interest which are taxed? A note bearing six per cent. is taxed; why not allow the tax to be added to the rate of interest allowed? [Laughter.]

Mr. DAVIS. I did not hear the question of the gentleman from Illinois, [Mr. HARDING.]

The CHAIRMAN. Debate is closed on this paragraph, by order of the House.

Mr. STEVENS. I move that the gentleman from New York [Mr. DAVIS] be allowed two minutes to answer the question. [Laughter.]

Mr. DAVIS. I did not hear the question. I will attempt to answer any question I understand.

The CHAIRMAN. No debate is in order.

The amendment of Mr. HOTCHKISS was not agreed to.

Mr. LYNCH. I move to amend by inserting at the end of the third proviso of the amendment last adopted the following:

Nor upon the receipts of any horse railroad running in one or more towns or cities whose population in the aggregate, according to the last preceding census, does not exceed forty thousand persons.

The amendment was not agreed to.

The Clerk proceeded to read section forty-five, but was interrupted by

Mr. LYNCH, who said: I rise to a point of order, which is that I called for a vote by division on my amendment immediately after the result of the *viva voce* vote was announced.

The CHAIRMAN. That is not a question of order, but a question of fact. If the gentleman states that he called for a division in time, the Chair will put the question again.

Mr. LYNCH. I certainly did.

The CHAIRMAN. That is sufficient.

The question being again put on the amendment of Mr. LYNCH, there were, on a division—ayes eighteen, noes not counted.

Mr. ANCONA called for tellers.

Tellers were not ordered.

So the amendment was rejected.

Mr. LYNCH. I move to amend by inserting at the end of the third proviso of the amendment last adopted to section forty-four the following:

Nor upon any person, firm, company, or corporation engaged in transporting property or passengers for hire whose gross receipts upon such transportation do not exceed their current expenses.

The CHAIRMAN. That amendment is not in order, the committee having passed the section to which the amendment was offered.

The Clerk continued and concluded the reading of section forty-five, as follows:

SEC. 45. *And be it further enacted, That any spirits or other merchandise may be removed from bonded warehouse, for the purpose of being exported, upon the order of the superintendent of exports for the port whence the spirits are to be exported; and such order shall state the port to which such spirits are to be shipped, and the name of the vessel, and also the number of proof gallons, and the marks of the packages or casks, which shall be taken from and shall agree with the return of said spirits made by the inspector of the warehouse; and such spirits or other merchandise shall be branded "U. S. bonded warehouse, for export," and shall be put on board of the*

vessel in or by which they are to be exported, by an officer under direction of the superintendent of exports, and placed under the supervision of an officer of the customs, after a bond shall have been given in such form and containing such conditions as the Commissioner of Internal Revenue may prescribe, with one or more sureties, to be approved, as to the sufficiency of the sureties, as the Commissioner of Internal Revenue may direct. And such bond shall be canceled upon the presentation of the proper certificate that said spirits have been landed at the port named in said bond, or at any other port without the jurisdiction of the United States, or upon satisfactory proof that after shipment the spirits have been lost. And at any port where there shall be no superintendent of exports, all the duties and services required of superintendents of exports and drawback shall devolve upon and be performed by the collector of internal revenue designated to have charge of exportations.

Mr. MORRILL. In section twenty-nine, which was reserved last night upon the suggestion of the gentleman from Illinois, the Committee of Ways and Means have concluded to make such amendments as will not prevent alcohol from being distilled with whisky or other spirits. I therefore move to amend by striking out in line eight of that section the words "or alcohol," and inserting before the word "ether" the word "or;" so that the clause will read:

And no still, boiler, or other vessel shall be used as aforesaid in any building or on any premises where beer, lager beer, ale, porter, or other fermented liquors, vinegar, or other, are manufactured or produced, or where sugars or sirups are refined, or where liquors of any description are retailed, or any other business is carried on.

The amendment was agreed to.

Mr. MORRILL. I move also to amend the forty-fourth section by striking out, after the word "packages" in the fifty-fourth line, the words "for export;" so that the clause will read:

Or for the purpose of being rectified, or redistilled, canned, or put into other packages, under such rules and regulations and the execution of such bonds or other security as the Secretary of the Treasury may prescribe.

The amendment was agreed to.

Mr. ALLISON. I move to amend section twenty-five by inserting after the word "thereof" in line thirty-six the following:

And such assessed penalties and fines when recovered shall be distributed according to law.

The amendment was agreed to.

Mr. ALLISON. I move to amend section thirty-five by inserting after the words "proof thereof" in line thirteen, the following:

And the number of gallons sold, with the proof thereof and the name and place of business of the person to whom sold.

The amendment was agreed to.

Mr. COBB. I desire to move several amendments to section twenty-nine, which has been reserved. I move, in the first place, to amend by striking out in the fourth line of that section the words "beer, lager beer, ale, porter, or other fermented liquors." It may be, Mr. Chairman, that there are abundant reasons for this provision of the bill, which I suppose is intended as a precautionary measure for the prevention of frauds upon the revenue. I am not sufficiently acquainted with the investigations upon this subject to know to what extent that reason may apply or be a good one.

It seems to me, after having adopted the very perfect system of machinery for the prevention of fraud of inspectors, vats, receivers, and all that, it will scarcely lie in the mouth of the committee or the Government to say it will be impossible to prevent fraud upon the Treasury in cases where a still may be kept in the same establishment with a brewery. I know from my limited observation of the matter that in some of the breweries in the West, and I presume it is so elsewhere, it is necessary, in order to save matter which becomes to some extent damaged in certain kinds of weather or by some unskillful manipulations, to use it for purposes of distillation. Hence, in most of the breweries they have a small distilling apparatus with which they use up this matter which is unfit for brewing and would otherwise go to waste. I think, therefore, a serious loss will be incurred by these brewers if they are not permitted to use this apparatus. I do not believe it is necessary to make this prohibition

for the purpose of protecting the revenue of the country. Knowing that some of my constituents have this machinery and would suffer loss by any such prohibition, I have deemed it proper to submit this amendment.

Mr. GARFIELD. Mr. Chairman, I hope the amendment of the gentleman from Wisconsin will not prevail. I may safely say a majority of the cases of fraud during last year have been in establishments where stills were kept in connection with beer breweries. Sour beer can be manufactured into spirits, and a little still may be concealed among the machinery of a large lager-beer brewery. These stills are there and it is hard to get at them. The system of inspection for spirits does not apply to fermented liquors, and therefore if we allow little stills to be set up in the mass of machinery in a lager-beer brewery, it will be impossible to reach them. It may be a small loss to the parties, but a very small loss, because they can always sell this sour beer to the distilleries. If these words are stricken out it will seriously impair the efficiency of the law.

Mr. PAINE. I would suggest to my colleague to strike out the same words in line seven. I corroborate the statement made by him in respect to the practice in our State. I believe there is no dispute about it. The practice has grown up in breweries, numerous in our part of the world, of having these stills to save damaged stuff from going to loss; and the adoption of this provision will work serious injury to many who are engaged in these breweries. It seems to me there ought to be some arrangement by which honest brewers should be permitted to continue to use these stills. It will enable them to turn to account what would otherwise be wasted. I suggest the Committee of Ways and Means may devise a system of inspection to cover the case.

Mr. GARFIELD. If the gentleman will look at the concluding paragraph of the fifty-fifth section he will see there has been an allowance made of seven and a half per cent. for the purpose of covering the loss they may incur by the waste of sour beer. It need not be wasted, as it can be sold to the distillers. We have preferred to make that allowance rather than to let these stills remain in these breweries. If the amendment prevails then the whole system of inspection to distilleries will be applied to the breweries.

Mr. COBB's amendment was rejected.

Mr. COBB. I move to strike out the same words in line seven.

Now, Mr. Chairman, there is not a sub-district in the United States where the deputy assessor, if he is fit for his business, does not know every single brewery which has a distillery attached and the amount of liquor distilled. I cannot see why a man cannot be a distiller and a brewer as well as a lawyer and a claim agent.

The amendment was not agreed to.

Mr. HOOPER, of Massachusetts. I move to amend on page 152, line fifteen, by inserting at the commencement of it the words "or in any dwelling-house."

The amendment was agreed to.

Mr. HARDING, of Illinois. I understood the chairman of the committee to declare that they were willing to make an amendment by which alcohol could be distilled in a distillery where they distill spirits. They have made an amendment which they declared to have that end and effect. Now, I think the language is ambiguous; therefore I propose that it shall be explicitly stated in the third line of the twenty-third section.

Mr. HOOPER, of Massachusetts. We are on the twenty-ninth section, and I suggest that we had better finish it.

Mr. HARDING, of Illinois. I ask unanimous consent to offer it to section twenty-three.

Mr. GARFIELD. Let it be read.

Mr. HARDING, of Illinois. Section twenty-three reads as follows:

That every person, firm, or corporation who distills or manufactures spirits, or who brews or makes mash,

wort, or wash, for the distillation or the production of spirits, shall be deemed a distiller under this act.

I propose to amend by adding after the word "spirits," the words "or alcohol by continuous distillation from grain."

Mr. GARFIELD. That is right.

The amendment was agreed to.

Mr. ALLISON. I move an amendment on page 14, after line one hundred and twenty-two, which I send to the desk. This paragraph was reserved.

The Clerk read the amendment, as follows:

And in addition to other provisions of law whenever fraud is alleged as to any list or return, and the party charged with fraud shall make denial of the same in writing and shall demand a hearing thereon, and shall tender to the assessor of the proper district a bond with two or more sureties payable to the United States, in a sum not less than double the amount of the tax, together with the penalties assessed because of such alleged fraud, and conditioned that such person will abide by the orders and judgments of the court before whom such case shall be heard, and will pay whatever sum may be adjudged against him for tax or penalty, or both, and also all costs that may be adjudged against him. And upon the approval of such bond by such assessor it shall be the duty of such assessor to transmit to the district attorney of the United States for the district within which such collection district is situated all the papers in the case; and it shall also be the duty of said district attorney to immediately institute in the proper circuit or district court of the United States a suit for the recovery of the tax, penalties, or forfeitures assessed or incurred because of such alleged fraud, and the same shall be prosecuted to judgment as in other cases, and such cases shall have precedence over other civil cases on the calendar of such court. And until final judgment all proceedings by the assessor and collector shall be suspended; and in case of seizure of property, the property seized shall be released upon the approval of the bond herein provided for; but nothing herein contained shall be construed to affect in any manner proceedings by indictment as provided by law.

Mr. ALLISON. This provision is inserted to meet the objection to the section made by the gentleman from Pennsylvania. It is the same provision offered by him with some additions and erasures.

The amendment was agreed to.

Mr. HOLMES. I offer the following amendment to the same section:

On page 13, line ninety-three, after the word "proper," insert the words "not inconsistent with the provisions of existing laws for the punishment of contempt."

The amendment was agreed to.

Mr. THAYER. I wish to call the attention of the committee to an amendment which was offered to this section when we had it under consideration. It was offered by myself, to incorporate in this section the provision of a subsequent section in regard to the payment of witness fees on preliminary examinations by assessors, and the payment of mileage to assessors in such cases. It would come in immediately preceding the amendment last adopted. I move, after the word "purpose," in line one hundred and twenty-two, to insert the following:

When the assessor is required or compelled to travel to make examinations, as provided in this section, he shall be allowed mileage and his necessary and proper traveling expenses. The costs for the attendance and mileage of witnesses shall be taxed by the assessor and paid by the delinquent parties, or otherwise by the collector of the district on certificate of the assessor, at the rates usually allowed in said district for witnesses in district courts of the United States.

Mr. ALLISON. No objection to that.

The amendment was agreed to.

Mr. RANDALL, of Kentucky. I desire to offer an amendment to section thirty-six.

The CHAIRMAN. That section has been passed.

Mr. RANDALL, of Kentucky. I ask the unanimous consent of the committee to go back to that section.

Mr. ALLISON. I must object to going back.

Mr. DAVIS. I move to strike out on pages 117 and 118, beginning at line twenty-six hundred and ninety-nine, the following:

That it shall not be lawful to record any instrument, document, or paper required by law to be stamped, unless a stamp or stamps of the proper amount shall have been affixed, and canceled in the manner required by law; and the record of any such instrument, upon which the proper stamp or stamps aforesaid shall not have been affixed and canceled as aforesaid, shall be utterly void, and shall not be used in evidence.

And to insert in lieu thereof the following:

It shall be unlawful, from and after the passage of this act, to record any instrument, document, deed, mortgage, or other paper required or authorized by law to be recorded, unless such stamp or stamps as shall be required thereon by law shall be affixed thereto and duly canceled; and the record of any such instrument, or the record of any instrument heretofore recorded, upon which the proper stamp or stamps aforesaid shall not have been affixed and canceled as required by law, shall be invalid and of no effect, except as constructive notice of the interest acquired by the purchaser, grantee, or mortgagee of any real estate interest under any contract, deed, or mortgage which may have been recorded without being properly stamped, as provided by law; and neither the original instrument nor the record thereof shall be used in evidence for any other purpose until the original instrument or a certified copy thereof, if the original shall be lost, shall have been duly stamped, so as to entitle it to be recorded under the provisions of this act or the act hereby amended; and when the original instrument, or a certified copy thereof, as aforesaid, shall have been duly stamped, so as to entitle the same to be recorded, shall be presented to the clerk, register, or other officer having charge of the original record, it shall be the duty of such officer, upon the payment of the fee legally chargeable for the recording thereof, at the option of the party presenting such instrument, to make a new record thereof or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been duly corrected pursuant to law; and after such record or entry the original instrument or such certified copy or the record thereof may be used in all courts and places in the same manner and with like effect as if the instrument had been legally entitled to record when first recorded: *Provided*, That no right acquired in good faith before the proper stamping of such instrument or copy, and the recording or entry aforesaid, shall be affected or impaired by such correction of the stamping aforesaid.

I offer that amendment for the purpose of correcting what I believe would operate unjustly in many cases unless the correction shall be made. There are many cases in which conveyances have been made and recorded which have not been properly stamped according to law. It has been done in good faith and without intent to defraud the Government.

Mr. WILSON, of Iowa. The one hundred and fifty-second section of the existing law provides that an unstamped recorded instrument shall be of no effect whatever. The amendment of the gentleman proposes to go back and constitute all of these unstamped records constructive notice of what they contain. Now, that is all they could be as recorded instruments if they had been properly stamped; so that all the interests which may have been acquired prior to the passage of this act, whether in good faith or not, are covered by the provision in the first part of this section declaring that all of these unstamped deeds shall be constructive notice to all persons of their contents. This amendment would be a great deal worse than the existing law.

Mr. ALLISON. I rise to oppose the amendment.

Mr. DAVIS. I desire to say a word on my amendment.

The CHAIRMAN. The gentleman will say his word now.

Mr. DAVIS. What I wish to accomplish by my amendment is simply to protect these parties who have acted in good faith in placing these unstamped instruments on record; and not allow a person, finding by an examination of the record that there is an instrument upon record which has accidentally been illegally recorded, to avail himself of this act which we attempt here to pass to defeat the title of an honest and innocent party.

Mr. WILSON, of Iowa. The case the gentleman now puts, if such a case should occur, would not be constructive notice to the party who should examine the record, but it would be actual notice by bringing that fact to the knowledge of the parties. Now, the difficulty with the amendment of the gentleman is that instead of providing for a case of the kind he has stated he provides that these unstamped instruments shall be constructive notice by being upon the record. Now, if the gentleman desires to provide that actual notice of the existence of the interest embraced in one of these unstamped instruments shall save the party holding it from any injury by a subsequent purchaser having knowledge of the illegality of the record, that is a very different

thing. But when he begins by providing that these cases shall all be covered by constructive notice, then he is trenching upon ground that we should not trench upon, for it may interfere with thousands of titles.

Mr. DAVIS. I would like to ask the gentleman from Iowa, [Mr. WILSON.]—

The CHAIRMAN. The gentleman from New York [Mr. DAVIS] has one half minute left.

Mr. DAVIS. Then I will take some other opportunity.

Mr. ALLISON. I rise to oppose the amendment of the gentleman from New York, [Mr. DAVIS.] The portion he proposes to strike out is substantially the provision of the existing law. And there is nothing whatever in his amendment which will really require instruments to be stamped, because the same provision which makes these unstamped instruments void, except when constructive notice is given, will authorize any party to place on record an instrument not stamped, provided he afterward places a stamp on the original; and in the meantime the document so illegally recorded is constructive notice to every man who may purchase the property. So that in effect the unstamped instrument so recorded would have the same effect as though properly stamped and recorded.

Therefore it is that we must have a provision by which the revenue will be protected. And in order to protect the revenue it is necessary to provide that these instruments recorded without being stamped shall be absolutely void and of no effect. The Committee of Ways and Means have prepared an amendment, providing that parties who have neglected to stamp these instruments through inadvertence or some fault not criminal, may upon a proper showing to the collector of the district still stamp the original instrument and place it upon record. And in case the original is lost, we have added a provision which authorizes the stamping of the copy of the instrument.

Mr. THAYER. The gentleman will allow me to correct what evidently was an inadvertence in the statement of the gentleman from Iowa, [Mr. ALLISON.] The proviso he refers to was not prepared by the Committee of Ways and Means, but was offered by myself at the last session.

Mr. ALLISON. Well, I do not want to take any special credit to the committee.

Mr. THAYER. I only desire to have the history of that legislation correctly stated. The Committee of Ways and Means opposed my proviso very strongly, but I carried it in the House over their opposition.

Mr. WILSON, of Iowa. I would ask the gentleman from Pennsylvania [Mr. THAYER] if that proviso was stamped when he placed it on record, for it is notice to everybody. [Laughter.]

Mr. ALLISON. The committee have already adopted some of the provisions contained in the amendment of the gentleman from New York, [Mr. DAVIS.] But unfortunately he does not propose to insert them in the proper place; therefore we propose to insert the provision so as to relate to section one hundred and fifty-eight of the present law, in the paragraph relating to that subject, instead of where the gentleman from New York proposes. Therefore, I hope the amendment proposed by him will be voted down, when the committee will propose the amendment I have indicated.

Mr. DAVIS. I withdraw my amendment.

Mr. ALLISON. I now move to insert in the paragraph relating to section one hundred and fifty-eight of the present law, after the words, "*And provided further*, That where it shall appear to said collector upon oath, or otherwise, to his satisfaction, that any such instrument has not been duly stamped at the time of making or issuing the same, by reason of accident, mistake, inadvertence, or urgent necessity, and without any willful design to defraud the United States of the stamp duty, or to evade or delay the payment thereof, then

and in such case, if such instrument," the words "or if the original be lost a copy thereof duly certified by the officer having charge of real estate records in the proper town or county."

Mr. HUBBARD, of Iowa. I would like to ask my colleague one question; how can you obtain a certified copy of an instrument which has not been recorded and which has been lost?

Mr. ALLISON. Of course you cannot have a certified copy unless the instrument has been recorded; but an instrument may be lost after being recorded.

Mr. DAVIS. I desire to say to the gentleman from Iowa that my purpose has been to protect parties in those cases where papers have already been recorded without being stamped, when the parties have acted in good faith.

Mr. HUBBARD, of Iowa. For the purpose of saying a word or two, I move to amend the amendment by striking out the last word. As I understand this provision, in the first place, the recorder is prohibited from recording an instrument unless it has been properly stamped. Now, then, how can you have a certified copy of an instrument which has never been recorded and has been lost? You first prohibit the recording of the instrument and then provide for a certified copy of the instrument which has been lost or destroyed. Here is a sort of inconsistency which I do not comprehend. I withdraw my amendment to the amendment.

Mr. LONGYEAR. I move to amend the amendment by inserting after "proper recording officer of the county or township" the words "or otherwise duly proven to the satisfaction of the collector."

Mr. ALLISON. I accept that amendment as a modification of my amendment.

The amendment, as modified, was agreed to.

Mr. ALLISON. I move to amend by inserting after line twenty-eight hundred and thirty-seven, on page 123, the following:

And when the original instrument or a certified copy thereof, as aforesaid, shall have been duly stamped so as to entitle the same to be recorded, and shall be presented to the clerk, register, recorder, or other officer having charge of the original record, it shall be the duty of such officer, upon the payment of the fee legally chargeable for the recording thereof, at the option of the party presenting such instrument, to make a new record thereof or to note upon the original record the fact that the error or omission in the stamping of said original instrument has been corrected pursuant to law; and after such record or entry the original instrument or such certified copy or the record thereof may be used in all courts and places in the same manner and with like effect as if the instrument had been legally entitled to record when first recorded: *Provided*, That no right acquired in good faith before the stamping of such instrument or copy thereof and the record thereof, as herein provided, shall in any manner be affected by such stamping as aforesaid.

The amendment was agreed to.

Mr. HALE. I move to amend by inserting at the end of line twenty-five hundred and ninety-six, on page 113, the following:

Provided, That no penalty shall be assessed upon any person for such neglect or refusal, or for making or rendering a false or fraudulent return, except after reasonable notice of the time and place of hearing, to be regulated by the Commissioner of Internal Revenue, so as to give the person charged an opportunity to be heard, and subject to the right of giving bond and staying proceedings for the purpose of a hearing in a circuit or district court, as provided in the fourteenth section of this act.

This amendment simply makes this paragraph conform to the fourteenth section as amended. I think it must commend itself to the judgment of the committee.

The amendment was agreed to.

Mr. SHELLABARGER. I move to amend by inserting after the amendment just adopted the following:

And provided further, That no prosecutions for fraud or wrongful evasion of any of the provisions of this act shall be commenced until after the person accused or his agent or attorney shall have been notified in writing by the person charged with such prosecution of the offense of which he is charged, nor until after he shall have had opportunity to pay the penalty and other liability of the Government for which such prosecution is authorized: *Provided, however*, Such notice shall not be required where such prosecutor shall be satisfied that such notice would defeat the collection of the demands due the Government.

Mr. Chairman, cases have occurred in which

large numbers of expensive prosecutions have been instituted by informers upon speculation, these suits being for the inadvertent omission of a two-cent stamp, or even some of them where there was no omission at all. Hundreds of the best citizens have been sued, in cases within my knowledge, in one day and in one court and for a two-cent omission, or alleged omission. The first notice these citizens had of their suits was the visit of the United States marshals to them with a writ; and they were compelled either to litigate with the United States at an expense, even where the defense succeeded, greater than the fine, or else they pay all the costs. These suits may be thus resorted to on speculation, and to put fees into the pockets of officers, and in flagrant violation of the rights of the best citizens. Why not give them an opportunity to pay all the Government demands before they are sued?

Mr. WILSON, of Iowa. I ask the gentleman whether it would not answer his purpose to let this apply to cases where there have been omissions to affix stamps. It seems to me the amendment would work detrimentally to the Government. There may be cases where it may be necessary before notice to seize the property.

Mr. SHELLABARGER. In order to cover that I make the prosecutor the judge of the necessity. There can be no danger in permitting the man to have the discretion to whom is confided the charge of the interests of the United States.

Mr. WILSON, of Iowa. I fear that the prosecutor would be construed strictly to mean the United States district attorney. We have cases arising in all parts of the district, and they would be subject to the delay of hunting up the district attorney.

Mr. SHELLABARGER. I shall be glad to accept any suggestion from the gentleman from Iowa. I used the word "prosecutor" because it occurred to my own mind.

Mr. MORRILL. As the amendment is offered I am entirely opposed to it, and I hope it will not be adopted. It applies to all sorts of fraud that may be committed under this bill. The gentleman strikes at the officers in whom he has no confidence. If they are guilty of what he suspects, they ought to be summarily dismissed, and yet he proposes to intrust these same officers with the discretion as to whether they shall commence suit without notice or not. He first provides these officers who get up these prosecutions to put money into their pockets, shall give notice to the parties, and then he provides that they may do just as they are mind to about it. He also provides that the party shall first have an opportunity to pay his liability and penalty. The party must have had an opportunity to pay his liability, and if he only had paid it, he would be subject to no penalty. If the gentleman would apply it to stamps I think it would be far less objectionable. As it is now I am decidedly opposed to it.

Mr. SHELLABARGER. I wish to make a suggestion. In the first place, let me say there is nothing in my amendment directed against or which can apply against the fidelity of any officer. I do not understand what the gentleman means by that.

Mr. ALLISON. We have provided in another part of this bill that no prosecution shall be commenced for fraud except on the direction of the Commissioner of Internal Revenue. These subordinate officers are not permitted to commence suit without the assent of the Commissioner.

Mr. SHELLABARGER. How broad is that?

Mr. ALLISON. It applies to all prosecutions.

Mr. SHELLABARGER. In order that I may look at that provision and have an opportunity to consult with the Committee of Ways and Means, I withdraw my amendment for the present.

Mr. THAYER. In order to correct an incongruity in the bill as it now stands, I desire to move an amendment in reference to these

inspectors. I think some distinction should be made between the punishment of officers of the Government who may conspire to commit fraud against the Government and the punishment of others. They should have the distinction of having more punishment than any others. I will ask the Clerk to read the amendment which I propose to add to section forty-six.

The Clerk read as follows:

And any inspector, assistant inspector, or officer temporarily in charge of any distillery, under this act, who shall conspire with the proprietor of any distillery, or with any other person or persons, to defraud the United States of the revenue or tax arising from distilled spirits, or any part thereof, or who shall, with intent to defraud the United States of such revenue or tax, place any false or fraudulent mark upon any cask or package, or make any false or fraudulent entry, certificate, or return, shall be deemed guilty of felony, and on conviction thereof shall be imprisoned not less than two nor more than five years, at the discretion of the court.

Mr. THAYER. It will be observed that this covers all cases of fraud on the part of the inspector; and it will be necessary, in order to make the amendment complete, that the amendment which was adopted last evening should be stricken out.

Mr. CONKLING. I oppose the amendment *pro forma*—I have nothing to say against it in fact—for the purpose of making a statement in behalf of my colleague [Mr. WINFIELD] as a member of the Committee of Ways and Means. He and his district are interested very much in section thirty-eight, which has been passed over, inasmuch as there are in his vicinity a large number of small distillers engaged in the business exclusively of manufacturing whisky, or apple-jack, whichever it may be called, from apples. He is now and has been for several days confined to his bed by illness, and therefore has been disappointed in his desire to continue in the House an effort which he made very zealously in the Committee of Ways and Means to have these small distilleries exempted from the regulations in reference to bonded warehouses and inspectors. It is idle of course, even if we were so disposed, to attempt at this stage of the bill to get a vote favorably upon his proposition, but I deem it due to my colleague to state to the House that having been very zealous, and indeed I might say somewhat pertinacious, in the committee, to get an exemption in favor of these small distilleries, he has been prevented by illness from coming here and making the effort which he no doubt would have made sufficiently pointed, and for which he would have assigned sufficient reason to have given it very great strength in the House even if he had not been able to make it successful.

The amendment offered by Mr. THAYER was agreed to.

Mr. THAYER. My amendment being adopted, it is necessary to amend on page 167 by striking out all after the word "provided" in line thirty-six down to and including the word "court" in line forty, as follows:

And any inspector who shall knowingly put upon any such cask or package any false or fraudulent marks shall, on conviction, be imprisoned one year, and be liable to a fine of \$500, in the discretion of the court.

The amendment was agreed to.

Mr. FARQUHAR. I wish to make an amendment on page 171, section forty-four.

Mr. MORRILL. I must object, because I desire to get through the bill.

Mr. FARQUHAR. I have been watching here for hours to get this amendment in. I do not know how the Clerk could get so far along. If I cannot go back to offer it I shall have to offer it as an independent section.

Mr. GARFIELD. Do that.

Mr. MORRILL. We will hear it read.

Mr. FARQUHAR. I suppose the chairman of the committee will object to it, but I think the House will not. I propose to add at the end of section forty-four the following:

And in all cases arising under the act of which this is amendatory, the commissions allowed on the articles manufactured shall inure to the benefit of the officers authorized by said acts in the inspection dis-

tricts where said articles are manufactured, under such regulations as may be prescribed by the Commissioner of Internal Revenue, by direction of the Secretary of the Treasury.

Mr. MORRILL. We have already passed that section and made a provision on that subject.

Mr. FARQUHAR. I want to try the sense of the House upon it.

Mr. GARFIELD. We have already acted upon the section.

Mr. FARQUHAR. Then I ask consent to offer another amendment if the House has acted injudiciously or without consideration.

Mr. MORRILL. The gentleman has of course a right to offer an independent section. I must object to going back.

Mr. FARQUHAR. The gentleman might indulge me as he has other gentlemen.

The Clerk read as follows:

SEC. 47. And be it further enacted, That any person owning any distilled spirits intended for sale, manufactured prior to the time when this act takes effect, exceeding fifty gallons altogether, shall notify in writing the collector of the district wherein such spirits may be stored, held, or owned, within sixty days thereafter, to gauge and prove the same; and upon the receipt of said notice the collector shall cause said spirits to be gauged and proved, and the casks or packages containing the same to be marked by the inspector in the following manner:—
Manufactured prior to — 185—. — Inspector — District. Inspected —, 186—. And no spirits so manufactured, held, or owned, shall be gauged, proved, or marked in any cistern or other stationary vessel, but shall be gauged, proved, and marked only in barrels, casks, or packages in which the same shall have been placed; and the quantity held in leach-tubs shall be estimated by the inspector, and, when drawn off into packages, shall be gauged and marked as herein provided. Upon the receipt of the return the collector shall immediately forward to the Commissioner of Internal Revenue a copy thereof; and any person holding or owning such spirits, and refusing or neglecting to notify the collector, as in this section provided, shall forfeit the same and pay the sum of \$500, to be collected in the manner provided by law for the collection of other penalties. No distilled spirits on which the tax has been paid shall be stored or allowed to remain on any distillery premises, under the penalty of a forfeiture of all spirits so found.

Mr. O'NEILL. I offer the following, to come in at the end of the section:

Provided, That wherever, under the provisions of this act, an inspection may be made by any officer authorized by law, that said officer shall give to the party whose premises he may have inspected a certificate of the fact of the inspection having been made, the time of the day at which it was made, with a statement thereon that the provisions of the tax laws have been fully complied with or violated, as the case may be.

I desire to say a word before the vote is taken. I have endeavored to get this amendment adopted in some shape several times. In the first place I offered an amendment which, upon reflection, did not meet the case, as was said by the chairman of the committee. I then offered it in another form, which came nearer to what I desired to accomplish. Now, it is a positive fact that all distillers and brewers are subjected to frequent visitation by the inspectors of revenue, and what I desire is this: that wherever the inspector has made an inspection a certificate of the same shall be given to the distiller or brewer. He is entitled to it. The inspectors come upon his premises and put him to the trouble of showing his books and exhibiting the number of barrels of whisky or of beer. Everything is shown to the officer, and then in an hour afterward, perhaps, another inspector comes along and demands the same thing. I think the law should require each of the inspectors to give a certificate that an inspection has been made, stating the time of day at which it was made, so that when a subsequent inspector comes he will be able to judge whether it is necessary for him to make an inspection.

Mr. MORRILL. The gentleman manifests so much perseverance in the face of so many adverse decisions that I am astonished. But to show the utter want of necessity for the provision I will state that we have but one inspector in a district. I trust the committee will preserve the symmetry of its record and vote the amendment down now, as it has done in all previous cases.

The amendment was not agreed to.

Mr. ALLISON. I move to insert, at the end of section forty-seven, the following:

And all spirit after being removed from the original package in which it was inspected and gauged into other package for purpose of rectification, redistillation, or change of proof, shall again be inspected and gauged and properly branded, and the absence of an inspector's brand shall be taken and held as sufficient cause or evidence upon which any spirits so found may be forfeited.

The amendment was agreed to.

Mr. FARQUHAR. I now move to amend by adding, at the end of section forty-seven, the following:

And in all cases arising under this act and the acts of which this is amendatory, the commission allowed on the articles manufactured, shall inure to the benefit of the officers authorized by said acts in the respective districts where said articles are manufactured, under such regulations as may be prescribed by the Commissioner of Internal Revenue, by direction of the Secretary of the Treasury.

I now desire to inquire of the chairman of the Committee of Ways and Means, [Mr. MORRILL,] or some member of that committee, in what particular the bill has been amended so as to provide for this.

Mr. GARFIELD. In this way: that where the spirits are produced in one district and shipped in bond to another district the commission is to be divided equally between the assessor and collector of the two districts. The law of 1863 gave it to the assessor of the district where it was produced; the next law gave it to the collector of the district to which it was shipped. Each party complained of it; and we have divided it between them.

Mr. FARQUHAR. I offer this amendment for the purpose of preventing injustice to a most meritorious class of officers; that is, the officers residing in the districts where this article is produced. The proposition of the committee is to divide these commissions between the officers in the districts where this article is manufactured and the officers in the districts where the article is sold.

Now, I say that it is due to the officers in the districts where this article is manufactured that they shall have the exclusive commissions arising from the sale of this article. They have the exclusive responsibility and labor connected with this article except the simple responsibility of taking care of the money after it has been paid in when the article is sold from the bonded warehouse. Now, it is unjust that these officers should be deprived of these commissions. If any payment should be made to the officers making the sale from the bonded warehouse, then let it be added; but do not take these commissions from these officers who have all the trouble and responsibility. See how unjust it would be to carry in force the provision which the committee recommends. Take the district in which I reside; it pays one third of all the revenue derived from the State of Indiana. And in doing so that revenue is almost all derived from the manufacture of high-wines. It is within twenty-five or thirty miles of Cincinnati, and these high-wines may be transported to the city of Cincinnati, and there placed in bond; and when that is done, as it has sometimes been done, and as it may become the interest of the manufacturers to do, the officers of the district in which Cincinnati is located reap the benefit of one half the services of the officers in the district in which I reside. I say it is manifest injustice to the officers of my district. The officers in Cincinnati do nothing but merely collect the money which is to be paid before the spirits go out of bond and are delivered.

Now, I appeal to this House to correct this injustice. Take the case of the officers in my district. If these distillers choose to remove this spirit in bond to Cincinnati or to New York, and sell it there, the officers there will get one half of the commissions for the services performed in the fourth congressional district of Indiana. And my argument applies to other districts in the same way. Now, I say this is unjust. I think if the House will look at this matter, when they come to understand the effect of it to be as I have stated—and I have represented it as I understand it—they

will reverse their action, and confine these commissions to the officers of the districts where these spirits are manufactured. But that is not all of which I complain. In the statistical tables showing the amounts manufactured in these districts all the whisky transported in bond and sold out of the district where it is manufactured goes to the credit of the district where it is sold; and the district where it is manufactured gets no credit in the statistics of the country for the manufacture of this article. I say this is unjust, and I hope the House will correct or reverse its action on this matter.

Mr. MORRILL. I ask that the provision of the law upon which we have already passed may be read.

The Clerk read as follows:

"Provided further, That in calculating the commissions of assessors and collectors of internal revenue in districts whence cotton or distilled spirits are shipped in bond to be sold in another district, one half the amount of tax received on the quantity of cotton or spirits so shipped shall be added to the amount on which the commissions of such assessors and collectors are calculated; and a corresponding amount shall be deducted from the amount on which the commissions of the assessors and collectors of the districts to which such cotton or spirits are shipped are calculated."

Mr. MORRILL. Upon the first enactment of these revenue laws the commissions upon duties from spirits collected in other parts of the country were allowed to the collectors in the districts from whence the liquors came.

That was found to be a subject of very great complaint. The collectors in other parts of the country, having to give bonds, and having charge of the money, being required to pay it over, and being responsible for it as well as looking after the liquors upon their arrival within their district—doing, as was contended, much more than the collectors of the district where the spirits were manufactured—made such representations to Congress that the provision of the law in that respect was changed. From that time the law has continued in its present form, allowing the collectors the commission upon the spirits in the places where the duties are collected. But at this session the subject has again been reconsidered; and although the party where the spirits are distilled will have still less labor under this bill than heretofore, the Committee of Ways and Means have concluded to report a compromise and to divide the sum, allowing each collector one half. Certainly this is fair. No more ought to be asked. It is much better, also, for the Government. Even as the law has existed, it has been better for the Government, for the reason that these collectors in large districts to which the spirits go do not thereby have their compensation increased above the minimum rate. Therefore, I think the proposition as it now stands is correct. If the gentleman's amendment should be adopted, it will be seen, of course, that it will create the necessity for going back and revising what the committee has already adopted. I trust the amendment will not be agreed to.

Mr. FARQUHAR. I move to amend the amendment so as to provide a salary of \$5,000 per year for each collector and assessor. The distinguished chairman of the committee has failed to present anything to change my views in regard to the justice of the proposition which I have advocated. I desire now to ask the chairman of the committee whether this high wine, this whisky, before it is removed from one district into the other, does not have to go into bond in the district where it is manufactured.

Mr. MORRILL. Yes, sir; and the collectors take the bonds. That is about all they do.

Mr. FARQUHAR. Ay; but the gentleman has told us that the collector who disposes of the liquor has to go through the formality and incur the responsibility of taking a bond; and that for this reason his duties are so much more onerous and involve greater liability than the duties of the collector in the district where the article is manufactured. Sir, I hold that all the important and responsible duties are performed before the liquor is taken from the district where it is manufactured. The mere

matter of making the sale amounts to comparatively nothing.

It does look to me as though the object of the proposition, as contained in the bill, were to build up and foster and protect the office of collector in the larger districts, so as to make these positions offices of magnitude and of profit, while the smaller collectors in the local districts are to be stripped down to comparatively nothing. It is provided that the collectors, after the pay reaches a certain amount, shall receive one eighth of one per cent. over and above the other commissions. There is no limitation in this respect. The committee have failed, as I understand, to report any limitation to the salaries of collectors. They have fixed a limit to the salaries of assessors but they have provided no limit with regard to the salaries of collectors. Under the bill, as it now stands, these wines are permitted to go from the local districts to the large commercial cities, such as Cincinnati, New York, Baltimore, Philadelphia, and in those the collectors reap the fruits of the labors of the men in the smaller districts, whose salaries are reduced in some instances to a mere pittance. I desire that these officers in the smaller districts shall have such salaries as will secure the services of qualified and responsible men. By the bill the salaries of the assessors are limited to \$5,000, but, as I have said, there is no limit with regard to the pay of the collectors. This bill, with its present provisions, will have the effect of building up the office and swelling the salary of the collectors in the large commercial cities, while the collectors in the smaller district receive comparatively small compensation.

[Here the hammer fell.]

Mr. FARQUHAR. I modify my amendment in order to say a word. I do not desire to weary the patience of the House. I know the chairman of the Committee of Ways and Means is anxious, as we all are, to get this bill out of the Committee of the Whole on the state of the Union. He was not particularly courteous to me when I endeavored to submit my amendment, but perhaps I had better not indulge in any retort for that. Now, I think the chairman has not presented any argument, nor do I believe any argument can be presented, to sustain the proposition that it is right to divide these commissions between the officers who perform the labor, the officers who have the responsibility, the officers in whose districts these high-wines are manufactured, and the collectors in the large cities in order that you may swell up their salaries. I withdraw the amendment to the amendment.

Mr. MORRILL. I do not want to consume time about this matter. The Committee of Ways and Means thoroughly considered this subject. They heard all parties. If there is any injustice it is not against the places where the articles are distilled. I have no doubt the mind of the House is made up. Unless we have the vote now I shall move that the committee rise, for the purpose of closing the debate.

Mr. FARQUHAR demanded tellers.

Tellers were ordered; and Messrs. FARQUHAR and GARFIELD were appointed.

The committee was divided; and the tellers reported—ayes 34, noes 70.

So the amendment was disagreed to.

The Clerk read as follows:

SEC. 48. And be it further enacted, That all boilers, stills, or other vessels, tools, and implements used in distilling or rectifying, and forfeited under any of the provisions of this act, and all condemned material, together with any engine or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for distillation, shall, under the direction of the court in which the forfeiture is recovered, be sold at public auction, and the proceeds thereof, after deducting the expenses of sale, shall be disposed of according to law; and all fines and forfeitures incurred or imposed by virtue of this act shall be sued for and recovered as by law provided, with costs of suit; and one moiety of the fines, forfeitures, and assessed penalties recovered shall be for the use of the United States, and the other moiety thereof to the use of the person or persons, to be ascertained by the judgment of the court, who shall be in fact the cause of any such fine, penalty, or forfeiture being adjudged or recovered. And all spirits or spirituous liquors which may be forfeited under the provisions of this act, unless herein otherwise provided, shall be

disposed of by the Commissioner of Internal Revenue as the Secretary of the Treasury may direct. The term "person," as used in this act, shall be held to include persons, firm, body-corporate, company, or association.

Mr. ALLISON. I move to strike out from the word "suit," in line twelve, down to and including the word "recovered," in line seventeen.

The amendment was agreed to.

Mr. O'NEILL. I move the following amendment:

That in all cases of seizure and suit under the provisions of this act and the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, or any supplement or supplements thereto, a sale shall be ordered by the proper authority, the United States marshal of the district in which such sale shall be ordered shall be authorized to employ an auctioneer and to pay him out of the proceeds of such sale a commission not exceeding two and one half per cent. on the gross amount of such proceeds.

Mr. Chairman, this was offered some two or three days ago, but was reserved, and I hope it will now be adopted. In many courts the judges allow these commissions. They allow them in Massachusetts, Maryland, and New York, as well as in other States. A regular, skilled auctioneer will get much better prices for goods than that have been seized and sold.

Mr. HOOPER, of Massachusetts. I oppose the amendment of the gentleman from Pennsylvania. I think he is mistaken in the fact of that percentage being allowed in Massachusetts.

Mr. STEVENS. What does the marshal get now?

Mr. O'NEILL. I do not know whether he gets anything under the provisions of the present law. I know that the marshal of the eastern district of Pennsylvania has not received pay even for watching the goods after they were seized.

Mr. STEVENS. Does he not get his fees as in other cases?

Mr. O'NEILL. I understand not. I have asked for this information at the office of the Commissioner of Internal Revenue, and have not been satisfied. I propose that there shall be a specific law on the subject.

Mr. STEVENS. I think he should get his fees.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

Mr. O'NEILL. I move to strike out the last word of the amendment in order to finish what I have to say on the subject. I understand that the officers engaged in the district and circuit courts in proceedings instituted by the Commissioner of Internal Revenue get nothing for their services. Goods are seized by the marshals and are held and carefully watched, and then they are delivered upon settlement here at the Internal Revenue Bureau, so that the marshal does not get a cent of compensation. This is the case to such an extent that the office of marshal for the eastern district of Pennsylvania is almost worthless. I offered a bill some weeks ago for the purpose of increasing the general fees of the marshals, which I hope will soon be reported to the House and adopted. This business of the revenue department is thrust upon this officer; he is responsible and his sureties are responsible, and yet he frequently does not get compensation for his services, depending entirely in all cases upon the allowance of the judge of the court.

Mr. ALLISON. I would like to accommodate my friend from the Philadelphia district, but I understand that in his district there is no difficulty in securing the services of a marshal who will be content to receive the very large fees now allowed by the fee bill to marshals.

Mr. O'NEILL. Let me interrupt the gentleman for a moment. It is no rule by which to judge an officer that he seems to think he does not get sufficient compensation. My idea is, that we should at least, while we have a competent official, provide him with a fair and just payment for the performance of his duties.

Mr. ALLISON. If this property is sold under an order or judgment of the court the marshal receives the same fees that he receives

in all other cases, and there is no reason why he should receive special compensation in this class of cases more than in any others. If the property is sold under proceedings in the nature of distraint, the collector is allowed five per cent. for the purpose of covering those expenses. The extra compensation now asked for is not allowed in any other case, and I do not see why it should be allowed in any case to the marshal of the circuit or district court of the United States. I do not know what the rule may be in particular districts, but I undertake to say that if the judge in any district allows the marshals to charge the Government of the United States two and a half per cent. commission for these sales he does what he ought not to do. I think, therefore, that instead of adopting this amendment we ought to correct the law in relation to the judges who allow these fees.

Mr. O'NEILL. My friend from Iowa mistakes, I fear, my proposition. He seems to think the Government must pay this commission. This is not so. It is to be paid out of the results of the sale, not to the marshal, but to the auctioneer.

CLOSE OF DEBATE.

Mr. MORRILL. I move that the committee rise for the purpose of closing debate.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

Mr. MORRILL. I move that all debate in Committee of the Whole on the state of the Union on the pending paragraph of the special order terminate in one second after the committee shall resume the consideration of the subject.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL moved that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. O'NEILL. I withdraw my amendment to the amendment.

The question recurred upon Mr. O'NEILL's original amendment, and being put, the amendment was disagreed to.

Mr. SHELLABARGER. On page 175, in line eleven, I move to insert after the word "shall" the words "after demand of payment first made upon the party liable, his agent, or attorney;" so that the clause will read:

That all boilers, stills, or other vessels, tools, and implements used in distilling or rectifying, and forfeited under any of the provisions of this act, and all condemned material, together with any engine, or other machinery connected therewith, and all empty barrels, and all grain or other material suitable for distillation, shall, under the direction of the court in which the forfeiture is recovered, be sold at public auction, and the proceeds thereof, after deducting the expenses of sale, shall be disposed of according to law; and all fines and forfeitures incurred or imposed by virtue of this act shall, after demand of payment first made upon the party liable, his agent, or attorney, be sued for and recovered as by law provided, with costs of suit, &c.

Mr. ALLISON. I think that the provision we have inserted in section forty-one accomplishes all that is necessary.

Mr. SHELLABARGER. I withdraw my amendment.

The Clerk read as follows:

SEC. 49. *And be it further enacted*, That every brewer shall file with the assessor of the assessment district in which he shall design to carry on his business a notice in writing, stating therein the name of the person, company, corporation, or firm, and the names of the members of any company or firm making such application, together with the place or places of residence of such person or persons, and a description of the premises on which the brewery is situated, and of his or their title thereto, and the name or names of the owner or owners thereof; and also the whole quantity of malt liquors annually made and sold at the brewery for two years last preceding the date of such application.

Mr. MORRILL. I move to amend that section by inserting in line two, before the word "assessor;" the word "assistant;" so that it will read, "that every brewer shall file with the assistant assessor," &c.

The amendment was agreed to.

Mr. MORRILL. In line five I move to insert before the word "company" the word "such."

The amendment was agreed to.

Mr. MORRILL. In line six I move to insert after the word "firm" the words "making such application."

The amendment was agreed to.

Mr. MORRILL. In line twelve I move to strike out the words "such application" and to insert in lieu thereof the words "filing such notice."

The amendment was agreed to.

The Clerk read as follows:

SEC. 50. *And be it further enacted*, That every brewer shall execute a bond to the United States, to be approved by the collector of the district, in a sum equal to twice the amount of tax which in the opinion of the assessor said brewer will be liable to pay during any one month, which bond shall be renewed on the 1st day of May in each year, and shall be conditioned that he will pay, or cause to be paid, as herein provided, the tax required by law on all beer, lager beer, ale, porter, and other fermented liquors aforesaid made by him, or for him, before the same is sold or removed for consumption or sale, except as hereinafter provided; and that he will keep, or cause to be kept a book in the manner and for the purposes hereinafter specified, and which shall be open to inspection by the proper officers as by law required, and that he will in all respects faithfully comply without fraud or evasion with all requirements of law relating to the manufacture and sale of any malt liquors before mentioned: *Provided*, That no brewer shall be required to pay a special tax as a wholesale dealer by reason of selling at wholesale, at a place other than his brewery, malt liquors manufactured by him.

SEC. 51. *And be it further enacted*, That there shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, by whatever name such liquors may be called, a tax of one dollar for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for any fractional part of a barrel which shall be brewed or manufactured and sold, or removed for consumption or sale, within the United States; which tax shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors shall be made, in the manner and at the time hereinafter specified: *Provided*, That fractional parts of a barrel shall be halves, quarters, sixths, and eighths; and any fractional part of a barrel containing less than one eighth shall be accounted one eighth; more than one eighth and not more than one sixth, shall be accounted one sixth; more than one sixth and not more than one quarter, shall be accounted one quarter; more than one quarter and not more than one half, shall be accounted one half; more than one half and not more than one barrel, shall be accounted one barrel; and more than one barrel and not more than sixty-three gallons, shall be accounted two barrels, or a hoghead.

SEC. 52. *And be it further enacted*, That every person owning or occupying any brewery or premises used, or intended to be used, for the purpose of brewing or making such fermented liquors, or who shall have such premises under his control or superintendence as agent for the owner or occupant, or shall have in his possession or custody any brewing materials, utensils, or apparatus, used or intended to be used on said premises in the manufacture of beer, lager beer, ale, porter, or other similar fermented liquors, either as owner, agent, or superintendent, shall, from day to day, enter or cause to be entered, in a book to be kept by him for that purpose, the kind of such fermented liquors, the description of packages, and number of barrels and fractional parts of barrels of fermented liquors made, and also the quantity sold or removed for consumption or sale, and shall also from day to day enter or cause to be entered, in a separate book to be kept by him for that purpose, an account of all material by him purchased for the purpose of producing such fermented liquors, including grain and malt; and shall render to said assessor or assistant assessor, on the 1st day of each month, or within ten days thereafter, a true statement in writing, taken from his books, of the whole quantity or number of barrels and fractional parts of barrels of fermented liquors brewed and sold, or removed for

consumption or sale, for one month last preceding said 1st day of the month; and shall verify, or cause to be verified, the said statement, and the facts therein set forth, by oath or affirmation, to be taken before the assessor or assistant assessor of the district, according to the form required by law; and shall immediately forward to the collector of the district a duplicate of said statement, duly certified by the assessor or assistant assessor. And said books shall be open at all times for the inspection of any assessor, assistant assessor, collector, deputy collector, inspector, or revenue agent, who may take memoranda and transcripts therefrom.

Mr. MORRILL. I move to amend section fifty-two, so as to make it correspond with the former portion of the bill, by striking out in line twenty the word "first," and inserting in lieu thereof "tenth;" so that it will read:

And shall render to said assessor or assistant assessor, on the 10th day of each month, &c.

The amendment was agreed to.

Mr. MORRILL. I move to insert after the word "month," the words "or ten days thereafter."

The amendment was agreed to.

Mr. MORRILL. In lines twenty-four and twenty-five I move to strike out the words "preceding said 1st day of the month," and to insert in lieu thereof the words "during the preceding month."

The amendment was agreed to.

Mr. O'NEILL. In lines thirteen and fourteen I move to strike out the words "and number of barrels and fractional parts of barrels of fermented liquors made." I understand that it is impossible to tell, until they come to sell it, what quantity they have, there is so much evaporation.

Mr. MORRILL. The law as it now stands has been subjected to the scrutiny of the makers of beer and ale every year since it has been in operation, and there has never been any complaint that I am aware of made to any member of the Committee of Ways and Means on the subject. I hope these words will not be stricken out.

Mr. O'NEILL. This is a matter which interests the malt maker and does not apply so much to the brewers of beer and ale.

The amendment was disagreed to.

Mr. O'NEILL. I move to amend the section by striking out the following clause:

And shall also from day to day enter or cause to be entered, in a separate book to be kept by him for that purpose, an account of all material by him purchased for the purpose of producing such fermented liquors, including grain and malt.

There is one point in the amendment that is worthy the consideration of the committee. I understand that in the brewing of beer there are certain secrets of the trade, or certain processes, each brewer having a secret of his own, for which he has paid, in many instances, a very large amount of money. I think the provision of this section goes a little too far in the statement it requires of them.

Mr. MORRILL. I believe that the brewers of good ale and beer do not feel at all reluctant to allow people to know what is put in it. The amendment of the gentleman to strike out this provision would allow the manufacturers of a spurious article who obtain a substitute for hops and malt to go on to any extent without exposure. I must object to it.

Mr. O'NEILL. I move to amend my amendment by striking out the last word, in order to enable me to say a word further. I do not pretend to represent the views of the makers of bad ale, porter, or beer. I believe the brewers of Philadelphia are celebrated throughout the world. I know there is a difference between the large and the small brewers. The large malt makers have large amounts of capital invested in their establishments, and they furnish the small brewers with malt. The large brewers of Philadelphia, in most instances, make their own malt. In the very center and heart of our city there are large buildings covering hundreds of feet square devoted to this business. One of them is an immense establishment, and I presume the chairman of the Committee of Ways and Means has seen the proprietors of that brewery. What I am striv-

ing for here is to save makers of malt from being obliged to tell these inspectors how they make their malt. I withdraw my amendment to the amendment.

Mr. STEVENS. I will renew the amendment to the amendment. I do so for the purpose of saying that it requires some knowledge of these things to know how to vote upon this question, for it is not every man who owns a lager-beer shop. [Laughter.] I think the amendment of my colleague [Mr. O'NEILL] should prevail, and I will state the reason. It is not always proper that everybody should know everything that goes into beer. I remember a case I tried ten years ago, a case of a brewer called George Schweitzer, who was charged with being a lunatic. Another brewer of the name of Henry Fogelsong was called to prove that the other was a lunatic. He said that he knew George was a lunatic, for ten years before he had showed it most plainly. All the brewers in their neighborhood used calves' feet and brains in making their beer, and they helped very much to make the beer sweet. He had often urged the practice upon old George and he never would do it, and therefore he knew he was a lunatic, because he would not use the proper article. [Laughter.]

Now, it will not do to have it get out generally that such matters as these are put into the beer. Does the Committee of Ways and Means mean that a brewer shall state in his return how many rats he puts into his beer? I passed one time by the cooler of a brewery and I counted sixty large rats which had just been thrown out after having laid in soak all night. Now, does the committee mean that the whole health of the country shall be affected through the imagination by a knowledge of these things, when, if people did not know anything about them, it is the best kind of juice and makes the sweetest article of beer in the world? I hope the amendment will prevail.

Mr. O'NEILL. My colleague's constituents, I judge from his remarks, like these peculiar flavored beers; mine do not. [Laughter.]

Mr. MORRILL. I will only say that this provision is indispensable to the perfection of the bill. It is the same that is included in all revenue laws of other countries; and no objection has been made to it by the makers of beer and ale in this country.

Mr. STEVENS. Well, I will withdraw my amendment to the amendment.

The amendment of Mr. O'NEILL was not agreed to.

The Clerk read as follows:

SEC. 53. *And be it further enacted*, That the entries made in such books shall, on the first day of each month, or within ten days thereafter, be verified by the oath or affirmation of the person or persons by whom such entries shall have been made, which oath or affirmation shall be written in the book at the end of such entries, and be certified by the officer administering the same, and shall be in form as follows: "I do swear (or affirm) that the foregoing entries were made by me, and that they state truly, according to the best of my knowledge and belief, the whole quantity of fermented liquors, either brewed, or brewed and sold, or removed from the brewery owned by —, in the county of —, amounting to — barrels. And further, that I have no knowledge of any matter or thing, required by law to be stated in said entries, which has been omitted therefrom." And the owner, agent, or superintendent aforesaid, shall also, in case the original entries made in his books shall not have been made by himself, subjoin thereto the following oath or affirmation, to be taken in manner as aforesaid: "I do swear (or affirm) that, to the best of my knowledge and belief, the foregoing entries fully set forth all the matters therein required by law, and that the same are just and true, and that I have taken all the means in my power to make them so."

Mr. MORRILL. In the clause which reads, "on the 1st day of each month or within ten days thereafter," I move to amend by striking out the words "the 1st" and inserting "or before the 10th;" and also striking out the words "within ten days thereafter."

The amendment was agreed to.

Mr. MORRILL. I move to amend by striking out the words "either brewed, or brewed and sold, or," and inserting "brewed, the quantity sold, and the quality."

The amendment was agreed to.

Mr. MORRILL. I move further to amend

by striking out the words "amounting to — barrels," as that is no longer needed.

The amendment was agreed to.

The Clerk read as follows:

SEC. 54. *And be it further enacted*, That the owner, agent, or superintendent of any brewery, vessels, or utensils used in making fermented liquors, who shall evade or attempt to evade the payment of the tax thereon, or fraudulently neglect or refuse to make true and exact entry and report of the same in the manner herein required, or to do or cause to be done any of the things by law required to be done by him as aforesaid, or who shall intentionally make false entry in said book or in said statement, or knowingly allow or procure the same to be done, shall forfeit, for every such offense, all the liquors made by him or for him, and all the vessels, utensils, and apparatus used in making the same, and be liable to a penalty of not less than five hundred nor more than one thousand dollars, to be recovered with costs of suit, and shall be deemed guilty of a misdemeanor, and shall be imprisoned for a term not exceeding one year; and said liquors, utensils, and apparatus may be seized and held by any collector or deputy collector until a decision shall be had thereon according to law: *Provided*, That proceedings to enforce said forfeiture shall be commenced by such collector within twenty days after the seizure thereof. And such proceedings shall be in the nature of a proceeding *in rem*, or in any proper form of action, in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction. And any brewer who shall neglect to keep the books, or refuse to furnish the account and duplicate thereof as hereinbefore provided, or who shall refuse to permit the proper officer to examine the books in the manner provided, shall, for every such refusal or neglect, forfeit and pay the sum of \$300.

No amendment being offered,

The Clerk read as follows:

SEC. 55. *And be it further enacted*, That the Commissioner of Internal Revenue shall cause to be prepared, for the payment of tax aforesaid, suitable stamps denoting the amount of tax herein required to be paid on the hogshead, barrels, and halves, quarters, sixths, and eighths of a barrel of such fermented liquors, and shall furnish the same to the collectors of internal revenue, who shall each be required to keep on hand, at all times, a supply equal in amount to two months' sales thereof, if there shall be any brewery or brewery warehouse in his district, and the same shall be sold by such collectors only to the brewers of their districts, respectively; and such collectors shall keep an account of the number and values of the stamps sold by them to each of such brewers respectively; and upon all sales of such stamps in sums of \$200 or more to one person, at one time, an allowance or deduction of seven and one half per cent. shall be made to the purchaser.

Mr. GARFIELD. I move to amend the last clause of this section so that it will read:

And the Commissioner of Internal Revenue may allow upon all sales of such stamps in sums of \$200 or more to one person, at one time, a deduction of not more than seven and one half per cent.

Mr. PAINE. My only objection to the amendment proposed by the gentleman from Ohio [Mr. GARFIELD] is this: it will be remembered that a little while ago he cited this clause as explaining the reason which influenced the committee to fix the tax to which brewers are to be subjected. He pointed out to me this clause as a reason why justice was in fact done to the brewers, notwithstanding the provision to which I have referred. Now, he proposes to make a change in this provision, which does not with certainty secure to the brewer this benefit, but leaves it for the Commissioner to decide whether or not the brewer shall enjoy the benefit. It makes it a possible benefit but not a certain benefit under the law.

Mr. GARFIELD. If the gentleman will allow me, I will say that the law before fixed this at five per cent. instead of seven and a half. The reason of the law was that a certain proportion of all the beer brewed becomes sour and, as beer, worthless. Hence, if the brewer affixes the stamp and the beer on being put into the market turns out worthless, the value of the stamps affixed and canceled is an utter loss to the brewer. In consideration of this loss the law hitherto has made an allowance of five per cent. of the value of the stamps. That allowance is increased by this bill to seven and a half per cent. I desire to propose, as an addition to my amendment, to strike out in the fifteenth line the words "one person" and insert "any brewer."

Mr. STEVENS. I suggest to the gentleman that his amendment should read, "to any brewer, and by him used in his business."

Mr. GARFIELD. I accept that as a modification of my amendment.

Mr. PAINE. Let me suggest further that "shall" should be substituted for "may" after the word "Commissioner."

Mr. GARFIELD. I modify my amendment in that way.

The amendment of Mr. GARFIELD, as modified, was agreed to.

The Clerk read as follows:

SEC. 56. *And be it further enacted*, That every brewer shall obtain, from the collector of the district in which his brewery or brewery warehouse may be situated, and not otherwise, unless said collector shall fail to furnish the same upon application to him, the proper stamp or stamps; and shall affix upon the spigot-hole or tap (of which there shall be but one) of each and every hoghead, barrel, keg, or other receptacle, in which any fermented liquor shall be contained, when sold or removed from such brewery or warehouse, a stamp denoting the amount of the tax herein required upon such fermented liquor, in such a way that the said stamp or stamps will be destroyed upon the withdrawal of the liquor from such hoghead, barrel, keg, or other vessel, or upon the introduction of a faucet or other instrument for that purpose; and shall also, at the time of affixing such stamp or stamps as aforesaid, cancel the same by writing or imprinting thereon the name of the person, firm, or corporation by whom such liquor may have been made, or the initial letters thereof, and the date when canceled. Every brewer who shall refuse or neglect to affix and cancel the stamp or stamps herein required in the manner aforesaid, or who shall affix a false or fraudulent stamp thereto, or knowingly permit the same to be done, shall be liable to pay a penalty of \$100 for each barrel or package on which such omission or fraud occurs, and shall be liable to imprisonment for not more than one year.

No amendment being offered,

The Clerk read as follows:

SEC. 57. *And be it further enacted*, That any brewer, carman, agent for transportation, or other person, who shall sell, remove, receive, or purchase, or in any way aid in the sale, removal, receipt, or purchase of any fermented liquor contained in any hoghead, barrel, keg, or other vessel from any brewery, or brewery warehouse, upon which the stamp herein required shall not have been affixed, or on which a false or fraudulent stamp is affixed, with knowledge that it is such, or on which a stamp once canceled is used a second time; and any retail dealer or other person who shall withdraw or aid in the withdrawal of any fermented liquor from any hoghead, barrel, keg, or other vessel containing the same, without destroying or defacing the stamp affixed upon the same, or shall withdraw or aid in the withdrawal of any fermented liquor from any hoghead, barrel, keg, or other vessel, upon which the proper stamp shall not have been affixed, or on which a false or fraudulent stamp is affixed, as hereinbefore required, shall be liable to a fine of \$100, and to imprisonment not more than one year. Every person who shall make, sell, or use any false or counterfeit stamp or die for printing or making stamps which shall be in imitation of, or purport to be a lawful stamp or die of, the kind before mentioned, or who shall procure the same to be done, shall be guilty of a felony, and be imprisoned for the term of five years; *Provided*, That every brewer who sells fermented liquor at retail at the brewery or other place where the same is made, shall affix and cancel the proper stamp or stamps upon the hogheads, barrels, kegs, or other vessels in which the same is contained, and shall keep an account of the quantity so sold by him, and of the number and size of the hogheads, barrels, kegs, or other vessels, in which the same may have been contained, and shall make a report thereof, verified by oath, monthly to the assessor, and forward a duplicate of same to the collector of the district: *And provided further*, That brewers may remove malt liquors of their own manufacture from their breweries or other places of manufacture to a warehouse or other place of storage occupied by them within the same district in quantities of not less than six barrels in one vessel without affixing the stamp or stamps herein required, but shall affix the proper stamp or stamps, as aforesaid, upon such liquor when sold or removed from such warehouse or other place of storage: *And provided further*, That where fermented liquor has become sour or damaged, so as to be incapable of use as such, brewers may sell the same for manufacturing purposes, and may remove the same to places where it may be used for such purposes in casks or other vessels, unlike those ordinarily used for fermented liquors, containing respectively not less than one barrel each, and having the nature of their contents branded upon them, without affixing thereon the stamp or stamps herein required.

No amendment being offered,

The Clerk read as follows:

SEC. 58. *And be it further enacted*, That every brewer shall brand, or cause to be branded, upon every hoghead, barrel, keg, or other vessel, containing the fermented liquor made by him, before it is sold or removed from the brewery or brewery warehouse, or other place of manufacture, the name of the person, firm, or corporation by whom such liquor was manufactured and the place where the same shall have been made; and any person other than the owner thereof or his agent who shall intentionally remove or deface such brand therefrom shall be liable to a penalty of fifty dollars for each cask from which the brand is so removed or defaced.

No amendment being offered,
The Clerk read as follows:

SEC. 59. *And be it further enacted*, That every person, other than the purchaser or owner of any fermented liquor, or person acting on his behalf, or his agent, who shall intentionally remove or deface the stamp affixed, as herein required, upon the hoghead, barrel, keg, or other vessel in which the same may be contained, shall be liable to a fine of fifty dollars for each such vessel from which the stamp is so removed or defaced, and to render compensation to such purchaser or owner for all damages sustained by him therefrom.

No amendment being offered,

The Clerk read as follows:

SEC. 60. *And be it further enacted*, That the ownership or possession by any person of any fermented liquor after its sale or removal from brewery or warehouse, or other place where it was made, upon which the tax required shall not have been paid, shall render the same liable to seizure wherever found, and to forfeiture; and that the want of the proper stamp or stamps upon any hoghead, barrel, keg, or other vessel in which fermented liquor may be contained after its sale or removal from the brewery where the same was made, or warehouse, as aforesaid, shall be notice to all persons that the tax has not been paid thereon, and shall be *prima facie* evidence of the non-payment thereof.

No amendment being offered,

The Clerk read as follows:

SEC. 61. *And be it further enacted*, That every person who shall withdraw any fermented liquor from any hoghead, barrel, keg, or other vessel upon which the proper stamp or stamps shall not have been affixed as herein required, for the purpose of bottling the same, or who shall carry on, or attempt to carry on, the business of bottling fermented liquor in any brewery or other place in which such fermented liquor is made, or upon any premises having communication with such brewery or any warehouse, shall be liable to a fine of \$500, and the property used in such bottling or business shall be liable to forfeiture.

Mr. GARFIELD. I move to insert the following as an additional section:

SEC. 62. *And be it further enacted*, That any assessor, collector, inspector, or revenue agent who shall be interested, directly or indirectly, in the manufacture of tobacco, snuff, or cigars, or in the production by distillation or by other process of spirits or ale, beer, or other fermented liquors, shall, on conviction before any court of the United States of competent jurisdiction, pay as penalty not less than \$500, nor more than \$5,000, in the discretion of the court.

The amendment was agreed to.

Mr. MORRILL. I offer the following as an additional section:

SEC. 63. *And be it further enacted*, That every officer or employé appointed or holding office in the Bureau of Internal Revenue under authority of law, whose payment, charges, salary, or compensation shall be composed, either wholly or in part, of fees, commissions, allowances, or rewards, from whatever source derived, shall be required to render to the Commissioner of Internal Revenue, under regulations to be approved by the Secretary of the Treasury, a statement under oath setting forth the entire amount of such fees, commissions, emoluments, or rewards, of whatever nature, or from whatever source received, during the time for which said statement is rendered; and any false statement knowingly and willfully rendered under the requirements of this section, or regulations established in accordance therewith, shall be deemed willful perjury, and punished, on conviction therefor, as provided in section forty-two of the act of June 30, 1864, to which this act is an amendment, and any neglect or omission to render such statement when required shall be punished, on conviction therefor, by a fine of not less than \$200 nor more than \$500, in the discretion of the court.

The amendment was agreed to.

Mr. WELKER. I offer the following amendment:

SEC. —. *And be it further enacted*, That all disabled soldiers or sailors having served in the Army or Navy of the United States, in the late rebellion, who are now, or may hereafter be, placed upon the pension-rolls of the Government, shall, on producing to the assistant assessor of his district satisfactory evidence that he is such pensioner, be entitled to receive a license to carry on the business or occupations specified in paragraphs three, eight, twenty-one, twenty-two, twenty-four, twenty-seven, twenty-eight, thirty, thirty-one, thirty-two, thirty-four, thirty-five, and thirty-six of section seventy-nine, without the payment of any sum of money whatever for such permission.

Mr. Chairman, one word by way of explanation of that amendment. The paragraphs referred to are as follows: paragraph three, retail dealers; eight, livery-stable keepers; twenty-one, keepers of eating-houses; twenty-two, confectioners; twenty-four, patent-right dealers; twenty-seven, intelligence office keepers; twenty-eight, insurance agents; thirty, auctioneers; thirty-one, manufacturers; thirty-two, peddlers; thirty-four, photographers; thirty-five, tobacconists; thirty-six, butchers.

I received a letter from the collector in one of the counties of my district that he was applied to by a soldier, who had lost both of his arms at Gettysburg, for a license as a peddler, and that he was compelled to charge him under the law. Therefore I have offered the amendment. I appeal to members that where we do not sacrifice any large amount of revenue we ought to favor this class who only get a pension from the Government of eight dollars a month. I think that where these men endeavor to sustain themselves by engaging in these businesses they ought to have this provision made in their behalf. It is right and just, and I hope it will be adopted.

Mr. MORRILL. I confess that I am reluctant to oppose the proposition of the gentleman, but I am in favor of doing whatever we can do for our gallant soldiers in the way of pensions and bounties directly. If we choose to vote them money let us do it directly. This proposition would allow these parties to engage in business all over the country and sell the use of their names everywhere, and it would create at once a practical monopoly. The gentleman's amendment reaches so far as to embrace a great variety of business, and I trust it will not be adopted. If it were confined to peddlers, or to two or three trades, it might not be so objectionable, but as proposed I fear we should have by far too many shirks seeking shelter under the names of our worthy soldiers.

The amendment was not agreed to.

Mr. WELKER. I hope I may be allowed to present this again.

The Clerk read as follows:

SEC. 62. *And be it further enacted*, That so much of this act as imposes a stamp tax on fermented liquors shall take effect from and after the 1st day of September, 1866.

Mr. GARFIELD. I move to strike out the words "imposes a stamp tax on" and insert in lieu thereof the words "changes the existing law in relation to distilled spirits and."

The amendment was agreed to.

Mr. GARFIELD. It will be observed, as the section now stands, that the provisions in regard to distilled spirits and fermented liquor go into operation on the 1st of September next. We have already, on page 40, repealed our present law on the subject, and I ask unanimous consent to go back and add after the word "repealed," on page 40, line seven hundred and sixty-eight, the words "to take effect on the 1st day of September, 1866."

The amendment was agreed to.

The Clerk read the next section—some of the blanks being subsequently filled, on motion of Mr. MORRILL, with the various sums fixed as salaries—as follows:

SEC. 63. *And be it further enacted*, That the office of the Commissioner of Internal Revenue be reorganized so as to include one Commissioner of Internal Revenue, with a salary of \$5,000; one deputy commissioner, with a salary of \$3,500; one cashier, with a salary of \$3,000, who shall also act as disbursing officer for said office; and which offices are now created, and the duties thereof defined by law; and to authorize, under the direction of the Secretary of the Treasury, the employment of the following additional officers and clerks, and with the salaries hereinafter specified, namely, two deputy commissioners, each with a salary of \$3,000; one solicitor, with a salary of \$4,000; seven heads of divisions, each with a salary of \$2,500; thirty-four clerks of class four; forty-five clerks of class three; fifty clerks of class two; and thirty-seven clerks of class one; fifty-five copyists, each with a salary of \$720; three messengers, each with a salary of \$1,000; five assistant messengers each with a salary of \$850; and fifteen laborers, each with a salary of \$720; and a sum sufficient to pay the officers, clerks, and employes herein authorized is hereby appropriated out of any money in the Treasury not otherwise appropriated.

The Clerk read as follows:

SEC. 64. *And be it further enacted*, That all official communications made by assessors to collectors, or by collectors to assessors, or by assessors to assistant assessors, or by assistant assessors to assessors, may be officially franked by the writers thereof, and shall, when so franked, be transmitted by mail free of postage.

Mr. THAYER. I move to amend, in line two, by inserting after the word "assessors" the words "to assessors, or by collectors;" so that it will read "that all official communica-

tions made by assessors to assessors, or by collectors to collectors," &c.

The amendment was agreed to.

Mr. MORRILL. I have an amendment to offer by inserting after the word "assessors" in line four the words "or by collectors to their deputies, or by deputy collectors to collectors."

The amendment was agreed to.

Mr. WELKER. I move the following amendment, to come in at the end of the section:

And collectors shall be allowed reasonable express charges for the necessary transportation of money from their deputies to them as accounts for stationery are allowed.

I offer this amendment because several collectors have been refused payment of charges for the transmission of money by express. I think it ought to be allowed.

Mr. ALLISON. I would suggest whether the effect of this amendment would not be virtually to authorize collectors to send money by express; and if so, whether they would not be relieved from their liability as collectors.

Mr. WELKER. I do not suppose it would, unless they had orders to do so.

Mr. SPALDING. I hope it will not be adopted. They are the best-paid men in the country now.

The amendment was not agreed to.

The Clerk read as follows:

SEC. 65. *And be it further enacted*, That the Secretary of the Treasury is hereby authorized to appoint an officer in his Department who shall be styled "Special Commissioner of the Revenue," whose office shall terminate in four years from the passage of this act. It shall be the duty of the Special Commissioner of the Revenue to inquire into all the sources of national revenue, and the best methods of collecting the revenue; the relations of foreign trade to domestic industry; the mutual adjustment of the systems of taxation by customs and excise, with the view of insuring the requisite revenue with the least disturbance or inconvenience to the progress of industry and the development of the resources of the country; and to inquire from time to time, under the direction of the Secretary of the Treasury, into the manner in which officers charged with the administration and collection of the revenues perform their duties. And the said Special Commissioner of the Revenue shall from time to time report, through the Secretary of the Treasury, to Congress, either in the form of a bill or otherwise, such modifications of the rates of taxation or of the methods of collecting the revenues, and such other facts pertaining to the trade, industry, commerce, or taxation of the country, as he may find, by actual observation of the operation of the law, to be conducive to the public interest; and in order to enable the Special Commissioner of the Revenue to properly conduct his investigations, he is hereby empowered to examine the books, papers, and accounts of any officer of the revenue, to administer oaths, examine and summon witnesses, and take testimony; and each and every such person falsely swearing or affirming shall be subject to the penalties and disabilities prescribed by law for the punishment of corrupt and willful perjury; and all officers of the Government are hereby required to extend to the said Commissioner all reasonable facilities for the collection of information pertinent to the duties of his office. And the said Special Commissioner shall be paid an annual salary of \$4,000, and the traveling expenses necessarily incurred while in the discharge of his duty; and all letters and documents to and from the Special Commissioner relating to the duties and business of his office shall be transmitted by mail free of postage. And section nineteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865, be, and the same is hereby, repealed.

Mr. WILSON, of Iowa. I offer the following as additional sections to the bill:

And be it further enacted, That in any case, civil or criminal, where suit or prosecution shall be commenced in any court of any State against any officer of the United States, appointed under or acting by authority of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June 30, 1864, or of any act in addition thereto, or against any person acting under or by authority of any such officer, or against any person holding property or estate by title derived from any such officer, it shall be lawful for the defendant in such suit or prosecution, at any time before trial, upon a petition to the circuit court of the United States in and for the district in which the defendant shall have been served with process, setting forth the nature of said suit or prosecution, and verifying the said petition by affidavit, together with a certificate, signed by an attorney or counselor at law of some court of record of the State in which such suit shall have been commenced, or of the United States, setting forth that, as counsel for the petitioner, he has examined the proceedings against him, and carefully inquired into all the matters set forth in the petition, and that he believes the same to be true; which petition, affidavit,

and certificate shall be presented to the said circuit court, if in session, and if not, to the clerk thereof, at his office, and shall be filed in said office, and the cause shall thereupon be entered on the docket of said court, and shall be thereafter proceeded in as a cause originally commenced in that court; and it shall be the duty of the clerk of said court, if the suit were commenced in the court below by summons, to issue a writ of *certiorari* to the State court, requiring said court to send to the said circuit court the record and proceedings in said cause; or if it were commenced by *capias*, he shall issue a writ of *habeas corpus cum causa*, a duplicate of which said writ shall be delivered to the clerk of the State court, or left at his office, by the marshal of the district, or his deputy, or some person duly authorized thereto; and thereupon it shall be the duty of the said State court to stay all further proceedings in such cause, and the said suit or prosecution, upon delivery of such process, or leaving the same as aforesaid, shall be deemed and taken to be moved to the said circuit court, and any further proceedings, trial, or judgment therein in the State court shall be wholly null and void. And if the defendant in any such suit be in actual custody on *meine* process therein, it shall be the duty of the marshal, by virtue of the writ of *habeas corpus cum causa*, to take the body of the defendant into his custody, to be dealt with in the said cause according to the rules of law and the order of the circuit court, or of any judge thereof in vacation. And all attachments made, and all bail and other security given, upon such suit or prosecution shall be and continue in like force and effect as if the same suit or prosecution had proceeded to final judgment and execution in the State court; and if, upon the removal of any such suit or prosecution, it shall be made to appear to the said circuit court that no copy of the record and proceedings therein, in the State court can be obtained, it shall be lawful for said circuit court to allow and require the plaintiff to proceed *de novo*, and to file a declaration of his cause of action, and the parties may thereupon proceed as in action originally brought in said circuit court; and on failure of so proceeding, judgment of *nolle prosequi* may be rendered against the plaintiff, with costs for the defendant: *Provided*, That an act entitled "An act further to provide for the collection of duties on imports," passed March 2, 1833, shall not be so construed as to apply to cases arising under an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June 30, 1864, or any act in addition thereto or in amendment thereof, nor to any case in which the validity or interpretation of said act or acts shall be in issue.

SEC. —. *And be it further enacted*, That the fifth section of an act passed June 30, 1864, entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," is hereby repealed: *Provided*, That any case which may have been removed from the courts of any State under said fifth section, to the courts of the United States, shall be remanded to the State court from which it was so removed, with all the records relating to such case, unless the justice of the circuit court of the United States in which such suit or prosecution is pending shall be of opinion that said case would be removable from the court of the State to the circuit court under and by virtue of the sixty-sixth section of this act. And in all cases which may have been removed from any court of any State under and by virtue of said fifth section of said act of June 30, 1864, all attachments made, and all bail or other security given upon such suit or prosecution, shall be and continue in full force and effect until final judgment and execution, whether such suit shall be prosecuted to final judgment in the circuit court of the United States, or remanded to the State court from which it was removed.

SEC. —. *And be it further enacted*, That whenever a writ of error shall be issued for the revision of any judgment or decree in any criminal proceeding, where is drawn in question the construction of any statute of the United States in a court of any State, as is provided in the twenty-fifth section of an act entitled "An act to establish the judicial courts of the United States," passed September 24, 1789, the defendant, if charged with an offense bailable by the laws of such State, shall not be released from custody until a final judgment upon such writ, or until a bond with sufficient sureties in a reasonable sum, as ordered and approved by the State court, shall be given; and if the offense is not so bailable until a final judgment upon the writ of error. Writs of error, in criminal cases, shall have precedence upon the docket of the Supreme Court, of all cases to which the Government of the United States is not a party, excepting only such cases as the court, at their discretion, may decide to be of public importance.

I have been directed by the Committee on the Judiciary to offer this amendment to the bill. It has been submitted to the Committee of Ways and Means and they concur in it. It is merely a change of the law of 1833, giving it the construction that was intended by Congress when that law was passed, confining the operations of the act to officers and persons acting under them and by their authority. It appears from reading the debates that by inadvertence the words "or other persons" were inserted after the word "officers," so that under it, all cases arising under State laws in connection with any trade or business for which the present law requires a license to be taken out, or this bill requires a special tax to be paid may be removed into the United States

court, the parties claiming that the payment of the tax authorized them to conduct the particular business, no matter what the provisions of the State law might be. A great many cases were thus removed from the State courts into the United States courts. This interferes with the municipal regulations of all towns and cities and the proper administration of State laws.

Mr. HALE. I have not had an opportunity to see this amendment in print, and I would inquire of the gentleman from Iowa whether under the sections now proposed all suits against officers of the revenue for acts which they may claim to justify under this law are to be transferred, or whether it is confined to those cases in which the validity of constructions of the act is in question.

Mr. WILSON, of Iowa. The best answer I can give is to read the first section of my amendment. It is as follows:

That in any case, civil or criminal, where suit or prosecution shall be commenced in any court of any State against any officer of the United States, appointed under or acting by authority of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June 30, 1864, or of any act in addition thereto, or against any person acting under or by authority of any such officer, or against any person holding property or estate by title derived from any such officer, it shall be lawful for the defendant in such suit or prosecution, at any time before trial, upon a petition to the circuit court of the United States in and for the district in which the defendant shall have been served with process, setting forth the nature of said suit or prosecution, and verifying the said petition by affidavit, together with a certificate, signed by an attorney or counselor at law of some court of record of the State in which such suit shall have been commenced, or of the United States, setting forth that, as counsel for the petitioner, he has examined the proceedings against him, and carefully inquired into all the matters set forth in the petition, and that he believes the same to be true; which petition, affidavit, and certificate shall be presented to the said circuit court, if in session, and if not, to the clerk thereof, at his office, and shall be filed in said office, and the cause shall thereupon be entered on the docket of said court, &c.

Mr. HALE. I submit to the gentleman that he has made the section altogether too broad.

Mr. WILSON, of Iowa. It must be against an officer or against a person acting under the authority of that officer; consequently it may be a suit against him as an individual for an act done as an officer.

Mr. HALE. If that it is the construction of it, then it strikes me that it is by no means broad enough.

Mr. WILSON, of Iowa. In perfecting this amendment the Committee on the Judiciary availed themselves of the act of 1833, which has already received a construction. The only change that is made is in confining the operation of the act to persons who were officers or acting under the authority of officers. That act included other persons.

Mr. HALE. It strikes me, after hearing the explanation of the gentleman from Iowa, [Mr. Wilson,] that his amendment is altogether too meager in its provisions if it is intended to confine it to suits brought against persons who—

Mr. WILSON, of Iowa. Brought against them for any act performed by them as officers.

Mr. HALE. It does not say so.

Mr. WILSON, of Iowa. I think it does quite clearly.

Mr. HALE. I move to amend the first section of the amendment so that it will read:

That in any case, civil or criminal, where suit or prosecution shall be commenced in any court of any State against any officer of the United States, appointed under or acting by authority of the act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," passed June 30, 1864, or of any act in addition thereto, or against any person acting under or by authority of any such officer, or on account of any act done under color of his office, or against any person holding property or estate by title derived from any such officer, affecting such property or estate, and involving the construction of this act, it shall be lawful for the defendant, &c.

Mr. WILSON, of Iowa. I will accept that amendment.

The amendment, as modified, was agreed to.

Mr. STEVENS. I desire to move an amendment to section sixty-five. The first sentence of that section reads:

That the Secretary of the Treasury is hereby authorized to appoint an officer in his Department

who shall be styled "Special Commissioner of the Revenue," whose office shall terminate in four years after the passage of this act.

I desire to move to strike out the words, "the Secretary of the Treasury is hereby authorized to appoint an officer in his Department," and insert in lieu thereof the words, "Congress shall by concurrent action elect an officer."

I am done, for my part, with giving any patronage to the Secretary of the Treasury where it can be avoided. He has already stated that he will appoint no one to office unless he sustains the policy of the President. He has this morning distinctly so informed a member of this House who called upon him in regard to an appointment. He asked the member if the applicant sustained the policy of the President, and when the member declined to tell him, he said, "I can appoint and will appoint no man who does not support the policy of the President." And referring to an apostate Senator from that region, the Secretary said, "I consult him when I make appointments, and I will appoint nobody who is not recommended by him."

Now, it is time for this House to let the people of the country know whether these officers are to be sacrificed to this determination of the subordinates of the President. If we do not stand by them they will not stand by us, and they ought not to. Sir, it is time we spoke out the truth about these things. It is a malfeasance in office. I will go further and say that I have already ascertained that four subordinates of the President have made the same declaration. And if I was a little younger, and I shall be in a week, I think I would let these officers know that there is a grand inquest of the nation before whom men who are guilty of malpractices in office can be brought and their cases presented to another tribunal which would try them.

Sir, we are recreant to our own interests, we are recreant to our own dignity, we are recreant to all the interests of the country if we do not stand by those who stand by us. With my consent no more patronage shall be put into the power of any man to be abused, avowedly abused. It is time that we speak aloud, and that we say to our friends in the country that they are in no danger; that they shall not be sacrificed because they stand by Congress; that they shall not be destroyed because they are not the tools of a recreant President. I say that I have authentic information that this very day this policy has been avowed by the Secretary of the Treasury; that he has declared distinctly that in the State referred to he will consult no one in relation to appointments but a recreant, apostate Senator, who has betrayed his party and his country—

Mr. SPALDING. I wish to ask the gentleman from Pennsylvania whether he is serious in urging this amendment.

Mr. STEVENS. I am.

Mr. SPALDING. Then I seriously oppose it.

Mr. MORRILL. I suppose, Mr. Chairman, that the gentleman from Pennsylvania has fully accomplished his purpose by making his speech. I presume that he does not intend to direct any portion of his remarks against the distinguished gentleman who has been employed in this service hitherto. Nor is there, I suppose, the slightest apprehension that any other man will be appointed to this position. If this amendment were appropriate anywhere, it is not appropriate here. I am one of those who, from the first, have been in favor of keeping our finances in all their relations—tax bills, tariffs, and everything else—separate and distinct from politics. I am still in favor of that policy. I do not approve of all the acts of the Secretary of the Treasury, nor do I approve of his recent speech. The speech which he made some months since in Indiana I thought was an able one. I do not so consider the speech that he recently made. I think it was an unfortunate speech for the head of the Treasury, and entirely uncalled for. But at the same time I do not propose to change the ordinary course

of legislation, and especially I do not propose to show temper when we can show nothing more than that. Even if we were here in a minority, I suppose that this power is no more than we would consent to grant to the Secretary of the Treasury. It is the same power we lodged with the Secretary last year and was satisfactorily exercised. I do not believe in the wisdom of any attempt to take the power away this year. I trust, therefore, that the amendment proposed by the gentleman from Pennsylvania will not be adopted.

Mr. HALE. I move to amend the amendment by striking out the last word, for the purpose of calling the attention of the committee to the provisions of the Constitution upon the subject of appointments to office. I do not know that the consideration of what the constitutional provisions may be will have any weight with the distinguished gentleman from Pennsylvania, but it strikes me that with this committee it ought to have. Now, sir, I find in the Constitution no warrant for the exercise by Congress, under any circumstances, of the appointing power. I find the appointing power provided for in express terms in the second section of the second article of the Constitution, which I ask leave to read:

"He [the President] shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur; and he shall nominate, and by and with the advice and consent of the Senate, shall appoint, ambassadors, other public ministers and consuls, judges of the Supreme Court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law. But the Congress may by law vest the appointment of such inferior officers as they think proper in the President alone, in the courts of law, or in the heads of Departments."

Here we have defined by the Constitution the only authorities recognized by that instrument as capable of exercising the appointing power—the President and the Senate, the President alone, the courts of law, and the heads of Departments. I respectfully inquire of the gentleman from Pennsylvania whether he proposes that, for the sake of punishing the Secretary of the Treasury for his very wicked speech the other evening, and his very wicked remark since, Congress shall override the provisions of the Constitution and assume a power of appointment to the exclusion of all the authorities defined by the Constitution.

Mr. STEVENS. This is no office. This is an agency to be created by this Congress, just the same as if we were to create a commission to proceed to the South or anywhere else—just the same as we created a commission for the purpose of examining into these very matters of revenue. It does not come within the meaning of the Constitution at all, and never has been so considered. I propose no violation of an office of the Constitution. This is not an office. We propose simply to appoint an agent to do a particular thing. We might, if we chose, authorize a committee of this House to do it. It requires no appointment by the President. Whether or not the gentleman from New York [Mr. HALE] deems those arguments of the Secretary of the Treasury "wicked," I do deem them wicked. I do not believe that the gentleman so regards them; I think they rather appeal to his taste or appetite.

The gentleman from Vermont [Mr. MORRILL] says that he is for keeping the Secretary of the Treasury free from politics. So am I; and it is for that very reason that I have introduced this amendment and made these remarks. The Secretary of the Treasury has assumed to regulate his patronage by politics, and not by that which is connected with the interests of finance. He has prostituted his office to an unholy purpose; and I think it is time that—

[Here the hammer fell.]

Mr. HALE. I withdraw my amendment to the amendment.

Mr. DELANO. I observe, Mr. Chairman, that this sixty-fifth section provides—

That the Secretary of the Treasury is hereby authorized to appoint an officer in his Department who shall be styled "Special Commissioner of the Revenue," whose office shall terminate in four years from the passage of this act.

As I understand, this provides for the appointment of an "officer;" and when appointed he will hold an "office." I cannot, therefore, readily comprehend the statement of the able and distinguished gentleman from Pennsylvania, that this is not an office, unless we are using words of which we do not comprehend the meaning. I suppose that is all that need be said on that point in addition to the well-taken constitutional objection of my friend from New York, [Mr. HALE.] But I ask this committee to consider for a single moment in what attitude they will place themselves by taking from the Secretary of the Treasury the usual and customary authority of appointing the officer. It can be looked upon in no other light than that of reproach to this officer. It can be looked upon in no other light than that of condemnation of his conduct.

Tell me what the Secretary of the Treasury has done which deserves the reproach and provokes this attack. On the question of reconstruction he differs from the majority of this House. Is he the slave of the majority of this House? Is he not entitled to entertain his own opinions about the proper manner of reorganizing these States? Are we all to square our opinions to a particular line of conduct or to a particular rule that is to be marked out by those in the majority? Cannot an officer of this Government have opinions on this subject without deserving the censure of this House in exercising the legitimate powers which belong to his office? What do we do by this line of policy? What do we effect in the country except to provoke and irritate a public sentiment already too much excited, and to prevent ourselves from arriving at those wise and calm conclusions which the country demands at our hands? How has the Secretary of the Treasury here to-day been denounced by the gentleman from Pennsylvania, [Mr. STEVENS.] And why? Because he entertains opinions in reference to the matter of reconstruction different from the gentleman from Pennsylvania.

Mr. STEVENS. The gentleman will allow me to say I do not denounce him for entertaining any such opinions, but I do denounce him for prostituting the patronage of this Government to make all other opinions bend to his own.

Mr. DELANO. I ask the gentleman for his authority for saying that the Secretary of the Treasury has prostituted the patronage of the Government. What has he done it in: where and when? Let us have the specifications.

Mr. STEVENS. The gentleman desires an answer?

Mr. DELANO. Certainly.

Mr. STEVENS. Probably the gentleman did not hear what I said at the outset.

Mr. DELANO. I did not hear any specifications.

Mr. STEVENS. I presume the gentleman did not hear what I said. I assert that a member of this House, of high respectability, to-day went to the Secretary of the Treasury to get certain officers named in his district, one of them a wounded soldier, and he was asked their opinions about sustaining the President's policy, stating distinctly unless they did sustain them he would not appoint them; that the President had made up his mind that that course should be pursued.

Mr. DELANO. I would like to have his name. I venture to say there is a misapprehension between the gentleman and the Secretary of the Treasury. The Secretary of the Treasury may have said he would not appoint any man openly abusive and hostile to the President. I undertake to say beyond that he has not gone. I should like to have the proof.

Mr. STEVENS. If the gentleman spoke of his own knowledge, I should of course believe him; but he does not pretend to do this. The gentleman who informed me not twenty minutes ago spoke upon his own authority, as respectable a man as any in the House. Possibly he may not wish to have his name known. I have not had time to consult him. It may bring down upon him the wrath of those in the

Department. They know who I mean at the other end of the avenue, for he has just come from there.

[Here the hammer fell.]

Mr. BLAINE. I move to strike out "Secretary of the Treasury," and insert "President of the United States, by and with the advice and consent of the Senate."

Mr. STEVENS. Let me modify my amendment first, so that it shall read that "Congress, by concurrent action, shall elect a Commissioner of the Revenue, and it shall be the duty of said Commissioner of the Revenue," &c.

Mr. BLAINE. I move to strike that out and to insert "by the President of the United States, by and with the advice and consent of the Senate." It strikes me the language of the bill as it now stands reported from the Committee of Ways and Means is unusual in placing the appointment in the head of the Department. As mentioned by the gentleman from New York, [Mr. HALE,] the appointing power is vested by the Constitution in the President of the United States. These Secretaries are but his servants, and we do not intend to invest the Secretary of the Treasury with a power distinct from the President of the United States. I think the chairman of the committee will accept the suggestion and modify his proposition so that the President shall not be interfered with in his constitutional right of nomination, nor shall the Senate be interfered with in their constitutional right of confirmation.

Mr. SPALDING. Who appoints the assessors?

Mr. BLAINE. The President; he appoints all of them. We all know that the different heads of Departments are intrusted with the nomination of their subordinates. The Secretary of War nominates officers of the Army and the Postmaster General nominates his subordinates; but the President of the United States is the power that does it; each one is the servant of the President.

Mr. ALLISON. I desire to call the gentleman's attention to section nineteen of the act of 1865 for which this is a substitute, which did authorize the Secretary of the Treasury to select three commissioners.

Mr. BLAINE. It has been done in frequent instances. But it will be seen that it is not the usual legal, constitutional way in which the Government is presumed to work. You are investing in a mere servant of the President a power which the Constitution gives to the President alone, subject to the review of the Senate, and my amendment simply puts this on the constitutional basis and does not interfere with anybody.

Mr. MORRILL. I do not regard the proposition in any shape in which it may come as of any practical importance. I do not believe there is a single man on this floor who believes that the office is to be conferred upon any individual except one that is known to us all. And for the purpose of terminating debate upon this section I move that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

CANAL AND SEWERAGE COMPANY.

Mr. STEVENS. At the request of a member who is absent I desire to enter a motion to reconsider the vote by which the amendments were adopted to the bill to incorporate the District of Columbia Canal and Sewerage Company.

The SPEAKER. The motion will be entered.

MOTION TO RECONSIDER.

Mr. BIDWELL. I desire to enter a motion

to reconsider the vote of the House on Senate bill No. 123.

CLOSE OF DEBATE.

Mr. MORRILL. I move that when the Committee of the Whole on the state of the Union shall resume the consideration of House bill No. 513, all debate upon the pending paragraph and the amendments thereto terminate in one minute.

The motion was agreed to.

TAX BILL—AGAIN.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

Mr. BLAINE. I withdraw my amendment for the purpose of having a direct vote on the proposition of the gentleman from Pennsylvania, [Mr. STEVENS.]

The question being taken on the amendment offered by Mr. STEVENS, there were—ayes 21, noes 47; no quorum voting.

The CHAIRMAN. Does the gentleman from Pennsylvania persist in his amendment?

Mr. STEVENS. I believe I will withdraw it. I think this section is of no use anyhow. I withdraw it.

Mr. COBB. I move to amend by striking out the entire section down to and including the word "postage," in line forty.

Mr. WILLIAMS. I renew the amendment of the gentleman from Maine [Mr. BLAINE] to strike out the words "the Secretary of the Treasury is hereby authorized to appoint" and insert in lieu thereof "the President is hereby authorized, by and with the advice and consent of the Senate, to appoint."

Mr. FARNSWORTH. I move as an amendment to the amendment to add the following:

And from and after the passage of this act all revenue agents authorized by this act and all acts to which this act is an amendment shall be appointed by the President, by and with the advice and consent of the Senate.

The question was taken on Mr. FARNSWORTH'S amendment to the amendment; and there were—ayes thirty, noes not counted.

So the amendment to the amendment was disagreed to.

Mr. FARNSWORTH. I do not think that these amendments ought all to fail on account of the absence of a quorum. I hope the chairman of the Committee of Ways and Means will allow us to have a vote on this amendment in the House.

Mr. MORRILL. The amendment can as well be put on any other bill as on this.

The question recurred on Mr. WILLIAMS'S amendment.

Mr. FARNSWORTH. I hope the gentleman from Pennsylvania [Mr. WILLIAMS] will accept my amendment as a modification of his.

Mr. WILLIAMS. No, sir; it would read awkwardly.

Mr. STEVENS. I offer the following as an amendment to the amendment:

From and after the passage of this act all revenue agents authorized by this act, and all acts to which this is an amendment, shall be appointed by the President, by and with the advice and consent of the Senate.

Mr. LATHAM. Is an amendment to that amendment in order?

The CHAIRMAN. It is not in order; that is an amendment to an amendment.

Mr. LATHAM. Is a question in order?

The CHAIRMAN. No; no debate is in order. The Chair is about to put the question. [Laughter.]

Mr. FARNSWORTH. I understand that

the chairman of the Committee of Ways and Means is willing that I may offer my amendment in the House, so that we may have a vote upon it. [Cries of "Oh, no!" and "Object!"]

Mr. STEVENS. I call for tellers on the amendment to the amendment.

Tellers were ordered; and Messrs. STEVENS and DELANO were appointed.

The committee divided; and the tellers reported—ayes 35, noes 39; no quorum voting.

Mr. MORRILL. Mr. Chairman, I hope the gentleman from Pennsylvania [Mr. STEVENS] will withdraw his motion, and that this proposition will be put in shape and offered in the House on Monday, when we can vote upon it by the yeas and nays. I want very much to get through with the bill this evening.

Mr. FARNSWORTH. I am content with that.

Mr. STEVENS. With the understanding that the vote is not to be taken to-night I withdraw the amendment to the amendment.

Mr. WILLIAMS. And I withdraw my amendment.

The question recurred upon the amendment of Mr. COBB, to strike out of section sixty-five the following:

The Secretary of the Treasury is hereby authorized to appoint an officer in his Department who shall be styled "Special Commissioner of the Revenue," whose office shall terminate in four years from the passage of this act. It shall be the duty of the Special Commissioner of the Revenue to inquire into all the sources of national revenue and the best methods of collecting the revenue; the relations of foreign trade to domestic industry; the mutual adjustment of the systems of taxation by customs and excise, with the view of insuring the requisite revenue with the least disturbance or inconvenience to the progress of industry and the development of the resources of the country; and to inquire from time to time, under the direction of the Secretary of the Treasury, into the manner in which officers charged with the administration and collection of the revenues perform their duties. And the said Special Commissioner of the Revenue shall from time to time report, through the Secretary of the Treasury, to Congress, either in the form of a bill or otherwise, such modifications of the rates of taxation or of the methods of collecting the revenues, and such other facts pertaining to the trade, industry, commerce, or taxation of the country as he may find, by actual observation of the operation of the law, to be conducive to the public interest; and in order to enable the Special Commissioner of the Revenue to properly conduct his investigations, he is hereby empowered to examine the books, papers, and accounts of any officer of the revenue, to administer oaths, examine and summon witnesses, and take testimony; and each and every such person falsely swearing or affirming shall be subject to the penalties and disabilities prescribed by law for the punishment of corrupt and willful perjury; and all officers of the Government are hereby required to extend to the said Commissioner all reasonable facilities for the collection of information pertinent to the duties of his office. And the said Special Commissioner shall be paid an annual salary of \$4,000 and the traveling expenses necessarily incurred while in the discharge of his duty; and all letters and documents to and from the Special Commissioner relating to the duties and business of his office shall be transmitted by mail free of postage. And.

So that the section, as amended, will read:

Sec. 65. And be it further enacted, That section nineteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865, be, and the same is hereby, repealed.

The question was taken; and on a division there were—ayes 30, noes 51; no quorum voting.

Before the result was announced,

Mr. MORRILL said: If the gentleman will withdraw his amendment now, I will consent that a vote may be taken upon it in the House.

Mr. COBB. With the express understanding that I may move this amendment in the House, or if I should not be present my colleague [Mr. PAINE] may move it, I will withdraw it at this time.

Mr. SPALDING. I move that the committee now rise.

Mr. MORRILL. I hope the gentleman from Ohio [Mr. SPALDING] will withdraw that motion, and let us get through with the bill in Committee of the Whole.

Mr. SPALDING. We cannot do that to-night.

Mr. MORRILL. There is but one section left. It will take but a few minutes to get through.

Mr. SPALDING. Very well; I will withdraw the motion.

Mr. MORRIS. I move to insert the following as a new section after section sixty-five:

And be it further enacted, That from and after the passage of this act corn-shellers shall be exempt from internal tax or duty.

Mr. WASHBURN, of Massachusetts. I move to amend by inserting after the words "corn-shellers," the words "and woodenware." [Laughter.]

The amendment was agreed to.

The question recurred upon the amendment as amended; and being put, the Chairman announced that the yeas appeared to have it.

Mr. MORRIS. I call for a division upon the question.

The question was put; and upon a division there were—ayes nineteen.

Before the vote in the negative was taken,

Mr. MORRIS called for tellers.

Tellers were ordered; and Messrs. MORRIS and SPALDING were appointed.

Mr. MORRILL. I regret to see the unwillingness manifested upon the part of members to have the consideration of this bill in Committee of the Whole concluded to-day; I therefore move that the committee now rise.

Mr. MORRIS. Before that question is put, I would inquire of the Chair in what position my amendment will be when the consideration of this bill is again resumed.

The CHAIRMAN. The pending question will then be upon the amendment of the gentleman from Ohio, [Mr. MORRIS,] as amended upon the motion of the gentleman from Massachusetts, [Mr. WASHBURN.]

The question was upon the motion of Mr. MORRILL that the committee rise.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 513, to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof, and had come to no resolution thereon.

And then, on motion of Mr. DEFREES, (at five o'clock p. m.,) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees: By Mr. BANKS: The memorial of Pardon Worsley, for compensation for services rendered the United States.

By Mr. CLARKE, of Ohio: The petition of Barrington Bohmyer, asking to be paid for military service.

By Mr. DEFREES: A petition from sundry soldiers of Indiana, asking an amendment be made to the homestead act, so as to enable soldiers or their legal representatives in any land district, by exhibiting their discharge papers and making oath to their identity before the register, to secure a title to one hundred and sixty acres or less, and the time of settlement left to the option of the party acquiring title.

By Mr. ELIOT: The petition of Solomon T. Perry, and others, for the erection of a light-vessel at or near the reef of rocks known as the Hen and Chickens, in Buzzard's bay.

By Mr. HOLMES: The petition of Morgan L. Brown, and others, citizens of Madison county, New York, for an increase of the tariff on wool.

By Mr. PIKE: The petition of O. S. Livermore, and 32 others, of Eastport, Maine, for enactment of laws regulating inter-State insurances.

IN SENATE.

Monday, May 28, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of Friday last was read and approved.

DEPOSITS IN NATIONAL BANKS.

The PRESIDENT *pro tempore* announced the appointment of Mr. WILSON, Mr. HENDERSON, Mr. VAN WINKLE, Mr. JOHNSON, and Mr. BUCKALEW as the select committee to inquire into the condition of the national banks with reference to Government deposits therein, un-

der the resolution adopted by the Senate on the 24th instant.

EXECUTIVE COMMUNICATIONS.

The PRESIDENT *pro tempore* laid before the Senate a communication from the Secretary of War, transmitting, in compliance with a resolution of the Senate of the 9th of February last, information in relation to a compendium of medical statistics collected during the late war; which was ordered to lie on the table.

He also laid before the Senate a report of the Second Auditor of the Treasury, communicating, in obedience to law, copies of accounts of persons charged with the disbursement of moneys, goods, or effects of any kind for the benefit of the Indians from July 1, 1864, to June 30, 1865; which was referred to the Committee on Indian Affairs.

PETITIONS AND MEMORIALS.

The PRESIDENT *pro tempore* presented the memorial of John C. Jacobi, late chaplain of Kalorama hospital, praying for compensation for loss of property by fire at that hospital on the 24th of December, 1865; which was referred to the Committee on Claims.

Mr. SUMNER. I offer the petition of Joseph Taylor, of Baltimore, in which he says that he fervently prays and beseeches Congress to take into consideration the suffering condition of over twenty thousand journeymen cigar-makers in the United States, and he asks Congress to increase the duties on imported cigars to three dollars per thousand and fifty per cent. *ad valorem*; and also to reduce the duty on Havana tobacco eighteen and three quarter cents per pound. I move the reference of the petition to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER. I also offer a petition of cigar-makers of Massachusetts, in which they set forth at length their grievances from the inequality of the laws regulating the cigar trade of the United States, and they ask remedies, which they set forth at length, to the end that they may be relieved from the evils complained of, and they say at the end "the only feasible plan is to put a direct tax on the leaf, for which your petitioners will ever pray." I move the reference of this petition also to the Committee on Finance.

The motion was agreed to.

Mr. SUMNER. I also offer a petition, numerous signed by citizens of Andover, in Massachusetts, praying Congress to impose such conditions upon the rebel States as shall punish treason, at least with ineligibility to office and loss of power, and reward loyalty with confidence and honor; and which shall demand, as an evidence of sincere loyalty and good faith on the part of those States, the abolition of all distinctions, in their constitutions and laws, on account of color or race. As that subject is now pending before the Senate, I move that this petition lie on the table.

The motion was agreed to.

Mr. KIRKWOOD presented a petition of citizens of Keokuk, Iowa, praying for the passage of a general bankrupt law; which was referred to the Committee on Finance.

Mr. GRIMES. I present the petition of officers and late officers and seamen of the Mississippi flotilla, who represent that they entered the public service at the commencement of the war and continued in it until its close, and that they have not received that proportion of prize money resulting from captures made by the flotilla that they were entitled to under the laws when they entered the service, nor such an amount as was received by those who were associated with them in the same service upon the Atlantic ocean, and praying for relief. I move that the petition be referred to the Committee on Naval Affairs.

The motion was agreed to.

REPORTS OF COMMITTEES.

Mr. CONNESS, from the Committee on Mines and Mining, to whom was referred a

bill (S. No. 257) to regulate the occupation of mineral lands, and to extend the right of preemption thereto, reported it with an amendment, and submitted a report in writing; which was ordered to be printed.

BILL INTRODUCED.

Mr. HENDRICKS asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 341) amendatory of the preemption laws, and for other purposes; which was read twice by its title, and referred to the Committee on Public Lands.

RAILROAD TO POINT OF ROCKS.

Mr. WADE. I offer a resolution, and as it is merely a resolution of inquiry, I ask for its present consideration:

Whereas the necessity of the nation requires that the seat of Government should be more accessible to the great interests and convenience of the eastern, and particularly to the western portion of the same; and whereas the State of Maryland did, by an act approved March —, 1865, grant to the Baltimore and Ohio Railroad Company the right to construct a railroad from the said railroad at the Point of Rocks to the line of the District of Columbia, with a purpose to run the same into the city of Washington: Therefore,

Be it resolved, That the Committee on the District of Columbia be instructed to inquire into the fact whether said railroad company intend to carry out the provisions of their said charter.

Mr. CRESWELL. I am not aware of the object of this resolution, but I suppose, of course, it is fairly stated on its face. My colleague [Mr. JOHNSON] is not here to-day, but will be here to-morrow.

Mr. WADE. I will state to the Senator that this resolution concludes no right; it is only an inquiry as to whether the company intend to build the road. I was requested to ask for its present consideration, but I have no objection to its going over if the Senator so desires.

Mr. CRESWELL. I prefer that it should go over until to-morrow.

Mr. WADE. Let it go over.

The PRESIDENT *pro tempore*. The resolution will lie over until to-morrow.

BENJAMIN FRANKLIN.

Mr. RAMSEY. I move that the Senate proceed to the consideration of Senate bill No. 339, reported from the Committee on Pensions.

The motion was agreed to; and the bill (S. No. 339) granting a pension to Benjamin Franklin was read a second time, and considered as in Committee of the Whole. It directs the Secretary of the Interior to place the name of Benjamin Franklin, a private in company H, second regiment Minnesota cavalry volunteers, on the pension-roll, at the rate of twenty-five dollars per month, to commence from the 15th day of January, 1865, and to continue during his natural life.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CAIRO AND FULTON RAILROAD GRANT.

Mr. POMEROY. I move that the Senate proceed to the consideration of Senate bill No. 223.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi, opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes, the pending question being on the amendment of Mr. POMEROY, in section one, line three, after the word "that" to strike out the words "the above recited act" and to insert, "the act granting the right of way and making a grant of land to the States of Arkansas and Missouri, to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near

Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendments were concurred in. The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

KANSAS AND NEOSHO VALLEY RAILROAD.

Mr. HENDERSON. I move that the Senate proceed to the consideration of the bill (S. No. 285) granting lands to the State of Kansas to aid in the construction of the Kansas and Neosho Valley railroad and its extension to Red river.

Mr. HENDRICKS. I rise to ask the Senator from Missouri if he desires to take up that bill in the absence of the Senator from Kansas, [Mr. LANE,] who, I understand, is opposed to the bill. I do not know why that Senator is absent this morning, but I suppose he will be here during the day. I have no desire on my own part to postpone the consideration of the bill any further; but it seems to me that it ought not to be taken up when the Senator from Kansas is out of his seat—I presume necessarily so.

Mr. HENDERSON. One of the Senators from Kansas is present.

Mr. HENDRICKS. But the Senator from Kansas who is absent is opposed to the bill.

Mr. POMEROY. I presume my colleague will be in before we complete the reading of the bill. He is in town, and I know of no reason why he is not here. I presume that if we take up the bill he will be here before its reading is completed.

Mr. ANTHONY. I happen to have received a note from the Senator from Kansas, not in regard to this bill but with reference to another matter, in which he stated that he should be necessarily detained from the Senate to-day.

Mr. POMEROY. I know of no reason why we should not proceed to the consideration of this bill.

Mr. HENDRICKS. It is a question for the Senator from Missouri and other Senators to consider whether when a Senator from the State where the grant is proposed to be made, who is opposed to the bill, is absent, we ought to take it up in his absence. I think not.

Mr. HOWARD. I know very little of the merits of the bill which it is proposed to take up now; but as the Senator from Kansas is not in his seat at present I hope it will not be taken up, but that instead of it we shall take up House bill No. 11, relating to commerce between the States.

Mr. HENDERSON. I rise simply for the purpose of withdrawing my motion and giving a notice to the Senate. This is the third time this bill has been called up. It is really a matter of very little consequence; it simply involves perhaps the grant of five or six or seven thousand acres of land in the State of Kansas. Beyond that I think it cannot interfere with anybody's rights. I do not know that it interferes with anybody's rights in that respect. It is nothing more than a usual and ordinary land grant. This is the third time I have attempted to get the bill up, and something comes in the way all the time. I now give notice that I shall, after to-morrow, call the bill up no matter who is present or who is absent, and ask that the Senate vote upon the proposition.

Mr. SUMNER. I understand the Senator from Missouri to withdraw his motion.

Mr. HENDERSON. Yes, sir; I withdraw it for the present.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had disagreed to the amendments of the Senate to the bill (H. R. No. 363) supplementary to the sev-

eral acts relating to pensions, asked a conference on the disagreeing votes of the two Houses thereon, and had appointed Mr. SIDNEY PERHAM of Maine, Mr. GEORGE V. LAWRENCE of Pennsylvania, and Mr. NELSON TAYLOR of New York managers at the same on its part.

The message further announced that the House of Representatives had agreed to the amendments of the Senate to the bill (H. R. No. 568) to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress, relating to passports.

The message also announced that the Speaker of the House of Representatives had appointed Mr. S. E. ANCONA, of Pennsylvania, as one of the managers at the conference on the disagreeing votes of the two Houses on the bill (H. R. No. 85) for the disposal of the public lands for homestead actual settlement in the States of Alabama, Mississippi, Louisiana, Arkansas, and Florida, in place of Mr. ADAM J. GLOSSBRENNER, who has been excused from serving at said conference.

The message further announced that the House of Representatives had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

A bill (H. R. No. 602) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union; and

A joint resolution (H. R. No. 143) making an appropriation for the repair of the Potomac bridge.

ENROLLED BILL SIGNED.

The message also announced that the Speaker of the House of Representatives had signed an enrolled bill (H. R. No. 568) to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress; and it was thereupon signed by the President *pro tempore* of the Senate.

INTER-STATE INTERCOURSE.

Mr. HOWARD. I now move to take up House bill No. 11.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States, the question being on the amendment proposed by Mr. CRESWELL, to add the following as an additional section to the bill:

And be it further enacted, That Congress may at any time alter, amend, or repeal this act.

Mr. SUMNER. I would simply remark that that amendment is entirely superfluous. Congress can do what is there proposed at any time. I do not see any use in adding the words.

Mr. MORRILL. That depends very much, I believe, upon questions which may arise before the courts. It has been pretty well settled in this country that there are certain rights which inhere in corporations, that cannot be repealed unless the power to do so is reserved.

Mr. CHANDLER. This bill is general in its character; there are no specific rights granted to any one corporation over others. The power which this amendment proposes to reserve is evidently contained in the original bill. I would rather take the bill as it is, and I prefer that the amendment should not be adopted.

The amendment was rejected; there being, on a division—ayes 12, noes 13.

Mr. MORRILL. I feel under a sort of obligation to pay a passing compliment to this bill. I once had some thoughts collected on this subject on one or two points, but they have pretty much passed out of my mind at the present moment, and I am rather apprehensive that I shall not be able to recall them at this time in a way at all satisfactory or instructive to the Senate; but it is a matter of quite too much importance to be allowed to go by default. I am not going to speak against time, and I do not propose to make a very discursive speech. I propose only to reply

to two or three propositions which were stated on a former occasion on the other side of the Chamber.

The honorable Senator from Michigan [Mr. HOWARD] when this question was up the other day denominated it a very simple proposition, by which I suppose he meant to convey to us the idea that it was an unmixed and plain proposition, one that was uncompounded with other questions. I believe he thought it so plain, so simple, so unmixed, and clear that even the great power and ingenuity of the honorable Senator from Maryland [Mr. JOHNSON] "to make the worse appear the better reason" could not obscure it.

Now, sir, what is the proposition so characterized by the honorable Senator from Michigan? We all know what the bill is. The bill, in its comprehension and sweep, asserts that the Government of the United States may authorize the railroads in the several States to make connections with each other, without regard to the terms of their charters and without regard to the laws and constitutions of the several States. That is the general proposition; but the proposition which the honorable Senator from Michigan maintains is so clear and explicit that no sophistry of argumentation can obscure it. It is simply the proposition that the Government of the United States has the exclusive power to regulate foreign commerce and commerce among the States. I do not mean to misstate the honorable Senator. I understand that to be his proposition, that it is clear beyond cavil and beyond controversy that the Government of the United States has the exclusive right to regulate foreign commerce and commerce among the States. I do not deny that proposition. I think that is clear and conclusive. The very statement of it carries conviction. Nobody denies it on this side of the Chamber that I know of. But is that all there is in this case? Does the honorable Senator mean to say that when he has declared that proposition to be a clear one he has argued his case and is entitled to a verdict? Is there no other question of commerce than foreign commerce and commerce among the States? When the honorable Senator has made that declaration and asserted that proposition he has not reached this case at all. He has argued it, to be sure, very adroitly; he has shown that he understands the skill of the profession which he ornaments; but he has not begun to approach this case. This bill has nothing to do with foreign commerce, and I suggest to the honorable Senator that it has very little to do with commerce among the States.

The great distinction for which I contend, and which the Senator on the former occasion did not touch, nay, did not approach, is this: while I concede that the jurisdiction of the United States is exclusive and supreme over foreign commerce and commerce among the States, there is a commerce which is internal, which is domestic, and which is exclusively within the power of the States. That is the proposition to which I invite the attention of the honorable Senator and to which I commend him. This bill invades that commerce, and therefore I oppose it. The honorable Senator will find in the history of the legislation of this country, in the history of the Constitution, in its interpretation by the wise men who inaugurated it, and in its interpretation by the courts, that the distinction which I insist upon has been recognized in every department of the Government; that there is a commerce foreign and among the States, and there is a commerce of the States and in the States which is peculiar to the States and with which the Government of the United States has nothing to do, and upon which it cannot trench. That is the doctrine. The point I shall undertake to establish to-day, if I succeed in collecting myself sufficiently to make reference to the books, is, that this bill is unauthorized by the Constitution, because it trenches on the reserved rights of the States to regulate that

commerce which is internal and in the States and not among the States.

My honorable friend from Wisconsin, not now in his seat, [Mr. Howe,] characterized this as "a very little proposition"—I think that was his phrase—so small and so harmless that it created surprise in his mind that it had ever arrested the attention of anybody. He was surprised that it should have been opposed by any one. I believe he said it was as harmless as a walking-stick in the hands of its owner or at his feet; that it contained no powers the exercise of which anybody should apprehend. But, sir, what was his argument? How did he illustrate the simple and harmless character of this "little proposition?" Before he took his seat he contended that the Government of the United States had the authority, under and by virtue of its power to regulate commerce, to build roads or canals in any of the States, and to go the full length of fixing the rates of fare and freights upon the railways which have been created entirely within the States. That was his proposition—"a very little proposition," says the honorable Senator from Wisconsin; such a one as should not create apprehension anywhere; which is explained to be a power sufficiently comprehensive and broad by the Government of the United States to build railroads and canals anywhere and everywhere through the States without their consent and against their authority; and superadded to all that the power to appropriate all the railroads and canals which have been built by the enterprise and industry of the American people in the States, by fixing the rates of tolls and fares on these internal avenues! It is needless to tell me that a power which goes thus far and which authorizes the fixing of the tolls and the freights is not a power to regulate and control and direct all these avenues. It was well said, long ago, that—

"You take my life
When you do take the means whereby I live."

And the power of the General Government which asserts the right to fix the tolls, the rates of fare and freights on these roads, takes the vital forces from these roads.

This measure naturally raises the question of power between the Government of the United States and of the several States; and of course, in the consideration of such a subject, it becomes necessary to draw the line somewhat between the authority of the Government of the United States on the question of regulating the commerce of the United States with foreign nations and among the States and that power which is peculiar to the people of the several States. I know it has been attempted in this argument, now and heretofore, to prejudice this side of the case by the argument that we were raising here the old doctrine of State rights and State sovereignty; that those who seek to oppose this bill seek to oppose it upon the ground of State rights and State sovereignty, and State rights and State sovereignty in an offensive sense.

Now, Mr. President, for myself I disclaim all such purpose, and I disclaim any desire or purpose to put it upon any such ground. Sir, I am not a believer in the doctrine of State sovereignty and never was; that is, in the sense in which it has been contended for. I believe that State sovereignty is a myth, a political myth, in the sense in which it has been or ever could be contended for. The right of absolute sovereignty never did inhere in any of these States; it never was in the colonies. While the colonies were integral parts of Great Britain they were, of course, subject to the jurisdiction of Great Britain, and it was idle to talk about sovereignty in colonies. When the colonies revolutionized, they did not revolutionize for themselves individually, but for the country at large. It was united America that accomplished the Revolution. It was not a revolution in favor of thirteen independent nations, but a revolution for the American people; the American people in unity effected the Revolution; and therefore the sovereignty inhered in the American people at large, the

American people united. United America achieved the Revolution, and it was not a revolution of thirteen independent and sovereign nations. Therefore no such thing as absolute sovereignty ever did inhere in the thirteen States, except in the thirteen States as represented by the American people united.

I therefore, sir, go entirely wide off from the doctrine of State sovereignty and State rights; but while I do that, I stand upon the doctrines of the Constitution as represented in the reserved rights of the American people. I maintain that the Government of the United States under the Constitution of the United States is a limited and not an absolute Government; that while the American people delegated certain functions to the Government of the United States which were to be exercised by it, and the power to regulate commerce with foreign nations and among the States among those functions, it expressly reserved to itself all the powers not therein expressly delegated; and, sir, the interests which I advocate to-day are the interests which were expressly reserved. While the people did grant, I concede, to Congress the right to regulate commerce among the several States and with foreign nations, it reserved to itself the right to regulate domestic commerce, commerce which was exclusively internal and in the States. That question which springs necessarily from the right of eminent domain belongs exclusively to the States and never was in the General Government. Nobody has contended, and I presume nobody will contend, that the right of eminent domain exists anywhere except in the States. Nobody ever did contend, and I am sure nobody ever will, that the right to land, the title to real estate ever vested in the Government of the United States. The people of the several States do not draw their titles to their property from the Government of the United States, nor hold of it nor under it; but those rights are now all in the States, and necessarily the right of eminent domain is in the States; and from the earliest period of this Government down to the present time never has the General Government undertaken to enter upon the soil of any State to exercise the right of eminent domain in its own right or to take possession of the soil of the several States except by the consent of the States. I commend the honorable Senator from Michigan, when he again takes up the line of his argument, to his reading on this subject, and he will find through the whole history of the legislation of this country and throughout the judicial decisions no single instance where the Government of the United States has ever undertaken to exercise the right of eminent domain in any one State; and simply for the reason that the right belongs to the States and not to the General Government. Of course, sir, I am not now discussing the extraordinary powers which are exercised in time of war; I am discussing the power of commerce, commercial questions.

In this way I undertake to go entirely aside from the questions of State rights and State sovereignty which are raised here; and the only distinction I seek to raise is the distinction between commerce foreign and among the States and that which is in the States and peculiarly of the States and springs up from the exercise of those reserved rights which belong to the people exclusively. Whenever this distinction ceases to exist in the minds of the American Congress, then, sir, your Government is transformed from a Government of delegated and limited powers to an absolute and imperial Government.

Now, sir, to show that there is some danger on this subject, and that I do not misapprehend the tendency of the times and the tendency of the doctrine which is contended for in this bill, having already adverted to the ground maintained by the honorable Senator from Wisconsin [Mr. Howe] as to the power of the Government to build railroads and canals in the several States and to fix the tolls and rates of freights and fares upon existing roads, let me call the attention of the Senate to what is trans-

piring in this very Congress in this direction as illustrating the dangerous tendency of the exercise of this power and the extent to which it is proposed to carry it. I have before me a bill originating in the House of Representatives, and which, if passed there, will be sent here for the concurrence of the Senate. It is a bill with this significant title: "A bill to authorize the construction of national railroads and establish the same as military and commercial roads." That is the sounding title of the bill—a bill to establish national railroads! Upon an examination of this bill you will find its scope and comprehension to be this: it authorizes, in the first section, any five or more persons, being citizens of the United States, to associate themselves together as a body politic and corporate with full power to designate by a certificate a route for a railway across this continent. There is no limitation in the bill. Any five persons who choose to associate themselves under the power of this bill, having filed a certificate in the Bureau of National Railroads, which is authorized by the bill, may build a railway in any direction within the limits and jurisdiction of the United States, through any State or any Territory, and may exercise the right of eminent domain as a corporation, go in any direction they please, and bring to their backs the entire authority and power of the Government of the United States to take and condemn property, no matter what, real estate, highways of the several States, railways of the several States, navigable streams of the several States, or whatever they choose to appropriate. I do not misstate the force of this bill or what is contemplated under it. It is a bill to organize a bureau in a Department of this Government, with the power in a general way to associate any number of individuals, not less than five, with the power to construct national railways in any direction and in all directions. I ask the honorable Senator from Michigan whether he is prepared to go quite that length; for, sir, this bill is following exactly in the track of the bill which is before the Senate; it is the legitimate fruit of the doctrine of that bill, no more, no less. The third section of this bill is that "there shall be assigned to the Comptroller of National Railroads"—we are to enter upon a grand system of national railways; these railways are to be constructed through the several States in any direction or in all directions, limited only by the desire and the ambition and the ability of the parties who are thus organized by this bill.

Mr. President, was it ever supposed until now, was it ever dreamed by anybody in Congress or out of Congress until now, that there was power in the Government of the United States to authorize a body of men to build railways without regard to the laws of the several States or the improvements of the several States, in any direction and in all directions, throughout the length and breadth of the Republic? Why, sir, it may sound well to talk of a national railway system! The term has a large sound, I admit; and if we were in imperial France or in the Russias, I could understand how such a bill as that could be introduced. If these States were mere departments of an imperial and absolute Government, I could understand how you could have a national railway system inaugurated here at the seat of Government which might build its railways in all directions; but when I know that this Government is a Government of limited powers, when I know that it has no power except what it derives from the Constitution, and that Constitution is silent on this subject, and when I know, moreover, that the powers that are not delegated are reserved to the people, and that the people for half a century have been exercising these very powers and have built up a grand system of railways threading this whole country, I hesitate to believe that the Government of the United States either has the power to exercise any such functions or that it is at all expedient to exercise them if it had.

Mr. President, it is a great mistake to sup-

pose that the strength of this nation lies in the Government of the United States. The Government of the United States is not strong. The strength of this nation is in the American people; and the strength of the nation is in the American people as they exercise it on the basis of their reserved rights. There is no strength outside of that. The Government of the United States is absolute weakness standing by itself; when not backed by the people we have seen during this war that it was weakness itself. From the very nature of the case it must be so. It was designed to be so. The Government of the United States was never designed to be strong, only for protection; only for general defense. But, sir, in all the relations which constitute the strength of the nation you must rely on the people. The strength of this nation and the power of this nation is in the people; the strength and power of the people are in their reserved rights—rights independent of the Government to direct their primary relations.

As illustrating this same principle, to show the tendency to do everything in a national way—for nothing is supposed to be legitimate about these times except it has the indorsement of nationality—let me read the title of another bill. They not only propose, you see, to frame a general bill by which you may form national railway corporations to make railroads throughout the length and breadth of the land, but they propose to do it exactly as you would form private corporations for manufacturing establishments in the several States, exactly on that plan; but they propose something more. Here are two bills that have a practical bearing on this question and a practical application of the general principle contended for in this general bill and growing out of the bill we have under consideration to-day, and illustrating the power which the friends of this bill claim to assert on the part of the General Government. Now, let me read the title of a bill introduced into the House of Representatives on the 30th of April:

A bill to authorize the Cleveland and Mahoning Railroad Company, a corporation created and existing under the laws of the States of Ohio and Pennsylvania, to continue and construct the railroad of said company from the village of Youngstown, Mahoning county, in said State of Ohio, to and into the said State of Pennsylvania, and thence by the most advantageous and practicable route to the city of Pittsburgh, in said State of Pennsylvania, and to establish said road as a military, postal, and commercial railroad of the United States.

Now, what is the effect of that bill? Here is a corporation chartered by the State of Ohio to build a road within the limits and jurisdiction of Ohio, of course, and this is a bill which authorizes that corporation, the creature of the power of Ohio, to extend its road to Pennsylvania, another State, and into Pennsylvania to a certain point, some one hundred miles more or less, with all the powers and privileges and immunities that that corporation has within the limits of Ohio. Is it possible that the Government of the United States has any such power? Is it possible that the Government of the United States can authorize and empower a railroad corporation, chartered to build a road within a particular State, to run its road into another State, and there to exercise all the privileges, powers, and immunities that it may exercise in the State that gave it the charter of incorporation? That is this bill; that is the principle of the bill now before the Senate.

To show you how prolific this principle is, I will read you the title of another bill springing from the same source; for I believe all have the same paternity, all come from the same quarter; and as they are laid here upon our tables, for our instruction, I suppose, if not for our edification, I may allude to them by way of illustrating my argument. This is "A bill to promote the construction of a line of railways between the city of Washington and the Northwest"—for what? For commercial purposes? For military purposes? Why, sir, to show you the looseness with which we go, here is "A bill to promote the construction of a line of railways between the city of Wash-

ington and the Northwest, for national purposes." Not only is it contended that you may do it for commercial purposes, that you may do it for military purposes, but now you may do it "for national purposes;" and what is "national" we are not told by this bill. The bill sets out with this interpretation of itself:

Whereas there is now a complete line of railroad between the city of Washington and Cumberland, in Alleghany county, in the State of Maryland, which is about being shortened nearly fifty miles by a line from said city of Washington to the Point of Rocks, on the Potomac river, in Frederick county, in said State; and whereas a company has been incorporated by the State of Maryland to construct a railroad from Cumberland aforesaid to the Pennsylvania line, in the direction of Pittsburg, designed to connect with a railroad in Pennsylvania to the latter city; and whereas the Pittsburg and Connellsville Railroad Company, incorporated by the State of Pennsylvania, has completed a railroad from Pittsburg to Connellsville, on a line to connect with the Maryland road aforesaid; and whereas but a comparatively short distance between Cumberland and Pittsburg remains to be completed to furnish with the railroad between Washington and Cumberland a direct railroad communication, by a short and advantageous route, between Washington city and Pittsburg and the connections with the Northwest from the latter city; and whereas the Legislature of Pennsylvania has attempted to create impediments in connecting the railroads so as aforesaid authorized to be built in Pennsylvania and Maryland, which prevent at this time the completion of a work of national importance, and has thereby attempted to impair the value of a franchise under which citizens of Maryland and Pennsylvania have made large investments; and whereas it is proper for military and postal purposes, and especially to facilitate and regulate commercial intercourse among the States: Therefore be it enacted, that a railroad may be built to form these connections through the intervention of these State railroad corporations. I do not introduce these bills as arguments. They have not passed, and probably never will pass, the Congress of the United States. I introduce them as illustrating the doctrine, the dangerous tendency of the doctrine of the bill which is now before the Senate.

But, sir, the point to which I threatened to address myself if I sufficiently recovered to make myself explicit was to demonstrate the distinction between commerce external and among the States and commerce internal and peculiar to the State and within its jurisdiction. If I maintain that distinction by the authorities, I rule off this bill. Now, let us see what the books say on that subject. The honorable Senator who champions this bill just at this time—I do not know how many champions it has had; I remember that on a former occasion it had one with whom I congratulate myself that I am not to deal now—seemed to forget altogether that there was such a thing as internal commerce, seemed to forget that we had a system of railroads in this country that was the product of the energy and the enterprise of the people as against the Government, for the Government did nothing for fifty years, while the people, in their own power and might, exercising the high functions reserved in the Constitution, were building up a system of railways incomparable in the history of the world, investing some three thousand millions of their own money, building some thirty thousand miles of railway, offering intercommunication and facilities for travel and intercourse and exchange, bringing markets home to the door of every farmer in the land. Oblivious to all that, the Government all this time stood afar off and did nothing. Now, Mr. President, I maintain that the Government has no power to lay its hands on that commerce, no power to lay its hands on this system of railway intercommunication in the States. I read from Kent's Commentaries; speaking of the commercial power of the Government of the United States, and stating the decision in Gibbons vs. Ogden, he says:

"This power, like all the other powers of Congress, was plenary and absolute within its acknowledged limits, but it was admitted that inspection laws relative to the quality of articles to be exported, and quarantine laws, and health laws of every description, and laws"

Now I ask the honorable Senator's attention to this—

"and laws for regulating the internal commerce of a State, and those with respect to turnpike roads, ferries, &c., were component parts of an immense

mass of legislation not surrendered to the General Government."

That is my point, and this authority is to this effect: that although the power of the General Government is supreme in the jurisdiction which is conceded to it, yet, says the commentator, laws "regulating the internal commerce of a State, and those with respect to turnpike roads, ferries, &c., were component parts of an immense mass of legislation not surrendered to the General Government."

Mr. HOWARD. Will the honorable Senator from Maine allow me to say one word right here?

Mr. MORRILL. Certainly.

Mr. HOWARD. I have listened to the Senator's citation from Kent, but I see nothing in that which conflicts in the slightest degree with the view which I took of this case. But I ask the honorable Senator whether he finds in Chancellor Kent, or in any other book treating of the constitutional power of Congress over commerce, any assertion or statement of a principle that trade, intercourse, or travel commencing in the city of New York, passing through the State of New Jersey, and ending in the city of Philadelphia, in the State of Pennsylvania, is internal commerce. I fancy the honorable Senator will hardly find any such doctrine in Kent, or elsewhere.

Mr. MORRILL. I have been arguing since I got up that that commerce which was among the States was within the power of Congress; but I am combating the doctrine that by force of the power to regulate commerce among the States you can enter a State and take possession of its roads. The proposition of this bill is to authorize a road constructed by New Jersey, entirely within its limits and jurisdiction, to extend itself beyond the limits of its charter, and outside of the limits and jurisdiction of New Jersey. On that question I maintain the authorities are all the other way; and the authority which I am reading recognizes the doctrine of commerce among the States and commerce in the States and purely of the States, over which Congress has no power whatever, and the commentator specifies turnpike roads and ferries as among the roads over which Congress has no control. But further he says:

"The court construed the word 'regulate' to imply full power over the thing to be regulated, and to exclude the actions of all others that would perform the same operation on the same thing."

Further, and bearing on the same point, I read from the same authority:

"Inspection laws, quarantine laws, and health laws, as well as laws for regulating the internal commerce of a State, are component parts of the immense mass of residuary State legislation, and over which Congress has no direct power, though it may be controlled when it directly interferes with their acknowledged powers."

Thus I think, Mr. President, I am maintained by this authority in raising the distinction which I have stated. I acknowledge the right of Congress to regulate commerce with foreign nations and commerce among the States; but when it comes to the jurisdiction of the States and undertakes to make a railroad in a State, or control those which have been constructed within the limits and jurisdiction of the State, and by its authority, its jurisdiction ceases.

Sir, this is not an open question. If there is anything concluded, this question is concluded. Not only has it been concluded by the general teachings of those who made the Constitution of the United States; not only has it been concluded by fifty years of legislation on this subject, denying all the powers which are now claimed to be exercised, but it has been expressly adjudicated by the courts and specifically determined by the courts, that the Congress of the United States has no such power. I referred the honorable Senator, the other day, to the case of the Blackbird creek. I suppose he has become very familiar with the report of that case before this time. That is in the same direction. I have now to add an authority which was not at hand on that occasion, which is explicit and specific on this very question of the right to make railways in the several States.

I read from the case, *Veazie et al. vs. Moor*, in 14 Howard, page 573, which was a case arising on the internal waters of the State of Maine, where precisely this question was raised. The river Penobscot is a navigable river up to a certain point, and there the navigation which was open to the sea was obstructed by the falls of the river. Above that for many miles it was still navigable, an imperfect navigation. The Legislature of the State of Maine granted the exclusive right to navigate the river above those falls to A, B, and C for a term of years. Those who maintained the doctrine of the honorable Senator from Michigan contended that the right of Congress to regulate navigation upon that river was exclusive, that the State could not interfere, and that its legislation therefore was unconstitutional. The court of my State decided that, although that river was navigable above the falls, the navigation to the sea having been interrupted by the falls, it became internal navigation, and the commerce upon it internal. Those who entertained different opinions, opinions in harmony with those of the honorable Senator apparently, brought the case here. The Supreme Court of the United States sustained the opinion of the court of my State, saying that that navigation was internal and within the exclusive jurisdiction of the State; that the Government of the United States had no control and no authority over it by virtue of that provision of the Constitution. In settling that case, in limitation of the authority of the General Government over this question, they touch upon this precise point of interfering with the railways of the several States. They say:

"Commerce with foreign nations must signify commerce which in some sense is necessarily connected with these nations, transactions which either immediately or at some stage of their progress must be extra-territorial. The phrase can never be applied to transactions wholly internal between citizens of the same community or to a polity and laws whose ends and purposes and operations are restricted to the territory and soil and jurisdiction of such community. Nor can it be properly concluded, that because the products of domestic enterprise in agriculture or manufactures, or in the arts, may ultimately become the subjects of foreign commerce, that the control of the means or the encouragements by which enterprise is fostered and protected, is legitimately within the import of the phrase foreign commerce, or fairly implied in any investiture of the power to regulate such commerce. A pretension as far-reaching as this would extend to contracts between citizen and citizen of the same State, would control the pursuits of the planter, the grazier, the manufacturer, the mechanic, the immense operations of the collieries and mines and furnaces of the country; for there is not one of these avocations, the results of which may not become the subjects of foreign commerce, and be borne either by turnpikes, canals, or railroads, from point to point within the several States toward an ultimate destination like the one above mentioned. Such a pretension would effectually prevent or paralyze every effort at internal improvement by the several States; for it cannot be supposed that the States would exhaust their capital and their credit in the construction of turnpikes, canals, and railroads, the remuneration derivable from which, and all control over which, might be immediately wrested from them because such public works would be facilities for a commerce which, while availing itself of those facilities, was unquestionably internal, although immediately or ultimately it might become foreign."

Here, Mr. President, you find that in settling this question the Supreme Court, by way of illustrating the importance of the principle, and by way of combating the very doctrine contended for in that case, say explicitly that it would be ruinous and an unauthorized application of the principle to say that because the products carried over the roads might ultimately reach an adjoining State or a portion of the country, therefore the Government of the United States might interpose for the construction or regulation of railways within the several States. The court continue, and I beg the honorable Senator's attention to this language:

"The rule here given with respect to the regulation of foreign commerce equally excludes from the regulation of commerce between the States and the Indian tribes the control over turnpikes, canals, or railroads, or the clearing and deepening of water-courses exclusively within the States, or the management of the transportation upon and by means of such improvements."

I ask the honorable Senator from Wisconsin whether he recognizes the soundness of that

doctrine. I understood him to say on a former occasion that he had not any doubt of the power of the General Government to construct railroads through the several States, and also to regulate the rates of fares and freights upon those railways; but the court in this case explicitly say that the power to regulate commerce among the States does not admit of an interference with turnpikes, canals, or railroads in the several States.

Mr. GRIMES. The Senator from Maine has been pressed into making an argument here when he was not expecting it, and as it is desirable that we should transact some executive business I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. Does the Senator from Maine give way to the motion of the Senator from Iowa?

Mr. MORRILL. Yes, sir.

Mr. CHANDLER. I hope the Senate will come to a vote on this bill. I have been trying now for two entire sessions to get a vote upon the question. We are ready to take a vote, and I hope the Senate will grant me a short time to come to a vote. All I ask is a vote. The Senator from Maine pledged me that he would not speak against time, and that he would not speak over thirty minutes; and as the time that the Senator from Maine took for himself is nearly up, I will ask the Senate not to go into executive session, but to give me a vote on this bill that I have been trying now for more than two years to get a vote upon.

The PRESIDENT *pro tempore*. The question is on the motion of the Senator from Iowa.

The motion was agreed to; there being, on a division—ayes 17, noes 12.

PENSION LAWS.

Mr. VAN WINKLE. Before the executive session I hope I shall be indulged in submitting the usual motion for the appointment of a committee of conference on the amendments of the Senate to the bill (H. R. No. 363) supplementary to the several acts relating to pensions disagreed to by the House of Representatives.

The PRESIDENT *pro tempore*. The Chair can only entertain the motion by unanimous consent. The Chair hears no objection.

Mr. VAN WINKLE. I now move that the Senate insist upon its amendments to the bill disagreed to by the House of Representatives, and agree to the conference asked by the House on the disagreeing votes of the two Houses thereon, and that the conferees on the part of the Senate be appointed by the President *pro tempore*.

The motion was agreed to; and the President *pro tempore* appointed Mr. LANE of Indiana, Mr. VAN WINKLE, and Mr. DAVIS the committee on the part of the Senate.

HOUSE BILLS REFERRED.

The bill (H. R. No. 602) to equalize the bounties of soldiers, sailors, and marines who served in the late war for the Union was read twice by its title, and referred to the Committee on Military Affairs and the Militia.

The joint resolution (H. R. No. 143) making an appropriation for the repair of the Potomac bridge was read twice by its title, and referred to the Committee on the District of Columbia.

THE STAUNTON PETITION.

Mr. WILSON. It will be remembered that a few days since the Senator from Illinois [Mr. TRUMBULL] called the attention of the Senate to the case of some petitions from Virginia, and in the debate on that subject the name of Mr. Segar was used. I have since received a letter from him which he requests may be read to the Senate.

The PRESIDENT *pro tempore*. It can only be received and read by unanimous consent. No objection being made, the reading will be proceeded with.

The Secretary read the letter, as follows:

ERRIT HOUSE, May 27, 1866.

MY DEAR SIR: In reply to certain allegations of a Staunton (Virginia) correspondent of Senator TRUMBULL, connecting me with some attempt to per-

secute the Union men of Augusta county, I beg leave to make the following statement:

Some two weeks since, I received from Nicholas K. Trout, Esq., of Staunton, a member of the State Senate, and whom I had never known but as an earnest Union man, a letter addressed to me as Senator-elect of my State, and requesting me to see Judge Underwood and procure, if I had the influence, the appointment of Mr. Harvey Risk as commissioner under the civil rights law for the Valley region of the State, he being represented to me as a gentleman of character and capacity who had been a member of the freedmen's court, and who had in that capacity given satisfaction to the community, white and black. This part of the commission I duly executed.

In the succeeding portion of Mr. Trout's letter he stated that a petition purporting to have come from Staunton had been presented to the Senate and referred to the Military Committee which (he said) exhibited the people of Augusta county in a light they did not deserve, and that he desired information of the terms of the petition and of the signatures thereto, more especially as he had not been able, after inquiry, to find a single person in Staunton who had signed the petition.

Regarding myself practically as a representative of the people of my State, and every day while in the city attending to their business in the several Departments, though denied thus far the honor of an actual seat in the Senate, I went to yourself as chairman of the Military Committee, briefly stated the case, and asked to be allowed a copy of the petition, to which you readily assented, and sent a messenger with me to your committee-room for the copy.

I copied the petition myself, not wishing to trouble the clerk, and inclosed a copy by the first mail to Mr. Trout.

This is the whole of my connection with this affair. I did nothing more than discharge a representative duty, furnish a copy of a public document, for what object to be used could be known only to those seeking it, and not knowing myself personally nor having ever seen a single signer of the petition.

The idea that I could enter into any scheme to persecute Union men anywhere is simply preposterous and ridiculous, for I do not suppose there is a single man in all the South who has come in for so large a share of rebel persecution and obloquy as myself.

Very respectfully and truly yours, JOSEPH SEGAR.

Hon. HENRY WILSON, Senate United States.

Mr. CONNESS. In connection with this subject I desire to say that I had a Richmond paper on my desk a few days past, which I have sought to obtain again, but do not find, which contained an article directly connected with this subject. It consisted of a brutal attack upon the Union men of Virginia, the Union men who were Virginians residing now within Virginia; and the article appeared to have been instigated by this petition sent from Staunton to Congress asking for protection. I think the article had an indicative heading such as "cowards and recreants," or something to that effect. It denounced those men as cowards and recreants, and warned them to leave the State; plainly told them they would not be permitted to stay there, and that they had better get ready to go as soon as the blue coats should leave, meaning the soldiers of the United States who were then left in the State of Virginia. There is no doubt in the world that there is a settled purpose there to drive from the State of Virginia the loyal Virginians who are now living there. I have now in my possession a copy of the Richmond Examiner, I think, in which the grand jurors who recently sat at Norfolk and indicted Mr. Davis for the crime of treason are taken up, one by one, and discussed and denounced, threatened, attacked in the most bitter manner, their lives misrepresented, their characters misrepresented, and Virginians warned not to associate with them nor to have contact with them and not to deal with those of them who are in business. In that connection the gentleman now holding the office of collector of the port of Richmond was denounced because two persons in his employment were summoned as witnesses or jurors—I forget now which—which witnesses or jurors were soldiers in the Union Army, and one at least of whom was imprisoned in the rebel prisons eight months. The collector is denounced in this paper because he dares to keep in his employment two loyal soldiers who have given themselves to the Union cause.

I feel that as attention has now again been directed to this case, the matter should not pass without adding this statement, calling the attention of the Senate and the country again to the deliberate purpose of the rebels, led on and egged on by the rebel press of Virginia, to drive from their midst every loyal man in

the State. I hope it will be found consistent with public duty, and with a proper exercise of power on the part of the executive department of this Government, to see that these men shall not be abandoned, but that treason shall be suppressed in its fiendish utterances against these loyal men.

Mr. SAULSBURY. I wish to make a statement in regard to the matter before the Senate. I received a letter from a gentleman of high standing in Staunton, a few days after the petition was presented to this body asking for troops to be sent for the protection of loyal men, stating to me that the signatures were, in the judgment of the people there, forgeries. I answered his letter only the other day. I called upon the chairman of the Committee on Military Affairs some time ago to know if I could get a copy of the petition. He said I could, and I received one in the Senate but three or four days ago.

I am further informed by the gentleman that when the person who professed to act as a notary public had that paper before him there was nothing in the form of a petition over the names. There was a paper containing names, and the petition was subsequently drawn over the names. I am satisfied myself, from the representations of the gentleman in Staunton who wrote to me upon the subject, that the signatures to this paper are forgeries to a great extent, and I am told by a gentleman who has inspected the original petition that in his judgment the names were signed by the same pen and the same ink, all except three, and by the same individual.

Mr. ANTHONY. I move the Senate adjourn.

Mr. POLAND. I desire to move a reconsideration of a nomination in executive session.

Mr. CLARK. I move that we proceed to the consideration of executive business.

Mr. ANTHONY. I withdraw my motion.

Mr. POLAND. I believe we are in executive session.

Mr. CONNESS. No; the Senate voted to go into executive session, but the doors, as I understand, have been considered open for certain business.

The PRESIDENT *pro tempore*. The Senator from Massachusetts commenced reading a letter and the Chair asked if there was any objection to its being read. None was made, and the letter was read. The Senator from California then went on to make remarks, and then the Senator from Delaware. The doors were open during this time certainly.

Mr. CONNESS. I move now that they be considered closed, and that we go on with executive business.

Mr. TRUMBULL. Before that motion is put, I should like to say a word in reply to a statement made by the Senator from Delaware, which I think is unjust to the parties who sent this petition here. The petition referred to was presented by me. I have had two or three letters from the gentleman who inclosed me the petition, and I have seen one person who knew him and spoke of him as a respectable gentleman. I have no doubt whatever of the authenticity of the petition. Immediately after the Senator from Delaware applied to me for a copy of the petition, I was apprized by a letter from Staunton that parties had made threats against those who signed this petition. There is nothing in the petition improper for any person to have asked of Congress. The parties simply claimed protection as loyal men. That was all there was in their petition, with the addition of a statement that they could not obtain their rights through the local tribunals, which I am satisfied from many letters I have received is true, not only in Augusta county, Virginia, but elsewhere. I have no doubt that the motive which inspired this attempt to get the names of the parties signed to this petition was for the purpose of persecuting them there. I have seen, since this petition came here, a Staunton paper, and there are a number of articles in it on the subject; among others there are statements by parties whose names

were signed to this petition, some of them stating that they did not understand it when they signed it, did not know the character of it. I was informed that an attempt had been made to intimidate the parties who had signed the paper and get them to disavow it, that there had been such a public pressure brought to bear upon them that they were making various excuses to avoid the persecutions that it was likely to visit upon them, and that in some instances, as the Senator from Delaware has intimated now, it was charged that the names were forged. The parties wrote me for the original petition to show that the men's names were there. They were not willing to rest under such imputation as that of having sent a petition here with names that were never signed by the parties. The original petition has been sent out there to confront those who make such a statement.

Now, sir, I have no doubt in the world of the authenticity of the petition from all that I have heard in regard to it. As I stated, I have had more than one letter from the gentleman who inclosed it to me, who is represented to me—I do not know him personally—to be a citizen resident there in Augusta county, and there were affidavits accompanying the petition stating that the parties whose names were signed were residents there. I know none of them; but I state these facts, and I think it very unjust to the petitioners to have the imputation cast upon them here that the names signed were forgeries. It looks to me very much more like an attempt on the part of that wicked spirit which prevails, I am sorry to say, in some portions of the South to persecute any man who is loyal and true to the Union and has been so during the rebellion.

Mr. SAULSBURY. One word, Mr. President. All I have to say in reply to the Senator from Illinois is that he acts upon his own information; he forms his own judgment from the information he has received from Staunton. I form mine upon the information that I have received, and I know that my information comes from sources that at least entitle it to my respect and confidence. I was assured, in a letter, that diligent inquiry had been made to ascertain who it was, if there was any one there that had signed such a petition, and no one could be found.

Mr. TRUMBULL. Will the Senator allow me to inquire why was such an inquiry instituted? What was the object of it?

Mr. SAULSBURY. I will tell the Senator why it was. It was because it was believed that there was an attempt made to misrepresent the men of Staunton and of that county, and for some purpose of private malice against some particular individuals to have soldiers sent there to be quartered upon and to oppress the people. That was the object, as I understand from the letter. Now, sir, if there is any disposition to persecute any man on account of his loyalty or otherwise, in Staunton or in Augusta county, I am no party to that; but I as firmly believe that the statement made to me is true, from the gentleman from whom I received it, as the honorable Senator from Illinois believes that his information is correct.

Mr. TRUMBULL. I should like to ask the Senator from Delaware one question: if he himself would countenance the visiting of popular censure upon any man for sending a petition in respectful terms to the Congress of the United States, whether he agreed with his views or not?

Mr. ANTHONY. I move that the Senate proceed to the consideration of executive business.

The PRESIDENT *pro tempore*. This discussion is proceeding only by the unanimous consent of the Senate. It is not necessary that a motion be made to go into executive session; but it is the duty of the Chair to execute that order of the Senate whenever requested to do so by any Senator.

Mr. SAULSBURY. I desire to say a word in reply to the question put to me by the Senator from Illinois. I have condemned, and

have had cause to condemn in the bitterest terms, petitions sent from my own neighborhood and from my own State to get the military quartered upon us—petitions sent for soldiers to keep us from the polls. So, when the Senator asks me if I would condemn a man for signing a petition which was respectful in its terms, I say yes. It is according to the subject-matter; I would condemn no man for asking in respectful terms for a remedy for any existing wrong; but when his object is oppression, himself, then I would condemn him.

Mr. TRUMBULL. Would you not allow him to judge whether it was wrong or not?

Mr. SAULSBURY. I have a right to judge, too.

The PRESIDENT *pro tempore*. The Chair must execute the order of the Senate, and have the doors closed.

Mr. HENDRICKS. Before that is done I wish to make an appeal to the Senator from Rhode Island to withdraw his motion for a moment. His motion, I believe, is to adjourn.

The PRESIDENT *pro tempore*. That motion has been withdrawn. The Senate made an order some time ago that it proceed to the consideration of executive business, but by common consent this discussion went on until interrupted by another motion to go into executive session. On that motion being called to the attention of the Chair it becomes the duty of the Chair to execute the order already made and have the doors closed.

Mr. HENDRICKS. Before the Chair executes that order I ask the unanimous consent of the Senate to make one inquiry. I wish to inquire whether a Senator can in any case be called upon to explain why he has obtained a copy of a document on the files of the Senate, which is a public document, not belonging to the executive files of the body. I do not understand this. I have always thought that when a constituent of mine wrote to me for anything that appertained to the public business of the Senate I had a right, without any question about it, to send him information in regard to it. If I am wrong about that I want to know it. I do not want to get into any scrapes. I supposed that all the documents of the Senate in public session were public documents of the country, and that we could send them if printed, or furnish copies of them if not printed, or information of their contents, without being questioned about it. The reason I make the inquiry is that I am surprised that it is thought necessary in the Senate to make any explanation for having furnished to anybody a copy of any document that is public in its character and belongs to the files of the Senate. If I am wrong about it, I should like to know.

Mr. CLARK. I think the Senator from Indiana is under a misapprehension. The other day the Senator from Illinois asked leave to withdraw from the files of the Senate an original petition for the purpose of returning it to the friends of the petitioners in Staunton, Virginia, on the allegation that it was asserted there that some of the names to the petition had been forged, and there was an attempt to get the names for the purpose of prosecuting or persecuting some of the parties there.

Mr. HENDRICKS. I thought the proposition of the Senator from Illinois in that respect was entirely proper.

Mr. CLARK. But with that application the name of Mr. Segar, of Virginia, became connected in some way. Now, Mr. Segar comes in with a paper to explain his connection with the matter. That is all there is to it. There is no question arising as to the conduct of any Senator.

Mr. HENDRICKS. That is all I wanted to know. Now, I wish to suggest on this question of adjournment, before the motion is put—

The PRESIDENT *pro tempore*. The motion is not to adjourn. That has been withdrawn.

Mr. HENDRICKS. But I presume it will be renewed.

Mr. ANTHONY. If the Senator from In-

diana has got through, I will renew the motion that the Senate adjourn.

Mr. HENDRICKS. I am not through.

Mr. ANTHONY. I hope the Senator will let us know when he gets through, so that I may make the motion before anybody else gets the floor.

Mr. HENDRICKS. I am very anxious, for one, that this session of the Senate shall approach its close. I do not want to sit here all summer. I appeal to Senators that we go on with the business, transact it, get done, and go home.

Mr. TRUMBULL. What measure have you to bring forward?

Mr. HENDRICKS. I have no measure of my own to bring forward especially, but I am ready to assist any other Senator that has a measure to bring it to a wholesome result.

Mr. SHERMAN. We will expedite business, if you will leave it to us.

Mr. HENDRICKS. The fact that I have no special measure to bring forward does not touch the question. I presented one bill of some interest this morning touching the pre-emption of the public lands, and I hope that will not prolong the session of the Senate. All I want is that we shall go on with business. Now, we have a bill partly discussed, and that has been popping up in this body from time to time for two or three sessions, and I think we had better dispose of it. If it has got merits it ought to pass; if it has not we ought to defeat it. I suggest to the Senator from Rhode Island that we go on in open session with the discussion of that bill and come to a vote upon it.

Mr. ANTHONY. The Senate has already voted to go into executive session.

Mr. CLARK. Now let us have that order executed.

Mr. POLAND. If we are not in executive session I move that we go in.

Mr. CLARK. I ask for the execution of the order already made.

The PRESIDENT *pro tempore*. In pursuance of the order of the Senate, the Sergeant-at-Arms will clear the galleries and close the doors.

The Senate having proceeded to the consideration of executive session; the doors were afterward reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

MONDAY, May 28, 1866.

The House met at twelve o'clock m.

The Journal of Saturday last was read and approved.

ORDER OF BUSINESS.

The SPEAKER announced, as the first business in order, the call of committees (commencing with the Committee of Elections) for reports to go upon the Calendar and not to be brought back by a motion to reconsider.

No reports were presented.

STAMPS ON LEGAL DOCUMENTS.

The SPEAKER stated the next business in order to be the call of States for resolutions, under which call the following resolution, pending last Monday at the expiration of the morning hour, came up for consideration:

Whereas the provisions of the internal revenue law of June 30, 1864, in section one hundred and seventy, under the head of "legal documents," which require certain kinds of process and legal documents used in the courts of the States to be stamped, have been held by the highest courts of several States to be unconstitutional and void; and whereas they are at least of doubtful validity, and in fact impose a tax on redress, which ought always to be as free as possible; Therefore,

Resolved, That the Committee of Ways and Means be instructed to consider the propriety of repealing said provisions, and that they report by bill or otherwise.

The resolution was agreed to.

MAPS OF BOUNDARY SURVEY.

Mr. RICE, of Maine, submitted the following resolution:

Resolved, That the Secretary of State be requested to inform this House what progress has been made in

completing the maps connected with the boundary survey under the treaty of Washington, with copies of any correspondence on this subject not heretofore printed.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

Mr. RICE, of Maine, moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

TREASURY SALES OF GOLD.

Mr. PERHAM submitted the following resolution:

Resolved, That the Secretary of the Treasury be directed to inform this House what amount of gold belonging to the United States has been sold by or under his authority since the 1st instant, and at what rates; also, the name of the agent or agents through whom such sales were effected, and what rate of commission has been authorized by the Department for selling the same.

The SPEAKER. This being a call for executive information, unanimous consent is necessary for its consideration on this day.

There being no objection, the resolution was considered and agreed to.

Mr. PERHAM moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

PUBLIC HONORS TO TRAITORS.

Mr. WILLIAMS submitted the following resolution, on which he called the previous question:

Whereas it has been publicly declared by the supreme executive authority of this nation, in accordance with the dictates of sound wisdom, the just instincts of humanity, and the undoubted sentiment of the people of the loyal States, that treason should be made odious, and traitors not only disgraced, but impoverished; and whereas it is represented that while no traitor who has survived the chances of the battle-field and escaped the retribution due to his crimes at the hands of the loyal soldiers of the North, has been otherwise punished than by the award of public honors or the remission of disabilities to qualify him for the enjoyment thereof, the memories of the traitor dead have been hallowed and consecrated by local public entertainments and treasonable utterances in honor of their crime, which have not only been tolerated by the national authorities, but in some instances approved by closing the public offices on the occasion of floral processions to their graves, while the privilege of paying like honors to the martyred dead of the armies of the Union who perished in the holy work of punishing the treason of those who are thus honored, and restoring the Union of our fathers, has been denied to the loyal people of those communities by the local authorities, with the connivance or consent of the military or civil agents of this Government; and whereas the encouragement or toleration of such enormities is of pernicious and dangerous example, insulting to the living soldiers of the Republic, as well as to the memories of the dead, and calculated to make loyalty odious and treason honorable, and to obstruct, if not entirely prevent, the growth of such a feeling as is essential to any cordial or permanent reunion of these States: Therefore,

Resolved, That the President be requested to inform this House whether any of the military or civil employes of this Government, within the State of Georgia or any of the other rebel States, have in any way countenanced or assisted in the rendition of public honors to any of the traitors, either living or dead, who have been waging a parricidal war against this Government, in commemoration of their great crime, either by closing their offices on such occasions or making other favorable public demonstrations in connection therewith; and further, whether the privilege of doing like honors to loyalty at the graves of the Union soldiers who have perished far from their homes and kindred has been, in any instance, obstructed or denied by the rebel authorities, with the concurrence or acquiescence of the officers of this Government.

Mr. NICHOLSON. I raise the point of order that this resolution, being a call for executive information, must lie over under the rules.

The SPEAKER. The Chair sustains the point of order.

Mr. WILLIAMS. I move a suspension of the rules.

The SPEAKER. That motion cannot be made during the morning hour.

Mr. WILLIAMS. When may it be made?

The SPEAKER. When the morning hour has expired.

DISPENSING WITH EVENING SESSIONS.

Mr. THAYER submitted the following resolution, on which he demanded the previous question:

Resolved, That the evening sessions of the House be dispensed with until otherwise ordered.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

Mr. THAYER moved to reconsider the vote by which the resolution was adopted; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

FREEDMEN'S BUREAU.

Mr. HALE submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the Secretary of War be directed to furnish to this House a report showing the amount of funds received by the Bureau of Refugees, Freedmen, and Abandoned Lands, from its organization to the 1st day of April, 1866; from what sources the same were derived, and to what general purpose appropriated; the amount (or value) of subsistence stores received and expended within said period; the value of quartermaster's property received prior to and amount remaining on hand on said 1st April; the estimated cost of transportation furnished on requisitions or orders from said bureau to said date, specifying what share of the same was for refugees, for freedmen, and for officers, soldiers, and civilians connected with said bureau; the amount of land included in the Government farms, so called, in charge of said bureau in the year 1865, and the value of the crops raised thereon; the number of buildings occupied by said bureau on the 1st day of September, 1865, and the amount of rent claimed for all lands and buildings previously occupied, up to April 1, 1866, by the owners or pretended owners thereof; the value of personal property, if any, seized and applied to the uses of the bureau in any of the rebellious States; the number of officers of the Army or volunteers of each grade who had been or were on duty in said bureau previous to said 1st of April, and the gross amount of pay and allowances, as nearly as the same can be readily ascertained, to which such officers were entitled while thus on duty, and the amount of estimates of quartermasters' funds required by quartermasters on duty in said bureau for the use thereof, up to said April 1, and the amount transferred on said estimates.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was adopted.

INVALID PENSIONS.

Mr. STEVENS submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Invalid Pensions be instructed to bring in a bill to double the pensions caused by the casualties of war with the so-called confederate States.

Mr. TAYLOR. I will suggest to the gentleman from Pennsylvania that a bill passed this House a few days since and is now awaiting the action of the Senate. I think, perhaps, it will meet the views of the gentleman. This also is a resolution of instruction.

Mr. STEVENS. I do not understand that any bill has passed the House to meet the object I have in view.

Mr. TAYLOR. It grades the disabilities.

Mr. STEVENS. My idea is that all these pensions should be doubled; and that is the idea contained in the resolution.

Mr. TAYLOR. I suggest, then, that the gentleman make the resolution one of inquiry.

Mr. STEVENS. There is no necessity of inquiring into the expediency of doing it. I want to test the sense of the House on the subject.

Mr. PERHAM. I ask the gentleman from Pennsylvania whether he will not allow the resolution to be one of inquiry.

Mr. STEVENS. If I were sure the committee would report in a couple of weeks I would consent to that modification.

Mr. PERHAM. The committee would be prepared to make some sort of a report in that time.

Mr. STEVENS. I agree to that modification.

Mr. SPALDING. I object to debate.

The previous question was seconded and the

main question ordered; and under the operation thereof the resolution was adopted.

GOVERNMENT RAILROAD PROPERTY.

Mr. KELLEY submitted the following resolution, and demanded the previous question on its adoption:

Resolved, That the Secretary of War be directed to furnish to the House of Representatives a schedule of all railroad property which was in the possession of the Government on May 1, 1865; whether held by right of capture or by purchase, and if by purchase, stating the cost. Also what disposition has been made of such property; if sold, whether for cash or credit, and if for credit, under what law or authority, and whether the purchase money has been paid, or what steps have been taken to recover it.

Mr. FARNSWORTH. Does not that lie over, if objected to?

The SPEAKER. Being a call for executive information, if objected to, it lies over for one day.

Mr. FARNSWORTH objected, but subsequently withdrew his objection, when it was renewed by Mr. Ross.

MEMPHIS RIOT.

Mr. RANDALL, of Pennsylvania, submitted the following resolution:

Resolved, That the Secretary of War be requested to furnish to this House, if not inconsistent with the public interest, a copy of the report of Major General George Stoneman as to the recent riot at Memphis.

Mr. BLAINE. I ask the gentleman to modify his resolution so as to include all other reports in his possession on the same subject.

Mr. RANDALL, of Pennsylvania. I agree to that modification.

The resolution, as modified, was adopted.

Mr. RANDALL, of Pennsylvania, moved to reconsider the vote by which the resolution was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

REBEL STATES.

Mr. STEVENS introduced a bill to enable the States lately in rebellion to regain their privileges in the Union; which was read a first and second time, ordered to be printed, and referred to the Committee of the Whole on the state of the Union.

ABOLITION OF BREVET RANK.

Mr. SCHENCK submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of repealing all laws authorizing brevet rank in the Army of the United States; and providing that all such distinction being abolished, some other mark, badge, recognition, or reward for gallant actions or meritorious conduct shall be substituted instead; and that the committee report by bill or otherwise.

WAR OF 1812.

Mr. SPALDING submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the standing Committee on Invalid Pensions be instructed to inquire into and report, without unnecessary delay, upon the expediency of placing the surviving soldiers of the war of 1812 upon the pension-list.

REPRESENTATION OF SOUTHERN STATES.

Mr. GRIDER offered the following resolution:

Resolved, That inasmuch as loyal men have been elected by the people of Tennessee as Senators and Representatives in Congress, they should be admitted to seats in the present Congress upon taking the usual oath of office.

Resolved further, That each of the States not now represented in Congress should be allowed representation upon the same terms.

Mr. FARNSWORTH. I make the point of order that that goes to the committee on reconstruction.

The SPEAKER. The Chair sustains the point of order. Under the order of the House it goes to the joint committee on reconstruction.

Mr. GRIDER. Do I understand that this resolution goes to that committee and is not debatable?

The SPEAKER. It is not debatable. The

order of the House is, "that all papers which may be offered relative to the representation of the late so-called confederate States of America, or either of them, shall be referred to the joint committee of fifteen without debate."

Mr. ELDRIDGE. Is not that committee discharged by the report it has made?

The SPEAKER. The resolution includes all the so-called confederate States.

Mr. ELDRIDGE. The committee has reported in full. Does not that end their service? How long do they continue?

Mr. GRIDER. Is it a standing committee or a special committee?

The SPEAKER. It is a special committee.

Mr. GRIDER. And they have made a report.

The SPEAKER. They have reported at various times, and there have been matters referred to them by the House since the last report was made.

Mr. ELDRIDGE. Is not this the first matter that has been referred to them since that report?

The SPEAKER. It is not. On motion of the gentleman from Illinois [Mr. Ross] the address of colored citizens of Chicago was referred to the committee. If the committee had been discharged that would have revived it.

Mr. ELDRIDGE. Then it is endowed with immortality. [Laughter.]

Mr. GRIDER. I want to make one word more of inquiry: whether the rule which refers matters without debate applies to any other special committee of the House?

The SPEAKER. It does not, so far as the recollection of the Chair goes.

UNITED STATES DISTRICT COURTS.

Mr. ASHLEY, of Ohio, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee on the Judiciary be instructed to inquire into the expediency and practicability of so consolidating the district courts of the United States in all States which under the representative apportionment of 1862 are entitled to no more than seven members in the Congress of the United States into one district, and that they have leave to report by bill or otherwise.

STEAMER JENNIE HUBBS.

Mr. KERR introduced a bill to authorize the owners of the steamboat Jennie Hubbs to change the name thereof; which was read a first and second time, and referred to the Committee on Commerce.

PENSIONS TO PROVOST MARSHALS.

Mr. STILWELL offered the following resolution, and demanded the previous question thereon:

Resolved, That the Committee on Invalid Pensions be, and they are hereby, instructed to report a bill extending the provisions of the pension laws to provost marshals, deputy provost marshals, and enrolling officers who have been disabled while in the line of their duty.

The previous question was seconded and the main question ordered.

Mr. PERHAM. The committee have that subject under consideration now, and have been considering it for some time. I am not particular about it, but I should prefer not to have this resolution passed.

Mr. STILWELL. I will state that there are a number of cases in our State, as I presume there are in other States, where provost marshals have been killed while in the line of their duty. Hence, I have offered this resolution, instructing the committee to report a bill placing them on the pension-roll, and I would like to take the sense of the House upon it.

Mr. PERHAM. That being the case, I have no objection that the sense of the House shall be taken in regard to it. I will say, however, that the Committee on Pensions have this matter under consideration and will report upon it.

Mr. DUMONT. I hope the resolution will be adopted.

Mr. ELDRIDGE. What is the question before the House?

The SPEAKER. A resolution that provost

marshals and deputy provost marshals shall be placed on the pension-rolls.

Mr. ELDRIDGE. Is that resolution debatable?

The SPEAKER. It is not.

Mr. ELDRIDGE. I make the point of order, then, on the gentleman from Indiana.

The SPEAKER. The Chair sustains the point of order.

Mr. HARDING, of Kentucky. I suggest to the gentleman from Indiana that he make his resolution one of inquiry.

The SPEAKER. Debate is not in order.

Mr. ELDRIDGE. I withdraw my objection to debate.

Mr. THAYER. I hope the gentleman from Indiana will modify his resolution so as not to give it the character of an imperative resolution, but to let the committee consider the subject.

Mr. STILWELL. The committee can report a bill and let the House take action on it.

Mr. HARDING, of Kentucky. Is the resolution debatable?

The SPEAKER. It is not.

Mr. ELDRIDGE. I demand the yeas and nays on the adoption of the resolution.

Mr. STILWELL. I modify the resolution so as to read "killed or disabled."

Mr. FARQUHAR. I desire to state one fact to the House.

The SPEAKER. Debate is not in order except by unanimous consent. Is there objection?

Mr. ELDRIDGE. We object unless we can have a chance to debate it on this side of the House. I call for tellers on the yeas and nays.

Tellers were ordered; and Messrs. ELDRIDGE and STILWELL were appointed.

The House divided; and the tellers reported—yeas twenty-three, noes not counted.

So the yeas and nays were ordered.

Mr. SPALDING. I appeal to the gentleman to make his resolution one of inquiry.

The SPEAKER. Debate is not in order. The gentleman from Indiana declines to do that.

The question was taken on Mr. STILWELL's resolution; and it was decided in the affirmative—yeas 65, nays 56, not voting 62; as follows:

YEAS—Messrs. James M. Ashley, Baker, Baldwin, Banks, Baxter, Bidwell, Bromwell, Buckland, Sidney Clarke, Cobb, Cullom, Deftres, Dodge, Donnelly, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Abner C. Harding, Hart, Henderson, Hogan, Chester D. Hubbard, James R. Hubbell, Hulbard, Julian, Kelley, Kelso, Kerr, Kuykendall, Latham, William Lawrence, Lynch, McClurg, McKee, McRuer, Mercur, Moorhead, Morris, Niblack, O'Neill, Orth, Paine, Patterson, Plants, Price, Alexander H. Rice, Rollins, Rousseau, Sawyer, Scofield, Shellabarger, Sloan, Stevens, Stilwell, Trowbridge, Van Aernam, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, Stephen F. Wilson, and Woodbridge—65.

NAYS—Messrs. Allison, Ames, Ancona, Delos R. Ashley, Beaman, Bergen, Blaine, Chanler, Reader W. Clarke, Darling, Davis, Dawes, Dawson, Dening, Dixon, Eldridge, Eliot, Ferry, Garfield, Goodyear, Grider, Hale, Aaron Harding, Higby, Holmes, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James Humphrey, James M. Humphrey, Ketcham, George V. Lawrence, Longyear, Marston, Marvin, McCullough, Nicholson, Perham, Phelps, Radford, Samuel J. Randall, John H. Rice, Ritter, Rogers, Ross, Sitgreaves, Spaulding, Strouse, Thayer, Francis Thomas, Trimble, Upson, Ward, Windom, and Wright—56.

NOT VOTING—Messrs. Alley, Anderson, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brundage, Broomall, Bundy, Coffroth, Conkling, Cook, Culver, Delano, Denison, Driggs, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Hill, Hooper, Hotchkiss, Ingersoll, Jencks, Johnson, Jones, Kasson, Ladin, Le Blond, Loan, Marshall, McIndoe, Miller, Morrill, Moulton, Myers, Newell, Noel, Pike, Pomeroy, William H. Randall, Raymond, Schenck, Shanklin, Smith, Starr, Taber, Taylor, John L. Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, James F. Wilson, and Winfield—62.

So the resolution was agreed to.

During the roll-call,

Mr. FERRY said: I am in favor of the principle of the resolution, but opposed to imperative instruction of committee. I therefore vote "no."

Mr. THAYER said: My colleague, Mr.

MYERS, is unavoidably absent from the House and is paired with my colleague, Mr. JOHNSON.

Before the vote was announced.

Mr. RITTER said: I was absent during the roll-call. If I had been present I should have voted in the negative.

The result of the vote having been announced as above recorded.

Mr. STILWELL moved to reconsider the vote by which the resolution was adopted; and also moved to lay the motion to reconsider upon the table.

The latter motion was agreed to.

ENROLLED BILL SIGNED.

Mr. TROWBRIDGE, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled an act (H. R. No. 568) to repeal section twenty-three of chapter seventy-nine of the acts of the third session of the Thirty-Seventh Congress, relating to passports, when the Speaker signed the same.

NATIONAL VOLUNTEER ARMY.

Mr. JULIAN submitted the following resolution, upon which he called the previous question:

Resolved, That the Committee on Military Affairs be instructed to inquire into the expediency of providing a national military force in lieu of a regular or standing army, to consist of volunteer regiments mustered into the United States service for three years, and raised and organized by the different States in proportion to their population, said committee to report by bill or otherwise.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

Mr. JULIAN moved to reconsider the vote by which the resolution was agreed to; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

CONFISCATED COTTON.

Mr. BROMWELL submitted the following resolution, upon which he called the previous question:

Resolved, That the President of the United States be requested to cause to be laid before this House statements showing the amount of cotton in bales, and the value thereof, which was in the hands of the military authorities at the time of the cessation of hostilities as captured or forfeited cotton, together with all cotton which has since come into the hands of the United States authorities as property of the late so-called confederate States; also the amount of all cotton in any wise coming into the hands of the Federal authorities during the war, and under the care of what officers, and the disposition which has been made of such cotton in each State, both during and since the late war, how sold, to whom and by whom, and on what commission and for what price.

The previous question was seconded and the main question ordered; and under the operation thereof the resolution was agreed to.

REPRESENTATIVES FROM TENNESSEE.

Mr. ROSS submitted the following resolution, upon which he called the previous question:

Resolved, That the committee on reconstruction be relieved and discharged from the further consideration of the application of Horace Maynard for a seat in this House, and that all papers upon the subject be referred to the Committee of Elections.

The SPEAKER. The application of Horace Maynard is not now before the joint committee on reconstruction. The committee made a report in relation to Representatives from Tennessee, which report was ordered to be printed and recommitted. A motion was made to reconsider the recommitment, which leaves the matter still pending before the House and not before the committee.

Mr. ROSS. Then I will modify my resolution so as to have it embrace all the delegation from Tennessee.

The SPEAKER. They are all in the same condition. The subject of the delegation from Tennessee is not before the committee on reconstruction; it is in the House on a motion to reconsider the recommitment, which motion is now pending and can be called up for consideration at any time when the House is not engaged upon any other business.

Mr. ROSS. Will it be in order for me to

modify my resolution so as to refer the papers relating to the Representatives from Tennessee to the Committee of Elections?

The SPEAKER. Those papers are connected with the motion to reconsider. The resolution of the gentleman from Illinois [Mr. ROSS] is therefore not now in order.

GOVERNMENT SALE AND PURCHASE OF GOLD.

Mr. WILSON, of Iowa, submitted the following resolution, upon which he called the previous question:

Resolved, That the Secretary of the Treasury be directed to report to this House how much gold belonging to the Government of the United States has been sold since the first day of January, 1866, the date and amount, by whom sold, the compensation allowed for such sales, and the premium received; also whether any gold has been bought for the Treasury since that date, and if so, the amounts and dates of such purchases, the amount of premium paid and who acted as agents in making such purchases; also whether any bonds of the United States have been bought for the Treasury since that date, the dates and amounts of such purchases, the amounts paid for the same, and the character and denomination of said bonds.

Mr. CHANLER. I object; that is a call for executive information.

Mr. WILSON, of Iowa. Then I give notice that after the expiration of the morning hour I shall move a suspension of the rules in order to offer this resolution.

DISTRICT PENITENTIARY.

Mr. PAINE introduced a bill to authorize the construction of a penitentiary, jail, and house of correction in the District of Columbia; which was read a first and second time, referred to the Committee for the District of Columbia, and ordered to be printed.

NATIONAL CURRENCY.

Mr. DONNELLY introduced a bill to amend section forty-one of an act to provide a national currency, &c., approved June 3, 1864; which was read a first and second time, referred to the Committee on Banking and Currency, and ordered to be printed.

AIR-LINE RAILROAD TO NEW YORK.

Mr. WINDOM submitted the following resolution, upon which he called the previous question:

Whereas the Baltimore and Ohio Railroad Company are entirely incompetent or unwilling to afford the necessary facilities to the traveling and business public; and whereas the public have long enough endured the extortions and annoyances imposed by said company: Therefore,

Resolved, That the committee on military and postal railroad from Washington to New York have leave to report at any time.

The SPEAKER. It requires unanimous consent to give a committee leave to report at any time.

Mr. PHELPS. I object.

ARCHING TIBER CREEK, WASHINGTON.

Mr. LATHAM introduced a joint resolution to provide for completing the arch of Tiber creek through the grounds of the United States Botanical Garden, in Washington city; which was read a first and second time, and referred to the Committee on Public Buildings and Grounds.

EIGHT-HOUR SYSTEM OF LABOR.

Mr. WHALEY submitted the following resolution, on which he demanded the previous question:

Resolved, That the Committee on Printing be requested to report a bill limiting the hours of labor for the employes in the Government Printing Office to eight hours a day.

The previous question was seconded and the main question ordered.

The resolution was not agreed to; there being—ayes eight, noes not counted.

Mr. UPSON moved to reconsider the vote by which the House refused to agree to the resolution; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

TAX ON NOTES OF STATE BANKS.

Mr. LYNCH, by unanimous consent, presented, from the Committee on Banking and Currency, a report stating that the committee

having had under consideration the resolution passed by the House on the 21st instant directing them to inquire into the expediency of exempting the currency of State banks outstanding on the 1st day of July next from the tax of ten per cent. now provided by law until the 1st day of July, 1867, or until some day previous thereto, had concluded to report the same back adversely, deeming it inexpedient to change the existing law upon the subject.

The SPEAKER. The committee will be discharged from the further consideration of this subject, and the report will be laid on the table.

Mr. LYNCH, by unanimous consent, from the same committee, reported adversely upon the petition of certain banks in Maine, asking for the repeal or modification of the ten per cent. tax on their issues; which was laid on the table.

LEAVE OF ABSENCE.

Mr. SHELLABARGER. The gentleman from Illinois, [Mr. Cook,] my colleague on the select committee upon the conduct of the Provost Marshal General's Bureau, is engaged in taking testimony connected with that investigation. I ask, therefore, that he may have leave to be absent during the sittings of the House.

Leave was granted.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORTNEY, its Secretary, announced that the Senate had insisted on its amendments disagreed to by the House to the bill (H. R. No. 363) entitled "An act supplementary to the several acts relating to pensions," and had appointed Messrs. LANE of Indiana, VAN WINKLE, and DAVIS a committee of conference on the part of the Senate.

The message also informed the House that the Senate had passed bills of the following titles, in which he was directed to ask the concurrence of the House:

An act (S. No. 339) granting a pension to Benjamin Franklin; and

An act (S. No. 223) to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock, to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes.

CONTESTED ELECTION.

Mr. DAWES presented papers in relation to the contested election of Boyd vs. Kelso; which were referred to the Committee of Elections.

TAX BILL.

Mr. MORRILL. I move that the rules be suspended, and that the House resolve itself into the Committee of the Whole on the state of the Union on the special order.

The motion was agreed to.

So the rules were suspended; and the House accordingly resolved itself into the Committee of the Whole on the state of the Union, (Mr. DAWES in the chair,) and resumed the consideration of the special order, being a bill of the House (No. 513) to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The pending question was upon the amendment of Mr. MORRIS, as amended on motion of Mr. WASHBURN, of Massachusetts, to insert after section thirty-five the following as a new section:

And be it further enacted, That from and after the passage of this act corn-shellers and wooden ware shall be exempt from internal tax or duty.

Mr. MORRIS. With the consent of the committee, I propose to modify my amendment by inserting the words "corn-shellers, wooden ware" after the word "separators".

in the amendment on page 135, embracing mowers, reapers, and threshing-machines. I understand the Committee of Ways and Means consent to this.

Mr. MORRILL. I have no objection, provided the words "corn-shellers" be inserted after "threshing-machines" on page 89. I desire that all these may share the same fate.

Mr. MORRIS. I consent to that.

The amendment, as modified, was agreed to.

The Clerk read as follows:

Sec. 66. *And be it further enacted*, That this act shall take effect, where not otherwise provided, on the 1st day of July, 1866, and all provisions of any former act inconsistent with the provisions of this act are hereby repealed: *Provided, however*, That no duty imposed by any previous act, which has become due, or of which return has been or ought to be made, shall be remitted or released by this act, but the same shall be collected and paid, and all fines and penalties heretofore incurred shall be enforced and collected, and all offenses heretofore committed shall be punished as if this act had not been passed; and the Commissioner of Internal Revenue, under the direction of the Secretary of the Treasury, is authorized to make all necessary regulations and prescribe all necessary forms and proceedings for the collection of such taxes and the enforcement of such fines and penalties for the execution of the provisions of this act.

Mr. THAYER. I move to insert after the word "be," page 191, line eight, the word "assessed."

The amendment was agreed to.

Mr. ANCONA. I move to go back and amend on page 58, line twelve hundred and twenty-two, after the word "annually," by inserting "exclusive of materials."

Mr. MORRILL. I must object to going back.

Mr. ALLISON. I now call up an amendment which was reserved:

Page 31, section thirty, strike out from line five hundred and thirty-nine to line six hundred and fifty-six, and insert in lieu thereof as follows:

That section thirty be amended by striking out all after the enacting clause and inserting in lieu thereof the following: that in any case where sufficient goods or effects belonging to the party owing the tax and duties imposed by this act cannot be found by the said collector or deputy collector to satisfy the same, such collector or deputy collector is hereby authorized and required to collect the amount thereof from the real estate belonging to the party delinquent by seizure and sale thereof as hereinafter provided; and for that purpose the said collector or deputy collector shall summon the party whose real estate is proposed to be sold that on the first day of the next ensuing term of the United States district or circuit court, held in and for the district in which the real estate proposed to be sold, or the greater part thereof, is situated, that he be and appear before said court and the judge thereof, and show cause, if any he have, why judgment for the amount of said tax and duties should not be rendered against him, and the real estate there named sold to pay the same, together with the fees and costs growing out of the said proceedings. The said summons shall recite the amount of the tax and duties, at what time the same became due and payable, together with a description of the real estate seized and proposed to be sold, and where situate, and shall be served by leaving a copy thereof with the delinquent, or at his usual place of abode with some member of his or her family over the age of fifteen years. If the said delinquent cannot be found, nor have any place of abode within the proper collection district, then the said collector or deputy collector shall cause publication thereof to be made by at least four insertions in a newspaper published nearest the said real estate. The said collector or deputy collector shall, within five days after the service of the summons, or the completion of the publication thereof as aforesaid, transmit the same, with the time and manner of the service thereof properly certified thereon, to the clerk of the said district or circuit court, and upon the receipt thereof the said court shall be possessed of the case, and, unless cause to the contrary be shown by said delinquent, shall render judgment against the said delinquent for the amount of the tax and duties found due by him and unpaid, and decree the sale of said real estate for the payment thereof at the first term of said court, provided the same shall commence not less than twenty days from the service of the summons or the completion of the publication thereof; otherwise, at the second term, unless longer continued for good cause shown. Upon the rendition of a judgment as aforesaid, the clerk of the said court shall issue execution thereon, which shall be a special *fiat facias* against the real estate therein mentioned in all cases when the delinquent shall have been summoned by publication as aforesaid, and has not appeared in person or by attorney; in all other cases, if the real estate mentioned therein be not sufficient to satisfy the judgment and expenses thereon, the same may be levied on other property, real and personal, of said delinquent. The execution so issued the clerk shall transmit to the said collector or deputy collector, who shall thereupon proceed to sell the said real estate, or so much thereof as may be necessary to pay the said judgment, fees, and costs, to the highest bidder for cash, at the court-house of the county in which the said real estate is situate, unless

another and different place shall be specially designated by the Commissioner of Internal Revenue, first giving twenty days' public notice of the time and place of sale, and the property to be sold, and where situate, by advertisement in a newspaper, if there be one published in said county, and if not, by at least six hand-bills, put up in public places in said county; and upon such sale and the payment of the purchase money shall give to the purchaser a certificate of purchase, which shall set forth the real estate purchased, for whose taxes and duties the same was sold, the name of the purchaser, and the price paid therefor; and if the said real estate be not redeemed in the manner and within the time hereinafter provided, then the said collector or deputy collector shall execute to the said purchaser, upon his surrender of said certificate, a deed to the real estate purchased by him as aforesaid, and in accordance with the laws of the State in which such real estate is situate, upon the subject of sales of real estate under execution, which said deed shall be *prima facie* evidence of the facts therein stated, and shall be considered and operate as a conveyance of all the right, title, and interest the party delinquent had in and to the real estate thus sold at the time the lien of the United States attached thereto. Any delinquent, whose estate may be proceeded against as aforesaid, shall have the right to pay the amount due, together with the costs and charges thereon, to the collector or deputy collector at any time prior to the sale thereof, and all further proceedings shall cease from the time of such payment. The owners of any real estate, sold as aforesaid, their heirs, executors, or administrators, or any person having any interest therein or a lien thereon, or any person in their behalf shall be permitted to redeem the land sold as aforesaid, or any particular tract thereof, at any time within one year after the sale thereof upon payment to the purchaser, or, in case he cannot be found in the county in which the land sought to be redeemed is situate, then to the collector, for the use of the purchaser, his heirs or assigns, the amount paid by the said purchaser and interest thereon at the rate of twenty per cent. per annum. It shall be the duty of every collector to keep a record of all proceedings and sales of land made by virtue of this act, whether by himself or his deputies, in which he shall enter the tax for which any such sale was made, the date of the service of the summons, the name of the party assessed, and the date thereof, the date and amount of the judgment, and all costs and fees attending the same, the advertisement and sale, the name of the purchaser, the amount paid, and for what real estate, and all material facts connected therewith, which record shall be certified to by the officer making the sale. It shall be the duty of every deputy making sale as aforesaid to return a true statement thereof to the collector within ten days from the day of sale and to certify the record thereof, and the record required herein to be kept shall be received in any court as *prima facie* evidence of the facts therein stated, and shall be by the said collector handed over to his successor in office. When any lands thus sold shall be redeemed as hereinbefore provided, if the redemption money be paid to the purchaser thereof, the said purchaser shall deliver to the person redeeming the same the certificate of purchase aforesaid, upon which he shall acknowledge the receipt of the redemption money, from whom received, and the date thereof. Upon the return of the said certificate receipted as aforesaid to the collector, or upon the receipt of the redemption money by the collector as aforesaid, the said collector shall enter upon said record the facts attending the redemption thereof, and shall within ten days thereafter make out and certify a full copy of the record of such case, and transmit the same, together with the execution aforesaid, to the clerk of the court from which such execution issued, to be there preserved with the papers of the case. Any collector or deputy collector is hereby authorized to proceed as herein specified against the real estate of any delinquent in his district, situate in any other collection district within the State of which his district forms a part, and his proceedings in relation thereto shall be conducted in like manner and with like effect as if the same were had in his proper collection district. Whenever at any sale as aforesaid, no sum is bid for the real estate so offered for sale, or an amount insufficient to satisfy the judgment, costs, and fees, the collector or deputy collector is authorized to purchase the same for the United States, subject to redemption as herein provided; and if not redeemed, shall execute a deed as aforesaid, and deposit the same with the district attorney of the United States for the district in which the proceedings in the case were had. The sale herein authorized may be adjourned by the officer making the same for a period not exceeding five days, if he shall think it advisable to do so. The officer making the sale as aforesaid shall be allowed a fee of ten dollars, which, together with the costs of court and all other costs and charges attending the sale, shall be paid from the proceeds of such sale; and the surplus, if any, after satisfying the judgment, shall be disposed of as is provided in this act for like cases arising from the sale of personal property. In case the real estate authorized to be sold as aforesaid shall consist of several distinct tracts or parcels, the officer making sale thereof shall offer each tract or parcel for sale separately, and shall give to the purchaser a certificate of purchase for each of such tracts or parcels bought by him as aforesaid. If the amount bid for any tract authorized to be sold shall not then and there be paid by the person to whom the same is sold, the officer shall forthwith sell the same again, in the same manner and until the amount for which the same may be sold is paid, and the claim of the United States to lands sold under and by virtue of this section shall be held to have accrued at the time of the seizure thereof.

The amendment was adopted.

Mr. DUMONT. I move the following to come in as an additional section:

And be it further enacted, That it shall be the duty of the Commissioner of Internal Revenue to have this act and the acts to which it is amendatory published in at least one German newspaper in each of the States of the Union where such paper may be published.

The amendment was agreed to.

Mr. MORRILL. I offer the following amendment:

Page 98, before line twenty-two hundred and twenty-two, insert:

Provided, That any person who shall offer or expose for sale any cigars, cheroots, or cigarettes, whether the articles so offered or exposed are imported or are of foreign or domestic manufacture, shall be deemed the manufacturer thereof, and shall be subject to all the duties, liabilities, and penalties imposed by law in regard to the sale of domestic articles without the use of the proper stamp or stamps denoting the duty or tax paid thereon. And the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe such regulations for the inspection and valuation of cigars, cheroots, and cigarettes, and the collection of the tax thereon, as shall in his judgment be most effective for the prevention of inequalities and frauds in the payment of such tax: *Provided*, That such regulations shall not be in violation of law. And in addition to other regulations it shall be the duty of the inspector or assessor who appraises any cigars, cigarettes, or cheroots, to examine the manufacturer thereof or his agent, under oath, which oath shall be administered by the inspecting and appraising officer, and reduced to writing, and signed by such manufacturer or his agent, with a view to ascertaining whether such manufacturer has any interest, direct or indirect, in any sale that has been made, or any resale to be made of said cigars, cigarettes, or cheroots, by the concealment of which he seeks to obtain a false, fraudulent, or deceptive appraisement.

The amendment was adopted.

Mr. MORRILL. Inadvertently, as the bill now stands, there is an increase of duty on apple and peach brandy. That was not the intention of the committee; and I propose to amend as follows:

Page 161, section thirty-six, line twenty-two hundred and twenty-two, after the word "paid," insert, "*Provided*, That brandy distilled from grapes, apples, and peaches shall be \$150 per gallon: *And provided further*."

The amendment was agreed to.

Mr. STEVENS. I offer the following amendment—

Mr. HOOPER, of Massachusetts. I have an amendment to offer.

Mr. STEVENS. I yield to the gentleman.

Mr. HOOPER, of Massachusetts. I move to amend, on page 126, after line twenty-nine hundred and three, by inserting the following:

That section one hundred and seventy of the act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes, approved June 30, 1864, be amended by adding thereto the following:

Provided, That for the purpose of making provision for the proper distribution of revenue stamps upon the Pacific coast there shall be allowed to the Assistant Treasurer at San Francisco a commission of one per cent. upon all stamps received and sold by him to agents or other parties to sell again.

Mr. STEVENS. I would like to understand—

The CHAIRMAN. No debate is in order.

Mr. FARNSWORTH. The committee do not understand it. I desire to know whether that is—

The CHAIRMAN. Debate is out of order. The Clerk will report the amendment again.

The Clerk read the amendment.

The question being taken, there were six votes in the affirmative.

Mr. BIDWELL demanded tellers; and the Chair appointed Messrs. BIDWELL and SPALDING.

The House divided; and the tellers reported—ayes four, noes not counted.

So the amendment was not agreed to.

Mr. MORRILL. I move that the committee rise and report the bill to the House.

Mr. WILLIAMS. I desire to offer an amendment.

Mr. MORRILL. I insist on my motion.

Mr. STEVENS. The gentleman has no right to insist. I had the floor and was offering an amendment, but yielded to a member of the committee, [Mr. HOOPER.]

The CHAIRMAN. The Chair understood the gentleman from Pennsylvania to withdraw

his amendment to allow the gentleman from Massachusetts [Mr. HOOPER] to offer his. Technically the amendment of the gentleman from Pennsylvania was not before the committee, but it was understood that he yielded for the purpose of permitting the gentleman from Massachusetts to offer his.

Mr. STEVENS. I do not know but it is all right already; but I offer my amendment.

The Clerk read the amendment, as follows:

Whenever any fraud has been or shall be charged against any person, either in the annual, special, or other lists, or in the monthly, special, or other returns, and the person thus charged shall deny the same and demand a trial, and shall tender to the assessor good and sufficient bail to secure all the deficiency or amount of the fraud charged and costs of suit, all further proceedings shall be suspended by the assessor and collector, and the whole case reported to the United States district attorney for the district, who shall have power to proceed and collect the same in an action of debt or *assumpsit*, and proceed thereon to final judgment and execution: *Provided*, That nothing herein contained shall be held to affect the proceedings by indictment or *qui tam* action.

Mr. GARFIELD. I ask the Clerk to read what has already passed the committee on this subject at the end of the eighteenth section.

The Clerk read as follows:

And in addition to the other provisions of law, whenever fraud is alleged as to any list or return, and the party charged—

Mr. STEVENS. If it stated whenever any fraud has been or shall be alleged, I would be satisfied. There are several cases suspended now for the purpose of allowing an opportunity to amend this provision.

The CHAIRMAN. If there is no objection, the amendment made in committee will be so modified.

Mr. STEVENS accordingly withdrew his amendment.

Mr. WILLIAMS. I now offer the following amendment:

That section ninety-seven of the act to which this is an amendment be, and the same is hereby, repealed.

I desire to have that section read.

The CHAIRMAN. It cannot be done. It is in the nature of debate, which the House has ordered to stop.

Mr. WILLIAMS. I do not ask to debate it; only to have the section proposed to be repealed read.

Mr. MORRILL. That would be in the nature of debate.

The CHAIRMAN. The Chair does not understand any difference between reading a printed page and debate.

Mr. WILLIAMS. Then I will modify my amendment so as to read:

Sec. —. *And be it further enacted*, That the ninety-seventh section of the act of which this is an amendment be, and the same is hereby, repealed, to wit:

“Sec. 97. *And be it further enacted*, That every person, firm, or corporation, who shall have made any contract prior to the passage of this act, and without other provision therein for the payment of duties imposed by law enacted subsequent thereto, upon articles to be delivered under such contract, is hereby authorized and empowered to add to the price thereof so much money as will be equivalent to the duty so subsequently imposed on said articles, and not previously paid by the vendee, and shall be entitled by virtue hereof to be paid and to sue for and recover the same accordingly: *Provided*, That where the United States is the purchaser under such prior contract, the certificate of the proper officer of the Department by which the contract was made, showing, according to regulations to be prescribed by the Secretary of the Treasury, the articles so purchased by the United States, and liable to such subsequent duty, shall be taken and received, so far as the same is applicable, in discharge of such subsequent duties on articles so contracted to be delivered to the United States and actually delivered according to such contract.”

The question was taken on the amendment as modified; and it was disagreed to—ayes twenty-five, noes not counted.

Mr. STEVENS. I desire again to call the attention of the committee to the amendment which the gentleman from Iowa [Mr. ALLISON] is willing to offer to the fourteenth section, striking out the word “penalties.”

Mr. ALLISON. I move to strike out the word “penalties” wherever it occurs in the sixteenth section as modified.

The amendment was agreed to.

Mr. SHELLABARGER. I offer the following as an additional section to the bill:

Sec. —. *Be it further enacted*, That in estimating

for taxation the value of all manufactures taxable under the provisions of this act, the actual cost to the manufacturer of all manufactured articles which have already been subjected to and paid a revenue tax, and which have entered into the said manufactures, shall be deducted from the taxable value of such manufactures.

The amendment was disagreed to.

Mr. MORRILL. I move that the committee rise and report the bill to the House with the amendments, and with the recommendation that it do pass.

Mr. ANCONA. I desire to offer an amendment.

Mr. MORRILL. I believe the bill has been read through and that I have a right to make my motion, and whether I have or not I hope gentlemen will no longer persist in offering further amendments.

The CHAIRMAN. The gentleman's motion is not in order as long as any member desires to offer an amendment.

Mr. ANCONA. I move to offer the following as an additional section:

Sec. —. *Be it further enacted*, That proprietors of grist and saw mills, doing custom work for tolls, &c., shall not be held to be manufacturers under this act, or the acts to which this is an amendment, unless their receipts for such work exceed \$1,000, as provided in the amendment to section seventy-nine by this act.

Mr. ROLLINS. In what part of the bill can the gentleman get in that amendment at this stage? The bill has been read through.

Mr. ANCONA. I offer it as an additional section.

The question was taken on Mr. ANCONA's amendment, and it was disagreed to.

Mr. MORRILL. I move that the committee rise and report the bill to the House with the amendments, and with the recommendation that the bill do pass.

The motion was agreed to.

So the committee rose; and the Speaker having resumed the chair, Mr. DAWES reported that the Committee of the Whole on the state of the Union had had under consideration the Union generally, and particularly the special order, being bill of the House No. 518, to amend an act entitled “An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,” approved June 30, 1864, and had directed him to report the same to the House with sundry amendments, and with the recommendation that it do pass.

Mr. MORRILL obtained the floor.

Mr. FARNSWORTH. I trust the gentleman from Vermont [Mr. MORRILL] will yield to me for a moment, to offer an amendment in pursuance to a general understanding which was agreed to in Committee of the Whole.

Mr. MORRILL. If there was such an understanding, of course I will yield; but I regret that I am obliged to do so.

Mr. FARNSWORTH. I offer the following to come in as an additional section:

Sec. —. *And be it further enacted*, That all assessors, collectors, and revenue agents provided for by this act, or the several acts of which this act is amendatory, shall be appointed by the President of the United States, by and with the advice and consent of the Senate; and the advice and consent of the Senate shall be given before any such officer shall be removed from office, unless such removal shall be for malfeasance in office during the recess of Congress.

The SPEAKER. That amendment will be regarded as pending.

Mr. MORRILL. I desire to offer an amendment in the nature of a substitute for the amendment adopted in Committee of the Whole on motion of the gentleman from Ohio, [Mr. SCHENCK] in relation to the tax on cigars, cheroots, and cigarettes, so that if his amendment is not concurred in the bill in that respect will remain as perfected in Committee of the Whole.

The SPEAKER. The Chair supposes the gentleman from Vermont [Mr. MORRILL] desires to offer his amendment so as to have it acted upon under this rule, to be found on page 65 of Barclay's Digest:

“If the committee [of the whole] shall amend a clause, and subsequently strike out the clause as amended, the first amendment thereby falls, and cannot be reported to the House and voted on. So, too, if the committee shall amend a bill ever so much”—

And the same rule applies to a section or clause of a bill—

“and subsequently adopt a substitute therefor, the bill is to be reported to the House with but a single amendment, namely, the substitute; and the House has only to choose between the original bill and substitute.”

If, therefore, the amendment adopted in regard to cigars, &c., by the Committee of the Whole on motion of the gentleman from Ohio [Mr. SCHENCK] should be voted down, then all the amendments which intervened would fall, and the section would stand in that respect as reported by the Committee of Ways and Means.

Mr. MORRILL. What I desire is to offer an amendment to be voted on in case the amendment moved by the gentleman from Ohio [Mr. SCHENCK] should be voted down. The amendment I propose is as follows:

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, and not over three and a half inches in length, and cigars made with twisted heads, the market value of which (tax included) is not over eight dollars per thousand, a tax of two dollars per thousand; when the market value is over eight dollars and not over twelve dollars per thousand, (tax included,) and on cheroots, and cigars known as short-sixes, and on any cigars, the market value of which (tax included) is not over twelve dollars per thousand, a tax of four dollars per thousand.

On all other cigars, cheroots, and cigarettes, made wholly of tobacco, or of any substitute therefor, a tax of ten dollars per thousand.

The SPEAKER. That amendment will be regarded as pending, to be voted upon should the amendment reported from the Committee of the Whole be voted down.

Mr. MORRILL. And I offer the following amendment for a similar purpose in relation to the articles therein named:

On reapers, mowers, threshing-machines, scales, pumps, garden engines, hydraulic rams, and wooden-ware, a tax of three per cent. *ad valorem*.

The SPEAKER. That amendment will be regarded as pending, to be voted upon should the amendment reported from the Committee of the Whole be voted down.

Mr. SCHENCK. I desire to ask the Chair a question, in order to see if I understand the position of the amendment in relation to cigars, cheroots, &c. An amendment upon my motion was adopted in Committee of the Whole and has been reported to the House. The chairman of the Committee of Ways and Means [Mr. MORRILL] now moves an amendment in place of the one adopted on my motion. Which question will be first taken, on his amendment or mine?

The SPEAKER. The House, while in Committee of the Whole, considered the clause in relation to cigars, cheroots, and cigarettes. The gentleman from Ohio [Mr. SCHENCK] moved an amendment in the nature of a substitute for that clause. Pending that motion the Committee of the Whole proceeded to perfect the clause upon the recommendation of the Committee of Ways and Means, and perhaps on motion of other members. After the clause had been perfected the substitute moved by the gentleman from Ohio was adopted, striking out the clause as perfected. Now, should the amendment adopted by the Committee of the Whole, on motion of the gentleman from Ohio, [Mr. SCHENCK], be voted down in the House, under the rule which has just been read the clause would be left to stand as reported by the Committee of Ways and Means, and not as perfected in Committee of the Whole before the substitute of the gentleman from Ohio was adopted.

Mr. SCHENCK. Then, if I understand the Chair, the whole matter may be simplified by the friends of this interest in the West voting down the amendment proposed by the gentleman from Vermont [Mr. MORRILL] and voting to sustain the amendment adopted in Committee of the Whole on my motion.

The SPEAKER. The question will be first taken upon the proposition of the gentleman from Ohio. Should that be adopted, no further question will be taken. But if the amendment of the gentleman from Ohio should be voted down, then the question will be upon the prop-

osition of the gentleman from Vermont, [Mr. MORRILL.]

Mr. STEVENS. Then, if the amendment of the gentleman from Ohio [Mr. SCHENCK] should be sustained, the amendment of the gentleman from Vermont [Mr. MORRILL] would be out of the question.

The SPEAKER. Certainly.

Mr. WILLIAMS. In pursuance of the agreement made in Committee of the Whole, I offer the following amendment:

In section sixty-five strike out the words "Secretary of the Treasury" where they first occur and insert in lieu thereof the word "President;" after the word "authorized," in the second line, insert the word "by and with the advice and consent of the Senate;" strike out "his" before "Department" and insert in lieu thereof the words "the Treasury;" so that the clause will read:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint an officer in the Treasury Department who shall be styled "Special Commissioner of the Revenue," whose office shall terminate in four years from the passage of this act.

Mr. ROSS. I desire to ask the consent of the chairman of the Committee of Ways and Means to have a vote by yeas and nays on two amendments which were offered, but not agreed to, in Committee of the Whole: one amendment with reference to the drawback on cotton goods, and the other relating to the tax on whisky.

Mr. MORRILL. I cannot consent to that. I now demand the previous question on the bill and pending amendments.

The previous question was seconded and the main question ordered.

Mr. MORRILL. Mr. Speaker, I do not intend to occupy much time with any further remarks upon this bill; and I shall ask a division on those amendments only which I deem of vital consequence; and even upon those I do not propose to ask the yeas and nays if upon a fair division there shall be a decided majority one way or the other.

There are some points in reference to which I think the House, upon a "sober second thought," will come to the conclusion not to concur with the Committee of the Whole. One of these was in relation to the right of gas companies to charge over the amount of the tax to consumers. They have this right under the existing law. At the time the provision in the present law was adopted, it was very successfully defended by the gentleman from Pennsylvania, [Mr. STEVENS,] the chairman of the Committee on Appropriations. I find, by various letters which I have received from different parts of the country, that the amendment to the bill, if allowed to remain as reported from the Committee of the Whole, will be very oppressive upon many gas companies. I will read what is said by the president of the Gas Company at Covington, Kentucky:

"Our company has never been able at any time to declare more than four per cent. dividends on the capital actually invested in the construction of the gas works. The price to be charged for gas is fixed by legislative charter at three dollars per thousand feet for private consumers and \$1 50 per thousand feet for public lumps. The cost of manufacturing gas for the year 1865 was \$2 20 per thousand feet, as shown by the secretary's report for that year; so that the stockholders derive but a very small profit, without a direct tax being imposed on gas companies as proposed by the action of Congress. They are indirectly taxed fully as much as other manufacturers."

I have here also a communication from the Pittsburg Gas Company, by which it appears that they are obliged by their charter to furnish gas to private consumers at a price not exceeding \$1 60 per thousand feet; that they are compelled to furnish to the city twelve million five hundred thousand cubic feet free of charge, and all over that quantity at seventy-five cents per thousand feet; and that the revenue tax amounts to fifty-six per cent. on the company's net receipts. I will say, also, in relation to this article, that it is a manufacture; and I see no reason why the parties should be restricted as to their prices. The public can consume the gas or not, as they please. I do not for myself see why we should not leave these parties in precisely the same condition in which they would be without the tax being levied upon them.

The next question upon which I shall ask a separate vote is the paragraph in relation

to miners; for I see no reason why those persons engaged in a profitable branch of business should be exempted from taxation, while parties engaged in other branches of industry far less profitable are taxed.

Another question is the one in relation to reapers, threshing-machines, and mowers. Certainly it seems to me that if we are about to exempt any agricultural implements it should be those that are daily used by the common laboring man, not those used by men of large means, owning land in large parcels, and with sufficient capital to invest in expensive machinery. I trust, therefore, that the House will consent that the articles I have named shall be subjected to a tax of three per cent., and not be entirely exempt.

We have passed through the bill, and in our progress have made amendments which reduce the revenue in every direction. It may not attract much attention here, but it will be sensibly felt and known at the Treasury Department at the end of another year.

There was a provision struck out on motion of the gentleman from Pennsylvania [Mr. STEVENS] that journeymen cigar-makers should make returns once a month of the cigars which they manufactured. Unless that provision is allowed to remain you will strike at a vital part of the law. That return is the only absolute check we have against fraud in the manufacture of cigars. I trust when we reach that portion of the bill the House will vote unanimously to retain it.

We now come, Mr. Speaker, to the subject of tobacco. On that subject I am aware there is a considerable sensitiveness in some portions of the House in relation to the proper tax on smoking-tobacco and cigars. I desire to say to the House the law as it has heretofore stood has made too great a difference in favor of smoking-tobacco as against cigars, yet the Committee of the Whole have gone still further in the same direction and reduced the rate upon smoking-tobacco so that the disparity will be largely increased. The tax is now thirty-five cents per pound, and only ten is proposed. I trust we shall not allow anything of that kind to prevail. Leave the rate at twenty cents per pound as proposed by the Committee of the Whole and you will satisfy the trade and get some revenue—but not otherwise.

I am satisfied gentlemen from all parts of the country are suffering under a delusion as to the point of the grief in this whole matter. The real point of suffering is the insufficient duty on the low-priced cigars imported, and until we reach that there will be no remedy for the growers of tobacco or the manufacturers of tobacco or cigars.

Mr. SCHENCK. Our people do not apprehend there is any advantage in paying ten dollars a thousand on cheap cigars when only ten dollars is paid on high-price cigars.

Mr. MORRILL. The argument or suggestion of the gentleman from Ohio is without any real foundation, since by one of the amendments to the existing laws reported by the Committee of Ways and Means we have provided a rate of two dollars a thousand only on all that description of cigars which can be made out of tobacco raised in that part of the country from which the gentleman comes.

Mr. STEVENS. I ask the gentleman whether he deems it just that a cigar worth twenty dollars a thousand should pay the same tax as a cigar worth \$100 a thousand.

Mr. MORRILL. It is just when the law provides for it, and when it is, perhaps, the only mode by which the tax can be enforced. But that is not the question here, however, at all.

I will now read a resolution passed by these cigar-makers since the action of the Committee of the Whole—men residing in places where low-price tobacco only is produced and manufactured:

"Resolved, That the existing law does discriminate largely against us, as will be seen by examining the rates per pound of existing tax on each of these arti-

cles named, namely: on one thousand cigars, or say fifteen pounds, the tax is ten dollars; on fifteen pounds of chewing-tobacco, at forty cents, the tax is six dollars; while on fifteen pounds of smoking-tobacco, at thirty-five cents, the tax is only \$5 25, and if the tax on smoking-tobacco is further reduced, as proposed, to only ten cents per pound, the tax on fifteen pounds of the article will be only \$1 50, and is a palpable injustice to the interests of our trade."

I am fully persuaded, if the recommendation of the Committee of the Whole shall be approved, we shall reduce the article of tobacco in every form to but an insignificant figure in the returns of revenue. I trust the amendments made by the Committee of the Whole will be rejected. I think the amendments of the Committee of Ways and Means, with the further amendments of the Committee of the Whole, ought to satisfy all parties, and I trust they will be assented to as just and proper on all sides of the House.

I come next to the three hundred and ninety-fifth amendment, to insert on page 124 "cordage and rigging." While cordage has some claim to exemption, so far as it enters into ship-building, if we allow the amendment to pass, as it now stands, we do not know how much would be included. It is too comprehensive and uncertain, and therefore I hope will be voted down.

Mr. Speaker, we have now, after a very faithful attention on the part of members, waded through this long bill taxing us severely now, but destined to somewhat relieve our people. I trust within a few years we shall dismiss as no longer necessary the most part of the provisions of the present bill. I hope in the course of two or three years at least we shall be able to dispense with the tax on the major part of manufactures. I congratulate the House on the near approach to the end of a weary journey, and upon their leaving the bill in as acceptable a shape as it is now, or as it is fair to suppose it will ultimately assume when it passes this House.

The SPEAKER. The question is on the adoption of the amendments made in committee. If there is no objection the vote will be taken on the amendments in gross except those upon which a separate vote is desired.

The first amendment upon which a separate vote was demanded by Mr. MORRILL was to strike out the following proviso on page 15:

Provided, That no appeal shall be allowed to any party after he shall have been duly assessed, and the annual list containing the assessment has been transmitted to the collector of the district.

The amendment was not agreed to.

The next amendment on which a separate vote was demanded by Mr. MORRILL was to strike out the following paragraph on page 65:

47. Miners shall pay ten dollars. Every person, firm, or company, who shall employ others in the business of mining for coal, or for gold, silver, copper, lead, iron, zinc, spelter, or other minerals, not having paid the tax therefor, as a manufacturer, and no other, shall be regarded as a miner under this act: Provided, That this shall not apply to any miner whose receipts as such shall not exceed, annually, \$1,000.

The amendment was not agreed to.

Mr. GRISWOLD. Mr. Speaker, the House did not understand the question.

Several MEMBERS. Too late.

Mr. GRISWOLD. The report of the committee was not confirmed by the vote of the House.

The SPEAKER. It evidently was not by a large majority. The gentleman can move to reconsider.

Mr. STEVENS. I move to reconsider the vote by which the House refused to strike out the section.

Mr. GARFIELD. I move to lay the motion to reconsider on the table.

The question being taken on the latter motion, there were—ayes 59, noes 40.

Mr. BIDWELL demanded the yeas and nays. The yeas and nays were not ordered.

Mr. BIDWELL. I demand tellers on ordering the yeas and nays.

Tellers were refused.

Mr. BIDWELL. I demand tellers on the motion to lay on the table the motion to reconsider.

Tellers were again refused.

The motion to reconsider was laid on the table.

The next amendment on which a separate vote was demanded by Mr. MORRILL was to insert after the word "correct" on page 80, line seventeen hundred and seventy, the following:

Provided, That journeyman cigar-makers and apprentices who work for others shall not be included in this provision.

The question being taken on the amendment, there were—ayes 47, noes 46.

Mr. MORRILL demanded the yeas and nays. The yeas and nays were ordered.

The question being taken, it was decided in the affirmative—yeas 63, nays 60, not voting 60; as follows:

YEAS—Messrs. Ancona, Baker, Beaman, Bergen, Bromwell, Buckland, Chanler, Reader W. Clarke, Cobb, Cook, Cullom, Darling, Deftrees, Delano, Dumont, Eldridge, Farquhar, Ferry, Goodyear, Grider, Aaron Harding, Higby, Hogan, Holmes, Hotchkiss, Chester D. Hubbard, Demas Hubbard, James R. Hubbell, James M. Humphrey, Ingersoll, Julian, Kelley, Kerr, George V. Lawrence, William Lawrence, Loan, Marshall, McClurg, McCullough, McKee, Mercer Niblack, Nicholson, O'Neill, Orth, Radford, Samuel J. Randall, Ritter, Ross, Shellabarger, Sitgreaves, Stevens, Stilwell, Strouse, Trimble, Burt Van Horn, Henry D. Washburn, Welker, Whaley, Williams, Stephen F. Wilson, and Wright—63.

NAYS—Messrs. Allison, Ames, James M. Ashley, Baldwin, Banks, Baxter, Blaine, Conkling, Davis, Dawes, Dawson, Deming, Dixon, Dodge, Donnelly, Eckley, Eliot, Garfield, Hale, Hart, Henderson, Hooper, Asahel W. Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Ketcham, Longyear, Marston, Marvin, McKuer, Moorhead, Morrill, Morris, Paine, Patterson, Perham, Pike, Plants, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Sloan, Spalding, Taylor, Thayer, Francis Thomas, Trowbridge, Upson, Ward, William B. Washburn, James F. Wilson, Windom, and Woodbridge—60.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, Barker, Benjamin, Bidwell, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Sidney Clarke, Coffroth, Culver, Denison, Driggs, Eggleston, Farnsworth, Finck, Glossbrenner, Grinnell, Griswold, Abner C. Harding, Harris, Hayes, Hill, Jencks, Johnson, Jones, Kasson, Kelso, Kuykendall, Lufkin, Latham, Le Blond, Lynch, McIndoe, Miller, Moulton, Myers, Newell, Noel, Phelps, Pomeroy, Raymond, Rogers, Rousseau, Shanklin, Smith, Starr, Taber, John L. Thomas, Thornton, Van Aernam, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, and Winfield—60.

So the amendment was agreed to.

During the roll-call,

Mr. O'NEILL stated that his colleague, Mr. MYERS, was absent on account of sickness in his family. If he had been present he would have voted "ay."

The result was announced as above recorded.

The next amendment on which a separate vote was demanded by Mr. MORRILL was to strike out on page 90, line two thousand and twelve, the words "not otherwise provided for."

Mr. MORRILL. That was stricken out by mistake. I hope it will be allowed to remain.

The amendment was disagreed to.

The next amendment reserved by Mr. MORRILL was on page 84, lines eighteen hundred and sixty-two, eighteen hundred and sixty-three, and eighteen hundred and sixty-four, to strike out the following:

And gas companies are hereby authorized to add the tax imposed by law to the price per thousand cubic feet on gas sold.

The amendment was agreed to—ayes seventy-three, noes not counted.

The next amendment reserved by Mr. MORRILL was to strike out on page 89, line two thousand and one, the words "reapers, mowers, threshing-machines, corn-shellers, woodenware."

Mr. ROSS. Does that exempt or subject them to taxation?

The SPEAKER. If it is stricken out it exempts them from the tax of three per cent.

The question being taken, there were—ayes 75, noes 40.

Mr. MORRILL demanded the yeas and nays. The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 63, nays 53, not voting 62; as follows:

YEAS—Messrs. Ancona, Baker, Beaman, Brom-

well, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Deftrees, Delano, Donnelly, Dumont, Eggleston, Eldridge, Farnsworth, Farquhar, Ferry, Goodyear, Grider, Abner C. Harding, Hart, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, James M. Humphrey, Ingersoll, Julian, Ketcham, Kuykendall, George V. Lawrence, William Lawrence, Loan, Longyear, Marshall, Marvin, McCullough, Mercer, Morris, Niblack, Nicholson, Orth, Paine, Plants, Price Radford, Samuel J. Randall, Ross, Sawyer, Shellabarger, Sitgreaves, Sloan, Stilwell, Strouse, Trimble, Trowbridge, Van Aernam, Burt Van Horn, Ward, Welker, Whaley, Williams, James F. Wilson, and Windom—68.

NAYS—Messrs. Allison, James M. Ashley, Banks, Baxter, Bidwell, Conkling, Darling, Davis, Dawes, Dawson, Deming, Dixon, Dodge, Eliot, Garfield, Hale, Aaron Harding, Henderson, Higby, Hogan, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Kelley, Kerr, Marston, McKee, McKuer, Moorhead, Morrill, O'Neill, Patterson, Perham, Pike, William H. Randall, Alexander H. Rice, John H. Rice, Ritter, Rollins, Schenck, Scofield, Spalding, Stevens, Taylor, Thayer, Upson, William B. Washburn, Stephen F. Wilson, Woodbridge, and Wright—53.

NOT VOTING—Messrs. Alley, Ames, Anderson, Delos R. Ashley, Baldwin, Barker, Benjamin, Bergen, Bingham, Blaine, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Chanler, Coffroth, Culver, Denison, Driggs, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Hill, Jencks, Johnson, Jones, Kasson, Kelso, Lufkin, Latham, Le Blond, Lynch, McClurg, McIndoe, Miller, Moulton, Myers, Newell, Noel, Phelps, Pomeroy, Raymond, Rogers, Rousseau, Shanklin, Smith, Starr, Taber, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, Wentworth, and Winfield—62.

So the amendment was agreed to.

Mr. MORRILL. I desire to have the unanimous consent of the House to have one article placed on the free list. I accidentally omitted it this morning. If there is any objection to it, I will withdraw it. It is to insert in the free list the words "bunting, and flags and banners made of bunting of domestic manufacture."

Mr. FARQUHAR. I object.

FREEDMEN'S AFFAIRS.

The SPEAKER, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

In compliance with the resolution of the House of Representatives of the 21st instant, I transmit herewith a report from the Secretary of War, with accompanying papers, in reference to the operations of the Bureau of Refugees, Freedmen, and Abandoned Lands.

ANDREW JOHNSON.

WASHINGTON, D. C., May 25, 1866.

The message, with the accompanying papers, was laid upon the table, and ordered to be printed.

MAIL SERVICE WITH BRAZIL.

The SPEAKER also, by unanimous consent, laid before the House the following message from the President of the United States:

To the House of Representatives:

I transmit herewith a report from the Postmaster General, made in answer to the resolution of the House of Representatives of the 14th instant, calling for information relative to the proposed mail steamship service between the United States and Brazil.

ANDREW JOHNSON.

WASHINGTON, D. C., May 24, 1866.

The message, with the accompanying report, was referred to the Committee on the Post Office and Post Roads, and ordered to be printed.

TAX BILL—AGAIN.

Mr. FARQUHAR. I withdraw my objection to the amendment proposed by the gentleman from Vermont, [Mr. MORRILL.] I did not understand what the amendment was.

Mr. MORRILL. I modify the amendment so as to read, "bunting and flags of the United States and banners made of domestic manufacture."

The amendment was agreed to.

Mr. MORRILL. There is a verbal amendment necessary. The committee having placed "brooms" on the free list, I move to strike out the word "brooms" where it occurs on page 89, line two thousand and two.

The amendment was agreed to.

The next amendment upon which a separate vote had been demanded by Mr. MORRILL was the following, to strike out the following clauses:

- On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, and not over three and a half inches in length, the market value of which (tax included) is not over six dollars per thousand, a tax of two dollars per thousand; when the market value is over six dollars and not over ten dollars per thousand, (tax included), and on cheroots, and cigars known as short-sixes, and on any cigars made with or without pasted or twisted heads, the market value of which (tax included) is not over ten dollars per thousand, a tax of four dollars per thousand.

On all other cigars, cheroots, and cigarettes, made wholly of tobacco, or of any substitute therefor, a tax of ten dollars per thousand.

And insert in lieu thereof as follows:

On cigarettes, or small cigars, made of tobacco, inclosed in a wrapper or binder, and not over three and a half inches in length, and on cigars made with twisted heads, and on cheroots and on cigars known as short-sixes, the market value of which is not over eight dollars per thousand, a tax of two dollars per thousand.

On all other cigarettes and cigars, the market value of which is over eight dollars and not over twelve dollars per thousand, a tax of four dollars per thousand.

On all other cigarettes and cigars a tax of four dollars per thousand, and in addition forty per cent. *ad valorem* on the value beyond twelve dollars per thousand, to be assessed on the excess beyond twelve dollars per thousand.

Mr. TAYLOR demanded the yeas and nays on agreeing to the amendment.

The yeas and nays were not ordered.

The amendment was agreed to—ayes 54, noes 40.

Mr. PAINE moved to reconsider the vote by which the amendment was agreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The next amendment upon which a separate vote was demanded by Mr. MORRILL was in regard to smoking tobacco, to amend the clause so that it will read as follows:

On smoking tobacco of all kinds, not sweetened nor stemmed nor butted, including that made of stems, or in part of stems, and imitations thereof, a tax of ten cents per pound.

The question was taken; and there were, upon a division—ayes 37, noes 62.

Before the result of the vote was announced, Mr. SCHENCK called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 54, nays 67, not voting 62; as follows:

YEAS—Messrs. Ancona, Baker, Bidwell, Blaine, Bromwell, Buckland, Chanler, Reader W. Clarke, Cobb, Cook, Cullom, Deftrees, Delano, Donnelly, Dumont, Eggleston, Eldridge, Farnsworth, Farquhar, Garfield, Grider, Aaron Harding, Abner C. Harding, Hart, Hogan, Asahel W. Hubbard, Chester D. Hubbard, James R. Hubbell, James M. Humphrey, Ingersoll, Kerr, William Lawrence, Loan, Marshall, McCullough, McKee, Mercer, Niblack, Nicholson, Orth, Plants, Radford, Samuel J. Randall, Ritter, Ross, Schock, Shellabarger, Sitgreaves, Stilwell, Strouse, Trimble, Welker, Whaley, and Wright—54.

NAYS—Messrs. Allison, Ames, Baldwin, Banks, Baxter, Bergen, Dawson, Deming, Dixon, Dodge, Eliot, Ferry, Goodyear, Hale, Henderson, Higby, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, Julian, Kelley, Ketcham, Kuykendall, George V. Lawrence, Longyear, Marvin, McKuer, Moorhead, Morrill, Morris, O'Neill, Paine, Patterson, Perham, Pike, Price, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Scofield, Sloan, Spalding, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, William B. Washburn, Williams, James F. Wilson, Stephen F. Wilson, Windom, and Woodbridge—67.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, James M. Ashley, Barker, Beaman, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Culver, Denison, Driggs, Eckley, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Hill, Hooper, Jencks, Johnson, Jones, Kasson, Kelso, Lufkin, Latham, Le Blond, Lynch, Marston, McClurg, McIndoe, Miller, Moulton, Myers, Newell, Noel, Phelps, Pomeroy, Raymond, Rogers, Rousseau, Shanklin, Smith, Starr, Taber, Taylor, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Henry D. Washburn, Wentworth, and Winfield—62.

So the amendment was not agreed to.

The next amendment upon which Mr. MORRILL demanded a separate vote was to insert the words "cordage and rigging for vessels" after the word "sails," in the following clause in

the free list: "sails, tents, shades, awnings, and bags made by sewing or pasting."

The question was taken; and there were, upon a division—ayes 38, noes 64.

Before the result of the vote was announced, Mr. BLAINE called for tellers.

Tellers were ordered; and Messrs. BLAINE and THAYER were appointed.

Mr. PIKE. I understand that the objection of the Committee of Ways and Means is to the word "rigging." I therefore ask that the word "rigging" be stricken out by unanimous consent.

Mr. THAYER. I object; I think there is as much objection to placing cordage on the free list as there is to placing rigging on that list.

The House divided; and the tellers reported—ayes 51, noes 61.

So the amendment was not agreed to.

The next amendment upon which Mr. MORRILL had demanded a separate vote was the following offered by Mr. WILLIAMS, in section sixty-five to strike out the words "Secretary of the Treasury," in the first sentence, and insert the word "President;" insert the words "by and with the advice and consent of the Senate" after the word "authorized;" and strike out the word "his" and insert "the Treasury;" so that the sentence will read:

That the President is hereby authorized, by and with the advice and consent of the Senate, to appoint an officer in the Treasury Department who shall be styled "Special Commissioner of the Revenue," whose office shall terminate in four years from the passage of this act.

The question was taken; and upon a division there were—ayes 68, noes 40.

Before the result of the vote was announced, Mr. NIBLACK called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 46, nays 73, not voting 64; as follows:

YEAS—Messrs. Baker, Beaman, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Eckley, Eggleston, Farnsworth, Abner C. Harding, Henderson, Higby, Holmes, Hotchkiss, Demas Hubbard, John H. Hubbard, James R. Hubbell, Julian, Kelley, William Lawrence, Loan, Longyear, McClurg, McKee, Mercer, Moorhead, Orth, Paine, Perham, Plants, Price, William H. Randall, Sawyer, Schenck, Sloan, Stevens, Francis Thomas, Trowbridge, Upson, Van Aernam, Welker, Williams, James F. Wilson, and Stephen F. Wilson—46.

NAYS—Messrs. Allison, Ames, Ancona, Baldwin, Banks, Baxter, Bergen, Chanler, Conkling, Cullom, Darling, Davis, Dawes, Dawson, Delano, Deming, Dixon, Dodge, Dumont, Eldridge, Eliot, Farquhar, Ferry, Garfield, Goodyear, Grider, Hale, Aaron Harding, Hogan, Hooper, Chester D. Hubbard, Edwin N. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Kerr, Ketcham, Latham, George V. Lawrence, Marshall, Marston, Marvin, McCullough, McRuer, Morrill, Morris, Niblack, Nicholson, O'Neill, Patterson, Phelps, Pike, Radford, Samuel J. Randall, Alexander H. Rice, Ritter, Rollins, Ross, Schofield, Shellabarger, Sitgreaves, Spalding, Stilwell, Taylor, Thayer, Trimble, Ward, Henry D. Washburn, William B. Washburn, Whaley, Woodbridge, and Wright—73.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, James M. Ashley, Barker, Benjamin, Bidwell, Bingham, Blaine, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Culver, Deffrees, Denison, Donnelly, Driggs, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Hill, Hogan, Asahel W. Hubbard, Jencks, Johnson, Jones, Kasson, Kelso, Kuykendall, Laffin, Le Blond, Lynch, McIndoe, Miller, Moulton, Myers, Newell, Noell, Pomeroy, Raymond, John H. Rice, Rogers, Rousseau, Shanklin, Smith, Starr, Strouse, Taber, John L. Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Windom, and Winfield—64.

So the amendment was not agreed to.

During the roll-call.

Mr. RADFORD said: My colleague, Mr. WINFIELD, is still detained from the House by indisposition. If he were here he would vote in the negative.

The next amendment was the following, offered by Mr. COBB, on which he demanded a separate vote to strike out of section sixty-five the following:

The Secretary of the Treasury is hereby authorized to appoint an officer in his Department who shall be styled "Special Commissioner of the Revenue," whose office shall terminate in four years from the passage of this act. It shall be the duty of the Special Commissioner of the Revenue to inquire into all the sources of national revenue and the best methods of collect-

ing the revenue; the relations of foreign trade to domestic industry; the mutual adjustment of the systems of taxation by customs and excise, with the view of insuring the requisite revenue with the least disturbance or inconvenience to the progress of industry and the development of the resources of the country; and to inquire from time to time, under the direction of the Secretary of the Treasury, into the manner in which officers charged with the administration and collection of the revenues perform their duties. And the said Special Commissioner of the Revenue shall from time to time report, through the Secretary of the Treasury, to Congress, either in the form of a bill or otherwise, such modifications of the rates of taxation or of the methods of collecting the revenues, and such other facts pertaining to the trade, industry, commerce, or taxation of the country as he may find, by actual observation of the operation of the law, to be conducive to the public interest; and in order to enable the Special Commissioner of the Revenue to properly conduct his investigations, he is hereby empowered to examine the books, papers, and accounts of any officer of the revenue, to administer oaths, examine and summon witnesses, and take testimony; and each and every such person falsely swearing or affirming shall be subject to the penalties and disabilities prescribed by law for the punishment of corrupt and willful perjury; and all officers of the Government are hereby required to extend to the said Commissioner all reasonable facilities for the collection of information pertinent to the duties of his office. And the said Special Commissioner shall be paid an annual salary of \$4,000 and the traveling expenses necessarily incurred while in the discharge of his duty; and all letters and documents to and from the Special Commissioner relating to the duties and business of his office shall be transmitted by mail free of postage. And.

So that the section, as amended, will read:

SEC. 65. And be it further enacted, That section nineteen of an act entitled "An act to amend an act entitled 'An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes,' approved June 30, 1864," approved March 3, 1865, be, and the same is hereby, repealed.

On agreeing to the amendment there were—ayes 38, noes 72.

Mr. FARNSWORTH called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 51, nays 75, not voting 57; as follows:

YEAS—Messrs. Baker, Beaman, Bromwell, Buckland, Chanler, Sidney Clarke, Cobb, Cook, Cullom, Eckley, Eggleston, Eldridge, Farnsworth, Farquhar, Aaron Harding, Abner C. Harding, Higby, Holmes, Demas Hubbard, Julian, Kelley, William Lawrence, Loan, Marshall, McClurg, McKee, Mercer, Orth, Paine, Perham, Pike, Plants, Price, Radford, Samuel J. Randall, William H. Randall, Ritter, Ross, Sawyer, Shellabarger, Sloan, Stevens, Taylor, Trimble, Trowbridge, Upson, Van Aernam, Ward, Welker, Williams, and James F. Wilson—51.

NAYS—Messrs. Allison, Ames, Ancona, Delos R. Ashley, Baldwin, Banks, Baxter, Bergen, Bidwell, Blaine, Reader W. Clarke, Conkling, Darling, Davis, Dawes, Dawson, Deffrees, Delano, Deming, Dixon, Dodge, Dumont, Eliot, Ferry, Garfield, Goodyear, Grider, Hale, Hart, Henderson, Hogan, Hooper, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, James M. Humphrey, Ingersoll, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, Longyear, Marston, Marvin, McCullough, McRuer, Moorhead, Morrill, Morris, Niblack, Nicholson, O'Neill, Patterson, Phelps, Alexander H. Rice, John H. Rice, Rollins, Schofield, Sitgreaves, Spalding, Stilwell, Strouse, Thayer, Henry D. Washburn, William B. Washburn, Whaley, Stephen F. Wilson, Windom, Woodbridge, and Wright—75.

NOT VOTING—Messrs. Alley, Anderson, James M. Ashley, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Culver, Denison, Donnelly, Driggs, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Hill, Hotchkiss, Jencks, Johnson, Jones, Kasson, Kelso, Laffin, Le Blond, Lynch, McIndoe, Miller, Moulton, Myers, Newell, Noell, Pomeroy, Raymond, Rogers, Rousseau, Schenck, Shanklin, Smith, Starr, Taber, Francis Thomas, John L. Thomas, Thornton, Burt Van Horn, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, and Winfield—57.

So the amendment was not agreed to.

The next amendment was the following, on which a separate vote had been demanded by Mr. ALLISON:

On page 14, at the end of line one hundred and twenty-two, insert the following:

When the assessor is required or compelled to travel to make examinations as provided in this section he shall be allowed mileage and his necessary and proper traveling expenses. The costs for the attendance and mileage of witnesses shall be taxed by the assessor and paid by the delinquent parties, or otherwise by the collector of the district on certificate of the assessor, at the rate usually allowed in said district for witnesses in district courts of the United States.

The amendment was not agreed to.

The next amendment was the following, on

which a separate vote had been demanded by Mr. HOOPER, of Massachusetts:

In section twenty-two, at the commencement of line eleven, insert "and all bonded warehouses and."

The amendment was disagreed to.

The next amendment was the following, on which a separate vote had been demanded by Mr. PRICE:

Amend the paragraph relating to the one hundred and eighteenth section of the present law by adding the following:

Provided further, That the list of incomes in the offices of the assessor and collector shall be open to the inspection of the public; but neither the assessor nor collector shall furnish such list or any portion thereof for publication, nor permit the same to be copied for publication.

On agreeing to the amendment there were—ayes 53, noes 46.

Mr. SLOAN called for the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 55, nays 66, not voting 62; as follows:

YEAS—Messrs. Ancona, Banks, Baxter, Beaman, Bergen, Bidwell, Buckland, Chanler, Reader W. Clarke, Cook, Darling, Davis, Delano, Deming, Dodge, Eckley, Eggleston, Eldridge, Eliot, Ferry, Garfield, Goodyear, Hale, Hotchkiss, Demas Hubbard, Edwin N. Hubbell, James Humphrey, Kelley, Kerr, Marston, Marvin, McCullough, McRuer, Mercer, Morris, Niblack, Nicholson, O'Neill, Orth, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, Ross, Sitgreaves, Stilwell, Strouse, Taylor, Thayer, Trimble, Henry D. Washburn, William B. Washburn, Welker, Whaley, and Wright—55.

NAYS—Messrs. Allison, Ames, Delos R. Ashley, Baker, Baldwin, Blaine, Bromwell, Sidney Clarke, Cobb, Conkling, Dawes, Dawson, Deffrees, Dixon, Donnelly, Dumont, Farnsworth, Farquhar, Grider, Aaron Harding, Abner C. Harding, Hart, Henderson, Higby, Asahel W. Hubbard, Chester D. Hubbard, John H. Hubbard, James R. Hubbell, Hulburd, James M. Humphrey, Julian, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Marshall, McClurg, McKee, Moorhead, Morrill, Paine, Patterson, Perham, Phelps, Pike, Price, John H. Rice, Ritter, Rollins, Sawyer, Schenck, Schofield, Shellabarger, Sloan, Spalding, Stevens, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, James F. Wilson, Windom, and Woodbridge—66.

NOT VOTING—Messrs. Alley, Anderson, James M. Ashley, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Cullom, Culver, Denison, Driggs, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Hill, Hogan, Holmes, Hooper, Ingersoll, Jencks, Johnson, Jones, Kasson, Kelso, Ketcham, Laffin, Le Blond, Lynch, McIndoe, Miller, Moulton, Myers, Newell, Noell, Plants, Pomeroy, Raymond, Rogers, Rousseau, Shanklin, Smith, Starr, Taber, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Williams, Stephen F. Wilson, and Winfield—62.

So the amendment was not agreed to.

Mr. PRICE moved to reconsider the vote by which the amendment was disagreed to; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

The next amendment on which a separate vote was asked was the following, moved by Mr. FARNSWORTH:

And be it further enacted, That all assessors, collectors, and revenue agents provided for by this act, or the several acts to which this act is amendatory, shall be appointed by the President of the United States, with the advice and consent of the Senate; and the advice and consent of the Senate shall be given before any such officer shall be removed from office, unless such removal shall be for malfeasance in office during the recess of Congress.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 57, nays 66, not voting 60; as follows:

YEAS—Messrs. Allison, Ames, Baxter, Beaman, Bromwell, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Donnelly, Eggleston, Farnsworth, Garfield, Abner C. Harding, Hart, Henderson, Hogan, Hotchkiss, Asahel W. Hubbard, Demas Hubbard, John H. Hubbard, Hulburd, Ingersoll, Julian, Kelley, William Lawrence, Loan, Longyear, Lynch, McClurg, McKee, Mercer, Moorhead, Morrill, O'Neill, Orth, Paine, Perham, Price, William H. Randall, John H. Rice, Sawyer, Schenck, Schofield, Shellabarger, Sloan, Stevens, Trowbridge, Upson, Van Aernam, Ward, Welker, Williams, James F. Wilson, Windom, and Woodbridge—57.

NAYS—Messrs. Ancona, Delos R. Ashley, Baker, Banks, Bergen, Bidwell, Blaine, Buckland, Chanler, Cullom, Darling, Davis, Dawes, Dawson, Deffrees, Delano, Dixon, Dodge, Dumont, Eckley, Eldridge, Eliot, Farquhar, Goodyear, Grider, Hale, Aaron Harding,

Hogan, Hooper, Chester D. Hubbard, Edwin N. Hubbell, James R. Hubbell, James Humphrey, James M. Humphrey, Kerr, Ketcham, Kuykendall, Latham, George V. Lawrence, Marshall, Marston, Marvin, McCullough, McKuer, Niblack, Nicholson, Patterson, Phelps, Pike, Radford, Samuel J. Randall, Alexander H. Rice, Ritter, Ross, Sitgreaves, Spalding, Stilwell, Strouse, Taylor, Thayer, Trimble, Burt Van Horn, Henry D. Washburn, William B. Washburn, Whaley, and Wright—66.

NOT VOTING—Messrs. Alley, Anderson, James M. Ashley, Baldwin, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Culver, Deming, Denison, Driggs, Ferry, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Higby, Hill, Jenckes, Johnson, Jones, Kasson, Kelso, Laffin, Le Blond, McIndoe, Miller, Morris, Moulton, Myers, Newell, Noell, Plants, Pomeroy, Raymond, Rogers, Rollins, Rousseau, Shanklin, Smith, Starr, Taber, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Stephen F. Wilson, and Winfield—60.

So the amendment was disagreed to.

The remaining amendments of the Committee of the Whole on the state of the Union were then concurred in *en masse*.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

The question recurred on the passage of the bill.

Mr. ELDRIDGE demanded the yeas and nays.

The House divided; and there were—ayes thirteen; not a sufficient number.

Mr. ELDRIDGE demanded tellers.

Tellers were ordered; and Messrs. ELDRIDGE and GARFIELD were appointed.

The House again divided; and the tellers reported—ayes twenty-five.

So (more than one fifth of those present having voted in the affirmative) the yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 110, nays 11, not voting 62; as follows:

YEAS—Messrs. Allison, Ames, Ancona, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Blaine, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Conkling, Cook, Cullom, Darling, Davis, Dawes, Dawson, Deftrees, Delano, Dixon, Dodge, Donnelly, Dumont, Eckley, Eggleston, Farnsworth, Farquhar, Ferry, Garfield, Goodyear, Hale, Abner C. Harding, Hart, Henderson, Hogan, Holmes, Hooper, Hotchkiss, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, Edwin N. Hubbell, James R. Hubbell, Hulburd, James Humphrey, Ingersoll, Julian, Kelley, Ketcham, Kuykendall, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, Marvin, McClurg, McCullough, McKee, McKuer, Mercer, Moorhead, Morrill, Morris, Nicholson, O'Neill, Orth, Paine, Patterson, Perham, Phelps, Pike, Price, Radford, Samuel J. Randall, William H. Randall, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sitgreaves, Spalding, Stevens, Stilwell, Strouse, Taylor, Thayer, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Williams, James F. Wilson, Windom, and Woodbridge—110.

NAYS—Messrs. Bergen, Chanler, Eldridge, Gridler, Aaron Harding, Marshall, Niblack, Ritter, Ross, Trimble, and Wright—11.

NOT VOTING—Messrs. Alley, Anderson, Delos R. Ashley, James M. Ashley, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Culver, Deming, Denison, Driggs, Eliot, Finck, Glossbrenner, Grinnell, Griswold, Harris, Hayes, Higby, Hill, James M. Humphrey, Jenckes, Johnson, Jones, Kasson, Kelso, Kerr, Laffin, Le Blond, McIndoe, Miller, Moulton, Myers, Newell, Noell, Plants, Pomeroy, Raymond, Rogers, Rousseau, Shanklin, Sloan, Smith, Starr, Taber, Francis Thomas, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Whaley, Stephen F. Wilson, and Winfield—62.

So the bill was passed.

Mr. GARFIELD. I move to amend the title by inserting after the word "bill" the words "to reduce internal taxation and;" so that it will read:

A bill to reduce internal taxation and to amend an act entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," approved June 30, 1864, and acts amendatory thereof.

The amendment was agreed to.

Mr. MORRILL moved to reconsider the vote by which the bill was passed and the title amended; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

POST ROAD IN DELAWARE.

Mr. NICHOLSON, by unanimous consent, 39TH CONG. 1ST SESS.—No. 180.

introduced a bill to establish a post road in the State of Delaware; which was read a first and second time, and referred to the Committee on the Post Office and Post Roads.

MAJOR BREWSTER.

On motion of Mr. SCHENCK, leave was granted to withdraw from the files of the House the petition and accompanying papers of Major Brewster, asking for relief.

ABELARD GUTHRIE.

On motion of Mr. SCHENCK, the papers in the case of Abelard Guthrie were withdrawn from the files of the House and referred to the Committee of Claims.

TAX BILL—AGAIN.

Mr. MARSHALL. I desired to present some remarks before the passage of the tax bill. I ask leave to print them.

No objection being made, leave was accordingly granted.

[His remarks will be found in the Appendix.]

DISBURSING AND ACCOUNTING OFFICERS.

Mr. WILSON, of Iowa, by unanimous consent, introduced a bill concerning the powers and duties of disbursing and accounting officers of the United States; which was read a first and second time, and referred to the Committee on the Judiciary.

MARY C. HAMILTON.

Mr. LAWRENCE, of Pennsylvania. An adverse report was made by mistake on Senate bill No. 56, granting a pension to Mary C. Hamilton. I ask unanimous consent to have it recommitted.

Mr. ELDRIDGE. I object.

CIRCUIT COURT OF THE DISTRICT.

Mr. WOODBRIDGE. I ask unanimous consent to report back, from the Committee on the Judiciary, Senate bill No. 184, to define more clearly the jurisdiction and powers of the circuit court of the District of Columbia.

No objection was made.

Mr. THAYER. I move that the House adjourn.

The motion was agreed to; and thereupon (at four o'clock and fifty-five minutes p. m.) the House adjourned.

PETITIONS, ETC.

The following petitions, &c., were presented under the rule and referred to the appropriate committees:

By the **SPEAKER**: The petition of Wiley Jones, a colored citizen of Winton, North Carolina, asking compensation for a horse, ox, bull, hogs, chickens, and turkeys, carried off by the Union Army during the war.

By Mr. **BANKS**: The memorial of J. W. Osgood, and 30 others, mechanics and working men, in approval of a former Administration of the Government reducing the hours of labor, and asking the passage of a law fixing a day's work at eight hours.

By Mr. **BLAINE**: The petition of temporary clerks employed in the office of the Quartermaster General, asking an appropriation to make their salaries equal to those of clerks of the first class.

By Mr. **ECKLEY**: The petition of 54 wool-growers of Columbiana county, Ohio, asking an additional duty on wool.

By Mr. **HARDING**, of Illinois: A memorial from the Hannibal and St. Joseph, Toledo and Wabash, and the Chicago, Burlington, and Quincy Railroad Companies relative to bridges across the Mississippi river.

By Mr. **HULBURD**: Four petitions of sundry citizens of Rensselaer county, New York, asking an increase of duty on imported flax.

By Mr. **J. HUMPHREY**: The petition of Captain James E. Palmer, jr., for indemnity for property lost in the war.

By Mr. **KERR**: The petition of Captains Reamer and King, owners of the steamer Jennie Hubbs, for permission to change the name thereof.

By Mr. **NICHOLSON**: A petition of citizens of Lebanon and Magnolia, Delaware, for the establishment of a certain post office and post road.

By Mr. **PHILIPS**: The petition of letter carriers of Baltimore, for increase of compensation.

By Mr. **RADFORD**: The petition of Captain E. Vanwart.

By Mr. **SCHENCK**: The memorial of William A. Howard, late lieutenant colonel marine artillery and colonel thirteenth New York heavy artillery, praying for allowance of arrears of pay stopped on account of informal muster.

Also, the petition of colored soldiers of Tennessee, for same bounties as were paid to white troops.

By Mr. **WELKER**: The petition of William F. Ford, and 22 others, pensioners of Medina, Ohio, asking for an increase in their pensions.

IN SENATE.

TUESDAY, May 29, 1866.

Prayer by the Chaplain, Rev. E. H. GRAY. The Journal of yesterday was read and approved.

PERSONAL EXPLANATION.

Mr. LANE, of Kansas. Mr. President, no man of my age has suffered more than I have from newspaper assaults and from reporters from this city. From 1855 till now I have been the subject of constant assault from the Democratic papers throughout the country from one extreme to the other. For the last month I have been the subject of assault from the papers of my own party; and in their assaults they have out-Heroded Herod; they have gone beyond their illustrious predecessors. On Sabbath morning my attention was called to an imputation, conveyed by innuendo and indirection, in the Boston Commonwealth, purporting to come from some writer in this city. I immediately telegraphed to the editor of that paper for the name of the author, and yesterday wrote to him on the same subject. As yet I have not learned the name of the author. When I obtain his name I may again trouble the Senate, and will adopt such a course as, in my judgment, the dignity of the Senate, the fair fame of my State, and my own self-respect demand. For the present, I content myself by saying to my fellow-Senators and to the country that the imputation contained in that paper is without the slightest foundation; it is a baseless calumny.

PETITIONS AND MEMORIALS.

Mr. SUMNER. I offer the petition of J. Thorn Smith, of Washington, in which he asks Congress to present to the States for their approval amendments to the Constitution of the United States, namely, paragraph first, section two, article one, after the word "Legislature," insert, "provided, that no citizen of the United States shall be disqualified as such elector on account of race or color;" secondly, paragraph one, section four, article four, after the word "Government," insert "to every inhabitant thereof between the ages of five and twenty-one years, the privilege of a free, common English education;" and third, so to amend article twelve of the amendments to the Constitution as to elect the President and Vice President by a direct vote of the people without distinction of race or color. As this subject is now pending before the Senate, I move that the petition lie upon the table.

The motion was agreed to.

Mr. SUMNER. I also offer the petition of Edward Jenkins, of Hagerstown, Maryland, in which he sets forth that he was a soldier in the Army of the Union, having volunteered in August, 1863, and served in the Army until he was wounded and discharged for disability; that the Government gave all the soldiers in his regiment \$100 bounty, but they withheld it from him because he was at one time a slave, and he asks for a remedy on account of the withholding of that bounty. I ask the reference of this petition to the Committee on Military Affairs and the Militia.

It was so referred.

Mr. WILSON presented the petition of Mary E. Walker, M. D., praying for compensation for services rendered by her to the Government during the late rebellion; which was referred to the Committee on Claims.

Mr. GRIMES presented a petition of members of the engineer corps of the Navy of the United States, praying that all engineer officers now ranking or who may hereafter rank with commissioned officers of the line, may be commissioned, and that first assistant engineers may rank with lieutenants and second assistant engineers with masters; which was referred to the Committee on Naval Affairs.

Mr. JOHNSON. I present a memorial from F. P. Salas, who represents himself to be a subject of Spain, in which he states that many years ago, upon a shipment consigned to him

from Havana, a general cargo, he paid the duties then exacted to the amount of \$2,924, and that he was afterward called upon, after the lapse of seven or eight years, to pay the further sum of \$624 24, and he asks to be relieved from the payment of that sum.

The PRESIDENT *pro tempore*. Does the Senator state the petitioner to be a subject of the kingdom of Spain?

Mr. JOHNSON. Yes, sir.

The PRESIDENT *pro tempore*. Under the rule and practice of the Senate, a petition from a foreigner cannot be received.

Mr. JOHNSON. The petitioner does state that he is a subject of Spain, but he was told by the Secretary of the Treasury that there was no relief for him unless an act of Congress should be passed. I suppose that although he is a subject of Spain, as the duties exacted were exacted upon an importation under the revenue laws of the United States, his memorial praying for relief may properly be presented. If the rule is otherwise, I will send it to the State Department and have it presented in that way.

The PRESIDENT *pro tempore*. The Chair believes the uniform practice of the Senate to be as he has stated.

Mr. SUMNER. May I call the attention of the Chair to a very important case that occurred, now many years ago, on the presentation of a petition from the authors of England in favor of an international copyright?

Mr. JOHNSON. That was received.

Mr. SUMNER. It was presented by Mr. Clay, and explained and maintained by him, I think, in a speech of some length. It was signed by nearly all the authors of England, and, according to my recollection, at the time there was no objection to it on the ground that they were foreigners. I merely call attention to it as a precedent.

Mr. JOHNSON. I should suppose such a petition could be presented as a matter of course, unless there be some positive rule on the subject.

The PRESIDENT *pro tempore*. The Chair will have the Journal of two years since read in a moment. It has been sent for.

Mr. JOHNSON. I will not ask that business be delayed by this matter. It can be passed over for the present, until other business is acted upon.

The PRESIDENT *pro tempore*. It will be laid aside for a moment.

The PRESIDENT *pro tempore* subsequently said: With the permission of the Senate the Chair will read, in connection with the petition introduced by the Senator from Maryland, from the Journal of Monday, January 26, 1863:

"Mr. FOSTER presented a letter signed by certain British subjects, citizens and residents of England, requesting the aid of the people and the Government of the United States for the purpose of facilitating emigration to the United States, and moved that it be referred to the Committee on Military Affairs and the Militia.

"The VICE PRESIDENT decided that the communication being signed by the subjects of a foreign Government, it was not in order to present it to the Senate."

Mr. JOHNSON. I am not sure whether that would apply to the case which I propose to present. This gentleman was the consignee, as he states in his memorial, of a cargo shipped at Havana, for which he paid the duties, as consignee, that were then exacted. After an interval of some six or seven years the revenue officers discovered, as they supposed, and no doubt correctly, that they had not charged him the amount of the duties that the cargo was liable for, and made him pay the difference between what he had paid and what he ought to have been charged with, \$624. He states that he was the consignee of a mixed cargo, which is now scattered. He has applied to the Treasury Department, having paid the additional duty, and the Secretary tells him that he can grant him no relief without an act of Congress. It is a claim, therefore, rather on the Treasury than on the Government, for the fund—money which he says the Government has illegally received. The Chair will, however, decide

whether it falls within the principle of that decision.

The PRESIDENT *pro tempore*. In the opinion of the Chair, it does. It would certainly be the desire of the Chair to entertain the largest liberty in regard to the reception of petitions, both from natives and foreigners, but the Chair feels bound by that decision.

Mr. JOHNSON. Was that before or after the case referred to by the Senator from Massachusetts?

The PRESIDENT *pro tempore*. It is since, three years ago. There are many other cases, in the opinion of the Chair. The Vice President, at that time, suggested that it was the uniform practice, and that the rule had often been enforced.

Mr. CONNESS. I ask the consent of the Senate to introduce a bill.

The PRESIDENT *pro tempore*. Previous to passing from this subject, the Chair would certainly prefer that it should be decided by the Senate, if there be any question about it. The Chair is very desirous that no petition to the body should be ruled out in consequence of any opinion of his that is not perfectly well established by former precedents. No motion being made on the subject, the Chair will receive the bill of the Senator from California.

BILLS INTRODUCED.

Mr. CONNESS. I will state in connection with the bill which I am about to present, in order that it may be read a first and second time and then laid upon the table and printed, that it is a bill relating to the quieting of titles to lands in California, a subject of great importance to us and upon which there have been several bills already presented. This one, I wish to observe, has been prepared by the surveyor general of California, and therefore I am not prepared to indorse it, but I wish it introduced and printed.

There being no objection, leave was granted to introduce the bill (S. No. 343) to quiet land titles in California; which was read twice by its title, laid upon the table, and ordered to be printed.

Mr. LANE, of Kansas. By request, I ask leave to introduce a bill without previous notice.

There being no objection, leave was granted to introduce a bill (S. No. 344) donating public lands to the several States which may provide agricultural colleges for the education of persons of African descent; which was read twice by its title, and referred to the Committee on Public Lands.

Mr. GRIMES asked, and by unanimous consent obtained, leave to introduce a bill (S. No. 345) to amend section seven of the naval appropriation bill, approved March 3, 1845; which was read twice by its title, and referred to the Committee on Naval Affairs.

PAPERS WITHDRAWN.

On motion of Mr. LANE, of Indiana, it was Ordered, That Mary K. Smith have leave to withdraw her petition and other papers praying for a pension from the files of the Senate.

On motion of Mr. HENDRICKS, it was Ordered, That the petition and other papers in relation to the claim of Philip Lansdale, surgeon United States Navy, be taken from the files of the Senate and referred to the Committee on Naval Affairs.

REPORTS OF COMMITTEES.

Mr. RAMSEY, from the Committee on Revolutionary Claims, to whom were referred the petition and other papers of the heirs of John Denman and George Townley, praying for compensation for cattle furnished to the American Army during the revolutionary war, submitted an adverse report thereon, and asked to be discharged from its further consideration; which was agreed to.

IRA B. CURTIS.

Mr. DAVIS. I am instructed by the Committee on Pensions, to whom was referred the petition of citizens of Decatur, Illinois, praying that a pension be granted to Ira B. Curtis, to report a bill for his relief. As this report has been postponed to the present time, when

it should have been made before, I ask for the present consideration of the bill, as the matter is a very plain one.

By unanimous consent the bill (S. No. 342) for the benefit of Ira B. Curtis, was read three times and passed. It is a direction to the Secretary of the Interior to place Ira B. Curtis on the pension-roll as a surgeon wholly disabled in the service, at the rate of seventeen dollars per month, commencing February 28, 1866.

REFERENCE OF A BILL.

Mr. SHERMAN. I have been requested by a citizen of the District to ask that the bill (H. R. No. 601) to grade East Capitol street and establish Lincoln square, which was referred to the Committee on Public Buildings and Grounds, be taken from that committee and referred to the Committee on the District of Columbia, to which it properly belongs. The chairman of the Committee on Public Buildings and Grounds [Mr. BROWN] is absent, and I make the motion.

The motion was agreed to.

BRIDGE AT WINONA.

Mr. NORTON. I move to take up Senate bill No. 263.

The motion was agreed to; and the Senate resumed the consideration of the bill (S. No. 263) to authorize the Winona and St. Peter's Railroad Company to construct a bridge across the Mississippi river and to establish a post route.

The PRESIDENT *pro tempore*. The bill has been reported to the Senate, and the question is on concurring in the amendments made as in Committee of the Whole. The Senator from Missouri [Mr. HENDERSON] moved an amendment to the amendment made as in Committee of the Whole to the second section of the bill, which will be read.

The Secretary read the amendment, which was after the word "act" in the twenty-first line of the second section to strike out the following words: "may, at the option of the company building the same, be built as a draw-bridge, with a pivot or other form of draw, or with unbroken or continuous spans; provided, that if the said bridge," in line twenty-five to strike out the word "it" and insert the word "and;" and also to strike out the proviso beginning at the thirty-second line in the following words:

And provided also, That if any bridge built under this act shall be constructed as a draw-bridge, the same shall be constructed as a pivot draw-bridge with a draw over the main channel of the river at an accessible and navigable point, and with spans of not less than one hundred and sixty feet in length in the clear between piers on each side of the central or pivot pier of the draw, and the next adjoining spans to the draw shall not be less than two hundred and fifty feet; and said spans shall not be less than thirty feet above low-water mark, and not less than ten above extreme high-water mark, nearing to the bottom chord of the bridge, and the piers of said bridge shall be parallel with the current of the river: And provided also, That said draw shall be opened promptly upon reasonable signal for the passage of boats whose construction shall not be such as to admit of their passage under the permanent spans of said bridge, except when trains are passing over the same; but in no case shall unnecessary delay occur in opening the said draws after the passage of trains.

So that the section will read:

That any bridge built under the provisions of this act shall be made with unbroken and continuous spans, and shall not be of less elevation in any case than fifty feet above extreme high-water mark, as understood at the point of location, to the bottom chord of the bridge, nor shall the spans of said bridge be less than two hundred and fifty feet in length, and the span over the main channel of the river shall be three hundred feet in length, and the piers of said bridge shall be parallel with the current of the river.

Mr. NORTON. I do not desire to open the discussion upon this subject again, as the matter was thoroughly discussed on the bill for the construction of bridges at Quincy and at Hannibal; and unless the Senator from Missouri can give some reason to the Senate why a discrimination should be made against this bridge, I can see no good reason why the amendment should be adopted. The provision proposed to be stricken out is identical with the provision in the bill authorizing the construction of bridges at Quincy and at Hannibal. I hope the amendment will not be adopted.

Mr. HENDERSON. Lest the Senate may have forgotten the purport of this amendment, I will restate that it is simply an amendment which will compel the bridges, if built over the Mississippi river at all, to be built with continuous spans fifty feet above the surface of the water. If the amendment is not adopted, bridges may be built on the river with pivots and draws. My object in offering this amendment to this bill is to have a test vote in the Senate on the subject. I desire that a commission shall be sent out to examine into this matter of bridging the river; and if they report that the river cannot be bridged with these high bridges I shall be willing at the next session of Congress to let the low bridges be built; but I think we ought to examine more critically and more carefully into this matter. As I stated the other day, a proposition is now pending in the Senate, authorized by the Committee on Commerce to be attached to one of the appropriation bills, as I understand, to appoint a board of engineers to go and examine the river and report as to the proper kind of bridges to be constructed.

It is perfectly certain that between this time and the beginning of our next session no bridges can be built on the Mississippi river. The water is now very high; the Mississippi river is remarkably high for this season of the year, and the June rise is yet to come; so that I apprehend nothing can be done toward the construction of bridges on that river during the summer or at any time previous to our meeting next fall. Hence I should like to have a test vote on the subject to determine whether the Senate will take the whole judgment of this matter upon themselves or whether they will leave it to a board of engineers to determine.

Of course, if we bridge at one point we have got to bridge at another, and in the course of a few years you will find a bridge at almost every town on the Mississippi river. How far this will be an obstruction to commerce is a matter that ought to be considered by this body. It is a matter of very great consequence, in my opinion, and one to which we have not given the consideration to which it is entitled. That is true, and as no harm can be done by the adoption of this amendment at present, as it will not obstruct the building of any bridge that can be built and within the time within which it can be built, I should like very much that it should be adopted. I do not desire to detain the Senate.

Mr. RAMSEY. The Senate will remember that the bills for the other two bridges which have been authorized by previous legislation here, the one at Hannibal and the one at Quincy, were in the alternative, authorizing a bridge either with a draw or with a continuous span. Now, while I agree very much with what the Senator from Missouri has said in regard to the bridging of the Mississippi river, I see no reason why there should be any discrimination against this bridge at Winona. It has been hinted that the legislation already passed here will not meet with success in the other House. Then let this bill go into the same basket and fail with them, and the whole legislation on the subject of bridges depend on the report of the commission of engineers that may be authorized; but I can see no reason why the Senate should discriminate against this bridge and change the alternative allowed in the other cases to positive legislation compelling the company to build a bridge of a continuous span.

Mr. HENDERSON. I will state that I do not wish to discriminate against this measure; but I failed to have a vote on the yeas and nays in the Senate upon the proposition of building draw-bridges on the other bill; it was overlooked when the bill was reported to the Senate. I will state to the Senator from Minnesota that the bill as we passed it in this body I am satisfied will not pass the House of Representatives. I am pretty well satisfied of that. It will come back to be acted upon in this body. There is but little doubt about that. The

probability is that it will not be passed at all; that nothing more than the proposition made by the Senator from Minnesota himself to have a survey of the Mississippi river and a report to us at the next session will be agreed to at this session—nothing better or nothing worse than that. I am perfectly sure that he need have no fears about the bill in its present shape going through the House of Representatives. I do not believe that it will. If it is passed at all, it will be passed with amendments which will bring it back; and then I desire to have the very same vote upon that proposition that I have offered here. That is all I desire.

Mr. GRIMES. If this was a question solely as to the construction of a bridge across the Mississippi river where it bounds the States of Wisconsin and Minnesota I should have nothing to say on the subject, but I understand the Senator from Missouri to say that he desires this to be a test vote on this question as to whether the Mississippi shall be bridged at all or not.

Mr. HENDERSON. No.

Mr. GRIMES. It virtually amounts to that. The Senator insists that these bridges shall be erected fifty feet above high water-mark, as I understand his proposition. It is very probable that such bridges can be well built across the Ohio river and across many streams where the bluffs approach near to the river, but on the Mississippi river, where there are six or eight miles in extent of low bottom lands, and the rise and fall of the river does not exceed twelve feet, the water then spreading all over these bottoms, the construction of such bridges as the Senator from Missouri proposes will be attended with immense expense; much more money than many railroad companies can afford to expend, even if they can be constructed at all.

Then, again, nearly all of these bridges are proposed to be thrown across the Mississippi river where there are towns already built, or partially built, upon the low bottom lands; and the construction of such a bridge with embankments of that height in these towns, or in most of them, all except in the town of Quincy—I do not know where the bridge is proposed to be built there—would be ruinous to the towns, and the commerce of the country would receive no corresponding advantage. I cannot conceive why it is not possible to build draw-bridges on the Mississippi river that shall not obstruct navigation as well as you can build them upon other streams. Gentlemen say that in a short time bridges will be thrown across the Mississippi river every few miles. They never will be thrown across the river except where the railroads terminate. We know that capitalists are not in the habit of building railroads very close together. Perhaps in time there may be bridges across the Mississippi river once in fifty miles. The obstruction that they will afford to the navigation of steamboats up and down the river will be merely a detention of fifteen minutes when they approach a bridge. Will that furnish any such obstruction as would justify us in refusing to all the commerce of those States that desire to pass eastward or westward an opportunity to cross the river?

I do not know anything in regard to the particular location where it is proposed to build this bridge, nor do I know whether it is proposed by these companies to go on at present and construct their bridge; but I desire to say to the Senator from Missouri that he is altogether mistaken as to some of the other railroad companies and bridges that are proposed to be constructed if he includes them in the same category with the one now under consideration. I know that it is proposed to build some of these bridges this summer. I know that the water has fallen and is low, and that they now can go on upon the upper Mississippi river and construct the bridges.

Mr. HENDERSON. Oh, no; the water has risen.

Mr. GRIMES. Then it has risen in three days. I know it has been high. The June freshet of which the Senator speaks is a June

freshet on the lower Mississippi, but we have our rise in the month of May, which has already gone by, and I suppose it has gone by in Minnesota some two or three weeks already, and the water is low. I do not know whether this company is prepared to go on and build this bridge, but I know that they are prepared to go on and build the bridges across the Mississippi river below, and the postponement of this subject for twelve months will be of very considerable detriment.

Mr. POMEROY. I know of no reason why a river should not be bridged any more than why a mountain should not be cut down to make room for a railroad. The currents of commerce and emigration are as thorough by way of railroads as by way of rivers. It is the river that is the obstruction to the railroad, just as much as the mountain is. When the Pacific railroad bill was before the Senate it was thought that the Missouri river should be bridged, and I have in my hand the provision of law for bridging the Missouri river, which is by far a more difficult river to bridge than the Mississippi. It is a more rapid stream; it is a longer and larger stream above its junction with the Mississippi. I will read the provision of the law in regard to bridging the Missouri river contained in the ninth section of the act of July 2, 1864:

"That to enable any one of said corporations to make convenient and necessary connections with other roads, it is hereby authorized to establish and maintain all necessary ferries upon and across the Missouri river and other rivers which its road may pass in its course; and authority is hereby given said corporation to construct bridges over said Missouri river and all other rivers for the convenience of said road: *Provided*, That any bridge or bridges it may construct over the Missouri river or any other navigable river on the line of said road shall be constructed with suitable and proper draws for the passage of steamboats, and shall be built, kept, and maintained, at the expense of said company, in such manner as not to impair the usefulness of said rivers for navigation to any greater extent than such structures of the most approved character necessarily do."

That is the kind of charter to give a railroad company—not tie them up to draws of any specific character, but simply require them in the law to put in a draw of such a character that it shall not obstruct the navigation any more than such draws necessarily do. It is admitted that they obstruct navigation to some extent, but it is the public interest that is promoted by it. That is the reason why we allow these draw-bridges. The Mississippi river affords no such obstacles to bridging as the Missouri does, and we have already a provision of this kind for bridging the Missouri, and I know not why we should not be as liberal on the Mississippi. I am for bridging it at every point where the public interest requires, wherever a railroad crosses it, and to have bridges of such a character that the companies can build them and maintain them. To require the building of bridges of four hundred feet span, embarrassing the companies, making them forever unsafe, is neither for the public interest nor for the interest of the companies. A bridge of suitable character should never be more than two hundred feet span, and the draw that turns, if it is constructed after that pattern, should never be over three hundred feet, that is, one hundred and fifty feet between the points. You cannot turn one over three hundred feet long. There is not one in existence that turns over three hundred feet, and yet we have undertaken to legislate, in two distinctive bills before Congress, to make the draw itself three hundred feet, so that the bridge would have to be six hundred feet, if it turned round.

Mr. HENDERSON. No, one hundred and sixty feet on each side of the pivot.

Mr. POMEROY. I am not talking about this bill, but I am talking of the bill we passed for bridging the Ohio river at Steubenville. But a space of one hundred and sixty feet on each side of the pivot makes the draw three hundred and twenty feet. That is altogether too long. The time is coming, and I think has already come, when the commerce of the rivers must give way to some extent and be discommodated by the commerce of railroads. They take the great bulk of the travel and business

of the country now, and it is as much our duty to provide for this class of commerce that goes across the country as it is to keep the river clear. The river, to be sure, is a natural channel, but it has no more claims on Congress or the country or mankind than these artificial channels have; and to embarrass a company with such a kind of bridge that they cannot build it, and that is not good for anything when it is built, is such unfriendly legislation that we ought not to encourage it. We should extend the greatest possible facilities for bridging these streams everywhere; and the only provision of law I want on the subject is precisely that contained in the Pacific railroad act. Let the companies themselves judge of the character of the structure. Let them be allowed to build it where they have to cross a stream, and only require them not to obstruct the navigation of the river more than such structures necessarily do. That is the language of the law in regard to bridging the Missouri river.

Mr. GUTHRIE. Mr. President, my impression is that all these bridges on the Mississippi and Ohio rivers should be built without a draw. When we wanted to build a bridge at Louisville, Congress required it to be ninety feet above low-water mark. We applied to Congress for liberty to build it with draws, and that privilege was granted at the last session. I put the matter immediately into the hands of an engineer to ascertain the difference between the cost of a bridge with and a bridge without draws, and the advantages of the two methods. My engineer reported to me that it would be cheaper and better to build it without draws. I have great confidence in his judgment; I have built several bridges of his drafting.

Mr. POMEROY. What was the length of draw required in the law? That was the obstacle.

Mr. HENDERSON. One hundred and fifty feet in the Ohio bridges.

Mr. POMEROY. But the bridge would have to be twice that length and that would make it three hundred feet.

Mr. HENDERSON. But there is a pivot pier in the center of it. The passage way is only one hundred and fifty feet. The pivot rests on a small pier.

Mr. GUTHRIE. I became convinced that it was not best for the Jeffersonville railroad and the Louisville and Nashville railroad to build a bridge at Louisville at present. Congress required it to be ninety feet above low-water mark. At the falls the highest rise of the water is forty-four feet. It rose to that extreme height only three times in the memory of the oldest citizens there, in 1792, in 1831, and in 1847. Of course, if you build bridges sixty feet above high-water mark, they must be some height above the bank of the river, and you must have an embankment on each side for nearly half a mile in order to get the proper elevation of the bank and then carry the bridge of the proper height to the center of the river.

My conclusion is that a proper continuous-span bridge can be built as cheaply as a safe bridge with draws, and that it is much better for the company because vessels descending the river will get on to a draw-bridge in some way or other and the companies will have suits continually with the owners of boats and the owners of cargoes. If you build a continuous-span bridge of such a height that vessels can pass under it from above and from below you get clear of nearly all difficulties of litigation and all difficulties from negligence, some watchman not being in his place—and it is almost impossible to keep them in place at all times—and as the boats run through the night there is great difficulty from this cause.

I think the suggestion of the Senator from Missouri as to an investigation by engineers to ascertain whether the bridges across the Mississippi river should be draw-bridges or continuous-span bridges is very proper. I think every bridge engineer will tell you that he can make the one bridge just as well as he can make the other. It is in the power of a good builder

to make a good job of either kind of bridge; but draw-bridges do not keep up like continuous-span bridges, and even if a continuous-span bridge should cost a little more than the other, in my judgment that expense is compensated by saving after-troubles which the draw-bridge would entail upon the company. If we had had a charter allowing us to build the Louisville bridge fifty feet above high-water mark I think it is likely we should be at work now, or if the law had allowed us to build it seventy feet above low-water mark we should certainly be at work this summer building the bridge. I have not asked Congress to modify that law because I left instructions for the prosecution of the investigation and the obtaining of estimates of the cost of the two kinds of bridges and an examination of the ground, so that we should know certainly what expense would be required whichever mode we took. We have a bridge with a draw at Nashville, and we have had multitudes of suits growing out of it, and are having them every year. In high stages of the water vessels are frequently no longer under the power of steam; and they run against the piers, and the owners of the boats seek to hold the company liable.

I rather think that experience and investigation are in favor of continuous-span bridges. My own opinion has changed since I had the estimates made in relation to the bridge at Louisville, and changed very materially, and I am satisfied that a skillful engineer who takes the whole subject into consideration, as well cost now as trouble, vexation, and cost in the future, will decide in favor of continuous-span bridges.

The PRESIDENT *pro tempore*. The morning hour having expired, it becomes the duty of the Chair to call up the unfinished business of yesterday, which is House bill No. 11, to facilitate commercial, postal, and military communication among the several States, upon which the Senator from Maine [Mr. MORRILL] is entitled to the floor.

ORDER OF BUSINESS.

Mr. HOWARD. I hope the Senate will postpone the consideration of the order of the day and take up House joint resolution No. 127, proposing an amendment to the Constitution of the United States.

The PRESIDENT *pro tempore*. Does the Senator make that motion?

Mr. HOWARD. Yes, sir.

The PRESIDENT *pro tempore*. It is moved that the present and all prior orders be postponed, and that the Senate proceed to the consideration of the House resolution to amend the Constitution.

Mr. CHANDLER. I will ask that the unfinished business, which comes up at this hour, be postponed to and made the special order for to-morrow at one o'clock. Of course, I do not wish to antagonize it with the motion of my colleague.

The PRESIDENT *pro tempore*. Does the Senator move that as an amendment to the motion?

Mr. CHANDLER. Yes, sir.

The PRESIDENT *pro tempore*. The Chair, then, will put the whole question as one motion. It is moved that the present and all prior orders be postponed, and that the Senate now proceed to the consideration of the House resolution indicated by the Senator from Michigan, and that the present order be postponed until to-morrow at one o'clock and made the special order at that time.

Mr. HENDRICKS. I believe there was a special order for to-day at one o'clock, made sometime last week—the Colorado bill.

The PRESIDENT *pro tempore*. That is true.

Mr. HENDRICKS. I did not know that the bill of which the Senator from Michigan [Mr. CHANDLER] has charge was the unfinished business upon the adjournment of the Senate yesterday afternoon. I thought it was laid aside and the Senate proceeded to other business, and therefore it was not the business before the Senate at its adjournment, and

that the special order naturally came up this morning.

The PRESIDENT *pro tempore*. As the Chair understands, the Senator from Maine was broken off in his speech by a motion to go into executive session. Some other and informal business was received by the unanimous consent of the Senate, but that bill was the unfinished business of yesterday, and that, by the rule of the Senate, takes precedence of a special order assigned for the same hour; so that the unfinished business of yesterday, House bill No. 11, is in order at the present time. The Senator from Michigan moves to postpone that bill until to-morrow at one o'clock, and to make it the special order for that time, and to proceed with the House resolution proposing an amendment to the Constitution of the United States.

Mr. HENDRICKS. The special order, I believe, was fixed by a two-thirds vote; can it be overridden by a majority vote?

The PRESIDENT *pro tempore*. The question is not presented in that form precisely.

Mr. HENDRICKS. That is the effect of the motion.

The PRESIDENT *pro tempore*. By the rule of the Senate, the unfinished business takes precedence of a special order fixed for the same time.

Mr. HENDRICKS. I am aware of that fact. I have no objection to taking the vote on postponing the bill which is the unfinished business; but the motion to postpone the special order ought to be a separate vote by itself, because that special order for one o'clock to-day was made by a two-thirds vote of the body. The effect of this motion is to reverse the action agreed upon by a two-thirds vote by a majority vote. Therefore I ask that the question shall be divided, and the vote first taken on the motion to postpone the present order.

Mr. TRUMBULL. The Senator from Indiana, I apprehend, is discussing a question not before the Senate. The special order is not before the Senate at all, and cannot come up except by unanimous consent. We have under consideration the unfinished business of yesterday. The Senator from Michigan makes a motion to postpone that and all prior orders for the purpose of taking up a particular subject. There can be but one subject before the Senate at a time, and that is now the question.

Mr. CHANDLER. With the consent of my colleague, I will ask that the bill which is the unfinished business be laid over informally, so that he may call up his joint resolution.

Mr. HENDRICKS. Then if the proposition of the Senator from Michigan is agreed to, that is, that the unfinished business be postponed by unanimous consent for the present, I presume the special order is before the body.

The PRESIDENT *pro tempore*. It is so. Does the Senator from Michigan withdraw his motion to postpone?

Mr. CHANDLER. Yes, sir, he does; and I ask that the unfinished business be laid aside informally for the purpose of allowing my colleague to take up the joint resolution he has indicated.

Mr. TRUMBULL. If the Senator from Michigan withdraws the motion, I renew it. I move that the unfinished business of yesterday and all other business be postponed for the purpose of proceeding with the joint resolution indicated by the Senator from Michigan who made the motion.

Mr. HOWARD. I did not intend to be understood as withdrawing my motion to postpone all other business.

The PRESIDENT *pro tempore*. The motion is still before the body, made by the Senator from Illinois.

Mr. HENDRICKS. Then I ask for a division of the question, that a vote be taken upon the proposition to postpone and then a separate vote on the business that shall occupy the attention of the Senate after that postponement. I make the point that the special order being established by a two-thirds vote, it cannot be postponed by a majority vote to give place to another piece of business.

Mr. CHANDLER. I will then renew my motion, that the unfinished business be postponed until to-morrow at two o'clock.

The PRESIDENT *pro tempore*. The motion of the Senator from Illinois is that the present and all prior orders be postponed, and that the Senate proceed to the consideration of the resolution from the House of Representatives proposing an amendment to the Constitution of the United States. That is now the motion before the Senate.

The motion was agreed to.

RECONSTRUCTION.

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (H. R. No. 127) proposing an amendment to the Constitution of the United States, the pending question being on the amendment offered by Mr. JOHNSON to strike out the third section, in the following words:

SEC. 3. Until the 4th day of July, in the year 1870, all persons who voluntarily adhered to the late insurrection, giving it aid and comfort, shall be excluded from the right to vote for Representatives in Congress and for electors for President and Vice President of the United States.

Mr. HOWARD. I hope the vote will be taken on that motion.

Mr. JOHNSON. Is there anything proposed as a substitute for that section?

Mr. CLARK. Your motion precludes that now. You move to strike out, simply.

Mr. JOHNSON. I ask for the yeas and nays upon the amendment.

The yeas and nays were ordered; and being taken, resulted—yeas 43, nays 0; as follows:

YEAS—Messrs. Anthony, Buckalew, Chandler, Clark, Conness, Cowan, Cragin, Cresswell, Davis, Doan, Little, Edmunds, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Howard, Howe, Johnson, Kirkwood, Lane of Indiana, Lane of Kansas, Morgan, Morrill, Nesmith, Norton, Nye, Poland, Pomeroy, Ramsey, Riddle, Saulsbury, Sherman, Stewart, Sumner, Trumbull, Van Winkle, Wade, Willey, Williams, and Wilson—43.

NAYS—0.
ABSENT—Messrs. Brown, Dixon, McDougall, Sprague, Wright, and Yates—6.

So the amendment was agreed to.

Mr. HOWARD. I now offer a series of amendments to the joint resolution under consideration, which I will send to the Chair.

Mr. FESSENDEN. Take them one section at a time.

Mr. HOWARD. I will state very briefly what they are. I propose to amend section one of the article by adding after the words "section one" the following words, which will of course constitute a part of section one:

All persons born in the United States and subject to the jurisdiction thereof are citizens of the United States and of the States wherein they reside.

The second amendment—

Mr. FESSENDEN. Let us take a vote on the first one.

Mr. TRUMBULL. The Senator had better state all the amendments.

Mr. JOHNSON. I hope we shall hear them all.

Mr. HOWARD. The second amendment is to amend the second section by striking out the word "citizens," in the twentieth line, where it occurs, and inserting after the word "male" the words "inhabitants, being citizens of the United States;" and by inserting at the end of that section the words "any such State."

The third section has already been stricken out. Instead of that section, or rather in its place, I offer the following:

SEC. 3. No person shall be a Senator or Representative in Congress, or an elector of President and Vice President, or hold any office, civil or military, under the United States, or under any State, who, having previously taken an oath as a member of Congress, or as an officer of the United States, or as a member of any State Legislature, or as an executive or judicial officer of any State, to support the Constitution of the United States, shall have engaged in insurrection or rebellion against the same, or given aid or comfort to the enemies thereof; but Congress may, by a vote of two thirds of each House, remove such disability.

The following is to come in as section four:

The obligations of the United States incurred in suppressing insurrection, or in defense of the Union,

or for payment of bounties or pensions incident thereto, shall remain inviolate.

Section four, as it now stands, will be changed to section five, and I propose to amend that section as follows: strike out the word "already," in line thirty-four, and also the words "or which may hereafter be incurred," in line thirty-five, and also the words "or of war" in lines thirty-five and thirty-six, and insert the word "rebellion" in lieu thereof; and also strike out the words "loss of involuntary service or labor" in line thirty-seven, and insert "the loss or emancipation of any slave; but all such debts, obligations, and claims shall be forever held illegal and void."

After consultation with some of the friends of this measure it has been thought that these amendments will be acceptable to both Houses of Congress and to the country, and I now submit them to the consideration of the Senate.

The PRESIDENT *pro tempore*. The first question in order is the amendment proposed to the joint resolution by the Senator from Ohio, [Mr. WADE.]

Mr. WADE. I ask leave to withdraw that amendment.

The PRESIDENT *pro tempore*. It is still in the power of the mover, and he can withdraw it if he pleases. The amendment is withdrawn. The question now is on the amendments proposed by the Senator from Michigan.

Mr. SAULSBURY. It is very well known that the majority of the members of this body who favor a proposition of this character have been in very serious deliberation for several days in reference to these amendments, and have held some four or five caucuses on the subject. Perhaps they have come to the conclusion among themselves that the amendments offered are proper to be made, but this is the first intimation that the minority of the body has had of the character of the proposed change in the constitutional amendment. Now, sir, it is nothing but fair, just, and proper that the minority of the Senate should have an opportunity to consider these amendments; and I rise for the purpose of moving that these amendments, together with the original proposition, be printed, so that we may see them before we are called upon to vote on them. Certainly there can be no graver question, no more serious business that can engage the attention of this Senate than a proposed change in the fundamental law.

Mr. FESSENDEN. I will say to the Senator that if any gentleman on that side of the Chamber desires that these amendments be laid upon the table and printed, there is no objection to that.

Mr. SAULSBURY. Then I will defer any further remarks, and make that motion.

The PRESIDENT *pro tempore*. It is moved that the amendments be printed and that the further consideration of the joint resolution be postponed until to-morrow.

The motion was agreed to.

Mr. SUMNER. I wish to give notice of an amendment which at the proper time I intend to offer to Senate bill No. 292, entitled "A bill to provide for restoring to the States lately in insurrection their full political rights." It is to strike out all after the enacting clause of the first section and to insert a section as a substitute which I ask to have printed.

Mr. JOHNSON and Mr. STEWART. Let it be read.

The PRESIDENT *pro tempore*. The proposed amendment will be read, if there be no objection.

The Secretary read it, as follows:

Strike out all after the enacting clause of the first section of the bill and insert in lieu thereof the following:

That when any State lately in rebellion shall have ratified the foregoing amendment and shall have modified its constitution and laws in conformity therewith, and shall have further provided that there shall be no denial of the elective franchise to citizens of the United States because of race or color, and that all persons shall be equal before the law, the Senators and Representatives from such State, if found duly elected and qualified, may, after having taken the required oaths of office, be admitted into Congress as such: *Provided*, That nothing in this

section shall be so construed as to require the disfranchisement of any loyal person who is now allowed to vote.

Mr. SUMNER. I simply wish to have that amendment printed.

The PRESIDENT *pro tempore*. The order to print will be entered.

Mr. SUMNER. I also ask the unanimous consent of the Senate to introduce a bill of which no notice has been given, which I desire to have considered in connection with the other measure, as it belongs to this group of reconstruction measures.

There being no objection, leave was granted to introduce a bill (S. No. 345) to enforce the amendment to the Constitution abolishing slavery by securing the elective franchise to colored citizens; which was read twice by its title.

Mr. SUMNER. I move that the bill be printed and laid upon the table.

The motion was agreed to.

MESSAGE FROM THE HOUSE.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the House of Representatives had agreed to the amendment of the Senate to the bill (H. R. No. 459) granting a pension to Anna E. Ward.

The message further announced that the House of Representatives had passed the following bills of the Senate with amendments to each, in which it requested the concurrence of the Senate:

A bill (S. No. 184) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, and for other purposes; and

A bill (S. No. 237) granting a pension to Mrs. Martha Stevens.

PRIVATE CLAIMS.

Mr. CLARK. I ask that the Senate give me a little time on Friday next for the purpose of disposing of certain private claims, if there be no objection.

Mr. FESSENDEN. I shall object to that unless the constitutional amendment is disposed of by that time.

Mr. CLARK. I will state that I will not antagonize them with the constitutional amendment, or a public necessity of that kind, but I should like to have an understanding that I may have an hour or so on Friday next for the consideration of private claims, if there is no other public business of pressing importance in the way.

APPROVAL OF BILLS.

A message from the President of the United States, by Mr. COOPER, his Secretary, announced that the President of the United States had approved and signed, on the 26th instant, the following act and joint resolutions:

An act (S. No. 318) to authorize the appointment of an additional Assistant Secretary of the Navy;

A joint resolution (S. R. No. 74) providing for the acceptance of a collection of plants tendered to the United States by Frederick Pech; and

A joint resolution (S. R. No. 97) to authorize certain medals to be distributed to veteran soldiers free of postage.

MARTHA STEVENS.

Mr. LANE, of Indiana. I move to take up Senate bill No. 237, granting a pension to Mrs. Martha Stevens, which has been returned from the House of Representatives with an amendment. The bill as it passed the Senate gave a pension of twenty dollars a month; the amendment of the House reduces it to seventeen dollars a month, the amount allowed in the case of a first lieutenant.

The amendment was concurred in.

DISTRICT SUPREME COURT.

On motion of Mr. WADE, the amendments of the House of Representatives to the bill (S. No. 184) to define more clearly the jurisdiction and powers of the supreme court of the District of Columbia, and for other purposes, were

referred to the Committee on the District of Columbia.

INTER-STATE INTERCOURSE.

Mr. SUMNER. I now move that the Senate proceed to the consideration of House bill No. 11.

The motion was agreed to; and the Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. No. 11) to facilitate commercial, postal, and military communication among the several States.

The PRESIDENT *pro tempore*. On this question the Senator from Maine is entitled to the floor.

Mr. MORRILL. When I gave way yesterday to a motion that the Senate proceed to the consideration of executive business, I had made up my mind that the Senate had perhaps been troubled with the consideration of this question about as long as it ought to be, and that though I considered it a question of very great importance, I had on one or two occasions done enough to call the attention of the Senate to the subject. I think that after so much I ought, perhaps, to content myself with recording my vote against the measure without trespassing longer upon the Senate; I will therefore make no further remarks.

Mr. CLARK. I move to amend the bill by striking out the word "connections" at the end of line five and the beginning of line six. I make the motion because the word "connections" in that part of the bill is ambiguous. It is explained as meaning a portion of the road; that is, the connections, the side-tracks, of the road; but it may have the meaning of other roads connecting with the road; and to prevent any such construction as that one railroad has a right to run over another road connecting with it, I move to strike out that word "connections," because if it can run over its own road, that means its entire road, the whole road.

Mr. CHANDLER. I see no particular objection to the amendment if the Senator insists upon it, but I can see no necessity for it.

Mr. SUMNER. I hope there will be no amendment to the bill. It has been thoroughly considered in the House of Representatives and in the Senate during several sessions. It is very brief, quite to the purpose, and I do not think it needs amendment. Certainly we cannot afford to strike anything out.

Mr. CLARK. That may be the opinion of the Senator from Massachusetts. The bill is truly very brief. The Senator says it does not need amendment. I think on the whole it does need it, and I should be glad to make it more acceptable. That was the occasion of my moving an amendment to it. I think the word "connections" as there used is very objectionable, and I hope that it will be stricken out.

The amendment was agreed to.

Mr. CLARK. I propose to amend the bill further—

Mr. JOHNSON. Will the Senator permit me to call his attention to a word in line nine?

Mr. CLARK. Certainly.

Mr. JOHNSON. The honorable member has stated his reason for striking out the word "connections," in lines five and six, and in that the Senate have concurred. It seems to me to be necessary also to strike out the word "connect," in the ninth line, for it goes on to say "and to connect with roads of other States, so as to form continuous lines." How is that to be done?

Mr. CLARK. I do not think it worth while to amend by striking out the words "to connect" there, because if a road can connect with another I am willing that it should do so.

Mr. JOHNSON. I have no objection to that either; but suppose it cannot do so by its charter?

Mr. CLARK. I was about proposing this amendment to be added at the close of the bill:

Nor shall it be construed to authorize any railroad to build any new road or connection with any other road, without authority from the State in which such railroad or connection may be proposed.

Mr. JOHNSON. I have no objection to that. That will do.

Mr. CHANDLER. I hope that amendment will not prevail. It is well known that the State of New Jersey has refused not only to permit connections to be made, but to permit roads to carry freight or passengers within the State. The object of this bill is to control the commerce passing from one State to another. The State of New Jersey has seen fit to levy a tax upon the transit both of passengers and of freight through the State. She has assumed a power that we believe she does not possess; nor did she believe it, because in the very contract which she made in this railroad monopoly in New Jersey was a stipulation that in a certain event, to wit, in the event of Congress authorizing any other road or route, then the bonus which she was receiving from this corporation should cease and be void. The very object of this bill is to control the commerce passing through any State; if you please, the State of New Jersey or any other State. The Constitution says that Congress shall have power to regulate commerce with foreign nations and among the several States. Now, if the State of New Jersey possesses the power to levy a small tax upon passengers and upon freight passing through the State, she has the power to levy a larger tax. If she can levy ten cents on every passenger going through she can levy ten dollars. We deny the power of a State to tax property in transit or passengers in transit through her borders. Now, sir, if this amendment should prevail, of course it would destroy the object of the bill. I hope it will not prevail.

Mr. CLARK. I did not so understand the object of the bill to be that if this amendment prevailed it would destroy it. The amendment simply is, that this act shall not authorize the building of a new railroad or connection of railroad within a State without its authority. Now, is the object of the bill, and the confessed object of the bill, to authorize anybody to build a railroad within a State without the authority of the State?

Mr. CHANDLER. That is not the intention.

Mr. CLARK. Then the amendment does not destroy the object of the bill. I understood the object of the bill to be to authorize the carrying of the mails and of freight on the railroads which are built, from one State to another. That is a very different thing from the authorization of the building of a railroad. Now, while it is entirely true, under the provisions of the Constitution, that you may regulate commerce between the States, or from State to State, I take it that does not authorize you to build the avenues of commerce. That is a very different matter; and to guard against any such construction of the bill, and to put it in such a shape that it might command some votes, I proposed this amendment. I do not desire to take up the time of the Senate in debating it. I ask for the yeas and nays upon it.

The yeas and nays were ordered; and being taken, resulted—yeas 24, nays 15, as follows:

YEAS—Messrs. Buckalew, Clark, Cowan, Cragin, Creswell, Davis, Fessenden, Foster, Grimes, Guthrie, Harris, Henderson, Hendricks, Johnson, Kirkwood, Lane of Kansas, Morrill, Nesmith, Norton, Riddle, Salisbury, Van Winkle, Willey, and Williams—24.

NAYS—Messrs. Anthony, Chandler, Edmunds, Howard, Howe, Morgan, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Wade, and Wilson—15.

ABSENT—Messrs. Brown, Conness, Dixon, Doolittle, Lane of Indiana, McDougall, Sprague, Trumbull, Wright, and Yates—10.

So the amendment was agreed to.

Mr. JOHNSON. I would ask the honorable chairman of the Committee on Commerce what was supposed by the committee to be the extent of the authority granted to these companies, which is given in the eighth line of the bill. Each of them is authorized to carry the mail, &c., and all property destined from one State into another State, "and to receive compensation therefor." Is it intended to enlarge the rate of compensation to which they are limited by their respective charters?

Mr. CHANDLER. Does the Senator desire an answer now?

Mr. JOHNSON. Yes, sir.

Mr. CHANDLER. The facts in the case are briefly these: in 1861 and 1862 the Government was pressed for transportation; it could not transport troops and supplies to a sufficient extent through the State of New Jersey by the Camden and Amboy railroad; that company had not the capacity to do it; and a Government quartermaster impressed another railroad and passed over that road seventeen thousand two hundred and forty-eight men, and six hundred and forty-nine horses, and eight hundred and six thousand pounds of freight, and that company received compensation. The Government, in fact, took the road, because it required that road for its transportation. The Camden and Amboy Railroad Company sued that railroad company, and under a decision of the courts in New Jersey, compelled that company to pay back every dollar of money received for the transportation of Government troops and supplies, when they were actually forced by the Government to carry them. The intention of this bill is to compel any State to permit the traffic of other States to pass through it, if there be an open channel. The State of New Jersey has discriminated in favor of her own citizens. She permits her own citizens to take freight over this road and she will not permit the citizens of other States to do so. It is believed to be an unjust discrimination against the citizens of other States, and against the interests of the commerce of the United States. We intend, in this bill, to open up channels of communication for trade between the several States. That is the intention and meaning of it.

Mr. JOHNSON. With due deference to my friend from Michigan, I think he does not understand the question that I put to him. It is not whether one or the other railroad company is to receive compensation, but it is as to the rate of the compensation. It may be that under this bill any railroad company which may carry passengers, &c., "on their way from any State to another State, and receive compensation therefor," may claim the right to charge just what they please. The question, therefore, which I propounded to the honorable member was, what was to be the rate of compensation; was it intended to free these companies from the rates limited by their charters?

Mr. CHANDLER. Not at all; it does not intend to interfere with them in that respect.

Mr. JOHNSON. So I supposed. Then, to make that plain, I propose to amend the bill by inserting after the word "therefor," in the ninth line, the words "not exceeding the rates allowed by its charter." I think there can be no objection to that.

Mr. CHANDLER. I see no particular objection to that amendment, nor do I see any necessity for it. Of course, these companies cannot charge more than their charters authorize them to charge. The amendment seems to me to be superfluous, and I would rather not have it on the bill, because it is not needed.

Mr. HENDRICKS. I wish the attention of the Senator from Maryland for one moment. I do not understand the force of his amendment exactly. If the State legislation was in the nature of prohibition to a particular company to carry freight or passengers, what would be the rate of compensation in that case? Or, suppose the State had failed to prescribe any rate of compensation, what then would it be?

Mr. JOHNSON. At the rate of similar services. This bill is intended to give the right, and I assume now that Congress has authority to pass the act. I do not propose to argue that question; but, assuming the authority to be in Congress to pass the act, the whole effect of the amendment will be that the road is not to charge more than the same rate it is authorized to charge for similar services, or any services in carrying passengers or carrying freight.

Mr. CHANDLER. The State of New Jersey prohibits any but one road from transporting at all, and of course does not permit any compensation; and I am rather of opinion, on reflection, that the amendment of the Senator from Maryland would have the effect to destroy the bill.

Mr. JOHNSON. That is certainly not my purpose. If I had designed to defeat the bill, I should have tried it by an open warfare and not by a guerrilla warfare. The honorable member might as well apply that suspicion to the member from New Hampshire.

Mr. CLARK. Oh! don't bring me in.

Mr. JOHNSON. "Misery likes company." [Laughter.] All I want to do is to guard against giving to these companies the right to charge whatever they may think proper, and to limit them to a charge in the nature of a *quantum meruit*. They are all now limited in their tolls, and the whole effect of the amendment is to say that for the duties they are to perform under this act they shall not exceed the rates of compensation fixed by the State law—that is all; not to say that they shall not be compensated. To apply it to the case which the honorable member seems to suppose is the only case to which the bill applies—but that is a great mistake, for it applies to all the roads in the country—the Amboy railroad in New Jersey is authorized to charge a certain rate of tolls for carrying passengers and for carrying freight; any other company there who may be authorized, if it connects with the Amboy road, to carry freight or carry passengers through, are to be limited to the same rate, or if the Amboy road is to take the freight and the passengers from the termination of the connecting road, they shall not be at liberty to charge more than their charters authorize. I assure the honorable member I have not the slightest desire to defeat the bill by any such movement as this.

The question being put, there were, on a division—ayes 17, noes 15.

Mr. CONNESS. Let us have the yeas and nays.

The yeas and nays were ordered.

Mr. HENDRICKS. I wish to suggest to the Senator from Maryland that I presume no objection will be made to his amendment if he will add the words "in all cases where the State laws prescribe the rates."

Mr. JOHNSON. I have no objection to that.

The PRESIDENT *pro tempore*. The amendment will be so modified.

Mr. STEWART. I do not see the object of the amendment. Of course we do not say in this law that these companies may charge higher than the rates allowed by their charters; and those laws of course would control in this matter. We have not undertaken to abrogate those laws by any language I can see in this bill. There is nothing in this bill to be so construed.

Mr. JOHNSON. If that is so the honorable member ought to vote for the amendment so as to make it clear and certain.

Mr. STEWART. I think it is clear now.

Mr. JOHNSON. It may be contended, and has been contended, that Congress has the authority of itself to construct roads or to authorize roads already constructed to carry on commerce between the States; and it may therefore be said that when Congress attempts to do that, and authorizes the charging of compensation without saying how the compensation may be regulated, they may charge whatever compensation they may think proper to ask and the public may be willing to submit to. The whole effect of the amendment is to limit them in their charges of compensation to the charges to which they are restricted by their respective charters.

Mr. EDMUNDS. I would like to ask the honorable Senator from Maryland whether the charter of the Delaware and Raritan Bay Railroad Company—I believe that is the name—provides rates of toll which it is authorized by law to take.

Mr. JOHNSON. I do not know. I never saw the charter.

Mr. CRESWELL. I judge it does for the purposes of the several roads of which that road is composed—certainly for local purposes.

Mr. EDMUNDS. This bill provides, of course, for through transportation. It has no effect to operate upon internal commerce, and ought not to have any, because that belongs to

the State; but for through transportation across one State, between two others, it does provide. Now, then, unless the charter of any road which may come within the provisions of this bill does provide rates of compensation, if the amendment which is proposed by the Senator from Maryland is adopted the company will be restricted to taking in effect no compensation at all, because it is limited to what is authorized by that particular State, and that particular State does not happen to authorize any. If I understand the regulations in New Jersey, this particular line of road which it is sought to open to inter-State commerce has no lawful authority at all for any price to carry through passengers and through freight, and it is desired to give that lawful authority and to allow it to receive a reasonable compensation. I am very much afraid, indeed—I dare say it is not the object of it—that the adoption of this amendment would be the substantial defeat of the object which it is desirable to accomplish.

The question being taken by yeas and nays, resulted—yeas 17, nays 19; as follows:

YEAS—Messrs. Buckalew, Cowan, Cresswell, Davis, Fessenden, Foster, Guthrie, Harris, Henderson, Hendricks, Johnson, Morrill, Norton, Riddle, Saulsbury, Van Winkle, and Willey—17.

NAYS—Messrs. Anthony, Chandler, Clark, Conness, Edmunds, Grimes, Howard, Howe, Lane of Indiana, Morgan, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Wade, and Wilson—19.

ABSENT—Messrs. Brown, Cragin, Dixon, Doolittle, Kirkwood, Lane of Kansas, McDougall, Nesmith, Sprague, Trumbull, Williams, Wright, and Yates—13.

So the amendment was rejected.

The bill was reported to the Senate as amended, and the amendments made as in Committee of the Whole were concurred in.

Mr. CRESWELL. I renew the motion which I made, and which was acted on yesterday in committee, when the Senate was not at all full, which I deem important to this bill. It is to insert as a new section:

SEC. 2. And be it further enacted, That Congress may at any time alter, amend, or repeal this act.

The only object of this amendment is to retain in the future the entire control over this system of legislation. We are about entering on a new field; we are not apprised as to what may be the precise results of this kind of legislation, how it may affect commerce, how it may affect the great railroad and transporting interest of the country, and this amendment simply proposes to retain in the hands of Congress as against any interest, vested or otherwise, which may be created by this bill, the right hereafter to control it.

Mr. CHANDLER. I have not the slightest objection to the Senator's amendment. I do not think it has any effect one way or the other; but I have no objection to it. Congress has the power which this amendment calls for, any way.

The amendment was agreed to.

The PRESIDENT *pro tempore*. The question is, Shall the amendments be engrossed and the bill be read the third time?

Mr. SHERMAN. I should like to have the bill read as it now stands amended.

The Secretary read it, as follows:

Whereas the Constitution of the United States confers upon Congress in express terms the power to regulate commerce among the several States, to establish post roads, and to raise and support armies:

Therefore, Be it enacted, &c., That every railroad company in the United States, whose road is operated by steam, its successors and assigns, be, and is hereby, authorized to carry upon and over its road, boats, bridges, and ferries, all passengers, troops, Government supplies, mails, freight, and property on their way from any State to another State, and to receive compensation therefor, and to connect with roads of other States so as to form continuous lines for the transportation of the same to the place of destination: *Provided*, That this act shall not affect any stipulation between the Government of the United States and any railroad company for transportation or fares without compensation, nor impair or change the conditions imposed by the terms of any act granting lands to any such company to aid in the construction of its road; nor shall it be construed to authorize any railroad company to build any new road or connection with any other road without authority from the State in which such railroad or connection may be proposed.

SEC. 2. And be it further enacted, That Congress may at any time alter, amend, or repeal this act.

Mr. SHERMAN. Mr. President, I do not see any object whatever in passing this bill as it now stands. I have been disposed to vote for the bill, and will do so yet, but I cannot for the life of me see now what power it would confer upon any railroad company. As I understand it now, the companies will have such power as the States give them, and no more. I really do not see any object in passing the bill in that shape. If Senators can show me that this bill confers upon any existing corporation any right that it does not have under the State charter, I should like to know what it is. I am familiar with railroad charters and railroad laws, and I want additional powers, if possible, conferred on certain railroad companies, so as to expedite the transportation of supplies and goods from one part of the country to another. I am very much in favor of the object of the bill, but it seems to me that it has been so garbled and destroyed that it is now of no account.

Mr. MORRILL. The bill is undoubtedly shorn of one of its features, which was the objectionable feature to me. A company cannot do what was undertaken to be done by the bill originally without the consent of the State authorities. That was the chief objection to the bill in my mind. It can do now all that it could have done before with the consent of the States. That is all there is of it.

Mr. SHERMAN. Could they not do this at any rate without this bill?

Mr. MORRILL. Without the consent of the States, of course there was no authority in the General Government by which the thing could be done at all.

Mr. SHERMAN. The Senator has examined the bill, and I ask him what power it gives to any railroad corporation not conferred by the charter of the State.

Mr. MORRILL. As against the State?

Mr. SHERMAN. Yes, and against anybody.

Mr. MORRILL. As against the State, none at all.

Mr. CLARK. I cannot say what was designed by the framers of the bill; but it seems to me that the bill now secures all that its friends say that it was intended to secure, that is, the right to carry freight, passengers, troops, Government supplies, mails, &c., over the road. That it does now. The amendment which was adopted on my motion simply provides that you shall not enter into a State and build a new road or a new connection without the consent of the State. I understood the object of the bill outside to be to authorize some railroad in New Jersey to carry freight, mails, and supplies which now was prohibited from carrying them. If there is any force in such legislation, this bill now authorizes them to do that just as much as before the amendment was put there. The amendment has not touched the main features of the bill; it has simply put on it a guard that you shall not build a new road in any State without getting the consent of the State. It seems to me it has power enough, though some of its friends seem to think it has not.

Mr. SHERMAN. What I desire, what the people of the country desire, is some power in the General Government to prevent a State from lying in the path of a great public improvement demanded by the United States. I can state a case. Ohio is an agricultural State; the chief value of its products depends upon getting a market on the sea-board in the New England and middle States. By the policy of the State of Pennsylvania all the railroad power of that State is concentrated in one great corporation, with an annual income now of from fifteen to seventeen million dollars. The State of Ohio has thrown open its territory, and all the western States have thrown open their territory, to the building of vast nets of railway, intended to benefit the West and the East also. The great State of Pennsylvania, stretching from Lake Erie almost to the southern border of Ohio, lies there in the way, controlling and preventing the commerce of this great country from going

to the sea-board. We had almost a little war there at Erie about the connection of two railroads, until finally, I think, somebody in Pennsylvania was either bought off or coaxed off and a connection was made which enabled us to pass along the lake shore to the State of New York. Recently an effort has been successful in the courts of Pennsylvania to prevent a corporation from building a new line of railway through that State, and now the great corporation of Pennsylvania to which I refer is engaged in preventing a connection between Washington city, the capital of the country, and the great West. A line of railroad was chartered at one time from Pittsburg through Connellsville to the Baltimore and Ohio railroad, which would shorten the distance between this city and Pittsburg for every one traveling to the West perhaps one hundred miles, or it may be less than that; but this corporation lies in the way of this improvement and prevents its construction.

Now, I believe there is power in this Government somewhere, under the authority to regulate commerce, or the authority to regulate the postal service, or in some of the great powers conferred upon Congress, to prevent a State from lying thus in the way of the commerce of this country. It is manifest that this bill in its present shape, which requires the consent of the State to the construction of any work through that State, utterly defeats the object of the framers of the bill. It will be ineffective; it will only deceive the public; it will only deceive the friends of the bill. I do not see, therefore, any object in passing it. If, however, the friends of the bill think there is any virtue in it, I am still willing to vote with them for it; but I cannot myself see any, because the amendment that has been adopted requiring the consent of the State to any authority exercised within the limits of the State, by any railroad company, destroys any virtue there is in the bill.

Mr. CLARK. My amendment does not go that length. It simply provides that a new road or new connection shall not be built without the consent of the State.

Mr. SHERMAN. Then the object which I have in view and which the people of Ohio have in view in supporting this bill is confessedly defeated; that is, there is no way to aid any corporation or any individual in opening new channels of intercourse from the West to the East.

Mr. GRIMES. Do I understand the Senator to say that he wants Congress to confer on corporations the power to build railroads?

Mr. SHERMAN. If I had my way I would organize a corporation under an act of Congress to build a line of railway in the most direct possible manner from the city of Washington to the city of New York, and from the city of Washington to the West, and as many of them as are necessary for military purposes.

Mr. GRIMES. If my opinion was that it would be to the advantage of the public and my own individual advantage to build a road in the State of Ohio within ten miles of and parallel with the Pittsburg, Fort Wayne, and Chicago railroad, ought the Government to do it? Where is the line to be drawn between the case the Senator puts and the one I put?

Mr. SHERMAN. The Government of the United States would only be justified in building railroads or exercising extraordinary authority under the military and postal powers in cases where it was manifest that the States prevented the building of railroads. In the State of Ohio the case put by the Senator occurs. Anywhere within that State any five men may build a railroad if they will risk the investment.

Mr. COWAN. And buy the right of way.

Mr. SHERMAN. No; we give them power to condemn if necessary, and we do not restrain them except by their own self-interest; and what has been the result? In the State of Ohio we have a network of railways running in all directions through that State, many parallel to each other. I do not think there is a county in the State of Ohio that is not now sup-

plied with one or more railroads, checking the State all over. It is true some of the investments are very poor; but still we have the railroads, and they are of vast public service; but when they come to our eastern border we are there met by three great corporations, each of them of mammoth proportions, that refuse to let the products of the West go to a cheap market in the East without some unreasonable restriction. Take the case of the Pennsylvania Central railroad, the corporation to which I have already alluded. There are three lines of railroads concentrating at Pittsburg, running through the State of Ohio, one from Cleveland, one from Chicago, one from Cincinnati, and a great number of feeders running into these three roads. In this way the travel and the produce of any part of Ohio can readily reach Pittsburg; but how is the vast produce concentrated at this one important point to get from Pittsburg to Philadelphia, or any other market? Only over the Pennsylvania Central railroad; there is no other way for the vast commerce of the great West concentrated there to reach the eastern market; and that company has now an annual income of \$17,000,000. They compel the products of every portion of the West which reach Pittsburg to go over their road; and they will not allow anybody else to build a railroad running from Pittsburg northwardly to get to New York or southwardly to get to Baltimore. They control, in a great measure, the legislation of Pennsylvania, and they lie right in the path of the commerce of this country.

It seems to me that since we have exercised some pretty strong powers, the time has arrived when, if we can, we should find in the Constitution some power to redress this evil. Every portion of this country labors under the evils growing out of this system. In New England they have to pay higher prices for the produce they consume. In New York they are crippled also, because the city of New York lies in a little peninsula stretching down south of the great body of the State of New York, and the recent action of this company in the State of Pennsylvania has prevented the construction of a new line of railway along the northern border of the State of Pennsylvania to reach the city of New York. The city of Baltimore is cut off from connection with us, and with the western portion of the State of Pennsylvania; and this corporation compels the Baltimore and Ohio railroad to creep down along and over the most difficult mountains in the United States to reach Wheeling and the southern part of the State of Ohio, while it has been considered, I believe, for more than a hundred years, since the time of Washington, that the natural outlet for the commerce of the West to the East is through the gap of mountains from Pittsburg to Cumberland. That was the route that was traveled by Washington in his early adventures to the West. It was the great line of travel long before any one of these railroads was made; it was the line of the old Pennsylvania wagons; it was the line of the old Cumberland road which I traveled in a stage and crossed the mountains before this railroad was built. And yet that line pointed out by nature is blocked up by a corporation.

It seems to me that if there is any power in the Government to prevent this, it ought to be exercised. I do not think the passage of this bill will do any good now, because it has been so cut up; and if, as my friend from Maine has urged in his argument, there is no power in the General Government to control or regulate the building of a railroad within a State, as a matter of course we shall have to submit to it until the people of the great State of Pennsylvania rise up in rebellion against the authority of this corporation.

Mr. COWAN. Mr. President, I think the apprehensions of the honorable Senator from Ohio in regard to the action of Pennsylvania in this behalf are entirely unfounded. It is true that she has one great railroad, and has been very careful of it and very liberal toward

it, and would be very unwilling to bring it in competition with another before the proper time; but when the time comes that the trade and travel of the country demand another outlet, it will be made and be made promptly.

I am opposed to this bill. Mr. President, because I think it is clearly a usurpation of power on the part of the General Government which it does not possess. If we can enlarge the chartered powers of a railroad lying within a State, we can diminish those powers. If we have any power over them whatever, we have all; or, at least, I know nowhere where there is to be found any limit. But there is a mischief, and a mischief which existed at the framing of the Constitution, and which was provided for, not affirmatively, by clothing this Government with the power to charter railroads, but in a negative way. What is the mischief alleged here? It is that certain States levy taxes to put into their State treasury through the medium of their railroads, and they levy these taxes upon the inter-State travel and trade. That is the mischief, as I understand, which is complained of. I am not certain that the mischief has risen to that height which would render it proper that we should interfere, but I am rather inclined to think that I would vote for a bill which would prevent a State from committing that mischief.

Under the original Articles of Confederation the citizens of all the States were only in the several States to be subjected to such burdens, themselves and their trade and travel, as the citizens of the State within which they were at the time were subjected to. That was found to be mischievous, because the citizens of a State lying, as Pennsylvania does, across the line of principal travel from the East to the West, or lying, as the State of Maryland or the State of New Jersey does, between the northern and southern travel, might well afford to pay this tax, provided all the strangers who passed through their State were obliged to pay it too; and I think it was the defective nature of that provision which gave rise to the present power of the Constitution given to the General Government to regulate commerce. But certainly that power does not extend so far as to enable Congress, in despite of the States and against their will, to make ways of commerce. However much it might operate upon common carriers and upon the right of the States to impose improper burdens upon trade and travel, it cannot extend to the chartered powers of turnpike and railway companies, because to say that it does is to say that the whole is vested in us; and, Mr. President, I know of no greater mischief that could happen this country than to bring all the railroad companies in the country here to have their charters either enlarged or diminished. I do not know anything which would be more likely to undermine the virtue of Congress and sap the very foundations of our institutions than to bring all the capital of the country here to buy special privileges from us and combine together to get them.

Mr. HOWE. I know of one thing that would be, in my judgment, a little more injurious than that. That might hurt, but not so bad, I think, as it would hurt to concede the power to any one State of this Union to actually prohibit commerce from passing through its limits from one State to another. The power which the opponents of this bill concede to the State of New Jersey is a power to throw a gate across one or two or all of its highways, and to say that commerce between the States on either side of it shall not pass over those highways. If New Jersey has that power, Ohio has it, and Ohio may at the very next session of her Legislature, or her railway companies themselves may, if they see fit to do it in the interests of Ohio agriculture, stop every pound of freight from passing through that State, or may levy a toll upon it, in the interest of her production, which would be ruinous to the agriculture of the country. Ohio can at the very next session of her Legislature impose such restrictions upon the railways of that State as would inevitably not only starve the East to

death, but would suffocate the West, would just block up the product of the Northwest where it is raised, and would leave the East, where it is consumed, without it, and I think that would be a little more injurious than the corruption which would follow from assuming the simple jurisdiction that is asked for here, which is no more in the world than just to say, by the authority of the nation in the interests of commerce, that these bars put up by the State of New Jersey over one of its highways shall be let down. That is all. It is not to build any railway nor to add any new privileges nor make any new corporation.

Mr. COWAN. There is power to correct the evil of which the honorable Senator complains, to a great extent, but this bill does not correct it. This bill does not prevent the States from levying taxes upon the trade and travel of other States. It steps aside, away from the mischief, and undertakes simply to say to all roads, "Your power shall be enlarged so as to enable you to do things which you are not authorized to do by the terms of your original creation." It does not forbid the State of New Jersey from levying taxes to go into her State treasury through the medium of the Camden and Amboy railroad. It does not prevent the State of Pennsylvania from requiring a foreign corporation to pay so much annually for leave to go through the State. It does not forbid the Baltimore and Ohio railroad from levying a tax upon its passengers to go into the coffers of Maryland. It leaves the mischief untouched; but it attempts, in violation, I think, of all State authority and all State right, and without any reason, to enlarge the charter of the Delaware and Raritan Bay Railroad Company through New Jersey, because that is the point of it; and it is upon that charter that it is to operate.

But, Mr. President, there is another thing to be taken into the account. Who has suffered from this "monopoly" in New Jersey, pray? Nobody. The people of the world never before traveled as comfortably, as rapidly, and with the same certainty as they do now across New Jersey upon the Camden and Amboy road. It is a good road, and flourishing, and ought to be, and New Jersey ought to be proud of it. She has fostered it and given it privileges which she has refused to other companies, and it is owing to that very fact, perhaps, that she has it to-day. Now, other companies want to enjoy the fruits of its prosperity and success; and because New Jersey refuses to allow them to do so, in violation of her own compact with her own company, her own creation, we are appealed to to do it. It is not to remove the actual mischief, the mischief which exists as against the Constitution, and which has not been felt, and as against which I believe nobody has as yet sought relief, but it is to confer special power not granted by New Jersey upon one of her own corporations.

With regard to Pennsylvania, who has found difficulty in coming across the Alleghenies by the Pennsylvania Central road? There is hardly upon this continent or upon any other such a road as that; a road upon which a man can travel with the same speed, the same certainty, and at less cost. What might be if there were more of them, and what might be if they were upon more direct lines, is another thing. But, Mr. President, it requires an enormous amount of capital to build a railroad through the mountains, much more than it does over the almost level plains of Ohio. Pennsylvania does not feel herself warranted in creating companies with a large amount of capital to embark in enterprises until she is satisfied herself that they will pay; and the moment that is done, new avenues will be opened; but certainly no one can complain now of the want of avenues to pass through Pennsylvania in any direction almost. As I said before, they may not be direct; I may not be able to get home as directly as I could by an air line; but I know very well that I get home in the same time now that it would formerly take me to go from where

I live to Pittsburg, a distance of about thirty miles, or nearly so. When we take all these things into the account, I think there is no reason that we should complain, either of the monopoly of railroad companies or of the exclusive claim on the part of the States to control the corporations within their limits. All that could have been asked of a State in the first place was to say to the people, "You may travel over the State and you shall travel over the State free from any burden whatever, except perhaps for police or sanitary purposes, but we will impose no burden on you which will put taxes in the State treasury." That was the most that anybody could ask, not that the General Government should enter a State and should parcel out franchises which belong to it as a part of its reserved rights and give them to corporations after the fashion contemplated by this bill.

Mr. President, I have had no apprehensions that this measure could pass, and have therefore sat silently by during the debate; but I beg leave to say, that if this measure is to pass the Senate, it is, even among the important measures which come before this body, the most important by far which has claimed our attention during this session, and will be fraught in the future with results that no man can calculate now. I hope that we shall all pause before we adventure ourselves upon an errand of this kind.

Mr. SUMNER. I agree with the Senator from Pennsylvania that the measure before us is an important measure. Whether it is so transcendently important as he depicts I do not venture to say. But, sir, I believe it is a beneficent measure, and it is important from its very beneficence. The bill as originally presented was complete and simple. I think that met the idea which has been so ably presented by the Senator from Ohio. Were the bill adopted in that form it would be truly beneficent. It would prevent any State from becoming a turnpike gate to the internal commerce of the country. No State, I insist, has a right to take toll on the internal commerce of this great Republic, and it belongs to the United States, under the Constitution, to regulate that internal commerce. It was in the exercise of that power, under the Constitution, and also of other powers, as, for instance, the power to regulate the post office, and also the military power, that this bill was conceived. I say, sir, in every respect it is a beneficent measure. It has been to-day ably and conclusively vindicated by the Senator from Ohio. On other occasions I have at length considered it. I feel now that there is no occasion for any further elaborate discussion. I regret, sir, with the Senator from Ohio, that the amendment of the Senator from New Hampshire has been fastened upon it. I wish it were in our power now to get that amendment off and restore the bill to its original force and virtue. But even with that amendment, allow me to say, the bill is better than nothing. It does something. It goes forth and does battle with that monopoly in at least one State of the Union which was in view when the bill was first presented. It is also a precedent for the future action of Congress, and it will open the way to all that the Senator from Ohio so earnestly desires. I shall be glad hereafter to act with him in carrying out the original purposes of this bill, so that no State shall be able to set itself up in the way of the internal commerce of the country. But considering that the amendment has already been made, that it has been attached to the bill, that we have now passed the stage when it would be advisable to open the discussion of that amendment again, I hope that the Senate will proceed to the final passage of the bill. I have said that though shorn of much of its virtue it is better than nothing; it will do much good. It is even in its present form essentially a beneficent measure. Therefore I hope that it will be adopted.

Mr. DAVIS. Mr. President, it is the right of every State to construct its own system of internal improvements. It is also the duty of

Congress to regulate commerce among the several States; and if one State intervening between two other States stops the commerce between those two other States, the Congress of the United States has the power to open it through the obstructing State. That, I think, is a plain principle; but the power of Congress in relation to internal improvements in an obstructing State so as to open commerce between two other States adjoining the obstructing State is a concurrent power with the power of the State obstructing over its own system of internal improvements. Here is the State of New Jersey. It has a system of internal improvements for itself. Those improvements may be used, and have long been used, for the purpose of facilitating trade between States, it lying between them. The question is this: has Congress the right, under the power to regulate commerce, to enter into the State of New Jersey and seize upon all the system of internal improvements which that State has constructed for the purpose of facilitating trade and intercourse, and to regulate the system itself? I say Congress has no such power as that; but at the same time neither the State of Pennsylvania, nor the State of New Jersey, nor any other State has the power to obstruct commerce among other States, those States lying between those other States.

What, then, is the extent of the legitimate power to regulate commerce as between those other States and the State of New Jersey or Pennsylvania intervening between the other States? It is simply this: if such obstructions be interposed Congress has the power to open up its own system of internal improvements for the purpose of carrying on trade among the several States. Suppose New Jersey by her legislation was to adopt a system of laws that would interdict the States west and east of her from the use of her system of internal improvements for the purpose of commerce among the several States. She might, and I think would, have the power to do so; but that, at the same time, would not leave the difficulty without a remedy. Congress, under its power to regulate commerce among the several States, would have the right to go into the State of New Jersey, or the State of Pennsylvania, or any other State, and construct works of internal improvement necessary to facilitate and to continue the commerce among the different States of the United States.

I think that gentlemen confound the matter. Here is a separate concurrent power on the part of the State of New Jersey and on the part of Congress. New Jersey has the right and the power to establish her own system of internal improvements. She has the right to construct her canals and her railroads. Those canals and railroads may be useful, and may facilitate the commerce between the West and the States east of New Jersey; but because they may be appropriate to such purposes that does not vest Congress with the power, nor has Congress the authority under the power to regulate commerce among the several States, to enter into the State of New Jersey and take possession of and regulate, according to the will and the legislation of Congress, the whole system of internal improvements of the State of New Jersey.

If New Jersey will persist in throwing unreasonable obstructions in the way of the trade of the States east and west of her, the appropriate and constitutional remedy which Congress may employ is to itself establish and construct works of internal improvement across the territory of New Jersey or any other State, that will not only regulate, but facilitate, promote, and stimulate trade among the different States of the United States. If the present condition of things was such that New Jersey was offering obstacles to the trade between the West and New York, so far as that trade was to pass over her territory, she may do so to the extent of imposing her own rates of toll and making her own regulations upon her canals and upon her railroads. But because she exercises her power to that extent that does not

authorize Congress to enter into her territory and take possession of those canals and those railroads and establish different tolls and different regulations upon them from what New Jersey by her own authority has established. If, however, the obstruction is so great as to require the exercise of the authority of Congress under its power to regulate commerce among the several States, the only way in which Congress can exercise that power legitimately is by establishing its own lines of communication, either in the form of railroads or canals, or some other form, by which to regulate and facilitate commerce among the several States.

But, sir, I utterly deny that the original purpose of this bill is constitutional or comes within the legitimate and constitutional power of Congress. The power vested in Congress by the Constitution to regulate commerce among the several States is not a power that will absorb the power of a single State to establish its own system of internal improvements. Such a power on the part of Congress to regulate commerce will not authorize Congress to interfere, in my construction of the Constitution, with the internal system of improvements of any particular State whatever. With this view of the power of Congress on this subject, I think the bill, with the purpose of taking possession of the works of internal improvement of that State, or of any other State, establishing rates of toll and the transfer of freight upon them, or making regulations to exclude the power of the State over its own internal system of improvements, is altogether an unauthorized power when it is claimed for Congress; and that, if Congress is desired to act upon the subject at all, to act legitimately and within the pale of the Constitution, it must act in the form of opening up new works of internal improvement, constructed under its own authority.

I recollect that this question came up thirty years ago in the politics of that day. The State of Kentucky had a large trade to the State of South Carolina. It had to pass that trade over the territory of Tennessee; and in the conflicts of politics between the North and the South, and between the West and the South, it was threatened that the roads and channels of communication for that trade over Tennessee would be closed to Kentucky and to Kentucky traders. It might have been legitimate for the State of Tennessee to close those roads and channels of trade within her own territory; but whenever the State of Tennessee had proceeded to the exercise of that power, then the power of Congress, under the clause regulating commerce among the several States, would have authorized Congress to open new roads and new channels of commerce over the territory of the State of Tennessee for the purpose of regulating trade between Kentucky and other western States and the southern States.

The amendments were ordered to be engrossed, and the bill to be read the third time. It was read the third time.

Mr. SAULSBURY. Believing that it is not in the power of Congress to enact it, I ask for the yeas and nays on the passage of the bill. The yeas and nays were ordered.

Mr. FESSENDEN. I propose to vote against this bill, and I wish to state a simple reason why I shall do so. I concur generally, and almost particularly, with the remarks made by the honorable Senator from Kentucky. I cannot see any reason why, if a State undertakes an enterprise which of itself facilitates commerce and adds a new avenue for it, creates that which did not before exist, and imposes certain conditions, which conditions in themselves may be somewhat burdensome, it having thus created a new avenue, that very fact, when it becomes an avenue of commerce, places the whole thing under the control of the Government of the United States, to regulate, restrict, or destroy it in any way that it sees fit; because the power goes to the whole extent if it applies at all. The State of New Jersey and the State of Maryland, with reference to these charters, have put in a very self-

ish and odious condition, one that they ought to be ashamed of and ought to abandon, in my judgment; but by the very fact of authorizing these railroads and building them, they created valuable property and increased the facilities of commerce in the country. It belongs to them; it is within their own limits; and because it thus becomes an avenue of commerce, I cannot see how that gives all power over it to the Government of the United States any more than if they made a turnpike, any more than if they established a line of coaches to be used for the transfer of passengers and the carrying of packages, &c., in any way. I have been unable to come to the conclusion that we had any constitutional power to meddle with that which belongs to the State exclusively, and which it alone had a right to control. That is the simple reason upon which I shall vote against the bill.

Mr. JOHNSON. I think the honorable member, without meaning it, has disparaged the State of Maryland. The charter of her great road, which has inured so much to the benefit of the whole country, was granted at a time when the railroad system was hardly known. The charter upon the Washington road was granted soon after. It was very much opposed by those who were interested in the turnpike between the city of Baltimore and Washington. They went to the extent of supposing that the charter interfered with rights secured by what they imagined to be a contract between the State and themselves, protected by that clause of the Constitution of the United States which prohibits a State from impairing the obligation of contracts. It has never been denied, as far as my impression extends, that the States having authority to grant charters may exact a bonus. I suppose in Maine charters of that description have been granted upon the condition that the company would pay to the State something in the way of a bonus.

Mr. FESSENDEN. Never, under any circumstances.

Mr. JOHNSON. It has been done in nearly all the States.

Mr. FESSENDEN. Not in the New England States. We do not levy a tax on people living out of the State.

Mr. JOHNSON. I am about to speak of that. Instead of exacting a sum in gross to be paid by these companies to the State as a compensation for the franchise, Maryland has provided that a certain proportion of the fare upon the passengers should inure to the benefit of the State; I think it is one fifth. They might, if they had thought proper, have exacted a sum in gross, which would have been equivalent, if the company had been able to pay it, to an annuity such as they receive by the tax of one fifth of the fares. But the company at that time had no means whatever to meet such a bonus; and it is to be recollected, too, that the State at that period was very much involved. Her credit had been very much impaired about that time, and it was incumbent on her to provide all the means that she could to meet her embarrassments and to place her credit in the condition in which it has almost ever since been. She resorted to a stamp act, being, I believe, the first if not the only State in the Union that has resorted to that tax, with a view to meet her engagements, and it answered the purpose.

Now, as she might have authorized—nobody, I suppose, will doubt that—the company to charge any amount of toll that they might think proper to charge, why is it that she has not a right, without subjecting herself to the supposition of interfering unnecessarily with the rights of the citizens of other States, to provide that she should, out of the tolls, be entitled to a certain percentage of those tolls in the way of compensation for the franchise? The franchise, it was supposed at the time these charters were granted, would be very valuable. I think the charter to the Baltimore and Ohio railroad was granted in 1836. The provision was that two dollars should be paid up on each share on subscribing, running it up

to some six or seven or ten dollars; but it turned out to be a very unfortunate investment to the original stockholders. Every man of them who was not able to bear the loss, and who had any number of shares, lost almost everything he was worth, and it has not been until a comparatively recent period that the work has been a prosperous one. During the whole administration which preceded the existing administration of the road the stock was very low, and no dividends were declared. The State now is receiving, as a stockholder, her share of the dividends upon the amount of stock she holds; I think it is about half a million of dollars—I am not sure that I am right as to the amount—and she receives upon the passenger travel on the road from here to Baltimore one fifth of the amount which she authorized the company to charge. But she might have authorized the company to charge the entire sum which they now charge without exacting anything, and that would not have operated more prejudicially to the people of the other States than the provision by which she secures to herself a portion of those charges.

I concur with the honorable member from Maine in thinking that, looking to the relative condition in which the States stand toward each other, and, more especially, looking to the relation in which we individually stand to each other as citizens of a common country, so far from throwing in the way any impediment to intercourse, the best thing the States can do, if they are able to maintain themselves and at the same time do it, is to open all the avenues at once; but if they cannot do that, without securing some compensation for themselves, then it would seem to be better that we should have even that mode of intercourse than have no mode of intercourse.

I merely rose because I was apprehensive that what fell from the honorable member from Maine might be considered as justifying the inference that Maryland had done something that she ought to be ashamed of; and I think the honorable member used the word "ashamed." She is not in the habit of being ashamed of anything she has done. Her people may do wrong, and they may, in this instance, have acted, perhaps, erroneously; but that I doubt. I do not think she did, in the beginning; but, acting from a conviction that what she did she had a right to do, and, perhaps, continuing in that impression up to the present time, even the authority of my friend from Maine will not be sufficient to make her ashamed of the condition in which she stands now in relation to her sister States, and of the relative condition in which her citizens stand to all the citizens of the country, and, among others, to the citizens of the State of Maine. I think the citizens of that State, perhaps, do not pay a greater rate in traveling over the route from here to Baltimore than they pay at home. I do not know what is the limitation upon their charges. They have a limitation, of course. The charge here is three or four cents a mile, I believe—I forget the exact amount.

Mr. SHERMAN. About four cents; the fare to Baltimore is \$1 50.

Mr. JOHNSON. It used to be \$2 50.

Mr. FESSENDEN. That is a larger proportion than is charged in New England.

Mr. JOHNSON. But the honorable member forgets that Maryland was a slave State.

Mr. FESSENDEN. I do not forget that.

Mr. JOHNSON. He would seem to forget it, practically. If Maryland had been, as Maine has been from the first, a free State, she would have had a population now as numerous and as enterprising as is the population of the State of Maine.

Mr. FESSENDEN. How many Representatives have you?

Mr. JOHNSON. We have five now, counting three fifths of the negroes.

Mr. FESSENDEN. That is all we have.

Mr. JOHNSON. I know that; but you have not our negroes. The honorable member says that is all they have; but we ought to have more. He is in a very inhospitable part

of the country. As far as climate is concerned, and as far as the wealth of the soil is concerned, I do not think his State altogether equal to the State of Maryland, to say nothing of our fine oysters and soft crabs, and last, but by no means least, terrapins and canvas-back ducks. [Laughter.] I think the honorable member from Maine, with all his attachment to his native State, just at this season of the year particularly, would like to spend two or three weeks in a portion of Maryland where he could get delicacies which are not to be found in the State of Maine. [Laughter.]

Mr. GRIMES. They have cod-fish there.

Mr. JOHNSON. Cod-fish! That is enough to kill any stomach, and I do not think my friend deals much in that line. [Laughter.] They have everything that is wholesome—that is manifested in the appearance of her sons; and everything that makes gallant men—that has been exhibited in this war both upon the sea and upon the land; but give us fair play—and now we have it—and my friend from Maine will soon see, no matter what may be the rate of apportionment, that the Representatives of Maryland will outnumber the Representatives of the State of Maine.

Mr. FESSENDEN. I only wish to say to my friend that I had no idea by the simple remark that I made of bringing out such a course of observations as he has made all in very good nature. I concede that if everything else in Maryland were to be on the same level with her soft crabs and terrapins, I should think much better of the State, perhaps, than I do now. [Laughter.] But I did not mean to say anything in any way derogatory to that State; nor do I of any State in the Union. Maryland has very much to be proud of, and I hope she will have very much more to be proud of, and I think she will in the future. But, sir, with regard to this individual thing, I merely expressed my opinion that the act was a selfish one. It is levying contributions on the people of other States, wherever it is undertaken. It is what I call a mean thing; and if the State of Maryland is not ashamed of it, I repeat, I think she ought to be. That is only my opinion. I hope she will by and by, on reflection, become satisfied that it is not exactly the thing to do. But I do not think we have a right to meddle with it.

Mr. CRESWELL. I should like to ask the Senator from Maine whether in granting these acts of incorporation in the State of Maine, the State reserves the right to tax the companies and their business.

Mr. FESSENDEN. No, sir; we tax nothing but the shares. We tax railroad stock like any other property, and we tax the real estate held by the railroad company; that is to say, the buildings, &c., according to my recollection; but we do not tax the charter; we do not charge anything for the charter; we do not ask any bonus, or anything of the kind. We are glad enough to get men to build railroads there if anybody will undertake them. They are not very profitable. We tax the property of railroads precisely as we do any other property. For instance, if a railroad owns real estate it is taxed like any other real estate. If individuals own stock in a railroad company it is taxed like the stock of any other company, according to its value. I do not know of any other taxes imposed upon them.

Mr. CRESWELL. I supposed that was the case. I desire to add to what my colleague has said with reference to the disposition manifested by Maryland, that she has done a little more than merely grant privileges to persons who were willing to construct these roads. The State of Maryland herself has invested nearly thirty-six million dollars in the construction of these works of public improvement, and of that sum she has lost absolutely over twenty-seven million dollars. She has imposed no restrictions in the way of taxation upon the great line of the Baltimore and Ohio railroad, which has now invested within her limits some twenty million dollars, save the imposition of one fifth of the receipts from

passengers between the city of Baltimore and the city of Washington. In the normal condition of affairs that yields her the sum of from seventy-five to ninety thousand dollars a year, which is less than her usual rate of taxation would amount to by two thirds.

Mr. GRIMES. She does not tax the property of the company.

Mr. CRESWELL. She does not tax the property of the railroad company in any way except by the imposition of this one fifth of the fare between Baltimore and Washington. Not only that, but the State of Maryland has shown a disposition to abandon even that as rapidly as her financial interests will permit. She has pocketed, passed to profit and loss, the loss upon her internal improvements, of \$27,000,000, and has already granted a charter to a road in competition with this very line of road, from Washington city to the Point of Rocks, upon which she has reserved no such tribute. All the travel of the western States, when this new line of road is constructed, which is now under construction, will pass from Washington to the western States without any such reservation of any portion of the fare.

Mr. FESSENDEN. Then that shows that the State of Maryland is ashamed of it.

Mr. CRESWELL. Not at all. It only shows that the State of Maryland is willing to do even more than she has heretofore been able to do, with a view to promote travel and commerce between the States. She is not ashamed of it. She has a perfect right in lieu of all taxation to exact some such compensation as this.

Mr. FESSENDEN. Exactly. I do not feel inclined to go into this controversy, and if Senators do not like this expression I made use of I will take it back. Of course I do not want to say anything derogatory of any State; but with regard to that individual act, I think it was without consideration and unjustifiable. The Senator says they impose no taxes upon their roads. My objection is that they make up what they give to their own citizens or persons interested in that road by levying contributions upon the people of other States for going through their territory.

Mr. CRESWELL. The contribution is levied on all passengers, as well those of the State of Maryland as those of any other State, and on passengers from Baltimore city, a point within the State of Maryland, to the city of Washington, which is also within the old jurisdiction of the State.

Now, sir, I have only to add that if gentlemen understood what efforts the State of Maryland has made to maintain herself in the different contracts she has voluntarily made for the purpose of constructing these works of internal improvement, I do not think we should ever hear these expressions of "ashamed," &c., bandied about the Senate. No State in the Union has voluntarily submitted to greater burdens than has the State of Maryland. For twenty years and more, ever since these great works of internal improvement were started in the State, our people have literally groaned under a weight of taxation which to them has been almost insupportable. The question of repudiation was raised there once, but our people scorned it, and we submitted to taxation in every shape. In 1845 a committee was appointed of the ablest financiers of the State, who grasped at every means of raising money by taxation upon our people, and we have submitted to it. We have fortunately been able, by submitting to these extraordinary charges and burdens, to extricate ourselves from our troubles, and the State of Maryland does not owe one dollar to-day for any public work to which she does not respond regularly in the payment of the interest. I only say this in justice to my State.

Mr. SHERMAN. The friends of this bill still think that the provisions in it will be useful for the purpose declared in the preamble of the bill, and I therefore, in pursuance of my declarations, will vote for it; but I must confess that in my opinion the principle upon

which the bill is founded will meet with difficulty the moment the bill comes before the courts. As a general principle, I do not think it is within the power of the Government of the United States to confer upon any corporation, the mere creature of a State, any power not granted by the act of incorporation. The very moment the United States undertakes to extend power to any corporation created by a State that is inconsistent with the act of incorporation, the act itself becomes void. It is a well-known principle of municipal law that no corporation can exercise a power not conferred upon it by its creator. It is simply a creature of law, and any attempt by a power outside of the State which created the corporation to confer upon it additional powers will only defeat itself. No corporation can exercise any power that is not conferred upon it by the State which creates it or by the power that creates it. That is a principle of law that I believe any corporation now existing attempting to exercise or do anything under this law that they cannot do under their charter will meet at the very outset. Still, as Senators think that it may have some good effect, I shall vote for the bill.

I desire also to say a word on account of an expression I dropped the other day in the Senate in regard to the State of Maryland. I am satisfied that the Baltimore and Ohio road is not subject to the criticism I made here the other day, that it attempted to use its power to prevent communication between Washington and the West, because since I made that statement I have had information furnished me on the subject, and am entirely satisfied that the Baltimore and Ohio road are now doing all they can, in connection with an existing corporation in the State of Pennsylvania, to open up new channels of communication from Pittsburgh to the Baltimore and Ohio railroad. If the State of Maryland will go one step further and authorize the construction of a railroad from Washington directly toward New York, and also authorize the construction of a railroad from Harper's Ferry, or from Martinsburg, across the State of Maryland in that region of country, I think it will do all that any State could reasonably demand of it.

Mr. CRESWELL. To what point does the gentleman desire a road?

Mr. SHERMAN. From here to the Point of Rocks.

Mr. CRESWELL. That has been already authorized.

Mr. SHERMAN. I said that I wished to withdraw a remark that I made in reference to the Baltimore and Ohio railroad.

Mr. CRESWELL. And now the gentleman speaks of a road from Martinsburg to some other point.

Mr. SHERMAN. The Senator was not listening to what I said when I rose, and therefore I will repeat that I withdraw a remark I made in reference to the Baltimore and Ohio road the other day, and I believe that road is endeavoring to facilitate communication to the points I desire most to accomplish; that is, to make a line of road from its road to Pittsburgh. If the State of Maryland will go one step further and authorize the construction of a railroad, so far as it can, across the State of Maryland, from this point toward Philadelphia, and open up a new line of communication in competition with one of her existing lines, I think she will have done all that any of the States could demand of her.

The State of Pennsylvania, a great, powerful, and wealthy community, has stood more in the way of the railroad system than probably any other State, with perhaps the exception of New Jersey. We in the West are not affected so much by what is called the New Jersey monopoly as we are by the policy of the State of Pennsylvania. Those who travel from here to the New England States, passing through New Jersey, are constantly affected by it and constantly complain of a single road in New Jersey which has a monopoly of all the railroad travel. The complaint that has been

made with us has been that the State of Pennsylvania has concentrated in a single corporation all the powers conferred by their law upon any railroad. The Senator from Pennsylvania says that Pennsylvania is a very prudent State and will not charter new companies until they are shown to be profitable. I can only say that if the State of Pennsylvania will allow other communities and other people to build railroads in that State where they think they will be profitable, they taking all the risk, there will be no further complaint made of that State. But until then, as long as she confers upon one corporation all the powers she grants to any railroad, there will be continual complaints; and when she endeavors to compress into one single channel of communication all the vast commerce of the West there will be continual complaint.

Mr. COWAN. I do not wish to make any extended remarks in reply to the honorable Senator in his strictures upon Pennsylvania; but I expect, toward the latter part of the week, or perhaps the beginning of next week, when the affairs of Sir Morton Peto & Co. are wound up, the honorable gentleman will be better informed; and I have no doubt he will take it all back, as he has done in the case of Maryland.

Mr. SHERMAN. In reply to the allusion to Sir Morton Peto, I will say that there was another remarkable case where one of its own corporations and other persons connected with an important railroad, the Atlantic and Great Western railroad, were prevented by the State of Pennsylvania from expending perhaps twenty million dollars in that State in the construction of a new line of railroad. The companies had actually been organized for the purpose of constructing a new line of communication along the northern border of the State of Pennsylvania, in which several of the existing corporations of Pennsylvania were largely interested, and the State of Pennsylvania refused to allow the necessary corporate franchises and privileges to construct that road, and through the agency of their courts they defeated the efforts of existing corporations to do it. I am happy to say in regard to Sir Morton Peto, who is a gentleman certainly of very remarkable enterprise and ability, that he has already recovered from his troubles; and I hope that yet, if the State of Pennsylvania will not stand in the way, he will aid the people of this country in constructing a new line of communication connecting the Atlantic and Great Western railroad with the city of New York.

The question being taken by yeas and nays on the passage of the bill, resulted—yeas 22, nays 19; as follows:

YEAS—Messrs. Anthony, Chandler, Clark, Conness, Cragin, Edmunds, Grimes, Howard, Howe, Kirkwood, Lane of Indiana, Morgan, Nye, Poland, Pomeroy, Ramsey, Sherman, Stewart, Sumner, Wade, Williams, and Wilson—22.

NAYS—Messrs. Buckalew, Cowan, Creswell, Davis, Doolittle, Fessenden, Foster, Guthrie, Harris, Henderson, Hendricks, Johnson, Morrill, Norton, Riddle, Sausbury, Trumbull, Van Winkle, and Wiley—19.

ABSENT—Messrs. Brown, Dixon, Lane of Kansas, McDougall, Nesmith, Sprague, Wright, and Yates—8. So the bill was passed.

PRINTING OF A BILL.

Mr. STEWART submitted the following resolution; which was referred to the Committee on Printing:

Resolved, That five thousand copies of the report of the Committee on Mines, explaining certain proposed amendments to Senate bill 257, together with a like number of copies of said bill, with proposed amendments, recommended by the committee, be printed for the use of the Senate.

ENROLLED BILLS SIGNED.

A message from the House of Representatives, by Mr. McPHERSON, its Clerk, announced that the Speaker of the House had signed an enrolled bill (S. No. 237) granting a pension to Mrs. Martha Stevens; and it was thereupon signed by the President *pro tempore* of the Senate.

LUMBERING ON THE ST. CROIX RIVER.

Mr. MORRILL. I ask the Senate to take

up for consideration Senate bill No. 208. It is a short bill, and will take but a moment.

The motion was agreed to; and the Senate, as in Committee of the Whole, proceeded to consider the bill (S. No. 208) to protect American citizens engaged in lumbering on the St. Croix river, in the State of Maine. It provides that the produce of the forests of the State of Maine upon the St. Croix river and its tributaries, owned by American citizens, and sawed in the Province of New Brunswick by American citizens, (the same being unmanufactured in whole or in part,) shall be admitted into the ports of the United States free of duty, under such regulations as the Secretary of the Treasury shall from time to time prescribe.

Mr. MORRILL. I move to amend the bill in section one, line seven, by inserting after the words "the same being unmanufactured in whole or in part" the words "and having paid the same taxes as other American lumber on that river."

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in. The bill was ordered to be engrossed for a third reading, was read the third time and passed.

EXECUTIVE SESSION.

Mr. MORRILL. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and after some time spent in executive session, the doors were reopened, and the Senate adjourned.

HOUSE OF REPRESENTATIVES.

TUESDAY, May 29, 1866.

The House met at twelve o'clock m. Prayer by the Chaplain, Rev. C. B. BOYNTON.

PENSION BILLS REFERRED.

The following bills were taken up from the Speaker's table, read a first and second time, and referred to the Committee on Invalid Pensions:

An act (S. No. 261) for the relief of Mrs. Anna G. Gaston;

An act (S. No. 275) for the relief of Cornelius Crowley;

An act (S. No. 291) granting a pension to Mrs. Rebecca Irwin;

An act (S. No. 298) granting a pension to Jane D. Brent;

An act (S. No. 299) granting a pension to Jane E. Miles;

An act (S. No. 314) for the relief of Sarah J. Purcell;

An act (S. No. 326) granting a pension to Harriet B. Crocker;

An act (S. No. 327) granting a pension to Mrs. Katharine F. Winslow;

An act (S. No. 329) for the relief of Mrs. Margaret Kaetzel;

An act (S. No. 328) for the relief of Abigail Ryan; and

An act (S. No. 339) granting a pension to Benjamin Franklin.

CIRCUIT COURT IN DISTRICT OF COLUMBIA.

The SPEAKER stated as the first business in order the consideration of the unfinished business of yesterday, being Senate bill No. 184, to define more clearly the jurisdiction and powers of the circuit court of the District of Columbia.

Mr. WOODBRIDGE. I am instructed by the Committee on the Judiciary to move to amend this bill by striking out the first four sections, and I will state to the House the reason for that motion. Those sections are merely a reenactment of the existing law, except in one particular; that is, providing that appeals from justices shall be heard by the court in banc. The inserting that provision was manifestly an error on the part of the Senate.

The amendment was to strike out the following:

That the justices of said court shall hold a common-law court, an equity court, an admiralty and maritime court, and a criminal court for said District.

SEC. 2. *And be it further enacted*, That said justices shall hold sessions in banc at such times as they shall designate in their minutes; and at said sessions they shall have power, and it shall be their duty to allot said courts among themselves as they see fit, by orders to be entered of record in their minutes, but so as to assign each of said courts to be held by one justice; to make all appointments assigned to said court by law; to remove officers appointed by it in such manner as may be prescribed by law; to hear and decide all questions of law which may be reserved at the trial of any cause in either of said courts; to hear and decide all such issues of law, demurrers to evidence, questions of law arising on special verdict, or special or agreed case, motions in arrest of judgment, motions for a new trial, or other motions as may be adjourned to the court in banc, by an order on the minutes of the court in which such matter arises; to hear and decide all appeals from the final decisions of either of said courts; to hear and decide all appeals from the orphans' court and from justices of the peace; to fix the times of holding the stated and special sessions or terms of said courts, and cause said times to be entered upon their minutes; to cause jurors to be summoned to serve in the said common-law and criminal courts, whenever jurors are required by the exigency of the business therein; to make all such rules of procedure as they may deem best adapted to a fair and speedy administration of justice in any of said courts, and alter and amend the same at pleasure.

SEC. 3. *And be it further enacted*, That in the common-law court there shall be monthly sittings for the trial of issues of law, and for taking judgments by default, and all other matters not involving or requiring a trial by jury, which sittings shall commence on the first Tuesday of every month, except during the stated terms or the recesses of the court. And for the trial of issues of fact there shall be at least three terms every year, at times fixed by the justices at their sessions in banc to be entered in their minutes.

SEC. 4. *And be it further enacted*, That the equity court and the admiralty and maritime court shall be deemed always open for filing libels, bills, petitions, answers, pleas, and other pleadings; for issuing and returning all process and commissions; for making and directing all interlocutory motions, orders, rules, and other proceedings whatever, preparatory to the hearing of all causes therein; and also for the trial and final decision of causes, in case the parties consent to such trial, or the time of preparation has elapsed, and the cause has been set, and has stood for trial ten days.

SEC. 5. *And be it further enacted*,

The amendment was agreed to.

The Clerk read the remainder of the bill. The first section provides that writs of attachment and garnishments shall be issued by the clerk of the supreme court of the District, without any authority or warrant from any judge or justice, whenever the plaintiff, his agent or attorney, shall file in the clerk's office, whether at the commencement or during the pendency of the suit, an affidavit, supported by the testimony of one or more witnesses showing the grounds upon which he bases his affidavit, and also setting forth that the plaintiff has a just right to recover against the defendant what he claims in the declaration, and also stating either, first, that the defendant is a non-resident of the District; or, second, that the defendant evades the service of ordinary process by concealing himself or by withdrawing from the District temporarily; or, third, that he has removed or is about to remove some of his property from the District so as to defeat just demands against him; and shall also file his (the plaintiff's) undertaking, with sufficient surety or sureties, to make good all costs and damages which the defendant may sustain by reason of the wrongful suing out of the attachment; provided, however, that if the defendant, his agent or attorney, shall file an affidavit traversing the said affidavit, the court shall determine whether the facts set forth in said plaintiff's affidavit are true, and that there was just ground for issuing said writ or warrant of attachment; and if the court shall deem the facts do not sustain the affidavit, he shall quash the writ of attachment or garnishment; and this issue may be tried by a judge at chambers on three days' notice. And the thing attached shall not be discharged from the custody of the officer seizing it until the defendant shall deliver, either to the officer or to the clerk, to be filed in the cause, his undertaking, with sufficient surety or sureties, to satisfy and pay the final judgment of the court against him; and in case the defendant be found liable to the plaintiff's claim, in whole or in part, the final judgment shall be that the plaintiff recover against the defendant and his surety or sureties; and if the

defendant fail to execute such undertaking the court may sell the thing attached whenever it is satisfied that it is the interest of the parties that it should be sold before final judgment.

The next section provides that from and after the passage of this act the annual salaries of the chief justice and associate justices of the supreme court of the District of Columbia, instead of the amount now fixed by law, shall be as follows: for the chief justice \$4,500, and for each of the associate justices \$4,000.

Mr. WOODBRIDGE. I will simply state, for the benefit of the House, that the Committee on the Judiciary have given this bill a very careful consideration and recommend its passage as amended, believing it to be a just and proper bill. Unless there are some special objections to it which members desire to state, I do not propose to discuss it, but will call the previous question.

The previous question was seconded and the main question ordered; and under the operation thereof the bill was read the third time and passed.

Mr. WOODBRIDGE moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

ANNA E. WARD

Mr. TAYLOR, by unanimous consent, from the Committee on Invalid Pensions, reported back House bill No. 459, granting a pension to Anna E. Ward, with the amendment of the Senate, in which the committee recommend a non-concurrence.

The amendment of the Senate was read, as follows:

Insert after the word "month" the words "to commence from and after the passage of this act, and to continue.

The amendment was non-concurred in.

ADVERSE REPORTS.

Mr. WASHBURN, of Massachusetts, by unanimous consent, from the Committee of Claims, made adverse reports on the petitions of Thomas S. Pinger, Thomas Hunt, and John H. Schowler; which were laid on the table, and ordered to be printed.

MRS. MARTHA STEVENS.

Mr. STILWELL. I am directed by the Committee on Invalid Pensions to report back Senate bill No. 237, granting a pension to Mrs. Martha Stevens, with an amendment. The amendment is to strike out "twenty dollars" and insert "seventeen dollars," being the amount allowed for a first lieutenant.

The amendment was agreed to.

The bill, as amended, was then read the third time and passed.

Mr. STILWELL moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid on the table.

The latter motion was agreed to.

MILITARY ACADEMY APPROPRIATIONS.

Mr. STEVENS, by unanimous consent, reported back from the Committee on Appropriations House bill No. 37, making appropriations for the support of the Military Academy for the year ending 30th June, 1867, with the amendments of the Senate to the same.

First amendment:

Strike out "one" and insert "two" in line fifteen, page 1, so that it will read:

For increase and expense of library, \$2,000.

The Committee on Appropriations recommend concurrence.

The amendment was concurred in.

Second amendment:

Strike out on page 2, line twelve, the words "fifteen hundred" and insert "ten thousand;" so that it will read:

For repairs of officers' quarters, \$10,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Third amendment:

Insert on page 2, after line seven, the following: For reflooring Academy buildings and barracks, \$5,000.

For the purchase of fuel for warming mess hall, shoemaker's and tailor shops, \$2,000.

For materials for quarters for subaltern officers, \$3,000.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Fourth amendment:

Strike out on page 2, after the word "dollars," in line twenty-seven, the following:

Provided, That no part of the sums appropriated by the provisions of this act shall be expended in violation of the provisions of an act entitled "An act to prescribe an oath of office and for other purposes," approved July 2, 1862.

The Committee on Appropriations recommend concurrence in the amendment.

The question was taken, and the amendment was non-concurred in.

Fifth amendment:

Add the following new section:

SEC. 3. And be it further enacted, That no person who has served in any capacity in the military or naval service of the so-called confederate States during the late rebellion shall hereafter receive an appointment as cadet at the Military or Naval Academy.

The Committee on Appropriations recommend non-concurrence.

The amendment was non-concurred in.

Mr. STEVENS. I move that the House request a committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill.

The motion was agreed to.

FORTIFICATION BILL.

Mr. STEVENS, from the Committee on Appropriations, reported back bill of the House No. 255, making appropriations for the construction, preservation, and repair of certain fortifications and other works of defense for the year ending June 30, 1867, with the amendment of the Senate thereto, with the recommendation that the amendment of the Senate be non-concurred in.

The amendment of the Senate was read, as follows:

Page 1, after line seventeen, insert as follows: For Fort Popham, Kennebec river, Maine, \$50,000.

The amendment was non-concurred in.

Mr. STEVENS. I move that the House request a committee of conference on the disagreeing votes of the two Houses on the amendment to the bill.

The motion was agreed to.

CLAIM OF GALES AND SEATON.

Mr. STEVENS, by unanimous consent, submitted the following resolution; which was read, considered, and agreed to:

Resolved, That the Committee of Claims be instructed to inquire whether anything, and if so, how much, is due to Gales & Seaton for books said to be contracted for, and report by bill or otherwise.

AMENDMENT OF NATIONAL BANK ACT.

On motion of Mr. DEFRIES, by unanimous consent, the Committee on Banking and Currency was discharged from the further consideration of the resolution of the House of the 25th of January last in regard to an amendment of the national bank act, and the same was laid upon the table.

HIRAM PAULDING.

Mr. DODGE, from the Committee on Foreign Affairs, reported back bill of the House No. 457, for the relief of Hiram Paulding, rear admiral United States Navy; which was referred to a Committee of the Whole House, and, with the accompanying report, ordered to be printed.

WILLIAM G. LEE.

Mr. McKEE, by unanimous consent, reported from the Committee of Claims a bill for the relief of William G. Lee; which was read a first and second time, recommitted to the committee, and ordered to be printed.

Mr. ROLLINS. I demand the regular order of business.

FREEDMEN'S BUREAU.

The SPEAKER. The morning hour having commenced, the House resumes the consideration of the bill reported from the Committee

on Freedmen's Affairs (H. R. No. 613) to continue in force and to amend an act entitled "An act to establish a Bureau for the Relief of Freedmen and Refugees," and for other purposes.

Mr. ELIOT. I rise for the purpose of calling the previous question on the pending amendments and the bill. I suppose the House is prepared to act upon them, and I ask the previous question.

The previous question was seconded.

Mr. NIBLACK demanded tellers on ordering the main question.

Tellers were ordered; and Messrs. NIBLACK and ELIOT were appointed.

The House divided, and the tellers reported—ayes sixty-six, noes not counted.

So the main question was ordered.

Mr. CHANLER. Is it in order to move to lay the bill upon the table?

The SPEAKER. It is in order.

Mr. CHANLER. Then I make that motion, and demand the yeas and nays upon it.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 23, nays 93, not voting 67; as follows:

YEAS—Messrs. Ancona, Bergen, Chanler, Dawson, Eldridge, Glossbrenner, Goodyear, Aaron Harding, Edwin N. Hubbell, James M. Humphrey, Kuykendall, Le Blond, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Ritter, Ross, Sitgreaves, Strouse, Taylor, and Trimble—23.

NAYS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Barker, Baxter, Beaman, Bidwell, Blaine, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Darling, Davis, Dawes, Defries, Deming, Dixon, Dodge, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Hale, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hooper, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, James Humphrey, Ingersoll, Julian, Kelley, Ketcham, Latham, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee, McRuer, Mercer, Moorhead, Morrill, Morris, Myers, O'Neill, Orth, Paine, Perham, Pike, Plants, Price, Raymond, John H. Rice, Rollins, Sawyer, Schenck, Seefeld, Shellabarger, Sloan, Spaulding, Starr, Stevens, Thayer, Trowbridge, Upson, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—93.

NOT VOTING—Messrs. Alley, Banks, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Conkling, Culver, Delano, Denison, Driggs, Farnsworth, Finck, Grider, Grinnell, Griswold, Harris, Hayes, Hill, Hogan, Hotchkiss, Asabel W. Hubbard, Hulburd, Jenckes, Johnson, Jones, Kasson, Kelso, Kerr, Ladin, George V. Lawrence, Marshall, Marvin, McIndoe, Miller, Moulton, Newell, Neill, Patterson, Phelps, Pomeroy, William H. Randall, Alexander H. Rice, Rogers, Rousseau, Shanklin, Smith, Stilwell, Taber, Francis Thomas, John L. Thomas, Thornton, Van Aernam, Robert T. Van Horn, Warner, Elihu B. Washburne, Welker, Wentworth, Whaley, Windom, Winfield, and Wright—67.

So the motion to lay on the table was not agreed to.

The SPEAKER. The first amendment is one offered by the gentleman from New York, [Mr. DAVIS,] to add a clause at the end of the second section and to strike out all the remaining sections of the bill; but the other amendments, being to perfect the parts sought to be stricken out, will be voted upon first. The first in order is the amendment of the gentleman from Pennsylvania, [Mr. SCOFIELD.]

The amendment of Mr. SCOFIELD was read, as follows:

Strike out all after the word "then" in section seven, line nine, as follows: "and shall provide sites and buildings for purposes of education whenever such associations shall, without cost to the Government, provide suitable teachers and means of instruction, and he shall furnish such protection as may be required for the safe conduct of such schools. And said property shall be and remain the property of the United States until sales thereof shall be authorized by law;" and insert in lieu of the words stricken out the words "and afford them all proper protection;" so that the section will read as follows:

Whereas we recognize the necessity and duty resting upon the Government, and resulting from the condition of freedom, of aiding freedmen to receive that needful education which oppressive prejudices, laws, and customs denied them when held in slavery: Therefore,

Be it further enacted, That the Commissioner of this bureau shall at all times cooperate with private benevolent associations of citizens in aid of freedmen, and with agents and teachers, duly accredited and appointed by them, and afford them all proper protection.

Mr. SCOFIELD. I propose to modify my

amendment by inserting instead of the words "and afford them all proper protection" the following:

And shall hire or provide by lease buildings for purposes of education whenever such association shall, without cost to the Government, provide suitable teachers and means of instruction, and he shall furnish such protection as may be required for the safe conduct of such schools.

Mr. ELDRIDGE. Mr. Speaker, is it in order for the gentleman to modify his amendment after the previous question has been seconded?

The SPEAKER. The amendment cannot be modified, except by unanimous consent, after the previous question has been seconded.

Mr. ELDRIDGE. I object to the modification.

Mr. SCOFIELD. Oh, let this come in.

Mr. ELDRIDGE. You call the previous question on us, and then ask me to let this come in. I insist on my objection.

The question being taken on the amendment of Mr. SCOFIELD, it was agreed to.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the previous question was seconded.

The SPEAKER. That cannot be done after the House has commenced executing it. It is stated on page 143 of the Digest that "it is not in order to move a reconsideration of the vote on ordering the main question when it is partly executed."

The question recurred upon the amendment offered by Mr. SHELLABARGER, which was read as follows:

Add at the end of section six the following:

Provided, That nothing in this act contained shall be construed to affect the right of any person to recover in the proper courts any title or right of possession which such person may have in any of the lands held under said field order.

So that the section will read:

That whenever the former owners of lands occupied under General Sherman's field order, dated at Savannah, January 16, 1865, shall apply for restoration of said lands, the Commissioner shall refuse the surrender of the same: Provided, That nothing in this act contained shall be construed to affect the right of any person to recover in the proper courts any title or right of possession which such person may have in any of the lands held under said field order.

Mr. ELIOT. There is no objection to that.

The amendment was agreed to.

The question recurred on the amendment of Mr. DAVIS, which was read, as follows:

At the end of section two add the following:

And the powers conferred and the duties enjoined by the act hereby amended shall be applicable to all persons named or referred to in this section; and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

So that the section will read:

That the supervision and care of said bureau shall extend to all loyal refugees and freedmen, so far as the same shall be necessary to enable them as speedily as practicable to become self-supporting citizens of the United States, and to aid them in making the freedom conferred by proclamation of the Commander-in-Chief, by emancipation under the laws of States, and by constitutional amendment, available to them and beneficial to the Republic. And the powers conferred and the duties enjoined by the act hereby amended, shall be applicable to all persons named or referred to in this section; and all acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Strike out all the remaining sections of the bill.

Mr. DAVIS. I call for the yeas and nays on this amendment.

The yeas and nays were ordered.

The question was taken; and it was decided in the negative—yeas 85, nays 86, not voting 62; as follows:

YEAS—Messrs. Ancona, Delos R. Ashley, Bergen, Chanler, Darling, Davis, Dawson, Eldridge, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Kuykendall, Latham, Le Blond, Marvin, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Raymond, Ritter, Ross, Sitgreaves, Stilwell, Strouse, Taylor, Trimble, Henry D. Washburn, and Whaley—35.

NAYS—Messrs. Allison, Ames, Anderson, James M. Ashley, Baker, Baldwin, Baxter, Beaman, Bidwell, Blaine, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Deftrees, Deming, Dixon, Dodge, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Hart, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenekes, Julian, Kelley, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, McClurg, McKee, McRuer, Mereur, Moorhead, Morris, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—96.

Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Spalding, Starr, Stevens, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, William B. Washburn, Welker, Williams, James F. Wilson, and Stephen F. Wilson—86.

NOT VOTING—Messrs. Alley, Banks, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Conkling, Culver, Dawes, Delano, Denison, Driggs, Farnsworth, Finck, Grinnell, Griswold, Abner C. Harding, Harris, Hayes, Hill, Hotchkiss, Hulburd, James Humphrey, Johnson, Jones, Kasson, Kelso, Kerr, Ketcham, Laffin, Marshall, Marston, McIndoe, Miller, Morrill, Moulton, Newell, Neill, Phelps, Pomeroy, William H. Randall, Rogers, Rousseau, Shanklin, Smith, Taber, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Windom, Winfield, Woodbridge, and Wright—62.

So the amendment was not agreed to.

During the vote,

Mr. NIBLACK stated that his colleague, Mr. KERR, was detained from the House by illness.

Mr. RICE, of Maine, stated that Messrs. WINDOM, CONKLING, and HOTCHKISS were absent, by order of the House, taking testimony.

The vote was then announced as above recorded.

The bill was ordered to be engrossed and read a third time.

Mr. WILSON, of Iowa. I move to reconsider the vote by which the bill was ordered to be engrossed and read a third time, and demand the previous question. I do it in order to give the gentleman from Pennsylvania [Mr. SCOFIELD] an opportunity to offer his amendment.

The previous question was seconded and the main question ordered; and under the operation thereof the motion to reconsider was agreed to.

Mr. SCOFIELD moved to strike out all after the word "them" in the ninth line, section seven, and in lieu thereof to insert the following:

And shall hire or provide by lease buildings for purposes of education whenever such association shall, without cost to the Government, provide suitable teachers and means of instruction, and he shall furnish such protection as may be required for the safe conduct of such schools.

Mr. WILSON, of Iowa, demanded the previous question.

The previous question was seconded and the main question ordered.

Mr. LE BLOND. I would inquire whether the Government is to buy the school-houses for the schools.

Mr. SCOFIELD. The amendment provides that, instead of buying sites and erecting buildings, they may temporarily hire buildings to be occupied by teachers to be furnished by private benevolent associations.

Mr. LE BLOND. Does not the amendment contemplate that sites are to be purchased by the Government?

Mr. ELIOT. No, sir; just the opposite.

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time; and being engrossed, it was accordingly read the third time.

Mr. ELIOT demanded the previous question on the passage of the bill.

The previous question was seconded and the main question ordered.

Mr. ELDRIDGE demanded the yeas and nays.

The yeas and nays were ordered.

The question was taken; and it was decided in the affirmative—yeas 96, nays 32, not voting 55; as follows:

YEAS—Messrs. Allison, Ames, Anderson, Delos R. Ashley, James M. Ashley, Baker, Baldwin, Banks, Baxter, Beaman, Bidwell, Blaine, Bromwell, Buckland, Reader W. Clarke, Sidney Clarke, Cobb, Cook, Cullom, Dawes, Deftrees, Deming, Dixon, Dodge, Donnelly, Dumont, Eckley, Eggleston, Eliot, Farquhar, Ferry, Garfield, Abner C. Harding, Hart, Henderson, Higby, Holmes, Hooper, Asahel W. Hubbard, Chester D. Hubbard, Demas Hubbard, John H. Hubbard, James R. Hubbell, Ingersoll, Jenekes, Julian, Kelley, Latham, George V. Lawrence, William Lawrence, Loan, Longyear, Lynch, Marston, McClurg, McKee, McRuer, Mereur, Moorhead, Morrill, Morris, Myers, O'Neill, Orth, Paine, Patterson, Perham, Pike, Plants, Price, Alexander H. Rice, John H. Rice, Rollins, Sawyer, Schenck, Scofield, Shellabarger, Sloan, Starr, Stevens, Stilwell, Thayer, Francis Thomas, Trowbridge, Upson, Van Aernam, Burt Van Horn, Ward, Henry D. Washburn, William B. Washburn, Welker, Whaley, Williams, James F. Wilson, Stephen F. Wilson, and Woodbridge—96.

NAYS—Messrs. Ancona, Bergen, Chanler, Darling, Davis, Dawson, Eldridge, Glossbrenner, Goodyear, Grider, Hale, Aaron Harding, Hogan, Edwin N. Hubbell, James M. Humphrey, Kuykendall, Le Blond, Marshall, Marvin, McCullough, Niblack, Nicholson, Radford, Samuel J. Randall, Raymond, Ritter, Ross, Sitgreaves, Strouse, Taylor, Trimble, and Wright—32.

NOT VOTING—Messrs. Alley, Barker, Benjamin, Bingham, Blow, Boutwell, Boyer, Brandegee, Broomall, Bundy, Coffroth, Conkling, Culver, Delano, Denison, Driggs, Farnsworth, Finck, Grinnell, Griswold, Harris, Hayes, Hill, Hotchkiss, Hulburd, James Humphrey, Johnson, Jones, Kasson, Kelso, Kerr, Ketcham, Laffin, McIndoe, Miller, Moulton, Newell, Neill, Phelps, Pomeroy, William H. Randall, Rogers, Rousseau, Shanklin, Smith, Spalding, Taber, John L. Thomas, Thornton, Robert T. Van Horn, Warner, Elihu B. Washburne, Wentworth, Windom, and Winfield—55.

So the bill was passed.

Mr. ELIOT moved to reconsider the vote by which the bill was passed; and also moved that the motion to reconsider be laid upon the table.

The latter motion was agreed to.

MESSAGE FROM THE SENATE.

A message from the Senate, by Mr. FORNEY, its Secretary, announced that the Senate had passed a bill (S. No. 342) for the relief of Ira B. Curtis, in which he was directed to ask the concurrence of the House.

APPOINTMENTS TO MILITARY ACADEMY.

On motion of Mr. SCHENCK, by unanimous consent, joint resolution of the Senate No. 136, relative to appointments to the Military Academy of the United States, was taken up from the Speaker's table, the amendments of the Senate non-concurred in, and a committee of conference asked.

RAILROAD IN MISSOURI AND ARKANSAS.

On motion of Mr. CULLOM, by unanimous consent, Senate bill No. 223, to revive and extend the provisions of an act granting the right of way and making a grant of land to the States of Arkansas and Missouri to aid in the construction of a railroad from a point upon the Mississippi opposite the mouth of the Ohio river, via Little Rock to the Texas boundary, near Fulton, in Arkansas, with branches to Fort Smith and the Mississippi river, approved February 9, 1853, and for other purposes, was taken from the Speaker's table, read a first and second time, and referred to the Committee on Public Lands.

JOHN A. COAN.

On motion of Mr. McKEE, by unanimous consent, the papers in the case of John A. Coan were withdrawn from the files of the Committee of Claims, copies of the same being left.

RECONSTRUCTION.

The SPEAKER. The morning hour having expired, the first business in order is House bill No. 543, which was made the special order for this day after the morning hour, being a bill to restore to the States lately in insurrection their full political rights.

Mr. ASHLEY, of Ohio. Unless the members of this Congress who represent the loyal people of this country approach the proposition before us, providing for the restoration of the late rebel States, in a proper spirit and with mutual concessions, I fear we shall fail to accomplish the great work committed to our hands. I desire to approach its consideration with charity for all and malice toward none. I know that I approach it in a forgiving spirit and with a thankful heart. With thankfulness, because the din of war has been hushed and the national conflagration extinguished. In a forgiving spirit, because I know how much there is to be forgiven if we would reunite dissevered and broken ties, secure the perpetual unity of the nation, and bind up its millions of bleeding and broken hearts.

In all the votes which I have given or may give on the propositions for reconstruction, in all I have said or may say, I shall keep steadily in view the one great desire of my heart, which outweighs and overshadows all others, and before which the petty schemes of parties and of men dwindle into insignificance and appear

to me criminal. That desire is to see the States recently in rebellion restored to all the rights, privileges and dignities of States of the American Union at the earliest day consistent with the national safety, and upon such terms as shall secure the power, unity, and glory of the Republic.

How can this most desirable result best be accomplished? In answering this interrogatory the first question which presents itself to every reflecting mind is this: has the Government of the United States as at present organized the constitutional power to demand or exact from the people in the late rebel States any conditions prior to the recognition of their recently reorganized State governments and the admission of their Senators and Representatives in Congress? If so, is it expedient to exact of them the terms or conditions proposed by the committee of fifteen, or such conditions of a like character as may finally be agreed upon by the two Houses of Congress, as conditions precedent to their resumption, as States, of all constitutional relations to the national Government which were severed by their acts of rebellion and war?

I claim that we have the power, and that it is not only our right but our duty to demand such conditions as the majority of the loyal representatives of this Congress may deem requisite for the safety and security of the nation. I believe we have the constitutional power, because I believe the States represented in this Hall during the war and now are the Government. If I did not believe this I could not vote for any of the propositions before the House or any proposition of a like character.

From the first I have held that when the people of the late rebel States abolished their constitutional State governments and confederated together in violation of the national Constitution and organized hostile State governments and a national confederate government, and maintained those governments by force of arms until the rebellion became so formidable as to claim the prerogatives of a national *de facto* government, and to have conceded to it by the United States and the great Powers of Europe belligerent rights, that from that hour constitutional State governments ceased in each of the States so confederated together, and until governments are reorganized in each of them in subordination to the national Constitution, and recognized by this Congress, there can be no constitutional State governments in such States.

Mr. RANDALL, of Pennsylvania. Will the gentleman allow me to ask him who he intends shall form the State governments—the people of the States, or who?

Mr. ASHLEY, of Ohio. I propose that the loyal people of these States shall reorganize these State governments and administer their governments under such rules and restrictions as the Congress of the United States, representing the people of the loyal States, shall require.

Mr. RANDALL, of Pennsylvania. Then I understand the gentleman to say that he is willing that the loyal people shall form State governments, or shall continue their State governments and protect and elect Congressmen as part of their duty. Do I understand him aright?

Mr. ASHLEY, of Ohio. Under such rules and restrictions as this Congress shall require.

Mr. RANDALL, of Pennsylvania. That is an after-clap.

Mr. ASHLEY, of Ohio. Now, Mr. Speaker, I hope I can go on without any more of these interruptions. From the outbreak of the rebellion I have sought to have all the Departments of the Government adopt and act upon this idea. I have held that the sovereignty of the nation was in the people who reside in the States which maintained constitutional State governments, recognizing the national Constitution as the supreme law of the land, and the Government which it created as the one to which all citizens owed a paramount allegiance. I have held that the sovereignty of the nation could not be impaired or destroyed within the

territorial jurisdiction of the United States by the action, or the refusal to act, of any one or more States. In other words, that the people in the States which maintained their constitutional relations to the national Government were the only depositaries of the national sovereignty and the only constitutional governing power in the nation.

Holding these views, I insist that the people who maintained constitutional State governments, who, during the entire war, were represented here, and who are now represented here, the people who maintained this national Government and put down the rebellion, have a right under the laws of war as conquerors to prescribe such conditions as in the judgment of the majority of this Congress are necessary for the national safety and the national security. This is the right of the conqueror under every law, human and divine. If this be not the true theory, then, indeed, is our national Government a rope of sand.

Entertaining these ideas, at the extra session of Congress in July, 1861, I drew up a bill embodying them, but by the advice of friends I did not present it until the regular session in December. On the 12th of March following, by the direction of the Committee on Territories, I reported to this House "a bill to provide temporary provisional governments for the districts of country in rebellion against the United States." That bill, on the motion of my then colleague, (Mr. Pendleton,) was laid upon the table by a vote of 65 to 56, a number of Republicans voting with the Opposition, and a still larger number not voting at all.

At the first session of the Thirty-Eighth Congress, upon consultation, it was thought best to have a committee on the rebellious States, and the late Henry Winter Davis offered a resolution for the appointment of such a committee. The committee was raised, and he was appointed its chairman.

After the committee was appointed, of which I was a member, I again introduced the old bill, with such modifications and additions as time had suggested. That bill which was reported passed both Houses of Congress, but did not receive the sanction of President Lincoln, and therefore failed to become a law.

At the second session of the Thirty-Eighth Congress I again introduced the same bill with some modifications, and by direction of the committee I reported it to this House. After a number of efforts to modify it so as to secure a majority vote, it was lost, and we were left at sea on this great question of reconstruction. And to-day we are reaping the fruits of our stupidity and folly. I allude to these facts to show how steadily the national mind has been marching up to this idea, that the men who remained loyal to this Government, who maintained constitutional State governments, and who during the war administered this Government are the Government.

Mr. WRIGHT. Will the gentleman from Ohio [Mr. ASHLEY] allow me to ask him a question?

Mr. ASHLEY, of Ohio. I would rather the gentleman would ask me his questions after I get through my argument.

Mr. WRIGHT. I wish simply to ask the gentleman to give us his definition of a loyal man.

Mr. ASHLEY, of Ohio. If the gentleman will ask me after I get through I will answer his question.

Mr. WRIGHT. Very well; I will ask the gentleman then.

Mr. ASHLEY, of Ohio. I was saying that I allude to these facts for the purpose of showing how steadily the national mind has been approaching this idea. And when this joint committee on reconstruction, composed of the ablest men in the nation, made their report the other day, they recognized the same idea, to wit, that the constitutional governments in all the rebel States were abolished; that during the war and now they were not in constitutional relations with the national Government. And the man, whoever he may be, who stands up and

says they are now in constitutional relations to the national Government utters that which he knows to be untrue. The man who stands up and says that during the entire war the rebel States were entitled to be represented here lays down a proposition which would undermine and sap the very foundations of the Government. If these rebel States had the right to be represented here and had been represented here during this war, this Government would have been bound hand and foot, and we would have been incapable of resistance.

This, then, being the idea adopted by the committee of fifteen, I can support this bill. I know that the proposition submitted by that committee falls far short of what I expected, far short of what the loyal men in the South had a right to expect, far short of what the men who sacrificed so much to preserve this nation had a right to expect. But if I can get nothing better I shall vote for their proposition, as I have already voted for the proposed constitutional amendment which was sent to the Senate the other day. When that proposition was up I desired to offer an amendment to it. But the honorable gentleman from Pennsylvania [Mr. STEVENS] who had charge of the measure had entered a motion to recommend, and would not allow the amendment to be offered. But I now send it to the Clerk's desk, as the amendment I then desired to offer. It may do no good to send it to the Senate now, as I learn since I got on my feet that the amendment which we sent over has received, with an amendment to the third section, the sanction of a majority of the true Union members of that body, and will, undoubtedly, pass that body.

The Clerk read as follows:

ARTICLE —.

SEC. 1. No State shall make or enforce any law which shall abridge the privileges and immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

SEC. 2. No State shall deny the elective franchise to any of its inhabitants, being citizens of the United States, above the age of twenty-one years because of race or color; but suffrage shall be impartial. And on the 4th day of July, A. D. 1876, all citizens of the United States above the age of twenty-one years, not convicted of crime or excluded from the right of the ballot by act of Congress or by the law of any State because of insurrection or rebellion against the United States, shall be electors in each State and Territory of the United States; and on and after the 4th day of July, A. D. 1876, all natural-born citizens of the United States thereafter becoming twenty-one years of age, and all aliens who may thereafter be naturalized and are above the age of twenty-one years and can read and write the English language, shall be qualified to vote for electors of President and Vice President of the United States, for members of the Congress of the United States, and for Governors and members of State Legislatures.

SEC. 3. Representation shall be apportioned among the several States according to the respective number of inhabitants in each.

SEC. 4. No payment shall ever be made by the United States or any State for or on account of the emancipation of any slave or slaves, or for or on account of any debt contracted in aid of insurrection or rebellion against the United States.

SEC. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

Mr. ASHLEY, of Ohio. I do not desire to take up the time of the House in discussing this proposition, as I understand the Senate has practically agreed to sustain the proposition on representation which was sent them from this House a short time since. It will be noticed, that in prescribing the qualifications of electors, I omit the word "male" and use the words "all citizens of the United States above the age of twenty-one years." I did this purposely, as I am unwilling to prohibit any State from enfranchising its women if they desire to do so. The Senate having struck out the third clause and inserted another, this amendment will serve no other purpose than to show what I desired to offer the other day.

But, Mr. Speaker, I have an amendment which I desire to offer to this bill—an amendment upon which I shall ask a vote, and to which I desire the attention of the House. House bill No. 543, as reported by the committee, requires the adoption of the constitutional amendment proposed before any State,

no matter when it may be ratified, shall be admitted here, thus putting it in the power of the northern States, if they desire to do so, to exclude States which in good faith ratified this constitutional amendment and amended their State constitutions and laws so as to comply with all the conditions we make. I desire, then, to have the bill reported by the committee so amended that whenever any State lately in insurrection and rebellion shall have ratified this amendment in good faith, and shall have modified its constitution and laws in conformity therewith, that its Senators and Representatives shall be admitted into Congress; that is, that the loyal men of Tennessee and Arkansas now elected shall be admitted; but that as to the other States, they shall, before being represented in Congress, after the adoption of this amendment and the modification of their constitution and laws, elect, or reelect, if you will, Governors and all other State officers, members of the Legislature, Senators of the United States, and members of this House.

Why do I ask for this provision? Because these governments, set up by the President of the United States, set up over the heads of loyal men, have every one of them elected traitors to official positions in those States, have elected traitors to this House, have elected traitors to the Senate. I insist that this provision shall be applied to them, so that when their constitutions and their laws are modified in accordance with the proposition which we lay down, the loyal men of those States shall, under the amended Constitution and laws, vote for the officers which are to be recognized by the Government of the United States. I ask the Clerk to read the amendment which I propose to offer:

The Clerk read as follows:

That whenever any State lately in insurrection shall have ratified, in good faith and irrevocably, the above recited amendment, and shall have modified its constitution and laws in conformity therewith, and after such ratification and modification of its constitution and laws shall have elected a Governor and the State officers provided for in the constitution of such State, including the State Legislature and Senators and Representatives to the Congress of the United States, under such limitations and restrictions as may be imposed by the constitution and laws of such State when amended as herein prescribed, the Senators and Representatives from such State, if thus elected and qualified, may after having taken the oaths of office required by law, be admitted into Congress as such: *Provided*, That neither the State of Tennessee nor Arkansas shall be required to reelect a Governor and State officers or a State Legislature or Senators or Representatives to the Congress of the United States; but whenever either of said States shall have ratified the above recited amendment, and shall have modified their constitutions and laws in conformity therewith, their Senators and Representatives now duly elected and qualified may be admitted into Congress on taking the oaths of office required by law.

Mr. ASHLEY, of Ohio. It will be observed, Mr. Speaker, that, by the adoption of this amendment, every State which adopts in good faith the proposed amendment to the Constitution and modifies its constitution and laws in conformity therewith, and after such modification elects a Governor and members of the Legislature and Senators and members of this House, it shall have its Representatives admitted here. An exception, however, is made in the case of Tennessee and Arkansas, which now have loyal Governors and other State officers and loyal Legislatures. Those States would not be required, under this amendment, to reelect their officers, but the Senators and Representatives already elected, if they can take the oath, would be admitted to seats in Congress, and their present State officers would be allowed to continue in their present positions.

I think this modification a very necessary one. Let gentlemen look over the South and see the character of the men who have been elected as Senators. In almost every instance, where they are not out and out open-throated rebels, who ought to be incarcerated in prisons or exiled from the country instead of approaching this temple of liberty; in almost every instance, I say, where there has been any concessions made to loyal men the Legislatures have elected moderate men for the short term and the most malignant rebels for the long

term. Sir, look at Georgia: they would not elect Joshua Hill, but elected Alexander H. Stephens; and so of nearly every rebel State. If the southern people are stupid enough to suppose that such men as Alexander H. Stephens will ever be admitted into the Senate or House of Representatives they might as well be undecieved now. Hence, I say that in view of the fact that the loyal men have had no voice in those reconstructed governments, have had no voice in their legislation, have been dumb and silent under the sway of these traitors who were placed in power over them by the Executive, the loyal men of those States should have a fair opportunity to select men who will truly represent them under the Constitution and laws when modified in accordance with the constitutional amendment proposed by Congress.

I also have an amendment which I intend to offer when the other bill comes up, but will not take up time by reading it now. I will send it to the reporter and he can insert it with my remarks.*

Let us look, Mr. Speaker, at the condition in which we find the country. I hold in my hand the propositions reported by the committee of fifteen. I need not read them. They have been carefully examined by every member. All over the land, North and South, a cry is raised against the report of that committee. I ask gentlemen if they can put their hands on a single page of human history where, after a rebellion has been put down of the character of the one we had to deal with, they can find the conquerors making propositions so mild, so conciliatory, and so merciful as these made by the committee of fifteen—propositions as applicable to the conquerors as the conquered. Yet we find men in this Hall, men all over the South, men holding high positions in the Government before the rebellion, and high positions in the rebel government, who

* Amendment to be proposed by Mr. J. M. ASHLEY to House bill No. —, declaring certain persons ineligible to office under the Government of the United States.

Strike out all after the enacting clause and insert as follows:

That no person who has acted as president or vice president or member of either house of the congress of the so-called confederate States of America, or as head of any department or bureau thereof, or as military or naval officers above the grade of colonel or master in the navy, or as governor of either of the so-called confederate States or member of the legislature thereof, or member of any State convention who voted for an ordinance of secession, or any person who in a foreign country acted as an agent of the so-called confederate States, or who have treated officers or soldiers or sailors of the Army or Navy of the United States, captured during the late war, otherwise than as lawful prisoners of war, or any person who was an officer of the Army and Navy of the United States, or who was educated at the Military or Naval Academy of the United States, or who was head of any department or bureau under the Government of the United States, or who was a member of the Thirty-Fifth or Thirty-Sixth Congress of the United States, or judge of any court thereof, or who since 1856 acted as a foreign minister or agent of the United States, or who resigned any office, civil or military, in any State or under the Government of the United States and accepted office under any rebel State government, or under the government of the so-called confederate States of America with intent to give aid and comfort to the rebellion, shall ever be eligible to any office of trust or profit under the Government of the United States: *Provided*, That any person included in the above named classes, who before the 1st day of January, A. D. 1865, ceased to give aid and comfort to the rebellion, and labored to restore the authority of the United States in the State in which he resided, shall be exempt from the provisions of this act; and any one claiming the benefit of this provision may make application to the district court of the United States for the district in which he resides, and the judge of said court is hereby authorized and required to hear and determine all applications for exemptions under the provisions of this act, and if the judge before whom any such hearing is had shall be satisfied from the evidence before him that the person claiming exemption did cease to participate in the rebellion or give aid and comfort thereto, and labored to secure a restoration of the authority of the Government of the United States, on or before the 1st day of January, A. D. 1865, he shall cause a record to be made of that fact in a book to be kept by the court for that purpose, and the judge shall cause a certificate to be issued to the person so claiming exemption, setting forth the facts as found by the evidence, whereupon the person so receiving such certificate, shall be restored to all the privileges and immunities of a citizen of the United States in the several States.

have the effrontery to tell the people of this country that they will not accept such conditions. If they will not and we permit them to dictate their own terms, is not this a practical surrender on the part of the conqueror to the conquered? Suppose our position had been reversed; suppose the anti-slavery men of this country had gone into a rebellion as the South did, without a pretext, without cause, when they had a majority in this and the other branch of Congress, simply because a pro-slavery man had been elected President. Suppose this to have been the case, that State after State had seceded, had captured the forts of the United States, and had made war on the Union for four years, destroying half a million of lives, as well as running up a debt of over \$3,000,000,000 for posterity to pay. I say suppose this to have been the case, do you believe any such proposition would have been made by those men when they had conquered as have been made by this Government, nay, proposed by this very House? Do you suppose that leading anti-slavery men, like Garrison, Phillips, Beecher, Greeley, and Gerrit Smith, would have been sent for by a pro-slavery Executive to be counseled with and sent home as provisional governors to organize States over the heads of the only loyal men in those States? Do you think there would have been any such stupid performance if the North had been in rebellion? No, sir, we would have been stripped naked, as was said by Henry A. Wise the other evening at Alexandria.

My friend from Iowa in front of me [Mr. Price] hands the paper containing the extract I am quoting, and I will read it:

"If I had triumphed," said Governor Wise, "I should have favored stripping them naked. [Laughter.] Pardon! They might have appealed for pardon, but I would have seen them damned before I would have granted it. For myself, the boot being on the other leg, I take no oaths; I ask no pardons! [Prolonged cheers.] I give you that brigade—the old, the lasting, the enduring Wise brigade. [Cheers and applause.]"

Do you suppose if the rebellion in the North to which I have referred had been put down, any traitor would have been permitted to walk in Boston and utter such treason against the Government? No, sir; and yet we are denounced in this Congress as a rump Congress, as Jacobins, as sanguinary men. Why? Because we ask, in restoring the governments of the southern States, that our friends shall have a fair share in the administration of their State governments, and that the leading traitors shall be punished.

Sir, under the Administration, as matters are now going, not a single, solitary traitor will be punished. Rebel soldiers that were in prison have all been liberated, while the soldiers of the grand Union Army who are in prison for the slightest offenses remain, and you cannot get them pardoned out. These are unpleasant facts, but I could not pass them and do my duty without referring to them.

What do we ask? The loyal men of the nation ask that in the restoration of the rebel States the men who were our friends and allies during the rebellion—the loyal men—shall be clothed with the power of the local and State governments of the South. Is this asking too much? If this is not accorded to us, if these men are to come back here, the loyal oath to be repealed as is recommended, and no conditions are to be exacted; if these men are to come back here next year and take possession of the Government, so far from treason being punished and made odious it will only prove to have been a passport to favor and to power.

Sir, has it come to this? Can the unselfish heroism and bravery, the devotion and sacrifices of our soldiers and the loyal men and women of the nation so soon be forgotten? Are the men who conducted this nation safely through the most terrible war recorded in history to admit, now that the rebellion is over, that they are incapable of administering the Government in time of peace? Are the men who fought the opponents of this Government on the battle-field and at the ballot-box for the last four years, and everywhere vanquished